

The background is a light blue color. It features several horizontal lines of white barbed wire. Scattered throughout the background are black silhouettes of birds in flight, some appearing to fly through the barbed wire.

# RESISTANCE, RETTALIATION, REPRESSION

**TWO YEARS IN CALIFORNIA IMMIGRATION DETENTION**

The logo for Mobile Pathways consists of a stylized white graphic of three vertical bars of varying heights above the text "MOBILE PATHWAYS" in a white, sans-serif font.

MOBILE  
PATHWAYS

The logo for ACLU Northern California features the letters "ACLU" in a large, bold, blue, sans-serif font, with "Northern California" in a smaller, blue, sans-serif font below it.

**ACLU**  
Northern  
California

## ACKNOWLEDGEMENTS

First and foremost, the ACLU of Northern California would like to thank the people in immigration detention across California for their willingness and courage to share their stories, time, and copies of their grievances with us. We will continue to amplify your voice and advocate for the end of this inhumane system.

*The Immigrants' Rights Program at the ACLU of Northern California* uses community education, legislative and policy advocacy, and litigation to end xenophobia, nativism, and white supremacy. We fight laws and practices that punish and target individuals for their immigration status, national origin, ethnicity, and race. Our goal is for the many diverse immigrant communities in California to possess the voice essential to meaningful participation on an individual level and to true freedom and equality on a societal level.

We also want to acknowledge that this work would be impossible without the partnership and coordinated efforts of the following groups.

*Mobile Pathways*: A bridge in connecting immigrants to advocates and in capturing data to further its mission around equal access, Mobile Pathways was critical in organizing and designing the data for this project. We value Mobile Pathway's partnership and would like to thank Poesy Chen, Ana Ortega-Villegas, Part Skorupa, and Ben Mann for their commitment and vision in making this project a reality.

*California Collaborative for Immigrant Justice*: CCIJ takes a non-traditional approach to providing direct services by intentionally forging community-legal partnerships and building the power of impacted communities. We would like to thank CCIJ, including Priya Patel and Emily Almendarez, for their thought partnership, generosity in collecting and sharing information, and, most importantly, inspiring mission towards collective liberation.

*Pangea Legal Services*: Known for providing superb legal representation, Pangea Legal Services specializes in deportation defense and combines its legal efforts with advocacy and organizing. We would like to thank Pangea, including Esperanza Cuautle and Eunice Hernandez Chenier, for their generosity in sharing information and their tremendous support in empowering and honoring detained and formerly detained individuals.

*Berkeley Immigration Group*: Known for their pro bono culture, UC Berkeley School of Law, offers law school students the opportunity to work with different organizations through student-initiated legal services projects, including Berkeley Immigration Group. We are fortunate to have connected with BIG and would like to thank the students who helped enter data from the grievances into the detention database: Yutaka Motoi, Victoria N. Esparza, Namami Jain, Jose Osorio Tarazona, and Abby P. Neal. We appreciate your patience and diligent work in supporting this project.

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## **INTRODUCTION: Tracking Grievances in ICE's Immigration Detention Facilities in California**

In 2023, we worked with local partners and a brave set of detained leaders to create the California Immigration Detention Database (“Database”). The purpose of the Database was to expose and document the daily conditions of life in California immigration detention by tracking formal grievances sent to us by those inside.

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“When people try to be heard by staff through their grievances, [they] are ignored. These facilities are not safe, and staff are not held responsible for misconduct.” – Jose Ruben Hernandez Gomez

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Since the inception of this project, detained immigrants in California have launched widespread labor strikes and hunger strikes and have filed multiple lawsuits and administrative complaints to put a spotlight on the abuse and neglect they suffer.

As part of this effort, people in custody have continued to send us<sup>1</sup> copies of the grievances they file through Immigration and Customs Enforcement’s (“ICE’s”) internal system. As of July 2024, we have received 485 grievances across six immigration detention facilities in California.

Together, these grievances reveal a persistent and disturbing pattern of abuse that pervades ICE’s detention regime in California.

- **Hazardous Facilities and Inhumane Treatment:** Inadequate facility management was the most common reason for a grievance, making clear that ICE’s immigration detention facilities in California are consistently unfit for human habitation. ICE also fails to meet the minimum standards of its own policies, like ensuring people have edible food, clean water, and the opportunity to go outside for fresh air and sunshine.

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<sup>1</sup> As part of our grievance collection process, people in detention, their family members, or their advocates, will mail us a copy of a grievance a person in ICE custody has filed. Organizations like the California Collaborative for Immigrant Justice (“CCIJ”) and Pangea Legal Services (“Pangea”) have helped collect and mail these grievances to us.

- **Medical neglect:** We have received 94 grievances related to inadequate medical care, lack of COVID-19 protections, and denial of medication. Many people in the detention facilities suffer from chronic conditions. Some develop new health problems, sometimes because of hazardous materials or abusive treatment they experience while detained. But requests to see a doctor are left languishing, and ICE and facility staff regularly leave medication unfilled, or otherwise disregard the prescribed treatment. Likewise, during the pandemic, ICE showed a remarkable indifference to the safety of the people it incarcerates. More recently, ICE has withheld potentially lifesaving treatments, like Paxlovid, from people who contract COVID.
- **Retaliation:** The most common outcome of filing a grievance isn't change. It's retaliation. The grievances we've received include 56 complaints of bullying and harassment by detention facility staff, 13 complaints related to sexual assault, 15 complaints related to sleep deprivation, and 59 complaints related to other forms of retaliation, such as punitive and extended use of solitary confinement.

As part of its regular practice, ICE does not proactively release information about the grievances it receives from people in detention. Based on our conversations with detained people and with local partners who regularly engage in detention-related work, we believe that our records represent the most consistent issues in the detention facilities.

This report is intended to support the advocacy and resistance of the people trapped inside ICE's detention facilities. It includes data, stories, and background that document the ongoing harms of immigration detention.

Taken together, it is unequivocally clear that ICE and the private companies it contracts with cannot be trusted to care for the people they detain. The grievance system, which is supposed to offer an avenue for redress, ends up making things worse for those it's intended to help. Existing oversight mechanisms are inadequate, and human rights violations are rampant.

It is our conclusion that the immigration detention system is irredeemable and infected by greed, racism, and impunity.

We are deeply grateful to the many courageous detained immigrants who have shared their stories and to our local partners who have collaborated with us on this project. The Database sheds light on the horrific conditions inside immigration detention facilities and exposes the problematic grievance system. Immigrants are our neighbors, family members, loved ones, and friends. They do not deserve to be separated from their family and placed in a traumatizing detention system.

## **Background – Immigration Detention in the United States:**

The United States has the largest immigration detention system in the world. In any given month, the federal government unnecessarily incarcerates around 37,000 to 38,000 people in civil detention while they await the outcome of their immigration proceedings.<sup>2</sup> The system is rife with abuse, punishing vulnerable members of our communities while transferring millions of taxpayer dollars annually to private prison contractors.<sup>3</sup>

Once detained, people are denied even the minimal protections theoretically available to them in the criminal legal incarceration system, such as the right to government-appointed counsel and defined lengths of incarceration.<sup>4</sup>

ICE, the federal agency tasked with enforcing federal immigration law, maintains that detention is necessary to ensure immigrants show up to their immigration court dates, but immigrants' rights advocates and people detained inside have known for years that this is false. Data published in March 2020 demonstrate that "those who obtained lawyers ... almost always came to court: 96 percent attended all court hearings in pending and completed non-detained cases since 2008."<sup>5</sup> Similarly, the Vera Institute of Justice ("Vera"), a national organization that works on ending the overcriminalization and mass incarceration of people of color, immigrants, and people experiencing poverty, found great

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<sup>2</sup> *Detention Facilities Average Daily Population*, TRAC Immigration, <https://trac.syr.edu/immigration/detentionstats/facilities.html> (last visited June 14, 2024).

<sup>3</sup> Eunice Hyunhye Cho, *Unchecked Growth: Private Prison Corporations and Immigration Detention, Three Years Into the Biden Administration*, ACLU, Aug. 7, 2023, <https://www.aclu.org/news/immigrants-rights/unchecked-growth-private-prison-corporations-and-immigration-detention-three-years-into-the-biden-administration>.

<sup>4</sup> Aditi Shah & Eunice Hyunhye Cho, *No Fighting Chance: ICE's Denial of Access to Counsel in U.S. Immigration Detention Centers* (2020), [https://assets.aclu.org/live/uploads/publications/no\\_fighting\\_chance\\_aclu\\_research\\_report.pdf](https://assets.aclu.org/live/uploads/publications/no_fighting_chance_aclu_research_report.pdf).

<sup>5</sup> Ingrid Eagly & Steven Shafer, *Measuring In Absentia Removal in Immigration Court*, 168 Univ. of Pennsylvania L. Rev. 817 (2020), <https://perma.cc/P9K5-266P>.

success in one of their immigrants’ rights initiatives that provides immigrants access to free representation in 21 jurisdictions across the country. 98 percent of clients that participated in Vera’s Safety and Fairness for Everyone (“SAFE”) initiative continued to appear for their scheduled court hearings after being released from immigration detention.<sup>6</sup>

In addition to being unnecessary, the immigration detention system is a host to widespread human rights violations. On August 16, 2023, NPR published findings based on thousands of pages of inspection reports compiled by the Office for Civil Rights and Civil Liberties (“OCRCL”), an oversight agency under the Department of Homeland Security (“DHS”) that is tasked with investigating complaints and developing policy recommendations.<sup>7</sup> Between 2017 and 2019, the OCRCL found that 26 facilities across the United States had egregious problems including substandard medical care, substandard mental health care, improper use of force, unsafe and unsanitary conditions, and staff misconduct.<sup>8</sup> Since 2021, the ACLU of Northern California (“ACLU”), CCIJ, and other local partners have filed multiple complaints with the OCRCL on behalf of detained people, documenting mistreatment of people detained at Mesa Verde Detention Facility and Golden State Annex in Kern County.<sup>9</sup> These complaints focused on unlawful retaliatory actions ICE and its contractor took against individuals in immigration detention and the use of sexually abusive pat-downs.

Other lawsuits and complaints filed by immigrants’ rights organizations across California against ICE and the companies they contract with, such as GEO Group, CoreCivic, and Management and Training Corporation (“MTC”), have revealed similar systemic civil rights abuses at immigration detention facilities.<sup>10</sup> All six ICE detention facilities in the

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<sup>6</sup> Vera Institute of Justice, *Due Process for All: Evidence from Year 2 of the SAFE Network* (2019), <https://perma.cc/C7N2-U83M>; and Vera Institute of Justice, *Rising to the Moment: Advancing the National Movement for Universal Representation over Three Years of the SAFE Initiative* (2020), <https://www.vera.org/downloads/publications/rising-to-the-moment.pdf>.

<sup>7</sup> Tom Dreisbach, *Government’s own experts found ‘barbaric’ and ‘negligent’ conditions in ICE detention*, NPR, Aug. 16, 2023, <https://www.npr.org/2023/08/16/1190767610/ice-detention-immigration-government-inspectors-barbaric-negligent-conditions>.

<sup>8</sup> *Id.*

<sup>9</sup> Complaint to U.S. Dep’t of Homeland Security Office for Civil Rights and Civil Liberties from California Collaborative for Immigrant Justice, et al. (Aug. 26, 2021), <https://perma.cc/3CKU-SATG>; Complaint to U.S. Dep’t of Homeland Security Office for Civil Rights and Civil Liberties from Centro Legal de la Raza, et al. (Sept. 13, 2022), <https://perma.cc/RJ7J-GV6N>; Complaint to U.S. Dep’t of Homeland Security Office for Civil Rights and Civil Liberties from Centro Legal de la Raza, et al. (Jan. 17, 2023), <https://perma.cc/PR6G-CQYW>.

<sup>10</sup> *Murillo Vega v. Management and Training Corporation*, The Promise Inst. for Hum. Rts., UCLA Sch. of L., <https://promiseinstitute.law.ucla.edu/case/carlos-murillo-vega-v-management-and-training-corporation-2/> (last visited June 27, 2024); Jaclyn Diaz, *GEO Group sickened ICE detainees with hazardous chemicals for months, a lawsuit says*, NPR, Mar.

state are run by private, for-profit prison companies—Golden State Annex and Mesa Verde Detention Facility in Kern County, Adelanto Detention Facility and Desert View Annex in San Bernadino County, Otay Mesa Detention Center in San Diego County, and Imperial Regional Detention Facility in Imperial County.

## Detention Facilities in California



25, 2023, <https://www.npr.org/2023/03/25/1165890634/geo-group-lawsuit-adelanto-ice-detainees-chemical-exposure>; Complaint to Office of the Immigration Detention Ombudsman from ACLU of Southern California, et al. (May 9, 2024), [https://www.aclusocal.org/sites/default/files/letter\\_to\\_oido\\_-\\_050924.pdf](https://www.aclusocal.org/sites/default/files/letter_to_oido_-_050924.pdf).



To support detained community members, the ACLU is tracking the grievances they have filed against ICE and its for-profit contractors in California. ICE is not transparent about the grievance process and does not make this information readily available to the public, keeping the conditions of detention, the grievances filed, and their outcome hidden from public scrutiny. This lack of transparency makes it difficult to hold ICE accountable and allows private corporations to profit off the pain of detained immigrants.

Although many people believe California is a sanctuary state for immigrants, California holds the third-largest population of detained immigrants in the country.<sup>11</sup> ICE designed its system of private detention facilities to function with impunity and minimal accountability, using a faulty grievance system that attempts to give people in detention an illusion of justice. Instead, the grievance system leaves people in a state of limbo and defeat.

## **Grievance Basics**

The Performance-Based National Detention Standards, abbreviated to “PBNDS,” are the standards to which ICE requires detention facilities, including all the detention facilities in California, to adhere.<sup>12</sup> The PBNDS was originally issued in 2011 and revised in 2016. The PBNDS contains standards pertaining to detention security; discipline; medical and mental health services; access to legal services; conditions of confinement in detention facilities, such as religious observance, telephone access, visitation, and the voluntary work program; and the grievance system.

The grievance process set forth in the PBNDS offers people in custody a channel to alert staff to violations of detentions standards and seek redress. The PBNDS provides for two types of grievances: informal and formal. An informal grievance is a solely verbal communication that is not recorded and cannot be appealed.<sup>13</sup> A formal grievance is a

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<sup>11</sup> TRAC Immigration, *supra* note 2.

<sup>12</sup> U.S. Immigration and Customs Enforcement, Performance-Based National Detention Standards 2011 (2016), <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf> [hereinafter PBNDS].

<sup>13</sup> *Id.* § 6.2(V)(C)(1).



written and recorded communication that can be appealed.<sup>14</sup> The PBNDS requires that formal grievances receive a written response, with the reasoning for the decision taken on the formal grievance, in a timely manner.<sup>15</sup> Many people report that filing grievances is one of the few ways to have their voices heard in detention, although the data shows that most grievances are dismissed and rarely result in meaningful redress.

## **Update to the California Immigration Detention Database**

On June 26, 2023, the ACLU launched the Database, a first-of-its kind resource for people in California detention facilities, their families, and advocates who seek to expose abuse and constitutional violations within those facilities.

This new report includes updated data from the Database and chronicles the activity, protest, and resistance in immigration detention facilities across California in the past year. The analysis includes the number of grievances submitted to ICE, GEO Group, CoreCivic, and MTC since the June 2023 launch. This report also includes summaries of activism inside the facilities, including personal stories, and an update on the Freedom of Information Act (“FOIA”) lawsuit the ACLU filed to compel ICE to produce grievance log records.

Since January 2023, 30 brave individuals detained in five detention facilities have either directly or indirectly, through local partners like CCIJ and Pangea, mailed copies to the ACLU of grievances that they and other detained people, have filed. As of August 2024, we have received a total of 485 grievances. Through our partnership with another non-profit, Mobile Pathways, we created an interactive chart to showcase the data, document trends, and spotlight staff responses or failure to respond to grievances. Mobile Pathways periodically refreshes the Database to showcase newly uploaded information.

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<sup>14</sup> *Id.* § 6.2(V)(C)(3).

<sup>15</sup> *Id.* § 6.2(V)(C)(3)(b).

## **Detention Database Statistics: What's Changed in the Last Year**

The Database has been updated to display new data and grievances. In the grievance subtopic section, all data from 2024 appears in orange, while data from 2023 remains blue. The most significant change you will see is the updated grievance numbers from each facility. At launch time in June 2023, the Database reflected information from about 230 grievances. Now, the Database reflects data from 485 grievances received within the first year of its launch. These grievances include the self-reported grievances sent to the Database by detained people and advocates and include the redacted grievances we received through our FOIA lawsuit.

### **Tableau Data: 485 grievances and counting**

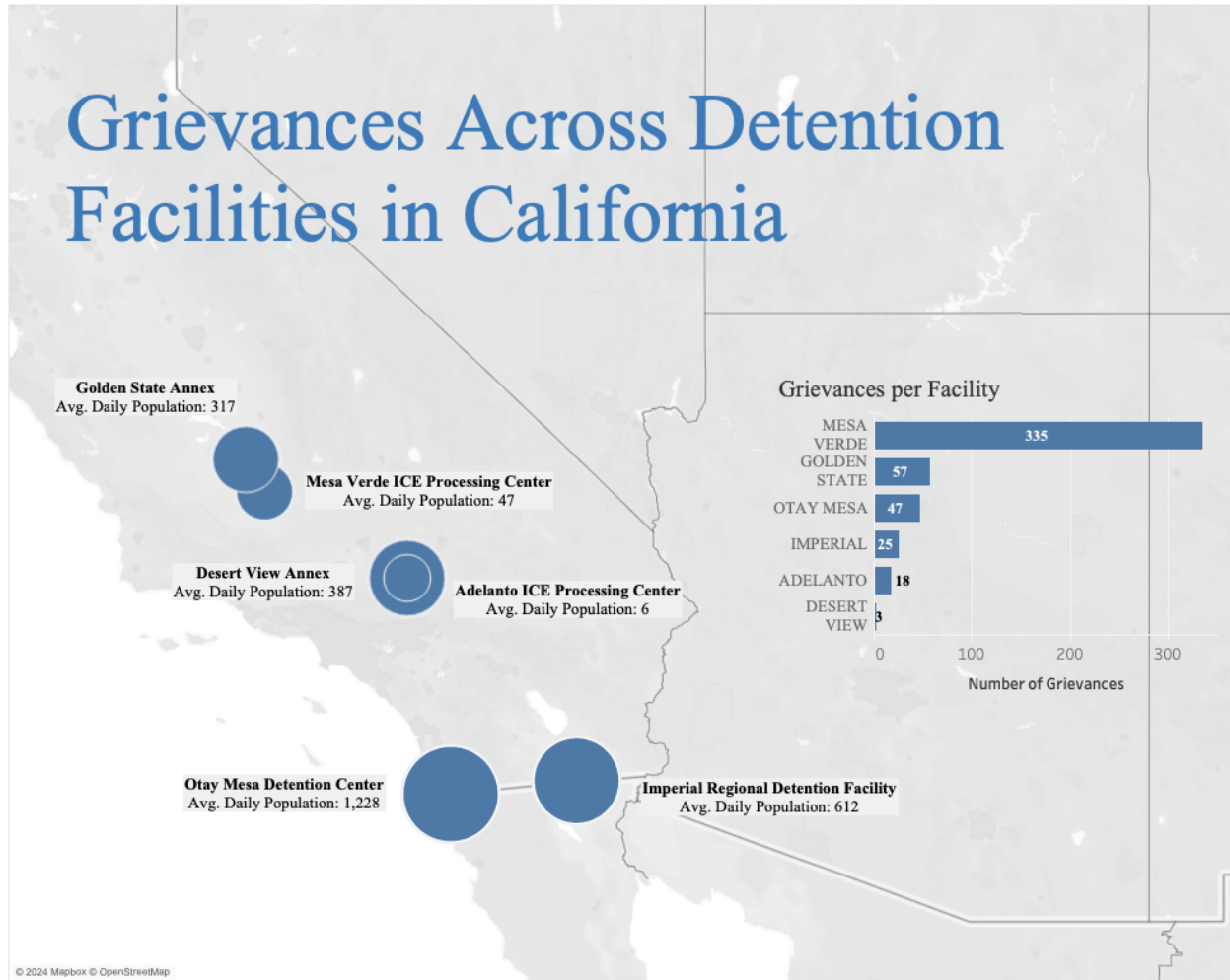
In just one year, the average daily number of people detained across the Golden State in private immigration detention facilities jumped from 1,790 to 2,596—an increase of 818 individuals, amounting to an almost 70% increase. As of July 8, 2024, the average daily number of people detained is as follows:<sup>16</sup>

- Adelanto Detention Facility- 6 people
  - **A decrease of 11 people since June 2023**
- Desert View Annex- 387 people
  - **An increase of 258 since June 2023**
- Golden State Annex- 317 people
  - **An increase of 168 people since June 2023**
- Imperial Regional Detention Facility- 612 people
  - **An increase of 93 people since June 2023**
- Mesa Verde Detention Facility- 47 people
  - **Same number of people since June 2023**
- Otay Mesa Detention Center- 1,228 people
  - **An increase of 299 people since June 2023**

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<sup>16</sup> TRAC Immigration, *supra* note 2.

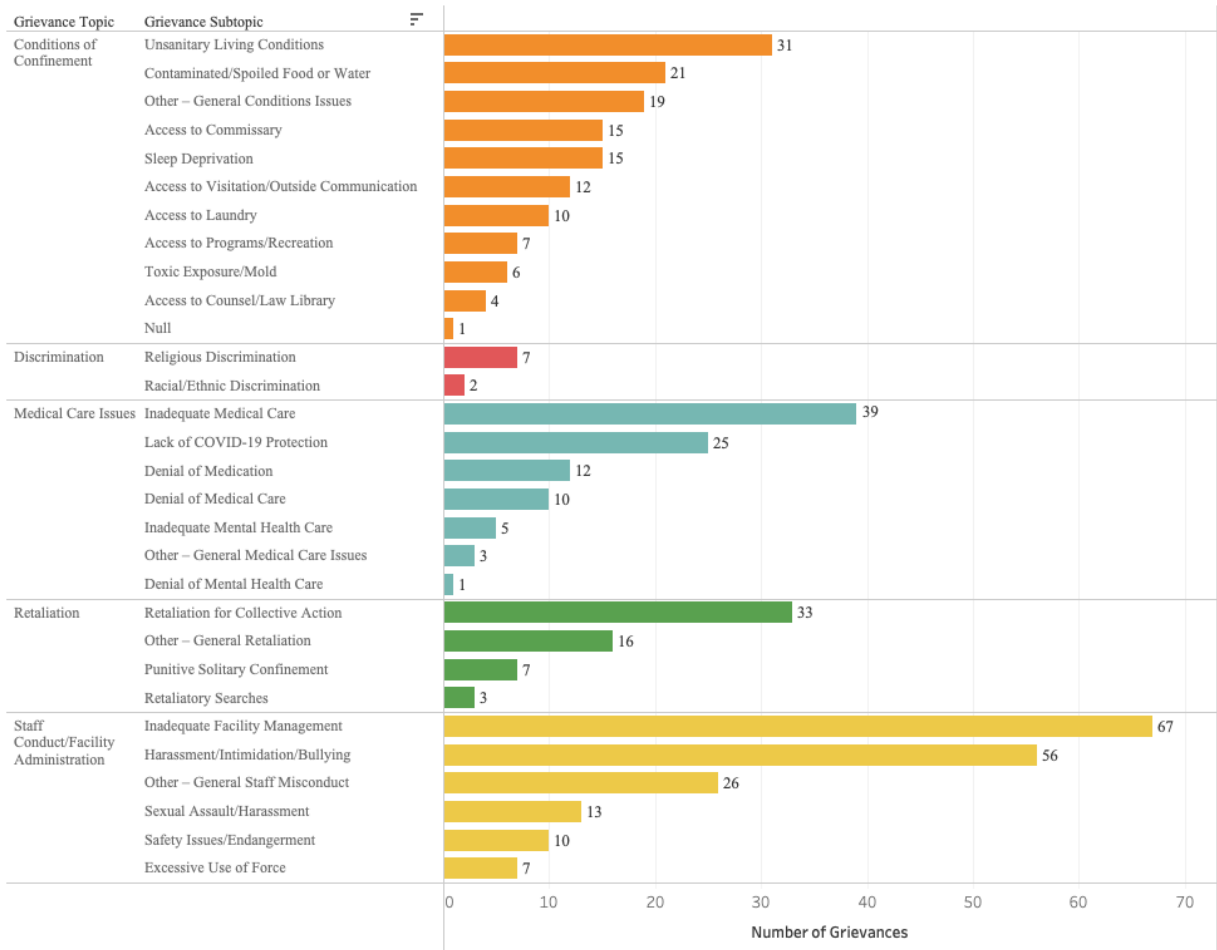
## Grievance Locations



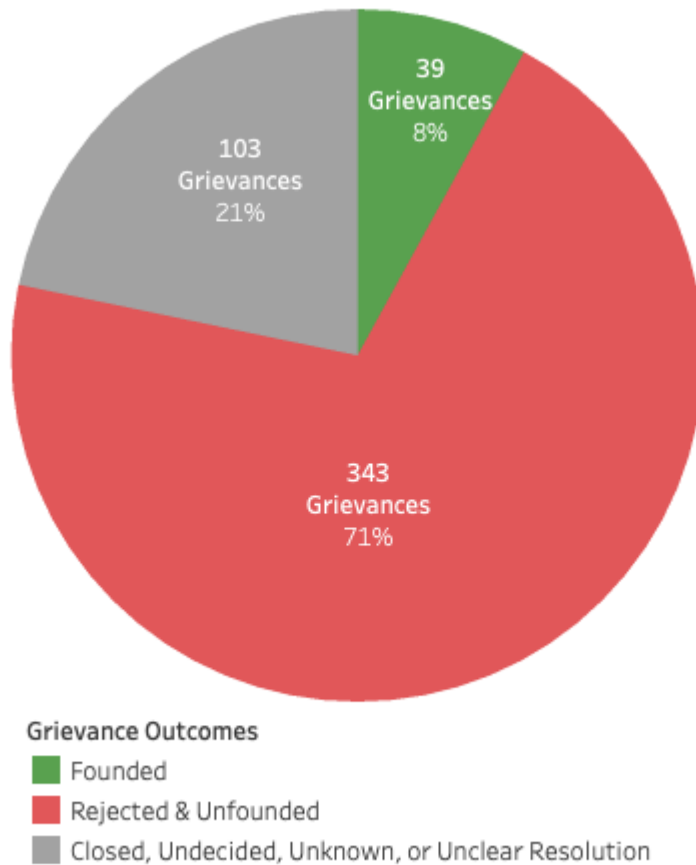
At present, the graph reflects 485 grievances that were either obtained via the ACLU Foundation of Northern California's FOIA lawsuit or were sent directly by people in detention since January 2023. The data provides an extensive record of the inhumane conditions that immigrants inside the facilities have long fought to publicize, including hazardous living conditions, medical neglect, harassment, sleep deprivation, abuse of solitary confinement, and sexual assault.

# Grievance Types

## Grievance Types



## Grievance Outcomes



Based on the data, ICE claims that only 39 grievances out of the 485 were founded. In other words, only 8% of the total grievances were found in favor of detained people.

Seventy-one percent of the 485 grievances were unfounded or rejected and nearly 21 percent were either closed, undecided, unknown, or had an unclear resolution. Although hundreds of grievances alleged detention condition issues that remain unresolved, these facilities continue to operate while neglecting the health and well-being of countless individuals across the state.

The data also show a pattern of harassment and misconduct by facility staff: 36 percent of the grievances relate to issues with staff conduct and facility administration.

## **ICE Contracts with Private Firms**

As of June 2024, there have not been any financial changes to the contracts between ICE and private prison companies. In October 2019, California Governor Gavin Newsom signed Assembly Bill 32 into law which effectively phases out the use of private prison in the California beginning on January 1, 2020.<sup>17</sup> The United States Court of Appeals for the Ninth Circuit regrettably struck down Assembly Bill 32 on October 5, 2021.<sup>18</sup> In late 2019, ICE established new contracts of up to 15 years with the GEO Group, CoreCivic, and MTC.<sup>19</sup> These 15-year contracts have 5-year renewal increments in which a contract can be reviewed and renewed. Mesa Verde Detention Facility and Golden State Annex will hit their first 5-year renewal mark in December 2024.<sup>20</sup>

## **A Year in Review: Organized Strikes, Deteriorating Detention Conditions, and Stories from those Detained**

On April 26, 2022, detained immigrant workers at Mesa Verde Detention Facility launched a labor strike in response to being paid just a dollar a day for work and unsanitary living conditions, including moldy showers, insect infested dorms, and stained bed linens and clothes.<sup>21</sup> On June 6, 2022, detained immigrant workers at Golden State Annex joined the labor strike to protest the same living and working conditions.<sup>22</sup> As the 2022 Mesa Verde Detention Facility and Golden State Annex labor strike continued into 2023, the inhumane living conditions forced detained organizers to escalate their protest. When facility staff

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<sup>17</sup> Press Release, Governor Gavin Newsom, Governor Newsom Signs AB 32 to Halt Private, For-Profit Prisons and Immigration Detention Facilities in California (Oct. 11, 2019), <https://www.gov.ca.gov/2019/10/11/governor-newsom-signs-ab-32-to-halt-private-for-profit-prisons-and-immigration-detention-facilities-in-california/>.

<sup>18</sup> *GEO Group, Inc. v. Newsom*, 50 F.4th 745, 750-51 (9th Cir. 2022) (en banc).

<sup>19</sup> Andrea Castillo, *California tried and failed to ban for-profit ICE detention centers. What does that mean for other states?*, Los Angeles Times, June 28, 2023, <https://www.latimes.com/politics/story/2023-06-28/california-private-detention-ban-overturned-future>.

<sup>20</sup> Jenny Huh, *At McFarland ICE detention facility, tax dollars may have been misused*, KGET, May 6, 2024, <https://www.kget.com/news/local-news/at-mcfarland-detention-facility-tax-dollars-may-have-been-misused/>.

<sup>21</sup> *Support Detained Labor Strikers at Mesa Verde Detention Facility and Golden State Annex*, California Collaborative for Immigrant Justice, <https://sites.google.com/ccijjustice.org/supportdetainedstrikers/home-english?authuser=0> (last visited July 8, 2024).

<sup>22</sup> *Learn about the heroic strike led by folks detained at Mesa Verde and Golden State Annex*, California Collaborative for Immigrant Justice, <https://sites.google.com/ccijjustice.org/supportdetainedstrikers/home-english/history-of-the-strike?authuser=0> (last visited July 8, 2024).

retaliated against the strike organizers, some of whom were placed in solitary confinement, 84 individuals at Mesa Verde Detention Facility and at Golden State Annex launched a peaceful hunger strike on February 17, 2023.<sup>23</sup> Those who participated in the strikes demanded to be treated with dignity and pushed for improved living conditions and, ultimately, the release of all individuals detained at Mesa Verde Detention Facility and Golden State Annex. The hunger strike ended on March 24, 2023, lasting six weeks.

In a grievance filed in January 2023, a detained community member raised these concerns about living conditions:

*Vents have been exposing us to really bad air quality, at this moment I have dust, black particles and insects on top of my bunk that were blown out of the vent up above my bunk. This kind poor air quality within this dorm has been causing my nose to be congested, causing me breathing problems . . . . There have not been any preventive measures from this facility . . . . There shouldn't be any reason why I'm having pest and vermin on my bunk.*

In addition, people protested the quality of the food at the facilities and the lack of consideration given to individuals' dietary needs.<sup>24</sup> People in detention felt forced to use their commissary to purchase marked up snacks to supplement their diets. For example, an individual shared his concerns about the food quality and high commissary prices in a grievance filed in January 2023:

*I received spoiled commissary items such as the 5oz legendary beef summer sausage. Upon inspecting these items, I noticed the abnormal discolored [sic] on these meal products they had an odd yellow color . . . . [The] reason for this grievance is to cease the sale of spoiled commissary; [it's] bad for our health to consume such product putting as at risk to of-getting food poisoning. [It's] not right that [we're] paying high prices for spoiled food.*

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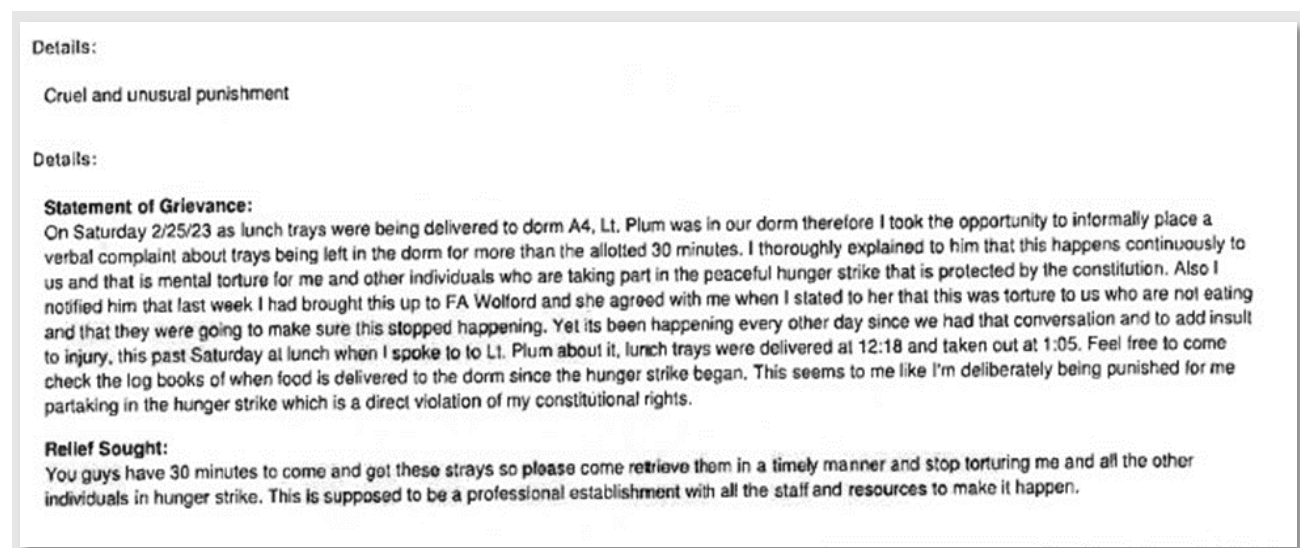
<sup>23</sup> Laurel Spear, *Hunger Strikes at Central Valley ICE Detention Centers*, The Vanguard at Berkeley, Mar. 08, 2023, <https://www.davisvanguard.org/2023/03/hunger-strikes-at-central-valley-ice-detention-centers/>.

<sup>24</sup> Laura Duarte, California Collaborative for Immigrant Justice, *Starving for Justice: The Denial of Proper Nutrition in Immigration Detention* (2022), [https://www.ccijustice.org/\\_files/ugd/733055\\_c43b1cbbdda341b894045940622a6dc3.pdf](https://www.ccijustice.org/_files/ugd/733055_c43b1cbbdda341b894045940622a6dc3.pdf).



In September 2022, five months into the initial labor strike, people who protested the living conditions at Mesa Verde Detention Facility and Golden State Annex also wanted to call attention to how facility staff mistreated those who went on strike, especially the leaders. Many of the people who engaged in the labor and hunger strikes described an uptick in harassment by detention officers. For example, some were placed in solitary confinement shortly after filing multiple grievances, endured sexually aggressive pat downs, or suffered intimidation and harassment by detention officers.<sup>25</sup> Many detained leaders tried to seek redress for the abuse through formal channels, including the grievance system, but were repeatedly dismissed. The sexually aggressive pat downs were so pervasive throughout Mesa Verde Detention Facility that impacted detained people submitted a complaint to the OCRCL on January 17, 2023.<sup>26</sup>

People in custody reported that after they began their hunger strike, ICE and GEO Group harassed them, threatening to place many of them in solitary confinement, making the temperature of the dorms painfully cold, and taunting them with food. One grievance described how GEO Group staff would leave trays with food in their dorms for extended periods of time, despite requests that they stop:



Source: Provided to the ACLU of Northern California by an individual in detention.

<sup>25</sup> Complaint to U.S. Dep't of Homeland Security Office for Civil Rights and Civil Liberties from Centro Legal de la Raza, et al. (Sept. 12, 2022), <https://www.ccijustice.org/laf-09-13>.

<sup>26</sup> Complaint to U.S. Dep't of Homeland Security Office for Civil Rights and Civil Liberties from Centro Legal de la Raza, et al. (Jan. 17, 2023), [https://www.aclunc.org/sites/default/files/2023.01.17\\_Sexually\\_Abusive\\_Pat-Downs\\_Complaint\\_REDACTED.pdf](https://www.aclunc.org/sites/default/files/2023.01.17_Sexually_Abusive_Pat-Downs_Complaint_REDACTED.pdf).

On February 9, 2023, nine people detained at Mesa Verde Detention Facility and at Golden State Annex filed a class action lawsuit against ICE and GEO Group alleging unconstitutional retaliation by detention staff against the peaceful strikers.<sup>27</sup> For example, ICE and GEO Group also suspended family visitation, regularly scheduled recreation time, and regularly scheduled programs for the strikers at Mesa Verde Detention Facility. Family visits, recreational time, and program time continued for other detained people who were not on strike.

One of the plaintiffs in the lawsuit, Guillermo Medina Reyes, shared how he felt about the mistreatment he endured and how cruel and unjust immigration detention is for everyone: “We are all humans. There are people here who are fathers, brothers, husbands. They deserve a real chance to fight their case and to have a chance at liberty as well. That’s why we started the strike and this lawsuit.”<sup>28</sup>

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“We are all humans. There are people here who are fathers, brothers, husbands.” —Guillermo Medina Reyes

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ICE and GEO Group continued to violently harass the strikers for weeks and continued to deny them important family and programming services.<sup>29</sup> Ultimately, on March 24, 2023, the strikers were forced to suspend their protest and following the strike’s suspension, the plaintiffs decided to voluntarily dismiss their lawsuit. One of the violent tactics ICE used to escalate the retaliation was to transfer some of the detained leaders at Mesa Verde Detention Facility to another detention facility in Texas separating them from their counsel, family, and community support. One of those transferred was Jose Ruben Hernandez Gomez.

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<sup>27</sup> Complaint, *Mendez v. U.S. Immigration and Customs Enforcement*, No. 3:23-cv-00829-TLT (N.D. Cal. Feb. 23, 2023), [https://www.aclunc.org/sites/default/files/Mendez\\_v.\\_ICE\\_Complaint.pdf](https://www.aclunc.org/sites/default/files/Mendez_v._ICE_Complaint.pdf).

<sup>28</sup> Press Release, ACLU of Northern California, Hunger Strikers in Central Valley Immigration Detention Facilities File Class Action Lawsuit Against ICE, GEO Group for Illegal Retaliation (Feb. 24, 2023), <https://www.aclunc.org/news/hunger-strikers-central-valley-immigration-detention-facilities-file-class-action-lawsuit>.

<sup>29</sup> *Mendez v. ICE*, ACLU of Northern California, <https://www.aclunc.org/our-work/legal-docket/mendez-v-ice> (last visited July 8, 2024).

## **JOSE RUBEN'S STORY: ICE Causes Neurological Damage to Hunger Strike Leader**

Jose Ruben Hernandez Gomez, one of the hunger strikers who contributed grievances to the detention database, endured many hardships during his 16 months in ICE custody at Mesa Verde Detention Facility. He filed more than 60 grievances on issues including poor sanitation, abusive treatment from facility staff, lack of clean water, and expired food. He also cataloged the negligent medical care individuals in detention received, such as long delays before they were allowed to visit medical providers and insufficient COVID-19 prevention measures at the height of the pandemic.

The facilities did not make it easy to learn how to submit grievances. Instructions on how to submit grievances are not readily available, so Jose Ruben only learned how to do so from outside advocates. He taught other detained people to use the grievance process by working with those who lacked literacy skills or spoke only Spanish.

GEO Group, the private contractor that runs Mesa Verde Detention Facility for ICE, rejected most of Jose Ruben's grievances. When he tried to gather evidence in support, like video footage after he reported sexually abusive pat downs, his requests were ignored. Instead, GEO Group employees retaliated. GEO officers would use an aggressive tone towards him. When he raised these incidents through additional grievances and informal complaints, they would claim they never happened. Sometimes, they would tauntingly tell him to "go ahead and grievance me." Still, he kept trying to get video footage, so eventually GEO Group put him in solitary confinement.

Frustrated with the abuse and lack of accountability, Jose Ruben and other advocates started a hunger strike. For eighteen days they refused food. On March 7, 2023, without notice or explanation, officers violently dragged Jose Ruben out of the facility and put him on an airplane to El Paso, Texas. On the way, they groped him. He feared that he would never see his family again.

In Texas, immigration detention officers locked Jose Ruben in solitary confinement and threatened to force feed him by putting a tube down his throat. Jose Ruben decided to break his fast and asked the facility to provide vitamins and electrolytes so he could do so safely.

He knew the risks of refeeding syndrome, a dangerous condition caused by the sudden reintroduction of food after a lengthy period of starvation.

Instead, under the orders of the on-staff medical doctor, immigration detention officers gave him two cold burgers, french fries, and juice. After Jose Ruben ate the food, he began to feel dizzy and disoriented, but staff refused to take him to a doctor. Instead, they boarded him back on a plane to Mesa Verde Detention Facility.

Jose Ruben's symptoms worsened to the point he had to be hospitalized at Dignity Health Mercy Hospital in Bakersfield.

For the next five days, Jose Ruben had cognitive difficulty, slurred speech, vertigo, and persistent headaches. He was in and out of the hospital due to nutritional deficiency, dehydration, and potential pneumonia in his right lung. When he was discharged from the hospital and held in solitary confinement at Mesa Verde ICE Detention Facility, he experienced ongoing neurological symptoms. He was chronically dizzy, could not sleep, and would frequently lose his balance. One day, he fell hard, hit his head, and suffered symptoms consistent with a concussion. When he tried to get medical assistance, facility staff refused to help. He filed more grievances, but they came to nothing.

Jose Ruben continues to suffer from chronic dizziness, trouble sleeping, trouble walking, and mental trauma. Reflecting on his efforts to seek redress by filing grievances, Jose Ruben said they "discourage people, you put so much time and work into them, it makes you feel like it is not going anywhere...These detention centers are not safe to be holding human beings and when people want to stand up for themselves, they are ignored."

Since his release from detention in April 2023, Jose Ruben has enjoyed spending time with his elderly parents, playing with his nephews, and appreciating his freedom. He eats well and takes care of his health now that he has the power to make those decisions for himself. Unfortunately, due to the injuries he suffered and endured while in immigration detention, Jose Ruben is unable to work and the neurological issues he experiences affect his ability to drive. He is also receiving trauma-informed therapy for his anxiety, depression, and post-traumatic stress disorder from his time in ICE custody.

Jose Ruben continues to advocate for people in detention and hopes to go to college to become a counselor for at-risk youth. Jose Ruben aims to use his life experiences to help others. His goal is now to “break those chains that I have witnessed and experienced.”

## **COVID-19 Outbreaks and Medical Neglect**

Jose Ruben’s traumatic experience while in ICE detention is a testament to the reality that immigration detention facilities are not safe and endanger the lives of people inside. A new, separate report from the national office of the ACLU, American Oversight, and Physicians for Human Rights provides a comprehensive examination into the 52 deaths of the people who died nationwide in ICE custody during one four-year period.

The report found that between January 1, 2017 and December 31, 2021, 95 percent of deaths in U.S. immigration detention facilities could have been prevented if ICE had provided clinically appropriate medical care.<sup>30</sup> After independent medical experts reviewed thousands of documents obtained from DHS and ICE, they concluded that immigration detention facilities suffer from systemic medical failures, including incorrect and incomplete diagnoses of medical conditions by detention medical staff, incomplete, inappropriate, or delayed treatment or medication, and flawed or delayed emergency responses, including failure to immediately intervene, provide care, or call emergency medical services.<sup>31</sup> Not only are people held in immigration detention facilities vulnerable to medical neglect and incompetence, they’re also at higher risk of contracting deadly illnesses.<sup>32</sup> With the lack of medical oversight and substandard and inadequate medical care in detention facilities, there will continue to be severe illnesses and even deaths among detained immigrants.<sup>33</sup>

COVID-19 has pushed these issues to the fore, exposing how detention facilities put detained people at heightened risk of exposure to communicable diseases and death.

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<sup>30</sup> Eunice Hyunhye Cho & Tessa Wilson, *Deadly Failures: Preventable Deaths in U.S. Immigration Detention* (2024), <https://www.aclu.org/publications/deadly-failures-preventable-deaths-in-us-immigrant-detention>.

<sup>31</sup> *Id.*

<sup>32</sup> *Mendez v. ICE*, ACLU of Northern California, <https://www.aclunc.org/our-work/legal-docket/mendez-v-ice> (last visited July 8, 2024); Cho & Wilson, *supra* note 32.

<sup>33</sup> Human Rights Watch, *Systemic Indifference: Dangerous & Substandard Medical Care in US Immigration Detention* (2017), [https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5a9da33f0d9297a1f84f60f2/1520280385430/HRW\\_Report.pdf](https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5a9da33f0d9297a1f84f60f2/1520280385430/HRW_Report.pdf).

Although many people in detention have now been vaccinated for COVID-19, the symptoms can still be extreme for those who are high risk, making the use of COVID-19 antivirals such as Paxlovid inside detention facilities vital.

However, during a COVID-19 outbreak at Golden State Annex in August 2023, ICE and GEO Group failed to provide detained people who experienced severe COVID-19 symptoms with access to antivirals, like Paxlovid, to help reduce their risk of hospitalization. Instead, detained people were given only cough drops, nasal strips, and electrolytes. On December 8, 2023, the ACLU National Prison Project, ACLU of Northern California, ACLU of Southern California, and pro bono law firm Goodwin Procter LLP, filed a lawsuit on behalf of medically vulnerable detained people at Golden State Annex who were denied adequate medical care and Paxlovid.<sup>34</sup> One of the plaintiffs, Victor Jimenez, suffers from hypertension and other cardiovascular issues, putting him at high risk of serious COVID-19 complications. Mr. Jimenez exhibited symptoms and was not tested for COVID-19 for 12 days despite being in a dorm with other individuals who had tested positive for the virus. Since ICE failed to provide him with timely testing, despite exhibiting multiple COVID-19 symptoms, he was never given appropriate medication to help alleviate his fever, chest pains, body aches, and runny nose.

This inadequate and negligent response is a common trend among all immigration detention facilities in California. Eighty-four of the grievances we collected concerned medical care issues such as inadequate medical care, lack of COVID-19 protection, denial of medication, denial of medical care, and inadequate mental health care. On April 18, 2024, the U.S. Department of Homeland Security Office of Inspector General (“OIG”) released a report on the results of an unannounced inspection at Golden State Annex that took place from April 18 to 20, 2023.<sup>35</sup> The OIG reviewed 10 medical grievances filed at Golden State Annex and found that “medical staff did not act on any of the paper medical grievances within 24 hours as required...The delayed action in response to medical grievances could negatively impact detainee’s health care.” The failure to respond to medical grievances

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<sup>34</sup> *Jimenez v. U.S. Immigration and Customs Enforcement*, No. 1:23-cv-06353-RMI (ND. Cal. 2023).

<sup>35</sup> U.S. Dep’t of Homeland Security Office of Inspector General, *OIG-24-23, Results of an Unannounced Inspection of ICE’s Golden State Annex in McFarland, California* (2024), <https://www.oig.dhs.gov/sites/default/files/assets/2024-04/OIG-24-23-Apr24.pdf> [hereinafter *OIG-24-23*].



shows that ICE and private detention facilities disregard the medical needs of people in custody.

For example, one individual at Mesa Verde Detention Facility filed a grievance about the slow response by GEO Group and ICE to provide them the necessary medical care for a severe rash on their face. The individual was frustrated with ICE and GEO Group's failure to provide them with prescribed medication in a timely manner and explained the long-term effects of their delay:

**Details of Request:**

Medication concerns.

**Details of Request:**

**Question / Pregunta:**

About (4) days ago I went out to see a specialist-(dermatologist)

Regarding a rash on my face that's gotten really serious. The rash has been spreading all around my face and makes it really hard to go through my days and sleep at night.

I spoke with nurse regarding the long wait for the medication dermatologist prescribe for me and she informed me medical has not received any notes yet when clearly when I left outside clinic,doctor informed me paperwork will leave with me.

I don't understand why I have to ask for my medication when the whole purpose of seeing a specialist is to receive the proper treatment.

This is the same problem I had regarding multiple fractures on my hand that were neglected due to transportation and lack of medical treatment that has left my hand to heal un properly. My hand will never be the same due to the neglecte in which I've grievance this problem.

And now im having the same problem with the rash on my face??please enough is enough and may I please have my medication??

Please! A very serious matter being the rash is spreading all around my face. And now I have to wait longer for my medication because it still have to be ordered? Its inhuman,uncivil to have to be going through this problem. I don't understand that. Please responde to a treatment.

Thank you!

Source: Immigration and Customs Enforcement, as provided to the ACLU of Northern California

But while the OIG's report did include some of the concerns people in detention have made about conditions, there are numerous other issues represented in the grievances that we received that OIG did not mention in their report, such as spoiled food and lack of COVID-19 precautions. Although watchdog agencies like the OIG can point out violations, there is no accountability built into this process.

These issues and others are all present in the story of Hector,<sup>36</sup> who was detained at the Otay Mesa Detention Center, among other facilities, starting in early 2020.

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<sup>36</sup> Name has been changed and will not include last name to protect confidentiality.



## **HECTOR'S STORY: ICE Withholds Medical Care**

Hector was a successful DJ in El Salvador and had built an audience of devoted radio listeners after years of work. As Hector's popularity grew, local gangs extorted him for money and tried to force him to help them spread gang propaganda. When he refused, they assaulted him with a baseball bat and threatened his life. So, in 2019, he made the painful decision to leave behind his family, friends, and career in El Salvador to seek asylum in the United States.

Hector arrived at the U.S.-Mexico border on February 10, 2020, the eve of the pandemic. The journey was grueling, especially due to Hector's gastroesophageal reflux disease, which causes severe burning in his throat. When left untreated, the condition can lead to cancer of the esophagus. Soon after his entry, border patrol agents detained Hector and sent him to the Otay Mesa Detention Center, a privately run facility in San Diego, California.

As COVID-19 surged across the country, including inside immigration detention facilities, Hector spent the first few months of his detention being shuttled by bus from one facility to another. None of the passengers on the buses were given masks and they were packed tightly together. Hector watched nervously as unmasked people around him on the bus coughed and sneezed in the closed setting.

Conditions were not any better inside the detention facilities. Government contractors ignored social distancing protocols and neglected basic sanitation and hygiene practices. When people predictably caught the virus, the staff refused to quarantine them.

In detention, Hector's acid reflux condition worsened. The acid caused pain in his throat so intense that he could not sleep or swallow. The staff refused his request to see a doctor and instead advised him to file a grievance. He filed one, and then another, and then another. Before long, he had submitted dozens. But nothing changed. One day, while chewing his food, Hector felt his tooth fracture. It had grown brittle and rotten from the reflux.

Hector went on a hunger strike to protest the squalid conditions at the facility. In retaliation for his organizing effort, the detention staff placed him in segregation for thirty days and took away his job. Fortunately, Hector was able to connect with a reporter and, after his story aired, he finally received a response to his medical concerns. The staff arranged for him to see a doctor in March 2023. A doctor examined him and prescribed

medication to manage his reflux. Despite the doctor's order, the staff at the Otay Mesa Detention Center refused to fill Hector's prescription and told him to file a grievance.

After more than four years in immigration detention, Hector hopes the public realizes how brutal and abhorrent immigration detention is. He wants people to know that many community members and asylum seekers languish in a detention center for years while in immigration limbo. Hector is worried about the continued retaliation people will endure at the hands of private immigration facility staff and how much unnecessary suffering goes on behind closed doors due to medical neglect. To this day, Hector does not understand the need for immigration detention since it traps people who simply want to return home to their family or prevents people from building a new home in this country.

## **The Dangers of Solitary Confinement in Immigration Detention**

The number of immigrants detained under the Biden Administration has skyrocketed during the president's tenure. According to an August 2023 news article by the ACLU National Prison Project, "ICE detains on average 30,003 people each day... a significant increase from the start of the Biden administration in January 2021, when ICE held an average of 15,444 people in detention each day."<sup>37</sup> Here in California, the number of people held in immigration detention has increased at almost every single private detention facility. California holds the third-largest immigration detention population in the country and all six ICE detention facilities in the state are run by private, for-profit prison companies operating with minimal government oversight, making it difficult for advocates to hold them accountable for neglect and abuse.<sup>38</sup> Additionally, an ACLU research report on ICE's denial of access to counsel in immigration detention facilities found that in 2022 alone, three out of four people in removal proceedings did not have access to counsel, with 78.7 percent of detained people unable to retain an immigration attorney.<sup>39</sup> The ACLU also found that detained people face hurdles in accessing free phone calls, sending and receiving

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<sup>37</sup> Cho, *supra* note 3.

<sup>38</sup> TRAC Immigration, *supra* note 2.

<sup>39</sup> Shah & Cho, *supra* note 4.

legal mail, and accessing electronic communication with their immigration attorney.<sup>40</sup> The situation will get worse as immigration detention facilities continue to expand.

As more individuals are placed in immigration detention, the pockets of private prison companies will continue to grow by the billions each year. The unnecessary suffering of immigrants in detention will continue and families will have to bear the brunt of harsh, punitive, and wasteful detention practices.

Also, as the number of immigrants detained in private detention facilities increases, the number of people who could be subject to abusive treatment such as the use of solitary confinement will grow. A detailed report published by Physicians for Human Rights (“PHR”), Harvard Law School’s Immigration and Refugee Clinical Program (“HIRCP”), and researchers at Harvard Medical School (“HMS”) in February 2024 revealed how ICE continues to use “solitary confinement for punitive purposes rather than as a last resort.”<sup>41</sup> Many people were placed in solitary confinement for “minor disciplinary infractions or as a form of retaliation for participating in hunger strikes or for submitting complaints.”<sup>42</sup> The report also found that in the past five years, ICE has placed people in solitary confinement over 14,000 times. Each confinement lasted around a month on average and in some cases, for over two years.<sup>43</sup>

Solitary confinement is a dangerous form of torture. In fact, a United Nations expert on torture, Juan E. Mendez, has argued that it should be banned in most cases.<sup>44</sup> The ACLU recognizes that the use of solitary confinement endangers the lives of detained people and should be banned in immigration detention regardless of whether its purported justification is administrative, protective, or disciplinary.<sup>45</sup>

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<sup>40</sup> *Id.* at 6.

<sup>41</sup> Physicians for Human Rights, et al., *Endless Nightmare: Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention* (2024), <https://phr.org/wp-content/uploads/2024/02/PHR-REPORT-ICE-Solitary-Confinement-2024.pdf>.

<sup>42</sup> *Id.*

<sup>43</sup> Shah & Cho, *supra* note 4; Physicians for Human Rights, et al., *supra* note 43.

<sup>44</sup> *Solitary confinement should be banned in most cases, UN expert says*, UN News (Oct. 18, 2011), <https://news.un.org/en/story/2011/10/392012>.

<sup>45</sup> Eunice Hyunhye Cho, et al., *Justice-Free Zones: U.S. Immigration Detention Under the Trump* (2020), <https://www.aclu.org/publications/justice-free-zones-us-immigration-detention-under-trump-administration>.

In the case of 74-year-old Choung Woong Ahn, solitary confinement led to death.<sup>46</sup> On May 17, 2020, Mr. Ahn died by suicide after spending three days in solitary confinement at Mesa Verde Detention Facility. Mr. Ahn, who suffered from diabetes, high-blood pressure and other heart related issues, was placed in solitary confinement on May 14, 2020, upon his return from Bakersfield Memorial Hospital, where he was taken after experiencing chest pains.<sup>47</sup> The GEO Group and ICE knew Mr. Ahn had severe health problems and had a history of mental illness but continued to hold him in solitary confinement for days without providing him the continuous monitoring ICE detention standards require for at-risk individuals. Mr. Ahn's death was completely preventable, and he should still be alive today. Unfortunately, the use of solitary confinement in immigration detention continues and so will its lasting negative impact on people's physical and mental health.

Not only is ICE failing to meet detention standards for individuals with mental health conditions, ICE and private immigration detention facilities also fail to follow many of ICE's own minimum standards related to outdoor recreation for people in solitary confinement. In its 2024 inspection of Golden State Annex, the OIG found that the facility did not follow standards related to outdoor recreation time for individuals in Special Management Units ("SMUs"), which are used to segregate people from general populations.<sup>48</sup> Instead of providing detained people in solitary confinement with a recreation space with exercise equipment, the space Golden State Annex used was a "small, fenced-in, empty area with no exercise equipment" and it doubled as the "facility's secure intake area used during detainees' arrival" to Golden State Annex.<sup>49</sup> The report found the dual use of this space could significantly affect people's outdoor recreation time or could eliminate that opportunity all together for individuals in solitary confinement.<sup>50</sup>

The Imperial Regional Detention Facility ("IRDF") is notorious for its use of solitary confinement to punish and silence individuals who speak up about detention condition

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<sup>46</sup> Press Release, Centro Legal de la Raza, Immigrant, 74, Dies by Suicide in Mesa Verde Detention Facility (May 18, 2020), <https://www.centrolegal.org/immigrant-74-dies-by-suicide-in-mesa-verde-detention-facility/>.

<sup>47</sup> Rebecca Plevin, *'This death was preventable': Family asks state to probe 74-year-old's suicide in ICE detention*, The Desert Sun, Aug. 7, 2020, <https://www.desertsun.com/story/news/politics/immigration/2020/08/07/family-asks-newsom-probe-choung-woohn-ahn-suicide-ice-mesa-verde/5504694002/>.

<sup>48</sup> OIG-24-23, *supra* note 36.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 6.

issues. Pablo,<sup>51</sup> who contributed grievances to the detention database, endured a year in solitary confinement at IRDF for defending other detained immigrants and advocating for himself by using the grievance system. Pablo wanted to share his story in this report to expose his experience at IRDF and discuss how he used the grievance system to push for better living conditions. When Pablo first entered immigration detention, he was placed in solitary confinement, apparently because the facility was full at that time. As Pablo began to see the dangers of solitary confinement, he used the grievance system to voice his concerns. Pablo remained in solitary confinement for a year instead of being moved to general population.

### **PABLO'S STORY: Placed in Solitary Confinement for Using Grievance System**

Pablo grew up in Riverside, California as part of a tight-knit family. He is a brother to four sisters and one younger brother, as well as a father to his 10-year-old daughter. Family has always been central to Pablo's life, and he remained connected and close to his family and friends during the years he was detained. Throughout his time in prison, Pablo worked to better himself and fell in love with welding while taking vocational classes. He also grew to love talking with friends about their problems and hoped to pursue a career in counseling once released.

In 2021, Pablo was released from the California Department of Corrections and Rehabilitation and immediately arrested and detained by ICE. He remembers watching the cars go by on the freeway while being transported to the ICE field office, thinking that he had served his time, and should be free and back with his family.

Instead, Pablo spent four months at the Otay Mesa Verde Detention Center before being relocated to IRDF. When he arrived at IRDF, the facility was full, and the only remaining beds were in solitary confinement. For ten months, Pablo was held in a disciplinary segregation cell, which he described as one of the worst experiences of his life and "way more stressful" than prison. Dust blew out of the ventilation systems and stuck on the wall, mold and rust covered the shower and then was painted over instead of being removed, and

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<sup>51</sup> Name has been changed and does not include last name to protect confidentiality.

the water tasted so strange that he believed it to be contaminated by the pesticides used in the fields nearby.

Pablo submitted more than 100 grievances during his time at IRDF, despite initially being discouraged from doing so. He remembers an officer at IRDF telling him “Just so you know the judges...don’t like when you file grievances” and another lieutenant told him to “stop f\*\*\*\*\* with my officers...you can file a grievance and request to ICE all you want but you’re not gonna win.” Undeterred, Pablo asserted his rights and continued to file grievances for himself and others for issues including poor living conditions, disrespectful treatment, discrimination by officers, and abusive use of solitary confinement. Eventually, Pablo suspected that he was purposefully left in solitary confinement to prevent him from teaching others to file grievances.

“You bring something up and they find a way to go around it, even if you are right, they are not going to admit it, they are trying to protect the facility,” Pablo shared. “Being confined to a small living environment is hard. All we have to do throughout the day that doesn’t cost money is the little rec yard, but I wish we had more to keep our minds busy....I continue to submit grievances to bring these cruelties to light. To shed light on the reality we are living.”

Pablo laments all the family time missed during the years of his incarceration and detention. He thinks of his daughter for motivation and hopes that he can one day be a part of her life again.

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“You bring something up and they find a way to go around it, even if you are right, they are not going to admit it, they are trying to protect the facility,” Pablo shared. “Being confined to a small living environment is hard. All we have to do throughout the day that doesn’t cost money is the little rec yard, but I wish we had more to keep our minds busy....I continue to submit grievances to bring these cruelties to light. To shed light on the reality we are living.”

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## What We Still Don't Know: ACLU NorCal FOIA Lawsuit

From February 2023 to June 2023, the ACLU submitted monthly Freedom of Information Act (“FOIA”) requests to ICE seeking grievance logs from all six immigration detention facilities in California. On June 23, 2023, the ACLU filed a lawsuit to compel ICE to produce records responsive to our request. Months later, ICE provided an incomplete portion of the records we requested. Below is a breakdown of the grievance logs produced by ICE to date:

- Mesa Verde Detention Facility
  - Grievance logs from January 2023, February 2023, April 2023, and May 2023. ICE did not produce any records from March 2023.
  - According to ICE, 174 grievances were filed throughout this period.
  - ICE claimed that 93% of the grievances were unfounded and 7% of the grievances were founded.
- Golden State Annex
  - We only received grievance log information for the month of January 2023. 25 grievances were filed for the month of January 2023.
  - ICE claimed that 72% of the grievances were unfounded and 28% of the grievances were founded.
- Adelanto Detention Facility
  - We received grievance logs from January 2023 to May 2023.
  - According to ICE, a total of 24 grievances were filed during this period.
  - ICE claimed that 79% of the grievances were unfounded and 21% of the grievances were founded.
- Desert View Annex
  - We received grievance logs from January 2023 to May 2023.
  - According to ICE, a total of 89 grievances were filed during this period.
  - ICE claimed that 64% of the grievances were unfounded and 27% of the grievances were founded.
  - Detention staff referred three grievances to ICE and ICE did not share their decision on these grievances.



- Otay Mesa Detention Center
  - We received a grievance log tracking grievances from January 2023 to August 2023.
  - According to ICE, a total of 504 grievances were filed during this 8-month period.
  - ICE claimed that 90% of the grievances were unfounded and 6% of the grievances were founded.
  - ICE claimed that 4% of the grievances were neither categorized as founded or unfounded and instead were declared as “other” by the facility, without clarifying or providing further context.
- Imperial Regional Detention Facility
  - We received grievance logs from January 2023 to May 2023.
  - According to ICE, a total of 313 grievances were filed during this 5-month period.
  - ICE claimed that 88% of the grievances were unfounded and just 5% were founded.
  - 7% of the grievances did not have a disposition listed.

Viewing the records ICE produced in the aggregate, 89% of the grievances submitted in 2023 were “unfounded” while only 7% of the grievances were deemed “founded.” Notably, ICE failed to produce grievance log information from Mesa Verde Detention Facility for March 2023, which was the height of the hunger strike and a time when people in detention were filing grievances. In fact, detained people shared 21 grievances with us for that period, which is reflected in the Database. Some of these grievances demonstrate the retaliation that detained organizers experienced during and even after their hunger strike ended. For example, the individual below was violently transferred to Texas during their hunger strike and upon his return to Mesa Verde Detention Facility, facility staff did not return the commissary items he purchased.

**Details:**

Commissary items returned-officially medically cleared from hunger strike

**Details:**

**What is your grievance?:**

Upon my peaceful declaration of my hunger strike on 2/16/23 I bagged up my all my commissary items including bowls and cups and handed them to dorm officer for inventory. I was aggressively transferred to a facility in Texas for supposedly medical treatment. I was officially Medically cleared from hunger strike by doctors prior to my return last night. Facility declines to return my commissary items thus evident of the continuous retaliation.

**What action are you requesting?:**

I have been officially medically cleared from hunger strike by doctors therefore there us absolutely NO reason to denie me access to MY purchased commissary. I have lots of food items that have an expiration date including fish pouches, mayo etc.

- please allow all commissary items to be returned immediately
- please STOP these further retaliation actions by GEO

Source: Jose Ruben Hernandez Gomez, as provided to the ACLU of Northern California

Another individual also filed a grievance about his commissary being withheld as a form of retaliation for engaging in a hunger strike.

**Details:**

**Dr.Baruz-prolonging medical clearance/unfair treatment/retaliation \*\*URGENT\*\***

**Details:**

**Statement of Grievance:**

OnTuesday March 7,2023 ,I and 3 other peers were aggressively transferred for alleged ,unnecessary and involuntary medical treatment in retaliation to our peaceful hunger strike. We were forced to end our hunger strike on Thursday March 9,2023 and were "MEDICALLY AND OFFICIALLY CLEARED FROM HUNGER STRIKE" which is why we were returned. Since our arrival a week later on Tuesday March 14,2023 we have been declined our commissary privilege due to medical clearance which does not make any sense because we have already been cleared our presence makes that evident further our medical record should have followed. As of today we have eaten 40 consecutive meals with NO complications and yet are still NOT cleared and restricted from retrieving our commissary. Charlie dorm began eating a day or two prior to us and were medically cleared to receive their commissary on Wednesday March 15,2023 according to medical and GEO staff. That's a total of a week later with approximately 21 consecutive meals eaten. There is NO reason why we shouldn't be cleared yet and certainly NO reason to be restricted from our commissary! The prolonged restriction is to further the ongoing retaliation! We deserve to be treated in a fair and equal manner! Unfair treatment is one of the many reasons that contributed to a hunger strike!!

**Relief Sought:**

- IMMEDIATE REINSTATEMENT OF ALL COMMISSARY PRIVILEGES INCLUDING RETRIEVE OF OUR COMMISSARY ITEMS
- STOP SINGLING US OUT AND DEPRIVING US OF EQUAL TREATMENT.
- NO FURTHER RETALIATION

Source: Provided to the ACLU of Northern California by an individual in detention.

Under the PBNDS, facilities are required to maintain accurate records for filed grievances in both a grievance log and the detained person's file.<sup>52</sup> In the 2024 OIG report, inspectors found issues with Golden State Annex's inadequate recordkeeping of paper grievances.<sup>53</sup> At Golden State Annex, staff store a detained person's medical data electronically and the PBNDS require paper medical grievances to be uploaded to that person's electronic file. Upon reviewing five paper medical grievances, the OIG discovered that four of those paper grievances had not been scanned and stored in the corresponding detained person's electronic file.<sup>54</sup>

During its inspection, the OIG also reviewed a log of paper grievances and checked its contents against the files of the detained individuals who had filed them. The inspectors found that four of the six files reviewed had missing grievances.<sup>55</sup> The haphazard attention to proper recordkeeping undermines the grievance system and the poor recordkeeping means that inhumane detention conditions aren't being adequately tracked.

This lack of attention reaffirms detained people's belief and the ACLU's belief that ICE and private detention facilities cannot be trusted to care for people in detention. The data reveal and capture in detail what life is like in detention. ICE and private detention facilities know this grievance information will document patterns of abuse that people in detention have raised to detention facility staff, so the failure to track is especially egregious when ICE should have a shared interest in ensuring that its own minimum standards are met and that the public is informed when ICE and its contractors fail to meet those standards.

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<sup>52</sup> PBNDS § 6.2(II)(7).

<sup>53</sup> OIG-24-23, *supra* note 36 at 5.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

## CONCLUSION

We created the California Immigration Detention Database to provide a window into the daily conditions of life in ICE's immigration detention facilities in California. The first year of this project reinforced what immigrants' rights advocates already knew: immigration detention is harmful and cruel.

The data from the grievances and the stories we have heard from people in detention reveal unsanitary conditions, inadequate medical attention, staff misconduct, harassment, and the excessive use of solitary confinement. The grievance process does little to nothing to alleviate these issues. The Database shows that 92% of grievances are either unfounded, rejected, closed, or undecided even when outside reports confirm the experiences of impacted people. Instead, ICE retaliates against those who filed grievances, which can chill their advocacy efforts and dissuade them from alerting ICE and its contractors to inhumane conditions or facility misconduct in the future.

Throughout this process, ICE has refused to be transparent, withholding information regarding the grievance system and grievance logs despite repeated requests.

Unfortunately, the documents ICE produced through our FOIA lawsuit were incomplete and shoddy, demonstrating a failure to adequately track the grievances made against them, an unwillingness to be transparent about the system, or both. As ICE fills more beds in California detention facilities, we can expect to see more abuse, trauma, and neglect. The suffering ICE inflicted on Jose Ruben, Hector, and Pablo, and many others, will be repeated.

The issues captured through the grievance system illustrate why immigration detention is not safe for immigrants and must be dismantled. Its history of negligence, brutality, and resistance to reform is well documented, and this database further confirms the record.<sup>56</sup>

The same principle is true for GEO Group, CoreCivic, and Management and Training Corporation. As private corporations, they profit from rising rates of immigration detention

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<sup>56</sup> Freddy Martinez & Nick Schwellenbach, *DHS's Secret Reports on ICE Detention*, Project on Government Oversight, Aug. 21, 2023, <https://www.pogo.org/investigations/dhss-secret-reports-on-ice-detention>.

and addressing issues is not in their best interest. They will continue to uphold an unjust system at the expense of human beings and view immigrants as a source of income.<sup>57</sup>

Likewise, outside processes of accountability are failing. When the OIG visited the Golden State Annex in April 2024, it found issues with providing timely medical care, sanitation, recreation opportunities, and recordkeeping.<sup>58</sup> But the report did not make it clear whether the OIG inspected other problems, including retaliation and harassment, which the Database shows are among the most serious issues at the facility.

The people trapped inside the detention facilities will continue to use the grievance system to produce a record of what's happening to them and share this information with the outside world. With our partners and detained people, the ACLU is committed to pushing for closure of all immigration detention facilities and will continue to track grievances through the Database in 2024 and in 2025. We hope advocates, reporters, attorneys, and family members turn to the Database and use it as tool to advocate for an end to this devastating system.

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<sup>57</sup> Financial Incentives, Detention Watch Network, <https://www.detentionwatchnetwork.org/issues/financial-incentives> (last visited Aug. 12, 2024).

<sup>58</sup> OIG-24-23, *supra* note 36.