

December 4, 2019

Attorney General Maura Healey
Office of the Massachusetts Attorney General
Massachusetts Attorney General
1 Ashburton Place
Boston, MA 02108

Attorney General Letitia James
Office of the New York Attorney General
New York Attorney General
The Capitol
Albany, NY 12224

Re: Investigating McKinsey & Company's Practices

Dear Attorneys General Healey and James:

Lawyers for Civil Rights (LCR) writes to urge you to take immediate action to investigate McKinsey & Company and to sever state ties with the firm in light of its apparent role in fostering and designing unlawful immigration detention conditions. The firm's apparent deceptive business practices in obscuring its involvement with the federal government's unlawful and discriminatory anti-immigrant policies compel an investigation. We raise these concerns on behalf of our immigrant clients as well as taxpaying residents and unsuspecting consumers in your respective jurisdictions.

LCR fosters equal opportunity and fights discrimination on behalf of people of color and immigrants. We engage in creative and courageous legal action, education, and advocacy in collaboration with law firms and community partners. We represent immigrants and people of color who have felt the brunt of McKinsey's and the federal government's improper entanglement in generating discriminatory and unlawful anti-immigrant policies. At the hands of the federal government, our clients have been assaulted, starved, caged, and forcibly deported. Many of our immigrant families have experienced the terror of being separated from their children — some as young as 2 years-old — and suffered unspeakable brutality in detention facilities across the country.

As you may be aware, the NEW YORK TIMES and PROPUBLICA published an article detailing evidence that McKinsey contracted with Immigration and Customs Enforcement (ICE) proposing the enactment of unlawful policies which, according to media accounts, even gave pause to ICE agents. Ian MacDougall, *How McKinsey Helped the Trump Administration Carry Out Its Immigration Policies*, NEW YORK TIMES (Dec. 3, 2019). The article also suggests that McKinsey leadership has attempted to

deceive the public by obfuscating their direct entanglement with the federal government's discriminatory anti-immigrant policies.

Not only did McKinsey apparently participate in designing anti-immigrant strategies, it has emerged as the primary architect. According to the NEW YORK TIMES, in the name of cost saving: "The consultants encouraged ICE to adopt a 'longer-term strategy' with 'operational decisions to fill low-cost beds before expensive beds.' In practice, that meant shunting detainees to less expensive — and sometimes less safe — facilities, often rural county jails." In practice, McKinsey advanced policies aimed at reducing food and medical care for immigrant detainees.

While it is clear that McKinsey was inextricably enmeshed with unlawful and discriminatory federal immigration enforcement, the firm's public and internal statements appear to disavow this involvement. Nevertheless, the NEW YORK TIMES reports that:

McKinsey ultimately did more than \$20 million in consulting work for ICE, a commitment to one of the Trump administration's most controversial endeavors that raised concerns among some of McKinsey's employees and former partners. The firm's global managing partner, Kevin Sneader, assured them in a 2018 email that the firm had never focused on developing, advising or implementing immigration policies. He said McKinsey "will not, under any circumstances, engage in work, anywhere in the world, that advances or assists policies that are at odds with our values."

In direct contradiction to public assertions at the highest levels of McKinsey's leadership, the NEW YORK TIMES cites evidence showing that "McKinsey's staff even ghostwrote a government contracting document that defined the consulting team's own responsibilities and justified the firm's retention, a contract extension worth \$2.2 million."

Based on the available evidence disclosed by news outlets, it is apparent that McKinsey and its leadership have deceived the public, including company employees and tax-paying consumers, regarding the extent of the firm's entanglement with ICE. News accounts also raise the specter of a pattern and practice of deception touching not just on immigration detention, but also on other areas such as the opioid crisis.

In light of these reputable news reports, we respectfully urge your offices to take immediate action. We are requesting that your respective offices:

- 1) Launch a formal investigation into McKinsey's apparent entanglement with ICE for unfair and deceptive business and trade practices. Because McKinsey's conduct raises the specter of public deception, these investigations should not be limited to immigration and may encompass other critical areas of potential wrongdoing.
- 2) Investigate the potential for fraud, self-dealing, and violations of the False Claims Act in McKinsey's existing government contracts.
- 3) Work with pertinent state officials and state agencies to sever all existing ties with McKinsey. For example, in Massachusetts, pursuant to M.G.L. ch. 29, sec. 29F, state agencies may debar McKinsey from bidding on public contracts based, among other provisions, on its apparent "lack of business integrity or business honesty." The state and its agencies should not continue to contract with a company that violates the trust and values of New York and Massachusetts.

McKinsey must be held accountable. Thank you for your attention to this urgent matter. I may be reached at (617) 988-0624.

Sincerely,

Iván Espinoza-Madrigal, Esq.
Executive Director
Lawyers for Civil Rights

Cc: Senator Elizabeth Warren
Senator Ed Markey
United States House Committee on Oversight and Reform