



June 21, 2021

VIA ELECTRONIC MAIL AND U.S. PRIORITY MAIL

The Honorable Joseph V. Cuffari
DHS Inspector General
Office of Inspector General/Mail Stop 0305
Attn: Office of Investigations – Hotline
U.S. Department of Homeland Security
245 Murray Lane SW
Washington, DC 20528-0305
Send via USPS and Email to: dhs-oig.officepublicaffairs@oig.dhs.gov

Officer Kathy Culliton-Gonzalez
Officer for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
245 Murray Lane, SW
Building 410, Mail Stop #0190
Washington, DC 20528
Send via USPS and Email to: CRCLCompliance@hq.dhs.gov

Re: Call for Immediate Investigation into Immigration and Customs Enforcement Officers’ Use of Punitive Solitary Confinement as a Response to the COVID-19 Pandemic and Other Public Health Crises

Dear CRCL Officer Culliton-Gonzalez and DHS Inspector General Cuffari:

The following organizations – Al Otro Lado, American Civil Liberties Union of Louisiana, Black Alliance for Just Immigration, Cameroon American Council, Center for Constitutional Rights, Freedom for Immigrants, Haitian Bridge Alliance, Immigration Services and Legal Advocacy, Louisiana Stop Solitary Coalition, National Immigration Project of the National Lawyers Guild, Operation Restoration, Project South, Puentes New Orleans, Rapid Defense Network, Robert F. Kennedy Human Rights, Southern Poverty Law Center Action Fund, and the

Tulane Immigrant Rights Clinic – submit this complaint detailing civil and human rights violations committed against individuals in the custody of U.S. Immigration and Customs Enforcement (ICE) at the Pine Prairie ICE Processing Center (“Pine Prairie”), operated by the GEO Group. Specifically, we express serious concern regarding recent reports that ICE officers and personnel in Pine Prairie have used punitive solitary confinement to segregate individuals who have contracted COVID-19 or have experienced other medical and mental health crises, such as contracting mumps from unsanitary conditions and suffering from depression and anxiety. This pattern of implementing punitive solitary confinement is abusive, unlawful, and tantamount to torture. In addition, this complaint documents Pine Prairie’s disregard for public health guidelines set by the Center for Disease Control and Prevention by maintaining unsanitary conditions and punishing immigrants with solitary confinement when they speak out against these injustices.

These actions reported by individuals detained in Pine Prairie to the named organizations are in violation of international human rights law, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, which the United States has ratified; the First, Fifth, and Fourteenth Amendments to the United States Constitution; and ICE’s own policies within the Performance Based National Standards 2011 (PBNDS 2011), which Pine Prairie is contractually obligated to uphold. These life-threatening concerns require immediate attention and correction before more immigrants detained at Pine Prairie are subjected to the torture of solitary confinement and/or contract COVID-19 due to the lack of proper medical care and sanitation practices. We therefore urge the Office for Civil Rights and Civil Liberties (CRCL) at the Department of Homeland Security (DHS), pursuant to its authority under 6 U.S.C. § 345, and the Office of the Inspector General (OIG) to immediately investigate these complaints and to take steps to ensure that the routine practice of subjecting detained immigrants experiencing medical or mental health crises to solitary confinement is stopped at Pine Prairie ICE Processing Center, and within all facilities in the jurisdiction of the New Orleans ICE Field Office.

The violations detailed in this complaint include **I) inhumane general conditions of confinement** including lack of access to basic hygiene and cleanliness and lack of access to safe food and water; **II) lack of protection against the COVID-19 pandemic** including insufficient sanitation practices, lack of personal protective equipment, violations of cohorting and social distancing requirements, policies that disincentivize reporting of symptoms, and failure to perform mandated medical release for high-risk individuals; **III) abusive implementation of solitary confinement** including Pine Prairie’s repeated use of solitary confinement as a response to the COVID-19 pandemic, mental health crises, other public health crises, and alongside unlawful use of force as a response to peaceful protests; and **IV) due process concerns** including delays and lack of notice regarding the implementation of solitary confinement and exposure to COVID-19, amounting to an unconstitutional punitive condition of confinement.

I. Inhumane General Detention Conditions

Immigrants detained at Pine Prairie have reported the incredibly disturbing ways that the facility denies people being detained basic human rights and dignity. The inhumane living conditions at Pine Prairie, which predate the COVID-19 pandemic, violate ICE’s own policies under the Performance Based National Standards 2011 (PBNDS 2011).

Access to Basic Hygiene and Cleanliness

Detained immigrants have raised several concerns regarding unsanitary conditions at Pine Prairie that violate the PBNDS standards, which require that facility cleanliness and sanitation be maintained “at the highest level.”¹ Multiple people described their cells and the facility showers as infested with ants and other bugs.² Others also described black mold and mildew in the showers³ and reported multiple instances of toilet paper shortages in the facility. One man stated: “You can ask for toilet paper and they will only give you one roll. One roll goes by so fast, it's gone after three times and then you have to ask again. They run out constantly.”⁴ At one point, no one in the facility had toilet paper for three days.

These conditions violate the PBNDS, which require “cleanliness and sanitation”⁵ and that the facility “maintain any inventory of...personal hygiene items that is sufficient to meet the needs of detainees.”⁶

Access to Safe Food and Water

Regarding food service, ICE’s national detention standards institute cleaning, extermination, and storage requirements to prevent food contamination and pests.⁷ PBNDS Standard 4.1 requires that food preparation areas be free of pest infestations, that all incoming food shipments be inspected for contamination and pest infestation, and that food be stored so that it is protected from insects, unclean surfaces, leakage, and other sources of contamination. Likewise, sanitation guidelines must be observed during preparation and service, with hot foods maintained at a temperature of at least 140 degrees, and refrigerated foods maintained at a temperature of 41 degrees or below.

One immigrant who works in the kitchen reported that the food is most often poor quality and is also often expired and contaminated.⁸ On one occasion, detained immigrants who work as kitchen staff discovered that the bread ICE instructed them to serve was past the marked expiration date and had visible mold. Since then, there have been several other instances where kitchen workers have suspected that unmarked food is expired. Multiple people reported that “the food is always served cold” and “tastes expired.” One individual noted that “the milk is

¹ ICE, *Performance-Based National Detention Standards, 2011*, Section 1.2.I, Environmental Health and Safety (Revised Dec. 2016) (“This detention standard protects detainees, staff, volunteers and contractors from injury and illness by maintaining high facility standards of cleanliness and sanitation, safe work practices and control of hazardous substances and equipment.”).

² Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (2/12/21); (4/5/21); (4/23/21).

³ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (2/12/21); (4/19/21); (4/23/21).

⁴ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).

⁵ ICE, *Performance-Based National Detention Standards, 2011*, Section 1.2.I, Environmental Health and Safety (Revised Dec. 2016).

⁶ ICE, *Performance-Based National Detention Standards, 2011*, Section 4.5, Personal Hygiene (Revised Dec. 2016).

⁷ ICE, *Performance-Based National Detention Standards, 2011*, Section 4.1, Food Service (Revised Dec. 2016).

⁸ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (3/15/21); (4/5/21); (4/23/21).

usually sour and many times the labels say that it is expired.” Nearly everyone we interviewed reported that the milk they are given at meal times is past the listed expiration date. “I do remember distinctly the milk because you can see the expiration date on the label, and most of the time the milk is expired at Pine Prairie. The food here is the worst. I’ve never had anything so horrible in my life. Even in Nicaragua...I’ve never had food this bad”⁹ Many detained immigrants told us they spend all of what little money they have in commissary on foods like ramen noodles to supplement the food provided by the facility.

Immigrants on the quarantine floor report that food is delivered at “times that make it impossible to eat.”¹⁰ Breakfast is typically served at 4:00 am, when most people are still sleeping; lunch is served at 11:00 am; and dinner is served at 3:00 pm. The length of time between dinner and bedtime has resulted in several immigrants reportedly undereating and finding themselves malnourished, experiencing frequent migraines, blurred vision, and crippling fatigue. For immigrants with chronic health conditions, such as diabetes or kidney disease, this eating schedule may lead to hypoglycemia or other serious health concerns related to hormone production and metabolic function.

Multiple immigrants described the water in their cells as not potable. “It comes out white and smells funny. It looks contaminated, so I don’t drink it.” Instead, one man explained that he only drinks the juice that is sometimes given at mealtimes.¹¹ Another person described that the water in his cell was “bitter, white and had visible debris.”¹² One individual mentioned that the water from the combination toilet-sink fixture “tasted kind of funny, not really like water. Sometimes it comes out yellow, but you have no other choice but to drink it, that’s all the water you got.”¹³ The lack of access to safe food and drinking water at Pine Prairie directly violates PBNDS requirements, including the standards that “food service personnel shall provide nutritious and appetizing meals” and the notion that “food shall never be used for punishment.”¹⁴

II. Lack of Protection Against the COVID-19 Pandemic

The pattern of lack of medical care and unsanitary conditions at Pine Prairie has been exacerbated by the COVID-19 pandemic. During our interviews with individuals detained at Pine Prairie, immigrants reported not being able to socially distance, not having proper Personal Protective Equipment (PPE), and living in extreme fear of contracting COVID-19 and dying in the facility. These accounts indicate that in addition to violating ICE’s PBNDS standards, Pine Prairie also violated the CDC’s COVID-19 guidelines for correctional facility operations, hygiene protocol, and prevention practices.

⁹ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).

¹⁰ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (3/15/21).

¹¹ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (2/12/21).

¹² Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).

¹³ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/19/21).

¹⁴ ICE, *Performance-Based National Detention Standards, 2011*, Section 4.1.II.9 and Section 4.1.II.13, Food Service (Revised Dec. 2016).

Legal Framework

Under international human rights law, States have an obligation to work to prevent foreseeable threats to public health, particularly for individuals subjected to State custody.¹⁵ On March 27, 2020, UN agencies, including the OCHA and WHO released guidance clarifying States' international obligations towards individuals deprived of their liberty, including those in immigration detention, noting that "states should ensure that persons in detention have access to the same standard of health care as is available in the community, and that this applies to all persons regardless of citizenship, nationality or migration status."¹⁶ This guidance also states that under international human rights law, "Isolation or quarantine measures in places of detention must be legal, proportional and necessary, time-bound, subject to review and should not result in de facto solitary confinement."¹⁷

Further, the CDC Interim Guidance on Management of Coronavirus Disease in Correctional and Detention Facilities ("CDC Interim Guidance") provides guiding principles for healthcare and non-healthcare administrators of detention facilities to reduce the transmission of COVID-19.¹⁸ PBNDS 4.3 establishes detention standards for medical care and requires facilities to comply with plans implemented by federal, state, or local authorities addressing specific public health issues, including CDC COVID-19 management guidelines.¹⁹ The CDC's guidance, most recently updated on May 6, 2021, outlines the severe risks of COVID-19 transmission in detention facilities, including: the inability of detainees to follow social distancing guidelines and maintaining six feet from fellow detainees; the inability of detainees to exercise frequent handwashing; limited access to soap or paper towels; limited options for medical isolation; and the likelihood of introduction of disease due to staff ingress and egress and detainee transfers.²⁰ In addition, federal court rulings ordering release have explained the health risks created by maintaining large prison and detention populations during the COVID-19 pandemic.²¹

¹⁵ See, e.g., Universal Declaration of Human Rights (UDHR), Article 25(1) (1948); International Covenant on Economic, Social, and Cultural Rights (ICESCR) (1966); United National Standard Minimum Rules for Treatment of Prisoners ("Nelson Mandela Rules"), adopted by the General Assembly on 17 December 2015.

¹⁶ Inter-Agency Standing Committee (IASC), "COVID-19: Focus on Persons Deprived of their Liberty," (March 27, 2020), ("Persons deprived of their liberty face higher vulnerabilities as the spread of the virus can expand rapidly due to the usually high concentration of persons deprived of their liberty in confined spaces and to the restricted access to hygiene and health care in some contexts."). Available at:

https://interagencystandingcommittee.org/system/files/202011/IASC%20Interim%20Guidance%20on%20COVID-19%20Focus%20on%20Persons%20Deprived%20of%20Their%20Liberty_0.pdf

¹⁷ Inter-Agency Standing Committee (IASC), "COVID-19: Focus on Persons Deprived of their Liberty," (March 27, 2020) at 5.

¹⁸ Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities, CDC (updated May 6, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>

¹⁹ ICE, *Performance-Based National Detention Standards, 2011*, Section 4.3, Medical Care (Revised Dec. 2016).

²⁰ Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities, CDC (updated May 6, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>

²¹ See, e.g. Report and Recommendation, *Menjivar v. Staiger*, No. 6:20-CV-00807 SEC P (W.D. La. Sept. 2, 2020); *Dada v. Witte*, No. 1:20-CV-00458, 2020 WL 2614616, at *1 (W.D. La. May 22, 2020) (releasing high risk detained immigrants in ICE detention facilities across Louisiana due to COVID-19 risks); *Fraihat v. Wolf*, No. ED CV 20-00590 TJH (KSx) (C.D. Cal. Mar. 30, 2020) (ordering release of individual from immigration detention facility because COVID-19 "can spread uncontrollably with devastating results in a crowded, closed facility").

On April 10, 2020, ICE Enforcement and Removal Operations (ERO) issued the COVID-19 Pandemic Response Requirements (“PRR”), which set forth “mandatory requirements” for all facilities housing ICE detainees as well as best practices.²² Dedicated detention facilities, like Pine Prairie, “must” comply with their applicable detention standards (here, PBNDS 2011), their facility contract, and with the CDC Interim Guidelines. In July 2020 there was COVID-19 outbreak in the facility as a direct result of officials’ failure “to enforce even the most basic safety precautions.”²³ Importantly, these violations are not unique to Pine Prairie and are endemic of ICE facilities nationwide.²⁴

Sanitation Practices and Personal Protective Equipment (PPE)

Even before the COVID-19 pandemic, ICE PBNDS required that all horizontal surfaces be disinfected and damp-dusted daily with an approved germicidal solution to prevent the introduction and spread of communicable diseases.²⁵ During the COVID-19 pandemic, ICE’s guidance urges that facilities “adhere to CDC recommendations for cleaning and disinfection during the COVID-19 response.”²⁶ Under the PRR, facilities must provide staff and detainees with *no cost, unlimited access* to supplies for hand cleansing, including liquid soap, water, paper towels, and no-touch receptacles.²⁷ Facilities must also require all persons in the facility to avoid touching their eyes, nose, or mouth without cleaning their hands first. The CDC guidelines urge that “staff and incarcerated/detained people performing cleaning wear PPE.”²⁸ The guidelines also direct facilities to keep adequate supplies and to have plans to restock to support intensified cleaning practices, including access to soap, face masks, running water, disposable paper towels, and alcohol-based hand sanitizer.

Despite its obligations under the PRR and the CDC guidelines, Pine Prairie has failed to provide detained immigrants with sufficient access to the cleaning supplies, sanitation materials, and PPE necessary to adequately prevent the spread of COVID-19. At Pine Prairie, individuals are left to sanitize their own units and have limited to no access to hand soap or sanitizer. While detained immigrants are expected to clean their shared living areas themselves, including bathrooms, showers, and sink-toilet fixtures, they are not provided with PPE for cleaning. Immigrants reported only being provided with the meager disposable masks they are issued for everyday use.

²² *COVID-19 Pandemic Response Requirements*, ICE Enforcement and Removal Operations, updated Mar. 16, 2021, Available at: <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>.

²³ New Orleans Public Radio, “They Don’t Care About Anything’: Inside A COVID-19 Outbreak At One Louisiana Ice Facility,” Rosemary Westwood, August 12, 2020, <https://www.wwno.org/post/they-dont-care-about-anything-inside-covid-19-outbreak-one-louisiana-ice-facility>.

²⁴ Politico, “Like Petri Dishes for the Virus: ICE Detention Centers Threaten the Rural South,” Gaby Del Valle and Jack Herrera, May 5, 2020, <https://www.politico.com/news/magazine/2020/05/05/coronavirus-ice-detention-rural-communities-186688>.

²⁵ ICE, *Performance-Based National Detention Standards, 2011*, Section 1.2, Environmental Health and Safety (Revised Dec. 2016).

²⁶ *COVID-19 Pandemic Response Requirements*, ICE Enforcement and Removal Operations, updated Mar. 16, 2021 at P. 29. Available at: <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>

²⁷ *Id.*

²⁸ Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities, CDC (updated May 6, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>

They are routinely not provided gloves, and sometimes they are not even provided cleaner or disinfectant. An immigrant reported that his pod has been supplied with empty bottles so that immigrants can clean their cells themselves.²⁹ However, Pine Prairie personnel routinely fail to fill these bottles with cleaning fluid. Most recently, this immigrant reported that Pine Prairie has been refilling these bottles only once every four days, resulting in multiple days where individuals in close quarters have no way to clean their shared toilet-sink fixture.

Those detained at Pine Prairie do not have access to soap and hand sanitizer. A currently detained individual told us that he has to repeatedly ask guards for cleaning supplies and hand sanitizer, and that his requests are most often denied.³⁰ He notes that it “depends on the mood of the officer” and that hand sanitizer and soap are unaffordable from the commissary. Another individual noted that for the 14 months he was detained during the COVID-19 pandemic, he did not receive any hand sanitizer or soap while at Pine Prairie.³¹ Because money is so scarce, many use what little they have to buy food items from the commissary and are forced to clean their hands with hair shampoo.

Masks have also not been consistently available at the facility. Pine Prairie did not provide detained people with any masks until late April 2020.³² Several immigrants reported that they only have access to “flimsy” single-use paper masks that are often only distributed once a week. Mask wearing is not enforced at Pine Prairie, for neither detained people nor facility staff.³³ Detained people are also not provided any education regarding why masks are important and when and how to wear masks.³⁴

Further, as the CDC loosens mask guidelines for vaccinated individuals,³⁵ those detained in Pine Prairie — who are not yet receiving the vaccine³⁶ — will be placed at an even greater risk of contracting COVID-19 from Pine Prairie personnel. ICE’s current COVID-19 protocol states that “all detention facilities are responsible for ensuring their ICE detainees are offered the COVID-19 vaccine in accordance with state priorities and guidance. Detention facility staff should

²⁹ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/23/21).

³⁰ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (2/12/21).

³¹ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).

³² Joe Penney, “Inside an ICE facility in Louisiana, detainees say ICE is depriving them of masks, undertesting for COVID-19, and moving migrants around the country,” Business Insider (May 1, 2020), Available at:

<https://www.businessinsider.com/detainees-say-ice-undertesting-for-covid19-not-giving-them-supplies-2020-5>

³³ *Id.*; Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21); Freedom for Immigrants Detention Hotline Report, Pine Prairie (5/19/2020): “If you report the staff for not wearing mask they put you in solitary confinement.”

³⁴ *See, e.g.*, Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).; *see also* Complaint in *Ache v. Witte*, No. 6:20-CV-01320, 2020 WL 2614616, at *1 (W.D. La. October 8, 2020).

Available at:

https://ccrjustice.org/sites/default/files/attach/2020/10/1%20Petition%20and%20complaint_Pine%20Prairie%2BJena.pdf

³⁵ Center for Disease Control and Prevention, “When You’ve Been Fully Vaccinated: How to Protect Yourself and Others.” (Updated May 16, 2021). Available at: <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>

³⁶ Physicians for Human Rights, “The United States Urgently Needs a COVID-19 Vaccination Plan for People in Immigration Detention: An Open Letter to DHS Secretary Mayorkas,” (May 17, 2021). Available at:

<https://phr.org/our-work/resources/the-united-states-urgently-needs-a-covid-19-vaccination-plan-for-people-in-immigration-detention/>

contact their state’s COVID-19 vaccine resource...to obtain a vaccine.”³⁷ This policy has led to significant gaps in vaccination, even as there is now a surplus of COVID-19 vaccine supply in the U.S. As of May 2021, less than seven percent of ICE detainees nationwide had received COVID-19 vaccines.³⁸ This lack of access to vaccines is particularly alarming in light of the recent COVID-19 outbreaks at immigrant detention facilities nation-wide.³⁹ At Adams County Detention Center, also under the jurisdiction of NOLA ICE, the number of active cases spiked from four on May 12, 2021 to 389 on May 15, 2021 – the worst outbreak in the nation among ICE detention centers.⁴⁰ As of May 24, 2021, the New Orleans ICE Field Office reported 786 *active COVID-19 cases*, making up nearly 39% of all active cases reported among ICE detainees.⁴¹

Cohorting and Social Distancing Practices

The DHS OIG issued a report concerning ICE’s handling of the COVID-19 pandemic. It found that facilities reported “concerns with their inability to practice social distancing among detainees, and to isolate or quarantine individuals who may be infected with COVID-19.”⁴² ICE guidance also provides that “social distancing may not be possible in congregate settings such as detention facilities” and instead recommends alternative measures including directing detained people to “avoid congregating in groups of 10 or more, [and] employing social distancing strategies at all times.”⁴³

Social distancing is not possible at Pine Prairie. Individuals reported being housed in close quarters and are forced to sleep approximately two to three feet away from each other in bunk beds bolted to the floor.⁴⁴ Detained individuals use common spaces together – sharing tables, telephones, toilet-sinks, and showers. Large groups share eating areas, including groups of nearly

³⁷ *COVID-19 Pandemic Response Requirements*, ICE Enforcement and Removal Operations, updated Mar. 16, 2021 at 24. Available at: <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>

³⁸ Testimony of ICE Acting Director Tae Johnson before the House Appropriations Subcommittee on Homeland Security (May 13, 2021). Available at: <https://www.c-span.org/video/?511611-1/us-immigration-customs-enforcement-priorities&start=599>

³⁹ Daniel Gonzalez, “COVID-19 cases spiking again at some ICE detention centers. Critics say ICE failed to vaccinate detainees.” AZ Central (May 27, 2021). Available at: <https://www.azcentral.com/story/news/politics/immigration/2021/05/27/covid-19-cases-spiking-again-at-some-ice-detention-centers/5210208001/>

⁴⁰ Immigrant Alliance for Justice and Equity et al., Letter to Office for Civil rights & Civil Liberties, Re: COVID-19 at Adams County Detention Center (May 17, 2021), Available at:

https://www.splcenter.org/sites/default/files/_adams_county_detention_center_complaint.pdf

⁴¹ ICE, COVID-19 ICE Detainee Statistics by Facility (Updated June 10, 2021). Available at: <https://www.ice.gov/coronavirus#citations>

⁴² “Early Experiences with COVID-19 at ICE Detention Facilities,” DHS Office of the Inspector General, OIG-20-42 at 1 (June 18, 2020), <https://www.oig.dhs.gov/sites/default/files/assets/2020-06/OIG-20-42-Jun20.pdf>.

⁴³ *COVID-19 Pandemic Response Requirements*, ICE Enforcement and Removal Operations, updated Mar. 16, 2021, P. 20-22. Available at: <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>.

⁴⁴ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (3/15/21); *see also Njuguna v. Wolf*, Case No. 6:20-CV-00560-MJJ-PJH at *10 (W.D. La. May 18, 2020) (describing how detainees at Pine Prairie are held in large cells of up to 70 people where they are forced to share a communal bathroom, with a small number of sinks, toilets, urinals, and showers); *Diaz v. Barr*, Case No. 6:20-CV-00425-MJJ-PJH at *3 (W.D. La. April 17, 2020) (describing that approximately 70 men share two working toilets and two working urinals; there is no soap at the sinks where detainees wash their hands).

100 people at Pine Prairie. Immigrants also reported being required to sit close together, approximately two feet apart, at meal times and that dining areas are not disinfected after each sitting. One immigrant noted that guards at Pine Prairie force people to sit right next to one another at tables while eating.⁴⁵ If people try to socially distance by sitting a few feet apart, the guards force them to return to sitting shoulder-to-shoulder. In addition, at least two detained migrants working as food servers at Pine Prairie tested positive for COVID-19. Another immigrant reported that at Pine Prairie, “social distancing is impossible” and that “people are forced to stay in their cells if they want to limit their contact with other people.”⁴⁶ Multiple immigrants reported that recreational time and outdoor time is not staggered by Pine Prairie, meaning that those who wish to abide by the CDC’s social distancing guidelines are forced to forgo outdoor time because there is not enough space in the outdoor area to maintain social distancing.⁴⁷ “They [Pine Prairie personnel] say keep your distance but we are 70 people in one bunker. You can’t even walk around without bumping into another person.”⁴⁸

The PRR explicitly acknowledge the CDC’s tiered housing preferences for individuals under medical isolation.⁴⁹ Individuals who are quarantined or in medical isolation should be housed separately in single cells or as a *cohort*⁵⁰ with six feet of personal space available to individuals in all directions.⁵¹ Cohorting, quarantining, and other forms of medical isolation are “*not punitive* in nature and must be *operationally distinct* from administrative or disciplinary segregation, insofar as cells and units for those forms of segregation may be used, but detainees are provided access to TV, reading materials, recreation and telephones to the fullest extent possible.”⁵² Therefore, individuals who are held separately in single cells under medical isolation must be overseen by medical staff; have free access to TV, music, tablets, email, etc.; have access to free daily phone calls; daily access to outdoor exercise; access to property and commissary; at least daily access to medical care staff; and sufficient ventilation and temperature. They must not be subjected to the conditions of administrative or disciplinary segregation. One of the least desirable quarantine or isolation methods is to house detainees in a cohort, in multi-person cells without solid walls or a solid door, without adequate ventilation, without social distancing, and without an empty cell between occupied cells.⁵³

Pine Prairie has blatantly disregarded these cohorting requirements. After a fellow kitchen worker tested positive for COVID-19, one immigrant reported that his pod of eight was placed in a 24/7 lockdown with no access to amenities or any recreational time for 15 days.⁵⁴ They were

⁴⁵ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).

⁴⁶ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (3/15/21).

⁴⁷ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (3/15/21).

⁴⁸ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).

⁴⁹ *COVID-19 Pandemic Response Requirements*, ICE Enforcement and Removal Operations, updated Mar. 16, 2021, P. 15. Available at: <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>

⁵⁰ According to the ICE PRR, “a cohort is a group of persons with a similar condition grouped or housed together for observation over a period of time. Isolation and quarantine are public health practices used to protect the public from exposure to individuals who have or may have a contagious disease.” *COVID-19 Pandemic Response Requirements*, ICE Enforcement and Removal Operations, updated Mar. 16, 2021, n. 10, P. 6. Available at: <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>

⁵¹ *Id.* at 16, 20 (providing six more granular types of preferences based on the type of wall, door, and ventilation).

⁵² *Id.* at 6, n. 10 (emphasis added).

⁵³ *Id.* at 31.

⁵⁴ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/23/21).

not given masks or hand sanitizer for over two weeks and yet, were forced to share one toilet-sink and eat all of their meals together in a very small space. He described “when I was lying in bed, if I reached my arm out, I would be touching my fellow detainee.” An immigrant currently detained in the medical quarantine floor at Pine Prairie stated that his cell originally had eight people. Only after five weeks of repeatedly complaining about the inability to socially distance was his cell reduced to three people.⁵⁵ Other pods have made similar complaints, but Pine Prairie has continued the practice of placing at least eight people per cell in the medical quarantine unit. Another individual confirmed that his cell has eight people, despite being only the size of approximately two individual cells, 25-by-25 feet.⁵⁶ A district court reported that Pine Prairie has repeatedly emptied dorms used for “cohorts” and replaced them with general dorm residents as punishment, without cleaning them, and before the 14-day quarantine period is over.⁵⁷

Further, both the PBNDS 2011 and the PRR require facilities to have plans to address the management of infectious and communicable diseases that include “control, treatment and prevention strategies.”⁵⁸ Pine Prairie has not publicly released such a plan. In addition, people are frequently transferred to, from, and in between facilities – in violation of both the PRR and CDC guidelines.⁵⁹ Under the PRR, where possible, ICE facilities “must restrict transfers of detained non-ICE populations and facilities.”⁶⁰ The first case of COVID-19 at Pine Prairie occurred after ICE accepted a COVID-19 positive individual who was transferred from the Bureau of Prison’s Oakdale facility, which was dealing with a COVID-19 outbreak at the time.⁶¹ After Hurricane Laura, ICE transferred detainees from facilities in affected areas, including facilities with known COVID-19 outbreaks, “directly into Pine Prairie’s general population, without quarantining the new arrivals.”⁶² The New Orleans’ ICE Field Office has regularly transferred to and received individuals from other parts of the United States throughout the COVID-19 pandemic.⁶³ Coupled with a total disregard for required cohorting and social distancing requirements, ICE’s practice of recklessly transferring individuals has placed the health and safety of its detainees at imminent risk.

⁵⁵ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (3/15/21).

⁵⁶ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).

⁵⁷ *Guevara v. Witte*, Case No. 6:20-CV-01200 SEC P at *8 (W.D. La. November 17, 2020) (finding that “the efforts Pine Prairie officials have made to prevent or mitigate the spread of, or harm caused by, COVID-19, lacking.”).

⁵⁸ PBNDS 2011 Section 4.3 (V)(C)(3); PRR at 6-7.

⁵⁹ *Id.*; PRR at 20.

⁶⁰ *Id.*

⁶¹ Maria Clark, “ICE detainee tests positive for COVID-19 in Pine Prairie, Louisiana,” *The Daily Advertiser* (Apr. 3, 2020), Available at: <https://www.theadvertiser.com/story/news/american-south/2020/04/03/coronavirus-ice-detainee-tests-positive-pine-prairie-louisiana/2946110001/>

⁶² *Guevara v. Witte*, Case No. 6:20-CV-01200 SEC P at *8 (W.D. La. November 17, 2020).

⁶³ *See, e.g.* Emily Kassie & Barbara Marcolini, “It Was Like a Time Bomb”; How ICE Helped Spread the Coronavirus,” *The New York Times*, (Jul. 10, 2020), Available at: <https://www.nytimes.com/2020/07/10/us/ice-coronavirus-deportation.html>; Yeganeh Torbati, Dara Lind & Jack Gillum, “In a 10-Day Span, ICE Flew This Detainee Across the Country Nine Times,” *ProPublica* (Mar. 27, 2020), Available at: <https://www.propublica.org/article/coronavirus-ice-flights-detainee-sirous-asgari> (documenting transfer of man through several facilities, including those within jurisdiction of New Orleans Field Office).

COVID-19 Testing, Reporting of Symptoms, and Medical Release of High-Risk Individuals

In July 2020, the Louisiana COVID-19 Health Equity Task Force recommended mass universal testing in Louisiana’s prison system and staff testing at “prisons, jails, and detention centers.”⁶⁴ Despite this recommendation, Pine Prairie and other facilities under NOLA ICE have failed to implement universal testing for staff or detainees. In December 2020, a district court found that GEO Group, the private prison company that operates Pine Prairie, had deliberately failed to implement such testing because “they feared that positive tests would require them to adopt safety measures that were undesirable.”⁶⁵ That court further found that GEO Group has “lost the right to be trusted” after “having responded to the health crisis in such a cavalier fashion.”⁶⁶ The GEO Group’s response to COVID-19 is in line with its documented history of medical neglect and abuse in its for-profit immigration detention centers, including the unlawful use of a toxic pesticide in the Adelanto Detention Facility in spring 2020, resulting in severe health consequences for those detained.⁶⁷

Further, due to their pre-existing medical conditions, including chronic asthma,⁶⁸ many of the individuals we interviewed at Pine Prairie qualify for medical release under the *Fraihat* litigation and ICE’s own policies.⁶⁹ Despite the fact that these individuals were vulnerable to increased risk of severe illness and death, they remained detained – at imminent risk of exposure to COVID-19 and further intensifying overcrowding at the facility. Policies at Pine Prairie discourage the reporting of symptoms and requests for testing. Although the CDC recommends explaining to detained people “the importance of reporting symptoms to staff” and “the purpose of quarantine and medical isolation” Pine Prairie does not appear to provide any such education.⁷⁰

⁶⁴ Subcommittee Reports, Louisiana COVID-19 Health Equity Task Force (July 2020), Available at:

<https://www.sus.edu/assets/sus/LAHealthEquityTaskForce/June-COVID-Task-Force-Subcommittee-Reports.pdf>

⁶⁵ *Zepeda Rivas v. Jennings*, Order Granting Second Preliminary Injunction at 9, No. 20-02731 (N.D. Cal. Dec. 3, 2020), ECF No. 867.

⁶⁶ *Zepeda Rivas v. Jennings*, No. 20-2731, 2020 WL 4554646, *1 (N.D. Cal. Aug. 6, 2020).

⁶⁷ See Letter to David Marin, Field Office Director, U.S. Immigration and Customs Enforcement, et al. re: Toxic Exposure of People in ICE Detention at Adelanto to Hazardous Chemicals, Freedom for Immigrants and Inland Coalition for Immigrant Justice (May 21, 2020), Available at: <https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5ecd29d03bbec218edf9a67d/1590503888290/Toxic+Exposure+of+People+in+ICE+Detention+at+Adelanto+to+Hazardous+Chemicals.pdf>; see also United States Environmental Protection Agency, Region 9 Enforcement Division Inspection Report (July 29, 2020), Available at:

https://earthjustice.org/sites/default/files/files/final_inspection_report_1.pdf (finding that the GEO Group endangered the health and safety of detained immigrants by using toxic pesticide, HDQ Neutral, at Adelanto ICE Processing Center).

⁶⁸ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (2/12/21).

⁶⁹ See Order, *Fraihat, et al v. U.S. Immigration and Customs Enforcement, et al*, No. 5:19-cv-01546-JGB-SHK, ECF No. 132 (C.D. Cal. April 20, 2020) (“[ICE] shall make timely custody determinations for detainees with Risk Factors, per the latest Docket Review Guidance[.]”); *COVID-19 Pandemic Response Requirements*, ICE Enforcement and Removal Operations, updated Mar. 16, 2021 at P. 19. Available at: <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>

⁷⁰ Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities CDC, (updated Jul. 22, 2020), Available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>

Instead, Pine Prairie has been routinely using solitary confinement dorms to house either COVID-19 positive or suspected cases (or both).⁷¹ Solitary confinement is a tool of discipline and punishment of detainees who violate facility rules. Punishing those who report COVID-19 symptoms or who test positive by placing them in solitary confinement, particularly when combined with a lack of education on reporting, results in severe disincentivizing of symptom reporting.

As one immigrant explained “people are terrified to report their COVID-19 symptoms, especially those who do not speak English well, because they know they will end up in solitary.”⁷² As a result, he has witnessed multiple people with COVID-19 symptoms self-isolating in their cells instead of reporting their symptoms and requesting a COVID-19 test. Another immigrant confirmed this, explaining that he knows people who have COVID-19 symptoms, including a cough and loss of smell, but have been afraid to report because they are afraid of being sent to solitary.⁷³ A third immigrant said: “People have told me even when they have all of the COVID symptoms including no smell, not being able to taste anything, pain in their body, there is a fear of being sent to solitary and so that’s why nobody says anything. *We are living injustices I cannot even name.*”⁷⁴ Another person stated: “After they put us in solitary confinement, now we decided that if anyone is sick with corona virus we are not going to tell them because then they are going to quarantine all of us.”⁷⁵ After being subjected to solitary confinement for 15 days the first time he contracted COVID-19, another man explained that even when he felt sick again in January 2021, he avoided reporting his symptoms for “as long as possible.”⁷⁶ Eventually, he was in so much pain and had such difficulty breathing, he requested testing. After testing positive, he was placed in solitary confinement for another 15 days, where he was isolated from medical care and amenities including the law library, access to recreational materials, and outdoor time.

The COVID-19 pandemic is yet another example of Pine Prairie’s long history of mishandling infectious and communicable diseases.⁷⁷ As demonstrated by inadequate sanitation practices, cohorting and social distancing practices, and testing and reporting practices, Pine Prairie has violated the PRR and the CDC’s COVID-19 mandates.

III. Abusive Implementation of Solitary Confinement

Solitary confinement is a “form of segregation in which individuals are held in total or near-total isolation.”⁷⁸ Under the PBNDS, the practice of solitary confinement is classified under “Special

⁷¹ *Supra* P. 14 (discussing the ways in which Pine Prairie has improperly used solitary confinement as a response to the COVID-19 pandemic, including by placing COVID-19 positive individuals in punitive solitary confinement).

⁷² Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (2/12/21).

⁷³ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).

⁷⁴ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (3/22/21).

⁷⁵ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/23/21).

⁷⁶ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (3/15/21).

⁷⁷ *Supra* P. 16.

⁷⁸ See National Immigrant Justice Center & Physician For Human Rights, “Invisible In Isolation: The Use Of Segregation And Solitary Confinement In Immigration Detention” (Sept. 2012), Available at:

https://immigrantjustice.org/sites/immigrantjustice.org/files/Invisible%20in%20Isolation-The%20Use%20of%20Segregation%20and%20Solitary%20Confinement%20in%20Immigration%20Detention.September%202012_7.pdf

Management Units” or “SMU.” At Pine Prairie, solitary confinement units are colloquially referred to as “Echo” or “Seg.” Immigrants most often describe solitary as “*el pozo*,” or “*the hole*.” At Pine Prairie, immigrants placed in the SMUs are held in small individual cells for 22 to 24 hours a day. They are isolated from the same treatment as the general population, including access to recreation, visitation, and other amenities essential to physical and psychological well-being.⁷⁹ As one immigrant stated: “In segregation they feed you a lot less.”⁸⁰ Any contact with other people is brief and superficial such as being escorted to the showers by a guard⁸¹ or being delivered meals.⁸²

Based on interviews with currently detained individuals and others previously subjected to solitary confinement, those placed in both disciplinary⁸³ and administrative⁸⁴ segregation units face identical, severely punitive conditions such as: little to no recreational or social time; no amenities; limited access to hygiene; limited access to potable water; limited access to tablets or grievance forms; limited access to the law library; and limited legal call access. At Pine Prairie, disciplinary segregation is not only deployed under serious or exceptional circumstances⁸⁵ – it is misused to maintain day-to-day order and to contain public health crises that require comprehensive medical and mental health services. The facility regularly segregates people with particular vulnerabilities as a way to “manage” the detention center population.

Legal Framework

International human rights and refugee law prohibits the prolonged and arbitrary use of solitary confinement in immigration detention. Under international law, the right to humane treatment has been recognized as non-derogable and includes the principle that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”⁸⁶ The right to humane

⁷⁹ See National Immigrant Justice Center & Physician For Human Rights, “Invisible In Isolation: The Use Of Segregation And Solitary Confinement In Immigration Detention” (Sept. 2012) at 2.

⁸⁰ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/19/21).

⁸¹ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (3/22/21).

⁸² Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/23/21).

⁸³ ICE 2013 Directive 3.2 (“Disciplinary segregation is a punitive form of separation from the general population for disciplinary reasons. Disciplinary segregation is authorized only pursuant to the order of a facility disciplinary panel, following a hearing in which the detainee is determined to have committed serious misconduct in violation of a facility rule, and only consistent with the Disciplinary Severity Scale from the applicable ICE detention standards, and only when alternative dispositions would inadequately regulate detainee behavior.”).

⁸⁴ ICE 2013 Directive 3.1 (“Administrative segregation is a non-punitive form of separation from the general population for administrative reasons. Administrative segregation is authorized only as necessary to ensure the safety of the detainee, facility staff, and other detainees; the protection of property; or the security or good order of the facility, and therefore should be for the briefest term and under the least restrictive conditions practicable, consistent with the rationale for placement. Generally, detainees in administrative segregation shall receive the same privileges as detainees housed in the general population, consistent with safety and security concerns.”).

⁸⁵ PBNDS 2011 Standard 2.12 (“Special Management Units”) (“Placement of detainees in segregated housing is a serious step that requires careful consideration of alternatives. Placement in segregation should occur only when necessary and in compliance with applicable detention standards. In particular, placement in administrative segregation due to a special vulnerability should be used only as a last resort and when no other viable housing options exist.”).

⁸⁶ The UDHR, ICCPR, and CAT all prohibit torture, inhuman or degrading treatment or punishment. UDHR, art. 5; ICCPR, art. 7; Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, G.A. Res. 39/46, art. 1, para. 1, U.N. GAOR, 39th Sess., Supp. No. 51, U.N. Doc. A/39/51 (June 26, 1987).

treatment is not limited to physical abuse, but importantly includes protection from mental and moral mistreatment.⁸⁷ Further, it has also been widely recognized by many organizations, including the UN Refugee Agency (UNHCR), that the detention of immigrants, especially asylum seekers, as a way to penalize their entry into the U.S. is in contravention of the 1951 Refugee Convention.⁸⁸

The extended use of solitary confinement is widely regarded as torture.⁸⁹ Torture is defined as:

An act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession, punishing him for an act he/she or a third person has committed or is suspect of having committed, or intimidating or coercing him/her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.⁹⁰

Specifically, the United Nations Revised Standard Minimum Rules for the Treatment of Incarcerated People, known as the “Mandela Rules,” identify the use of solitary confinement beyond 15 days as a form of cruel, inhumane, and degrading treatment that rises to the level of torture.⁹¹ Thus, when solitary confinement is used as a punitive measure by way of segregating and targeting particular individuals, due to their identity, their challenge of authority, or other arbitrary reason, in violation of the domestic minimum standards, then that State-sponsored conduct may rise to the level of torture.⁹²

⁸⁷ American Convention on Human Rights art. 5, Nov. 22, 1969, 1144 U.N.T.S. 123.

⁸⁸ 1951 Convention Relating to the Status of Refugees, art. 31, G.A. Res. 429(V), (Jul. 28, 1951).

⁸⁹ Two Special Rapporteurs on torture and other cruel, inhuman, or degrading treatment or punishment have issued reports stating that “the prolonged isolation of detainees, may amount to torture.” *See* Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, U.N. Doc. A/66/268 (Aug. 5, 2011) (by Juan E. Mendez) (noting that “physical conditions and the prison regime of solitary confinement causes severe mental and physical pain or suffering, when used as a punishment, during pre-trial detention, indefinitely, prolonged, on juveniles or persons with mental disabilities, it can amount to cruel, inhuman or degrading treatment or punishment and even torture.”).

⁹⁰ Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, G.A. Res. 39/46, art. 1, para. 1, U.N. GAOR, 39th Sess., Supp. No. 51, U.N. Doc. A/39/51 (June 26, 1987).

⁹¹ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), adopted by the General Assembly on 17 December 2015.

⁹² UN General Assembly, *Universal Declaration of Human Rights*, Article 5 (1948)(“No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.”); UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*, Article 16 (1984)(“Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the acquiescence of a public official or other person acting in an official capacity.”).

An overwhelming body of evidence now shows that extended use of solitary confinement produces profound and often permanent psychological,⁹³ neurological,⁹⁴ and physical⁹⁵ damage to segregated individuals. In the context of immigration detention, immigrants who have been subjected to solitary confinement may suffer from severe anxiety, depression, and post-traumatic stress.⁹⁶ Symptoms commonly associated with solitary confinement include: hyperresponsivity to external stimuli; perceptual distortions, illusions, and hallucinations; panic attacks; difficulties in concentration and memory; intrusive obsessional thoughts; overt paranoia; and violence and self-harm.⁹⁷ Various studies have concluded that suicide rates are at least five times higher in solitary than in general populations.⁹⁸ New research has found that these effects, including increased risks of suicide, drug overdoses, heart attacks, and stroke continue even after an individual has been released back into the community.”⁹⁹

In September 2013, ICE issued Directive 11065.1, which provides for increased oversight and reporting mechanisms when solitary confinement is used.¹⁰⁰ This directive has since been incorporated into the recent 2019 National Detention Standards.¹⁰¹ The 2013 ICE directive provides that a detained individual can only be placed in administrative segregation¹⁰² if

⁹³ Craig Haney, PhD, "The Psychological Effects of Solitary Confinement: A Systematic Critique," *Crime and Justice* 47 (2018), 365-416; and

"Restricting the Use of Solitary Confinement," *Annual Review of Criminology* 1:1 (2018), 285-310.

⁹⁴ Dana G. Smith, "Neuroscientists Make a Case Against Solitary Confinement," *Scientific American*, November 9, 2018.

⁹⁵ Brie A. Williams, "Older Prisoners and the Physical Health Effects of Solitary Confinement," *American Journal of Public Health* 106:12

(December 2016), 2126–2127; and Brie A. Williams, et al., "The Cardiovascular Health Burdens of Solitary Confinement," *Journal of*

General Internal Medicine 34 (2019), 1977-1980.

⁹⁶ Physicians for Human Rights, *Buried Alive: Solitary Confinement in the U.S. Detention System* (April 2013). Available at: https://s3.amazonaws.com/PHR_Reports/Solitary-Confinement-April-2013-full.pdf; see also *Madrid v. Gomez*, 889 F. Supp. 1146, 1230-32 (N.D. Cal. 1995) (concluding that studies in the United States have found that detainees in extended periods of segregation may suffer from long-term effects, including but not limited to, overt paranoia, dissociative tendencies, aimless violence, and delusions, and that solitary confinement precipitated the psychosis).

⁹⁷ *Id.* at 31 (citing Stuart Grassian, *Psychiatric Effects of Solitary Confinement*, 22 *Wash.U. J. L. & Pol'y* 325, 328 (2006)).

⁹⁸ Kevin Johnson, "Inmate Suicides Linked to Solitary," *USA Today*, December 27, 2006; American Civil Liberties Union of Texas and Texas Civil Rights Project-Houston, *A Solitary Failure: The Waste, Cost and Harm of Solitary Confinement in Texas* (Houston: ACLU of TX, 2015);

Bruce Way et al., "Inmate Suicide and Time Spent in Special Disciplinary Housing in New York State Prison," *Psychiatric Services* 58, no.

4 (2007): 558-560.

⁹⁹ Christopher Wildeman and Lars H Andersen, "Solitary Confinement Placement and Post-release Mortality Risk Among Formerly

Incarcerated Individuals: A Population-based Study," *The Lancet Public Health* 5:2 (February 2020).

¹⁰⁰ ICE Directive No. 11065.1, Review of the Use of Segregation for ICE Detainees, (ICE 2013) [hereinafter ICE 2013 Directive], Available at: https://www.ice.gov/doclib/detention-reform/pdf/segregation_directive.pdf

¹⁰¹ ICE 2019 National Detention Standards, (Updated March 11, 2021). Available at: <https://www.ice.gov/detain/detention-management/2019>

¹⁰² Prior to the issuance of this directive, administrative segregation allowed for the separation of an individual "for administrative reasons" such as the protection of detainees or the general population or for "good order." See PBNDS 2011 at Section 2.12.

identified as having a “special vulnerability.”¹⁰³ The directive provides that there must be a review process for all detainees placed in segregation for over 14 days, who have been identified as vulnerable, or if there are other factors relating to the risk of victimization of a detainee.¹⁰⁴ A key aspect of this review mandates that if an individual’s medical or mental illness worsens, or if there is a suicide risk, appropriate health care must be provided. If there is a determination that the segregation caused the deterioration of a detained individual’s medical or mental health, an alternative to segregation must be provided.¹⁰⁵

The egregious effects of solitary confinement are illustrated by the experiences of those currently detained at Pine Prairie. For example, one individual reported that he had witnessed “what solitary confinement can do to a person.”¹⁰⁶ He noted that an immigrant from his pod was in solitary confinement for over 30 days due to a minor disciplinary infraction – fighting over a TV remote. “The hole did things to him. He ended up castrating himself.” The following sections are specific examples of the ways in which Pine Prairie has improperly used solitary confinement as a response to various scenarios including the outbreak of infectious diseases, mental health crises, and as a tool to suppress the exercise of free speech and protest rights.

Solitary Confinement as a Response to the COVID-19 Pandemic

Under ICE’s mandated PRR “a cohort, quarantine, and medical isolation must be operationally distinct from administrative or disciplinary segregation, or any punitive form of housing.”¹⁰⁷ However, solitary confinement has been repeatedly used at Pine Prairie to quarantine immigrants who test positive for COVID-19, in direct violation of ICE’s mandate. For example, one immigrant, a man with severe asthma, reported that he contracted COVID-19 twice – once in August 2020 and again in January 2021. In August 2020, he experienced extreme difficulty breathing, constant headaches, high fever, and loss of smell and taste. After receiving oxygen in the medical infirmary for 17 days, this individual was transferred to solitary confinement. The cell was “virtually identical” to the cells used for disciplinary segregation. Even though he was still exhibiting COVID-19 symptoms, including chills, chest pain, burning eyes, fatigue, and headaches, he was held in solitary confinement for 15 days without access to medication or even over-the-counter ibuprofen. He recalled that every day, a Pine Prairie officer would walk past his cell at around 2:00 am, but no one ever entered his cell to check him for a fever or possible breathing problems. He believes that if he had fainted from lack of oxygen, no one would have discovered that he was in medical distress until he was “dead the next day.”

¹⁰³ *Id.* at Section 4.3. (“Detained individuals are considered to have a “special vulnerability” if they are: known to be suffering from mental illness or serious medical illness; have a disability, are elderly, pregnant or nursing; would be susceptible to harm in the general population due to their sexual orientation or gender identity; have been victims of sexual assault, torture, trafficking or abuse.”).

¹⁰⁴ *Id.* at Section 5.1 (there must be reporting “whenever a detainee has been held continuously in segregation for 14 days [within a 21-day period], 30 days, and at every 30-day interval.”).

¹⁰⁵ *Id.* at Section 5.2.

¹⁰⁶ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (2/12/21).

¹⁰⁷ U.S. Immigration and Customs Enforcement, “COVID-19 Pandemic Response Requirements,” October 27, 2020, <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>.

As medical experts have emphasized, relying upon “the punitive practice of solitary confinement in response to the COVID-19 crisis will only make things worse.”¹⁰⁸ Placing people in the isolated and deprived conditions inherent to solitary confinement exacerbates both the spread and intensity of COVID-19 in several ways. The fear of being placed in solitary has been shown to discourage detained individuals from reporting exposure or symptoms of illness, endangering all individuals and staff at the facility. As described above, multiple immigrants at Pine Prairie described widespread fear of reporting among fellow detainees.¹⁰⁹ In addition, time in solitary confinement can weaken the immune system and cause underlying physical conditions, such as hypertension, that increase the risk of contracting and suffering severe health effects from COVID-19.¹¹⁰

Solitary confinement also presents enormous danger to those who have contracted and/or are recovering from COVID-19. Individuals at Pine Prairie reported that the cells they were held in after contracting COVID-19 were “cramped” and “unsanitary.” Several immigrants reported that the solitary cells at Pine Prairie lack any means for sick residents to call for help. Medical and mental health checks are often conducted through the “food slots” in the solid metal door, making confidential consultations all but impossible. One immigrant described that when someone in solitary had a mental health crisis and attempted to castrate himself, “no one found him until he was bleeding out for two hours.”¹¹¹ The improper use of solitary confinement as a proxy for medical isolation has been recorded at other facilities within the NOLA ICE jurisdiction, including Adams County Detention Center¹¹² and Etowah County Detention Center.¹¹³

Solitary Confinement as a Response to Mental Health Crises

At Pine Prairie, solitary confinement is the default for detained immigrants who seek mental health counseling. The ICE 2013 Directive requires a review process for all detainees placed in segregation for over 14 days, including those who have been identified as vulnerable due to mental health concerns.¹¹⁴ A key aspect of this review mandates that if an individual’s medical or mental illness worsens, or there is a suicide risk, appropriate health care must be provided. If

¹⁰⁸ Dr. Brie Williams, et al., “The Ethical Use of Medical Isolation – Not Solitary Confinement – to Reduce COVID-19 Transmission in Correctional Facilities,” AMEND (April 9, 2020) at P. 3. Available at: https://amend.us/wp-content/uploads/2020/04/Medical-Isolation-vs-Solitary_Amend.pdf

¹⁰⁹ *Supra* P. 9.

¹¹⁰ “Solitary Confinement is Never the Answer: A Special Report on the COVID-19 Pandemic in Prisons and Jails, the Use of Solitary Confinement, and Best Practices for Saving the Lives of Incarcerated People and Correctional Staff.” Unlock the Box and Solitary Watch (June 2020). Available at: <https://static1.squarespace.com/static/5a9446a89d5abbfa67013da7/t/5ee7c4f1860e0d57d0ce8195/1592247570889/June2020Report.pdf>

¹¹¹ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (2/12/21).

¹¹² *See Morales v. Gillis*, Case No. 5:20-CV-00181-DCB-MTP at *P. 111 (S.D. Miss. September 16, 2020). Available at: <https://ccrjustice.org/sites/default/files/attach/2020/09/Morales%20-%20Complaint%20REDACTED.pdf>

¹¹³ The Intercept, “Immigrants Detained by ICE Say They Were Punished for Requesting COVID-19 Tests,” Clarissa Donnelly-DeRoven, December 3, 2020, <https://theintercept.com/2020/12/03/etowah-ice-detention-covid-outbreak/>.

¹¹⁴ ICE 2013 Directive at Section 5.1 (there must be reporting “whenever a detainee has been held continuously in segregation for 14 days [within a 21-day period], 30 days, and at every 30-day interval.”).

there is a determination that the segregation caused the deterioration of a detained individual's medical or mental health, an alternative to segregation must be provided.¹¹⁵ In June 2019, the DHS's Office for Civil Rights and Civil Liberties (CRCL) also concluded that ICE detention centers routinely keep an "alarming" number of detainees with mental health conditions in segregation, and that many were isolated for "shockingly" long periods.¹¹⁶

In May 2020, one immigrant reported that he had an anxiety-induced panic attack while in the recreational yard.¹¹⁷ He experienced difficulty breathing, fainted, and was taken to the medical infirmary where Pine Prairie personnel instructed him to "try to stay calm." After diagnosing him with anxiety disorder, they placed this man in solitary confinement for 10 days. After being held in solitary confinement for 27 days, another person explained that he now suffers from extreme stress, anxiety, and depression.¹¹⁸ He has spoken to the facility's psychologist three times, but he was never offered any medication or tangible treatment plan. "The psychological services haven't helped me at all. The only thing they offer is 'time to talk' but talking does not help my anxiety and depression." This individual reported that his anxiety and depression were triggered by being detained at Pine Prairie, noting that "I have never in my life felt like this before."

Under PBNDS 2011, Pine Prairie must provide detained immigrants subject to segregation with daily face-to-face mental health assessments and must notify ICE when an individual is in segregation for over 30 days.¹¹⁹ One individual reported that mental health personnel usually "walked by" solitary confinement cells at 6:00 am, when most detainees are asleep. He described that these mental health checks, which are required by the PBNDS, are not helpful or sufficient because the mental health personnel avoid actually engaging with detained individuals and "just want to get their rounds over with."¹²⁰ Another immigrant also described Pine Prairie's available psychological services as "insufficient and dismissive."¹²¹ After suffering from severe depression, the psychologist on staff told him "You have to be strong. Things happen for a reason." When asked what would improve their mental health, multiple individuals reported that better food, clean water, and better treatment by Pine Prairie personnel would relieve the mental health effects triggered by the egregious conditions at Pine Prairie. "*What would really help my anxiety is not being thrown in the hole, where I am completely alone and can't get help.*"¹²² Another immigrant stated: "You are there by yourself. You really don't talk to nobody and it takes a lot to get used to that. There are no windows to look inside so you need to stay busy and keep your mind occupied so you don't overthink."¹²³ He reported that he suffers from anxiety and panic attacks and that being in solitary for 33 days severely worsened his anxiety. This immigrant also found the mental health checks for those in solitary at Pine Prairie to be "entirely

¹¹⁵ ICE 2013 Directive at Section 5.2.

¹¹⁶ Dep't Of Homeland Security, Office Of Inspector Gen., No. OIG- 19-47, concerns About Detainee Treatment And Care At Four Detention Facilities (2019), <https://www.oig.dhs.gov/sites/default/files/assets/2019-06/OIG-19-47-Jun19.pdf>

¹¹⁷ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).

¹¹⁸ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (3/22/21).

¹¹⁹ PBNDS 2011 at Section 2.12

¹²⁰ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (2/12/21).

¹²¹ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).

¹²² Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (3/22/21).

¹²³ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).

unhelpful” because “they just walk by and say ‘Are you alright?,’ wait a second, and then keep walking.”

Solitary Confinement as a Response to Other Public Health Crises

In addition to individuals “suffering from mental illness,” those suffering from “serious medical illness” are also subject to administrative segregation due to their “special vulnerability.”¹²⁴ Thus, Pine Prairie has routinely relied on solitary confinement to isolate individuals who have contracted other infectious diseases. Last year, Pine Prairie mishandled and failed to take adequate measures to protect detained individuals from outbreaks of chicken pox and mumps.¹²⁵ In February 2019, 300 immigrants at Pine Prairie were quarantined after 18 people tested positive for mumps.¹²⁶ Again in March 2019, about 300 migrants were quarantined for at least 25 days due to another mumps outbreak at the facility.¹²⁷

One individual reported that in February 2019, he contracted mumps (a viral infection that affects the salivary glands) during an outbreak of the disease at Pine Prairie.¹²⁸ As a result he was placed in solitary confinement for 27 days, despite the fact that mumps is only contagious for nine days after swelling begins. The man described that he was in “incredible pain” because of the mumps infection and could not open his mouth to talk or eat. While in solitary, a nurse came by just once a day to give him medication. After these first three days, this immigrant reported that he did not have human contact, despite his vulnerable mental state, for 24 days. The only human interaction he had was when he was taken by Pine Prairie personnel to use the showers. As demonstrated, Pine Prairie routinely relies on solitary confinement as a form of “medical treatment” for a variety of public health crises, including behavioral and mental health concerns, infectious disease outbreaks, and the COVID-19 pandemic, in direct violation of its obligations under international human rights law and ICE’s own requirements under PBNDS 2011 and ICE’s 2013 Segregation Directive.

Solitary Confinement and Use of Force Against Protestors

In addition to misusing solitary confinement against individuals with mental health and other medical concerns, Pine Prairie also uses solitary as retaliation to punish immigrants who speak out against the conditions of their confinement, exercising their fundamental rights, including the right to protest and free speech.¹²⁹ With regard to conditions that constitute “punishment,” all

¹²⁴ ICE 2013 Directive at Section 4.3.

¹²⁵ Emma Ockerman, “Migrant Detention Centers Are Getting Slammed with Mumps and Chickenpox,” Vice News (Jun. 14, 2019), https://www.vice.com/en_us/article/mb8k5q/migrant-detention-centers-aregetting-slammed-with-mumps-and-chicken-pox.

¹²⁶ Maria Clark, Mumps quarantine at Louisiana immigration detention centers affecting legal access, lawyers say, NOLA.com, March 13, 2019, https://www.nola.com/news/article_c7b600fd-bce5-53a5-86c7-2b15a461e7f9.html

¹²⁷ The Associated Press, 2,200 quarantined over mumps outbreak at ICE immigration centers in Aurora and Louisiana, The Denver Post (Mar. 12, 2019), <https://www.denverpost.com/2019/03/12/mumps-outbreak-quarantine-aurora-ice-immigration-center/>.

¹²⁸ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).

¹²⁹ As reported in an August 29, 2019 letter from a coalition of concerned organizations, September 26, 2019 calls for federal investigations by the DHS OIG and Congress, and the following news reports, these unchecked responses by ICE are a common practice throughout the NOLA ICE jurisdiction. DHS never investigated the similar incidents

immigrants in detention are afforded protection under the Constitution regardless of whether they are being held on criminal or civil grounds.¹³⁰ In addition, the PBNDS 2011 prohibit the use of force “to punish a detainee” and “using force against a detainee offering no resistance.”¹³¹ These standards authorize use of weapons only when detained individuals are “armed and/or barricaded... cannot be approached without danger to self or others; and... a delay in controlling the situation would seriously endanger the detainee or others, or would result in a major disturbance or serious property damage.”¹³² ICE’s Use of Force Policy states that chemical agents may be used only to “temporarily incapacitate an assailant. They may be used in situations where empty-hand techniques are not sufficient to control disorderly or violent subjects.”¹³³

On August 3, 2019, officers at Pine Prairie shot tear gas canisters and rubber bullets at approximately 115 hunger strikers peacefully gathering in the facility’s recreation yard.¹³⁴ Some hunger strikers and protestors were also beaten. At least one protestor required CPR resuscitation after being shot with tear gas. After the attack, individuals reported that ICE locked some of the hunger strikers in solitary confinement and punitively denied them communication with their legal counsel, friends, and families. A Cuban asylum seeker participated in a peaceful protest on August 2, 2019 addressing the blanket denial of parole requests: “They [Pine Prairie personnel] gave me 30 days of punishment without going out for four days without bathing like pigs, with pepper spray on our bodies. They took us out in the sun only once a week.”¹³⁵ “I lost 10 pounds. I thought I would hurt myself because of so much confinement without having committed any crime. I did not sleep at night. The guards made noise. They brought our meals randomly so we couldn’t keep track of time. I was taking medicine until the day I left because of that trauma from the bullets and the screaming of the people because of the gases in our throats. And to this

detailed in these prior complaints and SPLC never received any record in response to its FOIA request [reference number Department of Homeland Security FOIA 2020-HQFO-00044] relating to the brutal use of force at Pine Prairie in August 2019. See “More Than 100 Immigrants Were Pepper-Sprayed At An ICE Facility,” Buzzfeed News, August 6, 2019, <https://www.buzzfeednews.com/article/hamedaleaziz/ice-immigrants-pepper-sprayed-louisiana-pineprairie>; “Detained Asylum Seekers Turning to Hunger Strikes, Protests as Their Cases Linger,” NBC News, Dec. 17, 2019, <https://www.nbc.com/news/national-international/detained-asylum-seekers-turning-to-hunger-strikes-protests-as-their-cases-linger/2050041/>

¹³⁰ *Bell v. Wolfish*, 441 U.S. 520, 535 (1979); see, e.g., *Lynch v. Cannatella*, 810 F.2d 1363, 1375 (5th Cir. 1987) (“[W]hatever due process rights excludable [noncitizens] may be denied by virtue of their status, they are entitled under the Due Process Clauses of the Fifth and Fourteenth Amendments to be free of gross physical abuse at the hands of state or federal officials.”)

¹³¹ PBNDS 2.15(V)(B)(2) and 2.15(V)(E).

¹³² PBNDS 2.15(V)(B)(5).

¹³³ Interim ICE Use of Force Policy, ICE, July 7, 2004, <https://www.dhs.gov/sites/default/files/publications/ice-useof-force-policy.pdf>

¹³⁴ Dozens of ICE Detainees Were Pepper-Sprayed by Guards for Protesting at a Louisiana Jail, Mother Jones, August 2, 2019, <https://www.motherjones.com/politics/2019/08/immigrant-detention-ice-bossier-louisiana-pepperspray/>; Deputies at La. jail pepper spray, strike ICE detainees, Washington Blade, August 3, 2019, <https://www.washingtonblade.com/2019/08/03/deputies-at-la-jail-pepper-spray-strike-ice-detainees/>; More Than 100 Immigrants Were Pepper-Sprayed At An ICE Facility, Buzzfeed News, August 6, 2019, <https://www.buzzfeednews.com/article/hamedaleaziz/ice-immigrants-pepper-sprayed-louisiana-pine-prairie>; More Than 100 Immigrants on Hunger Strike at ICE Facility Allegedly Pepper-sprayed, Shot at with Rubber Bullets and Blocked from Contacting Families, Newsweek, August 7, 2019. Available at: <https://www.newsweek.com/ice-detainees-hunger-strike-pepper-sprayed-excessive-force-1452953>

¹³⁵ Robert F. Kennedy Human Rights Video Interview (5/6/21).

day I feel depressed at times for just coming to this country.”¹³⁶ As previously reported to the OIG and CRCL, this application of the use of force clearly exceeded lawful authority.¹³⁷

In August of 2020, a group of 45 Black asylum seekers participated in another peaceful hunger strike as a continuation of a demonstration that began in March of 2020.¹³⁸ The hunger strikers were protesting the conditions of their confinement, their indefinite detention, their racist treatment, blanket parole denials, and Pine Prairie’s response to the COVID-19 pandemic – among other injustices. In response, Pine Prairie officers told the protestors that if they continued to hunger strike they would be placed in solitary confinement. The protestors sat on the floor and raised their arms to show that they were unarmed. Fifteen guards retaliated by mobilizing tear gas canisters, a tear gas gun, pepper spray, and handcuffs. One immigrant described how he watched as an ICE officer broke a fellow protestor’s arm as he wrestled him to the ground, sharing a vivid memory of hearing the “snap” of the bone.¹³⁹ ICE officers in full riot gear then rounded up all 45 hunger strikers and took them to the solitary confinement unit, “Echo,” where they faced punitive conditions including: little to no recreational time; no access to tablets; no access to TV or recreational reading materials; limited access to showers and hygiene materials; limited access to potable drinking water; no access to the law library; and limited legal call access. The punitive nature of this segregation directly violates several provisions of PBNDS 2011.¹⁴⁰

One asylum seeker from West Africa described his participation in the peaceful hunger strikes in June 2020, in which he was placed in retaliatory solitary confinement for 10 days.¹⁴¹ He noted that the protests he participated in were a response to the observation that all African asylum seekers at Pine Prairie were assigned to one immigration judge, who only granted asylum to one out of over 50 applicants.¹⁴² After applying for asylum based on his LGBTQ status, this individual was also denied and reported that he believes his status as an African asylum seeker barred him from obtaining legal relief. While in solitary, this man reported that he did not have access to phones, tablets, or the law library. The guards repeatedly threatened him, stating “If you don’t eat, you will be here [in the Echo solitary confinement unit] forever.” He noted that he could hear the screams and cries of other protestors from their cells. One protestor, an immigrant

¹³⁶ Robert F. Kennedy Human Rights Video Interview (5/6/21).

¹³⁷ Letter to DHS OIG re Abuse of Hunger Strikers (August 29, 2019). Available at:

https://www.splcenter.org/sites/default/files/letter_to_dhs_oig_re_abuse_of_hunger_strikers.pdf

¹³⁸ “Someone Needs to Listen to Us”: Why African Asylum Seekers Went On Hunger Strike, In These Times (October 7, 2020) Available at: <https://inthesetimes.com/article/african-migrants-hunger-strike-ice-cameroon-racism>; Joe Penney, “Inside an ICE facility in Louisiana, detainees say ICE is depriving them of masks, undertesting for COVID-19, and moving migrants around the country,” Business Insider (May 1, 2020), Available at:

<https://www.businessinsider.com/detainees-say-ice-undertesting-for-covid19-not-giving-them-supplies-2020-5>

¹³⁹ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/23/21).

¹⁴⁰ PBNDS 2011 (Rev. Dec. 2016) (“PBNDS”) Sec. 2.12(II)(11), (15), (17), (18), (19).

¹⁴¹ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/23/21).

¹⁴² See also Joe Penney, “Inside an ICE facility in Louisiana, detainees say ICE is depriving them of masks, undertesting for COVID-19, and moving migrants around the country,” Business Insider (May 1, 2020), Available at: <https://www.businessinsider.com/detainees-say-ice-undertesting-for-covid19-not-giving-them-supplies-2020-5> (reporting that this hunger strike was in part a response to Judge W. Scott Laragy of the Oakdale Immigration Court’s routine denial of African asylum seekers legal claims, including a denial of over 85% of the asylum cases he heard from 2014 to 2019).

from Uganda, was having such severe anxiety due to prolonged solitary, medical personnel determined that he was showing physiological signs of having suffered from a stroke.¹⁴³

ICE and its contractor's ongoing threats to put the protesters in solitary confinement and restrict their commissary, telephone, and tablet use unless they eat violate their First Amendment rights. Advocacy organizations filed a complaint and requested that ICE immediately release all peaceful hunger strikers from solitary confinement and that the DHS OIG and CRCL conduct a thorough investigation of documented incidents of use of force violations and release the results as soon as possible.¹⁴⁴ Again, in October 2020, a coalition of immigrant rights groups filed a multi-individual complaint with DHS, CRCL and OIG, outlining human rights violations where ICE deployed excessive force in order to coerce Cameroonian immigrants into signing deportation documents.¹⁴⁵ As of this filing, there has been no response to calls for an investigation.

These abuses are part of ICE's pervasive pattern of punishing detained immigrants for exercising their lawful right to protest.¹⁴⁶ Pine Prairie's repeated use of excessive force and severe retaliation in the form of solitary confinement violates the First and Fifth Amendments as well as ICE's own standards regarding use of force. Without a legitimate penological interest, the First Amendment prohibits ICE from abridging the freedom of speech of immigrants detained at Pine Prairie.¹⁴⁷ Here, the immigrants who participated in the hunger strike were protesting the inhumane conditions of their confinement and the blanket denial of parole requests. In response, Pine Prairie prohibited outside communication by protestors and forced them into solitary confinement in violation of the First Amendment. Importantly, no ICE disciplinary standard authorizes the implementation of solitary confinement for those who report violations and abuses in detention.¹⁴⁸ In addition, Pine Prairie officers' use of excessive force may qualify as assault and battery under Louisiana penal code sections regarding assault, battery, and battery with serious bodily injury. This conduct also may violate the federal prohibition on assault, 18 U.S.

¹⁴³ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/23/21).

¹⁴⁴ Complaint by Southern Poverty Law Center, ISLA, Cameroon American Council, and Freedom for Immigrants (August 26, 2020). Available at: https://www.splcenter.org/sites/default/files/8.26.20_crcl_letter.pdf

¹⁴⁵ Complaint by Freedom for Immigrants, Southern Poverty Law Center, Louisiana Advocates for Immigrants in Detention, Natchez Network, Detention Watch Network, Cameroon American Council, Haitian Bridge Alliance, and Families for Freedom (October 7, 2020). Available at: <https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5f7f17f39e044f47175204fb/1602164723244/Re+CRCL+Complaint+ICE%27s+Use+of+Torture+to+Coerce+Immigrants+to+Sign+Immigration+Documents+at+Adams+County+Correctional+Facility.pdf>

¹⁴⁶ See Noah Lanard, It's Still Too Painful to Put Clothes On: An ICE Detainee Reports He Was Pepper-Sprayed and Sent to Isolation, Mother Jones (Mar. 25, 2020), <https://www.motherjones.com/politics/2020/03/ice-geo-detention-pineprairie-pepper-spray-louisiana/>; Hamed Aleaziz, More Than 100 Immigrants Were Pepper-Sprayed At An ICE Facility, BuzzFeed News (Aug. 6, 2019), <https://www.buzzfeednews.com/article/hamedaleaziz/ice-immigrants-peppersprayed-louisiana-pine-prairie>; Fernanda Echavarri, Dozens of ICE Detainees Were Pepper-Sprayed by Guards for Protesting at a Louisiana Jail, Mother Jones (Aug. 2, 2019), <https://www.motherjones.com/politics/2019/08/immigrant-detention-ice-bossier-louisiana-pepper-spray/>.

¹⁴⁷ See *Stefanoff v. Hays Cnty.*, 154 F.3d 523, 527 (5th Cir. 1998) (finding that "a hunger strike may be protected by the First Amendment if it was intended to convey a particularized message."); *Hart v. Hairston*, 343 F.3d 762, 764 (5th Cir. 2003) (finding that the First Amendment prohibits retaliation for speaking out about conditions of confinement).

¹⁴⁸ PBNDS Appendix 3.1.A.

Code § 113, as well as 18 U.S.C. § 242, which makes it unlawful for federal officers to willfully deprive an individual of rights under color of law.

IV. Due Process Concerns

Legal Framework

Under international human rights law, the right to due process recognizes the protection against abuses of the legal system such as the lack of an effective remedy and excessive punishments.¹⁴⁹ More specifically, the right to due process includes the right to access legal resources and the right to representation; the right to access judicial remedies; and, most relevant here, the right to submit complaints to the administration and receive a proper resolution.¹⁵⁰ In the context of due process as an element of State responsibility, the State is responsible for “any act or omission on the part of the State bodies in a proceeding, whether of an administrative, punitive, or jurisdictional nature.”¹⁵¹ The Inter-American Commission on Human Rights (IACHR) has concluded that the failure to provide detained immigrants with their due process rights would be in violation of the American Declaration of the Rights and Duties of Man, particularly in light of the circumstances surrounding detention and the severity of possible consequences.¹⁵²

Further, individuals in immigration detention are guaranteed constitutional protections under the Fifth and Fourteenth Amendments, which prohibit any person acting under color of federal or state law from subjecting an individual in custody to punitive conditions of confinement without due process of law.¹⁵³ Immigrant detainees, like other civil detainees, are entitled to “conditions of confinement that are not punitive.”¹⁵⁴ A restriction, such as solitary confinement, is “punitive” where it is intended to punish or where it is “excessive in relation to its non-punitive purpose,” or is “employed to achieve objectives that could be accomplished in so many alternative and less harsh methods.”¹⁵⁵ Thus, the U.S. Supreme Court has noted that because immigrants are protected by the Due Process Clause, which “applies to all persons within the United States, including aliens, whether their presence is lawful, unlawful, temporary or permanent,” their conditions of civil confinement raise serious constitutional concerns involving their liberty

¹⁴⁹ Universal Declaration of Human Rights, G.A. Res. 217 (III) A, art. 5, U.N. Doc A/RES/217(III). art. 8 (Dec. 10, 1948) [hereinafter UDHR]. See also American Declaration of Rights and Duties of Man, O.A.S. Official Rec., OEA/Ser.L/V/II.23, doc. 21 rev.6 (1948) [hereinafter American Declaration] (providing for “the right to recognition of juridical personality” and for every person to be recognized as “having rights and obligations”). The United States is a signatory of the American Declaration.

¹⁵⁰ International Covenant on Civil and Political Rights art. 9(4), Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171 [hereinafter ICCPR] (holding that “everyone shall be entitled to a fair and public hearing by a competent, independent, and impartial tribunal.”); see also *Al-Jedda v. United Kingdom*, 2011 Eur. Ct. H.R. 1092, para. 40-41 (July 7, 2011) (The European Court of Human Rights referencing para. 7 of the United Nations Security Council Resolution 1546 which provides that detained persons “should enjoy all the protections envisaged in all the rights by international human rights conventions”).

¹⁵¹ Juridical Condition and Rights of the Undocumented Migrants, Advisory Opinion OC-18/03, Inter-Am. Ct. H.R. (ser. A) No. 18 (Sept. 17, 2003).

¹⁵² *Report on Immigration in the United States Detention and Due Process*, Inter-Am. Comm’n H.R., OEA/Ser.L/V/II, Doc 78/10 (Dec. 30, 2010).

¹⁵³ See *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).

¹⁵⁴ *Jones v. Blanas*, 393 F.3d 918, 931-32 (9th Cir. 2004).

¹⁵⁵ *Bell v. Wolfish*, 441 U.S. 520 (1979).

interests.¹⁵⁶ The constitutional rights guaranteed to immigrants in detention include both procedural and substantive due process protections.

ICE detention standards also require that immigrants are provided with due process protections involving timely notice and reporting when solitary confinement is used against an individual. For example, the 2013 ICE Segregation Directive provides that there must be a review process for all detainees placed in segregation for over 14 days, who have been identified as vulnerable, or if there are other factors relating to the risk of victimization of a detainee.¹⁵⁷ The PBNDS 2011 also state that individuals should only be placed in disciplinary segregation after they have “had a disciplinary hearing and a review panel has determined that they have violated a facility rule.”¹⁵⁸

Delays and Lack of Notice

Pine Prairie’s practice of holding immigrants in solitary confinement without proper hearings and without seeking alternatives, arbitrarily segregating anyone they deem “problematic,” is a violation of immigrant detainees due process rights under the Fifth Amendment, international human rights law, and ICE’s own PBNDS standards. Under due process protections, detainees have the right to receive “prompt” notice of the reasons for their detention or in the case of solitary confinement, their segregation.¹⁵⁹ This right to notice provides detained immigrants with a right to dispute the validity or conditions of the detention “without delay.”¹⁶⁰ However, as revealed by our interviews with currently and previously detained immigrants, individuals detained at Pine Prairie fear that submitting complaints relating to conditions will negatively affect their immigration case or their treatment by Pine Prairie personnel. The use of solitary confinement as a form of coercion to obstruct access to a legal remedy clearly violates the due process rights of those detained at Pine Prairie.

One individual told us that because he is a fluent English speaker, he often serves as an interpreter for other individuals who are also detained at Pine Prairie. When he translates the complaints of others or voices their concerns, the Pine Prairie personnel routinely punish him with solitary confinement.¹⁶¹ He has been placed in solitary confinement over six separate times. Each time he was held for approximately 45 days – three times longer than the internationally recognized lawful limit.¹⁶² The justifications he received for his segregation ranged from

¹⁵⁶ *Zadvydas v. Davis*, 533 U.S. 678, 679 (2001) (holding that the indefinite detention of immigrants under order of deportation is presumptively unconstitutional under the Due Process Clause).

¹⁵⁷ ICE Directive No. 11065.1, Review of the Use of Segregation for ICE Detainees, (ICE 2013) [hereinafter ICE 2013 Directive], Available at: https://www.ice.gov/doclib/detention-reform/pdf/segregation_directive.pdf at Section 5.1 (there must be reporting “whenever a detainee has been held continuously in segregation for 14 days [within a 21-day period], 30 days, and at every 30-day interval.”).

¹⁵⁸ See PBNDS 2011 Standard 2.12 (“Special Management Units”).

¹⁵⁹ ICCPR, art.9(4); PBNDS 2011 at 145 (noting that “the detainee shall be advised of the reasons he/she is being placed in a dry cell, the purpose of this placement, the conditions that he/she can expect.”); see also *Invisible in Isolation at 21* (noting that “ICE detention standards state that individuals should only be placed in disciplinary segregation after they have had a disciplinary hearing and a review panel has determined that they have violated a facility rule.”).

¹⁶⁰ ICCPR, art.9(4).

¹⁶¹ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (2/12/21).

¹⁶² *Id.*

“punishment for fighting with other detainees” to the vague classification of “disciplinary violations.” On one occasion, after feeling helpless and frustrated by the officers’ refusal to explain the reasoning behind and expected length of his segregation, one immigrant broke the small window looking into the hallway in his solitary cell, resulting in a ten day extension of his already 30-day-long segregation.¹⁶³ Another immigrant was held in disciplinary segregation for fighting. He was held in solitary for 33 days even though he was initially told by Pine Prairie personnel that he would only be subjected to 10 days of segregation.¹⁶⁴ Another man explained that he has been routinely thrown in solitary confinement for complaining about Pine Prairie’s response to COVID-19.¹⁶⁵ After asking for hand sanitizer and cleaning supplies three times over the course of a few days, Pine Prairie officers sent him to Echo with the justification that he was being “non-compliant” and “getting out of order.”¹⁶⁶ When these individuals asked for an explanation or chance to challenge their segregation, Pine Prairie personnel refused. Further, one immigrant stated: “The personnel and the officials don’t talk to us like we are humans. I wish they would treat us with kindness and respect. They talk to us in a way, as if we didn’t deserve respect. It would be nice for them to talk to us as if we had rights.”¹⁶⁷

Further, *The Intercept* documented the testimony of detained asylum-seekers in custody at Pine Prairie who were told to submit to their own deportations, and that if they refused, they would be transferred to the detention unit within the facility where COVID-19 positive individuals are being held in quarantine.¹⁶⁸ In addition, multiple immigrants¹⁶⁹ reported having extreme difficulty accessing communication devices, including phones and tablets, while in solitary confinement, in direct violation of PBNDS 2011.¹⁷⁰ One man described that whenever he would try to use the phones to contact his attorney or his family, the Pine Prairie officer would say “I’ll be back” but would never return.¹⁷¹ These due process concerns are part of a larger pattern of the abusive and arbitrary implementation of solitary confinement within the NOLA ICE jurisdiction. For example, immigrants at Winn Correction Center reported that facility officials punished them with solitary confinement for attempting to speak to reporters during facility tours.¹⁷² An

¹⁶³ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (2/12/21).

¹⁶⁴ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).

¹⁶⁵ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (3/15/21).

¹⁶⁶ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (3/15/21).

¹⁶⁷ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).

¹⁶⁸ *The Intercept*, “ICE Threatened to Expose Asylum-Seekers to COVID-19 If They Did Not Accept Deportation,” John Washington, February 6, 2021, <https://theintercept.com/2021/02/06/ice-covid-threat-asylum-deportation/>.

¹⁶⁹ *See also*, Freedom for Immigrants Detention Hotline Report, Pine Prairie (5/4/2020): “The facility is under quarantine, for over one month we have not been allowed to leave our dormitory. 8 days ago, I asked to see doctor because my health was declining and I was subsequently placed in solitary confinement with no explanation. Today, I got news that I tested positive for the virus. I am afraid for my life, I am afraid to die here for nothing because of the irresponsibility of this facility...I did not get access to a phone until for six days despite repeatedly asking guards to help me access a phone. Today, it was a janitor, someone who washes the floor, that brought me the phone that I am calling you with through the little sliding window through which I receive food. I am terribly afraid for my life that I will die here and no one will know. I don’t know when the next time is that I will be able to use a phone again.”

¹⁷⁰ PBNDS 2011 Section 2.12 (“detainees in SMU shall have access to telephones, in accordance with provisions in the PBNDS”).

¹⁷¹ Robert F. Kennedy Human Rights Video Tele-Conferencing (VTC) Interview at Pine Prairie (4/5/21).

¹⁷² American Civil Liberties Union (ACLU), “Justice Free Zones: U.S. Immigration Detention Under the Trump Administration” (April 2020) at 38. Available at: https://www.aclu.org/sites/default/files/field_document/justice-free_zones_immigrant_detention_report_aclu_hrwnijc_0.pdf

immigrant at Richwood Correctional Center was beaten and put in solitary confinement for 99 days after asking an officer to “give him his commissary.”¹⁷³

Exposure to COVID-19

Individuals detained at Pine Prairie also have a substantive due process right to protection from serious illness and potential lethal harm. Immigrants at Pine Prairie are in federal civil immigration detention and therefore, have constitutional rights that flow from the Fifth Amendment.¹⁷⁴ When the U.S. government holds individuals in its custody, it assumes the affirmative obligation to provide for basic human needs, which include adequate food, shelter, clothing, medical care and reasonable safety for all persons living and working in its facilities.¹⁷⁵ Therefore, the government violates the due process rights of a person in civil detention when conditions of confinement “amount to punishment.”¹⁷⁶ “A pervasive pattern of serious deficiencies” to control a known risk of serious illness or infection that subjects a detainee to the risk of serious injury, illness or death “amounts to unconstitutional punishment.”¹⁷⁷ Therefore, housing detained people in crowded cells where they are at substantial risk of contracting an infectious disease is unconstitutional, even when it “is not alleged that the likely harm would occur immediately and even though the possible infection might not affect all of those exposed.”¹⁷⁸

In *Dada v. Witte*, a district court ordered the release of 14 medically vulnerable immigrants, including individuals detained at Pine Prairie.¹⁷⁹ Despite Pine Prairie’s awareness of the risks of the rapid spread of COVID-19 and the need for social distancing and sanitation practices, the facility continues to detain immigrants, including those with severe medical vulnerabilities like those immigrants we interviewed. This amounts to a punitive condition of confinement in violation of the Fifth Amendment’s substantive due process protections.

¹⁷³ *Id.* at 42.

¹⁷⁴ *Hare v. City of Corinth, Miss.*, 74 F.3d 633, 639 (5th Cir. 1996); *Ortega v. Rowe*, 796 F.2d 765, 767 (5th Cir. 1986).

¹⁷⁵ *DeShaney v. Winnebago County Dep’t of Social Servs.*, 489 U.S. 189, 200 (1989); *Hare*, 74 F.3d at 650 (5th Cir. 1996).

¹⁷⁶ *Garza v. City of Donna*, 922 F.3d 626, 632 (5th Cir. 2019), cert. denied sub nom. *Garza v. City of Donna, Texas*, 140 S. Ct. 651 (2019).

¹⁷⁷ *Shepherd v. Dallas Cty.*, 591 F.3d 445, 454 (5th Cir. 2009); see also *Duvall v. Dallas Cty., Tex.*, 631 F.3d 203, 208-209 (5th Cir. 2011) (finding a constitutional violation, in the Fourteenth Amendment episodic-acts-or-omissions context, where defendants could have controlled a viral outbreak through “isolation and improved hygiene practices”); *Bell v. Wolfish*, 441 U.S. 520, 535 (1979).

¹⁷⁸ *Helling v. McKinney*, 509 U.S. at 33 (citing *Hutto v. Finney*, 437 U.S. 678, 682 (1978)).

¹⁷⁹ No. 1:20-CV-00458, 2020 WL 2614616, at *1 (W.D. La. May 22, 2020). Court Order Available at: https://ccrjustice.org/sites/default/files/attach/2020/05/Release_Order_LA_District_Court_052220.pdf

V. Recommendations

We urge the Office of Civil Rights and Civil Liberties (CRCL) and the Office of the Inspector General (OIG) to immediately take the following steps:

1. We urge CRCL and OIG to recommend that ICE immediately terminate the Intergovernmental Services Agreement (IGSA) with the GEO Group and all contracts related to Pine Prairie ICE Processing Center and facilitate the safe release of all those detained, as ICE and its contractors, including the GEO Group, have continuously showed an ongoing history of abusive conditions, and are unfit to house human beings in this facility.
2. We request that OIG investigate and issue recommendations regarding the conditions documented in this complaint – specifically the agency’s failure to provide adequate medical care and mental health services, and to hold Pine Prairie accountable for the improper use of solitary confinement and use of force.
3. We request that OIG initiate a review of ICE’s grant of parole and bond in ICE’s New Orleans Field Office (“NOLA ICE”).
4. We request that CRCL conduct a prompt investigation of civil rights and civil liberties complaints related to Pine Prairie ICE Processing Center and all immigration detention facilities under the jurisdiction of the ICE New Orleans Field Office.
5. We request that the CRCL establish a complaint mechanism and disseminate information to facilitate the submission of complaints by detained immigrants.

While we do not believe that any amount of reform at Pine Prairie can justify its continued incarceration of immigrants, we believe that immediately implementing the following – protections that immigrants are entitled to under civil and human rights laws – would vastly improve the quality of life for people currently detained at the facility.

1. Immediately end the inhumane and unlawful use of punitive solitary confinement at Pine Prairie and all other facilities under the jurisdiction of NOLA ICE.
2. Place vulnerable individuals in non-surveillance based alternatives to detention (ATD) programs if they cannot be placed safely with the general population and expand the release of individuals on humanitarian parole or immigration bond.
3. Place individuals who have contracted COVID-19 and those who are at risk of exposure and/or are symptomatic in medical isolation units instead of solitary confinement. These medical isolation units must include:
 - Adequate ventilation and temperature;
 - Access to potable drinking water and safe, adequate food;
 - Oversight by medical staff, not security staff;
 - Free access to recreational materials including TV, tablets, reading materials, and free phone calls;
 - Access to commissary and other property;
 - Daily access to medical and mental health care;
 - Daily access to a minimum of two hours of outdoor recreational time;
 - Daily updates to segregated individuals detailing why medical isolation is necessary and an expected timeline of continued segregation;

- Full transparency with individuals, their families, and legal counsel regarding conditions and reasons for an individual’s placement in medical isolation and immediate removal from medical isolation once medical staff have cleared an individual’s risk of transmission.
4. Train staff on the legal requirements and negative mental health effects of solitary confinement, emphasizing that segregation should only be used as a last resort and for the shortest amount of time possible.
 5. Ensure that every person detained is provided with an individualized assessment, under a presumption of release, prioritizing those most medically vulnerable to complications from COVID-19, as is mandated by *Fraihat*.¹⁸⁰
 6. Ensure that every person detained and all Pine Prairie staff and personnel have access to the COVID-19 vaccine, including linguistically and culturally appropriate education on the benefits and importance of receiving the vaccine, particularly for those who are medically vulnerable to COVID-19 complications.
 7. Ensure that Pine Prairie and other detention facilities under the jurisdiction of NOLA ICE comply with ICE detention standards, which require that individuals in segregation are provided the same rights as those in the general population, such as outdoor recreation, access to legal counsel and the law library, visitation, adequate food, potable drinking water, recreational reading materials, and hygiene.
 8. Ensure that Pine Prairie and other detention facilities under the jurisdiction of NOLA ICE properly implement sufficient daily face-to-face mental health assessments for individuals in segregation with mental health professionals that are independent from and report to an authority other than the detention facility or DHS.
 9. Ensure that immigrants detained in Pine Prairie and other detention facilities under the jurisdiction of NOLA ICE are provided the opportunity to challenge their placement in segregation before an independent review body.
 10. Maintain and publicly distribute accurate records on the use of segregation whereby facilities are required to notify ICE every time a detainee is placed in administrative or disciplinary segregation and must provide ICE, the detained individuals, and if applicable, their retained legal counsel with detailed reasoning behind the placement in segregation.

VI. Conclusion

As human rights, civil rights, and immigrants’ rights advocates, we raise these concerns for the dignity, health, and wellbeing of the hundreds of immigrants currently detained at Pine Prairie and the thousands of immigrants currently detained within the NOLA ICE jurisdiction who are subjected to egregious, abusive and unlawful practice of solitary confinement. As demonstrated, Pine Prairie’s insufficient response to the COVID-19 pandemic, coupled with its incomplete adoption of CDC guidance and refusal to enforce even ICE’s own policies, are entirely consistent with its past mishandling of infectious disease outbreaks in the facility. Over the past two years, parallel abuses and conditions have been reported out of other detention centers

¹⁸⁰ See Order, *Fraihat, et al v. U.S. Immigration and Customs Enforcement, et al*, No. 5:19-cv-01546-JGB-SHK, ECF No. 132 (C.D. Cal. April 20, 2020) (“[ICE] shall make timely custody determinations for detainees with Risk Factors, per the latest Docket Review Guidance[.]”).

within the NOLA ICE jurisdiction including LaSalle (Jena),¹⁸¹ Winn,¹⁸² Bossier,¹⁸³ South Louisiana,¹⁸⁴ Allen Parish,¹⁸⁵ Catahoula,¹⁸⁶ LaSalle (Olla),¹⁸⁷ Jackson Parish,¹⁸⁸ Richwood,¹⁸⁹ River,¹⁹⁰ and Tallahatchie.¹⁹¹ For example, in December 2020, reports revealed that immigrants who requested COVID-19 testing at Etowah County were put in solitary for weeks as a form of retaliation and punishment to discourage further self-advocacy and requests for testing.¹⁹² Additionally, on February 1, 2021, several immigrant advocacy groups filed a civil rights complaint with the DHS CRCL and OIG based on testimonies from asylum-seekers detained at Winn Correctional Center in Winnfield, Louisiana claiming that they had been tortured and coerced into signing documents to approve their own deportation.¹⁹³

We bring the aforementioned concerns to your attention with the hope of immediately remedying these issues. We oppose a system that criminalizes, detains, and punishes vulnerable populations – people who should be released to their families and communities whenever possible.

¹⁸¹ Mother Jones, “ICE Detainees Were Pepper Sprayed During a Briefing on Coronavirus,” Noah Lanard, March 26, 2020, <https://www.motherjones.com/politics/2020/03/ice-detainees-were-pepper-sprayed-during-a-briefing-on-coronavirus/>.

¹⁸² HuffPost, “ICE Detention Center Officials Indiscriminately Tear Gassed Asylum Seekers, Complaints Say,” Hayley Miller, August 16, 2020, https://www.huffpost.com/entry/ice-tear-gas-detainees-winn-correctional-center_n_5f35305ec5b6fc009a625a85.

¹⁸³ Mother Jones, “ICE Stops Using Jail Where Detainees Were Beaten and Pepper Sprayed,” Noah Lanard and Fernanda Echavarri, February 10, 2020, <https://www.motherjones.com/politics/2020/02/ice-stops-using-jail-where-detainees-were-beaten-and-pepper-sprayed/>.

¹⁸⁴ The Intercept, “Women in ICE detention, fearing Coronavirus, make video to protest unsafe conditions,” Debbie Nathan, March 30, 2020, <https://theintercept.com/2020/03/30/coronavirus-ice-detention/>.

¹⁸⁵ Mother Jones, “Biden Pledged to Close Down For-Profit ICE Detention Centers. Will He Follow Through?” Noah Lanard, January 27, 2021, <https://www.motherjones.com/politics/2021/01/biden-pledged-to-close-for-profit-ice-detention-centers-will-he-follow-through/>.

¹⁸⁶ The Lens, “Detainees at privately owned immigration facility say sheriff’s office broke up protest with pepper spray, projectiles,” <https://thelensnola.org/2020/05/27/detainees-at-privately-owned-immigration-facility-say-sheriffs-office-broke-up-protest-with-pepper-spray-projectiles/>.

¹⁸⁷ WWNO New Orleans Public Radio, “Louisiana ICE Detention Facilities Out of Power and Water, Detainees Report,” Rosemary Westwood, August 31, 2020, <https://www.wwno.org/post/louisiana-ice-detention-facilities-out-power-and-water-detainees-report>.

¹⁸⁸ Mother Jones, “Detainees Describe Dire Conditions After the Hurricane Left ICE Jails Without Water or Power,” Noah Lanard, September 1, 2020, <https://www.motherjones.com/politics/2020/09/detainees-describe-dire-conditions-after-hurricane-leaves-ice-jails-without-water-or-power/>.

¹⁸⁹ KNOE 8 News, “Whistleblowers allege unsafe conditions at Richwood Correctional Center, watchdog group reports,” Tyler Wann, July 14, 2020, <https://www.knoe.com/2020/07/14/whistleblowers-allege-unsafe-conditions-at-richwood-correctional-center-watchdog-group-reports/>; Mother Jones, “ICE Detainee at Trouble For-Profit Jail Dies in Apparent Suicide,” Noah Lanard, October 17, 2019, <https://www.motherjones.com/politics/2019/10/ice-detainee-at-troubled-for-profit-jail-dies-in-apparent-suicide/>.

¹⁹⁰ BuzzFeed News, “ICE Often Gives Detained Immigrants Poor Medical Care and Uses Segregation as Punishment, a New Report Says,” Adolfo Flores and Hamed Aleaziz, September 21, 2020, <https://www.buzzfeednews.com/article/adolfoflores/ice-immigrants-poor-medical-care-segregation-report>.

¹⁹¹ Mother Jones, “ICE is sending hundreds of asylum seekers to a private prison in Mississippi,” Noah Lanard, February 15, 2019, <https://www.motherjones.com/politics/2019/02/ice-is-sending-hundreds-of-asylum-seekers-to-a-private-prison-in-mississippi/>.

¹⁹² The Intercept, “Immigrants Detained by ICE Say They Were Punished for Requesting COVID-19 Tests,” Clarissa Donnelly-DeRoven, December 3, 2020, <https://theintercept.com/2020/12/03/etowah-ice-detention-covid-outbreak/>.

¹⁹³ Civil rights complaint filed by Freedom for Immigrants, Al Otro Lado, and Advocates for Immigrants Rights, February 1, 2021, https://www.freedomforimmigrants.org/s/Redacted_CRCL_Complaint_Winn.pdf.

Individuals detained by ICE have protections under the First, Fifth, and Fourteenth Amendments. In addition, immigrants in detention are guaranteed certain liberty interests including reasonably safe conditions of confinement, freedom from blanket use of solitary confinement,¹⁹⁴ and the right to food, clothing, medical care, and shelter.¹⁹⁵ Every human being is entitled to access to basic dignities like safe drinking water, nutritious food, responsive healthcare, and freedom from abuse, including arbitrary and punitive solitary confinement. Pine Prairie’s systemic, State-sponsored implementation of solitary confinement in immigration detention not only violates ICE’s own standards but it also directly contravenes the U.S. Constitution. It is further a clear violation of basic international human rights principles recognized by the international community, including the United Nations and the Inter-American System on Human Rights. Many of the concerns and issues here could be easily remedied and we hope that ICE and Pine Prairie will take their responsibility seriously and resolve these violations.

Please respond to us about any of the above concerns **within the next thirty (30) days**. We also welcome an in-person or remote meeting to discuss our concerns – please also respond within the next thirty (30) days if you would like to schedule that meeting. We sincerely thank you for your time and attention to this matter.

“Prisons do not disappear social problems, they disappear human beings.”
-Angela Y. Davis

Sincerely,

Al Otro Lado
American Civil Liberties Union of Louisiana
Black Alliance for Just Immigration
Cameroon American Council
Center for Constitutional Rights
Freedom for Immigrants
Haitian Bridge Alliance
Immigration Services and Legal Advocacy
Louisiana Stop Solitary Coalition
National Immigration Project of the National Lawyers Guild
Operation Restoration
Project South
Puentes New Orleans
Rapid Defense Network
Robert F. Kennedy Human Rights
Southern Poverty Law Center Action Fund
Tulane Immigrant Rights Clinic

¹⁹⁴ ICE Performance Based National Detention Standards 2011 (Rev. Dec. 2016) (“PBNDs”) Sec. 2.15 generally, 2.15(V)(E); Sec. 2.12; Sec 4.2.

¹⁹⁵ *Youngberg v. Romeo*, 457 U.S. 307, 315-316 (1982).

CC:

FOD Diane Witte
Interim Field Office Director
U.S. Immigration and Customs Enforcement (ICE)
Enforcement and Removal Operations (ERO)
New Orleans Field Office
1250 Poydras Street, Suite 325
New Orleans, LA 70113

Sent via Email to: diane.l.witte@ice.dhs.gov; NewOrleans.Outreach@ice.dhs.gov

Warden Eric Staiger
The GEO Group, Inc.
Pine Prairie ICE Processing Center
1133 Hampton Dupre Road
Pine Prairie, LA 70576

Sent via Email to: estaiger@geogroup.com

Direct Responses To:

Sarah Decker, Esq.
Monica Smith, Esq.
Wade McMullen, Esq.
Robert F. Kennedy Human Rights
decker@rfkhumanrights.org

Homero López, Esq.
Al Page, Esq.
ISLA
hlopez@islaimmigration.org