



July 26, 2019

**SENT VIA EMAIL**

Dora Orozco  
Warden, Otero County Processing Center  
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Wayne Cox  
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**RE: Misuse of Segregation for Jesus Lorenzo Avila (A# 215-814-148) in the Otero County Processing Center**

Dear Ms. Orozco and Mr. Cox:

It has come to our attention that your facility has improperly placed our client, Jesus Lorenzo Avila (A# 215-814-148), in segregation, in violation of constitutional due process and free speech rights as well as ICE detention standards. I write to request that you immediately release Mr. Avila from segregation.

On July 18, 2019, Mr. Avila was called out of his cell and handcuffed by correctional officers ("CO's"). They took Mr. Avila to the Segregated Housing Unit ("SHU"), responding to his questions only with the unfounded rationale that he had supposedly organized a hunger strike among a group of Indian detainees during religious services. The CO's further explained to Mr. Avila that his placement in segregation was a disciplinary action due to his previous contact with the media.

Mr. Avila immediately informed the CO's that he was not involved in any efforts to coordinate a hunger strike, that he does not even speak an Indian dialect or any common language with the hunger strikers, and that he never attends religious services. Such organizing would have been impossible for him to do in that context. He requested the names of the people who had implicated him and your staff refused to provide him with that information. Since July 18<sup>th</sup>, Mr. Avila has filed several grievances, but has not received any response.

On July 22<sup>nd</sup>, Mr. Avila was found guilty of the alleged violations and sentenced to 25 additional days in segregation. Your staff did not provide any evidence to substantiate the finding of guilt, nor did they provide him with any sort of due process that would have allowed him to rebut any

evidence and call witnesses. This presents a clear violation of his constitutional rights to due process under the Fourteenth Amendment.

Additionally, the CO's retaliation against Mr. Avila for speaking to the media is a clear violation of his right to free speech. Despite being in civil immigration detention, Mr. Avila still enjoys First Amendment rights. He is allowed to speak with the media and the media is allowed to speak with him. ICE's own detention standards state that "detainees should not be pressured or coerced out of granting the interview request, nor should the facility in any way retaliate against a detainee for lawful communication with a member of the media or a member of the public." (See ICE Performance-Based National Detention Standards, pp. 445-47, attached as Exhibit A.)

Improper placement in segregation is not new to Mr. Avila, who has spent nearly two cumulative months in isolation since his arrival to OCPC on March 7, 2019. Nor is this misuse of segregation new to OCPC more broadly. DHS's own watchdog admonished your facility for such improper use in the past. On December 11, 2017, the Office of Inspector General for the Department of Homeland Security released a report entitled "Concerns about ICE Detainee Treatment and Care at Detention Facilities." Your facility was highlighted in several sections of that report, including under the heading "Potential Misuse of Segregation." See Exhibit B. Specifically, the document states:

The Otero County Processing Center...[was] violating the PBNDS in the administration, justification, and documentation of segregation and lock-down of detainees. Staff did not always tell detainees why they were being segregated, nor did they always communicate detainees' rights in writing or provide appeal forms for those put in punitive lock-down or placed in segregation. In multiple instances, detainees were disciplined, including being segregated or locked down in their cells, without adequate documentation in the detainee's file to justify the disciplinary action. For example, one detainee reported being locked down for multiple days for sharing coffee with another detainee. We also identified detainees who were held in administrative segregation for extended periods of time without documented, periodic reviews that are required to justify continued segregation. Some detainees were locked down in their cells for violations of minor rules without required written notification of reasons for lock-down and appeal options.

(Exhibit B, pp. 6-7.)

Clearly, this improper use of segregation is an ongoing systemic problem at OCPC that requires serious attention and action. We request that OCPC immediately release our client from segregation and return him to his previous housing placement. Mr. Avila's continued detention in segregation constitutes an ongoing violation of his constitutional rights as well as violation of ICE's own detention standards. He must be immediately released.

Please contact us no later than Monday, July 29, 2019 to provide us with an update on Mr. Avila's placement.

Sincerely,



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