

**DECLARATION OF ANDREA JACOSKI,
AMERICANS FOR IMMIGRANT JUSTICE**

I, Andrea Jacoski, 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 of the Minnesota State Bar. I am currently employed as the Director of Detention Program at Americans for Immigrant Justice (“AIJ”). I have practiced as an immigration attorney with AIJ from September 2016 to March 2020 and from May 2022 to the present.
2. Since joining AIJ in September 2016, I have served as an Equal Justice Works Fellow, Staff Attorney, and now Director of the Detention Program. I have served in my current position as Director of Detention since May of 2022 and previously worked as a staff attorney and Equal Justice Works Fellow from September 2016 to March 2020. At AIJ, I have exclusively focused on the provision of free legal services to immigrants detained in Immigration and Customs Enforcement (“ICE”) custody, primarily at the Krome Service Processing Center (“Krome”) and other ICE detention facilities in South Florida. AIJ also represents people detained at ICE facilities in other parts of Florida.
3. AIJ is an award-winning non-profit 501(c)(3) law firm founded in 1996 that protects and promotes the basic rights of immigrants through direct representation, impact litigation, advocacy, and outreach. In Florida, and more broadly on a national level, we champion the rights of unaccompanied immigrant children; advocate for survivors of trafficking and domestic violence; serve as a watchdog on immigration detention practices and policies; fight to keep families informed, empowered and together; and pursue redress on behalf of immigrant groups with particular and compelling claims to justice. AIJ’s direct client work informs its broader policy work that benefits all people navigating our country’s immigration system.

AIJ’s Scope

4. AIJ maintains a staff of 57 employees, including 22 attorneys, 10 paralegals, 20 support staff, and 5 management staff. Our staff has served over 145,000 immigrants from all corners of the world since opening our doors in January 1996. At any given time, AIJ has more than fifteen to twenty clients it is representing who are detained at Krome alone. Each year, AIJ assists approximately 80 people in immigration detention and represents approximately 100 individuals in immigration court.
5. Our Detention Program (the “Program”) advises and represents individuals in ICE custody before ICE, U.S. Citizenship and Immigration Services (“USCIS”) and the Executive Office for Immigration Review (“EOIR”) Immigration Court. We represent detained immigrants at Krome in bond hearings and parole applications to obtain their release from detention and in immigration proceedings to help people obtain permanent immigration status. Our Detention Program also monitors, reports on and, where necessary, files lawsuits to remedy inhumane conditions in immigration detention centers

to bring about systemic change. Clients include recently arrived asylum seekers, survivors of crimes, and long-term residents. Our focus is on representing individuals in bond and parole proceedings so that they can be released from detention and may reunite with their support systems.

6. Our direct services work informs our advocacy and litigation work. AIJ helps shape and advance policies that protect immigrants at our borders while safeguarding the basic civil and constitutional rights of all people. AIJ's staff fight for just and humane DHS policies and practices by testifying before Congress and filing lawsuits that change state and national laws. AIJ has won dozens of lawsuits over the years and have compelled the government to disclose information key to reforming our broken immigration system.
7. Throughout its more than two decades of service to immigrant communities, AIJ has received recognition in the form of awards and commendations from leading human rights organizations and politicians at all levels of government and across political beliefs and party affiliation. AIJ has received awards and commendations from, among other organizations, the Miami Dade County League of Women Voters, The Florida Bar Foundation, the Anti-Defamation League, Lawdragon, Florida International University College of Law, National Crime Victims' Rights Committee and Coral Gables Police Department, National Black Prosecutors Association, National Immigration Forum, National Lawyers Guild, and American Immigration Lawyers Association.

Communication Barriers at Krome

8. AIJ provides *pro bono* representation to detained immigrants in ICE custody at Krome. I have represented clients detained at Krome in a wide range of proceedings including withholding-only proceedings, bond hearings, Reasonable Fear Interviews, Credible Fear Interviews, request for stays of removal, and humanitarian requests for release or parole with ICE/ERO. In some cases, we represent people before USCIS where it impacts what they may be eligible for in immigration court. I have visited clients in contact and non-contact visitation in the attorney-client areas before and during the pandemic.
9. AIJ's ability to provide legal consultations and legal representation to detained immigrants at Krome is extraordinarily complicated and difficult due to the numerous barriers to communication, visitation, and the facility's location. Regular communication between attorneys and our detained clients is at times impossible, even by phone. Virtual video visitation is not available to lawyers, despite existing use of video teleconference ("VTC") technology for remote immigration court proceedings at the Krome Immigration Court. The Krome Immigration Court is located inside of the Krome detention center and is comprised of three presiding judges. Remote VTC proceedings at the Krome Immigration Court started during the COVID-19 pandemic. However, before COVID-19, Krome had a dedicated VTC room for individuals detained at Krome but whose immigration court proceedings occurred at other facilities. This was commonly referred to as "room and board," where the individual was housed at Krome but attended immigration court remotely in Krome's dedicated VTC room because the proceedings

occurred off-site. In-person legal visitation is hampered due to competition for rooms among attorneys and health concerns related to COVID-19, which I detail below.

10. Broadly speaking, there is no system or mechanism for a detained immigrant at Krome to make or receive a private and confidential call with an attorney. There are no private rooms for confidential phone calls at Krome. No system exists for attorneys to schedule calls or for detained immigrants at Krome to schedule calls with their attorneys. Attorneys are unable to use telephones, cell phones, laptops, or printers during in-person legal visits, and all electronics must be stored in a locker, making it impossible to call interpreters when needed or to access or make changes to petitions, declarations and other documents needed for our clients' cases in real time during client meetings.
11. AIJ has accepted very few cases for direct representation at the Krome Immigration Court due to the COVID-19 pandemic, the various restrictions surrounding visitation, and the substantial barriers in place to meaningfully and privately communicate with clients by phone, video, letter, or alternative forms of communication. These constraints have significantly impaired AIJ's ability to effectively represent clients in individual proceedings and in class action litigation. Our work at Krome has predominantly focused on cases related to custody and obtaining release of clients, particularly those who are medically vulnerable. Our representation of detained clients at Krome has been limited to release requests with ICE/ERO; parole requests with ICE/ERO; and other discretionary humanitarian requests.
12. Under current conditions, attorneys who are not able to visit the facilities because of COVID-19 risk factors or who live with family members at risk for COVID-19 are unable to represent clients at Krome due to the lack of a confidential, reliable methods of remote communication that would allow attorneys to effectively prepare for their clients' cases. Immigration proceedings, including bond hearings, require building rapport with clients, witness and testimony preparation, drafting applications and declarations, gathering corroborating evidence and reviewing it with clients. This work simply cannot be done where attorneys do not have access to remote meeting platforms, or reliable systems for private, confidential legal calls, and are unable to confidentially and reliably schedule a discussion with their clients. Further, detained immigrants at Krome are unable to make or schedule private and confidential calls with their attorneys. The ability to meet with clients virtually by video would dramatically change our ability to represent people detained at Krome.
13. Recruiting volunteer attorneys to accept cases at Krome is challenging because of the practical impossibility of representing people remotely due to the lack of access to confidential and reliable phone calls and videoconferencing. AIJ's ability to represent detained clients is severely constrained, as is our ability to even refer cases to other organizations, pro bono law firms, or volunteer pro bono attorneys. Our Program does not regularly refer cases to volunteer attorneys because of the nightmare we experience attempting to contact our own clients. Volunteer attorneys who do not have access to the same EOIR Pro Bono Phone Platform are only able to communicate with clients via in-person visitation, mail, or paid phone calls through the Telmate platform phone system.

Another ICE detention center, the Broward Transitional Center in Pompano Beach, Florida, offers free legal video visitation in private rooms in the attorney-visitation area. Accordingly, we know ICE has the capacity and resources to offer video visitation at Krome, but chooses not to for reasons unknown to AIJ.

Lack of Access to Confidential Telephone Calls at Krome

14. It is virtually impossible for attorneys to schedule calls with clients detained at Krome. There is no method or system for attorneys to place a scheduled and confidential call to a detained client at Krome. There is no method for attorneys to hold private, confidential, unmonitored phone calls with detained clients in ICE custody at Krome. The only tool for communicating directly with clients or to instruct clients to call attorneys at a specific time is via the GettingOut application, a paid, electronic tablet-based application, which is monitored and reviewed by detention authorities, and only available to individuals in the housing units. GettingOut is an unacceptable platform for privileged attorney-client communication because the tablets cannot be used in a confidential location, are monitored, and cannot be brought to a private room or other confidential area.
15. The only way attorneys can speak with clients detained at Krome over the phone is if the clients call us, at a charge or if they call the EOIR Pro Bono Phone Platform. When detained clients call AIJ attorneys, these calls are not confidential, because detained clients must make all calls from telephones located in the open housing unit, which are within an earshot of other detained individuals and the guards. Detained immigrants are not permitted access to private spaces to talk on the telephone with their counsel at AIJ, even though Krome has the space and the resources to do so.
16. To make matters worse, the phones in the housing pods are located on the wall adjacent the television. The television volume is often very loud and results in significant and distracting background noise that makes it nearly impossible for the attorney and client to hear and understand each other. Clients speaking with us over the phone are standing near whomever is watching television. As a result, the conversation is not private and anyone trying to enjoy television is simultaneously able to listen to the conversation.
17. Further, the telephones are located next to the guard station without any privacy. Therefore, ICE officers or other Krome staff can overhear any ongoing conversation, prohibiting any chance of confidential attorney client communication
18. Individuals detained at Krome can call AIJ using the EOIR Pro Bono Phone Platform. EOIR and ICE have established a system of pro bono telephone lines for detained people to call legal service providers, including AIJ, for free. ICE has indicated that these lines are unmonitored and unrecorded. Each facility, apart from Krome, also has slight modifications or changes to the instructions on how to place calls to those codes. The instructions to call AIJ from Krome involve five different steps and these instructions are not posted publicly in the housing pods. These five steps include dialing 1 for English or 2 for Spanish, dialing a designated PIN number, dialing 6 to enter the Pro Bono Code system, dialing the appropriate code for AIJ and then the appropriate extension.

However, the EOIR pro bono platform is of limited use as currently implemented. Before AIJ staff can even conduct an initial screening with someone detained at Krome, staff must make efforts to inform the person detained what our code is and how to place a call to our pro bono line. Efforts include mailing a letter to Krome, in which case we are forced to wait the time it takes for the mail to be received and handed to the person in detention, or through a message on the GettingOut platform, which a detained person at Krome can only read if they have funds in their account, and again, which are monitored by detention authorities

19. Because of the challenges of coordinating phone calls with prospective clients and clients at Krome, and the risks posed to staff in entering a detention center during the COVID-19 pandemic, AIJ started paying for GettingOut, a monitored and recorded website platform available on the tablets that are available in the recreational areas of the housing pods in the facility that people detained at Krome can use for a fee. GettingOut usage has led to increased expenses for our non-profit organization, given the significant costs associated with accepting each message and sending each message on the tablet. Sending a message on GettingOut costs \$0.25. Even though AIJ covers costs for our clients to message us through GettingOut, prospective clients are reluctant to use the app to contact us if they have limited financial resources because they reasonably believe that the costs associated with the messaging will be deducted from their personal account. Many clients also have no money whatsoever and cannot add funds or pay to receive messages.
20. GettingOut has additional limitations beyond price that render it impractical for legal communication. GettingOut is the only way for attorneys to try to instruct clients at Krome to call them on the phone at a specified date and time. To do so, we message people on the GettingOut website platform, give them the five step instructions to call us with a date and a time, and wait for them to contact us. However, as explained above, this does not guarantee that a phone call will actually happen at the designated time, and this call is not confidential due to the lack of privacy detailed above. We do not use the GettingOut platform for conversations, sending documents, or anything substantive because use of the application does not guaranty confidentiality. Although you can register an account as a confidential attorney account, all GettingOut message are monitored by detention authorities, even those sent to or from legal counsel on a registered attorney account. Therefore, we only use the platform when there is no other way to reach clients in a timely manner. Although we can mail letters to clients via FedEx, that process is extremely costly to our non-profit organization and inefficient because of delays in sending and receiving mail that would not permit us to adequately represent clients in time-sensitive proceedings and/or to meet court deadlines.
21. There are 9 tablets per housing pod with the GettingOut app and approximately fifty people per housing pod. To use the video function on the tablets, the tablets must be in their docking station, which are stationed directly under the televisions and next to the guard stations, prohibiting confidential usage. The tablets can also be used for commissary and other services. As set forth above, it is my understanding that ICE treats all communications on the tablets as if they were friends or family visitation portals, meaning, ICE may both record and monitor the conversations. Video conferences for

attorney accounts are evidently not recorded or monitored, but the video conferences, as described above, are only possible in the housing pods in the recreation areas next to the guard stations and television. Therefore, it is impossible to have a private, confidential conversation with a client via the video feature on GettingOut. Based on these issues, I have directed my staff not to use GettingOut for anything other than instructing clients and prospective clients to call us at a specific time, given the sensitive nature of the cases of our clients and retaliation prior clients have experienced at the hands of guards at various ICE facilities, including Krome, such as the arbitrary use of solitary confinement and prohibiting use of GettingOut or the tablets as punishment.

22. Due to Krome's refusal to provide confidential legal communications or to schedule legal calls, we are practically unable to represent individuals who speak languages other than Spanish or English because we cannot schedule phone calls at Krome. Because Krome does not allow for any scheduled calls, we must rely on clients calling us back. Due to the various barriers to accessing phones within the housing pods, it is extremely difficult to arrange for an interpreter, particularly in the cases where we need to book an interpreter service in advance. These added barriers can lead to lengthy delays in the provision of meaningful services to those who speak languages other than English or Spanish.
23. Phones at Krome are difficult for individuals to access due to the number of individuals in each housing pod. In any given pod at Krome, there are 9 phones per 50 or so individuals. Phones are shut off during lunch hour, head count, shift change, and in the evenings. On any given day, I am able to speak with my client in the morning before they go to recreation, briefly between recreation and lunch, and later in the afternoon after head count and shift change. My clients have sacrificed precious time from their permitted outdoor recreation time – the 60 minutes a day they are allowed outside of their housing pod – in order to access a phone to talk with me because there is only one phone in the recreation area. Not only that, but we have experienced Krome staff arbitrarily cutting off access to the phones or instructing detained individuals to get off the phone, cutting short our legal calls.
24. I regularly receive phone calls where there is no audio on the detained individuals' end because the phones are malfunctioning. There is always background noise from the housing pods, people shouting, static, and other indiscernible noise that make conversation extremely difficult and taxing. I have to regularly ask my clients to repeat themselves, which wastes time and impedes our ability to have a meaningful conversation. Sometimes the volume level is so low that I ask my clients to call me from a different phone, which could result in hearing back from them the next day, later in the week, or not at all.
25. These barriers to telephone access at Krome hinder AIJ's ability to provide legal services and harms our clients in detention. Productive, confidential calls are impossible at all times based on the location of the phones and tablets.

Lack of Videoconferencing Access for Attorney Visits at Krome

26. Unlike other ICE detention facilities, Krome has no program to allow attorneys to conduct private, confidential remote videoconferencing with detained clients in ICE custody. This is problematic because access to videoconferencing would allow AIJ to provide more effective remote representation and expand the number of cases we can take from Krome. Private, face-to-face communication with clients is essential to representation. Only videoconferencing provides an adequate substitute to in-person visitation when in-person visitation is impractical or, in the case of COVID-19, presents a health threat to our staff.
27. While Krome does not make videoconferencing available for attorney-client visits, Krome routinely uses videoconferencing for other matters. Rooms previously designated for attorney-client visitation are now also used for detained individuals to appear for immigration court proceedings via VTC. I have witnessed several televisions on rolling carts in the various attorney-client visitation rooms where detained individuals are appearing remotely for their removal proceedings through VTC. I have also seen the rolling carts in various parts of the visitation area and in the USCIS rooms where USCIS officials conduct Reasonable Fear and Credible Fear Interviews through VTC.
28. In addition, Krome has a room specifically designated for VTC, located on the far end of the visitation area, past the normal attorney-client contact visitation rooms. Before the pandemic, I represented one client in the Arlington, Virginia Immigration Court who was housed at Krome for “room and board” only. Meaning, despite being housed at Krome, his immigration court proceeding was based in another jurisdiction and he appeared remotely through VTC. We appeared together in a VTC room on the far end of visitation. The room included a television, a telephone, and a table with chairs.
29. ICE therefore appears to have the capacity to allow VTC for immigration court proceedings both at the Krome Immigration Court and outside of Florida, and has the requisite VTC technology already set up at Krome. However, we are still unable to use videoconferencing to meet confidentially with our clients at Krome. Access to confidential video calls is important to our representation and daily client services because they would allow us to build rapport with clients, build attorney-client relationships and trust, and meaningfully prepare clients for their cases. Greater communication and relationship-building naturally occurs when video is available. Further, reviewing evidence and documents together or even showing a client where to sign a document can be achieved over video as opposed to over the phone. We are aware that ICE has the ability to bring landline or portable phones into the attorney visitation rooms (as they do for medical patients who are confined to their rooms), but opt not to, which hinders AIJ’s ability to effectively represent its clients.

Obstacles to Timely, Confidential In-Person Legal Visits at Krome

30. In-person visits are hampered by the limited number of private attorney client visitation rooms, which can lead to long waits to see clients, and the inability for attorneys to bring laptops or other technology into these visits.
31. Krome has only 6 attorney-client visitation rooms. These few visitation rooms serve several purposes apart from client visitation. In my experience as a practitioner, I have witnessed the attorney-client rooms serve as visitation space for ICE/ERO officers and other federal agents. I have also witnessed Krome use the attorney-client contact visitation rooms as waiting rooms for individuals who have a hearing that day or an interview with the USCIS Asylum Office. On any given day, the rooms could be completely full in the morning, preventing attorney-client visits from taking place in those rooms.
32. As a result, the number of private attorney visitation rooms is insufficient to accommodate detained immigrants to meet with their attorneys. In recent memory, I have had to wait anywhere between forty-five minutes to over an hour and a half to meet with a client in visitation. The various rooms are occupied with people waiting for court, ICE/ERO meeting with people, or because the rooms were being used for VTC Immigration Court proceedings. Krome does not allow attorneys to reserve attorney-client visitation rooms or schedule in-person meetings in advance.
33. Attorneys and legal visitors have to compete with ICE/ERO officers for attorney-client visitation in contact rooms. I have witnessed ICE/ERO officers on multiple occasions, before the pandemic and in recent history, meet with detained individuals in the attorney-client contact rooms. I have waited for a room to meet with my client due to rooms being full, including with ICE/ERO officers and despite the fact that Krome has additional meeting spaces specifically reserved for ICE/ERO staff to conduct meetings with detained individuals.
34. Krome offers a single non-contact visitation room to attorneys and 26 non-contact booths located adjacent to the non-contact visitation room. However, the booths are not confidential or private. They are in an open space, with no ability to maintain privacy and conversations can easily be overheard by guards and staff. Conversations happen over a telephone line that I understand is monitored and treated the same as a normal family visitation. There are no enclosures on either the client side or the attorney side. All conversations on the same side of the divider may be heard by anyone in the area.
35. The single non-contact legal visitation room at Krome has its own set of issues. Instead of speaking through corded phones, communication is through a thin metal slot the length of a piece of paper and only wide enough to slide a document through. The room has poor acoustics and the noise echoes. The room echo requires both the individual detained and the attorney to stand and place their ears near the thin metal slot. The view is entirely obstructed when both the attorney and the client try to hear one another. For me to speak

with my client and hear my client at the same time, we both need to either shout or place our ears near the metal slot in order to hear. When I meet with clients in this room, I cannot speak with my client and look at them in the eyes or connect with their facial expressions or body language. This negatively affects my ability to establish a strong rapport with my client, which ultimately hampers my representation and the services I am providing to my client. I am unable to stand, write down notes, and either speak or listen to my client simultaneously. Appropriate client interviewing, drafting declarations for applications for relief, and regular rapport building is not possible in this room. As an attorney and advocate, my role in part is to build trust with my clients in highly stressful, traumatic situations and that in some circumstances are life-threatening.

36. In addition, this single non-contact legal visitation room does not allow for confidential communication. It is next to the guard station that oversees the entire visitation area. One or two guards are seated directly outside of the door on the attorney side of the enclosed room. The visitation room is also the first room when entering the visitation area. The room is not confidential, the acoustics are horrendous, and the setup with the metal slot with the obstructed view render the room unusable for substantive client meetings. The non-contact legal visitation room is also not sound proof and conversations can be easily overheard outside the room. I have personally overheard attorney client conversations while waiting for an attorney client room to become available. The guards are stationed directly outside the non-contact legal visitation room and thus can likely overhear confidential attorney client conversations.
37. Further, Krome inhibits my ability to bring support staff or a translator with me to in-person meetings as Krome requires a preapproval process for all non-attorney support staff and translators which typically takes two weeks and expires after ninety (90) days. These requirements inhibit the ability to have a translator, paralegal, or other necessary support staff emergent or time sensitive issues. This is especially problematic when clients or prospective clients and AIJ attorneys do not speak the same language. We recently were unable to represent a Q'eqchi' speaker detained at Krome because we could not schedule a legal call and we do not have in-person interpreter services for rare indigenous languages. We were ultimately unable to represent the Q'eqchi' speaker.
38. The poor acoustics in the non-contact legal visitation room also inhibit our ability to bring support staff or interpreters with me to legal visits. Not only is the preapproval process burdensome (especially for time sensitive matters), but because I can only effectively communicate with my clients by bending down to speak through the metal paper slot, an interpreter or support staff is unable to hear to effectively assist during the meeting. This forces us to take turns bending down to speak and hear the client's responses through the metal paper slot, which is incredibly cumbersome and inhibits my conversations with clients and prospective clients.
39. Finally, attorneys are not permitted to bring modern-day tools of the trade like laptops, printers, or cellphones into legal visits, which are essential to the practice of law. Attorneys are only able to take handwritten notes. This technology is necessary to allow attorneys to draft declarations, complete necessary applications, and connect with

interpreters during a visit. Instead, the attorney must return home, draft necessary paperwork based on the interview notes, and then figure out to efficiently send confidential drafts for client review and/or signature, which can be timely and an impediment to confidential work product, as Krome opens all legal mail prior to delivery to detained individuals.

Barriers to Legal Correspondence

40. Barriers to legal correspondence at Krome also greatly hinder AIJ's ability to represent detained clients, and adversely affect our clients. Detained clients have no access to the internet or email at Krome and are not able to receive legal correspondence electronically or through facsimile.
41. In our experience, physical mail received by Krome is not distributed to our clients on the day it is received. It typically takes at least 1-3 days for mail to be received from our office to the Krome facility. Upon receipt at Krome, ICE usually waits twenty-four after receipt to distribute the mail. The mail – even legal mail – is opened and can be reviewed by ICE, which has a chilling effect on our clients who are often cautious about sharing information with us that should be treated as confidential but is not due to ICE's policy of opening the mail.
42. There is no mechanism other than U.S. Postal Service (USPS) mail or in-person visitation to send or exchange documents with detained clients for review and signature. Our clients are indigent and cannot afford legal services; they do not have the luxury to mail documents at a faster rate via Priority Mail or FedEx, etc.
43. AIJ has no system to gather signatures from clients without visiting the facility, absent awaiting delays in mail. We cannot rely on USPS legal mail for time-sensitive communications or for delivery of documents that require a prompt signature, particularly if the client needs to return the document to our office. We resort to FedEx in emergency situations; however, this is very costly and not sustainable for our limited resources and discretionary funding.

Barriers to Representation of Disabled Individuals with Mental Illness

44. Krome houses a large population of individuals with severe mental illness that impede individuals' ability to represent themselves in court proceedings. Upon arrival at Krome, all detained immigrants go through an initial mental health intake where their previous medical history and current symptoms or conditions are documented. AIJ has represented many people over the years that either exhibit active psychiatric symptoms and/or behavior such as severe depression symptoms; disorganization, disorientation or active hallucinations or delusions; mania; anxiety; and suicidal ideation and/or behavior and/or that have diagnoses, as documented in their Krome medical records, such as Bipolar Disorder, Schizophrenia, Major Depressive Disorder, or some sort of intellectual

development disorder that severely impedes their ability to competently represent themselves without the assistance of counsel.

45. AIJ has a case screening and intake process for all prospective clients. Part of this screening and intake process includes assessing whether prospective clients suffer from mental health conditions and disabilities, as these conditions or disabilities may warrant release from detention, accommodation, or otherwise impact the specific needs of these prospective clients and qualify these individuals for any other accommodations they may need in furtherance of their representation. Our Detention Program currently represents eleven people detained in ICE custody. Four of those clients are currently detained at Krome with severe mental illness and are actively receiving psychiatric treatment.
46. Krome is also the site of the Krome Behavioral Health Unit (“KBHU”) designated by ICE for detention of persons with severe mental illness or psychiatric needs from all around the United States. The KBHU population is comprised of individuals with mental health illness that is not so severe as to require hospitalization but significant enough such that housing in general population is inappropriate. The KBHU is considered a less stimulating environment than general population and consists of 30 beds. Each housing room in KBHU is configured for two individuals. The KBHU offers several group therapy sessions a day, programming, and other support. Not all detained individuals with severe mental illness are housed in the KBHU, and Krome has several mechanisms for diagnosing, treating, and documenting severe mental illness. The KBHU is one such method, but Krome also houses individuals with severe mental illness and disabilities in the Medical Housing Unit (“MHU”) and off-site facilities. Krome medical staff also diagnose and treat individuals with severe mental illness housed in general population. Krome medical records and ICE’s Transfer Summaries reflect such past and present diagnoses and treatment. Although not designated a National Qualified Representative Program (“NQR”) provider, AIJ represents disabled clients in detention at Krome with mental health illness and conditions that may render them incompetent to represent themselves.
47. I have personally represented clients with severe mental illness who were housed in the KBHU, MHU, and in general population. I have represented such individuals in various legal matters including requests to ICE to secure their release from detention and to advocate against abuses that have occurred due to their conditions of confinement. Individuals at Krome with severe mental illness, including both those detained in KBHU, MHU, and in general population regularly solicit legal assistance from our office. Individuals who exhibit severe mental health symptoms and/or that have been diagnosed with severe mental illness may not be provided with legal representation under the NQR. Meaning, having a severe mental illness or disability that may render someone incompetent to represent themselves does not guarantee that an individual will be appointed an attorney or the assistance of a NQR representative by the immigration court. In my experience, individuals with severe mental illness or disability, such as those who may be mentally incompetent to represent themselves, require counsel who can pay particular attention to their cases, which tend to be more time and labor intensive. Clients

at Krome with severe mental illness have also historically endured horrific instances of trauma and violence, including civil war and sexual assault.

48. The attorney access impediments at Krome, especially issues with scheduling legal calls, legal mail, and lack of legal video visitation are compounded when working with persons with severe mental illness. Clients and prospective clients with severe mental illness require more time to communicate and relay information regarding their cases. Their requests for release generally require extensive medical records review, records requests, and sometimes outside experts or professionals to review their records. For this reason, I have recently turned away two compelling KBHU cases due to the logistical challenges associated with both representing and communicating with people at Krome and which especially impact individuals with severe mental illness.
49. Not only do these cases require extensive time and more contact with the client and/or prospective clients, but Krome's impediments to access to counsel are especially detrimental on individuals with severe mental illness. For example, the lack of VTC visits at Krome is harmful to clients and prospective clients with severe mental illness or disability that may render someone incompetent to represent themselves. Many of our clients and prospective clients have any number of mental health conditions such as severe depression, post-traumatic stress disorder, paranoia, and other conditions and disabilities that make it imperative to be able to meet with these individuals over VTC to establish rapport and trust and to assess their current mental state and any special accommodations or assistance they may need. The lack of confidential legal calls is also especially difficult for clients and prospective clients with severe mental illness. For individuals suffering from conditions such as paranoia, post-traumatic stress disorder, psychosis, and many other conditions, having to speak about sensitive issues within the ear shot of guards and other detained individuals can be especially triggering and make it virtually impossible for these individuals to maintain consistent contact over the telephone. These individuals not only suffer from conditions that can increase despondency, paranoia, and anxiety over discussing sensitive topics in front of guards or other detained individuals, but they often require time and space to fully articulate their concerns, goals, and share the background necessary to fully assess and further their case. I recently had a prospective client who was so distrustful of the telephones at Krome and whether the calls were monitored or recorded, that he was unable to speak with me. As a result, we were not able to proceed with a consultation, let alone legal representation.
50. Clients with severe mental illness require more careful counseling and lengthier attorney client discussions to assure the client understands the nature of his or her release requests and the likelihood of their success. I have found clients with paranoid tendencies require regular communication in order to facilitate trust and cooperation. Absent regular, confidential communication, clients can become distrustful and anxious, even when efforts are made to schedule calls on a regular basis. The inability to meet with clients via VTC or schedule confidential legal calls undermines AIJ's ability to give clients and prospective clients with severe mental illness that may render someone incompetent to represent themselves the time and attention they need to fully assess their cases and options for release and relief.

51. All of these access issues compound to undermine AIJ's representation of individuals with severe mental illness. For example, I recently represented four men who were detained in KBHU. They all at some point experienced solitary confinement that was inappropriate based on their severe mental illnesses and disabilities. In these cases, and generally, Krome denies access to my clients due to their custody in solitary confinement by cutting off their access to the GettingOut application and telephones and often refusing to provide confirmation of my clients' whereabouts. This denial of access to my clients, the inconsistent ability to communicate with my clients, and the harmful impact on clients with severe mental illness hinders my legal representation. In this example, my clients suffered terribly from their time in solitary confinement. At least one of my clients become withdrawn and did not engage in our regularly scheduled phone calls: behavior consistent with his mental illness. With consistent, reliable access to my clients, I believe my clients would have had improved outcomes in their cases. Regular, reliable, confidential access to clients at all times, particularly clients with mental illness, would allow for AIJ to accept more cases for legal representation.
52. Not only is this lack of access to clients in solitary confinement detrimental to my ability to represent my clients, but it is especially harmful to clients with severe mental illness. For individuals suffering from severe mental illness, solitary confinement and being cut off from contact with counsel can be incredibly traumatizing. I have had clients with severe mental illness experience severe mental health symptoms and reactions to such treatment which has made it difficult for them to effectively communicate with counsel. For example, and as discussed above in Paragraph 51, clients with severe depression have become more withdrawn and fearful of communicating with anyone, including counsel, due to the trauma of solitary confinement and/or being cut off from contact with counsel.
53. Time-sensitive case decisions such as whether to launch an advocacy strategy regarding abusive or inhumane conditions of confinement require careful consideration both for AIJ and for the detained client or prospective client. In order to weigh all options and appropriately inform my clients and prospective clients with severe mental illness of their options, it is critical to have consistent and ready access to my clients and prospective clients. As explained above in Paragraphs 48-52, for clients and prospective clients with severe mental illness, it is even more critical that I can meet with them face-to-face through either VTC or in-person legal visits to build necessary rapport and assess clients' mental and emotional state. This information is necessary to thoroughly weigh available options and make decisions with my clients and prospective clients' about their cases. In my experience, clients with severe mental illness in ICE detention require additional safeguards and accommodations to communicate effectively with counsel, namely, regular video visitation and phone calls in confidential, private spaces, that can be requested on demand.
54. I have had several clients with severe mental illness who reported abusive and inhumane conditions of confinement, such as unwarranted and inappropriate use of solitary confinement. The lack of access to such clients at Krome has impeded AIJ's ability to

assess these complaints and timely determine an appropriate advocacy strategy. This is especially detrimental for clients suffering from severe mental illness whose symptoms are greatly exacerbated by the traumatic and stressful environment of solitary confinement. As a further example, AIJ receives calls from prospective clients who seek assistance addressing abusive conditions of confinement, but due to severe mental illness and symptoms, such as extreme paranoia, mania, or severe depression, are unable to share their complaints over the telephone due to the lack of confidentiality and the location of the phones in the middle of recreation area, which is often busy and full of people.

55. I currently have a blind client with severe mental illness who specifically suffers from psychotic symptoms and episodes. He was placed in both segregation and medical housing, although his severe mental illness and symptoms should have prevented him from being housed in solitary confinement. I am assisting him not only in his request for release from detention but also in advocacy to the Department of Homeland Security Office of Civil Rights and Civil Liberties (“CRCL”) due to his mistreatment while in confinement at Krome. My client had difficulty figuring out how to provide the necessary documentation for his case and was unable to send it to me. I believe his inability to copy and mail documents was due to his segregation in solitary confinement and his psychotic symptoms which inhibited basic functioning and understanding how to navigate Krome’s procedures to request assistance making copies and sending legal mail. This was compounded by my inability to schedule a VTC visit or confidential legal call with him, in which I could have spoken with him face-to-face, or at least over the telephone, and could have assisted in facilitating the exchange of documents. I ultimately had to travel to Krome to visit him to secure the necessary documents, but this delayed our progress on his case and his subsequent release request and complaint to the CRCL. I believe my client suffered unnecessarily at Krome due to these delays, including being forced to stay longer in solitary confinement and in detention generally without the intervention of the CRCL. Due to these impediments to access counsel, including but not limited to the lack of VTC visits and confidential legal calls, and the issues with in-person legal visits described herein, AIJ is unable to take these cases or investigate and build advocacy strategies regarding these reports of abusive conditions of confinement that can be especially destructive to individuals with severe mental illness.

Conclusion

56. Barriers to attorney-client communication at Krome harm AIJ’s ability to represent and provide effective assistance to our detained clients, and harm detained immigrants at Krome in their ability to communicate with counsel. The systematic barriers impact our ability to even accept cases for full representation at the Krome Immigration Court. Our resources are limited as a non-profit organization and the need to travel to Krome is especially burdensome due to the remote location of the facility.
57. 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, particularly in cases where a client has experienced horrific trauma. We have less opportunity to build rapport with clients, regularly review evidence, and prepare

for their cases. We waste time, resources, and money by commuting to a remote location that every day has several confirmed cases of COVID. The added delay and outlay of time required to communicate with detained clients also reduce our ability to represent more people. The entire facility placement and lack of communication systems inhibits placing cases with volunteer attorneys. The effect is that individuals detained at Krome are more likely to remain detained, even if eligible for release, suffer from unconstitutional conditions of confinement, and are left unable to pursue immigration benefits and relief for which they are eligible. Their shot at a fair opportunity in immigration proceedings is diminished by their detention, exacerbated by their inability to communicate regularly with their attorneys, worn down further by the remote location of the facility, and emotionally strained by the chaos and dangers inherent within ICE detention where they are not treated like human beings.

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

Executed this 2nd day of November 2022 in Broward County, Florida.

A handwritten signature in cursive script, reading "Andrea Jacoski", written over a horizontal line.

Andrea Jacoski