



## National Immigrant Justice Center

April 13, 2011

Officer Margo Schlanger  
Department of Homeland Security  
Office for Civil Rights and Civil Liberties  
Review and Compliance  
245 Murray Lane, SW  
Building 410, Mail Stop #0190  
Washington, D.C. 20528

**Redacted Copy for Public  
Distribution**

**Complainants' full names and  
personal information have been  
removed from this document in  
order to protect their privacy.**

E-mail: [crcl@dhs.gov](mailto:crcl@dhs.gov)

**Re: Submission of Civil Rights Complaints regarding Mistreatment and Abuse of  
Sexual Minorities in DHS Custody**

Dear Ms. Schlanger:

Heartland Alliance's National Immigrant Justice Center (NIJC) submits a multi-individual complaint for 13 clients detailing civil and human rights violations committed against sexual minorities in the custody of the Department of Homeland Security (DHS). Due to the systemic and severe abuses against lesbian, gay, bisexual and transgender (LGBT) individuals in immigration detention, we urge the Office of Civil Rights and Civil Liberties (CRCL), pursuant to its authority under 6 U.S.C. § 345, to investigate these complaints, to develop and implement policies to address the violations, and to provide oversight on the implementation of the new policies.

Although we recommend several incremental improvements, DHS cannot, consistent with its constitutional obligations, continue to detain vulnerable individuals whom they are unable to protect. This letter summarizes the enclosed complaints and provides recommendations to address the civil rights violations.

NIJC, based in Chicago, provides direct legal services to and advocates for immigrants, refugees, and asylum seekers through policy reform, impact litigation, and public education. NIJC's National Asylum Partnership on Sexual Minorities protects the rights of immigrant sexual minorities by representing individual clients, providing training and support to attorneys who serve LGBT and HIV-positive immigrants, and seeking legal reform.

Complainants are 13 gay and transgender immigrants detained by DHS's Immigration and Customs Enforcement (ICE) at various facilities nationwide, including Service

Processing Centers (SPCs), Contract Detention Facilities (CDFs), and facilities detaining immigrants pursuant to intergovernmental service agreements (IGSAs).

NIJC represents the following clients:

1. Steve
2. Alexis
3. Ce Ce
4. Juan
5. Delfino
6. Brenda
7. Monica
8. Xiomara
9. Estrella
10. Jessica
11. Shelley
12. Lucia
13. Jayle

In addition to these 13 clients, NIJC continues to represent [Raquel], who previously filed a complaint with CRCL on July 22, 2010. ICE's Office of Professional Responsibility (OPR) opened an investigation pursuant to referral from CRCL of [Raquel]'s complaint. To date, nine months later, no findings have been issued. Similarly, NIJC obtained permission to reference the complaint of "T" in the Appendix to this complaint, who also recently filed a complaint with CRCL based on her sexual assault and lack of mental health care.<sup>1</sup> We request that CRCL revisit the complaints of [Raquel] and T in its review of the systemic issues raised by today's filings.

Reports of abuse from NIJC's 13 clients, as well as the mistreatment suffered by [Raquel] and T, occurred in detention facilities and county jails nationwide – in Arizona, California, Florida, Illinois, Louisiana, New Mexico, Pennsylvania, Texas and Wisconsin – highlighting the systemic nature of this problem. These individuals allege harsh mistreatment and abuse in DHS custody, including:

- Sexual assault
- Denial of adequate medical care
- Long-term solitary confinement
- Discrimination and abuse
- Ineffective complaints and appeals process

As is clear from the enclosed statements, the complainants' treatment was not reasonably related to any legitimate safety or security objective. Under the Due Process clause of the

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<sup>1</sup> The individual is referenced as "T" to protect privacy and confidentiality.

Fifth Amendment, inflicting arbitrary conditions of detention upon civil detainees is considered punitive and is not constitutionally permissible.<sup>2</sup>

## **Sexual Assault**

Some of the most egregious complaints involve sexual assault and abuse. As numerous reports have demonstrated, sexual abuse is widespread in immigration detention.<sup>3</sup> As in previous complaints and reports, DHS officers and contracted staff were unable or unwilling to protect or provide counseling services to victims of sexual abuse. For example:

- [Juan] was sexually assaulted by two other detainees. Despite repeated requests for a transfer to another facility because he feared for his safety [Juan] was not transferred until three months after the incident, when ICE Headquarters intervened. In the meantime, the only “protection” that the Otero County Detention Center offered was placement in the “hole.” (*Otero County Detention Center, New Mexico*)
- T was sexually assaulted by a guard while in segregation. Subsequent to this assault, she was only provided with cursory mental health counseling despite experiencing serious trauma. Following this incident she was granted Withholding of Removal but remained in ICE custody for a further three months. During this time she suffered another sexual assault at the same facility. (*Eloy Detention Center, Arizona*)

## **Denial of Adequate Medical Care**

### ***HIV-Positive Individuals***

Constitutionally mandated due process protections include the right to privacy and the right to adequate medical care. HIV-positive individuals in DHS custody experience the denial of these rights. The following two cases document these issues:

- [Steve] describes how he was transported to a doctor’s appointment for an HIV checkup while his feet, waist, and hands were shackled. A doctor and a nurse repeatedly asked the facility officer to remove the shackles so that they could draw blood. The officer refused. [Steve] explained:

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<sup>2</sup> *Bell v. Wolfish*, 441 U.S. 520 (1979); *Jones v. Blanas*, 393 F.3d 918 (9th Cir. 2004); *Seling v. Young*, 531 U.S. 250 (2001).

<sup>3</sup> See National Prison Rape Elimination Commission, “Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Adult Prisons and Jails: Supplemental Standards for Facilities with Immigration Detainees” (NPREC Report), June 2009, <http://www.ncjrs.gov/pdffiles1/226680.pdf>, p. 174-188; Human Rights Watch, *Detained and at Risk: Sexual Abuse and Harassment in United States Immigration Detention*, August 25, 2010, <http://www.hrw.org/en/reports/2010/08/25/detained-and-risk-0>; Women's Refugee Commission, *Halfway Home: Unaccompanied Children in Immigration Custody*, February 2009, <http://bit.ly/dZbgPo>.

*“Even though the nurses and doctors asked them, that they could not withdraw blood like that, the officers from CCA [Corrections Corporation of America] didn’t care, and they had to take blood from my hand, and even though I cried from pain, they didn’t care.”*

Having learned of [Steve]’s HIV status, facility staff mocked [Steve].  
(*Houston Processing Center, Texas*)

- [Alexis] encountered a number of serious problems accessing her HIV medication and receiving the results of medical tests. On one occasion, she was advised by medical staff that they had no anti-viral medication available because the medical log was for 30 days only, and once the 30-day period had lapsed, detainees were required to re-request their medication. This resulted in [Alexis] missing her HIV treatment for a week. (*Santa Ana City Jail, California*)

### ***Transgender Individuals***

Transgender individuals – those who do not identify with the gender assigned to them at birth – often meet the criteria for a diagnosis of Gender Identity Disorder (GID). The American Psychiatric Association recognizes GID and has set forth GID diagnostic criteria.<sup>4</sup> The standard of care for treating GID includes, *inter alia*, the provision of hormone therapy to individuals who wish to conform their physical appearance to their gender identification.<sup>5</sup>

Courts have uniformly recognized that GID is a serious medical condition, and that failure to treat gender dysphoric individuals in prisons is a violation of the Eighth Amendment prohibition against cruel and unusual punishment.<sup>6</sup>

As documented in the enclosed statements, ICE officials deny hormone treatment to detained transgender individuals. Santa Ana City Jail, California, for example, maintains a blanket policy of denying hormone treatment to detainees. Individuals detained at this facility report distress and depression due to the withdrawal of hormone treatment. As the following complaint indicates:

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<sup>4</sup> See *Diagnostic and Statistical Manual of Mental Health Disorders*, 4<sup>th</sup> Edition, Text Revised (DSM-IV-TR).

<sup>5</sup> See World Professional Association for Transgender Health, *Standards of Care for Gender Identity Disorders*, 6<sup>th</sup> Edition, 2001, [http://www.wpath.org/publications\\_standards.cfm](http://www.wpath.org/publications_standards.cfm)

<sup>6</sup> *Meriwether v. Faulkner*, 821 F.2d 408, 413 (7th Cir. 1987). Other circuits are in accord. *Cuoco v. Moritsugu*, 222 F.3d 99, 106 (2d Cir. 2000); *De'Lonta v. Angelone*, 330 F.3d 630, 634 (4th Cir. 2003); *Phillips v. Mich. Dept. of Corr.*, 932 F.2d 969 (6th Cir. 1991), *affg.* 731 F.Supp. 792 (W.D. Mich. 1990); *White v. Farrier*, 849 F.2d 322, 325-327 (8th Cir. 1988); *Allard v. Gomez*, 9 Fed. Appx. 793, 794 (9th Cir. 2001); *Brown v. Zavaras*, 63 F.3d 967, 970 (10th Cir. 1995). No circuit has held otherwise. See also *O'Donnabhain v. C.I.R.*, 134 T.C. No. 4 (U.S. Tax Ct. 2010) (recognizing hormone therapy and sex reassignment surgery as accepted GID treatments for which medical expense deduction is allowable).

- [Monica] continues to be denied hormone therapy, despite her use of hormones for ten years prior to immigration detention, and her physical and psychological reliance on them. [Monica], now detained for over five months, told NIJC staff, “I can’t even look at myself in the mirror anymore,” due to returning facial and body hair and other distressing changes. [Monica], an asylum seeker who has suffered grave past abuse in Mexico, also received no treatment for her trauma-related depression. She attempted suicide in February 2011 – the facility put her in solitary confinement as punishment. (*Santa Ana City Jail, California*)

### Long-Term Solitary Confinement

ICE detained a number of the complainants in restrictive segregation – ranging from solitary confinement to “lock down” in their cells for 22 hours per day. Complainants endured this treatment for extended periods – up to months at a time – without formal determinations of the necessity of segregation and without an appeals process. At least one court has found that a blanket policy of placing transgender immigration detainees in restrictive segregation, absent articulation of a specific need to do so, violates due process rights.<sup>7</sup> Other practices and policies detailed in the complaints, such as restricting access to recreation and reading material, are blatantly punitive in nature and thus violate constitutional protections. As the following complaints highlight:

- [Delfino] was held in segregation for four months, justifying their decision on the basis that [Delfino] presented “effeminately.” Facility staff refused to provide [Delfino] a Bible and permitted him only one hour of recreation – in a cold nine-by-thirteen-foot cell – per day. (*Houston Processing Center, Texas*)
- [Raquel]’s freedom of movement was restricted and she was denied privileges such as reading material available to the general population. (*McHenry County Jail, Illinois*)
- Sexual minorities were assigned to 22-hour lock down (“protective custody”) without individualized analysis of the need for this restriction, and without affording detainees the opportunity to rebut this classification. Individuals in “protective custody” had far less freedom of movement and access to recreation than individuals in the general population. Facility staff often restricted recreation time for sexual minorities to less than one hour a day. (*Theo Lacy Facility, California*)

ICE’s recent issuance of guidance (“Housing Directive”) on restrictive housing assignments<sup>8</sup> does not sufficiently address detention facilities’ inability to provide safe, unsegregated and unrestrictive housing for a vulnerable detainee. The Housing Directive proposes transferring the individual to another facility; that does not address the issue. Rather than shuffling detainees between inadequate detention centers, as happened for

<sup>7</sup> *Medina-Tejada v. Sacramento County*, 2006 WL 463158 (E.D.Cal. 2006).

<sup>8</sup> Enforcement & Removal Operations, “Field Guidance on Classification,” March 7, 2011.

several of the individuals submitting complaints, ICE should acknowledge its inability to provide legally adequate detention conditions and prioritize alternatives to detention.

### **Discrimination and Abuse**

Sexual minority individuals experience continuous harassment, humiliation, and discrimination from facility staff and ICE personnel while detained. For example:

- [Alexis] was repeatedly called a “faggot” by guards, who also made jokes about her dying of AIDS. They singled her out for public searches in which they forced her to remove her outer clothing and mocked her exposed breasts. (*Theo Lacy Facility, California*)
- [Raquel] suffered severe psychological abuse by, and with the acquiescence of, facility staff. After months of strain, [Raquel] had a mental breakdown at and was transferred to the hospital ward of another detention facility. (*Kenosha County Detention Center and Kenosha County Jail, Wisconsin, and McHenry County Jail*)
- After [Juan] suffered a sexual assault motivated in part by his perceived effeminacy, a guard at the same facility told him publicly, “Walk like a man, not like a gay man.” (*Otero County Detention Center, New Mexico*)

Other complaints previously filed by detainees nationwide further demonstrate the scope of this endemic and severe mistreatment.<sup>9</sup> Like policies that result in the segregation of sexual minority detainees, the pattern and practice of animus-motivated abuse by facility staff constitutes impermissibly punitive conditions of confinement. Unless and until ICE is able to ensure that the basic dignity of sexual minorities in immigration detention will be respected, these civil rights violations will persist.

### **Recommendations**

NIJC urges CRCL to work with DHS, ICE and the Department of Justice (DOJ) to implement the following recommendations set forth in order to ensure the civil and human rights of individuals held in the immigration detention system.

1. ICE cannot detain sexual minorities until it ensures compliance with constitutional and human rights protections. These complaints establish that ICE is not capable of ensuring non-punitive detention conditions for sexual minorities. Accordingly, ICE should:
  - Consider an individual’s likely vulnerability to abuse in detention and place individuals whom it cannot protect into alternatives to detention programs consistent with the implementation of an individualized assessment.

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<sup>9</sup> See Appendix.

- For those facially subject to mandatory detention, consider release in compliance with the doctrine of constitutional avoidance. Congress cannot have intended that ICE detain immigrants in punitive conditions.<sup>10</sup>
- 2. ICE must issue guidance requiring compliance with treatment plans for chronic medical conditions, as determined by independent experts. ICE must issue guidelines specific to particular recurring chronic conditions, such as HIV/AIDS and GID, clarifying facility responsibilities once these conditions have been diagnosed.
- 3. ICE must ensure confidentiality regarding medical conditions and exercise discretion regarding complaints.
- 4. ICE should revisit the Housing Directive, or issue new guidance, clarifying that transgender detainees can and should be detained according to their self-identified gender.
- 5. ICE must immediately conduct a review of all SPC, CDF, and IGSA facilities to determine whether they have non-discrimination policies that encompass sexual orientation and gender identity, and whether facility staff receive adequate training relating to needs of sexual minorities. ICE should engage non-governmental organizations to create training and facility guidelines that respond to the particular concerns of sexual minority immigrants, many of whom are traumatized and vulnerable asylum seekers. Compliance with the training and guidelines should be required in any forthcoming detention standards and any contractual agreements between ICE and detention facilities.
- 6. DHS and DOJ must ensure that detained immigrants are adequately protected against sexual assault by adopting the Prison Rape Elimination Act (PREA) rules.<sup>11</sup> For example, all facilities must have protocols for responding to abuse reported by detainees through third-party channels, and ensure proper follow up on such reports. Mental health services and monitoring must be provided immediately and continuously following reported abuse.
- 7. DHS must ensure that an effective, accessible and transparent complaints process is available to detained individuals to report instances of abuse. Investigations into complaints of mistreatment must be timely and comprehensive and detainees must be informed of the outcome of these investigations. Further, findings must be

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<sup>10</sup> *Casas-Castrillon v. Dept. of Homeland Security*, 535 F.3d 942 (9th. Cir. 2008) (applying canon of constitutional avoidance to find that INA § 236(c) contains a “reasonableness” limitation to the facial mandatory detention requirement).

<sup>11</sup> DOJ’s proposed PREA-implementing rule currently exempts immigration detention facilities. See NIJC public comments regarding National Standards to Prevent, Detect, and Respond to Prison Rape, Docket No. OAG-131, AG Order No. 3244-2011, submitted April 4, 2011, to [www.regulations.gov](http://www.regulations.gov), tracking number 80c1be42.

promptly addressed and recommendations implemented, including policy changes at facilities, disciplinary action, contract termination and staff dismissal, where appropriate.

Thank you for your attention to these complaints and to the civil and human rights violations that exist in the immigration detention system. We look forward to your response and the implementation of meaningful reform.

Should you have any questions, please do not hesitate to contact Mary Meg McCarthy at [mmccarthy@heartlandalliance.org](mailto:mmccarthy@heartlandalliance.org) or (312) 660-1351 or Eric Berndt at [eberndt@heartlandalliance.org](mailto:eberndt@heartlandalliance.org) or (312) 660-1364.

Sincerely,

Mary Meg McCarthy  
Executive Director

Eric Berndt  
Supervising Attorney  
National Asylum Partnership on Sexual  
Minorities

Enclosures

Cc: Richard L. Skinner, DHS Inspector General  
Kelly Ryan, DHS Office of Policy  
Beth Gibson, ICE Assistant Director  
Andrew Lorenzen-Strait, Office of State and Local Coordination



## DETENTION COMPLAINT #1

### **Background**

**Legal Name:** Steve

**Preferred Name:** Steve

**Date of Birth:** [Redacted]

**A#:** [Redacted]

**Nationality:** [South American]

**Period in ICE Custody:** December 7, 2009 to December 17, 2010

**Detention Facility:** Houston Processing Center, Texas (HPC)

**Status of Immigration Proceedings:** Granted Withholding of Removal on December 15, 2010; Appealing asylum denial before the Board of Immigration Appeals (represented in appeal proceedings)

**Particular Health Need:** HIV positive

### **Redacted Copy for Public Distribution**

**Complainants' full names and personal information have been removed from this document in order to protect their privacy.**

### **[Steve]'s Complaints of Mistreatment in ICE Custody**

The facts contained in this complaint were obtained during a video conference (via internet) with [Steve] on March 14, 2011 and are also based on a written statement drafted by [Steve] which was provided to ICE in November 2010.

#### **1. Abuse, Humiliation and Discrimination by CCA Personnel in Dorm B-16 at HPC**

On December 7, 2009, [Steve] arrived at HPC, which is operated by Corrections Corporation of America (CCA). As [Steve] describes, "My hell began the moment I entered the CCA facility."

When [Steve] first arrived at the facility he kept a low profile. However, in or around February 2010, he became more familiar with the officers and detainees and he revealed to them that he was gay. [Steve] never experienced any problems from his fellow-detainees, he felt respected among them. However, once the CCA guards became aware of [Steve]'s homosexuality, "my life became a torment." The officers began to instigate rumors about [Steve] and smile, snigger and stare at him in the dorm.

The first period of [Steve]'s immigration detention was in dorm B-16 at HPC. During his detention in B-16 a new guard was appointed to the dorm, Officer [redacted]. The first day that Officer [redacted] was on duty she said to [Steve] "I know punks like you [a reference to his homosexuality] in TDC [Texas Department of Corrections] and you better not try to fuck around in my dorm because I am the officer here." [Steve] never responded to her comments, however that same night he was transferred to dorm B-3, despite the fact that he already been in dorm B-16 for almost three months and had never encountered any problems.

## **2. Excessive Use of Force During HIV Medical Examination by CCA Personnel**

In approximately January 2010, [Steve]'s former attorney arranged for him to visit Dr. [redacted] at the Thomas Street Health Center to obtain blood work in relation to his HIV treatment. [Steve] was shackled at his feet, waist and hands for the entire medical examination. The nurse requested of the CCA officer to remove [Steve]'s handcuffs in order to extract blood, but the officer refused. The nurse and doctor both explained to the CCA officer that it was extremely painful to have blood drawn if [Steve] was still shackled, but the officer still refused to remove them.

As a result, the nurse was forced to extract blood from the veins on the back of his hand which was traumatic for [Steve]. Similarly, the CCA officer refused to remove his handcuffs and chains during the x-ray, so that he also underwent this part of the examination completely shackled. As [Steve] explained:

***"Even though the nurses and doctors asked them, that they could not withdraw blood like that, the officers from CCA didn't care, and they had to take blood from my hand, and even though I cried from pain, they didn't care."***

Over the course of [Steve]'s immigration detention at HPC he attended approximately three to four appointments at the Thomas Street Health Center. Officers routinely failed to coordinate his transportation to these appointments delaying his access to appropriate medical treatment.

## **3. Abuse, Humiliation and Discrimination by CCA Personnel in Dorm B-3 at HPC**

In dorm B-3, [Steve] was supervised by Officers [redacted]. Officer [redacted] frequently told [Steve] that he would "burn in hell" for being gay, that he was a "damn shame" to the Latino community and that if she was the chief warden, she would put him in segregation "forever." On one particular occasion, in approximately April 2010, Officer [redacted] told [Steve] that if he was deported and tried to reenter, she would like to "fill the Rio Bravo with piranhas and alligators" so that [Steve] could not return because, she continued, the U.S. "does not need faggots." And if [Steve] "made it over the river" she would put "mines on the border." [Steve] found this abuse incredibly painful, especially since it was said in front of at least ten other detainees. [Steve] tried to raise this incident with the Unit Manager, Officer [redacted], but was told, "I am busy right now – get your ass out of my office."

Further, Officer [redacted], also a guard in dorm B-3, would make continuous discriminatory remarks against [Steve]. She routinely monitored [Steve]'s bathroom movements and on one occasion said to him, "I don't know why you look at yourself in the mirror so often, you are not a woman," and then she called [Steve] a "bitch." [Steve] asked her not to use such derogatory language because it was disrespectful to women, like his mother, but Officer [redacted] just laughed and ridiculed [Steve] for his comments. On a separate occasion, the guards undertook a shakedown of all the lockers and Officer [redacted] accused [Steve] in front of the entire dorm – approximately 40 individuals – of having a "dildo" hidden in his locker. [Steve] did not have a dildo in his locker, but he did not attempt to raise his complaint of mistreatment with the Unit Manager, because he felt that nobody at HPC would listen.

Officer [redacted] also continually threatened to transfer [Steve] out of dorm B-3 because "I have never had anyone strange [a reference to [Steve]'s homosexuality] here before and I am not going to allow it." On one day in May 2010, she told [Steve] that she "cannot handle homosexuals" in her dorm any longer and then she falsely accused [Steve] of making too much noise and "horse-playing" in the shower which, ultimately resulted in [Steve]'s transfer to yet another dorm – B-1.

[Steve] was later advised that he was transferred because during shower time, Officer [redacted] saw a fellow detainee touch his backside and accused [Steve] of engaging in "horse-play." However, [Steve] vehemently denied the allegation and sought to report that those events did not take place. Nevertheless, the next day [Steve] was summoned to Chief Officer [redacted]'s office. When he arrived, Assistant Warden [redacted] and Unit Manager Officer [redacted] were also present at his office. Chief Officer [redacted] then said to [Steve], "What the fuck are you doing in my place? Are you fucking around or something like that? Are you having sex with somebody?" [Steve] did not know or understand what Chief Officer [redacted] was referring to, because none of the incidents that he described had occurred. [Steve] tried to defend himself and explain that the incident was fabricated, to which Chief Officer [redacted] eventually responded "Ok man, get your ass out of here."

#### **4. Delay and Denial of Access to HIV Medication at HPC**

Beginning in approximately late May or early June 2010, [Steve], by then held in dorm B-1, encountered further discrimination, humiliation and mistreatment from the officers in that dorm. For example, [Steve] slept on the bottom of bunk 7, and Officer [redacted] would continually hover in front of [Steve] and follow him around the dorm to monitor his "every move" and stare at him.

Often, in the morning, when [Steve] could hear his name called over the radio that he was required at pill-collection, Officer [redacted] would not permit him to attend to collect his HIV medication. This resulted in [Steve] missing his medication or in him being unable to take it at the prescribed times, sometimes without food. [Steve] filed numerous

complaints about this recurring issue with Captain [redacted], which was then referred to Officer [redacted], but these complaints were ignored. As [Steve] explained:

*“[Officer redacted] made attempts against my life and my health because I have to take my medication on an empty stomach, it is very sensitive treatment. HIV is not a joke. I suffered a lot because even though I complained, nobody would do anything, nobody can imagine my suffering and my tears, and the impotence of feeling like I could not do anything.”*

When [Steve] tried to raise his complaint about Officer [redacted] with Chief Officer [redacted] he said “What the fuck do you want, man?” Following these comments [Steve] simply left his office because in “that moment I knew that no one would help me.” [Steve] also complained to Officer [redacted] and told her that he intended to raise his complaint with the Department of Homeland Security’s Office of Inspector General (OIG). But Officer [redacted] told him not to complain to the OIG, that she would speak to Officer [redacted] directly about his mistreatment of [Steve] and that “everything will be fixed.” Afraid of further retaliation and based on Officer [redacted]’s assurances, [Steve] did not file a complaint with the OIG. Again, nothing changed, except that ultimately [Steve] was transferred to yet another dorm.

## **5. Excessive Use of Force, Abuse & Breach of Confidentiality by CCA Personnel**

During the course of [Steve]’s immigration proceedings, Immigration Judge [redacted] requested that [Steve] obtain a letter from a doctor evidencing the abuse that he had experienced in [his native country]. [Steve]’s former attorney arranged an appointment for him with an external physician and instructed [Steve] to fill out a request form with ICE for transportation to the appointment. [Steve] completed that request, however, Deportation Officer [redacted] did not make the necessary arrangements and so he was not transported to the physician on that occasion. As a result, [Steve]’s immigration case was continued to allow him additional time to visit the physician. After [Steve]’s attorney intervened, [Steve] filed another request for transportation to the physician (see enclosed “ICE Immigration Special Correspondence” dated September 24, 2010). On October 29, 2010 [Steve] was finally seen by Dr. [redacted].

However, [Steve] states that this turned into “one of the most horrible days of my life.” First, a female officer from Transcorp America, refused to leave Dr. [redacted]’s room during [Steve]’s consultation. Dr. [redacted] asked the officer several times for privacy with his patient, however, the officer refused to leave. [Steve] was then required to provide the doctor with an extensive medical history, including extremely sensitive information regarding his sexual history and contraction of the HIV virus. At several stages during the consultation, the female officer made comments about his “sickness” in response to the information that [Steve] provided to the doctor.

For example, when [Steve] identified the individual from whom he believes he contracted HIV, the officer interrupted “You got to know your boyfriend better next time.” Further, when [Steve] disclosed to the doctor the circumstances that had given rise to his

immigration detention, the officer interjected, “You got to get yourself a different boyfriend.” She also continued to make facial gestures and body language implying that she was disgusted by the extremely personal matters that [Steve] had just revealed. Several times again, Dr. [redacted] insisted that the officer leave, but she refused.

Dr. [redacted] then asked the officer to remove the handcuffs and chains from [Steve]. The officer refused to do this too, but eventually, went to ask her supervisor for his approval. When she returned to the room, she removed the shackles, but told [Steve] that she would “gas” him and that she was stronger than him and that she would “knock you to the ground and give you a beating like no one has ever done before” if he tried to move out of the chair. Dr. [redacted] tried to reassure him in Spanish that he was trying to assist [Steve] and that he understood the immense pain and trauma he was experiencing during the consultation.

Further, on the return trip from the clinic, the officers in the van went through [Steve]’s medical paper work in front of him, commenting on his medical history and reviewing the doctor’s findings. These documents contained both confidential medical information and private information relevant to [Steve]’s asylum claim.

Following the incident, [Steve] filed a complaint against the officers. Some CCA officials interviewed [Steve] in relation to the complaint. At the time, [Steve] explained:

***“I didn’t tell them [CCA officers] everything, because I am afraid, I am here in the well [segregation] with no one who can help me, and they can make attempts against my health or my life and nobody would find out about it, I am very scared about what could happen to me.”***

After [Steve]’s former attorney contacted ICE in relation to the incident, [Steve] suffered retaliation by CCA officials who told him “we are tired of you making trouble for us.” Shortly after these violations were reported, [Steve] was placed in segregation for the remainder of his period in immigration custody at HPC, almost six weeks.

## **6. Failure to Properly Investigate Complaints and Resulting Abuse at HPC**

Approximately three months after [Steve]’s arrival in dorm B-1, another detainee arrived, [detainee’s name redacted]. Mr. [detainee’s name redacted] was confined to a wheelchair and reported to be from a “Mexican mafia family.” When he found out that [Steve] is gay he told him “we don’t accept fags here” and to arrange to switch dorms “else you are going to get it.” [Steve] was extremely concerned about this threat and sought to raise the issue with Chief Officer [redacted]. As [Steve] explained:

***“But he never called me to his office because he would see me through the window in the door and make gestures that I leave and that he was busy and he would look at me with much disdain...”***

Two weeks later when [Steve] still remained in dorm B-1, Mr. [detainee's name redacted] fabricated an incident to try and initiate [Steve]'s transfer from the dorm. Mr. [detainee's name redacted] reported that [Steve] was sexually involved with another detainee in B-1, [detainee's name redacted]. Chief Officer [redacted] conducted an "investigation" into the report by interviewing both [Steve] and Mr. [detainee's name redacted], and other detainees in dorm B-1 and by reviewing the security camera footage. Despite the fact that all the statements from detainees and camera footage confirmed that no relationship existed, [Steve] was transferred back to dorm B-16. As [Steve] explained:

*"That day she [Chief Officer redacted] asked me if anyone had every propositioned me sexually and I say no, but I told her that I had been threatened by the individual in the wheel chair [detainee's name redacted]. But I think she took it as a joke because they never investigated anything about the threat, and they moved me to a top bunk, 2 top in B-16 dorm."*

[Steve] suffered tremendously during those first two weeks in dorm B-16. He was experiencing extreme back pain and had great difficulty climbing to the top bunk. He raised this issue with Captain [redacted] and he was moved to a bottom bunk. However, soon after his bunk change was confirmed, [Steve] was called to Assistant Warden [redacted]'s office. When he arrived, Officer [redacted] was also present and the officers re-questioned [Steve] about the false allegations regarding Mr. [detainee's name redacted]. [Steve] insisted that no relationship existed and that the report was a fabrication by Mr. [detainee's name redacted]. However, Assistant Warden [redacted] told [Steve] that he did not believe him and that "I will throw you in segregation because I am sick of your homosexual shit." Subsequently, Assistant Warden [redacted] called Chief Officer [redacted] and Chief Officer [redacted] to attend the meeting, where the discussion about the incident and the threat of segregation continued.

[Steve] deeply feared segregation, particularly because he believed that his HIV health needs were unlikely to be met in segregation. He eventually revealed to the officers that he is HIV positive in order to try and dissuade them from sending him to segregation. As [Steve] explained:

*"...and he didn't believe me and said that he would put me in segregation and they were pressuring me until I felt like I had to confess to them my health problem and I told them that I would not do anything so awful as to have relations with someone else knowing that I was HIV positive, and I didn't want to tell them that because it was something so private and delicate but they had me under so much pressure accusing me of having done something that I had not done...and it was at that moment that he told me that I was very dangerous for his detainees and his officers being HIV positive and that I should be confined to segregation. Then I went back to B-16, he kicked me out of his office, as always in a bad way..."*

## **7. Misuse of Segregation at HPC – First Incident**

Approximately one month later in October 2010, a fellow-detainee, [detainee's name redacted], was transferred to dorm B-16. He taught [Steve] how to read the Bible and introduced him to the Christian faith. Together with Mr. [detainee's name redacted] and Minister [redacted], [Steve] became increasingly interested in religion as a distraction from the mistreatment he had experienced in immigration detention and his past abuse in [his native country]. [Steve] describes how religion "rescued me from depression."

However, the detainee who shared a bunk with Mr. [detainee's name redacted] was homophobic and would tell Mr. [detainee's name redacted] not to read the Bible with [Steve]. The same individual subsequently made a false complaint to Unit Manager [redacted], that [Steve] was interested in pursuing a romantic relationship with Mr. [detainee's name redacted]. As a result, both [Steve] and Mr. [detainee's name redacted] were immediately placed in disciplinary segregation for three days. When the officers investigated the complaint they concluded that no relationship of any sort, other than a friendship based on mutual religious interest, existed between [Steve] and Mr. [detainee's name redacted] and they were returned to the general population. [Steve], however, was transferred to dorm B-14, while Mr. [detainee's name redacted] was returned to B-16. In the process of his transfer to dorm B-14, [Steve] encountered Assistant Ward [redacted] in the hallway, at which time he said to [Steve] "I'll put your ass in seg, you'll see, I'm tired of you, I don't want to see you no more."

## **8. Misuse of Segregation at HPC – Second Incident**

On November 3, 2010, [Steve] left a note for his friend Mr. [detainee's name redacted] under the door of dorm B-16. The note was read and reviewed by the guards in dorm B-16. Later that day, officers arrived at dorm B-14, handcuffed and shackled [Steve] and transferred him to segregation. [Steve] was held in segregation from this date until he was granted Withholding of Removal and released from custody on December 15, 2010 – a five and a half week period.

[Steve] made several requests to CCA enquiring about the basis and duration of his segregation. Most of these requests were ignored (see for example, enclosure "CCA Request Form" dated November 8, 2010). On one occasion, [Steve] made contact with Officer [redacted], the official purportedly responsible for detainee complaints, during a routine walk-through of the segregation unit. She advised [Steve] that CCA could essentially keep him in segregation for any reason.

On another occasion, Assistant Warden [redacted] told [Steve] that because he is HIV positive, he was placed in segregation to protect CCA staff and other detainees. During a visit from Chief Officer [redacted] on November 11, 2010, she told him that he was in segregation for "not keeping your word." She stated that he would stay in segregation until he was released by the immigration judge or deported. [Steve] requested to speak with Chief Officer [redacted]'s supervisor but she told him it was unnecessary because "he agrees with me." She went on to make insinuations about [Steve]'s sexual

orientation. [Steve] sent a request to speak with the Chief Warden, but that request went unanswered.

[Steve]'s former attorney made several inquiries into the basis and duration of his segregation, but no proper reasoning or documentation was ever made available.

[Steve] was held in the most heightened form of segregation – He was handcuffed and shackled for movement to the showers, medical appointments and for meetings with his former attorney. He lost ten pounds during this period in the segregation unit due to heightened anxiety and depression. [Steve] was held for the entire period in a cell by himself. The cell had a small, tiny window-opening on the door, at which he would sometimes stand to try and watch the television that was playing in the common area. [Steve]'s Bible was confiscated from him when he was placed in segregation. He made several requests for its return. He eventually received a copy of the Bible after four weeks of requests.

The HPC facility does not have separate facilities for individuals detained for disciplinary and administrative purposes. The only means of contact that [Steve] had with other individuals in the unit was by talking to a fellow detainee through the shared wall. One of those individuals was also a gay man, held in segregation because of his HIV status.

On or around November 22, 2010, [Steve]'s former attorney raised his complaints with the OIG. After [Steve] was released from custody on December 17, 2010 he was called to attend DHS's local office in Houston for an interview in relation to his complaint. Neither [Steve], nor his former attorney, has had any further contact from DHS since that interview.



## DETENTION COMPLAINT #2

### **Background**

**Legal Name:** [Redacted]

**Preferred Name:** Alexis

**Date of Birth:** [Redacted]

**A#:** [Redacted]

**Nationality:** [Central American]

**Period in ICE Custody:** August 8, 2010 to February 10, 2011

**Detention Facility:** August 8, 2010 to September 29, 2010 at Theo Lacy Facility, California (Theo Lacy); September 29, 2010 to February 10, 2011 at Santa Ana City Jail, California (Santa Ana)

**Status of Immigration Proceedings:** Granted Withholding of Removal on February 9, 2011 (represented in immigration proceedings)

**Particular Health Needs:** Transgender; HIV positive; Hormone therapy; Medicated for anxiety and depression

**Redacted Copy for Public  
Distribution**

**Complainants' full names and personal information have been removed from this document in order to protect their privacy.**

### **[Alexis]'s Complaints of Mistreatment in ICE Custody**

The facts contained in this complaint were obtained via written correspondence in November 2010 to February 2011 and during an in-person interview with [Alexis] at offices in Santa Ana, California on March 3, 2011.

#### **1. 22 Hour-Lock Down at Theo Lacy**

[Alexis] was held in immigration custody at Theo Lacy from August 8, 2010 to September 29, 2010. For this entire period, [Alexis] was held on daily 22 hour-lock down in her cell.

During the period that [Alexis] was detained at Theo Lacy, transgender and gay detainees were detained in a 30 cell-pod surrounding a common room. At the time, approximately ten cells held transgender and gay individuals. The rest of the pod was made up of non-gay or transgender detainees on a higher security classification. The pod did not differentiate between the various security levels but rather classified all individuals as "protective custody" cases. Every detainee in this pod was subject to 22 hour-lock down, with two hours for time in the shared "dayroom." Officers ordinarily released a limited

number of individuals into the dayroom for two hours, and then moved on to the next group of individuals. Officers released the transgender and gay individuals as their own group. However, the sexual minorities group often had their dayroom time cut short from two hours to 45 minutes. In some instances, [Alexis] did not receive any dayroom time at all, without any apparent reason.

On one particular occasion, [Alexis] asked Officer [redacted] the reason that dayroom was cut short, to which he responded “Because you need to learn not to be faggots” and “it’s not a pretty picture to see you [in the dayroom].”

[Alexis] received the same bagged lunch meal every day for the entire period of her immigration detention at Theo Lacy – a bologna sandwich.

## **2. Mistreatment by Jail Personnel at Theo Lacy**

[Alexis] was subject to numerous incidents of sexual discrimination in immigration custody at Theo Lacy. For example, Officer [redacted] would often respond to questions raised by the gay and transgender detainees with the insult, “Well, who asked you to be a faggot?”

In another instance, [Alexis] was waiting in line to give an officer her legal mail. There were two heterosexual ICE detainees ahead of her in the line. The officer accepted their mail. However, when it came to [Alexis]’s turn, the officer refused to take her legal mail and told her to “lock it down,” meaning, “get in your cell and shut up.” She told the officer that the legal mail was urgent, but the officer continued to refuse to accept her mail. When [Alexis] continued to protest, the officer grabbed [Alexis] by the arm and threw her into her cell. At the time, the officer was wearing latex gloves and [Alexis] developed a skin rash. When she saw a medical professional regarding the rash, the offending officer was also present at the examination, at which time it was revealed to him that [Alexis] is HIV positive. The officer responded, “I didn’t know that you were HIV positive. Well, when you die I will send flowers to the funeral.”

Further, Deputy [redacted] would frequently threaten the detainees in [Alexis]’s pod that any punishment or trouble caused by an individual in custody could be raised with the immigration judge and could impact on their immigration proceedings. For that reason, [Alexis] was aware of a number of individuals who did not raise concerns or file complaints of mistreatment because they were concerned that this would result in the court looking unfavorably upon them.

## **3. Denial of Personal Hygiene Items for Sexual Minorities at Theo Lacy**

“Everything was a battle” for gay and transgender detainees at Theo Lacy. Despite numerous requests, [Alexis] was not provided with a bra at Theo Lacy. Responding to one of her requests for a bra, the officer said “Why do you need a bra if you are a man?” Further, on several occasions the gay and transgender detainees requested additional toiletries, particularly toilet paper. However, the guards did not provide toilet paper

“Because you are faggots.” Often when [Alexis] or her fellow-detainees would push the button for assistance, the guards would respond “What do you want, you fucking faggot?”

Further, for small, seemingly minor infractions staff would deprive all gay and transgender detainees of dayroom privileges. As a result, individuals would remain on permanent lock down in their cells except for brief shower breaks. These “infractions” included having extra towels, using crayons for makeup, and keeping extra shaving razors to use as tweezers. The officers would routinely conduct random searches of cells for “contraband” including these items. These searches fell upon transgender detainees at a rate far higher than the rest of the individuals detained in “protective custody.”

#### **4. Inappropriate Searches and Verbal Abuse Based on Sexual Orientation at Theo Lacy**

During random searches, strip searches also occurred. All detainees were required to strip to their briefs, including transgender individuals. Transgender detainees were therefore bare-chested in front of all the officers, including male officers, and other detainees in the common room. Officers often made comments to transgender individuals such as “Why do you have breasts, when you are man?” In one instance, Deputy [redacted] said of [Alexis]’s breasts, “Those things are nasty. Why did you get them done?” Shortly after, Deputy [redacted] said to another gay individual “Why are you a cocksucker?”

On another occasion, [Alexis] was exercising in her room bare-chested, as detainees only received one change of clothes per day and she did not want to sweat in her uniform. The officers ordered [Alexis] to put on her shirt, however, she refused stating that if she was denied a bra and told that she should not have breasts because she was a man, she was entitled to exercise shirtless like the other men in the pod. As a result, [Alexis] was punished and placed in permanent lock down with no privileges for a week. She requested a copy of the disciplinary complaint made against her and was advised that the staff would provide it shortly, but she never received a copy.

#### **5. Lack of Writing Materials and Breach of Confidentiality at Theo Lacy**

For three weeks during [Alexis]’s immigration custody at Theo Lacy, there were no envelopes available. When she raised this issue with ICE, she was advised to “ask the deputies” at Theo Lacy. When she raised the same issue with staff at Theo Lacy, she was told to raise it with ICE. [Alexis] filed two requests to speak to the sergeant in relation to these complaints, which went unanswered.

Further, [Alexis] was aware that legal mail was supposed to be opened in front of detainees. However, the legal mail was always already opened when it was delivered.

#### **6. Delay and Denial of Access to HIV Medication at Santa Ana**

On September 20, 2010, [Alexis] was transferred to Santa Ana where she was also subject to a number of incidents of mistreatment and discrimination. She was not informed of the reasons for her transfer.

Throughout the entire course of [Alexis]'s immigration detention at Santa Ana (almost five months) she never saw a medical doctor regarding her complex health needs.

In particular, [Alexis] encountered a number of serious problems with accessing her blood work, anti-viral medication and HIV treatment. For example, in late October 2010, [Alexis] went to collect her anti-viral medication. She was advised by the medical staff that they had none available for her because the medical log was for 30 days only, and that once the 30 day period had lapsed, detainees were required to re-request their medication. This resulted in both [Alexis] and her cell mate (who is also HIV positive) missing their respective HIV treatment for a week (see enclosed "Santa Ana Jail Medical Form" dated October 23, 2010). At the time, [Alexis] arranged to see a mental health worker regarding her anxiety and depression. She advised the mental health worker about the delay in receiving her HIV pills, to which she responded, "I am not here for that, I am just here for psych."

In addition, [Alexis] was aware that she was required to take four different pills every day as part of her HIV treatment, but often the medical staff at Santa Ana would provide her with two pills only. When she asked for the additional pills she was told "we are out of them." [Alexis] filed several medical request forms to try and resolve this issue (see for example, enclosed "Santa Ana Jail Medical Form" dated December 22, 2010). Despite these requests, she was never "called-out" to see the doctor and the cocktail of drugs was not modified.

On October 14, 2010, [Alexis] requested blood work for an update on her white blood cell count. Blood work was not undertaken until January 27, 2011. At the time, she was advised that the "results" would be available one week later. However, the results were not made available then. [Alexis] filed two follow-up requests for the results in February (see "Santa Ana Jail Inmate Request Form" dated February 4, 2011 and "Santa Ana Jail Inmate Request Form" dated February 7, 2011). Eventually, the results were delivered to [Alexis] at her cell. However, as the officer was walking up the stairs to deliver the paperwork, [Alexis] observed that he was reading her confidential medical records. No doctor or medical consultation was ever arranged to explain the results. [Alexis] noticed that her CD4 count was 349, but she did not understand what this meant. Following her release, she took the results to a private doctor. He advised [Alexis] that the medical assessment undertaken at Santa Ana was inadequate and incomplete and that the paperwork prepared by the facility's medical unit was "meaningless" and unhelpful.

When [Alexis] was discharged from Santa Ana, the officers provided her with only one week of HIV treatment-related medication. It took [Alexis] some time to arrange to see a doctor once she was released, which resulted in her not receiving the appropriate medication for one week.

Further, the medical staff would frequently motion “flip-off” gestures to the gay and transgender detainees. Throughout the course of her immigration detention, [Alexis] also struggled with eye and back problems. She submitted numerous requests in relation to these issues, and likewise was never able to see a doctor.

## **7. Denial of Access to Hormone Therapy at Santa Ana**

[Alexis] had a doctor’s prescription for hormone therapy which she received during her immigration detention at Theo Lacy. She made several requests for hormone therapy but was advised by medical staff that Santa Ana had a blanket no-hormone therapy policy.

## **8. Strip Search Following Contact Visit with Attorney at Santa Ana**

It is routine practice at Santa Ana for detainees to be strip searched, including a full “bend-over” search, following a contact visit with an attorney. [Alexis] was strip searched following each contact visit from her immigration attorney. In many cases, the strip search was performed by a male officer.

## **9. Misuse of Segregation at Santa Ana**

Towards the end of her immigration detention, [Alexis] shared a cell with another individual who is HIV positive. When her cell-mate became increasingly depressed about her diagnosis and her conditions of confinement, [Alexis] requested a transfer to another cell. She was ultimately transferred to cell 17, but when she arrived, she saw that the cell was extremely small and she felt extremely claustrophobic. When she raised this issue with the guard he told her to go inside the cell and “lock it down.” However, [Alexis] refused because entering the small cell was making her increasingly anxious and claustrophobic. As a result of her refusal to enter the cell, she was punished with 30 days in segregation. [Alexis] was denied a number of privileges in segregation – no books; no commissary; and she was only allowed out of her cell for one hour per day.

On [Alexis]’s seventeenth day in segregation she was granted Withholding of Removal and was released from immigration custody.

**APPENDIX  
TO MULTI-  
INDIVIDUAL  
COMPLAINT**

From: [REDACTED]  
To: [REDACTED]; [REDACTED]; [REDACTED]  
Subject: Detained [REDACTED] Client [REDACTED] a.k.a. [REDACTED] A [REDACTED]  
Date: Thursday, July 22, 2010 2:25:00 PM

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Dear [REDACTED], [REDACTED], and [REDACTED]

I am writing in regards to [REDACTED] Client [REDACTED] (aka [REDACTED]), a transgender immigrant from Mexico. Ms. [REDACTED] has been detained by ICE for more than one year. Ms. [REDACTED] was granted withholding of removal on June 17, 2010, due to the severe past persecution she suffered in Mexico. However, Ms. [REDACTED] continues to be detained by ICE at Kenosha County Jail in Wisconsin and ICE has indicated that it intends to detain her during the entire 90 day 'removal period,' despite the fact that she has been granted withholding and no third country has been designated for removal.

While I understand that ICE has the authority to detain during the 90 'removal period,' I am writing to request release for Ms. [REDACTED] due to the serious and on-going harassment and degrading treatment that she has suffered in ICE detention. We have previously requested release from Mr. [REDACTED], but were denied. Information regarding mistreatment by other detainees and by ICE staff were sent to ICE on April 30, 2010, and on June 3, 2010.

Prior to being transferred to Kenosha, Ms. [REDACTED] was (1) groped by jail staff, (2) placed in administrative and solitary segregation and denied basic privileges during that time, and (3) constantly threatened and harassed by detainees and jail staff, resulting in severe psychological harm.

Since her transfer to Kenosha, Ms. [REDACTED] has been detained in an all-male administrative segregation unit. In this unit, each cell is visible to at least part of the other segregated detainees. Each cell contains its own toilet and showering facilities, and Ms. [REDACTED] is required to use these in full view of male detainees who threaten and verbally humiliate her whenever she does so. Staff members at Kenosha County Jail have not discouraged the abuse and Ms. [REDACTED] reports that they often laugh along with the detainees or join them in humiliating her. As a result of this abuse, Ms. [REDACTED] had a psychological breakdown and attempted to stuff paper into her ears to block out detainee and guard voices. When staff noticed that Ms. [REDACTED] was particularly distraught, they called medical and found her bleeding from the nose, as a result of which she was transferred to the infirmary. As of our most recent conversation with Ms. [REDACTED] she remains in the infirmary.

Ms. [REDACTED] is HIV-positive and, as mentioned above, is a victim of severe past abuse. She has long suffered from severe depression related to both her traumatic past and medical condition and is, therefore, extremely vulnerable. Although ICE responded to Ms. [REDACTED]' request to be transferred from McHenry County Jail when suffering abuse there, Ms. [REDACTED] has been harassed, humiliated, and denied basic privileges wherever ICE has placed her. In light of Ms. [REDACTED]' vulnerability, and in light of ICE's demonstrated inability to ensure her safety and physical and mental well-being in detention, we request that Ms. [REDACTED] be released from detention immediately. When released from ICE custody, Ms. [REDACTED] can return to [REDACTED], Illinois, to live with her mother and sister, with whom she speaks frequently.

Further information: I can e-mail you (1) the IJ's decision, (2) previous requests for release to ICE, (3) previous notifications of mistreatment and harassment in ICE custody, and (4) Ms. [REDACTED]'s affidavit regarding the harassment she suffered in ICE custody.

Please let me know if you need any further information. Thank you for your consideration of this tragic case.

Sincerely,

office phone: [REDACTED]  
cell phone: [REDACTED]  
fax: [REDACTED]



**UNITED STATES DEPARTMENT OF HOMELAND SECURITY  
IMMIGRATION AND CUSTOMS ENFORCEMENT**

**AFFIDAVIT OF [REDACTED], a.k.a. [REDACTED]  
A [REDACTED]**

I, [REDACTED], swear under penalty of perjury that the following is true and accurate:

1. My full legal name is [REDACTED]. I was born on [REDACTED] in Mexico. I am transgender and prefer to be called [REDACTED].
2. On June 21, 2009, I was placed in ICE detention in Rock Island, Illinois. On June 25, 2009, I was moved to a detention center in Kenosha, WI. On July 20, 2010, I was then moved to ICE detention in McHenry, IL.
3. I am writing this affidavit to attest to the abuse I have suffered at the hands of the officers at McHenry County Jail while in ICE custody.
4. While in ICE custody for four days in Rock Island, Illinois, I was treated poorly by the officers. They mocked me for being transgendered and called me names.
5. I have no complaints at this time related to my detention during June and July 2009 in Kenosha.
6. Unfortunately, I was transferred to McHenry, IL where I was detained for almost nine months and living in hell. I was completely isolated from the other inmates so that the only human interaction I had was with officers who yelled at me, slam doors in my face, called me names, and even physically assaulted me. I was told that I was kept in isolation for my own protection from other prisoners, but guards and police officers at Kenosha were able to protect from harm, threats of harm, and serious harassment.
7. In September of 2009, an officer began teasing me. He would open and close my door, call me "homosexual" and give me the middle finger. He would then slam my door and called me a "faggot." The officers came to check my cell and while they were in there they teased me while not saying anything to the other prisoners. One of the officers squeezed my breasts very hard. I am taking hormones and because of this, it hurt a lot when he squeezed my breasts. I don't know the name of the officer who did it, but I could pick him out of a group if necessary. He always insulted me and mocked me for being transsexual.
8. That same month, I filed a complaint with ICE Officer [REDACTED]. The incident that caused me file the complaint is as follows: McHenry officers were telling me that an officer was looking for me and told me to go to a certain office. When I got to the office I realized they were insinuating that I was having an inappropriate relationship because they believed that I am attracted to men since I dress/feel like a woman. I do not know if

[REDACTED] a.k.a. [REDACTED]  
A [REDACTED]



day. The officer slammed the door on me and said that I could not speak to the sergeant. The sergeant then put me in the basement cell again for two days.

16. The first day in this basement cell was cold and I was not given enough blankets to cover myself. In addition, the floor was very dirty and I had no where but the floor to sit or rest. They gave me only toilet paper to place on the ground for bedding. I was in pain because of how cold it was. I cried a lot. An officer came by and opened the door to yell at me and then slammed the door. The officers would stop by my cell to make fun of me. They imitated my voice and fluttered their hands to make fun of my transsexual mannerisms.
17. In March of 2010, I asked Officer [REDACTED] for more toilet paper and tried to hand him the empty roll. He told me to throw it in the trash and told me that I am trash. Officer [REDACTED] further offended me during a 2pm check for contraband, when he said to one of the other officers "We need to check that stupid shit." Officer [REDACTED] had no reason to say this to me and I believe it is because he hates me because I am transgender.
18. Officer [REDACTED] has also called me trash and "stupid homosexual crap." The sergeants know what is going on and always cover for officers.
19. Officer [REDACTED] has upset me so much, that I stopped going to take my HIV medicine in the morning for three days because he was always there. I did not want to see him or put up with his derogatory and hurtful comments. I also never changed clothing when he was around. I told the supervisors what Officer [REDACTED] did to me and they told me it would be too hard to talk to Officer [REDACTED] because there were so many officers around. His offenses brought back horrible memories of abuse that I suffered in Mexico by homophobic men.
20. I have since begun taking my HIV medication again because the nurse brought me my medication when Officer [REDACTED] was not there. Only after Officer [REDACTED] stopped working on that shift was I able to get my medicine without being scared that he would be nearby.
21. The nurse who brought me medicine is the only person who is kind to me. I think she has tried to stick up for me, but it doesn't do any good. She has interpreted for me and tries to help. She knows about all the abuse but has not been able to stop it.
22. I always feel nervous and afraid. I cannot sleep and would like sleeping pills. I always feel sick because I cannot sleep and have a lot of anxiety. I feel like their treatment is killing me. I have requested sleeping pills, but my request has not been granted.
23. To make fun of me and insult me the officers call me Mr. [REDACTED] or Mr. [REDACTED] since they know I identify as a woman and prefer that the officers just call me [REDACTED]. With people who are accepting, I prefer to be called [REDACTED]
24. I am never allowed out of my cell – according to the guards this is "for my own protection." I am not in danger from the other inmates, but from the officers who use the excuse they are protecting me to discriminate against me, humiliate, isolate, and even

[REDACTED], a.k.a. [REDACTED]  
A [REDACTED]

grobe me. I am forced to eat in my cell and I am not allowed to eat in the cafeteria with the other inmates. I feel extremely lonely and depressed.

25. Officers [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] have all made offensive comments towards me, gestured at me inappropriately and harassed me.
26. Officer [REDACTED] made fun of me when I got off of the phone with my attorney. Another inmate called me a "homo" and a "mother-fucker" and Officer [REDACTED] laughed and continued to call me names as well.
27. When I ask for necessities, such as soap, the officers will throw them at me forcefully. I am always forcefully pushed back into my cell and they slam the doors.
28. On the way to my last court date, the officer who brought me from my cell put the handcuffs on my hands and feet very tightly. He also squeezed my stomach with the belt that he connected the handcuffs too. Two other female inmates who were with me asked me why he was so aggressive towards me because he didn't do that to them. I told the officer that it hurt me and I was in a lot of pain and asked him to loosen the belt and handcuffs, but he refused. The handcuffs were so tight that they cut my skin. I still have marks on my hands two weeks after this incident. By the time I got to the court my wrists and ankles and stomach were hurting so much I cried as I walked from the car to the court.
29. I am treated very poorly compared to other prisoners. I have been isolated in the women's basement cell multiple times merely because I asked for things. Other prisoners get to chat with one another, to play games, and watch television outside of their cells. I am not allowed to leave my cell. I am not allowed to talk to other detainees, as the officers say that detainees can only talk to members of the same gender, and say that I am not any gender. I identify as a woman.
30. Due to the abuse and harassment I suffered at McHenry, I have had many nightmares and flashbacks to the abuse I suffered in Mexico.
31. I believe that I should be released from detention, because the government cannot imprison me and subject me to these kinds of abuses for an immigration violation.
32. Thank you for considering my statements.

I have provided the foregoing statement in my native language, which is Spanish. It has been read back to me for verification in Spanish and I agree that it is true and correct to the best of my ability.

[REDACTED]

4/23/10  
Date

## **RECENT COMPLAINTS FROM LGBT DETAINEES**

### **AMERICAN BAR ASSOCIATION (ABA)**

**This page of complaints has been redacted to protect client confidentiality.**

The detention complaints were made in respect of the following detention facilities:

1. El Centro Service Processing Center, California
2. Willacy County Processing Center, Texas
3. La Salle Detention Center, Louisiana
4. Krome Service Processing Center, Florida

## **COMPLAINT FILED BY T**

**This page has been redacted to protect client confidentiality.**

The detention complaint was made in respect of a sexual assault of a transgender individual at the Eloy Detention Center, Arizona. T was sexually assaulted by a guard while in segregation. Subsequent to this assault, she was only provided with cursory mental health counseling despite experiencing serious trauma. Following this incident she was granted Withholding of Removal but remained in ICE custody for a further three months. During this time she suffered another sexual assault at the same facility.

## **COMPLAINT FILED BY N**

**This page has been redacted to protect client confidentiality.**

The detention complaint was made in respect of a sexual assault of a transgender woman who was detained at the York Detention Center, Pennsylvania in 2010. From the time of her arrival (until her release) she was held in segregation – at times in a 10 foot by 10 foot suicide watch room where N was stripped of her clothes and subject to 15-minute check-ins by detention staff. She was also denied access to medically necessary HIV treatment, and hormone therapy for treatment of her gender identity disorder. Further, during the majority of her period in immigration custody, N was denied access to proper female undergarments.