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Via Email

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Re: Sexual Abuse, Gender-Based Harassment and Violations of Transgender Care Standards at the Golden State Annex Immigration Detention Facility

This complaint includes violations of the Rehabilitation Act of 1973. Please submit to the Section 504 division pursuant to 6 C.F.R. § 15.70

Dear Officer Wadhia,

Mr. B, Mr. T, Loba Lovos Mendez, Michael Cruz Lezama, John Doe, and Mr. F (collectively, “Complainants”), through the undersigned organization, submit this complaint to the Office of Civil Rights and Civil Liberties (“CRCL”).¹ Per Complainants’ reports, GEO Group (“GEO”) staff at Golden State Annex (“GSA”) have subjected them to sexual abuse, gender-based harassment, retaliation, and violations of transgender care standards. GEO has routinely failed to hold its staff accountable for those abusive actions, and ICE, in turn, has repeatedly failed to hold GEO to account for its misconduct.

As detailed below, Complainants’ reports include: instances of sexual contact between GEO staff and detained individuals; requests for sexual favors by guards, including a high-ranking staff person demanding that a detained person “suck [his] dick” and “fuck” him;

¹ Complainants Mr. B, Mr. T, John Doe and Mr. F proceed under their initials and under pseudonym, respectively, due to concerns about retaliation.

pervasive mistreatment, harassment and discrimination on the basis of sexual orientation and gender identity; retaliatory solitary confinement² of a gender nonconforming individual for filing a Prison Rape Elimination Act (“PREA”) complaint and engaging in advocacy to change conditions at GSA; a pattern and practice of retaliation against those who speak out in detention; and a pattern and practice of failure to promptly investigate PREA and other complaints and remove staff accused of sexual abuse and harassment from their victims.³

These reports implicate violations of: (1) ICE Enforcement and Removal Operations’ Performance-Based National Detention Standards (“PBNDS 2011”);⁴ (2) ICE’s Policy Memorandum, “Further Guidance Regarding the Care of Transgender [People in Detention],” (Jun. 19, 2015);⁵ (3) Section 504 of the Rehabilitation Act of 1973 (“Section 504”), 29 U.S.C. § 794 and its implementing regulations—which are binding on the Department of Homeland Security (“DHS”)—found at 6 C.F.R. § 15.30 et seq.; and (4) the DHS regulations implementing PREA—found at 6 C.F.R. §§ 115.10-115.95.

The incidents reported by Complainants represent a continuation of a long history of reports of sexual abuse by GEO staff,⁶ GEO staff retaliating against individuals who speak out

² Carceral entities use many different names to describe solitary confinement. Craig Haney, et al., *Consensus Statement from the Santa Cruz Summit on Solitary Confinement and Health*, 115 NW. U. L. Rev. 335, 335 (2020), available at: <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1435&context=nulr>. At baseline, experts define solitary confinement as “in-cell confinement for upwards of [22] hours a day” with “depriv[ation] of meaningful social contact for lengths of time” including even “very brief periods.” *Id.* at 335-337 (explaining that solitary confinement also frequently deprives detained people of access to “other aspects of everyday prison life that are essential to health and rehabilitation,” such as “meaningful recreation, programming, treatment, [and] contact visits,” among other things). ICE and GEO use various terms to describe the isolation environments at GSA in which Complainants were held. Because Complainants were subjected to extended in-cell confinement and deprivation of social contact, this complaint uses the term “solitary confinement.” *See id.* at 335.

³ The reports detailed below are based on interviews with Complainants and review of available documents, including Complainants’ available medical records, grievances, and written accounts of incidents.

⁴ U.S. Immig. & Customs Enf’t, *2011 ICE Performance-Based National Detention Standards* (revised 2016) (hereinafter “PBNDS”), available at: <https://www.ice.gov/detain/detention-management/2011>.

⁵ Memorandum from Thomas Homan, *Further Guidance Regarding the Care of Transgender Detainees* (Jun. 19, 2015) (hereinafter, “ICE Transgender Care Memorandum”), available at: <https://www.ice.gov/sites/default/files/documents/Document/2015/TransgenderCareMemorandum.pdf>.

⁶ *See, e.g., CRCL Complaint Re: Sexually Abusive Pat-Downs Against Individuals in Immigration Detention at Mesa Verde Detention Facility* (January 17, 2023), available at: https://www.aclunc.org/sites/default/files/2023.01.17_Sexually_Abusive_Pat-Downs_Complaint_REDACTED.pdf.

about abusive conditions of confinement,⁷ and failures of GEO staff and ICE to protect detained transgender individuals from harm.⁸

Because of this history of reports of sustained abusive conditions of confinement and failure to remedy these conditions at GSA and other GEO facilities, Complainants' primary demand is that CRCL advocate for the closure of GSA. Complainants' secondary demands are that CRCL ensure that ICE releases all Complainants and refrains from redetaining them, ensure that ICE detention facilities provide access to LGBT programming, investigate the specific reports in this complaint and recommend appropriate corrective actions, protect Complainants from removal during the CRCL investigation process, and provide U Visa Certification for Complainants.

I. GEO subjects detained individuals to retaliatory sexual harassment and sexual orientation and gender-based harassment—and retaliation for reporting the same

A. Mr. B and Mr. T

Mr. B and Mr. T are a gay couple from Colombia who left their country due to violence and death threats. From the moment they were detained by Customs and Border Protection (“CBP”), they experienced discrimination and sexual harassment on the basis of their sexual orientation. CBP officers put them in a cell by themselves only because they are gay—Mr. B and Mr. T were told they were separated from the rest based on the homophobic and unfounded assertion that they would “touch others.” They were then detained at GSA from around February 2024 until around April 2024, where they suffered repeated sexual harassment by a supervisory staff person, Lieutenant (“Lt.”) ██████, and another detained person.

Upon arrival at GSA, Mr. B and Mr. T were put into separate housing units. Mr. T began experiencing panic attacks, depression and anxiety; his panic attacks became so severe that he once fainted. Mr. B and Mr. T requested to be placed together in the same housing unit. The only way to make such a request was through a tablet, and these requests were reviewed by Lt. ██████, who, as described below, abused his power by making sexual comments and gestures to Mr. T, Mr. B, and other detained individuals.

Another detained person in Mr. T's housing unit sexually harassed him repeatedly. This detained person would often make gestures with his mouth to insinuate oral sex. Mr. T submitted a request to change housing units, and a complaint to the Office of the Immigration Detention

⁷ See, e.g., *CRCL Complaint Re: First Amendment Retaliation Against Individuals in Immigration Detention in California* (August 26, 2021), available at https://www.aclunc.org/sites/default/files/OCRCL%20complaint.08.26.21%20_0.pdf; *Excessive Use of Force, Retaliatory Dagnet Searches, and Other Abuses Against People Detained at Golden State Annex ICE Detention Facility on and after April 15* (August 15, 2024) (hereinafter “April 15 Raid Complaint”), available at: <https://www.ccijustice.org/gsa-a4-raid-crcl>; *CRCL Complaint Re: Violation of First Amendment Rights of People Engaged in a Hunger Strike at the Buffalo Federal Detention Facility* (July 9, 2024), available at: <https://rfkhumanrights.org/wp-content/uploads/2024/07/CRCL-Complaint-7.9.2024-FINAL-PDF-1.pdf>.

⁸ See, e.g., *CRCL Complaint Underscoring Why People Who are Transgender and Nonbinary Should Not be Detained in Civil Immigration Detention* (April 9, 2024) (hereinafter “Transgender Care Complaint”), available at: https://nipnlg.org/sites/default/files/2024-04/CRCL_complaint-transgender-care.pdf.

Ombudsman (“OIDO”) reporting this sexual harassment. Around the same time, Mr. T and Mr. B also confided in a GEO staff person—Officer ██████—and shared that they were a couple. Then the sexual harassment from Lt. ██████ began.

Mr. T and Mr. B quickly noticed that Lt. ██████ would frequently stare at their penises. Referring to their request to be placed in the same housing unit, Lt. ██████ asked them, “if I make this happen, what do I get in return?” Lt. ██████ ultimately granted their request, but then invited them regularly to his office, telling them they “owed him.” On one occasion, Lt. ██████ approached the table where Mr. B, Mr. T and another detained person were sitting, and invited Mr. B and Mr. T to his office. Mr. B and Mr. T understood this as a demand for sexual favors in exchange for Lt. ██████ granting their request to be placed in the same housing unit. After Mr. B and Mr. T rejected Lt. ██████’s sexual advances by ignoring his comments and pretending that they did not understand him, Lt. ██████ threatened to separate them again by constantly telling Mr. T, “pack your stuff, you’ll be moving to another housing unit,” then later smiling and saying, “I’m kidding.” When Lt. ██████ was in the hallways, he would stop by their housing unit just to stare at them.

Lt. ██████ also made inappropriate and threatening sexual comments. One day he asked Mr. T, “Do you want to suck my dick?” and “want to fuck?” Lt. ██████ continued by making a fist and putting it close to his mouth and moving it back and forth while moving his tongue, insinuating oral sex. Mr. T, mortified, pretended he did not understand Lt. ██████. On approximately February 29, 2024, Lt. ██████ told Mr. B “you belong to me.”

On another occasion, Mr. B was in the medical office waiting room when Lt. ██████ entered the room and noticed Mr. B. Lt. ██████ proceeded to get closer to him, leaned against the wall and stared at Mr. B up and down in a sexually suggestive manner. Lt. ██████ repeatedly engaged in this behavior, including in the presence of other detained people. This was extremely uncomfortable for both Mr. T and Mr. B.

Mr. T and Mr. B. felt they had no one to turn to or ask for help because Lt. ██████ was in a position of power, and was responsible for reviewing their requests, complaints and grievances. In fact, they put in a request to speak with a psychologist multiple times but were always directed to Lt. ██████. This made Mr. B and Mr. T feel powerless, defenseless and scared. They described feeling like they were “nothing” inside those housing units. Mr. B and Mr. T were under a high level of stress. They were constantly worrying about what Lt. ██████ would do next and trying to hide from him every time they would hear or see him. They feared that Lt. ██████ would rape them and would have the power to make sure there was no evidence of the rape.

Mr. B and Mr. T also became aware that Lt. ██████ harassed other detained people and gave special treatment to those who accepted his apparent requests for sexual favors. For example, a detained person got in trouble for starting a fight and was on his way to solitary confinement when Lt. ██████ took him to his office, took out a chocolate bar, and insinuated oral sex. In response, the detained person grabbed Lt. ██████’s hand and placed it on his penis. This detained person told Mr. B and Mr. T he did this because he thought if he responded to Lt. ██████’s sexual advance he would not be taken to solitary confinement—which proved to be

correct. Lt. █████ permitted another detained person to have a watch and a short sleeve shirt with a logo, and Lt. █████ would also regularly deliver food to this person—both forms of preferential treatment that were not available to other detained individuals. This detained person would spend time in Lt. █████’s office. It was widely believed among detained individuals that Lt. █████ was engaging in a quid pro quo arrangement of a sexual nature with this person; detained individuals frequently referred to Lt. █████ as this person’s “sugar daddy.”

Mr. B and Mr. T reported Lt. █████’s repeated harassment to OIDO around the end of March or the beginning of April 2024. Mr. B and Mr. T wished to make a formal complaint sooner but as Mr. T expressed, “the person who was supposed to help me also wanted me sexually.” They felt they had nowhere to turn for months. Mr. B and Mr. T were informed that OIDO started an investigation and removed Lt. █████ while the investigation was ongoing. Mr. B and Mr. T asked to receive a copy of the complaint; a high-ranking GEO staff person told them that GEO would follow up with them. To date, no one from GEO or ICE has reached out to Mr. B and Mr. T to follow up on, or further investigate, their complaint. Mr. B and Mr. T still suffer tremendously from the mistreatment and harassment they experienced at GSA, including by experiencing regular nightmares. Mr. T takes medication to sleep and to help with his anxiety, and his symptoms have worsened since being detained at GSA. Although Mr. T and Mr. B have been released from ICE custody, they continue to fear that Lt. █████ will access their information and find them.

B. Loba Lovos Mendez

Loba Lovos Mendez identifies as transfeminine and has been detained at GSA for approximately eight months, since January 2024.⁹ She suffers from Post-Traumatic Stress Disorder (“PTSD”), Major Depressive Disorder, Generalized Anxiety Disorder, Panic Disorder, and Gender Dysphoria.¹⁰ A psychologist found that her Gender Dysphoria—which is triggered by mistreatment by GEO staff—has significantly aggravated her other mental health issues, and that, as a result, she is experiencing severe psychological distress in detention.

Upon her arrival at GSA, she informed a lieutenant that she identified as transfeminine, expressed concerns for her safety in the general population housing unit, and requested

⁹ “Transfeminine people are people who were assigned male at birth . . . but identify more with a feminine identity.” *Transfeminine*, MERRIAM-WEBSTER ONLINE, <https://www.merriam-webster.com/dictionary/transfeminine>. Mx. Lovos Mendez uses the pronouns “she” and “they.” She is identified in this complaint by her chosen first name, Loba, rather than her birth name, which she also considers to be her “deadname,” i.e., “the name that a transgender person was given at birth and no longer uses.” *Deadname*, MERRIAM-WEBSTER ONLINE, <https://www.merriam-webster.com/dictionary/deadname>. She is also referred to in this complaint using the gender-neutral honorific “Mx.” *Mx. - A Gender-Neutral Honorific*, MERRIAM-WEBSTER ONLINE, <https://www.merriam-webster.com/wordplay/mx-gender-neutral-title>.

¹⁰ Gender Dysphoria is a psychological condition defined as a “marked incongruence between [an individual’s] experienced or expressed gender and the one they were assigned at birth.” Garima Garg, Ghada Elshimy, Raman Marwaha, National Institutes of Health National Library of Medicine, *Gender Dysphoria* (updated July 11, 2023), available at: <https://www.ncbi.nlm.nih.gov/books/NBK532313>. This incongruence can lead to considerable distress and impairment in significant areas of functioning. *See id.*

appropriate housing. The lieutenant provided only two housing options: general population or solitary confinement. Fearing the detrimental impact of indefinite solitary confinement on her already-fragile mental health,¹¹ she had no choice but to be detained in the general population. After many months in the general population, Mx. Lovos Mendez has formed friendships with, and feels supported by, other detained individuals in her housing unit. GEO staff, on the other hand, have routinely subjected Mx. Lovos Mendez to abuse.

It is well-documented that gender nonconforming individuals face significant abuse by staff in ICE detention, including at facilities that are supposedly designed to accommodate them.¹² Mx. Lovos Mendez's case is no exception: for months, she has suffered repeated misgendering, harassment, discrimination, sexually abusive patdowns, and other mistreatment by GEO staff. And, as explained below, after filing PREA complaints highlighting this abuse, she was subjected to prolonged, retaliatory solitary confinement.

1. Misgendering, harassment, discrimination, sexually abusive patdowns, and other mistreatment by GEO staff

Mx. Lovos Mendez has faced consistent misgendering, hostility and harassment from GEO staff. Although Mx. Lovos Mendez repeatedly informed GEO staff that she identifies as transfeminine and uses the pronouns "she" and "they," staff refused to refer to her as such, instead calling her "sir" and "Mr." and referring to her with the pronouns "he" and "him." Being misgendered triggers Mx. Lovos Mendez's Gender Dysphoria and causes her significant psychological harm. As such, she has filed numerous grievances requesting that GEO staff refer to her using her proper gender and pronouns. Nevertheless, the misgendering has persisted, including by Assistant Facility Administrator ("AFA") [REDACTED] and Lieutenant [REDACTED]. Moreover, after learning of Mx. Lovos Mendez's gender identity, at least one GEO staff member began mockingly referring to her as "queen" and "princess," which Mx. Lovos Mendez experiences as hostile, demeaning, and unprofessional. Mx. Lovos Mendez experiences this as intentional harassment based on her gender identity.

Mx. Lovos Mendez has also been subjected to sexually intrusive pat down searches by male staff. She reports that male staff would spread her legs open, pin her against the wall, and rub her breasts, groin, inner thighs and buttocks in an aggressive and sexual manner. Mx. Lovos Mendez found these pat down searches to be demeaning and extremely uncomfortable, triggering memories of a sexual assault she survived as a minor. It was only *after* Mx. Lovos Mendez filed a PREA complaint three months into her detention that GSA began offering her pat down searches by female staff.

GSA has also denied Mx. Lovos Mendez proper clothing and hygiene products. During her previous incarceration, she had access to gender-appropriate clothing, such as sports bras and women's underwear, as well as make-up and hair products appropriate for long hair. At GSA,

¹¹ See Transgender Care Complaint at 4 (discussing disproportionately harmful impact of solitary confinement on people with vulnerabilities, particularly transgender people and those with mental health and medical conditions).

¹² See Transgender Care Complaint at 3-5.

Mx. Lovos Mendez requested the above items, but staff denied her request. As a result, she is forced to wear men’s clothing, including boxers, which Mx. Lovos Mendez experiences as dehumanizing and extremely uncomfortable, further triggering her Gender Dysphoria.

Mx. Lovos Mendez has also witnessed staff creating a sexualized environment at GSA. She reports that GEO staff are “very flirtatious” with each other. For example, she witnessed one GEO guard commenting to another, “your butt looks good today.” She has frequently witnessed male GEO guards referring to female GEO guards as “sweetheart” and “babe.” Mx. Lovos Mendez is also aware that male GEO guards have made sexual comments to male detained people, including stating that one detained person looked “very beautiful.” Particularly when combined with the sexually intrusive pat down searches described above, this sexualized environment made Mx. Lovos Mendez feel highly uncomfortable and unsafe.

Mx. Lovos Mendez has faced other forms of discrimination at GSA on the basis of her gender identity. After arriving at GSA, she applied to participate in the Voluntary Work Program (“VWP”).¹³ She underwent a medical evaluation, and GEO pre-approved her for participation. While other detained people were approved for the VWP and began work within a matter of days, Mx. Lovos Mendez went months without a response. GEO staff ultimately informed Mx. Lovos Mendez that her application was denied on the basis of a medical condition that Mx. Lovos Mendez understands was successfully treated over 10 years ago. To Mx. Lovos Mendez’s knowledge, GEO staff cited no other valid medical evidence or legal authority for denying her application. Given the above facts—particularly that she had already been medically evaluated and pre-approved to participate in the VWP—Mx. Lovos Mendez feels that the denial of her application was pretextual, and that GEO and ICE refused to let her participate in the VWP because of her gender identity. Mx. Lovos Mendez experiences this as part of a larger effort by GEO staff to punish her for openly expressing her gender identity—and to send a message to others that it is not safe to express their gender identity, either—in an ultimate effort to avoid having to make accommodations.

2. *Prolonged, retaliatory solitary confinement for filing a PREA complaint and advocating to change conditions at GSA*

Mx. Lovos Mendez has engaged in extensive advocacy regarding conditions at GSA. Since GSA’s opening in 2020, detained people have reported dangerous and unsanitary conditions there.¹⁴ Mx. Lovos Mendez, for her part, has filed dozens of administrative grievances

¹³ The Voluntary Work Program allows private detention operators to pay detained individuals as little as \$1 per day to perform essential work, such as janitorial and facility maintenance tasks. Many detained individuals take part in this program, despite the extremely low wages, because they need the money to purchase basic hygiene items and food from the facility’s commissary due to inadequate provision of food and hygiene items. See California Collaborative for Immigrant Justice, *One Dollar a Day: Labor Conditions Within California Immigrant Detention Centers* (2023), available at: <https://www.ccijustice.org/labor-conditions-report>.

¹⁴ See, e.g., U.S. Dept. of Labor, Occupational Safety and Health Admin., Inspection No. 1609228.015, Inspection Detail, available at: https://www.osha.gov/ords/imis/establishment.inspection_detail?id=1609228.015 (last visited Aug. 26, 2024); *Letter from Members of Congress of the U.S. to Alejandro Mayorkas, Sec’y, U.S. Dep’t of Homeland Security, and Tae Johnson, Acting Dir., U.S. Immigration and Customs Enforcement*, (May 4, 2023),

alerting GEO staff to violations of the PBNDS, including, among other things, that detained people were served food with live cockroaches on the tray, as well as spoiled rice, curdled milk, and undercooked meat; that the drinking water in her housing unit has been contaminated with human hair; that the facility lacks adequate cleaning supplies; that the laundry (including clothes, bed sheets, and towels) is not changed at appropriate intervals as required by the PBNDS; that detained individuals have had to go up to three days without toilet paper; and that she has faced significant delays in receiving medical and mental health care. Mx. Lovos Mendez also requested programming for LGBT individuals (including the establishment of a Gay-Straight Alliance), but her request was summarily denied. Mx. Lovos Mendez has spoken to the media, asking public health officials to inspect GSA and decrying its “packed dorm room, clogged air filters, mice and cockroaches scurrying in the kitchen, water leaking from the ceiling, and detainees with flu-like symptoms who could not get access to medication or a COVID test when requested.”¹⁵

In return, Mx. Lovos Mendez has been met with retaliation by GEO staff. For example, AFA ██████ informed another detained person that “the next time Lovos submits more grievances, I’m going to have to reject them or ignore them.” In addition, on approximately May 25, 2024, AFA ██████ and another GEO staff person singled out Mx. Lovos Mendez and made her throw away photographs of her family and partner displayed in her bed area—although many of the approximately 58 other people in her housing unit had similar displays, they were not asked to throw their pictures away. The next day, during a morning walkthrough, Lt. ██████ banged on the metal frame of her bed, shouting at Mx. Lovos Mendez “*sir, mister*, you gotta get up,” and instructing other GEO staff to, “make sure *he* gets up”—emphasizing the words “*sir*,” “*mister*” and “*he*.”

On approximately May 26, 2024 and May 28, 2024, Mx. Lovos Mendez filed two PREA complaints with OIDO, citing instances of misgendering and harassment by staff described above. A few days later, Mx. Lovos Mendez was approached by an ICE officer and offered

available at: https://7330553c-3dac-4189-926d-9d7bbfbf56ea.usrfiles.com/ugd/733055_6eeb5fed590d44db8e5c02c41102e0b3.pdf; U.S. Dep’t of Homeland Security, Office of Inspector General, OIG-24-23, *Results of an Unannounced Inspection of ICE’s Golden State Annex in McFarland, California* (2024), available at: <https://www.oig.dhs.gov/sites/default/files/assets/2024-04/OIG-24-23-Apr24.pdf>.

¹⁵ Vanessa G. Sánchez, San Diego Union Tribune, *California lawmakers push to get local health inspectors into immigration facilities* (July 27, 2024), available at: <https://www.sandiegouniontribune.com/2024/07/27/california-lawmakers-push-to-get-local-health-inspectors-into-immigration-facilities/> (further noting “COVID-19, mumps, and chickenpox outbreaks,” as well as “contaminated water, moldy food, and air ducts spewing black dust” at GEO detention facilities in California); see also Victoria Valenzuela, The Guardian, *More than 60 Ice detainees on hunger strike over ‘inhuman’ living conditions* (Aug. 26, 2024), available at: <https://www.theguardian.com/us-news/article/2024/aug/26/immigration-customs-enforcement-ice-hunger-strike-california> (quoting Mx. Lovos Mendez as saying “this facility is exploiting our detainee[] population” and reporting that “in the six months that Lovos Mendez has been detained at Golden State Annex, they have experienced shortages and excessive prices on basic hygiene products, medical neglect and unsanitary conditions. On two occasions, they have seen live cockroaches in the food.”).

transfer to another GEO detention facility in Aurora, Colorado—where many gender nonconforming people are detained and are also reported to suffer significant harassment, mistreatment and abuse by staff.¹⁶ Because Mx. Lovos Mendez had by then secured pro bono immigration counsel in California, and her family and partner also live in California, a transfer to Colorado would have resulted in her losing her counsel and being deprived of family visits, so she declined it. Then, on approximately June 3, 2024, Mx. Lovos Mendez was placed in solitary confinement. The lieutenant who removed her from her housing unit specifically told her that she was being separated from the general population *because of* her PREA complaints—neither of which involved any reports of harm from other detained people in her general population housing unit.

During her approximately 24 days in solitary confinement, Mx. Lovos Mendez suffered significant further retaliation and deprivation. First, GEO staff cut off the water supply to her toilet, forcing her to go up to twelve hours without flushing, and eat her meals while smelling her own feces and urine. She was given an insufficient amount of drinking water. And her access to the law library was restricted to approximately 1.5 hours per week on average, while the PBNDS requires a minimum of 5 hours of access weekly.¹⁷

A psychologist found that Mx. Lovos Mendez’s placement in solitary confinement significantly deteriorated her mental health.¹⁸ It triggered traumatic past memories of being held in a locked room by a former romantic partner, worsening her PTSD symptoms.¹⁹ Further, she began to experience severe back pain and muscle spasms, but GEO staff denied her request for a wheelchair, making it excruciatingly painful for her to walk to the law library.

GEO staff provided shifting and unsubstantiated reasons for her placement in solitary confinement. First, GEO staff falsely claimed that Mx. Lovos Mendez “requested” protective custody.²⁰ But she never did so. To the contrary, she repeatedly informed GEO staff that she was not seeking placement in protective custody and felt safer in the general population housing unit than in solitary confinement. She repeatedly requested to be returned to the general population. GEO staff then changed course, stating that she was being held in solitary confinement because

¹⁶ See Transgender Care Complaint.

¹⁷ PBNDS § 6.3(V)(C) (“Each detainee shall be permitted to use the law library for a minimum of five hours per week.”)

¹⁸ See also Margo Schlanger, Elizabeth Jordan, Roxana Moussavian, *Ending the Discriminatory Pretrial Incarceration of People with Disabilities: Liability Under the Americans with Disabilities Act and the Rehabilitation Act*, 17.1 Harv. Law & Pol. Rev. 232, 245 (2022) (hereinafter “Section 504 Article”) (“[I]ncarcerated people with mental illness are disproportionately assigned to extended solitary confinement, which is widely documented to cause physical and mental decompensation, and even lead to suicide”).

¹⁹ Mx. Lovos Mendez submitted grievances alerting staff that her placement in solitary triggered memories of her prior sexual assaults. Yet staff continued to hold her in solitary confinement.

²⁰ At GSA and many other ICE detention facilities, the only option for “protective custody” is a placement in the solitary confinement unit. Andrea Castillo, *The Los Angeles Times*, *ICE kept a California immigrant in solitary confinement for two years, study finds* (Feb. 6, 2024), available at: <https://www.latimes.com/politics/story/2024-02-06/ice-immigrants-in-solitary-confinement>.

of her back pain, which they claimed required observation (although, as noted above, they also denied her request for a wheelchair). Two lieutenants—[REDACTED] and [REDACTED]—conceded to Mx. Lovos Mendez that they did not know why she was in solitary. Moreover, a third lieutenant, Lt. [REDACTED], conducted multiple seven-day reviews of her placement in solitary confinement, and recommended that she be returned to the general population. Lt. [REDACTED] informed Mx. Lovos Mendez that the warden had signed off on that recommendation. Yet, she was still not returned to the general population.

Mx. Lovos Mendez’s lawyer repeatedly emailed ICE requesting that ICE ensure that Mx. Lovos Mendez was returned to the general population. ICE declined to take action on the basis that this was a “GEO issue.” After 24 days in solitary confinement, Mx. Lovos Mendez’s lawyer alerted the Immigration Judge to the situation during a hearing. Mx. Lovos Mendez was returned to a general population housing unit the same day. Considering these circumstances, Mx. Lovos Mendez reasonably believes that GEO staff held her in solitary confinement as retaliation for filing her PREA complaints and submitting administrative grievances.

Mx. Lovos Mendez was never interviewed about the PREA complaints she submitted in May. In the nearly 90 days since she submitted them, she has received no follow up from ICE or GEO.

C. Michael Cruz Lezama

Mr. Cruz Lezama has been the ongoing target of sexually harassing and degrading comments, treatment and retaliation at GSA since April 2024. That month, Mr. Cruz Lezama was among the individuals who were subjected to unlawful use of force by GEO and ICE staff in retaliation for his decision to speak out against medical neglect, mistreatment and poor conditions of confinement. *See* April 15 Raid Complaint. Mr. Cruz Lezama was awoken from his bed by officers in riot gear, had his arms yanked and twisted behind his back by officers, and was handcuffed despite not resisting in any way. *Id.* at 3. He informed the officers that he was experiencing intense pain in his shoulder as a result of their actions, to which they responded by increasing the pressure and force that they applied. *Id.* As a result, Mr. Cruz Lezama now experiences a permanent shoulder injury. *Id.* at 3, 7.

On approximately April 15, 2024, and shortly after this unlawful use of force, Mr. Cruz Lezama was placed in solitary confinement without being given an explanation for this placement. *Id.* at 10-11. While in solitary confinement, Mr. Cruz Lezama was denied access to hygiene products and his clothes. *Id.* at 10. This is also when Mr. Cruz Lezama began to be the target of sexually harassing and degrading comments by GEO staff.

Soon after Mr. Cruz Lezama entered the solitary confinement cell, he laid on his cot on his stomach. GEO Officer [REDACTED] walked past his cell and commented out loud to other GEO staff and detained individuals nearby, “look how he [Mr. Cruz Lezama] is sleeping. He is waiting for Lt. [REDACTED] to come over to him.” Officer [REDACTED] then made a motion of repeatedly putting her finger through a hole. The implication of Officer [REDACTED]’s comment and gestures was to insinuate that Mr. Cruz Lezama sought to engage in sexual intercourse with Lt. [REDACTED], a male

staff person. Officer [REDACTED] and other GEO staff often made derogatory comments about Lt. [REDACTED]'s sexuality, and now sought to degrade Mr. Cruz Lezama by including him in their harassing comments.

Over the next several days, Officer [REDACTED] repeatedly made the same sexually harassing comment and insinuating hand gestures about Mr. Cruz Lezama. Mr. Cruz Lezama felt degraded by Officer [REDACTED]'s comments. He also felt defenseless to respond to Officer [REDACTED] because he was already in a position of being arbitrarily punished in retaliation for speaking up about misconduct and neglect by GEO staff and he anticipated that he would face further retaliation if he were to speak out.

Despite these risks, on approximately April 19, 2024, Mr. Cruz Lezama reported Officer [REDACTED]'s harassing comments to OIDO, as well as to officials at ICE. However, after personally speaking with and reporting the harassment to OIDO and ICE officials, Mr. Cruz Lezama never heard anything further from them, nor did he observe any action taken. To his knowledge, no changes were made, no investigation was initiated, and no discipline was meted out to Officer [REDACTED].

To the contrary, Officer [REDACTED]'s actions and conduct around Mr. Cruz Lezama became further emboldened and harassing. After Mr. Cruz Lezama reported Officer [REDACTED]'s misconduct to OIDO and ICE, Officer [REDACTED] increased the frequency with which she monitored Mr. Cruz Lezama while he was in solitary confinement. She went out of her way to be the staff person that brought him food, and who would serve as his escort for recreational time in the yard. Because Mr. Cruz Lezama felt degraded and uncomfortable around Officer [REDACTED], he rarely left his cell when she was present and declined to eat his meals if it required him to engage with her. Further, after Mr. Cruz Lezama made his report to OIDO and ICE, Officer [REDACTED] increased her sexually harassing comments targeted at him. For example, when Mr. Cruz Lezama would speak with other female GEO staff, Officer [REDACTED] would make audible comments along the lines of, "oh, too bad he is gay." Further, when Mr. Cruz Lezama was present in the vicinity of Officer [REDACTED], she would frequently whisper, laugh and make jokes to other GEO staff, while staring at Mr. Cruz Lezama, to make clear that she was denigrating him.

As a result of Officer [REDACTED]'s harassment and conduct spreading rumors about Mr. Cruz Lezama's sexuality to other GEO staff and detained individuals at the facility, Mr. Cruz Lezama feels he is treated differently, eyed with suspicion, and viewed with contempt and disgust by staff. For example, since at least July 2024, another GEO staff person, Officer [REDACTED], has made sexually harassing comments directed at Mr. Cruz Lezama. Whenever Officer [REDACTED] is serving food to Mr. Cruz Lezama, she comments that the food is his "favorite," referring to sausages. The implication of her comment is that Mr. Cruz Lezama is gay. Officer [REDACTED] has made similar comments on at least six occasions. When Mr. Cruz Lezama spoke up and asked Officer [REDACTED] to stop making such comments and leave him alone, she retaliated against him by writing him up for a disciplinary action while he was working out, without any basis, and told him that he would have his commissary privileges suspended for a week.

Mr. Cruz Lezama feels triggered and provoked by the sexual harassment he endures and worries about standing up for himself because he fears he will face worsening abuse and other retaliatory punishment if he does so. He recalls being personally threatened by the assistant facility administrator when he left solitary confinement not to “dare help other people” when he sees misconduct by staff and interprets that threat to apply to speaking up for himself about the harassment he faces. He worries that he will be transferred to another facility out of state, in Florida or Texas, far from his family, attorneys and community, if he calls out the misconduct he endures. Yet, each day, Mr. Cruz Lezama feels progressively more uncomfortable, uneasy and diminished due to the harassment he experiences.

D. John Doe

Mr. Doe has been subjected to over 18 months of confinement at Golden State Annex. He has become the recent target of sustained harassment from GEO staff after they learned of his sexual orientation. Since June 2024, after learning that Mr. Doe identifies as bisexual, GEO staff have consistently referred to him with derogatory slurs, including “maricón” (“faggot” in Spanish), and have made harassing comments questioning and ridiculing his sexual orientation. GEO staff repeatedly comment to Mr. Doe and to others that he is “gay,” and mock him with questions like, “who is your boyfriend?” When Mr. Doe is speaking with other detained people, GEO staff comment, “oh, you’re going out with that person,” or “how are things with your spouse?” He has observed a marked change in the way he is treated by GEO staff, experiencing disrespect, humiliation and being the butt of denigrating jokes.

Moreover, the harassing comments by GEO staff have coincided with violent and aggressive behavior targeted at Mr. Doe, leading him to believe that the escalation in abuse is a continuation of the sexual harassment. For example, in July 2024, Mr. Doe was falsely accused of having been in a conflict with a GEO staff member. Mr. Doe believes that this accusation was a pretextual basis to harass him further. After this alleged conflict with a staff member, another staff member spoke to Mr. Doe in English, which he does not speak or understand. Mr. Doe signaled that he did not understand and moved out of the way of other detained people in order to have a discussion. Rather than engaging with Mr. Doe in the language he understands, GEO staff suddenly pepper sprayed Mr. Doe in the eyes, and summarily sent him to solitary confinement. After spraying him with pepper spray, GEO staff told Mr. Doe, “you cry like a little girl.” Mr. Doe was deprived of clean clothes and hygienic supplies to wash the pepper spray out of his eyes for two days, and his vision remained impaired for over a week thereafter. Mr. Doe had not previously been the target of such arbitrary and excessive use of force, and therefore suspects that his mistreatment in this manner is connected to the discriminatory harassment he has been experiencing based on his sexual orientation.

E. Mr. F

Mr. F, an outspoken advocate for himself and others in immigration detention, has been subjected to repeated incidents of physical assault and retaliatory harassment—including

multiple incidents of sexual harassment—by GEO staff at GSA. Mr. F has advocated for himself and others by filing numerous grievances and participating in sit-ins and hunger strikes to protest conditions of confinement and staff misconduct at GSA. Mr. F also suffers from severe PTSD which has worsened throughout his time in detention. Part of his PTSD symptoms include difficulty controlling emotions like irritability and anger—GSA staff are aware of that fact and Mr. F believes they have used it to try to provoke him to act out. The following incidents are a small portion of the incidents of retaliatory harassment Mr. F suffered while he was detained at GSA.

On April 15, 2024, and shortly after participating in multiple peaceful protests organized by those in his housing unit, Mr. F's housing unit was violently raided by GEO staff. *See* April 15 Raid Complaint. During this raid, and while Mr. F was already handcuffed, a GEO staff person punched him in the jaw. *Id.* at 3. After the raid, Mr. F was sent to solitary confinement, despite the fact that there was no showing that he posed any danger to himself or to others. *Id.* at 10-11. After being taken to solitary confinement, staff brought Mr. F his property from the housing unit. But much of his property was missing and has yet to be located—including notes from Mr. F's Reasonable Fear Interview ("RFI"),²¹ detailing Mr. F's reports of harm at the hands of gang affiliates, and documents that include identifying information about Mr. F's loved ones. *See id.* at 9. Mr. F is terrified that someone could share the information in these documents with gang affiliates, who could then harm him or his family. To date, Mr. F is not aware of any GEO staff person being held accountable for physically assaulting him or violating his privacy rights and placing him and his family at increased risk of harm.

On May 8, 2024, Mr. F was speaking with a medical provider about his mental health, when a nurse walked into the room and said something like "is he still talking shit?" Out of frustration that his psychiatric care was not kept confidential or respected, Mr. F threw a bottle of Ensure at the door. Many officers rushed into the room and Mr. F put his hands behind his back and allowed the guards to handcuff him. Despite his cooperation, a GEO staff person (Officer ██████) violently slammed Mr. F's head against the wall three times. While Mr. F was handcuffed, Officer ██████ said something like, "I'm going to kill this mother fucker." Another GEO guard who was in the room—Officer ██████—repeatedly and threateningly cursed at Mr. F, stating things like "let's fuck this bitch up," "you're a fucking bitch," and "I'm gonna fuck you up, bitch." Both a higher-ranking GEO staff person (Lt. ██████) and an ICE officer (Officer ██████) overheard these violent threats. After the threats and physical violence, GEO staff encouraged ICE Officer ██████ to leave the room. ICE Officer ██████ began to leave but was convinced to stay by Mr. F telling him he was terrified that the GEO staff would harm him even more violently if there was nobody other than GEO staff in the room.

²¹ Federal regulations recognize the importance of keeping information shared during Reasonable Fear Interviews—which often include allegations against powerful persecutors—confidential. *See* 8 C.F.R. § 208.6(a) ("records pertaining to any reasonable fear determination . . . shall not be disclosed without the written consent of the applicant").

After this incident in the medical unit, Mr. F was taken to a dirty isolation cell and left handcuffed for approximately 12 hours. Mr. F made a report with ICE Officer [REDACTED] about the violence and threats he suffered on May 8, but never heard anything further from ICE about the incident and is not aware of any disciplinary actions taken against the staff that physically and verbally abused him. Mr. F was returned to solitary confinement on May 9. Officer [REDACTED]—the GEO staff person who had called Mr. F a “bitch” and threatened him with physical violence on May 8—worked in the intake area at this time. Because of the layout of the solitary confinement unit, this meant that Officer [REDACTED] had a clear view into the entrance and main hallway of the solitary confinement unit. Despite the abusive and threatening language Officer [REDACTED] had used against Mr. F, Officer [REDACTED] was still at his post in intake when Mr. F returned to the solitary confinement unit. Additionally, when Mr. F returned to his cell on May 9, all of the posters that had previously been posted in the cell by the facility, including a poster listing the procedure for reporting incidents of sexual harassment or abuse, had been removed. According to the people housed in the neighboring cells, Officer [REDACTED] had gone into Mr. F’s cell and removed these posters.

On May 10, 2024, Mr. F was returning to the solitary confinement unit from the law library and was accompanied by the law librarian (Ms. [REDACTED]) and a GEO staff person (Officer [REDACTED]). Mr. F’s hair—which is long and which he usually wears down—was tied back with a hair tie. When Mr. F entered the solitary confinement unit, Officer [REDACTED] saw Mr. F in the entrance to the unit, came out of the intake room and approached Mr. F. Officer [REDACTED] then said, “your hair looks cute like that” while staring at Mr. F. At first, Mr. F thought Officer [REDACTED] might be trying to provoke him into getting angry. But the way Officer [REDACTED] was staring at him made Mr. F think that Officer [REDACTED] was interested in him sexually. This made Mr. F feel extremely uncomfortable because of the position of power Officer [REDACTED] held at the facility and Mr. F’s recent experience of GEO staff being able to get away with violent abuse of detained individuals without any consequences.

After Officer [REDACTED] said “your hair looks cute like that,” Officer [REDACTED] started laughing. Mr. F told Officer [REDACTED] that this incident was not funny and made him extremely uncomfortable and requested that Officer [REDACTED] write a statement about what Officer [REDACTED] had said. Officer [REDACTED] refused, saying something like “I’m not trying to get in between you two.” Mr. F then demanded to speak with a staff person of higher rank. A higher-ranking staff person (Lt. [REDACTED]) came to speak with Mr. F and Officer [REDACTED]. Officer [REDACTED] then confirmed the incident to Lt. [REDACTED]. Lt. [REDACTED] told Mr. F that he would write a report, but Mr. F did not hear anything about the report that day. Officer [REDACTED] remained in the intake area—with direct access to Mr. F in the solitary confinement unit.

Ms. [REDACTED]—who also was present during the May 10 incident—refused to confirm what Officer [REDACTED] said. After Officer [REDACTED] eventually agreed to confirm what had happened with a higher-ranking staff person, Mr. F overheard her sharing with other GEO staff that Officer [REDACTED] had gotten angry with her, telling her something like, “you’re supposed to look out for me.” Ms. [REDACTED]’ continued refusal, Officer [REDACTED]’s initial refusal to write a

statement, and Officer ██████'s response to Officer ██████'s eventual agreement to report on him did not surprise Mr. F—his experience at GSA has been that GEO staff routinely “protect each other” by not reporting incidents of abuse of detained individuals.

On the morning of May 11, 2024, Mr. F was standing up at the door to his cell in the solitary confinement unit and watching television through the window in the cell door. While Officer ██████ was walking into the intake office, he turned to look at Mr. F through the window in Mr. F's cell door and licked his lips and blew a kiss toward Mr. F. Mr. F reported this to a GEO staff person present in the solitary confinement unit, and then to a higher-ranking staff person (Lt. ██████). Lt. ██████ said that he would report the incident, but—again—no staff person followed up with Mr. F that day.

In Mr. F's experience in prison, reports relating to staff members sexually harassing or abusing incarcerated people lead to an immediate investigation and interview process. Because no such process started, and because Officer ██████ and other staff had so boldly threatened, harassed, and physically assaulted him without any repercussions, Mr. F feared that the facility was going to allow, and perhaps even encourage, Officer ██████ to continue to sexually harass him or to escalate to sexual assault. Mr. F remembers the night of May 11 as his “worst night” in his 15 years of incarceration. He was terrified that Officer ██████ was going to enter his cell and sexually assault him. In his solitary cell, Mr. F would not have any help from other detained people to prevent such an attack, and—with no signs of an investigation—he even worried that the facility could have turned off the cameras in his cell to make sure there was no evidence of the attack.

No staff people followed up with Mr. F about his reports of sexual harassment and Officer ██████ remained in the intake area—with a direct view into the solitary confinement unit—until approximately May 14, when Mr. F grabbed pamphlets regarding reporting incidents of sexual harassment on his way back to his cell from the shower and called the listed phone numbers. Shortly after making these calls, he was finally interviewed about the incidents by a GEO staff person (Lt. ██████) and staff people from OIDO and CRCL. After these interviews, Lt. ██████ and OIDO and CRCL told Mr. F that they would investigate further, but he did not hear anything about the investigation for over 3 months. After May 14, Officer ██████ was no longer in the intake area. If the facility had moved Officer ██████ out of the intake area immediately after Mr. F's report of the first incident on May 10, Mr. F would not have had to suffer a second incident of sexual harassment or the terror of fearing sexual assault in his cell. Mr. F still does not know if any formal disciplinary actions have been taken against Officer ██████.

Mr. F was transferred from GSA to a different ICE facility in early June 2024. Before the incidents of physical violence and sexual harassment at GSA, Mr. F was physically healthy. After these incidents, he began to experience alopecia, elevated blood pressure readings, difficulty sleeping, and increased anxiety. After the incidents, Mr. F was sleeping only around 4 hours per night—he would wake up at the slightest noise, terrified that it was the sound of

Officer ██████ entering his cell. Mr. F's symptoms have somewhat eased now that he is no longer at GSA.

II. GEO's actions violate the constitution, federal law, and ICE policy and detention standards

A. Sexual abuse

Per their reports, detailed above, Complainants Mr. T., Mr. B, Mx. Lovos Mendez, Mr. Cruz Lezama and Mr. F have all suffered sexual abuse, in violation of PREA and the PBNDS. The DHS PREA regulations lay out a “zero tolerance” policy “toward all forms of sexual abuse” by carceral staff against detained individuals. 6 C.F.R. § 115.11(a). PREA defines “sexual abuse” to include “[i]ntentional touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing . . . that has the intent to abuse, arouse or gratify sexual desire;” “[t]hreats, intimidation, harassment, indecent, profane or abusive language, or other actions or communications, aimed at coercing or pressuring a detainee to engage in a sexual act;” “[r]epeated verbal statements or comments of a sexual nature to a detainee;” and “[v]oyeurism, which is defined as inappropriate visual surveillance of a detainee for reasons unrelated to official duties.” 6 C.F.R. § 115.6. The PBNDS states that detained people have the “right to protection from abuse” and requires each facility to “protect detainees against sexual abuse, assault” and “other forms of violence or harassment.” PBNDS §§ 3.1(II)(19); 2.4(V)(A).

As an example of the sexual abuse suffered by Complainants, Mr. T and Mr. B experienced sexual abuse in the form of actions and communication aimed at coercing or pressuring a detained person to engage in a sexual act and voyeurism when they were repeatedly implicitly and explicitly asked to engage in sexual acts and stared at inappropriately by Lt. ██████. *See* 6 C.F.R. § 115.6. For instance, Lt. ██████ asked Mr. T, “do you want to suck my dick?” and “want to fuck?” while making a gesture to insinuate oral sex. Lt. ██████ also told Mr. B that he “belong[ed] to [him].” And Lt. ██████ frequently stared at both Mr. T's and Mr. B's penises in a sexually suggestive manner and demanded sexual favors in exchange for granting their request to be placed in the same housing unit.

As an additional example, Mx. Lovos Mendez has experienced sexual abuse in the form of intentional touching of her groin, breasts, and buttocks with the intent to abuse when she was repeatedly subjected to sexually intrusive patdowns by male staff, despite requests for patdowns to be performed by female staff only. *See* 6 C.F.R. § 115.6; *see also* ICE Transgender Care Memorandum at 4 (“pursuant to the DHS PREA standards, searches shall be conducted in a professional and respectful manner, and in the least restrictive manner possible, consistent with security needs”).

In addition to repeatedly failing to protect detained people from sexual abuse, Complainants' reports also indicate that GSA has repeatedly failed to respond to incidents and reports of sexual abuse made by Mr. B, Mr. T, Mx. Lovos Mendez, Mr. Cruz Lezama, and Mr. F in the manner required by PREA and the PBNDS. The PBNDS requires staff to “immediately report any . . . information regarding an incident of sexual abuse.” PBNDS § 2.11(II)(10). Under

the DHS PREA regulations, once a report of sexual abuse has been made, carceral staff “suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation.” 6 C.F.R. § 115.66. Relatedly, the PBNDS requires detention staff to “take appropriate action to mitigate any identified risks or protect a [detained person] as necessary” and to factor in survivors’ perceptions of their own safety when deciding where to house survivors of sexual abuse or assault. PBNDS §§ 2.11(II)(7); 2.2(V)(H). The DHS PREA regulations state that “all investigations into alleged sexual abuse must be prompt, thorough, objective, and conducted by specially trained, qualified investigators.” 6 C.F.R. § 115.71(a). PREA also requires that the victim of sexual abuse be notified “as to the result of the investigation and any responsive action taken.” 6 C.F.R. § 115.73.

Complainant Mr. F’s report provides an example of GSA’s repeated failure to follow PREA and PBNDS requirements as to the facility’s required response to complaints of sexual abuse. Certain GEO staff refused to report sexual abuse perpetrated by fellow staff against Mr. F. *See* PBNDS § 2.11(II)(10). After Mr. F twice reported to a higher-ranking GEO staff person that Officer ██████ made statements and gestures of a sexual nature to him, there was no “prompt” investigation into the allegation of sexual abuse and Officer ██████ was not “removed from all duties requiring detainee contact pending the outcome of the investigation.” *See* 6 C.F.R. §§ 115.71(a), 115.66; PBNDS § 2.11(II)(7). Instead, Mr. F was subjected to an additional incident of sexual abuse by Officer ██████ and was forced to spend multiple nights terrified that Officer ██████ would enter his solitary confinement cell and sexually assault him.

Additionally, Mx. Lovos Mendez, Mr. B and Mr. T’s reports provide examples of GEO and ICE’s failure to follow PREA requirements to undertake “prompt” investigations and to notify victims of the “result of the investigation and any responsive action taken.” *See* 6 C.F.R. §§ 115.71(a), 115.73. Mx. Lovos Mendez has never been interviewed about her PREA complaints and has not received any other follow up on her PREA complaints, which she made nearly three months ago. Similarly, despite being initially informed that OIDO started an investigation into their allegations of sexual abuse, Mr. B and Mr. T have yet to receive any follow up about their OIDO report, which they made nearly five months ago.

B. Sexual orientation and gender-based discrimination and harassment

Per their reports, detailed above, Complainants Mr. B, Mr. T, Mx. Lovos Mendez, Mr. Cruz Lezama, and Mr. Doe suffered discrimination and harassment on the basis of their gender identity and sexual orientation (including perceived sexual orientation), in violation of the PBNDS and ICE policy regarding the treatment of transgender individuals in detention and the use of solitary confinement. In the case of Mx. Lovos Mendez, ICE and GEO’s actions also violate federal disability law.

1. *Complainants suffered discrimination on the basis of their gender identity and sexual orientation (including perceived sexual orientation)*

PBNDS § 3.1(II)(19) provides the “right to freedom from discrimination.” ICE policy also promises that ICE ERO “will provide a respectful, safe, and secure environment for all detainees, including those individuals who identify as transgender,” and prohibits “[d]iscrimination or harassment of any kind based on a [person’s] actual or perceived sexual orientation or gender identity.”²²

As described above, Mx. Lovos Mendez endured misgendering, harassment, discrimination, sexually abusive patdowns,²³ and other mistreatment by GEO staff—including a 24-day placement in solitary confinement. Indeed, this is part of a larger problem: ICE facilities, including the Aurora facility, have subjected gender nonconforming individuals to arbitrary solitary confinement, and ICE’s records reveal that immigration detention facilities “appear to have deliberately discriminated against immigrants identifying as transgender.”²⁴ In addition, Mr. T and Mr. B were initially separated from others based on the homophobic and unfounded assertion that they would “touch others.” Lt. ██████ then subjected Mr. T and Mr. B to sexual harassment, including requests for sexual favors, shortly after they shared the fact of their relationship with GEO staff. GEO staff also subjected Mr. Doe to derogatory slurs, including “maricón” (“faggot” in Spanish), and have made harassing comments questioning and ridiculing his sexual orientation. Finally, GEO staff subjected Mr. Cruz Lezama to sexual harassment and demeaning commentary based on his perceived sexual orientation.

2. *Complainant Mx. Lovos Mendez was also improperly placed in solitary confinement, in violation of the PBNDS and ICE policy*

PBNDS § 2.12(V)(A)(1)(c)(9) provides that “a detainee’s . . . gender identity . . . may not provide the sole basis for a decision to place the detainee in involuntary segregation.” It further states that “use of administrative segregation to protect detainees with special vulnerabilities, including detainees vulnerable to sexual abuse or assault, shall be restricted to those instances where reasonable efforts have been made to provide appropriate housing and shall be made for the least amount of time practicable, and when no other viable housing options exist, and as a last resort.” PBNDS § 2.12 (V)(A)(1)(c)(9).

²² ICE Transgender Care Memorandum at 2.

²³ As someone who identifies as transfeminine, any pat down searches of Mx. Lovos Mendez should, at minimum, be conducted by a female staff person, and be conducted respectfully and in a non-sexual manner. *See, e.g.*, ICE Transgender Care Memorandum at 2 (requiring a “respectful, safe and secure environment” for transgender detained individuals); PBNDS § 2.10(II)(4) (all searches must be conducted “without unnecessary force,” and “in ways that preserve the dignity of detainees.”).

²⁴ Physicians for Human Rights, “*Endless Nightmare*”: *Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention* (Feb. 6, 2024), available at: <https://phr.org/our-work/resources/endless-nightmare-solitary-confinement-in-us-immigration-detention/> (citing HLS FOIA: Evaluations Conducted by the Department of Homeland Security’s Office for Civil Rights and Civil Liberties on ICE Detention Facilities Between 2012 and 2014, released on October 25, 2023).

Further, the ICE Directive on the Use of Segregation states that “[p]lacement in segregation should occur only when necessary and in compliance with applicable detention standards.”²⁵ Regarding transgender individuals, “in particular, placement into administrative segregation [due to a detainee’s identification as transgender] should be used only as a last resort and when no other viable housing option exists.” ICE Segregation Directive at 1. For individuals “for whom heightened concerns exist based on known special vulnerabilities and other factors related to the [person’s] health or the risk of victimization,” ICE must undertake “appropriate review and oversight” when that individual is held in solitary confinement “for any length of time.” *Id.*

Complainant Lovos Mendez’s placement in solitary confinement violated these mandates. GEO singled her out for placement in solitary confinement specifically *because of* her transfeminine identity, and the fact that she had filed PREA complaints. It was not the case that “no other viable housing options exist[ed].” *See id.* at 1. To the contrary, Mx. Lovos Mendez informed staff that she felt safer in the general population than in solitary confinement and requested to be returned to her general population housing unit. In other words, GEO did not use solitary confinement as a “last resort,” but rather as the *first* resort—and a retaliatory first resort, at that. *See infra* Section II.C.

Moreover, ICE did not undertake appropriate review and oversight of GEO. When Mx. Lovos Mendez’s attorney informed ICE that her placement in solitary confinement was proving to be detrimental to her mental health and requested that she be returned to the general population, ICE dismissed the complaint on the basis that it was “GEO issue.” There is no indication that ICE undertook “appropriate review and oversight” of the decision to retain Mx. Lovos Mendez in segregated housing shortly after her placement there, as required by ICE policy—to the contrary, ICE let the improper placement in solitary confinement continue for 24 days. *See ICE Segregation Directive* at 1.

3. *GEO and ICE violated Section 504 of the Rehabilitation Act by discriminating against Mx. Lovos Mendez on the basis of her Gender Dysphoria*

Section 504 supplements ICE policy and prohibits discrimination on the basis of disability in programs, services, or activities conducted by U.S. federal agencies, including DHS.²⁶ Under Section 504, “[n]o qualified individual with a disability in the United States, shall, by reason of [their] disability, be excluded from the participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Department.”²⁷ Section 504 forbids not only facial discrimination against individuals with

²⁵ U.S. Dept. of Homeland Sec., U.S. Immigration and Customs Enforcement, *11065.1: Review of the Use of Segregation for [Persons Detained by ICE]* (hereinafter “ICE Segregation Directive”) (Sept. 4, 2013), available at: https://www.ice.gov/doclib/detention-reform/pdf/segregation_directive.pdf.

²⁶ Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 794 et seq.; 6 C.F.R. § 15.30(b)(1)(i).

²⁷ 29 U.S.C. § 794(a); 6 C.F.R. § 15.30(a).

disabilities, but also requires that executive agencies and departments, such as DHS, alter policies and practices to prevent discrimination on the basis of disability. Covered entities have an affirmative obligation under Section 504 to ensure that their benefits, programs, and services are accessible to persons with disabilities.²⁸ Reasonable accommodations necessary to prevent disability discrimination are required unless modifications would create a “fundamental alteration” of the relevant program, service, or activity, or would impose an undue hardship.²⁹ ICE adopted binding regulations to ensure that Section 504 is implemented within the agency.³⁰

Section 504 and the Americans with Disabilities Act define disability as an “impairment that substantially limits one or more of the major life activities.”³¹ This definition includes chronic illness, as well as physical, intellectual, developmental, psychiatric, visual, and auditory disabilities.³² Evidence of a medical diagnosis is not required and proof from an individual’s personal experience demonstrating that the impairment is substantial is sufficient to qualify for Section 504 protections.³³ Once an entity is on notice of a person’s disability, it must affirmatively engage in an inquiry as to whether a reasonable accommodation is required to ensure the individual has equal access to persons without a disability to agency programs, services, and activities.³⁴ Failure to do so amounts to disability discrimination.³⁵ The U.S.

²⁸ U.S. Dep’t of Homeland Sec., Office for Civil Rights & Civil Liberties, *Component Self-Evaluation and Planning Reference Guide 17–18* (Jun. 6, 2016), available at: <https://www.dhs.gov/sites/default/files/publications/disability-guide-component-self-evaluation.pdf>; see also *Vinson v. Thomas*, 288 F.3d 1145, 1154 (9th Cir. 2002) (holding that once a government agency is alerted to the need for a reasonable accommodation, there is “a mandatory obligation to engage in an informal process ‘to clarify what the individual needs and identify the appropriate accommodation’” (quoting *Barnett v. U.S. Air, Inc.*, 228 F.3d 1105, 1112 (9th Cir. 2000))); *Pierce v. DC*, 128 F. Supp. 3d 250, 272 (D.D.C. 2015) (holding that “prison officials have an affirmative duty to assess the potential accommodation needs of inmates with known disabilities . . . and to provide the accommodations that are necessary . . . without regard to whether or not the disabled individual has made a specific request for accommodation).

²⁹ 28 C.F.R. § 35.150(a)(3).

³⁰ The Secretary of Homeland Security, through DHS Delegation Number 19003, delegated responsibility for coordinating the enforcement of the Department’s regulations issued pursuant to the requirements of Section 504 to the Officer for Civil Rights and Civil Liberties. 6 C.F.R. Part 15, et seq. For each complaint, the regulations require the Department to issue findings of fact, conclusions of law, a description of a remedy for each violation found, and a notice of the right to appeal to the Officer for Civil Rights and Civil Liberties. See 6 C.F.R. § 15.70(g)(1)(i)–(iii); see also U.S. Department of Homeland Security Directive 065-01: *Nondiscrimination for Individuals with Disabilities in DHS Conducted Programs and Activities (Non-Employment)* (September 25, 2013) (establishing policy and implementation mechanisms for ensuring nondiscrimination for individuals with disabilities served by DHS-conducted programs and activities under Section 504).

³¹ 29 U.S.C. § 705(20)(B); 42 U.S.C. §§ 12102(1)–(2).

³² Section 504 Article at 237-48.

³³ *Robertson v. Las Animas County Sheriff’s Dept.*, 500 F.3d 1185, 1194 (10th Cir. 2007) (applying an analogous analysis for how to determine whether an individual has a qualifying disability protected by the Americans with Disabilities Act).

³⁴ See *Updike v. Multnomah Cnty.*, 870 F.3d 939, 949 (9th Cir. 2017) (“[Section] 504 include[s] an affirmative obligation for public entities to make benefits, services, and programs accessible to people with disabilities”).

³⁵ See Section 504 Article at 257 (explaining that under Section 504, “liability attaches for disability discrimination based not on discriminatory intent but on failure, intentional or not, to provide individuals with disabilities an

Department of Justice has stated that Gender Dysphoria, which is often experienced by gender nonconforming persons, falls within the definition and can be covered by the Rehabilitation Act and the Americans with Disabilities Act.³⁶

Here, Mx. Lovos Mendez has been diagnosed with Gender Dysphoria, a qualifying disability. ICE and GEO have been on notice of her disability since her intake at GSA, when she informed staff of her gender identity. Since then, she has informed them of her gender identity in numerous written grievances. Yet, ICE and GEO repeatedly discriminated against Mx. Lovos Mendez and failed to provide her with appropriate accommodations, in violation of Section 504.

While other detained people at GSA are patted down by gender-concordant staff, Mx. Lovos Mendez was subjected to sexually intrusive pat down searches by male officers for months on the basis of her gender identity and associated Gender Dysphoria. Similarly, while other detained people at GSA are provided with gender-concordant clothing and hygiene products and referred to by their correct pronouns, Mx. Lovos Mendez was consistently denied the same, further exacerbating her Gender Dysphoria. Additionally, Mx. Lovos Mendez believes that she was denied participation in the VWP on the basis of her gender identity. Lastly, one of the shifting reasons GEO gave Mx. Lovos Mendez for her lengthy placement in solitary confinement was that she had allegedly requested protective custody on the basis of her gender identity.³⁷ Thus, per GEO, Mx. Lovos Mendez was subjected to solitary confinement—the only option for so-called protective custody at GSA—because of her gender identity and associated Gender Dysphoria. There is no evidence that GEO or ICE engaged in any meaningful consideration of alternative housing placements outside of general population and solitary confinement.³⁸

C. Unconstitutional retaliation

Per their reports, detailed above, Complainants have suffered sexual abuse, sexual orientation and gender-based harassment, and solitary confinement designed to punish them for engaging in protected First Amendment activities to protest mistreatment and abhorrent conditions of confinement at GSA.

opportunity equal to that afforded nondisabled people to participate in or benefit from government programs, where . . . equality could be accomplished by a reasonable modification to the rules or practices governing the service, program, or activity”).

³⁶ Statement of Interest of the United States, *Doe v. Georgia Dep't of Corrections*, No. 1:23-cv-5578-MLB (N.D.G.A. Jan. 8, 2024), available at: https://www.justice.gov/d9/2024-01/doe_v_gdc_statement_of_interest_2024.01.08.pdf.

³⁷ As discussed previously, Mx. Lovos Mendez asserts that she never requested protective custody and that she felt safer in the general population housing units than in solitary confinement.

³⁸ As discussed elsewhere, transfer to the ICE facility in Aurora, Colorado where many gender nonconforming people are detained and suffer staff abuses was not and is not an appropriate alternative housing placement for Mx. Lovos Mendez, because it would result in her losing her immigration counsel—to which she is statutorily entitled, *see* 8 U.S.C. § 1362—and losing access to family visitation.

For example, Mr. Cruz Lezama became the target of sexually abusive comments shortly after he was retaliated against for speaking up about GSA staff's use of excessive force when raiding his housing unit and was subsequently placed in solitary confinement for doing so. Moreover, after Mr. Cruz Lezama reported this sexual abuse to ICE and OIDO officials, he was met with further abuse.

Additionally, Mx. Lovos Mendez believes that GEO staff held her in solitary confinement as retaliation for filing PREA complaints and submitting administrative grievances. Mx. Lovos Mendez was placed in solitary confinement just days after filing two PREA complaints alleging mistreatment and harassment by guards. The Lieutenant who removed her from her housing unit specifically told her that she was being separated from the general population *because of* her PREA complaints—neither of which involved any reports of harm from other detained people in general population. GEO then provided shifting and unfounded explanations for holding her in solitary confinement. GEO and ICE ignored her requests to be returned to the general population for 24 days and even ignored a GEO lieutenant's recommendations that she be returned to general population. Then, almost immediately after Mx. Lovos Mendez's attorney alerted the Immigration Judge to the situation, Mx. Lovos Mendez was finally returned to her general population housing unit without any explanation.

These examples demonstrate violations of Complainants' constitutional rights. The First Amendment protects Complainants' right to call out mistreatment and participate in grievance processes. "[P]ersons in prison, like other individuals, have the right to petition the Government for redress of grievances." *Cruz v. Beto*, 405 U.S. 319, 321 (1972). "[T]he right to file prison grievances" is among "those First Amendment rights that are not inconsistent with [an incarcerated person's] status as a prisoner or with the legitimate penological objectives of the corrections system." *Silva v. Di Vittorio*, 658 F.3d 1090, 1101-02 (9th Cir. 2011). Courts accordingly recognize that "a chilling effect on a prisoner's First Amendment right to file prison grievances is sufficient to raise a retaliation claim." *Bruce v. Ylst*, 351 F.3d 1283, 1288 (9th Cir. 2003); *see also Bryant v. Romero*, No. 1:12-cv-02074-DAD-GSAPC, 2017 WL 3023574, at *16 (E.D. Cal. July 17, 2017) (recognizing retaliation claim based on filing of grievances). A grievance in this context covers a broad range of speech and conduct, including an expression of intent to pursue a grievance or civil litigation, informal grievances, and showing solidarity with others' grievances. *See Watison v. Carter*, 668 F.3d 1108, 1114 (9th Cir. 2012); *Rhodes v. Robinson*, 408 F.3d 559, 567 (9th Cir. 2005); *Perez v. Gates*, No. 13-cv-05359VC, 2015 WL 5569443 (N.D. Cal. Sept. 22, 2015) (recognizing that plaintiff had sufficiently alleged prohibited retaliation where they had joined hunger strikes and made writings critical of incarceration practices). Complainants thus have a First Amendment right to express their concerns about their own mistreatment (or the mistreatment of others) to GEO personnel.

Complainants justifiably view the sexual abuse, sexual orientation and gender-based harassment, and solitary confinement they have suffered as unlawful and as an extension of other retaliation by GEO staff.

III. Recommendations

As detailed below, Complainants first and foremost urge CRCL to advocate for the closure of GSA. Complainants also urge CRCL to advocate for the immediate release of all Complainants that remain detained in ICE custody and for all Complainants to remain out of detention during the pendency of CRCL's investigation. Complainants also urge CRCL to ensure access to LGBT programming in ICE detention, investigate the specific incidents reported here and order corrective actions, and provide U Visa Certification to Complainants.

A. CRCL should recommend that ICE immediately end its contract with GEO at GSA, based on the facility's lengthy record of harassment, abuse and impunity

The experiences of Complainants outlined above demonstrate that individuals detained at GSA are regularly subjected to abusive and retaliatory conditions of confinement, and that these incidents of abuse and retaliation routinely go unpunished. Despite repeated reports of GSA's abusive conditions of confinement, ICE has sustained its contract with GEO for operating a detention facility out of GSA. Because GEO has proven unwilling to address these egregious issues, CRCL should recommend that ICE immediately end its contract with GEO at GSA.

This request for closure is echoed by demands raised by detained people at GSA and Mesa Verde ICE Processing Facility (a nearby facility operated by GEO) who are currently on labor strike and hunger strike, in protest of GEO's abusive conditions of confinement.³⁹

B. CRCL should recommend that ICE immediately release all Complainants ICE continues to detain

CRCL should recommend that ICE immediately release all Complainants who remain in ICE custody and recommend that all Complainants remain out of detention during the pendency of CRCL's investigation.

Because ICE cannot keep gender nonconforming individuals safe in its custody—as evidenced by this and other complaints, *see supra* Section II.B; Transgender Care Complaint—CRCL has additional reasons to recommend the release of Complainant Lovos Mendez, and, more generally, to recommend that ICE end its practice of detaining gender nonconforming people in civil immigration custody.⁴⁰ At a minimum, CRCL must implement policies ensuring

³⁹ See Haley Duval, Kern Sol News, *Hunger Strike Launch at McFarland ICE Detention Facility to Protest Conditions and Loss of Free Phone Calls*, (July 12, 2024), available at: <https://southkernsol.org/2024/07/12/hunger-strike-launch-at-mcfarland-ice-detention-facility-to-protest-conditions-and-loss-of-free-phone-calls/>. In addition to termination of ICE contracts with GSA and Mesa Verde, detained strikers demand that their individual cases for release be fairly considered, that the facilities end the use of solitary confinement, that the facilities stop violating the PBNDS, and that the facilities ensure access to free phone calls to family members, lawyers and community members. *See id.*

⁴⁰ The Transgender Care Complaint notes the "broader backdrop of more than a decade's worth of detailed complaints filed by [transgender and nonbinary] persons with DHS oversight bodies and investigated by the Office for Civil Rights and Civil Liberties ('CRCL')." Transgender Care Complaint at 5. These complaints cite "all manner of abuse ranging from assault by guards, to rampant sexual violence, rape, discrimination, medical abuse and neglect, misgendering, and misuse of solitary confinement . . . What emerges with clarity from this and past

that detention operators that fail to protect gender nonconforming individuals lose their federal contracts and that gender nonconforming individuals whose rights are violated in ICE custody are immediately released.

To the extent that any Complainants remain detained, CRCL should also ensure that ICE does not transfer any Complainants during the pendency of the investigation, as this would cause them to lose access to their counsel and family visits.

C. CRCL should recommend that any ICE detention facilities that remain operational provide access to LGBT programming

CRCL should recommend that ICE ensure access to LGBT programming at ICE detention facilities, including—but not limited to—a support group for detained LGBT individuals and a Gay-Straight Alliance. As evidenced by Mx. Lovos Mendez’s request that such programming be made available at GSA being summarily denied, *see supra* Section I.B, detention facilities will not provide access to this programming on their own.

This programming would allow detained LGBT individuals to seek mutual support as they face the inherent violence of their continued detention. This programming would also allow LGBT individuals to share stories of abuse and work together to advocate for their protection from particularly abusive staff. Finally, this programming would highlight the fact that there are many LGBT individuals in ICE custody, and that ICE and other oversight agencies therefore must affirmatively protect these individuals from abuse or—if that is not possible—must release them from custody.

D. CRCL should investigate the specific incidents reported in this complaint and make recommendations for appropriate corrective actions

CRCL must work to ensure that ICE immediately ends all sexual abuse, gender and sexual orientation-based harassment, and retaliation at GSA. To ensure that the staff involved in this complaint do not perpetrate continued abuse of detained individuals, and that other staff are not emboldened by a culture of impunity, CRCL should identify the specific staff members within ICE and GEO that undertook, supervised, or approved of the sexual abuse and retaliatory measures outlined in this complaint. CRCL should also remove those staff members from all detention and enforcement activities pending investigation and take disciplinary measures against them, including removing them from roles that allow them access to detained individuals.⁴¹

complaints is that [transgender and nonbinary] persons cannot find safety and well-being within ICE custody and no policy can offer them adequate protection. An end to the incarceration of [transgender and nonbinary] persons is the sole solution." *Id.*

⁴¹ Additionally, Complainant Mr. F requests that CRCL investigate the fact that GSA lost confidential and highly sensitive documents in the process of violently transferring him from his housing unit to the solitary confinement unit. *See supra* I.E. The fact that Mr. F to this day does not know who saw or is currently in possession of these documents weighs heavily on him every day—Mr. F is in constant fear that the person or persons who have these

E. CRCL should protect Complainants from removal while the investigation process unfolds

To ensure that ICE and GEO are not allowed to avoid accountability through removal of Complainants, CRCL should place a temporary “Z hold”⁴² on Complainants’ removal during the investigatory process, and/or recommend that ICE refrain from removing any Complainants while the investigatory process unfolds.

F. CRCL should provide U Visa Certification to Complainants

CRCL should investigate and certify Form I-918 Supplement B for the above-named Complainants because they are the victims of abusive sexual contact, sexual assault, sexual exploitation, extortion, blackmail, and/or felonious assault by detention center employees; they reported these qualifying crimes to CRCL; and they are likely to continue to be helpful in the detection, investigation or prosecution of that activity. As an investigative body, CRCL has both the authority and obligation to certify that the above-named complainants are victims of qualifying criminal activity that occurred while they were in DHS custody.

The I-918 Supplement B is a predicate certification that, once signed by a qualifying agency, enables victims of crime to submit an application for U nonimmigrant status with U.S. Citizenship and Immigration Services (“USCIS”). DHS guidance defines certifying agencies broadly to include “all authorities responsible for the investigation, prosecution, conviction, *or* sentencing” of the qualifying activity, including, but not limited to, law enforcement agencies, “and other investigative agencies.”⁴³ There is no statutory or regulatory requirement that the certifying agency be a police agency or have prosecutorial authority.⁴⁴ Indeed, DHS guidance and regulations confirm that *civil* agencies and judges can sign U visa certifications based on crimes they detect or investigate, regardless of whether a criminal prosecution ensues, and regardless of whether the agency or judge initiates or presides over criminal prosecutions.⁴⁵

Civil agencies that regularly certify U visas include, but are not limited to:

- The U.S. Department of Labor (“DOL”),
- The Equal Employment Opportunity Commission (“EEOC”),⁴⁶
- The National Labor Relations Board (“NLRB”), and

documents will share the fact of his reports of harm in his RFI notes and the identifying information about his loved ones to harm Mr. F and his family.

⁴² Jennifer Lee Koh, *Executive Discretion and First Amendment Constraints on the Deportation State*, 56 Ga. L. Rev. 1473, 1498 (2022), available at: <https://digitalcommons.law.uga.edu/glr/vol56/iss4/5>.

⁴³ Department of Homeland Security, *U Visa Law Enforcement Certification Resource Guide for Federal, State, Local, Tribal and Territorial Law Enforcement* (n.d.), at 2-3, available at: https://www.dhs.gov/xlibrary/assets/dhs_u_visa_certification_guide.pdf (emphasis added).

⁴⁴ *Id.* at 3, 11.

⁴⁵ See 8 C.F.R. §§ 214.14(a)(2)-(5).

⁴⁶ 8 C.F.R. § 214.14(a)(2).

- The California Department of Fair Employment and Housing (“CA DFEH”).

As with these agencies, CRCL has certifying authority because it detects and investigates criminal activity. When DHS was created in 2002, Congress simultaneously established the Office of CRCL to “encourage [DHS] to maintain and practice the highest standards in protecting Constitutional liberties. *See* H.R. Rept. No. 107–609, pt. 1 at 114 (2002). Congress granted CRCL the authority to “investigate complaints”⁴⁷ regarding abuses of civil rights by DHS, and to “oversee compliance with constitutional, statutory, regulatory, policy and other requirements” related to civil rights and civil liberties of individuals affected by DHS.⁴⁸

CRCL investigates DHS’ compliance with federal civil rights statutes that implicate qualifying criminal activity for a U visa. Relevant here, CRCL has authority to investigate violations of civil rights statutes which prohibit the deprivation of rights under color of law (18 U.S.C. § 242); sexual abuse of a ward (18 U.S.C. §§ 2243 (b) and 2244 (a)(4)); and sexual abuse of individuals in detention or in Federal custody (18 U.S.C. §§ 2243 (c) and 2244 (a)(6)).⁴⁹ Although CRCL does not itself prosecute these offenses, that authority is not required for an agency to qualify as a valid certifying body; detection *or* investigation of qualifying crimes is sufficient.⁵⁰

Finally, signing certifications would further CRCL’s policy aims to protect individuals who expose civil rights abuses at great risk to their personal safety and wellbeing.

We look forward to your prompt attention to the issues detailed in this complaint.

Sincerely,
Lee Ann Felder-Heim
Aseem Mehta
Genesis Fabian
Trevor Kosmo
Asian Law Caucus

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⁴⁷ 6 USC § 345(a)(6).

⁴⁸ Homeland Security Civil Rights and Civil Liberties Protection Act of 2004, Pub. L. No. 108-458, sec. 8303, §705(a), 118 Stat. 3867, 3867 (amending Homeland Security Act of 2002, 6 U.S.C. §345(a)(4)).

⁴⁹ U.S. Department of Justice, Civil Rights Division, *Statutes Enforced by the Criminal Section* (updated August 15, 2023), available at: <https://www.justice.gov/crt/statutes-enforced-criminal-section>.

⁵⁰ 8 U.S.C. § 1101(a)(15)(U)(iii).