

Congress of the United States

Washington, DC 20515

February 6, 2020

Matthew T. Albence
Acting Director
Immigration and Customs Enforcement
500 12th Street, SW
Washington, DC 20536

Dear Acting Director Albence:

As members of Congress, we are writing to express our serious concerns regarding an incident involving U.S. Immigration and Customs Enforcement's (ICE) agents this morning in Brooklyn, New York. At about 8:15 A.M., local reports indicated that an on-duty member of ICE's Enforcement and Removal Operations (ERO) team shot a man while attempting to serve a deportation order for Gaspar Avendano-Hernandez. A man observing the scuffle intervened, unaware that ICE agents were attempting to arrest Mr. Avendano-Hernandez. That man, Erick Diaz, was hit by a bullet on one of his hands that later struck him in the face.¹ The agent was at a home on W. 12th Street near Quentin Road in Gravesend when the shooting occurred. According to the Fire Department, the victim was rushed to Maimonides Hospital.

The details surrounding the incident are currently being investigated. However, we are very concerned by the initial use of force by the ICE agent in the first place, especially as initial reporting suggests both Mr. Avendano-Hernandez and Mr. Diaz were unarmed. It is our understanding that Mr. Diaz may have been reaching for the agent's gun after being besieged by agents who allegedly did not identify themselves as immigration enforcement agents.² The conflicting narratives from ICE agents and those of the family are disturbing. This unfortunate incident further erodes trust in the agency's mission and its responsibilities. Moreover, the nature of the incident is serious enough to warrant a review of practices and protocol employed by ICE agents in the field.

Furthermore, it is our understanding that agents currently stationed at Maimonides Hospital are preventing the men involved in the incident from accessing legal counsel. Preventing full and fair access to counsel is unacceptable and this practice must cease immediately.

¹ Eyewitness News. ABC 7 NY. ICE agent shoots man in face during deportation fight in Gravesend, Brooklyn. February 6, 2020. <https://abc7ny.com/5908029/> Gabrielle Fonrouge, Reuven Fenton and Olivia Bensimon. February 6, 2020 | 9:37am | Updated New York Post. ICE agent shoots man in the face during home visit in Brooklyn. February 6, 2020. <https://nypost.com/2020/02/06/ice-agent-shoots-person-in-brooklyn-during-home-visit/>

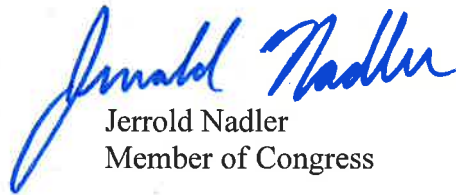
² *Id.*

Given the above, we request that your agency immediately brief us on the incident and the agent's decision to employ his or her firearm. As part of this briefing, we request a description of the protocol your agency employs to deescalate tensions when engaging in enforcement operations. We also wish to determine whether the agents involved in this incident were serving a warrant signed by a judge. Lastly, we ask for confirmation that ICE agents in New York are in no way impeding these immigrants' access to counsel.

Sincerely,



Nydia M. Velázquez
Member of Congress



Jerrold Nadler
Member of Congress