

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

May 1, 2025

The Honorable Kristi Noem
Secretary of Homeland Security
U.S. Department of Homeland Security
3801 Nebraska Avenue NW
Washington, DC 20016

The Honorable Pete Hegseth
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Noem and Secretary Hegseth:

This Administration’s efforts to effectuate a mass deportation scheme by expanding immigration detention to military installations are ill-conceived and a colossal waste of resources. In addition to unlawfully transferring and detaining immigrants at Naval Station Guantanamo Bay¹—where the Administration has spent approximately \$40 million on operations and detained individuals have reported horrific detention conditions²—the Administration intends to detain immigrants on military bases throughout the United States.³ Though immigrants have been held at military bases in limited circumstances in the past,⁴ the apparent scope of this Administration’s plans to use installations within the United States for long-term detention and removal of immigrants is both unprecedented and a dangerous misuse of national security resources that will impact military readiness and preparedness. Congress remains in the dark about other plans the Administration may have to expand detention,

¹ See Letter from Richard J. Durbin, Ranking Member, S. Comm. on the Judiciary, et al., to President Donald J. Trump, 119th Cong. (Feb 24, 2025), <https://www.judiciary.senate.gov/imo/media/doc/2025-02-24%20-%20Letter%20to%20WH%20re%20Guantanamo.pdf> (“There is no basis in U.S. immigration law for transferring noncitizens arrested inside the United States to a location *outside* of the United States for detention prior to or for the purposes of conducting removal proceedings.”); and Charlie Savage & Carol Rosenberg, *New Lawsuit Challenges Legality of Trump’s Sending Migrants to Guantánamo*, N.Y. TIMES (March 1, 2025), <https://www.nytimes.com/2025/03/01/us/politics/lawsuit-migrants-guantanamo.html>.

² See e.g., Silvia Foster-Frau & Ana Vanessa Herrero, *Invasive Frisks, Suicide Attempts: Three Migrants Describe Guantánamo Detention*, WASH. POST (Feb. 25, 2025), <https://www.washingtonpost.com/immigration/2025/02/25/guantanamo-trump-migrants-deportations-venezuela/> (“[T]hey were denied calls to lawyers or loved ones after repeated pleas. They said they were subjected to humiliating and invasive strip searches. They described prolonged periods in isolation, with only two one-hour opportunities to go outside over two weeks.”); and Carol Rosenberg, *U.S. Has Spent \$40 Million to Jail About 400 Migrants at Guantánamo*, N.Y. TIMES (Mar. 31, 2025), <https://www.nytimes.com/2025/03/31/us/politics/migrants-guantanamo-costs.html>.

³ See Joel Rose & Tom Bowman, *DHS Memo Lays Out Plans to Detain Migrants at Fort Bliss and Other U.S. Bases*, NPR (Feb. 24, 2025), <https://www.npr.org/2025/02/24/nx-s1-5307156/immigration-dhs-memo-trump-migrant-detention-military-bases>; Natasha Bertrand & Haley Britzky, *Texas Army Base Chosen to House Migrants, Defense Officials Say*, CNN (Apr. 11, 2025), <https://www.cnn.com/2025/04/11/politics/texas-army-base-migrants/index.html>.

⁴ Dan Avery, *U.S. Military Building “Eight Small Cities” to House at Least 50,000 Afghan Refugees*, ARCHITECTURAL DIGEST (Sept. 9, 2021), <https://www.architecturaldigest.com/story/afghan-refugee-military-cities> (In September 2021, defense officials reported that, after evacuation from Afghanistan, approximately 25,000 Afghans were housed at military bases including Fort McCoy in Wisconsin; Fort Bliss; McGuire Air Force Base in New Jersey; Virginia’s Fort Picket, Fort Lee, and the Marine base at Quantico; New Mexico’s Holloman Air Force Base; and Indiana’s Camp Atterbury).

including potential deals worth billions of dollars with defense contractors to accelerate the removal and detention of immigrants.⁵

A February Department of Homeland Security (DHS) memo outlined a plan to initially detain approximately 1,000 immigrants at Fort Bliss near El Paso, Texas, which would eventually act as a “central hub for deportation operations,” holding as many as 10,000 immigrants prior to their removal from the United States.⁶ Using Fort Bliss as a model, DHS intends to build at least 10 other detention facilities on military bases, including Joint Base McGuire-Dix-Lakehurst near Trenton, New Jersey; Niagara Falls Air Reserve Station near Buffalo, New York; Hill Air Force Base in Davis County, Utah; and Homestead Air Reserve Base near Miami, Florida.⁷

Recently, Department of Defense (DoD) officials confirmed the military’s involvement in this proposal, stating the Secretary of Defense has directed the U.S. Army to “assume control and management . . . of contracts supporting the facility, construction, maintenance and upkeep” of immigration detention facilities “on Army land at Fort Bliss.”⁸ In addition, President Trump has authorized the military to take a more direct role in securing the border through a Presidential Memorandum,⁹ which states that DoD should be given jurisdiction over federal lands “that are reasonably necessary to enable [directed] military activities . . . including border-barrier construction and emplacement of detection and monitoring equipment”; as a result, according to government officials, DoD will have the right to detain immigrants who trespass on those lands until they are placed in U.S. Immigration and Customs Enforcement (ICE) custody.¹⁰

Efforts to detain immigrants at Fort Bliss in the past were the subject of multiple investigations and litigation.¹¹ Unaccompanied immigrant children detained in large tents at Fort

⁵ See Dasha Burns & Myah Ward, *Military Contractors Pitch Unprecedented Prison Plan for Detained Immigrants*, POLITICO (Apr. 11, 2025), <https://www.politico.com/news/2025/04/11/military-contractors-prison-plan-detained-immigrants-erik-prince-00287208>; Dasha Burns & Myah Ward, *Trump Allies Circulate Mass Deportation Plan Calling For “Processing Camps” And Private Citizen “Army,”* POLITICO (Feb. 25, 2025),

<https://www.politico.com/news/2025/02/25/documents-military-contractors-mass-deportations-022648> (Jason P. Houser, former ICE chief of staff estimated the plan would cost closer to \$80 billion); and Ben Makuch, *‘MAGA Since Forever’: Mercenary Mogul Erik Prince Pushes To Privatize Trump Deportation Plans*, THE GUARDIAN (Mar. 16, 2025), <https://www.theguardian.com/us-news/2025/mar/16/erik-prince-trump-immigration-enforcement>.

⁶ Joel Rose & Tom Bowman, *DHS Memo Lays Out Plans to Detain Migrants at Fort Bliss and Other U.S. Bases*, NPR (Feb. 24, 2025), <https://www.npr.org/2025/02/24/nx-s1-5307156/immigration-dhs-memo-trump-migrant-detention-military-bases>.

⁷ *Id.*

⁸ Natasha Bertrand & Haley Britzky, *Texas Army Base Chosen to House Migrants, Defense Officials Say*, CNN (Apr. 11, 2025), <https://www.cnn.com/2025/04/11/politics/texas-army-base-migrants/index.html>.

⁹ Presidential Memorandum, *Military Mission for Sealing the Southern Border of the United States and Repelling Invasions* (Apr. 11, 2025), <https://www.whitehouse.gov/presidential-actions/2025/04/military-mission-for-sealing-the-southern-border-of-the-united-states-and-repelling-invasions/>.

¹⁰ Gloria Oladipo, *Trump Authorizes US Military to Take Control of Land At US-Mexico Border*, THE GUARDIAN (April 12, 2025), <https://www.theguardian.com/us-news/2025/apr/12/trump-military-control-us-mexico-border>; Tara Copp & Lolita C. Baldor, *US Army to Control Land on Mexico Border as Part of Base, Migrants Could be Detained, Officials Say*, AP, <https://apnews.com/article/border-trump-roosevelt-military-immigration-85974188a51593351eed70ad26291888> (according to U.S. officials, “land . . . controlled by the Army as part of a base [] could allow troops to detain any trespassers, including migrants . . .”).

¹¹ See e.g., Camilo Montoya-Galvez, *Migrant Children Endure “Despair and Isolation” Inside Tent City in The Texas Desert*, CBS NEWS (Jun. 22, 2021), <https://www.cbsnews.com/news/immigration-migrant-children-fort-bliss->

Bliss experienced overcrowding, inadequate medical care, and mental health issues.¹² Career civil servants assigned to work with these children blew the whistle on mismanagement of the facility, citing waste, fraud, and abuse, as well filthy conditions, COVID and lice outbreaks, and depressive episodes among children.¹³ Large scale detention sites like those contemplated at Fort Bliss and other military bases, particularly those assembled or expanded on a rushed timeline, will invite similarly dangerous and inhumane detention conditions.

Any immigration detention scheme does not function without guardrails. Though ICE's detention system is heavily reliant on private prison companies to detain immigrants, the U.S. military historically only has played a limited logistical support role in immigration detention and no active role in civilian immigration enforcement.¹⁴ Moreover, immigrants in detention, including on a military base, have due process protections and are protected under the Constitution from indefinite detention or detention conditions considered punitive in nature.¹⁵ Detention facilities must also abide by the *Flores* settlement agreement and other restrictions on length of detention with respect to children.¹⁶ In addition, all facilities detaining immigrants should be governed by ICE detention standards.¹⁷

[tent-city-texas/](https://www.earthjustice.org/feature/migrant-children-detention-center-fort-bliss-documents); Earthjustice, *Stopping Toxic Cages* (Nov. 21, 2019), <https://www.earthjustice.org/feature/migrant-children-detention-center-fort-bliss-documents> (alleging that steps to build a family detention center at Fort Bliss occurred without ensuring the site was free of toxic hazards).

¹² Camilo Montoya-Galvez, *Migrant Children Describe Poor Conditions at Makeshift U.S. Shelters in Interviews with Attorneys*, CBS News (May 19, 2021), <https://www.cbsnews.com/news/immigration-border-migrant-children-poor-conditions-shelters/> (“Several migrant children reported suicidal thoughts and talk of self-harm among other youths.”); and Hilary Anderson, *‘Heartbreaking’ Conditions In US Migrant Child Camp*, BBC (June 22, 2021), <https://www.bbc.com/news/world-us-canada-57561760>.

¹³ Government Accountability Project, *Second Protected Whistleblower Disclosures of Gross Mismanagement by the Department of Health and Human Services at Fort Bliss, Texas Causing Specific Dangers to Public Health and Safety* (July 28, 2021), <https://whistleblower.org/wp-content/uploads/2021/07/072821-2nd-Fort-Bliss-Whistleblower-Disclosure-FINAL.pdf>; Anderson, *supra* note 12.

¹⁴ U.S. Northern Command, *Securing Borders*, <https://www.northcom.mil/BorderSecurity/#:~:text=Up%20to%204%2C000%20service%20members,and%20out%20of%20the%20operation> (last visited Apr. 24, 2025) (“Military personnel do not directly participate in civilian law enforcement activities.”).

¹⁵ See *Bell v. Wolfish*, 441 U.S. 520, 535-37 (1979) (conditions of confinement of pretrial detainee should not amount to punishment); *Zadvydas v. Davis*, 533 U.S. 678 (2001); see also e.g., *Torres v. United States Dep't of Homeland Sec.*, 411 F. Supp. 3d 1036 (C.D. Cal. 2019); *Americans for Immigrant Justice v. DHS*, No. 22-cv-3118, 2023 WL 1438376 at *12, 21(DDC Feb. 1, 2023), and *SPLC v. DHS*, No. 19-760, 2020WL 3265533 at *18-19 (DDC Jun. 17, 2020) (limitations on access to counsel in ICE civil detention may constitute constitutional violations if conditions of confinement are equal to or worse than conditions experienced by individuals in criminal confinement).

¹⁶ See Stipulated Settlement Agreement, *Flores v. Reno*, No. 85-4544 (C.D. Cal. Jan. 17, 1997), <https://www.acf.hhs.gov/sites/default/files/documents/orr/Flores-Settlement-Agreement.pdf>

(“Facilities will provide access to toilets and sinks, drinking water and food as appropriate, medical assistance if the minor is in need of emergency services... Every effort must be taken to ensure that the safety and well-being of the minors detained in these facilities are satisfactorily provided for by the staff”); 8 U.S.C.A. § 1232(b)(3) (“Except in the case of exceptional circumstances, any department or agency of the Federal Government that has an unaccompanied alien child in custody shall transfer the custody of such child to the Secretary of Health and Human Services not later than 72 hours after determining that such child is an unaccompanied alien child.”)

¹⁷ U.S. Immigr. and Customs Enforcement, *Detention Management*, <https://www.ice.gov/detain/detention-management> (“all facilities housing ICE detainees must comply with one of several sets of detention standards which describe a facility’s immigration detention responsibilities, explain what detainee services a facility must provide, and identify what a facility must do to ensure a safe and secure detention environment for staff and aliens in detention.”) (last visited Apr. 24, 2025).

This Administration's attempts to expand detention will impact military readiness and preparedness, including by diverting service members from their core duties and negatively impacting morale, all while the United States navigates a heightened threat global threat environment. Military experts have described how training and mobilizing military service members to support deportation operations instead of devoting resources and personnel needed to prepare for combat will undermine operational planning and the military's ability to respond to crises.¹⁸ ICE should immediately abandon its plan to expand detention to military installations, which are wholly inappropriate and unprepared for civil detention, and cease wasting taxpayer dollars to hastily erect detention facilities where immigrants, including children, will inevitably suffer.

In order to assess the resource allocation and feasibility of the proposed detention expansion plan involving DoD military facilities, please provide the following records, including correspondence dated after January 20, 2025, by May 15, 2025:

1. Records reflecting or relating to legal or operational analysis of *Posse Comitatus Act* compliance in connection with the involvement of U.S. military personnel or assets in immigration enforcement or detention.
2. Records reflecting or relating to plans to use Fort Bliss, or other military installations to detain or stage immigrants who are in ICE custody for removal from the United States, including Joint Base McGuire-Dix-Lakehurst near Trenton, New Jersey; Niagara Falls Air Reserve Station near Buffalo, New York; Hill Air Force Base in Davis County, Utah; and Homestead Air Reserve Base near Miami, Florida.
3. Records reflecting or relating to studies, evaluations, risk assessments, or analyses conducted by DHS, DoD, or any interagency body regarding the impact of using U.S. military installations for immigration detention on military readiness, training capacity, or operational effectiveness.
4. Records reflecting or relating to the reallocation, redirection, or reassignment of military personnel, equipment, or other assets from national security or warfighting missions to support immigration detention, border security operations, or migrant removal logistics.
5. Records reflecting or relating to solicitations, responses to the solicitations, extended or new ICE detention contracts (including all modifications), and work orders with private contractors.
6. Records reflecting or relating to immigration detention standards for facilities on military bases, including access to legal counsel, for individuals detained on military installations and relevant training that will be provided to military personnel.

¹⁸ See Anastasia Obis, *Lawmakers press Hegseth about cost, morale, readiness impact of border operations*, Fed. News Network (Feb 19, 2025), <https://federalnewsnetwork.com/defense-main/2025/02/lawmakers-press-hegseth-about-cost-morale-readiness-impact-of-border-operations>; and *How Mass Deportations Will Separate American Families, Harm our Armed Forces, and Devastate Our Economy*, Before the S. Comm. on the Judiciary, 118th Cong. (2024) (statement of Randy Manner, Retired Major General), https://www.judiciary.senate.gov/imo/media/doc/2024-12-10_-_testimony_-_manner.pdf.

7. Records reflecting or relating to the number of detention beds ICE plans to make available on military installations, including beds for families and children.
8. Records reflecting or relating to costs or estimated costs for immigration detention expansion to military installations and the sources of funding to pay for this detention.
9. Records reflecting or relating to standard operating procedures for immigration detention facilities on military installations, including records reflecting command authority over immigration detention operations at military bases.
10. Records reflecting or relating to agreements with military contractors, including a recently registered business called 2USV, to conduct immigration enforcement.

I look forward to your prompt attention to this important request.

Sincerely,



Richard J. Durbin
Ranking Member

cc: The Honorable Charles E. Grassley
Chairman, Senate Committee on the Judiciary