March 14, 2017

Via electronic mail

Re: Complaint No. 16-11-ICE-0481

Dear Ms. [b](6)

On August 9, 2016, the Department of Homeland Security’s (DHS) Office for Civil Rights and Civil Liberties (CRCL) received a complaint from [b](6) on behalf [b](6) [b](6) Specifically, the complaint alleged that Immigration and Customs Enforcement’s (ICE) racially profiled Mr. [b](6) during an enforcement operation and that ICE’s apprehension of Mr. [b](6) did not comply with policy.

Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL has the responsibility to review and assess complaints against DHS employees and officials concerning violations of civil rights and civil liberties. CRCL opened the complaint and conducted an investigation by reviewing material provided in the complaint and by ICE. During the investigation, CRCL learned of your representation of Mr. [b](6) and contacted you to interview him.

Based upon our review, CRCL did not substantiate the allegations raised in the complaint. ICE’s apprehension complied with policy and Mr. [b](6) was a priority for ICE enforcement and removal. CRCL has closed this complaint and will conduct no further review.

We appreciate this matter being brought to our attention; inquiries like this help DHS meet its obligation to protect civil rights and civil liberties. If in the future you have concerns relating to civil rights and civil liberties violations by DHS, please contact CRCL by phone at 866-644-8360, 866-644-8361 (TTY), or by email at crclcompliance@hq.dhs.gov.

Sincerely,

Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
KEY WITNESSES-VICTIMS DETAINED. DEPORTATION IMMINENT.

U.S. Department of Homeland Security
Office for Civil Rights and Civil Liberties
Compliance Branch
245 Murray Lane, SW
Building 410, Mail Stop #0190
Washington, D.C. 20528
DHSCRCLCompliance@hq.dhs.gov

August 9, 2016

Re: Civil Rights Violations and Racial Profiling During Chicago ICE Raid of Day Laborer Corner

Department of Homeland Security Office for Civil Rights and Civil Liberties,

The Latino Union of Chicago ("Latino Union") writes on behalf of our member Mr. [REDACTED] and others detained, harassed, and placed in removal proceedings during an ICE field operation on Friday, August 5, 2016 at or around 12:00 PM, at the intersection of Milwaukee and Belmont streets in Chicago, Illinois. The recent enforcement actions and subsequent arrests raise serious questions about whether Immigration and Customs Enforcement (ICE) is engaged in unlawful profiling and retaliation against day laborers for exercising their constitutional rights.

This complaint details how ICE agents under the jurisdiction of the Chicago ICE Field Office engaged in racially motivated arrests targeting Latino day laborers and other unconstitutional acts, including detention, arrests, and fingerprinting without probable cause or reasonable suspicion and based on racial profiling and surveillance and retaliatory conduct against community members for activities protected by the First Amendment. The complaint includes testimony from Mr. [REDACTED] who was racially profiled, fingerprinted, and taken into immigration custody. Although Mr. [REDACTED] was eventually released from custody due to having Temporary Protective Status (TPS), he was held in immigration detention for 71 hours, while at least two other day laborers were placed in deportation proceedings and remain in custody.

In conjunction with the investigation, we request that DHS CRCL take the immediate steps of grant prosecutorial discretion and hold the imminent deportation of Mr. [REDACTED] and others detained during the ICE Chicago Field Office operation, so that key witnesses-victims can fully participate in this civil rights investigation. We understand that Mr. [REDACTED] faces imminent deportation. We urge you to communicate with the Chicago ICE Field Office that any and all raid victims should not be deported and released pending resolution of this civil rights complaint.

Background

On August 5, 2016, two ICE officers parked at a well-known day laborer corner where workers gather to bargain with contractors for work on Chicago’s North Side. The majority of the day laborers are Latino. Believing that they were contractors, a group of workers approached the two men. ICE agents proceeded to interrogate individuals about their immigration status and take their fingerprints on mobile biometrics devices.

Based on information and belief, three workers were taken into custody, two of whom were placed in deportation proceedings, including Mr. [REDACTED] and another unknown worker.
KEY WITNESSES-VICTIMS DETAINED. DEPORTATION IMMINENT.

Mr. [b(6)] a long-time resident of the United States and has Temporary Protected Status. He has been looking for and receiving work at day labor corners for the last three months. The following is an account given by Mr. [b(6)] about how he was taken into custody and detained for 71 hours, recorded on the day he was released, August 8, 2016:

We were looking for work at the corner, on Belmont and Milwaukee. We saw a car that parked next to the carwash and we thought that it was contractors looking for people to work, so we all gathered around them. There were two of them, one Latino and one white. They spoke to us in Spanish. They asked me for my [immigration] documents, and asked for my fingerprints. He asked about 6 people for their fingerprints. They told one of the guys that he was an "illegal" and had no right to be here. Then they handcuffed us. I told him I had my state ID, but it didn't matter. I was detained from Friday at 12pm until today [Monday] at 11am. When I was leaving, I wanted to say goodbye to the other two. I always thought they were good guys. It broke my heart when they let me go and they were still there. The [ICE] agents told me to just go home and forget about them. I don't understand why they go after working people like us.

Mr. [b(6)] remains in immigration custody.

Civil Rights Violations

As shown by complainants’ story, ICE agents violated complainants’ Fourth Amendment right to be free of unreasonable seizure, their First Amendment right to freely associate and assemble; Fourth Amendment right to be free of unreasonable searches, and their Fourteenth Amendment right to equal protection and due process. The Office of Civil Rights and Civil Liberties has jurisdiction to review and assess these claims since they concern abuses of civil rights, civil liberties, and profiling on the basis of race and ethnicity by employees and officials of the Department of Homeland Security. See 6 U.S.C. § 345.1.

ICE agents unlawfully targeted Mr. [b(6)] and the other workers who were fingerprinted because he was racially profiled — they knew no other facts about them that might provide reasonable suspicion that he had committed a crime. Race is not a sufficient basis for a stop. Brignoni-Ponce, 422 U.S. 873, 886 (1975); see also Oregon v. INS, 38 F.3d 488 (9th Cir. 1994) (“Hispanic-looking appearance and presence in an area where illegal aliens frequently travel are not enough to justify a seizure by immigration officials.”) (quoting Nacicio v. INS, 797 F.2d 700 (9th Cir. 1985), overruled in part on other grounds by Hodges Durgin v. De La Vina, 199 F.3d 1037, 1045 (9th Cir. 1999)); United States v. Grant, 920 F.2d 376, 388 (6th Cir. 1990) (holding that officers’ “racially-biased assumption that because Grant was a man of color wearing dreadlocks, he must have been an illegal alien from Jamaica” did not provide the reasonable suspicion necessary to support a seizure).

ICE agents are engaged in racial profiling and seized complainants without reasonable suspicion in violation of the Fourth Amendment. The Chicago ICE agents who took part in this operation are violating the Fourth Amendment by making race-based stops that are not supported by reasonable suspicion. Under the U.S. Constitution, all seizures or stops must be based on reasonable suspicion that a crime has been committed. U.S. Const. amend. IV; Terry v. Ohio, 392 U.S. 1, 30 (1968) (finding that a brief, investigatory stop is permitted under the Fourteenth Amendment if justified by reasonable suspicion); see also 8 U.S.C. § 1357(a)(2) (INA § 287(a)(2)); 8 C.F.R. § 287.8(b)(2) (permitting ICE agents to briefly detain a person only if they have reasonable suspicion of a crime or unlawful presence). Reasonable suspicion requires an objective justification for making the stop, more than an “inchoate unp-particularized suspicion or ‘hunch’ of criminal activity.” Terry, 392 U.S. at 27. “[A]pparent Mexican ancestry” does
not justify a stop and is not a sufficient basis for reasonable suspicion that people are undocumented noncitizens. 

_Briggioni-Ponce_, 422 U.S. 873, 886 (1975). ICE agents questioned and fingerprinted Mr. __b(6)__ to __b(6)__ solely because of his race.

ICE agents also violated the First Amendment right to freely associate and assemble by targeting Latino day laborers at a known day laborer corner. Day laborer corners are First Amendment protected spaces specifically used by worker associations to organize and bargain with employers over the terms of their labor. See _Comite de Jornaleros v. City of Redondo Beach_, 657 F.3d 936 (9th Cir. 2011) (anti-solicitation ordinance held facially unconstitutional restriction on day laborers' First Amendment rights). The First Amendment guarantees freedom of expression and assembly, and clearly protects the right of workers to assemble, associate, organize, and advocate for workers and immigrants. By targeting day laborer corners for arrest and surveillance, ICE agents are infringing on this important First Amendment protected activity including violating the rights of Mr. __b(6)__ and __b(6)__ and all day laborers present on August 5, 2016. _Thomas v. Collins_, 323 U.S. 516, 534 (1945); _Howard Gauti Co. v. Texas Rural Legal Aid_, 848 F.2d 544, 567 (5th Cir. 1988). "Impediments to the exercise of one's right to choose one's associates can violate the right of association protected by the First Amendment." _Board of Directors of Rotary International v. Rotary Club of Duarte_, 481 U.S. 537, 548 (1990) (citing _Hishon v. King & Spalding_, 467 U.S. 69, 80 n.4 (1984) (Powell, J., concurring)).

**Cease and Desist Deployment of Mobile Biometrics Devices**

Based on information and belief, the Chicago ICE Field Office began using handheld mobile biometric devices beginning in 2015 through the EDDIE program. We recently viewed its deployment in the CNN program "CNN exclusive ride along with ICE team arresting undocumented immigrants," June 2, 2016, available at: http://www.cnn.com/2016/05/31/politics/undocumented-immigrants-enforcement. As this raid demonstrates, the deployment of handheld biometrics devices on the streets of Chicago is causing racial profiling and unlawful detention as the device is inherently used to target individuals for suspicionless fingerprinting. We already know that the use of mobile biometrics devices has caused widespread racial profiling at other ICE Field Offices. See e.g. Zoe Carpenter, "How the Government Created Stop and Frisk for Latinos," The Nation, February 21, 2012 (reporting on how deployment mobile biometrics devices resulted in race-based raids throughout the New Orleans region). We urge that DHS immediately suspend use of these handheld mobile fingerprinting devices until a full and transparent investigation of the civil rights impact of these devices can be conducted.

**Conclusion**

Given the constitutional issues raised by the Chicago ICE office’s practices during this field operation, we respectfully request that the DHS Office of Civil Rights and Civil Liberties take the following immediate steps:

- Open an investigation into the civil rights violations arising from this enforcement action
- Take immediate steps to protect the witnesses in this investigation, including communicate with the Chicago ICE Field Office that Mr. __b(6)__ and others detained during the operation, are witnesses in a civil rights investigation and SHOULD NOT BE DEPORTED BUT RATHER RELEASED pursuant to ICE prosecutorial discretion policy.
- Suspend use of handheld mobile biometric devices until a full and transparent OCRCL investigation on its civil rights and civil liberties impact can be conducted.
KEY WITNESSES-VICTIMS DETAINED. DEPORTATION IMMINENT.

We appreciate your immediate and ongoing attention to this urgent matter. Please do not hesitate to contact us to further discuss these important matters.

Sincerely,

[Redacted]

Latino Union of Chicago
Executive Director

[Redacted]
OFFICE FOR CIVIL RIGHTS & CIVIL LIBERTIES (CRCL)
COMPLAINT CLOSURE WITHOUT RECOMMENDATIONS

To: 
From: 
Date: March 14, 2017
Complaint Number: 16-11-ICE-0481
Complainant Name(A#): 

Finding(s) for Closure without Recommendations - (check all that apply):

- Insufficient information to investigate
- Withdrawal of complaint
- Lack of jurisdiction
- Allegation(s) overtaken by events
- Component and/or facility has already corrected the problem
- Allegation(s) against component, individual, and/or facility unfounded
- Allegation(s) against component, individual, and/or facility unsubstantiated
- Allegation(s) substantiated but does not warrant recommendations
- No finding of detention standards violations
- No finding of policy or procedure violations
- Complaint being handled as part of a related complaint (Related)
- Other (provide details):

Reason for Closing:
On August 9, 2016, CRCL received a complaint from [b](6) of the Latino Union of Chicago, on behalf of [b](5) and [b](6). The complaint alleged that on August 5, 2016, two Immigration and Customs Enforcement (ICE) officers racially profiled a group of day laborers in Chicago, Illinois, and conducted immigration interviews using handheld biometrics devices.

The complaint alleged that several day laborers gathered to bargain with contractors for work at the intersection of Belmont and Milwaukee streets, which is a well-known corner where predominately Latino workers gather. The complaint alleged that two ICE officers were in a parked car near that intersection. Believing they were contractors, a group of workers approached the two officers. They allege that the ICE officers then asked for “immigration documents” and fingerprints. The complaint alleges that approximately six people were fingerprinted using a handheld biometrics device. Three people were apprehended, [b](6) and [b](6). All three have been released from ICE custody.

CRCL opened this matter as a short-form complaint and sent a short-form information request to ICE on August 24, 2016. CRCL also interviewed Mr. [b](6) on September 14, 2016. On October 5, 2016, ICE Enforcement and Removal Operations (ERO) responded to our short-form information request stating that our inquiry should be directed to ICE Homeland Security Investigations (HSI). On October 5, 2016, CRCL sent a short-form information request to HSI and they responded on October 25, 2016. CRCL also interviewed Mr. [b](6) who is represented by independent counsel, on October 13, 2016 while he was detained in ICE custody. CRCL interviewed the HSI and ERO officers who participated in the enforcement operation on February 27, 2017. Mr. [b](6) refused to be interviewed for this investigation. CRCL learned the following information:
On August 5, 2016, an HSI Special Agent (SA) and an ERO Deportation Officer (DO) were working on gang enforcement. Local law enforcement informed the SA that a known gang member had returned to the area and had been seen looking for work at a known day laborer location. The SA specifically stated that without the information from local law enforcement, they would not have gone to the gas station at the intersection of Belmont and Milwaukee streets. He SA and DO were in an SUV and drove around the gas station two or three times and recognized the target they were looking for.

At the time the interviews, the SA and DO were unable to recall the name of the target. However, the I-213 for Mr. documents him as a gang member and the report of investigation submitted by HST in response to our information request does as well.

The SA and DO parked their vehicle at the gas station. At that point, several individuals came toward the SUV because as both the SA and DO stated, they initially believed they could seek work. The agents were wearing jackets that said “Police” on the back of them. As the agents identified themselves, several of the day laborers walked away. The SA focused on the target, a known gang member, and the DO checked the identities of the people standing with him. The target did not have identification and was identified using the DO’s handheld biometrics device. The DO conducted biometrics checks of five or six people who also did not have identification. Of those people, two were apprehended.

(b)(5)

Special Circumstances

Recommend Office of General Counsel (OGC) Review (Y/N)

Suggested Closure Method(s) (check all that apply):

- Close Letter to Complainant
- Close email/memo to component
- Phone call (a description of which is documented in Writing)
- High level component communication
- No notification necessary
- Close memo (No contact information)
- Other (provide details)

Supporting Documents Attached:

For Completion by Reviewer:
Closure Recommendation Accepted X Not Accepted □

(b)(6)
August 10th 2016

On August 5th at 12:40pm, I along with 14 other Latino workers were standing behind the Shell Gas station, next to the exit of its unused car wash located on the corner of Belmont and Milwaukee, we wait there every morning for employers to contract us. On the front side of the gas station convenient store a group of 10 European workers also were present. An unmarked SUV pulled up into the Gas station property next to the Latino day laborers, and two agents exited the vehicle. The agents wore black bulletproof vests that said Police on the back. I and other workers were able to walk away a few feet and did not interact with the officers, I walked to my vehicle and parked it across the street and sat inside the vehicle in order to safely observe the immigration raid. My wife and son also witnessed the immigration raid from inside the vehicle. I observed the two officers ordering 10 Latino men to answer if they had “papers” and an “ID”. I observed the officers line up the Latino men along the wall, search them, and scan their hands. 3 of the 10 men were not released, and I observed the officers handcuff and chain the individuals and placed them into the SUV vehicle. Neither the people from the general public walking along the sidewalk nor the European day laborers were questioned or asked to provide ID and documentation. I also observed one the three Latino detainee’s, who is from Honduras, repeatedly tell the officers that he had Temporary Protected Status, I saw the officers ignore him and still handcuffed, chained him and placed him inside the unmarked SUV vehicle.

Date

[Signature]
August 12, 2016

Via electronic mail

[redacted]
Latino Union of Chicago
Executive Director

[redacted]

Re: Complaint No. 16-11-ICE-0481

Dear Ms.[redacted]

On August 9, 2016, the Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties (CRCL) received your complaint. Thank you for contacting us with your concerns. Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL reviews and assesses information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of DHS.

The issues you raise are very important to us, and we would like to inform you how your complaint will be processed by CRCL. Initially, we will send your complaint to the DHS Office of Inspector General (OIG) for review. If OIG declines to accept the complaint, it will be returned to CRCL for an appropriate response. Once CRCL opens a formal complaint, either we or the appropriate DHS component will conduct an investigation into your concerns. CRCL may contact you during the course of investigation of your complaint. We will ultimately notify you of the outcome of the investigation.

Please be advised that our complaint process does not provide individuals with legal rights or remedies. Accordingly, CRCL is not able to obtain any legal remedies or damages on your behalf. Instead, we use complaints like yours to find and address problems in DHS policy and its implementation. If you believe your rights have been violated, you may wish to consult an attorney. There may be time limitations that govern how quickly you need to act to protect your interests.

If you have not already done so, please provide CRCL with your complete contact information, including a phone number, email address, and mailing address if available, and your alien number if applicable. You may contact CRCL by email at crclcompliance@hq.dhs.gov, by facsimile at 202-401-4708, or by mail at the following address:
Department of Homeland Security
Office for Civil Rights and Civil Liberties
Compliance Branch
245 Murray Lane, SW
Building 410, Mail Stop 0190
Washington, DC 20528

For additional information about CRCL’s roles and responsibilities, please visit our website at www.dhs.gov/crcl.

If you are filing a complaint on behalf of someone else, please provide CRCL with the express written consent of the individual if you would like to be informed about the resolution of this complaint, if you have not already done so.

When communicating with CRCL about this matter, please include the complaint number noted at the top of this letter.

Please note that Federal law forbids retaliation or reprisal by any Federal employee against a person who makes a complaint or discloses information to CRCL. 42 U.S.C. § 2000ee-1(e). If you believe that you or someone else is a victim of such a reprisal, please contact us immediately.

Thank you again for contacting CRCL. Communications like yours are essential to our ability to carry out our role of supporting the DHS’s mission to secure the nation while preserving individual liberty, fairness, and equality under the law. We look forward to working with you to address your concerns. If you have questions, please contact us either in writing or by phone at 866-644-8360, 866-644-8361 (TTY).

Sincerely,

Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Privacy Act Statement


Purpose: The Department of Homeland Security (DHS) will use this information to review and investigate complaints and information from the public about possible violations of civil rights and/or civil liberties relating to DHS employees, programs, or activities.

Routine Uses: This information may be disclosed to and used by personnel and contractors within DHS who have a need to know the information in order to review your complaint. The DHS Office for Civil Rights and Civil Liberties (CRCL) may also share your information, as necessary, with appropriate government agencies outside of DHS or with non-government entities to address your complaint, or pursuant to its published Department of Homeland Security/ALL-029 Civil Rights and Civil Liberties Records System of Records.

Disclosure: Furnishing this information to CRCL is voluntary; however, failure to furnish the requested information may delay or prevent CRCL from adequately reviewing and investigating your complaint. If necessary, CRCL may also request additional information from you in order to determine the appropriate manner to address your concerns.

To learn more about the Privacy Act, go to www.dhs.gov/privacy.
This matter was received and reviewed by the U.S. Department of Homeland Security, Office of Inspector General. The issues raised in this complaint appear to fall within the jurisdiction of your office. Accordingly, this matter is being referred to your office for appropriate disposition in accordance with your organization’s policies and procedures. In most cases no reply to this message is necessary; however we ask that you please notify this office if this referral leads to criminal or administrative investigation or action so that we may update our records.
March 14, 2017

Via electronic mail

Latino Union of Chicago
Executive Director

Re: Complaint No. 16-11-ICE-0481

Dear Ms. ____________________________

On August 9, 2016, the Department of Homeland Security’s (DHS) Office for Civil Rights and Civil Liberties (CRCL) received your complaint on behalf of _____________________________. Specifically, your complaint alleged that Immigration and Customs Enforcement (ICE) racially profiled Mr. ____________________________ and Mr. _____________________________ and that ICE’s apprehension of them did not comply with policy.

Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL has the responsibility to review and assess complaints against DHS employees and officials concerning violations of civil rights and civil liberties. CRCL opened your complaint and conducted an investigation by reviewing material provided in the complaint and by ICE.

Based upon our review, CRCL did not substantiate the allegations raised in the complaint. The apprehensions complied with policy and the individuals were priorities for ICE enforcement and removal. CRCL has closed this complaint and will conduct no further review.

We appreciate you bringing this matter to our attention; inquiries like yours help DHS meet its obligation to protect civil rights and civil liberties. If in the future you have concerns relating to civil rights and civil liberties violations by DHS, please contact CRCL by phone at 866-644-8360, 866-644-8361 (TTY), or by email at crclcompliance@hq.dhs.gov.

Sincerely,

Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security