



HARVEY EPSTEIN  
Assemblymember 74<sup>th</sup> District

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

February 28, 2022

Chair Shahana Hanif and Members of the Committee on Immigration:

Thank you for allowing me to testify at the Council's Committee on Immigration hearing focused on COVID19 at Immigration Detention Centers. I am Harvey Epstein, NYS Assembly Member of the 74th Assembly District representing parts of the Lower East Side, East Village, Gramercy, Kips Bay and Tudor City. I was particularly interested in this hearing, as a co-sponsor of Assembly Member Karines Reyes' bill Dignity Not Detention Act. But also, as a legislator who partnered with Assembly Member Catalina Cruz to visit Orange County Jail in Goshen, New York late last year.

We have heard and seen several issues related to Orange County Jail that includes COVID19 outbreaks, lack of access to vaccinations and booster shots, and attorneys not being able to access communication with their clients. All of this is happening while undocumented New Yorkers are being detained by ICE at these facilities. Orange County Jail is not unique to this, as we are aware of other detention combined jails that are facing similar issues.

If we are indeed a sanctuary city and state, we need to end all contracts with ICE and immigration detentions. That is why I am a proud sponsor of Assembly Member Reyes' bill the New York Dignity Not Detention Act. This is meant to end that practice of jailing New Yorkers as they face deportation. We must reunite families and offer the proper resources to fight deportation and live where they feel most safe. I urge the Committee on Immigration and council body to vote and pass Council Member Hanif's and Public Advocate Williams' resolution in support of the Dignity Not Detention Act.

Thank you,

A handwritten signature in black ink, appearing to read 'Harvey Epstein', with a long horizontal stroke extending to the right.

Harvey Epstein  
Assembly Member  
District 74



March 3, 2022

The Honorable Shahana Hanif  
Chair, Committee on Immigration  
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[hanif@council.nyc.gov](mailto:hanif@council.nyc.gov)

**Testimony of the New York Immigration Coalition**  
New York City Council Committee on Immigration  
“COVID-19 in Immigration Detention Centers”  
February 28, 2022

Dear Chairperson Hanif:

On behalf of the New York Immigration Coalition (NYIC), I thank you for the opportunity to testify about the urgency of ending ICE detention and to support the scores of detained immigrant New Yorkers who have protested the inhumane conditions and perils of ICE detention in New York State.

The NYIC is an umbrella policy and advocacy organization that represents over 200 immigrant and refugee rights groups throughout New York State. The NYIC serves one of the largest and most diverse newcomer populations in the United States. The multiracial and multisector NYIC membership includes grassroots and nonprofit community organizations, religious and academic institutions, labor unions, as well as legal and socio-economic justice organizations.

New York State currently permits localities to collaborate with ICE to forcibly separate New Yorkers from their families and communities and detain them in upstate county jails. For those in jails, prisons, and immigration detention, COVID-19 has confirmed the racist and heartless underpinnings of our criminal legal and immigration systems. In the early months of the pandemic, it was two detention centers in New York and California, the Buffalo Federal Detention Facility in Batavia and Otay Mesa Detention Center in San Diego, that reported the highest numbers of COVID-19 positive cases. Rather than take immediate steps to slow the spread of the disease and protect immigrants detained at

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these facilities, ICE ignored the problem, restricted access to personal protective equipment (PPE), and fought against attempts to release vulnerable immigrant detainees on bond.

The problem is not restricted to federal facilities. As of February 8, 2022, there are 279 people detained at the federally owned facility in Batavia, 144 people detained at Orange County Jail, 3 people detained at Clinton County Jail, and 2 people detained at Rensselaer County Jail. All of them face heightened risk of COVID-19 because of the conditions of their confinement. Ending state support for detention has emerged as an urgent public health imperative.

Now, more than two years after COVID-19 was first detected in the United States, people across the country and throughout our state are languishing in detention, prisons, and jails and continue to be denied basic protective equipment, social distancing measures, access to necessary health care services, and potentially lifesaving release programs, resulting in a death sentence for many with no repercussions for those responsible. States and localities must do everything they can to defend their residents from the federal deportation machine and ensure families can stay together, not languish in jails, prisons, or detention centers.

ICE is able to maintain its detention and deportation system through the cooperation of state and local authorities. Our state should no longer funnel any New Yorkers into ICE custody, and must end its complicity in the separation of New York City families and the traumatizing of immigrant communities. This is why the NYIC supports the New York for All Act (S3076/A2328), which prohibits state and local officers from enforcing federal immigration laws and sharing information with federal immigration authorities, and the Dignity Not Detention Act (S7373A/7099A), which prohibits state governmental entities from entering into and renewing immigration detention contracts with ICE and private companies.

The New York for All and Dignity Not Detention Acts would work in tandem to interrupt the arrest-to-deportation pipeline. The New York for All Act broadly prohibits state and local officers from enforcing federal immigration laws, funneling people into ICE custody, and sharing sensitive information with ICE. It prohibits ICE from entering non-public areas of state and local property without a judicial warrant. It also ensures that people in custody are given notice of their rights before being interviewed by ICE, and starts the process of limiting ICE access to state information databases. The Dignity Not Detention Act prohibits New York governmental entities from entering into



immigration detention contracts and from receiving any payments related to immigration detention, prohibits New York governmental entities from renewing any existing immigration detention contracts, requires any New York governmental entities with existing immigration detention contracts to exercise the termination provision in the contract, and prohibits any person, business, or private entity from owning or operating immigration detention facilities. Whereas the Dignity Not Detention Act would prohibit New York governmental entities from entering into or renewing immigration detention contracts, the New York for All Act would cut off the pathways between arrest and detention. Both pieces of legislation would move New York closer to ending state support for detention, deportation, and incarceration. The New York City Council should support the passage of both bills in the New York State legislature.

The NYIC also urges the New York City Council and the Mayor's Office of Immigrant Affairs to support access to justice for detained immigrant New Yorkers and to fully fund immigration legal and support services. Our city government must expand access to and fully fund immigration legal services by at least \$58.2 million to ensure continuity of services and help defend immigrants against the aggressive, anti-immigrant policies from Washington that continue even during this pandemic. This funding includes support for the New York Immigrant Family Unity Project (NYIFUP), the nation's first public defender system to assist detained immigrants facing deportation proceedings. This program provides free legal representation to eligible detained immigrants facing deportation. NYIFUP providers, including the Bronx Defenders, Brooklyn Defender Services, and the Legal Aid Society, ensure detained immigrants have access to legal counsel and due process. These legal services providers have been representing immigrants facing deportation since 2014. The New York City Council must fully fund this vital program so that it can continue to advocate for immigrants' freedom, safety, and family unity.

Finally, the New York City Council should call on the New York State legislature to pass the Access to Representation Act (ARA) (S81A/A1961), securing a permanent right to representation for all people facing deportation in New York. The first legislation of its kind in the nation, the ARA would ensure a right to counsel for all immigrants facing deportation in New York and guarantee that no one must defend themselves against a trained government lawyer alone to protect themselves and their families from deportation. The bill would give New York families a fighting chance to stay together by making sure that no immigrant fails to access the defenses and protections available to them under the law solely for lack of an attorney to make their case. The ARA would provide a measure of due process, fairness, and access to justice for immigrants facing





deportation proceedings, thereby undermining state support for detention and deportation while the state pursues other legislative solutions, like the Dignity Not Detention Act, that would ensure that New York's immigrant communities can live in dignity and freedom.

The New York City Council must join the national movement to end ICE detention and protect all residents of our city. The NYIC thanks the New York City Council Committee on Immigration for hosting this hearing and urges the New York City Council to support the pre-considered resolution calling on the New York State legislature to pass, and the Governor to sign, the Dignity Not Detention Act.

For additional information or resources, please contact Nicole Catá at [ncata@nyic.org](mailto:ncata@nyic.org).

Sincerely,

Nicole Catá  
Director of Immigrant Rights Policy  
The New York Immigration Coalition

cc: Commissioner Manuel Castro, Mayor's Office of Immigrant Affairs  
Council Member Carmen De La Rosa  
Council Member Pierina Ana Sanchez  
Council Member Sandra Ung  
Council Member Francisco Moya  
Council Member Shekar Krishnan  
Council Member Rita Joseph



Community Immigration  
Legal Services & Education

## **Testimony by UnLocal submitted to the New York City Council on Immigration**

**Monday, February 28, 2022, 10:00am**

**Re: Oversight - COVID-19 in Immigration Detention Centers**

Good afternoon. My name is Terry Lawson and I am the Executive Director of [UnLocal](#), a community-centered non-profit organization that provides direct community education, outreach, and legal representation to New York City's immigrant communities. UnLocal is part of the Rapid Response Legal Collaborative, along with Make the Road New York and NYLAG, and the lawyers, paralegal, and social worker who serve on our [Post-Order Defense team](#) fight tirelessly during this pandemic to help those in ICE detention, where their physical and mental health are threatened every day.

I would like to start by thanking Chair Hanif, the Immigration Committee, and Council staff for convening this hearing on these critical issues. We look forward to working together in the months and years to come. UnLocal deeply appreciates the support of the Mayor's Office of Immigrant Affairs and the City in making free high quality legal and social work services available to our clients fighting their detention and deportation. I will focus my testimony on the realities facing our clients in ICE detention at Orange County Correctional Facility (OCCF), the need to pass the preconsidered resolution supporting the passage of the Dignity Not Detention

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Act, and what more the City Council can do to combat the deportation machine that terrorizes New York City residents.

As an example of the horrors facing clients detained by ICE at Orange, I'd like to share the story of our client, whom I'll call "Harry", who was sent to Orange in October 2021. At the time of his detention, Harry, a long-term US resident with US-born children, siblings, and a fiancé, was being treated for colon cancer and a punctured intestine and was taking eight separate medications. Despite his compromised immunity, his significant ties to the US, and the fact that he had been out on parole without incident for over two years when ICE tricked him into coming to pick up his passport and his green card, ICE denied his parole request and refused to release him while he pursued his motion to reopen. By the time that Harry's fiancé reached out to RRLC, Harry had run out of options. At Orange, he could not get the urgent medical care he needed. Without access to his medications and his doctors, Harry was unable to maintain his medical regimen and his health rapidly deteriorated. He experienced rectal bleeding within weeks of being detained and OCCF ignored his numerous requests to see a doctor until UnLocal's Legal Director intervened. Facing indefinite detention and failing health, Harry chose to be deported by ICE rather than staying to fight his case, which, due to the malpractice of his private attorneys, he could have won. Another medically vulnerable UnLocal client also

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chose to be deported early last year after he had contracted Covid-19, a secondary respiratory infection, and structural damage to his lungs in ICE detention and ICE refused to parole him.

Like our RRLC partners and many of those testifying today, UnLocal has been forced to file lengthy and complex habeas petitions in federal court to redress the indefinite detention and deplorable conditions at Orange and other ICE detention sites that fail to meet basic health and safety standards. Furthermore, it is commonplace for Orange to ignore the scheduled appointments our advocates make to speak to clients using the antiquated GTL system, a system that also frequently crashes, delaying our ability to fight for our clients' release. Routinely, our advocates log on only to see a black screen and never see their clients. Our clients report not being able to make phone calls, phone calls not going through, and being able to reach us only via expensive apps like Getting Out. One client told our advocates that they were unable to make a phone call for over a month upon their detention at Orange.

In addition to their numerous medical vulnerabilities, our clients suffer from extreme bouts of depression, anxiety, psychosis, PTSD, and other mental health ailments that go untreated and are exacerbated daily by their detention. What the Covid-19 pandemic has taught all of us is that physical health and mental health are intricately linked. For those in detention, there is no escaping the daily trauma of being indefinitely separated from one's community.



Community Immigration  
Legal Services & Education

UnLocal is fortunate to have a social worker, funded through MOIA's support of the Rapid Response Legal Collaborative, who is able to advocate for mental health services for our clients in ICE detention. Yet, as she would tell you herself if she were here, the services she provides, while indispensable to us and our clients, are a drop in the bucket of the extensive mental health needs of those facing the hellish conditions across all ICE detention centers.

I close by asking this committee, the New York City Council, and the Mayor's Office of Immigrant Affairs to support the pre-considered resolution introduced by Council Member Hanif and Public Advocate Williams calling on the New York State legislature to pass, and the governor to sign, prohibiting New York from entering into ICE detention contracts, also known as the Dignity Not Detention Act. I also ask this Committee and the Council to pass the resolutions introduced last summer calling on this City to enforce and strengthen its own detainer laws and to create a private right of action for those harmed when the detainer laws are violated. Lastly, we call on MOIA to continue to fund the legal services and social work support provided by the Rapid Response Legal Collaborative, which makes this type of advocacy on behalf of those impacted by ICE detention possible. Thank you.

Terry Lawson  
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**Testimony of the New York Civil Liberties Union  
to  
The New York City Council Committee on Immigration  
regarding  
Oversight of COVID-19 in Immigration Detention Centers**

**February 28, 2022**

The New York Civil Liberties Union (NYCLU) respectfully submits the following testimony with respect to the joint New York City Council Committee on Immigration hearing concerning COVID-19 in immigration detention centers.

**I. Introduction.**

The NYCLU, the New York State affiliate of the American Civil Liberties Union, is a not-for-profit, nonpartisan organization with eight offices across the state and more than 100,000 members and supporters. The NYCLU defends and promotes the fundamental principles and values embodied in the Bill of Rights, the U.S. Constitution, and the New York Constitution, through an integrated program of litigation, legislative advocacy, public education and community organizing.

The NYCLU has long fought for the rights of immigrant New Yorkers detained by U.S. Immigration and Customs Enforcement (ICE) and ensnarled by the deportation pipeline through litigation, legislative advocacy, and organizing. We have litigated multiple cases on behalf of immigrants detained in the federal detention facility in Batavia and in ICE custody in Orange County. This includes a class-action lawsuit challenging the adequacy of COVID-19 safety procedures at Batavia,<sup>1</sup> and a lawsuit on behalf of people detained at Orange County challenging ICE's use of manipulated algorithms that resulted in the detention of thousands of people.<sup>2</sup> We have worked alongside advocates and with government officials at the

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<sup>1</sup> NYCLU, *Rivera v. Wolf*, <https://www.nyclu.org/en/cases/rivera-v-wolf>.

<sup>2</sup> NYCLU, *Jose L. Velezaca v. Wolf*, <https://www.nyclu.org/en/cases/jose-l-velezaca-v-chad-wolf-et-al>.

state and local level, in New York City and throughout New York State, to enact laws and policies protecting the rights and dignity of our immigrant communities.

We appreciate the Council's attention to the issue of immigration detention and the disastrous impact that COVID-19 has had on people detained by ICE. Though much of the detention infrastructure in New York is located outside of New York City, the Council can play an important role in examining these issues and using its influence to affect state and federal policy. At the same time, the Council must take a critical look at how local law enforcement practices within New York City help funnel people into immigration detention. Our testimony today focuses on a few steps that the Council can take to help end immigration detention in New York State and end New York City's role in maintaining the deportation pipeline.

## **II. New York helps enable ICE's cruel detention system.**

The United States detains people for civil immigration violations at unconscionable levels. Under the Trump administration, the number of people in ICE custody exploded, with ICE holding upwards of 50,000 people in detention on a given day.<sup>3</sup> Conditions in immigration detention are notoriously poor. The Office of Inspector General for the U.S. Department of Homeland Security has found serious limitations in ICE's ability to provide adequate medical care to people in detention,<sup>4</sup> a failure that has been linked to alarming increases in deaths of people detained.<sup>5</sup> Immigrants in detention have reported repeated physical and verbal abuse, including physical assaults, pepper spray, and denying people food.<sup>6</sup> Despite a change in presidential administrations, the use of immigration detention has not abated, with detention numbers now back to their levels during the final weeks of the Trump administration.<sup>7</sup>

The COVID-19 pandemic has exacerbated the harms of the immigration detention system. As with other carceral settings, immigration detention facilities

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<sup>3</sup> ACLU, *Justice-Free Zones: U.S. Immigration Detention Under the Trump Administration*, p. 5, <https://www.aclu.org/report/justice-free-zones-us-immigration-detention-under-trump-administration>.

<sup>4</sup> Office of Inspector General for the U.S. Department of Homeland Security, *Many Factors Hinder ICE's Ability to Maintain Adequate Medical Staffing at Detention Facilities*, Oct. 29, 2021, <https://www.oig.dhs.gov/sites/default/files/assets/2021-11/OIG-22-03-Oct21.pdf>.

<sup>5</sup> Human Rights Watch, *Code Red: The Fatal Consequences of Substandard Medical Care in Immigration Detention*, June 20, 2018, <https://www.hrw.org/report/2018/06/20/code-red/fatal-consequences-dangerously-substandard-medical-care-immigration>.

<sup>6</sup> *Supra* note 3 at p. 41.

<sup>7</sup> Sophia Gurule and Abdullah Shihpar, *ICE is Detaining More Immigrants. COVID is Putting Them in Danger*, *The Nation* (Jan. 25, 2022), <https://www.thenation.com/article/society/covid-ice-detention-centers/>.

have been plagued by uncontrolled COVID-19 outbreaks since 2020, prompting lawsuits in the early days of the pandemic that resulted in release for some people.<sup>8</sup> Since that time, as new variants of the virus have emerged, COVID-19 has continued to wreak havoc in ICE detention. Just earlier this month, a record 14% of people in ICE custody tested positive for COVID-19, bringing the number of active cases to more than 3,000.<sup>9</sup>

While the federal government is responsible for immigration detention, New York is complicit in this system in multiple ways. In several parts of New York, county jails have contracts with ICE to rent their cell space for immigration detention purposes, including active contracts in Orange County and Rensselaer County.<sup>10</sup> New York's immigration detention facilities have not escaped the problems that plague other immigration jails across the country. In Orange County, people in ICE detention recently undertook a hunger strike to protest abusive treatment by jail staff,<sup>11</sup> and people held at the jail have since earlier this year voiced fears of an underreported COVID-19 outbreak at the facility.<sup>12</sup> In Rensselaer County, a complaint was filed late last year on behalf of several women held at the jail in ICE detention alleging abuse by jail guards and lack of access to medical treatment.<sup>13</sup>

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<sup>8</sup> See, e.g., *ACLU of New Jersey, ACLU, Legal Aid Society, Bronx Defenders Win Immediate Release of Five Medically Vulnerable Immigrants in ICE Detention, Amid COVID-19 Pandemic*, April 13, 2020, <https://www.aclu-nj.org/news/2020/04/13/aclu-legal-aid-society-bronx-defenders-win-immediate-release>.

<sup>9</sup> Katy Murdza, *COVID-19 Rates in ICE Detention Are at Record Highs. Advocates Are Demanding an Investigation*, The American Immigration Council: Immigration Impact (Feb. 14, 2022), <https://immigrationimpact.com/2022/02/14/covid-ice-detention-investigation/#.YhfwIqhKhPY>.

<sup>10</sup> ICE identifies six county jails as detention facilities on its website. See U.S. Immigration and Customs Enforcement (ICE), *Detention Facilities: New York*, <https://www.ice.gov/detention-facilities?state=21&office=&name=>. In addition, the Rensselaer County Correctional Facility has an active 287(g) agreement with ICE, and is known to hold people in ICE custody on contract for varying periods of time. See, e.g., Rebecca Carballo, *Rensselaer County sheriff renews contract with ICE for immigrant inmate program*, Albany Times Union (May 20, 2020), <https://www.timesunion.com/news/article/Rensselaer-Co-sheriff-renews-contract-with-ICE-15284376.php>.

<sup>11</sup> Graham Rayman, *Hunger strike among ICE detainees in upstate jail over conditions; jail officials dispute allegations*, N.Y. Daily News (Feb. 17, 2022), <https://www.nydailynews.com/new-york/nyc-crime/ny-hunger-strike-immigration-detainees-orange-county-20220217->.

<sup>12</sup> Daniel Parra, *Attorneys, Advocates Warn of Possible COVID-19 Outbreak Among Immigrants Detained at NY Facility*, City Limits (Jan. 26, 2022), <https://citylimits.org/2022/01/26/attorneys-advocates-warn-of-possible-covid-19-outbreak-among-immigrants-detained-at-ny-facility/>.

<sup>13</sup> Spencer Conlin, *Detainee files complaint against ICE and Rensselaer County Jail*, Spectrum News (Sep. 21, 2021), <https://spectrumlocalnews.com/nys/capital-region/news/2021/09/21/complaint-filed-against-ice-and-rensselaer-county-jail>.



As long as New York continues to allow local governments to contract with ICE and assist with immigration enforcement, it remains complicit in the abuses of the immigration detention system.

### **III. The Council must press the state legislature to shut down the deportation pipeline and end local immigration contracts.**

The Council's attention to this issue is commendable, and it must use its voice to call for an end to the ways in which New York enables ICE's detention and deportation machines. Specifically, the Council must pass Preconsidered Resolution T2022-0225, calling on the state legislature to pass the Dignity Not Detention Act; and Resolution 1648-2021, calling on the legislature to pass the New York For All Act. These two state bills would work together to end New York's role in facilitating immigration enforcement.

The Dignity Not Detention Act<sup>14</sup> would end contracts between local jails and ICE like those in Orange County and Rensselaer County, and ensure that no other jails or prisons in state can profit from ICE detention. The bill would further prohibit the establishment of private immigration detention facilities in New York. Cutting off ICE's ability to lean on local jails for cell space will help shrink the overgrown immigration detention network and put pressure on the federal government to build a more humane immigration system.

The New York For All Act<sup>15</sup> would help cut off the pipeline that funnels people into ICE detention by broadly prohibiting state and local authorities from colluding with immigration authorities. Taking a lead from local laws already in place in New York City, as well as other states, the bill would prohibit on a statewide level the use of resources for immigration enforcement, transfers to ICE by local law enforcement, the sharing of sensitive information with ICE, and 287(g) agreements that deputize local officers to enforce immigration law. The bill would help alleviate the fear that many immigrants and their families live with that a simple interaction with local government could lead down the path to deportation.

The Council must adopt resolutions in support of both of these bills this session, and continue to use its voice to push for their passage.

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<sup>14</sup> Dignity Not Detention Act, A.7099-A/S.7373, [https://nyassembly.gov/leg/?default\\_fld=&leg\\_video=&bn=S07373&term=2021&Summary=Y&Text=Y](https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=S07373&term=2021&Summary=Y&Text=Y).

<sup>15</sup> New York For All Act, A.2328-A/S.3076-A, <https://nyassembly.gov/leg/?term=2021&bn=A02328>.

#### **IV. The Council must close loopholes in local New York City laws that allow for continued cooperation with ICE.**

Perhaps most critically, to help end New York's role in the deportation pipeline, the Council must turn its attention towards fixing gaps in the city's own local laws that permit continued collusion with ICE. In several ways, New York City has been a leader among cities and states in removing itself from immigration enforcement. In the past decade, the Council has passed laws restricting the use of immigration detainers and notifications to U.S. Immigration and Customs Enforcement (ICE),<sup>16</sup> prohibiting the use of city resources for immigration enforcement,<sup>17</sup> and limiting access to city property by non-local law enforcement.<sup>18</sup> These laws are the legal backbone of New York City's commitment to protecting its immigrant residents.

However, these laws are beset by harmful exceptions. Notably, while the Department of Correction (DOC) cannot hold a person beyond their release date for ICE without a judicial warrant, corrections officers are allowed to disclose information to ICE regarding a person's incarceration status, release dates, or court appearances if the person in question was convicted of certain offenses or is a match on a terrorist watch screening database.<sup>19</sup> This loophole has been used by the DOC to transfer 100 people into ICE since 2017.<sup>20</sup> Local law also permits the NYPD to hold a person for up to 48 hours without a judicial warrant under certain circumstances,<sup>21</sup> an exception called into question by more recent court decisions.<sup>22</sup>

Last June, the Council held a hearing on legislation that would close these gaps in the city's detainer laws and provide an avenue for those who were transferred to ICE custody unlawfully to seek relief in court – [Intro. 2351-2021](#), [Intro. 2352-2021](#), and [Intro. 2348-2021](#). As the Council examines the problems with immigration detention in New York, it must not excuse its own responsibility to end the funneling of people into the detention system. The Council must reintroduce and pass this legislation without delay.

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<sup>16</sup> NYC Admin. Code § 9-131; NYC Admin. Code § 14-154.

<sup>17</sup> NYC Admin. Code § 10-178.

<sup>18</sup> NYC Admin. Code § 4-210.

<sup>19</sup> NYC Admin. Code § 14-154(h).

<sup>20</sup> See NYC DOC, *Statistics and Compliance: ICE Reports*, <https://www1.nyc.gov/site/doc/about/statistics-and-compliance.page> (total number compiled from ICE reports posted starting in FY2017 and ending in FY2021).

<sup>21</sup> NYC Admin. Code § 14-154(b)(2).

<sup>22</sup> See *People ex rel. Wells o.b.o. Francis v. DeMarco*, 168 A.D.3d 31 (N.Y. App. Div. 2018).

## **V. Conclusion.**

The detention of people for civil immigration violations in New York is unconscionable, and is exacerbated by the ongoing COVID-19 pandemic. We thank the Council for holding this hearing, and urge councilmembers to use their positions to help shrink the federal government's detention and deportation machine.



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**Testimony of Mia Soto, Health Justice Program,  
On behalf of New York Lawyers for the Public Interest to the  
New York City Council's Committee on Immigration  
February 28, 2022**

My name is Mia Soto, and I am the Community Organizer with the Health Justice Program at New York Lawyers for the Public Interest (NYLPI). NYLPI is privileged to be part of the City Council's Immigrant Health Initiative, and we thank you for that support. Through City Council funding, we are able to provide comprehensive health screenings and legal representation to New Yorkers that are undocumented, particularly those who are in health emergencies, and enroll them in state-funded healthcare. The Immigrant Health Initiative also supports NYLPI's work seeking to improve access to healthcare in immigration detention facilities. Despite the dire health risks posed by the spread of COVID-19, Immigration and Customs Enforcement (ICE) officials continue to arrest and confine people in immigration detention facilities and jails. For NYC residents held in detention, NYLPI provides crucial and urgent advocacy to improve health care and for their release.

Today, I join countless other advocates to ask the City Council to support our demand for the release of individuals from immigration detention facilities across the nation, with urgency for the people currently detained at Orange County Correctional Facility (OCCF), located in Goshen, New York. I urge the City Council to recommend the NY State legislature pass the New York Dignity Not Detention Act (S.7373/A.7099A) to reduce the physical and emotional harm caused by detention and interactions with the immigration enforcement system.

**NYLPI's Medical-Legal-Community Partnership**

Through the funding provided by the Immigrant Health Initiative, we have built and continue to expand our volunteer Medical Providers Network (MPN), now with over 240 medical professionals, who develop medical advocacy letters, visit individuals in detention facilities, conduct in-person consultations or medical interviews, and provide testimony for cases. We work with City Council-funded New York Immigrant Family Unity Project attorneys, through medical advocacy, to help secure the release of their clients from immigration detention.

**A Growing Public Health Crisis in Detention Facilities**

This current public health crisis is only exacerbated by the already inhumane and crowded living conditions in immigration detention, as well as the inability for individuals to socially distance and access appropriate medical care or testing. In addition, the irresponsible and frequent transfers of detained people between facilities and jails have heightened this crisis. ICE's failure to respond appropriately to the pandemic and release people from confinement has had tragic consequences.<sup>1</sup>

At ICE facilities nationwide, COVID-19 infections have “surged by 520 percent since the start of 2022.”<sup>2</sup> Detention facilities, including the jails and prisons used to detain people here in New York, are often crowded and unsanitary, have poor ventilation, lack adequate access to hygienic materials such as soap or hand sanitizers, and fail to adhere to recognized standards for prevention, screening, and containment of transmittable diseases. These congregate settings and poor conditions increase the possibility for transmission of COVID-19, particularly as the Centers for Disease Control and Prevention (CDC) has stated that transmission in these types of conditions can occur at a distance less than 6 feet, which was initially thought of as adequate.<sup>3</sup>

Facility staff are also at risk of being exposed to the virus and spreading it inside detention facilities, as many do not have access to personal protective equipment (PPE) where social distancing is not possible or choose to ignore CDC recommended protocols on social distancing.<sup>4</sup> In addition, the frequent transfer of detained people from one location to another and intake of new immigrants from the larger community further contributes to the rise of COVID-19 outbreaks in detention settings.

Detained immigrant New Yorkers have experienced delays in receiving COVID-19 vaccines<sup>5</sup> and are now facing limited access to booster shots.<sup>6</sup> They are being confined to environments where social distancing is impossible and forced into solitary confinement as a method for quarantine.<sup>7</sup> Immigrants are also placed at heightened risk of COVID-19 complications as medical care is often delayed, inadequate and at times completely absent or overlooked in detention facilities.<sup>8</sup>

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<sup>1</sup> Isabelle Niu & Emily Rhyne, *4 Takeaways From Our Investigation into ICE's Mishandling of Covid-19*, The New York Times (Apr. 25, 2021), <https://www.nytimes.com/2021/04/25/video/immigration-detention-covid-takeaways.html>.

<sup>2</sup> Montaya-Galvez, Camilo. *Coronavirus Infections Inside Immigration Detention Centers Surge by 520% in 2022*. CBS News. (Jan. 14, 2022), <https://www.cbsnews.com/news/immigration-detention-covid-cases-surge/>.

<sup>3</sup> Parohan M. et al., *Risk factors for mortality in patients with Coronavirus disease 2019 (COVID-19) infection: a systematic review and meta-analysis of observational studies*, The Aging Male (June 8, 2020),

<https://www.tandfonline.com/doi/full/10.1080/13685538.2020.1774748>; Close contact is defined as a) being within approximately 6 feet (2 meters) of a COVID-19 case for a prolonged period of time; close contact can occur while caring for, living with, visiting, or sharing a health care waiting area or room with a COVID-19 case, or b) having direct contact with infectious secretions of a COVID-19 case (e.g., being coughed on). *Id.*

<sup>4</sup> Maura Turcotte, “Virus Cases Are Surging At Crowded Immigration Detention Centers in the U.S.” The New York Times (Sept. 6, 2021) <https://www.nytimes.com/2021/07/06/us/covid-immigration-detention.html>.

<sup>5</sup> Narea, Nicole, *Few Immigrants in Detention Have Been Vaccinated. That Needs to Change*. VOX (Jul. 14, 2021), <https://www.vox.com/2021/7/14/22573814/vaccine-detention-immigration-ice-covid>.

<sup>6</sup> Sophia Gurulé and Abdullah Shihpar, *ICE is Detaining More Immigrants. COVID-19 is putting them in Danger*. The Nation (Jan. 25, 2022), <https://www.thenation.com/article/society/covid-ice-detention-centers/>.

<sup>7</sup> Narea, Nicole, *It's Only a Matter of Time Before Omicron Spreads Through Immigration Detention. Immigrants in ICE Custody are Already at Risk*. VOX. (Dec. 26, 2021), <https://www.vox.com/policy-and-politics/22848851/ice-immigration-detention-omicron-vaccine-booster>

<sup>8</sup> New York Lawyers for the Public Interest, *Still Detained and Denied: The Health Crisis in Immigration Detention Continues* NYLPI (Apr. 2, 2020), <https://nylpi.org/wp-content/uploads/2020/04/NYLPI-report-Detained-Denied.pdf>

## **High Concern for the Safety & Wellbeing of Immigrants Detained by ICE in the Orange County Correctional Facility (OCCF) and other Facilities**

Over the past year, NYLPI's MPN has supported 15 cases where individuals were held by ICE at Orange County Correctional Facility (OCCF). Based on the MPN's review of people's medical history and their expertise as medical professionals, we are extremely concerned for the wellbeing and care of all immigrants held by ICE, and especially concerned for those detained in OCCF. Community and legal advocates have reported that OCCF has failed to provide easy access to vaccines or information about vaccines and boosters.<sup>9</sup> Additionally, advocates report that immigrants in OCCF are only provided with one surgical mask for the duration of their detention, and none of them have been given an N-95 mask,<sup>10</sup> as recommended by the CDC following the spike of infections caused by the Omicron variant.<sup>11</sup>

OCCF has a history of medical neglect, abuse and discrimination against immigrants detained at the facility.<sup>12</sup> Advocates, legal service providers and people inside detention have demanded that ICE and local officials address the facility's inadequate medical care and treatment of seriously ill people that are confined at the facility, their abusive and discriminatory practices and their failure to enforce COVID-19 safety protocols and procedures.<sup>13</sup>

For example, doctors with NYLPI's MPN have documented numerous serious concerns that OCCF has not addressed, including: language access barriers, where individuals being detained are not provided adequate medical translation or interpretation; inadequate intake assessments, which can lead to oversights and unaddressed acute and chronic conditions; and other gaps in health care provided, such as the failure to manage chronic conditions like hypertension and diabetes as well as mental health and dental health conditions. Even basics such as soap, water, or hand sanitizers have not been consistently provided.

In some cases, the care provided at OCCF is actively causing harm to those being detained. For example, a person with chronic pain had previously been prescribed Amitriptyline to manage the condition; at OCCF, they replaced that with Tylenol PM which is not sufficient treatment for pain management and may in fact be negatively affecting his liver function. Additionally, because the pain is not being treated adequately, he has reported not being able to sleep.

During the COVID-19 pandemic, additional issues have complicated and compounded the risk that detained individuals are facing every day. Many of the individuals at OCCF meet the criteria for being at a high risk for complications from COVID-19. Many are in the age-risk group and/or have a variety of preexisting health conditions, such as diabetes, obesity and hypertension.

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<sup>9</sup> Please see footnote 15

<sup>10</sup> Please see footnote 15

<sup>11</sup> CDC, *Types of Masks and Respirators*. Centers for Disease Control and Prevention (Updated Jan. 21, 2022), <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/types-of-masks.html#masks>.

<sup>12</sup> Katz, Matt. *Allegations Surface About Treatment of ICE Detainees in Orange County*. The Gothamist (Dec. 2, 2021), <https://gothamist.com/news/allegations-surface-about-treatment-ice-detainees-orange-county>

<sup>13</sup> See footnote 15.

For example, one person at OCCF had experienced chest pains for months while detained that led to numbness in both of his arms. The MPN found no evidence in his medical records that the individual was monitored closely or that he received follow-up care to determine the cause of his chest pain, and there was no indication that he had received an electrocardiogram (EKG) or was referred to a cardiologist even though he also had numerous risk factors for heart disease. These are just a small percentage of the alarming cases that NYLPI's MPN have reviewed. Delay in care, improper care, and denial of care can result in permanent health damage and death, particularly when combined with COVID-19 – even though many individuals have health issues that could be treated quickly and addressed adequately to minimize pain, injury, and even death. Detention centers like OCCF can be deadly, and the detention of individuals in such facilities is blatantly irresponsible.

### **An Urgent Call for City Council to Demand Immediate Action Towards Safeguarding Innocent and Vulnerable Immigrants in ICE Custody**

The ongoing COVID-19 public health crisis brings to the surface what we already know about immigration detention facilities: they are overcrowded, have inadequate medical care, and can be fatally dangerous to the people who are confined.<sup>14</sup> For people with serious health conditions, even short periods of detention have a significant likelihood of causing dramatic health consequences.

To prevent the needless deaths and suffering of thousands of immigrants in custody, we ask for your support in urging ICE to follow the directives of public health experts and release everyone from its custody as the best means of protecting our communities during the COVID-19 pandemic, and to instead consider community-based alternatives to detention. In addition to releasing people, deportations and the transfer of individuals between detention facilities should be suspended immediately.

We strongly urge the City Council to support the passage of the **Dignity Not Detention Act by the State legislature**, a bill that would prohibit localities within New York State from entering into or renewing existing contracts with the federal government for the purposes of immigration detention. The bill also requires localities with existing contracts to execute their termination clauses.

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<sup>14</sup> See, e.g., "Immigration Detention and Covid-19," *Brennan Center for Justice* (updated Jan. 7, 2022), <https://www.brennancenter.org/our-work/research-reports/immigration-detention-and-covid-19>; Jeremy Redmon & Lautaro Grinspan, "COVID-19 infections surging in Georgia immigration detention center," *The Atlanta Journal-Constitution* (Feb. 4, 2022), <https://www.ajc.com/news/covid-19-infections-surg-ing-in-georgia-immigration-detention-center/FZ47RWJ0HJE43HY6B3LXYSQ5DM>.

The movement to end ICE detention in New York State is a part of a nationwide effort to end the mass incarceration of immigrant communities. Similar legislation was successfully passed and signed into law in New Jersey,<sup>15</sup> California,<sup>16</sup> Washington,<sup>17</sup> and Illinois.<sup>18</sup>

### **Conclusion**

Thank you Chairperson Hanif and the Committee for giving us the opportunity to present testimony today and we look forward to continuing our work with the City Council towards combatting the human rights crisis in immigration detention.

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*NYLPI has fought for more than 40 years to protect civil rights and achieve lived equality for communities in need. Led by community priorities, we pursue health, immigrant, disability, and environmental justice. NYLPI combines the power of law, organizing, and the private bar to make lasting change where it's needed most.*

*NYLPI's Health Justice Program brings a racial equity and immigrant justice focus to health care advocacy, including ongoing work addressing the human rights crisis in immigration detention and advocating for healthcare for all New Yorkers.*

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<sup>15</sup> Hera Mir, *S3361/A5207 Becomes Law!*, New Jersey Immigrant Justice (Aug. 23, 2021), [https://www.njimmigrantjustice.org/s3361\\_a5207\\_becomes\\_law](https://www.njimmigrantjustice.org/s3361_a5207_becomes_law).

<sup>16</sup> BondGraham, Darwin, *California bans private prisons – including Ice detention centers*. The Guardian (Sep. 12, 2019), <https://www.theguardian.com/us-news/2019/sep/12/california-private-prison-ban-immigration-ice>.

<sup>17</sup> The Associated Press, *Washington Gov. Jay Inslee Signs Bill Banning For-Profit Jails, Including Large ICE Detention Center in Tacoma*, The Oregonian (Apr. 15, 2021), <https://www.oregonlive.com/pacific-northwestnews/2021/04/washington-gov-jay-inslee-signsbill-banning-for-profit-jails-including-large-ice-detention-center-intacoma.html>.

<sup>18</sup> Rhee, Nissa, *Illinois to end immigrant detention with new bill*, Injustice Watch (Aug. 3, 2021), <https://www.injusticewatch.org/news/2021/illinois-end-immigrant-detention/>.





**Testimony by the New York Legal Assistance Group (NYLAG)**

**Oversight – COVID-19 In Immigrant Detention Centers**

**Before the New York City Council Committee on Immigration**

**February 28, 2022**

Chair Hanif, Council Members, and staff, good morning and thank you for the opportunity to speak to the Committee on Immigration regarding COVID-19 in Immigrant Detention Centers. My name is Julia Geiger, and I am a Legal Fellow in the Immigrant Protection Unit of the New York Legal Assistance Group (NYLAG). NYLAG uses the power of the law to help New Yorkers experiencing poverty or in crisis combat economic, racial, and social injustice. We address emerging and urgent needs with comprehensive, free civil legal services, financial empowerment, impact litigation, policy advocacy, and community partnerships. We aim to disrupt systemic racism by serving clients, whose legal and financial crises are often rooted in racial inequity.

We appreciate the opportunity to testify to the Immigration Committee, and the generosity and support that the City Council and the Mayor’s Administration have shown for low-income immigrant New Yorkers. With the devastation wrought by the COVID-19 pandemic on communities in New York, the support that the City Council and the Mayor’s Administration have provided to low-income immigrant New Yorkers has become more critical than ever.

As part of our work with low-income immigrants in New York, NYLAG works with immigrants detained in ICE detention centers. Some of those clients are located within New York State, and many others are New Yorkers who are detained out of state, away from their

homes, their loved ones, and their legal representatives. ICE detention has always been a public health crisis, and our clients with medical vulnerabilities have always struggled to access necessary care when they are detained. For instance, in 2019, prior to the COVID-19 pandemic, the ICE detention facility at Bergen County Jail experienced a persistent and dangerous outbreak of the mumps which took many months to contain. ICE's demonstrated lack of preventative measures and inadequate health care has long made ICE detention facilities susceptible to disease outbreaks.

Those problems have been dramatically heightened during the COVID-19 pandemic, when any form of incarceration, including ICE detention, has meant a heightened likelihood of contracting COVID-19. In general, the stories from inside immigration detention have been bleak. Since March 2020, there has been a consistent lack of attention provided within ICE detention to basic public health guidance.

ICE detention facilities in general have failed to take the protective measures that are proven to slow the spread of COVID-19. Detention centers have always been unclean, but that lack of cleanliness – and, in many cases, lack of access to enough soap to wash hands routinely – became a bigger concern during the pandemic. Our clients have told us that it is nearly impossible to socially distance in ICE detention facilities, and there is inconsistent masking.

This lack of adherence to clear public health guidance has resulted in waves of COVID outbreaks at nearly every detention center where NYLAG clients are detained. One NYLAG client, "Lucas," contracted COVID-19 while detained at the Buffalo Federal Detention Facility in New York. Lucas arrived in the US at the age of 17 as a lawful permanent resident. As a child, Lucas experienced severe physical and emotional abuse at the hands of his caretakers. He was detained by ICE after accepting a plea bargain that his criminal attorney did not tell him would

have immigration consequences. When ICE detained him, they violently entered his apartment and injured his knee, resulting in Lucas having chronic pain and needing physical therapy and a cane to walk. Lucas was incredibly scared of contracting COVID-19 in ICE detention. He told his attorney that there were no masks for people who were detained, and there was no way to adequately socially distance from others. Lucas's attorney submitted a humanitarian parole request on April 15, 2020, based on the COVID-19 pandemic. Just five days later, on April 20, Lucas tested positive for COVID-19, and told his attorney that he was being forced to share a room with 20 other people who also had COVID. His attorney emailed his deportation officer highlighting the situation, but his humanitarian parole request was denied, and he was not moved out of the room. Subsequently, Lucas's attorney filed another custody redetermination request based on his medical vulnerabilities – PTSD, depression, and neurodevelopmental disabilities – but that was also denied. Lucas was deported later that summer, so we are not sure if he has ongoing medical issues resulting from his COVID experience.

Another NYLAG client, Paul, has contracted COVID-19 twice as a result of distinct COVID waves during his detention. Paul is an immigrant from Jamaica who has been in the United States since 2000, most of those years as a lawful permanent resident. Paul has a young teenage daughter, whom he helps to support and care for. Paul is also medically vulnerable because of multiple chronic illnesses, including Type II Diabetes, hypertension, and severe mental illness. In September 2020, Paul contracted COVID-19 at the Caroline Detention Center in Virginia. Since that infection, Paul has had intermittent trouble breathing while laying down, which has interfered with his ability to sleep. Sometimes fluid builds up when he sleeps, so he can no longer sleep on his back. He has also developed a new thyroid problem and has to take thyroid medication regularly. Paul's doctor has also told him that his kidney function has been

abnormal since his first COVID case. Paul's lawyers at the Capitol Area Immigrants' Rights Coalition (CAIR) in Washington, DC submitted a request for release for him in March 2021, which was denied. CAIR submitted another request for release in July 2021, which was also denied. In January 2022, Paul once again contracted COVID-19 during the Omicron wave. He had a fever and body aches and felt severely ill. It is still too early to tell if Paul will have ongoing medical issues as a result of this second infection. NYLAG has since stepped in to assist CAIR with a U Visa request for Paul on the basis of a crime committed against him in New York City.

Paul was also forced to isolate for 7 days during his illness, which was risky for him because of his severe depression. This isolation has been another issue for those vulnerable to or infected with COVID-19 in detention. For example, in Orange County Jail, anyone who is infected or has been exposed is placed into solitary confinement for 10 days without any human contact. Reportedly, they are placed into dirty cells that have also been recently occupied by other infected people. The conditions in COVID isolation are so bad that it has become a major deterrent to people detained at Orange County Jail reporting symptoms or being voluntarily tested.

Similarly, another NYLAG client, "John," who was detained at the Bergen County jail with medical vulnerabilities was subject to isolation for 23.5 hours a day as a COVID prevention measure. At the same time, the detention center was completely unresponsive to his requests for asthma treatment, which was a significant medical vulnerability for COVID. As a result of his constant isolation, John began to hear voices in his head and have visual hallucinations. He asked many times for help and treatment but was ignored except for a brief period during which he was prescribed a very large dose of anti-psychotic medication. However, he was never given a follow

up appointment with a psychiatrist, and the hallucinations resumed and grew more frequent during his time in isolation. NYLAG was able to advocate for John to receive his necessary asthma medication, and ultimately won a Preliminary Injunction securing John's release. But John's case illuminates yet another way in which ICE's response to the COVID-19 pandemic is not only inadequate, but affirmatively creates worse health outcomes for people in detention.

In response to this danger to our clients, NYLAG began filing habeas petitions in rapid succession at the start of the pandemic. Through litigation and advocacy, NYLAG was able to secure the release of all of our clients at heightened risk of COVID-19 except one. Even so, our clients who are not deemed medically vulnerable are still at great risk of COVID-19 and could still be disabled if they end up with long COVID symptoms.

Despite our successful release requests and reports of COVID outbreaks at ICE detention centers, ICE continues to detain New Yorkers, including those at heightened risk of severe illness or death upon contracting COVID-19.

While immigration law is a federal matter, there are many ways that New York City and New York State can make a difference.

- First, New York State should end any remaining contracts to house ICE detainees by passing the New York Dignity Not Detention Act. This Committee should support that through passage of the resolution before you today. The conditions within these detention centers are untenable. Even apart from the COVID-19 pandemic, these detention centers pose enormous health risk to immigrant New Yorkers. That health concern has been heightened by the pandemic.

- Second, New York City and New York State should implement increased oversight and accountability for healthcare within ICE detention in state and local facilities. The conditions in these detention centers during the COVID-19 pandemic have facilitated the spread of the infection to far too many people. New York City and New York State should hold detention centers accountable to improving the conditions of confinement for people who are detained and vulnerable.
- Third, New York City and New York State should commit to increasing access to counsel for immigrants in removal proceedings. NYLAG has been able to secure the release of many of our clients through persistent litigation and advocacy, but many immigrants who are detained do not have access to any legal representation. Increased funding and representation would allow more people to elevate their release requests through the appropriate channels and potentially avoid contracting COVID-19.
- Finally, New York City should commit to not building any new jails. COVID-19 is a public health catastrophe for people held in any form of incarceration or detention, but it has also illuminated the existing and devastating ways that detention and incarceration fail to adequately care for people who are confined. Building more jails would ensure that these conditions are replicated and that even more New Yorkers are put in danger of severe illness and death.

Once again, thank you to Chair Hanif and the committee members for the opportunity to testify today on the critical issues surrounding COVID-19 in immigrant detention centers. We

look forward to continuing this conversation and to continuing to partner with the City to protect immigrant New Yorkers.

Respectfully submitted,

New York Legal Assistance Group



**New York City Council  
Committee on Immigration  
Oversight Hearing on the Impact of COVID-19 on Immigration Detention Centers in New  
York  
February 28, 2022**

**Written Testimony of The New York Immigrant Family Unity Project  
By Brooklyn Defenders Services, The Bronx Defenders, and The Legal Aid Society**

Chair Shahana K. Hanif and Committee Members, we are immigration advocates from the New York Family Immigrant Unity Project (NYIFUP), the nation’s first public defender system for immigrants facing deportation—defined as those in removal proceedings before an immigration judge. Funded by the New York City Council since July 2014, the program provides free legal representation to almost all detained indigent immigrants facing deportation at the Varick Street Immigration Court in New York City. Since its inception, the program has been staffed and managed by Brooklyn Defender Services (“BDS”), The Bronx Defenders (“BxD”) and The Legal Aid Society (“LAS”). Thank you for your attention to these critical matters and your commitment to addressing the systemic harms that immigrant New Yorkers are navigating daily in immigrant detention. We are grateful for the opportunity to testify before you today.

**INTRODUCTION**

The U.S. immigration system presents itself as a structure that safely and fairly facilitates the integration of immigrants in the United States. Yet, it fails to address and acknowledge the harms that it perpetuates when it targets, surveils, and dehumanizes immigrant communities. Immigrant communities in New York City are forced to live in constant fear because the systems in place, presently and historically, have deliberately created immigration laws that are racist and xenophobic to be a tool for their oppression and capture despite it being civil in nature. Detention has been categorized as an administrative measure in the deportation process, and not a punishment, though the lived experiences of people navigating these processes demonstrate otherwise. In most cases, individuals are separated from their families, subjected to inhumane and unsafe conditions, have limited access to counsel and their loved ones, and are unable to fully participate in their hearings. Even worse, they are constantly navigating racist and xenophobic harassment by guards. They must confront these abuses while fighting their



deportation cases; ultimately fighting for the things that make life worth living like freedom, community, love, faith, and humanity. This is what is at stake today.

We call upon the City Council to ensure that immigrant New Yorkers' bodily autonomy and human rights are honored and protected by:

- Demanding that the living conditions of those inside Correctional Facilities be respected by increasing access to COVID-19 vaccines and boosters, access to medical and mental health care and support, and reliable communication to remain in contact with advocates and loved ones;
- Holding Correctional Facility officials accountable for any acts of abuse or harassment of those incarcerated in Immigration and Customs Enforcement ("ICE") detention by demanding the termination of officers involved in abuses and pressuring New York State to end all contracts with ICE;
- Passing the Preconsidered Resolution by Council Member Shahana Hanif and the Public Advocate Jumaane D. Williams calling on the New York State Legislature to pass, and the Governor to sign, The Dignity Not Detention Act ([S.7373/A.7099A](#)), which would prohibit all localities within New York State from entering into or renewing existing contracts with the federal government for the purposes of immigration detention;
- Demanding releases, not transfers, of people in ICE detention in New York State. ICE has the discretion to release people, yet routinely chooses to keep people detained locally or to transfer them to other ICE detention facilities, often in remote locations, despite knowing that releases would allow families to reunite, regain stability, prioritize their family's health needs, and retain reliable access to counsel.

In this testimony, we will detail how ICE's persecution of immigrant communities decenters humanity, pushes New York City further away from establishing and sustaining community safety and trust, and fails to care for and protect people in their custody from COVID-19 and results in other harms inherent to the caging of human beings:

- A. Lack of access to COVID-19 vaccines and boosters (including lack of education and interpretation to explain either), lack of transparency pertaining to vaccine wait times and reports of positive cases, improper use of personal protective equipment (PPE) by guards, lack of access to PPE, and limited space to quarantine outside of solitary confinement.<sup>1</sup>
- B. Mental health conditions exacerbated during the pandemic due to excessive use of solitary confinement as "quarantine" and limited access to mental healthcare.

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<sup>1</sup> Daniel Parra, *Attorneys, Advocates Warn of Possible COVID-19 Outbreak Among Immigrants Detained at NY Facility*, CityLimits (Jan. 26, 2022), <https://citylimits.org/2022/01/26/attorneys-advocates-warn-of-possible-covid-19-outbreak-among-immigrants-detained-at-ny-facility/>

- C. The medical neglect experienced by those being held by ICE, with conditions of incarceration increasing the risk of illness and death for disabled people or otherwise creating disabilities for those without preexisting medical complications.<sup>2</sup>
- D. Racist and xenophobic harassment of immigrant detainees by New York county officials in New York county jails that contract with ICE.
- E. Significant limitations on a detained person's access to counsel, which have been further exacerbated by the COVID-19 pandemic.
- F. The impact of immigration detention on individuals' young children, families, and communities.

In addition to our testimony, the Council will also hear from medical advocates detailing the impact of detention on people's physical and mental health, as well as from those who have survived detention and their families. These accounts reflect ICE's inability to protect those they detain and their failure to honor their dignity and humanity.

**A. Lack of Access to COVID-19 Vaccines and Boosters, Lack of Transparency Pertaining to Vaccine Wait Times and Reports of Positive Cases, Improper use of PPE by guards, and Limited Space to Quarantine outside of Solitary Confinement.**

The conditions in detention are inhumane: immigrant New Yorkers are subjected to medical neglect, abuse, harassment, and to the dangers of COVID-19. The COVID-19 pandemic has intensified the dangers of detention as correctional officers are often observed not wearing personal protective equipment (PPE) or wearing it improperly. Social distancing is impossible in carceral settings, and medical care is often delayed, inadequate or absent. Detained immigrant New Yorkers have had limited access to COVID-19 vaccines and boosters, no education or interpretation regarding the vaccines and boosters, been confined to environments where social distancing is not possible and forced into solitary confinement, which is usually used for punishment, as a method for quarantine. Subjecting New Yorkers to these conditions is cruel, torturous, and deplorable.

In late January of this year, advocates learned of at least fifty symptomatic people in one unit within Orange County Correctional Facility ("OCCF"), a county jail located in Goshen, New York, which ICE uses for immigrant detention. At the time, OCCF reported only five confirmed cases of COVID-19 in the facility.<sup>3</sup> In the weeks and months prior to this outbreak, many of the people we represent reported difficulty accessing vaccines and boosters. OCCF told people

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<sup>2</sup> Sophia Gurulé & Abdullah Shhipar, *ICE Is Detaining More Immigrants. Covid is Putting Them in Danger.*, The Nation (Jan. 25, 2022), <https://www.thenation.com/article/society/covid-ice-detention-centers/>.

<sup>3</sup> Daniel Parra, *Attorneys, Advocates Warn of Possible COVID-19 Outbreak Among Immigrants Detained at NY Facility*, CityLimits (Jan. 26, 2022), <https://citylimits.org/2022/01/26/attorneys-advocates-warn-of-possible-covid-19-outbreak-among-immigrants-detained-at-ny-facility/>

requesting vaccines to put their names on a sign up sheet, but no one ever received a time estimate for when a vaccine would become available. When NYIFUP attorneys and managers asked ICE and OCCF for their vaccination schedule, we never received an answer. Several of the people we represent waited on the list for approximately two months. At a time when individuals at liberty in the community could walk into any pharmacy or vaccination site to seek vaccination, this was particularly appalling. In January of this year, NYIFUP managers reached out to OCCF about lack of access to vaccines and were told that vaccine access wasn't a problem, yet the people we represent remained unvaccinated. In one instance, we asked ICE officials to take one of the people we represent to a vaccination clinic in light of OCCF's inability to secure the vaccine, but the request was ignored until news outlets began reporting on the outbreak at OCCF<sup>4</sup> and the person was finally vaccinated.

That OCCF significantly under-reported positive COVID-19 cases is no surprise.<sup>5</sup> Once an alarming number of individuals began reporting symptoms of COVID-19 infection, some of the people we represent were told that the facility was no longer testing since it no longer had the ability to quarantine people. In fact, advocates also learned that the facility was limiting testing only to individuals with fevers, and that symptomatic clients were afraid to ask for a COVID-19 test for fear that they would be placed in solitary confinement. NYIFUP clients reported that staff had shared that the OCCF did not want to test people because the jail did not want its numbers to go up.<sup>6</sup>

This is all consistent with national trends regarding COVID-19 and incarceration.<sup>7</sup> Prisons and jails around the country have been petri dishes for the virus, as it spreads through units and buildings, infecting incarcerated people and staff alike, while the known methods for containing the spread of the virus—such as mask-wearing, social distancing, and systematic cleaning—are difficult if not impossible to implement in these settings. It is clear that incarceration has only caused the pandemic to spread, often among the most vulnerable individuals. Decarceration has

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<sup>4</sup> News 12 Staff, *Orange County Jail experiences outbreak of COVID-19 cases*, New 12 Long Island (Jan 5, 2022), <https://longisland.news12.com/orange-county-jail-experiences-outbreak-of-covid-19-cases>; Daniel Parra, *Attorneys, Advocates Warn of Possible COVID-19 Outbreak Among Immigrants Detained at NY Facility*, CityLimits (Jan. 26, 2022), <https://citylimits.org/2022/01/26/attorneys-advocates-warn-of-possible-covid-19-outbreak-among-immigrants-detained-at-ny-facility/>

<sup>5</sup> OCCF reports only 28 confirmed cases of COVID-19 since the start of the pandemic. See *ICE Guidance on COVID-19* <https://www.ice.gov/coronavirus#citations>

<sup>6</sup> Daniel Parra, *Attorneys, Advocates Warn of Possible COVID-19 Outbreak Among Immigrants Detained at NY Facility*, CityLimits (Jan. 26, 2022) <https://citylimits.org/2022/01/26/attorneys-advocates-warn-of-possible-covid-19-outbreak-among-immigrants-detained-at-ny-facility>

<sup>7</sup> Neal Marquez, Joshua Manson, *New Report Shows Decarceration Necessary to Prevent Continued COVID-19 Outbreaks in ICE Detention*, UCLA Law Covid: Behind Bars Data Project (June 27, 2021), <https://uclacovidbehindbars.org/blog/new-report-shows-decarceration-necessary-to-prevent-continued-covid-19-outbreaks-in-ice-detention>

always been a necessary component to combatting the pandemic in New York State and nationwide.

**B. Mental Health Conditions Exacerbated during the Pandemic due to Excessive use of Solitary Confinement as “Quarantine” and Limited Access to Mental Healthcare.**

Each of the NYIFUP providers has a team of social workers on staff to support the people we represent in their deportation cases. Our social workers help to identify resources to address various client needs, with a focus on connecting the people we serve to services and providing support while they navigate the harsh and punishing immigration system. Many of the people we represent have serious mental health needs that are exacerbated by their detention, particularly during COVID-19. NYIFUP social workers observe a growing need for resources for people who are detained but those services are inaccessible to them as a result of their detention.

Licensed psychiatrists, psychologists, neuropsychologists and licensed clinical social workers have found that detention exacerbates the mental health needs of many of the people we represent, and particularly those with severe mental illness. One client, SD<sup>8</sup>, for whom such a determination was made, had a history of hospitalizations due to his mental illness prior to his immigration detention. SD has spent almost a year and a half detained by ICE, preceded by 8 months at Rikers, without the necessary services to address his mental health symptoms, become more autonomous, and process immensely traumatic moments in his life such as the death of his mother who cared for him and his father who passed away shortly before his mother. SD was deemed to not be competent for the purposes of his removal proceedings, but both ICE and the immigration judge still insisted that he remain in proceedings. He continues to deteriorate as he hears the voices of his deceased mother and others calling him from inside OCCF, all while unable to maintain a steady understanding of the legal case ICE has brought against him.

Another NYIFUP client, BS, has been struggling with depression and anxiety since he first arrived at OCCF. BS attempted suicide in the past and has been increasingly talking about hurting himself while detained at OCCF. BS was seen by medical staff at OCCF only after making about 4 or 5 requests to be seen by a doctor. OCCF noted in BS’ medical record that he had attempted suicide 9 years prior, that he is taking medication, that he is having audio and visual hallucinations, has a history of psychological and emotional abuse and victimization as a child, has concerns about being able to cope while incarcerated, and was observed to be anxious agitated and fearful of his safety. Despite these findings, OCCF medical staff recommended no services.

NYIFUP social workers face continuous barriers when attempting to communicate with OCCF about the needs of the people we serve. NYIFUP social workers often contact OCCF mental

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<sup>8</sup> The people referenced in this section are NYIFUP clients who agreed to share their stories but wish to be identified only by their initials.

health staff to request an appropriate evaluation of the people we serve because they have access to, and are charged with the responsibility to care for the people who are incarcerated there. NYIFUP social workers report a lack of sufficient resources for appropriate mental health treatment at OCCF and are concerned about the dilemmas detained people face trying to access healthcare during a mental health crisis. Requests for evaluation and support for clients experiencing mental health crises have been inadequately addressed. When NYIFUP social workers have reached out to OCCF mental health staff,<sup>9</sup> they have generally been told that OCCF mental health staff are not allowed to speak with social workers and have been instructed to speak instead directly with ICE. One social worker who attempted to contact mental health staff at OCCF when our client was in crisis was, at times, told that the OCCF mental health staff were not allowed to speak to the social worker despite the fact that the social worker had a signed HIPAA form on file for the client. Each time the social worker attempted to contact OCCF about our client, the mental health staff instructed that the social worker was to speak directly with ICE. When NYIFUP social workers have been able to speak directly with OCCF mental health staff, they learn that OCCF does not appear to conduct proper assessments of our client's mental health needs after NYIFUP social workers alert them about a client's mental health crisis. Moreover, when OCCF mental health staff conduct any assessments, they are frequently conducted in English even when we alert OCCF about a client's other language needs.

One NYIFUP social worker who has been working with a NYIFUP client L since April 2021 while he has been detained at OCCF has continuously faced barriers when seeking to communicate concerns to OCCF about L's mental health crises. In one instance, the OCCF staff expressed to the NYIFUP social worker that they "had no idea what to do with [the] information" the social worker provided when reporting that L was experiencing suicidal ideations. OCCF placed L in solitary confinement, which they refer to as "1:1 suicide watch," after their initial assessment due to suicidal ideations expressed by L. L has been diagnosed with Post-Traumatic Stress Disorder, Major Depressive Disorder-Severe with Psychotic Features, and Borderline Intellectual Functioning by outside experts. He experiences auditory command hallucinations that often instruct him to harm himself or commit suicide. In contrast, OCCF's mental health staff have diagnosed L with Post-Traumatic Stress Disorder and Anxiety Disorder, unspecified. Even after our social worker shared diagnostic information with OCCF's mental health contractor, Wellpath, Wellpath refuses to acknowledge L's major depressive disorder with psychotic features and borderline intellectual functioning diagnoses – and therefore fails to provide treatment that is responsive to his needs. OCCF places L on 1:1 suicide watch each time we report concerns, sometimes without conducting a proper assessment. NYIFUP social workers are concerned about the extreme nature of 1:1 suicide watch at OCCF. L has described prior experiences with 1:1 suicide watch, which have involved solitary confinement, as highly traumatic.

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<sup>9</sup> Medical and mental health services at OCCF are provided by Wellpath.

Many individuals navigating these conditions are also survivors of serious trauma and the experience of detention brings horrible past experiences into their present lives. One NYIFUP client, JL, was held against his will and subject to forced labor by traffickers during his journey to the United States. JL has shared with his social workers that his current experience of detention in NYS, being detained in a small dark cell, reminds him of when he was held against his will in a small dark room by traffickers. JL frequently has nightmares about his captors. He has expressed relief upon waking up only to remember to his horror that he is detained. Like many others surviving detention, JL has been diagnosed with Post Traumatic Stress Disorder. A Ph.D Clinical Psychologist found that detention itself acts as a new stressor which worsens JL's prior trauma of being forcefully detained.

The mere act of detention often separates people from the supportive care they had been receiving while at liberty. Another NYIFUP client had faced abduction and confinement in his home country. In his daily life while in the community, he was able to cope with his trauma but his confinement in detention retriggered his trauma, leading to flashbacks and suicidal thoughts. OCCF's intervention was to place him on suicide watch where he was held in solitary confinement. This transformed a very difficult mental health crisis into unnecessary psychological hardship.

All these traumatic experiences are compounded by witnessing the mistreatment of other detained peoples who are in distress. It sends a message that speaking up leads to further harsh treatment. This also creates a barrier for our NYIFUP social workers to do their jobs adequately as some clients are fearful of telling them what they are experiencing after seeing the mistreatment from OCCF.

Lack of language access coupled with detention also presents a serious barrier to meeting the mental health needs of those we serve. This has only worsened during the pandemic as more people are experiencing anxiety, stress, loss of loved ones, and are in mental health crisis. Recently, one NYIFUP social worker was working with a client, EM, who lost his mother to COVID-19. EM was in severe distress, having not seen his mother since he left his country, and told a social worker that he had requested to speak with a therapist at OCCF, where he is detained. EM was told by OCCF officials that they did not have a Spanish speaking therapist for him. Similarly, another NYIFUP client, WG, lost family to gang violence in his native country. When he arrived in New York, his wife contracted COVID-19 and died. Soon after, ICE detained WG in front of his 7 year old daughter. WG has requested to see a therapist at OCCF to help process the severe trauma he experienced, however he has also been told that there are no Spanish speaking therapists available. OCCF does not provide access to psychotherapy, which is one of the reasons why NYIFUP social workers are critical to deportation defense work. While they are not therapists, NYIFUP social workers provide support, regular mental health check-ins, and advocate for clients' access to medical and mental health treatment.

Many NYIFUP clients rely on their social workers to get a modicum of the supportive care they need, particularly those who cannot access therapeutic services in the facility. Yet, our social workers often face challenges accessing their clients, which can be particularly detrimental when they are responding to people in crisis. Recently, OCCF removed one social worker's professional status for visitations, and the social worker was unable to communicate with a severely mentally ill client for over a week. When the social worker contacted OCCF, the facility told her they did not have her credentials on file, despite the fact that she had been to the facility in person the previous week and provided all the necessary documentation. NYIFUP social workers routinely experience disruptions like this to client communication, where the consistency and availability of their support is crucial to the health and safety of the people we represent.

The NYIFUP providers advocate for clients by providing comprehensive release plans detailing concrete plans for temporary and permanent housing, allocations to a case manager, ongoing work with NYIFUP social workers, family support, psychiatric and mental health outpatient resources, and other details for life outside of incarceration. Despite these plans, ICE refuses to release people and claims that the facility is meeting their mental health needs. When the facility does release people, it often does so without coordinating with social workers or attorneys. More than once, OCCF and other ICE detention facilities have released our seriously mentally and/or physically ill clients into the streets without giving our offices an opportunity to coordinate safe transportation for them from the facility.<sup>10</sup> At times, we have lost track of clients surreptitiously released by ICE until we discovered they had faced near death experiences by being released onto the street in the middle of winter and needing to be hospitalized. Clearly, OCCF and other NYS detention facilities are not capable of meeting the mental health needs of the people in their custody. There is a failure to prioritize the mental health needs of people detained at OCCF. As a result, detention, particularly during the pandemic, causes extreme harm and mental anguish to those who are incarcerated.<sup>11</sup> Therefore, it is essential that healthcare in jails, prisons and detention centers be compassionate, accessible, and responsive to the needs of the individuals in their care.

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<sup>10</sup> *Charles v. Orange Cty.*, 925 F.3d 73 (2d Cir. 2019); See also Colby Hamilton, *ICE Negligence Suit Allowed to Proceed in Manhattan Federal Court*, New York Law Journal, March 29, 2019, <https://www.nylpi.org/nylpi-achieves-milestone-court-ruling-on-ice-discharge-planning/>

<sup>11</sup> von Werthern, M., Robjant, K., Chui, Z., Schon, R., Ottisova, L., Mason, C., & Katona, C. (2018). *The impact of immigration detention on mental health: a systematic review*. *TBMC psychiatry*, 18(1), 382, <https://bmcp psychiatry.biomedcentral.com/articles/10.1186/s12888-018-1945-y>

### **C. The Medical Neglect Experienced by Those Being Held by ICE; Conditions of Incarceration Increasing The Risk of Illness and Death for Disabled People or Otherwise Creating Disabilities for Those Without Preexisting Medical Complications**

As NYIFUP attorneys, social workers, and advocates, we have often witnessed people's physical health rapidly deteriorate while they are detained by ICE. We have represented people who enter ICE detention with pre-existing medical conditions, and we have seen immediate exacerbation of their medical conditions due to medical neglect within the detention facilities. People no longer have access to family support systems that help them attend their regularly scheduled doctors appointments and monitor prescription intake, and who help loved ones with assistive walking devices or other medical needs. For those who do not have pre-existing conditions prior to their ICE arrest, we have witnessed ICE's medical neglect create new physical health conditions and disabilities that remain with them for years after their release.

As direct legal service providers, NYIFUP providers have not only observed the impact of medical neglect on detained people because we work closely with them to prepare for trial, but also because we have been tasked with ensuring that ICE faithfully complies with various court orders in *Fraihat v. U.S. Immigration and Customs Enforcement, et al.*, a federal lawsuit that challenged conditions of detainment for medically vulnerable people in ICE custody nationwide. *Fraihat* court orders have required ICE to monitor a person's medical conditions for the majority of the COVID-19 pandemic and to reassess their custody determinations accordingly. Oftentimes ICE failed to meaningfully comply with court orders by failing to identify "*Fraihat* factors", which include diagnoses of high blood pressure, diabetes, auto-immune diseases, chronic health conditions including cardiovascular disease, as well as HIV/AIDS.<sup>12</sup> This failure by ICE is particularly egregious when *Fraihat* aimed to ensure medically vulnerable people would not contract COVID-19 and die.

To challenge ICE's lack of *Fraihat* compliance, NYIFUP advocates have often had to identify *pro bono* medical service providers, with the help of the New York Lawyers for the Public Interest (NYLPI),<sup>13</sup> to evaluate ICE detention medical records. In one instance, two volunteer physicians reviewed the ICE detention medical records of a NYIFUP client, AGN, and identified (based on ICE's own medical records) five *Fraihat* factors and chronic health conditions that made him susceptible to contracting COVID-19 and dying: gout, osteoarthritis, Major Depressive Disorder, obesity and most critically, undiagnosed and therefore untreated hypertension. Previously, ICE officers had identified only two of these conditions and denied his

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<sup>12</sup> Notice of Court Order Requiring Custody Re-Determinations of Individuals With Risk Factors for COVID-19, SPLC (April 20, 2020), [https://www.splcenter.org/sites/default/files/dkt\\_136\\_notice\\_eng.pdf](https://www.splcenter.org/sites/default/files/dkt_136_notice_eng.pdf)

<sup>13</sup> NYLPI provides critical services to our detained clients by identifying *pro bono* physicians who are willing to review ICE detention medical records. NYLPI and its volunteer doctors will separately provide testimony for this hearing.



*Fraihat* release from ICE detention. In another instance, ICE failed to provide updated medical records to NYIFUP counsel after LR's hospitalization, despite LR being at heightened risk of COVID-19 hospitalization and death as he was diagnosed with an Intellectual Disability, Major Neurocognitive Disorder, Hypertension, Type II Diabetes Mellitus, and Anxiety Disorder Due To Another Medical Condition by a neuropsychologist and ICE's own medical records. In both cases, ICE and jail officials also failed to provide both clients with an assistive walking device – a cane – as AGN and LR's ability to walk had significantly declined during their several months in ICE detention. Indeed, for people who enter ICE detention with pre-existing medical conditions, their health often rapidly deteriorates within a matter of weeks of their arrest. Yet, often ICE will not release such medically vulnerable people unless the person is so ill that the facility fears a potential wrongful death lawsuit given their egregious medical neglect, lack of transparency, and obvious mishaps in identifying chronic care conditions<sup>14</sup>.

For clients who do not have pre-existing medical conditions prior to their arrest and detention by ICE, many people leave ICE detention with new chronic physical and mental health conditions that impact them for the rest of their lives. In one instance, a NYIFUP client entered OCCF without any medical problems but, after months of ICE detention, he developed high blood pressure and requires medication and physical therapy. In another instance, a NYIFUP client's eyesight dramatically worsened over the course of years in ICE detention due to the facility's incessant overhead fluorescent lighting. He now requires glasses and regular eye care. Other clients have developed Posttraumatic Stress Disorder and continue to deal with recurring, intrusive posttraumatic reactions and symptoms including nightmares, flashbacks, and upsetting memories that are easily triggered by current events.

No person should be on the brink of death or permanent disability for exercising their right to challenge their deportation. Yet that is the reality of most people in ICE detention. There is no disability justice or rights for people who are incarcerated by ICE; ICE detention is by itself a death-making and disability-making institution.<sup>15</sup>

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<sup>14</sup> ACLU. *The Survivors: Stories of People Released From ICE Detention During the COVID-19 Pandemic*. New York: ACLU, 2021. [https://www.aclu.org/sites/default/files/field\\_document/20210512-ice-detention-report.pdf](https://www.aclu.org/sites/default/files/field_document/20210512-ice-detention-report.pdf)

<sup>15</sup> See generally Talila "TL" Lewis, *Disability Justice Is an Essential Part of Abolishing Police and Prisons*, Abolition for The People: The Movement for A Future Without Policing & Prisons, (Oct. 7, 2020), <https://level.medium.com/disability-justice-is-an-essential-part-of-abolishing-police-and-prisons-2b4a019b5730>; see also Keeanga-Yamahtta Taylor, *The Emerging Movement for Police and Prison Abolition*, The New Yorker (May 7, 2021), <https://www.newyorker.com/news/our-columnists/the-emerging-movement-for-police-and-prison-abolition> ("I am looking to abolish what I consider to be death-making institutions, which are policing, imprisonment, sentencing, and surveillance. And what I want is to basically build up another world that is rooted in collective wellness, safety, and investment in the things that would actually bring those things about.") (quoting Mariame Kaba).

#### **D. Racist and Xenophobic Harassment of Immigrant Detainees by New York County Officials in New York County Jails that Contract with ICE.**

The people we represent have also reported mistreatment by OCCF guards. OCCF employees have known ties to white supremacist groups.<sup>16</sup> People held by ICE and in the custody and “care” of New York county officials are subjected to discrimination and harassment rooted in white supremacy, racism, Islamophobia, and xenophobia. People who are detained by ICE therefore experience dehumanization and ridicule for being Black, Spanish-speaking, Muslim, and not being born in the United States. This is unacceptable.

For example, we have heard from BS, mentioned earlier, that Officer Bloise,<sup>17</sup> consistently harassed people in one unit. Officer Bloise changed the TV from Spanish to English channels, disconnected the tablets for people in detention, taunted them and told them that they needed to speak English. Eventually, this officer was removed from the unit after over 20 detainees got together and protested his behavior. BS also described how Officer Figueroa yelled at him because he did not have his inmate ID on him, changed the temperature on the air conditioner to intentionally make him freeze, and has gotten extremely confrontational with BS, even yelling directly in front of BS’ face, in an attempt to provoke him to violence.

As a result of ongoing harassment, costs of commissary and spoiling food, many of the people incarcerated at OCCF initiated a hunger strike On February 16th of this year to protest these abuses<sup>18</sup>. Since starting their hunger strike, our detained clients have reported that OCCF responded with retaliation, including disciplinary action for exercising their First Amendment rights and bodily autonomy, subjected hunger strikers to solitary confinement, confiscated their tablets, and restricted their access to commissary. Notably, confiscation of tablets and restricting access to commissary funds limits a person’s ability to communicate with their attorneys, families, and outside community.

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<sup>16</sup> Becca Tucker, Orange County Oath Keepers Had Roots in Sheriff’s Office, W. MILFORD MESSENGER (Feb. 15, 2021), <http://www.westmilfordmessenger.com/news/local-news/orange-county-oath-keepers-had-roots-in-sheriff-s-office-FK1518654> (reporting that the undersheriff of Orange County, New York, was a member of the Oath Keepers in 2013 and 2014); see also Heather Yakin & Chris McKenna, *Oath Keepers Militia Group at Center of Capitol Riot Cases Had Big NY Following Until Rift Emerged*, REC. ONLINE (Apr. 18, 2021, 11:44 P.M.), <https://www.recordonline.com/in-depth/news/2021/04/18/militia-oathkeepers-capitol-riot-cases-large-ny-presence/7187192002/>.

<sup>17</sup> Notably, Officer Bloise is among the guards named in the recent complaint filed against OCCF officials alleging widespread harassment and abuse by guards against people in detention. See CRCL Complaint filed by six organizations on behalf of immigrants detained at Orange County Correctional Facility, February 17, 2022, [https://www.law.nyu.edu/sites/default/files/OCCF%20Multi-Organization%20DHS%20CRCL%20Complaint%20and%20Index\\_2%2017%202022.pdf](https://www.law.nyu.edu/sites/default/files/OCCF%20Multi-Organization%20DHS%20CRCL%20Complaint%20and%20Index_2%2017%202022.pdf)

<sup>18</sup> Graham Rayman, *Hunger strike among ICE detainees in upstate jail over conditions; jail officials dispute allegations*, New York Daily News (Feb 17, 2022), <https://www.nydailynews.com/new-york/nyc-crime/ny-hunger-strike-immigration-detainees-orange-county-20220217-whmeeubocfanzhatnih5e7ubci-story.html>

People who are forced to navigate harassment and discriminatory treatment while detained become more anxious, unsettled, and afraid. Over time, this impacts a person's resilience in continuing to fight their case. These interactions pressure people to give up their substantive and procedural due process rights to challenge their deportation. New York should not be in the business of exploiting vulnerable communities and should not be financing OCCF officials with past ties to white supremacist groups or who otherwise openly espouse white nationalist views so they then may inflict white supremacist violence on the people in their "custody and care."<sup>19</sup> Supporting immigrant New Yorkers means giving everyone a just and equitable opportunity to defend their deportation cases while at liberty, instead of relying on detention to humiliate and torture people as a way to exhaust them to give up or ultimately lead them to their death.

#### **E. Significant Limitations on a Detained Person's Access to Counsel, which Have Been Further Exacerbated by the COVID-19 Pandemic.**

As NYIFUP providers, we are tasked with providing free universal representation to eligible noncitizens who are detained and facing deportation at the Varick Street Immigration Court in lower Manhattan. Our ability to adequately represent clients is significantly hampered by their detention. For years we have had issues communicating with clients behind bars, but these challenges have only been exacerbated by the COVID-19 pandemic. There is no justification for the cruelty of detention or limiting someone's due process rights. The excuse that detention is needed to ensure people appear in immigration court is particularly meaningless in places where access to counsel is readily available, as studies show 98% of people released from ICE detention continue to appear for court.<sup>20</sup>

Immigrant detention undermines the access to counsel program that the City Council so generously funds. In order to communicate with clients we must either arrange to visit them in person at the facility where they are held, or we must communicate with them remotely through video or legal phone calls. Both methods of communication are insufficient and have only become more difficult as a result of the COVID-19 pandemic.

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<sup>19</sup> See CRCL Complaint filed by six organizations on behalf of immigrants detained at Orange County Correctional Facility, February 17, 2022 [https://www.law.nyu.edu/sites/default/files/OCCF%20Multi-Organization%20DHS%20CRCL%20Complaint%20and%20Index\\_2%2017%202022.pdf](https://www.law.nyu.edu/sites/default/files/OCCF%20Multi-Organization%20DHS%20CRCL%20Complaint%20and%20Index_2%2017%202022.pdf)

<sup>20</sup> Nina Siulc and Noelle Smart, *Fact Sheet: Evidence Shows That Most Immigrants Appear for Immigration Court Hearings*, October 2020, <https://www.vera.org/downloads/publications/immigrant-court-appearance-fact-sheet.pdf> A Vera Institute of Justice Report released in October 2020 found that during the first three years of Vera's Safety and Fairness for Everyone (SAFE) Initiative, which provides free representation through a universal access model in 21 jurisdictions across the country, 98 percent of clients released from custody continued to appear for their scheduled court hearings. Vera's evaluation of NYIFUP similarly found that fewer than 2 percent of clients released on bond had received orders of removal in absentia for failing to appear in court.

## *I. In Person Visits*

The people we represent have been denied access to in-person, confidential visits throughout the pandemic. The space in OCCF that is set aside for in-person visits, sometimes referred to as the “glass house,” is a room divided by a glass wall with a phone for communication. There is usually at least one correctional officer within earshot and frequently there are also other detained people meeting with their advocates. This makes it extremely difficult to have confidential conversations about past trauma, fear of gangs, or to dive into the personal details that an attorney must know to properly advise their clients and prepare them for trial. Some of the people we represent understandably refuse to meet with us in person given the confidentiality concerns. Although NYIFUP providers have repeatedly requested access to the existing meeting rooms for private meetings at the facility, OCCF leadership and ICE have consistently denied our requests.

In-person visits have become less reliable during the pandemic, but even when we are able to meet with clients at the facility, there are still significant barriers to our representation. OCCF, for example, can only guarantee that an in-person visit will last for 30 minutes, and generally the in-person visit is limited to an hour and 15 minutes, after which time the attorney is required to leave. Preparing a client to testify in the final hearing that will determine whether they may lawfully remain in this country takes significantly longer than the time allotted by the facility. Such limitations on in-person attorney visits are particularly problematic because the burden of proof lies with the person facing deportation rather than the government, which initiates deportation cases. Unlike criminal proceedings, in which the government must establish a person’s alleged criminal activity beyond a reasonable doubt, here, the person facing permanent exile from the United States bears the burden to successfully challenge their deportation. This requires significant preparation.

In-person visits at OCCF present language access issues when attorneys and clients do not speak a common language. The “glass house” telephones—the only mechanism by which an attorney and detained person may effectively communicate—makes it nearly impossible for attorneys to communicate with their clients where they do not speak the same language. The only way to do so is to bring an interpreter in-person with the attorney, which has been made more complicated by the COVID-19 pandemic. In a stakeholder meeting on January 27th of this year, ICE/ERO Field Office Director Thomas Decker noted that under Centers for Disease Control and Prevention guidelines, attorneys cannot not bring interpreters (or other individuals) with them on legal visits to OCCF due to COVID-19 restrictions.

Since the start of the pandemic, in-person visits were often impossible, if not seriously impaired. As a result, we have relied more on remote communication and sometimes must prepare for court proceedings through video conferences and regular mail. Throughout the pandemic, there

have been countless hurdles to scheduling these critical video conferences, often severely impeding our ability to speak with clients other than through short confidential phone calls arranged by ICE and subject to Correctional Officers' availability.

Additionally, OCCF officials have unlawfully surveilled attorney-client mail. At the January 27th stakeholder meeting, ICE/ERO Field Office Director Thomas Decker confirmed that OCCF jail officials open and copy all mail to detained people, including legal mail, citing NYS Commission of Correction Variance # 20-V-24, a variance that has clearly expired and had never allowed for legal mail to be opened and copied.<sup>21</sup>

## *II. Remote Communication*

There have been periods of time during the COVID-19 pandemic when we could not arrange to safely visit the people we represent. In these moments, it was more important than ever for them to have access to reliable remote methods of communication that would not jeopardize their own safety.

However, since at least December of 2020, the video conference services have repeatedly failed, often with technical malfunctions where one party cannot hear the other, or the call fails to connect altogether. Efforts to correct these issues are sometimes resolved by individual officers, but often are not. Sometimes attorneys must wait weeks to be able to speak with their clients, even with pending trials looming on the horizon.

As a result of the constant and ongoing issues with technologies, NYIFUP attorneys have at times had to prepare clients for their trial testimony using video technology where the audio portion was non-functional. Attorneys resorted to using dry-erase boards to communicate messages to their clients visually and to prepare them for their final hearings which would determine whether they would be deported or permitted to remain in this country with loved ones.

The explanations for the inability to schedule video calls have varied, ranging from possible issues with OCCF's video technology to a lack of staff available to facilitate the call. Officials at OCCF have consistently failed to respond to requests for assistance in restoring a reliable system of communication. ICE has at times allowed for 15-20 minute "legal phone calls," which are appropriate to convey a brief message or a rescheduled court date at most, and woefully insufficient for people preparing testimony for their multi-hour trials, where a judge will determine whether or not they can remain in this country and ultimately their freedom.

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<sup>21</sup> See Memorandum to Commission Members from Brian Callahan (Counsel), New York State Commission of Correction (December 15, 2020), <https://www.criminaljustice.ny.gov/pio/SCOC%20Commission%20Meeting%20Agenda-Final-2020-12-15.pdf>, at pages 50-53 (detailing Variance 20-V-24 as applied to the Orange County Sheriff's Office at the Orange County Jail).

Developing the necessary attorney-client communication and trust is impossible by 15-20 minute calls. Recently, ICE has stopped facilitating even these brief calls.

Video calls are also extremely difficult to schedule. On any given day, there are only 14 timeslots longer than 25 minutes available for an entire housing unit which can house more than 40 people, and three of those time slots are after 7:00PM. Once a time slot is filled, it is no longer available for anyone in the unit to use. When considering the number of NYIFUP advocates, private attorneys, and other representatives attempting to schedule a call, and the approximately 185 people currently incarcerated by ICE at OCCF<sup>22</sup>, this is clearly insufficient to meet the needs of the demand of representation.

As a result of the limitations on access to counsel, we often must communicate through calls made with new video tablets provided by OCCF. Tablets are often left uncharged or are taken away in retaliation for a perceived infraction or for speaking out against conditions of confinement. Sometimes clients are not informed that communicating with counsel through tablets is an option. Relying on tablets often jeopardizes confidentiality as the people we represent are forced to communicate with us in open spaces where other people are nearby, once again rendering our conversations non-confidential and hindering the free flow of often sensitive information that is necessary for us to provide effective legal representation.

A recent experience of an attorney preparing a client for their deportation trial illustrates the typical challenges when attempting to communicate. Earlier this month, a NYIFUP attorney preparing with a client for a trial on a Thursday visited OCCF on Tuesday of the same week, in person, after making an appointment to do so. Her visit was limited to one hour, which was not enough to complete the necessary preparation. On her way out, she attempted to schedule an in-person visit for the next day. She was told it was not possible to visit in-person on that Wednesday and was told to schedule a video call instead. She explained that she had previously tried to make a video call appointment but the only time slot available was for 8:00 p.m, and that they needed to talk for more than just the two hours available at 8:00 p.m. She was told to call OCCF at noon on Wednesday and she would be able to have a private phone call as an alternative option. When she did call at noon the next day, an officer told her that absolutely no phone calls were allowed and it was “not going to happen.” She was advised to sign up for the program to be able to communicate with clients via tablet. Technical difficulties meant this took more than an hour to do. After successfully downloading the program on her phone, she called OCCF again, as she had been advised to do, and asked that they notify the person she represented that they could contact her through the video tablet. He never contacted her, so she called OCCF again and asked if the officer could contact him. The officer hung up on her. The client later told her that no one ever told him that his attorney was available and waiting for him to call her via the tablet.

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<sup>22</sup> Division of Criminal Justice Services, *Jail Population in New York State Average Daily Cases by Month* (January 1, 2022) [https://www.criminaljustice.ny.gov/crimnet/ojsa/jail\\_population.pdf](https://www.criminaljustice.ny.gov/crimnet/ojsa/jail_population.pdf)

This is not an anomaly but the norm. OCCF, and other ICE detention facilities in New York State, have limited detained people's access to representation, making it less likely that they will be prepared for their trials, and thus more likely that they will be deported. Detention alone, particularly during the pandemic, has become an access to counsel and due process issue by impeding detained people's ability to adequately prepare and gather evidence for their defense. The NYIFUP program, which New York City funds, is undermined by the prevalence of immigrant detention in New York State, and is one of the many reasons that the NYIFUP coalition supports the Dignity Not Detention Act (S7373/A7099A) and ending ICE detention in New York and nationwide.

#### **F. The Impact of Immigration Detention on Young Children, Families, and Communities.**

ICE detention makes it significantly harder for people facing deportation to fully participate in their court hearings by limiting their ability to gather critical evidence in their defense, including letters of support as well as medical, employment, tax, school, and court records. Such evidence is crucial in challenging deportation in court, both in establishing positive equities in cases where judges must exercise their discretion in determining whether a person "merits" lawful residency in the United States, as well as in corroborating fear-based claims in asylum, withholding of removal, and protection under the Convention Against Torture cases. Positive equities can include strong community ties, demonstrated through letters of support from loved ones and community members; documentation of residence of long duration in the United States, especially when a person arrived in this country at an early age; documentation of employment history, businesses and/or property ties; documentation of tax history; documentation of any rehabilitation programming and/or education; and documentation of potential and/or current hardship experienced by detention and deportation. Demonstrating positive equities is one of the few opportunities people have to humanize themselves in a court system that otherwise justifies their deportation through dehumanization and criminalization.

There is also overwhelming evidence that forced family separation by incarceration, including ICE detention, impacts the overall stability of families, the emotional well being of children, and the economic progress of entire communities. Children, as young as 8 years old, are active participants in their fight to reunite their family and stop their loved one's deportation. Children, many of whom are U.S. citizens, are forced to relive their own traumas when they submit letters of support on behalf of their loved one, show up to court hearings to testify, and even share their mental health and school records to show hardship. Oftentimes such hardship arises the moment they are separated from their loved one by ICE, so the hardship remains ongoing and deepening

the longer the person is incarcerated by ICE. Studies have shown that high stress in early childhood can lead to lifelong mental health concerns.<sup>23</sup>

### **CONCLUSION AND DEMANDS**

As a society, we must all reflect upon the legacy we are creating every time we choose to invest in oppressive and violent institutions.

The Council should pass Res. [DND], calling on the New York State Legislature to pass The Dignity Not Detention Act (S.7373/A.7099A), prohibiting all localities within New York State from entering into or renewing existing contracts with the federal government for the purposes of immigration detention. Ending ICE detention in New York State would allow us to join a nationwide effort to decarcerate and end ICE detention in this country. Similar legislation was successfully passed and signed into law in New Jersey (S3361, A5207), California (SB 29, AB 103), Washington (SB 5497, HB1090), Maryland (SB478), and Illinois (SB0667).

The Council should also put pressure on ICE to release detained immigrant New Yorkers so they can reunite with their families, have access to adequate medical and mental healthcare care, and reliable access to their attorneys and advocates. The Council should also put pressure on local jails to stop profiting from detaining community members on ICE's behalf, improve living conditions, increase access to COVID-19 vaccines and boosters and overall healthcare, and should demand transparency from OCCF pertaining to vaccine and booster wait times.

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<sup>23</sup> Nelson, C. A., Bhutta, Z. A., Harris, N. B., Danese, A., & Samara, M. (2020). Adversity in childhood is linked to mental and physical health throughout life. *bmj*, 371 <https://www.bmj.com/content/371/bmj.m3048>



**Testimony to the New York City Council Committee on Immigration**  
**The Legal Aid Society (Immigration Law Unit)**  
**February 28, 2022**

Good morning, my name is Marlon Agustin-Mendez and today I am speaking on behalf of the body of social workers serving the New York Immigrant Family Unity Project (NYIFUP) at the Legal Aid Society. Thank you Committee Chair Shahana Hanif, and members of the Committee on Immigration, for the opportunity to present testimony today regarding the inhumane conditions and, more specifically, the negligent mental health treatment that many of our clients encounter while in Immigration and Customs Enforcement (ICE) detention.

In our day-to-day role, we regularly assess clients in detention to better understand their psychosocial functioning and to determine the level of care and supportive services that best meet their needs. Additionally, we provide written advocacy and supportive counseling to many of our clients while they await the result of their immigration proceedings. It is through these direct interactions that we have witnessed and learned about the many issues that prevent our clients from accessing adequate and crucial mental health services upon their ICE detention.

**Issues in Properly Identifying Mental Health Concerns in ICE Detention**

There are three main stages where a detained person can be evaluated for, and receive access to, mental health services. However, in our daily social work practice, we have identified many gaps in an effective and efficient response to the mental health concerns of our clients in detention settings.

1. **Intake Process:** Individuals are supposed to be assessed for mental and physical health needs upon their arrival to ICE detention. This is a critical moment for jail staff to identify any current and previous mental health concerns that can negatively impact clients during their time in detention. However, we have seen that far too often our clients are not properly assessed for mental health concerns, and in many cases these clients begin to gradually decompensate until an unfortunate crisis emerges. Furthermore, it is important to understand that there are cultural implications, lack of education, and past experiences that prevent our clients from verbalizing their mental health needs. For example, a client may be experiencing symptomology related to an undiagnosed mental health issue, but they are unable to comprehensibly describe what they may be experiencing by answering a few questions related to mental health during a brief intake process. Additionally, if an individual hesitates and denies their mental health issues due to fear of stigmatization, they will have a much more difficult time obtaining services later.
  
2. **During Detention:** If our clients are undiagnosed during the intake process, then they are required to fill out a “sick call” form. In this form, they are supposed to give a description of their symptoms and the reason they are seeking a healthcare provider. Our social work team strongly criticizes this process due to the ineffectiveness in response time and lack of seriousness that these “sick calls” are taken by jail staff. Furthermore, our clients that request mental health services will seldom be immediately connected to a psychiatrist or psychologist. They will have to endure a long and arduous process, sometimes making

several “sick calls,” before they are connected to the proper mental health practitioner. Additionally, if someone decompensates while in detention, they are presumed to have an “adjustment disorder” without actually undergoing a psychiatric evaluation. No diagnosis should be assumed without a thorough mental health evaluation. We have had clients experiencing symptoms of psychosis, symptoms of debilitating major depression as well as terrifying flashbacks due to prior trauma. These symptoms are not representative of an adjustment disorder diagnosis. Moreover, a diagnosis of adjustment disorder also merits assessment and treatment.

- 3. Discharge:** Finally, we highlight that there are many issues in discharge planning for individuals that are released to the community from detention. In many cases, our clients are prescribed psychotropic medications to help alleviate their symptoms—this may be the only form of immediate treatment for many clients while they remain in detention. Nevertheless, we have witnessed that many of our clients, upon release from ICE detention, are not given a full discharge summary that includes their mental health diagnosis and the medication, if any, that was prescribed under the care of the psychiatrist. This creates many challenges for our clients returning to the community since they will be unable to have access to medication without the proper documented diagnoses and prescription given to them by the jail’s mental health provider. This is a negligence that can and should be avoided during the discharge process to ensure the safety and wellbeing of people seeking mental health treatment upon their return to the community.

### **Case Example:**

The following case example demonstrates the ways in which ICE detention can be detrimental and harmful to a person with a history of trauma. It is important to note that this example is one of many situations that we have seen in which jail staff neglect to approach our clients’ circumstances in a trauma-informed manner.

One of our clients faced abduction and confinement in his home country. In his daily life while in the community, he was able to cope with his trauma. However, his confinement in detention retriggered the traumatic events that he encountered in his home country which led to him experiencing flashbacks and suicidal thoughts. When this was disclosed to jail staff, the intervention was to place him on suicide watch where he was held in solitary confinement. This transformed a very difficult mental health crisis into an unnecessary psychological hardship. Moreover, many of our clients that witness this response to mental health issues may be unwilling to share their own concerns out of fear that they will be subjected to solitary confinement. It sends a message that speaking up does not provide support and understanding but that it leads to further harsh treatment.

## **Mental Health Issues related to COVID-19**

As we all know the coronavirus pandemic (COVID-19) has removed many programs and services that were once available to clients. Currently, there are limited methods of coping and activities available to people in detention that can help buffer mental health consequences. It is also important to note that the ongoing concerns related to COVID-19 infection have caused drastic measures to happen in detained settings. For example, if a person in detention tests positive for COVID-19, or if they present any symptoms related to this virus, they will be put in isolation and limited to the activities they can participate in on a daily basis. This situation can exacerbate a person's already debilitating mental health concerns and cause them further psychological decompensation.

## **Conclusion**

We understand that when clients are in the community and close to their social supports, they are better equipped to cope with any underlying mental health issues; however, once their sources of support are removed, much like what happens to people in ICE detention, they are no longer able to cope effectively. Moreover, research shows that: “The experience of detention may act as a new stressor, which adds to the [already damaging] cumulative effect of exposure to trauma, leading to an increased likelihood of [further] developing mental health difficulties...”<sup>1</sup>

The NYIFUP social workers at the Legal Aid Society unite with a large and diverse coalition of legal service providers, immigration attorneys, physical and mental health organizations, and various immigration advocates across New York who strongly denounce the inhumane and harmful treatment of people held in immigration detention. The most sensible alternative to ICE detention, especially for those with underlying mental health concerns, is to allow people the opportunity to engage mental health services in a community-based setting, while they continue their immigration and legal proceedings.

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<sup>1</sup> Von Werthern, M., Robjant, K., Chui, Z. *et al.* The impact of immigration detention on mental health: a systematic review. *BMC Psychiatry* **18**, 382 (2018). <https://doi.org/10.1186/s12888-018-1945-y>

March 2, 2022

The Honorable Shahana Hanif  
Chair, Committee on Immigration  
250 Broadway  
New York, NY 10007  
[hanif@council.nyc.gov](mailto:hanif@council.nyc.gov)

### Testimony of the Vera Institute of Justice

#### Submitted to the Committee on Immigration of the New York City Council, Oversight Hearing: COVID-19 in Immigration Detention Centers

Dear Chairperson Hanif:

**On behalf of the Vera Institute of Justice (Vera), I write to offer information and recommendations regarding the ongoing COVID-19 crisis in immigration detention and the grave, yet unnecessary and avoidable, risks immigration detention brings to the health and safety of New York City residents.**

Vera's mission is to end the overcriminalization and mass incarceration of people of color, immigrants, and people experiencing poverty. We work to transform the criminal legal and immigration systems until they are fair for all, and where the humanity and dignity of all people are centered.

Over the last several decades, our nation's civil immigration system has become an extension of the criminal legal system, carrying forward inhumane policies grounded in systemic racism that disproportionately impact people of color. Nowhere is this cruelty more apparent than in the expansion of our nation's immigration detention system. [Hundreds of thousands](#) of immigrants each year, many seeking protection from persecution and violence, are criminalized and unnecessarily detained in jails and prisons across the country where it is difficult to [access legal services](#), conditions can [violate the rights of people in detention](#), and medical care is [substandard](#) and [sometimes fatal](#).

Civil immigration detention has always been unnecessary, harsh, and too often deadly. For years, [independent reports](#), including from the [Office of the Inspector General](#) of the Department of Homeland Security, have documented ICE's failure to protect the health and safety of people in detention. The COVID-19 pandemic put this failure in stark relief. There is inadequate oversight of conditions in these facilities, where claims of medical neglect and abuse are rampant, access to sanitizing products and protective equipment are lacking, and social distancing is often impossible. Yet despite these facts, Immigration and Customs Enforcement (ICE) has detained [more than 430,000 people nationwide](#) since the start of the pandemic and continues to needlessly book people into detention at an alarming rate. It should not surprise anyone that as we enter the third year of this pandemic, ICE reported the highest

levels of COVID-19 infection in these facilities, [reaching a new peak](#) of over 3,100 reported cases nationwide in January-February 2022.

As of February 23, 2022, ICE has reported over 40,000 total COVID-19 cases among people in 147 facilities where ICE maintains beds, though this number is [almost certainly an undercount](#). ICE does not report complete and accurate data on COVID-19 cases, tests, vaccinations, medical treatment, hospitalizations, or facility populations. As a result, we still do not know the full scope of harm suffered by the people ICE detains even as we enter the third year of the pandemic, and even after dozens of reports showing ICE's failure to [oversee](#), [monitor](#), and [care](#) for people in detention.

In New York alone, ICE has reported 215 total cases at the Buffalo Federal Detention Facility in Batavia, NY and 28 total cases at Orange County Jail. Yet when we graph current cases over time, few ICE facilities nationwide follow the kind of COVID-19 curve we are accustomed to seeing where there has been an outbreak of the virus, further raising questions about the comprehensiveness of testing and reporting.

In addition, federal funds that could be used to support communities and an equitable recovery are still instead directed towards ICE detention that jeopardizes public health and community stability. For nearly an entire year during the pandemic, the reported ICE detention population was lower than the lowest-ever daily population on any day in the preceding decade. Yet ICE continues to be [funded](#) at levels that would permit it to detain hundreds of thousands of people per year. Even as [Congress in recent years](#) has explicitly called for ICE to reduce detention capacity, [reporting has revealed](#) that it has done the opposite, diverting funds from other Department of Homeland Security agencies for immigration detention.

We must ensure the health and safety of everyone in our communities, which is why **we continue to call for the immediate release of people in immigration detention and an end to all new book-ins to detention. In New York, there is much we can do to protect the health and safety of our neighbors even further:**

**Fully fund the New York Immigrant Family Unity Project (NYIFUP) and the expansion of deportation defense representation:** A primary focus of Vera's work is to expand access to universal legal representation for people at risk of deportation. New York City pioneered such representation, initiating NYIFUP in 2013, now a nation-leading statewide public defender program for people in detention and facing deportation. With support from New York City Council and New York State, NYIFUP is the most expansive public defender program for immigrants in the country. While many people in deportation proceedings have valid legal claims to remain in the United States, they need legal expertise to argue their cases effectively against trained government prosecutors. With detained immigrants with lawyers 10 times [more likely](#) to win the right to remain in the United States and [3.5 times more likely](#) to obtain release from detention, [life-saving measure](#) for people in detention and at risk of permanent family separation. While the justification for depriving immigrants of their liberty is to ensure appearance in court, the evidence is overwhelming that detention is unnecessary for this purpose: [the majority of immigrants](#) show up for their court hearings. In fact, nearly all immigrants with lawyers who are not in detention appear for their immigration proceedings, demonstrating that representation can be a humane alternative to detaining people for the purpose of ensuring court appearance. New York's investment in NYIFUP has brought critical benefits to the city and the State, bringing parents and breadwinners home to their families, ensuring that business owners and employees can remain on the job, and safeguarding stability in an uncertain time. Moreover, NYIFUP's expert

legal teams have been poised to advance litigation and negotiations in support of the health and safety of their clients and the public throughout the pandemic. In Spring 2020, NYIFUP lawyers [brought federal litigation](#) to free [highly vulnerable](#) people from detention, [led legal efforts](#) to compel ICE to adopt basic sanitary safeguards in immigration detention, and fought to [ensure vaccine access](#) once they became available. Their efforts are ongoing, as conditions in ICE detention continues to pose grave risks to the health, safety, and the due process rights of people in detention, causing rippling effects that destabilize New York families and communities. **New York City should increase funding for NYIFUP to \$18 million in Fiscal Year 2023, keeping this critically important program strong and poised to continue to advocate for immigrants' freedom, safety, and family unity. New York City should also call on the New York State legislature to pass the [Access to Representation Act](#), securing a permanent right to representation for all people facing deportation in New York.**

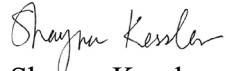
**Support an end to immigration detention and the passage of the Dignity Not Detention Act (DND) in New York State:** Representation alone is not sufficient to safeguard the health and safety of people in immigration detention. An end to civil immigration detention is a critically needed step towards building an immigration system that is welcoming and supports strong and stable immigrant communities. [Research by Vera](#) has shown that federal contracts with local jails through Intergovernmental Service Agreements (IGSAs) have additional implications beyond the pandemic: the promise of federal revenue incentivizes counties to overbuild their facilities and rely on the detention of immigrants for financial gain. IGSAs have played a key role in jail expansion in the United States over the last few decades, enabling local administrators to build larger jails and expand their operating budgets by detaining community members and harming communities. New York City can call upon the State of New York to join other states like New Jersey and Maryland and lead the way towards an end to immigration detention by passing the [Dignity not Detention Act](#). DND would prohibit localities in New York State from entering into or renewing contracts with the federal government for the purpose of immigration detention. It would enable more people to pursue their immigration cases outside of detention and demonstrate to the federal government the state's strong support for immigrant freedom and family unity.

**Support the passage of the New York for All Act:** In addition to supporting access to representation and promoting an end to immigration detention overall, New York City should urge the State legislature to pass the [New York for All Act](#), which will ensure that state resources cannot be used for the purpose of federal immigration enforcement. New York For All would limit the number of people who are ensnared with the prospect of detention and deportation in the first place by placing sensible, uniform limits on the ability of local governments to conspire with ICE and Customs and Border Protection (CBP). Law enforcement officers would be prohibited from using public resources to enforce immigration law, government agencies could not share sensitive information with ICE or CBP, and New York officials would not be permitted to detain people for the purpose of federal immigration enforcement without a judicial warrant. The bill would also ban 287(g) agreements that deputize local officers to act as ICE agents, and make sure that people in custody know their rights when facing immigration authorities.

All New Yorkers deserve an opportunity to contribute to their communities and lead full, open lives without worrying that they will be suddenly ripped from their families. As federal enforcement and detention continue to destabilize our communities and jeopardize public health during the pandemic, New York can take crucial and achievable steps to make New York a safe, welcoming state for everyone. We urge New York City to take the recommendations listed above.

For additional information or resources, please contact Shayna Kessler at (917) 828-1753 or [skessler@vera.org](mailto:skessler@vera.org).

Sincerely,



Shayna Kessler  
State Advocacy Manager  
Vera Institute of Justice

cc: Commissioner Manuel Castro, Mayor's Office of Immigrant Affairs  
Council Member Carmen De La Rosa  
Council Member Pierina Ana Sanchez  
Council Member Sandra Ung  
Council Member Francisco Moya  
Council Member Shekar Krishnan  
Council Member Rita Joseph

Hello, thank you for inviting me. My name is Daniel Atonna, I'm the Political Coordinator at For the Many, a grassroots organization that is based in the Mid-Hudson Valley. We do a lot of work in Orange County with undocumented immigrants so we are very familiar with the long history of neglect and abuse at the Orange County Correctional Facility in Goshen. For anyone who doesn't know, ICE uses the facility to hold detainees from New York City, Long Island, and the Hudson Valley who are picked up on immigration warrants. Tragically, in 2016 a detainee died there while in ICE custody. Many of the details from that case remain redacted. Last year, the Immigrant Rights Clinic at NYU's School of Law filed a complaint with the Department of Homeland Security and the Orange County Sheriff's Office about the treatment of one of their clients who was identified by his initials: L.G.C. L.G.C. is a mentally disabled Mexican immigrant. He said he has been put in solitary confinement, given incorrect doses of medication, and verbally abused. He has attempted suicide four times. L.G.C.'s attorney is Molly Lauterback from Brooklyn Defender Services. She said to *Gothamist*, "I've called the jail to report my concerns about his self-injurious behavior and I was told I was wasting their mental health resources and he was lying to me, which was patently untrue given what I observed with my own eyes." This pattern of abuse and secrecy has not improved.

Last month, *City Limits* reported on a COVID outbreak at the facility. Organizations providing legal representation to detainees said that at least 50 detainees had COVID-like symptoms. However, the facility has not provided easy access to vaccination or new surgical masks. A community member who was held at the Orange County Correctional Facility has spoken with my organization on the condition of anonymity. He said that while he was there he was forced to sign an agreement saying he got personal protective equipment (PPE) in March,



when in reality he did not receive it until May. He said detainees who refused to lie on the forms were threatened with beatings and verbal abuse.

Earlier this month, For the Many signed onto a multi-organization complaint about the facility to the Department of Homeland Security's Office for Civil Rights and Civil Liberties. Detailed in the complaint are a series of disturbing allegations. Detainees have reported being called racist and xenophobic slurs, being yelled at for speaking Spanish, being beaten, being denied medical care, and being served food that makes them physically ill. A detainee named Benjamin was held in solitary confinement for five days. Solitary confinement is a form of torture. "Andres" said that he witnessed six officers beat up one unarmed detainee. I quote, "The officers jumped on him, hitting him. One of them was holding him down and another had his knee on the man's neck. They pepper sprayed him and wouldn't let him move. He was yelling for help." Other complaints include scalding hot showers, freezing cold temperatures in cells, and a lack of clean clothes.

The *New York Daily News* reports that on Wednesday, February 16th detainees at the Orange County Correctional Facility have begun a hunger strike over the inhumane conditions and abuse. To quote Perry McAninch, a lawyer for the Legal Aid Society, "The most immediate issue is treatment by the guards, who are saying racist things and have been abusive and aggressive. It's also hard for people there to access a doctor." One detainee, who is identified by the initials O.F., said that the guards have reacted to the hunger strike by "threatening to turn off our water." No one should be treated this way.

The United Nations building is here in New York. Every day, American diplomats and dignitaries gather there to discuss problems from around the world. That's important work, but there are human rights abuses happening right here in our backyard that our government is ignoring. For the Many is calling for the release of all immigrant detainees back to their communities and the termination of ICE's contract with the Orange County Correctional Facility. We urge the New York City Council to pressure the State Legislature to pass the New York for All Act which would prohibit state and local officers from enforcing federal immigration law, sharing sensitive information with ICE, and turning people over to ICE. New York State should welcome all immigrants, but to do that we cannot welcome ICE. Thank you for your time.



**IMMIGRANT  
DEFENSE  
PROJECT**

**New York City Council – Committee on Immigration  
COVID-19 in Immigration Detention Centers  
Testimony of Yasmine Farhang, Immigrant Defense Project  
February 28, 2022**

Thank you to the Council and to Immigration Committee Chair Hanif for holding this hearing and for the opportunity to testify today. My name is Yasmine Farhang and I am the Director of Advocacy at the Immigrant Defense Project, which was founded over twenty years ago to combat the ongoing crisis of immigrants being targeted for mass deportation. IDP is devoted specifically to fighting for justice for immigrants caught at the intersection of the racially biased U.S. criminal and immigration systems.

Two years into a global pandemic, the public health crisis is far from over for people who are incarcerated throughout the country, including on Rikers Island and in jails and prisons throughout New York State. For immigrant New Yorkers, and in particular those who have had contact with police and the criminal legal system, ICE entanglement at the local and state level further risks ICE detention.

Today we welcome the opportunity to speak to immigration detention specifically and its further exacerbation during this pandemic. This month, IDP released a report together with the Center for Constitutional Rights and five community members directly impacted by ICE detention during the pandemic who shared their stories and experiences. This report, [Cruel By Design: Voices of Resistance from Immigration Detention](#) is linked to in my testimony. The narratives of the community members—Joaris Hernandez, Nilson Barahona Marriaga, Keshia C., Joseph Thompson, and Edinson Calderon—are attached to this testimony and I urge the Council to read them directly. The stories shared in this report and by those testifying today show how the tactics used by ICE put immigrants at further risk during the pandemic as the virus spread through jails and detention facilities. Detained community members organizing - through hunger strikes, direct action, sign-on letters and press engagement - shine light on an



## IMMIGRANT DEFENSE PROJECT

ongoing history of violence in ICE detention that long predates this pandemic. A visual timeline of immigrant detention as well as a map of the spread of COVID-19 in detention between May and August of 2020 are also attached to this testimony.

As the report makes clear, the egregiousness of ICE detention - of its dehumanization and dangerous conditions - is not accidental. Detention itself is used as a way to coerce immigrants into deportation. Denying liberty is, by design, a way to undermine peoples' ability and will to fight deportation. For immigrant New Yorkers who have been impacted by over-policing and by the racist criminal legal system, the coercion is all the more acute because of decades-old provisions within immigration law that not only allow for, but seek to mandate, detention of people with certain convictions. This often puts people in the unconscionable position of having to choose whether to be subject to prolonged detention while they continue to fight their case, or to face deportation. A chart showing the distinction between mandatory and non-mandatory detention is attached to this testimony. Even those not subject to mandatory detention face at times insurmountable obstacles in an unjust bond system that allows ICE attorneys to put forth unsubstantiated allegations to make the case that anyone is a potential "danger" to society.

This report and the firsthand testimony of so many others joining this hearing today make clear that the crisis of ICE detention requires us to end the system entirely. At the U.S. Conference on Mayors, Secretary Mayorkas recently stated that ICE is "not the agency of the past,"<sup>1</sup> that it is focused on "making our communities safe."<sup>2</sup> As testimony today makes crystal clear, our communities are not safe. The real, lived experience of immigrants in detention are unchanged and their humanity continues to be disregarded by this federal administration.

For this reason, we call on the City to use all avenues at its disposal to address this crisis. At the local level, the City must strengthen our laws to stop the police-to-detention and deportation pipeline which likewise makes our communities unsafe, and at the federal level the City must

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<sup>1</sup> <https://www.dhs.gov/news/2022/01/20/secretary-mayorkas-delivers-remarks-us-conference-mayors>

<sup>2</sup> *Id.*



# IMMIGRANT DEFENSE PROJECT

demand that this administration direct ICE to use its existing discretion to release detained New Yorkers. To be accountable to immigrant New Yorkers, the City must recommit itself as co-chair of Cities for Action and advocate for pro-immigrant federal policies that impact our immigrant communities at greatest risk - those who are impacted by detention and coercive deportation.

Thank you for your time.

## The Stories

This report features the narratives of five people who were recently in ICE detention. These stories paint a clear picture. U.S. immigration laws are not “broken,” but working as intended. They are cruel by design—denying liberty, discouraging people from fighting to stay, deterring people from migrating and returning—in order to enable not only widespread detention, but also mass exclusion and deportation. The candor and less formal nature of the conversations on which the narratives are based brought out the human emotion often absent from legal declarations, which must fit within the multifactor legal tests that are ultimately used by immigration judges to decide who gets to be free. These stories these five individuals share show how the ICE detention system and the agents who staff it regularly employ tactics intended to break spirits. They also demonstrate how a system rife with medical neglect, bureaucracy, secrecy, and retaliation undermines people’s ability to fight their deportation cases. At the same time, these accounts illustrate the tremendous will of people to thrive and overcome systems of oppression, by highlighting the power of organizing and community support.

**These stories paint a clear picture.** The laws are not “broken,” but working as intended. They are cruel by design—denying liberty, discouraging people from fighting to stay, deterring people from migrating and returning—in order to enable not only widespread detention, but also mass exclusion and deportation.

***“IMMIGRANTS ARE WARRIORS, WE ARE FIGHTING FOR OUR LIVES.*** We left behind a whole life, made up of both emotional and physical things: our homes, our family and friends who love and miss us, our community...I feel that in this country I have a better sense of security. ***I would not be here if I felt this was something I could have in my country.”***



**Joaris Hernandez**

Joaris left El Salvador in March 2017, after gang members assaulted her and threatened to kill her if she didn’t work for them. When she arrived in the United States seeking asylum, she was detained with men even though she is a trans woman. Joaris was in solitary confinement for two of the eight months she was in detention. She lives in New York and continues to fight for the right for everyone to live a dignified life.



**“ONE OF THE THINGS THAT THEY USE A LOT IN COURT IS COMMUNITY—A DANGER TO THE COMMUNITY.**

*So, if you're a danger to the community you need to leave...if I'm a danger to the community, they're trying to protect the community. Who are they protecting? Thanks to ICE's decision to keep me in custody...my wife is physically, emotionally, and financially drained. **Is this the way US immigration protects its own? Who are they protecting? My son? Living without the father that provides him the security and emotional stability that a child needs for his early years...depriving him of his best friend...I don't understand, is my family going through the suffering, because I was not born in this country?**”*

**Nilson Barahona Marriaga**

Nilson is an immigrant from Honduras who has lived in Georgia for 20 years. Nilson was detained at Irwin County Detention Center during the COVID-19 pandemic. He helped organize a hunger strike to demand that the facility follow public health guidelines and release medically vulnerable people. He was put in solitary confinement and transferred to a different detention center. Nilson was not subject to mandatory detention, and was finally released after 13 months and reunited with his wife and young son.

**“I MEAN, ALL THE CAMEROONIANS...WE GOT SEPARATED, AND WE DIDN'T EVEN KNOW WHERE WE WERE GOING TO.**

*In the middle of the night, about 11 p.m., they told us to pack our bags...we had no idea where we were going to. We just pray like, we don't know what these people what they're gonna do to us. **We don't know where they're taking us...and we got into the buses, but we were chained...on our feet and our hands.**”*

**Keshia C.**

Keshia made the journey to the United States in 2019, to escape the brutal civil war in her home country of Cameroon. While in immigration custody, ICE transferred her three times within seven months across the southern United States while seeking asylum. After Keshia was released from detention in June 2020, she was able to go to Minnesota to reunite with her family.



**Joseph Thompson**

Joseph is a green card holder from Jamaica who grew up in New Jersey and New York. He was subject to mandatory detention for two years before winning his release. He is a father and a chef who loves working in the kitchen.

**“SOMETIMES MY HEART SKIPS.** It’s kind of like a bulging tire. I could be walking, and then boom. But [ICE] told me they’d rather me be deported than get the surgery. They don’t care about us one bit. Not if we’re sick, if we have a broken leg or an eye patch. **So long as they can deport you, they don’t care.”**

**“I AM HELPING A LOT OF PEOPLE WHO ARE IN DETENTION WITH THE SAME SITUATION AS ME, BECAUSE, REALLY I KNOW, IT WAS HORRIBLE IN THIS SITUATION.** And really we need a lot of help...we are human, but ICE doesn’t think that...they make situations like the one I had, only because they want to hear you say, **‘Please deport me.’ That’s it.”**



**Edinson Calderon**

Edinson left Venezuela six years ago, seeking fairness and freedom outside the economic crisis and homophobia in his home country. When he arrived in the United States, ICE detained him for four months while he waited for the processing of his asylum claim. Edinson is a human rights activist who started the campaign *Una Carta Salva Una Vida*.



# Contemporary Developments In Immigration Detention

Mass detention of Cubans on the “Mariel” boatlift and Central Americans and Haitians fleeing civil war and political violence. Construction of the detention center at Fort Allen in Puerto Rico to detain Haitian asylum-seekers fleeing political violence.

1980–1985

The federal Anti-Drug Abuse Act (“ADAA”) of 1988 requires the mandatory detention of noncitizens (including lawful permanent residents) convicted of the new category of “aggravated felony,” covering convictions for murder and certain drug- and firearm-related crimes. The Immigration Act of 1990 and the Immigration and Nationality Technical Corrections Act of 1994 limit relief for noncitizens with criminal convictions and expand the number of criminal offenses that qualify as an “aggravated felony” to include crimes like fraud, theft, and burglary.

1988–1994

Offshore detention of Haitians and Cubans at the U.S. Naval Base in Guantánamo Bay, Cuba.

1991–1994

The Illegal Immigration Reform and Immigration Responsibility Act of 1996 (“IIRIRA”) and Anti-Terrorism and Effective Death Penalty Act of 1996 (“AEDPA”) broaden legal authority to detain and grounds triggering mandatory detention, expanding the “aggravated felony” category, including offenses not considered felonies in state law. It also made deportation mandatory for people convicted of “aggravated felonies”.

1996

Settlement in *Flores v. Reno* class action requires immigration authorities to provide certain protections to minor children, including housing them in the custody of the Office of Refugee Resettlement.

1997

In *Demore v. Kim*, 538 U.S. 510 (2003), the Supreme Court upholds the mandatory detention of certain immigrants during deportation proceedings.

2003

Department of Homeland Security (DHS) is created through the Homeland Security Act of 2002, replacing the Immigration and Naturalization Service with the following branches: United States Citizenship and Immigration Services (“USCIS”), Customs and Border Protection (“CBP”) and Immigration and Customs Enforcement (“ICE”).

Bush Administration opens T. Don Hutto Residential Center, a 512-bed family detention center operated by private prison contractor, Corrections Corporation of America, at the cost of \$2.8 million dollars per month.

2006

Congress dramatically increases funding for detention in its annual appropriations bill, allocating funds for a detention bed quota of 34,000 immigration detention beds per day.

2009

In response to organizing pressure, Obama Administration halts detention of noncitizen families at T. Don Hutto.

Obama Administration expands the "Secure Communities" program, authorizing fingerprints taken at any police precinct in the country to be automatically shared with DHS. This significantly deepens the entanglement of local law enforcement and federal immigration policing and enables the detention and deportation of an unprecedented number of people.

2011

Obama Administration resumes practice of family detention, creating several detention facilities in New Mexico and Texas that housed up to 3000 Central American families at a time.

2014

President Trump signs Executive Orders directing DHS to add 5000 border agents, take steps to begin construction of more border walls, and increase construction and creation of additional detention facilities along the southern border.

2017

Trump Administration initiates "family separation" policy, requiring border agents to remove children from their asylum-seeking parents at the border and detaining thousands of children in ORR custody separate from parents. Thousands of parents are prosecuted for illegal entry under a "Zero Tolerance" program and/or detained by ICE or deported from the U.S. without their children.

2017-2018

Trump Administration issues a series of guidelines, regulations and policies drastically limiting ability of migrants to seek asylum at the southern border, including the Migrant Protection Protocols ("MPP"), which requires asylum-seekers at the southern border to remain in Mexico for the duration of their immigration proceedings.

2018-2019

Attorney General Barr issues *Matter of M-S*, legal decision ordering immigration judges to deny release on bond for asylum-seekers until conclusion of their immigration proceedings unless they are granted parole.

2019

Pursuant to federal public health regulations codified at Title 42, Trump Administration's Center for Disease Control orders ports of entry to turn away people seeking asylum due to COVID-19 pandemic.

2020

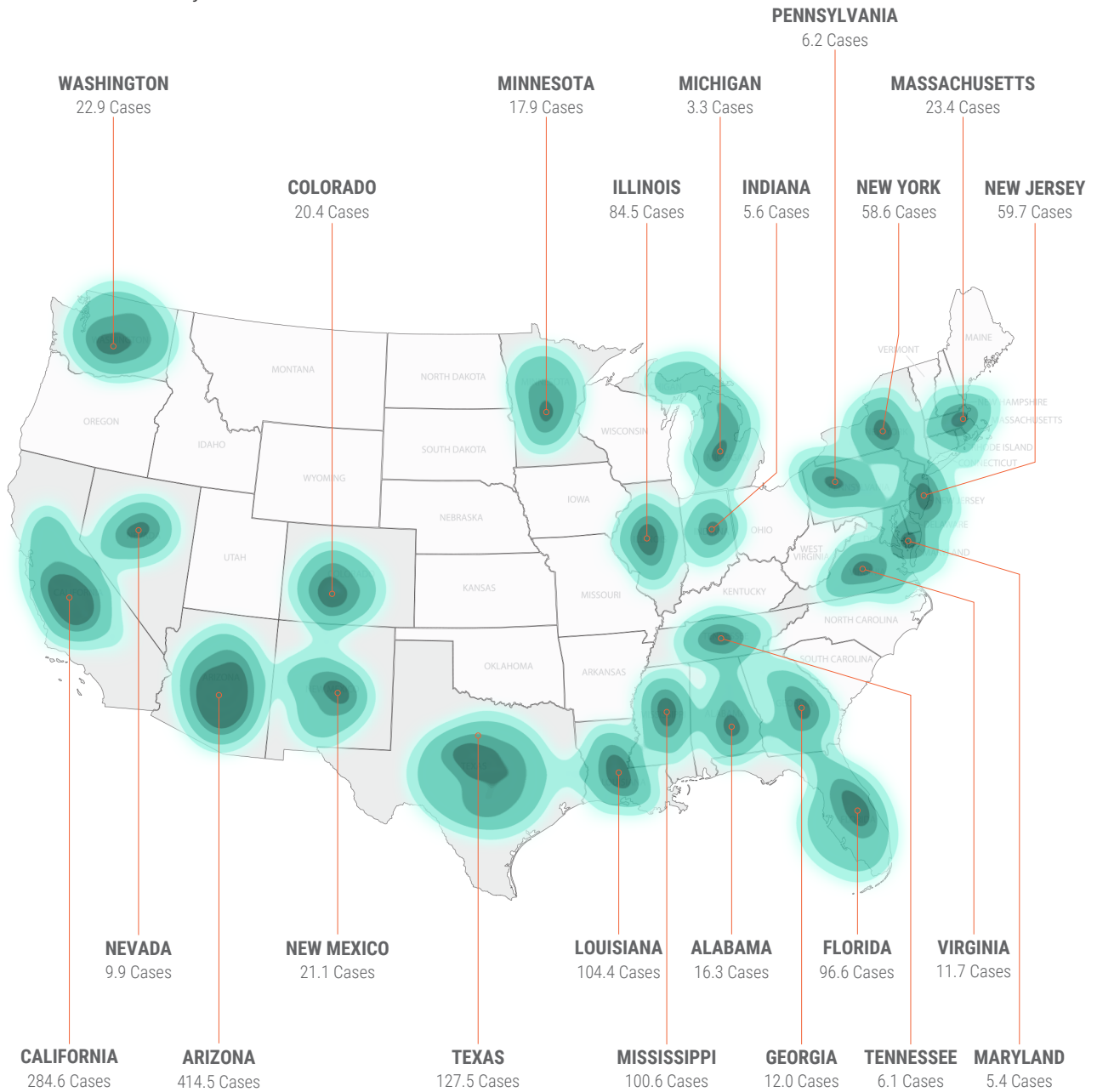
From March of 2020 through November of 2021, nine immigrants detained by ICE die of COVID-19, and at least 30,000 people detained by ICE test positive for the virus. In numerous lawsuits such as the class action case *Fraihat v. ICE*, federal courts order releases of some detained immigrants who are particularly vulnerable to severe COVID-19 illness.

2021

Biden Administration attempts to rescind authority for the MPP program, but Supreme Court orders the program to continue. Biden restarts the MPP policy of expelling asylum-seekers to Mexico, and Title 42 expulsions remain in force.

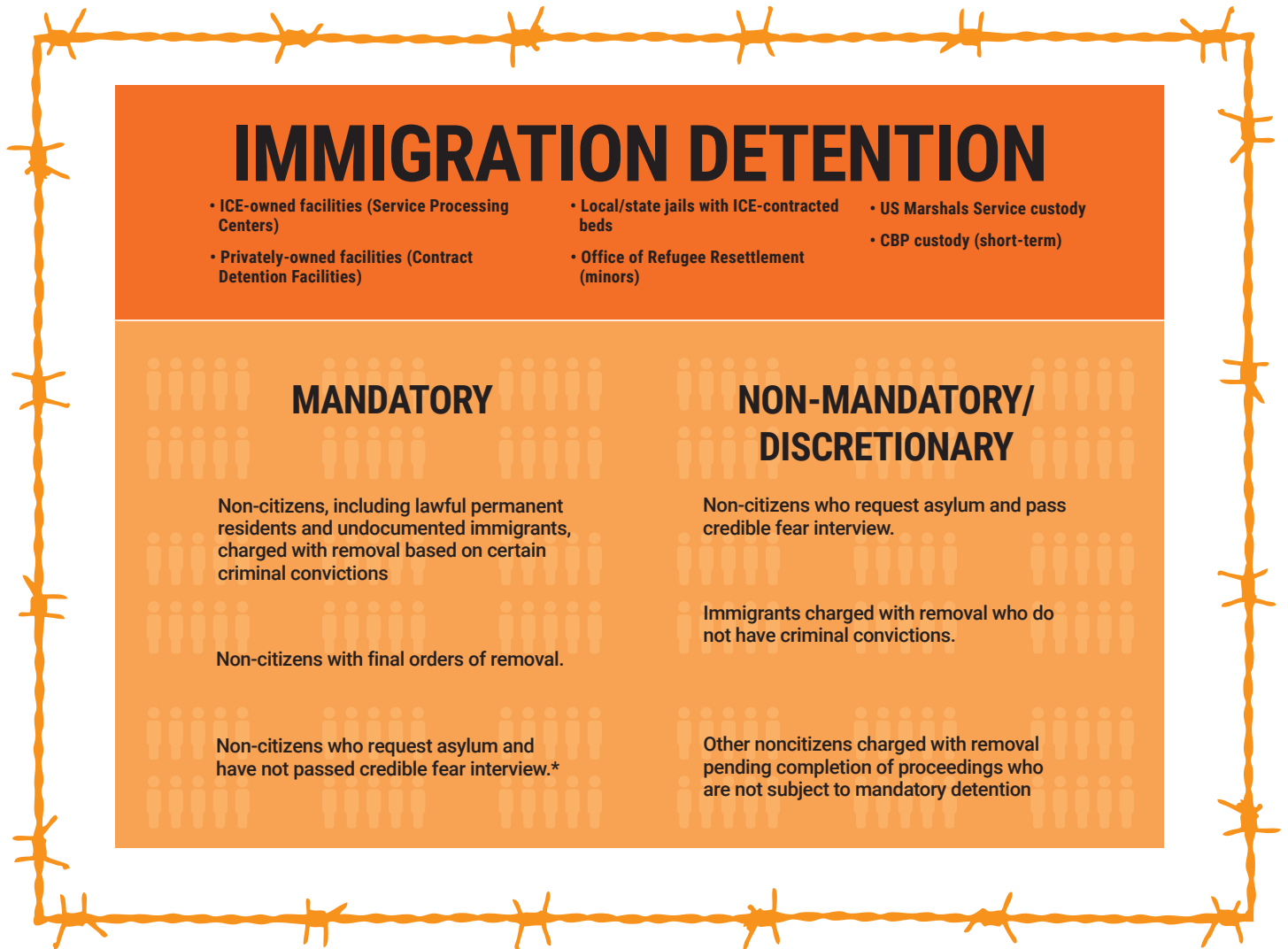
## Figure 1. ICE the Superspreader

This map shows the additional cases of COVID-19 attributable to ICE detention in 25 states from May 1 to August 1, 2020, as estimated by Detention Watch Network.<sup>27</sup>



\* Gregory Hooks et al., Hotbeds of Infection: How ICE Contributed to the Spread of COVID-19 in the United States (United States: Detention Watch Network, December 2020), accessed August 31, 2021, [https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN\\_Hotbeds%20of%20Infection\\_2020\\_FOR%20WEB.pdf](https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN_Hotbeds%20of%20Infection_2020_FOR%20WEB.pdf)

**Figure 2. Mandatory and Discretionary Detention**



\*Some non-citizens may be subject to expedited removal pursuant to the INA. In addition, beginning in January 2019 and continuing into the Biden Administration, DHS began requiring asylum seekers to “remain in Mexico” pending their asylum hearings through the “Migrant Protection Protocols” (“MPP”), which have been challenged in litigation as violating the right to seek asylum. In March 2020, purportedly in response to the coronavirus pandemic, the Trump Administration’s Center for Disease Control issued an order pursuant to Section 265 of U.S. Code Title 42 prohibiting the entry of individuals presenting at a port of entry, including asylum seekers. The “Title 42” policy of expelling immigrants without access to asylum hearings or other due process has continued through the Biden Administration and has also been challenged in litigation.

## **For Submission by Make the Road New York**

2/28 (written testimony)

Good morning chair Shahana Hanif and all members of this committee on immigration. My name is Emmy Cantos and I am the Raids Response Intake Paralegal at Make the Road New York, the largest participatory and membership-led organization in New York that works with black, brown, and working class immigrant families. We are here today because it is imperative that the Immigration Committee hear the stories of community members who have been deeply impacted by Immigration and Customs Enforcement detention, especially during an unprecedented and deadly pandemic.

Make the Road New York is one of three organizations that make up the Rapid Response Legal Collaborative, which is funded by the Mayor's Office of Immigrant Affairs and the New York State Office for New Americans. Through the collaborative, we have provided hundreds of intakes to individuals living in our city and state with final orders of deportation at imminent risk of ICE detention and deportation. We have successfully halted deportations, achieved release from ICE custody, reopened old cases so clients can have an opportunity to apply for immigration relief, and prevented detention. Through this, we have seen the terrible impact that detention has had on our communities. That is why I am here today: to uplift the story of two of our clients.

Alonso is a long-time New York City resident, father of three U.S. citizens, and a co-owner of a family business on Long Island. One day, in the winter of 2021, Alonso was on his way to work when ICE pulled him over. Alonso was aware of his rights and recorded the entire encounter. With their violent tactics, ICE detained Alonso, despite not being a priority for enforcement, and

took him to Orange County Jail. Alonso was in detention during the peak of a COVID-19 surge and his unit was placed in a two week quarantine lockdown. Alonso stated several times that he was afraid to die of COVID-19 due to the lack of sanitary conditions, ventilation, and social distancing.

Contracting COVID-19 was even more dangerous for Alonso because of his serious underlying conditions, including his cardiac and stroke history. Within days of his detention, Alonso was taken to the emergency room with severe chest pains and spent four days in the hospital. Days after returning to Orange County Jail, Alonso was rehospitalized for similar reasons. Yet ICE continued to detain him, denying his parole request even though he was not a priority for enforcement, and even though a doctor who reviewed his records found that continued detention placed him at high risk of blood clots, stroke and death. Only after weeks of advocacy and public pressure was Alonso released back to his loved ones. The aftermath of his arrest and detention has left him permanently scarred. Now as an active member of Make the Road NY, he speaks publicly about his experiences in detention and the terrible conditions in Orange County Jail, and hopes his story serves as a reminder of why detention is futile and inhumane.

Another client, John, was arrested on an early morning this winter during a home raid. Just like Alonso, John did not fall under any of ICE's own enforcement priorities. John has longstanding ties to the U.S. and is a primary caregiver to his wife and young daughter. John has many chronic health conditions, including heart disease, a history of heart attack, and diabetes. Two days after he was arrested and detained, John suffered another heart attack that required emergency hospitalization and surgery. Despite his fragile health, ICE returned him to Orange County Jail and placed him in 24-hour solitary confinement, per the facility's quarantine policy. In the week following his discharge from the hospital, jail staff twice failed to provide John timely access to his medications, which are critical to his survival. We are deeply concerned that if he remains detained, he will suffer yet another heart attack. John also struggles to control his blood

sugar levels, as the food provided by the jail is completely unsuited to his diabetic needs. It goes without saying that these chronic conditions, as well as his advanced age, also put John at high risk for serious illness, intensive care, and death from COVID-19. ICE has represented to us that they will be releasing John from detention today, after weeks of unnecessary damage to his body and trauma to him and his loved ones. We stress that John should never have been arrested in the first place, and the pointless suffering that ICE inflicted on John and his family cannot be undone.

Not only are the conditions at Orange County Jail atrocious, but we also have difficulty communicating with individuals who are detained there. The clients we work with have final orders of deportation, which means they can be removed from the country within days or weeks after their arrest by ICE. Therefore, our work requires urgent action and immediate contact with clients. But throughout the pandemic, it has been incredibly challenging to access confidential lines to conduct intakes, interviews, and prepare our clients for the next steps of their case. Although we do our best to secure appointments in advance, our video calls are often canceled, are ineffective because of audio issues, or are held in common spaces where clients are expected to disclose confidential information in front of others. There are also few video call stations and the demand is high, which often leaves legal representatives with limited time slots late at night or on weekends. In addition, whenever a client is removed from the facility and returned, they must stay in quarantine which means that any video calls we have scheduled are automatically canceled, without an alternative means of communication arranged, which further delays access to counsel.

With all this in mind, we have three clear demands that we ask this committee to advocate and support.

First, New York State must end its relationship with ICE and its complicity in separating New York families. This includes any existing contracts or plans for future contracts.

Second, NYS and NYC should continue to fund and expand access to counsel for immigrants in removal proceedings and in detention. We have long advocated that communities thrive when resources are funneled back into them, in forms of social services and legal counsel. The Rapid Response Legal Collaborative has demonstrated that free legal services are transformative and vastly change the outcomes for immigrants who are unjustly detained by ICE. There is an overwhelming demand for assistance and expanded funding for legal services will help meet this need.

Third, We urge this council to pass a resolution to reinforce the need and importance of the Dignity Not Detention Act. New York has the opportunity to be a leader for the immigrant community by ending detention contracts, liberating those already detained at Orange County, and passing this legislation. The stories we uplifted today are testament that no one should be detained by ICE, especially high risk individuals. The city and state should stand with advocates calling to release them all, most urgently those who are medically vulnerable.

I thank this committee for its time.



## Testimony of Anna Meixler, NYU Law Immigrant Rights Clinic

Good morning. I'm Anna Meixler, speaking on behalf of the New York University School of Law Immigrant Rights Clinic. On February 17, six organizations—Envision Freedom Fund, Catholic Charities Community Services, For the Many, Freedom for Immigrants, New York Lawyers for the Public Interest, and the Clinic—filed a complaint with the Department of Homeland Security Office for Civil Rights and Civil Liberties based on the firsthand accounts of ten detained people at Orange County Correctional Facility, hereafter “OCCF.”<sup>1</sup> Today, we present a summary of the findings presented in the complaint.

The complaint highlights longstanding issues at OCCF that have profoundly worsened during the COVID-19 pandemic, as it has grown even more challenging for detained people to access resources on the outside, including legal counsel, their families, and critical health services.<sup>2</sup> The complaint seeks not only to expose deplorable conditions inside OCCF, but also to elevate the demands of people detained at the facility, particularly the call to release all detained people at OCCF back to their communities and to remove officers identified as violating detained people's civil rights and liberties.<sup>3</sup>

The complaint evidences how ICE and OCCF have repeatedly violated the rights of detained people. These latest examples are part of a longer trend: in the last few years, OCCF's appalling conditions have been the subject of multiple complaints, lawsuits, and media, notably following the 2016 death of an individual in ICE custody at the facility.<sup>4</sup> Yet people detained at OCCF report that jail officials individually and collectively engage in a culture of racist and retaliatory abuse, violence, and medical neglect—and these conditions have devolved during the pandemic.<sup>5</sup>

COVID-19 continues to spread at OCCF, as the jail and ICE violate basic safety protocols.<sup>6</sup> Appalling conditions and lack of face masks, sanitation, and cleaning supplies—worsened by expired food, malnutrition and insufficient clothing and bedding—have exacerbated the spread of the virus.<sup>7</sup> Detained people reported being harassed by guards for wearing masks, being forced to comeingle with individuals who had COVID-19 due to inadequate quarantine protocols, and experiencing even more significant lapses in medical care than prior to the pandemic.<sup>8</sup> Detained people also report that OCCF has no testing system for COVID-19, nearly two years into the pandemic.<sup>9</sup> Without any testing protocol, detained people describe being arbitrarily placed in medical isolation—a form of solitary confinement and source of psychological distress—simply for being sick.<sup>10</sup>

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<sup>1</sup> See Ex. A, Multi-Organizational CRCL Complaint, hereinafter CRCL Compl.

<sup>2</sup> *Id.* at 9-14, 16.

<sup>3</sup> *Id.* at 2-3, 17.

<sup>4</sup> *Id.* at 2.

<sup>5</sup> *Id.* 3-7, 9-14.

<sup>6</sup> *Id.* at 12-15.

<sup>7</sup> *Id.* at 12-17.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 13.

<sup>10</sup> *Id.*

In general, access to medical care is a longstanding issue at OCCF, and detained people described being treated by medical staff like “animals.”<sup>11</sup> The complaint details several instances of grievous and dehumanizing medical negligence, with regular lapses in prescriptions, ignored requests for medical attention, and inadequate screening and care for urgent issues and chronic conditions.<sup>12</sup> Independent medical providers also allege that OCCF fails to provide consistent access to outpatient care.<sup>13</sup> People in detention further allege that medical treatment is withheld as a form of retaliatory abuse, and multiple detained people suffering psychological distress have been placed in squalid medical isolation (or, solitary confinement) cells.<sup>14</sup> Despite ICE’s and OCCF’s constitutional obligation to provide adequate medical care, firsthand accounts indicate that OCCF treats the lives of detained people—who are disproportionately Black and Latinx—as disposable.<sup>15</sup>

Immigrants at OCCF described an endemic culture of racism.<sup>16</sup> People reported officers using anti-Black, racist, xenophobic, and anti-immigrant slurs, including the n-word.<sup>17</sup> They described being told to “go back to your fucking country.”<sup>18</sup> One officer said that, were he at the border, he “would kill all the immigrants.”<sup>19</sup> Such vitriol was described as widespread, spanning the chain of command—belying any suggestion that racist abuse at OCCF is isolated to a particular officer or unit.<sup>20</sup> People also described religious discrimination and harassment, particularly against Muslim immigrants, including denial of prayer space, and spoiled Kosher and halal meals.<sup>21</sup> And although OCCF claims to screen hires for online extremism, officers named in the complaint have made overtly racist and anti-immigrant posts on public social media.<sup>22</sup> One officer even appears to be affiliated with multiple “nazikommando” email addresses.<sup>23</sup> In fact, the Orange County Sheriff’s Office, which operates OCCF, has publicly acknowledged former ties to the Oath Keepers, an extremist organization espousing anti-immigrant views.<sup>24</sup>

At least twice in just the past few months, large groups of OCCF officers have reportedly pepper sprayed, kicked, punched, dragged, and/or handcuffed people, often for exercising their First Amendment right to speak out against the jail’s conditions.<sup>25</sup> On January 1, when several immigrants requested to speak to a sergeant about a racist officer, as many as twenty officers yelled at and shoved the men before at least six officers pepper sprayed and beat an unresisting man while he cried for help.<sup>26</sup> On February 5, a mentally and cognitively disabled man who suffers chronic

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<sup>11</sup> *Id.* at 12.

<sup>12</sup> *Id.* at 9-12.

<sup>13</sup> *Id.* at 11.

<sup>14</sup> *Id.* at 11-12.

<sup>15</sup> *Id.* at 9.

<sup>16</sup> *Id.* at 3.

<sup>17</sup> *Id.* at 4.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 4-5.

<sup>21</sup> *Id.* at 5.

<sup>22</sup> *Id.* at 4.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 3.

<sup>25</sup> *Id.* at 6.

<sup>26</sup> *Id.*

suicidality was kicked, beaten and handcuffed by at least seven officers and then punished with weeks of solitary confinement.<sup>27</sup> Multiple officers were involved in each of these ugly attacks, emblematic of a culture of violence at OCCF.<sup>28</sup>

People at OCCF report spending most of their waking hours in isolation, locked in their cells.<sup>29</sup> They described being locked in for additional hours, days, and weeks for arbitrary, retaliatory reasons.<sup>30</sup> Detained people reported that officers routinely wielded solitary—and its threat—to silence those attempting to exercise their First Amendment rights.<sup>31</sup> People also reported that OCCF officers abuse lock-ins as cruel retaliation for personal and unknown reasons, with numerous people describing lock-ins “for any little thing.”<sup>32</sup>

Officers seemingly do not face consequences for their abuses of power, creating a culture of impunity at OCCF.<sup>33</sup> People reported that guards withhold grievance slips and some officers obscure their names and badge numbers to further frustrate reporting.<sup>34</sup> Following the January 1 assault, OCCF officials advised one of the witnesses “not to tell anyone about what happened, not even [his] lawyer.”<sup>35</sup> Those who do speak out are reportedly subjected to retaliation: people described how one man who has made several complaints against the jail has been targeted, harassed, and violently assaulted by the guards.<sup>36</sup>

Lastly, the complaint describes OCCF’s unsanitary and degrading conditions.<sup>37</sup> Nearly a dozen testimonials spoke of inedible food, freezing temperatures, scarce toiletries and cleaning supplies, dirty laundry and insufficient clothing, extreme mail delays, inconsistent phone access, and surveilled, prohibitively expensive communications.<sup>38</sup> This environment prompted detained people to conclude that, “I have been treated like a dog here[;] [t]he life here is not a life for a human being,” and that “[t]he people who run this jail have dark hearts.”<sup>39</sup>

These brazen violations of detained people’s rights and dignity—which are emblematic of the abuses and neglect endemic to the immigration detention system—demand swift action. In the week since the complaint was filed, two officers have been transferred out of the ICE unit at OCCF<sup>40</sup> and over fifty detained immigrants went on hunger strike to emphasize their demands.<sup>41</sup> But hunger strikers are being punished with disciplinary solitary confinement, conditions continue to deteriorate at the jail, and detained people remain vulnerable to COVID-19, medical neglect,

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<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 7-8.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 7.

<sup>32</sup> *Id.* at 8.

<sup>33</sup> *Id.* at 14-15.

<sup>34</sup> *Id.* at 15.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 15-17.

<sup>38</sup> *Id.* at 15-16.

<sup>39</sup> *Id.* at 17.

<sup>40</sup> Arun Venugopal, *Officers Moved Amid Abuse Claims at Orange County ICY Facility*, GOTHAMIST (Feb. 24, 2022), <https://gothamist.com/news/officers-moved-amid-abuse-claims-orange-county-ice-facility>.

<sup>41</sup> Graham Rayman, *Hunger Strike Among ICE Detainees in Upstate Jail Over Conditions; Jail Officials Dispute Allegations*, NEW YORK DAILY NEWS (Feb. 17, 2022), <https://www.nydailynews.com/new-york/nyc-crime/ny-hunger-strike-immigration-detainees-orange-county-20220217-whmeeubocfanzhatnjh5e7ubci-story.html>.

and violent, and racist abuse. The demands elevated in the complaint remain: immediate release of all detained immigrants at OCCF to their communities, termination of ICE's contract with OCCF, and, pending release and termination, investigation of OCCF's conditions and removal of officers who have violated detained peoples' rights.<sup>42</sup>

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<sup>42</sup> Ex. A, CRCL Compl. at 17.

# **Exhibit A**



PROVIDING  
HELP  
CREATING  
HOPE

100+  
YEARS



ENVISION  
FREEDOM  
FUND



FREEDOM  
FOR IMMIGRANTS



February 17, 2022

**VIA ELECTRONIC AND PRIORITY MAIL**

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**RE: Racist and Retaliatory Abuse, Violence, and Medical Neglect  
Endured by Individuals Detained at Orange County Correctional Facility**

Officer for Civil Rights and Civil Liberties Culliton-González, Inspector General Cuffari, and Ombudsman Gersten:

Catholic Charities Community Services – Archdiocese of New York, Envision Freedom Fund, For the Many, Freedom for Immigrants, New York Lawyers for the Public Interest (“NYLPI”), and NYU Law Immigrant Rights Clinic submit this complaint seeking redress for the racist and retaliatory abuse, violence, and medical neglect of individuals detained at Orange County Correctional Facility (“OCCF”). This complaint is supported by the statements of ten individuals detained at OCCF who wish to remain anonymous due to fear of retaliation.<sup>1</sup> **We request a response in writing within one week** detailing the plan of action to remedy the conditions described herein.

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<sup>1</sup> The real names and any identifying information of detained people have been anonymized to protect them from potential retaliation.

People in immigration detention have the right to freedom from racial and religious discrimination, freedom from First Amendment retaliation, adequate medical care, and nonpunitive and safe conditions.<sup>2</sup> Additionally, OCCF is subject to ICE’s National Detention Standards (“NDS”), which prohibit discrimination, excessive use of force, improper use of solitary confinement, and medical neglect, and also mandate sanitary and safe conditions.<sup>3</sup>

As outlined below and in the attached declarations, ICE and OCCF have repeatedly violated the rights of detained people. These latest examples appear to be part of a longer trend. Over the last several years, OCCF’s appalling conditions have been the subject of multiple complaints, lawsuits, and media reports.<sup>4</sup> Indeed, the Office for Civil Rights and Civil Liberties (“CRCL”) itself has previously investigated the facility in response to “numerous allegations of civil rights and civil liberties violations” and, most disturbingly, the 2016 death of an individual in ICE custody at OCCF.<sup>5</sup> Yet people detained at OCCF continue to report that jail officials individually and collectively engage in a culture of racist and retaliatory abuse, violence, and medical neglect.

These brazen violations of detained individuals’ rights and dignity—which are emblematic of the abuses and neglect endemic to the immigration detention system—demand swift action. We urge CRCL, pursuant to its authority under 6 U.S.C. § 345, to immediately recommend:

1. Release of all individuals detained at OCCF to their communities;
2. Termination of ICE’s Intergovernmental Services Agreement (“IGSA”) with OCCF;
3. Pending release and termination of the IGSA:
  - a. Investigation of the conditions detailed herein, including racist and retaliatory physical violence, use of solitary confinement, abuse of power, and medical neglect; and
  - b. Removal of the following officers from any position where they exercise power over and interact with detained people: Officer Richard A. Bloise (Badge No. 366); Officer Ricardo

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<sup>2</sup> See *Zadvydas v. Davis*, 533 U.S. 678, 694 (2001) (asserting that “punitive measures could not be imposed upon [noncitizens] ordered removed because ‘all persons within the territory of the United States are entitled to the protection’ of the Constitution” (quoting *Wong Wing v. United States*, 163 U.S. 228, 238 (1896)); *Charles v. Orange Cty.*, 925 F.3d 73, 85 (2d Cir. 2019) (holding that plaintiffs plausibly alleged that mental health discharge planning was part of constitutionally-required in-custody medical care); see also *Cruz v. Beto*, 405 U.S. 319, 321 (1972) (establishing that people in prison, “like other individuals, have the right to petition the Government for redress of grievances”); *City of Revere v. Massachusetts Gen. Hosp.*, 463 U.S. 239, 244 (1983) (extending constitutional protections available to imprisoned people to civilly-detained people).

<sup>3</sup> See U.S. Immigration and Customs Enforcement, 2019 National Detention Standards for Non-Dedicated Facilities §§ 1.1, 2.8, 2.9, 3.1, 4.3 (2019), <https://www.ice.gov/detain/detention-oversight/2019> [hereinafter NDS 2019] (setting forth standards for environmental health and safety, use of force and restraints, special management units, disciplinary system, medical care, and religious practice).

<sup>4</sup> See, e.g., Ex. P (CRCL complaint filed by L.G.C., an individual who has been subjected to retaliation, abuse, and violations of his substantive due process rights at OCCF) [hereinafter L.G.C. Compl.]; see also CRCL complaint filed in relation to assault of detained individual on January 1, 2022, at OCCF [hereinafter 1/1/2022 Assault Compl.] (on file with complainant); *Charles*, 925 F.3d at 73 (litigation related to mental health discharge planning at OCCF); Matthew Nanci, *Protest Denounces Orange County Jail Agreement with ICE*, REC. ONLINE (July 8, 2019, 10:50 P.M.), <https://www.recordonline.com/story/news/crime/2019/07/09/protest-denounces-orange-county-jail/4735489007/> (describing reports from community members that individuals detained at OCCF were told, “Go back to your country, you aren’t worth anything”); Annamarya Scaccia, *When Suicide Happens at Immigration Detention Centers, Who Is to Blame?*, VICE (May 26, 2017, 10:58 A.M.), <https://www.vice.com/en/article/nejxwk/when-suicide-happens-at-immigration-detention-centers-who-is-to-blame> (reporting on mismanagement of an individual’s diagnosed mental illness at OCCF); Mazin Sidahmed, *Assembly Members Slam Orange County Jail Over Immigrant Detention Conditions*, DOCUMENTED (Nov. 29, 2018), <https://documentedny.com/2018/11/29/assembly-members-slam-orange-county-jail-over-immigrant-detention-conditions/>.

<sup>5</sup> Memorandum from Office for Civil Rights and Civil Liberties to Matthew Albence, Exec. Assoc. Dir., Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement 1 (Apr. 27, 2018), <https://www.dhs.gov/sites/default/files/publications/orange-county-expert-memo-04-27-18.pdf>.

Carde (Badge No. 523); Sergeant Daniel Figueroa; Sergeant Keith Conroy (Badge No. 117); Officer Michael P. Lattimer; Officer R. Laudato (Badge No. 551), and Sergeant Murphy.<sup>6</sup>

## I. Racism and Religious Discrimination

*“I feel like Officer Carde harasses me because I am [REDACTED]. He picks on others who are also [REDACTED] and orders us back in our cells.”*  
–“Andres”<sup>7</sup>

Based on the reports of detained people, racism and religious discrimination are entrenched in the culture of OCCF—a facility where the surrounding town is 81% white<sup>8</sup> and the corrections officers are “mostly white . . . .”<sup>9</sup> The Sheriff’s Office, which operates the facility, has publicly acknowledged former ties to the Oath Keepers, a group “known to be violent in carrying out extremist beliefs . . . .”<sup>10</sup> Undersheriff Kenneth Jones, for example, has reportedly recognized that he was a member of the Oath Keepers in 2013 and 2014, but claims that he cut ties with the organization several years ago because it became extremist.<sup>11</sup> However, when Undersheriff Jones joined the Oath Keepers, it expressly espoused anti-immigrant views—describing immigrants as “[f]oreign invaders” and “illegal[s]” and calling for the impeachment of then-President Barack Obama for his support of immigrant rights.<sup>12</sup>

People detained at OCCF, who are disproportionately people of color,<sup>13</sup> report pervasive racist abuse, as well as anti-Muslim discrimination. Although detained people have organized to challenge this abuse, they report that it continues unabated.<sup>14</sup> Indeed, detained individuals’ accounts make clear that not only have particular officials engaged in egregious racist acts, but also that they have been backed by the

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<sup>6</sup> As established by the exhibits herein, these officers have been identified as violating detained individuals’ civil rights and liberties. See Ex. E, “Agustin” Decl. ¶ 3 (Officer Bloise); Ex. F, “Andres” Decl. ¶¶ 6, 8 (Officer Carde, Officer Bloise); Ex. H, “Cristian” Decl. ¶¶ 4–5 (Officer Bloise, Officer Carde, Officer Laudato, Sergeant Figueroa); Ex. I, “Dario” Decl. ¶¶ 5, 12 (Sergeant Murphy, Officer Bloise, Officer Lattimer); Ex. J, “Ernesto” Decl. ¶ 4 (Sergeant Figueroa, Officer Carde); Ex. M, “Heriberto” Decl. ¶¶ 4, 12 (Officer Carde, Officer Bloise); Ex. B, Complaint of L.G.C. to Orange County Sheriff’s Office 2 (Sergeant Conroy). In addition to these officials, detained people have identified other officials whose names and/or badge numbers they do not know, further necessitating a broader investigation.

<sup>7</sup> Ex. F, “Andres” Decl. ¶ 6.

<sup>8</sup> *QuickFacts: Goshen Town, Orange County, New York*, U.S. CENSUS BUREAU (July 1, 2021), <https://www.census.gov/quickfacts/goshentownorangecountynyork>.

<sup>9</sup> Ex. I, “Dario” Decl. ¶ 3.

<sup>10</sup> Becca Tucker, *Orange County Oath Keepers Had Roots in Sheriff’s Office*, W. MILFORD MESSENGER (Feb. 15, 2021), <http://www.westmildordmessenger.com/news/local-news/orange-county-oath-keepers-had-roots-in-sheriff-s-office-FK1518654> (reporting that the undersheriff of Orange County, New York, was a member of the Oath Keepers in 2013 and 2014); see also Heather Yakin & Chris McKenna, *Oath Keepers Militia Group at Center of Capitol Riot Cases Had Big NY Following Until Rift Emerged*, REC. ONLINE (Apr. 18, 2021, 11:44 P.M.), <https://www.recordonline.com/in-depth/news/2021/04/18/militia-oath-keepers-capitol-riot-cases-large-ny-presence/7187192002/>.

<sup>11</sup> Tucker, *supra* note 10.

<sup>12</sup> *Barack Obama Must Be Impeached and Removed from Office to Stop His ‘Amnesty’ of Illegal Aliens*, OATH KEEPERS (Feb. 13, 2014), <https://oathkeepersny.wordpress.com/2014/11/21/barack-obama-must-be-impeached-and-removed-from-office-to-stop-his-amnesty-of-illegal-aliens/>; *Oath Keepers Are Ready to Stand with You to Defend Your Constitutional Rights – Will You Stand with Us?*, OATH KEEPERS (Feb. 13, 2014), <https://oathkeepersny.wordpress.com/2014/02/13/the-oathkeepers-are-ready-to-stand-with-you-to-defend-your-constitutional-rights-will-you-stand-with-us/>.

<sup>13</sup> In July 2019, 94% of people detained at OCCF were Black or Latinx. See *Immigration and Customs Enforcement Detention*, TRACIMMIGRATION (July 2019), <https://trac.syr.edu/phptools/immigration/detention/>. This figure indicates extreme overrepresentation of Black and Latinx people at OCCF: 44% of immigrants in the United States are Latinx, and 10% are Black. See Jeanne Batalova, Mary Hanna, & Christopher Levesque, *Frequently Requested Statistics on Immigrants and Immigration in the United States*, MIGRATION POL’Y INST. (Feb. 11, 2021), <https://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states-2020>.

<sup>14</sup> See, e.g., Ex. O, Letter from detained individuals to OCCF (Feb. 8, 2022) (in letter signed by dozens of detained people, identifying concern “that this facility and the ICE department allows racist correctional officers to work” at the jail).



chain of command.<sup>15</sup> Additionally, and disturbingly, although the Orange County Sheriff’s Office claims that it screens its employees for extremist views,<sup>16</sup> public databases appear to connect Officer Bloise—a named defendant in an action filed pursuant to 42 U.S.C. § 1983<sup>17</sup>—to email accounts with the handle “nazikommando.”<sup>18</sup> Publicly available records also tie Sergeant Figueroa to racist, anti-immigrant, and otherwise disturbing social media content.<sup>19</sup>

**Racism.** The NDS provide that detained people are entitled to “the right to protection from personal abuse . . . and harassment.”<sup>20</sup> Additionally, detained people have “the right to freedom from discrimination based on race.”<sup>21</sup> OCCF officials’ comments and actions constitute racist harassment in clear violation of ICE’s own standards. Reports from people detained at OCCF indicate a pattern of abuse and harassment intended to cause distress by referencing race, national origin, and the possibility of violence.

Anti-Black racist hostilities are reportedly common at OCCF, with Black immigrants described as being especially targeted by guards. Officers reportedly call some detained people the N-word.<sup>22</sup> An officer “talks about how dark people’s skin is and whether that means they’re African or not,” and “says that Africans have a certain kind of smell.”<sup>23</sup>

Spanish-speaking immigrants at OCCF report insults and harassment simply for speaking in Spanish.<sup>24</sup> “Felix” described being reprimanded by a guard for speaking in Spanish to a Spanish-speaking nurse.<sup>25</sup> “Agustin” recounted how a guard told a group of men speaking in Spanish that “he didn’t want to hear [them],” and then proceeded to turn the television—playing an English-language program—up to full volume.<sup>26</sup>

The mere fact of being an immigrant is reported to be a source of racist, cruel harassment from OCCF staff. Multiple individuals described instances in which they were told to “go back to your fucking country”; that if an officer were at the border, he “would kill all the immigrants”; that officers were “tired of all you immigrants”; and other xenophobic remarks.<sup>27</sup> Such incidents were described as widespread,

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<sup>15</sup> See, e.g., note 27, *infra* (describing officials at multiple levels of seniority engaging in racist abuse); see also Section VI, *infra* (describing the culture of impunity at OCCF).

<sup>16</sup> See Yakin & McKenna, *supra* note 10 (reporting that “[t]he Orange County Sheriff’s Office performs thorough background checks on job applicants . . . including examining social media accounts and body tattoos ‘to make sure they’re not affiliated with groups that express hatred’”).

<sup>17</sup> See *Kenlock v. Orange Cty.*, No. 20-CV-3693 (NSR), 2021 WL 4267309 (S.D.N.Y. Sept. 20, 2021).

<sup>18</sup> See Ex. A, Index and Public Records Related to Orange County Sheriff’s Office Correctional Officers.

<sup>19</sup> *Id.* (including multiple posts that suggest immigrants carry disease, a depiction of the Statue of Liberty with overlaid text that reads, ‘Where does it say bring me hostile, free loading assholes, waving their own flags?’, and xenophobic allegations about the Somali American community, among many other posts).

<sup>20</sup> NDS 2019, *supra* note 3, at 95 (Standard 3.1, Disciplinary System; II. Standards and Procedures; M. Notice to Detainees).

<sup>21</sup> *Id.*

<sup>22</sup> See Ex. M, “Heriberto” Decl. ¶ 3.

<sup>23</sup> Ex. H, “Cristian” Decl. ¶ 4.

<sup>24</sup> Ex. G, “Benjamin” Decl. ¶ 3 (“[The guards] don’t like when we speak in Spanish.”); see also Ex. I, “Dario” Decl. ¶ 4 (“The officers are very racist with the people who speak only Spanish.”).

<sup>25</sup> Ex. K, “Felix” Decl. ¶ 4.

<sup>26</sup> Ex. E, “Agustin” Decl. ¶ 5; see also Ex. N, “Moises” Decl. ¶ 7.

<sup>27</sup> Ex. I, “Dario” Decl. ¶ 5 (reporting Sergeant Murphy pointed a finger and yelled, “Why don’t you go back to your fucking country?”); Ex. J, “Ernesto” Decl. ¶ 8 (describing hearing a captain say, “This is my damn jail, and if you don’t like my rules, go back to your countries,” and having heard a sergeant express similar sentiments); Ex. K, “Felix” Decl. ¶ 5 (reporting hearing a sergeant say, “Why don’t you all go back to your country?”); Ex. N, “Moises” Decl. ¶ 5 (reporting that “[officers] say that we are immigrants, that we don’t deserve respect”); Ex. P, L.G.C. Compl. at 2 (describing how an officer told L.G.C. he was “tired of all you immigrants,” that “immigrants cause so many problems,” and “if [he] were at the border, [he] would kill all of the immigrants”).

spanning multiple officials, levels of the chain of command, and contexts—belying any suggestion that racist abuse at OCCF is isolated to a particular officer or unit.<sup>28</sup>

Reports of anti-Black racist harassment at OCCF are consistent with a pattern and practice of documented anti-Black racism in ICE detention facilities. There have been multiple civil rights complaints calling for investigation of ICE officers’ and private prison guards’ illegal use of threats, verbal harassment, coercion, and direct force against Black immigrants in detention centers.<sup>29</sup> Moreover, in *Persecuted in U.S. Immigration Detention: A National Report on Abuse Motivated by Hate*, Freedom for Immigrants found that hateful and racist language is accompanied by physical abuse, sexual harassment, or denial of access to resources.<sup>30</sup> We are gravely concerned for the safety and wellbeing of people detained at OCCF given that, historically, discriminatory comments have resulted in abuse and denial of care.<sup>31</sup>

**Religious Discrimination.** The NDS state that detained people are entitled to the “right of freedom from discrimination based on race, religion, national origin, gender, sexual orientation, physical or mental ability, or political beliefs.”<sup>32</sup> Further, the standards specify that “ICE/ERO requires all facilities to provide detainees requesting a religious diet reasonable and equitable opportunity to observe their religious dietary practice within the constraints of the secure and orderly running of the facility.”<sup>33</sup>

Detained peoples’ experiences of religious discrimination clearly violate ICE’s standards. Muslim immigrants at OCCF have reportedly been denied appropriate meals and prayer space. People who are supposed to receive Kosher or halal meals “get spoiled, stinking food constantly.”<sup>34</sup> The officers also “make it hard to pray”: if the legal call room is unavailable for prayer, “[s]ome officers don’t let Muslim immigrants pray” in the common area, “even though there is space.”<sup>35</sup> Immigrants also reported being denied access to private space for religious services and harassment for adhering to their religious practices.<sup>36</sup>

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<sup>28</sup> See note 27, *supra*.

<sup>29</sup> See, e.g., ‘Takes the human out of a person’: Black Immigrants in Detention Describe Anti-Blackness, Egregious Abuses in New Civil Rights Complaint, FREEDOM FOR IMMIGRANTS (Oct. 6, 2021), <https://www.freedomforimmigrants.org/news/2021/10/6/takes-the-human-out-of-a-person-black-immigrants-in-detention-describe-anti-blackness-egregious-abuses-in-new-civil-rights-complaint>; see also ‘Unchecked Culture of Abuse’: Groups Demand Federal Intervention amid Anti-Black and Life-Endangering Harms Under ICE Field ICE Office, S. POVERTY L. CENTER (Dec. 17, 2021), <https://www.splcenter.org/presscenter/unchecked-culture-abuse-groups-demand-federal-intervention-amid-anti-black-and-life>.

<sup>30</sup> See Freedom for Immigrants, *Persecuted in U.S. Immigration Detention: A National Report on Abuse Motivated by Hate*, [https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5b3174e46d2a73f2d1f56aab/1529967847644/FFI\\_NatReportAbuse\\_062518.pdf](https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5b3174e46d2a73f2d1f56aab/1529967847644/FFI_NatReportAbuse_062518.pdf).

<sup>31</sup> See Section IV, *infra*.

<sup>32</sup> NDS 2019, *supra* note 3, at 95 (Standard 3.1, Disciplinary System; II. Standards and Procedures; M. Notice to Detainees).

<sup>33</sup> *Id.* at 155 (Standard 5.3, Religious Practices); see also *id.* at 100–01 (Standard 4.1, Food Service).

<sup>34</sup> Ex. I, “Dario” Decl. ¶ 24.

<sup>35</sup> *Id.* ¶ 25.

<sup>36</sup> Ex. N, “Moises” Decl. ¶ 11; Ex. F, “Andres” Decl. ¶ 11.

## II. Retaliatory Physical Violence and Use of Force

*“It was six officers against one unarmed man. The officers jumped on him, hitting him. One of them was holding him down and another had his knee on the man’s neck. They pepper sprayed him and wouldn’t let him move. He was yelling for help. But we couldn’t do anything. We thought that if we said anything more, they would torture us as well. . . We didn’t feel safe before, but we knew we weren’t safe after that. The officers have so much control over us. I am fearful of my life.”*  
–“Andres,” describing the January 1, 2022, attack of a detained person<sup>37</sup>

At least twice in just the past few months, large groups of OCCF officers and sergeants have reportedly used excessive force:<sup>38</sup> pepper spraying, kicking, punching, dragging, and/or handcuffing non-resistant people for non-violent acts and for exercising their First Amendment rights.<sup>39</sup> Witnesses recounted how on February 5, 2022, L.G.C., who has mental and cognitive disabilities and suffers chronic suicidality, was thrown to the ground, kicked, beaten, and handcuffed by at least seven officers after an interaction with Officer Bloise.<sup>40</sup> This violent attack marked what people in detention described as the culmination of months of targeted harassment by the guards, seemingly in response to L.G.C.’s filing of grievances and other litigation against the jail.<sup>41</sup>

On January 1, 2022, when a group attempted to exercise their First Amendment rights by speaking to a sergeant about Officer Bloise’s racist abuse, individuals described how as many as twenty officers responded with violence.<sup>42</sup> The officers yelled insults at the men, shoving them towards their cells.<sup>43</sup> Several officers then attacked one of the men even though he was not resisting.<sup>44</sup> They tackled him to the ground, pepper spraying, kicking, punching, handcuffing, and dragging him away while he cried for help.<sup>45</sup> Multiple people described the man’s red, swollen, and injured face after this beating.<sup>46</sup> In another unit that same day, officers reportedly grew violent when an officer miscounted the tablets he had collected from the people in the unit.<sup>47</sup> He amassed around thirty officers, who aggressively pushed people into their cells, locking them in early as retaliation for one of their own mistakes while yelling xenophobic vitriol like, “if [you] don’t like being treated this way, [you] should go back to [your] countries.”<sup>48</sup>

Accounts indicate that multiple guards were involved in each of these ugly attacks, emblematic of a culture of violence at OCCF.<sup>49</sup> Excessive force and the threat of violence pervade detained people’s daily

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<sup>37</sup> Ex. F, “Andres” Decl. ¶¶ 9–10.

<sup>38</sup> Per the NDS 2019, “using force against a detainee offering no resistance” is “prohibited.” The use of force may only involve “to gain control of an apparently dangerous detainee only under specified conditions.” NDS 2019, *supra* note 3, at 44, 46 (addressing use of force, restraints, and prohibited use of force acts and techniques).

<sup>39</sup> 1/1/2022 Assault Compl. at 2; Ex. G, “Benjamin” Decl. ¶¶ 4–7; Ex. J, “Ernesto” Decl. ¶¶ 9–11; Ex. F, “Andres” Decl. ¶¶ 6–10; Ex. K, “Felix” Decl. ¶¶ 6–9; Ex. I, “Dario” Decl. ¶¶ 15–17.

<sup>40</sup> Ex. K, “Felix” Decl. ¶¶ 6–8; Ex. I, “Dario” Decl. ¶¶ 13–19. “Dario” describes how, despite L.G.C.’s lack of resistance, the sergeant beating L.G.C. drew his pepper spray but did not use it since the other officers beating L.G.C. were too close by and would be affected by the spray as well.

<sup>41</sup> Ex. I, “Dario” Decl. ¶ 12; Ex. J, “Ernesto” Decl. ¶ 13.

<sup>42</sup> 1/1/2022 Assault Compl. at 2; Ex. G, “Benjamin” Decl. ¶¶ 4–7.

<sup>43</sup> Ex. G, “Benjamin” Decl. ¶ 6.

<sup>44</sup> 1/1/2022 Assault Compl. at 4–5; *see also* Ex. E, “Agustin” Decl. ¶¶ 13, 15.

<sup>45</sup> Ex. F, “Andres” Decl. ¶ 9; 1/1/2022 Assault Compl. at 2–8.

<sup>46</sup> Ex. H, “Cristian” Decl. ¶ 8; Ex. K, “Felix” Decl. ¶ 9.

<sup>47</sup> Ex. J, “Ernesto” Decl. ¶¶ 9–11.

<sup>48</sup> *Id.* ¶ 10.

<sup>49</sup> “Dario” describes how the officers “all watch each other’s back,” even telling detained people that the officers “won’t go anywhere,” that no matter what they do, “they won’t ever get in trouble for their actions.” Ex. I, “Dario” Decl. ¶ 11.

lives and deeply impact their psyches.<sup>50</sup> “Agustin,” who “suffered in [his] childhood; [he] saw people lose their lives,” described how the January 1<sup>st</sup> attack triggered him: “I started having nightmares after what happened that day, when I saw how the officers behaved. I didn’t feel safe in this place.”<sup>51</sup>

Anyone detained or imprisoned by the government is guaranteed certain liberty interests such as reasonably safe conditions of confinement, freedom from unreasonable bodily restraint, and the right to food, clothing, medical care, and shelter.<sup>52</sup> The Due Process Clause of the Fifth Amendment guarantees that anyone detained by the government be free of gross physical abuse.<sup>53</sup> According to the NDS, “using force against a detainee offering no resistance” is “prohibited.”<sup>54</sup> The use of force may only be deployed “to gain control of an apparently dangerous detainee only under specified conditions.”<sup>55</sup> The uses of force described in this section by officials at OCCF clearly demonstrate repeated protocol violations. OCCF officers beat, dragged, pepper sprayed, and handcuffed people simply for pointing at the patterns of abuse at the facility or for merely being present on the scene.

### **III. Solitary Confinement, Particularly for Punitive Purposes and/or as A Form of First Amendment Retaliation**

***“After the [January 1<sup>st</sup>] incident, I was locked-in for five days as a punishment, just because they didn’t want to pay attention to our grievances. . . . On the fourth day of my punishment, they took me to something like a court in the jail, where they read charges against me. . . . I said I was not guilty, but the jail found me guilty anyway. They told me not to tell anyone about what happened, not even my lawyer. I don’t know why they told me that. Maybe because they already have a lot of complaints against the jail.”***  
–“Benjamin”<sup>56</sup>

It is well established that solitary confinement is torture.<sup>57</sup> At OCCF, detained people have reported that officers have repeatedly wielded solitary confinement—and its threat—to silence those attempting to exercise their First Amendment rights by collectively expressing their grievances.<sup>58</sup> In response to the January 1, 2022 events described in section II, *supra*, when people simply requested to speak to the sergeant, the group—including its most brutalized member<sup>59</sup>—was punished with solitary.<sup>60</sup> The group was subjected to a five-day lock-in, and everyone in the unit, regardless of their participation, was locked up for the rest of the day.<sup>61</sup> In the aftermath of the tablet incident described in section II, *supra*, after verbally and

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<sup>50</sup> Ex. I, “Dario” Decl. ¶ 20; Ex. E, “Agustin” Decl. ¶ 15.

<sup>51</sup> Ex. E, “Agustin” Decl. ¶ 15.

<sup>52</sup> See *Youngberg v. Romeo*, 457 U.S. 307, 315–16 (1982).

<sup>53</sup> See *Lynch v. Cannatella*, 810 F.2d 1363, 1374 (5th Cir. 1987).

<sup>54</sup> See NDS 2019, *supra* note 3, at 44 (Section 2.8 Use of Force and Restraints).

<sup>55</sup> *Id.*

<sup>56</sup> Ex. G, “Benjamin” Decl. ¶¶ 8–9.

<sup>57</sup> Tracy Hreski, *In the Cellars of the Hollow Men: Use of Solitary Confinement in U.S. Prisons and Its Implications Under International Laws against Torture*, 18 PACE INT. LAW REV. 1, 4–5, 8, 10, 13, 16–19, 21–24, 27 (2006) (“Solitary confinement use in the United States contravenes international law because it fulfills all four elements of torture.”); see generally Grassian, Stuart, *Psychiatric Effects of Solitary Confinement*, 22 WASH. U. J.L. & POL’Y 325 (2006); *Solitary Confinement Should Be Banned in Most Cases, UN Expert Says*, UNITED NATIONS: UN NEWS (Oct. 18, 2022) <https://news.un.org/en/story/2011/10/392012-solitary-confinement-should-be-banned-most-cases-un-expert-says>.

<sup>58</sup> Ex. G, “Benjamin” Decl. ¶¶ 4–8; Ex. F, “Andres” Decl. ¶¶ 6–7; Ex. E, “Agustin” Decl. ¶ 14; Ex. H, “Cristian” Decl. ¶¶ 7–8; Ex. N, “Moises” Decl. ¶¶ 9–10.

<sup>59</sup> 1/1/2022 Assault Compl. at 3 (describing assaulted individual being denied a medical workup “because he was ‘going to the box’—a solitary confinement cell”).

<sup>60</sup> Ex. N, “Moises” Decl. ¶¶ 8–10.

<sup>61</sup> *Id.* Even those who did not participate in the peaceful protest for fear of retaliation and abuse from the guards—including the very consequence of solitary—were confined to their cells. “Moises” said, “[t]hey asked me to participate, but I decided not to. I

physically abusing the protestors, officers locked in the entire unit early, wresting them of recreation as punishment for a guard's own mistake.<sup>62</sup> On February 5, 2022, after L.G.C. endured the beating described in section II, *supra*, officers again reportedly locked an entire unit in early.<sup>63</sup>

People in detention report that OCCF officers and sergeants abuse lock-ins as cruel and retaliatory punishment against individuals for personal and unknown reasons.<sup>64</sup> Numerous people discussed officers locking them in “for any little thing. If you have a cup of water in the common area and an officer doesn't like it, they'll make you go lock into your room.”<sup>65</sup> Detained people report being locked-in for hours just for getting water,<sup>66</sup> using the vending machines,<sup>67</sup> making complaints,<sup>68</sup> being in their cells with the door unlocked,<sup>69</sup> having objects on the tables in their cells,<sup>70</sup> requesting to charge a tablet to call one's family,<sup>71</sup> and without any explanation.<sup>72</sup> “Andres” described being assaulted before being locked in for seven days—for the offense of getting a drink of water and thus being a few moments late to return to his cell.<sup>73</sup> “Agustin” described being locked in for a full night and day for sharing food from his dinner tray as a “personal punishment, not recorded formally in a disciplinary log.”<sup>74</sup> As “Heriberto” describes, the threat of the next retaliatory lock-in riddles daily life at OCCF: “[e]veryone here is panicked; everyone here is terrified of being locked in. Nobody speaks up out of fear.”<sup>75</sup> Fear of additional time spent locked-in can be especially profound because isolation is the norm at OCCF: people detained at the facility report spending over fourteen hours locked up alone in their cells per each twenty-four-hour day.<sup>76</sup>

The NDS, with which ICE and OCCF are obligated to comply, states that “[a] detainee may be placed in disciplinary segregation only by order of the Institutional Disciplinary Panel (IDP), or its equivalent, after a hearing in which the detainee has been found to have committed a prohibited act and only when alternative dispositions would inadequately regulate the detainee's behavior.”<sup>77</sup> Based on the standards, getting water, making complaints, or using services are not prohibited acts that would merit an individual to be placed in disciplinary segregation. In further violation of the NDS, OCCF guards failed to

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was afraid. Any step out of line and there were consequences. They punish you for any disobedience . . . . It didn't matter that we weren't involved. They lock us in when they want.” *Id.* ¶¶ 9–10.

<sup>62</sup> Ex. J, “Ernesto” Decl. ¶¶ 9–11.

<sup>63</sup> Ex. I, “Dario” Decl. ¶¶ 13–19.

<sup>64</sup> “They lock us up in our cell all the time without any reason. . . . They harass us and put us in segregation.” Ex. F, “Andres” Decl. ¶ 4; *see also* Ex. I, “Dario” Decl. ¶ 12 (describing how Officer Bloise is infamously known as “always looking for an excuse to lock someone in”).

<sup>65</sup> “They are racist: they will scream at us when they tell us to lock in, calling us ‘immigrants,’ and, in some cases, the N-word.” Ex. M, “Heriberto” Decl. ¶ 3.

<sup>66</sup> Ex. J, “Ernesto” Decl. ¶ 6.

<sup>67</sup> *Id.*

<sup>68</sup> Ex. I, “Dario” Decl. ¶ 12; *see also* Ex. D, Rosa Santana Decl. ¶¶ 6–7 (“If detainees request . . . [toiletries] or complain about their lack, they are often locked in the ‘box’ for days. . . . They are being punished for everything and anything, and often their punishment is to lock them in their cells without food for the rest of the day.”).

<sup>69</sup> Ex. J, “Ernesto” Decl. ¶ 16.

<sup>70</sup> Ex. H, “Cristian” Decl. ¶ 5.

<sup>71</sup> *Id.*

<sup>72</sup> Ex. G, “Benjamin” Decl. ¶ 3 (“[The guards] will lock us into our cells without any cause”); *see also* Ex. J, “Ernesto” Decl. ¶ 13 (“There's one person in particular here—a man named ██████████ who is Mexican—who has made a lot of complaints, and the guards treat him really bad. They lock him in for nothing.”).

<sup>73</sup> Ex. F, “Andres” Decl. ¶¶ 6–7.

<sup>74</sup> Ex. E, “Agustin” Decl. ¶¶ 6–9.

<sup>75</sup> Ex. M, “Heriberto” Decl. ¶ 10.

<sup>76</sup> *Id.* ¶ 6 (“Heriberto” describes that spending much of each day alone in their cells makes them feel “suffocated.”); *see also* Ex. I, “Dario” Decl. ¶ 21 (describing the daily schedule and noting that detained individuals are given only five hours and forty-five minutes of recreation time each day); *see also* Ex. D, Rosa Santana Decl. ¶ 5 (“People detained at OCCF have reported being locked in their cells for most of the day, with nothing to do but sleep day and night as there are no other ways to occupy their time. No services or educational courses are offered.”).

<sup>77</sup> *See* NDS 2019, *supra* note 3, at 56–57 (Section 2.9 Special Management Units).

consistently provide detained individuals with hearings before the IDP, utilize alternative dispositions, and obtain and provide detained people with “signed written order[s] [from] the chair of the IDP . . . before detainee[s] [are] placed into disciplinary segregation.”<sup>78</sup>

#### IV. Medical Neglect, Abuse, and Retaliatory Withholding of Care

*“The medical care here is very, very bad. I was never seriously sick before I got here; I played soccer, I was healthy. I had never been to the hospital. But since I’ve gotten here, I’ve been sick. I feel bad all the time. . . . I don’t know what’s wrong with me. The doctors don’t explain anything to me. . . . I worry I will die here, and the jail will be happy.”*  
—“Heriberto”<sup>79</sup>

ICE and OCCF are constitutionally obligated to provide adequate medical care to all people in their custody.<sup>80</sup> The NDS states that detained people should receive “medically necessary and appropriate medical, dental and mental health care and pharmaceutical services,” as well as “timely responses to medical complaints.”<sup>81</sup> Yet multiple accounts indicate that OCCF treats the lives of detained people as disposable.<sup>82</sup> Dr. Kate Sugarman of NYLPI’s Medical Providers Network (“MPN”) describes a facility that is systematically indifferent to the health care needs of individuals in detention.<sup>83</sup> ICE and OCCF’s failure to provide basic medical care and willful ignorance towards chronic conditions and mental health illustrates a pattern of medical racism—a sense that Black, Latinx, and people of color are more resistant to pain, less believable, and therefore less deserving of medical care.<sup>84</sup> OCCF’s reckless practices leave detained people at heightened risk of premature death.<sup>85</sup>

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<sup>78</sup> *Id.*

<sup>79</sup> Ex. M, “Heriberto” Decl. ¶ 11.

<sup>80</sup> See generally *Estelle v. Gamble*, 429 U.S. 97 (1976).

<sup>81</sup> See NDS 2019, *supra* note 3, at 112 (Standard 4.3, Medical Care).

<sup>82</sup> Ex. K, “Felix” Decl. ¶ 14 (“They don’t care about our lives here. It’s really very ugly.”).

<sup>83</sup> NYLPI’s MPN has been referred fifteen cases of individuals detained at OCCF from legal providers. Dr. Kate Sugarman, one of the MPN, took on five of the fifteen referrals and reviewed those individuals’ medical history and medical records at OCCF. Through these case referrals, Dr. Sugarman has observed patterns of inadequate medical care at OCCF. See Ex. C (Declaration of Dr. Kate Sugarman, Medical Provider Network, New York Lawyers for the Public Interest) [hereinafter Dr. Sugarman Decl.].

<sup>84</sup> See Alexie Cintron and R. Sean Morrison, *Pain and Ethnicity in the United States: A Systematic Review*, 9 J. PALLIATIVE MED. 6, <https://www.liebertpub.com/doi/10.1089/jpm.2006.9.1454> (last visited Feb. 7, 2022); Janice A. Sabin, *How we fail black patients in pain*, ASSOC. AM. MEDICAL COLLEGES (Jan. 6, 2020), <https://www.aamc.org/news-insights/how-we-fail-black-patients-pain>; see also Haider J. Warraich, *Racial disparities seen in how doctors treat pain, even among children*, WASH. POST (July 11, 2020), [https://www.washingtonpost.com/health/racial-disparities-seen-in-how-doctors-treat-pain-even-among-children/2020/07/10/265e77d6-b626-11ea-aca5-ebb63d27e1ff\\_story.html](https://www.washingtonpost.com/health/racial-disparities-seen-in-how-doctors-treat-pain-even-among-children/2020/07/10/265e77d6-b626-11ea-aca5-ebb63d27e1ff_story.html).

<sup>85</sup> See Ex. C, Dr. Sugarman Decl. ¶ 13; see Harlan M. Krumholz, Daisy S. Massey, Karen B. Dorsey, *Racism as leading cause of death in United States*, BMJ 2022;376:0213 (2022) (describing how “the political construct of race—and anti-Black racism in particular—continue to determine who lives and who dies in the United States”); Keith Churchwell, et al., *Call to Action: Structural Racism as a Fundamental Driver of Health Disparities: A Presidential Advisory From the American Heart Association*, CIRCULATION (2020), doi: 10.1161/CIR.0000000000000936 (asserting that “[s]tructural racism has been and remains a fundamental cause of persistent health disparities in the United States”).

Medical care at OCCF is described as “poor,”<sup>86</sup> “bad,”<sup>87</sup> and “slow.”<sup>88</sup> Detained people are regularly “ignored.”<sup>89</sup> Medical staff often take days, at times weeks, to respond to requests for medical attention.<sup>90</sup> People have to submit “four or five sick calls” to get the attention of staff,<sup>91</sup> and “go without medication for two or three weeks” due to gaps in prescription refills.<sup>92</sup> Not only do sick calls and medication requests generally go unanswered, but OCCF also fails to give detained people copies of their requests, making it harder for them to keep a record of the number of times they have asked for help.<sup>93</sup>

Evidence shows that even when provided, medical treatment at OCCF is negligent and dehumanizing.<sup>94</sup> Critical medical information is not communicated in the individual’s preferred language,<sup>95</sup> and interpreters are reportedly not used during appointments.<sup>96</sup> Painkillers regularly substitute for actual care, even when medically inappropriate or inadequate.<sup>97</sup> One person’s medical records revealed that despite measurements of elevated liver enzymes indicative of liver disease, OCCF failed to conduct any additional testing, leaving the individual at risk of chronic liver damage.<sup>98</sup> Care at OCCF is especially

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<sup>86</sup> Ex. F, “Andres” Decl. ¶ 12 (“poor”).

<sup>87</sup> See, e.g., Ex. G, “Benjamin” Decl. ¶ 11 (“bad”); Ex. M, “Heriberto” Decl. ¶ 11 (“very, very bad”); Ex. H, “Cristian” Decl. ¶ 14 (“not good”); Ex. J, “Ernesto” Decl. ¶ 19 (“not good”).

<sup>88</sup> See, e.g., Ex. I, “Dario” Decl. ¶ 28; Ex. M, “Heriberto” Decl. ¶ 14; Ex. K, “Felix” Decl. ¶ 17; Ex. H, “Cristian” Decl. ¶ 14; Ex. F, “Andres” Decl. ¶ 14; Ex. L, “Gabriel” Decl. ¶ 13; Ex. N, “Moises” Decl. ¶ 19.

<sup>89</sup> See Ex. N, “Moises” Decl. ¶ 19 (“People leave forms with the officers, but they are neither ignoring the requests or ripping them up. There was one guy whose eyes were totally red. He couldn’t see very well. He asked several times to see the doctor, but they ignored him.”); Ex. J, “Ernesto” Decl. ¶ 20 (describing one person with kidney problems and high blood pressure who was told by a nurse that there was “no problem”); Ex. G, “Benjamin” Decl. ¶ 11 (“I have been asking for help for over a week and haven’t heard anything. I feel really bad.”).

<sup>90</sup> Ex. C, Dr. Sugarman Decl. ¶ 12.c.; Ex. K, “Felix” Decl. ¶¶ 17–18 (“I sent a sick call last week. . . I didn’t hear back for almost two weeks. What if it was an emergency?”); Ex. H, “Cristian” Decl. ¶ 14 (“There is a person in my unit with a swollen ankle who put in a sick call to see a nurse four days ago and still has not heard back”); Ex. N, “Moises” Decl. ¶ 19 (“Another person was experiencing pain in his foot and he still hasn’t seen a doctor in two or three months.”); Ex. G, “Benjamin” Decl. ¶ 12; Ex. M, “Heriberto” Decl. ¶ 14.

<sup>91</sup> Ex. I, “Dario” Decl. ¶ 28; Ex. E, “Agustin” Decl. ¶¶ 16–17;

<sup>92</sup> Ex. H, “Cristian” Decl. ¶ 14; see Ex. E, “Agustin” Decl. ¶ 16 (“I have to take medication [for my condition], but they cut off that medication.”); Ex. N, “Moises” Decl. ¶ 19; see also Ex. L, “Gabriel” Decl. ¶ 12 (“Many people [who have gotten the COVID vaccine] will ask for Tylenol to help treat [] fever—but they don’t get it until three days later, when it’s no longer useful”).

<sup>93</sup> Ex. K, “Felix” Decl. ¶ 15 (describing how “it seems like the jail does not want us to have a record”).

<sup>94</sup> Ex. C, Dr. Sugarman Decl. ¶ 12.c.; Ex. I, “Dario” Decl. ¶ 30 (“When you actually get to see a doctor, they don’t treat us well. They just want to move on to the next person. It seems to me that they don’t care; they don’t take time to really analyze what’s happening with my medical problems.”); Ex. M, “Heriberto” Decl. ¶ 13 (“It seems like the doctors just want us to take the medicine but don’t care if we are not getting better.”); Ex. K, “Felix” Decl. ¶¶ 20–21 (“With the medical staff here, it’s like they just go through the motions of taking care of you, but they don’t really care about you. They don’t take the time to do a real exam. . . . We are worthy, we are human beings! We deserve respect and dignity. We should not be treated this way.”).

<sup>95</sup> Ex. P, L.G.C. Compl. at 21 (“For example, when L.G.C. learned about the COVID vaccine, he wanted to ask questions about receiving one but was not provided access to a medical provider who could answer those questions and who spoke Spanish.”); Ex. C, Dr. Sugarman Decl. ¶ 12.b.

<sup>96</sup> Ex. P, L.G.C. Compl. at 21 (“When [OCCF medical staff] have abruptly changed L.G.C.’s medication, L.G.C. has been left without necessary language access in order to understand the changes and ask questions. Moreover, [OCCF medical staff] have relied impermissibly on people detained with L.G.C. for interpretation.”); Ex. C, Dr. Sugarman Decl. ¶ 12.b.

<sup>97</sup> Ex. F, “Andres” Decl. ¶ 11 (“All they do is take your blood pressure, temperature, and then give you pills. The pills are always the same. . . . It doesn’t matter what you are suffering from. . . . They don’t care about your health.”); Ex. I, “Dario” Decl. ¶¶ 28–29 (“They give me Motrin, but I already get Motrin for another pain that I have, and I’m worried about taking too much.”); Ex. K, “Felix” Decl. ¶ 20 (“But there are people here who have chronic illnesses, who need real medical care, and they are not getting care. They’ll just get a Tylenol, and that’s it.”); Ex. M, “Heriberto” Decl. ¶ 13 (“The doctors here think they can solve everything with a pill; they just want to give you a pill so that you will leave. Nothing is important to them. They talk to us like we are children: “Are you going to take the pill or not?””); Ex. C, Dr. Sugarman Decl. ¶ 12.e. (describing an individual with chronic pain whose prescribed medication was discontinued and substituted with Tylenol PM).

<sup>98</sup> Ex. C, Dr. Sugarman Decl. ¶ 12.c.

woeful for people with chronic conditions, such as diabetes, hypertension, and obesity.<sup>99</sup> Individuals with chronic illness are medically recommended to modify their lifestyles through diet, exercise and weight loss.<sup>100</sup> Yet OCCF fails to provide for these needed modifications.<sup>101</sup> One individual with type II diabetes mellitus was also not receiving the finger sticks required to monitor his condition.<sup>102</sup>

Reports indicate that OCCF also deprives detained people of access to critical treatment such as outpatient care.<sup>103</sup> This includes one individual referred to MPN with chronic tonsillar masses and swollen lymph nodes who had yet to receive a diagnosis, biopsy, or treatment prior to MPN intervention.<sup>104</sup> OCCF at last provided an ultrasound, yet even after the scan revealed a mass, medical staff continued to ignore the need for urgent follow-up treatment and evaluation.<sup>105</sup> Records further indicate that OCCF has failed to provide one individual with the recommend blood pressure checks to monitor hypertension;<sup>106</sup> another individual has not received the outpatient operation recommended for his chronic pain;<sup>107</sup> another person showing abnormal lung scans has yet to be seen for further testing and imaging.<sup>108</sup> OCCF's failure to render critical care has put individuals at risk of fatal harm.<sup>109</sup>

Dental care is similarly reported to be lacking.<sup>110</sup> Numerous detained people have needed urgent dental care while at OCCF. Yet records indicate that individuals are not even provided appropriate dental hygiene, such as mouthwash or antibiotic therapy.<sup>111</sup> When rendered, dental work is described as deeply inhumane. On one occasion, an individual had a tooth extracted without any anesthesia to numb the pain.<sup>112</sup>

Withholding medical treatment has been described as a disciplinary and retaliatory tool. After pepper-spraying, pinning to the ground, and assaulting a detained person on January 1, 2022, officers "told medical staff that no medical workup, including even a blood pressure measurement, was necessary because he was "going to the box.""<sup>113</sup> Such practices "substantially and detrimentally" impact the physical and mental well-being of people in detention.<sup>114</sup>

People experiencing psychological distress also report regularly experiencing medical neglect and abuse at OCCF.<sup>115</sup> People in immigration detention are already at heightened risk of developing symptoms of psychological distress, including anxiety, sleep disorders, and depression.<sup>116</sup> Yet many individuals with

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<sup>99</sup> See *id.* ¶ 12.d.; Ex. N, "Moises" Decl. ¶ 20 ("The guards ignore people who have heart troubles because of the pressure of this place—they don't care about the injustice.").

<sup>100</sup> Ex. C, Dr. Sugarman Decl. ¶ 12.d.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> Ex. F, "Andres" Decl. ¶ 12 (describing the discontinuation of prior treatments for chronic condition resulting in "three life-threatening emergencies because I am not getting the treatment I need for my condition"); Ex. C, Dr. Sugarman Decl. ¶ 12.e.

<sup>104</sup> Ex. C, Dr. Sugarman Decl. ¶ 14.d.

<sup>105</sup> *Id.*

<sup>106</sup> *Id.* ¶ 15.b.

<sup>107</sup> *Id.* ¶ 12.e.

<sup>108</sup> *Id.* ¶ 12 f.

<sup>109</sup> *Id.* ¶ 13.

<sup>110</sup> *Id.* ¶ 12 h.

<sup>111</sup> *Id.*

<sup>112</sup> *Id.* (describing the failure to provide anesthesia during a tooth extraction as "an alarming and unethical medical practice").

<sup>113</sup> 1/1/2022 Assault Compl. at 2–3.

<sup>114</sup> Ex. P, L.G.C. Compl. at 28.

<sup>115</sup> See Scaccia, *supra* note 4.

<sup>116</sup> New York Lawyers for the Public Interest, Still Detained and Denied: The Health Crisis in Immigration Detention Continues, <https://nylpi.org/wp-content/uploads/2020/04/NYLPI-report-Detained-Denied.pdf> (last visited Feb. 7, 2022) (citing M. von Werthern, K. Robjant, Z. Chui, R. Schon, L. Ottisova, C. Mason & C. Katona, *The impact of immigration detention on mental health: a systematic review*, 18 BMC PSYCHIATRY 382 (2018)).



symptoms of decompensation are reportedly left untreated.<sup>117</sup> For many others, mental health care takes on more sinister forms. For nearly a year, “Luke R.” was “given unnecessary medications and put in isolation for behaviors related to hallucinations and other symptoms of schizophrenia.”<sup>118</sup> L.G.C., who has mental and cognitive disabilities, was treated with disbelief, placed in medical isolation, and threatened and punished for seeking help.<sup>119</sup>

Individuals detained at OCCF further describe how OCCF medical staff and officers treat them like animals<sup>120</sup> and children.<sup>121</sup> Immigration detention is known to cause psychological harm,<sup>122</sup> and degrading, racist treatment further exacerbates this risk of decompensation and distress.<sup>123</sup> “Dario” describes OCCF as a “racist and inhumane facility,” where the lack of medical care is feeding into his feelings of misery.<sup>124</sup> “Moises” says he “wouldn’t wish this experience on anyone. It’s very stressful.”<sup>125</sup>

By refusing to provide appropriate and timely care of “serious medical needs,” ICE and OCCF has placed detained people at a serious risk of harm, ran afoul of the standards of care, and inflicted cruel and unusual punishment.<sup>126</sup>

## V. Egregious Mismanagement of the COVID-19 Public Health Crisis

***“They don’t care about our lives here. It’s really very ugly. People in the unit have COVID, and we’re all mixing together. You get one mask when you arrive at the jail, and that’s it. It’s not even a high-quality mask, like an N95—it’s a surgical mask. If they are only going to give us one mask, you’d think we’d at least get one of the more effective ones. There is no reason here. They don’t care about us.”***  
—“Felix”<sup>127</sup>

ICE’s refusal to release people detained at OCCF during the COVID-19 pandemic is life-threatening.<sup>128</sup> Detained people reported significant lapses in medical care at OCCF prior to the pandemic.<sup>129</sup> But “things seem to have gotten even worse now that COVID is spreading through the jail again.”<sup>130</sup> At the time of this filing, OCCF is reporting no currently active cases of COVID-19; however, multiple detained people have reported being exposed to and infected with COVID-19 in recent weeks.<sup>131</sup>

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<sup>117</sup> Ex. C, Dr. Sugarman Decl. 12.g. (noting that it is unclear whether individuals have been comprehensively evaluated for their mental health conditions or offered treatment).

<sup>118</sup> See Scaccia, *supra* note 4.

<sup>119</sup> Ex. P, L.G.C. Compl. at 2.

<sup>120</sup> Ex. M, “Heriberto” Decl. ¶ 12; Ex. P, L.G.C. Compl. at 25.

<sup>121</sup> *Id.* ¶ 13.

<sup>122</sup> See note 126, *infra*.

<sup>123</sup> Irina L.G. Todorova, et al., *Perceived racial discrimination, psychological distress and health*, 32 SOCIOLOGICAL HEALTH ILLNESS 843–61 (2010) (describing findings of empirical study finding that “experiences of discrimination were associated with increased levels of depressive symptoms and perceived stress”).

David A. Williams and Selina A. Mohammed, *Discrimination and Racial Disparities in health: evidence and needed research*, J. BEHAV. MED. 32, 20–47 (2009), <https://doi.org/10.1007/s10865-008-9185-0>.

<sup>124</sup> Ex. I, “Dario” Decl. ¶ 31.

<sup>125</sup> Ex. N, “Moises” Decl. ¶ 4.

<sup>126</sup> See *Estelle v. Gamble*, 429 U.S. 97 (1976).

<sup>127</sup> Ex. K, “Felix” Decl. ¶ 14.

<sup>128</sup> Ex. C, Dr. Sugarman Decl. ¶¶ 13–16.

<sup>129</sup> See *Charles v. Orange Cty.*, 925 F.3d 73 (2d Cir. 2019) (litigation related to mental health discharge planning at OCCF).

<sup>130</sup> Ex. H, “Cristian” Decl. ¶ 14; see also Ex. C, Dr. Sugarman Decl. ¶ 9 (The ongoing COVID-19 public health crisis brings to the surface what we already know about immigration detention facilities: they are overcrowded, have inadequate medical care, and can be fatally dangerous to the people who are confined.”); NEWS 12 STAFF, *Orange County Jail experiences outbreak of COVID-19 cases*, NEWS 12 (Jan. 5, 2022), <https://bronx.news12.com/orange-county-jail-experiences-outbreak-of-covid-19-cases>.

<sup>131</sup> Ex. I, “Dario” Decl. ¶ 26; Ex. F, “Andres” Decl. ¶ 13; Ex. N, “Moises” Decl. ¶ 22.

People in immigration detention—overwhelmingly Black, Latinx, and other people of color—remain at heightened risk of contracting COVID-19 due to overcrowding and the prevalence of people with untreated comorbidities, chronic medical risk factors, and psychiatric risk factors.<sup>132</sup>

OCCF’s COVID-19 practices reflect a cruel indifference to protecting detained people from COVID-19, in violation of ICE’s COVID-19 Pandemic Response Requirements<sup>133</sup> and the Centers for Disease Control and Prevention’s Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities.<sup>134</sup> Basic sanitation supplies, such as hand sanitizer and disinfectant spray, are reportedly denied.<sup>135</sup> Detained people are not provided appropriate masks,<sup>136</sup> and are even harassed by guards for wearing masks in common areas.<sup>137</sup> Upon entering the facility, detained people are quarantined—which at OCCF means subjected to solitary confinement in squalid cells for fourteen days.<sup>138</sup> Once at OCCF, there does not appear to be a testing protocol. When “Felix” approached a nurse to ask why they aren’t testing people and isolating people based on the test results, he was told, “[T]hey don’t want the numbers to go up.”<sup>139</sup> Without any testing protocol, detained people describe being arbitrarily placed in medical isolation simply for being sick.<sup>140</sup> The fourteen-day quarantine is a source of fear and psychological distress.<sup>141</sup>

Multiple detained people share that the quarantine restrictions fail to protect people from viral exposure. Instead of being released where they can self-quarantine or placed in a separate area of the jail, several detained people reported that they had been locked in their cells in the same unit with people who do not have COVID in the past several weeks. “Andres” recounts, “Even when someone is sick with COVID, we are all mixed together. We share the same space and the same air. We rely on the help of God to stay alive.”<sup>142</sup> When those who do have COVID leave their cells to make legal calls, everyone else in their unit is forced to lock-in.<sup>143</sup> “Dario” describes the illogic of such restrictions:

[I]f someone with COVID takes a legal call, they use the same headset that we all use. We don’t have disinfectant to wipe it down after, just paper towels. The people with COVID

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<sup>132</sup> Ex. C, Dr. Sugarman Decl. ¶¶ 13–16 (noting that detained people at OCCF are at higher risk of contracting COVID-19 because serious health conditions are left untreated, and many people meet the Center for Disease Control’s high-risk criteria for complications from COVID-19).

<sup>133</sup> See U.S. Immigration and Customs Enforcement, COVID-19 Pandemic Response Requirements (Oct. 2021), <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>.

<sup>134</sup> See *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, CENTER FOR DISEASE CONTROL (Feb. 10, 2022), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>.

<sup>135</sup> Ex. C, Dr. Sugarman Decl. ¶ 12.i. (“The facilities at OCCF are unhygienic, without adequate access to soap, water, or hand sanitizers.”); Ex. I, “Dario” Decl. ¶¶ 26–27 (describing a lack of disinfectant spray, cleaning spray, as well as hand sanitizer that “won’t be refilled for days at a time.”); Ex. D, Rosa Santana Decl. ¶ 6.

<sup>136</sup> Ex. K, “Felix” Decl. ¶ 12.

<sup>137</sup> Ex. F, “Andres” Decl. ¶ 15 (“When we wear masks, they treat us badly. . . . They don’t accept it. They say we don’t need masks because no one is sick here. But a lot of people are sick.”).

<sup>138</sup> L.G.C. “was provided no clothes, no shoes, no socks, and no access to a shower or to drinking water besides the toilet. The food he received was awful, like food ‘fit only for animals.’ The cells in which L.G.C. has been subjected to solitary confinement have been infested with spiders.” Ex. P, L.G.C. Compl. at 25.

<sup>139</sup> Ex. K, “Felix” Decl. ¶ 12.

<sup>140</sup> Ex. M, “Heriberto” Decl. ¶ 15.

<sup>141</sup> *Id.* Decl. ¶ 15 (““People here are afraid to say if they feel sick, because with COVID, if you’re not feeling well, you can get locked in for fourteen days. Everything here is quarantine.”); Ex. L, “Gabriel” Decl. ¶ 11 (“Right now, many people at OCCF have COVID, but they don’t want to tell the guards because they will get sent to quarantine. The conditions in quarantine are very bad. You don’t get to go outside to get water. It’s better to stay quiet”); Ex. N, “Moises” Decl. ¶ 21 (alleging that “[d]uring the 14-day period of medical solitary, the guards did not let us talk to anyone. I experienced anxiety and depression during this time”).

<sup>142</sup> Ex. F, “Andres” Decl. ¶ 13; see also Ex. I, “Dario” Decl. ¶ 26 (“The people with COVID also shower where we take showers, and we’re all breathing the same air because the cells are connected with vents.”); Ex. G, “Benjamin” Decl. ¶ 10;

<sup>143</sup> Ex. I, “Dario” Decl. ¶ 18.

also shower where we take showers, and we're all breathing the same air because the cells are connected with vents. So, what's the sense of locking us in while the people with COVID take calls? It doesn't make any sense whatsoever.<sup>144</sup>

ICE's failure to release individuals from detention amid a pandemic needlessly puts the lives of detained people at risk.<sup>145</sup>

## **VI. Abuse of Power and Culture of Impunity**

***"If we say we have a complaint, the jail staff tells us there is no point in pursuing it. . . . [T]he sergeants will say it's their word against ours, so there's no point—if we complain about anything, they'll find a way to make problems look like our fault."***  
—*"Ernesto"*<sup>146</sup>

Detained people describe a terrorizing, humiliating environment at OCCF, where guards' arbitrary rules and punishments are frequently applied in racist<sup>147</sup> and retaliatory<sup>148</sup> ways. Spanish-speaking individuals report feeling especially targeted by the guards' punitive whims. "Agustin" recounted an incident in which an officer threatened him with three days of lock-in—and ultimately subjected him to two days of unofficial lock-in as a "personal punishment"—for taking two trays of food to his room.<sup>149</sup> "I didn't know there was a rule," he explained, "and the officer didn't try to explain it to me in a way I could understand."<sup>150</sup> "Dario," who speaks English, similarly observed that officers "get mad at [Spanish-speaking detained people] for not understanding English . . . but it's not the guys' fault they don't understand English."<sup>151</sup>

OCCF's dehumanizing rules seem to vary from officer to officer, often leading to arbitrary and excessive punishments. During room inspections, some officers reportedly do not allow detained individuals to keep anything on their tables, while others will permit multiple items.<sup>152</sup> These differences matter: at least one officer will "lock [detained individuals] up for the rest of the day if he sees something on [their] table[s]."<sup>153</sup> Individuals also described how officers arbitrarily withhold access to tablets, which function as detained individuals' sole form of communication with loved ones.<sup>154</sup> As "Cristian" summarized the situation, "[The guards] seem to always want to provoke people."<sup>155</sup> "Ernesto" affirmed this characterization, noting that, when officers are "in a bad mood[,] they will send you to your room and lock you in for no reason—for little things like getting water or using the vending machine."<sup>156</sup>

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<sup>144</sup> *Id.*

<sup>145</sup> See Ex. C, Dr. Sugarman Decl. ¶ 15 h.

<sup>146</sup> Ex. J, "Ernesto" Decl. ¶ 14.

<sup>147</sup> See notes 150, 151, *infra*.

<sup>148</sup> See notes 161, 162, *infra*.

<sup>149</sup> Ex. E, "Agustin" Decl. ¶ 6–9.

<sup>150</sup> *Id.* ¶ 8; see also Ex. F, "Andres" Decl. ¶ 5 (describing an incident in which Officer Carde, in English, asked "Andres" to do something, and, when "Andres" did not understand the request, "[i]nstead of trying to explain, he wrote ['Andres'] up").

<sup>151</sup> Ex. I, "Dario" Decl. ¶ 4; see also Ex. H, "Cristian" Decl. ¶ 5 (noting that he has seen an officer "try to intimidate Spanish people in particular").

<sup>152</sup> Ex. I, "Dario" Decl. ¶ 6; see also Ex. H, "Cristian" Decl. ¶ 5.

<sup>153</sup> Ex. H, "Cristian" Decl. ¶ 5.

<sup>154</sup> Ex. M, "Heriberto" Decl. ¶ 8.

<sup>155</sup> Ex. H, "Cristian" Decl. ¶ 5.

<sup>156</sup> Ex. J, "Ernesto" Decl. ¶ 6.

OCCF officials seemingly do not face consequences for their abuses of power, creating a culture of impunity. Detained people report that guards withhold grievance slips;<sup>157</sup> some appear to obscure their names and badge numbers to further frustrate the possibility of reporting.<sup>158</sup> Following the above-described January 1, 2022 assault of a detained individual,<sup>159</sup> OCCF officials advised one of the witnesses “not to tell anyone about what happened, not even [his] lawyer.”<sup>160</sup> Those who do speak out are reportedly subjected to retaliation: individuals described how someone who has made several complaints against the jail has been targeted and harassed by the guards,<sup>161</sup> and even violently assaulted.<sup>162</sup> This corrosive environment can foment fear. “Felix” explained that he does not even like to look at officers’ name tags:

The guards are very tight with each other—nothing is hidden here. . . . We are all vulnerable here; we are in the guards’ hands. They can do anything they want to us. Many people here have bad experiences, but don’t speak up out of fear.<sup>163</sup>

## VII. Deplorable Conditions

*“They are feeding us like animals. . . . The shower water is so hot that it makes our hair fall out and dries up our skin. The scalding hot water causes illnesses, including fungal diseases in our feet. . . . We hardly see the outside. We need the sun to touch us.”*  
—“Moises”<sup>164</sup>

Individuals at OCCF describe deplorable living conditions. Nearly a dozen testimonials spoke of inedible food,<sup>165</sup> freezing temperatures,<sup>166</sup> scarce toiletries and cleaning products,<sup>167</sup> dirty laundry and insufficient clothing,<sup>168</sup> extreme mail delays and inconsistent phone access,<sup>169</sup> and prohibitively expensive communication, information, and entertainment services.<sup>170</sup> The unsanitary and unsafe conditions outlined in this section represent ICE’s egregious failures to meet its minimum facility requirements<sup>171</sup> while exacerbating the continued spread of COVID-19.<sup>172</sup>

- **Unsanitary Food:** Detained people describe being fed the same inedible food meal after meal, day after day, and relying on processed, overpriced snacks from the commissary to survive,<sup>173</sup> aggravating underlying health issues described in Section IV, *supra*.<sup>174</sup>

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<sup>157</sup> Ex. H, “Cristian” Decl. ¶ 6.

<sup>158</sup> Ex. F, “Andres” Decl. ¶ 18; Ex. J, “Ernesto” Decl. ¶ 8.

<sup>159</sup> See Section II, *supra*.

<sup>160</sup> Ex. G, “Benjamin” Decl. ¶ 9.

<sup>161</sup> Ex. I, “Dario” Decl. ¶ 12; Ex. J, “Ernesto” Decl. ¶ 13; *see also* Ex. P, L.G.C. Compl. at 29–30 (describing incidents of retaliation).

<sup>162</sup> Ex. I, “Dario” Decl. ¶¶ 13–20; Ex. K, “Felix” Decl. ¶¶ 6–9; *see also* Section II, *supra*.

<sup>163</sup> Ex. K, “Felix” Decl. ¶ 11.

<sup>164</sup> Ex. N, “Moises” Decl. ¶¶ 12, 14, 18.

<sup>165</sup> Ex. F, “Andres” Decl. ¶ 20; Ex. J, “Ernesto” Decl. ¶ 21; Ex. N, “Moises” Decl. ¶¶ 12–13; Ex. M, “Heriberto” ¶ 16.

<sup>166</sup> Ex. I, “Dario” Decl. ¶ 8; Ex. N, “Moises” Decl. ¶ 16; Ex. H, “Cristian” Decl. ¶ 13.

<sup>167</sup> Ex. D, Rosa Santana Decl. ¶ 6; Ex. H, “Cristian” Decl. ¶¶ 11, 12.

<sup>168</sup> *Id.*

<sup>169</sup> Ex. H, “Cristian” Decl. ¶ 13; Ex. I, “Dario” Decl. ¶ 10; Ex. J, “Ernesto” Decl. ¶ 22.

<sup>170</sup> Ex. D, Rosa Santana Decl. ¶ 5; Ex. K, “Felix” Decl. ¶ 23; Ex. M, “Heriberto” Decl. ¶ 17.

<sup>171</sup> NDS 2019, *supra* note 3, at 6–7 (I. General Environmental Health Guidelines), 97 (4.1 Food Service), 127 (Section 4.4 Personal Hygiene), 147 (5.1 Correspondence and Other Mail), 152 (5.2 Recreation).

<sup>172</sup> Ex. I, “Dario” Decl. ¶¶ 26–27; Ex. H, “Cristian” Decl. ¶¶ 11–12; *see also* *Orange County Jail Experiences Outbreak of COVID-19 Cases*, NEWS 12 (Jan. 5, 2022), <https://bronx.news12.com/orange-county-jail-experiences-outbreak-of-covid-19-cases>.

<sup>173</sup> Detained individuals also share use of a single microwave to heat their cold food. Ex. N, “Moises” Decl. ¶ 13. They are also reportedly given a mere five minutes to eat. Ex. D, Rosa Santana Decl. ¶ 7.

<sup>174</sup> See Ex. F, “Andres” Decl. ¶ 19 (“The food at OCCF is disgusting and unsafe to eat. I have been suffering from a lack of food here. . . . The food has been used and reused so often that it’s softened and disintegrated.”); Ex. J, “Ernesto” Decl. ¶ 21 (“I don’t

- **Freezing temperatures:** People detained at OCCF spoke of the freezing temperatures and the single shirt and jumpsuit each was given upon arrival—as well as the guards’ arbitrary, cruel rule that detained people are not allowed to wear their sweaters outside of their cells.<sup>175</sup>
- **Insufficient personal care and hygiene items:** Detained people reportedly lack not only sufficient clothing, but also bedding and linens, toiletries and bathroom necessities, and cleaning products.<sup>176</sup>
- **Delayed and surveilled communications:** Multiple individuals discussed egregiously long mail delays<sup>177</sup> and surveilled telephone<sup>178</sup> and mail communications, even with attorneys.<sup>179</sup>
- **Lack of services and difficulties accessing tablets:** As described in section III, *supra*, people detained at OCCF described being locked in their cells for most of each day with nothing to occupy their time.<sup>180</sup> The facility has tablets with mail, media, and visitation capabilities, but each feature has a steep associated fee.<sup>181</sup> Individuals reported that officers often do not charge the tablets so as to render them unusable,<sup>182</sup> and fail to act when security breaches occur and peoples’ funds are stolen.<sup>183</sup>

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think even an animal would eat this food. It’s liquefied, like it’s been in a blender.”); Ex. N, “Moises” Decl. ¶¶ 12–13 (“They give us pasta every single day for lunch and dinner. We are given food that has already expired. . . . I have stomach pain and constipation. . . . The only way we can heat our food is by microwave, which can cause illnesses. It is not recommended to use the microwave all the time. There are forty of us and we are only given one microwave for all of us to heat up our food. It is not enough.”); Ex. F, “Andres” Decl. ¶ 20 (“The hot water in the kitchen is also full of metal particles. . . . They are feeding us poison, and no one cares.”); Ex. M, “Heriberto” Decl. ¶ 7 (“The guards treat us like animals. If we are using the microwave, they will sometimes disconnect it so we can’t use it. I have heard guards say things like, ‘You don’t have a microwave in your own house. You should be thanking us that you even get a microwave here.’”).

<sup>175</sup> Ex. I, “Dario” Decl. ¶ 8; *see also* Ex. N, “Moises” Decl. ¶ 16 (“Some of the people here are over the age of 60. They are so cold they’re just shivering. When we arrived here, we were only given a single set of clothing. We repeatedly ask for another set.”); Ex. H, “Cristian” Decl. ¶ 13 (“Every time we complain they seem to either turn the AC up or turn off the heat. . . . [I]t’s freezing in here. . . . Some people thought they had COVID because they were shivering so much.”).

<sup>176</sup> “Essential hygiene products, such as toilet tissue and toothpaste, are often denied. If people request such essentials or complain about their lack, they are often locked in ‘the box’ for days.” Ex. D, Rosa Santana Decl. ¶ 6; Ex. H, “Cristian” Decl. ¶¶ 12, 11 (“We were missing toilet paper for two days, and laundry soap for a day or two—it’s been like that, someone has to bring it up to the sergeant, and then they’ll supply it, but there are these gaps and it’s not healthy. We’ve only gotten fresh bedding twice in the last four months, and it takes three to four weeks to get clean clothing. Some of the guards don’t let you wash your bedding or clothes in between. . . . The jail isn’t giving us disinfectant. They used to give a spray bottle and some bleach. We don’t have that now. . . . Everything is getting dirtier.”).

<sup>177</sup> “Cristian” described that it can take up to a month for the warm layers that families send in response to OCCF’s freezing temperatures to be given to people inside the facility to whom the packages were addressed. Ex. H, “Cristian” Decl. ¶ 13.

<sup>178</sup> “They monitor the phone calls, legal calls are the only private calls you can get. And legal calls aren’t always easy to get—there are a lot of people here, and only one computer to connect with your lawyer. It’s overcrowded, and some people have had to wait a long time for an opportunity to connect with their lawyer.” Ex. I, “Dario” Decl. ¶ 10.

<sup>179</sup> Ex. J, “Ernesto” Decl. ¶ 22. (“We are also very concerned about the mail here. Jail staff don’t give us the originals of our mail; instead, we get photocopies. . . . [T]his has even happened with a big packet mailed to me by my lawyer. . . . [O]ur mail is very delayed in arriving. . . . [M]y family sends me ██████████ and they pay for them to arrive quickly, but it will still take eight, nine, even ten days to get to me. I wonder if officers read the mail we send, too. My family has gotten letters I sent, and the envelopes appeared to have been opened.”).

<sup>180</sup> Ex. D, Rosa Santana Decl. ¶ 5.

<sup>181</sup> *Id.*

<sup>182</sup> *Id.*

<sup>183</sup> “They see us like a business here. . . . The games and movies on the tablets are expensive. . . . Yet, the tablets have bad security. We each have a pin to use on the tablets and make purchases, but our pins get stolen and our funds will disappear. Then, if we ask the guards to change our pin codes to protect our funds, they don’t do it—and that’s our money that’s getting stolen!” Ex. K, “Felix” Decl. ¶ 23; *see also* Ex. M, “Heriberto” Decl. ¶ 17 (“We have to pay for everything here—stamps, phone calls, text messages. It’s really difficult. Some of my family members have put down their cards for me and been charged hundreds of dollars because the rates are so high. The pin for my tablet has gotten robbed ██████████ and I lost all of my commissary money and minutes each time. If we ask the guards to change the pin, they won’t do it right away—they take their time.”).

Living in such deplorable conditions prompted detained people to conclude that, “I have been treated like a dog here[;] [t]he life here is not a life for a human being,”<sup>184</sup> and that “[t]he people who run this jail have dark hearts.”<sup>185</sup>

### VIII. Recommendations

In light of the ongoing racist and retaliatory abuse, violence, and medical neglect at OCCF—even after a CRCL investigation and multiple complaints, media reports, and lawsuits—we **request a response in writing within one week** detailing a remedial plan of action. We urge CRCL, pursuant to its authority under 6 U.S.C. § 345, to immediately recommend:

1. Release of all individuals detained at OCCF to their communities;
2. Termination of ICE’s IGSA with OCCF;
3. Pending release and termination of the IGSA:
  - a. Investigation of the deplorable conditions detailed herein, including racist and retaliatory physical violence, use of solitary confinement, abuse of power, and medical neglect; and
  - b. Removal of the following officers from any position in which they exercise power over detained people: Officer Richard A. Bloise (Badge No. 366); Officer Ricardo Carde (Badge No. 523); Sergeant Daniel Figueroa; Sergeant Keith Conroy (Badge No. 117); Officer Michael P. Lattimer; Officer R. Laudato (Badge No. 551), and Sergeant Murphy.

We urge your prompt attention to the issues raised in this complaint. For any questions or concerns regarding this complaint, please contact Tania Mattos, Director of Advocacy and Policy, Envision Freedom Fund at (347) 263-7563 or [tmattos@envisionfreedom.org](mailto:tmattos@envisionfreedom.org), or Cynthia Marlene Galaz, Senior Policy Associate, Freedom for Immigrants at (929) 489-8495 or [cgalaz@freedomforimmigrants.org](mailto:cgalaz@freedomforimmigrants.org).

Sincerely,

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Archdiocese of New York  
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Freedom for Immigrants  
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<sup>184</sup> *Id.* ¶ 18.

<sup>185</sup> Ex. K, “Felix” Decl. ¶ 24.

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New York Lawyers for the Public Interest  
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New York, NY 10001  
[nylpi.org](http://nylpi.org)

**List of Exhibits**

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Enmanuel Garcia- NYC Council Testimony. February 28, 2022

My name is Enmanuel Garcia, I am a social worker from the Bronx Defenders. My role is to identify resources to address current needs that my clients are facing, and most importantly, provide support with our legal team to help them navigate the harsh and punishing immigration system.

Although I have been working with BxD for less than a year, what I have witnessed in my work will forever be branded in my memories. I have four clients who are detained that demonstrate a huge need for resources only available for them outside of the community. My clients are the following: SD, JL, WG, and EM.

I would like to begin by highlighting how the lack of language access, coupled with detention, presents a serious barrier to meeting the mental health needs of those we serve. This has only worsened during the pandemic as more people are experiencing anxiety, stress, loss of loved ones, and are in mental health crisis. I have been working with a client, EM, who lost his mother to COVID-19. EM was in severe distress, having not seen his mother since he left his country, and told me that he had requested to speak with a therapist at OCCF, where he is detained. EM was told by OCCF officials that they did not have a Spanish speaking therapist for him. How can a detention center with primarily Hispanic detained peoples not have a Spanish speaking therapist? Especially when they are experiencing trauma from both their legal cases, separation from their families, and consequences of the pandemic?

Another client of mine, SD, has spent almost a year and a half detained by ICE, preceded by 8 months at Rikers, without the necessary services to address his mental health symptoms to become more autonomous, and process immensely traumatic moments in his life such as the death of his mother who cared for him and his father who passed away shortly after his mother. SD was deemed to not be competent for the purposes of his removal proceedings, but both ICE and the immigration judge used his mental health concerns as a double-edged sword: despite his demonstrated lack of competency, they insisted that he remain in proceedings, relying on both the fact that medication was improving his psychiatric symptoms and his criminal record. However, the immigration judge also refused to allow SD to appear in person at his hearings, also citing SD's mental health conditions. SD's attorney pointed out that the judge himself had acknowledged the effect of SD's medication on his competency and that this medication had also helped SD maintain a spotless disciplinary record at OCJ, but the judge still refused SD's requests to terminate his case and to appear in person at his hearings. Now SD still has to await his legal case inside detention in terrible conditions. SD relays to me that the beds there are like cement, making his sleep extremely painful for his back. SD also continues to deteriorate as he hears the voices of his deceased mother and of others while detained OCJ, all while unable to maintain a steady understanding of the legal case ICE has brought against him. Is this how we treat members of our community who suffer from mental illnesses? Is the criminal Justice system our solution to address the mental illness that members of our communities face?

Many individuals navigating these conditions are also survivors of serious trauma and the experience of detention brings horrible past experiences into their present lives. One NYIFUP client, JL, was held against his will and subject to forced labor by traffickers during his journey

to the United States. JL has shared with his social workers that his current experience of detention in NYS, being detained in a small dark cell, reminds him of when he was held against his will in a small dark room by traffickers. JL frequently has nightmares about his captors. He has expressed relief upon waking up only to remember to his horror that he is detained. Like many others surviving detention, JL has been diagnosed with Post Traumatic Stress Disorder. A Ph.D Clinical Psychologist found that detention itself acts as a new stressor which worsens JL's prior trauma of being forcefully detained.

Lastly, I will discuss a case that has deeply affected me, WG. WG, lost family to gang violence in his native country. When he arrived in New York, his wife contracted COVID-19 and died. Soon after, ICE detained WG in front of his 7 year old daughter. WG has requested to see a therapist at OCCF to help process the severe trauma he experienced, however he has also been told that there are no Spanish speaking therapists available. OCCF does not provide access to psychotherapy, which is one of the reasons why NYIFUP social workers are critical to deportation defense work. While they are not therapists, NYIFUP social workers provide support, regular mental health check-ins, and advocate for our clients' access to medical and mental health treatment.

Unfortunately, it does not end there. I had to witness in person, his 7 year old child see her father for the first time since she witnessed him being detained, through camera. I will never forget her tears rolling down her cheeks with her head held low seeing her father in an orange jumpsuit. It was especially traumatizing seeing my client's case denied and ordered deported despite him having extensive proof of his persecution back in his native country and even obtaining a forced displacement status from a human rights organization. His mother was counting on him returning home back with her and his daughter. Is this how we help members of our community? Is this keeping NYC safe? Detention is causing more psychological trauma and financial harm to families who are barely scraping by, especially with inflation caused by the pandemic and greed of corporations.

My work with detained clients taught me just how much work humanity needs to work on preserving and upholding human rights. My detained clients should not have to worry about having access to healthcare and simple over the counter medication like Tylenol. Just because my clients are detained does not mean they should be eating rotten and uncooked food. Most importantly, my clients should have access to mental health resources in their language, especially when they are separated from their families, losing loved ones, and dealing with the trauma that has long accompanied them before detention. Thank you.

My name is Kiki Tapiero and I'm an immigration staff attorney in the NYIFUP program at the Bronx Defenders. I represent immigrant New Yorkers who are currently detained by ICE at Orange County Jail. I'm here to speak about the conditions at Orange County Correctional Facility that I've observed myself or had clients experience first hand. Issues I'll discuss include how COVID has been handled, medical neglect, access to counsel, harassment by officers, and general conditions at OCJ.

First, for access to counsel, there are a variety of issues that make it difficult to have any communication with our clients, which is essential for basic representation in their cases. For speaking with clients, we currently have three options: phone calls, video call by the GTL system, and the new getting out system. Phone calls are one way calls that our clients may make to us, but my understanding is that they spend their own commissary money in order to pay for the call. This limits the amount of time we can speak to them, and would take away minutes from calls with family. The getting out system still has several bugs, including the fact that many folks phone numbers have not been verified, the calls are not confidential because they are made from ipads. They cannot talk about sensitive issues there because there are other people around who may hear the call, which violates attorney client privilege. What I mostly use are the GTL video call system, which still has several issues. Many of the systems are very old, and have issues with sound and the video. One of our attorneys in the office had to prepare a client to testify for a bond hearing using a whiteboard, since there was no sound in any of the videos. There are very few slots I can sign up for certain units, and because they fill up immediately sometimes the only time I can make calls are outside of normal business hours, including before 9am or after 5pm, and on weekends. When I do get slots with video and sound working, often times officers will not call my client down for a very long time or be doing a random roll call, sometimes leaving only a few minutes for me and my client to talk to. This is simply not sustainable for effective attorney-client communication, and going in person to a jail three hours away is not feasible to do regularly in the amount of time I need to be talking to my clients.

The COVID situation is also extremely bad at OCJ. The quarantine unit is very broad, housing people who actually have tested positive for covid and also those who have left the jail but might be covid negative. It makes it very easy to spread COVID to those who don't actually have it. Quarantine is also very mentally exhausting, where any freedom they might have had in the jail is completely taken away, and they are under complete control of the guards to bring them everything from food to water, and spend most of their days in the room. It also took a very long time for the jail to vaccinate anyone, I had clients asking for several months without a single shot and other clients who had months go by between their first and second shot. There is also a general lack of access to soap and hand sanitizer, and clients have reported that surfaces are not cleaned as much as they should be.

Medical neglect is also a huge problem. Even if clients are putting in request slips every day, it takes a very long time to get any kind of appointment, sometimes never at all, especially when it comes to mental health. The medical unit has ignored clients literally banging on the door of the office, pleading for help when they were desperately ill. Their medical advice also needs vital improvement; one client was simply told to take ginger ale for his nausea and advil after he

received a serious head injury that likely was a concussion. Clients are also not always told what pills they are being given, or have a translator present for their appointments. A doctor once assessed that a client was on two hypertension medications that should not be paired together and could have been making the client more sick. Clients are fearful of going to into quarantine as well, and will avoid going to hospital visits that don't end up helping them, and the doctors in the jail sometimes do not take the follow up advice that the doctors at the external hospital provided.

Generally, the conditions otherwise at OCJ are also abhorrent. Religious rights are constantly violated. As an example, there is no private space for people to pray and be able to practice their religion of choice . The drinking water from the tap is dark when it comes out, and they have air conditioning on that is very cold, while people are also often not giving more than one set of clothes even after being told they would get more clothing. The shower water is so hot it makes peoples' hair fall out and dry up their skin. Recently, there was also a water leak and the guards forced those housed in that unit to clean it up and were supposed to be given new clothes but we do not have confirmation of that. There is one microwave for about forty people, and food is often times expired. The guards will sometimes unplug it randomly, telling them they should be thankful for a microwave at all.

The guards behavior is also generally unacceptable. Requests and calls for help are frequently ignored or met with screaming, cursing, and calling them the n-word. They will randomly change the channel simply because they can and also take away the tablets, which takes away their access to communication with family and attorneys.

This is an unjust way for anyone to live, and the people we represent are only being held for their immigration offenses. Orange County Jail needs to end their contract with ICE and release people, and in the meantime seriously improve the living conditions of those inside, as well as their video conferencing system.



**TESTIMONY OF H. ESTEBAN FIGUEROA-BRUSI**  
**SUPERVISING ATTORNEY, THE DOOR'S LEGAL SERVICES CENTER**  
**BEFORE THE NEW YORK CITY COUNCIL COMMITTEE ON IMMIGRATION**  
**ON**  
**“OVERSIGHT – COVID-19 IN IMMIGRATION DETENTION CENTERS”**

**February 28, 2022**

Good morning, Chairperson Hanif and members of the Committee. I am Esteban Figueroa-Brusi, a supervising attorney at The Door, which is a holistic youth development organization empowering vulnerable young people to access housing, medical care, educational and job opportunities, and legal services. Housed within our Legal Services Center is the Detained Minors Project (“DMP”), a multidisciplinary team of attorneys, paralegals, and social workers who serve as the Legal Services Provider (“LSP”) to certain unaccompanied children (“UCs”)<sup>1</sup> in federal immigration custody, pursuant to a contract with the Vera Institute for Justice. My testimony is based on my experience as a supervising attorney on the DMP, as well as my conversations with DMP staff and organizational leadership.

By way of background, undocumented UCs arriving in the United States are placed in the custody of the Department of Health and Human Services (“HHS”), specifically the Office of Refugee Resettlement (“ORR”). ORR’s mandate is the “safe and timely release” of UCs to qualified relatives, friends, or entities in the United States. ORR contracts with private agencies

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<sup>1</sup> An “unaccompanied alien child” is a “child” with “no lawful immigration status” who “has not attained 18 years of age” and for “whom . . . no parent or legal guardian in the United States is available to provide care.” 6 U.S.C. § 279(g)(2).



to provide a number of different types of placements, which include Emergency Intake Sites (“EISs”) at the southern border, shelter or group home settings, transitional or long-term foster care (“TFC” and “LTFC” respectively), and secure or so-called “staff” secure placements for UCs that pose safety concerns. During their time in ORR custody, a given UC may find themselves in a number of different placements. For example, a UC may be placed at an EIS shortly after entry due to time and resource constraints, then be transferred to a shelter program. And if that shelter is unable to identify a suitable sponsor in the United States, it may refer the UC to an LTFC program. Another example might involve a UC being “stepped up” from a less-secure placement to a more secure placement, such as where a minor is transferred from foster care to a shelter setting, or from a shelter to a therapeutic group home. Impacts from COVID-19 vary primarily based on what kind of placement is involved.

The Door works with UCs at three separate ORR-contracted facilities providing a number of different placement types: Children’s Village (shelter, therapeutic group home, and staff secure placements), Abbott House (shelter and transitional foster care), and Cayuga Centers (LTFC<sup>2</sup>). We occasionally represent UCs at other facilities, such as where an inter-facility transfer takes place after a UC’s legal proceedings have already advanced significantly, meaning a change in representation might be detrimental to their case. At this time, we also represent several unaccompanied Afghan minors (“UAMs”) housed with UCs at the above facilities.<sup>3</sup>

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<sup>2</sup> Cayuga Centers also has a shelter program, but it is serviced by another LSP, Kids in Need of Defense (“KIND”).

<sup>3</sup> UAMs are not properly considered UCs because they have been paroled into the country and thus do not lack lawful immigration status—however, many UAMs are housed in facilities for UCs due to a shortage of available



The level of legal services provided varies based largely on a given minor’s length of stay in custody. For example, a young person who is promptly released from a shelter will likely have received a “know your rights” (“KYR”) presentation and also completed an intake form with a paralegal that gauges their eligibility for certain types of immigration relief. A UC whose stay in custody becomes protracted due to difficulties locating a suitable sponsor may benefit from having an attorney advocate for their release to an identified sponsor, or involve an organization that can assist any prospective sponsor in meeting ORR requirements. Minors expected to be in custody for a significant period of time may receive “full” representation—*i.e.*, the LSP will sign a retainer agreement establishing a formal attorney/client relationship, and file and pursue whatever applications for immigration relief are deemed appropriate. These minors may also be referred to LTFC programs, where such representation is guaranteed. The Door is contractually obligated to provide full representation to all minors in LTFC at Cayuga Centers, as well as to any minors discharged from the above facilities to sponsors residing in the New York City area.

When UCs qualify for immigration relief, the most common forms are special immigrant juvenile status (“SIJS”)<sup>4</sup> and asylum.<sup>5</sup> Some may qualify for other forms of relief, such as “T”

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space in ORR’s Unaccompanied Refugee Minor (“URM”) program, which would normally be tasked with caring for minors in such circumstances. *See* ORR Field Guidance # 19 – Unaccompanied Afghan Minor Processing (Sep. 4, 2021), available at <https://www.acf.hhs.gov/sites/default/files/documents/orr/fg-19-uam-processing-rev-11-9-21.pdf>.

<sup>4</sup> *See* 8 U.S.C. §§ 1101(a)(27)(J), 1153(b)(4), 1255(h). Due to a jurisdictional gap in state law, most minors in ORR custody are unable to access New York family courts for purposes of seeking SIJS (a multi-step, often years-long process involving proceedings before a state court and then U.S. Citizenship and Immigration Services), even if they would otherwise qualify. Nevertheless, The Door screens for SIJS eligibility as a matter of course, and this screening can be helpful in the event that a minor is released to a sponsor, as well as for purposes of advocating for a transfer to a jurisdiction where state law is more favorable in this regard.



visas for victims of severe trafficking,<sup>6</sup> “U” visas for victims of crimes,<sup>7</sup> or temporary protected status (“TPS”).<sup>8</sup> Screening for these forms of relief, let alone representing UCs in connection with any relief applications, typically involves lengthy and detailed discussions of highly sensitive subjects. For example, a SIJS applicant may have suffered abuse or serious neglect by a parent, and an asylum applicant may be a survivor of domestic or anti-LGBTQ violence. As a result, the importance of building rapport with the UCs we represent cannot be overstated. And the impact of COVID-19 can certainly be felt in this regard.

Until shortly before the pandemic, KYR presentations and intakes were performed onsite at The Door’s Legal Services Center. UCs attending these presentations could ask questions in what was functionally a classroom environment, and those filling out intake forms would meet face to face with their assigned paralegals in a space where their privacy could be guaranteed. In late 2019, ORR announced that it would no longer produce UCs in shelter placements for legal appointments at The Door. However, we remained able to give KYR presentations and conduct intakes in person at the facilities themselves. After the start of the COVID-19 pandemic, however, this practice was abruptly ended in favor of conducting KYR presentations and intakes via Zoom video conferencing. DMP staff are currently unable to schedule in-person

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<sup>5</sup> See 8 U.S.C. § 1158.

<sup>6</sup> See 8 U.S.C. § 1101(a)(15)(T), 1155(l).

<sup>7</sup> See 8 U.S.C. § 1101(a)(15)(U), 1155(m).

<sup>8</sup> See 8 U.S.C. § 1254a. TPS is extended by the Secretary of Homeland Security on the basis of emergency conditions in a given country to all nationals of that country present in the United States during a fixed window of time. Recent TPS designations cover Venezuela and Haiti.





appointments at the shelters, nor will shelters transport minors to The Door for appointments. Minors in LTFC continue to be produced on request for in-person legal appointments at The Door.

Rapport can be difficult to establish under these conditions, especially when other complicating factors (such as trauma or disability) are in play. For example, DMP staff have recently experienced difficulties working with two disabled minors who are nonverbal. When assisting nonverbal minors in the past, a DMP social worker (together with either an attorney or a paralegal) would meet with the minor face to face at The Door, where we are equipped to provide visual aids in a controlled environment. Not only is this infeasible under current operating procedures, but shelter staff have declined to schedule video calls with either minor, citing a risk of confusion and agitation. Another minor, fifteen years old, has been in custody since August of 2021, but was only recently able to open up to his legal team regarding the details of his asylum claim. It is easy to imagine how such delays in establishing rapport might prejudice a minor's legal case.

Children's mental health has also suffered as a result of COVID-19. For example, we worked with one minor in shelter who was awaiting a transfer to LTFC for approximately six months.<sup>9</sup> Despite this minor's repeated requests, they were unable to come to The Door in person. Such requests are not uncommon. Many minors, notably UAMs (who, it is worth noting, have lawful status and thus, unlike UCs, would *not* be subject to detention if they were adults)

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<sup>9</sup> Wait times such as these have become commonplace in recent months due to a nationwide shortage of available space in LTFC programs.



have described feeling like they are “in a prison.” The mental strain associated with being in custody has been dubbed “detention fatigue,” and can lead minors to request voluntary departure<sup>10</sup> even where they otherwise have meritorious claims for relief that would allow them to remain in the United States permanently.

Finally, COVID-19 has caused limited disruptions in the provision of legal services. For example, in late December of 2021 there was a COVID outbreak at one of the facilities we work with. The case managers—who each oversee a certain number of minors and are charged, among other things, with ensuring the young people are able to attend legal appointments—were apparently all either infected or exposed. As a result, all case managers were either out sick or working from home for a week, and no legal calls with minors could be scheduled that week. When some of the case managers returned the following week, calls could once again be scheduled, but precautionary measures put in place after the outbreak meant that these calls would no longer take place in the privacy of case managers’ offices, but rather in less private areas of the shelter such as the conference room or cafeteria.

It is my hope that the foregoing information will assist this Committee in carrying out its oversight functions, and I appreciate the opportunity to testify on behalf of our organization.

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<sup>10</sup> See 8 U.S.C. § 1229c.

My name is Alison Wade and I am a Brooklyn resident. I'm submitting this written testimony about the importance of ending ICE detention and to support the dozens of detained immigrant New Yorkers who have protested the inhumane conditions and dangers of ICE detention in New York state. Currently, New York state allows localities to work with ICE to forcefully take New Yorkers away from their families and communities and detain them in upstate county jails.

Conditions in ICE facilities in New York present an urgent humanitarian crisis that demands immediate action. The COVID-19 pandemic, paired with a history of medical neglect, puts people detained by ICE in extreme danger. Reports have shown that ICE has exacerbated the COVID-19 pandemic both within detention facilities and in the surrounding communities by ignoring CDC guidance about basic protocol such as social distancing, mask wearing, and by failing to provide information or access to vaccinations and booster shots.

Even before the COVID-19 pandemic, detention facilities in New York have been dangerous and abusive. People detained have reported unsanitary conditions, exceedingly cold temperatures, as well as inedible and inadequate food. Officers frequently make xenophobic and racist comments, including using the N word; scream at detainees for not speaking in English; threaten to put detainees in solitary confinement for wearing a sweater in freezing temperatures; and regularly fail to provide appropriate meals and prayer spaces. There are widespread reports of physical violence and excessive force by Orange County Jail officers, including pepper spraying, kicking, and punching people involved in nonviolent protest.

On February 16, approximately 56 people detained at Orange County Jail bravely began a hunger strike to protest the dangerous conditions, lack of medical care, abusive treatments by the officers, and their right to return to their families. In response to their hunger strike, officers confiscated tablets from detainees so they cannot make calls to loved ones and advocates outside the facility and threatened to shut off their water. When immigrants detained by ICE stand up for their rights, they are faced with harassment, physical abuse, or placed in solitary confinement as punishment. We must stand up for our families, loved ones, and communities faced with this violence.

ICE is able to maintain its detention and deportation system through the cooperation of state and local authorities. New York should not funnel any New Yorkers into ICE custody. and must end its complicity in the separation of New York City families and the traumatizing of immigrant communities.

The City Council must join the national movement to end ICE detention and protect ALL residents of our city. I urge the City Council to support the resolution calling on the New York state legislature to pass, and the Governor to sign, the Dignity Not Detention Act (A.7099 / S.7373).

Sincerely,  
Alison Wade  
Brooklyn, NY, 11226

**Testimony of**

**Hope Johnson**

**Data Scientist, UCLA Law COVID Behind Bars Data Project  
University of California, Los Angeles School of Law**

**The New York City Council**

**Committee on Immigration**

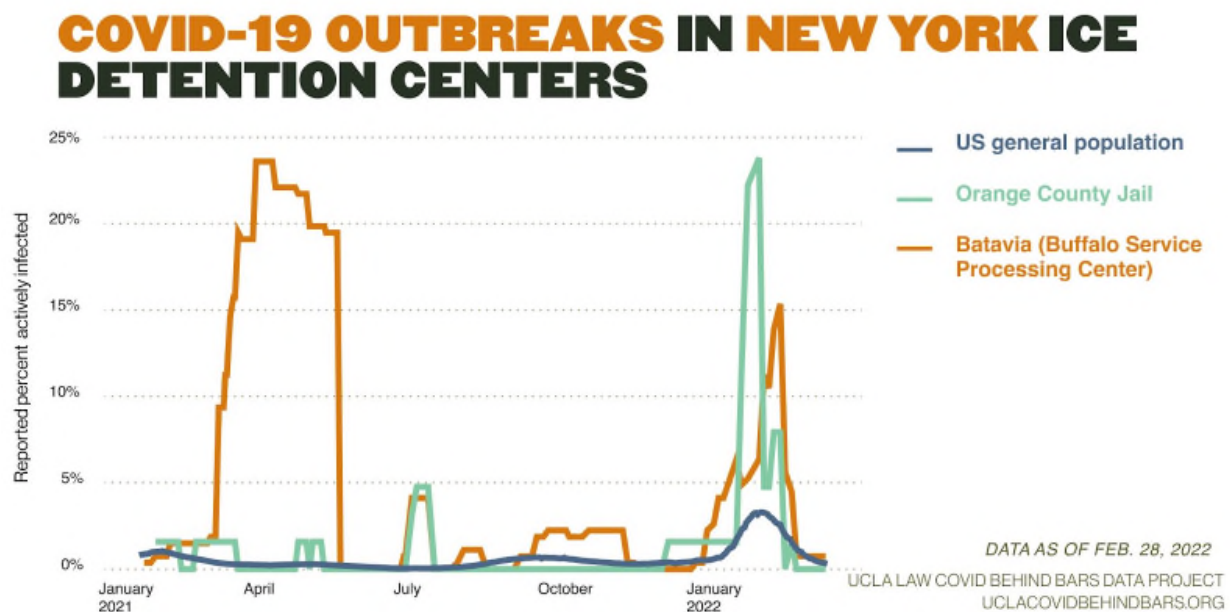
**Oversight - COVID-19 in Immigration Detention Centers**

**MARCH 3, 2022**

My name is Hope Johnson, and I am a New York City resident and a data scientist at the UCLA Law COVID Behind Bars Data Project. I have a background in health data

analysis and, together with my team of data scientists and health researchers, I've spent the past two years tracking the pandemic in prisons, jails, and ICE detention centers across the US. My organization serves as the primary source of data on the pandemic in ICE detention for the Centers for Disease Control, or CDC.

According to [data reported by ICE](#), at least 215 people detained at Buffalo Service Processing Center (Batavia) and at least 28 people detained at Orange County Jail have been infected with COVID since the start of the pandemic. Since the Omicron variant was first detected in the U.S., the number of confirmed cases at Orange County Jail has risen by 75% and at Batavia by 34%.



One outbreak at Batavia, beginning on December 17th 2021, lasted for over two weeks straight. We calculate that there have been at least 80 COVID outbreaks in total at Batavia, and that the facility has been in a state of outbreak for more than a quarter of the entire pandemic.

My colleagues' [research](#) has shown that, even when infection rates in surrounding communities are low, overcrowded conditions inside detention centers create conditions ripe for outbreaks.

Despite this and other research showing the epidemiological dangers of overcrowding, detained population levels remained high. ICE has reported that the detained population at Orange County Jail is currently 144, an increase of 80% from where it stood at this time last year. That the population is growing rather than decreasing provides further evidence for ICE's failures to protect those in its custody.

Public health experts [have agreed](#) that releasing people from confinement is the most effective strategy to prevent outbreaks in high risk settings such as ICE detention centers. Although ICE has the discretion to release people, instead they choose to keep individuals detained in overcrowded facilities where social distancing is impossible and infection rates are high.

In addition to high population density, frequent population turnover within ICE detention facilities exacerbates outbreak conditions. In December 2021 alone, [more than 30,000 people](#) were newly booked into ICE detention across the US. This problem is only made worse as individuals are transferred around to various facilities while in ICE's custody. The fact that transfers are used as a means of retaliation goes against public health guidance (a fact that multiple people shared during their oral testimonies on February 28th, 2022) and can have deadly consequences for detained people. No one held in ICE detention was sentenced to death by COVID. This inhumane and unjust treatment of immigrants does not reflect the values we share as New Yorkers.

Throughout the entire pandemic, poor data reporting practices have almost certainly concealed cases and deaths in ICE detention. In October of 2021, my organization rated the data reporting and quality of each correctional agency with a scorecard, and [we gave ICE a failing grade](#). ICE reports no information on vaccinations at all, or infections among staff members, and the only testing information ICE reports is a system-wide total. Although there are people detained in four ICE facilities within New York state, [ICE only reports COVID data for two facilities](#). This information is essential to those public health officials and others who are working hard to bring the pandemic under control, and the refusal to share this data endangers all of us.

Now is the time for New York's state officials to take resolute steps to gain control over COVID in ICE detention centers. This starts with releasing people rather than detaining and/or transferring them, and providing improved access to health care for those who remain detained. The culture of secrecy and resistance to oversight within ICE detention presents a significant threat to public health and safety.

Thank you very much for providing me with the opportunity to provide testimony on this critically important matter.

Hope Johnson, Data Scientist  
UCLA Law COVID Behind Bars Data Project

Dear City Council Members,

I was not able to attend Monday's New York City Council Immigration Committee hearing, so I am submitting this written testimony.

I have worked as an advocate for people in ICE detention facilities since December of 2019. Since October of 2020, I have been a volunteer advocate for Freedom for Immigrants on their hotline and thus have spoken with people held in ICE custody from all over the country. This hearing is primarily organized around abuses at Orange County Correctional Facility and particularly COVID, so I will begin there.

#### Orange County Correctional Facility

A detainee at Orange County informed me that they had COVID symptoms for a week before they would even give them a test. This person asked over and over again but still was not given one until after a week of being sick. When they first spoke of their symptoms, the CO spoke to them harshly. After their positive test result came back, they were locked in a cell by themselves for 23 hours and 45 minutes a day for ten days, never receiving another test. The United Nation's Mandela rules prohibit solitary confinement for 22 hours or more a day or for more than 15 consecutive days. Exceeding those time limits is defined as torture.

The facility staff are wearing masks but there is no vaccine mandate for them. Detainees are given one cloth mask (not even a surgical one) which they have to wash themselves. They asked for a second but never got it. Asking led to verbal abuse. And of course there is no possibility for social distancing within the facility. They asked for the booster in November but have never gotten a response. These forms of potentially life threatening medical irresponsibility are the case even for those who considered high risk for COVID. Medical abuse for other conditions is also a problem at OCCF. I've been informed that it can take more than half a year for tests or treatments to take place, regardless of how often the person asks or the seriousness of illness.

#### Batavia Buffalo Detention Facility:

In Batavia there is also medical abuse. As I have heard from people in ICE detention in nearly every facility, if you report a medical issue of nearly any kind, you see only a nurse and not a doctor and you are given either Tylenol or ibuprofen. This could be for stomach pain, severe headaches, dizziness, chest pain, etc. This often ends up harming people's mental health as well. Many people I've spoken with have developed mental health issues while in detention or have mental health issues that ICE detention exacerbated.

I have been informed of solitary confinement being used for "punishment." For example, participating in a fight could result in more than 10 days of solitary. Someone informed me that they were confronted and the guards were there and did nothing to stop it. I have heard very few complaints about confrontation with other people who are also detained.

Several people in Batavia informed me of sexual abuse and humiliation along with prolonged solitary confinement. In solitary they had no access to tablets, phones, television, yard recreation, or showers for more than 10 days.

I have also been informed of inadequate food at Batavia.

#### Facilities Elsewhere:

I would like to speak to other forms of abuse that are rife throughout the system based on conversations I have had with people in ICE detention.

- 1) Food: inadequate and inedible food. I have been informed of very unhealthy diets of lack of vegetables of fruits and generally of hunger. I have been informed multiple times of rotten food, and people suffer retaliation if they complain, including those who work in the kitchen. Someone cried with me on the phone because they were all being served raw chicken. When they complained they were told not to eat it if they don't like it. Or, people are told that they should go back to their country, or that they don't deserve any better. Many say they are treated like animals. Some have informed me of food with insects or even worms. I have heard of children being given only an apple for dinner because they arrived late.
- 2) Medical Care: I have spoken already about forms of medical abuse. But most people I have spoken with that have medical conditions have trouble getting proper medications, seeing a doctor at all or seeing a specialist if necessary. Many have told me that they have put in requests week after week, while their conditions worsen. On top of all of this, many inform me that they have been told that what they requested will happen soon, the next day or the next week, only for it never to happen. They feel lied to and deceived, disregarded and disrespected. Medical records are often withheld, sometimes as retaliation or sometimes for no reason at all. I have been informed of these problems with people with serious illness, mild illness or illness that has not yet been properly diagnosed.
- 3) COVID. The case in Orange County is not unique. I have been informed by many people imprisoned by ICE that the response to a positive COVID test or in some cases COVID symptoms is solitary confinement, not a form of medical isolation. Often they are not given access to medical care and they lose the ability to make phone calls to contact loved ones or even legal representatives if they are lucky enough to have one.
- 4) Solitary Confinement. Even prior to COVID, people in ICE detention often spoke of being put in solitary confinement or being threatened with it. Still, I am often informed by people that they have recently been put in solitary sometimes for short periods sometimes for extended periods often without any cause at all.
- 5) Verbal abuse. Many have informed me of various forms of verbal abuse and disrespect, being told they should go back to their countries, being called racial slurs, yelled at for politely making requests for things that the facilities are supposed to provide.
- 6) Sexual abuse. I have been informed by men and women of sexual abuse. I have been informed of discrimination against people who are part of the LGBTQ+ community.



- 7) I have been informed of racism. Racial slurs as I mentioned above. Harsher treatment for Black people who are detained, and racism towards people of color in general.
- 8) I have been informed of denial of use of phone or tablets that prevents communication with families and sometimes even lawyers.
- 9) I have been informed of outdated legal resources. This might not seem so important but many people in immigration detention have to be their own lawyers and need up to date information.
- 10) I have been informed of retaliation for making requests, for complaining either through official channels or unofficial ones. Retaliation can take many forms and is very often a threat used to prevent people from standing up for their rights. Threat of deportation is also a form of retaliation.
- 11) I have also been informed of physical abuse, pushing, shoving or dragging, sometimes while in handcuffs. Some of these have led to serious forms of injury.

The conclusion of my experience as an advocate is that we must end ICE detention. It's a system that is completely broken, rife with abuses and lacking any effective oversight. Reform is not a viable option given the systemic abuses that are how ICE detention operates, that is, it operates this way intentionally as a deterrent, which is not only deplorable, but also ineffective. Abuse is central not only to ICE practices but it's reason for being. New York State needs to pass the Dignity not Detention Bill and do all that it can to discourage ICE from transferring as opposed to releasing those detained in New York. Conditions in ICE detention meet UN standards for torture nearly everywhere. It is also important to note that detainees do not report any improved conditions under the Biden administration, and I am having the same conversations about the same abuses that were happening under the Trump administration. Many people are under the misconception that abuses against immigrants were a result of Trump's attack on immigrants. That is not the case. In addition, immigration detention is not a form of punishment for crime (except in very rare cases). If someone commits a crime they would go to a regular prison if sentenced to one and then be picked up for ice detention afterward, essentially creating a system of double jeopardy. And worse than prison, there is no sentence so people are "detained, really a euphemism for imprisoned, for an indefinite period, which does not mean it is short by any means. Many are there over a year, some for years-- away from their families, their jobs, no longer providing support or participating in their communities. An indefinite prison term is itself a form of psychological abuse; people inside have no idea when or if they will be released. New Yorkers might think that New York is a progressive state and that conditions in our facilities would be better than elsewhere but as you heard in testimony throughout the day on Monday, the conditions in New York are deplorable. New York has no business being in this business, making a profit off of abuse and even torture. It's a disgrace for all New Yorkers.

Thank you for your time.

Sincerely,  
Valerie Forman

## Testimony of Assia Serrano

I'm here to share my story, not of graphic sexual violence within the prison system, but to speak as a domestic violence & sexual assault survivor about how prison was a continuation of the violence and control I experienced in an abusive relationship, and about how prisons harm survivors.

Growing up in a dysfunctional family, the product of an alcoholic father whose insecurities were his way of justifying the verbal, physical, and psychological abuse he inflicted upon my mother, I learned at an early age that it was my responsibility to ensure my dad did not hit my mom, even if it meant standing in front of her when my dad was ready to throw punches.

Living through that, learning to keep everything a secret to protect my family, to avoid sending my dad to prison and getting my mom kicked out of the house, I grew up knowing the kind of relationship I would avoid, because I couldn't possibly endure yet more trauma.

Unfortunately, trauma, abuse, codependency, fear and shame brought me to relive and experience abuse at the hands of my children's father—a man 20 years my senior who I dated as a teenager, whose ability to control and manipulate me led me to believe I was nothing and no one without him. I was abused, physically and psychologically, denied sexual autonomy, and completely isolated by his manipulation from everyone who I loved and who loved and supported me.

It was through and in that relationship when I became a stranger to my own self and family, a distant, withdrawn, afraid, and insecure young woman, and my actions led to me prison, the place I was forced to call home for about 17 years.

Surviving a prison sentence requires re-inventing oneself, erasing, destroying the person we once were, but this is so much easier in theory, for I know first hand how impossible it is to do so, when we are reminded each and every day by a system that only sees us as our worst act. Prison is an oppressive and lonely place, a scary, inconsistent, and punitive environment, and unfortunately those entrusted with our custody, care and control often abuse their power subjecting us to further abuse and retraumatization. As a survivor who was isolated and denied autonomy in my abusive relationship before prison, I was again subjected to isolation and denial of autonomy—albeit in a different form—once I was incarcerated.

But more than anything, what sticks with me is that I witnessed happen to others, when I intervened and served as a shoulder to cry on, or a listening ear when male officers abused their authority and coerced incarcerated women into sex acts. Most women going into prison are survivors already before they're incarcerated, and I can say from experience that the violence and sexual violence of the prison system is the worst possible thing to subject a survivor to. In addition, as a survivor who had two babies at the time—one born right before I got locked up, the other born while I was incarcerated—I had to live with the fear and despair that came with knowing my children were living with my abuser.

Having been broken and stripped to my core through my abusive relationship and the violence of incarceration, I did everything I could to opt for healing and restoration despite my circumstances. In spite of the prison, I surrounded myself with positive people and sought out positions which afforded me the opportunity to have a voice, and I utilized that voice to empower myself and others. I worked diligently with a therapist to uncover the root cause of my trauma. I learned to love and accept myself, to reveal my redeeming qualities, I found purpose behind my pain.

I taught prenatal classes to women hoping to be accepted into the nursery unit. I shared my own birth story, having to deliver my son with an officer in the room, being stripped from him 2 days after he was born, itself an extremely traumatizing example of the violence of incarceration. I understood first hand the pain and uncertainty each woman felt, and it was precisely my pain, my trauma that gave me credibility in their eyes.

Serving as a doula, taking care of other women's babies when I could not take care of my own was both painful, but also satisfying. I held these roles for many years, they became my identity, and purpose, yet I still parented my children from afar and remained connected to them, in hopes of breaking the cycle of trauma.

Almost 15 years into my 18-year to life sentence the Domestic Violence Survivors Justice Act (DVSJA) was passed and all my past trauma opened a door that led to my being resentenced, with support from the New York County district attorney's office. The original DA assigned to my case supported my motion, in recognition of the abuse I suffered and how it led to my crime.

On April 23, 2021 I was resentenced and granted immediate release under this law meant to help survivors, however that did not happen. Instead, New York handed me straight over to ICE officers on May 4, 2021.

Leaving Taconic Correctional Facility that morning I felt both joy and sorrow. Shackled and handcuffed, I was transported to Albany county, then to Rensselaer County jail where I remained for 43 days before being deported to Panama, a place I left as a child. New York handing me over to ICE meant that I didn't have a chance to fight my deportation, even though a New York state court had recognized that I deserved consideration as a survivor. What this shows is even when the system says it's trying to help survivors, it finds new ways to criminalize and punish survivors, in my case through deportation.

I find it incredibly difficult to live as if freedom has solved and erased my pain. I am both incredibly grateful to have walked out of prison 1 1/2 years before my initial parole hearing, and deeply saddened because my children have yet to see, embrace, and kiss the woman they supported, the woman they waited for so long to fulfill her role as their mom.

February 28, 2022

My name is Charles Choy and I am testifying from Manhattan. I'm here today to testify about the importance of ending ICE detention and to support the dozens of detained immigrant New Yorkers who have protested the inhumane conditions and dangers of ICE detention in New York state. Currently, New York state allows localities to work with ICE to forcefully take New Yorkers away from their families and communities and detain them in upstate county jails.

Conditions in ICE facilities in New York present an urgent humanitarian crisis that demands immediate action. The COVID-19 pandemic, paired with a history of medical neglect, puts people detained by ICE in extreme danger. Reports have shown that ICE has exacerbated the COVID-19 pandemic both within detention facilities and in the surrounding communities by ignoring CDC guidance about basic protocol such as social distancing, mask wearing, and by failing to provide information or access to vaccinations and booster shots.

Even before the COVID-19 pandemic, detention facilities in New York have been dangerous and abusive. People detained have reported unsanitary conditions, exceedingly cold temperatures, as well as inedible and inadequate food. Officers frequently make xenophobic and racist comments, including using the N word; scream at detainees for not speaking in English; threaten to put detainees in solitary confinement for wearing a sweater in freezing temperatures; and regularly fail to provide appropriate meals and prayer spaces. There are widespread reports of physical violence and excessive force by Orange County Jail officers, including pepper spraying, kicking, and punching people involved in nonviolent protest.

On February 16, approximately 56 people detained at Orange County Jail bravely began a hunger strike to protest the dangerous conditions, lack of medical care, abusive treatments by the officers, and their right to return to their families. In response to their hunger strike, officers confiscated tablets from detainees so they cannot make calls to loved ones and advocates outside the facility and threatened to shut off their water. When immigrants detained by ICE stand up for their rights, they are faced with harassment, physical abuse, or placed in solitary confinement as punishment. We must stand up for our families, loved ones, and communities faced with this violence.

ICE is able to maintain its detention and deportation system through the cooperation of state and local authorities. New York should not funnel any New Yorkers into ICE custody and must end its complicity in the separation of New York City families and the traumatizing of immigrant communities. The City Council must join the national movement to end ICE detention and protect ALL residents of our city. I urge the City Council to support the resolution calling on the New York state legislature to pass, and the Governor to sign, the Dignity Not Detention Act (A.7099 / S.7373).

My name is Erin Mysogland and I am from Manhattan. I am a historian of immigration policing and volunteer with a coalition of organizations working to end ICE detention in New York (Abolish ICE NY and NJ). **I am writing to testify about the importance of ending ICE detention and to support the dozens of detained immigrant New Yorkers who have protested the inhumane conditions and dangers of ICE detention in New York state.**

Conditions in ICE facilities in New York present an urgent humanitarian crisis that demands immediate action. The COVID-19 pandemic, paired with a history of medical neglect, puts people detained by ICE in extreme danger. Reports have shown that ICE has exacerbated the COVID-19 pandemic both within detention facilities and in the surrounding communities by ignoring CDC guidance about basic protocol such as social distancing, mask wearing, and by failing to provide information or access to vaccinations and booster shots.<sup>1</sup>

On February 16, approximately 56 people detained at Orange County Jail bravely began a hunger strike, a strategic political act, to protest the dangerous conditions, lack of medical care, abusive treatments by the officers, and their right to return to their families. In response to their hunger strike, officers confiscated tablets from detainees so they cannot make calls to loved ones and advocates outside the facility and threatened to shut off their water. When immigrants detained by ICE stand up for their rights, they are faced with harassment, physical abuse, or placed in solitary confinement as punishment. We must stand up for our families, loved ones, and communities faced with this violence.

Even before the COVID-19 pandemic, detention facilities in New York have been dangerous and abusive. People detained have reported unsanitary conditions, exceedingly cold temperatures, as well as inedible and inadequate food. Officers frequently make xenophobic and racist comments, including using the N word; scream at detainees for not speaking in English; threaten to put detainees in solitary confinement for wearing a sweater in freezing temperatures; and regularly fail to provide appropriate meals and prayer spaces. There are widespread reports of physical violence and excessive force by Orange County Jail officers, including pepper spraying, kicking, and punching people involved in nonviolent protest.

The abuses of recent years are not an anomaly. Rather, since the start of immigration policing and detention in this country, the practices have intentionally upheld systems of power based on identity including race, class, nationality, gender, and ability.<sup>2</sup> For instance, historians have recently explained how a Chinese exclusion law fostered the

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<sup>1</sup> "DWN\_Hotbeds of Infection\_2020\_FOR WEB.Pdf," accessed February 28, 2022, [https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN\\_Hotbeds%20of%20Infection\\_2020\\_FOR%20WEB.pdf](https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN_Hotbeds%20of%20Infection_2020_FOR%20WEB.pdf).

<sup>2</sup> See for example Kelly Lytle Hernandez, *Migra! A History of the U. S. Border Patrol* (California: University of California Press, 2010) and Jessica Ordaz, *The Shadow of El Centro: A History of Migrant Incarceration and Solidarity* (UNC Press Books, 2021).

dependence of the upstate New York economies on immigrant detention.<sup>3</sup> The history of immigration policing in this country, which shows the violence endemic to this system, explains why nothing short of completely abolishing ICE detention, and immigration policing as a whole, is necessary.

**ICE is able to maintain its detention and deportation system through the cooperation of state and local authorities.** It is unacceptable that New York remains complicit in the intentionally racist practice of ICE detention. New Jersey, Maryland, Illinois, California, and Washington have recently passed bills ending state cooperation with ICE detention. New York must do the same. **I urge the City Council to support the resolution calling on the New York state legislature to pass, and the Governor to sign, the Dignity Not Detention Act (A.7099 / S.7373).**

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<sup>3</sup> Brianna Nofil, "Policing, Profits, and the Rise of Immigration Detention in New York's 'Chinese Jails,'" *Law and History Review* 39, no. 4 (November 2021): 649–77, <https://doi.org/10.1017/S073824802100016X>.

Hector Rodriguez Menjivar – Testimony for City Council Hearing

My name is Hector Rodriguez Menjivar. I am here to testify in support of closing ICE detention centers because of the trauma that detention inflicts on families. When I was placed in immigration detention in 2019, my daughter, who was 5 years old at the time, was separated from me for several months. I was told I would never see her again. I was told that I was a bad parent and a bad person for having come to the United States to seek asylum. Being separated from my child in this way is like a pain that I would compare to death. It is a kind of pain that will stick for a very long time. When you are in detention, it's as if your child is held in prison with you. Everything that is happening to you inside detention is also happening to them. I would never want another person to suffer what my family and I have suffered. For this reason, immigration detention needs to be put to an end.

My name is Heena Sharma, and I am testifying from Manhattan, up in Harlem. I'm here to stand in solidarity with the many detained folks sharing their stories and using their bodies to make demands for their freedom.

We know ICE is incapable of providing care – they can only destroy lives and entire communities. There's no amount of language access, trauma-informed training, bolstering of staffing, or know your rights training that will actually protect Black and brown communities targeted by ICE. Even if ICE were to provide better legal representation, commissary, and access to medical care and mental health services, we are still sending the message that \*some\* people should be detained as long as the conditions in prison are "humane." Making legal distinctions about who should be rightfully detained and deported is conceding that \*some\* people should be in cages. Even if correctional officers received "anti-racism" trainings or stopped saying racial slurs, that still would not make it acceptable for anyone to be detained, as the structures of ICE and the prison industrial complex themselves are violently racist.

The United States' foundations are rotten to the core, built on stolen land and the mass genocide of Indigenous peoples, built off of chattel slavery of African peoples and their descendants. Since its founding, the controlling and caging of racialized others has been the go-to solution of this empire, and since its founding there have been efforts to reform these institutions into more palatable and humanitarian incarceration. It is beyond time to recognize that reform and half-steps are not adequate nor are they acceptable in the face of innumerable death and violence caused by incarceration, border control, and ICE. New York must immediately cease its collaboration with ICE and end any contracts between its jails and the deportation machine. Ending ICE is the only way we can attempt to honor the many who have lost their lives in detention, and to bring peace to the many who are left to heal and grieve. Thank you.



Hello, my name is Joaris Hernandez, I am from El Salvador, I am 28 years old, I am a black transgender woman, I came to the United States fleeing persecution and repression from my home country because of my sexuality but I was instead further tortured and criminalized by the US immigration system for simply seeking safety and protection.

I was sent to a detention center in the year 2020, it was so horrible to live inside the detention centers, that is why I raise my voice today to be able to tell a little about the bad experience I had in the detention center, the shortcomings that there are also, since I am a tranx woman, I was sent to the solitary confinement for months because of my transness, that was something which affected me a lot emotionally and mentally since the isolation was something horrible it was a torture that I experienced. I speak today in solidarity with my colleagues and other LGBTQ+ immigrants who today are still locked up in detention center, the conditions in detention centers include poor nutrition poor healthcare accessibility, lack of medical attention, discrimination, complicated officials, that is why today I am joining together with everyone else and demand that the Biden Administration listen to my voice and realize the reality of what I experienced and there are many people who are currently going through what I went through Likewise, I ask President Joe Biden to fulfill his campaign promises of reforming to the immigration law especially towards the most marginalized communities the LGBTQ+ and black migrants because freedom is priceless and no one should have to endure the horror of their confinement.

no more detention centers, better to invest that money in to speed up our immigration processes, people should not go through that torture What is it to be inside the detention centers as well as to be free to have access to a decent job to medical resources other programs but many times it is difficult.

Biden should free everyone from detention centers and I urge the New York City council and governor Hochul to pass Dignity Not Detention in New York State.

Hola, mi nombre es Joaris Hernández, soy de El Salvador, tengo 28 años, soy una mujer negra transgénero, llegué a los Estados Unidos huyendo de la persecución y represión de mi país de origen por mi sexualidad pero en cambio fui más torturada y criminalizada por el sistema de inmigración de los Estados Unidos por simplemente buscar seguridad y protección.

Fui enviada a un centro de detención en el año 2020, fue tan horrible vivir dentro de los centros de detención, es por eso que hoy alzo mi voz para poder contar un poco la mala experiencia que tuve en el centro de detención, las carencias que hay también, ya que soy una mujer transexual, fui enviada al confinamiento solitario durante meses por mi condición de trans, eso fue algo que me afectó mucho emocional y mentalmente ya que el aislamiento fue algo horrible fue una tortura que viví. Hoy hablo en solidaridad con mis compañeros y otros inmigrantes LGBTQ+ que hoy en día siguen encerrados en centros de detención, las condiciones en los centros de detención incluyen mala alimentación poca accesibilidad a la salud, falta de atención médica, discriminación, funcionarios complicados, Por eso hoy me uno a todos los demás y exijo que la Administración Biden escuche mi voz y se dé cuenta de la realidad de lo que viví y de que hay muchas personas que actualmente están pasando por lo mismo que yo, le pido al Presidente Joe Biden que cumpla con sus promesas de campaña de reformar la ley de inmigración especialmente hacia las comunidades más marginadas los migrantes LGBTQ+ y negros porque la libertad no tiene precio y nadie debería tener que soportar el horror de su confinamiento.

no más centros de detención, mejor invertir ese dinero en agilizar nuestros procesos migratorios, la gente no debe pasar por esa tortura que es estar dentro de los centros de detención así como ser libre para tener acceso a un trabajo decente a recursos médicos otros programas pero muchas veces es difícil.

Biden debe liberar a todos de los centros de detención e insto al consejo de la ciudad de Nueva York y a la gobernadora Hochul a que aprueben Dignity Not Detention en el estado de Nueva York.

My name is Joy Leonard and I am testifying from Sunset Park, Brooklyn. I write today to testify about the importance of ending ICE detention and to support the dozens of detained immigrant New Yorkers who have protested the inhumane conditions and dangers of ICE detention in New York state. Currently, New York state allows localities to work with ICE to forcefully take New Yorkers away from their families and communities and detain them in upstate county jails.

Conditions in ICE facilities in New York present an urgent humanitarian crisis that demands immediate action. The COVID-19 pandemic, paired with a history of medical neglect, puts people detained by ICE in extreme danger. Reports have shown that ICE has exacerbated the COVID-19 pandemic both within detention facilities and in the surrounding communities by ignoring CDC guidance about basic protocol such as social distancing, mask wearing, and by failing to provide information or access to vaccinations and booster shots.

Even before the COVID-19 pandemic, detention facilities in New York have been dangerous and abusive. People detained have reported unsanitary conditions, exceedingly cold temperatures, as well as inedible and inadequate food. Officers frequently make xenophobic and racist comments, including using the N word; scream at detainees for not speaking in English; threaten to put detainees in solitary confinement for wearing a sweater in freezing temperatures; and regularly fail to provide appropriate meals and prayer spaces. There are widespread reports of physical violence and excessive force by Orange County Jail officers, including pepper spraying, kicking, and punching people involved in nonviolent protest.

On February 16, approximately 56 people detained at Orange County Jail bravely began a hunger strike to protest the dangerous conditions, lack of medical care, abusive treatments by the officers, and their right to return to their families. In response to their hunger strike, officers confiscated tablets from detainees so they cannot make calls to loved ones and advocates outside the facility and threatened to shut off their water. When immigrants detained by ICE stand up for their rights, they are faced with harassment, physical abuse, or placed in solitary confinement as punishment. We must stand up for our families, loved ones, and communities faced with this violence.

ICE is able to maintain its detention and deportation system through the cooperation of state and local authorities. New York should not funnel any New Yorkers into ICE custody. and must end its complicity in the separation of New York City families and the traumatizing of immigrant communities. The City Council must join the national movement to end ICE detention and protect ALL residents of our city. I urge the City Council to support the resolution calling on the New York state legislature to pass, and the Governor to sign, the Dignity Not Detention Act (A.7099 / S.7373).

Thank you for your time and consideration – and please take action now to end inhumane ICE detention!!

Joy Leonard (she/her/hers) – parent, voter, educator, citizen

**Lalito**

**Lalito Rivera speech: (May 1st, 2021)**

**Good afternoon everyone, my name is Oscar Eduardo Rivera Astudillo, I am originally from Guerrero Mexico, and have lived in New York for the past 6 years. On this day, we come together to urge President Biden to keep his promises. Undocumented immigrants can no longer wait for a path to citizenship.**

**I was forced to migrate to the United States because in my native home Mexico, I suffered a lot of discrimination, and on many occasions suffered violence for being 'different'- this being referred to my sexual orientation and the way I expressed myself. The state where I lived in Mexico, is one of the states with the highest rates of violence and murder towards people who identify as transgender, gender non-conforming and queer, and I was afraid of continuing to be discriminated against, and I was afraid of losing my life.**

**I am a gay immigrant boy and I have many dreams, and that is why I am here to demand that President Biden grant immigration relief to 11 million undocumented people. This country's recovery must include relief to our communities that have been waiting so long for protections and a path to citizenship.**

**Immigrants have worked tirelessly on the front lines during this pandemic, contributing to the economy, while also living in fear of being deported or separated from our loved ones. We are tired of living in the shadows.**

**We call on President Biden to use every tool at his disposal to provide a path to citizenship for undocumented people who contribute to our economy and call this country home.**

**Trans and queer people, DACA, TPS, trab need a path to citizenship because many of our brothers and sisters have been fleeing our countries due to machismo, homo-transphobia and discrimination that we face in our countries.**

**Immigration reform would give us more opportunities to live better, and not be victims of the fear of not having an immigration status.**

**President Biden and Congress -- we can't wait any longer!**

## **Thank you and yes you can!**

Lalito Rivera speech: (May 1st, 2021)

Buenas tardes a todes, mi nombre es Oscar Eduardo Rivera Astudillo, Soy originario de Guerrero México, y he vivido en Nueva York por los últimos 6 años. En este día, nos reunimos para insistir al Presidente Biden que cumpla sus promesas. Los inmigrantes indocumentados no pueden esperar más por un camino a la ciudadanía.

Yo me vi forzado a migrar a los Estados Unidos porque en mi natal México, sufrí mucha discriminación, y en muchas ocasiones sufrir de violencia por ser 'diferente', y en esto se referían a mi orientación sexual y en la forma que yo me expresaba. El estado donde yo vivía en Mexico, es uno de los estados con más índices de violencia y asesinato hacia personas que se identifican como transgénero, género no conforme y queer, y yo temía continuar siendo discriminado, y tenía miedo de perder mi vida.

Yo soy un chico gay inmigrante y tengo muchos sueños, y es por eso que estoy aquí para demandar al presidente Biden que otorgue un alivio migratorio a 11 millones de personas indocumentadas. La recuperación de este país debe incluir un alivio a nuestras comunidades que tanto tiempo ha estado esperando por protecciones y un camino a la ciudadanía.

Los inmigrantes hemos trabajado incansablemente en la primera línea durante esta pandemia, contribuyendo a la economía, mientras también vivimos con el temor de ser deportados o separados de nuestros seres queridos. Ya estamos cansados de vivir en las sombras.

Hacemos un llamado al presidente Biden para que use todas las herramientas a su disposición para brindar un camino hacia la ciudadanía a las personas indocumentadas que contribuyen a nuestra economía y llaman hogar a este país.

Las personas trans y queer, DACA, TPS, trab necesitamos un camino a la ciudadanía porque muchos de nuestros hermanos venimos huyendo de nuestros países debido al machismo, la homo-transfobia y la discriminación que enfrentamos en nuestros países.

Una reforma migratoria nos daría más oportunidades para vivir mejor, y no ser víctimas del miedo a no tener un estatus migratorio.

Presidente Biden y el Congreso -- ¡ya no podemos esperar más!

Gracias y si se puede!!!

**New York City Council Committee on Immigration Re: COVID-19 in Immigration Detention Centers**

**February 28, 2022 Written Testimony of Mercy Quinatocto**

Good morning, New York City Council Committee on Immigration.

My name is Mercy Quinatocto. You may know me as Ms. Q. I am here to tell how awful the conditions were for me and other women in ICE custody at the Rensselaer County Jail. Thank you for allowing me to share my experiences.

I arrived in the United States as a child to rejoin my family and escape violence in Ecuador. I grew up in New York. I went to school in New York, played soccer, went to church, and lived my life. I am a graphic designer and I love art. I am a regular person, just like you.

What I lack is a piece of paper saying I am an American citizen. And despite my younger sisters being American citizens, and my entire family living here, I was never able to obtain lawful immigration status.

I am before you today because in 2019, I made a mistake that changed my life forever. I was arrested, released on bail, but then arrested by ICE later at my home. I was transferred between facilities, including Orange County Jail, Putnam County Jail, Bedford Hills Correctional Facility, and Albion Correctional Facility throughout my criminal and immigration proceedings. The whole process was confusing and disorienting. I did not feel prepared for either of these cases. I felt alone and without support. I ended up getting convicted of a felony and ordered deported, all around the same time. I was sentenced to a year in Albion Correctional Facility.

I was released on parole in August 2021. But then ICE arrested me at the prison. ICE shackled me from my ankles to my waist and wrists as they transported me.

The ICE officer first took me to a government office building in Albany. Once at the building, I was forced to walk in shackles and my sandals. Instead of walking on the pavement, ICE made me walk in the grass. Then, the ICE officer made me walk over a drain, which I knew was dangerous. I warned the officer that I did not feel safe walking this way. He ignored me. As expected, my ankle shackles got stuck on the grate over the drain. I told the ICE officer to stop and help me. Instead, he tugged hard on the chain holding my ankles, wrist, and waist shackles. My ankle ripped against the shackles as the officer pulled on the chain. I fell forward, straight on my face. I was covered in scratches and bleeding. Four months later, I learned that my ankle had been fractured by the ICE officer during this incident.

The ICE officer forced me to limp on my own into the building. I was left in a room, and not given medical attention. While I was in the office, I heard the ICE officers talk to each other and agreed to blame me for my injuries if anybody asked what happened.

After everything, I was told they were taking me to the emergency room, but I ended up at the Rensselaer County Jail, left injured and unable to walk. I was booked and the jail officers put me in a dirty cell where there was no mattress. I had to ask for a mattress, and the jail officers gave

me a dirty one. On top of that, the cell was filthy and wrecked. The toilet was clogged. There was urine and garbage all over the floor. I tried my best to clean it, but I still could not walk.

I was injured and felt dirty. I asked for a shower to clean the blood off of me, and a phone call to tell my family where I was. The jail officers denied both of those requests. I asked for cleaning supplies and the jail officers denied me those as well. I was forced to clean myself in a sink that barely worked.

I went through so much at the Rensselaer County Jail. It took my attorney and a lot of media attention for me to finally see a doctor to tell me my ankle was fractured. Throughout the whole thing, the jail officials and ICE officers told me to quit lying about my injuries and to walk it off. The other girls were always mean to us and always said things like go back to your country. The officers knew about what was happening and always ignored us.

After my attorney and I filed a civil rights complaint against the jail, I was retaliated against by Rensselaer County officials. They tried to trick me into contradicting the complaint and tried to trick me into saying my attorney made it all up. I was mistreated even worse by the jail after my civil rights complaint. I was in a place where I just cried so much. There were times I wanted to give up because of how terrible that place was. They do this intentionally, so you just accept deportation.

I am happy to say that because of community pressure and support, I am now free from ICE detention. But even though I'm free, ICE is still trying to deport me. I have filed for a pardon with the governor, but have not received a decision yet. I continue to seek ways to obtain lawful immigration status so I am not separated from my partner, Sandra Patricia, and my family.

I continue to have trouble walking on my ankle and regularly see a doctor. I may need surgery because the fracture did not heal properly during the four months I was denied medical attention. I continue to suffer so much because of what ICE and the Rensselaer County Jail did to me.

I want the New York City Council to understand that my situation is not unique. What happened to me happens to other immigrants every day. I am asking the City Council to please express its support for the Dignity Not Detention Act, so the State passes the law to stop immigration detention in New York state. I am asking the City Council to urge the government to release all immigrants from ICE custody in New York. I am also asking City Council to ensure better living conditions in these jails, and to hold jail officials accountable for their abuses against immigrants.

I want to help other immigrants that are in Rensselaer County Jail, and all other jails in New York. I want to be able to get them home and reunite with their families. I want justice for other immigrants like me. I want them to know that I am here for them, and for them not to lose hope.

To everyone still in immigration detention: There are people that do care about us immigrants, and we have their support. And together we will close all the immigration facilities and help everyone.

Thank you.



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**From:** N Q <nqochoa@gmail.com>  
**Sent:** Monday, February 28, 2022 3:51 PM  
**To:** Testimony  
**Subject:** [EXTERNAL] Testimony NYC City Council Committee on Immigration

My name is Natalia Quintero and I am testifying from Manhattan. I'm here today to testify about the importance of ending ICE detention and to support the dozens of detained immigrant New Yorkers who have protested the inhumane conditions and dangers of ICE detention in New York state. Currently, New York state allows localities to work with ICE to forcefully take New Yorkers away from their families and communities and detain them in upstate county jails. Conditions in ICE facilities in New York present an urgent humanitarian crisis that demands immediate action. The COVID-19 pandemic, paired with a history of medical neglect, puts people detained by ICE in extreme danger. Reports have shown that ICE has exacerbated the COVID-19 pandemic both within detention facilities and in the surrounding communities by ignoring CDC guidance about basic protocol such as social distancing, mask wearing, and by failing to provide information or access to vaccinations and booster shots. Even before the COVID-19 pandemic, detention facilities in New York have been dangerous and abusive. People detained have reported unsanitary conditions, exceedingly cold temperatures, as well as inedible and inadequate food. Officers frequently make xenophobic and racist comments, including using the N word; scream at detainees for not speaking in English; threaten to put detainees in solitary confinement for wearing a sweater in freezing temperatures; and regularly fail to provide appropriate meals and prayer spaces. There are widespread reports of physical violence and excessive force by Orange County Jail officers, including pepper spraying, kicking, and punching people involved in nonviolent protest. On February 16, approximately 56 people detained at Orange County Jail bravely began a hunger strike to protest the dangerous conditions, lack of medical care, abusive treatments by the officers, and their right to return to their families. In response to their hunger strike, officers confiscated tablets from detainees so they cannot make calls to loved ones and advocates outside the facility and threatened to shut off their water. When immigrants detained by ICE stand up for their rights, they are faced with harassment, physical abuse, or placed in solitary confinement as punishment. We must stand up for our families, loved ones, and communities faced with this violence. ICE is able to maintain its detention and deportation system through the cooperation of state and local authorities. New York should not funnel any New Yorkers into ICE custody. and must end its complicity in the separation of New York City families and the traumatizing of immigrant communities. The City Council must join the national movement to end ICE detention and protect ALL residents of our city. I urge the City Council to support the resolution calling on the New York state legislature to pass, and the Governor to sign, the Dignity Not Detention Act (A.7099 / S.7373).

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**From:** Sai Tsang <sai.l.tsang@gmail.com>  
**Sent:** Monday, February 28, 2022 6:29 PM  
**To:** Testimony  
**Subject:** [EXTERNAL] Ending ICE Detention In New York

Dear NYC City Council Committee,

My name is Sai Tsang and I am testifying from Manhattan. I'm here today to testify about the importance of ending ICE detention and to support the dozens of detained immigrant New Yorkers who have protested the inhumane conditions and dangers of ICE detention in New York state. Currently, New York state allows localities to work with ICE to forcefully take New Yorkers away from their families and communities and detain them in upstate county jails.

Conditions in ICE facilities in New York present an urgent humanitarian crisis that demands immediate action. The COVID-19 pandemic, paired with a history of medical neglect, puts people detained by ICE in extreme danger. Reports have shown that ICE has exacerbated the COVID-19 pandemic both within detention facilities and in the surrounding communities by ignoring CDC guidance about basic protocol such as social distancing, mask wearing, and by failing to provide information or access to vaccinations and booster shots.

Even before the COVID-19 pandemic, detention facilities in New York have been dangerous and abusive. People detained have reported unsanitary conditions, exceedingly cold temperatures, as well as inedible and inadequate food. Officers frequently make xenophobic and racist comments, including using the N word; scream at detainees for not speaking in English; threaten to put detainees in solitary confinement for wearing a sweater in freezing temperatures; and regularly fail to provide appropriate meals and prayer spaces. There are widespread reports of physical violence and excessive force by Orange County Jail officers, including pepper spraying, kicking, and punching people involved in nonviolent protest.

On February 16, approximately 56 people detained at Orange County Jail bravely began a hunger strike to protest the dangerous conditions, lack of medical care, abusive treatments by the officers, and their right to return to their families. In response to their hunger strike, officers confiscated tablets from detainees so they cannot make calls to loved ones and advocates outside the facility and threatened to shut off their water. When immigrants detained by ICE stand up for their rights, they are faced with harassment, physical abuse, or placed in solitary confinement as punishment. We must stand up for our families, loved ones, and communities faced with this violence.

ICE is able to maintain its detention and deportation system through the cooperation of state and local authorities. New York should not funnel any New Yorkers into ICE custody. and must end its

complicity in the separation of New York City families and the traumatizing of immigrant communities. The City Council must join the national movement to end ICE detention and protect ALL residents of our city. I urge the City Council to support the resolution calling on the New York state legislature to pass, and the Governor to sign, the Dignity Not Detention Act (A.7099 / S.7373).

Kind regards,  
Sai Tsang

My name is Taylor Banning and I am testifying from Manhattan. I'm here today to testify about the importance of ending ICE detention and to support the dozens of detained immigrant New Yorkers who have protested the inhumane conditions and dangers of ICE detention in New York state. Currently, New York state allows localities to work with ICE to forcefully take New Yorkers away from their families and communities and detain them in upstate county jails.

Conditions in ICE facilities in New York present an urgent humanitarian crisis that demands immediate action. The COVID-19 pandemic, paired with a history of medical neglect, puts people detained by ICE in extreme danger. Reports have shown that ICE has exacerbated the COVID-19 pandemic both within detention facilities and in the surrounding communities by ignoring CDC guidance about basic protocol such as social distancing, mask wearing, and by failing to provide information or access to vaccinations and booster shots.

Even before the COVID-19 pandemic, detention facilities in New York have been dangerous and abusive. People detained have reported unsanitary conditions, exceedingly cold temperatures, as well as inedible and inadequate food. Officers frequently make xenophobic and racist comments, including using the N word; scream at detainees for not speaking in English; threaten to put detainees in solitary confinement for wearing a sweater in freezing temperatures; and regularly fail to provide appropriate meals and prayer spaces. There are widespread reports of physical violence and excessive force by Orange County Jail officers, including pepper spraying, kicking, and punching people involved in nonviolent protest.

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## **CITY COUNCIL HEARING ON IMMIGRATION BY UCHE ONWA 2/28/2022**

Thank you Chairwoman Hanif, and the rest of the City Council.

My name is Uchekchukwu Onwa and I am the Co-Director of the Queer Detainee Empowerment Project (QDEP). We support LGBTQ+, GNC and/or HIV+ immigrants detained in immigration prisons in New York State, New Jersey and other states on the West Coast where a lot of members of our community are detained by ICE.

I am here as someone with the lived experience of immigration detention and as an advocate for the LGBTQ+immigrants community. Specifically those who went through detention and incarceration and are facing very specific struggles in New York City. I want to speak about the most important problems in our community that are exposing LGBTQ+, GNC, and HIV+ people to poverty, physical danger and risk of slow death.

Our first ask to the Committee is to prevent New York State from continuing contracting with ICE, Pass Dignity Not Detention, and support the release of everyone. Jails and prisons are places of torture where human dignity and rights are broken everyday. For us, continuation of ICE contract or more jails equates to more ICE spaces to incarcerate immigrants, including queer, and trans immigrants.

Every person seeking asylum at the border is sent to an ICE detention center, which are terrible and life threatening places, especially for LGBTQ+ immigrants. First of all, our trans and gender non conforming members are sent to facilities based on the gender marker appearing on their ID. Many people do not have the opportunity to change their names or gender identification on their legal papers in their home countries. Sometimes because the process simply does not exist, or it is not accessible to them - from day one trans and queer immigrants are exposed to perpetual discrimination, physical violence, constant insults, sexual harrasment and rape coming from the other people who are detained and guards. Majority of our trans and gnc members are sent to solitary confinement for days, sometimes even weeks or months as case may be, one of our trans member was in solitary confinement at Rensellea for two months and she had multiple suicidal attempt, another was turtued for two years at the facility before they were transferred to Krome in Florida and finally deported back top Jamiaca a country they haven't been to in ober 40 years. Solitary confinement means being inside of your cell for 23 hours a day without the right to see other people. It is an unconstitutional form of torture to keep a person in solitary confinement for more than 72 hours. Imagine for a moment the impact on the physical and mental health of the person detained in those conditions. One of our members, a trans woman from Honduras, was detained in solitary confinement in an ICE detention center for 2 years. She had two suicidal attempt. She stopped trying to commit suicide when she got in contact with our organization and was able to call our hotline whenever she wanted to speak with somebody. Because we were able to support her with commissary funds she was able to receive our emotional support through multiple calls and letters. She was released because of QDEP's advocacy campaign.

Solitary confinement is just one of the examples of how our lives are being broken down and threatened in prisons and ICE detention centers. Medical neglect, perpetuating violence, sexual harassment and rape, lack of access to pro-bono legal representation (without which our members have no chance to be released and are doomed to deportation), terrible hygienic conditions and nutrition, all those issues have catastrophic impact on the physical and mental health of all members of the LGBTQ community, especially trans and gnc people. In the past year two trans women (Roxana Hernandez and Johana Medina) who lived with HIV and informed ICE officers about their medical conditions, died in ICE custody because of medical neglect. Those deaths were followed by multiple accounts from our members regarding denial by ICE of medical treatment for HIV or HIV testing. Various members were released with terrible health conditions due to ICE's medical neglect. Some of our members discovered that they were HIV+ only when released because of lack of access to HIV testing in immigration prisons. One of our member a black trans woman from Coata Rixca committed suicide few months after she was released from detention as a result of the mental health impact of her incarceration.

As a Black bisexual migrant, Paul has suffered extensive harassment and violence at the hands of immigration officials. In one instance, an ICE officer pinned Paul to a wall and threatened to kill him. The officer specifically said that he was mad at Paul because he was Black. When Paul filed a grievance about the incident, the same officer retaliated by inventing charges against Paul and putting him in solitary confinement for several days, with officers placing him in distress and coercing him to become suicidal. Then an ICE officer handcuffed Paul, dragged him on his knees, and threatened to mace him in the face if he did not get up. The next morning, Paul attempted suicide and had to be brought to the hospital. An excerpt of his suicide note was recovered from his room. The note said, ***“Immigrants are treated like shit, food bad, medical bad, everything, This is nothing but torture at this facility therefore I don't want to live in it. I don't want to live, [X] tell her dad, love her.”***

Second, I would like to talk about the second biggest issue our trans and queer members face once they are released from detention centers and are coming to New York City, this is lack of free housing adapted to our needs. Most queer, trans, and gnc immigrants arrive in the U.S. with nothing, only the clothes on their backs - especially those who went through the ICE prison system. Most queer immigrants do not have family support because many of our families have rejected us and discriminated us for identifying as LGBTQ+, this means we do not have financial or social support. Resources from the city and resources provided by our queer communities is all that is provided to us. These resources are often extremely limited, especially when it comes to free housing.

If we want to keep these amazing, beautiful and unstoppable people within our communities we need support from you and the city to release everyone from detention, pass dignity not detention, create more, safe, and accessible housing and employment resources for them.

Thank you so much for your time and for listening.

Uchechukwu Onwa

Co-Director of QDEP

Coordinator of Community Organizing Program

Pronouns: he/him/his

Queer Detainee Empowerment Project

308 W 46th Street, New York, NY, 10036

(646) 281-2904

DECLARATION OF [REDACTED]

I declare the following is true and correct to the best of my knowledge:

1. My name is [REDACTED]. My A number is [REDACTED].
2. I have been detained at Orange County Correctional Facility (“OCCF”) since [REDACTED]. Before coming to OCCF, I was detained at [REDACTED].

***Mistreatment and Excessive Use of Force by OCCF Officers***

3. The officers at OCCF seem to have a racial hatred for Hispanic people. They don’t like when we speak in Spanish. They will take away benefits we have, like not giving us our tablets at the usual time, or cutting our recreation time by a half-hour or an hour. They will search our cells for no reason. They will lock us into our cells without any cause. They won’t let us change the channel on the TV, or will change the volume and won’t let us change it back. I am not sure of the names of the officers, but there are a couple officers who are especially bad.
4. On January 1, 2021, we had a problem here when we tried to speak out against an officer who was very racist against us and treated us badly. Around a week or so before this, we had submitted a signed, written complaint about this officer, and we wanted to take more steps, because nothing had changed.
5. We decided to do a hunger strike to try to get the attention of a sergeant, so we could explain the problems we were having with this officer. We didn’t leave for lunch that day. After, we asked the officer on duty to speak with a sergeant.
6. The officer said something like we weren’t pay attention to him and that we were being disrespectful, and he called for other officers. A big group of officers came—maybe fifteen or twenty of them. They came in very violent and aggressive, yelling insults, trying to push us, telling us we had to go to our cells. It was very chaotic. We just wanted to speak with them, and explain our grievance.
7. The officers started hitting one of us men. They jumped on top of him and were hitting and hitting him. They sprayed some kind of gas in his face. Afterward, they took him away. We didn’t see him for a long while after that—he just recently returned.
8. After the incident, I was locked-in for five days as a punishment, just because they didn’t want to pay attention to our grievances. This made me feel like a criminal, but I’m not a criminal; I’m only here because of my immigration situation.
9. On the fourth day of my punishment, they took me to something like a court in the jail, where they read charges against me. The jail officials told me I violated the laws of the jail. I said I was not guilty, but the jail found me guilty anyway. They told me not to tell anyone about what happened, not even my lawyer. I don’t know why they told me that. Maybe because they



already have a lot of complaints against the jail. I didn't want to say anything to my lawyer, but later I did decide to tell her because I didn't want to hold this information alone.

***Lack of Medical Care at OCCF***

10. COVID is a problem at OCCF. Recently, I heard there were people with COVID in the building—at least three people. When they had videocalls, the rest of us had to lock in. I don't think this is fair. These people should be somewhere else, so that they can be safe, and so that the rest of us can be safe.
11. In general, the medical care here is bad. You have to fill out papers so they will see you, but it's hard to get a response. I have a [REDACTED] that really hurts, it needs a [REDACTED]. I have [REDACTED] pain that really bothers me. I have been asking for help for over a week and haven't heard anything. I feel really bad. Many of the men have complaints like this.

**[THE REMAINDER OF THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK]**

Dated: February 13, 2022  
Goshen, New York

[REDACTED]

Hello City Council,

I am currently detained in Orange County Jail and wish to remain anonymous. I have been here for nearly two months and in that time, I have seen and experienced terrible conditions and would like to tell you about them today.

First, the food that is served to us is disgusting and unhealthy. On a regular basis we are served expired foods, including food that expired up to a year ago. With my own eyes I have seen mold on the meat multiple times. Also, the menu is very limited, and we are given them same meals over and over again. For example, pasta with moldy mystery meat is served at least four times a week. Slices of ham are served to us often as well, and we hear from people who work in the kitchen that it is past its expiration date. For this reason, I rarely eat in the dining hall and instead, I spend my own money on food from the commissary. Most of the other people in my unit also do this.

I'd also like to talk about my experiences in the medical unit. I have a chronic spinal condition that causes extreme pain in my back, neck, and legs, and effects my ability to sleep and walk. When I arrived at Orange, I reported all of this to the medical unit and explained the various ways I treat my condition when at home. Despite this, they have done basically nothing to help me. They were giving me Ibuprofen but have stopped giving it to me for weeks. To make an appointment with the medical unit, we have to write a letter or call them. I have written at least 6 letters, labeled them all urgent, but they have not responded a single time. While being here, I've been in some of the worst pain I've been in in a long time, but they don't want to help me. It's like I don't exist to them. I know many other people in my unit have had the exact same problem, including men who have psychiatric issues and need attention.

Finally, I'd like to shed light on an incident that happened in my unit recently. Early in the morning, a sprinkler went off on its own and released brown water everywhere. The officers temporarily moved us to another unit that had no heat on. The officers couldn't figure out how to turn it off for a long time, so 2 or 3 inches of brown water accumulated on the floor. When it was finally turned off, they brought us back to the unit and told us that we had to clean everything up. Not a single officer or person who works at the facility helped us clean. We didn't make this mess but had to clean up the dirty water with almost no cleaning materials. I cleaned the floors for around 5 hours. After that, because of my chronic condition, I was experiencing very bad pain. I wrote to the medical unit once more, asking them to help me please urgently. But again, they didn't respond.

For these reasons, I am in support of closing this facility and releasing the people inside. It is not safe for us here.

-Incarcerated individual who wishes to remain anonymous  
02/25/2022

## **Anonymous Testimony from an Immigrant Currently Detained at Orange County Jail**

When I first arrived at Orange County Jail at the end of December, I was put into quarantine for two weeks. During that time, I was in my cell all day, with only short breaks to use the restroom. Sometimes the guards would bring meals to us in our cells, other times they would open the door and have us come out and pick it up. When I did get meals, it was not enough food. A typical meal would be a bit of pasta, some crackers, and a slice of bread. The only vegetable we ever got was string beans. Sometimes there would be a little meat in the pasta sauce, but that was it. We don't know any fruit here.

My biggest issues in quarantine were having enough water. We had a little cup of water, which we could fill during meal times. We would ask officers to let us get more water during the day, but they wouldn't answer. They wouldn't say no, they would just ignore us, no matter how often we asked. One week into quarantine, I was sent to a doctor for a check up. She told me that my kidneys were being affected and told me that I really needed to take in a lot of fluids. I was really worried that I wouldn't be able to do what the doctor told me to do. When I got back to my cell, I asked the officer for water and he said no. I told him what the doctor said but he didn't want to get it for me or let me get it for myself. I didn't get water for the rest of the day except a little cup with dinner.

When I was released from quarantine, we still had issues with food: not getting enough, not getting protein or fruits and vegetables. I know that there have been times when the officers have made racist comments because my friends have told me, but I don't speak English so I try to ignore it. There are some officers who we are all concerned about. There was an incident when six or seven officers attacked one man. One of the officers put his knee on his neck, he said he couldn't breathe, but they wouldn't move. An African inmate near me was trying to go down to help the one who was being punished, but we told him not to because we knew they would hurt him too. They made us go back into our cells and I don't know what happened next.

I just want to get out of here and be back with my family. I have three young children and they cry every time they see me on the video calls because they miss me. I came to the United States to make a better life for them, and I just want to be with them again.

Declaration of [REDACTED]

I declare the following is true and correct to the best of my knowledge:

1. My name is [REDACTED].
2. I have been detained at Orange County Correctional Facility by U.S. Immigration and Customs Enforcement for about [REDACTED], since [REDACTED]. I am in unit [REDACTED].
3. The situation at the jail right now is really intense. There have been some guards who have treated us really badly.
4. One of them is Officer Bloise, Badge # 366. He is racist, insulting, and threatening, especially to Spanish and Black people here. He's often late to let us out of our cells into the common area and is early to lock us back in, even though he knows how hard it is for us to be in cells. He cuts down our time to talk to our families on our tablets and takes away our privileges. The worst is that he makes racist comments all the time. He talks about how dark people's skin is and whether that means they're African or not. He says that Africans have a certain kind of smell. He says if you're Spanish, other people should watch out because you probably have a machete. One day before the Christmas holidays, he announced that commissary requests were due early and told the Spanish speaking people in our unit "you know who you are, you should get your rice and beans." He seems to be constantly trying to provoke people so that they do or say something to get in trouble, and he threatens and curses people out who tell him what he's doing isn't fair. He looks for any excuse to write people up. We've written two complaints about him, and many people in the unit signed them.
5. Officer Carde, Badge # 523; Officer R. Laudato, Badge #551, and Sergeant Figueroa are also hostile towards us. They are always cutting our time outside of our cells and looking for reasons to lock us in. Officer Carde has taken away people's privileges just because he's angry or has a headache. For example, we have tables in our cells but he says we are not allowed to keep a cup or even a Bible on it. He will lock us up for the rest of the day if he sees something on our table. I have seen him try to intimidate Spanish people in particular, and it feels like he is trying to make himself look big. We've written a complaint about him, and it was also signed by many people in the unit. Officer Laudato is the same – keeping us in our cells, letting us out late and locking us in early. He, like Officer Carde, is very aggressive, very intimidating, and seems to enforce the rules arbitrarily. We end up buying food from commissary because the meals here are awful, but we can't eat the commissary food because Officer Laudato keeps disconnecting the microwave and tells us we can't go into the kitchen. He wouldn't let a Dominican person charge his tablet, even though he needed to call his family, and made the person lock in instead. It's always arbitrary. They seem to want to make this place a living hell for us. Sergeant Figueroa always takes the side of the officers no matter what we say. They seem to always want to provoke people.

6. No one listens to our grievances. We have to write our complaints on whatever paper we can find because the guards refuse to give us grievance slips. When we try to make a grievance, they won't give us the grievance slip, they'll just tell us, "just come talk to us, we'll take care of it right here." But when we talk to them, they don't address our problems. We think they just don't want our complaints on record. We have written to them with complaints and petitions on paper but we don't know what they've done with the paper we've sent them.
7. The worst incident happened recently. On Christmas Eve (December 24, 2021), Officer Bloise came into the unit when many people were watching a television program in Spanish. Without saying anything, he changed the channel to some cartoons in English and turned up the volume really loud. He did the same thing Christmas Day. We got upset but didn't say anything because we didn't want trouble. But then he came in and did it again on New Year's Day (January 1, 2022) - we are watching something in Spanish and he changed the channel to an English talk show and turned it up really loud. We had already written a complaint about him and were frustrated that no one was doing anything to stop him from treating us this way. When he took his shift break on January 1, another officer came in and brought us lunch. Most of the people in the unit decided to refuse to eat. We agreed that we're not going to eat until we get our voices heard. When Officer Bloise got back from break, he was really angry. He said "I know what you're doing. This is my house." He ordered us to lock in and we refused, saying we wanted to talk to a sergeant. He started cursing and yelling at us, calling us "motherfuckers." We kept calm and kept saying, "call the sergeant." We wanted to talk to a sergeant about our complaints and the written petitions we had filed.
8. Instead of sending a sergeant to speak with us, a swarm of officers came in. There was one guy who was standing off to the side when this was happening. One of the officers grabbed for him, and then a bunch of officers tackled, kicked, and punched him. He was yelling for help. It's not right what they did to the guy - I saw his face was swollen and red. He was out of the unit for a long time. We all got disciplinary hearings for refusing to lock in. But no one has talked to us about our complaints or Officer Bloise's behavior.
9. After what happened on New Year's, Office Bloise came back once to our unit. It felt like he was going to go crazy. If he comes back to our unit, it will be a problem for us. We're going to end up losing. Everything feels very intense right now. I don't think it's right because people are already under so much stress.
10. In addition to the racism and discrimination from the guards, the overall conditions in the jail have been bad. There were four people here locked in their cells in the unit because of COVID. When they leave their cells, the rest of us were locked in. There are long delays for people to get their COVID vaccine doses, and I don't know if people are getting a third shot.

11. The jail isn't giving us disinfectant. They used to give a spray bottle and some bleach. We don't have that now. Plus, I think whomever used to be around to clean isn't cleaning right now—everything is getting dirtier. People are afraid to do anything themselves. There's one good officer who I noticed would get some kind of foam cleaner and wipe down some areas. But no one else. We aren't given the right kind of supplies to clean up ourselves.
12. ICE used to come to speak to us every week or so, but now no one comes in. We were missing toilet paper for two days, and laundry soap for a day or two – it's been like that, someone has to bring it up to the sergeant, and then they'll supply it, but there are these gaps and it's not healthy. We've only gotten fresh bedding twice in the last four months, and it takes three to four weeks to get clean clothing. Some of the guards don't let you wash your bedding or clothes in between.
13. Recently, every time we complain they seem to either turn the AC up or turn off the heat. They did it for 5 days once and it's freezing in here. I told the nurse. Some people thought they had COVID because they were shivering so much. People's families have been sending extra thermals, socks, and other clothes in packages, but they arrive at the jail and then it takes three to four weeks for people to get their packages, which is not fair.
14. Medical care is not good here. There is always a gap for prescription refills – you might go without medication for two or three weeks. The medical staff take days to respond to sick calls. There is a person in my unit with a swollen ankle who put in a sick call to see a nurse four days ago and still has not heard back. Things seem to have gotten even worse now that COVID is spreading through the jail again.
15. There is more I could share about what's happened but I am afraid if I say too much, the guards will know that I am saying these things and will make my life even more difficult here. A lot of people are afraid to speak out. I hope some change will come. It's not right that we're treated this way.

Dated: February 13, 2022

/s/ [REDACTED]

## DECLARATION OF [REDACTED]

I declare that the following is true and correct to the best of my knowledge:

1. My name is [REDACTED].
2. I have been detained at Orange County Correctional Facility (“OCCF”) since [REDACTED]. I am in unit [REDACTED].

### ***Racism, Abuse, and Retaliation at OCCF***

3. Since I arrived at OCCF, I have felt discriminated against. When I first got here and was in medical quarantine, there was a guard, Officer Bloise, who made us feel really bad during the time we would line up to get food. He would stand very far away from us, and make a line with chairs to keep us far away from him. He would yell at us if we got near him. It made me feel really bad. That’s no way to treat a human being!
4. Recently, a guard was racist to me for speaking Spanish. I had to leave the unit and I had forgotten my mask, so I asked a nurse who speaks Spanish if I could please have a mask. I prefer to speak Spanish—my English is not good, it embarrasses me to speak in English sometimes. This guard says to me, “We speak English here.” I said, “She speaks Spanish.” And he said to me, “I don’t speak Spanish. We don’t speak Spanish here.” I wasn’t even talking to him.
5. There was also an incident around the beginning of January. At the end of the day, an officer got very angry over a misunderstanding and called over a sergeant and a bunch of other officers. The officers were being really aggressive and threatening with us. A sergeant yelled out something like, “Why don’t you all go back to your country?” or something like that to all of us. It was terrible.
6. I have also seen and heard about the guards getting violent and hitting people. On the night of February 5, 2022, Officer Bloise came with the nurse who dispenses our medicine at night. He was standing in the doorway with the nurse. In general, Officer Bloise treats us really bad—he is very disrespectful. He’s had a lot of problems with one of the guys here, L.G.C., and always seems to pick on him.
7. L.G.C. saw Officer Bloise and got upset. He said he didn’t want to see Officer Bloise, and that he needed to get his medicine. But Officer Bloise stayed where he was. L.G.C. asked the on-duty guard for Officer Bloise to go away. But Officer Bloise started saying stuff to him, things like, “Shut up, get away.” L.G.C. threw a water bottle to the floor in frustration.
8. Officer Bloise called over reinforcements, and several other officers came over. They yelled at all of us to lock in, and they threw L.G.C. to the ground and started hitting him. One of them put his knee on L.G.C.’s neck. He was quiet; he didn’t fight back or resist. We were all yelling at the officers to stop, but they just kept hitting him anyway. Then, they handcuffed him. They



took video after with a digital video camera—not of when they were hitting him, just once they were taking him away. It’s not right. It seems like Officer Bloise just came to provoke him.

9. I also heard that a guy in another unit was beat up by the guards back in January. He briefly came to stay in our unit. I heard this same officer was involved. He has problems with everyone. The men in the unit were protesting against this officer so a sergeant would come, the officer called reinforcements, and then this guy got assaulted. When he came to our unit, he was all beaten.
10. The psychological environment here is bad. You close yourself off; you don’t take care of yourself. One thing that happens here is that, on certain days each week, people get picked up to be deported—the guards take them out of their cells. I have seen two people get taken away forcefully, being threatened with violence. It is horrible to see this happen.
11. I don’t even like to look at the officers’ name tags here, for security reasons. The guards are very tight with each other—nothing is hidden here. I don’t want to say anything for fear it could get around and they will target me. I know I am vulnerable. We are all vulnerable here; we are in the guards’ hands. They can do anything they want to us. Many people here have bad experiences, but don’t speak up out of fear.
12. I even saw a guy last week get in trouble with the nurse because he had complained to his lawyer that he had not gotten his regular medication while he was sick with COVID. The nurse said to him something like, “Who do you think you are, to complain to your lawyer?” Even the nurse knows if you make a complaint!
13. Even if we did want to make a complaint to ICE about all this, in my time here, I have never once seen anyone from ICE here who was willing to talk to us about our grievances or complaints.

### ***Medical Care and COVID at OCCF***

14. They don’t care about our lives here. It’s really very ugly. People in the unit have COVID, and we’re all mixing together. You get one mask when you arrive at the jail, and that’s it. It’s not even a high-quality mask, like an N95—it’s a surgical mask. If they are only going to give us one mask, you’d think we’d at least get one of the more effective ones. There is no reason here. They don’t care about us.
15. The other day, I wanted to get another mask because I had to leave the unit. I didn’t have one on me, and the guard told me to just use a shirt to cover my face, or borrow one. But everyone has been sick here! Why would I borrow a mask from someone who might have COVID? The other day, in the room where I take legal calls, the person who used the headset before me had COVID. It’s a bad situation.
16. I asked one of the nurses why they don’t just test us all, and separate the people who have COVID from the people who don’t have COVID. She told me they didn’t want the numbers to go up.

17. In general, medical care here is very slow. I sent a sick call last week asking for [REDACTED]; I didn't hear back for almost two weeks. What if it was an emergency?
18. I also asked if I could get my [REDACTED], and was told I would have to wait [REDACTED]! That seems ridiculous to me.
19. We don't get a copy of the sick call forms we fill out, so it's hard to keep a record of the number of times we have asked for help. It seems like the jail does not want us to have a record.
20. With the medical staff here, it's like they just go through the motions of taking care of you, but they don't really care about you. They don't take the time to do a real exam. But there are people here who have chronic illnesses, who need real medical care, and they are not getting care. They'll just get a Tylenol, and that's it.
21. We are worthy, we are human beings! We deserve respect and dignity. We should not be treated this way.

***Overall Conditions at OCCF***

22. The food here is awful. Not every person has family with the resources to send money for commissary. If you don't have money, you are stuck with the horrible food they give us here. Truly, I can't explain in words how bad the food is.
23. They see us like a business here. The food in the commissary is very expensive. The games and movies on the tablets are expensive. It costs our families a lot of money so we can have commissary and use the tablets. Yet, the tablets have bad security. We each have a pin to use on the tablets and make purchases, but our pins get stolen and our funds will disappear. Then, if we ask the guards to change our pin codes to protect our funds, they don't do it—and that's our money that's getting stolen!
24. I think ICE and the jail just wants to wait until our appeals are over and deport us. But we want to be released; we want to fight. We want an opportunity. There are families who need us. In my case, I have a [REDACTED] who depends on me; I have [REDACTED] brothers here. My whole family is here. The people who run this jail have dark hearts.

Dated: February 10, 2022  
Goshen, NY

[REDACTED]  
[REDACTED]

DECLARATION OF [REDACTED]

I declare the following is true and correct to the best of my knowledge:

1. My name is [REDACTED]. I am [REDACTED] years old. My A number is [REDACTED].
2. Since [REDACTED], I have been detained by Immigration and Customs Enforcement at Orange County Correctional Facility (“OCCF”). I am assigned to [REDACTED].

***Excessive Use of Force at OCCF***

3. The other people detained in my unit and I have had a lot of problems with a particular officer. His name is Officer Bloise, and his badge number is 366. He makes life impossible for us. There are other officers who have treated us badly, but Officer Bloise is the worst, and he never seems to face any discipline.
4. For example, on December 24, 2021—Christmas Eve—we were trying to pass the time and enjoy ourselves watching television. Officer Bloise came and changed the channel to a children’s channel. We let it go because it was a holiday and we didn’t want to get into problems.
5. Around a week later, on January 1, 2022, when Officer Bloise came on shift, he opened the cell doors at 9:30 instead of 8:30 like usual. He told us that he would open the doors when he felt like it. I understood that he was making fun of us—like we weren’t worth anything.
6. We wanted to call our families but we couldn’t. That was the last straw for us. We all closed ourselves off in the room with the tablets. We didn’t eat lunch. It is our right to shut ourselves off—we did not want to be in the presence of Officer Bloise. We wanted to give the message that that we didn’t want to be around him.
7. When he came for a shift change, we said we wanted to speak with another officer. A large group of more senior officers came. They were very aggressive and angry.
8. One officer said he was going to speak to us calmly, but then they started hitting a man. Because of the location of my cell, I couldn’t see what happened, but other people who saw told me the officers grabbed the man really hard.
9. I’m not sure what happened to the person who was hurt by the guards—if they put him in solitary confinement or transferred him.

***Lack of Access to Medical Care at OCCF***

10. Something that really worries me about OCCF is that it’s very difficult to get access to proper medical care, especially during the pandemic.

11. Right now, many people at OCCF have COVID, but they don't want to tell the guards because they will get sent to quarantine. The conditions in quarantine are very bad. You don't even get to go outside to get water. It's better to stay quiet.
12. People who've gotten the COVID vaccine often have a fever or feel sick after. Many people will ask for Tylenol to help treat the fever—but they don't get it until three days later, when it's no longer useful.
13. There are long delays to see a doctor here. I put in a request and was never called. This worries me a lot.

Dated: January 21, 2022  
Goshen, New York

████████████████████  
████████████████████

DECLARATION OF [REDACTED]

I declare that the following is true and correct to the best of my knowledge:

1. My name is [REDACTED]
2. I have been detained at Orange County Correctional Facility (“OCCF”) since [REDACTED]. Before that, I was detained at [REDACTED]. At OCCF, I am in Unit [REDACTED].

*Racism, Abuse, and Mistreatment from OCCF Officers*

3. Here, the people who are charged with watching over us insult us. They tell us we don’t have rights. They call us criminals, even though we are not in criminal custody. The truth is we are nearly accustomed to the horrible way they treat us—it’s normal, it’s what they do every day.
4. There are two officers in particular who treat us badly: one is named Sergeant Figueroa, and the other is named Carde. When those two are on duty together, it’s like hell. They will turn off the microwave and vending machine so we can’t use it, even though they are supposed to be there for us to use. There is a machine in the dining area to heat water, and they will disconnect that too. They try to make life impossible for us.
5. Officer Carde, in particular, is always angry; he’s always picking fights with people. I once heard him say in Spanish while he was arguing with someone that he used to be in the military and that he would make us suffer like he made people suffer when he was in the army. A group of four or five people, [REDACTED], tried to talk to Sergeant Figueroa about him, but Sergeant Figueroa just told us that we were the problem, not Officer Carde.
6. One time, Officer Carde locked me into my cell for [REDACTED] just because [REDACTED]. I don’t think the jail gives a formal write-up for something like that. But these officers give punishments like this if they’re in a bad mood: they will send you to your room and lock you in for no reason—for little things like getting water or using the vending machine.
7. There is also a captain—I’m not sure of his name—who is really aggressive in his searches of our rooms. He will throw our food, mattresses, commissary items, and clothes on the floor. If we have things on our tables, he will throw those things on the floor as well. This has happened to me maybe [REDACTED]. It seems like he does this just to bother us, and make us feel bad.
8. I have heard this captain say things in Spanish like, “This is my damn jail, and if you don’t like my rules, go back to your countries.” I have heard another sergeant say things like that too. I am not sure what this sergeant is called, because he wears a long sleeve shirt that doesn’t show his name. This seems to be the new style of some of the officers at the jail—the worst officers seem to be trying to hide their names.

9. The officers have even gotten physical with us before. Sometime around the beginning of the year, we had an incident that was really ugly. Here, we have access to tablets that we can use to make calls from 8:30 a.m. on. We have to turn them in at 10:00 p.m. That night, there was an officer—I'm not sure of his name—who made a mistake in his counts. He thought he was missing a tablet.
10. This officer got really mad because of the supposedly missing tablet. Around 10 p.m., he called over more officers. Around thirty officers came in, even a sergeant. They were screaming at us, pushing us and forcing us into our cells. They told us we had to get into our rooms and lock in. They took away our last half-hour of recreation time. The sergeant—I don't know his name for sure—yelled really loudly in English something like, if we didn't like being treated this way, we should go back to our countries.
11. That same night, we realized the whole thing had been a mistake. We could hear the officer chatting with the sergeant from our cells. And the officer explained that there had been an error, that all the tablets were there. The officers never said sorry or anything.
12. A little while after that, a man came to stay in our unit. He came all beaten up, and we heard he had been assaulted by the officers in his unit.
13. It's impossible to make complaints here. There's one person in particular here—a man named [REDACTED] who is Mexican—who has made a lot of complaints, and the guards treat him, really bad. They lock him in for nothing. Also, some people have tried to mail complaints from the mailbox in the jail, but they have not gotten anything back. We are not even sure if the mail is getting sent. We do not trust the jail or the officers to handle our mail.
14. If we say we have a complaint, the jail staff tells us there is no point in pursuing it. For example, the officers frequently check our rooms to make sure they are clean. Mine was checked just yesterday, and again today. But the officers get angry if we ask for cleaning supplies, or other basic hygiene supplies, like soap, toilet paper, and toothpaste. One time, I heard Official Carde say to someone asking for soap, "Why don't you just buy it in the commissary?" If we say this isn't fair or that we want to complain, the sergeants will say it's their word against ours, so there's no point—if we complain about anything, they'll find a way to make problems look like our fault. I have heard this many times.
15. For my part, I'm scared of getting in trouble. So I keep my cell clean with whatever supplies I can find myself. I will use a dirty shirt to clean the floor if I have to.
16. In general, the rules here don't make sense. For example, there's a dining area in our unit, but they don't let us eat there. They make us eat in our rooms instead, where the toilet is. There is also a vending machine, where you can get snacks or soda. If you want to eat or drink what you buy from the machine, they will lock you into your room. You can never be in your room with the door unlocked. If you are ever in your room with the door unlocked, you get locked in as a punishment.

### ***COVID and Medical Care at OCCF***

17. Recently, there have been many people with COVID at OCCF. They were quarantining right here in the unit. It shouldn't be this way; they should have been in a separate medical quarantine. The result is that people with COVID were here sharing space with us—using the same bathing area, leaving to get medication from the same area.
18. We don't feel safe, and it's the fault of the jail. The jail doesn't give anyone COVID tests. We could all get sick. Some people here aren't vaccinated. In my case, [REDACTED]—but you can always get sick. Some people who don't feel well are afraid to say anything to the doctors, because they are scared they'll be locked into their cells for fourteen or fifteen days, and only be let out to bathe. Nobody wants that.
19. Generally, medical care here is not good. I have only needed it once, [REDACTED]. They [REDACTED], but they only gave me [REDACTED] of medication for the pain, and never checked up with me after. However, it still hurts me, and, even though I have filled out two sick calls, I have not received more medication or an appointment.
20. I know someone here who has kidney problems and high blood pressure. He told me the nurse told him there was no problem, but then he fainted in his room. So, now he is in quarantine. Everything is just horrible here.

### ***Overall Conditions at OCCF***

21. The food here is terrible. The cooks here apparently got COVID, so they've been sending us these disposable trays of food. We've only been eating pasta for a month. I know outside, when you hear pasta, that sounds pretty good. But I don't think even an animal would eat this food. It's liquefied, like it's been in a blender. It's horrible.
22. We are also very concerned about the mail here. Jail staff don't give us the originals of our mail; instead, we get photocopies. In my case, this has even happened with a big packet mailed to me by my lawyer a couple weeks ago. And our mail is very delayed in arriving. Sometimes my family sends me [REDACTED] and they pay for them arrive quickly, but it will still take eight, nine, even ten days to get to me. I wonder if officers read the mail we send, too. My family has gotten letters I sent, and the envelopes appeared to have been opened. This has happened more than once. I think the jail is monitoring us all the time; they are very untrustworthy.
23. The situation here is very strange. The officers treat us so badly, and they work for the jail, not for ICE. We think they the jail treats us this way because ICE wants us to disappear. They just want us to go through hell so we'll agree to be deported voluntarily—they want us to self-deport. There are many people here that don't want to be deported—but the way they treat us, we can't take it.

Dated: February 10, 2022  
Goshen, New York

\_\_\_\_\_  
\_\_\_\_\_



Los guardias aquí son muy malos. Nos encerrarán por cualquier cosita. Si tienes un vaso de agua en el área común y a un oficial no le gusta, te hará encerrarte en tu cuarto. Son racistas: nos gritarán cuando nos digan que nos encerremos, llamándonos “inmigrantes” y, en algunos casos, la palabra N.

Aquí nos castigan con encierros muy largos. Es una locura; es demasiado. Cuando estás encerrado, solo te dejan salir para bañarte, comer y ya. En mi caso, una vez, le pedí una cosa al Oficial Carde. No tenía mi tarjeta de identificación conmigo en ese momento. El oficial Carde me dijo que fuera a buscar mi identificación. Dije que si pudiera obtener la cosa que había pedido, entonces iría a buscar mi identificación. El oficial Carde se enojó y dijo algo como: “No me importa. No quiero verte hoy. Vuelve a tu habitación.” Después de eso, recibí un castigo de estar encerrado durante catorce días.

El oficial Carde nos persigue cuando está de mal humor. No nos deja prender la televisión. El día que me metí en problemas, también encerró a muchas otras personas. Simplemente parece que odia a los inmigrantes.

Incluso cuando no estamos castigados con un encierro, tenemos que pasar gran parte del día en nuestras celdas. Todos los días estamos encerrados en nuestras celdas de 11:00 a. m. a 12:30 p. m., 2:30 p.m. a las 3:45 p.m., 5:00 p.m. a 6:30 p.m., y 10:30 p.m. a las 8:30 a.m. No tiene ningún sentido. Nos tiene a todos sintiéndonos sofocados.

Los guardias nos tratan como animales. Si estamos usando el microondas, a veces lo desconectan para que no podamos usarlo. He escuchado a los guardias decir cosas como: “No tienes un microondas en tu propia casa. Deberías agradecerlos que tengas un microondas aquí.” Si queremos cambiar de canal en la tele, no nos dan el control, tenemos que esperarlos.

Tenemos tabletas aquí, y los guardias no nos permitirán usarlas al azar. A veces, si no nos levantamos a las 8:30 a.m., los guardias no nos dan las tabletas. Casi todos los días, quiero cargar mi tableta por la noche, para poder usarla hasta que tenemos que entregar las tabletas a las 10:00 p.m. Pero si pido cargar mi tableta, los guardias dirán: “Si la tomo ahora, no te la devolveré.” Esto sucede todo el tiempo, a muchas personas.

Cuando pedimos ayuda, los guardias nos ignoran. Hay botones en nuestras celdas que podemos usar para llamar a los guardias, y te hablarán a través de un intercomunicador. Mi salud no es buena. Cuando usé el botón para llamar a los guardias y les pedí que llamaran al médico, me dijeron que iban a llamar al médico, pero luego no hicieron nada. A veces no responden a mis llamadas en absoluto. Esto es muy peligroso. Podría morir en mi celda si los guardias ignoran mis llamadas.

No podemos quejarnos aquí. Todos aquí están en pánico; aquí todos tienen miedo de estar encerrados. Nadie habla por miedo. Quejarse con un sargento es como hablar con una pared. No les importa, parecen ocultar quejas.

La atención médica aquí es muy, muy mala. Nunca estuve gravemente enfermo antes de llegar aquí; jugué fútbol, estaba de buena salud. Nunca había estado en el hospital. Pero desde que llegué aquí, he estado enfermo. Me siento mal todo el tiempo: no sé qué me está pasando. Los médicos no me explican nada. Me han sacado sangre, pero nunca parecen darse cuenta de lo que está mal conmigo. Me preocupa que voy a morir aquí y la cárcel será feliz.

Una vez, tuve que estar en cuarentena. No me sentía bien; no estaba comiendo. Durante mi cuarentena, el oficial Bloise estuvo de turno durante tres días. Él es realmente malo; me trató como a un animal. Le pedí un poco de jugo y me dijo: “Si rechazas la comida, rechazas todo. No quiero darte una mierda. Luego, durante los tres días que estuvo de turno, no me trajo agua, ni me sacó a bañar. Tuve que beber agua del lavabo del inodoro. Esta agua es muy mala: está oscura cuando sale del grifo. No creo que sea para beber; tenemos acceso a agua potable fresca en el área común. El oficial Bloise es horrible.

Los médicos aquí creen que pueden resolver todo con una pastilla; solo quieren darte una pastilla para que te vayas. Nada es importante para ellos. Nos hablan como si fuéramos niños: “¿Te vas a tomar la pastilla o no?” Si no queremos tomar una pastilla, tenemos que firmar que nos negamos. Esto puede hacernos sentir presionados. Parece que los médicos solo quieren que tomemos el medicamento, pero no les importa si no mejoramos.

La atención médica aquí es lenta. Cuando completamos una solicitud, nos envían al médico tres o cuatro días después. El otro día fui al médico. Dijeron que me volverían a llamar ese día y no tuve respuesta.

La gente aquí tiene miedo de decir si se siente enferma, porque con el COVID, si no te sientes bien, te pueden encerrar catorce días. Aquí todo es cuarentena.

La comida aquí es mala, es basura. Recibimos la misma comida todos los días; nada cambia. Nos dan papas y pasta, y algún tipo de carne que ni siquiera puedo identificar. No se nos permite compartir comida: si tenemos una bandeja de comida y no la queremos, nos obligan a tirarla. Si le damos nuestra bandeja a otra persona, seremos castigados.

Tenemos que pagar por todo aquí: sellos, llamadas telefónicas, mensajes de texto. Es realmente difícil. Algunos miembros de mi familia han bajado sus tarjetas por mí y les han cobrado cientos de dólares porque las tarifas son muy altas. Me robaron el pin de mi tableta y perdí todo el dinero y los minutos de mi economato cada vez. Si les pedimos a los guardias que cambien el pin, no lo harán de inmediato, se toman su tiempo.

La cárcel solo quiere que firmemos nuestras órdenes de deportación porque no podemos aceptar la forma en que nos tratan. Nos tratan como criminales, nos tratan como las peores personas del mundo. Incluso peor que eso, aquí me han tratado como a un perro. La vida aquí no es una vida para un ser humano.

## DECLARATION OF [REDACTED]

I declare that the following is true and correct to the best of my knowledge:

1. My name is [REDACTED].
2. I have been detained at Orange County Correctional Facility (“OCCF”) since [REDACTED]. Before I arrived at OCCF, I was detained at [REDACTED]. At OCCF, I [REDACTED].

### ***Racist Abuse and Mistreatment at OCCF***

3. The guards here are very bad. They will lock us in for any little thing. If you have a cup of water in the common area and an officer doesn’t like it, they’ll make you go lock into your room. They are racist: they will scream at us when they tell us to lock in, calling us “immigrants” and, in some cases, the N-word.
4. We get punished here with very long lock-ins. It’s crazy; it’s too much. When you’re locked in, you only get let out to bathe, get food, and that’s it. In my case, around [REDACTED], I asked Officer Carde for [REDACTED]. I didn’t have my ID card on me at the time. Officer Carde told me to go get my ID. I said if I could just get the [REDACTED], then I would go get my ID. Officer Carde got mad and said something like, “I don’t care. I don’t want to see you today. Go back to your room, [REDACTED].” After that, I got a punishment of being locked in for fourteen days.
5. Officer Carde goes after us when he is in a bad mood. He won’t let us turn on the television. The day I got in trouble, he locked in a lot of other people too. He just seems to hate immigrants.
6. Even when we are not being punished with a lock-in, we have to spend a lot of the day in our cells. Every day, we are locked into our cells from 11:00 a.m. to 12:30 p.m., 2:30 p.m. to 3:45 p.m., 5:00 p.m. to 6:30 p.m., and 10:30 p.m. to 8:30 a.m. It doesn’t make any sense. It has us all feeling suffocated.
7. The guards treat us like animals. If we are using the microwave, they will sometimes disconnect it so we can’t use it. I have heard guards say things like, “You don’t have a microwave in your own house. You should be thanking us that you even get a microwave here.” If we want to change the channel on the TV, they won’t give us the control—we have to wait for them.
8. We have tablets here, and the guards will not let us use them randomly. Sometimes, if we don’t get up right at 8:30 a.m., the guards won’t give us our tablets. Almost every day, I want to charge my tablet in the evening, so I can use it until we have to turn the tablets in at 10:00 p.m. But if I ask to charge my tablet, the guards will say, “If I take it now, I won’t give it back to you at all.” This happens all the time, to many people.

9. When we ask for help, the guards ignore us. There are buttons in our cells we can use to call the guards, and they will speak to you through an intercom. My health is not good: I often [REDACTED]. When I've used the button to call the guards and asked them to call the doctor, they have told me they were going to call the doctor, but then not done anything. Sometimes they don't respond to my calls at all. This is very dangerous; I am [REDACTED], and sometimes I need [REDACTED]. I could die in my cell if the guards ignore my calls.
10. We can't complain here. Everyone here is panicked; everyone here is terrified of being locked in. Nobody speaks up out of fear. Complaining to a sergeant is like talking to a wall. They don't care—they seem to hide complaints.

### ***Medical Neglect and COVID at OCCF***

11. The medical care here is very, very bad. I was never seriously sick before I got here; I played soccer, I was healthy. I had never been to the hospital. But since I've gotten here, I've been sick. I feel bad all the time: [REDACTED]. I don't know what's wrong with me. The doctors don't explain anything to me. I have had my blood taken [REDACTED], and they never seem to figure out what is wrong with me. I worry I will die here, and the jail will be happy.
12. I was taken to [REDACTED] in [REDACTED], and so I had to quarantine for [REDACTED] when I got back. I didn't feel well when I got back; I wasn't eating. During my quarantine, Officer Bloise was on duty for three days. He is really bad; he treated me like an animal. I asked him for a little juice, and he said to me, "If you refuse food, you refuse everything. I don't want to give you shit." Then, for the three days he was on shift, he didn't bring me water, or even take me out to bathe. I had to drink water from the toilet sink. This water is very bad: it is dark when it comes out of the faucet. I don't think it's supposed to be for drinking; we have access to fresh drinking water in the common area. Officer Bloise is horrible.
13. The doctors here think they can solve everything with a pill; they just want to give you a pill so that you will leave. Nothing is important to them. They talk to us like we are children: "Are you going to take the pill or not?" If we don't want to take a pill, we have to sign that we refused. This can make us feel pressured. It seems like the doctors just want us to take the medicine but don't care if we are not getting better.
14. The medical care here is slow. When we fill out a request, we get sent to the doctor three or four days later. The other day, I went to the doctor and my [REDACTED] was very high: [REDACTED] or so. They said they would call me back that day, and I didn't hear back.
15. People here are afraid to say if they feel sick, because with COVID, if you're not feeling well, you can get locked in for fourteen days. Everything here is quarantine.

***Overall Conditions at OCCF***

16. The food here is bad—it's garbage. We get the same food every day; nothing changes. They give us potatoes and pasta, and some kind of meat I can't even identify. We're not allowed to share food: if we get a food tray and we don't want it, they make us throw it away. If we give our tray to someone else instead, we will get punished.
  
17. We have to pay for everything here—stamps, phone calls, text messages. It's really difficult. Some of my family members have put down their cards for me and been charged hundreds of dollars because the rates are so high. The pin for my tablet has gotten robbed [REDACTED], and I lost all of my commissary money and minutes each time. If we ask the guards to change the pin, they won't do it right away—they take their time.
  
18. The jail just wants us to sign our deportation orders because we can't take the way they treat us. They treat us like criminals, they treat us like the worst people in the world. Even worse than that, I have been treated like a dog here. The life here is not a life for a human being.

Dated: February 12, 2022  
Goshen, New York

[REDACTED]  
[REDACTED]

The worst era of my life has been here in Orange County, this has not been easy. We are all here fighting for better or for worse. I am asking today that please immigration have more compassion for us immigrants, because the treatment is very bad, it is not humanitarian at all. If they detain us they should have us in cells where family can visit. They change us from site to site, with Americans who don't care about if they hit us or yell at us. When you're detained as an immigrant, you don't have that privilege to defend yourself, you don't have a voice. This is happening a lot to us immigrants. This has been bad - so many offenses, so much discrimination and things happening against us. This is not good at all. They yell at us, they treat us like worst person in their life. I'm a person of color, and they will sometimes offend us for our color. They yell at us, that we are in their country. This needs to change for the future, because we are fighters - we commit mistakes as humans but we're fighters, with family. We should not be in a situation like this. We want this to change, a little more clarity and transparency, more love. I know we're in jail, but we're not paying for a life, we're in a detention. But they forget we're detained because they just pass us off to officials who don't treat us like human. Our family can't spend time with us. We can't defend ourselves or say anything because everything we say is hidden because we're locked up. Please, for those after me, for those here now I'm asking for a change. We're sick and dying being treated so badly, we are human beings with family. We came to this country with hope and might have been at the wrong place at the wrong time sometimes, but we are not criminals, we are humans. If we were criminals we'd be in a high security criminal prison, but instead we are put in a detention that is really just a criminal prison where we are treated badly. We are given the same food every day, our family sometimes tries to give us food to help us get through this, but they don't accept it. This is a huge pressure every day to just survive and be in this country. We came with hope, that's why we're here. I'm asking please to have this change. Immigrants can make America great, but don't forget about the ones locked up. We're humans. Thank you and have a good day.

I don't understand how as a human being, why immigration does not care about separating families or breaking hearts. We have children suffering back home, we might have all our lives in this country but we're enduring this because of a mistake we have to be here. They take us from our houses and aren't prepared for us - no medical care, the same food every day. Maybe they think we don't have family, and I hope God sees this all because they are just so hard on us, on the immigrant, the hispanic. Why do they want to destroy us. I know we are not the same or all perfect, but we're not immigrants coming to destroy anything. Some people have been here 2 or 3 years, others 10 or 15 years here and immigration comes to destroy their lives, to put them with criminals, to put them with officials who will yell at them at any hour they want, and people who will come treat them any way they want. If they want to arrest us, they can do that but please be prepared for us. I ask to please think about the immigrant more. We're not all perfect or the same, but we are all hard workers and many of us have been here our whole lives and have kids we have not been able to see because of this situation. Family can't visit us because we are 2 or 3 hours away and they can only see us for 15 minutes. I ask to please keep us in mind and hear our case. Thank you very much.

## MOISES

In the cell area where we sleep is very cold. Walls don't have insulation. Instead of putting heat, they put cold. The AC puts out dust, which we all breathe and for many of us covers our noses for breathing in the dust. The mattress for sleeping is also very thin and most of us have aching bones for not sleeping comfortable for a long time, and we get sick.

For the officials, of course, not all officials are the same - some are good people and some are bad, but there are also some who are very racist with us. Some of them gave us sweaters to use for cold, but now they don't let us use them. I don't understand why if we're cold. If we disobey, they punish us, locking us away for 15 days like criminals. They don't allow us to consume coffee in the common room or any other product.

In the common room, there are tables where we are not allowed to put anything that is not drinks or food. The officials will change the channel on the TV, like it's a game or they're making fun of us. There is no respect and we ask for justice. Sometimes they don't allow us to charge the tablets that let us speak with our families. This is ignorance and racism for being immigrants.

In my case, I don't have a lot of economic resources to make calls. For them it's all a business, and I've seen cases where in the hour of locking us in our cells, there are people who want to heat their food or make instant soup. An official whose name I don't remember goes and will disconnect the microwave before the person is done, and he can't heat up his food. We are humans in addition to immigrants. I think people not realizing this is why the world is the way it is.

For the food, every day, we have the same thing - pasta, but very badly cooked. It's expired or a weird color, processed and smells bad, not even an animal would eat. Many people have had stomachaches, but if they let an official know, they'll be locked away for 15 days. I need to endure hunger many times because this food is inedible. There is just one microwave, which is not recommendable either - it causes cancer in the future. And the microwave is shared amongst over 40 people. Water to have coffee is heated, not boiled, and prone to disease. I think the food all affects our bodies here over time. We all get weaker as we are here longer.

Next I want to talk about the bathrooms. The water dries out our skin, our hair falls out, we get dandruff and red eyes. Many diseases are produced. Fungus grows on our feet and creates cracks between our toes that bleed.

In terms of medical care, thank God, I do not suffer from any disease. But I do suffer from anxiety, loneliness, and nervousness. But there are people here who do suffer serious medical problems and I've seen cases where they ask to see a doctor but are ignored. Some of my friends had to wait two months to be seen for red eyes from the dust in the air. It took two months to see a dentist. They ignore us

because it's not them suffering. A month and a half ago, some people had covid and were not taken somewhere else to quarantine. I wondered how it was possible that they could be with everyone else when we could contract it. But they did not care, they were just in their cell for fifteen days. But while they didn't have any symptoms, there were many who seriously needed to be seen who were ignored.

The life in this place is not good. Maybe we have made mistakes, but no one is perfect in this life. For every human being we deserve another opportunity. I am a father of 2 beautiful kids who needs me to be with them and with my wife. Every human can learn to be better from their mistakes, and help people outside. Including my kids and my wife, because in this country nothing is free – in my case, I need to pay rent, bills, and be with my family, as my children are studying to be someone in this life. But my wings feel torn where I can't be with my children, to support them in their studies, and I understand why there is so much cruelty.

Moreover, it is so painful to not be with family, so I ask to have mercy on us immigrants. I wonder how long this nightmare will go on, as it's been several months since I've seen my children. I'd like to hug them and tell them how much I love them, and my wife too. God gave his word that we will be forgiven. But for practicing our religion, we don't have a private place to worship. Officials don't want us in the common room, and there's nowhere else to have privacy.



## HERIBERTO

The worst era of my life has been here in Orange County, this has not been easy. We are all here fighting for better or for worse. I am asking today that please immigration have more compassion for us immigrants, because the treatment is very bad, it is not humanitarian at all. If they detain us they should have us in cells where family can visit. They change us from site to site, with Americans who don't care about if they hit us or yell at us. When you're detained as an immigrant, you don't have that privilege to defend yourself, you don't have a voice. This is happening a lot to us immigrants. This has been bad - so many offenses, so much discrimination and things happening against us. This is not good at all. They yell at us, they treat us like worst person in their life. I'm a person of color, and they will sometimes offend us for our color. They yell at us, that we are in their country. This needs to change for the future, because we are fighters - we commit mistakes as humans but we're fighters, with family. We should not be in a situation like this. We want this to change, a little more clarity and transparency, more love. I know we're in jail, but we're not paying for a life, we're in a detention. But they forget we're detained because they just pass us off to officials who don't treat us like human. Our family can't spend time with us. We can't defend ourselves or say anything because everything we say is hidden because we're locked up. Please, for those after me, for those here now I'm asking for a change. We're sick and dying being treated so badly, we are human beings with family. We came to this country with hope and might have been at the wrong place at the wrong time sometimes, but we are not criminals, we are humans. If we were criminals we'd be in a high security criminal prison, but instead we are put in a detention that is really just a criminal prison where we are treated badly. We are given the same food every day, our family sometimes tries to give us food to help us get through this, but they don't accept it. This is a huge pressure every day to just survive and be in this country. We came with hope, that's why we're here. I'm asking please to have this change. Immigrants can make America great, but don't forget about the ones locked up. We're humans. Thank you and have a good day.

I don't understand how as a human being, why immigration does not care about separating families or breaking hearts. We have children suffering back home, we might have all our lives in this country but we're enduring this because of a mistake we have to be here. They take us from our houses and aren't prepared for us - no medical care, the same food every day. Maybe they think we don't have family, and I hope God sees this all because they are just so hard on us, on the immigrant, the hispanic. Why do they want to destroy us. I know we are not the same or all perfect, but we're not immigrants coming to destroy anything. Some people have been here 2 or 3 years, others 10 or 15 years here and immigration comes to destroy their lives, to put them with criminals, to put them with officials who will yell at them at any hour they want, and people who will come treat them any way they want. If they want to arrest us, they can do that but please be prepared for us. I ask to please think about the immigrant more. We're not all perfect or the same, but we are all hard workers and many of us have been here our whole lives and have kids we have not been able to see because of this situation. Family can't visit us because we are 2 or 3 hours away and they can only see us for 15 minutes. I ask to please keep us in mind and hear our case. Thank you very much.

My name is EM and I am writing to you this letter because I want to provide my testimony about the conditions here in Orange County Jail (OCJ). First, I would like for everyone reading this to understand the conditions here. What we are experiencing here are a lot of issues. My mother passed away around the beginning of February from COVID-19. It has been a difficult month for me, especially since it was my mother's birthday on Valentine's Day. I wanted to see a psychologist because I really needed to talk to someone. I requested to see a psychologist here and was told that there are no Spanish speaking therapists available. The staff here recommended instead that I join a detainee run group meetings. This is not a resource from the detention, instead this is a detainee initiative. I don't understand how there is not a Spanish speaking therapist in a facility with majority Spanish speakers.

We are also experiencing medical neglect from the staff here. We had to share the same space with others who became sick with COVID-19. I had to disinfect the equipment like our headset because someone that had COVID would use it for their legal calls. Even the guards did not inform us which showers people infected with COVID-19 used. Around that time, I got sick and requested to be tested and evaluated for care regarding my blood pressure, and pain I was experiencing. It took 9 days to be seen and 3 days to authorize a Motrin for my cold at the time. It was difficult to wait for the medication for days while I was in pain. Another person who is detained shared their pain medication they had from their lips with me. Under normal circumstances I would never have accepted, but I was in pain, so I had no choice. When I finally received the Motrin, my body was not reacting well to the medication, and I requested for an alternative like Tylenol. The medical staff told me that I needed a doctor's prescription for an over-the-counter medicine like Tylenol, something I have never heard of, and said I was only authorized to only take Motrin.

Along with medical neglect, we are also experiencing mistreatment from the guards here. They are not trained for detention centers at a federal capacity. When alarms go off here, instead of explaining what the alarms are for, they begin to lock us in our cells. They sound like fire alarms and feels as if there's a fire outside our cells and we cannot escape. The guards also say racist comments towards us. A sergeant tells us that if we do not like how the detention is run that we can go back to our countries. The situation here does not have to be like this.

We are also mistreated with the food they serve us here. The food they serve here is inedible. The food smells incredibly bad and the rice they serve is almost raw. At times, we eat this inedible pasta for 5 days in a row. It can be expensive to buy edible foods with our commissary. It can cost around 60\$-80\$ weekly to eat edible food, which is unfair to pass this financial burden on our families. Refusing the inedible food is how we began to protest the conditions here. Unfortunately, there has been retaliation for our protest. We got disciplinary notices regarding our peaceful protest. I was asked if I declared myself guilty or innocent, I chose innocent because I am innocent. The guards declared most of us guilty. I do not understand why they are doing disciplinary action towards us when we were simply protesting peacefully by refusing the food. The guards also locked us in our cells for 5 days, took our commissaries, and our extra sheets.

The jail here makes people's physical and mental health worse, and it is a scary environment. I myself feel physically and mentally deficient since my detainment here. I wish there were better mental health services here. I think it is important to have mental health assistance because your mental state

affects your whole body. I hope change happens here in this detention center because this is a cemetery for the living.

My name is WG and I am writing to you this letter because I want to provide my testimony about the conditions here in Orange County Jail (OCJ).

I want to start with the quality of food here served in detention. The food served here is expired or about to be expired, I know because I worked in the kitchen, so I know how it is here. They just feed us pasta for lunch and dinner over and over. There are people here who have been detained longer than I have and they say the same thing, they just serve mostly pasta and expired foods. I would not feed this food to even an animal, let alone a human being every single day for lunch and dinner. The only edible foods are the ones we can buy with our commissaries. People who are detained here try to help each other by sharing the foods we buy because most of us cannot afford it. This causes more financial hardship on our families who know about our situation with the food and want us to eat better. Our families sacrifice themselves more to send us commissary, which I find unfair. Now, my mother is struggling to pay the rent and food without my financial support, all while looking after my daughter. I received my food handling certification and picked up a job inside the detention as a cook to ease the financial burden on her.

I and other people detained work from 3:30 AM to 12:30 PM only for 42\$ weekly, which is not fair or enough. Cooking is not an easy job, I even fainted while working in the kitchen. We do not sit; we are standing the entire time. There have been moments where we wanted to submit complaints about their treatments towards us. Whenever we ask for documents to fill out concerning grievances, they say "we will bring them" but they never do. Sometimes when we are working in the kitchen, they don't inform us about phone calls we receive, and if they do, they call us with just a few minutes remaining for our call. There is also barely any confidentiality when doing phone calls as well which affects our legal representation.

As for the staff here, sometimes there are guards that discriminate because of how you look or where you from. They disrespect us, and if we do the same, we get disciplined. An example would be if we used the microwave past a certain time that you can use it and you try to explain to them that you just want to heat up some food, they'll pretty much threaten to send you into lockdown and even monetarily charge us with tickets. They sometimes mistreat us. If we ask for something, sometimes they give it to us but sometimes they don't. Our overall well being is ignored as well. Around 15 days ago, in one cell the sprinkler broke. Other people who are detained were sent to clean the mess. The water was very dirty, and a lot were affected. The guards told us that they were going to move those affected by the sprinklers to another section but are currently still in the same location where the sprinklers broke. Someone that was cleaning the mess came out stained from the dirty water caused by the broken sprinklers. The staff did not bother take him to see a medical professional after being exposed to the dirty water from the sprinklers.

As for medical neglect, if your head hurts or body hurts, you ask them for simple medications like Tylenol, they tell you to fill in a sick call slip, and they still don't come and see you or give any kind of treatment. I came here on the 29<sup>th</sup> of September and submitted a sick call slip for back pain and still to this day, they have not seen me. The only two instances I've received any kind of medical care was when I fainted in the kitchen and then for a follow up 15 days after I fainted. I was taken to the hospital, and they said I had anemia and only gave me two pills. After the 15 days, they only did a checkup as a follow up and that's it. A lot of people here put in their sick call slips and still haven't been seen. I have seen

people who are detained look very visibly sick, and staff here just waits to see if they get better over time instead of treating them. It is us who are detained that that try to take care of people that are sick here. We even put wet clothes over their heads to try to lower their fever. When people got sick here with COVID-19, they didn't give them medical treatment, they just put them in quarantine and had to hope for the best. And it was a lot of people that tested positive for COVID-19. To me this is not right, in my opinion, they should be treating us with medicine if we get sick with COVID-19 or any other illness. If we call the psychologist, they just ask you two or three questions (if you wanted to harm ourselves, how are you? are you having suicidal ideations?). There is no one here to express yourself with. There is no mental health professional that can offer therapy in Spanish. And it's even more challenging when there's an interpreter present for the sessions, it has discouraged others here who are detained to seek therapy. Therapy here is nothing stable or long term. And when non-guard staff do come to our section, they just come here like nothing happened, no questions on our wellbeing or anything. It's like when the guards come, they don't ask us questions or anything. And if you want to ask them something, they tell us that they are rushing somewhere and can't answer our questions.

Perhaps this change won't be now, but I would like for any future detainees to have freedom to express how they are feeling. There are no resources here to help us with our mental health, especially in our native language as this facility is majority Spanish speakers. These resources can be crucial for our mental health, especially after our court cases. When I lost my court case, I felt frustrated and sad. I did not have a professional to speak with me and I felt too sad to work in the kitchen that week. Because of this, I was let go from my job as a cook within the detention, making it more difficult for me to afford anything here.

I also think we should have better food (this is imperative), better treatment, and don't treat us like criminals. There are some of us whose only crime was crossing the border; this does not mean people who are detained here should be mistreated at these levels. Hurtfully, for a mistake I did many years ago, I am detained here, enduring the conditions here (Verbal and psychological abuse). It is so hard to be separated from your mother and kids and having no spouse for support since my wife passed away. Instead of this system of helping families, it's taking away from families both financially and emotionally. We need another chance to be reunited with their families since this separation is causing a lot of damage, especially towards our kids, parents, and spouses. People here cry when they miss birthdays or a loved one passes away while they are detained. I haven't had the opportunity to grieve for my wife and then shortly after I was detained in front of my daughter. I have had suicidal thoughts before, if it was not for my daughters and my mother, I don't know what I would do.

I appreciate for the opportunity to express myself, to vent about these conditions, and I hope this helps someone in the future, not for this moment, but for those who come here in the future. Please have a heart and conscience, think about tomorrow, were not perfect and we make mistakes, we are trying to learn from them, and that we shouldn't be judged for the past, especially when we continue to pay for them. Think about our parents and our kids and stop this nightmare. Thank you for allowing me to vent.

My name is JL and I am writing to you this letter because I want to provide my testimony about the conditions here in Orange County Jail (OCJ). I want to talk about the mistreatment we have been experiencing here in detention. This mistreatment comes from the guards with racism, no adequate foods, medical neglect.

My friend who is here filled out a form for doctors to see him, it took 2 months for staff to see him, and even when he is seen, he is told by staff that he is not in the system, implying he did not fill out the necessary forms, and like the rest of us, he stands up for himself telling staff that he did fill out these forms. I sent a sick call slip myself for a checkup for my anemia and I am still waiting to be seen. There barely any Spanish speakers here to assist us with our issues.

As for the food, they are always serving pasta. At times, we must hold our noses to eat it because of how inedible the food is. I have told my legal team at BxD about how terrible the food is since September of 2021. Recently, we have come together to peacefully protest the conditions here in detention by refusing the food they serve. They took all our commissary and locked us in our cells for 5 days as punishment for our peaceful protest. Again, recently, they have been giving almost everyone who supported the peaceful protest a disciplinary notice. They asked me if I was guilty or innocent, and I declared myself innocent because I and other detained people didn't do anything wrong. They declared me guilty for at the peaceful protest and wanted me to sign the disciplinary document. We didn't do any violence, we did not hurt anyone, so I do not understand why we was disciplined and penalized. Majority of people got guilty verdicts for this peaceful protest.

As mistreatment from the guards, if we need basic necessities such as soap, toilet paper, etc, at times they don't give it to us. CO's here also want to punish you and lock you up in your cell for breaking any kind of miniscule rule. Guards try to control every little action that we do. We also experience racism and xenophobia inside detention. Guards tell us to that we should go back to our country, that what are we doing in a country that does not belong to us. A sergeant (SGT. Cimorelli) told someone here who is detained that he hopes that they deport him this week. I am friends with the person he told that to.

Before we could see the name tags of the guards but over time, they removed them. Unfortunately, if anyone files a complaint towards an officer, the next day said officers would have the same person that complained in their sights. They try to find any reasons to lock them up and if they do, the guard will do a report to immigration to demonstrate bad behavior which damages their immigration case. This happens a lot, that's why we don't say anything, we rather say nothing and not report the things they do or say.

Collectively, people who are detained here wrote a list of complaints to the director. The director responded that she never got those complaints regarding medical neglect, food, mistreatment from officers, etc. The director came and asked, what was the complaints? We said medical neglect and the mistreatment by officers, the beds, and inedible food. In response, the director has said that if we did not like the food, we can just throw it in the trash and that we should stop protesting because we are going to get into problems with the jail staff. People here who are detained have been sending our complaints to an activist as well to help address these issues that people in charge are not paying attention to or addressing.

These are my words that I wanted to say. Even though I can't say everything they do to us in this letter, I wanted to thank you for allowing me to say all of this. I hope you can give this attention so that things can be easier for everyone in the future and the present.

DECLARATION OF [REDACTED]

I declare that the following is true and correct to the best of my knowledge:

1. My name is [REDACTED]. My A number is [REDACTED].
2. I have been detained by Immigration and Customs Enforcement (“ICE”) at Orange County Correctional Facility (“OCCF”) since [REDACTED]. At OCCF, I am in Unit [REDACTED]. Before I was at OCCF, I was detained at Hudson County for three months. In total, I have been in ICE custody for six months.
3. Before all of this, I lived at [REDACTED].
4. I wouldn’t wish this experience on anyone. It's very stressful.

***Racism and Religious Discrimination at OCCF***

5. The officers here are racist. When we ask for more water or ask for request forms, or anything, the officers use profanity. I saw one officer call someone an animal. When we ask for soap or a mop to clean our cell, they use nasty words. They say that we are immigrants, that we don’t deserve respect.
6. The rules here are always illogical. They use them to control us. They don't let us use the tables for eating—we are not allowed to eat anything in the common room, or else the guards give us tickets and punish us. When we don’t have our ID badges on us, they write us up.
7. When they let us out to watch TV, we usually want to watch the Spanish language channel because most of us only speak Spanish. One of the officers, I can’t remember his name, would always come over and turn down the volume or change the channel on the Spanish TV.
8. When we protested and told a sergeant that we don’t want this officer in our unit anymore, the officer retaliated against us and withheld the tablets that we use to talk to our families
9. When the officials were still not doing anything about it, a group of people decided to protest. They asked me to participate, but I decided not to. I was afraid. Any step out of line and there were consequences. They punish you for any disobedience. I didn’t want any charges on my record because I wasn’t sure how it would affect my immigration case.
10. That day, we were told to go back to our cells. There was a group that refused, that wanted to speak to the sergeant about this racist officer. I didn’t see what happened to the group, but I heard that one of them was beaten up and kicked in the knees and shins. They disciplined that group and locked them in for five days. The officers also decided to lock in everyone else on the unit for the rest of the day. It didn’t matter that we weren’t involved. They lock us in when they want. We have to follow their rules, otherwise they write us up.



11. The officers do not want us to practice our faith. This is discrimination. I am [REDACTED] and I am used to praying [REDACTED]. Here, we do not have any private space to pray or hold religious service. One of the other people here told me that he had asked an ICE officer about this who told him that they were going to find us a special, private room for religious service. But they haven't done anything. We pray in the common area where everyone can see us and where there is a lot of noise and not everyone is being respectful. They don't bring in [REDACTED]. We administer the prayer ourselves.

### ***Overall Poor Conditions at OCCF***

12. We are not accustomed to the food here. In my opinion, the food is poorly cooked. It is not appetizing, and it is unsanitary. They are feeding us like animals. The pasta that they give us is sent back to the kitchen and then put back out the next day. They give us pasta every single day for lunch and dinner. We are given food that has already expired. Lunch is served at 11 AM, and dinner at 5 pm. Every day, it is the same. Sometimes I have stomach pain and constipation. I have to drink a lot of water to flush the food out of my system.

13. We have to eat the processed foods that we can buy from the commissary to survive. The only way we can heat our food is by microwave, which can cause illnesses. It is not recommended to use the microwave all the time. There are forty of us and we are only given one microwave for all of us to heat up our food. It is not enough. At [REDACTED], there were at least two microwaves. Even that wasn't sufficient, but at least there were two. Sometimes the officers just disconnect the microwave even when there is still a line to heat up food.

14. The shower water is so hot that it makes our hair fall out and dries up our skin. The scalding hot water causes illnesses, including fungal diseases in our feet. Once, we did not have water and we could not use the bathrooms.

15. The air in here dries out our throats. There are also dust particles in the air. When we take off our clothes, we see the dust coated all over our body and clothes. It gets in our skin.

16. Sometimes the air conditioning is on very high, and it gets very cold. We are not allowed to wear our sweaters to keep us warm. Some of the people here are over the age of 60. They are so cold they're just shivering. When we arrived here, we were only given a single set of clothing. We repeatedly ask for another set.

17. There is water on the floor which gets slippery, and often we slip and are about to fall.

18. We hardly see the outside. We need the sun to touch us, because each one of us needs solar vitamins. There was a patio outside where we used to play football. But since it's been cold, we can't play so we have to ask to play inside. Some officers say yes, some say no. It depends on the officer.

### ***COVID and Lack of Medical Care at OCCF***

19. There are many people here who are sick and who need medicine or medical attention. People leave forms with the officers, but they are either ignoring the requests or ripping them up. There was one guy whose eyes were totally red. He couldn't see very well. He asked several times to see the doctor, but they ignored him. They are still ignoring him. Another person was experiencing pain in his foot and he still hasn't seen a doctor in two or three months.
20. The staff does not pay attention to them when they ask for their medications. The guards ignore people who have heart troubles because of the pressure of this place—they don't care about the injustice.
21. When we arrived, we were locked up in solitary for 14 days of quarantine, despite not having any COVID symptoms. During this 14-day period of medical solitary, the guards did not let us talk to anyone. I experienced anxiety and depression during this time. Thank God I am out of that quarantine. But now, I am in another area of the facility where the guards lock us up 5 times a day.
22. The jail has no idea how to manage the COVID situation. Just a few days ago there were three people sick with COVID. They were all quarantined in the same unit as us. It wasn't any different than normal. They could infect us. It doesn't make any sense because they don't care about us. If people have COVID, they should not be in the same living space as people who are healthy. They are supposed to have another location where people with COVID can stay. But the jail doesn't care.
23. I had [REDACTED] when I was locked up [REDACTED] in September 2021. I didn't get [REDACTED] until last week, in January 2021. I don't think that they are following the [REDACTED] protocols. [REDACTED]

#### *Access to Counsel and Communication with Family*

24. I had fifteen days without communication. The guards did not want to help me with the phone. I could not make calls to find a lawyer or to locate my family.
25. Everything is a business for them. We have to pay money to make calls to our family. Right now, I don't have the money to call my family, so I only have a few minutes to speak with them every week.
26. There is injustice against immigrants in this detention center for no reason. All of this has been very difficult for me. All that we ask is to be freed from this place to be with our families who need us. My son just started university. He needs his dad's support. I am a human being, and I deserve an opportunity to be with my children.

**[THE REMAINDER OF THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK]**

Dated: February 12, 2022  
Goshen, New York

[REDACTED]

## **Testimony regarding SD**

SD has spent more than seven months detained by ICE, preceded by more than half a year at Rikers, without the necessary services to address his cognitive impairments and mental health symptoms, become more autonomous, and process immensely traumatic moments in his life such as the death of his mother who cared for him and his father who passed away shortly before his mother.

At a competency hearing, SD was forced to appear via videoconference even though his counsel had flagged to the court that the court would not be able to adequately evaluate SD's competency if he was not physically at the hearing. At this hearing, SD was deemed not competent to participate in his own proceedings without safeguards. But even still, both ICE and the judge insisted he remain in proceedings, stating on the one hand, that his mental health symptoms -- and therefore, competency concerns-- were adequately addressed by medications and safeguards. But on the other hand, they cited to his criminal record-- which arose during times when SD did not have steady access to medication -- to justify continuing his removal proceedings. They did so even after learning that SD had maintained a spotless disciplinary record at Orange County Jail for 6 months while on medication.

Additionally, the immigration judge refused to allow SD to appear in person at his future hearings, citing to safety concerns around SD's mental health conditions. This again placed SD in the Catch-22 of having mental health diagnoses that both compromise his ability to participate in his proceedings and restrict his right to protections that could mitigate the effects of his diagnoses. Furthermore, although the immigration judge pressured other parties to remove their masks during the hearing, the judge also referenced covid concerns in refusing SD's request to appear in person

At this time, SD continues to deteriorate in detention, where he suffers from auditory hallucinations of his deceased mother and others, all while unable to maintain a steady understanding of the legal case ICE has brought against him.

My name is Kar Nowakowski, I'm a staff attorney at The Legal Aid Society. I am presenting the following testimony on behalf of a client currently detained in Orange County Jail, who would like to remain anonymous. He says:

1. My experience being kept here has been one of racism and mistreatment. The officers treat us like animals. They call us criminals. They have a hatred for Hispanic and Black people. They take away our benefits whenever they want to. They lock us up in our cell all the time without any reason. They know that many of us don't speak or understand English, but they shout at us in English anyways and don't translate their instructions.
2. COVID is a big problem here. Even when someone is sick with COVID, we are all mixed together. We share the same space and the same air, and when we want to protect ourselves by wearing masks, they treat us badly. They say we don't need masks because no one is sick here, but a lot of people have been sick. In December and January, guards would come in sick all the time. Almost everybody in my unit was sick with fever and coughing during that time. We rely on the help of God to stay alive.
3. The medical care here is poor in general, and I have suffered medical neglect. You have to fill out a paper or sick call to get their attention, otherwise they won't do anything. But even when you put in a call, it takes them weeks to respond. And even when you get to see a doctor, all they do is take your blood pressure, temperature, and then give you pills. The pills are always the same—it is always an over-the-counter pain medication. It doesn't matter what you are suffering from. They treat any ailment the same, the cheapest way possible. They don't care about our health.
4. The food here is disgusting and unsafe to eat. I have been suffering from a lack of food here. For weeks we have been eating the same food as the day before. Whatever we eat one day, the chef puts the same thing out the next day. The food has been used and reused so often that it's softened and disintegrated. It's unpleasant and disgusting.
5. There is one group of officers that is especially racist, but all of the officers are responsible. A few months ago, we tried to speak out against Officer Bloise, #366, who was being racist towards us and treating us badly. We submitted a complaint about this officer, but nothing happened. When that didn't work, we decided to ask to speak to a sergeant.
6. The very same officer we had complaints about was in our unit that day and said that we were being disrespectful. He demanded that we lock in. When we kept insisting on speaking to a sergeant, a large group of officers rushed into the room. We just wanted to speak to the sergeant about this officer, but they wouldn't let us. Suddenly, I saw these six officers attack one of the people on the outside of the group. It was six officers against one unarmed man. The officers jumped on him, hitting him. One of them was holding him down and another had his knee on the man's neck. They pepper sprayed him and wouldn't let him move. He was yelling for help. But we couldn't do anything. We thought that if we said anything more, they would torture us as well. When they lifted him up, I saw that he had a really big black eye. They hit him really badly.

7. We just wanted to be heard. But after that day, we all feared that we would be next. Everyone was scared. We didn't feel safe before, and we knew we weren't safe after that. The officers have so much control over us. I am fearful of my life. It is depressing being here, and I have a lot of bad days. I have missed the birthdays of my children, and the birthday of my wife. I just want to be with my family again. Thank you for listening to us.

I, Jean-Ismael Bien-Aime-Nicolas # [REDACTED] recently detained at Buffalo Federal Detention Facility in Batavia, New York after being transferred for over 4 years.

During my time there from November 2021 to February 2022, I was astonished by the lack of concern in the well-being of individuals detained at BFDF. A massive outbreak of Covid-19 spread inside the facility and the administration, the medical staff did very little to stop the spread.

I am unvaccinated and therefore very vigilant when it comes at avoiding being infected. The medical staff at Buffalo did prior January random test after noticing that some detainees had contracted Covid-19 “Delta or Omicron” variant.

Two detainees in my unit tested positive after experiencing symptoms so the medical staff proceeded in placing them in Special Housing Unit but did not test the rest of us 30+ detainees to ensure that we were out of arms way.

I asked an Officer why the medical staff did not test the rest of the unit knowing that two detainees were positive? The Officer explained to me that nothing will be done unless each individual asked for a test that will only be provided if they feel it to be necessary.

The Officer explained to me the logic of the administration of the facility as not caring for any of us and that they’ll rather have the all unit contract Covid-19 so that they wouldn’t have to above and beyond to prevent the spread. If we didn’t care about taking the vaccine they wouldn’t care about any of us who will contract Covid inside the facility.

The mask mandate was not enforced inside BFDF some Officers barely wore theirs and didn’t even care to cover their mouth while sneezing or coughing.

Shortly after the first week of December BFDF started to put certain units on lockdown if a detainee tested positive. In some occasion some of us would raise our concerns to the Lieutenant who would in turn confirm the absurdity of the medical staff handling of the spread and that it was above their paid grade directing us to submit a written medical slip for a Covid test.

I observed some individuals being deported for raised the issues of the spread to the staff who in turn told them that they should address their ICE officers. The

ICE Officers didn't even bother to check the conditions in the units they were more concerned in deporting some of us.

I'm also extremely concern about the mistreatment of black migrants who are constantly deported even with legitimate forms of relieve pending. I am a Black French Citizen who was never regarded as real French Citizen by the ICE officers and was always question on the country of origins of my parents. One even mentioned to me that never met a black French citizen in his life.

I during my lengthy detention raised many concerns inside detention centers, me and other detainees participated to peaceful protest in form of hunger strikes. And often the staff or the ICE officers would say that the hunger strikes are useless and that unless we drop for eating for at least 20+days they would not take us seriously.

I contacted News outlets and informed them of the conditions inside the facility but that did not changed the conditions because there was a lack of in the previous administration and unfortunately the Biden administration. After witnessing the treatment of Haitian migrants mistreated and cruelly deported back to a country with absolutely nothing to provide them a better life or protection after natural disasters and insecurity. In other word Haiti is and has been for years the definition of Humanitarian Crisis

Many Black migrants including myself found themselves deported, separated from their families and in some instance killed upon arrival even though they had proved to the Immigration Judge that they would suffer great hardship upon arrival.

When I was deported the ICE officers stated they knew that I never pose a danger to the community or flight risk but that if I wanted to come back in the USA after my deportation I could do that by crossing the border illegally. I didn't know what to say after that statement.

We suffered systematic racism inside detention center by officers and staff members that have no respect or regard to our feelings or right.