



September 24, 2018

The Honorable Kirstjen Nielsen
Secretary of Homeland Security
500 12th Street Southwest
Washington, DC 20536

Dear Madam Secretary:

On behalf of the Human Rights Campaign's nearly 3 million members and supporters I am writing to express my sincere concern regarding the treatment of lesbian, gay, bisexual, transgender and queer (LGBTQ) people while in detention by Immigration and Customs Enforcement (ICE). As the nation's largest organization working to secure civil rights for LGBTQ people, we were deeply troubled by reports of violence and sexual assault targeting our community while in ICE custody. The reports have indicated that the rates of assault on transgender people have been especially egregious and demand immediate attention. We must urge you to take decisive steps to address these problems and ensure that all people in ICE custody are treated fairly and compassionately, regardless of their sexual orientation or gender identity.

The high levels of reported sexual abuse that LGBTQ people face while in immigration detention indicate that ICE is failing to adequately prioritize the safety and well-being of this vulnerable population. As you know, the U.S. detains approximately 400,000 immigrants annually, often in prison-like conditions. According to information ICE provided to Rep. Kathleen Rice, LGBTQ people make up less than one percent of people in immigration detention, but they make up 12% of the reported victims of sexual abuse and assault in ICE detention.¹ This means that LGBTQ people are 97 times more likely to report being sexually abused in detention than non-LGBTQ people in the same conditions.

The current policies regarding housing assignments for transgender detainees are also extremely concerning and likely increase the risk of violence and assault. ICE detains

¹ Kathleen Rice, *LGBT Immigrants in ICE Detention Letter to Secretary Nielsen*, Congress of the United States (May 30, 2018), https://kathleenrice.house.gov/uploadedfiles/2018.05.30_lgbt_immigrants_in_ice_detention_letter_to_sec_nielsen.pdf.

transgender women in at least four all-male facilities and in thirteen mixed facilities where ICE routinely detains transgender women with the male detainees. Women housed within male populations face increased risk for verbal and sexual abuse. Routine solitary confinement, however, is not the answer. In far too many cases, ICE has chosen to place LGBTQ detainees - and particularly transgender detainees - into solitary confinement, despite the fact that ICE has a clearly stated policy that solitary confinement should only be used as a last resort and for no more than 30 days. Recent data show that one out of every eight transgender people detained by ICE last year were placed in solitary confinement at some point during their detention,² for an average of 52 days. There are also reports that earlier this year, ICE placed a lesbian asylum seeker into solitary confinement to pressure her to withdraw an accusation of sexual abuse that she had made against a guard.³

It is also deeply concerning that LGBTQ detainees may not be receiving necessary medical care. Transgender detainees have often had to fight for the right to receive necessary hormone treatments,⁴ and detainees who are living with HIV have often faced delays in treatment.⁵ In particular, we have raised concerns regarding the case of Roxsana Hernandez in a May 30 letter and an accompanying Freedom of Information Act (FOIA) request on July 26. Ms. Hernandez died from suspected HIV-related complications while in ICE custody this May. While we did receive a response from ICE on August 6 to our May 30 letter, it did not include much new information we therefore look forward to the results of the thorough investigation that ICE reports it has undertaken.

All of these concerns have been underscored by the recent arrest of Juan David Ortiz, a Border Patrol agent who stands accused of multiple murders targeting vulnerable female immigrants in Texas, including one transgender woman, Janelle Ortiz. While it currently appears that Agent Ortiz committed his crimes outside of his work for the Border Patrol, there are reports⁶ that he

² Sharita Gruberg, *ICE's Rejection of Its Own Rules Is Placing LGBT Immigrants at Severe Risk of Sexual Abuse*, Center for American Progress (May 30, 2018), <https://www.americanprogress.org/issues/lgbt/news/2018/05/30/451294/ices-rejection-rules-placing-lgbt-immigrants-severe-risk-sexual-abuse/>. Accessed 16 July 2018.

³ Clark Mindock, *Laura Monterrosa: Woman Put in Solitary Confinement After Claiming She Was Sexually Abused by Immigration Prison Guard*, The Independent (Feb. 14, 2018), <https://www.independent.co.uk/news/world/americas/laural-monterrosa-immigrant-sexual-abuse-assault-guard-texas-jail-prison-solitary-confinement-hutto-a8211206.html>. Accessed 16 July 2018.

⁴ Aaron Martinez, *Jailed Transgender Woman Granted Hormonal Treatment*, El Paso Times (Feb. 27, 2018), <https://www.elpasotimes.com/story/news/2017/02/27/jailed-transgender-woman-granted-hormonal-treatment/98498902/>. Accessed 16 July 2018; Human Rights Watch. *Do You See How Much I'm Suffering Here?* 23 March 2016.

⁵ John Washington, *An HIV-Positive Gay Asylum Seeker Staged a 7-Day Hunger Strike in an ICE Detention Facility*, The Nation (Dec. 12, 2018), <https://www.thenation.com/article/an-hiv-positive-gay-asylum-seeker-staged-a-seven-day-hunger-strike-in-an-ice-detention-facility/>. Accessed 16 July 2018; Center for American Progress. *Dignity Denied*. November 2013.

⁶ Lily Dancyger, *Alleged Border-Patrol Serial Killer's Third Victim ID'd as Trans Sex Worker*, Rolling Stone (Sept. 18, 2018),

may have used Border Patrol resources to evade capture. It is also deeply concerning that DHS may not be conducting sufficient vetting of its staff, particularly given the authority they have over the safety and well-being of vulnerable people in their custody.

For all these reasons, it is crucial that your Department engage in strong oversight of ICE and its detention of immigrants - LGBTQ and otherwise. Unfortunately, the DHS Office of the Inspector General recently concluded that DHS inspections of detention facilities have not ensured consistent compliance with detention standards, because the inspections are not strong enough.⁷ In the absence of consistent, meaningful oversight abuse is allowed to thrive.

I urge you to address these deficiencies immediately and ensure that all detainees are treated with the respect and dignity all people deserve, no matter who they are or whom they love.

Sincerely,

A handwritten signature in black ink that reads "David Stacy". The signature is written in a cursive, slightly slanted style.

David Stacy
Government Affairs Director

Cc: Ronald D. Vitiello, Acting Director, Immigration and Customs Enforcement

<https://www.rollingstone.com/culture/culture-news/juan-david-ortiz-janelle-ortiz-trans-victim-alleged-border-serial-killer-725660/>.

⁷ Office of Inspector General, ICE's Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance of Systemic Improvements (2018).