

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

**May 28, 2021**

RE: Request for investigation into treatment in immigration detention – Clay County

Dear Ms. Culliton-González:

The National Immigrant Justice Center (NIJC) files this complaint on behalf of an individual 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 facilities, where social distancing is still largely impossible, and staff have withheld information regarding the health of people detained.

This complaint provides firsthand accounts from two individuals currently detained in Clay County Justice Center, Indiana, which detains people in ICE custody under a contract with the U.S. Marshals Service.<sup>2</sup> According to ICE data, as of March 21, 2021, 18 people in total had tested positive for COVID-19 in this facility.<sup>3</sup> As of May 20, 2021, the data indicates that there are still five active cases.<sup>4</sup> The enclosed declarations further indicate that people detained in the facility are not being informed of the results of their tests. We urge your office to investigate this complaint in the context of the abusive conditions and medical neglect occurring within the Clay County Justice Center and other ICE detention facilities.

## **Background**

At the start of the pandemic, public health experts called on government leaders to take common-sense steps to counter the outbreak of COVID-19. Medical experts contracted by the Office for Civil Rights and Civil Liberties (CRCL) raised the alarm early on, urging the widespread release of individuals from immigration detention.<sup>5</sup> In April 2020, a federal judge in California ordered ICE to begin considering for release from ICE custody of individuals at higher risk of severe

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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 Modification of Inter-Governmental Agreement, U.S. Marshals Service, U.S. Department of Justice, November 1, 2015, <https://assets.documentcloud.org/documents/20784428/us-marshal-contract-2015.pdf>.

<sup>3</sup> NIJC filed a CRCL complaint on behalf of another individual detained in Clay County Detention on March 23, 2021. See [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>4</sup> U.S. Immigration and Customs Enforcement (ICE), <https://www.ice.gov/coronavirus> [last visited May 20, 2021].

<sup>5</sup> Letter to Congress from Dr. Scott A. Allen and Dr. Josiah “Jody” Rich, March 19, 2020, <https://whistleblower.org/wp-content/uploads/2020/03/Drs.-Allen-and-Rich-3.20.2020-Letter-to-Congress.pdf>.

illness from COVID-19.<sup>6</sup> Nonetheless, as of May 27, 2021, 1,495 of the more than 22,140 people still detained by ICE, have COVID-19 and are currently under isolation or monitoring.<sup>7</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>8</sup> Of concern, records show that the numbers of people ICE detained in the Clay County facility remained high throughout the pandemic, and remained between 40-60 for the latter part of March 2021.<sup>9</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>10</sup> In response to requests for information filed by NIJC for policies and guidance used to prevent the spread of COVID-19 in state facilities, local officials released records with outdated internal guidance, showing a lack of preparedness for COVID-19.<sup>11</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>12</sup> In other cases, local officials said they had no records responsive to the requests for information, illustrating a concerning dearth of communication between ICE and the officials responsible for people detained on behalf of ICE.<sup>13</sup>

The COVID pandemic has further illuminated the rights violations and deep suffering that result from ICE detention.<sup>14</sup> Throughout the pandemic, ICE unnecessarily transferred people between facilities,<sup>15</sup> creating new outbreaks inside jails and in surrounding communities.<sup>16</sup> Publicly, ICE claimed they were taking precautions to mitigate the spread. Yet, rather than quickly and safely

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<sup>6</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>7</sup> U.S. Immigration and Customs Enforcement (ICE), ICE Guidance on COVID-19, <https://www.ice.gov/coronavirus> [last visited March 22, 2021].

<sup>8</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>9</sup> See Documents released in response to Freedom of Information Act Request, average daily population of individuals in ICE custody in Clay County Detention, <https://assets.documentcloud.org/documents/20784427/average-daily-population.pdf>.

<sup>10</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>11</sup> “Holding Local Governments Accountable For Jailing Immigrants,” National Immigrant Justice Center, Transparency Project, <https://immigrantjustice.org/transparency/local-state>.

<sup>12</sup> *Ibid.* See, records released in response to public information request filed with the Kankakee County Sheriff, Illinois.

<sup>13</sup> *Ibid.* See, records released in response to a public information request filed with the town of Farmville, Virginia.

<sup>14</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>15</sup> 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-idUSKCN24I1G0>.

<sup>16</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>.

release people from detention, ICE placed people in quarantine and solitary confinement, and used force in response to hunger strikes and protests.<sup>17</sup> In a report released in January 2021, researchers with the Physicians for Human Rights found that immigrants in ICE custody were denied access to even “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>18</sup> The report concluded that ICE created “unacceptable health risks and violated constitutional and human rights during the pandemic,” which is ongoing.<sup>19</sup>

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>20</sup> The number of people who died in ICE custody in 2020 was more than double the prior year.<sup>21</sup> Tragically, three people have died in detention since President Biden took office.<sup>22</sup>

### **Declarations: treatment in ICE detention in Clay County Justice Center**

The cases below illustrate the experience in ICE detention. Pseudonyms have been used to protect the complainants from possible retaliation.

#### **Michelle: Testimony from Clay County Justice Center, Clay County, Indiana**

I am 28 years old, and currently in detention in the Clay County Jail, under the custody of U.S. Immigration and Customs Enforcement (ICE). I have been in ICE custody since January 2021. I have four young children who have been in foster care since I was detained.

On April 13, 2021, we found out someone on our block tested positive for COVID. At that time, there were 16 women on our block. Three of us in ICE custody and the rest were county inmates. The jail staff told us that the whole block had to go into quarantine. That means that we were stuck in the block all day and could not go outside at all, except for thirty minutes a day.

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<sup>17</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).

<sup>18</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>19</sup> *Ibid.*

<sup>20</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>21</sup> Hamed Aleaziz, “A 50-Year-Old Honduran Immigrant Who Died in ICE Custody Had Tested Positive For COVID-19,” BuzzFeed, April 30, 2020, <https://www.buzzfeednews.com/article/hamedaleaziz/a-50-year-old-honduran-immigrant-who-died-in-ice-custody>.

<sup>22</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>.

The jail staff did not separate the people who were positive for COVID or showing symptoms of COVID from the rest of us. They did not give us masks to wear around each other, not even the person who is positive for COVID is given a mask to wear. And there is no way for us to social distance from each other. Some of the jail staff wear masks but some do not. And sometimes when the jail staff wear masks, they don't cover their nose and mouth. It just hangs over their chin.

On April 27, 2021, I was tested for COVID. After I got tested, the jail staff told the block that someone tested positive for COVID so we would have to stay in quarantine longer. No one told me whether my test came back positive or negative. But I was the only one that got tested that day so I had a feeling it was me. I did not have symptoms at the time. The whole situation did not feel right so I informed my attorney at the National Immigrant Justice Center of what happened.

The jail staff tested me 2 more times at the end of April. I was never told what the test results were. I signed a medical release request for my attorney to get my medical records from Clay County. Once my attorney received my medical records, that is how I found out that I tested positive for COVID. I started feeling symptoms. I felt aches and chills. The jail staff did not give me any medicine, not even ibuprofen for the aches. The other two people in ICE custody had to use their own money and buy ibuprofen for me at the commissary.

It is not right that the jail never told me I had COVID. I believe I have a right to know about my own medical condition. It shouldn't have taken my attorney to request medical records that took over a week to get for me to find out.

Also it is not right that they do not separate people who have COVID from the rest of the women in the block. They only protect people outside our block and leave those of us in the block to catch COVID from each other.

### **Maria: Testimony from Clay County Justice Center, Clay County, Indiana**

I am 31 years old, and currently in detention in the Clay County Jail, under the custody of U.S. Immigration and Customs Enforcement (ICE). I have been in ICE custody since February 2021. Before I was detained, I was raising my two young U.S. citizen sons, as a single-mother. They have been in foster care since I have been detained.

We found out someone on our block tested positive for COVID on April 13, 2021. I spoke to my attorney at the National Immigrant Justice Center a couple days later to tell her. At that time, there were 16 women on our block. Three of us were ICE detainees and the rest were women being held for criminal cases. Four other women had COVID symptoms at the time but the jail staff only said that one person was positive.

The jail staff told us that the whole block had to go into quarantine for two weeks. We were stuck inside the block and could not go anywhere else all day. They only let us go outside for thirty minutes a day at the most.

The jail staff did not separate the people who were positive for COVID or showing symptoms of COVID from the rest of us. They did not give us masks to wear around each other, not even the person who was positive for COVID was given a mask to wear. There was no way for us to social distance from each other either. The only time the jail gave anyone a mask was if they had to go outside the block.

I had my own personal mask that I had from before I was detained at Clay County that I used. I was never given a mask by the jail staff. One other woman wore a mask. But besides us two, no other women inside the block ever wore masks, not even the women who were positive for COVID or the women who had symptoms of COVID. Some of the jail staff wear masks but some do not. When the jail staff wear masks, sometimes they don't cover their nose and mouth and leave it hanging off their face.

On April 27, 2021, we were told that someone else tested positive for COVID. It's a small block so we could guess who it was but the jail staff never told the person who it was so she just had to guess too. A few days later, she started getting symptoms. The jail did not give her any medicine so me and another ICE detainee used our own money to buy her ibuprofen. The jail treated her differently from the county inmates. The county inmates who had COVID were given medicine. One even got a special diet.

I was not as worried about getting COVID because I already had COVID in December 2020, before I was detained. But I was worried for some of the other women on the block. For example, one of the women was over 65 years old. The jail staff did nothing to protect her from other people who were positive for COVID or showing symptoms.

The jail did not provide us with enough soap to wash our hands regularly. They just gave us little bars that you see in hotels or motels that only last a few days. So we had to buy our own soap from the commissary. They don't let us have hand sanitizer because it has alcohol so soap is the only way we can keep our hands clean.

The ICE detainees are kept in the block with the other women who are being held for criminal charges. We regularly get bullied by them. They tell us to go back to our country and other things. The jail should do more to protect the people who do not have COVID from the people who do. The jail does nothing to separate the people who are sick or have tested positive for COVID from the rest of us. They isolate the people in the block from the rest of the jail but leave all of the women in the block exposed to each other. These are not safe conditions, especially for people who have medical conditions.

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

As the government works to distribute the COVID-19 vaccine to stop the further spread of contagion across the country, those who remain in close physical proximity, like the thousands of individuals still detained in ICE custody, 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>23</sup> We urge your office to investigate the lack 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, NIJC Senior Policy Analyst, [jfranzblau@heartlandalliance.org](mailto:jfranzblau@heartlandalliance.org)**  
**Lisa Chun, Detention Project Senior Attorney, Lisa Chun [lchun@heartlandalliance.org](mailto:lchun@heartlandalliance.org)**

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<sup>23</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>.