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September 30, 2014

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The Honorable Jeh Johnson
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RE: Complaints Regarding Sexual Abuse of Women in DHS Custody at
Karnes County Residential Center

Dear Secretary Johnson, Ms. Shlanger, Mr. Lucero, and Mr. Landy:

We, the undersigned, are attorneys who have met with and represent women and children who are in DHS custody at the Karnes County Residential Center (the "Karnes Center"). We have become aware of serious allegations of substantial, ongoing sexual abuse in the Karnes Center, in violation of the Prison Rape Elimination Act (PREA) of 2003, 42 U.S.C. § 15601 *et seq.*; the Department of Homeland Security's (DHS) Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities, 6 C.F.R. Part 115; and U.S. Immigration and Customs Enforcement (ICE) Performance Based National Detention Standards (PBNDS), and Family Residential Standards. We ask that federal officials immediately investigate these allegations and implement protective measures for the women and children detained at the Karnes Center.

Numerous women detained at the Karnes Center have alleged that sexual abuse has been ongoing since August 2014, including:

1. Karnes Center guards and/or personnel removing female detainees from their cells late in the evening and during early morning hours for the purpose of engaging in sexual acts in various parts of the facility;
2. Karnes Center guards and/or personnel calling detainees their "novias," or "girlfriends," and using their respective position and power over the highly vulnerable detained women within the detention facility by requesting sexual favors from female detainees in exchange for money, promises of assistance with their pending immigration cases, and shelter when and if the women are released; and
3. Karnes Center guards kissing, fondling and/or groping female detainees in front of other detainees, including children.

On information and belief, at least three Karnes Center employees are suspected as having engaged in this conduct. Although detained women have reported the unlawful conduct to Karnes Center personnel, to date, no action has

been taken to stop or prevent this abuse, or to prevent its escalation. In fact, the Karnes Center provides an environment that facilitates the abuse. For example, Karnes Center guards, who are predominantly male, have free access to the cells and the detained women and children at any time, day or night. Moreover, some children over the age of thirteen have been separated from their mothers in separate living/sleeping quarters without explanation.

These incidents of sexual abuse and harassment and the hostile and unsafe environment for the women and children not only likely violate federal laws and regulations as noted below, they also likely subject the detained families to conditions that are punitive and unconstitutional under the Due Process Clause of the Fifth Amendment.¹

PREA establishes a “zero-tolerance standard for rape in prisons in the United States.” 42 U.S.C. § 15601–02. Under 28 C.F.R. § 115.6, “sexual abuse” of a detainee by a staff member at the facility includes any sexual contact with a detainee or resident, *regardless of whether such contact is consensual*. It also includes any “attempt, threat, or request” by a staff member to engage in sexual acts with detainees. 28 C.F.R. § 115.6.

Under 28 C.F.R. § 115.111, DHS and ICE must have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency’s approach to preventing, detecting, and responding to such conduct. DHS’s Family Residential Standard for Prevention of Sexual Abuse mandates that all facilities must have protocols for responding to sexual abuse reported by detainees, and ensure proper follow up on such reports, including discipline and prosecution of assailants. It is clear from both the alleged continuing conduct and the failure to respond to reports of abuse that either there is no prevention plan in place for the Karnes Center, or the Karnes Center policy is not being properly implemented, overseen or enforced.

We call for an immediate investigation into these serious allegations of sexual abuse and the immediate protection of all women and children forced to reside in the facility, including but not limited to an investigation by the Office of Civil Rights and Civil Liberties (CRCL), pursuant to its authority under 6 U.S.C. § 345. Swift action must be taken to investigate the allegations and promptly implement protective and punitive measures, including disciplinary action, contract termination and staff dismissal as appropriate. Given the seriousness of the allegations and the poor management of the facility, DHS must provide direct oversight to ensure the complete safety and well-being of the detained families, including the immediate provision of appropriate medical and psychological services for victims.

We also demand that ICE bring the Karnes Center into compliance with PREA, its implementing regulations, and the Family Residential Standards by

¹ *Seling v. Young*, 531 U.S. 250 (2001).

developing, supervising, and enforcing a written policy to prevent, detect, and respond to unlawful sexual abuse by Karnes Center staff and ICE personnel. This includes an accessible and transparent complaint process for detained families, and proper training for all staff and management. All case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling should be maintained in appropriate files in accordance with the Family Residential Standards. Pursuant to 28 C.F.R. § 115.116, the Karnes Center must take appropriate steps to ensure that all detainees, including those who are not proficient in English, have an equal opportunity to benefit from all aspects of efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include providing access to interpreters.

Finally, we request a written response detailing what ICE and the Karnes Center has done and will do in order to address the grave concerns we have described here. We trust that women who have or will come forward with complaints will not suffer retaliation, and that proper steps will be taken to prevent possible reprisal from staff or other detained women.

As you are well aware, the detainees at Karnes Center are predominantly women and children who have fled horrific violence and conditions in their home countries, including sexual violence and extortion. It is deeply disturbing that their experience in the custody of the U.S. government is subjecting them to further exploitation. DHS simply cannot continue to detain vulnerable individuals whom they are unable or unwilling to protect

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

Sincerely,



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