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The Latino Legal Voice for Civil Rights in America.

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June 26, 2018

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RE: CORRECTED – REPLACING COMPLAINT DATED June 25, 2018. Prison Rape Elimination Act (PREA) Complaints Regarding Sexual Abuse of Women in U.S. Department of Homeland Security (DHS) Custody at the T. Don Hutto Residential Center

Dear Secretary Nielsen, Mr. Kelly, Ms. Quinn, Ms. Trickler-McNulty, Mr. Bible, Mr. Pierson, Ms. Collins and Ms. Meyers:

MALDEF (the Mexican American Legal Defense and Educational Fund) represents S.G.S.¹ and Laura Monterrosa-Flores, asylum seekers who suffered sexual abuse by guards while detained at the T. Don Hutto Residential Center in Taylor, Texas. In light of DHS's failure to prevent or adequately address the sexual abuse, MALDEF respectfully asks DHS to take the following corrective action under PREA: i) re-open the

¹ MALDEF uses the initials of its client here to protect her privacy. MALDEF has authorization from S.G.S. to disclose her name to the recipients of this PREA complaint in a manner that would not cause her information to be accessible to the public.

investigations of sexual abuse suffered by S.G.S. and Ms. Monterrosa-Flores; ii) terminate the employment of the Hutto detention center guards who abused MALDEF's clients; and iii) release the findings of any PREA audit conducted and bring the Hutto detention center into immediate compliance.

Sexual abuse of detainees violates DHS Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities, which establishes a zero-tolerance policy for assault in detention centers. *See* 6 C.F.R. § 115. Under 6 C.F.R. § 115.6, "sexual abuse" of a detainee by a staff member at a detention facility includes harassment aimed at coercing a detainee to engage in a sexual act, repeated verbal comments of a sexual nature to a detainee, or intentional touching of private areas. Sexual abuse of detainees also violates the 2011 Immigration and Customs Enforcement (ICE) Performance Based National Detention Standards.

DHS Failed to Prevent or Adequately Address the Sexual Abuse of Ms. Monterrosa-Flores

From May 2017 to March 16, 2018, DHS detained Ms. Monterrosa-Flores at the Hutto detention center, which is operated by CoreCivic. Ms. Monterrosa-Flores suffered sexual abuse by CoreCivic Residential Supervisor Laura Alcaraz. Specifically, Ms. Monterrosa-Flores alleges that:

1. Ms. Alcaraz, on at least one occasion, engaged in sexual acts with Ms. Monterrosa-Flores in the recreation area restroom.
2. Ms. Alcaraz, on at least one occasion, threatened Ms. Monterrosa-Flores into maintaining silence about the sexual abuse.
3. On Monday, November 7, 2017, Ms. Monterrosa-Flores reported the sexual abuse to officials from the Williamson County Sheriff's Office and the ICE Office of Professional Responsibility. In violation of 6 C.F.R. § 115.16(b), DHS failed to provide an adequate Spanish-language interpreter during that meeting.
4. DHS never informed Ms. Monterrosa-Flores of the results of the sexual abuse investigation, in violation of 6 C.F.R. § 115.73. Instead, on November 22, 2017, ICE issued a press statement announcing that it found Ms. Monterrosa-Flores's allegations to be unsubstantiated.²
5. DHS failed to monitor for retaliation against Ms. Monterrosa-Flores for reporting the sexual abuse, in violation of 6 C.F.R. § 115.67(a). In fact, after Ms. Monterrosa-Flores reported the abuse to CoreCivic and ICE officials, CoreCivic threatened Ms. Monterrosa-Flores with a retaliatory disciplinary hearing.³
6. To our knowledge, Ms. Alcaraz remains employed by CoreCivic as a guard at the Hutto detention center.

² *See* Tina Vasquez, *FBI Intervenes After Sexual Assault Allegations at Texas Immigrant Detention Center*, REWIRE, Dec. 12, 2017, <https://rewire.news/article/2017/12/12/fbi-intervenes-sexual-assault-allegations-texas-immigrant-detention-center/>.

³ *See* Laura Monterrosa-Flores's Petition for Writ of Habeas Corpus and Complaint, March 2, 2018, https://www.maldef.org/assets/pdf/1_Petition_for_Writ_of_Habeas_Corpus_and_Complaint.pdf.

DHS Failed to Prevent or Adequately Address the Sexual Abuse of S.G.S.

From June to October 2017, DHS detained S.G.S. at the Hutto detention center. DHS moved S.G.S. to ICE's Laredo Detention Center in October 2017 and then moved her to ICE's Port Isabel Detention Center before removing S.G.S. from the United States in April 2018. From July to October 2017, S.G.S. suffered sexual abuse by CoreCivic Residential Supervisor April Seda. Specifically, S.G.S. alleges that:

1. Ms. Seda made repeated unwelcome comments to S.G.S. about wanting to engage in a sexual relationship with S.G.S.
2. Ms. Seda asked S.G.S. inappropriate questions about S.G.S.'s sexual orientation and preferred sexual positions.
3. Ms. Seda often leered at S.G.S. in a lewd manner.
4. Ms. Seda, on more than one occasion, grazed the front of her own body, including her breasts, against S.G.S.'s body in the recreation area computer lab.
5. When S.G.S. attempted to avoid contact with Ms. Seda, Ms. Seda would ask other detainees to pass messages to S.G.S. asking S.G.S. to come to the recreation area. Ms. Seda also asked other detainees to tell S.G.S. that Ms. Seda missed her.
6. On October 11, 2017, S.G.S. reported the sexual abuse to CoreCivic.
7. DHS did not inform S.G.S. of any decision until almost three months after the date of her grievance, in violation of 6 C.F.R. § 115.52(e), which mandates that DHS issue a decision on a sexual abuse grievance within five days.
8. DHS never provided S.G.S. with information related to "U" nonimmigrant visas, in violation of 6 C.F.R. § 115.122(h).
9. Less than a week after S.G.S. reported the sexual abuse, ICE transferred her from the Hutto detention center to the Laredo Detention Center.
10. To our knowledge, Ms. Seda remains employed by CoreCivic as a guard at the Hutto detention center.

DHS Fails to Take Appropriate Steps to Prevent Sexual Abuse of Other Detainees

DHS failed to take action that could have prevented the sexual abuse of MALDEF's clients and continues to leave other detainees vulnerable at the Hutto detention center by refusing to provide proper oversight and supervision of detention center staff. Ms. Monterrosa-Flores and S.G.S. allege that the majority of the sexual abuse they suffered took place in the Hutto detention center's recreation area, where Ms. Alcaraz and Ms. Seda worked as Resident Supervisors. Recreation Supervisor Arwid Gabinsky, the sole direct supervisor of guards in the recreation area, works from 8 a.m. to 4 p.m. Thus, each day, from 4 p.m. until the recreation area closes several hours later, guards in the recreation area have no direct supervisor.

In violation of 6 C.F.R. § 115.13 and 115.18, DHS and CoreCivic failed to ensure sufficient supervision of guards through video monitoring that would protect detainees, including MALDEF's clients, from sexual abuse. At the Hutto detention center, several video cameras reportedly do not function and CoreCivic does not maintain a sufficient number of cameras to properly monitor the recreation area. Considering these deficiencies, the sexual abuse of MALDEF's clients' abuse was reasonably foreseeable.

In fact, CoreCivic already had notice of previous misconduct occurring in the Hutto recreation area. Within the last three years, CoreCivic terminated at least two other Hutto detention center guards, Resident Supervisors Charisma Van Boekhout and Martin Gonzalez, who worked in the recreation area, for engaging in prohibited relationships with detainees.

Detainees also experienced sexual harassment at the Hutto detention center in their dorm areas. Ms. Monterrosa-Flores and at least three other detainees witnessed CoreCivic Resident Supervisor David Blackwood, on multiple occasions, masturbate in the dorm area while staring at detainees in a lewd manner. Although at least one detainee reported Mr. Blackwood's behavior, DHS and CoreCivic failed to investigate or take corrective measures against him.

DHS Must Reopen Investigations of Sexual Abuse and Prevent Retaliation

MALDEF calls for an immediate investigation into its clients' allegations of sexual abuse, including but not limited to an investigation by the Office of Civil Rights and Civil Liberties (CRCL) using its authority under 6 U.S.C. § 345. DHS must take swift action to investigate the allegations and implement corrective measures, including disciplinary action, contract termination, and staff dismissal, if appropriate. Given the seriousness of S.G.S.'s and Ms. Monterrosa-Flores's allegations and CoreCivic's mismanagement at the Hutto detention center, DHS must provide direct oversight to ensure detainees' safety and prevent further retaliation against detainees.

DHS Must Release Findings of any PREA Audit and Ensure Compliance with Federal Detention Standards

DHS must cure the above-mentioned violations of federal detention standards by taking the following actions at the Hutto detention center:

- Supervise implementation of and enforce the Hutto detention center's written policy of preventing, detecting, and responding to sexual abuse by staff;
- Maintain an accessible and transparent complaint process for detainees;
- Require proper training of staff and management at the Hutto detention center; and
- Provide access to language interpreters for limited English proficient detainees who report abuse.

We understand that DHS conducted a DHS PREA audit May 8-10, 2018. DHS must immediately release the findings of that PREA audit and bring the Hutto detention center into compliance with DHS Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities and the ICE Performance Based National Detention Standards.

Hutto has a long history of sexual abuse by staff. For instance, in 2007, a Hutto guard sexually assaulted a detainee in her cell while her son slept in a crib next to her. In

2010, a guard sexually assaulted eight detainees, and Williamson County officials charged him with multiple counts of official oppression and unlawful restraint. That guard later pleaded guilty to the charges. If CoreCivic cannot adequately supervise its employees, DHS must terminate CoreCivic's contract to operate the Hutto detention center. Ultimately, DHS should not continue to detain people they cannot or will not protect.

MALDEF requests a written response detailing DHS's actions to date and planned next steps regarding MALDEF's clients' allegations and the requests in this letter. Thank you for your prompt attention. If you have any questions, please contact me at (210) 224-5476.

Respectfully,



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