

United States Senate

WASHINGTON, DC 20510

December 5, 2018

Mr. Ronald D. Vitiello
Acting Director
U.S. Immigration and Customs Enforcement
Washington, D.C. 20536

Mr. Kevin K. McAleenan
Commissioner
U.S. Customs and Border Protection
Washington, D.C. 20229

Dear Acting Director Vitiello and Commissioner McAleenan,

We write to express our deep concern and to request information about the circumstances of the death of Roxana Hernández in ICE custody on May 25, 2018. Ms. Hernández, a 33-year old transgender woman, fled Honduras seeking asylum in the United States. Upon arriving at the San Ysidro Port of Entry in California on May 9, 2018, she was placed in expedited removal. After being held in Customs and Border Patrol (CBP) custody for five days, she was transferred to Cibola County Correctional Center, a U.S. Immigration and Customs Enforcement (ICE) detention facility in Milan, New Mexico, and then to a hospital where she died.¹

Disturbing allegations about Ms. Hernández's treatment in CBP and ICE custody before her death have emerged. Reports suggest that while she was held at the San Ysidro Port of Entry, Ms. Hernández endured freezing temperatures and was denied adequate food, water, and medical care.² During her transport between facilities by ICE, she vomited to the extent other detainees begged authorities to provide her with water and proper medical care.³ On May 17, 2018, one day after being placed in the transgender unit at Cibola County Correctional Center, she was admitted to the Cibola General Hospital with symptoms of pneumonia, dehydration, and complications associated with HIV.⁴ She then was transferred to Lovelace Medical Center in Albuquerque and remained in intensive care until she was pronounced dead at 3:32 am on May 25, 2018, while still in ICE custody.⁵

¹ Nicole Chavez, *Transgender women in migrant caravan dies in ICE custody*, CNN, May 31, 2018, available at: <https://www.cnn.com/2018/05/31/health/transgender-migrant-dies-ice-custody/index.html>; Carla Green, *Transgender Honduran women's death in US 'ice box' detention prompts outcry*, THE GUARDIAN, May 31, 2018, available at: <https://www.theguardian.com/us-news/2018/may/31/roxana-hernandez-transgender-honduran-woman-dies-us-ice-box>

² Annie Rose Ramos, *Transgender migrant from Honduras dies in U.S. custody*, NBC NEWS, May 30, 2018, available at: <https://www.nbcnews.com/feature/nbc-out/transgender-migrant-honduras-dies-u-s-custody-n878596>

³ Kate Morrissey, *Lawyers allege wrongful death of trans asylum seeker from past caravan*, SAN DIEGO UNION TRIBUNE, November 26, 2018, available at: <https://www.sandiegouniontribune.com/news/immigration/sd-me-trans-asylum-seeker-wrongful-death-claim-20181126-story.html>

⁴ Emanuella Grinberg, *Transgender immigrant who died in ICE custody was beaten and deprived of medical attention, family say*, CNN, November 27, 2018, available at: <https://www.cnn.com/2018/11/27/us/transgender-asylum-seeker-wrongful-death-claim/index.html>; Nicole Chavez, *Transgender women in migrant caravan dies in ICE custody*, CNN, May 31, 2018, available at: <https://www.cnn.com/2018/05/31/health/transgender-migrant-dies-ice-custody/index.html>

⁵ Press Release, U.S. Immigration and Customs Enforcement, published on May 25, 2018, available at: <https://www.ice.gov/news/releases/ice-detainee-honduras-passes-away-new-mexico-hospital#wcm-survey-target-id>

According to ICE, Lovelace Medical Center preliminarily listed Ms. Hernández's cause of death as cardiac arrest.⁶ The Transgender Law Center had an independent autopsy performed that suggested severe complications of dehydration on top of an H.I.V. infection and also suggested that Ms. Hernández was beaten with a baton or similar object while she was restrained by handcuffs. The Transgender Law Center's Director of Litigation has declared that, "people need to know that her death was preventable."⁷

It is deeply troubling that ICE has been uncooperative in releasing information about Ms. Hernandez's case. This violates congressional requirements. Congress requires ICE to publish an initial report, for public release, on each in-custody death for within 30 days and similarly for a final report within 60 days.⁸ It has been over 180 days since Ms. Hernández was pronounced dead and no such report has been publicly released. ICE's failure to release this report diminishes the systemic, traumatic, and in this case fatal, violence that transgender individuals experience daily as a result of their gender identity.

We request that ICE immediately release a full and complete death review and supporting documentation on Roxana Hernández to the public.⁹ We also request that ICE and CBP each provide us with complete accounting and documentation of the specific training that their officers, agents, and contractors receive related to the processing, medical evaluation and care, and safety of transgender individuals in custody.

We look forward to a prompt response.

Sincerely,



Kamala D. Harris
United States Senator



Tom Udall
United States Senator



Martin Heinrich
United States Senator

⁶ Id.

⁷ Kate Morissey, *Lawyers allege wrongful death*; Sandra E. Garcia, *Independent Autopsy of Transgender Asylum Seeker Who Died in ICE Custody Shows Signs of Abuse*, NYTIMES, November 27, 2018, available at: <https://www.nytimes.com/2018/11/27/us/trans-woman-roxsana-hernandez-ice-autopsy.html>

⁸ Congressional Committee Report, H. Rept. 115-239 – Department of Homeland Security Appropriations Bill, 2018, available at: <https://www.congress.gov/congressional-report/115th-congress/house-report/239/1>

⁹ ICE records list Roxana Hernández as Jeffry Hernandez.