

# **Exhibit A**

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12  
13 **UNITED STATES DISTRICT COURT**  
14 **CENTRAL DISTRICT OF CALIFORNIA**  
15 **EASTERN DIVISION — RIVERSIDE**

16 FAOUR ABDALLAH FRAIHAT, et al.,

17 Plaintiffs,

18 v.

19 U.S. IMMIGRATION AND CUSTOMS  
ENFORCEMENT, et al.,

20 Defendants.  
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Case No. 5:19-cv-01546-JBG (SHKx)

**BRIEF OF *AMICI CURIAE***  
**CASA DE PAZ, CHURCH**  
**WORLD SERVICE - JERSEY**  
**CITY, CLERGY & LAITY**  
**UNITED FOR ECONOMIC**  
**JUSTICE, DETENTION WATCH**  
**NETWORK, EL REFUGIO,**  
**FIRST FRIENDS OF NEW**  
**JERSEY & NEW YORK, AND**  
**FREEDOM FOR IMMIGRANTS**  
**IN SUPPORT OF PLAINTIFFS'**  
**EMERGENCY MOTION FOR**  
**PRELIMINARY INJUNCTION**

**Before The Honorable Jesus G.**  
**Bernal**

**Hearing Date:** April 13, 2020  
**Hearing Time:** 9:00 AM

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1 **I. INTRODUCTION**

2 We are in the midst of a growing public health crisis unlike any other we  
3 have faced. In a few short months, the novel coronavirus COVID-19 has infected  
4 more than one million people worldwide and killed thousands. There is no cure  
5 and no vaccine. No one is immune. Everyone is at risk.

6 Our survival depends on the strength of our community. This pandemic has  
7 no boundaries and no borders; it infects indiscriminately. To survive, communities  
8 must protect all members, particularly those who are most vulnerable.

9 Immigrants in detention are some of the most vulnerable members of our  
10 society. Packed into overcrowded holding cells and deprived of access to soap and  
11 running water, they are imprisoned in centers known to be hotbeds for disease  
12 outbreak. With COVID-19, the risk of mass death grows more imminent each day.

13 These conditions puts everyone in the community in danger. Already, over a  
14 dozen immigrants in detention have tested positive for COVID-19. That number  
15 will only grow. Without immediate action, the outbreak will take on exponential  
16 proportions, local healthcare facilities will become overwhelmed, and many  
17 immigrants and other community members will die. This Court should intervene to  
18 avert this catastrophe by requiring drastic improvements to ICE's health protocols  
19 and by ordering the release of the most vulnerable immigrants.

20 *Amici* are prepared to assist in protecting immigrants and their communities.  
21 *Amici* belong to a national network of nonprofit organizations that advocate for  
22 immigrants in detention, monitor conditions at ICE facilities, and provide resources  
23 and services to immigrants who have been released from detention. These  
24 organizations provide food, supplies, housing, and support for released immigrants  
25 who have nowhere to go; coordinate travel and reunification with family; and  
26 ensure that immigrants are able to integrate into their communities. COVID-19 has  
27 not deterred *amici*; far from it, *amici* have adopted new protocols and precautions  
28 so that they may continue to deliver post-release services safely. *Amici* are ready

1 for a mass release of vulnerable immigrants and indeed urge it.

2 *Amici* respectfully request that this Court grant the Plaintiffs’ Emergency  
3 Motion for Preliminary Injunction (Dkt. 81) to protect the most vulnerable  
4 members of our society and our communities from the COVID-19 threat.

5 **II. INTERESTS OF *AMICI CURIAE***

6 *Amici curiae* Casa de Paz, Church World Service – Jersey City, Clergy &  
7 Laity United for Economic Justice, Detention Watch Network, El Refugio, First  
8 Friends of New Jersey & New York, and Freedom for Immigrants belong to a  
9 nationwide network of immigration advocacy organizations and providers of  
10 community-based services for immigrants. As experts on immigration detention  
11 and as front-line responders when persons are released from ICE custody, *amici*  
12 have a direct interest in—and offer a unique perspective on—the threat that  
13 COVID-19 poses to detained immigrants and the relief that Plaintiffs seek.<sup>1</sup>

14 **Casa de Paz** is a volunteer-run nonprofit that helps reunite immigrants  
15 released from the Aurora ICE Detention Center in Aurora, Colorado with family or  
16 close contacts across the United States. As part of that mission, Casa de Paz helps  
17 arrange immigrants’ travel and provides them with support until they reach their  
18 final destinations. Casa de Paz is prepared to help immigrants in the event of a  
19 mass release; it has implemented COVID-19-specific protocols that protect the  
20 safety of immigrants and volunteers alike.

21 **Church World Service – Jersey City** (“CWS”) is a nonprofit organization  
22 that helps integrate immigrants into communities following their release from ICE  
23 custody. CWS’s goal is to ensure that immigrants become self-sufficient. To that  
24 end, CWS provides temporary and permanent housing resources, helps immigrants  
25 find legal work opportunities, and connects them to public benefits and community  
26 resources for which they are eligible.

27 \_\_\_\_\_  
28 <sup>1</sup> No party authored this brief in whole or in part, and no party or person other than  
*amici* contributed funds for the preparation or submission of this brief.



1           **Clergy & Laity United for Economic Justice** (“CLUE Justice”) is an  
2 interfaith collaborative that mobilizes volunteers to visit immigrants detained in  
3 Southern California and connect immigrants with post-release support and case  
4 management services. CLUE Justice is preparing to accommodate a mass release  
5 as a result of COVID-19 by working with religious groups and partner  
6 organizations to convert unused space into safe and supportive housing.

7           **Detention Watch Network** (“DWN”) is a grassroots advocacy organization  
8 that coordinates a national network of members—from individual activists to direct  
9 service providers—to advocate against immigration detention. DWN has put  
10 together a “toolkit” to help member organizations reintegrate individuals released  
11 from detention as a result of COVID-19 and develop community response plans as  
12 immigrants are released from ICE custody. Although DWN opposes immigration  
13 detention, DWN acknowledges that this filing does not address detention generally,  
14 only the present motion for preliminary injunction.

15           **El Refugio** is a nonprofit organization that provides visitation and post-  
16 release services to immigrants in detention at the Stewart Detention Facility in  
17 Lumpkin, Georgia. Upon release, El Refugio offers temporary housing to  
18 immigrants or family members to assist with reunification, as well as volunteer  
19 accompaniment to airports and bus stations. El Refugio has been working with  
20 partner organizations in Georgia to expand its capacity to provide services to  
21 immigrants and families during the COVID-19 pandemic.

22           **First Friends of New Jersey & New York** (“First Friends”) is a nonprofit  
23 organization that serves as a first point of contact for immigrants in detention and  
24 following release. First Friends volunteers establish strong relationships with  
25 immigrants while in detention, providing volunteer visitors who serve as an outlet  
26 and voice for issues inside of detention facilities. First Friends often picks up  
27 people as they are released from detention, and partners with other nonprofits to  
28 assure adequate housing is located. First Friends also assists immigrants who must

1 travel long distances to reunite with friends and family, such as by purchasing bus  
2 tickets and providing other financial assistance for their journey.

3 **Freedom for Immigrants** (“FFI”) is a nonprofit organization that provides  
4 critical support to immigrants both in and out of detention across the country. FFI  
5 monitors the human rights abuses faced by detained immigrants through a national  
6 hotline and network of volunteer detention visitors. FFI also runs an extensive  
7 post-release support network providing immigration bonds, sponsorship, case  
8 management resources, and accompaniment. In light of the COVID-19 outbreak,  
9 FFI has engaged with a national network of post-release advocacy groups to further  
10 support released detainees. Although FFI opposes immigration detention, FFI  
11 acknowledges that this filing does not address detention generally, only the present  
12 motion for preliminary injunction.

### 13 **III. PRELIMINARY INJUNCTION STANDARD**

14 This Court may grant a preliminary injunction if Plaintiffs establish that  
15 **(1)** they are likely to succeed on the merits, **(2)** they are likely to suffer irreparable  
16 harm in the absence of a preliminary injunction, **(3)** the balance of equities tips in  
17 their favor, and **(4)** a preliminary injunction is in the public interest. *See Winter v.*  
18 *Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

19 The Ninth Circuit has recognized that “[t]he general public has an interest in  
20 the health of state residents.” *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1139 (9th  
21 Cir. 2009) (internal quotation marks omitted). The public’s interest in community  
22 health favors measures that provide healthcare to those who are most in need. *See*  
23 *Indep. Living Ctr. of S. Cal., Inc. v. Maxwell-Jolly*, 572 F.3d 644, 659 (9th Cir.  
24 2009), *vacated and remanded on other grounds by Douglas v. Indep. Living Ctr. of*  
25 *S. Cal., Inc.*, 565 U.S. 606 (2012). Especially where there is risk of outbreak, that  
26 interest weighs in favor of measures that reduce the spread of communicable  
27  
28

1 diseases and protect those who are particularly vulnerable.<sup>2</sup> To preserve public  
2 health resources, the public interest also favors preventative measures that will  
3 alleviate the burden on emergency care. *See Golden Gate Rest. Ass'n v. City & Cty.*  
4 *of S.F.*, 512 F.3d 1112, 1126 (9th Cir. 2008). These measures work together to  
5 ensure the community's health and protect its health infrastructure. *See id.*

#### 6 **IV. ARGUMENT**

##### 7 **A. Reevaluating ICE Health Protocols and Releasing Immigrants in** 8 **Detention Who Are at a Heightened Risk From COVID-19 Are** 9 **Necessary Public Health Measures.**

10 COVID-19 is a highly infectious communicable disease that presents a  
11 significant threat to public health.<sup>3</sup> With no cure and no vaccine, the best recourse  
12 for combatting the evolving pandemic is to slow the spread of COVID-19 through  
13 intensive hygiene practices and drastic community-wide action to limit person-to-  
14 person interaction. Decl. of Jaimie Meyer in Supp. of Mot. for Prelim. Inj. and  
15 Class Certification (“Meyer Decl.”) ¶¶ 20, 23, Dkt. 81-8. But, in congregate  
16 settings like immigration detention centers, these measures are largely infeasible.  
17 Decl. of Dr. Carlos Franco-Paredes (“Franco-Paredes Decl.”) at 1, Dkt. 81-12.

18 Despite this risk, ICE's current COVID-19 protocols do not meet even the  
19 minimum recommendations of the Centers for Disease and Prevention. *See Meyers*  
20 Decl. ¶ 14. Conditions in ICE detention centers have created “tinderboxes” for  
21 COVID-19 outbreaks. Franco-Paredes Decl. at 1. When a COVID-19 outbreak  
22 does occur in ICE detention, immigrants with risk factors—those above 55 years of  
23 age or with certain underlying medical conditions—are significantly more likely to

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24 <sup>2</sup> *See, e.g., V.D. v. State*, 403 F. Supp. 3d 76, 90 n.7 (E.D.N.Y. 2019) (public  
25 interest favored enforcement of mandatory vaccination law, which served to protect  
26 “vulnerable people” and mitigated the “risk of continued [measles] outbreaks”);  
*Scott v. Benson*, No. 13-cv-4028, 2013 WL 6499258, at \*8 (N.D. Iowa Dec. 11,  
2013) (recognizing public interest in “stopping the spread of highly communicable,  
27 dangerous, diseases”).

28 <sup>3</sup> *See* Ctrs. for Disease Control & Prevention, *Coronavirus Disease 2019 (COVID-19), Situation Summary*, <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html> (last updated Apr. 7, 2020).

1 develop serious or fatal cases. *Id.* at 2. The broader community will also suffer as  
2 local health resources become overwhelmed. *Id.* at 7. Given that ICE detention  
3 centers have already reported over a dozen COVID-19 cases,<sup>4</sup> *amici* urge this Court  
4 take immediate action to require ICE to implement proper COVID-19 protocols and  
5 release immigrants who are particularly at risk.

6 **1. Conditions at ICE Detention Centers Present a Dangerous**  
7 **Risk to Immigrants’ and the Public’s Health.**

8 ICE detention centers are dangerously vulnerable to a COVID-19 outbreak.  
9 As congregate settings where people live in close proximity, “[d]etention facilities  
10 are designed to force close contact between people and rely on massive amounts of  
11 movement every day.” Decl. of Homer Venters in Supp. of Mot. for Prelim. Inj.  
12 and Class Certification (“Venters Decl.”) ¶ 9, Dkt. 81-11. Aggravating this, ICE  
13 detention centers are significantly overcrowded, in cases forcing dozens of  
14 immigrants to share a single cell. *See* Patricia Clarembaux & Andrea Patiño, *No*  
15 *Tests or Masks, Plus Overcrowded Facilities: ICE Confirms First Case of*  
16 *Coronavirus and Detainees Say They Feel Unprotected*, Univision News (Mar. 27,  
17 2020), <https://tinyurl.com/uecd6pq>. In these settings, limiting person-to-person  
18 interaction to slow the spread of COVID-19 (“social distancing”) is infeasible.

19 Creating additional dangers, ICE detention centers have deprived immigrants  
20 of basic hygiene and sanitary necessities, such as soap and toilet paper. *See, e.g.,*  
21 *Dara Lind, ICE Detainee Says Migrants Are Going on a Hunger Strike for Soap*,  
22 *ProPublica* (Mar. 23, 2020), <https://tinyurl.com/yx5qztuh>; *DWN, Courting*  
23 *Catastrophe: How ICE is Gambling With Immigrant Lives Amid a Global*  
24 *Pandemic 2* (Mar. 2020), available at <https://tinyurl.com/r6xqpuc>. Detention  
25 centers often lack operable sinks or otherwise ration the amount of water available

26 \_\_\_\_\_  
27 <sup>4</sup> *See* Immigration & Customs Enforcement, *ICE Guidance on COVID-19,*  
28 *Confirmed Cases*, <https://www.ice.gov/coronavirus> (last updated Apr. 9, 2020)  
(reporting 19 COVID-19 cases among immigrants in detention as well as 11 cases  
among ICE employees who work in detention centers).

1 for hand-washing. Venters Decl. ¶ 11. Lack of sanitary resources makes adequate  
2 hygiene “very difficult, if not impossible” for immigrants in detention. *Id.*

3 The combination of excessive overcrowding and meager sanitary resources  
4 predisposes ICE detention centers to outbreaks of communicable diseases,  
5 including COVID-19. Immigration detention centers frequently experience  
6 outbreaks of communicable diseases; as *amicus* DWN and nearly 800 partner  
7 organizations recently noted in a letter to ICE’s Acting Director, “[o]utbreaks of  
8 mumps, scabies, and other highly contagious diseases have been documented to  
9 spread aggressively in detention facilities.”<sup>5</sup> Not only that, ICE detention centers  
10 exhibit higher rates of transmission and fatality than the general public: last year,  
11 the flu mortality rate for immigrant children in detention was *nine times* that of the  
12 general population of children.<sup>6</sup> Given that COVID-19 is both more contagious and  
13 more deadly than the flu, experts expect COVID-19 outbreaks in ICE detention  
14 centers to take “exponential proportions.” Franco-Paredes Decl. at 1.

15 A COVID-19 outbreak in an ICE detention center would put all immigrants  
16 at risk, but would especially imperil immigrants over the age of 55 or with certain  
17 pre-existing health conditions. Age is a significant predictor of the severity of  
18 COVID-19, with individuals over 65 accounting for 80 percent of COVID-19  
19 fatalities in the United States. *Id.* at 4. Individuals with certain underlying medical

20  
21 <sup>5</sup> See DWN, Mar. 19, 2020 Ltr. to ICE Acting Director Matthew T. Albence at 1,  
22 available at <https://tinyurl.com/te5n5xz>. The mumps outbreak is illustrative of how  
23 quickly COVID-19 could spiral out of control. In October 2018, there were five  
24 confirmed mumps cases in two ICE detention centers; ten months later, there were  
25 898 cases in 57 facilities. DWN, *Courting Catastrophe*, *supra*, at 3. In a published  
report, the CDC found that 84 percent of affected immigrants were exposed to the  
disease while in ICE custody. *Id.*; see Jessica Leung et al., *Mumps in Detention  
Facilities That House Detained Migrants—United States, September 2018–August  
2019*, 68 *Morbidity & Mortality Weekly Rep.* 749, 749 (2019), available at  
<https://www.cdc.gov/mmwr/volumes/68/wr/pdfs/mm6834a4-H.pdf>.

26 <sup>6</sup> See Molly Hennessy-Fiske, *After Child Deaths, Doctors Pressure Border Control*  
27 *To Let Them Administer Flu Vaccines*, L.A. Times (Nov. 19, 2019),  
28 <https://tinyurl.com/ss5r5mr>; Priscilla Alvarez, *5,200 People in ICE Custody  
Quarantined for Exposure to Mumps or Chicken Pox*, CNN (June 14, 2019),  
<https://tinyurl.com/y6j3ep6w>.

1 conditions—such as cardiovascular disease, chronic respiratory disease, cancer,  
2 autoimmune disease, diabetes, and high blood pressure—face a high risk of death  
3 regardless of age. *Id.* at 3.

4 A COVID-19 outbreak in an ICE detention center would not only put  
5 immigrants in detention at risk, but would endanger public health at large.  
6 Immigrants who develop severe cases of COVID-19, particularly individuals at risk  
7 from age or pre-existing condition, would require advanced support. *Id.* at 6–7. If  
8 a large number of immigrants required advanced support at once, this would  
9 overwhelm local healthcare resources, which could be particularly devastating to  
10 the rural and semirural settings where many ICE detention centers are located. *Id.*  
11 at 7. The threat of a COVID-19 outbreak in detention affects everyone.

## 12 **2. ICE’s Response to COVID-19 is Inadequate to Protect** 13 **Immigrants’ and the Public’s Health.**

14 Despite the high risk of a COVID-19 outbreak in its detention centers, ICE  
15 has failed to adopt adequate measures to protect immigrants in detention or the  
16 public. Over two weeks ago, the CDC released interim guidance for the  
17 management of COVID-19 in detention facilities, acknowledging that detention  
18 settings present “unique challenges for the control of COVID-19 transmission.”<sup>7</sup>  
19 The CDC recommends that, among other measures, detention facilities must:

- 20 • Ensure sufficient stocks of hygiene supplies, such as soap, running  
21 water, and hand sanitizer, so that individuals in detention can  
22 frequently wash their hands.
- 23 • Implement social distancing strategies to the extent possible.
- 24 • Perform daily verbal screening of staff upon entry to the facility.
- 25 • Develop a plan to isolate, evaluate, test, and care for individuals with  
26 suspected COVID-19 cases.

27 <sup>7</sup> Ctrs. for Disease Control & Prevention, *Interim Guidance on Management of*  
28 *Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*  
(Mar. 23, 2020), [https://www.cdc.gov/coronavirus/2019-ncov/community/  
correction-detention/guidance-correctional-detention.html](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html).

- 1 • Provide face masks to individuals who show symptoms of COVID-19.
- 2 • Plan to prioritize for treatment individuals who are particularly at risk
- 3 from COVID-19.
- 4 • Create a plan for operating at surge capacity with staff shortages.
- 5 • Identify alternatives to in-person court appearances.<sup>8</sup>

6 As the risk from COVID-19 continues to grow, ICE has refused to adopt  
7 even these minimum protocol for safety in detention centers recommended by the  
8 CDC. Instead, ICE has issued its own guidance for health protocols in detention  
9 facilities that fails to implement basic infection control measures. *See* Immigration  
10 & Customs Enforcement, *ICE Guidance on COVID-19: Overview & FAQs*,  
11 <https://www.ice.gov/coronavirus>. For example, ICE’s guidance fails to provide for  
12 access to hand sanitizer or protective masks for individuals with symptoms, fails to  
13 include a plan for surge capacity needs or staff decreases, fails to elaborate  
14 guidelines for testing or monitoring of staff or individuals showing symptoms, fails  
15 to contemplate care for particularly at-risk individuals, and fails to consider  
16 alternatives to in-person court appearances. *See id.*; *see also* Venters Decl. ¶ 14.

17 Reports from inside detention centers show that ICE is not implementing  
18 even its own guidelines, let alone the minimum protocol recommended by the  
19 CDC. First-hand accounts indicate that ICE is not giving immigrants access to  
20 soap, paper towels, or operable sinks for handwashing; is not screening individuals  
21 with symptoms of COVID-19; has failed to enact social distancing strategies; and  
22 continues with in-person removal proceedings. Venters Decl. ¶ 20.<sup>9</sup> Scared for  
23 their lives, immigrants in detention have resorted to hunger strikes in a plea for soap  
24 and toilet paper. *See* Lind, *ICE Detainee Says Migrants Are Going on a Hunger*

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25  
26 <sup>8</sup> *Id.*

27 <sup>9</sup> *See also* Lind, *ICE Detainee Says Migrants Are Going on a Hunger Strike for*  
*Soap, supra*; Dara Lind, *Immigration Courts Are Telling Employees To Come to*  
28 *Work—Ignoring Health Risks and Local Shelter-in-Place Orders*, ProPublica (Mar.  
20, 2020), <https://tinyurl.com/ru8ulaw>.

1 *Strike for Soap, supra.*

2 Because ICE’s lack of action has put the health of immigrants in detention  
3 and the general public at risk, the public interest favors immediate injunctive relief.  
4 Providing individuals in detention with protection from communicable diseases  
5 safeguards not only their health, but also the health of the community at large. *See,*  
6 *e.g., Hoffer v. Jones*, 290 F. Supp. 3d 1292, 1304-05 (N.D. Fla. 2017) (granting a  
7 preliminary injunction ordering state to provide individuals in detention with  
8 treatment for Hepatitis C virus); *Hernandez v. Cty. of Monterey*, 110 F. Supp. 3d  
9 929, 958 (N.D. Cal. 2015) (granting preliminary injunction ordering county to take  
10 steps to screen and treat individuals in detention for tuberculosis). At minimum,  
11 the public interest favors screening individuals in detention for communicable  
12 diseases and providing them with adequate treatment for these diseases. *See*  
13 *Hernandez*, 110 F. Supp. 3d at 958. Yet, ICE is not even implementing minimum  
14 preventative safeguards to protect immigrants in detention or the public from  
15 COVID-19. *Amici* join Plaintiffs in urging this Court to order that ICE reevaluate  
16 health protocol in its detention centers to ensure compliance with all of the CDC’s  
17 recommendations for congregate settings.

18 **3. In Order to Protect Immigrants’ and the Public’s Health,**  
19 **Release of Immigrants Particularly At Risk From**  
20 **COVID-19 is Necessary.**

21 Even with stronger health protocols, certain immigrants in detention will  
22 remain particularly at risk from COVID-19. A growing number of courts  
23 (including in the Central District of California) have recognized that, in light of the  
24 “highly unusual circumstances” presented by COVID-19, the public interest  
25 requires the release of immigrants in detention who are particularly at risk because  
26 of their age or underlying medical condition. *See Basank v. Decker*, No. 1:20-cv-  
27 02518, — F. Supp. 3d —, 2020 WL 1481503, at \*6 (S.D.N.Y. Mar. 26, 2020); *see*  
28 *also, e.g., Coronel v. Decker*, No. 1:20-c-02472, — F. Supp. 3d —, 2020 WL  
1487274, at \*7 (S.D.N.Y. Mar. 27, 2020); *Castillo v. Barr*, No. 5:20-cv-00605, —



1 F. Supp. 3d —, 2020 WL 1502864, at \*6 (C.D. Cal. Mar. 27, 2020). Reducing the  
2 number of individuals in unsafe, confined conditions can reduce the transmission  
3 rate of COVID-19—both inside of ICE detention facilities and within the  
4 surrounding communities. *See Basank*, 2020 WL 1481503, at \*6.

5 Prioritizing the release of particularly at-risk individuals will preserve public  
6 health resources that would otherwise be strained if these individuals contracted  
7 COVID-19 in detention. *See Coronel*, 2020 WL 1487274, at \*7. As Judge Terry J.  
8 Hatter Jr. stated less than two weeks ago, the immediate release of at-risk  
9 immigrants is “absolutely in the public’s best interest,” because “[a]n outbreak at  
10 [an ICE detention facility] would . . . endanger all of us—[immigrant] detainees,  
11 [center] employees, residents of [the] County, residents of the State . . . , and our  
12 nation as a whole.” *Castillo*, 2020 WL 1502864, at \*6. *Amici* urge this Court to  
13 order the relief that the public requires in this time of crisis: the identification and  
14 release of all immigrants in detention with risk factors for COVID-19.<sup>10</sup>

15 **B. A Nationwide Network of Nonprofit Organizations is Prepared to**  
16 **Ensure That Immigrants’ Integration Into the Community Is**  
**Executed Consistently With the Public Interest.**

17 **1. Immigrants Released From Detention Will Be Able to Safely**  
18 **Integrate Into Their Communities.**

19 Across the nation, nonprofit organizations provide necessary and supportive  
20 services to immigrants in detention as well as post-release. These organizations  
21 have infrastructure in place to provide these services, and will provide these  
22 services should this Court order the release of at-risk immigrants. Already,  
23

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24 <sup>10</sup> Although ICE is beginning to identify immigrants in detention who are  
25 particularly at risk from COVID-19 due to age or pre-existing health conditions,  
ICE will only consider these risks as a “discretionary factor weighing in favor of  
26 release.” Defs.’ Suppl. Submission in Supp. of Opp. to Prelim. Inj. Mot. at 2, *Mons*  
27 *v. McAleenan*, No. 1:19-cv-01593-JEB (D.D.C., Apr. 9, 2020), ECF No. 66. This  
28 rapidly escalating crisis demands more than half measures. It is in the public  
interest that all immigrants in detention who are particularly at risk from  
COVID-19 be released within 48 hours if medically necessary safeguards cannot be  
provided, as Plaintiffs request.

1 organizations from coast to coast, including *amici*, are having discussions and  
2 developing protocols to provide post-release services in a way that protects the  
3 health of immigrants, volunteers, and the broader community during the COVID-19  
4 crisis.<sup>11</sup> Recognizing that the release of immigrants vulnerable to COVID-19 is  
5 necessary for the protection of everyone in our communities, nonprofit  
6 organizations like *amici* are committed to delivering post-release services in a way  
7 that continues to serve the public interest.

8 **a. Nonprofit Organizations Like *Amici* Support**  
9 **Immigrants' Integration Into Their Communities.**

10 *Amici* and their partner organizations' investment in building relationships  
11 with immigrants begins when they are still in ICE detention. *Amici* FFI and First  
12 Friends, for instance, have built volunteer visitation networks and maintain national  
13 hotlines for immigrants in detention to report on conditions they face. FFI  
14 coordinates community volunteer visits in over 30 states to hundreds of detention  
15 facilities. FFI and First Friends record the information received to facilitate further  
16 community involvement and local and national advocacy efforts. These early  
17 contacts ensure that immigrants in detention and community members build a  
18 foundation for mutual support.

19 These relationships give organizations insight into release policies at  
20 detention centers, so that volunteers can be ready to provide immediate support.  
21 *Amici* First Friends, El Refugio, and Casa de Paz, for instance, hear directly from  
22 local detention centers about whether and when individuals will be released. Casa  
23 de Paz even has volunteers present at the Aurora ICE Detention Facility every  
24 weekday at five o'clock P.M. to meet with any released immigrants.

25  
26 <sup>11</sup> While *amici* and their sister organizations stand at the ready to assist immigrants  
27 upon release, nothing in this brief should be construed as diminishing ICE's own  
28 responsibility to ensure the safety of immigrants in its custody, or as endorsing the  
notion that ICE can transfer responsibility for mitigating the effects of its own  
negligence and misconduct to private organizations.

1 In the vast majority of cases, immigrants released from detention return to  
2 live with family or other loved ones in the United States while legal proceedings  
3 play out. In 2019, for example, *amicus* Casa de Paz assisted 1,179 immigrants who  
4 were released from the ICE detention facility in Aurora, Colorado; over 98 percent  
5 resettled with family members or loved ones. (Casa de Paz helped the remaining 10  
6 to 15 immigrants resettle in the Denver area.) And so, the task of nonprofit  
7 organizations like *amici* is most often to reunite immigrants with loved ones so that  
8 they can reconnect to strong, existing networks of support. Returning immigrants  
9 to the care of their families is in the best interests of all, as it dramatically improves  
10 immigrants' and their families' quality of life—and, in current circumstances,  
11 allows immigrants with risk factors for COVID-19 to safely social distance.

12 Once immigrants are released from ICE custody, *amici* and their partner  
13 organizations work to ease the transition from detention to community membership.  
14 Volunteers meet immigrants at ICE facilities, offering them food, clothes, toiletries,  
15 backpacks, and other essentials, while helping to make travel arrangements so that  
16 the immigrants can be reunited with family members or close contacts. *Amici* may  
17 also subsidize plane or bus fare when individuals or their families do not have the  
18 means. The following services are illustrative:

- 19 • El Refugio covers travel expenses for immigrants who cannot afford  
20 them.
- 21 • First Friends provides immigrants with local transportation and, for  
22 those not from the area, with bus tickets to their final destinations.
- 23 • Casa de Paz helps immigrants make travel arrangements and can cover  
24 flights through a partner organization Miles for Migrants, which uses  
25 donated frequent flyer miles to purchase plane tickets for immigrants  
26 released from detention.
- 27 • FFI regularly covers travel expenses and, in 2018, raised funds to  
28 purchase 21 flights and bus trips to reunite people with their families  
across the country following a mass release.
- CLUE Justice makes travel arrangements for immigrants, offers  
volunteer accompaniment, and at times subsidizes travel fares.

1           *Amici* also coordinate volunteers to accompany immigrants to bus stations  
2 and airports. For instance, FFI and Casa de Paz volunteers shuttle immigrants to  
3 the airport, help them check into their flights, accompany them to the gate via a  
4 companion pass, explain any airport and travel logistics, and confirm plans for  
5 reuniting with contacts upon arrival. These measures ensure that immigrants arrive  
6 safely at their final destinations and reunite with loved ones.

7           For those who cannot immediately reunite with loved ones, nonprofit  
8 organizations provide other services to help immigrants transition into local  
9 communities. For example, *amici* and sister organizations provide recently released  
10 immigrants with housing, financial aid, employment assistance, and other support,  
11 and connect immigrants with fellow organizations for additional care. *Amici*  
12 coordinate with volunteers, churches, and community groups to provide local  
13 housing for immigrants upon release, even occasionally putting them up in hotels.  
14 *Amici* also connect immigrants to legal services organizations to help them seek  
15 representation from pro bono attorneys. Some organizations, like *amicus* CWS, an  
16 immigrant and refugee “resettlement agency,” provide longer-term support: CWS  
17 helps immigrants look for permanent housing, access public benefits, prepare  
18 resumes, find occupational training programs, and open bank accounts, among  
19 other services. Similarly, *amicus* CLUE Justice draws on its network of thousands  
20 of faith leaders and advocates to connect immigrants with supportive housing, job  
21 training programs, and case management resources.

22           These supportive services represent just a snapshot of the work that is being  
23 done throughout the country. Immigrants have a strong network of loved ones and  
24 community organizations that are ready to help them post-release. Drawing on  
25 these networks of support and infrastructure already in place, immigrants can  
26 transition into communities in a manner that continues to serve the public interest.

27  
28

1                                   **b. Nonprofit Organizations, Including *Amici*, Continue**  
2                                   **to Provide Post-Release Support With Heightened**  
3                                   **Health and Safety Protocols in Place.**

4           Nonprofit organizations recognize that supporting immigrants’ transition  
5 from detention into communities is especially imperative in light of the COVID-19  
6 public health crisis. It is safer for immigrants and the public alike for ICE to release  
7 vulnerable individuals from detention, and equally important to facilitate safe  
8 release with continued services. Around the country, advocacy groups, religious  
9 congregations, and community organizers have developed support plans to provide  
10 services in a way that protects the health of immigrants and volunteers.

11           Volunteers and public-interest groups are working together to create and  
12 share plans for providing post-release services in the midst of the COVID-19  
13 pandemic. *Amici* have been in regular contact with their staff, volunteers, and  
14 partners, advising them of new measures and precautions in the current climate.  
15 FFI, for example, has surveyed its volunteers and partner organizations to develop a  
16 centralized catalog of resources that can be marshaled nationwide to support  
17 immigrants released during COVID-19. First Friends has been working with the  
18 local government groups to request medical information on released immigrants to  
19 promote safe practices and public health. CWS has coordinated with Refugee  
20 Council USA and its nationwide network of refugee resettlement agencies to share  
21 COVID-19-related guidance and developments. And CLUE Justice is working  
22 throughout Los Angeles County to identify unused spaces that can be converted to  
23 supportive housing for immigrants released during COVID-19.

24           The COVID-19 crisis has only increased the degree of collaboration among  
25 nonprofits. For example, *amicus* DWN has shared a COVID-19 “toolkit” guide to  
26 help activists, legal service providers, and grassroots organizations advocate for the  
27 release of immigrants in detention and support their integration into the community.  
28 *See* DWN, *#FreeThemAll: Toolkit to Support Local Demands for Mass Release of*  
*People in ICE Custody* (2020), available at <https://tinyurl.com/rmcvq53>. In this

1 toolkit, DWN helps organizations assess their resources and develop targeted  
2 strategies to help immigrants released from ICE custody integrate in their  
3 communities. *Id.* at 13–14. DWN’s materials offer best practices in developing a  
4 COVID-19 community release response plan. *Id.* And DWN instructs its members  
5 to pool knowledge and resources—namely, basic prevention supplies, emergency  
6 housing opportunities, medical assistance, and community financial support  
7 funds—to be prepared to support detained people immediately upon release. *Id.*  
8 The toolkit also contains an array of COVID-19-specific resources to help DWN  
9 members respond to the current public health crisis. *See generally id.*

10 Individual organizations are already taking new steps to provide post-release  
11 services in a manner that is consistent with the CDC’s recommendations for public  
12 health and safety in the COVID-19 crisis. Casa de Paz, for example, has put in  
13 place extra precautions to protect public health during the reunification of  
14 immigrants with their families. Instead of having volunteers wait in person at the  
15 Aurora ICE Detention Facility, Casa de Paz now has 50 to 60 volunteers on-call  
16 daily to help released immigrants. Upon release, each immigrant is paired with one  
17 in-person volunteer and another offering remote support (arranging travel,  
18 conveying confirmation numbers, and so on). For accompaniment to the airport,  
19 Casa de Paz supplies in-person volunteers and released immigrants with four sets of  
20 gloves and masks, which are changed with each new setting. Volunteers utilize  
21 speakerphone so immigrants can talk hands-free when contacting family members.  
22 Immigrants load and unload all of their belongings into the volunteer’s car  
23 themselves to avoid contact with multiple people, and Casa de Paz leaves any  
24 required supplies on its doorstep to be collected en route to the airport.

25 These revised protocols demonstrate that community-based organizations  
26 stand at the ready to provide essential post-release services to immigrants, even in  
27 the face of COVID-19.

28

1                                    **c.     Nonprofit Organizations Are Prepared to**  
2                                    **Accommodate Mass Releases of Immigrants.**

3             If the Court orders ICE to release immigrants in detention who are  
4 particularly at risk from COVID-19, a nationwide network of volunteers, churches,  
5 and nonprofits is ready to mobilize and meet the increased demand for services.  
6 Many groups already have procedures in place for providing post-release services  
7 in the event of a sudden mass release. For example, just two years ago, FFI  
8 provided support when the Contra Costa Sheriff's Office ended the ICE contract in  
9 West County Detention Facility in Richmond, California. *See* FFI, *Statement on*  
10 *Contra Costa County Sheriff's Decision To Terminate ICE Contract at West*  
11 *County Detention Facility* (July 10, 2018), <https://tinyurl.com/yx7q7coh>. The  
12 facility was closed following financial difficulties and public outrage over reports  
13 of human and civil rights violations, and, with little to no warning to detained  
14 persons and affected communities, ICE began transferring immigrants to the county  
15 jail and other correctional institutions far from their families. *See* FFI, *Contra*  
16 *Costa County Community Fund*, [https://www.freedomforimmigrants.org/](https://www.freedomforimmigrants.org/community-fund)  
17 [community-fund](https://www.freedomforimmigrants.org/community-fund). FFI quickly mobilized and coordinated with legal services  
18 organizations to obtain release for transferred detained persons. *Id.* After raising  
19 over \$236,000, FFI paid for bonds, made direct support grants to families with  
20 loved ones not eligible for bond, and, most significantly, arranged travel to reunite  
21 released detained people with their families across the country. *Id.*

22             Organizations that have not had prior experience providing post-release  
23 services during mass releases are quickly adapting to develop this capacity. For  
24 instance, Casa de Paz has marshaled 2,100 trained volunteers and \$30,000 cash  
25 reserves, sufficient to buy all 600 immigrants at the Aurora ICE Detention Facility  
26 plane tickets upon release. In late March, Casa de Paz mobilized 120 volunteers in  
27 24 hours to help 60 immigrants it expected to be released in one evening (only 16  
28 were actually released). Though different organizations may have different levels

1 of experience with mass release scenarios, they are preparing because they realize  
2 that mass release would be in immigrants’ and the public’s best interest.

3 **2. ICE’s Objections to Releasing Immigrants From Detention**  
4 **Are Unsubstantiated.**

5 ICE claims that curtailing “flight risk” is a compelling public interest that  
6 justifies keeping people with risk factors for COVID-19 in unsafe facilities. Defs.’  
7 Opp. to Pls.’ Emergency Mot. for Prelim. Inj. (“ICE Opp.”) at 31–32, Dkt. 95. This  
8 is not the first time ICE has suggested that migrants will abscond the moment they  
9 are released,<sup>12</sup> but, again, ICE does not offer any evidence that immigrants are  
10 unlikely to show up for court dates if not detained.<sup>13</sup> See ICE Opp. at 31–32. ICE’s  
11 presumption is not borne out by data—or by *amici*’s experience.

12 Immigrants who are not in detention overwhelmingly show up for court.  
13 According to a 2019 study by the American Immigration Council, in the past  
14 decade, the Government filed 1.97 million immigration court cases against  
15 undetained individuals. Am. Immigration Council, *Immigrants and Families*  
16 *Appear in Court: Setting the Record Straight 2* (July 30, 2019), available at  
17 <https://tinyurl.com/s376vc7>. There was at least one hearing in 1.8 million of those  
18 cases. *Id.* The Council found that in about 1.5 million cases, the respondent  
19 showed up to *every* hearing—adding up to an overall appearance rate of 83 percent.  
20 *Id.* The data are even more impressive when whole families are released from  
21 detention; they had an 86 percent appearance rate from 2001 to 2016. *Id.*  
22 Undetained immigrants’ appearance rate jumps to **97 percent** when they are  
23 represented by counsel. *Id.* In the year 2018, “in absentia” removal orders were  
24 issued in just four percent (46,051 of 1,108,632) of pending cases. *Id.* at 6. As the

25 <sup>12</sup> See, e.g., Resps.’ Opp. to Pet. for Writ of *Habeas Corpus* & Mot. for TRO and/or  
26 Prelim. Inj. at 32, *Thakker v. Doll*, No. 1:CV-20-0480 (M.D. Pa. Mar. 29, 2020),  
27 ECF No. 35 (“preventing aliens from absconding and ensuring that they appear for  
removal proceedings is a legitimate governmental objective”).

28 <sup>13</sup> See, e.g., *Coronel*, 2020 WL 1487274, at \*8 (noting that “[t]he Government has  
offered no evidence that Petitioners pose a risk of flight”).



1 Council concluded, “there is little evidence for the government’s frequent assertion  
2 that detention is necessary to ensure appearance in court.” *Id.* at 7.

3 Immigrants’ court attendance records are similarly high when you isolate  
4 asylum seekers. As reported by Human Rights First, the Department of Justice’s  
5 own statistics reflect that 92 percent of asylum seekers appeared in court to receive  
6 a final decision on their claims between 2013 and 2017. *See* Human Rights First,  
7 *FACT CHECK: Asylum Seekers Regularly Attend Immigration Court Hearings*  
8 (Jan. 25, 2019), <https://tinyurl.com/y5j3mocs>. In fiscal year 2018, asylum seekers  
9 released from detention had a **98.5 percent** court hearing compliance rate. *Id.*  
10 Released immigrants do not pose a flight risk.

11 Immigrants’ stellar court attendance is all the more remarkable considering  
12 the burdens placed upon them. A 2018 report by the Catholic Legal Immigration  
13 Network, Inc. (“CLINIC”) and the Asylum Seeker Advocacy Project of the Urban  
14 Justice Center (“ASAP”) found that structural and bureaucratic obstacles, such as  
15 confusing requirements, bewildering legal process, and government error, played a  
16 significant role in missed courts dates. *See* CLINIC & ASAP, *Denied a Day in*  
17 *Court: The Government’s Use of In Absentia Removal Orders Against Families*  
18 *Seeking Asylum* 27 (2019), available at <https://tinyurl.com/rosqqwr>. For example,  
19 any time a respondent moves, he or she must provide an updated address to **five**  
20 government entities (the immigration court, USCIS, ICE OCC, ICE ERO, and  
21 ISAP) using **three** different mediums (Form EOIR-33, Form AR-11, and oral or  
22 written notice). *Id.* at 17. These difficulties are compounded by ICE’s own errors.  
23 Reports indicate that the Government has at times neglected to inform immigrants  
24 of reporting requirements, issued notices with incorrect hearing dates, or given  
25 misleading or incorrect instructions. *Id.* at 18–21<sup>14</sup> Despite all this, immigrants not  
26

27 <sup>14</sup> Tellingly, between 2015 and 2018, CLINIC and ASAP successfully overturned *in*  
28 *absentia* removal orders in **all** of the cases they handled. CLINIC & ASAP, *Denied*  
*a Day in Court*, *supra*, at 17.

1 in detention still overwhelmingly make their court dates.

2 Public-interest organizations, including *amici* here, help ensure that  
3 immigrants understand their legal obligations and show up to court. Casa de Paz,  
4 El Refugio, First Friends, CWS, CLUE Justice, and their sister organizations  
5 around the country assist immigrants virtually from the minute they are released  
6 from ICE detention—helping them connect with family, find housing, and integrate  
7 into their communities. In addition to meeting material needs, these groups educate  
8 immigrants about the legal process. Drawing on their extensive knowledge of the  
9 obstacles immigrants face in navigating the legal process, *amici* provide guidance  
10 to immigrants and help connect them with legal aid groups to provide pro bono  
11 representation when possible. By way of example:

- 12 • DWN has helped prepare a number of resources for immigrants,  
13 community organizers, and lawyers alike offering guidance on how to  
14 handle the legal challenges of someone facing deportation. *See, e.g.,*  
15 *DWN et al., Deportation 101* (May 2010), *available at*  
16 <https://tinyurl.com/vygxq4g>.
- 17 • Casa de Paz dispatches volunteers to the Aurora, Colorado ICE facility  
18 five days per week to answer released immigrants’ questions.
- 19 • FFI educates immigrants about legal requirements and offers post-  
20 release case management services.
- 21 • CWS offers broad case management services to help immigrants gain  
22 permanent status in the United States. CWS helps immigrants  
23 properly complete all required paperwork, encourages them to attend  
24 all court hearings, and can refer them to pro se assistance programs.
- 25 • CLUE Justice not only connects immigrants with pro bono attorneys,  
26 but also coordinates for volunteers to accompany immigrants to their  
27 hearings.

28 These are merely illustrative of the kinds of services that community-based  
organizations offer to immigrants around the country.

ICE’s additional concern that immigrants will present a “danger” to  
communities if released from detention is also unsubstantiated. ICE Opp. at 27, 31.

1 In fact, this argument has been proven to be a myth.<sup>15</sup> As previously discussed, it is  
2 *amici*'s experience that upon release, immigrants make every effort to reunite with  
3 loved ones and build supportive communities in this country. The notion that they  
4 are generally a "danger" to the community is false.

5 ICE's unsubstantiated arguments of "flight risk" and "dangerousness" cannot  
6 outweigh the public interest in releasing at-risk individuals from civil detention to  
7 help contain spread of this deadly pandemic.

## 8 **V. CONCLUSION**

9 To best serve the public interest in this extraordinary time, *amici* respectfully  
10 urge the Court to grant Plaintiffs' motion for a preliminary injunction.

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27 <sup>15</sup> See, e.g., Anna Flagg, *The Myth of the Criminal Immigrant*, N.Y. Times (Mar.  
28 30, 2018), <https://www.nytimes.com/interactive/2018/03/30/upshot/crime-immigration-myth.html>.

1 Dated: April 9, 2020  
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3

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