

**DECLARATION OF LAURA ST. JOHN,
FLORENCE IMMIGRANT & REFUGEE RIGHTS PROJECT**

I, Laura St. John, make the following declaration based on my personal knowledge and declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct.

1. I am a licensed attorney and a member in good standing in both the California and Arizona bars. I am currently employed as the legal director of the Florence Immigrant & Refugee Rights Project (“Florence Project” or “FIRRP”). I have practiced as an immigration attorney with FIRRP since March 2011.
2. Founded in 1989, FIRRP is a 501(c)(3) non-profit law firm that is dedicated to providing free legal and social services to the thousands of adults and children detained in immigration custody in Arizona on any given day. As the only 501(c)(3) non-profit organization in Arizona dedicated to providing free legal services to people in immigration detention, our vision is to ensure that every person in detention has access to counsel, understands their rights under the law, and is treated fairly and humanely.
3. I have practiced as an immigration attorney in Arizona with FIRRP for over a decade. Within FIRRP, I have worked as a staff attorney, managing attorney, and legal director providing free legal services to adults who are detained in Immigration and Customs Enforcement (“ICE”) custody in Florence and Eloy, Arizona. I have served in my current position as legal director since December 2015. During my time at FIRRP, I have personally provided free legal services, both direct representation and pro se support, to hundreds of individuals held in ICE custody at the Central Arizona Florence Correctional Complex (“Florence Correctional Center” “Florence” or “FCC”), located at 1100 Bowling Rd., Florence, Arizona. Additionally, as a managing attorney and legal director I have supervised attorneys, legal assistants, and social workers who have provided free legal services, both direct representation and pro se support, to thousands of individuals held in custody at FCC.

I. Florence Project’s Mission and Scope

4. FIRRP provides high-quality immigration legal services and education to the thousands of people detained in immigration custody in Arizona every year. Our attorneys and legal assistants provide detailed legal orientation and technical support to thousands of detained *pro se* respondents each year, including group orientations and workshops that enable people to represent themselves in bond hearings, parole requests, credible and reasonable fear interviews and reviews, and removal proceedings.
5. Our attorneys represent hundreds of clients each year, focusing primarily on immigrants who are held in geographically isolated detention centers in Eloy and Florence, Arizona. FIRRP staff provide free legal services in the form of pro se orientation, workshops, pro bono screenings, and other pro se support each year to thousands more. Our staff provide free legal services and representation before immigration courts, Board of Immigration

Appeals (“BIA”), and federal courts. Our services include all matters relevant to detained individuals before the immigration agency including bond proceedings, requests for parole, petitions for release from detention due to COVID-19 medical vulnerability, expedited removal, credible fear interviews, reasonable fear interviews, and removal defense. FIRRP has also represented detained people in challenges to conditions of confinement through civil litigation in federal district court, including for failure to provide adequate safeguards to the COVID-19 pandemic, complaints regarding conditions of confinement with the Department of Homeland Security’s Office of Civil Rights and Civil Liberties and other oversight agencies, and federal habeas corpus and mandamus petitions. We also partner with other organizations bringing federal litigation to identify individuals impacted by unlawful government practices and facilitate their participation in such lawsuits. In 2021 alone, FIRRP’s adult program directly represented 249 people who are or were detained in Arizona’s ICE detention centers.

6. FIRRP also provides representation before U.S. Citizenship and Immigration Services (“USCIS”) for family-based petitions for individuals who are eligible to adjust status before the immigration judge (“IJ”), U-visas for victims of crime, T-visas for victims of trafficking, and Special Immigrant Juvenile Status (“SIJS”) for unaccompanied minors who qualify to seek such relief under the Trafficking Victims Protection and Reauthorization Act (TVPRA). FIRRP attorneys also serve as appointed counsel for individuals deemed mentally incompetent to represent themselves in removal proceedings and, working with support from our legal assistants and social workers, maintain a caseload of just over one hundred such clients throughout Arizona under the National Qualified Representative Program (“NQRP”).
7. FIRRP maintains a staff of more than 150 attorneys, legal assistants, social workers, and support staff dedicated to providing legal and social services to the approximately five thousand detained adults and children in Arizona on any given day. Our adult program provides services to adults in Arizona’s ICE detention facilities. FCC is one of the three currently operational ICE detention facilities in Arizona. Our adult program staff who work regularly in the ICE detention facilities is comprised of approximately 30 attorneys, 2 BIA accredited representatives, 20 legal assistants, and 6 social workers. Our staff are based in main offices located in Phoenix, Tucson, and a small administrative office in Florence, Arizona.
8. FIRRP also has a robust *pro bono* program that places numerous cases with volunteer attorneys. In 2021, FIRRP placed nearly 70 matters with volunteer attorneys and in 2020, FIRRP placed over 100 matters with volunteer attorneys.

II. Communication Barriers at the Florence Correctional Center

9. FIRRP provides *pro bono* representation to detained immigrants in ICE custody at FCC. The number of people detained by ICE at FCC has varied over time, but I believe that ICE maintains a capacity of between 450 to 1,000 beds at FCC at any given time, in addition to thousands of additional people held in U.S. Marshals custody in the same correctional complex. In 2022, from the beginning of the year through August 31, 2022,

FIRRP represented or provided free legal services to over 260 detained people at FCC. Indeed, over the past five years, FIRRP has provided free legal services to approximately 250 people, on average, at FCC annually. However, in 2020 and 2021, during the height of the COVID-19 pandemic, the numbers of clients we were able to serve were exceptionally low – only approximately 50 people in 2020 and approximately 180 people in 2021 – overwhelmingly due to the deeply flawed and insufficient systems in place for access to counsel through remote mechanisms at that facility.

10. FIRRP's ability to provide legal representation and free legal services to detained immigrants at FCC has been severely hampered by onerous limits placed on communication between attorneys and detained clients at the facility by phone, video-conference ("VTC"), in-person legal visitation, and mail. For example, current policies make it almost impossible for an attorney to call a detained client on the telephone at FCC. There is no way for a detained person to place a private and confidential call to an attorney from FCC. People held at FCC generally must use the phone banks in the housing units even for legal phone calls. These phone banks are in public spaces within the housing units and offer little to no privacy for sensitive legal calls. There is a "pro bono" telephone platform that is supposed to provide detained immigrants with free, confidential calls to their consulate, various government offices, and select legal service providers like FIRRP, but, as described below, that line is so difficult to navigate that many clients are never able to make calls.
11. There is no VTC program for people in ICE custody at FCC, unlike other facilities in Arizona. In-person legal visits at FCC take place between 8 a.m. and 4:30 p.m. in a single, large, but often crowded visitation room where tables are placed only feet apart, making it extremely difficult to hold a confidential conversation with a client. Attorneys are unable to use their cell phones during in-person legal visits and there is only one FCC phone made available to attorneys for interpretation upon request, which makes it difficult to call interpreters when needed.
12. There is no mechanism other than legal mail, such as a fax machine or email, to send or exchange documents with detained clients for review and signature. Legal mail is often severely delayed. Clients tell us that it can take two to three days to send mail from the facility and it takes an additional day to several days for FIRRP to receive the mail. In addition, the cost of postage can be prohibitive to detained clients, resulting in further delay and additional burdens on FIRRP who must either send pre-paid postage envelopes to detained individuals to complete the mailing, or have legal staff arrange for in person visits to collect legal documents directly from our clients.
13. These constraints have significantly affected FIRRP's ability to represent clients at FCC. First, these constraints affect FIRRP's ability to represent clients by increasing how much time is needed to prepare a case. Our attorneys estimate that these barriers can double the amount of time it takes to represent detained clients. Because of these communication barriers, attorneys are forced to conduct in-person visits for even the smallest aspect of case preparation, like checking minor details, asking a clarifying question, or confirming document receipt because there is no way to speak with detained clients on a private

phone call or VTC call. Attorneys who could otherwise complete intake interviews or brief legal visits via a private phone call or VTC call have no option but to visit the facility in person. This requires legal staff to delay other case work, including drafting documents and briefs, preparing for argument, or appearing in court.

14. FCC's geographic isolation further adds to the burden, as the facility is located approximately 70 miles from both Phoenix and Tucson, where all FIRRП attorneys are based. This distance adds two hours or more of driving round-trip, plus added time waiting to pass security and have the client brought to visitation, each time a FIRRП staff member conducts an in-person visit at FCC. FIRRП is likewise hampered in its ability to recruit volunteer pro bono attorneys able to represent detained clients at FCC given communication barriers and geographic isolation. As a result, FIRRП's ability to represent detained clients is severely constrained by FCC's policies, which ultimately reduces the total number of people that can receive our pro bono services.
15. Communication barriers at FCC also preclude FIRRП from representing detained people in urgent litigation and advocacy, including cases related to conditions of confinement. For example, FIRRП recently filed a federal lawsuit in U.S. District Court against ICE on behalf of medically vulnerable immigrants to raise issue with COVID-19 conditions at other Arizona ICE facilities. Based on reports from family members of detained people, we knew that conditions at FCC were dire. However, because of barriers that inhibit attorney-client communication, we were unable to reach medically vulnerable immigrants at FCC to discuss representation for the lawsuit. This not only affected FIRRП's ability to fulfill our mission and to conduct our work of representing detained immigrants, but also meant that medically vulnerable immigrants detained at FCC did not have the benefit of joining these lawsuits. In my experience, the vast majority of detained people, including our clients at FCC, are generally unable to bring federal lawsuits themselves, particularly because they may be new to the United States, may not be fluent in English, may lack deep knowledge of the legal system, and may not be present in the United States for the pendency of litigation. Some may also fear retaliation by ICE if they file a lawsuit.

III. Lack of Telephone Access at the Florence Correctional Center

16. It is virtually impossible for attorneys to use the telephone to communicate with detained clients at FCC. There is no way for attorneys to directly connect a call to a detained client at FCC at all, let alone on a phone in a confidential space on an unmonitored and unrecorded line. Nor is there a mechanism by which FCC helps facilitate pre-scheduled legal phone calls in a private, confidential space on an unmonitored line. Rather, attorneys must leave messages with FCC staff to pass along to detained individuals asking them to call the attorney back. The only way attorneys can speak to clients detained in FCC on the phone is if the client calls them from a phone in the common area in housing units.

A. The Client Message Delivery System Is Inadequate to Facilitate Attorney-Client Communication.

17. In order to communicate with detained immigrant clients at FCC by phone, legal staff must leave a message with the facility in a general voicemail box or send an email to the facility staff requesting that a detained client call them at a specified time and date. FIRR staff typically provide a message with the client's full name and Alien Number, the FIRR staff's name, organization, and phone number, as well as a preferred time and date for the client to call back. This message must be provided to the facility at least 24 hours in advance of the time we hope to receive a call from the client. We must then hope that a message is timely delivered to the detained client, and that the client is able to successfully place a phone call from their housing unit at the specified hour.
18. In our experience, legal staff must typically make several message requests before a detained client actually calls back from FCC. When we do hear back from clients, they often report that previous messages were either not timely delivered or not delivered at all. If clients call at a different time than that specified in the call-back request, the FIRR staff member who requested the call may not be available to speak because they may be on another call, visiting other clients at the facility, or in court. In some instances, clients who do not speak either English or Spanish may not be able to understand the message provided by the facility. To make matters worse, some detained clients lack funds to call FIRR staff and when they are finally able to connect to the pro bono platform for free, the calls drop frequently making it difficult for FIRR staff to collect relevant information.

B. Calls from Detained Clients Are Never Confidential, Are of Poor Quality and Limited in Duration, and Are Prohibitively Costly.

19. Calls that detained clients make from housing units, including those made to attorneys, are never confidential. Telephones are located in the common area of the housing unit within earshot of other detained people and FCC staff. No separate phones are provided for legal calls. Clients must make calls to counsel on one of the approximately four phones available in each housing unit. The phones are mounted on a wall or in a central phone bank in the common area of the housing unit. They are only approximately two to three feet apart. Other detained people standing nearby or waiting in line can typically overhear what is being said on the phone and our staff have reported hearing substantial background noise from the housing unit and other voices over the phone when they are able to connect with clients on the phone, leading them to conclude that the call was not private. Because the phones are located in a large, open space in the housing unit, it can be difficult for our staff to hear what a client is saying if they are speaking in a lowered voice or if there is ambient noise. Detained clients are often hesitant to share highly sensitive, confidential, and privileged topics in this setting. This lack of privacy can lead detained clients to decline to share details important to their cases. Our legal teams may thus have incomplete or inaccurate information. As a result, our staff must often spend substantial time conducting in-person follow up visits to obtain basic case information.

20. Calls also can be limited in duration for a number of reasons, including interference from other activities in the facility, such as meals or count; the client runs out of money to pay for the call; high demand for the phone lines from other detained people; guards instructing people to hang up; or because the phone line simply cuts off for unknown reasons – a particular problem FIRR staff have observed with clients who are calling through the pro bono platform. FIRR staff have experienced calls that repeatedly disconnect after 15 to 20 minutes for no discernable reason.
21. In addition, calls from FCC often have poor audio quality. There is also often significant ambient noise that makes communication very difficult.
22. COVID-19 pandemic restrictions also have reduced access to telephones for those in quarantined housing units. In quarantine, people have reduced access to telephones and may be given very little time outside of their cells—sometimes less than 20 minutes per day—to shower, or make any phone calls (including those to family and friends). In our experience, it is not unusual for housing units that have been placed on quarantine or cohort to undergo a lengthy series of extensions of the quarantine/cohort period due to failure to manage the spread of COVID within the facility and housing units. These “repeat quarantines” can undermine our ability to communicate with individuals who are in those housing units because they cannot be brought out of quarantine for in-person visits and we must rely solely on telephonic visitation with all of its issues as well as added barriers depending on the level of lockdown in the unit.
23. When clients are able to call FIRR from the housing unit, their calls are generally not free. There are three ways for detained people to make telephone calls at FCC. First, detained clients can pay for the call themselves. Depending on the type of call, a detained person at FCC must pay between \$.07 per minute to a U.S. landline, \$.11 per minute to a U.S. cell phone, \$.15 to an international landline, up to \$.22 to an international cell phone. These costs, however, can be prohibitively expensive, particularly for indigent clients. Moreover, a detained immigrant must set up an account and get a PIN to be able to make a phone call—a process that may take several days—before being able to pay for calls.

C. ICE’s “Pro Bono” Telephone Platform Is Faulty, Complicated, and Functionally Impossible for Detained Clients to Use.

24. Detained clients can also try to make a call to FIRR on the free pro bono platform. In theory, ICE has established a system for detained people to call their consulate, some government offices, and certain pro bono legal service providers like FIRR for free. These phone calls are not monitored or recorded; however, as described above, they are not private as they are generally conducted within earshot of other detained people and FCC guards. Although FIRR is a designated pro bono organization that can theoretically be reached for free from detention on the pro bono platform, the operation of the pro

bono phone line at FCC has systematically failed to ensure that detained people, particularly those without funds, can use the line.

25. The process to use the designated pro bono line is extremely complicated, involving a multi-step process where the detained person must enter numerous, lengthy numerical codes perfectly to successfully place a call. Given the complexity of this process, the pro bono platform can be functionally impossible to use, as detained clients often are unable to successfully place a call on the pro bono line. Specifically, the steps at FCC are as follows:

- (1) Select number for appropriate language;
- (2) Press “1” to make a call;
- (3) Enter detained individual’s PIN number and the “#” sign;
- (4) Press 0 to make a speed dial call
- (5) Press the “*” sign and “467” and follow the voice prompts;
- (6) Reenter the number for appropriate language;
- (7) Enter the detained person’s 9-digit A#. (If the A# is less than 9-digits, put a “0” before the A#);
- (8) Enter the speed dial number: 1845 and the “#” sign and wait for call to connect to the Florence Project.

26. ICE has created phone instructions that are posted in each unit by the phones, but those instructions are often incomplete or misleading. For example, the primary posting regarding phone calls states that making a call is “Easy as 1-2-3-,” but this poster includes no information whatsoever about the pro bono line. Instructions about the pro bono line are available on a separate posting, but this posting is typically not posted within reading distance of the phones themselves, and is in much smaller font that is impossible to see from the phones. Moreover, even these published instructions are incomplete, only providing steps six through eight above, leading to great confusion. Because of the complexity of the process and the lack of clear instructions, and because guards also lack familiarity or willingness to assist with use of the pro bono line, detained clients often are unable to navigate the phone system and fail in their efforts to make free calls through the pro bono platform.

27. Even when a client successfully dials the pro bono line, FIRRP’s rapid access code in ICE’s pro bono platform can be affiliated with only one phone number for the entire organization, creating a bottleneck of calls to our main line while they are routed to the correct attorney. If a client attempts to use the pro bono platform to dial an attorney’s direct number, the call will fail. If a client tries to use the pro bono platform to contact FIRRP outside of our main business hours from 8:30 a.m. to 5:00 p.m., the client can leave a message on the general line, but will not be able to be patched through to the correct attorney working on the case.

D. Restrictions on Telephone Access Significantly Hinder FIRRP's Ability to Provide Legal Services, Harms Our Detained Clients, and Imposes Additional Burdens on the Organization.

28. Restrictions on telephone access significantly hinder FIRRP's ability to provide legal services and representation, and harms our clients in detention. These barriers have generally reduced FIRRP's ability to represent clients, including in cases with exigent circumstances or short deadlines. These restrictions have also imposed additional costs on FIRRP.
29. The inability to schedule phone calls with detained clients at FCC seriously complicates our ability to provide services to "third-language-speakers"—people who speak languages other than English or Spanish. While all of our direct services staff members are bilingual in Spanish and English, we require interpreters to communicate with third-language-speakers. FIRRP staff regularly encounter third-language-speakers in detention, serving people who spoke 37 different languages in 2021 alone. Two major difficulties arise when we try to access third-language-speakers telephonically through the call-back request system.
30. First, it is unclear to what extent messages requesting a call back are even conveyed to third-language speakers in a language that they understand. ICE tells us that messages are relayed in English and Spanish, but has never confirmed that third-language-speakers receive call-back messages in a language they understand.
31. Second, even if a third-language speaker receives a message and calls FIRRP, this requires FIRRP to be able to (1) identify the caller's language over the phone and (2) obtain an interpreter on short notice to join the call. Because detained clients are rarely able to call FIRRP back at the time and date requested, it can be extremely difficult to obtain a telephonic interpreter without notice. Rare language interpreters, including for many indigenous languages regularly spoken by detained people held at FCC, have extremely limited availability and almost always require advance scheduling. Ultimately, the refusal to implement a system to schedule legal phone calls with detained individuals means that we often cannot communicate at all with third-language speakers by telephone. This, in turn, leads both to lengthy delays in the provision of meaningful services to third-language speakers and additional time lost driving to detention because we must conduct every visit with third-language speakers in person, no matter how minor the matter.
32. Telephone restrictions have also increased FIRRP's cost to communicate with clients via phone. Detained clients may place collect calls to contact FIRRP. Paid calls and collect calls, however, are also generally monitored and recorded by the facility as the default. Despite this limitation, FIRRP was forced to set up an account to accept and pay for collect calls from detained people because of the inability for so many detained people to use the pro bono line, and our inability to schedule calls with our clients. This has led to an undue expense to our non-profit organization, given the significant costs associated

with accepting collect calls.

33. These conditions have become even more difficult in light of the COVID-19 pandemic. Ongoing quarantines and cohorts in detention have limited in-person client access, making telephonic access to clients even more important. For that reason, FIRRП instituted specific hotline hours with dedicated staff members assigned to be on-call to accept calls from the detention centers. The maintenance of specific hotline hours with dedicated staff designated to answer calls in those times is a significant diversion of resources that FIRRП has had to make in response to the lack of more structured systems for facilitating telephonic visitation with clients at FCC.

E. FIRRП Has Repeatedly Raised the Issue of Inadequate Telephone Access with ICE, Leading ICE to Further Restrict Access at FCC.

34. FIRRП managers have communicated regularly with ICE and FCC officials regarding the need to improve telephonic access to individuals detained at FCC. FIRRП has also communicated with members of Arizona’s congressional delegation, who have also expressed concern to both local and national ICE officials regarding the matter, and who have asked for improvements in attorney access in ICE detention facilities, including FCC.
35. FIRRП has repeatedly tried to overcome the communication restrictions at FCC, to no avail. For example, where possible, FIRRП has tried to improve detained individuals’ understanding of the phone system at FCC. FIRRП recently created detailed and up-to-date instructions on how to access the pro bono phone platform, and obtained approval for posting them in the housing units. We mail copies of these instructions to every detained person at FCC. We also developed a Florence Project specific form that FIRRП staff email with our call-back requests to the facility laying out in detail all of the information for the requested call back and a brief explanation of who FIRRП is and what we do in an effort to help ensure FCC staff have complete information to convey to our clients regarding call-back requests. However, even after developing the form, clients continued to report that guards only told them that “your lawyer called you,” without any other information when passing on call-back requests. Ultimately, despite FIRRП’s efforts to improve the system, our staff continue to experience difficulty connecting with clients via telephone at FCC.
36. FIRRП has raised this issue in stakeholder meetings with ICE, where we have requested a system for scheduled telephonic legal visitation at FCC. Although two other ICE detention facilities in Arizona have offered scheduled telephonic legal calls, officials at FCC and ICE have told us that scheduled calls are not possible at FCC, largely due to lack of resources and cost. During a stakeholder call on March 10, 2022, the Warden at FCC asked if FIRRП would help pay to upgrade technology and put in additional phones to enable scheduled calls at the facility. Given FIRRП’s status as a 501(c)(3) non-profit legal services organization, it would not be appropriate for us to fund ICE detention facility infrastructure.

37. It is clear that creating a system of scheduling legal phone calls is possible at FCC. In fact, the facility staff themselves have attempted to set up such a system, only to be abruptly blocked by ICE officials. In Spring of 2022, the Warden's Secretary at FCC, who coordinates the system for attorneys to leave messages requesting that clients call them back at a specific time, informed us that the facility was overwhelmed with the number of requests, and stated that the current system was unsustainable. Based on those concerns, in March 2022, FIRR managers reached out to Assistant Warden Arlene Hickson, offering to discuss the possibility of a scheduled legal call system that could streamline telephonic visits and reduce the overall number of requests sent to FCC. We reached out to Assistant Warden Hickson in light of her prior instruction to reach out to her directly regarding phone issues in FCC. After we reached out to Assistant Warden Hickson, she put FIRR managers in direct communication with the Warden's Secretary, Marie Rolfsmeier, to discuss and work out a mutually beneficial system for a limited number of scheduled legal calls. FIRR managers also notified ICE's compliance officer, Justin Smith, of the system they were working out with FCC on March 25, 2022. At that time, ICE encouraged FIRR to continue working on access with FCC directly. On March 29, 2022, FCC unit staff, the Warden's Secretary, and FIRR managers agreed to a plan for a set number of pre-scheduled legal calls, to begin the first week of April, 2022.
38. On March 30, 2022, ICE abruptly blocked implementation of a scheduled call system at FCC. In a stakeholder meeting arranged by members of the Arizona Congressional delegation, FIRR shared the positive development of a scheduled call system that was ready to implement in FCC. Present at that meeting with ICE Officer in Charge for the Phoenix Field Office over the Florence Detention Centers, Jason Ciliberti. Officer Ciliberti expressed surprise regarding the new plan for scheduled legal calls at FCC, even though FIRR had notified ICE about the system five days before. While still in the stakeholder meeting, it appeared that Officer Ciliberti communicated by text and phone with FCC's warden. Officer Ciliberti then announced that no new system for scheduled legal calls at FCC would take place, and the plan for scheduled legal calls was not approved.
39. FIRR noted to Officer Ciliberti our concern that he had vetoed a plan that had been arranged and approved by the Assistant Warden and the Warden's Secretary, who coordinates the call-back system. FIRR also sent Officer Ciliberti follow-up emails documenting our communication, and the need to implement scheduled legal calls, in light of ICE's own COVID-19 Pandemic Response Requirements ("PRR"). However, as a result of ICE Officer Ciliberti's decision, the proposed system for scheduled legal calls at FCC was never implemented. While FIRR continues to raise concerns about the need for the scheduled calls and increased access, ICE has consistently rejected those requests.

IV. Lack of VTC Access at the Florence Correctional Center

40. Unlike other ICE detention facilities, FCC has no program to allow attorneys to contact detained clients in ICE custody through VTC. This is in contrast with even the limited

VTC access that criminal defense attorneys tell FIRR is available for federal pre-trial detainees currently held in criminal custody for the U.S. Marshals at FCC. Additionally, FCC has provided VTC services to people incarcerated in state custody at the facility in the past, when FCC held overflow prison populations from states other than Arizona.

V. Lack of Timely, Confidential, and Contact Legal Visits

41. In-person visitation at FCC is also generally not conducted in private or sufficiently confidential spaces. FCC has one, large, cafeteria-style visitation room for legal visits. The visitation room holds approximately 20 tables, placed only a few feet apart, where attorneys conduct visits with clients. It is extremely difficult for legal service providers to hold a confidential, private conversation with clients in this setting. Legal service providers and clients typically have to keep their voices down, and even then, it is easy to overhear what others in the room are saying. FCC is contracted with ICE to hold between 500 to 1000 detainees, and the facility also uses the same attorney visitation space for visitation with individuals in U.S. Marshals custody facing criminal charges. Although these populations are not supposed to mix within the facility, those in U.S. Marshal and ICE custody regularly await legal visits in the same visitation room at the same time, sitting in slightly different areas of the room.
42. Visitation hours at FCC are from 8 a.m. to 4:30 p.m. daily. FIRR is not aware of any established procedure to accommodate visitation outside of these established hours. Attorneys are required to provide advance notice of the clients they will visit. Although FIRR staff provide 24-hour advance notice of our visits, and provide the facility with a list of clients to be visited, FIRR staff are typically not notified until their arrival if a client will actually be made available for the visit. FCC has stated that a client is unavailable due to quarantine, placement in a segregation unit, or because the client is allegedly refusing a legal visit. Because FIRR staff drive approximately one hour each way to conduct legal visits at FCC, late notice that a client is not available for visitation can result in a significant waste of time and resources.
43. Attorneys are prohibited from bringing in cell phones for legal calls, which are a critical tool to provide interpretation during in-person visits. There is only one telephone available in the in-person visitation area at FCC for legal service providers to call interpreters to communicate with third-language-speakers. The phone is kept at the visitation guard's desk and is provided upon request. It is generally used at the normal visitation tables, where confidentiality is not possible. If an attorney asks for more privacy, FCC guards can allow a legal visit with the telephonic interpreter to take place in the hallway that detained individuals use to enter and exit the visitation room. However, that space is likewise not private as other detainees, inmates, and FCC guards are constantly passing through the space on their way to and from visitation.
44. Aside from the open visitation area, FCC has three or four private attorney visitation rooms for private legal visits. The number of private attorney visitation rooms is insufficient to accommodate the number of detained immigrants who need to meet with their attorneys, including those from FIRR, in a private setting. Moreover, typically

those rooms are not made available for private visitation unless the client in question has been designated as a security risk. Most visits are strongly encouraged to take place in the main room and additional advocacy is needed to meet with a client in the private rooms.

45. The private visitation rooms that exist are all non-contact rooms, meaning that the attorney and client are separated by a plexiglass wall and must speak through a phone. This setting renders the use of telephonic interpreters impossible as, to the best of our knowledge, the phones that allow for communication with the client through the plexiglass barrier are not capable of dialing out or adding a caller. Additionally, because the rooms are non-contact, attorneys must also decide between having a private space for a legal visit, versus being able to conduct a visit in a space where they can review documents and obtain client signatures easily, without having to wait for guards to shuttle documents and writing implements to clients and without guards having to handle potentially sensitive documents.

VI. Barriers to Legal Correspondence

46. Barriers to legal correspondence at FCC also greatly hinder FIRRPs ability to represent detained clients, and adversely affects our clients. Detained clients have no access to the internet or email at FCC, and are not able to receive legal correspondence electronically. FCC also lacks a method to receive and send legal correspondence by fax.
47. FIRRPs staff and our clients face lengthy delays in the delivery and receipt of legal mail at FCC. Mail can take anywhere from two to three days to be delivered to detained clients. Detained clients also face lengthy delays for their outgoing mail to be received. FIRRPs has represented several individuals at FCC who have missed critical filing deadlines or have had to ask for continuances in bond or removal proceedings because of excessive delays in mail leaving the facility, leading to unnecessary and prolonged detention. Because of these delays, FIRRPs cannot rely on legal mail for time-sensitive communications or for delivery of documents that require a prompt signature.
48. Detained clients also face difficulty and delay in sending legal mail from FCC. Legal mail is only free to detained individuals if they are considered "indigent" – defined as having less than \$15 in their commissary account. Individuals with more than \$15 must pay postage for outgoing mail, even legal mail. This policy can lead the facility to reject some outgoing mail and return the unsent mail to the detained client, causing significant delay. In some cases involving larger mailings, detained clients who are at or near the \$15 threshold may have sufficient funds to not be considered "indigent" for purposes of sending free legal mail, but insufficient funds to actually cover the cost of the larger mailing. In such cases, sizable mailings may be rejected by the facility repeatedly, or the individual may have to wait for several days to receive a pre-paid envelope from FIRRPs in order to mail out copies of documents.
49. These correspondence barriers hamper FIRRPs ability to represent clients, causing undue delay in receiving documents necessary to fully assess a case and, at times, delaying the receipt of client signatures on forms required for an attorney to officially

enter an appearance on behalf of the client either before the Immigration Court, ICE, or USCIS.

VII. Barriers to Communication and Representation of Disabled Clients at FCC

50. These barriers are even more onerous for FIRRPs representation of detained immigrants with mental disabilities. FIRRPs attorneys serve as appointed counsel for individuals deemed mentally incompetent by the Immigration Court to represent themselves as a result of a serious mental health condition or disability. FIRRPs maintains a caseload of approximately one hundred such clients throughout Arizona under the National Qualified Representative Program (“NQRPs”). In 2021, FIRRPs provided representation to 115 NQRPs clients in Arizona. FIRRPs also routinely provides legal services, including representation, to individuals with serious mental health conditions who have not, or not yet, been found incompetent by an Immigration court for purposes of NQRPs eligibility. On average, FIRRPs provides legal services to two to three such clients at FCC each month. At the time of this declaration, FIRRPs represents at least seven clients with serious mental health conditions, including at least four NQRPs clients, who are detained at FCC.
51. In our experience, each of the constraints noted above pose even greater barriers to communicating effectively with our clients with serious mental health conditions. People with serious mental conditions often require more support and consistent communication to establish rapport. Interruptions in communication can undermine the attorney-client relationship and, in some cases, can exacerbate certain mental health symptoms, for example, by contributing to feelings of hopelessness and isolation in clients suffering from major depressive disorder, or by playing into clients’ persecutory or delusional beliefs. Additionally, attorneys working with clients with mental health conditions often require both more frequent and lengthier conversations to obtain and understand basic facts or convey information effectively to their clients. Generally, cases that involve clients with mental health disabilities take at least twice and sometimes triple the time to prepare compared to other cases. The problems with access, and the unique ways in which they affect individuals with serious mental health conditions, are a significant contributing factor.
52. FCC’s exclusive reliance on a message relay and call-back system for telephonic communication with clients poses distinct barriers to communicating effectively with our clients with serious mental health conditions, who are uniquely unable to navigate the call-back system effectively due to their symptoms. For example, some of our clients lack orientation to place and time, which makes them particularly unable to call their attorneys at a set date and time without some facilitation or assistance from FCC staff, which is not provided. Others experience mental health symptoms that impair or interfere with their memory, which again makes an unfacilitated message relay and call-back system that places the onus on completing the call on the detained individual ineffective for this population. Symptoms of delusions and paranoia can make some of our clients unwilling to speak about their cases from the housing units. Additionally, our clients with serious mental health conditions are often less capable of navigating the already confusing

instructions for using the pro-bono platform, described above, which poses yet another barrier communicating effectively with this population. FCC and ICE staff have assured FIRRP that messages requesting call-backs are conveyed to our disabled clients and they assert that our clients are simply refusing to call us back, but they rarely provide any specific information about the alleged refusal. They have also declined to offer possible accommodations we have suggested, such as facilitation of pre-scheduled calls to address these issues. While instances of clients not calling back is not unique to people with mental health conditions, it does occur at a higher rate with this population. When our clients do call back, FIRRP attorneys report that they hear significant ambient noise in the background, indicating that the calls are not being placed from a sufficiently private location. The lack of VTC access also harms our clients with serious mental health conditions because many need to be able to see their attorneys when communicating, and it is also helpful for attorneys to be able to see clients. Visual information, such as appearance, expression, and other body language cues can be vital to assess the mental status of clients with serious mental health conditions, and to determine whether the client is experiencing symptoms that may interfere with cognition or communication. For example, in cases where clients have a history of auditory or visual hallucinations, a client's body language, including head and eye movement may help counsel identify if the client is experiencing hallucinations that may interfere with communication at the time of the visit.

53. As a result of these barriers, when serving our clients with serious mental health conditions, FIRRP staff are effectively forced to conduct nearly all client communication through time-consuming in-person visits, no matter how minor the follow up. We conduct even these minor communications in person because it is a more reliable form of communication than the message relay and call-back system for communications by telephone. Based on our staff's conversations with clients, I understand that this increased rate of success for in-person visits is due in part to the fact that these visits necessarily require detention staff to take the steps of informing the client that a visit is set to occur and escorting the client to a room for the visit. Based on my observations and our staff's experience at other ICE facilities in the area where scheduled facilitated telephonic visits were available during the pandemic, FCC could achieve increased reliability of telephonic visitation by simply facilitating calls – meaning providing a confidential space for calls and having guards remind and escort clients to the telephonic visitation space at the time of the telephonic visit. This could fundamentally change telephonic access in these facilities, particularly if the calls could be pre-scheduled. However, FCC has declined to facilitate pre-scheduled calls to address these issues. Even when we visit in person, we are often informed that some of our clients with serious mental health conditions refuse to leave their housing unit to come to in-person visitation. While clients do occasionally refuse to come to legal visitation at other facilities, in our experience, these “refusals,” particularly for our clients with serious mental health conditions, occur at a higher rate at FCC than at other facilities.
54. A significant number of our clients with serious mental health conditions also experience suicidal ideation, which often results in placement into medical or mental health observation/segregation in conditions akin to solitary confinement. While on mental

health watch, it is our belief and understanding that individuals are not given access to telephones at all as a safety precaution. If housed in segregated housing outside of the medical unit, they can have limited access to the telephones, but the facility still does not have a system for attorneys to schedule private legal phone calls, does not provide VTC for this population, and FIRRP attorneys must rely on the message relay and call-back system with its many flaws.

55. Moreover, FCC does not have clearly established procedures to allow even in-person access to counsel for individuals who are in medical/mental health observation or segregation. In some cases, a client's prolonged confinement in mental health segregation can result in a total loss of access to counsel for weeks. For example, in one recent case, we were denied telephone and even in-person visits for nearly a month with a client under "mental health watch," during which time our client's immigration case before the court continued. As was the case with this client, FIRRP staff are generally simply denied any access to our clients or notified that clients are unavailable for visits, because they are in mental health watch. Indeed, even when FIRRP staff schedules an in-person visit with a client in medical/mental health watch a day in advance, FCC typically informs FIRRP staff that they cannot bring the client from observation or segregation to the legal visitation area only once the attorney arrives at the facility for the legal visit. As such, FIRRP staff have lost countless hours to unnecessary travel and have experienced periods ranging from days to months in which we simply could not access our clients at all due to their mental health conditions. This not only can undermine our attorney-client relationships, but can also result in significant delay to our ability to prepare a case.
56. We are unaware of any other accommodations made to ensure that detained clients with mental disabilities have access to counsel at FCC. Despite requesting accommodations such as permission to see our clients in the medical unit, facility transfers, or scheduled and facilitated phone calls, the facility generally does not provide the accommodations we request. When our staff bring up requests for accommodations, staff often appear to lack knowledge or awareness of what responsibilities they or the facility may have to accommodate detained people with disabilities. In some cases, we have also sought accommodation directly from ICE officers. For example, we requested that a client be transferred to another facility with fewer access issues, or even transported for the day to the facility where the immigration court is held because we have had more success speaking to our client in that facility. However, those requests have also been unsuccessful. In a recent case, it took nearly a month of advocacy and visitation attempts before we were able to meet with one of our clients on mental health watch. The attorney on this case had to obtain separate approval from ICE to meet with her client, outside of the normal visitation scheduling process, and even then had to push FCC staff to actually bring her client to visitation. To my knowledge, there is no publicly available procedure about managing and addressing such accommodation requests at FCC and no designated official to whom to make such requests.

In addition to serving as appointed counsel in cases where the Immigration Court has identified individuals as mentally incompetent under the NQRP, FIRRP staff regularly

encounter and provide services to additional detained individuals with serious mental health conditions or serious mental disabilities at FCC. These detained individuals include people who are incompetent to represent themselves in immigration proceedings, but whom the Immigration Court has not yet deemed to be eligible for appointed counsel under the NQRP. They also include others who might not be eligible for the NQRP, either because they are not properly identified to the court as potentially eligible for appointed counsel under the NQRP, often as the result of government error, or they are found by the immigration court to be competent though they nonetheless have serious mental health conditions or disabilities that make them unable to effectively access counsel without accommodations. FIRRP staff often become aware of a person's mental health condition prior to the Immigration Court or DHS and routinely assists individuals who are experiencing mental health symptoms in custody, but who have not yet been designated NQRP, file complaints regarding detention conditions, medical care, and treatment in custody. Additionally, one of FIRRP's priorities for bond representation are individuals who have serious mental health disorders or disabilities, but who were nonetheless found competent to represent themselves and not appointed counsel under the NQRP. We have struggled to obtain timely and effective access to these clients, including having to make repeated visitation requests when clients aren't made available for visits; complaints from clients regarding incomplete, inaccurate or undelivered messages, resulting in missed telephonic visit attempts. As a result, these cases often require more resources and FIRRP staff time than standard bond cases, specifically because of the unique ways in which serious mental health conditions interfere with disabled clients' ability to utilize the already limited mechanisms for access to counsel at FCC.

57. The unique ways in which the barriers to access to counsel described above disproportionately undermine our NQRP clients' access to counsel are exactly the same for these clients who are experiencing serious mental health conditions and symptoms, but for whom the Court and/or DHS either have not, or have not yet, identified as being eligible for appointed counsel under the NQRP.

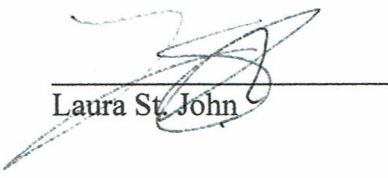
VIII. Conclusion

58. These barriers to attorney-client communication at FCC harm FIRRP's ability to represent and provide effective assistance to our detained client, and harm detained immigrants' ability to communicate with counsel. In some cases, these barriers have inhibited our ability to gather key information from clients due to the lack of confidential settings necessary to share sensitive and privileged information. The added delay and outlay of time required to communicate with detained clients also interferes with FIRRP's ability to represent individuals, reduces FIRRP's overall capacity of how many people we can reasonably represent at a given time, and impedes FIRRP's efforts to place additional cases with volunteer pro bono attorneys. These communication barriers also hinder FIRRP's ability to provide effective assistance to pro se detainees. The effect is

that detained immigrants at FCC are more likely to remain detained, even if eligible for release, suffer from unconstitutional conditions of confinement, and face deportation.

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

Executed this 14th day of November, 2022 in Flagstaff, Arizona.



Laura St. John