



February 11, 2022

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David Gersten, Ombudsman

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Re: Violations of ICE COVID-19 Guidance, PBNDS 2011, and Rehabilitation Act of 1973 at the Denver Contract Detention Facility

“**This complaint includes violations of the Rehabilitation Act of 1973. Please submit to the Section 504 division.**”

Dear Ms. Culliton-González, Mr. Cuffari, and Mr. Gersten,

We file this complaint on behalf of people detained at or recently released from the Denver Contract Detention Facility in Aurora, Colorado (Aurora facility), regarding violations of Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations' October 19, 2021, *COVID-19 Pandemic Response Requirements* (PRR),¹ *Performance-Based National Detention Standards 2011* (PBNDS 2011),² as well as Section 504 of the Rehabilitation Act of 1973 (Section 504) and the implementing regulations of the Department of Homeland Security (DHS) found at 6 C.F.R. § 15.30(b)(1)(i). We have included signed affidavits describing the personal experiences of six people during their detention at the Aurora facility, from which we have taken all the quotes in this complaint.

¹ U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, *COVID-19 Pandemic Response Requirements Version 7.0*, October 19, 2021, <https://www.ice.gov/coronavirus/prr>.

² U.S. Immigration and Customs Enforcement, *2011 ICE Performance-Based National Detention Standards*, revised 2016, <https://www.ice.gov/detain/detention-management/2011>.

Through a contract with ICE, the Aurora facility is owned and operated by the GEO Group, Inc. (GEO), the largest private prison company in the United States. The affidavits describe the failure of ICE and GEO to protect the health of medically vulnerable people, provide cleaning supplies, ensure adherence to proper masking procedure, and provide sufficient COVID-19 testing, vaccine administration, and access to crucial services during quarantining and medical isolation, as required by the PRR. They also demonstrate violations of the PBNDS 2011, including medical neglect of those with COVID-19 and threats of retaliation for speaking out against failure to implement the required measures to prevent the spread of the virus. Finally, they show ICE's failure to provide accommodations to people with physical and mental disabilities as required by federal law.

Recent COVID-19 Outbreak at Denver Contract Detention Facility

Since the beginning of the COVID-19 pandemic, the Aurora facility has experienced multiple outbreaks of the virus.³ ICE reported fewer than five active cases at the detention center at any given time between November 3, 2021, and December 12, 2021. On December 13, 2021, ICE reported 14 active cases, which increased to 23 by January 19, 2022, and then 138 by February 7, 2022.⁴ We believe that these numbers are a significant undercount based on the reports of people detained at the Aurora facility and the concerns with ICE's data reporting discussed later in this complaint.⁵ Representative Jason Crow's reports on his office's weekly oversight visits to the Aurora facility during the month of January indicate many more cases among people detained there than ICE reported at the time: 17 new cases the week of January 5, 2022, 40 new cases the week of January 12, 2022, and 20 new cases the week of January 19, 2022.⁶ People detained at the Aurora facility reported that the outbreak resulted in the cancellation of removal flights and delayed immigration court hearings—in some cases up to five times—thereby prolonging their detention.⁷

Violations of ICE COVID-19 Guidance

The signed affidavits included in this complaint show that ICE and GEO have repeatedly violated the PRR in the following ways:

Failure to Protect the Health of Medically Vulnerable People

According to the PRR, detention centers must “[e]valuate all new admissions within five days of entering ICE custody to determine whether the [individuals in detention] fall within the populations identified by the Centers for Disease Control and Prevention (CDC) as being at increased risk for severe illness from COVID-19 and/or the

³ Noelle Smart and Adam Garcia, “Tracking COVID-19 in Immigration Detention: A Dashboard of ICE Data,” Vera Institute of Justice, November 18, 2020, <https://www.vera.org/tracking-covid-19-in-immigration-detention>.

⁴ Ibid.

⁵ Ibid.

⁶ Representative Jason Crow, “ICE Accountability Report,” January 5, 2022, January 12, 2022, and January 19, 2022, <https://crow.house.gov/about/ice-accountability-report>.

⁷ Marissa Armas, “‘Putting Our Lives At Risk’: Detainees At Aurora ICE Detention Facility Claim COVID Prolongs Stay,” CBS Denver, January 20, 2022, <https://denver.cbslocal.com/2022/01/20/covid-aurora-ice-detention-facility>.

subclasses certified in *Fraihat v. ICE*.⁸ For *Fraihat* subclass members, ICE must complete a custody review, ensuring “individualized consideration of the risk of severe illness or death, with due regard to the public health emergency” and “that the presence of a Risk Factor is given significant weight.”⁹ The PRR states that “blanket or cursory denials do not comply with the court’s requirement that ERO make individualized determinations.”¹⁰

Five of the six people who provided affidavits for this complaint have medical conditions that put them at increased risk of severe illness from COVID-19. Ramiro¹¹ has “diabetes, elevated blood pressure, cholesterol, and blood glucose levels,... Major Depressive Disorder and Generalized Anxiety Disorder;” Santiago* has “bipolar disorder and anxiety disorder;” Leticia* has “post-traumatic stress disorder, depression, and obsessive-compulsive disorder;” Musa* has “post-traumatic stress disorder, major depressive disorder, recurrent, severe; unspecified psychosis; unspecified anxiety disorder; and blackouts;” and Afuom* has “adjustment disorder and depression.” ICE has confirmed that Leticia* and Ramiro* are *Fraihat* subclass members but denied them release based only on their criminal history, which in Leticia’s* case was a direct result of the human trafficking she experienced and in Ramiro’s* case occurred over twenty-five years ago, when he was 16 years old.

The PRR also requires “twice daily symptom and temperature monitoring” for people with increased risk.¹² However, Ramiro* states: “Several months ago, in June or July, I was getting my temperature taken twice a day after several people at the facility tested positive for COVID. This lasted about a week. Since then, I have not been getting my temperature taken, even when people in my dorm tested positive in January.”

People with mental health conditions are included under CDC Guidance and *Fraihat v. ICE* as having an increased risk from COVID-19. Having a mental health condition increases the risk that a person will contract COVID-19, and that they will have a negative outcome such as hospitalization or death once they do.¹³ People with mental health problems are more vulnerable to the negative impacts of social isolation, such as solitary confinement, quarantines, and the suspension of in-person visitation and recreational activities.¹⁴

Continued detention of individuals like the above affiants and those similarly situated in a congregate setting places lives at risk, a risk that is further exacerbated by the numerous violations of public health guidance described below.

⁸ U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, *COVID-19 Pandemic Response Requirements Version 7.0*, October 19, 2021, <https://www.ice.gov/coronavirus/prr>, 10.

⁹ *Ibid.*, 28.

¹⁰ *Ibid.*, 28.

¹¹ * denotes use of a pseudonym.

¹² *Ibid.*, 17.

¹³ Rhitu Chatterjee, “Why people with mental illness are at higher risk of COVID,” NPR, November 22, 2021, <https://www.npr.org/sections/health-shots/2021/11/22/1057258797/why-people-with-mental-illness-are-at-higher-risk-of-covid>.

¹⁴ See *Exhibit G*: Gwen Mitchell, et. al., “Expert Declaration Submitted by Experts in Psychology & Social Work on the Known Impact of Adverse Experiences, Extreme Social Isolation & Public Health Pandemics,” April 3, 2020.

Insufficient Testing

The PRR requires “[t]esting as directed by medical personnel based on CDC requirements and clinical presentation of COVID-19 related illness.” However, Camilo* states that he never received a COVID-19 test despite repeated requests through multiple channels, even after thirteen people in his dorm tested positive and he was experiencing symptoms—including a headache, sore throat, cough, difficulty breathing, and feeling feverish and dizzy—for at least five days. He believes that his requests for care and grievances were not responded to because they were in Spanish.

Leticia* states, “Although people are often sick, I only see people getting tested for COVID-19 when they are getting ready to fly to be deported.” She states that she was left in the general population without being tested for two days after her roommate tested positive for COVID-19, despite feeling very sick and requesting a test. She states that her other roommates were never tested, despite this exposure. Ramiro* states that as of January 20, 2022, 17 days after 13 people in his dorm tested positive, he still had not received a COVID-19 test nor had his temperature checked. Afuom* states that “a lot of people are sick and appear to have COVID-19 but there is no testing or treatment, even if they have known medical conditions such as asthma that puts them at higher risk I am not aware of anyone being tested. Symptomatic individuals remain in the general population and put everyone at risk.” He has not been tested, despite feeling hot, shaky, and weak and having difficulty breathing.

Santiago* states, “The facility does not test if only *one* person reports symptoms and it usually takes three or more people putting [written requests] in at the same time for them to start testing. Even then, they only test the individuals who reported symptoms and not the entire pod, who have been exposed to these individuals.”

The PRR also states, “Intake testing should continue to be conducted on all incoming detainees regardless of vaccine status.”¹⁵ However, Santiago* states, “The Aurora staff did not test me for COVID-19 and immediately transferred me to general population in the Alpha 1 block at the Aurora ICE facility.”

Inadequate Vaccine Administration

The PRR states that “[f]acilities must post educational materials regarding COVID-19 vaccines in different languages to improve vaccine knowledge,”¹⁶ and that “all detention facilities are responsible for ensuring [people detained by ICE] are offered the COVID vaccine in accordance with state priorities and guidance.”¹⁷

Camilo* was not offered a vaccine until January 25, 2022, even though he had been detained at the Aurora facility since September 2021. Afuom* states that he has “not received a vaccine or any information regarding the vaccine” during his five months detained in the Aurora facility. On one occasion, when he woke up, he was told that some people in his dorm were vaccinated while he had been sleeping, but he has still not been able to obtain one for himself.

¹⁵ U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, *COVID-19 Pandemic Response Requirements Version 7.0*, October 19, 2021, <https://www.ice.gov/coronavirus/prr>, 18.

¹⁶ *Ibid.*, 25.

¹⁷ *Ibid.*, 25.

Even though all qualifying adults residing in high-risk settings, including detention centers, have been eligible for a vaccine booster for over three months, the PRR still does not mention them.¹⁸ Still, detention centers should be administering boosters given that they are included in “state priorities and guidance.” However, Leticia* states, “I have not been able to find any information about vaccines or boosters on the tablets the officers let us use and have not seen it up in our dorms.” She also says that she has not been offered a booster in the eight months since she received the Johnson & Johnson/Janssen (J&J) vaccine. Ramiro* states, “There is no information posted about how to get the vaccine or even information generally about what vaccine is available and the benefits or risks.” He was not offered a booster until January 24, 2022—approximately nine months into his detention at the Aurora facility and nearly a year after he received the vaccine while detained in federal prison.

Failure to Provide Access to Crucial Services

According to the PRR, medical isolation “is not punitive in nature” and must be “operationally distinct from administrative or disciplinary segregation.” For example, the detention center should “[e]nsure that individuals under medical isolation receive regular visits from medical staff and have access to mental health services, ensure that [individuals in detention] are provided similar access to radio, television, reading materials, personal property, telephone, recreation, and commissary to the fullest extent possible, [and] consider allowing increased telephone privileges without a cost barrier to maintain mental health and connection with others while isolated.”¹⁹

Leticia* states that while sick with COVID-19 in medical isolation, she was held in a “suicide room,” which had “a really bad smell... [caused by] an issue with the sewer pipes” that gave her “a painful headache.” She was later moved to another room that was dirty. For some of her time in medical isolation, she was denied access to a television, and her requests for colored pencils and paper were never granted. She sometimes had to wait hours to use a phone while in medical isolation, and she did not receive any more free call minutes than she does when not in isolation.

Ramiro* states that during the time that his dorm was quarantined due to COVID-19 exposure, he was denied access to the law library, medical unit, immigration court, and yard, despite his doctor telling him that he needed to exercise regularly because of his medical conditions. Other affiants also report a lack of access to the law library and immigration court hearings due to quarantines.

Failure to Implement Proper Mask Procedure and Social Distancing

The PRR states that “detained individuals and correctional and detention staff should still wear a well-fitted

¹⁸ Centers for Disease Control and Prevention, “CDC Expands Eligibility for COVID-19 Booster Shots,” October 21, 2021, <https://www.cdc.gov/media/releases/2021/p1021-covid-booster.html>; U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, *COVID-19 Pandemic Response Requirements Version 7.0*, October 19, 2021, <https://www.ice.gov/coronavirus/prr>.

¹⁹ U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, *COVID-19 Pandemic Response Requirements Version 7.0*, October 19, 2021, <https://www.ice.gov/coronavirus/prr>, 42.

mask that covers the nose and mouth.”²⁰ However, Camilo* states, “Many officers do not use masks and sometimes it seems like they are sick. If my roommates or I want a mask, masks are not just available. We have to wait for an officer to come by and sign a paper to get a mask. Sometimes this officer comes only around once a week, and you can only ask for one mask at a time.” Leticia* states, “I have seen officers wear their masks under their chins or their noses, even when it seems like they are sick.” Afuom* states that he was not provided a mask and that “[n]one of the individuals in detention wear a mask and neither do most of the staff.” Santiago* states, “Some guards come to work without wearing a face mark and some take their masks off throughout the day or do not wear them properly.”

Musa* states, “Sometimes the nurses wear masks, but usually they don’t. Most of the time the officer at the dorm doesn’t have a mask. If I asked an officer to get me a mask, they would not because they do not have them or they don’t want to. It’s like they do not care. It’s like they don’t believe in COVID-19. They only care about testing people when they deport them to Mexico.”

The PRR also states, “Whenever possible, all staff and detainees should maintain a distance of six feet from one another.”²¹ Musa* states, “There are some posters on the walls telling you to wash your hands and stickers on the ground telling you to social distance, but that doesn’t make sense because they put four people in a room. You don’t have room to stand up because the room is about six-by-eight feet at most.” Afuom* states, “The conditions make me feel unsafe. There are a lot of people and no ability to social distance. There are 10 cells on 2 floors and each cell has 4 people, so there are approximately 80 people in this confined space.” Ramiro* states, “For the past few months, there have been around 50 people in my dorm, which makes social distancing impossible.” Santiago* states, “There are forty people in my pod. In the pod, there are two rooms that house eight to ten people with four bunk beds per cell, and a shared common area. I share a cell with one other person. Some cells are shared amongst three people. We are in a confined area and it is impossible to social distance.”

Failure to Provide Cleaning Supplies

The PRR requires that detention centers “clean and disinfect surfaces and objects that are frequently touched,” using “household cleaners and Environmental Protection Agency-registered disinfectants” at least once daily, and several times daily in spaces where “individuals with confirmed or suspected COVID-19 are known to have been.”²² It also requires detention centers to “[p]rovide [individuals in detention] and staff no-cost unlimited access to supplies for hand cleansing, including liquid or foam soap, running water, hand drying machines or disposable paper towels,” as well as “no-cost access to tissues and no-touch receptacles for disposal.”²³

Camilo* states that “sometimes we ask for soap or shampoo and the officers say they do not have it, and we just have to wait. When this happens, we wash our hands with just water. Sometimes there is also no disinfectant spray for cleaning our rooms for several days.” Leticia* reports, “I have never seen anyone from outside come in to deep clean where we live,” and “We have to request [disinfectant spray] and sometimes officers do not bring

²⁰ *Ibid.*, 31.

²¹ *Ibid.*, 39.

²² *Ibid.*, 32.

²³ *Ibid.*, 31.

it. When we do not have spray or the spray is not working to clean, we use our shampoo.” She also states, “the only cleaner we are given is disinfectant spray, [which] does not work to clean mold in the showers or dangerous stuff like when there has been blood and feces in the bathroom.” She states, “When we run out of hand soap, we use our shampoo. When we run out of free shampoo someone usually donates their commissary shampoo.” She also states that they are not given tissues. Afuom* reports that the hand sanitizer stations “are usually empty” and that they are provided only with soap, not disinfectant.

Violation of Performance-Based National Detention Standards 2011

The signed affidavits included in this complaint also document violations of the PBNDS 11, which is the set of detention standards ICE applies to the Aurora facility.

Medical Neglect

The PBNDS 11 states that “[individuals in detention] shall have access to a continuum of health care services, including screening, prevention, health education, diagnosis and treatment.”²⁴ In addition to the above-described failure to take preventative measures against the spread of COVID-19, such as masking, vaccination, cleaning, and release of vulnerable people, individuals detained at the Aurora facility also report receiving inadequate treatment once they have COVID-19 symptoms or even have been diagnosed with COVID-19. Afuom* reports, “On January 8, 2022, I felt very sick and was having trouble breathing. I was hot and shaking. I asked for emergency medical but was told to submit a [written request]. In my weakened condition, all I could do was lie down in bed. Since this time, I have continued to struggle with breathing. I wake up in the middle of the night unable to catch my breath. I have not received medical treatment for my difficulty breathing.”

Regarding the time when he and twelve other people in his pod had COVID-19, Santiago* states, “It was difficult to get medical care and all of us were begging for medication. We asked for cough syrup to help with the severe cough and ibuprofen to help with the fever and chills. The nursing staff told us that we needed to send a written request, or what we call a ‘kite,’ to ask for medication. We were in pain and started demanding medication, but the nurses kept telling us to put a kite in.”

Musa* states, “There was a lack of medical attention in quarantine. People were banging on the doors because they were refusing people medical attention. I had to see the psychiatrist because this caused me mental duress and messed with me psychologically. I was having a lot of nightmares.”

These examples are part of a consistent pattern of medical neglect that has existed at the Aurora facility for years. An ICE contractor review of Evalin-Ali Mandza’s 2012 death at Aurora found that the fact that “medical staff were unfamiliar with the institution’s Chest Pain Protocol [and that] appropriate cardiac medication was not administered, and the time it took to transport the patient to a higher-level care facility, all may have been

²⁴ U.S. Immigration and Customs Enforcement, *2011 ICE Performance-Based National Detention Standards*, 4.3. II. 1., <https://www.ice.gov/detain/detention-management/2011>, 257.

contributing factors to the death of the patient.”²⁵ ICE Office of Professional Responsibility’s review of Kamyar Samimi’s 2017 death at the detention center found that medical staff did not fully comply with multiple standards, including failing to seek emergency care for him.²⁶ On June 4, 2018, the American Immigration Council and the American Immigration Lawyers Association filed a complaint with ICE, ICE Health Services Corps, the DHS Office for Civil Rights and Civil Liberties (CRCL), and the DHS Office of the Inspector General (OIG) regarding “failure to provide adequate medical and mental health care” to individuals detained at the Aurora facility, with seven case examples.²⁷ On June 11, 2019, the organizations filed a supplement to the complaint with an additional five case examples.²⁸

Threats of Retaliation

The PBNDS 11 states that “[s]taff shall not permit a [detained person] to be subjected to reprisals, retaliation or penalties because of a decision to seek judicial or administrative relief or investigation of any matter,”²⁹ and that “the facility [should not] in any way retaliate against a detainee for lawful communication with a member of the media or a member of the public.”³⁰ However, Camilo* states that “the person who comes when people send medical grievances,” who he believes is the medical director, told his dorm that “they were going to move 13 people who tested positive to another dorm and that they did not want us to talk to our attorneys or the news about this.”

Afuom* states, “I fear retribution if I speak out too much regarding the unsafe conditions. If you complain about the conditions or say that you will speak to your lawyer, the staff react negatively. Recently, my cellmate who would often speak out for better treatment and increased safety protocols, was told that he was being released. However, at 9am he was transferred to another facility. I believe they lied to him about being released and transferred him as punishment for speaking out. There is also a general sense that they will speed up your deportation if you complain to the staff or to your lawyer.”

Santiago* states, “Although I have never explicitly been told not to share information with attorneys or people on the outside about COVID practices at Aurora, myself and others feel that we need to be careful and discreet

²⁵ Department of Homeland Security, *Death Investigation for Evalin-Ali Mandza*, October 16, 2012, <https://www.documentcloud.org/documents/2695514-MandzaEvalin-Ali.html>, 16.

²⁶ Kieran Nicholson, “Medical care for detainee who died in ICE custody in Colorado fell short of federal standards, report says,” *The Denver Post*, May 20, 2019, <https://www.denverpost.com/2019/05/20/aurora-ice-detainee-died-medical-care>.

²⁷ American Immigration Council and American Immigration Lawyers Association, “Failure to provide adequate medical and mental health care to individuals detained in the Denver Contract Detention Facility,” June 4, 2018, <https://www.americanimmigrationcouncil.org/advocacy/immigrants-inadequate-medical-care-aurora>.

²⁸ American Immigration Council and American Immigration Lawyers Association, “SUPPLEMENT—Failure to provide adequate medical and mental health care to individuals detained in the Denver Contract Detention Facility,” June 11, 2019, <https://www.americanimmigrationcouncil.org/content/inadequate-medical-care-colorado-immigration-detention-continues>.

²⁹ U.S. Immigration and Customs Enforcement, *2011 ICE Performance-Based National Detention Standards*, 6.3. V. O., <https://www.ice.gov/detain/detention-management/2011>, 428.

³⁰ U.S. Immigration and Customs Enforcement, *2011 ICE Performance-Based National Detention Standards*, 7.2 V. 4, <https://www.ice.gov/detain/detention-management/2011>, 447.

when discussing this information. The guards can listen to our phone calls and sometimes give us disapproving looks if they overhear information they do not like. I would like to be able to ask guards to wear their face masks when I see that they are not following COVID safety precautions, however, I am scared that I could experience retaliation for speaking up.”

Musa* states, “I was interviewed by [the media]. After the...interview, a sergeant told me that whatever I do in this facility, it will come back to me whether it’s good or it’s bad...I no longer want to complain at the detention facility because I fear a...sergeant...who has...harassed me will do something if I keep complaining. I don’t want to be charged or tased or beat up, like the officers beat up a Jamaican man a few weeks ago. I’m scared that I will face the same fate.”

Violations of Section 504 of the Rehabilitation Act

Section 504 of the Rehabilitation Act prohibits discrimination on the basis of disability in programs, services, or activities conducted by U.S. federal agencies, including DHS. Under Section 504, “[n]o qualified individual with a disability in the United States, shall, by reason of his or her disability, be excluded from the participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Department.”

Section 504 forbids not only facial discrimination against individuals with disabilities, but also requires that executive agencies and departments such as DHS alter their policies and practices in order to prevent discrimination on the basis of disability. Covered entities have an affirmative obligation under Section 504 to ensure that their benefits, programs, and services are accessible to persons with disabilities. Reasonable modifications necessary to prevent disability discrimination are required unless those modifications would create a “fundamental alteration” of the relevant program, service, or activity, or would impose an undue hardship. ICE has adopted binding regulations to ensure that Section 504 is implemented within the agency.

Ramiro,* Afuom,* Leticia,* Musa,* and Santiago* are persons with physical and mental health disabilities. ICE and its contractors are on notice of the affiants’ disabilities. However, ICE and its contractors have discriminated against them by failing to ensure that services and treatment are accessible, in violation of Section 504 of the Rehabilitation Act.

For instance, Santiago* lives with bipolar disorder and anxiety disorder and states that these diagnoses were confirmed during his initial evaluation at Aurora. Despite the fact that authorities at Aurora were on notice of his disabilities, Santiago* has had difficulty accessing medical care and treatment. He states that it took the authorities at Aurora three days to provide him a COVID-19 test after he started experiencing symptoms. After testing positive for COVID-19, he states “It was difficult to get medical care and all of us were begging for medication,” including cough syrup and ibuprofen. Further, he states that a group of nineteen individuals were transferred into his dorm while his dorm was in quarantine. As a result, he states that the authorities at Aurora alternated access to the common area between the two groups: the nineteen new individuals and his group of individuals under quarantine. When not allowed in the common space, he was confined to his cell.

Musa* lives with post-traumatic stress disorder; major depressive disorder; recurrent, severe, unspecified psychosis; unspecified anxiety disorder; and blackouts. The authorities at Aurora are aware of his mental health disabilities. However, ICE and its contractors discriminated against Musa* by failing to provide him adequate care and treatment. Musa* describes that, after being sent to solitary confinement for three days as a punishment, he was held there for an additional six days because his dorm was in quarantine, exacerbating his mental health symptoms. He states, “When I woke up on the ninth day, I was confused and scared. I had had a blackout the night before. When I have blackouts, I am not aware of anything that is happening and I become gullible. You could put my hands in a fire, but I wouldn’t be able to react to it. I had a very severe mental breakdown on the ninth day, so I kicked the door a couple of times to get the attention of the officer and I told him he ha[d] to take me to medical...I think I was having a panic attack.” Musa* also states that authorities at Aurora threatened to stop giving him his psychiatric medicine after he expressed concerns that he had COVID-19 symptoms, had not been tested, and did not want to risk going to medical where he could get others sick.

The inadequate treatment Santiago* and Musa* have received, including lack of access to testing, lack of medical care and treatment, and deliberate ignorance of their mental health disabilities, constitutes illegal discrimination and a failure to accommodate in violation of Section 504. Their accounts are exemplary of the concerns described by Ramiro,* Afuom,* and Leticia,* who are also persons with mental and physical disabilities.

DHS should grant release because it is reasonable, would not present a “fundamental alteration,” and does not create an undue burden. DHS regularly grants release from custody to people in immigration proceedings and DHS has already released people from its custody across the country to mitigate risk of COVID-19 infection for people with medical vulnerabilities. Moreover, release is not a fundamental alteration from current agency practice given that “ICE’s full non-detained caseload was approximately 3 million foreign nationals on June 22, 2019,” which comprises approximately 98 percent of [Enforcement and Removal Operations] caseload. Given that ICE engages in far more non-detained case administration than detained, release would not create an undue administrative burden. Finally, ICE would save money if it detained fewer people and the reasonable accommodation sought would not constitute an undue financial burden. According to a Congressional report, the daily cost of detention in fiscal year 2018 was \$137 per day, while one of ICE’s Alternatives to Detention programs, the Intensive Supervision Appearance Program (ISAP III), was \$4.16.³¹

ICE’s Overall Failure to Prevent the Spread of COVID-19

Unfortunately, many of the violations of public health guidance and other ICE policy described in this complaint are consistent with accounts from around the country of ICE’s overall failure to prevent the spread of COVID-19 in its facilities since the beginning of the pandemic.³² Dr. Scott Allen and Dr. Josiah Rich, medical experts

³¹ Congressional Research Service, *Immigration: Alternatives to Detention (ATD) Programs*, July 8, 2019, <https://sgp.fas.org/crs/homesec/R45804.pdf>, 15.

³² American Immigration Council, et. al., *Complaint to Department of Homeland Security Office for Civil Rights and Civil Liberties and Office of the Inspector General*, “Individuals in Immigration and Customs Enforcement

contracted by CRCL who have unique expertise in medical care in detention settings, have described ICE detention as a “tinderbox scenario.”³³ Throughout the pandemic, the two doctors have renewed these concerns to CRCL leadership, the White House Coronavirus Response Team, the COVID-19 Health Equity Task Force, and Congress.³⁴ Most recently, on January 26, 2022, they expressed their continued concern about ICE’s failure to “adequately protect against the spread of COVID-19,” including inadequate provision of vaccine boosters, enforcement of mask use, testing, and development of facility-level infection control plans.³⁵

Many other sources have expressed similar concerns. In April 2020, a federal judge found that ICE had “failed to substantially comply with the court’s orders” to “identify and consider releasing [individuals in detention] who are at higher risk of complications from COVID-19.”³⁶ A DHS OIG report would later find that that same month, guards retaliated against people protesting a lack of COVID-19 precautions at La Palma Correctional Center in Eloy, AZ with pepper spray and extended solitary confinement during an outbreak which may have been caused in part by the facility ignoring guidance on masking and social distancing.³⁷ The report also found that the medical unit was critically understaffed and did not consistently provide the required care to people in segregation.³⁸ Internal emails from July 2020 show that ICE and GEO chose not to test people detained at Mesa Verde ICE Processing Center in Bakersfield, California, so that they would not have to make room to isolate people who tested positive.³⁹

(ICE) Custody Face Grave Risk of Death and Harm During COVID-19 Pandemic,” May 7, 2020, https://www.americanimmigrationcouncil.org/sites/default/files/general_litigation/council_files_civil_rights_complaint_over_dangerous_ice_detention_policies_during_coronavirus_pandemic.pdf.

³³ Drs. Scott A. Allen and Josiah Rich, Letter to House Committee on Homeland Security, Senate Committee on Homeland Security, and House Committee on Oversight and Reform, March 19, 2020, <https://whistleblower.org/wp-content/uploads/2020/03/Drs.-Allen-and-Rich-3.20.2020-Letter-to-Congress.pdf>.

³⁴ Drs. Scott A. Allen, Pamela McPherson, and Josiah Rich, Letter to House Committee on Homeland Security, Senate Committee on Homeland Security, Senate Committee on the Judiciary, and House Committee on the Judiciary, June 25, 2021, <https://whistleblower.org/wp-content/uploads/2021/06/062521-Ltr-to-Congress-fr-Allen-McPherson-Rich-FINAL-for-Dist.pdf>; Drs. Scott A. Allen and Josiah D. Rich, Letter to DHS and ICE, “Boosters, Other Measures Needed to Protect Workers, Immigrants and the Public From COVID-19 in Immigration Detention Settings,” January 26, 2022, <https://whistleblower.org/wp-content/uploads/2022/01/012622-LETTER-TO-MAYORKAS-FROM-DRS-RE-COVID-IN-IMM-DETENTION.pdf>.

³⁵ Drs. Scott A. Allen and Josiah D. Rich, Letter to DHS and ICE, “Boosters, Other Measures Needed to Protect Workers, Immigrants and the Public From COVID-19 in Immigration Detention Settings,” January 26, 2022, <https://whistleblower.org/wp-content/uploads/2022/01/012622-LETTER-TO-MAYORKAS-FROM-DRS-RE-COVID-IN-IMM-DETENTION.pdf>.

³⁶ *Fraihat v. ICE*, No. 5:19-cv-01546-JGB-SHK (C.D. Cal.), March 10, 2021, ECF No. 281, https://www.splcenter.org/sites/default/files/2021-03-10_0281_-_minutes_in_chambers_by_judge_jesus_g._bernal_order_granting_plaintiffs_motion_to_appoint_special1.pdf.

³⁷ Department of Homeland Security, Office of the Inspector General, *Violations of Detention Standards amid COVID-19 Outbreak at La Palma Correctional Center in Eloy, AZ*, March 30, 2021, <https://www.oig.dhs.gov/sites/default/files/assets/2021-04/OIG-21-30-Mar21.pdf>.

³⁸ Department of Homeland Security, Office of the Inspector General, *Violations of Detention Standards amid COVID-19 Outbreak at La Palma Correctional Center in Eloy, AZ*, March 30, 2021, <https://www.oig.dhs.gov/sites/default/files/assets/2021-04/OIG-21-30-Mar21.pdf>.

³⁹ Malaika Tapper, “ICE Resisted Coronavirus Testing to Avoid Releasing Detainees,” *The Intercept*, August 7, 2020, <https://theintercept.com/2020/08/07/ice-coronavirus-testing-detainees-mesa-verde>.

COVID-19 outbreaks also negatively impact surrounding communities, as the virus is spread by staff coming in and out of detention centers, and transfers from detention centers can overwhelm hospitals.⁴⁰ Representative Crow's January 12, 2022, oversight report states that there were 18 new COVID-19 cases among GEO employees that week.⁴¹ Unfortunately, this data is not reported by ICE at the national level. In July 2020, chief executives of four ICE private contractors committed to releasing data of employee infections with ICE's permission, but they never did so.⁴²

In September 2021, OIG reported that in the course of visiting nine detention centers, it found that in some instances, "staff and [individuals in detention] did not consistently wear face masks or social distance," that some detention centers "did not consistently manage medical sick calls and did not regularly communicate with [people in their custody] regarding their COVID-19 test results," "that testing of both [individuals in detention] and staff was insufficient, and that ICE headquarters did not generally provide effective oversight of its detention facilities during the pandemic."⁴³

Even after COVID-19 vaccines became widely available, ICE failed to adopt a comprehensive plan to provide them to people in its custody. The agency's *COVID-19 Pandemic Response Requirements* did not require the provision of vaccines until October, ten months after the Food and Drug Administration authorized the Pfizer-BioNTech vaccine for emergency use, with earlier versions of the policy leaving it to each detention center to contact state agencies to obtain the vaccine.⁴⁴ A federal court called ICE's failed vaccine policy "counter to science" and said that it "defie[d] common sense."⁴⁵

The current wave of COVID-19 cases related to the Omicron variant has increased the cause for concern. As of February 1, 2022, ICE reported 3,158 people in its custody had active COVID-19 cases, an over 1,000 percent increase from the 299 cases the agency reported as of January 1, 2022.⁴⁶ Over 14 percent of the people in ICE

⁴⁰ Elizabeth Barnert, Cyrus Ahalt, Brie Williams, "Prisons: Amplifiers of the COVID-19 Pandemic Hiding in Plain Sight," *Am J. Pub. Health* 110(7), 964–66 (July 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7287517>; Michael Irvine, et al., "Modeling COVID-19 and impacts on US Immigration and Enforcement (ICE) detention facilities, 2020," *J Urban Health* 97(4):439–447 (May 2020), <https://link.springer.com/article/10.1007/s11524-020-00441-x>.

⁴¹ Representative Jason Crow, "ICE Accountability Report," January 5, 2022, January 12, 2022, and January 19, 2022, <https://crow.house.gov/about/ice-accountability-report>.

⁴² House Homeland Security Committee Hearing, "Oversight of ICE Detention Facilities: Examining ICE Contractors' Response to COVID-19," July 13, 2020, <https://homeland.house.gov/activities/hearings/oversight-of-ice-detention-facilities-examining-ice-contractors-response-to-covid-19>.

⁴³ Department of Homeland Security, Office of the Inspector General, *ICE's Management of COVID-19 in its Facilities Provides Lessons Learned for Future Pandemic Responses*, September 7, 2021, <https://www.oig.dhs.gov/sites/default/files/assets/2021-09/OIG-21-58-Sep21.pdf>.

⁴⁴ U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, *COVID-19 Pandemic Response Requirements Version 7.0*, October 19, 2021, <https://www.ice.gov/coronavirus/prr>.

⁴⁵ *Fraihat v. ICE*, No. 5:19-cv-1546 (C.D. Cal.), Special Master's Report and Recommendation 17, May 21, 2021, ECF No. 304.

⁴⁶ U.S. Immigration and Customs Enforcement, "ICE Guidance on COVID-19," last updated February 1, 2022, <https://www.ice.gov/coronavirus>.

custody had active cases, the highest rate ever reported.⁴⁷ Recent CDC data shows that the COVID-19 vaccine without the booster is insufficient protection against the Omicron variant.⁴⁸ Yet as of January 5, 2022, ICE had provided booster doses to only 671 people, less than 3% of everyone in its custody.⁴⁹ People in ICE custody, including at least one person who was advised by their doctor not to take the J&J after a previous negative reaction, have reported that medical staff say it is the only vaccine available.⁵⁰

As of February 2022, the PRR still does not mention booster doses, despite many individuals remaining in ICE custody for months.⁵¹ The situation is especially concerning given ICE's reliance on the less effective non-mRNA J&J vaccine,⁵² and some individuals reporting that they were pressured to accept a non-mRNA booster despite requesting an mRNA one.⁵³ Any COVID-19 vaccine without a booster is not considered adequate protection against the Omicron variant.⁵⁴

From the beginning of the pandemic through February 2, 2022, ICE reported that 38,657 people in its custody had been confirmed to have COVID-19 cases.⁵⁵ However, the accuracy of ICE's reporting is doubtful given insufficient testing, sharp increases and decreases in the data that are uncharacteristic of the virus' typical spread, conflicting changes between numbers of current and cumulative cases, decreases in numbers of cumulative cases, facilities disappearing from the list, and the exclusion of some detention centers from the list

⁴⁷ Noelle Smart and Adam Garcia, "Tracking COVID-19 in Immigration Detention: A Dashboard of ICE Data," Vera Institute of Justice, November 18, 2020, <https://www.vera.org/tracking-covid-19-in-immigration-detention>.

⁴⁸ Lena H. Sun, Joel Achenbach, Dan Keating, "Booster shots in U.S. have strongly protected against severe disease from omicron variant, CDC studies show," *The Washington Post*, January 21, 2022, <https://www.washingtonpost.com/health/2022/01/21/cdc-studies-booster-shots-omicron/>; Wilfredo F. Garcia-Beltran, Kerri J. St. Denis, et al., "mRNA-based COVID-19 vaccine boosters induce neutralizing immunity against SARS-CoV-2 Omicron variant," *Cell*, December 23, 2021, <https://doi.org/10.1016/j.cell.2021.12.033>.

⁴⁹ Camilo Montoya-Galvez, "Coronavirus infections inside U.S. immigration detention centers surge by 520% in 2022," January 14, 2022, <https://www.cbsnews.com/news/immigration-detention-covid-cases-surge>.

⁵⁰ Letter to Governor Gavin Newsom, "COVID Outbreak in Immigrant Detention Facilities," January 28, 2022, <https://ccijustice.org/2022-covid-outbreak-in-immigrant-detention-facilities/>; *Shaikh v. ICE*, No. 1:22-cv-00231 (D.D.C.), Jan 31, 2022, ECF No. 1, <https://www.aclu.org/legal-document/aclu-tro-behalf-medically-vulnerable-people-denied-covid-19-booster-shots-immigration>.

⁵¹ U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, *COVID-19 Pandemic Response Requirements Version 7.0*, October 19, 2021, <https://www.ice.gov/coronavirus/prr>.

⁵² Priscilla Alvarez, "DHS begins administering J&J vaccine to immigrant detainees," *CNN Politics*, July 13, 2021, <https://www.cnn.com/2021/07/13/politics/immigrant-detainees-vaccine-dhs/index.html>; Apoorva Mandavilli, "J&J. Vaccine May Be Less Effective Against Delta, Study Suggests," *New York Times*, updated Aug. 29, 2021, <https://www.nytimes.com/2021/07/20/health/coronavirus-johnson-vaccine-delta.html>.

⁵³ Letter to Governor Gavin Newsom, "COVID Outbreak in Immigrant Detention Facilities," January 28, 2022, <https://homeland.house.gov/activities/hearings/oversight-of-ice-detention-facilities-examining-ice-contractors-response-to-covid-19>.

⁵⁴ Lena H. Sun, Joel Achenbach, and Dan Keating, "Booster shots in U.S. have strongly protected against severe disease from omicron variant, CDC studies show," *The Washington Post*, January 21, 2022, <https://www.washingtonpost.com/health/2022/01/21/cdc-studies-booster-shots-omicron/>; Wilfredo F. Garcia-Beltran, Kerri J. St. Denis, et al., "mRNA-based COVID-19 vaccine boosters induce neutralizing immunity against SARS-CoV-2 Omicron variant," *Cell*, December 23, 2021, <https://doi.org/10.1016/j.cell.2021.12.033>.

⁵⁵ U.S. Immigration and Customs Enforcement, COVID-19 ICE Detainee Statistics by Facility, <https://www.ice.gov/coronavirus>, last updated February 2, 2022.

very late into the pandemic.⁵⁶ For example, by one estimate, the actual number of positive cases in ICE custody in mid-May 2020 may have been 15 times higher than the figure reported by ICE.⁵⁷ ICE also does not report the number of staff or people in criminal custody who test positive at a facility, only those who are in ICE custody. ICE has reported the deaths in custody of 11 people who had previously tested positive for COVID-19, but an unknown number have died post-release after being infected with COVID-19 while in detention.⁵⁸

Recommendations

ICE has consistently shown its inability to detain people while protecting their health and safety. It has also demonstrated its inability to ensure due process, civil rights, and access to the level of services required by its detention standards to the people it detains. As is shown in the personal accounts provided in this complaint, this is especially true during a pandemic. We urge your office to investigate the above-described violations of the PRR, PBNDS 2011, and Section 504.

Release is the most effective method to protect people in ICE custody, and the surrounding communities, from COVID-19.⁵⁹ ICE's PRR, which relies on the CDC's public health guidance, is a less effective protection. Yet more than one year and ten months into the pandemic, ICE and GEO are still unable to ensure the Aurora facility's compliance with even these basic standards. People should be able to pursue their claims to immigration relief without putting their physical and mental health at risk.

In addition to being the safest solution, releases from ICE custody are both reasonable and appropriate under immigration law. ICE should release the people in its custody so that they can continue their immigration cases outside of detention. The release of Ramiro,* Santiago,* Leticia,* Musa,* Afuom,* Camilo,* and the other people detained at the Denver Contract Detention Facility is therefore the best course of action, and the only way to protect their wellbeing, public health, and due process.

⁵⁶ Noelle Smart and Adam Garcia, "Tracking COVID-19 in Immigration Detention: A Dashboard of ICE Data," Vera Institute of Justice, November 18, 2020, <https://www.vera.org/tracking-covid-19-in-immigration-detention>.

⁵⁷ *Ibid.*

⁵⁸ Katy Murdza, "How Many ICE-Related COVID-19 Deaths Have Gone Unreported?," *Immigration Impact*, March 26, 2021, https://immigrationimpact.com/2021/03/26/unreported-covid-deaths-ice/#.YgZrO9_MKUK; Grace Vitaglione and Sammy Sussman, "'Dying in Silence': Families, activists, ACLU question ICE's accounting of deaths in detention," IRW Investigative Reporting Workshop, November 15, 2021, <https://investigativereportingworkshop.org/investigation/dying-in-silence>.

⁵⁹ William D. Lopez, et al., "Preventing the Spread of COVID-19 in Immigration Detention Centers Requires the Release of Detainees," *Am. J. Public Health* (Dec. 16, 2020), <https://ajph.aphapublications.org/doi/10.2105/AJPH.2020.305968>.

Exhibits

Exhibit A: Affidavit of Ramiro*

Exhibit B: Affidavit of Santiago*

Exhibit C: Affidavit of Leticia*

Exhibit D: Affidavit of Musa*

Exhibit E: Affidavit of Afuom*

Exhibit F: Affidavit of Camilo*

Exhibit G: Gwen Mitchell et. al., Expert Declaration Submitted by Experts in Psychology & Social Work on the Known Impact of Adverse Experiences, Extreme Social Isolation & Public Health Pandemics, April 3, 2020.

EXHIBIT A: Affidavit of Ramiro*

AFFIDAVIT OF [REDACTED]

I, [REDACTED], make this declaration based on my personal knowledge and declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct.

My Background

1. My name is [REDACTED]. I am currently detained at the Aurora ICE Processing Center in Aurora, Colorado. I am 43 years-old.
2. I have been detained in Aurora since April 2021. I was granted relief under the Convention Against Torture (CAT) by an immigration judge and this decision was upheld by the Board of Immigration Appeals. I am currently being detained due to the 90-day removal period.
3. I have diabetes, elevated blood pressure, cholesterol, and blood glucose levels. I have also been diagnosed with Major Depressive Disorder and Generalized Anxiety Disorder.

Conditions at the Aurora Contract Detention Facility

4. I am currently detained in [REDACTED]. A few weeks ago, on January 3rd, there was a COVID outbreak in my dorm. There are usually around 50 people in my dorm. On January 3rd, we were told around 13 people had tested positive for COVID. Most of these individuals were transferred to another dorm for quarantine. However, two people in my cell were having symptoms and were very sick and they were not transferred. The next day, one of the individuals in my cell was moved for quarantine, but the other individual was not. During this time, I never received a COVID test, even though I was in contact with people who tested positive. Up until now, January 20th, I

still have not received a COVID test. They were not taking temperatures in my dorm either during this time. When this was happening, several people in my dorm asked for ibuprofen or medicine because they were experiencing symptoms. They could not get a response and just kept getting told to submit another kite or written request.

5. After this happened, our dorm, dorm [REDACTED], stopped getting access to the yard. This is important to me because of my medical conditions. The doctor has instructed me to exercise, which is hard when we are not allowed out of our dorm. We are also not allowed to go to the library, medical or court. Our dorm was under complete lockdown, but we have not even received a COVID test.
6. Several months ago, in June or July, I was getting my temperature taken twice a day after several people at the facility tested positive for COVID. This lasted about a week. Since then, I have not been getting my temperature taken, even when people in my dorm tested positive in January.
7. It has been scary to be detained during this time. We are not told what is happening in the facility or how long quarantines will be in place. For the past few months, there have been around 50 people in my dorm, which makes social distancing impossible. People, including staff, do not wear masks consistently.
8. I was vaccinated in federal prison in early 2021 prior to arriving at this facility. I was not offered a booster shot until January 24th, 2022. I received my booster on January 25th, 2022. I only received the booster because someone from medical came to our dorm and asked who wanted to get the vaccine. There is no information posted about how to get the vaccine or even information generally about what vaccine is available

and the benefits or risks.

[REDACTED]

[REDACTED]

1/20/2022

Date

EXHIBIT B: Affidavit of Santiago*

AFFIDAVIT OF [REDACTED]

I, [REDACTED], make this declaration based on my personal knowledge and declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct.

1. My name is [REDACTED]. I am 38 years old. I am writing this affidavit in English with the assistance of [REDACTED], a paralegal at [REDACTED], to submit to the Office of Civil Rights and Civil Liberties because of my experience with COVID-19 while in ICE detention and my inability to obtain a COVID booster shot.
2. I am a [REDACTED] national and I am currently detained at the Aurora ICE Processing Center in Aurora, Colorado.
3. I have been detained for over five months since [REDACTED]

My Health Background

4. In 2017, I was formally diagnosed with bipolar disorder and anxiety disorder. These diagnoses were confirmed at the Aurora ICE Processing Center after my evaluation by mental health staff on [REDACTED].
5. Additionally, I have a history of an inflammatory eye condition called uveitis.
6. I was appointed an immigration attorney from [REDACTED] named [REDACTED] through the National Qualified Representative Program in December 2022 because the Immigration Judge had concerns about my mental health when I stopped taking my medication.
7. My attorney explained to me that I fall into a *Fraihat* subclass designated to be at increased risk from COVID-19 due to my mental health diagnosis, I was unaware of this and have never received any notification from the Aurora facility about their determination of my risk level. My attorney is working with my family on a request for me to be released based on my health conditions.

Conditions at the Aurora Contract Detention Facility

8. I was transferred to Aurora from the [REDACTED]. A private company that contracts with ICE picked me up from CIM in a van and transported me to a temporary holding facility in [REDACTED] County. I was in the van with two other detained individuals and two guards. The guards were not wearing face masks and no face masks were provided to myself or the other detained individuals. We were in close quarters and it was impossible to social distance. I felt anxious knowing I could be exposed to COVID-19. I was at the San Diego holding facility for approximately four hours and was then transferred to an airport.
9. After arriving at the airport, I boarded a commercial flight to Aurora. The flight was full.

I was never provided a face mask and had to use one from my personal property while on board the plane. Once I arrived at the Aurora facility, I was held at intake for two hours and then transferred to a holding room for four hours to undergo an evaluation. I showed facility staff my vaccination card from the California Department of Corrections, where I had previously received two doses of the Moderna vaccine. I was tested for COVID-19 but was never told the results of my test. About one or two days later, I was moved into general population in the [REDACTED] block at the Aurora ICE facility.

10. I am currently detained in the [REDACTED] block. There are forty people in my pod. In the pod, there are two rooms that house eight to ten people with four bunk beds per cell, and a shared common area. I share a cell with one other person. Some cells are shared amongst three people. We are in a confined area and it is impossible to social distance.
11. The Aurora facility provides face masks to us approximately every three to four days. They also provide cleaning supplies, although the cleaning supplies often appear diluted. Some guards come to work without wearing a face mask and some take their masks off throughout the day or do not wear them properly. Guards tend to rotate through different pods during their shifts. This means that they are exposed to and expose many different people in other parts of the facility. Also, guards frequently remove people to attend criminal court outside of the Aurora facility. These individuals are supposed to quarantine upon return, but the guards regularly send them directly back to general population instead.
12. On December 31, 2021, I started feeling symptoms of COVID-19. It started with a sore throat and mild cough then progressed to chills, fever, and muscle aches. There were many other people in my pod also experiencing symptoms. It took three days for the facility to test us. I tested positive for COVID-19 on January 3, 2022. A total of thirteen of us tested positive and were moved to quarantine in [REDACTED] block. In quarantine, we were not regularly tested. Nurses took our temperatures only. It was difficult to get medical care and all of us were begging for medication. We asked for cough syrup to help with the severe cough and ibuprofen to help with the fever and chills. The nursing staff told us that we needed to send a written request, or what we call a "kite," to ask for medication. We were in pain and started demanding medication, but the nurses kept telling us to put a kite in. Some nurses were sympathetic and tried to help us, but there were two nurses who would not help and told us we had to use the kite system. We ended up filing grievances against them. We sent the grievances in writing to nurse management staff on either January 1 or January 2, 2022. We never received a response.
13. During quarantine, the facility moved a group of nineteen other detained individuals in blue uniforms to [REDACTED]. The blue uniformed individuals were recent arrivals to the United States and were placed in quarantine because they are unvaccinated. My group wore red and orange uniforms and our two groups were separated into top and bottom levels. We alternated using the common space every four hours. When not using the

common space, we were locked down in our cells. When a group left the common space, we were supposed to clean up after ourselves and disinfect the area. However, this often did not happen. The guards would rush us to lockdown so they could do count regardless of whether we were finished cleaning or not. My group often had to clean up after the other group, even though we were concerned about being exposed to anything they may have left behind.

14. We were supposed to be in quarantine for fourteen days, but it ended up being a total of sixteen days. Some people experienced delays in their immigration cases because we were not able to attend court during quarantine. Once our quarantine period was over, we were moved back to [REDACTED] We were not tested before being moved back to general population.
15. Currently, there are people in my pod experiencing possible COVID-19 symptoms, like chills and sore throat. The facility recently tested the symptomatic individuals and they are awaiting results. It takes three days for the results to come back and the facility keeps people in general population during this waiting period. The facility did not test the rest of us even though we have been exposed to the symptomatic individuals. Those of us who recently returned from quarantine are concerned we will have to repeat the whole process again.
16. The Aurora facility does not have a regular testing schedule or routine. They only test people if someone puts a kite in saying that they feel symptomatic. The facility does not test if only *one* person reports symptoms and it usually takes three or more people putting kites in at the same time for them to start testing. Even then, they only test the individuals who reported symptoms and not the entire pod, who have been exposed to these individuals.
17. Although I have never explicitly been told not to share information with attorneys or people on the outside about COVID practices at Aurora, myself and others feel that we need to be careful and discreet when discussing this information. The guards can listen to our phone calls and sometimes give us disapproving looks if they overhear information they do not like.
18. I would like to be able to ask guards to wear their face masks when I see that they are not following COVID safety precautions, however, I am scared that I could experience retaliation for speaking up.

Unavailability of the COVID Booster

19. Other individuals in my pod and I requested a COVID booster both via the kite system and verbally to nursing staff in January 2022.
20. The nurses told us that the booster shots would, “come soon,” but did not provide a timeline. Another individual in my pod received a response via kite saying that the local

health department, called “Tri-County,” would administer booster shots on January 25, 2022. There was no additional information about the vaccine or booster provided.

21. Tri-County did come to [REDACTED] wing on January 25, 2022; however, they only provided boosters to individuals in [REDACTED] and not the other pods. I have still not received a COVID booster shot at this time. When we found out they were coming to distribute boosters, we were excited. When it didn’t happen, it was very disappointing.
22. We have not received any information about whether they will return or when we can expect to get the booster. We plan to submit more kites to ask for this information.

[REDACTED]
[REDACTED]

February 2, 2022

Date

EXHIBIT C: Affidavit of Leticia*

AFFIDAVIT OF [REDACTED]

I, [REDACTED], make this declaration based on my personal knowledge and declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct.

My Background

1. My name is [REDACTED]. I am currently detained at the Aurora ICE Processing Center (“Aurora facility”) in Aurora, Colorado. I was born on [REDACTED], and I am [REDACTED] years old.
2. I have been detained at the Aurora facility since [REDACTED] 2020. Most recently, I have been detained in first dorm [REDACTED] and then dorm [REDACTED] of the Aurora South side of the Aurora facility.
3. I have been diagnosed with post-traumatic stress disorder, depression, and obsessive-compulsive disorder.

Conditions at the Aurora Contract Detention Facility

4. For the over one year I have been at the Aurora facility, we have had to fend for ourselves to try to stay safe and healthy in the middle of a pandemic. This has been my experience with masks, cleaning, vaccines, and testing.
5. I think there is a mask protocol but only for officers, and the officers sometimes do not wear their masks right. Many times, I have seen officers wear their masks under their chins or their noses, even when it seems like they are sick. I think the people in detention can get masks to wear, but to many of us it seems pointless since there are lots of us together all the time breathing the same air, even when we are sleeping. In dorm [REDACTED] there were around 21 of us, but now I am in dorm [REDACTED] and we are around six to eight

people.

6. It is really important to me that our dorm is clean, especially with the risk of COVID-19, but it is so hard for us to clean right. Although there are two “trustees,” people in detention who are paid a dollar a day to clean the dorms, we all take it upon ourselves to clean since I have never seen anyone from outside come in to deep clean where we live. It is hard to clean and disinfect our living areas, because the only cleaner we are given is disinfectant spray, and sometimes we do not even have the spray. We have to request the spray and sometimes officers do not bring it. When we do not have spray or the spray is not working to clean, we use our shampoo.
7. The spray does not work to clean mold in the showers or dangerous stuff like when there has been blood and feces in the bathroom. I took it upon myself to clean the mold in our showers; I asked for a pressure washer because an officer told me I should, and I did my best to clean it up. There were big pieces of mold that fell off the wall. The time when there was blood and feces in the bathroom, we asked for help to clean it up safely, but no one came, so a woman in my dorm just gave in and cleaned it up herself.
8. It is really important to me that we can wash our hands, especially with COVID-19, but our liquid hand soap runs out, too. When we run out of hand soap, we use our shampoo. When we run out of free shampoo someone usually donates their commissary shampoo. We are not given Kleenex. Our trash cans are just big bins with lids, but the lids stay open.
9. I got the Johnson and Johnson vaccine in April of 2021. Outside people—not ICE officers or GEO staff—came in to give us information about the vaccine. Even still, it

was kind of scary for me because I was not given a choice of which vaccine to get and a few days after I got the vaccine, I heard about the bad stuff with the Johnson and Johnson vaccine. My legs felt weird, and I asked for help from the officers, but it felt like no one would listen to me. I understood I was prescribed special shoes and a cane because I was struggling to stand, but medical staff never delivered them to me.

10. Since then, I have not heard of people been offered the vaccine, and I have not been offered a booster. I have not been able to find any information about vaccines or boosters on the tablets the officers let us use and have not seen it up in our dorms.
11. Although people are often sick, I only see people getting tested for COVID-19 when they are getting ready to fly to be deported.
12. Recently I learned how hard it is to get tested even when you are really sick. On around [REDACTED] 2022, I started feeling badly. My first symptom was throwing up. I think I threw up two or three times the first day. Another roommate also felt sick. They tested her, and she tested positive, and they took her somewhere else. I also asked to be tested because the roommate and I were living together in a small area. Some of my other roommates asked to be tested, too. Staff told us something about an order for the unit and put up a paper outside our door so that people would know that someone had tested positive. Although a nurse came to see me, they did not give me a test.
13. The next day, I felt even worse. I think it was this day I started feeling heavy in my chest and like my eyes were sinking into my head. My face was pale. I asked to see a nurse again, and although they came to see me and then took me to medical to check my vitals, they did not give me a test. Instead, the nurse gave me crackers and sent me back

to my dorm after just a few minutes.

14. The next day, I started feeling very badly. I did not wake up for lunch and when I finally woke up I was crying because I did not feel good. My legs and body were really hurting, and I think I had a fever. My roommates told me I had been moaning in my sleep and did not look good, and they called a nurse, who gave me painkillers. I said again that I wanted a test. That day, I think because I looked so bad, they finally gave me a test. I tested positive, and they moved me to medical.
15. In medical, they put me in a suicide watch room where the nurses could see me everywhere even when I was going to the bathroom. In the suicide room, I had a fever, sore throat, cough, headache, and body aches and felt delusional at times. I was so thirsty, but it was hard to move to drink water. The nurses and officers could see me crying. One time, I asked for a nurse because I felt so cold and thirsty, but they did not come for hours. When the nurse finally came and took my temperature it was high. I can only imagine how high it was earlier.
16. There was a really bad smell in the suicide room because of an issue with the sewer pipes in the room. Medical staff told me they had put in service orders, but nothing had been done. The nurses told me they were going to move me, but it seemed like they did not have space. The smell gave me a painful headache. I was in the suicide room over the weekend and maybe into Monday or Tuesday.
17. In medical, I was at first told I could not watch TV. They said TVs were only for people with the marshals and people in disciplinary, not people in medical. But another person who had a TV that had been wheeled into his room overheard me asking and told staff I

could borrow his TV sometimes. They would wheel it outside my room, and I would watch through my window. They did not offer reading material, but I had brought my own books I had been sent from the outside. I asked for program, like colored pencils, paper, and a crochet hook, but they never brought me anything. While there were phones, there were only two for around eight people. Staff tried to arrange the calls but sometimes I had to wait hours for a phone. The calls cost just the same as always.

18. Next, they moved me to a more normal, private room with no smell although it was still dirty. I could see that the bedding had hairs on it. They told me I could clean the room if I wanted so I did my best to wipe everything down, even the bed, and sweep and mop.
19. I am back in dorm [REDACTED] now even though I am still feeling some symptoms like nausea and a headache. My roommates still have not been tested. Here in dorm [REDACTED] I do not have any medicines for my symptoms, even though I have asked for them.
20. It was so frustrating and sad to be sick with COVID-19 in detention. I did not have the chance to get a booster, and then when I was sick, I did not have simple things like a clean room or good access to things like water and painkillers, things that I could not get for myself. Thank you for your time.

[REDACTED]

1/27/2022
Date

EXHIBIT D: Affidavit of Musa*

AFFIDAVIT OF [REDACTED]

I, [REDACTED], make this declaration based on my personal knowledge and declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct.

My Background

1. My name is [REDACTED]. I am currently detained at the Aurora ICE Processing Center in Aurora, Colorado. I am 36 years-old and was born on [REDACTED]
2. I have been detained since April 28, 2021. I am seeking asylum and adjustment of status. My medical conditions include the following: post-traumatic stress disorder; major depressive disorder, recurrent, severe; unspecified psychosis; unspecified anxiety disorder; and blackouts. I am Black and have repeatedly experienced and seen racism in the way the guards at this detention center treat Black people who are detained here.

Conditions at the Aurora Contract Detention Facility

3. I am currently detained in [REDACTED]. I was transferred from [REDACTED] in Wyoming on or about April [REDACTED] 2021. Before I was transferred to Aurora Detention Center, I was placed in another facility. I was never given any masks during the transfer, and this was during the COVID-19 pandemic. They did not test me for COVID-19 or give me a mask when they put me in general population for about a day or two in another facility. I finished my sentence and they still put me with people facing life and I was scared, because I thought they would jump me or that I would get hurt. I asked if they could put me in a separate cell where I can be by myself. The officers said no because I was being held for ICE. Most of the individuals I was detained with at the facility were going to court.

4. In the Aurora Detention Center, they didn't tell me anything about COVID-19 and gave me no masks whatsoever. I didn't have symptoms and they did not test me for COVID-19, but they put me in twenty-four-hour quarantine lockdown when I got there. I never understood this because they should have checked if I have COVID-19 before locking me up for twenty-four hours a day. They said I was supposed to be in quarantine for fourteen days, but I was only there for five to seven days at a maximum. There was a lack of medical attention in quarantine. People were banging on the doors because they were refusing people medical attention. I had to see the psychiatrist because this caused me mental duress and messed with me psychologically. I was having a lot of nightmares. When I visited the psychiatrist, it was worse than being at quarantine where everyone was banging on the doors. The psychiatrist's office had a window where everyone came to stare at me. I told the psychiatrist that I'd rather go back to quarantine because I could not stand to be there. There are some posters on the walls telling you to wash your hands and stickers on the ground telling you to social distance, but that doesn't make sense because they put four people in a room. You don't have room to stand up because the room is about six-by-eight feet at most.
5. In January 2022, I was sent to segregation for what I consider to be a wrongful punishment. I was supposed to be in lockdown for three days, but they kept me there for nine days. I believe I was wrongly being punished and I was on hunger strike for six days. The psychiatrist told me to focus on getting out of lockdown, even though ICE kept me there longer than they said they would. I told the psychiatrist that I was being held longer than I should have been. When I woke up on the ninth day, I was

confused and scared. I had had a blackout the night before. When I have blackouts, I am not aware of anything that is happening and I become gullible. You could put my hands in a fire, but I wouldn't be able to react to it. I had a very severe mental breakdown on the ninth day, so I kicked the door a couple of times to get the attention of the officer and I told him he has to take me to medical. The major was present when I started kicking on the door. He tried to tell me to calm down and told me I would go see the psychiatrist. About ten officers came because they thought I would hurt myself. I was aware of what was going on, but I was afraid they would accuse me of doing something bad the night before. When I get blackouts, I get accused of getting into trouble. Thank God that didn't happen. They took me to medical and I saw the psychiatrist. The psychiatrist helped me a little bit, mostly to calm down. I think I was having a panic attack. I told them that I wanted to get out of lockdown. ICE said they kept me longer in lockdown because my housing unit, [REDACTED] was in quarantine and that I should stay in lockdown until they finish the quarantine of [REDACTED]. The only reason they found out that people in [REDACTED] had COVID-19 was because they got so sick that they had to get medical attention. When they got medical attention, they tested positive for COVID-19. But, on or about January 9, 2022, they put me back in [REDACTED] while it was still in quarantine after I had spent nine days in lockdown. Since they didn't have space to take everyone and put them in a different room, they put everyone in [REDACTED] in quarantine. They took me out of [REDACTED]. I saw them transfer other detainees out of [REDACTED] to another unit, [REDACTED]. It didn't make sense why they kept me in lockdown so long if they would just put me in quarantine in [REDACTED] which

was infected with COVID-19, anyway.

6. They put me and three other Black people in [REDACTED] where everyone has COVID-19. I started experiencing symptoms; I was having trouble breathing and my throat was sore. I lost my sense of taste. I wasn't eating because everything tasted like mud and I started losing weight. They took about six more people who had COVID-19 from [REDACTED] and put them in [REDACTED]. All of us in [REDACTED] 2 got together and said we wanted to talk to an officer in charge and that we want to be tested. They said that they don't have enough COVID-19 tests or the resources to test all of us, so they put us in quarantine for a month. People just kept getting sick. People were coughing all night. People put their jackets on because it was so cold. People were showing different symptoms of COVID-19. It looked like a medical facility. They didn't bother to bring us any masks. The only place you can go is medical and they tell you that they are short on staff. Medical has not been helpful at all. We all got together to talk to medical. Someone from medical came to talk to us but he didn't give us answers. We asked what precautions they are taking to provide a safe environment. He told us to ask ICE. Only the GEO captain was there. I am not sure what his title is, but he was wearing a white shirt. We are just left here to suffer.
7. They told us we were COVID-19 free on about January 25, 2022 and ended the quarantine. They removed a paper saying that we were in quarantine. But people are still sick. They moved a Black person to another facility in Arizona without testing him for COVID-19. Usually, they test people before transferring or deporting them, but they took him from [REDACTED] to a facility in Arizona with no testing. He was sick and

showing symptoms of COVID-19. He is probably over there getting everyone sick. We called the [REDACTED] to explain how ICE is violating the COVID-19 protocols. They are refusing to give us masks, vaccines, and medicine. They are only giving people psychiatric medicine. When they took us out of quarantine, they gave people the COVID-19 booster, but we weren't vaccinated. My cellmate took the COVID-19 shot a long time ago but still got sick. He got the booster, but he is still sick. How can they give us the COVID-19 booster, but they can't give us the test? I didn't get the booster because I never got the COVID-19 shots in the first place. We were left to die.

8. ICE told the news journalist that they are doing the best they can, but this is not true. I think that ICE does not test people because the results would show such high numbers of infected people and they would have to record this. When I first came to Aurora, I saw that ICE tested everyone in a housing unit for COVID-19 when they found out that one person was sick. But this time they didn't test everyone. Everyone was writing KITE requests to seek medical attention. I believe ICE was covering themselves by not testing us because they knew the results would be extremely high for COVID-19 positive people.
9. On January 26, 2022 they threatened to stop giving me my psychiatric medicine because I refused to go to medical for a review of my medication. I didn't want to go because I felt that everyone going down there has COVID-19 and I told them this. I don't want to go to medical because the only people going down there have COVID-19. I might have COVID-19 and I don't want to get anyone sick. I don't know because I never got tested. A nurse came and told me to go or I would be taken off of my

medication. I don't want to talk to the doctor and I feel that it's not safe to go to medical. We will see if they will take me off my medicine, which would be messed up, because I need that medicine.

10. They take COVID-19 lightly. The GEO captain in the white shirt goes to [REDACTED] without a mask. After that, he goes straight to [REDACTED] without a mask, touching everything. I feel like he is bringing COVID-19 to our housing unit. The psychiatrist sometimes wears a mask. Sometimes when I would wear a mask, he said that I can take it off if I want to. The medical staff through telehealth also say that we can take off our masks if we want to. No one wears gloves, but they touch the microwaves, the phones, and the doors. There are four dorms and we only have one T.V. controller. The officers take the T.V. controller to different dorms, for twelve T.V.'s. It's a mess. Sometimes the nurses wear masks, but usually they don't. Most of the time the officer at the dorm doesn't have a mask. If I asked an officer to get me a mask, they would not because they do not have them or they don't want to. It's like they do not care. It's like they don't believe in COVID-19. They only care about testing people when they deport them to Mexico.

11. The medical staff themselves don't seem to believe in COVID-19. They do not ask if I have any symptoms. The way they behave - they come to parts where people have COVID-19 without gloves or masks as they are giving medication and taking blood pressure. They don't sanitize the medical machines and use the same machines on everyone. We used to have a machine for hand sanitizer. It broke about three or four months ago and they never replaced it. When I complained, they said all I had to do

was use soap to wash my hands or to not touch stuff. You have to go request the soap.

It is a small, white bar of soap.

12. I was interviewed by [REDACTED]. After the [REDACTED] interview, a sergeant told me that whatever I do in this facility, it will come back to me whether it's good or it's bad.

13. I have been repeatedly harassed with racist comments from a white officer. On January 31, 2022, another detainee told me he saw an officer messing with my food with no gloves on around 2:15pm while I was out of the room. I spoke to an older officer, a Black man, and told him to call the captain or sergeant. The Black male officer also told the sergeant or captain that he saw the officer touch my food.

14. I no longer want to complain at the detention facility because I fear a Hispanic sergeant who is friends with the white officer who touched my food and who has also harassed me will do something if I keep complaining. I don't want to be charged or tased or beat up, like the officers beat up a Jamaican man a few weeks ago. I'm scared that I will face the same fate. But I want to submit my affidavit because this is America – somebody has to stand up for what is right.

[REDACTED]
[REDACTED]
February 2, 2022

EXHIBIT E: Affidavit of Afuom*

AFFIDAVIT OF [REDACTED]

I, [REDACTED], make this declaration based on my personal knowledge and declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct.

My Background

1. My name is [REDACTED], I am currently detained at the Aurora ICE Processing Center in Aurora, Colorado. I am 24 years-old and I was born on [REDACTED].
2. I have been detained at Aurora ICE Processing Center in Aurora, Colorado since August 21, 2021. I had adjustment disorder and depression at the time of my arrival. Recently, I developed respiratory issues, including difficulty breathing, which have yet to be diagnosed.

Conditions at the Aurora Contract Detention Facility

3. I am currently detained in [REDACTED] I was transferred from the Department of Corrections. At the time of my transfer, I was placed in quarantine for 18 days. I was quarantined with 10-15 other people. I was not provided a mask. After the quarantine period, I was mixed in with general population. Now it seems like individuals who are transferred are no longer being quarantined.
4. The conditions make me feel unsafe. There are a lot of people and no ability to social distance. There are 10 cells on 2 floors and each cell has 4 people, so there are approximately 80 people in this confined space. None of the individuals in detention wear a mask and neither do most of the staff. There are some hand sanitizer stations but they are usually empty. We are provided with cleaning supplies but no disinfectants, just soap.

5. When individuals present with symptoms, they are not being tested. Currently, a lot of people are sick and appear to have COVID-19 but there is no testing or treatment, even if they have known medical conditions such as asthma that puts them at higher risk. I have not been tested for COVID-19 and I am not aware of anyone being tested. Symptomatic individuals remain in the general population and put everyone at risk.
6. On January 8, 2022, I felt very sick and was having trouble breathing. I was hot and shaking. I asked for emergency medical but was told to submit a KITE. In my weakened condition, all I could do was lie down in bed. Since this time, I have continued to struggle with breathing. I wake up in the middle of the night unable to catch my breath. I have not received medical treatment for my difficulty breathing.
7. Due to lack of testing, I cannot confirm whether there are positive cases in my dorm. However, I heard that in the dorm next to mine there are some positive cases. When there is a positive case, they stop providing services such as access to the library, and you get stuck in the pod. In addition, I heard that they cancel immigration court.
8. There is no avenue for filing a complaint regarding COVID-19 protocols or other concerns regarding the conditions in the facility. When I raise a concern with GEO, they refer me to ICE. When I take my concern to ICE, I am referred to GEO. No one is taking responsibility for our health and safety.
9. I fear retribution if I speak out too much regarding the unsafe conditions. If you complain about the conditions or say that you will speak to your lawyer, the staff react negatively. Recently, my cellmate who would often speak out for better treatment and increased safety protocols, was told that he was being released. However, at 9am he

was transferred to another facility. I believe they lied to him about being released and transferred him as punishment for speaking out. There is also a general sense that they will speed up your deportation if you complain to the staff or to your lawyer.

10. I have not received a vaccine or any information regarding the vaccine. When I first arrived, I asked about access to a COVID-19 vaccine and was told that I could put in a KITE. There has been no education on the vaccine, and I have not had access to the vaccine. On January 25, 2022, I heard that some people were being vaccinated. I was sleeping and when I woke up, I was told that two people arrived to administer the vaccine to individuals in my dorm. I do not know who was administering the vaccine, how people were chosen for vaccination, or what vaccine they received. I did not know that vaccines were being offered and had no opportunity to access the vaccine that day. The process was not transparent and appeared arbitrary.

██████████

██████████

1/26/22

Date

EXHIBIT F: Affidavit of Camilo*

AFFIDAVIT OF [REDACTED]

I, [REDACTED], make this declaration based on my personal knowledge and declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct.

My Background

1. My name is [REDACTED]. I am currently detained at the Aurora ICE Processing Center (“Aurora facility”) in Aurora, Colorado. I was born on [REDACTED], and I am 25 years old.
2. I have been detained at the Aurora facility since September of 2021, most recently in dorm [REDACTED] in the north side of the facility.

Conditions at the Aurora Facility

1. It feels to me like there are no real rules about COVID-19 here.
2. When I arrived at the Aurora facility in around September of 2021, around 15 to 20 of us who arrived around the same time were put together in one dorm for over two weeks. Being in quarantine was really stressful. Although we could use the phones, we were closed in and could not really walk around much. We could not go to the library, and my roommates who had court dates had their court dates postponed.
3. After quarantine, I was moved to dorm [REDACTED]. In [REDACTED] we are around 35 people. The rooms in [REDACTED] sleep four or eight people per room. I am in a room with three other people. They do not talk to us about social distancing, and it is hard to do since there are so many of us in one dorm.
4. Many officers do not use masks and sometimes it seems like they are sick. If my roommates or I want a mask, masks are not just available. We have to wait for an

officer to come by and sign a paper to get a mask. Sometimes this officer comes only around once a week, and you can only ask for one mask at a time.

5. It is important to clean our rooms and wash our hands with soap, but sometimes we ask for soap or shampoo and the officers say they do not have it, and we just have to wait. When this happens, we wash our hands with just water. Sometimes there is also no disinfectant spray for cleaning our rooms for several days.

Being Sick at the Aurora Facility & Being Told Not to Talk

6. Around the first of the year, I started feeling sick with a headache, sore throat and lungs, and a bit of a cough. Around that first day of feeling sick, I told a nurse about my symptoms and asked for painkillers or to go to medical, but she said no. I also asked for a COVID-19 test, but they did not test me. Each morning I woke up hoping for medication, but nothing.
7. Around three days later, around January 3, I felt feverish, dizzy, and like I could not see or breathe very well. I asked a nurse for a COVID-19 test again. She told me I had to wait five days for a test and before going to quarantine in dorm A3 to get medicine. I wanted to go to dorm A3 because I really needed medicine. Our dorm, [REDACTED] was in quarantine, too, but we did not have medicine for COVID-19.
8. That same day, around January 3, a different person also came to our dorm. She is the person who comes when people send medical grievances. I believe she said she was the medical director. She told our dorm that they were going to move 13 people who tested positive to another dorm and that they did not want us to talk to our attorneys or the news about this.

9. I believe they had tested around 15 people from our dorm and of those people around 13 were positive for COVID-19 and went to dorm ■■■. While usually they test only people leaving with deportations, some people in my dorm had started getting sick even earlier than me and the medical people had called out some names to get tested but not my name. Some of the around 13 people who tested positive wanted to see their results, but the medical people said no. They just told them they had tested positive and had to go quarantine the other dorm.
10. I waited five days for my test like the nurse had said, and because I was still sick after five days, I asked a nurse again for a test again. The nurse said they would come back to test everyone, but they never came back to test.
11. Apart from talking to the nurses when they came to our dorm to give medications, I also sent multiple kites and at least one grievance asking for a COVID-19 test. But since I cannot write in English and instead wrote my notes in Spanish, I think they were ignored. I never got a response back or even a copy of my notes that I sent. What it feels like is that because I write in Spanish, they throw my notes into the trashcan.
12. While my dorm was in quarantine again, again I could not go to the library, and our court dates were again postponed. But even though we were in quarantine, the officers still brought several new arrivals to the Aurora facility to our dorm.

COVID-19 Vaccines

13. Since arriving at the Aurora facility in around September I had never been offered the COVID-19 vaccine. I sent a kite about the vaccine, too, but never got a response. On around January 24, a doctor came with a paper to write down the names of people who

wanted vaccines and their allergies. On around the January 25, two nurses and a doctor and the director came—I think they were all from the Aurora facility although there was one person I had not seen before—to give us our shots. I only wanted Moderna, so I asked for that one. I think that is what I got, but I did not get a vaccination card.

14. The medical people told us that if we were sick we should not get the vaccine, but people in my dorm were still sick, and they got it anyways, maybe because they felt like they would not have another opportunity to get the vaccine.

Conclusion

15. I was probably sick with COVID-19, but I could not get a test, and I could not get medications, not even painkillers. Now I feel better from COVID-19 but have a bad headache and some sort of bump behind my ear. I broke my jaw a while ago, and I am worried the headaches and bump are from that injury. I have sent kites, grievances, and talked to nurses when they come with pills for other people, but so far no one has helped me. The nurses say they have not received my notes.

16. Being in detention during COVID-19 has been scary. I am afraid because when I feel sick, it feels like no one pays attention, and I cannot get medicine or treatment. It makes me afraid that something could happen to me here and no one would know or care.

01/26/2022
Date

Certificate of Verification

I, [REDACTED], hereby certify that I am fluent in the English & Spanish languages. I further certify that on the date of 01/26/2022, I orally reviewed the attached document, entitled AFFIDAVIT OF [REDACTED] with [REDACTED] in his/her/their best language of Spanish, and that s/he/they confirmed the accuracy of its contents.

[REDACTED]
[REDACTED]

01/26/2022
(Date)

EXHIBIT G: Expert Declaration Submitted by
Experts in Psychology & Social Work on the
Known Impact of Adverse Experiences

EXPERT DECLARATION

SUBMITTED BY EXPERTS IN PSYCHOLOGY & SOCIAL WORK ON THE KNOWN IMPACT OF ADVERSE EXPERIENCES, EXTREME SOCIAL ISOLATION & PUBLIC HEALTH PANDEMICS

**Denver, CO
April 1, 2020**

PURPOSE

The following document is a summary of expert opinions and current research regarding the psychological impact of the COVID-19 pandemic and potential measures that may be put in place to slow the spread of the virus at the Aurora Immigration and Customs Enforcement (ICE) Processing Center. Due to the fact that detention facilities are typically dense and crowded, they are at high risk for becoming prime breeding grounds for the highly contagious coronavirus and its impacts. Measures need to be taken immediately to protect the most psychologically vulnerable in these settings. This document summarizes the impact of Coronavirus Disease 2019 (COVID-19) on immigration detainees with pre-existing psychological issues or comorbid medical and mental health conditions. Finally, the writers offer recommendations for avoiding negative outcomes, which include heightened levels of fear and anxiety, increased isolation and depression due to lock-downs, increased risk for psychotic and manic episodes, and increased risk for suicide.

EXPERTISE & EXPERIENCE

Each contributor and signatory of this declaration is licensed in their respective fields and has direct experience working with individuals in immigration detention.

Cumulatively we have performed hundreds of forensic mental health evaluations and consulted on treatment and discharge planning for patients in the custody of the Aurora ICE Processing Center in Aurora, Colorado. Based on this collective expertise, it is our unanimous opinion that lockdown measures to prevent the spread of COVID-19 could have serious psychological consequences to detainees with psychiatric concerns or diagnoses.

BACKGROUND

As of the writing of this document, The COVID-19 virus has swept the globe and has been officially categorized as a pandemic by the World Health Organization (WHO), with cases nearing 830,000 as of Wednesday, April 1st, and the death toll standing at just over 3,600 in the US. The term pandemic is only utilized in severe circumstances,

and to describe an epidemic occurring worldwide, crossing international borders and affecting a large number of people. Given these severe circumstances, we as mental health professionals have an ethical duty to share the impact of a health pandemic on populations deemed vulnerable due to their mental health status. Specifically, this pandemic and the measures needed to control its spread within detention facilities is likely to have a significant, severe, and negative impact on the mental health of individuals in immigration detention with pre-existing mental health problems. This will put their well-being and safety at risk, and potentially endanger others. Research strongly supports the necessity of paroling detainees with mental health issues for humanitarian and moral reasons. Below is a summary of the factors that are likely to put detainees with pre-existing mental health concerns at greater risk for exacerbation of psychiatric problems, and an explanation of the sense of urgency we feel as professionals to ask for humanitarian release of these individuals so that they are not negatively impacted by facility lockdowns (WHO, 2020).

SUMMARY OF INCREASED RISK FACTORS DUE TO COVID-19 PANDEMIC

1. COVID-19 as a global crisis and adverse life event is likely to lead to retraumatization and exacerbation of mental illness for immigrants with previous trauma exposure

A large body of research points to the negative impact that significant life stressors (i.e. adverse events), including a heightened sense of fear and anxiety, have on individuals struggling with psychiatric symptoms. The COVID-19 crisis clearly constitutes an adverse life event and stressor for the majority of the world. However, immigration detainees are more vulnerable to the impact of adverse events due to the high rate of previous trauma exposure. It is common for individuals to enter detention facilities with high levels of stress and traumatic experiences including but not limited to persecution, violence/torture, abuse, intimidation, racism, discrimination, identity-based violence, and human trafficking/captivity. For those with pre-existing anxiety and psychological trauma, adverse life events have been shown to lead to significant mental health deterioration. (Von Werthern et. al., 2018). Additionally, individuals who have experienced multiple traumatic events tend to evidence greater symptom complexity for each subsequent trauma (Cloitre et al., 2009). Studies indicate the strong association between life stressors and increased suicide attempts for those with a history of depression and suicidal ideation (Baca-Garcia et al., 2007; Bryan et al., 2015). When life stressors increase for individuals with a past history of attempts, their deterioration can happen quickly and without clear warning signs. Additionally, individuals who have

experienced multiple traumatic events tend to evidence greater symptom complexity for each subsequent trauma (Cloitre et al., 2009).

2. Health pandemics have known negative impacts on individuals with severe and persistent mental illness (SPMI)

“Severe and persistent mental illness” is a term that is commonly used to refer to a collection of mental disorders that usually affect people in early adulthood and often have profound effects on family relations, educational attainment, occupational productivity, and social role functioning over the life course. Disorders typically subsumed under this rubric include schizophrenia, schizoaffective disorder, bipolar disorder, major depression, and obsessive-compulsive disorder (Carey & Carey, 2009).

Pandemics have been found to significantly impact individuals with SPMI because of the disruption often caused to the psychiatric medication supply chain, the decreased availability of specialist providers, an increase in anxiety and stress in individuals around them, and a tendency for large scale crisis to exacerbate persecutory and grandiose delusions (Mollica et al., 2004; Tol et al., 2011).

Further, the current pandemic and resulting lockdown will likely lead to an increased sensitivity to stress and heightened emotional reactivity, both of which contribute significantly to increased psychotic experiences, including disorganized behavior, hallucinations, and delusions (Myin-Germeys & van Os, 2007). In addition to exacerbating SPMI, threatening life events such as the COVID-19 pandemic are significantly related to the onset of psychotic and manic episodes (Chung, Laneluddecke, & Tennant, 1986).

3. The measures taken to control health pandemics, disasters, and complex emergencies, while necessary from a public health standpoint, exacerbate mental illness.

Isolation and solitary confinement practices endured during detention promote the occurrence of, and exacerbation of mental disorders (Barber-Rioja, 2019). Individuals struggling with mental health problems are more vulnerable to the negative impacts of the social isolation and increased confinement that may occur in detention facilities in response to the COVID-19 crisis. Social isolation and increased confinement are significantly related to increased depression (Cacioppo, et al., 2006; Sibitz et al., 2011), anxiety (Bauer et al., 1993), suicidal ideation and attempts (Goldsmith et al., 2002), and worse emotional well-being leading to decreased quality of life (Leigh-Hunt et al., 2017;

Hawton et al. 2011), an increase in vegetative symptoms (defined as disturbances of a person's functions necessary to adequately navigate activities of daily living), and compromised mental status that can lead to psychosis and paranoia (Metzner et al., 2013).

Individuals with a history of traumatic stress tied to social isolation and restricted lifestyles are uniquely vulnerable to the impact of facility lockdowns given their past traumas. They are likely to experience a situation of increased confinement and isolation as a repetition of their original traumas; the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) clearly states, “symptom reactivation may occur in response to reminders of the original trauma, life stressors, or new traumatic events.” Additionally, solitary confinement has been shown to lead to greater posttraumatic stress reactions and depressive symptoms in adults who have experienced a history of potentially traumatic events (Piper & Berle, 2019). The lack of transparency, unpredictability, and loss of control created by a health pandemic are all predictive factors for a re-emergence of PTSD symptoms (Briere & Scott, 2015).

4. The measures taken to control pandemics threaten protective factors for psychiatric stability for individuals with pre-existing mental health conditions

Factors that serve to prevent psychological disturbance altogether or prevent the exacerbation of current psychiatric symptoms include: visitation, access to mental health and physical health evaluations, close contact with the members of the milieu, and the opportunity to engage in recreational activities that provide physical exercise and mental stimulation (Robjant et al., 2009). In attempting to protect detainees' physical health, it is likely that access to these protective factors will be taken away from detainees leading to an increase in psychiatric symptom severity, especially for those with pre-existing mental health conditions. Further, stabilizing factors for PTSD, such as consistent and predictable interactions with non-traumatizing others, a sense of predictability and control through routine, the ability to make choices for oneself, and a safe and stable environment (Carswell et al., 2011) are nearly impossible in situations of isolation, lockdown, and physical distancing, as are required in a severe health pandemic.

5. Many individuals with mental illness have comorbid physical illnesses, increasing their risk for contracting, or having a more negative outcome in response to, a severe virus such as COVID-19.

Individuals with anxiety, major depression, bipolar disorder, and schizophrenia are all at higher risk for comorbid cardiovascular disease (CVD), and individuals with schizophrenia are at higher risk for diabetes (Prince et al., 2007). Individuals with depression, bipolar, and schizophrenia all also have higher rates of obesity, which is largely tied to their medication regimen. This is especially notable for those taking antipsychotics, as these medications cause significant metabolic changes and greatly increase cardiovascular problems (Correll et al., 2011; Simon et al., 2006). Further, having a chronic mental illness is associated with a four-fold increase in chronic obstructive pulmonary disease (Kolappa et al., 2013).

According to the Centers for Disease Control (CDC), individuals with CVD, diabetes, obesity, and chronic respiratory infections such as those described above are considered to be vulnerable groups to COVID-19 (CDC, 2020). Further, having both a chronic illness such as CVD or diabetes and a mental illness severely impacts the ability of a person to adhere to treatment or necessary preventative protocols, increasing the likelihood of poor disease management (Prince et al., 2007). This puts not only detainees with comorbid mental illness and physical illness at greater risk, but also puts those around them at greater risk.

RECOMMENDATIONS

It is recommended that immigration detainees with mental health problems be granted humanitarian release. Releasing those with SPMI and complex psychological problems is not only the humane option, but it should also lessen the stress placed on the facility to reduce the outbreak of COVID-19. By reducing the number of people held together in a confined space, there is a reduced number of opportunities for transmission to occur. Humanitarian release to care providers in the community will also likely improve the psychological and functional impact of experienced isolation.

The World Health Organization (WHO) specifies that “health is a shared responsibility, involving equitable access to essential care and collective defense against transnational threats.” (WHO, 2020). At a time when COVID-19 has been deemed a pandemic, and recommendations from worldwide public health officials and governments determine that the best guidelines to mitigate further spread of the virus is for individuals to practice, among other things, physical distancing and self protection, it is arguable that the current environment at detention centers is anything but conducive to comply with these guidelines. Recognizing the research that exists tied to both these issues suggests that left disregarded, the mental health ramifications of responding to the COVID-19 pandemic will be far reaching and specifically impactful on the detainees in ICE facilities that evidence psychiatric instability or vulnerability.

“The primary objective of humanitarian release is to save lives, alleviate suffering, and maintain human dignity.” (Rouleau-Lynda and Redwood-Campbell, 2009). In line with the evidence available in the research community, offering such relief to an already vulnerable population would prove to be significantly beneficial to the physical and mental health of the detainees, and would likely also benefit the general public.

SUMMARY & CONCLUSIONS

In conclusion, there is clear humanitarian and moral justification for the release of immigration detainees with premorbid psychological issues, even if undiagnosed. As indicated in the body of this document, the five main indicators that support the immediate paroling of immigration detainees with SPMI or complicated psychological distress include: 1) COVID-19 as a global crisis and adverse life event is likely to lead to retraumatization and exacerbation of mental illness for immigrants with previous trauma exposure; 2) Health pandemics have known negative impacts on individuals with severe and persistent mental illness (SPMI); 3) The measures taken to control health pandemics, disasters, and complex emergencies, while necessary from a public health standpoint, exacerbate mental illness; 4) The measures taken to control pandemics threaten protective factors for psychiatric stability for individuals with pre-existing mental health conditions and; 5) Many individuals with mental illness have comorbid physical illnesses, increasing their risk for contracting, or having a more negative outcome in response to, a severe virus such as COVID-19.

To ensure the health and wellbeing of people in its custody, it is therefore strongly recommended that ICE consider humanitarian release for people at risk for exacerbation of preexisting mental health problems and psychiatrically vulnerable populations, including those with acute and prolonged psychological conditions. Many of these detainees face comorbid conditions such as advanced age and comorbid physical illness, increasing their vulnerability to harm. Additionally, immigrants in detention are likely vulnerable to abuse and medical neglect due to demand. The prompt release of detainees with psychiatric conditions will not only serve to reduce the spread of this outbreak and its increased impact on psychological vulnerability but also reduce the likelihood that needs in the center overwhelm the staff available to provide services to this vulnerable community.

DECLARATION

Each signatory on this document understands that our primary duty is in writing reports and giving unbiased evidence in regards to the mental health of immigrants in detention.

In this declaration, we have endeavored to be accurate and to cover all relevant issues in relation to the matters which we have been asked to address.

With highest regards,

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