



**FREEDOM  
FOR IMMIGRANTS**

TOGETHER WE WILL END IMMIGRATION DETENTION



August 26, 2020

The Honorable Joseph V. Cuffari  
DHS Inspector General  
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**Re: Call for an Immediate Halt to and Investigation of Detention, Violence, Repression and Racism Against Peacefully Protesting Cameroonian and Black Asylum Seekers, and other Asylum Seekers, at Pine Prairie ICE Processing Center; and the release of all Black Hunger Strikers from Solitary Confinement**

Dear Inspector General Cuffari and Officer Quinn:

We write to request that the Office of Inspector General immediately halt and investigate the use of force and solitary confinement against peaceful protesters at Pine Prairie ICE Processing Center (“Pine Prairie”), in Pine Prairie, Louisiana. Asylum seekers held by ICE have been peacefully protesting their indefinite and inhumane detention, the conditions of detention, and discriminatory treatment. Based on our interviews of eyewitnesses and victims, we believe that Immigration and Customs Enforcement (“ICE”) and its contractor, the Geo Group, responded with unlawful force, improperly interfered with protected speech, and continue to do so in the face of renewed protests. We especially want to highlight the violence against Cameroonian and other Black protesters, as they have led hunger strikes, and lifted their voices to join the call that “Black Lives Matter,” facing severe retaliation and higher rates of denial. We request that **ICE immediately release all peaceful hunger strikers from solitary confinement; and that** you conduct a thorough investigation of these troubling incidents and publicly release the results as quickly as possible.

On Monday, August 10, 2020, a group of forty to forty-five Black, majority Cameroonian asylum-seekers refused to eat and declared the renewal of a peaceful hunger strike that began in March of 2020 and was brutally quashed by Pine Prairie authorities. They are protesting their indefinite detention; racist treatment

and conditions of confinement; blanket parole denials, particularly to Cameroonians and other Black applicants; across-the-board failure to respond to *pro se* parole applications; false promises and statements from ICE regarding the sincerity of their custody reviews; and the inhumanity of being imprisoned during a global pandemic. In response to their peaceful protest action of refusal to eat, officials responded by stating that the peaceful protesters were to be placed in what Pine Prairie calls “Echo” or “Seg,” which the ICE Performance Based National Detention standards calls “Special Management Units” or “SMU,” known more plainly as solitary confinement. Some of the strikers sat on the floor, others held their hands above their heads to show their peaceful intention. In retaliation, fifteen guards mobilized with tear gas cannisters, a tear gas gun, pepper spray, and handcuffs. Without any provocation and with the intention to force the men into solitary confinement to punish them for their peaceful hunger strike, officers restrained three men, climbing on top of them and attempting to place them in choke-holds. One man on hunger strike who had his hands up described being thrown to the ground with six officers on top of him. He felt he was going to be suffocated, and had bruises all over his body. Officers restrained and pointed a gun at another one of the men who was protesting and resisting the choke-holds of his friends, fearing for their lives. Officers also wielded, but did not spray, pepper spray. The commanders involved in that incident were a Captain Terry or Thiery and Michael Catino. The group, including the three wounded, returned to their dorm after refusing to be moved to solitary for merely exercising their rights to peacefully protest. That day, their telephone/tablet access was cut off and was later restored. Since Monday, authorities including Warden Eric Staiger, Captain Terry/Thiery, Michael Catino, and Officer Nelson have repeatedly visited their dorm, threatening to punish them by placing them in solitary confinement if they do not eat, and threatening to block and take away their commissary (including phone and tablet access).<sup>1</sup> After agreeing to a temporary pause of the hunger strike at ICE’s request and following promises by ICE to re-review their cases and negotiate, the negotiations failed and the hunger strike resumed as of August 21<sup>st</sup>.

On August 24, 2020, all 45 African hunger strikers were rounded up by officials in full military gear and taken to “Echo” unit – the unit used by Pine Prairie for all isolation, known more plainly as solitary confinement. In violation of the ICE Performance Based National Detention Standards (“PBNDS”), based on many interviews with clients and others previously subjected to this unit, as well as the current strikers, those placed in Echo unit face severely punitive conditions, including: little or no yard/recreation/social time; no amenities (such as microwave or TV); limited/arbitrary/unpredictable shower, hygiene, and access to potable water; no access to tablets or grievance forms or a means to make medical requests; no option to utilize the library or law library, despite urgently needing to do so for their immigration cases; and limited legal call access.<sup>2</sup> As of the time of writing, the strikers have not received needed medical treatment since being there and have no way of making medical requests. Worse, ICE has been using this unit for COVID-19 quarantine rooms, and several of the hunger strikers watched ICE force out other detained people who had not completed their quarantine period, and forced the strikers into the same cell without cleaning it at all, despite their protests over being put into cells being used as COVID-19 quarantine areas. ICE brought all Africans suspected of being in league into these punitive conditions, including one Cameroonian man recently back from surgery, whose health is extremely fragile, who is not even hunger striking.<sup>3</sup>

ICE and its contractor’s violence and threats in this instance replicate the violence levied against prior peaceful protesters in weeks and years past,<sup>4</sup> including the recent repression of many of the same Black,

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<sup>1</sup> Interviews with Witnesses.

<sup>2</sup> *Contra* PBNDS 2011 (Rev. Dec. 2016) (“PBNDS”) Sec. 2.12(II)(11), (15), (17), (18), (19).

<sup>3</sup> Interviews with Witnesses.

<sup>4</sup> As reported in a letter of Aug. 29, 2019 from a coalition of concerned organizations, and our Sept. 26, 2019 calls for federal investigations by the DHS OIG and Congress, and the following news reports, these are common and unchecked responses by ICE. DHS never investigated the similar incidents detailed in these prior complaints, and SPLC **never received any records in response to its FOIA request** [assigned the reference number Department of Homeland Security FOIA 2020-HQFO-00044] relating to the brutal use of force at Pine Prairie in August 2019, made

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majority-Cameroonian asylum-seekers who comprise the current strike. On or around March 3, 2020, the same group of asylum-seekers started a hunger strike, and over a period of ten days, approximately forty-three peaceful protesters were put in solitary confinement units to break up the strike. Several of them reported to our organization that they were not given water, and were forced to drink out of the toilet. This treatment is shocking and abhorrent, especially in the context of a global pandemic during which heightened care should be given to prioritizing release and ensuring sanitary practices within Pine Prairie.

Like protesters before them, this group of Black asylum seekers were and are lawfully and peacefully protesting an ICE detention system in which at least fifty-nine human beings have died since 2015, including five preventable deaths due to COVID-19, and six deaths in Louisiana.<sup>5</sup>

ICE's pattern and practice of punishing detained protesters for exercising their right to protest is a violation of their basic human rights and constitutional rights. All human beings detained by ICE are entitled to rely on the protections of the First, Fifth and Fourteenth Amendments. ICE's conduct also violates its own policies and standards regarding use of force.<sup>6</sup>

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shortly thereafter. *See More Than 100 Immigrants Were Pepper-Sprayed At An ICE Facility*, BuzzFeed News, August 6, 2019, <https://www.buzzfeednews.com/article/hamedaleaziz/ice-immigrants-pepper-sprayed-louisiana-pine-prairie>; *Detained Asylum Seekers Turning to Hunger Strikes, Protests as Their Cases Linger*, NBC News, Dec. 17, 2019, <https://www.nbc.com/news/national-international/detained-asylum-seekers-turning-to-hunger-strikes-protests-as-their-cases-linger/2050041/>.

According to a review of ICE documents by BuzzFeed News, "Since the end of March through the beginning of July, guards at detention centers across the country deployed force — pepper spray, pepper balls, pepper spray grenades — in incidents involving more than 10 immigrants at a time on a dozen occasions, according to a review of internal reports. In total, more than 600 detainees have been subjected to these group uses of force." *There's Been A Major Increase In The Use Of Force Against Immigrants At ICE Detention Centers During The Pandemic*, BuzzFeed News, Aug. 5, 2020, <https://www.buzzfeednews.com/article/hamedaleaziz/use-of-force-immigrants-ice-pandemic>.

*See also: Dozens of ICE Detainees Were Pepper-Sprayed by Guards for Protesting at a Louisiana Jail*, Mother Jones, Aug. 2, 2019, <https://www.motherjones.com/politics/2019/08/immigrant-detention-ice-bossier-louisiana-pepper-spray/>; *ICE Guards "Systematically" Sexually Assault Detainees in an El Paso Detention Center, Lawyers Say*, Pro Publica, Aug. 14, 2020, [https://www.propublica.org/article/ice-guards-systematically-sexually-assault-detainees-in-an-el-paso-detention-center-lawyers-say?utm\\_source=sailthru&utm\\_medium=email&utm\\_campaign=majorinvestigations&utm\\_content=feature](https://www.propublica.org/article/ice-guards-systematically-sexually-assault-detainees-in-an-el-paso-detention-center-lawyers-say?utm_source=sailthru&utm_medium=email&utm_campaign=majorinvestigations&utm_content=feature); *WOMEN IN ICE DETENTION, FEARING CORONAVIRUS, MAKE VIDEO TO PROTEST UNSAFE CONDITIONS*, The Intercept, March 30, 2020, <https://theintercept.com/2020/03/30/coronavirus-ice-detention/>; *The Women Asked ICE for Soap. They Got Pepper-Sprayed Instead.*, Mother Jones, April 22, 2020, <https://www.motherjones.com/coronavirus-updates/2020/04/ice-pepper-spray-lasalle/>; *Guards Pepper-Spray Protesting Asylum Seekers at an ICE Detention Center*, Mother Jones, June 25, 2020, <https://www.motherjones.com/politics/2020/06/guards-pepper-spray-protesting-asylum-seekers-at-an-ice-detention-center/>; *"If they kill me in the hole, I'll go out satisfied": Protest at Winn Correctional*, Perilous Chronicle, Aug. 2, 2020, <https://perilouschronicle.com/2020/08/07/if-they-kill-me-in-the-hole-ill-go-out-satisfied-protest-at-winn-correctional/>

<sup>5</sup> *Deaths at Adult Detention Centers*, American Immigration Lawyers Association, Aug. 12, 2020 <https://www.aila.org/infonet/deaths-at-adult-detention-centers>

<sup>6</sup> PBNDS 2.15(V)(B)(2) and 2.15(V)(E); PBNDS 2.15(V)(B)(5); Interim ICE Use of Force Policy, ICE, July 7, 2004, <https://www.dhs.gov/sites/default/files/publications/ice-use-of-force-policy.pdf>

## *Indefinite Detention*

The group of Black asylum-seekers currently on strike are being indefinitely detained by ICE at a rate much higher than other populations, a central reason for their protest against the stated racism inherent in the indefinite detention they face. Despite most, if not all, having family and community here in the U.S. waiting to receive them outside of detention, they all have been categorically denied release.<sup>7</sup> According to SPLC's analysis, Cameroonians are two and a half times more likely to have their paroles denied by the New Orleans ICE Field Office than other similarly-situated applicants from non-African countries. Since September of 2019, the New Orleans ICE Field Office has denied humanitarian parole to more than 200 Cameroonians detained in Louisiana. They all have been detained in excess of six months, some have been detained for a year, and some have been detained for over a year. "No person shall be . . . deprived of life, liberty, or property, without due process of law." U.S.C.A. Const. Amend. 5. (emphasis added). "Alien status itself" cannot justify indefinite detention. *Zadvydas v. Davis*, 533 U.S. 678, 679 (2001). "*Zadvydas* established that deportable aliens, even those who had already been ordered removed, possess a substantive Fifth Amendment liberty interest, and that the interest was violated by indefinite detention." *Ly v. Hansen*, 351 F.3d 263, 269 (6th Cir. 2003).<sup>8</sup> One ICE official who visited the protesters had previously stated to one of the protesters, Mr. Benson Philip Gatu Njuguna, "for the 18 years I have worked for DHS, I've been trained to deport as many of you as possible," which casts serious doubt on the sincerity of ICE's evaluation of their pleas for release.

ICE is well aware that detention of these asylum-seekers is unnecessary, despite their blatant misstatements of nationwide parole guidance to the men who are protesting. Cameroonian Nathania Funa reports that ICE Officer Bobby Chronowski visited them and misstated parole and immigration law standards, at one point claiming that parole is only given to pregnant women and children, at another point falsely claiming that most of the protesters had final orders of removal. In fact, as pointed out by Mr. Njuguna, all but three of the protesters have active cases, yet Officer Chronowski reportedly stated that he considers cases on appeal as "deported aliens already, who do not qualify for parole," and when confronted with the fact that these are not the correct standards as correctly applied by other ICE offices, he replied, "the other field offices do the wrong thing." Alternatives to detention achieve the same purpose as detention, which is attendance of immigration court proceedings (not, in fact, to deport as many individuals as possible, as stated by the Louisiana ICE official). Over ninety-five percent of immigration court respondents on "full-service" alternatives to detention (which include case management and can, but do not always, include ankle

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<sup>7</sup> In another conversation during the week of August 10 between ICE officials and strikers, an ICE officer stated that continued detention would be their punishment for hunger striking. One applicant has applied for parole over twenty times and been denied for flight risk. Interviews with Witnesses. Mr. Nathania Funa, an asylum seeker from Cameroon, has been detained in Pine Prairie for a year, despite having a sponsor in his lawful permanent resident sister, waiting to receive him in California, where she is working as a nurse. "I submitted all the papers—proof of my house payments, a copy of my green card, letters from my church members—only to be denied," [Mr. Funa's sister] said. "They said he was a 'flight risk.'" "When the new coronavirus became a pandemic, [Mr. Funa and his family] filed for humanitarian parole, citing Funa's asthma and a history of tuberculosis that puts him at extra risk for COVID-19." It was denied. *African asylum seekers jailed in Louisiana stop eating in protest*, The Louisiana Illuminator, Aug. 21, 2020, <https://lailluminator.com/2020/08/21/african-asylum-seekers-imprisoned-in-louisiana-stop-eating-in-protest/>

<sup>8</sup> In one instance, ICE acknowledged in early parole responses that one Cameroonian applicant did have sufficient identification, and in a later response, decided the same applicant did not have sufficient identification, despite the record only being supplemented as to that point, and despite ICE having his original government-issued identity document in its possession. "There are no hygiene standards at the facility, soap is scarce, and surfaces are not cleaned daily. That is why we are requesting for redress of the issues here," said Ivo Fogap, a 54-year-old Cameroonian man with kidney disease and hypertension. Another Cameroonian man stated, "I have been here for more than 15 months, I have never seen my deportation officer or had a parole interview. Why?"

monitors) appear for their final hearings.<sup>9</sup> We call on ICE generally to release and consider in good faith the release applications of these protesters and everyone in ICE custody.

### ***Punitive Conditions***

No authority justifies the placement of these 45 peaceful African hunger strikers in solitary confinement units in “Echo.” Nowhere in any ICE guideline relating to the use of segregated units (PBNDS Sec. 2.12) nor hunger strike protocols (PBNDS Sec. 4.2) is such action authorized. Segregation is not necessary or appropriate for hunger strikes. Section 4.2 of the PBNDS instead describes a host of medical and mental health services that facilities should offer. None include the use of solitary or seg. units such that the men are currently subjected to. Their confinement in Echo is unlawful, not justified by any ICE standard or medical necessity, and in fact, ICE is obligated to hold them in the least punitive and least restrictive means necessary. Pine Prairie must immediately release the strikers from solitary confinement in Echo unit. There is no medical or otherwise justified purpose for their detention in Echo unit: ICE is plainly retaliating against them for their peaceful protest, which disrupts no function of the facility. PBNDS Sec. 2.12(V)(C)(4) requires the facility administrator to coordinate with the Field Office Director in “considering whether a less restrictive housing or custodial option is appropriate and available, including return to the general population.” The strikers must be returned to their general population dorm.

While unjustly detaining these human beings in the face of a global pandemic, ICE still owes them protections against conditions of confinement that constitute “punishment.”<sup>10</sup> Human beings detained by ICE are guaranteed certain liberty interests such as reasonably safe conditions of confinement, freedom from unauthorized use of force and deadly force,<sup>11</sup> from blanket use of solitary confinement to retaliate against peaceful protesting,<sup>12</sup> from unreasonable bodily restraint, and the right to food, clothing, medical care, and shelter.<sup>13</sup> Likewise ICE’s own detention standards prohibit use of force “to punish a detainee” and “using force against a detainee offering no resistance.”<sup>14</sup> The standards authorize use of weapons only when detained individuals are “armed and/or barricaded... cannot be approached without danger to self or others; and... a delay in controlling the situation would seriously endanger the detainee or others, or would result in a major disturbance or serious property damage.”<sup>15</sup> The protesters acts of merely refusing to eat without disrupting any facility operations; resisting the unlawful use of deadly force; and (3) stating their grievances, do not justify Pine Prairie’s response. It is clear from the reports we have received that ICE and its contractors used unlawful force against these peaceful hunger strikers in the March and August 2020 incidents, deprived them of their rights to humane care, and continue to threaten to do so, invoking the terror of solitary confinement.

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<sup>9</sup> United States Government Accountability Office, *Alternatives to Detention*, p. 30 (Nov. 2014) (available at: <http://www.gao.gov/assets/670/666911.pdf>).

<sup>10</sup> *Bell v. Wolfish*, 441 U.S. 520, 535 (1979); *See e.g. Lynch v. Cannatella*, 810 F.2d 1363, 1375 (5th Cir. 1987) (“[W]hatever due process rights excludable [noncitizens] may be denied by virtue of their status, they are entitled under the Due Process Clauses of the Fifth and Fourteenth Amendments to be free of gross physical abuse at the hands of state or federal officials.”)

<sup>11</sup> ICE Performance Based National Detention Standards 2011 (Rev. Dec. 2016) (“PBNDS”) Sec. 2.15 generally, 2.15(V)(E); Sec. 2.12; Sec 4.2.

<sup>12</sup> PBNDS Sec. 2.12

<sup>13</sup> *Youngberg v. Romeo*, 457 U.S. 307, 315-316 (1982).

<sup>14</sup> ICE Performance Based National Detention Standards 2011 (Rev. Dec. 2016) (“PBNDS”) 2.15(V)(B)(2) and 2.15(V)(E).

<sup>15</sup> PBNDS 2.15(V)(B)(5).

## ***Freedom of Speech***

Further, the First Amendment prohibits ICE from abridging freedom of speech.<sup>16</sup> Insofar as ICE has prohibited outside communication by protesters and has retaliated against them by forcing them into solitary confinement in retaliation unless they eat in effort to end the peaceful protests, ICE has violated their First Amendment rights. ICE and its contractor's ***ongoing threats*** to put the protesters in solitary confinement and restrict their commissary, telephone, and tablet use unless they eat are a direct violation of their First Amendment rights. No ICE disciplinary standard authorizes solitary confinement for those who peacefully protest, hunger strike, or report abuses in detention.<sup>17</sup> All strikers have the right to speak out about what they are experiencing in ICE detention and Immigration Court to any outsiders, writers, solidarity groups, or investigators, and neither ICE nor Pine Prairie may threaten or retaliate against them for doing so.<sup>18</sup>

Authorities have particularly targeted Black protesters by taking away t-shirts that they used their own commissary money to buy because they wrote "Black Lives Matter" on the shirts; "We have t-shirts of Black Lives Matters, and they took them away from us - even the ones we bought from commissary with our money, and they took them from us," says Tikum, a Cameroonian asylum-seeker. In the face of protests involving majority Black and non-majority Black dorms, the Black protesters say that authorities have cut off services only in the majority-Black dorm such as communications and microwaves.<sup>19</sup>

We respectfully request an investigation into why ICE and its contractor used unlawful force and weapons, and unlawful punitive conditions in these incidents, though none of the protesters were dangerous or violent, and to what extent ICE and its contractor violated ICE's own standards and the protesters' rights in these incidents. It is critical that the public obtains a full accounting of the specific circumstances surrounding ***all*** of these attacks; that you determine how and why ICE continues to beat and threaten peaceful protesters; and that you assess whether ICE or any other administration officials bear any responsibility for the circumstances leading to these abuses. Finally, we request that you investigate the civil rights violations inherent in the ongoing racist treatment against Black migrants in Louisiana and the racial discrimination which may be underlying both the level of force and the overarching denial of Black Migrants' release. We also call for an immediate answer to SPLC's year-old FOIA concerning the militaristic attack of August 2019 at Pine Prairie, reference number Department of Homeland Security FOIA 2020-HQFO-00044.

Congress enacted the Inspector General Act of 1978 to "ensure integrity and efficiency in government" and according to the OIG website, your mission is "[t]o provide independent oversight and promote excellence, integrity, and accountability within DHS." The Civil Rights and Civil Liberties division website says that it "ensur[es] that the Department complies with Constitutional, statutory, regulatory, and other requirements relating to civil rights and civil liberties." These services are desperately needed.

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<sup>16</sup> Discrimination on the basis of the content of one's speech is "presumptively unconstitutional" and is almost never justifiable. *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218, 2226 (2015); *see also Regan v. Time, Inc.*, 468 U.S. 641, 648-49 (1984) ("Regulations which permit the Government to discriminate on the basis of the content of the message cannot be tolerated under the First Amendment."). The First Amendment's proscriptions are not limited to the suppression of speech in the first instance; they also "prohibit government officials from subjecting an individual to retaliatory actions . . . for speaking out." *Hartman v. Moore*, 547 U.S. 250, 256 (2006). *See Stefanoff v. Hays Cnty.*, 154 F.3d 523, 527 (5th Cir. 1998) (Finding that "a hunger strike may be protected by the First Amendment if it was intended to convey a particularized message."); *Hart v. Hairston*, 343 F.3d 762, 764 (5th Cir. 2003)) (Finding that the First Amendment prohibits retaliation for speaking out about conditions of confinement).

<sup>17</sup> PBNDS Appendix 3.1.A

<sup>18</sup> The use of solitary confinement as well as restriction of communications and amenities such as commissary, the microwave, TV, and recreation, making false accusations of the strikers, and threats of same, would all be considered unjust retaliation.

<sup>19</sup> Interviews with Witnesses.

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In the name of integrity and accountability, we again urge you to investigate and remedy the above-detailed incidents of racism and violence against detained Black immigrants at Pine Prairie ICE Processing Center, and all incidents of violence which we, our partner organizations, and the press have identified by ICE against the human beings in its care here in Louisiana.

If the hunger strikers are not returned from Echo immediately, further action will be necessary.

Thank you for your attention to this matter.

Sincerely,

Cameroon American Council  
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