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Sent Via Email

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Re: Complaint for violations of civil, constitutional, and disability rights of medically vulnerable individuals at Stewart Detention Center

I. Introduction

The Southern Poverty Law Center (SPLC), El Refugio, the Black Alliance for Just Immigration (BAJI), and the Georgia Human Rights Clinic (GHRC) submit this complaint denouncing the treatment of medically vulnerable individuals at Stewart Detention Center (SDC). We urge the responsible components of DHS and DOJ to investigate and render consequences under law for the abusive, inhumane, criminal, and racially discriminatory practices and actions of Immigration and Customs Enforcement (ICE) staff and their contractors, subcontractors, and detention administrators at SDC, including private contractor, CoreCivic.

SDC has been the deadliest hotspot for COVID-19 of any ICE facility nationwide. Since March 2020, 4.5 million people around the world have died from the COVID-19 pandemic, including more than 600,000 in the United States.¹ COVID-19 is a highly transmittable, deadly virus, and it is escalating more rapidly inside detention centers compared with the U.S. population.² Four people detained at SDC have died of complications related to COVID-19, three of whom were over the age of 55 and two of whom had hypertension diagnoses. Exh A. As of August 26, 2021, there have been 943 total confirmed COVID-19 cases at SDC. Exh. B. These deaths could have been prevented, and continued spread is preventable.

Moreover, survivors of COVID-19 are not risk-free; the long-term effects can be significant and debilitating.³ Scientists are slowly beginning to understand the effects of “long COVID,” and many health systems have developed “long COVID” clinics to treat long-term conditions.⁴ These emerging and specialized medical treatments are not available to people detained at SDC.

Countless news articles and advocacy groups have called attention to ICE’s reckless detention and transfer practices during the COVID-19 pandemic and the preventable deaths and needless suffering that immigrants have endured.⁵ COVID-19 has affected no other immigration detention

¹ World Health Organization, “Coronavirus (COVID-19) Dashboard,” *available at* <https://covid19.who.int/>.

² See Erfani P, Uppal N, Lee CH, Mishori R, Peeler KR. “COVID-19 Testing and Cases in Immigration Detention Centers, April-August 2020.” *JAMA*. 2021;325(2):182-184, *available at* <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7596672/#jld200115r5>.

³ Johns Hopkins Medicine, “COVID ‘Long Haulers’: Long-Term Effects of COVID-19,” (Apr. 1, 2021), *available at* <https://www.hopkinsmedicine.org/health/conditions-and-diseases/coronavirus/covid-long-haulers-long-term-effects-of-covid19> (“The best way to avoid post-COVID-19 complications is to prevent infection with the coronavirus in the first place.”).

⁴ Vanessa Caceres, “How do post-COVID care clinics help long COVID patients?” *U.S. News and World Report* (May 21, 2021), *available at* https://health.usnews.com/conditions/coronavirus-and-your-health/articles/post-covid-care-clinics?int=hp_coronavirus_health.

⁵ El Refugio, “Cage of Fear: Medical Neglect and Abuse in Stewart Detention Center During the COVID-19 Pandemic” (May 2021), *available at* https://www.elrefugiostewart.org/wp-content/uploads/2021/05/CageOfFear_FINAL_English.pdf; The Hill, “When will the government apply its vaccine effort to migrants in ICE detention?” (Aug. 8, 2021), *available at* <https://thehill.com/opinion/healthcare/566608-when-will-the-government-apply-its-vaccine-effort-to-migrants->

facility as it has Stewart Detention Center. Through SPLC’s work of providing direct representation and the work of local and national organizations advocating for immigrants in detention at SDC, we have heard horrific first-hand accounts of experiences at SDC during the pandemic, including ICE recklessly transferring persons across state lines to other facilities for deportation staging, only to return persons to SDC after they have contracted COVID-19 during the transfer process; “quarantining” persons who are COVID-19 positive in solitary confinement for weeks with no explanation and no access to a telephone to alert family members that they are alive; allowing persons who test positive for COVID-19 during a facility transfer to work in SDC’s kitchen two days after a positive test;⁶ depriving persons of adequate medical care despite showing severe symptoms of COVID-19; and subjecting persons to prolonged detention and COVID-19 exposure as a result of pandemic-related flight cancellations.⁷

We submit the present complaint on behalf of individuals who were or are detained at SDC, many of whom SDC identified as medically vulnerable (“high-risk”). These individuals have suffered medical neglect, racial and national origin discrimination, and dangerous conditions throughout the pandemic as a result of ICE’s abdication of its legal and moral responsibilities. As a direct consequence, their physical and mental health conditions have deteriorated. We have heard from many high-risk individuals about the conditions described herein; we specifically communicated with and received consent to identify the following individuals in this complaint: Anderson Batista, Ricardo Chambers, Mario Reyes Chimilio, Franco Clement, Marvin Hernandez Villalobo, David Kahsay, Robert Lodge, Rony Maurival, Zehbo Pasovic, Stephen Watson, and Leon Woodford (the “Complainants”). Complainants have various Risk Factors,

in-ice?rl=1; GPB, “Stewart County Becomes COVID-19 Hot Spot As Cases Rise At Detention Center,” (June 22, 2021), *available at* <https://www.gpb.org/news/2021/06/22/stewart-county-becomes-covid-19-hot-spot-cases-rise-at-detention-center>; Atlanta Journal Constitution, “Fourth ICE detainee dies from COVID-19 in southwest Georgia,” (Jan. 31, 2021), *available at* <https://www.ajc.com/news/fourth-ice-detainee-dies-from-covid-19-in-southwest-georgia/TNPDEQCTD5AJNEJG3AB5UODNGQ/>; Physicians for Human Rights, “Praying for Hand Soap and Masks,” (Jan. 12, 2021), *available at* <https://phr.org/our-work/resources/praying-for-hand-soap-and-masks>; Vera Institute of Justice, “Tracking COVID-19 in Immigration Detention: A Dashboard of ICE Data,” (Nov. 18, 2020), *available at* <https://www.vera.org/tracking-covid-19-in-immigration-detention>; Letter to the Georgia Department of Public Health (April 17, 2020), *available at* <https://docs.google.com/document/d/18KdJ8baBWwwdeaA0BJeE2A7jnmxpawGfQaMnHwWLMUM/edit?usp=sharing>; Letter to Atlanta Field Office Director Thomas Giles (Mar. 15, 2021), *available at* <https://docs.google.com/document/d/1FjhEVcPGBFuuUEIYV5RvNGEGKPU8SX3wBWYWWuK4cUI/edit?usp=sharing>; Amy Zeidan, “Why some people can’t avoid mass gathering – detention,” The Hill (Mar. 29, 2020), *available at* <https://thehill.com/opinion/civil-rights/490071-why-some-people-cant-avoid-mass-gathering-detention>; Amy Zeidan, “ICE is guilty of unsafe practices in detention centers causing COVID-19,” The Hill (Oct. 5, 2020), *available at* <https://thehill.com/opinion/immigration/519589-ice-is-guilty-of-unsafe-practices-in-detention-centers-causing-covid-19>.

⁶ See Exhibit C: Redacted excerpt of medical records of an anonymous medically vulnerable detainee who was exposed to COVID-19 during a facility transfer, contracted COVID-19 at Stewart, and was approved to work in the kitchen two days later.

⁷ See, e.g., El Refugio, “Cage of Fear: Medical Neglect and Abuse in Stewart Detention Center During the COVID-19 Pandemic” (May 2021).

including severe psychiatric illness, hypertension, diabetes mellitus, high BMI (overweight or obese), and asthma.⁸

In our interviews with Complainants and research for this complaint, we find that medically vulnerable individuals denied release at SDC are disproportionately Black. This finding comes as no surprise, given ICE's history of racial discrimination and inhumane, unlawful treatment against Black and other immigrants of color.⁹ This finding mirrors the overrepresentation of Black people facing deportation in immigration court based on criminal grounds.¹⁰ It also mirrors the disproportionate impact of COVID-19 on Black immigrant communities across the United States.¹¹ Multiple layers of discrimination make the experience of Black people at SDC particularly alarming.

As Mr. Franco Clement says, "I am frustrated and scared as a Black immigrant facing multiple layers of systemic discrimination at this facility. ICE must update their internal protocol for responding to the pandemic to better protect people who remain in detention. The delta variant is at its height." He submitted the attached grievance in early August and has not received any satisfactory response. Exh. H.

The conditions of confinement for these high-risk individuals violate ICE's own standards, the U.S. Constitution, and federal law. We submit this complaint to demand that ICE and its contractors fulfill their responsibilities to safeguard the health of immigrants in its custody and elevate Complainants' pleas to be treated with the dignity and respect all humans deserve, especially during this unprecedented pandemic.

Moreover, despite being on notice of serious health conditions and SDC's inability to provide adequate care and safety during the pandemic, ICE has refused on multiple occasions to exercise its discretion and release the Complainants to safety, instead denying requests based on blanket classifications such as a "Threat to Public Safety" and "Significant Likelihood of Removal in the Reasonably Foreseeable Future." Exh. D. In many cases, these blanket denials are issued within hours of the request being submitted. The denials sometimes fail to accurately describe the relevant medical conditions putting people at risk, and they never offer any further analysis of why the person is being denied release. Exh. E. In some cases, outside physicians conducted an

⁸ Due to their Risk Factors, these individuals qualify for medical release under the *Frailhat* court order and ICE's own policies. See Order, *Frailhat, et al v. U.S. Immigration and Customs Enforcement, et al*, No. 5:19-cv-01546-JGB-SHK (C.D. Cal. April 20, 2020), ECF No. 132 ("[ICE] shall make timely custody determinations for detainees with Risk Factors, per the latest Docket Review Guidance[.]"); see also Enforcement Order, *Frailhat v. ICE*, (C.D. Cal. Oct. 7, 2020), ECF No. 240 ("[ICE] shall ensure that the presence of a Risk Factor is given significant weight and that the custody reviews are meaningful").

⁹ See CRCL complaint filed by SPLC, "Call for U.S. Immigration and Customs Enforcement (ICE) to End Contracts due to Abusive, Inhumane, Criminal, and Racially Discriminatory Practices at Pine Prairie ICE Processing Center and Allen Parish Public Safety Complex, Louisiana" (July 28, 2021), available at https://www.splcenter.org/sites/default/files/28_july_2021_complaint_and_call_to_close_pine_prairie_and_allen_parish.pdf.

¹⁰ See "The State of Black Immigrants, Part II: Black Immigrants in the Mass Criminalization System," accessible at <https://www.sccgov.org/sites/oir/Documents/sobi-deprt-blk-immig-crim-sys.pdf>.

¹¹ See "COVID-19 and Black Immigrants: The Pandemics of Racism, Nativism, and Transnational Crises," available at <https://dornsife.usc.edu/eri/blog-covid19-and-black-immigrants/>.

independent review of medical charts and recommended release for medical reasons. However, these individuals were denied release despite the urging of medical professionals.

We request that all medically vulnerable persons at SDC be given individualized review for release and not subject to blanket policies as a means of denying release. In our experience, ICE issues these denials immediately, no matter how much evidence of positive equities and rehabilitation is submitted. We further request that your Offices conduct a comprehensive investigation of conditions at SDC in order to ensure that no one else is subjected to the dangerous conditions and harm that Complainants have suffered during the past 18 months.

II. Factual Background

When the impact of the global pandemic began to intensify at SDC in April 2020, CoreCivic relocated certain individuals to pods designated for medically vulnerable (“high-risk”) individuals, including Complainant Robert Lodge, who was told by the guards that he was in a high-risk cohort. During the course of the pandemic, detention staff have subjected Mr. Lodge and his cohort to multiple pod transfers within the facility, first to single or two-person cells in 4C, then an open dormitory in 3C, then single or two-person cells in 5B, again to an open dormitory in 3E, then to single or two-person cells in 5C, and, most recently, single or two-person cells in 5A. Exhs. F, G.

As a result of ICE’s stubborn refusal to release people like Mr. Lodge and CoreCivic’s reckless practices inside the facility, four people have died due to complications of COVID-19 while in ICE custody at SDC, and Mr. Lodge and 942 others have been infected with COVID-19 at SDC since the pandemic began. Exhs. A, B, E. While ICE has used its discretion to release some individuals because of their vulnerability to the virus, it has denied many, like Mr. Lodge, the same opportunity to isolate privately at home with loved ones. All four men who died from COVID-19 were denied release, despite three of them having known Risk Factors placing them at heightened risk of severe illness or death from COVID-19 infection. *Id.*

ICE **should have** released these high-risk individuals pursuant to an April 2020 federal court ruling. In *Fraihat v. ICE*, the federal court mandated a process to review the custody of high-risk individuals: “The process is meant to ensure medically vulnerable and elderly detainees are quickly identified and released where possible, and in all cases are accorded minimally adequate conditions of confinement to protect them from severe illness and death from COVID-19.” *Fraihat v. ICE*, Case No. 5:19-cv-01546-JGB-SHK, (C.D. Cal. Oct. 7, 2020), ECF No. 240. The court issued an order partially granting a motion to enforce in October 2020, stating that it was “gravely concerned that *Fraihat* custody decisions are a disorganized patchwork of non-responses or perfunctory denials” and specifying that “Section 1226(c) Subclass members should only continue to be detained after individualized consideration of the risk of severe illness or death, with due regard to the public health emergency.” *Id.* In March 2021, the court appointed a Special Master due to ICE’s persistent lack of or slow compliance, including continuing cursory denials based on criminal history. According to the court, “This is particularly concerning as the public health emergency rages on, and Subclass members remain at heightened risk of severe illness or death.” *Fraihat v. ICE*, Case No. 5:19-cv-01546-JGB-SHK, (C.D. Cal. Mar. 10, 2021), ECF No. 281 (emphasis added).

Vaccinations have been inadequate to prevent the spread of COVID-19 inside SDC. Just this May, confirmed cases at SDC surged from five to 59 in two weeks. Exh B. People continue to test positive at SDC by the dozens, with confirmed cases totaling 20 at the time of this filing. *Id.* In addition, the new Delta variant, which has a 97 percent higher effective reproduction rate than the original disease, is causing breakthrough infections in vaccinated people.¹² Those identified as high-risk for severe infection or death from the original virus remain vulnerable, even when vaccinated, due to the risk of breakthrough infections.¹³

Several Complainants have mental health diagnoses, including adjustment disorder, major depressive disorder, generalized anxiety disorder with panic attacks, history of suicide attempt, and post-traumatic stress disorder. This is particularly concerning and noteworthy because “patients with mental health disorders were nearly twice as likely (1.8 times) to die from Covid-19 than patients without them.”¹⁴ This study found that people with severe mental health disorders like schizophrenia and bipolar disorder were “more than twice as likely (2.3 times) to die than patients without mental health issues.” *Id.*

Since April 2020, medically vulnerable individuals at SDC have submitted multiple written grievances regarding the poor conditions, medical neglect, discrimination, and inadequate safety precautions at SDC. Exh. H. Complainants describe ICE’s constant violations of CDC guidelines, including failure to provide enough space to socially distance, inadequate use of PPE, placement of high-risk individuals in proximity to pods of new arrivals to the facility leading to heightened risk of exposure to COVID-19, and lack of cleanliness and sanitation. Complainants also report ICE and its contractors’ failure to provide timely sick visits, failure to initiate and/or continue treatment for specific conditions, improper administration of medications, failure to follow diet and lifestyle recommendations for specific medical conditions, and failure to provide interpretation for speakers of languages other than English.

In June 2021, SPLC and El Refugio received a petition from 16 individuals “with respiratory ailments, cardiac conditions, diabetes, and hypertension” in Pod 3E complaining of reckless actions at SDC, such as putting them in an open-bay pod between two other pods full of recently arriving individuals. Exh. G. One of the primary drafters of the petition, Mr. Leon Woodford, age 72, noted that he has hypertension that was well controlled with a low sodium diet before arriving to SDC. Because he was denied a low sodium diet at SDC, he subsequently had to go to the hospital for his high blood pressure and swelling. *Id.* “While my medical condition has worsened, mine is not an isolated occurrence.” *Id.*

Many of the signatories of the Pod 3E petition, including Mr. Woodford, have since been deported or released. Mr. Woodford and those currently facing imminent deportation expressed

¹² Finlay Campbell et al., *Increased Transmissibility and Global Spread of SARS-CoV-2 Variants of Concern as at June 2021*, 26 *Eurosurveillance* 15, 15 (2021), doi:10.2807/1560-7917.ES.2021.26.24.2100509.

¹³ Public Health England, SARS-CoV-2 variants of concern and variants under investigation in England 14 (Technical Briefing 17, June 25, 2021), available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/997418/Variants_of_Concern_VOC_Technical_Briefing_17.pdf.

¹⁴ Robert Hart, “People With Mental Health Disorders Nearly Twice As Likely To Die From COVID, Study Finds,” *Forbes* (Jul. 28, 2021), available at <https://www.forbes.com/sites/roberthart/2021/07/28/people-with-mental-health-disorders-nearly-twice-as-likely-to-die-from-covid-study-finds/>.

that ICE is withholding life-saving medical treatment and protection during the pandemic, instead ignoring requests for help and hastily “deporting their ‘problems’ away.” In Mr. Maurival’s case, ICE has detained him for nine months with his final order of removal, exposing him to COVID and denying his requests for humanitarian release due to “removal in the reasonably foreseeable future.” Exh. D. Mr. Maurival fears deportation to Haiti—a country devastated by the current global pandemic, the recent assassination of the President, a magnitude 7.2 earthquake, and Tropical Storm Grace. Mr. Maurival, whose medical condition makes travel particularly perilous during the pandemic, fear deportation to a country he has not known for nearly three decades and leaving behind three U.S. citizen children in the process.

Those who remain at SDC are now in Pod 5A, no longer cohorted away from the general population, but rather housed with as many as 81 total people in a pod with a design capacity of 88 people.¹⁵ There, the concerns about their health and safety continue. Exhs. H, I, J. Complainants report that most people in the pod have not been vaccinated. Recently filed grievances from medically vulnerable people in Pod 5A express identical concerns described in the Pod 3E petition from June 2021 and prior complaints we received in 2020. *Id.*

III. ICE and CoreCivic Are Violating Complainants’ Rights Under Their Own Standards, Disability Law, and the U.S. Constitution

Both ICE and CoreCivic are obligated to follow ICE’s Performance Based National Detention Standards 2011 (PBNDS 2011), but—as this disproportionately Black group of migrants with physical and mental disabilities reports—they are far short of complying with their legal obligations.

The standards require following CDC guidelines, prioritizing detained individuals’ health and safety, providing appropriate medical treatment and a nutritious diet, enacting fair disciplinary procedures that take into account mental illness or mental disability, and taking affirmative steps to prevent disability discrimination.¹⁶ In addition to these specific guidelines, the Constitution forbids government officials and their contractors from subjecting incarcerated individuals—including people in immigration prisons—to conditions exposing them to a substantial risk of serious harm.¹⁷ Deliberate indifference to serious medical needs violates the Fifth and Eighth Amendments.¹⁸

¹⁵ Third Decl. of Russell Washburn, *S. Poverty L. Ctr. v. U.S. Dep’t of Homeland Security*, No. 1:18-cv-00760-CKK-RMM (Aug. 21, 2020), Document 142-3, available at https://www.splcenter.org/sites/default/files/third_declaration_of_russell_washburn.pdf.

¹⁶ PBNDS 2011, 1.3 Transportation (by Land) (“The general public, detainees and staff shall be protected from harm when detainees are transported.”); 3.1 Disciplinary System; 4.1 Food Service; 4.3 Medical Care; & 4.8 Disability Identification, Assessment, and Accommodation.

¹⁷ See, e.g., *Farmer v. Brennan*, 511 U.S. 825, 838 (1994); Memorandum from Ellen Gallagher, Senior Policy Advisor, Civil Rights and Civil Liberties DHS to Deputy Secretary Mayorkas, DHS (July 23, 2014) at 3 (stating that placing individuals in ICE custody in segregated settings with serious mental health conditions is non-therapeutic and such placements “impose improper punitive conditions, and subject vulnerable detainees to physical and mental deterioration”).

¹⁸ *Estelle v. Gamble*, 429 U.S. 97, 106 (1976).

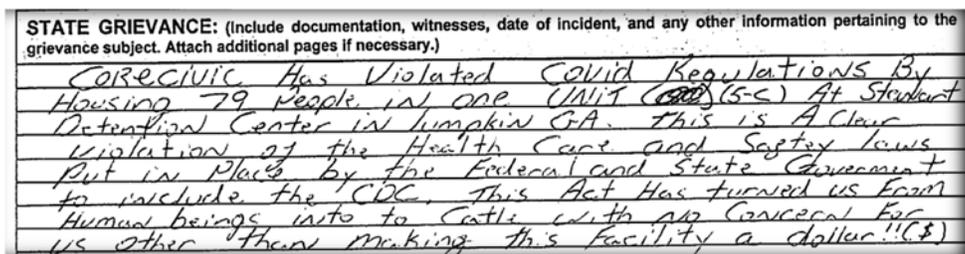
ICE is also subject to a Temporary Restraining Order (TRO) that requires it to “comply with the CDC Interim Guidance.”¹⁹ ICE and its co-defendants in that case appealed the TRO, but ultimately dismissed their appeal.²⁰ SPLC moved to enforce the TRO due to ICE’s lack of compliance, *see* No. CV 18-760 (CKK), ECF No. 139, and is in the process of briefing a factual and legal supplement for the Court, *see* ECF No. 173. However, the TRO remains in effect, and ICE remains bound by its command to comply with the CDC Interim Guidance.

Yet ICE and its contractors have repeatedly failed to comply with the TRO or even to meet their own standards and Constitutional requirements and instead consistently expose the detained population to substantial risk. Complainants have been transferred in an unsafe manner during the pandemic; subject to arbitrary and unfair disciplinary procedures, denied nutritionally balanced meals, hot food, and appropriate diets for their medical conditions; denied appropriate medical and psychiatric care, including missed, untimely, and inappropriate medications; and deprived of equal access to participate in and benefit from programs, services, and activities due to their disabilities or limited English proficiency.

A. ICE AND CORECIVIC ARE VIOLATING ICE STANDARDS, CDC GUIDELINES, AND THE LAW BY IMPROPERLY QUARANTINING AND NOT ALLOWING FOR SOCIAL DISTANCING

According to ICE’s own standards, “Centers for Disease Control and Prevention (CDC) guidelines for the prevention and control of infectious and communicable diseases shall be followed.” But ICE and SDC have repeatedly failed to protect Complainants.

High-risk individuals at SDC are not safe from COVID-19 anywhere inside the detention center and should be released. ICE compromised their safety for months when they transferred high-risk individuals to Pods 3C and 3E. Mr. Lodge described Pod 3C as “one single common room with open beds spread across the floor...there is not enough room to practice social distancing as we are all crammed in the same area/dorm.” Exh. F. Authors of the June 2021 petition described Pod 3E as “an open bay with 31 beds spaced less than 20 inches apart,” accommodating 21 medically vulnerable people. Exh. G.



Even in pods with two-person cells, such as Pod 5A where the Complainants are currently housed, social distancing is impossible. There are not enough cells for each person to have their own. With as many as 81 people housed in a pod that holds a maximum of 88 people, most

¹⁹ *S. Poverty L. Ctr. v. U.S. Dep’t of Homeland Sec.*, No. CV 18-760 (CKK), 2020 WL 3265533, at *34 (D.D.C. June 17, 2020).

²⁰ *S. Poverty L. Ctr. v. U.S. Dep’t of Homeland Sec.*, No. 20-5257, 2021 WL 1438297 (D.C. Cir. Apr. 14, 2021).

people must share a 6x9 foot cell with another person. Each individual has to hope that the other person does not expose them to COVID-19 and that someone new is not transferred into their room without testing and quarantine.

In addition to noting concerns of COVID-19 exposure from pod mates, Complainants in Pod 5A note that officers come and go from their pod without wearing the necessary protective equipment, such as face shields or gloves, and go between pods all day without changing masks. Mr. Lodge noted a year ago that “Officers walk in the dorm with facial masks and then remove them when they need to address the detainees.” Exh. F. One year later, Mr. Reyes Chimilio confirms that guards continue to wear masks improperly, endangering him and others in his pod: “Guards in Pod 5A often wear their mask pulled down below their nose and mouth. I see it all the time, every day.”

Complainants also worry about COVID-19 exposure through the doors connecting adjacent pods. Exh. G. While in Pod 3E, Complainants reported being sandwiched between two pods of new arrivals who had not yet completed their quarantines. Officers come from those pods into theirs without changing gloves or taking other precautions to prevent spreading the virus. Complainants confirmed that this is still the case in their current housing, Pod 5A. Mr. Chambers adds:

Other protocols which are not being followed are the sanitizing of the restrooms doors handles , unit and pods door handles , gate handles , interroom boxes, staircase railings ,kiosk , tablets., and other high touch areas.

Recreation areas and equipment during and after usage are not being saritized to ensure the elimination of virus contamination due to use such equipment. Another issue is the sanitation standards and safety practices with staff and detainees , are not being discussed to ensure proper precautionary procedures.

Some of the individuals we spoke to, like Mr. Maurival, stay confined to their cells because they fear COVID-19 exposure in their “too crowded” pod. They recognize that staying in one small space all day is bad for their health and mental wellbeing, but they have no choice. Mr. Maurival said he feels like “a soldier on the battlefield with no armor.” He is faced with the impossible choice of exacerbating his serious mental illness (Major depressive disorder) by staying alone and isolated in his tiny cell or risking exposure to a highly contagious and deadly virus. Similarly, Mr. Woodford stated that his fears of COVID-19 spreading in his open-air pod made segregation seem preferable to sharing a pod with so many other individuals.

We received multiple reports of frequent and unnecessary pod transfers within the facility. Mr. Watson states that he has been moved 10 times in nine months. “The only units I have not been to are Units 1 and 2, and that is because those units are reserved for women,” he added. On each transfer, Mr. Watson received no information on who occupied the space last and observed that the space was clearly not disinfected, with trash still on the floor and beds. Mr. Watson noted, “Despite my efforts to clean the area, the damage already would have been done from any airborne disease.” Mr. Watson also noted that he was not tested for COVID-19 between each of his 10 pod transfers, and that SDC only tested him for COVID-19 upon his arrival to the facility.

Mr. Chambers mentioned that he has been through six quarantines in the year he has been at SDC. The repeated quarantines mean he is in a cycle of “constantly being exposed” to the virus. When the unit is on quarantine after a potential exposure to COVID, Complainants are denied access to the law library. Removal proceedings move very quickly for those detained at SDC (people are often given just two or three weeks to fill out their applications for relief in English), and it is rare for an immigration judge to give extra time if someone misses a deadline. Inability to access the law library can therefore result in an individual missing their opportunity to seek relief from removal.

Several individuals wrote that they simply want the detention center to try to keep them safe by following CDC guidelines:

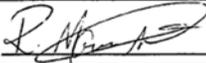
STATE GRIEVANCE: (Include documentation, witnesses, date of incident, and any other information pertaining to the grievance subject. Attach additional pages if necessary.)

Based on CDC Guideline they have set for Detention Center/ Prison must be operated by Stewart Detention Center has violated everyone of them. Therefore we are calling upon this facility to follow those guidelines set by CDC & also other health professionals by not following those guidelines this facility is still putting people's lives in real danger. Even members of the management team admitted that they do know what they are doing is against the CDC guidelines by operating at full capacity when CDC calls for 60% capacity. I pray for a quick resolve of the issues at hand.

Thank You

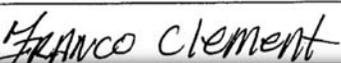
REQUESTED ACTION: (Attach additional pages if necessary.)

The only action that we requested of Stewart Detention Center is that they follow the guidelines set by CDC and other health professionals. I am sure you'll believe in science.

Detainee's Signature:  Date Submitted: 5/6/21

REQUESTED ACTION: (Attach additional pages if necessary.)

I am requesting that ICE respect Detainee life. You are in violation of the CDC guideline. ICE should follow recommendations and the requirement including mask wearing and social distancing and operate at 60% capacity. When brought to the attention of Chief Maxine Richardson she said she know BUT DOES NOT HAVE PLACE TO HOLD THE NEW DETAINEE'S THAT IS COMING INTO STEWART DETENTION CENTER

Detainee's Signature:  Date Submitted: 8-6-2021

REQUESTED ACTION: (Attach additional pages if necessary.)	
Follow the guideline and get everything organized, and stop putting peoples lives in danger.	
Detainee's Signature: Anderson Batista	Date Submitted: 8/6/21

B. ICE AND CORECIVIC ARE VIOLATING ICE STANDARDS AND THE LAW BY FAILING TO PROVIDE NECESSARY MEDICATION AND MEDICAL TREATMENT

ICE’s own standards mandate appropriate and necessary medical care. They say “Detainees with chronic conditions shall receive care and treatment, as needed, that includes monitoring of medications, diagnostic testing and chronic care clinics”; and “Prescriptions and medications shall be ordered, dispensed and administered in a timely manner and as prescribed by a licensed health care professional. This shall be conducted in a manner that seeks to preserve the privacy and personal health information of detainees.”²¹ Yet, the people we spoke with at SDC consistently raised the issue of poor medical care and neglect.

TO BE HELD IN A 'PRISON FOR PROFIT' DETENTION CENTER SUCH AS THIS ONE OPERATED BY CORE CIVIC, CORE CIVIC AND ICE OFFICIALS HAVE A CONSTITUTIONAL OBLIGATION TO PROVIDE DETAINEES, REASONABLE SAFETY, AND ADDRESS OUR SERIOUS MEDICAL NEEDS

For example, Complainants report being unable to get appropriate orthopedic shoes and prescription glasses, missing medications or doses of insulin, and waiting one to three weeks for a response when they request medical care. The PBNDS clearly states that sick calls must be “received and triaged within 24 hours after a detainee submits the request.”²² As one person said, “if it was COVID, it would be too late.” Mr. Clement filed two sick requests explicitly raising concerns about his COVID-19 symptoms and reports that he was never called to medical to evaluate his symptoms. Exh. K. Another person complained of being “segregated from the rest of the world” and forgotten.

Mr. Lodge and others in his pod specifically mentioned missing insulin doses and having to flag down an officer and wait, sometimes until the afternoon or night, to get the insulin they need. Mr. Lodge reports that this happens sometimes as often as twice per week. Without it, his blood sugar spikes, and he feels lightheaded, weak, and drowsy. Independent medical professionals who reviewed Mr. Lodge’s chart indicated that inappropriate management of his diabetes could

²¹ PBNDS 2011, 4.3 Medical Care.

²² PBNDS 2011, 4.3 Medical Care (“[A]n established procedure shall be in place at all facilities to ensure that all sick call requests are received and triaged by appropriate medical personnel within 24 hours after a detainee submits the request.”).

have significant negative short and long-term outcomes, including an increased risk of pulmonary, renal, and cardiac complications. Exh. E.

Mr. Kahsay rates SDC “on the bottom” as compared to Irwin County Detention Center (ICDC) and other facilities in which he has been detained. “I ran out of medicine and made a sick call to get a refill. It took three weeks before they saw me to refill my medication. Other facilities respond to sick calls the next day or maybe two days later if it is the weekend.”

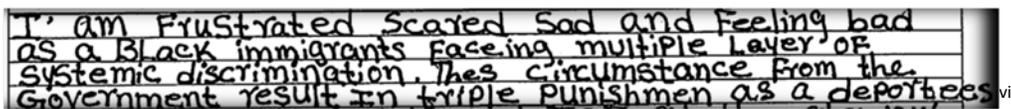
Mr. Chambers needs facial reconstruction surgery and has trouble breathing. Exh. J. Sometimes he chokes at night, and he often goes to bed afraid that he will die in his sleep. *Id.* He has been detained for more than one year and repeatedly assessed in the medical unit, but ICE has not scheduled the medically-required surgery. On January 6, 2021, a doctor in Atlanta confirmed that he needed surgery. *Id.* Almost eight months later, he says it feels like medical staff at SDC “are waiting for [him] to die.” *Id.* He and others report: “You have to actually pass out and have a near-death experience for them to do something about it.”

Complainants report that the lack of medical care is even worse when someone cannot communicate to facility staff because of a language barrier. As Mr. Chambers aptly explains, “It is hard to get things done in here as an English speaking individual, imagine not being able to speak or comprehend it.” Exh. J. In Pod 3E, Complainants witnessed their bunkmate suffer for four days with an illness, unable to communicate their needs to a guard until Complainants intervened. Exh. G. Others are forced to explain personal details and show private documents to other bunkmates in order to get help, which is a clear violation of the PBNDS.²³ “I depend on random people in my unit to help me make requests, which means I have to tell them about my medical conditions. I don’t have a choice,” states Mr. Hernandez Villalobo. “The guards at Stewart never use a professional interpreter to communicate with me. Instead, they look for a detainee who speaks English and involve them in the conversation without my consent.” Mr. Batista confirms that he and other multi-lingual people in his pod are frequently and routinely recruited by guards at SDC to interpret for them about medical, legal, and other matters, both in their assigned pod and in other pods around the facility.

ICE’s refusal to comply with its own regulations and existing law is unjustifiably harming Complainants’ health and well-being and putting their lives at risk.

²³ PBNDS 2011, 4.3 Medical Care (“Limited-English proficient detainees and detainees who are hearing impaired shall be provided interpretation/translation services or other assistance as needed to complete a request slip.”); PBNDS 2011, 4.8 Disability Identification, Assessment, and Accommodation (“Use of other detainees to interpret or facilitate communication with a detainee with a disability may only occur in emergencies.”).

C. ICE AND CORECIVIC ARE VIOLATING ICE STANDARDS AND THE LAW BY FAILING TO PROVIDE APPROPRIATE MENTAL HEALTH CARE



I' AM Frustrated Scared Sad and Feeling bad AS a Black immigrants Facing multiple Layer OF Systemic discrimination. The circumstance from the Government result in triple Punishment as a detainees^{vii}

Sometimes the response from SDC staff to requests for medical care is worse than nothing: sending someone to segregation. There is no and has never been a medical justification for the use of solitary confinement, yet ICE continues to conduct this deadly practice. SDC has a troubled history of using solitary confinement practices as discipline and to improperly treat people with mental illness and contagious illnesses like COVID-19.²⁴ Numerous courts have recognized that placement in prolonged segregation not only exacerbates pre-existing mental illness but can actually contribute to mental illness, thereby exposing imprisoned persons to a constitutionally intolerable risk of harm.²⁵ **Complainants confirm that ICE uses the threat of segregation to silence them and prevent them from speaking up about the intolerable conditions and lack of access to medical assistance at the facility. Exh L.**

ICE and its contractors have violated ICE ERO Directive 11065.1, which governs the use of segregation in ICE custody, with respect to Mr. Lodge and others. Directives apply to all of ICE's detention facilities and its contractors. Section 504 of the Rehabilitation Act and Supreme Court precedent²⁶ likewise establish that placing a person with a disability in a restrictive environment due to their disability constitutes discrimination. The segregation directive requires that placement of a person in administrative segregation due to a special vulnerability "should be used only as a last resort and when no other viable housing options exist."²⁷ In contravention of this directive, Mr. Lodge was placed in segregation numerous times, between 15 and 30 days at a time, when other viable housing options were available.

Officials at SDC retaliated against Mr. Lodge and other Complainants who have asserted their rights. Mr. Lodge was inexplicably transferred (without following COVID-19 protocols) between facilities in Georgia earlier this year. Mr. Lodge reports that ICE staff have reacted with hostility and placed him in isolation, simply for requesting medical and other forms of assistance. When Mr. Lodge recently filed a grievance regarding violations of privacy and inadequate social distancing due to CoreCivic's recent decision to assign another person to his cell, the grievance officer responded, "This is a non-grievable issue...If detainee want to refuse housing, let unit staff know in the office and they will get detainee moved to restrictive housing." Exh. L.

²⁴ Penn State Law and Project South, "Imprisoned Justice: Inside Two Georgia Immigrant Detention Centers," (May 2017), available at https://projectsouth.org/wp-content/uploads/2017/06/Imprisoned_Justice_Report-1.pdf.

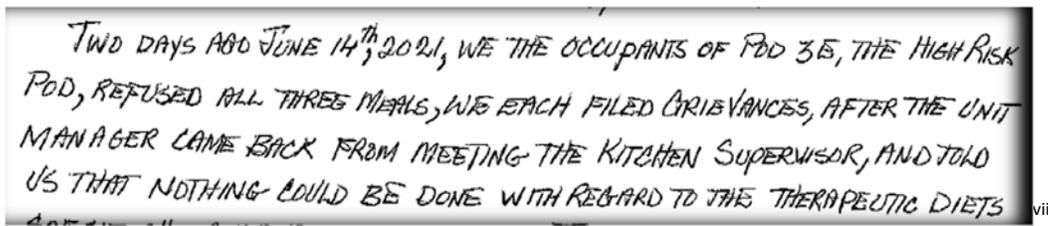
²⁵ See *Disability Rts. Mont. Inc. v. Batista*, 930 F.3d 1090, 1098 (9th Cir. 2019) (holding that plaintiffs sufficiently pled factual allegations of deliberate indifference by describing that defendants denied inmates adequate mental health treatment and had a pattern of placing mentally ill inmates in solitary confinement without significant mental health care, and that their improper responses increased the risk of suicide); see also *Braggs v. Dunn*, 257 F. Supp. 3d 1171, 1192 (M.D. Ala. 2017) (citations omitted); *Braggs v. Dunn*, 367 F.Supp.3d 1340, 1359 (M.D. Ala. 2019); *Finley v. Huss*, 723 Fed. Appx. 294, 298 (6th Cir. 2016).

²⁶ See *Olmstead v. L.C.*, 527 U.S. 581 (1999).

²⁷ Directive 11065.1 Review of the Use of Segregation for ICE Detainees, Sept. 4, 2013.

Using segregation constitutes a violation of the Supreme Court decision in *Olmstead*, which requires community-based treatment where the person’s treatment professionals have determined that would be appropriate. ICE and its Contractor are unlawfully discriminating against Complainants and violating disability law by failing to provide appropriate medical and mental healthcare in the least restrictive placement.

D. ICE AND CORECIVIC ARE VIOLATING THEIR OWN STANDARDS AND THE LAW BY FAILING TO PROVIDE ADEQUATE AND NUTRITIOUS FOOD AND QUALITY WATER



TWO DAYS AGO JUNE 14th 2021, WE THE OCCUPANTS OF POD 315, THE HIGH RISK POD, REFUSED ALL THREE MEALS, WE EACH FILED GRIEVANCES, AFTER THE UNIT MANAGER CAME BACK FROM MEETING THE KITCHEN SUPERVISOR, AND TOLD US THAT NOTHING COULD BE DONE WITH REGARD TO THE THERAPEUTIC DIETS

The contrast between the PBNDS regarding “Food Service” and daily life at SDC could not be starker.

The standards mandate that “All detainees will be provided nutritionally balanced diets that are reviewed at least quarterly by food service personnel and at least annually by a qualified nutritionist or dietitian” and “The overall goal of a quality food service program is to provide nutritious and appetizing meals efficiently and within the existing budget, personnel resources, equipment, and physical layout of the facility. Nutritional needs are diverse because of differences in age, activity, physical condition, gender, religious preference and medical considerations. [...] While each facility must meet all ICE/DRO standards and follow required procedures, individuality in menu planning is encouraged.”²⁸

Complainants are not provided nutritionally balanced diets, and there is no individuality in meal planning, not even to account for medical needs. This is in direct opposition to medical guidelines published by the American Heart Association and the U.S. Preventive Services Task Force detailing specific diets for individuals with chronic medical conditions like diabetes, hypertension, and heart disease.²⁹ Complainants with diabetes and other chronic conditions report that they are not provided appropriate meal accommodations, such as diabetic meals or a low sodium diet, and there is often no hot food. The quality and quantity of food deteriorated as the number of detained individuals at SDC quickly rose this year from approximately 300 in April 2021 to a current population of more than 1,000 people.

²⁸ PBNDS 2011, 4.1 Food Service.

²⁹ Linda Van Horn et al., “Recommended Dietary Pattern to Achieve Adherence to the American Heart Association/American College of Cardiology (AHA/ACC) Guidelines: A Scientific Statement From the American Heart Association,” *AHA Journals* (Oct. 27, 2016), *available at* <https://www.ahajournals.org/lookup/doi/10.1161/CIR.0000000000000462>; U.S. Preventive Services Task Force, “Health Diet and Physical Activity for Cardiovascular Disease Prevention in Adults With Cardiovascular Risk Factors: Behavioral Counseling Interventions” (Nov. 24, 2020), *available at* <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/healthy-diet-and-physical-activity-counseling-adults-with-high-risk-of-cvd>.

Several people reported **maggots** in their food during the second week of August 2021. Complainants say the “food is garbage” and meals are “atrocious.” Only those who are fortunate enough to buy food from the commissary are able to sustain themselves, though the food from the commissary is highly processed and often high in sodium and sugar. Mr. Hernandez Villalobo reports, “I do not have money to spend at the commissary for snacks between meals, so I depend on my leftovers to get me through the day and night.”

According to the standards, “Therapeutic medical diets and supplemental food shall be provided as prescribed by appropriate clinicians.”³⁰ That is not happening at SDC, and the lack of accommodation has significant harmful health impacts. Mr. Woodford’s high blood pressure became uncontrolled at SDC because ICE did not provide him a low sodium diet. Mr. Lodge’s diabetes and hypertension are both uncontrolled as a result of the diet ICE offers him at SDC. Mr. Lodge must have a special diet in order to control his diabetes and protect his wellbeing. Instead, he is served honeybuns for breakfast. Exh. M. He states he used to get oatmeal, but that has stopped. Mr. Chambers agrees: “We haven’t had a hot meal for breakfast in at least six months.” Exh. J.

Complainants reported that guards recently began entering their cells 20 minutes after meals and confiscating leftover food. In addition to throwing away leftover food, Mr. Pasovic and others report that the guards threw away cups and reusable storage containers that Complainants purchased with their personal commissary funds. Some Complainants, including Mr. Hernandez Villalobo, experienced a deterioration in their health as a result of the new 20-minute rule. Mr. Hernandez Villalobo reports that he cannot even keep an apple in his cell without fear of it being confiscated. For diabetics, such as Mr. Lodge, denied access to snacks and food could lead to grave health complications. Individuals with diabetes who use insulin are at high risk of hypoglycemia, a life-threatening condition that causes seizures, coma, and even death.³¹ Mr. Lodge should have consistent access to nutritious and appropriate food given this risk factor.

As ICE itself recognizes, a “food service program significantly influences morale and attitudes of detainees and staff.”³² Unfortunately, at SDC, cold, contaminated, and inadequate food is another way ICE and the facility’s staff dehumanize and demoralize migrants. Complainants have to eat foods that are bad for their health or go hungry; and they have to accept inadequate food or speak up and risk segregation or other violent retaliation.³³

Complainants describe the water as undrinkable. Mr. Clement, Mr. Kahsay, Mr. Reyes Chimilio, and others have discovered black contaminants in the drinking water that stick to the cup, discoloration in the water, and an unpleasant taste that raises concern about the potability of the water. Guards recently provided a jug of clean water when Congressional staff were visiting the

³⁰ PBNDS 2011, 4.1 Food Service.

³¹ Philip E. Cryer et al., “Hypoglycemia in Diabetes,” *Diabetes Care* (June 2003), available at <https://care.diabetesjournals.org/content/26/6/1902>.

³² PBNDS 2011, 4.1 Food Service.

³³ See Jose Olivares, “ICE’s Immigration Detainees Protested Lack of Coronavirus Precautions—and Swat-Like Private Prison Guards Pepper-Sprayed Them,” *The Intercept* (May 5, 2020), available at <https://theintercept.com/2020/05/05/ice-stewart-immigration-detention-coronavirus-protest-pepper-spray/>.

facility during the week of August 16. However, Complainants report that guards failed to provide any explanation as to the potability of the tap water or possible prior contamination.

Complainants also raised concerns about floods of rainwater and defective plumbing. Mr. Reyes Chimilio states, “There are things in need of repair, but no one repairs anything. Rainwater is leaking in some of the cells, so cellmates cannot sleep because they are removing the water from their cell.” Exh. H. When plumbing problems happen, SDC leaves Complainants without running water in the sink, which they need for washing their dishes, cooking, and other purposes. Mr. Chambers explains, “We have to resort to using the showers for washing our cups, bowls and forks.” Exh. J.

IV. Demands

Congressman Hank Johnson warned ICE about the dangerous conditions at SDC in May 2020, stating “I am concerned that the proactive steps being taken by ICE may not be sufficient...It is likely that hundreds of detainees will become infected.”³⁴ Congressman Johnson did not know then that the total number of confirmed COVID-19 cases at SDC would surpass 100 two months later in July 2020, surpass 200 in August 2020, and be on track to surpass 1,000 confirmed cases one year later, at the time of this Complaint. Exh. B.

Much to the detriment of immigrants detained at SDC, ICE has proven it is unable to safely operate this facility during the pandemic. We urge DHS to take seriously the original grievances filed by the Complainants and their accounts stated herein. DHS must take immediate action to hold ICE and its contractors accountable for their noncompliance and ensure the safety of these and other individuals who may be subjected to SDC’s abusive and neglectful practices.

As described herein, Complainants have been subjected to dangerous and discriminatory conditions of confinement—including unnecessary exposure to COVID, medical neglect, and prolonged segregation—while imprisoned at SDC. The conditions described in Pod 5A are in violation of the 2011 PBNDS, federal law, and the Constitution. Absent swift and meaningful intervention by CRCL, Complainants and other immigrants detained at SDC face a substantial likelihood of serious harm and disability discrimination.

For the foregoing reasons, we call on DHS and DOJ to:

- 1) In light of their serious medical needs, and the failure of ICE and its contractor to provide adequate and necessary care, Complainants should immediately be released on humanitarian grounds to their U.S.-based family and sponsors;
- 2) All individuals, but especially those identified as high-risk, must receive appropriate mental health and medical care while detained at SDC, including accommodations for disability needs; and should not be subjected to segregation where segregation could cause or exacerbate serious medical and mental health needs;
- 3) CRCL and OIG should conduct an independent and comprehensive compliance review of conditions at SDC and make their findings available to the public. This compliance

³⁴ OCG News, “Congressman Hank Johnson urges more protection to mitigate spread of COVID-19 at Stewart Detention Center,” (May 7, 2020), *available at* <https://ocgnews.com/congressman-hank-johnson-urges-protection-mitigate-spread-covid-19-stewart-detention-center/>.

review should be repeated periodically and include but not be limited to qualitative assessments of the medical and mental health care provided to immigrants in detention, existing mechanisms to track and accommodate persons with disabilities, methods to identify and address abuse or harassment by guards, and pandemic response;

4) CRCL and OIG should also ensure that staff at SDC receive proper training with respect to the issues underlying the compliance review, including the accommodation of people with disabilities.

Thank you for your urgent attention to these critical matters. Please do not hesitate to contact us for additional information.



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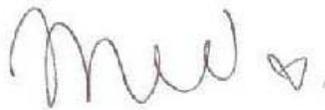
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TRANSCRIPTION OF QUOTES FROM GRIEVANCES

ⁱ “CoreCivic has violated Covid regulations by housing 79 people in one unit (5-C) at Stewart Detention Center in Lumpkin GA. This is a clear violation of the health care and safety laws put in place by the Federal and State Government to include the CDC. This act has turned us from human beings into cattle with no concern for others than making this facility a dollar!! (\$)” - Stephen Watson

ⁱⁱ “Other protocols which are not being followed are the sanitizing of the restroom doors handles, unit and pods door handles, gate handles, intercom boxes, staircase railings, kiosk, tablets, and other high touch areas... Recreation areas and equipment during and after usage are not being sanitized to ensure the elimination of virus contamination due to use such equipment. Another issue is the sanitation standards and safety practices with staff and detainees, are not being discussed to ensure proper precautionary procedures.” – Ricardo Chambers

ⁱⁱⁱ “Based on CDC Guideline they have set for Detention Center/Prison must be operated by Stewart Detention Center has violated every one of them. Therefore, we are calling upon this facility to follow those guidelines set by CDC and also other health professionals. By not following those guidelines this facility is putting people’s lives in real danger. Even members of the management team admitted that they do not know what they are doing is against the CDC guidelines by operating at full capacity. When CDC calls for 60% capacity. I pray for a quick resolve of the issues at hand. Thank you...The only action that we requested of Stewart Detention Center is that they follow the guidelines set by CDC and other health professionals. I am sure y’all believe in science.” – Rony Maurival

^{iv} “I am requesting that ICE respect detainee live. You are in violation of the CDC Guideline. ICE should follow recommendations and the requirement including mask wearing and social distancing and operate at 60% capacity. When brought to the attention of chief Maxine Richardson she said she know but does not have place to house the new detainees that is coming into Stewart Detention Center.” - Franco Clement

^v “Follow the guideline and get everything organized, and stop putting people’s lives in danger.” – Anderson Batista

^{vi} “To be held in a ‘prison for profit‘ detention center such as this one operated by CoreCivic; CoreCivic and ICE officials have a constitutional obligation to provide detainees, reasonable safety, and address our serious medical needs.” - Petitioners in Pod 3E

^{vii} “I am frustrated scared sad and feeling bad as a Black immigrant facing multiple layers of systemic discrimination. These circumstance from the government result in triple punishment as a deportee.” - Franco Clement

^{viii} “Two days ago, June 14th, 2021, we the occupants of Pod 3E, the High Risk Pod, refused all three meals, we each filed grievances. [A]fter the unit manager came back from meeting the kitchen supervisor and told us that nothing could be done with regard to the therapeutic diets.” - Petitioners in Pod 3E