



VIA ELECTRONIC MAIL

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March 27, 2024

RE: Use of Force, Medical Neglect, Verbal Abuse, Retaliation, and Violations of First Amendment Rights of Individuals Detained at the Winn Correctional Center on January 26, 2024

*“I was thinking America is the country that protects people.
America is a country that celebrates free speech and protestors.
But just like in my home country, when I protest my rights,
I am attacked and pushed down.”¹*

Dear Officer for Civil Rights and Civil Liberties Wadhia, Inspector General Cuffari, Ombudsman Gersten, and Field Office Director Harper:

The Southeast Dignity Not Detention Coalition (“SDND Coalition”), Robert F. Kennedy Human Rights (“RFK Human Rights”), Immigration Services and Legal Advocacy (“ISLA”), Southern Poverty Law Center (“SPLC”), the ACLU of Louisiana (“ACLU-LA”), and the National

¹ Interview with Detained Person at Winn Correction Center, February 2024.

Immigration Project of the National Lawyers' Guild ("NIPNLG") submit this complaint on behalf of individuals detained at the Winn Correctional Center ("Winn") in Winnfield, Louisiana.² On January 26, 2024, Immigration and Customs Enforcement ("ICE") and its contractors at Winn violently attacked a dorm of approximately 200 people with pepper-spray.

Individuals in immigration detention have the right to freedom from First Amendment retaliation, adequate medical care, and non-punitive and safe living conditions.³ This unjustified use of force was a form of collective punishment and unlawful retaliation in response to detained people's participation in a peaceful demonstration and hunger strike protesting their conditions of confinement. These individuals wish to remain anonymous due to fear of retaliation and have reported violations of their civil and human rights, including use of force, verbal abuse, medical neglect, retaliation, and violations of their First Amendment rights by ICE and officers at Winn.

ICE operates Winn, a 1,500-bed facility, pursuant to a contract with for-profit prison company, LaSalle Corrections. ICE and LaSalle are contractually obligated to maintain the minimum standards and abide by policies outlined in ICE's 2011 Performance Based National Detention Standards ("PBNDS 2011") at Winn.⁴ The PBNDS prohibit excessive use of force, medical neglect, and retaliation and mandate safe and sanitary living conditions in immigration detention.⁵ As outlined below, ICE and its contractors at Winn have repeatedly violated the civil and human rights of detained people.

This egregious suppression of First Amendment protected activity is only the latest example of the documented history of abuse at Winn.⁶ For example, in August 2020, officers at Winn pepper-sprayed, deployed tear gas bombs, and trapped detained immigrants in dorms at Winn in response to protests.⁷ In December 2019, officers at Winn pepper-sprayed 50 people who were protesting

² The names and identifying information of detained people have been anonymized to protect them from potential retaliation by ICE.

³ See *Zadvydas v. Davis*, 533 U.S. 678, 694 (2001) (asserting that "punitive measures could not be imposed upon [noncitizens] ordered removed because 'all persons within the territory of the United States are entitled to the protection' of the Constitution" (quoting *Wong Wing v. United States*, 163 U.S. 228, 238 (1896)); see also *Cruz v. Beto*, 405 U.S. 319, 321 (1972) (establishing that people in prison, "like other individuals, have the right to petition the Government for redress of grievances"); *City of Revere v. Massachusetts Gen. Hosp.*, 463 U.S. 239, 244 (1983) (extending constitutional protections available to imprisoned people to civilly-detained people).

⁴ ICE, *Performance-Based National Detention Standards, 2011*, (Revised Dec. 2016) (hereafter "PBNDS 2011").

⁵ PBNDS 2011, Section 1.2.I, Environmental Health and Safety (Revised Dec. 2016) ("This detention standard protects detainees, staff, volunteers and contractors from injury and illness by maintaining high facility standards of cleanliness and sanitation, safe work practices and control of hazardous substances and equipment.").

⁶ See Detention Watch Network, *et al.*, "Anthology of Abuse: Violence and Neglect at the Winn Correctional Center (December 6, 2023),

<https://www.detentionwatchnetwork.org/sites/default/files/reports/Winn%20Anthology%20of%20Abuse%20Letter.pdf>.

⁷ SPLC Letter to Office of Inspector General (OIG) about Reports of Violent Abuse of Authority at Winn. August 7, 2020. <https://drive.google.com/file/d/14sISYXnj8ADrVYboowXEIbWTmg6axym/view>; Miller, Hayley. "ICE Detention Center Officials Indiscriminately Tear Gassed Asylum Seekers,

the conditions of their detention and writing “Libertad” on bedsheets and towels.⁸ Over the past several years, Winn’s appalling conditions, including racist abuse, repeated use of excessive force, and life-threatening medical neglect, have been the subject of multiple complaints and media reports.⁹ These complaints have exposed officers’ frequent retaliation against people exercising their rights or for any perceived “insubordination” with pepper-spray and prolonged solitary confinement.¹⁰

In fact, in August 2021, your office, the Office of Civil Rights and Civil Liberties (“CRCL”), issued a scathing report, decrying a “culture and conditions that can lead to abuse.”¹¹ In this report, CRCL advocated for the immediate cessation of any transfers or new bookings into Winn and recommended that ICE decrease the population of Winn to *zero* until conditions were improved. The Biden Administration then slated Winn for a serious reduction in population in early 2022,¹² yet, today, Winn remains open and at full capacity.¹³

Three years later, people detained at Winn *continue* to report that officers engage in a culture of discriminatory and retaliatory abuse, violence, and medical neglect. As part of the notoriously abusive New Orleans ICE Field Office (“NOLA ICE”), the actions of ICE and its contractors at Winn operate with systemic impunity.¹⁴ We urge the DHS Office for Civil Rights and Civil Liberties (CRCL), pursuant to its authority under 6 U.S.C. § 345, to immediately recommend:

Complaints Say.” HuffPost. August 16, 2020, https://www.huffpost.com/entry/ice-tear-gas-detainees-winn-correctional-center_n_5f35305ec5b6fc009a625a85.

⁸ Nomaan Merchant, *Associated Press News*, “ICE: Protest at Louisiana jail ends after pepper spray used” (December 4, 2019), <https://apnews.com/article/immigration-us-news-la-state-wire-louisiana-ap-top-news-bfa6c15ca5c533999ebb53da6b020ad8>.

⁹ See Detention Watch Network, *et al*, “Anthology of Abuse: Violence and Neglect at the Winn Correctional Center (December 6, 2023), <https://www.detentionwatchnetwork.org/sites/default/files/reports/Winn%20Anthology%20of%20Abuse%20Letter.pdf>.

¹⁰ American Civil Liberties Union (ACLU), Human Rights First, and NIJC. “Justice-Free Zones: U.S. Immigration Detention Under the Trump Administration.” 2020. https://www.aclu.org/sites/default/files/field_document/justice-free_zones_immigrant_detention_report_aclu_hrwnijc_0.pdf.

¹¹ Office of Civil Rights and Civil Liberties, Retention Memo, Re: Winn Correctional Center (May 4, 2021), https://www.dhs.gov/sites/default/files/2022-09/05.04.2021%20CRCL%20Retention%20Memo%20to%20ICE%20-%20Winn%20Correctional_Redacted_508.pdf; Aleaziz, Hamed. “Internal Investigators Told ICE To Stop Sending Immigrants To A Prison In Louisiana Because Of A Culture That Can Lead To Abuse.” BuzzFeed News. Dec. 15, 2021. <https://www.buzzfeednews.com/article/hamedaleaziz/ice-private-prison-louisiana-conditions>.

¹² American Immigration Council. “ICE to Close or Scale Back Use of Four Immigration Detention Facilities, Citing Concerns over Conditions, Treatment of Detained Individuals.” Mar. 25, 2022, <https://www.americanimmigrationcouncil.org/news/us-immigration-and-customs-enforcement-close-or-scale-back-use-four-immigration-detention>.

¹³ Silva, Daniella. “Detainees and advocates decry 'horrific' conditions at Louisiana ICE detention center.” NBCNews. Jul. 17, 2023, <https://www.nbcnews.com/news/detainees-advocates-decry-horrific-conditions-louisiana-ice-detention-rcna92339>.

¹⁴ Office of Civil Rights and Civil Liberties, Retention Memo, Re: ICE’s Oversight of the New Orleans Field Office (December 7, 2021), <https://www.dhs.gov/sites/default/files/2022->

- 1) Release of all individuals currently detained at Winn to their communities;
- 2) Termination of ICE's Intergovernmental Services Agreement (IGSA) with Winn, which is set to expire on May 15, 2024;
- 3) Pending release and termination of the IGSA, investigation of the violations described herein, including the use of force, retaliatory physical violence, verbal abuse, medical neglect, and violations of First Amendment rights.

We request a response in writing within one week detailing your agencies' plan of action to remedy the civil and human rights violations described herein.

I. Factual Background

On January 26, 2024, individuals detained at Winn Correctional Center declared a mass hunger strike to protest their conditions of confinement and ICE's blanket denials of release requests. The individuals, the majority seeking asylum from Russia, Tajikistan, and Uzbekistan, were protesting their prolonged detention by ICE and inhumane treatment. As one hunger striker described:

“We are here for over six months and mentally we cannot stand it anymore. I have had heart issues twice here, I have swelling in my legs, I have sciatica. All of these things I have acquired here. I told them I want to be deported. I am fed up with being here, I just want to be free. We are here detained for so long for no reason, just for crossing the border to find protection. We are tired of having to demand everything, having to fight for things that should be our right like medical care and basic things.”

One hunger striker stated: “The ICE officers are rude to us. They swear at us and don't treat us like humans. Whatever we request, they refuse. No one takes care of us. Our lives don't matter here.” Another man reported:

“They have been keeping me here for six months, caging me like an animal. Am I an animal? People are more kind to dogs. We have to fight for everything here, things that are our rights. My son is just one years old. He has severe health issues and needed a surgery. I don't have any money here in my commissary. The officers would not let me have a video call with my son before his surgery. Even a simple act of humanity—they refuse.”

In particular, individuals in the Dogwood unit were protesting a recent incident where water had flooded their unit, soaking peoples' bedding and clothing. Despite numerous complaints to Winn officers and ICE, detained individuals were forced to remain in their flooded dorm, without access to dry or sanitary bedding and clothing, for approximately ten days. ICE was well aware of these conditions issues at Winn. On January 12, 2024, and February 9, 2024, legal services providers who had met with people detained at Winn sent emails to the New Orleans ICE Field Office. In those emails, the legal services providers documented multiple conditions issues, including unaddressed water leaks in dorms, near freezing temperatures in the units, stagnant water in the

[08/2021.12.07%20CRCL%20Retention%20Memo%20to%20ICE%20-%20Oversight%20of%20New%20Orleans%20AOR%20-%20Redacted_508.pdf](#)

kitchen, insufficient food portions, serious delays in receiving medical treatment, among other forms of neglect and abuse. ICE acknowledged receipt of the emails, but took no further action.

On January 26, 2024, individuals refused their lunchtime meal and declared a mass hunger strike. The group began to repeatedly chant: *“Mr. Biden, help us! Give us freedom! Winn Correctional is no good! Louisiana is racist!”* Approximately 200 people participated in the protest. In response, approximately 20 officers entered the unit, wearing black riot gear and gas masks. An officer in a blue uniform employed by LaSalle Corrections, upon information and belief, Colonel Vernon (full name unknown) directed the officers in riot gear and began to scream *“Shut up motherfuckers!”* The officers then mobilized five canisters of oleoresin capsicum (OC) spray (*“pepper-spray”*) and unprovoked and without issuing a verbal warning, began to spray the unit.

The officers walked around the unit with the five cannisters of pepper-spray, dousing the area for approximately five minutes. They first entered unit A-1 before moving through C-2, D-1, and D-2. The officers sprayed individuals directly in their faces and on their bodies, some from less than an arm’s length away. People began to scream and run away from the officers. Many fell to the ground and were trampled by others fleeing. Some attempted to hide behind beds and tried to use their clothing to shield their eyes and faces. The officers pepper-sprayed individuals indiscriminately, even those who were fleeing and attempting to hide. They also sprayed individuals with chronic medical conditions that make them particularly vulnerable to the deployment of OC spray, such as asthma and heart conditions.

After spraying the unit, the officers exited and locked the doors and windows. They cut the power and water to the unit, leaving the individuals without the ability to rinse their eyes, throats, or skin. Individuals also witnessed officers turn off the cameras in the unit. For a period of approximately three hours, detained individuals remained locked in the dorm without access to medical care. A few individuals who had lost consciousness due to medical emergencies were taken out of the dorm, but even those individuals were denied sufficient medical treatment.

As one Uzbek man described:

“I was sitting in my bed, about 200 meters from the door when it started happening. I myself was not even participating in the hunger strike, I was just sitting quietly in the dorm. The officers started spraying gas and locking the doors. They sprayed the whole room. It became very difficult to breathe. I felt like I was choking, just trying to get air. I tried to use my clothes to cover my face, but it didn’t help. I couldn’t rinse my eyes or skin for hours because they shut off the water in the dorm. They left us in there for hours, coughing and choking, with no medical help.”

Another man described:

“I was just one meter away from the officer when he sprayed me. There was no warning, he didn’t say anything. I was just standing there, chanting with the group, and he sprayed me. Immediately, I struggled to breathe. They shut the water from the sink off. I tried to use some drinking water I had in a cup to rinse my face, but it wasn’t enough. We couldn’t

get medical care because we were not allowed out of the unit. My throat burned for two days.”

One man stated:

“My breathing became very hard. I couldn’t see. My eyes were on fire. I tried to step back after they sprayed me, to get away, and I fell on my back to the ground. It was chaos. Everyone started running and screaming, trying to get away from the spray. They trapped us, closed the doors and the windows, so we couldn’t get any fresh air. The water was shut off for hours until later that evening.”

Individuals reported that multiple detained people had life-threatening medical complications as a result of officers’ indiscriminate use of pepper-spray and lost consciousness after being pepper-sprayed. For example, one 37-year-old Uzbek man reported that he has a heart condition that has resulted in high blood pressure and an irregular heartbeat. He had a cardiac stent surgically placed in 2022 and currently takes eight different medications at Winn for his heart condition and suspected arrhythmia. His heart condition is well documented and known by ICE and its contractors at Winn. As the man reported:

“I was standing with the others when the officer came towards me. He came very close, so close I was less than an arm’s length away. He said nothing. There was no warning. I was about 20 centimeters away from the officer when he sprayed me in the face. I started to have difficulty breathing and my chest was aching. I lost my vision and couldn’t open my eyes. It was so difficult to breathe and my chest was so tight. I couldn’t get any air in. I was prepared to die.”

The man collapsed to the ground and lost consciousness. Two individuals next to him picked him up and dragged him towards the door of the unit. They screamed and banged on the doors, begging the officers to let the man out and pleading for emergency medical care. After approximately ten minutes of pleading, an officer opened the door and allowed the man to exit the dorm. The man was dragged into the hallway, where he began to regain consciousness and officers then took his vitals. Despite the fact that his blood pressure was high and his vitals were irregular, the officers failed to take him to the medical unit and he was left in the hallway until he regained the ability to walk, at which point he was taken back to the unit, where the water and power remained cut off. He was never taken to the medical unit for any assessment or medical care. The man reported that he continued to have chest pain for three days following this attack. After escaping persecution in Uzbekistan on the basis of his Jewish identity, the man is currently pursuing his asylum claim before the immigration court:

“I suffered so much in Uzbekistan. I was beaten by law enforcement officers for being a Jew and I thought here in the United States, it would be different. I thought I would be safe and protected. But here, it is the same. Again, I am beaten by law enforcement officers, just for looking for safety and protection.”

Others also reported experiencing severe medical consequences after officers pepper-sprayed them. One man from Uzbekistan described how after he was pepper-sprayed, his hair started falling out in clumps:

“Before I was detained here, I had no health problems. The officers sprayed me from only an arm’s length away. I didn’t even have a warning so I could turn away. In the days after the officers sprayed me, my hair started falling out in clumps. I had a severe rash all over my hands and arms. I was having really bad chest pain and nosebleeds too, so I requested a sick call. The medical staff told me ‘We can’t help you and we can’t give you any medication.’ When I told them I was having these medical issues after being pepper-sprayed they said, ‘If you have complaints, hire an attorney.’ I just wanted something to help with the pain. Why am I losing my hair? I’m only 27-years-old.”

After this incident, this man, who was seeking asylum from Uzbekistan, accepted voluntary departure before the immigration court:

“I participated in political protests in my home country, Uzbekistan. My uncle was killed for standing up for our political rights. The secret military service threatened me and I was forced to come here to seek help because I was thinking America is the country that protects people. America is a country that celebrates free speech and protestors. But just like in my home country, when I protest my rights, I am attacked and pushed down. After five months of waiting, I had my immigration court hearing the week after I was pepper-sprayed. I decided to give up my case and ask for deportation. I am so afraid to go back but I am equally afraid that I will die here.”

II. Legal Violations

Officers’ indiscriminate use of pepper-spray against the 200 hunger strikers, protestors, and others detained at Winn on January 26, 2024, is a violation of individuals’ rights under the U.S. constitution, federal and state law, and ICE’s own legal standards and directives.

All immigrants in detention are afforded protection under the U.S. constitution regardless of whether they are being held on criminal or civil grounds.¹⁵ Immigrants detained at Winn have a First Amendment right to protest against the conditions of the confinement and hunger striking is a protected activity.¹⁶ In addition, Winn officers’ use of excessive force may qualify as assault and battery under Louisiana penal code sections regarding assault, battery, and battery with serious bodily injury. This conduct also may violate the federal prohibition on assault, 18 U.S. Code §

¹⁵ *Bell v. Wolfish*, 441 U.S. 520, 535 (1979); *see, e.g., Lynch v. Cannatella*, 810 F.2d 1363, 1375 (5th Cir. 1987) (“[W]hatever due process rights excludable [noncitizens] may be denied by virtue of their status, they are entitled under the Due Process Clauses of the Fifth and Fourteenth Amendments to be free of gross physical abuse at the hands of state or federal officials.”)

¹⁶ *See Stefanoff v. Hays Cnty.*, 154 F.3d 523, 527 (5th Cir. 1998) (finding that “a hunger strike may be protected by the First Amendment if it was intended to convey a particularized message.”); *Hart v. Hairston*, 343 F.3d 762, 764 (5th Cir. 2003)) (finding that the First Amendment prohibits retaliation for speaking out about conditions of confinement).

113, as well as 18 U.S.C. § 242, which makes it unlawful for federal officers to willfully deprive an individual of rights under color of law.

This attack on detained individuals at Winn was unlawful and unjustified, as recognized by ICE’s own policies on the use of force. The PBNDS 2011 prohibit the use of force “to punish a detainee” and “using force against a detainee offering no resistance.”¹⁷ The officers’ attacks on detained individuals at Winn were intended to indiscriminately punish them for their participation in the mass hunger strike.

ICE’s Use of Force Policy (the “Force Policy”), issued as part of the PBNDS, states that immediate use of force is only permitted when “a detainee’s behavior constitutes a serious and immediate threat to self, staff, another detainee, property, or the security and orderly operation of the facility.”¹⁸ The individuals protesting at Winn had not displayed any behavior that constituted a threat to themselves or the officers. These individuals were exercising their legal right to participate in a hunger strike, a First Amendment protected activity, and the officers’ attack was unprovoked and against the Force Policy.

Pepper-spray is an authorized “immediate force device” under the Force Policy. However, the use of non-lethal weapons on detained people is only authorized by the Force Policy in situations in which a detained person is armed and barricaded or cannot be approached without danger to the ICE agent or detained person *and* “a delay in controlling the situation would seriously endanger the detainee or others, or would result in a major disturbance or serious property damage.”¹⁹ None of those conditions were met during this incident at Winn, making the use of pepper-spray unauthorized by the Force Policy.

Furthermore, the Force Policy states that “staff shall consult medical staff before using oleoresin capsicum (“OC”) spray [also known as pepper-spray] or other non-lethal weapon(s) unless escalating tension make such action unavoidable. When possible, medical staff will review the detainee’s medical file for any disease or condition that a non-lethal weapon could seriously exacerbate, including, but not limited to, asthma, emphysema, bronchitis, tuberculosis, obstructive pulmonary disease, angina pectoris, cardiac myopathy, or congestive heart failure.”²⁰ Officers did not consult medical staff before deploying pepper-spray against detained individuals at Winn, many of whom had conditions that make them particularly vulnerable to severe medical consequences from the deployment of pepper-spray.

People exposed to pepper-spray should remove contaminated clothing as quickly as possible, wash their body with water and soap, and seek medical care immediately.²¹ After deploying pepper-

¹⁷ PBNDS 2011, Sections 2.15(V)(B)(2) and 2.15(V)(E).

¹⁸ U.S. Immigration and Customs Enforcement, *2.15 Use of Force and Restraints*, Performance-Based National Detention Standards, 206 (Dec. 2016), <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf>.

¹⁹ *Id.* at 205.

²⁰ *Id.*

²¹ *Facts About Riot Control Agents Interim Document*, Centers for Disease Control and Prevention (Apr. 4, 2018), <https://emergency.cdc.gov/agent/riotcontrol/factsheet.asp>; M.F. Yeung et al.,

spray against individuals at Winn in circumstances not authorized by the Force Policy, officers compounded this improper conduct by denying these individuals access to critical medical care and basic human necessities such as soap and water, which would have mitigated the effects of the pepper-spray. Further, the Force Policy requires an examination of a detained person immediately following any use of force incident to assess any medical needs and document any injuries sustained. No medical examination was given to individuals following the use of force against them, nor was any report made related to the injuries they sustained.

III. Conclusion

The indiscriminate use of pepper-spray to punish hunger strikers and protestors at Winn on January 26, 2024, was an unlawful use of force that violated the civil and human rights of at least 200 people currently detained at Winn. The decades of reports of neglect, violence, and retaliation against immigrants detained at Winn indicate that the violations raised in this complaint are part of a systemic pattern of abuse that cannot be corrected by the responsible parties. These long-standing issues at Winn can only be remedied by the facility's closure and demands to hold those in authority accountable.

We raise serious concerns about the continued operation of Winn and request an immediate investigation into the January 26, 2024, incident and the abuses described herein by OIG and/or CRCL. *The undersigned organizations look forward to your response in writing regarding the status of this matter by April 2, 2024.*

Sincerely,

ACLU of Louisiana
Immigration Services and Legal Advocacy (ISLA)
National Immigration Project of the National Lawyers Guild
Robert F. Kennedy Human Rights
Southeast Dignity Not Detention Coalition
Southern Poverty Law Center

Clinicopathological effects of pepper (oleoresin capsicum) spray, 21 Hong Kong Med. J. 542, 547-48 (Dec. 2015), <https://www.hkmj.org/system/files/hkmj154691.pdf>.