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Via Email

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Re: Sexually Abusive Pat-Downs Against Individuals in Immigration Detention at Mesa Verde Detention Facility

Dear Officer Culliton-Gonzalez:

[REDACTED]

and [REDACTED] (collectively, “Complainants”), through the undersigned organizations, submit this complaint to the Office of Civil Rights and Civil Liberties (“CRCL”) and the Office of the Immigration Detention Ombudsman (“OIDO”). The GEO Group (“GEO”),

the Immigration and Customs Enforcement (“ICE”) contractor operating Mesa Verde Detention Facility (“Mesa Verde”), has sexually abused Complainants and others through grossly inappropriate pat-downs, with ICE’s apparent acquiescence. Mesa Verde has a long, documented history of mistreatment and substandard conditions, and the sexually abusive pat-downs appear to be an extension of retaliatory conduct by GEO against detained people who seek to peacefully protest such mistreatment and conditions. This complaint supplements two previous complaints, the most recent of which was filed on September 13, 2022 (“September Complaint”), regarding ongoing retaliation at Mesa Verde and Golden State Annex.¹ Complainants request a thorough investigation of this abuse and corrective action, including a recommendation that ICE release those so abused from detention.

As detailed in the September Complaint, Complainants, and other detained individuals, have engaged in individual and collective action at Mesa Verde for months.² They have engaged in these actions to protest the mistreatment, poor living conditions, and unjust labor conditions they have faced while in detention. Instead of addressing the concerns and demands of detained individuals, ICE and GEO staff have retaliated against Complainants and others in the facility by placing individuals in solitary confinement, attempting to transfer them to out-of-state facilities, and issuing write-ups to punish those individuals with loss of commissary.

In addition to egregious retaliation by GEO staff, the below Complainants, and other individuals detained at Mesa Verde, have been subjected to sexually abusive pat-downs. The abuse is widespread and implicates many staff members at the facility. Attempts by Complainants and others to seek redress for the abuse through formal channels have been summarily dismissed.

CRCL’s stated mission is to “preserve individual liberty, fairness, and equality under the law” by “[i]nvestigating civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel.”³ Complainants and the undersigned organizations urge CRCL to exercise its authority and investigate the cruel and unlawful abuse ICE and GEO have committed against Complainants.⁴

¹ Detained people at Mesa Verde and Golden State Annex also submitted a complaint to CRCL and OIDO concerning abuse and substandard conditions in August 2021. *See* Press Release, ACLU of Northern California, Civil Rights Groups File Complaint Against ICE and Contractors for Violating First Amendment Rights of People in Immigration Detention (Aug. 26, 2021), <https://www.aclunc.org/news/civil-rights-groups-file-complaint-against-ice-and-contractors-violating-first-amendment>.

² *See, e.g.,* Farida Jhabvala Romero, *Immigrant Detainees Strike Over Working Conditions, California Regulators Investigate*, KQED (June 22, 2022), <https://www.kqed.org/news/11917597/immigrant-detainees-strike-over-working-conditions-california-regulators-investigate>.

³ Department of Homeland Security, Office for Civil Rights and Civil Liberties, <https://www.dhs.gov/office-civil-rights-and-civil-liberties> (last visited Aug. 23, 2022).

⁴ Complainants have provided express consent to the signatory organizations to share their information with CRCL and have authorized CRCL to share information with these organizations about this complaint. Signed privacy waivers from all Complainants who have consented to the use of their names in this complaint are on file with the signatory organizations.

I. GEO’S IMPLEMENTATION OF SEXUALLY ABUSIVE PAT DOWNS AT MESA VERDE AND ICE’S FAILURE TO TAKE CORRECTIVE ACTION

Individuals detained at Mesa Verde have faced retaliation from GEO staff for asserting their right to decline participation in ICE’s “voluntary” work program, as well as for filing formal complaints documenting unjust conditions. In recent months, that retaliation has increasingly taken the form of sexually abusive pat downs and GEO’s blanket policy to reject or mark as “unfounded” all grievances filed by detained people. Many Complainants were detained in other ICE detention facilities and California Department of Corrections and Rehabilitation (“CDCR”) facilities prior to their arrival at Mesa Verde. All report that pat-downs are more frequent and more abusive at Mesa Verde than at any other facility they have been detained in.

Complainants further report that the frequency of pat-downs has increased under Facility Administrator Norbal Vazquez (“FA Vazquez”), who arrived at Mesa Verde around the same time that the strike began. Prior to FA Vazquez’s arrival, Complainants reported being patted down an average of four to six times per day. Since FA Vazquez implemented new pat-down policies in the early summer, individuals are patted down an average of ten times per day. Some Complainants have reported being patted down thirteen times in a single day. The increased frequency of pat-downs has been accompanied by increasing instances of sexually abusive pat-downs. GEO staff engage in a widespread practice of excessively rubbing the chests, inner thighs, waists, and buttocks of individuals during pat-downs. Advocates and Complainants are not aware of any incidents regarding weapons or contraband at Mesa Verde, which makes the necessity of these unusually frequent and intrusive pat-downs unclear.

These abusive pat-downs are deeply troubling for all individuals detained at Mesa Verde but are particularly traumatic for several Complainants who are survivors of childhood sexual abuse. For those Complainants, the abuse by GEO officers is re-traumatizing and causes them to experience flashbacks and post-traumatic stress disorder symptoms. Even those who have not experienced childhood sexual abuse report experiencing panic attacks and intrusive thoughts as they line up for pat-downs. As Complainants describe below, GEO staff have exhibited a pattern of abusing individuals at Mesa Verde and all attempts to address the problem through formal channels, such as filing formal grievances and Prison Rape Elimination Act (“PREA”) complaints, have failed.

GEO staff at Mesa Verde are also retaliating against strike participants by declining to properly investigate complaints filed by these individuals. On or around August 19, 2022, a detained individual reported to Centro Legal de la Raza (“Centro Legal”) that FA Vazquez informed him, along with other detained individuals, that future grievances from Dorm C—the dorm where strike participants were placed—would be rejected because he does not want detained people to be able to forward the responses to their grievances to attorneys and advocates. As of the filing of this complaint, Complainants report that since August 23, 2022, all grievances regarding staff misconduct filed by individuals detained in Dorm C have been rejected or marked unfounded.

This retaliation renders meaningless one of the only formal mechanisms detained people have to exercise their right to speak out about detention conditions. This abhorrent pattern of refusing to investigate grievances has grave implications for the below Complainants, who have been subjected to sexually abusive pat-downs by GEO staff for months.

Mr. [REDACTED] has been detained at Mesa Verde since November 2021. During his time in detention, Mr. [REDACTED] has spoken out about the horrendous living and working conditions at the facility. Due to his advocacy, Mr. [REDACTED] has faced retaliation and derisive comments from facility staff. GEO staff even placed Mr. [REDACTED] in solitary confinement for his participation in the strike.

On August 28, 2022, Mr. [REDACTED] was returning from morning yard around 11:30 a.m. and lined up for pat-downs along with his dormmates. Rather than using a standard patting motion, Officer Arreguin rubbed up and down multiple times along Mr. [REDACTED] chest and back. Mr. [REDACTED] reported that it felt like Officer Arreguin was caressing his chest. Officer Arreguin then moved to Mr. [REDACTED] legs and began rubbing his thighs and knees. Mr. [REDACTED] felt frozen in shock and quickly rushed back to the dorm after the pat-down. That same day, Mr. [REDACTED] filed a PREA complaint against Officer Arreguin.

Mr. [REDACTED] did not receive a response to his PREA complaint and began experiencing anxiety around the pat-downs. He felt tense at the thought of being around Officer Arreguin and experienced flashbacks to the way Officer Arreguin had groped him. Mr. [REDACTED] spoke with Catherine Harvey, the PREA coordinator at Mesa Verde, and asked if she could keep Officer Arreguin away from his dorm. She said she would take note of the request but informed Mr. [REDACTED] that she could not enforce the request unless his PREA complaint was marked as founded.

On one occasion, Officer Arreguin came through the dorm to escort people to the barbershop. Even though he wanted to go, Mr. [REDACTED] declined because he was afraid of being around Officer Arreguin after being sexually abused by him. After that, Mr. [REDACTED] began skipping barbershop visits because he was afraid that Officer Arreguin might be posted there.

After hearing nothing about his PREA complaint for over a week, Mr. [REDACTED] immigration attorney contacted Bakersfield Police Department on his behalf to report the incident. On September 15, 2022, Officer Michael Broida from Bakersfield Police Department came to Mesa Verde to interview Mr. [REDACTED]. Mr. [REDACTED] was escorted to a hallway enclave for the interview, but GEO staff members Officer Garcia and Lieutenant Harrison remained within earshot. Uncomfortable with their presence, Mr. [REDACTED] struggled to speak candidly about his experience but made a valiant effort. The interview lasted twenty minutes. Officer Broida claimed he did not speak with Officer Arreguin because he was not on shift at the time of the interview.

On October 1, 2022, Mr. [REDACTED] saw Officer Arreguin walk in the dorm. He approached another GEO Officer, Lieutenant Bodirsky, and asked why Officer Arreguin was allowed to be around him while the PREA investigation was pending. Lieutenant Bodirsky informed Mr. [REDACTED] that his PREA complaint had been marked unfounded. Two days later, Ms. Harvey came to the dorm to notify Mr. [REDACTED] that his PREA complaint had been marked unfounded.

Feeling distraught and left without options for recourse, Mr. [REDACTED] experiences flashbacks and anxiety during every pat-down, even with officers other than Officer Arreguin. He reports that his entire body feels tight, and he finds himself holding his breath during each pat-down, which never happened before Officer Arreguin abused him. Mr. [REDACTED] has started skipping meals to avoid being around Officer Arreguin or being sexually abused again during a pat-down. Instead, he often relies on food he purchases through the commissary, which is less nutritious and substantial than meals provided in the dining hall. Mr. [REDACTED] is familiar with the culture of silence around sexual abuse and has witnessed firsthand the damage silence can do to someone's mental health. He says that while many people, especially men, are hesitant to share their experiences of sexual harassment and abuse, he wants to show his loved ones and fellow dormmates that speaking up is a form of strength and that no one should have to suffer in silence.

Mr. [REDACTED] has been detained at Mesa Verde since December 2019. During his time in detention, Mr. [REDACTED] has spoken out about the abusive living and working conditions at the facility and has documented many of the abuses through the formal grievance process. In response to Mr. [REDACTED] brave advocacy, GEO and ICE staff have retaliated in a multitude of ways, including an attempt to transfer him out of state and two placements in solitary confinement over the past six months alone.

In late spring 2022, Mr. [REDACTED] reported that Officer Brooks rubbed and pinched his chest and then held his testicles. In another instance, Officer Hendrix pinched Mr. [REDACTED] chest and nipple. Mr. [REDACTED] is a survivor of childhood sexual abuse. Each lingering pat-down and inappropriate touch by GEO staff triggers flashbacks to the way his abuser rubbed his body. Mr. [REDACTED] began skipping meals and yard time to avoid these abusive pat-downs.

On May 30, 2022, during a pat-down after a meal, Officer Saso rubbed Mr. [REDACTED] chest, abdomen, and groin. Mr. [REDACTED] filed an internal PREA complaint. Instead of formally interviewing Mr. [REDACTED] Lieutenant Perez handed Mr. [REDACTED] a piece of paper and instructed him to write a statement. On July 19, 2022, Mr. [REDACTED] received a document stating that his complaint was "unfounded." GEO did not explain its reasoning. Next, Mr. [REDACTED] turned to the GEO grievance system. He cited different pat-down procedures at other ICE detention facilities, Golden State Annex and Adelanto ICE Processing Center, as evidence of how unusually aggressive the pat-downs are at Mesa Verde. FA Vazquez marked Mr. [REDACTED] grievance regarding the sexually violative pat-down as "unfounded" and wrote: "[Your] . . . frivolous PREA allegations . . . will not be tolerated." He continued, "If you like the operation of Golden State and Adelanto facilities, request a transfer to ICE for their consideration." When Mr. [REDACTED] appealed the inappropriate response to his grievance, FA Vazquez wrote back only, "Your opinion is noted." Left without

recourse for the abusive pat-downs, Mr. ██████ felt trapped. One day, after experiencing multiple flashbacks, he refused a pat-down and was written up. On another day, as an officer began rubbing his body, Mr. ██████ panicked and said, “Stop fucking touching my body!” He was written up a second time, for using profanity around the officers.

In early November 2022, Mr. ██████ filed a PREA complaint against Lieutenant Martimiano Vasquez. Less than a week later, another GEO staff member, Ms. A. Vasquez—Lieutenant Vasquez’s wife—issued a new write-up punishing Mr. ██████ with 30 days in solitary confinement. That write-up stated that because Mr. ██████ had received three write-ups within 90 days, he had committed a Code 220 violation (being found guilty of any combination of three or more “high moderate” or “low moderate” offenses within 90 days). Two of those three write-ups are discussed in the above paragraph and involved Mr. ██████ expressing deep discomfort with the abusive pat-downs. The third involved Mr. ██████ bringing bread back to his dorm from the mess hall. The timing around the write-up imposing 30 days of solitary confinement suggests pretext: The last of the three underlying write-ups occurred on October 25, 2022. But Ms. Vasquez did not issue the Code 220 write-up until November 9, 2022, only after Mr. ██████ filed a PREA complaint against her husband.

GEO placed Mr. ██████ in solitary confinement on November 14, 2022. Remembering how emotionally distressing his previous solitary confinement had been, Mr. ██████ immediately requested an urgent mental health evaluation. He did not receive one. On Tuesday, November 15, Mr. ██████ made the same plea and, again, he did not receive one. On Wednesday, November 16, Mr. ██████ yet again requested a mental health evaluation but did not receive one. That same day, to protest the facility’s continued disregard for his safety and the horrific conditions he has been subjected to, Mr. ██████ began a hunger strike.

On Thursday, November 17, 2022, four days after his solitary confinement began, a mental health provider, Ahmed Shahi, finally met with Mr. ██████. However, instead of speaking with Mr. ██████ about his mental health and emotional decompensation, Mr. Shahi insisted on speaking with Mr. ██████ only about his hunger strike and tried to convince Mr. ██████ to abandon the protest. Mr. ██████ pleaded with Mr. Shahi to give him mental health approval for more yard time, as it was one of the only sources of psychological stability for Mr. ██████ as he deteriorated in his small cell. Mr. ██████ reported that his “cell [was] like a grave.” Rather than take remedial action against GEO and the facility staff at Mesa Verde, ICE Officer Martinez visited Mr. ██████ in solitary confinement with an offer to transfer him to Golden State Annex. Mr. ██████ declined, stating that he would not be transferred to be silenced.

On November 19, 2022, a GEO officer told Mr. ██████ that unless he ended his hunger strike, facility staff would force him to move to medical isolation; and that if he were moved to medical isolation, the “clock” on his 30-day solitary confinement would pause until he ended his hunger strike and returned to solitary confinement. Mr. ██████ understood this to mean that in response to his hunger strike, GEO planned to prolong his forced isolation and solitary confinement and delay his return to the general population. Disturbed by this information, Mr. ██████ requested to speak with a mental health provider. The provider, Mr. Shahi, repeated what

the GEO officer had told Mr. [REDACTED] if he did not cease his hunger strike, the facility staff would forcibly take him to medical isolation and pause his 30-day sentence of solitary confinement.

Due to intervention from advocates, Mr. [REDACTED] was finally released from solitary confinement on November 23, 2022. But the abusive pat-downs have continued. On December 7, 2022, Officer Arreguin rubbed Mr. [REDACTED] back and chest multiple times. Officer Arreguin then rubbed Mr. [REDACTED] thighs, causing Mr. [REDACTED] severe distress. On December 14, 2022, Mr. [REDACTED] filed a PREA complaint against Officer Arreguin. To Mr. [REDACTED] knowledge, Officer Arreguin was reassigned to lobby duty, a position that does not entail conducting pat-downs of detained individuals. A few days later, Mr. [REDACTED] was interviewed by Ms. Vasquez, who asked him to write down his statement. Mr. [REDACTED] never received an update on the investigation but on January 9, 2023, Mr. [REDACTED] saw Officer Arreguin walking around the dorm, suggesting that Officer Arreguin had been released from lobby duty and returned to his prior post. Two days later, on January 11, 2023, Mr. [REDACTED] received a notification that his complaint was marked unfounded.

Despite the egregious retaliation he has experienced, Mr. [REDACTED] has continued to draw attention to the mistreatment at Mesa Verde. When staff from the OIDO visited Mesa Verde on December 14, 2022, Mr. [REDACTED] shared with OIDO representative Stephanie Guzman and her supervisor, Glen Young, how psychologically damaging the sexually abusive pat-downs are for him. In response, Mr. Young told Mr. [REDACTED] that he should sing a song in his head during pat-downs to distract himself and that the pat-down would be over quickly if he did not focus on them. GEO's continued abuse and the indifference of ICE officials reminds Mr. [REDACTED] of how powerless he felt when he was abused as a child. He knows how psychologically damaging it is to remain silent about abuse and insists that he wants to speak out now to stand up for himself and to stop other people from being abused in the future.

[REDACTED] Mr. [REDACTED] has been detained at Mesa Verde since January 2022. Prior to Mesa Verde, Mr. [REDACTED] was briefly detained at Golden State Annex. Even prior to FA Vazquez's arrival and implementation of more pat-downs, Mr. [REDACTED] noticed that pat-downs at Mesa Verde were far more frequent than they had been at Golden State. After FA Vazquez imposed more pat-downs, Mr. [REDACTED] reported that he was often patted down 12 or 13 times a day.

A survivor of childhood sexual abuse, Mr. [REDACTED] feels humiliated and angry about the sexually abusive nature of the pat-downs. The pat-downs give Mr. [REDACTED] flashbacks to the fear and vulnerability he felt while being sexually abused by an older relative. He reports that multiple officers have used a rubbing motion, rather than a patting one, and that they rub all along his back, legs, and inner thighs. Some officers move their hands around his waist or at the level of his penis and buttocks. Others grab his buttocks and shake them. Mr. [REDACTED] has noticed that when individuals refuse a pat-down or request a different officer to conduct the pat-down, GEO staff write them up or threaten to.

On August 28, 2022, Officer Arreguin rubbed Mr. [REDACTED] chest and moved his hands lower as he said, "Man, you're pretty solid." Mr. [REDACTED] asked Officer

Arreguin to stop rubbing his body, but Officer Arreguin continued the rubbing motion down Mr. [REDACTED] leg. When he tried to speak up again, Officer Arreguin made a fist at Mr. [REDACTED] as if to strike him.

Mr. [REDACTED] filed a PREA complaint against Officer Arreguin. Lieutenant Vasquez took his initial statement. On September 28, Ms. Harvey also took down his statement. She told Mr. [REDACTED] that Bakersfield Police Department would not be interested in investigating abusive pat-downs. Then, Mr. Blair, the grievance coordinator and safety manager at Mesa Verde at the time, took his statement. Concerned by Ms. Harvey's statement, Mr. [REDACTED] reached out to advocates, who contacted Bakersfield Police Department on his behalf.

On October 4, 2022, Bakersfield Police Department Officer Gutierrez came to Mesa Verde at 3 a.m. to interview Mr. [REDACTED]. Officer Jackson woke Mr. [REDACTED] and squeezed his waist and touched Mr. [REDACTED] buttocks as he escorted Mr. [REDACTED] to the interview room. The interview lasted around twenty minutes. Mr. [REDACTED] never heard again from Officer Gutierrez or anyone else from Bakersfield Police Department.

On October 9, 2022, Mr. [REDACTED] learned that DHS marked his PREA complaint as unfounded. On November 8, 2022, Mr. [REDACTED] and Mr. [REDACTED] one of Mr. [REDACTED] dormmates who had filed a PREA complaint against Officer Arreguin, each received a document containing both of their full names, A-Numbers, and the outcomes of their respective PREA complaints. Both men were upset that their personal information was being shared with another individual and refused to sign the document. Mr. [REDACTED] filed a grievance about the breach of confidentiality, but GEO marked his grievance as unfounded.

Mr. [REDACTED] has been subjected to sexually abusive pat-downs by other officers. On September 4, 2022, when returning from a meal, Officer Felix asked Mr. [REDACTED] "Do you submit to a pat-down?" Before Mr. [REDACTED] could respond, Officer Felix began patting him down aggressively, pulling at Mr. [REDACTED] shirt and legs. Mr. [REDACTED] asked Officer Felix to stop being so rough and asked Officer Felix to pat him down appropriately next time. In response, Officer Felix began using profanity and yelling at Mr. [REDACTED]. Mr. [REDACTED] looked at Lieutenant Vasquez, who was standing nearby and video-recording the pat-downs, but the lieutenant remained silent. When he returned to his dorm, Mr. [REDACTED] filed a grievance against Officer Felix. GEO responded that they would train Officer Felix.

On September 27, 2022, FA Vazquez, Ms. Harvey, and other GEO staff were in the dining hall during a meal. Mr. [REDACTED] approached FA Vazquez and asked him why his grievances were being marked unfounded so quickly. FA Vazquez responded, "Every morning when I come to work, all I see is you, [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] on my board. If you don't understand what I'm

saying, get a dictionary!” Before Mr. [REDACTED] could respond, FA Vazquez said, “You are dismissed,” and waved Mr. [REDACTED] away.

On October 22, 2022, Officer Linchfield slowly rubbed from Mr. [REDACTED] shoulders to his knees, lingering at his waist. Mr. [REDACTED] felt his skin prickle at the touch and asked Officer Linchfield why he was rubbing him instead of using a patting motion. Officer Linchfield did not respond. Mr. [REDACTED] filed a grievance. A few days later, Lieutenant Bodirsky interviewed Mr. [REDACTED] about the incident. Mr. [REDACTED] told Lieutenant Bodirsky that the pat-downs gave him flashbacks to his childhood abuse. Lieutenant Bodirsky responded, “I don’t want to hear about that.” Mr. [REDACTED] replied that Lieutenant Bodirsky should train his staff better. A few days later, his grievance was marked as unfounded.

Mr. [REDACTED] reports that he lives in fear of future pat-downs. He often avoids recreational activities at the facility to avoid the associated pat-downs. The abuse by GEO staff reminds him of the fear and vulnerability he felt as a child because once again, people who are supposed to ensure his safety are taking advantage of their position of power to hurt him.

[REDACTED] Mr. [REDACTED] has been detained at Mesa Verde since December 2021. During his time at Mesa Verde, he has been subjected to multiple sexually abusive pat-downs by several officers. Mr. [REDACTED] is a survivor of childhood sexual abuse. The lingering and groping pat-downs conducted by GEO staff are extremely triggering for him and he reports increased psychological and emotional distress after each incident. In late July 2022, when returning from dinner, Officer Lara touched Mr. [REDACTED] genitals during a pat-down. Mr. [REDACTED] asked Officer Lara why he was touching him there. Officer Lara denied touching him.

In early August 2022, during a pat-down before dinner, Officer Garcia brought his hand very close to Mr. [REDACTED] genitals. Mr. [REDACTED] flinched and asked him to stop. After dinner, Officer Lara aggressively tugged at Mr. [REDACTED] boxers. Mr. [REDACTED] lifted his shirt to show that there was nothing there. He looked to Lieutenant Bodirsky, who was video-recording the pat-down, but the lieutenant said nothing.

On October 16, 2022, Officer Morales rubbed below Mr. [REDACTED] abdomen. He felt a surge of anxiety and nausea, and asked Officer Morales why he was touching him like that. Officer Morales replied that he was “just doing [his] job.” Later that day, when Mr. [REDACTED] was going to yard, he saw Officer Morales conducting pat-downs. He requested that a different officer pat him down but instead was written up for refusing a pat-down. Officer Arreguin, who was standing nearby, made a threatening motion at Mr. [REDACTED] as if he wanted to hit him. Feeling afraid, Mr. [REDACTED] told Officer Arreguin that he did not want to fight. Officer Arreguin wrote him up. With two write-ups at the same time, Mr. [REDACTED] lost commissary access for two weeks.

On October 19, 2022, Officer Wong passed both hands with strong pressure right above Mr. [REDACTED] genitals. Frozen in shock, Mr. [REDACTED] did not say anything to Officer Wong but later filed a grievance. A few days later, Lieutenant Vasquez interviewed Mr. [REDACTED] about the incident and asked if he would like to open an investigation against Officer Wong. Mr. [REDACTED] said that he did not want to open an investigation but wanted Officer Wong to receive additional training on how to properly conduct pat-downs.

In another instance, Officers Brooks and Beeline laughed and made jokes during pat-downs saying things to one another like, “Look, I’m going to touch this guy!” Mr. [REDACTED] reports that when these officers pat him down, they often rub his buttocks. When he raised the issue with them, they dismissed him, saying that they were “just doing [their] jobs.”

On October 22, 2022, on his way back to the dorm after a meal, Mr. [REDACTED] noticed that Officer Gutierrez was conducting pat-downs. Officer Gutierrez had made Mr. [REDACTED] uncomfortable before during pat-downs, so he asked Lieutenant Perez if a different officer could pat him down. Lieutenant Perez replied that Officer Gutierrez was the only officer conducting pat-downs and that Mr. [REDACTED] would have to just move on. During the pat-down, Officer Gutierrez touched Mr. [REDACTED] left buttock. Mr. [REDACTED] immediately told Officer Gutierrez that he was touching his buttocks, but Officer Gutierrez remained silent and continued with the pat-down. Mr. [REDACTED] looked to Lieutenant Perez, who was holding a camera in his direction during the pat-down, for help. Lieutenant Perez did not do anything to help him. Instead, Lieutenant Perez just pressed a button on the camera.

Mr. [REDACTED] immediately filed a PREA complaint against Officer Gutierrez. A few days later, Lieutenant Bodirsky interviewed Mr. [REDACTED] and asked him why he did not speak with any GEO staff right after the incident. Mr. [REDACTED] disclosed that in the moment, the pat-down had triggered traumatic flashbacks for him. Lieutenant Bodirsky then asked Mr. [REDACTED] to write his account of the incident on a piece of paper. Officer Rodriguez assisted Mr. [REDACTED] who is a monolingual Spanish-speaker, in writing his statement. Mr. [REDACTED] relayed his statement in Spanish and Officer Rodriguez wrote the narrative in Spanish. When Mr. [REDACTED] requested a copy of his statement, Lieutenant Bodirsky refused. Then, Officer Rodriguez ostensibly rewrote the statement in English and tore up the Spanish statement. Lieutenant Bodirsky told Mr. [REDACTED] that they would check in with him once a week about any ongoing issues. While the investigation was pending, Mr. [REDACTED] did not see Officer Gutierrez conducting pat-downs.

Ms. Harvey conducted many of the check-ins with Mr. [REDACTED] prior to her retirement. After her departure, the check-ins continued with Ms. Vasquez. During the check-ins, GEO staff would take Mr. [REDACTED] to an interview room and ask him questions about how he was doing and how his mental health was. Mr. [REDACTED] always told the truth and repeatedly informed GEO staff that the pat-downs were inappropriate and triggering. During the initial check-ins, Ms. Harvey told Mr. [REDACTED] that his PREA complaint was not likely to succeed. She said that many others in the dorm had been filing PREA complaints that were marked unfounded because they did not have “real proof.” Mr. [REDACTED] did not receive a determination on his PREA

complaint until January 3, 2023, over two months after he had initially filed the complaint. Ms. Vasquez approached Mr. [REDACTED] and told him that his complaint had been marked unfounded and that Officer Gutierrez would return to his regular duties. Mr. [REDACTED] reiterated that he did not feel safe if Officer Gutierrez was going to return to conducting pat-downs.

A few days later, two officers from Bakersfield Police Department interviewed Mr. [REDACTED]. They told him that they had received several complaints and were trying to learn more about the sexually aggressive pat-downs. They said that they would speak to higher-level staff at Mesa Verde about the cases. The officers only spoke English, so Mr. [REDACTED] had difficulty understanding what they were saying. He requested an interpreter, but the officers refused and told him to continue in English. Mr. [REDACTED] put forth his best effort to tell his story but struggled to share his full account in his limited English. Mr. [REDACTED] felt dejected that the officers did not want to make the effort to provide an interpreter and conduct a full investigation. He left the interview feeling “less than human”, saying, “Mi palabra no tiene valor porque estoy detenido” (my word does not have value because I am detained). He has not heard from the Bakersfield Police Department since his interview.

GEO, DHS, and Bakersfield Police Department have opted to look the other way as the abuse continues at Mesa Verde. Mr. [REDACTED] is reminded of the way the police in the country he grew up in refused to take any action when his mother reported the violent assault he suffered as a child. Mr. [REDACTED] reports increasing psychological and emotional distress and feels degraded by the abusive pat-downs. He chooses to skip meals and yard times a majority of the time because he is worried about the associated pat-downs, and rarely leaves the dorm other than for legal calls or special occasion meals like Christmas or New Year’s Eve. At times, Mr. [REDACTED] has not left his dorm for as long as five consecutive days to avoid being inappropriately touched by GEO staff.

[REDACTED] Mr. [REDACTED] has been detained at Mesa Verde since January 2022. During his time in detention, Mr. [REDACTED] has experienced multiple sexually abusive pat-downs. On June 5, 2022, around 9:30 a.m., Officer Felix rubbed his hands along Mr. [REDACTED] inner thighs during a pat-down before yard time. Mr. [REDACTED] felt humiliated and degraded. He approached Officer Gutierrez and requested that Officer Felix be prohibited from patting him down in the future. Officer Gutierrez said that he would talk to his superiors.

On September 4, 2022, around noon, Officer Felix again slid his hands along Mr. [REDACTED] inner thighs during a pat-down, touching near his genitals. Shocked and humiliated, Mr. [REDACTED] asked Officer Felix to stop touching near his genitals. Realizing that he would continue to be abused, Mr. [REDACTED] filed a grievance about the abusive pat-downs. The reviewing officer escalated his grievance to a PREA complaint.

A few days later, Ms. Harvey took Mr. [REDACTED] aside to interview him about his complaint. Mr. [REDACTED] emphasized to Ms. Harvey that officers should not be placing their hands on his upper thighs or touching near his genitals. Ms. Harvey responded that as long

as the officers did not dwell near his genitals for “too long,” it was not a problem. Then, Lieutenant Perez took Mr. [REDACTED] to the intake area for an interview. However, Officer Castillo sat nearby for the duration of the fifteen-minute interview. Mr. [REDACTED] felt uncomfortable sharing his experience in front of Officer Castillo but insisted that officers should not be rubbing his inner thighs. Lieutenant Perez replied that many of the GEO officers are former police officers and have been trained in proper pat-down procedures. Mr. [REDACTED] felt frustrated that instead of impartially investigating his complaint, Lieutenant Perez was defending the offending officers. GEO marked the grievance as unfounded, and DHS marked the PREA complaint as unfounded.

On October 19, 2022, Officer Wong slid his hands around Mr. [REDACTED] waist and below his belly button. Mr. [REDACTED] felt afraid and tried to stand as still as possible until the pat-down was over. On October 22, 2022, Mr. [REDACTED] filed a grievance reporting Officer Wong’s abusive pat-down. He was interviewed by Lieutenant Harrison, but his grievance was marked as unfounded.

Mr. [REDACTED] believes that GEO staff regularly disrespect the bodily autonomy and psychological safety of individuals at Mesa Verde. Further, Mr. [REDACTED] has filed grievances against Officer Felix and Officer Arreguin for unnecessarily looking in at him while they knew he was using the toilet. These grievances were marked unfounded. The lack of respect for his privacy and the repeated, sexually abusive pat-downs have led Mr. [REDACTED] to feel anxious, humiliated, degraded, and fearful of future pat-downs.

[REDACTED] Mr. [REDACTED] has been detained at Mesa Verde since December 2021. During his time at Mesa Verde, he has reported pat-downs that feel like rubdowns or inappropriate caresses from Officer Arreguin, Officer Linchfield, Officer Brooks, and Officer Felix. On August 28, 2022, Mr. [REDACTED] was extremely excited for his family visit. He lined up for a pat-down to leave the dorm. Officer Arreguin rubbed the sides of Mr. [REDACTED] chest twice, rubbed his belly and abdomen and ran a hand over his genitals. Then, Officer Arreguin reached around behind Mr. [REDACTED] and began sliding his hands up and down Mr. [REDACTED] back.

Mr. [REDACTED] felt tense and uncomfortable but did not say anything because he was afraid that GEO staff would prevent him from seeing his family. Instead, he held his breath and waited for the pat-down to end. By the end of the pat-down, Mr. [REDACTED] left the dorm feeling shame and disgust. After this incident, Mr. [REDACTED] did not see Officer Arreguin for several weeks. However, in October, he saw Officer Arreguin walk around the yard area. As soon as he saw Officer Arreguin, Mr. [REDACTED] froze and felt the urge to run in the opposite direction. As he tried to stay calm and carry on with his day, he kept repeating in his head the phrase, “I don’t want to get patted down, I don’t want to get patted down, I don’t want to get patted down.”

After experiencing weeks of stress and flashbacks about the pat-downs, Mr. [REDACTED] decided to file a PREA complaint about his experience. On October 19, 2022, he

approached Ms. Harvey to file the complaint. She told Mr. [REDACTED] that he was likely “taking the pat-down the wrong way” and that several other people had recently filed PREA complaints. She told him that the PREA allegations were all misdemeanors, and that Bakersfield Police Department would not send an investigator to take a report over an abusive pat-down. Instead, she tried to encourage him to file a grievance through the formal GEO grievance process, insisting that they would have a full investigation if he went the grievance route. Mr. [REDACTED] persisted in filing a PREA complaint instead of a grievance.

The next day, Ms. Harvey told him that his complaint would most likely be marked unfounded and unsubstantiated. He was never given the opportunity to speak with the Bakersfield Police Department. Instead, Lieutenant Perez took Mr. [REDACTED] into a private interview room and accused Mr. [REDACTED] of “retaliation” for filing the PREA complaint against Officer Arreguin a month after the incident in question. Mr. [REDACTED] explained that he had tried to mentally overcome the incident but when he saw Officer Arreguin again, he was struck by such anxiety that he needed to file the complaint to make sure he was never abused again. In late November 2022, Mr. [REDACTED] learned that DHS had determined his PREA complaint to be unfounded.

Since the incident with Officer Arreguin, Mr. [REDACTED] feels stressed any time he waits in line for a pat down because he is worried about being sexually abused again. He has made his best efforts to limit the number of pat-downs he receives. On one occasion, he asked the medical staff if they could do all his dental work at once—rather than in multiple sessions as they had advised—so that he would not have to receive multiple pat-downs for multiple dental visits. In another instance, Mr. [REDACTED] skipped going to the dining hall for a week and a half because he was concerned about the associated pat-downs. Even though his faith and yard time give Mr. [REDACTED] solace as he tries to survive his time in detention, he sometimes will skip yard time or consider attending church services to avoid a pat-down.

[REDACTED] (“Mr. [REDACTED] has been in immigration detention since March 2022. He was initially detained at Golden State Annex but was transferred to Dorm C at Mesa Verde in late April 2022 for about four months. At Golden State Annex, Mr. Flores Correas was only patted down when he left and returned to the facility. He reported that the pat-downs were professional and akin to police pat-downs, with a standard patting procedure. At Mesa Verde, however, he was patted down every time he left the dorm.

While in Dorm C, Mr. [REDACTED] was subjected to abusive pat-downs by multiple officers, who would excessively rub his torso, back, stomach and chest area. Other officers would run their thumbs inside the waistband of his pants. The pat-downs felt completely different than those at Golden State Annex. In particular, pat-downs by Officer Arreguin and Officer Saso involved excessive rubbing and groping. Anxious about more abusive encounters, Mr. [REDACTED] limited the times he left the dorm. Of the 21 meals offered in a week, Mr. [REDACTED] would only attend four or five to avoid the associated pat-downs. He also began skipping church services, despite his devout faith, and felt scared to submit medical requests because even going to the medical clinic would require pat-downs.

Mr. [REDACTED] attempted to raise the issue with FA Vazquez by sharing how different his experience at Golden State Annex had been and that they had never had any drug or contraband issues there despite the less frequent pat-downs. FA Vazquez replied that Mr. [REDACTED] would just have to accept that this is how security at Mesa Verde works. Mr. [REDACTED] then tried to raise the issue with Ms. Harvey and several lieutenants at the facility. Everyone brushed off his concerns.

Mr. [REDACTED] noted that when his dormmates filed formal grievances or PREA complaints, they were always marked as unfounded. When one of his dormmates listed him as a witness to a sexually abusive pat-down, Mr. [REDACTED] wanted to support his friend. However, Lieutenant Gutierrez insisted that he would have to leave the dorm to share his testimony. Afraid of the pat-downs associated with leaving the dorm, Mr. [REDACTED] felt frozen. He asked Lieutenant Gutierrez if he could provide his statement in one of the empty rooms in the dorm, but Lieutenant Gutierrez insisted that Mr. [REDACTED] would have to leave the dorm to provide his statement. Mr. [REDACTED] ultimately decided that he could not risk more abuse and was unable to help his friend. Months later, Mr. [REDACTED] still struggles with his decision.

Mr. [REDACTED] began feeling depressed and despondent. He realized that any grievances or PREA complaints he filed would be unjustifiably dismissed. At his request, ICE transferred him back to Golden State Annex in late August 2022. He reports that Golden State Annex has been much better for his mental health as he is no longer constantly anxious about being sexually abused during a pat-down and feels that his grievances are actually investigated.

[REDACTED] (“Mr. [REDACTED] was detained at Mesa Verde from September 2021 to November 2022. During his time at Mesa Verde, he was a vocal advocate for better conditions and helped develop and lead rehabilitation workshops for other people in detention. Prior to Mesa Verde, Mr. [REDACTED] was detained at Golden State Annex where pat-downs were infrequent. Upon his arrival at Mesa Verde, he noticed that pat-downs were far more frequent.

When FA Vazquez took over in the late spring, Mr. [REDACTED] was hopeful that the pat-downs would decrease. Instead, they became even more excessive and frequent. Mr. [REDACTED] approached FA Vazquez and explained that the excessive pat-downs were traumatic and triggering for many of his dormmates, who were survivors of sexual abuse. FA Vazquez dismissed his concerns and said, “You went to prison for a reason.”

In early August 2022, during a pat-down returning from the medical unit, Officer Lara rubbed Mr. [REDACTED] back and shoulders and then ran his hands over his buttocks. Frozen with shock, Mr. [REDACTED] said nothing. For weeks after, Mr. [REDACTED] felt frustrated and angry. He questioned why officers who were charged with keeping everyone in the facility safe would do something so humiliating and violating.

A few weeks later, after returning from dinner, one of Mr. [REDACTED] dormmates asked if anyone else had been groped on their buttocks by an officer. Mr. [REDACTED] shared his story, which inspired his dormmate to file a PREA complaint when he realized that he was not alone in experiencing sexually abusive pat-downs. Later in the fall, during a pat-down returning from dinner, Officer Saso rubbed slowly all the way from Mr. [REDACTED] armpit down to his ankle, lingering at his hip area. Despite the consistent abuse, Mr. [REDACTED] did not file a grievance or PREA complaint because FA Vazquez had already made clear that any grievances he filed about staff misconduct would not be investigated.

Left without options to report the abuse, Mr. [REDACTED] began skipping meals to cut down on the number of pat-downs he had to endure. He reported that there were multiple weeks where he would only attend one meal a week and rely on commissary food the rest of the time. Since being released, Mr. [REDACTED] reports that he is still dealing with the mental health consequences of the abhorrent conditions at Mesa Verde.

II. ICE AND GEO'S CONDUCT IS UNLAWFUL

A. Sexually Abusive Pat-Downs Are Prohibited by ICE Policy and Are Unconstitutional

GEO's pat-downs at Mesa Verde constitute sexual abuse that is prohibited under the ICE policy implementing PREA and is also unconstitutional. As described above, GEO staff at Mesa Verde have a widespread practice of conducting pat-downs in ways that involve prolonged rubbing of body parts, pinching of the buttocks and waist, and touching of the genitals. As Complainants have shared with GEO and ICE through their PREA complaints and other grievances, they experience these pat-downs as humiliating and sexualized. Those pat-downs constitute "sexual abuse" under the DHS PREA regulations because they involve "[i]ntentional touching of the genitalia, . . . groin, breast, inner thighs or buttocks, either directly or through the clothing, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire." 6 C.F.R. § 115.6(4). That touching is unrelated to official duties because it far exceeds in scope any purported interest in discovering contraband or weapons, particularly where there are currently no contact visits at Mesa Verde and the introduction of contraband or weapons into the facility would be virtually impossible (indeed, since staff would be the only source of such contraband, a thorough search of staff upon arrival at work each day would seemingly resolve any purported concerns about contraband). Moreover, the persistence and manner of that touching, despite the complaints of harm expressed to GEO by Complainants and other detained people at Mesa Verde, appears designed to abuse them rather than serve a legitimate institutional purpose.

For similar reasons, GEO's pat-downs of Complainants constitutes an unreasonable search in violation of the Fourth Amendment and an impermissibly punitive and harmful set of practices in violation of substantive due process. GEO's pat-downs are constitutionally unreasonable because the scope of those pat-downs and the manner in which they are conducted are excessive in relation to whatever "justification" GEO has for "initiating" them, particularly given the

implausibility of smuggling contraband or weapons into Mesa Verde. See *Byrd v. Maricopa Cty. Sheriff's Dep't*, 629 F.3d 1135, 1140-41 (9th Cir. 2011) (en banc) (articulating factors to analyze in a Fourth Amendment challenge to a jail search). They are also presumptively unconstitutionally punitive because they are “identical to, similar to, or more restrictive than, those in which [a civil detainee’s] criminal counterparts are held.” *King v. Cnty. of Los Angeles*, 885 F.3d 548, 558 (9th Cir. 2018). People held in criminal custody—whether pre-trial custody or in prison—are reportedly not subject to such regular and invasive pat-downs as the people detained at Mesa Verde. Finally, GEO’s pat-downs also violate substantive due process because they are so emotionally harmful to Complainants and similarly situated individuals. See *Smith v. Washington*, 781 F. App’x 595, 598 (9th Cir. 2019) (conditions of confinement violate substantive due process if they “put [a detained person] at substantial risk of suffering serious harm”).

B. There Is Ample Evidence That the Sexually Abusive Pat-Downs are Retaliatory

Furthermore, there is ample circumstantial evidence that the egregious conduct of ICE and GEO described above is retaliation against the Complainants and other individuals detained in Dorm C for voicing their concerns in the facility. To be unconstitutionally retaliatory, that protected speech and speech-related conduct need only be a “substantial” or “motivating” factor behind GEO’s responses—they need not be the only factor. *Brodheim v. Cry*, 584 F.3d 1262, 1269-71 (9th Cir. 2009).

The direct evidence of GEO’s retaliatory motive includes negative statements by GEO staff. Complainants are or were all detained in Dorm C at all relevant times in this complaint. As discussed in the September Complaint, all participants in the labor strike were transferred to Dorm C by late August 2022 and have continued to be confined there unless ordered released or transferred to another facility. All Complainants report that GEO staff make comments in their earshot about how Dorm C is full of “troublemakers.” Furthermore, as mentioned above, FA Vazquez openly announced in August 2022 that all grievances filed by individuals in Dorm C would be marked as unfounded. His statement was not an empty threat: Complainants report that all of their grievances regarding staff misconduct since his announcement have been marked unfounded, including those describing unlawful sexually abusive pat-downs.

There is also ample circumstantial evidence of GEO’s retaliatory motive. Such circumstantial evidence may include: “(1) proximity in time between protected speech and the alleged retaliation; (2) [that] the [GEO] expressed opposition to the speech; [or] (3) other evidence that the reasons proffered by [GEO] for the adverse . . . action were false and pretextual.” *McCollum v. CDCR*, 647 F.3d 870, 882 (9th Cir. 2011) (internal quotation marks omitted). As described above, the increase in frequency and abusive nature of pat-downs at Mesa Verde coincided with the labor strike at the facility, which began in late April 2022.⁵ The “proximity in time,” *id.*, between the labor strike at Mesa Verde and the escalation of sexually abusive pat-downs is strong circumstantial evidence that the imposition of frequent and aggressive pat-downs was a

⁵ Press Release, Mesa Verde Labor Strikers Collective (June 7, 2022), <https://www.pangealegal.org/news-and-updates/2022/6/7/14s5d0en0wgtkysr5cfqsc3w40773c>.

method of retaliation by GEO against individuals in Dorm C, many of whom participated and continue to participate in the labor strike. This is particularly so in light of the numerous ways GEO has previously “expressed [its] opposition,” *id.*, to Complainants’ speech, including placing numerous Complainants in solitary confinement, attempting to transfer at least one Complainant, GEO staff’s comments to Complainants about how “troublesome” Dorm C is, FA Vazquez’s refusal to investigate grievances filed by individuals in Dorm C, GEO’s persistence in subjecting Complainants and others to sexually abusive pat-downs, and GEO’s ongoing refusal to meaningfully investigate Complainants’ PREA-related grievances against GEO staff.

This retaliation and abuse are in violation of the 2011 Performance-Based National Detention Standards (“PBNDS”). The PBNDS recognize that an individual in detention has “[t]he right to pursue a grievance . . . without fear of retaliation.”⁶ Specifically, Section 6.2(V)(G) states:

Staff shall not harass, discipline, punish or otherwise retaliate against a detainee who files a complaint or grievance or who contacts the DHS Office of the Inspector General.

Actions are considered retaliatory if they are in response to an informal or formal grievance that has been filed and the action has an adverse effect on the resident’s life in the facility.

Immediately following any indication or allegation of retaliation, the facility and ICE/ERO shall conduct an investigation of alleged acts of retaliation in a timely manner, and take all steps necessary to remedy any retaliation determined to have occurred.

GEO’s employment of sexually abusive pat-downs as an extension of the other retaliation inflicted upon the labor strikers is impermissible under these PBNDS provisions.

C. Complainants’ Peaceful Protests Against the Pat-Downs Are Protected Under the U.S. Constitution and ICE’s Detention Standards

With this analysis of GEO’s pat-downs in mind, Complainants’ and other similarly situated individuals’ peaceful refusals of pat-downs or requests for a different officer to conduct pat-downs represent informal grievances against perceived mistreatment and are protected expression. Accordingly, the write-ups issued to Mr. [REDACTED] and Mr. [REDACTED] for peaceful conduct related to their opposition to sexually abusive pat-downs violated their First Amendment rights and had chilling effects on other Complainants and similarly situated individuals. The First Amendment protects Complainants’ participation in the grievance process. “[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

⁶ ICE Performance-Based National Detention Standards 2011 (hereinafter, “PBNDS”), Section 3.1(V)(B)(3), <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf>.

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-GSA-PC, 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-05359-VC, 2015 WL 5569443 (N.D. Cal. Sept. 22, 2015) (recognizing that plaintiff’s evidence sufficiently alleged prohibited retaliation where the incarcerated person had joined hunger strikes and made writings critical of incarceration practices). Complainants thus have a First Amendment right to file grievances in their own names, sign on to group grievances, and informally express their concerns about their own mistreatment (or the mistreatment of others) to GEO personnel.

The First Amendment also protects Complainants’ use of profanity in relation to GEO staff members’ harmful pat-downs. Indeed, Complainants have a general right to use offensive language around GEO staff, however unpleasant the staff may find it. *See City of Houston v. Hill*, 482 U.S. 451, 461 (1987) (“[T]he First Amendment protects a significant amount of verbal criticism and challenge directed at police officers.”); *Cohen v. California*, 403 U.S. 14, 26 (1971) (holding that the First Amendment protects the use of profane language); *Duran v. City of Douglas*, 904 F.2d 1372, 1378 (9th Cir. 1990) (“[W]hile police, no less than anyone else, may resent having obscene words and gestures directed at them, they may not exercise the awesome power at their disposal to punish individuals for conduct that is not merely lawful, but protected by the First Amendment.”). This includes a right to speak up—even if passionately and through coarse language—when they feel they are being mistreated. *See Ford v. City of Yakima*, 706 F.3d 1188, 1193 (9th Cir. 2013), *abrogated on other grounds by Nieves v. Bartlett*, 139 S. Ct. 1715 (2019) (noting that “criticism of the police for” perceived “unlawful” activity falls “squarely within the protective umbrella of the First Amendment and any action to punish or deter such speech . . . is categorically prohibited by the Constitution”) (internal quotation marks omitted); *cf. Bradley v. Hall*, 64 F.3d 1276, 1282 (9th Cir. 1995), *overruled on other grounds by Shaw v. Murphy*, 532 U.S. 223, 230 n.2 (2001) (holding that “prison officials may not punish an inmate merely for using ‘hostile, . . . abusive or threatening’ language in a written grievance.”).

Complainants justifiably view the harmful pat-downs as unlawful and as an extension of other retaliation by GEO staff. GEO cannot punish Complainants for expressively protesting such mistreatment where it has many less-intrusive methods available, such as the use of more targeted and less-invasive pat-downs or the employment of a metal detector.

III. THE COMPLAINANTS REQUEST THAT CRCL AND OIDO INVESTIGATE AND ISSUE RECOMMENDATIONS TO ICE

As detailed below, the Complainants urge CRCL and OIDO to initiate an investigation and

recommend that ICE take immediate steps to address the violations detailed herein. As detailed below, because Mesa Verde has been unable to remedy these violations despite repeatedly being put on notice by advocates, CRCL should recommend that ICE terminate its contracts with GEO at Mesa Verde Detention Facility. Because ICE has been unable to protect Complainants and others from unlawful abusive pat-downs in detention, CRCL should also recommend their immediate release.

A. CRCL and OIDO Should Conduct a Thorough Investigation of Complainants' Experiences of Sexually Abusive Pat-Downs and Recommend That ICE Affirmatively Protect Complainants and Similarly Situated Individuals from Further Abuse and Retaliation

Complainants request that CRCL and OIDO investigate their experiences of sexual abuse and retaliation—as detailed in this complaint—and that CRCL recommend that the Department of Homeland Security grant the Complainants—as well as any other individuals who suffered sexual abuse related to the events mentioned in this complaint—remedial relief, including the following:

1. Exercise prosecutorial discretion and release any Complainant (or any other person who suffered sexual abuse related to the events mentioned in the complaint) who remains in detention;
2. Abstain from re-detaining any Complainant or any similarly situated individual who has been released; and
3. Issue deferred action to protect Complainants and similarly situated individuals from removal while the investigatory process unfolds and/or move to dismiss, or stipulate to relief in, their removal proceedings.

Further, CRCL should issue recommendations to ICE for the agency to undertake remedial measures, including the following:

4. Conduct personnel and contract reviews with the aim of identifying the specific officers and agents within ICE and its contractors that undertook, supervised, or approved of the sexual abuse and retaliatory measures (as well as those that subsequently learned of the unlawful conduct but failed to take action to redress it);
5. Remove those officers and agents from all detention and enforcement activities pending investigation; and
6. Take disciplinary measures against those officers and agents, including shifting them out of operational roles.

B. CRCL and OIDO Should Recommend that ICE Terminate Contracts with Immigration Detention Facilities and Contractors

The experiences of Complainants detailed in this complaint demonstrate the inhumane conditions of confinement, abuses of power, and serious violations of civil rights and civil liberties

that individuals are subjected to while in detention. Despite years of oversight, inspections, and litigation, ICE and its contractors continuously sustain unlawful conditions and retaliate against those who speak up. Because ICE and its contractors at Mesa Verde and have proven unwilling to address these problems, CRCL should recommend that ICE immediately end its contract with GEO at Mesa Verde Detention Facility.

C. CRCL and OIDO Should Recommend That ICE Eliminate Policies That Punish Individuals Exercising Their Rights in The Facility

CRCL should recommend that ICE amend the Performance-Based National Detention Standards and all other guidance governing detention standards, including the 2019 National Detention Standards, the 2020 Family Residential Standards, and the ICE Health Service Corps⁷ guidance to make clear the following:

1. Eliminate the standard that expressly calls for ICE contractors to penalize detained individuals “engaging in or inciting a group demonstration”;
2. Prohibit immigration officials or facility staff from using any form of solitary confinement, including administrative segregation, restricted housing, or medical segregation, as a form of punishment for individuals who speak out against conditions or otherwise exercise their rights in the facility;
3. Prohibit transfers across dorm rooms or facilities, including out-of-state transfers, where an individual has participated in activities such as making informal or formal complaints, hunger strikes, or other demonstrations at the current facility, unless an individual expressly requests such transfer;
4. Prohibit the denial of access to commissary items in response to individuals who speak out against conditions or otherwise exercise their rights in the facility;
5. Identify and correct failures in the grievance process, including by implementing a system with ICE that details how ICE must adjudicate grievances;
6. Implement training and other policy changes to ensure that ICE and its contractors’ staff refrain from retaliation in the future; and
7. Address the underlying conditions of confinement that led to Complainants’ exercise of their rights.

D. CRCL and OIDO Should Recommend That ICE Address the Specific Demands of Complainants and Similarly Situated Individuals

CRCL should recommend that ICE address the demands of detained advocates. These demands include:

1. Clarifying and enforcing PREA obligations in immigration detention facilities; and

⁷ Although only the 2011 PBNDS applies to the facilities at issue in this complaint, ICE should apply uniform nationwide standards.

2. Conducting investigations into sexual abuse separately from GEO's investigations by interviewing individuals privately, interviewing witnesses privately, informing them of the outcomes of investigations promptly, and protecting the privacy of anyone who participates in such an investigation.

E. CRCL and OIDO Should Recommend that ICE Hold Regular Meetings Between Facility Management and Dorm/Pod Representatives

CRCL should recommend that ICE allow detained individuals to collectively share their grievances with ICE and GEO by taking the following measures:

1. Hold regular meetings between facility management and ICE ERO officials and representatives chosen by each dorm/pod, at which representatives can share collective grievances of their respective dorm/pod;
2. Allow an outside advocate chosen by the representatives to attend these meetings; and
3. Require that ICE officials and facility management provide a timely written response to all grievances raised at these meetings.

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

Sincerely,

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Centro Legal de la Raza

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Lisa Knox
Edwin Carmona-Cruz
California Collaborative for Immigrant Justice

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