

ACLU AND PHR RESEARCH REPORT

# Behind Closed Doors

Abuse and Retaliation Against Hunger Strikers in  
U.S. Immigration Detention

**ACLU**



Physicians for  
Human Rights

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We are indebted to the courageous former hunger strikers who shared their stories with us. We stand with the many other current and former hunger strikers protesting detention and mistreatment by Immigration and Customs Enforcement (ICE). This report would not have been possible without them.

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# Executive Summary

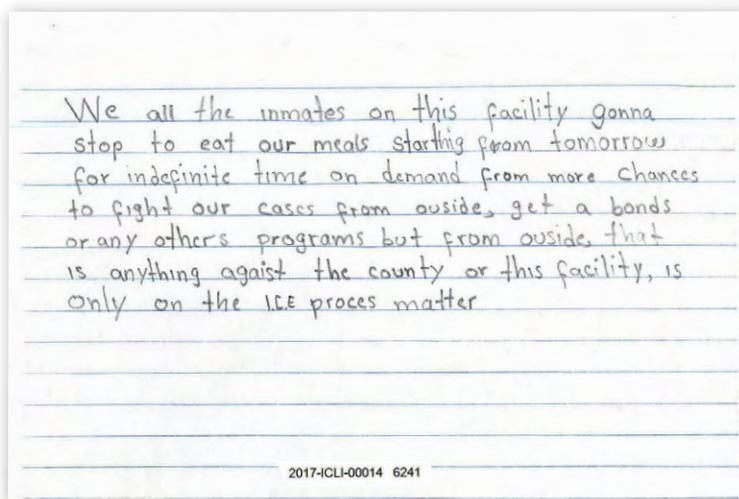
*After some time, the medical staff began to force-feed John Otieno.\* “They put me on a bed and handcuffed me to an emergency medical stretcher,” he said. “[They] strap you on the chest, waist, legs, [with] hard restraints ... there is no point in fighting back because you are there with six male, strong officers, and three nurses, and there is nothing you can do.” The doctor claimed to have a judicial order but declined to show it to him. Mr. Otieno saw two other hunger strikers who were also force-fed.*

Mr. Otieno, an asylum seeker from East Africa, is one of the many people in U.S. Immigration and Customs Enforcement (ICE) detention who began a hunger strike to protest poor conditions and seek release during the COVID-19 pandemic. Rather than listen to his pleas, ICE retaliated by locking him in a freezing cold room, force-feeding him through a nasogastric tube against his will, and transferring him to three different facilities. Only after subjecting him to all of this did ICE finally release him from detention in late 2020. Mr. Otieno, who lost 28 pounds and now takes medication for post-traumatic stress disorder (PTSD) and depression, described it as “an experience that I wouldn’t wish on my worst enemy.”

The decision to begin a hunger strike in immigration detention is not taken lightly. A detained person’s refusal to eat may be the last option available to voice complaint, after all other methods of petition have failed. Detained and imprisoned people worldwide have engaged in hunger strikes to plead for humane conditions of confinement or release from captivity and to bring attention to broader calls for justice.

Each day, the United States government unnecessarily locks up thousands of people in civil immigration detention, including children, in over two hundred immigration detention centers around the country.<sup>1</sup>

## DOCUMENT 1



We all the inmates on this facility gonna stop to eat our meals starting from tomorrow for indefinite time on demand from more chances to fight our cases from outside, get a bonds or any others programs but from outside, that is anything against the county or this facility, is only on the ICE proces matter

2017-ICLI-00014 6241

Detainee letter, released by Immigration and Customs Enforcement to ACLU under the Freedom of Information Act.

People may be locked up for many months – even years – as they await final adjudication of their cases or deportation. Trapped in a system marked by mistreatment and abuse, medical neglect, and the denial of due process, hundreds of people in immigration detention engage in hunger strikes as a means of protest each year. ICE’s failure to provide safe and humane conditions in detention during the COVID-19 pandemic has only raised the stakes for detained people. Although some detained people, on

\* pseudonym

occasion, are able to bring outside attention to their hunger strikes, very little is known of ICE's systemic response to hunger striking detainees.

This report provides for the first time an in-depth, nationwide examination of what happens to people who engage in hunger strikes while detained by ICE.

## Data and Methods

The report and its findings are based on an assessment of over 10,000 pages of documents, including emails, case records, procedural directives, and court filings obtained under the Freedom of Information Act (FOIA), related to hundreds of hunger strikes in ICE detention from 2013 to 2017, spanning both the Obama and Trump administrations.<sup>2</sup> These include hunger strikes by at least 1,378 people from 74 countries across 62 immigration detention centers in 24 states.<sup>3</sup> The report is also based on a review of ICE's current policies on hunger strikes in detention and on interviews with six formerly detained people who engaged in hunger strikes.

## Force-Feeding and Other Involuntary Medical Procedures: ICE's Dangerous and Unethical Approach to Hunger Strikes

The released records reveal that ICE has chosen to employ involuntary medical procedures on detained hunger strikers that violate ethical guidelines for medical personnel, including force-feeding, forced hydration, forced urinary catheterization, involuntary blood draws, and use of restraints. These records confirm that ICE began seeking, obtaining, and executing orders for involuntary treatment years earlier than was previously known. The documents reveal a previously unknown force-feeding case from 2016 and government motions for involuntary medical procedures as early as 2012.

The report and its findings are based on an assessment of over 10,000 pages of documents ... [relating to] hunger strikes by at least 1,378 people across 62 immigration detention centers in 24 states.

Force-feeding and forced hydration are medical procedures where food, nutrients, or fluids are administered to those in detention against their will via several invasive and painful procedures. These invasive procedures include:

- **Force-feeding via nasogastric (NG) tube:** a plastic tube is inserted through one of the nostrils and advanced through the back of the throat and the esophagus to the stomach. This can be a very painful procedure that causes gagging, skin and tissue irritation, and in rare cases, perforation of vital organs. The tube can also be misdirected and advanced into the airways instead of the esophagus, potentially causing serious infections. When officials insert an NG tube against a person's will, they typically must forcibly restrain the individual by staff or via mechanical restraints.
- **Forced hydration:** intravenous and PICC (peripherally inserted central catheter) lines are the most common means of providing hydration and parenteral nutrition. In both procedures, soft

tubes are inserted into a vein in the arm, leg, or neck via needles. The procedures can cause local pain and bleeding, can cause damage to blood vessels, and increase risk of infections and other complications.

- **Forced urinary catheterization:** a tube is inserted into the urethra (the orifice through which urine travels out of the body). When cooperation or consent is not obtained, physical or chemical restraints have been used. Regardless of where a catheter is inserted, the risks include local injuries, pain, bleeding, infection, and damage to surrounding structures, including vital organs.

Involuntary medical procedures like force-feeding have been condemned by the American Medical Association as a violation of the “core ethical values of the medical profession” and described as cruel, inhuman, or degrading treatment or even torture by international human rights bodies and observers.<sup>4</sup> As ethical guidelines for medical professionals have long recognized, participation in a hunger strike is not a medical condition, but rather, a political decision by the hunger striker, and people contemplating or undertaking a hunger strike are entitled to a relationship of trust with the health professionals providing their care.

In some instances, ICE used private prison medical staff to force-feed hunger strikers within a detention facility after nearby medical facilities refused to do so. In one instance at the Aurora Detention Center in Colorado, ICE officials could not find any local hospital staff who would agree to force-feed a hunger striker, due to ethical prohibitions. ICE officials finally turned to medical officers employed by the GEO Group, Inc., the private prison company that operated the detention facility, who offered to force-feed the hunger striker.

As noted in several court proceedings, ICE failed to consider alternatives to force-feeding, including resolving hunger strikers’ basic requests for improved conditions. In some cases, government attorneys sought—and received—force-feeding orders based on minimal evidence, sometimes without any specific detail or reference to the

individual they sought to force-feed. Detained hunger strikers faced overwhelming challenges in defending themselves against force-feeding orders by ICE. In almost every instance we analyzed, detained hunger strikers lacked legal representation to defend themselves against the government’s pursuit of force-feeding orders.

ICE’s treatment of hunger strikers endangers lives. Since 2017, at least three former hunger strikers—Kamyar Samimi, Amar Mergensana, and Roylan Hernandez-Diaz—have died in detention, raising serious questions about medical neglect, lack of mental health services, and abuse during and after their hunger strikes.<sup>5</sup> ICE’s failure to monitor people after they end their hunger strike may endanger and put them at risk of refeeding syndrome, a serious and potentially fatal complication. Refeeding syndrome is broadly characterized by metabolic abnormalities and severe electrolyte disturbances, leading to organ dysfunction, and respiratory and cardiac failure.<sup>6</sup>

## Solitary Confinement and Unlawful Retaliation Against Hunger Strikers

These records also reveal that ICE routinely placed hunger strikers in solitary confinement, which often amounts to cruel, inhuman, or degrading treatment, and, under certain conditions, even torture.

Although ICE claims that its policy to isolate hunger strikers is for the detained person’s well-being, there is no medical reason to place a hunger striker in solitary confinement, which can lead to additional serious physical and mental health consequences. Placing detained hunger strikers in isolation as a result of their protected expressive conduct also violates the First Amendment. Compounding the harm, ICE also subjects hunger strikers who have concomitant mental illnesses to the same abusive solitary confinement policies. Conditions in solitary confinement units included impermissible punitive measures, such as cutting off water for toilets, washing, and drinking, which is contrary to

ICE’s medical guidelines and of particular danger to detainees on hunger strikes.

ICE’s response reveals striking inflexibility to the underlying requests made by detained hunger strikers. ICE’s records, news reports, and interviews with former hunger strikers reveal numerous examples of unlawful retaliation by ICE, including involuntary transfer and excessive force. As one official at the Yuba County Jail in California, which detains immigrants for ICE, instructed: “move him to [another facility] and he will likely beg to come back here and mind his manners until he is removed.” In some instances, ICE moved to transfer or deport hunger strikers despite their physical or mental vulnerability and need for continued medical monitoring.

## Psychological Coercion: ICE’s Attempts to End Hunger Strikes

These records and interviews with formerly detained hunger strikers also shine a light on the many forms of day-to-day psychological coercion ICE employs to try to break hunger strikes, including denying access to basic privileges, restricting water access, and threatening prosecution. ICE officers used dehumanizing language to describe hunger strikers. In one instance an officer noted, “I really feel that we should stop neglecting these poor innocent fruit flies. I mean really, why should they have to go without fruit? Maybe a protest is in order.” While ICE officers were unwilling to consider hunger strikers’ requests, they often attempted to leverage traditional foods (such as curry dishes or Bengali tea) or members of the hunger strikers’ faith communities to pressure them to break their fast. In one alarming case, ICE reportedly brought in a Bangladeshi consular official to meet with hunger striking asylum seekers who had fled persecution by the Bangladeshi government.

## Separating Families, Hiding Stories: ICE’s Treatment of Hunger Strikers at Family Detention Centers

Other documents reveal how ICE officials took pains to hide hunger strikes from public view, including those at family detention centers that detain immigrant children and their parents. While discussing a hunger strike by several mothers at the



Community members protest to shut down the Berks Family Residential Center in Leesport, Pennsylvania.

Photo © AP/Manuel Balce Ceneta

Berks Family Residential Center in Pennsylvania, an ICE physician noted that “we are using the food protest (or meal refusal) label rather than hunger strikes for a couple of reasons. Since this is a family facility, we don’t want the messaging going out that there is a hunger strike going on. The optics just look bad. Then people wonder if the kids are on strike too and starving.” The same physician proposed family separation as a response to the strike: “If it appears they really are on a hunger strike, we will need to separate the mother and children—send mom to an



“You cannot compare being in immigration [detention]; it's like something out of a horror story.”

IHSC [ICE Health Service Corps] facility to address the hunger strike.”

In other instances, documents revealed that ICE officials recommended misrepresentation or omission of key facts related to hunger strikes to evade oversight reporting requirements. In one case at the Pulaski County Detention Center in Kentucky, an ICE representative recommended that a nurse remove information about suicide risks from a former hunger striker's health summary. In email correspondence with staff at the Northwest Detention Center (NWDC) in Washington, the ICE Western Regional Communications Director/Spokesperson asked for an update on the number of detainees who were going to be placed on formal hunger strikes protocols. The NWDC representative estimated 12 people but asked the ICE spokesperson to hold off while they confirmed the numbers. The ICE spokesperson replied, “OK ... but the wolves are at the door. Maybe I can come up with something fuzzy ... using a round number.”

## Violations of Medical Ethics: The Role of ICE's Health Professionals in Abuses Against Hunger Strikers

The documents reveal that ICE's health professionals helped facilitate and enable abuses against hunger strikers, in contravention of their ethical obligations and international human rights norms. They lent

their names and credibility to medical declarations in support of motions for force-feeding and other involuntary medical procedures. In some cases, they failed to ensure that even the most basic standards for adequate medical monitoring were met.

## A New Opportunity: Ending a System of Abuse

ICE's treatment of hunger strikers reflects the broader context of harm and abuse endemic to the immigration detention system – which hunger strikers themselves are protesting. As a formerly detained hunger striker, Luis Yboy Flores, noted, “You cannot compare being in immigration [detention]; it's like something out of a horror story.”

Hunger strikes continue in ICE detention as of this writing, as detained people at risk of contracting COVID-19 make pleas for basic sanitation, safety, and the ability to practice social distancing behind bars.<sup>7</sup> ICE officials and detention officers have responded with extreme measures, including use of pepper spray, physical force, rubber bullets, and facility-wide lockdowns, in addition to force-feeding and retaliatory punishment for those who are singled out as instigators.

The documents reveal the architecture of abuse that underpins ICE's response. They describe the routinization of the coercion and retaliation against hunger strikers that continue today. Rather than address the underlying circumstances that led to the hunger strike, ICE's policy and practice is to intimidate detained people into ending their protests. Moreover, by applying the same hunger strike policies to people experiencing mental health crises, ICE puts already vulnerable people at greater risk.

Notably, newly elected President Joseph R. Biden was vice president during much of the period covered by the documents analyzed in this report. His administration now has an opportunity to acknowledge the abusive system that prompts so many immigrants to engage in hunger strikes, to end ICE's cruel response to their protests, to heed hunger strikers' urgent calls for humane treatment

and release, and to begin phasing out the use of immigration detention entirely.

## Key Recommendations

This section provides key recommendations to protect the rights of hunger strikers in ICE detention, as described below. A more detailed version is provided at the end of the report.

### **To the U.S. Department of Homeland Security (DHS):**

- Phase out the use of immigration detention.
- Invest in community-based social services as alternatives to detention.
- End the use of solitary confinement in immigration detention.
- Issue a directive on the medical treatment of hunger strikers, consistent with national and international ethical norms, to ensure appropriate standards of care.
- Guarantee people in detention continued and regular access to independent health professionals, including licensed physicians and psychiatrists with provisions to ensure their clinical independence from the detaining authorities.<sup>8</sup>
- Prohibit use of force and punitive measures against hunger strikers.
- Ensure greater transparency and accountability in the immigration detention system, including comprehensive facility inspections with safeguards for the participation of detained people, and meaningful consequences for failed inspections.
- Provide compensation for people who have been subjected to involuntary treatment and/or other forms of abuse while hunger striking.

### **To the U.S. Congress:**

- Conduct robust oversight of ICE's treatment of hunger strikers in detention.
- Request that the DHS Office of Inspector General (OIG) and Office of Civil Rights and Civil Liberties (CRCL) investigate and issue recommendations regarding the conditions documented in this report.
- Require that ICE publicly report data on hunger strikes by people in ICE custody.
- Prohibit the use of funds appropriated to the DHS to be used to force-feed or forcibly hydrate detained people engaging in a hunger strike who have been determined by an independent licensed physician to be competent in the refusal of treatment.
- Dramatically reduce funding for immigration detention and enforcement.
- Support and pass legislation that begins the process of phasing out mandatory detention and the use of detention entirely in our immigration system.

### **To the U.S. Department of Justice:**

- Refrain from pursuing orders for force-feeding and other involuntary medical procedures.
- Refrain from retaliation against detained hunger strikers.

### **To Offices of the Federal Public Defender:**

- Provide representation to people in detention on hunger strike who face court proceedings.

### **To State Medical Boards:**

- Investigate for license suspension or revocation any medical or health professionals who authorize or participate in involuntary medical procedures on mentally competent individuals.

**To Medical and Health Professional Associations:**

- Censure and expel any medical or health professionals who authorize or participate in involuntary medical procedures on mentally competent individuals.
- Issue clear guidelines reinforcing that force-feeding and other involuntary medical procedures are unethical and inconsistent with professional norms.
- Lobby for stronger and comprehensive protections for health professionals who refuse to engage in unethical conduct, or act as whistleblowers.

**To Individual Health Professionals:**

- Advocate individually or through professional organizations against health professionals' involvement in force-feeding and other involuntary procedures.
- Advocate for ICE to comply with ethical standards with respect to the treatment of detainees.
- Advocate for the censure of health professionals who have participated in force-feeding and other involuntary procedures.

**To the UN High Commissioner for Human Rights, UN Special Procedures, UN Treaty Bodies, and the Inter-American Commission on Human Rights:**

- Request official visits and unimpeded access to ICE detention facilities to monitor conditions and investigate ill-treatment of hunger strikers.
- Seek information from the U.S. government regarding the use of coercive measures against hunger strikers in immigration detention.
- Condemn the use of physical or psychological coercion against hunger strikers in ICE detention.

# Background

## History of Hunger Strikes in the United States

Hunger striking is undertaken as a nonviolent form of protest when other ways of expressing demands have been ineffective or are unavailable.<sup>9</sup> Detained people have historically used hunger strikes to protest a variety of issues, including inhumane conditions, religious abuses, and indefinite detention without charge or due process.<sup>10</sup> A hunger striker may be willing to die to reach a political goal, but the strike is rarely an attempt to commit suicide.<sup>11</sup>

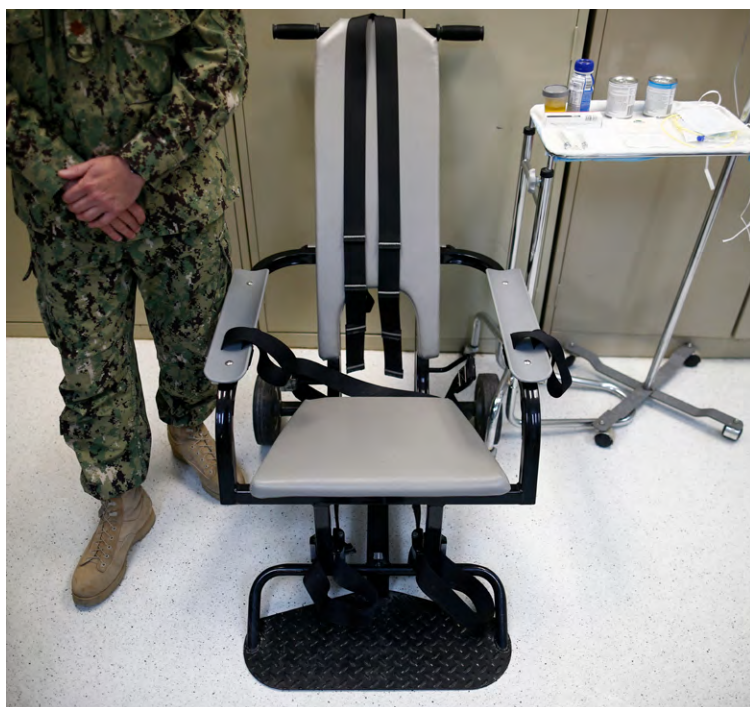
In recent years, hunger strikes drew national attention in the United States when the U.S. military

began to force-feed detainees at Guantánamo Bay detention center who were hunger striking in 2002, a practice which continued through at least 2013 in response to strikes by hundreds of detainees.<sup>12</sup> Many of the hunger strikers had been in detention for more than a decade, held in solitary confinement, and subjected to sensory and sleep deprivation, as well as environmental manipulation.<sup>13</sup> Domestic and global medical and human rights groups, including the World Medical Association, American Medical Association, United Nations human rights experts, PHR, and the ACLU, condemned the force-feeding as unethical and a form of cruel, inhuman, or degrading treatment or even torture.<sup>14</sup>

Hunger strikes have also occurred throughout the United States prison system, including a mass hunger strike staged by some 30,000 prisoners in California from July to September 2013 to protest the use of solitary confinement.<sup>15</sup> Several states, including Connecticut and New York, employ force-feeding against prisoners who engage in hunger strikes.<sup>16</sup>

## Recent Hunger Strikes in ICE Detention and ICE Response

Throughout the Obama and Trump administrations, hunger strikes have been commonplace in ICE detention centers. In March 2014, some 750 people detained at ICE's Northwest Detention Center in Tacoma, Washington began a hunger strike to protest ongoing deportations and inhumane conditions.<sup>17</sup> Hunger strikers reported being threatened with retaliation, including denial of commissary privileges and force-feeding. ICE began placing hunger strikers



Restraint chair used in force-feeding procedures, Guantánamo Bay.  
Photo © AP/Charles Dharapak

in solitary confinement until the ACLU obtained a court order halting the practice.<sup>18</sup>

The Tacoma hunger strikes was one of the many organized in recent years to protest cruel immigration policies—and one of many which ICE met with abuse and retaliation. From May 2015 through early 2020, Freedom for Immigrants documented hunger strikes by at least 1,600 people across 20 ICE detention facilities.<sup>19</sup> In 2019 alone, the International Consortium of Investigative Journalists identified 182 cases in which ICE placed hunger strikers in solitary confinement.<sup>20</sup>

Recent confirmed reports of ICE force-feeding came in January 2019, after at least 11 men at the El Paso Service Processing Center in Texas began a hunger strike to protest prolonged detention and abuse by guards.<sup>21</sup> Nine of the men—all Indian immigrants—were force-fed, although ICE halted the process in response to a court order and condemnation by human rights groups.<sup>22</sup> Two months later, a journalist located a Ukrainian former hunger striker who reported being force-fed for nearly two weeks at the Bergen County Jail in New Jersey the previous fall.<sup>23</sup>

In July 2019, six Indian men at the Otero County Detention Center in New Mexico began a hunger strike seeking release from detention while their asylum cases were pending.<sup>24</sup> For more than three weeks in August and September, ICE force-fed three of the men in El Paso. One man was deported while he was on day 63 of his hunger strike and extremely weak, while the other two were released after 75 days.<sup>25</sup> Prior to the release of one of the hunger strikers, Ajay Kumar, Dr. Parveen Parmar, a PHR medical research consultant and associate professor of clinical emergency medicine at the USC Keck School of Medicine, reviewed his medical records and told a court he had received “the worst medical care I have seen in my ten years of practice.”<sup>26</sup>

In December 2019, ICE started force-hydrating five hunger striking asylum seekers in Louisiana and force-feeding three more hunger strikers in Texas.<sup>27</sup>

Since 2017, at least three former hunger strikers—Kamyar Samimi, Amar Mergensana, and Roylan

Hernandez-Diaz—have died in detention, raising serious questions about medical neglect and abuse during and after their hunger strikes ended.<sup>28</sup> Notably, all three men were detained at facilities owned and operated by private prison companies. In October 2019, following Hernandez-Diaz’s death, around 40 Cuban asylum seekers at the Richwood Correctional Center in Louisiana began a hunger strike in protest and were reportedly beaten and handcuffed.<sup>29</sup>



Northwest Detention Center, Tacoma, WA. The facility is owned and operated by the GEO Group, Inc., a private prison corporation.  
Photo © AP/Ted S. Warren

## COVID-19 Era (March 2020 to Present)

ICE’s failure to provide safe and humane conditions in detention during the COVID-19 pandemic has further raised the stakes for detained people. As COVID-19 has swept through detention centers nationwide, thousands of people have been sickened by the virus.<sup>30</sup> At least nine detained people and

six guards at ICE facilities have died of COVID-19 at the time of this report's publication.<sup>31</sup> ICE has systematically failed to ensure safe conditions to prevent the spread of COVID-19, ignoring public health recommendations, failing to provide basic protections such as soap, disinfectant, and masks, crowding people in cells where social distancing and adequate ventilation are impossible, refusing to test detained people, and knowingly transferring people from detention centers with confirmed COVID-19 outbreaks to new facilities, sparking new waves of infection.<sup>32</sup> At the Otay Mesa Detention Center in California, detained people reported having to sign liability waivers to receive masks.<sup>33</sup> At the Etowah County Detention Center in Alabama, detained people reported being punished and locked in solitary confinement because they requested COVID-19 tests.<sup>34</sup> Detained people at facilities nationwide report that guards and staff fail to wear masks or gloves in their units.<sup>35</sup>

Given these circumstances, it should be of little surprise that reports of hunger strikes by people in ICE detention facilities have increased since the start of the pandemic. According to Detention Watch Network, almost 2,500 people participated in COVID-19-related hunger strikes in just the first four months of the pandemic.<sup>36</sup> Out of desperation, people in ICE detention facilities nationwide have engaged in hunger strikes for the most basic protections: soap and disinfectant, masks, information about how

facility officials planned to control COVID-19, and tests for those with COVID-19 symptoms. In June 2020, dozens of detained people at Mesa Verde ICE Processing Facility in California began a hunger strike demanding protection from COVID-19 and expressing solidarity with the Black Lives Matter movement in the wake of the killing of George Floyd and abuses against Black immigrants.<sup>37</sup>

In response to such hunger strikes, detained people have reported that ICE officials and detention guards have used extreme measures, including pepper spray, physical force, rubber bullets, facility-wide lockdowns, and retaliatory punishment for those who are singled out as troublemakers.<sup>38</sup> In July 2020, ICE force-fed and force-hydrated a Bangladeshi hunger striker in Texas.<sup>39</sup>

## Context for ICE Hunger Strikes

The decision to engage in a hunger strike in immigration detention is not made lightly. But people who come to this point do so because they often have no alternative to protest the dehumanizing circumstances they face in detention. The demands raised by hunger strikers reflect the sheer desperation experienced by people in detention, from the impossible odds that they face in receiving release from detention and relief from deportation, to the failure of the immigration adjudication system to

Out of desperation, people in ICE detention facilities nationwide have engaged in hunger strikes for the most basic protections: soap and disinfectant, masks, information about how facility officials planned to control COVID-19, and tests for those with COVID-19 symptoms.

provide due process, to punitive, miserable, and life-threatening conditions in detention.

Over the last 25 years, the United States has developed the largest system of immigration detention in the world. The detained immigrant population grew from an average of 7,475 people per day in FY 1995 to an average of 50,000 people per day in FY 2019. While ICE detentions during COVID-19 hit a 20-year low, ICE continued to detain an average of 14,000 people per day.<sup>40</sup> ICE unnecessarily detains immigrants, including asylum seekers, for purely administrative reasons, despite evidence that the vast majority of non-detained immigrants show up for their court hearings.<sup>41</sup>

It is a daunting fact that the overwhelming majority of people held in immigration detention lose their cases and are ultimately deported. Seventy-six percent of detained people pursuing asylum nationwide lose their cases.<sup>42</sup> For the 14 percent of detained people who are able to secure legal representation, just 21 percent of them will receive immigration relief. The remaining 86 percent of detained people who must face the immigration court by themselves face even more disastrous odds: only two percent of them secure relief.<sup>43</sup>

Immigrants in detention are locked up for lengthy periods of time, with no determinate end in sight. In 2020, the average amount of time that immigrants spent in detention was three months.<sup>44</sup> This figure, however, is skewed by the large number of people deported within a short time frame without fighting their cases. Those who pursue relief from deportation in immigration court while detained routinely are held for extremely lengthy periods of time. An ACLU study regarding prolonged detention in California revealed that the average length of detention for people who had been detained for more than 180 days and who had applied for relief from deportation was 421 days.<sup>45</sup>

These terrible odds are even worse for people detained in facilities opened under the Trump administration, based primarily in remote, rural areas and operated by private prison companies. In these facilities, detained people face additional hurdles in accessing avenues for release from

## DOCUMENT 2

SFR DeBis chip

Yuba County

U.S. Immigration & Customs Enforcement  
Detainee Contact with I.C.E. Officer/Agent Request Form

DATE: 3/7/16

DETAINEE NAME: [REDACTED]

INMATE ID NUMBER: [REDACTED]

HOUSING UNIT: J Tank.

IMMIGRATION NUMBER: [REDACTED]

DO YOU  SPEAK |  READ |  WRITE ENGLISH? (Please check appropriate box or boxes)

IF NOT, WHAT LANGUAGE? \_\_\_\_\_

NATURE OF REQUEST:  
on the date of 03/01 I was desrespected by depus [REDACTED] I'm a handycap and he was pushing chuckles on me so I tell him that they never do that and he tell me chub the fuck up. Another deputy tell him that he can't talk to me like that he tell me I'm a [REDACTED] do what ever I want I have put a grievance in explain 39 [REDACTED] and he didn't do nothing. SOT on an hungry STRIKE.

ACTION TAKEN/RESPONSE:  
[REDACTED] Gets commissary. Takes steps as of 3/6/16. [REDACTED] runs about it.

Alien was monitored and was positive SFR Detention SDDP's [REDACTED] and [REDACTED] notified it.

OFFICER/AGENT: [REDACTED] DATE: 3/6/16 TIME: \_\_\_\_\_

2017-ICLI-00014 6052

Copy of detainee request form to ICE; released by ICE to ACLU under the Freedom of Information Act.

detention, including parole and bond. For example, ICE denied parole to 98 percent of people detained in facilities under the jurisdiction of ICE's New Orleans Field Office, which includes Alabama, Arkansas, Louisiana, and Tennessee.<sup>46</sup>

Prolonged detention is further worsened by the conditions in which detained people are held. Immigration detention is a system rife with abuse, medical neglect, and dangerous conditions. In 2020, the death toll in ICE custody reached levels not seen in 15 years.<sup>47</sup> Lack of adequate medical and mental health care has resulted in serious harm to detained people, including loss of hearing and sight, amputations, and suicide.<sup>48</sup> Incidents of the use of force by guards, including pepper spray, physical force, and rubber bullets, and the use of solitary

confinement also increased.<sup>49</sup> Vulnerable immigrants have reported being subjected to coercive medical procedures, including hysterectomies and other procedures that could damage reproductive capacity.<sup>50</sup> Detained people are also subjected to exploitative work programs, as private prison companies are permitted to pay detained people as little as \$1 per day to clean, maintain, and operate the detention centers at the same time that prison operators charge outsize amounts for basic supplies in commissary. In some cases, detained workers report never receiving their limited pay at all.<sup>51</sup>

## Medical Impact of Hunger Strikes

Prolonged hunger strikes are associated with a multitude of physiological changes and detrimental health effects. The level of risk for the striker depends on the extent of fasting (e.g., whether the fast includes fluids or supplementation with electrolytes), the length of the strike, and the health status of the striker prior to the initiation of the strike. Strikers without significant medical conditions who take water, sugar, and vitamins may experience a relatively benign clinical course. Under these conditions, an individual with a normal initial body weight can survive without food for up 2-3 months.<sup>52</sup>

Hunger strikers require close medical monitoring, as they may experience a broad range of symptoms that commonly include dizziness, fainting, low body temperature, slow heart rate, and low blood pressure.<sup>53</sup> In a study of eight hunger strikers in a French prison, clinical symptoms began roughly two

weeks after the onset of fasting and included dizziness, weakness, muscle pain, and headache.<sup>54</sup> Resulting changes in blood potassium and sodium levels and dehydration can lead to cardiac, endocrine and neurological abnormalities, including altered consciousness and coma, in the later stages.<sup>55</sup> Hunger strikers can also experience a wide range of neurological and psychiatric effects, including delusions, auditory hallucinations, somatization, dissociation, suicidal ideation, and confusion.<sup>56</sup>

Upon cessation of fasting, especially after a fast of more than 10 days, hunger strikers are at risk of developing refeeding syndrome, a potentially fatal complication that occurs with unmonitored resumption of feeding. Refeeding syndrome findings can include metabolic abnormalities and severe electrolyte disturbances, leading to organ dysfunction, and respiratory and cardiac failure.<sup>57</sup>

## Terminology

The World Medical Association (WMA) defines a **hunger strike** as a fast that lasts at least three days and is carried out as a form of protest or to achieve a demand, usually within a custodial setting.<sup>58</sup> Likewise, ICE considers “any detainee observed to have not eaten for 72 hours to be on a hunger strike.”<sup>59</sup> For this reason, in our analysis, we consider a hunger strike to be a fast that lasts longer than three days, but we have not changed the terminology where formerly detained people describe their meal refusals as hunger strikes, or where the ICE document itself refers to the incident as a hunger strike, even if the period of fasting engaged by the detained person lasted fewer than three days.

**Solitary confinement** is a general term used to describe a form of confinement in which people are held in total or near-total isolation. The United Nations’ Standard Minimum Rules for the Treatment of Prisoners (“Nelson Mandela Rules”) define “solitary confinement” as “the confinement of prisoners for 22 hours or more a day without meaningful human contact.”<sup>60</sup> The American Bar Association describes “solitary confinement” as

In 2020, the death toll in ICE custody reached levels not seen in 15 years.



“confine[ment] of prisoners to a cell either alone or with a cellmate for 22 to 24 hours a day, for periods of times ranging from days to decades, with limited human interaction.”<sup>61</sup> Solitary confinement goes by many names, including “segregation,” “isolation,” “control units,” “protective custody,” “administrative segregation,” “disciplinary segregation,” “restrictive housing,” “security housing units or SHU,” “special management units,” or simply, “the hole.”<sup>62</sup>

Conditions in ICE detention facilities are governed by three sets of standards: the 2008<sup>63</sup> and 2011 Performance-Based National Detention Standards<sup>64</sup> (PBNDS) and the 2019 National Detention Standards (NDS).<sup>65</sup> All sets of standards have similarly outlined the use of Special Management Units, used for administrative and disciplinary segregation. ICE requires facilities to have a Special Management Unit to separate detained people from those in the general population for administrative and disciplinary reasons.<sup>66</sup>

According to ICE, **administrative segregation** is “a nonpunitive status in which restricted conditions of confinement are required only to ensure the safety of detainees or others, the protection of property, or the security or good order of the facility.”<sup>67</sup> ICE also uses administrative segregation for detained people who need “protective custody,” those awaiting a disciplinary hearing, and for “medical reasons.”<sup>68</sup> Although ICE guidelines state that those held in administrative segregation “shall receive the same privileges available to detainees in the general population,” opportunities for recreation and socializing are provided only as “space and resources are available.”<sup>69</sup> Too often this means that those held in administrative segregation are held in conditions akin to solitary confinement.

Under ICE’s performance standards, facility authorities may use **disciplinary segregation** for “anyone whose behavior does not comply with facility rules and regulations,”<sup>70</sup> or “when alternative dispositions may inadequately regulate the detainee’s behavior.”<sup>71</sup> Behavior that gives rise to placement in disciplinary segregation can include “signing, preparing, circulating, or soliciting support for group petitions that threaten the security or

orderly operation of the facility”; “unauthorized contact with the public”; “participating in an unauthorized meeting or gathering”; or “giving money or another item of value to, or accepting money or another item of value from anyone, including another detainee, without authorization.”<sup>72</sup>

# ICE Hunger Strike Protocols and Related Detention Standards

Immigration and Customs Enforcement (ICE) detention facilities are governed by agency standards to address the treatment of people in custody. There is no consistent national standard for all facilities, as ICE detention facilities rely on a patchwork of ICE-owned facilities, facilities owned or operated by private prison contractors, and state and local correctional facilities. ICE has promulgated three different sets of detention standards to address the treatment of detained people, services, and facility operations, all of which include substantially similar guidelines for hunger strikes. This section addresses ICE's protocols with respect to hunger strikes, force-feeding, and solitary confinement.

## ICE's Hunger Strikes Policy

ICE's detention standards, as paraphrased below, require the following for hunger strikes:<sup>73</sup>

- All staff shall be trained initially and annually to recognize the signs of a hunger strike, the procedures for referral for medical assessment, and the correct procedures for managing a detainee on a hunger strike.
- Any detainee who does not eat for 72 hours (three days) should be referred to the medical department for evaluation and possible treatment. A detainee who has been observed to have not eaten for 72 hours should be considered to be on hunger strike.
- The ICE/ERO (Enforcement and Removal Operations) Field Office Director should be immediately notified if a detainee is on a hunger strike.
- Medical staff should carefully monitor the detainee's health, including intake of food and liquids.
- "When medically advisable," and "taking into consideration the detainee's mental health needs," a detainee shall be isolated for close supervision, observation, and monitoring. Reasons for placing a detainee in a "single occupancy observation room" should be documented, and reviewed every 72 hours.
- Medical staff must measure and record a detainee's weight and vital signs at least once every 24 hours during the hunger strike and must record all examination results in the detainee's medical file.
- If medically necessary, the detainee may be transferred to a community hospital or a detention facility appropriately equipped for medical treatment.
- Medical, mental health, or hospital staff shall offer counseling regarding medical risks and encourage detainees to end a hunger strike or accept medical treatment.
- Involuntary medical interventions shall be administered only after the staff have made reasonable efforts to educate the detainee to accept the intervention voluntarily. Involuntary medical interventions must be administered with established medical, psychiatric, and legal safeguards, and only after the Clinical Medical

Authority determines that the detainee's life or health is at risk.

- Interpretation and language assistance will be provided to detainees limited in English proficiency.
- Medical staff must continue to provide appropriate medical and mental health follow-up after the hunger strike ends.
- ICE's policy is to seek a court order to obtain authorization for involuntary medical treatment or sustenance. If a court determines it does not have jurisdiction to issue such an order, or a hospital refuses to administer involuntary medical treatment or force-feeding pursuant to a court order, ICE may "consider other action" if the hunger strike continues. Notably, the policy does not provide hunger strikers in detention with legal representation in the face of the government's legal action to obtain a court order for involuntary medical treatment.

## Alternatives to Force-Feeding

ICE's detention policies provide a readily available, less intrusive alternative to force-feeding detainees if their medical condition becomes imminently life-threatening. When a detainee's medical condition "becomes life-threatening," officials are directed to "[a]rrange the transfer of the detainee to an appropriate off-site medical or community facility if appropriate and medically necessary." Upon transfer to a community hospital, the hospital assumes medical decision-making authority, and "the hospital's internal rules and procedures concerning seriously ill, injured and dying patients shall apply to detainees." But as this report finds, ICE has rarely chosen these less intrusive alternatives, instead pursuing aggressive strategies involving involuntary medical procedures.

## Protections in Solitary Confinement

Detention officials often use solitary confinement to control hunger strikes at a facility. ICE detention facilities are governed by any of three sets of standards: the 2008 and 2011 Performance-Based National Detention Standards (PBNDS) and the 2019 National Detention Standards (NDS).

These detention standards specify that hunger strikers may be placed in a "single occupancy observation room," or be "isolated for close supervision." Under ICE's 2011 PBNDS, "when medically advisable, a detainee on a hunger strike shall be isolated for close supervision, observation, and monitoring." PBNDS 2008 provides that "if measuring food and liquid intake/output becomes necessary, medical personnel may place the detainee in the Special Management Unit. ICE requires facilities to have a Special Management Unit to separate detained people from those in the general population for administrative and disciplinary reasons.

According to ICE, administrative segregation is "a nonpunitive status in which restricted conditions of confinement are required only to ensure the safety of detainees or others, the protection of property, or the security or good order of the facility." ICE also places detained people in administrative segregation for those who need "protective custody," those awaiting a disciplinary hearing, and for "medical reasons."

Under ICE's standards, detained people who are placed in administrative segregation must have their status reviewed every 72 hours. Notably, there is no limit on the length of time that a person may be placed in administrative segregation. Detained people may appeal their review after seven days in administrative segregation. After 30 days of administrative segregation, a facility administrator must review whether the detained person should continue to be held in isolation.

Detained people in administrative segregation must receive all of the same privileges available to others in general population units, "consistent with

any safety and security considerations.” People in administrative segregation have full rights to legal visitation, mail, reading materials, and legal materials, and at least one hour of recreation per day, seven days a week. When “space and resources are available,” detained people in administrative segregation *may* be provided with opportunities to spend time outside their cells. Although ICE guidelines state that those held in administrative segregation “shall receive the same privileges available to detainees in the general population,” opportunities for recreation and socializing are provided only as “space and resources are available.” Too often, however, this means that those held in administrative segregation and medical isolation are held in conditions that constitute solitary confinement.

Facility administrators may place a detained person in a “dry cell,” or an isolation cell without water as a contraband-detection measure only “when there is reasonable suspicion of concealment.” Indeed, even the GEO Group’s Medical Guidelines for hunger strikes note that “[i]n the context of a hunger strike, cutting off access to water in the cell is discouraged ... a dry cell should ordinarily be considered only if the [detained person] appears to be engaging in water intoxication.” Water intoxication is a potentially fatal situation in which excessive water drinking upends the balance of electrolytes.

Detention officers have also placed hunger strikers, particularly those who are viewed as ringleaders of an action, in disciplinary segregation, sometimes on falsified disciplinary charges. People in disciplinary segregation have full rights to legal visitation, legal materials, and at least one hour of recreation per day, five days per week, although they may lose these privileges if recommended by a disciplinary panel. People in disciplinary segregation are “subject to more stringent personal property control,” including limits on reading, television, visitation, religious services, and telephone calls.

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# Involuntary Medical Procedures

ICE routinely seeks court orders to force-feed or administer other forms of involuntary medical treatment on hunger strikers in detention. These involuntary medical procedures include force-feeding, forced hydration, forced catheterization, involuntary blood draws, and use of restraints. The following is a description of each procedure.

## Force-Feeding and Forced Hydration

Force-feeding and forced hydration are medical procedures where food, nutrients, or fluids are administered to those in detention against their will via several invasive procedures. These invasive procedures include feeding via nasogastric tube or intravenous and PICC (peripherally inserted central catheter) lines.

**Nasogastric tube (NG tube):** A plastic tube of varying sizes (widths and lengths) is inserted through one of the nostrils and is advanced all the way through the back of the throat and the esophagus to the stomach. This can be a very painful procedure that causes gagging, skin and tissue irritation, and in rare cases, perforation of vital organs. The tube can also be misdirected and advanced into the airways instead of the esophagus, potentially causing serious infections. When officials insert an NG tube against a person's will, they may forcibly restrain the individual by staff or via mechanical restraints.



Example of force-feeding via **nasogastric tube (NG)**.  
Photo © Shutterstock/Anukool Manoton



Example of forced hydration via **intravenous (IV)** line.  
Photo © Shutterstock/boyhey

**IV (intravenous) and PICC (peripherally inserted central catheter) lines:** IV and PICC lines are the most common means of providing hydration and parenteral nutrition (the administration of nutrients through a vein). In both procedures, soft tubes are inserted into a vein in the arm, leg, or neck via needles. The procedures can cause local pain and bleeding, can cause damage to blood vessels, and increase risk of infections and other complications.

## Forced Urinary Catheterization

Urinary catheterization is the insertion of a tube into the urethra (the orifice through which urine travels out of the body). By definition, any form of catheterization is an invasive procedure that requires breaking the skin and/or advancing a foreign object into parts of the body. Thus, catheterization of any kind requires full cooperation of the individuals undergoing the procedure, and when the cooperation or consent of the patient is not obtained, physical or chemical restraints may be needed. Regardless of where a catheter is inserted, the risks include local injuries, pain, bleeding, infection, and damage to surrounding structures, including vital organs.



Example of forced hydration via **peripherally inserted central catheter (PICC)** lines.

Photo © Shutterstock/Wendy Townrow



Equipment used for **forced urinary catheterization**.

Photo © Shutterstock/Draw

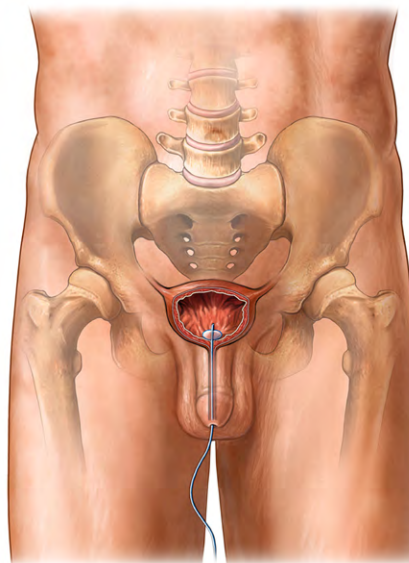


Diagram of placement of catheter during **forced urinary catheterization procedure**.

Photo © Alamy/Nucleus Medical Art, Inc.

## Involuntary Blood Draws

Blood draws are often necessary to monitor an individual's health status. In the context of a hunger strike, important information can be gleaned from blood tests, such as electrolyte levels, blood chemistries, and infection markers. Blood can be drawn from nearly all parts of the body with the most common areas being the arm, the back of the hand, the groin, the foot, and the neck. The procedure requires puncturing a vein with a fine needle and extracting blood into a tube. These procedures require cooperation of the patient in order to ensure accurate placement of the needle into the vein. Risks include pain, local bleeding, puncturing of arteries, and infection.



Image of **involuntary blood draw**.

Photo © Shutterstock/Szabolcs Borbely

## Use of Restraints

Restraints fall into two groups: physical restraints and chemical restraints. Physical restraints are devices that restrict an individual's movement. These include soft wrist restraints, specialized vests, chairs, head gear, and, ankle restraints or shackles. In a regular medical setting, restraints are occasionally used to prevent falls or disruption to therapy (e.g., a disoriented patient pulling out their IV lines). Overall, the use of physical restraints is highly discouraged, and health care professionals are advised that they should only be used as a last resort. Chemical restraints are medications given to an individual to control behavior (e.g., agitation, aggression), calm a person down or sedate them. These include different classes of sedatives and anti-psychotic drugs, given via injections, IV, or orally. Their use has been criticized, especially in situations where it appeared they were used to assist the staff, versus a true medical need benefitting the patient.<sup>74</sup> The use of physical and chemical is also associated with post-traumatic stress disorder (PTSD) for both the restrained individual and the staff involved.<sup>75</sup>

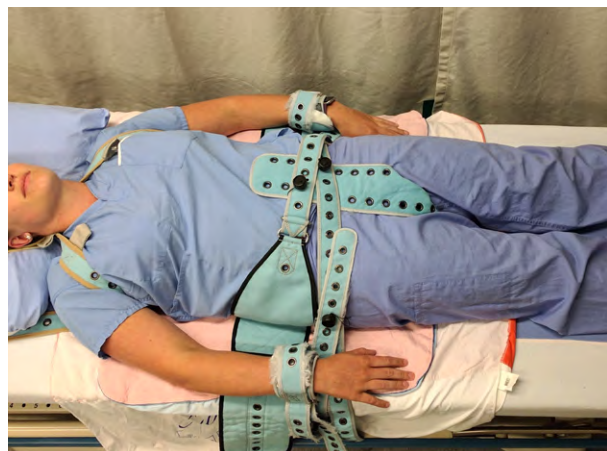


Image of **physical restraints** used during involuntary medical procedures, including force feeding.

Photo © Creative Commons/James Heilman, MD

# Legal and Medical Ethics Frameworks

Hunger strikers in immigration detention are protected by the U.S. Constitution, as well as international human rights law that provides for the right to free speech, health, and freedom from torture and cruel, inhuman, or degrading treatment or punishment. Medical practitioners, moreover, are bound by professional ethical guidelines for the treatment and care of people engaged in a hunger strike.

## U.S. Law

### Constitutional protections

Participating in a hunger strike – the act of refusing food and drink to communicate an urgent need – is a uniquely expressive mode of communication protected by the First Amendment. “The First Amendment literally forbids the abridgement only of ‘speech,’” but “its protection does not end at the spoken or written word.”<sup>76</sup> As Justice Brennan once noted, “the passive nonviolence of King and Gandhi are proof that the resolute acceptance of pain may communicate dedication and righteousness more eloquently than mere words ever could.”<sup>77</sup> For this reason, courts have widely considered hunger strikes to be “protected by the First Amendment if it was intended to convey a particularized message.”<sup>78</sup> First Amendment protections extend to non-citizens, including those in detention.<sup>79</sup>

Officials may not retaliate against people in prison or detention for exercising their right to free speech.<sup>80</sup> But as this report describes, people who engage in hunger strikes in immigration detention regularly experience unlawful retaliation in violation of their

Participating in a hunger strike — the act of refusing food and drink to communicate an urgent need — is a uniquely expressive mode of communication protected by the First Amendment.

constitutional rights. Such unlawful retaliation may include assault by officers, threats, placement in segregation or solitary confinement, false disciplinary charges, denial or interference with medical or mental health care, and transfer to other facilities.<sup>81</sup>

Immigrants in detention likewise have substantive due process rights under the Fifth Amendment to bodily integrity and to refuse unwanted medical treatment.<sup>82</sup> Civil detainees who participate in hunger strikes have the right to refuse unwanted medical treatment, such as force-feeding through



nasogastric tubes, or involuntary hydration.<sup>83</sup> In some circumstances, forcible catheterization may violate a person’s Fourth Amendment right against unreasonable search and seizure.<sup>84</sup> But as this report finds, ICE and detention center officials regularly engage in practices that violate these fundamental Constitutional protections.

## International Law

International law, including treaties to which the United States is a party, provides important additional protections for detained hunger strikers.

### **Freedom of expression**

The International Covenant on Civil and Political Rights (ICCPR), which the United States has ratified, recognizes the right to freedom of expression.<sup>85</sup> Hunger strikes, as a former of individual or collective protest, represent an exercise of this right.

### **Force-feeding and other forms of non-consensual medical treatment and coercion**

*Prohibition on torture and cruel, inhuman, or degrading treatment*

The ICCPR and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) prohibit torture and other cruel, inhuman, or degrading treatment or punishment (CIDT),<sup>86</sup> while Article 10 of the ICCPR specifies that “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”<sup>87</sup>

In 2014, the UN Committee Against Torture said that force-feeding at Guantànamo Bay “constitutes ill-treatment in violation of the Convention.” The Committee called on the United States to “[p]ut an end to the force-feeding of detainees on hunger strike as long as they are able to take informed decisions.”<sup>88</sup> Multiple UN Special Rapporteurs on torture have also held that force-feeding and other forms of

coercion of hunger strikers constitute cruel, inhuman, and degrading treatment that in some cases can amount to torture.<sup>89</sup>

Former UN Special Rapporteur on torture Juan Méndez stated in 2013:

“[H]unger strikers should be protected from all forms of coercion, even more so when this is done through force and in some cases through physical violence... Nor is it acceptable to use threats of forced feeding or other types of physical or psychological coercion against individuals who have voluntarily decided to go on a hunger strike.

“The Special Rapporteur does not believe that the prison authorities should let inmates starve to death. He insists, rather, that the authorities have a duty to look for other solutions to the crisis created by the hunger strike, including good faith dialogue with the inmates about their grievances.”<sup>90</sup>

In a 2015 statement, the UN Special Rapporteur on the right to health, Dainius Pūras, joined Méndez’s call for authorities “to refrain from force-feeding and other coercive measures and look for alternative solutions to extreme situations resulting from hunger strikes, including good faith dialogue.”<sup>91</sup>

### *Right to health*

The International Covenant on Economic, Social and Cultural Rights (ICESCR), which the United States has signed but not yet ratified, codifies the right to health and explicitly calls on governments to provide access to medical care in a non-discriminatory manner for those in need.<sup>92</sup> According to the UN Committee on Economic, Social, and Cultural Rights, the treaty body that monitors compliance with the ICESCR, the right to health includes “the right to be free from torture, non-consensual medical treatment and experimentation” and applies to “all persons, including prisoners or detainees.”<sup>93</sup> Three successive UN Special Rapporteurs on the right to health have held that force-feeding and other forms of non-consensual medical treatment of hunger strikers violate the right to health.<sup>94</sup>

## Solitary confinement

International and regional human rights bodies have consistently held that solitary confinement should be the very rare exception, not the rule, and have repeatedly found conditions of solitary confinement to violate international prohibitions against torture and CIDT.

In 1992, the UN Human Rights Committee concluded that “prolonged solitary confinement of the detained or imprisoned person may amount to [torture or other cruel, inhuman, or degrading treatment or punishment].”<sup>95</sup>

In 2008, then Special Rapporteur on torture Manfred Nowak stated that “the prolonged isolation of detainees may amount to cruel, inhuman or degrading treatment or punishment and, in certain instances, may amount to torture.”<sup>96</sup>

In 2011, the subsequent Special Rapporteur on torture, Juan Méndez, stated that “the social isolation and sensory deprivation that is imposed by some States does, in some circumstances, amount to cruel, inhuman and degrading treatment and even torture.”<sup>97</sup> After conducting a global study of the practice, he concluded that solitary confinement could never be justified as a means of punishment or discipline, “because it imposes severe mental pain and suffering beyond any reasonable retribution for criminal behaviour.”<sup>98</sup> In 2020, the current Special Rapporteur on torture, Nilz Melzer, stated that Méndez had “compellingly shown the extent to which such practices could amount to torture.” Melzer also noted that solitary confinement is “sometimes euphemistically referred to as ‘segregation,’ ‘secure housing,’ the ‘hole’ or ‘lockdown.’”<sup>99</sup>

The international human rights framework that limits the use and conditions of solitary confinement in penal settings applies equally, if not with greater force, in the civil immigration detention setting. While international human rights bodies have not focused on solitary confinement in immigration detention to the same extent that they have examined the issue in prisons, several institutions have noted

that immigration detention systems are often inappropriately punitive in nature.<sup>100</sup>

At the regional level, the Inter-American Court of Human Rights has found in a number of cases that solitary confinement violated the prohibition on torture and CIDT in Article 5 of the American Convention on Human Rights.<sup>101</sup> The Inter-American Commission has explicitly criticized the use of solitary confinement in immigration detention in the United States. In a 2010 report, the commission stated that “the conditions of [immigration] detention ought not to be punitive or prisonlike,” while noting that “this principle is not observed in immigration detention in the United States.”<sup>102</sup> The report also recognized the confusing terminology used in the U.S. immigration detention system that often conflates segregation with solitary confinement:

“[T]he Inter-American Commission is deeply troubled by the use of confinement (“administrative segregation” or “disciplinary segregation”) in the case of vulnerable immigration detainees, including members of the LGBT community, religious minorities and mentally challenged detainees. Using confinement to protect a threatened population amounts to a punitive measure. Equally troubling is the extent to which this measure is used as a disciplinary tool.”<sup>103</sup>

## Medical Ethics and Force-Feeding

The World Medical Association (WMA), an international organization representing physicians from 115 countries, has advised medical professionals on the appropriate treatment of patients on a hunger strike. The WMA’s Declaration of Tokyo (1975) states that competent patients refusing to eat should not be fed artificially. Largely in response to the systematic use of force-feeding at Guantánamo Bay, the WMA updated its Declaration of Malta in 2006 to include clear language condemning force-feeding and

The American Medical Association ... has opposed the force-feeding of detained people as unethical, stating that force-feeding “violates core ethical values of the medical profession.”

forcible feeding as never “ethically acceptable.”<sup>104</sup> The Declaration further states, “Even if intended to benefit, feeding accompanied by threats, coercion, force or use of physical restraints is a form of inhuman and degrading treatment.”<sup>105</sup> The Declaration calls for respect for patients’ autonomy, requiring physicians to accept a patient’s informed refusal of treatment and to adhere to their primary obligation to the patient, rather than their employer, in the face of dual-loyalty pressures.<sup>106</sup> The Declaration concludes that “[i]t is ethical to allow a determined hunger striker to die in dignity rather than submit that person to repeated interventions against his or her will.”<sup>107</sup> As PHR experts have written in the American Medical Association *Journal of Ethics*, force-feeding of hunger strikes in detention is a violation of the physician’s ethical obligation to respect the autonomy of a competent individual.<sup>108</sup>

The American Medical Association, which is a member of the WMA, has opposed the force-feeding of detained people as unethical, stating that force-feeding “violates core ethical values of the medical profession.”<sup>109</sup> Similarly, the American Nurses Association’s Code of Ethics for Nurses recognizes

the right to self-determination, which encompasses “the right to accept, refuse, or terminate treatment without deceit, undue influence, duress, coercion, or prejudice.”<sup>11</sup>

Clinicians caring for patients on hunger strikes must recognize that hunger striking is not fundamentally a medical condition, and medical interventions that contravene individual rights are not purely medical either, but carry social and political implications.<sup>110</sup> Medically, hunger striking is not a suicide attempt; these patients rarely want to die, though they may be willing to die if that is necessary to bring attention to violations of their rights.<sup>111</sup> Ethically, doctors and other health professionals cannot simply force-feed a competent patient on orders from superiors, disregarding the ethical obligation of respect for consent and autonomy that would apply to any other patient.<sup>112</sup> Moreover, the dilemmas facing these patients and the health professionals caring for them can be complex and are not limited to a simple conflict between respecting patient autonomy and protecting the patient’s health. Clinicians caring for patients in detention settings are in unique positions—they are caring for uniquely vulnerable people, they have unique training and skills to detect signs of abuse and neglect, and they may be the only people capable of immediate intervention to protect the rights and interests of detained individuals. The World Medical Association thus calls health professionals in detention settings “privileged witnesses” of any potential abuse.<sup>113</sup> For these reasons, it is of particular importance for detained people to be able to trust in the independence of the medical professionals providing their care—both for their own good (to follow clinical advice, they need to have confidence that clinicians have their medical best interests at heart and are not acting as agents of the detaining authority) as well as for the good of society (these professionals serve as a check on abusive practices that contradict core social values).<sup>114</sup> In sum, a person in detention who is considering embarking on a hunger strike must be able to consult with an independent health professional to learn about the medical risks of the strike and to consider means of mitigating those risks should the person proceed with the strike.<sup>115</sup>



of seeking orders for these involuntary procedures violated ethical guidelines for medical practitioners. As noted in several court proceedings, ICE did not consider alternatives to force-feeding, including transfer to local hospitals or resolution of relatively basic requests made by hunger strikers for improved conditions. Detained hunger strikers also faced overwhelming challenges in defending themselves against force-feeding orders by ICE. In almost every instance we analyzed, detained hunger strikers lacked representation in court to defend themselves against the government's pursuit of force-feeding orders. In multiple cases, ICE made arrangements for force-feeding on-site because area hospitals refused to participate.

Without medical justification, ICE also routinely placed hunger strikers in solitary confinement or segregation, despite the risks it posed to their physical and mental health. Placement of detained hunger strikers in isolation as a result of their protected speech violated the First Amendment. By also applying the same segregation policies to hunger strikers with mental illnesses, ICE put already vulnerable individuals at greater risk.

ICE's response to hunger strikes revealed striking inflexibility to the requests of detained people. Documents and news reports reveal other examples of unlawful retaliation by ICE against hunger strikers, such as involuntary transfer and excessive force. ICE regularly sought to transfer or deport hunger strikers in an effort to break their fasts—and, in some cases, despite the hunger striker's physical or mental vulnerability and need for continued medical monitoring.

Documents and interviews also shine a light on the many forms of day-to-day psychological coercion ICE employs to try to break hunger strikes, including loss of privileges and threats of prosecution. ICE's neglect was also apparent in failures to provide on-site interpreter access to communicate with hunger strikers. ICE officers used dehumanizing language to describe hunger strikers, indicative of a broader attitude among ICE officers and facility staff that hunger strikers should not be respected or taken seriously. In other instances, ICE officials

[Force-feeding via nasogastric tube] is extremely painful and can be dangerous, causing gagging, skin and tissue irritation, and in rare cases, perforation of vital organs.

recommended misrepresentation or omission of key facts related to hunger strikes to meet oversight reporting requirements. Their unwillingness to entertain hunger strikers' demands prompted them to leverage traditional foods or members of the hunger strikers' faith communities to pressure them to break their fast. In one particularly alarming case, ICE reportedly brought in a Bangladeshi consular official to meet with hunger striking asylum seekers who had fled persecution by the Bangladeshi government.

Throughout the documents, health professionals played a disturbing role in facilitating abuses against hunger strikers, in contravention of their ethical obligations. They lent their names and credibility to medical declarations underpinning motions for force-feeding and other involuntary medical procedures. They sought to downplay hunger strikes in family detention, even floating the idea of separating families if the strike continued. In some cases, they failed to ensure that even the most basic standards for adequate medical monitoring were met.

As hunger strikes continue in ICE detention today amid a deadly pandemic, these documents reveal

b. When that critical period occurs, ICE may, through competent medical authority, involuntarily administer nutrients to the relevant Striking Respondent via a nasogastric tube or an intravenous line. Anesthesia should be applied, when medically advisable to do so, in the interest of administering nutrients humanely. ICE may also, through competent medical authority, restrain the relevant Striking Respondent during the medical procedure if he attempts to resist.

Excerpt from court order obtained by ICE, December 22, 2015, as produced by ICE to ACLU under the Freedom of Information Act.

the architecture of abuse that underpin ICE’s response. The story they tell is of the routinization of coercion and retaliation against hunger strikers in ICE detention. Rather than address the underlying circumstances that led to the hunger strike, ICE policy is to intimidate detained people into ending their protest.

## Force-Feeding

Force-feeding is the provision of nutrients to a hunger-striking person against the person’s will. ICE policy is to seek a court order to force-feed a hunger striker if the clinical director recommends involuntary treatment.<sup>117</sup> In U.S. detention centers, force-feeding is most often performed by restraining the person in an upright position, inserting a plastic tube into their nose and down through their esophagus, and pumping liquid nutrients through the tube into the person’s stomach. This method of force-feeding is extremely painful and can be dangerous, causing gagging, skin and tissue irritation, and in rare cases, perforation of vital organs. The tube can also be misdirected and advanced into the airways instead of the esophagus, potentially causing serious infections. According to the World Medical Association (WMA), “[i]t is the most unsuitable approach to save lives.”<sup>6</sup>

The first recent confirmed cases of ICE force-feeding came to light in 2019 under the Trump administration. According to media and NGO reports,

at least 18 hunger strikers were subjected to force-feeding from 2018 to 2020.<sup>118</sup>

### Previously unknown cases

The FOIA documents reveal that ICE also force-fed hunger strikers under the Obama administration, at least as early as 2016.<sup>119</sup>

- In January 2016, the Southern District of Florida granted ICE’s emergency petition for the involuntarily administration of nutrients to an Algerian detainee who had begun a hunger strike the previous month to protest his deportation. According to multiple ICE emails, charts, and reports, ICE executed the order for nasogastric force-feeding at the Krome Service Processing Center on January 21, 2016.<sup>120</sup>

Furthermore, both the threat of force-feeding and its execution were not an aberration under either administration but rather a key part of ICE’s response to hunger strikes.

- Court documents include at least six separate cases in which ICE coordinated with U.S. Attorneys’ offices to obtain federal court orders (See Appendix II) for force-feeding from September 2015 to July 2017 in Alabama, Arizona, Florida, and Washington. They also include further government requests for court orders from August 2012 and December 2013; it is not

## José Tapate

José Tapate has been in the United States since he was eight years old.\* For years, he worked as a mechanic to support his wife and six children, all of whom are U.S. citizens. Today, at age 52, he has no family in Mexico. After Mr. Tapate was deported to Mexico because of his immigration status, he decided to try and come back to be with his family and the only home he knew. Instead, he ended up in an immigration detention center. During his detention, Mr. Tapate watched as detained people faced mistreatment, poor food, lack of medical care, and the COVID-19 virus.

Mr. Tapate himself endured serious medical mistreatment while detained at the Adelanto Detention Center in California. In early 2019, Mr. Tapate had a medical emergency that required surgery in his urethra, which he received at a local hospital. He was discharged and taken back to the detention center with a catheter, which medical staff said was to be cleaned every day. ICE, however, ignored his medical needs. Instead, he was placed in a medical isolation cell overnight, where he never received treatment. He was released to his dorm the next day, with his clothes caked in blood. After a week, he still had not received any medical attention, and pus started to form in his urethra,

which eventually required antibiotic treatment. Mr. Tapate grew so despondent that he began to contemplate suicide.

On top of the abhorrent medical care, people inside the detention center regularly complained of rotting food and poor living conditions. When there were protests outside of the facility, ICE would put those inside on lockdown. It was

one of these lockdowns, combined with the poor food and medical care, that prompted Mr. Tapate's first hunger strike. He and others again took part in a hunger strike after the COVID-19 pandemic began, when the detention center was sprayed so heavily with chemicals that people were sick for days. They felt like they had been poisoned, he said. After this strike, he faced retaliation, including the withholding of basic medications such as

eyedrops and threats of deportation.

Fortunately, Mr. Tapate was released because of COVID-19-related litigation by the ACLU of Southern California, but he suffers from the abuses he encountered in detention. "What we want people to know is that people go on hunger strike because something is happening on the inside," he said. "There are so many things happening behind closed doors that people are not aware of."

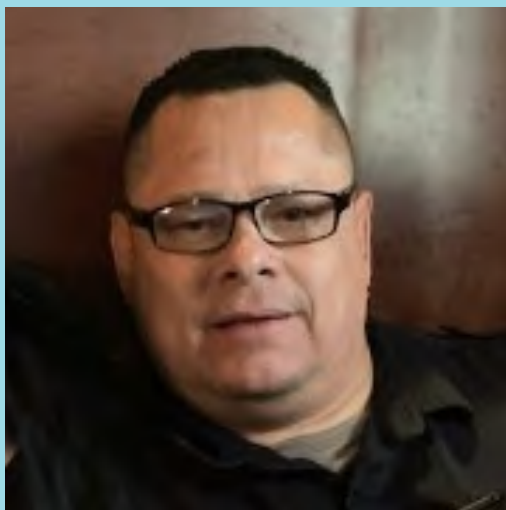


Photo courtesy of José Tapate

\* Phone Interview with José Tapate, January 13, 2021. This interview was conducted in Spanish via a translator. He consented to publishing his story under his real name.

**From:** (b)(6);(b)(7)(C)  
**Sent:** Monday, December 22, 2014 5:40 PM  
**To:** (b)(6);(b)(7)(C) Longshore, John P  
**Cc:** (b)(6);(b)(7)(C)  
 (b)(6);(b)(7)(C)  
**Subject:** RE: SEN Hunger Strike UCJ

Incident NBR: (b)(7)(E)

Location: Utah County Jail

Utah Valley Regional Medical Center will provide support, but they are not able to perform forced feedings should his strike move to that level. Currently (b)(6);(b)(7) is agreeable to go to the hospital for IVs, but has not stated if he will cooperate with a feeding tube.

Excerpt from ICE email, December 22, 2014, as produced by ICE to ACLU under the Freedom of Information Act. Highlighting added for emphasis.

clear whether these were granted. See below and Document 3 for an excerpt from a court order:

b. When that critical period occurs, ICE may, through competent medical authority, involuntarily administer nutrients to the relevant Striking Respondent via a nasogastric tube or an intravenous line. Anesthesia should be applied, when medically advisable to do so, in the interest of administering nutrients humanely. ICE may also, through competent medical authority, restrain the relevant Striking Respondent during the medical procedure if he attempts to resist.<sup>121</sup>

- In December 2014, an Indian hunger striker at Utah County Jail “was advised that continued striking would force a transfer out of the jail to a facility that would be able to obtain and conduct forced feedings should his medical condition warrant such a move.”<sup>122</sup>
- Other court orders are referenced in emails but not included in the document cache, suggesting that additional force-feeding orders may have been requested, obtained, and executed during this period and prior.

### Unwillingness of area hospitals to force-feed

In multiple cases, ICE pursued force-feeding of hunger strikers even though surrounding medical facilities refused to force-feed hunger strikers.

In December 2014, an ICE field medical coordinator described a local hospital’s unwillingness to force-feed a hunger striker at Utah County Jail who had not eaten in 16 days:

“Utah Valley Regional Medical Center will provide support, but they are not able to perform forced feedings should his strike move to that level.”<sup>123</sup> (See Document 4.)

Similarly, in a December 2015 email to ICE Field Office Director John P. Longshore and others (see Document 5), a commander described the Aurora Detention Center’s response to a hunger strike:

“I spoke with Dr. [redacted] at the Denver GEO facility today. They are moving all detainees who are over the 9 missed meals down to medical for monitoring. Dr. [redacted] stated he is being proactive and reaching out to a few outside medical facilities to see if they would assist if a court ordered feeding would become necessary. He spoke to Denver Health (GEO’s contracted partner), the University Hospital ER and will be reaching out to the Federal Public Health department. Most outside facilities informed



**From:** (b)(6);(b)(7)(C)  
**Sent:** Wednesday, December 09, 2015 12:59 PM  
**To:** (b)(6);(b)(7)(C) Longshore, John P; (b)(6);(b)(7)(C)  
**Subject:** RE: Hunger Striker Updated ES Note & Spreadsheet

To all:

RE: Hunger strikers

I spoke with (b)(6);(b)(7)(C) at the Denver GEO facility today. They are moving all detainees who are over the 9 missed meals down to medical for monitoring. (b)(6);(b)(7)(C) stated he is being proactive and reaching out to a few outside medical facilities to see if they would assist if a court ordered feeding would become necessary. He spoke to Denver Health (GEOs contracted partner), the University Hospital ER and will be reaching out to the Federal Public Health department. **Most outside facilities informed him that this is something new to them and they would likely not assist in restraining or going along with an Immigration court order for forced feeding of a detainee.** Most likely the facilities would hydrate the individual with IV fluids, perform necessary lab work, evaluate the detainee and send them back to the jail.

Excerpt from ICE email, December 9, 2015, as produced by ICE to ACLU under the Freedom of Information Act. Highlighting added for emphasis.

him that this is something new to them and they would likely not assist in restraining or going along with an Immigration court order for forced feeding of a detainee. Most likely the facilities would hydrate the individual with IV fluids, perform necessary lab work, evaluate the detainee and send them back to the jail.

“Dr. [redacted] is looking more into these issues. He is in contact also with Adelanto Facility in California which is an ICE contracted detention center. It is staffed by GEO and they have detainees on hunger strike as well. Both Denver and Adelanto facilities are following similar protocols. The GEO corporate staff are monitoring the situation closely as well. Dr. [redacted] stated that if allowed by the court, he could do an [sic] Nasogastric (NG) tube feeding within the facility. That would probably be our best option at the moment. Other forced feeding like TPN (Total Parenteral Nutrition) is more invasive and has high risk for infection. TPN is nutrition that is delivered to patients intravenously.”<sup>124</sup>

### **Lack of due process protections**

Once ICE decides to pursue a court order for involuntary medical procedures, including force-feeding, hunger strikers face significant disadvantages. Hunger strikers, for the most part, have no legal representation in such proceedings. Government attorneys often pursue these orders using *ex parte* motions (requests without response from the other side) that are sealed and unavailable to the public for review, which courts most often grant without serious consideration, until a hunger striker is able to find counsel.<sup>125</sup>

These documents reveal how ICE and government attorneys sought – and received – force-feeding orders with minimal due process protections. In one case at the Etowah Detention Center in Alabama, government attorneys filed motions for force-feeding with the barest of evidence: medical declarations with little to no specific information about the hunger striker’s medical condition, or explanation for why a force-feeding order was necessary.<sup>126</sup>

In most cases that we analyzed, detained hunger strikers lacked representation in court to defend themselves against the government’s pursuit of force-feeding orders or other forms of involuntary medical procedures. In a few limited instances, courts appointed counsel to represent hunger strikers, over

## Joe Mejia

Joe Mejia, age 38, was born in Mexico to parents from El Salvador. A legal permanent resident since 2006, he has lived in the United States since the age of four.\* When he applied for relief under the Convention Against Torture, he was detained by ICE for 34 months, first at Rio Cosumnes Correctional Center in California, then Mesa Verde ICE Processing Facility, and finally Yuba County Jail.

Before the pandemic, Mr. Mejia and fellow detained people had already been planning a hunger strike at Yuba County Jail because of poor conditions. COVID-19 gave them another reason to strike. ICE did not give them anything to protect themselves from the virus.

“There was no other relief, our last option was to hunger strike,” Mr. Mejia said. They wrote a demand letter and gave it to officers on the first day. About 150 people at Yuba County and Mesa Verde participated in the hunger strike, which began on July 23 and lasted for five days.

Facility staff responded by removing all food from the hunger strikers’ cells. They destroyed personal property. They took down family photos. They turned off their phones, so that they could not contact family or lawyers. They refused to turn on the television so they would not be able to watch the news. They prolonged the time they were confined to their cells. They did not give them clean laundry. They denied them hygiene supplies from the commissary. Some hunger strikers stopped receiving mail.

The facility’s tactics became more aggressive. They pepper-sprayed some of the other pods who were peacefully protesting. They put some of the

hunger strikers in bare concrete rooms (solitary) and told them that they needed to eat again. Mr. Mejia also saw some officers enter cells where the detainees were hunger striking, and although the hunger strikers complied and put their hands behind their backs, the guards beat them.

On the second or third day, hunger strikers’ temperatures and blood pressure were taken. It was not until the fourth or fifth day that the facility pulled them all out, took their weights, and asked if they were feeling suicidal. The doctors did not say anything about how the hunger strike would affect their health. One nurse sometimes acted as interpreter. At other times, there were no interpreters.

Once a lot of men started feeling physically ill, they ended the strike. ICE had not met any of their demands. Mr. Mejia wanted to keep striking, but he was afraid of the retaliation he would face if he did it alone.

The day he ended his hunger strike, Mr. Mejia was informed that he would be released.



Photo © Carolyn Fong

ICE should have prevented the circumstances that led to the hunger strike, he said. A hunger strike is a last resort. “No one wants to starve, to feel their intestines move inside their body because of hunger. ... The housing, conditions, clothing, food, hygiene—they try to make individuals in ICE detention miserable,” he said. “We are not guaranteed legal representation.” Conditions in ICE detention were worse than what he experienced in prison, Mr. Mejia said. “They are using immigration detention as a form of punishment for immigrants.”

“This is a disgrace,” he said. “These are human lives.”

\* Phone Interview with Joe Mejia, December 28, 2020. He consented to publishing his story under his real name.

the objections of ICE attorneys. As the government argued in a 2015 case at the Krome Service Processing Center in Florida, “Respondents cannot demonstrate any exceptional circumstances to justify the appointment of counsel. They have all chosen to engage in a hunger strike which now threatens their health and well-being. ... These issues are neither novel nor complex. ... There are no exceptional circumstances to justify the appointment of counsel, either on the current issues of compelled medical observation and testing, or the potential future issues of compelled feeding and hydration.”<sup>127</sup>

Legal representation of hunger strikers can help to level the playing field and can deescalate the situation to avoid a force-feeding order. In one case arising out of the Florence Detention Center in Arizona, a hunger striker was represented by the ACLU of Arizona and Perkins Cole LLP. The need for a force-feeding order was averted after ICE agreed to change the hunger striker’s housing assignment, the demand underlying the hunger strike. In exchange, the hunger striker agreed to allow medical monitoring, take vitamins, and accept liquified food, averting the government’s request to force-feed with restraints.<sup>128</sup>

## Forced Hydration and Involuntary Medical Procedures

ICE’s official policy is to seek a court order for involuntary medical monitoring if a clinical director recommends treatment.

Freedom for Immigrants reported at least nine cases of forced hydration of hunger strikers in 2019.<sup>129</sup>

The documents reveal that ICE has been seeking orders for forced hydration and other involuntary procedures for much longer, across both the Obama and Trump administrations. We identified at least 11 separate cases of ICE seeking and obtaining federal court orders for involuntary medical monitoring and/or forced hydration from August 2015 to August 2017 in Alabama, Arizona, Florida, Georgia, Louisiana, Texas, and Washington. These included orders for involuntary blood draws, vital signs, urinalysis, weigh-ins, physical examinations, restraints, sedatives, and forced medication. (See Document 6 for an excerpt from such a court order.)

“IT IS ORDERED:

1. The government, through competent medical practitioners, may involuntarily conduct medical monitoring of [redacted] including obtaining daily weight, vital signs, and urine and blood samples.<sup>130</sup>”

Although it is not clear from the documents how often these orders were implemented, there were cases in which ICE appeared to have executed the order and additional cases where ICE informed detainees of the order, and the detainees then “voluntarily” submitted to medical monitoring or resumed eating.<sup>131</sup>

### Report of forced urinary catheterization

Such cases included at least one report of forced catheterization. On December 1, 2015, the organization Desis Rising Up & Moving emailed

#### DOCUMENT 6

25	<b>IT IS ORDERED:</b>
26	1. The government, through competent medical practitioners, may
27	involuntarily conduct medical monitoring of (b)(6);(b)(7) including obtaining daily
28	weight, vital signs, and urine and blood samples.

Excerpt from Temporary Restraining Order obtained by ICE, July 8, 2017, as produced by ICE to ACLU under the Freedom of Information Act.

the DHS Office for Civil Rights and Civil Liberties, describing the forced urinary catheterization of a hunger striker at Etowah County Jail in Alabama. The email included attached audio from the hunger striker, who stated that after being on a hunger strike for four days, facility officials:

“forcibly brought me to the hospital ... and forced a catheter through my urine tract to my bladder in order to torture me.”<sup>132</sup>

As in the other cases originating out of the Etowah County Jail, government attorneys filed—and the court granted—generic motions for involuntary medical procedures with little to no specific information about the hunger striker’s medical condition. As in many other cases, these hunger strikers also lacked representation.

As with force-feeding, ICE’s policy of seeking forced hydration, involuntary catheterization, blood draws, restraints, and other involuntary procedures violated ethical guidelines for medical practitioners. Forced urinary catheterization, as described above, is a form of cruel, inhuman, and degrading treatment which may even constitute torture or sexual assault.

## Role of Health Professionals in Abuses

The documents revealed that health professionals often played an instrumental role in facilitating and enabling abuses against hunger strikers. Rather than try to understand the hunger striker’s physical and mental needs, and acting as patient counselors and advocates, these medical personnel appear to have acted as part of the ICE apparatus attempting to break the strike—they seem to have used their medical knowledge and skills not as health professionals but as agents of ICE, in direct contravention of professional ethics. The documents show that ICE places employed and contracted health professionals serving in detention facilities in positions where they are apparently pressured to violate ethical norms, demanding that they assess the need for the unethical practice of force-feeding as well as carry out these involuntary and coercive procedures.

Mr. Otieno, one of the former hunger strikers we spoke to for this report, recounted the problems inherent in an ICE reporting structure in which medical staff, rather than operating independently, were supervised by ICE officers. He recalled seeing an ICE supervisor instruct a nurse to send a detainee

### DOCUMENT 7

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, December 03, 2015 12:35 PM  
**To:** Baniecke, Scott R; (b)(6);(b)(7)(C)  
(b)(6);(b)(7)(C)  
**Subject:** Mass Hunger strikes at ICE facilities

- ERO states and believes there is a Bangladeshi advocate on the East Coast directing these actions.
- Most agree through past experience that the best way to handle these cases is to first, separate the ring leader. Continue to speak to them and try to break their numbers. Stand our ground and discuss with the detainees what we plan to do. Discuss with the detainee how force feedings will be administered.
- ERO/IHSC agrees that a plan will be in place to move and break up large numbers of hunger strikers at one facility and Just wanted to let you all know in case you had not heard. Thanks,

(b)(6);(b)

(b)(6);(b)(7)(C) RN, BSN, CCN, CPHM  
CDR, USPHS

2017-ICLI-000

Excerpt from email from IHSC Field Medical Coordinator, December 3, 2015, as produced by ICE to ACLU under the Freedom of Information Act. Highlighting added for emphasis.

back to the dorm because in the supervisor’s opinion, “He is not as bad as he is making it sound.” Any medical issue that necessitated treatment outside of detention required a signoff from the ICE officer stationed at the facility. In his case, Mr. Otieno said, “I was getting treated for deep vein thrombosis, and the same officer told a nurse in my presence that there was no need to waste money with my treatment [while] I was trying to kill myself in a hunger strike.” This was days after his hunger strike had ended, he said.<sup>133</sup>

An ICE email illustrates the central role medical staff play in breaking hunger strikes. On December 3, 2015, an ICE Health Service Corps (IHSC) nurse and field medical coordinator in St. Paul, Minnesota emailed (see Document 7) her colleagues notes from an ICE conference call about a nationwide hunger strike by Bangladeshi detainees, advising:

“Most agree through past experience that the best way to handle these cases is to first, separate the ring leader. Continue to speak to them and try to break their numbers. Stand our ground and discuss with the detainees what we plan to do. Discuss with the detainee how force feedings will be administered.”<sup>134</sup>

### **Force-feeding and other involuntary procedures**

The court documents included at least 13 ICE medical declarations (See Appendix II) in support of government motions for force-feeding, forced hydration, and/or involuntary medical testing of hunger strikers. The declarations, which dated from August 2015 to August 2017, were signed by doctors and nurses in Alabama, Arizona, Florida, Georgia, Texas, and Washington who were employed by IHSC or contracted medical service providers. They included family medicine physicians, family nurse practitioners, and an emergency room doctor.

In these declarations, physicians and nurses described involuntary treatment as the only option to preserve the hunger striker’s life and health. For

example, in a December 2013 medical declaration, an IHSC physician wrote:

“Medical monitoring is essential to preserve function and life, and unless he agrees to eat and allow medical monitoring, the medical staff has no other options to preserve life and health, other than to seek forced medical monitoring, including laboratory monitoring, and possibly force feeding.”<sup>135</sup>

By lending their medical expertise to court orders on involuntary treatment, these doctors and nurses violated the ethical mandates of their own profession, which clearly state that forcible, involuntary intervention on competent individuals is never ethically permissible.<sup>136</sup> They also incorrectly framed the involuntary treatment as the only option, without considering the value and necessity in these circumstances of providing legal representation to the hunger striker, allowing them to consult an independent physician,<sup>137</sup> and recognizing and addressing the merit of their claims.

It is often argued that a clinician’s duty above all is to preserve the life of their patients. This argument can be interpreted to support health professional involvement in force-feeding detained people. And, reflecting the complexity of these ethical problems, sometimes this interpretation is reasonable—but only when certain key protections are in place. For instance, the American Correctional Health Services Association (ACHSA) has ethical standards directly addressing the potential for force-feeding hunger striking patients, which call first for independent medical and psychiatric examinations to assess the patient’s competence. Only if the patient is deemed to be incompetent, lacking the mental capacity to choose to refuse food, is force-feeding allowable; critically, this is a psychiatric determination and it must be clearly documented. Alternatively, a patient might leave instructions with a trusted medical professional about their willingness to undergo invasive procedures in the event that they are no longer capable of communicating their preferences, and such a directive should be honored—but it requires the presence of a trusted professional.

Finally, under ACHSA standards, involuntary feeding is acceptable only when “life is in danger.”

In reality, however, these reports show that many ICE-employed or contracted clinicians are not living up to their professional obligations of independence and trustworthiness, and force-feeding by ICE has often been initiated before the person fasting is in any medical danger and long before it may be necessary to preserve the person’s life.

Physicians, nurses, and other health professionals have a duty to value and act in ways that preserve a person’s autonomy and uphold the right of competent individuals to control their bodily integrity. In many situations, as noted by the WMA, repeated force-feeding is a form of cruel, inhuman, and degrading treatment amounting to torture. Health professionals participating in such torturous acts violate their primary obligation to be trusted health care advisors to and advocates for their patients, irreparably harming the clinician-patient relationship.

### **Inadequate medical monitoring**

The ICE document cache only contained piecemeal and incomplete medical records from hunger strikes, many of them nothing more than vital signs copied and pasted into emails. Despite gaps in the medical records, we were able to identify multiple cases of inadequate medical monitoring, which were noted because ICE staff members themselves raised concerns by email about the conduct of other colleagues.

#### *Lack of consistent monitoring*

In December 2016, the IHSC field medical coordinator for the Eastern Region-Washington Field Office expressed concerns in an email about monitoring of the intake and output of a Jordanian hunger striker at Farmville Detention Center in Virginia:

“I have the following concerns with this detainee’s hunger strike monitoring. It does not appear that his intake and output was being monitored consistently. When I spoke



Farmville, Virginia, is run by Immigration Centers of America (ICA), a private prison corporation.  
Photo © AP/Steve Helber

with medical staff yesterday, they advised me that they had a group of 37 detainees on 12/21/16 when the detainee was placed on a hunger strike. So not sure if the medical department was short staffed and how much notice the facility received that they were going to have 37 new arrivals.”<sup>138</sup>

#### *A 12-pound weight discrepancy*

On June 8, 2017, an ICE nurse and field medical coordinator sent an email logging the weight and vital signs over several days of a Haitian hunger striker at the Farmville Detention Center.<sup>139</sup> On June 9, a Deputy Field Office Director asked whether a recorded drop of 12.6 pounds in 24 hours was correct.<sup>140</sup> A nurse replied that the higher weight had included handcuffs and ankle chains, which weighed about 10 pounds, but the hunger striker was no longer being weighed with those items. A second nurse replied that the facility had actually been using different scales to weigh the hunger striker.<sup>141</sup>

A later email noted these “conflicting statements from the facility medical staff,” stating that the staff “appeared reluctant/resistant to obtain weight on

## Luis Yboy Flores

Former firefighter Luis Yboy Flores has been in the United States nearly his whole life — now 40 years old, he came to the United States from Guatemala when he was three years old.\* He eventually found himself incarcerated, but, because he is not a U.S. citizen, the authorities handed him over to ICE detention at the Yuba County Jail in California when he was released on parole.

What Mr. Flores experienced shocked him. “You cannot compare being in immigration [detention]; it’s like something out of a horror story,” he said. “Even in prison you have space, you have a job, [and] you can go to school,” but in detention, there was “no school, no church, no helpful thing.” To make matters worse, conditions in the detention center were

filthy: insects coming out of drains caused rashes, there was no soap, and the toilets and sinks were clogged. After the facility ignored their repeated pleas, Mr. Flores and several others began a hunger strike.

The hunger strike was brutal. Mr. Flores felt weak and severely depressed. Between the hunger and the horrific living conditions, he developed severe trauma and a sleep disorder that persist today. ICE retaliated, putting

hunger strikers in rooms with nothing but their mattresses. He watched his friends who were on hunger strike with him get sent to the “hole,” or solitary confinement, for refusing to have vital signs taken after nurses began taunting them with descriptions of food. “[My friend] went to the hole for refusing, and another guy got deported too.” Mr. Flores stopped participating in the hunger strike after two weeks but received no medical treatment or monitoring after ending the strike. ICE then retaliated against him, transferring Mr. Flores

to ICE’s Mesa Verde Detention Center in Bakersfield, California on the grounds that he had initiated the hunger strike.

At Mesa Verde, detained people grew upset by the prolonged period of their detention. The pod next to Mr. Flores told him they wanted to start a hunger strike too. A small group decided to start a hunger strike, but he never learned

what happened at Mesa Verde, because ICE transferred him to another detention center in the middle of the night, this time to the Adelanto Detention Center in Adelanto, California. Not long after this final transfer, the COVID-19 pandemic began. After the ACLU of Southern California sued ICE on behalf of detained people at the facility, Mr. Flores was released due to his underlying health conditions, which made him vulnerable to COVID-19.



Photo courtesy of Luis Yboy Flores

\* Phone Interview with Luis Yboy Flores, December 10, 2020. He consented to publishing his story under his real name.

other scales used in other areas of the medical clinic/processing area to clarify the previously reported 12-pound weight loss discrepancy.” The discrepancy was not resolved in the email correspondence.<sup>142</sup>

### *Refeeding syndrome risks*

In ICE records from 2014-2017, we identified at least 15 different people whose hunger strikes lasted more than 10 days, putting them at risk of refeeding syndrome if not adequately monitored upon resumption of eating. Two of the individuals went on at least two separate long-term hunger strikes. The longest strikes we confirmed were 19, 21, and 32 days, although it is possible others lasted even longer.<sup>143</sup>

The Performance-Based National Detention Standards (PBNDS) require that once the hunger strike ends, “medical staff shall continue to provide appropriate medical and mental health follow-up.” Notably, ICE lacks an explicit policy for monitoring vital signs, weight, nutrient intake, and other indicators after a hunger striker resumes eating, increasing the risk of refeeding syndrome, especially for those whose fast exceeds 10 days.<sup>144</sup> Even the IHSC directive on hunger strikes fails to account for refeeding syndrome, simply stating that the physician may discontinue hunger strike monitoring once “a detainee willingly consistently consume[s] sufficient quantities of alternate sources of nutrition to meet his or her bodily needs.”<sup>145</sup>

## Solitary Confinement and Segregation Without Medical Justification

In a December 2014 email, the ICE Salt Lake City field medical coordinator noted the negative impact that segregation had on the mental health of a hunger striker at Utah County Jail:

“The social worker stated [detainee name redacted] appears with a depressed mood most likely due to being segregated for his hunger strike.”<sup>146</sup>

Solitary confinement, a common practice in ICE detention centers and U.S. prisons, has harmful health effects. Multiple studies have described the detrimental effects of solitary confinement on both the physical and the mental health of those in carceral settings.<sup>147</sup> One study demonstrated that solitary confinement was significantly associated with post-traumatic stress disorder (PTSD) symptoms.<sup>148</sup> In other cases, solitary confinement was shown to exacerbate the chronic mental health conditions of prisoners. Besides the long-term mental health effects, solitary confinement can cause or exacerbate physical illnesses or problems, including high blood pressure, skin irritations, weight fluctuations, and musculoskeletal pain.<sup>149</sup> Likewise, placement of detained hunger strikers in isolation as a result of their protected speech violates the First Amendment.

As a matter of policy, ICE places hunger strikers in medical observation cells or in Special Management Unit (SMU) cells, where detained people are isolated in a manner that can amount to solitary confinement. But as medical experts have observed, there is no medical need to place detained hunger strikers in isolation; it appears only to be a policing mechanism and may in fact be counterproductive to the protection of the detained person’s health.

Four of the former hunger strikers with whom we spoke described ICE’s use of solitary confinement as retaliation for their protest.

- Mr. Yboy Flores watched his friends who were hunger striking with him at Mesa Verde get sent to the “hole” for refusing to have vital signs taken.<sup>150</sup>
- Mr. Otieno described segregation in a freezing cold room where he had nothing to do all day except look at the wall. ICE limited access to phone calls, reading materials and even showers. “They drain you of your sleep and freedom and comfort and cut you off from communication with everyone.”<sup>151</sup> He recalled when the head of the medical unit at his Louisiana detention center told him that they placed people in solitary confinement so they could observe them more closely. When Mr. Otieno noted that there were empty dorms where those people could be housed instead, an ICE officer responded,



On 4/4/14 at approximately 1420 hours while conducting facility walkthroughs with Huffman (ICE) in F2. I observed numerous detainees gathered around the day room tables by the showers talking about not eating tomorrow in support of the protest going on. During their conversation I observed Detainee (b)(6);(b)(7)(C) encouraging majority of the detainees in the pod not to eat. Detainee (b)(6);(b)(7) states to the group, "We need to support the protest, they (ICE) have not done anything about our bonds, we have to do this for our children." Detainee (b)(6);(b)(7)(C) was encouraged with Detainee (b)(6);(b)(7) statement and stated, "Yes we have got to do this for our kids, we are not being heard."

Detainee (b)(6);(b)(7)(C) then states, "They (GEO) has not done anything about whats happening in the pods, we are still being mistreated by the staff. Don't be afraid they cant do anything to us they cant take us to the "Hole" we already have a law suit on them. Detainee (b)(6);(b)(7) states, "Yeah, if they take you to the hole then have to take us all to the hole."

Excerpt from email from GEO Captain, Northwest Detention Center, April 4, 2014, as produced by ICE to ACLU under the Freedom of Information Act.

"In discipline [one] is not rewarded with holiday camps," underscoring the true punitive purpose.<sup>152</sup>

- Mr. Barahona-Marriaga and Mr. Mejia were also placed in solitary confinement in retaliation for their pandemic-related hunger strikes. Mr. Mejia described it as being held in a bare concrete room.<sup>153</sup>

In 2019 alone, the International Consortium of Investigative Journalists identified 182 cases in which ICE placed hunger strikers in solitary confinement.<sup>154</sup>

The documents reveal that isolation or segregation is a standard element of ICE's response after a hunger striker misses 72 hours of meals. IHSC policy states, "IHSC staff must isolate the detainee considered to be on a hunger strike from other detainees for close supervision, observation, and monitoring, unless a medical provider determines other housing or placement is appropriate."<sup>155</sup> ICE's policy is to place detained hunger strikers in either a medical isolation unit, or an SMU – the same isolation cells used for all solitary confinement in the facility.<sup>156</sup>

At the same time, ICE also employed segregation to punish people for organizing hunger strikes and to isolate people with mental illnesses.

### Segregation as punishment for organizing hunger strikes

In several instances, ICE retaliated against individuals for organizing hunger strikes by placing them in disciplinary segregation.

- In an April 2014 email (see Document 8), a GEO Group captain described overhearing conversations among detainees about supporting an ongoing mass hunger strike at the Northwest Detention Center (NWDC) in Washington state:

"On 4/4/14 at approximately 1420 hours while conducting facility walkthroughs with Huffman (ICE) in F2. I observed numerous detainees gathered around the day room tables by the showers talking about not eating tomorrow in support of the protest going on. During their conversation I observed Detainee [redacted] encouraging majority of the detainees in the pod not to eat. Detainee [redacted] states to the group, 'We need to support the protest, they (ICE) have not done anything about our bonds, we have to do this for our children.' Detainee [redacted] was encouraged with Detainee [redacted] statement and stated, 'Yes we have got to do this for our kids, we are not being heard.'

"Detainee [redacted] then states, 'They (GEO) has not done anything about whats [sic] happening in the pods, we are still

being mistreated by the staff. Don't be afraid they cant [sic] do anything to us they cant [sic] take us to the 'Hole' we already have a law suit [sic] on them. Detainee [redacted] states, 'Yeah, if they take you to the hole then have to take us all to the hole.'

"The group slowly dispersed throughout the pod. I was unable to hear any other statements. The three detainees identified are not part of any known gangs."

Someone replies to this message (see Document 9), "This is ridiculous. Are we able to pull the detainee out to D3 for inciting?"<sup>157</sup>

- In October 2015, 43 Bangladeshi detainees and one Afghan detainee began a hunger strike at El Paso Service Processing Center in Texas, asking to be released on bond. An ICE report stated that the Afghan detainee "was identified as the instigator and transferred to segregation pending disciplinary panel review."<sup>158</sup>



Image of holding cell at Stewart Detention Center, Lumpkin, Georgia. Stewart is operated by CoreCivic, Inc., a private prison corporation. Photo © AP/ David Goldman

## Use of segregation in mental health cases

As two medical experts on hunger strikes have concluded, "The use of prolonged isolation will be akin to torture for people already suffering from serious mental illness."<sup>159</sup> According to PBNDS, "Detainees with a serious mental illness, disorder or condition (SMI)... may not be automatically placed in an SMU on the basis of such mental illness."<sup>160</sup> Nonetheless, the documents reveal that ICE moved a number of hunger strikers with serious mental illnesses to segregation or isolation that may have amounted to solitary confinement.

- In December 2015, a 40-year-old Mexican woman detained in Houston had not eaten for 72 hours. ICE initiated hunger strikes protocol and moved her to the Short Stay Unit for observation. She had previously been hospitalized for major depression and had a history of anxiety, depression, and noncompliance with medication. She reportedly said she had begun a hunger strike because "ICE has not been doing anything on my case" and that she wanted to be left alone to die.<sup>161</sup>
- In February 2017, a Nigerian man detained in Houston was placed in the Medical Housing Unit (MHU) after missing his ninth meal and initiation of the hunger strikes protocol. The man had a history of PTSD, and bipolar, personality, and adjustment disorder.<sup>162</sup>

Other detained people with mental health conditions began hunger strikes after having been placed in the MHU or disciplinary segregation for other reasons.

- In July 2016, a Cuban man detained at the South Texas Detention Complex was placed on the hunger strikes protocols after missing nine meals. ICE reported that he had a history of adjustment disorder with mixed anxiety and depressed mood. The man said that his meal refusal was related to his ongoing detention and his father's ailing health in Cuba. He had already been housed in the MHU "for mental health observation and evaluation after he indicated he had feelings of hopelessness and depression."<sup>163</sup>

## Nilson Barahona-Marriaga

Nilson Barahona-Marriaga, 39, immigrated to the United States from Honduras more than two decades ago, when he was a teenager.\* He has a U.S. citizen wife and young son. Yet in the fall of 2019, he was detained by ICE at the Irwin County Detention Center in Georgia.

When the COVID-19 pandemic began, the only information detained people at Irwin had about the crisis came from the media. “We knew at the moment the virus started spreading in detention it was going to be uncontrollable,” Mr. Barahona-Marriaga said. He began to discuss a hunger strike with others in his unit. He recognized that his hypertension and diabetes made him medically vulnerable to the virus.

His group began refusing meals, and, after three days, a supervisor came to meet with them. The group told the supervisor they wanted everyone who was medically vulnerable to be released and for ICE to start following public health guidelines and adopt better cleaning practices. Facility staff failed to follow guidelines to protect detained people from COVID-19, including proper disinfection and mask-wearing, he said.

“I was working in the kitchen,” Mr. Barahona-Marriaga said. “We were the ones that were doing the laundry, kitchen, cleaning. We knew they weren’t doing what they were supposed to do.”

Three days later, facility staff removed Mr. Barahona-Marriaga and six other people from

the unit, put them in solitary confinement, and cut off the water. Detained people could not wash their hands or even flush the toilet. Mr. Barahona-Marriaga said this experience was also “psychologically challenging” because ICE took away phone privileges, restricting his communications with his lawyer and his family. “Not being able to talk to my mom when I know that she is aware of me being on a hunger strike and not being able to tell her that I was okay was very difficult.”



Photo © Lynsey Weatherspoon

Around that time, a case manager at the facility, who was an older woman, approached the group. She asked why they were undertaking the strike. Mr. Barahona-Marriaga said they replied, “Ma’am, we are not doing this just for us. We are doing this for you, too.” She told them that there were no people at Irwin with the coronavirus.

Mr. Barahona-Marriaga showed her his copy of a court declaration from a warden that there were already COVID-19 cases at the facility. She was shocked. Mr. Barahona-Marriaga realized that ICE had been lying to everyone at the facility, not only to detained people.

That afternoon, when CNN published a report on the hunger strike—including an interview with Mr. Barahona-Marriaga—other detained people saw it as a victory and told Mr. Barahona-Marriaga they could end the strike. Most people quit the hunger strike, but Mr. Barahona-Marriaga and a Cuban man kept going.

Around the ninth day that he was in the medical department, the head nurse came to Mr. Barahona-Marriaga and urged him to quit his hunger strike so he could return to his unit. He noticed that the nurses entering the room beside his were fully covered from head to toe. Someone in the room next to him had the virus.

That day, he ended his strike.

At first, ICE had denied in court that Mr. Barahona-Marriaga was medically vulnerable to COVID-19. Then ICE said they were not going to release him because he was a threat to society.

Finally, in November 2020, his name was called. He was told he was going home, without any explanation.

One month out of detention, Mr. Barahona-Marriaga said he was still emotionally processing the fact that he was released. “It feels good to be outside,” he said. “But at the same time... I feel like part of me is still back there... Because I can’t stop thinking about the people who fought with me, who worked with me, when we were doing the strike, and most of them are still detained.”

\* Phone Interview with Nilson Barahona-Marriaga, December 16, 2020. He consented to publishing his story under his real name.

In multiple cases, individuals with diagnosed mental health problems began hunger strikes specifically to protest their segregation.

- In August 2016, a Salvadoran man in segregation at Stewart Detention Center in Georgia reportedly “threatened hunger strike” after missing three meals. He had a history of adjustment disorder with anxiety. He said he had been in segregation for two months and was trying to get answers as to why he was being held for so long, but no one was giving him any information. He said it was affecting him psychologically.<sup>164</sup>
- In December 2015, a Liberian man who had been placed in the Special Housing Unit at the Buffalo Federal Detention Facility in New York missed his ninth consecutive meal. ICE reported he had a history of hunger strikes, depression, PTSD, and non-compliance with medication. The man stated he was not eating because he was upset over his immigration case and the fact that he had been placed in the Special Housing Unit earlier that month for, according to ICE, “causing a disturbance in his assigned housing unit.”<sup>165</sup>

The care of patients with mental illness who undertake a hunger strike can be especially difficult and ethically complex. It is sometimes justifiable to override a patient’s expressed wishes regarding

medical treatment when the patient has a mental illness that is impairing their medical decision-making capacity. But isolating people with serious mental illness can worsen their acute condition or exacerbate chronic mental health conditions, both of which can increase the risk for self-harm, including suicidality.<sup>166</sup> Yet ICE segregated individuals with such conditions, putting their physical and mental well-being at great risk.

## Retaliatory Transfer and Deportation of Hunger Strikers, Despite Medical Risks

The transfer of a detained person from one facility to another in retaliation for engaging in a hunger strike is prohibited under the First Amendment.<sup>167</sup> However, ICE regularly transfers detainees during hunger strikes, putting their health at risk.

According to the PBNDS, “If medically necessary, the detainee may be transferred to a community hospital or a detention facility appropriately equipped for treatment.” Indeed, we identified multiple cases in which hunger strikers were reportedly transferred to a better-resourced facility so they could receive a “higher level” of medical care.<sup>168</sup>

In practice, however, transfers also occur for a variety of other reasons, including to deter the hunger strike, to allow force-feeding to commence, to prevent delays in deportation, or to rid the facility of the burden and public relations consequences of caring for hunger strikers. As John P. Longshore, Field Office Director of Enforcement and Removal Operations (ERO) Denver, asked in a December 2015 email, “What have we done to try to transfer the ones on the official hunger strike?”<sup>169</sup>

The documents reveal multiple cases in which ICE sought to transfer or deport a hunger striker in an effort to break the hunger strike – and, in some cases, despite the hunger striker’s physical or mental vulnerability and need for continued medical monitoring.

In addition to representing a form of retaliation against hunger strikers, such transfers can pose serious health risks. Transfer to non-medical facilities or the deportation of a person who is in the middle of a hunger strike can be dangerous, especially in the later stages of a hunger strike when an individual can be physically weak or begin to have compromised organ systems (neurological, cardiac, endocrine, psychological). Without appropriate health monitoring, individuals may faint, suffer irreparable organ damage, and even die.

### **Threat of transfer to incentivize eating**

On December 23, 2013, an IHSC nurse recommended the transfer of a Bolivian hunger striker to Krome Service Processing Center in Florida for better medical care if needed. With his deportation flight pending on January 17, a Supervisory Detention and Deportation Officer proposed that ICE “send him south earlier now, so that come removal time, he is eating and can be cleared medically for removal.” Rather than focusing on the medical purpose of a possible transfer, the deportation officer described it as an opportunity to pressure the hunger striker to resume eating. “I’ll be visiting him this morning and would like to use the possibility of his transfer as a way to get him to eat today.”<sup>170</sup>

### **Deportation or transfer despite objection of clinical director**

On October 31, 2016, an ICE Supervisory Detention and Deportation Officer reported that two Bangladeshi detainees had missed their ninth consecutive meals. He said they had been cleared for travel and would be transferred via flight that day in preparation for a deportation flight scheduled for November 11.<sup>171</sup>

An IHSC representative objected to the plan on medical grounds:

“I spoke with [name redacted], our acting clinical director, and he advised that when they reach their third day and are officially on hunger strike, then they have to go on a medical hold and HQ notified. Based on this, he advised that we cannot accept them, because we could not move them out.”

The Assistant Field Office Director at the ICE Florence Detention Center in Arizona agreed. “They [sic] subjects should not be transferred during a hunger strike.”

In response, Albert E. Carter, Deputy Field Office Director of the Phoenix Field Office, sent an email proposing to delay the transfer but objecting to placing a medical hold on the hunger strikers to prevent deportation:

“These are two individuals slated for the Charter to Bangladesh. While I agree with [name redacted] in spirit, I do not believe that we should place a medical hold on these detainees that would prevent removal. Part of these reasons we do these charters are to deal with medical cases. I do not believe we should inherit the added burden of these cases, but I believe we can transfer them closer to the date of the flight.”

### **Transfer for force-feeding to prevent delay in deportation**

A January 3, 2017 email regarding a Guinean hunger striker stated:

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 30, 2016 8:47 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(6),(b)(7)(C)

The move he asked about was internal. He is on day two of not eating, tomorrow will be day three and official hunger strike. It would be good to move him now to avoid an actual hunger strike. He indicates Yuba is in humane, move him to RCCC and he will likely beg to come back here and mind his manners until he is removed as I understand he just received his FO.

Excerpt from email from Detention Standards Compliance Officer, Yuba County Jail, August 30, 2016, as produced by ICE to ACLU under the Freedom of Information Act. Highlighting added for emphasis.

“Here in the Fourth Circuit, we do not yet have the infrastructure in place to obtain an order to involuntarily administer nutrition, and we are concerned that any delay could lead to his removal from the 2/14 charter flight. Would [Miami Field Office] be willing to help us out in the short-term? We’d be requesting support to obtain a court order to administer nutrition and to ensure that he is medically cleared for travel.”

The Assistant Field Office Director for the Washington Field Office added on February 1, “I’d like to get him transferred sooner rather than later in case the need arises for forced nutrition.”

On February 3, the hunger striker was transferred to Krome despite having been on a hunger strike for over 12 days, so that he could be force-fed if ICE determined this was medically necessary to prevent a delay in his deportation, scheduled for February 14.<sup>172</sup>

### **Transfer to break the hunger strike**

In an August 2016 email (see Document 9), the Yuba County Jail Detention Standards Compliance Officer proposed the transfer of a detainee from the California jail to the Rio Cosumnes Correctional Center (RCCC) an hour’s drive away, to deter him from continuing to refuse meals:

“He is on day two of not eating, tomorrow will be day three and official hunger strike. It would be good to move him now to avoid an

actual hunger strike. He indicates Yuba is in humane [sic], move him to RCCC and he will likely beg to come back here and mind his manners until he is removed.”<sup>173</sup>

An August 2017 email exchange between representatives of ICE or the detention facility concerned the optics of detainee transfers to the Northern Oregon Regional Correctional Facility (NORCOR), given pending litigation about the validity of the facility’s underlying contract with ICE. The first individual wrote:

“Claims of retaliation were raised the last time detainees were moved to NORCOR that had refused meals. The optics are concerning and will raise questions. I am also concerned about what impact moving hunger strikers (if they refuse breakfast tomorrow) may have on the pending NORCOR lawsuit.”

The second individual made it explicit that the purpose of the transfer was to try to break the hunger strike: “I’m not worried about claims of retaliation and I’m hoping being moved will end the ‘hunger strike.’”<sup>174</sup>

### **Transfer of an individual on suicide watch**

In May 2016, ICE made arrangements to transfer a Polish detainee from Etowah County Jail in Alabama to LaSalle ICE Processing Center in Louisiana for a deportation flight, despite the fact that he had missed eight meals and was on suicide watch. The

## John Otieno\*

“John Otieno” worked in law and politics at home in East Africa. He survived a terrorist attack, including a gunshot injury, while helping the daughter of an American diplomat run for cover in a safe room. Mr. Otieno survived but decided to seek asylum in the United States. When he arrived, he was transferred to a detention center in Louisiana while awaiting a decision on his application for asylum.

Mr. Otieno soon realized there was very little chance to be released from detention. He learned that ICE’s local field office was notorious for denying parole, a form of release for asylum seekers. Because of Mr. Otieno’s legal background, other detained people asked him to lead negotiations with ICE officers for better conditions and for parole, but those

discussions went nowhere. As Mr. Otieno recalls, when the commanding officer for ICE came to address their complaints, he quoted sections of the law that did not exist or were not applicable. Another officer told the detainees that the officers did not owe them answers, that they could hold them until they deported them, and that they were trained to deport as many of them as possible.

Deprived of other options, 29 detained people at the facility went on a hunger strike during the COVID-19 pandemic in the summer of 2020. The strike lasted 12 days. Mr. Otieno was

put into segregation. ICE officers placed him in a freezing cold room and deprived him of his personal property — even books. “[Y]ou have absolutely nothing to do all day except look at the wall,” he said. “And every 15 minutes, an officer passes with some sort of electric metal and beats on your door so that you can’t sleep, because you can hear your door and also the adjacent doors.” He was placed in this room despite having serious sinus blockages that were worsened by cold. For his first two days

in solitary confinement, Mr. Otieno was also not provided with his medication for deep vein thrombosis, which required that he take blood thinners every day. The facility also denied medication to other hunger strikers: during that time, one man had an asthma attack, and another had a seizure from epilepsy, after failing to receive their prescribed medication.

After some time, the medical staff, who were employed by the GEO Group, the private prison company which ran the detention facility, began to force-feed Mr. Otieno. “They put me on a bed and handcuffed me to an emergency medical stretcher,” he said. “[They] strap you on the chest, waist, legs, [with] hard restraints ... there is no point in fighting back because you are there with six male, strong officers, and three nurses, and there is nothing you can do.” The doctor claimed to have a judicial order but declined to show it to Mr. Otieno. He saw two other hunger strikers who were also force-fed.



Photo © James Matthew Daniel

\*Phone Interview with “John Otieno,” January 8, 2021. He consented to publishing his story under a pseudonym.

Fortunately, two detained people in the group were granted asylum. However, Mr. Otieno faced retaliation. He was transferred three other times and branded as a troublemaker. Upon his transfer to another Louisiana facility, the warden came by his dorm. “If you make trouble here,” he recalls the warden saying, “I have my gun and I will use it.”

Mr. Otieno has since been released from detention. However, he has lost significant weight — 28 pounds — and now takes medications for post-traumatic stress disorder and depression. Of the ordeal, he said, “It’s an experience that I wouldn’t wish on my worst enemy.” Although Mr. Otieno came to the

United States seeking safety, he was greeted with violence. Seeing how the country treats “people who are fleeing for their life, [...] makes me question where these morals, principles, democracy, rule of law, that is spoken of?” he asked. No one wants to hunger strike, he said, but they do so out of a lack of options. “Those who go on hunger strike are trying to just resist an unjust system. [...] They choose hunger strikes because the injustice is too much ... Hunger strikes are not a choice any man or woman wants to make. [They are] the last option for people who have faced so much injustice turned law, that resistance and civil disobedience becomes their duty.”

Supervisory Detention and Deportation Officer proceeded with these arrangements without expressing concern that after the detainee’s interview with the Polish consulate, “the detainee was extremely depressed and stated his life was over and we could only deport his body.”<sup>175</sup>

## Excessive Force

In 2019, a series of alarming reports emerged of excessive force against hunger strikers in ICE detention centers in rural Louisiana. In August 2019, Freedom for Immigrants reported that 115 hunger strikers at the Pine Prairie ICE Processing Center were assaulted with tear gas, shot with rubber bullets, and beaten. Around the same time, officers reportedly subjected dozens of hunger strikers to beatings and pepper spray at the Bossier (Parish) Sheriff Medium Security Facility.<sup>176</sup> In October 2019, Freedom for Immigrants reported that about 40 hunger strikers at Richwood Correctional Center were “handcuffed and beaten aggressively.”<sup>177</sup>

ICE has also employed the threat or actual use of force against hunger strikers during the COVID-19 pandemic. For example, in April 2020, hunger strikers at Otay Mesa Detention Center in California were threatened with pepper spray unless they

resumed eating.<sup>178</sup> In our interview, Mr. Mejia described how ICE pepper-sprayed detained people at Yuba County Jail who were peacefully protesting their detention during the COVID-19 pandemic. He also witnessed officers entering hunger strikers’ cells and physically assaulting them.<sup>179</sup>

The FOIA documents contain further references to the use of force against detained people, including a “dorm-wide OC spray incident” at LaSalle Detention Facility in Louisiana in December 2015 and the use of tasers against an Ethiopian detainee at Carver County Jail in Minnesota in October 2015 and a Somali detainee at Sherburne County Jail (also in Minnesota) in August 2016.<sup>180</sup> Yet missing from the records are the full ICE reports that would provide further detail on these events and their relationship, if any, with ongoing hunger strikes.

Where the documents fail to provide a comprehensive view, news and NGO reports make it clear that excessive force against hunger strikers is a serious problem.



# Mistreatment of Hunger Strikers in Family Detention

## Berks Family Residential Center

### Concealing hunger strikes

Other documents revealed how ICE health staff took pains to hide from public view hunger strikes taking place at a family detention center, which detained immigrant children and their parents. While discussing an August 2016 hunger strike of 22 mothers at the Berks County family detention center in Pennsylvania, ICE Associate Medical Director Dr. Philip Farabaugh noted (see Document 10):

“We are using the food protest (or meal refusal) label rather than hunger strikes for a couple of

reasons. Since this is a family facility, we don’t want the messaging going out that there is a hunger strike going on. The optics just look bad. Then people wonder if the kids are on strike too and starving.”<sup>181</sup>

### Threatening family separation and force-feeding

Each of the mothers had already spent 9–12 months in detention with their children. Many had come to the United States as asylum seekers, and were hunger striking to secure their release.<sup>182</sup> Yet Dr. Farabaugh proposed separating families if ICE determined the mothers were on hunger strike (see Document 10):

DOCUMENT 10

**From:** Farabaugh, Philip T  
**Sent:** Wednesday, August 17, 2016 4:30 PM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** RE: Berks Food Protest Update

We are using the food protest (or meal refusal) label rather than hunger strike for a couple of reasons.

Since this is a family facility, we don’t want messaging going out that there is a hunger strike going on. The optics just look bad. Then people wonder if the kids are on strike too and starving.

All we can do it monitor their weight. If it appears they really are on a hunger strike, we will need to separate the mother and children –send mom to an IHSC facility to address the hunger strike.

CAPT Philip Farabaugh, MD USPHS  
 Associate Medical Director, Field  
 (A)Western Regional Clinical Director  
 ICE Health Service Corps/ERO/ICE/DHS  
 610 W. Ash St. San Diego, CA 92101  
 619-338- / C 202-210- / F 619-677-3138

Excerpt from email from ICE Associate Medical Director, Dr. Philip Farabaugh, August 17, 2016, as produced by ICE to ACLU under the Freedom of Information Act. Highlighting added for emphasis.

“If it appears they really are on a hunger strike, we will need to separate the mother and children—send mom to an IHSC facility to address the hunger strike.”<sup>183</sup>

In an email earlier that day, Dr. Farabaugh revealed what it would mean to “address the hunger strike,” proposing the transfer of a hunger striking mother for force-feeding:

“If she gets closer to 120 lbs., we may consider telling her that IHSC will transfer her to a facility that could administer involuntary feeding if it is needed.”<sup>184</sup>

### **Inadequate medical monitoring**

Dr. Farabaugh also discouraged his staff from taking the standard daily weight and vital signs, both to reduce their workload and to deter the mothers from continuing the strike.

“The standard does say that a weight and vital signs will be documented daily; however, the next bullet says the CD may modify the monitoring procedures as indicated. IHSC supports transitioning to weights every 3 days to decrease the workload and potential incentive detainees may experience by going through these maneuvers.”<sup>185</sup>

## **Karnes County Family Residential Center**

### **Denying access to legal services**

ICE’s Family Residential Standards provide that “an unaccompanied legal assistant may meet with a detainee during legal visitation hours,” and “legal visitation will be suspended only if necessary to maintain safe and secure Center operations.”<sup>186</sup>

Yet in March 2015, ICE ERO San Antonio blocked a legal assistant with Refugee and Immigrant Center for Education and Legal Services (RAICES) from accessing the Karnes County family detention center in Texas after she previously visited the facility to meet with hunger strikers. ERO San Antonio asked Homeland Security Investigations to investigate the activities of RAICES employees at the Karnes County Family Residential Center<sup>187</sup>

### **Solitary confinement**

In response to the same hunger strike, GEO Group staff also moved the two mothers they saw as leading the strike to solitary confinement, questioned them, and held them overnight before releasing them back into the general detained population.<sup>188</sup>

In April 2015, the ACLU sent ICE a letter about both incidents, stating:

“If our understanding of the facts is correct, the alleged actions by ICE suggest retaliation against both detainees and immigration advocates for activities protected by the First Amendment, raise troubling constitutional questions, and violate some of ICE’s own standards governing family detention facilities.”<sup>189</sup>

Indeed, ICE’s own internal report reveals that the ACLU’s understanding of the facts was correct. The report makes it clear that ICE suspended the legal assistant from a family detention center despite no risk to the safety and security of the facility, in violation of its own standards. Furthermore, ICE barred the legal assistant for activities protected by the First Amendment and, in doing so, infringed on detained families’ access to critical legal services. Finally, ICE also retaliated against two mothers who were hunger striking by moving them to solitary confinement, apparently in violation of their First Amendment rights.

## Other Retaliatory Measures

ICE took other retaliatory measures against hunger strikers, including denying commissary privileges, restricting recreation, limiting water access, threatening prosecution, and attempting to prosecute. Several of these measures also violated ICE's own detention standards.

### Removal of commissary privileges

The denial of commissary—food purchases from a store within the detention center—after a hunger striker misses nine meals is routinized through official ICE policy. According to PBNDS, after consultation with the clinical medical authority, a detention facility administrator may require staff to “remove from the detainee’s room all food items not authorized by the CMA [Clinical Medical Authority].” PBNDS states, “During the hunger strike, the detainee may not purchase commissary/vending machine food.” Similarly, the IHSC hunger strikes policy states, “Detainees are not allowed to purchase food from the commissary or vending machines while on a hunger strike.”<sup>190</sup>

Mr. Qazi, the Bangladeshi man held at ICE's Mesa Verde detention facility, recalled how, in response to detained people's meal refusals, ICE officers threatened to take away their commissary. “So they're saying that they need to assist you in doing the hunger strike. They're basically saying, ‘if you're going to do it, do it right.’”<sup>191</sup>

The records reveal that the declaration of a hunger strike after 72 hours automatically triggers the removal of commissary access. An ICE email explained the alleged rationale for this policy:

“Most of them have commissary in their cells, so an alien who declares a hunger strike will have to be separated from his commissary so they can be properly monitored for food intake.”<sup>192</sup>

The denial of commissary privileges means restricting a person's access to food or nutrition, which is dangerous from a health perspective

and ethically problematic. The only time a health professional should restrict someone's food or nutrition intake is when there is a medical reason, such as when they are supposed to have a medical procedure that necessitates no eating prior to it or when they have a medical condition which requires limitations on fluid or food intake. Moreover, from ICE's perspective, access to commissary should actually facilitate their aim of ending the hunger strike, as it would allow the hunger striker to purchase food whenever they wanted. The denial of commissary is therefore inherently punitive and lacks a medical rationale. In practice, it also leads to invasive cell searches for “contraband” items, or “shakedowns,” as ICE calls them.<sup>193</sup>

### Retaliatory restrictions on recreation

ICE's segregation policies require that detained people retain access to recreation for at least one hour per day.<sup>194</sup> Even when in segregation, ICE's PBNDS requires that detained people have “access to exercise opportunities and equipment outside the living area and outdoors, unless documented security, safety or medical considerations dictate otherwise.”<sup>195</sup> However, the discretion provided to facility authorities often means that hunger strikers are denied full access to outdoor recreation.<sup>196</sup>

For example, Mr. Qazi reported that ICE threatened to take away outdoor recreation time in response to hunger strikes at Mesa Verde in 2020. People detained there would typically get the opportunity each day to play soccer, basketball, or exercise outside, he said. Each time they initiated a strike, the chief would tell them that although she was obligated to give them two-hour periods for recreation, the rules did not say that it had to be outside. In at least one instance, she followed through on her threat.<sup>197</sup>

Similarly, the documents reveal two cases at Stewart Detention Center in Georgia in which ICE restricted a detainee's access to recreation after they began to refuse meals.

- In September 2015, after a detainee declared a hunger strike to an officer—having eaten dinner



Stewart Detention Center, Lumpkin, Georgia.  
Photo © AP/David Goldman

the day before—an incident report stated, “As a precaution, outdoor recreation will be suspended for the duration of his strike.”<sup>198</sup>

- In November 2016, after a detainee refused his third meal in 24 hours, an incident report stated, “Detainee commissary has been removed and recreation has been restricted.”<sup>199</sup>

The restriction of recreation may mean detained people lose their access to fresh air, natural light, and physical and other leisure activities that are crucial to well-being. Denying these privileges to hunger strikers therefore not only represents another form of retaliation against hunger strikers but a further affront to their health.

### **Limiting water access**

PBNDs only authorizes facility administrators to place a detained person in a “dry cell,” or an isolation cell without water, as a contraband-detection measure “when there is reasonable suspicion of concealment.”<sup>200</sup> Indeed, even the GEO Group’s Medical Guidelines for hunger strikes note that

“[i]n the context of a hunger strike, cutting off access to water in the cell is discouraged ... a dry cell should ordinarily be considered only if the [detained person] appears to be engaging in water intoxication.”<sup>201</sup>

Mr. Barahona-Marriaga told us how facility staff at Irwin placed him and six other hunger strikers in solitary confinement and cut off water access during their 2020 hunger strike. They could not wash their hands or even flush the toilet, he said.<sup>202</sup>

The documents revealed another case in which a facility punitively restricted water access in response to a hunger strike.

- In October 2013, after meeting with two hunger strikers at the Hall County Department of Corrections in Nebraska, the facility inexplicably shut off water to their cells. A sergeant reported that, following the initiation of the facility’s hunger strikes policy, “The water to the cell will be shut off but the water will be turned on and offered once an hour.” The sergeant continued, “Once both inmates were secured into the cells, officer [named redacted] brought down a water shut off key for the Housing Unit D/E [name redacted]. The water to the cells was shut off and officers were informed to log all the necessary activities.”<sup>203</sup>

The facility’s actions in both cases violated the PBNDs policy on water access and jeopardized hunger strikers’ health.

### **Threat of prosecution**

In some instances, ICE attempted to use the threat of prosecution under a rarely used statute, 8 U.S.C. § 1253(a), to force compliance from hunger strikers. The statute allows for imprisonment of a person who “willfully fails to or refuses to depart from the U.S. within a period of 90 days from the date of the final order of removal under administrative processes, or if judicial review is had, then from the date of the final order of the court.”<sup>204</sup>

In December 2015, someone at Aurora Contract Detention Facility in Colorado informed Field Office Director Longshore that a Bangladeshi hunger

striker had refused to sign an I-229a, a form which informs an immigrant of the consequences of failing to cooperate with removal, and an Instruction Sheet regarding deportation:

“His officer told him that unless he completes the travel document application for Bangladesh, then he would be considered a failure to comply and ICE will not move forward with his case. He keeps reiterating that he is afraid to go back to Bangladesh and he is requesting to be released from custody. I informed him that he will not be released from custody at this time and failure to assist or hinder the process of obtaining a travel document, will result in possible federal prosecution. I told him that continuously going on and off hunger strikes will not change the outcome.”<sup>205</sup>

The threat of criminal prosecution is highly coercive and likely retaliatory for those who are engaging in a hunger strike. As a policy, hunger strikers should not be threatened with possible criminal sanction for refusal to depart.

### **Attempt to prosecute**

In May 2016, the deputy chief counsel for the DHS Office of the Chief Counsel in Miami emailed the U.S. Attorney’s Office for the Eastern District of New York (EDNY) with a request to prosecute an Algerian detainee for failure to comply with removal. The DHS attorney cited the detainee’s previous hunger strike and force-feeding as evidence of noncompliance:

“ICE ERO has been trying to remove an alien with a final order of removal [name redacted] for quite a while. During that time, [name redacted] has done everything humanly possible to thwart ERO’s removal efforts, including his previous failures to comply with removal and hunger striking. (Yes, we had to get an order to force-feed, which was actually executed on Jan 21, 2016.) We are hoping your office will prosecute this alien’s Failure To Comply with removal, under 8 U.S.C. §

1253(a). This weekend [name redacted] again refused to comply with his removal while being placed on a foreign-bound plane at JFK. The refusal was captured on video. Hopefully, this kind of evidence and history will be enough to warrant prosecution.”<sup>206</sup>

Someone at EDNY replied:

“I’ll give you a call to discuss. These are tough cases. We last tried to do one here in 2008 and ended up dismissing the complaint within the month. Unfortunately the subjects come across particularly pathetic on the videos.”<sup>207</sup>

A subsequent email from ICE memorialized the fact that EDNY had decided not to pursue the case:

“It is understood that your office must prioritize federal resources when accepting cases for prosecution—even in light of evidence that can support a successful prosecution—and has therefore declined.”<sup>208</sup>

In this case, the Department of Justice appropriately exercised prosecutorial discretion when deciding not to pursue criminal charges against a former hunger striker for failure to depart. Nonetheless, ICE’s contemplation of coercive and retaliatory criminal charges against a detained immigrant simply for refusing removal, especially one who had endured multiple hunger strikes and force-feeding, should raise serious concerns.

## **Insufficient Access to Interpreter Services**

Almost all medical interventions require the informed consent of the patient or a designated surrogate before they can be undertaken.<sup>209</sup> If a patient does not speak English, the only way to obtain informed consent is with the use of an appropriately trained interpreter, and therefore access to interpreter services for health care is required under Title VI of the Civil Rights Act of 1964. The U.S. Department of Justice has recognized this requirement as declaring

## Asif Qazi

In 1995, at the age of six, Asif Qazi came to the United States from Bangladesh with his parents and brother. Today he lives with his wife and two daughters in California, where he works as an ironworker.

In February 2020, Mr. Qazi was detained by ICE at Mesa Verde ICE Processing Facility in California. When COVID-19 hit a month later, the detention center did not even have paper towel dispensers or soap dispensers in its bathrooms.

A couple of weeks into the pandemic, a Fijian friend in detention proposed that they go on a hunger strike. The group wrote a letter to ICE asking that ICE either free them or protect them from the pandemic.

They went on three or four hunger strikes while Mr. Qazi was there, each lasting several days. “It’s a First Amendment right,” Mr. Qazi said. “They should let us practice our constitutional rights even though we’re immigrants.” Each strike only lasted three days, falling below the threshold at which ICE would declare an official hunger strike.

Each time the group organized a hunger strike, there would be people organizing with them in solidarity on the outside. “It was powerful,” Mr. Qazi said. “It meant a lot to us.”

After the first hunger strike, ICE installed soap dispensers and paper towel dispensers in the bathroom, but there were larger problems.

ICE had attempted to implement social distancing by assigning each detained person to their own bunk bed, alternating higher or lower bunks, rather than having two people per bunk bed. But the quarters were still too close, Mr. Qazi said. To make matters worse, the same chief who had threatened to take away outdoor recreation arranged to move detainees from a dorm where some people had tested positive to his dorm, where there were no known COVID-19 cases. To accommodate the new detainees, the chief sought once again to assign two people to each bunk bed. ICE “basically

spread COVID throughout the whole facility, total recklessness,” said Mr. Qazi.

Later in August 2020, Mr. Qazi was finally released from detention, the result of a class action lawsuit filed by the ACLU of Northern California, Lawyers’ Committee for Civil Rights, San Francisco Public Defenders, and Lakin and Wilkie, LLP.

ICE should give everyone a chance to fight their cases from the outside, Mr. Qazi said. “I have never ever missed a court date. I’m not trying to run from the law because I want to stay here. The law knows where I live.”

In the meantime, ICE “should provide people what they’re asking for. It’s not unreasonable,” he said. “People do demonstrations like this... out of dire need. We’re not doing it just to make ICE and GEO’s job harder. We’re doing it to see some change. It’s not out of arrogance. It’s out of optimism.”



Photo © Asif Qazi

\* Phone Interviews with Asif Qazi, December 16-17, 2020. He consented to publishing his story under his real name.

that all detained people have the right to “meaningful access” to language services in detention, regardless of the language they speak.<sup>210</sup> ICE’s own guidelines require the provision of information to detainees in a language or manner they can understand and to offer language services in all detention facilities and throughout the detention process (including in the medical context).<sup>211</sup> Yet the documents reveal multiple instances in which ICE relied on detained people as interpreters when speaking with hunger strikers because there was no official one available.

In October 2013, at the Hall County Department of Corrections in Nebraska, two sergeants brought two Spanish-speaking detainees to meet with a nurse to discuss why they had stopped eating and were considering a hunger strike. The Corrections Department reported, “Inmate [name redacted] was used as an interpreter for the inmates and came along to the medical area.”<sup>212</sup>

In October 2015, an Assistant Field Office Director at LaSalle ICE Processing Center in Louisiana reported on a meeting with three hunger strikers in which ICE enlisted one of the hunger strikers themselves to serve as translator:

“Yesterday afternoon SDDC [named redacted] and I pulled out three aliens on hunger strike and spoke with them in an attempt to get them to eat... A Bengali translator was used for the first interview. Upon commencement of the second interview, a Bengali translator was no longer available. One of the hunger strikers speaks English and assisted with the interviews.... We stopped these individual interviews due

to a lack of a translator and the apparent frustration of the alien translator used.”<sup>213</sup>

ICE’s failure to provide interpretation for medical services violates federal language access requirements and its own guidelines. The use of other detained persons to provide interpretation for ICE staff and in medical settings raises significant issues for patient confidentiality. ICE’s lack of interpretation resources also raises broader language access concerns in the medical setting, which may also obstruct hunger strikers’ ability to understand and consent to any procedures. When the lack of an interpreter means a patient has no ability to exercise informed consent, this constitutes substandard medical care.<sup>214</sup>

## ICE Efforts to Break the Hunger Strike

In May 2017, three detained people at the Northern Oregon Regional Correctional Facility (NORCOR) began to refuse meals. As they approached the ICE threshold for an official hunger strike, the Assistant Field Office Director for Anchorage and Portland dispatched an ICE representative to speak to them.

The three individuals were protesting substandard accommodations, the representative reported, including the lack of fruit at mealtimes and the presence of fruit flies in the showers. In a subsequent email, an ICE official replied (see Document 11):

“I really feel that we should stop neglecting these poor innocent fruit flies. I mean really,

### DOCUMENT 11

To [REDACTED]  
**Subject:** RE: NORCOR Hunger Strike

These are all issues that have been brought up in the past. However, I really feel that we should stop neglecting these poor innocent fruit flies. I mean really, why should they have to go without fruit? Maybe a protest is in order.....

Excerpt from ICE email, May 4, 2017, as produced by ICE to ACLU under the Freedom of Information Act. Highlighting added for emphasis.

why should they have to go without fruit?  
Maybe a protest is in order.”<sup>215</sup>

Such dehumanizing language reflects a broader attitude among ICE officers and facility staff that hunger strikers should not be respected or taken seriously. As one officer said of potential hunger strikers in September 2016, “Perhaps if they understand what will happen after 72 hours, they will decide that it isn’t worth the effort.”<sup>216</sup>

### **Delegitimizing the hunger strike**

In several instances, ICE refused even to consider a hunger striker’s demands because of the idea that this would “reward” the hunger striker.

- In December 2014, ICE refused to consider an Indian hunger striker’s request for a transfer to be closer to his family because it would “reinforce the belief that ICE will reward this type of behavior among other Indian detainees housed at Utah County Jail.”<sup>217</sup>
- In April 2016, a detained Filipino man announced a hunger strike to seek immigration relief or deportation to an alternative country. A deportation officer said, “If he continues on with the hunger strike, we will not review his requests because it will show that he is not in his right state of mind.”<sup>218</sup>

In at least two cases, ICE officers contemplated misrepresenting or omitting key facts to meet reporting requirements.

- In August 2017, a Detention and Deportation Officer advocated for the release of a Kenyan hunger striker at Pulaski County Detention Center in Kentucky who had already lost 16 pounds and was being considered for force-feeding. The ICE field office was prepared to release him on an ankle monitor that day, but an ICE unit chief countered that releasing him “would set a precedence to release all final orders who go on a hunger strike.”<sup>219</sup>

### **Misrepresenting or omitting key facts**

In at least two cases, ICE officers contemplated misrepresenting or omitting key facts to meet reporting requirements.

In August 2016, an ICE representative recommended that a nurse at Pulaski County Detention Center remove information about suicide risks from a former hunger striker’s health summary—in which the nurse also stated that the detainee was cleared for travel:

“It may be wise to remove the information about suicide from the health summary. However, if you decide to leave it in, please also include information regarding why the subject was initially placed on suicide watch—which I assume may be directly related to his hunger strike choice.”<sup>220</sup>

In April 2017, in email correspondence with someone at Northwest Detention Center (NWDC) in Washington state, the ICE western regional communications director/spokesperson asked for an update on the number of detainees who were going to be placed on formal hunger strikes protocols. The NWDC representative estimated 12, but asked the ICE spokesperson to hold off while they confirmed the numbers. The ICE spokesperson replied, “OK ... but the wolves are at the door. Maybe I can come up with something fuzzy ... using a round number.”<sup>221</sup>

### **Use of food to break a strike**

Mr. Mejia described to us how officers treated the group hunger strike at Yuba County Jail as “a joke” by continuing to offer them food. Officers would



**Subject:** RE: Hunger Strike 3rd Shift 12/3/15

Awesome—I'll let our Field Ops know...

Have we considered a bean curry to get the last few in compliance?

Excerpt from email from ICE Field Office Director, John P. Longshore, December 4, 2015, as produced by ICE to ACLU under the Freedom of Information Act. Highlighting added for emphasis.

enter with lunch bags and wave them around. They would come in with the food cart, so the hunger strikers would smell the food, and then walk away.<sup>222</sup>

His story is consistent with the picture the documents offer of how ICE frequently disrespected hunger strikers by presenting them with food—especially traditional meals or higher-quality food than typically offered at the facility—to tempt them into breaking their strikes. The use of food to wear down hunger strikers further illustrated ICE's unwillingness to take their demands seriously. Some notable instances included:

- In December 2015, in response to a hunger strike by three detainees at Aurora Detention Center in Colorado, ICE Field Office Director John P. Longshore asked (see Document 12), “Have we considered a bean curry to get the last few in compliance?” This question resulted in an email exchange about which foods would be most favorable, including “Bengali ‘Cha’ tea” and “some stir-fried curry-based chicken.”<sup>223</sup>
- In March 2016, an IHSC health services administrator reported back on the status of a hunger striker at NWDC: “It was the bone in chicken that she couldn’t refuse.”<sup>224</sup>
- In May 2016, an ICE report from El Paso stated, “the Bangladeshi detainees that are refusing to eat were gathered in the Inter Cultural Center (ICC) to be provided with a dish favored by Bangladeshis, which included fish, fruit, and salad.”<sup>225</sup>
- In December 2016, a Jordanian detainee began a hunger strike at Farmville Detention Center in

Virginia. Someone from ICE asked the Assistant Field Office Director, “Have we offered the alien a tactical pizza or had further discussions with him on his departure?”<sup>226</sup>

### **Orchestration of meetings with consulates or religious leaders**

In September 2014, ERO Salt Lake City brought in a Hindu priest to meet with 19 Indian hunger strikers at Utah County Jail “to provide spiritual guidance to the detainees and attempt to quell the situation.”<sup>227</sup>

In a number of cases like this one, ICE enlisted members of hunger strikers’ community—religious leaders or consular officials—to increase pressure to end their protests. Rather than bring in such figures to discuss the hunger strikers’ demands, ICE did so to intimidate them.

#### *Exposing asylum seekers to new persecution risk*

In one particularly alarming case, ICE reportedly brought in a Bangladeshi consular official to meet with hunger striking asylum seekers who had fled persecution by the Bangladeshi government.

In October 2015, ICE invited a Consular Minister from the Embassy of Bangladesh to the El Paso Service Processing Center in Texas, where 43 Bangladeshi detainees had begun a hunger strike.<sup>228</sup> ICE reported that at the conclusion of the visit, “35 Bangladeshi National Males voluntarily ended their protest and ate a full dinner.”<sup>229</sup>

That same month, the DHS Office for Civil Rights and Civil Liberties (CRCL) received a complaint which

told a very different story of the visit, as recounted in a March 2016 email from a CRCL officer:

“As you know, in October 2015, we received a complaint alleging that ICE invited a representative of the Bangladesh consulate to come to the facility and speak with the hunger strikers in an attempt to stop their hunger strike. The complaint alleged that the detainees did not consent to a meeting with the consular representative, as many had applied for asylum in the United States due to a fear of the Bangladeshi government. The complaint alleged that photos were taken during this meeting that were later published in U.S. and Bangladeshi media, revealing the detainees’ identities, their status as asylum seekers, and potentially exposing them to a new threat of persecution in Bangladesh.”<sup>230</sup>

The CRCL officer reported that at least 12 of the detained people who attended the meeting had final orders of removal, which required they be granted deportation holds to allow time for possible remedial action, including new interviews with asylum officers.

By forcing hunger strikers to meet with a representative of the very government they had fled while their deportations were pending would have heightened the risk of a violation of the principle of *non-refoulement* in international law, which holds that states should not return asylum seekers to places where they could be subjected to “great risk, irreparable harm, or persecution.”<sup>231</sup> ICE would have also violated multiple treaties, codified in U.S. law, that bar the return of individuals to places where they may face persecution or torture, namely the Refugee Convention and Refugee Protocol and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>232</sup> Such a meeting would have also constituted an extreme form of retaliation against hunger strikers.

In one particularly alarming case, ICE reportedly brought in a Bangladeshi consular official to meet with hunger striking asylum seekers who had fled persecution by the Bangladeshi government.

# Conclusion and Recommendations

Immigrations and Customs Enforcement (ICE) regards hunger strikes as disobedience requiring punishment and deterrence rather than recognizing them as a form of protest. As this report reveals, ICE employs abusive, violent, and dangerous measures against hunger strikers, violating their rights to freedom of expression and medical autonomy. ICE rarely takes measures to address or even try to understand hunger strikers' demands, instead dispatching officers to deter individuals from continuing their strike. Although these measures violate law and medical professional ethics, they are deeply entrenched in ICE policy and practice.

Changing the response to hunger strikes will require addressing their underlying cause: a harmful and unnecessary civil immigration detention system. President Joseph R. Biden, who was Vice President during most of the period covered by this report, has promised to reverse the Trump administration's extreme anti-immigrant policies. His administration now has an opportunity to acknowledge the longstanding abusive system that prompts so many to engage in hunger strikes, to end ICE's cruel response to their protests, to heed hunger strikers' urgent calls for humane treatment and release, and to begin the process of phasing out the use of immigration detention entirely.

## Recommendations

### **To the Department of Homeland Security (DHS):**

- Phase out the use of immigration detention entirely, including, as a first step, ending the use of state and local prisons, jails, and other criminal incarceration facilities, and the use of privately owned and operated detention centers.
- Invest in community-based social services, including case management, for people transitioning from DHS custody, including housing support, access to medical and mental health care, and access to legal counsel. Ensure that federal funding for community support services is provided to qualified nonprofit organizations who have the trust of their communities.
- End the use of solitary confinement in immigration detention, including the use of medical isolation for retaliatory purposes, administrative segregation, and disciplinary segregation.
- Issue a directive on the treatment of hunger strikers to ensure appropriate standards of care. Ensure that ICE, ICE Health Service Corps (IHSC), and third-party contractors receive sufficient training on enforcement of the directive and establish robust systems of monitoring and reporting on adherence to the directive. The directive should include the following requirements:

- That any request by a detainee on a hunger strike or their legal counsel for copies of the detainee's medical records be fulfilled within 48 hours.
- That hunger strikers have access to a fully independent, third party licensed physician and psychiatrist throughout the course of their hunger strike. The independent physician should provide an evaluation of hunger strikers to determine whether they are competent before ICE pursues a court order for involuntary medical treatment, including force-feeding, forced hydration, forced catheterization, involuntary blood draws, and use of restraints. Per U.S. and international medical ethics standards, hunger strikers who are confirmed to be competent by such an outside medical professional (and who do not confide to the independent clinician their willingness to be force-fed in extremis) should not be subjected to involuntary treatment.
- That ICE officers consider the requests made by the hunger striker and make reasonable attempts to accommodate the request prior to seeking any court order for involuntary medical treatment, including force-feeding, forced hydration, forced catheterization, involuntary blood draws, and use of restraints.
- That information regarding attempts to accommodate the hunger striker's request be provided to the Department of Justice prior to requesting a court order, including written justification of steps taken to accommodate requests, or justification as to why steps to accommodate requests were not made, including requests related to conditions improvement and release into the care of community members.
- That hunger strikers have counsel in the event that ICE/ERO (Enforcement and Removal Operations) seeks a court order for involuntary medical treatment.
- That no person who has engaged in a hunger strike in the past 24 hours be transported from the facility for any purpose, including deportation, other than for medical care, without being cleared for travel by the Chief Medical Authority. Long-term hunger strikers (those who have been on a fast for at least 10 days) should not be cleared for transfer (other than for medical care) or deportation, given the risk of refeeding syndrome.
- That people in detention who have participated in hunger strikes be provided with the proper standard of care required in the follow up to a hunger strike, in order to avoid refeeding syndrome.
- That ICE and facility officials meaningfully address the underlying requests that form the basis of hunger strikers' protests, including release from detention and improvement of conditions.
- That physicians, nurses, and other health professionals adhere to global and national clinical and ethical standards against force-feeding detainees engaging in hunger strikes. Protect health professionals from any form of retaliation for refusing to carry out involuntary medical procedures on hunger strikers or otherwise adhering to ethical standards.
- That ICE provide and require mandatory training for ICE medical staff and any contracted medical staff at facilities that hold people in ICE custody about the medical, psychological, ethical, and professional aspects of managing hunger strikers.
- That ICE medical staff and any contracted medical staff consult with medical ethics committees where complex issues arise.

- Guarantee people in detention continued and regular access to independent health professionals.
- Prohibit use of force and punitive measures against hunger strikers.
- Provide compensation for people who have been subjected to involuntary treatment and/or other forms of abuse while hunger striking, including: a recovery fund to provide mental health screenings, psychiatric and behavioral health interventions, and trauma-informed remedial medical and mental health services; redress in the form of attorneys' fees and costs related to the hunger strike; and other monetary compensation in recognition of the harm suffered.
- Ensure greater transparency and accountability in the immigration detention system, including comprehensive facility inspections and meaningful consequences for failed inspections assessing compliance with detention standards, including facility closure. Inspections must include interviews with detained people, without interference or retaliation from facility officials.

#### **To the U.S. Congress:**

- Conduct robust oversight of ICE's treatment of hunger strikers in detention, including through aggressive use of subpoena authority; investigations into the conditions documented in this report; and visits by congressional staff and members of Congress to detention facilities that include, where appropriate, interviews with hunger strikers.
- Request that the DHS Office of Inspector General and Office of Civil Rights and Civil Liberties investigate and issue recommendations regarding the conditions documented in this report.
- Require that ICE publicly report data on hunger strikes in ICE custody, including the number of detainees on hunger strike each month; the number of hunger strikers who have been subject to involuntary medical treatment,

including force-feeding, forced hydration, forced catheterization, forced blood draws, and use of restraints; the number of people engaging in hunger strikes who have been transferred, as well as written justification for each transfer; the costs incurred by ICE to subject hunger strikers to involuntary medical treatment; and a list of contracted entities and facilities that have facilitated involuntary medical treatment of hunger strikers.

- Prohibit the use of funds appropriated to the Department of Homeland Security to be used to force-feed or forcibly hydrate detained people engaging in a hunger strike who have been determined by an independent licensed physician to be competent in the refusal of treatment.
- Dramatically reduce funding for immigration detention and enforcement. Prohibit ICE from transferring and/or reprogramming funds into its enforcement and removal account.
- Support and pass legislation that begins the process of phasing out mandatory detention and the use of detention entirely in the U.S. immigration system.

#### **To the U.S. Department of Justice:**

- Refrain from pursuing orders for force-feeding and other involuntary medical procedures in cases where hunger strikers have been confirmed to be competent by a fully independent physician.
- Refrain from retaliation against detained hunger strikers by threatening or bringing charges for criminal sanctions under 8 U.S.C. § 1253(a) (refusal to depart).

#### **To Offices of the Federal Public Defender:**

- Provide representation to people in detention on hunger strike who face court proceedings initiated by ICE/ERO seeking a court order for involuntary medical procedures related to the hunger strike.

### **To State Medical Boards:**

- Investigate for possible license suspension or revocation any medical or health professionals who facilitate, authorize, or in any way participate in conducting involuntary medical procedures on mentally competent individuals.

### **To Medical and Health Professional Associations:**

- Praise and call out as examples those individual professionals and health care organizations that have stood up to the pressure brought by ICE to act against recognized U.S. and international standards of health care ethics.
- Censure and expel any medical or health professionals who facilitate, authorize, or in any way participate in conducting involuntary medical procedures on mentally competent individuals, including force-feeding, forced hydration, or forced catheterization.
- Issue clear guidelines reinforcing that force-feeding and other involuntary medical procedures are unethical and inconsistent with professional norms.
- Lobby for better protections for health professionals who refuse to engage in unethical conduct and/or act as whistleblowers.

### **To Individual Health Professionals:**

- Advocate individually or through professional organizations against health professionals' involvement in force-feeding and other involuntary procedures.
- Advocate for ICE to comply with ethical standards regarding patient informed consent and the independence of detention facility medical personnel, especially with respect to the proper treatment of detainees considering or undertaking hunger strikes.

- Advocate for the censure of health professionals who have participated in force-feeding and other involuntary procedures by reaching out to oversight bodies and medical license regulators.

### **To the UN High Commissioner for Human Rights, UN Special Procedures, UN Treaty Bodies, and the Inter-American Commission on Human Rights:**

- Request official visits and unimpeded access to ICE detention facilities to monitor conditions and investigate ill-treatment of hunger strikers which may violate international human rights treaties and laws binding on the U.S. government, including the prohibition of torture and other cruel, inhuman, or degrading treatment or punishment.
- Seek information from the U.S. government regarding the use of coercive measures against hunger strikers in immigration detention, including force-feeding, forced hydration, involuntary medical procedures, solitary confinement, and excessive force.
- Condemn the use of physical or psychological coercion against hunger strikers in ICE detention; call on U.S. authorities to seek good faith dialogue with hunger strikers about their grievances and fully implement the Nelson Mandela Rules (formerly known as the UN Standard Minimum Rules for the Treatment of Prisoners).

# Methodology

## Documents

This report is primarily based on the review of more than 10,000 pages of documents related to hunger strikes in Immigration and Customs Enforcement (ICE) detention, which the American Civil Liberties Union (ACLU) obtained through Freedom of Information Act (FOIA) litigation from 2017 to 2019. The approximately 2,000 documents, dating mainly from 2013-2017, include emails, spreadsheets, incident reports, policy guidance, procedural directives, PowerPoint presentations, motions, declarations, and court orders. The documents cover hunger strikes by at least 1,378 people from 74 countries across 62 immigration detention centers in 24 states.<sup>233</sup> The report is also based on a review of ICE's current policies on hunger strikes in detention and on interviews with six formerly detained people who engaged in hunger strikes.

From June to August 2020, a Physicians for Human Rights (PHR) team conducted an initial review of the documents. Each document reviewer was assigned one PDF of FOIA documents (approximately 300-500 pages) at a time and given a standardized form in Excel to organize the documents and input their analysis. The reviewer read through their assigned PDF to identify the page range of each individual document contained in the PDF and completed the Excel form, which included categories such as facility, type of specialist review required (legal, medical, both, neither), and description of hunger strikers and striking incidents (gender, nationality, date hunger strike began, etc.). Reviewers were also asked to note any documents that indicated possible cases of abuse, coercion, or retaliation against hunger strikers.

At the end of the initial review, the PHR project lead cross-checked each team member's spreadsheet entries with each corresponding document to ensure that the spreadsheet entries were accurate and to flag additional possible cases of abuse. After completing the cross-checking phase, the PHR project lead then reviewed all the spreadsheet entries to identify recurring themes and patterns in ICE's response to hunger strikes to inform the report findings. Medical professionals from PHR and the Yale Center for Asylum Medicine reviewed selected medical records, policies, and individual case records to determine whether ICE policies and practices complied with medical ethics standards and identify violations. ACLU legal staff reviewed selected medical records, policies, and court documents to evaluate the constitutionality of ICE policies and practices and identify legal violations.

We have published a selection of documents that illustrate patterns of violations we describe in this report. The documents were redacted by ICE prior to sharing them with the ACLU, but some detained people's names were left unredacted. To ensure the privacy of all detained people referenced in the documents, we have applied additional redactions where ICE left their names unredacted.

## Interviews with Former Hunger Strikers

After obtaining approval from PHR's Ethical Review Board and in compliance with ACLU's Human Subjects Protections Guidelines, four members of the PHR and ACLU project team conducted

individual semi-structured interviews by phone with six former hunger strikers who had been released from detention. These individuals were identified via requests to partner organizations. We limited our interview pool to hunger strikers who had been released to limit the risks of retaliation by ICE for speaking to us.

All six individuals were male, ranging in age from 31 to 52. All but one began their hunger strike during the COVID-19 pandemic, and all were eventually released from detention later in 2020, prior to their contact with PHR and the ACLU. Their experiences spanned six ICE detention facilities in California, Georgia, and Louisiana. Most had lived in the United States for much of their lives, having come to the United States from Bangladesh, Guatemala, Honduras, Mexico, and East Africa. (In one case, more specific identifying information has been omitted to protect the identity of the hunger striker.)

Prior to the interview, a written form for oral informed consent was shared with the interviewee in English or Spanish. At the start of the phone call, the interviewer went over the consent form with the interviewee and filled it out based on their oral informed consent.

Interviewees were informed of the purpose and voluntary nature of the interview. They were told that they could stop the interview at any time and that all possible measures would be taken to keep their identity confidential unless they wanted to disclose it. They were given the option of using a pseudonym unless they preferred to use their real name. They were told that they would receive no compensation for speaking to us, and their legal representation would in no way be affected by their decision about whether to participate. If the subject consented, interview notes were typed during the call. Each interviewer used a written, previously agreed-upon questionnaire to guide the interview. Topics covered included the impetus for the hunger strike, ICE's response, the individual's reason for ending the hunger strike, and their situation post-strike. Five interviews were conducted in English. One interview was conducted with the assistance of a Spanish language interpreter.

We have used pseudonyms for all interviewees who requested one to protect their privacy.

## Limitations

Given that this report is mainly based on internal ICE documents, it necessarily offers only a partial view of the experience of hunger strikers in ICE detention. The documents reflect ICE's perspective and records of the hunger strikes, with a few exceptions in the form of handwritten letters by detained people.

As a result of the dates of the FOIA litigation, the documents mainly cover the time period from 2013 to 2017. Thus, records describing the experience of more recent hunger strikers generally are not reflected in these documents. Although the documents contain motions and court orders for involuntary medical treatment, including force-feeding, and occasional references to orders being executed, the document cache contains very few medical records related to such treatment. The medical records that are provided often consist of vital signs pasted into email threads. These records are extremely piecemeal, and because names are often redacted, it is difficult to track the cases of individual detainees over time or reach any conclusions about the health impact of the hunger strikes. PHR's senior medical advisor reviewed a sample of the medical records and concluded it would not be possible to conduct a systematic analysis of medical care provided; this report is thus unable to evaluate the quality of medical treatment provided as a whole.

To complement the institutional view afforded by the documents, we undertook interviews with six former hunger strikers. Their stories are consistent with patterns of abuse we identified in the documents, as well as other published reports by advocates and media organizations. We do not, however, consider the interviews to represent a generalizable representative sample. Rather, they are illustrative examples that ground the report in the lived experience of former hunger strikers and their individual perspectives on ICE detention.



## Appendix I: Glossary of Acronyms

<b>AFOD</b>	Assistant Field Office Director
<b>CD</b>	Clinical Director
<b>CRCL</b>	Office for Civil Rights and Civil Liberties
<b>DFOD</b>	Deputy Field Office Director
<b>DHS</b>	Department of Homeland Security
<b>DSCO</b>	Detention Standards Compliance Officer
<b>ERO</b>	Enforcement and Removal Operations
<b>FOD</b>	Field Office Director
<b>FOIA</b>	Freedom of Information Act
<b>FRS</b>	Family Residential Standards
<b>ICE</b>	Immigration and Customs Enforcement
<b>IHSC</b>	ICE Health Service Corps
<b>IV line</b>	Intravenous line
<b>MHU</b>	Medical housing unit
<b>NDS</b>	National Detention Standards
<b>NG tube</b>	Nasogastric tube
<b>NORCOR</b>	Northeast Regional Corrections Facility
<b>NWDC</b>	Northwest Detention Center
<b>OIG</b>	Office of the Inspector General
<b>PBNDS</b>	Performance-Based National Detention Standards
<b>PICC line</b>	Peripherally inserted central catheter line
<b>PTSD</b>	Post-traumatic stress disorder
<b>RCCC</b>	Rio Cosumnes Correctional Center
<b>SDDO</b>	Supervisory Detention and Deportation Officer
<b>SEN</b>	Significant Event Notification
<b>SIR</b>	Significant Incident Report
<b>SMU</b>	Special Management Unit
<b>TRO</b>	Temporary Restraining Order
<b>WMA</b>	World Medical Association

## Appendix II, Table 1: Court Orders for Force-Feeding and Other Involuntary Medical Procedures

Date	Facility	State	Court	Force-Feeding	Forced Hydration	Involuntary Medical Monitoring	Physical Restraints or Sedatives
8/27/2015	Krome	FL	SDFL			✓	✓
9/11/2015	Krome	FL	Krome / SDFL	✓			✓
11/30/2015	Etowah County Jail	AL	Etowah County Jail / NDAL (Southern Division)	✓		✓	
12/2/2015	Etowah County Jail	AL	Etowah County Jail / NDAL (Middle Division)	✓		✓	
12/4/2015	Etowah County Jail	AL	NDAL (Middle Division)			✓	
12/14/2015	Krome	FL	SDFL			✓	
12/22/2015	Krome	FL	SDFL	✓		✓	✓
1/8/2016	Krome	FL	SDFL	✓	✓		
2/12/2016	HCDF	TX	SDTX (Houston Division)			✓	✓
3/25/2016	NWDC	WA	W.D. Wash. at Seattle	✓		✓	✓
4/12/2016	unknown	LA	WDLA			✓	✓
12/19/2016	Stewart	GA	MDGA (Columbus Division)			✓	✓
12/22/2016	El Paso Processing Center	TX	WDTX (El Paso Division)		✓	✓	
7/8/2017	Florence	AZ	D. Ariz.	✓	✓	✓	✓
8/2/2017	STDC	TX	WDTX (San Antonio Division)			✓	✓

## Appendix II, Table 2: Medical Declarations Supporting ICE Motions for Force-Feeding and Other Involuntary Medical Procedures

Date	Facility	State	Court	Force-Feeding	Forced Hydration	Involuntary Medical Monitoring	Physical Restraints or Sedatives	Name/Title
8/27/2015	Krome	FL	SDFL	✓		✓	✓	Luis A. Ortega, M.D., Captain, U.S. Public Health Service, Clinical Director, United States Public Health Service, Krome Medical Referral Center
12/2/2015	Etowah County Jail	AL	NDAL (Middle Division)		✓			M.D., Riverview Regional Medical Center
12/4/2015	Etowah County Jail	AL	NDAL (Middle Division)			✓		RN, MSN, CCHP, Health Services Administrator for Doctors' Care Physician's (contracted as the medical service provider in Etowah County Detention Center)
12/4/2015	STDC	TX	WDTX (San Antonio Division)	✓	✓	✓		Contracted Family Nurse Practitioner, Immigration Health Service Corps
12/4/2015	STDC	TX	WDTX (San Antonio Division)	✓	✓	✓		FNP-BC, Family Nurse Practitioner, Immigration Health Service Corps, United States Public Health Service Corps
2/10/2016	Hx	TX	SDTX (Houston Division)			✓	✓	MD, MPH, USPHS
3/24/2016	NWDC	WA	W.D. Wash. at Seattle	✓		✓	✓	Daren R. Mealer, MD, Clinical Director, NWDC
4/28/2016	Stewart	GA	MDGA (Columbus Division)			✓		D.O., Board Certified Family Medicine, Staff Physician, Stewart Detention Center
5/6/2016	Stewart	GA	MDGA (Columbus Division)			✓		D.O., Board Certified Family Medicine, Staff Physician, Stewart Detention Center
12/13/2016	Stewart	GA	MDGA (Columbus Division)			✓	✓	D.O., Board Certified Family Medicine, Staff Physician, Stewart Detention Center
7/7/2017	Florence	AZ	D. Ariz.	✓	✓	✓	✓	MD OD., Physician, CAFCC
8/1/2017	STDC	TX	WDTX (San Antonio Division)			✓	✓	
8/2/2017	STDC	TX	WDTX (San Antonio Division)			✓	✓	LCDR

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- 194 *See, e.g.* PBNS 2011 Sec. 2.12 (“ Detainees in the SMU for administrative reasons shall be offered at least one hour of recreation per day, outside their cells and scheduled at a reasonable time, at least seven days per week. Detainees in the SMU for disciplinary reasons shall be offered at least one hour of recreation per day, outside their cells and scheduled at a reasonable time, at least five days per week.”).
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