



United States Department of State

United States Permanent Mission to the  
Organization of American States

Washington, D.C. 20520

February 4, 2019

Dr. Paulo Abrão  
Executive Secretary  
Inter-American Commission on Human Rights  
Organization of American States  
Washington, D.C. 20006

**Re: Jesué González Martínez, Petition No. P-428-13**  
**Response to Petition**

Dear Dr. Abrão:

The United States appreciates the opportunity to submit these observations on the documents submitted by Mr. Josué González Martínez to the Inter-American Commission on Human Rights (“Commission”) and forwarded to the United States as Petition No. P-428-13 (“Petition”). The Petition, which was received by the Commission in March 2013 and forwarded to the United States in October 2017, consists of a number of handwritten communications and other documents that appear to have been filed or issued in certain domestic proceedings in the United States. We use the term “Petition” to refer collectively to these documents in this Response.

As a preliminary matter, the United States respectfully reaffirms its longstanding position that the American Declaration of the Rights and Duties of Man (“American Declaration” or “Declaration”) is a statement of political commitments on the part of the Member States of the Organization of American States (“OAS”), and that it does not create legally binding obligations.<sup>1</sup> Because this nonbinding instrument does not itself create rights

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<sup>1</sup> U.S. courts of appeals have independently held that the Declaration is nonbinding and that the Commission’s decisions do not bind the United States. *See, e.g.,* *Garza v. Lappin*, 253 F.3d 918, 925 (7th Cir. 2001); *accord, e.g.,* *Flores-Nova v. Attorney General of the United States*, 652 F.3d 488, 493-94 (3rd Cir. 2011); *In re Hicks*, 375 F.3d 1237, 1241 n.2 (11th Cir. 2004). As explained by the U.S. Court of Appeals for the Seventh Circuit in *Garza*, “[n]othing in the OAS Charter suggests an intention that member states will be bound by the Commission’s decisions before the American Convention goes into effect. To the contrary, the reference to the Convention in the OAS Charter shows that the signatories to the Charter intended to leave for another day any agreement to create an international human rights organization with the power to bind members. The language of the Commission’s statute similarly shows that the Commission does not have the power to bind member states.” *Garza*, 253 F.3d at 925; *accord* Commission Statute, arts. 18, 20 (setting forth various powers of the Commission). For a further discussion of the U.S.

or impose duties on the United States, the United States construes any assertion that it has “violated” any of its provisions as an assertion that the United States has failed to live up to its nonbinding political commitments expressed in the American Declaration.

The United States also reaffirms its longstanding position that the Commission should refrain from requesting precautionary measures in this case because the Commission lacks the authority to require such measures.<sup>2</sup>

The Petition is inadmissible because Mr. González (“Petitioner”) has not exhausted the domestic remedies available to him in the United States. It is further inadmissible because the Petition does not in any way indicate even a potential failure on the part of the United States to live up to any commitment under the American Declaration. Accordingly, the United States respectfully requests that the Commission find the Petition inadmissible. Should the Commission nevertheless declare the Petition admissible and examine its merits, the United States urges it to deny the Petitioner’s request for relief, as the Petition is entirely without merit.

## **I. FACTS AND PROCEDURAL HISTORY**

The Petitioner, a citizen of Mexico, was admitted to the United States at the Laredo International Airport in Laredo, Texas, on August 13, 2011 as a B1/B2 Visitor for Pleasure visa holder. He stated that, as a pilot, he came to the United States to attend a Transportation Security Administration safety course and exam held on August 16, 2011. The Petitioner made a request to U.S. Customs and Border Protection (“CBP”), a Component of the U.S. Department of Homeland Security (“DHS”), for a Secure Identification Display Areas (“SIDA”) badge, and upon researching the request, CBP noted the Petitioner’s nonimmigrant visa. On August 19, 2011, a CBP officer called the Petitioner and requested that he come to the CBP office at the Laredo International Airport later that day following his request for the SIDA badge. At approximately 1:30 p.m., the Petitioner arrived at the CBP office in the Laredo International Airport and was interviewed by CBP. During the course of the interview, the Petitioner stated he would be working as a freelance pilot for hire and was preparing to work in the United States once he received his lawful permanent resident status (green card). Furthermore, the Petitioner stated that his daughter was in the process of initiating his family-based petition to enable him to immigrate to the United States. The Petitioner was in possession of the Form I-130, Petition for Alien Relative; however, he said

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position regarding the nonbinding nature of the American Declaration, *see* Request for an Advisory Opinion Submitted by the Government of Colombia to the Inter-American Court of Human Rights Concerning the Normative Status of the American Declaration of the Rights and Duties of Man, Observations of the United States of America, 1988 (“U.S. Observations on Normative Status of American Declaration”), *available at* <http://www1.umn.edu/humanrts/iachr/B/10-esp-3.html>.

<sup>2</sup> See, e.g., Mohammad Rahim, MC-184-17, Response of the United States to Request for Information (July 14, 2017).



that his lawyer had not yet submitted it. The Petitioner presented his Mexican passport with a B1/B2/Border Crossing Card, nonimmigrant visa foil, and a valid I-94 Arrival/Departure Form.

At approximately 4:00 p.m. on August 19, 2011, CBP began pursuing the Petitioner's removal from the United States as an alien who failed to comply with the conditions of his nonimmigrant status. CBP took a sworn statement from the Petitioner in which he admitted that he did not have any legal documents to permit him to reside or work in the United States. The Petitioner claimed he only wished to obtain the SIDA badge (which all airport workers are required to have in order to work within the secure area of a U.S. airport) and the identification card in order to familiarize himself with the airport process. The Petitioner also claimed that he was never paid for his piloting services and that his intentions were not to work in the United States. However, CBP received contrary information that the Petitioner was, in fact, a pilot for hire in the United States. The Petitioner was subsequently detained by CBP and spent three nights at the Juarez/Lincoln Bridge Port of Entry from August 19-22, 2011. On August 20, 21, and 22, 2011, CBP officers attempted to transfer the Petitioner to an immigration detention facility contracted with DHS Immigration and Customs Enforcement. However, the facility declined to accept the Petitioner.

While the Petitioner was detained at the Laredo International Airport, CBP documents show that he injured himself after shattering a glass window with his hand. CBP contacted the Laredo Airport Police Department to report the incident, but the Laredo Airport Police Department initially declined to file any charges. On August 22, 2011, however, the Laredo Airport Police Department issued a police report stating that they would refer the Petitioner for prosecution for the damage to city property.

On August 22, 2011, CBP served an arrest warrant on the Petitioner and issued the Petitioner a Form I-862, Notice to Appear, charging that the Petitioner was subject to removal from the United States pursuant to Section 237(a)(1)(A) of the Immigration and Nationality Act ("INA"), as amended, as an alien who, at the time of entry, intended to remain permanently or indefinitely in the United States but did not possess or present a valid immigrant visa. CBP issued a Form I-220A, Order of Release on Recognizance, and released the Petitioner on his own recognizance pending a final determination of his case by an immigration judge.

On August 23, 2011, the DHS Joint Intake Center ("JIC") received a complaint from a CBP Enforcement Officer alleging that CBP officers did not correctly process the Petitioner upon determining that he had violated the terms of his admission as a nonimmigrant, and that CBP had violated protocol which led to the Petitioner's detention for four days. CBP conducted and closed an inquiry on January 25, 2012, with a recommendation that CBP advise all managers of the correct processing procedures, but CBP



determined that the Petitioner's rights had not been violated. CBP issued written guidance to all managers and officers on August 30, 2013, regarding this matter.

On February 10, 2012, the Petitioner submitted a complaint to the Federal Bureau of Investigation during an interview in San Antonio, Texas. He also provided a supplemental written complaint on March 22, 2012. The Petitioner alleged possible violations of federal criminal civil rights statutes by CBP officers, including the use of excessive force, unlawful detention, and conspiracy. The FBI completed an investigation and forwarded its findings to the Civil Rights Division of the Department of Justice. After reviewing these materials, the Civil Rights Division determined that the available evidence did not establish a prosecutable violation of the federal criminal civil rights statutes. As a result, the Department of Justice closed the investigation and informed the Petitioner of the Section's findings in a letter dated January 16, 2014.

On March 5, 2013, the DHS Office for Civil Rights and Civil Liberties ("CRCL") received correspondence from the Petitioner in which he alleged that CBP personnel unlawfully detained him and subjected him to abuse and torture at the Laredo International Airport in August 2011. The allegations in the correspondence are the same as the allegations in the Petition to the Commission, which the Commission received from the Petitioner just nine days later, on March 14, 2013. On April 17, 2013, the DHS Office of the Inspector General ("OIG") received correspondence from the Department of Justice's ("DOJ") OIG in which the DOJ/OIG stated it had received correspondence from the Petitioner but was referring it to DHS/OIG because the matters were not subject to DOJ jurisdiction. The contents of this correspondence from the Petitioner are the same as the March 2013 submission to DHS/CRCL.

DHS/CRCL opened a complaint investigation on this matter in March 2013. After conducting a preliminary investigation, DHS/CRCL referred the complaint to the CBP Office of Internal Affairs for additional investigation on December 13, 2013 (see additional information on procedures related to DHS investigations under the DHS Complaint Investigations section below). CRCL requested and received information from the CBP Office of Internal Affairs, including officer statements, an investigation report, and documentation related to the events of August 19-22, 2011. According to the documentation, CBP officers attempted to restrain Mr. Gonzalez-Martinez after he broke a window at the airport, and again when he attempted to take documents that did not belong to him. The documentation indicates that CBP handcuffed and/or shackled the Petitioner intermittently and at appropriate times pursuant to CBP policies in place governing the use of force by CBP officers and agents.

The documentation also states that the Petitioner was detained in a clean and temperature-controlled interview room; however, no beds were available given the limited



amount of temporary holding areas. The CBP Office of Internal Affairs also informed DHS/CRCL that officers provided the Petitioner with food, drink, and blankets while he was detained at the Laredo International Airport and at the Juarez/Lincoln Bridge Port of Entry.

Based on its review of the information provided by the CBP Office of Internal Affairs, in September 2015, DHS/CRCL concluded that the allegations of excessive force on the part of officers were unsubstantiated. DHS/CRCL did, however, find that procedural errors delayed the processing of Petitioner's case. These procedural errors were remedied when the Petitioner was issued a Notice to Appear on August 21, 2011, and released from custody on August 22, 2011. Through this review, DHS/CRCL also concluded that the CBP Office of Internal Affairs had undertaken a review, a written memorandum was issued to address the procedural errors, and there had been no other such complaints in the subsequent four years (i.e., from 2011 to 2015). DHS/CRCL subsequently closed this complaint and issued a letter to the Petitioner in November 2015. This letter indicated that DHS/CRCL had identified procedural issues with the Petitioner's detention but that it could not substantiate the abuse claim.

Regarding the Petitioner's allegation of retaliation, DHS takes all such allegations seriously. Federal law forbids retaliation or reprisal by any Federal employee against a person who makes a complaint or discloses information to DHS/CRCL. 42 U.S.C. § 2000ee-1(e). DHS has no record of the Petitioner's alleged detention or questioning regarding the status of his complaint at a CBP checkpoint on Highway I-35 on July 24, 2012. DHS/CRCL also has no record of receiving any information from the Petitioner regarding any interactions with CBP in 2012. U.S. Border Patrol records indicate that the Petitioner was inspected three times at the Laredo checkpoint on the following dates: February 26, 2013, October 1, 2013, and January 31, 2016; however, no evidence suggests that he was held for more than a de minimus amount of time for relevant document review.

## **II. FACTS ALLEGED IN PETITION TO THE COMMISSION**

On March 14, 2013, just nine days after the Petitioner submitted his allegations of unlawful detention and abuse to DHS/CRCL, the Commission received the Petition. As noted above, the United States did not receive any communications from the Commission in this matter until October 25, 2017. The Petition reflects the fact that it is now more than five years old, focusing on Petitioner's immediate immigration circumstances.

The Petition appears to be squarely based on the Petitioner's immigration status and, in particular, a hearing scheduled for April 10, 2013, in Petitioner's removal proceedings. The Petition identifies CBP agents as those responsible for the facts alleged. The Petition includes an assortment of immigration-related documents, including a series of documents that appear to come from his immigration proceedings, as available evidence. The Petitioner sought precautionary measures to protect his "life and physical integrity" and to suspend the



April 2013 hearing. The Petitioner claimed that the hearing should be suspended because it is “the result of alleged violations” of the American Declaration.

To support this theory, the Petitioner alleges that he was unlawfully arrested and that he did not intend to remain in the United States to work in violation of the terms of his admission. He also alleges that that he was tortured. Specifically, he alleges that on Friday, August 19, he was handcuffed and shackled to a bench at the Juarez/Lincoln Bridge Port of Entry and interrogated during the night of August 19 and August 20. He also alleges that on Sunday, August 21, while in the bathroom, he was physically and verbally assaulted by five CBP officers, who allegedly broke his eyeglasses and his prosthetic arm. He further alleges that, after the alleged assault, he was forced to sign blank documents and was interrogated through the night of Sunday, August 21.

The Petitioner further states that he filed a complaint with the FBI regarding the alleged abuse by CBP, but that the FBI “froze” his complaint after a CBP officer told his assigned FBI victim specialist that the abuse was deserved. He also alleges that he was subjected to threats, harassment, and retaliation including being followed, chased, photographed, and video-taped because of the complaints he submitted to DHS and DOJ. He alleges that on July 24, 2012, he was detained for two hours at a CBP checkpoint on Highway I-35 and questioned about the “progress of his complaint.”

### **III. THE PETITION IS INADMISSIBLE AND SHOULD BE DISMISSED**

The matter addressed by the Petition is not admissible and must be dismissed because it fails to meet the Commission’s established criteria in Articles 31 and 34 of the Rules of Procedure (“Rules”). Petitioner has not exhausted the domestic remedies available in the United States, as required by Article 31 of the Rules. The Petition is also plainly inadmissible under Article 34 of the Rules. In particular, the Petition fails under Article 34(a) to state facts that tend to establish violations<sup>3</sup> of rights set forth in the American Declaration and it is manifestly groundless under Article 34(b).

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<sup>3</sup> As the American Declaration of the Rights and Duties of Man is a non-binding instrument and does not create legal rights or impose legal duties on member states of the Organization of American States, the United States understands that a “violation” in this context means an allegation that a country has not lived up to its political commitment to uphold the American Declaration. The United States respects its political commitment to uphold the American Declaration. For an elaboration of the United States’ longstanding position on the non-binding nature of the American Declaration, *see* Request for an Advisory Opinion Submitted by the Government of Colombia to the Inter-American Court of Human Rights Concerning the Normative Status of the American Declaration of the Rights and Duties of Man, Observations of the United States of America, 1988, *available at* <http://www1.umn.edu/humanrts/iachr/B/10-esp-3.html>.



***a. Petitioner Has Not Pursued or Exhausted Domestic Remedies***

The Commission should declare the Petition inadmissible because the Petitioner has not satisfied his duty to demonstrate that he has “invoked and exhausted” domestic remedies under Article 20(c) of the Commission’s Statute and Article 31 of the Rules.

The Commission has repeatedly emphasized that a petitioner has the duty to pursue all available domestic remedies. Article 31(1) of the Rules states that “[i]n order to decide on the admissibility of a matter, the Commission shall verify whether the remedies of the domestic legal system have been pursued and exhausted in accordance with the generally recognized principles of international law.” As the Commission is aware, the requirement of exhaustion of domestic remedies stems from customary international law, as a means of respecting State sovereignty. It ensures that the State on whose territory a human rights violation allegedly has occurred has the opportunity to redress the allegation by its own means within the framework of its own domestic legal system.<sup>4</sup> It is a sovereign right of a State conducting judicial proceedings for its national system to be given the opportunity to determine the merits of a claim and decide the appropriate remedy before resort to an international body.<sup>5</sup> The Inter-American Court of Human Rights has remarked that the exhaustion requirement is of particular importance “in the international jurisdiction of human rights, because the latter reinforces or complements the domestic jurisdiction.”<sup>6</sup> The Commission has repeatedly made clear that a petitioner has the duty to pursue *all* available domestic remedies.<sup>7</sup>

Here, the Petitioner submitted his Petition to the Commission within days of submitting his allegations of unlawful detention and torture to DHS/CRCL. Therefore, the Petitioner had hardly begun to even pursue, much less exhaust, any administrative remedy at the time this Petition was submitted to the Commission. Petitioner claims that “exhausting domestic remedies has been impeded by the omission of the state agents (FBI), to take action when they should have done so,—a year ago—; taking the investigation to the end and notify

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<sup>4</sup> See, e.g., *Interhandel Case (Switzerland v. United States)* [1959] I.C.J. 6, 26–27; *Panevezys-Saldutiskis Railway Case (Estonia v. Lithuania)*, 1939 P.C.I.J., Ser. A/B, No. 76.

<sup>5</sup> THOMAS HAESLER, *THE EXHAUSTION OF LOCAL REMEDIES IN THE CASE LAW OF INTERNATIONAL COURTS AND TRIBUNALS* (1968), at 18–19.

<sup>6</sup> *Velásquez Rodríguez Case*, Judgment of July 29, 1988, ¶ 61, Inter-Am. Ct. H.R. (Ser. C) No. 4 (1988).

<sup>7</sup> See, e.g., *Páez García v. Venezuela*, Petition No. 670-01, Report No. 13/13, Mar. 20, 2013, Analysis § B(1) & Conclusions ¶ 35 (finding petition inadmissible for failure to exhaust because petitioner did not avail himself of remedies available to him in the domestic system).



the results.”<sup>8</sup> However, not only is this claim patently false, as discussed further below, but the record contains no indication that the Petitioner’s access to domestic remedies has been denied, or that exhausting them has been impeded, or that there is a case in which there has been unwarranted delay in issuing a final decision. In fact, the Petitioner does not appear to have invoked any judicial remedies for the conduct alleged, thereby failing to avail himself of remedies available to him in the domestic system.

Plainly, the underlying purpose of this Petition is to shield the Petitioner from removal from the United States for failure to comply with the conditions of his nonimmigrant status. As much is clear from the precautionary measures sought by the Petitioner: intervention by the Commission in ongoing administrative proceedings pertaining to the Petitioner’s removal from the United States. However, the American Declaration provides no basis for the Petitioner’s proposed remedy—suspension of domestic proceedings—and such intervention would be manifestly improper.

For these reasons, the Petitioner has failed to exhaust his domestic remedies and the Petition is inadmissible under Article 31.

***b. The Petition Fails to Establish Facts that Could Support a Claim of Violation of the American Declaration***

The Petition is also inadmissible under Article 34 because it does not establish facts that even arguably could establish a violation of the American Declaration and it is manifestly groundless. Petitioner does not specify which provision or provisions of the American Declaration he alleges the United States to have violated, though he lists the rights he believes to have been violated as the “right to humane treatment, right to personal liberty, right to a fair trial, right to privacy, right to freedom of thought and expression, the rights of the family.”<sup>9</sup> On Petitioner’s theory, Petitioner’s detention by CBP in connection with proceedings to remove him from the United States as an alien who, at the time of entry, intended to remain permanently or indefinitely in the United States but did not possess or present a valid immigrant visa, precludes CBP from commencing such proceedings. In other words, Petitioner seeks to transform his own wrongdoing—his failure to comply with the conditions of his nonimmigrant status—into a shield from removal from the United States. Petitioner apparently seeks relief in the form of suspension of his removal proceeding.<sup>10</sup>

However, nothing in the American Declaration recognizes a human right to evade removal from the United States for failure to comply with the immigration laws of the United

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<sup>8</sup> Petition.

<sup>9</sup> See Petition.

<sup>10</sup> See Petition.



States. On the contrary, the American Declaration affirms that “[i]t is the duty of every person to obey the law and other legitimate commands of the authorities of his country and those of the country in which he may be.”<sup>11</sup> It is also a general principle of law recognized by international courts and tribunals that an unlawful act cannot serve as the basis for a claim under international law.<sup>12</sup> The Petitioner nevertheless seeks to use his detention arising from his own wrongful failure to comply with the conditions of his nonimmigrant status as the basis for circumventing removal proceedings in the United States. The Commission should not allow itself to be used for such a purpose.

Moreover, to the extent that Petitioner claims that his allegations were not investigated and that he was not notified of the results—his ostensible justification for failing to invoke and exhaust domestic remedies—that allegation is refuted by the record. The Petitioner’s detention was subject to an internal review by CBP in 2012, which concluded that the Petitioner’s rights had not been violated by procedural errors that led to a delay in the processing of the Petitioner’s case. Moreover, an investigation of the Petitioner’s 2013 complaint to CBP conducted by DHS/CRCL similarly found that procedural errors delayed the processing of the Petitioner’s case but concluded that the allegations of excessive force were unsubstantiated. The Petitioner was issued a letter by DHS/CRCL reporting the results of its investigation in November 2015. Although the American Declaration imposes no such duty upon the United States, here, the relevant authorities did conduct investigations into the allegations made by the Petitioner and take other appropriate measures, consistent with U.S. law. None of the investigations or reviews of the facts alleged in the Petition have led to the conclusion that rights under U.S. law or under international human rights instruments have been denied or affected by government action, inaction, or acquiescence.

For these reasons, the Petition does not state facts that tend to establish a violation of the American Declaration and is manifestly groundless, and is meritless for the same reasons. It must therefore be dismissed.

#### IV. THE PETITION IS MERITLESS

Even if the Commission could overcome these many barriers and proceeded to examine the Petitioner’s allegations—which it plainly lacks the competence to do—it should find the allegations without merit and deny the Petitioner’s request for relief. The Petitioner has not alleged facts cognizable as violations of the American Declaration.

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<sup>11</sup> American Declaration. Art. XXXIII.

<sup>12</sup> See, e.g., BIN CHENG, GENERAL PRINCIPLES OF LAW AS APPLIED BY INTERNATIONAL COURTS AND TRIBUNALS (2006) 149–57 (discussing principle that *nullus commodum capere de sua injuria propria*).



## V. CURRENT STATUS OF PETITIONER

The Petitioner's removal proceedings were terminated on February 28, 2017, after his application for an immigration benefit was approved.

## VI. ADDITIONAL INFORMATION

As a courtesy to the Commission, we provide additional information on the relevant domestic legal framework and the DHS complaint process.

The INA establishes the process by which aliens may seek to enter the United States and the processes by which aliens may be removed from or denied entry to the United States if they do not comply with its requirements. The INA provides, for example, that an alien who has been admitted to the United States is removable if the alien "was admitted as a nonimmigrant and . . . has failed to maintain the nonimmigrant status in which the alien was admitted . . . ." INA §237(a)(1)(C)(i), 8 U.S.C. § 1227(a)(1)(C)(i). The INA also provides the methods by which an alien may challenge such a determination. Finally, U.S. law and DHS policies protect aliens from being subject to abuse or torture while they are in DHS custody. U.S. law also prohibits retaliation or reprisal by any Federal employee against a person who makes a complaint or discloses information to a privacy officer or civil liberties officer.

The Supreme Court has recognized that the U.S. Border Patrol, a sub-Component of CBP, has legal authority to operate checkpoints on certain routes near the U.S. international border that serve the primary purpose of aiding its immigration enforcement mission. See *United States v. Martinez-Fuerte*, 428 U.S. 543 (1976).

### *DHS Complaint Investigations*

As discussed in greater detail above, prior to receiving this Petition, DHS received complaints regarding the petitioner's encounters with CBP, including a complaint submitted by the Petitioner himself in 2013. DHS has many avenues for individuals and advocacy organizations to make complaints involving DHS employees or programs or alleged violations of civil rights and civil liberties, seek travel redress, and submit other types of grievances. Reprisal against complainants to a DHS privacy officer or civil liberties officer is unlawful. The discussion below provides details about three relevant DHS complaint avenues; however, please see the following link for a comprehensive listing of DHS complaint avenues: <https://www.dhs.gov/how-do-i/provide-feedback-dhs#>.

The DHS Office of Inspector General (OIG): DHS/OIG is the primary investigative agency of criminal and non-criminal misconduct by DHS employees and contractors, as well as theft or misuse of DHS funds, property, or programs. DHS/OIG has the authority to



investigate claims of civil rights abuses and whistleblower and retaliation matters within the Department. Complaints to the DHS/OIG may be submitted online at <https://hotline.oig.dhs.gov/hotline/hotline.php>, via telephone at 1-800-323-8603 or 1-844-889-4357 (TTY), via fax at 1-202-254-4297, or in writing to:

DHS Office of Inspector General/Mail Stop #0305  
Attn: Office of Investigations - Hotline  
245 Murray Lane SW  
Washington, DC 20528-0305

The DHS Office for Civil Rights and Civil Liberties (CRCL): DHS/CRCL reviews and investigates civil rights and civil liberties complaints filed by the public regarding DHS policies and activities. Complaints sent to CRCL are accepted in languages other than English. Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL reviews and assesses allegations involving a range of alleged civil rights and civil liberties abuses, such as: discrimination based on race, ethnicity, national origin, religion, sex, sexual orientation, gender identity, or disability; violation of rights while in immigration detention or as a subject of immigration enforcement; discrimination or inappropriate questioning related to entry into the U.S.; violation of due process rights, such as the right to timely notice of charges or access to lawyer; violation of confidentiality provisions of the Violence Against Women Act; physical abuse or any other type of abuse; denial of meaningful access to DHS or DHS-supported programs, activities, or services due to limited English proficiency; and any other civil rights, civil liberties, or human rights violation related to a Department program or activity, including allegations of discrimination by an organization or program that receives financial assistance from DHS.

Once DHS/CRCL opens a complaint, it refers the complaint to DHS/OIG which has the right of first refusal. If DHS/OIG declines to investigate the allegations, DHS/CRCL determines whether to refer the complaint to the appropriate Component for investigation or to conduct the complaint investigation itself. If referred, the Component reports its findings to DHS/CRCL. Upon review of those findings, DHS/CRCL works with the Component to resolve the complaint. If retained, DHS/CRCL staff conducts the investigation to determine if the factual allegations in the complaint can be verified. Regardless of whether the investigation is conducted by DHS/CRCL or a Component, DHS/CRCL may recommend steps to be taken by the Component to address issues of concern.

DHS/CRCL makes formal recommendations stemming from its investigations to DHS Components to rectify gaps in civil rights or liberties protections related to DHS policies, practices, and training. DHS/CRCL does not order individual relief or redress for a complainant except for disability accommodation claims under the Rehabilitation Act of



1973. Complaints may be submitted via email to [CRCLCompliance@hq.dhs.gov](mailto:CRCLCompliance@hq.dhs.gov), via online at <https://www.dhs.gov/sites/default/files/publications/crcl-complaint-submission-form-english.pdf>, via fax at 202-401-4708. The complaint form is available online in multiple languages. Complaints may also be submitted in writing to:

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

DHS U.S. Customs and Border Protection: In addition to reporting a complaint to DHS/OIG or DHS/CRCL, complaints involving U.S. Immigration and Customs Enforcement (ICE) or CBP employees can be sent to the Joint Intake Center (JIC). Allegations of misconduct received by the JIC are screened by the OIG and, when warranted, are returned to the JIC for appropriate action by the ICE Office of Professional Responsibility or the CBP Office of Professional Responsibility.

DHS Components also have various procedures for investigating and evaluating complaints regarding misconduct. CBP accepts complaints from all individuals, including employees, travelers, and advocacy groups, through multiple programs.

Complaints may be submitted online at <https://help.cbp.gov/app/forms/complaint> or in writing to:

CBP Information Center/Mail Stop #1345  
U.S. Customs and Border Protection  
1300 Pennsylvania Ave., N.W.  
Washington, DC 20229

## VII. CONCLUSION

For the foregoing reasons, the Petition fails to satisfy the threshold for consideration under Articles 31 and 34 of the Rules. Should the Commission nevertheless find the Petition admissible and proceed to examine its merits, it should find the Petition meritless for the reasons described above. While the United States reserves the right to provide further views on the merits in such an eventuality, it reiterates that none of the conduct alleged in the Petition implicates—much less violates—any of the rights set forth in the American Declaration.

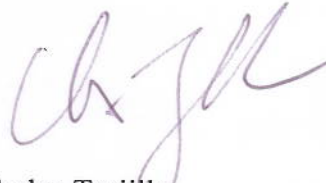
Finally, as one of the strongest supporters of the Commission and by far its largest financial contributor, the United States continues to have concerns about the efficient



management of the Commission's resources. It is unclear why this Petition was forwarded to the United States despite its obvious inadmissibility. In any event, further consideration of the present matter would not be a prudent use of the Commission's limited resources.

Please accept renewed assurances of my highest consideration.

Sincerely,

A handwritten signature in purple ink, appearing to read 'Ch. Trujillo', is written above the printed name.

Carlos Trujillo  
Ambassador