Dr. Stewart D. Smith
Assistant Director for ICE Health Services Corps.
Enforcement and Removal Operations
Immigration and Customs Enforcement
Department of Homeland Security
Washington, DC 20528

Mr. Matthew Albence
Acting Director
U.S. Immigration and Customs Enforcement
Department of Homeland Security
Washington, DC 20528

Mr. Mark A. Morgan
Acting Commissioner
U.S. Customs and Border Protection
Department of Homeland Security
Washington, DC 20528

Ms. Cameron Quinn
Officer for Civil Rights and Civil Liberties
Office for Civil Rights and Civil Liberties
Department of Homeland Security
Washington, DC 20528

Mr. Ernestoph V. Cuffari
Inspector General
Office of Inspector General
Department of Homeland Security
Washington, DC 20528

Re: HIV-Positive Asylum Seekers Who Receive Grossly Negligent Medical Care in Immigration Detention and Are Particularly Vulnerable to COVID-19 Must Be Released Immediately

Dear Ms. Quinn, Dr. Smith, and Messrs. Albence, Morgan, and Cuffari:

Immigration Equality is a national not-for-profit organization that represents and advocates for lesbian, gay, bisexual, transgender, queer ("LGBTQ") and HIV-positive asylum seekers. We file this complaint on behalf of six clients ("Complainants") who are currently detained at the Winn Correctional Center ("Winn"), the Richwood Correctional Center ("Richwood"), the IAH Secure Adult Detention Facility ("IAH") and the La Palma Correction Center ("La Palma"). These individuals are living with HIV and have all been placed by the Department of Homeland Security ("DHS") in detention while awaiting the adjudication of their asylum claims. In addition to the specific complaints raised by these six individuals, Immigration Equality also files this complaint to highlight broader, systemic failures on the part of Immigration and Customs Enforcement

("ICE") and Customs and Border Protection ("CBP") to provide appropriate treatment to all of the HIV-positive immigrants entrusted to their care.

Namely, we routinely receive reports of the grossly negligent HIV medical care that is provided in U.S. immigration detention facilities, which threatens the lives and well-being of our clients and potential clients.[1] For example, we have received reports of:

1. Significant interruptions in the provision of HIV medications ranging from several days to several months, which can lead to serious side effects and drug resistance;
2. HIV medications being administered at inconsistent times, which can also lead to resistance as well as serious side effects;
3. Changes in HIV medications, apparently without resistance testing, again, potentially leading to drug resistance and ineffective treatment;
4. Lack of access to HIV specialists who are qualified to treat HIV;
5. Serious side effects to HIV medications, or other potentially HIV-related complications, such as kidney disease and vison loss, that have not been properly addressed;
6. Complete denial of access to any medical records, preventing detained people living with HIV from monitoring their condition;
7. Failure to provide interpreters at medical appointments;
8. Unlawful disclosure of HIV status to other detained people and facility staff;
9. Unhygienic conditions, such as inadequate hand washing stations and lack of soap, that are particularly dangerous for immunocompromised individuals;
10. Failure to provide HIV-appropriate medication to treat flu symptoms, such as Tamiflu or other anti-viral medication; and
11. **Failure to provide information on COVID-19, including how to protect against transmission.**

In addition to the negligent treatment experienced specifically by the Complainants, we have also received numerous accounts from individuals who are no longer in detention, but who report similar negligent care. For example, one asylum seeker was denied HIV medication for several months. When the individual was finally referred to a doctor, their CD4 count – which essentially measures how well your immune system is functioning – had dropped dangerously low to 68. A CD4 count below 200 indicates that a person has developed AIDS. While awaiting treatment, the individual's symptoms included, fevers, headaches, shortness of breath, vomiting, weight loss, and boils.

Collectively, these accounts paint a picture of major systemic failures in the provision of HIV care for detained immigrants throughout immigration detention facilities. This treatment is unlawful and it violates widely accepted standards of HIV care. Moreover, not only does such treatment result in dangerous health consequences for these individuals, it raises serious public

[1] Please note that several of these individuals have been housed at multiple facilities. In addition to those listed above, they have received negligent health care at the following detention facilities: the Tallahatchie County Correctional Facility ("Tallahatchie"), Otero County Processing Center ("Otero"), La Palma Correctional Center ("La Palma"), Cibola County Correctional Center ("Cibola"), Otay Mesa Detention Center ("Otay Mesa"), and San Luis Regional Detention Center ("San Luis").

health concerns. No health care professional, much less the U.S. government, should be treating HIV positive individuals in a manner that encourages the development of drug resistant strains of HIV. This is unethical and dangerous.

In light of the COVID-19 pandemic, the continued detention of people living with HIV puts them at remarkably grave risk. As experts have noted, immunosuppressed individuals, like those living with HIV without access to appropriate care, are at heightened risk of serious medical issues with COVID-19, including death. This is particularly troubling for people in detention where there is no possibility of social distancing. The risk of transmission is remarkably high.

Shockingly, as of the drafting of this complaint, only two of the Complainants had even been informed of the COVID-19 pandemic by detention staff (*i.e.*, individuals at Richwood were told of COVID-19 on March 17 – long after the general population began taking protective measures). The others had not been told about the pandemic or the heightened risk it poses for HIV positive individuals in DHS custody, nor had they been given instructions on the best ways to avoid transmission (*e.g.,* frequent hand washing, social distancing, coughing and sneezing into a tissue, seeking immediate medical help if exhibiting symptoms, etc.).[2]

Equally troubling, none of these Complainants have sufficient access to hand washing stations, soap, or hand sanitizer, so that they can follow the prescribed healthcare guidelines (when and if they are ever informed of them).[3] In fact, one of the individuals who was told about COVID-19 on March 17 was also warned that there would likely be shortages of soap in the facility in the near future. These concerns are corroborated by well-documented reports of poor sanitation in detention facilities across the nation that pre-date the COVID-19 pandemic.

Remarkably, all of the Complainants are parole eligible with qualifying sponsors. Like most immigrants in detention, ICE could release all of them today. But despite warnings from experts on the dire consequences of COVID-19 for people in detention, expert recommendations that detained people be immediately released, and the steps taken by jails, prisons, and judges in the criminal context to release those in criminal custody, the Department of Homeland Security has done nothing.

In sum, all HIV positive people in immigration detention, including Complainants, are currently in mortal danger. Accordingly, CBP and ICE must immediately:

1) release the Complainants from detention;
2) provide Complainants with access to their full medical files; and
3) release all HIV-positive immigrants from detention, given the increased risk posed by COVID-19 to them, and the systemic failures by ICE and CBP to provide safe conditions for such people.

[2] Centers for Disease Control and Prevention, *Coronavirus Disease 2019 (COVID-19), How To Protect Yourself*, https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html.
[3] On March 17, 2020, one of the Complainants was given a flier explaining how to properly wash their hands. However, no reason for the flier was provided and no context was given.

In addition:

4) The Office of Inspector General "(OIG") should work with the Office for Civil Rights and Civil Liberties ("CRCL") to conduct an immediate systemic investigation into the provision of medical care to people living with HIV in CBP and ICE custody.

## I. The COVID-19 Pandemic and the Danger It Poses to People Living with HIV

COVID-19 is a coronavirus that has reached pandemic status. As of March 23, 2020, at least 341,000 people worldwide have confirmed diagnoses, including over 33,000 people in the United States.[4] Over 15,000 people have died as a result of COVID-19 worldwide, including at least 428 in the United States.[5] On March 19, 2020, it was confirmed that at least one ICE detention worker has been diagnosed with COVID-19.[6] It is reasonable to expect that these numbers are a small fraction of actually afflicted individuals as widespread testing has been unavailable in most countries, including the United States. The transmission of COVID-19 will grow exponentially.

People with certain medical conditions face greater chances of serious illness or death from COVID-19, including people with compromised immune systems.[7] As the Centers for Disease Control and Prevention ("CDC") has warned, "people of all ages with severe underlying health conditions … seem to be at higher risk of developing serious COVID-19 illness."[8] According to experts, "most of those who have died had underlying health conditions … that compromised their immune systems."[9]

COVID-19 presents particular risks for people living with HIV, especially those with insufficient healthcare, who are, by definition, immunocompromised. In fact, the Senior Medical Advisor for the Division of HIV/AIDS Prevention at the CDC, warned that "people living with HIV who have a low CD4 count and/or a detectable viral load are at higher risk of contracting

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[4] The New York Times, *The Coronavirus Outbreak, Maps* (visited March 23, 2020), https://www.nytimes.com/interactive/2020/world/coronavirus-maps.html

[5] *Id.*

[6] Hamed Aleaziz, *A Medical Worker At An ICE Detention Facility For Immigrants Has Tested Positive For The Coronavirus*, Buzzfeed (March 19, 2020), https://www.buzzfeednews.com/article/hamedaleaziz/ice-medical-worker-coronavirus

[7] Centers for Disease Control and Prevention, *Coronavirus Disease 2019 (COVID-19), People at Higher Risk and Special Populations*, Mar. 7, 2020, https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/index.html.

[8] *Id.; see also* WORLD HEALTH ORGANIZATION, *Coronavirus disease 2019 (COVID-19) Situation Report – 51*, (Mar. 11, 2020), https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200311-sitrep-51-covid-19.pdf?sfvrsn=1ba62e57_4.

[9] Jieliang Chen, *Pathogenicity and transmissibility of 2019-nCoV—A Quick Overview and Comparison with Other Emerging Viruses*, Microbes and Infection, Feb. 4, 2020, https://doi.org/10.1016/j.micinf.2020.01.004; *see also* Chaolin Huang, et al., *Clinical Features of Patients Infected with 2019 Novel Coronavirus in Wuhan, China*, 395 The Lancet 497 (2020), https://doi.org/10.1016/S0140-6736(20)30183-5 ("2019-nCoV caused clusters of fatal pneumonia with clinical presentation greatly resembling SARS-CoV. Patients infected with 2019-nCoV might develop acute respiratory distress syndrome, have a high likelihood of admission to intensive care, and might die.").

COVID-19 and developing more serious illness as a result."[10] Similarly, the White House Coronavirus Response Coordinator advised that long-time survivors of HIV "should do everything possible to not get exposed to the virus."[11]

Detained individuals face an elevated risk of contracting COVID-19. In general, people in detention are highly vulnerable to outbreaks of contagious illnesses.[12] The transmission of a virus is exacerbated by "crowding, delays in medical evaluation and treatment, rationed access to soap, water, and clean laundry, [and] insufficient infection-control expertise."[13] "Prison and jail populations are extremely vulnerable to a contagious illness like COVID-19."[14] "[P]risoners have fewer options for protecting themselves and others. They don't have the option to stay away from other people when they are sick. They can ask for medical attention, but prisons and jails have few infirmary beds and fewer rooms for medical isolation."[15]

This has already proven to be the case with COVID-19. "When COVID-19 arrives in a community, it will show up in jails and prisons. This has already happened in China, which has a lower rate of incarceration than the U.S."[16] In fact, even as COVID-19 infection rates have declined in China, the virus continues to spread aggressively across its prisons.[17] A physician and expert working in collaboration with the CDC to educate corrections professionals on COVID-19 recently warned, "a prison or jail is a self-contained environment, both those incarcerated and those who watch over them are at risk for airborne infections. Some make an analogy with a cruise ship. Cautionary tale #1: think of the spread of COVID-19 on the Diamond Princess Cruise Ship, January 2020. Cautionary tale #2: Hundreds of cases diagnosed in Chinese prisons."[18]

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[10] Liz Highleyman, *UPDATED: What People With HIV Need to Know About the New Coronavirus*, (March 13, 2020) https://www.poz.com/article/people-hiv-need-know-new-coronavirus.

[11] Grace Birnstengel, *HIV/AIDS and Safety During COVID-19: The CDC has advised all people with HIV to take precautions*, NEXT AVENUE (Mar. 15, 2020), https://www.nextavenue.org/hivaids-and-safety-during-covid-19/.

[12] Priscila Alavrez, *5,200 people in ICE custody quarantined for exposure to mumps or chicken pox*, CNN (June 14, 2019), https://www.cnn.com/2019/06/14/politics/mumps-chicken-pox-quarantine-ice/index.html. *See also* Carlo Foppiano Palacios, M.D., et al., *Influenza in U.S. Detention Centers — The Desperate Need for Immunization*, 382 NEW ENG. J MED. 789, 789 (2020).

[13] Joseph A. Bick, *Infection Control in Jails and Prisons*, 45 Clinical Infectious Diseases 1047, 1047 (Oct. 2007), https://doi.org/10.1086/521910.

[14] Maria Morris, *Are Our Prisons and Jails Ready for COVID-19?*, ACLU.org, Mar. 6, 2020, https://www.aclu.org/news/prisoners-rights/are-our-prisons-and-jails-ready-for-covid-19.

[15] *Id.*

[16] Dr. Homer Venters, *Four Ways to Protect Our Jails and Prisons from Coronavirus*, The Hill, Feb. 29, 2020, https://thehill.com/opinion/criminal-justice/485236-4-ways- to-protect-our-jails-and-prisons-from-coronavirus?rnd=1582932792

[17] Linda Lew, *China sends in top investigators after coronavirus erupts in jails*, South China Morning Post, Feb. 21, 2020, https://www.scmp.com/news/china/society/article/3051858/china-sends-top-investigators-after-coronavirus-erupts-jails.

[18] Dr. Anne Spaulding, *Coronavirus and the Correctional Facility: for Correctional Staff Leadership*, Mar. 9, 2020, https://www.ncchc.org/filebin/news/COVID_for_CF_Administrators_3.9.2020.pdf.

The situation for all people in detention is exacerbated by the generally unsanitary conditions in immigration facilities. As noted by Dr. Michele Heisler, medical director at Physicians for Human Rights**, "**You can't practice social distancing in a crowded detention facility. Given the well-documented medical neglect, poor sanitation, and often inadequate supplies of necessities such as soap in many detention facilities, it is essential that state authorities act now to safeguard the health and human rights of detainees and the public."[19]

Given the particular risk to people in custody, experts have strongly recommended that correctional facilities consider alternatives to incarceration such as releasing individuals on their own recognizance.[20] State and local jails have already begun releasing vulnerable populations from criminal custody.[21] Remarkably, while authorities in the criminal context have heeded the advice of medical and public health experts to reduce prison populations to combat the spread of COVID-19, DHS has completely failed to take the same steps to protect those who are *civilly* detained. The inaction of DHS will cause the death of many hundreds or thousands of people we could save right now. Not only does this needlessly risk the lives of people who are detained, but it also dramatically increases the risk of infection for detention staff and poses a major threat to the public health.[22]

## II. Background on HIV

HIV is an acronym for Human Immunodeficiency Virus. If not treated, it is the virus that can lead to Acquired Immunodeficiency Syndrome or AIDS. Unlike some other viruses, "the human body can't get rid of HIV completely, even with treatment. So once a person gets HIV, they have it for life."[23]

According to the Centers for Disease Control and Prevention:

> HIV attacks the body's immune system, specifically the CD4 cells (T cells), which help the immune system fight off infections. Untreated, HIV reduces the number of CD4 cells (T cells) in the body, making the person more likely to get other infections or infection-related cancers. Over time, HIV can destroy so many of these cells that the body can't fight off infections

[19] Human Rights First, *Human Rights Advocates with Medical and Legal Expertise Call on Governors, State Health Officials to Direct Reduction, Release of Immigration Detainees to Prevent Coronavirus Spread*, (March 17, 2020) https://www.humanrightsfirst.org/press-release/human-rights-advocates-medical-and-legal-expertise-call-governors-state-health.
[20] *Coronavirus and the Correctional Facility: for Correctional Staff Leadership*.
[21] *See, e.g.,* BBC, *US jails begin releasing prisoners to stem COVID-19 infections*, (March 19, 2020) https://www.bbc.com/news/world-us-canada-51947802 ("New York City is releasing 'vulnerable' prisoners, the mayor said on Wednesday, days after Los Angeles and Cleveland freed hundreds of inmates."); *U.S. v. Stephens*, No. 15-cr-95 (AJN) (S.D.N.Y. March 18, 2020) (granting motion to reconsider bail determination and releasing prisoner based, in part, on dangers posed by COVID-19 in prison).
[22] *See Coronavirus and the Correctional Facility: for Correctional Staff Leadership*.
[23] Centers for Disease Control and Prevention, *About HIV/AIDS*, https://www.cdc.gov/hiv/basics/whatishiv.html.

> and disease. These opportunistic infections or cancers take advantage of a very weak immune system and signal that the person has AIDS, the last stage of HIV infection. No effective cure currently exists, but with proper medical care, HIV can be controlled.[24]

In order to stay healthy, HIV-positive people must regularly monitor their CD4 count and consistently take their HIV medication or antiretroviral therapy.[25] If taken as prescribed,

> HIV medicine reduces the amount of HIV in the body (viral load) to a very low level, which keeps the immune system working and prevents illness. This is called viral suppression—defined as having less than 200 copies of HIV per milliliter of blood. HIV medicine can even make the viral load so low that a test can't detect it. This is called an undetectable viral load . . . . Getting and keeping an undetectable viral load is the best thing people with HIV can do to stay healthy.[26]

If the viral load stays undetectable, HIV positive people "can live long, healthy lives and have effectively no risk of transmitting HIV…."[27]

One of the biggest dangers in treating HIV is the possibility of drug resistance. Basically,

> [o]nce a person gets HIV, the virus begins to multiply in the body. As HIV multiplies, it sometimes changes form (mutates). Some HIV mutations that develop while a person is taking HIV medicines can lead to drug-resistant HIV. Once drug resistance develops, HIV medicines that previously controlled the person's HIV are no longer effective. In other words, the HIV medicines can't prevent the drug-resistant HIV from multiplying. Drug resistance can cause HIV treatment to fail. Drug-resistant HIV can spread from person to person (called transmitted resistance). People with transmitted resistance have HIV that is resistant to one or more HIV medicines even before they start taking HIV medicines.[28]

HIV medications must be taken regularly and at consistent times to make sure that there is an effective amount of drug in the body at all times.[29] "When medications are not taken regularly,

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[24] *Id.*; *see also* U.S. Dep't. of Health and Human Services, *HIV/AIDS: The Basics,* (July 3, 2019) https://aidsinfo.nih.gov/understanding-hiv-aids/fact-sheets/19/45/hiv-aids--the-basics.
[25] U.S. Dep't. of Health and Human Services, *HIV Treatment Adherence*, (Feb. 18, 2019) https://aidsinfo.nih.gov/understanding-hiv-aids/fact-sheets/21/54/hiv-treatment-adherence.
[26] Centers for Disease Control and Prevention, *HIV Treatment as Prevention*, (Nov. 12, 2019) https://www.cdc.gov/hiv/risk/art/index.html.
[27] *About HIV/AIDS.*
[28] U.S., Dep't of Health and Human Services, Aids info, *Drug Resistance*, (March 16, 2020), https://aidsinfo.nih.gov/understanding-hiv-aids/fact-sheets/21/56/drug-resistance/.
[29] Immunodeficiency Clinic, *Why Is It Important to Take Medications Regularly?* https://hivclinic.ca/patient-information/frequently-asked-questions-on-taking-antiretrovirals/why-is-it-important-to-take-medications-regularly.

the level of drug in the blood can become too low to effectively stop the virus from multiplying."[30] "This gives the virus a chance to mutate and become resistant to the effects of the drug."[31] Even a slight deviation from the prescribed antiretroviral regimen can have a devastating impact on a person's health.[32]

Drug-resistance testing is very important to prevent drug resistance when starting a new HIV regime. Drug resistance testing "identifies which, if any, HIV medicines won't be effective against a person's HIV."[33]

> Drug-resistance testing is done using a sample of blood. People with HIV should start taking HIV medicines as soon as possible after their HIV is diagnosed. But before a person starts taking HIV medicines, drug resistance testing is done. Drug resistance test results help determine which HIV medicines to include in a person's first HIV regimen.
>
> Once HIV treatment is started, a viral load test is used to monitor whether the HIV medicines are controlling a person's HIV. If viral load testing indicates that a person's HIV regimen is not effective, drug-resistance testing is repeated. The test results can identify whether drug resistance is the problem, and if so, can be used to select a new regimen.[34]

HIV is a dynamic disease that requires "specially trained physicians able to deliver the high levels of care specific to your health needs."[35] There are guidelines and requirements that have to be met in order to be considered an HIV specialist. The American Academy of HIV Medicine (AAHIVM) defines the HIV specialist as meeting certain standard criteria for HIV knowledge measurement.[36] Namely, 1) experience (the doctor must maintain state licensure and provide direct, on-going, continuous care for at least 20 HIV patients over the past two years), 2) education (the doctor must complete at least 30 credits of HIV-related continuing medical education (CME) every two years or must have completed an HIV-related fellowship in the last two years), 3) external validation (a doctor must be recognized by an external credentialing entity, such as the AAHIVM. This is accomplished by passing an HIV Medicine Credentialing Exam), and 4) licensure (a doctor must maintain a current state MD or DO medical license).[37]

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[30] *Id.*
[31] *Id.*
[32] *Id.*; *see also* Yang Yu et al., *Medication Adherence to Antiretroviral Therapy Among Newly Treated People With HIV*, 18 BMC Public Health, 825 (2018), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6030792 (Clinical studies demonstrate that "when the rate of adherence to [HIV] medication is as high as 95%, the viral suppression rate approaches 78%." However, a minor reduction in adherence to HIV medication, for example, reducing adherence to 80%, causes the viral suppression rate to plummet to 20%. "The adherence rate of medication should be maintained at 95% or above to optimize antiviral outcomes and enhance viral suppression.").
[33] *Drug Resistance*
[34] *Id.*
[35] *How to Select the Right HIV Doctor*, (Sept. 29, 2019), https://www.verywellhealth.com/finding-a-doctor-47971.
[36] *Id.*
[37] *Id.*

## III. People Living with HIV Are Provided Grossly Deficient Medical Care in Immigration Detention.

Immigration Equality's in-house legal team and pro bono network of 130+ law firms in 150+ offices nationwide are currently providing legal representation to more than 600 asylum seekers. We also counsel dozens of pro se litigants every month. Through this work, we routinely hear reports from clients and potential clients on their detention conditions, including inadequate and negligent HIV care.

***Complainants***

The following are summaries of the woefully inadequate HIV care that Complainants have received in detention. Together these stories demonstrate why these individuals must immediately be released, especially in light of the dangers posed to immunosuppressed individuals by the COVID-19 pandemic. Pseudonyms have been used to protect the identities of the Complainants, all of whom are seeking humanitarian relief in the United States and who may fear retaliation, either at the hands of their persecutors, or by ICE and facility staff.

***Miguel***

Miguel is an asylum seeker who was persecuted on account of his sexual orientation, political opinion, and HIV-status. Miguel's health is in a highly precarious state due to the fact that his HIV regime has been interrupted during his detention by ICE. Prior to being detained at Winn, Miguel was at Tallahatchie, where he did not receive any HIV medication for six days. Similarly, upon arrival at Winn around June 2019, Miguel was denied HIV medication for three days. Additionally, on various occasions, Miguel has not received his HIV medication at consistent times each day, which, as noted above, can have grave medical consequences. Appallingly, his regularly scheduled time to receive medication is *3 a.m.* If Miguel does not wake up when the nurse calls his name *at 3 a.m.*, he does not receive his medication until the next morning. Such inconsistencies can cause side effects and even lead to resistance.

Moreover, Miguel had to wait for several months to see an HIV-specialist after making multiple requests. When he eventually saw the doctor, Miguel was not informed of the results of his tests or any other relevant information concerning the status of his HIV.[38] Despite having a host of medical issues that may very well be linked to HIV, he has not been able to see the specialist to discuss these issues.

Miguel's HIV care has also been seriously deficient in other ways. For example, upon arrival at Winn, Miguel was given a blood test that did not measure his CD4 count. He alerted the staff to the error since, as noted above, his CD4 count must be regularly monitored in connection with his HIV care. Miguel was scheduled for another test. However, instead of measuring his

[38] U.S. Dep't. of Health and Human Services, *HIV Treatment Adherence*, (Feb. 18, 2019) https://aidsinfo.nih.gov/understanding-hiv-aids/fact-sheets/21/54/hiv-treatment-adherence.

CD4 count, the test measured the C4 level in his blood. After again alerting staff of the error, Miguel was subsequently taken to a hospital to perform the proper test. After another series of mishaps, the proper test to measure his CD4 count was *finally* performed. However, no interpreter was provided to communicate the results and despite multiple requests, Miguel has not been given access to his medical records so does not know his current CD4 count.

While at Winn, Miguel has developed persistent kidney problems, which he never experienced prior to detention. More specifically, several months ago Miguel experienced sharp abdominal pain and began having difficulty urinating. In November 2019, Miguel went to the detention medical staff to ask for help, and he was told that a doctor on staff at Winn would prescribe him medication. However, when Miguel saw the doctor, he was told he had to see a specialist. Miguel was not given any medication or other treatment, and was never referred to the specialist. He has continued to have significant, unaddressed health concerns. In fact, approximately a week before this complaint was drafted, medical staff detected blood in Miguel's urine and sent it out for testing. Shortly thereafter, Miguel was sent to the hospital in the middle of the night due to excruciating kidney pain. He was returned to the detention facility the next day, but does not know the diagnosis because no interpreter was provided to him at the hospital. Notably, kidney problems are often linked to HIV, and HIV-associated kidney disease is encountered in individuals "who have discontinued antiretroviral therapy."[39]

***Rafael***

Rafael is an asylum seeker who was persecuted on account of his sexual orientation, political opinion, and HIV-status. Rafael has experienced numerous interruptions to his HIV regime in detention. Upon his entry to the U.S. in May 2019, Rafael told immigration authorities he was HIV-positive. However, despite several requests for treatment while in detention, the facility did not provide him with medication until approximately 3 months later, in August, when he was transferred to Richwood.[40] At Richwood, he has had at least two interruptions in his HIV antiretroviral regime (the first for 4 days and the second for 7 days) when he did not receive any medication at all. When Rafael inquired as to why he was not receiving his medication staff told him that it had "run out." In addition to these interruptions, staff routinely give Rafael his medication at inconsistent times. These inconsistencies, as noted above, can have grave medical consequences.

At Richwood, Rafael also developed kidney problems, which he never experienced prior to being detained. In November 2019 he was taken to the infirmary because he had blood in his urine, and he was diagnosed with a kidney infection. Like, Miguel, Rafael's kidney problems may be a byproduct of the inadequate HIV care DHS is providing in detention.[41]

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[39] Dr. Christina M. Wyatt, *Kidney Disease and HIV Infection*, 25 Top. Antivir. Med., 13-16 (2017), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5677039.

[40] Prior to Richwood, he was detained at Cibola, Tallahatchie and Otero.

[41] Dr. Christina M. Wyatt, *Kidney Disease and HIV Infection*, 25 Top. Antivir. Med., 13-16 (2017), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5677039.

Rafael also reported that he is not receiving enough to eat and that he is being exposed to extremely cold temperatures. For example, in one instance, Rafael and other people in his dorm were, for several hours, left naked after showring in cold temperatures because their clothes were being washed.

***Ivan***

Ivan is an asylum seeker who was persecuted on account of his sexual orientation, political opinion, and HIV-status. Ivan was detained at La Palma until early March when he was transferred to IAH. While at La Palma, Ivan did not receive his HIV medication at consistent times each day, which, as noted above, can have grave medical consequences. For instance, Ivan reports that while he received his medication as early as 6 a.m. on some days, on others he received it in the late afternoon. Such disruption in Ivan's antiretroviral regime occurred frequently.

After arriving at La Palma, Ivan also developed a number of serious health problems he did not previously have. In addition to contracting the flu, Ivan experienced recurring diarrhea and vomiting, elevated cholesterol levels, and painful inflammation in his right foot. None of these conditions have been adequately addressed by detention medical staff.

After contracting the flu, Ivan remained symptomatic for nearly two months. By contrast, for an average person, the flu lasts between five and seven days.[42] Ivan's flu symptoms were exacerbated by the cold temperatures to which the facility exposed him. He reports that his cell was very cold, and that the blanket and light jacket which the facility provided him were too thin to keep him warm. He also had to go outside every morning at 4 a.m. in order reach the dining hall for breakfast. To avoid going outside in the cold and further compromising his immune system, Ivan usually skipped breakfast, which sometimes made him feel even more ill.

The only treatment that the facility provided Ivan for his flu symptoms was Tylenol,[43] and a pill to alleviate his cough, which is insufficient to treat the flu of someone living with HIV. As a result, Ivan experienced recurring high fevers, body aches, and a persistent cough. Whenever his fever felt especially high, he had to submit a request and wait at least 72 hours to be seen by medical staff. Given the serious risks influenza poses for people living with HIV, the Centers for Disease Control and Prevention recommend that "people living with HIV who get flu symptoms …should be treated with influenza antiviral drugs right away."[44] However, when Ivan raised concerns with detention medical staff, he was told that nothing could be done until his condition reached a crisis level.

Ivan has also been experiencing recurring bouts of vomiting and diarrhea, which a nurse who treated him attributed to the irregular schedule of his HIV regime. When Ivan asked to adjust

[42] Harvard Health Publishing, *How Long Does the Flu Last?*, Harvard Medical School (Jan. 16, 2018), https://www.health.harvard.edu/staying-healthy/how-long-does-the-flu-last.
[43] Nicholas Bakalar, *Tylenol Is Ineffective Against Flu Symptom*s, New York Times (Dec. 09, 2015) https://well.blogs.nytimes.com/2015/12/09/tylenol-is-ineffective-against-flu-symptoms.
[44] Centers for Disease Control and Prevention, *Flu and People Living with HIV*, (Nov. 04, 2019) https://www.cdc.gov/flu/highrisk/hiv-flu.htm.

his treatment in order to remedy these symptoms, the nurse dismissed his concerns and told him to "get used to the vomiting."

Ivan's cholesterol has risen since ICE has detained him, and it was at an elevated level when he was first tested in October. When Ivan expressed his concern to the doctor, the doctor responded that he had to wait until his cholesterol reached a critical level before he could receive treatment. Ivan's cholesterol has not been tested since then, and he is still waiting to be scheduled for another appointment. He is concerned that the inconsistency of his HIV treatment has made the problem worse.[45]

In addition, Ivan had been experiencing painful inflammation in his right foot for several months, which he believed to be connected to his high cholesterol level. The pain made it difficult for Ivan to walk.[46] When Ivan raised this issue to a nurse, she told him to drink more water and refused to refer him to a doctor.

***Ernesto***

Ernesto is an asylum seeker who was persecuted on account of his sexual orientation, political opinion, and HIV-status. Ernesto has experienced numerous interruptions to his HIV medication regime in detention. Prior to being detained at Richwood, Ernesto was at the San Luis Regional Detention Center and Tallahatchie County Correctional Facility, where he did not receive any HIV medication for three days and five days respectively. Additionally, on various occasions since arriving at Richwood in October 2019, Ernesto has received his HIV medication at inconsistent times each day, which, as noted above, can have grave medical consequences.

Due to ICE's negligent healthcare, Ernesto has begun to lose his ability to see. Ernesto advised Richwood's health care providers on multiple occasions about this problem, but he has yet to see an eye doctor. Eye and vision problems are common in people living with HIV and can lead to serious complications, including blindness.[47] Given this, experts recommend that people living with HIV see eye care professionals regularly.[48]

Finally, Ernesto, a victim of sexual assault, suffers from anxiety, depression, and post-traumatic stress disorder. Medical staff have not appropriately treated his mental health issues and, in fact, have retraumatized him on multiple occasions, including, when he was sent to the hospital in handcuffs and shackles.

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[45] Mark Cichocki, *High Cholesterol and Triglycerides in HIV* Infection, Verywell Health (Aug. 18, 2019), https://www.verywellhealth.com/high-cholesterol-and-triglycerides-in-hiv-infection-49384.
[46] Cleveland Clinic, *Your Feet Hold Clues to Clogged Arteries*, (Feb. 28, 2019), https://health.clevelandclinic.org/your-feet-hold-clues-to-clogged-arteries-2/.
[47] Prevent Blindness, *HIV/AIDS and the Eye*, (2017), https://www.preventblindness.org/sites/default/files/national/documents/fact_sheets/FS107_HIVandEyes.pdf.
[48] *Id.*

***Ramon***

Ramon is a gay asylum seeker who was persecuted on account of his sexual orientation, political opinion, and HIV-status. Ramon has experienced numerous interruptions to his HIV medication regime in detention. While at La Palma, ICE did not give Ramon his medication for days. On other occasions, ICE gave Ramon his HIV medication at inconsistent times. Initially, ICE gave Ramon his HIV medication either in the morning or in the evening. Ramon then requested he receive his HIV medication in the mornings, in order to maintain a regular medication schedule. Despite his request, ICE continued to give his medication at inconsistent times throughout the day. In fact, ICE's interruptions to Ramon's HIV medication regime increased after the request.

While at La Palma, Ramon contracted the flu, which lasted over a month. However, when Ramon requested treatment for the flu, ICE did not provide him with the appropriate influenza antiviral medication. Instead, ICE gave him only Tylenol, which is not effective at combating ordinary flu symptoms, much less addressing the increased risks faced by HIV-positive people.[49]

Ramon's immune system was further compromised through exposure to cold temperatures. Namely, Ramon had to walk outside at 4 a.m. in order to eat breakfast at the dining hall, including when he had the flu. Consequently, Ramon skipped breakfast three to four times a week, making the difficult choice between eating and further compromising his weakened immune system by exposing himself to the cold.

In addition, Ramon has been experiencing vision problems, but ICE told him that he cannot see a doctor unless he is "going blind." Ramon has yet to see an eye doctor.

***Julio***

Julio is a gay asylum seeker who was persecuted on account of his sexual orientation, political opinion and HIV-status. Julio is detained at La Palma and reports not receiving his HIV medication at the facility for approximately one month when he first arrived, as well as at least one other interruption to his medication. When Julio finally started receiving HIV medication, it was different from the medication he was on prior to detention. It does not appear that any resistance testing was performed on Julio before prescribing him new HIV medication. The new medication made Julio feel faint and nauseous. When Julio asked a doctor in detention to be switched to his previous medication, the doctor said that medication was too expensive. Additionally, medical staff consistently fail to inform Julio of his CD4 count, although Julio has asked for it on several occasions. Julio is concerned that he has lost a noticeable amount of weight.

***Other Individuals Who Have Experienced Negligent HIV Care***

[49] Nicholas Bakalar, *Tylenol Is Ineffective Against Flu Symptom*s, New York Times (Dec. 09, 2015) https://well.blogs.nytimes.com/2015/12/09/tylenol-is-ineffective-against-flu-symptoms/.

In addition to the negligent treatment reported by the Complainants detailed above, we have received numerous recent accounts (*i.e.*, within the last 12-18 months) from individuals who are no longer in detention, but who reported similar negligent HIV care. For example:

- Arianna is a transgender asylum seeker who was persecuted on account of their sexual orientation/gender identity and HIV status. Arianna presented at the border and was held for approximately three weeks in a CBP facility. Although Arianna requested HIV medication during this period, they were told that the facility was not equipped to perform lab tests and could not prescribe medication. Arianna was eventually transferred to Cibola where they saw a doctor who performed testing. The results showed that Arianna's CD4 count was at a dangerously low level of 69 and that their condition had progressed to AIDS. The doctor explained that Arianna would have to see an HIV specialist to have medication prescribed. Terrified for their life Arianna made several requests to Cibola officials to see a specialist. However, Arianna did not see the specialist until approximately 6 weeks later. While Arianna was awaiting treatment, they showed serious signs of illness including, fevers, headaches, shortness of breath, vomiting, weight loss, and boils. Arianna was also kept in a pod with extremely cold temperatures. Arianna received the first dosage of HIV medication more than 2 ½ months after their first entry into the U.S., despite their HIV having progressed to AIDS.

- Jareth is a gay asylum seeker who was persecuted on account of his sexual orientation, HIV status, and political opinion. When Jareth presented at the border, his HIV medications were confiscated and he received no medication for approximately one month. Jareth was detained at Otay Mesa where he was placed in a cell by himself and staff wrote the words "GAY, HIV, SICK," in chalk on the door. Jareth asked the guards why he was being singled out. They told him: "This is the procedure. Get used to it." Jareth felt humiliated having his personal medical information and sexual orientation written for all to see. As a result, he was mistreated by other detained individuals, who ridiculed and made fun of him on the basis of his sexual orientation and HIV status.

- Verónica is a transgender asylum seeker who fled her country of origin after being persecuted on account of her gender identity. Verónica presented at the border, where CBP agents confiscated her HIV medication. She was held in a freezing detention cell for nine days. While there, Verónica repeatedly asked for medical help, but the authorities refused to let her see a doctor or access her medication. She was subsequently transferred to Otay Mesa. When she arrived at the detention center, medical staff took her blood pressure and blood samples, and told her she was HIV positive. However, they refused to give Verónica her HIV medication for several more weeks. Terrified for her health and for her life, she begged for her medication, but to no avail. When she finally started receiving her HIV medication, the officers administered the medication at inconsistent times and she was afraid that the variation would cause the medication to be less effective. She also began having headaches, diarrhea, chills, and nausea.

- Alex is an asylum seeker who fled his country of origin after being persecuted on account of his sexual orientation and political opinion. Alex was detained at Otay Mesa where he experienced an interruption in his HIV medication lasting several days. Alex's lab work showed that he had an extremely low CD4 count of 218, significantly below the 500-1500 range a person needs to stay healthy. Furthermore, the medical staff failed to adequately address Alex's persistent flu-like symptoms that included yellow phlegm, cough, fever, and chills. Alex also reported seeing blood when he coughed. However, the medical staff did not take any substantive action to address these concerns except that Alex was once placed in the detention medical unit for several days due to his high fever.

Collectively, these reports, and others that we regularly receive from detained and formerly detained people paint a picture of systemic failures on the part of ICE and CBP to provide adequate and competent HIV care.

## IV. Unsafe and Highly Unsanitary Conditions

Complainants struggle to maintain basic hygiene putting them in imminent danger given the critical need for sanitary conditions amid the COVID-19 outbreak. For example, they do not have adequate access to hand washing stations, soap, and have no access to hand sanitizer whatsoever.

In Winn, the facility makes one Complainant pass through several communal spaces and touch possibly contaminated surfaces prior to entering in the dining hall where there is no opportunity to wash hands before eating. Likewise, at Richwood, one of Complainants reported that his facility often makes it impossible to wash his hands prior to eating. Other Complainants reported that their facilities provide them with one small bar of soap to use for hand washing and showering, that must last approximately two weeks. When it runs out, the facility provides them no more soap unless they can afford to purchase it at the commissary, which they cannot afford. One Complainant reported that the facility provided him with insufficient toothpaste, and so he was brushing his teeth with his bar of soap.

One Complainant also reported that in order to draw his blood a nurse practitioner used a tourniquet she picked off the floor to tie around his hand. This further demonstrates complete disregard by the detention medical staff toward Complainant's health and safety.

All of the Complainants reported being in close proximity to people exhibiting flu-like symptoms. Although two Complainants reported that the facility recently isolated them from the general population, ICE is isolating them with another man who has flu-like symptoms. Furthermore, no one explained the reasons for their isolation. When they asked a detention official why they were isolated and for how long, he informed them that they will be in isolation "until their blood levels are good." Indeed, according to one of the Complainant's most recent blood tests, his CD4 count has recently fallen. However, they speculate that ICE's placement of them in

isolation might be connected to the COVID-19 epidemic. If that is the case, however, detention officials have failed to tell them this.

In fact, ICE made no mention of COVID-19 at all or the precautions they should take to protect themselves. It is also worth noting that the Complainants have not been visited or observed by medical staff while in isolation. If they have a medical issue, they must first ask a detention officer to bring a written request form for them to fill out, and then wait to be taken to see a medic. This poorly conceived plan puts immunocompromised people in close proximity to another person who is presumably in isolation *because* he is ill. This is absurd.

ICE has informed only two of the Complainants about COVID-19 and the measures they could take to protect themselves, such as frequent hand washing, social distancing, coughing and sneezing into a tissue, and seeking immediate medical help if exhibiting symptoms. These Complainants rightfully pointed out that such precautions are impossible in detention. ICE confines them in units designed to house approximately 100 people. These units have on average 3-6 showers and five toilets. Furthermore, one of the Complainants who was informed by ICE about COVID-19 precautions was also told to expect soap shortages in the near future due to the outbreak.

Continued detention of HIV- positive people in a time of COVID-19 pandemic is dangerous, irrational, and cruel. It is clear that detention centers are unprepared to manage the risks associate with COVID-19 and have no comprehensive plan of action in place to protect vulnerable individuals, putting their lives in very real jeopardy.

## V. Legal Standards

The inhumane and punitive conditions described above are in direct contravention of established law and norms. It is the responsibility of DHS to hold the detention facilities under its purview to the legally required standard of healthcare and to appropriately penalize them when they continuously harm migrants in their care.

### *Constitutional Protections*

The Fifth Amendment Due Process Clause of the U.S. Constitution protects substantive rights of "all persons" present in the United States, including detained immigrants.[50] As such, people in detention are entitled to, at a bare minimum, adequate medical care, as well as adequate food, shelter, clothing, and reasonable safety.[51]

Immigration detention is civil, not criminal, in nature.[52] Unlike criminal detention, civil detention cannot be punitive and any restriction on a person's liberty must be rationally related to

[50] *Zadvydas v. Davis,* 533 U.S. 678, 693 (2001).
[51] *See Youngberg v. Romeo*, 457 U.S. 307, 315-16, 324 (1982) (finding civil detainee entitled to adequate food, shelter, clothing, medical care and reasonable safety under the Fourteenth Amendment).
[52] *Zadvydas*, 533 U.S. at 690 (acknowledging that immigration detention is civil).

a legitimate governmental goal.[53] In the context of criminal detention, the Eight Amendment clearly prohibits "deliberate indifference" on the part of detention staff to a detained individual's "serious medical need[s]."[54] Courts have held that people in civil detention are entitled to a standard of care greater than – or at the very least, equal to – the standard of care afforded to people in criminal detention.[55] Indeed, the Ninth Circuit has held that, unlike people in criminal detention, civilly confined individuals need not prove "deliberate indifference" to demonstrate a violation of their Constitutional rights.[56]

The accounts of abuse and neglect detailed above describe profoundly deficient health care, including the denial of life-saving HIV medication. As such, ICE and CBP have violated their constitutional duty of care. Even if the Eighth Amendment standard did apply in civil cases, the agencies would be in clear violation of their duty of care.

***Detention Standards***

In addition to Constitutional obligations, ICE must comply with its own set of standards, which are designed to protect detained immigrants. As demonstrated above, they are also failing to comply with these standards.

The most commonly applied detention standards are the 2011 Performance-Based National Detention Standards (2011 PBNDS), updated in 2016. These standards set forth extensive medical care requirements for ICE. For instance, the 2011 PBNDS require appropriate physical, dental, and mental health care as well as pharmaceutical services, 24-hour access to emergency care, and timely responses to medical complaints for all detained people.[57] They also require language services for individuals with limited English proficiency during any physical or mental health appointment, treatment, or consultation.[58]

For people living with HIV, there are more specific requirements. For example, HIV positive people must be provided medical care consistent with national recommendations and guidelines disseminated through the U.S. Department of Health and Human Services, the CDC,

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[53] *Bell v. Wolfish*, 441 U.S. 520, 535-539 (1979).
[54] *Estelle v. Gamble*, 429 U.S. 97, 104 (1976) ("prison official's deliberate indifference to an inmate's serious medical needs is a violation of the Eighth Amendment's prohibition against cruel and unusual punishment").
[55] *Jones v. Blanas*, 393 F.3d 918, 931-34 (9th Circ. 2004), *cert denied*, 546 U.S. 820 (2005) (a civilly detained person is entitled to "'more considerate treatment' than his criminally detained counterparts. . . . Therefore, when a [civil] detainee is confined in conditions identical to, similar to, or more restrictive than those in which criminal counterparts are held, we presume that the detainee is being subjected to 'punishment.'" (internal citations omitted)); *see also Youngberg v. Romero*, 457 U.S. 307, 321-32 (1982) ("Persons who have been involuntarily committed are entitled to more considerate treatment and conditions of confinement than criminals whose conditions of confinement are designed to punish.").
[56] *Jones* 393 F.3d at 934; *see also Hydrick v. Hunter*, 500 F.3d 978, 994 (9th Cir. 2007) ("[T]he Eighth Amendment provides too *little* protection for those whom the state cannot punish." (emphasis in original, citations omitted)).
[57] U.S. Immigration and Customs Enforcement, Performance-Based National Detention Standards 2011, 257-81 (2016), https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf.
[58] *Id.* at 264.

and the Infectious Diseases Society of America, and must provide access to all medications for the treatment of HIV currently approved by the Federal Drug Administration.[59] Moreover, adequate supplies of such medications must be kept on hand to ensure newly detained individuals are able to continue with their treatments without interruption.[60]

The other two national ICE standards — the National Detention Standards, issued in 2000 and the 2008 2011 Performance-Based National Detention Standards – while less comprehensive than the 2011 PBNDS, also provide guidelines to ensure the health and safety of detained immigrants. These guidelines include provisions that establish access to health services,[61] including medical treatment to people living with HIV.[62]

The most recent 2019 2011 Performance-Based National Detention Standards ("2019 PBNDS") similarly provide basic standards of care for detained people. For instance, the 2019 PBNDS state that medical and pharmacy personnel must ensure sufficient supply of HIV/AIDS medication so that detained HIV positive immigrants can have continued access to treatment.[63] The 2019 PBNDS also instruct that detained people must be permitted to access their medical records pursuant to facility policy.[64] Additionally, these standards create requirements for maintaining environmental health and safety. Namely, detention facilities must have plans and procedures for managing emergency situations that are likely to occur, and procedures for ensuring safety of disabled detained people during these emergencies.[65] The 2019 PBNDS further require detention facilities to comply with recognizable hygiene standards as set out by the CDC and other regulatory agencies.[66]

Similarly, CBP has a set of standards to provide for the health and safety of individuals in its custody. These standards require CBP officials to inspect detained people for "any signs of injury, illness, or physical or mental health concerns . . . ,"[67] and in cases of emergency, CBP officials must immediately call medical services.[68] The standards also note that individuals known

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[59] *Id* at 263.
[60] *Id.*
[61] U.S. Immigration and Customs Enforcement, Detention Operations Manual: Medical Care (2000), https://www.ice.gov/doclib/dro/detention-standards/pdf/medical.pdf.; U.S. Immigration and Customs Enforcement, Performance-Based National Detention Standards: Medical Care, 1 (2008), https://www.ice.gov/doclib/dro/detention-standards/pdf/medical_care.pdf.
[62] U.S. Immigration and Customs Enforcement, Detention Operations Manual: Medical Care, 7 (2000), https://www.ice.gov/doclib/dro/detention-standards/pdf/medical.pdf.; U.S. Immigration and Customs Enforcement, Performance-Based National Detention Standards: Medical Care, 7-8 (2008), https://www.ice.gov/doclib/dro/detention-standards/pdf/medical_care.pdf.
[63] U.S. Immigration and Customs Enforcement, Detention Operations Manual: Medical Care, 118 (2019) https://www.ice.gov/doclib/detention-standards/2019/4_3.pdf
[64] *Id. at* 119.
[65] U.S. Immigration and Customs Enforcement, Detention Operations Manual: Environmental and Health Safety, 3 (2019) https://www.ice.gov/doclib/detention-standards/2019/1_1.pdf
[66] *Id.* at 7.
[67] U.S. Customs and Border Protection, *National Standards on Transport, Escort, Detention, and Search*, 14 (Oct. 2015), https://www.cbp.gov/sites/default/files/assets/documents/2017-Sep/CBP%20TEDS%20Policy%20Oct2015.pdf.
[68] *Id.* at 17.

to be on life-sustaining or life-saving medical treatment, LGBTQ people, and individuals with mental or physical disabilities may require additional care and oversight.[69] Furthermore, the standards require that during transportation of a detained person, CBP officials must be on alert for signs of medical symptoms, and provide or seek medical care in a timely manner.[70]

While the strength of protections accorded by these different detention standards varies, even the weakest standards set minimum requirements for the health and safety of detained people. Unfortunately, however, as the experiences of the individuals detailed in this letter demonstrate, ICE and CBP routinely fail to comply with the most basic requirements of their own standard of care for people living with HIV.

## VI. All of the Complainants Are Parole Eligible and Should Have Already Been Released

All of the Complainants are parole eligible, have qualifying sponsors, are not flight risks, and do not present any danger to the community. In addition, they clearly present compelling humanitarian reasons for release. All of them made formal parole requests, and ICE summarily denied all of them-- some more than once -- by way of pro forma denials in which ICE declared them to be a flight risk without explanation and despite significant evidence submitted to the contrary. Notably, it appears that in several instances, the deportation officers did not even review the extensive evidence submitted by counsel in support of Complainants' parole applications.

ICE has the discretion to release all of the Complainants today, but has refused to do so. This is inexplicable given the dire need to reduce detained populations amid the COVID-19 pandemic, and the unique vulnerability of the Complainants and other people living with HIV.

[69] *Id.* at 19.
[70] *Id.* at 6.

## VII. Conclusion

Given the severity of these violations and the immediate impact on the health and safety of Complainants and all HIV-positive immigrants in detention, we ask that you consider our requests expeditiously. All of the Complainants are at grave and imminent risk of being infected with COVID-19 and suffering life-threatening health consequences as a result. Consequently, if no immediate action is taken, they might die. The risk of serious illness and death can be mitigated by their immediate release where they can take precautions against COVID-19 infection and can access competent HIV care. All people living with HIV must be released from immigration detention facilities immediately.

If you have any questions or require additional information, please contact Bridget Crawford, Legal Director of Immigration Equality at bcrawford@immigrationequality.org or 212-714-2904. Specific information identifying the Complainants can be provided upon request.

Sincerely,

Bridget Crawford

Bridget Crawford
Legal Director
Immigration Equality