



MALDEF

Mexican American Legal Defense and Educational Fund

March 27, 2015

**San Antonio
Regional Office**

110 Broadway
Suite 300
San Antonio, TX 78205
Tel: 210.224.5476
Fax: 210.224.5382

Via Email and Regular Mail

The Honorable Jeh Johnson
Secretary of Homeland Security
Washington, D.C. 20528

**National Headquarters
Los Angeles
Regional Office**

634 S. Spring Street
Los Angeles, CA 90014
Tel: 213.629.2512
Fax: 213.629.0266

Megan H. Mack
Officer for Civil Rights and Civil Liberties
Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Building 410, Mail Stop #0190
Washington, D.C. 20528
Phone: 202-401-1474
Fax: 202-401-4708
crcl@dhs.gov

**Chicago
Regional Office**

11 East Adams Street
Suite 700
Chicago, IL 60603
Tel: 312.427.0701
Fax: 312.427.0691

Kevin Landy
Assistant Director
Office of Detention Policy and Planning
U.S. Immigration and Customs Enforcement
500 12th Street SW
Washington, D.C. 20536

**Washington, D.C.
Regional Office**

1016 16th Street, NW
Suite 100
Washington, DC 20036
Tel: 202.293.2828
Fax: 202.293.2849

Elaine Mueller-Cantu
Field Office Director
Texas - San Antonio Field Office
Central Region
U.S. Immigration and Customs Enforcement
8940 Fourwinds Drive
San Antonio, TX 78239

**Sacramento
Policy Office**

1512 14th Street
Sacramento, CA 95814
Tel: 916.444.3031
Fax: 916.444.7207

PREA Coordinator
Sexual Abuse and Assault Prevention
and Intervention Program Coordinator
Karnes County Residential Center
409 FM 1144
Karnes City, TX 78118

Phebia Moreland, Director, Contract Compliance
GEO Corporate PREA Coordinator
The GEO Group, Inc.

One Park Place, Suite 700
621 Northwest 53rd Street
Boca Raton, Florida 33487
Email - pmoreland@geogroup.com

RE: CORRECTED – PLEASE DISREGARD COMPLAINT DATED 3/24/15
Complaints Regarding Sexual Abuse in DHS Custody at Karnes County
Residential Center

Dear Secretary Johnson, Ms. Mack, Mr. Landy, Ms. Mueller-Cantu, and Ms. Moreland:

We, the undersigned, are attorneys who have met with and represent women and children who are or were in DHS custody at the Karnes County Residential Center (the “Karnes Center”). As you recall, the undersigned attorneys and others sent a letter dated September 24, 2014, detailing allegations of ongoing sexual abuse in the Karnes Center in violation of the Prison Rape Elimination Act (PREA) of 2003, 42 U.S.C. § 15601 *et seq.*; the Department of Homeland Security’s (DHS) Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities, 6 C.F.R. Part 115; and U.S. Immigration and Customs Enforcement (ICE) Performance Based National Detention Standards (PBNDS), and Family Residential Standards.

We asked that federal officials immediately investigate the allegations and implement protective measures for the women and children detained at the Karnes Center to prevent any future abuse or harm. We voiced concerns about conditions in the facility that we believe facilitated the alleged abuse and created unsafe conditions for detainees, specifically:

- Predominantly male guards overseeing a predominantly female population, and having free access to the cells and the detained women and children at any time, day or night;
- Some children over the age of thirteen having been separated from their mothers in separate living/sleeping quarters without explanation;
- Despite reports of abuse from the detained women, the apparent lack of action taken at the Karnes Center to stop or prevent the alleged abuse, or preventing its escalation or reoccurrence;
- Apparent lack of implementation and enforcement of the PREA protocol at the facility, and apparent lack of training, monitoring, and oversight of Karnes facility guards.

Since that time, we received letters from ICE and the Office of Civil Rights and Civil Liberties (CRCL) of DHS on October 29, 2014, and December 4, 2014, respectively, stating that our complaint had been received and was being processed. The letters listed contact names and numbers for further information, but the messages we left

at those numbers went unanswered. Since that time we have not heard anything further from DHS or ICE about what actions, if any, DHS has taken to implement protective measures for women and children detained at Karnes, and to our knowledge none have been taken.

Earlier this year, we learned through media reports of a memorandum dated January 7, 2015 to the Secretary of DHS from the DHS Office of the Inspector General. The memorandum describes an investigation into sexual misconduct initiated in response to a report made by a detainee through her attorney, and makes no mention of the complaint we submitted. The memorandum states that the investigation is confidential, but we are aware that detainees were questioned outside of the presence of their attorneys, which alone was likely not only unproductive but potentially coercive. To date, we have no information to ascertain whether proper precautionary measures were taken to ensure that detainees felt they could participate fully and safely in an investigation without the threat of retaliation. For example, it was not clear whether any investigators were female and/or whether they had any specialized training qualifying them to work with female and child victims of violence. Finally, and most troubling, the investigation concluded that the OIG found improper sexual conduct between two employees, but failed to detail any affirmative steps to address the conditions that facilitated such conduct, such as insufficient oversight and monitoring.

Meanwhile, to date, we have received additional allegations of abuse at the Karnes facility. First, it is our understanding that a male minor detainee was sexually assaulted by a group of other minor detainees in a bathroom in February of 2015. Despite our previous warnings that separating children from their mothers in the evening created unsafe conditions for detainees, the boys had been separated from their mothers in separate sleeping quarters and were not properly supervised. As either punishment or part of an investigation, the alleged perpetrators, with their mothers, were placed in physical isolation for days in windowless rooms without outside contact.

Despite ICE's claims that PREA is being properly implemented at Karnes, it is clear from both the alleged continuing conduct and the failure to respond adequately to reports of abuse that either there is no prevention plan in place for the Karnes Center, or the Karnes Center policy is not being properly implemented, overseen or enforced.

We are alarmed by the dismissive response we have received up to this point, and the apparent disregard for federal law and regulations.

We call for:

- Distribution of the written policy adopted at the Center under 28 C.F.R. § 115.111 to prevent, detect, and respond to unlawful sexual abuse by Karnes Center staff and ICE personnel as required by PREA;
- Distribution of DHS's protocol under the Family Residential Standard for Prevention of Sexual Abuse, requiring that all facilities must have

protocols for responding to sexual abuse reported by detainees, and ensure proper follow up on such reports, including discipline and prosecution of assailants;

- an immediate investigation into these allegations outlined in this letter;
- prompt protective and punitive measures, including disciplinary action, contract termination and staff dismissal as appropriate; and
- direct oversight to ensure the complete safety and well-being of the detained families, including but not limited to: increased supervision and monitoring of male guards and enclosed areas during evening hours, increased training for staff on proper implementation of the PREA protocol, preventing separation of mothers and their children while in detention, and direct supervision of enclosed areas in the facility.

Finally, we demand a written response detailing what ICE and the personnel at the Karnes Center have done and will do in order to address the grave concerns we have described here and in our previous correspondence. This response should include:

- assurances that ICE has brought the Karnes Center into compliance with PREA, its implementing regulations, and the Family Residential Standards by developing, supervising, and enforcing a written policy to prevent, detect, and respond to unlawful sexual abuse;
- assurances that investigators into these incidents are trained on working with women and children and trauma survivors;
- an accessible and transparent complaint process for detained families, and proper training for all staff and management;
- detailed information regarding what investigation was made, if any, into the February 2015 incident between minor detainees, and the outcome of the investigation;
- maintenance of all case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling in appropriate files in accordance with the Family Residential Standards.
- Appropriate measures, such as providing access to interpreters, to ensure that all detainees, including those who are not proficient in English, have an equal opportunity to benefit from all aspects of efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

Thank you for your prompt attention to these matters. If you have any questions, please contact Marisa Bono at (210) 224-5476 ext. 204.

Sincerely,



Marisa Bono
Staff Attorney
Mexican American Legal Defense and
Educational Fund (MALDEF)

Along with:

Barbara Hines, Attorney-at-Law
Denise Gilman, Director, Immigration Clinic, The University of Texas School of Law
Ranjana Natarajan, Director, Civil Rights Clinic, The University of Texas School of Law
Manoj Govindaiah, Managing Attorney, RAICES, INC.
Javier Maldonado, Law Office of Javier N. Maldonado, P.C.
Allison Boyle, Law Office of Javier N. Maldonado, P.C.

Cc: Eskinder Negash, Director
Office of Refugee Resettlement
eskinder.negash@acf.hhs.gov

Office of Inspector General
DHSOIGHOTLINE@dhs.gov

Jallyn Sualong
Administration for Children and Families
901 D Street SW, ORR/8th Floor
Washington, DC 20447
jallyn.sualog@acf.hhs.gov

Special Litigation Section, Civil Rights Division
U. S. Department of Justice
Fax: (202) 514-0212; (202) 514-6273
Special.Litigation@usdoj.gov

Warden, Karnes County Residential Center
409 FM 1144
Karnes City, TX 78118

Texas Department of Family and Protective Services
P.O. Box 149030
Austin, Texas 78714-9030

Texas Ranger
Texas Department of Public Safety
PO Box 4087
Austin, Texas 78773

Sheriff Dwayne Villanueva
Karnes County Sheriff's Department
101 N. Panna Maria Avenue
Karnes City, Texas 78118