

IMMIGRATION JUSTICE CAMPAIGN



ADVOCACY TOOLKIT: Hold ICE Accountable for Deplorable Medical Attention in Detention

Last Updated October 29, 2020

In September a [whistleblower complaint](#) on dangerous medical practices at Irwin County Detention Center in Georgia – which included unneeded surgeries – drew national attention. The complaints sounded all too familiar, raising issues of medical neglect similar to those AILA and the American Immigration Council, and through their joint initiative the Immigration Justice Campaign, have [documented](#) in detention centers across the country. The already inadequate medical attention in detention centers has also been compounded by ICE's inept [handling](#) of the COVID-19 pandemic.

ICE must be held accountable for dangerously incompetent medical services in detention. You can play a vital role in demanding transparency and accountability from ICE by using this toolkit to:

1. Demand Meaningful Oversight from Congress;
2. File a Civil Rights Complaint; and
3. Speak Out in the Press.

Demand Congressional Oversight of Detention Centers in Your Area

Members of Congress have the authority to conduct oversight in detention centers, including requesting general information about the treatment of detainees, access to medical care, COVID-19 confirmed cases and other possible public health crises. For example, Colorado Representative Jason Crow (D-CO-06) publishes weekly reports on the treatment of detainees at the Aurora Contract Detention Facility operated for ICE by GEO Group based on information requested and received from ICE. His office has made every [accountability report](#) available to the public through his [website](#). Recently, several members of House Judiciary Committee and Congressional Hispanic Caucus in Congress conducted an oversight inspection of the Irwin County Detention Center. The members of Congress [heard firsthand accounts](#) from detained women who had been coerced or had unwanted surgeries. The horrific and dangerous medical practices at Irwin have prompted calls for ICE to release individuals detained on humanitarian parole and close the facility.

You can urge your members of Congress to increase oversight of detention centers in the following ways:

- Contact your members of Congress to call on ICE to use its discretion to release detainees at Irwin on humanitarian parole by clicking the link below:
 - Take Action: Ask Congress to End Medical Abuse Caused by Immigration Detention
- Ask members of Congress to conduct oversight of ICE detention centers in their jurisdiction. Use this template as a guide: [Email Template to Members of Congress to Request Oversight](#)
 - Suggest that legislators use Representative Crow's reports as a model (link also included in the template): [Rep. Crow's Accountability Report Template](#) - Questions are based on ICE's Performance Based National Standards, updated as of 2016.
 - To request staff contact information for members of Congress please contact the Immigration Justice Campaign at justice@immcouncil.org.

File a Civil Rights Complaint with DHS Oversight Agencies

Filing a civil rights complaint with one of the oversight agencies of DHS is another tool that you can use to hold the government accountable. The Office for Civil Rights and Civil Liberties (CRCL) is charged with reviewing and investigating a range of issues including violations of civil rights, barriers to language access and instances of abuse experienced by detained immigrants. CRCL will also refer the complaint to the Office of the Inspector General (OIG), which investigates more criminal and non-criminal misconduct by DHS employees and contractors. The Immigration Justice Campaign, a joint initiative of AILA and the American Immigration Council, has filed multiple [CRCL](#) and OIG complaints to highlight inadequate access to medical health care to vulnerable detained immigrants, including pregnant women and infants.

Filing a complaint on behalf of your detained client is important because it helps CRCL identify patterns and trends. The more complaints CRCL receives on inadequate medical care, the more likely it is to open an investigation. These complaints also help create a written record of ICE's neglect and amplify the voices of the people who are being harmed by the lack of appropriate medical care. The complaint process can lead to more accountability and oversight and can help guide Congress to improve procedures. You should only include your client's identifying information in a complaint with your client's explicit consent. However, note that CRCL may need your client's name and A number in order to identify the complainant and investigate his or her concerns.

Once you have prepared a complaint, submit it via email to CRCLCompliance@hq.dhs.gov. Be sure to follow up to confirm receipt and supplement the complaint if appropriate. For more information on how to file a CRCL complaint, see the DHS [Make A Civil Rights Complaint](#) website.

You can submit a complaint to CRCL if your detained client has experienced has received inadequate or problematic health care while detained.

Limited access to medical or mental health services, particularly if multiple requests have been made.

- Examples of limited or inadequate medical care:
 - Failure to administer necessary medication
 - Ignored or delayed requests for medical care
 - Ignored obvious medical symptoms or delayed referral to medical care for obvious symptoms
 - Unnecessary medical procedures
 - Lack of consent for medical procedures or exams
 - Lack of sanitary supplies, such as soap, feminine hygiene products, hand sanitizer, or masks
 - Forged or discarded requests for medical care of complaints about medical care
- If relevant, when raising concerns around health care, be sure to explain how your client's condition has worsened during his or her period of detention; how your client's inability to access appropriate care may have interfered with his or her ability to engage in the legal process; the lack of continuity in care due to transfers between ICE facilities and/or county jails and prisons; your client's inability to obtain necessary specialized care; and any health conditions which may put your client at greater risk of infection of COVID-19.

While this toolkit is focused on CRCL complaints about medical neglect, there are a variety of other issues that are appropriate for the subject of a CRCL complaint, including:

- *Abuse and coercion*: If your client has been subject to abuse or misconduct at the hands of ICE or CBP staff or contract employees, you should file a complaint.
- *Access to disability accommodations*: Detention facilities are required to guarantee non-discrimination and take affirmative steps to ensure that detained people with disabilities are provided reasonable accommodations where requested.
- *Linguistic barriers*: Both ICE and CBP are required under law to take reasonable steps to provide meaningful language access to those with limited English proficiency.

For sample complaints, see links provided in Appendix A.

Tips on Filing a Complaint:

- **Move quickly** – Do not wait too long to file the complaint. Evidence can disappear! For example, video footage in detention facilities are deleted after certain periods of time.
- **Work with others** – Collaborate with other advocates, attorneys, and organizations. It is possible that there is already an open investigation. You may also learn that the violation is a pattern of abuse or sign of a policy change, rather than a one-off.
- **Obtain informed consent** – Be mindful about sharing your client's identifying information. Only share identifying details about your client's case with your client's prior informed consent (and only in a private email communication with CRCL). In some instances, you may wish to use your client's complaint for advocacy purposes to demonstrate a larger pattern of medical neglect. In those cases, we strongly recommend that you use a pseudonym in any complaint that you make publicly available to minimize the threat of retaliation.
- **Include firsthand testimony** – Consider incorporating testimony from your client to demonstrate the negative impacts of the problem on him or her. Always look for opportunities for your client to hold the microphone and speak for him or herself if that is what your client wants.
- **Public versus private complaints** – Consider creating two versions of your complaint: a private complaint that can contain identifying information, with the client's consent, to facilitate investigation and a public-facing complaint that demonstrates a wider pattern or trend of abuse or misconduct and can be used for advocacy and media purposes.
- **Learn more** – Visit CRCL's website to learn more about CRCL's scope and mandate: <https://www.dhs.gov/office-civil-rights-and-civil-liberties>.

Speak Out, Educate the Public

The Justice Campaign encourages volunteers to work with local newspapers to write an opinion piece or issue a press statement in order to draw public attention to the inadequate and dangerous medical practices in detention centers.

Volunteers can use this [Template Letter to the Editor \(LTE\) Regarding Medical Care in Detention](#) in response to an article they have recently read on inadequate medical access.

Tips:

- If you are working on a case and have examples of medical neglect in detention, please include those examples where appropriate. Please only share case examples with the consent of your client, and do not include your client's name or any identifying details.

For assistance in reviewing, editing and/or placing your piece please reach out to Tessa Wiseman, twiseman@aila.org.

Template Letter to Congress

Use this template as a reference when writing your letter. We recommend you personalize this letter where applicable and to draw from your own experiences advocating on behalf of a person detained in ICE custody. CAUTION: Do not share any of your client's identifying information in this letter unless your client gives you explicit consent to do so (and even then, only do so in a private communication with Congressional staff).

[DATE]

The Honorable [LEGISLATOR'S NAME]
c/o [STAFF NAME, TITLE]
[ADDRESS]
[ADDRESS]

Via Email: [STAFF EMAIL ADDRESS]

Dear [STAFF NAME]:

I represent [change to past tense if applicable] an immigrant detained in the custody of Immigration and Customs Enforcement (ICE) in the [NAME OF DETENTION CENTER] in [CITY, STATE]. I write to urge that Representative [LEGISLATOR'S NAME] conduct oversight over [NAME OF DETENTION CENTER] Detention Center, a facility located within your congressional district that detains immigrants. We/I urge Representative [LEGISLATOR'S NAME] to request weekly accountability reports from Immigration and Customs Enforcement (ICE), including information on medical conditions in the facility and the ongoing COVID-19 crisis.

Weekly accountability reports would help guarantee more transparency in the management of thousands of immigrants who pass through ICE custody and can help prevent poor care and even detainee deaths. An American Civil Liberties Union (ACLU), Detention Watch Network, and National Immigrant Justice Center [report](#) found that violations of medical standards played a prominent role in eight deaths in immigration detention facilities from 2010 to 2012.

As an example, Congressman Jason Crow of Colorado's 6th district requests and receives weekly reports from ICE that address the conditions at the Aurora Contract Detention Center. These reports are available to the public on his [website](#), along with a [template of the accountability report](#) that the office uses. Representative [LEGISLATOR'S NAME] can use these reports as a model to request similar information and data about [NAME OF DETENTION CENTER].

A robust accountability system is necessary to ensure safe, humane conditions and due process. Thank you for your attention to this important matter. If you have any questions, please do not hesitate to contact our organization.

Sincerely,

[YOUR NAME]

Volunteer

Immigration Justice Campaign, *a joint initiative between the American Immigration Lawyers Association (AILA) and the American Immigration Council (Council)*

APPENDIX

Sample Complaints Filed with the Office for Civil Rights and Civil Liberties (CRCL) Regarding Inadequate Medical Care and Substandard Conditions in ICE Facilities

1. Oversight complaint filed on behalf of person detained in the LaSalle Correctional Facility, Olla, Louisiana
2. Oversight complaint filed on behalf of person detained in the Bergen County Jail, Hackensack, New Jersey

Officer Patricia Nation
Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Washington, DC

October 29, 2020

Dear Officer Nation,

I write on behalf of my client who is currently detained in Immigration and Customs Enforcement (ICE) custody at the LaSalle Correctional Facility in Olla, Louisiana. My client, who has requested to use the pseudonym "Hidalgo" for fear of retaliation, has been detained for over one year in nine different immigration detention centers including the LaSalle facility in Olla. Hidalgo shared with me that at the time of the submission of this complaint, he believes that he may be transferred to another ICE facility; however, we have not yet been able to confirm the transfer.

Hidalgo has numerous medical conditions including diabetes, tachycardia, gastritis, kidney stones, and high cholesterol. In the following account, Hidalgo reports unmet medical needs during transfers and while detained at LaSalle Correctional Facility, lack of sufficient testing or treatment during the COVID-19 pandemic, and deplorable conditions during Hurricane Laura. Hidalgo's continued detention threatens his health and well-being and interferes with his ability to meaningfully engage in the legal process. His request for parole remains pending with ICE.

Inadequate access to Medical Care

Hidalgo's medical conditions require blood sugar tests twice a day after mealtimes and oral medications twice a day to treat his diabetes, access to anti-inflammatory medications to treat pain and discomfort caused by gastritis and kidney stones, and adherence to dietary restrictions. Hidalgo reports that his medications have been withheld for two days before being transferred to a new facility, and for one or two days after each transfer.

While he has been detained at LaSalle Correctional Facility, his diabetes medications have been provided on an erratic schedule contrary to medical guidelines, and on at least two occasions he has been denied blood sugar tests while experiencing symptoms associated with low blood sugar levels. He also reports that he has been given his blood test on an erratic schedule including at 4 AM rather than after a mealtime as recommended. He reports that he has been denied anti-inflammatory medications and that his dietary restrictions have not been met, forcing him to either forgo food that would cause him harm, or eat the food and experience pain and discomfort. Denial of medical care, lack of proper continuity of care, and failure to follow medical guidelines are serious medical concerns that have already caused Hidalgo's health to suffer and will continue to do so.

Medical Concerns During the COVID-19 Pandemic

Hidalgo was quarantined with about thirty other individuals at LaSalle Correctional Facility and subsequently reported having symptoms of COVID-19. However, he says that he has never been tested for the virus. When he began to experience a fever and headache, he was not given treatment and had to

purchase ibuprofen from the commissary. Hidalgo reports that none of the individuals he was quarantined with were tested unless they were being deported or transferred to another facility, and that he thinks there were about 80 detained individuals with COVID-19-like symptoms. Hidalgo is at heightened medical risk for COVID-19 complications due to his health concerns. His continued detention at LaSalle Correctional Facility in these conditions puts his health and life at risk.

According to Hidalgo, he and other detained individuals feared reporting symptoms of COVID-19 because they believed they would be punished by being put in self-isolation without any access to medical care. He reported that two detained individuals who complained of symptoms were put into isolation, one for three days and one for ten days, without being treated.

Conditions During Hurricane Laura

Hidalgo was detained at LaSalle Correctional Facility during Hurricane Laura and reported extremely poor conditions in the facility in the days following the hurricane's impact. According to Hidalgo, the walls were "crying" due to the flooding. Other accounts surfaced of limited electricity, overflowing toilets and no access to clean water. The situation in LaSalle and other impacted ICE facilities was even more critical against the backdrop of the COVID-19 pandemic.

Request for Investigation

Recent reports indicate that the conditions have been particularly dire and access to medical care inadequate in the LaSalle Correctional Center during the COVID-19 pandemic¹ and in the recent aftermath of Hurricane Laura.² Domestic and international laws and the governing ICE Performance-Based National Detention Standards (PBNDS 2011) all mandate that detained individuals have access to adequate medical care.

I urge you to investigate the concerns raised in this complaint. Please do not hesitate to contact me with any questions regarding Hidalgo's case.

Sincerely yours,

[REDACTED]

Pro Bono Attorney of Record

¹ See "'The Heat is Consuming Them': Families Report Dire and Rapidly Deteriorating Conditions at Louisiana ICE Prisons," Southern Poverty Law Center, August 30, 2020, <https://www.splcenter.org/presscenter/heat-consuming-them-families-report-dire-and-rapidly-deteriorating-conditions-louisiana>.

² See "A Second ICE Detainee in Louisiana Has Tested Positive for COVID-19," Mother Jones, April 6, 2020, <https://www.motherjones.com/coronavirus-updates/2020/04/new-positive-coronavirus-case-ice-detention-louisiana-lasalle-parish/>.

Officer Patricia Nation
Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Washington, DC

October 29, 2020

Dear Officer Nation:

I write on behalf of my client who is currently detained in ICE custody in the Bergen County Jail in Hackensack, New Jersey. My client, who has requested to use the pseudonym, "Emilio," for fear of retaliation, is a transgender woman. Emilio was detained at the Essex County Correctional Facility (ECCF) for almost a year before her transfer to Bergen County Jail. In the following account, Emilio reports deplorable conditions and unmet medical needs in both facilities but reports that the situation in Bergen County Jail is particularly dire. Emilio's continued detention at Bergen County Jail threatens her health and well-being and interferes with her ability to meaningfully engage in the legal process. Emilio's request for parole remains pending with the Newark ICE Field Office.

Substandard Conditions in Bergen County Jail

After being detained in Essex County Correctional Facility for almost a year, she was transferred in a group to Bergen County Jail on or around October 2, 2020 in a process that took 17 hours. Emilio reports that during her transfer she and the other detainees received a sandwich as their only meal.

Emilio was met with alarmingly unsanitary conditions in Bergen County Jail. She describes the conditions:

"The area we were assigned to is a total dirty mess, insects are flying all over the place, large rodents are in the eating area, biting insects are inside the showers and cells, the bathrooms are dirty, the toilets are broken, the sinks don't work, the waste baskets are full of flies, rats or mice are eating all over the place."

Emilio reports that there is a single dirty and broken water fountain for inmates and no soap in the bathrooms. Emilio reports being forced to wear the same dirty uniform for over a week. She says that the detained immigrants do not have adequate personal supplies. According to Emilio,

"When we arrived here, we were given a tiny disposable cup and a plastic spoon that have stayed with us for several days without being changed. They gave us shampoo to take to the shower and they told us that we had to share. None of us brought any necessary belongings here, because the guard at Essex County told us that we could not bring anything except our personal documents [...]."

Access to Medical Care

While Emilio was at the Essex County Correctional Facility she received three injections per week to treat her syphilis. Upon being transferred to Bergen County Jail Emilio stopped receiving the syphilis

treatment needed to maintain her health. She is concerned that failure to take the syphilis medication will make her sick.

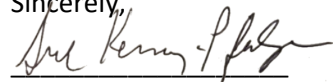
She reports becoming increasingly concerned about lumps they found in her breast and arm that have not been properly screened by a doctor. Emilio is a transgender woman and is scared to be her full self for fear of violence from guards and inmates who have referred to her as a “faggot” and other derogatory names.

Emilio tested positive for the COVID-19 antibody in March 2020 during her detention in ECCF. After she tested positive, she was confined to a small cell for 14 days. Emilio reports that during those 14 days of confinement she was never seen by a doctor and was not permitted to ask any questions of the nurse who provided pain relievers to Emilio one to three times a day through a hole in the cell door. She states that she was unable to keep food down and experienced weight loss. Emilio reports that she was unable to make any phone calls during the entire 14 days. She says that she continues to have regular headaches and extreme fatigue.

Request for Investigation

I am very concerned about Emilio health and wellbeing during her detention in Bergen County Jail and request that your office investigate the concerns raised in this complaint. Please do not hesitate to contact me with any questions regarding Emilio’s case.

Sincerely,



Sue Kenney-Pfalzer, Esq.
Pro Bono Attorney