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August 18, 2008

The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Chertoff:

On August 13, 2008, the New York Times published an article,"Ill and in Pain, Detainee Dies in U.S. Hands," regarding the in-custody death of Hiu Lui Ng. Mr. Ng's death raises serious and continuing questions about the medical care provided to immigration detainees by Immigration and Customs Enforcement (ICE) and the Division of Immigration Health Services (DIHS). These concerns are particularly distressing considering other recent detainee deaths, as well as assurances by ICE officials that issues related to detainee medical care have been addressed.

According to the New York Times, ICE detained Mr. Ng when he appeared at U.S. Citizenship and Immigration Services for a final interview related to an immigrant petition filed years earlier by his U.S. citizen wife, with whom he had two U.S. citizen children. It appears Mr. Ng had been previously order removed in absentia when a notice had been delivered to the wrong address. Rather than releasing Mr. Ng—who was employed, owned a home, had no criminal history, and posed no danger to the community—pending resolution of his immigration proceedings, ICE chose to detain him at various facilities in New England.

After months in detention, Mr. Ng began to complain of excruciating back pain, and he grew so weak he could not walk or even stand. Yet facility officials declined to refer Mr. Ng for further evaluation. Indeed, they even denied him a wheelchair despite repeated requests. It seems the officials thought Mr. Ng was faking his illness. But when Mr. Ng filed a habeas petition and a federal judge insisted that he be taken to a hospital, he was diagnosed with terminal cancer and a fractured spine. He died five days later. That Mr. Ng's condition was not difficult to diagnose is made clear by the fact that a relative had long asked facility officials to check Mr. Ng for a spinal injury. These requests went unheeded until a federal judge intervened.

If correctly described by the New York Times, the treatment provided to Mr. Ng is simply unforgivable. It underscores the problems this Committee has seen on a repeated basis over the last several years: unnecessary detention of extremely ill individuals; difficulty in obtaining responses to repeated requests for medical care; failure to diagnose serious illnesses that would be easily diagnosed by outside medical personnel; and callous indifference to ill individuals by facility personnel. Further, the treatment Mr. Ng suffered is particularly distressing considering that much of it took place when ICE was facing intense scrutiny over the quality of its medical care system and when agency personnel had assured Congress that problems had been addressed.

Three months ago, the Washington Post published a series of articles concerning its investigation into the provision of medical care at immigration detention centers. Internal ICE and DIHS documents published by the Post revealed that immigration detainees received sub-standard medical care and that ICE officials repeatedly failed to address complaints and concerns from detainees and on-site medical care providers. According to these documents, ICE officials long ignored warnings related to the lack of adequate medical care, declining to address numerous shortages and lapses even as the agency ramped up enforcement and brought detention beds on-line. The Post investigation found that poor medical care may have led to the deaths of at least 30 detainees in ICE custody over the last several years. And in one recent court order concerning the death of an immigration detainee, a federal judge noted that ICE's treatment of the detainee appeared to be "one of the most, if not the most, egregious Eighth Amendment violations the Court has ever encountered."[1]

Due to these and other reports, we sent you a letter on May 15, 2008 in which we requested several categories of documents related to the provision of medical care at immigration detention centers. We requested that these documents be provided to us by May 29, 2008. Although we received a response from ICE Assistant Secretary Julie Myers on June 17 in which she defended ICE's delivery of medical care to its detainees, we have not yet received the documents requested in our May 15 letter. (Copies of both letters are attached.) These documents are crucial to our ability to conduct important congressional oversight over ICE and its provision of medical care to individuals in its custody.

Given our concerns, the Committee's Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law held its second hearing on immigration detainee health care on June 4, 2008. As with the Subcommittee's first hearing on this issue on October 4, 2007, a series of witnesses severely shook Congress' confidence in ICE's health care system. The witnesses recounted story after story of detainees who received inadequate care, or no care at all. Their stories were ones of unnecessary suffering, and even death.

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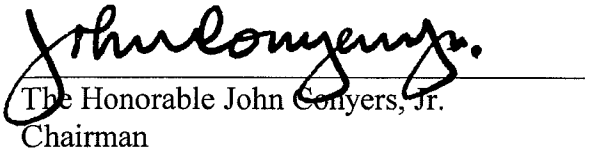
[1] Castaneda v. United States, 538 F. Supp. 2d 1279, 1295 (C.D. Cal. 2008).

At the June 4 hearing, Assistant Secretary Myers testified that ICE had taken steps to improve the delivery of health care at ICE detention centers. She stressed that she and her staff remained committed to ensuring the safety and well being of immigration detainees, and she noted that she and her staff would continue to improve ICE's administrative processes and medical oversight. Unfortunately, however, the circumstances surrounding Mr. Ng's death have seriously undermined our confidence in ICE's ability to address the problems that have plagued the agency with the delivery of medical care at immigration detention centers.

With the large increase of detainees in ICE custody, it is incumbent upon this Congress to ensure that ICE is properly executing its responsibility of providing safe and humane treatment. We thus request that your department investigate the circumstances surrounding Mr. Ng's death and provide the Judiciary Committee with a briefing on its findings, including copies of any materials used in the investigation, by September 10, 2008. We also repeat our request that you provide the Committee with the documents and information concerning medical care to immigration detainees that we requested in our letter to you dated May 15, 2008.

Thank you for your immediate consideration of this very important matter.

Sincerely,



The Honorable John Conyers, Jr.
Chairman

The Honorable Zoe Lofgren
Chairwoman
Committee on the Judiciary, Subcommittee
On Immigration, Citizenship, Refugees
and International Law

cc: The Honorable Lamar Smith
The Honorable Steve King
Assistant Secretary Julie Myers, Department of Homeland Security