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February 3, 2022

**RE: Life-Threatening Medical Neglect & Retaliatory Denial of Case Transfer & Release of Mr. Luis Diaz (A: 058-293-120)**

Dear Officer for Civil Rights and Civil Liberties Culliton-González, Inspector General Cuffari, Field Office Director Ripa, and Head of Corrections Majeski,

Freedom for Immigrants, Immigrant Action Alliance, Seton Hall University Immigrant Rights' Clinic, and Doctors for Camp Closure write regarding Mr. Luis Diaz (A#058-293-120), a person in ICE detention at Krome North Service Processing Center, FL. Mr. Diaz continues to be denied critical medical care for his diagnosis of first-degree atrioventricular block, a life-threatening heart condition, despite the recommendations of multiple medical professionals and the prior filing of a medical



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advocacy civil rights complaint in October 2021. He has also yet to receive medical care for painful kidney stones, a condition that could become fatal if left untreated.

There is strong indication his case transfer, medical care, and release are being intentionally blocked by ICE leadership in the Newark Field Office as retaliation and cover up related to his prior engagement in a hunger strike while detained at Essex County Jail in New Jersey. Mr. Diaz commenced another peaceful hunger strike at the Krome North Services Processing Center (“Krome”) in protest of what he alleges to be retaliatory treatment, for which he was placed in solitary confinement. We request the Civil Rights Division and Office of Inspector General investigate these allegations of rights violations and impropriety, and that ICE leadership moves expediently to provide immediate case transfer, medical care and reconsideration of community release.

### **Summary:**

External medical review by Kate Sugarman with Doctors for America found **Mr. Diaz's first degree atrioventricular block (AV block) could be deadly given it's combination with hypertension, poor medical treatment, and his family history of heart disease which puts him at elevated risk of fatality; his mother passed away from the same condition.** When hospitalized during his previous incarceration at Krome, Mr. Diaz was referred to see a cardiologist. This visit did not take place until the same parties to this current complaint filed an earlier civil rights complaint post-transfer to Glades County Detention Center (“Glades”). The cardiologist Mr. Diaz was taken to see in November 2021 reported concern and recommended regular visits to monitor Mr. Diaz's heart condition and high blood pressure under cardiological specialist care. Upon re-transfer from Glades back to Krome on December 1, 2021 Mr. Diaz has yet to see a cardiologist again, despite at least 5 requests and in contradiction to the cardiologists' treatment plan. In addition, medical officials now state Mr. Diaz has likely developed kidney stones, which remain untreated. This denial of care can lead to the development of permanent kidney damage, which ultimately is fatal.

Both his AV block condition and his high blood pressure place Mr. Diaz at elevated risk of severe illness or death due to COVID-19, with the risks increasing greatly due to his neglect in ICE custody. Krome North Service Processing Center is also in the midst of a widespread COVID outbreak, which raises significant concern regarding continued detainment given his level of medical risk. However, Mr. Diaz continues to be denied medical care and/or medical release by ICE Newark Field Office officials, who retain jurisdiction on all aspects of his case.

Mr. Diaz and his attorney report that ICE leadership at the Newark Field Office appear to have acted in a retaliatory and corrupt manner in their denials of his requests for medical release, their decision to transfer him to Krome North Service



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Processing Center in March 2021, and their unexplained insistence on maintaining jurisdiction over his case despite the transfer. In early March 2021, while detained at Essex County Correctional Facility (“Essex”), Mr. Diaz was baselessly charged with smoking. While the charge was quickly discredited and dismissed, ICE inexplicably cited it as grounds to deny Mr. Diaz’s March 17, 2021 request for release, which was substantiated by medical record review and case analysis from a specialist with Physicians for Human Rights. What ICE did not mention in their denial was Mr. Diaz’s participation in a widespread hunger strike at Essex, which has since been depopulated of ICE detainees after community and political pressure regarding conditions at the facility. During the hunger strike, ICE officials from the Newark Field Office allegedly told Mr. Diaz that they would ensure he would never be released. After ICE denied Mr. Diaz’s release request, they then transferred him from Essex to Krome North Service Processing Center on March 21, 2021.

This chain of events makes the stated reason and timing of the denial, as well as the reasons for Mr. Diaz’s transfer, extremely suspect. Furthermore, contrary to typical practice, despite nearly 11 months in ICE custody in Florida and no stated intention to transfer Mr. Diaz back to the Northeast, all requests for case transfer from the Newark Field Office to the Miami Field Office’s jurisdiction have been denied. The Newark Field Office still insists on making all decisions related to Mr. Diaz’s custody and has continued to deny him proper medical treatment and release. Parties to this complaint raise serious concern that this holding of case jurisdiction by the Newark Field Office is a further act of retaliation and attempt to cover up the improper actions that took place following Mr. Diaz’s peaceful protest of conditions at Essex.

As of January 24, 2022, Mr. Diaz has embarked on a hunger strike at Krome North Service Processing Center to protest his medical neglect and what he alleges to be continued retaliation in the form of denial of case transfer and denial of medical release. He was placed in solitary confinement the following day, then moved to the medical unit shortly after, where he currently remains.

In addition to a formal investigation of the rights violations taking place, we request that Mr. Diaz immediately receives the cardiologist specialty care for his heart condition and medical care for his kidney stones, as is his right under ICE custody. If ICE and Akima Global Services are unable or unwilling to meet the standards for his care, we request community based medical release to proceed.

### **Medical credentials**

I, Kate Sugarman, MD, the supervising physician in this review, have a BA from Harvard College 1983 and an MD from Jefferson Medical College 1988. I completed my family medicine specialization from Montefiore Medical Center, New York City in 1991. I am board certified in family medicine and have a Washington DC medical license. I have faculty appointments at Georgetown Law School and the AT Still



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College of Osteopathic Medicine. I have been practicing in community health clinics since 1991. I am currently employed at Unity Health Care in Washington, D.C. I frequently lecture medical students and medical residents about providing culturally appropriate medical care and medical forensic reports for immigrants and asylum seekers. Nathan Hersh, a fourth-year medical student at Sidney Kimmel Medical College in Philadelphia, provided a comprehensive review of Mr. Diaz's medical records and worked under my supervision on Mr. Diaz's case.

## **Medical findings**

Based on the medical records from ICE, Mr. Diaz has been diagnosed with hypertension (first diagnosed in 2008), first-degree AV block, post-traumatic stress disorder, major depressive disorder, and panic disorder (episodic paroxysmal anxiety). As of August 24, 2021, he takes the following prescription medications: amlodipine besylate, 5 mg daily for hypertension, hydroxyzine HCl, 25 mg daily for insomnia/anxiety, and mirtazapine 30 mg daily for anxiety.

Mr. Diaz's cardiac symptoms began the night of April 18, 2021 when he reported experiencing chest pain while detained at Krome North Service Processing Center. The next evening, from April 19 to 20, 2021, Mr. Diaz was assessed at Larkin Hospital, after an electrocardiogram showed him to have first-degree heart block. He was advised to see a cardiologist for follow-up. Mr. Diaz's symptoms continued following his visit to Larkin Hospital. On April 29, 2021, Mr. Diaz told a doctor that he continued to experience several instances of chest pain, and no longer told the nurses each time, because he felt the symptoms were consistent with his diagnosis of first degree AV block, for which he was meant to see a cardiologist.

First-degree AV block, when asymptomatic, can be benign on its own. Mr. Diaz, however, was diagnosed with both first-degree AV block and hypertension. When these two conditions coexist in a patient, they can lead to other arrhythmias such as advanced AV block, atrial fibrillation, and left ventricular dysfunction. One study found that men with both first-degree AV block and hypertension were more than three times as likely to develop advanced AV block or atrial fibrillation than men with hypertension alone.<sup>1,2</sup> Other factors contributing to a patient's prognosis that physicians consider are a patient's family history and ability to consistently take medications prescribed to treat their disease.

Advanced AV block is a much more concerning condition than first-degree AV block.

<sup>1</sup> Uhm, J. S., Shim, J., Wi, J., Mun, H. S., Park, J., Park, S. H., Joung, B., Pak, H. N., & Lee, M. H. (2014). First-degree atrioventricular block is associated with advanced atrioventricular block, atrial fibrillation and left ventricular dysfunction in patients with hypertension. *Journal of hypertension*, 32(5), 1115–1120. <https://doi.org/10.1097/HJH.000000000000113>

<sup>2</sup> Cheng, S., Keyes, M. J., Larson, M. G., McCabe, E. L., Newton-Cheh, C., Levy, D., Benjamin, E. J., Vasan, R. S., & Wang, T. J. (2009). Long-term outcomes in individuals with prolonged PR interval or first-degree atrioventricular block. *JAMA*, 301(24), 2571–2577. <https://doi.org/10.1001/jama.2009.888>



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The damage to the heart's conduction pathways in types of advanced AV block can lead to sudden changes in cardiac rhythm, leading to unpredictable syncope (loss of consciousness). In people with advanced AV block who do not receive pacemaker placement, prognosis declines rapidly.<sup>3</sup>

Atrial fibrillation is another serious condition Mr. Diaz is at risk of developing should he fail to attain appropriate medical care. In this condition, the heart beats at an irregular rate and rhythm. An irregular heart rate and rhythm can lead to blood pooling in the chambers of the heart. When blood pools, it begins to coagulate and forms clots. When blood clots form in the heart, they are eventually ejected from the heart into the body's main artery, the aorta, and from there to the brain, causing brain ischemia, or stroke. Standard clinical practice is to ensure patients diagnosed with atrial fibrillation are placed on anticoagulation therapy (blood thinners) to prevent stroke.

Heart pathologies such as those listed above can eventually progress to cause cardiac remodeling, which is irreversible and affects heart function. Specifically, the left ventricle of the heart can experience pathological muscle growth (hypertrophy) that can affect the heart's ability to pump blood to the rest of the body. Mr. Diaz, in an echocardiogram noted in medical records from April 22, 2021, also exhibited mitral valve regurgitation and pulmonary valve regurgitation. Both valvular abnormalities can be a result of left ventricular dysfunction.

In patients with no symptoms related to their first-degree AV block, observation by a cardiologist is generally sufficient. In patients like Mr. Diaz, who experience symptoms such as angina (chest pain) and dyspnea (shortness of breath), placement of a pacemaker may be necessary according to the standards of care agreed upon by the American College of Cardiology (ACC), the American Heart Association (AHA), and the Heart Rhythm Society (HRS).<sup>4</sup> At Mr. Diaz's visit to Larkin Hospital on April 19 to 20, 2021, he was prescribed amlodipine for his hypertension, but his first-degree AV block was left for follow-up by a cardiologist. He was scheduled to see a cardiologist twice, first on June 8, 2021, and then on August 17, 2021, but neither appointment took place according to the medical records reviewed. Without follow-up with a cardiologist, there is no way of knowing the current state of Mr. Diaz's heart condition.

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<sup>3</sup> Vogler, J., Breithardt, G., & Eckardt, L. (2012). Bradyarrhythmias and conduction blocks. *Revista espanola de cardiologia (English ed.)*, 65(7), 656–667. <https://doi.org/10.1016/j.recesp.2012.01.025>

<sup>4</sup> Kusumoto, F. M., Schoenfeld, M. H., Barrett, C., Edgerton, J. R., Ellenbogen, K. A., Gold, M. R., Goldschlager, N. F., Hamilton, R. M., Joglar, J. A., Kim, R. J., Lee, R., Marine, J. E., McLeod, C. J., Oken, K. R., Patton, K. K., Pellegrini, C. N., Selzman, K. A., Thompson, A., & Varosy, P. D. (2019). 2018 ACC/AHA/HRS Guideline on the Evaluation and Management of Patients With Bradycardia and Cardiac Conduction Delay: A Report of the American College of Cardiology/American Heart Association Task Force on Clinical Practice Guidelines and the Heart Rhythm Society. *Circulation*, 140(8), e382–e482. <https://doi.org/10.1161/CIR.0000000000000628>



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On August 27, 2021, Mr. Diaz reported to Freedom for Immigrants that he was being denied medical care for his high blood pressure and heart problems. On September 2, 2021, Mr. Diaz reported to Freedom for Immigrants that ICE had cancelled his appointment with a cardiologist twice. Each missed appointment adds to a risk that his disease will progress without his or his providers' knowledge. This risk increases if his hypertension is not controlled. He reported that, while he had been provided medication while in Essex County Correctional Facility and Krome North Processing Center, he was denied this medication after being transferred to Krome North Service Process Center. Mr. Diaz reported that he experiences daily pain, with symptoms of his heart skipping a beat (potentially a sign of arrhythmia), chest pain, and shortness of breath, all of which, if related to his heart conditions, could indicate a progression of disease.

On September 2, 2021, Mr. Diaz reported to Freedom for Immigrants that he has still not seen a cardiologist and requested we file a complaint on his behalf in order to intervene with ICE to provide him with care. Between that date and present, he was provided medication for his high blood pressure and an initial cardiologist visit took place. However, the cardiologists' recommendation he be returned for ongoing monitoring was not adhered to. He has had no further cardiologist care.

On January 29, 2022 Mr. Diaz reports that Krome internal medical personnel confirmed he likely had kidney stones. On February 2, 2022 he reported follow up medical care would require ICE approval, which has yet to be granted. Patients with suspected kidney stones need emergency evaluation. This includes but is not limited to urine testing and ultrasound of his kidneys and his bladder. He urgently needs assessment and treatment by a urologist. Failure to do so puts his kidney at risk of damage which is ultimately fatal.

Mr. Diaz is requesting intervention to ensure an urgent appointment with a cardiologist, treatment of his AV block condition based on the cardiologist's recommendation, and appropriate medical care for his kidney stones. As of today none of this recommended care has taken place.

### **Dangerous Conditions of Confinement in Immigration Detention Related to COVID-19**

The novel coronavirus (SARS-CoV-2), and the resultant disease that has been given the name coronavirus disease 2019 (COVID-19), is a global pandemic. As of October 6, 2021, there have been 235,949,692 confirmed cases of COVID-19 globally and 4,819,818 deaths. In the United States alone, there have been 43,952,459 confirmed cases of COVID-19 and 705,383 deaths attributed to COVID-19.<sup>5</sup>

The transmission of COVID-19 remains high in the United States and there have been

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<sup>5</sup> Johns Hopkins University Center for Systems Science and Engineering. Coronavirus COVID-19 global cases by Johns Hopkins CSSE, <https://coronavirus.jhu.edu/map.html>, accessed October 6, 2021



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numerous outbreaks in detention centers, prisons, and jails throughout this pandemic.<sup>6,7</sup> The leading mode of transmission of COVID-19 is through respiratory particles of infected persons.<sup>8</sup> We now understand that persons in close proximity while indoors with poor ventilation are at increased risk of transmission of COVID-19.

The latest literature on COVID-19 defines close contacts to include multiple brief encounters within six feet, totaling 15 cumulative minutes over a 24-hour period. Of note is the fact that the CDC considers close contacts with or without a mask as being of equal risk since the general public has not had adequate training on the proper selection and use of respiratory equipment. Furthermore, it has been previously established that COVID-19 spread occurs from person-to-person primarily via respiratory droplets among close contacts and through contact with contaminated surfaces or objects. However, current understanding of the transmission of Sars-Cov-2 indicates that the virus can become aerosolized. The CDC notes that airborne transmission occurs when the aerosolized virus lingers in the air, remaining suspended “over long distances (usually greater than six feet) and time (typically hours).” In addition to airborne transmission leading to infection among people spaced more than six feet apart, COVID-19 can spread from an infected person who is no longer in the room, when the viral particles remain in the air after an infected person has left the enclosed space. This means that simply sharing airspace with an infected person can allow COVID-19 to spread. Six feet of separation from an infected person is an inadequate distance to prevent airborne transmission. Airborne transmission is more likely to occur in certain settings, including enclosed spaces, when prolonged exposure to respiratory particles occurs, and in settings with inadequate ventilation or air-handling.

COVID-19 infection may result in severe disease. Death from COVID-19 may result from respiratory failure, shock or multi-organ failure.<sup>9</sup> Older age, male gender and those with underlying medical conditions such as diabetes, hypertension and cardiovascular disease are at particularly high risk of severe disease with COVID-19.<sup>10</sup> At this time,

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<sup>6</sup> Erfani Per al. COVID-19 Testing and Cases in Immigration Detention Centers, April-August 2020. *JAMA*. 2021;325(2):182–184. doi:10.1001/jama.2020.21473

<sup>7</sup> Desmon Stephanie. “COVID-19 in Jails, Prisons and Immigration Detention Centers: Q&A with Chris Beyrer”. Johns Hopkins Bloomberg School of Public Health, COVID-19 School of Public Health Expert Insights, 09/15/2020.

<sup>8</sup> Meyerowitz EA, Richterman A, Gandhi RT, Sax PE. Transmission of SARS-CoV-2: A Review of Viral, Host, and Environmental Factors. *Ann Intern Med*. 2021;174(1):69-79. doi:10.7326/M20-5008

<sup>9</sup> McIntosh K et al. Coronavirus disease 2019 (COVID-19): Clinical features. *UpToDate*. Retrieved January 19, 2021, from <https://www.uptodate.com/contents/coronavirus-disease-2019-covid-19-clinical-features>

<sup>10</sup> Parohan M et al. Risk factors for mortality in patients with Coronavirus disease 2019 (COVID-19) infection: a systematic review and meta-analysis of observational studies. *The Aging Male*. 2020. DOI: 10.1080/13685538.2020.1774748

\* Close contact is defined as—

a) being within approximately 6 feet (2 meters) of a COVID-19 case for a prolonged period of time; close contact can occur while caring for, living with, visiting, or sharing a health care waiting area or room with a



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there is only one FDA-approved antiviral drug (remdesivir) available for treatment of COVID-19, however, it is costly and certainly not administered in any detention center, prison or jail infirmary. We now have access to multiple novel COVID-19 vaccines; however, distribution has met its own set of challenges.

Detention facilities, like the jails and prisons in which they are housed, are often crowded and unsanitary. In particular, Krome North Service Process Center has been the subject of Civil Rights and Civil Liberties complaints since pandemic onset due to the facility's reckless endangerment of detainees during the COVID-19 pandemic, along a long history of medical abuse and violation of detainees rights. People in ICE custody at Krome North Service Process Center have reported to Freedom for Immigrants' national hotline widespread medical abuse, a lack of personal protective equipment (PPE), sanitation, soap and other hygiene products; transfers without implementing appropriate quarantine or medical screening; mixing of people who have tested positive for COVID-19 or who have been exposed to the virus with people who had tested negative or had not yet tested; retaliation for peaceful protest and public reporting; and restrictions to COVID-19 testing access. All of these contribute to a high risk of death and serious illness due to COVID-19 for individuals detained at Krome North Service Process Center. We are extremely concerned about the lack of safety protocols in place, especially for an individual with pre-existing conditions creating the level of vulnerability as Mr. Diaz.

Mr. Diaz lives with hypertension and first degree AV block and is overweight, placing him at greater risk of severe disease resulting from COVID-19 infection, should he contract a breakthrough case. Because COVID-19 is implicated in myocarditis, or inflammation of cardiac muscle, Mr. Diaz is at increased risk of severe consequences from COVID-19-related myocarditis.

Individuals with chronic medical conditions are at a particularly high risk of developing (if they did not have previously) significant symptoms of psychological distress, including anxiety, sleep disorders and depression. It is likely and predictable that such individuals with chronic health conditions are appropriately frightened of increased risk of harm by remaining in detention, which will, in turn, result in symptoms of anxiety and depression. In patients with preexisting major depressive disorder and anxiety, like Mr. Diaz, the risk of that harm is increased further.

There have been many reports of COVID-19 outbreaks in immigration detention facilities at large<sup>11</sup>, which are woefully unprepared to combat an infectious disease outbreak. The people detained by ICE at these facilities are among the most vulnerable, many with chronic diseases which place them at increased risk of

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COVID-19 case

b) having direct contact with infectious secretions of a COVID-19 case (e.g., being coughed on)

<sup>11</sup> Erfani, P., Uppal, N., Lee, C. H., Mishori, R., & Peeler, K. R. (2021). Covid-19 testing and cases in immigration detention centers, April-August 2020. JAMA, 325(2), 182-184.





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complication and even death. Considering the immediate threat of the COVID-19 pandemic and the unique vulnerabilities of immigrants in ICE detention, it is impossible to ensure a “safe, secure and humane environment,” as required by ICE’s own National Detention Standards.

Based on our medical findings explained above, we recommend that Luis Diaz Almanzar be immediately released from the Krome North Service Process Center to prevent the high risk of dangerous medical complications due to their pre-existing conditions, as well as to prevent the spread of COVID-19 throughout the facility. Investigation of this detention center and release is urgently necessary to protect Luis Diaz Almanzar and other inmates’ wellbeing, as well as staff at the facility and everyone else living in the greater metropolitan area.

### **Timeline of Injuries/Condition, Inappropriate Medical Care and Retaliation**

Below is an estimated timeline of Mr. Diaz’s medical issues, medical neglect, and retaliation as reported to Freedom for Immigrants and Immigrant Action Alliance:

- In **2016**, Mr. Diaz was formally diagnosed with high blood pressure and PTSD while at Garden State Youth Correctional Facility.
- On **February 12, 2021**, Mr. Diaz was baselessly charged with smoking at Essex County Correctional Facility and placed in solitary confinement. The charge was unsupported and later dismissed.
- On **March 9, 2021**, Mr. Diaz, along with other individuals, began a hunger strike at Essex, protesting his treatment at the facility.
- On **March 17, 2021**, Mr. Diaz filed a request for release from ICE custody in Essex due to his mental health conditions and hypertension. This request was substantiated by medical record review and case analysis provided by a psychiatric specialist with Physicians for Human Rights.
- On **March 20, 2021**, the Newark Field Office denied Mr. Diaz’s release request, citing the already-dismissed charges of smoking. Mr. Diaz claims this was done in retaliation for his peaceful protests.
- On **March 21, 2021**, Mr. Diaz was transferred to Krome North Service Processing Center.
- The night of **April 18, 2021**, Mr. Diaz reported chest pain while detained at Krome North Service Processing Center.
- On **April 19, 2021**, Mr. Diaz was hospitalized for his chest pain at Larkin Hospital. An abnormal EKG test led to a diagnosis of first degree AV block. Mr. Diaz was given Norvasc, but the medical team of Larkin Hospital were unable to treat the underlying condition of first degree AV block. They referred him to a cardiologist for treatment of this serious medical condition. The discharge recommendation was for a cardiology appointment in one month.
- On **April 22, 2021**, Mr. Diaz began a three month course of amlodipine besylate, following his return from the hospital, per hospital recommendation.
- On **May 11, 2021**, his medical records confirm that Mr. Diaz was aware that



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he would have a next-month appointment with a cardiologist.

- On **May 18, 2021**, medical records indicate that Mr. Diaz had a cardiology appointment scheduled for June 8, 2021. No appointment took place.
- On **August 17, 2021**, Mr. Diaz was scheduled for a cardiologist appointment while at Krome North Service Processing Center, three months after the hospital's recommended one-month cardiologist evaluation. The appointment did not occur, and Mr. Diaz was not given an explanation as to why it was cancelled. His medical records confirm that it was rescheduled, but do not provide a reason or a future date.
- On **August 24, 2021**, Mr. Diaz was transferred from Krome North Service Processing Center to Glades County Detention Center.
- On **August 27, 2021**, Mr. Diaz reported to Freedom for Immigrants that, following his transfer to Glades County Detention Center, ICE denied him medical care for his high blood pressure and heart problems.
- On **September 2, 2021**, Mr. Diaz reported to Freedom for Immigrants that ICE has now cancelled his appointment with a cardiologist twice. He reported that he had been provided medication while in Essex and Krome, but denied this medication at Glades. Mr. Diaz reported that he experiences daily pain, with symptoms of his heart skipping a beat, chest pain, and loss of breath. He expressed particular concern of the risk of ICE's failure to treat him since his mother passed away due to the same medical condition.
- On **September 13, 2021**, Mr. Diaz reported to Freedom for Immigrants that he had still not seen a cardiologist, and requested help intervening with ICE to provide him with the specialty care which is his right.
- On **October 6, 2021**, Mr. Diaz described to his attorney his ongoing high level of pain and fear during flare-ups, and the failure of the medical staff at Glades to address the serious pain and underlying condition. He reported that when he complained of chest pain at Glades, the medical staff did not give him an EKG, and he has been told they do not have the capacity to refer him to a cardiologist. Additionally, he is only receiving mental health medications at Glades at a reduced dose.
- **October 12, 2021**, A medical advocacy civil rights complaint is submitted to the attention of CRCL, OIG, ICE leadership, and the Glades Warden concerning Mr. Diaz's denied care for his heart condition and denied medication for his high blood pressure.
- **October 21, 2021**, Follow up email correspondence is submitted to CRCL, OIG, ICE leadership and the Glades Warden reporting Mr. Diaz still has not received a cardiologist visit. Also noted was the existence of a wide spread COVID-19 outbreak in the facility, as well as medical neglect and improper cohorting of those sick from the virus and those who remain well.
- **November 16, 2021**, Mr. Diaz is taken to see a cardiologist, who confirms his diagnosis with a first-degree AV block and high blood pressure and advises that he attend additional appointments for further monitoring and treatment.
- **December 1, 2021**, Mr. Diaz is transferred from Glades back to Krome. No



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additional cardiologist visits took place before transfer.

- **December 1, 2021 to present:** On approximately five occasions, Mr. Diaz asks ICE to see a cardiologist, as advised, but no appointment is scheduled.
- **January 24, 2022:** Newark ERO denies Mr. Diaz's request for release amidst a significant outbreak of COVID-19 at Krome.
- **January 25, 2022:** Mr. Diaz reports to Freedom for Immigrants he began a hunger strike the 24th to protest his continued detention by Newark ERO without adequate medical care. He was put in solitary confinement the following day.
- **January 28, 2022,** Mr. Diaz reports to Freedom for Immigrants after 72 hours of hunger strike he was moved from solitary confinement to the medical unit.
- **January 29, 2022,** Mr. Diaz reported he was evaluated by the nurse at Krome who stated he likely had kidney stones, but he cannot be taken to the doctor without ICE approval.
- **February 2, 2022,** Mr. Diaz reported to his attorney that he has yet to see a doctor. He continues to experience significant pain.

### **Violation of US Constitution and ICE Policy**

This medical neglect is in direct violation of ICE's own Performance Based National Detention Standards (PBNDS 2011) regarding denial of adequate medical care and misuse of solitary confinement, as well as the US Constitution. ICE and the Krome have a constitutional obligation to provide adequate medical care to Mr. Diaz. See *generally Estelle v. Gamble*, 429 U.S. 97 (1976). By refusing to provide basic medical care for Mr. Diaz's serious medical needs, ICE and the Akima Global Services place Mr. Diaz at a serious risk of harm, show deliberate indifference in violation of the Eighth Amendment, run afoul of the standard of care, and violate his right to due process under the Fifth and Fourteenth Amendments, respectively. See, e.g., *Kingsley v. Hendrickson*, 576 U.S., 135 S. Ct. 2466 (2015).

ICE and its contractor Akima Global Services are responsible to Mr. Diaz for treating his AV block heart condition and kidney stones because both could result in fatality or the unnecessary and wanton infliction of pain if not treated. The law does not require harm to health to have already occurred in order to mandate action. The exposure to a risk that may cause harm in the future is a basis for deliberate indifference.

### **Recommendation**

Mr. Diaz is requesting medical release from ICE custody so that his multiple, interlocking medical conditions which place him at risk of severe illness or death can be addressed appropriately in a community based setting, without the elevated risk of contracting COVID-19. While this release is considered, Mr. Diaz requests an urgent appointment with a cardiologist, treatment of his AV block condition based on the cardiologist's recommendation, and treatment for his kidney stones.



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We request a response in writing within a week that addresses the following:

- That Mr. Diaz be provided ongoing care by a cardiologist to monitor his AV Block heart condition, as recommended during the Nov. 16, 2021 specialist visit which took place during detainment at Glades.
- That Mr. Diaz receive emergency evaluation and treatment of his kidney stones by a urologist, including but not limited to urine testing and ultrasound of his kidneys and bladder.
- That, if ICE and Akima Global Services are unable or unwilling to provide the medical care which is Mr. Diaz's right, he be immediately released to the community so that he can access treatment for his serious conditions.
- That no further retaliation in the form of re-confinement to solitary confinement as a response to Mr. Diaz's peaceful protest take place.
- That Mr. Diaz be considered for release due to his high risk of complications from COVID-19 should he contract that disease in ICE detention.
- That Krome North Service Processing Center be investigated for their medical neglect of individuals in their custody.
- That Newark Field Office officials be investigated for their alleged framing of Mr. Diaz and subsequent retaliatory denial of case transfer, approval of medical care, and just consideration of community based release.

Given the case urgency, please provide a report in writing to both us and Mr. Diaz regarding the status of this matter by Feb 10, 2022.

Sincerely,

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**FREEDOM  
FOR IMMIGRANTS**



**IMMIGRANT  
ACTION  
ALLIANCE**



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