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March 31, 2010

VIA FACSIMILE, E-MAIL & OVERNIGHT MAIL

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Re: Investigation of ICE Misconduct at Port Isabel Detention Center

Dear Attorney General Holder and Acting Director Coven:

I write on behalf of the Center for Constitutional Rights (CCR) to express concern over recent reports of abuse and misconduct by Immigration and Customs Enforcement (ICE) officials at the Port Isabel Detention Center (PIDC) in Los Fresnos, Texas. According to a March 18th Texas Observer report, ICE employees at PIDC engaged in retaliatory transfers and coercive threats against hunger-striking detainees last month; and two detainees complained of officers using excessive force against them after they engaged in a hunger strike to protest the lack of due process, among other grievances.¹ These accounts indicate a lack of oversight and non-compliance with basic detention standards.

We are particularly concerned about allegations of physical abuse by ICE employees in violation of ICE/DRO Detention Standards.² Excessive force clearly violates ICE/DRO Standards which expressly prohibit “[s]triking a detainee for failing to obey an order” and “[s]triking a detainee when grasping or pushing him/her would achieve the desired result.”³ CCR has received copies of PIDC detainee letters describing, and the March 18th Texas Observer article corroborates, accounts that in early February 2010 a significant number of ICE officers swarmed PIDC’s C-4 (“Charlie-4”) dorm and used excessive force against peaceful hunger strikers, presumptively to separate the protesters. According to media accounts, at the time of this C-4 dorm incident, at least 100 PIDC detainees were participating in the hunger strike, which at that time had only reached 48 hours.⁴ Two men who refused to be removed were assaulted by ICE agents who “put handcuffs on them and were

¹ Melissa del Bosque, *Point of No Return*, Texas Observer, Mar. 18, 2010, <http://www.texasobserver.org/cover-story/point-of-no-return> (including links to PIDC detainee letters); see also Nina Bernstein, *Move Further Isolates Immigration Detainees*, N.Y. TIMES, Mar. 17, 2010, at A23 (“Several [Hudson County, NJ] detainees were punished with isolation or were transferred to distant detention centers. Similar complaints of retaliation have been made by detainees on hunger strikes at the Port Isabel Detention Center[,] which houses many longtime legal residents of New York fighting deportation based on past criminal convictions.”).

² These standards “appl[y] to the following types of facilities housing DRO detainees: Service Processing Centers (SPCs); Contract Detention Facilities (CDFs); and State or local government facilities used by DRO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.” See ICE Performance Based National Detention Standards, “Hunger Strikes,” § I (Dec. 2, 2008).

³ ICE Performance Based National Detention Standards, “Use of Force and Restraints,” § V.E.3–4 (Dec. 2, 2008).

⁴ See del Bosque, *supra* note 1.



kicking and hitting them” while other detainees watched.⁵ On February 16, 2010, the community-based organization Southwest Worker’s Union (SWU) sent a letter to, among others, Michael J. Pitts, the ICE Field Office Director with oversight of PIDC, the U.S. Attorneys’ Office, and the DHS Office of the Inspector General, informing them of these concerns, but has not yet received any official reply.⁶ CCR hopes that ICE staff complied with internal standards requiring detailed documentation of all incidents involving use of force, and as required, that the facility administrator and Field Office Director reviewed the audiovisual recording of such incident within four days after it occurs.⁷

CCR is also concerned with reports that the PIDC hunger strikers were singled out for retaliatory transfer for participating in the hunger strikes, and that ICE officials exhibited disregard for the needs and conditions of transfer for those individuals. Soon after the C-4 dorm incident, ICE reportedly transferred 17 detainee hunger strikers to Karnes County Correctional Center, an ICE facility located one hour from PIDC.⁸ CCR has heard of at least one instance,⁹ in the case of Henry Arroliga (A # 070-840-880), in which ICE officials denied necessary prescription medication in the course of a related transfer. ICE/DRO Detention Standards require in particular that “[p]rior to transfer, medical personnel shall provide the transporting officers instructions and, if applicable, medication(s) for the detainee’s care in transit. Detainees shall be transferred with, at a minimum, 7 days’ worth of prescription medications . . . to ensure continuity of care throughout the transfer and subsequent intake process.¹⁰

A detainee reported that ICE Assistant Field Office Director Michael Watkins verbally informed detainees that if they went on hunger strike, ICE could simply seek a court order to force-feed them.¹¹ Such a bad-faith and retaliatory threat, from a high-ranking ICE official, directly contravenes ICE/DRO Detention Standards governing detainee hunger strikes that were designed to establish a balance between detainees’ First Amendment rights and ICE’s interest in security and safety. Under such standards, PIDC officials must provide sufficient evidence that the detainee’s life was in danger when seeking legal authorization for any involuntary treatment,¹² and the detainee must be heard on the issue of whether he or she is of sound mind and body when choosing to continue a hunger strike.¹³

Last August, the Obama administration pledged that ICE would enact long overdue changes to achieve transparency and accountability, including new infrastructure to monitor and address substandard conditions of detention that the Department of Homeland Security (DHS).¹⁴ The hunger strikers grievances echo some of the

⁵ See del Bosque, *supra* note 1.

⁶ Letter from Anayanse Garza, Southwest Workers’ Union, to Michael J. Pitts, ICE Field Office Director, *et al.* (Feb. 16, 2010) (on file).

⁷ ICE Performance Based National Detention Standards, “Use of Force and Restraints,” § V.O.1–2 (Dec. 2, 2008).

⁸ See del Bosque, *supra* note 1.

⁹ The SWU and Grassroots Leadership have spoken with and documented the names of several of the individuals transferred.

¹⁰ ICE Performance Based National Detention Standards, “Transfer of Detainees,” § V.D.6(e) (Dec. 2, 2008).

¹¹ See del Bosque, *supra* note 1 (relating detainee’s account).

¹² See *Grand Jury Subpoena John Doe v. United States*, 150 F.3d 170 (2d Cir. 1998) (holding that civil contemnor could be force-fed when his life would otherwise be in danger).

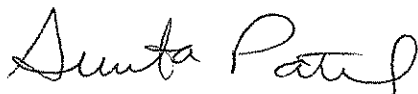
¹³ See ICE Performance Based National Detention Standards, “Hunger Strikes,” § V.E (Dec. 2, 2008) (“Involuntary medical treatment shall be administered in accordance with established guidelines and applicable laws and only after the clinical medical authority determines the detainee’s life and health is at risk.”); *id.* at § V.C (Dec. 2, 2008) (“If the detainee is engaging in a hunger strike due to mental condition, or is incapable of giving informed consent due to age or illness, appropriate medical/administrative action shall be take in the best interest of the detainee.”).

¹⁴ U.S. Immig. & Customs Enforcement, 2009 Immigration Detention Reforms (Aug. 6, 2009), *available at* http://www.ice.gov/pi/news/factsheets/2009_immigration_detention_reforms.htm; see also DORA SCHRIRO, U.S. DEP’T OF HOMELAND SECURITY, IMMIGRATION AND CUSTOMS ENFORCEMENT: IMMIGRATION DETENTION OVERVIEW AND RECOMMENDATIONS (Oct. 6, 2009), *available at* http://www.ice.gov/doclib/091005_ice_detention_report-final.pdf.

same areas the Obama administration identified for overhaul last year.¹⁵ We urge the agency immediately and thoroughly investigate the grievances of hunger strikers at PIDC and throughout the Texas immigration detention system. These troubling reports require, at minimum, a coordinated inter-departmental effort to monitor the situation for continued violations.

Thank you for your time and prompt attention to this important matter.

Sincerely,



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Via U.S. Mail, Facsimile & Electronic Mail (when available)

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U.S. Congress Member Rubén Hinojosa
Richard L. Skinner, DHS Office of the Inspector General
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Monica Ashiku, Fellow, South Texas Pro Bono Asylum Representation Project
Bob Libal, Texas Coordinator, Grassroots Leadership
Nina Bernstein, The New York Times
Melissa del Bosque, Texas Observer

¹⁵ See *Amnesty International Investigates Immigration Detainee Claims of Abuses, Lack of Due Process*, POLITICS & GOVERNMENT WEEK, June 18, 2009 (“At least nine detainees have already contacted AIUSA staff over the last several weeks to discuss details of their detention, including claims of U.S. citizenship and allegations of physical abuse at the hands of guards, as well as widespread inability to access legal counsel and the denial of a right to a hearing.”). See also del Bosque, *supra* note 1 (describing initial hunger strike begun in April 2009, and alleged transfer of hunger strike leaders to other detention centers that led to investigation by Amnesty International); Lynn Brezosky, *Detained Immigrant’s 8-Day Hunger Strike Comes to an End*, SAN ANTONIO EXPRESS-NEWS, July 7, 2009, at 1B; Emma Perez-Trevino, *Judge Orders Intravenous Fluids for Detainee on Hunger Strike*, BROWNSVILLE HERALD, July 3, 2009 (reporting hunger strikers demands as due process, medical attention for all detainees, access to legal resources, and an end to physical and verbal abuse, as documented and reported by community organization Southwest Workers’ Union). See also Lynn Brezosky, *Detention Center on Cusp of Change*, SAN ANTONIO EXPRESS-NEWS, Mar. 8, 2010, at 11A (“[D]etainees still complain of mistreatment and human rights abuse, and some have resorted to hunger strikes to call attention to conditions there.”). Earlier this month, media representatives were prevented from interviewing detainees or entering the “Charlie” pod where the most vocal detainee-protesters were kept and where the C-4 dorm incident occurred. See *id.*