



Katherine Culliton-González
Officer for Civil rights and Civil Liberties
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave. SE
Washington D.C., 20528-0190

July 7, 2023

RE: Request for investigation into violations of transgender care standards

Dear Officer Culliton-Gonzalez and CRCL Compliance Team:

The National Immigrant Justice Center (NIJC) files this complaint on behalf of Vicky [REDACTED]¹, whose health and safety is at risk as a result of substandard care and medical neglect experienced in U.S. Immigration and Customs Enforcement (ICE) detention. We request that CRCL investigate the reported abuses, and consider the violations of ICE detention standards as they relate to broader trends relating to care of transgender individuals.

Attached to this cover letter is a declaration from Ms. [REDACTED] who has been detained for over a year in Pine Prairie ICE Processing Center (PPIPC), which is operated by the private prison company GEO Group, Inc. (GEO).² This complaint discusses how ICE has failed to provide sufficient assessment and accommodations for Ms. [REDACTED] and is not living up to the agency's own standards for caring for detained transgender immigrants. Guards and ICE officials responsible for the care of people in ICE custody in Pine Prairie have permitted a climate to persist that is hostile to LGBTQ individuals. As a result, Ms. [REDACTED] fears for her safety and is scared to reveal her gender identity. She also fears isolation, and is suffering from worsening anxiety and mental strain resulting from her conditions in ICE detention. Lastly, Ms. [REDACTED] is at heightened risk in detention due to ICE's dangerous data breach.

¹ [REDACTED] (Vicky) [REDACTED] has not had the opportunity to change her legal name and gender markers to match her gender identity. She uses the name Vicky and feminine pronouns. NIJC refers to her accordingly throughout this complaint.

² ICE contracts with GEO Group to provide food services and medical care, and Keefe Commissary Network provides commissary services at the facility. See Office of Detention Oversight Follow-Up Compliance Inspection, Pine Prairie ICE Processing Center Pine Prairie, Louisiana, (August 2022) https://www.ice.gov/doclib/foia/odo-compliance-inspections/pinePrairieIPC_PinePrairieLA_Aug9-11_2022.pdf.

Officials in Pine Prairie have failed to provide necessary care and reasonable accommodations, and ICE has refused to exercise its discretion to release Ms. [REDACTED] to the community, where she would obtain the care and accommodations needed. We ask that CRCL recommend that ICE immediately release Ms. [REDACTED] from detention on parole or her own recognizance.

Background

The National Immigrant Justice Center represents Ms. [REDACTED], a transgender woman from Honduras detained at Pine Prairie ICE Processing Center in Louisiana. Ms. [REDACTED] has been detained in DHS custody for over a year. Ms. [REDACTED] has requested that ICE release her on parole or on her own recognizance. Nonetheless, ICE has failed to justify her continued detention despite robust evidence that she does not present a danger to the community or a flight risk and her detention is not in the public interest.

Ms. [REDACTED] sought refuge in the United States after experiencing violent attacks in association with her gender identity in her home country of Honduras. She was ordered removed from the U.S. to Honduras in March 2019. Fearing for her life as a transgender woman in Honduras, she quickly fled again and returned to the United States in August 2019. Upon her re-entry in August 2019, Ms. [REDACTED] was charged with illegal re-entry under 8 U.S.C. § 1326 and placed again into removal proceedings. She has been detained ever since. Before the immigration judge, she sought asylum, withholding of removal, and protection under the Convention Against Torture (CAT). The immigration judge found her credible but denied relief on other grounds. Ms. [REDACTED] appealed before the Board of Immigration Appeals (BIA), which remanded the case back to the Immigration Judge. DHS also submitted a motion to dismiss Ms. [REDACTED]'s current immigration proceedings in February 2023, which is currently pending.

In November 2022, Ms. [REDACTED] personally identifiable information was exposed to the public on ICE's website, ICE.gov. The disclosed information revealed that Ms. [REDACTED] is seeking protection in the United States, violating confidentiality obligations related to asylum and protection-based claims.³ This exposure further increases Ms. [REDACTED] vulnerability in detention, not only as an individual seeking protection-based relief, but also as a former victim of trafficking.

³ 8 C.F.R. § 208.6 [discussing confidentiality related to asylum and protection-based claims].

History of abuse and lack of accountability at Pine Prairie

Ms. [REDACTED] has been held for over a year at Pine Prairie, a facility with a particularly long history of abuse, medical neglect, and overall substandard conditions.⁴ ICE began housing people at Pine Prairie in 2016 under the oversight of ICE ERO's Field Office in New Orleans. CRCL investigated complaints in 2020 filed on behalf of individuals in Pine Prairie experiencing inadequate medical care, substandard mental health care, sexual harassment, inmate-detainee violence, segregation, and problems with the grievance system.⁵ CRCL conducted an on-site investigation and identified concerns, "including medical and mental health care and treatment, suicide prevention, and PREA [Prison Rape Elimination Act]."⁶ The investigation addressed deficiencies relating to medical care and other areas, and issued a number of recommendations, including handling sexual abuse and assault complaints.⁷ However, CRCL withheld from the public key parts of the findings, keeping secret several of the recommendations issued, and failing to disclose which ones were rejected and which were accepted by ICE.⁸

Well after the conclusion of CRCL's 2020 investigation, testimonies and complaints of abuses in Pine Prairie persist. People continue to file complaints regarding inhumane conditions and overuse of solitary confinement, describing their experience in Pine Prairie as "tantamount to torture."⁹ Refugees fleeing violence and held in Pine Prairie have told journalists, "It would have been more humane to be shot dead at the border than to be held in prison so long."¹⁰

ICE's oversight system consistently overlooks or ignores testimonies of abuse in Pine Prairie. The Office of Detention Oversight (ODO) conducts inspections at Pine Prairie, and has found a

⁴ See, *i.e.*, RFK Center et al., "Complaint alleges inhumane conditions, overuse of solitary confinement at Pine Prairie immigrant detention center," NGO complaint filed with the Office of Civil Rights and Civil Liberties, June 21, 2021, <https://rfkhumanrights.org/assets/documents/RFK-Human-Rights-Pine-Prairie-DHS-Complaint.pdf>. See also Eunice Hyunhye Cho, Tara Tidwell Cullen, & Clara Long, "Justice-Free Zones," ACLU, National Immigrant Justice Center and Human Rights Watch, (2020), <https://immigrantjustice.org/research-items/report-justice-free-zones-us-immigration-detention-under-trump-administration>.

⁵ See CRCL retention memo for Acting ICE Director, "Pine Prairie Detention Center," Office of Civil Rights and Civil Liberties (CRCL), January 31, 2020, <https://www.dhs.gov/sites/default/files/publications/pine-prairie-detention-center-01-31-20.pdf>.

⁶ See CRCL memo for Acting ICE Director, "Pine Prairie Detention Center," Office of Civil Rights and Civil Liberties (CRCL), August 12, 2020, https://www.dhs.gov/sites/default/files/2022-06/2020.08.12%20CRCL%20Rec%20Memo%20to%20ICE%20%E2%80%93%20Pine%20Prairie_Redacted_508.pdf.

⁷ Ibid.

⁸ Ibid.

⁹ See Nick Chrastil, "'Tantamount to torture': Complaint alleges inhumane conditions, overuse of solitary confinement at Pine Prairie immigrant detention center," The Lens, June 23, 2021, <https://thelensnola.org/2021/06/23/tantamount-to-torture-complaint-alleges-inhumane-conditions-overuse-of-solitary-confinement-at-pine-prairie-immigrant-detention-center/>.

¹⁰ See Miriam Jordan, "Antiwar Activists Who Flee Russia Find Detention, Not Freedom, in the U.S.," New York Times, November 28, 2022, <https://www.nytimes.com/2022/11/28/us/russian-activists-asylum.html>.

number of deficiencies, including relating to environmental health and safety.¹¹ These inspections, however, apparently fail to evaluate or consider standards relating to care of transgender individuals.¹²

Violations of ICE Transgender Care Requirements

ICE is required to apply a comprehensive approach when it comes to transgender care, covering multiple aspects of the detention process. ICE and its contractors are required to protect vulnerable populations and provide adequate care for people in their custody, and must follow specific guidance regarding the care of individuals who identify as transgender. In June 2015, ICE issued a memorandum with updated guidance to ensure the safety of transgender immigrants in ICE's custody. The "Transgender Care memo" built upon previous directives from DHS and ICE's 2014 directive on sexual abuse and assault prevention intervention.¹³

The memorandum includes specific contract modifications for facilities that are aimed at ensuring access to adequate healthcare for transgender individuals. ICE has adopted the memorandum's "Contract Modification for Transgender Care" in its contract with Pine Prairie, which, among other things, requires a functioning Transgender Classification and Care Committee (TCCC).¹⁴ The TCCC is supposed to assess the effect of possible placement on an individual's health and safety, conducted by a medical health professional.

According to the most recent publicly available Prison Rape Elimination Act (PREA) report, Pine Prairie has established a Transgender Care Committee (TCC), tasked with carrying out housing determinations, which consists of the "Facility Administrator or Assistant Facility Administrator, Security Chief, Classification or Case Management Supervisor, medical and/or mental health staff and PSA Compliance Manager."¹⁵ The PREA auditor reviewed files in 2021 indicating that the TCC had reviewed two cases of transgender individuals, but the auditor was

¹¹ See Office of Detention Oversight, Follow-Up Compliance Inspection (August 2022), https://www.ice.gov/doclib/foia/odo-compliance-inspections/pinePrairieIPC_PinePrairieLA_Aug9-11_2022.pdf.

¹² See, *i.e.*, Office of Detention Oversight, Unannounced Compliance Inspection, Pine Prairie ICE Processing Center Pine Prairie, Louisiana, 2023-004-052 (February 2023), https://www.ice.gov/doclib/foia/odo-compliance-inspections/pinePrairie_IPC_PinePrairieLA_Jan31-Feb2_2023.pdf. [no mention of transgender care issues]

¹³ U.S. Department of Homeland Security, "Further Guidance Regarding the Care of Transgender Detainees," (June 19, 2015) [hereinafter "Transgender Care Memo 2015"]

<https://www.ice.gov/sites/default/files/documents/Document/2015/TransgenderCareMemorandum.pdf>. [ICE's 2015 memo on Transgender Care provides further guidance on the placement and care of transgender adults in ICE detention, complementing existing ICE detention standards, Policy 11062.: Sexual Abuse and Assault Prevention and Intervention (SAAPI) (May 22, 2014), and the requirements of the U.S. DHS regulation titled, "Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities,"]

¹⁴ *Ibid.* See also 2015 ICE Contract Pine Prairie Detention Center, <https://www.documentcloud.org/documents/6217886-Evangeline-LA-IGSA-2015-South-Louisiana-and-Pine#document/p44/a540046>.

¹⁵ Prison Rape Elimination Act (PREA) Audit, DHS Immigration Detention Facilities, Pine Prairie ICE Processing Center, July 2021, https://www.ice.gov/doclib/foia/prea_audit/pinePrairieICE_ProcCtr_Jul13-14_2021.pdf.

unable to conduct any interviews with people detained to confirm, because there were no reported transgender individuals in the facility at the time of the audit.¹⁶

Pine Prairie staff are required, during initial processing or risk classification assessment of an individual, to inquire about a person's gender identity, and make an individualized placement determination to ensure person's safety, including whether detention is warranted.¹⁷ Pursuant to PREA standards, during the initial assessment, the facility can consult a medical or mental health professional, and self-assessment of safety needs are supposed to always be taken into consideration.¹⁸ The facility's placement of a transgender individuals is supposed to be reassessed at least twice each year to review any threats to safety experienced by the detainee.¹⁹

In Ms. ██████████ case, Pine Prairie officials have failed to adhere to their requirements relating to the initial intake and review process. Ms. ██████████ recalls meeting with Pine Prairie staff who asked about her gender identity when she first arrived in March 2022. She explained to the staff that she identified as a transgender woman and did not feel safe being around so many cisgender men. However, Pine Prairie staff told her that her only option was to be detained with the men or to be put in isolation, which she understood to mean solitary confinement. The officials carrying out the initial intake failed to provide reasonable housing options for Ms. ██████████ in a manner that would ensure her safety as required by the PREA and ICE guidance on transgender care. The intake officials did not indicate whether they were part of any committee, or provide an opportunity to consult a medical professional.

Further, Pine Prairie has also failed to meet their requirement to reassess each individual's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment, or at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization.²⁰ Ms. ██████████ has consistently informed Pine Prairie officials of her fear of being housed and using facilities shared with men, but there has been no follow-up assessment in response to her requests. Instead, staff repeatedly tell her that if she wants privacy, her only option is to go into isolation.

According to Ms. ██████████:

Currently, I share a cell with three other inmates — all men. There is one toilet in the cell that we all share. There is no curtain and no privacy. The showers are in a separate location, but they are also a shared, open space with no privacy. Others who are washing their hands in the same space can see you while you're showering. I do not feel safe or comfortable using any of the bathroom

¹⁶ Ibid.

¹⁷ Transgender Care Memo 2015.

¹⁸ See ICE contract with Pine Prairie, ATTACHMENT 10, DHS PREA STANDARDS, 115.42 Use of assessment information. <https://s3.documentcloud.org/documents/6217886/Evangeline-LA-IGSA-2015-South-Louisiana-and-Pine.pdf>.

¹⁹ Ibid.

²⁰ Ibid.

facilities but the staff just keep telling me that if I want privacy, my only option is to go into isolation. But even in isolation, there is not really privacy. There is a toilet inside the isolation cell, but there is no curtain there either, and the guards sit in front of you and watch you. There is no real privacy anywhere. [see attached declaration]

ICE and the Pine Prairie facility have failed to provide a safe environment for transgender individuals, allowing for comments and actions to persist that contribute to a hostile environment for transgender people. As a transgender woman, Ms. [REDACTED] actively fears for her physical safety in detention because of her gender identity. Other detainees and even officials at detention facilities have made disparaging and threatening comments to Ms. [REDACTED] on account of her perceived gender identity.

Because of this, Ms. [REDACTED] does her best to avoid interaction with others while in detention. She is so afraid for her own physical safety that she has asked the ICE officers and guards at Pine Prairie to use he/him pronouns and conceal her gender identity while she is detained. Her isolation and inability to be herself only worsens her mental health struggles, including anxiety and depression. Her vulnerability in detention has impacted her mental health so significantly that she now takes two different anxiety medications: one in the morning and two at night.

In failing to conduct any follow-up assessment, allowing for an atmosphere of hostility toward LGBTQ individuals and transgender individuals in particular to persist, and failing to respond to the requests for safe housing, Pine Prairie officials are in violation of the PREA standards and ICE guidance on transgender care.

According to Ms. [REDACTED]:

Almost all of the other detainees — including the three I share a cell with — regularly make horrible, hate-filled comments about LGBTQIA+ people. They call LGBTQIA+ people slurs like “faggot,” and they talk about wanting to harm and even kill LGBTQIA+ people, saying LGBTQIA+ people are like a sickness to humanity. They never say these things directly to me, but they say them loudly when I am around. It feels like they suspect something is different about me and they want me to hear their comments, like they are indirectly threatening me. The officers and other staff at the facility are around when these comments are made, but they don’t say or do anything. And if I complain to the officers or say I do not feel safe, they will put me in isolation. So I keep quiet and just try to stay away from everyone. [see attached declaration]

The 2015 transgender care memo also says that Field Office Directors are required to consider whether the use of detention resources are warranted in individual cases, and to consider relevant factors, including whether an individual identifies as transgender.²¹ *In Ms. [REDACTED]*

²¹ Transgender Care Memo 2015. [stating that: “As in all cases, if an individual is not subject to the requirements of mandatory detention Field Office Directors (FODs) are required to consider whether the use of detention resources is warranted for a given individual and supposed to consider, on a case by case basis, all relevant factors in this

case, there is no indication that ICE has considered all relevant factors when denying her requests for release.

Violations of ICE’s Performance-Based National Detention Standards (PBNDS)

ICE officials and all contracting entities working with ICE in Pine Prairie are obligated to adhere to the Performance-Based National Detention Standards PBNDS 2011 (Revised 2016).²² Under the PBNDS 2011, people in detention must be afforded access to appropriate and necessary medical, dental and mental health care, including emergency services.²³ ICE is also required to conduct Medical and Mental Health Screening of New Arrivals, which include inquiring into a transgender individual's gender self identification and history of transition-related care, when an individual self-identifies as transgender.²⁴

Under the PBNDS 2011, ICE is required to provide all transgender individuals access to mental health care, and other transgender-related care and medication based on medical need. Treatment is supposed to follow accepted guidelines regarding medically necessary transition related care.²⁵ Transgender individuals are supposed to have access to mental and gender-affirming health care provided by qualified medical professionals. Yet officials in Pine Prairie have violated these standards in their treatment of individuals in detention. *Specifically with regard to Ms. [REDACTED], they have violated these standards by failing to provide specialized medical and mental care based on her gender identity, including therapy and gender-affirming hormone therapy.*

According to Ms. [REDACTED]

After being detained for so long — especially surrounded by men — I am really struggling with my mental health. I would like to receive counseling to help work through my depression, anxiety, and panic attacks. I have lived through a lot of traumatic experiences, both in Honduras and here in the United States, that have taken a toll on my mental health and well-being. Being detained for a prolonged period and being forced to hide my gender identity for my own safety has caused me great suffering, both physically and in regards to my emotional well-being. I suffered from anxiety before I was detained at Pine Prairie, especially when I was around groups

determination, including whether an individual identifies as transgender. While the FOD’s may exercise prosecutorial discretion at any state of an enforcement proceeding, it is generally preferable to exercise such discretion, if warranted, as early in the case or proceeding as possible.”]

²² See U.S. Immigration and Customs Enforcement (ICE), 2011 Performance-Based National Detention Standards for Non-Dedicated Facilities, <https://www.ice.gov/doclib/detention-standards/2011/4-3.pdf> [hereinafter “PBNDS 2011”].

²³ PBNDS 2011 (Rev. 2016) § 4.3 Medical Care.

²⁴ PBNDS 2011 (Rev. 2016) § 4.3 Medical Care. V. Expected Practices. J. Medical and Mental Health Screening of New Arrivals.

²⁵ PBNDS 2011 (Rev. 2016) § 4.3 Medical Care. V. Expected Practices. W. Special Needs and Close Medical Supervision. [“All transgender detainees shall have access to mental health care, and other transgender-related health care and medication based on medical need. Treatment shall follow accepted guidelines regarding medically necessary transition related care.”]

of men, but my anxiety has gotten so much worse. Before Pine Prairie, I experienced heart palpitations from anxiety only once, but now I experience that to some degree almost every day. At forty-six years old, I still cannot be my true self, and I fear for my life every day. I am on two different medications to manage my anxiety, and I still struggle.

I would also like to receive counseling and therapy specifically regarding my gender identity, as well as finally begin gender-affirming hormone therapy, but that is not possible at Pine Prairie. There is no one here that can counsel me regarding gender identity, and I do not feel safe talking openly about my gender identity while I am detained. Additionally, even if the staff at Pine Prairie helped me get access to hormones, I am too afraid to take them while I am detained and surrounded by men who constantly talk about killing people like me. [see attached declaration]

According to the PBNDS 2011, people in detention with chronic conditions shall receive care and treatment, as needed.²⁶ Ms. [REDACTED] *lives with numerous medical conditions, including vision, dental, and mental illnesses. Ms. [REDACTED] has not received adequate medical care or accommodations in ICE detention to treat her medical conditions.*

According to Ms. [REDACTED]:

At Pine Prairie, it has been almost impossible to receive medical attention. I have not been able to see well for over a year now, because the facility staff gave me glasses with an incorrect prescription. The glasses only made my vision worse, so I gave them back to the staff and told them. I have asked for different glasses many times since around April 2022 - probably more than fifteen times - but nothing has happened. My vision gets blurry at a distance of about five feet, so it is very difficult to see during my daily life. This only makes my fear, anxiety, and panic attacks worse, because I cannot be fully aware of my surroundings

I have also been experiencing daily mouth pain and dental issues. I began asking for medical attention for my teeth around the same time I started asking for help with my vision — around April 2022. I finally saw a dentist in early 2023, and the dentist told me that I have some kind of problem with my teeth that needs to be treated as soon as possible. I do not remember what he called it, but he told me that my teeth are weak and loose. He said that if I did not get treatment soon, I would probably lose my teeth. When I try to ask about treatment, the staff at Pine Prairie keep telling me that I will see a dentist again, but it does not seem like they have scheduled any kind of appointment for me. I have asked about treatment for my teeth even more than I have asked about my vision, but nothing has happened. My teeth hurt every day; my gums bleed, and the pain makes it difficult to eat. [see attached declaration]

Conclusion: CRCL should investigate all facts stated here of substandard care for transgender individuals & medical neglect at ICE’s Pine Prairie facility

ICE has failed to meet its own minimum standards of care for people held in the Pine Prairie detention facility. ICE is not safely housing transgender individuals in Pine Prairie, and failing to

²⁶ See PND 2011 (Rev. 2016) § 4.3 Medical Care. II. Expected Outcomes. 12.

address deficiencies that allow these offenses to continue without accountability. CRCL should consider the substandard conditions that Ms. [REDACTED] is facing in ICE detention as a violation of the transgender care memo, of ICE's detention standards, and of ICE's contract with Pine Prairie.

We request that CRCL, pursuant to its authority to immediately investigate this complaint and take prompt action to ensure accountability for these violations, recommend that ICE release Ms. [REDACTED] so she does not face further abuse.

Ms. [REDACTED] and NIJC await the CRCL's response and look forward to working together. If you have any questions about this complaint, please direct any response or inquiries to NIJC staff listed below.

Sincerely,

Morgan Drake, NIJC Staff Attorney, modrake@heartlandalliance.org

Tania Linares Garcia, NIJC Senior Attorney, tlinaresgarcia@heartlandalliance.org

Melissa Kehr, Litigation Project Coordinator, mkehr@HeartlandAlliance.org

Jesse Franzblau, NIJC Senior Policy Analyst, jfranzblau@heartlandalliance.org