



Matthew T. Albence, Acting Director
Derek N. Benner, Acting Deputy Director
Felicia Johnson, Contracting Officer's representative
Benjamin Golway, Contracting Officer's representative
Peter Meitzner, Contract Support to Custody Management Division
U.S Immigration and Customs Enforcement
500 12th St., SW
Washington, D.C. 20536

CC: Julius Talton, CEO
Robin Howell, Director of Client Services
Talton Communications
910 Ravenwood Drive
Selma, Alabama 36701

August 22, 2019

Re: Notice to Cease & Desist for Blocking Freedom for Immigrants' ICE Pro Bono Telephone Extension From Being Accessed Nationwide

Dear Acting Director Albence,

We are writing to express concern regarding the termination of the National Immigration Detention Hotline, previously available to people in U.S. immigration detention through ICE pro bono telephone extension *9233#, run by Freedom for Immigrants (formerly CIVIC) for the last six years.

Freedom for Immigrants, formerly known as Community Initiatives for Visiting Immigrants in Confinement (CIVIC), is a national 501(c)(3) non-profit organization headquartered in California. FFI runs and supports visitation programs in immigration detention centers across the United States, including in Florida and 25 other states. It is also organized to disseminate ideas through the permissible, non-violent exercise of the rights of free speech guaranteed to it by the First and Fourteenth Amendments to the United States Constitution.

The Facts

The termination of the National Immigration Detention Hotline occurred within two weeks of the premiere of Season 7 of the popular Netflix show *Orange is the New Black* (OITNB), which featured Freedom for Immigrants' hotline by name. Freedom for Immigrants' hotline was featured as a storyline throughout multiple episodes of this season, and the organization's connection to OITNB garnered dozens of media articles. For example, InStyle Magazine published an oped written by Freedom for Immigrants staff, BuzzFeed published an oped by OITNB executive producer Carolina Paiz about her visit to a detention facility with Freedom for Immigrants, Los Angeles Magazine published a profile piece on Freedom for

Immigrants. Dozens of other new outlets, including People Magazine, Salon.com, Vanity Fair, Vulture, The Hill, NBC New York, published stories mentioning Freedom for Immigrants.

Ironically, Gloria (Selenis Leyva) tells Maritza (Diane Guerrero) in Season 7, “You gotta be careful though. Apparently as soon as Big Brother figures out you’re using the hotline, they shut it down.” Being featured in OITNB brought massive attention to the organization’s work regarding abusive and neglectful conditions in immigration detention centers. And for this, we are being punished by our government.

The suspension of Freedom for Immigrants’ hotline extension is impermissible retaliation to the organization’s First Amendment-protected expression. The hotline’s termination also creates the clear appearance ICE is attempting to silence critics and limit the public’s awareness of alleged abusive conditions in immigration detention.

In 2013, ICE’s National Office provided Freedom for Immigrants with a national pro bono extension through our affiliated visitation program, Friends of Miami Dade Detainees. Freedom for Immigrants’ hotline provided tens of thousands of detained individuals with a free and confidential channel of communication. In fact, the organization received between 500 to 14,000 calls per month from people in immigration detentions across the country. This resource is particularly crucial because it allows connection to vulnerable and isolated individuals, such as those detained in very remote areas, in special housing units and individuals in need of a confidential non-government group to support them.

The timing of the termination of the line is especially concerning when considering previous restrictions to the organization’s pro bono line by ICE. In October 2018, less than a week after Freedom for Immigrants sent a letter to ICE and CCA/CoreCivic regarding the retaliatory shut down of their affiliated visitation program SOLACE in San Diego, the aforementioned pro bono line became restricted to eight facilities in Florida, when previously it was available at all or nearly all other detention facilities.

As a result, 15 members of Congress sent ICE’s Deputy Director a letter expressing their concern (See Attachment A). Yet, since October 2018, Freedom for Immigrants’ pro bono extension line has remained restricted to Florida facilities, effectively preventing almost all contact between the organization and detained individuals through a safe and confidential channel. On August 7, 2019, two weeks after the premiere of OITNB, the line was shut down for the remaining Florida facilities. It is now entirely unoperational.

When we inquired with ICE and Talton Communications about the blocking of our hotline, we received an email from Felicia Johnson of ICE on August 15, 2019, saying that pro bono telephone extensions not listed on the Department of Justice EOIR list have been turned off. This is perplexing because we received the same response back in November 2018 from ICE when they restricted our hotline to Florida. Peter Meitzner told us that ICE “completed an pro bono system audit, to assure that each facility is served by the pro bono numbers related to that system” so that “other facilities in the US are limited to only calling authorized pro bono support services in their local area.” We then clarified that our hotline had been provided to us with the understanding that it was a national line, given that we work with people transferred across the country, which makes it imperative that our extension remain available to them no matter where they are located. Multiple requests to reinstate our hotline to its national reach were

ignored. Given the timing of the initial restriction of our hotline and now the complete elimination of our hotline, it is clear that these post hoc rationalizations from ICE are a pretext for violating our First Amendment rights.

In addition, we understand that not all of the nonprofits and community groups that provide referrals and support services are in the EOIR pro bono list, and yet these other groups still have access to a free and confidential speed dial number that connects them with people in immigration detention. Therefore, it appears that Freedom for Immigrants has been singled out due to the organization's speech.

History of ICE Violations of Our First Amendment Rights

The termination of Freedom for Immigrants' pro bono extension is not an isolated episode of retaliation. This takes place in a larger context of retaliation against visitation programs and advocates for detained individuals. In 2013, ICE suspended three visitation programs in Southern California after Freedom for Immigrants, then CIVIC, and its members made blog posts and comments on Facebook voicing concern about the treatment of immigrants detained by the agency. In early 2014, ICE terminated a Freedom for Immigrants-affiliated visitation program at the Otay Detention Facility in San Diego, California, after the program raised concerns about alleged sexual abuse in the facility." In late 2014, ICE also terminated visitation by the Friends of Broward County Detainees, a visitation program at the Broward Transitional Center in Pompano Beach, Florida, after the program's coordinator, Dr. Christine Ho, presented testimony on immigration detention at a Congressional Hearing hosted by then U.S. Representatives Joe Garcia and Ted Deutch.

In 2015, the Etowah Visitation Project at the Etowah County Detention Center (ECDC) was terminated just days after Freedom for Immigrants, then CIVIC, filed a complaint regarding alleged abuses at the ECDC with the Department of Homeland Security. In February 2018, ICE terminated Freedom for Immigrants', then CIVIC, free hotline and visitation program at the West County Detention Facility (WCDF). The Contra Costa Sheriff's Office cited Freedom for Immigrants' "emails, phone calls, radio and newspaper interviews" and found that "the organization poses a safety and security risk to the WCDF." This ban was issued in response to critical comments regarding facility conditions and abuses. Additionally, it was a political move to due to a suit by then acting Attorney General Jeff Sessions against California's sanctuary laws, including AB 103, which Freedom for Immigrants helped draft.

In September 2018, the leaders from Friends of Miami Dade Detainees visitation program were banned from visiting at the facility after participating in a protest, in a clear violation of their first amendment rights. In November 2018, CCA/CoreCivic banned volunteers from our affiliated visitation program at the Otay Mesa Detention Facility after they refused to sign an agreement prohibiting them from talking to the media about conditions at the facility. In light of First Amendment concerns raised by legal advocates, most of these visitation programs have since been reinstated without need for further legal action.

Additionally, in July 2017 ICE terminated another Freedom for Immigrants' pro bono telephone extension after the Bristol County Jail in Massachusetts asked ICE to shut it down. This happened after Freedom for Immigrants brought to light poor conditions in the detention

facility through an oped in a Bristol County paper and other advocacy. This line was never reinstated and multiple emails inquiring about reinstating the line have been ignored.

The Law

The termination of Freedom for Immigrants' hotline in retaliation for our work raises serious First Amendment concerns. (U.S. Const., 1st and 14th Amends., and 42 U.S.C. § 1983). The conduct described above constitutes unreasonable and unconstitutional interference with and infringement on Freedom for Immigrants' exercise of its rights of free speech guaranteed under the First and Fourteenth Amendments to the United States Constitution, article I, section 2 of the California Constitution, and article 1, section 4 of the Florida Constitution.

Free speech is protected under the First and Fourteenth Amendments to the United States Constitution and article I, section 4 of the Florida Constitution, which makes it unlawful for government officials to retaliate against individuals for speaking about matters of public concern.

A government official's retaliation against the exercise of free speech rights is a violation of the United States Code, title 42, section 1983.

State action is present here because ICE is a federal law enforcement agency and took action in terminating Freedom for Immigrants pro bono telephone extension.

In speaking about matters of public concern to the news and entertainment media industry, Freedom for Immigrants engaged in protected speech under the First and Fourteenth Amendments to the United States Constitution and article I, section 4 of the Florida Constitution.

In terminating or blocking Freedom for Immigrants pro bono telephone extension, ICE has taken prohibited adverse action against the organization that would deter members from continuing to engage in that speech.

The adverse action by ICE was motivated by FFI's protected conduct.

"Federal agencies, as well as municipal government[s] vested with state authority" have "no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Reed v. Town of Gilbert*, 135 S. Ct. 2218, 2226 (2015) (quoting *Police Dept. of Chicago v. Mosley*, 408 U.S. 92, 95 (1972)). Government entities are constitutionally prohibited from "proscribing speech, or even expressive conduct, because of disapproval of the ideas expressed." *R.A.V. v. City of St. Paul, Minn.*, 505 U.S. 377, 382 (1992) (multiple citations omitted). The First Amendment prohibits the retaliatory discipline, suspension, or termination of the pro bono line for public criticism of a government entity. *See Rodin v. City of Coral Springs, Florida*, 229 F. App'x. 849 (11th Cir. 2007) (per curiam) (finding city's retaliatory suspension of volunteer for speech criticizing agency in violation of First Amendment); *Mosley v. Bd. of Educ.*, 434 F.3d 527, 534-35 (7th Cir. 2006) (concluding that volunteer could bring First Amendment claims for retaliation due to protected speech); *Brown v. Disciplinary Comm. of Edgerton Volunteer Fire Dep't*, 97 F.3d 969 (7th Cir. 1996) (concluding that volunteers may sue for deprivation of First Amendment rights based on retaliation for criticism of government entity); *Hyland v. Wonder*, 972 F.2d 1129 (9th Cir. 1992) (finding First Amendment violation

where agency obstructed volunteer's access to juvenile detainees in retaliation for public criticism). ICE's retaliatory termination of Freedom for Immigrants pro bono extension clearly violates the First Amendment's prohibitions against content and viewpoint discrimination.

Accordingly, “[i]t is axiomatic” that state actors such as ICE “may not regulate speech based on its substantive content or the message it conveys.” *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828 (1995). And “[w]hen the [state actor] targets not subject matter, but particular views taken by speakers on a subject, the violation of the First Amendment is all the more blatant.” *Id.* at 829. Therefore, “[t]he [state actor] must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.”

The termination of Freedom for Immigrants’ pro bono line violates the First Amendment's prohibitions against discrimination for protected speech. The line’s termination, moreover, undermines trust and accountability of government institutions, dissuades public service by community organizations, and further isolates vulnerable detained individuals.

We hereby demand that ICE cease and desist from blocking our pro bono telephone extension from all future calls to the line from any ICE-contracted immigration detention facilities. If this action is not taken by ICE to cease and desist within 10 days from receipt of this letter, we will have no choice but to take appropriate legal action against you including but not limited to filing preliminary and permanent injunctions enjoining and restraining ICE from further interference with Freedom for Immigrants’ exercise of our rights to freedom of speech.

Sincerely,



Christina Fialho

Co-Founder/Executive Director



Cynthia Galaz

National Hotline Director

Attachment A

WASHINGTON OFFICE
2244 RAYBURN BUILDING
WASHINGTON, D.C. 20515
(202) 225-8045
FAX: (202) 225-2772

CHULA VISTA OFFICE
333 F STREET, SUITE A
CHULA VISTA, CA 91910
(619) 422-5963
FAX: (619) 422-7290

EL CENTRO OFFICE
380 NORTH 8TH STREET, #14
EL CENTRO, CA 92243
(760) 312-9900
FAX: (760) 312-9664



Congress of the United States
House of Representatives

Juan Vargas
51st District, California

COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON INVESTOR PROTECTION,
ENTREPRENEURSHIP AND CAPITAL MARKETS

SUBCOMMITTEE ON HOUSING,
COMMUNITY DEVELOPMENT AND INSURANCE

SUBCOMMITTEE ON NATIONAL SECURITY,
INTERNATIONAL DEVELOPMENT
AND MONETARY POLICY

COMMITTEE ON FOREIGN AFFAIRS
WESTERN HEMISPHERE, CIVILIAN SECURITY,
AND TRADE

MIDDLE EAST, NORTH AFRICA,
AND INTERNATIONAL TERRORISM

March 25, 2019

Ronald D. Vitiello
Deputy Director
U.S. Immigration and Customs Enforcement (ICE)
500 12th Street
Washington, D.C. 20536

Dear Deputy Director Vitiello:

We are writing regarding the shutdown of the National Immigration Detention Hotline run by Freedom for Immigrants (formerly CIVIC), a national organization that provides support to people in U.S. immigration detention. This hotline has been in operation since December 2013 and provides people detained in immigration detention facilities with access to a free phone call to request community-based resources, services, and moral support.

On October 17, 2018, ICE informed Freedom for Immigrants that the National Immigration Detention Hotline, which operated on the ICE Pro Bono Telephone System, had been restricted to eight facilities in Florida. This is not the first time that ICE has terminated an ICE pro bono telephone extension that had been previously given to an immigrant rights organization. In July 2017, ICE shut down another Freedom for Immigrants' extension reportedly after the Bristol County Jail in Massachusetts asked ICE to shut it down. This happened after Freedom for Immigrants brought to light poor conditions in the detention facility.

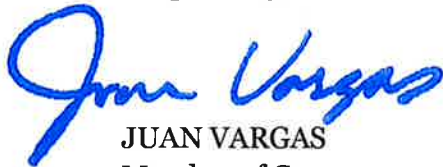
At around the same time, we have been informed, an education and advocacy organization called 'Families for Freedom' also had their national hotline shut down. In early October, access to their hotline was revoked from ICE detention centers across the country, including but not limited to York County Prison, Bristol County Detention Center, Plymouth County Correctional Facility, Etowah County Jail, Suffolk County Detention Center, and Glades County Detention Center — locations where detained individuals rely on Families for Freedom for essential support as they attempt to fight their cases in immigration court. This is the second time that detainee access to Families for Freedom's hotline has been suspended without warning.

It is particularly troubling that these recent restrictions took place less than a week after Freedom for Immigrants sent ICE a letter over the suspension of the interfaith visitation program, Souls

Offering Loving and Compassionate Ears (SOLACE) at the Otay Mesa Detention Center (OMDC) in San Diego, California. SOLACE is a member of Freedom for Immigrants' national network of immigration detention visitation programs.

We respectfully, but urgently, await your reply to this matter. Please give this request full and fair consideration in compliance with all applicable rules and regulations. If there are any developments regarding this matter or if you have any questions, please feel free to contact my office at 202-225-8045.

Respectfully,



JUAN VARGAS
Member of Congress



SCOTT PETERS
Member of Congress



RO KHANNA
Member of Congress



ILHAN OMAR
Member of Congress



GIL CISNEROS
Member of Congress



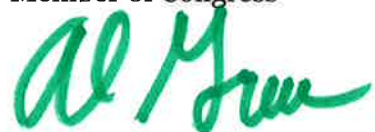
ADRIANO ESPAILLAT
Member of Congress



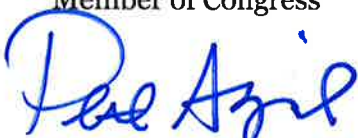
J. LUIS CORREA
Member of Congress



PRAMILA JAYAPAL
Member of Congress



AL GREEN
Member of Congress



PETE AGUILAR
Member of Congress




ELEANOR H. NORTON
Member of Congress



VICENTE GONZALEZ
Member of Congress



AYANNA PRESSLEY
Member of Congress



JERROLD NADLER
Member of Congress



NYDIA M. VELÁZQUEZ
Member of Congress

Cc: Damon T. Hininger, President and Chief Executive Officer, CoreCivic
J. David Donahue, Senior Vice President and President, U.S. Corrections and Detention,
& International Operations, The GEO Group
Management & Training Corporation (MTC)