



November 5, 2021

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Immigration and Customs Enforcement
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Via e-mail

Re: Access to legal services for Haitian immigrants at Torrance County Detention Facility

Mr. Acosta, Mr. Shaw, Ms. Sanchez, and Mr. Gober,

On behalf of attorney Allegra Love and Innovation Law Lab, we write to request immediate reforms to ensure access to legal services for Haitian immigrants detained at the Torrance County Detention Facility (“Torrance”), as well as a pause of deportations of Haitians detained at that facility until such reforms have been implemented. Specifically, we request that you (1) within five days of this request, provide Ms. Love and Innovation Law Lab with a roster of all Haitian immigrants detained at Torrance (including names, A-numbers, and date and type of next immigration court hearing); (2) within five days of this request, grant access to pro bono lawyers and accredited representatives to allow them to provide an in-person three-hour legal rights presentation and accompanying individual legal consultations to all Haitian immigrants detained at Torrance, with access to interpretation services; (3) within five days of this request, provide a written notice in Haitian Kreyol describing the availability of pro bono legal representatives to the Haitian immigrants detained at the facility with hotline information for Ms. Love and Innovation Law Lab through the El Paso Immigration Collaborative (“EPIC”); (4) immediately permit Haitian immigrants to call the EPIC pro bono hotline without charge in a confidential, private manner; (5) immediately put measures in place to allow detainees to schedule individual legal consultations by phone or video within one day of request; and (6) not remove any Haitian immigrant before they have had the opportunity to consult with counsel and have had access to information about their legal rights in Kreyol.

It is our understanding that as of September 30, 2021, there are at least 45 Haitian immigrants currently detained at Torrance. From reports and information, we understand that these men are asylum-seeking individuals who recently arrived in the United States and were apprehended in the vicinity of Del Rio, Texas. All of these individuals may have legal remedies; however, many have not been provided with any access to counsel or to legal resources in Kreyol during the past month of their detention, despite the repeated requests of Ms. Love and others. The Fifth Amendment of the U.S. Constitution as well as a host of statutes, regulations, and long-standing practice provide that these individuals are entitled to access counsel to understand their legal remedies and pursue the same.

It is also our understanding that the Haitian asylum seekers detained at Torrance since September 2021 are being rushed through INA § 240 removal proceedings without being provided access to counsel, in contrast to the pace of proceedings prior to their arrival, and are being disparately treated in violation of the Equal Protection Clause. We further understand that many of these individuals may have been victims or witnesses to misconduct by Customs and Border Protection in Del Rio and will thus need access to counsel in order to provide statements to investigating bodies and/or be advised as to potential civil claims.

Ms. Love and Innovation Law Lab are members of the El Paso Immigration Collaborative (EPIC), a legal services and advocacy project that is well qualified to provide the legal rights presentation at Torrance. *See* ICE PBNDS 2011 at Ch. 6.4 (revised 2016). Ms. Love has extensive experience representing asylum-seeking individuals in detention, both in their release requests and their removal proceedings. Innovation Law Lab is a non-profit organization with vast experience providing pro bono legal services to asylum-seeking immigrants in detention, including establishing pro bono projects in Artesia, New Mexico, and Dilley, Texas, to provide representation for civil immigrant detained families. In partnership with EPIC, Ms. Love and Innovation Law Lab work to increase access to legal representation for persons at a number of detention facilities, including Torrance. They are prepared to engage in release advocacy and to advise about rights in removal proceedings for every Haitian immigrant detained at Torrance who requests their support.

Torrance is not currently in compliance with the in-person or telephonic attorney access requirements of the Performance Based National Detention Standards (“PBNDS”). The PBNDS require that your facility provide people consistent, unobstructed access to in-person legal visits seven days per week. Specifically, immigration detention facilities must “permit legal visitation seven days a week, including holidays, for a minimum of eight hours per day on regular business days . . . and a minimum of four hours per day on weekends and holidays.” *See* ICE PBNDS 2011 at Ch. 5.7(J)(2). Before any such visitation, legal representatives “shall not be asked to state the legal subject matter of the meeting.” *Id.* at Ch. 5.7(J)(4). Such legal visitations include pre-representation visits, during which “the facility shall permit detainees to meet with prospective legal representatives or legal assistants.” *Id.* at Ch. 5.7(J)(4). When a legal rights group presentation is requested, “[a]ll facilities are required to cooperate fully with authorized persons seeking to make such presentations.” *Id.* at Ch. 6.4(I). “Legal rights group presentations shall be accommodated to the greatest extent possible absent significant logistical or security-related concerns.” *See id.* at Ch. 6.4(C); Ch. 5.7(J)(12).

The PBNDS also require that Torrance provide people in your custody with reliable, private, and free calls to legal counsel. *See* ICE PBNDS 2011 at Ch. 5.6(II)(4), (V)(E) (immigrant detention facilities “shall permit detainees to make direct or free calls to . . . legal representatives” so that “[d]etainees and their legal counsel [are] able to communicate effectively with each other.”). Detained individuals also must be given written notice of “the procedure for obtaining an unmonitored call to a court, a legal representative or for the purposes of obtaining legal representation.” *See id.* at Ch. 5.6(V)(B)(3).

Conditions at Torrance have effectively prevented Haitian immigrants detained there from retaining or communicating with legal counsel; obtaining basic information about their rights through group legal presentations; or gathering evidence and preparing to present their claims for relief in removal proceedings. Over the past month, Ms. Love has repeatedly had her requests to provide legal services denied or responses severely delayed, including requests for group legal presentations and pre-representation visits. During this time, removal proceedings for Haitian immigrants at Torrance appear to have been expedited, resulting in many individuals attending hearings with no benefit of legal orientation or representation. At least four Haitian immigrants have already been ordered removed at their initial master calendar hearing because, although they express fear of returning to Haiti, they had received no access to legal services and did not understand the meaning of the term “asylum.”

We therefore request that Torrance immediately grant Ms. Love, Innovation Law Lab, and their EPIC colleagues access to conduct group legal rights presentations for all Haitian immigrants in your custody. We also request that Torrance immediately provide unobstructed access to legal calls for all Haitian immigrants in your custody; schedule legal calls within 24 hours of request by the immigrant or legal representative, and sooner in urgent situations; and provide written notice of such access in Kreyol. *See id.* at Ch. 5.6(V)(B) (“ICE/ERO and the facility shall coordinate in posting the notice . . . in the language of significant segments of the population with limited English proficiency, where practicable”). We can provide the EPIC hotline number and a suggested written notice to provide to detained individuals at your request.

We appreciate your prompt attention to our request and can provide additional information as needed.

Sincerely,

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