

**DECLARATION OF LISA LEHNER,  
AMERICANS FOR IMMIGRANT JUSTICE**

I, Lisa Lehner, 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 Florida Bar since 1983. I currently hold the position of Director of Litigation at the Americans for Immigrant Justice (“AIJ”). I am admitted to practice before the United States Supreme Court, the Eleventh Circuit Court of Appeals, and the Southern and Middle Districts of Florida.
2. Founded in 1996, AIJ is a 501(c)(3) non-profit organization in South Florida dedicated to providing free legal services to people in immigration detention. Those services include, but are not limited to, representation of immigrants in connection with various immigration petitions, removal proceedings, bond hearings, and class actions at ICE’s Krome Service Processing Center (“Krome”).
3. I have practiced as a federal court litigator at AIJ since 2017. I started at AIJ as a Senior Staff Counsel and became Director of Litigation in 2019. As the Director of Litigation, I have participated in and supervised other staff in all of the federal court litigation pursued by AIJ.
4. Because our immigration work often addresses conditions of detention, our litigation team works closely with the AIJ staff who represent clients at Krome, and therefore, the obstacles that these staff members face are equally obstacles for our litigation efforts. Krome has capacity to house 682 individuals, but the actual number of individuals held in detention at the facility fluctuates.

**AIJ’s Purpose**

5. AIJ attorneys represent hundreds of clients each year, including immigrants who are held in geographically isolated detention centers in Baker Detention Center located in Macclenny, Florida, at Krome in Miami, Florida, Broward Transition Center in Pompano Beach, Florida, and Glades County Detention Center in Moore Haven, Florida.
6. AIJ’s Children’s Legal Program, Family Defense, Detention, and Lucha Programs provide representation to clients before U.S. Citizenship and Immigration Services (“USCIS”) for family-based petitions, 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).
7. AIJ has a robust pro bono program that pairs interested law firms, many of which are national law firms that do not have offices in Florida, with AIJ litigators to co-counsel in federal court litigation. Due to the size of AIJ’s Litigation Program compared to the large population of immigrants in need of representation in South Florida, the pro bono support that out-of-state lawyers provide is critical to AIJ’s overall mission.

**The Impact of Krome's Communication Barriers on AIJ's Advocacy**

8. There is no uniformity among immigration detention facilities in Florida with respect to the available communication methods between attorneys and detained individuals. This patchwork system means that a detained immigrant's ability to consult with an attorney is very much determined by which facility one is housed in. For example, the Broward Transitional Center provides detained immigrants with private rooms to conduct remote meetings with their attorneys via Skype. Krome, on the other hand, does not permit detained individuals to speak on the phone or participate in videoconferences with their attorneys in a private or confidential setting.
9. Current policies at Krome make it almost impossible for an attorney to call a detained client on the telephone. There is no system through which attorneys can schedule private, confidential calls with their clients, which is a commonly available procedure at most state prisons. Moreover, there is no way for a detained immigrant to place a private and confidential call to an attorney at Krome because the phones that detained people can use to place calls to their counsel are located in shared spaces like the housing units. The current "pro bono" telephone platform that is supposed to provide detained immigrants with free calls to legal service providers is not confidential or private due to the location of the phones, and is so difficult and cumbersome to navigate that many clients find it almost impossible to make calls. There are no private rooms at Krome to accommodate remote or virtual meetings between detained individuals and their legal counsel, unlike other detention facilities.
10. Attorneys are unable to use telephones or cell phones during in-person legal visits, making it impossible to call interpreters when needed. Attorneys are also barred from bringing laptops or portable printers to their in-person meetings with detained clients, which prevents attorneys from revising declarations and other legal documents or conducting legal research in real time. Further, there is no access to the internet or hot spots available for attorneys to log onto the internet so that they can conduct research, access secure files, edit and save confidential legal documents to a secure file sharing system, or connect to portable printers or scanners (should they be allowed access to same). Instead, AIJ attorneys must waste valuable time traveling back and from their office to Krome with various drafts of documents or other legal documents that require review and/or signature by our clients. Krome should address these deficiencies by providing access to the internet through wi-fi access or hotspots available to attorneys, along with allowing computers, portable printers, and other equipment necessary for attorney-client meetings and consultations.
11. These constraints have significantly impaired AIJ's ability to represent clients by lengthening the time it takes to prepare for a case. Because of these communication barriers, attorneys are forced to conduct an in-person visit whenever they need to interview the client on sensitive details of their case, in order to develop the facts further because there is no way to talk confidentially through remote means (phone or video calls) with a detained client, or for simple ministerial tasks like securing a signature on a time sensitive document. Under current conditions, AIJ attorneys and staff must spend valuable time overcoming communication barriers, driving to Krome and waiting in line each time they need to discuss something with

a client, instead of talking with clients, drafting documents and briefs, preparing for argument, or appearing in court. In-person visits by AIJ staff have been made all the more difficult in light of the COVID-19 pandemic, as many staff members are reluctant or unable to visit in person due to health and medical concerns. Despite repeated requests made by AIJ to Krome personnel and the Department of Homeland Security, Krome does not allow attorneys to schedule remote video conferences or in-person meetings in advance or to reserve an attorney-client meeting room.

12. Calls by detained clients from the housing unit are never confidential because detained clients must make all calls from telephones located in the open housing unit where they are in the presence of other detained people as well as ICE officers and detention center staff. These calls often involve highly sensitive, confidential, and privileged topics. There are no separate phones located in private rooms for legal calls. Clients must make calls to counsel on one of approximately 4 to 6 phones located in a unit with approximately 50 to 66 beds. The phones are mounted on a wall, each placed only 2 to 3 feet apart in the open housing bay. Although some phones have metal dividers between them, the dividers do not prevent others from listening to the conversation. Other detained people standing next to a client or waiting in line can easily overhear what is being said on the phone. The phones are also located next to the guard's desk, where an officer is usually stationed while the phone call takes place.
13. In addition, because the phones are located in a large, open unit, it can be difficult for an attorney to hear what a client is saying, and calls are often disrupted by background noise. Calls can be limited in duration because of interference from other activities in the facility, such as meals or headcount, because of the high demand for the phone lines from other detained people, and/or because of instructions by officers to detained clients telling them to end the call.
14. There are several challenges posed by the pro bono telephone line, including the fact that information on the steps needed to place these calls is not readily available to clients detained at Krome and the complete absence of a system to schedule confidential, private legal phone calls. As a result, AIJ was forced to set up an account on the paid GettingOut communications platform in order to send messages to clients and potential clients at Krome, which often include information on how to call AIJ on the pro bono platform from Krome as well as when the attorney or staff member will be available to receive the call. This has caused our non-profit organization to expend more money than we otherwise would to represent our clients and increases costs for detained immigrants who must also pay to read and respond to our messages. Not only that, but GettingOut messages are monitored by detention authorities, even when the GettingOut account is registered as a confidential attorney account.
15. The inability to schedule phone calls with detained clients at Krome further complicates our ability to provide services to people who require the use of an interpreter. A system that relies on a client calling an attorney back makes it extremely difficult to arrange for provision of an interpreter, particularly when the client speaks a language which is not readily available and advance scheduling is required for interpreter availability. This failure can lead to

lengthy delays in the provision of meaningful services to clients who speak languages other than English or Spanish.

16. In addition, AIJ attorneys have encountered several issues with poor audio quality in phone calls from clients at Krome. MThere have been many times when AIJ attorneys and staff have experienced disconnected calls and static, making it difficult to conduct a conversation with the client.
17. Unlike other ICE detention facilities, Krome has no program to allow attorneys to conduct confidential video teleconferencing (“VTC”) calls with detained clients in ICE custody. This is in contrast, for example, with a neighboring immigration detention center in Ft. Lauderdale, Florida, the Broward Transitional Center, which provides private rooms for video teleconferencing calls between attorneys and their clients. No such system exists for Krome.

#### **Impact of Lack of Access on AIJ’s Advocacy and Litigation Work**

18. In addition to providing clients with direct representation on immigration matters, AIJ monitors detention conditions and engages in advocacy and litigation to improve the conditions for people in ICE detention and ensure that their treatment is lawful. This work can include preparing and filing an administrative complaint with one of the Department of Homeland Security’s oversight offices, like the Office of the Inspector General, demand letters to the local ICE Field Office, writing research and advocacy reports on topics related to immigration detention, and litigating habeas corpus petitions and other cases in federal district court.
19. Since its opening, AIJ has authored 12 reports detailing the conditions of immigration detention, with reports in recent years on ICE’s shackling practices<sup>1</sup>, conditions across all south Florida detention centers, including Krome,<sup>2</sup> and the impact of the COVID-19 pandemic on detained immigrants at Krome and other detention centers.<sup>3</sup>
20. In addition to monitoring conditions and advocacy work, AIJ also has a robust federal litigation program that has filed and litigated habeas petitions on behalf of those wrongfully detained; co-counseled with law firms and other organizations many of which are not located

---

<sup>1</sup> Lily Hartmann and Lisa Lehner, “*They Left Us with Marks:*” *The Routine Handcuffing and Shackling of Immigrants in ICE Detention*, Americans for Immigrant Justice (April 2018), [https://aijustice.org/wp-content/uploads/2020/05/They\\_Left\\_Us\\_with\\_Marks.pdf](https://aijustice.org/wp-content/uploads/2020/05/They_Left_Us_with_Marks.pdf).

<sup>2</sup> *Prison by Any Other Name: A Report on South Florida Detention Facilities*, Americans for Immigrant Justice and The Southern Poverty Law Center (2019), [https://aijustice.org/wp-content/uploads/2020/05/cjr\\_fl\\_detention\\_report-final\\_1.pdf](https://aijustice.org/wp-content/uploads/2020/05/cjr_fl_detention_report-final_1.pdf).

<sup>3</sup> Cheryl Little and Lisa Lehner, *In Their Own Words: Voices from ICE Detention During COVID*, Americans for Immigrant Justice (October 2021), [https://aijustice.org/wp-content/uploads/2021/10/AIJJustice\\_Report\\_InTheirOwnWords\\_10.21\\_.pdf](https://aijustice.org/wp-content/uploads/2021/10/AIJJustice_Report_InTheirOwnWords_10.21_.pdf).

in Florida; and pursued federal court litigation aimed at improving conditions of confinement in immigration detention.

21. Advocacy and litigation work related to immigration detention require numerous interviews and conversations with the detained client, or clients, in order to fully develop the facts of the case. Further, the information collected for advocacy and litigation work related to immigration detention is often highly sensitive. AIJ attorneys and staff routinely interview detained individuals regarding cases of medical neglect, sexual assault, voyeurism, physical assault by detention officers, and racist harassment, among other issues. In doing this work, AIJ staff must also conduct confidential conversations with individuals in detention who risk retaliation or other consequences for raising issue with the conditions of the facility. AIJ's work to develop complaints, to identify potential plaintiffs for litigation, including class actions, and to prepare witnesses for testimony is often hindered by the lack of access to confidential and private methods of communication with people detained at Krome.
22. Because Krome does not provide access to confidential videoconferencing or private, confidential calls between attorneys and their detained clients, AIJ staff are forced to collect information on detention conditions and conduct these critical conversations when detained individuals call AIJ from the telephones in their housing units, where they are in the presence of other detained people as well as detention staff and guards. The detention staff at Krome, whether it be contract officers, ICE officers, or medical staff, are able to overhear conversations between attorneys and their detained clients due to the location of the phones in the housing units. Our clients are frequently hesitant to share information over the phone for fear of retaliation.
23. The following paragraphs provide a few examples of instances in which Krome's failure to provide VTC or scheduled confidential and private legal calls has impeded AIJ's ability to prepare and move forward AIJ's advocacy and litigation work.
24. In 2018, AIJ staff recruited and organized a large team of pro bono attorneys to provide individual representation on Motions to Reopen for a large group of Somali men and women, who were returned to Miami after a failed deportation flight that stranded them on a tarmac in Senegal for nearly two days. The effort required dozens of attorneys, many of whom are not located in Florida. AIJ staff also monitored the medical conditions of the Somalis who suffered injuries on the flight. Because Krome does not permit confidential, legal calls or confidential VTC visitation for attorneys, the team of pro bono attorneys was forced to rely on local law school students and non-profit organizations in the Miami area to conduct in-person visits to Krome to gather documents from their Somali clients and conduct follow-up interviews related to sensitive information to develop the motion or client declaration. The lack of access to these detained clients created delays in the pro bono attorneys' abilities to prepare and file the clients' Motions to Reopen in the accelerated time frame that the Court had imposed. The access barriers also required us to expend more resources than we usually would to represent our clients because they compelled us to solicit and train local law students and other organizations located closer to Krome.

25. At the outset of the COVID-19 pandemic, AIJ joined other Florida-based legal organizations and the national law firm of King and Spalding in filing a class action lawsuit against ICE to ensure that COVID-19 protections would be implemented in all three Florida detention centers, including Krome. Because of the urgent nature of this case, given the need to protect the health and safety of people detained at Krome from a highly transmissible virus, time was very much of the essence. The litigation team screened and identified detained individuals with medical conditions that placed them at high-risk in the case of infection with COVID-19. Each named plaintiff in the lawsuit provided a declaration, which had to be prepared only over the phone, and often with only one call because attorneys or legal assistants were not able to call their clients at Krome back for any follow-up questions.
26. During the COVID-19 class action, AIJ monitored COVID-19 outbreaks at Krome. However, AIJ staff were forced to wait until named plaintiffs or other class members called our office to report on the conditions because there was no way to arrange legal calls. After receiving reports of new COVID-19 cases or violations of COVID-19 protocols, AIJ staff shared the information with co-counsel and if it was decided that the plaintiff needed to provide a declaration, AIJ staff either had to wait days for the individual to call back or send a message to the client over the GettingOut platform requesting they place a call to AIJ, in hopes they would see the message quickly. In instances where we never received a call from the detained individual, we could not collect a declaration from them, even if they were aware of information that was critical to the litigation, like COVID-19 outbreaks or violations of COVID-19 protocols at the detention center.
27. At numerous points in the COVID-19 litigation, AIJ was tasked with identifying and preparing witnesses to appear at hearings related to pending motions, such as a motion to compel compliance with the preliminary injunction and for the fairness hearing. AIJ was often forced to prepare these witnesses on short timelines, and preparing a witness required multiple phone calls. Because there are no confidential legal calls at Krome, all of these calls had to be conducted using AIJ's pro bono, free phone line, with AIJ staff conferencing in our out-of-state co-counsel once the client called our office. Moreover, the preparation time to get witnesses ready to testify was also limited by the facility's other restrictions, such as count times, meals, and competition for the few available phones in the housing units. Therefore, in many instances in this litigation, the amount of witness preparation time was severely curtailed, sometimes only amounting to one hour, which is in stark contrast to what occurs in most class action litigation.

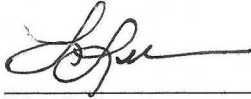
#### **Impact of Lack of Access on AIJ's Clients**

28. The lack of access to counsel at Krome also severely impacts our clients' abilities to assert their rights and file their own lawsuits. AIJ's clients at Krome need the assistance of lawyers to bring lawsuits challenging their conditions of confinement and to obtain release or other forms of humanitarian relief from the authorities. Many are new arrivals to the United States, do not speak English, and have little knowledge of how to utilize the U.S. legal system to secure relief from their circumstances. Very few other local organizations have a regular, sustained presence at Krome to provide legal assistance to detainees. Because of the lack of

rule of law in their home countries, many are simply unaware they can sue or challenge government action. Others have expressed fear that they will be retaliated against for complaining. The limitations placed on their access to AIJ detailed in this and my colleague Andrea Jacowski's declaration hinder detained clients from filing and participating in their own lawsuits.

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

Executed this 11 day of October 2022 in Miami, Florida.

A handwritten signature in cursive script, appearing to read 'Lisa Lehner', written over a horizontal line.

Lisa Lehner