

Congress of the United States

Washington, DC 20515

June 22, 2018

Colonel Peter Sicoli
Commanding Officer
United States Army
Fort Hamilton Garrison
Brooklyn, NY 11252

Dear Col. Peter Sicoli:

As Members of Congress, we are writing to express our concerns over the detention of Pablo Villavicencio, who was arrested and detained after attempting to deliver pizza to the Brooklyn U.S. Army post in Fort Hamilton.¹ The circumstances surrounding his arrest are questionable. Mr. Villavicencio was detained for presenting a municipal identification card instead of a license. A facility guard examined his ID and ran a background check and called Immigration and Customs Enforcement (ICE) to facilitate his arrest and detention. It is our understanding that the facility in question executed a background check despite being pleaded by a fellow officer to not conduct the check.²

While it is understood that Department of Defense (DOD) policy requires anyone without an official ID to go through a background check,³ it is unclear why this policy applies to persons who do not, *per se*, have official business at the post. Based on the statement provided by the DOD spokesperson to the New York Times, we can conclude that regardless of the type of license or ID card presented, it would have likely generated a background check.⁴ While Mr. Villavicencio was physically present at the base, he was not in the vicinity to conduct official business; he was there to deliver pizza.

The actions taken by the post generate pressing questions about Fort Hamilton's current policies, which are critical to maintaining public trust and safety. Furthermore, it can be argued that the practices employed in this particular scenario may fall outside the immediate responsibilities of Fort Hamilton's guards. Given the unusual circumstances surrounding Mr. Villavicencio's arrest and transfer to ICE custody, we seek answers to the following questions.

¹ Robbins, L. June 8, 2018. Lawyers Ask ICE to Stop Deportation of Delivery Man. New York Times. <https://www.nytimes.com/2018/06/08/nyregion/pizza-delivery-ice-deportation.html>

² *Id.*

³ *Id.*

⁴ See note 5.

1. Under what circumstances does a background check initiated by a guard of the Army base generate the response of an external local police agency or federal agency?
 - a. Please provide, in both numerical and percentage terms, the total number of background checks that have been executed by guards at Fort Hamilton and an analysis of how frequently this practice has resulted in the involvement of an external local police force or federal agency.
2. In the absence of an acceptable form of identification (i.e. driver license or passport), what is the current protocol for deliveries to Fort Hamilton?
 - a. Please describe, in detail, the process that guards employ to inform delivery employees of the background check process.⁵
 - i. Do guards on duty explain to delivery employees that they may opt-out of a background check (i.e. not sign the waiver) if they choose not to enter the base? If so, please provide us with the instructions and guidance currently furnished by Fort Hamilton. If not, please describe why Fort Hamilton does not explain this opt-out right.
 - ii. As part of your answer to the above, please provide the details governing the background check waiver and the efforts employed by Fort Hamilton to inform persons, in clear terminology, the implications of the waiver.
 - iii. To your knowledge, are there reports from Fort Hamilton staff that indicate that other delivery employees have had to sign a waiver to “complete their delivery?”
 - A. How many such deliveries have also led to law enforcement detention?
 - B. Out of the persons who were referred to law enforcement for detention purposes, how many are immigrants?
 - I. Did these persons understand fully the terms and conditions governing the background check waiver? If not, were they informed of their right to opt-out?
 - II. How often do you engage with the local business community to ensure that delivery employees understand their responsibilities and the terms and conditions that govern their entry to the base?

⁵ Robbins, L. June 6, 2018. He delivered pizza to an Army base in Brooklyn. Now he faces deportation. New York Times <https://www.nytimes.com/2018/06/06/nyregion/pizza-delivery-ice-deportation.html> Note: as related to the “day pass” that requires an “on-site background check.”

3. The *New York Times* reported on June 8, 2018 that Mr. Villavicencio's attorney expressed concern over the fact that he may have not consented to the background check in question. This issue has been brought up in follow-up reporting and a copy of the waiver was not immediately available. If his detention is ultimately found to be based on a non-consented waiver, what changes will Fort Hamilton implement to prevent such future incidents?

Given the circumstances, we kindly request a written a response to these questions within **15 calendar days** and look forward to reviewing these issues with you.

Sincerely,



Nydia M. Velázquez
Member of Congress



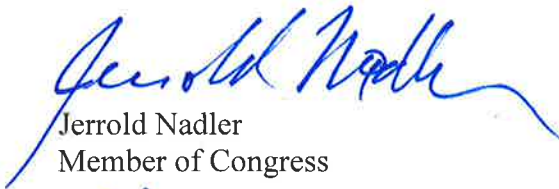
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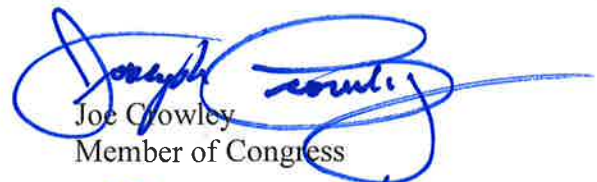
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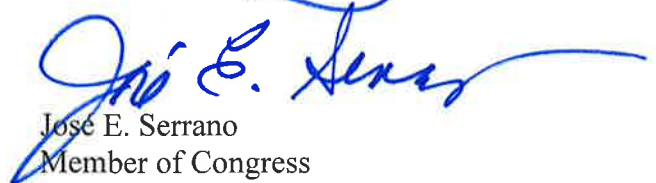
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