



March 31, 2016

John Roth
Inspector General, Department of Homeland Security
245 Murray Lane SW
Washington, DC 20528-0305

Megan H. Mack
Officer for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Building 410, Mail Stop #0190
Washington, D.C. 20528

Sarah Saldaña
Director, U.S. Immigration and Customs Enforcement
500 12th St., SW
Washington, D.C. 20536

Andrew Lorenzen-Strait
Deputy Assistant Director, Custody Programs
U.S. Immigration and Customs Enforcement
500 12th St., SW
Washington, D.C. 20536

David Rivera
Field Office Director, U.A. Immigration and Customs Enforcement
1250 Poydras, Ste. 350
New Orleans, LA 70113

Scott Hassle
Chief Deputy of Detention, Etowah County Detention Center
827 Forrest Ave.
Gadsden, AL 35901

Dear Inspector Roth, Officer Mack, Director Saldaña, Deputy Director Lorenzen-Strait, Director Rivera, and Chief Deputy Hassle:

Community Initiatives for Visiting Immigrants in Confinement (CIVIC) submits this complaint on behalf of the recently deceased Teka Gulema (028-021-556). Additionally, CIVIC submits this complaint on behalf of Mohammed Baraka (057-769-242) and Pacheco Arias Gonzales (070-434-778) who are currently detained in

the custody of U.S. Immigration and Customs Enforcement (ICE) at the Etowah County Detention Center (ECDC) in Gadsden, Alabama and Felix Nkansah (096-657-365), who was recently released from ECDC. This complaint details a pattern and practice of medical neglect at ECDC, resulting in the death of Teka Gulema and the endangerment of the health and well-being of other ICE detainees. We urge the Office of the Inspector General (OIG) and the Office for Civil Rights and Civil Liberties of the Department of Homeland Security (DHS), pursuant to their authority under the Homeland Security Act of 2002 and 6 U.S.C § 345, respectively, to immediately investigate this complaint, to promptly develop policies to address issues of medical neglect and policies regarding the reporting of deaths in detention.

A. The Death of Teka Gulema

Teka Gulema, a middle-aged Ethiopian man from the Washington D.C. area, was housed at ECDC since 2012. In November 2013, after CIVIC conducted a visit to ECDC under ICE's Visitation Tour Directive, Teka Gulema wrote CIVIC a letter detailing the conditions of medical treatment and medical neglect at the facility. Mr. Gulema stated,

We detainees at Etowah County Jail face unreasonable delays and receive very limited medical care. For example when detainees feel sick and request medical assistance, the request will come back saying 'Tylenol, Advil etc. is available from the commissary, you will need to purchase from commissary.' When detainees face a serious medical problem, the medical staff does not monitor detainees' condition. The doctor is never here and the nurses are not really nurses. Even to see a Nurse Practitioner, we have to wait at least two or three weeks. By that time, the condition has worsened or improved, which puts us in a great condition of suffering...the facility's medical care is the worst we have ever seen. The DHS/ICE staff should not wait until other detainees die in Etowah County Jail for poor medical service. The DHS/ICE officials must ensure that every individual detainee does not suffer or die unnecessarily.¹

It is tragic that the fears articulated by Teka Gulema are exactly what happened to him at ECDC. He died, unnecessarily, at the Riverview Medical Center in Gadsden, Alabama on January 18, 2016 from complications arising from a preventable and treatable infection. There is a gross lack of information in regards to the circumstances surrounding Mr. Gulema's death, underscoring the importance of an investigation into medical neglect at ECDC and the development of policies that provide greater oversight, transparency, and reporting requirements regarding the medical treatment of people in immigration detention and related deaths.

¹ Letter to Christina Mansfield, Co-Executive Director of CIVIC, from Teka Gulema dated November 28, 2013. The letter is on file with CIVIC and we will provide a copy of it to appropriate parties upon request.

Last year, Mr. Gulema was paralyzed from the neck down as a result of an infection contracted at ECDC and related complications. He was transferred to the Riverview Medical Center in Gadsden, Alabama where he remained in the custody of ICE for about a year. During his stay at the hospital, an Etowah County sheriff's deputy was posted outside of his room 24/7. Several weeks before his death, ICE "released" Mr. Gulema from custody, although he remained immobile and confined to his hospital bed. We are concerned that Mr. Gulema was "released" from custody in an attempt to thwart having to report his death as an official "in-custody" death. Under the ICE Detainee Death Reporting Directive 7.9, in-custody deaths must be reported within DHS, to the appropriate Consulate, Congress, the media, NGOs, and the public.²

ICE representatives said Mr. Gulema was released from custody on November 24, 2015, after a comprehensive review of his case determined he no longer posed a threat. Bryan Cox, the Southern regional communications director for ICE stated, "Those who are not subject to mandatory detention and don't pose a threat to the community, or those whom court precedent requires them to be released following a determination that there is not a significant likelihood of removal in the reasonably foreseeable future, may be placed on some form of supervision as part of ICE's Alternative to Detention program."³ Mr. Cox did not specify whether Mr. Gulema was officially placed in one of these programs after his release.

Considering Mr. Gulema was hospitalized for close to a year before ICE decided to release him from custody just weeks before his death raises suspicion regarding the agency's intention to do so. Since Mr. Gulema's death did not technically occur while he was officially in ICE custody, the agency is under no requirements to report the death according to the ICE Detainee Death Reporting Directive 7.9. Mr. Gulema's death would have remained invisible and unreported had community organizations like the Etowah County Detention Project and the Adelante Worker's Center based in Birmingham not drawn attention to it, organizing a memorial service outside of the facility.

Additionally, Bryan Cox reported that Mr. Gulema died in December 2015.⁴ However, CIVIC is certain Mr. Gulema did not die until late in January 2016. On January 12th, two volunteers from the Etowah County Visitation Project, who had been in contact with Mr. Gulema at ECDC prior to his illness, visited Mr. Gulema at the Riverview Medical Center in Room 333 of the Intensive Care Unit. The nurses informed the volunteers that Mr. Gulema had been hospitalized there since February 2015. The nurses informed the volunteers that Mr. Gulema was non-responsive and that for the prior few weeks he was in a coma-like state and that he was "actively dying." Despite his grave condition, the volunteers were convinced

²Directive 7.9: Notification and Reporting of Detainee Deaths, *available here*:

https://www.ice.gov/doclib/dro/pdf/11003.1-hd-notification_reporting_detainee_deaths.pdf

³ *Freed too Late*, Weld for Birmingham, March 1, 2016, *available here*:

<http://weldbham.com/blog/2016/03/01/freed-too-late-ice-detention-death/>

⁴ *Ibid.*

that Mr. Gulema responded to their presence. He passed away just days later. ICE's lack of clarity about exactly when Mr. Gulema passed away underscores the need for more transparency and accountability.

The current policies (ICE Detainee Death Reporting Directive 7.9 and Terminal Illness, Advanced Directives, and Death 4.7) that require ICE to report cases of hospitalization to next of kin or death to Congress and the public should be amended to require that cases of hospitalization also are reported to Congress and the public, including cases in which detainees are released from ICE custody following hospitalization. Unless these policies are amended, the public will be unaware of how many deaths are attributed to a pattern and practice of medical neglect in ICE detention centers. Moreover, it will be difficult to prevent such deaths if they are not investigated and reported.

B. National Patterns and Practices of Medical Neglect

There have been 56 deaths in ICE custody during the Obama administration. A recent report titled *Fatal Neglect* authored by the American Civil Liberties Union (ACLU), the Detention Watch Network (DWN), and the National Immigrant Justice Center (NIJC) focused on the deaths of eight people in U.S. immigration detention for which ICE death reviews identified non-compliance with its own medical standards as contributing causes of death; ICE identified four of these deaths as preventable. Overall, the documents reviewed identified failures to (1) Meet health care needs in a timely manner; (2) Refer individuals to higher-level medical care providers, including transfer to external emergency care services; (3) Provide adequate levels of medical staff; (4) Communicate critically important information about individuals' medical conditions among staff; (5) Adequately screen individuals for illnesses; and (6) Proactively identify and rectify concerns about medical care during facility inspections.⁵

CIVIC has previously reported on medical neglect at ECDC, including the case of Miguel Williamson who almost lost his life due to the substandard medical care he received at the ECDC detailed in a [complaint](#) to the Office for Civil Rights and Civil Liberties in July 2015.⁶ Mr. Williamson's repeated requests for medical attention were denied, dismissed, or misdiagnosed. As a result, he suffered a massive heart attack that led to double kidney failure, requiring outside hospitalization at the same hospital where Teka Gulema passed away. CIVIC has also documented a pattern and practice of medical neglect at the Adelanto Detention Facility in Adelanto, California and at the Theo Lacy Facility in Orange County, California.⁷

⁵ *Fatal Neglect: How ICE Ignores Deaths in Detention*, February 2016, available here: <https://www.aclu.org/other/fatal-neglect-how-ice-ignores-death-detention-executive-summary>

⁶ See CIVIC's Complaint filed with the Office for Civil Rights and Civil Liberties, July 14, 2015, available here: http://www.endisolation.org/wpcontent/uploads/2015/07/Etowah_Complaint_CIVIC_20151.pdf

⁷ See CIVIC's Complaint filed with the Office for Civil Rights and Civil Liberties regarding Theo Lacy, December 4, 2015 available here: <http://www.endisolation.org/wp->

C. Ongoing Pattern and Practice of Medical Neglect at ECDC

CIVIC and other organizations are also concerned about the health and well-being of people currently detained at ECDC, given the documented pattern and practice of medical neglect at the facility. It is clear that the screening of individuals for preventative care and for serious medical issues is not being conducted properly and health care at ECDC has not improved since CIVIC's last [complaint](#) filed in July 2015. We are concerned that if an immediate investigation and assessment of medical care and medical needs at ECDC is not conducted, the following individuals may be in grave danger, along with an unknown number of other individuals. We urge all agencies to do everything possible in their power to prevent another unnecessary death, such as Mr. Gulema's.

a. Mohammed Baraka (057-769-242)

The case of Mohammed Baraka, who is currently detained at ECDC is demonstrative of these concerns. Mr. Baraka, who has been detained since November 2014, is being denied adequate medical care at ECDC for a traumatic brain injury he sustained prior to his detention. On Christmas night in 2008, Mr. Baraka was hit by a tow truck, his head was split open, and he sustained a traumatic brain injury that required 2 operations.

Mr. Baraka did not have health insurance. As a result, when his condition stabilized his loving family took him back to Egypt, where they are originally from, to receive further medical treatment. Mr. Baraka was under orders by his doctors that he required 24-hour supervision and could not be left alone. Three months later, Mr. Baraka returned to the United States with his family to attend an appointment with a neurosurgeon. He was not aware that his Lawful Permanent Resident status was in jeopardy due to a 2007 charge for possession of drug paraphernalia. He was never charged with possession of actual drugs. In addition, he never served any time for the charge and was not even placed on probation.

Mr. Baraka was detained by ICE after he was taken into police custody for driving his brother's car without his headlights on and without a license with him (he did possess a valid drivers license). ICE was able to detain Mr. Baraka and place him in removal proceedings based on the charge from 2007. Since then, the Supreme Court has ruled in [Mellouli v. Lynch](#)⁸ that possession of drug paraphernalia can no longer

[content/uploads/2015/12/Complaint_TheoLacy_Final_Dec2015.pdf](#) and See Complaint filed with the Office for Civil Rights and Civil Liberties regarding Adelanto, May 15, 2015 available here:

<https://www.aclusocal.org/wp-content/uploads/2015/05/NGO-letter-re-Adelanto-medical-care.pdf>

⁸ Mellouli v. Lynch, 135 S. Ct. 1980 – 2015, available here:

http://www.supremecourt.gov/opinions/14pdf/13-1034_3dq4.pdf

be categorized as a removable offense under the Controlled Substance Act unless charged along with a drug. Since Mr. Baraka was not in possession of drugs this decision clearly signals that the Supreme Court does not believe Mr. Baraka's charge should result in detention and deportation. However, this decision is not retroactively applicable, so Mr. Baraka may continue to be detained and potentially removed. Despite this, ICE has prosecutorial discretion to release Mr. Baraka at any time.

Mr. Baraka suffers from extreme short-term memory loss and a whole host of other medical complications stemming from the accident, including inability to control his bowel movements, blurred vision, and severe headaches. During Mr. Baraka's detention he has been transferred from Raleigh, North Carolina where he was originally taken into custody, to the Stewart Detention Center in Georgia, to the LaSalle Detention Facility in Louisiana, to where he is currently detained at ECDC in Alabama. While Mr. Baraka was detained at the Stewart Detention Facility, his attorney Lynn Burke advocated that he be seen by a neurologist to assess his current medical needs and whether adequate medical care may be provided in ICE detention. Her requests were denied. However, a Physician Assistant at Stewart made a report verifying Mr. Baraka's incontinence, his extreme headaches, problems sleeping, and pain on the left side of his head that interferes with his vision. The Physician Assistant recommended Mr. Baraka be seen by a doctor outside of the facility. He was taken to see a doctor under ICE's medical care network in Columbus, Georgia who prescribed Mr. Baraka Advil and advised no other special type of care.

Mr. Baraka has a loving family who is willing to care for him if he is released from immigration detention. He suffers from severe short-term memory loss and has to be reminded of where he is on a continual basis at ECDC. He speaks Arabic and is unable to learn English because he is not able to retain information in the short-term. CIVIC learned about Mr. Baraka's situation while a volunteer with our affiliated Etowah County Detention Project was visiting another detainee. Mr. Baraka walked over to the video monitor, interrupting his fellow detainees' visit by holding up the phone number of his brother and motioning to the volunteer to call the number on his behalf. Later, when this volunteer followed up with Mr. Baraka's brother, we learned about his severe medical condition and the lack of adequate care he is receiving at ECDC. This story evidences a lack of proper medical screening and care at ECDC and a lack of transparency regarding the number of people in ICE detention with special needs, medical and otherwise.

CIVIC along with his attorney, Lynn Burke, and his family urge ICE to release Mr. Baraka so that he can receive the adequate medical attention he so desperately needs. If he is removed to Egypt, he will be in grave danger, as he has no family there and no way to care for his own needs. The Egyptian Consulate is also very concerned about Mr. Baraka's condition and what will happen to him if he is deported to Egypt without family support. They feel his case is a humanitarian issue and they are reluctant to issue travel documents for him. ICE is encouraged to

released individuals in detention when it is unlikely that travel documents will be provided within 90 days. Mr. Baraka is not a danger to the community. The real danger rests in what may happen to him if he is not immediately released.

b. Pacheco Arias Gonzales (A 070-434-778)

Pacheco Arias Gonzales who has been in detention for over 2 years, currently detained at ECDC, was severely injured in the course of a transfer from a detention facility in New Jersey to a facility in Louisiana. When he arrived in Louisiana and de-boarded from the airplane he slipped on the wet stairs and had a terrible fall onto the below tarmac. The severity of the accident was made worse by the fact that he was shackled at the hands, waist, and feet. Mr. Pacheco injured his head, neck, back, hip and left shoulder severely.

Mr. Pacheco's injury required he be taken to a hospital in an ambulance. Before the ambulance arrived, he was undressed while laying in the cold and rain. He also contracted pneumonia. At the hospital, Mr. Pacheco was treated for a concussion and injuries to his back, hip, and shoulder and he was advised that he needed surgery. Mr. Pacheco waited 19 months before this surgery was authorized and conducted under ICE's medical care network. He also had a second surgery to treat a blockage in his chest due to the infection he acquired due to the pneumonia.

Ever since his injury while being transferred, Mr. Pacheco has suffered from severe headaches, back pain, numbness in his legs and left arm, limited shoulder and arm movement and frequent blackouts. Mr. Pacheco has documented several occasions where he has blacked out and fallen to the ground in a spasm, requiring the assistance of fellow detainees and facility staff at ECDC. Mr. Pacheco has asked to be released while his immigration case proceeds so that he can pursue better medical care outside of custody. These requests have been repeatedly denied. CIVIC is calling for the immediate release of Mr. Pacheco so that he may seek proper treatment for his ongoing and serious medical issues.

c. Felix Nkansah (096-657-365)

Until recently, Felix Nkansah was detained at ECDC. Mr. Nkansah is disabled from abuse he suffered by ICE agents while being transferred from Hudson County Correctional Facility in New York to LaSalle Detention Facility in Louisiana. Mr. Nkansah was handcuffed at the hands, waist and feet and a chain was linked between his hands and feet that officers used to pick him up and board him on the plane, despite the fact that he was not resisting his transfer. He was so badly injured that he required the use of a wheelchair and later crutches. This assault is detailed in a complaint to the Office of Civil Rights and Civil Liberties (Complaint # 15-12-ICE-064).

Mr Nkansah was later transferred to the Etowah County Detention Center

(ECDC). He did not receive adequate medical care for his injuries. He was housed in a unit on the second floor where he could not access the telephone or visitors without the assistance of officers to get down the stairs on crutches. It is obvious Mr. Nkansah required special assistance. Despite this, his deportation officer, Officer Chowhan, released Mr. Nkansah from ECDC without any special assistance. Mr. Nkansah was expected to make his own way to the local bus station on crutches when he was obviously in a lot of pain. Luckily a good samaritan picked Mr. Nkansah up and gave him a safe ride to the bus station. From there, he called his family who flew to Atlanta to meet him and escort him on another plane to New York.

We are very concerned about the way Mr. Nkansah was released with no regard for his disability and special circumstances. We request that in the future any detainees who are released without assistance are given the opportunity to arrange safe release in advance and the Etowah County Visitation Project, an affiliated program of Community Initiatives for Visiting Immigrants in Confinement (CIVIC), is more than willing to help arrange for the safe release and transportation of ICE detainees who are released from the custody of ECDC.

D. DHS OIG's Recent Announcement to Conduct Unannounced Inspections

On March 15, 2016 DHS announced a program of ongoing and unannounced inspections of Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) detention facilities. According to a recent press release, the OIG is initiating this inspection program "in response to concerns raised by immigrant rights groups and complaints to the DHS OIG Hotline regarding conditions for aliens in CBP and ICE custody. The unannounced spot inspections are designed to monitor DHS compliance with official government health, safety, and detention standards, and to examine conditions for minors at those facilities where minors are present."⁹ The press release also stated OIG will publish the inspection results to DHS leadership, Congress, and the public.

We urge the OIG to immediately make an inspection of ECDC, with a special focus on investigating medical care at the facility and screening individuals in detention who are suffering from severe medical issues that should require ICE to exercise its prosecutorial discretion to release such detained individuals.

E. Recommendations

- 1.) Immediately terminate the contract between the Etowah County Commission and ICE, operated by the Etowah County Sheriff's Department, to house immigration detainees at ECDC.

- 2.) Immediately conduct an unannounced inspection of ECDC with a special

⁹ <https://www.oig.dhs.gov/assets/pr/2016/oigpr-031516b.pdf>

focus on investigating a pattern and practice of medical neglect at the facility and how such neglect may be prevented in the future.

- 3.) Investigate the death of Teka Gulema as a death in detention. Additionally, the current policies (ICE Detainee Death Reporting Directive 7.9 and Terminal Illness, Advanced Directives, and Death 4.7) that require ICE to report cases of hospitalization to next of kin or death to Congress and the public should be amended to require that cases of hospitalization also are reported to Congress and the public, including cases in which detainees are released from ICE custody following hospitalization.
- 4.) Immediately release Mohammed Baraka and Pacheco Arias Gonzalez from ICE custody so that they can seek proper medical treatment for their serious medical conditions.
- 5.) Conduct an audit of all current detainee medical records at ECDC to determine whether release may be appropriate and/or so that a proper course of medical care and treatment may be developed for all people who are detained.

Sincerely,



Christina Mansfield
Co-Executive Director
Community Initiatives for Visiting Immigrants in Confinement (CIVIC)
www.endisolation.org
P.O. Box 40677
San Francisco, CA 94140

