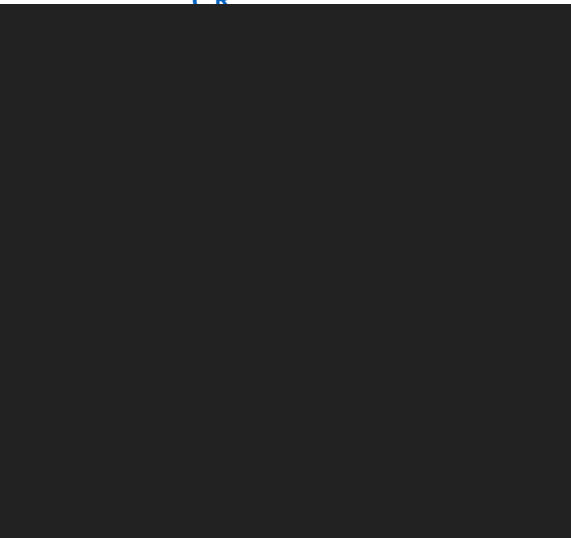


August 30, 2021

Sent Via Email

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Russell Washburn

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

I. Introduction

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

SDC has been the deadliest hotspot for COVID-19 of any ICE facility nationwide. Since March 2020, 4.5 million people around the world have died from the COVID-19 pandemic, including more than 600,000 in the United States.¹ COVID-19 is a highly transmittable, deadly virus, and

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

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

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

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

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

As Mr. Franco Clement says, "I am frustrated and scared as a Black immigrant facing multiple layers of systemic discrimination at this facility. ICE must up

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

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

II. Factual Background

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

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

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

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

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

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

In June 2021, SPLC and El Refugio received a petition from 16 individuals “with respiratory ailments, cardiac conditions, diabetes, and hypertension” in Pod 3E complaining of reckless

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

Those who remain at SDC are now in Pod 5A, no longer cohorted away from the general

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

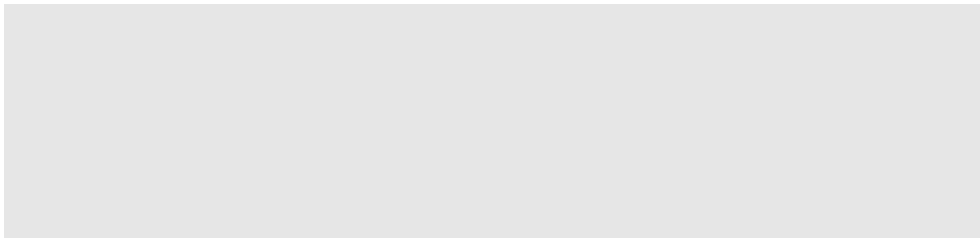
In addition to noting concerns of COVID-19 exposure from pod mates, Complainants in Pod 5A note that officers come and go from their pod without wearing the necessary protective equipment, such as face shields or gloves, and go between pods all day without changing masks. Mr. Lodge noted a year ago that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

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

Mr. Chambers mentioned that he

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

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



For example, Complainants report being unable to get appropriat

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

Mr. Kaysay rates SDC “on the bottom” as compared to Irwin County Detention Center (ICDC) and other facilities in which he has been detained. “I ran out of medicine and made a sick call to

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

Using segregation

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

According to the standards, “Therapeutic medical diets and supplemental food shall be provided as prescribed by appropriate clinicians.”³⁰ That is not happening at SDC, and the lack of

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EXHIBITS

- A Detainee Death Reports: Santiago Baten-Oxlaj, Jose Freddy Guillen Vega, Cipriano Chavez Alvarez, and Felipe Montes. 21
- B COVID-19 ICE Detainee Statistics by Facility, Atlanta Field Office:
Selected point-in-time excerpts from

TRANSCRIPTION OF QUOTES FROM G