



IMMIGRANT
ACTION
ALLIANCE

Michael W. Meade, District Director

Miami.outreach@ice.dhs.gov

Miami Field Office

Immigration and Customs Enforcement

865 SW 78th Avenue, Suite 101

Plantation, FL 33324

Scotty Rhoden, Sheriff

Srhoden@bakerso.com

Baker County Detention Center

1 Sheriff's Office Dr.

MacClenny, FL 32063-8833

Peter Mina, Officer

CRCLCompliance@hq.dhs.gov

Office of Civil Rights and Civil Liberties

Department of Homeland Security

Building 410, Mail Stop #0190

Washington, D.C. 20528

David Gersten, Acting Ombudsman

DetentionOmbudsman@hq.dhs.gov

Office of the Immigration Detention Ombudsman

Department of Homeland Security

Mail Stop 0134

Washington, D.C. 20593

Joseph Cuffari, Inspector General

dhs-oig.officepublicaffairs@oig.dhs.gov

Office of Inspector General/Mail Stop 0305

U.S. Department of Homeland Security

245 Murray Lane SW Washington, DC 20528-0305

February 17, 2023

RE: Pepper Spray, Physical Assault, Solitary Confinement, and Medical Neglect re: Manuel de Jesus Melendez-Hernandez (A# [REDACTED]-[REDACTED]-[REDACTED] at Baker County Detention Center, FL

Dear CRCL Officer Mina, Inspector General Cuffari, Acting Ombudsman Gersten, Field Office Director Meade, and Sheriff Rhoden:

Freedom for Immigrants and Immigrant Action Alliance, along with the following organizations: Florida Immigrant Coalition, Bilbao Law, American Friends Service Committee FL, Seeds of Resistance and Al Otro Lado, submit this complaint regarding Manuel de Jesus Melendez-Hernandez, an individual in ICE detention at Baker County Detention Center in MacClenny, Florida. Mr. Melendez-Hernandez reported to Freedom for Immigrants' National Immigration Hotline that upon his arrival at Baker County Detention Center, on January 10th, 2022 two Baker County Sheriff's Department officers pepper sprayed Mr. Melendez-Hernandez unprovoked, threw him to the ground with a knee on his neck and another on his back, then kept him in a solitary confinement cell for 15 days. He suffered physical injuries to his neck and back from the level of force. These injuries were then compounded by a slip on water in the detention center last November during which Mr. Melendez-Hernandez was again physically hurt, further injuring his back and hitting his head. He has yet to receive appropriate medical care and is being denied his requested medical records and video evidence tied to the injuries sustained. As a result of physical abuse and multiple injuries sustained in ICE custody, over a year after his initial assault he expresses ongoing nightmares, acute fear for his safety, and significant physical and mental health impacts that have gone largely unaddressed. These actions are unlawful and are in direct violation of ICE's National Detention Standards, the US Constitution, and potentially the Florida Penal Code.

Manuel de Jesus Melendez-Hernandez has provided express consent to Freedom for Immigrants to share his information and has authorized your offices to share information with Freedom for Immigrants. His date of birth is August 5, 1985, his country of origin is El Salvador, and his preferred language is Spanish.

Case Summary:

On January 10th, 2022, at 7:30pm EST, Mr. Melendez-Hernandez was physically assaulted and pepper sprayed by two officers, Sergeant Joumans and Mr. Peters,

after his transfer to Baker County Detention Center. Directly prior to this assault, Melendez-Hernandez had undergone an eight-hour bus ride from Krome North Service Processing Center to Baker County Detention Center and was denied bathroom access for the entire duration of the trip. After using the restroom upon his arrival at Baker County Detention Center, officers Joumans and Peters accused Mr. Melendez-Hernandez of blocking the door, which he states he was not, and Mr. Melendez-Hernandez expressed confusion at the unfounded claim. Mr. Melendez-Hernandez did not provoke violence yet the two officers pepper sprayed him in the face and threw him to the ground, using one of their knees to press down his neck and another knee to press on his back. They handcuffed him and threw him into a cell, keeping him in solitary confinement for 15 days without explanation. Mr. Melendez-Hernandez received a medical exam after arriving at Baker County Detention Center and x-rays were taken, but no treatment was provided for his injuries other than Tylenol for pain—a grossly inadequate level of care given the abuse he reported experiencing. He has yet to be provided the x-ray results, raising concerns about the true level of damage to his neck and/or back sustained. Since the assault it has also been an ongoing struggle for him to continue to receive even Tylenol—medical staff have refused his requests for Tylenol so many times that he has given up asking. After his assault, Mr. Melendez-Hernandez submitted a complaint to the Department of Homeland Security but to this date the two officers Joumans and Peters have not been held accountable for this crime.

In November of 2022, Mr. Melendez-Hernandez injured his neck and back further after slipping and falling on a wet floor while handcuffed. He reported that staff insist on handcuffing detainees before accompanying them to medical appointments. Since he was handcuffed, Mr. Melendez-Hernandez could not brace his fall and hit his head and back on the floor, which compounded his injuries. He was seen by a doctor but once again only given Tylenol for pain. As a result of these abuses Mr. Melendez-Hernandez is suffering from neck and back pain and is experiencing acute fear for his safety, high levels of anxiety, and symptoms of post-traumatic stress disorder, including flashbacks and nightmares.

Mr. Melendez-Hernandez has requested his own medical records three different times and was denied all three times, with medical staff claiming that they can only release his medical records to an attorney—a clear violation of his rights under ICE's own National Detention Standard policies. He has also requested release of the video footage of both his pepper spray assault and his fall on the wet floor of the medical hallway, and was similarly denied this footage, with staff once again claiming they can only release footage to an attorney.

Since his arrival at Baker County Detention Center, Mr. Melendez-Hernandez has experienced numerous other violations of his rights. He has struggled with making video calls to family members and other contacts outside of detention, sometimes because the device's connection has been abruptly cut off, or staff deny him the opportunity to make these calls at all. In early February Mr. Melendez-Hernandez reported that half of his commissary money went missing inexplicably; he attempted to resolve the issue by speaking with staff, but they claimed to be unable to help him, and the money was never restored. Mr. Melendez-Hernandez and others held at Baker County Detention Center have also reported stomach aches from being served spoiled food. Their requests for fresh food or medication to treat stomach pain have gone unaddressed. On February 9th, 2023, Mr. Melendez-Hernandez and others began a hunger strike to protest the inedible quality of the food.

Timeline of Physical Assault, Solitary Confinement, and Medical Neglect:

Below is an estimated timeline of events detailing Mr. Melendez-Hernandez's physical assault, solitary confinement, and medical neglect as reported to Freedom for Immigrants' National Immigration Hotline:

January 10th, 2022: Mr. Melendez-Hernandez reported to Freedom for Immigrants that on this date he was pepper sprayed and thrown to the ground by two officers, Sergeant Joumans and Mr. Peters, after an 8-hour bus ride without bathroom access from Krome North Service Processing Center to Baker County Detention Center. The officers held him down with a knee pressed on his neck and a knee pressed into his back, causing injuries to his neck and back that continue to cause him pain. Directly after his assault, he was kept in solitary confinement for 15 days. At this time he received no treatment or medication to address his injuries except for Tylenol. Since this assault, he must wear a red uniform that designates him as a high security risk, despite being the victim of this assault. Mr. Melendez-Hernandez reported that he has felt unsafe at Baker County Detention Center since his arrival because of this assault and subsequent solitary confinement.

November 2022: Mr. Melendez-Hernandez reported to Freedom for Immigrants that on this date he slipped and fell on a wet floor on his way to a medical appointment while wearing handcuffs. He reported that everyone at Baker

County Detention Center must wear handcuffs to go to medical appointments. When he fell, he hit his head on the floor and hurt his back, exacerbating his head and back injuries. He has yet to receive appropriate medical care.

December 13th, 2022: Mr. Melendez-Hernandez first contacted the FFI Hotline to request support in submitting a civil rights complaint to report this physical assault, pepper spray, and punitive use of solitary confinement, as well as ongoing medical neglect.

January 23rd, 2023: Mr. Melendez-Hernandez reported that his attempts to communicate by video call were being blocked.

February 1st, 2023: Mr. Melendez-Hernandez reported that he and others held at Baker County Detention Center were experiencing dry coughs and sore throats at night, which he attributed to dust in the air from poor ventilation. He put in a request to see a doctor but was only given pills for infection.

February 7th, 2023: On this date Mr. Melendez-Hernandez reported to the FFI Hotline;

- Details surrounding the November 2022 slip on water in the detention center while being transported to medical care in handcuffs.
- He is still suffering from neck and back pain when he wakes up and while sitting from both this fall and the physical assault over a year prior. He was seen by medical staff after his fall in November but only received Tylenol. Despite his repeated requests for pain medication since then, he has only been given Tylenol irregularly and in quantities insufficient to provide sustained relief from pain.
- He requested his medical records several times—once after the pepper spray assault in January 2022, once from the psychiatrist in November 2022, and once from the doctor in November 2022—but was denied his medical records all three times. Staff claimed that they can only release his medical records to an attorney.
- He requested video footage of the pepper spray assault and his fall on the wet floor but was denied for the same reason—that footage can only be released to an attorney.
- His mental health has been severely affected by his prolonged detention of 6 years, multiple transfers between detention centers, and the abuses and stress he has been experiencing in detention, including intense levels of anxiety, flashbacks, and nightmares. He has received only a low dose of

anxiety medication to treat his mental health at Baker County Detention Center, which has been ineffective in providing relief.

- Part of his commissary money went missing, and staff members claimed they were unable to help track it down or reimburse it.

February 8, 2023: Mr. Melendez-Hernandez reported that despite his multiple injuries sustained and ongoing articulation of pain, he has only had three medical appointments with a doctor during his time held at Baker County Detention Facility: once in January 2022 after his pepper spray assault, once in March when he received x-rays for his back (results of which are still unknown because he is still being denied his medical records), and once in November for back pain.

February 9, 2023: Mr. Melendez-Hernandez reported on this date that he and others held in detention have begun a hunger strike to protest the inedible quality of the food, which has been causing them stomach illness. The food is often past its due date, has a bad odor, and is spoiled. Mr. Melendez-Hernandez also reported that he is being charged \$5.00 every time he submits a medical request.

Violations of ICE Policy, US Constitution, and Florida Penal Code:

The Baker County Detention Center has a long history of physical abuse and inappropriate use of pepper spray and solitary confinement. ICE officers' pattern and practice of physical violence and abusive treatment is unlawful and unacceptable, and must be stopped. Amongst other crimes, Baker County Sheriff Department's officers' use of excessive force may qualify as assault and battery under Florida 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. 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. People subject to civil immigration detention are 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.¹ People subject to civil immigration detention are also entitled to be free of gross physical abuse while in detention under the Due Process Clause of the Fifth Amendment.²

¹ Youngberg v. Romeo, 457 U.S. 307, 315-16 (1982)

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

The officers' use of force violates the National Detention Standards 2019/2020 ("NDS 2020") which Baker County Sheriff's Office is contractually obligated to follow. Section 3.1 Disciplinary System, p. 95 of the National Detention Standards states that all immigrants in ICE custody should be afforded "the right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment" The failure to provide adequate medical care to Mr. Melendez-Hernandez also violates the National Detention Standards 2019/2020, which state that people in detention shall receive "medically necessary and appropriate medical, dental and mental health care and pharmaceutical services," as well as "timely responses to medical complaints." [4.3 Medical Care p. 112]. That Baker medical staff are withholding his medical records is another blatant violation: "Detainees who indicate that they wish to obtain copies of their medical records shall be provided with any appropriate forms. The facility will provide the detainee with assistance in making the written request (if needed) and will assist in transmitting the request to the appropriate office or person." [4.3 Medical Care p. 119-120]. His placement in solitary confinement after he was pepper sprayed and physically assaulted is yet another violation of the NDS 2020: "It shall be the responsibility of the IDP to ensure that the detainee does not have documentation in his or her medical record of suspected or diagnosed mental illness or cognitive impairment prior to placing the detainee in disciplinary segregation." [3.1 Disciplinary System, p. 93]. Mr. Melendez-Hernandez's experience of being physically assaulted by staff, punitive use of solitary confinement, medical neglect, and being denied his own medical records is in clear violation of ICE's standards.

Long Standing Record of Abuse at Baker County Detention Center:

For years, immigrants detained inside of Baker County Detention Center have already named the same harms which befell Mr. Melendez-Hernandez as pattern and practice inside the detention facility. Numerous complaints have surfaced about the conditions at Baker over many years. As the recent multi-individual complaint³ submitted July 21, 2022 to your oversight bodies, signed by 17 organizations and submitted on behalf of 15 individuals currently and formerly detained, immigrants in ICE custody at Baker have gone to great lengths to expose patterns of harm and

³ Multi-Individual Complaint re: Baker County Detention Center for Inhumane Conditions - Physical Assault, Medical Neglect, Verbal Abuse, Racialized Harassment and Targeting, COVID-19 Negligence, and Retaliation
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demand redress, at great personal risk. The complaint details how in February 2022, 40 women drafted a ten-plus page petition demanding better treatment of detained people, including an end to the use of solitary confinement as punishment. In May 2022, approximately 100 detained men launched a hunger strike to protest the abusive conditions, which was accompanied by a petition signed by over 130 individuals received by Freedom for Immigrants which detailed a wide range of human rights violations, including pepper spray, physical assault, and punitive use of solitary confinement.

As reported in prior complaints, these conditions have had dire consequences. For example, on or around November 30, 2018, a Russian man detained in ICE custody at Baker died of cardiac-related issues.⁴ On January 25, 2020, Ben James Owens died by alleged suicide in ICE custody at Baker,⁵ with ICE and BCSO alerting his wife of his death an entire three days after Ben's passing. Following his death, ICE allegedly failed to conduct the required psychological forensic autopsy.⁶ Most recently, Kellen Dupree, detained in county custody, died at Baker on April 26, 2022.⁷ The cause of death remains under investigation. The disregard for the lives of those detained, especially at places like Baker, is abundantly clear.

Shamefully, when people detained at Baker have publicly exposed the types of harm listed above to oversight agencies, retaliation and intimidation have swiftly followed. As reported in the past to your oversight bodies, some who participated in public exposure were swiftly deported in alleged retaliation. As detailed in the above named complaint, directly after Freedom for Immigrants' submission of an individual complaint of harm experienced by Cosme Frias to oversight bodies, which was followed by his coordination of mass hunger strike and petition, Mr. Frias was deported by ICE, who had every incentive to silence him. Despite the continued harm, lack of oversight, and constant threat of retaliation against those who come forward, people detained at Baker, like Mr. Melendez-Hernandez, continue to courageously share their experiences and demand redress. It is therefore crucial for

⁴ Press Release, Immigration and Customs Enforcement, Russian National in ICE Custody Passes Away at Florida Hospital (Dec. 3, 2018),

<https://www.ice.gov/news/releases/russian-national-ice-custody-passes-away-florida-hospital>.

⁵ See U.S. Immigration and Customs Enforcement (ICE) Detainee Death Report: OWEN, Ben James, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS (Feb. 27, 2020), <https://www.aila.org/File/Related/18121905r.pdf> (last accessed June 7, 2022).

⁶ First Amended Complaint for Injunctive and Declaratory Relief, *Owen v. ICE*, No. 2:22-cv-00550, ECF 58 at 6-7 (C.D. CA Apr. 29, 2022).

⁷ Jim McGauley, *Suspect in Alleged Gas Station Attack Died at County Jail*, The Baker County Press (Apr. 2022), <https://bakercountypress.com/2022/04/alleged-gas-station-attack/>.

oversight agencies not only to ensure he receives the immediate medical and mental health care he needs while responding to ongoing abusive actions taken inside the detention facility, but also to ensure safety and due process for those coming forward in public exposure.

Recommendations and Conclusions:

We are extremely concerned about Mr. Melendez-Hernandez's welfare and safety. While we are aware of the recent announcement that body cameras will now be instituted given the record of ongoing, unaddressed harm at Baker, these cameras alone will not end the abuse. As seen in so many cases of police brutality, body cameras can always conveniently be turned off, and video footage can be altered, deleted or kept secret from the public. Further, the incident in this complaint took place in parts of the detention center where video cameras were already operating, but the existing evidence is being denied. Given that use of pepper spray, physical assault, and punitive use of solitary confinement are longstanding issues at Baker County Detention Center which have not been remedied, despite the filing of over 150 complaints since 2020, we allege that Baker County and ICE leadership within the Miami Field Office had ample time to implement measures to address harm, but have instead repeatedly covered up for detention staff through the silencing of victims and witnesses to crime at Baker, including through retaliatory assaults, solitary confinement, and deportations for public exposure of harm such as those alleged in the July 2022 multi-individual complaint.⁸ We request that oversight bodies ensure Mr. Melendez-Hernandez receives immediate protection from retaliation, and that an investigation be undertaken by oversight agencies to hold accountable those who perpetuated his assault, including through the viewing of existing video evidence. Finally, we raise serious concerns about the continued operation of the Baker County Detention Center given their ongoing failure to appropriately care for and protect individuals in their custody.

Given these serious concerns, we request a response in writing to Mr. Melendez-Hernandez within one week that addresses the following:

- That Mr. Melendez-Hernandez be considered for immediate release on prosecutorial discretion to ensure both his safety and his well-being

⁸ Multi-Individual Complaint re: Baker County Detention Center for Inhumane Conditions - Physical Assault, Medical Neglect, Verbal Abuse, Racialized Harassment and Targeting, COVID-19 Negligence, and Retaliation

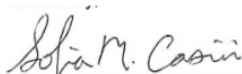
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through the provision of community-based medical and mental health services;

- If ICE is unwilling to utilize their discretion, then the provision of immediate medical and mental health care must be provided, including an appointment with an external orthopedic specialist to determine the extent of his back injury, if it is healing properly, and any follow up care or medication needed.
- Release all medical records to Mr. Melendez-Hernandez, including prior x-rays taken immediately after injury for external medical review to be provided while in ICE custody, as well as
- That Mr. Melendez-Hernandez be provided with unspoiled food and that his missing commissary money be reimbursed to his account.
- Ensure accountability of those legally responsible for their wrongdoing by investigating the abuse of Mr. Melendez-Hernandez at Baker, with investigation to include individual interviews with him, a review of medical records, the provision of video surveillance footage, and any and all other evidence substantiating this complaint;
- Ensure protection from retaliatory deportation while investigation is underway for Mr. Melendez-Hernandez as a victim of and witness to crime in ICE custody;
- Recommend that ICE permanently terminate the IGSA with Baker County, given the extensive evidence that Baker County is unable to safely and responsibly house immigrants in ICE detention in compliance with the National Detention Standards and the United States Constitution;

Mr. Melendez-Hernandez and the signed organizations look forward to your response in writing regarding the status of this matter by February 24, 2023.

Sincerely,



Sofia Casini
Director for Advocacy and Visitation
Strategies
Freedom for Immigrants
scasini@freedomforimmigrants.org



Isabel Ruano
Campaign Organizer
Immigrant Action Alliance
isabel@immigrantactionalliance.org