

**Katherine Culliton-González**  
**Officer for Civil Rights and Civil Liberties**  
**U.S. Department of Homeland Security**  
**Compliance Branch, Mail Stop # 0190**  
**2707 Martin Luther King, Jr. Avenue, SE**  
**Washington, DC 20528-0190**

**July 29, 2021**

**RE: Request for investigation into conditions and treatment in immigration detention –  
Boone County Jail, Kentucky**

Dear Officer Culliton-Gonzalez and CRCL Compliance Team:

The National Immigrant Justice Center (NIJC) files this complaint on behalf of two individuals currently in the custody of Immigration and Customs Enforcement (ICE) within the Department of Homeland Security (DHS).<sup>1</sup> We submit this complaint as ICE continues to put lives at risk by detaining people in the close-quarter settings found in ICE detention, such as in Boone County Jail, Kentucky, where a recent COVID-19 outbreak led to at least 20 confirmed cases of people in ICE custody in the jail in early July.<sup>2</sup>

This complaint provides firsthand accounts from two individuals currently detained in the Boone County Jail, which detains people in ICE custody under a rider contract with the U.S. Marshals Service.<sup>3</sup> ICE's latest inspection report for Boone County Jail from March 2021 found the facility was deficient in several detention standards, including: access to medical care; use of force; and transfer standards for people in detention.<sup>4</sup> According to ICE data, as of July 6, 2021, there were 20 active positive COVID-19 cases in this facility.<sup>5</sup> As of the filing of this complaint, however, ICE's website listed three active COVID-19 cases, and erroneously indicates that there have only been five total cases in the facility.<sup>6</sup> This error is a concerning illustration of ICE's lack of

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<sup>1</sup> Headquartered in Chicago, NIJC provides legal services to more than 10,000 individuals each year, including survivors of human trafficking, domestic violence and other crimes, children designed as unaccompanied upon arrival at the southern border, and asylum seekers. NIJC provides direct representation to people in detention in the Midwest region, and witnesses daily the conditions and ICE treatment of individuals in detention.

<sup>2</sup> See U.S. Immigration and Customs Enforcement (ICE), "ICE Guidance on COVID-19," [visited July 6, 2021], <https://s3.documentcloud.org/documents/21018432/detention-tracker-7621.pdf>.

<sup>3</sup> See IGSA Contract and Modifications 1997-2007 - Boone County Detention Center KY, <https://s3.documentcloud.org/documents/1640500/boone-county-ky-modification-2002.pdf>.

<sup>4</sup> U.S. Immigration and Customs Enforcement, Annual Detention Inspection of the Boone County Jail, carried out by the Nakamoto Group, March 3, 2021, [https://www.ice.gov/doclib/facilityInspections/booneCoJailKY\\_CL\\_03-03-2021.pdf](https://www.ice.gov/doclib/facilityInspections/booneCoJailKY_CL_03-03-2021.pdf).

<sup>5</sup> See U.S. Immigration and Customs Enforcement (ICE), "ICE Guidance on COVID-19," [visited July 6, 2021], <https://s3.documentcloud.org/documents/21018432/detention-tracker-7621.pdf>.

<sup>6</sup> U.S. Immigration and Customs Enforcement (ICE), "ICE Guidance on COVID-19," [last visited July 28, 2021], <https://www.ice.gov/coronavirus>.

transparency with regards to COVID-19 outbreaks in ICE detention, and the spread of the virus to surrounding communities.<sup>7</sup>

The enclosed declarations further indicate that people detained in the facility are suffering as a result of the dangerous conditions and abusive treatment in ICE custody in the jail. We urge your office to investigate this complaint in the context of the abusive conditions and negligence occurring within the Boone County detention center and other ICE detention facilities where similar rights abuses occur.<sup>8</sup>

## **Background**

The COVID pandemic has further illuminated the rights violations and deep suffering that result from ICE detention.<sup>9</sup> In April 2020, a federal judge ordered ICE to begin considering for release from ICE custody of individuals at higher risk of severe illness from COVID-19.<sup>10</sup> Nonetheless, ICE's pattern of neglect and secrecy fueled outbreaks both inside and outside ICE detention facilities as the pandemic worsened.<sup>11</sup>

Throughout the pandemic, ICE unnecessarily transferred people between facilities,<sup>12</sup> creating new outbreaks inside jails and in surrounding communities.<sup>13</sup> Publicly, ICE claimed they were taking precautions to mitigate the spread. Yet, rather than quickly and safely release people from detention, ICE placed people in quarantine and solitary confinement, and used force in response to hunger strikes and protests.<sup>14</sup> Researchers with the Physicians for Human Rights found in January 2021 that immigrants in ICE custody were denied access to even

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<sup>7</sup> See *i.e.*, Isabelle Niu and Emily Rhyne, "4 Takeaways from Our Investigation Into ICE's Mishandling of Covid-19," New York Times, April 25, 2021, <https://www.nytimes.com/2021/04/25/video/immigration-detention-covid-takeaways.html>.

<sup>8</sup> NIJC has submitted open CRCL complaints on ICE's failure to take COVID-19 precautions and conditions in ICE detention in other Chicago Area of Operations facilities, *See i.e.*, complaints filed on behalf of individuals in Clay County Jail, [https://assets.documentcloud.org/documents/20784446/crcl-complaint-filed-by-nijc\\_ice-detention-conditions\\_32321.pdf](https://assets.documentcloud.org/documents/20784446/crcl-complaint-filed-by-nijc_ice-detention-conditions_32321.pdf).

<sup>9</sup> See, *i.e.*, Jesse Franzblau, "New Documents Illuminate A Dark Pattern Of Abuse In ICA-Farmville," National Immigrant Justice Center, August 17, 2020, <https://immigrantjustice.org/staff/blog/new-documents-illuminate-dark-pattern-abuse-ica-farmville>.

<sup>10</sup> *Fraihat, et al. V. U.S. Immigration and Customs Enforcement, et al.* Order, April 20, 2020, [https://www.splcenter.org/sites/default/files/fraihat\\_pi\\_grant.pdf](https://www.splcenter.org/sites/default/files/fraihat_pi_grant.pdf).

<sup>11</sup> As Covid-19 cases rose in June 2021, for example, ICE detention facilities had an average infection rate five times that of prisons and 20 times that of the general population. See Isabelle Niu and Emily Rhyne, "4 Takeaways from Our Investigation Into ICE's Mishandling of Covid-19," New York Times, April 25, 2021, <https://www.nytimes.com/2021/04/25/video/immigration-detention-covid-takeaways.html>.

<sup>12</sup> See, *i.e.*, Mica Rosenberg, Kristina Cooke, Reade Levinson, "U.S. immigration officials spread coronavirus with detainee transfers, Reuters," July 17, 2020, <https://www.reuters.com/article/us-health-coronavirus-immigration-detent/u-s-immigration-officials-spread-coronavirus-with-detainee-transfers-idUSKCN24IIG0>.

<sup>13</sup> Hamed Aleaziz, "ICE Moved Dozens Of Detainees Across The Country During The Coronavirus Pandemic. Now Many Have COVID-19," BuzzFeed News, April 29, 2020, <https://www.buzzfeednews.com/article/hamedaleaziz/ice-immigrant-transfer-jail-coronavirus>.

<sup>14</sup> Marissa J. Lang, "'It's a time bomb': ICE detainees seek release amid growing coronavirus fears," Washington Post, April 12, 2020, [https://www.washingtonpost.com/local/ice-coronavirus-detention-centers-release/2020/04/08/f4dcaef8-74ee-11ea-87da-77a8136c1a6d\\_story.html](https://www.washingtonpost.com/local/ice-coronavirus-detention-centers-release/2020/04/08/f4dcaef8-74ee-11ea-87da-77a8136c1a6d_story.html).

“the most basic COVID-19 prevention measures, such as soap for hand-washing, and were retaliated against for raising safety concerns” while the pandemic spread through numerous detention facilities.<sup>15</sup> The report concluded that ICE created “unacceptable health risks and violated constitutional and human rights during the pandemic,” which is ongoing.<sup>16</sup>

NIJC clients expressed fear in the first weeks of the pandemic over the spread of the virus in conditions where social distancing was impossible.<sup>17</sup> In response to requests for information filed by NIJC for policies and guidance used to prevent the spread of COVID-19 in detention in the Chicago ICE area of operation, local officials released records with outdated internal guidance, showing a lack of preparedness for COVID-19.<sup>18</sup> When local officials publicly released newer guidance showing the jails were following Center for Disease Control and Prevention (CDC) guidelines to control the spread of the virus, testimonies from individuals detained in the same facilities reported different conditions, including denial of basic hygienic products like hand sanitizers.<sup>19</sup>

The administration has failed to adequately address the health risk posed to workers, immigrants and the surrounding communities by the congregate settings of immigration detention facilities. As ICE detention numbers are shockingly on the rise, ICE continues to show utter disregard for the rights and dignity of people impacted by ICE detention and enforcement.<sup>20</sup> As of July 28, 2021, 1,263 of the 27,670 people still detained by ICE, have COVID-19 and are currently under isolation or monitoring.<sup>21</sup> This is an alarming increase from 332 active cases out of the 13,890 people in ICE detention at the end of February.<sup>22</sup>

Public health experts continue to call for the administration to address the substantial and specific danger to public health and safety posed by immigration detention settings.<sup>23</sup> In June

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<sup>15</sup> Katherine Peeler, MD, “Praying for Hand Soap and Masks,” Physicians for Human Rights, January 12, 2021, <https://phr.org/our-work/resources/praying-for-hand-soap-and-masks>.

<sup>16</sup> Ibid.

<sup>17</sup> National Immigrant Justice Center, “ICE Detention in the Time of COVID-19: Accounts From NIJC’s Detained Clients,” March 24, 2022, <https://immigrantjustice.org/staff/blog/ice-detention-time-covid-19-accounts-nijcs-detained-clients>.

<sup>18</sup> See “Holding Local Governments Accountable For Jailing Immigrants,” National Immigrant Justice Center, Transparency Project, <https://immigrantjustice.org/transparency/local-state>.

<sup>19</sup> Ibid. See, records released in response to public information requests filed with the Kankakee County Sheriff, Illinois.

<sup>20</sup> See “As The Number Of People In ICE Detention Grows, ICE Director’s Congressional Testimony Demonstrates The Biden Admin Is On The Wrong Course On Immigration,” National Immigrant Justice Center, May 13, 2021, <https://immigrantjustice.org/press-releases/number-people-ice-detention-grows-ice-directors-congressional-testimony-demonstrates>.

<sup>21</sup> U.S. Immigration and Customs Enforcement (ICE), ICE Guidance on COVID-19, <https://www.ice.gov/coronavirus> [last visited March 22, 2021].

<sup>22</sup> See Jesse Franzblau, “Cut The Contracts: It’s Time To End ICE’s Corrupt Detention Management System,” National Immigrant Justice Center, March 16, 2021, <https://immigrantjustice.org/research-items/policy-brief-cut-contracts-its-time-end-ices-corrupt-detention-management-system>.

<sup>23</sup> See Andrew Harman, “Department of Homeland Security Medical Experts Blow the Whistle on Ongoing Dangers from COVID-19 in Immigration Detention Settings,” Press Release, Government Accountability Project, June 25, 2021, <https://whistleblower.org/press-release/press-release-department-of-homeland-security-medical-experts-blow-the-whistle-on-ongoing-dangers-from-covid-19-in-immigration-detention-settings>.

2021 medical and mental health subject matter experts filed a whistleblower disclosure with Congress, raising alarm over the lack of COVID-19 testing strategies and use of isolation, quarantine and cohorting.<sup>24</sup> The whistleblower disclosure details the same type of neglect discussed in the declarations detailed in this complaint, such as inconsistent masking requirements for people in detention and staff. The failure of ICE and its contractors to comply with applicable standards of care is well documented, and has only worsened during the pandemic.

ICE's lack of oversight over its detention apparatus has deadly consequences. Between January 2017 and April 2020, 39 adults died in ICE custody or immediately after being released.<sup>25</sup> As of March 2021, ICE confirmed over 10,000 cases of COVID-19 among people detained within its facilities and recorded eight deaths of people who died after testing positive for COVID-19 in custody.<sup>26</sup> Tragically, at least three people have died in detention since President Biden took office.<sup>27</sup>

### **Declarations: treatment in ICE detention in Boone County Jail**

The enclosed declarations illustrate the experiences in ICE detention in the Boone County Jail. Pseudonyms have been used to protect the complainants from possible retaliation.

### **Testimony I: from Boone County Jail, Boone County, Kentucky**

I was born in an East Africa refugee camp, and am currently in detention in the Boone County Jail, under ICE custody. I have been in ICE detention for nearly 21 months, since October 2019. After having criminal charges dismissed with prejudice, ICE came to get me and took me into immigration custody.

I have gone through a lot while being detained at Boone for 21 months. They do not take many COVID-19 precautions here. For example, they give us a cleaning cart every day, but they don't give us gloves. We also do not have consistent access to masks. I asked for a mask at various points and did not receive one. In fact, the first time I ever got a mask was in February 2021, almost a year the pandemic had started. Even then, I only got one mask. You have to ask for a mask, and they are not likely to give you one. Some detainees wear masks sometimes. I often see people wearing their masks below their noses. I do not regularly hear guards ask detainees to wear their mask or to wear it properly. Correction officers do not properly wear their masks and often take them off. In May and July 2021 I was finally offered a COVID-19 vaccine once, but I do not feel safe getting the vaccine.

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<sup>24</sup> Ibid.

<sup>25</sup> Eunice Hyunhye Cho, Tara Tidwell Cullen, and Clara Long, *Justice-Free Zones: U.S. Immigration Detention Under the Trump Administration*, National Immigrant Justice Center, ACLU and Human Rights Watch, (April 2020) [https://immigrantjustice.org/sites/default/files/content-type/research-item/documents/2020-04/Justice-Free%20Zones\\_Immigrant\\_Detention\\_Report\\_ACLU-HRW-NIJC\\_April-2020.pdf](https://immigrantjustice.org/sites/default/files/content-type/research-item/documents/2020-04/Justice-Free%20Zones_Immigrant_Detention_Report_ACLU-HRW-NIJC_April-2020.pdf).

<sup>26</sup> see U.S. Government Accountability Office (GAO), "ICE Efforts to Address COVID-19 in Detention Facilities," GAO-21-414, (June 2021) <https://www.gao.gov/assets/gao-21-414.pdf>.

<sup>27</sup> "Deaths at Adult Detention Centers," American Immigration Lawyers Association, AILA Doc. No. 16050900, Dated March 17, 2021, <https://www.aila.org/infonet/deaths-at-adult-detention-centers#2021>.

I have not seen any informational COVID-19 posters or flyers in my pod. Also, my pod is supposed to hold ten men, but sometimes they put more men in there and have them sleep on the floor. Around November or December 2020, someone in our pod had symptoms of COVID-19. He kept requesting to see the nurse, but they ignored him. One day he started screaming saying he needed help and that is when he was finally able to see a nurse. They gave him pain medication and left. But he was still in pain. The other people in the pod had to tell the guards to help him. They ended up moving him to the hole. They never told us if he had COVID, but they quarantined our pod right after they moved him.

The stress of my case, of being in jail during a deadly pandemic, and of the possibility of being deported to my parent's home country (where I have never been) has also been very bad for my mental health. In about October, 2020, I submitted a medical request form to see a therapist. I felt that I was breaking down and becoming a different person. I was able to see a therapist only once.

I sometimes still feel depressed and like giving up on everything. I have not had many opportunities for recreation. When I was detained because of my criminal charges, we were given a ball for recreation time. Even though this is civil immigration detention, Boone is still a jail. Boone does not provide us with any sports equipment to use during recreation time. I have gone a long time without seeing the sun or the outdoors. The few windows we have are usually fogged up. There were weeks where we didn't get any recreation time at all. Now that it's summer, they let us outside for just an hour once or twice a week. This makes it easy for me to feel depressed.

In addition, I have experienced racism at Boone County Jail. I have experienced other inmates calling me racial slurs. At least one incident happened in front of correction officers, and they did not say anything to the inmates. I feel that I should be respected as much as I respect other people in this jail. I recently found out that some pods at Boone are racially segregated. This makes me feel uncomfortable and unsafe.

The desperation and anxiety that I am experiencing in detention is not just based on COVID-19 and lack of recreation. Though I am allowed visitors, I can only see them through video and not in person. The staff at Boone is not responsive to anything we ask for. If I ask for a new uniform or hygiene items, I sometimes don't get them. If I do, it is weeks after I ask for them.

Things are so bad in detention that there are many days where I want to give up out of desperation and just accept my deportation. The only reason I have not done that, though, is because I am fearful for my life if I am deported.

I should be released to pursue my immigration case from a safe home, not from jail. I will attend all my court hearings and comply with all conditions of my release. Mostly, I look forward to living my life and pursuing my immigration case from a safe environment.

## **Testimony II from Boone County Jail, Boone County, Kentucky**

I was born in a Central American country in February 1993. I am currently detained under ICE custody at the Boone County Jail in Burlington, Kentucky. I have been here since March 2021.

I fled my home country because I feared for my life. I entered the United States approximately in June 2012. My two daughters currently live in the United States and one is a U.S. citizen. My father and sisters also fled El Salvador and are currently in asylum proceedings.

After serving out a five-year prison sentence in Bowling Green, Kentucky, I was then transferred to ICE custody in March of this year. They do not take any COVID-19 precautions at the Boone County Jail. We have not been given any information on COVID-19. There are no posters on the blocks telling us to maintain distances or what precautions to take. Even if we had clear instructions, it is difficult to maintain social distancing. Our block has 10 beds but there are occasions when there are 12 people in this block. Since there are only 10 beds, 2 have to sleep on the floor. When people come from the outside we ask if they were placed in quarantine and they tell us that they were in quarantine for 3 days. Our block is very open and this is where we sleep, eat and spend all of our day. There are two tables in the block where we eat and play cards to pass the time. There is no way for us to maintain 6 feet of distance from each other.

We are unable to clean our area as well as we would like. The tables are only cleaned when they issue us cleaning supplies which is once a day at 11:00pm. The cleaning supplies include a broom, a mop with a little bit of water and soap. They also give us a spray bottle to clean the tables and the windows. The spray bottle has a green liquid that smells like chemicals.

We are also unable to take proper hygiene precautions. We are only provided a small bar of soap that we are supposed to use for all of our needs: showering and washing our hands. This small bar only lasts each person two days but they tell us it is supposed to last us a month. There has been an occasion where I was without soap for two weeks despite asking the guards for soap.

We are not provided masks unless we go to court. When we go to court, we are only given disposable white surgical masks. I have only received a mask twice, during my court appearances. Several of us have asked the guards for masks but we never received one. The guards however do have masks, but often don't wear them properly.

There have been two occasions when the COVID 19 vaccine was offered. The first time was in May 2021. The guards offered the vaccine at midnight. The guard came to the window where they give us our food and asked who wanted the vaccine. Only one person was awake to hear him. I tried to sign up for the vaccine in the morning but they told me I had to wait to see if health department officials came back. The second time they offered the vaccine was in July 2021. The guards came to the window and asked us on two occasions if we wanted the

vaccine, one was again at night and the other time was at noon. I happened to be awake when they came at night so I signed up twice, at night and when they returned at noon. They did not give us any information at the time we signed up or when we received the vaccine. I did not learn until after I received the vaccine that I had received the Johnson and Johnson vaccine. The piece of paper that said which vaccine I received was both in Spanish and English.

The day after I received the vaccine I had a fever and felt really tired. I was not given any medication for the fever but I did not tell the nurse because I thought it was just temporary. Someone else in my block also felt sick for 3 days. He was given some pills but they did not help him. No one came to the block to ask how we felt or if we were experiencing any symptoms.

It is incredibly difficult to take care of yourself at Boone. We only have one toilet and it is in the open. There is no privacy. There is also only one shower. The shower also does not have a curtain. We shower in front of practically everybody. It is hard to regulate the water temperature in the shower. It is so hot it is scalding and can burn you. We have tried telling the guards but nothing changes. There is also a strange smell from the shower despite us trying to clean it. The paint is peeling off from the shower. The shower is 6 feet from where we eat.

There is a lack of Spanish language access in the facility. We are not allowed to watch television in Spanish. The television is only in English. There are no guards that speak Spanish. They only speak English. Sometimes it is hard to communicate with them.

The medical attention is inadequate. I got tired of asking for medical treatment. My face is so dry from the hot water from the showers. I put in multiple requests and never received a response. Several people have tried to put in medical requests and they don't get seen for a week. When they get seen, they then don't receive medication.

I should be released from jail, so I can work and be with my family in Kentucky and provide for them. When I am free, I will attend all court hearings and comply with all conditions of my release.

**Conclusion: CRCL should investigate the case presented in the context of abusive ICE detention conditions**

As the government continues to distribute the COVID-19 vaccine and take measures to stop the further spread of the contagion and its variants across the country, those who remain in close physical proximity, like the thousands of individuals still detained in ICE custody, and surrounding communities, are still more likely to become infected. DHS must take steps to reduce the population of individuals still in ICE detention facilities to avoid more suffering, loss of life and extending the global public health crisis.<sup>28</sup> We urge your office to investigate the lack

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<sup>28</sup> See "As The Number Of People In ICE Detention Grows, ICE Director's Congressional Testimony Demonstrates The Biden Admin Is On The Wrong Course On Immigration," National Immigrant Justice Center, May 13, 2021, <https://immigrantjustice.org/press-releases/number-people-ice-detention-grows-ice-directors-congressional-testimony-demonstrates>.

of protective measures being taken to stem the further spread of COVID-19 within ICE detention facilities.

The complainants and NIJC await the CRCL's response and look forward to working with them to provide guidance to ensure that the rights of people in detention are upheld. If you have any questions about this complaint, please direct any response or inquiries to Jesse Franzblau, at [jfranzblau@heartlandalliance.org](mailto:jfranzblau@heartlandalliance.org).

Sincerely,

s/ Karla Olivas,  
Equal Justice Works Fellow

s/Guadalupe Perez  
NIJC Senior Attorney

s/ Heidi Altman  
Director of Policy

s/ Jesse Franzblau  
Senior Policy Analyst