

Congress of the United States
Washington, DC 20515

June 23, 2015

The Honorable Jeh Johnson
Secretary of Homeland Security
Washington, D.C. 20528

Dear Secretary Johnson:

We write to express our concerns regarding the circumstances surrounding lesbian, gay, bisexual and transgender (LGBT) immigrants who are held in detention centers under Immigration and Customs Enforcement (ICE) custody. These individuals are extremely vulnerable to abuse, including sexual assault, while in custody, in particular, transgender women housed in men's detention facilities.

We understand the Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) have had conversations with LGBT immigrant advocates and community members for some years now in order to find a solution to this pressing situation. Recently, ICE formed a working group to review placement and safety issues for LGBT detainees and will be issuing recommendations for DHS' consideration in the near future. As you review these recommendations, we strongly urge you to use existing discretion to release LGBT individuals from custodial detention and use parole or alternatives to detention to ensure the safety and appearance of this group throughout their immigration proceedings, such as supervised release and community placements, unless there are extenuating circumstances.

Detention should almost never be used for vulnerable groups such as LGBT immigrants facing immigration proceedings. Recent surveys of jails and prisons by the Bureau of Justice Statistics (BJS) found that non-heterosexual detainees experience sexual assault at up to ten times the rate of heterosexual men. The situation is starker for transgender detainees'. According to the BJS survey, one in three will be sexually abused within twelve months in custody. When viewing the trend of reported sexual assaults against this community in immigration detention, the Government Accountability Office in November 2013 found that transgender immigrants reported 20% of sexual assaults in ICE custody. This is deeply troubling given the fact that transgender individuals are estimated to be less than 1% of the general population.

ICE's own intake system recognizes the risk LGBT immigrants face in detention and says they can release LGBT immigrants 70% of the time, however ICE officers consistently override this and use their discretion to detain anyway in 68% of those cases. A recent study conducted by the DHS Office of the Inspector General found that ICE overrode explicit Risk Classification Assessment recommendations in 7.6 percent of cases for the general population and in 19 percent of the cases for LGBT detainees.

ICE policies for years have recognized that LGBT immigrants, particularly those who are transgender, are in dangerous situations while detained, including DHS's Prison Rape Elimination Act (PREA) Standards. However, we understand that there has been no clear PREA implementation plan to date with respect to this population. This has lead ICE to routinely segregate transgender women in men's facilities in order to keep them safe, including the use of isolation and "GBT pods," the latter being used more frequently in recent months. ICE must apply discretion to ensure that vulnerable populations are not subjected to an unacceptably high risk for sexual abuse.

We respectfully urge DHS and ICE to end the practice of detaining vulnerable groups such as LGBT immigrants. We believe ICE should consider an LGBT person's detention as "not in the public interest," per your enforcement priorities memo of November 20, 2014, due to the extraordinarily high risk of abuse in detention. Finally, we request DHS and ICE to engage LGBT and immigrant civil rights groups to develop additional community-based alternatives to detention, for vulnerable populations. To address the concerns raised above, we have questions regarding ICE's protocol for LGBT detainees:

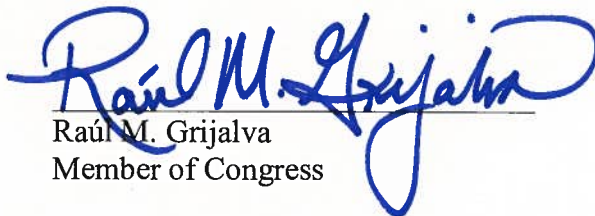
1. What factors do ICE officers use to decide whether they will overrule the RCA's recommendation or choose detention in the absence of an RCA recommendation when an immigrant has a special vulnerability such as LGBT status?
2. What steps has ICE taken, or will ICE take, to ensure that officers use discretion appropriately to keep vulnerable LGBT persons out of detention centers whenever possible?
3. What action has DHS taken, or will DHS take, towards effective oversight to ensure that ICE uses its discretion appropriately to keep vulnerable LGBT persons out of detention centers whenever possible?

We urge you to act swiftly to address the issues. The safety and security of many individuals depend on it. We look forward to collaborating on this pressing issue. If you have any questions, please have your staff contact Robert Lucas (Rep. Honda) and Yesenia Chavez (Rep. Grijalva).

Sincerely,

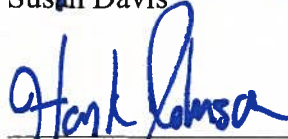


Michael M. Honda
Member of Congress

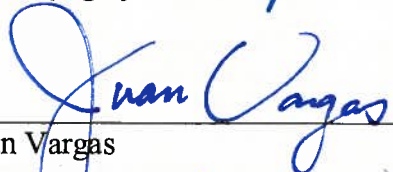


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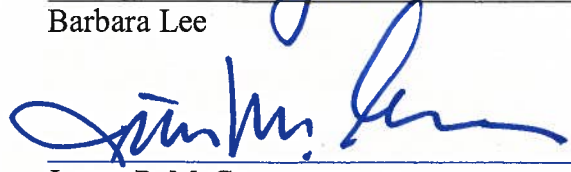

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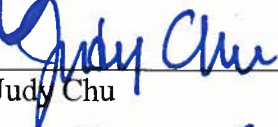

Alcee L. Hastings

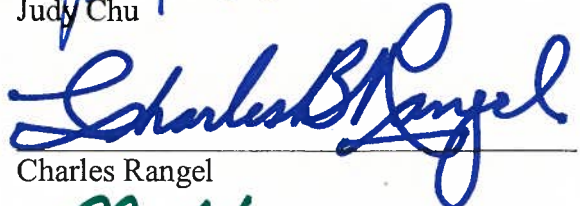

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