

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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C.G.B. et al.)	
)	Case No. 1:20-CV-01072-CRC
	<i>Petitioners,</i>)	
)	
	v.)	
)	
WOLF et al.,)	
)	
	<i>Respondents.</i>)	
)	
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**REPLY MEMORANDUM OF LAW IN SUPPORT OF PETITIONERS' MOTION FOR
A TEMPORARY RESTRAINING ORDER**

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I. INTRODUCTION

By holding transgender people in unsafe detention conditions during the COVID-19 pandemic, ICE has put them at the epicenter of a crisis. Even according to ICE's own flawed statistics (which underreport cases by, among other things, leaving out employees of contractors who run their detention centers), confirmed cases of COVID-19 in the detention centers housing transgender detainees have risen by 157 percent in the days since April 22. Petitioners' up-to-the-minute declarations document confirmed and suspected cases of COVID-19 among detainees housed in the same facilities and, riskier still, the same pods as Petitioners. In fact, another Petitioner likely has been exposed to the virus since this suit was filed. Even setting aside the fact that Respondents' declarants often lack first-hand knowledge of conditions inside the detention facilities, their testimony shows that social distancing remains a practical impossibility and that ICE cannot ensure the Court that even its own rules are being meaningfully implemented. Respondents' declarations confirm that the sleeping arrangements of many facilities are not compliant as beds are less than six feet apart.

Despite the fact that Petitioners and the class of transgender detainees they seek to represent are especially vulnerable to contracting COVID-19, Respondents confirm that ICE has taken no specific measures to protect them. Even Respondents' medical expert confirms that transgender detainees are more likely to have co-morbidities and underlying conditions that are risk factors for contracting and suffering serious illness and death from COVID-19. Respondents do not contest that transgender detainees are subject to continual harassment and even sexual assault in ICE custody. The harassment—which often takes the form of unwanted touching, comments whispered in detainees' ears or spitting upon detainees—exposes transgender detainees to transmission of the virus. Critically, it is doubly dangerous, as Petitioners' medical expert opines the stress caused by continual harassment also compromises their immunity. And

medical risks such as hypercoagulation present special risks for transgender detainees on hormone therapy.

In short, Respondents have utterly failed to rebut Petitioners' showing that they and the proposed class face an unacceptably and unconstitutionally high risk of contracting and suffering severe cases of COVID-19 in ICE detention. The continuing explosion of cases among ICE detainees dramatically demonstrates that ICE's pandemic response is wholly inadequate and that ICE is not willing or able to protect transgender detainees. The supervised release of transgender detainees, in accordance with the plans and resources available to the class (which Respondents do not contend are unsatisfactory) is the only viable option to protect them.

II. NEW FACTUAL DEVELOPMENTS

ICE currently has 73 transgender women and at least three transgender men¹ in its detention facilities, according to Dr. Edith Lederman, ICE's Senior Medical Adviser and transgender care "subject matter expert." Lederman Decl. ¶¶ 1, 20 (ECF No. 20-8). Although ICE has released three² of the original named Petitioners in this litigation, it has affirmatively decided not to release the four Petitioners detained at Aurora and continues to hold two detainees at the Southern Nevada facility who are living with HIV.

The government's declarations reinforce the conclusion that transgender detainees in ICE custody are at an unacceptably high risk of contracting and suffering severe consequences of COVID-19. In addition, Petitioners submit with this Reply the supplemental declarations of Petitioners C.G.B., K.S., M.J.J. and K.R.H.; the declaration of an additional transgender

¹ Dr. Lederman states that three transgender men in ICE detention are receiving injectable testosterone but does not explain whether there are other transgender men in ICE custody who do not receive such injections. Lederman Decl. ¶ 20 (ECF No. 20-8).

² Respondents note that two Petitioners had been released as of the date of their Opposition; Petitioners have since learned that Petitioner L.R.A.P. also has been released.

detainee, K.P.T.; supplemental declarations from Drs. R. Nick Gorton and Carlos Franco-Paredes; and the additional expert declaration of Isa Noyola. (Attached as Exhibits 1-8).

A. The Increasing Numbers of COVID-19 Cases in ICE Facilities Show Precautionary Measures Are Not Working.

ICE's own reporting illustrates that its precautionary measures have been ineffective at preventing coronavirus outbreaks in its detention centers. Between April 22 and May 5, 2020, the number of confirmed COVID-19 cases among detainees more than doubled, from 287 to 674. *See* ICE Guidance on COVID-19, Confirmed Cases, Immigration and Customs Enforcement, www.ice.gov/coronavirus (last visited May 5, 2020). The outbreaks are even worse at the 12 ICE facilities housing transgender detainees: ICE on May 5, 2020 reported 265 detainees with confirmed COVID-19 cases at those facilities, a 157% increase in the 13 days since April 22, 2020. One center holding transgender detainees, Otay Mesa, is a disaster: ICE reported a 195% increase in detainee COVID-19 cases there during those thirteen days, exploding from 42 to 124. Dr. Carlos Franco-Paredes, an infectious disease specialist who has treated transgender ICE detainees living with HIV, concludes that these statistics show "ICE's attempts at infection control are failing." Second Franco-Paredes Decl. ¶ 6 (Exh. 7).

Moreover, the numbers reported by ICE understate the extent of outbreaks at the vast majority of ICE facilities that are not directly operated by the agency itself. For example, the Davies declaration reveals that at Aurora, five employees of GEO Group, the contractor that operates the facility, have confirmed cases of COVID-19. Davies Decl. ¶ 15(c) (ECF No. 20-6). This lack of information is especially concerning given that two Aurora detainees have submitted declarations that staff there had falsely denied the presence of COVID-19 at the facility. *See* Mem. at pp. 16-17 (ECF No. 4-1). None of the government's other declarants addressed the

number of positive COVID-19 cases among the contract staff that has the most day-to-day contact with detainees.

As disturbing as the skyrocketing statistics are the sworn accounts of Petitioners in this case who document their continuing personal exposure to unsafe conditions. Tellingly, none of the government's declarants dispute C.G.B.'s account of becoming an assumed COVID-19 victim: spending night after night with a bunkmate who was uncontrollably coughing and was sent back to the general population after a medical check, then coming down with symptoms including body aches, a fever, a cough and a sore throat that caused her to be isolated with other presumptive COVID-19 sufferers. C.G.B. Decl. ¶¶ 7-10 (ECF No. 19-1). In her second declaration, C.G.B. reports that doctors at Florence told her that she did not have COVID-19 on April 28, but they did not tell her that she had not had the virus previously. C.G.B. Second Decl. ¶ 4 (Exh. 1). The Florence facility's acting clinical director states that C.G.B.'s test came back negative on April 11 but does not explain why C.G.B. was not notified of the results; nor does she explain why C.B.G. was treated as "presumptively positive" after the result came back and was quarantined on April 12 with positive cases. Malakhova Decl. ¶ 17 (ECF No. 20-10).

And since Petitioners' initial papers were filed less than two weeks ago, another Petitioner has likely been exposed to COVID-19. In her second declaration, K.R.H. reports that, after showing COVID-19 symptoms for three days, on April 27, 2020 three people from her detention pod were taken to receive medical care. K.R.H. Second Decl. ¶ 5 (Exh. 4). She later found out that all three of those detainees tested positive for COVID-19. *Id.* She then asked a doctor if she could be tested but her request was denied. *Id.* This past Friday May 1, 2020, an ICE official at La Palma told K.R.H. and other detainees, in response to their questions about whether any of the detainees would be released because they all feared getting sick, that the

detainees were mistaken if they thought that anyone would be paroled. *Id.* at ¶ 13. Just three days ago, on May 2, three more detainees with high fevers were removed from the pod. *Id.* at ¶ 6. Both the statistics and Petitioners’ experiences support the conclusion that transgender detainees are not safe and are being exposed to an elevated risk of contracting COVID-19.

B. Social Distancing Is Practically Impossible According To ICE’s Own Declarants.

The government’s declarations show that it is practically impossible for detainees to practice the proper six-foot distancing recommended by the CDC. At the La Palma Correctional Center, for example, detainees sleep in 7-foot by 12.5-foot cells that contain two bunks just 38 inches apart. Ciliberti Decl. ¶¶ 11, 15 (ECF No. 20-5). Although the El Paso Processing Center is at 36% capacity, detainees still must sleep in bunks four feet apart. Acosta Decl. ¶¶ 9-10 (ECF No. 20-2). Similarly, at the Florence Detention Center, bunk beds are “three to four feet apart.” Malakhova Decl. ¶ 12 (ECF No. 20-10).

Other declarations simply omit any details that would allow the Court to determine if social distancing is possible or is being practiced. Quincy Hodges, acting assistant director of the New Orleans Field Office, states that at the Winn Correctional Center, “detainees are generally able to remain further apart while in their dormitory,” but does not state how far apart the bunks are, how large the common areas are, or whether the facility practices distancing measures such as leaving every other bunk empty. Hodges Decl. ¶ 14 (ECF No. 20-7). Other declarations similarly lack useful details about social distancing.

C. ICE Has Not Shown Its Pandemic Response Rules Are Being Followed.

The government's declarations also are insufficient to show that the requisite pandemic response rules are being followed.³ Davies states that he "understand[s]" that – although ICE's own rules require facilities to adhere to CDC guidelines – GEO "is incorporating" the CDC guidance "to educate its personnel and detainees and to develop its policies and practices at the Aurora CDF about COVID-19." Davies Decl. ¶ 6 (ECF No. 20-6). Davies' declaration is conspicuously silent regarding whether GEO personnel wear face masks; detainees report seeing guards frequently working without facemasks at Aurora. *See* Mem. at p. 15 (ECF No. 4-1). At La Palma, facility operator CoreCivic "is strongly encouraging social distancing with detainees," but no detainees have been cited for violating that policy. Ciliberti Decl. ¶¶ 15-16, 18 (ECF No. 20-5). Dr. Sheri Malakhova, the acting clinical director of the Florence Detention Center, states that the facility "is cleaned daily and continuously," but does not explain what that means. Malakhova Decl. ¶ 19(a) (ECF No. 20-10).

The government's declarants do not dispute testimony from Petitioners that HIV-positive detainees have been provided their antiretroviral medication at inconsistent times, increasing their chances of becoming immunocompromised. *See* Mem. at p. 19 (ECF No. 4-1). Nor does any government declarant explain why Dr. Carlos Franco-Paredes, an infectious disease specialist, was barred from seeing his transgender patients at Aurora after the COVID-19 pandemic began. *See id.* at pp. 18-19.

³ Many make their declarations not only on personal knowledge but also on "belief" and information obtained from other staff, documents and databases. *See* Hodges Decl. ¶ 2 (ECF No. 20-7); Davies Decl. ¶ 2 (ECF No. 20-6); Acosta Decl. ¶ 2 (ECF No. 20-2); Ciliberti Decl. ¶ 2 (ECF No. 20-5). The most extreme example of this problem is Dr. Sheri Malakhova, the Acting Clinical Director of the Florence Detention Center in Arizona, who states that she supervises medical care at that facility from her duty station in Tacoma, Washington, which is some 1,500 miles away. Malakhova Decl. ¶ 1 (ECF No. 20-10).

D. Petitioners' Declarations Contradict the Government's Evidence.

The first-hand observations of the Petitioners in this case contradict the general assertions in the government's declarations about ICE's pandemic response. K.R.H.'s second declaration, for example, contains troubling details about the situation inside La Palma, where ICE has reported 33 confirmed COVID-19 cases among detainees. K.R.H. states that detainees who are being punished for rule infractions are being sent to the same pod housing as detainees who are showing COVID-19 symptoms. K.R.H. Second Decl. ¶ 4 (Exh. 4). She also reports that detainees showing COVID-19 symptoms had to wait for days before being seen by medical staff. *Id.* at ¶ 5. This is consistent with other detainees' declarations and shows that ICE has not implemented the medical practices its rules purport to require. *See* Mem. at p. 18 (ECF No. 4-1).

A detainee at the Winn Correctional Center reports that when detainees sought to have meals delivered to their dormitory – a practice ICE touts as a safer option than having detainees congregate in cafeterias – the guards ordered them to continue having meals in large groups in the cafeteria, where tables are three feet apart. K.P.T. Decl. ¶¶ 16-19, 25 (Exh. 5). She also reports that guards and food service workers have been showing COVID-19 symptoms and some staff do not wear face masks. *Id.* ¶¶ 17-18, 22, 31.

E. COVID-19 Risks Unique to Transgender Women Have Emerged

One complication from COVID-19 that has only recently emerged in the medical literature is hypercoagulability, an increased tendency for potentially fatal blood clots to form. Second Declaration of R. Nick Gorton ("Second Gorton Decl.") ¶ 7, (Exh. 6). As Petitioners' expert Dr. Gorton explains, hypercoagulability also is a known side effect of the medically necessary hormone replacement therapy (HRT) prescribed to transgender women. *Id.* ¶ 8. Dr. Gorton states that the combination of these two factors makes transgender women on HRT far more vulnerable to this newly discovered and potentially fatal COVID-19 complication. *Id.*

This development reinforces the fact that transgender detainees, as a group, face a significantly higher risk contracting a severe case of COVID-19 while in ICE detention.

Further, Respondents have not mentioned, let alone challenged, Petitioners' showing that transgender detainees are highly likely to suffer harassment, abuse, violence and sexual assault while in ICE custody. As Dr. Gorton further explains, the harassment and fear of harassment place increased stress on transgender detainees, which can weaken their immune systems.

Second Gorton Decl. ¶ 9. And as explained by Isa Noyola, a nonprofit executive who has worked with more than 100 transgender detainees, even verbal harassment is often done in close quarters, such as whispering in the transgender detainee's ear, and also often involves spitting, which heighten the risk of infection specifically for Petitioners and the putative class.

Declaration of Isa Noyola ("Noyola Decl.") ¶¶ 7-8;10;16;27-28-14 (Exh. 8). K.P.T. reports that she has complained about harassment but nothing was done. K.P.T. Decl. ¶¶ 34-35 (Exh. 5).

In addition, new medical evidence has emerged that people living with HIV, such as two of the Petitioners and an unknown number of other transgender detainees, are more vulnerable to severe COVID-19 infections even if their HIV appears to be well controlled with medication. Second Franco-Paredes Decl. ¶¶ 8-10. Dr. Franco-Paredes therefore urges that all transgender detainees living with HIV be released from ICE custody to protect themselves and the public from further spread of COVID-19. *Id.* ¶ 10.

III. PETITIONERS ARE ENTITLED TO THE REQUESTED INJUNCTIVE RELIEF

Petitioners have met their burden of showing they are entitled to preliminary relief irrespective of the standard that this Court employs. Respondents urge that a temporary restraining order is "reserved for cases where plaintiffs will show an irreparable injury before a preliminary injunction hearing is even held" and that "injury is of such 'imminence' that there is a clear and present need to equitable relief to prevent irreparable harm." TRO Opp. Br. at pp.

12-14 (ECF No. 20-1). Here, Petitioners have more than met their burden, particularly in light of the fact that Petitioners and the class of transgender detainees they seek to represent are especially vulnerable to contracting COVID-19 and ICE has taken no specific measures to protect them. Given that the number of confirmed COVID-19 cases in the detention centers at issue has more than doubled since Petitioners filed for preliminary injunctive relief 13 days ago and as graphically shown by ICE's own statistics are certain to climb exponentially, Petitioners have shown their injuries are not just imminent but occurring now. Indeed, since this request for injunctive relief was filed, Petitioner K.R.H. was likely exposed to COVID-19 as three immigrant detainees in her pod tested positive and two more were removed since then as presumptively positive but she has been denied a test herself. K.R.H. Second Decl. ¶ 5-6 (Exh. 4). Given the well documented lapses in measures being taken at the detention centers to mitigate the spread of COVID-19 – as illustrated by declarations of present conditions at these facilities by Petitioners and un rebutted by Respondents' declarations not based on first-hand knowledge—Petitioners have more than met their burden to demonstrate entitlement to emergency injunctive relief.

As set forth below, Respondents have failed to rebut Petitioners' showing that they have demonstrated all four factors warranting preliminary relief.

A. Petitioners Are Likely To Succeed On The Merits Of Their Claims.

Respondents' efforts to minimize their obligations towards Petitioners should be rejected by this Court. The Fifth Amendment prohibits the government from holding civil detainees in conditions that constitute punishment. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); U.S. Const. Amend. V. The law is clear that Respondents instead have a duty to protect and care for civil detainees, such as Petitioners, when the state affirmatively places them in a position of danger they otherwise would not have faced. *Gayle v. Meade*, No. 20-21553-Civ-

COOKE/GOODMAN, 2020 U.S. Dist. LEXIS 76040, at *9-*10 (S.D. Fla. Apr. 30, 2020). As the court in *Gayle* recently found when concluding that civil detainees at three ICE detention centers in Florida had met their burden of showing that they were likely to succeed on the merits, “[t]here is record evidence demonstrating that ICE has failed in its duty to protect the safety and general well-being of Petitioners.” *Id.* at *10. The same is true in this case.

1. Failing to allow for social distancing and other containment measures is a violation of constitutional rights.

Respondents begrudgingly concede that immigration detention can implicate rights under the Fifth Amendment Due Process clause. TRO Opp. Br. at p. 15 (ECF No. 20-1). However, Respondents erroneously contend that the scope of the rights owed to immigration detainees is more constrained because they are not U.S. citizens, justifying denial of emergency relief. *Id.* In fact, people in immigration detention are civil (not criminal) detainees, and are entitled to the same rights as all other civil detainees. *Zadvydas*, 533 U.S. at 690; *Gayle*, 2020 U.S. Dist. LEXIS 76040, at *7 (citing *Mehmood v. Guerra*, 783 F. App’x 938, 941 (11th Cir. 2019)).

Even Respondents quickly abandon that argument, conceding, as they must, that the Fifth Amendment “requires that a pretrial detainee not be punished.” TRO Opp. Br. at p. 15 (ECF No. 20-1) (citing *Bell v. Wolfish*, 441 U.S. 520, 535 n.16 (1979)). Instead, Respondents argue that Petitioners have not shown that their conditions of confinement amount to punishment. They are mistaken.

Respondents ignore that, when the government detains or incarcerates a person, it has an affirmative duty to guarantee conditions of reasonable health and safety: “when the State takes a person into its custody and holds him there against his will, the Constitution imposes upon it a corresponding duty to assume some responsibility for his safety and general well-being.”

DeShaney v. Winnebago County Dep’t of Soc. Servs., 489 U.S. 189, 199-200 (1989); *Helling v.*

McKinley, 509 U.S. 25, 32 (1993). Indeed, the Due Process Clause imposes a duty on state actors to protect or care for a detainee when the state places that detainee in conditions of danger he or she otherwise would not have faced. *See Gregory v. City of Rogers, Ark.*, 974 F.2d 1006, 1010 (8th Cir. 1992) (en banc); *see also Jones v. Phyfer*, 761 F.2d 642 (11th Cir. 1985) (holding that a constitutional right of protection exists when there is a showing that plaintiff faces a special danger greater than the public at large). There can be no question that Respondents, by keeping transgender immigrants in unsafe detention conditions during the COVID-19 epidemic, have put Petitioners in danger they would not have otherwise faced if they were allowed to social distance and take other measures available to the public at large.

Moreover, Respondents have not shown that keeping Petitioners and the class in conditions that carry a significantly increased risk of infection, disease and death is “reasonably related to a legitimate goal.” TRO Opp. at p. 16 (ECF No. 20-1) (quoting *Bell*, 411 U.S. at 538-39). Contrary to Respondents’ contention, *id.* at pp. 16-17, Petitioners do not contend that ICE must reduce the risk of infection to zero, but instead that it has failed to take sufficient actions to ensure that the risk is not unreasonably heightened. While the government certainly has a legitimate interest in enforcing immigration laws, its failure to protect transgender detainees from unreasonable risk constitutes the kind of “genuine privations and hardship over an extended period of time” that violate due process. *Bell*, 411 U.S. at 542. As the Southern District of Ohio observed when granting the release of three vulnerable ICE detainees, “this is not an interest that will necessarily supersede any catastrophic conditions in a detention center.” *Refunjol v. Dir. ICE*, No. 2:20-cv-2099, 2020 U.S. Dist. LEXIS 73334, at *9 (S.D. Ohio Apr. 27, 2020).

Respondents try to sweep aside the decision by Judge Kollar-Kotelly of this court rejecting arguments similar to those made by Respondents here that plaintiffs had not shown that

the risks posed by the practices at the detention facility substantially raised plaintiffs' risk of exposure over the risk experienced by the outside community. *Banks v. Booth*, No. 20-849, 2020 U.S. Dist. LEXIS 68287, at *27-*30 (D.D.C. Apr. 19, 2020) (finding that housing pretrial detainees during the COVID-19 pandemic in such a manner that they are unable to practice social distancing or take other necessary precautions creates an unreasonable risk of damage to detainees' health). While Respondents claim the numbers of COVID-19 cases were different in that case, TRO Opp. Br. at p. 17 n. 33 (ECF No. 20-1), the doubling of confirmed cases in facilities housing transgender detainees since this case was filed just 13 days ago refutes that contention. Respondents do not refute Petitioners' showing that their risk of infection is significantly increased while they are in ICE custody. *See* Mem. at pp. 7-9 (ECF No. 4-1). Respondents also have failed to rebut Petitioners' showing that social distancing is practically impossible for ICE detainees; Judge Kollar-Kotelly found that a similar inability to social distance in D.C. jail facilities was a significant factor showing an unacceptable risk to detainees. *Banks*, 2020 U.S. Dist. LEXIS 68287, at *27-*28. The evidence before the Court is more than sufficient to establish that transgender detainees are subject to an unreasonable risk of danger by virtue of being detained in unsafe conditions.

Respondents cite a smattering of cases where courts have declined to find the risks posed by COVID-19 in ICE facilities constituted unlawful punishment. TRO Opp. Br. at pp. 16-17 (ECF No. 20-1). However, Respondents ignore numerous decisions, including a decision issued just last week concerning three ICE facilities in Florida, holding that ICE's failures to provide for social distancing and to exercise other measures to protect against the spread of COVID-19 placed detainees at "a heightened risk of not only contracting COVID-19, but also succumbing to the fatal effects." *Gayle*, 2020 U.S. Dist. LEXIS 76040, at *11. *See, e.g., Castillo*, 2020 U.S.

Dist. LEXIS 54425, at *16 (plaintiffs established more than a mere likelihood of success on the merits of their due process claim where the conditions of confinement did not allow detainees to socially distance); *Refunjol v. Dir. ICE*, No. 2:20-cv-2099, 2020 U.S. Dist. LEXIS 73334, at *15-*16 (S.D. Ohio Apr. 27, 2020) (granting TRO on Due Process grounds and ordering immediate release of three ICE detainees); *Garcia v. Acuff*, No. 20-cv-357-NJR, 2020 U.S. Dist. LEXIS 73249, at *7-*8 (S.D. Ill. Apr. 27, 2020) (granting TRO on Due Process grounds and ordering immediate release of ICE detainee); *Sallaj v. United States Immigration & Customs Enf't*, No. 20-167-JJM-LDA, 2020 U.S. Dist. LEXIS 72857, at *10-*11 (D.R.I. Apr. 24, 2020) (same); *Ferreya v. Decker*, 2020 U.S. Dist. LEXIS 73986, at *41 (S.D.N.Y. Apr. 27, 2020) (granting TRO on Due Process grounds and ordering immediate release of four ICE detainees).

Here, evidence in the record establishes that social distancing at the detention centers is practically impossible, especially for transgender detainees; that adequate facilities and soap for handwashing, supplies for cleaning and disinfecting, and face masks continue not to be provided at all facilities; and that information at COVID-19 is only sporadically and incompletely provided. In support of their initial moving papers, Petitioners filed their own declarations based on current personal knowledge; the person taking the declaration verified that the information set forth therein, based exclusively on the Petitioner's personal knowledge, was truthful and complete as of the day each was executed, that is, on either April 21 or April 22, 2020. With this reply, Petitioners provide additional declarations, again based on personal knowledge, that continue to document critical lapses. *See* Exhs. 1-5 (Supplemental declarations of Petitioners C.G.B., K.S., M.J.J., K.R.H. and declaration of additional transgender detainee K.P.T.). The second declaration of K.R.H., executed on May 4, 2020, continues to document the alarming spread of COVID-19 at La Palma. K.R.H. Second Decl. (Exh. 4). There she reports that, despite

complaining of and showing COVID-19 symptoms on April 24, three detainees were not seen by medical personnel and transferred out of the unit until April 27. *Id.* at ¶ 5. All three of the transferred detainees tested positive for COVID-19. *Id.* Despite this likely exposure to the virus, detention center staff have refused to test K.R.H. for COVID-19 or to provide K.R.H. with a clean face mask. *Id.* at ¶¶ 8-9. In the last week, there have been days where no soap was given to wash hands, and no cleaning supplies have been provided. *Id.* at ¶ 10. Two more detainees have developed fevers and been transferred since then.

In contrast, Respondents provide declarations that are long on supposed practices, but short on any indication that any of Respondents' declarants actually observed these practices being implemented or, if they did, when such observations took place. To the contrary, Respondents' declarations support many of the facts recounted by Petitioners, especially those pertaining to social distancing. For example,

- At La Palma Correctional Center, detainees sleep in 7-foot by 12.5-foot cells that contain two bunks just 38 inches apart. Ciliberti Decl. ¶¶ 11, 15 (ECF No. 20-5).
- At El Paso Processing Center, detainees must sleep in bunks four feet apart. Acosta Decl. ¶¶ 9-10 (ECF No. 20-2).
- At the Florence Detention Center, bunk beds are "three to four feet apart." Malakhova Decl. ¶ 12 (ECF No. 20-10).⁴

⁴ Factual errors and inconsistencies also undercut the credibility of Respondents' declarations. For example, Javier Lopez, the supervisory detention and deportation officer at La Palma, states that on February 13, 2020, Petitioners A.F. and L.R.A.P. each "declined to transfer to the Cibola County Correctional Center" which he asserts "has a dedicated housing unit for transgender detainees." Lopez Decl. ¶¶ 5, 13 (ECF No. 20-9). However, ICE closed the transgender unit at Cibola in January 2020. *See* Love Decl. ¶ 4 (ECF No. 4-21). The unsigned declaration of Juan Acosta, deputy director of the El Paso Field Office, provides inconsistent information about M.R.P.'s housing arrangements. He states that she is housed in Building 7, Unit A "with 12 male detainees." Acosta Decl. ¶ 71(a) (ECF No. 20-2). He then states that Building 7, Unit A normally holds 64 detainees and is at 19% capacity, which would be roughly equivalent to 13 detainees (13 out of 64 is actually 20%). *Id.* ¶ 71(b). But he then states, in the very next sentence, that Building 7, unit A "is housing 37 detainees (including M.R.P.)" without explaining the discrepancy. *Id.* ¶ 71(b).

Respondents' Opposition also fails to rebut Petitioners' showing that transgender detainees are at increased risk of contracting COVID-19 and suffering serious complications and even death when they do. Most notably, Respondents altogether ignore that transgender detainees are subject to assault and harassment at alarming rates due to their status as transgender people. This fact has dual implications: first, transgender detainees cannot practice social distancing because of the harassment they face, and second, they suffer from anxiety and other mental health conditions that compromise immune response, making them vulnerable to COVID-19 infection. Second Gorton Decl. ¶ 9 (Exh. 6); *see also* Noyola Decl. ¶¶ 5-14 (Exh. 8) (describing how verbal harassment of transgender detainees often involves close contact or spitting, which could spread infection, and that widespread sexual abuse increases transgender detainees' risk); K.P.T. Decl. ¶ 34 (Exh. 5) (detainee subject to sexual assault from two male detainees).

Nor do Respondents deny that transgender detainees have increased risk of having underlying health conditions putting them at higher risk. In fact, Respondents' medical expert, Dr. Edith Lederman, admits transgender people are more likely to have co-morbidities that make them more vulnerable to infection. Lederman Decl. ¶ 18 (ECF No. 20-8). The discrimination and social stigma experienced by transgender people is an important reason these co-morbidities are much more prevalent in transgender people, a fact that Dr. Lederman implicitly acknowledges in noting that transgender detainees are additionally screened for sexually transmitted infections such as HIV upon intake. *Id.* at ¶ 16; *see also* Second Gorton Decl. ¶ 4 (Exh. 6) (noting this practice recognizes the increased rates of sexually transmitted infections suffered by transgender detainees, a factor that heightens their COVID-19 risk). Respondents also document that two Petitioners are living with HIV and accordingly are

immunocompromised, yet Respondents have kept them in detention. *See Cantrell Decl.* ¶¶ 45-46 (ECF No. 20-4).

Despite evidence of these risks, Respondents have made no showing, and in fact do not even argue, that they have taken any measures designed to protect the especially vulnerable group of transgender people in ICE detention. This fact alone merits a finding that Petitioners are likely to succeed on the merits of their due process claim. *See Coronel v. Decker*, No. 20-cv-2472, 2020 U.S. Dist. LEXIS 53954, at *17 (S.D.N.Y. Mar. 27, 2020) (“As to the specific and especially vulnerable detainees at issue in this litigation, the Government has taken no preventative action at all.”). In short, there is ample evidence justifying the conclusion that Respondents have placed Petitioners and all transgender detainees in danger and refused to protect them. In so doing, Respondents have violated their Due Process rights under the Fifth Amendment.

2. Petitioners have shown a likelihood of success on their APA claim.

Respondents concede that “*Accardi* has come to stand for the proposition that agencies may not violate their own rules and regulations to the prejudice of others.” TRO Opp. Br. at p. 22 (ECF No. 20-1) (*quoting Battle v. FAA*, 393 F.3d 1330, 1336 (D.C. Cir. 2005)). Respondents claim that Petitioners cannot prevail on their *Accardi* claim because (1) ICE’s Pandemic Response Requirements (“PRR”) is not a final rule, (2) Petitioners cannot show that ICE has failed to ensure that its detention centers follow ICE Pandemic Requirements, and (3) Petitioners have not established that ICE’s failures are the result of agency decision-making. None of these arguments has merit.

As set forth in Petitioners’ opening brief, it is incumbent on agencies to follow their own rules and regulations. Boilerplate in Respondents’ declarations confirms that ICE’s PRR “sets forth *specific mandatory requirements* expected to be adopted by all detention facilities housing

ICE detainees.”⁵ Hodges Decl. ¶ 10 (emphasis added) (ECF No. 20-7); *see also* Davies Decl. ¶ 7 (ECF No. 20-6); Ciliberti Decl. ¶ 9 (ECF No. 20-5); Cantrell Decl. ¶ 6 (ECF No. 20-4); Valenzuela Decl. ¶ 12 (ECF No. 20-13); Malakhova Decl. ¶ 9 (ECF No. 20-10); Mros Decl. ¶ 15 (ECF No. 20-11). Further, as the court in *Gayle* held, “It is abundantly clear that ICE is required to comply with CDC guidelines pursuant to its own regulations and policy statements.” 2020 U.S. Dist. LEXIS 76040, at *14. Specifically, in rejecting arguments similar to those that Respondents pose here, the court reasoned that ICE is an agency that operates its detention centers under a set of National Detention Standards, including ICE’s 2011 Performance-Based National Detention Standards. These standards require that the CDC guidelines for the prevention and control of communicable diseases “shall be followed” and further require facilities to comply with current and future plans of federal, state and local authorities addressing public health issues including communicable diseases. The court concluded that Petitioners were likely to succeed on the merits of their *Accardi* claims because “ICE had flouted its own guidelines by, inter alia, failing to ensure each detainee practices social distancing.” *Id.*; *see also Torres v. United States Dep’t of Homeland Sec.*, 411 F. Supp. 3d 1036 (C.D. Ca. 2019) (allegations that ICE did not follow agency standards for the treatment of detainees stated

⁵ Respondents cite to *Nat’l Immigration Project of Nat’l Lawyers Guild v. Exec. Office of Immigration Review* (“*NIPNLG*”), No. 1:20-00852, 2020 U.S. Dist. LEXIS 74324 (D.D.C. Apr. 28, 2020) to support their argument that Petitioners cannot state an APA claim, but that case is inapposite. In *NIPNLG*, the petitioners sought a TRO that would require the EOIR to: (1) postpone all in-person detained hearings, with the exception of bond hearings; (2) provide for the automatic adjournment of any scheduled hearing or any court-ordered deadline, including for bond proceedings; and (3) require ICE to provide VTC and teleconference capabilities and to take a number of detailed and specific steps relating to counsel communications. *Id.* at *15. As such, the EOIR and ICE policies at issue in that case are not the ones being challenged in this case. *Id.* at *29-31. Therefore, the *NIPNLG* Court’s determination that detainees were not likely to succeed in establishing a final agency action or one that was arbitrary and capricious is not applicable to the policies at issue here.

Accardi claim). The facts that the court cited in *Gayle*, such as the lack of the necessary six feet between beds, the presence of COVID-19 at facilities and yet the failure to distribute adequate personal protective equipment and the lack of adequate quantities of hygiene and cleaning supplies are all present here. *See infra* at §§ II.B, II.C.

The *Gayle* court also rejected Respondents’ contentions that ICE is in “substantial compliance” with the applicable policies because “‘substantial compliance’ does not pass muster under the *Accardi* doctrine.” 2020 U.S. Dist. LEXIS 76040, at *15. The court held that flexibility within the CDC guidelines does not defeat an *Accardi* claim because certain aspects of the guidelines are mandatory: “ICE is required to restrict transfers, quarantine newly detained individuals, allow appropriate social distancing, perform pre-intake screening, and supply detainees with sufficient hygiene and cleaning supplies.” *Id.* Respondents’ contention that there was not a final agency decision also lacks merit. The court in *Fraihat* readily disposed of that argument. “A final relevant decision is ICE’s apparent failure to enforce compliance with its policy documents.” *Fraihat v. U.S. Immigration and Customs Enforcement*, No. 5:19-cv-01546, 2020 U.S. Dist. LEXIS 72015, at *68 (C.D. Cal. Apr. 20, 2020).

Lastly, Respondents contend that 8 U.S.C. § 1252(a)(2)(B)(ii) precludes APA review in this case. TRO Opp. Br. at pp. 23-24 (ECF No. 20-1). Courts in this Circuit have repeatedly rejected similar arguments, holding instead that where, as here, “plaintiffs challenge an overarching agency action as unlawful[,] . . . Supreme Court and Circuit precedent dictate that such a challenge does not fall within § 1252’s jurisdictional bar.” *Make the Rd. N.Y. v. McAleenan*, 405 F. Supp. 3d 1, 32 (D.D.C. 2019) (alterations in original) (citation omitted). Likewise, 8 U.S.C. § 1226(e) does not bar Petitioners’ APA claim because Petitioners are not

challenging any decision by any immigration judge; the APA claim involves ICE's failure to adhere to its own rules regarding the conditions at its detention facilities.⁶

3. Petitioners have shown entitlement to mandamus.

Respondents contend that "[t]he remedy of mandamus is a drastic one, to be invoked only in extraordinary circumstances." Opp. at 25 (ECF No. 20-1) (quoting *Power v. Barnhart*, 292 F.3d 781, 784 (D.C. Cir. 2002) (internal quotation marks omitted)). The circumstances at hand are extraordinary. ICE reports at least 713 confirmed COVID-19 cases in its detention centers, including 674 detainees and 39 ICE staff members. See *ICE Guidance on COVID-19, Confirmed Cases*, Immigration and Customs Enforcement, www.ice.gov/coronavirus (last visited May 5, 2020).

A recent study projects that within 90 days, 100% of immigration detainees in ICE facilities could contract COVID-19. See *Study Projects Significant Impact on Immigrants and Local Health Care if ICE Detention Populations are Not Decreased*, Government Accountability Project, www.whistleblower.org/press/study-projects-significant-impact-on-immigrants-and-local-health-care-if-ice-detention-populations-are-not-decreased/ (Apr. 27, 2020). The study also projects that the "most optimistic scenario" within the next 90 days is that "coronavirus

⁶ Further, courts across the country have rejected the argument set forth by Respondents that this Court may not order the release of Petitioners who have been denied bond. See, e.g., *Arana v. Barr*, No. 19-7924, 2020 U.S. Dist. LEXIS 77134 (S.D.N.Y. May 1, 2020); *Diaz v. Barr*, No. 4:20-01806, 2020 U.S. Dist. LEXIS 73788 (N.D. Cal. Apr. 27, 2020); *Jeferson V.G. v. Decker*, No. 20-3644, 2020 U.S. Dist. LEXIS 65906, at *12-*13 (D.N.J. Apr. 15, 2020). While 8 U.S.C. § 1226(e) bars review of a challenge to an immigration judge's discretionary determinations, district courts "retain[] jurisdiction . . . to determine whether the Government properly cured the identified constitutional error." See *Arana*, 2020 U.S. Dist. LEXIS 77134, at *22-*23 (citation omitted). This is because Petitioners are not seeking release on bond pursuant to 8 U.S.C. 1226(a), but they are "arguing that [their] substantive due [process] rights have been violated because [they are] being subjected to conditions of confinement which amount to punishment under the Due Process Clause." *Jeferson V.G.*, 2020 U.S. Dist. LEXIS 65906, at *12-*13.

outbreaks among a minimum of 58 ICE facilities (52%) would overwhelm ICU beds within a 10-mile radius, and outbreaks among a minimum of 3 facilities (3%) would overwhelm local ICU beds within a 50-mile radius.” *Id.* This projection operates under the assumption that every ICU bed would be made available for sick detainees. *Id.*

This Court has recognized that “the mandamus statute ‘confers jurisdiction on the district courts over actions...to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the [petitioner].’” *United States v. Forrest*, 316 F. Supp. 3d 111, 119 (D.D.C. 2018) (quoting *In re Cheney*, 406 F.3d 723, 729 (D.C. Cir. 2005)) (holding that a writ of mandamus is the proper vehicle to employ to compel the Parole Commission to comply with applicable procedural requirements). Respondents ignore that the government’s affirmative duty to guarantee conditions of reasonable health and safety to detainees *is* mandatory, not discretionary. *See, e.g., DeShaney*, 489 U.S. at 199-200. Further, mandamus relief “is employed to compel action, when refused, in matters involving judgment and discretion.” *Sanchez-Penunuri v. Longshore*, 7 F. Supp. 3d 1136, 1147 n. 13 (D. Colo. 2013) (quoting *Wilbur v. U.S. ex rel. Kadrie*, 281 U.S. 218 (1930)) (citing *Samirah v. Holder*, 627 F.3d 652 (7th Cir. 2010) (authorizing mandamus relief to require the Attorney General to consider exercising discretion)).

A writ of mandamus may be issued to command the government to take “whatever steps are necessary” to grant the warranted relief to Petitioners. *See Samirah*, 627 F. 3d at 665 (commanding the Attorney General to take whatever steps necessary to enable plaintiff to reenter the U.S. for the limited purpose of acquiring adjustment of status). Here, Petitioners are entitled to conditions of reasonable health and safety. While the government has discretion to determine how to comply with this duty, under the current circumstances, there is no adequate remedy other than release to provide Petitioners with the required protections.

4. Petitioners do not rely exclusively on the Declaratory Judgment Act as the basis for jurisdiction.

Contrary to Respondents' assertion, Petitioners do not rely exclusively on the Declaratory Judgment Act as the basis for jurisdiction. *See* Compl., at pp. 12-13 (ECF. No. 3). This Court has jurisdiction pursuant to 28 U.S.C. § 1651(a), the All Writs Act; 28 U.S.C. § 1331, Federal Question jurisdiction; and 28 U.S.C. § 1361. *See id.* Further, as Respondents acknowledge, the Declaratory Judgment Act creates a remedy in cases otherwise within the Court's jurisdiction. *See Schilling v. Rogers*, 363 U.S. 666, 677 (1960) (citing *Skelly Oil v. Phillips Petroleum Co.*, 339 U.S. 667, 671 (1950)). Here, because Petitioners are likely to succeed on the merits of their due process and APA claims, this case is within the Court's jurisdiction, independently of their Declaratory Judgment Act claim.

B. Petitioners Have Shown Irreparable Injury.

Respondents' argument that Petitioners have failed to demonstrate an irreparable injury is without merit. Courts across the country have recognized that the risk of severe and possibly fatal infection with a virus that has no cure while in civil immigration detention constitutes irreparable harm warranting a temporary restraining order. *See, e.g., Ferreyra*, 2020 U.S. Dist. LEXIS 73986, at *19; *Arias v. Decker*, No. 20 Civ. 2802, 2020 U.S. Dist. LEXIS 64511, at *8 (S.D.N.Y. Apr. 10, 2020); *Basank v. Decker*, No. 20-2518, 2020 U.S. Dist. LEXIS 53191, at *13-*14 (S.D.N.Y. Mar. 26, 2020). The Southern District of Ohio, for example, discussed an apt analogy: if civil immigration detainees were housed in a facility in the path of a hurricane and the facility was likely to suffer major damage, emergency release of those detainees would unquestionably be constitutionally necessary. *Refunjol*, 2020 U.S. Dist. LEXIS 73334, at *9-10. There, as here, ICE detainees "are in the eye of a storm" and are "uniquely in the path of that storm," such that release is the only way to safeguard them. *Id.* In *Frailhat*, the Central District

of California remarked that, “[e]ven in the early days of the pandemic, and with few exceptions, courts did not hesitate to find irreparable harm as a result of potential COVID-19 exposure in prison and detention, including in facilities where there had not been a confirmed case.” 2020 U.S. Dist. LEXIS 72015, at *81-*82. As the *Fraihat* court also acknowledges, “[a]t this stage of the pandemic, the threat is even clearer.” *Id.*

Respondents contend that Petitioners have not shown that any one Plaintiff is imminently at risk of infection. *See* TRO Opp. Br. at p. 27 (ECF No. 20-1). The rapidly growing number of confirmed COVID-19 cases in detention centers, as well as the projection that 100% of immigration detainees in ICE facilities could contract COVID-19 within 90 days if detention center populations are not decreased, demonstrates that every single immigration detainee is imminently at risk of infection. *See* ICE Guidance on COVID-19, Confirmed Cases, Immigration and Customs Enforcement, www.ice.gov/coronavirus (last visited May 5, 2020); *See Study Projects Significant Impact on Immigrants and Local Health Care if ICE Detention Populations are Not Decreased*, Government Accountability Project, www.whistleblower.org/press/study-projects-significant-impact-on-immigrants-and-local-health-care-if-ice-detention-populations-are-not-decreased/ (Apr. 27, 2020). Petitioners’ declarations, including those submitted with this brief, graphically document the imminent risk of infection. *See* Exhs. 1-5; Exhs. 1-13 to TRO Motion (ECF Nos. 19-1 – 19-13)

Further, courts have repeatedly recognized that vulnerable populations with pre-existing medical conditions are at an even higher risk of serious illness or death if they do become infected. *See, e.g., Coronel v. Decker*, 2020 U.S. Dist. LEXIS 53954, at *7 (S.D.N.Y. Mar. 27, 2020) (“Due to their serious underlying medical conditions, all [p]etitioners face a risk of severe, irreparable harm if they contract COVID-19”). Here, Petitioners have demonstrated that

transgender detainees, as a group, are at a greater risk of contracting the virus that causes COVID-19 than the general population and, if they do become infected, are more likely to become seriously ill or die. Gorton Decl. ¶ 10 (ECF No. 4-15); Franco-Paredes Decl. ¶ 17 (ECF No. 4-16). Respondents have not rebutted those experts. Therefore, Petitioners have demonstrated that their continued detention constitutes irreparable harm warranting a temporary restraining order.

C. The Balance of Equities and Public Interest Factors Favor Petitioners.

Respondents ignore that “[i]t is always in the public interest to prevent the violation of a party’s constitutional rights.” *de Jesus Ortega Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Further, “there can be no public interest in exposing vulnerable persons to increased risks of severe illness and death.” *Fraihat*, 2020 U.S. Dist. LEXIS 72015, at *82-*83. A failure to protect detainees most vulnerable to severe COVID-19 infections also puts the public health at risk by increasing the potential that local hospitals and ICUs will be overwhelmed. *See id*; *see also Study Projects Significant Impact on Immigrants and Local Health Care if ICE Detention Populations are Not Decreased, Government Accountability Project*, www.whistleblower.org/press/study-projects-significant-impact-on-immigrants-and-local-health-care-if-ice-detention-populations-are-not-decreased/ (Apr. 27, 2020) (“in the most optimistic scenario, coronavirus outbreaks among a minimum of 58 ICE facilities (52%) would overwhelm ICU beds within a 10-mile radius”). Despite Respondents’ assertions that some Petitioners present a flight risk, courts have acknowledged that the risk that detainees will flee, given the current global pandemic, is very low, and have granted temporary restraining orders where detainees have proposed a concrete and suitable release plan. *See Bent v. Barr*, No. 19-06123, 2020 U.S. Dist. LEXIS 62792 (N.D. Cal. Apr. 9, 2020); *Castillo v. Barr*, No. 20-00605, 2020 U.S. Dist. LEXIS 54425, at *15 (C.D. Cal. Mar. 27, 2020). Respondents notably do not take

issue with the adequacy of Petitioners' release plan, including the substantial funds that have been raised to safely shelter all released class members.

D. Petitioners Can Obtain Relief on Behalf of a Conditional Class.

Rule 23(b)(2) permits certification of a conditional class for the purpose of granting preliminary injunctive relief. *See Mays v. Dart*, No. 20-2134, 2020 U.S. Dist. LEXIS 62326, at *9 (N.D. Ill. Apr. 9, 2020) (citing *Meyer v. Portfolio Recovery Assocs., LLC*, 707 F.3d 1036, 1043 (9th Cir. 2012)). Where Petitioners have not yet obtained class certification, the Court can issue class-wide relief on behalf of the conditional class. *See id.* (“[A] district court has general equity powers allowing it to grant temporary or preliminary injunctive relief to a conditional class.”) (collecting cases). Petitioners are filing a motion for class certification and accompanying brief concurrently with this reply. In their motion for class certification, Petitioners demonstrate that they do in fact satisfy the rigorous Rule 23 analysis.

Class-wide injunctive relief is legally available in this case, even to mandatorily detained Petitioners. *See Ferreyra*, 2020 U.S. Dist. LEXIS 73986, at *37 (courts have the authority to order release of mandatorily detained petitioners held in violation of their due process rights) (citing *Cabral v. Decker*, 331 F. Supp. 3d 255, 259 (S.D.N.Y. 2018) (collecting cases)). Where a mandatorily detained petitioner is eligible for release, the court can impose conditions of release that will address concerns such as risk of flight or risk of danger to the public. *See id.*

As Respondents acknowledge, the Central District of California has already granted a preliminary injunction on behalf of a class of immigrant detainees. *See Fraihat*, 2020 U.S. Dist. LEXIS 72015 at *5. The defendants in *Fraihat* raised the issue that detainees held under different statutory mandates have different, conflicting interests, but the court held that “whatever the particular detention authority [d]efendants might invoke, the due process violations asserted arise from the same systematic failures, and could overcome a more

generalized detention mandate.” *Id.*, at *61 n.22. Similarly, here, all Petitioners are entitled to release because they are all being held in violation of their due process rights. While some named Petitioners have medical conditions that could place them in one of the two *Fraihat* subclasses, the subclasses identified in *Fraihat* only encompass a portion of the putative class here. Indeed, Respondents have already denied relief under *Fraihat* to four Petitioners. Davies Decl. ¶¶ 47, 63, 81, 98 (ECF No. 20-6). Two additional Petitioners are living with HIV and yet there is no evidence that ICE had considered their release. Moreover, the status of detainees as transgender people is not a factor that ICE is considering in its release decisions. Thus, the pendency of that action will not provide an effective remedy for Petitioners here.

Lastly, class-wide injunctive relief is appropriate here because there is commonality among the class-members and granting a conditional class promotes judicial efficiency. The health risks posed by COVID-19 to transgender detainees and the constitutional claims presented in this case do not turn on facts unique to each Petitioner, beyond their having identity characteristics that make them more vulnerable to the virus. *See Ferreyra*, 2020 U.S. Dist. LEXIS 73986, at *6 (denying Respondents’ request to sever action into five individual habeas petitions where health risks posed by COVID-19 and constitutional claims did not turn on facts unique to each petitioner). Conditional class-wide injunctive relief is also necessary to address the immediate risk to Petitioners’ health. *See Barbecho v. Decker*, No. 20-2821, 2020 U.S. Dist. LEXIS 66163, at *4 (S.D.N.Y. Apr. 14, 2020).

IV. CONCLUSION

For all of the foregoing reasons, as well as those asserted in their opening brief, Petitioners respectfully request that the Court enter an Order granting Petitioners’ requested injunctive relief.

May 5, 2020

Respectfully submitted,

/s/ Matthew E. Kelley

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CERTIFICATE OF SERVICE

I hereby certify that, on this date, I caused the foregoing Reply Memorandum of Law in Support of Petitioners' Motion for a Temporary Restraining Order to be filed and served electronically via the Court's ECF System upon counsel of record.

Dated: May 5, 2020

/s/ Matthew E. Kelley
Matthew E. Kelley

EXHIBIT 6

Second Declaration of R. Nick Gorton, M.D., DABEM

1. I, R. Nick Gorton, M.D., am a physician licensed to practice medicine in the state of California. I am board certified in Emergency Medicine and practice both as an emergency physician at Sutter Davis Hospital in Davis, California, and as a primary care provider at Lyon-Martin Health Services in San Francisco, California. Lyon-Martin is an historically LGBTQ clinic. Over half of my patients identify as transgender. I have treated hundreds of transgender patients in the 15 years I have practiced at Lyon-Martin. As both an EM and primary care physician I am familiar both with the nature of COVID-19 and the particular vulnerabilities of certain populations, including transgender people, to infection and complications from SARS-CoV-2 (the virus that causes COVID-19).
2. As I stated in my previous declaration, transgender people as a group have greater risks of infection by and for life-threatening complications from SARS-CoV-2.
3. I have read the declaration of Capt. Edith Lederman, M.D., M.P.H., submitted by the government in this litigation.
4. Dr. Lederman states in Paragraph 16 of her declaration that ICE detainees who self-identify as transgender at intake “are additionally screened for sexually transmitted infections including HIV.” This practice by ICE recognizes that transgender people as a group, in contrast with other detainees, are more likely to contract sexually transmitted infections. As I stated in my previous declaration, rates of HIV infection among transgender women are as high as 25% in some studies and even higher in transgender women of color. The same social conditions that put transgender people at higher risk for STIs also put them at higher risk for other infections, including COVID-19.
5. The guidance from the Centers for Disease Control and Prevention (CDC) regarding risk factors for COVID-19 is not an exhaustive list of every condition that may place a person at higher risk of contracting or suffering serious complications.
6. While being transgender is not a mental or physical illness, gender dysphoria (distress at having one’s body not conform to one’s gender identity) that is treated by hormone replacement and other medical and surgical interventions is a serious, chronic condition. In my medical judgment, gender dysphoria is one of the chronic health conditions that should be considered a risk factor for COVID-19 requiring the release of detainees for medical reasons.
7. Because SARS-CoV-2 is a novel virus, our understanding of its effects is constantly evolving. One complication of COVID-19 infection that has recently come to light in the medical literature is hypercoagulability, a condition that causes the formation of blood clots throughout the circulatory system, potentially causing life-threatening strokes, heart attacks, or damage to other organs.¹ In fact, heparin and tissue plasminogen activator, anticoagulants used to

¹ E.g., Panigada M., Bottino N., Tagliabue P., Grasselli G., Novembrino C., Chantarangkul V., Pesenti A., Peyvandi F., Tripodi A. (2020). Hypercoagulability of COVID-19 patients in Intensive Care Unit. A Report of Thromboelastography Findings and other Parameters of Hemostasis. *Journal of Thrombosis and Haemostasis*, doi: E.g., Panigada M., Bottino N., Tagliabue P., Grasselli G., Novembrino C., Chantarangkul V., Pesenti A., Peyvandi

treat heart attacks and strokes have been demonstrated to decrease mortality and severity of respiratory disease respectively in severely ill patients with COVID-19.²

8. Hypercoagulability also is a known side effect of the hormone replacement therapy (HRT) that is a medically necessary treatment for transgender women diagnosed with gender dysphoria. HRT also increases risk of atherosclerosis causing heart attacks and strokes in transgender women. As a result, it is my medical opinion that transgender women receiving HRT are at a significantly increased risk of experiencing a potentially fatal arterial blood clot (resulting in a heart attack or stroke) if they become infected with COVID-19 and likely have an increased risk of developing severe or critical COVID-19 for the same reason that the risk of severe or critical COVID-19 is increased in other diseases that are prone to developing vascular disease, such as diabetes and hypertension. Because of this heightened risk, I have begun prescribing anticoagulant medication for some of my female transgender patients receiving HRT even if they are not otherwise at risk for blood clots.

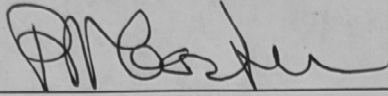
9. As I mentioned in my previous declaration, another reason transgender detainees as a group are at high risk of contracting and experiencing severe complications from COVID-19 is because of the high rates of violence and sexual assault against them. First, assaults, especially sexual assaults, require the kind of close contact that will spread the virus from an infected person to an uninfected person. Second, the fear of such assaults also puts transgender detainees at high risk of serious illness from COVID-19. Because transgender people as a whole are subject to high levels of persecution and sexual violence – indeed, that violence is the reason many transgender detainees fled their home countries – they are particularly attuned to that risk when they are in confined settings where there are no avenues to escape abuse. That means that transgender detainees are justifiably in constant fear of assault. We know that such chronic psychological stress is associated with impaired immune function and response which renders them more vulnerable to infectious diseases such as COVID-19. In addition, that chronic psychological stress-induced suppression of immune function has been shown to cause an increased risk for atherosclerotic vascular disease. Thus, transgender patients face an additional threat of complications of COVID-19. Not only is their immune system suppressed by chronic stress and their risk of vascular disease increased by HRT, but the stress induced changes in their immune system increase their risk of vascular disease even further. This doubly increases vascular disease in concert with their suppressed immune systems placing them at risk for more vascular complications and severe or critical COVID-19 if they become infected.

F., Tripodi A. (2020). Hypercoagulability of COVID-19 patients in Intensive Care Unit. A Report of Thromboelastography Findings and other Parameters of Hemostasis. *Journal of Thrombosis and Haemostasis*, doi: 0.1111/jth.14850, <https://doi.org/10.1111/jth.14850>; Giannis, D., Ziogas, I. A., & Gianni, P. (2020). Coagulation disorders in coronavirus infected patients: COVID-19, SARS-CoV-1, MERS-CoV and lessons from the past. *Journal of Clinical Virology*, 104362.

² Tang, N., Bai, H., Chen, X., Gong, J., Li, D., & Sun, Z. (2020). Anticoagulant treatment is associated with decreased mortality in severe coronavirus disease 2019 patients with coagulopathy. *Journal of Thrombosis and Haemostasis*; Wang, J., Hajizadeh, N., Moore, E. E., McIntyre, R. C., Moore, P. K., Veress, L. A., ... & Barrett, C. D. (2020). Tissue plasminogen activator (tpa) treatment for COVID-19 associated acute respiratory distress syndrome (ARDS): a case series. *Journal of thrombosis and haemostasis*.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 5th day of May, 2020 at Davis, California.

A handwritten signature in black ink, appearing to read 'R. Nick Gorton', written over a horizontal line.

R. Nick Gorton, M.D., DABEM

EXHIBIT 7

I, Carlos Franco-Paredes, M.D., M.P.H., hereby declare as follows:

1. I have read the declaration of Capt. Edith Lederman, M.D., M.P.H., submitted in this litigation.
2. For more than 20 years, I have been caring for marginalized groups or individuals. I believe that relying solely on scientific facts paints an incomplete picture of the life journey of people that we care for as physicians. In fact, that caring for others particularly during public health emergencies or natural disasters is what defines as individuals.
3. Without exception, all transgender women seeking asylum have fled to the US seeking protection from torture, sexual violence, or other forms of persecution. Every single patient that I have the honor of caring for as a physician, have a profound history of trauma leading to high rates of depression, anxiety, and post-traumatic stress disorder. Many experience prolonged periods of detention while immigration courts adjudicate their asylum claims or are deported for civil immigration violations. While in detention, many transgender women routinely undergo harassment, sexual assault, and solitary confinement. In some immigration detention centers, there is no routine provision of gender affirming care (hormonal therapy). From a medical perspective, many transgender women may also have chronic medical conditions such as systemic arterial hypertension or diabetes mellitus. Two transgender females have died under ICE custody and in both cases; there has been evidence of medical neglect.
4. Detention and incarceration of any kind involves large groups of people living in cohorts in confined spaces creating many challenges for curbing the spread of COVID-19 including immigration detention centers. The current epicenters of COVID-19 transmission are conglomerate settings such as nursing homes, long-term care facilities, jails, prisons, and immigration detention centers.
5. This is concerning because, similar to other viral pathogens, SARS-CoV-2 is closely dependent on human interactions. Since early April, custodial institutions have been the epicenter of outbreaks of infections at rates far exceeding those in non-incarcerated communities because of overcrowding, insufficient sanitation, poor ventilation, and inadequate healthcare.
6. In fact, immigration detention centers have reported many cases and outbreaks among detainees and staff. Many of these outbreaks are rapidly spreading. On April 22, 2020, ICE reported that 287 detainees and 35 ICE staff members had confirmed COVID-19 cases. Nine days later, on May 1, 2020, ICE reported 522 confirmed cases among detainees and 39 among staff members. Several facilities have severe outbreaks, such as the Otay Mesa facility, which reported a 150% increase in the number of detainees with confirmed cases, from 42 to 105. These large increases indicate that ICE's attempts at infection control are failing.

7. I agree with Dr. Lederman's statement in paragraph 18 of her declaration that transgender people are more likely to have underlying health conditions that make them more vulnerable to infection. The discrimination and social stigma experienced by transgender people is an important reason these co-morbidities are much more prevalent in transgender people including hypertension, deep-venous thrombosis, and diabetes mellitus (metabolic syndrome), a fact that Dr. Lederman acknowledges in stating in paragraph 16 that transgender detainees are additionally screened for sexually transmitted infections such as HIV upon intake.
8. As an infectious disease physician specialized in the care of patients living with HIV-infection, I can attest that I care for many transgender females living with HIV-infection and currently detained at the Aurora, CO Immigration Detention Center. However, achieving control of this viral infection is fragile; and requires frequent clinical monitoring by specialized physicians that treat HIV-infection. The lack of frequent clinical monitoring by an infectious diseases specialist may cause her to develop potential life-threatening side effects from her medications, occurrence of immune reconstitution syndromes in those with recent achievement of viral suppression, or treatment failure due to the development of resistance of the virus to the medications. As shown in the SMART trial published in 2015 in the New England Journal of Medicine, the risk of AIDS is not zero among patients receiving antiretroviral therapy, even among those who had full viral suppression while receiving antiretroviral therapy. This finding indicates that damage to the immune system may occur much earlier in the course of HIV infection and patients remain at risk of severe infections including infectious pneumonias.
9. The first case series of individuals living with HIV-infection with COVID-19 confirms that even those individuals who have achieved viral suppression may develop severe manifestations of COVID-19. In this recently published case series, 80% of patients with HIV-infection admitted to the hospital had undetectable virus in their bloods and 40% require intensive care management. There were no deaths reported in this study. However, this study demonstrates that COVID-19 may cause severe disease in individuals with HIV-infection regardless of achieving virologic control.
10. Transgender detainees who are HIV-positive are at particularly risk of developing severe forms of COVID-19 and therefore should be released so that they may protect themselves and the community for further spread of infection.
11. The combination of fear, stress, history of trauma and abuse, and high prevalence of chronic medical conditions such as diabetes mellitus and hypertension compound to increase the structural vulnerability of this group of individuals while in detention. It is my professional opinion based on scientific facts but also on caring as a physician for many of them, that releasing them on the basis of humanitarian parole would reduce the chances of poor clinical outcomes caused by COVID-19 in case any of them become infected. In immigration detention centers, jails and prisons, the pandemic of COVID-19 is just starting. We need to urgently protect the most

vulnerable detainees inside immigration detention centers and the transgender community is an extremely fragile one.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this fifth day of May 2020 at Aurora, Colorado, United States.

A handwritten signature in black ink, appearing to read 'C. Franco-Paredes', is written over a light gray rectangular background.

Carlos Franco-Paredes, M.D., M.P.H.
Associate Professor of Medicine
Division of Infectious Diseases
Department of Medicine
Division of infectious Diseases
Program Director Infectious Disease Fellowship
Training Program, University of Colorado

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2. Blanco JL, Ambrosioni J, Garcia F, Martínez E, Soriano A, Mallolas J, Miro JM; COVID-19 in HIV Investigators. COVID-19 in patients with HIV: Clinical case series. Lancet HIV 2020; Apr 15. Pii: S2352-3018(20)30111-9. doi: 10.1016/S2352-3018(20)30111-9.
3. Hargreaves J, Davey C; Group for lessons from pandemic HIV prevention for the COVID-19 response. Three lessons for the COVID-19 response from pandemic HIV. Lancet HIV. 2020 Apr 9. pii: S2352-3018(20)30110-7. doi: 10.1016/S2352-3018(20)30110-7.

EXHIBIT 8

Declaration of Isa Noyola:

1. My name is Isa Noyola and I am the Deputy Executive Directive of Mijente, a political, digital, and advocacy hub for Latino organizing and movement building. My responsibilities at Mijente include providing advocacy and support to transgender people who are either currently being detained or who have recently been released from immigration detention. Prior to working at Mijente, I worked at Transgender Law Center and El/Ella. At both organizations I worked directly with detained and recently detained transgender people providing case management, direct services, and community connection. I also engaged in advocacy and organizing on behalf of transgender people in detention.
2. I have been working with detained or recently released transgender detainees for over 15 years. Through my work, I have gained expertise on a number of issues including experiences of transgender people in detention, interviewing victims of trauma and working with victims of human trafficking.
3. Throughout my career, I have served as a speaker at over 100 trainings, workshops and panels about issues connected to transgender people in immigration detention. In April 2017, I testified at a congressional briefing on LGBT immigration. In November 2015, I testified at the first congressional hearing on the violence against the transgender community held by the Congressional LGBT Equality Caucus. In July 2016, I spoke at the LGBTI National Conference on trans immigration and country conditions report briefing.
4. There have been many times throughout my career where I have been called on by government agencies including the FBI, police departments, and Department of Homeland Security ("DHS") to provide technical assistance and expertise on issues impacting transgender people in detention and trafficking of transgender people.
5. I have toured multiple different immigration detention centers including Otay Mesa detention center, Prairieland detention Center, Tacoma at NW Detention Center, Stewart detention center, Irwin detention center, Cibola detention Center, Prairieland and Houston detention center. Because of these tours, I am familiar with the layouts of these detention centers, where people sleep, where people socialize, and how much ability people have to social distance.
6. I have worked with or interviewed at least 100 transgender people who were either detained at the time or had spent time in detention. Through this work, transgender people have shared with me their experiences of trauma, harassment and assault they experienced in detention.
7. Everyone I spoke with experienced some form of harassment while in detention. Verbal harassment was pervasive and happened on a daily and sometimes even hourly basis to all of the transgender people I have worked with.

8. Verbal harassment towards transgender people happened both by other detainees as well as by people who work in the facility. In some instances, other detainees would yell derogatory terms from across the cell but often times the name-calling would be up close and personal. Sometimes the person would whisper the derogatory terms in their ear while touching parts of their body. Sometimes, a person would invade the transgender person's space while screaming derogatory words at them, while at other times the words would be yelled in their faces. The harassment often would focus on the transgender person's body, the person not acting enough like a man, and included sexual innuendos and usually homophobic or transphobic words. This type of in-your-face harassment occurred at least twice a day for most transgender people I spoke with. The people who tried to report the harassment, reported that either nothing was done or they would become the target of harassment by the guards. People expressed how hopeless they felt because there was no way to stop the constant stream of verbal harassment.
9. The majority of people I have interviewed or provided services to reported that verbal harassment occurred regularly by both male and female guards. Sometimes the harassment would take the form of purposefully and maliciously misgendering someone. Other times it would be derogatory names, or comments about the victim's physical appearance. Countless numbers of people shared with me that guards would say things to them like "walk like a man," or call them a derogatory homophobic or transphobic names. Most of the time, these types of comments were done in front of other detainees.
10. Another common form of harassment that transgender people face in detention is spitting. I heard from many people that they would regularly get spit on either up close by other detainees who were passing by or by people who were farther away. People reported to me that this felt incredibly dehumanizing.
11. Many people reported to me that verbal harassment would often escalate into physical abuse as time went on. This would include pushing and shoving and punching while also using transphobic or homophobic slurs.
12. Countless numbers of transgender people I have worked with also experienced some form of sexual assault while in detention. The sleeping arrangement and general layout and conditions of the detention center make transgender people a target. Many transgender people have described the sleeping arrangements to me and through my multiple tours of a detention center, I have witnessed them myself. It is important to understand that the majority of transgender women are detained in the same sleeping areas with cisgender men. This means that if the sleeping areas are dormitory style with bunkbeds, the person above them or next to them is most likely a cisgender man. In some facilities, there are beds clustered together. Other facilities have small cells that hold two beds within a larger general area outside. This means that transgender women are regularly in close quarters with cisgender men where they are locked in with no way out.
13. It was very common to hear stories of sexual violence by cell or dormmates. In these reports often times the sexual violence would start with unwanted touching at night. The perpetrator would come into the transgender person's bed and nonconsensually touch the

transgender person. Frequently, the women I spoke with reported that as time went on, the sexual violence would increase. What would start as unwanted touching of someone's breasts would lead to a person being forced to stroke genitals, oral sex and penetrative sex. Some transgender women reported being assaulted by multiple people.

14. There was a small percentage of transgender victims that attempted to report the sexual harassment to the guards but in all of the stories I heard, none experienced a positive outcome or a positive change in their situation after reporting. Almost everyone I spoke with felt like they were punished for reporting because most were sent to solitary confinement for days or sometimes a week at a time. This would mean 23 hours a day of complete isolation and the only people who they would be able to interact with were the guards. During this time, some guards would make transphobic comments like, "I don't know why you're complaining you know that you liked it. You wanted this to happen. You wanted him to do that to you." On some occasions I heard reports of guards fondling victims in these scenarios because they were isolated with no one around to report it.
15. Most people, after finding out that victims are sent to solitary if they reported the violence, would make a choice not to report. People said they felt safer in general population rather than being the direct target of the guards in isolation and because after being released from solitary confinement not one woman I spoke with reported being protected by the person who assaulted them. Therefore, reporting often meant the violence worsened after the victim was released from solitary confinement. In the cases of transgender people who were not put into isolation or solitary confinement after reporting, the guards at the detention facilities took no action with their reports of sexual violence.
16. Transgender people in detention also reported sexual harassment by the guards as well, the people whose job it was to keep them safe. Transgender people reported that the sexual harassment occurred during the strip searches. As such it often went unnoticed by other guards. While doing the search, a guard would fondle a transgender person's breasts or other body parts in ways that were not standard for a strip search. Many people described to me situations where a guard would fondle their breast with a hand while whispering derogatory or sexualized comments in the victim's ear. So many of the transgender women I worked with have recounted the feeling of their hot breath on their neck while their breasts and other body parts were being touched.
17. Due to my expertise and experience working with transgender people in immigration detention, I have participated in many working groups to try and create safer spaces in detention. In 2015, I was a member of a group that was working with the Department of Homeland Security to designate transgender people as a vulnerable population due to the high level of sexual violence that transgender people face in detention.
18. As a part of this effort, in June 2016 myself and a number of transgender women had a meeting with many people from the Department of Justice and the Department of Homeland Security including Alejandro Mayorkas, former Deputy Secretary of the Department of Homeland Security and Serena Hoy, former Senior Counselor of the

Department of Homeland Security Serena Hoy. The people I accompanied were all transgender women who had been sexually assaulted in immigration detention. During that meeting, all of the women had a chance to share their stories. The meeting was very powerful and at the end of the meeting, multiple officials apologized to the transgender women for failing them in immigration detention.

19. After that meeting, I had many conversations with officials from the Department of Homeland Security and I was fairly confident that transgender people would be added to the list of vulnerable populations. However, a new administration came into the White House and all of the top officials I had worked with from the Department of Homeland Security left for other jobs. But it was made clear to me by officials at Department of Homeland Security there was an understanding that transgender people are not safe in detention and vulnerable due to the higher risk of sexual and physical violence.
20. I have also worked with a number of transgender women and transgender men who have been victims of human trafficking. Unfortunately, due to societal understanding and biases around human trafficking, transgender people are often not seen as victims and therefore are rarely screened for trafficking victimization. As the Trafficking Persons Report explains, “Due to social biases, LGBTI victims are also more likely to be penalized for acts committed as a result of being subjected to trafficking.” See U. S. DEP’T OF STATE, *2016 Trafficking in Persons Report*, (Jun. 2016.)
21. I have seen many cases where an immigration attorney claims they screened a transgender person for trafficking victimization but, only to learn later, that person did not screen well and did not have an understanding of trafficking in transgender communities. For example, I have worked with multiple people who had criminal convictions on their record who were victims of trafficking and the convictions were a direct result of their victimization. These victims had convictions for manslaughter, drunk driving, petty theft, credit card fraud, identity theft, all of which, we later found out, were victims of human trafficking and were actually forced or coerced to engage in the illegal activity. Most of these people had lost their immigration case in front of their immigration judge and it was only after an expert on human trafficking met them and provided a proper screening, were they able to access immigration status and a release from detention.
22. One common tactic that many transgender victims reported to me, is having a trafficker call the police on the victim. Often times, these situations ended with the victim having a protective order against them and the trafficker using the order to maintain further control over the victim. That is why it is not uncommon for victims to have convictions for domestic violence.
23. While there is pervasive lack of screening of a transgender victims, there are certain federal agencies, including Federal Bureau of Investigations, that take seriously the victimization of transgender people and provide protection and support for these victims. However, in my experience working with many transgender victims, Department of Homeland Security is not one of those agencies. In fact, even after a transgender person

is confirmed as a victim, a transgender victim is still not released from immigration detention and the conviction is frequently still held against them. I have only seen this happen to transgender people; I know of many cisgender people who are released from detention after identification as victims.

24. For example, I supported a case where a young transgender woman was in jail for drug related charges. She cooperated with the FBI who agreed she was a trafficking victim. Her attorney worked with the local prosecutor as well as defense attorney but because there was a detainer issued for her, even if all of the charges were dropped, she would still be taken into detention. The FBI tried to advocate for her and even applied for a special immigration status but, Department of Homeland Security refused to lift the detainer despite the fact that she was a trafficking victim, confirmed and cooperating with the FBI and in jail solely because of crimes she was forced into. Department of Homeland Security maintained she should go into immigration detention first and took the position that the FBI could sort it out later when she was able to get immigration status. The only reason the detainer was eventually lifted was because the victim was living with cancer and I surmise DHS realized that her treatment in detention would be very costly.
25. In another case I supported, a transgender man who was determined to be a victim of human trafficking by Homeland Security Investigations, FBI, and the U.S. Attorney's office. He was interviewed by all of these agencies all of whom agreed he was a victim. They all also determined that his convictions, all nonviolent credit scams, were also tied to human trafficking. Department of Homeland Security refused to release him despite the confirmation they received from all of these federal agencies. A District Court Judge even vacated the one conviction that made him deportable and confirmed his victimization but Department of Homeland Security still refused to release him. Even after his attorneys won his case to terminate the proceedings in immigration court and at that point, Department of Homeland Security still refused to release him because the government "might want to appeal his case." Fortunately, his attorney was able to secure a governor's pardon and after over two years of being held in detention, he was finally released.
26. I have been working with organizations who provide services to trafficking victims for most of my career. I have only seen or heard of Department of Homeland Security treating transgender trafficking victims this way; namely, persistently failing to screen them as victims and refusing to release them from detention even when the reason they are detained is a direct result of their victimization. These are not the only examples I have of this type of horrific behavior and treatment to transgender trafficking victims.
27. Due to all of my work and interviews with over 100 transgender people that have spent time in immigration detention, I know it is not possible for transgender people to adhere to social distancing guidelines and stay safe from COVID-19 in immigration detention. Even if there is soap, hand sanitizer, and plenty of space in a detention center, it is important to understand that transgender people have very limited ability to control their own safety in a detention center. The rapid verbal harassment, spitting and unchecked

sexual abuse that is a constant and daily experience for transgender detainees make it clear that anyone who wants to have access to transgender people in detention, will be able to do so. They will not be able to socially distance and keep themselves safe from COVID-19 no matter how many masks are handed out or how much hand sanitizer people are giving people. The only way to keep transgender people safe from COVID-19 is to release them from detention.

28. The verbal, physical and sexual harassment transgender people suffer in detention is well documented in multiple reports. Our own government found that LGBT people are 97 times more likely to be sexually assaulted in immigration detention than their cisgender or heterosexual counterparts. When you have no control over who is touching your body, breathing heavily in your ear, and spitting at you, social distancing is not possible. I urge you to release transgender people from detention so they can have a real chance of avoiding COVID-19 infection.



Signature

05/5/2020

Date

Isa Noyola

isa@mijente.net

510-409-8173

EMPLOYMENT HISTORY

Present

Mijente, Phoenix, AZ - Deputy Director

Organizational Growth & Financial Management

- Oversee organizational financials, protocols and periodic audits.
- Assess and advise on prospective projects, opportunities for growth and potential threats.
- Develop organizational budget in collaboration with national Director.
- Lead efforts to develop diverse sources of revenue

Staff Coordination & Supervision

- Develop methods and processes to measure organizational performance and impact.
- Design format and systems for staff accountability and support.
- Organize staff and organizational leadership planning meetings and team building events.
- Cultivate healthy organizational culture, create intentional space to name and shape existing dynamics.

Organizational Development & Operations

- Directing, maintain and update human resources, including personnel policies, compliance and hiring, benefits and more.
- Implement employee policies administer payroll and benefits
- Manage facilities and vendors, order supplies
- Handle accounts receivable/payable and help teams with various admin tasks

2014-2018

Transgender Law Center (TLC), Oakland, CA - Deputy Director

External

- Expand and sustain the organization's impact and resources.
- Represent the organization in high-level meetings movement and funders.
- Build and steward relationships with current and prospective foundations and major donors and solicit funds.

- Work closely with staff to develop and implement strategic communications including messaging research.
- Assist in developing strategic responses to emerging and ongoing policy issues primarily on a national level, including health care access, economic justice, racial justice, student safety, prisoners' rights, and immigrants' rights.
- Support the development of community-facing public education materials, including 'know your rights' materials and training curricula.
- Serve as an org and movement spokesperson.
- Work with Development Director to create and implement short-and long-term fundraising strategies
- Assure the organization and its mission, program and services are presented in strong, positive image to relevant stakeholders.
- Conduct and develop training on transgender rights for various audiences, including healthcare providers, employers, and policymakers.
- Develop and maintain close working relationships and coalitions with transgender groups, organizational partners, and community leaders.

Internal

- Lead the organization in visioning, assessing and implementing the strategic plan
- Oversee management of organizational resources and the day-to-day management of TLC
- Ensure the delivery of high quality programs while managing for current and future growth.
- Assist in developing strategic responses to emerging and ongoing needs
- Directly supervise director-level staff.
- Promote Board's engagement in generative thinking, strategic planning, resources/financial development and overall organizational effectiveness and help build the capacity of the board
- Oversee management of the human resource of the organization and recruit retain and foster a multicultural and diverse multidisciplinary results drive staff
- Promote a positive office culture based in fun, commitment to shared values, and mutual respect and caring.
- Facilitate cross department collaboration and strengthen internal communications
- Oversee organizational efforts in areas of management coaching, leadership development, annual planning, and professional growth opportunities for staff.
- Oversee yearly budget for board approval, prudently manage organizations resources and oversee the financial status of the organization.

2010 – 2014

Lavender Youth Recreation and Information Center (LYRIC), San Francisco, CA - Program Manager

- Develop and implement arts based social justice, event planning, and facilitation curricula. Topics includes the intersections of environmental justice, queer and trans history, trans liberation, immigration, and race.
- Cultivate collaborative partnerships with SFUSD, Youth Employment Coalition members, LGBT organizations, immigrant rights, and neighborhood CBOs.
- Manage programmatic, administrative and reporting requirements for Dept. of Children Youth & Families.
- Provide weekly leadership workshops and supervision sessions for 20 youth interns.
- Recruit and retain interns to ensure succession in leadership roles as staff at LYRIC
- Supervise and develop six staff members in youth development practices, anti-oppression frameworks, curriculum development and evaluation.
- Assist in strategic planning process to align organizational practices with SLI program.
- Co-created and planned annual Youth and Elder Brunches at Trans March.
- Hosted and planned seven LGBTQ youth dances for 200+ bay area youth ages 12-24.

2006-Present

El/La para Translatinas, San Francisco, CA - National Advocate and Advisory Board Member

- Supervised direct service staff and held weekly troubleshooting/feedback sessions about programs and participants.
- Engage in local and national advocacy around: trans women immigrants, TWOC violence, and linking resources to trans community.
- Entered client data and prepared month end reports.
- Prepared presentations for city government officials, community meetings, and academic conferences.
- Facilitated supervision training for new staff, providing them tools to use and how to structure weekly work plans that are effective and timely.

KEYNOTES, PRESENTATIONS, AND WORKSHOPS

- Feb 2018 - Shaping Justice Conference speaker, University of Virginia Law School
- October 2017- Stanford Law Latinx Heritage month speaker
- May 2017 Lavender Graduation Keynote University of Towson

- April 2017 Presented on Capitol Hill at the LGBT immigration congressional briefing
- February 2017 University of Riverside Asterisk Conference keynote
- February 2017 UC Santa Barbara trans revolution series keynote
- December 2016 AIDS Philanthropy summit – trans issues and detention plenary
- November 2016 Race Forward conference intersectional movements opening plenary
- July 2016 Mexico City LGBTI National Conference trans immigration and country conditions report briefing
- July 2016 GIFT Money for our movements closing plenary
- July 2016 Lavender Law #Endtransdetention campaign workshop
- March 2016 LGBT Funders Funding Forward conference trans issues plenary
- February 2016 UC Santa Cruz Sister Solidarity keynote
- January 2016 ESSIE Justice group convening decarceration panel
- December 2015 Mijente Lanzate convening closing keynote
- December 2015 US Human Rights Network biannual conference panel plenary
- November 2015 LGBT Congressional Equality Caucus Hearing on Violence Against the Transgender Community
- November 2015 Oberlin College Trans liberation speaker series keynote
- October 2015 UCLA Eighth Annual CRS Symposium, Race and Resistance: Against Police Violence panel
- July 2015 University of New Mexico MALCS conference panel – Trans Migration
- April 2015 Stanford University - Raza day keynote
- March 2015 INCITE Color of Violence panel – Intersectional Struggles
- August 2014 Horizons Foundation panel- “Transcending the Divide: Gaining a Better Understanding of Transgender Issues”
- July 2014 Northern New Mexico College - Mujeres Activas en Letras y Cambio Social Summer Institute - “El/La Herstory & Roundtable discussion about Translatina Visibility”.
- June 2014 California Association of Human Relations Organizations panel- “Transgender Non-discrimination, Training & Law Enforcement”.
- June 2014 National Lawyers Guild Far West Regional Conference panel- “Not One More: Resisting Mass Deportation and Repression of the Poli-Migra in the Bay Area and beyond”.
- June 2014 Eric Quezada Center for Culture & Politics - “Stop profiling & stigmatizing trans women: An evening with Monica Jones & Bay Area trans liberation organizers” panel.
- March 2014 Chico State Gender and Sexuality Equity Center First Annual
- Trans Conference - “El/La Herstory and Translatina Visibility” presentation.
- November 2013 UCSF LGBT Resource Center - “TDoR: Violence in Translatina

Community” panel.

- August 2013 The California Wellness Foundation Conference on the Health and Well-Being of Transition-Age Youth - “Developing Leadership Skills in Youth.” workshop.
- June 2013 Lambda Legal, CUAV, & El/La para TransLatinas Community Forum - “Fighting Anti-Trans Violence.” panel.
- December 2012 San Jose State Ethnic Studies Dept. “Joteria Panel: QueerTrans Activism and Art”
- October 2012 Choice USA Reproductive Justice Conference “Voice from Other Movements” panel.
- September 2012 University of New Mexico Asociacion de Joteria, Arts, Activism, & Scholarship “Non-Profit Models for Queer & Trans Youth of color Empowerment” workshop.
- August 2012 SoulForce- “Race, Sexuality, Gender, Class, & Faith”

PROFESSIONAL DEVELOPMENT

2018 Move to End Violence Movement Makers Leadership Fellowship

2018 Radical Aliveness Leadership and Self Transformation Training Program

2013 Rockwood Leadership Institute Fellowship for LGBTQ Leaders

2013 Esalen Institute -Radical Aliveness Core Energetics Institute -Radically Alive Leadership

2012 Compass Point - Leadership program for executives serving transition-age youth.

2012 Compass Point - Supervision training parts 1 & 2

2012 Pedagogy & Theatre of the Oppressed Institute

2011 School of Unity and Liberation (SOUL) - Training the Trainers

2010 Office of Minority Health - Latino mentoring training institute for HIV prevention agencies

2006 National Network of Immigrant Rights Institute

2004 Franklin Covey 7 Habits of Highly Effective Leaders

EDUCATION

2002 Bachelors of Art in Political Science, Lee University – Cleveland, TN

1997 High School Diploma, Washington High School – Fremont, CA

ADVISORY BOARDS & MEMBERSHIPS

2019 International Trans Fund grant maker

2018-Present Radical Imagination Family Fund adviser

2018- Present BreakOUT youth

2018 Mijente Leadership Circle

2018 Groundswell grant maker for Liberation fund

2014 Present- Familia: Transgender & Queer Liberation Movement

2015 United We Dream – Queer Undocumented Immigrant Project

2014 Sheroes Project For Center of Excellence for Transgender Health

2014 Transgender Health Services for SF Health DPH

2010 San Francisco Youth Employment Coalition