

July 12, 2020

Via Electronic Mail

Cameron Quinn  
Office of Civil Rights and Civil Liberties  
Department of Homeland Security  
Washington, D.C. 20528

**RE: Deliberate Indifference to the Serious Medical Needs of Detained Families and Request for Investigation into the Continued Detention of Medically Fragile Individuals During the COVID-19 Pandemic**

Dear Ms. Quinn:

This complaint is filed by Proyecto Dilley<sup>1</sup>, RAICES, ALDEA - The People's Justice Center, and CLINIC on behalf of families who are detained at the South Texas Family Residential Center in Dilley, Texas ("Dilley" or "STFRC"); the Karnes County Residential Center in Karnes City, Texas ("Karnes"); and the Berks County Residential Center in Leesport, Pennsylvania ("Berks") (together, the "Family Detention Centers," or "FDCs").

During this global COVID-19 pandemic, it has never been a question of *if* a COVID-19 outbreak would occur at a Family Detention Center; the question has always been "*when?*" The answer to this question is "now," as at least 34 parents and children detained at Karnes and 14 employees who work at Dilley have tested positive for COVID-19.<sup>2</sup> At Berks, where there are currently no signs of positive COVID-19 tests reported for employees or detained families, the coronavirus inches ever closer each day: 37 individuals who reside in a county-operated nursing home across the street from Berks have died of COVID-19.

This situation is precisely what the medical community has warned about all along. *See Flores v. Barr*, 2:85-cv-4544-DMG-AGR, at \*2 (C.D. Cal. June 26, 2020). COVID-19 is a deadly virus that places both parents and children at severe risk of harm. Individuals detained at Dilley, Karnes, and Berks have significantly higher risk of contracting COVID-19, given that COVID-19 is already present in two of the three detention centers, the communities in which they are located are experiencing severe outbreaks of COVID-19, and congregate settings generally are "tinderboxes" for contagion.

The danger to the children and parents detained at Dilley, Karnes, and Berks is heightened by the fact that the baseline medical care at those detention centers is woefully inadequate. As one mother stated, "If they can't take care of a stomach ache, how will they attend to us with the virus?"<sup>3</sup> Of particular concern are the individuals—both parents and children—who have pre-existing medical conditions which place them at high risk of a severe outcome if they contract the

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<sup>1</sup> Formerly known as the Dilley Pro Bono Project and the CARA Pro Bono Project.

<sup>2</sup> Numbers as of July 10, 2020.

<sup>3</sup> Nomaan Merchant, *Detained in Isolation, Migrant Families Fear Catching Virus*, AP (June 23, 2020), <https://apnews.com/705d2e3d490781b1a9ad8afe83e20fdd>.

coronavirus. The stories shared in this complaint show the depth of Immigration and Customs Enforcement's (ICE) failure to provide appropriate medical care, and the gravity of the situation for individuals who are at higher risk.

The lack of appropriate precautions and protocols relating to COVID-19 at all three detention centers exacerbates these concerns. Ongoing reports from families in detention demonstrate that ICE fails to implement practices and policies consistent with the guidelines issued by the Centers for Disease Control and Prevention ("CDC"). These reports have been affirmed by Judge Dolly Gee of the United States District Court for the Central District of California, who has determined that the Family Detention Centers are "on fire." *Flores*, 2:85-cv-4544-DMG-AGR, at \*2. Willfully imprisoning families inside a burning building endangers their lives and amounts to punishment.

The families detained at Dilley, Karnes, and Berks face severe harm due to the rapid spread of COVID-19 and the inadequate medical care and protocols ICE has implemented to care for those in its custody. We urge you to immediately investigate the provision of medical care at the Dilley, Karnes, and Berks detention centers and the adequacy of ICE's practices to protect families from severe harm due to COVID-19. In particular, we call on the Office of Civil Rights and Civil Liberties to investigate specific cases, and to determine whether ICE's failure to treat and release specific individuals during the COVID-19 pandemic is a violation of the Fifth Amendment of the United States Constitution, the Family Residential Standards, or other laws.

## **I. Legal Standards Relevant to Medical Care in Family Detention Centers**

There are three sets of legal obligations that govern the medical care that ICE must afford the families it keeps in its custody.

First, ICE is constitutionally obligated to provide necessary medical care to those in its custody. Individuals must be provided with "the basic human needs, one of which is 'reasonable safety.'" *Helling v. McKinney*, 509 U.S. 25, 33 (1993). Under the Eighth Amendment, it is cruel and unusual punishment for a federal official to exhibit "deliberate indifference to a substantial risk of serious harm" to someone in government custody. *Doe v. Robertson*, 751 F.2d 383, 385 (5th Cir. 2014) (citing *Farmer v. Brennan*, 511 U.S. 825, 828 (1994)). The families detained by ICE are in civil immigration custody and are thus entitled to the same protection from harm under the Fifth Amendment's Due Process Clause. *See Jones v. Blanes*, 393 F. 2d 918, 933-34 (9th Cir. 2004), *cert denied*, 546 U.S. 820 (2005). Accordingly, there is a constitutional violation when a federal official "knows of and disregards an excessive risk to inmate health or safety." *Doe*, 751 F.3d at 388 (quoting *Farmer*, 511 U.S. at 837).

The federal government cannot "ignore a condition of confinement that is sure or very likely to cause serious illness and needless suffering the next week or month or year." *Helling*, 509 U.S. at 33. Thus, even though the harm may not "occur immediately and even though the possible infection might not affect all those exposed," the Constitution still requires a remedy for those *exposed* to a risk of infectious disease. *Id.*

Second, ICE has set out its own standards that govern the detention of families at the Family Detention Centers. The Family Residential Standards (FRS) outline ICE's responsibilities when it comes to, among others, the provision of medical care at the FDCs. Pursuant to the newly revised standards, ICE is obligated to provide:

- Initial medical, mental health, and dental screening;
- Medically necessary and appropriate medical, dental, mental health care, and pharmaceutical services;
- Comprehensive, routine and preventative health care, as medically indicated;
- Emergency care;
- Specialty healthcare;
- Timely responses to medical complaints;
- Hospitalization as needed within the local community; and
- Staff or professional language services necessary to ensure meaningful access to care for non-English speaking individuals.

FRS 4.3, *Health Care, Expected Practices*, at 4–5 (2020). Through these requirements, ICE expects all individuals to “have access to a continuum of healthcare services including screening, prevention, health education, diagnosis and treatment.” *Id.* at 1. These standards also include an emphasis on “timely access to appropriate and necessary health care.” *Id.* ICE is also required to provide individuals with chronic conditions “chronic care and treatment, as needed, that includes medication monitoring, diagnostic testing, and chronic care clinics.” *Id.* at 2.

Third and last, ICE is bound by the terms of the *Flores* Settlement Agreement (FSA) when it comes to the detention and treatment of immigrant children. Under the FSA, ICE is required to provide “safe and sanitary” conditions for children, which must be “consistent with [ICE]’s concern for the particular vulnerability of minors.” FSA, ¶ 12A. Minimum standards under the FSA require the FDCs to provide appropriate routine and emergency medical care. FSA, Exhibit 1 (Minimum Standards for Licensed Programs).

## **II. COVID-19 Is a Dangerous Disease That Places Children and Their Parents at Risk of Death or Permanent Physical Harm**

COVID-19, also known as SARS-CoV-2, is a highly contagious virus that has infected more than 8.8 million people worldwide. *See* Exhibit C (Declaration of Drs. Matthew Gartland, Katherine Peeler, and Fiona Danaher), at ¶¶ 20, 24. COVID-19 can be transmitted through respiratory droplets and aerosolized particles in the air, as well as via surfaces. *See id.* at ¶ 23. Asymptomatic individuals can transmit the virus to others, and the incubation period can last up to 14 days.<sup>4</sup>

Although many COVID-19 symptoms are flu-like, COVID-19 is much deadlier than the

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<sup>4</sup> *See Interim Clinical Guidance for Management of Patients with Confirmed Coronavirus Disease (COVID-19)*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-guidance-management-patients.html> (updated June 30, 2020).

flu.<sup>5</sup> Severe cases of COVID-19 can cause respiratory failure, multi-organ failure, and death. *See id.* at ¶ 32. Complications from the disease can cause lasting damage to vital organs and can occur within days of the first virus symptom. *See id.* at ¶ 34. The rapid onset of life-threatening symptoms can require emergency intubation and mechanical ventilation. *Id.*

Individuals with asthma, high blood pressure, heart disease, obesity, diabetes, and cancer are at higher risk of severe illness or death from COVID-19.<sup>6</sup> As a result, the CDC emphasizes that individuals with pre-existing conditions should diligently maintain their treatment plan.<sup>7</sup> As detailed below, the inadequate access to medical care in all three FDCs makes it unlikely that detainees with underlying conditions receive the recommended level of care for underlying conditions, making them even more susceptible to severe cases of COVID-19.<sup>8</sup>

Children infected with the virus can face consequences equally as grave as their adult counterparts. Overtime, medical professionals have determined that children infected with COVID-19 may experience different symptoms than adults, and that infection with COVID-19 can place a child at risk of death.<sup>9</sup> In children, the COVID-19 has been linked to a new illness known as Multisystem Inflammatory Syndrome (MIS-C), in which a variety of the child's organs become inflamed, such as their skin, heart, eyes, and brain. *Id.* at ¶ 33. Children have died from both COVID-19 infection and MIS-C.

### **III. A COVID-19 Outbreak Is Underway In and Around the Family Detention Centers, Posing Risks of Severe Harm to the Detained Families**

#### **A. The Family Detention Centers are located in communities that are experiencing surges of COVID-19 infections and deaths.**

The three Family Detention Centers are located in regions that have and are currently experiencing severe outbreaks of COVID-19. The severity of the COVID-19 outbreak has a direct impact on the availability of staffed beds and emergency medical care for members of the community and the detained populations therein. Because the FDCs—in particular the Texas FDCs—are located in remote areas, detained families, detention center staff, and members of the local community must share already-strained medical resources in hard-hit areas. The reality that the majority of detention facility staff commute together to work in 15-passenger vans from larger metropolitan areas does not relieve the problem; it's that COVID-19 is surging *in* those

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<sup>5</sup> Jeremy Samuel Faust & Carlos del Rio, *Assessment of Death From COVID-19 and From Seasonal Influenza*, JAMA (May 14, 2020), <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2766121>.

<sup>6</sup> Zunyou Wu & Jennifer McGoogan, *Characteristics of and Important Lessons From the Coronavirus Disease 2019 (COVID-19) Outbreak in China: Summary of a Report of 72 314 Cases From the Chinese Center for Disease Control and Prevention*, JAMA (Feb. 24, 2020), doi:10.1001/jama.2020.2648.

<sup>7</sup> *See People of Any Age with Underlying Medical Conditions*, CDC, [https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC\\_AA\\_refVal=https%3A%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC_AA_refVal=https%3A%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html) (last updated June 25, 2020).

<sup>8</sup> Lutheran Immigration & Refugee Service & Women's Refugee Commission, *Locking up Family Values, Again* (Oct. 2014), [https://www.lirs.org/assets/2474/lirswrc\\_lockingupfamilyvaluesagain\\_report\\_141114.pdf](https://www.lirs.org/assets/2474/lirswrc_lockingupfamilyvaluesagain_report_141114.pdf).

<sup>9</sup> Yuanyuan Dong, et al., *Epidemiological Characteristics of 2143 Pediatric Patients With 2019 Coronavirus Disease in China*, Pediatrics (2020), <https://pediatrics.aappublications.org/content/pediatrics/early/2020/03/16/peds.2020-0702.full.pdf>.

metropolitan areas, like San Antonio.

COVID-19 cases in Texas have soared in recent weeks. On Tuesday, Texas reported over 10,000 new cases.<sup>10</sup> Hospitalizations in Texas are also at “records highs,” with over 8,000 hospitalizations last weekend.<sup>11</sup> Bexar County, where San Antonio is located, saw its biggest spike in COVID-19 cases on July 3, 2020, with a surge of over 1,300 new confirmed cases on that day.<sup>12</sup> To date, there have been 19,137 positive COVID-19 cases and 175 COVID-19-related deaths in Bexar County, and the number rises with every passing day.<sup>13</sup> As of July 11, 2020, the county reported that 12,780 individuals remained ill, and there are 1,221 individuals currently hospitalized for COVID-19 in Bexar County.<sup>14</sup> There were 401 individuals in the ICU on July 11, and Bexar County hospital capacity dropped such that only ten percent of staffed hospital beds were available on July 10.<sup>15</sup>

Frio County, where STFRC is located, has also become a hotspot for COVID-19. On June 12, 2020, Frio County Judge Arnulfo C. Lunda declared a State of Local Disaster given rising COVID-19 rates in the county.<sup>16</sup> The State of Local Disaster was extended again on June 15, 2020.<sup>17</sup> These actions were taken after 47 individuals in Frio County tested positive in the first two weeks of June 2020.<sup>18</sup> Last month, 90 percent of COVID-19 cases in Frio County were linked to the South Texas ICE Processing Center in Pearsall, less than twenty miles from STFRC.<sup>19</sup> Since then, the situation has only worsened. Frio County reported its first death on June 29, 2020,<sup>20</sup> and to date, there have been 259 COVID-19 cases, 145 of which are currently active.<sup>21</sup>

As of July 9, 2020, Karnes County had 30 active COVID-19 cases, with a total of 52

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<sup>10</sup> See Rachel Treisman, *Texas Sets State Record With More Than 10,000 New Coronavirus Cases Reported Tuesday*, NPR (July 7, 2020), <https://www.npr.org/sections/coronavirus-live-updates/2020/07/07/888755062/texas-sets-state-record-with-more-than-10-000-new-coronavirus-cases-reported-tue>.

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

<sup>12</sup> *COVID-19 Indicators*, City of San Antonio, <https://cosacovid-cosagis.hub.arcgis.com/app/055ec707a95e462281a5f0dbaa752a63> (last visited July 12, 2020).

<sup>13</sup> *COVID-19 Statistics*, City of San Antonio, <https://cosacovid-cosagis.hub.arcgis.com> (last visited July 12, 2020).

<sup>14</sup> *COVID-19 Surveillance*, City of San Antonio, <https://cosacovid-cosagis.hub.arcgis.com/app/05e43c8748c44d418ce6c028b8681e55> (last visited July 12, 2020); *COVID-19 Progress & Warning Indicators*, City of San Antonio, <https://cosacovid-cosagis.hub.arcgis.com/app/1b61372690964527902c0458d3a5596c> (last visited July 12, 2020).

<sup>15</sup> *Bexar County Reports 535 New Cases and 9 More Deaths as Hospitals Near “Severe Stress” Levels*, Texas Public Radio (July 11, 2020), <https://www.tpr.org/post/bexar-county-reports-535-new-cases-and-9-more-deaths-hospitals-near-severe-stress-levels>.

<sup>16</sup> Order Continuing Declaration of State of Local Disaster for Frio County, Texas (June 15, 2020), <http://www.co.frio.tx.us/upload/page/1949/DOC%20ORDER.pdf>.

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

<sup>18</sup> Breyana Segura, *County Extends Judge’s Order, Promotes New Caution*, Frio-Nueces Current (June 18, 2020), <https://www.frio-nuecescurrent.com/2020/06/18/covid-19-updates>.

<sup>19</sup> Stacy Fernandez, *U.S. Reps. Sylvia Garcia, Joaquin Castro Call on ICE to Release Migrants in Immigration Detention Centers as Coronavirus Cases Surge*, Texas Tribune (June 22, 2020), [https://www.texastribune.org/2020/06/22/sylvia-garcia-joaquin-castro-coronavirus-ice/?utm\\_campaign=trib-social&utm\\_content=1592862151&utm\\_medium=social&utm\\_source=twitter](https://www.texastribune.org/2020/06/22/sylvia-garcia-joaquin-castro-coronavirus-ice/?utm_campaign=trib-social&utm_content=1592862151&utm_medium=social&utm_source=twitter).

<sup>20</sup> *Frio County Reports First COVID-19 Fatality*, County of Frio (June 29, 2020), <http://www.co.frio.tx.us/upload/page/1949/dEATH.pdf>.

<sup>21</sup> *Frio COVID Lifeline Dashboard*, Frio County Community Command Center, <https://www.friocovidlifeline.org> (last updated July 10, 2020).

confirmed cases in the county.<sup>22</sup>

Berks County, Pennsylvania, is also experiencing a particularly severe COVID-19 outbreak and has had a recent uptick in positive cases.<sup>23</sup> The county reported an additional 16 new COVID-19 cases on July 10, 2020, and the same day reported two additional deaths, bringing the county total to 357.<sup>24</sup> The county had previously reported 45 new cases over the prior three-day period on June 22, 2020, and is currently reporting 4,680 cases total.<sup>25</sup> Of particular concern is the fact that the Berks facility is right next door to the Berks Heim nursing home, where 37 individuals have died from COVID-19.<sup>26</sup> The Berks Heim nursing home is county-owned and operated, and the situation there became so dire that the Pennsylvania National Guard and the Pennsylvania Department of Health facilitated testing of all the facility's residents and employees.<sup>27</sup> Over 30 staff members and over 95 residents have tested positive at Berks Heim, as of early June 2020.<sup>28</sup>

**B. The presence of COVID-19 in Dillely and Karnes, and the potential for further outbreak, has led to punitive conditions of confinement and access to counsel violations.**

Given the surge of cases in the San Antonio area and Texas generally, it is not surprising that COVID-19 has arrived at the Family Detention Centers. In the past three weeks, there have been 14 confirmed COVID-19 cases among staff who work at STFRC in Dillely, and 34 individuals—including children—detained at Karnes who have tested positive for COVID-19. *See* Exhibit D (Declaration of Richard M. Hunt), at ¶ 10; Exhibit E (Declaration of Anthony Hofbauer), at ¶ 5.<sup>29</sup> And although there are currently no confirmed cases of COVID-19 amongst families

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<sup>22</sup> *COVID-19 Updates & Information*, Karnes County Texas, <http://www.co.karnes.tx.us/page/karnes.Home%20-%20Copy> (last updated July 9, 2020). Johns Hopkins University, which is tracking COVID-19 across the world, has reported 80 COVID-19 cases in Karnes County. *COVID-19 Status Report, Karnes, Texas*, Johns Hopkins University, <https://bao.arcgis.com/covid-19/jhu/county/48255.html> (last visited July 12, 2020).

<sup>23</sup> Keith Mayer, *16 More Coronavirus Positives for Berks County; More Than 1,000 for the State*, Reading Eagle (July 10, 2020), [https://www.readingeagle.com/coronavirus/16-more-coronavirus-positives-for-berks-county-more-than-1-000-for-the-state/article\\_481d8f56-c2b5-11ea-a453-cbb5e02cdd92.html](https://www.readingeagle.com/coronavirus/16-more-coronavirus-positives-for-berks-county-more-than-1-000-for-the-state/article_481d8f56-c2b5-11ea-a453-cbb5e02cdd92.html).

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

<sup>25</sup> Adam Richter, *Coronavirus Cases in Berks County Rise by 45 Over 3-Day Period*, Reading Eagle (June 22, 2020), [https://www.readingeagle.com/coronavirus/coronavirus-cases-in-berks-county-rise-by-45-over-3-day-period/article\\_76c9208a-b4a6-11ea-b6bf-438ae1b464f9.html](https://www.readingeagle.com/coronavirus/coronavirus-cases-in-berks-county-rise-by-45-over-3-day-period/article_76c9208a-b4a6-11ea-b6bf-438ae1b464f9.html); *COVID-19 Data for Pennsylvania*, Pennsylvania Dep't of Health, <https://www.health.pa.gov/topics/disease/coronavirus/Pages/Cases.aspx> (last updated July 11, 2020 at 12:00 p.m.).

<sup>26</sup> *See* Adam Richter, *Berks Adds 47 Cases Since Friday*, Reading Eagle (June 29, 2020), [https://www.readingeagle.com/coronavirus/berks-county-adds-47-new-coronavirus-cases-since-friday/article\\_7dcc3862-ba2e-11ea-a292-ab2d82d60fe1.html](https://www.readingeagle.com/coronavirus/berks-county-adds-47-new-coronavirus-cases-since-friday/article_7dcc3862-ba2e-11ea-a292-ab2d82d60fe1.html); Keith Mayer, *Berks County Calling in State and Federal Agencies, National Guard for Advice, Testing at Berks Heim*, Reading Eagle (May 20, 2020), [https://www.readingeagle.com/coronavirus/berks-county-calling-in-state-and-federal-agencies-national-guard-for-advice-testing-at-berks/article\\_28f4d6b6-9aa6-11ea-99bc-a3c170748a1a.html](https://www.readingeagle.com/coronavirus/berks-county-calling-in-state-and-federal-agencies-national-guard-for-advice-testing-at-berks/article_28f4d6b6-9aa6-11ea-99bc-a3c170748a1a.html).

<sup>27</sup> *See* Keith Mayer, *Mass Testing at Berks Heim Finds 34 More Coronavirus Positives, County Says*, The Mercury (June 2, 2020), [https://www.pottsmmerc.com/news/coronavirus/mass-testing-at-berks-heim-finds-34-more-coronavirus-positives-countysays/article\\_c3d01da7-068f-5d83-81c6-](https://www.pottsmmerc.com/news/coronavirus/mass-testing-at-berks-heim-finds-34-more-coronavirus-positives-countysays/article_c3d01da7-068f-5d83-81c6-).

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

<sup>29</sup> These declarations were submitted by government counsel on July 9, 2020 in the case *O.M.G. v. Wolf*, 1:20-cv-00786-JEB (D.D.C. July 9, 2020).

detained at Berks or employees who work there, potential outbreak remains an ever-nearing reality given the deadly COVID-19 outbreak at the Berks Heim nursing home.

For many families, and families moved into quarantine in particular, the growing COVID-19 crisis has created a solitary confinement-style modus operandi. CRCL is well-aware of the mental health deterioration that occurs for individuals whose detention becomes prolonged, and the life-threatening consequences of administrative and disciplinary segregation. Indeed, as recently as March 18, 2020 a father detained in Karnes took his life. Now, the parents and children who have tested positive for COVID-19 report isolating quarantine conditions where they are denied appropriate hygiene and sanitation, deprived recreation, and denied family visitation. In fact, as of the week of June 21, 2020, all families at Karnes are held in quarantine isolation conditions; parents in nuclear family units are separated and detained with children based on gender and COVID-19 test status. One Karnes parent who tested positive for COVID-19 and is detained with his daughter reports that for two days, GEO<sup>30</sup> failed to pick up trash or deliver requested cleaning supplies to their room. Other parents have reported the severe emotional distress of children who are separated from their medically-isolated parent. The establishment of “quarantine,” though needed to minimize risks of harm to families, creates increasingly secure conditions in each facility that directly violate the terms of the *Flores* Settlement Agreement.

Furthermore, quarantine isolation conditions inhibit access to counsel. For example, at Karnes, individuals often need to rely on the phone in each cell in order to contact counsel. Although these phones are supposed to be operational and include a list of legal services providers, RAICES has found that these phones are often not functional, and the list of legal services providers is only in English, and not available in any of the languages spoken by the families currently detained at Karnes.

In Dilley, based upon reports filed by ICE in *O.M.G. v. Wolf*, 1:20-cv-00786-JEB (D.D.C. June 25, 2020), at least nine new families have recently arrived to STFRC. Although Proyecto Dilley has represented more than 99 percent of families detained at STFRC since its opening in 2014 at any given time, Proyecto Dilley has not had contact with eight out of the nine families who recently arrived. In other words, 89 percent of families who recently arrived to STFRC have been unable to access counsel as a result of their quarantine since arrival.

### **C. Detention Centers are Tinderboxes for Contagion.**

Over the past several months, medical experts across the country have repeatedly sounded the alarm over the deadly risk of COVID-19 in congregate care settings. In March 2020, two subject-matter experts for the Department of Homeland Security’s Office of Civil Rights and Civil Liberties, Doctors Scott A. Allen and Josiah Rich, warned of the “imminent risk to the health and safety of immigrant detainees, as well as to the public at large, that is a direct consequence of detaining populations in congregate settings.”<sup>31</sup> Not only would congregate settings facilitate the rapid spread of infectious diseases,” but also children at the Family Detention Centers could be asymptomatic carriers of the disease who would “unavoidably spread the virus to older family

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<sup>30</sup> GEO is the contractor which runs the Karnes detention center.

<sup>31</sup> Letter from Drs. Allen & Rich to Congress at 1(March 19, 2020), <https://whistleblower.org/wp-content/uploads/2020/03/Drs.-Allen-and-Rich-3.20.2020-Letter-to-Congress.pdf>.

members.”<sup>32</sup>

Since then, these predictions have become reality. Congregate facilities across the country—such as nursing homes and detention centers—have struggled to cope with outbreaks of the coronavirus. *See* Ex. C, at ¶¶ 21, 24. Over 3,000 individuals in ICE custody have tested positive for the coronavirus as of July 10, 2020, and at least two individuals have died of COVID-19 while in ICE custody.<sup>33</sup> These challenges are magnified in facilities with children who, given their tender age, are unable to effectively observe social distancing and mask-wearing procedures, or are too young to wear masks at all.

Given the highly transmissible nature of COVID-19, social distancing, regular handwashing and frequent disinfection of high-touch surfaces are essential to minimize spread of the virus. *See* Ex. C, at ¶¶ 26, 29.<sup>34</sup> Yet congregate facilities are, by their nature, ill-suited to social distancing, which “is essential to slow the spread of the coronavirus to minimize the risk of infection.”<sup>35</sup> The three Family Detention Centers—secure, unlicensed, congregate care facilities—have repeatedly struggled with managing viral outbreaks in the past.<sup>36</sup> The reality of the FDCs is that they rely, fundamentally, on shared bathrooms, dining spaces, and activity and administrative areas. *See id.* at ¶¶ 27, 28. And despite reduced populations, social distancing remains unattainable at the FDCs, as families still crowd together for meals and activities. *See Flores*, 2:85-cv-4544-DMG-AGR, at \*2. While day-to-day operations at each facility have become increasingly restrictive and secure, as recently as July 2, 2020 the Dilley detention center held an all-facility Fourth of July party where families played tug-of-war, soccer games, and participated in face-painting.

Appropriate hygiene and frequent disinfecting also remain important measures to prevent the spread of COVID-19. *See Flores v. Barr*, No. CV-85-4544-DMG-AGR (C.D. Cal. Apr. 24, 2020); Ex. C, at ¶ 26, 29. Yet families face irregular access to appropriate cleaning supplies at the Family Detention Centers. Thus, parents and children detained at the FDCs continue to spend day after day in danger of contracting a deadly virus that can have long-lasting effects on the health of adults as well as children. *See* Ex. C, at ¶ 28–29.

The capacity for a viral outbreak to occur is exemplified by the recent outbreak of viral stomatitis at the Berks FDC. Over the last several months at Berks, parents have reported that children have suffered from bumps and sores on their lips, mouths and throats. *See* Exhibit F (Declaration of Bridget Cambria), at ¶ 31.<sup>37</sup> These sores have caused pain, discomfort, difficulty eating and breathing, and bleeding. *Id.* Despite multiple children experiencing the same symptoms over several months, it was only after several children were taken to the hospital that the diagnosis of viral stomatitis was finally made. *Id.* at ¶ 32. Viral stomatitis, or herpetic stomatitis, is a viral

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<sup>32</sup> *Id.* at 3–4.

<sup>33</sup> *ICE Detainee Statistics, ICE Guidance on COVID-19*, <https://www.ice.gov/coronavirus> (last updated July 10, 2020 3:45 p.m.).

<sup>34</sup> *See also How to Protect Yourself & Others*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html> (last visited July 12, 2020).

<sup>35</sup> Letter from Drs. Allen & Rich to Congress, at 4.

<sup>36</sup> *Id.* at 3.

<sup>37</sup> This declaration was submitted in *O.M.G. v. Wolf*, 1:20-cv-00786-JEB, Doc. 65-6 (D.D.C. June 24, 2020).



infection that “can easily be spread from one child to another.”<sup>38</sup> The fact that one virus managed to spread so easily among children in one detention facility is indicative of how easily viruses—such as the coronavirus—have and can spread within the FDCs.

**D. Families detained at the FDCs will be unable to access life-saving treatment if infected with COVID-19 while in detention, as local health networks are already nearing their breaking points.**

Doctors Allen and Rich have also warned that an outbreak at a detention facility would “create an enormous public health risk,” in part because “those who contract COVID-19 with symptoms that require medical intervention will need to be treated at local hospitals, thus increasing the risk of infection to the public at large and overwhelming treatment facilities.”<sup>39</sup>

For specialized and emergency medical care—such as the care required when a parent or child is sick with the coronavirus—families detained at the three Family Detention Centers will have to turn to hospital systems that are severely taxed by already mounting COVID-19 hospitalizations. As Doctors Allen and Rich noted, “patient flow from detention center outbreaks” means that “precious health resources will be less available for people in the community.”<sup>40</sup> In particular, an outbreak at Dilley or Karnes—which is *already under way*—could result in multiple individuals quickly requiring hospitalizations. Just a few individuals would fill up and overwhelm the local hospitals, making resources like ICU beds and ventilators unavailable to members of the community who also contract COVID-10 or who need them to treat “the usual critical illnesses,” such as heart attacks and trauma.<sup>41</sup> *Id.* Simply put, this means that “many people from the detention center *and the community* die unnecessarily for want of a ventilator.”<sup>42</sup> The alternative—release—means that “the tinderbox scenario of a large cohort of people getting sick all at once is less likely to occur.”<sup>43</sup>

The two Texas FDCs are located in remote areas that are far from hospitals equipped to provide specialized emergency care to children. The Children’s Hospital of San Antonio (CHOSA) is the hospital used by both Karnes and Dilley when a child has a severe medical emergency. CHOSA is approximately one hour away from Karnes and an hour and a half away from Dilley.

There are only 25 staffed beds in Karnes County.<sup>44</sup> The Karnes FDC is ten minutes away from the Otto Kaiser Memorial Hospital, which only has 25 staffed beds and 4 ICU beds and 40 minutes away from the Christus Spohn Beeville hospital, which has 40 staffed beds.<sup>45</sup> The Dilley

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<sup>38</sup> See U.S. National Library of Medicine, *Herpetic Stomatitis*, MedlinePlus, <https://medlineplus.gov/ency/article/001383.htm> (last visited July 11, 2020).

<sup>39</sup> Letter from Drs. Allen & Rich to Congress, at 4.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Karnes, Texas COVID-19 Status Report*, Johns Hopkins University, <https://bao.arcgis.com/covid-19/jhu/county/48255.html> (last visited July 10, 2020).

<sup>45</sup> *Definitive Healthcare: USA Hospital Beds*, ArcGIS, <https://www.arcgis.com/home/webmap/viewer.html?layers=1044bb19da8d4dbfb6a96eb1b4ebf629> (last modified

FDC is located 20 minutes away from the Frio County Hospital, a small community hospital in Pearsall, Texas with 22 beds.<sup>46</sup> There are a total of 4 ICU beds in Frio County.<sup>47</sup> Frio County Hospital regularly provides care to individuals who are detained at the South Texas ICE Processing Center, a more than 1,000-bed ICE detention facility. Critically, this ICE facility was recently in the midst of a severe COVID-19 outbreak, when there were 22 active cases of COVID-19 at the facility; ICE is now reporting a total of 62 COVID-19 positive individuals at that facility, with 15 currently detained.<sup>48</sup>

Therefore, detained families and members of the community in both Karnes and Frio Counties will inevitably rely on Bexar County hospitals. Yet Bexar County’s hospital system is currently under immense strain. In the past two weeks, the number of hospitalizations in the county has spiked: from 802 COVID-19 patients on June 28 to 1,221 COVID-19 patients on July 11, 2020.<sup>49</sup>

For families detained at Berks, emergency and specialized care is provided at the nearby Penn State Health St. Joseph Medical Center. Berks Heim, the nursing home located next to the Berks that has been experiencing a severe COVID-19 outbreak, also relies on this hospital. St. Joseph’s Medical Center is a 204-bed facility, and the county overall only has 74 ICU beds.<sup>50</sup>

#### **IV. The Medical Care Provided at the Family Detention Centers Is Woefully Deficient, Thus the FDCs are Ill-equipped to Meet the Needs of Parents and Children Who Contract COVID-19**

Historically and currently, the medical care provided at the FDCs has fallen far short of what is required under the Constitution, ICE’s own Family Residential Standards, and the *Flores* Settlement Agreement.

In order to best represent and advocate for the families detained at the FDCs, Proyecto Dilley, RAICES, and Aldea—the legal services providers (“LSPs”) at the three facilities—regularly request and review medical records and consult with medical experts when necessary. The LSPs also speak—on a daily basis—to individuals who express concerns regarding the medical care they have received at the FDCs.

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July 6, 2020).

<sup>46</sup> *Community Health Needs Assessment 2017*, Frio Regional Hospital, at 44 (2017), <https://www.frioregionalhospital.com/media/1171/final-chna-frio-002.pdf>.

<sup>47</sup> *Frio, Texas COVID-19 Status Report*, Johns Hopkins University, <https://bao.arcgis.com/covid-19/jhu/county/48163.html> (last visited July 10, 2020).

<sup>48</sup> *ICE Detainee Statistics*, ICE Guidance on COVID-19, <https://www.ice.gov/coronavirus> (last visited July 10, 2020).

<sup>49</sup> *COVID-19 Progress & Warning Indicators*, City of San Antonio, <https://cosacovid-cosagis.hub.arcgis.com/app/1b61372690964527902c0458d3a5596c> (last visited July 11, 2020).

<sup>50</sup> Who We Are, PennState Health St. Joseph, <https://www.thefutureofhealthcare.org/about-us/mission-values/#:~:text=The%20380%2C000%20sq.,was%20formerly%20known%20as%20St.> (last visited July 10, 2020); *Berks, Pennsylvania COVID-19 Status Report*, Johns Hopkins University, <https://bao.arcgis.com/covid-19/jhu/county/42011.html> (last visited July 10, 2020).

## A. The baseline of medical care has and continues to be inadequate.

From the beginning, medical care at Dilley, Karnes, and Berks has been substandard at best, and negligent at worst. Medical care at Dilley is provided by ICE Health Service Corps (“IHSC”); at Karnes, by the GEO Group; and at Berks, by Berks County. The FDCs’ past and current failure to provide adequate medical care is well documented in complaints filed with your office<sup>51</sup>; the observations and subsequent reports of pediatricians who have studied the FDCs; whistleblower complaints to Congress by the doctors in charge of CRCL’s medical review; and the observations of the LSPs. Together, these reports have painted a worrying picture of the medical care available to families and call into question the ability of the FDCs to adequately care for children and parents who contract COVID-19.

In 2018, CRCL investigated a case referred by the Department of Homeland Security’s Office of the Inspector General of a child who had been detained at Dilley.<sup>52</sup> The investigation revealed that what IHSC first dismissed as Swimmer’s Ear was later diagnosed as Pott’s Puffy Tumor.<sup>53</sup> After complaining for weeks of a worsening earache, the child had to be hospitalized after suffering from seizures and ultimately had to undergo a partial frontal bone resection.<sup>54</sup> DHS’s internal reports indicate that IHSC leadership “failed to take appropriate action.”<sup>55</sup>

In July 2018, Doctors Scott A. Allen and Pamela McPherson, the medical and psychiatric subject matter experts for CRCL, documented their concerns to Congress following ten separate investigations into medical care at the FDCs.<sup>56</sup> Their investigation “revealed serious compliance issues resulting in harm to children,” and determined that the Family Detention Centers had “significant deficiencies that violate[d] federal detention center standards . . . despite repeated assurances that cited shortcomings w[ould] be corrected.”<sup>57</sup> Doctors Allen and McPherson identified the following particular areas of concern: (1) the detention of children in inadequate facilities (e.g. Karnes was formerly a medium security adult prison); (2) unqualified medical staff; and (3) the failure to provide adequate care for individuals expressing suicidal ideations.<sup>58</sup>

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<sup>51</sup> See, e.g. CRCL Complaint (July 30, 2015), available at <https://www.aila.org/advo-media/press-releases/2015/deplorable-medical-treatment-at-fam-detention-ctrs/public-version-of-complaint-to-crcl>. This complaint documented specific failings in the provision of medical care at the three FDCs, including: (1) instances of medical professionals at the FDCs providing “insufficient information about medical care to mothers and disregard [for] their concerns, the information they provide and their complaints”; (2) descriptions of “[m]edical staff frequently direct[ing] mothers and children to ‘drink more water’ regardless of the illnesses or injuries presented”; (3) reports that families were made to wait between three to fourteen hours for medical care; and (4) examples of inadequate follow-up treatment. *Id.* at 1–2.

<sup>52</sup> Memorandum from Cameron Quinn, Office for Civil Rights and Civil Liberties, to Ronald Vitiello, Deputy Director of U.S. Immigration and Customs Enforcement, Re: ICE Health Service Corps (IHSC) Medical/Mental Health Care and Oversight (Mar. 20, 2019), <https://www.documentcloud.org/documents/6575024-ICEWhistleblower-Report.html>.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

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

<sup>56</sup> See Letter from Drs. Allen & McPherson to Congress, at 1 (July 17, 2018), <https://www.whistleblower.org/wp-content/uploads/2019/01/Original-Docs-Letter.pdf>.

<sup>57</sup> *Id.* at 4.

<sup>58</sup> *Id.* at 4–5.

Several children tragically died in government custody or shortly after release in 2018. Mariee Juarez was a twenty-month-old baby who was detained at Dilley with her mother in early March 2018.<sup>59</sup> When she arrived at Dilley, Mariee was a healthy child but, within a week, she developed an upper respiratory infection, diarrhea, and vomiting.<sup>60</sup> Despite multiple visits to the medical clinic, and Mariee presenting with high fevers, Mariee was medically cleared to travel, though no medical staff conducted an in-person evaluation.<sup>61</sup> Two days after she was released, Mariee was hospitalized, and she died on May 20, 2018.<sup>62</sup>

Earlier this year, a five-year-old boy, M.M.R., was brought to Dilley after he, his mother, and his infant brother were detained by ICE. One month prior to the family’s detention, M.M.R. survived a skull fracture and was placed under the care of a pediatric neurologist. In disregard for the dangers posed by air travel and detention, ICE flew M.M.R. to Texas and detained him at Dilley. While detained, M.M.R.’s condition deteriorated and he developed alarming symptoms of heightened brain injury, including severe headaches, extreme sensitivity to sound, increased aggression, and wild flailing and bed-wetting at night. Proyecto Dilley alerted ICE to these concerns on February 3, 2020 and included a letter from an independent medical evaluator with clinical recommendations that M.M.R. required time-sensitive specialty care outside of detention. Counsel’s request for M.M.R.’s release was denied until a lawsuit was filed on M.M.R.’s behalf.

Review of medical records and interviews with detained families have led the LSPs to conclude that systemic failures continue to plague the provision of medical care at the FDCs. *See, e.g.,* Ex. C, at ¶ 16. Such deficiencies include failures to timely identify medical needs that require heightened levels of care; explain medical diagnosis and treatment plans and provide the required follow-up; ensure children with sick parent(s) have appropriate care; and practice CDC-compliant quarantine procedures with the best interest of the child in mind.

Young children are particularly prone to illness while detained in a congregate care setting and baby-specific treatment and care-related items are regularly unavailable to parents at FDCs.<sup>63</sup> In one case, a fifteen-month-old baby detained in January 2020 suffered a cold and continuous diarrhea during his four-month detention at Karnes. The baby’s father took his child to the medical center and requested access to medication and formula because his son was sick and unable to digest the food provided at the cafeteria. Both requests were denied. By the time the family was deported, the baby had spent almost a quarter of his life in ICE detention. This is one example of many in which particularly young children have experienced ongoing illness, weight loss, and lack of access to medical care in all three FDCs.

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<sup>59</sup> See Julia Webster, *Her 19-Month Old Daughter Died After Being Held at an ICE Facility. Here’s What Yazmin Juarez Told Congress*, TIME (July 11, 2019), <https://time.com/5624391/yazmin-juarez-migrant-mom-congressional-testimony>.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *See, e.g.,* CRCL Complaint (Feb. 28, 2019), [https://www.americanimmigrationcouncil.org/sites/default/files/general\\_litigation/complaint\\_urges\\_immediate\\_release\\_of\\_infants\\_from\\_immigration\\_detention.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/general_litigation/complaint_urges_immediate_release_of_infants_from_immigration_detention.pdf) (detailing the detention of infants at Dilley—including at least nine who were less than a year old, and noting that infants are “especially vulnerable to serious illnesses, pain, disability, and even death from preventable infections and diseases”).

The standard of medical care for children and their parents at the FDCs has not improved over the past five years since family detention first began. Proyecto Dilley, RAICES, and Aldea continue to document, individually and collectively, instances of medical neglect at each facility. The sample subset of cases highlighted in this complaint (and related exhibits) document continued systemic failures to provide adequate medical care at Dilley, Karnes, and Berks, including the failure to:

- medically evaluate individuals;
- appropriately and continuously screen and test for COVID-19 infection;
- timely identify medical needs that require heightened levels of care;
- provide individuals and their attorneys of record timely access to their medical file;
- explain medical diagnosis and treatment plans;
- provide medical services in a language detained parents and children can understand;
- provide appropriate medication;
- request and review medical records related to sentinel events and life-threatening diagnoses that occurred prior to detention;
- ensure children with sick parent(s) have appropriate care;
- practice CDC-compliant quarantine procedures<sup>64</sup>; and
- ensure travel by air is medically safe for a parent or child before they are placed on a flight.

**B. ICE fails to adequately treat and release individuals with serious known medical conditions, placing parents and children at risk of permanent harm and death.**

ICE continues to detain individuals with medical conditions that make them categorically vulnerable to death should they contract COVID-19. Evidence of denied access to necessary medical care, including evaluation, medication, and appropriate nutrition, exists at all three FDCs. *See also* Exhibit B (Supplemental Case Examples).<sup>65</sup> Although ICE has released families from custody based upon medical conditions, in many instances, ICE’s decision to release a family occurs *after* a sentinel event that might have been avoided with release and appropriate medical care. ICE’s practice of detaining individuals with medical conditions unless the condition becomes critical is inconsistent with ICE’s constitutional duty to provide adequate care to those in its custody. The case examples listed below are not exhaustive and represent many of the common deficiencies experienced by families detained at the FDCs who seek medical care. We seek immediate investigation into each of the cases identified in Exhibit A (Individuals for Whom Investigation is Requested), several of whom are elaborated below.

*1. M.P.A. (Detained)*

M.P.A.’s case highlights many deficiencies with the medical care provided at the FDCs,

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<sup>64</sup> Specifically, the FDCs continue to use cohorting procedures that conflict with CDC guidance and place medically vulnerable individuals in “quarantine” with individuals suspected of COVID-19 infection.

<sup>65</sup> This exhibit also includes a non-exhaustive list of individuals who required hospitalization during or immediately subsequent to their detention within the last year.

including inadequate treatment and diagnosis and inadequate follow-up care for chronic conditions. *See* FRS 4.3, at 1–2. M.P.A. is a thirty-two-year-old mother who has been detained at Dilley for 138 days with her one-year-old son, who is breast-feeding. Prior to her flight to the United States, M.P.A. survived repeated incidents of blunt trauma to the head that left her unconscious and many incidents of sexual violence. M.P.A. was kicked in the head, beaten with bats, repeatedly punched, and beaten with iron rods. Medical providers at Dilley have diagnosed M.P.A. with insomnia, anxiety, and adjustment disorder with mixed anxiety and depressed mood. M.P.A.’s medical records reveal additional medical conditions, including high blood pressure, high glucose (that remains unevaluated and untreated), gastritis, infectious gastroenteritis and colitis, and ongoing undiagnosed chest pain.

Most critically, M.P.A.’s medical records document an undetermined mass on the base of her skull that has grown from 3 cm in diameter on March 6, 2020 to “approximately 5 inches, width 3 inches, and height 2-3 inches.” The medical records state the tumor “will have to be surgically removed” and that the mass is increasingly painful. M.P.A. “experiences persistent, daily headaches and blurry vision at various times throughout the day. She feels like she cannot get any rest, and has difficulty falling asleep at night, along with early morning awakening . . . she is just so tired all of the time. She is also concerned about the mass on the back of her neck getting larger and causing pain when trying to lay on the bed flat.” The mass is causing “peripheral pulses and tingling.” M.P.A. is unable to walk straight, feels unsafe carrying her infant son, and regularly feels like she is “drunk.”

An independent medical expert who reviewed M.P.A.’s medical records determined that additional testing is urgently needed to determine whether her tumor is cancerous. *See* Exhibit G (Declaration of Dr. Abhishek Dhar). M.P.A.’s IHSC medical records note that the growing neck mass requires follow-up, but no diagnostic studies have been ordered.

M.P.A.’s one-year-old son is also sick. M.P.A. had numerous complications during her pregnancy with her son and was hospitalized twice before his birth. While detained, M.P.A.’s son has developed diarrhea, a fever, and a rash on his body and mouth. He has a history of heart murmur and an elevated heart rate.

## 2. *M.A.R. (Detained)*

M.A.R. and her son have been detained for 289 days. When M.A.R. arrived at Dilley in October 2019, she knew she was pregnant. On the day of her arrival in Dilley, a urine test confirmed her pregnancy. The next day, M.A.R. informed an IHSC doctor that she was experiencing light bleeding. The doctor, who was not an OBGYN, advised M.A.R. to rest, but conducted no examinations or ultrasounds. Over the next three to four weeks, M.A.R. experienced daily bleeding and abdominal pain. She sought medical attention regularly at Dilley, but again, was not provided access to an OBGYN, and was not provided with an ultrasound. Eventually—approximately two weeks after she first informed IHSC that she was experiencing bleeding—M.A.R. was transported to off-site for an ultrasound; however, no interpreter was available and information regarding M.A.R.’s medical condition was communicated to the guards that transported her, not to her directly.

In late October or early November 2019, IHSC medical staff informed M.A.R. that she was actually never pregnant, and instead, that she had started menopause. Distraught, M.A.R. sought clarification from a social worker, who consulted with a doctor before informing M.A.R. that she had had a miscarriage. IHSC's failure to provide updated information on M.A.R.'s medical condition and conduct the required follow-up given her symptoms is unfortunately frequently repeated in other cases known to the LSPs.

### 3. *M.N. (Detained)*

M.N. is a 27-year-old Haitian asylum seeker and mother to a three-year-old baby. She and her child have been detained at Berks for 116 days. Three weeks ago, M.N. requested to see a doctor due to severe and constant pain in one of her breasts. As no doctor was available or willing to examine her, she met with a nurse who told her to simply pour warm water over her breast and take ibuprofen. This treatment did not work. Instead, her pain became so severe that she became unable to perform basic routine movements, making it difficult to care for her young child. Ten days after her initial consultation, M.N. returned to the clinic at the facility and asked to be seen by a doctor, as her pain had gotten worse. At this time, a general doctor met with M.N. and after a five-minute discussion, again told her to take Ibuprofen. M.N. broke into tears and begged to be physically examined. After a brief physical examination, the doctor found a lump in M.N.'s breast and said she needed to see a specialist as soon as possible. To this date, ICE and their contractors have failed to facilitate an appointment with a specialist to examine M.N. This is one of many examples of ICE's inadequate treatment and failure to provide "medically necessary and appropriate medical" care. FRS 4.3, at 5.

In addition, since she has arrived at BCRC, M.N. has been suffering from intermittent vaginal bleeding, with symptoms such as dizziness, low red blood cells and vision changes, per BCRC medical records. M.N. was taken to the hospital on July 1, 2020, where she received a breast screening, but no consultation with a specialist. Upon her return, M.N. was placed in a room alone under the pretense of quarantine, even though she tested negative for COVID-19 and the BCRC guards who escorted her to the hospital were not subject to isolation. M.N.'s placement in what other residents have called "a prison within a prison" has caused other detainee families to hesitate in speaking out about their medical concerns. They believe that they too will be subject to isolation merely for asking for medical treatment.

### 4. *H.M.N. (Detained)*

H.M.N. is a two-year-old infant, and she has been detained at Berks for 116 days. She is detained with her mother and father, and they have had to take her to visit the doctor at BCRC more than *twenty* times, excluding the initial intake. She was also taken to the Emergency Room at St. Joseph Hospital on April 2, 2020 for a severe Viral Stomatitis infection. H.M.N. has suffered from fevers above 101°F, as well as ringworm. H.M.N.'s most painful concern deals with her diagnosis of oral candidiasis/stomatitis, and ulcerative oral mucositis which causes infections and open lesions all over the inside of the mouth. The inside of H.M.N.'s cheeks, her tongue and the roof of her mouth are covered in open sores which make it difficult for her to eat and swallow. H.M.N. has suffered from additional symptoms of viral stomatitis, including skin rashes, weight loss, changes in appetite, skin lesions and discoloration.

### 5. *J.O.H. (Detained)*

J.O.H. is a five-year-old Ecuadorian asylum seeker who has been detained at Berks for 120 days. Due to the conditions of confinement during her kidnapping prior to her detention, she developed a severe, chronic, and recurrent infection in her ear.

According to BCRC medical records, she has suffered ailments while in detention including fever, ear pain, cough, congestion, and wheezing. In addition, medical records show that J.O.H. suffers from perforations in her ear and hearing loss. Her symptoms have been so severe that she has been taken to the pediatric emergency room at St. Joseph's Hospital on several occasions. In addition, J.O.H.'s parents have notified BCRC that she no longer has the ability to speak, she mainly just nods in response, instead of using her voice when spoken to. The parents have repeatedly raised concerns regarding her ability to hear which have been unaddressed by the medical team at BCRC and the hospital. Further, J.O.H.'s parents fear that a trauma-induced speech pathology may have resulted from J.O.H.'s victimization in human trafficking. However, they have never been given access to a specialist, despite raising J.O.H.'s regression to the medical staff at Berks.

### 6. *G.S.C. (Detained)*

G.S.C.'s case is yet another example of ICE's failure to appropriately treat individuals and provide appropriate medication. G.S.C. is a Haitian asylum-seeker and father to a three-year-old and an eleven-year-old. His family has been detained at Berks for 122 days. BCRC records document G.S.C.'s chronic headaches, depression, anxiety, insomnia, hallucinations, sadness, fatigue, and severe pain. G.S.C. was prescribed medication for his anxiety, but no refills were provided after the first prescription.

### 7. *Seven-year-old child with unaccommodated food allergies and severe psychological distress and regression (Deported)*

The LSPs have seen time and again instances of ICE's and its contractor's inability to accommodate dietary needs, FRS 4.1, *Food Service*, at 17, and appropriate mental health care, FRS 4.3, at 5. For example, a seven-year-old child who had been detained at Karnes for two months did not receive any dietary accommodation for his severe food allergies, and experienced severe behavioral regression due to PTSD, including meowing like a cat instead of speaking. This child was evaluated by Dr. Fiona Danaher, an Attending Physician in the Department of Pediatrics at Massachusetts General Hospital for Children and an instructor at Harvard Medical School. See Exhibit H (Declaration of Dr. Fiona Danaher). In her report, Dr. Danaher notes that for the first month of his detention, GEO made no accommodations for the child's multiple, potentially life-threatening food allergies. Since then, the only accommodation was to remove the food items to which the child is allergic but not replace them with alternative nutritive foods, which resulted in his weight loss. Dr. Danaher states that a necessary epinephrine auto-injector does not appear to be listed on the ICE formulary.

Additionally, Dr. Danaher reports that the child exhibited symptoms of influenza or a



possible COVID-19 infection that began three days after his arrival at Karnes and continued for *seven weeks*. He was not tested for either infection nor was he offered Tylenol or ibuprofen for his pain. Dr. Danaher states that based on his mother’s description of the dosing of medication provided, it does not appear that the child was treated with Tamiflu.

Finally, this child suffers from PTSD and exhibited many signs of trauma. His separation from his father, who he only saw for approximately five-and-a-half hours per day while detained, has exacerbated his stress. This child now suffers from nightmares, wets the bed, and insists on sleeping with his mother. While detained, he insisted on sleeping during the day so as not to be awakened by the hourly intrusive checks at night. He has regressed in his behavior and instead of speaking, he makes animal noises. He appears to dissociate and fears people in uniform after he and his family were kidnapped. Dr. Danaher states that “successful treatment” of this child “requires mitigating the traumatic stressors in his environment that constantly remind him of his family’s kidnapping.” She recommends that “to be truly effective, therapeutic intervention must include complete reunification of his nuclear family and release from detention.”

**C. The failure to provide timely and appropriate medical care increases the occurrence of sentinel events at the FDCs, and harms both children and their parents.**

*1. The failure to provide adequate treatment leads to severe, sentinel events for individuals detained at the FDCs.*

A “sentinel event” in the medical community is defined as an event that causes, or can cause, “death, permanent harm, severe temporary harm and intervention required to sustain life.”<sup>66</sup> Sentinel events “signal the need for immediate investigation and response.”<sup>67</sup>

Over the years, the LSPs have tracked the occurrence of a number of sentinel events at the FDCs, where emergency medical intervention is required to save the life of a child or parent in ICE custody. The examples listed below highlight the dangerous consequences of ICE’s continued failure to provide adequate and timely medical care to the families it detains, and the harms these failures have unnecessarily caused parents and children.<sup>68</sup>

a. J.L.P. (Deported)

J.L.P. was detained at Dilley for three months with her fifteen-year-old daughter and seven-year-old son. J.L.P. experienced severe uncontrolled high blood pressure during her detention. *See generally* Exhibit I (Declaration of J.L.P.). Despite repeatedly seeking medical attention at Dilley, J.L.P.’s blood pressure remained uncontrolled, and she experienced headaches, chest pain, heart palpitations, dizziness, nausea, and blurred vision. On or around March 30, 2020,

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<sup>66</sup> See The Joint Commission, *Sentinel Event Policy and Procedures*, <https://www.jointcommission.org/resources/patient-safety-topics/sentinel-event/sentinel-event-policy-and-procedures> (last visited July 11, 2020).

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

<sup>68</sup> Additional examples are listed in Exhibit B.

J.L.P. was sent to the hospital where she underwent testing and was given medication for her high blood pressure. She was also diagnosed with a kidney infection.

Two weeks later, on April 16, 2020, ICE attempted to deport J.L.P. However, J.L.P. lost consciousness during her first flight and was rushed for emergency care during her layover. ICE attempted to remove J.L.P. a second time, on April 29, 2020. However, at the tarmac the airline carrier learned J.L.P. had been denied blood pressure medication all day and was not transported with any medication at all. The flight was cancelled. ICE successfully removed J.L.P. and her children on May 27, 2020.

Upon review of J.L.P.'s medical records, an independent medical expert determined that J.L.P.'s records "reveal[ed] severely uncontrolled hypertension (high blood pressure), tachycardia (rapid heart rate) of uncertain etiology, and worsening stage 2 chronic kidney disease." Exhibit J (Declaration of Dr. Carolyn Payne), at 2. Furthermore, Dr. Payne concluded that the "symptoms of chest pain, fatigue, throbbing headache, vision changes, and now evidence of worsening of kidney function (GFR decreased to 58 on 5/11/2020 vs. normal on 3/31) are all suspicious for end-organ damage resulting from uncontrolled, severe hypertension." *Id.* She noted that further investigation and testing should be given to assess J.L.P.'s hypertension and kidney dysfunction. *Id.* at 2–3. Dr. Payne also noted that one of the medications J.L.P. was prescribed at Dilley for her hypertension "is not considered first-line or even effective in the treatment of hypertension by expert recommendations." *Id.* at 3. Dr. Payne's evaluation, which was submitted to ICE, noted her "strong medical recommendation that [J.L.P.] not travel by airplane for the sake of continued protection against COVID-19 and to avoid another life-threatening episode of Hypertensive Emergency at high altitudes." *Id.*

b. G.C.C. (Deported)

Proyecto Dilley staff spoke to one mother who was deported with her gravely ill nine-year-old son subsequent to the family's removal from the United States. *See* Exhibit K (Declaration of M.C.P.). M.C.P. reported that her son, G.C.C., had a fever for eleven days prior to their deportation. An X-ray of G.C.C.'s chest while in Dilley revealed that he had liquid in his lungs. *Id.* at ¶ 4. M.C.P. was told this was "normal." Meanwhile, G.C.C.'s symptoms worsened, and he was not tested for COVID-19. *Id.* at ¶¶ 4, 11. When M.C.P. was removed in mid-April, G.C.C. was in critical condition. As soon as they landed in Guatemala, they were rushed to the hospital. *Id.* at ¶ 13. G.C.C. was diagnosed with pneumonia and required emergency surgery to remove part of his lung. *Id.* G.C.C. remained hospitalized for a *month* after his deportation. *Id.*

c. M.O.S. (Deported)

M.O.S. was detained at Dilley for over four months until January 2020. She had suffered from heart problems her entire life and had three severe heart attacks in Brazil prior to fleeing to the United States. M.O.S.'s first heart attack was so severe that she was initially declared dead. Her medical condition was so serious that her doctors in Brazil informed her that she could not fly, and that she would be at significant risk of cardiac arrest were she to fly.

M.O.S. experienced recurring and worsening symptoms and warning signs of another

impending cardiac arrest during her detention. She experienced severe, stabbing pain in her chest, swollen feet, and multiple episodes of rapid heartbeat, gradual loss of vision, shortness of breath, dizziness, headache, and loss of feeling in her hands, feet, and lips. Despite repeatedly alerting medical staff at Dilley of her condition and worsening symptoms, M.O.S.'s symptoms were repeatedly dismissed as anxiety. M.O.S.'s symptoms continued to worsen, and she collapsed approximately six times while she was detained at Dilley. Despite IHSC's dismissal of M.O.S.'s symptoms as anxiety based, M.O.S. was rushed to the hospital no less than four times in three months. Proyecto Dilley's repeated requests for humanitarian release and specialist care were ignored, and M.O.S. was ultimately deported in January 2020.

2. *As a result of untimely and inadequate medical care, parents are regularly committed to the hospital for emergency care while children remain alone in unlicensed facilities.*

A parent's health directly impacts the safety, care, and wellbeing of their children. Incapacitated parents are unable to provide supervision and care for their child. When mothers and fathers are committed to the hospital while in ICE custody, their children are left behind—alone—in a facility that is not licensed to provide childcare. This is of particular concern for the facilities in Texas, where CoreCivic<sup>69</sup> and GEO staff are not certified or trained caregivers for children. In one case, a toddler was cared for by CoreCivic guards in Dilley for over a month while his mother was hospitalized in San Antonio. In another case, a six-month-old infant was supervised by guards while their parent received off-site medical care.

On multiple occasions at Karnes, GEO has kept children in medical isolation when their mothers required medical care, even though their fathers are also detained at Karnes. Nuclear family units are detained separately at Karnes, typically with children under the care of their mother while fathers are held separately.<sup>70</sup> In one case, the children of a family at Karnes were inexplicably left under the care of GEO medical staff when their mother was taken off-site for medical care, although the children's father was also detained at Karnes. In this case, GEO did not inform the father that his wife was transported off-site for medical services nor that his children were left behind. In another case, a mother was treated within Karnes for her medical symptoms. Though her husband was also detained at Karnes, their child was forced to stay in medical isolation during the night under the watch of GEO guards unlicensed to provide childcare. The child's father was told that because his child was a girl, she could not stay with her father.

Given these conditions, multiple RAICES clients detained at Karnes have refused to allow RAICES to advocate for ICE to ensure that they receive appropriate medical treatment because they fear separation and isolation from their children. For example, one parent exhibited signs of

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<sup>69</sup> CoreCivic is the private corporation contracted by ICE to run the facility in Dilley.

<sup>70</sup> ICE began to detain nuclear family units at Karnes in approximately February 2020. Until June 2020, mothers were detained with their children while fathers were detained separately without children. From October 2019 to July 10, 2020, families consisting of a father and one son were also detained at Karnes and were held together. Since the outbreak of COVID-19 at Karnes in June 2020, ICE now detains children and parents based on COVID-19 status. For example, a father and daughter are currently detained together because they both tested positive for COVID-19, while the mother and sibling are held separately because they tested negative for the virus. This calls into question ICE's previous policy of prohibiting fathers to care for their female children at Karnes.

kidney failure. Though this parent complained of severe symptoms, the parent chose to forego medical attention out of fear of separation from their child.

In all of these cases, neither RAICES nor Proyecto Dillely received notice when their client was transferred to an off-site location for medical care. *See* FSA, ¶ 27 (stating that “[n]o minor who is represented by counsel shall be transferred without advance notice to such counsel, except in unusual and compelling circumstances”) (emphasis added). Moreover, counsel for the family has never been made aware of any “supervision plan” for the separated child. *See* FRS 4.3(F)(1). As a result, children are detained for extended periods of time without access to counsel, which eliminates counsel’s ability to provide oversight of the situation.

If a parent is taken to the hospital, they may be gone for days or weeks, as they may be forced to battle with severe health consequences such as respiratory failure or organ failure. *See* Ex. C, at ¶ 35. Upon their return from the hospital, parents may have to remain isolated from the rest of the facility, including their child, in order to prevent spread of the disease. The child may also have to be isolated because of their exposure to the virus, essentially causing them to be held in solitary confinement. *See id.* at ¶ 41. This prolonged period of separation and isolation would be worsened by the fact that FDCs are not equipped to care for unaccompanied children. Such circumstances would not be in the best interests of the child, violating the terms of the *Flores* Settlement Agreement, which governs the conditions of detention for immigrant children.

## **V. The FDCs Lack Appropriate Precautions and Protocols Relating to COVID-19 and Thereby Place Children and Their Parents at Risk of Harm**

In their whistleblower letter to Congress, Doctors Allen and Rich expressed their “grave[] concern[] about the need to implement immediate and effective mitigation strategies to slow the spread of the coronavirus and resulting infections of COVID-19” in ICE detention centers.<sup>71</sup> They noted that “proactive approaches” were required to protect detained populations from the coronavirus.<sup>72</sup> They identified three areas where action was required to protect the lives of those in detention: “1) Processes for screening, testing, isolation and quarantine; 2) Limiting transport and transfer of immigrant detainees; and 3) Implementing alternatives to detention to facilitate as much social distancing as possible.”<sup>73</sup>

Despite having months to develop and execute an appropriate response to the COVID-19 pandemic and the vulnerable population in its custody, ICE has failed to implement sufficient mechanisms to protect children and their parents.<sup>74</sup> Across the three FDCs, ICE has failed to consistently implement recommended practices on social distancing and the use of masks; utilize adequate testing practices for COVID-19; implement proper screening mechanisms to ensure individuals are safe to fly in advance of release from detention (and in advance of removal in particular); and adopt appropriate screening mechanisms to identify and release individuals who are particularly vulnerable should they contract COVID-19. ICE’s failure on all these counts has already caused severe and long-lasting harm to children and their parents.

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<sup>71</sup> Drs. Allen & Rich Letter to Congress, at 1–2

<sup>72</sup> *Id.* at 5.

<sup>73</sup> *Id.*

<sup>74</sup> *See id.* at 6.

In addition, some of the attempts ICE has made to sanitize the detention facilities have *not* been made in consideration of the “particular vulnerability [of] minors.” FSA, ¶ 11. For example, Proyecto Dilley has received several reports of children suffering from nosebleeds, headaches, and other symptoms. Proyecto Dilley believes that these symptoms may be the result of the use of new chemical disinfectants that are being used at the facility.<sup>75</sup> One mother who works on the cleaning crew as a part of the facility work program at Dilley reports that the disinfectant that she was required to use changed in April 2020. She reports that each of her children developed nosebleeds shortly after the new disinfectant was put in use.

**A. Inadequate social distancing and inappropriate use of PPE at the detention centers continues to put families at risk while COVID-19 spreads in and out of the facilities.**

In her June 26, 2020 Order, Judge Gee determined that the “FDCs are ‘on fire’” because of COVID-19 and that there is “no more time for half measures.” *Flores*, 2:85-cv-4544-DMG-AGR, at \*2. She determined, based on the report submitted by the Special Monitor and independent medical expert, that ICE was insufficiently protecting the minors in its custody, and that “ICE’s critical areas of improvement are in social distancing, masking, and testing—in other words, *the basics*.”<sup>76</sup> *Id.* at 3 (emphasis added). Judge Gee had previously determined that the FDCs were not “safe and sanitary.” *Flores v. Barr*, No. CV-85-4544-DMG-AGR (C.D. Cal. Apr. 24, 2020). The obligation to provide “safe and sanitary” conditions, she noted, “includes protecting children from developing short- or long-term illnesses as well as protecting them from accidental or intentional injury.” *Id.* at 5 (quoting *Flores v. Barr*, 934 F.3d 910, 916 (9th Cir. 2019)).

**B. ICE’s quarantining and cohorting protocols are inadequate.**

COVID-19 outbreaks are inevitable in congregate care settings, especially those that detain children. Nonetheless, the failure to implement CDC guidelines at all three facilities is to blame for increased exposure and infection rates. Facility efforts to minimize the impact of COVID-19 exposure have proven arbitrary and unreliable. For example, since June 16, 2020, at least four families have been moved to quarantine units in Dilley after they had direct exposure to CoreCivic employees who tested positive for COVID-19. *See* Exhibit L (Declaration of Shalyn Fluharty<sup>77</sup>), at ¶¶ 10–14. To identify families who should be moved into quarantine<sup>78</sup>, ICE purportedly conducted contact-tracing by reviewing facility video footage and conducting interviews with employees and detained individuals. However, neither other families that had contact with the same COVID-19 infected staff members during the exact same interactions as the families moved into quarantine nor families exposed to the four families placed in the “quarantine” neighborhood

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<sup>75</sup> *See* Canela Lopez, *Report Finds ICE Detention Center is Using a Disinfectant Over 50 Times a Day that Causes Bleeding and Pain*, INSIDER (June 5, 2020), <https://www.insider.com/report-detention-centers-use-disinfectant-causing-bleeding-and-pain-2020-6>.

<sup>76</sup> For example, over a third of families who are currently detained at Karnes have reported that GEO employees have had some contact with them without wearing any PPE.

<sup>77</sup> This declaration was submitted in *O.M.G. v. Wolf*, 1:20-cv-00786-JEB, Doc. 65-3 (D.D.C. June 24, 2020).

<sup>78</sup> We note that the “quarantine” units currently operated in Dilley and Karnes are not located in the medical unit, and are not negative air pressure rooms.

have been placed in quarantine.<sup>79</sup>

### **C. Screening and testing at the Family Detention Centers falls short of the necessary standards.**

ICE's protocols for early screening and testing do not appear to have been properly implemented at the FDCs.<sup>80</sup> The *Flores* court has already noted that “proper policy design, without proper implementation, does not offer [children] the baseline of care bargained for in the FSA.” *Flores*, 2:85-cv-4544-DMG-AGR, at 6 (C.D. Cal. Apr. 24, 2020). Months later, that baseline of care has still not been met. Similarly, ICE has failed to appropriately follow the CDC's guidelines for the “screening, preventing, and controlling” of COVID-19. FRS 4.3 (A)(10).

For example, testing for COVID-19 remains sporadic and inconsistent across the three FDCs, despite the urgent need to identify cases of COVID-19 among detained children and parents. Doctors Allen and Rich noted that “proactive approaches” were required to protect detained populations from the coronavirus.<sup>81</sup> First among these approaches was the development of “[p]rocesses for screening, *testing*, isolation and quarantine.”<sup>82</sup>

Families who are detained at both Karnes and Dilley report inconsistent COVID-19 testing practices, test inaccuracies, and receiving conflicting test results. For example, some families were issued negative COVID-19 test results which were subsequently retracted, and others have been told they needed to be “re-tested” because their test results were lost. Detained families also report receiving test results within 20 minutes in some cases and waiting for more than a week to receive results in others.

The majority of families detained at Dilley were tested for COVID-19 in one fell swoop on June 23, 2020. Ex. K, at ¶ 23. This was the first time testing occurred in Dilley, absent limited tests that happened off-site or in advance of removal. However, IHSC medical staff told mothers that they had to administer the tests to themselves; the mother was instructed to insert the test swab into the nostril, but not instructed as to how far back it needed to go. *See id.* at ¶ 26. Mothers—*not medical staff*—were told they were responsible for administering the COVID-19 test to their children. *Id.* at ¶¶ 26–29. Appropriate testing procedures are crucial to ensure that testing results are accurate. *See* Ex. C, at ¶ 25. And the families detained at Dilley have not been tested since June 23, 2020, despite many more detention center employees testing positive since that date. *See* Ex. D.

Families also report being denied access to their own medical files and medical information—specifically, their COVID-19 test results—in violation of Section 4.3 of the Family Residential Standards. As of July 10, 2020, RAICES has requested the COVID-19 test results of

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<sup>79</sup> Although Proyecto Dilley staff requested confirmation from ICE regarding the presence of COVID-19 in the facility, Proyecto Dilley did not receive information on the spread of COVID-19 among STFRC employees until ICE was obligated by a court order to do so. *See* Minute Order, *O.M.G. v. Wolf*, 1:20-cv-00786-JEB (D.D.C. June 25, 2020) (requiring the government to notify the court “within 48 hours of any positive tests of staff or detainees at any of the three FRCs”).

<sup>80</sup> *See* Drs. Allen & Rich Letter to Congress, at 5.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.* (emphasis added).

16 adults and children and have not received a single response. Families at Dilley reported to Proyecto Dilley staff that they were never given the results of their June 23 COVID-19 tests.

Early screening and testing are particularly crucial for containment of a COVID-19 outbreak because of the presence of asymptomatic carriers. *See* Ex. C, at ¶ 24.<sup>83</sup> CDC Guidance for Correctional and Detention Facilities recommends screening for symptoms at intake and continuing to “[p]rovide up-to-date information about COVID-19 to . . . detained persons on a regular basis,” as well as “having healthcare staff perform rounds on a regular basis to answer questions about COVID-19.”<sup>84</sup> Yet there has been infrequent to no efforts to provide individuals with up-to-date information about COVID-19. *See, e.g.*, Ex. K, ¶¶ 12, 14, 19.

In addition, as previously noted, it is now known that COVID-19 can cause MIS-C in children who contract the coronavirus.<sup>85</sup> *See* Ex. C, at ¶ 33. The CDC has identified the following MIS-C symptoms and urged parents to seek medical assistance if a child develops fever, abdominal pain; vomiting; diarrhea, neck pain; rash; bloodshot eyes; or lethargy.<sup>86</sup> *Id.*

Therefore, screening for COVID-19 should include screening for MIS-C symptoms as well as COVID-19. *Id.* No such screening has been reported at any of the FDCs, and there has been no additional testing for children who present with any of the above-noted symptoms. In fact, Proyecto Dilley is aware of several children who have presented with fever, rash, and bloodshot eyes, but who have not been tested for COVID-19.

## **VI. ICE Continues to Detain Individuals with Chronic Illnesses and Pre-existing Conditions That Place Them at Higher Risk of Severe Outcomes if they Contract COVID-19**

Now, several months into this pandemic, it is well known that certain illnesses and pre-existing conditions make individuals more vulnerable to severe COVID-19 infection. Ex. C, ¶ 32. On June 25, 2020, the CDC modified its list of conditions that place individuals at particularly severe risk if they contract COVID-19.<sup>87</sup> The CDC determined that “[p]eople of any age with the following conditions are at increased risk” if they contract COVID-19 if they have:

- Chronic kidney disease;
- COPD (or other chronic lung disease);
- Immunocompromised state because of solid organ transplant;

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<sup>83</sup> *See also* See Drs. Allen & Rich Letter to Congress, at 5.

<sup>84</sup> CDC, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities* (May 7, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/downloads/guidance-correctional-detention.pdf>.

<sup>85</sup> *See also* Pam Belluck, *New Inflammatory Condition in Children Probably Linked to Coronavirus, Study Finds*, N.Y. Times (May 13, 2020), <https://nyti.ms/2YZE2Dq>.

<sup>86</sup> CDC, *For Parents: Multisystem Inflammatory Syndrome in Children (MIS-C) associated with COVID- 19*, <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/children/mis-c.html> (last visited July 10, 2020).

<sup>87</sup> *People of Any Age with Underlying Medical Conditions*, CDC, [https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html) (last updated June 25, 2020).

- Obesity (BMI of 30 or higher);
- Serious heart conditions (e.g. heart failure, coronary artery disease, or cardiomyopathies);
- Sickle cell disease; and
- Type 2 diabetes mellitus.<sup>88</sup>

The CDC has determined that individuals with the following conditions “might be at an increased risk for severe illness from COVID”:

- Asthma (moderate to severe);
- Cerebrovascular disease;
- Cystic fibrosis;
- Hypertension / high blood pressure;
- Immunocompromised state because of blood/bone marrow transplant, immune deficiencies, HIV, use of corticosteroids or use of other immune weakening medicines;
- Neurologic conditions such as dementia;
- Liver disease;
- Pregnancy;
- Pulmonary fibrosis;
- Smoking;
- Thalassemia; and
- Type 1 diabetes mellitus.<sup>89</sup>

Importantly, the CDC now also notes that “[c]hildren who are medically complex, who have neurologic, genetic, metabolic conditions, or who have congenital heart disease are at higher risk for severe illness from COVID-19 than other children.”<sup>90</sup>

Proyecto Dilley, RAICES, and Aldea have identified 25 individuals<sup>91</sup> who have pre-existing medical conditions that place them at heightened risk were they to contract COVID-19—a very real possibility now that the virus has entered two of the three detention facilities. Although the case examples below highlight the cases of numerous parents and children who, based upon their medical vulnerabilities and the COVID-19 pandemic, are not appropriate for detention, additional individuals known to Proyecto Dilley and Aldea whose condition is listed by the CDC are included at Exhibit A. We call for the immediate investigation into the continued detention of every individual listed in Exhibit A.

#### **A. Individuals with asthma and other chronic lung conditions**

Proyecto Dilley is aware of nine individuals—seven children and two adults—who have asthma and other chronic lung conditions that make them particularly vulnerable to severe harm

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<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> One mother has two types of CDC-recognized preconditions, but she is not counted twice.



if they contract the coronavirus. RAICES is aware of one adult with asthma.<sup>92</sup> These individuals, by CDC guidelines, are at greater risk of adverse outcomes if they contract COVID-19. Their situation is even more dire given ICE's and its contractors' failures to provide them with adequate and appropriate medical care during their detention. *See* FRS 4.3.

### 1. W.B.

M.B. is currently detained at STFRC with her ten- and eight-year old daughters. They have been detained for 131 days. Her eight-year-old daughter, W.B., has recently been diagnosed with latent Tuberculosis while in detention. Her medical records were recently reviewed by an independent medical expert, Dr. Amy Cohen, who expressed a number of concerns regarding the handling of her diagnosis and treatment plan. *See* Exhibit M (Declaration of Dr. Amy Cohen); *see also* FRS 4.3 (F)(2) (describing required procedures for individuals who test positive for tuberculosis). First, Dr. Cohen noted that the diagnosis of latent TB is based on a procedurally flawed blood test. Nevertheless, W.B. has been prescribed and has been taking medications to treat Tuberculosis. Second, Dr. Cohen noted that if the diagnosis of latent TB is correct, there was a significant, unexplained delay in treatment. The diagnosis was made on April 4, 2020, but the treatment was delayed until May 18, 2020. W.B.'s mother requested information regarding her daughter's blood test, diagnosis, and the treatment plan, but was not provided information. Third, Dr. Cohen noted a number of abnormalities and issues that appeared on the blood test results that have not been addressed. And fourth, W.B. was diagnosed with conjunctivitis shortly after starting latent TB treatment. Dr. Cohen observed that, while uncommon, TB can present as an ocular infection even without lung symptoms or pathology, and so it is concerning that the eye was not cultured to ascertain whether this was a site of active infection.

W.B. is therefore at particular risk given her tuberculosis diagnosis. The World Health Organization has expressed serious concern at how the spread of COVID-19 will impact individuals with TB suggesting that "people ill with both TB and COVID-19 may have poorer treatment outcomes."<sup>93</sup> Doctors have studied the possibility that COVID-19 could even accelerate activation of dormant tuberculosis and have noted a concerning parallel that the highest death rate during the Spanish flu pandemic was in the subgroup of patients with influenza and TB.<sup>94</sup>

### 2. M.C.M. and S.M.C.

M.C.M. and her fifteen-year-old daughter, S.C.M., have been detained at Dilley for 322 days. M.C.M. was diagnosed and treated for active tuberculosis when she arrived at STFRC in August 2019. M.C.M. has reported that she has had a steadily worsening cough for over four months. Most alarmingly, she reports that she has coughed up blood three in the last two months, and twice in the last week. M.C.M. reports that she has repeatedly sought medical attention for her

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<sup>92</sup> The case examples below are not representative of all of the individuals identified by the LSPs.

<sup>93</sup> *World Health Organization (WHO) Information Note: Tuberculosis and COVID-19*, WHO (May 12, 2020), <https://www.who.int/docs/default-source/documents/tuberculosis/infonote-tb-covid-19.pdf>

<sup>94</sup> Dr. Liji Thomas, *COVID-19 Could Accelerate Activation of Dormant Tuberculosis (TB)*, *News Medical Life Sciences* (May 10, 2020), [https://www.news-medical.net/news/20200510/COVID-19-could-accelerate-activation-of-dormant-tuberculosis-\(TB\).aspx](https://www.news-medical.net/news/20200510/COVID-19-could-accelerate-activation-of-dormant-tuberculosis-(TB).aspx); Yu Chen et al., *Active or Latent Tuberculosis Increases Susceptibility to COVID-19 and Disease Severity*, *medRxiv* (Mar 16, 2020), <https://www.medrxiv.org/content/10.1101/2020.03.10.20033795v1.article-info>.

cough, including after coughing up blood. She also reports that she now hears a rattling sound in her chest when she breathes, and that she has been struggling to breathe. She reports that medical staff have dismissed her cough as the result of “allergies.”

S.M.C.’s medical condition has also been steadily deteriorating. After reporting numerous incidents of labored or difficult breathing, S.M.C. was diagnosed with asthma by IHSC in June 2020. *See* Exhibit N (Declaration of Dr. Marsha Griffin). She reports that she also has a worsening cough and reports that she has had episodes of labored breathing as recently as this week. S.M.C., who has reported uncontrolled gastritis and gastrointestinal distress for many months, continues to vomit at least once a week and experience gastrointestinal distress several times a week. Both M.C.M.’s and S.M.C.’s respiratory pre-existing conditions put them at significantly higher risk of harm were they to contract the novel coronavirus.

### 3. W.A.A.

S.J.A. and her eight-year-old son, W.A.A., are currently detained at Dilley. *See generally* Exhibit O (Declaration of S.J.A.). During the course of their 289-day detention, W.A.A. has suffered from a variety of medical issues. S.J.A. repeatedly sought medical attention for her son after he began having difficulty breathing, but IHSC dismissed S.J.A.’s concerns until December 2019, when W.A.A. had to be hospitalized after he struggled to breathe and began to turn blue. S.J.A. reported that the doctor at the hospital determined that W.A.A. was suffering from a severe asthma attack. W.A.A. continues to experience difficulty breathing, telling his mother that he “can’t stand this pain in his lungs.”

### 4. A.S.

A.S. and her two-year-old daughter are currently detained Dilley, where they have been detained for 35 days. A.S. reports that she has chronic asthma and has had it since the age of 14. *See* Exhibit P (Declaration of A.S.). The asthma is so severe that A.S. was often hospitalized prior to fleeing to the United States. *Id.* Since arriving in the United States, A.S. has not been able to obtain the asthma medication/inhaler, *Beclazone*, that she was previously taking in order to control her asthma. *Id.* She has been given a similar inhaler while detained, but A.S. nevertheless reports that her asthma has worsened while in detention *Id.* Her symptoms include difficulty breathing (especially at night), fatigue, and an itchy throat nose and ears. A.S. also reports having two severe asthma attacks since she has been detained. *Id.*

### 5. M.N.M.

M.N.M. is a 31-year-old woman from Democratic Republic of Congo. She has been detained at the Karnes detention center for 20 days. M.N.M. suffers from asthma, and thus is at high risk for severe adverse effects were she to contract COVID-19, *which is already present at the Karnes facility.* It is unclear what treatment, if any, she is receiving while detained at Karnes.

## **B. Pregnant Women**

There are now three pregnant women detained at Karnes. Two of them have tested positive for COVID-19. Their pregnancies while in detention, compounded with COVID-19 and

the insufficient specialized medical care at the FDCs, places these women at risk of experiencing severe harm—to themselves and their unborn children—the longer they remain detained.<sup>95</sup>

There is no gynecologist or women’s health specialist available for women at the family detention centers. Under the previous administration, it was general policy that pregnant women were not detained at Karnes.<sup>96</sup> Under the current administration, pregnant women are detained though there is little to no infrastructure to provide women with prenatal care.<sup>97</sup> For example, one woman detained at Karnes in March 2020 went to the medical unit to report her pregnancy. The medical staff told the woman that she was not pregnant and said that if she continued to insist that she was, she would “be put in a room with an IV by herself like a ‘crazy’ person” and that she would “be deported.” Of note, this woman is Black and the two GEO nurses who spoke to her were white. During her fear interview with the asylum office, the officer noticed that the woman was in discomfort. The officer stopped the interview so that she could seek medical care. GEO took the woman to a hospital off-site where it was confirmed that she was indeed pregnant. Such callous treatment of pregnant women at the FDCs has become all too common and exacerbates their risk of harm.

### 1. *D.Z.*

D.Z. is a 25-year-old woman from Tajikistan. She has been detained for 32 days as of July 10, 2020 at Karnes. D.Z. is three months pregnant and has tested positive for COVID-19. It is unclear what treatment, if any, she is receiving while detained at Karnes—either for her COVID-19 diagnosis, her pregnancy, or the effects of COVID-19 on her unborn child.

### 2. *D.J.B.*

D.J.B. is another woman detained at the Karnes detention facility. She is a 38-year-old woman from Angola, and she has been detained for 31 days. D.J.B. is five months pregnant and has also tested positive for COVID-19. D.J.B. and her family have requested from GEO their COVID-19 test results, but their requests were inexplicably denied. RAICES has been unable to determine what, if any, prenatal care D.J.B. has been provided during her detention. It is also unclear what care D.J.B. is receiving for her pregnancy and what, if any, treatment she has

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<sup>95</sup> See *People of Any Age with Underlying Medical Conditions*, CDC, [https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html) (last updated June 25, 2020).

<sup>96</sup> See CRCL Complaint (Nov. 13, 2017),

[https://www.americanimmigrationcouncil.org/sites/default/files/general\\_litigation/complaint\\_increasing\\_numbers\\_of\\_pregnant\\_women\\_facing\\_harm\\_in\\_detention.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/general_litigation/complaint_increasing_numbers_of_pregnant_women_facing_harm_in_detention.pdf). This CRCL complaint raised concerns about the conditions of detention and lack of quality medical care that was provided to pregnant women in ICE custody. While an August 2016 ICE policy memorandum determined that pregnant women should not be detained at FDCs, Proyecto Dilley, RAICES, and Aldea have continually worked with and advocated for pregnant women detained at the FDCs. The complaint highlights the stories of many women detained at Dilley and Karnes, who describe high-risk pregnancies without adequate medical care.

<sup>97</sup> Another woman detained at Karnes in March of 2020 was three months pregnant. She reported that she could not eat due to stomach pain. She vomited frequently and could often only drink water. At times, she vomited blood. This mother reported that the water at Karnes made her nauseous because it smelled like chlorine. Additionally, she had a medical history of fainting under stress and panic. She and her family were worried about her health because of the stress she was under at Karnes.

received for her COVID-19 diagnosis.

### 3. *S.U.M.S.*

S.U.M.S. is a 29-year-old woman from Haiti. She has been detained at Karnes for 17 days. S.U.M.S. is also five months pregnant. S.U.M.S. has reported that GEO medical employees check her blood pressure daily; however, they have failed to provide necessary prenatal vitamins.

## **C. Individuals with high blood pressure and/or obesity**

Proyecto Dilley is currently aware of eleven individuals who suffer from high blood pressure<sup>98</sup> and/or obesity, which the CDC has identified as conditions that increase the risk of adverse outcomes with COVID-19. Alarming, Proyecto Dilley's review of medical records provided by IHSC revealed that even where individuals' noted blood pressure readings indicated they were experiencing high blood pressure, a high blood pressure/hypertension diagnosis or warning was routinely not formally entered into IHSC's medical records.

### 1. *M.J.P.*

M.J.P. is a 35-year-old mother who has been detained for 300 days with her seventeen- and thirteen-year-old daughters and her nine-year-old son. She suffered a seizure five years ago and has begun experiencing symptoms similar to those she suffered before the seizure, including numbness in her hands and the side of her face, dizziness, lightheadedness, headaches, and memory problems. M.J.P. was diagnosed with fatty liver disease and HPV in Mexico. She also developed pain in her uterus and believes it is due to the HPV but has been dissuaded from seeking treatment ever since she disclosed her infection to medical staff at IHSC in December and was accused of being a prostitute. She has been diagnosed by IHSC with obesity, as well as low blood pressure and prediabetes. M.J.P. has been struggling to follow a healthy diet and exercise but has struggled to do both. She has been provided with no dietary accommodations at the detention center, and walking around the detention center has become increasingly difficult because her knees have become painfully swollen, which has been exacerbated by the high heat.

## **D. Individuals with other preexisting conditions that place them at high risk**

Proyecto Dilley, RAICES, and Aldea are currently aware of three individuals who suffer from other preexisting conditions that place them at higher risk of severe harm if they were to become infected with the coronavirus. Two of these individuals suffer from chronic kidney disease; the other—M.J.P., as noted above—also suffers from liver disease.

### 1. *D.O.H.*

D.O.H. is a 26-year-old mother who has been detained for 293 days with her eight-and

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<sup>98</sup> The American Heart Association defines high blood pressure, or hypertension, as a systolic mm Hg reading over 130, or a diastolic mm Hg reading over 80. *High Blood Pressure*, American Heart Association, <https://www.heart.org/en/health-topics/high-blood-pressure> (last visited July 12, 2020).

four-year-old daughters. D.O.H. has suffered from kidney problems for approximately four years. After two hospitalizations in her home country in the last four years, doctors told her that one of her kidneys was not working well and she required follow-up care. She was placed on a treatment regime for a year and half and told her that if her condition deteriorated, she would require dialysis. D.O.H. continued to have regular follow-up appointments and testing to monitor her condition in the years following this diagnosis. In or around mid-December 2019, while at STFRC, she began to feel pain in her abdomen and vomit blood. She sought medical attention at the medical clinic in STFRC and was transported to a hospital. At the hospital, a doctor determined D.O.H. had a kidney infection and gave her antibiotics and pain medication. After she was returned to Dilley, she was placed under a 24-hour period of medical observation, and then discharged with no additional follow-up care. In April 2020, D.O.H. once again began to experience abdominal pain on the same right side and was vomiting blood. She sought medical attention at the clinic in Dilley and was told she was “fine” without extensive examination. In May 2020, she sought treatment for abdominal pain, swelling and because she was once again vomiting blood. She was told by medical staff at Dilley that she could not be transported off-site for emergency care due to the coronavirus. D.O.H. has received no additional testing and was only given ibuprofen for her pain.

## 2. B.D.

B.D. is a 35-year-old man from Tajikistan. He has been detained at Karnes for 32 days. B.D. suffers from chronic kidney disease, thereby placing him at higher risk of a severe outcome were he to contract COVID-19. RAICES has been unable to determine what treatment, if any, he is receiving while he remains detained at Karnes.

## VII. ICE Is in Ongoing Violation of the Preliminary Injunction Order Issued in *Fraihat v. ICE*

Pursuant to a court order, ICE is required to conduct timely custody redeterminations for all *Fraihat v. ICE* Class Members, including individuals whose custody has already been reviewed. *Fraihat v. ICE*, --- F. Supp. 3d. ---, 2020 WL 1932570, at \*29 (C.D. Cal. Apr. 20, 2020). The *Fraihat* court found ICE’s response to the COVID-19 pandemic systemically deficient and ICE’s conduct deliberately indifferent to the spread of COVID-19 in violation of the U.S. Constitution and federal disability law. *Id.* at \*23, \*25. The court certified a class defined by people with specific “risk factors,” and ordered ICE to conduct custody redeterminations for **all** *Fraihat* class members in a nationwide preliminary injunction issued on April 20, 2020. *Id.* at \*29. Specifically, any individual detained at an immigration detention center—including the Family Detention Centers—with one of the following conditions is a *Fraihat* class member whose custody status must be redetermined by ICE and whose medical condition must be identified and tracked:

1. Pregnancy;
2. Over 55 years of age;
3. High blood pressure;
4. Liver disease;
5. Diabetes;
6. Cancer;
7. Kidney disease;
8. Auto-immune diseases;

9. Severe psychiatric illness;
10. History of transplantation;
11. HIV/AIDS;
12. Cardiovascular disease, including: congestive heart failure, history of myocardial infarction, history of cardiac surgery; and
13. Chronic respiratory disease, including: asthma, chronic obstructive pulmonary disease including chronic bronchitis or emphysema, or other pulmonary diseases.

*Id.* at \*16, n. 20; \*29.

Proyecto Dilley, RAICES, and Aldea are aware of 25 individuals—7 children and 14 adults—who are *Fraihat* class members who remain detained at the Family Detention Centers who suffer from high blood pressure; chronic respiratory disease; pregnancy; high blood pressure; and kidney disease. *See* Exhibit A. Given that the Risk Factors identified by the *Fraihat* court mirror the preconditions identified by the CDC, the individuals identified as having CDC-identified preconditions are also *Fraihat* class members.

ICE is in ongoing violation of this court order. ICE is required to identify *all Fraihat* class members—within ten days of the issuance of the original order (thus, by April 30, 2020), or “within five days of their detention,” and then promptly make custody determinations for those individuals. *Fraihat*, 2020 WL 1932570, at \*29. Yet, there is no evidence that these custody determinations have ever taken place. In fact, in required documentation submitted to the court in *Flores*, ICE did *not* document independent custody redetermination of individuals as required by the *Fraihat* court’s order.

The *Fraihat* court’s identification and emphasis on certain vulnerable categories of individuals is also mirrored in Judge Gee’s order to evaluate ICE’s “protocols for identifying minors who have serious medical conditions that may make them more vulnerable to COVID-19.” *Flores v. Barr*, No. CV-85-4544-DMG (AGRx), at 3 (C.D. Cal. May 22, 2020). Pregnant parents and children and parents with high blood pressure, chronic respiratory disease (including asthma), and kidney disease—individuals for whom continued detention means an “unreasonable risk of infection, severe illness, and death”—remain inexplicably detained in unlicensed, unsafe, and unsanitary detention facilities where they are deprived of adequate medical care. *Fraihat*, 2020 WL 1932570, at \*19.

### **VIII. Request for Investigation**

The information and case examples provided above and in the accompanying exhibits document ICE’s ongoing failure to ensure the provision of adequate and appropriate medical care to the children and parents at the FDCs. While detained families have experienced deficient medical care at the FDCs for many years, the situation has become even more dire in the face of the global COVID-19 pandemic. Thus, the continued detention of parents and children—particularly those with chronic and pre-existing conditions—compounded with the deficiencies noted above, has resulted in a truly dangerous situation for families who are detained during the pandemic.

In light of the issues and deficiencies highlighted in this Complaint, we request your office conduct an investigation into the medical care and appropriateness of detention for the individuals listed in Exhibit A, who are particularly vulnerable during the COVID-19 pandemic. In addition, we request investigation into the medical services provided at the FDCs and that your office specifically conduct the following investigative steps:

1. Review the cases of all currently detained children and parents who have been identified as “high risk” by ICE and review the child and parent’s medical records to determine whether: (a) the treatment provided to each child and parent while detained is consistent with current medical standards; and (b) whether the ongoing detention of each parent or child increases the risk of negative health outcomes.
2. Review all policies and procedures related to the use of “quarantine” or “cohorting” at each FDC.
3. Review a list of all parents and children who have been placed in “quarantine” at each FDC since March 2020 in order to determine: (a) whether the parent or child was tested for COVID-19, and if not, why not; (b) the reason the child or parent was placed in quarantine; (c) the dates each parent or child was placed in quarantine; and (d) the date the family was released from the FDC, if released.
4. Review the availability of formula, milk, and other dietary items specific to young children that are available at each FDC, and the procedures used to provide specialized dietary accommodations facilitate the prompt provision of appropriate formula and food.
5. Review a list of all children who have presented with any of the following symptoms at each FDC since March 2020: abdominal pain, vomiting, diarrhea, neck pain, rash, bloodshot eyes, or lethargy, and determine whether these children were tested for COVID-19, or should have been.
6. Review any and all written policies and procedures at each FDC for identifying pre-existing medical conditions. In consideration of the fact that intake procedures have changed significantly at each FDC over the past ten months, this should include a review of the policies and procedures used to determine pre-existing medical conditions during intake, and subsequent to intake.
7. Review a list of all medical providers who work at each FDC and the following information for each provider: (a) their qualifications; (b) the hours they are scheduled to work; (c) their language abilities; and (d) clarification regarding when they work on-site or remotely;
8. Review what practices and procedures ICE’s uses when legal service providers assert that a detained individual requires medical care or has a condition that makes them inappropriate for detention. In particular, we ask you to investigate whether ICE acknowledges receipt of correspondence from counsel and whether ICE follows-up with

providers to confirm whether the individual has been considered for release and the result of that consideration.

9. Investigate the use of harmful, toxic chemical disinfectants at the FDCs and the appropriateness of their use;
10. Investigate the separation of parents from their children when a parent is transported off-site for medical testing or emergency medical care, and any and all ICE protocols for child-care during that time.

**IX. Conclusion**

ICE is required to comply with its Constitutional obligations, its own standards, and the *Flores* Settlement Agreement to provide access to appropriate medical care and safety from infectious diseases like COVID-19. *See* FRS 4.3, FSA, ¶ 12A. Judge Gee has determined that FDCs are not “safe and sanitary.” *Flores*, No. CV-85-4544-DMG (AGRx) (C.D. Cal. Apr. 24, 2020). We believe this finding is accurate, not only because FDCs are congregate care facilities and we are in the midst of a global pandemic, but also because the baseline medical care provided to detained children and parents is woefully deficient.

The ongoing detention of individuals who are at heightened risk of harm have this risk exacerbated by the inadequate medical care provided at the FDCs, as has been elaborated above. These individuals in particular should not be detained given the availability of quality medical care at the FDCs and the gravity of the COVID-19 outbreaks in the FDCs and their surrounding areas. Their detention merits immediate investigation. We thank you for your thoughtful attention to this important matter.

Sincerely,



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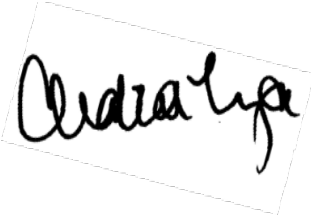
Shalyn Fluharty, Esq.  
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RAICES




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Michelle Mendez, Esq.  
Director, Defending Vulnerable Populations Program  
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Adriana Zambrano  
Legal Assistant  
CLINIC

## **EXHIBITS**

<b>Exhibit A</b>	Individuals for Whom Investigation is Requested
<b>Exhibit B</b>	Supplemental Case Examples
<b>Exhibit C</b>	Declaration of Drs. Matthew Gartland, Katherine Peeler, and Fiona Danaher
<b>Exhibit D</b>	Declaration of Richard M. Hunt
<b>Exhibit E</b>	Declaration of Anthony Hofbauer
<b>Exhibit F</b>	Declaration of Bridget Cambria
<b>Exhibit G</b>	Declaration of Dr. Abhishek Dhar (Evaluation of M.P.A.'s medical condition)
<b>Exhibit H</b>	Declaration of Dr. Fiona Danaher (Evaluation of seven-year-old child detained at Karnes)
<b>Exhibit I</b>	Declaration of J.L.P.
<b>Exhibit J</b>	Declaration of Dr. Carolyn Payne (Evaluation of J.L.P.'s medical condition)
<b>Exhibit K</b>	Declaration of M.C.P.
<b>Exhibit L</b>	Declaration of Shalyn Fluharty
<b>Exhibit M</b>	Declaration of Dr. Amy Cohen (Evaluation of W.B.'s medical condition)
<b>Exhibit N</b>	Declaration of Dr. Marsha Griffin (Evaluation of S.M.C.'s medical condition)
<b>Exhibit O</b>	Declaration of S.J.A.
<b>Exhibit P</b>	Declaration of A.S.
<b>Exhibit Q</b>	Declaration of A.L.V.
<b>Exhibit R</b>	Declaration of Dr. Matthew Gartland (Evaluation of four-year-old detained at Karnes)
<b>Exhibit S</b>	Declaration of Dr. Bronwyn Baz (Evaluation of J.S.P.'s medical condition)

**Exhibit T**

Declaration of A.B.B.