



February 22, 2021

SENT VIA EMAIL AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED

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Re: Violations of Civil Rights, COVID-19 Protocols, Reckless Endangerment, and other Abuses at the Glades County Detention Center (Florida)

Dear Inspector Cuffari and Officer Culliton-Gonzalez:

The following organizations—Americans for Immigrant Justice, Freedom for Immigrants, Immigrant Action Alliance, Southern Poverty Law Center, American Civil Liberties Union (ACLU) of Florida, Florida Immigrant Coalition, Doctors For Camp Closure Florida Chapter, Detention Watch Network, and United We Dream—submit this multi-individual civil rights complaint on behalf of Steve Cooper, Rodney

London, Romaine Wilson, Sebastian Radetic, those previously harmed while detained who may suffer long term consequences, and the approximately 300 individuals whose lives are being recklessly endangered today at the Glades County Detention Center ("GCDC"). We urge the DHS Office for Civil Rights and Civil Liberties (CRCL), pursuant to its authority under 6 U.S.C. § 345, to immediately 1) Investigate Medical Practices at GCDC and Denial of Release, 2) Recommend that ICE Terminate the Intergovernmental Services Agreement (IGSA) with Glades County, and 3) Recommend the Immediate Release of All Individuals Detained to Community.

The above named organizations provide this accounting of Immigration and Customs Enforcement ("ICE"), Glades County Sheriff's Office, and its contractors' reckless and ongoing endangerment of the lives and well-being of those they are contractually and constitutionally obligated to care for in the Glades County Detention Center from pandemic onset to present. We file this complaint in an attempt to secure immediate oversight preventing additional deaths and long term health consequences of those whose civil rights are being violated.

Direct testimony from 25 individuals currently or formerly detained underscore persistent patterns or practices of abuse:

This complaint includes direct testimony from 25 individuals currently and formerly detained. All reports made by those who remain in detention are submitted anonymously due to concerns of retaliation. Some of these individuals are willing to be identified in the case of a formal investigation. Together, these testimonies clearly demonstrate informed and deliberate indifference toward the safety and well being of those under the care of ICE and Glades County, as these entities were made aware of these complaints and conditions for the past ten months. This disregard for the welfare of those in their custody includes violations of ICE's own detention standards and COVID-19 protocols, CDC guidance, and the U.S. Constitution.¹

Sources of direct testimony include:

- Legal declarations submitted within the *Gayle v. Meade* litigation spanning April, May, and June 2020, including initial lawsuit filing and two subsequent motions to enforce the court's order;
- Civil rights complaints detailing 1) medical abuse and medical neglect, 2) physical violence and pepper spray in response to peaceful protest and public reporting, and 3) the use of highly toxic chemical spray intended to combat the spread of COVID-19;
- Habeas petitions in federal court detailing constitutional violations;
- Interviews conducted in January 2021 detailing current conditions;
- Reports regarding the death of Onoval Perez Montufar who died due to COVID-19 negligence at the Glades County Detention Center.

¹ 2019 National Detention Standards for Non-Dedicated Facilities, U.S. Immigration and Customs Enforcement, <https://www.ice.gov/doclib/detention-standards/2019/nds2019.pdf>. (hereinafter "2019 NDS"); U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations COVID-19 Pandemic Response Requirements (Version 5.0, October 27, 2020), <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>. (hereinafter "PRR"); Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities, Center for Disease Control and Prevention (Updated Dec. 31, 2020) https://www.cdc.gov/ccjbh/wp-content/uploads/sites/172/2020/04/CDC_guidance-correctional-detention.pdf. (hereinafter "CDC Guidance"); Order Adopting in Part Magistrate Judge's Report and Recommendation, *Gayle v. Meade*, No. 1:20-cv-21553-MGC, ECF No. 76 at 6-7 (S.D. Fla. Apr. 30, 2020). (as a result of the evidence the record as of April 30, 2020, this Court concluded conditions at Glades constituted "a violation of the Petitioners[] Fifth and Eighth Amendment rights.").

These direct testimonies provide a timeline from the onset of the pandemic to the present, including persistent pattern or practice of:

- Medical abuse;
- Lack of personal protective equipment (PPE), sanitation, soap and other hygiene products;
- Transfers without implementing appropriate quarantine or medical screening
- Mixing of people who have tested positive for COVID-19 or who have been exposed to the virus with people who had tested negative or had not yet tested
- ICE failing to follow court orders and release high-risk individuals from GCDC;
- Hunger strikes demanding basic medical protections, oversight and release due to the entire population's vulnerability;
- Retaliation for peaceful protest and public reporting;
- Use of toxic chemical spray in enclosed spaces at GCDC, contributing to virus spread and harming detained people's health; and
- Hospitalizations, deaths, and disappearances.
- Restrictions to COVID-19 testing access.

The testimony of people detained at GCDC demonstrates both Glades County's negligence, as well as complete inability to guarantee the wellbeing of those in their custody. Although there are basic needs that should be addressed immediately, such as ensuring access to PPE and soap, these steps alone cannot ensure the safety of people detained at GCDC. In its own Pandemic Response Requirements ICE admits that "strict social distancing may not be possible in congregate settings such as detention facilities."² As shown throughout this complaint, people detained repeatedly also shed light on the county's inability to safely quarantine people without recourse to cruel practices such as solitary confinement, a practice that increases an individual's risk for injury and even death³ and which the United Nations has previously described as torture.⁴ In addition to these factors, medical professionals have also cited poor ventilation and disconnect from public health systems as systemic issues across carceral settings and contributing factors to the spread of COVID-19.⁵ Adding ICE⁶ and particularly Glades County's well-documented history of systemic medical neglect and abuse even before the onset of the pandemic,⁷ the urgent need to cancel Glades County's contract and to release people to complete their immigration cases in community is clear.

Today, ten months after the onset of the pandemic, individuals detained at Glades County Detention Center report life-threatening medical malpractice, including the intentional denial of treatment and diagnosis qualifying them for medical release. Reported as well is continued widespread medical neglect,

² PRR at 28.

³ Jayne Leonard, *What are the effects of solitary confinement on health?*, Medical News Today (August 6, 2020), <https://www.medicalnewstoday.com/articles/solitary-confinement-effects>.

⁴ Tom Miles, *U.N. expert says solitary confinement in U.S. prisons can be torture*, Reuters (August 3, 2013), <https://www.reuters.com/article/us-usa-california-torture/u-n-expert-says-solitary-confinement-in-u-s-prisons-can-be-torture-idUSBRE97M0QU20130823>.

⁵ *Amid pandemic, U.S. must reduce incarceration to protect public safety, report finds*, Brown University (October 22, 2020), <https://www.brown.edu/news/2020-10-22/decarceration>.

⁶ Detention Watch Network, American Civil Liberties Union, and National Immigrant Justice Center, *Fatal Neglect: How ICE Ignores Deaths in Detention*, (February 2016), <https://www.detentionwatchnetwork.org/pressroom/reports/2016/fatal-neglect>.

⁷ Southern Poverty Law Center and Americans for Immigrant Justice, *Prison By Any Other Name: A Report on South Florida Detention Centers at 10, 30-32* (December 9, 2019), https://www.splcenter.org/sites/default/files/cjr_fl_detention_report-final_1.pdf.

dangerous "cohorting" or mixing of those well and sick, intrinsic impossibility of implementing social distancing measures, lack of sanitation and disinfection, inadequate mask provisions and usage, lack of infection control, lack of testing, and lack of release for individuals who have qualifying risk factors within the facility, in direct violation of *Fraihat* litigation and ICE's own COVID-19 Pandemic Response Requirements (PRR). The use of highly toxic chemical spray fumigated throughout the facility only further exacerbates the viral spread and causes detained individuals to experience difficulties breathing, with initial studies noting potential long term health consequences, including for women and men's fertility.⁸

All of these factors place people at imminent risk of becoming severely ill or dying from COVID-19. Shockingly, there have also been reports of individuals who were removed from the general population after passing out and their whereabouts were unknown to others in detention as well as to their family members. This, combined with reports from people in detention of overhearing guard conversations about deaths not yet publicly reported, pose serious questions about the true death toll due to COVID-19 in the facility. Advocates and attorneys nationwide express concern that the true number of fatalities due to COVID-19 in ICE detention is higher than publicly reported, due to lack of information regarding the fate of people released from ICE detention after being exposed to or having contracted COVID-19, including release of people who are very ill. Meanwhile, a complete lack of security and accountability exists for those wishing to report their fears for personal safety, harm to others, and the egregious conditions of their confinement. Individuals report retaliation in the form of pepper spray and physical assault, as well as solitary confinement, closing of commissary and texting accounts, and blocking of legal lines. Combined, these reports demonstrate clear violations of ICE's own COVID-19 PRR, the 2019 National Detention Standards, the U.S. Constitution, and public health protocols from the CDC.

Oversight efforts to date have been severely lacking to the point of intentional gross negligence. ICE and the Glades County Sheriff's Office staff who oversee the jail have all been made well aware of what is taking place within the facility and have had ample time to redress grievances and concerns. All parties are contractually responsible, and legally liable, for any harm that takes place, including wrongful death occurring inside the facility. It is clear both ICE and Glades County are unable and unwilling to appropriately mitigate and respond to harm for those in their care.

Under ICE's own COVID-19 policies, facilities that are unable to ensure the care and safety of those in their care should be subject to investigation, followed by the potential removal of the entire detention population from the facility.⁹ Given all that is accounted for from pandemic onset to present, despite numerous lawsuit directives, civil rights complaints, public testimony, and grievances filed within the facility, we demand an investigation into the ICE Miami Field Office and GCSO's reckless endangerment of people's lives and we call for CRCL and OIG to recommend that ICE terminate its Intergovernmental Service Agreement with Glades County and immediately release all individuals from the facility given the ample body of evidence already provided against GCDC.

ICE and Glades County's Failure to Uphold Obligations:

When a person is in government custody, either civil or criminal, the law requires the provision of necessary medical care. The Fifth Amendment of the Constitution requires adequate medical care and additional protections for individuals detained. Glades County Detention Center, like all ICE facilities, is

⁸ Anthony Luz, Paul DeLeo, Nathan Pechacek, and Mike Freemantle, *Human health hazard assessment of quaternary ammonium compounds: Didecyl dimethyl ammonium chloride and alkyl (C12-C16) dimethyl benzyl ammonium chloride*, REGULATORY TOXICOLOGY AND PHARMACOLOGY (July 5, 2020), <https://doi.org/10.1016/j.yrtph.2020.104717> ("DDAC and C12-C16 ADBAC are irritating/corrosive to skin at high concentrations, and are acutely toxic via the oral, dermal (C12-C16 ADBAC only), and inhalation exposure routes.")

⁹ PRR at 7-8.

also subject to ICE's own standards, which are in place to govern the operations of detention facilities across the country. GCDC is governed by the National Detention Standards ("NDS"), which were initially created in 2000, but were updated in late 2019. The NDS require that all detained individuals receive "medically necessary and appropriate medical" health care, emergency care, and timely responses to medical complaints."¹⁰ The NDS also require that the facility have "written plans that address the management of infectious and communicable diseases, including, but not limited to, testing, isolation, prevention, and education."¹¹ Reporting and collaboration with local or state health departments are also required.¹²

In response to the COVID-19 pandemic, ICE issued its Pandemic Response Requirements ("PRR"), a set of guidelines and expectations for detention facility operators in "sustaining detention operations while mitigating risk to the safety and wellbeing" of those detained in ICE custody.¹³ The PRR was developed in consultation with the Center for Disease Control and Prevention ("CDC").¹⁴ The PRR contains four stated main objectives: protecting detained individuals, among others, from exposure to the virus and "establish[ing] the means to monitor, cohort, quarantine, and isolate the sick from the well."¹⁵

To address compliance, the PRR calls for "onsite in-person monthly spot checks" at all the facilities.¹⁶ Specifically for "non-dedicated" facilities, such as GCDC, failure to meet the PRR's requirements should lead to ICE issuing a Notice of Intent indicating that the intergovernmental service agreement is in jeopardy due to noncompliance.¹⁷ In response to a facility's noncompliance, ICE may remove or reduce the facility's population.¹⁸

ICE and GCSO have an obligation to abide by the requirements put forth by ICE ERO and the CDC. The ERO states that it issued these "mandatory requirements to be adopted by all detention facilities...during this unprecedented public health crisis."¹⁹ Additionally, ERO requires all facilities to "adhere to CDC recommendations for cleaning and disinfection during the COVID-19 response."²⁰ None of the protocols required by the CDC, ICE's own 2019 NDS, or the PRR, have been followed at Glades County Detention Center since the onset of the pandemic until the present day crisis based on the direct testimony referenced in this complaint, in direct violation of the legal and constitutional rights of those detained.

Timeline of Events:

Pandemic Onset: March and April 2020

The COVID-19 pandemic's veracity and fatality became widespread knowledge in March 2020 throughout the entirety of the United States. Rather than utilizing basic precautions to attempt treatment

¹⁰ 2019 NDS, Medical Care, II.A., at 12.

¹¹ *Id.* Medical Care, II.D.2., at 114.

¹² *Id.*

¹³ PRR at 5.

¹⁴ *Id.*

¹⁵ *Id.* at 7.

¹⁶ *Id.* ("A spot check is an in-person visit to a detention facility by an ICE Detention Service Manager (DSM) or Detention Standards Compliance Officer (DSCO) for the purpose of assessing whether the facility is complying with the requirements of the ERO PRR. DSMs and DSCOs review policies, logs and records; observe facility operations; speak with facility staff and detainees; and complete a standardized form to note observations and findings.")

¹⁷ *Id.*

¹⁸ *Id.* at 7-8.

¹⁹ *Id.* at 5.

²⁰ *Id.* at 23.

and containment of communicable spread, during the first months of the pandemic the Glades County Detention Center staff and ICE officials flagrantly ignored our nation's public health protocols, as well as ICE's own guidance. By March 22, 2020, over 100 people detained at GCDC launched a hunger strike, citing deterioration of already unsanitary conditions, a lack of antibacterial soap, lack of testing, overcrowding, inedible food and the danger posed by in-transfers from other facilities.²¹ The following day, March 23, 2020, the Center for Disease Control released Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities²², which were followed by ICE's PRR, which the agency issued in its first iteration on April 10, 2020. Firsthand accounts from people detained revealed that individuals were being brought into custody on a daily basis without adequate screening for COVID-19, and ICE was indiscriminately transferring individuals between facilities without employing safety protocols, including quarantine which is impossible in a detention setting. Instead, in the general population housing units GCDC was cohorting, or "mixing," people who were ill with others who were not. During this time period, individuals detained at GCDC also reported people exhibiting clear symptoms for COVID-19, though ICE continued to deny there were positive cases in the facility.

News reports and direct testimony, like the following made to Immigrant Action Alliance ("IAA"), appear to confirm the detention center did, in fact, have people ill with COVID-19²³, despite ICE only formally reporting the first two cases at GCDC on May 28, 2020. The organization also received reports that GCDC was running out of food and had run out of basic toiletries, hygiene products, and medication, including for colds, pain relief, and diabetes:

"They came and removed one person yesterday. He never came back. He went to medical. They packed up all his stuff with gloves and masks. I just found out yes he was taken to quarantine. They had to stop court because three guys tested positive for the virus. Please if this gets out, we are helpless. And they have run out of medicine for four days now and there is no supply of hand sanitizer. We ask for it and they say no.... We are all stuck in an unsanitary box together."
Anonymous, March 30, 2020

Meanwhile, GCDC failed to provide a basic level of care in other regards as well, compounding the medical abuse detained individuals experienced. For instance, IAA filed two civil rights complaints with DHS on April 2, 2020 and April 13, 2020 citing separate incidents of medication denial, amongst other abuses. In the first incident, a man reported experiencing full withdrawal, including passing out and vomiting, after not receiving his medications for his traumatic brain injury, seizure disorder, mental health disorder, and high cholesterol for at least 4 days. This could have had fatal consequences. The man filed multiple grievance using GCDC's grievance system to no avail, then Immigrant Action Alliance filed a subsequent CRCL complaint on his behalf regarding additional medication denials on July 3, 2020, emphasizing that if he were to have a seizure, he could require immediate brain surgery because of his prior traumatic brain injury. No response was received.

²¹ Manuel Madrid, *Florida ICE Detainees Start Hunger Strike Over Coronavirus Concerns*, Miami New Times (March 26, 2020), <https://www.miaminewtimes.com/news/florida-ice-detainees-on-hunger-strike-amid-coronavirus-1160750>.

²² CDC Guidance at 19 (The CDC's Guidelines specifically caution that "[c]ohorting multiple quarantined close contacts of COVID-19 case could transmit COVID-19 from those who are infected to those who are uninfected. Cohorting should only be practiced if there are no other available options.").

²³ Manuel Madrid, *Florida ICE Jail Quarantines Detainees Amid Coronavirus Testing*, Miami New Times (March 10, 2020), <https://www.miaminewtimes.com/news/ice-immigrant-detainees-in-glades-county-florida-tested-for-coronavirus-11581235>.

IAA also filed a complaint on behalf of Mr. Romaine Wilson on April 13, 2020 regarding denial of medication. Mr. Wilson reported an April 9, 2020 incident where a sergeant physically assaulted and used abusive language against him, followed by placement in solitary confinement the next day. While in solitary confinement, Mr. Wilson felt unwell and asked twice for his medication for grand mal seizures, with his requests denied. Mr. Wilson proceeded to have a seizure, hitting his head and face. He woke up in the medical unit the following day. As of April 13, 2020, he still had not received the life-saving medication needed to prevent his grand mal seizures. On April 19, 2020, a follow up CRCL was filed reporting Mr. Wilson's face wound had gone untreated and become infected, raising concerns for sepsis. He had been placed again in solitary confinement two days prior, during which time he reported being unable to shower and a nurse refusing to clean his wound, stating he should "call ICE" if he wanted to make a complaint. The DHS Office for Civil Rights and Civil Liberties did not interview participants or provide closure to either complaint.

Early detailed accounts of this reckless endangerment prompted 25 community, legal, and human rights monitoring organizations to submit a letter to Rep. Murcasell Powell on April 3, 2020 calling for the release of all detained people in order to avoid a public catastrophe. On April 13, 2020, a federal class action lawsuit followed suit, seeking the immediate release of all individuals in ICE custody across three detention centers in South Florida, including Glades County Detention Center.²⁴ Through public declarations, individuals in detention provided firsthand accounts of the dangerous practices being employed that placed people at increased risk of COVID-19 exposure and harm.²⁵

Medical Abuse: GCDC denied elderly and immunocompromised individuals proper care, placing them at great risk for severe negative health impacts and death from COVID-19. These risks were compounded by medical neglect, a longstanding issue at Glades²⁶:

"Despite my vulnerabilities to COVID-19, no member of the medical staff has evaluated my conditions or well-being to determine whether any additional precautionary measures are necessary to protect me from the illness. I am scared for my life... There are some people in my pod who are coughing, but their medical requests are not being addressed." Alejandro Vincenzo Mugaburu Tapia, Declaration in Gayle v. Meade, 1:20-cv-21553-MGC (S.D. Fla. April 22, 2020)

"I have not been tested for COVID-19 and I am not aware of anyone who has been tested. I have not received any medical attention... that is very concerning because I know there are also other people who have chronic illnesses who are high risk for COVID-19 complications, just like me." Anonymous, April 22, 2020

"I have significant health issues that I understand put me at high risk of serious complications if I catch COVID-19, including obesity and high blood pressure. I take Amlodipine 10 mg twice a day for my high blood pressure, along with hydrochlorothiazide 25 mg every night. I have been detained by ICE for more than ten months in three different detention centers. First, they held me at the Krome detention center, before they transferred me to Glades County Jail on March 19, 2020. Then I was transferred to Baker on April 28, 2020. When I arrived at Glades, they checked my temperature, and that's it. After that transfer, I had cold symptoms. While at Glades,

²⁴ Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief, *Gayle v. Meade*, No. 1:20-cv-21553-MGC, ECF No. 1 (S.D. Fla. Apr. 13, 2020).

²⁵ Appendix II Detainee Declarations, *Gayle v. Meade*, No. 1:20-cv-21553-MGC, ECF No. 8-1 (S.D. Fla. April 13, 2020).

²⁶ Southern Poverty Law Center and Americans for Immigrant Justice, *Prison By Any Other Name: A Report on South Florida Detention Centers* at 10, 30-32 (December 9, 2019), https://www.splcenter.org/sites/default/files/cjr_fl_a_detention_report-final_1.pdf.

I had problems with my medical care. Whenever I happened to be asleep or indisposed when the guards passed out medications in the morning, they just skipped me and forced me to wait until the next day." Anonymous, May 11, 2020

Lack of Soap, Sanitation, and PPE: Documented shortages of soap, toilet paper, disinfectant, and hand sanitizer, as well as lack of or improper use of personal protective equipment (PPE) and dangerous practices employed in food management, all directly contributed to the widespread proliferation of COVID-19 at GCDC:

"There is no hand sanitizer in the pod for detained people to use... We previously asked the guards for hand sanitizer and they refused. The guards told us the use of hand sanitizer is only for them... The food is usually delivered by one detained person and about four guards. No one wears masks or gloves for the food delivery." Alejandro Vincenzo Mugaburu Tapia, Declaration in Gayle v. Meade, 1:20-cv-21553-MGC (S.D. Fla. April 22, 2020)

"We do not have any hand sanitizer available in the common area and they do not provide us with hand sanitizer. They do not provide us with masks or gloves either... Detainees have been asking for masks for weeks but there are none available... Not even the guards who come in and out of the detention center are wearing gloves." Anonymous, April 22, 2020

"We often run out of soap, because the guards give us soap only once every two weeks, and when I asked for a refill they told me I was wasting the soap and that I had to wait for soap day. Sometimes when I try to wash my hands in the sink, there is none." Dushane Spaulding, Declaration in Gayle v. Meade, 1:20-cv-21553-MGC (S.D. Fla. May 20, 2020)

"I estimate approximately sixty percent of guards, staff, and ICE officials wear protective gear. The guards who are stationed inside the pod only sometimes use them. They do it when their boss comes around, but they do not always have it on. I have seen guards coughing, both inside and outside the pod... My pod-mates and I also get really nervous when the guards in our pod sneeze... I am aware that there are other pods under quarantine. There are also transfers of detained people to hospitals due to the coronavirus. The same guards that go into those pods or help with transfers come into my pod. This makes me and my pod-mates very nervous." Alejandro Vincenzo Mugaburu Tapia, Declaration in Gayle v. Meade, 1:20-cv-21553-MGC (S.D. Fla. April 22, 2020)

Retaliation for Peaceful Protest and Public Reporting: This complete disregard for individuals' health and safety led to another widespread hunger strike inside the facility that began April 28, 2020. The facility responded by retaliating against people for reporting abuse and neglect to the public. ICE and the GCSO used solitary confinement and/or transfers to other facilities to punish those who spoke out, isolate them from others at the facility, and make it far more difficult for them to continue to report conditions.

"I was also mistreated by non-medical staff at Glades. I was in solitary confinement for weeks in April 2020, I think because guards were retaliating against me for reporting what goes on in the facility to people outside." Anonymous, May 11, 2020

In a message to Immigrant Action Alliance on April 16, 2020, one man said of his solitary confinement: *"I just spoke with LT. Palladino, he told me that I'm going to be in confinement forever until I leave Glades County Detention Facility."* This man did remain in solitary until he was transferred to the Baker County Detention Center at the end of April 2020.

Rather than remedy conditions, GCSO responded by punishing and silencing those who reported them. But because conditions at the facility have not materially changed, hunger strikes have continued throughout the pandemic as one of the only ways to draw attention to their condition, yet one that makes them more vulnerable to becoming severely ill or dying from COVID-19. As reported in the following habeas petition filed by a man who had engaged in peaceful protest, prolonged hunger strike can have severe negative health impacts:

"On the April 28,2020, in Glades County Jail B1 dorm where I was detained, detainees and I started a hunger strike because of COVID-19. Four days after I was transferred to B.C.D.C. in Jacksonville where I continued with my hunger strike with no food and no water, and then six days after I was transferred to W.C.D.C. in Tallahassee where I continued hunger strike with no food and no water until May 12, 2020. Few days after on the June 29,2020, with no explanation I was transferred (back) to the Glades County Jail in Moore Haven. In that period of 15 days with no food and no water I lost 37 pounds and got lot of medical complication, water in my lungs, enema in the lungs, water retention in the legs, kidney not working properly any more, and start having hard time breathing and dry coughing and as a result of that now I have to use asthma pump to get more air in my lungs." Habeas Petition, *Radetic v. Miami Field Office Immigration and Customs Enforcement*, No. 1:20-cv-23783-MGC, ECF 1 (S.D. Fla. September 11, 2020).

Virus Spread - Transfer & Impossibility of Quarantine: Even as the CDC and others warned against the transfers from state corrections departments to ICE custody as well as between ICE facilities, citing clear evidence that these transfers are fueling the spread of COVID-19, ICE continued to carelessly transfer those in its custody between the GCDC and other ICE facilities.²⁷ The ICE Miami Field Office responded to court orders to reduce the detention population by transferring individuals around the country, instead of opting to release detained people—even those who were at high risk medically—to their loved ones. Also documented were instances in which transfers were used as a form of retaliation. Amidst a global pandemic, transfers always and inevitably increase propagation risks. Still, ICE and its contractors, including GCSO, exacerbated risk and placed people in danger by failing to even conduct temperature screenings before transfers, attempt to implement even limited social distancing guidelines on the buses used to transport detained people, provide PPE, and to even attempt to quarantine new arrivals at the detention center. These negligent actions indiscriminately spread the virus in detention and within surrounding communities.²⁸

"I was never quarantined when I arrived at the Glades County Jail, and since my arrival on March 11, 2020 new detainees have not been quarantined. On April 13, one of the other detainees in my pod was complaining that he was feeling sick. He was coughing and he said he had the chills and a headache. They came to the pod and examined him, and later one of the guards came and brought him some pills. He has not been removed from the pod. The fear is that he has COVID-19. Prior to April 13th there was another detainee in my pod who was throwing up and was removed. Right now there are other detainees in my pod coughing. The staff has not taken any measure to protect the rest of the detainees from the detainees who are currently ill. No one, including the sick detainees, are provided with masks or any other type of protection. To the best of my knowledge none of the detainees have been tested for COVID-19. There also have not

²⁷ See generally, COVID-19 in ICE Jails, Real-time Conditions Reports, Freedom for Immigrants (last accessed January 27, 2021), <https://www.freedomforimmigrants.org/covid19>.

²⁸ Detention Watch Network, Hotbeds of Infection: How ICE Detention Contributed to the Spread of COVID-19 in the United States at 26 (December 2020), https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN_Hotbeds%20of%20Infection_2020_FOR%20WEB.pdf.

been any visible increase in medical staff." Omar Lopez-Jaramillo, Declaration in Gayle v. Meade, 1:20-cv-21553-MGC (S.D. Fla. April 22, 2020)

Facility-wide Communicable Spread: May - December 2020

By May, ICE and GCSO's abysmal handling of people's acute medical needs and COVID-19 safety precautions from the onset of the virus had led to a catastrophe. Very little changed in terms of the GCSO or ICE's response, leading to an uncontrolled, fully avoidable facility-wide outbreak. The GCSO and ICE's pandemic response constituted not only clear civil rights violations for everyone detained, but full culpability for long-term health impacts and death inside the facility.

On May 28, 2020, IAA filed another civil rights complaint to the attention of the Glades County Sheriff Hardin, Field Office Director Martin, and the civil rights division of DHS, with IAA's Director Wendy King stating:

"On May 25th, a person with a fever of 106 degrees was told to take a shower and given pain pills as treatment. As of May 26th, the bathrooms in the A1 housing unit had not been cleaned or sanitized for two days. On May 27th, the facility temporarily ran out of medication. As of May 27th, Glades County Jail was still reporting that no one had a fever. Despite a deputy at Glades County Jail testing positive for COVID-19, we are receiving reports that NO detained person has been tested for the virus. This morning we received multiple reports about detained people passing out from high fevers. No one has reported being able to see a doctor. Based on the reports we are receiving from people detained at Glades County Jail, we believe the entire population of the jail is at serious risk of illness or death due to the inability to social distance, lack of precautions being taken, lack of testing and lack of medical care. We urge Glades County Sheriff's Office and ICE officials to take immediate action."

CRCL responded requesting the names and A numbers of individuals in order to follow up on medical concerns. Fearing retaliation towards those reporting, these were not provided but IAA instead requested an independent medical team be sent to investigate the entire facility. Both ICE and GCSO failed to reply or implement any changes to protocols or facilitate medical release, including for those at high risk.

Medical Abuse: The summer months saw widespread disease transmission and acute medical neglect, with people cohorted together indiscriminately in the general population units, including those who were symptomatic and asymptomatic. Many individuals still were not tested for COVID-19, including people who were symptomatic. Those who did test positive were not provided appropriate medical care, including those who were known to be at high risk for severe medical complications or death from COVID-19.

The medical staff had no room to isolate individuals who had tested positive for the coronavirus because the medical observation rooms were at capacity. Generally, the staff at GCDC elected not to isolate those who tested positive for COVID-19 due to overcrowding, a direct result of ICE's failure to follow court orders to release those who were medically vulnerable and generally exercise its discretion in favor of release. The doctor at GCDC also completely dismissed concerns and provided questionable medical diagnoses. All of the above violated people's right to appropriate medical care while detained.

"I have asthma but I do not receive treatment for it at GCDC... Last week, I went to medical to speak to the doctor about my constant headaches and body aches. As I was waiting, I heard the doctor tell men who had tested positive for the coronavirus that they are "young carriers" and that they will be fine, essentially ignoring their concerns and requests for medical attention."
Steve Cooper, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. June 16, 2020)

"Currently, I am experiencing shortness of breath, a dry cough, and headaches right in the middle of my forehead...At this time, the only medical care I have been offered after testing positive for COVID-19 is vitamins...I have heard the nurses say that all the medical observation rooms are currently full. They do not have space to isolate the individuals who have recently tested positive for COVID-19." Anonymous, June 11, 2020

*"In the cubicle where I sleep, we are four people total. The person that sleeps directly in front of me is less than one foot away. **In my cubicle, there is one person who is positive for the coronavirus. After he received his results, he was not isolated, and he remains in close living quarters with the rest of us.** Despite having symptoms of the coronavirus, I have not been tested. I started feeling sick around May 24, 2020, and I am currently experiencing diarrhea, vomiting, chest pains, and body aches. Last Sunday, I was vomiting and coughing up blood. Previously, I had written sick call requests which explain that I have chest pains, back pains, and was vomiting. On June 10, 2020, I was finally able to see the doctor about my symptoms. **When I was with the doctor, I asked to be tested for COVID-19, but he refused. I explained to the doctor the frequent pain I was feeling in my chest as well as the vomiting, diarrhea, and body aches I am experiencing. The doctor said that the chest pains are due to muscle pain; he said he would prescribe me a muscle relaxer. He did not attribute the chest pains to be a symptom of the coronavirus...** Because I do not feel well, I stay in bed most of the day. This visit on June 10, 2020 was the first time I had seen the doctor in a long time. He often has an attitude and refuses to speak to people who request medical attention."* Anonymous, June 12, 2020

"On June 12, 2020, one man who was feeling sick for a few days passed out around 12:45 p.m. He was taken out of the pod. Some people who are sick are not eating. Right now, medical attention for people who are sick is limited to a two to four-ounce cup of Gatorade, two Tylenol pills or two ibuprofen pills, and a cold pill. However, the medical staff is keeping a list of people with high fevers. Sometimes, if your name is not on this list and you go to the cart to ask for Gatorade or other medications, you cannot get it. It seems as if high fever is the only COVID-19 symptom that the Glades medical staff take seriously. I do not currently have a high fever and have not been able to access a COVID-19 test." Anonymous, June 12, 2020

*"Temperature checks happen twice daily... From what I have seen, when someone has a high temperature, they are given a cold pack and vitamins or Tylenol. **Recently, a man in my pod told me that the nurse told him that his fever was 103 degrees. This man was given a cold pack and some pills and remained in general population...** I filled out a medical request two weeks ago and have not been called to medical. In the meantime, I have only been given cold packs, vitamins, and sometimes Tylenol for my symptoms. I have four young U.S. citizen children at home who need me, and I am afraid for my health and safety with the coronavirus pandemic and its widespread outbreak at Glades County Detention Center."* Clayton Warner, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. June 16, 2020)

*"Recently, I have been feeling feverish, fatigued, have a lack of smell and taste, and have had trouble breathing due to an asthma problem that I have had since childhood...**Within the pod, there are people who are experiencing the aforementioned symptoms and some that are not. Some of the people in my pod have been tested for the Coronavirus, and some have not. Of those who have been tested, some have been told by officers that they were positive, but they refuse to give us a copy of our test results.**"* Jermaine Scott, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. June 16, 2020)

*"In Pod A1, there are currently people who have not been tested for the coronavirus and people who have. Those who are positive for the coronavirus have not been taken out of the pod...I have not been tested for the coronavirus although I have had some of the symptoms, like constant body aches. **There are people in my pod who are requesting coronavirus tests because they are exhibiting symptoms, but they have not been tested. One of my pod-mates was told by the doctor that there are not enough tests.**" Steve Cooper, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. June 16, 2020)*

In one egregious example, ICE only tested individuals after they started showing symptoms post-transfer to Krome, in route for deportation. Then, detention staff both at Krome and GCDC lied to people in detention about the test results. Detained people's acute fear for their lives was mocked by guards at the facility. One man who requested to self-quarantine was outright denied the ability to do so, and the medical staff at GCDC denied him an inhaler although he was struggling to breathe.

*"I asked him if we had the virus and if so, who had it. The officer replied that he could not tell me without violating patient confidentiality. **He did say that three of the five of us have the coronavirus.** The officer asked me if we had received the test results, but we had not. The AGS staff then transferred us back to Glades (from Krome).. Then, the Glades staff escorted me to medical... While I waited, I asked the nurse which of us five have the virus. The nurse did not respond. **An officer who was in booking walked in and said that ICE told Glades staff that four out of five of us tested positive.** The staff or the nurses still did not tell me my test results. **I asked if I could self-quarantine since I either had or was exposed to the virus. The Glades staff refused and said there was no room. I was escorted back to general population to pod A1.** The next day, I had an asthma attack in the pod. The doctor was not available to see me or prescribe an inhaler or any breathing treatment. I was told that Glades could not provide me with an inhaler. I was forced to use my cellmate's extra inhaler. **Since I returned to Glades, I have not been seen by the doctor.** The last time I saw the doctor at Glades was the end of March 2020. The only thing I am provided for my coronavirus symptoms are Tylenol or ibuprofen or a cold pack... As of the date this declaration is made, **I still have not been provided the results to my COVID-19 test...** My body still aches, my chest hurts, my eyes hurt, I am having migraines, and I have lost my sense of smell." Terrance Taylor, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. June 16, 2020)*

ICE Fails to Follow Court Orders and Release High-Risk Individuals from GCDC: Many of these individuals qualified for release under the *Fraihat* litigation²⁹ and ICE's own policies due to their pre-existing medical conditions³⁰, but it is common for ICE to refuse to release individuals who are detained at GCDC. Despite the fact that these individuals remained at heightened risk of severe illness and death, they remained detained, at imminent risk of harm and further compounding overcrowding at the facility.

"I have seen people in my pod coughing, but we do not know if anyone has COVID because we have not received tests. We heard that one guard tested positive for COVID. I am not aware of any increases of medical staffing or medical screenings. My temperature was taken once before I entered the facility, but otherwise I have received no screening. Despite my vulnerabilities to COVID-19, no member of the medical staff has evaluated my conditions or well-being to determine whether any additional precautionary measures are necessary to protect me from the illness. I am afraid for my life. If released, I would live with my U.S. Citizen wife (redacted) in

²⁹ Order, *Fraihat, et al v. U.S. Immigration and Customs Enforcement, et al*, No. 5:19-cv-01546-JGB-SHK, ECF No. 132 (C.D. Cal. Apr. 20, 2020). ("[ICE] shall make timely custody determinations for detainees with Risk Factors, per the latest Docket Review Guidance[.]")

³⁰ PRR at 19.

Palm Bay, Florida, where I would be able to socially distance" Dushane Spaulding, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. May 20, 2020)

According to one Haitian man, who is high risk due to chronic asthma for which he uses an inhaler, *"ICE officers have not visited my pod at GCDC for the last month while I have been detained at GCDC. I am not able to speak directly to ICE and make complaints about the conditions at the facility or ask questions about my case. On Monday, May 12, 2020, I filed a release request with ICE asking that I be released from detention pending my removal proceedings given my multiple health issues and increased risk of complications if I were to contract COVID-19 in detention. Since I made that request, the deportation officer has not provided a response to my release request."* James Saintyl, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. May 20, 2020)

His request for release for medical reasons was ultimately denied, despite his COVID-19 risk factors and numerous family ties here in Florida, and he was deported to Haiti in mid-August 2020.

Another individual whose medical condition placed him at heightened risk for COVID-19 ultimately ended up signing his voluntary deportation after 14 years in the United States, leaving behind his wife and child. Despite a formal *Fraihat* petition and U.S.-based family, ICE never responded to his release request.

"I previously requested release from detention based on my significant mental health issues and the risk I face to contracting COVID-19 in this facility, but ICE never responded to my request. The ICE officers do not come visit GCDC, therefore, the only way we can currently communicate with the officers is through phone calls. The officer assigned to my case has not answered my calls." Anonymous, June 12, 2020

Continued Lack of Soap, Sanitation, and PPE: Despite the facility-wide outbreak, Glades still did not provide detained people with sufficient soap, hand sanitizer or basic cleaning supplies, severely undermining people's ability to protect themselves from virus exposure during the outbreak. Additionally, the facility failed to provide an adequate supply of masks, so that the only masks people had became dirty or broken.

"We are given masks, but they are often dirty and broken. The masks are replaced inconsistently. The mask I have right now I have had for 5 days... Detainees wear their masks sometimes. In my experience, some detainees don't always wear their masks because they want to preserve it since we don't know when we will get a new one..." Jermaine Scott, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. June 16, 2020)

*"About two weeks ago, on May 1, 2020, we started receiving a mask each Friday. Up to this point, I have received two masks from GCDC staff. The first mask looked like a proper, blue medical mask. However, the second mask appears to have been stitched together by hand. **It was made out of a hair net and a coffee filter.** I do not believe that this makeshift mask will block germs or air carrying the virus. **Many of the officers have masks but they wear them around their necks** and do not use the masks to cover their mouths."* James Saintyl, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. May 20, 2020)

*"When you go to medical, the GCDC staff or the nurses do not require that we wear a mask. **The transporting officer will escort about twenty people at a time** to reduce trips back and forth to*

*the pods, so we all walk together to medical and **wait in close quarters in the medical department waiting room.** When I went to medical on May 14, 2020, only one or two of the fifteen people in the waiting room were wearing a mask." James Saintyl, Declaration in Gayle v. Meade, 1:20-cv-21553-MGC (S.D. Fla. May 20, 2020)*

*"We do not have consistent access to soap. There is hand soap in the bathroom, but when it runs empty, the staff do not come to fill it up until after dinner time. We never have access to hand sanitizer... The common areas and bathrooms are being cleaned by detainees after every meal. However, we are not provided with enough cleaning supplies to do so. Since my last statement, **the bathrooms are still being cleaned with toilet water.**" Anonymous, June 12, 2020*

*"In the bathroom, there is a soap dispenser that the GCDC staff refill every Monday. With approximately 75 to 80 people living in this pod (A1), **the soap in the dispenser runs out very quickly.** It does not last more than a couple days, but the staff only refill the dispenser once a week." Steve Cooper, Declaration in Gayle v. Meade, 1:20-cv-21553-MGC (S.D. Fla. May 20, 2020)*

These issues directly contributed to the spread of the virus. Moreover, kitchen staff mismanaged the distribution of food and exposed detained people to COVID-19.

*"I have learned that a staff person who manages the kitchen tested positive for COVID-19. **Approximately five people who lived in my pod and worked in the kitchen became sick and never returned to the pod.** Two people from Pod A1 who worked in the barbershop got sick and never came back. We are told that people who are exhibiting symptoms of the coronavirus are held in holding cells in the booking unit of GCDC or in cells in solitary confinement." Steve Cooper, Declaration in Gayle v. Meade, 1:20-cv-21553-MGC (S.D. Fla. May 20, 2020)*

*"We have no hand sanitizer in the pod. We have a soap dispenser, which is only refilled once a week. There has been no change in how often the soap dispenser is refilled since June 5, 2020...**The food trays are not cleaned properly. They usually are covered in mildew.. This is a sanitation issue.**" Astley Thomas, Declaration in Gayle v. Meade, 1:20-cv-21553-MGC (S.D. Fla. June 16, 2020)*

Toxic Chemical Spray: By the end of May 2020, GCDC had one of the highest COVID-19 rates of infection in the country. However, rather than take immediate steps to mitigate the likelihood of death in the facility—for instance, to provide sufficient PPE, sanitation supplies, and release those at high-risk—ICE and GCSO chose to spray a highly toxic chemical multiple times daily in the enclosed housing units and in the presence of detained people. GCSO officials have not made efforts to increase ventilation in the housing units when they spray this chemical, nor do they permit detained individuals to exit the pod for the period of time between when the chemical is sprayed and when it dissipates.

On April 10, 2020, ICE issued a statement³¹ asserting that it would follow guidance issued by the Environmental Protection Agency (EPA) regarding the usage of disinfectant products to prevent the spread of COVID-19 in detention facilities, which clearly state the following: 1) the EPA does not

³¹ PRR at 24.

recommend use of fumigation or wide-area spraying³² and 2) "follow the manufacturer's instructions for all cleaning and disinfection products for concentration, application method, contact time[...]"³³

On May 23, 2020, an initial complaint filed by IAA to the attention of the Glades County Sheriff Hardin, Field Office Director Martin, and the civil rights division of DHS named the harmful health impacts of this toxic chemical. On June 23, 2020, a supplemental complaint was filed that included over a dozen reports from people in ICE detention at GCDC regarding the serious health consequences that they were suffering due to being exposed to hazardous chemicals.³⁴ These reports noted that GCSO failed to provide protective gear to the individuals administering the toxic chemical, nor did they improve ventilation before the chemical was sprayed. As a result, the fumigation exacerbated difficulty in breathing as the chemical hung in the air. The use of this chemical also led to the spread of aerosol droplets, spreading the virus and placing everyone at greater risk. Individuals who were positive for COVID-19 struggled to breathe once this chemical was sprayed in their housing units. Finally, the complaint noted that neither those requesting medical attention to address the impact of the chemicals nor those seeking help for the exacerbation of COVID-19's already life-threatening symptoms were provided appropriate medical care.

According to the complaint, at least a dozen individuals housed in units across the facility had reported the following symptoms as widespread among the population of detained people inside Glades, as direct results of the hazardous chemicals being sprayed on them:

- Painful, burning, red, and swollen eyes, nose, and throat;
- Painful breathing, sneezing and coughing;
- Nosebleeds;
- Sneezes and coughs that produce blood;
- Severe nausea;
- Stomach pain;
- Headache.

Reports in the civil rights complaint were provided anonymously due to fear of retaliation:

*"[They] spray the dorms three times a day every day and it's causing shortness of breath in a lot of people. **The containers look like a backpack with a hand pump to spray the chemical mist in the air.**"* June 23, 2020 Complaint

*"Yes, they are still spraying the chemical in the dorms 3 times per day.... **I've been suffering from chronic pain and shortness of breath, especially when they spray the chemical in the dorm, but they keep telling me and other people with medical issues that there is nothing wrong with us. It's been two weeks since I put in a medical request to see the doctor and I have not gotten a response.**"* June 23, 2020 Complaint

³² *Can I use fogging, fumigation, or electrostatic spraying or drones to help control COVID-19?*, United States Environmental Protection Agency (last visited January 26, 2021), <https://www.epa.gov/coronavirus/can-i-use-fumigation-or-wide-area-spraying-help-control-covid-19>.

³³ *Guidance for Cleaning and Disinfecting: Public Spaces, Workplaces, Business, Schools, and Homes*, United States Environmental Protection Agency at 5 (April 28, 2020), https://www.epa.gov/sites/production/files/2020-04/documents/316485-c_reopeningamerica_guidance_4.19_6pm.pdf.

³⁴ Freedom for Immigrants and Friends of Miami Dade Detainees Complaint to Miami Field Office Director, Sheriff David Hardin, and DHS Office of Civil Rights and Civil Liberties (June 23, 2020), <https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5ef2341bf2c09a07f1ff4775/1592931355823/Glades+Toxic+Exposure+of+People+in+ICE+Detention+to+Hazardous+Chemicals+%282%29.pdf> (Hereinafter referred to as the "June 23, 2020 Complaint").

*"Today they took one more person out of our pod and I overheard the nurse said where we going to put the guy that they taken out and saying they don't have any space. I'm scared and I know they're scared, too. **We're really not safe here. Yes, they are (spraying the chemical) and people have been getting really high fevers and stuff and I'm really scared because I got asthma.**"*
June 23, 2020 Complaint

*"The facility staff continues to spray the disinfectant while we are all in the pod. The chemical that is used causes us difficulty to breathe and also burns our eyes. When the chemical is sprayed, it goes all over the whole pod. **The chemical also causes us to cough, which could potentially further the spread of the virus.**"* Astley Thomas, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. June 16, 2020)

*"**We are not permitted to leave the pod while the chemical is sprayed...** There is no ventilation in the pod, so the chemical does not quickly dissipate." Anonymous, June 12, 2020*

Glades did not respond directly to the complaint filed by Immigrant Action Alliance, and, when questioned by the media, the GCSO chief deputy ridiculed the concerns.³⁵

Not only did Glades County not follow EPA guidance and ICE failed to intervene, but information obtained from an anonymous source indicates this spray was being administered at levels far more highly concentrated than recommended due to directives made by those employed by Glades County. Initial medical studies also note the probability of long term health consequences of these chemical agents, including infertility in women and men detained.³⁶

Continued Transfers & Impossibility of Quarantine: As noted previously, this complete lack of appropriate safety precautions led to a facility-wide outbreak. On June 4, 2020, ICE officially reported 57 positive cases, and 60 on June 5, 2020; however, as documented throughout this complaint, others who were experiencing severe symptoms made multiple requests for tests, but were denied. At the June 25, 2020 *Gayle vs. Meade* hearing, ICE admitted that in early June it had "discovered" 58 COVID-19 cases at Glades, but rather than identifying and treating individuals who had contracted the virus in a hospital setting and releasing those who had not contracted the virus, ICE opted to cohort the entire 320-person population at Glades for 14 days.³⁷

*"I am currently detained in Pod D1 at GCDC... The bunk beds are about four feet apart, but the person to my head is less than one foot away. The cell is very crowded... Given that my cell is currently full, and the housing unit continues to receive transfers from outside of GCDC, **the only way I can social distance is by going to solitary confinement, but I am fearful of the conditions***

³⁵Hunter Walker, *Immigrant detainees say ICE is using coronavirus disinfectant sprays that cause bleeding, burns and pains*, Yahoo Entertainment (May 29, 2020), <https://www.yahoo.com/entertainment/immigrant-detainees-say-ice-is-using-coronavirus-disinfectant-sprays-that-cause-bleeding-burns-and-pain-170426900.html>.

³⁶ Anthony Luz, Paul DeLeo, Nathan Pechacek, and Mike Freemantle, *Human health hazard assessment of quaternary ammonium compounds: Didecyl dimethyl ammonium chloride and alkyl (C12-C16) dimethyl benzyl ammonium chloride*, REGULATORY TOXICOLOGY AND PHARMACOLOGY (July 5, 2020), <https://doi.org/10.1016/j.yrtph.2020.104717> ("DDAC and C12-C16 ADBAC are irritating/corrosive to skin at high concentrations, and are acutely toxic via the oral, dermal (C12-C16 ADBAC only), and inhalation exposure routes."); Judy S. LaKind and Michael Goodman, *Methodological evaluation of human research on asthmagenicity and occupational cleaning: a case study of quaternary ammonium compounds ("quats")*, ALLERGY, ASTHMA & CLINICAL IMMUNOLOGY (2019), <https://doi.org/10.1186/s13223-019-0384-8>.

³⁷ Hearing, *Gayle v. Meade*, No. 1:20-cv-21553-MGC, ECF No. 186 (S.D. Fla. June 25, 2020).

of solitary confinement at this facility." James Saintyl, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. May 20, 2020)

"On May 14th, 2020, I was transferred from Krome to Glades on a bus with 24 other detainees. We all sat very close together on the bus and we were not able to practice social distancing. We also were not given masks for the bus ride, so none of us had masks during the transfer." Clayton Warner, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. June 16, 2020)

"I was brought to Glades just a few weeks ago, and I was not put into isolation before I was placed in a large pod and shared bedroom with five other men in bunk beds. Since I was brought in, I have been moved to a different pod, so I have shared a pod with a total of nearly 200 men since I arrived here. **I have seen new men brought into my pod from different detention facilities and from outside of detention, and they have not been placed into quarantine when they have first arrived.**" Dushane Spaulding, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. May 20, 2020)

"There has been a lot of movement in and out of the pod where I am at GCDC. The pod was nearly emptied about a week ago when people were transferred and then filled back up with new arrivals within a matter of hours. As far as I am aware, **there is no routine intake quarantine at GCDC.** When people are transferred to GCDC, **they are brought directly to the pods.** On May 15, 2020, I spoke to one man in my pod who was transferred from Krome to GCDC on May 15, 2020 with 30 other people on a bus. He was immediately placed in the pod at GCDC and was not placed in quarantine first." James Saintyl, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. May 20, 2020)

ICE argues that such cohorting is permitted under the CDC's Guidelines, which states "[i]f an entire housing unit is under quarantine due to contact with a case from the same housing unit, the entire housing unit may need to be treated as a cohort and quarantine in place."³⁸ However, the CDC's Guidelines on the issue of cohorting is clear. Cohorting should be avoided and utilized only as a last resort, not as a primary preemptive measure. The CDC's Guidelines specifically caution that "[c]ohorting multiple quarantined close contacts of COVID-19 case could transmit COVID-19 from those who are infected to those who are uninfected. Cohorting should only be practiced if there are no other available options."³⁹ Had ICE adhered to the CDC's Guidelines cautioning against arbitrary transfers and comingling symptomatic individuals with non-confirmed COVID-19 cases and released people, the enormous cohort created at Glades may have been avoided.

"On May 28, 2020, I was tested for COVID-19. Days later, I received the results that I am positive for the coronavirus... In my experience, when tested, the staff will not give us a copy of the results of the coronavirus test. Some people are told they are positive, like I was, but some people who are tested do not know whether they are positive or not... Because some of the detainees are not told or given the results of their test, we are not sure of everyone who is positive, but we feel that the entire pod is positive based on the symptoms that we are all exhibiting. I requested my medical records three weeks ago and have not received a response... **While I am no longer experiencing symptoms of coronavirus and have recovered from my fever of 105, others in my pod and cell are still coughing, feeling weak, and have chills. In my experience, when a symptomatic detainee seeks medical attention, the medical staff doesn't really do anything. They just leave you there in the general population. They used to give out Gatorade, but I think they ran out. They are only giving out cold packs now...** In my experience,

³⁸ CDC Guidance at 19.

³⁹ *Id.*

a medical request is supposed to be responded to in three to five days. However, I have heard of symptomatic people who have sent in medical requests weeks ago and still have not been responded to or been called down to medical to be seen. It seems like they just don't care. "
Anonymous, June 12, 2020

*"On June 10, 2020, eight men were brought into the pod. I am not sure where they came from. By adding more people to the pod, social distancing is now even harder. My section of the pod is now full with six people. The person who sleeps across from me is about four feet away; the person in front of me is less than twelve inches away, and the person who sleeps in the top bed is about two feet above me...The beds are close together, so we are not able to practice social distancing. Everyone in my cell is symptomatic... **No one in my cell has been tested for the coronavirus.**"* Terrance Taylor, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. June 16, 2020)

*"In the pod where I am assigned (Pod B1), there are both people who have tested positive for COVID-19 and people who have not been tested... For example, one man in my pod has chronic obstructive pulmonary disease ("COPD") and asthma. **He tested positive for COVID-19 but remains in the pod in general population.** Another man who has hypertension tested positive for COVID-19 and is feeling weak. He has not been isolated since he tested positive and also remains in the pod...This arrangement is putting people who are not yet COVID-19 positive at a high risk for contracting the disease. **Close to forty people in this pod have not yet been tested for COVID-19....**"* Anonymous, June 12, 2020

"Now, I would estimate that almost the entire pod is experiencing symptoms of coronavirus. Some symptomatic people in our pod have been tested for coronavirus, and some have not. There are also some people in our pod who are not symptomatic and have not been tested. I feel that my pod is a cohorted pod of people with the coronavirus, because after we are tested, they do not transfer anyone in or out of the pod. However, I know of some people in this pod who are not symptomatic and have not been tested, but they are still kept in this pod. I am not sure why they would keep the sick people in the same pod as people who are not sick. It seems like the officials and ICE do not care about our health and safety." Anonymous, June 12, 2020

Hunger Strikes, Pepper Spray, and Retaliation for Public Reporting: Little to no information was provided to those detained, creating an atmosphere of desperation and fear. ICE officers refused to respond to detainees' questions, and guards physically assaulted and pepper sprayed individuals for naming safety concerns and protesting peacefully.

"Since my last statement, I still do not feel safe. Since my last statement, there is still a feeling of hysteria based on the lack of information. We all feel panicked because we think that we all have the coronavirus. We do not feel that anyone here cares about us." Anonymous, June 12, 2020

*"On June 10, 2020, in the morning, I spoke to a lieutenant and told him there are too many people in the pod. I told him the pod is crowded, and we are unable to properly practice social distance. I spoke to the lieutenant stating that I need to speak to ICE about what is going on because **we haven't seen an ICE officer in about three and a half months.** The lieutenant claimed he would try to get ICE to come to the facility. **I still have not heard from or seen ICE yet.**"* Steve Cooper, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. June 16, 2020)

In June, hundreds again went on hunger strike in response. Some individuals stopped eating as their only recourse for obtaining medical care, while others did so demanding ICE officers respond to their concerns

around imminent health and safety threats and lack of release. A news article published June 17, 2020 reported individuals being pepper sprayed, then denied access to water until the following morning, for speaking up about life-threatening conditions inside the facility.⁴⁰

*"Recently, the detainees went on hunger strike and told officers that we were not going to follow any of the facility rules until ICE came to speak with us. We did not go to meals, did not go to recreation, or go to medical to take out prescription. ICE came two days ago. Officials from ICE told us that we were cohorted and under quarantine. **They told us that we would be cohorted for fourteen days, but that the quarantine could be extended. They explained that the cohort was necessary because there was no place to put anybody, they did not have space.**"*
Anonymous, June 12, 2020

*"I have observed people not eating because they are so sick that they cannot get out of bed to come to meals. Others have told me they are not eating as a form of protest because **they believe it is the only way to get attention from officials and receive medical attention...**"* Jermaine Scott, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. June 16, 2020)

Shockingly, individuals also reported pepper spray being used against them for such innocuous activities as refusing to touch an item a guard handled without gloves, and asking for water, all of which violate ICE's own policies around excessive force. Pepper Spray also placed people at greater danger of covid exposure and/or negative health impact through aerosol spray:

On June 10, 2020, between six a.m. and 6:45 a.m., a Haitian man named Mr. Simeon asked an officer for drinking water because the jug was empty. Sergeant Sierra refused and told the man to step outside the pod. Mr. Simeon refused because he was fearful that the officer would take him outside of the pod and into the hallway outside of the sight of video surveillance cameras and beat or physically harm him. When he refused to leave the pod, Sergeant Sierra pepper sprayed Mr. Simeon directly in his eyes. He was standing just ten feet from the door to exit the pod when he was sprayed. When I saw this happen, I went to assist Mr. Simeon and help him go to the bathroom to clean the pepper spray off of his face. The pepper spray got on me, and I had trouble breathing and stopped breathing...The doctor never....sought me out to check on me afterwards even though I have tested positive for COVID-19, I am an asthmatic with serious respiratory problems, and complications could arise from being exposed to chemical agents." Anonymous, June 12, 2020

*"On June 10th in the morning, one detainee was asking the sergeants for water, because they are the ones who usually bring us water. He did not have any water all through the night, so he was thirsty and asking for water. **The sergeant denied him water and told him to get back to his cell, but he refused and demanded water. The sergeant pepper sprayed him. That spray often spreads throughout the pod and it makes some people cough.**"* Anonymous, June 12, 2020

Hospitalizations, Deaths and Disappearances: By July, sadly but unsurprisingly, a death at Glades due to COVID-19 was formally reported by ICE. A Mexican immigrant, Onoval Perez Montufar, died of COVID-19 complications at the age of 51 on July 11, 2020.⁴¹ His death is a prime example of the

⁴⁰ Monique Madan, *ICE 'retaliated' against detainees for speaking to media, federal complaint says*, Miami Herald (June 17, 2020), <https://www.miamiherald.com/article243603327.html>.

⁴¹ Adolfo Flores and Hamed Aleaziz, *A 51-Year-Old Immigrant Man From Mexico Has Died In ICE Custody After Testing Positive For COVID-19*, BuzzFeed News (July 13, 2020), <https://www.buzzfeednews.com/article/adolfoflores/mexican-immigrant-dies-in-ice-custody>; Monique Madan, *ICE detainee dies of COVID at South Florida hospital - the state's first immigration death*, Miami Herald (July 13,

seriousness of Glades County's lack of appropriate care and provision of safety for those in their custody. It also highlights the reckless endangerment of ICE's unwillingness to release individuals from ICE custody due to the pandemic, especially those whose underlying medical conditions place them at a higher risk of dying from COVID-19.⁴² Mr. Montufar's rights and his family's rights were violated and his preventable death is the responsibility of ICE and Glades County.

Others were hospitalized or removed to unknown locations, then disappeared. Alarming, those detained provide examples of people who are hospitalized, some to return repeatedly to the facility despite being in acute distress. Others who passed out and were removed were never heard from again.

*"Recently, I have been feeling weak and fatigued, feverish, and have a lack of taste and smell. Others in my pod have experienced similar symptoms, to include coughing, sneezing, headaches, fevers, and feeling weak or fatigued. Some are throwing up. I have witnessed people who are so sick that they cannot get out of bed. A man in my pod has been experiencing the aforementioned symptoms, including feeling weak and fatigued, high fever, and coughing for about ten days. **He has been so weak that he had to be carried out of the pod around four or five times. Sometimes they take him to medical, but last week, he was taken to the hospital. Three or four days later, he was released from the hospital and came back into my pod. When he returned, he was still showing symptoms and was very weak. Last night, after about six hours of being back in the pod, this man passed out in the pod and was unresponsive, so he was carried outside and put in a chair to wait for the ambulance to arrive...** I would say that approximately seventy-five percent of the detainees in my pod are experiencing symptoms of the coronavirus. **Commanding officers have told the detainees that none of us are dying so it was going to be okay and that we would be fine.** However, I do not feel fine and I, along with many other detainees I have spoken to, are very afraid and worried for our health and safety." Clayton Warner, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. June 16, 2020)*

*"I have personally seen two people in my pod pass out. **When people pass out, they are carried out of the pod on a stretcher and they do not come back.** In my experience, the only time someone is provided with immediate medical attention is when they pass out... if medical staff do respond to a medical request, medical staff treat the aforementioned symptoms by administering Tylenol and giving a cold pack. After this, detainees are returned to the general population. Most recently, I filled out a medical request over a week ago and still have not received any kind of medical attention." Jermaine Scott, Declaration in *Gayle v. Meade*, 1:20-cv-21553-MGC (S.D. Fla. June 16, 2020)*

The true death toll at Glades County Detention Center is unknown. ICE's formal figures are highly suspect due to lack of information regarding the fate of people released from ICE detention after being exposed to or having contracted COVID-19, including release of people who are very ill.⁴³

2020), <https://www.miamiherald.com/news/local/immigration/article244191262.html>; Alexi Cardona, *Miami Group Plans Vigil for Detainee Who Died in ICE Custody*, Miami New Times (July 17, 2020), <https://www.miaminewtimes.com/news/onoval-perez-montuf-dead-glades-detention-center-florida-covid-19-11667658>.

⁴² Another man named Kuan Hui Lee died while in ICE custody within the Miami Field Office on or about August 5, 2020, demonstrating a broader pattern of medical neglect within the south Florida facilities. See *Taiwanese man in ICE custody passes away in Florida, U.S. Immigration and Customs Enforcement* (August 6, 2020), <https://www.ice.gov/news/releases/taiwanese-man-ice-custody-passes-away-florida>.

⁴³ See Monique Madan, *'Either he's dead or he's been kidnapped': ICE detainees go 'missing' amid coronavirus*, Miami Herald (June 17, 2020), <https://www.miamiherald.com/news/local/immigration/article243545852.html>.

Present Crisis: January 2021

This complete lack of oversight and failure to release people on the part of ICE and GCDC has allowed conditions to continue to deteriorate throughout the facility. According to people detained, GCDC is in the midst of a full-scale crisis with another facility-wide outbreak, and conditions are at their worst point since the start of the pandemic. Recent interviews with Immigrant Action Alliance and Americans for Immigrant Justice provide a chilling picture of the abysmal conditions and failure of oversight to address their critical needs.

Medical Abuse: It is unsurprising that so many are sick, given the combination of the conditions mentioned throughout our report. The detention center doctor's own failure to wear a mask while treating individuals detained led to the virus' spread in the facility when he himself became ill with COVID-19 in late November 2020. Even basic precautions that were previously being employed, such as taking temperatures twice daily, have been rescinded.

"Sometimes there are no masks, not even the doctor is wearing one. The doctor was not wearing a mask before. He just started wearing it after he caught the virus, not before." Steve Cooper, Interview, January 10, 2021

*"Temperature checks used to be conducted once or twice daily whereas now they are only checked sporadically, and many with serious medical issues who should be released are remaining detained.. There is no COVID-19 testing taking place at this time, despite many people being sick. I myself was tested in July 2020, but wasn't provided my test results, and I have not been tested since.. **I think attention will only come once someone drops dead.** There is no sanitation, social distancing. The county jail was better than this. They have us in here like sardines in a can.." Anonymous, January 8, 2021*

In another example of medical abuse, from a CRCL complaint submitted by IAA on January 22, 2021, "[a man detained at Glades], who has been diagnosed with a heart murmur, saw the doctor at Glades County Jail because he was experiencing chest inflammation. He was given ibuprofen 400 mg during his first visit, then 600 mg. Lastly, he was given a muscle relaxer, which caused a near-fatal reaction. After being given the muscle relaxer, [he] fell asleep, but when he woke up, he was unable to breathe. His leg was shaking and he felt extremely dizzy. The incident occurred around 12/23/20. Afterward, he submitted two medical requests, but when these went unanswered, he walked in to see the nurse. [He] says that after the muscle relaxer was prescribed and he experienced such an extreme adverse reaction, he has not trusted the doctor. Meanwhile, he is having extreme chest pain." DHS has not responded to this complaint.

What is surprising is the direct COVID-19 exposure and potential medical malpractice being reported against medical staff. Following a recent court order in the *Fraihat* litigation ICE was legally obligated to release those in their care who were high-risk for severe illness and death from COVID-19.⁴⁴ At Glades, ICE and medical staff were well aware of the majority of these individuals since the pandemic onset, particularly since numerous *Fraihat* release requests were submitted and ignored. In addition, ICE's own COVID-19 protocols which demanded they be prioritized for release. Shockingly, rather than upholding the hippocratic oath and doing all they could for the safety and medical well-being of those detained, medical staff began intentionally refusing to put medical diagnoses on people's charts in attempts to block their release under the law and lying about previous diagnoses, according to reports from several detained people. For instance, the doctor also continued to state that severe chest pain, a sign of acute medical

⁴⁴ *Fraihat, et al v. U.S. Immigration and Customs Enforcement, et al*, No. 5:19-cv-01546-JGB-SHK, ECF No. 240 (C.D. Cal. Oct. 7, 2020).

distress due to COVID-19, was simply muscle strain, leading to the near death of an individual mid January:

"I went to the doctor last week about my chronic chest pain which had been occurring since June 2020. The same doctor informed me in June this pain was due to hypertension, which still has not been treated. On this recent visit the doctor said, "Oh, another one with chest pain," then performed an EKG which gave an abnormal reading. The doctor then confiscated my asthma pump, saying he had not diagnosed it and this was the cause of the chest pain - he said an investigation into who had given it to me would take place. However, the doctor himself diagnosed the inhaler last June when my lifelong asthma became acute as they began spraying the chemicals throughout the center. I've heard from others that the doctor told them he refuses to give new diagnoses in light of the Fraihat litigation which requires high-risk individuals be evaluated for medical release. A group of us wrote a grievance against the doctor last week." Anonymous, January 8, 2021

"Despite being diagnosed with numerous medical conditions that I take medication for and the fact that I use an asthma pump daily, the doctor says there's nothing wrong me. I received no medical care when I got sick with COVID-19. The medical staff just told me to take a shower and I would be okay...I've been waiting for my medical records since April or May of last year when I first requested them. Last week, another man here had a seizure while hospitalized, which was confirmed by the hospital doctor. He told us when he returned to the detention center Dr. Charles denied the seizure had taken place." Anonymous, January 8, 2021

"The doctor doesn't care for the detainees, he is just working for himself and ICE. Even if there wasn't a virus, people would get sick." The interviewee added that this was because people could become very sick but the medical staff would say they don't require hospitalization because the in-house medical department was sufficient. He noted that it takes a very long time to see a doctor outside of Glades. " Anonymous, January 4, 2021

"Despite the fact that I had a severe asthma attack in December, which they didn't treat, and I still feel shortness of breath that requires the use of an inhaler 5-10 times daily, racing heart, and fatigue, ICE denied my Fraihat medical release request because they said I had no medical conditions. They told me if I did face any medical issues, I should access care at the jail." Anonymous, January 11, 2021

"The chronic health issues I've had for many years, such as bronchitis, are noted on my medical chart but still going untreated. I placed a sick call over 3 weeks ago which has gone ignored, and I'm forced to use a friend's inhaler since the medical staff refuses to give me one." Anonymous, January 8, 2021

"I have heard that two to three people died here, in addition to Onoval. I don't know their names. My friends who worked at the clinic overheard guards there talking about others who have died at Glades." Anonymous, January 4, 2021

On January 26, a man detained at Glades reported to Immigrant Action Alliance that when he mentions his health problems, medical staff and the guards have begun to tell him, "no, you're in good health." He was taken off the breathing machine the week of January 25, even though he had regularly received treatments previously, and he is struggling to breathe.

Similarly, IAA received a letter postmarked January 21, 2021 from a man detained at Glades, who cannot get records from the medical department at Glades saying he was diagnosed with

asthma, even though he signed paperwork in June 2020 in order to receive an inhaler. When he noted this to Dr. Jean Saint Charles, Dr. Saint Charles replied that he had not ordered the inhaler; however, the doctor's name is on the box, as shown in the following screenshot obtained by IAA. In a text to IAA, he says he is now unable to get an asthma pump refill after submitting three requests (all of which went unanswered). "I have been complaining to them about having trouble breathing for (2) two weeks now," he wrote, "and still they have not let me see a doctor yet."

How are this is the document that I got from The medical department when they gave me the asthma pump. Im just puzzled because they did not enter my medical condition in their computer about my medical conditions.
 You can use this to help me send in my Freiheit release request please and thank you.

KEEP ON PERSON (KOP) CONTRACT

If I meet the requirements for the "Keep on Person" medication program, and agree to the requirements below, I will be allowed to keep my medication in my possession:

1. I understand that only medications that are approved and ordered by the facility clinician will qualify for this program.
2. I understand that medication may be given to me in a special package that will contain no more than a (30) day supply of medication. The package will contain a label that includes my name, identification number, the medication name, and directions for its use.
3. I understand I must follow instructions on the medication label. Health care staff can check my medicine at any time to make sure I am taking it correctly.
4. I understand, if I believe I am having a problem with the medication, it is my responsibility to notify the nurse or doctor as soon as possible.
5. I AM RESPONSIBLE FOR MY MEDICATION. If I lose, tamper with, share or trade the medication, I will be terminated from the program and may be subject to disciplinary action.
6. If I am transferred or released from this facility I may take the medication with me to complete the prescription. I understand that the medication is not in a child proof container, and accept responsibility.
7. I have received a pre-printed information sheet on all my initial Keep on Person Medications.
8. Once released, I will need to follow up with my health care provider as needed.
9. My Keep on Person (KOP) Medication(s) is/are:

VENTOLIN HFA 90MCG INHALER

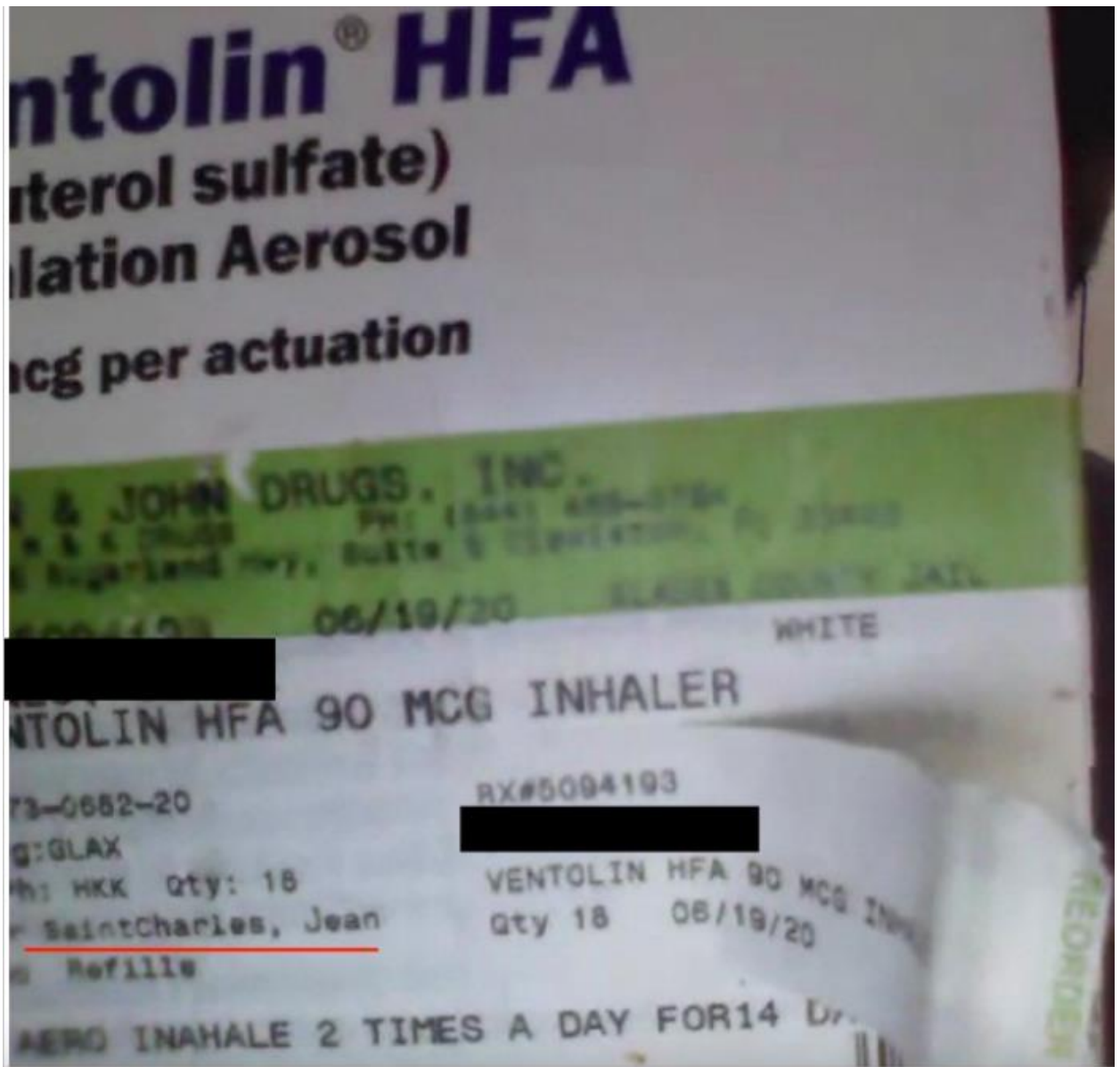
ALLERGIES: Tramadol, WOOL

I HAVE READ THE KEEP ON PERSON (KOP) CONTRACT. I ACCEPT THESE TERMS AND ACCEPT RESPONSIBILITY FOR MY MEDICATION. I KNOW HOW TO TAKE MY MEDICATIONS PROPERLY. ALL OF MY QUESTIONS HAVE BEEN ANSWERED.

[Redacted Signature] 06/20/2020
 PATIENT'S SIGNATURE DATE

Dwaine Smith 06-20-2020 Sat 07:14 PM
 WITNESS (MEDICAL STAFF) DATE

PATIENT NAME:	NO:	D.O.B.:	SEX:	LOCATION:
[Redacted]	GCSO11MNI001604	09-20-1987	M	1*DORM 1*C*096 1*DORM 1*C*096



Hunger Strikes, Pepper Spray, and Retaliation for Public Reporting: In response, people detained are using whatever means possible to seek protection and accountability, including filing grievances, considerations of personal injury lawsuits, and facing the risk of retaliation and long term health consequence of putting their body in harm's way through hunger strikes. In late December over 100 people went on yet another hunger strike, demanding the ICE officers whom they have not seen for many months come speak to them. They sought ICE to address the deplorable and dangerous conditions they are living with and their concerns around medical care and continued denial of release:

"Men and women here went on a hunger strike December 27, which lasted four days. Guards threatened us with pepper spray, and on the 31st a man was dragged out onto the floor and assaulted in the midst of our sit in when we refused to return to our bunks to be counted. I believe they did this to him to intimidate the rest of us to break our strike...ICE Officers did visit us that day, December 31st, and again on Monday, January 4, when they expressed shock at the sight of

the bathroom. Glades County is getting the benefits and not treating us right. They are taking the money to take care of the county side." Anonymous, January 8, 2021

"I filed a civil rights complaint after my friend was forcefully dragged to the floor by 4 guards during a peaceful sit in the middle of our hunger strike. My friend was released that same day, before ICE officials came. ICE later threatened me that if I continued to hunger strike I would lose privileges and be placed in solitary confinement." Anonymous, January 8, 2021

"I would like to start a multi-individual personal injury lawsuit because of the long-term effects on us. And they keep doing it. They have to be held accountable." Anonymous, January 2, 2021

"The officers, the way they treat you—they don't want to give you masks.... Then they got more mean with us. DHS wanted to treat us like criminals. To them, we're criminals. A lot of officers were leaving to other facilities. They know what's going on—they know it's going to get shut down, not going to renew the contract." Rodney London, deported on approximately November 22, 2020, Interview on January 3, 2021

"ICE officer Joseph Brown was brought in after things got intense and a detainee was dragged out on the floor because he refused to talk or walk when ordered to do so ... During the hunger strike most detainees refused canteen for three days because we demanded to speak with a senior ICE official about the unsanitary condition of the facility. Which was never met. Instead Joseph Brown was sent in to calm the situation at hand due to unresponsiveness by ICE and facility staff. We asked Mr. Brown about how current COVID 19 settings are within the dorms in this facility with no real consideration for detainees health risks of being exposed and no 6 ft social distancing. His reply was 'no comment, due to lawsuit in progress in reference to Fraihat vs ICE,' when asked about the conditions of the facility in terms of sanitation, bathroom toilets leaking, and limited access due to malfunction and availabilities." Anonymous, January 9, 2021

The last individual reported two days later, through another, that his account was suspended for sending the above message to IAA to confirm the hunger strike and deplorable living conditions they still faced. That same day, the legal line for Americans for Immigrant Justice was cut off mid interview during a separate individuals' abuse reporting.

Lack of Soap, Sanitation, and PPE: Improper sanitation and insufficient access to hygiene products and PPE at the facility persist into early 2021.

"We reported a broken sink in the second floor bathroom in D1 dorm in October. Maintenance staff at Glades said to me, "We aren't fixing anything until after the election," and repairs still haven't been made. Now, there is water leaking down into the cell below the bathroom, and the bed in that cell can't be used because water from the bathroom leaks down onto it." Anonymous, January 8, 2021

"This place is not fit to inhabit for anybody, human or animal. There is black mold in the bathroom, and it's not safe. B dorm is leaking. Shitwater runs down the wall, besides people's beds. The inspector IGNORED these things. We said, 'Are you going to check the bathroom?' and they replied, 'No, we already saw one,' 'Yeah but there's another one!' The roof leaks some kind of icicles which are hanging from the ceiling and forming the same thing on the ground. They're 2 inches long, and look like a calcium deposit. We don't know if it's asbestos? They couldn't get approval to open with these things happening. With these things, the place should not be open at all." Rodney London, January 2, 2021

"Even the kitchen, they got roaches in the kitchen, in the cakes. Food is spoiled. Health conditions are terrible. They are not abiding by the rules and the laws." Steve Cooper, January 4, 2021

Virus Spread: Transfer & Impossibility of Quarantine: lack of ability to self-protect, and continual transfers into the detention center without people being able to properly quarantine upon arrival or COVID-19 outbreaks properly contained. According to those detained, testing is still not taking place, including for people symptomatic.

"On December 18, 2020 about 10 detained people were brought to my dorm C1 from B1 (quarantine dorm) after spending only 5 days in quarantine post transfer from Krome Detention Center in Miami, Florida. Others who had been transferred in at the same time were spread to two additional non-quarantine pods in the facility. People in quarantine dorm B1 are regularly mixed with the general population as soon as others are transferred into the facility, regardless of the length of time under quarantine." Anonymous, January 8, 2021

"Whenever new people are placed in the dorm, there is a COVID-19 outbreak which is not controlled. I have seen people released who were actively ill with COVID-19." Anonymous, January 8, 2021

"Someone went to work in the kitchen and caught COVID-19. He was in my unit but they only took him out that day, then 3 more people started to get sick right after that. They still haven't tested anyone else. The person that they took out from the unit that works in the kitchen came back last night. I guess he was just showing symptoms" Anonymous January 18 and 19, 2021

Lack of Appropriate Oversight:

Despite the humanitarian crisis that has unfolded since the onset of the pandemic, neither ICE nor Glades County took adequate action to prevent further harm as required by the US Constitution, the NDS and CDC Guidelines.

The Due Process Clause provides that no person shall "be deprived of life, liberty, or property, without due process of law." *U.S. Const. amend. V*. Its protections extend to every person within the nation's borders regardless of immigration status. *Mathews v. Diaz*, 426 U.S. 67, 77, (1976) ("Even one whose presence in this country is unlawful, involuntary, or transitory is entitled to that constitutional protection.") "[W]hen the State takes a person into its custody and holds him there against his will, the Constitution imposes upon it a corresponding duty to assume some responsibility for his safety and general well-being." *DeShaney v. Winnebago Cty. Dep't. of Soc. Servs.*, 489 U.S. 189, 199- 200 (1989). The government must provide detained individuals with basic necessities, such as adequate medical care, food, clothing, and shelter; the failure to provide these necessities violates due process. *Hamm*, 774 F.2d at 1573; *Cook ex rel. Estate of Tessier v. Sheriff of Monroe Cty.*, 402 F.3d 1092, 1115 (11th Cir. 2005).

At a minimum, the Fifth Amendment Due Process Clause prohibits ICE's deliberate indifference to a substantial risk of serious harm that would rise to the level of an Eighth Amendment violation in the post-conviction criminal context. *Revere v. Mass. Gen. Hosp.*, 463 U.S. 239, 244, (1983) ("[T]he due process rights of a [detained immigrant] are at least as great as the Eighth Amendment protections available to a convicted prisoner."); *see also Hale v. Tallapoosa County*, 50 F. 3d 1579, 1582 n.4 (11th Cir. 1995). Furthermore, the government may violate the Eighth Amendment of the Constitution when it "ignore[s] a condition of confinement that is sure or very likely to cause serious illness and needless suffering the next

week or month or year," including "exposure of inmates to a serious, communicable disease, "even when "the complaining inmate shows no serious current symptoms." *Helling*, 509 U.S. at 33.

Conditions of confinement for individuals in immigration detention violate the Fifth Amendment of the Constitution when the government fails, with deliberate indifference, to safeguard the health and safety of those in its custody. The government acts with deliberate indifference when it knowingly exposes an individual in its custody to a substantial risk of serious harm. The facts illustrated above clearly demonstrate that ICE and GCDC have subjected those in their custody to conditions of confinement that create a substantial risk of contracting a serious or even fatal case of COVID-19. ICE and GCDC know, or should be aware, of the fact that detained individuals' underlying conditions render them especially vulnerable to severe illness or even death if they contract COVID-19. ICE and GCDC are therefore knowingly subjecting individuals in their custody to an unreasonable risk of serious harm, in violation of constitutional due process. ICE and GCDC have exposed individuals in their custody to a substantial risk of serious harm. ICE and GCDC have known of, or disregarded, the substantial risk of harm to detained individuals' health and safety and as a result have acted with deliberate indifference.

GCDC is subject to ICE's National Detention Standards ("NDS").⁴⁵ The current governing version of the NDS is the 2019 National Detention Standards for Non-Dedicated Facilities. Section 1.1(I) of the NDS mandates that "facilit[ies] will operate in accordance with all applicable regulations and codes, such as those of . . . the Centers for Disease Control and Prevention (CDC)."⁴⁶ ICE and GCDC have failed to follow their duty to comply with the NDS, which requires compliance with CDC guidelines and federal, state, and local laws. Namely, ICE and GCDC have not implemented the recommended cleaning and disinfecting practices, recommended hygiene practices, nor given the nature of detention can they implement adequate social distancing practices per CDC guidelines. Moreover, ICE and GCDC's cohorting practices violate CDC guidance and increase the threat posed to individuals in their custody.

On April 30, 2020, the court in *Gayle v. Meade* found "record evidence demonstrating that ICE has failed in its duty to protect the safety and general well-being" of 34 petitioners from three south Florida detention centers, including the Glades County Detention Center.⁴⁷ The court concluded ICE's failures "amount to cruel and unusual punishment because they are exemplary of deliberate indifference."⁴⁸ As a result of the evidence in the record as of April 30, 2020, much of which documented the conditions at GCDC, the court concluded conditions at Krome and Glades constituted "a violation of the Petitioners[] Fifth and Eighth Amendment rights."⁴⁹ The court in *Gayle* further determined that ICE had failed to comply with its own Performance-Based National Detention Standards and Pandemic Response Requirements, violating the individuals' due process rights under the *Accardi* doctrine.⁵⁰ Despite this order finding clear constitutional violations at Glades County Detention Center at the end of April 2020, not much has changed in the conditions of the facility nor in ICE's own ability to provide sustained and meaningful oversight over those in its custody at GCDC.

⁴⁵ See Inter-governmental Service Agreement between the United States Department of Homeland Security U.S. Immigration and Customs Enforcement Office of Detention and Removal and Glades County, Moore Haven, Florida at 4 (executed on May 30, 2007), <https://www.documentcloud.org/documents/1658083-glades-county-fl-igsa-contract.html>.

⁴⁶ 2019 NDS at 1.

⁴⁷ Order Adopting in Part Magistrate Judge's Report and Recommendation, *Gayle v. Meade*, No. 1:20-cv-21553-MGC, ECF No. 76 at 6 (S.D. Fla. Apr. 30, 2020).

⁴⁸ *Id.*

⁴⁹ *Id.* at 6-7.

⁵⁰ *Id.* at 7-9.

From August 31 to September 3, 2020, ICE's Office of Detention Oversight ("ODO") conducted a "compliance inspection" of GCDC.⁵¹ In Fiscal Year 2019, ODO found 12 deficiencies in a variety of areas. In the most recent inspection, in Fiscal Year 2020, ODO found a total of 17 deficiencies among the categories it assesses.⁵² Within the deficiencies were some regarding the inadequate medical care provided in the facility, with ODO noting that medical care is an "area of concern."⁵³ Individuals detained reported that facility conditions were temporarily improved simply to pass the inspection. This lack of appropriate oversight is not only a result of the pandemic, but a longstanding occurrence at GCDC. GCDC and ICE must be held accountable for their negligence.

"Before the inspection at G.C.D.C. officers used to wear masks and gloves 24/7, and they used to give masks to us detainees twice a week when [there] was supply for toilet papers and shampoo. Since inspection left[,] officers are walking with no gloves, they take off the masks, and we are not getting masks any more on the regular supply bases. With all this said I am afraid for my life here in the detention center, because the officers are breaking all the rules and regulations from CDC and also ICE guidelines." Complaint, *Radetic v. Miami Field Office Immigration and Customs Enforcement*, No. 1:20-cv-23783-MGC, ECF 1 (S.D. Fla. September 11, 2020).

Over six months since the first case of COVID-19 came to Glades, despite the rampant spread of COVID at the facility, nothing significant had changed in GCDC's procedures. Individuals filing habeas corpus petitions in federal district court argued the government violated their right to due process. Declarations like the one following led them to argue such failures amount to cruel and unusual punishment because they are exemplary of deliberate indifference.

"People with confirmed cases are deliberately cohorted with people with suspected cases, which shows a total disregard for our safety and well being. This practice also violated ICE April 10, 2020 COVID-19 Pandemic Response Requirements. We are congregated in groups of more than ten people. I am currently in a dorm with about twenty five people that came from Krome within the last three weeks that are confirmed positive for COVID-19 and are cohorted with people that are asymptomatic, or have not been tested at all, just like I was not once tested for COVID-19, or put in the quarantine for 14 days, in all my 5 transfers since April 22, 2020, until June 29, 2020. I am cohorted with people that have high temperatures and showing symptoms of illness, that have been tested for COVID-19, and I have not been tested yet. When I ask for a test I am told no." Complaint, *Radetic v. Miami Field Office Immigration and Customs Enforcement*, No. 1:20-cv-23783-MGC, ECF 1 (S.D. Fla. September 11, 2020).

Recognizing that environment conditions can be the basis for the state-created danger, Rodney London, an individual over the age of fifty diagnosed with hypertension and asthma, argued that these failures placed him at a heightened risk of not only contracting COVID-19, but also succumbing to the fatal effects of the virus due to his chronic medical conditions. Complaint, *London v. Miami Field Office Immigration and Customs Enforcement*, No. 1:20-cv-23770-MGC, ECF 1 (S.D. Fla. September 11, 2020).

⁵¹ Office of Detention Oversight, U.S. Immigration and Customs Enforcement, U.S. Dep't of Homeland Security, ERO Miami Field Office Glades County Detention Center August 31-September 3, 2020, https://www.ice.gov/doclib/foia/odo-compliance-inspections/gladesCoDetCntrMooreHavenFL_Aug31-Sep3_2020.pdf.

⁵² *Id.* at 6.

⁵³ *Id.* at 10.

Moreover, Glades County has failed to engage in adequate oversight actions to minimize the burgeoning health crisis. Although the nonprofit Glades Correctional Development Corporation is used to enable relationships with bondholders and shift liability away from Glades County, the county retains certain oversight. For instance, the commissioners have the power to appoint and approve members to the GCDC Board. Furthermore, GCSO is still partially funded by county taxes, and the commissioners must vote to approve its annual budget.

Despite this responsibility, the Sheriff's reports to the county commissioners at their regular meetings focus almost exclusively on the jail finances and the number of people detained there. Any questions about jail conditions that arise are quickly dismissed.

For instance, in the July 7, 2020 Board of County Commissioners meeting, Commissioner Storter Long mentioned news reports regarding the treatment of individuals detained at the facility. To this, GCSO Finance Director Shelley Ridgdill stated they have passed all their inspections so if they were mistreating the detained individuals, they would be failing their inspections.⁵⁴ This was just days before Onoval Perez Montufar died on July 11, 2020 after contracting COVID-19 at the jail. No discussions of Mr. Montufar's death or the dangerous conditions of confinement were recorded in the Board meeting minutes for meetings directly following.

On August 25, 2020, Onoval Perez Montufar's family, as well as advocates, attorneys, people currently and formerly detained, and family members of those currently detained, all sought congressional oversight through a public Congressional Roundtable. They demanded an investigation into the cause of death, demanded in-person congressional visits to witness the horrors first hand inside the facilities, and an end to all transfers. Representative Greg Steube, who represents Glades County, declined to participate.

On November 23, 2020, nine months after the pandemic onset and as significant rights violations and direct harm were happening to immigrants in the county jail's custody, it remained unclear how much information was provided and what oversight role was being played by responsible officials within Glades County. Glades County Commissioner John Ahern, who serves on both the county commission and the board of the Glades Correctional Development Corporation, told fellow commissioners, "Everything is going fine now." This prefaced a report on the current finances and jail capacity--that ICE was continuing to pay the jail to detain 425 people though they were only detaining 307 individuals for ICE at the time. Commissioner Ahern also reported that they had lost "well over a million of income" because the court in *Gayle* had ordered them to maintain their ICE detained population at 75% capacity or lower. Only after Commissioner Ahern covered the finances did Sheriff Hardin disclose that the doctor assigned to the facility had contracted COVID-19.

Similarly, during the December 8, 2020 commissioners meeting, there was no mention of detention conditions, just concern over whether ICE would continue to pay GCSO for 425 beds.

⁵⁴ The Office of the Inspector General has stated that inspections by the Nakamoto Group, which has conducted inspections at Glades, are "not consistently thorough" and that "its inspections do not fully examine actual conditions." With all inspections, whether conducted by Nakamoto or others, the OIG found that "ICE does not adequately follow up on identified deficiencies or systematically hold facilities accountable for correcting deficiencies." See Office of the Inspector General, U.S. Dep't of Homeland Security, *OIG-18-67, ICE's Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements* (June 16, 2018), <https://www.oig.dhs.gov/reports/2018/ices-inspections-and-monitoring-detention-facilities-do-not-lead-sustained-compliance>.

This pattern was repeated at the January 12, 2021 meeting. The December 27, 2020 to January 1, 2021 hunger strike in response to unsanitary conditions and fear for their safety was not discussed, nor was there any mention of an officer's assault on one of these peaceful protestors. Commissioner Ahern only mentioned the fact that it was a "lot easier to pay the bills" with the 425 rate from ICE, which was not guaranteed to be paid after January of this year.

Equally concerning is the GCSO's lack of intervention, despite full awareness of all the above taking place. Although the county could exercise a measure of oversight regarding the present humanitarian crisis at GCDC, their concern over the jail's finances distracts them from the larger human cost.

Recommendations & Conclusion:

1. Immediate Investigation of Medical Practices and Denial of Release:

Based on the myriad of concerning reports from detained individuals at Glades County Detention Center since the onset of the pandemic, we believe the entire population of the jail is at serious risk of illness or death due to the inability to practice social distancing, lack of precautions being taken, lack of testing, and lack of adequate medical care led by a doctor whose motives remain questionable. We urge CRCL and OIG to immediately investigate the medical practices at the Glades County Detention Center. Further, every person detained should be provided with an individualized assessment, under a presumption of release, prioritizing those most medically vulnerable to complications from COVID-19.

2. ICE should terminate the Intergovernmental Services Agreement (IGSA) with Glades County

We further urge CRCL and OIG to recommend that ICE terminate the Intergovernmental Services Agreement (IGSA) with Glades County as they have repeatedly demonstrated their inability to provide adequate care to those in their custody.

All parties contractually obligated to uphold the safety and well-being of those detained in ICE custody under the IGSA, namely ICE and Glades County were well aware of the risk created by their negligence and failure to provide adequate care to the people detained in their custody. Internal grievances were filed, concerns around poor medical care and lack of release were publicized widely as people's hunger strikes—and the swift retaliation—was made public through the media. Moreover, congressional representatives from Florida acknowledged the abusive conditions at Glades during a congressional roundtable on August 25, 2020, in which three people directly impacted by Glades' abuses spoke, including Onoval Perez Montufar's niece, who reported the conditions at Glades leading to her uncle's death on July 11, 2020.⁵⁵ In addition, a major class action lawsuit was filed in federal court documenting egregious and alarming conditions within the facility. Despite a deluge of information, including ongoing reports over a period of ten months detailing the day-to-day atrocities happening inside GCDC, appropriate response, oversight, and remedy at the time of this filing have been wholly insufficient.

Far from being an appropriate crisis response to a deadly pandemic and facility-wide outbreak, the way in which ICE and Glades County failed to protect and release people under their care is evidenced, over and over, throughout the entirety of the pandemic to date.

⁵⁵ United We Dream, *Testimonies on ICE Cruelty: A Conversation with FL Reps*, (August 25, 2020) <https://www.facebook.com/watch/live/?v=309472236990575>.

3. All Individuals Detained Should Be Immediately Released to the Community

Finally, we remain extremely concerned that the conditions inside Glades are dire, with attempts to seek external support quelled in retaliation, and ongoing inadequate and abysmal medical care. Given reports of disappearances and unconfirmed deaths, the true death toll due to COVID-19 remains in question. Coupled with the intrinsic nature of congregate settings which cause the spread of infectious disease, Glades County Jail has proven itself unable and unwilling to provide those in its care with safety and due process. We believe that without immediate intervention to adequately address the ongoing pandemic and health crisis at GCDC, history will continue to repeat itself. Given the acute crisis which has been unfolding since the pandemic onset to date, we demand the immediate release of all individuals from Glades County Jail's custody. We are extremely concerned that many more individuals will continue to contract COVID-19 in the coming days and weeks, leading to severe illness and potential death.

We look forward to your prompt attention to this issue. Should you have any questions, please contact Jessica Schneider of Americans for Immigrant Justice at jschneider@ajjustice.org, Wendy King of Immigrant Action Alliance at wendy@immigrantactionalliance.org, or Sofia Casini of Freedom for Immigrants at scasini@freedomforimmigrants.org.

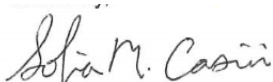
Sincerely,



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