

**Written Testimony Before the  
Subcommittee on Immigration, Citizenship, Refugees,  
Border Security, and International Law  
Committee on the Judiciary  
House of Representatives  
“Detention and Removal: Immigration Detainee Medical Care”**

***Submitted by  
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**October 4, 2007**

Good afternoon. Thank you for this opportunity to testify about an extremely important issue that profoundly affects the lives of so many people.<sup>1</sup>

Florida Immigrant Advocacy Center (FIAC) provides free legal services to immigrants of all nationalities, including many in Immigration and Customs Enforcement (ICE) detention in Florida and elsewhere. Lack of access to adequate medical care is one of their chief complaints.

ICE detainees represent the fastest growing segment of our nation’s exploding jail population. This population has tripled in the past decade.<sup>2</sup> ICE currently has funding for 27,500 beds, at an estimated annual cost to U.S. taxpayers of over \$1.2 billion.<sup>3</sup> Over 230,000 persons were held in administrative immigration custody last year.<sup>4</sup>

While this recent surge in immigration detention has greatly benefited private prison operating companies, like Corrections Corporation of America and the Geo group, whose stocks sharply increased following President Bush’s proposal in February 2006 to increase spending in immigration detention, medical care for the fast-growing ICE detainee population has not kept pace.

Detainees include pregnant women, families, the sick and elderly, legal permanent residents, torture survivors and victims of human trafficking. The majority are held in

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<sup>1</sup> This testimony is based on information obtained through interviews, phone conversations and correspondence. It also includes information garnered from materials produced by the United States government as well as newspaper and other articles.

<sup>2</sup> Detention and Removal of Illegal Aliens,” Office of Inspector General, Department of Homeland Security, April 2006.

<sup>3</sup> DHS Fact Sheet: ICE Accomplishments in Fiscal Year 2006, Release Date: October 30, 2006. [http://www.dhs.gov/xnews/releases/pr\\_1162228690102.shtml](http://www.dhs.gov/xnews/releases/pr_1162228690102.shtml); Immigration Enforcement Benefits Prison Firms,” *The New York Times*, July 19, 2006; Detention and Removal of Illegal Aliens,” Office of Inspector General, Department of Homeland Security, April 2006; [www.ice.gov](http://www.ice.gov), August 7, 2006.

<sup>4</sup> Government officials recently considered buying out-of-service cruise ships or leasing them to create “detention barges.” In January 2006, Halliburton was awarded a \$385 million contract to house ICE detainees.

local and county jails or warehoused in large, privately run facilities in remote areas--in an oftentimes secret detention world outside of the public eye and subject to little scrutiny. Detainees are not entitled to a court-appointed lawyer and 84% are without attorneys.<sup>5</sup> Many are detained for months or even years.

Like Miami's Krome Detention Center (Krome), a Department of Homeland Security (DHS)-owned and operated facility at the edge of the Everglades, county jails are not designed for long-term prisoners. County jails in Florida are not subject to state supervision.

Regardless of where the detainee is held, approval from the Division of Immigration Health Services (DIHS) is required for diagnostic testing, specialty care or surgery. Even when jail or outside medical personnel have recommended treatment, on-site medical personnel are required to submit a Treatment Authorization Request (TR) to DHS for each and every exam, referral, or treatment. Someone who has never seen the patient has the authority to deny care.

FIAC has written numerous reports documenting our concern that those in immigration custody all too frequently are denied adequate medical care.<sup>6</sup> These reports are based on hundreds of interviews with detainees, FIAC's own observations, and conversations with jail and immigration officials over the past decade.

Deficiencies include difficulty accessing medical records; delayed or denied care; shortage of qualified staff; unsanitary facilities; improper care of mentally ill patients; inadequate care of physically disabled patients; inattention to administration of prescription medication; unavailability of translators; rude and abusive behavior by some clinic staff; and threats of transfer in retaliation for complaints.

Recent reports of more than 60 deaths in immigration detention since 2004 have shed new light on a system in crisis. FIAC is working to try to prevent further deaths, although at times this seems a difficult battle.

### ***Adequacy of Medical Care***

Detainees report undue delays in obtaining proper medical care or outright denial of such care. Even emergency treatment is delayed or ignored. Recently, FIAC took the case of Yong Sun Harvill, a 51 year old South Korean woman who has a history of cancerous tumor, chronic lymphedema, hepatitis C, liver disease and mental health issues.

Yong was detained by ICE for nearly seven weeks in Florida's Palm Beach County jail and provided little to no medical care. On May 11, 2007, ICE acknowledged the

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<sup>5</sup> S. Lewis and Paromita Shah, "Detaining America's Immigrants: Is this the Best Solution?," *Detention Watch Network*.

<sup>6</sup> "Krome's Invisible Prisoners: Cycles of Abuse and Neglect;" "Florida County Jails: INS's Secret Detention World;" "Cries for Help: Medical Care at Krome Service Processing Center and in Florida's County Jails;" "INS Detainees In Florida: A Double Standard Of Treatment;" "INS Detainees In Florida: A Double Standard Of Treatment Supplement;" and "Haitian Refugees: A People In Search Of Hope."

seriousness of her condition, but claimed there were no DHS facilities in Florida that could accommodate her medical needs and transferred her to Florence, Arizona.

After being detained in Florence SPC for about one month, from May 11 until June 16, Yong was moved again, this time to the Pinal County jail, also in Florence, Arizona. There is no on-site physician at the Pinal County jail.

On June 26, 2007, a doctor at the H. Lee Moffitt Cancer Center and Research Institute in Tampa, Florida, where Yong had been a patient, wrote FIAC:

“Ms. Harvil’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>7</sup>

In late September 2007, a Board-Certified Oncologist, Hematologist and Internist practicing in Miami-Dade County, Florida, reviewed Yong’s medical records. He concluded:

“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>8</sup>

This letter followed a July 10, 2007 letter written by this same physician and submitted to ICE.

Yong has kept a journal since her transfer to Arizona. On August 29, 2007 she wrote:

“I’m afraid because I’ve seen in the news how people have died because they don’t get medical care, I don’t want to be the next one. Most ironic thing is ...my husband has the best [health] insurance, and I have to be seeing these county hospitals and doctors, and I can’t do nothing about it. [I’ve been] [t]hirty-two years in America, and immigration doesn’t care, they don’t care if you die, they take you to the most ugliest county hospital. They deny special tests that I need. Oh God what is going to happen next. I wish my judge can see me how frightened I am.... In the meantime I can only pray to God to help me.”<sup>9</sup>

Yong’s transfer to Arizona has made it very difficult for her attorneys in Miami and her US citizen husband in Plant City, Florida to lend the crucial support needed at this time.

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<sup>7</sup> Letter to FIAC from G. Douglas Dotson, M.D., Program Leader, H. Lee Moffitt Cancer Center & Research Institute, June 26, 2007.

<sup>8</sup> Letter from Gotardo A. Rodrigues, M.D., To Whom it May Concern, September 27, 2007.

<sup>9</sup> Excerpt from Ms. Harvill’s journal, August 9, 2007.

It is FIAC's understanding that ICE's Office of Professional Review is reviewing this case.

Another of FIAC's clients had been diagnosed with cancer before he was detained at Krome in July 2006. Although a physician recommended that he urgently be referred for prostate surgery in October 2006, it was not until late December 2006, and after FIAC threatened to sue, that he had surgery.

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

It is FIAC's understanding that the already overwhelmed TGK medical staff responsible for providing medical care to over 1000 of TGK's regular inmates were simply asked to work overtime upon the detainee's arrival from Krome.

Detainees complained that sick call requests were routinely ignored. They said some TGK officers and medical staff who were upset at how they were being treated told them that some nurses "were taking detainees' pink slips and throwing them in the garbage."<sup>10</sup> They also claimed they were charged each time they went to the clinic, even though officials claimed not to charge detainees for medical care.

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, she couldn't eat but was thirsty all the time, and that she had made several unsuccessful requests to see a doctor. Attorneys from FIAC had to insist that she see a doctor. That same day, she was rushed to the hospital and diagnosed with chronic diabetes. An officer at TGK told FIAC she had been trying to get this detainee medical attention for days.<sup>11</sup>

Detainees who were diabetic often suffered needlessly:

"I'm a diabetic and they didn't have a special diet for me there[TGK]. 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>12</sup>

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<sup>10</sup> Detainee statement, January 4, 2001.

<sup>11</sup> Women's Commission for Refugee Women and Children, "Innocents in Jail: INS Moves Refugee women from Krome To Turner Guilford Knight Correctional Center, Miami," June 2001 (follow-up Report to "Behind Locked Doors: Abuse of Refugee Women at the Krome Detention Center," October 2000.

<sup>12</sup> Detainee statement, October 5, 2001.

TGK detainees suffering from epilepsy also faced serious delays in getting medical attention.<sup>13</sup> One detainee described her experience:

“[After I 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>14</sup>

FIAC and the Women’s Commission for Refugee Women and Children (Women’s Commission) were at TGK 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.

In late July 2007 FIAC wrote the Captain at the Monroe County jail in Key West, Florida to call attention to a detainee who has suffered from seizures for years but had not been given her medications.

In attempting to help another detainee at the Monroe County jail get medical attention, FIAC contacted DIHS. In late August 2006 FIAC had contacted ICE and the Captain of the Monroe County Detention Center in Key West, Florida, on behalf of a detainee who had spent weeks in pain, trying to get medical attention for a leaking breast implant.<sup>15</sup> Receiving no response, FIAC contacted DIHS directly, and officials there quickly responded, informing FIAC that Monroe County jail staff had requested a plastic surgeon consultation, which had been approved by DIHS on August 24, 2006.<sup>16</sup> DIHS also said that jail staff said the appointment for this detainee had not been made and they promised to follow-up.

On March 8, 2002, one of FIAC’s clients who was detained at TGK 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, this was not done 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

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<sup>13</sup> Detainee statement, February 5, 2001.

<sup>14</sup> FIAC interview, April 6, 2001.

<sup>15</sup> Letter to Marion Dillis, Krome Detention Center Officer-In-Charge to Captain Penny Phelps, Monroe County Detention Center, from FIAC attorney Cheryl Little, August 23, 2006.

<sup>16</sup> Letter to Cheryl Little from Gene Migliaccio, Dr., PH., CAPT, US PHS, Director, September 25, 2006.

special pail to show them. The next day this delegation [from Washington, DC] 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 TGK. Three days later I went back to Jackson for a test .... They brought me back to TGK 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>17</sup>

Women often do not receive regular Gynecological and obstetric care. One 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 her fallopian tube.<sup>18</sup> She told FIAC:

“I think it was around December 18, 2003 that I realized I did not get my period... I started to get worried because I am usually on time and also because I started to experience some pain in my lower stomach.

I put in a written medical request to go to the clinic at BTC. The nurse saw me and I explained my problem. I was told that this was not uncommon. Also that several other women missed their period for two or three months due to stress and not to worry about it. At that visit, I was given about 20 packets of Ibuprofen for the pain. There are two Ibuprofen pills in each packet.

...By January 1, 2004 the pain was getting much worse... [T]he teacher who speaks Kreyol, helped me make a medical request that day because I was in too much pain. After being told again that this was due to stress I was given Tylenol and Ibuprofen and asked to go back to bed.

When I went to bed the pain was so bad that I was moaning and the officers came. They went downstairs to get a nurse but no one is in the

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<sup>17</sup> FIAC interview, April 6, 2001.

<sup>18</sup> FIAC and the Women’s Commission wrote DHS to request an investigation into this case and another case involving a pregnant woman at BTC. An investigation was conducted, but FIAC was advised that the results could not be forwarded.

clinic at night. The officers thought it might be a stomach problem so they gave me antacid and soda...

When I woke up there was blood everywhere. I was bleeding heavily. The officers wrote the request for me to go to the clinic that morning, on January 2, 2004. I was given more Tylenol and Ibuprofen and asked to go back to bed again. I insisted that it was not normal for me not to get my period and was finally given a pregnancy test. The test revealed that I was pregnant... But the pain continued to get worse and I kept bleeding.

On January 3, 2004, I went to the clinic again... They kept giving me more Tylenol and Ibuprofen and sending me back to bed. They always use a telephonic interpreter service at the clinic with me...

On January 4, 2004 the pain was severe. My roommate... helped me get to the clinic. They [clinic employees] wanted to send me back to my room again but my roommate said no. She told them how much I was suffering and said she would not take me back to my room in that condition.

Finally, they brought me back to a room with a table in the clinic and told me to lie down on the table. A male doctor was there. I was in so much pain I was screaming. All he did was touch my stomach and then he said they had to take me to the emergency room immediately. They took me out in a wheelchair.

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>19</sup>

Another woman who had not had her period since arriving at TGK 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 who was scheduled for surgery on her uterus had the surgery canceled on the evening before it was to take place. She was never notified of the reason.

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<sup>19</sup> Statement of Haitian woman at the Broward Transitional Center (February 4, 2004). See also letter from Kerline Phelizor (April 27, 2003).

A female detainee who miscarried while in immigration custody at TGK described her failed efforts to get medical attention:

“When I was brought to this jail facility I was placed in the intake holding cell. The room I was locked in for hours had feces smeared on the walls and floor. I thought well maybe it was just that room, however I was moved to another one and that too had feces smeared on the walls and the rooms were absolutely filthy disgusting.... I was six weeks pregnant when I came into this place.

I have been so distraught about the physical conditions and cleanliness of this place. On 7/12/04 I put in a written request to see the facility psychiatrist as I felt these above conditions were not viable to my pregnancy. I wanted to document the stress this facility is causing me. My written request went ignored and on 7/15/04 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 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>20</sup>

All the women in ICE custody at TGK were moved to a Monroe County jail in September 2004 on the basis that TGK could not meet the agency’s detention standards,<sup>21</sup> something immigration officials had repeatedly denied.<sup>22</sup> FIAC learned in January 2006, in response to a Freedom of Information Act request, that an ICE annual detention review of TGK in March 2004 assigned a final rating of “At-Risk” regarding detainees’ access to medical care. They concluded that “the overwhelming lack for health and safety found at TGK is disturbing.”<sup>23</sup>

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<sup>20</sup> Letter from detainee to FIAC, July 28, 2004.

<sup>21</sup> Alfonso Chardy, “Immigration agency moves 45 female detainees to Keys,” *The Miami Herald*, September 18, 2004. FIAC believes the Monroe County jail also clearly failed to meet the Immigration Standards, including access to adequate medical care, and detailed complaints from FIAC were repeatedly ignored by ICE and jail staff.

<sup>22</sup> In a letter to TGK officials, thanking them for their efforts to comply with the Detention Standards, an immigration official asked the jail staff not to meet with FIAC, “in particular Ms. Little,” without approval from ICE. (Letter to Lois Spears, Miami-Dade County of Corrections, from Kim Boulia, Immigration and Naturalization Service, Office of the District Director, March 27, 2001) Meetings with TGK staff that had resulted in some improvement in medical care for detainees came to an abrupt end.

<sup>23</sup> DHS, USICE TGK Correctional Center Annual Detention Review, April 5, 2004.



Obtaining mammograms can also be difficult. FIAC attorneys represented a female detainee who was transferred to several facilities. Despite her repeated requests, she was unable to obtain a mammogram in either jail even though she had suffered recurrent bouts with breast cancer, underwent a mastectomy, and had been instructed to undergo regular mammograms. Ft. Lauderdale City Jail medical personnel requested that the detainee be transferred to a facility where she could obtain counseling and Immigration officials transferred her to the Monroe County Detention Center, 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 Detention, months after the mammogram should have been done.<sup>24</sup>

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. 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 the BTC staff learned that the pregnancy was unwanted, they purposefully delayed the women’s release and pressured her to carry the baby to term. Only after FIAC took her case was she informed that she could get an abortion at her own expense while in custody. This woman was later released and miscarried.

Even children have been deprived of adequate medical care in ICE custody. On April 10, 2003, FIAC staff observed Lormise Guillaume carrying her 2-year-old son, Jordan, who was visibly ill. FIAC requested immediate assistance and officers called 911. Jordan was rushed to the emergency room of a local hospital. His health had been deteriorating for some time and medical attention repeatedly requested was inexcusably delayed.<sup>25</sup> On April 3, 2003, a week before Jordan was rushed to the hospital, Lormise told FIAC:

“I am very worried about my son here at the hotel. We never go outside. Recreation does not exist for us, we only see the outside world through the glass window; we cannot breathe the air. It’s very difficult for my little

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<sup>24</sup> A number of women have reported that sanitary napkins were sometimes not available, at times when clean underwear was also unavailable. One asylum seeker reported that a woman who was menstruating was forced to go without any protection at all. When the women were moved from Krome to TGK, TGK officers reported that it was the responsibility of the Immigration and Naturalization Service (INS) to provide toiletries. Women reported that when they asked the INS officer on site about this, she responded: “It’s in the contract. TGK is supposed to provide these things. You should tell the TGK officer.” Women’s Commission interview, June 2001.

<sup>25</sup> See e.g., Letter to Deportation Officer Morales from Charu Newhouse al-Sahli, FIAC (April 11, 2003); Letter to Deportation Officer Morales from Jack Wallace, FIAC (April 9, 2003); Letter to Marion Dillis from Jack Wallace, FIAC (March 31, 2003); and Letter to Marion Dillis from Charu Newhouse al-Sahli, FIAC (March 7, 2003).

boy. Sometimes he wakes up screaming in the middle of the night, banging his head on the bed and the walls...

My body aches all over from not moving about. I know it's even worse for Jordan. He was much healthier before we came here.

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>26</sup>

At times the treatment provided detainees seems unnecessarily harsh. FIAC assisted a 54 year old Swiss woman with a history of repeated episodes of blood clots in the veins of her legs. Her condition had been treated for years with blood thinners. She also had suffered from a triple fracture to her left ankle in September 2006 that required surgery. When she was detained by ICE in January 2007, she repeatedly told the officer who handcuffed and shackled her that her ankle was not completely healed. She was nonetheless forced to board the ICE bus wearing shackles. She tripped and fell while trying to board the bus, suffering further injury. An officer who observed her said “I think I’m looking at a broken ankle.” While this detainee was given ACE bandages and ibuprofen for pain, she said she did not receive any medical attention for several weeks.

A detainee with an infected toe reported the following:

“Since I been detained, I never got to have a nail clippers. 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.”

Last year, FIAC interviewed a Haitian detainee at Wakulla County Jail who had a swollen abscess on his neck. He says that the jail’s medical staff did not explain anything about his condition to him when he was taken to the jails’ medical clinic, that 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 pod and administered pain medication after the incident.

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

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<sup>26</sup> Statement of Lormise Guillaume, April 3, 2003.

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>27</sup>

The grave consequences of inadequate medical care are all too clear. Eighty-one year old Joseph Dantica, a Baptist minister who fled Haiti seeking asylum, was detained by DHS at Miami’s airport for more than 12 hours and was not permitted to leave the airport with his family even though he had a valid visa to enter the United States. He was taken to Krome and died five days later, on October 28, 2005. A medic at Krome suggested that Dantica was faking his illness and reluctantly agreed to take him to Krome’s medical clinic. According to John Pratt, Reverend Dantica’s attorney:

“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 Reverend 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 Reverend Dantica from the asylum unit to the medical facility.”<sup>28</sup>

Later that day Reverend Dantica was transferred to Miami’s Jackson Memorial Hospital (JMH), Ward D, the hospital’s prison ward, where he died. Dantica’s lawyers and family have serious questions about the adequacy of medical care provided him while in ICE custody, including at JMH.

FIAC also believes the investigation conducted by the Office of Investigator General into Reverend Dantica’s death was a whitewash and wrote a detailed letter of complaint.<sup>29</sup> Congressman Kendrick Meek (D-FL) asked the DHS Inspector General to “review and evaluate the claims raised by FIAC.”<sup>30</sup>

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<sup>27</sup> Detainee affidavit, March 14, 2001.

<sup>28</sup> Declaration of John Pratt, Esq., January 14, 2005.

<sup>29</sup> FIAC wrote the OIG Inspector General with its concerns that in far too many instances the findings in these reports were either based upon alarmingly insufficient evidence or clearly erroneous. See letter to Honorable Richard L. Skinner, DHS Inspector General, from FIAC Executive Director Cheryl Little, November 23, 2005, attached.

<sup>30</sup> Press Release, “Meek Asks DHS Inspector General to Consider New and Conflicting Information in Investigating of Detainee Treatment,” December 9, 2005.

In November 2001, 28-year-old Jean Jude Andre, a Haitian national, died after collapsing in a Krome bathroom. A preliminary autopsy report indicated 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>31</sup> As one detainee wrote following Andre's death:

"I... watched the Nigerian who died on the soccer field on January 1<sup>st</sup>. 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."

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>32</sup>

Detainees at the Bay County Jail in Panama City, Florida believe that inadequate care led to the death of another detainee:

...[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>33</sup>

In late July 2007, detainees wrote FIAC about their concern that a female Haitian detainee at the Glades County Jail in Moore Haven, Florida "may have died" following her collapse. They said she had congealed blood for an hour and pleaded for medical attention and she had no pulse when taken to the medical unit. They hadn't seen her since.<sup>34</sup>

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<sup>31</sup> FIAC and Human Rights Watch wrote immigration officials to express concern over Andre's death. See e.g. letter to John Bulger, Acting INS District Director, November 14, 2001; letter to Wesley Lee, Krome Officer-in-Charge, from FIAC, November 14, 2001.

<sup>32</sup> 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."

<sup>33</sup> Answer to questionnaire by Cuban Detainee in Bay County Jail Annex.

<sup>34</sup> Letter to Mr. Zale Koot from Hamza Al Ksahif, July 24, 2007.

One has to wonder how many detainees have lost their lives behind closed doors, removed from the public eye.

### ***Language Barriers***

ICE detainees face unique obstacles in accessing medical and mental health care. Medical screenings are often conducted in English. Detainees consistently report that their health issues are more likely to be ignored, misdiagnosed and/or mistreated if they do not speak English. Non-English speaking detainees are extremely frustrated with their inability to communicate with medical staff have resorted to sign language.

Jail staff often require detainees to submit a written request for medical care, which may be impossible for detainees who are illiterate and/or do not speak or write English. Jails typically rely on other detainees 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 Pompano Beach, Florida, the medical staff typically resort to telephonic interpretation, a source of frustration for detainees.

Detainees like Ming Xu, who was detained at the Wakulla County Jail during a recent FIAC visit, could not write a medical request in English. Other detainees there were illiterate and the written request system makes medical care inaccessible to them. A nurse at the jail told FIAC that the ICE office is right next door to the medical unit and if someone at the jail speaks Spanish, she asks an ICE officer to interpret. Detainees speaking Creole, Mandarin or other less commonly spoken languages in Florida have an especially difficult time. As one Haitian asylum seeker said:

The language is a huge problem. Sometimes they've had an officer who speaks Creole help me because of my medical problem. But not always. The other day at the clinic the nurse asked me something I didn't understand. I asked for a Creole officer but there was no one. They say we can complain if we want to.... We can't communicate in English so there are a lot of things we can't complain about."<sup>35</sup>

Inability to communicate with medical staff affects not only the extent and quality of the medical care detainees receive, it may also prevent confidentiality between the medical staff and detainees. For example, a Spanish-speaking asylum seeker with a urinary tract infection was forced to explain her problem through the interpretation of a male inmate who was also at the clinic. This detainee was in tears as she told FIAC, "The male inmate asked me when the last time I had sex was."

A Colombian woman with gastrointestinal problems had difficulty explaining her symptoms in detail because the doctor did not speak Spanish. No translation was provided, even telephonically. On her third visit to the doctor, the doctor asked a detainee who was incarcerated to translate, and then asked about her symptoms in front of several others, including officers and other detainees.

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<sup>35</sup> Detainee Statement, April 22, 2002.

## ***Physically Disabled Patients***

The neglect of disabled detainees is not an isolated concern. One detainee who suffered from illnesses which prevented her from full use of her legs was not given a wheelchair or the daily care she required at TGK. Instead, officers relied on other detainees assisting her with her daily activities including showering, eating, combing her hair and using the bathroom:

“Lise [INS 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 everyday, 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>36</sup>

This detainee had a wheelchair at Krome that 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 a 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>37</sup>

Detainees at Krome have reported similar problems. 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 swelen extremely and I am in severe pain. And have not receive[d] any other medical treatmon in this institution.”

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<sup>36</sup> Detainee statement, October 5, 2001.

<sup>37</sup> Id.

Complaints have also included inadequate assistance for disabled detainees in showering, going to the bathroom or washing their underwear and the postponement of outside medical appointments because there wasn't adequate transportation available for someone in a wheelchair.

### ***Access to Mental Health Care***

Oftentimes detainees with mental health issues receive little, if any, treatment. A Jamaican woman in ICE custody recently reported to FIAC 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 a few weeks earlier. She told FIAC, "the nurse told me it will take too long to get the records so I can 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."

FIAC observed a young Ethiopian detainee in Port Manatee who had been eating soap, putting Bengay on his genitals, and babbling incoherently. Jail personnel stood by and did nothing when FIAC was there.

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. She was stripped naked and sent to the Women's Detention Center ("Annex") in July 2001, in Miami where her condition worsened. Her cousin, a psychiatric nurse, was given permission to visit the detainee after contacting a local Congresswoman. The cousin described the conditions of detention at WDC:

"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. [The next day] I revisited [her]. 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>38</sup>

This detainee was eventually 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 this after they were told that if they did not sign and agree, a court order would be obtained. The family claims the medications were changed without their

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<sup>38</sup> Letter from cousin of Guyanan asylum seeker, August 6, 2001.

knowledge and/or permission. A FIAC staff person 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.

Following the transfer of female detainees from Krome to TGK, TGK officials determined that many were over-medicated at Krome (e.g. given too many psychotropic drugs). Abrupt changes in their medication were made and TGK officials claimed the detainees were suicidal, which resulted in about eight or nine of the women being temporarily transferred to the psychiatric ward of Palmetto Hospital in Miami. (At the Palmetto Hospital, detainees themselves had to try 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>39</sup>

TGK 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.”

Many detainees are 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

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<sup>39</sup> Detainee statement, January 19, 2001.



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>40</sup>

An openly gay female detainee at the Ft. Lauderdale jail claimed 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>41</sup>

Children in immigration custody have been especially vulnerable. Like adults, their detention can adversely affect their mental health. Some children have been kept in adult detention facilities, and therefore are far less likely to be released, because they have been subjected to unreliable forensic tests (e.g. dental, bone examinations) to determine their age.

Ernso Joseph was fifteen when he arrived on the October 2002 boat in Key Biscayne, Florida. Shortly after being handcuffed and placed in immigration custody, immigration officials subjected him to dental and wrist x-rays and determined he was an adult.<sup>42</sup> He

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<sup>40</sup> Detainee statement, June 2, 2001.

<sup>41</sup> Detainee statement, June 13, 2001. This detainee was subsequently forcibly drugged and deported to St. Kitts.

<sup>42</sup> As an orphan in Haiti, Ernso 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 Ernso to be 16 years old, and establishing his eligibility for a Special Immigrant

was placed in an adult detention center. Despite being granted asylum in 2003, Ernsó was kept in detention while government attorneys appealed the judge's decision.<sup>43</sup> He was only released to his uncle in South Florida on June 12, 2003 after he was diagnosed with Post Traumatic Stress Disorder, clinical anxiety and extreme depression by both a government and an independent trauma specialist.<sup>44</sup> A few months later, the government appeal was upheld and Ernsó was ordered to report for deportation. Ernsó was ordered to report for deportation. He spent the next several months in detention and was a virtual prisoner in his hotel room. His mental health rapidly deteriorated and he received no psychological counseling.<sup>45</sup>

In November, 2003, after visiting Ernesto in detention, Congressman Kendrick Meek wrote DHS Secretary of Homeland Security Thomas Ridge to ask for his immediate intervention in the case. Meek wrote:

“I was a Captain in the Florida Highway Patrol, and I can tell you from personal experience that we treat hardened criminals in this country better than we are treating Ernesto Joseph. It is not an exaggeration to say that 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>46</sup>

In January 2004, DHS finally granted Ernsó permission to take his case to state juvenile court and the judge ruled in his favor.<sup>47</sup> But the Miami District Director denied Ernsó a visa, arguing he was not a minor even though the Florida court determined he was. FIAC appealed this decision and the Administrative Appeals office reversed the denial of Ernsó's application for relief from deportation.

In July 2005, a few days before his eighteenth birthday, Ernsó's application for a green card was approved by the same immigration judge who a year and a half earlier had

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Juvenile Status (SIJS) visa as an abused, abandoned or neglected child in whose best interest it is not to be returned to Haiti.

<sup>43</sup> See e.g., Amnesty International, “Haitian Teenager Granted Asylum Is Still in Detention,” Refugee Action, March 14, 2003; Teresa Descilo, Psychological Evaluation of Ernesto “Ernsó” Joseph, May 2, 2003; Tanya Weinberg, “Advocates Blast Teen's Detention,” *South Florida Sun-Sentinel*, May 23, 2003; “Free Ernesto Joseph,” LIRS Urgent Action, Newsletter of the Forgotten Refugees Campaign; and FIAC Urgent Action, “Free Ernesto Joseph Now,” February 26, 2003.

<sup>44</sup> FIAC spent weeks getting permission for an independent Trauma Specialist to meet with Ernsó. Following her report that Ernsó was suffering from PTSD and extreme depression, a government official came to the same conclusion.

<sup>45</sup> Letter to Cheryl Little, FIAC, from Teresa Descilo, Executive Director, Victim Services Center, October 22, 2003.

<sup>46</sup> Letter to Thomas Ridge, Secretary Department of Homeland Security, from Congressman Kendrick Meek, November 12, 2003.

<sup>47</sup> Congress passed Special Immigrant Juvenile (SIJ) status into law in 1990 in order to protect abused, abandoned and neglected immigrant children. Eligible immigrant children are granted SIJ status and ultimately permanent residence. To be eligible, an immigrant child must be (1) found dependent on a juvenile court; (2) a victim of abuse, neglect and abandonment; (3) found eligible for long-term foster care because family reunification is not a viable option, and (4) determined it is not in the child's best interests to be returned to her native country but rather in her best interest to remain in the U.S..

granted him asylum. He was finally able to attempt to recover from the trauma he had suffered in Haiti as well as the trauma he experienced while in ICE custody in the United States.

Many detainees come to the United States to seek asylum after suffering grievous harm in their own country. Such abuses include torture, rape, female genital mutilation, sexual slavery, forced marriages, and trafficking. Yet despite these traumatic experiences, detainees can be held for prolonged periods in harsh conditions that cause them further trauma and hardship. Detainees have sometimes become so depressed by their long detention that they are unable to properly articulate their story to a judge or asylum officer.

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

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.

Neither PHS nor the 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.

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 the 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 this detainee would sometimes rant, scream, and fight with someone who was not there, causing detainees to fear for their own safety. Detainees said his behavior was unpredictable and frightening. When the detainee would have a severe episode, the 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 is schizophrenic and receiving medication, and that he was going to be deported the following day.

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>48</sup>

### ***Access to Medications***

Detainees report serious problems in obtaining proper medications, including medications given at improper times or no medications even after ordered. One 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." A Krome detainee who was HIV positive went days without his medication, following a dorm shakedown in July 2006. Medical staff told him they had forgotten to refill his prescription and subsequently were giving him less than half his prescribed dosage.

Detainees also complain that often they don't know what drugs they are taking, or why. Detainees in one Florida facility, outside of Sarasota, called the doctor "Dr. No-touch" because he prescribed medication without seeing them.

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."

Detainees have had to buy their own over-the-counter medications from the commissary, including aspirin, at inflated prices. Detainees at the Bay County Jail Annex told FIAC that if detainees need over-the-counter medications, such as Tylenol, Sudafed, or Zantax, they must either buy them from the jail commissary or obtain a prescription from the medical department. However, commissary orders may be placed only twice a week. If a detainee is indigent and cannot buy medication from the commissary, he or she may wait several days before eligibility for free medication is established.

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 as suicidal. I wasn't suicidal, I was on the wrong medication. {And then they} kept messing up my levels of medication at TGK and I [had] seizures coming and going all the time."<sup>49</sup>

Another detainee reported that her yeast infection went untreated for two and one 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.

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<sup>48</sup> Andres Viglucci, "Krome clinic under fire," *The Miami Herald*, April 4, 1999.

<sup>49</sup> Detainee statement, January 4 and 9, 2001.

Medications improperly dispensed 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."

Detainees who have attempted to correct nurses' mistakes in dispersing their medications have been criticized.

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

An initial dental screening exam should be performed within 14 days of the detainee's arrival. However, for the first six months of detention, treatment provided is rudimentary and on an emergency basis. Even after six months, dental care is generally limited to extractions, and treatment of painful dental and gum conditions is delayed or denied altogether. Dentures are not provided, and broken dentures are rarely fixed. One Krome detainee who wrote FIAC in late September 2006 summed up the frustration of his fellow detainees: "It's either pull the tooth out or nothing. Fal[se] teeth services is not provided, although it is indicated in the detainees' handbook." Detainees may not even use their own money to secure dental care.

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.

### ***Unhealthy Living Conditions***

Detainees complain about unhealthy, unsafe conditions, including filthy jails and overcrowding. Overcrowding can lead to serious health consequences for those detained.

While Krome's medical clinic has been greatly improved over the years and in many ways is now state-of-the art, detainees continue to complain that their complaints aren't taken seriously and often complain of overcrowding.

Overcrowding at Krome has been a long-time concern. In 2006, the population there skyrocketed to well over 1000, although the stated capacity is about 580. There were reports that detainees waiting to be processed were sleeping in the halls and medical area, sometimes near toilets. Detainees wrote FIAC:

"The campus is over crowded like Sardines with full bunk-beds plus 58+ average (army cots & boat beds), average 1300, 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 never on for circulation of the

air, dirty air is making detainees sick specially breathing on one another while sleeping with 1 foot distance to each other.”<sup>50</sup>

On September 20, 2006 there were 1,054 persons detained at Krome, which is nearly double the stated capacity of 580.<sup>51</sup> A detainee aptly described detainees 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.”

Another detainee from Nairobi was so troubled about overcrowded conditions at Krome in 2006 that he wrote an article that was 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 f 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. Although newspapers like Miami Herald had on several occasions asked to get permission to tour the facility, they were always turned down. As of this writing, it has been seven months since the last request was placed for permission to tour the facility, with nothing forthcoming.

On January 8, 2007, my building – Building 11 – had 164 detainees instead of the required 100. On that day, the excess 64 detainees 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. 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

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<sup>50</sup> Signed letter from Krome detainees, September 20, 2006.

<sup>51</sup> Letter to John Stevenson, Acting Officer-In-Charge, ICE, from FIAC, September 28, 2006.

and other personal products. I can only imagine the anguish of the female detainees in their facilities.”<sup>52</sup>

Last year when Krome was terribly overcrowded, 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>53</sup>

In June 1995, Dr. Ada Rivera, then chief of the Public Health Service Clinic at Krome, sent a memorandum to Miami District management, warning of the “serious health consequences” of overcrowded conditions at Krome and advising that she intended to suspend the medical clinic’s normal functions to “prevent any potential epidemics.”<sup>54</sup> Valerie Blake, the 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>55</sup>

### **Access to Medical Records**

It can be extremely difficult for detainees to access their own medical records, and can even take months for FIAC or other lawyers to access records on clients’ behalf. Last year FIAC spent months getting a client’s medical records and test results. The woman who was detained at BTC first found a lump in her breast in May 2006 that was documented as growing and increasingly painful. She was denied access to her own medical records for months. She eventually received a biopsy in November 2006 but neither she nor her attorney were informed for weeks of the results, which fortunately revealed the lump was benign.

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

Sometimes requests for medical records can be made directly to the jail, but records may be held off-site. BTC officials claim that all requests must be approved by the detainee’s Deportation Officer first. At TKG every time a detainee asked how she could obtain a

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<sup>52</sup> “Horror of Being Held in Immigrants’ Deportation Cell,” Opinion, *East African Standard* (Nairobi), August 5, 2007.

<sup>53</sup> “An overcrowded Krome, again,” Editorial, *The Miami Herald*, July 7, 2006.

<sup>54</sup> 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.”

<sup>55</sup> 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.

copy of her medical records the answer seemed different. Detainees were routinely told by TGK medical staff that they needed a “court order” to get their records and were unaware of any form for requesting records.<sup>56</sup> According to the Dade Corrections Health Service, the cost to obtain medical records is \$1 per page, even for detainees.

With transfers of detainees from one facility to another becoming more and more routine, it can take months to gather a detainee’s medical records. Transfers routinely interrupt medical care. Detainees’ medical records are not always transferred promptly, in complete form, or in some cases, at all. Medications provided in one facility are frequently not provided for weeks following transfers.

When there is a death, such as in Reverend Joseph Dantica’s case, it’s even more difficult to obtain medical records. FIAC had to sue in federal court to get Reverend Dantica’s medical records. The medical records finally obtained contained 31 redacted pages on the basis of privacy, despite the fact that the family had requested them.<sup>57</sup>

### ***Forcible Drugging to Deport***

While DHS officials deny that such drugs are used simply to carry out deportations, immigration employees privately have conceded the opposite.<sup>58</sup>

Earlier this year the Los Angeles Daily Journal reported that federal immigration agents at a Los Angeles detention center forcibly drugged two immigrants while attempting to deport them.<sup>59</sup> The paper claims it obtained medical records confirming that both men who reportedly had no history of mental illness or violence, were drugged against their will. Airline officials refused to let them board the plane.

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<sup>56</sup> Attorneys had to request TGK detainees’ files through Miami-Dade Corrections Health Services. Typically, TGK was without the file for one-two weeks, after the file was sent from TGK to the Miami-Dade staff.

<sup>57</sup> FIAC filed its first request for Reverend Dantica’s medical records on December 3, 2004, asking for all of his records and any investigative reports on his illness and death. The request was filed with the DHS’s Miami office because the records being sought were held at Krome. After hearing nothing for more than a month, FIAC inquired about the status of its request on January 10, 2005. A Krome staffer said that she had not seen the request and that the request had not been sent to Krome from DHS’s Miami office. A staffer at DHS’s Miami office told FIAC that it had not even begun to process the request because the entire office was behind on Freedom of Information Act requests since some of its staff had been reassigned to another unit. FIAC faxed the request to the Miami office again on January 11. In a letter to FIAC on January 11, U.S. Citizenship and Immigration Services District Director John M. Bulger said that the Dantica request had been placed on the “complex track” and not processed as quickly as simple requests. Bulger’s letter suggested that the FIAC “simplify” its request to get faster service. FIAC responded that its expedited request was very short and very specific, requesting only the medical records of one person who was in DHS custody for five days. FIAC followed up with a call to Krome on January 26, 2005 and a detention center staffer said that they had still not received orders to process the request from DHS’s central office. In response to FIAC’s January 20<sup>th</sup> letter, DHS sent a letter, dated January 26, suggesting that the records request be redirected to the Immigration and Customs Enforcement Office of Investigations in Washington, D.C. FIAC contends that Immigration’s Miami office was the correct venue for making the request, citing the department’s own policy.

<sup>58</sup> William Booth, “U.S. Accused of Sedating Deportees,” *The Washington Post*, October 7, 1993.

<sup>59</sup> Sandra Hernandez, “U.S. Agents Forcibly Drug Immigrants to Deport,” *Los Angeles Daily Journal*, May 8, 2007.



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

“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.”

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. Tony’s medical records indicated that he had been given heavy doses of Thorazine and was placed in 4-point restraints.<sup>60</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 ungag or unstrap Tony, 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>61</sup>

### ***Detainees Treated Like Criminals***

According to detainees, some officers have an anti-immigrant bias that can affect their access to medical care. Officers frequently view ICE detainees as criminals, even when they have no criminal history. At times they too readily assume the detainees are faking their illness.

Moreover, ICE detainees who are not serving criminal sentences are nonetheless handcuffed and/or shackled when transported to outside hospitals for medical care and even when in their hospital ward. 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. Reverend 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.

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<sup>60</sup> 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 Ativin.

<sup>61</sup> Mark Dow, “American Gulag, Inside U.S. Immigration Prisons,” pp. 69-84, University of California Press, Berkeley.

Even 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:

“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>62</sup>

Because the sister spoke to the press about her concerns, her brother was advised while at Boystown that he could be deported because his sister was “making problems.”<sup>63</sup> Jimmy was finally released on Christmas Eve, 2002.<sup>64</sup>

A Colombian woman who was meeting with a doctor at TGK said he advised her during her first visit to wait until she was deported to Colombia, and then she could get medical care. During her third visit, she said the doctor told her: “You should be happy. I understand that you are about to be deported.”<sup>65</sup>

The condescending nature of the treatment at times received by female asylum seekers is sometimes manifested in staff culture and training. For example, in 2004 FIAC saw the BTC Detention Manual given to detainees to help them navigate the correctional institute, which included a section on “social tips.” This section reminds detainees not to spit or blow their nose on the floor, wall or in the sink; that when speaking to Americans, detainees should stand an arms length away and speak in a low even tone, rather than a loud rapid manner; and that Americans are very conscious of personal hygiene and therefore detainees should shower, brush their teeth and change their undergarments everyday. Underlying these “tips” is the assumption that foreign-born women engage in socially unacceptable behavior.

A 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. This detainee was released after winning his immigration case. FIAC was not contacted when he was about to be released, which had been requested due to his serious medical condition. Following his release at night, this detainee ended up sitting on a bench outside the jail, without any

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<sup>62</sup> Statement of Chimene Noel, December 3, 2002; see also Jacqueline Charles, “Haitians struggle to unite families,” *The Miami Herald*, December 12, 2002.

<sup>63</sup> See Letter to Carmel Clay Thompson from Cheryl Little, March 17, 2003.

<sup>64</sup> “Christmas Present for Noel,” *Washington Post*, December 26, 2002; Alfonso Chardy, “Young Haitian migrant released,” *The Miami Herald*, December 25, 2002.

<sup>65</sup> Women’s Commission interview, June 2001.

money or belongings. The next morning when the immigration court judge was going to work she saw him and contacted FIAC. After FIAC picked this client up, he passed out and was taken to a local hospital. He later had to go on dialysis and died a year following his release.

Until July 1998, Immigration officials used the Jackson County Correctional Facility to house its 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 a Plexiglass-like material, with two handles in the middle. The detainees hands and legs were handcuffed to a concrete bed and the shield placed over the detainee's body.<sup>66</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>67</sup>

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 even though he had done nothing wrong and was never written up by officers. On the contrary, he was a victim of abuse by another detainee.

One anonymous medical worker told the Miami Herald in the fall of 1998 that "the majority of the staff there 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>68</sup> Unfortunately, this view remains all too pervasive even today in detention facilities across Florida and elsewhere.

## **Retaliation**

Fear of retaliation frequently prevents detainees from seeking appropriate medical care. Sometimes detainees who attempted to get proper medical care were placed in lockdown.

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<sup>66</sup> See e.g. Andres Viglucci, "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 Viglucci, "Immigrants' claims of torture stir probe," *The Miami Herald*, July 31, 1998; and Teresa Mears, "A Shock to the System," *Miami New Times*, July 30-August 5, 1998.

<sup>67</sup> Affidavit, July 28, 1998.

<sup>68</sup> Andres Viglucci, "Critics of clinic paint a tarnished Krome," *The Miami Herald*, September 21, 1998.

Detainees also say they have been threatened with transfers, and in some cases transferred, after complaining about adequate access to medical care.

### ***Conclusions/Recommendations***

ICE detainees are routinely subjected to poor, and sometimes appalling, medical care. They are especially vulnerable because they are truly at the mercy of DHS officials. Because they are detained they are not permitted to get treatment from outside doctors – even at their own expense. FIAC’s attempts to obtain adequate medical treatment for clients and to call attention to serious medical issues have repeatedly been ignored.

Understandably, some overwhelmed health care employees may be suffering from compassion fatigue, but denying that problems exist can place at risk detainees in dire need of medical care. While some detainees may exaggerate the problems they face in getting proper medical attention, press reports and statements from medical staff themselves make clear that detainees’ complaints are often legitimate.

Standards promulgated by the American Correctional Association (ACA) provide useful information for those running these facilities, however they were designed for a criminal population and do not take into account that detainees in ICE custody are there on the basis of civil violations only and are not serving criminal sentences or awaiting trial. They have special needs that are not applicable to those accused or convicted of criminal violations.

The current detention policy is overly broad and inhumane. Notwithstanding ICE officials best efforts, they must work within the system and the system is fundamentally flawed. Those who are neither dangerous nor likely to abscond should be fairly considered for parole.

There is a serious lack of oversight regarding the adequacy of medical care provided to ICE detainees. It is ICE’s responsibility to ensure the adequacy of medical care provided to its detainees, regardless of where they are housed or who the medical providers are, because it is ICE that holds them prisoner.

ICE has abdicated this responsibility by failing to oversee the provision of such care. ICE Standards adopted in 2000 designed to ensure the safe and secure treatment of detainees in immigration custody are not being implemented, despite assurances to the contrary. These Standards are not binding and routinely ignored. Only outside, independent scrutiny of detainees’ medical care will ensure that DHS carries out its moral and legal responsibility to provide for the health and safety of detainees entrusted to its care. Given the dramatic increase in the use of INS detention, the need for proper scrutiny of medical care is more critical now than ever.

FIAC recommends that the following steps be taken immediately:

- ICE must ensure that all detainees in ICE-run facilities, contract facilities or county jails receive adequate medical care.

- ICE must ensure that medical facilities are clean and properly staffed, maintained and equipped.
- ICE must ensure that detainees are properly and consistently referred to competent health care providers both within the facility in which they are detained and outside.
- ICE must discontinue arbitrary rules such as the refusal to provide dental care until the detainee has been in custody for at least six months.
- ICE must ensure that detainees may seek medical care without threat they will be transferred or punished if they do so.
- ICE must ensure that detainees' medical records and medications accompany them upon transfer so that medical treatment is not interrupted.
- Women detainees must be provided with regular gynecological care and mammograms.
- ICE must take detainees' medical conditions and the adequacy of available medical care into consideration in determining whether a detainee should be released or transferred.
- ICE must ensure that adequate translation services exist at every facility where its detainees are held so that they may effectively communicate their medical needs.
- ICE must ensure that detainees in county jails are not required to buy over-the-counter medications.