



STAND FOR JUSTICE

November 12, 2015

Sarah R. Saldaña, Director
U.S. Immigration and Customs Enforcement
500 12th Street SW
Washington, D.C. 20536

Timothy S. Aitken, Field Office Director
U.S. Immigration and Customs Enforcement
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Timothy.S.Aitken@ice.dhs.gov

Monty LaFave, Assistant Field Office Director
U.S. Immigration and Customs Enforcement
800 Truxtan Ave.
Bakersfield CA 93301

Re: U.S. Immigration and Customs Enforcement Officers' Pattern of Excessive Use of Force to Coerce Immigrants to Sign Immigration Documents at Bakersfield ICE Office

Dear Ms. Saldaña, Mr. Aitken, and Mr. LaFave:

We write to express our significant concern regarding recent reports that U.S. Immigration and Customs Enforcement ("ICE") officers in Bakersfield, California, have attempted to coerce individuals in their custody to sign immigration documents through pressure, deceit, threats and—in several cases—excessive use of force, resulting in severe injury. This pattern of coercion and unwarranted use of physical force by ICE officers is abusive and unlawful. We request that ICE promptly investigate the actions of its Bakersfield office and take immediate steps to ensure that these practices are immediately halted.

I. Bakersfield ICE Officers' Excessive Use of Force

In recent years, Bakersfield-area residents and immigration lawyers have reported that the Bakersfield ICE office uses coercive tactics such as pressure, deceit, and threats to obtain individuals' signatures on immigration documents. The ACLU has also received reports that these coercive tactics include excessive use of force resulting in injury, the details of some of these incidents follow.

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*deceased

A. Heleno Garcia Ramirez, A205311380

On the morning of August 13, 2015, Mr. Heleno Garcia Ramirez was released from Taft Federal Correctional Institution and transported to the ICE Field Office located in Bakersfield.

After waiting in a cell, Mr. Garcia Ramirez was led into a room where he met with an ICE officer who took his photograph, and then directed him to sign an immigration document and have his fingerprints taken. Mr. Garcia Ramirez describes the officer as Caucasian and bald, with a light colored beard and glasses. Mr. Garcia Ramirez politely refused to sign the document, which he believed would result in his immediate deportation, and asked to see an immigration judge. The officer began yelling at Mr. Garcia Ramirez, "You're not going to sign?" Mr. Garcia Ramirez explained that he did not want to sign because he wanted to pursue his immigration case so that he could remain in the United States and care for his three young children. The officer kept yelling, so Mr. Garcia Ramirez became afraid and took a step away from the officer. The officer then moved towards Mr. Garcia Ramirez and yelled for other officers to come into the office. Three more officers arrived. One officer, who Mr. Garcia Ramirez remembers as bald and Latino, grabbed Mr. Garcia Ramirez's right arm. Another officer, who was overweight and wore glasses and a name tag that said "R. Cruz," also grabbed his right arm. The third officer, who Mr. Garcia Ramirez describes as African American, tall, and Spanish-speaking, grabbed his left arm. The original officer restrained Mr. Garcia Ramirez's head and neck from behind. These four officers shoved Mr. Garcia Ramirez against a counter, such that he was doubled-over. Mr. Garcia Ramirez cried in pain and said that he would allow himself to be fingerprinted, and the first officer yelled at the other three officers to let go. The officer holding Mr. Garcia Ramirez's left arm continued to bend it backwards until Mr. Garcia Ramirez felt a sharp pain in his arm and heard a snap. Then the lead officer who had initially questioned Mr. Garcia Ramirez grabbed his right hand and forcibly took his fingerprints.

That same day, Mr. Garcia Ramirez was taken to see a doctor in Bakersfield. A doctor took X-rays of Mr. Garcia Ramirez's arm, told him it was sprained, and gave him an arm brace. Sometime around August 24, 2015 staff at Mesa Verde took Mr. Garcia Ramirez back to a doctor, who gave him a hard, plaster cast. On or about September 21, 2015, the doctor removed the cast and gave Mr. Garcia Ramirez another arm brace. Despite medication, Mr. Garcia Ramirez remains in pain.

Mr. Garcia Ramirez has contacted the authorities, including Immigration and Customs Enforcement Office of Professional Responsibility, to report the assault and the injuries he sustained, but has not received a response to date. He remains detained at Mesa Verde Detention Center.

B. Jaime Altamirano-Perez, A# 206356548

On or about September 9, 2015, Jaime Altamirano Perez, an immigration detainee housed at the Mesa Verde Detention Facility, was instructed to change into his personal clothing and



brought to the ICE Field Office in Bakersfield. ICE officials told Mr. Altamirano-Perez that he was about to be deported and told him he needed to sign a form. Mr. Altamirano-Perez explained that his attorney planned to file an application for adjustment of status in his case. The ICE officials told Mr. Altamirano-Perez that he needed to sign a form for his deportation. He refused to sign the form and said he wanted to speak to his lawyer. The officials said that Mr. Altamirano-Perez had already been ordered removed. Mr. Altamirano-Perez said he did not believe it because his attorney was filing an application on his behalf. The ICE officials answered that Mr. Altamirano-Perez's attorney had said to move forward with his deportation. (In fact, this was not true, and Mr. Altamirano-Perez's attorney was in the process of filing a motion for stay of removal as well as an application for adjustment of status, both of which are currently pending.) The ICE officials again ordered Mr. Altamirano-Perez to sign the form and he continued to refuse.

The officers told Mr. Altamirano-Perez to step to the side. Then, without warning, a male officer ran up to Mr. Altamirano-Perez from behind, grabbed his hand, and forcibly fingerprinted him. This shocked and frightened Mr. Altamirano-Perez, who had not been asked to provide his fingerprints. The official said that the fingerprints were all that was needed to deport Mr. Altamirano-Perez. Mr. Altamirano-Perez objected that he had refused to sign and that he had always signed papers to indicate his consent, so his fingerprints should not be accepted as proof of his consent to be deported. The officials continued to insist that Mr. Altamirano-Perez's deportation would be imminent.

The officials then took Mr. Altamirano-Perez to wait in a holding cell. After about an hour, an officer returned and placed Mr. Altamirano-Perez in restraints, and asked if Mr. Altamirano-Perez knew where he was going. Mr. Altamirano-Perez said he did not and the officer said that he was returning to Mesa Verde. When Mr. Altamirano-Perez returned to Mesa Verde, he was instructed to change back into the facility jumpsuit and was returned to his housing unit.

Two days later, one of the Mesa Verde facility staff called Mr. Altamirano-Perez from the housing unit and told him that he was going to be deported. Mesa Verde officials brought Mr. Altamirano-Perez from the housing unit to the booking area and instructed him to change his clothes. But shortly after he had changed his clothes, the officials told him to change back into his facility jumpsuit and sent him back to his housing unit. The staff did not explain what had happened or why they believed he was scheduled to be deported in the first place.

Mr. Altamirano-Perez remains detained Mesa Verde Detention Center.

II. ICE Officers' Treatment of Mr. Garcia Ramirez and Mr. Altamirano-Perez Is Unlawful and Unacceptable

The Bakersfield ICE officers' pattern and practice of physical and verbal coercion, as well its abusive treatment of Mr. Garcia Ramirez and Mr. Altamirano-Perez, is unlawful and unacceptable. Among other crimes, ICE officers' use of excessive force may qualify as assault



and battery under California Penal Code Sections 240 (assault), 242 (battery), and 243(d) (battery with serious bodily injury). This conduct also may violate the federal prohibition on assault, 18 U.S. Code § 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.

In addition, Bakersfield ICE officers' use of coercive tactics to get individuals to sign immigration documents appears to violate the Administrative Procedure Act, 5 U.S.C. § 551, the Immigration and Nationality Act, 8 U.S.C. § 1101, *et. seq.*, and the Due Process Clause of the U.S. Constitution. *See* Complaint at 55-57, *Lopez-Venegas v. Johnson*, No. 13-03972 (C.D. Cal. Oct. 2, 2013), ECF No. 1 (lawsuit challenging unlawful coercive tactics by CBP officials in Southern California).

The officers' use of force also violates the Performance-Based National Detention Standards 2011 ("PBNDS 2011"). Under the PBNDS 2011, "[u]sing force against a detainee offering no resistance" is "generally prohibited," force may not be used as punishment, and use of force may only involve "the degree necessary and reasonable to gain control of a detainee or provide for self-defense or defense of a third person." § 2.15 ("Use of Force and Restraints") at 208, 210, 213, available at http://www.ice.gov/doclib/detention-standards/2011/use_of_force_and_restraints.pdf. Furthermore, "[p]hysical force shall only be used to the minimum extent necessary to restore order, protect safety and provide security." § 2.15 at 208. Finally, neck restraints are specifically prohibited unless deadly force would be authorized." § 2.15 at 223.

We urge ICE to immediately take several steps to address this unlawful conduct and make needed reforms.

First, because the ICE officers' excessive use of force against Mr. Garcia Ramirez and Mr. Altamirando-Perez violated the law, we urge you to immediately review why ICE failed to follow the law in these cases and hold the officers accountable for their actions.

Second, ICE should ensure that Bakersfield ICE officers do not engage in unwarranted use of force or unlawful coercive practices. Among other steps, ICE should properly train its Bakersfield officers and ensure that the office has proper procedures in place to monitor, investigate and, where appropriate, discipline officers who engage in the type of unlawful conduct experienced by Mr. Garcia Ramirez and Mr. Altamirando-Perez.

Third, to facilitate the review of their cases, both Mr. Garcia Ramirez and Mr. Altamirando-Perez request copies of any use of force reports or other reports generated in relation to the above-described incidents as well as the forms they were being asked to sign and the forms upon which their fingerprints were forcibly imprinted.¹

¹ We enclose an authorization from Mr. Garcia Ramirez to facilitate your ability to communicate with us and produce the requested documents. We were in the process of obtaining such a release from Mr. Altamirando-Perez



Both Mr. Garcia Ramirez and Mr. Altamirando-Perez are ready and willing to cooperate in any aspect of your investigation.² If you would like to speak to Mr. Garcia Ramirez or Mr. Altamirando-Perez, please contact Katherine Traverso at 213-977-5234 or ktraverso@acluscocal.org.

We appreciate your attention to this important matter and look forward to hearing what steps ICE will take to address these problems.

Sincerely,



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when he was deported, but we continue to seek information on his behalf. Please inform us if additional information or documentation is required for you to provide a full response and we will work to obtain it.

² Again, because Mr. Altamirano-Perez was recently deported, it may take us some time to arrange a conversation, but we are prepared to make that connection to further your investigation.



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