

# DYING FOR DECENT CARE:

## BAD MEDICINE IN IMMIGRATION CUSTODY

N° 66003 R

I don't and really can't imagine, how someone like me would make it to Haiti. I truly, verily thank God for being in America, able to get help from those expensive meds. If, unfortunately you would send me back to Haiti, my life would considerably being destroyed.

kind of personality disorder as a cause of the tremors. The tremors could be caused by a lot of things – they can be caused by a neurological disorder, by anxiety or even by an electrolyte imbalance, but they are most definitely not diagnostic of psychosis.

45. She is not psychotic and should not be taking risperdal.

Could you somehow "patch up" that Grievance with an amendment, then put it in my box.

I just want to avoid problems when the Auditors show up.

Thanks!!!

- Dave -

Récopiés de l'Adminis

Signé : .....

2. Age 20 3. Country of Citizenship ALGERIA  
5. Date Arrived 03/08/2005 6. Crew Onli on-site

11. File Number 109733245 12. Bond \$ 13. CDS Yes No 14. Medical Alert No Yes (English)  
15. TRANSFER DATE FROM TO  
A. 3/8/05 Onli ONITE 37ONE PARK  
16. ADMITTED BY:  
17. SEARCHED IN BY:  
18. DATE ADMITTED 3/8/05  
19. DENIAL 16667443 SPANISH / ENGLISH / ARABIC  
FORM I-586 (11/01/07) ALIEN BOOKING RECORD UNITED STATES DEPARTMENT OF JUSTICE - Immigration & Naturalization Service

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# Dying for Decent Care: Bad Medicine in Immigration Custody

FEBRUARY 2009

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*To protect and promote the basic rights of immigrants*

## Dedication

Rev. Joseph Dantica, an 81-year-old Baptist minister, fled Haiti after he was targeted for persecution. Gangs had burned and ransacked his home and church. Although Rev. Dantica had a valid visa to enter the United States, where he had traveled many times, he was detained at the Miami airport when he told officials he sought political asylum. At the Krome immigration detention center, he was accused of “faking” his illness and later transferred to the prison ward of Miami’s public hospital in leg restraints. Rev. Dantica died there alone five days after his arrival in October 2004. His family was allowed to see him only after his death.

Since March 2003 more than 80 people have died in or soon after leaving immigration custody, and poor medical care could have contributed to at least 30 of those deaths, according to an investigative report by the Washington Post. No one knows how many others have died unreported or after being deported. Immigration authorities are not required to report the deaths of detainees in their custody. There also is no telling how many detainees have received inadequate or no medical care and will have to cope with pain, paralysis, loss of limbs and other health consequences for the rest of their lives.

This report was written in memory of Rev. Dantica and all other detainees who have lost their lives and health in immigration detention. The true measure of our society is how it treats those who cannot take care of themselves. If we are ever to become the society that he dreamed of when he came to the United States, the Department of Homeland Security and its Immigration and Customs Enforcement (ICE) arm must protect the health and human rights of people like Rev. Dantica. This means providing them humane, life-saving medical treatment in their time of need.

Florida Immigrant Advocacy Center’s report documents the urgent crisis in medical care for ICE detainees. Our aim is to inspire real changes and prevent more needless deaths and suffering.

## Acknowledgements

FIAC is extremely grateful to The Ford Foundation, The Florida Bar Foundation, Lutheran Immigration and Refugee Services, Equal Justice Works, and Herb Block Foundation. This report would not have been possible without their support.

Dying for Decent Care: Bad Medicine in Immigration Custody was inspired by the thousands of immigration detainees who have complained about medical care to FIAC staff during 13 years of visits to immigration detention facilities. It began as the written testimony of Cheryl Little, FIAC executive director, for the U.S. House Immigration Subcommittee's hearing, Detention and Removal: Immigration Detainee Medical Care, on October 4, 2007. The information in this report was obtained through interviews, phone conversations and correspondence with detainees, as well as jail and immigration officials. It also includes information from U.S. government materials, newspaper articles and other data.

FIAC thanks Steptoe & Johnson, Carlton Fields and Shook, Hardy & Bacon who have provided pro bono legal representation to ill detainees. FIAC is most grateful for the assistance of physicians who have contributed countless hours reviewing the medical records of detainees and providing their expertise in order to advocate for better medical treatment. FIAC also wishes to recognize the remarkable dedication of its staff in providing legal representation and advocacy on behalf of detainees.

Finally, FIAC extends its deepest thanks to the men, women and children in immigration detention who are the subject of this report, for their remarkable courage and for the privilege of representing many of them.

### Florida Immigrant Advocacy Center

Florida Immigrant Advocacy Center, Inc. (FIAC) was founded in January of 1996 in anticipation of the drastic changes in the availability of legal services to immigrants due to federal funding restrictions on Legal Services Corporation. It is a non-profit law firm whose mission is to protect and promote the basic rights of immigrants through advocacy and legal services for low-income clients.

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## Acronyms and Abbreviations

<b>ACLU:</b>	American Civil Liberties Union
<b>Annex:</b>	Women's Detention Center in Miami
<b>BTC:</b>	Broward Transitional Center, ICE-contracted detention facility north of Fort Lauderdale
<b>DHS:</b>	The U.S. Department of Homeland Security
<b>DIHS:</b>	Division of Immigration Health Services
<b>FIAC:</b>	Florida Immigrant Advocacy Center, which produced this report
<b>Glades:</b>	Glades County Detention Center, an ICE-contracted facility in central Florida
<b>ICE:</b>	Immigration and Customs Enforcement, an agency of the U.S. Department of Homeland Security (DHS)
<b>INS:</b>	U.S. Immigration and Naturalization Service, the country's immigration agency prior to the creation of DHS and ICE in 2003
<b>Krome:</b>	Krome Service Processing Center, ICE detention facility in Miami
<b>OIG:</b>	The Department of Homeland Security Office of Inspector General
<b>ORR:</b>	The Office of Refugee Resettlement, an agency of U.S. Health and Human Services
<b>Pinal:</b>	Pinal County Jail, an ICE-contracted detention facility in Florence, Arizona
<b>MCC:</b>	Medical Care Coordinators, review, approve or deny "Treatment Authorization Requests" for DIHS
<b>San Pedro:</b>	San Pedro Service Processing Center, ICE detention facility in California
<b>TAR:</b>	Treatment Authorization Request, must be submitted to DIHS for approval to provide detainees diagnostic testing, specialty care, or surgery
<b>TGK:</b>	Turner Guilford Knight Correctional Center, a county jail in Miami
<b>Wyatt:</b>	Donald W. Wyatt Detention Facility in Central Falls, Rhode Island, contracted by ICE

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## Executive Summary

Immigration and Customs Enforcement (ICE) detainees are routinely subjected to poor, and sometimes appalling, medical care. These detainees are entirely at the mercy of the Department of Homeland Security. DHS officials determine what medical treatment, if any, a detainee gets, when and where they get it, and the quality of that care.

Americans who cannot afford healthcare or insurance by law will be treated at an emergency room, and some can get financial help from families and friends. ICE patients do not have those choices. ICE does not even allow detainees to use private insurance to pay for medical care that ICE denies. And the great majority of detainees have no lawyer to help them obtain appropriate medical attention.

Meanwhile, attempts by the Florida Immigrant Advocacy Center (FIAC) and other advocates to get ICE to correct serious medical deficiencies repeatedly have been ignored. In detainees' own words, here are some complaints:

*"I am a 35-year-old man without a penis with my life on the line. I have a young daughter, Vanessa, who is only 14.... The thought that her pain – and mine – could have been avoided almost makes this too much to bear."*

**Francisco Castañeda**, before dying of penile cancer that went untreated while he was in ICE detention in California.

*"At the clinic, I could no longer speak, only cry. A nurse told me she was sorry, but that the doctor had resigned so there was no doctor. I sat in a chair and clutched my stomach.... I thought I was going to die."*

**Miguel Bonilla Cardona**, who suffered a ruptured appendix at an ICE-contracted county jail in central Florida.

*"My heart is broken. My body feels like its falling apart, and I am here in the county jail slowly dying. I was transferred to Arizona ... so I could get treated, but I'm in worse condition than ever."*

**Yong Sun Harvill**, after a year in a jail contracted by ICE.

*"Immediately my body started shaking. I felt so cold that I thought I was freezing to death, but at the same time I was sweating.... Within minutes I had a seizure and my body began to shake so violently that I fell off the bed onto the floor."*

**Zena T. Asfaw**, on her near-death experience after being forced to take the wrong medication at a California detention facility.

*"I have to pee on myself putting a towel on my laps {sic} to prevent the urine {from} running all over myself. When I have to do the other necessity {it} is very uncomfortable {and} unsanitary.... Don't you think I'm still a human being?"*

**Felipe Perez-Leon**, a paraplegic detainee denied handicap-accessible facilities while detained in an Atlanta jail.

Government records, news reports, and FIAC's experience in detention centers plainly indicate that healthcare in ICE custody is deteriorating, and many officials responsible for that care are alarmed. Regardless of its public posturing, ICE funding for detainee medical care is inadequate.

At the same time, ICE's attempts to save money – by limiting covered ailments and denying requests for needed treatment – are counterproductive. Covered services are in essence limited to emergency care, and a managed-care process requires every referral, medical exam, or treatment of a detainee to be approved by off-site nurses who conduct a paper review, sometimes without the full medical records. Thus, a non-physician can deny a treatment requested by a physician who has seen the patient. Too often, denied or botched care then leads to costly complications and lawsuits that cost taxpayers more money.

Many government employees responsible for the care and custody of ICE detainees are competent and dedicated. Nonetheless, denying that problems exist places at risk the very detainees in dire need of medical care. Though some detainees may exaggerate the hurdles they face in getting proper medical attention, FIAC's experience, press reports, detainee medical records and statements from detention medical staff demonstrate that detainee complaints often are legitimate. Among the most common problems are:

- Delayed and denied healthcare
- Shortages of qualified staff
- Improper care of mentally ill patients
- Inadequate care of physically disabled patients
- Denied, mistaken and insufficient prescription medication
- Difficulty getting access to medical records
- A lack of competent, professional interpreters
- Cruel and abusive behavior by some clinic and detention staff
- Unsanitary and overcrowded facilities
- Detainees transferred or segregated in retaliation for complaints
- A lack of independent oversight to ensure the quality and effectiveness of care

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*Only independent, external scrutiny of detainees' medical care will ensure that the Department of Homeland Security and ICE carry out their moral and legal responsibility to provide for the health and safety of detainees entrusted to their care.*

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The current detention policy is overly broad and inhumane. Immigrants who are neither dangerous nor likely to flee should not be detained. Those currently detained – whether severely ill, asylum seekers or others challenging deportation orders – should be fairly considered for parole and alternatives to detention. The alternatives are cheaper, more humane and can be structured to ensure participants regularly appear before immigration authorities.

Unfortunately, oversight of ICE detention conditions, including detainee medical care, is sorely lacking. In such an oversight vacuum, ICE tolerates a culture of cruelty and indifference to human suffering. Detainees routinely report being treated as criminals, being accused of faking illnesses, and having painful symptoms ignored. They also face retaliation for demanding better medical treatment or complaining about the medical abuse of fellow detainees. We do not know if this happens because they are foreign, imprisoned, have no lawyer to defend them or all of the above. We do know from years of direct experience that cruel and inhumane treatment of sick detainees is a systemic problem.

Only independent, external scrutiny of detainees' medical care will ensure that the Department of Homeland Security (DHS) and ICE carry out their moral and legal responsibility to provide for the health and safety of detainees entrusted to their care. Given the dramatic increase in detainees, the need for proper scrutiny of medical care is more critical now than ever.

In short, many immigration detainees are subjected to substandard medical care, and the problem is growing. Death rates in detention appear to be worsening. ICE needlessly detains people with severe illnesses and those who pose no harm to U.S. communities. Doing so drives up ICE costs even as ICE provides increasingly inadequate medical and mental healthcare to those in its custody.

Lives are at stake. The urgency to improve detainee medical care cannot be overstated.

#### **FIAC recommendations include:**

##### *To the Administration and Congress*

- Establish an independent oversight commission composed of healthcare and immigration experts to oversee medical care in U.S. immigration custody. Its mission: to ensure that the conditions, practices and quality of medical care for detainees meet established legal, medical and human-rights standards.
- Strengthen and issue regulations that codify detention standards for Immigration and Customs Enforcement (ICE), including medical standards, so that all immigration detention facilities provide competent, timely, and necessary medical care by force of law. Require ICE detention facilities and all contracted facilities to annually report their compliance with the detention standards.
- Strengthen and issue regulations requiring DHS to promptly report the death of any immigration detainee to the U.S. Attorney General. Require an independent investigation of each death. Require DHS to annually submit a report to the Judiciary Committees of the U.S. House and U.S. Senate with detailed information on all the deaths, including the cause of death and the results of related investigations.
- Promote alternatives to detention by shifting ICE funding from detention beds to proven, community-based alternatives. Prioritize the release of vulnerable detainees, such as detainees with ongoing medical or mental-health issues.

##### *To the DHS and ICE*

- Ensure that detainees are properly and consistently referred to competent healthcare providers within the facility in which they are detained and outside the facility as needed.
- Revamp or eliminate Division of Immigration Health Services policies – which dictate the medical treatments that may be approved or denied – to conform to broader ICE detention standards and accepted legal, medical and human-rights standards on medical care.
- Require a mental-health screening that properly identifies detainees with illnesses such as post-traumatic stress disorder and other psychiatric conditions. Mentally ill detainees must be placed in a facility that can properly care for their mental-health needs. Prohibit placing such detainees in isolation or seclusion at a detention facility for punitive reasons.
- Launch training efforts to combat the culture of indifference to human suffering that ICE tolerates within its ranks. This culture views all detainees as criminals who are faking illnesses, regardless of painful symptoms, and often prevents timely and appropriate medical treatment.



## Introduction

Florida Immigrant Advocacy Center (FIAC) provides free legal services to immigrants of all nationalities, including many in the custody of Immigration and Customs Enforcement (ICE), a division of the Department of Homeland Security (DHS). Lack of competent medical care is one of the chief complaints of the men, women and children in immigration detention throughout the country.

FIAC has written numerous reports documenting our concern that medical care for those in immigration custody is woefully inadequate and all too frequently leads to unnecessary suffering and, in some cases, death.<sup>1</sup> *Dying for Decent Care: Bad Medicine in Immigration Custody* includes significant new accounts along with information from FIAC reports that span more than a decade of advocacy. The content is based on hundreds of interviews with detainees, FIAC's own observations, medical records, and conversations with jail and immigration officials. The report focuses on cases between 2003-2009.

This report draws from current news items such as the New York Times reporting on deaths in detention and other medical issues.<sup>2</sup> It also refers to The Washington Post's investigative series, *Careless Detention*, published in May 2008. The Post's series, based on months of research and thousands of internal government documents, found what FIAC sees in immigration detention facilities every day: "a massive crisis in detainee care."<sup>3</sup>

The U.S. now has the world's highest rate of incarceration, and ICE detainees are its fastest growing prison population. Since 2001, the number of immigration detainees tripled to some 311,000 in fiscal year 2007. The daily population now averages more than 30,000 detainees in more than 300 detention facilities nationwide.<sup>4</sup> In fiscal year 2008, ICE had funding for 32,000 beds at an annual cost to U.S. taxpayers of more than \$1.65 billion.<sup>5</sup>

For 2009 the cost of detention is budgeted at \$1.72 billion, which will provide ICE with an additional 1,400 beds and \$2 million for the ICE Office of Professional Responsibility to conduct "a comprehensive review" of detainee medical care.<sup>6</sup> Overall the total funding for detaining and deporting immigrants is \$2.4 billion – more money for immigration enforcement than the administration requested, courtesy of Congress.<sup>7</sup>

The surge in immigration detention has greatly benefited private prison operating companies, like Corrections Corporation of America (CCA) and the Geo Group (formerly Wackenhut), whose stocks sharply increased following President Bush's proposal in February 2006 to increase spending on immigration detention.<sup>8</sup>

The federal government has increasingly turned to these prison companies and local jails as a cheaper alternative to ICE-run facilities. According to ICE, it cost \$87.99 per day for each detainee in a contracted jail or prison versus \$119.28 a day at its own detention facilities during fiscal year 2007.<sup>9</sup>

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*Meanwhile, as funding for contract detention facilities continues to grow, medical care for the fast-growing population of ICE detainees has not kept pace.*

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Alternatives to detention, which cost as little as \$12 a day, are even cheaper and more humane.<sup>10</sup> One tested alternative required people to periodically report by phone and in person. Another released asylum seekers to community shelters and found them pro bono attorneys. Both succeeded in keeping participants on a legal track: Appearance rates before immigration authorities ranged from 93 percent to 96 percent.<sup>11</sup>

Such alternatives are particularly suited for severely ill detainees and the majority of detainees who pose no danger to U.S. communities. Yet ICE's 2009 funding provides only \$63 million for alternatives to detention – 3.7 percent of the \$1.72 billion detention budget.<sup>12</sup>

Meanwhile, as funding for contract detention facilities continues to grow, medical care for the fast-growing population of ICE detainees has not kept pace.

ICE spent nearly \$100 million on detainee healthcare in the 2007 fiscal year. That is double the amount spent in 2001, even though the detainee population tripled during the same period. The funding squeeze is exacerbated by the growing number of detainees with chronic health conditions. Now more than a third of ICE's 300,000 plus yearly population suffers chronic illnesses such as hypertension and diabetes.<sup>13</sup> Another measure of inadequate funding: By comparison, Rikers Island Jail in New York City has spent the same amount on

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*While the number of detainees has tripled since 2001, medical spending has lagged and detainee healthcare has suffered. And fewer deaths in ICE custody are a misleading measure of detainee health.*

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healthcare annually for more than a decade while imprisoning about half the people detained by ICE.<sup>14</sup>

#### **A Secret World**

ICE detainees include pregnant women, families, the sick and elderly, legal permanent residents, asylum seekers, torture survivors, and victims of human trafficking, among others

targeted for deportation. Most of the detainees have no criminal record and pose no threat to U.S. communities. Those who have records, many of which are minor infractions, already have completed their sentences and paid for their crimes. ICE warehouses most immigration detainees in local and county jails or in large, privately run facilities in remote areas.

This is an oftentimes secret detention world outside of the public eye and subject to little scrutiny. Though immigrants in ICE custody have a number of rights, including the constitutional protection against cruel and unusual punishment, they often don't know those rights or find it impossible to assert them in such an environment. Detainees who complain often face retaliation. The difficulty is compounded by the lack of legal representation. Unlike U.S. criminal convicts, ICE detainees are not entitled to a court-appointed lawyer, and 84% face deportation without attorneys.<sup>15</sup>

Many immigrants are detained for months or even years. However, ICE detention facilities are not designed for long-term prisoners. Neither county jails nor large, ICE owned and managed detention sites have the programs, services, or medical care offered in federal prisons and other facilities that keep prisoners for more than six months.

ICE touts that one of its highest priorities is the quality care of detainees in its custody. At a congressional hearing in June 2008, then-ICE chief Julie L. Myers noted that ICE has increased annual spending on detainee healthcare to \$100 million. She also pointed to fewer deaths in custody as a sign of improved medical care. She said, "Though the ICE population has increased by more than 30 percent since 2004, the actual number of deaths in ICE detention has declined from 29 in 2004 to seven last year."<sup>16</sup>

Those figures do not tell the full story. In fact, ICE's medical spending has not kept up with the explosive growth of people in immigration custody. While the number of detainees has tripled since 2001, medical spending has lagged and detainee healthcare has suffered. And fewer deaths in ICE custody are a misleading measure of detainee health.

#### **Fuzzy Math**

Dr. Homer D. Venters testified as much at the June 2008 congressional hearing.<sup>17</sup> A physician at the Bellevue/NYU program for torture survivors, Dr. Venters noted that ICE's mortality rates must be adjusted by ICE's average length of detention to be comparable over time and to other prison facilities. Adjusting the figures, Dr. Venters found that mortality rates for ICE detainees actually increased by 29 percent from 2006 to 2007. His observations raise important questions:

"The reliance by ICE on unsound statistical methods that consistently present a more positive picture of detainee health should generate concerns about the ability of ICE to adequately assess and improve its own healthcare system. Our review of the ICE health plan, including recent changes, suggests that ICE detainees are receiving medical care that is increasingly limited and inconsistent with current standards of medical practice."<sup>18</sup>

FIAC's experience, The Washington Post investigation, other news accounts and congressional testimony corroborate the same conclusion: ICE's de facto medical mission is to keep detainees healthy enough to deport.<sup>19</sup> Or, in the words of ICE's top official: "I believe that [the Division of Immigration Health Services] has a responsibility to provide the medically necessary healthcare while at the same time ensuring proper obligation of federal funds, to ensure that we don't overpay for anything."<sup>20</sup>

This may sound like a reasonable managed-care approach. In practice, however, it means that ICE's medical "Covered Services Package" provides for emergency care at the expense of treating chronic and other costly illnesses. It also means persistent medical-staff shortages at immigration detention facilities, practices that lead to medical abuses and the denial of expensive medical tests and treatment. This ICE approach encourages denying care and saving money instead of preventing disease and death.<sup>21</sup>

The approach takes a toll in human suffering. It also may cost ICE more money than it saves. U.S. Rep. Zoe Lofgren, chairwoman of the U.S. House Immigration Subcommittee, made this point at a congressional hearing last year. Speaking of the ICE documents obtained by The Washington Post, Chairwoman Lofgren noted:

“One document, which I can’t even begin to reconcile with humane treatments, lists the amount of money ICE saved by denying requests for treatment. Such requests, which were all submitted by on-site medical personnel, were for such things as tuberculosis, pneumonia, bone fractures, head trauma, chest pain and other serious complaints. How an off-site bureaucrat can deny a request to treat tuberculosis or a bone fracture, I just don’t know, but the document makes it seem as if ICE is proud of that fact.

“Putting aside the inhumanity of denying necessary healthcare, the \$1.3 million savings that ICE brags about in this document is going to pale in comparison to the money that DHS will have to pay when courts begin to rule against it, as they already have.”<sup>22</sup>

### TAR Cost Savings based on Denials

10/1/2005 - 9/30/2006

Diagnosis	TARS	Cost Savings
011.90 - UNSPEC PULMONARY TUBERCULOSIS CONF UNSPEC	3	\$26,458.76
034.0 - STREPTOCOCCAL SORE THROAT	3	\$10,631.31
042 - HUMAN IMMUNODEFICIENCY VIRUS [HIV]	17	\$29,713.62
062.0 - VARICELLA WITHOUT MENTION COMP	3	\$12,406.35
245.0 - UNSPECIFIED THYROIDITIS	2	\$6,887.16
250.00 - DIABETES UNCOMPL TYPE II NO UNCTRL	2	\$4,751.34
276.5 - VOLUME DEPLETION	1	\$3,206.66
276.51 - DEHYDRATION	14	\$70,192.36
292.0 - DRUG WITHDRAWAL SYNDROME	4	\$13,868.21
295.3 - SCHIZOPHRENIA-PARANOID TYPE	1	\$7,402.37
295.30 - PARANOID SCHIZOPHRENIA UNSPEC COND	1	\$8,089.36
296.80 - MANIC-DEPRESSIVE PSYCHOSIS UNSPEC	4	\$18,145.36
296.90 - UNSPECIFIED AFFECTIVE PSYCHOSIS	1	\$6,402.16
298.9 - UNSPECIFIED PSYCHOSIS	2	\$11,668.60
309.81 - PROLONG POSTTRAUMAT STRESS DISORDER	1	\$5,820.85
309.9 - UNSPECIFIED ADJUSTMENT REACTION	1	\$ 882.00
311 - DEPRESSIVE DISORDER NOT ELSEWHERE CLASSIFIED	9	\$43,158.57
401.9 - UNSPECIFIED ESSENTIAL HYPERTENSION	17	\$68,043.52

*The document referred to by U.S. Representative Zoe Lofgren.*

### Loose Standards

Beyond ICE’s funding and medical care policy, issues of detention culture also negatively impact the healthcare of people in immigration custody. Nationwide, as numerous accounts attest, immigration detainees quite often are treated as criminals and accused of faking illness – whether in ICE-owned detention centers or contracted facilities such as local jails. Such accounts are included in this report.

Standards regarding the medical care of immigration detainees are also problematic. The standards promoted by the American

Correctional Association (ACA) provide useful information for those running ICE detention facilities. However, ACA standards were designed for a criminal population and do not take into account that ICE detainees are there on the basis of civil violations only and are not serving criminal sentences or awaiting trial. ICE detainees have special needs that are not applicable to those accused or serving criminal penalties.

ICE inherited the current medical standards from its precursor agency, the Immigration and Naturalization Service, which had adopted those standards in 2000.<sup>23</sup> In September 2008, ICE published updated and expanded standards called the Performance-Based National Detention Standards, which are being implemented slowly over several years. More important, neither set of medical standards is consistently adhered to by detention facilities or enforced by ICE. These standards have not been codified and are not legally binding. Clear violations of the standards exist, despite repeated complaints by detainees, medical employees, and advocates.

For example, for some time at the San Pedro detention facility near Los Angeles, the clinical director prohibited any lab work for any detainee who had been detained for less than 30 days, regardless of their medical condition. This policy was roundly criticized by the agency’s top specialist on infectious diseases as a violation of ICE medical guidelines as well as medical ethics.<sup>24</sup> The policy also contributed to the 2007 death of Victoria Arellano, a detainee with AIDS who didn’t get lab work for 22 days and was denied medication during her first month at San Pedro.<sup>25</sup>

Regardless of where an immigration detainee is held, approval from the Division of Immigration Health Services (DIHS) is required for diagnostic testing, specialty care, or surgery. Even when detention or outside medical personnel have recommended treatment, on-site medical staff is required to submit a Treatment Authorization Request (TAR) to off-site DIHS Medical Care Coordinators (MCC) – who are nurses and may not have all the detainee’s medical records – for each and every exam, referral, or treatment.<sup>26</sup>

Thus, someone who is not a doctor and who has never seen the patient has the authority to override the request of a doctor and deny care for a detainee.

Problems in medical care for immigration detainees include:

- Delayed and denied healthcare
- Shortages of qualified staff
- Improper care of mentally ill patients
- Inadequate care of physically disabled patients
- Denied, mistaken and insufficient prescription medication
- Difficulty getting access to medical records
- A lack of competent, professional interpreters
- Cruel and abusive behavior by some clinic and detention staff
- Unsanitary and overcrowded facilities
- Detainees transferred or segregated in retaliation for complaints
- A lack of independent oversight to ensure the quality and effectiveness of care

Recent reports of deaths in immigration detention have shed new light on a system in crisis.<sup>27</sup> Nationwide, since 2003 some 83 detainees have died in, or soon after leaving, custody. Medical care, or its lack thereof, may have contributed to 30 of those deaths, according to The Washington Post's investigative series.<sup>28</sup> At least another four deaths, including that of a young man whose family FIAC represents, have occurred since that series was published in May. FIAC is working to prevent further deaths and medical abuses in custody, although at times it seems an uphill battle.

## Deaths in Detention

*"I am a 35-year-old man without a penis with my life on the line. I have a young daughter, Vanessa, who is only 14.... The thought that her pain – and mine – could have been avoided almost makes this too much to bear."*

*I had to be here today because I am not the only one who didn't get the medical care I needed. It was routine for detainees to have to wait weeks or months to get even basic care. Who knows how many tragic endings can be avoided if ICE will only remember that, regardless of where they will end up, they are still human and deserve basic, humane medical care."*<sup>29</sup>

**- Francisco Castañeda, testifying before  
dying of penile cancer**

The grave consequences of inadequate medical care are clear. In May 2008, The Washington Post documented 83 deaths in immigration custody and shortly after leaving custody since ICE came into being in 2003. The medical care provided, or denied, may have been a factor in 30 of those deaths, according to government documents and medical experts who reviewed some cases for The Washington Post's investigative series.<sup>30</sup>

Among those deaths are those of:

- Rev. Joseph Dantica, an elderly minister accused of faking his illness
- Francisco Castañeda, who died after being denied treatment for cancer

At least another four questionable deaths have occurred since The Washington Post series was published in May 2008, including those of:<sup>31</sup>

- Valery Joseph, a Haitian whose family is represented by FIAC
- Hiu Lui Ng, a New Yorker who died of untreated cancer
- Guido Newbrough, who died of an untreated cardiac infection

These cases are among those chronicled more fully below.

Along with the deaths have come an increasing number of lawsuits by bereaved relatives accusing ICE of medical misconduct and inhumane treatment. The cost of these lawsuits could outstrip whatever ICE has saved by skimping on detainee healthcare. U.S. Rep Lofgren, Chairwoman of the House Immigration Subcommittee, suggested as much at a congressional hearing in June 2008. She said:

"Last October, Francisco Castañeda testified before our committee concerning the medical care he received, or I should say failed to receive, during his detention. He is now dead. A quick review of his medical records shows that several on-site physicians recommended biopsy to rule out cancer, but it also shows that these requests were repeatedly denied over a 10-month period by managed-care coordinators here in D.C.

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*"When several doctors say that someone needs a simple biopsy, but this is denied not once, not twice, but repeatedly over 10 months by off-site bureaucrats, something is fundamentally wrong. No matter how it happened, there is no question that the system failed Mr. Castañeda over and over again. He paid with his life..."*

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"Some might say this is just one case and does not signify anything. I disagree. When several doctors say that someone needs a simple biopsy, but this is denied not once, not twice, but repeatedly over 10 months by off-site bureaucrats, something is fundamentally wrong. No matter how it happened, there is no question that the system failed Mr. Castañeda over and over again. He paid with his life, and now the Government is on the verge of paying millions in a lawsuit pursued by his family."<sup>32</sup>

The cases that follow trouble the conscience. A common thread is cruel, indifferent, and negligent medical care in custody. This is no way to treat human beings.

### 'Brother, I'm Dying'


Joseph Dantica, an elderly Baptist minister, was running for his life. Violent gangs had ransacked his church and home in Haiti. Arriving at Miami's airport on October 29, 2004, he showed his valid U.S. visa and said he wanted to seek asylum. Border officials detained him for 12 hours and would not let him leave the airport with his family. Instead, he was imprisoned at the Krome detention facility. He died five days later in the prison ward of a public hospital.

When he first arrived at Krome, Rev. Dantica was placed in the medical unit because a medical screening determined he had uncontrolled hypertension, prostate enlargement and a history of larynx cancer. Thus, Krome medical staff had some knowledge that he had health issues that needed to be monitored.

In fact, Rev. Dantica, 81, had been treated for the cancer 20 years earlier. He had a hole in his throat and spoke with the help of an electronic voice box, which made it difficult for him to communicate. He also had been visiting the United States for 30 years without any hint that he wanted to stay or break the law. None of this made a difference. Immigration officials denied him a humanitarian release on Nov. 1, 2004,<sup>33</sup> though they had the authority and discretion to do so.

The next day, only minutes into an asylum interview, Rev. Dantica began vomiting violently. Vomit covered his clothes and face. Mr. Pratt, the reverend's lawyer and Ms. Castro, the asylum officer,<sup>34</sup> twice had to ask a Krome officer to call for medical help. Rev. Dantica's son Maxo Osnac, who also had been detained, was brought to help provide information about his father's medical condition.<sup>35</sup>

Department of Homeland Security  
 Krome Asylum Pre-Screening Office  
 18201 SW 12th Street  
 Miami, FL 33194



U.S. Citizenship  
and Immigration  
Services

**Interoffice Memorandum**

To: Memo to File

From: [REDACTED] *pc*  
APSO

Date: November 12, 2004

Re: AH/27 041 999, DANTICA, Joseph Nositus

However, before Officer [REDACTED] could respond, PHS representative made statements in front of counsel that he believed Applicant was faking because Applicant kept looking at him randomly. PHS Representative then went on to demonstrate that when he moved Applicant's head up and down, Applicant maintained his head rigid as opposed to limp, thus not allowing his head to fall back. PHS Representative stated that was another way he determined Applicant was faking symptoms. Attorney John Patrick Pratt vigorously contradicted PHS representative, stated that he did not believe vomit could be faked, and stated that the Applicant was very ill, and his medications should not have been removed.

#### *Officer Castro's report*

Rev. Dantica's electronic voice box had been rendered inoperable by vomit. He was extremely sick and distressed, as the following events proved. Yet one of the three medical staff members who came to see Rev. Dantica suggested that he was "faking" his illness, according to Officer Castro, Mr. Pratt and Mr. Osnac. Three Krome staff members and Mr. Pratt confirmed that Krome medical staff stated that Rev. Dantica was not being cooperative.<sup>36</sup>

After the Reverend died, Officer Castro described the medical staffer's conduct:

"The PHS [Public Health Service] representative made statements... that he believed the Applicant [Rev. Dantica] was faking because the Applicant kept looking at him randomly. The PHS representative then went on to demonstrate that when he moved the Applicant's head up and down, Applicant maintained his head rigid as opposed

to limp, thus not allowing his head to fall back. PHS representative stated that was another way he determined Applicant was faking symptoms.

"Attorney John Patrick Pratt vigorously contradicted PHS representative, stated that he did not believe that vomit could be faked, and stated that the Applicant was very ill and that his medications should not have been removed."<sup>37</sup>

Only after he was moved to the medical unit did Krome staff make any attempt to clean Rev. Dantica of the vomit. According to Mr. Pratt:

"During the entire time the medic and other Krome officials were in the Asylum Unit, when I was there, no medical treatment at all was provided to Rev. Dantica. No one checked his vital signs or did anything at all to determine the state of his medical condition. No one ever wiped the vomit off his face and clothes. Eventually, about 25-30 minutes after he suffered the attack, the medic, officer and/or other detainees brought a stretcher and moved Rev. Dantica from the asylum unit to the medical facility."<sup>38</sup>

Later that day, Rev. Dantica was transferred to the prison ward of Miami's Jackson Memorial Hospital in leg restraints – as if a gravely ill senior posed an escape threat. A Krome officer informed Mr. Pratt that no one, not his family or lawyer, would be allowed to visit Rev. Dantica at the hospital "for security reasons."<sup>39</sup> This was a violation of current detention standards, which direct ICE to "provide as much opportunity for visitation as possible" in a case of serious illness.<sup>40</sup>

Abuses of discretion by ICE also are clear. When Rev. Dantica was first detained, ICE officials at Krome told his lawyer that he could not be released before his initial asylum screening. After Rev. Dantica became violently ill at the interview and was sent to the hospital, an ICE official told the lawyer that Rev. Dantica would be released as soon as he was stabilized. Yet the same official would not allow family members to visit him in the hospital. What possible security threat could there be if Rev. Dantica was going to be released?

At the hospital, he was not seen by a doctor for 24 hours. By then it was too late. Rev. Dantica died on Nov. 3, 2004, without seeing his son again.

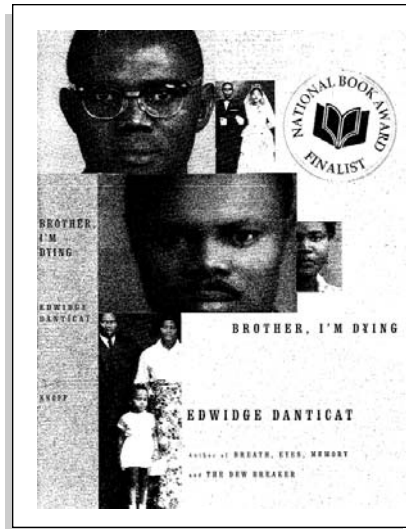
Rev. Dantica's niece Edwidge Danticat was not allowed to visit him, either. A celebrated author, she has since written *Brother, I'm Dying*, a prizewinning memoir chronicling his ordeal. In her words:

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*My uncle was treated like a criminal when his only crime, like many asylum seekers, was thinking he could find shelter in the United States.*

---

“My 81-year-old uncle, Joseph Dantica, escaped gang warfare and threats to his life in Haiti and fled to Miami. He had a valid multiple-entry visa, but when immigration officials at Miami International Airport asked how long he’d be staying in the United States, he explained that he would be killed if he returned to Haiti and that he wanted ‘temporary’ asylum. He was immediately arrested and taken to Krome detention center, where his medicine was taken away. He died a few days later. My uncle was treated like a criminal when his only crime, like many asylum seekers, was thinking he could find shelter in the United States.”<sup>41</sup>



U.S. Rep. Kendrick Meek, FIAC and others had to request an investigation into Rev. Dantica’s death. FIAC believes that the investigation conducted by the Department of Homeland Security Office of Inspector General (OIG) was a whitewash and wrote a detailed letter of complaint.<sup>42</sup>

Unfortunately, the inspector general squandered an opportunity to hold DHS and ICE accountable and to insist on medical policies and procedures to prevent needless deaths. U.S. Rep. Meek has asked the DHS Inspector General to “review and evaluate the claims raised by FIAC.”<sup>43</sup>

The sad truth is that ICE treated Rev. Dantica as if he were a criminal when he broke no law, had a valid visa to enter the United States and should never have been thrown into immigration detention. He came to this country to save his life and ended up losing it in ICE custody.

ICE’s detention and mistreatment of asylum seekers is not rare. Among other examples featured in this report are the cases of Amina Bookey Mudey and Zena Asfaw in the Mismanaged Medication section.

#### At Risk of Seizures

Valery Joseph suffered from seizures and was mentally challenged. He was 23 when he died at the Glades County Detention Center on June 20, 2008. Only a month later the same ICE-contracted jail failed to treat detainee Miguel Bonilla, and he almost died from a ruptured appendix. (Mr.

Bonilla’s ordeal is detailed in the next section: Abuses in Medical Care.)

Mr. Joseph came to this country from Haiti as a boy but didn’t finish high school. Public-school records show that he was classified as “mentally handicapped.”<sup>44</sup> He left school illiterate.

A U.S. resident, Mr. Joseph came to ICE’s attention after he served a short sentence on a robbery charge. Jail records note his “psychiatric history” and two suicide attempts while incarcerated.<sup>45</sup> After he completed the jail term, ICE detained him at Krome and began deportation proceedings.

At Krome, Mr. Joseph recognized the importance of medical attention. In a letter to an immigration judge there, which he dictated to a friend, Mr. Joseph said:

“I don’t, and really can’t imagine, how someone like me would make it to Haiti.... I truly, verily thank God for being in America able to get help from those expensive meds. If, unfortunately you would send me back to Haiti, my life would considerably being destroy. [Sic]”<sup>46</sup>

His medical and mental issues appeared to worsen significantly after he was transferred to the Glades facility in February 2008. Mr. Joseph’s medical records paint a portrait of his increasingly anxious and desperate behavior. Shortly after his arrival, he had a seizure and was taken to a hospital emergency room. Less than three weeks later, he was found on the floor having another seizure.<sup>47</sup>

After the first seizure, he asked to be housed in the medical area because of his medical and mental-health issues. In a jail incident report, a jail officer documents Mr. Joseph’s complaint:

“Joseph stated to me that he felt as though he should be housed in medical because he has seizures frequently and does not feel safe in the pod because of his condition. Joseph stated that he is on seizure medication and mental-health medication and has always been housed in medical due to his physical and mental condition.

“I advised Joseph that he had been cleared from medical and I could place him in protective confinement if he felt as though his safety was at risk. Joseph declined and

stated that he wanted to be transferred back to Krome where he could be better cared for.”<sup>48</sup>

The transfer back to Krome never happened.

But at least one detainee who befriended Mr. Joseph at Krome had worried that he would have problems after the transfer. “Sam” described Mr. Joseph as being visibly abnormal. He told FIAC that Mr. Joseph looked “cross-eyed” and visibly “retarded,” and other detainees would poke fun and torment him because of his appearance was not even be able to articulate that he was not receiving proper medical care.

“Anyone could see that this was someone with severe mental disabilities who should not have been housed with the general detention population,” Sam said.<sup>49</sup>

After three months at Glades, it was clear Mr. Joseph was deteriorating. A psychiatric note describes his state: “Reports presently hearing voices.... Staff reports [patient] exhibiting bizarre behavior: talking to self .... Poor sleep.” Four weeks later, medical records state that Mr. Joseph attempted “suicide by hanging.”

Medical staff was well aware of his history of seizures, psychiatric issues and suicide attempts. Yet the staff repeatedly cleared Mr. Joseph to be placed in “confinement,” a practice typically used to discipline detainees, despite his having most contraindications for confinement: taking psychotropic medication, history of self-harm, diagnosed with major mental illness, among others. His stays in confinement became more frequent. The special accommodation: Mr. Joseph would be placed in a low bunk while in confinement.<sup>50</sup>

Dr. Kenneth Fischer, a neurologist who reviewed Mr. Joseph’s medical records, noted that there were wild swings in his levels of his anti-seizure medication. Could the medical staff have better controlled the medication levels? It was not clear what caused the wide fluctuations in those levels. These fluctuations, however, may have contributed to the seizure that ultimately caused Mr. Joseph’s death. When he died, he was in confinement.

Family members say that Mr. Joseph appeared to have more severe and frequent seizures after being transferred to Glades. Jacqueline Fleury, Mr. Joseph’s mother and a FIAC client, said her son complained that ICE officers stripped him naked at times and subjected him to long periods of confinement in very cold conditions.<sup>52</sup>

A person who suffers seizures should not be left alone and unmonitored for long periods of time. As his mother said, “If he was on medication and had seizures they should have been watching him.”<sup>53</sup>

Two Glades detainees told FIAC that Mr. Joseph had been in the “hole,” the inmates’ term for confinement. One of them said:

“I knew Joseph because, when I was in the hole, I was in the cell next to his. I was in the hole for 30 days back in May for instigating a small riot when I was beaten by a guard. I got three 10 day charges in the hole as punishment. Joseph was in there when I went in and he was still in there when they let me out.... A couple of weeks ago, one of the guards ... said this guy, Joseph, had died in the hole.”

“I didn’t talk much with him, but I don’t think Joseph was normal. He wasn’t all there. He didn’t seem to associate with many people. They mostly kept him in the hole. If he was out in the pod more than a couple of days that was a lot. I think the guards picked on him.”<sup>54</sup>

Ms. Fleury first learned of her son’s death in ICE custody from his fiancé, who apparently was notified by a chaplain from the Krome detention center. Ms. Fleury and other family members went to the Glades jail in an attempt to get more information about Mr. Joseph’s death. No one there would give them any information. Instead, they were told to go to Krome, a 90 to 100 mile drive, which they did.



July 3, 2008

Richard L. Skinner  
Office of the Inspector General  
U.S. Department of Homeland Security  
Washington, DC 20528

Dear Inspector General Skinner:

I write to request a formal investigation and a copy of the subsequent Report of Investigation into the death and unusual posthumous handling of Mr. Valery Joseph. Further, I request a copy of the Department’s protocols with respect to the disposition of the remains of those who die while under the custody of the Department.

As I understand the situation, Mr. Joseph, a Haitian born detainee, was found dead on Friday June 20, 2008 in the Glades Correctional Institution in Glades, Florida. After spending four months at the facility, a healthy Mr. Joseph was scheduled for a hearing with possible release to his family on July 3rd, 2008.

Even more disturbing is the manner in which Immigration and Customs Enforcement (ICE) Officials ordered an autopsy of Mr. Joseph’s body before even notifying the family of his death. Only after the family made numerous calls over several days to ICE to determine Mr. Joseph’s whereabouts, did the ICE Chaplain call to notify the family of his recent death. Finally, when Mr. Joseph’s mother went to claim her son’s body, the funeral director had to explain that Mr. Joseph’s cadaver had been dissected during the autopsy and was not suitable for viewing.

This situation is of great concern to me, and I would appreciate your response to it. I look forward to your prompt attention to this matter.

Sincerely,

S/

KENDRICK B. MEEK  
Member of Congress

I don't and really can't imagine, how someone like me would make it to Haiti. I truly, verily thank God for being in America, able to get help from those expensive meds. If, unfortunately you would send me back to Haiti, my life would considerably being destroyed...

Valery Joseph's letter



At Krome, they were not allowed past the guard station. Eventually, the Krome chaplain walked out to inform them that all he knew was what he heard on the news, that Mr. Joseph had died. After getting no responses from ICE officials, the family said they had to hire an attorney to locate Mr. Joseph's body.

Since then, FIAC has attempted to obtain numerous public records related to Mr. Joseph's detention, medical care and death at Glades. Since Glades is a county jail, it is clearly subject to Florida's public records laws. Yet Armor Correctional Health Services, the ICE contractor that provides medical services to detainees at Glades, has denied FIAC records relating to the facility's medical and mental-health policies, confinement and use-of-force policies, medical staffing and job descriptions. FIAC may have to file a lawsuit to get these public records.

ICE's medical system too often fails inmates like Mr. Joseph, who have serious medical and psychiatric conditions. The autopsy report cites "seizure disorder" as his cause of death.<sup>55</sup> While we do not know exactly all the factors that resulted in Mr. Joseph's death, we suspect medical mistreatment played a role and continue to investigate.

### Death by Denial

As an appeals court rightly noted, Francisco Castañeda was subjected to a "Kafkaesque nightmare" while in ICE custody.<sup>56</sup> He had come to this country at age 10 with his mother fleeing civil war in El Salvador. A longtime U.S. resident, he was being deported after a four-month term for drug possession.

In March 2006, ICE placed him at a San Diego detention facility. As soon as he arrived, Mr. Castañeda complained of a lesion on his penis that was growing, oozing, and increasingly painful. For 11 months, ICE's Division of Immigration Health Services (DIHS) in Washington, D.C., denied repeated requests for a biopsy and other doctor-recommended procedures. The reason: procedures to determine if he had cancer and to alleviate his condition were deemed "elective."<sup>57</sup>

After vigorous advocacy by the American Civil Liberties Union (ACLU), ICE finally scheduled a biopsy for February 2007. ICE then avoided paying for it, and any other cancer treatment, by

abruptly releasing Mr. Castañeda from custody. By then, the untreated cancer had spread.

Mr. Castañeda died on February 16, 2008, at age 36 – one year after his penis was amputated in an attempt to stop the cancer that spread while he was denied crucial medical care in ICE detention.

*Francisco Castañeda's complaint*

Recently, government documents revealed how some medical staff members attempted to falsify Mr. Castañeda's complaints and to mischaracterize his medical state while in custody. Some staff members not only ignored doctor recommendations to treat him, but also may have lied about those recommendations. In an e-mail obtained by the

Washington Post, a physician assistant at the facility where Mr. Castañeda was held tells a medical staffer to alter a complaint that Mr. Castañeda had filed and had not been resolved.

"We need to write something different, or make some amendment, on the Grievance for Francisco Castaneda," Physician Assistant David Lusche wrote. "...Your response starts, 'Grievance not resolved.' Those words are going to attract all kinds of attention during an ICE Jail Standards audit.... Could you somehow 'patch up' that Grievance with an amendment then put it in my box. I just want to avoid problems when the Auditors show up."<sup>58</sup>

A wrongful-death lawsuit, *Castañeda v. Henneford*, is pending. ICE already admitted that its negligence caused Mr. Castañeda's death. Under California law, this admission makes the federal government subject to paying damages of up to \$250,000. More recently, an appellate court upheld the lower court's decision to allow Mr. Castañeda's daughter to sue federal doctors and employees individually on the grounds that they were "deliberately indifferent to his condition" and violated his constitutional protection against "cruel and unusual punishment."<sup>59</sup>

In the lower court ruling, U.S. District Court Judge Dean D. Pregerson wrote a scathing critique of Mr. Castañeda's medical mistreatment by medical staff while in ICE custody:

"Plaintiff has submitted powerful evidence that defendants knew Castañeda needed a biopsy to rule out cancer, falsely stated that his doctors called the biopsy 'elective,' and let him suffer in extreme pain for almost one year while telling him to be 'patient' and treating him with Ibuprofen, antihistamines and extra pairs of boxer shorts."

"Everyone knows cancer is often deadly. Everyone knows that early diagnosis and treatment often saves lives. Everyone knows that if you deny someone the opportunity for an early diagnosis and treatment, you may be – literally – killing the person. Defendants' own records bespeak of conduct that, if true, should be taught to every law student as conduct for which the moniker 'cruel' is inadequate."<sup>60</sup>

### An Agonizing Death

Hiu Lui Ng suffered agonizing abuse while in ICE lock-ups. As in Mr. Castañeda's case, medical staff failed to diagnose or treat a cancer that spread while he was detained. Tragically, Mr. Ng's broken spine was not detected nor treated despite his repeated complaints of excruciating pain for four months. He died in ICE custody at age 34.

A scathing ICE investigative report describes his brutal treatment, particularly one videotaped incident in which Mr. Ng was forcibly dragged by detention officers while he cried and screamed in pain. Detention officials cursed at him and accused him of faking his illness. He was denied medication, medical care and a wheelchair when he was too weak to walk and a doctor had requested one for him. The report also points out multiple violations of ICE National Detention Standards in medical care and use of force, among others.<sup>61</sup>

According to family members and his lawyers, Mr. Ng began complaining of back pain and itchy skin in April 2008. At the time he was detained at the Franklin County Jail in Vermont, which had no medical staff. He asked to be transferred to the Donald W. Wyatt detention facility in Rhode Island, a large ICE-contracted prison with in-house medical staff.<sup>62</sup>

There, detention staff subjected Mr. Ng to terrible abuse, in apparent attempts to prove that he was faking his illness. Arriving at Wyatt on July 3, 2008, he spent the first three days in pain while in a dark isolation cell. Officials required him to come down from his upper bunk at least three times a day for head counts even though the climbing caused him horrific pain, especially as his condition deteriorated.<sup>63</sup>

The ICE report notes instances when Mr. Ng was denied appropriate medical care and subjected to unwarranted use of force.

When he could not get out of his bunk and go to the cell door to get his prescribed medication, a nurse wrote in medical records that Mr. Ng "refused" to take his medication. Given the severity of his condition, it was evident to ICE investigators that Mr. Ng was "physically unable" to get out of bed without assistance. The report concluded: "By failing to take appropriate action bringing the prescribed medication directly to Mr. Ng, the facility had effectively denied Mr. Ng the medication."<sup>64</sup>

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*A scathing ICE investigative report describes his brutal treatment, particularly one videotaped incident in which Mr. Ng was forcibly dragged by detention officers while he cried and screamed in pain.*

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On another occasion Mr. Ng missed an appointment for a doctor-prescribed CT scan because he could not move without a wheelchair and Wyatt detention officials refused to provide him one. Investigators saw this as an unwarranted denial of medical care. They noted another incident in which he was denied access to see his attorney when detention

officials would not provide a wheelchair and Mr. Ng was unable to stand, much less walk to see his attorney who had come for a meeting.<sup>65</sup>

One particularly cruel instance was videotaped only a week before his death. Wyatt officers pulled Mr. Ng out of his bed. Despite his screams and pleas for a wheelchair – and a doctor's order to provide him a wheelchair – officers dragged him forcibly down a hallway, bruising his arms and legs while his feet trailed on the floor. When he told a nurse that he could not walk to the van on his own, the nurse "stated he could go, he was just refusing to go." Officers placed him in shackles and forcibly took him to a van.<sup>66</sup>

Mr. Ng was then driven two hours to an ICE Office in Hartford, Connecticut, where an ICE officer pressured him to withdraw all pending appeals of his case and accept deportation."<sup>67</sup>

While overhead video monitors filmed the entire incident at Wyatt, a camcorder used by Wyatt staff was turned on and off 13 times at captain's orders. It was an apparent attempt to show Mr. Ng's refusal to cooperate and prove he was faking illness. During the painful process, the captain in charge told Mr. Ng to "stop whining" and called him a "f\*\*\*king idiot."<sup>68</sup>

ICE investigators found multiple violations of ICE's use-of-force standard, which prohibits using force against a detainee offering no resistance. That "Wyatt officials took Mr. Ng by his upper extremities and dragged him from his cell to R&D unit and into the awaiting van" also was a violation.<sup>69</sup>

Family members had to sue ICE to get Mr. Ng medical care and relief from abusive treatment. By the time a federal judge ordered ICE to take him to a hospital, the diagnosis was terminal. Cancer riddled his liver, lungs and bones. He died five days later.

Here was a young man who came to New York as a teenager and overstayed his visa years ago. He married a U.S. citizen, had two children and a career as a computer engineer. He landed in custody for trying to do the right thing: ICE locked him up when he went to his last interview for a green card after his wife applied to legalize his status. Why did ICE detain him when he had committed no crime and posed no danger the community? He should not have been detained in the first place.

In December 2008, ICE authorities investigating Mr. Ng's death removed all 153 detainees from the Wyatt detention facility.<sup>70</sup> Now Mr. Ng's widow and children, aided by the ACLU, are suing ICE, Wyatt detention center's owner and numerous individuals. Among other complaints, they are charging brutality and constitutionally inadequate medical care.<sup>71</sup>

### Two Deaths in Two Years

ICE's internal investigation of Mr. Ng's death and subsequent removal of detainees from the contract facility are commendable. Had ICE taken similar action at the Piedmont Regional Jail in Virginia after a death there in 2006, Guido Newbrough might still be alive.

Instead, Mr. Newbrough died in November 2008 from endocarditis, a heart-valve infection that often is successfully treated with antibiotics. The infection ravaged his organs as jail guards ignored his complaints of pain, put him in isolation, and left him untreated, according to accounts from detainees and his family.<sup>72</sup>

Mr. Newbrough was born in Germany, where his mother met and married a U.S. Air Force sergeant. His parents brought him to the United States when he was 6 years old. He died at age 48 – after 42 years of believing that he was a U.S. citizen. He found out that he wasn't when ICE detained him at the Piedmont jail in February 2008. The reason: Six years earlier, Mr. Newbrough had taken a plea deal in which he denied his guilt but admitted there was enough evidence to convince a

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*The Sunday before Thanksgiving, he pounded the door of the lunchroom, yelling for help. He was crying, trying to tell the guards about his medical requests. Guards threw him on the floor, dragged him, and put him in isolation. He died the day after Thanksgiving.*

---

jury to convict him of molesting his girlfriend's daughter. He served less than a year for the offense.<sup>73</sup>

Once in detention, Mr. Newbrough began fighting his deportation in immigration court. Nine months after arriving at the Piedmont jail, he started complaining of terrible back pain and stomach aches. He told his family he had talked to the medical staff but, "They just don't care."<sup>74</sup>

Fellow detainees described Mr. Newbrough's increasing discomfort and pleas for medical attention. He was sobbing all night because of the pain, and other detainees began making him hot compresses. The Sunday before Thanksgiving, he pounded the door of the lunchroom, yelling for help. He was crying, trying to tell the guards about his medical requests. Guards threw him on the floor, dragged him, and put him in isolation. He died the day after Thanksgiving.

Dr. Homer Venters, a detention healthcare expert, reviewed the autopsy report and information provided by Mr. Newbrough's family. He told the New York Times that endocarditis is lethal when not treated. The death rate is 25 percent or less with modern hospital care.<sup>75</sup>

Mr. Newbrough's ordeal recalls other deaths in detention, including that of Abdoulai Sall, another detainee who had died at the Piedmont jail in 2006. Mr. Sall, 50, was a mechanic from Guinea with no criminal record. He died after his kidneys failed over the course of several weeks.<sup>76</sup>

In that case, an internal review by ICE's Office of Detention and Removal was an indictment of Piedmont's medical care. The review concluded that:

"The facility failed on multiple levels to perform basic supervision and provide for the safety and welfare of ICE detainees....Staff did not follow established policy, procedure, and practice....

"The medical unit does not meet minimum ICE standards.... Staff selectively follows procedure and readily admits they do not follow established custodial medical policy and procedure. The line of communications in the medical department at this facility is poor, and detainee health care is in jeopardy."<sup>77</sup>

Despite this damning assessment, ICE did not remove immigration detainees from Piedmont. ICE knew that medical care was seriously deficient yet failed to ensure that those deficiencies were corrected there. Nor did ICE make the report public until the ACLU requested it. Instead, ICE officials publicly defended the medical care provided to Mr. Sall and all detainees as Congress and the media questioned the healthcare provided in ICE custody.<sup>78</sup>

Mr. Newbrough paid the ultimate price for ICE's failure to act to protect the welfare of detainees who have no other recourse for medical care. Now ICE is conducting another investigation of medical care at Piedmont and has suspended placing more detainees at the facility. As of February 15, 2009, however, 53 detainees remained at that jail.<sup>79</sup>

### The Littlest Victim

Children are not exempt from dying in the custody of DHS immigration authorities. The case of 14-day-old Michael Futi is every parent's horror. Born with a hole in his heart, Michael had been flown to Honolulu from Samoa for emergency surgery. He never left the airport. He died after being detained by U.S. Customs and Border Protection (CPB) officers – even though he and his nurse were U.S. citizens.

Doctors detected the boy's heart defect soon after his birth in American Samoa. But the surgery that he needed was not available there. So a local hospital made arrangements for Michael to travel to a hospital in Honolulu for urgent evaluation and treatment. Michael was hooked up to an oxygen tank during the five hour flight to Hawaii.<sup>80</sup>

His mother, Lauipou Futi, obtained a U.S. visa waiver that allowed her to travel to the United States with her son and to stay during his medical treatment. He, his mother and nurse were the first people off the plane. They expected to be taken straight to the hospital, a 10 to 15 minute ride.<sup>81</sup>

The nurse and baby were cleared through immigration without a problem. But CPB officers questioned Ms. Futi's visa. Then, inexplicably, CPB put all three of them into a locked room, despite the nurse's pleas to let her and the sick baby continue on to the hospital.<sup>82</sup>

At that point, Michael had been off of oxygen for 13 minutes, according to a timeline from the medical examiner's office provided by the Futi family's lawyer. Five minutes later, Michael began to breathe erratically and his skin mottled. The nurse began to scream "Call 911" and to bang on the locked door. CBP voices outside the door told her to calm down. She began resuscitation on the baby.<sup>83</sup>

Imagine the panic. The two women and the baby are locked in a room. The baby goes into respiratory distress. Government officials will not let anyone out. The nurse is doing all she can to keep the baby alive, including putting her finger in the child's hand to reassure him. But the door stays locked for more than 30 minutes.

Michael released his grip on the nurse's finger at 6:12 a.m., February 8, 2008. By the time the paramedics arrived, he had no vital signs.<sup>84</sup> He died due to lack of oxygen, according to the medical examiner.<sup>85</sup>

Now the family is suing the federal government. The lawsuit accuses CBP staff of "carelessly and negligently" delaying Michael's U.S. entry, thus, causing his death.

There is no justification for CBP detaining two U.S. citizens with valid passports, much less when they had flown in to obtain emergency medical attention. Michael's death was as tragic as it was needless.

### AIDS Meds Denied

Victoria Arellano, 23, had little chance of surviving ICE's San Pedro detention center in California. A transgender immigrant from Mexico, she was detained for being in the country illegally after a traffic stop in May 2007. Though she had AIDS at the time she was detained, she was on medication that controlled the illness. By all accounts, she exhibited no symptoms before taken into ICE custody.<sup>86</sup>

**Division of Immigration Health Services**  
*El Centro ICE Medical Facility*  
 1115 North Imperial Avenue  
 El Centro, CA 92243  
 (760) 336-4644



#### Off the record observations and recommendations.

1. The clinical staff at all levels fails to recognize early signs and symptoms of meningitis. In an advanced AIDS patient with CD4 counts of less than 100 and without proper prophylaxis treatment a severe headache associated with nausea and vomiting must raise the suspicion of a CNS toxoplasmosis or a Cryptococcal meningoencephalitis. It was evaluated multiple times and an effort to rule out those infections was not even mentioned.
2. It was brought to my attention by the San Pedro HSA and some staff members that the Clinical Director mandated all providers to hold lab work to all new detainees. They are only allowed to order labs if the detainee is in the institution for more than 30 days. I am sure that there must be a reason why this was mandated but that practice is particularly dangerous with many chronic care cases and specially HIV/AIDS patients. Labs for AIDS patients (CD4 count and HIV RNA by PCR) must be performed ASAP to know their immune status and were you are standing in reference to disease control and meds. In this particular case it took them 22 days to perform the lab work.
3. Failure to address alternative prophylaxis medications to avoid opportunistic infections. There was no real evidence of allergic reaction to bactrim, azithromycin or dapsone as the patient claimed. Allergy testing and possible desensitization was very important in a case like this. Medications like fluconazole and itraconazole could have prevented infection with Cryptococcus. Use of atovaquon or pentamidine is useful for PCP prevention. There was no documentation (provided) that prophylaxis was necessary.
4. Inappropriate use of Cipro with incorrect dosing. Cipro was ordered by the physician for the treatment of URI. The dose was ordered as 500 mg po stat then 250 mg daily for the next 4 days. Resistance to Cipro by many organisms is well documented. In an immunosuppressed AIDS patient this antibiotic for treatment of URI is completely useless.

*DIHS's critical review of Ms. Arellano's medical care*

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*The combination of cruel, inept and negligent care proved fatal. An attempt to save money cost this detainee her life.*

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At San Pedro, she reported her medical history and medication needs. The medical staff denied her the medication even though it is critical to preventing opportunistic infections that can quickly cause death in people with AIDS. Not

surprisingly, Ms. Arellano's health began to deteriorate. She soon developed a cough and fever, for which she should have been hospitalized but wasn't. Instead, medical staff gave her an antibiotic that did not treat her illness.<sup>87</sup>

By July, Ms. Arellano was vomiting blood and showed blood in her urine, according to cellmate testimony and statements. She became increasingly weak, but medical staff only told her to take Tylenol and drink fluids.<sup>88</sup>

Horrified at her treatment and suffering, fellow detainees cooled Ms. Arellano's fever with damp towels. She complained of severe pain, nausea and stomach cramps. Cellmates used a cardboard box to collect her vomit. One night, an ICE captain put his shoe on her pillow and rudely asked, "What's wrong with you?" After her cellmates protested, she was taken to a hospital, but not before being placed in a holding cell and taunted by security staff.<sup>89</sup>

A week later she died of meningitis, a disease commonly seen in cases of advanced AIDS.

Government documents unearthed by The Washington Post suggest how San Pedro medical staff botched care for Ms. Arellano. A review of her death by DIHS' top specialist on infectious diseases, Dr. Carlos Duchesne, notes that San Pedro's clinical director had prohibited lab tests for any detainee who had been in the facility for less than 30 days.<sup>90</sup> This was a violation of ICE medical guidelines as well as established medical ethics.<sup>91</sup>

Dr. Duchesne's review pointedly noted the lab tests should have been run on Ms. Arellano immediately. Instead, those tests were delayed by 22 days as a result of the policy. Such a delay could be a death sentence for any detainee with AIDS, HIV or any other condition that weakens the immune system. Dr. Duchesne didn't mince words about the lab-test ban in his review:

"...That practice is particularly dangerous with chronic care cases and [e]specially is particularly dangerous with ... HIV/ AIDS patients. Labs for AIDS patients ... must

be performed ASAP to know their immune status and where you are standing in reference to disease control and meds....

"The clinical staff at all levels fails to recognize early signs and symptoms of meningitis.... Pt was evaluated multiple times and an effort to rule out those infections was not even mentioned."<sup>92</sup>

Without test results, ICE medical staff gave Ms. Arellano a "completely useless" antibiotic.<sup>93</sup> The combination of cruel, inept and negligent care proved fatal. An attempt to save money cost this detainee her life. The following year, ICE touted the savings from denying "treatment authorization requests" – including \$129,713.62 saved by denying HIV treatments.<sup>94</sup>

After Ms. Arellano's death, more than 20 cellmates who had witnessed her mistreatment were quickly shipped to detention centers nationwide. Such transfers often separate detainees from their family and lawyers. The tactic also often succeeds in keeping detainees from speaking out for fear of further retaliation.<sup>95</sup>

Though continuity of HIV drugs is critical, lapses in their administration occur too often in immigration custody. In 2006, a transgender detainee from South America reported not receiving his HIV medications on several occasions at the Krome detention facility in Miami.

Once, ICE officers failed to escort him to get medications after a shake-down in the dorms. About a week later, medical staff failed to give him medication for three days. Later, the nurses were dispensing less than half of the prescribed doses of one of his two drugs. As noted above, such interruptions can seriously endanger the health of people with HIV. FIAC complained on his behalf.<sup>96</sup> Ultimately the detainee was deported, and FIAC is unaware of the state of his health.

### Deaths Yet Unknown

Because there is no mandatory reporting of deaths in immigration custody, and ICE contracts with hundreds of detention facilities nationwide, the actual number of deaths in detention remains uncertain. Over the years detainees have alerted FIAC to suspected deaths in ICE custody.

In late July 2007, for example, a detainee wrote FIAC about a Haitian woman at the Glades County Jail in Moore Haven, Florida, who may have died following her collapse. The detainee said she coughed blood and begged for medical attention for hours and fell to the ground. She had no pulse

when taken away. Detainees hadn't seen her since and "think she is dead."<sup>97</sup> FIAC was unable to confirm what happened to this woman.

Other reports of detainee deaths pre-dating ICE's creation in 2003 are noted in the Background section of this report.

Immigration authorities are not required to report detainee deaths to any central authority. Thus, no master list publicly existed until the New York Times requested one under the Freedom of Information Act and published it in May 2008.<sup>98</sup>

ICE listed 66 names of detainees who, like Reverend Dantica, had died between January 2004 and November 2007 – a period in which ICE detained nearly a million people. The list contained few details, and even those details were not reliable. With increased scrutiny, other names and allegations of medical mistreatment have surfaced. We cannot be sure of how many people have died in ICE custody.

Requiring ICE to report all deaths by law, and the circumstances of those deaths, would provide some measure of accountability. Until such reporting is mandatory, we can only wonder how many detainees have lost their lives behind closed doors, far from loved ones and removed from the public eye.

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*Because there is no mandatory reporting of deaths in immigration custody, and ICE contracts with hundreds of detention facilities nationwide, the actual number of deaths in detention remains uncertain.*

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## Abuses in Medical Care

*“At the clinic, I could no longer speak, only cry. A nurse told me she was sorry, but that the doctor had resigned so there was no doctor. I sat in a chair and clutched my stomach. The nurse asked me if I had I had been given bad news by the court or if I had heard bad news about my family – and that was why I was feeling bad.... I thought I was going to die.”<sup>99</sup>*

**Miguel Bonilla, suffering a ruptured appendix in ICE custody**

Inadequate medical and mental healthcare are among the most common complaints from immigration detainees nationwide.<sup>100</sup> Detainees report undue delays in obtaining proper medical care or outright denial of such care. Even emergency treatment is delayed or ignored. Another complaint is that nonviolent, mentally ill detainees are placed in segregation, which often worsens the illness.

When detainees are transferred to another facility, their medical records and prescription drugs often are left behind. Even detainees with serious and obvious symptoms are accused of “faking” an illness. They are shackled and handcuffed during transport and in the hospital, even when doing so causes them serious pain, discomfort and humiliation. In FIAC’s experience, detainees are always placed in criminal prison wards upon hospitalization.

Fear of retaliation frequently prevents detainees from seeking appropriate medical care. Sometimes, detainees who attempt to get proper medical care are placed in lockdown. Detainees also report they have been threatened with transfers, and in some cases transferred, after complaining about their or other detainees’ medical care.

Cruel, indifferent and negligent medical care can scar immigration detainees for life. Sometimes the attempt to cut medical costs ends up costing ICE more, particularly when a detainee is denied care and develops severe complications or ends up in the emergency room. ICE is paying more, too, to fight and settle the increasing number of lawsuits by detainees demanding redress for medical mistreatment.

The following cases illustrate numerous problems with the healthcare provided in immigration custody.

### Life-Threatening Emergency

Miguel Bonilla Cardona, a FIAC client, almost died from a ruptured appendix at the Glades detention facility – the same jail where Valery Joseph had died a month before. Mr. Bonilla agonized for a week before a nurse saw him doubled over from the pain and sent him to a hospital where he had emergency surgery. Not once did a doctor see or examine him at the jail. Nurses offered no relief for his acute pain. Except for the nurse that finally sent him to a hospital, jail staff did not appreciate the urgency of his medical needs. A treatable condition turned into a life-threatening emergency that kept Mr. Bonilla in the hospital for 11 days.

Mr. Bonilla arrived in the United States from Honduras in 1998 and has no criminal history. He was detained by ICE at the Port of Miami although he had no order of deportation. Until then, he worked and supported a family that includes two U.S.-citizen children.

He was the picture of health when he arrived at the Glades jail in July 2008: no existing medical or mental-health problems. He didn’t smoke, drink alcohol or take drugs, prescription or otherwise.

As he began feeling sicker and sicker, Mr. Bonilla complained repeatedly of increasing pain. Medical staff at the jail failed to recognize the symptoms of acute appendicitis, a condition that “a first year medical student should be able to recognize,” according to a gastroenterologist told about Mr. Bonilla’s symptoms.<sup>101</sup> Nor did staff order tests or treatment.

Mr. Bonilla, 30, described the harrowing week he tried to get medical care.<sup>102</sup> First came his abdominal pains. Every time he swallowed food he would vomit. He filled out one or more requests for medical help daily.

He repeatedly asked for a doctor, pills, anything to stop the pain as it worsened. Nurses at the Glades jail gave him Pepto-Bismol, Maalox, salty soup and sent him back to his cell. When he complained that he couldn’t eat, one officer told him not to worry: He could live without eating for 30 days.

Cellmates recognized his agony, helped him to the bathroom, and tried to make him feel better. Glades medical staff did not recognize the severity of his condition.

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*...family members were not allowed to visit or speak to him by phone in the hospital...No one at the hospital would give them any information about his condition, not even whether he was critical or stable, "because he's detained."*

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Two days before he was sent to the hospital, the pain was so intense that Mr. Bonilla said, "My stomach felt as if it was exploding."<sup>103</sup> Burning up with fever, he curled up, hands and knees on his stomach. He cried continuously. He thought he was going to die. Only the thought of his two children kept him going. The nurses told him he could see a doctor the following week.

Two days later, pain had rendered Mr. Bonilla speechless. Two Glades nurses still denied him care. He was in a chair clutching his stomach when another nurse, one he had not seen before, quickly recognized his condition. Her action likely saved his life.

Mr. Bonilla spent 11 days in the hospital. He was handcuffed and shackled in transit. After the surgery, he had tubes inserted in him to combat raging infections. Glades guards shackled his feet as soon as he regained consciousness. In his room, he overheard one nurse say that he would have died had he arrived one hour later.

During this period, his family frantically was trying to find out what had happened to him. FIAC learned of his plight from his sister-in-law, who called after driving from South Carolina to Mr. Bonilla's immigration hearing in Miami. When Mr. Bonilla did not show up in court, the judge asked a Glades jail officer where he was. That is how his family found out he was in a hospital. ICE did not contact the family to notify them.<sup>104</sup>

This was a violation of ICE's current detention standard, which requires ICE to notify next of kin when a detainee is "seriously injured or ill." ICE is supposed to inform the family member of the detainee's medical condition, location and visiting hours and to "provide as much opportunity for visitation as possible."<sup>105</sup> Little of this information was provided to Mr. Bonilla's family. Nor were visits allowed.

When the family called the Glades jail, the person answering the phone confirmed that Mr. Bonilla was in the hospital due to a ruptured appendix. However, Glades personnel who answered repeated calls would not say which hospital "for security reasons."

After several days, worried that Mr. Bonilla was dying, the family frantically called and finally got the hospital's phone number. Nonetheless, family members were not allowed to visit or speak to him by phone in the hospital.

No one at the hospital would give them any information about his condition, not even whether he was critical or stable, "because he's detained."<sup>106</sup> Such isolation and inhumane treatment not only was a violation of ICE's own standard, but also unnecessary for a man who had just survived a near-death experience. Most likely, family contact would have sped his recovery and healing.

Mr. Bonilla still wasn't feeling well when he was released from the hospital. "Everything hurt in my body," he said.<sup>107</sup> But ICE transferred him that day to the Krome detention facility in Miami, a grueling 115 mile trip in his condition. Getting on the bus, which had high steps, was distressing:

"I couldn't raise my foot high enough to climb up the steps because it hurt so much," Mr. Bonilla said. "I tried and tried with Glades officers watching me. I finally had to climb up the steps on my knees."<sup>108</sup>

That wasn't the end of the cruelty. At Krome, he was placed in a cold room around 4 p.m. He ended up spending the night there on a cement bench and in pain. He didn't see the doctor until the next morning. Mr. Bonilla asked for pain medication. But the doctor told him he could not give it because his medical records had not been sent when he was transferred from the Glades detention facility.

Not sending records is another violation of medical standards and particularly egregious in this case, given that Mr. Bonilla had just left a hospital and had not fully recovered from a grave illness. He wasn't seen again by the doctor or by any other medical staff at Krome. Nor was he given any medication during his eight days of confinement there.

Even his release turned into an obstacle course. Though an immigration judge granted him parole and his family had the money to post bond, they had to wait two days for Mr. Bonilla to walk out the door. At one point, a Krome staff member told his family that Mr. Bonilla had to be given a medical check to ensure he was healthy so that advocates would not complain that he had been mistreated. That was an insult to family members who knew that he had suffered the lack of proper medical care while in ICE custody. Ultimately, Mr. Bonilla was released without a medical review.



## Suffering 2,000 Miles From Home

*"My heart is broken. My body feels like its falling apart and I am here in the county jail slowly dying. I was transferred to Arizona ... so I could get treated, but I'm in worse condition than ever."*<sup>109</sup>

- Yong Sun Harvill, after a year in a county jail contracted by ICE

FIAC also represents Yong Sun Harvill, who spent 15 months in ICE custody without receiving the intensive medical care her condition required. She suffers from a rare and serious set of illnesses, which ICE detention facilities consistently failed to treat. ICE also denied requests for her release on humanitarian grounds so that Ms. Harvill could obtain medical care herself. Ironically, she had good health insurance and doctors who could provide proper care at no cost to taxpayers.

Ultimately, she sued ICE with the pro bono help of FIAC and attorneys from the firm Steptoe & Johnson in Phoenix, Arizona, which led to her release in July 2008. Her case was also featured in a front-page story in The Washington Post's Careless Detention series.<sup>110</sup>

Ms. Harvill came to this country from Korea in 1975 as the teenage wife of a U.S. soldier. She has been a U.S. resident for more than 30 years, is married to a U.S. citizen and was 50 years old when detained by ICE. She has a history of cancerous tumors, hepatitis C, and liver disease. She also suffers from chronic lymphedema, a painful swelling of fluid in her left leg caused by past cancer treatments. Before ICE detained her and attempted to deport her, she was under doctor supervision, taking medication, and her illnesses were under control.

Medical negligence while in ICE detention caused a dramatic deterioration in Ms. Harvill's physical and mental health. She was in constant pain while detained and now faces an increased risk of complications that could shorten her life.

Ms. Harvill's ordeal began at Florida's Palm Beach County jail, which provided little to no medical care during her seven-week stay. FIAC asked ICE to release her due to her multiple and serious medical illnesses. In May 2007, ICE acknowledged the seriousness of her condition but claimed that no detention facility in Florida could accommodate her medical needs. Instead, she was transferred to the ICE-run Florence Service Processing Center in Arizona, "in order to provide for Mrs. Harvill's medical needs."<sup>111</sup>

Within the month, however, ICE moved Ms. Harvill again. This time she was sent to the Pinal County Jail, also in Florence, Arizona, where there was no on-site, full-time

physician on staff for months. In August 2007, the jail's Health Services Administrator told FIAC that neither the jail nor ICE's Florence facility had a physician on staff. In February 2008, a third of the jail's 29 medical positions were vacant, according to government documents obtained by the Washington Post.<sup>112</sup> Moreover, the closest emergency room to the jail was about 70 miles away in Phoenix.

In short, ICE moved Ms. Harvill more than 2,000 miles away from the people who could help her – her family, doctors and lawyers – only to isolate her in a jail that failed to provide the medical and mental-health services she needed. Equally troubling, ICE would not permit her to obtain medical care using her own insurance or medical equipment.

During her detention, a suspicious lump grew below her left knee and her leg swelled up to two to three times the size of her right leg. The damage to her leg was so great that the skin broke open in spots and secreted fluid. Nonetheless, during 15 months of detention, and despite the recommendation of jail medical staff, she was not provided the medical pump she needed to control the swelling. Nor was she allowed to use her own pump, which her family offered to send. She was not properly treated for the chronic pain caused by this and other conditions, either. Consequently, Ms. Harvill suffered severe and persistent pain for more than a year.<sup>113</sup>

Pinal medical staff also ignored Ms. Harvill's liver problems. Despite her hepatitis C diagnosis and history of cancer, ICE never provided the liver biopsy ordered by an oncologist. In August 2007, Pinal County Jail's health administrator told a FIAC attorney that it was jail policy not to treat inmates for hepatitis C. The reason given was that most criminal inmates were in jail for relatively short periods.<sup>114</sup>

Such a policy makes no sense for immigration detainees who are locked up more than a year, like Ms. Harvill, and could sustain life-threatening liver damage from hepatitis C.

Ms. Harvill also suffered numerous needless and agonizing trips to the public hospital in Phoenix. She had to wait in a freezing-cold holding cell while waiting to be picked up for the ride. The hour - 20 minute drive each way was grueling. "Every trip I take to the Maricopa County Clinic [MCC] is an ordeal and causes me further pain," she said. "I have to wait in a holding cell for ICE to pick me up and when they return me. I am unable to elevate my leg and sometimes have to sit on the floor for hours at a time waiting to be transferred."<sup>115</sup>

Once she got to the hospital, her records were not consistently available. She was typically seen by different doctors who ordered tests and treatments that were canceled by ICE or only provided after months of delay. The pain and frustration are evident in samples of Ms. Harvill's statements and journals:

"On August 13 [2007], the officers at PCJ woke me up around 6:00 a.m. to take me to the outside clinic, but ICE couldn't find my doctor's order. My appointment was for 8:30 a.m., but they didn't find the order until 8:00 a.m. and it takes an hour to get to the hospital in Phoenix. When we finally got to MCC [Maricopa County Clinic], the radiologist I finally saw decided that I didn't need the liver biopsy.

"About August 16, 2007, they took me to the Maricopa County Clinic and we waited four or five hours to see a doctor for less than 10 minutes. Nothing was done because the doctor just wanted to do a pap smear, which he didn't know I had already had done a month earlier. He said I needed to see another doctor for anything else and that they would have to schedule another appointment.

"About August 21, 2007, an ICE officer said he was going to take me to see the doctor. I told him that I had an immigration hearing that day, but they took me to Phoenix anyway. We were on the way to Phoenix when someone called the officer about my court hearing. So they asked me if I wanted to see the doctor or go to court. I felt I couldn't miss my court date so I didn't get to see the doctor. I'm still not sure which doctor I was going to see, whether it was for my liver, my abdomen, or my leg. No one told me....<sup>116</sup>

On September 20, 2007: "Woke up at 5:30 a.m. ICE picked me up. Went to Maricopa Medical Center. ICE officer thought I was going for a biopsy of my uterus. Pinal County [Jail] nurse thought I was going to the GI doctor. I didn't see any of them. I went to the oncology doctor. He asked if I had a liver biopsy. I told him no because they told me it was just a cyst not a tumor. He was upset. He already knew that but wanted a biopsy....

"We just waited there and that was it. Just like always. Turn around and nothing gets done. I've been in Florence 5 months. They send me everywhere but nothing gets done."<sup>117</sup>

On October 4, 2007, "I woke up at 5 a.m. I was taken to Florence detention center. I was there until 7 a.m. ICE officer picked me up. They said I was going to [get a]

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wanted a biopsy. The ICE officer agreed to it.  
He just asked me questions, and said how  
hard it was going on. We just waited  
there and that was it. Just like always.  
Turn around and nothing gets done. I've  
been in Florence 5 months, they send me  
everywhere but nothing gets done. I'm so  
stressed out. I'm thousands of miles from  
my family talking only for 10 min. with  
them costing \$26 dollars for every 10 min.  
Sometime I wonder if this is going anywhere.  
I'm back in Pinal County jail, the nurse  
Practitioner asked if I got blood work done.  
I said no, I didn't even go to no lab.

*Ms. Harvill's journal*

biopsy. .... We got to Maricopa to get registered. The receptionist told us that my biopsy had been rescheduled to Nov. 6. ICE officer told her it couldn't be because they had the order for today. She checked why it had been cancelled and she said that it was not from their end. It had to be from ICE medical. ICE officer was upset and said somebody should let them know when that happens.

"The receptionist said that I did have a CT scan at 11 a.m. at radiology. We got to radiology early, and they wanted to put me in a holding cell. The ICE officer told them it was not necessary. But they said it was policy... The scan only took 5 minutes. We got out of the hospital and the ICE officer said he felt bad for me because he has taken me to the hospital 4 or 5 times and they never do anything for me."<sup>118</sup>

Throughout Ms. Harvill's detention, FIAC submitted letters to ICE substantiating her fragile medical state and requesting that she be provided the necessary treatment. ICE consistently responded that DIHS "is currently able to meet Mrs. Harvill's medical needs".<sup>119</sup> Alternatively, FIAC repeatedly requested that she be released on humanitarian parole so that she could obtain that care using her own medical insurance.

Among the letters substantiating her condition was one from a doctor at the H. Lee Moffitt Cancer Center and Research Institute in Tampa, Florida, where Ms. Harvill had been a patient:

“Ms. Harvill’s disease is extremely debilitating and painful. She will need continued care at a facility familiar with these types of tumors as they will continue to occur and progress. If not treated properly they can become life-threatening.”<sup>120</sup>

A Board-Certified Oncologist, Hematologist and Internist in Miami, Florida, reviewed Ms. Harvill’s medical records. His letter noted:

“The consequences of continued incomplete and superficial care of Mrs. Harvill may include chronic infections, disability, recurrence and progression of tumors, deteriorating physical and mental health, and other complications that could even lead to her death.”<sup>121</sup>

Despite ICE claims, the medical experts concluded that Ms. Harvill was not getting the care demanded by her multiple illnesses. Dr. Lee Cranmer, director of the Melanoma/Sarcoma Program at the Arizona Cancer Center, examined more than 700 pages of her medical records. He stated:

“It is my professional opinion that Mrs. Harvill is suffering from a rare, severe and complex set of medical conditions for which she is not receiving necessary medical condition from ICE or the Pinal County Jail.

“First, Mrs. Harvill has a highly unusual and rare condition (aggressive fibromatosis, ... a rare genetic syndrome) that requires close periodic monitoring, including physical examinations and appropriate follow-up tests, to detect recurrence of this aggressive cancer, which can be life-threatening.

“Specifically, because of her history of aggressive fibromatosis, she needs to be seen regularly by an oncologist with expertise in desmoid tumors who can establish an ongoing relationship with her and detailed familiarity with her medical history, examine her periodically for recurrence of cancer, and coordinate other aspects of the management of this complicated condition and the collateral damage she has suffered from its treatment.

“At present, she is not receiving the kind of cancer screening and examination that is indicated for a person of her medical history and physical condition.

“Second, Mrs. Harvill suffers from severe lymphedema in her left leg, a complication of treatment that she received for her cancers....I fear that her lymphedema has already progressed to elephantiasis.

“In response to these compelling and serious medical needs, however, I am informed and believe that Mrs. Harvill has merely received an extra blanket, a pillow and a stocking; that she has been denied the use of a compression pump that physicians at the H. Lee Moffitt Cancer Center in Tampa, Florida, have prescribed; and that she is not in the care of a lymphedema sub-specialist. In my professional opinion, Mrs. Harvill’s left leg requires meticulous care by physicians who specialize in lymphedema treatment.”<sup>122</sup>

Ms. Harvill’s desperation deepened as the months passed in Arizona and she became increasingly hopeless that she would ever get the medical care she needed. After a year in the Pinal County Jail she wrote:

“Sometimes I have so much pain, I feel I am close to death. My heart aches because of the uncertainty of my health. My worst fear is that one morning, while being held in this county jail, I won’t wake up. I have heard on the news that this has happened to other detainees. Please don’t let me die in this place. Every day I pray for God to help me because that is about all I can do.”<sup>123</sup>



*After her release, Yong Sun Harvill, right, thanks FIAC’s Cheryl Little*

Ms. Harvill was finally released on July 3, 2008 after 15 horrific months in ICE detention. Her release followed the settlement of the federal lawsuit filed on her behalf by FIAC and Steptoe & Johnson and coverage of her case in the Washington Post. Detainees shouldn’t have to suffer this much or need this much legal assistance to get ICE to provide proper medical attention or for ICE to release them so they can get medical care themselves.

Eight months later, Ms. Harvill is back home, still battling medical issues. One doctor has recommended she have colon surgery, which may require her to use a colostomy bag for the rest of her life. Fortunately, her cancer is in remission.

### A Host of Deadly Illnesses

“Rose Marie,” a Haitian with at least four life-threatening conditions, spent more than two months in ICE detention before being released in December 2008. ICE should not have detained her in the first place, given her mental and physical state at the time. Fortunately FIAC did not have to file a lawsuit, as it did in Ms. Harvill’s case, for ICE to release Rose Marie on humanitarian grounds.

Even so, FIAC attorneys worked hundreds of hours to achieve this positive outcome. Countless other ill detainees without legal representation continue to suffer in silence.

Rose Marie’s medical condition is complicated and a treatment challenge. Her life-threatening illnesses include:

- Schizophrenia
- HIV
- Sickle-cell anemia
- Congestive heart failure, and
- Cervical cancer, most recently diagnosed<sup>124</sup>

She also has had a double-joint hip replacement, which was “related to the degenerative processes caused by sickle-cell anemia.” Altogether she takes at least 11 different prescription drugs to control her numerous and severe illnesses. Those illnesses landed her in a hospital intensive care unit at least three times in 2008, including as recently as in August. She was hospitalized on six other occasions that year for medical and psychiatric reasons.<sup>125</sup>

ICE detained Rose Marie on October 14, 2008, as a result of a non-violent psychotic episode. ICE also placed her in deportation proceedings. At the time, she told ICE about her medications, multiple serious illnesses, and her assisted-living facility.

Prior to being detained, her illnesses were being cared for and managed by a group of medical-service providers. Rose Marie lived in an assisted-living facility, Merriment Manor, where she obeyed the rules and “did not have behavior problems.”<sup>126</sup> For more than five years she had been treated for her medical and mental-health issues by the Henderson Mental Health Center’s FACT Team, which provides a broad range of services.<sup>127</sup>

Clearly ICE is not equipped, nor does it have the funding, to provide the round-the-clock medical care that Rose Marie’s severe illnesses require. Further, she would have faced near-certain death had she been deported to Haiti, where finding adequate medication and medical care would be next to impossible for a person with her chronic conditions. Even so,

ICE did not consider releasing her until FIAC took her case and intervened.

On November 12, 2008, FIAC wrote a letter to ICE urgently requesting her release on humanitarian grounds. Rose Marie was not a flight risk, national-security threat or danger to the community. She was a severely ill individual who needed treatment. The FIAC request also included letters of support from her assisted-living facility and her medical-services provider, both of which were happy to resume her care.<sup>128</sup>

Afterward, ICE officials verbally told FIAC that the release was being denied. Only after FIAC appealed to higher-level ICE officials was she released on Dec. 17, 2008, more than a month after FIAC submitted the request.<sup>129</sup>

Too often in complicated cases such as those of Rose Marie and Ms. Harvill, ICE’s default position is to attempt to deport the severely sick person or to indefinitely detain them, regardless of ICE’s ability to provide them the intensive medical care they need. For those who have no attorney – more than 80 percent of detainees – there are dim prospects of getting released or getting decent medical care in custody. In those cases, being detained by ICE could amount to a death sentence.

### A Cancer Time Bomb

Hanna Boutros, another FIAC client, had been diagnosed with prostate cancer before he was transferred to immigration detention in July 2006 and told he needed radical prostatectomy surgery. In Mr. Boutros’ medical file, the doctor noted in June 2006 that he sent information to ICE about the necessary treatment, and told Mr. Boutros that he needed immediate surgery.

When Mr. Boutros was transferred to Krome detention facility in July, he was told it was the best facility for an ICE detainee needing medical treatment. After his transfer, he asked for treatment for months but did not receive it. In October 2006 an independent oncologist reviewed Mr. Boutros’ medical records and wrote a letter affirming that Mr. Boutros needed to be urgently tested to see if he was still a candidate for surgery; if so, Mr. Boutros had to be sent for prostate surgery without delay. FIAC presented the letter to Krome officials, asking them to comply with the medical expert’s recommendations.<sup>130</sup> Mr. Boutros had to wait nearly two more months before getting the operation.

Beyond his physical misery, Mr. Boutros described his mental anguish due to the undue delay in his treatment. He told FIAC:

“As bad as the physical pain and discomfort is, the mental part is worse. The doctor told me that the cancer was advanced. I feel sometimes like a time bomb is inside me. Every day, I wake up and wonder if today is the last day of living. When I go to sleep, I wonder if I am going to wake up tomorrow. I fear death. I feel helpless. I feel like there is no hope for me and I will just die. I am so afraid.”<sup>131</sup>

Mr. Boutros’ doctor ordered the tests necessary for prostate surgery in August 2006. Those tests were not completed until late October. It was not until late December 2006, and after FIAC threatened to sue, that Mr. Boutros actually had surgery.<sup>132</sup>

### Women Losing Babies

Many women detainees have reported not receiving regular gynecological and obstetric care. There have been problems with pregnancies as well. Officers’ personal beliefs can also interfere with their ability to provide an effective and safe environment for female detainees.

For example, FIAC documented the case of an African-born asylum seeker who learned that she was pregnant while in custody at the Broward Transitional Center (BTC) in 2003. The pregnancy was the result of a politically motivated gang rape in her home country, which compelled her flight to the United States to seek asylum.

When detention staff learned that the pregnancy was unwanted, they pressured her to carry the baby to term.<sup>133</sup> Only after FIAC took her case was she informed that she could get an abortion at her own expense while in custody. Later, this woman was released and miscarried.

Another BTC detainee first brought her symptoms to the attention of the medical staff on December 18, 2003. Although she had the classic symptoms of an ectopic pregnancy, a painful and potentially fatal condition, her concerns were ignored.

On several occasions, she was simply given Tylenol and told her pain was normal. When she began to bleed profusely, the medical staff still did not take her complaints seriously. On January 4, 2004, when she was finally seen by a doctor, she was immediately taken to the hospital for surgery, resulting in both the loss of her child and the removal of one of her fallopian tubes.<sup>134</sup>

Afterward she told FIAC:

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*The pregnancy was the result of a politically motivated gang rape in her home country, which compelled her flight to the United States to seek asylum... When detention staff learned that the pregnancy was unwanted, they pressured her to carry the baby to term.*

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“I was taken to the Broward Medical Center and was told by the Doctor there that it was too late and they needed to operate because I had an infection. He said it was an ectopic pregnancy. I had surgery on January 5, 2004. I was told afterwards that one of my tubes had to be removed. I was devastated by the news because, not only had I lost the baby, but also because now it would be much more difficult for me to have a baby....

“I spent three days at the hospital and all the time that I was there, even though there was a phone in my room, the guard that stayed with me did not allow me to use the phone to contact my relatives and let them know what had happened.... I was not able to get any special visit with my family either.... I will never be able to forget all that I went through since I’ve been here.”<sup>135</sup>

Another detainee miscarried while in immigration custody at the Turner Guilford Knight Correctional Center (TGK) in Miami in 2004. Her requests for medical attention went unheeded. She was six weeks pregnant when she arrived at the facility and observed that the jail was filthy. The first two holding rooms she was locked up in were smeared with feces. Years later the presence of such filth was confirmed by ICE’s own internal report on TGK’s compliance, or non-compliance, with ICE National Detention Standards.<sup>136</sup>

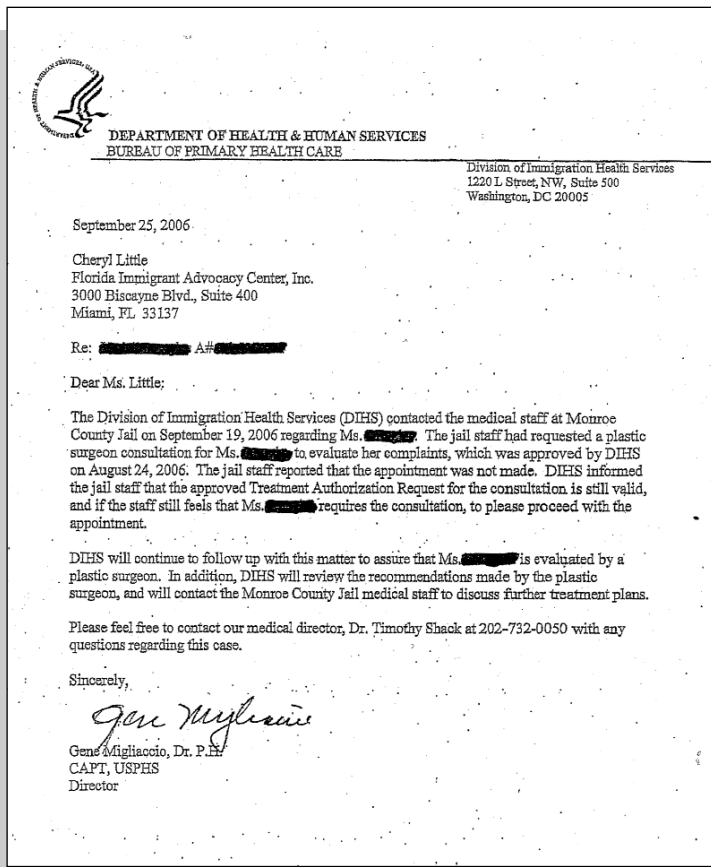
On July 12, 2004, she submitted a request to see a psychiatrist because she felt the conditions were detrimental to her pregnancy. She was stressed and distraught by the lack of cleanliness. Three days later she lost the baby. Later that month she wrote:

“My written request went ignored and on July, 15, 2004, I miscarried. I was taken to Jackson Memorial Hospital in shackles and handcuffs. I sat in the waiting room amongst other pregnant women who wore looks of concern sitting next to what looked like a criminal. I was wearing a bright orange jail uniform and in shackles and handcuffs with two guards at all times. I waited for three

hours at which point I started to visibly hemorrhage and only at this point did the medical staff attend to me.

"I was supposed to go back to the hospital for a follow-up, however, I was not going back through that humiliation and violation of my human rights unless my life depended on it. To date my request to see the facility psychiatrist has still gone ignored and I have been unable to tell anyone of the upset and emotional stress I have gone through losing my child in a place like this. This jail is not set up to handle real medical emergencies."<sup>137</sup>

All the women in ICE custody at the TKG jail were moved to a Monroe County jail in September 2004. The reason given by ICE was that the jail could not meet the agency's detention standards,<sup>138</sup> something immigration officials had previously and repeatedly denied.<sup>139</sup> In response to a Freedom of Information Act request, FIAC learned in 2006 that an ICE annual detention review of TKG in March 2004 assigned a final rating of "At-Risk" regarding detainees' access to medical care and multiple other categories. The review concluded that "the overwhelming lack for [sic] health and safety found at TKG is disturbing."<sup>140</sup>



Of further concern, male medical staff has conducted gynecological and breast exams on female detainees without anyone else present. Yong Sun Harvill – the severely ill FIAC client transferred to an Arizona jail in 2007 – formally complained, along with six other detainees, about such a situation. FIAC raised the concern with ICE and the Division of Immigration Health Services (DIHS). While there has been no direct ICE response to the detainees or FIAC about this troubling and inappropriate treatment, the nurse in question apparently no longer works at that jail.<sup>141</sup>

Women detainees face other medical issues while in ICE custody. In late August 2006 FIAC contacted ICE and the captain of the Monroe County jail regarding a detainee who had spent weeks in pain, trying to get medical attention for a leaking breast implant.<sup>142</sup> Receiving no response, FIAC contacted the DIHS directly. Officials there quickly informed FIAC that Monroe County jail staff had requested a plastic surgeon consultation, which DIHS had approved on August 24, 2006.<sup>143</sup> DIHS also acknowledged that jail staff admitted the appointment for this detainee had not been made and they promised to follow-up.

### Children at Risk

Even children have been deprived of decent medical care in immigration custody. One example is the case of Ernso Joseph, who was 15 when he arrived on a boat that ran aground on Key Biscayne, Florida, in October 2002. Shortly after he was placed in immigration custody, Ernso was taken for dental and wrist x-rays. Based on these suspect tests, immigration officials labeled him an adult and placed him in an adult detention center.<sup>144</sup> Though an immigration judge granted him asylum in 2003, DHS appealed the judge's decision and kept him detained.

A FIAC client, Ernso was kept detained for more than a year while waging a legal battle against deportation. At one point, he was released to an uncle after being diagnosed with Post-Traumatic Stress Disorder (PTSD), clinical anxiety and extreme depression by both government and independent trauma specialists. Detained several months later, he was kept prisoner in a hotel room. Receiving no psychological counseling, his mental health rapidly deteriorated. FIAC spent weeks getting permission for an independent trauma specialist to meet with Ernso. Following the specialists' report that Ernso was suffering from PTSD and extreme depression, a government official came to the same conclusion.<sup>145</sup>

U.S. House Rep. Kendrick Meek denounced Ernso's treatment and asked for his release. "It is not an exaggeration to say that

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*Eye care is not even mentioned in the standards.*

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dogs in kennels receive more humane treatment and have more attentive and kinder human contact than this Haitian teenager has received at the hands of the federal government.”<sup>146</sup>

blind. He said that he was scheduled for eye surgery before he was transferred to ICE custody in November 2007.<sup>149</sup> Although he was initially told by a physician at Krome that he would receive the surgery, it was not until FIAC brought his case to the attention of officials at Krome that he finally had surgery at the end of January 2008.

It was not until January 2004 that immigration officials granted Ernsø permission to take his case to state juvenile court, and the judge ruled in his favor.<sup>147</sup> Eventually, Ernsø was granted deportation relief. He was finally able to attempt to recover from the trauma he had suffered in Haiti and in U.S. immigration custody.

More information on children in ICE custody follows in the section on Unacceptable Mental-Health Treatment.

#### **Scant Dental and Eye Care**

ICE's new performance-based standards require a dental screening to be completed, along with the initial medical and mental screening, within 12 hours of a detainee's arrival at a detention site. The revamped standards maintain the current requirement that a dental screening exam should be performed within 14 days of the detainee's arrival.

Only time will tell if the standard will change the current practice, which currently provides only rudimentary or emergency dental treatment during the first six months of detention. Even after six months, dental care generally has been limited to extractions. Treatment of painful dental and gum conditions is typically delayed or denied altogether.<sup>148</sup> Dentures are not provided, and broken dentures are rarely fixed.

A petition from more than 250 Krome detainees in September 2006 summed up their frustration: “It's either pull the tooth out or nothing. Fal[se] teeth service is not provided, although it is indicated in the detainees' handbook.” Detainees may not even use their own money to secure dental care.

Eye care is not even mentioned in the standards. Eyeglasses are not a covered benefit except when detainees are taken into ICE custody with eyeglasses and the glasses break while they are in custody. Eyeglasses are not replaced if they were left behind or lost at a previous detention facility.

Sometimes detention personnel do not take eye conditions seriously. A diabetic detainee at Krome told FIAC that his eyes had blood in them. He was terrified he would go completely

## Unacceptable Mental-Health Treatment

*“The detention center ... decided to take Isaías off his medication for schizophrenia and depression. Isaías became very sick and was put on suicide watch. He smeared feces and spit in his cell. He became very disorientated and refused his other medication for diabetes and high blood pressure. He was punished by the detention staff – they put him in solitary confinement and gassed him.”<sup>150</sup>*

**- Testimony on Isaías Vasquez’s experience in ICE custody**

Immigration detainees with mental-health issues often receive little, if any, treatment in ICE custody. In many cases, their conditions worsen or they destabilize while in detention. They are misdiagnosed, improperly medicated, cruelly treated or denied psychiatric care altogether. Worse, many of those immigrants should not have been detained in the first place.

The Washington Post investigative series concluded that, “People with mental illness are relegated to the darkest and most neglected corners of the system.” It found “multiple failures” in mental healthcare, including:

“Suicidal detainees can go undetected or unmonitored. Psychological problems are mistaken for physical maladies or a lack of coping skills. In some cases, detainees’ conditions severely deteriorate behind bars. Some get help only when cellmates force guards and medical staff to pay attention. And some are labeled psychotic when they are not; all they need are interpreters so they can explain themselves.”<sup>151</sup>

Suicide is the primary cause of death among detained immigrants, accounting for 15 of 83 deaths since 2003, according to the Washington Post count. Internal documents also revealed that ICE medical officials estimate that 15 percent of detainees, about 4,500 on an average day, suffer from mental illness. Publicly, ICE’s official estimate is 2 percent to 5 percent of the detainees.<sup>153</sup>

ICE is not staffed adequately to care for the increasing numbers of mentally ill detainees, either. One e-mail from Dennis Slate, the detention system’s top mental-health official, noted that, while the ratio of mentally ill inmates to staff was 1 to 10 in prisons for the mentally ill and 1 to 400 in the federal Bureau of Prisons, the ratio was 1 to 1,142 in immigration detention<sup>154</sup> – a mind-boggling disparity.

Documents revealed cost-cutting measures and angst among some of the detention system’s medical staff over the lack of resources and the trade-offs they had to manage. An ICE chart, for example, shows the Division of Immigration Health Services saving \$45,158.57 with nine denials of “depressive disorder not elsewhere classified” during a one year period ending in August 2006; four denials of treatment for manic-depressive psychosis yielded \$18,145.36 in savings.<sup>155</sup>

Such cost-cutting in healthcare may ultimately be self-defeating. In yet another document, Mr. Slate wrote, “The little money managed care may save in the short run is going to be dwarfed by the millions that will be paid out by ICE when the lawsuits roll in.”<sup>156</sup>

In some cases, a detainee’s mental illness may complicate treatment for other medical issues, which may lead to death. In other cases, negligence or mistreatment of mental illness leads to a needless death, as in that of Algerian asylum seeker, Hassiba Belbachir, which is detailed below. Her suicide, the overall number of suicides in detention, and other disturbing cases raise serious questions about ICE’s ability to properly oversee and care for mentally ill detainees.

### ‘Death is Dripping’

Ms. Belbachir, 27, was detained by ICE in March 2008 after arriving at O’Hare International Airport and asking for political asylum. Sent to the McHenry County jail in the suburbs of Chicago, she was dead within nine days. The asylum seeker with a history of depression and panic attacks landed in a jail with a history of inadequate mental healthcare.

ICE knew that this jail consistently failed to provide detainees the mental-health and suicide screenings required by ICE standards, having completed a recent review of the facility.<sup>157</sup> The jail did not have an adequate written suicide-prevention policy and had not fully trained staff to prevent suicides.<sup>158</sup> It was a fatal place for Ms. Belbachir.

During her interview upon arrival, Ms. Belbachir revealed that she had once tried to kill herself by drinking soap, according to jail records. Her interviewer noted she had “a major depressive disorder” and needed to see a psychiatrist for medication. She was given a routine appointment for 10 days later. She died March 17, one day before her appointment.<sup>159</sup>



From: Migliaccio, Gene A <Gene.Migliaccio@dhs.gov>  
 To: [REDACTED]  
 CC: [REDACTED]  
 Sent: Mon Mar 21 19:26:30 2005  
 Subject: FW: SEN Report Notification-32105-1

Follow-up to SEN on death of detainee Hassiba Belbachir (A# 97-332-245)

**ASSESSMENT AND RECOMMENDATION:**  
 With the given information provided, DIHS recommends a medical review of this facility concentrating on Suicide Standards to determine if protocols exist and are being enforced. DIHS is concerned that the detainee committed suicide, in medical pod, after being assessed as a suicide risk.

#### *DIHS concerns about the McHenry County Jail*

Five days before she committed suicide, Ms. Belbachir was moved to a medical ward after having a panic attack in her cell. The following day she told a social worker that she was hearing “parasites” and wanted to die. She said, “Death is dripping, drop by drop.” Nonetheless, medical staff did not place her on suicide watch.

The day she died, a guard saw her lying motionless, face down on the floor, but did not enter the cell. When the guard returned to bring her food 30 minutes later, her face was purple. By the time emergency service arrived, it was too late. She had strangled herself by knotting jail-issued socks together and wrapping them around her neck.<sup>160</sup>

#### **Other Asylum Seekers**

Many immigrants, like Ms. Belbachir, come to the United States to seek asylum. Many have suffered grievous harm in their own country, including rape, torture, sexual slavery, forced marriages, trafficking, and female genital mutilation. Despite such traumatic experiences, many asylum seekers are detained by ICE for prolonged periods in harsh conditions that cause them further trauma and hardship.

It’s no wonder then that depression and anxiety are among the most prevalent chronic diseases among asylum seekers. One 2003 study of asylum seekers in detention found that their mental health was “extremely poor and worsened the longer” they were detained. Researchers from Physicians for Human Rights reported symptoms of depression in 87 percent of the detained asylum seekers, anxiety in 77 percent and post-traumatic stress disorder (PTSD) in 50 percent.<sup>161</sup> Detainees sometimes become so depressed by their long detention that they are unable to properly articulate their story to a judge or asylum officer.

Two asylum seekers detained at Broward Transitional Center (BTC) could identify with the study’s findings. Jaime Miranda, whose father was murdered, and Daniel Padilha, who is gay,

both say they fled persecution in Brazil. The two arrived on a boat that ran aground in South Florida on October 31, 2008. A private doctor hired by their families diagnosed both of them with PTSD. Their symptoms included insomnia, depression, anxiety and psychotic episodes. On March 5, 2009, the men sued ICE in federal court for failing to treat them for at BTC. That lawsuit charges that, despite repeated requests, the men have not been given medication or mental-health treatment for their disorder at BTC. ICE also

rejected their requests to be released so they can get proper treatment themselves. According to their lawyer, a BTC officer said that the men would have to be moved to another detention facility to be treated.<sup>162</sup> The charges raise significant concern because the vast majority of detained asylum seekers in Florida are at BTC.

Many of the asylum seekers FIAC has represented are Haitians who legitimately fear for their lives if deported and for the lives of deported family and friends who have disappeared. Yet Haitian asylum seekers and others generally are not offered meaningful mental-health services or orientation before being deported. Adding to the trauma, such deportations often are carried out without notice in the middle of the night.

#### **Double the Abuse**

Like many others in immigration custody, “Ana” should not have been placed in detention. A FIAC client, Ana suffered horrific physical, emotional and sexual abuse by her husband. As a consequence, she has serious mental-health and medical conditions that have been exacerbated by detention. Yet she is receiving no counseling or therapeutic mental healthcare in custody other than anti-depressant medication.

Her abusive husband, a U.S. citizen, reported her to ICE in an attempt to have her deported. ICE officers went to her home and arrested her. In doing so they likely violated federal law that prohibits DHS, ICE, and other government agencies from relying on an abuser’s information to act against a victim.<sup>163</sup>

FIAC has made repeated requests for Ana’s humanitarian release.<sup>164</sup> To date, however, she has been detained by ICE more than six months.

In September 2008, FIAC requested that an independent psychologist and professor be permitted to see Ana at the detention facility in order to conduct an evaluation. ICE has yet to respond to the request though denying such a visit is contrary to ICE National Detention Standards. Those standards direct ICE to “generally approve” examinations by independent medical experts and service providers.<sup>165</sup>

ICE's yet to be implemented Performance-Based National Detention Standards go further by stating: "Ordinarily the Field Office Director shall approve the request for independent examination, as long as it would not present a security risk. Requests for independent examinations shall be answered as quickly as practicable."<sup>166</sup>

Ana, meanwhile, has been further traumatized by her experiences in detention. She was invasively searched – "all over my body and especially my intimate parts" – when evacuated from the facility in September 2008. Male inmates also exposed themselves to her and other women detainees at the jail where they were transferred.

Worse, an ICE officer threatened Ana when she was brought back to the detention facility. He first asked her a question related to her husband, and she responded by asking why he needed to know. Ana said the officer "became angry and told me it was none of my f\*\*\*ing business and called me a bitch. Then he advanced toward me with his hand raised as if to hit me."

Only the intervention by the facility chief stopped the officer from striking Ana.<sup>167</sup> Such treatment of any detainee is highly inappropriate, much less when the detainee is already shell-shocked by domestic abuse and in need of mental-health treatment.

### Punishment, Not Treatment

Isaias Vasquez's family brought him to United States legally from Mexico when he was 2 years old. A Vietnam veteran, he was discharged from the Army after two years due to psychiatric problems.<sup>168</sup> In 1990 he was diagnosed with schizophrenia after many years of struggling with mental illness. Altogether he had been hospitalized more than 18 times at the VA hospital in San Antonio before being detained by ICE.<sup>169</sup>

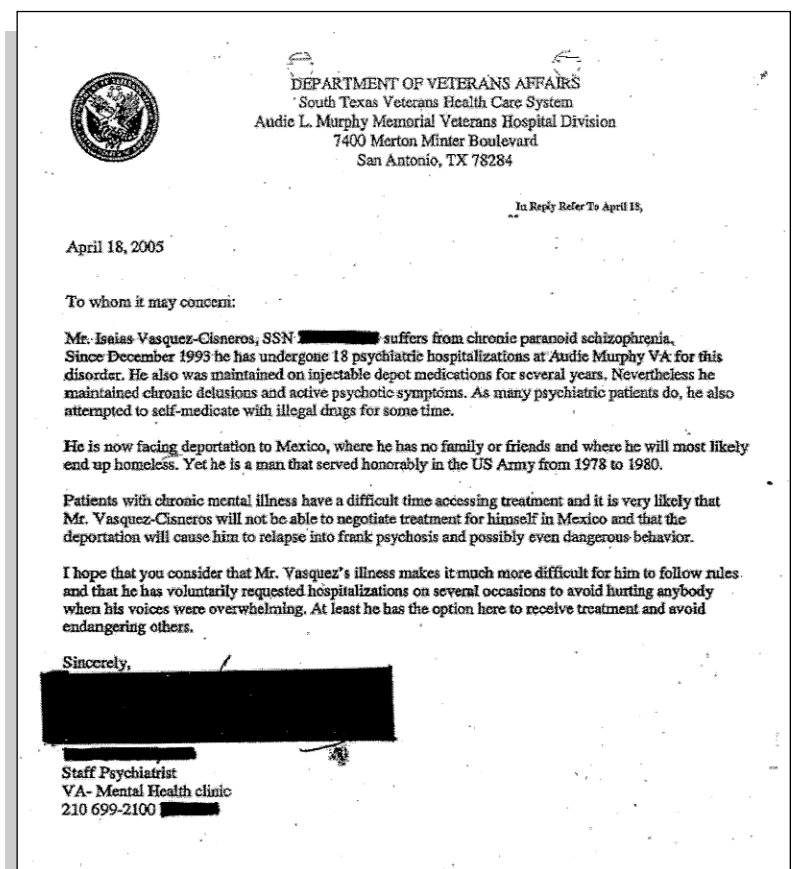
Mr. Vasquez was treated for schizophrenia at the North Texas State Hospital while he served an 18-month term for drug possession and then was detained by ICE in November 2004. ICE also began trying to deport him.

Despite his long record of mental illness, medical staff did not believe Mr. Vasquez was schizophrenic and doubted his symptoms. During his 15 months in ICE custody, he was accused of faking his illness and was punished for protesting a lack of medication and for behaviors related to his illness.<sup>170</sup> Medical staff not only was cruel to him, but also vindictive.

Gloria Armendariz, Mr. Vasquez's common-law wife of more than 30 years, testified in Congress about his mistreatment in immigration custody. First, at the Central Texas Detention Facility in San Antonio, he complained that he was fainting and suffering side effects from medication; on two occasions he had fallen and hit his head. He also told Ms. Armendariz that the officers didn't believe he was mentally ill. Though she complained about his treatment, the detention staff told her that Mr. Vasquez was "fine and did not need additional medical attention."<sup>171</sup>

Then, in August 2005, Mr. Vasquez was granted relief from deportation under the Convention Against Torture when an immigration judge ruled that he would likely suffer torture in Mexico due to his mental illness. A letter from a VA hospital staff psychiatrist noted that that Mr. Vasquez "suffers from chronic paranoid schizophrenia" and that deportation to Mexico could "cause him to relapse into frank psychosis and possibly even dangerous behavior."<sup>172</sup>

Since he was not deportable, ICE could have released him then.



Instead, ICE transferred him to the South Texas Detention Complex at Pearsall, much farther away from Ms. Armendariz. When she visited Mr. Vasquez at the new location, he seemed “frail and undernourished” as well as “unstable and disoriented.”<sup>173</sup> He told her he was not getting medication or enough to eat and complained that officers were punishing him and putting him in segregation.

In November 2005, unknown to Ms. Armendariz at the time, Pearsall’s medical staff diagnosed Mr. Vasquez with an “unspecified personality disorder.” They did so despite his continued insistence that he was “paranoid schizophrenic and needed medication.” The staff thought he was faking to prevent losing his Social Security disability payments. Staff took him off medication for schizophrenia and depression. A week later, he was put on suicide watch.<sup>174</sup>

Mr. Vasquez continued to deteriorate. He began to smear feces and spit in his cell. Staff responded by eliminating all his psychotropic medication.<sup>175</sup> He began to refuse medication for diabetes and high blood pressure. He acted irrationally and defied the staff. His punishment: “They put him in solitary confinement and gassed him.”<sup>176</sup>

Finally, in May 2006, he was released. But there was one last torment. When Ms. Armendariz arrived to bring him home:

“I was stunned at his condition when I got there. Isaías was very thin, his feet were swollen, he was covered with sores and he was ranting. I was afraid of him because he was so sick, and I asked the doctor, Dr. Johnson, to transfer Isaías to the VA hospital. He refused and said that Isaías was not sick. So, I drove him straight to the VA hospital in San Antonio.”<sup>177</sup>

Adding insult to injury, when she arrived at the hospital, Ms. Armendariz discovered that Dr. Erik Johnson had called the VA to tell the staff that nothing was wrong with Mr. Vasquez. So at first, the hospital would not admit him. She refused to take him home, and Mr. Vasquez became violent. The hospital admitted him to its psychiatric ward, put him back on his medication, and he stayed there for several weeks.

In September 2007, Mr. Vasquez became a U.S. citizen based on his military service. “Now, he has his good and bad days,” Ms. Armendariz said, “but he still suffers from the memories of his treatment at Pearsall.”<sup>178</sup>

The Pearsall facility, apparently, did not improve after Mr. Vasquez’s release. Pearsall continues to be known for its terrible record on mental-health services. Dr. Johnson, the facility’s clinical director, became the subject of an internal e-mail titled

“Crisis in mental healthcare at Pearsall.” The e-mail was prompted by an alarming statistic in June 2007: Nearly 140 mentally ill detainees were going untreated at the facility.<sup>179</sup>

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*...the detainee was simply sitting on his bunk when sprayed with the noxious chemical.*

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Dennis Slate, the immigration detention system’s top mental-health official, recommended that Dr. Johnson be ordered to treat mentally ill detainees; if Dr. Johnson did not, “then this behavior needs to be interpreted as insolence and insubordination and documented as such.” His recommendation was circulated to top ICE and immigration-health officials.<sup>180</sup>

Dr. Johnson was still at Pearsall as of May 2008 when he declined to speak to Washington Post reporters. Officially, ICE told the Washington Post that Pearsall’s mental health-care program “meets the current ICE National Detention Standards.”<sup>181</sup>

### Mace and Restraints

FIAC repeatedly has complained about the use of force on detainees who may have mental-health issues at the Glades County Detention Center in Central Florida.<sup>182</sup> Several incidents reflect the problem, which include the inappropriate use of mace and forcible restraint. When used on detainees with mental illness, such practices can threaten their mental stability as well as their physical health.

In one incident, a gay detainee from Jamaica told FIAC that he had thrown feces under the door of other detainees who had taunted him with homosexual slurs and threatened to kill him. In response, a Glades sergeant told the Jamaican detainee to clean up the feces or he would be “maced.” When the detainee didn’t comply, the guard followed through with his threat. This occurred in December 2007.

The jail’s own incident report confirms that the detainee was simply sitting on his bunk when sprayed with the noxious chemical. He said he felt a burning sensation all over his body and in his eyes. His eyes and face swelled up, and his skin peeled after a shower.

In another troubling incident in November 2007, a woman diagnosed with depression and on suicide watch was sprayed with mace in the face. Her offense: She had spread feces on the walls of her holding cell and refused to clean it. In her case as in that of the Jamaican, there was no indication in the jail’s incident report that either detainee posed a threat to their own safety, to other people or to any property.

Rather, it appears that jail staff used a chemical spray on detainees for punitive reasons, a clear violation of ICE National Detention Standards. Under these standards, immediate force may be used only if necessary to prevent a detainee from harming himself, others, and/or property “when a detainee acts violently or appears on the verge of violent action(s).” These standards also expressly forbid using force on detainees as a punitive measure.<sup>183</sup>

Nonetheless, when Glades investigated the spraying of the Jamaican detainee, it inexplicably concluded that the sergeant’s actions complied with ICE rules and state statutes on the use of force. Yet at the same time it found that the officer used force only to compel the detainee to obey an order – not to prevent violence, property damage or a major disturbance.

Another disturbing case: A detainee, after slitting her wrists, was placed in isolation – a move that is more likely to exacerbate suicidal tendencies and mental illness than to stabilize or improve mental health. Worse, Glades officers ordered the woman to strip naked so they could place her in a restraint smock. She refused and threatened to bang her head against the wall. Eventually, she took off all her clothes except her underpants.

Two officers then restrained her arms while another forcibly removed her undergarment. Officers wrapped her in the restraint smock and placed her in a restraint chair. All this was documented in a jail incident report. The report also said that the detainee was seen and cleared by medical. It was unclear what, if any, follow-up care was given to her.

In a joint newsletter, The National Center on Institutions and Alternatives and the U.S. Department of Justice’s National Institute of Corrections describe a model suicide-prevention policy based on standards established by the American Psychiatric Association and the National Commission on Correctional Health Care. It notes that “removal of an inmate’s clothing ... and the use of physical restraints should be avoided whenever possible and used only as a last resort when the inmate is physically engaging in self-destructive behavior.”<sup>184</sup>

It is not clear that the restraint smock and chair were used as a last resort in the Glades detainee case. Further, new ICE National Detention Standards state that, “[w]hen standard-issue clothing presents a security or medical risk, the detainee is to be provided an alternative garment that promotes detainee and staff safety, while preventing the humiliation and degradation of the detainee.”<sup>185</sup>

This detainee’s treatment by Glades staff was extremely degrading and humiliating and counter to psychiatric recommendations for suicide prevention. Such treatment of mentally ill detainees is what contributes to making suicide the number one cause of death in detention.

### Let Them ‘Break Down’

Failure to properly care for detainees with mental-health issues can pose a danger both to detainees and to others housed with them. During a visit to Florida’s Wakulla County Jail in January 2007, a number of male detainees expressed concern about a Mexican detainee whom they believe had severe mental-health issues.

Detainees said that the Mexican detainee would sometimes rant, scream, and fight with someone who was not there, causing detainees to fear for their own safety. They said his behavior was unpredictable and frightening. When the detainee would have a severe episode, guards would simply lock down everyone in the pod except for the detainee in question, who would then “break down” in the main pod area.

When FIAC spoke with nurses at the jail, their response was that the detainee was schizophrenic, on medication, and was going to be deported the following day.<sup>186</sup>

Other recent examples include:

- A Jamaican woman in ICE custody reported to FIAC in January 2007 that she was hearing voices, feeling anxious and depressed. She said she put in at least three medical requests since her arrival at the Wakulla jail in Florida a few weeks earlier. She told FIAC:

“The nurse told me it will take too long to get the records [for me to] get treatment. About a week and a half ago the nurse told me I’m leaving soon. They say I won’t get to see a doctor in time and, if I start medication, I’ll be deported so it won’t work. But I can’t take it anymore.... I hear voices. It’s getting worse and I can’t sleep. I’m up all night. Please help me.”<sup>187</sup>

- A woman who suffered a miscarriage in ICE detention was diagnosed with major depressive disorder and hospitalized for treatment of depression. She also alleged that she was assaulted by an ICE officer. She was released from the mental-health facility in Florida to ICE custody in June 2007 under physician’s orders for follow-up care. The detained woman was transferred to Texas where she made numerous requests for mental health treatment but did not see a counselor until late 2007.<sup>188</sup>

### Mentally Ill Youths

Among the most vulnerable immigration detainees are children who have no apparent family members in the United States, among them those who have been abused, abandoned or neglected by parents. Some of these “unaccompanied minors” have been placed in adult detention facilities and jails after being subjected to unreliable forensic tests to determine their age. Such adult facilities often have a devastating impact on minors’ mental and physical health. These youths are far less likely than other unaccompanied minors to obtain legal counsel or to be released.

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*Now 17, he suffered extreme abuse and neglect by his parents in Guatemala. He was transferred 11 times in three years, crisscrossing the nation before landing at the Bay Point Schools in summer 2008.*

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The prospects for medical and mental-health treatment of unaccompanied immigrant youths have improved since Congress transferred the legal custody of such children from the legacy Immigration and Naturalization Service to the Office of Refugee Resettlement (ORR, an agency of the Department of Health and Human Services) in 2003.

The progress has been particularly evident in the last few years. Although ICE continues to use forensic tests – such as dental and bone examinations – to gauge age, we see fewer cases of unaccompanied minors placed in adult facilities.

What hasn’t changed is that, as in the cases of adult detainees, detention adversely affects children’s mental health. Generally, the longer children are detained and the more transfers and instability in their living arrangements, the more likely it is for them to suffer mental trauma and behavioral issues and not get the treatment they need. That’s particularly true for children who already have been traumatized by sexual and other abuse and life on the streets in their home countries.

Further, the levels of medical and mental-health services vary widely by location depending on the availability of resources and professional providers.

The case of “Jose,” another FIAC client, is illustrative. Now 17, he suffered extreme abuse and neglect by his parents in Guatemala. He was transferred by ORR 11 times in three years, crisscrossing the nation before landing at the Bay Point Schools in summer 2008. Bay Point is a Miami shelter contracted by ORR to care for unaccompanied minors who have serious behavioral problems.

In Jose’s case, those behavioral and mental-health problems had been aggravated by the instability and lack of adequate mental-health treatment during his long three years in ORR custody. During that time, he had been diagnosed with major depressive disorder and hospitalized twice in mental-health units for harming himself.

His pattern: He would do well in a facility during the first couple of months. But without intensive treatment, his mental state would deteriorate. Bad behavior would prompt yet another transfer to another facility designed for short-term stays of minors. Meanwhile, his mental-health issues were not truly addressed. And all the transfers delayed his legal case.

Once he arrived in Miami, however, FIAC was able to work with ORR to speed Jose’s legal case and find a more appropriate placement for him. A local dependency court declared that it was in Jose’s best interest to become a ward of the state of Florida and ordered him into state foster care. He was released from immigration custody on Christmas Eve 2008 and is entitled to receive state benefits until he turns 22. FIAC is now working to get Jose into a therapeutic foster home.

## Physically Disabled Detainees

*"Then ICE officers attempted to pull me out of my wheelchair and get me on my feet. One of them said to me, 'we don't give a f\*\*\* about you, now get on your f\*\*\*ing feet and get on the bus.'"*<sup>189</sup>

- A disabled asylum seeker in ICE custody

The neglect of disabled detainees is not an isolated concern. Complaints come from detention facilities nationwide. The following examples are centered in Georgia and Florida.

### No cleanliness, no dignity

Felipe Perez-Leon, a paraplegic Cuban, was denied handicap-accessible facilities while at the Atlanta City Detention Center in Georgia. He was forced to urinate and defecate on himself for nearly six months. His relief and medical care came only after he was released from immigration custody in November 2007.

Mr. Perez-Leon noted that he did receive adequate medical treatment in the detention centers where he was held prior to his transfer to Atlanta. Yet from May 2007 until his release in November, he was denied supplies needed to maintain his well-being. He also did not have access to a handicap-accessible toilet or bathing facility during most of his detention in the Atlanta jail.<sup>190</sup>

As a result, he was constantly urinating and defecating on himself. Nor could he clean himself without an accessible shower.

During that period, he wrote to ICE complaining about the situation. At the time Mr. Perez-Leon was a 58-year-old man

paralyzed from the waist down and dependent on a wheelchair. He also needs a special catheter to urinate and suppositories to relieve himself. Despite his condition, the medical staff knowingly gave him supplies for only a couple of weeks. Further, he complained that the "disability shower" was broken. He was embarrassed and humiliated by the odor in his cell. He wrote:

"Suddenly they stop giving me the supplies. One day I asked the nurse and she tell me that I have to filed a complaint or grievance. After that they tell that the facility was not have more funds. Is been more than 5 months and the situation is getting worse [sic]...."<sup>191</sup>

"I have to pee on myself putting a towel on my laps to prevent the urine run all over myself. When I have to do the other necessity is very uncomfortable [and] unsanitary. This is a pitiful and inhumane situation but it is the truth. I've been mistreated; this is a violation of my rights. I think that animals got more rights that a person. I made my mistakes in the past but believe me sir, I learned a valuable lesson. Don't you think I'm still a human being?[sic]"

Mr. Perez-Leon says he wrote countless grievances and spoke to the doctors about his problems every two weeks. He told FIAC:

"It was a terrible problem, and no matter what I did, the authorities would not do anything to help me.... The nurse told me it was not in the prison budget to provide me with these supplies.

"The situation could not have been more embarrassing. I began to smell and people were avoiding me.... The toilet did not have a [handicapped-accessible] commode so it was difficult for me to sit on. It was just impossible for me to take care of myself because of the conditions at that detention center.

"Since no one was helping me, I stopped drinking water so that I would not urinate as much. I believe this has had an adverse impact on my health.... Finally in October they fixed the shower but not the toilet. And I still was not given a catheter or suppositories...

I ASKED THE NURSE AND SHE TELL ME THAT I HAVE TO FILED A COMPLAINT OR GRIEVANCE AFTER THAT THEY TELL THAT THE FACILITY WAS NOT HAVING MORE FUNDS IS BEEN MORE THAN 5 MONTHS AND THE SITUATION IS GETTING WORSE THERE IS NO CONDITIONS AT ALL IN THE DISABILITY SHOWER NOW IS BROKEN AND A OFFICER TELL ME TODAY THAT THEY WON'T BE ABLE TO FIX IT NO EITHER IN MY CELL # 118 THE ODOR IS SO STRONG THAT I'M EMBARRAS MYSELF DE NOT HAVING SOMETHING THAT IS CALLED CONDON CATHETER HAVE EXTERNAL URINARY INCONTINENCE DEVICE I HAVE TO PEE ON MYSELF PUTTING A TOWEL ON MY LAPS TO PREVENT THE URINE RUN ALL OVER MYSELF WHEN I HAVE TO DO THE OTHER NECESSITY IS VERY UNCOMFORTABLE UNSANITARY THIS IS A PITIFUL AND INHUMANE SITUATION BUT IT IS THE TRUTH IVE BEEN MISTREATED THIS IS A VIOLATION OF MY

*Excerpt of Felipe Perez Leon's complaint*

“My treatment in immigration detention was inhumane, animals are treated better. I am still feeling the effects of how I was treated.... My urine is thick, and I think I have a permanent kidney problem.”<sup>192</sup>

FIAC has requested Mr. Perez-Leon’s medical records from the Atlanta jail three times since December 7, 2007. FIAC followed up by fax and voicemails to the jail’s medical department. In February 2008, we also wrote a letter to the ICE Field Office Director asking for an investigation into how his condition was managed and to ensure that detainees with disabilities not be mistreated as he was at the Atlanta facility.<sup>193</sup> FIAC has not received a response and is considering a lawsuit.

### Make Them Walk

A detainee who was confined to a wheelchair had to confront immigration agents who attempted to force him to walk, claiming that he was “faking” his disability. This happened at the Krome detention facility in Miami in December 2007.

This disabled asylum seeker suffered from an improperly treated wound that resulted after a soldier shot him in the leg in his home country. The wound had seriously deteriorated since his detention at Krome, where a doctor had ordered him to stay in a wheelchair and not put any weight on his injured leg. The detainee described the incident, which occurred on December 5, 2007. He said that a supervising security officer told him:

“Listen, you are going to Glades [County Detention Center] today and I don’t want any trouble out of you. I know that you are faking your injury so don’t try to use it as an excuse.’

“I told him that I was not faking and that he should talk to my doctor. He then said to me, ‘I talked to your doctor and he said that you can walk.’ I told him that I knew that he was lying because my doctor had specifically instructed me only days earlier not to walk on my leg. The ICE officer then cursed at me and told me to keep my mouth shut....”<sup>194</sup>

According to the detainee, another officer brought him crutches and told him to use them to get on the bus. After the detainee refused, saying he could not get out of his wheelchair, the supervising officer again told him, “Don’t give us any trouble. You are going to get up and walk now. You are going to Glades today.”<sup>195</sup>

The supervisor called another ICE officer and ordered him to put the disabled detainee on the bus. The two officers attempted to pull the man out of his wheelchair and get him to stand. The disabled man said that he started shouting:

“I can’t walk! You are going to hurt my leg! If anything happens to me you are responsible!’ One of them said to me, ‘we don’t give a f\*\*\* about you, now get on your f\*\*\*ing feet and get on the bus.’ I then said, ‘I know you don’t care about me, which is why I have to care about myself. And I am not going to walk.’

“I felt so helpless and scared. I was praying to God that they would not injure me. At that point, all of the detainees who were already on the bus started protesting and shouting out to the officers, ‘You can’t do that! You can’t make a man in a wheelchair walk....’ Finally, the officers stopped struggling with me and dropped me down in my chair. One of the officers said to me, ‘You’re lucky you’re in a wheelchair.’ ”<sup>196</sup>

Ultimately, this detainee was not transferred. However, he felt humiliated, helpless, and scared by the way the officers treated him.

Complaints have also included inadequate help for disabled detainees in showering, going to the bathroom or washing their underwear. Additionally, outside medical appointments are too often postponed because adequate transportation is not available for detainees who need a wheelchair.

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*...another officer brought him crutches and told him to use them to get on the bus. After the detainee refused, saying he could not get out of his wheelchair, the supervising officer again told him, “Don’t give us any trouble. You are going to get up and walk now.”*

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## Mismanaged Medication

*"The next day I was still feeling sick. I was vomiting continuously. I lost control of myself and fainted. .... Emergency was called and two nurses came. I was taken to the medical unit at the facility by wheelchair and examined. They gave me an I.V., and I started bleeding from my mouth and my private parts."*<sup>197</sup>

- Zena Asfaw, an asylum seeker forced to take the wrong medication

During the course of presentations to detainees at county jails, FIAC often learns about problems they have with their medical care and medications in ICE custody. The complaints are common nationwide.

Detainees report serious problems in obtaining proper medication, including getting medication at improper times or in the wrong dosages. Some detainees have been given the wrong medication by mistake or due to a misdiagnosis. Others have received no drugs even after ordered. Disruptions in getting prescribed medication are common when immigrants are first detained or transferred. This practice is particularly problematic for people with HIV or AIDS, who are vulnerable to opportunistic infections without the medication.

Detainees often complain that they don't know what drugs they are taking or why. Some wonder if the drugs are appropriate. Sometimes medications are so bungled in detention facilities that they threaten the health and well-being, if not the lives, of the unfortunate detainees affected. The following two cases are such examples.

### Fleeing Torture to Find Abuse

Amina Bookey Mudey, 29, fled torture in her home country Somalia. Her first five months in the United States were spent in an immigration detention facility. There she suffered medical abuses largely because she was misdiagnosed and given the wrong medication.

Born into an "outcast" clan, Ms. Mudey long had suffered atrocities at the hands of majority clan members. Her genitals had been cut off with a razor blade when she was 10. As a teen, she heard the gunshots when men stormed her home and murdered her father and brothers. In her twenties, she witnessed five men brutally rape and kill her sister. These men then beat her, bashed her head with the butt of a gun, and left her for dead.<sup>198</sup>

When she arrived at JFK Airport in New York City in April 2007, she was exhausted and malnourished. She asked for political asylum, but there was no Somali interpreter to help interview her. So immigration officers put her in shackles and took her to the Elizabeth Detention Center in New Jersey. Soon after arriving, she had a panic attack.

That's when the miscommunication turned into a medical problem. There was no Somali translator at Elizabeth. The doctor who examined her correctly diagnosed that she had post-traumatic stress disorder and depression, but erred by diagnosing her as psychotic and prescribing Risperdal, a powerful drug with potentially fatal side effects.

Soon Ms. Mudey began exhibiting "devastating and life-threatening" side effects of the anti-psychotic drug. She began to shake uncontrollably and could not close her mouth. Her tongue thrashed in her mouth. She stopped menstruating and started lactating. She drooled and vomited frequently.

"She became dizzy, disoriented and confused," her lawyer later testified. "The drug made Ms. Mudey seem developmentally disabled, when in reality she is highly intelligent."<sup>199</sup> The symptoms were well-documented side effects of Risperdal. But when Ms. Mudey complained, the detention center's doctor increased the dosage despite its risk of causing permanent damage, if not death.

It's not as if Risperdal's side effects were difficult to figure out. Her symptoms were clearly apparent to two doctors later asked by the lawyer to independently examine Ms. Mudey at the detention center and to doctors consulted by the Washington Post. The symptoms were such that she was unresponsive and

KATHERINE FALK, M.D., being duly sworn, states:

I submit this affidavit in support of Amina Bookey Mudey's request for asylum.

43. As of June 22, 2007, she is taking risperdal 2mg at bedtime and desipramine 20mg at night.

44. The diagnosis given to her by the doctor seeing her at the detention center is PTSD, psychosis and depression. She clearly has very severe PTSD and she is clearly depressed, but there is no evidence of psychosis, and there is absolutely nothing in the notes to indicate that she had any symptoms that would lead a medical doctor to be able to diagnosis psychosis. Psychosis can only be diagnosed if there is evidence that the individual is unable to test reality, ie, unable to distinguish fantasy from reality. There is no evidence in the medical notes that this is the case. In addition, Ms. Mudey is able to make direct eye contact, which is not consistent with a psychotic diagnosis. The medical notes document incidents where Ms. Mudey has some kind of tremors. They have ruled out seizure disorder as a cause of the tremors. The tremors could be caused by a lot of things - they can be caused by a neurological disorder, by anxiety or even by an electrolyte imbalance, but they are most definitely not diagnostic of psychosis.

45. She is not psychotic and should not be taking risperdal.

*Excerpt from a doctor's statement on Ms. Mudey's condition*



disoriented at her first immigration court appearance, which didn't bode well for her asylum case.<sup>200</sup>

Fortunately, two months after being detained, Ann Schofield Baker began to represent Ms. Mudey as her pro bono attorney. Two noted doctors recruited by Ms. Schofield Baker, a gynecologist and psychiatrist, found Ms. Mudey's medical records riddled with errors largely due to miscommunication. After examining Ms. Mudey with a Somali interpreter, both doctors determined that Ms. Mudey was not psychotic and should be taken off the medication that was causing her severe side effects.<sup>201</sup>

The doctors told Ms. Mudey to refuse the Risperdal, and she did. "The first day I stopped taking it, I noticed I stopped drooling," Ms. Mudey said in court documents. "In two or three days I could close my mouth. I was not as dizzy and confused. My appetite came back. I started feeling almost normal."<sup>202</sup>

Ms. Mudey's prospects improved. Then a few weeks later she began feeling pain in her stomach and back while urinating. She went to see a detention-center doctor, again without an interpreter. The doctor dismissed her without conducting tests or a physical exam and without any treatment. As her condition worsened, she submitted repeated medical requests. Without seeing or examining her, the doctor prescribed a drug for yeast infections.

Again, it was the wrong diagnosis and medication. Ms. Mudey continued to deteriorate and suffer intense pain. The crisis came to a head when Elizabeth medical staff assured her lawyer that Ms. Mudey would receive immediate medical attention. Two days later, no one had attended Ms. Mudey, and her lawyer prepared an emergency federal injunction to force the Elizabeth facility to take her to a hospital.

Just before the injunction was filed, Ms. Mudey was taken to a hospital and recovered there. After her release, she did not know what illness she had or how it was treated because ICE would not tell her or release her medical records to her. She went on to win her asylum case, however.<sup>203</sup>

### No questions allowed

Zena Asfaw also fled persecution to seek asylum in the United States. In Ethiopia she had been jailed, beaten and sexually assaulted in a government crackdown on suspected opposition members. She travelled through 17 countries and took 14 months to get to the United States.

Once she arrived in Los Angeles in November 2006, immigration officers jailed her again. She was detained at ICE's

San Pedro detention center in California – where the clinical director prohibited lab work for detainees held at the center less than 30 days and where Victoria Arellano died after being deprived of AIDS drugs for a month.

Ms. Asfaw was having trouble sleeping, sought medical help and was given pills that provided her relief for about a month. Then a San Pedro nurse forced her to take the wrong pills, and she had a "near death experience."<sup>204</sup>

That night, the nurse brought Ms. Asfaw seven pills to take, instead of the routine two pills. Ms. Asfaw asked the nurse whether that was the correct medication, noting the difference in the quantity, color, and shape of the pills. Angered, the nurse ordered Ms. Asfaw to swallow the pills and told a guard to check her mouth to ensure she had.<sup>205</sup>

The consequences were devastating. Ms. Asfaw recounted that night:

"Immediately my body started shaking. I felt so cold that I thought I was freezing to death, but at the same time I was sweating. I went to my bed and lay down. Within minutes I had a seizure, and my body began to shake so violently that I fell off the bed onto the floor."<sup>206</sup>

She ended up in the medical unit where, unfortunately, the same nurse gave her four more pills.

It took two trips to the hospital to stabilize her. Her stomach was pumped. She vomited continuously and bled from her "mouth and private parts." An examining doctor told her that tests showed damage to her liver. For a month she was on pain medication and needed help to do "just about everything."<sup>207</sup>

As of June 2008, when she testified in Congress about her ordeal in ICE custody, she had not received her medical records from ICE despite repeated requests. A year and a half after a forced overdose of mystery pills, she still did not know to what extent her health had been compromised by an ICE nurse's mistake.

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*It took two trips to the hospital to stabilize her. Her stomach was pumped. She vomited continuously and bled from her "mouth and private parts." An examining doctor told her that tests showed damage to her liver. For a month she was on pain medication and needed help to do "just about everything."*

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### Killing Her Slowly

FIAC client “Lourdes” suffered three months in detention getting insufficient medication for her rheumatoid arthritis, a painful and debilitating disease. Prior to arriving at the Monroe County Detention Center in Key West, Florida, nine separate medications and supplements kept her arthritis symptoms under control.<sup>208</sup> She was able to walk, had minimal joint complaints and was relatively comfortable.

By the time Lourdes was released in August 2008, she had deteriorated significantly. Six months later, she is still unable to walk and must use a wheelchair. According to her doctor, “Her current condition is potentially irreversible.”<sup>209</sup>

Lourdes, 49, described the pain as feeling like “someone sticking knives” into her arms and legs.<sup>210</sup>

While in detention, Lourdes submitted numerous requests to medical staff for medication and injections. She received no treatment until FIAC intervened.<sup>211</sup>

By then, her condition had worsened alarmingly. She said:

“After 15 or 20 days, they could see that I could no longer walk well. To walk or bathe, I had to hold on to someone.... I made the requests to see a doctor. It took 10 days to see him. Then they would tell me they could not give me the treatment because it hadn’t been approved – until they saw that that I was in crisis. I couldn’t walk, and they gave me a wheelchair.... They were killing me little by little.”<sup>212</sup>

Lourdes’ doctor is an arthritis specialist at the rheumatology clinic of Miami’s public hospital. She had treated Lourdes prior to her detention. Her doctor was extremely concerned that Lourdes had to use a wheelchair to get around and was in significant pain. The doctor noted, “Rheumatoid arthritis is a chronic inflammatory arthritis that, if left untreated or poorly controlled, can lead to joint destruction with permanent deformity and disability.”<sup>213</sup>

Lourdes was released shortly after FIAC wrote a letter requesting that the Monroe detention facility provide her medical care. Subsequently, her doctor reinstated the same medication regime that Lourdes had prior to being detained. But Lourdes’ condition did not improve. As her doctor noted:

“Unfortunately she has not been responding to these medications. Although we do not understand why, some [rheumatoid arthritis] patients may become resistant to the medication when they do not take it for a period of time, and this may be occurring with [Lourdes].”<sup>214</sup>

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*Lourdes, 49, described the pain as feeling like “someone sticking knives” into her arms and legs.*

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Her doctor plans to start Lourdes on a new treatment involving infusions of a different prescription drug every few weeks at the rheumatology clinic. If that treatment does not work, other, riskier treatments may be an option.<sup>215</sup> Ultimately the lack of medication in ICE detention has caused Lourdes tremendous pain and may confine her to a wheelchair for the rest of her life.

### Good and Bad Care

In one respect, ICE provided excellent medical care for Syed Ateequllah, a FIAC client: To its credit, ICE approved critical eye surgery for him at Bascom Palmer Eye Institute, an internationally renowned medical facility in Miami. After the eye surgery in July 2008, Mr. Ateequllah returned to the Krome detention facility with instructions for special eye drops. His doctor prescribed that he get drops four times a day to control post-operative inflammation.

By August, Krome medical staff was not regularly providing him the four drops a day. When he went to see his Bascom Palmer ophthalmologist, Dr. Usha Reddy, Mr. Ateequllah complained of eye pain, redness and inflammation. Dr. Reddy was extremely concerned. By September, Krome medical staff had cut the dosage to two drops a day. Dr. Reddy wrote a letter that FIAC sent to the chief medical officer at Krome. It noted: “If Mr. Ateequllah does not use his eye drops as prescribed, the inflammation of his eye could lead to permanent damage including loss of vision.”<sup>216</sup>

Two weeks later, medical staff began giving him only one drop a day. Such indifference to post-operative care begs the question: Why does ICE send a detainee for expensive surgery only to risk ruining it by denying him crucial post-operative medication?

Ultimately, with FIAC’s persistent requests, Mr. Ateequllah was given a bottle of eye drops that he could administer himself and subsequently was released on parole.

### Other Medication Mishaps

Disruptions in medications often occur whenever a detainee is moved or transferred, as well as when detainees are first apprehended. Other examples of mismanaged drugs abound. The consequences can be severe and immediate:

- In January 2009, a Cuban detainee with a history of heart disease was transferred to the Wakulla County Jail in North Florida. He arrived on a Monday and was not given his prescribed medication. The following day he had a heart attack. He returned to the jail from the hospital on Thursday evening. When FIAC spoke to him mid-morning on Friday, jail medical staff had not given him his medication.
- In late July 2007, FIAC wrote to the captain at the Monroe County jail in Key West, Florida, on behalf of a detainee who suffered from seizures. She had been on daily medication for years but had not been given her medications for at least two weeks since her transfer to ICE custody.<sup>217</sup> This is a common violation of ICE medical standards, which require at least 7 days of prescription medications, (14 days in the case of TB medications) to ensure continuity of care.<sup>218</sup>
- After a visit to the Clay County Jail near Jacksonville, Florida, FIAC found seven detainees in need of care. One man with asthma was not getting his inhaler. He was told the jail “ran out.” Additionally, the detainee was illiterate and had to depend on other detainees to submit medical written requests for him. This is a common problem because ICE does not have a process for illiterate detainees to submit oral requests for medical care.
- Another Clay detainee, who was being treated with prescriptions for an upper abdominal hernia, had his medications taken away upon his transfer to immigration custody and was not receiving any treatment.<sup>219</sup>
- A Krome detainee who was HIV positive went three days without his medication following a dorm shakedown in July 2006. Medical staff told him they had forgotten to refill his prescription and consequently were giving him less than half his prescribed dosage.<sup>220</sup>

## Forcible Drugging to Deport

*"They injected me with Haldol. The nurse that accompanied me was a Cuban man from Krome. Then it's all a haze. I remember eating Chinese food in the New York airport. I just passed out."*<sup>221</sup>

- Emmanuel Dimitris Kyriakakis,  
deported to Greece in 2007

While DHS officials denied for decades that drugs were used to carry out difficult deportations, immigration employees privately conceded the opposite.<sup>222</sup> On the few occasions that federal authorities publicly admitted sedating people to deport them, they characterized the practice as rare and a "last resort."

That wasn't true, according to numerous records and interviews obtained by The Washington Post. The Post's investigative report found more than 250 cases in which psychiatric drugs were forcibly given to people to deport them, even though the drugs were not medically indicated. That is the count since 2003, when ICE was created to handle immigrant detention and deportation.<sup>223</sup>

The U.S. push to increase deportation considerably stepped up in the aftermath of the Sept. 11, 2001, attacks and the Bush administration's tougher positions on immigration and against terrorism. ICE had just been formed as a part of the Department of Homeland Security when immigration authorities set a new and extreme policy: an "ICE detainee with or without a diagnosed psychiatric condition who displays overt or threatening aggressive behavior ... may be considered a combative detainee and can be sedated if appropriate under the circumstances."<sup>224</sup>

But ICE went beyond even the tough new rules, forcibly drugging people without medical justification, people without a record of mental illness and those who were not an apparent danger to themselves, officers or others.

Forcibly drugging detainees without medical justification violates some international human-rights conventions, is widely considered unethical and is banned by some countries. In one notable incident in April 2006, a sedated detainee being deported to Guinea was turned back to the United States from a Paris airport. French police informed the ICE escort nurse that any involuntary injection was forbidden in France, and the connecting plane's captain refused to let the deportee aboard.<sup>225</sup>

It was not until the ACLU filed a lawsuit on behalf of two men drugged against their will that ICE modified its policy.<sup>226</sup>

Federal immigration agents at a Los Angeles detention center had forcibly drugged the two men while attempting to deport them on different occasions. The Los Angeles Daily Journal obtained medical records confirming that both men, who reportedly had no history of mental illness or violence, were sedated against their will. Airline officials refused to let the sedated men board the plane.<sup>227</sup>

The sedation policy was changed in June 2007, around the time the lawsuit was filed, to "no longer provide medical treatment to a detainee solely for the purposes of restraint, unless a medical professional determines that they present a danger to themselves or to others."<sup>228</sup> In effect, ICE began requiring its staff to obtain a federal court order to forcibly drug a deportee for aggressive behavior, when no psychiatric condition existed. When the lawsuit was settled in January 2008, ICE tightened its policy to no longer forcibly sedate any deportee without a court order.<sup>229</sup>

The drugs and dosages used by ICE to forcibly deport detainees also raised alarm. Typically an ICE escort nurse would inject deportees with a cocktail with two or three drugs. Most cocktails included Haldol, Ativan and/or Cogentin, according to The Washington Post's analysis of 53 deportees sedated without psychiatric reason in fiscal year 2007.

In official comments to the Washington Post, ICE explained its use of Haldol and other psychiatric drugs on people with no indication of mental illness: The medications "are widely used in psychiatry" and medical escorts use "the lowest dose possible" on deportees.<sup>230</sup>

ICE's actual records tell a different story. Escort nurse logs reveal alarmingly high levels of antipsychotic drugs used on forcibly deported detainees who had no mental illness.

Haldol, the most powerful drug in ICE's cocktail, is an antipsychotic medication used to treat schizophrenia and other severe psychotic states. Its side effects include dizziness, sleepiness, muscle spasms, and stiffness, among others. Recommended doses of Haldol for aggressiveness range from 1 milligram to 15 milligrams a day.

By comparison, ICE used much higher levels, injecting from 10 to 29 milligrams into 8 detainees in fiscal year 2007. Another six deportees got from 30 to 40 milligrams. One example was the deportee who was turned back from the Paris airport in April 2006. Five weeks later, ICE managed to successfully deport him to Guinea. The escort nurse gave him nine injections of Haldol in transit, an astounding total of 55 milligrams.<sup>231</sup>

#### Gone in a Haze

FIAC was contacted by a deportee who detailed how he was forcibly drugged and deported to Greece after living in the United States for 39 years. Emmanuel Dimitris Kyriakakis says he was injected with Haldol and deported by ICE on October 28, 2007.

He landed in ICE custody after serving a prison term on a drug charge. Greece, he said, would not issue travel documents. So he was detained at the Manatee County Jail for 16 months. After challenging his detention in court, he was released under supervision in late 2006.

The following year, ICE came back to detain him. "I also filed an appeal on my [criminal] case," he said. "But one week before I was supposed to go to the appeals court, ICE came to my house and picked me up."<sup>232</sup>

ICE did not show him a court order, he said, although ICE policy at the time would have required such an order to forcibly sedate a deportee who had no psychiatric indication and was no danger to himself or others.

Mr. Kyriakakis was taken to the Krome detention center in Miami. Several days later he was placed alone in a cell and forcibly sedated. He recalled:

"They called me out, then seven or 10 of them surrounded me. They injected me with Haldol. The nurse that accompanied me was a Cuban man from Krome. Then it's all a haze. I remember eating Chinese food in the New York airport. I just passed out."<sup>233</sup>

Now Mr. Kyriakakis is living on a small Greek island with an elderly aunt.<sup>234</sup>

**SUBJECT: Enforcement Standard Pertaining to the Removal of Aliens under Medical Escort**

The purpose of the memorandum is to provide clarification and guidance in relation to the Enforcement Standard pertaining to the escorting of aliens in custody, Part 2 of Appendix 2-3 of the *Deportation Officer's Field Manual (DDFM)*, Section VI, E titled Medical Escorts.

Under current PHS guidance, an ICE detainee with or without a diagnosed psychiatric condition who displays overt or threatening aggressive behavior that could jeopardize his/her safety or that of others may be considered a combative detainee and can be sedated if appropriate under the circumstances. In making a determination of whether a detainee is combative, PHS personnel

may examine the detainee's history of combative behavior that could threaten the success of the transport. They have also identified a core group of specially trained personnel who will do all medical escorts. The normal practice of PHS should be to avoid the use of sedatives unless the facts and circumstances require otherwise. This guidance does not require the use of sedatives every time a PHS "medical professional" is utilized, rather such personnel should independently exercise their discretion to apply a sedative when necessary under the facts and according to their professional medical opinion.

## Language Barriers

ICE detainees who do not speak English face unique obstacles in obtaining medical and mental healthcare. Their health issues are more likely to be ignored, misdiagnosed and/or incorrectly treated if they do not speak English and are not provided a competent interpreter.<sup>235</sup> Medical screenings are often conducted in English. Non-English-speaking detainees often are extremely frustrated with their inability to communicate with medical staff and even have had to resort to sign language to try to get a concern understood.

The consequences of poor or no translation can be devastating to a detainee's mental and physical health. Miscommunication may cause serious delays and mistakes in medical treatment. Some examples come from cases previously mentioned in this report.

Amina Bookey Mudey, the asylum seeker from Somalia mentioned in the Mismanaged Medication section, was misdiagnosed when she was detained because there was no Somali translator at the Elizabeth Detention Center, where she was held. The doctor who first examined her correctly diagnosed that she had post-traumatic stress disorder and depression, but erred by diagnosing her as psychotic and prescribing Risperdal, a powerful drug with potentially fatal side effects.

Soon she began exhibiting “devastating and life-threatening” side effects of the anti-psychotic drug. She began to shake uncontrollably and could not close her mouth. Her tongue thrashed in her mouth. She stopped menstruating and started lactating. She drooled and vomited frequently.

“She became dizzy, disoriented and confused,” her lawyer later testified. “The drug made Ms. Mudey seem developmentally disabled, when in reality she is highly intelligent.”<sup>236</sup>

Fortunately, Ms. Mudey was seen by two outside doctors who used a Somali interpreter. The doctors found Ms. Mudey's medical records riddled with errors largely due to miscommunication. After examining Ms. Mudey with the interpreter, both determined that she was not psychotic and should be taken off the medication that was causing her severe side effects.<sup>237</sup> The doctors advised her to stop taking the Risperdal, and most side-effects dissipated within several days.<sup>238</sup>

Routine detention practices also create language barriers. Jails and detention centers most often require detainees to submit a written request for medical care, which may stop detainees who are illiterate and/or do not speak or write English from requesting care. Jails typically rely on other detainees, and in some cases ICE or jail officers, to translate even the most

private and confidential details of health matters. Even in facilities housing only ICE detainees, such as the Broward Transitional Center (BTC) in South Florida, the medical staff typically resorts to translation by telephone, another source of frustration and miscommunication for detainees.

During a visit to the Wakulla County Jail in Florida, a detainee who spoke only Chinese told FIAC that he could not write a medical request in English, though he needed care for back, hip and ankle pain. A nurse at the jail said that the ICE office is next door to the medical unit; if someone at the jail speaks Spanish, she asks a male ICE officer to interpret – even if the patient is a woman who might have sensitive gynecological issues.<sup>239</sup>

This practice may be handy and cheap, but does not encourage open and frank dialogue about sensitive medical issues. FIAC was particularly concerned about the women (about a half-dozen of them there in February 2008) who only spoke Spanish and would only be able to explain medical conditions and obtain medical treatment through a male ICE officer.

Detainees who speak Creole, Mandarin or other less commonly spoken languages have an especially difficult time. Those who are illiterate have no way to get medical care under the written-request system at the Wakulla jail and elsewhere.

Recently, FIAC brought a translator to speak to Chinese detainees at the Glades County detention facility. The detainees reported that Glades medical personnel never use translators. One Chinese detainee said:

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*A nurse at the jail said that the ICE office is next door to the medical unit; if someone at the jail speaks Spanish, she asks a male ICE officer to interpret – even if the patient is a woman who might have sensitive gynecological issues.*

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“They never use an interpreter in the medical clinic. Not by phone or in person. We [Chinese detainees and others] all have a lot of respiratory problems at this jail. I try to speak English, but it’s really difficult for me. They just give me a bunch of pills, and the doctor says things I don’t understand. I don’t know what the pills are called or exactly what they’re for or if they have side effects or anything.”<sup>240</sup>

The inability to communicate with medical staff affects not only the extent and quality of the medical care detainees receive, but it may also violate confidentiality between detainees and the medical staff.

Detainees also are inhibited from getting medical attention by medical staff that is rude and intolerant with non-English speakers. A Mexican woman detained at BTC in South Florida suffered serious swelling and pain in her legs. Her condition developed after she was improperly shackled and handcuffed for more than 12 hours in September 2008.

Late in October, she told FIAC she could no longer walk on one leg or feel her foot and she had boils on her ankle. She was afraid to go to the medical office, however, because staff “yells” at her to fill out the request form. The nurse always “yells” at her to “speak English.”

Though she can speak rudimentary English, she is not skilled enough to properly communicate her symptoms and medical concerns. She went to the office nonetheless, and was told to fill out another medical request, her ninth about her leg problem.<sup>241</sup> With such poor communication and medical treatment in detention, it is not surprising that her condition has worsened.

Detainees and their children also have suffered due to lack of interpreters. In April 2003, Jordan, the 2-year-old son of a detained Haitian asylum-seeker, was rushed to the emergency room of a local hospital. Though his health had been deteriorating for some time, medical attention was inexcusably delayed.<sup>242</sup>

At the time, detainee children were being warehoused with a parent in a hotel. A week before the boy was rushed to the hospital, his mother told FIAC:

“My son has been sick for weeks. A doctor finally did come and see us here at the hotel and prescribed him some medicine, but the medicine has not worked and it’s been well over a week since he saw the doctor. The problem was that I don’t speak English and the doctor didn’t speak Creole. He did not use an interpreter, so I couldn’t tell the doctor about all of my son’s symptoms.... I’m very worried about his health.... I never imagined the United States would treat us like this.”<sup>243</sup>

## Unhealthy Living Conditions

*“The immigration department picks up so many people that it has no resources left to minister to them. Rarely will you have soap, you are forced to wash your whole body with tiny sachets of hair shampoo, go without toothpaste and other personal products. I can only imagine the anguish of the female detainees in their facilities.”<sup>244</sup>*

- A Kenyan describing overcrowding and filth at Krome

Detainees complain about unhealthy, unsafe conditions, including filthy jails and crowding. Chronic crowding can lead to serious health consequences for those detained. Such conditions increase the risk of infectious diseases spreading and of even minor injuries or illnesses developing complications due to poor hygiene. Medical services also are stretched to the brink.

The medical clinic at the Krome detention facility in Miami has been greatly improved over the years and in many ways is now state-of-the art. Yet detainees continue to report that their complaints aren't taken seriously and that the facility continues to suffer periods of severe crowding.

Detainees also frequently tell FIAC about transfers of detainees out of facilities in advance of scheduled inspections. Just such a report came as recently as January 2009 from a detainee at Krome. He said that many detainees were being transferred and moved around at the facility because there was going to be an inspection that afternoon.<sup>245</sup> Such a practice allows detention facilities to present a cleaner appearance with less crowding than what is routine.

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*On September 20, 2006, 1,054 persons were detained at Krome – nearly double the stated capacity of 572. A detainee aptly described their frustrations: “We’re living like boil spaghetti.”*

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Krome detainees had complained of crowding just a month before. One letter described 83 people in a pod/dorm designed for no more than 52 people. The pod had only 26 bunk beds and six toilets. The letter said detainees with mental illnesses were being held with those who had physical disabilities – two groups with differing medical needs.<sup>246</sup>

In 2006, Krome's population skyrocketed. Reports described detainees sleeping in the halls and medical area, sometimes near toilets, while waiting to be processed. Detainees wrote to FIAC:

*“The campus is overcrowded like Sardines with full bunk-beds plus 58+ average (army cots & boat beds), average 1,300, plus 250+ non-processed detainees, which is causing lots of tension that leads to confrontations, unsanitary dorm, showers, and clogged toilets (5 toilets per 120+ detainees) with low water pressure, flies, shortage of hygiene items....*

*“The A.C. read 79-80 degree and the exhaust fan [is] never on for circulation of the air; dirty air is making detainees sick especially breathing on one another while sleeping with 1 foot distance to each other.”<sup>247</sup>*

On September 20, 2006, 1,054 persons were detained at Krome – nearly double the stated capacity of 572.<sup>248</sup> A detainee aptly described their frustrations: “We’re living like boil spaghetti. Me, myself, I end up have a detainee so close to my bunk it seems like we’re sleeping together.”<sup>249</sup>

Another detainee from Nairobi, Kenya, was so troubled about overcrowded conditions at Krome in 2006 that he wrote a column posted on the East Africa Standard website on April 5, 2007. His op-ed noted:

*“In the months of October, November and December, many times this limit was grossly overlooked with detainees reaching numbers of up to 1,100 at one time. There are no open windows and everyone is consistently sick with one strain of something or another. The clinic is ill equipped to deal with the situation, and going to it only guarantees that you are going to sit in a cell for five or more hours only to get aspirins to deal with whichever ailment you have.*

*“Rooms built to house 50 people often hold up to 120 people. The filth, congestion and mucky air, with people literally walking over each other's toes, make sure that there were fights almost every day....*

*“On January 8, 2007, my building – Building 11 – had*



164 detainees instead of the required 100. On that day, the excess 64 detainees [were] sleeping on the floor in contraptions called boat bunks were taken and distributed evenly among the other buildings so that the overcrowding wouldn't be as pronounced. This was possible because on the same day, tens of detainees were picked up and transferred to other facilities, some in Florida and some outside.

"We didn't know what was going on until the next day when we saw people, who we could only assume to be auditors, walking around the facility. This is a game that ICE plays all the time. Every time there is too much public outcry, they move some people around to reduce the congestion. After a week or so, everything is right back to normal."<sup>250</sup>

When Krome was terribly overcrowded in 2006 and early 2007, ICE refused to provide actual population numbers or acknowledge the serious problem overcrowding was creating. Nor did ICE approve a Miami Herald request for a tour of Krome until months afterward, when the population had significantly decreased.<sup>251</sup>

The Government Accountability Office found Krome to be well over capacity during a visit to Krome in late 2006: "At the time of our visit, the Krome Service Processing Center in Florida had a population of 750 detainees with a rated capacity of 572 detainees. Officials told us that the facility's population had been as high as 1,000 detainees just one week prior to our visit. An official at that facility expressed concern about the limited amount of unencumbered space at the facility."<sup>252</sup>

## Detainees Treated Like Criminals

*“Some three detainees vomited on themselves, and our cries for help were met with indifference by the ICE officers. We were kept five hours inside the van, without food, water or medication for insulin dependent women. It was a horrible situation. Some women fainting, others crying, and there we were, helpless, shackled, and impotent to help them.”<sup>253</sup>*

- A Nicaraguan detainee during an evacuation in September 2008

Whether in ICE-run detention facilities or ICE-contracted local jails, detainees describe an anti-immigrant bias by some detention officials. Beyond its discriminatory and pernicious effects, this bias also can hurt detainees' access to medical care. Add to this mix a detention culture in which guards may become hardened and abusive toward immigrants in custody.

Such officers and medical staff frequently view ICE detainees as criminals – though detainees are in administrative custody and most have no criminal history. Some staff too readily assume that detainees are faking their illness and have ulterior motives for doing so.

### Needlessly Cruel

During the evacuation of detainees in advance of a hurricane in September 2008, hundreds of detainees from South Florida were subjected to cruel, unhealthy and inhumane treatment throughout journeys that lasted 12 hours and longer in some cases. The conditions not only caused injuries and illness but exacerbated health issues that some detainees already had.<sup>254</sup> Further, relatives and lawyers had no information about where the detainees were taken or what their conditions were.

All of the detainees, women and men, consistently reported being shackled and handcuffed during long trips to Texas and Maine on buses, vans and planes. They remained in restraints the entire time, including while going up and down stairs and to the bathroom. Not surprisingly, injuries occurred.

A detainee from Nicaragua tripped on his shackles and tumbled down the stairs while exiting an airplane. He thus injured his left shoulder and arm and his right hip. The detainee told FIAC that an ICE officer ordered him to stand after the fall. When he said that he needed medical help, the officer pulled him up and forced him to walk to the bus and climb up the steps. The following week a FIAC staff person

visiting BTC saw the detainee's swollen hip and a brace on his shoulder.

Numerous women reported that the metal handcuffs and shackles used on them were much too tight, a violation of ICE standards.<sup>255</sup> FIAC observed bruising and obvious swelling on one detainee where she had been shackled. The detention standards state, “To ensure safe and humane treatment, the officers will check the fit of restraining devices immediately after application, at every relay point, and any time the detainee complains. Properly fitting restraints do not restrict breathing or blood circulation.”<sup>256</sup>

Women uniformly reported that they were denied access to a bathroom until they were on the plane, and even then remained handcuffed and shackled while attempting to use the bathroom. Some detainees said they were not allowed to use the bathroom at all while on buses or vans. One woman reportedly urinated in a vomit bag. One detainee said:

“We only stopped one time at a rest area so the officers could get food. We had no bathroom for over six hours, no food, no water, and no air.”<sup>257</sup>

Not drinking water and not going to the bathroom can damage a person's health, particularly for those who already have kidney, prostate or other medical problems.

Detainees told FIAC that diabetics did not have access to medications during the evacuation, and several became faint because they did not have food or water while being bused, another violation of ICE standards.<sup>258</sup> Other detainees became ill.

One woman who is on anti-anxiety medication at BTC reported she did not have her medication during the journey and had a panic attack because of the extremely confined conditions in which they traveled:

“I was put inside of a completely enclosed cage in the van. I am claustrophobic with anxiety problems. I was suffocating and hyperventilating. I told the officer I needed air. He opened the door for 5 seconds and slammed it. After driving for over three hours or so, we stopped at a rest area. One of the officers came to check on me and saw I was pale.

Then he was looking for a cup to give me water and couldn't find one when he had his own bottle inside. He just said, 'hang on, we're almost there.' On the day we were leaving Maine, Sept. 11, 2008, I told the officer before he loaded me in the van I was claustrophobic, he said he'll let me sit by the caged window. I was still sick and the only thing he gave me was a vomit bag."<sup>259</sup>

South Florida's detainees were evacuated when it was clear that Hurricane Ike no longer posed a threat to the area. So the illness, mistreatment and expense all were unnecessary. Local ICE detention chief, Michael Rozos, told FIAC that the complaints would be forwarded for investigation.<sup>260</sup> To date, FIAC has yet to see the findings of such an investigation.

### Routine Abuses

Even during trips to local hospitals for medical care, ICE detainees who are not serving criminal sentences are routinely handcuffed and/or shackled when transported. The same is true when they are seriously ill and hospitalized. That was the case with Miguel Bonilla, the man who suffered a ruptured appendix in detention. He was shackled on the way to the emergency room, as soon as he regained consciousness after emergency surgery, and on the way back to the Glades detention facility in Central Florida after he was released and while still in pain.

Mr. Bonilla described his harrowing ride from the hospital back to the Glades detention center:

"I still wasn't feeling well. Glades officers brought me from the hospital in a small bus. I left with my hands handcuffed and feet shackled. They didn't fasten my seat belt. Every time the bus turned, I felt as if I was about to fall. Everything hurt in my body, but I had to push down with my feet hard to stop myself from falling."<sup>261</sup>

Mr. Bonilla's experience with Glade's mode of transportation is not unique. FIAC has fielded numerous complaints from detainees about the bus ride from Glades to Krome, a common destination for immigration court dates. One Glades detainee summed it up:

"They take 40 or 50 people shackled together when we have to go to Krome for court. Forget about seatbelts. There aren't any on the buses. Sometimes they'll take people in those little ice cream wagons (vans). There are seatbelts in there, but they never put them on us. And we're shackled and cuffed so we can't put them on. We just bounce all around inside that thing the whole way to Krome. And they drive like crazy. Once they forgot I had

court and another officer had to take me. There was a big pile up out here so they drove down the grass median. I don't want to be the one to get to sue them for getting hurt during transportation. That's an accident waiting to happen."<sup>262</sup>

In the case of medical patients like Bonilla, such bus rides are no way to promote healing. But even routine trips to court can be dangerous for the health of any detainee in rides such as the ones described above. Equally disturbing is that ICE routinely shackles and handcuffs seriously ill detainees on the way to hospital emergency rooms.

For example, in the summer of 2004 a very ill, pregnant ICE detainee held at a local Miami jail was taken to Jackson Memorial Hospital in shackles and handcuffs and not seen by doctors until she began to hemorrhage. Later that year, Rev. Dantica, an 81-year-old Baptist minister with no criminal history, was transported to Jackson Memorial Hospital with leg restraints, and relatives who requested to see him were turned away. He died without seeing any of his loved ones.

Here are other examples of cruel, abusive and unhealthy treatment:

- FIAC assisted a 54-year-old Swiss woman with a history of blood clots in the veins of her legs. Her condition had been treated for years with blood thinners. She also had suffered a triple fracture to her left ankle, which had not completely healed when she was detained at Bay County Jail in North Florida in January 2007. Though she told the jail officer about her ankle problem, she was nonetheless forced to board a bus wearing shackles. She tripped and fell trying to board the bus, suffering further injury. She reported that a jail officer who observed her said, "I think I'm looking at a broken ankle."<sup>263</sup>

She was transferred on that bus to the Wakulla County Jail, an ICE-contracted detention facility. There, she was given ACE bandages and ibuprofen for pain, but did not receive any further medical attention for her ankle for several weeks.<sup>264</sup> More serious, she repeatedly told DHS and jail personnel about her history of blood clots and the excruciating pain she felt in her legs. It was not until FIAC

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*He was shackled on the way to the emergency room, as soon as he regained consciousness after emergency surgery, and on the way back to the Glades detention facility in Central Florida after he was released and while still in pain.*

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submitted an independent physician's review of her medical file that confirmed the severity of her condition and recommended tests that she was started on medication to prevent blood clots in June 2007.<sup>265</sup>

- Another example of undue harshness involved a Haitian detainee at Wakulla County Jail who had a swollen abscess on his neck. During a June 2006 interview he told FIAC that the jail's medical staff did not explain anything about his condition to him when he was taken to the jails' medical clinic. He was simply told to lie down and was then held down by a physician, nurse and jail sergeant. Then the doctor, without his consent and without anesthesia, "came at [me] with a knife" and sliced open the abscess. He was escorted back to his jail pod and administered pain medication only after the incident.<sup>266</sup>
- A 65-year-old Haitian detainee who had been in ICE custody for about two years had renal failure while in jail in Bradenton, Florida, and had to be hospitalized. While there, the Haitian was released on his own recognizance by an immigration judge after winning his appeal to the Board of Immigration Appeals. ICE appealed the decision, staying this gentleman's release. Subsequently ICE dropped the appeal and decided to release him in 2006. But ICE did not contact his FIAC attorney about the release, which FIAC had requested due to his serious medical condition.

Following his discharge from the hospital and release that night from ICE custody, this seriously ill man ended up sitting on a bench outside the jail all night, without any money or belongings. The next morning when the immigration court judge was going to work, she saw him and contacted FIAC. After his FIAC attorney picked him up, he became extremely ill and was taken to the local hospital from which he had just been released the day before. He spent another week there before he was stabilized. Later he was put on dialysis and died a year following his release.

- In June 2006 a detainee from Trinidad was taken to the Wakulla County jail's medical unit after being Tasered in his neck and abdomen, falling to the floor and hitting his head. This detainee was Tasered though he had done nothing wrong. On the contrary, he was a victim of abuse by another detainee.<sup>267</sup>

The condescending nature of the treatment at times received by female asylum seekers is apparent in staff culture and training. In 2004, for example, FIAC reviewed BTC Detention Manual given to detainees to help them navigate the correctional institute. This manual included a section on "social

tips," which told detainees not to spit or blow their nose on the floor, walls or in the sink.

The manual also instructed them to stand arms-length away and speak in a low, even tone, rather than a loud rapid manner, when speaking to Americans. It added that Americans are very conscious of personal hygiene and, therefore, detainees should shower, brush their teeth and change their undergarments every day. Underlying these "tips" is the assumption that foreign-born women engage in socially unacceptable behavior. BTC finally revised the manual after FIAC complained.

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*This manual included a section on "social tips," which told detainees not to spit or blow their nose on the floor, walls or in the sink. The manual also instructed them to stand arms-length away and speak in a low, even tone, rather than a loud rapid manner, when speaking to Americans.*

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## Denied Medical Records

*"Although Ms. Mudey was ultimately granted asylum, and has been free for over eight months, ICE officials have refused to release Ms. Mudey's medical records to her, or to me, and to this day, have refused to identify which hospital they took her to and what treatment was rendered to her, despite numerous requests."*<sup>268</sup>

- Amina Mudey's attorney

It can be extremely difficult for detainees to obtain their own medical records and can take months for FIAC or other lawyers to obtain records on clients' behalf.

In 2006, FIAC spent months trying to get the medical records and test results for one client who was detained at Broward Transitional Center in South Florida. The woman had first found a lump in her breast in May 2006. The lump was documented as growing and increasingly painful. Nonetheless, she was denied access to her own medical records for months. Eventually she received a biopsy in November 2006. Neither she nor her FIAC attorney was informed of the results for weeks. Fortunately, the test revealed the lump was benign. Had the medical staff informed her of the results promptly, she would have been spared weeks of needless worry.

When there is a death, such as in Rev. Joseph Dantica's case, it is even more difficult to obtain medical records. After he died in custody in November 2004, FIAC was forced to sue to obtain medical records on behalf of his family. It took about a year before we got all the records – at least all the records that ICE says exist.

Even so, 31 pages of Rev. Dantica's records were redacted by ICE, which claimed a privacy issue. Whose privacy, or misconduct, is being protected when the subject is dead? Not that of the family members who asked for, and have a legal right to, the information.<sup>269</sup>

In the more recent case of Amina Mudey, mentioned earlier in this report, ICE refused to release all of her medical records. Eight months after being released from ICE custody in September 2007, she still had not seen medical records related to a hospital stay for an untreated illness that worsened while she was in detention. She still did not know what illness she had, how it was treated, what its aftereffects might be or even the hospital that cared for her – despite numerous requests for medical records that should be hers.<sup>270</sup>

Similarly, ICE denied Zena Asfaw crucial records. As of June 2008, when she testified to Congress about her ordeal in ICE custody, she had not received her medical records from ICE despite repeated requests. A year and a half after a forced overdose of mystery pills, she still did not know to what extent her health had been compromised by an ICE nurse's mistake.<sup>271</sup>

FIAC also has requested the medical records of Felipe Perez-Leon, the paraplegic Cuban who was denied handicap-accessible facilities while at the Atlanta City Detention Center in Georgia from May to November in 2007. Three times since December 7, 2007, FIAC has asked for those records from the Atlanta jail to no avail. FIAC followed up by fax and voicemails to the jail's medical department. FIAC still has not received a response and will likely have to sue.

The process for requesting records is different at each facility where immigrants are detained, but is consistently riddled

From: Amina Bookey Mudey Atif Sharif Abdi  
A 97-533-835  
August 20, 2007  
To: Elizabeth Detention Center Medical Staff,  
I wish to see my medical records  
to identify which hospital I was taken  
to on Friday, August 17, 2007. I  
am entitled to have access to my own  
medical records, and am entitled to  
know the names of each doctor who has  
administered medical care to me.  
As you know, I do not speak English.  
I speak Somali. I need to have a Somali  
or on the phone  
interpreter with me when I speak with doctors.  
My attorney has offered, and continues to

Excerpt from one of Ms. Mudey's requests

with bureaucratic red tape. Medical files are often imperative not only to help ensure that a detainee is receiving proper treatment but also for political-asylum and torture-convention immigration cases.

Sometimes requests for medical records can be made directly to the jail, but records may be held off-site. At the Broward Transitional Center, officials claim that all requests must first be approved by the detainee's deportation officer. ICE approval is not legally required and should not be imposed by ICE or detention staff as a requirement for a detainee to obtain their medical records. FIAC has complained about this practice, but the requirement persists.

With transfers of detainees steadily increasing, it can take months to gather a detainee's medical records. Such transfers routinely interrupt medical care. One cause: Detainee medical records are not always transferred promptly, in complete form, or in some cases, at all. Medications provided a detainee in one facility are frequently not provided for weeks following a transfer to another facility.

At the Glades County Detention Center, a detainee was hit over the head with a chair by another detainee in August 2007. The injury damaged the detainee's hearing and caused a skull fracture that required temporary staples in his head. The detainee was transferred to Krome in order to receive better medical care. However, his medical records indicate that Krome medical staff had to rely on the detainees' description of what happened. His complete medical records apparently were not transferred with him. Though he was transferred to Krome with staples in his head and a recent, serious injury that occurred in immigration custody, medical records critical to his treatment did not follow promptly.<sup>272</sup>

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*The process for requesting records is different at each facility where immigrants are detained, but is consistently riddled with bureaucratic red tape.*

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## Conclusions and Recommendations

ICE detainees are routinely subjected to poor, and sometimes appalling, medical care. They are particularly vulnerable and at the mercy of DHS officials. Because they are detained, they are not permitted to get treatment from their own outside doctors – even at their own expense. The great majority have no lawyer to help them. Meanwhile, attempts by FIAC and other advocates to obtain adequate medical treatment for detainees and to call attention to serious medical issues repeatedly have been ignored.

Government records, news reports and FIAC's experience in detention centers indicate that healthcare in immigration custody is deteriorating, and many officials responsible for that care are alarmed. Regardless of its public posturing, ICE funding for detainee medical care is inadequate.

At the same time, ICE's attempts to save money – by limiting covered ailments and denying requests for needed treatment – are counterproductive. Covered services are in essence limited to emergency care, and a managed-care process requires every referral, medical exam, or treatment of a detainee to be approved by off-site nurses who conduct a paper review, sometimes without the full medical records.

Thus, a non-physician can deny a treatment requested by a physician who has seen the patient. Too often, denied or botched care then leads to costly complications and lawsuits that cost taxpayers more money.

Many government employees responsible for the care and custody of ICE detainees are competent and dedicated. Understandably, some overwhelmed health-care employees may be suffering from compassion fatigue. Nonetheless, denying that problems exist place at risk the very detainees in dire need of medical care. Though some detainees may exaggerate the problems they face in getting proper medical attention, FIAC's experience, detainee medical records and statements from detention medical staff provide ample proof that detainees' complaints often are legitimate.

The current detention policy is overly broad and inhumane. Notwithstanding the best efforts of ICE officials, they must work within the system, and the system is fundamentally flawed. Immigrants who are neither dangerous nor likely to abscond should not be detained. Those detained – whether severely ill, asylum seekers or others challenging deportation orders – should be fairly considered for parole and other alternatives.

Alternatives to detention are cheaper and more humane. At the daily average of more than 31,500 ICE detainees per day, ICE spent more than \$1.65 billion in the 2008 fiscal year on detention alone – with taxpayers paying the tab.<sup>273</sup> On average, it costs \$95 per day to hold someone in immigration custody. The alternatives cost as little as \$12 a day.<sup>274</sup>

One tested alternative required people to periodically report by phone and in person. Another released asylum seekers to community shelters and found them pro bono attorneys. Both succeeded in keeping participants on a legal track: appearance rates before immigration authorities ranged from 93 percent to 96 percent.<sup>275</sup> Such alternatives allow ICE to save money by detaining fewer people without threatening national security. In fact, national security could improve if the Department of Homeland Security were to focus resources on terrorist and criminal threats instead of immigrants who contribute to their communities.

The immigration detention standards adopted in 2000 were designed to ensure safe and secure treatment of immigration detainees. But these standards have never been fully implemented or enforced, despite assurances to the contrary. The standards still are not binding and are routinely ignored, as many examples in this report attest.

Now ICE is transitioning to updated "Performance-Based National Detention Standards" released in September 2008.<sup>276</sup> These standards could easily be ignored like the old standards unless compliance is mandated and rigorously enforced.

Nor is ICE compelled by law or other authority to report deaths in custody to the Department of Justice, Congress or any other government body that could exert oversight over the agency's conduct.

This is only one example of the lack of oversight regarding the medical care provided to ICE detainees. DHS's Office of Inspector General has investigated conditions in immigration detention, including one report on two deaths in ICE custody. So has the Government Accountability Office.<sup>277</sup> Yet, overall, the efforts failed to scrutinize critical deficiencies in the medical care provided to detainees.

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*Ensure that the conditions, practices and quality of medical care for detainees meet established legal, medical and human-rights standards.*

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Within this oversight vacuum, ICE tolerates a culture of cruelty and indifference to human suffering. This is not to say that all ICE staff is inhumane. In fact, government documents obtained by The Washington Post and

FIAC's own experience reveal the concerns of medical personnel who agonized over treatment denials, staffing shortages and other situations that threatened detainee healthcare.

However, the ICE culture tolerates treating detainees as criminals, shackling them when they are desperately sick, ignoring painful symptoms, retaliating against those who demand better medical attention, and denying life-sustaining medication and treatment. ICE tolerates cruel treatment of the most vulnerable people in its custody— the physically and mentally ill.

We do not know if such cruel treatment happens because detainees are foreign, imprisoned, have no lawyer to defend them or all of the above. We do know from years of direct experience that cruel and inhumane treatment of sick detainees is a systemic problem.

ICE is responsible for providing basic and required medical care to its detainees, regardless of where they are housed or who the medical providers are, because it is ICE that holds them prisoner. Yet ICE has abdicated this responsibility by failing to oversee the provision of such care.

Only outside, independent scrutiny of detainees' medical care will ensure that the DHS and ICE carry out their moral and legal responsibility to provide for the health and safety of detainees entrusted to their care. Given the dramatic increase in detainees in recent years, the need for proper scrutiny of medical care is more critical now than ever.

In short, many immigration detainees are subjected to substandard medical care, and the problem is growing. Death rates in detention appear to be worsening. There are signs that infectious diseases, among them chicken pox, are spreading in the detention system.<sup>278</sup> Overcrowding exacerbates the unhealthy conditions that breed such diseases. ICE needlessly detains people with severe and complicated illnesses and those who pose no harm to U.S. communities. Doing so drives up ICE costs even as ICE provides inadequate medical and mental healthcare to those in its custody.

Lives are at stake. The urgency to improve detainee medical care cannot be overstated. FIAC recommends that the following steps be taken immediately:

### To the Administration and Congress

- Establish an independent oversight commission, composed of healthcare and immigration experts, to oversee medical care in U.S. immigration custody. Its mission: to ensure that the conditions, practices and quality of medical care for detainees meet established legal, medical and human-rights standards. Charge the commission to: issue regulations on medical standards and practices; conduct independent inspections of detention facilities; investigate allegations of inadequate medical care; and refer complaints to appropriate government agencies, among other oversight activities.
- Strengthen and issue regulations that codify detention standards for ICE, including medical standards, so that all immigration detention facilities provide competent, timely, and necessary medical care by force of law. Require ICE detention facilities and its contracted facilities to annually report their compliance with the detention standards.
- Strengthen and issue regulations requiring DHS to promptly report the death of any immigration detainee to the U.S. Attorney General. Require an independent investigation of each death. Also require DHS to annually submit a report to the Judiciary Committees of the U.S. House and U.S. Senate with detailed information on all the deaths, including the cause of death and the results of related investigations. Make the information available to the public through the Deaths in Custody Reporting Program of the Bureau of Justice Statistics.
- Direct oversight agencies to conduct unannounced inspections of ICE medical facilities and investigations of medical incidents. These investigations should include reviews of medical records, procedures, and staff levels. Investigations should also include interviews of detainees with medical issues and reviews of detainee medical requests and complaints. Encourage accountability and transparency by directing investigation reports and findings be released to the public.
- Promote alternatives to detention by shifting ICE funding from detention beds to proven, community-based alternatives. Prioritize the release of vulnerable detainees, such as detainees with ongoing medical or mental-health issues.



- Direct ICE and the Division of Immigration Health Services (DIHS) to clarify its mission, policies, and “Covered Services Package” to comport with the established legal, medical, and human-rights standards for providing healthcare to detainees. Covered services should include eye care and ensure a continuum of healthcare services.
- Limiting care to “keeping detainees healthy enough to deport” invites abuses and is unacceptable.
- Direct and fund ICE and the Office of Refugee Resettlement to provide adequate resources for the medical treatment of unaccompanied children in custody. In particular, the agencies need to improve mental-health treatment for children who remain in custody for more than a month.
- Direct ICE and DIHS to revamp or eliminate the “Treatment Authorization Request” process so that physicians evaluating detainees on-site have the ultimate say on whether to provide detainees medical treatment based on medical criteria.
- Require DHS and ICE to ensure continuity of care by: 1) requiring detainees to be medically cleared by medical staff for transfer, and 2) stopping or delaying any transfer when the continuity of medication, medical records, treatment or other medical need is not assured.
- Require ICE to promptly provide medical records to detainees requesting those records. Encourage accountability and transparency by directing ICE not to abuse public-records privacy exemptions by excess redaction of documents, particularly those requested by family members.
- Require all medical and other staff, including interpreters, working with ICE detainees in a health-care capacity to complete a standard patient-confidentiality training program that satisfies the requirement of Title II of the Health Insurance Portability and Accountability Act of 1996.
- Prohibit ICE or any ICE contract facility from asking any detainee to pay for medical care or medication provided in detention facilities or during outside medical visits.
- Strengthen and enforce ICE standards to ensure that the conditions and quality of medical care for all detainees in ICE-run and ICE-contracted facilities meet established legal, medical and human-rights standards. Establish clear policies to ensure that detention staff members who abuse detainees are disciplined.
- Launch training efforts to combat the culture of indifference to human suffering that ICE tolerates within its ranks. This culture views all detainees as criminals who are faking illnesses, regardless of painful symptoms, and often prevents timely and appropriate medical treatment.
- Revamp or eliminate DIHS policies and practices – which dictate what medical treatment is offered, approved or denied – to conform to broader ICE National Detention Standards and accepted legal, medical and human-rights standards on medical care. Physicians should have the ultimate say on whether to provide a detainee treatment based on medical criteria.
- Require a mental-health screening that properly identifies detainees with illnesses such as post-traumatic stress disorder and other psychiatric conditions. Mentally ill detainees must be placed in a facility that can properly care for their mental-health needs. Prohibit placing such detainees in isolation or seclusion at a detention facility for punitive reasons.
- Require ICE and ORR to provide adequate medical treatment for unaccompanied children in custody. In particular, the agencies need to improve mental-health treatment for children who remain in custody for more than a month.
- Ensure that detainees are properly and consistently referred to competent health-care providers within their detention facility and outside the facility as needed.
- Require any ICE detainee to be medically cleared for transfer. Stop or delay any transfer where the continuity of care is not clearly ensured. Medications and complete medical records must accompany detainees upon transfer so that medical treatment is not interrupted.
- Heavily weight a detainee’s medical condition and the availability of competent medical care in custody in determining whether he or she should be released or transferred.

#### To DHS and ICE

- Ensure that detainees are properly and consistently referred to competent healthcare providers within the facility in which they are detained and outside the facility as needed.

- Prohibit the use of restraints on detainees in hospitals and during medical transfers absent exigent circumstances. Stop placing detainees in hospital criminal wards absent exigent circumstances.
- Require all ICE medical staff and detention facilities, whether ICE run or contracted, to promptly provide complete medical records to detainees requesting them. Standardize the policy for all immigration detention facilities.
- Ensure that detainees may seek medical care without threat that they will be transferred or punished if they do so.
- Provide women detainees with regular gynecological care, mammograms and prenatal care if appropriate. Require a female staff person to be present when any male medical personnel provide gynecological care to a woman.
- Ensure that adequate translation services exist at every facility where detainees need to communicate medical needs. Translators not only must be competent but must know and abide by the confidentiality provisions of Title II of the Health Insurance Portability and Accountability Act.
- Prohibit any ICE facility or ICE contract facility from asking detainees to pay for medical care or medication provided in detention facilities or during outside medical visits.
- Discontinue arbitrary rules such as the refusal to provide dental care until the detainee has been in custody for at least six months.
- Ensure that medical facilities for immigration detainees are clean and properly staffed, maintained and equipped.

## Background

Inadequate, negligent and abusive medical care in immigration custody is not new. Long before ICE was created in 2003, the Immigration and Naturalization Service that preceded it had an equally questionable record in treating ill detainees. Following are examples FIAC's experience with such cases.

### Deaths in Detention

- In November 2001, 28-year-old Jean Jude Andre, a Haitian national, died after collapsing in a bathroom at the Krome detention facility in Miami. A preliminary autopsy report indicated that an abnormal heart probably caused his death. According to his family and other Krome detainees, however, Andre's death might have been prevented had he received proper medical care while in immigration custody.<sup>279</sup>
- In 1999, 46-year-old Ashley Anderson died after being transferred from Krome to Larkin Community Hospital in South Miami. Before his death, Anderson had repeatedly complained to The Miami Herald about neglect and inadequate medical treatment at Krome.<sup>280</sup>
- Following the death of a Nigerian man at Krome in 1996, a fellow detainee wrote:

"I... watched the Nigerian who died on the soccer field on January 1st. We were playing soccer and... he fell down. When that happened, a detainee from Israel and some of us tried to resuscitate him because he was not breathing.... About three INS officers were there [on the soccer field] but...for about thirty minutes no one [from INS or PHS] help[ed].

"When the doctor finally came, he came with empty hands, nothing to help the detainee. So I think he died because he didn't have medical help in time.... They don't care here.... So we got scared for ourselves. With that, we Nigerians here, we feel very troubled."<sup>281</sup>

- Detainees have alerted FIAC to other suspected deaths in ICE custody. At the Bay County Jail in Panama City, Florida, detainees suggested that questionable medical care led to the death of one man:

"[O]ver here in Panama City there was an old man by the name of \_\_\_\_\_. He told the medical department that he was feeling sick, all they gave him was aspirin, and they waited until he got really sick to take him to the hospital where he died. He was here in my dorm."<sup>282</sup>

### Abusive Medical Care

Lack of medical care was the number one complaint from women, many of them asylum seekers, detained at the Turner Guilford Knight Correctional Center (TGK). TGK is a maximum security county jail in Miami. ICE began detaining women there in December 2000, following allegations of sexual abuse by officers at Krome.<sup>283</sup>

Ultimately, all the women in ICE custody at the TGK jail were moved to a Monroe County jail in September 2004. The move was prompted by an ICE annual detention review of TGK in March 2004 assigned a final rating of "At-Risk" regarding detainees' access to medical care. The review concluded that "the overwhelming lack for [sic] health and safety found at TGK is disturbing."<sup>284</sup>

During the period that women detainees were placed at TGK, it is FIAC's understanding that the already overwhelmed TGK medical staff, providing medical to more than 1,000 jail inmates, were simply asked to work overtime upon the detainees' arrival from Krome.

The women detainees complained that sick-call requests routinely were ignored. They reported that some TGK officers and medical staff were upset at how the detainees were being treated, told them that some nurses "were taking detainees' pink slips and throwing them in the garbage."<sup>285</sup> The women also claimed they were charged each time they went to the clinic, even though officials claimed not to charge detainees for medical care.

Not surprisingly there were numerous medical complaints, among them:

- On June 2, 2001, a FIAC attorney learned about a Haitian woman who was so ill that she could barely walk or talk. She said her vision was badly blurred and couldn't eat but was thirsty all the time. She also had made several unsuccessful requests to see a doctor. Attorneys from FIAC had to insist that she see a doctor. The same day, she was rushed to the hospital and diagnosed with chronic diabetes. An officer at TGK told FIAC that she had been trying to get this detainee medical attention for days.<sup>286</sup>

Detainees who were diabetic often suffered needlessly at TKG:

- “I’m a diabetic and they didn’t have a special diet for me there [at TKG]. I could only eat the starches. I never got physical therapy and I couldn’t move around at all. They changed my meds there. So I gained 80 pounds in that time because I could only eat those starches and couldn’t exercise because of my handicap and not getting proper treatment.”<sup>287</sup>

Detainees suffering from epilepsy also face serious delays in getting medical attention.<sup>288</sup> One detainee described her experience at TKG:

- After she fell down “the officers wouldn’t let [another detainee] help me that day. Instead, they made me lie in my own urine and defecation for three hours. I was completely humiliated, the experience was terribly painful.”

“Also, at least 10 officers watched me beat my head against the wall when I had a seizure and only one officer tried to help me, the others just stood around watching. It took three days to get me to the hospital... I can’t forget the other detainees who have done everything for me. I don’t know what I would have done without their help; they’re the ones that took care of me.”<sup>289</sup>

- FIAC and the Women’s Commission for Refugee Women and Children (Women’s Commission) were at TKG when a detainee was having a seizure in February 2001. During the seizures, other women housed in the same pod were locked in their cells for more than an hour.

There were many other medical issues:

- On March 8, 2002, one of FIAC’s clients detained at TKG was spitting up blood in the presence of an officer. Despite attempts by both the officer and FIAC staff to get this detainee appropriate medical care, such care was not provided until Congressman John Conyers visited the jail and insisted she be seen by a doctor. That same day, she was taken to the hospital:

“FIAC came when I was sick and spitting up blood. They called the clinic. The officer also called the clinic, and the clinic said there was nothing wrong with me. The nurse said I would have to spit up blood in a special pail to show them. The next day this delegation [from Washington, D.C.] came and I showed them the pail with the blood.

“They took me to the clinic after that, and while I was waiting I spit up blood on the floor at the clinic. Then they sent me to Jackson Hospital. I had to spend the night at the hospital and they put me on an IV. They brought me back to TKG. Three days later I went back to Jackson for a test.... They brought me back to TKG the same day and then three days after that I went to Jackson again. That time I spit up blood at the hospital so they had to put a tube through my nose to get the blood out of my stomach. After that they started giving me medicine....

“So it took one month and two days of me spitting up blood before they gave me real medicine.”<sup>290</sup>

- Another woman who had not had her period since arriving at TKG and was having lower abdominal pain said she made numerous requests to see a physician, beginning in March 2001. In late June she was informed that a referral had been made for her to be seen at Jackson Memorial Hospital, but not until August.
- A detainee suffering from a gynecological condition was scheduled for surgery on her uterus. The surgery was canceled on the evening before it was to take place. She was never notified of the reason.<sup>291</sup>

Obtaining mammograms also could be difficult:

- FIAC attorneys represented a female detainee who was transferred to several detention facilities. Despite her repeated requests, she was unable to obtain a mammogram at any of the jails even though she had suffered recurrent bouts with breast cancer, underwent a mastectomy, and had been instructed to undergo regular mammograms.

Fort Lauderdale City Jail medical personnel requested that the detainee be transferred to a facility where she could obtain counseling. Immigration officials transferred her to the Monroe County jail, where she still could not obtain a mammogram. In a December 8, 1996, written response to one of her repeated requests for a mammogram, she was told “reg. mammograms – supposed to have one ever 6 mths – last one was 9/95 – explained WE DON’T DO mammograms.”

This detainee did not receive a mammogram until months after the Krome administrator claimed he had ordered one be provided at the Monroe County jail, months after the mammogram should have been done.<sup>292</sup>

Infections among detainee also were a problem:

- “Since I been detained, I never got to have a nail clipper. So my big toe nail started growing in the skin. I finally got help for my infected toe. They did surgery on it, which was butchering procedure with a sharp knife going under the nail to cut it out. This was done without any local anesthesia. I almost broke my teeth grinding them from the pain.”<sup>293</sup>
- A detainee who slit her wrist couldn’t get proper medical attention to clean it for several days and had to soak a sock in bleach to make a makeshift bandage for her wound. Following this incident the detainee was locked down and reprimanded by an officer:

“When I returned from the hospital I needed something to cover my wrist because it was bleeding and I need[ed] butterfly stitches. I asked [a TGK Corporal], and she asked me to let her see. That’s when she stated that I really didn’t want to kill myself. Because, if I did, I would have cut my arm the long way across. I told her thank you, I had never known how [to go] about going to kill myself but now I know how to the next time the right way.”<sup>294</sup>

### Unacceptable Mental-Health Treatment

One asylum seeker who seemed perfectly healthy upon arrival in the United States apparently suffered a psychotic break shortly after her asylum interview at TGK. In July 2001, she was stripped naked and sent to the Women’s Detention Center (“Annex”) in Miami, where her condition worsened. Her cousin, a psychiatric nurse, was given permission to visit her after contacting a local Congresswoman. The cousin described detention at the Annex:

- “The condition in which I saw [her] was extremely disturbing. She was completely naked, lying on a bare, narrow cot secured in a cell next to a security guard. Her lips were dried, chapped and cracked. She appeared to be extremely dehydrated. She expressed a desire for some water.

“I requested a cup of water from the security guard on duty. The guard directed me to a dirty, empty milk carton which I used to secure water from the tap in the cell. She drank four cartons of water. I revisited. I saw her lying naked on the cot in a worse condition than the day before. When an attempt was made to get her up, she collapsed. At that point, I was asked to leave.”<sup>295</sup>

This detainee was transferred to the Palmetto Mental Health Center, in Florida, where her relatives were not allowed to see her for several days. She was heavily medicated with such drugs as Haldol, Ativan, Syroquil and Cogentin. The family, concerned about the amount and kind of drugs being prescribed for her, only consented to the medication after being told that a court order would be obtained if they did not sign and agree.

The family claims the medications were changed without their knowledge and/or permission. FIAC accompanied the young woman’s relatives to the Palmetto Mental Health Center where they initially encountered her incoherent and lying on the floor. Although this asylum seeker was eventually released, her relatives had much difficulty in obtaining her medical records. Several months after her release, she was still unable to discuss what had caused her psychotic break.<sup>297</sup>

Following the transfer of female detainees from Krome to TGK, FIAC understands that TGK officials determined that many of the women were over-medicated and given too many psychotropic drugs at Krome. Abrupt changes in their medication were made, and TGK officials claimed the detainees were suicidal. As a result, eight or nine of the women were temporarily transferred to the psychiatric ward of Palmetto Hospital in Miami.

- At the Palmetto Hospital, detainees reported that they had tried to help another detainee with AIDS who was having multiple seizures. The women claim they were depressed but not suicidal and that the depression resulted from drastic changes in their medication:

“When I was transferred from Krome to TGK on 12-13-00, I did not receive any of my psych meds for almost a week.... Many officers and supervisors tried to see if there was any way they could help me get my meds. But, because of the transfers there was a lot of confusion and miscommunication between INS and TGK staff.

“On two occasions Cpl. – – and Cpl. – – took me down to the clinic to see if anything could be done about my meds. Once I was down in the clinic one of the nurses asked me if I wanted to go to the mental hospital to get my meds straightened out because there was nothing they could do in the clinic. I told her I knew these things took time and I was going to try to give them a couple of days.

“When I was brought back to the unit, as I was entering my room, I passed out.... Once Nurse seen it was me, he made a smart remark stating I was faking to go to the (Psych ward) at Palmetto hospital. He was not there when 15 minutes prior I was offered to go to the Palmetto hospital and had refused. He also stated, if I wanted to go suicidal, I would be going to the Annex.”<sup>298</sup>

- TKG officials acknowledged that when a detainee appeared to be suffering from depression, she was stripped naked and sent to the Annex. As one detainee said: “They take detainees to the Annex saying that they are crazy – no they are just depress and hate this place. I wonder if INS knows this.”<sup>299</sup>

An openly gay female detainee at the Ft. Lauderdale jail said she was mistakenly labeled “crazy”:

- “I was kept in a cell by myself. I started my menstruation and kept asking the officers for maxi pads, but they wouldn’t give me any. They would laugh at me and ignore me. I begged them to please give me one because I was bleeding on myself....

“I was put in the single cell but I still didn’t get any pads. They kept saying bad things about immigrants, that immigrants should stay out of America....

“I didn’t know what to do. I felt desperate. All I wanted was a maxi pad. So I took some of my own blood and I wrote the word HELP on the wall using my blood. The officers took pictures of me and took pictures of the wall. They started making fun of me, telling me I was crazy....

“I finally got two pads. But two were not enough for me. I needed more, so I asked for more when those ran out. Instead of getting more pads, they put me in the black chair: The black restraining chair. I was strapped down in the chair and handcuffed for sixteen hours. I was put there during one shift and stayed there for an entire shift after that. I wasn’t allowed to use the bathroom or get a pad. I was kept dirty. I went to the bathroom on myself and was bleeding on my clothes.”<sup>300</sup>

Many detainees were afraid to seek treatment for depression or other medical problems due to threats of transfer or lockdowns if they do:

- “I was on psych medication but I’m afraid to say it because they’ve made so many other mistakes with my medication. I need some therapy; I’m just trying to hang in there. The

girls here are too scared to tell anybody now because they might ship us to the Annex and say we’re crazy... There are women here that need to see a psychiatrist but if they admit what they’re going through, they’re afraid the doctor will prescribe something for them that’s off the wall.”<sup>301</sup>

Other mentally ill detainees were not properly treated or managed:

- An April 4, 1999 Miami Herald article described a number of incidents at Krome’s health clinic in which mentally ill detainees “terrorized or assaulted other patients, officers and medical staff.”<sup>302</sup>
- FIAC also observed a young Ethiopian detainee in the Port Manatee jail who had been eating soap, putting Bengay on his genitals, and babbling incoherently. Jail personnel stood by and did nothing when FIAC was there.<sup>303</sup>

Some detainees have even been brought to court heavily drugged:

- In late 1992, the INS mistakenly advised a Chinese detainee that he was going to be deported the next day, which was the day his asylum hearing was scheduled. As a result, he tried to commit suicide. Public Health Service (PHS) personnel injected him with Thorazine and Benadryl, put him on suicide watch, and tied him to his bed. They woke him up after he had been sleeping for 24 hours and sent him off to his asylum hearing.<sup>304</sup>

Neither PHS nor immigration officials told the detainee’s lawyer nor the immigration judge about the previous day’s events. The immigration judge denied the detainee’s asylum application, ruling that he had not presented a coherent claim for asylum. In April 1993, a federal judge set aside the deportation order, finding that the detainee had been denied the opportunity for a full and fair hearing. The judge found discrepancies between the treating physician’s report of the detainee’s treatment and INS and PHS records.<sup>305</sup>

### Physically Disabled Detainees

A detainee who suffered from illnesses which prevented her from fully using her legs was not given a wheelchair or the daily care she required at TKG. Instead, officers relied on other detainees to assist her with her daily activities, including showering, eating, combing her hair, and using the bathroom:

- “Lise [another immigration detainee] did everything for me except eat, go to the bathroom and sleep.... She helped me get from one place to another. She did my housekeeping and my clothes. She washed my hair and bathed me. She got a plastic chair so I could bathe. She combed my hair, cut my nails, put cream on me. She had to help me get off the toilet because it wasn’t handicapped accessible for me.

“Everything you do to yourself every day, she did for me. I use diaper pads, but they didn’t have those there. They put me in regular diapers. I had continuous seizures.... So afterwards I’d need to be cleaned-up.... The guards would yell across the pod, ‘Hey Lise, your baby needs her diaper changed.’

“After the end of a bad night it still went back to Lise getting up to clean me up, clean my room (get the urine up, change my sheets) washing me all of that. The nurses flat out said Lise was needed to take care of me. [Although there were] times when they didn’t want to give Lise plastic gloves to help when she cleaned me up, but she’d clean me anyway.”<sup>306</sup>

While this detainee had a wheelchair at Krome, it was taken from her upon her transfer to TGK. Only after she suffered a bad fall and injured herself at TGK was she provided with another wheelchair:

- “The first few days of April 2001 is when they put in a handicap shower. That was in the week before I left. I slipped coming out and messed my knee up real bad. They didn’t take me to the hospital until the next day. Next day I ended up in a stretcher in an ambulance. At the hospital they said I had to have a wheelchair.”<sup>307</sup>

Another disabled detainee suffered the lack of a wheelchair and treatment:

- J. had three heart by-pass surgeries and other serious medical problems, including ulcers on his legs. J. complained that three days after he got to Krome, the doctor took his wheelchair away claiming he didn’t need it:

“From the time I was without the [chair] and have been force[d] to walk. My legs and feet have [swollen] extremely and I am in severe pain. And have not receive[d] any other medical treatm[ent] in this institution.”<sup>308</sup>

### Mismanaged Medication

Detainees often complain that they don’t know what drugs they are taking or why. Some wonder if the drugs are appropriate.

- A female detainee who suffered from epilepsy said she was given the wrong medication: “When I started convulsing due to the new medication, I was transferred to Palmetto [hospital] as suicidal. I wasn’t suicidal. I was on the wrong medication. [Then they] kept messing up my levels of medication at TGK and I [had] seizures coming and going all the time.”<sup>309</sup>
- Another detainee reported that her yeast infection went untreated for two and a half months. She was prescribed medication by an ob-gyn at TGK three times over the course of two months. The nurses at TGK, however, failed to dispense her medication despite multiple calls to the clinic by on-duty TGK unit officers and multiple detainee sick-call requests.
- Improperly dispensed medications can have serious consequences. As one TGK detainee reported: “I only have one functioning kidney and now they are giving me high dosages of Motrin which can cause kidney problems. I take the Motrin, but by fixing one problem, they’re creating another.”<sup>310</sup>
- In one Florida detention facility near Sarasota, detainees called the doctor “Dr. No-touch” because he prescribed medication without seeing them.<sup>311</sup>
- Another detainee told FIAC: “I begged them for my medicine practically in tears but they never listened to me. My mouth was full of herpes ... but they gave me pills that weren’t for the herpes because they insisted it was a fungus.”<sup>312</sup>
- Detainees have also complained that they were given expired medication or medication that is different from their prescription. One detainee reported, “[T]he nurses often get the medications mixed up. If they don’t have what they need, they’ll sometimes get pills from another detainee.”<sup>313</sup>
- In some facilities, detainees had to buy their own over-the-counter medications from the commissary, including aspirin, at inflated prices. Detainees at the Bay County Jail Annex in Florida told FIAC that, if detainees need over-the-counter medications, such as Tylenol, Sudafed, or Zantac, they had to buy them from the jail commissary or obtain a prescription from the medical department. However, commissary orders

could only be placed twice a week. Indigent detainees, who could not buy medication from the commissary, would have to wait several days to establish eligibility for free medication and to get their meds.<sup>314</sup>

### Unhealthy Living Conditions

Overcrowding at Krome has been a long-time concern. In June 1995, Dr. Ada Rivera, then chief of the Public Health Service Clinic at Krome, sent a memorandum to Miami INS District management warning of the “serious health consequences” of overcrowded conditions at Krome. She warned that she intended to suspend the medical clinic’s normal functions to “prevent any potential epidemics.”<sup>315</sup>

Valerie Blake, then Deputy District Director, found Krome “out of control.” Despite the clear warning, INS took no action except to advise Dr. Rivera to improve the quality of her paperwork.<sup>316</sup>

### Patients Treated Like Criminals

Until July 1998, immigration officials used the Jackson County Correctional Facility in North Florida to house detainees. Following complaints that officers sometimes used an electric-shock shield to punish detainees, including detainees who needed medical treatment, immigration officials quickly removed the detainees.

Detainees described the shield as a curved, four-foot high piece of Plexiglas-like material with two handles in the middle. A detainee’s hands and legs were handcuffed to a concrete bed, and the shield was placed over the detainee’s body.<sup>317</sup>

Numerous detainees told FIAC and Miami Herald staff about the electric shield. One detainee reported:

- “The first time I saw this [use of electronic shock shield], an inmate had epileptic seizures: He kept begging for some medication, banging on the glass window. Then four or five officers came in with the electric shield, handcuffed him after they threw him to the floor and handcuffed his hands behind his back, and then they put the shield on him and they hit him....

“He had plenty of seizures at Jackson. Many times his head would be banging against the wall with the seizures, and the officers would say, ‘Don’t touch him.’ And [the officer and the nurses] would always tell the guy, ‘There is nothing wrong with you, stop faking it.’ And the poor man was having seizures back to back. He really needed help.”<sup>318</sup>

Detained children sent to the hospital have been denied permission to see their relatives. The sister of an unaccompanied minor in immigration custody was denied permission to visit her brother at the hospital shortly after he arrived in October 2002, and burst into tears when forced to leave the hospital. She said:

- “I called Haiti and found out that Jimmy, my 16-year-old brother, came to Miami on the October 29, 2002 boat. I found out that he was taken to Jackson Hospital. When I went to the hospital and into his room, there was an immigration officer there. I was about to go in to hug my brother and see how he was doing, but the officer would not let me in.

“I tried to plead with the officer and begged him to let me see my brother, but he started screaming at me and did not let me in the room. It had been six years since I had seen my brother. I had to leave the hospital in tears without being able to talk to him and see how he was doing.”<sup>319</sup>

Because the sister spoke to the press about her concerns, her brother was advised that he could be deported because his sister was “making problems.”<sup>320</sup> Jimmy was finally released on Christmas Eve, 2002.<sup>321</sup>

Other examples include:

- A Colombian woman at TKG said that, during her first meeting with a doctor, he advised her to wait until she was deported to Colombia to get medical care. During her third visit, the doctor told her: “You should be happy. I understand that you are about to be deported.”<sup>322</sup>
- An unnamed medical worker told The Miami Herald in the fall of 1998 that “The majority of the staff there [at Krome] right now is insensitive. They view the people in there as criminals, and they are not treated with simple human dignity. They just totally ignore them. Staff gets the attitude that no one is really sick. They treat people like everyone is faking it.”<sup>323</sup>

Unfortunately, this view remains all too pervasive even today in detention facilities across Florida and elsewhere.



### Forcible Drugging to Deport

In June 2001, FIAC received a call from a former detainee following her deportation, who said:

- “A nurse woke me up to give me a shot.... I was taken to the airport and boarded a plane. I fell asleep again. I don’t remember anything about that morning after I got the shot. When I got to St. Kitts... I started feeling really sick. I felt weak and dizzy. I could barely walk or talk. I had to call a cab to take me to the hospital... My speech was slurred... I never felt like that before and I haven’t felt like that again.”<sup>324</sup>
- In October 1991, Krome’s medical staff injected a detainee with extremely large doses of powerful anti-psychotic drugs to carry out his deportation, although he was not diagnosed as mentally ill. Tony Ebibillo Eplcen had applied for asylum but was denied. He believed that his return to Nigeria was tantamount to a death sentence and resisted deportation on three occasions. An attempt to deport him in December 2001 failed.

Mr. Eplcen’s medical records indicated that he had been given heavy doses of Thorazine and was placed in four-point restraints.<sup>325</sup> When he briefly regained consciousness in the INS van, he was handcuffed, shackled, and straitjacketed. His mouth was taped shut.

American Airlines officials refused to transport him. A flight superintendent said that since the authorities refused to remove Mr. Eplcen’s gag or straps, she and the plane’s captain were worried that during the course of the nine hour trip he wouldn’t be able to go to the bathroom or even drink water.<sup>326</sup>

### Retaliation

After the mysterious death in 2001 of Jean Jude Audre, the 28-year-old Haitian mentioned earlier in this report, many of the Krome detainees who vocally expressed concerns and wanted answers about his death were transferred. Fifteen of the detainees wrote a petition that described the events leading up to their transfer as follows:

- “On Sunday, November 4th, 2001, a memorial service was held for Mr. Jude in which about 40 detainees attended... Prior to attending the memorial service, everyone was required to give their Alien number. Coincidentally, everyone at the funeral was transferred. The mood of the funeral was tense. People wanted answers...

[On] “Monday, November 5th, 2001, the detainees of Pod 1 anxiously awaited the promised answers as to why Mr. Jude died. All of the deportation officers at Krome came to Pod 1, supposedly to explain the situation... [but they] had no answers as to why Mr. Jude died. The head nurse was supposed to go to Pod 1 to explain the situation; however, she was not there.

[A detainee] “smashed the TV, and the deportation officers ran out of the pod. There was chaos in Pod 1. Many INS Officers then stormed the pod and sprayed pepper spray on everyone. The detainees were then herded outside to the yard. The INS agents said, ‘Those that want answers stay outside, the rest go inside.’ More than half of the pod remained outside. The INS agents then formed a riot line and “bum rushed” everyone, tackled and handcuffed them, and placed them in isolation, 2 to a cell designed for 1...

On “Tuesday, November 6th, 2001, a large INS bus shipped everyone from pod 1 that wanted answers, and other detainees randomly chosen (all Haitian) from [those] pods to Pennsylvania. The camp remained ‘locked down.’ ...

“On Thursday, beginning at approximately 4:30 a.m., 9 or 10 INS agents stormed the pods... The general attitude of the INS agents was aggressive and menacing. We were pushed around and treated like serial killers. When asked why we were being shipped practically to Alabama, we were told that, ‘They needed bed space.’

“The ironic thing is that most of the 22, in one way or another, had stood up for their civil rights and complained about the abusive behavior on the part of officers... About six detainees with prescribed medication that was to be kept in their lockers or on their persons at all times, were denied their medication and it was thrown in the trash. Legal documents of some of the detainees were also thrown out.”<sup>327</sup>

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124 Michael N. Cox, Master of Social Work, Henderson Mental Health Center's Florida Assertive Community Treatment (FACT) Team, Letter to FIAC. November 4, 2008.

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133 Letter to ICE/BTC from Cheryl Little, FIAC, November 6, 2003.

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FIAC and the Women's Commission wrote DHS to request an investigation into this case and the previous case involving the asylum seeker at BTC who learned that she was pregnant due to a politically motivated gang rape in her home country. In a letter of response, the DHS Office of Civil Rights and Civil Liberties said it conducted an investigation but the results were "protected communication" and were not provided.

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136 DHS, US ICE TKG Correctional Center Annual Detention Review, April 5, 2004.

137 Letter from detainee to FIAC, July 28, 2004.

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143 Letter to Cheryl Little (FIAC) from Gene Migliaccio, Dr., PH., CAPT, US PHS, Director, September 25, 2006.

144 As an orphan in Haiti, Ernsó has never been sure of his true date of birth. However, DHS officials decided he was 18 shortly after he arrived, relying primarily on a dental test, and locked him up with adults at the Krome detention center. In October 2003, his attorneys submitted authenticated official Haitian documents showing Ernsó to be 16 years old, and establishing his eligibility for a Special Immigrant Juvenile Status (SIJS) visa as an abused, abandoned or neglected child in whose best interest it is not to be returned to Haiti.

145 Letter to Cheryl Little, FIAC, from Teresa Descilo, Executive Director, Victim Services Center, October 22, 2003.

146 Letter to Thomas Ridge, Secretary Department of Homeland Security, from Congressman Kendrick Meek, November 12, 2003.

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148 Petition from detainees at Krome, signed by 254 detainees, September 20, 2006.

149 Detainee interview, January 8, 2008.

150 Gloria Armendariz, testimony on behalf of Isaias Vasquez, House Immigration Subcommittee hearing on Problems with Immigration Detainee Medical Care, June 4, 2008, page 1; <http://judiciary.house.gov/hearings/pdf/armendariz060408.pdf>

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- 157 Ibid
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- 160 Ibid
- 161 *From Persecution to Prison: The health consequences of Detention for Asylum Seekers*, Physicians for Human Rights/Bellevue/NYU Program for Survivors of Torture, 2003, pages 56-57; <http://physiciansforhumanrights.org/library/documents/reports/report-perstoprison-2003.pdf>
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- 164 FIAC letter to Michael Rozos, Field Office Director, ICE Miami, *Urgent Request for Humanitarian Release*, October 16, 2008; FIAC letter to Michael Rozos, Field Office Director, ICE Miami, *Urgent Request to Stay Removal and Release*. July 20, 2008.
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185 *ICE National Detention Standards* (September 12, 2008 version), Suicide Prevention and Intervention, V F.

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193 Letter to ICE/DRO Field Office Director from FIAC, February 6, 2008.

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209 Letter from patient’s doctor, Jackson Memorial Hospital Rheumatology Clinic. February 24, 2009.

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211 FIAC letter, *Urgent Request for Immediate Medical Care*, to Captain Penny Phelps, Monroe County Detention Center, Key West, Florida. August 8, 2008.

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213 Letter from patient’s doctor, Jackson Memorial Hospital Rheumatology Clinic, August 7, 2008.

214 Letter from patient’s doctor, Jackson Memorial Hospital Rheumatology Clinic. February 24, 2009.

215 Ibid

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- 264 Letter to ICE Office of Detention and Removal from FIAC, February 6, 2007.
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- 277 *ICE Policies Related to Detainee Deaths and the Oversight of Immigration Detention Facilities*, Department of Homeland Security Office of Inspector General. June 2008. [http://www.dhs.gov/xoig/assets/mgmt/rpts/OIG\\_08-52\\_Jun08.pdf](http://www.dhs.gov/xoig/assets/mgmt/rpts/OIG_08-52_Jun08.pdf). This report only looked at two cases where ICE detainees died, neither of which involved gross medical abuses such as those seen in the cases of Victoria Arellano or Francisco Castañeda. Testimony by Richard Stana of the Government Accountability Office – "*Observations of the Adherence to ICE's Medical Standards in Detention Facilities*" at U.S. House Judiciary Subcommittee on Immigration hearing Problems with Immigration Detainee Medical Care. June 4, 2008–<http://www.gao.gov/new.items/d08869t.pdf>– was based on a July 2007 GAO report that looked at eight of ICE's national standards. This report did not address quality-of-care issues.
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- 280 In September 1998, a Krome Public Health Service worker described to The Herald clinic deficiencies so extensive that "the whole system needs to be closed down and the patients evacuated." Although many improvements have since

been made, and Krome's medical center now has state-of-the-art equipment, other problems described to The Herald by clinic workers clearly have not been addressed. Among these are accusations that "the majority of the staff" at Krome is insensitive: "They view the people in there as criminals, and they are not treated with simple human dignity," another Krome worker told The Herald. "Staff gets the attitude that no one is really sick. They treat people like everyone is faking it."

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307 Ibid

308 Detainee statement, undated. FIAC, *Cries for Help: Medical Care at Krome Service Processing Center and in Florida's County Jails*, pp. 10-11, December 1999.

309 Detainee statements, January 4 and 9, 2001.

310 FIAC interview, January 3, 2001.

311 FIAC, *Cries for Help: Medical Care at Krome Service Processing Center and in Florida's County Jails*, p. 32. December 1999.

312 Affidavit, June 1999. FIAC, *Cries for Help: Medical Care at Krome Service Processing Center and Florida's County Jails*, p. 16, December 1999.

313 Affidavit, July 28, 1998. FIAC, *Cries for Help: Medical Care at Krome Service Processing Center and Florida's County Jails*, p. 33, December 1999.

314 Eads deposition, at 141 at 141-142; Diaz deposition, at 97-100; second Hall deposition, at 26-27; Ex. 21, letter from Cuban detainee in Bay County Jail Annex. FIAC, *Florida County Jails: INS's Secret Detention World*, p. 38, November 1997.

315 On June 8, 1995 PHS Director Dr. Ada Rivera reported: "We would like to take this opportunity to reiterate our findings during our environmental health inspections for the last couple of months. The overcrowding poses a health problem due to the lack of cleanliness and appropriate air circulation. We have noticed an increased in respiratory and skin conditions. These issues must be urgently addressed to prevent any potential epidemics."

316 According to an Office of Inspector General (OIG) report, INS officials in Miami tried to deceive the task force about overcrowded conditions at Krome by releasing dozens of detainees, without medical screening, and by sending dozens others (19 of whom were returned to Krome several days later) to a county jail in northwestern Florida or to an INS facility in New Orleans. Even after the OIG investigation was undertaken, Krome's population remained high and the facility overcrowded.

317 See e.g. Andres Viglucchi, *Immigrants allege abuse at jail in N. Florida*, The Miami Herald, July 30, 1998; Brutality at county jails?, Editorial, The Miami Herald, July 31, 1998; Andres Viglucchi, *Immigrants' claims of torture stir probe*, The Miami Herald, July 31, 1998; Teresa Mears, *A Shock to the*

*System*, Miami New Times, July 30-August 5, 1998.

318 Affidavit, July 28, 1998.

319 Statement of Chimene Noel, December 3, 2002. Also Jacqueline Charles, *Haitians struggle to unite families*, The Miami Herald, December 12, 2002.

320 Letter to Carmel Clay Thompson from FIAC's Cheryl Little, March 17, 2003.

321 *Christmas Present for Noel*, Washington Post. December 26, 2002; Alfonso Chardy, *Young Haitian migrant released*, The Miami Herald, December 25, 2002.

322 Women's Commission interview, June 2001.

323 Andres Viglucci, *Critics of clinic paint a tarnished Krome*, The Miami Herald. September 21, 1998.

324 Statement of former detainee deported to St. Kitts, June 13, 2001.

325 Doses of Benadryl and Thorazine were administered on December 6, 1991, the day before his scheduled deportation. Doses were repeated every few hours for twelve and a half hours and resumed at 6:30 the next morning. At 2:55 p.m. the next day, he was given more Benadryl and Thorazine and Ativan.

326 Mark Dow, American Gulag, *Inside U.S. Immigration Prisons*, pp. 69-84, University of California Press, Berkeley. 2004

327 *The Removal of 22 Detainees on 11-09-01 from Krome SPC—Synopsis*, signed by 15 detainees.

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