



**Policing and Human Rights Violations of Low-Wage Immigrant Workers
in Immokalee, Florida**

**Shadow Report Submission to the
Committee on the Elimination of Racial Discrimination (CERD)
For the United States Review
Submitted on July 14, 2022**

Submission coordinated by:
University of Miami School of Law Human Rights Clinic

Denisse Córdova Montes, *Acting Associate Director*
Maria Alfaro, *Student Intern*
Laura Leira, *Student Intern*
Abril Montero Dokser, *Student Intern*
Laura Silva, *Student Intern*
Max Zoberman, *Student Intern*

1311 Miller Drive, Coral Gables, FL 33146
www.law.miami.edu/hrc | 305-284-2939 | dordova@law.miami.edu

I. Introduction

1. In the last three years, the United States (“U.S.”) has reached a moment of reckoning when it comes to the relationship between the nation’s police forces and its historically marginalized communities—primarily ones of lower socioeconomic strata and almost always Black and Brown in color. For the residents of Immokalee, Florida—an overwhelmingly Latinx community where the local economy revolves around a robust farm labor sector—this is all too well known.

a. The Shooting of Nicolás Morales Besanilla

2. On September 17, 2020, three Collier County Sheriff’s Office (“CCSO”) officers responded to a 911 disturbance call in Immokalee, Florida. When the officers arrived at the scene, they encountered a shirtless and barefoot man. Corporal (“Cpl.”) Jean immediately yelled in English, “Hey, don’t come over here! Hey, get on the ground! Get on the ground!”¹ Within 15 seconds of police arrival, Nicolás Morales Besanilla was shot four times.² After being shot, Nicolás was attacked and mauled by the response team’s K-9, which was not successfully pulled off of Nicolás for 57 seconds.³ First-aid assistance was not administered to Nicolás until after a full minute and 10 seconds passed. Eventually, Nicolás was transported to NCH Northeast, where he was pronounced dead, leaving behind a 13-year-old son.⁴ Nicolás Morales Besanilla was a father, a brother, and—like many Immokalee residents—a Hispanic farmworker.⁵ Even though, one of the three officers that responded to the call spoke Spanish, all the officers only communicated with Nicolás in English before shooting him.⁶ Not only did Nicolás not speak English (like the majority of Immokalee residents)⁷, but he also had a mental health history and was going through an episode during his encounter with the CCSO police. Nicolás’ death was followed by a strong public outcry from the community of Immokalee, who were demanding answers.⁸ However, despite the strong public reaction, the circumstances of the case, the officers’ actions, and the contradictory statements of the CCSO⁹, the State Attorney’s Office and the CCSO Professional Responsibility Bureau concluded that the officers—including Cpl. Jean—acted appropriately and should not receive any discipline whatsoever.¹⁰
3. When the State Attorney’s investigatory report of the shooting was released on February 10, 2021, it was highly contested, leaving many Immokalee community members and organizations unsatisfied

¹ https://www.youtube.com/watch?v=Hn2_6d2nJaA.

² *Id.*

³ *Id.*

⁴ CCSO, Press Release (Sept. 17, 2020).

[https://www.facebook.com/colliersheriff/photos/a.564903556902764/3405441649515593/?type=3&_xts__\[0\]=68.ARAEHOpk4qZOg-JtzmkrUtl3eCOSDFkVp6bjna0iMOPfcg6uNEen1jtxvZnkag5ROZAGMB9wSH3-ohQfpB3VjGkztxqsZbh1XjV-s983V2fSG_0nJyBLRy3ja1JHHTxxRSdGvkwKTN1oec_UMx9A8g-swKIHhTCO4X9rRz2Sylq5tlqrO4XhmLrGIe5jFYR9D0w7BKnm7ZyVwaOsJsiACXr9c06HDU7ZvueP-04FpzwMe9OqysRoDxAzpZfl2olFntN2I5DBHet4LBUPCByrMPcQV_PdSBoFtj_ewzQYze48uDRuTDXJcPr28qliR4oVUfH2YLyuHHqOIepOprQ1w](https://www.facebook.com/colliersheriff/photos/a.564903556902764/3405441649515593/?type=3&_xts__[0]=68.ARAEHOpk4qZOg-JtzmkrUtl3eCOSDFkVp6bjna0iMOPfcg6uNEen1jtxvZnkag5ROZAGMB9wSH3-ohQfpB3VjGkztxqsZbh1XjV-s983V2fSG_0nJyBLRy3ja1JHHTxxRSdGvkwKTN1oec_UMx9A8g-swKIHhTCO4X9rRz2Sylq5tlqrO4XhmLrGIe5jFYR9D0w7BKnm7ZyVwaOsJsiACXr9c06HDU7ZvueP-04FpzwMe9OqysRoDxAzpZfl2olFntN2I5DBHet4LBUPCByrMPcQV_PdSBoFtj_ewzQYze48uDRuTDXJcPr28qliR4oVUfH2YLyuHHqOIepOprQ1w).

⁵ Coalition of Immokalee Worker, *Family of Nicolás Morales: “We are fighting for the truth...”* (Oct. 30, 2020). <https://ciw-online.org/blog/2020/10/family-of-nicolas-morales-we-are-fighting-for-the-truth/>.

⁶ See https://www.youtube.com/watch?v=Hn2_6d2nJaA.

⁷ See Immokalee, FL Demographics. <https://www.areavibes.com/immokalee-fl/demographics/>.

⁸ *Id.*

⁹ *Id.*

¹⁰ Rachel Heimann Mercader, *Protesters demand justice, accountability year after deputy shot, killed Immokalee man*, Naples Daily News (Sept. 19, 2021). <https://www.naplesnews.com/story/news/2021/09/19/protesters-demand-justice-year-after-nicolas-morales-besanillas-death/8347492002/>.

and skeptical of government and law enforcement.¹¹ The CCSO released footage of the encounter five months after Nicolás was shot,¹² and that was after months of vigils and protests demanding answers.¹³ The events following the shooting, including conflicting press releases and the dashcam footage prompted the community to demand accountability from all parties involved. The Coalition of Immokalee Workers (“CIW”) on behalf of the Immokalee community asks for (1) a federal investigation into the death of Nicolás Morales Besanilla; (2) the creation of an effective and responsive mental health crisis team that would serve all of Collier County, including and especially in Immokalee; and (3) the reformation of the current CCSO’s Citizen’s Review Panel (“CRP”) and establishment of an Immokalee CRP.¹⁴

b. Human Rights Fact-Finding Methodology and Summary Findings

4. This submission describes the relationship between the Immokalee community and the CCSO and finds that the U.S., the State of Florida, and the local government of Collier County are in violation of their human rights obligations pursuant to the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination (“ICERD”). Immokalee, Florida, an unincorporated community approximately 50 miles from the state’s Gulf Coast, is home to almost 27,000 residents. Among them, approximately three quarters are Latinx, nearly half are foreign-born, and of those foreign-born members of the community, almost 80% are non-citizens.¹⁵ It is a community culturally rich, but statistically impoverished—recording a level of poverty almost three-times the state and national average.¹⁶ While Immokalee is technically represented by the government of Collier County, the municipal government treats Immokalee with political indifference and denies it meaningful political representation—a consequence of its demographic constituency, its geographic isolation, and its unincorporated status.
5. In partnership with community stakeholders like the CIW, faculty and student clinicians with the University of Miami School of Law Human Rights Clinic (“UMHRC”) traveled to Immokalee and engaged dozens of individuals from the community, including farmworkers and their families, advocates, and religious leaders for interviews.¹⁷ In addition, the UMHRC attended community meetings and gatherings in Immokalee, Naples, and via Zoom with Immokalee and Naples-based stakeholders, including CCSO representatives.¹⁸ The UMHRC also made several attempts to conduct individual interviews with the CCSO; however, our numerous email requests went unanswered and in one case, we received a verbal rejection via the telephone.

¹¹ Thaddeus Mast and Omar Rodrigues Ortiz, *Immokalee residents demand justice at vigil for single father killed by Collier deputy*, Naples Daily News (Feb. 28, 2021). <https://www.naplesnews.com/story/news/2021/03/01/vigil-held-immokalee-man-killed-collier-county-deputy/6842063002/>.

¹² Hugh Starnes, *Guest opinion: An opportunity lost*, News-Press (Feb. 21, 2021). <https://www.news-press.com/story/opinion/2021/02/21/nicholas-morales-besanilla-collier-county-immokalee-shot-deputies-homicide/6778953002/>.

¹³ Andrea Perdomo, *Vigil Held For Immokalee Man Fatally Shot by Collier Sheriff’s Office Deputy*, WGCU (Sept. 19, 2020). <https://news.wgcu.org/2020-09-19/vigil-held-for-immokalee-man-fatally-shot-by-collier-sheriffs-office-deputy>.

¹⁴ *WE CALL FOR: Justice for Nicolas; Transparency, accountability, and community partnership in Immokalee...*, Coalition of Immokalee Workers (Feb. 21, 2021). <https://ciw-online.org/blog/2021/02/we-call-for-justice-for-nicolas-transparency-accountability-and-community-partnership-in-immokalee/>

¹⁵ <https://data.census.gov/cedsci/table?q=immokalee&tid=ACSST5Y2020.S0502>; Accessed April 2, 2022.

¹⁶ *Id.*

¹⁷ All individuals interviewed were promised anonymity; thus, quotes are presented anonymously. It should be noted that the authors of this submission made the decision to present quotes from these interviews in their original language. If the language spoken by the person interviewed was not English, then an English translation can be found in the footnotes.

¹⁸ The UMHRC attended a Collier County Citizens’ Review Panel meeting on September 1, 2021, the vigil of the one-year anniversary of Nicolás Morales Besanilla on September 17, 2021, and the Immokalee inter-agency meeting on March 9, 2022.

6. In its prior review of the U.S., this Committee explicitly called upon the State to “ensure the rights of non-citizens are fully guaranteed in law and in practice,” by among other steps “reviewing its laws and regulations in order to protect all migrant workers . . .”¹⁹ The Committee’s call to action was driven in part by its concern regarding the “increasingly militarized approach to immigration law enforcement” and, as a consequence, non-citizens’ lack of “adequate access to justice.”²⁰ Consequently, the U.S., the state of Florida, and Collier County must take steps to ensure community members of Immokalee, part of the Florida community, the enjoyment of all rights enumerated under Article 2 (prohibiting public authorities and institutions from engaging in racial discrimination)²¹, Article 5 (prohibiting discrimination and guaranteeing equality before the law)²², and Article 6 (asserting States’ obligation to ensure individuals within their jurisdictions protections and remedies for racially discriminatory acts)²³ of the Convention.
7. In light of these findings, the U.S. government must take steps at different levels to ensure the realization of rights enshrined in Article 5 of the ICERD, among other things, addressing overzealous policing and the use of force, providing full civic access through the establishment of a District Eight CRP or a reformed Collier County CRP, and providing Immokalee with an option for incorporation or an equivalent self-governing council, addressing the lack of adequate housing, and providing for the establishment of effective local medical care. Moreover, urgent attention must be given to the establishment of a District Eight CRP or a reformed Collier County CRP given the recent decision by the Collier County CRP to suspend all public meetings or be recorded citing security concerns.²⁴
8. This report is comprised of four primary sections. The first part describes the history and current context in Immokalee. The second part sheds light on the findings from our human rights fact-finding related to the right to equal treatment and security of persons, the right to meaningful access to government and public services, and the right to health. Finally, this submission includes a human rights analysis on the basis of applicable human rights frameworks and recommendations on how to address these pressing human rights issues affecting migrant farmworkers in Immokalee.

II. Background

a. Immokalee’s History

9. Immokalee, which means “your home” in Mikasuki language,²⁵ has a rich history of cattle herding and ranching due to Native American tenure and stewardship of the land as ranchers. By the late 19th century, Immokalee was overrun with pioneers looking to establish homesteads.²⁶ When the swamps were drained in the region, agriculture became the dominant industry. The extension of the Atlantic

¹⁹ Comm. On Elimination Racial Discrimination, Concluding Observations On The Combined Seventh To Ninth Periodic Reports Of United States Of America, ¶ 18(c), U.N. Doc. CERD/C/USA/CO/7-9 (Aug. 29, 2014) [hereinafter CERD Co Seventh To Ninth].

²⁰ *Id.* at ¶18.

²¹ [International Convention on the Elimination of All Forms of Racial Discrimination](#) (1965), Art. 2.

²² *Id.* at Art. 5.

²³ *Id.* at Art. 6.

²⁴ Naples Daily News, Collier Sheriff’s Citizen Watchdog Panel Refuses to Meet or Be Recorded (June 6, 2022), <https://www.naplesnews.com/restricted/?return=https%3A%2F%2Fwww.naplesnews.com%2Fstory%2Fnews%2Flocal%2F2022%2F06%2F06%2Fcollier-sheriff-citizen-watchdog-panel-refuses-meet-transparent%2F7269086001%2F>.

²⁵ Jennifer Mascia, *Everything You Ever Wanted to Know About Immokalee, Fla.*, New York Times (June 15, 2011).

²⁶ WVCU, *Immokalee, Florida- Part One: Outpost of Opportunity*, Untold Stories, WVCU PBS & NPR for Southwest Florida (Oct. 31, 2019). <https://www.youtube.com/watch?v=BVOXzAqdzyo>.

Coastline Railroad provided a link from the gulf coast to the eastern seaboard²⁷ opening up transportation and access to other industries that were previously impossible, namely the lumber and sawmill industries.²⁸ By the 1930s, Immokalee became an agricultural epicenter for southern Florida, a trend which has only grown.

10. Today, Immokalee is one of the major centers of tomato growing in the U.S.,²⁹ but this came at a high cost. In the 1960s, different investigations conducted by organizations, like CBS news, reported that the region's working and living conditions made migrant workers' lives harsh, to say the least.³⁰ In a survey in 21 states conducted by the National Council of churches in the 1960s, the farmworkers themselves listed the evils of camp life: poor housing conditions, overcrowding, flies, dirty beds and mattresses, unsanitary toilets, and lack of hot water for bathing.³¹ Even though working conditions have significantly improved, mainly because of the work of human rights advocates with the CIW, whose work has improved on-farm conditions at growers who participate in its Presidential Medal-winning Fair Food Program. Yet more broadly, farmworker communities—Immokalee being one of them—continue facing low wages, inadequate access to basic services, and discrimination.³²

b. Present-day Disparities Inside Collier County

11. The contrast between Immokalee and its neighboring communities, such as Naples, Bonita Springs, and Fort Myers, could not be greater.³³ Naples is known as one of the wealthiest communities in the country,³⁴ but Immokalee—which is about 50 minutes away—has an alarmingly high poverty level.³⁵ Florida's poverty rate is 15.5% and Immokalee's poverty rate is 43.4%; this means that Immokalee has a drastically higher than average percentage of residents who live below the State's poverty line.³⁶ These statistics show that 1 out of every 2.3 Immokalee residents live in poverty.³⁷
12. To make a dire situation even more delicate, Immokalee is an unincorporated area. This means that such communities generally lack representation, which can lead to “political exclusion and diminished access to resources, especially for low-income communities of color.”³⁸ Additionally, such residents can be “subsumed into county or census tract data that may not be reflective of their community's composition or context. Without jurisdictional distinction in research, there is no accountability for the manufacturing of inequities in unincorporated communities.³⁹ Moreover, unincorporated communities cannot necessarily count on county governments to replace local governments because county governments have macro-management responsibilities and their primary focus is to work on behalf of the state and all county constituents, not solely on behalf of their unincorporated residents.⁴⁰

²⁷ *Id.*

²⁸ *Id.*

²⁹ Mark Bittman, *The True Cost of Tomatoes*, (June 14, 2011).

³⁰ Jennifer Mascia, *Everything You Ever Wanted to Know About Immokalee, Fla.*, New York Times (June 15, 2011).

³¹ *Harvest of Shame* Documentary. https://www.youtube.com/watch?v=yjTVF_dya7E&t=1078s.

³² See *Interview conducted by the University of Miami School of Law Human Rights Clinic*, December 2021 – April 2022.

³³ *About Immokalee*, Guadalupe Center. <https://www.guadalupecenter.org/about/immokalee/>.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Poverty in Immokalee, Florida*, WelfareInfo. <https://www.welfareinfo.org/poverty-rate/florida/immokalee>.

³⁷ *Id.*

³⁸ Cristina Gomez-Vida and Anu Manchikanti Gomez, *Invisible and unequal: Unincorporated community status as a structural determinant of health*, ScienceDirect (Sep. 2021). <https://www.sciencedirect.com/science/article/pii/S0277953621006249>.

³⁹ *Id.*

⁴⁰ Danielle M. Purifoy, *Living Unincorporated*, Duke Human Rights Center at the Franklin Humanities Institute. <https://humanrights.fhi.duke.edu/living-unincorporated/>.

As a result, unincorporated communities cannot easily hold leaders accountable or have their voices heard in local governments.⁴¹

c. Immokalee's Immigrant History

13. The great majority of farmworkers and residents in Immokalee are of Latin American immigrant backgrounds. The 2020 U.S. Census broke down Immokalee's racial composition the following way: Pacific Islander 0.01%, Asian 0.15%, Native American or Alaska Native 0.29%, Other 0.31%, Multi-racial 0.97%, White non-Hispanic 2.89%, Black or African American 19.85%, and Hispanic 75.53%.⁴²
14. Many Immokalee residents immigrated to work for a better life for themselves and their families, and many others believed they did not have another choice but to move because of circumstances out of their control.⁴³ Most Immokalee residents immigrated from Mexico, some countries in Central and South America, and others from Caribbean islands mainly Haiti. Many Guatemalans immigrated to the U.S. to escape from the guerrilla wars, gang violence, and their government. One farmworker with the CIW shared that some Guatemalan farmworkers active with the CIW moved to the U.S. to escape from the "escuelitas" (or "little classrooms"), which were places people who protested against the government were taken to be tortured and raped.⁴⁴ Mexico has a similar situation. The devaluation of agricultural products, like corn, as a result of NAFTA, was a factor that forced people to leave because they could no longer make a living by farming lands in Mexico. But violence due to cartels and government corruption, which generate more poverty, continue to be a dominant reason. One Mexican farmworker and Immokalee resident said, "When deciding whether to leave their home country, people feel like they have no choice. They believe that if they stay they will die sooner or later protecting themselves or their families."⁴⁵ Haiti is another country people immigrate from because of the corruption, poverty, violence, and high magnitude earthquakes that repeatedly slam the country. "All these things force people to leave their home in search of a better life. Many people escaped to come to Immokalee and here they form their new families by looking for political asylum, H2-A visas, etc." said a CIW staff member.⁴⁶
15. Culture, and more specifically immigrants not wanting to share their struggles and humiliation, is another important factor that contributes to immigration to Immokalee and the U.S. One CIW farmworker said,

"I think people come to Immokalee because of what people hear from Mexico and likely other countries. When people leave and come to the U.S. and things go bad, things like situations of different types of abuse, people do not share those stories. For example, there was this case about some women working in a factory in Arkansas. They were pregnant and lost their babies because they were not allowed to take breaks because the factory managers wanted to keep the production line going. People do not share these sad stories because they feel sad and humiliated. So yes, we make money in dollars, but we also suffer in dollars. Latinos, or simply human beings, do not want to publicize how they are humiliated. Pride does not allow us to show how we were undignified."⁴⁷

⁴¹ *Id.*

⁴² *United States Census Bureau.* <https://data.census.gov/cedsci/table?g=1600000US1233250&tid=DECENNIALPL2020.P2>.

⁴³ Interview with CIW farmworkers and staff members.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

The same CIW farmworker said,

“The reason [for immigrating is] desperation. Why else would anyone want to go to a country that does not welcome you? Where a different language is spoken. Where you have to give away your labor almost for free. Where you are discriminated against. Where they see you as an alien, as an illegal. What price would you give or how much would you value not being able to see your family for months, for years? Not being able to hug them for so long. Desperation wins. That is something that many times people do not understand. Many times, people just say immigrants are “better” here, but it is hard and controversial sometimes to define “better.” This is not to blame people or the path some had or chose to take, but that path should not be as heavy to walk through as it is.”⁴⁸

d. The Coalition of Immokalee Workers

16. All these difficulties in the farmlands and in the community brought in 1993 a small group of workers to meet and discuss how to improve their lives and working conditions.⁴⁹ This group later became known as the Coalition of Immokalee Workers (“CIW”).⁵⁰ The CIW started by meeting weekly in a room borrowed from a local church.⁵¹ Today this organization has assisted in several investigations and federal prosecutions of slavery operations in Floridian agriculture⁵², received the “2010 Hero Acting to End Modern-Day Slavery Award”, raised industry-wide salaries between 13 to 25%⁵³, and subsequently pioneered the Fair Food Program which promotes transparency and accountability in the corporate food supply chain and effectively eradicates modern slavery on participating farms.⁵⁴ The CIW is worker-based and open to the community focusing on social responsibility, human trafficking eradication, and elimination of gender-based violence at work by collaborating with farm owners and through community awareness, activism, and education.

e. Farmworkers are Not Protected Under the National Labor Relations Act

17. Organizations like the CIW fill a big gap in the farmworker area “because [under Federal law] agricultural laborers are one of only two classes of workers excluded from the protection of the National Labor Relations Act”⁵⁵ (“NLRA”). Nonprofit organizations like the CIW help farmworkers secure protection of their rights at work in other ways. Although federal and state laws do not explicitly prohibit “farmworkers from unionizing, they withhold labor protections that make unionizing easier.”⁵⁶ Without the protection of the NLRA, farm owners in States where bargaining is not

⁴⁸ *Id.*

⁴⁹ See National Farm Worker Ministry. [https://nfwm.org/farm-workers/farmworker-partners/coalition-of-immokalee-workers/#:~:text=The%20Coalition%20of%20Immokalee%20Workers%20\(CIW\)%20formed%20in%201993%20as,tomato%20industry%20had%20been%20declining.](https://nfwm.org/farm-workers/farmworker-partners/coalition-of-immokalee-workers/#:~:text=The%20Coalition%20of%20Immokalee%20Workers%20(CIW)%20formed%20in%201993%20as,tomato%20industry%20had%20been%20declining.)

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² John Bowe, *Nobodies: Does Slavery Exist in America?*, *The New Yorker* (April 2003). [https://www.newyorker.com/magazine/2003/04/21/nobodies.](https://www.newyorker.com/magazine/2003/04/21/nobodies)

⁵³ National Farm Worker Ministry. [https://nfwm.org/farm-workers/farmworker-partners/coalition-of-immokalee-workers/#:~:text=The%20Coalition%20of%20Immokalee%20Workers%20\(CIW\)%20formed%20in%201993%20as,tomato%20industry%20had%20been%20declining.](https://nfwm.org/farm-workers/farmworker-partners/coalition-of-immokalee-workers/#:~:text=The%20Coalition%20of%20Immokalee%20Workers%20(CIW)%20formed%20in%201993%20as,tomato%20industry%20had%20been%20declining.)

⁵⁴ *CIW receives Presidential Medal for Extraordinary Efforts in Combatting Modern-Day Slavery at White House Forum*, Coalition of Immokalee Workers (Jan. 2015). [https://ciw-online.org/blog/2015/01/presidential-medal-combatting-slavery/.](https://ciw-online.org/blog/2015/01/presidential-medal-combatting-slavery/)

⁵⁵ See Jaclyn Reilly, *Agricultural Laborers: Their Inability to Unionize Under the National Labor Relations Act*, at ¶ 1-3. [https://pennstatelaw.psu.edu/file/aglaw/Publications_Library/Agricultural_Laborers.pdf.](https://pennstatelaw.psu.edu/file/aglaw/Publications_Library/Agricultural_Laborers.pdf)

⁵⁶ *Id.*

specifically protected, “do not have to recognize the union nor will they face any consequences in failing to recognize, which is in stark contrast with employers in other industries.”⁵⁷ This lack of protections deter farmworkers from unionizing because they fear “the backlash they could face from employers without any recourse to protect themselves from retaliatory practices or [from] the general refusal of employers to bargain.”⁵⁸ Besides lacking the protections to join unions and participate in collective bargaining they are not eligible for unemployment insurance and also lack basic labor protections such as health insurance, workers’ compensation, and disability insurance.⁵⁹ Only a few states, like California, have passed “any legislation protecting the organizing, collective bargaining, and unionization rights of agricultural workers.”⁶⁰ Moreover, the Fair Food Program⁶¹ has filled the federal labor protections gap by providing gold standard protections for farmworkers under a human rights program that is designed, monitored, and enforced by workers.

III. Human Rights Findings

a. Overpolicing Immokalee: *“Las personas necesitan ayuda, no necesitan que les arresten o disparen.”*⁶²

18. The interviews conducted in Immokalee reveal deteriorating interactions between the local law enforcement officers and Immokalee community members.⁶³ The forthcoming paragraphs describe instances of police officers that do not seem to have Immokalee residents’ best interest in mind. Those interviewed reported that instead, police officers engage in harassment of crime victims or actively try to identify undocumented people through racial profiling. Furthermore, officers are unwilling to be part of, learn from, teach, or engage with the community, which together with their targeting of immigrants builds distrust in the community. Finally, interviews repeatedly described that Immokalee residents as experiencing constant intimidation through over policing and escalating situations as well as aggressive police reactions, including during police responses to mental health situations, which leads Immokalee residents to believe that there is no police accountability.⁶⁴

Police officers do not protect Immokalee residents from crimes, but rather community members fear making any reports because of the lack of trust and the fear of being blamed, investigated, or targeted.⁶⁵

19. Many Immokalee residents expressed hesitation to report crimes because they do not think the police will take any action or because residents do not think the police have the residents’ best interests in mind.⁶⁶ One participant said, “Lo pensaría muy bien si me roban la casa antes de llamar a la policía . . . Una vez nos robaron las cosas cuando mi niña era muy chiquita . . . [pero la policía nadamás hacen el reporte y no hacen más.”⁶⁷ The community has gotten used to petty theft and to the fact that petty

⁵⁷ See Jaclyn Reilly, *Agricultural Laborers: Their Inability to Unionize Under the National Labor Relations Act*, at ¶ 1-3.

⁵⁸ *Id.*

⁵⁹ See *U.S. Labor Law for Farm Workers*, National Farm Worker Ministry (June 2018). <https://nfwm.org/farm-workers/farm-worker-issues/labor-laws/>.

⁶⁰ *Id.*

⁶¹ See *The Fair Food Program*, <https://fairfoodprogram.org>.

⁶² See *Interview conducted by the University of Miami School of Law Human Rights Clinic*; December 2021 – April 2022. [“people need help, they don’t need to be arrested or shot at.”]

⁶³ *See id.*

⁶⁴ *See id.*

⁶⁵ *See id.*

⁶⁶ *See id.*

⁶⁷ *Id.* [“I would think about it carefully if my house was robbed before calling the police . . . One time our things were stolen when my girl was little . . . but the police only file a report and nothing else.”]

crimes are increasing.⁶⁸ Another participant said they do not call the police because “[l]a situación escala” and residents want to avoid these situations that can end up being worse than the crime they are reporting.⁶⁹

20. Instead of protecting Immokalee residents from Immokalee’s prominent crimes, those interviewed reported that police officers either harass the victims that report crimes or focus their energies on identifying undocumented people, particularly through minor traffic infractions.⁷⁰ Residents described police officers giving tickets for as many minor offenses as possible. One resident said, “[l]os choferes tienen miedo porque creen que ver a un policía es como recibir un ticket automático.”⁷¹

21. When Immokalee residents decide to report crimes, they feel as if the police officers do not care about their issues or, even worse, are out to get them instead of serving and protecting them.⁷² One participant shared her experience when she reported her rape to the police:

“I’ve always had a big fear of the police, but about two days after [the rape] happened I reported the person. The police told me they were going to arrest him, but the police never did. I think I regret reporting it because nothing happened, and some people ended up knowing about it. . . I reported the rape in person at the police station. I went to Naples to have a rape kit done and I spoke with a female detective from Naples. . . . I don’t really trust the police anymore and I don’t know what they are going to do now because [my rapist] has left Immokalee to another state. I’ve heard about people who get stopped by the police for not having lights on their bicycles. And about situations where more than one police car come to the scene for a minor traffic infraction or small things like this. But then, when there are more serious things, the police do not do anything.”⁷³

Another participant shared her experience when reporting her stolen phone:

“One time when I was working at a store, I left my phone on the counter . . . [w]hen I returned the phone was gone. I was able to find it through the location app, but when I did my phone was on the floor in a corner all broken. . . I went to the police with video evidence of the person that stole my phone. I knew it wasn’t a serious crime, but my phone was damaged, and my old Guatemalan ID was stolen. But when I went to the station and explained what happened to the police, one of the cops just told me ‘Why do you want your ID from your other country?’ I knew that my situation was not very serious, but it was still a crime. The lesson I took from this experience was to never report crimes, because there are many things the police does not care about, and they will not do anything about it.”⁷⁴

22. The bias towards Immokalee residents—expressed mainly through racial profiling and active targeting—and the lack of care for protecting and serving the community builds mistrust towards the police. One participant said, “I don’t feel safe with cops. I do not feel safe with them, mainly because of how they treat people.”⁷⁵

⁶⁸ *See id.*

⁶⁹ *Id.* [“the situation escalates.”]

⁷⁰ *See id.*

⁷¹ *Id.* [“drivers are afraid because they think that looking at a police officer is the same as getting an automatic ticket.”]

⁷² *See id.*

⁷³ *See id.*

⁷⁴ *See id.*

⁷⁵ *Id.*

23. Furthermore, residents explained that police officers do not care about teaching or communicating with the community. One resident said, “Te paran por no encender las luces de la bicicleta. Ticket.”⁷⁶ Another participant expressed that education regarding societal norms and laws in the U.S. would go a long way given the differences between the U.S. and Latin American countries.

“En Centro América, cuando la gente regresa del trabajo, se compran una cerveza, y toman mientras caminan a casa. Pero aquí, [caminar con cerveza] no es legal y simplemente arrestan y no dan un chance de enseñar. Hay veces que se las quitan [las cervezas] y ya. Otras veces lo arrestan.”⁷⁷

The issue is not just that there is a language barrier between the community and the police, but also that some police officers do not want to communicate with the community or are actively targeting Immokalee residents.⁷⁸

24. Participants reported that most police officers only speak English, thus Immokalee residents have to wait a long time for a Spanish-speaking officer to arrive if they ever even do; however, of the few police officers that do speak Spanish, some eventually get reassigned somewhere else or are reluctant to communicate—in Spanish or otherwise—with Immokalee residents.⁷⁹ One participant shared his experience where a officers who knew Spanish only spoke in English even though the officer knew that he did not speak English and was aware that he—the main party regarding the previous encounter—was confused about the situation:

“Después vinieron dos oficiales y tocaron la puerta de mi casa. Uno hablaba español, pero solo habló con mi novia [en Ingles]. No vinieron para disculparse. Vinieron solo para explicarle la situación a ella [mi novia] . . . Aunque uno de los oficiales hablaba español, no hablaron conmigo, ni siquiera me miraron.”⁸⁰

A similar situation happened in Nicolás Morales Besanilla’s case where even though one of the three officers that responded to the call spoke Spanish, all the officers only communicated with Nicolás in English and made no attempt to communicate with him in Spanish before shooting him.⁸¹

25. One participant shared how she felt targeted when she was stopped by a police officer:

“I have been stopped by the police twice. . . Knowing English makes these interactions go much easier. The first time the police stopped me the cop was very nice about it. I had no license and he just told me to leave before another officer came. I was able to make the situation better because I knew some English and I explained the situation to the officer. That is when it clicked for me, and I understood that if you do not speak English and you are stopped by an only English-speaking officer, it is very easy for the situation to escalate and become a big problem. The first issue is not being able to understand each other. I do not think that we can generalize to all officers, but the second time a police officer stopped me he said, ‘Bingo! Someone without a license’

⁷⁶ See *id.* [“They stop you if you don’t have your bicycle’s lights on. That is a ticket.”]

⁷⁷ See *id.* [“If a police officer works with me, I am going to be able to understand better. In Central America, when people return from work, they are together with the officer, they buy a beer together, and drink while walking home together. But here that is illegal, and officers simply arrest people without trying to teach people. Sometimes they take your beer away. Other times they arrest you.”]

⁷⁸ See *id.*

⁷⁹ See *id.*

⁸⁰ See *id.* [“Later, two officers came and knocked on the door of my house. One spoke Spanish, but he only spoke in English with my girlfriend. They did not come to apologize. They only came to explain the situation to my girlfriend. . . Even though one officer spoke Spanish, he did not speak in Spanish with me, he did not even look at me.”]

⁸¹ See https://www.youtube.com/watch?v=Hn2_6d2nJaA.

not knowing that I knew English. . . . It's situations like this that made me realize that the color of your skin makes a difference.”⁸²

26. Several participants mentioned that the community believes police distrusts and targets them for being immigrants.⁸³ One participant said, “I got used to talking about these situations. I try to teach other people what to do in police situations. I tell them to stay calm and relaxed because if not then sometimes police just assume things.”⁸⁴

Another big source of distrust between Immokalee residents and the police is the 287-G Program.⁸⁵

27. Immokalee residents distrust the police because of their participation in the U.S. Department of Homeland Security Immigration and Customs Enforcement’s (ICE) 287-G Program, which effectively allows police officers to work with federal authorities to act as immigration enforcers.⁸⁶ Many participants believe the program does not protect the residents.⁸⁷ One participant described the program’s effect as killing any trust that existed between the community and the police.⁸⁸ Another participant expressed that 287-G “adds to the mistrust and fear of the police because you feel like they’re here to get you not to serve and protect.”⁸⁹

28. Several residents believe the program contributes to discrimination on the basis of peoples’ immigrant status.⁹⁰ A participant said, “If people do not carry their identification with them, police assume they are undocumented and detain them.”⁹¹

29. Other participants also said that the local government is using Immokalee as a testing site for the program before expansion and that the program’s only goal is to break food system workers’ families apart:

“It was a contradiction in those days for them to say that they were here for us while at the same time the County is implementing this law. Collier is the testing ground for some laws in the Country. Somos el conejillo de indias con este programa. Somos uno de los pocos lugares que tienen este programa. No se enfoca en parar criminales, se enfoca en romper familias y los trabajadores que les crecen la comida.”⁹²

⁸² *See id.*

⁸³ *See id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *See id.* Katherine Albers, *Collier County supports continuing 287(g) immigration program*, Naples News (Oct. 23, 2012) <https://archive.naplesnews.com/news/government/collier-county-supports-continuing-287g-immigration-program-ep-386426356-342365871.html/>.

⁸⁷ *See id.*

⁸⁸ *Id.* [“Mata la confianza” or “It kills trust.”]

⁸⁹ *Interview conducted with Immokalee social worker by the University of Miami School of Law Human Rights Clinic*, December 2021 – April 2022.

⁹⁰ *See id.*

⁹¹ *Id.*

⁹² *Id.* [“It was a contradiction in those days for them to say that they were here for us while at the same time the County is implementing this law. Collier is the testing ground for some laws in the Country. We are the guinea pigs for this program. We are one of the few places that has adopted this program. The program does not focus on stopping criminals, it focuses on breaking families and the workers who grow food.”]

Police officers are not part of the community. They neither live in Immokalee nor are interested in learning or being part of the community.⁹³ Officers do not seem interested in building a relationship with or serve the Immokalee community.⁹⁴

30. Some participants have expressed that police officers come from other parts of Collier County to work in Immokalee, but they do not have a cultural fluidity or any interest in getting acquainted with the community; thus, they do not know the people who they serve and are meant to protect.⁹⁵ One participant said that there is no consideration from part of the police,

“[Immokalee] es una comunidad de diferentes países e idiomas. La policía debe entender eso, pero no hablan el idioma, ni hacen ningún esfuerzo. Esto resulta en muchas situaciones que no deben pasar. Cuando llamamos y pedimos que manden policías que hablen español, no les importa. Los residentes son de Immokalee, pero los policías son de Naples. Dos mundos diferentes.”⁹⁶

Another participant also commented saying, “[Con el pasar del tiempo la] relación con la policía no ha cambiado, [sigue] lo mismo. [Los policías v]ienen de Naples, mandan a los nuevos.”⁹⁷

31. Some participants have even gone as far as to say that police officers have a condescending attitude towards Immokalee residents. One participant said that “[the] police does not treat youth right,” and another participant said that “[a]unque uno de los policías hablaba español, no me habló, ni siquiera me miró” when he was trying to communicate with police officers and needed assistance to clarify a misunderstanding.⁹⁸

32. According to those interviewed, police do not take the time to teach or speak with community members to explain certain cultural changes, instead they just arrest them.⁹⁹ In general, “[w]hen the Hispanic community sees cops [their] first impulse is to run away, instead of feeling or thinking that [the police] are there to protect [them].”¹⁰⁰ Another participant said,

“En vez de ayudar a Nicolás, lo que pasó fue una injusticia. Venimos de otros países, con diferentes leyes. Llegando acá, uno tal vez piensa que es igual pero no. [Nicolás] corrió, él quería salvarse. Nunca se imagino que eso iba a pasar. No tenía conocimiento. La policía no pensó en eso, si estaba bien o mal. No ayudaron [a Nicolás].”¹⁰¹

33. Many participants believe that police officers who patrol Immokalee were sent there as a punishment for misconduct. One participant said, “[the] police does not take into account that Immokalee residents

⁹³ *See id.*

⁹⁴ *See id.*

⁹⁵ *See id.*

⁹⁶ *Id.* [“Immokalee is a community of people from different countries with different languages. The police should understand this, but they do not speak the language or make any efforts. This ends in many situations that should not be happening. When we call and ask for police officers that speak Spanish, they do not care. The residents are from Immokalee, but the police are from Naples. Two different worlds.”]

⁹⁷ *Id.* [“As time passes, the relationship with the police has not changed, things continue the same way. Police officers come from Naples, and they send the new ones.”]

⁹⁸ *See id.* [“even though one of the police officers spoke Spanish, he did not speak to me, he didn’t even look at me.”]

⁹⁹ *See id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.* [“Instead of helping Nicolas, what the police did was an injustice. We come from other countries with different laws. When one arrives here, one thinks that the laws and the rules are the same ones, but that is not the case. Nicolas ran, he was trying to save himself. He never thought that was going to happen. He did not know. The police did not think if it was right or not. They did not help Nicolas.”]

are in a community that does not speak English [but mainly Spanish and] Creole. People of different dialects know or have learned Spanish, but the police still do not send Spanish speaking officers when we ask them. Sometimes the officers they send are not even from Immokalee. We have heard many times that when officers do not behave [well] they send them to Immokalee as a punishment.”¹⁰²

34. Moreover, the relationship between farmworkers and police officers in Immokalee is especially strained, as law enforcement is seen to villainize farmworkers and protect farm owners. As one participant expressed, “Farmworkers’ relationship with law enforcement across the country has been historically bad. The owners use law enforcement to keep workers in low wage and under the grower’s thumb.”¹⁰³

It is common for police to show excessive force and to abuse their authority.¹⁰⁴

35. Many participants expressed being afraid of the police and experiencing situations of intimidation through over-policing and escalating situations.¹⁰⁵ One participant said he experienced intimidating situations such as when police officers, “[p]aran a alguien por algo simple como una luz roja, pero luego vienen como cinco patrullas rodeando a la persona. Una parada de tráfico normal en Immokalee tiene de 3 a 4 autos de policía.”¹⁰⁶ The same participant shared an escalating situation. He said one time he was stopped by police officers and “[c]uando salió del auto, todos [los policías] gritaron al mismo tiempo, cortaron el cartucho y apuntaron con el arma.”¹⁰⁷ As another participant expressed, “Just getting pulled over is a matter of life and death. Your life can change when you get pulled over. . . . The police is really hostile here. . . .”¹⁰⁸

36. Many participants also shared stories where they experienced aggressive behavior by police.¹⁰⁹ One participant shared a situation where an Immokalee resident disappeared following a police encounter; he said “un muchacho, años atrás, [la policía] le desaparecieron en Naples. La policía se lo llevo y no lo regresaron. [El] desapareció. Me pudo haber pasado a mi, a mis hijos. No se [le] volvió [a ver] más.”¹¹⁰ Another participant shared that,

“Una persona que trabajaba con nosotros en el 2007, [el CIW] le ayudo con una investigación y para quitarle los cargos donde lo pararon en el auto y le dieron con un tazer 17 veces mientras un policía doble de su tamaño se arrodillaba [encima de] su espalda. Esto pasó porque el pidió un oficial [que hablara] español y no salió del auto porque dijo que sabía sus derechos.”¹¹¹

¹⁰² *Id.*

¹⁰³ *Interview conducted with Immokalee religious leader by the University of Miami School of Law Human Rights Clinic; December 2021 – April 2022.*

¹⁰⁴ *See id.*

¹⁰⁵ *See id.*

¹⁰⁶ *Id.* [“stop someone for something simple like a red light, but then like five patrol cars surround the person. A regular traffic stop in Immokalee normally consists of 3 to 4 cop cars.”]

¹⁰⁷ *Id.* [“when he came out of the car, all the police officers shouted at the same time, cocked their guns and pointed their weapons at him.”]

¹⁰⁸ *Interview conducted with Immokalee social worker by the University of Miami School of Law Human Rights Clinic; December 2021 – April 2022.*

¹⁰⁹ *See id.*

¹¹⁰ *Id.* [“one man, years ago, the police disappeared him in Naples. The police took him, but never brought him back. He disappeared. This could have happened to me, my children. No one saw him again.”]

¹¹¹ *Id.* [“One person that used to work with us, in 2007, the CIW helped him with an investigation and to drop his charges where he was stopped by police officers and tased about 17 times while a police officer, double his size, knelt over his back. All this happened because the person asked for an officer who spoke Spanish and because he did not leave the car because he said he knew his rights.”]

Police lack efficient training to deal with mental health situations. Their current response reflects poor mental health training.¹¹²

37. Participants reported that police lack the skills needed to work with the community, especially in cases of mental health distress. One participant said, “[la policía] se [tiene que] educar y tiene que trabajar con la comunidad. De la misma manera de que yo no puedo enseñar a mi hijo a golpear.”¹¹³ One participant spoke about Nicolás Morales Besanilla’s case, he said, “[En lo de Nicolás] no hubo justicia. Si él estaba trastornado, los policías deben estar preparados. Ellos se entrenan para eso.”¹¹⁴ Another participant also commented by saying,

“[Nicolás] estaba mal de la mente. Pasaba por un problema mental. No sé cómo llego la policía. No sé si alguien llamo. Pero no entiendo como [la policía] lo mato a sangre fría, con un balazo. Ahí si fallaron. . . . Uno no debería poder matar a una persona que no está armada.”¹¹⁵

38. Another participant shared how the police was quick to react violently without trying to communicate with him—even though the participant spoke English—when he was going through a mental health episode:

“About 3 to 4 years ago, I had anxiety. I did not know why I felt anxious and mad. I kept hitting my head on the wall, on the floor, trying to hit whatever I could. When police saw me they thought I was on drugs. They didn't ask me if I was ok, they just put me in handcuffs. This situation happened a couple of times. Police would see me hurting myself, they would pick me up and drop me on the ground. They never asked any questions. They thought the same thing, that I was drunk or on drugs. . . . [On another occasion, my friend] was trying to tell the cops to stop hurting me, but then the cops were trying to handcuff him [as well]. That is when I got even more mad. One lady officer tripped me so that they could try to hold me down. When the ambulance came medics would tell the cops to get off of me. There were about 4 to 5 cops on top with their knees on me.”¹¹⁶

There is no police accountability.¹¹⁷

39. Some Immokalee residents think that there is no police accountability for abuse or excessive use of force; such as in Nicolás’ case.¹¹⁸ When one participant was commenting on Nicolás’ case he said, “[l]as personas necesita ayuda, no necesitan que les disparen o que los arresten. Ahora la policía esta ‘praising’

¹¹² *See id.*

¹¹³ *Id.* [“the police need to educate themselves and they need to work with the community. In the same way that I cannot teach my child by hitting them.”]

¹¹⁴ *Id.* [“There was no justice in Nicolas’ case. If he was going through a mental health crisis, the police should have been prepared. They are trained for that.”]

¹¹⁵ *Id.* [“Nicolas was not ok mentally. He was going through a mental health problem. I don’t know how the police arrived at the scene. I don’t know if someone called. But I don’t understand how the police can kill someone in cold blood with a bullet. There they did fail. . . . One should not be able to kill a person that is not armed.”]

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

al oficial que mató a Nicolás. Están manejando la situación como si lo de Nicolás nunca hubiera pasado o como si quisieran cubrir lo que pasó con estas acciones.”¹¹⁹

b. Immokalee Residents’ Political Rights.

40. Immokalee faces inadequate political representation within Collier County. The predominantly low-income, BIPOC, and migrant community of Immokalee has remained unincorporated in a county that is otherwise made up of primarily white wealthy neighborhoods.¹²⁰ Immokalee residents do not have the political power to participate in decisions affecting their local community with severe repercussions for their livelihoods and overall wellbeing and safety. While some U.S. citizens and non-farmworkers reside in Immokalee, the community is structurally designed for the facilitation and feasibility of corporate farms. Migrant farmworkers are designated residence either in Immokalee or on-site farms. Farms send their own transportation to a singular pick-up and drop-off location in Immokalee. Over time, the community grew and became a more permanent residence for many undocumented farmworkers. However, their immigration status remains a barrier to political recognition.

Immokalee Residents’ Interests Are Not Protected by Collier County Government

41. The relationship between Immokalee residents and law enforcement and county government is so fragile that Immokalee residents would rather stay silent and under the radar than make their opinions heard. For example, Collier County local government initiated the construction of a roundabout where Immokalee residents felt endangered; residents, however, felt that the new traffic flow would cause more traffic and accidents. Six Immokalee residents attended a meeting with the Commissioner to oppose the construction of the roundabout. Despite this, the Commissioner stated there were not enough individuals for their claim to be heard. When concerned residents campaigned to collect signatures to present to Collier County local government, many refused. A community member that was interviewed pointed out that, “People in Immokalee are not used to speaking up and it is because of the fear of getting in trouble. That is why many times it is hard to get signatures from people.”¹²¹

42. In addition, those interviewed reported that even when Immokalee residents make the effort to speak up, Collier County officials implement their own views despite community opposition. One community member gave the example of an instance when Immokalee residents were able to collect signed petitions to get a traffic light installed where there had been many traffic accidents. Although community support was evident,

“[Local Government] denied our petition. They said that those accidents were not caused by the lack of a traffic light. But we, the people of this community that live in it, know that many people have died and crashed there. So, why people that do not live here and do not know what is going on, are telling us that they know more than us, those who actually live here and know what is going on? . . . [B]efore [local government] agreed to [install the light,] it took more accidents and at least more than three deaths for them to finally hear us and agree to the light.”¹²²

¹¹⁹ *Id.* [“people need help, they do not need others to shoot or arrest them. Now the police are praising the police officer who killed Nicolas. They are handling the situation as if what happened to Nicolas never even took place or as if they wanted to hide what happened with these actions.”]

¹²⁰ Betty Akoh & Sean Hansen, *Mapping the Impacts of COVID-19 on Farmworkers in Immokalee, Florida*, UNIV. OF TEX. AT AUSTIN SCHOOL OF LAW (July 2020), https://law.utexas.edu/wp-content/uploads/sites/31/2020/11/Immokalee_Agricultural-Workers_Website-1.pdf

¹²¹ *Interview conducted by the University of Miami School of Law Human Rights Clinic*; December 2021 – April 2022.

¹²² *Id.*

43. Immokalee residents feel that there is a big discrepancy between the County resources provided to Immokalee and those provided to the City of Naples.

“There is a lot of discrimination regarding the resources and assistance we receive from part of the authorities. For example, in our main street they just recently installed a traffic light. Just now. After many accidents and after many people have already died. This is a very big contrast if you go to Naples. There the traffic lights even talk to you.”¹²³

44. In addition, Collier County’s Citizens’ Review Panel (“the Panel”) is a prime example of how Immokalee’s lack of representation in public affairs causes residents to be systematically excluded from decision-making processes at the local level. Knowledge of the Panel is nonexistent within the Immokalee community. Although Immokalee falls under the jurisdiction of the Panel and the Panel reviewed Nicolás Morales Besanilla’s case, few residents were informed of its authority as an organ administering justice. Moreover, no current member of the Panel is from Immokalee or familiar with the community.¹²⁴ Members are Naples-based, have a history of affiliation with the CCSO, and are non-Hispanic. Lack of awareness and participation defies General Recommendation No. 31 where the CERD Committee stated that in order to prevent racial discrimination in the administration and functioning of the criminal justice system, States must “. . . promote proper representation of persons belonging to racial and ethnic groups in the police and the system of justice.”¹²⁵ The Panel cannot genuinely be representative of Collier County when it does not include Immokalee voices. A community member summed up the frustration felt by many in Immokalee when they said that “Recently, the [Panel] reviewed Nicolas’ case and they voted in favor of the police; they said the use of force was appropriate. The fact that the citizens in the board are all from Naples influences a lot. No one from Immokalee is included there. We have no voice, our community is not represented, and Immokalee has no one to speak up for it.”¹²⁶

45. Moreover, the Panel is not accessible to Immokalee residents. As far as logistics, the Panel does not advertise meeting dates, times, location or cases reviewed. Meetings are not recorded or live-streamed, forcing interested participants to travel to Naples on short notice, which is already a heavy burden. Even if an Immokalee resident was able to attend a Panel review, it still may not be accessible as there is no Spanish translation provided by the local government. In direct contrast to the CERD Committee’s General Recommendation No. 31, the Collier County Citizens’ Review Panel, as a system of justice, does not provide victims and their families “access to information . . . to challenge evidence and to be informed of the progress of proceedings.”¹²⁷ Without transparency, the community of Immokalee is shunned from having power and participation in the administration of justice.

¹²³ *Id.*

¹²⁴ See Comm. on the Elimination of Racial Discrimination, General Recommendation No. 31: Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System, ¶ 1(g), U.N. Doc. CERD/A/60/18 (Aug. 17, 2005) [hereinafter CERD General Comment No. 31] (states that “[t]he insufficient representation of persons belonging to those groups among the ranks of the police, in the system of justice, including judges and jurors, and in other law enforcement departments” is a factual indicator of racial discrimination.).

¹²⁵ CERD General Comment No. 31, *supra* note 13, ¶ 5(d).

¹²⁶ Interview conducted by the University of Miami School of Law Human Rights Clinic; December 2021 – April 2022.

¹²⁷ CERD General Comment No. 31, *supra* note 13, ¶ 19(a).

The lack of political participation negatively affects Immokalee residents' livelihood and safety.

46. In addition to not being heard, political inequality between Immokalee and Naples is exacerbated when there is a clear failure to properly allocate county resources to the Immokalee community. Collier County local government impedes the Immokalee community's participation in political and public affairs by failing to provide adequate funding to infrastructure and education opportunities.
47. The community of Immokalee does not have access to a functional public transportation system. The main transit available from Immokalee to the City of Naples is Collier Area Transit (CAT), which is approximately a three hour round trip. Although most residents of Immokalee are migrant workers, with limited ability to get a driver's license, Collier County does not provide faster or more accessible public transit. By not having more transportation accessibility, Immokalee residents have a difficult time participating in public affairs matters that are Naples-based. The three-hour ride is especially problematic as it ignores the fact that Immokalee residents have minimal free time due to their long work hours. Locally, Immokalee residents mostly walk or ride bicycles on the street. In 2016, "an urgently-needed and transformative plan to provide livable city amenities to the citizens of Immokalee, a rural farming enclave of 24,154, where 45 percent of the population live below the national poverty line and 47 percent use public transit or bicycles to get to work or walk to work"¹²⁸ was initiated. Development would include sidewalks, city lights, bike paths, and added connections to CAT. While the project would address many infrastructure limitations, its set completion date of June 2019 is overdue.¹²⁹ An Immokalee resident pointed out that:
- "If you go to Naples, there are public parks for everyone and everywhere. Here, we only have one and we have to pay for them to open it for us. What is our youth supposed to entertain themselves with? The few parks we have are not in good conditions and some have games that our community did not grow up with, does not know about, and that does not like."¹³⁰
48. The U.S. fails to respond to Immokalee residents' needs to education, which the community sees as necessary to protect their right to political participation. The majority of Immokalee residents were not raised in the U.S.; they are not well informed of their rights or ability to partake in public affairs.
- "No estudie aquí. No sé nada directamente, pero veo y la situación esta jodida. Es muy costoso. Hay historias de censura por razones culturales. Leyes anti-inmigrantes. Nos quieren tener ignorantes. Cuando esas cosas siguen pasando, las instituciones no están diseñadas para preparar a la gente. Están para los que tienen poder."¹³¹

¹²⁸ *Immokalee Complete Streets: Growing Connections To Create Mobility Opportunities*, COLLIER COUNTY (2016), <https://www.colliercountyfl.gov/home/showdocument?id=65746>

¹²⁹ *Id*; See also *Transportation Investment Generation Economic Recovery*, COLLIER COUNTY COMMUNITY REDEVELOPMENT AGENCY (2022), <https://immokaleecra.com/immokalee-complete-street> (Project funds have been redirected and a new project completion date of 2024 has been announced).

¹³⁰ *Interview conducted by the University of Miami School of Law Human Rights Clinic*, December 2021 – April 2022.

¹³¹ *Id*. ["I didn't study here. I do not know anything directly, but I can see what is happening and the situation is messed up. It is too expensive. There are stories about censorship for cultural reasons. Anti-immigration laws. They want to keep us ignorant. When those things keep happening, the institutions are not designed to prepare people. They are designed for the benefit of those in power."]

c. *The U.S. Violates Immokalee Residents' Right to Health.*

*Right to Health Violations in Immokalee: "No debería ser así."*¹³²

49. The condition of healthcare and mental healthcare infrastructure is, for many reasons, a human rights disaster. The problem, as our interviews revealed, is one of physical and financial access, as well as quality of services. In the past three years, the situation has grown only more dire with the advent of the COVID-19 pandemic, which disproportionately impacted the Immokalee residents and produced such a grave crisis that Doctors Without Borders intervened.¹³³ As an initial matter, healthcare in Immokalee is represented by a small network of stand-alone clinics, geographically isolated from the nearest fully equipped hospital or trauma center—a condition which has been the subject of county assessments and case studies.¹³⁴ With field-work schedules that often begin at sunrise and end at sunset, the reality of taking time off to see a doctor is daunting in and of itself. As one participant explained, "Toma todo el día ir a un hospital, toman el día entero así que no pueden trabajar."¹³⁵ This is not a luxury that many can afford. Put simply, "la pobreza los obliga a seguir trabajando . . . you cannot afford to get sick . . ." ¹³⁶ Another participant explained that in order to seek adequate care, they sometimes must visit a clinic thirty to forty minutes outside of Immokalee, but the reality is that there is no reliable or economic option for public transportation.¹³⁷ "Most of the closest medical services being offered are in Naples and Fort Myers, but there is still lack of access to receive medical services in neighboring communities because of the lack of transportation," one person elaborated.¹³⁸ Moreover many Immokalee residents do not have health insurance.¹³⁹ In addition to these physical barriers to seeking care for mental health, there also exist social barriers. As one participant expressed, mental health "is really stigmatized" and as such, people are reluctant to seek help.¹⁴⁰
50. Additionally, there are often structural and financial barriers to mental health services. One participant elaborated:
- "The clinics ask for W-2 or pay stubs to be able to go to the clinic or to qualify for a discount. Many workers do not have this. And if you do not, you have to pay for the visit out of pocket. It costs around \$200-300 for two visits to the doctor. This is what workers make in one week."¹⁴¹
- The condition of mental health services is not much better. At the David Lawrence Center, a behavioral health clinic with a satellite office in Immokalee, and of the only (if not only) mental health service providers in Immokalee, access is throttled by the requirement for a court order, thus limiting

¹³² *Id.* ["It shouldn't be like this."]

¹³³ <https://www.doctorswithoutborders.org/latest/emergency-home-inside-msfs-unprecedented-response-covid-19-united-states>

¹³⁴ See <https://collier.floridahealth.gov/programs-and-services/community-health-planning-and-statistics/public-health-information/documents/communityhealthassessmentsum.pdf>; see also https://www.pih.org/sites/default/files/lc/LT-CRC_case_study_Immokalee_June_2021_Final.pdf

¹³⁵ *Interview conducted by the University of Miami School of Law Human Rights Clinic*; December 2021 – April 2022. ["It takes the whole day to go to the hospital- they take the whole day so they can't work."]

¹³⁶ *Id.* ["Poverty forces them to keep working."]

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Interview conducted with Collier County health care provider by the University of Miami School of Law Human Rights Clinic*; December 2021 – April 2022.

¹⁴⁰ *Interview conducted with Immokalee social worker by the University of Miami School of Law Human Rights Clinic*; December 2021 – April 2022.

¹⁴¹ *Id.*

mental health access for the general public.¹⁴² For the rest of the community, “[i]f they are able to access mental health services outside of Immokalee, these are very expensive.”¹⁴³

51. Finally, the standard of care afforded to those in Immokalee is manifestly sub-standard. Residents describe losing a full day of low-paying work to see the doctor, only to wait four or five hours to be seen, if they are seen at all.¹⁴⁴ One person described how “[e]n la clínica, me dejaron encerrado en un cuarto por 40 minutos. Nadie llegó. Me dijeron que esperara otra hora.”¹⁴⁵ If they *are* seen by a clinician, many report being dissatisfied with the level of care. “He ido a la clínica. El servicio es malo. Fuí a hacerme un chequeo para el ojo. No me atienden bien,” said one resident.¹⁴⁶ “I did not feel comfortable at the David Lawrence Center,” said another.¹⁴⁷ A systemic lack of access to adequate healthcare has produced a situation in which the residents of Immokalee are forced to self-medicate, self-treat, or worse, forgo medical treatment altogether. “There are pregnant women that have been pregnant for about six months, and they still have not gone to the doctor because of how expensive it is,” reported one participant.¹⁴⁸ One resident said that they had not gone to the doctor in three years and would only go if injured.¹⁴⁹ The same person said that they self-treat with over-the-counter ointments and ibuprofen—a sentiment echoed by another who said, “Nosotros compramos pastillas en la tienda mexicana para el dolor porque no hay [otra] opción.”¹⁵⁰

IV. Conclusion & Human Rights Analysis

52. The rights to equal treatment and security of persons guaranteed by Article 5(a) and (b) are consistently violated by a pattern of overzealous policing of the community in Immokalee by the CCSO, which broadly refers to Immokalee as “District Eight.” Despite being the smallest district by population by a margin of almost ten thousand people, District Eight represents the second highest rate of arrest of any of the CCSO districts and anecdotally, we find a pattern of use of force and inappropriate escalation of otherwise routine contact with law enforcement that impedes free movement about the community by the district’s inhabitants. The shooting of Nicolás Morales Besanilla at the hands of the CCSO is a prime example of that pattern and helped to give rise to this human rights analysis. It perhaps most clearly demonstrated the CCSO’s tendency toward escalation, overzealous tactics, and aggression.¹⁵¹
53. The Immokalee community is further limited in its meaningful access to government and public service in contravention of the rights protected by Article 5(c). This is for two primary reasons: (1) the CCSO lacks an effective CRP representing Immokalee specifically and (2) Immokalee is unincorporated. The unincorporated nature of the community prevents civic representation and political self-determination, materially impacting decisions related to budget allocation and civic service provision.

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.* [“At the clinic, they left me stuck in a room for forty minutes. Nobody came. Then they told me to wait another hour.”]

¹⁴⁶ *Id.* [“I’ve been to the clinic. The service is bad. I went for an eye exam. They didn’t treat me well.”]

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.* [“We buy pain medication at the Mexican grocery because there is no other option.”]

¹⁵¹ *Collier County Sheriff’s Office-Patrol Division* Presentation by: Lt. Joe Ellis #973; Immokalee Substation Commander.

54. Collier County undermines the rights of Immokalee residents by not allocating sufficient resources and political power to this community and by failing to instill a Citizens’ Review Panel that represents Immokalee. The livelihoods and safety of Immokalee residents are thus negatively affected. Moreover, these actions, or rather inactions, by Collier County violate the right to partake in the government and public affairs, and the right to equal access to public service and equal treatment before tribunals, as established under Article 25 of the International Covenant on Civil and Political Rights (ICCPR)¹⁵² and Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), respectively.¹⁵³
55. The right to political participation and representation is well-established under international human rights law. Article 25 of the ICCPR establishes that every citizen¹⁵⁴ must have the right and opportunity “[t]o take part in the conduct of public affairs, . . . [t]o have access, on general terms of equality, to public service in his country.”¹⁵⁵ Article 5 of the ICERD equally recognizes this right and specifically calls on states to realize it without distinction as to race, color, or national or ethnic origin.¹⁵⁶
56. Although Immokalee residents are largely non-citizens, they still merit equal participation in public affairs, especially surrounding local community matters. While the U.S. has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, this Convention is highly relevant to understand U.S. violations of the right to participate in public affairs in Immokalee. Article 42 of the Convention urges State Parties to incorporate “in accordance with their national legislation, the consultation or participation of migrant workers and members of their families in decisions concerning the life and administration of local communities.”¹⁵⁷ Thus, Article 25 of the ICCPR and Article 5 of the ICERD should be interpreted to protect the rights of non-citizen migrant workers to participate in local public affairs matters, excluding voting, running for public office or other involvement requiring citizenship as enumerated in national law.
57. Among the symptoms of this lack of political access are barriers to the enjoyment of the right to health. The provision of healthcare has been reduced to a single, standalone clinic which lacks the resources or facilities to provide adequate care to the community. The relative isolation of the clinic and community presents a dangerous situation requiring those in need of the most critical care to be transported to neighboring, more affluent communities to be treated at their hospitals—a journey of, at minimum, twenty-four miles. This lack of access to care was felt most acutely during the recent fight against COVID-19. Through last Spring, Immokalee accounted for the highest case count in Collier County despite its comparably low population.¹⁵⁸

¹⁵² See International Covenant on Civil and Political Rights Art. 25, adopted Dec. 16, 1966, 999 U.N.T.S. 171.

¹⁵³ See International Convention on the Elimination of All Forms of Racial Discrimination Art. 5, 660 U.N.T.S. 195, 212.

¹⁵⁴ “Comm. on the Elimination of Racial Discrimination, General Recommendation No. 20: [The guarantee of human rights free from racial discrimination](#), ¶ 3, U.N. Doc. CERD/A/51/18 (Mar. 08, 1996) [[hereinafter CERD General Comment No. 20](#)] (“Many of the rights and freedoms mentioned in article 5, such as the right to equal treatment before tribunals, are to be enjoyed by all persons living in a given State; others such as the right to participate in elections, to vote and to stand for election are the rights of citizens.”).

¹⁵⁵ ICCPR, *supra* note 2, art. 25.

¹⁵⁶ See ICERD, *supra* note 3, art. 5.

¹⁵⁷ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Dec. 18, 1990, art. 42, 2220 U.N.T.S. 93 [[hereinafter Protection of the Rights of All Migrant Workers](#)].

¹⁵⁸ Janine Zeitlin, *How Florida left farmworkers out of its COVID-19 pandemic response*, Center for Health Journalism (2020) <https://centerforhealthjournalism.org/fellowships/projects/how-florida-left-farmworkers-out-its-covid-19-pandemic-response>.

V. Questions & Recommendations

a. Proposed Questions for the U.S. Government

1. What steps does the U.S. plan to take to address racial discrimination of low-wage immigrant workers in the U.S.?
2. What steps is the U.S. taking to ensure agricultural and food system workers have workplace protections that are on par with protections afforded to workers in all other industries?
3. How will the U.S. enhance police community relationships with the immigrant community given historical and current anti-immigrant sentiment on the part of state and local law enforcement?
4. How will the U.S. address the mental health toll in immigrant communities as a result of persistent and systemic racial discrimination and strengthen immigrants' resiliency strategies?
5. How will the U.S. address police officers' inadequate—and sometimes deadly—responses to mental health situations?
6. How will the U.S. ensure that all agricultural workers, including undocumented immigrant workers, have adequate access to social services, including housing, health, and food, adequate wages, and adequate working conditions?

b. Proposed Recommendations for the U.S. Government, State of Florida, & Collier County

1. Conduct a thorough federal investigation of every misstep and failure of police procedure by the Collier County Sheriff's Office the night of September 17, 2020, when Nicolás Morales Besanilla was killed by Corporal Pierre Jean.
2. Break down the walls between the Collier County government and the Immokalee community through aggressive transparency and genuine community participation in decisions that affect the life and administration of the local Immokalee community, or through the incorporation or creation of an Immokalee City Council.
3. Establish an Immokalee-specific Citizens' Review Panel with credible community participation and meaningful powers to hold police accountable in the event of police violence.
4. Form and implement effective, accessible, and culturally adequate crisis response teams, pairing police and mental health professionals, to respond to calls in Immokalee where mental health is a potential issue.
5. Establish mental health care facilities that are available and accessible to all, irrespective of immigration status, and that are prepared to provide culturally sensitive behavioral health treatment in a timely manner, taking into consideration the realities of immigrant labor and conditions in Immokalee.
6. Invest resources in public infrastructure in Immokalee that promotes safety and expanded accessibility to services for its residents, including sidewalks, streetlights, and improved public transit options.
7. Adopt a community-oriented policing model in Immokalee that encourages positive, nonenforcement contact between Collier County Sheriff's Office and the Immokalee community in order to build public trust and enhance police legitimacy.
8. Eliminate all laws, programs, and policies that force state and local governments to enforce federal immigration laws, and in particular, rescind the 287(g) program.
9. Expand all U.S. labor and employment protections and benefits, including the right to unionize, to all agricultural workers.
10. Create programs that incentivize agricultural employers to join the Fair Food Program to ensure farmworkers' human rights are not violated.
11. Strengthen immigrant workers' access to social services, including housing, health, and food.
12. Ratify the ICESCR, CEDAW, and CRC and uphold the ICERD and ICCPR.