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March 21, 2014

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Washington, DC 20515-1002

Representative Paul Broun Jr.
2437 Rayburn House Office Bldg.
Washington, DC 20515

Representative Doug Collins
513 Cannon H. O. B.
Washington, DC 20515

Representative Phil Gingrey
442 Cannon House Office Building
Washington, DC 20515

Representative Henry Johnson Jr.
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Representative Jack Kingston
2372 Rayburn HOB
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Representative John Lewis
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Washington, DC 20515

Representative Tom Price
100 Cannon House Office Building
Washington DC 20515

Representative Austin Scott
516 Cannon HOB
Washington, DC 20515

Representative Lynn Westmoreland
2433 Rayburn House Office Building
Washington, DC 20515

Representative Rob Woodall
1725 Longworth HOB
Washington, DC 20515

Re: Requesting Investigation of Stewart and Irwin County Immigration Detention Centers

Dear Members of the Georgia Delegation:

We are writing to request that you initiate an investigation into the Stewart and Irwin County immigration detention centers in Georgia. The American Civil Liberties Union Foundation of Georgia (ACLU of Georgia) has prepared a report on immigration detention in Georgia, *Prisoners of Profit: Immigrants and Detention in Georgia*, a copy of which is enclosed. Published in May 2012, *Prisoners of Profit* documents the plight of thousands of individuals who are detained in U.S. Immigration and Customs Enforcement (ICE) detention facilities in the State of Georgia and details extensive violations of their rights. To date, neither ICE nor the for-profit detention centers have taken action to address the concerns highlighted in the report.

Prisoners of Profit is the culmination of three years of visits by ACLU of Georgia staff to immigration detention centers throughout the state and interviews with immigration lawyers as well as immigrants in detention and their family members.¹ The report establishes that immigrants are systemically deprived of their right to due process in immigration removal proceedings, and that, pending their removal from the United States, they are subjected to conditions of confinement that rise to the level of cruel, inhuman, or degrading treatment. In addition to documenting these abuses, the report makes concrete recommendations for reform of laws, policies, and practices to bring them into line with U.S. constitutional and international law.

Stewart Detention Center (Stewart) is the largest immigration detention center in the United States. It is a 1,725-bed medium-security all-male facility located in Lumpkin, Georgia. It is managed and operated by the private company Corrections Corporation of America (CCA). Irwin County Detention Center (Irwin) is a 1,201-bed detention center holding both men and women located in Ocilla, Georgia. 521 beds at Irwin are for immigrant detainees. The other beds are used for U.S. Marshals Service detainees. It is managed and operated by the private company Carter Global Lee.

Stewart and Irwin are the two largest immigration detention centers in Georgia and are also the most remotely located, increasing the hardship on detainees and their families. These two facilities have also had the most extensive human rights abuses in the country according to the Detention Watch Network Expose and Close reports from 2012² and 2013.³ In light of this, we ask that you conduct an investigation into the practices and policies of these facilities and consider whether, in light of these violations, it is appropriate to close these facilities.⁴

I. Due Process Violations

A. Indefinite and Prolonged Detention Without Review

The U.S. Supreme Court has enunciated basic principles applicable to the civil confinement of non-citizens. In a 2001 decision, the Court stated, “government detention violates the [Due Process] Clause unless it is imposed as punishment in a criminal proceeding conforming to the rigorous procedures constitutionally required for such proceedings, or ‘in certain special and narrow non-punitive circumstances.’ ”⁵

¹ See Alexandra Cole, *Prisoners of Profit: Immigrants and Detention in Georgia*, 28 (Azadeh Shahshahani ed., American Civil Liberties Union Foundation of Georgia, 2012), available at http://www.acluga.org/files/2713/3788/2900/Prisoners_of_Profit.pdf.

² Detention Watch Network, *Expose and Close: Executive Summary (2012)*, available at <http://www.detentionwatchnetwork.org/sites/detentionwatchnetwork.org/files/ExposeClose/Expose-Executive11-15.pdf>.

³ Detention Watch Network, *Expose and Close: One Year Later (2013)*, available at http://www.detentionwatchnetwork.org/sites/detentionwatchnetwork.org/files/expose_and_close_one_year_later.pdf

⁴ Detention Watch Network, *Letter to Barack Obama*. Nov. 28, 2012, available at: <http://www.detentionwatchnetwork.org/sites/detentionwatchnetwork.org/files/ec-obamaletter.pdf>. Accessed Feb. 6, 2014.

⁵ See David Cole, *In Aid of Removal: Due Process Limits on Immigration Detention*, 51 Emory L.J. 1003, 1010 (2002)(“non-punitive or preventive detention is permissible only where an individual (1) is either in criminal or

Several ICE policies and practices implemented in Georgia deny immigrants their due process rights. The ACLU of Georgia documented instances of deportation officers screaming at detainees who refused to sign stipulated orders of removal and, in several cases, physically forcing immigrants to sign.⁶ These stipulated orders purport to signal the detainees' consent to be removed from the United States and strip detainees of their right to a hearing. Immigrants often sign these orders unaware of the rights they are giving up or of the consequences that may result. Indeed, courts across the country are now exploring whether such orders are lawfully carried out by deportation officers.

Further, after final removal orders have been issued, some immigrants in Georgia whom the government is unable to remove have been subjected to indefinite detention, in clear violation of their constitutional rights.⁷ The U.S. Supreme Court requires a "reasonable time" limitation on detention after issuance of a final removal order. It has held that indefinite detention absent special circumstances, beyond the immigrant's foreseeable removal, is a violation of the due process clause.⁸ The Court, for purposes of uniformity, set a six-month time limit on detention after which, "once an alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must furnish evidence sufficient to rebut that showing."⁹ However, immigrants have been detained at Stewart far beyond six months after final removal orders without being provided the required hearings, in clear violation of their due process rights.¹⁰ For example, Ido Yelkal was first detained at Stewart during the summer of 2009 and remained in detention for over two years before being removed.¹¹ Another immigrant, Pedro Guzman Perez, had been detained since November 2009 but had not yet had a 90-day custody review as of July 2010.¹²

B. Lack of Access to Counsel Including Intentional Barriers to Legal Aid

Legal representation is critical for immigrants facing potential deportation. According to one study, it is "the single most important non-merit factor" in determining the outcome of removal proceedings.¹³ Detention facilities have significant barriers to legal access due to their remote locations, lack of legal orientation programs and *pro bono* help, and intentional prohibitions on attorney access to immigrants who are detained inside the facilities.

Stewart is located 145 miles south of Atlanta, in an isolated corner of the state. Attorneys face

immigration proceedings and has been shown to be a danger to the community or [a] flight risk; (2) is dangerous because of a 'harm-threatening mental illness' that impairs his ability to control his dangerousness; or (3) is an enemy alien during a declared war." (citing *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)); *United States v. Salerno*, 481 U.S. 739, 752-53 (1987); *Carlson v. Landon*, 342 U.S. 524, 541-42 (1952).

⁶ Prisoners of Profit, *supra* note 1 at 44.

⁷ See e.g., interviews with Paul and Ido Yelkal conducted by the ACLU of Georgia at Stewart on July 25, 2011 and August 13, 2011.

⁸ See *Zadvydas v. Davis*, 533 U.S. 678 (2001).

⁹ *Id.* at 680.

¹⁰ See Prisoners of Profit, *supra* note 1 at 45 (discussing multiple cases in which detained individuals were kept beyond six months after issuance of final removal orders).

¹¹ *Id.*

¹² *Id.*

¹³ Andrew I. Schoenholtz & Hamutal Bernstein, "Improving Immigration Adjudications Through Competent Counsel," 21 Geo. J. Legal Ethics 55, 56 (2008).

significant hurdles in representing clients due to the time and monetary constraints created by this remote location. Overnight mail cannot reach Stewart from Atlanta and the facility does not accept faxed documents.¹⁴ The drive from Atlanta to Stewart is 2.5 hours long. Consequently, attorneys are often unable to attend removal hearings in person and are forced to call in via telephone, but the telephone service at Stewart is not reliable, making communication between attorney and client undependable and inconsistent.¹⁵ Complicating communication, CCA only allows non-contact visits during pre-representation meetings between attorneys and detained immigrants.¹⁶

Additionally, facilities create intentional barriers to legal access for detained immigrants. For example, staff members at Stewart regularly fail to provide immigrant detainees with information regarding *pro bono* legal services.¹⁷ Further, immigration attorneys are prohibited from meeting with their clients before or after a court hearing.¹⁸ Additionally, both Stewart and Irwin are located in remote areas of the state and have defective communication systems as well as inadequate legal libraries and computer access, thereby undercutting detainees' right to effective legal representation. These practices violate both the detainees' due process rights and in doing so violate ICE's detention standards.¹⁹

In light of the many barriers to legal aid and communities that can provide legal support, the inadequate, outdated basic legal resources is deeply troubling. For many immigrants, use of the law library is the only tool available in fighting deportation. Yet requests to visit the law library may take days or even weeks to process and time limits placed on individual use often make visits impractical.²⁰ The legal facilities themselves are inadequate. Irwin's library contains no non-English legal books and only a few computers with complex software in English.²¹ What limited hardback materials that are technically available to immigrants are often not provided in Spanish and are not provided at all in other languages, effectively depriving non-English speakers of their use.²²

¹⁴ *Id.* at 37.

¹⁵ For more information about the remoteness of immigration detention centers, see Human Rights Watch, *Locked Up Far Away: The Transfer of Immigrants to Remote Detention Centers in the United States at 3-5* (2009), available at <http://www.hrw.org/node/86789>.

¹⁶ *Prisoners of Profit*, *supra* note 1 at 14 (detailing the restrictions placed on attorney visits and the negative effect they have on attorney-client communication).

¹⁷ Interview conducted by the ACLU of Georgia at Stewart on August 17, 2009; interview conducted by the ACLU of Georgia at Stewart on August 13, 2011; interview conducted by the ACLU of Georgia at Stewart on July 6, 2010; interview conducted by the ACLU of Georgia at Stewart on September 27, 2011.

¹⁸ This policy and practice is detailed in an email from Julio Moreno, The Fogle Law Firm (Jan, 10 2012) ("In the last few weeks, ICE officers escorting detainees to court have prevented all attorneys from having any conversation with their clients before or after their case is called. ... This policy has prevented us from both gathering necessary information before going in front of the judge and explaining the outcome of hearings afterwards. Also, this procedure has slowed down the docket because we are now forced to request time to speak with our client while we are in front of the judge."). See *Prisoners of Profit*, *supra* note 1 at 42, n. 344.

¹⁹ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *20011 Operations Manual ICE Performance Based National Detention Standards* 15 Special Management Unit 2 (Jan. 8, 2013), available at <http://www.ice.gov/detention-standards/2011/>. Specifically "Expected Outcomes" within "Part 6 – Justice."

²⁰ *Prisoners of Profit*, *supra* note 1 at 49.

²¹ Tour conducted by the ACLU of Georgia on June 10, 2013.

²² *Prisoners of Profit*, *supra* note 1 at 49.

C. Retaliation by Officers for Filing Grievances

Violations of detained immigrants' due process rights are not limited to immigration proceedings. Immigrants' rights are also violated through the internal grievance policy, as it fails to provide an adequate avenue for redress. Guards have retaliated against immigrants for filing grievances by placing them in segregation units.²³ Detainees may be held in segregation units for periods exceeding 60 days²⁴ and while there, are denied access to the law library, telephone, recreation facilities, as well as standard portions of food.²⁵ Such actions are violations of the recently-released ICE segregation directive that mandates segregation "only when necessary."²⁶

Filing complaints directly with the U.S. Department of Homeland Security (DHS) has also failed in practice to provide any real redress. Records obtained by the ACLU of Georgia have revealed that almost no follow-ups have been made on complaints filed directly with DHS; for example, of the 94 complaints filed from the Stewart detention facility only three were not administratively closed upon receipt.²⁷ Thus, detainees are held without any real ability to seek meaningful redress for harms perpetrated against them by the internal policies of the Stewart detention center.

II. Inhumane Treatment and Conditions

A. Lack of Basic Hygiene

Detainees are held in unsafe and unhygienic living conditions. Officials sometimes detain low-security level detainees with those designated as high-security level detainees.²⁸ Detainees are sometimes forced to go without bathing, washing their hands, or flushing the toilet when there is no running water, a recurring issue at Stewart.²⁹ Even basic hygiene supplies are sometimes not provided. At Irwin, a female immigrant contracted a serious infection after she was provided only soiled underwear, leaving scars on her legs and genitals.³⁰ Yet, even after this incident was published, detained immigrants continue to report issues with lack of clean laundry.³¹

B. Inadequate and Dangerous Lack of Medical and Mental Health Care

The detention centers are also not equipped to provide adequate medical care. Though they hold

²³ *Id.* at 64-65.

²⁴ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards* 15 Special Management Unit 2 (Dec. 2, 2008), available at <http://www.ice.gov/detention-standards/2008>.

²⁵ *Id.* at 11 (detailing that despite specific requests from the ACLU of Georgia, CCA staff refused to grant access to the segregation units).

²⁶ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT. (September 4th, 2013). Review of the Use of Segregation for ICE Detainees (Federal Enterprise Architecture Number: 306-112-002b). Retrieved from http://www.ice.gov/doclib/detention-reform/pdf/segregation_directive.pdf.

²⁷ Prisoners of Profit, *supra* note 1 at 65.

²⁸ Interview conducted by the ACLU of Georgia at Irwin on December 7, 2011.

²⁹ Interview conducted by the ACLU of Georgia at Stewart on September 27, 2011. Visitors were informed by detained individuals that they were unable to use the toilets or drink the water on June 22, 2013.

³⁰ For purposes of this letter, this detainee wished to be referred to by her first name only. Interview with Veronica conducted by the ACLU of Georgia at Irwin on July 22, 2011.

³¹ Interview conducted by the ACLU of Georgia at Irwin on June 10, 2013.

hundreds of immigrant detainees, both Irwin and Stewart have gone years without employing a full-time doctor.³² Preventative care is not available, pre-existing medical needs are often ignored, and emergency care is grossly inadequate.³³ For instance, while working at Stewart's kitchen, an immigrant detainee crushed his toe and shattered his toenail.³⁴ He was not allowed to see a doctor and was referred instead to medical technicians who refused to remove the shards of his nail from his toe. They gave him only over-the-counter pain medication, antibiotics, and instructions to apply ice to his toe. Six and a half months later, his nail had not grown back and his toe remained infected, causing him continuous pain. The same detainee was injured a second time while working when he twisted his leg, causing swelling from his ankle to his knee. Medical technicians at Stewart did not allow him to see a doctor for over three months while pain and swelling persisted. During this time, he was denied the necessary medication, forced to work while injured, and denied accommodations such as a wheelchair or a second crutch.

Complaints about sub-standard medical treatment have also been made by several Irwin detainees.³⁵ Karina Hinojosa Robledo, a former Irwin detainee reportedly suffered a miscarriage due to the medical staff's failure to provide timely treatment. When she complained about her miscarriage, Robledo's and her cellmates' deportation proceedings were expedited.³⁶ Another detainee, Fatima Mairena, arrived in Irwin in good health. However, after spending almost eight months in Irwin, she was reportedly nearly blind. Though she had complained of headaches and pain in her eye, medical personnel refused to treat her until it was too late.³⁷

C. Separation From Family

The right to family is an internationally recognized basic human right.³⁸ However, immigrants in Georgia are removed and detained away from their families during immigration proceedings. The separation of the family unit is one of the most devastating impacts of detention on both the family and the individual.³⁹ The fact that many immigrants have been transferred from other states makes visitation difficult and in many situations impossible.⁴⁰ Further complicating communication with family members are the exorbitantly priced and unreliable phone services.⁴¹

³² Prisoners of Profit, *supra* note 1 at 18.

³³ *Id.* at 103-104.

³⁴ Interview with Eduardo Zuniga conducted by the ACLU of Georgia at Stewart on June 17, 2011.

³⁵ Mario Guevara, *Pesadilla Americana en Irwin*, MUNDO HISPANICO, July 10, 2013,

<http://mundohispanico.com/news/2013/jul/10/pesadilla-americana-en-irwin>.

³⁶ *Id.*

³⁷ *Id.*

³⁸ See United Nations Declaration of Human Rights (UDHR), Art. 12; The International Covenant on Economic, Social, and Cultural Rights (ICESCR), Art. 10; Convention on the Rights of the Child, Art. 16, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force Sept. 2, 1990, (signed by U.S. Feb. 16, 1995) [hereinafter CRC]; African Charter on the Rights and Welfare of the Child, Art. 10 and 18, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force Oct. 21, 1986 [hereinafter African Charter]; American Convention on Human Rights, Art. 11 and 17, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, entered into force July 18, 1978, (signed by U.S. June 1, 1977); European Convention, Art. 8, [European] Convention for the Protection of Human Rights and Fundamental Freedoms, (ETS 5), 213 U.N.T.S. 222, entered into force Sept. 3, 1953, as amended by Protocols Nos. 3, 5, and 8 which entered into force on 21 September 1970, 20 December 1971 and 1 January 1990 respectively.

³⁹ Prisoners of Profit, *supra* note 1 at 84.

⁴⁰ *Id.*

⁴¹ *Id.* at 15-16.

III. Substantial Burdening of Religious Liberty

Detainees' religious freedom has also been substantially burdened by threats and interference. Incarcerated individuals still enjoy the protections of the First Amendment's guarantee of free exercise of religion. The Religious Land Use and Institutionalized Persons Act (RLUIPA) also states that "no government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution."⁴²

However, the chaplain at Stewart, Captain Shields, has repeatedly made offensive overtures to non-Christian individuals in detention.⁴³ Mikyas Germachew, a Jewish man of Ethiopian descent, requested a Kosher diet from the chaplain. However, Captain Shields denied his request stating, "there are no black Jews."⁴⁴ When Germachew filed a grievance, the chaplain continued to deny him a Kosher diet, telling him that he was confused about being Jewish.⁴⁵

This is not the only incident in which Captain Shields has mistreated a non-Christian person. He also expressed disbelief and shock that John Santini Rodriguez, a detainee of Cuban descent, was Muslim.⁴⁶ The chaplain told him that he did not "look" like a Muslim person. He also told him that he believed the Koran was "bad." Captain Shields also indicated to Rodriguez that he was available to talk, if Rodriguez was interested in converting to Christianity.⁴⁷

Muslim detainees at Stewart are also not allowed to pray shoulder-to-shoulder in accordance with Muslim tradition during Ramadan, although detainees of other religions are allowed to pray in close proximity to one another. Muslim detainees have similarly been denied the ability to schedule group prayers on Eid Al-Fitr, a day commemorating the end of Ramadan. Instead, they are forced to celebrate the day alone in their individual pods instead of with other Muslims in accordance with tradition.⁴⁸

Captain Shield's coercive acts and maligning of non-Christian faiths is clearly in violation of RLUIPA and the First Amendment's free exercise of religion guarantees, as it places a substantial burden on detainees to not reveal or discuss their non-Christian beliefs. The burdens placed on free exercise of religion in regard to group prayers are also in violation of RLUIPA. There is no legitimate penological objective achieved, evidenced by the center allowing detainees of other faiths to pray in groups.

IV. Forced Labor Programs

Finally, detainees at Stewart are forced to participate in work programs with compensation of only \$1.00-\$3.00 a day, saving private facilities countless dollars in wages.⁴⁹ These wages are far below the minimum wage for full-time work. Furthermore, while the work programs are

⁴² 42 U.S.C.A. § 2000cc-1 (2000).

⁴³ Interview on file with ACLU of Georgia; Prisoners of Profit, *supra* note 1 at 58-59

⁴⁴ Prisoners of Profit, *supra* note 1 at 58

⁴⁵ *Id.*

⁴⁶ Interview with John Rodriguez on file with the ACLU of Georgia.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Prisoners of Profit, *supra* note 1 at 57.

referred to as “voluntary,” immigrants at Stewart have sometimes been forced to work and threatened with disciplinary action if they refuse to participate.⁵⁰ The consent forms signed by immigrants in detention are not consistently presented in Spanish, the most common language of the detainees. Due to the coerced participation and lack of informed consent,⁵¹ these work programs essentially constitute forced labor.

V. Conclusions

We believe these violations deserve your attention. Immigrants’ due process rights are continuously and systematically violated in your home state and impacting your constituents’ communities and loved ones. Conditions at Stewart and Irwin are deplorable and a blight on our State and our Nation. Accordingly, we request that you initiate a Congressional investigation into Irwin and Stewart.

Sincerely,

Alterna
American Civil Liberties Union Foundation of Georgia
American Friends Service Committee
American Immigration Lawyers Association Georgia-Alabama Chapter
Athens Immigrant Rights Coalition
Atlanta International Action Center
Atlanta Mennonite Fellowship
Atlantans Building Leadership for Empowerment
Corso Law Center
Coalición de Líderes Latinos - CLILA
Detention Watch Network
Families for Freedom
Georgia Detention Watch
Georgia Latino Alliance for Human Rights
Georgia Peace and Justice Coalition
Georgia Rural Urban Summit
Georgia Undocumented Youth Alliance
Grassroots Leadership
International Center of Atlanta
Kennedy Holden Law Firm, LLP
Latin American Association
National Lawyers Guild Georgia Chapter
Social Concerns Committee of the Atlanta Friends Meeting
Social Justice Guild of First Existentialist Congregation of Atlanta

Enclosed: Prisoners of Profit: Immigrants and Detention in Georgia (American Civil Liberties Union Foundation of Georgia, 2012).

⁵⁰ *Id.*

⁵¹ *Id.*