

United States Senate

WASHINGTON, DC 20510-4305

August 3, 2021

The Honorable Merrick B. Garland
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Garland:

I am writing in regards to Executive Order 14006 issued on January 26, 2021, “Reforming Our Incarceration System to Eliminate the Use of Privately Operated Criminal Detention Facilities” (“Executive Order”) and how it relates to the U.S. Marshals Service (“USMS”). I am particularly concerned about the effect that this order will have on public safety, the administration of justice, and the constitutional rights of the accused.

On February 10, 2021, the USMS expressed significant concerns about Executive Order’s unintended consequences on public safety, proximity to federal courts, a defendant’s ability to visit with his or her family, and a defendant’s access to counsel to prepare a defense.

One example of the challenges facing the USMS is the Willacy County Regional Detention Facility (“WCRDF”) in Raymondville, Texas. WCRDF, which services approximately 580 pretrial detainees, is in close proximity to two Texas federal courts, one in McAllen and one in Brownsville. Both courts are less than an hour drive from the facility, which makes it manageable for pretrial detainees to meet with their legal counsel, attend court proceedings, and be safely transported to appointments.

Based on the Executive Order, however, the USMS stands to lose access to this facility on September 30, 2021. Neither the facility operators nor the courts servicing that area have received a plan for transporting and housing the almost 600 pretrial detainees. Stakeholders in the Southern District of Texas have looked into potential facilities that would meet the Executive Order’s criteria. The potential alternatives present serious logistical and access to counsel challenges.

Indeed, the Public Defender for the Southern District of Texas noted that the Executive Order “will have a devastating impact on our practice and will significantly undermine our ability to represent our clients effectively as required under the Sixth Amendment.” Chief Judge Rosenthal of the Southern District of Texas further noted that the Executive Order implicates “border security and public safety concerns,” and that losing the privately operated facilities would affect the courts, the United States Attorney’s Office, the USMS, the Federal Public

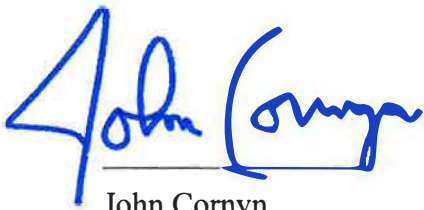
Defender, the Criminal Justice Act Panel, the retained attorneys, and, most of all, the pretrial detainees.

Other lawmakers have sounded the alarm regarding the unintended consequences of the Executive Order. Accordingly, in April 2021, Senator Jeanne Shaheen (D-NH) and Senator Jerry Moran (R-KS) sent a bipartisan letter to the White House expressing concern with the cost, proximity, the level of reduced services, and the unnecessary disruption that the Executive Order causes for the USMS.

In light of the growing concerns about the Executive Order's impact on the administration of the courts, public safety, and a defendant's access to counsel, I write to request that you answer some questions by August 13, 2021.

1. What are your plans to ensure individuals can easily access legal counsel and attend all court appointments if you shut down contractor facilities such as the Willacy County Regional Detention Facility?
2. What is your specific plan for the relocation of the almost 600 pretrial detainees at the Willacy County Regional Detention Facility?
3. Has the administration determined the cost of relocating pretrial detainees in USMS custody to other government-run facilities?
4. How will you ensure that the hundreds of new contracts for small populations of pretrial detainees will receive the same level of oversight and accountability as the current contractor-operated facilities utilized by USMS?

Regards,



John Cornyn

United States Senator