

Congress of the United States
Washington, DC 20510

June 9, 2020

The Honorable Mark T. Esper
Secretary
Department of Defense
1300 Defense Pentagon
Washington, DC 20301

Dear Secretary Esper:

We write seeking information about the Department of Defense's (Department) reliance on the American Correctional Association (ACA) for accreditation of military confinement and corrections facilities.

The ACA states that it is the primary accreditor for federal, state, and local private prisons and detention facilities.¹ According to the ACA, the purpose of accreditation is "to improve facility operations through adherence to clear standards relevant to all areas/operations of the facility, including safety, security, order, inmate care, programs, justice, and administration."² The ACA has accredited over 1,500 facilities in least 49 states, DC, and Puerto Rico.³ As part of the accreditation process, the ACA audits private and public prisons and detention facilities, providing them with a stamp of approval and all "the benefits accruing from accreditation," namely, access to sizeable government contracts.⁴

According to documents and information the ACA provided to Senator Warren's staff, the Department relies on ACA accreditation for confinement and corrections facilities in the U.S. and abroad, including:⁵

- U.S. Army corrections and confinement facilities in the United States, South Korea, and Germany;

¹ American Correctional Association, "The History of the American Correctional Association," http://www.aca.org/ACA_Prod_IMIS/ACA_Member/About_Us/Our_History/ACA_Member/AboutUs/AboutUs_Home.aspx?hkey=0c9cb058-e3d5-4bb0-ba7c-be29f9b34380; Information obtained during a phone call between staff of Senator Warren and American Correctional Association.

² American Correctional Association, "Welcome to the Standards and Accreditation Department," http://www.aca.org/ACA_Prod_IMIS/ACA_Member/Standards_Accreditation/ACA_Member/Standards_and_Accreditation/SAC.aspx?hkey=7f4cf7bf-2b27-4a6b-b124-36e5bd90b93d.

³ American Correctional Association, "Accredited Facilities," http://www.aca.org/ACA_Prod_IMIS/ACA_Member/Standards_and_Accreditation/SAC_AccFacHome.aspx?WebsiteKey=139f6b09-e150-4c56-9c66-284b92f21e51&hkey=f53cf206-2285-490e-98b7-66b5ecf4927a&CCO=2.

⁴ Information obtained from multiple contracts written by the ACA and signed by a private prison owner and operator.

⁵ Information obtained from documents provided to Senator Warren's staff by the ACA, and in a phone call between staff of Senator Warren and the ACA.

- At least three U.S. Navy confinement and corrections facilities in California, South Carolina, and Virginia; and
- At least two U.S. Marine Corps confinement and corrections facilities in Okinawa, Japan.

The information we were provided is incomplete, so it is unclear whether the ACA accredits additional facilities for the Department.

The importance of maintaining military facilities, especially military confinement and corrections facilities, that meet basic health and safety standards cannot be overstated, and we are pleased that the Department takes this issue seriously enough to seek accreditation for its facilities. Unfortunately, however, it is not clear that the ACA treats its duties as accreditor with the same respect and care.

For example, the ACA plays a dual role as accreditor and advocate. As the “voice of corrections,”⁶ the ACA advocates for and lobbies on behalf of private prisons, receiving a significant portion of its revenue through accreditation from the same private detention companies that it claims to objectively audit.⁷

Perhaps more concerning, the accreditation process appears to lack rigor and independence, serving as no more than a rubber stamp. It is almost impossible to fail an ACA audit. As part of a broad investigation of the role of ACA accreditation, Senator Warren’s staff learned of a number of problems with the accreditation process. Among other concerns, the ACA grants facilities three months’ advance notice of its audits;⁸ provides facilities with “technical assistance,” including “standards checklists” and an “audit readiness evaluation” that help a facility know when to schedule its audit and what to expect;⁹ and, at a facility’s request, the ACA will first conduct a “mock audit” to help the facility prepare for the real thing.¹⁰ Even if problems persist despite these ample opportunities to fix—or hide—them, the ACA Commissioners can excuse these problems and allow a facility to receive accreditation even if it fails.¹¹

These faults render ACA’s standards toothless. As a result, the ACA has accredited countless facilities with serious health and safety problems. For example, we learned that the ACA has not

⁶ American Correctional Association, “The History of the American Correctional Association,” http://www.aca.org/ACA_Prod_IMIS/ACA_Member/About_Us/Our_History/ACA_Member/AboutUs/AboutUs_Home.aspx?hkey=0c9cb058-e3d5-4bb0-ba7c-be29f9b34380.

⁷ ProPublica, “American Correctional Association,” https://projects.propublica.org/nonprofits/display_990/131977456/09_2019_prefixes_06-20%2F131977456_201809_990_2019092016669736. Information obtained from documents provided to Senator Warren’s staff by the ACA.

⁸ American Correctional Association, “Consultant Manual,” 2012, p. 29, http://www.aca.org/aca_prod_imis/Docs/Standards%20and%20Accreditation/ACA%20Consultant%20Manual%202012.pdf.

⁹ Information obtained from documents provided to Senator Warren’s staff by the ACA.

¹⁰ American Correctional Association, “Consultant Manual,” 2012, p. 27, http://www.aca.org/aca_prod_imis/Docs/Standards%20and%20Accreditation/ACA%20Consultant%20Manual%202012.pdf.

¹¹ American Correctional Association, “Manual of Accreditation,” Mar. 2017, http://www.aca.org/ACA_Prod_IMIS/docs/standards%20and%20accreditation/ALM-1-3_15_17-Final.pdf.

denied accreditation to a single facility in the last six years.¹² Facilities that have been the sites of multiple riots, failed to provide safe and adequate food or medical care to prisoners, and have been described by a federal judge as “paint[ing] a picture of such horror as should be unrealized anywhere in the civilized world,” have all been accredited and reaccredited by the ACA.¹³

The health and safety of the Department’s confinement and corrections facilities are critical to the rights and well-being of military and non-military personnel who are detained or work at these facilities, and to the national security of the United States. To ensure that the Department is receiving the quality assurance that it pays for and deserves via the accreditation process, please provide us with the following information:

1. A list of all Department facilities accredited by the ACA.
 - a. Please include a copy of all contracts between the Department and the ACA.
 - b. The total costs of ACA accreditation at Department facilities since January 2015.
2. Performance reviews and accreditation reports issued for any Department facilities by the ACA since January 2015.
 - a. Please include a record of all accreditation results, including whether the ACA has denied accreditation to any facility.
 - b. Please include a list of any health, safety, or other incidents that pose a risk to the security or well-being of detainees or correctional officers at facilities, including those accredited by the ACA.
3. Information on the Department’s internal oversight and accountability measures for ensuring the health and safety of confinement and corrections facilities, and the extent to which accreditation is part of these measures.
4. Information describing the alternative accreditation and oversight considered by the Department.

Sincerely,

Elizabeth Warren
United States Senator

Ruben Gallego
Member of Congress

¹² Information obtained from documents provided to Senator Warren’s staff by the ACA.

¹³ ACLU, “A Picture of Such Horror as Should Be Unrealized Anywhere in the Civilized World,” Margaret Winter, Mar. 29, 2012, <https://www.aclu.org/blog/smart-justice/mass-incarceration/picture-such-horror-should-be-unrealized-anywhere-civilized>.