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Anne-Ly Annuk, *pro se*
Otero County Processing
Center 26 McGregor Range
Road Chaparral, NM 88081

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO
FEB 10 2026
MITCHELL R. ELFERS
CLERK

**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW MEXICO**

Anne-Ly Annuk,

Petitioner,

v.

Pamela Bondi, *et al.*,

Case No: 26-cv-0269 KWR/DLM

**Petitioner's Second EMERGENCY
Motion for Temporary Restraining
Order and Order to Show Cause**

Petitioner Anne-Ly Annuk respectfully submits this Second Emergency Application for Temporary Restraining Order and for an Order to Show Cause requiring Respondents to file a return within three days. Petitioner is grateful that the Court has already reviewed her filings and found that the alleged facts raise a colorable claim for relief. (Doc. 5 at 1).

Petitioner files this second emergency request only because she remains confined each day as the direct result of the residential arrest described in the Petition, she has serious medical vulnerability arising from Crohn's disease, a chronic and potentially life-threatening inflammatory bowel disease requiring continuous medical care, and she is confined at Otero County Processing Center

under conditions documented by ICE and summarized in a report from the ACLU of New Mexico. Ex. A; *see also* Decl. of Annuk at 1, ¶¶ 3–4; 2 ¶¶ 6–8.

Petitioner respectfully seeks a schedule consistent with the default timing in the habeas statute and interim relief preserving the status quo ante, including an order prohibiting transfer or removal and an order of immediate release. Immediate release is necessary because a bond hearing remedy is not realistically available where the Immigration Judge stated that there are no Estonian interpreters and none will be provided in the future. (Doc. 1 at 3).

INTRODUCTION AND PROCEDURAL POSTURE

Petitioner is a fifty-five-year-old citizen of Estonia who has lived in the United States for nearly twenty-eight years. (Doc. 1 at 2, 5).

On January 5, 2026, immigration officers entered her home in Minneapolis, Minnesota without her consent and without a judicial warrant. Decl. of Annuk at 2, ¶ 5. When Petitioner demanded to see a judicial warrant, officers refused. *Id.* at 2, ¶ 5. ICE then forcibly removed her from the steps of her residence, dragged her outside onto the porch in subzero temperatures while she was wearing only a T-shirt, placed her under arrest, and transported her into immigration custody. *Id.* at 2, ¶5.

Petitioner is now detained at the Otero County Processing Center in Chaparral, New Mexico for over a month (Doc. 1 at 1, 5). Petitioner suffers from

serious health issues, including Crohn’s disease, a chronic, incurable inflammatory bowel disease that has substantially worsened during her detention.” Decl. of Annuk at 1, ¶¶ 3–4; 2, ¶¶ 6–8.

Petitioner also alleges that the Executive Office for Immigration Review (EOIR) has refused to provide interpretation services in her native language, Estonian, and that the Immigration Judge (IJ) at the Otero Immigration Court stated that there are no Estonian interpreters and none will be provided in the future. *Id.* at 3–4, ¶¶ 13–15.

EOIR has also stated that no bond hearing will be held unless Petitioner identifies another language in which she can proceed. *Id.* Petitioner speaks very little English and does not speak any language other than Estonian. *Id.* Petitioner therefore seeks immediate release because an order directing a bond hearing would not provide meaningful process on these facts.

On February 4, 2026, Petitioner filed her Petition for Writ of Habeas Corpus and her Application for Temporary Restraining Order. (Doc. 1; Doc. 2). On February 5, 2026, the Court entered an Order to Answer requiring the United States Attorney’s Office to respond within twenty-one days. (Doc. 5 at 2).

Petitioner respectfully requests that the Court require a return within three (3) days so the Court can promptly address ongoing confinement and the unavailability of meaningful Immigration Court custody review.

LEGAL STANDARD

A. Habeas timing under 28 U.S.C. § 2243

Section 2243 provides that the Court shall grant the writ or issue an order to show cause forthwith unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause issues, the return shall be made within three days unless for good cause additional time, not exceeding twenty days, is allowed. *Id.* Petitioner respectfully asks the Court to apply the three-day return schedule on this record because the Petition alleges an ongoing deprivation of physical liberty arising from a warrantless residential seizure and continuing without any meaningful custody determination. (Doc. 1 at 2–4).

B. Temporary restraining order standard and preservation of the *status quo ante*

To warrant a temporary restraining order, a plaintiff must establish likelihood of success on the merits, likelihood of irreparable harm absent preliminary relief, that the balance of equities tips in her favor, and that an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The purpose of a temporary restraining order is to preserve the *status quo ante* before a final decision on the merits. *Resolution Tr. Corp. v. Cruce*, 972 F.2d 1195, 1198 (10th Cir. 1992). The status quo ante is the last peaceable uncontested status existing between the parties before the dispute developed. *Free*

the Nipple Fort Collins v. City of Fort Collins, 916 F.3d 792, 798 n.3 (10th Cir. 2019).

The Tenth Circuit recognizes that preliminary injunctive relief exists to prevent irreparable injury and to preserve the status quo pending final resolution on the merits. *Amoco Oil Co. v. Rainbow Snow, Inc.*, 809 F.2d 656, 663–64 (10th Cir. 1987). Because irreparable harm is, by definition, harm that cannot be remedied after final judgment, requests for temporary restraining orders necessarily require prompt judicial action. *See id.* at 663 (explaining that injunctive relief is appropriate where legal remedies are inadequate to prevent ongoing or imminent injury).

This Court likewise recognized that a temporary restraining order is an emergency measure demanding expedited adjudication, as delay itself risks nullifying the relief sought. In *Hernandez v. Grisham*, the court emphasized that a TRO requires immediate predictive judgments based on an incomplete record, reflecting the urgency inherent in preventing irreparable harm before it occurs. 494 F. Supp. 3d 1044, 1057–58 (D.N.M. 2020). Where continued custody itself constitutes the alleged irreparable harm, maintaining the *status quo* requires release rather than continued detention. Accordingly, temporary injunctive relief is warranted to order Petitioner’s immediate release from custody while the Court adjudicates the merits of her habeas petition.

ARGUMENT

I. A prompt order to show cause is appropriate under the circumstances presented.

Petitioner respectfully requests that the Court issue an order to show cause requiring a return within three days. This request is made because Petitioner remains in custody each day and because her allegations, if true, describe an ongoing deprivation of physical liberty.

First, the Petition alleges that officers entered Petitioner's home without a judicial warrant and without consent, then dragged her from her residence and arrested her at her home. (Doc. 1 at 2–3).

Second, Petitioner is fifty-five years old and suffers from Crohn's disease, which causes severe abdominal pain, uncontrollable diarrhea, dehydration, weakness, and rapidly escalating medical risk when untreated." Decl. of Annuk at 1, ¶¶ 3–4; 2, ¶¶ 6–8.

Third, Petitioner remains detained at Otero County Processing Center, where ICE documented multiple operational deficiencies and where advocates have reported persistent problems with medical access and staffing. Ex. A; Ex. B. Petitioner relies on the following statements from the ACLU of New Mexico report describing ICE's findings at Otero. *Id.* The report states that "U.S. Immigration and Customs Enforcement found multiple violations of management,

safety, food and religious service standards at a controversial private detention facility, according to a newly released letter.” *Id.* The report explains that the Letter of Concern “lists 16 findings covering seven overall violations of contractual requirements and Performance Based National Detention Standards at the Otero County Processing Center.” Ex. B. The report states that the violations include “an inadequate staffing plan, inadequate food service staffing, lack of a safety plan, suspension of religious services and more.” Ex. A. For Petitioner’s medical vulnerability and language access, the report states that “intake and medical staff were using Pocketalk, small handheld translation and interpretation tools, despite having ‘repeatedly been told to stop using these devices.’” *Id.* It then explains that “[i]naccurate interpretation for people seeking medical care can result in inaccurate diagnoses, improper treatment, confusion about medication and more.” *Id.* The report quotes an advocate stating: “People say there’s no doctor, really, at the facility, it’s nurses.” *Id.* The report also quotes: “They rely on the cheap labor of the individuals they’re detaining to run the facility and even then it’s inadequate.” *Id.*

Finally, a prompt return schedule is particularly important because a bond hearing remedy may not address Petitioner’s injury. The Court’s Order to Answer states that if the United States Attorney’s Office declines to timely respond, the Court will enter a separate order directing the Immigration Court to conduct a bond

hearing. (Doc. 5 at 2). Petitioner respectfully submits that a bond hearing will *not* provide meaningful relief where the IJ stated there are no Estonian interpreters and none will be provided in the future, and EOIR stated no bond hearing will occur unless Petitioner identifies another language. (Doc. 1 at 3). A return within three days allows the Court to address whether immediate release is the only workable remedy.

II. Petitioner satisfies the Winter factors and is entitled to a TRO

A. Likelihood of success on the merits

Petitioner incorporates the full merits analysis set forth in her first TRO application. (Doc. 2 at 5–22). On the present record, Petitioner is likely to succeed on at least three independent grounds.

1. Substantive due process

The Due Process Clause applies to all persons within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Freedom from imprisonment lies at the heart of the liberty protected by due process. *Id.* at 690. Because immigration detention is civil, it must be reasonably related to legitimate purposes such as addressing danger or flight risk. *Id.* at 690. Petitioner alleges she has no criminal record and has lived in the United States for nearly twenty-eight years. (Doc. 1 at 2, 5). On those allegations, continued detention without a showing of danger or flight risk lacks a sufficient justification and becomes punitive. *See*

Jackson v. Indiana, 406 U.S. 715, 738 (1972). Petitioner’s first TRO application explains why the record supports a strong showing on substantive due process. (Doc. 2 at 5–8).

2. Fourth Amendment unlawful residential arrest

Petitioner is likely to succeed on her Fourth Amendment claim because the Petition alleges a nonconsensual, warrantless home entry and a seizure at the home without exigency. (Doc. 1 at 2–3; Doc. 2 at 8–10). Warrantless arrests at or at the threshold of the home are presumptively unreasonable absent consent or exigent circumstances. *Payton v. New York*, 445 U.S. 573, 586–87, 590 (1980). Petitioner alleges she was seized after officers entered her home without a judicial warrant and dragged her from her residence. (Doc. 1 at 2–3). Her first TRO application explains why an administrative warrant cannot substitute for a warrant issued by a neutral magistrate for a home arrest. (Doc. 2 at 8–10) (“Administrative warrants issued by the executive branch to itself do not pass probable cause muster. That is called the fox guarding the henhouse. The Constitution requires an independent judicial officer.” *Conejo Arias v. Noem*, No. SA-26-CV-415-FB, at 2 (W.D. Tex. Jan. 31, 2026)).

3. Procedural due process

Petitioner is likely to succeed on procedural due process because she has been denied any meaningful opportunity to contest custody before a neutral

decisionmaker. (Doc. 1 at 3–4; Doc. 2 at 10–16). Under *Mathews v. Eldridge*, the private interest is profound, the risk of erroneous deprivation is acute without a meaningful hearing, and the government’s interest does not justify continued detention without minimal process. 424 U.S. 319, 335 (1976). Petitioner’s first TRO application applies *Mathews* and explains why the factors favor relief. (Doc. 2 at 12–16).

Here, the interpreter denial makes a bond hearing remedy illusory. The Petition states that the IJ said there are no Estonian interpreters and none will be provided in the future, and EOIR stated no bond hearing will occur unless Petitioner identifies another language. (Doc. 1 at 3).

Under these alleged facts, a directive for a bond hearing would not provide the meaningful opportunity to be heard that due process requires. Immediate release is the only remedy that prevents detention from continuing solely because the government will not provide the language access necessary for any lawful custody determination.

This Court has ordered immediate release in cases where detention was unlawful, and emergency relief was necessary.¹ In *Garcia Domingo v. Castro*, this

¹ This Court has granted immediate release or release within 24 hours in many other cases: *Duhan v. Noem*, No. 2:26-CV-00019-MIS-JFR, 2026 WL 266619 (D.N.M. Feb. 2, 2026); *Martinez Rodriguez v. Castro*, No. 2:25-CV-01294-KG-JFR, 2026 WL 252503 (D.N.M. Jan. 30, 2026); *Vargas v. Warden, Otero Cnty. Processing Ctr.*, No. 26-CV-0070-DHU-GBW, 2026 WL 125566 (D.N.M. Jan. 16,

Court found a substantial likelihood of success on due process and statutory grounds and ordered release within twenty-four hours. No. 1:25-cv-00979-DHU-GJF, 2025 WL 2941217, at *3–*5 (D.N.M. Oct. 15, 2025). *Garcia Domingo* is analogous because the Court treated liberty as the baseline *status quo ante* and concluded release was necessary to prevent continued constitutional injury pending further litigation. *Id.* at *5. Petitioner’s case is stronger because, as alleged, she cannot obtain a meaningful bond hearing at all due to the interpreter denial. (Doc. 1 at 3).

Chief Judge Gonzales’s decision in *Cholula Rios v. Noem* is particularly instructive because it arose from materially similar circumstances and reflects this Court’s careful exercise of its equitable authority in an emergency habeas posture. *See Cholula Rios v. Noem*, No. 2:26-cv-0015-KG-JHR, 2026 WL 84532 (D.N.M. Jan. 12, 2026). In *Cholula Rios*, the petitioner was a 69-year-old long-term resident of the United States who was arrested in the interior, transferred to the Otero County Processing Center, and detained without having been afforded a bond

2026); *Garcia Domingo v. Castro*, No. 1:25-CV-00979-DHU-GJF, 2025 WL 2941217 (D.N.M. Oct. 15, 2025); *Francisco v. Dedos*, No. 1:25-CV-1229 MIS-GJF, 2026 WL 84534 (D.N.M. Jan. 12, 2026); *Intriago-Sedgwick v. Noem*, No. 1:25-CV-01065-MIS-LF, 2025 WL 3688155 (D.N.M. Dec. 19, 2025); *Salazar-Martinez v. Lyons*, No. 2:25-CV-00961-KG-KBM, 2025 WL 3204807 (D.N.M. Nov. 17, 2025); *Jimenez Chacon v. Lyons*, No. 2:25-CV-977-DHU-KBM, 2025 WL 3496702 (D.N.M. Dec. 4, 2025); *Lorenzo v. Bondi*, No. 2:25-CV-00923 KWR-GJF, 2026 WL 84521 (D.N.M. Jan. 12, 2026) and *other*.

hearing. *Id.* at *1. The petitioner alleged violations of his Fourth and Fifth Amendment rights and sought interim relief pending adjudication of his habeas petition. *Id.* After a hearing at which the Government appeared but had not yet filed a written response, Judge Gonzales granted a temporary restraining order and expressly ordered the petitioner’s “immediate release from custody while the Court adjudicates his habeas petition.” *Id.* at *1, *4. In doing so, the Court emphasized several facts that are also present here: the petitioner’s advanced age, his longstanding residence and ties to the community, the absence of any individualized determination that he posed a danger or flight risk, and the ongoing loss of liberty resulting from continued civil detention without constitutionally adequate process. *Id.* at *2–*4.

Judge Gonzales further explained that the purpose of the TRO was not to resolve the merits of the habeas petition, but to restore and preserve the status quo ante, defined as the petitioner’s liberty prior to arrest, while the Court considered the legality of his detention. *Id.* at *2–*4. The Court concluded that continued detention itself constituted irreparable harm, that the burden on the Government from interim release was minimal, and that the balance of equities and public interest favored immediate relief. *Id.* at *3–*4.

Petitioner’s circumstances align closely with those facts. Like the petitioner in *Cholula Rios*, Petitioner here is a long-term resident arrested in the interior of

the United States, transferred to Otero County Processing Center, and detained without a meaningful opportunity to contest her custody. (Doc. 1 at 2–4). Like the petitioner in *Cholula Rios*, Petitioner alleges ongoing violations of her Fourth and Fifth Amendment rights and seeks a temporary restraining order ordering her immediate release from custody while the Court adjudicates her habeas petition. (Doc. 2 at 27). And as in *Cholula Rios*, Petitioner alleges continuing irreparable harm from the loss of liberty itself, compounded here by serious medical vulnerability resulting from Crohn’s disease and the denial of adequate medical care in detention.” Decl. of Annuk at 1, ¶¶ 3–4; 2, ¶¶ 6–9; 3, ¶¶ 11–12. As *Cholula Rios* demonstrates, where a petitioner makes a strong showing under the TRO factors and faces ongoing civil detention pending habeas review, interim release is an appropriate and measured remedy that preserves the Court’s ability to adjudicate the case on a full record without subjecting the petitioner to continued constitutional injury. 2026 WL 84532, at *4.

B. Irreparable harm

Petitioner will suffer irreparable harm absent a TRO because continued detention is an ongoing loss of liberty and because the deprivation of constitutional rights is not fully remediable after the fact. (Doc. 2 at 16–17). Petitioner’s medical vulnerability heightens the immediacy of harm. The reported ACLU findings regarding staffing, safety, food, and language access at Otero further heighten risk,

including the report's statement that intake and medical staff used Pocketalk interpretation devices despite being "repeatedly been told to stop using these devices," and the warning that inaccurate interpretation can lead to "inaccurate diagnoses, improper treatment, confusion about medication and more." Ex. A; Ex. B.

C. Balance of equities and public interest

When the government is the opposing party, the balance of equities and public interest merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). The public interest is served by ensuring compliance with federal law and preventing constitutional violations. *Amoco Oil Co.*, 809 F.2d at 663–64. The balance of equities also favors relief because Petitioner seeks only to restore the status quo ante and prevent transfer or removal while her claims are adjudicated, and because Respondents suffer no cognizable harm from compliance with constitutional requirements.

REQUESTED RELIEF

For these reasons, Petitioner respectfully requests that the Court:

1. Issue an Order to Show Cause forthwith under 28 U.S.C. § 2243 requiring Respondents to file a return within three days.

2. Enter a Temporary Restraining Order prohibiting Respondents from transferring Petitioner from this District and prohibiting removal while the Court adjudicates the Petition and emergency relief.
3. Order Petitioner's immediate release.
4. In the alternative *only*, should the Court determine that a bond hearing is appropriate rather than ordering Petitioner's immediate release, Petitioner respectfully requests that the Court require, as conditions of any bond hearing order, that Respondents provide a qualified Estonian interpreter, and that the hearing be conducted within seven days. At such hearing, the government should bear the burden of establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or a risk of flight. Petitioner further asks the Court to adopt the Ninth Circuit's persuasive reasoning in *Hernandez v. Sessions*, which requires that an Immigration Judge consider a noncitizen's financial circumstances and the availability of alternative conditions of release before setting any bond amount. *See* 872 F.3d 976, 990–91 (9th Cir. 2017) (holding that detention based solely on an individual's inability to afford bond is constitutionally impermissible because it severs the required connection between detention and the government's legitimate interests, and that adjudicators must consider

financial circumstances and alternatives to detention to avoid confinement that amounts to punishment for poverty).

CONCLUSION

For the foregoing reasons, the Court should grant Petitioner's Second Emergency Application for a Temporary Restraining Order. Petitioner asks the Court to order immediate release.

Dated: February 6, 2026



Anne-Ly Annuk, Petitioner

**CERTIFICATION PURSUANT TO FEDERAL RULE OF CIVIL
PROCEDURE 65(b)(1)(B)**

I, Anne-Ly Annuk, certify as follows:

Pursuant to Rule 65(b)(1)(B) of the Federal Rules of Civil Procedure, I hereby certify that on February 6, 2026, I emailed Ryan Ellison, U.S. Attorney for the District of New Mexico. I provided a copy of the Application for a Temporary Restraining Order, Memorandum of Points and Authorities, to Mr. Ellison by emailing copies to ryan.ellison@usdoj.gov. Notice was provided as soon as practicable under the circumstances, given the urgent and time-sensitive nature of the relief requested.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.



Anne-Ly Annuk
Otero County Processing
Center 26 McGregor Range
Road Chaparral, NM 88081

Dated: February 6, 2026

DECLARATION OF ANNE-LY ANNUK

I, Anne-Ly Annuk, hereby declare as follows:

1. My name is Anne-Ly Annuk. I am a citizen of Estonia. I was forced to leave my country because of my political beliefs. I am 55 years old.
2. I was admitted to the United States on April 8, 1998, on a J-1 visa.
3. I suffer from Crohn's disease, a serious, chronic, incurable inflammatory bowel disease that requires continuous medical supervision, prescribed medication, adequate hydration, nutrition, and protection from physical stress. Without proper medical care, Crohn's disease can cause severe complications, including intestinal bleeding, bowel obstruction, infection, organ damage, and death.
4. My Crohn's disease causes severe abdominal pain, frequent and uncontrollable diarrhea, dehydration, weakness, dizziness, malnutrition, and extreme fatigue. During flare-ups, my condition rapidly deteriorates and becomes a medical emergency if untreated.
5. On January 5, 2026, ICE agents forcibly entered my home in Minneapolis, Minnesota, without a warrant and without my consent. When I demanded to see a warrant signed by a judge, ICE tackled me, restrained me, and dragged me outside onto the porch in subzero temperatures while I was wearing only a T-shirt.

6. Following my arrest, I was transported to the Otero County Detention Center. Since my detention, my Crohn's disease has substantially worsened, and I have suffered continuous and escalating symptoms, including debilitating abdominal pain, uncontrollable diarrhea, dehydration, weakness, and inability to eat or sleep normally.
7. Despite the seriousness of my condition, detention facility staff and ICE officials have refused to provide adequate medical care. I have repeatedly requested to see a physician, to receive appropriate medication for Crohn's disease, and to be medically evaluated for worsening symptoms. My requests have been ignored, dismissed, or denied.
8. I have not been provided consistent access to necessary medication, diagnostic testing, or specialist care. As a result, I remain in constant pain and fear that my condition may rapidly become life-threatening.
9. I have also been denied adequate access to water and warm clothing. Dehydration significantly worsens Crohn's disease, and denial of water places me at immediate risk of serious medical harm.
10. The temperature inside the detention facility has been extremely cold. I have not been provided adequate bedding or clothing. Detention staff gave me an aluminum foil sheet and ordered me to sleep directly on the concrete floor.

11. As a result of these conditions, I have suffered persistent shivering, numbness in my extremities, muscle pain, physical weakness, and severe sleep deprivation. The cold exposure and physical stress directly exacerbate my Crohn's disease, intensifying pain, gastrointestinal symptoms, and overall deterioration of my health.
12. I am terrified that continued detention without medical care will result in irreversible injury or death. I am entirely dependent on detention officials for access to medical treatment, and their refusal to provide care places me in imminent danger.
13. On January 30, 2026, I appeared for a bond hearing at the Otero Immigration Court. The Immigration Judge stated that no Estonian interpreter was available and that the court would not provide one in the future.
14. The Immigration Judge instructed me to identify another language I could speak, preferably English. I informed the court that I speak only Estonian and can testify only in Estonian. The Immigration Judge canceled my bond hearing and refused to reschedule it until I identified another language.
15. On February 3, 2026, I appeared before the same Immigration Judge for a Master Hearing. Once again, I was informed that no Estonian interpreter was available or would be provided. I was ordered to identify another language

by February 20, 2026. When I again stated that I speak only Estonian, the Immigration Judge disregarded me and terminated my Master Hearing.

16. As a result, I remain detained without meaningful access to bond proceedings, without medical care, and without the ability to communicate in my own language, despite my rapidly deteriorating health.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 6th day of February 2026.



Anne-Ly Annuk, Petitioner

CERTIFICATE OF INTERPRETATION

I, Aili Nuk, certify that I am competent in English and Estonian; that I prepared the foregoing based on the statements of Anne-Ly Annuk; that I read the foregoing document to Anne-Ly in true and precise Estonian; and that they signed their name with a full understanding of its contents.

Dated: 02/06/2026



Aili Nuk

CERTIFICATE OF INTERPRETATION

I, Aili Nuk, certify that I am competent in English and Estonian; that I prepared the foregoing based on the statements of Anne-Ly Annuk; that I read the foregoing document to Anne-Ly in true and precise Estonian; and that they signed their name with a full understanding of its contents.

Dated: 02/06/2026



Aili Nuk



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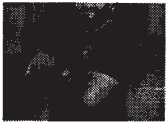
ICE found multiple contract violations at troubled Otero County detention center shortly before extending a lucrative private contract

The Otero County Processing Center was cited for violations including an inadequate staffing plan, inadequate food service staffing, abuse of the “Voluntary Work Program,” lack of a safety plan, and more.

October 26, 2021

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**Leonardo
Castañeda**

Border and
Immigrants'
Rights Activist
He/Him/His

Enforcement found multiple violations of management, safety, food and religious service standards at a controversial private detention facility, according to a newly-released letter.

Despite the violations, ICE is negotiating with the facility's operator, Utah-based Management & Training Corporation (MTC), for what some advocates fear could be a lucrative long-term contract. During the pandemic, MTC secured a temporary agreement that guaranteed it at least \$1.9 million a month.

The June 23 Letter of Concern, obtained by the ACLU of New Mexico through a public records request, lists 16 findings covering seven overall violations of contractual requirements and Performance-Based National Detention Standards at the Otero County Processing Center (OCPC), near Chaparral.

The violations include an inadequate staffing plan, inadequate food service staffing, abuse of the "Voluntary Work Program," lack of a safety plan, suspension of religious services and more.

ICE spokeswoman Leticia Zamarripa said in an emailed statement that the agency works with leadership in detention facilities to make sure they follow detention standards, saying that ICE "remains

committed to improving civil detention operations to promote a safe and secure environment for detainees and staff."

Margaret Brown Vega, with the immigrant rights group Advocate Visitors with Immigrants in Detention (AVID), said the findings in the letter match many of the complaints AVID has received from individuals detained at OCPC.

Many of the overall violations have to do with lack of staff, she said, which is particularly noteworthy considering much of the daily work at the facility is done by detained individuals paid just \$1 per day.

"They rely on the cheap labor of the individuals they're detaining to run the facility and even then it's inadequate," Brown Vega said. The letter also identified shortages of key personnel and detention staff.

The letter found intake and medical staff were using Pocketalk, small hand-held translation and interpretation tools, despite having "repeatedly been told to stop using these devices." Inaccurate interpretation for people seeking medical care can result in inaccurate diagnoses, improper treatment, confusion about medication and more. Medical access was the number one concern among detainees interviewed for a recent AVID study of OCPC.

“People say there’s no doctor, really, at the facility, it’s nurses,” Brown Vega said. “And to see they’re using these devices to not really provide information on what people need to know for their own health and well-being is an issue.”

Other findings in the letter include:

- Multiple reports from detainees that they were only given beans for some meals.
- Violations in following pandemic requirements for disinfecting housing units.
- Employees at OCPC made critical decisions without informing MTC or ICE leadership.
- Broken security cameras weren’t properly identified and fixed.
- Fire alarm issues, and violations with maintenance checks of fire extinguishers and general facility safety checks.

The letter, which requests within 15 days a formal plan for how violations will be addressed, says the findings listed “are not all inclusive but show that there are many areas of concern within the OCPC facility operations...” It is unclear if MTC or the county provided the required plans, and neither responded to a request for comment.

Since September 2020, MTC has operated OCPC under a temporary agreement that includes a 500-bed guaranteed minimum and an increase in the pay

rate for each bed, ensuring MTC is paid at least \$1.9 million a month. That agreement, originally set to expire at the end of August, was extended to the end of October.

“This memo is dated June 23rd,” Brown Vega said.

“Despite this, ICE still extended (MTC’s) contract for a month

beyond when

it was set to expire and are still in negotiation for a renewal or a possible new contract.”

“They rely on the cheap labor of the individuals they’re detaining to run the facility and even then it’s inadequate.”

Brown Vega said she’s not optimistic this letter will lead to meaningful changes at OCPC. She hasn’t seen any improvements in the four years AVID has been monitoring the facility. During that time, her organization, government inspectors, and activists have reported inadequate food, misuse of solitary confinement, harassment of LGBTQ+ individuals, difficulty accessing attorneys, and more at the facility.

Recent financial filings from US Bank, which oversees the bonds that financed the construction of

OCPC, indicate MTC is working toward a multi-year contract “at a rate that would cover 100% of the Debt Service pricing component,” the filing says. Otero budget documents show about \$45.2 million are still due between now and 2028 on bonds that financed the construction of the facility.

Earlier this year, an Otero County attorney told legislators those bonds prevented the closure of OCPC. But Reilly White, a public finance expert who reviewed the bonds, disagreed, telling the ACLU of New Mexico that if the detention facility closed, the county wouldn’t be liable for that bond debt.

Contact Investigative Reporter Leonardo Castañeda at lcastaneda@aclu-nm.org

Update: This story was updated on Oct. 27 at 3:15 p.m. with a statement from U.S Immigration and Customs Enforcement.

Documents

- [Letter of Concern.pdf](#)

Related Issues

CERTIFICATE OF INTERPRETATION

I, Aili Nuk, certify that I am competent in English and Estonian; that I prepared the foregoing based on the statements of Anne-Ly Annuk; that I read the foregoing document to Anne-Ly in true and precise Estonian; and that they signed their name with a full understanding of its contents.

Dated: 02/06/2026



Aili Nuk

Office of Enforcement and Removal Operations

U.S. Department of Homeland Security
115410 Montana Ave, Suite E
El Paso, TX 79936



**U.S. Immigration
and Customs
Enforcement**

June 23, 2021

MEMORANDUM FOR: Otero County Manager – Pamela Heltner
Management & Training Corporation (MTC)
Warden for Otero County Processing Center (OCPC)
26 McGregor Range Rd., Chaparral, NM 88081

FROM: Shawn Hedgspeth.
Contracting Officer (CO)
Detention, Compliance & Removals (DCR)
Office of Acquisition Management (OAQ)

SUBJECT: Letter of Concern

Ref: EROIGSA-14-0001 / 70CDCR20FIGR00099

1. This Letter of Concern serves to formally document the Performance-Based National Detention Standards (PBNDS) violations that have been identified over the last month at the OCPC facility. These findings run across many areas of the overall operations that are specifically regulated by 2011 PBNDS and contractual requirements. These findings will require the OCPC facility staff to submit a Corrective Action Plan (CAP) to the Contracting officer (CO) for each finding. If these findings are not adequately addressed and corrected, they may ultimately result in the issuing of a Contract Deficiency Report (CDR). This decision will be based on the collective impact to the facility operations, repeat findings, and the guidelines established in the contract Performance Requirements Statement (PRS).

There are seven (7) overarching findings that show the 2011 PBNDS and Performance Work Statement (PWS) contractual violations:

- Inadequate Staffing Plan and Standards Compliance – At Risk Findings
- Unauthorized Suspension of Recreation Services – At Risk Findings
- Lack of Safety Plan – Deficient Findings
- Inadequate Food Service Staffing - Deficient Findings
- Inadequate Medical Staffing and Pocket Talk Use – At Risk Findings
- Suspension of Religious Services – Deficient Findings
- Abuse of Voluntary Work Program – At Risk Findings

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The following are examples of the types of violations and operational issues that have been noted:

- Overall management, supervision, and effective communications of standards and information flow.
 - How standards are being communicated and proper dissemination from the top leadership down to each individual employee.
 - Supervisor's involvement of the daily operations, to include properly checking posts.
 - The leadership's ability to address issues and concerns with a well-developed plan of action that does not require external help from ICE or other Contractors. MTC Corporate involvement to support the facility and staff when shortcomings have and are being identified.
 - Employees making critical decisions on their own without notifying facility leadership and not promptly notifying ICE leadership.
 - When information has been provided, it needs to be timely, accurate, and informative.
 - Allowing the Detainees to decide if they will participate in recreation times or any other area that is not open for general consensus when following established procedures.
 - Providing Detention Officer statements as justification or a reason for a standard not being met.
 - Using unauthorized Pocket Talk devices for sensitive Detainee interactions and processing. The staff has repeatedly been told to stop using these devices and staff continues to follow unauthorized practices. The medical and intake unit personnel have been identified as continuing to use this practice. This was a finding during the December Civil Rights and Civil Liberties (CRCL) inspection.
 - Detention Officer staffing shortages and other key personnel positions.
 - Recreation Officer status and involvement in Detainee recreation standards and allotted times.
 - Round the clock supervision and property accountability issues. This includes phone and tablet operability issues and radio and chat accountability concerns as examples.
 - General facility safety checks and maintenance checks on fire extinguishers on-going fire alarm fault issues, and staff understanding the fire evacuation plan. This includes emergency plans for staff recall and staff accountability.
 - Nonoperational security cameras being properly identified and repaired.
 - There have been several Detainee reports of only receiving beans for a given meal or multiple days with the same menu items.
 - A pattern of following the Pandemic Response Requirements (PRR) for properly logging the fogging / disinfecting of housing units.
2. The findings in this Letter of Concern are not all inclusive but shows that there are many areas of concern within the OCPC facility operations with regards to the performance based contractual requirements and standards of this contract.
3. The El Paso Field Office is forwarding these findings to the assigned OAQ Contracting Officer for formal inclusion into the contract file and review for further contracting actions.

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4. The identified findings must be adequately addressed in a formal CAP for each of the individual findings within fifteen (15) calendar days of the official notification of the Letter of Concern. Once the Contracting Officer has reviewed the responses from the Otero County Officials and MTC Corporate Leadership, will be determined if the responses are adequately address the finding or if additional actions will be needed.

5. Questions or concern regarding this Letter of Concern may be routed through the Contracting Officer for clarification and additional guidance.