DECLARATION OF HANNAH P. FLAMM, ESQ.

I, Hannah P. Flamm, declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about the following facts.
2. My name is Hannah P. Flamm, Esq., and I am an attorney licensed to practice in the State of New York. This declaration describes my experiences and observations working with unaccompanied migrant youth detained at The Children’s Village and Abbott House.

Experience Serving Youth in ORR Custody
3. Since October of 2017, I have been an attorney at The Door, a legal service provider that works primarily with immigrant youth. Since December 2019, I have been the Managing Attorney of The Door’s Detained Minors Project. Since December 2019, The Door has served unaccompanied children in the legal custody of the Office of Refugee Resettlement (“ORR”) who have been placed by ORR at The Children’s Village and Abbott House in New York, two care programs within the ORR network of care providers. Over the last four months, The Door has served over 400 youth in ORR custody. Although the majority of these youth come from Mexico, Honduras, Guatemala and El Salvador, youth placed at these facilities may come from all over the world.
4. As the legal service provider for The Children’s Village and Abbott House, our attorneys and other staff maintain regular contact with the youth at the facilities. We provide ongoing consultations and presentations concerning the legal rights of detained minors, as well as provide direct legal representation to youth who request it.
The Children’s Village

Background

5. It is my understanding that The Children’s Village serves unaccompanied migrant youth between the ages of 12 and 17. It is my understanding that The Children’s Village is licensed to provide shelter-level care for up to 157 youth. The Children’s Village also operates a staff-secure setting with capacity to detain up to 28 youth. The current population of the shelter setting is approximately 100 youth. The current population of the staff-secure setting is approximately 11 youth.

6. The Children’s Village consists of a campus that includes approximately 32 residential buildings and 14 administrative buildings, including a school, medical facility, administrative office, chapel, and daycare. This campus serves both youth in ORR custody and “domestic” youth who are in the legal custody of the State of New York. All of the youth are housed in residential buildings. Most youth in ORR custody are housed in residential buildings that can accommodate up to approximately 14 youth. Youth in each residence are also supervised by a variety of staff. Children and youth are regularly transported in groups to other buildings on the campus for educational programming and other services. Residents are expected to share common equipment such as telephones, televisions, tables, recreational games and other living accommodations.

Youth Interactions with Staff

7. It is my understanding that there are approximately 70-100 staff and personnel at The Children’s Village, many of whom provide 24-hour care and supervision. Some youth in the staff-secure setting are required to receive one-on-one or even two-on-one supervision from staff, in addition to the general daily supervision provided. Staff work different shifts, and youth are exposed to different staff throughout the day. In some instances, residential staff are advised to pat down minors after they use the bathroom.

8. Educational services are provided by a variety of staff in classrooms that accommodate up to approximately 20 or more youth, in addition to a number of staff.

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9. Youth participate in weekly group therapy, which includes youth as well as clinical staff.
10. Youth also meet individually with case managers and mental health clinicians on a regular basis and ad hoc for minors in crisis.
11. Particularly among those detained in the staff-secure setting, youth may interact with staff from The Children’s Village’s special disciplinary unit. Staff from this unit are authorized to interact with youth in a physical manner, including through the use of physical restraints.
12. It would be difficult or almost impossible for children within The Children’s Village to maintain six feet of social distancing between themselves and others, including staff, at all times.

**Sleeping Arrangements**
13. Youth at The Children’s Village are held in a communal setting in close quarters with other children. Based on my observation, youth sleep in rooms with four beds, sometimes bunk beds, with approximately four to six feet between the beds.

**Bathroom and Shower Access**
14. Youth share bathrooms. Staff sometimes also use these same bathrooms. Some minors are required to seek permission to use the bathroom. Staff may wait outside the bathroom while minors are inside.

**Dining Facilities**
15. Youth at The Children’s Village also eat meals in a communal setting. Meals are served multiple times a day in a single location within each residential building, which serves up to approximately 14 youth at a time. Various staff are also present during meals. Youth sit together at meals, and are not generally six feet apart from each other or from staff. Instead, they typically sit four-to-six children to a table.
Access to Medical Care

16. Minors have access to a medical unit located on the Children’s Village campus. Medical services are provided in this location and not in the residential buildings. Therefore, minors must be transported there for all medical needs.

17. If access to local hospitals in Westchester is limited due to the novel coronavirus, minors at The Children’s Village may be at grave risk both for COVID-related and non-COVID medical emergencies.

Abbott House

Background

18. Abbott House detains unaccompanied migrant youth between the ages of 0 (US citizens born to minors in ORR custody while at Abbott House) and 17. It is my understanding that this facility is licensed to provide shelter care for up to 51 youth. The current population of this facility is approximately 34.

19. Abbott House consists of a campus that includes one large, main building, where youth are housed on multiple floors. This building also includes administrative offices, classrooms, a cafeteria, recreational areas, and conference rooms. Children and youth are regularly transported within the large building, in groups, for educational or other programming or services. Residents share common equipment such as telephones, televisions, tables, recreational games and other living accommodations.

Youth Interactions with Staff

20. It is my understanding that there are approximately 30 staff and personnel at Abbott House, many of whom provide 24-hour care and supervision to children. Staff work different shifts, and youth are exposed to different staff throughout the day.
21. Educational services are provided by a variety of staff in classrooms that accommodate up to approximately 20 youth, in addition to a number of staff. Children attend group classes.

22. Youth participate in weekly group therapy, which includes a group of youth as well as clinical staff.

23. Youth also meet individually with case managers and mental health clinicians on a regular basis.

24. It would be difficult or almost impossible for children at Abbott House to maintain six feet of social distancing between themselves and others, including staff, at all times.

Sleeping Arrangements

25. Youth at Abbott House are held in a communal setting in close quarters with other children. Based on my observation, most youth sleep in rooms with two or more beds with approximately six feet between the beds in standard rooms. Minors' standard rooms do not have doors in the doorways.

Bathroom and Shower Access

26. Multiple children may share bathroom facilities. Children may have to notify staff that they need to use the bathroom, so that staff can accompany them to the bathroom.

Dining Facilities

27. Youth at Abbott House also eat meals in a communal setting. Meals are served multiple times a day in a single location large enough to serve up to approximately 60 youth at a time. Various staff are also present during meals.

Access to Medical Care

28. Children access basic medical care on-site at Abbott House. For more specialized medical care, children must be transported elsewhere.

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29. If access to local hospitals in Westchester is limited due to the novel coronavirus, minors in shelter at Abbott House may be at grave risk both for COVID-related and non-COVID medical emergencies.

Conclusion

30. Based on my observations of these two congregate care settings, it is my opinion that children in custody are at heightened risk of: being infected by the novel coronavirus; exposing more children, shelter staff (who travel to the shelters from the greater New York City area), and the general public to the virus; not receiving adequate or timely medical care; and suffering the potentially lethal effects of COVID-19.

31. The congregate care setting of detention puts minors at heightened risk on account of the near impossibility of following social distancing and other urgent public health measures.

32. Some minors are at greater risk because they have pre-existing medical conditions such as asthma.

33. Between the two shelters, close to 120 minors arrived in the last two months, and 49 youth have arrived since March 1, 2020. Minors have arrived in these two shelters from other ORR shelters around the United States as well as from state custody and from living in the community around the United States.

34. Despite the best intentions of staff at these two facilities, the intrinsic nature of children being in custody heightens their risk of exposure to the novel coronavirus. Given the current strain on New York’s hospitals and healthcare system, I am concerned that children in ORR custody may be unable to receive adequate and timely medical care if they are exposed. In addition to children’s own health concerns, such exposure necessarily implicates all those who interact with the children, including shelter staff, legal services providers and medical professionals.
I declare under penalty of perjury that the foregoing is true and correct. Executed on this 24th day of March, 2020, in New York, New York.

HANNAH P. FLAMM
DECLARATION OF HANNAH P. FLAMM, ESQ.

I, Hannah P. Flamm, declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about the following facts.

2. My name is Hannah Flamm, and I am an attorney licensed to practice law in the State of New York. This declaration describes my experiences and observations working with unaccompanied migrant youth detained at The Children’s Village and Abbott House in New York.

Experience Serving Youth in ORR Custody

3. Since October of 2017, I have been an attorney at The Door, a legal service provider that works primarily with immigrant youth. Since December 2019, I have been the Managing Attorney of The Door’s Detained Minors Project. Since December 2019, The Door has served unaccompanied children in the legal custody of the Office of Refugee Resettlement (“ORR”) who have been placed by ORR at The Children’s Village and Abbott House in New York, two care programs within the ORR network of care providers. Over the last four months, The Door has served over 400 youth in ORR custody. Although the majority of these youth come from Mexico, Honduras, Guatemala and El Salvador, youth placed at these facilities may come from all over the world.

4. As the legal service provider for The Children’s Village and Abbott House, our attorneys and staff maintain regular contact with the youth at the facilities. We provide ongoing consultations and presentations concerning the legal rights of detained minors, as well as direct legal representation to youth who request it.
5. The Children’s Village serves unaccompanied migrant youth between the ages of 12 and 17. It is my understanding that The Children’s Village is licensed to provide shelter-level care for up to 157 youth. The Children’s Village also operates a staff-secure setting with capacity to detain up to 28 youth. The current population of the shelter setting is approximately 85 youth. The current population of the staff-secure setting is approximately 10 youth.

6. **Delays in Reunification**

Between March 25, 2020, and April 2, 2020, no minors were discharged from The Children’s Village, with the exception of one age redetermination case on April 1, 2020. On April 3, 2020, The Door observed that discharges had commenced again.

7. It is my impression that during the nine days when no minors were discharged from The Children’s Village, this pause on releases (aside from the age redetermination) was *not* a reflection of the shelter failing to prepare minors’ cases for submission to ORR or failing to submit cases to ORR. Instead, it is my impression that The Children’s Village staff worked expeditiously to prepare minors’ cases for submission to ORR and that in some instances, ORR in fact approved minors’ cases for release. However, it appears that ORR was declining to authorize The Children’s Village to physically discharge minors from their custody. It is my understanding that some minors with ORR-approved sponsors nonetheless remained at The Children’s Village between March 25, 2020, and April 2, 2020, because ORR did not authorize their physical discharge.

8. Between the evening of Friday, April 3, 2020, and Monday, April 6, 2020, 15 minors were discharged from The Children’s Village. At least three more were discharged on Tuesday, April 7, 2020. Collectively, these minors were discharged to Alabama, California, Florida, Georgia, Indiana, Kansas, Maryland, New Jersey, and North Carolina. It is my understanding that these discharges occurred as a result of a change in ORR’s reunification policies or practices.
Age-outs

9. Further, as recently as March 24, 2020, minors who have aged out of ORR custody at The Children’s Village have been transferred to ICE detention, including to a detention center where at least four detainees have tested positive for COVID-19.

10. Age-out cases average one or more per week. If ORR again categorically declines to approve physical discharges for any period, as apparently occurred between March 25, 2020, and April 2, 2020, minors whose 18th birthdays fall in that interval are at heightened risk of being transferred to ICE custody, even in cases where they have viable or even ORR-approved sponsors.

11. If one of the minors released on the evening of Friday, April 3, 2020, had not been released before aging out of ORR custody this past weekend, he would have faced transfer to ICE custody despite having a parent approved as an ORR sponsor.

Abbott House

Background

12. Abbott House detains unaccompanied migrant youth between the ages of zero (US citizens born to minors in ORR custody while at Abbott House) and 17. It is my understanding that this facility is licensed to provide shelter care for up to 51 youth. The current population of this facility is approximately 30.

Delays in Reunification

13. During the month of March, minors have continued to be discharged in low numbers: approximately eight between March 12, 2020, and March 19, 2020; and approximately three between March 19, 2020, and March 31, 2020. One minor for whom The Door is the legal service provider was released from Abbott House between April 1, 2020, and April 8, 2020.

14. At this time, of the 30 minors in Abbott House’s shelter program, it is my understanding that approximately a quarter are pending ORR approval for discharge only.
It is my understanding that approximately another third of the cases have advanced to the stage of pending fingerprints.

15. Therefore, any future categorical moratorium on physical discharges would mean a significant number of minors in custody with cases submitted to ORR, pending approval, or, by then, perhaps approved—including to biological parents—may be forced to remain in a congregate care setting for no individualized, child welfare-related reason.

Conclusion

16. The Door has not received any formal COVID-related guidance directly from ORR regarding any changes in policies affecting the safety, welfare, and release of our clients to their sponsors. The most comprehensive, formal, COVID-related guidance we have seen has come from ORR’s court filings in response to the *Lucas R.* and *Flores* temporary restraining order motions, including the “ORR Field Guidance #4, COVID-19 Discharge Guidance” that ORR filed with the Court on April 6, 2020. ORR did not share this guidance with The Door prior to the court filing. ORR’s failure to provide The Door guidance has left our attorneys, staff, and clients ill-informed, confused, and anxious because ORR has not told either our staff or, to my knowledge, our clients for how long our clients must remain in ORR custody.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 8th day of April, 2020, at New York City, New York.

__________________________________________________________________________

Hannah P. Flamm
DECLARATION OF HANNAH P. FLAMM, ESQ.

I, Hannah P. Flamm, declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about the following facts.

2. My name is Hannah P. Flamm, and I am an attorney licensed to practice law in the State of New York.

Experience Serving Youth in ORR Custody

3. Since December 2019, I have been a Managing Attorney at The Door’s Legal Services Center, a legal service provider that works primarily with immigrant youth. Since December 2019, The Door has served unaccompanied children in the legal custody of the Office of Refugee Resettlement (“ORR”) who have been placed by ORR at several care providers within the ORR network, including The Children’s Village in New York. Over the last 11 months, The Door has served over 450 youth in ORR custody. Although the majority of these youth come from Mexico, Honduras, Guatemala, and El Salvador, youth placed at these facilities may come from all over the world.

4. As the legal service provider for The Children’s Village, our attorneys and staff maintain regular contact with the youth at the facilities. We provide ongoing consultations and presentations concerning the legal rights of detained minors, as well as direct legal representation to youth.

ORR COVID-19 Guidance and Policy

5. The last ORR guidance pertaining to COVID-19 that we received was from the summer of 2020 and only pertained to “Verbal Screening and Temperature Check for Staff and Visitors.” We have not received any guidance directly from ORR since April 2020 regarding testing or any other COVID-19 protocols. We understand that ORR does
not have any protocols or policies regarding contact tracing. We do not believe that ORR is conducting any contact tracing.

6. ORR has not informed us of any ORR policy requiring ORR or care providers to notify legal service providers, attorneys of record, or other visitors if anyone at the care provider’s site has tested positive for COVID-19, has been exposed to COVID-19, or has developed symptoms of COVID-19. Instead, ORR has declined to inform us if anyone at The Children’s Village has tested positive, has been exposed, has exhibited symptoms, or has been denied entry to the site based on ORR’s “Verbal Screening and Temperature Check for Staff and Visitors,” even when our staff are visiting the site in person for client meetings. ORR has not informed us whether it is an ORR policy for providers not to provide this information or if it is at individual providers’ discretion. To protect our clients’ rights and to further the best interests, health, and safety of our clients and our staff, we need to be informed, with our clients’ consent, if any of our clients has tested positive, has been exposed, or has developed symptoms of COVID-19; or if anyone at the care provider’s site has not passed the “Verbal Screening and Temperature Check for Staff and Visitors.”

7. Since July 2020, 10 minors have arrived at The Children’s Village. At least three of their ORR records do not reflect their having received a COVID-19 test upon arrival (one who arrived in August 2020 as a transfer from another ORR facility in Texas; one who arrived in September 2020 as a direct transfer from ICE custody; and one who arrived in October 2020 as a transfer from another ORR facility in Texas). The Door has no formal means to learn if clients receive COVID-19 tests aside from their ORR records.

8. In July and August 2020, The Door learned inadvertently that two of our clients, both of whom had been detained at The Children’s Village for months before the pandemic began, had tested positive for COVID-19. In neither case did ORR or The Children’s Village staff inform The Door that the clients had tested positive, despite our requests that we be informed if a client ever received a positive test result. Instead, in one case, The Door learned that our client had tested positive only via unofficial sources,
including through another client living in the same placement. In another case, The Door learned that our client had tested positive only after The Door advocated for her prompt repatriation and discovered that her medical clearance was a source of the delay.

9. During remote, video-conference meetings since August 2020 and in-person meetings at The Children’s Village since October 2020, The Door has observed minors apparently not in quarantine or wearing masks despite having arrived at the care provider within the previous two weeks and in some instances within the previous few days. On multiple occasions between August and November 2020, The Door staff have observed minors not wearing masks or not wearing masks properly, including while being within six feet of staff. The Door has observed that some minors lack understanding of COVID-19, quarantine, personal protective equipment, and their rights. The Door staff have observed laptops, pens, and other high-touch surfaces not being wiped prior to use and have not observed routine use of hand sanitizer. Of course it is unknown to The Door staff what happens off-camera and what may cause a newly arrived minor not to need to be in quarantine.

10. ORR has informed us that ORR defers to state and local policies governing each ORR network care provider. We are unaware of any ORR written policies or procedures that instruct care providers to comply with state and local policies. Additionally, we have received no information from ORR as to how care providers should reconcile conflicts across multiple policies from different jurisdictions (e.g. where children are transferred from Texas to New York).

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 23rd day of November 2020 at New York, New York.

____________________________________
Hannah P. Flamm