



**FREEDOM
FOR IMMIGRANTS**

TOGETHER WE WILL END IMMIGRATION DETENTION



**55
YEARS**



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July 13th, 2021

**RE: Medical Neglect, Use of Force, Verbal Abuse, and Retaliation, Religious
Discrimination, COVID-19 Negligence, of Individuals Detained at Bergen County Jail**

Dear Officer for Civil Rights and Civil Liberties Culliton-Gonzalez, Field Office Director Tsoukaris, ICE Outreach Director, Captain Turre, and Warden Russo,

Freedom for Immigrants, the Center For Constitutional Rights, and UnLocal, Inc. submits this complaint on behalf of Stevens Guilmeus [REDACTED], Jean Claude Wright [REDACTED], Romeo Konneh [REDACTED], [REDACTED], Ernst Francois [REDACTED], Alex Baikay Kamara [REDACTED] and nine other individuals who wish to remain anonymous due to fear of retaliation. All are currently detained or have

previously been detained at Bergen County Jail and have reported violations of their civil and human rights, including medical neglect, use of force, religious discrimination, and egregious COVID-19 endangerment due to COVID-19 precaution violations since the beginning of the pandemic by Immigration and Customs Enforcement (ICE) at Bergen County Jail in Hackensack New Jersey. We urge the DHS Office for Civil Rights and Civil Liberties (CRCL), pursuant to its authority under 6 U.S.C. § 345, to immediately 1) Investigate Medical Practices, Use of Force, Religious Discrimination, Sexual Assault, Deplorable Conditions and Denial of Release at Bergen County Jail, 2) Recommend that ICE Terminate the Intergovernmental Services Agreement (IGSA) with Bergen County Jail, and 3) Recommend the Immediate Release of All Individuals Detained to Community.

Testimonies

This complaint includes testimonies from 15 individuals currently and formerly detained at Bergen County Jail. The individuals who wished to remain anonymous do so in fear of retaliation and additional abuse after coming forward. Should you open an investigation, these individuals may be willing to report their allegations to oversight bodies. These testimonies clearly demonstrate clear and utter disregard for the safety, well-being, and respect of those detained by ICE and Bergen County Jail. The medical neglect, abuse, discrimination, retaliation, and disregard of COVID-19 protocols are a direct violation of ICE's own detention standards and COVID-19 protocols, CDC guidance, and the U.S. Constitution.¹

All of the individuals named in this complaint called the Freedom for Immigrants National Immigration Detention Hotline to share their testimony. These testimonies include a pattern or practice of:

- Medical abuse;
- Sexual assault;
- Retaliation for peaceful protest and public reporting;
- ICE failing to follow court orders and release high-risk individuals suffering from complications related to COVID-19 from Bergen County Jail;
- Religious discrimination;
- Use of force and physical abuse at the hands of ICE guards, Sergeants, and Lieutenants; and
- Deplorable conditions.

¹ 2019 National Detention Standards for Non-Dedicated Facilities, U.S. Immigration and Customs Enforcement, <https://www.ice.gov/doclib/detention-standards/2019/nds2019.pdf>. (hereinafter "2019 NDS"); U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations COVID-19 Pandemic Response Requirements (Version 5.0, October 27, 2020), <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>. (hereinafter "PRR"); Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities, Center for Disease Control and Prevention (Updated Dec. 31, 2020) https://www.cdc.ca.gov/ccjbh/wp-content/uploads/sites/172/2020/04/CDC_guidance-correctional-detention.pdf.

Medical Neglect

“I have diabetes and HPV and whenever I go and see the doctor, the doctor refuses to treat me. The doctor once told me that ‘If you don’t like the way that I’m talking to you, go back to your country.’ The doctor is also verbally abusive. Every time I go in for a health issue, he says that I am making things up. I am afraid to lose my life because this doctor won’t treat me.”

- Romeo Konneh, on a call to the Freedom for Immigrants Hotline on April 30, 2021

Bergen County Jail is notorious for egregious medical neglect. An individual who was previously detained at Bergen County Jail, Reyes Ventura, states that he caught COVID-19 in detention, and said that ICE ignored his medical issues: “They didn’t care knowing I have high blood pressure and other symptoms, and I was at risk of dying in lockdown.”² Despite these complaints, medical issues clearly remain an ongoing issue, proving that ICE and Bergen County Jail have not made significant changes in the inadequate care provided to people detained.

ICE and Bergen County Jail have a constitutional obligation to provide adequate medical care to everyone detained. *See generally Estelle v. Gamble*, 429 U.S. 97 (1976). This medical neglect is in violation of both the U.S. Constitution and ICE’s own 2019 National Detention Standards for Non-Dedicated Facilities.³ The Freedom for Immigrants National Immigration Detention Hotline has received multiple reports in recent months of individuals detained at Bergen County who have chronic illnesses and are not being treated:

- On May 13, 2021, 64-year-old ██████████ called the Freedom for Immigrants Hotline and reported that he has been experiencing severe medical neglect. ██████████ was diagnosed with prostate cancer in 2013, while he was in prison. In prison, he had 6 surgeries to help solve a blockage in his urinary tract caused by prostate cancer. Multiple doctors tried to correct the surgery and he now has permanent muscle damage. ██████████ now uses a bag to urinate. ██████████ also suffers from heart problems, high blood pressure, and diabetes. He bleeds from his eyes because of this diabetes. ██████████ also had an incident where he fell through the floor in the prison unit and has a fractured spine as a result of the fall. Sometimes, ██████████ lies down and he can’t move because the pain in his back is excruciating. Now at Bergen County Jail, his rectum and abdomen hurt when he tries to urinate. When ██████████ went to the doctor at Bergen County Jail for his prostate cancer, the staff conducted an X-ray and said everything was fine.
- On April 30, 2021 Romeo Konneh called the Freedom for Immigrants Hotline and reported that after a few months in ICE detention, he was diagnosed with diabetes, high blood pressure, HPV, and obesity, all issues that he did not have before entering the facility. When the doctor diagnosed him with these chronic issues, he attributed it to the food that he is given at the facility and recommended that he eat from the commissary. He is taking diabetes and high blood pressure medication every week, but he feels like it is not helping him because his blood sugar is not under control. ICE refuses to give him the diabetes tray, which has low sodium and could help him address some of his health issues. As a result, he feels very dizzy and weak and has blurred vision. Mr. Konneh has

² “El Salvadoran Asylum Seeker in ICE Detention on Day 26 of Hunger Strike, Likely Hospitalized at Facility with Troubled History,” Insider New Jersey, April 1, 2021, available at: <https://www.insidernj.com/press-release/el-salvadoran-asylum-seeker-ice-detention-day-26-hunger-strike-likely-hospitalized-facility-troubled-history/>

³ U.S. Immigration and Customs Enforcement (ICE) National Detention Standards (NDS) 2019, available at: <https://www.ice.gov/doclib/detention-standards/2019/nds2019.pdf>

also experienced sharp pain in his lower belly, due to appendix issues. In April 2021, he was diagnosed with the HPV virus. He hasn't been able to sleep all night for the past two weeks because his whole left side from his shoulder to his leg is itchy and he is always scratching. He was promised treatment on Friday April 30, but when he went in for a sick call, he was told that the doctor had already left.

- On March 17, 2021, an anonymous caller called the Freedom for Immigrants Hotline and reported medical neglect he has been suffering. While in detention, the caller has had chronic lower back and side pain for over a year, since March 2020. He has made repeated requests for medical attention to identify and treat the pain but the pain has been neither diagnosed nor treated. When the anonymous caller sits down, the pain is so excruciating that he needs to walk around instead of sit. When the caller lays down, the pain in his back is agonizing and the pain prevents him from sleeping. As a result of the pain, he has a hard time falling asleep and only sleeps about five hours each night. In late February 2020, the anonymous caller was told that in order to get a diagnosis of the chronic pain on his side, he would be given something to drink at 5 PM, would then fast all night and be taken to the hospital in the early morning for a CT scan. When he reported in the morning, he was put in a holding cell. After 1 ½ hours, he was told that they would take him to the hospital in the mid-afternoon. He said he couldn't fast for 21 or 22 hours, because fasting makes the pain worse. The caller asked to reschedule the tests, and was told this was his only opportunity. On March 30, he saw the doctor who told him "you lost your opportunity." The caller explained why he couldn't fast for so long, but the doctor was unmoved. The doctor said he would only give him painkillers. On April 30, 2021, the caller reported that he was again supposed to get a CT scan. He was locked up in a holding cell for 2 hours, waiting. Then, the caller was told that the CT had been rescheduled but the caller reports that the CT has never been rescheduled.

The 2019 National Detention Standards for Non-Dedicated Facilities states "detention and health care personnel shall be trained annually to respond to health-related situations within four minutes" and "when a non-medical employee is unsure whether emergency care is required, he/she shall immediately notify medical personnel to make the determination."⁴ Additionally, the policy states that "facility shall directly or contractually provide timely responses to medical complaints."⁵ Many of the medical needs of people detained at Bergen County Jail are not addressed at all and when they do receive medical attention, the medical care is completely inadequate:

- On April 30, 2021, Ernst Francois called the Freedom for Immigrants Hotline and reported that a doctor at Bergen County Jail treats them horribly and refuses to treat them when they go in for care. Mr. Francois reports that the doctor sometimes throws them out of his office. Because of this, Mr. Francois has stopped placing sick calls, even though they continue to feel severe consequences from medical issues. For example, Mr. Francois' dorm ate worms that were found in their food and around 26 people threw up. When they went to the doctor, they refused to help them. He started hunger striking and

⁴ U.S. Immigration and Customs Enforcement (ICE) National Detention Standards (NDS) 2019, Part 4, 4.3 Medical Care, page 116, available at: https://www.ice.gov/doclib/detention-standards/2019/4_3.pdf

⁵ U.S. Immigration and Customs Enforcement (ICE) National Detention Standards (NDS) 2019, Part 4, 4.3 Medical Care, page 112, available at: https://www.ice.gov/doclib/detention-standards/2019/4_3.pdf

they finally took a blood test and realized he had worms. They then treated them and the doctor prescribed them to take six pills a day to get rid of the worms.

- On March 30, 2021, Steven called the Freedom for Immigrants Hotline and reported that he has had pain in his tooth for 12-13 months. The dentist at the facility he was previously detained in told him he needed a root canal. When he was transferred to Bergen County Jail, staff said that they don't do root canals in the facility. His tooth has gotten so bad that it's consistently bleeding, and for a while he couldn't eat on the infected side of his mouth. Now he can't chew food at all. All he can have is soup, but the soup is unhealthy and bothers his stomach so much. His tooth is bleeding so much that it smells bad. He brushes his teeth every hour, but that doesn't help. He said that all the facility does is give him morphine for the pain, and now that doesn't even work anymore.

In the examples above, it took repeated requests, multiple days, and even months in order for a medical professional to address an individual's urgent medical needs. Given that we are in a pandemic with COVID-19 exacerbating stretched resources and personnel, ERO COVID-19 Pandemic Response Requirements state that "if a facility is not able to provide [appropriate] evaluation and treatment, a plan must be in place to safely transfer the individual to another facility or local hospital."⁶ In other words, if the medical neglect is a result of fewer staff members or other COVID-19 related shortages of resources, Bergen County Jail is still required to implement a contingency plan to provide adequate medical attention. As reported, Bergen County Jail has not followed this protocol when handling COVID-19 cases and other medical issues, including mixing individuals who test COVID positive with those who are healthy.⁷

Additionally, the 2019 National Detention Standards for Non-Dedicated Facilities states that people in detention are entitled to the "right of freedom from discrimination based on race, religion, national origin, gender, sexual orientation, physical or mental ability, or political beliefs," yet, individuals detained at Bergen County Jail report that medical staff respond to them in racist and xenophobic ways:

- On April 30, 2021, Romeo Konneh called the Freedom for Immigrants Hotline and reported that a doctor refuses to treat him and is verbally abusive. Everytime Mr. Konneh goes in to be seen for a health issue, the doctor says he is making it up. Mr. Konneh had a virus and diabetes, yet everytime he goes in to see the doctor, the doctor refuses to treat him. The doctor usually sends everyone back to their unit and never gives them any prescriptions. The doctor once told Mr. Konneh "If you don't like the way that I'm talking to you, go back to your country."
- On April 30, 2021, an anonymous caller reported to the Freedom for Immigrants Hotline that a doctor at Bergen County Jail is verbally abusive. The doctor told the anonymous caller that if he does not like his treatment, he might as well go back to his country. The anonymous caller stopped putting slips in to request medical checks because of the mistreatment that he receives every time.
- On March 30, 2021, Steven called the Freedom for Immigrants Hotline and reported that an ICE officer, named Christopher Pleasant, told him they can't do anything for the pain in his tooth and that if he's in so much pain that he should just "sign out of the country."

⁶ ERO COVID-19 Pandemic Response Requirements (Version 5.0, October 27, 2020, page 18)

⁷ Call to the Freedom for immigrants National Detention Hotline on April 1, 2021, available at: <https://www.freedomforimmigrants.org/map>

Retaliation

“Every time you make a complaint against an ICE official they retaliate. Every time we raise our voices there are consequences, if they know our name, they wake you up at 3 AM.”

- Anonymous caller on May 11, 2021

According to the 2019 National Detention Standards for Non-Dedicated Facilities that ICE and Bergen County Jail are obligated to follow, “no detainee shall be harassed, disciplined, punished or otherwise retaliated against for filing a complaint or grievance.”⁸ Despite these policies, people detained at Bergen County Jail reported to the Freedom for Immigrants National Immigration Detention Hotline several instances of retaliation. Rather than responding to grievances and remedying conditions, Bergen County Jail responded by punishing and silencing those who reported them:

- On April 30, 2021, Ernst Francois called the Freedom for Immigrants Hotline and reported that an ICE Sergeant sent him in-house mail with a picture of him and vulgar words written on the picture such as: “gay,” “gang member,” and “snitch.” They accused Mr. Francois of being a “snitch” because he had called ICE in Washington, D.C. to report the abuses he faced at Bergen County Jail. Mr. Francois knows that an ICE Sergeant sent the image because they are the only ones who had access to these pictures.
- On March 30, 2021, an anonymous caller reported to the Freedom for Immigrants Hotline that on March 28th, after receiving the last breakfast tray, he was called away for a visit. Upon returning, he found his breakfast tray was gone. Sergeant Romero told him it had been thrown out. The caller complained politely, and Sergeant Romero told him to “shut the fuck up” and go to his cell, or he would have problems. The caller says that when they speak up, they face retaliation.
- On March 17, 2021, an anonymous caller reported to the Freedom for Immigrants Hotline that when the caller described his medical problems to Officer Pleasant, the officer waved his hand and discredited his complaint. Office Pleasant also threatened the anonymous caller, claiming that without his badge and on the street, he could physically fight and beat any of the people detained in the jail.
- On May 13, 2021, Alex Baikay Kamara called the Freedom for Immigrants Hotline and reported that 20 other people want to submit testimonies with Freedom for Immigrants but are scared of retaliation. He shared one example of a young boy who was deported because his attorney sued ICE for abuse.

These testimonies show a clear pattern and practice of direct threats that are made to people detained at Bergen County Jail after speaking out. There have been multiple instances of retribution when people ask for their basic human rights and dignity, including the use of solitary confinement, transfers, beatings, threats, racial slurs, and taunting. This retaliation has forced individuals into silence which raises questions about how many other abuses go unreported for fear of retaliation. Because of this fear, nine individuals in this complaint urged us to submit the complaint anonymously.

⁸ ICE's National Detention Standards for Non-Dedicated Facilities, Part 6: Justice, 6.2 Grievance System:, available here: https://www.ice.gov/doclib/detention-standards/2019/6_2.pdf

ICE Fails to Follow Court Orders and Release Individuals at High-Risk of Contracting COVID-19 from Bergen County Jail

"We are individuals who have children, community ties, and pre-existing conditions and are not being released. In their eyes we will forever be a threat to the community."

- Alex Baikay Kamara, call to Freedom for Immigrants Hotline on May 13, 2021

Age and pre-existing conditions put individuals at greater risk of contracting the COVID-19 virus and experiencing severe complications or death. The CDC and the court order in *Fraihat v. ICE* define certain high-risk populations that are at increased risk of severe illness from COVID-19.⁹ As set forth by the *Fraihat v. ICE* preliminary injunction and motion to enforce, ICE is required to review every case of *Fraihat* subclass members, including those with COVID-19 risk factors such as diabetes, hypertension, asthma, and autoimmune disorders for custody redetermination. But, it has been proven that "ICE has not complied with the court's order, dragging its feet in reviewing cases and refusing to release the most vulnerable."¹⁰ The motion to enforce order states "only in rare cases should a subclass member not subject to mandatory detention remain detained."¹¹ Despite both of these court orders, many individuals have been denied their *Fraihat* applications:

- On March 17, 2021, an anonymous caller reported to the Freedom for Immigrants Hotline that Officer Rodriguez refused to recognize the outcomes of the *Fraihat v. ICE* lawsuit and denied medical attention because of prior criminal convictions. The caller also mentioned that he had difficulty seeking medical attention due to pandemic-related medical personnel shortages.
- On May 13, 2021, Alex Baikay Kamara called the Freedom for Immigrants Hotline and reported that people who qualify under *Fraihat v. ICE* are not being released. These individuals have children, community ties, and pre-existing conditions. There are people with hypertension, high blood pressure, diabetes, and other issues and applied under *Fraihat* but guards told them, "If you had convictions, forget it."

As corroborated by above reports, these orders are clearly not being followed, risking serious illness and additional deaths at Bergen County Jail. Amy Zeidan, an ER physician at Grady Memorial Hospital and co-director of The Human Rights Clinic stated, "ICE must comply with mandatory CDC rules and guidelines regarding COVID-19, and most of all, release as many people as possible from immigrant detention, including by releasing people already in detention

⁹ 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. Apr. 20, 2020). ("[ICE] shall make timely custody determinations for detainees with Risk Factors, per the latest Docket Review Guidance[.]")

¹⁰ ICE Says Bergen County Jail Detention Center Is Overcrowded, But At-Risk Detainees Still Aren't Getting Released, by Matt Katz, Gothamist, January 29, 2021, available at: <https://gothamist.com/news/ice-says-bergen-county-jail-detention-center-is-overcrowded-but-at-risk-detainees-still-arent-getting-released>

¹¹Ibid.

and halting enforcement unless it is connected with an urgent public safety reason.”¹² Many of these individuals qualified for release under the *Fraihat* litigation¹³ and ICE's own policies due to their pre-existing medical conditions, but it is common for ICE to refuse to release individuals who are detained at Bergen County Jail.

Use of Force and Pepper Spray Against Detained Individuals

“My eyes were burning for almost two days and I had to be taken to medical as a result. This is a human rights violation. We did not do anything and did not resist but we are still punished.”

- Romeo Konneh, call to the Freedom for Immigrants Hotline on May 7, 2021

Anyone detained or imprisoned by the government is guaranteed certain liberty interests such as reasonably safe conditions of confinement, freedom from unreasonable bodily restraint, and the right to food, clothing, medical care, and shelter.¹⁴ The Due Process Clause of the Fifth Amendment guarantees that anyone detained by the government should be free of gross physical abuse.¹⁵ According to the 2019 National Detention Standards for Non-Dedicated Facilities, “using force against a detainee offering no resistance” is “prohibited.”¹⁶ The use of force may only involve “to gain control of an apparently dangerous detainee only under specified conditions.”¹⁷ Despite this policy, when individuals in this complaint asked simple questions, guards and ICE officers physically assaulted and pepper sprayed individuals who were peacefully naming safety concerns. Four callers have corroborated an attack that occurred on May 3, 2021, at Bergen County Jail:

- On May 13, 2021, Jean Claude Wright reported to the Freedom for Immigrants Hotline that on May 3, 2021, a few people detained at Bergen County Jail were violently assaulted through beatings and use of pepper spray. Mr. Wright and others corroborate that a Sergeant and a Sheriff came into the day room and wanted to do a search of a cell. The person who was being searched was a 50-year-old Black man who asked, “Why are you searching me?” The person who was being searched said “you do not need to scream at us.” The officers then slammed the man who was being searched onto the wall and 4 officers pushed him to the floor. One officer put his knee on the back of his neck. Then another detained man spoke up, “you can't do that, you are putting your knee on him” and asked the ICE agent, Agent Hartaway, who was standing near the incident, to do something. A younger man who was detained with them, was trying to help the man who was beaten to the ground back to his cell. The young man told the officers, “hey, don't do

¹² “ICE is guilty of unsafe practices in detention centers causing COVID-19 to spread,” Dr. Amy Zeidan, The Hill, Oct 5, 2020, available here: <https://thehill.com/opinion/immigration/519589-ice-is-guilty-of-unsafe-practices-in-detention-centers-causing-covid-19>

¹³ 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. Apr. 20, 2020). (“[ICE] shall make timely custody determinations for detainees with Risk Factors, per the latest Docket Review Guidance[.]”)

¹⁴ *Youngberg v. Romeo*, 457 U.S. 307, 315-16 (1982)

¹⁵ *Lynch v. Cannatella*, 810 F.2d. 1363, 1374 (5th Cir. 1987)

¹⁶ U.S. Immigration and Customs Enforcement National Detention Standards (NDS) 2019, Section 2.8 Use of Force and Restraints, C. Prohibited Use-of-Force Acts and Techniques, page 46, available at: https://www.ice.gov/doclib/detention-standards/2019/2_8.pdf

¹⁷ U.S. Immigration and Customs Enforcement National Detention Standards (NDS) 2019, Section 2.8 Use of Force and Restraints, I. Policy, page 44, available at: https://www.ice.gov/doclib/detention-standards/2019/2_8.pdf

this," and the callers witnessed this young man be beaten by officers and dragged down the steps. The officers said that this young man was "involved" in the incident while the young man was actually trying to help the older man who was beaten. After everyone was locked in, the officers called the people in detention "bitches" and kept antagonizing them. The callers report that no person in detention put their hands on any officers or guards. No one swung and no one resisted, but they were all charged with inciting a riot.

- On May 7, 2021, Romeo Konneh called the Freedom for Immigrants Hotline and reported that a Sergeant and a Sheriff asked everyone to lock-down. They were playing dominos, and one of the guards knocked the dominos down from their hands. **The guards started beating the seven people who were playing dominos. One of the Sheriff officers sprayed pepper spray on the majority of people in the facility.** ICE Officer Hathaway was standing near the incident and did nothing to stop the abuse. **They locked seven people up who were vocally against the actions taken by the officers in solitary and they had no access to a shower for 30 days.**

ICE clearly used excessive force in multiple situations at Bergen County Jail. They beat, dragged, pepper strayed, and handcuffed people detained at Bergen County Jail for merely asking questions. They punished multiple people detained for simply being present on the scene. The use of pepper spray also placed people at greater danger of COVID-19 exposure and/or negative health impact through an aerosol spray. Additionally, according to ICE's own policy "staff shall consult medical staff before using oleoresin capsicum (OC) spray or other non-lethal weapon(s)." ¹⁸

Sexual Assault

"When I said that he can't touch me inappropriate, the officer said, 'You can't do anything about it.'"

- Steven Guilmeus call to the Freedom for Immigrants Hotline on March 30, 2021

ICE's own National Detention Standards standards specify that, per DHS PREA Standards, ICE detention facilities must adhere to a zero-tolerance policy for all forms of sexual abuse and assault. ICE's definition of sexual assault include: "Intentional touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire." (72) Yet, Freedom for Immigrants received a report of sexual assault at Bergen County Jail:

- On March 30, 2021, Steven called the Freedom for Immigrants Hotline and reported that he was sexually assaulted by guards at Bergen County Jail. On the morning of March 30, 2021, Steven reports that while officers were doing bed sheet change, everyone had to get out and an officer purposefully touched his private parts. Steven then told the officer that he cannot touch him inappropriately, and the officer said, "you can't do anything about it."

¹⁸ U.S. Immigration and Customs Enforcement National Detention Standards (NDS) 2019, Section 2.8 Use of Force and Restraints, H. Use of Non-Lethal Weapons, page 49 available at: https://www.ice.gov/doclib/detention-standards/2019/2_8.pdf

The non-consensual touching of Steven’s private parts fits within the DHS PREA definition of sexual assault. The abusive actions detailed in this complaint are in direct violation of ICE’s own National Detention Standards (NDS) 2019 and the referenced DHS Prison Rape Elimination (PREA) Standards (DHS Final Rule, § 115.6), Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities (March 7, 2014) and Standard 2.11, as well as ICE Policy No. 11062.2: [Sexual Assault and Abuse Prevention and Intervention](#) (SAAPI Directive). Not only does the conduct described in this correspondence violate Steven’s federal constitutional rights, its discriminatory character also violates state civil-rights statutes. See N.J. Admin. Code §§ 10:5-12(f)(1) (prohibiting discrimination in “any place of public accommodation”); 10A:31–14.3(a) (prohibiting “discrimination on the basis of race, creed, color, ancestry, gender identity or expression, national origin, . . . [and] nationality” in adult county correctional facilities).

Religious Discrimination

The 2019 National Detention Standards for Non-Dedicated Facilities that ICE and Bergen County Jail are contracted to follow states that detained individuals are entitled to the “right of freedom from discrimination based on race, religion, national origin, gender, sexual orientation, physical or mental ability, or political beliefs.”¹⁹ The standards specify that “the facility shall facilitate the observance of important religious holy days that involve special fasts, dietary regulations, worship, or work proscription.”²⁰ Despite these regulations and standards, Freedom for Immigrants received reports of Islamophobic treatment at Bergen County Jail that is a clear violation of ICE’s standards:

- On May 13, 2021, Jean Claude Wright reported to the Freedom for Immigrants Hotline that he was fasting for religious purposes during Ramadan and the officers claimed he was on hunger strike. Jean reports that officers find any reason to retaliate against them and cite them. "They do this to control what they do."
- On April 30, 2021, Romeo Konneh called the Freedom for Immigrants Hotline and reported that sick call is always at 6am and Mr. Konneh asked the doctor if they can change sick calls for him because he prays during that hour to observe Ramadan. The doctor then questioned his faith and called him a “so-called Muslim.” Mr. Konneh responded politely and asked him to not use those words because he is a Muslim. The doctor then replied, "I don't have to treat you, leave." The doctor threatened Mr. Konneh and said that if he didn't leave, he would tell the guards to lock Mr. Konneh up.

Deplorable Conditions

“There is larva in our food. The bathrooms are disgusting. The laundromat is disgusting. There is a rodent infestation, you have to stuff sheets under the door to stop mice from coming in. The guards abuse their power.”

- Jean Claude Wright, call to the Freedom for Immigrants Hotline on May 13, 2021

¹⁹ U.S. Immigration and Customs Enforcement National Detention Standards (NDS) 2019, Section 5.3 Religious Practices, page 155, available at: https://www.ice.gov/doclib/detention-standards/2019/5_3.pdf

²⁰ U.S. Immigration and Customs Enforcement National Detention Standards (NDS) 2019, Section 5.3 Religious Practices, page 157, available at: https://www.ice.gov/doclib/detention-standards/2019/5_3.pdf

Bergen County Jail self-identifies as “one of the state's finest correctional facilities.”²¹ Yet, multiple testimonies conclude that it is one of the facilities with the most egregious and deplorable conditions. Marcial Morales Garcia, who was previously detained at Bergen County Jail reported that “There are mosquitos and rats all over the place. The water isn’t clean. I would fill plastic bags with the water and it would be filled with debris and metal. And a lot of time the sinks don’t even work so you have to drink out of the toilet.”²² While ICE requires facilities to maintain “high standards of cleanliness and sanitation, safe work practices, and control of hazardous substances and equipment,”²³ the opposite is happening at Bergen County Jail. Individuals detained at Bergen County Jail live in unsanitary conditions, use dirty equipment, and eat inedible food:

- On May 13, 2021, Jean Claude Wright reported to the Freedom for Immigrants Hotline that he found larva in his food on March 23, 2021. He brought it to the Sergeant, and they tried to replace the food. He filed a grievance but nothing happened.
- On May 13, 2021, Jean Claude Wright reported to the Freedom for Immigrants Hotline that all people detained are forced to do a linen exchange every Tuesday where they are supposed to get clean sheets. Jean reports that the staff always give them soiled sheets. Even though the guards say they used bleach, there are always brown and red stains on the sheets.
- On May 13, 2021, Jean Claude Wright reported to the Freedom for Immigrants Hotline that the bathrooms and laundromat are disgusting. Jean describes that someone can put a clean t-shirt in the laundry and it will come out dirty. Jean also reports that there is a rodent infestation at Bergen County Jail. Jean reports that people detained need to stuff sheets under the door so that mice don’t come into their cell.
- Another individual who was previously detained at Bergen County Jail, Reyes Ventura, states he was kept in “a dirty jail cell with critters and rats,” and “the food was terrible, the sheriffs were racist, and we were kept inside 22 hours a day.”²⁴

In addition to safe and clean areas, “the facility shall provide detainees with nutritious, attractively presented meals, prepared and served in a sanitary and **hygienic** food service operation.”²⁵ Based on the testimonies outlined above, this is not the case at Bergen County Jail. Bergen is also required to “control and eliminate”²⁶ pests and vermin, but as Jean Claude Wright

²¹ Bergen County Sheriff's Office, Bergen County Jail, <https://www.bcsd.us/county-jail>

²² “I Was Going to Leave Alive or in a Body Bag: An Immigrant Hunger Striker’s Story,” Amba Guerguerian, The Independent, January 16, 2021, available at:

<https://indypendent.org/2021/01/i-was-going-to-leave-alive-or-in-a-body-bag-an-immigrant-hunger-strikers-story/>

²³ U.S. Immigration and Customs Enforcement National Detention Standards (NDS) 2019, 1.1 Environmental Health and Safety, I. Policy, page 1, available at: https://www.ice.gov/doclib/detention-standards/2019/1_1.pdf

²⁴ “El Salvadoran Asylum Seeker in ICE Detention on Day 26 of Hunger Strike, Likely Hospitalized at Facility with Troubled History,” Insider New Jersey, April 1, 2021, available at:

<https://www.insidernj.com/press-release/el-salvadoran-asylum-seeker-ice-detention-day-26-hunger-strike-likely-hospitalized-facility-troubled-history/>

²⁵ U.S. Immigration and Customs Enforcement National Detention Standards (NDS) 2019, 4.1 Food Service, I. Policy, page 97, available at: https://www.ice.gov/doclib/detention-standards/2019/4_1.pdf

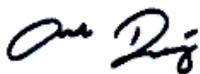
²⁶ U.S. Immigration and Customs Enforcement National Detention Standards (NDS) 2019, 1.1 Environmental Health and Safety, E. Pests and Vermin, page 4, available at: https://www.ice.gov/doclib/detention-standards/2019/1_1.pdf

reported, individuals detained need to stuff the bottom of the door with their sheets in order to prevent mice from entering their sleeping quarters. ICE requires that Bergen County Jail also “requires that all facilities provide detainees with regular exchanges of suitable and clean clothing, linens, blankets, and towels for as long as they remain in detention.”²⁷ yet again, Bergen County Jail is failing to comply with this standard. The unsanitary conditions outlined in this section also exacerbate the spread of the COVID-19 virus when commonly touched objects like food trays, washing machines, and bedding, are not properly sanitized.

Recommendations & Conclusion:

- 1. The DHS Office of Civil Rights and Civil Liberties Should Immediately Open an Investigation of Medical Practices, Use of Force, Religious Discrimination, and Denial of Release at Bergen County Jail.**
- 2. ICE should terminate the Intergovernmental Services Agreement (IGSA) with Bergen County Jail.** We urge CRCL and OIG to recommend that ICE terminate the Intergovernmental Services Agreement (IGSA) with Bergen County as they have repeatedly demonstrated their inability to comply with ICE’s standards and provide adequate care to those in their custody. All parties are contractually obligated to protect the safety and well-being of those detained in ICE custody under the IGSA, including ICE and Bergen County. People detained at Bergen County Jail have filed internal grievances, protested peacefully, and published their demands publically through the media.
- 3. All Individuals Detained Should Be Immediately Released to the Community.** We remain extremely concerned that the conditions inside Bergen County Jail are egregious and unlivable where individuals continue to receive inadequate medical care. Bergen County Jail has proven itself unable and unwilling to provide those in its care with safety and due process.

We look forward to your prompt attention to this issue.



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²⁷ U.S. Immigration and Customs Enforcement National Detention Standards (NDS) 2019, Section 4.4 Personal Hygiene, I. Policy, page 127, available at: https://www.ice.gov/doclib/detention-standards/2019/4_4.pdf



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