

# IMPRISONED JUSTICE:

Inside Two Georgia Immigrant  
Detention Centers

May 2017



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**PennState Law**

Center for Immigrants' Rights Clinic



**“SEGREGATION IS LIKE HELL.  
IT IS TOTAL ISOLATION.”**

*-Detained Immigrant at the Stewart Detention Center*

**“I HAVE BEEN AT THE DETENTION CENTER FOR EIGHTEEN MONTHS AND I HAVE ASKED FOR NEW SOCKS, UNDERWEAR, AND BLANKETS, BUT NOT A SINGLE REQUEST HAS BEEN FULFILLED.”**

*-Detained Immigrant at the Irwin County Detention Center*

**“I TRAVELED TO AMERICA FOR ASYLUM, BUT I HAD NO IDEA I WOULD BE DETAINED. I DIDN'T THINK THEY WOULD DETAIN ASYLUM-SEEKERS. I JUST ASKED TO APPLY FOR ASYLUM AND I DIDN'T KNOW I WOULD BE IMPRISONED. . . BUT, I HAVE NO HOPE OF ASYLUM NOW THAT I WAS TRANSFERRED TO STEWART. STEWART IS JUST A DEPORTATION CENTER. THIS IS NOT A PLACE WHERE YOU CAN WIN ASYLUM.”**

*-Detained Immigrant at the Stewart Detention Center*

**“I AM IN SO MUCH PAIN. I DON'T UNDERSTAND WHY THEY WILL NOT LET ME LEAVE.”**

*-Detained Immigrant at the Irwin County Detention Center*

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# I. EXECUTIVE SUMMARY

**I***mprisoned Justice: Inside Two Georgia Immigrant Detention Centers* focuses on the conditions of two detention centers in the state of Georgia: The Stewart Detention Center (Stewart) and the Irwin County Detention Center (Irwin). This report is an update to one created in 2012 titled *Prisoners of Profit*.

The *Immigration and Nationality Act* (INA) is the primary statute governing immigration into the United States. The Department of Homeland Security (DHS) has the authority to detain the noncitizens, but this authority is not unlimited.

Immigration detention has been rapidly evolving since September 11, 2001. Following the September 11th attacks on the United States, the Immigration and Naturalization Service (INS) was abolished by statute and DHS was established. DHS was vested with the authority to administer and enforce immigration laws. The Obama Administration initially signaled aiming for a civil immigration system and greater use of prosecutorial discretion. However, there was a significant increase in the number of people detained, as the number of beds in facilities was increased to 34,000 per year due to the immigration detention quota.

This report provides a first-hand account of conditions at the Irwin and Stewart detention centers through interviews with detained immigrants and the attorneys who represent them. The living conditions in both detention centers neither comply with the international standards of detention nor do they comply with ICE's Performance-Based National Detention Standards (PBNDS). The remote location of these detention centers keeps detained immigrants away from their families and legal counsel. Transferring detained immigrants from different parts of the country to Stewart or Irwin separates these individuals from their family members and legal counsel.

As the findings in *Imprisoned Justice* show, the list of concerns regarding living conditions is lengthy. To offer some examples, the food and water provided in these detention centers are not hygienic. Either the food that is provided is stale or spoiled, or several foreign particles are found in it. The food served is not in sufficient quantities. In order to buy additional food, detained immigrants have to purchase it from the commissary, which is excessively expensive. As a result, either detained immigrants have to go hungry or their family members have to bear the financial burden. Some detained immigrants also complained of not receiving dietary accommodations for religious beliefs and practices or health concerns. The quality of the water

supplied is another concern. The unhygienic environment and poor living conditions not only take a toll on the detained immigrants' health, but also have a negative and disturbing impact on the minds of the individuals being held in detention. The detained immigrants who engage in voluntary work at the detention facilities are paid much below the minimum wage, at times lower than \$1 per day. Additionally, detained immigrants are not provided with adequate access to legal information, and phone usage is both limited and expensive.

Since the inauguration of President Donald J. Trump on January 20, 2017, the situation has only worsened. On February 20, 2017, DHS Secretary John Kelly issued implementing memoranda pursuant to President Trump's Executive Orders on border and interior enforcement. The implementing memoranda expand the enforcement priorities and subject all those who are in violation of the immigration laws to arrest, detention, and removal from the country. The effects of these memoranda on the operation and capacity of immigration detention centers remain to be seen.

## Recommendations

### Overall Recommendations

- Shut down the Stewart and Irwin detention centers;
- ICE needs to implement policies that will hold contract facilities accountable for not complying with ICE standards;
- ICE should terminate contracts with facilities that do not meet its standards; and,
- ICE should use the Alternative to Detention Program for immigrants who are eligible.

### Due Process

- List of pro-bono services should be up-to-date, actually contain free services and be distributed to all detained immigrants upon their detention;
- Qualified interpreters must be provided at every step of the deportation process;
- Detained immigrants should not be forced to sign orders of removal without speaking with counsel;
- Law libraries should include up-to-date materials in the languages spoken by detained immigrants;
- Detained immigrants should have more access to

- the law libraries;
- Private space should be allocated for detained immigrants' phone calls to counsel and during visitation with counsel; and,
- Attorney-client calls must not be monitored under any circumstances.

### *Living Conditions*

- ICE must ensure that all facilities follow the 2011 PBNDS;
- All detained immigrants must be provided a safe living environment and receive an immediate response when their safety is threatened;
- Meals should be served at reasonable times, and detained immigrants should be afforded adequate time to eat;
- Fresh fruit and vegetables must be served daily;
- Detained immigrants must be provided adequate food portions so they are not forced to spend money on commissary every week;
- Detained immigrants who need special diets due to medical or religious reasons must be accommodated adequately;
- Food quality must be improved and should be inspected by ICE staff regularly to ensure compliance;
- The water quality must be addressed and brought to standard;
- All detained immigrants must be afforded outdoor recreation; and,
- Bilingual guards should be present at every facility during every shift to foster effective communication with detained immigrants.

### *Medical Care*

- ICE must ensure that bilingual medical staff is provided; Each facility should provide at least one doctor and one psychiatrist during the week;
- A more effective procedure for seeking medical attention should be put in place;
- Serious medical conditions should be addressed immediately and adequately;
- Detained immigrants seeking non-emergency medical care should be seen within 48 hours;
- Specific instructions should be given to kitchen staff for detained immigrants who need special diets; and,
- Detained immigrants with mental disabilities should not be put in segregation under any circumstances.

### *Detention Center Staff*

- Detention staff must not create arbitrary rules that have the effect of prohibiting attorneys from being able to visit their clients;
- The grievance process must be made accessible to detained immigrants, and detained immigrants must not face retaliation by detention center guards or staff for filing grievances;
- Complaints that are filed must be responded to by the respective office in which they are filed;
- Detained immigrants must not be placed in segregation for more than 15 days as recommended by the U.N. Special Rapporteur.

PHOTO: STEVEN RUBIN



## II. PREFACE

### a. Purpose

The United States is home to the largest immigration detention operation in the world. The average cost of detaining each individual is \$127 per day.<sup>1</sup> In 2016, ICE detained more than 352,000 people; the daily average was usually between 31,000 and 34,000 people.<sup>2</sup> However, in October 2016, the number reached a record high of about 41,000 people per day.<sup>3</sup> This report examines conditions at two private immigrant detention centers: Stewart and Irwin. Both detention facilities are located about three hours away from Atlanta in southern Georgia, and have a history of human and civil rights violations.

### b. Changes in the Number of Georgia Detention Centers

The North Georgia Detention Center (NGDC) was closed in 2013 shortly after the *Prisoners of Profit* report was published. The detention center was located in Gainesville, Georgia and contained 502 beds, for both male and female detained immigrants.<sup>4</sup> In December 2013, the Corrections Corporation of America (CCA) (recently rebranded as Core Civic) announced that the facility would close at the end of that month because of a decline in population. Only approximately 150 of the 502 available beds were filled.<sup>5</sup> ICE transferred the immigrants detained at NGDC to Stewart and Irwin.<sup>6</sup>

In response to the news of NGDC's closing, Azadeh Shahshahani, who at the time was the director of the ACLU of Georgia's National Security/Immigrants' Rights Project, emphasized that, while they were pleased to hear that the facility had closed, the closure did not address the ACLU's concerns.<sup>7</sup> She noted, "We are definitely concerned that instead of making greater use of alternatives to detention and taking a more serious look at who needs to be detained, ICE is now going to transfer immigrants previously detained at this facility to Irwin and Stewart."<sup>8</sup>

Because of the dramatic increase in the numbers of immigrants being detained in 2016, a new immigration detention center opened in Folkston, Georgia in 2017. A private corrections company, the Geo Group, signed a five-year contract in December 2016 with Charlton County and ICE. The new detention center has 780 beds.<sup>9</sup> This development is disappointing given the private prison companies' record of abuse.

### c. Department of Homeland Security Initiatives Still Exist Despite Heavy Criticism

#### i. *The Criminal Alien Program (CAP) Continues to Funnel Noncitizens from the Corrections System into ICE custody.*

The *Criminal Alien Program* (CAP) is a broad program through which ICE conducts immigration enforcement from the interior of the U.S. by utilizing a variety of smaller programs.<sup>10</sup> CAP was created pursuant to the *Immigration Reform & Control Act* of 1986, which amended INA § 242 to state: "In the case of an alien who is convicted of an offense which makes the alien subject to deportation, the Attorney General shall begin any deportation proceeding as expeditiously as possible after the date of the conviction."<sup>11</sup> Thus, the program provides guidance on how to identify, arrest, and remove priority noncitizens who are incarcerated in federal, state, and local prisons, while also targeting "at-large criminal aliens that have circumvented identification."<sup>12</sup> DHS's stated goal for CAP is to target undocumented individuals with criminal records who pose a threat to public safety.<sup>13</sup>

However, thousands of noncitizens with no criminal convictions have been arrested and detained through CAP.<sup>14</sup> This result is due to the fact that, in combination with the broad categories of enforcement priorities laid out by DHS, CAP uses arrests, not convictions, as the indicator of a person's dangerousness.<sup>15</sup> In effect, statistically, Mexicans and Central Americans are disproportionately targeted through CAP.<sup>16</sup>

The implementing memoranda signed by the Secretary of Department of Homeland Security on February 20, 2017 also take note of CAP.<sup>17</sup> According to the memoranda, DHS should initiate removal proceedings, to the maximum extent permitted, against individuals incarcerated in federal, state, and local jurisdictions through the institutional hearing and removal program under INA § 238. Thus, it can be concluded that the goal of President Trump's administration is to expedite the removal of all immigrants without authorized status.

## ii. § 287(g) Continues to Operate in Georgia and Around the Country

The *Illegal Immigration Reform and Immigrant Responsibility Act* (IIRAIRA) of 1996 added § 287(g) to the *Immigration and Nationality Act* (INA).<sup>18</sup> Section 287(g) authorizes the Attorney General and ICE to enter into agreements with state and local law enforcement. Under the agreements, local law enforcement is allowed to carry out ICE duties, provided that they receive ICE training.<sup>19</sup> The purpose of § 287(g), as stated in DHS's Memoranda of Agreement (MOA) template, is to "enhance the safety and security of communities by focusing resources on identifying and processing for removal criminal aliens and those others who fall into ICE's civil immigration enforcement priorities."<sup>20</sup> However, the program faced strong criticism because it delegated authority to state and local law enforcement agents over what was arguably a federal duty, and because it ultimately resulted in different standards for immigration enforcement across jurisdictions.<sup>21</sup> Additionally, there were numerous civil liberties complaints, especially involving incidents of racial profiling.<sup>22</sup>

At the time of the publication of *Prisoners of Profit*, there were sixty-nine state and local law enforcement agencies in twenty-four states across the country involved in § 287(g).<sup>23</sup> Due to strong criticism, ICE revised the program in 2012 and allowed certain § 287(g) agreements with law enforcement agencies to expire, instead of renewing the agreements.<sup>24</sup> Since 2012, there has been a decline in § 287(g) involvement. According to an ICE factsheet, ICE currently has agreements with thirty-seven law enforcement agencies in sixteen states across the country.<sup>25</sup>

In March 2016, sixty-eight organizations, including the ACLU and Project South, signed a letter addressed to then DHS Secretary Jeh Johnson and ICE Director Sarah Saldana.<sup>26</sup> The letter called for the termination of all its existing § 287(g) agreements with state and local law enforcement agencies and the rejection of all pending applications for new § 287(g) agreements for three major reasons: (1) § 287(g) agreements lead to civil rights violations and racial profiling; (2) there is insufficient federal oversight and a lack of a functioning complaint procedure; and (3) 287(g) agreements undermine community policing practices by breeding mistrust between immigrant communities and local law enforcement agencies.<sup>27</sup>

In Georgia, there are four counties currently participating in § 287(g): Cobb, Gwinnett, Hall, and Whitfield.<sup>28</sup> All four extended their 2007 § 287(g) contracts with ICE until 2019.<sup>29</sup> Georgia's participation in § 287(g) is reflected in the number of ICE detainees issued.<sup>30</sup> In fiscal year 2007, according to a 2014 report issued by the ACLU of Georgia and other organizations, ICE issued seventy-five detainees to law enforcement agencies in Georgia. In fiscal year 2008, ICE issued 1,826 detainees, which amounts to a 2,334.67% increase. The sharp increase corresponds directly to the implementation of § 287(g).<sup>31</sup> At the time of the 2014 publication, it was estimated that in fiscal year 2013, 17,269 detainees were issued by ICE in Georgia, amounting to a 22,925% increase from 2007 to 2013. Again, this significant increase is attributable to § 287(g) along with the aforementioned programs.<sup>32</sup> Although compliance with immigration detainees is voluntary,<sup>33</sup> 95.5% of detainees resulted in the individual being held in detention.<sup>34</sup>

PHOTO: STEVEN RUBIN





## D. Priority Enforcement Program

Prior to the Trump administration, the Priority Enforcement Program (PEP) was in place. PEP was created by DHS in November 2014 to replace the Secure Communities program.<sup>35</sup> Previously, the Secure Communities program was one of the ways in which ICE solicited the cooperation of local governments in enforcing immigration laws.<sup>36</sup> When an individual is arrested by state or local law enforcement authorities for a criminal offense, the individual is fingerprinted. Those fingerprints are sent to the Federal Bureau of Investigation (FBI).<sup>37</sup> The FBI runs the fingerprints in a database of criminal records, and sends the individual's criminal history to state or local authorities.<sup>38</sup>

Under Secure Communities, the FBI would also send the fingerprints to DHS.<sup>39</sup> If that individual had been previously encountered and fingerprinted, the immigration database would register a match and ICE would then determine if the individual was removable.<sup>40</sup> If the individual was found to be removable, ICE had the authority to issue a detainer on the individual, and request that the state or local jail hold the individual for up to forty-eight hours so that ICE could interview the person.<sup>41</sup> After the interview, ICE would decide whether or not to pursue removal proceedings.<sup>42</sup>

The Latino community was disproportionately affected by Secure Communities. According to a 2011 research report conducted by the University of California's Berkeley School of Law, while Latinos made up 77% of the undocumented population in the United States, they made up 93% of those arrested and deported nationally through this program.<sup>43</sup>

Additionally, the Berkley study found that 37% of those detained nationwide through Secure Communities were not convicted of criminal offenses.<sup>44</sup> Under Secure Communities, ICE assigned three levels of offenses: Level 1 offenses referred to individuals convicted of "aggravated felonies" under § 101(a)(43) of the INA, or two or more other felonies; Level 2 included individuals convicted of one felony or three or more misdemeanors; and Level 3 consisted of individuals convicted solely of misdemeanors, including minor traffic offense.<sup>45</sup> ICE reported that 37% of those detained through Secure Communities were not issued an offense level, thus suggesting that they had not been convicted of a criminal offense.<sup>46</sup> In Georgia, less than 25% of the removals that occurred through Secure Communities from the time of its implementation in 2009 until 2013 involved those who were found to have committed a "Level 1" offense.<sup>47</sup> This practice was contrary to ICE's enforcement priority standards.<sup>48</sup>

By December 2011, the entire state of Georgia had joined Secure Communities, although individual counties in Georgia had joined prior to that date.<sup>49</sup> In 2009, the activation of the first Secure Communities agreement in Georgia clearly impacted the number of ICE arrests; from fiscal year 2010 to 2011, the number of arrests grew by 40%.<sup>50</sup>

At the time of the 2012 publication of *Prisoners of Profit*, state governments and police officials around the country had begun to resist implementation of Secure Communities and there was considerable support to terminate this program.<sup>51</sup> For example, the Illinois State Police withdrew from the program because it had not met the terms of agreement with the state.<sup>52</sup> The agreement stated that the purpose of the program was to identify and deport immigrants "who have been convicted of serious criminal offenses."<sup>53</sup> Yet, one-third of immigrants who had been deported in Illinois under this program had no criminal convictions.<sup>54</sup>

Organizers across the country fought for local and state policies limiting local law enforcement collaboration with federal immigration authorities.<sup>55</sup> Since 2010, such policies have been implemented in more than 350 cities and counties, three states, and the District of Columbia.<sup>56</sup> In 2014, three counties in Georgia – Fulton, Clayton, and DeKalb – put policies into place limiting their collaboration with ICE.<sup>57</sup> DeKalb County Sheriff Jeffrey L. Mann issued a press release announcing the end of its extending the detention of individuals on the sole basis of detainers and stated: "The law does not allow us to hold anyone without probable cause. If our judicial system determines that an individual should no longer be held in custody, it is not in my authority to countermand that decision."<sup>58</sup> Most recently, the Fayette County Sheriff's Department also adopted a policy to this effect.<sup>59</sup>

Furthermore, recent data demonstrates that ICE has not followed these enforcement priorities.<sup>60</sup> In the year prior to the issuance of enforcement priorities, 57% of the individuals detained by ICE had criminal convictions.<sup>61</sup> One year after the announcement, the percentage of individuals detained by ICE that had criminal convictions had fallen to 49%.<sup>62</sup>

## E. President Donald J. Trump's 2017 Executive Orders on Immigration

On January 25, 2017, the *Priority Enforcement Program* was terminated and replaced with *Secure Communities* pursuant to President Trump's Executive Order *Enhancing the Public Safety in the Interior of the United States*.<sup>63</sup> This Executive Order also encourages the creation of agreements under INA § 287(g) with local authorities and Governors.<sup>64</sup> President Trump also signed the Executive Order titled *Border Security and Immigration Enforcement Improvements*, which aims to ramp up the policing of the border and calls for building a wall on the southern border of the U.S. This Executive Order requires the Secretary of Homeland Security to use all available resources to immediately construct detention facilities and establish contract or operation detention facilities along or near the southern border. It also directs DHS to prioritize the detention of noncitizens pending removal proceedings after apprehension.<sup>65</sup>

Further, on February 20, 2017, current DHS Secretary John Kelly signed the implementing memorandum *Implementing the President's Border Security and Immigration Enforcement Improvements Policies*. This memorandum focuses on enforcement at the border, including expansions to no-process removals at the border and increased detention.<sup>66</sup> Also signed on the same day, a second implementing memorandum titled *Enforcement of the Immigration Laws to Serve the National Interest* focuses on interior enforcement, including expansions to quicker removals for certain noncitizens with criminal histories and revised enforcement priorities.<sup>67</sup> According to the implementing memorandum and underlying Executive Order, "The Department no longer will exempt classes or categories of removable aliens from potential enforcement." The memorandum directs personnel to prioritize for removal those noncitizens described in sections 212(a)(2), (a)(3), (A)(6)(c), 235(b) and (c), and 237(a)(2) and (4) of the statute, and prioritizes the following noncitizens who are otherwise removable:

- Convicted of any criminal offense;
- Charged with any criminal offense that has not been resolved;
- Have committed acts which constitute a chargeable criminal offense;
- Have engaged in fraud or willful misrepresentation in connection with any

- official matter;
- Have abused any program related to receipt of public benefits;
- Are subject to a final order of removal but have not complied with the legal obligation to depart the U.S.; and,
- In the judgment of an immigration officer, otherwise pose a risk to public safety or national security.<sup>68</sup>

The breadth of the new enforcement priorities places every noncitizen at risk, particularly those who have a criminal history. A few weeks after the Executive Orders were signed, CNN reported that ICE raids in Atlanta, Chicago, Los Angeles, New York, and San Antonio resulted in more than 680 arrests.<sup>69</sup> Immigration advocates and critics of the Executive Orders argued that the raids targeted low-priority immigrants and that there is a severe lack of transparency by ICE about the location and individuals who were targeted in the raids.<sup>70</sup> Thus, even in the midst of uncertainty surrounding the Executive Orders, it is clear that this administration seeks to target and deport more immigrants than the Obama administration.



### III. METHODOLOGY AND ACKNOWLEDGMENTS

*Imprisoned Justice* is based on research conducted by Project South in conjunction with Penn State Law's Center for Immigrants' Rights Clinic, a special student project of Mercer Law School, Alterna, Georgia Detention Watch, and the Georgia Latino Alliance for Human Rights. The research and interviews for this project were conducted between April 2016 and March 2017. Volunteer attorneys, law students, and interpreters with Project South interviewed thirty-one detained immigrants who were held at Irwin, forty detained immigrants held at Stewart, and twelve immigrants who were deported back to Guatemala, but were housed at Stewart or Irwin before deportation. Additionally, students from Penn State Law's Center for Immigrants' Rights clinic surveyed fourteen lawyers of detained immigrants about their experiences at Stewart and Irwin.

This report was drafted and edited by the following students from Penn State Law's Center for Immigrants' Rights Clinic: Kritika Bedi ('17), Susanna Chehata ('17), Brianni Frazier ('17), and Shushan Sadjadi ('18) for Project South and under the supervision of Shoba Sivaprasad Wadhia, the Center's director and Samuel Weiss Faculty Scholar at Penn State Law.

The report was managed by Project South's Legal and Advocacy Director Azadeh Shahshahani as well as Project South's legal intern and extern Amanda Parris, of Emory University School of Law, and Kyleen Burke of Northeastern University School of Law.

Additional drafting, editing, and detained immigrant interviews were conducted by Project South's legal interns and externs Amanda Parris, Kyleen Burke, Dana Lohrberg, Robert Dong, Aaron McClellan, Lauren A. Schenkel, Shiyuan Pei, and the following law students: Tim Carey, Karla Alejandra Diaz, Kate Craig, and Brenda Arzola. The following interpreters also helped with the interviews: Adrian Bernal, Holly Patrick, Emma Meyers, Jose G. Perez, Cait Pingel, and Ximana Vasquez. The following attorneys helped conduct interviews at the detention centers: Javeria Jamil, Alison Prout, Amy Durrence, Manoj S. Vargese, Melissa Carpenter, David Berhanu, Ben W. Thorpe, Charlene Austin, Radha Manthe, Melanie Medalle, Salomon Laguerre, Bukhari R. Nurridin, Greg Sale, Sarah Akber, and Ryan Behndleman.

The following law students from Mercer law school took part in the interviews at Irwin: Alan Smith, Ana Correo, Anzhelika Daki, Breona Ward, Lauren Beasley, Lauren Jones, Minji Park, Sheryle Dickens, and Hernan (Tony) Diaz-Caballero. The two attorneys who served as field supervisors were: Jennifer Moore of Macon and Nancy Quynn of Tifton. The two Mercer Law School faculty supervisors were: Timothy Floyd and Mark Jones.

The authors are indebted to the many detained immigrants who shared their stories of detention for *Imprisoned Justice* as well as to the attorneys who shared their experiences with representing clients at Irwin and Stewart. We also thank Victor C. Romero,

Rebecca Mattson, Casey Millburg, and the marketing team at Penn State Law for assistance with review, layout, and editing of this report.

In preparing this report, we reviewed primary and secondary sources pertaining to immigration enforcement. These sources include, but are not limited to: the U.S. Constitution, Immigration and Nationality Act, Department of Homeland Security memoranda, and regulations. Other documents reviewed include: agreements for operation of the facilities, grievances filed by detained immigrants, human rights standards and regulations, reports from ICE, and documents obtained from the government through the Freedom of Information Act (FOIA).

Both attorney and detained immigrant stories are highlighted throughout the report. The attorneys interviewed represent clients at Stewart and/or Irwin, and have first-hand insight into all aspects of the detention experience. Electronic surveys were circulated to several listservs during the months of September and October 2016. The surveys contained fifteen questions and a field for comments to capture the attorneys' experiences dealing with clients at Irwin and Stewart. The attorneys surveyed were given an option to follow up with more information through phone interviews with students at Penn State Law's Center for Immigrants' Rights Clinic. Many were gracious enough to follow up by phone and detail particularly concerning aspects of their experiences at one or both facilities. The stories told by these attorneys provided us with significant information regarding the conditions at Irwin and Stewart, and to a lesser degree, how they affected removal proceedings. The tireless efforts of these attorneys and their contributions to the immigrant community are invaluable and have not gone unnoticed.

Detained immigrants were interviewed in-person at Irwin or Stewart by pro bono attorneys, legal interns, interpreters, and other volunteers working with Project South. Occasionally, a legal intern followed up with immigrants and facilitated additional phone interviews while interviewees were still in detention. Other follow up interviews were done after an immigrant was released. Sometimes interviews took place with the assistance of interpreters. Interview questions were both open and closed questions about the individual's life inside and outside of detention. Many immigrants decided to remain anonymous while others were willing and wanting to share their names. Some names have been changed for purposes of this report. The names of the interviewees were compiled from other non-profit organizations, referrals from detained immigrants, or direct requests via phone calls or letters from individuals being detained or their loved ones. The experiences these detained immigrants shared allowed us to gain

insight into every aspect of detention at these facilities. The stories from these individuals provide a unique glimpse into life at Irwin and Stewart.

Citations are included for individual detained immigrant interviews in the following format: the interviewing organization, name of the detention facility, and date of the interview. Citations are not included for conclusions made by more than one detained immigrant. Further, citations are not included for the majority of individual detained immigrant interviews referenced without quotation. Supporting documentation of all detained immigrant interviews is on file with the authors. Many of the experiences that were commonly expressed by detained immigrants shed light on significant due process and human rights concerns. Detained immigrants shared their experiences voluntarily, and though many expressed a fear of retaliation for doing so, they were willing to take the risk for the sake of this documentation project and the hopes of shining a light on the situation of immigrants held at these facilities.

## About Project South

Founded in 1986, Project South has developed thousands of leaders within communities directly affected by racism and economic injustice in order to build social movements to eliminate poverty. For over thirty years, Project South has used popular education techniques as an organizing tool to build a base of skilled leadership that directly challenges racism and poverty at the roots. Project South builds communications capacities among low-income families of color and provides multiple mechanisms to shift public dialogue on local, regional, and national levels. The Legal & Advocacy department of Project South connects legal and advocacy work and movement lawyers with grassroots organizations with a focus on immigrants' rights and defending Muslim communities against state repression. Their work is also focused on connecting with and supporting social justice movements in the Global South.

## About Penn State Law's Center for Immigrants' Rights Clinic

Founded in 2008, Penn State Law's Center for Immigrants' Rights Clinic is an in-house clinic where law students produce white papers, practitioner toolkits, and primers of national impact for institutional clients based in Washington D.C., and across the nation. Organizational clients have included the American Civil Liberties Union (ACLU), American Immigration Council (AIC), Human Rights First, Kids in Need of Defense (KIND), National Guest worker Alliance (NGA), and National Immigrant Justice Center (NIJC) among others. Students at the Clinic also

engage in community outreach and education on immigration and provide legal support in individual cases. The Clinic is directed by Shoba Sivaprasad Wadhia, whose teaching goal is for students to gain the skills required to be effective immigration advocates and attorneys. Students have primary responsibility in making case/project-related decisions, reflecting deliberatively on their work, and collaborating with clients to achieve positive results. Institutional affiliation for faculty and students in the Penn State Law Center for Immigrants' Rights Clinic is provided for identification purposes only and does not represent the views of the institution.

## About a special student project of Mercer Law School

Students at Mercer Law School assisted in conducting interviews with detained immigrants and interpreting at the Irwin County Detention Center in Fall semester 2016.

## About Alterna

Alterna (located in LaGrange, Georgia) is a bilingual community of Christ followers devoted to faithful acts of hospitality, mercy, and justice.

## About Georgia Detention Watch

Georgia Detention Watch is a coalition of organizations and individuals who advocate alongside immigrants to end the inhumane and unjust detention and law enforcement policies and practices directed against immigrant communities in Georgia. The coalition includes activists, community organizers, and persons of faith, lawyers, and many more. Project South is a member organization of Georgia Detention Watch along with other organizations, including Alterna and the Georgia Latino Alliance for Human Rights.

## About the Georgia Latino Alliance for Human Rights

The Georgia Latino Alliance for Human Rights (GLAHR) was established in 2001 with a mission to educate, organize, and empower Latinos in Georgia to defend and advance their civil and human rights. GLAHR is a community-based organization that develops statewide grassroots leadership in Latino immigrant communities. Over the past ten years, GLAHR has established a powerful network of informed and engaged community members through base-building strategies that defend and advance the civil and human rights of Latinos and immigrants living in Georgia.

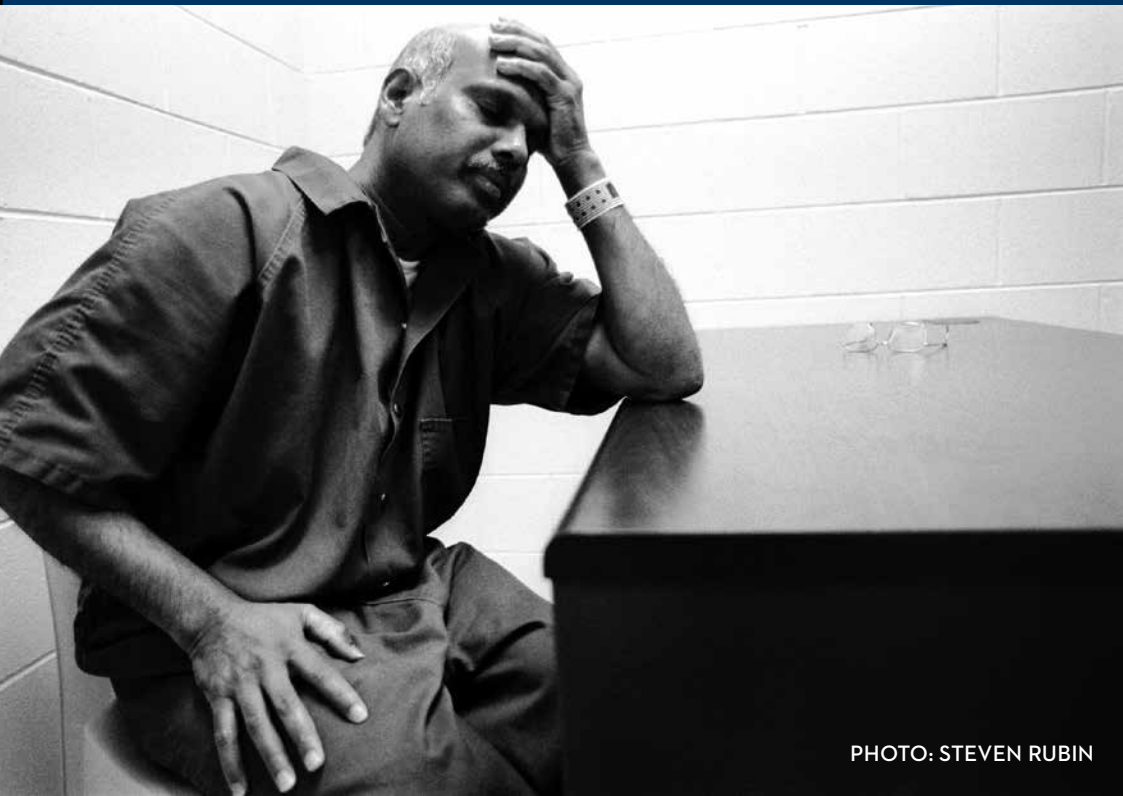


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PHOTO: STEVE PAVEY

# IV. IMMIGRATION DETENTION IN THE U.S.: A PRIMER

## a. Defining Immigration Detention

### i. Background

The U.S. Department of Homeland Security (DHS) has the authority to detain noncitizens present in the U.S. pending a determination of their immigration status.<sup>71</sup> DHS houses two agencies responsible for apprehending and detaining noncitizens: Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE).<sup>72</sup> CBP apprehends individuals at the border and ports of entry for suspected criminal activity, unlawful entry into the U.S., or presence without status, and the agency has the power to put individuals in CBP short-term detention.<sup>73</sup> ICE focuses on apprehending individuals in the interior of the U.S. and runs the long-term detention system; the agency subcontracts with county jails and private prisons for most of the detention space.<sup>74</sup> The U.S. Department of Justice's Executive Office for Immigration Review (EOIR) houses the immigration court system. Once a person is placed into removal proceedings, immigration judges within EOIR adjudicate immigration cases by interpreting and administering immigration laws.<sup>75</sup>

While immigration detention may bear the marks of criminal detention, the Supreme Court has characterized immigration detention as civil in nature.<sup>76</sup> The justification for immigration detention is twofold: 1) to prevent flight, and 2) to protect the community from potentially dangerous individuals.<sup>77</sup> Because immigration detention is characterized as civil, detained immigrants are unable to benefit from the constitutional safeguards available to defendants in the criminal justice system.<sup>78</sup>

### ii. Population

The *Immigration and Nationality Act* (INA) is a primary source for immigration law. The INA states that any "alien" may be detained pending a removal decision.<sup>79</sup> An "alien" is defined as any person who is not a national or citizen of the United States.<sup>80</sup> Thus, this definition includes adults and children, lawful permanent residents, and individuals with immigrant or nonimmigrant visas. Additionally, as there is no requirement of a criminal record, individuals with no criminal record may also be detained.<sup>81</sup>

Additionally, the INA prescribes categories of noncitizens who must be detained pursuant to the policy of mandatory detention, which requires that certain noncitizens be detained upon arrival, at the time of arrest, and when receiving a final removal order.<sup>82</sup> Individuals arriving at a port of entry with a claim seeking asylum are detained pending a credible fear determination.<sup>83</sup> Individuals who have received final removal orders are detained until their physical deportation, which must be within ninety days.<sup>84</sup> Lastly, individuals who have committed or have been convicted of certain crimes that constitute grounds for inadmissibility or deportability, as defined in the INA, must be detained."<sup>85</sup>

The INA also states that certain individuals who are not subject to mandatory detention may be released. The government may release noncitizens on their own recognizance, on bond, or with certain conditions such as an ankle bracelet.<sup>86</sup> In the 2016 report, *Lifeline on Lockdown*, Human Rights First asserts that although the purpose of bond is to secure the individual's appearance at future hearings, in practice, it keeps more people in detention because of their economic circumstances and high cost of bonds.<sup>87</sup> The report found that bonds range from the statutory minimum of \$1,500 up to \$40,000.<sup>88</sup> Many detained immigrants interviewed for this report expressed their frustration with the bond process at Stewart. Some reported not even attempting to seek bond because it is well known that no one gets bonded out of Stewart.

### iii. Location

There are three different types of facilities where detained immigrants can be held.<sup>89</sup> In addition to ICE-owned immigration facilities, ICE contracts out to local government or private prison companies to run the facilities where detained immigrants are held. Service Processing Centers (SPC) are facilities that are owned and operated by ICE.<sup>90</sup> Contract Detention Facilities (CDF) are owned and operated by private prison companies.<sup>91</sup> Inter-Governmental Service Agreement (IGSA) facilities are local correctional facilities or detention centers that are used to house detained immigrants.<sup>92</sup>

## b. History of Modern Immigration Detention in the United States

There have been four general “eras” of immigration detention in the United States. The first was prior to 1980 when approximately thirty people per day were in immigration detention.<sup>93</sup> The second era, from 1980 to 2002, saw a surge in immigration detention due to a massive influx of immigrants and a change in policy.<sup>94</sup> The third era was between 2002 and 2008, during former President George W. Bush’s administration, when the Department of Homeland Security was formed and was granted the authority over immigration service and enforcement functions.<sup>95</sup> The fourth era was during former President Obama’s administration when Congress imposed a national detention bed quota.<sup>96</sup> This era closed with a historically high number of detentions in the fall of 2016 and the election of President Donald J. Trump. The U.S. is currently entering a fifth era of immigration detention under President Donald J. Trump due to dramatic changes in enforcement priorities and calls for increased immigration detention through Executive Orders and implementing memoranda.

### i. Era One: Pre-1980

During the first era, individuals were detained in three primary circumstances.<sup>97</sup> First, when a noncitizen’s admissibility into the country was in question due to their health or support reasons, they were detained.<sup>98</sup> Second, an individual was detained during a noncitizen’s removal proceeding.<sup>99</sup> Third, detention was used at times of national security. Thus, immigration detention was more of the exception, rather than the norm for immigrants. Furthermore, Immigration and Naturalization Service (INS) tended to release individuals who were suspected of violating immigration law.<sup>102</sup>

### ii. Era Two: 1980–2001

The second era of immigration detention in the U.S. was triggered by a massive influx of Haitian, Cuban, and Central American immigrants, which led to policy changes.<sup>103</sup> In addition to the influx of immigrants of color, increased political consciousness of drug use led the public to frame people of color as undeserved recipients of welfare. The solution that was advanced was detention.<sup>104</sup> In 1982, President Ronald Reagan ordered the mandatory detention of all arriving Haitians suspected of violating immigration laws.<sup>105</sup> In contrast, however, Cuban citizens arriving to the U.S. were treated more generously due to the political climate.<sup>106</sup>

Additionally, the former INS used other methods as

deterrence to detention.<sup>107</sup> One of the changes that occurred was the enactment of the *Immigration Reform and Control Act of 1986* (IRCA), which both legalized the status of certain undocumented noncitizens and authorized greater enforcement methods.<sup>108</sup> IRCA provided a path to legal status to individuals who met the following requirements: proof of residency in the U.S. since January 1986; a clean criminal record; registration within the Selective Service System; and a basic knowledge of U.S. history, government, and the English language.<sup>109</sup> On the other hand, IRCA prohibited businesses from hiring undocumented workers and placed sanctions upon those that did.<sup>110</sup>

Additionally, greater public attention to increasing drug use rates caused INS to focus on detaining and removing noncitizens convicted of drug offenses.<sup>111</sup> In 1988, the *Anti-Drug Abuse Act* created the concept of “aggravated felony” for certain drug offenses.<sup>112</sup> Detention is mandatory for an immigrant convicted of an aggravated felony. Thus, under the classification of aggravated felony, the Attorney General has no discretion concerning custody determinations.<sup>113</sup>

In 1996, another expansion to the use of immigration detention occurred with the passage of the *Antiterrorism and Effective Death Penalty Act* (AEDPA) and the *Illegal Immigration Reform and Immigrant Responsibility Act* (IIRAIRA).<sup>114</sup> These Acts amended the INA by expanding the aggravated felony definition and broadening the use of mandatory detention.<sup>115</sup> Additionally, through IIRAIRA, Congress granted \$15 million to support the detention and removal of noncitizens with ties to terrorist groups.<sup>116</sup>

Thus, in this era, the U.S. saw the enactment of more aggressive detention legislation in response to public sentiments. The U.S. began to transition from immigration detention being the exception to becoming the norm for immigrants. The enactment of IRCA, IIRAIRA, and AEDPA expanded the classes of immigrants to be detained and took away the Attorney General’s ability to exercise prosecutorial discretion in certain situations. This trend continued throughout the next era of immigration detention in the U.S. under the George W. Bush administration.

### iii. Era Three: 2001–2008

Similar to the previous era, changes to immigration policy were triggered by political events. In response to the attacks on September 11, 2001, Congress passed the *Homeland Security Act* (HSA) of 2002 which abolished INS and created the Department of Homeland Security (DHS).<sup>117</sup> Prior to this legislation, the Attorney General had the sole authority to administer and enforce U.S. immigration laws.<sup>118</sup> DHS was granted much of the

immigration service and enforcement functions formerly held by INS, and the Secretary of Homeland Security was vested with the power to administer and enforce immigration laws.<sup>119</sup>

Notably, during this era, for the first time, Congress placed a requirement on the number of beds that must be available in immigration detention centers. With the passage of the *Intelligence Reform and Terrorism Prevention Act (IRTPA)* in 2004, Congress directed DHS to keep a minimum of 8,000 available beds at immigration detention facilities between fiscal years 2006 and 2010.<sup>120</sup>

#### *iv. Era Four: 2009–2016*

Former President Barack Obama, during his campaign and at the beginning of his presidency, made a promise to introduce an immigration bill within the first year of his administration.<sup>121</sup> President Barack Obama also announced plans to transform immigration detention to a “truly civil detention system.”<sup>122</sup> Some of the plans included reviewing government contracts with local jails and private prisons with the end goal of placing noncitizens in detention facilities more suitable for individuals without a criminal history facing deportation.<sup>123</sup>

The first step toward transforming immigration detention occurred in October 2009, when ICE issued a report highlighting findings and recommendations pertaining to the immigration detention system.<sup>124</sup> The report found the conditions in which noncitizens were being detained to be entirely inappropriate given their noncriminal status.<sup>125</sup> The recommendations for the future were as follows: expanding access to legal materials, legal counsel, visitation, and religious practice; developing unique standards for serving special populations such as women, families, and asylum-seekers; establishing a well-managed medical care system; and, providing federal oversight of key detention operations, as well as tracking performance and outcomes.<sup>126</sup>

Despite former President Barack Obama’s statements re the aim to transform immigration detention and recommendations from ICE’s own report, no comprehensive legislation was passed to further these recommendations. Moreover, during the Obama administration, Congress increased the quota for beds in immigration detention centers. With the passage of the *Department of Homeland Security Appropriations Act* in 2010, Congress required that DHS maintain 33,400 beds in immigration detention centers daily, starting in 2010.<sup>127</sup> The *Consolidated Appropriations Act* in 2012 raised the quota to 34,000 beds per year.<sup>128</sup>

On a positive note, this era saw more transparency around the use of prosecutorial discretion. Prosecutorial discretion

refers to DHS’s decision on whether or not to enforce immigration laws against a person or group of persons.<sup>129</sup> There are three theories behind prosecutorial discretion: (1) the economic theory that emphasizes that ICE has the resources to deport less than 4% of the deportable population; (2) the humanitarian theory that acknowledges that some individuals have compelling reasons to stay in the United States; and (3) a theory that Shoba Sivaprasad Wadhia coins as a political one that centers on the relationship between congressional inaction and the public’s demand for an administrative solution.<sup>130</sup>

One effort to further the use of prosecutorial discretion was the issuance of the memorandum titled *Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens* (hereinafter Morton Memorandum).<sup>131</sup> This memorandum was issued in June 2011, by former ICE Director John Morton. The Morton Memorandum called for the use of prosecutorial discretion for economic reasons, stating that ICE “has limited resources to remove those illegally in the United States” and must prioritize the use of those resources.<sup>132</sup> Similarly, while ICE may exercise its discretion at any stage of the enforcement process, the Morton Memorandum stated that it is preferable to exercise discretion as early as possible to preserve government resources.<sup>133</sup> The Morton Memorandum provided a nonexclusive list of factors to determine whether to exercise prosecutorial discretion, including: ICE’s enforcement priorities; the individual’s immigration history and criminal history; whether the individual has a U.S. citizen spouse, child, or parent; the individual’s ties to their home county; and, the conditions in the individual’s home country.<sup>134</sup>

ICE issued a second memorandum in June 2011 titled *Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs* (hereinafter Victims Memorandum).<sup>135</sup> The goal of the Victims Memorandum was to set a policy regarding the use of prosecutorial discretion in removal cases involving victims and witnesses of crime.<sup>136</sup> The memorandum stated that it is against ICE policy to initiate removal proceedings against individuals known to be victims or witnesses of crimes, absent aggravating factors.<sup>137</sup> ICE officials were directed to exercise appropriate discretion on a case-by-case basis when making decisions in these cases.<sup>138</sup>

The Victims Memorandum provided that when exercising such discretion, particular attention should be paid to: (1) victims of domestic violence, human trafficking, or other serious crimes; (2) witnesses involved in pending criminal investigations or prosecutions; (3) plaintiffs in non-frivolous lawsuits regarding civil rights or liberties violations; and (4) individuals engaging in a protected activity related to civil or other rights.<sup>139</sup> Aggravating factors included: national secu-





PHOTO: STEVE PAVEY

rity concerns, a serious criminal history, that the noncitizen poses a threat to public safety, or that the noncitizen had participated in immigration fraud.<sup>140</sup>

Efforts to affirm the use of prosecutorial discretion were made by former Secretary of Homeland Security Jeh Johnson. In 2014, former Secretary Johnson issued the memorandum titled *Policies for the Apprehension, Detention and Removal of Undocumented Immigrants* (hereinafter Johnson Memorandum). The Johnson Memorandum superseded and rescinded the aforementioned Morton Memorandum. Additionally, the Johnson Memorandum reaffirmed the various ways prosecutorial discretion could be exercised, such as who should be arrested, who should be detained, and whether to grant deferred action, parole, or a stay of removal.<sup>141</sup> Importantly, this memorandum outlined the priority enforcement system.<sup>142</sup> This system set the priorities for individual to be apprehended and detained by ICE. The first priority was “aliens” who were “apprehended at the border or ports of entry or attempting to unlawfully enter the United States” and those convicted of an “aggravated felony.”<sup>143</sup> The second priority included “aliens” convicted of a misdemeanor, which included domestic violence offenses.<sup>144</sup> However, if the noncitizen is a victim of domestic violence, it was considered a mitigating factor.<sup>145</sup> The third priority was “aliens” who had been issued final orders of removal on or after January 1, 2014.<sup>146</sup> The individuals in this class were considered the lowest priority for apprehension and removal.<sup>147</sup>

Additionally, the Johnson Memorandum stressed the limited number of resources available to DHS, and stated that “[a]

bsent extraordinary circumstances or the requirement or mandatory detention, field office directors should not expend detention resources on aliens who are known to be suffering from serious physical or mental illness, who are disabled, elderly, pregnant, or nursing, who demonstrate that they are primary caretakers of children or an infirm person, or whose detention is otherwise not in the public interest.”<sup>148</sup> The Johnson Memorandum even went a step further and required special agents to obtain approval from the ICE Field Office Director for the detention of immigrants who are not subject to mandatory detention and fell within one of the aforementioned categories.<sup>149</sup>

However, data demonstrates that ICE did not follow these enforcement priorities.<sup>150</sup> In the year prior to issuance of the Johnson Memorandum, 57% of the individuals detained by ICE had criminal convictions.<sup>151</sup> One year after the announcement, the percentage of individuals detained by ICE that had criminal convictions had fallen to 49%.<sup>152</sup>

Lastly, this era saw the implementation of landmark policy regarding immigration enforcement priorities when former Homeland Security Secretary Janet Napolitano issued the memorandum titled *Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children*, which created the Deferred Action for Childhood Arrivals Program (DACA) in June 2012.<sup>153</sup> This program deferred removal of certain undocumented individuals who came to the United States as children.<sup>154</sup> In 2015, a survey of DACA recipients found that 96% of the respondents were either in school or had employment, 57% earned money to help their families, DACA recipients had an average wage in-

crease of 45%, and 92% of respondents pursued educational opportunities they were unable to access before DACA.<sup>155</sup> Former President Obama attempted to expand this program in 2014 when he issued an Executive Action expanding the group of individuals who would be eligible for DACA and established Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA).<sup>156</sup> DAPA would have deferred removal of certain undocumented parents of U.S. citizens and permanent residents.<sup>157</sup> However, DAPA was enjoined by the District Court for the Southern District of Texas. The injunction was affirmed by the Fifth Circuit Court of Appeals, and the Supreme Court failed to rule on it, effectively blocking the implementation of both programs.<sup>158</sup>

Overall, in this era, the U.S. did not see significant change in regard to immigration detention center standards other than reports and recommendations. However, there was an effort under the Obama administration to use prosecutorial discretion more broadly and minimize the classes of immigrants who should be considered enforcement priorities. Unfortunately, many of the efforts and memoranda issued under the Obama administration have been rescinded by current President Donald J. Trump.

## c. Current State of Immigration Detention in the United States

### i. Removal, Detention, and Cost Statistics

In 2015, ICE reported that it removed 235,418 individuals.<sup>159</sup> Out of this number, ICE reported that 59% had criminal convictions.<sup>160</sup> ICE reportedly detained a daily average of 28,449 immigrants in 2015.<sup>161</sup> Since 2015, this number has increased significantly. In August 2016, ICE reportedly detained 33,676 immigrants.<sup>162</sup> Then, in October 2016, ICE reportedly detained a historic high of more than 40,000 immigrants. Immigration detention costs American tax payers billions of dollars per year. In 2016, the cost for immigration detention was \$6.1 billion.<sup>163</sup> ICE requested \$6,230,206,000 for fiscal year 2017.<sup>164</sup>

Advocates have long called for greater use of Alternatives to Detention Programs. The Alternatives to Detention Program (ATD) monitors lower-risk noncitizens in a non-detention setting through intensive supervision or electronic monitoring.<sup>165</sup> ATD programs include: parole/release on own

## “ My dad came to the U.S. when I was a toddler

and I stayed behind in Guatemala. I'm from an indigenous group in Guatemala and had been living with my grandparents. But the gangs and government wanted to kill me, so I fled to find my father and crossed the border through Mexico seeking asylum.

I found my father and lived with my parents and my three little sisters, who are citizens, while attending the local high school in Atlanta. One morning at 5 a.m., police officers came to my house. I didn't know what they wanted or that it had to do with immigration, but I was taken into custody and detained in the Atlanta City Detention Center before being transferred to Irwin and then to Stewart. I have been fighting my final deportation order, but have not seen a judge since I've been at Stewart. When I go to court, no one tells me what's happening, and I can't understand because it's all in English.

All I do is sleep, eat, read the Bible, and sleep some more. The food is not good and dinner is served at 4:30 p.m. so by 8 or 9, I'm hungry again and I have to buy food from commissary because I'm so hungry. My family is afraid to visit me because they don't want to be detained too, so I haven't seen them. I often miss my family and friends, and my high school doesn't know that I am here at Stewart. When I think too much about all of these things I get sad and I cry.<sup>172</sup>

— A detained immigrant from Mexico described her experience at Stewart

recognizance, bond, check-ins at ICE offices, home visits and check-ins, telephonic monitoring, and GPS monitoring through an electronic ankle bracelet.<sup>166</sup> It is important to note that, with the exception of bond and parole, all of the listed ATD programs are administered by private prison companies such as the GEO Group, Inc.<sup>167</sup> Recent data shows that the ATD program had an average daily use of nearly 27,000.<sup>168</sup>

However, these programs are not without their flaws. Critics of these alternatives note that ICE often lacks clear and up-to-date guidance or enforcement policies for these programs, which leaves the potential for abuse and arbitrary decisions regarding placement in the programs.<sup>169</sup> Additionally, the use of ankle monitors leaves those placed under this program feeling criminalized.<sup>170</sup> The ankle monitor also restricts their travel and physical ability to move around.<sup>171</sup>

Despite these flaws, there is potential for ATD programs when used correctly (and not as an alternative form of detention) to reduce the cost of immigration detention.

## *ii. Private Prison Contractors*

Much of the high cost of immigration detention is due to its privatization. Private prison corporations have played an increasingly dominant role in immigration detention in the United States.<sup>173</sup> ICE's largest detention contractor is Corrections Corporation of America (CCA).<sup>174</sup> As of December 31, 2015, CCA owned or controlled sixty-six correctional and detention facilities and managed an additional eleven facilities owned by its government partners, with a total capacity of approximately 88,500 beds in twenty states and the District of Columbia.<sup>175</sup> The largest of these detention centers is in Dilley, Texas.<sup>176</sup> Overall, in 2015, 72% of immigration detention beds were located in facilities run by for-profit prison corporations under ICE contracts.<sup>177</sup> This is in stark contrast to the 7% of federal and state non-immigration related incarcerated individuals who were held in for-profit detention in 2014.<sup>178</sup> Studies show that asylum-seekers detained in for-profit immigration facilities have only an 8.1% asylum grant rate, as opposed to asylum-seekers detained in ICE-operated facilities who have a 13.5% grant rate.<sup>179</sup> This significant difference can be attributed to the limited access to legal services and other poor conditions.<sup>180</sup>

In addition to their major role in immigration detention, private corporations actively influence legislators through lobbying efforts and impact the drafting of influential immigration legislation, which has led to increases in the numbers of immigrants detained and the length of their detention.<sup>181</sup> The three corporations holding the largest percentage of ICE detention contracts collectively spent

at least \$45 million between 2002 and 2012 on campaign donations and lobbyists at the state and federal levels.<sup>182</sup> Between 2004 and 2014, CCA alone spent \$18 million on lobbying Congress for Homeland Security appropriations.<sup>183</sup>

## *iii. Increased Detention Initiatives under President Donald J. Trump*

Despite the astounding cost of immigration detention, President Donald J. Trump has called for expanded enforcement priorities and immigration detention. On February 20, 2017, current DHS Secretary John Kelley issued two implementing memoranda pursuant to President Trump's Executive Orders. First, the implementing memorandum *Enforcement of the Immigration Laws to Serve the National Interest* rescinded the aforementioned Johnson Memorandum.<sup>184</sup> Department personnel are directed to initiate enforcement actions against "removable aliens" consistent with President Trump's enforcement priorities identified in Executive Order *Enhancing Public Safety in the Interior of the United States* and any other guidance issued pursuant to this memorandum.<sup>185</sup> DHS personnel have complete authority to arrest unauthorized immigrants and initiate removal proceedings against those whom they believe to be in violation of immigration laws.<sup>186</sup>

Secretary Kelly issued another memorandum implementing the Executive Order *Border Security and Immigration Enforcement Improvements* on February 20, 2017. This memorandum titled *Implementing the President's Border Security and Immigration Enforcement Improvements Policies*, calls for the immediate detention of "aliens arriving in the U.S. and deemed inadmissible or otherwise described in section 235(b) of the INA pending final determination of whether to order them removed."<sup>187</sup> The tone and language contained in the memorandum and the Executive Order make it clear that immigration detention will be expanded under the Trump administration. The stated rationale behind increased detention of immigrants apprehended at the border is that "detention prevents such aliens from committing crimes while at large in the United States, ensures that aliens will appear for their removal proceedings, and substantially increases the likelihood that aliens lawfully ordered removed will be removed."<sup>188</sup> The memorandum contains very limited exceptions to detention that will be determined on a case-by-case basis by ICE agents. Thus, we can reasonably expect immigration detention to increase during this administration.

## V. LEGAL STANDARDS

The scope of immigration law standards, case law, and treaties is vast. This report highlights those standards that pertain to immigration detention facility conditions.

### a. Congressional Power over Immigration

The federal government is authorized to control who may enter the U.S. and who may be removed through deportation.<sup>189</sup> This power is not specifically granted by the Constitution.<sup>190</sup> Nevertheless, the Supreme Court has recognized a broad plenary power that gives the federal government control over immigration issues.<sup>191</sup> However, the government does not have the power to act outside of the Constitution.

### b. United States Constitution

The Supreme Court has stated that while the government has the power to create and enforce immigration laws, such power is subject to constitutional limitations.<sup>192</sup> The Court has affirmed that the Fifth Amendment protects all persons who have entered the U.S. and that the government cannot deny “any person of life, liberty or property without due process of the law,” regardless of race or national origin.<sup>193</sup> The Court has also made it clear that the guarantee of Fifth Amendment due process extends to individuals “whose presence in this country is unlawful, temporary, or permanent.”<sup>194</sup> This means that noncitizens who have entered the U.S., legally or illegally, cannot be expelled without the government following established procedures.<sup>195</sup> Moreover, the Court has also confirmed that the Equal Protection Clause applies to noncitizens, whether or not they have legal status.<sup>196</sup> On the other hand, the Court has recognized a distinction between noncitizens who have “entered” the U.S. and those outside the geographic borders of the U.S.<sup>197</sup>

#### i. Fifth Amendment

##### 1. Noncitizens Should Not Be Detained for Longer than 180 Days after Receiving a Final Removal Order

In 2001, the Supreme Court decided an influential case on immigration detention, *Zadvydas v. Davis*.<sup>198</sup> The plaintiffs, Kestutis Zadvydas and Kim Ho Ma, were noncitizens who had received a final order of removal, but were still being held in detention after the ninety-day statutory “removal period” had ended.<sup>199</sup> The Court acknowledged that “in-

definite detention” poses a “serious constitutional problem” given a noncitizen’s Due Process rights.<sup>200</sup> The Court therefore concluded that individuals whom “the government finds itself unable to remove” six months after issuing a final order of removal should be released.<sup>201</sup> In order to trigger this protection, a detained immigrant must “provid[e] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.”<sup>202</sup> In instances where the court determines removal may be foreseeable, the court should weigh the individual’s liberty interest against their potential threat to public safety.<sup>203</sup>

In June 2016, the U.S. Court of Appeals for the Eleventh Circuit applied *Zadvydas* to the case of an asylee from Cameroon named Maxi Sopo.<sup>204</sup> Sopo had spent more than four years in ICE custody at both the Stewart Detention Center and the Irwin County Detention Center.<sup>205</sup> The court found that Sopo’s detention was “unreasonable, and, therefore, a violation of the Due Process Clause.”<sup>206</sup> The court ordered that ICE immediately hold an “individualized bond inquiry” for Sopo.<sup>207</sup> As this report was being published, Sopo was still detained, but had been transferred to Stewart.<sup>208</sup>

##### 2. Civil Detention Should Not Amount to Punishment

Although it bears the marks of criminal incarceration, immigration detention is civil and therefore entirely separate from the criminal legal system. The Court has acknowledged that “detention violates [the Due Process] Clause unless the detention is ordered in a *criminal* proceeding with adequate procedural protections, or in certain special and ‘narrow’ nonpunitive circumstances . . .”<sup>210</sup> Whenever the government incarcerates an individual who has not been convicted of a crime, it must assure that the conditions of their detention do not “amount to punishment.”<sup>211</sup> Conditions of detention are punitive when they are “excessive” relative to their stated purpose.<sup>212</sup> The Court has determined that deportation is not punishment.<sup>213</sup> However, the Court has affirmed that “[p]ersons who have been involuntarily committed to a state institution are entitled to more considerate treatment and conditions of confinement than criminals whose conditions of confinement are designed to punish.”<sup>214</sup> Former Justice David Souter has used these principles to argue that immigration detention be subject to “heightened, substantive due process scrutiny” that would require the government to demonstrate a “‘sufficiently compelling’ governmental need.”<sup>215</sup>

## ii. First Amendment

The text of the First Amendment states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”<sup>216</sup> While the rights to assembly and petition are afforded to “the people,” the right to religion, speech, and the press are stated in terms of Congress’ limitations on creating laws that infringe on those rights.<sup>217</sup> In at least two cases, the Supreme Court has held that the First Amendment applies to noncitizens present in the U.S.<sup>218</sup>

### 1. Participation in Hunger Strikes

While the Supreme Court has not definitively addressed whether the right to free speech is afforded to non-resident immigrants, the question has been raised numerous times in situations where detained immigrants have gone on hunger strikes to protest the conditions of detention facilities. In the case *Pineda Cruz v. Thompson*, filed in the U.S. District Court for the Western District of Texas in April 2014,<sup>219</sup> the plaintiffs were mothers seeking asylum who were detained with their children at the Karnes County Residential Center in Karnes City, Texas.<sup>220</sup> The plaintiffs participated in a hunger strike to protest the sub-standard prison conditions. ICE responded by locking them in isolation cells, interrogating them, taking away their work assignments, and threatening to separate them from their children via transfer to another detention center.<sup>221</sup> The plaintiffs sought an injunction to prevent ICE from retaliating with such actions.<sup>222</sup> The plaintiffs alleged that their First Amendment rights were violated.<sup>223</sup> They stated that participating in a hunger strike is a form of freedom of speech protected by the First Amendment, and that the government violated that right by retaliating against them.<sup>224</sup> Although the case resulted in a voluntary dismissal by the plaintiffs, this case illustrates how hunger strikes by detained immigrants should be a protected First Amendment activity.

## iii. Eighth Amendment

The Eighth Amendment states: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”<sup>225</sup> Because immigration detention is civil in nature, claims of deliberate indifference cannot be brought under the Eighth Amendment, but rather, under the Fifth Amendment due process clause.<sup>226</sup> However, courts have used the Eighth Amendment’s deliberate indifference test when detained immigrants bring such claims under the Fifth Amendment due process clause.<sup>227</sup>

In April 2016, the ACLU filed a class action complaint in the U.S. District Court for the Central District of California on behalf of detained immigrants whose bonds were set too high.<sup>228</sup> The complaint alleges that the detained immigrants’ Eighth Amendment rights were violated because the Constitution does not permit the government to detain individuals and set bond without a determination of their ability to pay the bond amount and whether an alternative form of bond or other conditions of supervision, alone or in combination with a lower bond, can sufficiently mitigate flight risk.<sup>229</sup>

## c. Statutes and Regulations

### *The Immigration and Nationality Act (INA)*

As discussed in Section IV of this report, immigration detention is governed by the *Immigration and Nationality Act (INA)*, which is also codified in the U.S. Code. This section highlights a few of the provisions related to detention.

#### 1. Expedited Removal and Detention

The inspection by immigration officers, expedited removal of inadmissible arriving noncitizens, and the referral of noncitizens for hearing are detailed in 8 U.S.C. § 1225. “Expedited removal” applies to certain noncitizens arriving at the U.S. border without documents or with false documents, and also to those who entered without inspection and are found within 100 miles of the border of the U.S. and cannot prove they have been here for at least fourteen days.<sup>230</sup> Non-citizens who are subject to expedited removal are held in mandatory detention until removal. When an immigration officer invokes the expedited removal provision, and the noncitizen requests asylum or otherwise indicates a fear of persecution, the DHS officer is required to refer the individual to an asylum officer.<sup>231</sup> The asylum officer interviews the noncitizen and performs a preliminary screening to decide whether a credible fear of persecution exists.<sup>232</sup> All noncitizens subject to this procedure must be detained pending a credible fear determination or, if no credible fear is found, until removal.<sup>233</sup> Asylum-seekers who are found to have a credible fear of persecution or torture are detained pending a determination on their case but may be released on “parole” on a case by case basis.<sup>234</sup>

#### 2. Apprehension and Detention of Noncitizens

The apprehension and detention of noncitizens is addressed in 8 U.S.C § 1226. These provisions state that the Attorney General has the authority to arrest, detain, parole, and release on bond of at least \$1,500 a noncitizen who is awaiting a court decision regarding his or her removal

from the U.S.<sup>235</sup> The Attorney General is also authorized to revoke bond or conditional parole and detain the noncitizen at any time.<sup>236</sup>

The Attorney General must detain a noncitizen for certain crimes which would make a noncitizen inadmissible into or deportable from the U.S.<sup>237</sup> These categories include crimes involving moral turpitude for which the term of imprisonment is at least one year,<sup>238</sup> multiple crimes involving moral turpitude not arising out of a single scheme,<sup>239</sup> an aggravated felony,<sup>240</sup> crimes involving a controlled substance,<sup>241</sup> certain firearm offenses,<sup>242</sup> other miscellaneous crimes,<sup>243</sup> and crimes related to terrorism.<sup>244</sup> This mandatory detention provision extends to any person who is barred from admission for criminal or national security reasons.<sup>245</sup>

Noncitizens subject to mandatory detention may be released if the release is necessary to provide protection to a witness, immediate relative or a close associate of the witness, or a person who is cooperating in an investigation and if the released noncitizen does not “pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding.”<sup>246</sup> The Attorney General’s judgment as to the detention of noncitizens under this section is not subject to review by any court.<sup>247</sup>

### 3. *The Detention of Noncitizens Ordered Removed*

The provision addressing the detention and removal of noncitizens after they are ordered removed is contained in 8 U.S.C. § 1231. After noncitizens have been issued a final order of removal, they are subject to mandatory detention.<sup>248</sup> If they are not removed within the ninety-day removal period, they may be released under supervision.<sup>249</sup> Noncitizens who are convicted of crimes must complete the term of imprisonment before removal from the U.S.<sup>250</sup> Noncitizens whose crime was nonviolent may be removed prior to the expiration of the term of imprisonment should such removal be in the best interest of the U.S. or in the best interest of the state in which the conviction was found.<sup>251</sup> The Attorney General “shall arrange or appropriate places of detention” for noncitizens “pending removal or a decision on removal.”<sup>252</sup> Prior to the construction of new detention facilities for noncitizens pending removal or a decision on removal, the Commissioner shall “consider the availability for purchase or lease of any existing prison, jail, detention center, or other comparable facility.”<sup>253</sup>

## d. ICE Detention Standards

ICE uses Performance-Based National Detention Standards (PBNDS) as guidelines for immigration detention centers. ICE revised its PBNDS in 2011 to reflect “ICE’s ongoing effort to tailor the conditions of immigration detention to

its unique purpose while maintaining a safe and secure detention environment for staff and detained immigrants, and they apply to facilities at which ICE detained immigrants are held.”<sup>254</sup> These standards are not enforceable or legally binding, but rather are suggested guidelines.<sup>255</sup> Additionally, some detention facilities follow the earlier versions of the detention standards.<sup>256</sup> This section discusses those standards most relevant to this report based on findings about the conditions of the Stewart and Irwin detention facilities in Georgia.

### i. *Food Service*

ICE’s Food Service 2011 PBNDS are intended to provide detained immigrants “a nutritionally balanced diet that is prepared and presented in a sanitary and hygienic food service operation.”<sup>257</sup> The Food Service PBNDS further states that detained immigrants are to be provided clean drinking water and fed three meals per day, two of which should be hot meals.<sup>258</sup> However, variations may be allowed in observance of religious and civic holidays so long as “basic nutritional goals are met.”<sup>259</sup> Further, all detention facilities are required to provide detained immigrants who request a special diet for religious reasons a “reasonable and equitable opportunity to observe their religious dietary practice, within the constraints of budget limitations and the security and orderly running of the facility.”<sup>260</sup> Specifically, the common fare program has been implemented to accommodate detained immigrants during specific religious holidays such as Ramadan, Passover, and Lent.<sup>261</sup>

Generally, the common fare program is followed by the staff at the Stewart and Irwin detention centers. However, detained immigrants have reported several issues related to religious meals. For example, detained immigrants at Stewart report requesting vegan or vegetarian diets for religious reasons, but nothing is ever done to accommodate them. One male detained immigrant from Nepal notes, “I requested vegetarian meals but I have not received them. I have special dietary restrictions because of my religion. I spend fifteen dollars per week buying food from commissary.”<sup>262</sup>

Additionally, the 2011 PBNDS states that detained immigrants with certain medical conditions such as diabetes shall be prescribed an appropriate special diet to meet their needs.<sup>263</sup> Special diets are to be authorized by the clinical director and implemented by the next business day and reviewed in ninety day increments.<sup>264</sup> Despite having these standards in place, many detained immigrants at Stewart report having inadequate diets for their medical needs. As a male detained immigrant from Somalia notes:

*I have a medical condition requiring a dietary restriction. However, I still receive the same food*

*as everyone else except without dessert. It is not an appropriate diet for my medical condition. They say they will do things, but they just give you a paper to fill out, and nothing changes. The store sells food, but it is extremely expensive. My family sends me money to buy extra food. The store is for profit and exploits the situation.*<sup>265</sup>

Similarly, another male detained immigrant from Mexico reported being diagnosed with diabetes. In response, he receives a fruit cup with his meals, but he is still fed the same food as everyone else, which is high in the proportion of potatoes, white rice, and bread.<sup>266</sup>

## *ii. Telephone Access*

ICE's 2011 PBNDS requires that detained immigrants have reasonable and equitable access to telephones during waking hours.<sup>267</sup> This includes access to international telephone service, inter-facility calls to immediate family members in other detention centers, and free calls to government offices related to the immigration and legal service providers.<sup>268</sup> The PBNDS standards also direct the facilities to ensure that indigent persons (those who have less than \$15 in their account for ten days) be "afforded the same telephone access and privileges as other detained immigrants."<sup>269</sup> However, several detained immigrants report not knowing that they should be granted free access to phones. Additionally, detained immigrants at both locations report paying five dollars for fifteen minutes of phone time. Many detained immigrants report having to spend up to forty dollars per week in order to call their families.

Additionally, "All [ICE/ERO] field offices are responsible for ensuring facilities which house ICE detained immigrants under their jurisdiction are provided with current pro bono legal service information."<sup>271</sup> Many detained immigrants at Stewart and Irwin report having knowledge of the pro bono list of legal service providers at their facilities. However, several detained immigrants at both locations have expressed that the attorneys on the list require them to pay; thus, leaving many of the detained immigrants without counsel because they cannot afford it.

ICE detention facilities are also required to have telephone monitoring policies. Specifically, detained immigrants should be notified via a recorded message, within the detained immigrant handbook, and during each monitored telephone that their conversation is recorded.<sup>272</sup> The 2011 PBNDS also requires that a detained immigrant's calls to court, to legal representatives, or for the purposes of obtaining legal representation shall not be monitored without a court order.<sup>273</sup> Moreover, detained immigrants' calls to legal representatives should be in private and not limited in number or to a duration less than twenty minutes.<sup>274</sup> Again, several detained immigrants at Stewart and Irwin have expressed that their calls to their attorneys are made out in the open and often detention staff is close by listening to the conversation.

## *iii. Visitation with legal counsel*

The 2011 PBNDS visitation standards require ICE detention facilities to provide visitation rules and information to the public in written and telephonic form, as well as in the detained immigrant handbook or supplement that is given

“ I have only used the phone one time to make a call. I received two minutes for free when I first arrived at the Irwin detention center. If I want to make a call now I would have to pay, but I do not have any money except the one dollar a day I make from cleaning.”<sup>270</sup>

— A detained immigrant from Mexico describes her experience with phones at Irwin

to each detained immigrant.<sup>275</sup> The facility should provide notification of procedures for legal visitations.<sup>276</sup> Additionally, legal visitors may be required to present appropriate identification, such as a Bar card, and may be subject to a limited search.<sup>277</sup> Moreover, legal visitors are not required to have the A-number nor the Form G-28 as a prerequisite for entry.<sup>278</sup> Each facility must permit legal visitations every day of the week, including on holidays, for at least eight hours each day on weekdays, and four hours each day on weekends and holidays.<sup>279</sup> Visitation rights may not be limited for detained immigrants who are being disciplined.<sup>280</sup> The 2011 PBNDs further provides that detained immigrants may meet privately with their legal representatives or assistants.<sup>281</sup> Lastly, documents given to a detained immigrant during a visit with a legal representative are to be inspected, but not read.<sup>282</sup>

Despite having these standards in place, attorneys and their staff still face difficulty when attempting to visit their clients. Amanda Parris, legal intern at Project South, and occasionally a legal assistant for the attorneys during the visits, recalls her experience when trying to visit a detained immigrant at Stewart as follows:

*This Muslim man was in high security. The first time I came to interview him only an attorney was allowed to see him. No legal assistants allowed. Myself and a pro bono attorney tried to visit him*

*a second time and we were refused. After driving three hours, then waiting in the waiting area for two hours, the assistant warden and another man came down to ask us questions about who we were and why we were there and whether we were his attorneys for his immigration case, etc. They said we could not visit him because ICE did not know about the request in advance. However, the guard told us, before and after speaking to the assistant warden, that she gave our fax to ICE the day before and that everyone knew we were coming to see him. We were delayed during both visits – and during the second visit we could not see him at all. He was in maximum security and is still not allowed to receive visitors. He has not committed or been charged with a crime. He does not know why he is in maximum security.*<sup>283</sup>

#### *iv. Access to Legal Materials*

ICE's 2011 PBNDs mandates that each facility provide an equipped law library with appropriate conditions including a well-lit room, isolated from noisy areas, and large enough to provide access to all detained immigrants who request to use it.<sup>284</sup> The law library should be accessible to each detained immigrant for at least five hours per week.<sup>285</sup> However, several detained immigrants at Irwin stated that they have made requests to visit the law library but that their requests



PHOTO: STEVE PAVEY



were ignored. Some reported not knowing how to access the library at all. At Stewart, detained immigrants stated that generally if they requested access to the library they would be taken there.

In addition to allowing library access, each facility should have a library coordinator who is responsible for ensuring that the library has up to date legal materials and other supplies necessary to allow detained immigrants to prepare for legal proceedings.<sup>286</sup> Detained immigrants at both Stewart and Irwin report having inadequate legal materials. At Stewart, many of the detained immigrants expressed that the law library was not useful because all of the materials were in English and they cannot read English. At Irwin and Stewart, detained immigrants reported that they do not have access to the internet. They are afforded access to “bare bones” outdated Lexis Nexis materials on the computers, but several detained immigrants stated they do not know how to use Lexis Nexis and no one will show them. Additionally, according to the 2011 PBNDS, if a detained immigrant requires legal material that is not available in the law library, he or she may make a written request to the facility law library coordinator, who informs the Field Officer.<sup>287</sup> If a request is denied, then a written explanation is required.<sup>288</sup>

According to the PBNDS, facilities are encouraged to allow outside programs to train detained immigrants to help other detained individual to access legal materials.<sup>289</sup> Unrepresented detained immigrants who have limited English-proficiency or have disabilities and wish to put forth a legal claim, and who state they have difficulty with the legal materials, must be provided further assistance beyond the English law books.<sup>290</sup> Even with this requirement in place, detained immigrants at Stewart and Irwin report not having access to legal materials in a language they can understand.

## *v. Conclusion*

This section has described the legal standards governing the detention of immigrants that have been derived from various bodies of law. Case law, statutes, and DHS guidance provide the standards for immigration detention. Despite these safeguards, the evidence presented in the following sections of this report will show the severe non-compliance of these standards at Georgia’s Stewart and Irwin detention centers.

“ There is a law library. The staff brings me there every three days. Most of the books are in English. The materials are outdated. Most of the materials I cannot understand because they are in English. I am not able to get assistance when I need it. I don’t know if there are computers or typewriters. To print, there is an application. It is usually granted, but it takes them one day to respond.”<sup>291</sup>

— *A male detained immigrant from China at Stewart*

# VI. FINDINGS: GEORGIA'S TWO LARGEST IMMIGRATION DETENTION FACILITIES

## a. Introduction

There are four facilities in Georgia that currently house detained immigrants: Atlanta City Detention Center (ACDC), Irwin County Detention Center (Irwin), Stewart Detention Center (Stewart), and Folkston ICE Processing Center.<sup>292</sup> Folkston ICE Processing Center is a brand new detention facility that began housing immigrants in January 2017.<sup>293</sup> Folkston is a GEO Group facility that has contracted with ICE to house immigrants right next to the D. Ray James Correctional Complex.<sup>294</sup> Stewart and Irwin are two of the largest detention centers in the U.S.; Stewart is the second largest in the country.<sup>295</sup> While ACDC is run by the city of Atlanta, Stewart, Irwin, and the Folkston ICE Processing Center are private facilities, contracted by the federal government.<sup>296</sup> Stewart is run by the Corporate Corporation of America (CCA), the first and largest prison corporation in the country.<sup>297</sup> CCA is also one of the largest contributors to the American Legislative Exchange Council (ALEC), an organization that lobbies for bills that represent ALEC's interests, to be passed.<sup>298</sup> CCA has spent tens of millions of dollars, pushing bills ALEC has lobbied for on CCA's behalf.<sup>299</sup> For example, CCA has advocated on behalf of ALEC for the "three-strikes" law, which incarcerates individuals for life if they have committed any three felonies, as well as lobbying for bills that require prisons to have a minimum population.<sup>300</sup> The perverse incentives created by this system of requiring individuals to be incarcerated, sometimes for life, in private for-profit prisons has led to significant declines in the quality of life for the detained immigrants forced to live in these facilities.

The following findings are based on interviews with detained immigrants at the Stewart Detention Center and at the Irwin County Detention Center completed over the course of twelve months from April 2016 to March 2017. These findings also reflect interviews conducted by Alterna with individuals who were previously detained at Irwin or Stewart, but who had been deported to Guatemala at the time of their interview.

## b. Stewart Detention Center

Stewart, run by Warden Bill Spivey, is operated and staffed by CCA, a private for-profit corporation that contracts out food and phone services to other for-profit corporations.<sup>301</sup> The Intergovernmental Service Agreement (IGSA) between ICE and Stewart County was signed in July 2006, and included an agreement to pay \$54.25 per day for each detained immigrant.<sup>302</sup> Stewart contains 1,752 male-only beds.<sup>303</sup> If all beds are full, based on their initial 2006 contract, Stewart receives \$95,046 per day, or \$34,691,790 per year. This amount does not include the \$7,500,000 increase granted in March 2008,<sup>304</sup> nor the \$3,498,400 increase granted in May 2008, nor does it include any unknown increases to the per day per inmate funding.<sup>305</sup> Thus, detaining human beings in this civil detention center is a very profitable business.

Stewart is located in Lumpkin, Georgia, which is more than two and a half hours south of Atlanta.<sup>306</sup> The remoteness of this location cuts detained immigrants off from legal counsel and family members, transportation, and hotel accommodations. Detained immigrants report having very few visits from family or legal aid due to the remoteness of this location. A large percentage of the population has been transferred to Stewart from other states, which makes family and attorney visits particularly difficult. Many detained immigrants report that they have never received visits from family due to the distance, and some have even told their

“ There is a significant lack of lodging in the Stewart area, making it very difficult to spend more than a day there, after making the very long trip. This makes it very difficult for me to meet with a client prior to their initial hearing, if they are detained at Stewart.<sup>307</sup> ”

— An attorney who frequents Stewart

“ **I have been detained at Stewart for nearly two years.**

Last year, my family came but it is too far for only a one-hour visit. I told my family to stop visiting me. I told them not to worry. I didn't want them wasting time and money for only an hour. For people to visit, they must have an ID or passport to get inside. Undocumented family members cannot visit us here. I miss my family. <sup>308</sup>

— *A detained immigrant from recalls his experience at Stewart*

“ **I am twenty-five years old now. I fled Somalia when I**

was seventeen because of the horrific violence. My family was separated in the process. My father and I traveled down to South Africa, but I have no idea where the rest of my family is. Then, my father died in South Africa. Now I am all alone. I traveled to America for asylum, but I had no idea I would be detained. I didn't think they would detain asylum-seekers. I just asked to apply for asylum and I didn't know I would be imprisoned. I was hospitalized in South Africa because I was tortured. I take medication now for the trauma. But, I have no hope of asylum now that I was transferred to Stewart. Stewart is just a deportation center. This is not a place where you can win asylum. <sup>310</sup>

— *Mohammed Ahmed Duale, detained at Stewart*

family to stop visiting because the time and cost of traveling is a burden, especially when visiting time is so restricted.

### *i. Due Process*

Detained immigrants at Stewart go to immigration hearings at the Stewart immigration court, which has the highest rate of deportation out of any detention center in the country.<sup>309</sup> Immigrants detained at Stewart are aware of the facility's reputation.

Both attorneys and detained immigrants complain that the immigration judges at the Stewart immigration court routinely deny bond, or set bond at an amount much too high for a detained person to conceivably pay, forcing these immigrants to stay at Stewart for prolonged periods of time. Even asylum-seekers with severe medical conditions have been denied bond. One detained immigrant notes, "The judge granted me bond, but it was \$10,000 and I couldn't pay it. I've already spent that much on lawyers trying to help me, but they haven't helped."<sup>311</sup> Additionally, some detained immigrants report waiting months after being transferred to Stewart before they were able to see a judge. One male detained immigrant from Palestine recalls his experience with the Stewart immigration court as follows:

*I was not informed that I have the right to an attorney. I was only able to make a phone call after a couple of days had passed. I contacted the consulate but did not receive assistance. ICE officers coerced me into signing a stipulated order of removal. I feel that I was tricked because my English is not very good. I was not informed that I was eligible for a bond hearing.*<sup>312</sup>

The administrative proceedings, both in the Stewart facility and the Stewart immigration court, must be questioned. Notably, at least one U.S. citizen has been detained and deported from Stewart.<sup>313</sup> A male detained immigrant from Nicaragua recalls:

*105 days after being detained, I was about to speak with a judge when an immigration officer told me I needed to sign some forms before I could see the judge. I didn't know what it said, but it turns out I was accepting all charges as stated.*<sup>314</sup>

Another detained immigrant who was interviewed after being deported to Guatemala stated that after his deportation hearing he was told he would be deported in twelve days. Instead, he was transferred to Stewart for another forty-five days before being sent to Guatemala.<sup>315</sup>

### *ii. Legal Access*

Visits with attorneys and family members are difficult for the men detained at Stewart. According to the PBNDS, non-legal visits are permitted once a week for an hour, though the remote location limits the ability of many family members to visit.<sup>316</sup> Sometimes, family members are also subject to detention, so visiting Stewart places family members at risk of being detained by ICE as well. This concern is not an irrational one, as some of the detained immigrants at Stewart were apprehended while attempting to complete court orders, often relying on false promises from ICE officers that they will not be detained. Thus, some men are unable to see their families throughout their detention.

In addition to not having frequent visitation with family, detained immigrants and attorneys have reported frequent complications regarding legal visits. Although clients are allowed to meet with their attorneys, they either have to do so through glass, communicating through regularly malfunctioning phones, or through video conferencing. These options have not been satisfactory. For example, one male detained immigrant from Mexico said, "On the few occasions I've been able to meet with a lawyer, there is static on the phone and the TV is on nearby. The conversation is not private at all."<sup>317</sup> Additionally, attorneys who frequent Stewart report that translators are not available, nor are they welcomed by the facility. Accordingly, it is incredibly difficult to communicate with one's attorney in a loud area without privacy while using a broken phone system, especially without speaking the same language. Moreover, detained immigrants may not schedule times to meet with their attorneys. Instead, attorneys must call Stewart staff and schedule a meeting in advance.

Furthermore, the issue of faxing in advance caused numerous issues for attorneys interviewing detained immigrants for this report. At least twice, due to missing faxes or unexplained reasoning, our attorneys were unable to visit with detained immigrants even after scheduling the visit ahead of time. As a result of the arbitrary procedures, detained immigrants report that they must communicate with their lawyers through family members, raising several due process and attorney-client privilege concerns.

Stewart has recently put in a video conferencing system which has significantly improved the attorneys' abilities to communicate with clients, as they can do so remotely, and without having to actually go to the facility or deal with communications through glass and broken phones.<sup>319</sup> But attorneys also report arbitrary rules and procedures that the Stewart staff uses, which makes visiting their clients even more difficult. Below are some of the attorney experiences with the Stewart staff:

**“ The staff do not seem to understand that the clients detained at Stewart have a right to counsel.**

The staff seem to arbitrarily make up or ignore policies to best serve the conveniences of the facility. For example, even though detained immigrants have the right to meet with their attorney at any time, the facility promulgates the idea that attorneys need to fax a visitation request 24 hours prior to visiting the facility. For experienced attorneys, this amounts to no more than a delay of an hour or so before the facility is made to realize that it is violating a detainee’s right to counsel. For inexperienced practitioners, this may result in the waste of an entire day’s drive as the facility is not close to any metropolitan area.<sup>318</sup>

— *An attorney’s experience at Stewart*

**“ The woman working at the law library yells at detainees like they are children. She screams at detainees.**

She screams at detainees. Treats detainees very poorly. She is not helpful at all. Sometimes I cancel my visit because the librarian is so rude and disrespectful. No help is available in the law library. The librarian does not help. I cannot even ask her for help because she yells and is disrespectful. The librarian tells detainees what they can do or use or where they can sit or stand. Two computers. No internet. The librarian told me it is not my right to have copies; referring to copies of my legal documents. I request access but it is up to the librarian. She has discretion on scheduling appointments.<sup>324</sup>

— *A detained immigrant recalls his experience at Stewart*

*On more than one occasion I have been told by the CCA staff that I had to refill out a request form because I used blue ink instead of black ink. It seems like a pointless waste of time intended to make attorney-client contact more challenging.*<sup>320</sup>

*It seems clear that the staff at Stewart make an active effort to keep attorneys from visiting their clients. The delays in meeting with your client once you get to the facility are long, and if there are any visitation issues, you won't be alerted until you arrive at the facility. The guards at Stewart are incredibly unprofessional, making scenes over underwire in attorney bras, while still allowing them in, eventually. The front security actively tries to find issues with lawyer visitation. Once, even after their supervisor had approved my translator's admittance, front staff denied my translator admittance.*<sup>321</sup>

*The staff has also asked me to do somewhat outrageous things. I've been told to leave my bra at home, because it will set off the metal detector, been forced to send a single tampon through the metal detector, and been made to go put my phone in the car in the rain because of a change in cell phone policy.*<sup>322</sup>

Delays are another concern regarding legal access at Stewart. Detained immigrants report long delays in receiving mail, often including legal documents required for court. Attorneys interviewing detained immigrants for this report sometimes waited for over two hours to visit immigrants in order to only wait again in between interviews. Some attorneys reported waiting for an hour or more between meetings with immigrants without the ability to bring their cell phones, food, or water into the detention center. Occasionally, our attorneys had to forgo interviewing some immigrants altogether due to severe delays.

Notably, detained immigrants are not entitled to legal representation under the Sixth Amendment, nor are they required to be provided with an interpreter to explain the legal proceedings affecting them.<sup>323</sup> Thus, some detained immigrants rely entirely on the law library. The amount of time many detained immigrants are able to spend in the law library is extremely limited, both in number of times per week and number of hours per visit. Additionally, printing options are very restricted, allowing detained immigrants to only print two or three pages at a time. Men reported having no foreign language resources and no ability to search the internet for articles, which is especially problematic for asylum-seekers who must provide supporting evidence to prove a well-founded fear. For example, Mandarin speakers reported a complete inability to use anything at the law library

or interact with any facility staff, and other asylum-seekers from areas of violent conflict were unable to scour the internet for evidence of credible fear.

In addition to not having access to materials in a language that the detained immigrants understand, immigrants at Stewart have reported that the library staff refuse to help them. Other individuals added that the library staff were simply mean.

Together, these findings show severe limitations to legal access at Stewart.

### *iii. Admissions*

Upon admission to Stewart, detained immigrants are provided basic hygiene products and clothing. However, after receiving the initial items, some immigrants reported having their requests for additional toiletries, undergarments, and toilet paper ignored. Detained immigrants also reported extensive waiting periods when they requested new shoes or clothing due to normal wear.

Additionally, while the PBNDS require handbooks to be provided to detained immigrants upon admission to the facility, immigrants report not receiving them, or being given one in a language they cannot understand. In one instance, a male detained immigrant from Palestine, who speaks Arabic, was given a handbook in Spanish.<sup>325</sup> Furthermore, several detained immigrants recall being given handbooks and seeing the material posted, but expressed that detention staff do not follow the rules set forth in the handbook.

### *iv. Phones*

Another common issue for detained immigrants is access to functioning phones. The phones are not located in private areas, and the facility charges prohibitively high phone fees. Though it was not listed in their handbook, detained immigrants reported numbers as high as \$5 per twelve minutes for calling out-of-state or twenty-six minutes calling within the state of Georgia. One detained immigrant, who was interviewed in Guatemala after being deported, reported paying \$15 for just ten minutes of phone time.<sup>326</sup> Another immigrant from Palestine stated, "There is no privacy. The phone calls are always monitored. Sometimes calls are dropped. \$2.50 for twenty minutes domestic and \$5.70 for twenty minutes international. I spend \$70 a week on phone calls."<sup>327</sup>

Several detained immigrants explained that, even though they were constantly hungry, they refused to supplement their diet with food from the commissary in order to save what money they had to use the phone for a few minutes a week. To contrast these prohibitively high phone rates

with the offensively low pay rate for detained immigrants who work for the prison (generally \$1 per day on weekdays, and payment in the form of second portions of food on the weekends), it may take a detained immigrant one full week of work to pay for a few minutes on the phone. Furthermore, detained immigrants have indicated that the phones sometimes disconnect, thus requiring them to pay again.

### v. Housing

The conditions of Stewart are that of a prison; it is, indeed, a former prison that houses detained immigrants.<sup>328</sup> The immigrants are divided into three classification levels, which affect uniform color, housing, and other privileges. Currently, detained immigrants report that there are about sixty men in one unit who share a shower area with six showerheads, three toilets, and three urinals, which may be unsanitary or nonfunctional. The detained immigrants are the sole persons in charge of cleaning the units' bathrooms and, if they receive payment, it is between \$1–2 a day. During the winter months, the men reported that everyone in the units was given outdoor jackets to wear because it was so cold inside. On December 21, 2016, one detained immigrant from Somalia reported, "It is very cold now back in the units. All the men are wearing jackets, plus wrapping up in blankets. And, we are all still cold."<sup>329</sup> Overall, the hygiene situation, unit temperature, and lights remaining on twenty-four hours a day were frequently described as posing serious concerns.

### vi. Food and Water

The food and water conditions reported by both detained immigrants and attorneys were particularly concerning. In addition to food being frequently reported as spoiled or

expired, foreign objects, such as hair, plastic, bugs, rocks, a tooth, and mice, were reportedly found repeatedly in the food. Detained immigrants also reported meat was rarely served, and if it was, it was generally undercooked, burnt, or rancid. A male detained immigrant from Honduras stated:

*Once a week, we are given chicken. Stewart provides beef, but it is too disgusting for anyone to eat. Once, for a whole week, we were fed beans that had maggots growing in them. I did not notice until the second day. I supplement my diet with food from the commissary. I spend around twenty to thirty-five dollars a week at the commissary.*<sup>330</sup>

The length of time between meals was unpredictable and often long without any snacks offered between meals. One male detained immigrant from India explained, "They rush us, but we are not animals. We cannot eat that fast every meal every day."<sup>332</sup> The daily meal schedule, as described by many detained immigrants, leaves seven or more hours between lunch and dinner without food. If an individual needs additional food, they must purchase it at the commissary. Many detained immigrants reported having lost between ten to seventy pounds during their detention at Stewart.

A different detained immigrant from Honduras expressed his experience with the food at Stewart as follows:

*The food is not good quality. There are lots of potatoes. The food looks like vomit. The undercooked beef looks like monkey brains. There was a worm in my food one time. You have to eat as fast as you can. You can't even talk. It is not enough time. I do not have enough money to buy additional food from the commissary. Commissary does not*

“ **The food is rancid and I've lost seventy pounds since being here.**

I found a worm in the ground beef once. On top of all of that, the water smells like feces and the showers are covered in mold.<sup>331</sup> ”

— A detained immigrant recalls his experience at Stewart

*sell bottled water. Coffee is \$4. The prices are too expensive.* <sup>333</sup>

Another male detained immigrant from El Salvador stated:

*They don't feed us enough or with quality food. I took a job in the kitchen to try to get more food, but they do not allow kitchen workers to get extra food. Once, someone took a cracker and the guards tried to deny the whole kitchen staff food. I've lost ten pounds since I've been here.* <sup>334</sup>

Detained immigrants were rushed to eat, given generally between ten to fifteen minutes per meal, and if they reported inadequate or inedible food, they would be sent back to get more without being granted more time to eat. Some detained immigrants who were late to a meal were sent away until the next meal, which may not be served for another seven or more hours. There were no reports of fresh produce, not even available at the commissary. The men have never been served fruit during their time in detention, with the exception of a few immigrants who, as part of a special medical diet, were offered a small fruit cup. Almost all foods were reported to be potato-based, white rice, or bread. The diet has created significant complications for immigrants with medical conditions, especially stomach issues and diabetes. Detained immigrants spent about \$30–100 per week on extra food at the commissary. As one male detained immigrant from Pakistan reports:

*Not enough food is given and detainees are not allowed to share food. We are never served fruit. Rotten potatoes, two to three times in the three months since I have been at Stewart. I complain about the potatoes all the time. Food is sometimes undercooked. I have been served frozen pancakes. No change in my diet despite high blood pressure and cholesterol. I have suffered a stroke. We only have ten minutes to eat. I buy fish in a can, soup, etc. The prices are higher in here than on the outside. I spend \$20-30 per week on commissary.* <sup>335</sup>

The need for food supplements from the commissary is not only connected to the poor quality of the food, but also the meal schedule. Dinner is usually served by about 4:30 p.m., which means most people are hungry again before bed and have only two options: go to sleep hungry or buy food at the commissary. One detained immigrant said, “The food is not good and dinner is served at 4:30 p.m. so by 8:00 p.m. or 9:00 p.m., I’m hungry again and have to buy food from the commissary because I’m so hungry; like the phones, commissary prices are much higher in comparison to the amount detained immigrants can get paid if they choose to

work.” <sup>336</sup> Consequently, families and friends must supplement the detained immigrants’ finances to prevent their loved ones from going hungry during months and years of detention. This additional revenue stream for the facility is incredibly burdensome to families and detained immigrants. Finally, detained immigrants with dietary restrictions, some due to medical needs such as diabetes, receive the same meal as other immigrants, with the addition of a fruit cup or minus a piece of cake. A male detained immigrant from Mexico describes the accommodation of his medical condition as follows:

*I was taken to the hospital and diagnosed with diabetes. They never told me much about my condition, but now they give me a small fruit cup with my food.* <sup>337</sup>

The water has been especially concerning. It has been described as green, non-potable, smelling of feces, or completely shut off. Detained immigrants are not provided with enough undergarments or other clothing. They regularly wash their clothes in their sinks rather than wait for it to be laundered. Multiple detained immigrants reported that their clothes become green when they clean their white garments in the sink water. A male detained immigrant from Mexico stated:

*We have to wash our white clothes in the sink, and when we do, the water turns the white clothes green. We told the guards but nothing has been done.* <sup>338</sup>

The disconcerting quality of the water has been reported by attorneys as well. One attorney stated:

*I was at Stewart visiting a client, and at some point, I went to drink out of a drinking fountain. A nicer guard motioned for me to not drink the water. Her supervisor was there, so she had to be subtle, but it was clear that she did not want me to drink the water from the water fountain.* <sup>339</sup>

Some detained immigrants boil water in their cells before they drink it. Individuals reported getting rashes from the showers. A male detained immigrant from Mexico said, “The shower water is green and anytime I drink any water, I get headaches. I’ve lost about twenty pounds since I’ve been here.” <sup>340</sup> Similarly, another man from Ecuador reported, “For one week the water was brown with black specks.” <sup>341</sup> The lack of access to consistently clean water violates international human rights standards and PBND provisions.



### *vii. Hygiene*

Hygiene is another area of concern. Hygiene kits are dispensed at intake and overall detained immigrants reported that they received all the initial items such as clothing, toothpaste, and soap. However, a few detained immigrants stated that requesting additional hygiene products is a difficult task. If their requests are not completely ignored, it can take weeks before they receive replacement items. Many detained immigrants reported dissatisfaction with the quality of the soap and explained that it caused their skin to break out. Several men stated that they supplement these basic necessities by purchasing them at the commissary at inflated rates, particularly shampoo because it is not provided by the facility. Furthermore, the toilet to person ratio is significantly higher than PBNDS requires. The combination of poor

food quality and quantity, lack of clean water, and unhygienic conditions creates an environment where bacteria can flourish, causing detained immigrants to develop health issues.

### *viii. Work*

Detained immigrants at Stewart may engage in voluntary work such as cleaning and preparing meals, but are paid far below minimum wage. Depending on the position, a person may earn between \$1-4 per day or less at Stewart. However, \$4 a day is rare. Detained immigrants work in a variety of positions that are necessary for the operation of the facility, ranging from janitorial to administrative duties.<sup>342</sup> In terms of payment, some detained immigrants engaged in the work program reported that, although they are paid for their

## “ The medical staff only gives out pain killers.

I had difficulty urinating, and my medical treatment was to drink more water. I have been back to medical three times for this issue. There was a Chinese man in my unit throwing up before dawn. It took two hours for medical to arrive. The Chinese man still throws up.<sup>350</sup>

— A male detained immigrant from El Salvador



PHOTO: STEVEN RUBIN

## “ No; there is no mental health service.

There is no therapy. They only put people in segregation when someone is “mentally ill.” ”

— A male detained immigrant from Somalia

work on weekdays, they are compensated with extra food on weekends instead of receiving monetary payment. The men added that they do not have an option as far as accepting food in lieu of payment. A male detained immigrant from Mexico described his work experience below:

*On weekends, in lieu of money, I get two pieces of chicken for my work. I don't think it's fair. I have to get money from family to pay for phone use, hygiene products, and commissary food.* <sup>343</sup>

Another detained immigrant from Mexico expressed his frustration with the work program:

*I don't think the work program is fair at all. I have to work weekends for the payment of getting to eat twice as much food, instead of actual payment. The food is terrible. I've lost a lot of weight. I feel depressed a lot and don't go outside or participate in activities. I don't know if they have any mental health services here.* <sup>344</sup>

For most detained immigrants, they must take any opportunity to earn money in order to purchase necessities at the commissary or make phone calls. Many lose their previous employment due to detention. Therefore, their only option is to work for CCA at substandard wages. <sup>345</sup> These working conditions call into serious question ethical boundaries as detained immigrants work for very little, and are paid by the private corporation that is benefiting from their work instead of hiring regularly-paid employees. For example, one immigrant from Mexico stated, “I work for \$1 per day picking up garbage for the facility.” <sup>346</sup> Not only does this implicate employment and labor laws, but also the Thirteenth

Amendment, which does not allow slavery or indentured servitude, except if it is being used for criminal punishment. Again, immigration detention centers are supposed to be civil.

### *ix. Religious Freedom*

Few religious services are provided by outside groups. Many detained immigrants stated that they will conduct their own services and prayers within their units when they are allowed. However, they reported not being able to facilitate prayer amongst immigrants from different units. Some services are offered by different outside Christian volunteer groups or individuals. Many non-Christians attend these services because they do not have options for their own religion.

Religious dietary meals are provided to detained immigrants, such as Kosher meals given to some Jewish immigrants. However, some detained immigrants reported having religious dietary needs ignored, especially among religions requiring vegetarianism. Also, numerous Muslims reported that the guards told them that all the food served by the facility was Halal. It was only later that the immigrants discovered that the food was not Halal. The men explained that the religious meals lack nutrition, especially the vegetarian meals. Hunger and lack of nutrition is a real deterrent to practicing religious dietary requirements while in detention. Some Muslim immigrants accepted the regular meal either because they did not know how to request Halal, the wait time was indefinite, or some felt bad for other immigrants and therefore would give them their serving of non-Halal meat. This disregard for religious dietary practices is evidenced by a male detained immigrant from Somalia who requested Halal and at the time of the interview had been waiting for three months without receiving a response. He also noted that there are no special meals given to Muslims for the religious holiday *Eid*. <sup>347</sup>

Besides religious dietary conflicts, immigrants faced numerous others religious freedom issues. Several detained immigrants, especially Hindus and Muslims, noted an inability to access religious texts. Muslims reported that their prayer time was occasionally interrupted by the facility daily count times. As with food, phone calls, and hygiene supplies, Muslims must buy prayer rugs from the commissary in order to do their prayers. Fasting outside of major religious holidays was not accepted by the facility. Accordingly, several immigrants fasting for religious reasons missed meals and were not accommodated. Detained immigrants are not allowed to avoid eating for any significant length of time, hence the punishment of segregation and threat of force-feeding for those who participate in hunger strikes.

These findings raise serious questions about religious freedom and compliance with U.S. statutes and the PBNDS on religion.

### *x. Medical Care*

The medical unit is desperately understaffed, and sometimes detained immigrants are sent long distances for off-site medical treatment. There were no medical staff members who spoke Spanish at the time of the preparation of the report, thus limiting the ability for detained immigrants and medical staff to communicate in a meaningful way. The staff currently uses a phone translation service to communicate with non-English speaking immigrants.

ICE specifically found Stewart's medical care to be inadequate in 2012<sup>349</sup> and care continues to be inadequate. ICE requires there to be a physical exam of every detained immigrant within fourteen days of arrival. While most of the detained immigrants reported receiving an initial check-up, some report having medical conditions that have not been adequately addressed.

Despite ICE requirements, it is highly concerning that many detained immigrants claim that pain killers, often only ibu-

profen, are dispensed when physical exams or other medical care is more appropriate or medically required.

This method of proscribing only pain killers occurs if the detained immigrant actually requires a cream or bandage, or even for something as severe as broken bones. Furthermore, one person reported that a pill was given to detained immigrants if they complained of hunger, and that pill would suppress their appetite. An immigrant from China said, "They just dispense pain reliever no matter what our disease is. My arm swelling continued for three months but they just give me pain reliever."<sup>351</sup> Similarly, a male detained immigrant from Mexico describes his observations as follows:

*Medical just gives pain pills for everything. My roommate had a big one-inch bump on his leg. He begged medical and ICE officers every day to take him to a hospital. After two months, the bump had grown to three inches and was severely infected. He was left with a large sore and scar after he was finally taken to a hospital and the bump was operated on.*<sup>352</sup>

Detained immigrants also report issues with the amount of time it takes to receive medical care and see an actual



## **They dehumanize the detainees. The detainees are driven to be insane.**

The detainees fall into depression. The detainees become sick and get ulcers – all of the things that happen to a person when they are dehumanized. There is so much corruption in that place. It is all about the money. I am Catholic but I worked very hard to help all the detainees including the Muslims. I tried for a year to get Qurans. I was eventually able to get them for the Ramadan holiday from Texas. It is true that it is nearly impossible for the immigrants to get a Quran when they make requests. Regarding food, the Kosher meals cost more money. And, it is all about the money. The Chaplain interviews the detainees for about thirty minutes on why they request special diets for religious reasons. If it for cultural reasons, they will be denied. If it is for religious reasons, they might get it. The Kosher meals cost the facility more money. But how do you decide if a person is doing something for religious reasons? How do you decide it is only for cultural reasons? And, honestly, the guards are manipulative. The detainees are simply not fed enough food. They are treated like sheep. There are many issues with religious special diets, especially for Hindus and Muslims. I spent over two years working at Stewart. The turnover of officials at Stewart made the ministry quite challenging and I am convinced that there was a lot of prejudice against me as a Catholic.<sup>348</sup>



— A chaplain who previously worked at Stewart

doctor. Several detained immigrants expressed that if they miss the sign up for medical assistance in the morning they are forced to wait until the following morning. A detained immigrant from Honduras described the process:

*If you need any actual medical assistance, you have to sign up at 5 a.m. that morning, and if you're late, you have to wait until the next day. Major medical needs take ten to fifteen days to address.* <sup>353</sup>

Additionally, another man from India stated that it can take up to six months before detained immigrants see a doctor, and that his last consultation with a doctor was conducted by video conference. The lack of adequate medical care at Stewart raises serious concerns that must be addressed by ICE.

### *xi. Mental Health Care*

According to most of the detained immigrants, the men do not have access to a mental health doctor, and the mental health care staff that exists primarily handles suicide risks, which are reportedly dealt with by placing the at-risk individual in segregation. A couple of men report receiving some type of mental health care. However, the vast majority of immigrants were unaware of mental health services or too afraid of being placed in segregation to approach the mental health care staff with concerns.

incidents in their home countries. However, the men said they were afraid to reach out for mental health for fear that they would be taken away, heavily drugged, or placed in segregation like others who made mental health requests in the past. A detained immigrant from Guatemala added, “I have no idea if there are mental health services here, nor do I know how to file a grievance.” <sup>354</sup>

Several detained immigrants also expressed their concern for others that they felt needed access to mental health services. A male detained immigrant from Nepal expressed his concern by stating, “Many detained immigrants here have emotional issues and need more assistance.” <sup>355</sup>

### *xii. Segregation*

Moreover, much like a prison, there is an administrative and disciplinary segregation section used to put detained immigrants in isolation for varying reasons (often punishment) and for varying, sometimes arbitrary, lengths of time, which range from twenty-four hours to multiple months. Some of the reported reasons for segregation included not tucking in one’s shirt, talking too much or complaining, arguing during soccer matches, and participating in hunger strikes. One detained immigrant reported being put in segregation because he asked for an extra bandage. He was told that he was being disrespectful. Other detained immigrants have been put in segregation due to lack of beds or filing grievances against other detained immigrants.

Immigrants at Stewart report that the segregation unit is used primarily for punishment, but also for those with mental health issues. According to ICE’s 2011 PBNDS, the maximum amount of time a detained immigrant may be put in disciplinary segregation is thirty days. <sup>357</sup> In segregation, the immigrants cannot tell if it is day or night. There is no access to commissary or showers, and limited or prohibited access to phones, medical attention, and recreation. The meals are smaller, and multiple detained immigrants have complained of being confined in segregation with no explanation and/or by mistake. Also, detained immigrants who merely file grievances report having been placed in segregation until their hearing. Notably, grievances filed with DHS reportedly get no responses.

One male detained immigrant from Nigeria, who suffers from mental issues, explained,

*“Segregation is like hell. It is total isolation.”* <sup>358</sup>

Detained immigrants report no difference between administrative or disciplinary segregation; both are considered to be equally severe. When detained immigrants are placed in segregation, they are not allowed to shower or access the commissary, and each day they must choose between using the

“ I tried to kill myself at Stewart. Stewart was horrible. My family couldn’t visit me <sup>356</sup> ”

— A male detained immigrant from India

Of particular concern is the treatment of those suffering serious mental afflictions, who are given pills and then are placed in handcuffs and helmets and put in segregation, a practice discouraged by ICE, the DOJ, and human rights standards. One person reported that other detained immigrants were being heavily medicated and “kind of just walking around in a fog.” Some detained immigrants interviewed did not know of any mental health care options, or only knew that detained immigrants on suicide watch were placed in segregation. Many immigrants spoke about how they felt depressed or had trauma from torture or other

phone and getting an hour of recreation time outside of their small cell. Segregation cells have no bathroom. Detained immigrants must request to use the bathroom every time they need to use the restroom throughout their confinement in segregation, after which they are handcuffed and taken to the restroom in chains. A male detained immigrant from Somalia describes his experience in segregation as follows:

*I was put in segregation for four days because I was on a hunger strike. There were about twenty other Somali detainees in segregation for the hunger strike. In segregation, I could not see outside and did not know if it was day or night. I could see the other detainees through a small window. The guards will bring the phone through the window for a detainee to use. The bathroom is located outside of the cell. Detainees must request an officer to take them to the bathroom. They are handcuffed and brought to the bathroom.* <sup>359</sup>

Many detained immigrants reported spending at least a few days to a week in segregation. Some men who were interviewed were held for multiple months in segregation and others knew immigrants who had spent three to six months in segregation. Several men reported being held in segregation for participating in hunger strikes, or they knew of other detained immigrants who were held in segregation for participating in the strikes. Detained immigrants explained that there are only two forms of punishment: taking away commissary (how they supplement meals) and going to segregation (where they cannot go to the commissary anyway). Consequently, punishment at Stewart always involves being hungry.

### *xiii. Staff and Administrative Issues*

Serious concerns were raised regarding guard behavior, both by detained immigrants and by attorneys. Detained immigrants reported that the facility had some good officers, some bad officers, and a few very bad officers. For example, one detained immigrant, a non-Muslim, reported that

## “ I am married with children, but I have been here

for almost two years. I came here for asylum because I am a religious man and the Chinese police caught me practicing my faith and participating in religious activities. I did not see an immigration judge until at least five months into my detention. I was unable to communicate with my deportation officer. No one speaks Mandarin. There are not even TV programs in our language. Others watch TV, but we cannot. There are over sixty people in my dorm style unit. People from over ten countries in an overcrowded living situation – there is fighting, miscommunication, and it’s loud. Only two of the showers work for over sixty people. One time I was put in segregation because of a language or cultural misunderstanding. In the shower, I tap someone on the shoulder to compliment them and they reported me for sexual harassment. I didn’t know that it would be interpreted that way. I was put in segregation for a week. And, we are not fed enough. I am always hungry and I have lost weight. I am supposed to be on a special diet, but I do not know who to communicate that to. The water even tastes abnormal – it is not good. I want to attend religious programs but I cannot understand them in English. There are no interpreters here. I do not understand the facility rules because the handbook is in English.

The manager here hates Chinese people. <sup>363</sup>



Muslim men complained about one guard who was repeatedly racist and Islamophobic towards them. The detained immigrant reporting this situation agreed that the guard was in fact racist and Islamophobic. He said the facility eventually fired the guard because the Muslim immigrants kept complaining and participating in group protests. Another detained immigrant, an asylum-seeker who was tortured in South Africa, reported that one guard would frequently threaten to deport him back to South Africa.

Detained immigrants have noted prejudice among the guards, indicating that Spanish speaking guards were harassed by non-Spanish speaking guards for communicating with detained immigrants in Spanish, and that most Spanish speaking guards tended to disappear. This prejudice creates an environment where people who cannot speak English are extremely vulnerable, in that they are unable to articulate their needs, and this makes them highly dependent on other detained immigrants to communicate on their behalf. Many of the detained immigrants expressed that if more guards were present who spoke their language that would allow them to communicate more effectively. A male detained immigrant from Mexico expressed his feelings about the subject as follows:

*I wish more of the guards could speak Spanish so that I could communicate. There was one officer who could, but then the other officers would get mad at him if he spoke in Spanish to us. I haven't seen him in weeks.* <sup>360</sup>

Another man from Guatemala explained:

*The language barrier is a real problem here. The staff doesn't understand when you need something from them, and if you try to get a detainee to help communicate for you, they still won't get what you need. The guards treat detained immigrants very disrespectfully and do not communicate the rules to Spanish speakers, but yell if we do not comply exactly.* <sup>361</sup>

Furthermore, many immigrants do not speak English or Spanish. Some men, like Mohammed Ahmed Duale, speak Somali and interpret for those from Somalia who do not speak English. Mohammed is an unofficial translator for other immigrants and the guards. Sometimes it is a bit frustrating for Mohammed because it is almost like a job except he is not compensated. But, he wants to help other detained immigrants. Other men depend on him to translate communications with guards, make requests, and file complaints. However, not all immigrant groups have members who provide translation services. Those who do not speak English or Spanish face considerable problems. For exam-

ple, Mohammed expressed concern for the population of Chinese immigrants being held at Stewart:

*The Chinese immigrants have it very hard here. They have to use hand signs to communicate with anyone and everyone. The staff can't communicate with them at all. There are no interpreters for them and no detainees who can interpret for them. They can't express themselves, make requests, or complain. I don't know if they are okay.* <sup>362</sup>

Several Chinese and non-Chinese immigrants have remarked about how the Chinese men are treated worse because they cannot communicate. Another Chinese detained immigrant said:

*"The staff's attitude towards Chinese immigrants is very bad and rude. People who can speak English are treated better. Chinese people are treated worse, maybe because we cannot speak English. If I could change anything at the facility, I would want them to treat the Chinese people better, and change the food – it's horrible."* <sup>364</sup>

The lack of ability to communicate creates serious complications regarding discipline and medical care. For example, another Chinese detained immigrant shared his story as follows:

*When I was detained at the border, I was barely fed any food for five days. I was so hungry. I came here for asylum because I am Christian. This is the third detention center that I have been held in since I was detained. They told me I will be deported next year sometime. I've been at Stewart for almost two years. They told me I might be here for almost three years before they deport me back to China. It is cold here. The lights are always on, and there is just too many people staying inside one unit. There were no Chinese books here when I arrived. Barely anything is in Mandarin so I just sleep a lot. One time, I broke my leg and I waited for at least two hours before seeing a doctor. Then, I waited for a month before being taken to hospital to get x-rays. None of the medical staff spoke my language, so I had to use a phone interpreter. The staff should treat us fairly, but they do not. They treat English speakers much better. I was not provided with a facility handbook and I cannot understand the rules. I do not know how to make a complaint or file a grievance. Once, I was in a dispute with another immigrant because he stepped on my bed with his shoes on in order to get to the top bunk. And, I was disciplined even though I was not at fault because I cannot speak*

*English and I could not express myself. I just want to get out of this place.* <sup>365</sup>

Other Chinese detained immigrants reported similar issues relating to untreated medical problems and unfair disciplinary action because of their inability to communicate with any of the staff. There were also reports of staff using racial slurs directed at the Chinese men. Other detained immigrants expressed sympathy for the Chinese immigrants who they also believe are not treated fairly.

#### *xiv. Hunger Strikes*

Frustrated by the conditions of detention, groups of detained immigrants have gone on several hunger strikes at Stewart in recent years. For example, in the summer of 2014, dozens of detained immigrants at Stewart went on a hunger strike. <sup>366</sup> In response, detention center staff put the facility on a twenty-four hour lock down, threatened to force-feed participants, and used pepper spray on some men. <sup>367</sup> Again, fed up with the conditions of the facility, including being locked-up for twenty-three hours a day, detained immigrants organized a protest in September 2015. <sup>368</sup> This time, the detention center staff responded by using rubber bullets or paint balls and placed protesters in segregation. <sup>369</sup> Last year, on April 17, 2016, detained immigrant Alaa Yasin from Palestine went on a prolonged hunger strike to protest his unlawful detention. <sup>370</sup> Mr. Yasin argued that he should have been released because his removal was not reasonably foreseeable. <sup>371</sup> Thus, keeping him in detention violates Supreme Court precedent. In response to his hunger strike, ICE unsuccessfully attempted to get a court order to force-feed him and informed him that he would be placed in solitary confinement. <sup>372</sup> Despite the protests and hunger strikes by detained immigrants in recent years, little has been done to remedy the conditions that led to the protests in the first place. Detained immigrants still feel the need to protest. For example, one detained immigrant reported the following:

*I am going on a hunger strike today. My wife can no longer afford school in Ghana without my help. My son is devastated that he cannot continue with his education. Today, he told me he is planning to kill himself. My child wants to kill himself. I am begging to be deported or get work release. I must help him. I need to help my family. I cannot stand being detained any longer. I cannot sleep anymore. I am so stressed. I constantly worry about my wife and children. I cry at night.* <sup>373</sup>

Particularly concerning is the use of solitary confinement as a means to punish the detained immigrants who go on hunger strikes. Per the records obtained through a *Freedom of*

*Information Act* request by The Verge, more than two dozen detained immigrants were placed in solitary confinement after going on a hunger strike. <sup>374</sup> These detained immigrants were merely demanding access to their deportation officers and refused to eat unless seen by ICE. Even before they could actually miss a meal, they were locked in solitary confinement. <sup>375</sup> There have been multiple occasions when ICE has been accused of using solitary confinement as a means of retaliation against hunger strikes. <sup>376</sup> A male detained immigrant from India described the treatment of the men who go on hunger strikes as follows:

*Hunger strikes happen all the time. People get sent to SHU (segregation) for doing this. Staff usually responds quickly to hunger strikes since they are afraid of the detainee getting hurt, since they would have to report that to ICE.* <sup>377</sup>

Azadeh Shahshahani, Legal and Advocacy Director with Project South, said, “These documents confirm what we’ve been hearing in terms of immediate and really brutal crack-down by using solitary as a means of deterring the hunger strikes and almost as a punishment.” <sup>378</sup> Solitary confinement is a violation of basic human rights and amounts to psychological torture. <sup>379</sup>

Another large hunger strike took place around Thanksgiving in 2016. Many immigrants who had been in detention for a year, two years, or more were exasperated by their indefinite detention. Sadam Hussein Ali, a twenty-four-year-old asylum-seeker from Somalia, reported the following:

*The staff put me in segregation for several days because I participated in the hunger strike that happened around Thanksgiving. They also fired me from my kitchen job for participating in the strike. About twenty other Somali detainees were put in segregation. In segregation, I couldn’t see outside. I lost track of whether it was day or night. I had to request to use the bathroom every time; then I was chained; and then a guard would walk me to the bathroom in chains. I participated in the hunger strike because we have been detained for far too long. The nurses actually threatened to force-feed all of us on the hunger strike.* <sup>380</sup>

The use of segregation as a form of punishment for engaging in a peaceful protest violates basic human rights. By the same token, force-feeding or the threat to force-feed is also a violation of basic human rights and international law.

## c. Irwin County Detention Center

Located in Ocilla, Georgia, the Irwin County Detention Center<sup>381</sup> is another for-profit detention facility like Stewart. The facility is located around three hours away from Atlanta, Georgia. Irwin is owned by Irwin County but currently run by LaSalle Corrections.<sup>382</sup> In 2010, the Irwin County Jail contracted with ICE for the Irwin detention center to house detained immigrants.<sup>383</sup> According to the website, Irwin's capacity is 1,201 individuals.<sup>384</sup> Unlike Stewart, the Irwin detention center houses both male and female detained immigrants. Additionally, Irwin's staff is provided by LaSalle Corrections.<sup>385</sup> LaSalle Corrections provides operations management services to various detention facilities.<sup>386</sup>

### i. Due Process

Similar to Stewart, the geographic location of the detention center poses significant problems for family members and attorneys with clients detained at Irwin. Many of the immigrants currently detained at Irwin were transferred from Texas, the Carolinas, Stewart, or ACDC. Out-of-state transfers often end attorney-client relationships. This result is especially true for those detained immigrants who have been transferred to Irwin, but have an attorney who is not based in Atlanta. Some immigration judges assigned to immigrants at Irwin do not allow telephonic attorney appearances in court, which makes legal representation even more difficult for those detained at Irwin.<sup>387</sup>

The geographical setting is not only problematic for attorneys, but it also makes it almost impossible for some detained immigrants to see their families. Detained immigrants report that there are mothers who are separated from dependent children for prolonged periods of time. For the short time that the families may be allowed to visit, they must do so separated by glass and communicating through unreliable phones.<sup>388</sup> Female immigrants reported that there was a pregnant woman in detention at Irwin, but they did not know what happened to her or her child.

In addition to the geographical obstacles, detained immigrants report serious issues regarding the immigration court. Some detained immigrants report being forced to sign documents without speaking to an attorney. Others stated that it took months before they had an initial appearance before a judge. A male detained immigrant from Cameroon knew a man who was told that he would be released if he just signed a stipulated order of removal. He also heard that ICE would show fake travel documents as part of its strategy.<sup>389</sup> A male detained immigrant from Guatemala reported that he had not seen his deportation officer for his first three months of detention. Ultimately, he did not have enough time to communicate with the officer about his needs and desire to

fight his case.<sup>390</sup> Another male detained immigrant from Guatemala did not see his detention officer at all.<sup>391</sup>

Furthermore, another male detained immigrant from Ghana was given ten days to find an attorney. He could not find an attorney because all of them required a fee that he could not afford.<sup>392</sup> On one occasion, a male immigrant from Honduras did not see a judge for sixty days after his arrest in 2016.<sup>393</sup>

It is also concerning that detained immigrants report not being informed about their rights. One female from El Salvador reported the following:

*I was notified of pro bono services. I hired two of the pro bono attorneys but they never showed up to the hearings so then I was forced to get a private attorney since the judge said he would punish me if I didn't get an attorney. My father found me an attorney but he wasn't able to make it to the last hearing. I mostly communicate with my attorney through my family.*<sup>395</sup>

The court at Irwin is also notorious for issuing very high bonds. Several detained immigrants recall not being able to afford bond because it was too high. Some individuals were denied bond entirely. One detained immigrant from Nigeria with serious untreated medical issues said:

*I want bond. I need bond. They are not treating my medical condition. I need to leave to receive surgery. I am in so much pain. I don't understand why they will not let me leave.*<sup>396</sup>

Detained immigrants report being placed in segregation for the first twenty-four to forty-eight hours of their arrival at Irwin, while space is made for them in the general population. Some immigrants reported waiting up to a week in solitary confinement.

Adding to the problem, several detained immigrants who request legal representation are denied access to pro bono legal services or other legal resources as required by the PBNDS. Further, in the event a detained immigrant is able to obtain a list of attorneys, some have reported that the services listed as pro bono are not actually free.



## “ I did not see the immigration judge until I applied

for bond but it was denied three times. During the last hearing I had on September 15, 2015, the judge lost all the paperwork and sent me back here to wait for another hearing. One time, an ICE agent at Stewart told me that I should sign the deportation paper because they will not leave anyone in America. I heard from another person that he was pressured to sign, but he eventually said no. <sup>394</sup>

— *An immigrant from Mexico* ”

This is evidenced in an experience by a male detained immigrant from Nigeria who called the free or reduced-fee legal support attorneys that were on a list given to him by the detention center, but none of them would work for free. <sup>397</sup> Lack of access to legal counsel is particularly problematic because it is crucial for an immigrant to understand what is taking place during any legal proceeding because the consequences may be a final order of removal. Accordingly, a person must be able to communicate critical information that may influence the decision of the immigration judge. Yet, without an attorney, many immigrants are unable to make their voice heard.

### *ii. Legal Access*

In addition to the challenges of obtaining legal representation, detained immigrants at Irwin do not have sufficient access to adequate legal materials and visitations with their attorneys are impermissibly impaired. PBNDS recognizes the importance of allowing detained immigrants access to legal information. These standards specify that organizations should be permitted to distribute legal information in response to legal inquiries, and that detained immigrants must have access to information and materials provided by legal groups upon request. However, numerous detained immigrants at Irwin reported not having adequate access to this legal information.

Further, visitation conditions significantly impair the attorney-client relationship. Attorney visits are no-contact, and the communication is done via telephone through a glass partition. Attorneys and detained immigrants reported major difficulties in their ability to hear each other without yelling inside the interview rooms, which raises major concerns about attorney-client privilege. As an alternative, the attorneys are forced to choose public visitation, which again is a threat to attorney-client privilege.

An attorney who visited his client at Irwin reported the following:

*After waiting over an hour to visit with a client, we were taken to a visitation room in which we could not hear one another. We asked the guards for an alternative visiting situation, but they told us that contact visits weren't allowed so the only other option was the regular visitation area that does not afford any privacy. We were forced to choose the public visitation area because even while shouting, my client and I were unable to hear each other in the attorney client visitation room. <sup>398</sup>*

Even more troubling is the denial of free calls to legal counsel. A male detained immigrant from El Salvador reported the following:

*I requested free legal calls non-stop but was refused. My lawyer attempted to schedule a conference call with me a week before my court date but he was denied. <sup>399</sup>*

Additionally, the handbook indicates that detained immigrants are to have access to the law library during library hours, which are Monday through Friday, 8:00 a.m. to 5:00 p.m. <sup>400</sup> Detained immigrants report a different experience. Many female immigrants expressed that they were not informed by detention center staff that a law library even existed. They were eventually told by other detained immigrants, and still no one has told them how to seek access to the law library. A female detained immigrant from Mexico said:

*There is a law library, but the staff has not told us how we can use it. I know about it because I saw it when I went to court- it is across from the court. I think, one must make a request but I am afraid to since the staff is not responsive. <sup>401</sup>*

Further, many detained immigrants expressed that they have a difficult time actually accessing the library and usable

legal materials. Detained immigrants expressed that the procedure required to request access to the law library is cumbersome. They must fill out request forms that are only provided in English and Spanish. This makes it difficult for detained immigrants who speak other languages to request access to the library. Moreover, detained immigrants report that requests to access the law library are often ignored. Those that are not ignored take weeks to be approved for a scheduled visit to the law library. Even when they are scheduled, detained immigrants reported that only two people are allowed to visit the library at the same time. For a facility of this size, the limit seems considerably disproportionate to the need of the detained population. Some detained immigrants report being refused access to the law library altogether. For example, a male detained immigrant from Cameroon was denied access to the law library while he was in segregation. Others reported similar restrictions. Another male detained immigrant from Cameroon reported:

*One cannot access the library unless you have an attorney phone call. One woman is responsible for the library, copies, attorney phone calls, everything. She is overworked and always extremely busy.*<sup>402</sup>

Even more troubling is the inadequate legal materials provided in the library. A male detained immigrant from Nigeria said, “The materials in the law library are sparse. There was no printer access until six months ago. Only two computers are available in the law library.”<sup>403</sup> Detained immigrants also expressed that much of the material in library is out of date with old computers and no internet access. The lack of internet access can make it incredibly difficult for asylum-seekers to access current articles relating to their home countries. When Project South investigators toured the law library, they noted that the law library appeared to also be a cleaning storage supply closet, with a strong smell of bleach.<sup>404</sup> Detained immigrants report that the procedure for printing and mailing documents is very formal and includes a lengthy request process, which makes preparing for a court proceeding a substantial challenge, especially if individuals are representing themselves pro se.

Recently, ICE has made an attempt to address some of the concerns raised in this section by providing detained immigrants at Irwin the ability to engage in private Video Conferencing (VTC) with their attorneys. Computers have been loaded with the free video calling application in a private area to accommodate VTC meetings.<sup>405</sup> We have yet to see if these changes have actually improved communication between detained immigrants and their attorneys.

### *iii. Admissions*

When detained immigrants arrive at Irwin, their personal property, money, and clothing are taken by the processing office.<sup>406</sup> Detained immigrants are given a receipt for each personal item retained which they will be required to keep until they are released so that they may exchange the receipts for their property.<sup>407</sup> Detained immigrants are then classified based on an interview along with the consideration of their criminal record. If a detained immigrant feels that they are misclassified, they may file a grievance.<sup>408</sup> Although it is not specified in the handbook, some detained immigrants report being placed in segregation for the first twenty-four to forty-eight hours of their arrival at Irwin, while space is made for them in the general population. Some immigrants reported waiting up to a week in solitary confinement. A male detained immigrant from Guatemala said that he knew of people who were kept in segregation for two to three weeks upon their arrival only because officers did not have any other place to put them.<sup>409</sup>

Notably, upon admission to Irwin, detained immigrants are supposed to receive a handbook detailing the facility’s rules and legal information that detained immigrants need to be aware of.<sup>410</sup> However, if these handbooks are provided, they are generally only in English, leaving non-English speaking detained immigrants dependent on other immigrants to translate complex and important information.

According to the handbook, detained immigrants at Irwin are initially provided two of the following: uniforms, socks, undergarments, and sheets.<sup>411</sup> They are also given a bath towel, washcloth, blanket, mattress, footwear, toothbrush, toothpaste, soap, comb, shampoo, and lotion. Any replacement items must be requested from a housing officer.<sup>413</sup> However, some detained immigrants report not receiving sufficient supplies and that requests for new supplies are ignored.<sup>414</sup> One immigrant was moved to a new dorm, was not given a new set of clothes, and had to borrow clothes from other fellow detained immigrants.<sup>415</sup> Several detained immigrants interviewed reported being provided with used clothing upon arrival, including undergarments. A male detained immigrant from Mexico reported the following:

*We are given single-use hygiene products when we get in the facility. They are supposed to bring us more hygiene products on Monday and Friday. Sometimes they don’t come all week. One guy was given a uniform that was a size L but he was a 3XL. They forced him to wear the L. The shoes I was given are several sizes too big. I told them, but they refused to replace them. The shoes they gave me are ripped. And, they gave me used boxers that had holes in them when I arrived. All of the clothes*

*I received upon arrival were used. I put in a request when I got here but I have not received a response. Everyone is walking around with holes.* <sup>416</sup>

A male detained immigrant from Ghana, who has been at the detention center for eighteen months, asked for new socks, underwear, and blankets. However, not a single request of his was fulfilled. <sup>417</sup>

#### *iv. Phones*

Contrary to the standards specified in the PBNDS, phone usage is limited, expensive, and not private. Detained immigrants reported only three functioning phones at Irwin and all of them are located in public areas. Detained immigrants have access to the phones between 5:00 a.m. and 11:00 p.m. In order to make phone calls, detained immigrants must purchase calling cards. The phone calls are capped at fifteen minutes per call, and the cost to make a phone call is extremely high. Detained immigrants report prices of international calls between \$5 and \$15 for fifteen minutes depending on the country. Some detained immigrants report having to spend roughly 30 cents a minute calling numbers in Georgia. A male detained immigrant from Jamaica said, “The phone calls are way too expensive; \$2 to begin a call and 34 cents a minute to continue the call. International calls are \$1 a minute.” <sup>418</sup> Another male detained immigrant from Honduras said “that calls are monitored or taped, and I have to pay a flat fee of \$4.80 for up to fifteen minutes.” <sup>419</sup> A female detained immigrant from Guatemala said:

*I was allowed to make a free call for two minutes when I first entered. Now, I have to pay if I want to use the phone, but I have no money except the \$1 that I make from cleaning the detention center.* <sup>420</sup>

The high costs of the calls are particularly problematic because in some instances phone calls are the only way the detained immigrants can communicate with their attorneys and family. A detained immigrant from Ghana stated:

*I spent 80 dollars a week on phone calls when I was fighting my case. The calls drop frequently and the detainees are forced to pay again.* <sup>421</sup>

In addition to the high cost of placing phone calls, detained immigrants report not being allowed to place free calls to their attorneys, and not having a private place to have phone calls with them. Occasionally, other phones are available for attorney-client phone calls, but these phones are also located in public areas.

This raises serious concerns about attorney-client privilege, as well as the effectiveness of counsel if they are not able to communicate in a meaningful way with their clients.

The lack of privacy is evidenced in the experiences from a legal intern from Project South, who regularly called immigrants at Irwin to discuss various matters including personal medical information. She stated that she frequently heard guards and staff talking and laughing in the background during the conversations.

#### *v. Housing*

Men and women are housed separately at the Irwin. The units range from settings more like a dorm with bunk beds to an open space with everyone sleeping in the same room. Some women report living in large dorm like settings, which are overcrowded and lack privacy. Men have reported two different living set ups – one with small cells and one with a large dorm style living area that houses over fifty people in bunk beds. Some of the male detained immigrants have reported being housed in living areas that are divided up into two and four-person cells with a washbasin and toilet in each cell, and no windows. Each of these units consist of thirty-two beds and three phones, a few tables, a shared recreation area, and one television in English and one in Spanish. A detained immigrant from Cameroon described one of the male living areas as having only one small window in the ceiling. According to detained immigrants, the dorms are dirty, dusty, and unsanitary. However, before an inspection, officials rush to clean the facility.

Overall, the conditions are prison-like. <sup>422</sup>

Detained immigrants consistently report that the living conditions are overcrowded and uncomfortable. Both men and women expressed discomfort with the temperature of the units and problems with the showers and toilets. A male detained immigrant from Guatemala reported the following:

*The lights are always on throughout the day. Sometimes it is too hot in the daytime and too cold at night. We cannot change the temperature by ourselves. During the winter, there are not enough clothes or blankets for us, so we feel uncomfortable.* <sup>423</sup>

Additionally, some units have a toilet and a shower that function well but they produce only very hot water. A female detained immigrant from Honduras reported the following:

*There is a toilet and a shower in each unit. They function but the shower only produces very hot water. At first, we washed our hair in the shower but it would fall out when we brushed it. Now we take water from the sink for our hair. The facility*

*is aware that the water is too hot but nothing has been done.* <sup>424</sup>

Additionally, detained immigrants from various housing areas report that the facility is not clean. Instead of having hired staff to ensure the facility is clean, detained immigrants are expected to clean the facility themselves. This problem is exacerbated by the fact that several detained immigrants reported not being supplied adequate supplies to clean their units. This has resulted in moldy infection-riddled bathrooms and unsanitary clothing. A male detained immigrant from Mexico said the following:

*We have on-going issues getting the right chemicals to clean the unit with. We did not receive chemicals three days in a row this week. As a result, the unit stays dirty. They only give us two spray bottles with cleaning chemicals for the whole unit (16 cells and a dayroom).* <sup>425</sup>

The washrooms are consistently dirty. The same people who are assigned to clean the unit are also asked to clean the washroom. A male detained immigrant from Nigeria said the following:

*The facility does not use appropriate cleaning products and only uses bleach on special occasions. I requested to have hand sanitizer in the pod but was denied because of the alcohol content. There is no Lysol in the unit. I caught the flu when I first entered the facility because my living area was not sufficiently clean.* <sup>426</sup>

Further, several detained immigrants reported having limited recreation or positive ways for individuals to occupy their time in detention. They are supposed to receive one hour of recreation per day. However, some male detained immigrants stated that the guards do not follow the recreation schedule and this often results with no outside recreation for a couple days. There are other forms of recreation available to detained immigrants at Irwin. Detained immigrants are allowed to get books from a book cart once a week. However, a detained immigrant from Honduras filled out a request form to get Spanish-language books, but found out that there are none. <sup>427</sup>

## **vi. Food and Water**

The quality of the food served at Irwin is very concerning. Detained immigrants almost unanimously reported finding objects in the food, being forced to eat rancid foods, and needing to supplement their diets by purchasing food at the commissary, which they are allowed to do twice per week. The food that is served is very high in sodium, mostly

potato-based, and contains little to no fruit, vegetables, or meat. A male detained immigrant from El Salvador said, “I have gotten some food that smelled spoiled. Sometimes it is undercooked and I’ve seen hair in my friend’s food. I supplement my diet with the commissary food, but I still have lost weight. The water tastes like metal.” <sup>428</sup> A male detained immigrant from Cameroon said that the food is allowed to sit, and as a result, the food is often not warm when it is served. He once flipped over the meat on his plate and discovered that it was rotten. Another male detained immigrant from Nigeria said that the food is so “horrendous” that sometimes he has to fast. He reported the following:

*If it is rice, there is water in it. If it’s beans, there is water in it. String beans are served with water all the time, and the cabbage is swimming in water. People in the kitchen are told to water the food down so that the portions appear larger. There is hair in the food all the time. I have lost fifteen pounds during my detention at Irwin. We are served the same food almost every day. I have recently been diagnosed as border-line anemic. I spend \$100-150 a month on food to supplement what we are given.* <sup>429</sup>

Furthermore, detained immigrants reported that foreign objects like a rock, and even a nail, have been found in the food. A female detained immigrant from Mexico stated that her friend found a cockroach in her food a week before the interview.

The poor food quality and lack of adequate food portions has also led to considerable weight loss for several detained immigrants. A male from Jamaica stated “I rarely receive vegetables or fruit. Maybe we will receive an apple a week if we are lucky. There is not enough food. I have lost thirty pounds since coming to Irwin.” <sup>431</sup> This sentiment was echoed by several detained immigrants. Detained immigrants also complain that they are still hungry when they finish eating, and as a result, they have to buy food from the commissary. A female from Guatemala said that there was never a consistent amount of food. Sometimes, she said there was a sufficient amount of food, but other times, they had very little food. Further, a male detained immigrant from Mexico stated his experience as follows:

*I believe the reason why the facility gives the detainees so little food is so we will have to buy food from the commissary. Everything in the commissary is expensive. I spend \$80/week, \$320/month, in the commissary. The water is nasty. Detainees get ice and let it melt and drink water that way. One week the water came out yellow; it looked like Kool-Aid.* <sup>432</sup>

“ **We are rushed to eat. The officers always yell at us “come on, go!”**

Dinner is the same like lunch. Because I work in the kitchen, I know that no one wears mask coverage in the kitchen for food preparation and there is not enough soap for washing dishes. Overall, the food is plain. Majority of the time, the food is undercooked or rotten or has foreign objects in it. Once when a detainee found rotten object in his food, the officer picked the object out and told him he could eat the rest. The food is not enough and I am always hungry. I have lost weight. I buy food from the commissary to supplement my diet. I spend about \$40 per week for extra food.<sup>430</sup>

— *An immigrant from Guatemala*

The poor food quality at Irwin has led to protest and food poisoning on at least one occasion.

Lastly, according to the PBNDS, detained immigrants are to be served Kosher or common fare as an accommodation for religious diets.<sup>433</sup> Common fare is both Kosher and Halal, and any other specialized diets must be specifically requested.<sup>434</sup> In addition to religious diets, detained immigrants are also supposed to be provided a diet that is suitable for their medical condition. However, a few detained immigrants report having trouble receiving adequate diets for their religious or medical needs. For example, a male detained immigrant from Cameroon who eats a Kosher diet that consists of mostly vegetables and beans said that the food is not actually Kosher.

The findings highlighted in this section raise serious concerns about the food being provided to the detained immigrants at Irwin and shows that the PBNDS are not being followed.

### *vii. Hygiene*

Unhygienic living conditions are another major concern. Detained immigrants reported that personal hygiene items were provided upon admission. After this, personal hygiene products are only provided in weekly packages for indigent detained immigrants who have a balance of less than \$15 for a period of thirty consecutive days.<sup>435</sup> However, several detained immigrants report not receiving weekly packages and that their requests for additional hygiene products go ignored. One male detained immigrant from Ghana stated, “I have been at the detention center for eighteen months and I have asked for new socks, underwear, and blankets, but not a single request has been fulfilled.”<sup>436</sup>

Additionally, male detained immigrants report having to wait one month for linens to be cleaned, but claim the linens

are often returned dirty, smelly, or wet with dark water. A male detained immigrant from Guatemala said, “The sheets, towels, and pillow case are changed once a month, but they don’t smell clean and are returned wet.”<sup>437</sup> Further, detained immigrants are allowed to do their own laundry every other day; however, the clothes still smell the same even after being washed. A male detained immigrant from Mexico reported the following:

*When I send my clothes to the laundry they do not come back clean. If you were to ring out the clothes when they come back from the laundry, black liquid would come out. I hand-wash my underwear and socks so that they are actually clean. I had an infection from dirty underwear previously. Also, there is black mold in the shower. I tried to clean it, but it would not come off. We do not have adequate access to cleaning supplies. The cleaning supplies are too watered down to work properly. We have gone two weeks without access to any bleach. Everyone gets fungus from the showers. Detainees must wear the same pair of shoes in the shower as they do around the unit. My socks and underwear are never replaced. At one point, I was housed in a unit that had one shower for 100 people. It was very overcrowded.*<sup>438</sup>

For the female detained immigrants, the facility does provide feminine hygiene products once a month, but the sanitary napkins are insufficient. If women require additional feminine hygiene products beyond what is provided per month, the women must purchase more from the commissary for \$2 per twenty-count package. A woman may have to work for two days or more to pay for only one package, and without a job, a woman’s options are even more limited.

# PAUL'S STORY

*Paul's name has been changed in order to maintain confidentiality. Paul is a Nigerian asylum-seeker who was until recently detained at the Irwin County Detention Center in Georgia ("Paul" is a pseudonym to protect his safety). Paul is thirty-six-years-old and was healthy before being taken into custody.*

During the summer of 2016, Paul had experienced tooth pain and ultimately was brought to the dentist on August 10. At the dentist's office, he requested to use the restroom. A transport officer escorted him to the bathroom, tied his hands and feet to the toilet, and wrapped a chain tightly around his waist. While chained to the toilet, Paul explained to the officer that the chain was too tight for him to urinate because it was pushing into his bladder.

In the 1990s, Paul had undergone bladder surgery. He recovered from the surgery and no longer experienced any bladder related issues, but the doctor had cautioned him not to cause any additional injury to his bladder. Paul pleaded with the officer to loosen the chain around his body because it was physically impossible for him to relieve himself and it was causing him a great deal of pain. The officer refused to loosen the chain and insisted that the restraints were necessary.

Since that day, Paul consistently experienced intense pain and felt weak throughout his body. He continuously requested medical attention but did not receive timely care. When he was

finally allowed to see doctors outside of the facility, they said that he needed surgery. The facility medical staff was fully aware of this; they attempted a surgery in October at a regional hospital, but it was unsuccessful and the surgeon stated he must be brought to a specialist for surgery. The medical staff dragged their feet for months, finally securing a specialist and scheduling the surgery for late March 2017.

After months of advocacy and securing of *pro bono* legal representation, Paul was finally released on parole, immediately before surgery was scheduled to be performed. He was then able to have surgery, but left with the expense. He remains with a drainage tube in his bladder, and requires a second more involved surgery this summer.

## viii. Work

Detained immigrants are allowed to work voluntarily, completing various jobs, from cooking and cleaning to administrative positions such as distributing items to new arrivals. Detained immigrants are paid \$1 per day or less for a full day's work. In other words, to pay for one minute on the phone, detained immigrants must work for one day. Some detained immigrants report needing to work in order to have money available for the commissary to supplement their food and hygiene products. A detained immigrant from Guatemala reported the following:

*Working in the kitchen, basically I am responsible for putting the food on the plate, serving food, and washing dishes. I work in the kitchen every day. I am paid \$1 per day. Sometimes they don't pay me for working on weekends, and I have to complain to them. But they never respond. I haven't got the money I am supposed to get so far. I burned my hands one time and had to finish my work first before going to see the doctor. The facility told me the work program was voluntary.* <sup>439</sup>

Across the board, detained immigrants at Irwin report earning only \$1 even if they work a full day and regardless of what their job is at the facility. A male detained immigrant from Nigeria reported that he works every day from 11 a.m. to 4 p.m., and that he only receives \$1 per day as compensation. Yet, while some detained immigrants hold jobs at the facility, other immigrants are unaware of the work program. A female detained immigrant from Guatemala stated, "I did not participate in the work program because I did not know about it. I would have wanted a job if I knew about it." <sup>440</sup>

The working conditions of these detained immigrants raise serious issues. Detained immigrants are being subjected to civil detention, thus their confinement should not be punitive. The work the detained immigrants do is what the facility needs in order to function, and the facility pays detained immigrants for these jobs at well-below minimum wage. Because the facility is a privately-owned for-profit business, the corporation is able to exploit detained immigrant labor while requiring those same individuals to pay inflated prices for basic needs, such as food and personal hygiene products.

## ix. Religious freedom

Detained immigrants report that they are not provided enough freedom to practice the religion of their choice. The officers often interrupt their prayers and religious services, and even ask the detained immigrants to maintain silence

during their worship services. <sup>441</sup> The immigrants have to conduct religious services themselves because the detention center does not run any religious programming. Other detained immigrants pray in the same rooms where they sleep. Some detained immigrants said that they go to the basketball court and listen to one of the individuals preach. One previously detained immigrant who was interviewed after being deported to Guatemala stated:

*Initially guards did not allow us to have Evangelical service, but after several detained immigrants complained, we were permitted to sing and read scriptures.* <sup>442</sup>

Detained immigrants also reported having difficulty just attending religious services and having access to religious materials. Reportedly, detained immigrants who attempt to attend religious services may be turned away for not being a member of that religion. Maxi Sopo, a detained immigrant from Cameroon, stated, "The only thing keeping me going is my belief in God, but when I try to attend religious services that are offered, I am denied because I'm Jewish and the service is a different religion." <sup>443</sup> Difficulty in requesting holy books and religious texts was also reported. For example, a female detained immigrant from El Salvador said the following:

*I have asked for a bible in Spanish many times but I still have not received it. All the bibles they have are in English. I am a Catholic and would like to have Catholic religious programs but there are not any. There is no place to pray.* <sup>444</sup>

Numerous issues involving prayer were reported. Another example of a prayer issue was described by a male detained immigrant from Nigeria. He said the following: materials. Reportedly

*I am fasting right now for Ramadan. There are no religious services provided from the outside. There is Juma'ah prayer every Friday, which is run by the detainees. But, officers burst into Friday prayer and interrupt us on two occasions. Female officers attempted to enter the room during prayer, but based on our religious beliefs and practices, it is not appropriate for women to enter the male prayer room while we are in the middle of prayer. I have never seen an officer interrupt a Christian gathering.* <sup>445</sup>

## x. Medical Care

The lack of adequate access to medical care is alarming. Detained immigrants must make a 4 a.m. sick call in order to be seen by medical staff. Irwin employs two to three on-duty

medical staff during normal working hours, and a doctor who comes in on occasion.<sup>446</sup> Most of the time, detained immigrants are only able to see medical staff. All detained immigrants are supposed to receive a medical evaluation at intake. Some detained immigrants reported more extensive physical examinations upon arriving at the facility, while other individuals reported only being asked medical history questions without a physical exam. Some immigrants reported that they have never seen a doctor at the facility at all.

Additionally, detained immigrants must fill out a request form that is provided in English and Spanish in order to obtain medical treatment. However, some Spanish speaking detained immigrants are unaware that they may fill out the form in Spanish. Once the form is submitted, detained immigrants may be granted access to medical and mental care on-site, and dental care off-site. The wait times can be tremendous. Detained immigrants reported wait times between two days to two weeks before being seen by medical staff. It is a violation of international human rights principles to delay receipt of medical care.<sup>447</sup>

Even more concerning is that several detained immigrants report having their medical conditions either undertreated or not treated at all. One male detained immigrant from Nigeria with a serious medical condition recalls his experience as follows:

*I had lumps in my chest and blood had begun discharging from my breast. When I requested medical care, sometimes no one would reply. I was not given medical care until ICE later approved it. When I reached out for medical help, I was placed in solitary confinement.*<sup>448</sup>

Another male detained immigrant from Jamaica reports his experience below:

*My prior medical records were not transferred correctly and Irwin has fought my request for medical treatment. I received some checkups, in*

*which the doctor quickly listed me as healthy without doing any physical checkup. I believe Irwin is trying to avoid paying for my medical treatment.*<sup>449</sup>

Another example where a detained immigrant's medical condition went untreated is illustrated by a previously detained immigrant who was interviewed after being deported to Guatemala: "At Irwin, I had a medical issue and was physically unable to go to the bathroom during the time in solitary confinement. I needed to see a doctor but was never allowed until I was taken to Stewart."<sup>450</sup> These are only a few examples of the glaring medical issues at Irwin.

For most of the detained immigrants, translation is a hurdle for those trying to access medical care. The medical staff is generally not bilingual. Consequently, an outside translation company is used for communication between the people being detained and the medical staff including the doctors. This translation takes place via the phone. Many female detained immigrants feel that the translator on the other end of the telephone call was not adequately translating their medical concerns. There are several nurses; however, very few can converse in Spanish. Consequently, the immigrants are forced to speak to an unknown translator over the phone.

The spread of infections and rashes are common, especially in the large dorm units. Flu, colds, stomach illnesses, and skin rashes pass between the immigrants without sufficient medical staff intervention. Several detained immigrants have had rashes since arriving at the facility and have received unsatisfactory medical care. Accordingly, many still had rashes on their bodies during the interviews. As one female detained immigrant from Mexico stated:

*I am afraid of getting sick. I got a small circular rash on my arm. I got antibiotic cream at the commissary but it did not work. I got another cream at the infirmary. I asked for pills but they*

## “ I did not receive any mental health screenings.

I have not accessed mental health services. I was diagnosed with bipolar disorder in El Salvador but I didn't tell them here. If they can't even bother to get me glasses, how can they help with my bigger medical problems? I don't know if they have mental health services. I don't know of anyone who sought help.<sup>455</sup>

— An immigrant from El Salvador



would not give them to me. Other women also have the rash. Last month several fainted. I think this was because the food is bad and they did not eat it.<sup>451</sup>

Another woman from El Salvador reported that some pregnant detained immigrants do not receive prenatal care and said:

*I know of pregnant detainees. The pregnant detainees are treated the same as everyone else and do not receive prenatal care.*<sup>452</sup>

At least on one occasion, a detained immigrant has had difficulty receiving proper care for eye care issues. A male detained immigrant from El Salvador said that he has been suffering from migraines, but the medicine he was provided with upsets his stomach. Furthermore, for allergic reactions, the nurses kept giving him lotions, but no proper medication was provided. His request for eye glasses was not fulfilled in a timely manner either. The lack of needed glasses has contributed to his frequent headaches. Overall, the detained immigrants are not satisfied with the medical care or medication that they receive.

### *xi. Mental Health Care*

The lack of adequate mental health care at the facility makes it hard for detained immigrants to cope with the living conditions at Irwin. While there is a mental health staff member employed at Irwin, detained immigrants report being afraid to voice mental health concerns for fear of being forced into the segregation unit. Additionally, therapists are available through video conferencing. A detained immigrant has to file a request for mental health services. During the meeting with the counselor, some individuals are only interviewed instead of actually being offered counseling services.

A male detained immigrant from Nigeria said:

*Counseling is relational and should be in person. If there were a counselor in here that I could go to, I would have been able to navigate this whole thing with a better frame of mind.*<sup>453</sup>

At least one detained immigrant we spoke to had to take anxiety pills because of his experiences during detention at Irwin. Additionally, detained immigrants stated that if an individual says that they are suicidal, the individual is strapped into a straitjacket and placed into solitary confinement. Further, a detained immigrant from Guatemala said:

*Some detained immigrants are also put on suicide watch. They are put in a separate room, with no*

*privacy, and under constant observation of the officers. The officers keep a watch on them for twenty-four hours, even during showers.*<sup>454</sup>

Notably, at least a few detained immigrants were never questioned about their mental health upon arrival, and as a result, they are not aware of the existence of mental care within the detention facility.

Perhaps the most disturbing take away from detained immigrants' experiences with mental health services, or the lack thereof, is that segregation is also forced on individuals with mental health issues. These individuals are thrown into segregation without being provided proper psychiatric medications or the appropriate psychological treatment. Both the Department of Justice and the U.N. Special Rapporteur on Torture recommend banning segregation on individuals with mental health issues as this only exacerbates their condition.<sup>456</sup>

### *xii. Segregation*

Irwin's administrative and disciplinary segregation are one and the same. Detained immigrants housed in a segregated unit spend twenty-three hours in their cells, with limited recreation, shower, and phone access, and no access to the law library or commissary.<sup>457</sup> Most detained immigrants interviewed for this report described segregation as a tool used for disciplinary purposes. Some detained immigrants reported that if an individual told a staff member or nurse they were feeling suicidal, they were placed in a straitjacket and placed in segregation.<sup>458</sup> Additionally, there were a number of reports of people being held in segregation for over a month.<sup>459</sup> Others report being placed in segregation for various reasons. A male detained immigrant from Cameroon shared the following story:

*I have been placed in segregation at Irwin four times for approximately one month each time. First, for helping a fellow detainee translate a letter to English. Second, because they said I tampered with a computer, but I didn't tamper with it. Third, because they tried to transfer me to ACDC but they could not accommodate my diet, so they transferred me back. Fourth, because I was supposedly in "possession of contraband" but really I just kicked a piece of paper to try to get it out of the way and was sent to segregation. Irwin does not distinguish between administrative and disciplinary segregation, like they are supposed to. While in segregation, you must choose between using the phone and having your hour of recreation.*<sup>460</sup>

Another male detained immigrant from Cameroon said the following:

*I was sent to segregation for eight days. The segregation unit is dirty and stinks like a toilet. The sink and toilet are covered in black stuff. Everything is dusty and bugs and flies are everywhere. You are allowed to shower every other day in segregation and allowed to make a fifteen-minute phone call. There is no cold water in the segregation cell and the very hot water ran all day. There is a number on the wall to call Washington, D.C. but nothing really changes.* <sup>461</sup>

In addition to using segregation as a means of punishment or housing individuals who express mental health concerns, a male detained immigrant from Nigeria once witnessed another person being put into segregation for six months for attempting to start a protest about the food. <sup>462</sup>

The use of segregation as expressed in the detained immigrant interviews most certainly violates basic human rights standards as well as PBNDS.

### *xiii. Staff and Administrative Issues*

Overall, detained immigrants do not have a satisfactory experience with the guards at Irwin. Irwin is run by 230 LaSalle staff; only a few of whom speak some Spanish. <sup>463</sup> Due to the language barriers, detained immigrants report a lack of respectful communication and supervision from the guards. Detained immigrants, as well as the guards who are not well versed in English are often in a vulnerable position. Detained immigrants who speak Spanish have expressed that they are dependent on other detained immigrants to communicate.

Additionally, several detained immigrants have expressed that guards at Irwin are hostile and regularly yell at detained immigrants, even when unprovoked. One detained immigrant from Guatemala stated that the guards will often walk down the halls yelling “go back to your own country.” <sup>464</sup> A male detained immigrant from Cameroon reported that guards tell him “you’ll never get out.” Another male detained immigrant from Honduras shared his experience with the guards as follows:

*The guards treat me as if I am a criminal. I treat them with respect but they do not treat me with respect. I am not used to feeling disrespected.*

“ **I have witnessed and experienced rape. I was unconscious** for three days. I went to medical and they confirmed that I was raped. I would ask them for the number to my embassy, the numbers to all the consulates, and they wouldn’t give it to me. I asked them for weeks on end. They wouldn’t let me contact the consulates. And at one point while I was in the infirmary, they were denying the phone to me completely. They said they were going to pursue charges against the men who raped me, but I never received notice that charges had been filed. I heard wails in the middle of the night in the male dorms, and I believe other men were being raped. Everyone knew what was going on, but they just made louder sounds to cover the noise up. What’s really sad is that no matter what you do, you push the button in the room, those officers will take their sweet time. Something awful could be happening in those rooms, and those officers will take their time. I have never seen anything like that. It’s horrible. <sup>467</sup>

— A male immigrant from El Salvador

*During the count, the guard will yell and scream to get you up because you cannot sleep during the count no matter what time it is.* <sup>465</sup>

The lack of respect shown to detained immigrants is further evidenced by the experience of a male detained immigrant from Guatemala:

*The staff does not treat you with respect. For example, they always yell at us like “keep your hands back and look down” when we walk. Verbal abuse happens regularly from the staff.* <sup>466</sup>

Additionally, detained immigrants who complain or file grievances are reportedly victims of retaliatory segregation. Detained immigrants reported being unaware that there is a formal grievance procedure, and those who have reported filing grievances almost never receive any kind of response or acknowledgment.

Some detained immigrants reported that guards do not intervene in altercations between detained immigrants, which is especially problematic because of the sexual assaults that are reportedly being ignored by staff. In fact, disturbing complaints have come from detained immigrants who report witnessing or being victims of sexual abuse and having no guards or other staff at Irwin attempt to identify and discipline the perpetrators.

These accounts expose the most egregious violations of the PBNDS at Irwin. They also illustrate how the violations not only affect the victim, but also other detained immigrants who witness such actions.

## VII. CONCLUSION AND RECOMMENDATIONS

Immigration detention is civil in nature and thus, the conditions of immigration detention should not amount to punishment. Unfortunately, this report reveals how immigration detention can be punitive in practice, but can also lead to medical neglect, hunger, and sexual abuse. The Supreme Court has held that detention conditions are punitive when they are “excessive relative to their stated purpose.”<sup>468</sup> In 2012, the report *Prisoner of Profit* outlined the unacceptable conditions of immigration detention centers in Georgia. The findings in this report have shown that not much has changed, and the same concerns remain. *Imprisoned Justice* highlights the inhumane conditions of the Stewart and Irwin detention centers in Georgia. Some of the worst offenses include: threats of force-feeding for participation in hunger strikes, sexual abuse, lack of clean drinking water, lack of access to legal materials or attorneys, and labor for just \$1 per day. Additionally, detained immigrants are frequently served rotten and spoiled food. Further, detained immigrants at both facilities lack adequate medical care and mental health services are minimal. Moreover, the use of segregation for civil detention is far too rampant. Several detained immigrants reported being put in segregation for expressing suicidal thoughts or as retaliation for complaining about detention conditions. These findings are echoed in other reports about Georgia’s detention centers that were published during the writing of this report.<sup>469</sup>

In 2012, the United Nations High Commissions for Refugees (UNHCR) issued the Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention. The guidelines require that conditions of detention should be humane and dignified.<sup>470</sup> The conditions at Irwin and Stewart, as described by the detained immigrants interviewed for *Imprisoned Justice*, are nowhere close to humane. Detained immigrants should be treated in a respectful manner and be provided with adequate food and water, proper medical facilities, adequate clothing, adequate items and facilities for personal hygiene; and they should be allowed to exercise their religion. These are basic human rights, but detained immigrants at Irwin and Stewart are treated as though they do not have any rights. The problem seems to be inherent in the profit-making motive of the prison corporations that run these detention centers.

### Overall Recommendations:

- Shut down the Stewart and Irwin detention centers;
- ICE needs to implement policies that will hold contract facilities accountable for not complying with ICE standards;
- ICE should terminate contracts with facilities that do not meet its standards; and,
- ICE should use the Alternative to Detention Program for immigrants who are eligible.

### Due Process

- List of pro-bono services should be up-to-date, actually contain free services and be distributed to all detained immigrants upon their detention;
- Qualified interpreters must be provided at every step of the deportation process;
- Detained immigrants should not be forced to sign orders of removal without speaking with counsel;
- Law libraries should include up-to-date materials in the languages spoken by detained immigrants;
- Detained immigrants should have more access to the law libraries;
- Private space should be allocated for detained immigrants’ phone calls to counsel and during visitation with counsel; and,
- Attorney-client calls must not be monitored under any circumstances.

### Living Conditions

- ICE must ensure that all facilities follow the 2011 PBNDS;
- All detained immigrants must be provided a safe living environment and receive an immediate response when their safety is threatened;
- Meals should be served at reasonable times, and detained immigrants should be afforded adequate time to eat;
- Fresh fruit and vegetables must be served daily;
- Detained immigrants must be provided adequate food portions so they are not forced to spend money on commissary every week;
- Detained immigrants who need special diets due to medical or religious reasons must be accommodated adequately;
- Food quality must be improved and should be inspected by ICE staff regularly to ensure compliance;

- The water quality must be addressed and brought to standard;
- All detained immigrants must be afforded outdoor recreation; and,
- Bilingual guards should be present at every facility during every shift to foster effective communication with detained immigrants.

## Medical Care

- ICE must ensure that bilingual medical staff is provided;
- Each facility should provide at least one doctor and one psychiatrist during the week;
- A more effective procedure for seeking medical attention should be put in place;
- Serious medical conditions should be addressed immediately and adequately;
- Detained immigrants seeking non-emergency medical care should be seen within 48 hours;
- Specific instructions should be given to kitchen staff for detained immigrants who need special diets; and,
- Detained immigrants with mental disabilities should not be put in segregation under any circumstances.

## Detention Center Staff

Detention staff must not create arbitrary rules that have the effect of prohibiting attorneys from being able to visit their clients;

The grievance process must be made accessible to detained immigrants, and detained immigrants must not face retaliation by detention center guards or staff for filing grievances;

Complaints that are filed must be responded to by the respective office in which they are filed; and,

Detained immigrants must not be placed in segregation for more than 15 days as recommended by the U.N. Special Rapporteur.

- 1 Miriam Jordan, *Immigration Detention System Could be in Line for an Overhaul*, Wall Street Journal (Sept. 27, 2016), <http://www.wsj.com/articles/immigrant-detention-system-could-be-in-line-for-an-overhaul-1475004244>.
- 2 U.S. Immigration and Customs Enforcement, *DHS Releases End of Fiscal Year 2016 Statistics* (Dec. 30, 2016), <https://www.ice.gov/news/releases/dhs-releases-end-fiscal-year-2016-statistics>.
- 3 Devlin Barrett, *Record Immigrant Numbers Force Homeland Security to Search for New Jail Space*, Wall Street Journal (Oct. 21, 2016), <http://www.wsj.com/articles/record-immigrant-numbers-force-homeland-security-to-search-for-new-jail-space-1477042202>.
- 4 ACLU of Georgia, *Prisoners of Profit: Immigrants and Detention in Georgia*, 28 (Azadeh Shahshahani, 2012), <https://www.acluga.org/en/publications/prisoners-profit>.
- 5 *Id.*; Jeremy Redmon, *CCA to close immigration detention center in Gainesville*, Atlanta J. Const. (Dec. 2, 2013), <http://www.ajc.com/news/news/national-govt-politics/cca-to-close-immigration-detention-center-in-gaine/nb895/>. (At the time of the publication of *Prisoners of Profit*, Hall County owned NGDC and both the Corrections Corporation of America (CCA) and the City of Gainesville were interested in purchasing it. In October 2012, the City of Gainesville financed the purchase of NGDC from Hall County for \$7.2 million and entered into a lease agreement with CCA to operate it.)
- 6 Redmon, *supra* note 5.
- 7 Martha Dalton, *Officials to Close North Georgia Detention Center in Gainesville*, ACLU of Georgia (Dec. 5, 2013), <https://www.acluga.org/en/news/Officials-to-Close-North-Georgia-Detention-Center-in-Gainesville>
- 8 *Id.*
- 9 Elly Yu, *New Immigrant Detention Center To Open In Folkston, Georgia*, W.A.B.E. (Dec. 20, 2016), <http://news.wabe.org/post/new-immigrant-detention-center-open-folkston-georgia>.
- 10 Guillermo Cantor, Mark Noferi, and Daniel E. Martinez, *Enforcement Overdrive: A Comprehensive Assessment of ICE's Criminal Alien program*, American Immigration Council, 4 (2015), [https://www.americanimmigrationcouncil.org/sites/default/files/research/enforcement\\_overdrive\\_a\\_comprehensive\\_assessment\\_of\\_ices\\_criminal\\_alien\\_program\\_final.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/research/enforcement_overdrive_a_comprehensive_assessment_of_ices_criminal_alien_program_final.pdf).
- 11 Immigration Reform and Control Act of 1986, 8 U.S.C. § 1101 (1986), <https://www.justice.gov/sites/default/files/eoir/legacy/2009/03/04/IRCA.pdf>. (The updated INA does not include this language).
- 12 U.S. Immigration and Customs Enforcement, *Criminal Alien Program* (accessed on 8/1/2016 at 12:20pm), <https://www.ice.gov/criminal-alien-program>.
- 13 *Id.*
- 14 *Supra*, note 10.
- 15 *Id.*
- 16 *Supra*, note 10, at 5.
- 17 U.S. Dept. of Homeland Security, *Enforcement of the Immigration Laws to Serve the National Interest* (Feb. 20, 2017), [https://www.dhs.gov/sites/default/files/publications/17\\_0220\\_S1\\_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf](https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf).
- 18 Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C.A. § 1373(a) (1996), <https://www.uscis.gov/sites/default/files/ocomm/ilink/0-0-0-10948.html>; Immigration and Nationality Act, 8 U.S.C. § 1357(g) (2006); U.S. Immigration and Customs Enforcement, *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, <https://www.ice.gov/factsheets/287g> (accessed 8/11/16 at 1pm).
- 19 U.S. Immigration and Customs Enforcement, *supra*, note 18.
- 20 U.S. Immigration and Customs Enforcement, *Model Memorandum of Agreement*, [https://www.ice.gov/doclib/detention-reform/pdf/287g\\_moa.pdf](https://www.ice.gov/doclib/detention-reform/pdf/287g_moa.pdf).
- 21 Congressional Research Service, *Interior Immigration Enforcement: Criminal Alien Programs*, 19 (2016, William A. Kandel), <https://fas.org/sgp/crs/homesec/R44627.pdf>; see also ACLU of Georgia, *Terror and Isolation in Cobb: How Unchecked Police Power Under 287(g) Has Torn Families Apart and Threatened Public Safety*, 7 (Azadeh Shahshahani 2009), [https://www.aclu.org/files/intlhumanrights/immigrantsrights/asset\\_upload\\_file306\\_41281.pdf](https://www.aclu.org/files/intlhumanrights/immigrantsrights/asset_upload_file306_41281.pdf); see also ACLU of Georgia, *The Persistence of Racial Profiling in Gwinnett: Time for Accountability, Transparency, and an End to 287(g)*, 6-8 (Azadeh Shahshahani, 2010), [https://www.acluga.org/sites/default/files/gwinnett\\_racial\\_profiling\\_report\\_1.pdf](https://www.acluga.org/sites/default/files/gwinnett_racial_profiling_report_1.pdf).
- 22 *Id.*
- 23 *Supra*, note 4, at 23.
- 24 Congressional Research Service, *supra*, note 21, at 2.
- 25 U.S. Immigration and Customs Enforcement, *supra*, note 18.
- 26 Letter from Immigration and Customs Enforcement Agency Director Sarah Saldana to Department of Homeland Security Secretary Jeh Johnson (Mar. 17, 2016) <http://unitedwedream.org/wp-content/uploads/2016/04/Organizations-Urge-End-287g.pdf>
- 27 *Id.*
- 28 U.S. Immigration and Customs Enforcement, *supra*, note 18; Elly Yu, *Ga. Law Officers Continue Immigration Enforcement In Jails*, W.A.B.E. (May 14, 2015), <http://news.wabe.org/post/ga-law-officers-continue-immigration-enforcement-jails>).
- 29 U.S. Immigration and Customs Enforcement, *supra*, note 18.
- 30 ACLU of Georgia, et al, *Prejudice, Policing, and Public Safety: The Impact of Immigration Hyper-Enforcement in the State of Georgia*, 11 (2014), [http://www.law.nyu.edu/sites/default/files/upload\\_documents/Prejudice\\_Policing\\_Public%20Safety.pdf](http://www.law.nyu.edu/sites/default/files/upload_documents/Prejudice_Policing_Public%20Safety.pdf).
- 31 *Id.*

- <sup>32</sup> *Id.*
- <sup>33</sup> See *Moreno v. Napolitano*, No. 11 C 5452, 2016 U.S. Dist. LEXIS 136449, at \*25 (N.D. Ill. Sep. 30, 2016) (stating that ICE's issuance of detainers that seek to detain individuals without a warrant goes beyond its statutory authority to make warrantless arrests, thus invalidating detainers issued from the Chicago Field Office.)
- <sup>34</sup> ACLU of Georgia, *Supra* note, at 10-11.
- <sup>35</sup> Memorandum, U.S. Dept. of Homeland Security, Secure Communities, (Nov. 20, 2014), [https://www.dhs.gov/sites/default/files/publications/14\\_1120\\_memo\\_secure\\_communities.pdf](https://www.dhs.gov/sites/default/files/publications/14_1120_memo_secure_communities.pdf).
- <sup>36</sup> *Id.*
- <sup>37</sup> U.S. Customs and Immigration Enforcement, *Secure Communities*, <https://www.ice.gov/secure-communities> (accessed Oct. 25, 2016 at 4:00pm)
- <sup>38</sup> *Id.*
- <sup>39</sup> *Id.*
- <sup>40</sup> *Id.*
- <sup>41</sup> *Id.*
- <sup>42</sup> *Id.*
- <sup>43</sup> Aarti Kohli, Peter L. Markowitz and Lisa Chavez, University of California—Berkeley, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, 2 (Oct. 2011), [http://www.law.berkeley.edu/files/Secure\\_Communities\\_by\\_the\\_Numbers.pdf](http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf).
- <sup>44</sup> *Id.*
- <sup>45</sup> *Id.*
- <sup>46</sup> *Id.*
- <sup>47</sup> *Supra*, note 30, at 5.
- <sup>48</sup> See e.g., Memorandum, U.S. Immigration and Customs Enforcement, Priorities for the Apprehension, Detention, and Removal of Aliens (Mar. 2, 2011), <http://www.ice.gov/doclib/news/releases/2011/110302washingtondc.pdf>.
- <sup>49</sup> Andrea Castillo, *Ga. joins program to check inmate status*, Telegraph (Jan. 2, 2012), <http://www.macon.com/latest-news/article28632016.html>.
- <sup>50</sup> *Supra*, note 30, at 11.
- <sup>51</sup> *Supra*, note 4, at 23.
- <sup>52</sup> Julia Preston, *States Resisting Program Central to Obama's Immigration Strategy*, New York Times (May 25, 2011), <http://www.nytimes.com/2011/05/06/us/06immigration.html>.
- <sup>53</sup> *Id.*
- <sup>54</sup> *Id.*
- <sup>55</sup> See e.g., Immigrant Legal Resource Center, *Ending Local Collaboration With ICE: A Toolkit for Immigrant Advocates*, vi (2015) [https://www.ilrc.org/sites/default/files/resources/toolkit\\_final.compressed.pdf](https://www.ilrc.org/sites/default/files/resources/toolkit_final.compressed.pdf).
- <sup>56</sup> *Id.*
- <sup>57</sup> Jeremy Redmon, *Immigration Enforcement Program to be Replaced in Jails Nationwide*, Atlanta J. Constitution (Dec. 14, 2014), <http://www.myajc.com/news/state--regional-govt--politics/immigration-enforcement-program-replaced-jails-nationwide/jpyvt4odYdT6UeoXIVYNnI/>.
- <sup>58</sup> Press Release, DeKalb County Sheriff's Office, DeKalb Sheriff Will Not Hold Released Inmates for Immigrations and Customs Without Warrants (Dec. 4, 2014) [https://www.ilrc.org/sites/default/files/resources/dekalb\\_county.pdf](https://www.ilrc.org/sites/default/files/resources/dekalb_county.pdf).
- <sup>59</sup> On file with the authors. (Fayette County Sheriff's Dept.)
- <sup>60</sup> TRAC Immigration, *Reforms of ICE Detainer Program Largely Ignored by Field Officers* (Aug. 9, 2016), <http://trac.syr.edu/immigration/reports/432/>.
- <sup>61</sup> *Id.*
- <sup>62</sup> *Id.*
- <sup>63</sup> Exec. Order No. 13768, 82 Fed. Reg 8799 (Jan. 25, 2017), <https://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united>.
- <sup>64</sup> *Id.*
- <sup>65</sup> *Id.*
- <sup>66</sup> Memorandum, U.S. Dept. of Homeland Security, Implementing the President's Border Security and Immigration Enforcement Improvements Policies (Feb. 20, 2017) [https://www.dhs.gov/sites/default/files/publications/17\\_0220\\_S1\\_Implementing-the-Presidents-Border-Security-Immigration-Enforcement-Improvement-Policies.pdf](https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Implementing-the-Presidents-Border-Security-Immigration-Enforcement-Improvement-Policies.pdf).
- <sup>67</sup> Memorandum, U.S. Dept. of Homeland Security, Enforcement of the Immigration Laws to Serve the National Interest, (Feb. 20, 2017) [https://www.dhs.gov/sites/default/files/publications/17\\_0220\\_S1\\_EnforceMent-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf](https://www.dhs.gov/sites/default/files/publications/17_0220_S1_EnforceMent-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf).
- <sup>68</sup> *Id.*
- <sup>69</sup> Tal Kopan, *ICE Operations net nearly 700 arrests DHS Says*, CNN (Feb. 13, 2017) <http://www.cnn.com/2017/02/13/politics/ice-raids-enforcement-arrest-numbers/>.
- <sup>70</sup> *Id.*
- <sup>71</sup> Detention Watch Network, *Immigration Detention 101*, <https://www.detentionwatchnetwork.org/issues/detention-101> (accessed on Aug. 11, 2016 at 2:30pm); Dora Schriro, *Immigration Detention Overview and Recommendations*, U.S. Dept. of Homeland Security, 2 (Oct. 6, 2009), <https://www.ice.gov/doclib/about/offices/odpp/pdf/ice-detention-rpt.pdf>.
- <sup>72</sup> U.S. Commission on Civil Rights, *With Liberty and Justice for All: The State of Civil Rights at Immigration Detention Facilities*, 12 (Sept. 2015), [http://www.usccr.gov/pubs/Statutory\\_Enforcement\\_Report2015.pdf](http://www.usccr.gov/pubs/Statutory_Enforcement_Report2015.pdf); see also U.S. Customs and Border Protection, *Border Security*, <https://www.cbp.gov/border-security>.
- <sup>73</sup> U.S. Customs and Border Protection, *About CBP* (Nov. 21, 2016), <https://www.cbp.gov/about>; Memorandum, U.S. Dept. of Homeland Security, *Hold Rooms and Short Term Custody* (Jun. 2, 2008),

<http://foiarr.cbp.gov/streamingWord.asp?i=378>.

- <sup>74</sup> *Supra*, note 71; *see also* U.S. Immigration and Customs Enforcement, <https://www.ice.gov/>.
- <sup>75</sup> U.S. Dept. of Justice, *Executive Office of Immigration Review*, <https://www.justice.gov/eoir>.
- <sup>76</sup> *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
- <sup>77</sup> *Id.*
- <sup>78</sup> Luz C. Gonzalez Fernandez, *Immigration Detention in America: Civil Offense, Criminal Detention*, Harvard J. of Hispanic Policy (Dec. 3, 2013), <http://www.harvardhispanic.org/immigration-detention-in-america/>.
- <sup>79</sup> Immigration and Nationality Act, 8 U.S.C. § 1226 (2006).
- <sup>80</sup> Immigration and Nationality Act, 8 U.S.C. § 1101(a)(3) (2006).
- <sup>81</sup> National Immigration Forum, *The Math of Immigration Detention*, 5 (Aug. 2 2013), <https://immigrationforum.org/blog/themathofimmigrationdetention/>.
- <sup>82</sup> *Id.*
- <sup>83</sup> Immigration and Nationality Act, 8 U.S.C. § 1225(b)(1)(B)(iii)(IV) (2006).
- <sup>84</sup> Immigration and Nationality Act, 8 U.S.C. § 1231 (2006).
- <sup>85</sup> Immigration and Nationality Act, 8 U.S.C. § 1226(c) (2006).
- <sup>86</sup> Immigration and Nationality Act, 8 U.S.C. § 1226(a)(2)(A) (2006).
- <sup>87</sup> Human Rights First, *Lifeline on Lockdown*, 25 (Aug. 26, 2016), <http://www.humanrightsfirst.org/resource/lifeline-lockdown-increased-us-detention-asylum-seekers>.
- <sup>88</sup> *Id.*
- <sup>89</sup> Schriro, *supra*, note 71, at 9-11.
- <sup>90</sup> *Id.*
- <sup>91</sup> *Id.*
- <sup>92</sup> *Id.*
- <sup>93</sup> Community Initiatives for Visiting Immigrants in Confinement, *Immigration Detention Map & Statistics*, <http://www.endisolation.org/resources/immigration-detention/>.
- <sup>94</sup> *Supra*, note 71.
- <sup>95</sup> U.S. Commission on Civil Rights, *supra*, note 72, at 7; *See also*, Homeland Security Act of 2002, 116 Stat. 2135, PUB. L. 107- 296 (Nov. 25, 2012).
- <sup>96</sup> *Id.* at 152.
- <sup>97</sup> Faiza W. Sayed, *Challenging Detention: Why Immigrant Detained Immigrants Receive Less Process Than "Enemy Combatants" and Why They Deserve More*, 111 Colum. L. Rev. 1833, 1836-44 (2011).
- <sup>98</sup> *Id.*
- <sup>99</sup> *Id.*
- <sup>100</sup> *Id.*
- <sup>101</sup> Cesar Cuauhtemoc Garcia Hernandez, *Immigration Detention as Punishment*, 61 UCLA L. Rev. 1346, 1372. (2014).
- <sup>102</sup> *Id.*
- <sup>103</sup> *Id.*

- <sup>104</sup> *Id.* at 1360.
- <sup>105</sup> *Id.* at 1361.
- <sup>106</sup> Sylvia Rusin, Jie Zong, and Jeanne Batalova, *Cuban Immigrants in the United States*, Migration Policy Institute (Apr. 7, 2015), <http://www.migrationpolicy.org/article/cuban-immigrants-united-states>.
- <sup>107</sup> *Id.* (The Immigration and Naturalization Service (INS) was created in the early twentieth century and was an investigative component of the U.S. Department of Justice. Among its duties, the INS was responsible for inspecting travelers entering the United States at the ports of entry, regulating permanent and temporary immigration to the United States, controlling the borders, and identifying and removing individuals. After the September 11, 2001 attacks, Congress enacted the Homeland Security Act of 2002 which abolished INS and created DHS to take its place and its duties.); *see* U.S. Citizenship and Immigration Services, *Origins of the Federal Naturalization Service*, <https://www.uscis.gov/history-and-genealogy/our-history/agency-history/origins-federal-naturalization-service>; *see also* TRACDHS, *The INS and Its Responsibilities*, <http://trac.syr.edu/tracins/findings/aboutINS/insResponsibilities.html>; *see also* Homeland Security Act of 2002, 6 U.S.C. § 101-629 (2002), [https://www.dhs.gov/sites/default/files/publications/hr\\_5005\\_enr.pdf](https://www.dhs.gov/sites/default/files/publications/hr_5005_enr.pdf).
- <sup>108</sup> Global Detention Project, *United States Immigration Detention Profile*, 3-6 (May 2016), <https://www.globaldetentionproject.org/countries/americas/united-states>.
- <sup>109</sup> U.S. Commission on Civil Rights, *supra*, note 72, at 3.
- <sup>110</sup> *Id.*
- <sup>111</sup> *Id.*
- <sup>112</sup> *Id.*
- <sup>113</sup> *Id.*
- <sup>114</sup> Antiterrorism and Effective Death Penalty Act, 8 U.S.C. § 1 note (1996); Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. § 1101 (1996).
- <sup>115</sup> Antiterrorism and Effective Death Penalty Act, 8 U.S.C. §1101(a)(43) (1996); Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C.A. § 1225(b)(1)(B)(iii)(IV) (1996).
- <sup>116</sup> U.S. Commission on Civil Rights, *supra*, note 72, at 4.
- <sup>117</sup> Homeland Security Act of 2002, 6 U.S.C. § 101 *et. seq.* (2002).
- <sup>118</sup> U.S. Commission on Civil Rights, *supra*, note 72, at 7.
- <sup>119</sup> *Id.*
- <sup>120</sup> *Id.* at 4.
- <sup>121</sup> Nick Pleva, *No big push in first year*, Politifact (Aug. 13, 2010), <http://www.politifact.com/truth-o-meter/promises/obameter/promise/525/introduce-comprehensive-immigration-bill-first-yea/>
- <sup>122</sup> Nina Bernstein, *U.S. to Reform Policy on Detention for Immigrants*, Wall Street Journal (Aug. 5, 2009) <http://www.nytimes.com/2009/08/06/us/politics/06detain.html>.



- <sup>123</sup> *Id.*
- <sup>124</sup> Schriro, *supra*, note 71, at 3.
- <sup>125</sup> *Id.*
- <sup>126</sup> *Id.*
- <sup>127</sup> Department of Homeland Security Appropriations Act, 2011, Pub. L. No. 111-242 (2010), <http://www.gpo.gov/fdsys/pkg/PLAW-111publ242/pdf/PLAW-111publ242.pdf>, at 8.
- <sup>128</sup> Consolidated Appropriations Act, 2012, H. R. 2055, <https://www.gpo.gov/fdsys/pkg/BILLS-112hr2055enr/pdf/BILLS-112hr2055enr.pdf>, at 165.
- <sup>129</sup> Shoba Sivaprasad Wadhia, *The History of Prosecutorial Discretion in Immigration Law*, 64 AMERICAN UNIV. L. REV. 101-102 (2015).
- <sup>130</sup> *Id.* at 107-108.
- <sup>131</sup> Memorandum, U.S. Dept. of Homeland Security, Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens, 1 (Jun. 17, 2011), [https://www.dhs.gov/sites/default/files/publications/14\\_1120\\_memo\\_prosecutorial\\_discretion.pdf](https://www.dhs.gov/sites/default/files/publications/14_1120_memo_prosecutorial_discretion.pdf).
- <sup>132</sup> *Id.* at 2.
- <sup>133</sup> *Id.* at 5.
- <sup>134</sup> *Id.* at 4.
- <sup>135</sup> Memorandum, U.S. Dept. of Homeland Security, Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs, 1 (Jun. 17, 2011), [https://www.dhs.gov/sites/default/files/publications/14\\_1120\\_memo\\_prosecutorial\\_discretion.pdf](https://www.dhs.gov/sites/default/files/publications/14_1120_memo_prosecutorial_discretion.pdf).
- <sup>136</sup> Memorandum, U.S. Dept. of Homeland Security, *Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs*, 1 (Jun. 17, 2011), [https://www.dhs.gov/sites/default/files/publications/14\\_1120\\_memo\\_prosecutorial\\_discretion.pdf](https://www.dhs.gov/sites/default/files/publications/14_1120_memo_prosecutorial_discretion.pdf).
- <sup>137</sup> *Id.*
- <sup>138</sup> *Id.* at 2.
- <sup>139</sup> *Id.*
- <sup>140</sup> *Id.*
- <sup>141</sup> Memorandum, U.S. Dept. of Homeland Security, Policies for the Apprehension, Detention, and Removal of Undocumented Immigrants, 1, 5 (Nov. 20, 2014), [https://www.dhs.gov/sites/default/files/publications/14\\_1120\\_memo\\_prosecutorial\\_discretion.pdf](https://www.dhs.gov/sites/default/files/publications/14_1120_memo_prosecutorial_discretion.pdf).
- <sup>142</sup> *Id.*
- <sup>143</sup> *Id.*
- <sup>144</sup> *Id.* at 4.
- <sup>145</sup> *Id.*
- <sup>146</sup> *Id.*
- <sup>147</sup> *Id.*
- <sup>148</sup> *Id.* at 5.
- <sup>149</sup> *Id.*
- <sup>150</sup> *Supra*, note 60.
- <sup>151</sup> *Supra*, note 60.
- <sup>152</sup> *Supra*, note 60.
- <sup>153</sup> Memorandum, U.S. Dept. of Homeland Security, Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children, 1 (Jun. 15, 2012), <https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>.
- <sup>154</sup> U.S. Commission on Civil Rights, *supra*, note 72, at 5.
- <sup>155</sup> *Id.* The survey was conducted by the National Immigration Law Center and Tom K. Wong of the University of California, San Diego.
- <sup>156</sup> U.S. Citizenship and Immigration Services, *Executive Actions on Immigration*, <https://www.uscis.gov/immigrationaction> (accessed on Aug. 11, 2016 at 2:00pm)
- <sup>157</sup> *Id.*
- <sup>158</sup> *United States v. Texas*, 136 S. Ct. 2271, 2272 (2016), [https://www.supremecourt.gov/opinions/15pdf/15-674\\_jhlo.pdf](https://www.supremecourt.gov/opinions/15pdf/15-674_jhlo.pdf).
- <sup>159</sup> U.S. Immigration and Customs Enforcement, *ICE Enforcement and Removal Operations Report, Fiscal Year 2015*, 2 (Dec. 22, 2015), <https://www.ice.gov/sites/default/files/documents/Report/2016/fy2015removalStats.pdf>.
- <sup>160</sup> *Id.*
- <sup>161</sup> U.S. Dept. of Homeland Security, *Budget-in-Brief: Fiscal Year 2017*, 35, <https://www.dhs.gov/sites/default/files/publications/FY2017BIB.pdf>.
- <sup>162</sup> *Supra*, note 1; Devlin Barrett, *Record Immigrant Numbers Force Homeland Security to Search for New Jail Space*, Wall Street Journal (Oct. 21, 2016), <http://www.wsj.com/articles/record-immigrant-numbers-force-homeland-security-to-search-for-new-jail-space-1477042202>.
- <sup>163</sup> American Immigration Council, *The Cost of Immigration Enforcement and Border Security* (January 27, 2017), <https://www.americanimmigrationcouncil.org/research/the-cost-of-immigration-enforcement-and-border-security>
- <sup>164</sup> *Supra*, note 161
- <sup>165</sup> U.S. Immigration and Customs Enforcement, *Alternatives to Detention (Revised)*, 3 (Feb. 4, 2015), [https://www.oig.dhs.gov/assets/Mgmt/2015/OIG\\_15-22\\_Feb15.pdf](https://www.oig.dhs.gov/assets/Mgmt/2015/OIG_15-22_Feb15.pdf); *Id.*
- <sup>166</sup> Detention Watch Network, *Alternatives to Detention*, <https://www.detentionwatchnetwork.org/issues/alternatives>.
- <sup>167</sup> *Id.*
- <sup>168</sup> *Supra*, note 161, at 35.
- <sup>169</sup> American Friends Service Committee and Rutgers School of Law-Newark Immigrant Rights Clinic, *Freed but not Free*, 1 (Jul. 2012) <https://www.afsc.org/document/freed-not-free-report-examining-current-use-alternatives-to-immigration-detention>.
- <sup>170</sup> *Id.*
- <sup>171</sup> *Id.*
- <sup>172</sup> Interview by Project South at the Stewart Detention Center on Jun. 17, 2016.
- <sup>173</sup> U.S. Commission on Civil Rights, *supra*, note 72, at 33.
- <sup>174</sup> National Immigration Forum, *The Math of Immigration*

- Detention*, 7 (Aug. 22, 2013), <https://immigrationforum.org/blog/themathofimmigrationdetention/>
- <sup>175</sup> Corrections Corporation of America, *2012 Annual Report on form 10-K*, p. F-4. <https://www.sec.gov/Archives/edgar/data/1070985/000119312516477634/d121974d10k.htm#toc>.
- <sup>176</sup> Bethany Carson and Eleana Diaz, *Payoff: How Congress Ensures Private Prison Profit with an Immigrant Detention Quota, Grassroots Leadership*, (Apr. 2015), <http://grassrootsleadership.org/reports/payoff-how-congress-ensures-private-prison-profit-immigrant-detention-quota>.
- <sup>177</sup> *Id.*
- <sup>178</sup> *Id.*
- <sup>179</sup> Sharita Gruberg, *How For-Profit Companies Are Driving Immigration Detention Policies*, Center for American Progress (Dec. 18, 2015), <https://www.americanprogress.org/issues/immigration/reports/2015/12/18/127769/how-for-profit-companies-are-driving-immigration-detention-policies/>. (The national asylum grant rate for both detained and non-detained asylum-seekers is 49 percent.)
- <sup>180</sup> *Id.*
- <sup>181</sup> *Supra*, note 179.
- <sup>182</sup> *Supra*, note 173.
- <sup>183</sup> *Supra*, note 179.
- <sup>184</sup> Memorandum, U.S. Dept. of Homeland Security, *Enforcement of the Immigration Laws to Serve the National Interest*, 1 (Feb. 20, 2017), [https://www.dhs.gov/sites/default/files/publications/17\\_0220\\_S1\\_Enforce ment-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf](https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Enforce%20ment-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf).
- <sup>185</sup> *Id.*
- <sup>186</sup> *Id.*
- <sup>187</sup> Memorandum, U.S. Dept. of Homeland Security, *Implementing the President's Border Security and Immigration Enforcement Improvements Policies*, (Feb. 20, 2017), [https://www.dhs.gov/sites/default/files/publications/17\\_0220\\_S1\\_Implementing-the-Presidents-Border-Security-Immigration-Enforcement-Improvement-Policies.pdf](https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Implementing-the-Presidents-Border-Security-Immigration-Enforcement-Improvement-Policies.pdf).
- <sup>188</sup> *Id.*
- <sup>189</sup> See *Chae Chan Ping v. United States*, 130 U.S. 581, 609 (1889) (establishing that “[t]he power of exclusion of foreigners” is “incident of sovereignty belonging to the government of the United States...”; See *Fong Yue Ting v. United States*, 149 U.S. 698, 707 (1893) (affirming the “right of a nation to expel or deport foreigners who have not been naturalized, or taken any steps towards becoming citizens of the country”).
- <sup>190</sup> The sole mention of immigration in the Constitution is in the Migration and Importation Clause, which originally referenced the State’s power to import slaves and migrate indentured servants. U.S. Const. art I, § 9 cl. 1. See Travis Silva, *Toward a Constitutionalized Theory of Immigration Detention*, YALE L. & POL’Y REV., Fall 2012, at 230.
- <sup>191</sup> See, Adam B. Cox, *Immigration Law's Organizing Principles*, 157 U. PA. L. REV. 341, 346 (2008).
- <sup>192</sup> *Supra*, note 76, at 695.
- <sup>193</sup> *Mathews v. Diaz*, 426 U.S. 67, 77 (1976).
- <sup>194</sup> *Supra*, note 76, at 693.
- <sup>195</sup> *Lanza v. Ashcroft*, 389 F.3d 917, 927 (9<sup>th</sup> Cir. 2004).
- <sup>196</sup> *Plyler v. Doe*, 457 U.S. 202, 210 (1982) (holding that Texas violated the Equal Protection Clause with educational policies that discriminated against undocumented children).
- <sup>197</sup> See *Zadvydas*, *supra*, note 76, at 693 (2001) (“once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all “persons” within the United States . . .”).
- <sup>198</sup> *Supra*, note 76, at 678.
- <sup>199</sup> *Supra*, note 76, at 682-86.
- <sup>200</sup> *Supra*, note 76, at 690.
- <sup>201</sup> *Supra*, note 76, at 695, 699-700. See also *Rodriguez v. Robbins*, 804 F.3d 1060, 1065 (9<sup>th</sup> Cir. 2015) (The Ninth Circuit Court of Appeals held that noncitizens held in prolonged detention—six months or longer—are entitled to a bond hearing before an Immigration Judge. The Supreme Court granted certiorari and heard oral arguments on November 30, 2016 and asked the respective parties to file their supplemental briefs on or before January 21<sup>st</sup>.) <http://www.scotusblog.com/case-files/cases/jennings-v-rodriguez/>
- <sup>202</sup> *Supra*, note 76, at 701.
- <sup>203</sup> *Supra*, note 76, at 700. It is relevant to note that the decision in *Clark v. Martinez*, 543 U.S. 371 (2005) extended the rule established in *Zadvydas* to noncitizens who were stopped at the border or port of entry, therefore falling into the lesser protected category discussed above. In doing so, the Court declined to eliminate the distinction with noncitizens who had “entered” the United States.
- <sup>204</sup> *Sopo v. U.S. Attorney Gen.*, 825 F.3d 1199 (11<sup>th</sup> Cir. 2016).”
- <sup>205</sup> Interview with Maxi Sopo at the Irwin County Detention Center (July 1, 2016).
- <sup>206</sup> *Supra*, note 204, at 18.
- <sup>207</sup> *Supra*, note 204, at 18.
- <sup>208</sup> *Supra*, note 204, at 18.
- <sup>209</sup> *Supra* note 204. at 2.
- <sup>210</sup> Schriro, *supra*, note 71, at 4 (“As a matter of law, Immigration Detention is unlike Criminal Incarceration.”).
- <sup>211</sup> *Supra*, note 76, at 690 (emphasis in original).
- <sup>212</sup> *Bell v. Wolfish*, 441 U.S. 520, 535 (1979).
- <sup>213</sup> *Id.* at 538; see also *Jones v. Blanas*, 393 F.3d 918, 932 (9<sup>th</sup> Cir. 2004).
- <sup>214</sup> *Carlson v. Landon*, 342 U.S. 524, 537 (1952).
- <sup>215</sup> *Youngberg v. Romeo*, 457 U.S. 307, 321 (1982).
- <sup>216</sup> *Demore v. Kim*, 538 U.S. 510, 549 (2003) (Souter, J., dissenting) (citation omitted).
- <sup>217</sup> U.S. CONST. amend. I.
- <sup>218</sup> Michael Kagan, *Do Immigrants Have Freedom of Speech?*, 6 CAL. L. REV. 91 (2015).
- <sup>219</sup> *Bridges v. Wixon*, 326 U.S. 135, 148 (1945); *Chew v. Colding*,

- 355 U.S. 590, 598 n.5 (1953); See also Michael Kagan, Do Immigrants have Freedom of Speech?, 6 CAL. L. REV. CIRCUIT 84, 92 (2015).
- <sup>220</sup> University of Michigan Law School, *Civil Rights Litigation Clearing House, Case Profile: Pineda Cruz v. Thompson*, <http://www.clearinghouse.net/detail.php?id=14476>. *Pineda Cruz v. Thompson*, No. SA-15-CV-326-XR, ¶ 1 (W.D. Tex. 2014), <https://www.clearinghouse.net/chDocs/public/IM-TX-0040-0001.pdf>.
- <sup>221</sup> *Id.* at ¶ 5 and 6.
- <sup>222</sup> *Id.* at ¶ 7.
- <sup>223</sup> *Id.* at ¶ 124.
- <sup>224</sup> *Id.* at ¶ 124-125.
- <sup>225</sup> U.S. CONST. amend. VIII.
- <sup>226</sup> *Adekoya v. Holder*, 751 F. Supp. 2d 688, 694 (S.D.N.Y. 2010).
- <sup>227</sup> *Turkmen v. Hasty*, 789 F.3d 218, 250 n.34 (2d Cir. 2015).
- <sup>228</sup> *Hernandez v. Lynch*, No. 16-620, ¶ 1 (C.D.Cal. 2016).
- <sup>229</sup> *Id.* at ¶ 63.
- <sup>230</sup> American Immigration Council, *A Primer on Expedited Removal*, (Feb. 2017) <https://www.americanimmigrationcouncil.org/sites/default/files/research/a-primer-on-expedited-removal.pdf>.
- <sup>231</sup> Immigration and Nationality Act, 8 U.S.C. § 1225(b)(1)(A)(ii) (2006).
- <sup>232</sup> Immigration and Nationality Act, 8 U.S.C. § 1225(b)(1)(B) (2006).
- <sup>233</sup> Immigration and Nationality Act, 8 U.S.C. § 1225(b)(1)(B)(iii)(IV) (2006)
- <sup>234</sup> S. Immigration and Customs Enforcement, *Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture*, <https://www.ice.gov/doclib/dro/pdf/11002.1-hd-parole-of-arriving-aliens-found-credible-fear.pdf>.
- <sup>235</sup> Immigration and Nationality Act, 8 U.S.C. § 1226(a) (2006).
- <sup>236</sup> Immigration and Nationality Act, 8 U.S.C. § 1226(b) (2006).
- <sup>237</sup> Immigration and Nationality Act, 8 U.S.C. § 1226(c) (2006).
- <sup>238</sup> Immigration and Nationality Act, 8 U.S.C. § 1227(a)(2)(A)(i) (2006).
- <sup>239</sup> Immigration and Nationality Act, 8 U.S.C. § 1227(a)(2)(A)(ii) (2006).
- <sup>240</sup> Immigration and Nationality Act, 8 U.S.C. § 1227(a)(2)(A)(iii) (2006).
- <sup>241</sup> Immigration and Nationality Act, 8 U.S.C. § 1227(a)(2)(B) (2006).
- <sup>242</sup> Immigration and Nationality Act, 8 U.S.C. § 1227(a)(2)(C) (2006).
- <sup>243</sup> Immigration and Nationality Act, 8 U.S.C. § 1227(a)(2)(D) (2006).
- <sup>244</sup> Immigration and Nationality Act, 8 U.S.C. § 1227(a)(4)(B) (2006).
- <sup>245</sup> See generally Immigration and Nationality Act, 8 U.S.C. § 1182(a)(2) & (3) (2006).
- <sup>246</sup> Immigration and Nationality Act, 8 U.S.C. § 1226(c)(2) (2006).
- <sup>247</sup> Immigration and Nationality Act, 8 U.S.C. § 1226(e) (2006).
- <sup>248</sup> Immigration and Nationality Act, 8 U.S.C. § 1231(a)(2) (2006).
- <sup>249</sup> Immigration and Nationality Act, 8 U.S.C. § 1231(a)(3) (2006).
- <sup>250</sup> Immigration and Nationality Act, 8 U.S.C. § 1231(a)(4)(A) (2006).
- <sup>251</sup> Immigration and Nationality Act, 8 U.S.C. § 1231(a)(4)(B)(i), (ii) (2006).
- <sup>252</sup> Immigration and Nationality Act, 8 U.S.C. § 1231(g)(1) (2006).
- <sup>253</sup> Immigration and Nationality Act, 8 U.S.C. § 1231(g)(2) (2006).
- <sup>254</sup> U.S. Immigration and Customs Enforcement, *2011 Operations Manual ICE Performance-Based National Detention Standards*, i (2011) <https://www.ice.gov/detention-standards/2011>; <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011.pdf>
- <sup>255</sup> Press Release, National Network for Immigrant and Refugee Rights, Detention Watch Network Deplores Latest Anti-Immigrant Hearing in Congress, (Apr. 2, 2012), <http://www.nnirr.org/drupal/dwnpr>.
- <sup>256</sup> National Immigrant Justice Center, *Policy Brief: ICE's Failed Monitoring of Immigration Detention Contracts*, (Oct. 1, 2016), <https://www.immigrantjustice.org/research-items/policy-brief-ices-failed-monitoring-immigration-detention-contracts>. (Citing “Authorized DMCP Facilities,” obtained via the ICE FOIA Library on Apr. 11, 2016).
- <sup>257</sup> *Supra*, note 254, at 228.
- <sup>258</sup> *Supra*, note 254, at 232.
- <sup>259</sup> *Supra*, note 254, at 232.
- <sup>260</sup> *Supra*, note 254, at 237.
- <sup>261</sup> *Supra*, note 254, at 241.
- <sup>262</sup> Interview by Project South at the Stewart Detention Center on Apr. 16, 2016.
- <sup>263</sup> *Supra*, note 254, at 241.
- <sup>264</sup> *Supra*, note 254, at 241.
- <sup>265</sup> Interview by Project South at the Stewart Detention Center on Sept. 16, 2016.
- <sup>266</sup> Interview by Project South at the Stewart Detention Center on May 4, 2016.
- <sup>267</sup> *Supra*, note 254, at 387.
- <sup>268</sup> *Supra*, note 254, at 387-88.
- <sup>269</sup> *Supra*, note 254, at 388.
- <sup>270</sup> Interview by Project South at Irwin on Sept. 24, 2016.
- <sup>271</sup> *Supra*, note 254, at 386.
- <sup>272</sup> *Supra*, note 254, at 387.
- <sup>273</sup> *Supra*, note 254, at 387.
- <sup>274</sup> *Supra*, note 254, at 389.
- <sup>275</sup> *Supra*, note 254, at 394.
- <sup>276</sup> *Supra*, note 254, at 392.
- <sup>277</sup> *Supra*, note 254, at 399.
- <sup>278</sup> *Supra*, note 254, at 399.
- <sup>279</sup> *Supra*, note 254, at 398.

- <sup>280</sup> *Supra*, note 254, at 400.
- <sup>281</sup> *Supra*, note 254, at 399.
- <sup>282</sup> *Supra*, note 254, at 400.
- <sup>283</sup> Attempted interviews by Project South at the Stewart Detention Center on Nov. 11, 2016 and Feb. 3, 2017.
- <sup>284</sup> *Supra*, note 254, at 422.
- <sup>285</sup> *Supra*, note 254, at 423.
- <sup>286</sup> *Supra*, note 254, at 424.
- <sup>287</sup> *Supra*, note 254, at 425.
- <sup>288</sup> *Supra*, note 254, at 425.
- <sup>289</sup> *Supra*, note 254, at 426.
- <sup>290</sup> *Supra*, note 254, at 26.
- <sup>291</sup> Interview by Project South at the Stewart Detention Center on Oct. 26, 2016.
- <sup>292</sup> *Supra*, note 4, at 11.
- <sup>293</sup> The Geo Group Inc., *Our Locations*, <https://www.geogroup.com/FacilityDetail/FacilityID/203>.
- <sup>294</sup> *Id.*
- <sup>295</sup> *Id.*
- <sup>296</sup> *Id.*
- <sup>297</sup> Corrections Corporation of America (d/b/a CoreCivic), <http://www.cca.com/>.
- <sup>298</sup> Naila Awan, *The Racial Equity Impact of Secret Political Spending by Government Contractors*, Demos (Sept. 2, 2015), <http://www.demos.org/publication/racial-equity-impact-secret-political-spending-government-contractors>; Mike Elk and Bob Sloan, *The Hidden History of ALEC and Prison Labor*, *The Nation* (Aug. 1, 2011), <https://www.thenation.com/article/hidden-history-alec-and-prison-labor/>; Laura Sullivan, *Prison Economics Help Drive Ariz. Immigration Law*, NPR (Oct. 28, 2010), <http://www.npr.org/2010/10/28/130833741/prison-economics-help-drive-ariz-immigration-law>.
- <sup>299</sup> *Id.*
- <sup>300</sup> Elk and Sloan, *supra*, note 298.
- <sup>301</sup> Corrections Corporation of America (d/b/a CoreCivic), *Stewart Detention Center*, <http://www.cca.com/facilities/stewart-detention-center>.
- <sup>302</sup> U.S. Immigration and Customs Enforcement, *Intergovernmental Service Agreement* <https://www.ice.gov/doclib/foia/isa/stewartcountyga.pdf>
- <sup>303</sup> Southern Poverty Law Center, National Lawyers Guild National Immigration Project, and Adelante Alabama Worker Center, *Shadow Prisons: Immigrant Detention in the South*, 36 (Nov. 2016) [https://www.splcenter.org/sites/default/files/ijp\\_shadow\\_prisons\\_immigrant\\_detention\\_report.pdf](https://www.splcenter.org/sites/default/files/ijp_shadow_prisons_immigrant_detention_report.pdf).
- <sup>304</sup> U.S. Immigration and Customs Enforcement, *Amendment of Solicitation and Modification of Contract*, [https://www.ice.gov/doclib/foia/isa/r\\_droigsa060005orderhscedm08fig010stewartcountygamodification4.pdf](https://www.ice.gov/doclib/foia/isa/r_droigsa060005orderhscedm08fig010stewartcountygamodification4.pdf).
- <sup>305</sup> U.S. Immigration and Customs Enforcement, *Amendment of Solicitation and Modification of Contract*, [https://www.ice.gov/doclib/foia/isa/r\\_droigsa060003orderhscope06fig00008stewartcountygaasofmodification5.pdf](https://www.ice.gov/doclib/foia/isa/r_droigsa060003orderhscope06fig00008stewartcountygaasofmodification5.pdf).
- <sup>306</sup> *Supra*, note 4.
- <sup>307</sup> Interview by Penn State Law Center for Immigrants' Rights Clinic on Oct. 25, 2016.
- <sup>308</sup> Interview by Project South at the Stewart Detention Center on Aug. 13, 2016 and Nov. 11, 2016.
- <sup>309</sup> Huffington Post, B. Shaw Drake, *Asylum Seekers and Immigrants Detained in Georgia Face Insurmountable Hurdles to Asylum, Release, and Counsel*, [http://www.huffingtonpost.com/b-shaw-drake/asylum-seekers-and-immigr\\_b\\_11529124.html](http://www.huffingtonpost.com/b-shaw-drake/asylum-seekers-and-immigr_b_11529124.html), see also Southern Poverty Law Center, *supra*, note 303, at 38.
- <sup>310</sup> Interview by Project South at the Stewart Detention Center on Sept. 16, 2016.
- <sup>311</sup> Interview by Project South at the Stewart Detention Center on Aug. 13, 2016.
- <sup>312</sup> Interview by Project South at the Stewart Detention Center on Jun. 3, 2016.
- <sup>313</sup> *Lyttle v. United States*, 867 F.Supp.2d 1256 (M.D. Ga. 2012).
- <sup>314</sup> Interview by Project South at the Stewart Detention Center on May 14, 2016..
- <sup>315</sup> Interview by Alterna in Guatemala on Jun. 8, 2016.
- <sup>316</sup> *Supra*, note 254, at 396.
- <sup>317</sup> Interview by Project South at the Stewart Detention Center on Aug. 13, 2016.
- <sup>318</sup> Interview by Penn State Law Center for Immigrants' Rights Clinic on Sept. 20, 2016.
- <sup>319</sup> Southern Poverty Law Center, *Immigrants Detained in Georgia to Get Better Access to Counsel After SPLC Complaint*, (Sept. 6, 2016), <https://www.splcenter.org/news/2016/09/06/immigrants-detained-georgia-get-better-access-counsel-after-splc-complaint>.
- <sup>320</sup> Interview by Penn State Law's Center for Immigrants' Rights Clinic on September 20, 2016.
- <sup>321</sup> Interview by Penn State Law's Center for Immigrants' Rights Clinic on September 20, 2016.
- <sup>322</sup> Interview by Penn State Law's Center for Immigrants' Rights Clinic on September 22, 2016.
- <sup>323</sup> Mark Noferi, *Deportation Without Representation: Immigrants who are detained should have the right to a lawyer*, *Slate* (May 15, 2013), [http://www.slate.com/articles/news\\_and\\_politics/jurisprudence/2013/05/the\\_immigration\\_bill\\_should\\_include\\_the\\_right\\_to\\_a\\_lawyer.html](http://www.slate.com/articles/news_and_politics/jurisprudence/2013/05/the_immigration_bill_should_include_the_right_to_a_lawyer.html).
- <sup>324</sup> Interview by Project South at the Stewart Detention Center on Sept. 16, 2016.
- <sup>325</sup> Interview by Project South at the Stewart Detention Center on Jun. 3, 2016.
- <sup>326</sup> Interview by Alterna in Guatemala on Jun. 8, 2016.
- <sup>327</sup> Interview by Project South at the Stewart Detention Center on Jun. 3, 2016.
- <sup>328</sup> Immigration Detention Justice Center, *Stewart Detention Center*, (Nov. 8, 2011) <http://www.immigrationdetention.com>.

- [org/wiki/stewart-detention-center/](http://org/wiki/stewart-detention-center/)
- <sup>329</sup> Interview by Project South at the Stewart Detention Center on Dec. 21, 2016
- <sup>330</sup> Interview by Project South at the Stewart Detention Center on Aug. 6, 2016
- <sup>331</sup> Interview by Project South at the Stewart Detention Center on May 14, 2016.
- <sup>332</sup> Interview by Project South at the Stewart Detention Center on Apr. 8, 2016.
- <sup>333</sup> Interview by Project South at the Stewart Detention Center on Apr. 15, 2016.
- <sup>334</sup> Interview by Project South at the Stewart Detention Center on Apr. 15, 2016.
- <sup>335</sup> Interview by Project South at the Stewart Detention Center on Jun. 3, 2016.
- <sup>336</sup> Interview by Project South at the Stewart Detention Center on Jun. 17, 2016.
- <sup>337</sup> Interview by Project South at the Stewart Detention Center on May 14, 2016.
- <sup>338</sup> Interview by Project South at the Stewart Detention Center on Aug. 13, 2016 and Nov. 11, 2016.
- <sup>339</sup> Interview by the Penn State Law Center for Immigrants' Rights Clinic on Sept. 20, 2016.
- <sup>340</sup> Interview by Project South at the Stewart Detention Center on May 14, 2016.
- <sup>341</sup> Interview by Project South at the Stewart Detention Center on Apr. 8, 2016.
- <sup>342</sup> Anton Flores and Professor Jennifer Brooks, *Immigrants Rights Detention and Activism*, Working History (2016), <https://soundcloud.com/southernlaborstudies/immigrant-rights-detentions-and-activism>.
- <sup>343</sup> Interview by Project South at the Stewart Detention Center on Apr. 29, 2016.
- <sup>344</sup> Interview by Project South at the Stewart Detention Center on Apr. 29, 2016.
- <sup>345</sup> *Supra*, note 342.
- <sup>346</sup> Interview by Project South at the Stewart Detention Center on Apr. 15, 2016.
- <sup>347</sup> Interview by Project South at the Stewart Detention Center on Sept. 9, 2016.
- <sup>348</sup> Interview by Project South at the Stewart Detention Center on Jan. 6, 2017.
- <sup>349</sup> U.S. Dept. of Homeland Security, *Enforcement and Removal Operations, Atlanta Field Office, Stewart Detention Center, Lumpkin, Georgia*, (Aug. 21, 2012), [https://www.ice.gov/doclib/foia/odo-compliance-inspections/2012stewart-detntn\\_cntr\\_lumpkin\\_GA\\_aug21-23-2012.pdf](https://www.ice.gov/doclib/foia/odo-compliance-inspections/2012stewart-detntn_cntr_lumpkin_GA_aug21-23-2012.pdf).
- <sup>350</sup> Interview by Project South at the Stewart Detention Center on Jun. 17, 2016.
- <sup>351</sup> Interview by Project South at the Stewart Detention Center on Nov. 16, 2016.
- <sup>352</sup> Interview by Project South at the Stewart Detention Center on Aug. 13, 2016 and Nov. 11, 2016.
- <sup>353</sup> Interview by Project South at the Stewart Detention Center on Jun. 17, 2016.
- <sup>354</sup> Interview by Project South at the Stewart Detention Center on Aug., 13 2016.
- <sup>355</sup> Interview by Project South at the Stewart Detention Center on Apr. 16, 2016.
- <sup>356</sup> Interview by Project South at the Stewart Detention Center and Aiken County Detention Center on Jun. 3, 2016 and Jan. 26, 2017.
- <sup>357</sup> U.S. Immigration and Customs Enforcement, *Performance Base National Detention Standards 2011*, 177 (2011), <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011.pdf>.
- <sup>358</sup> Interview by Project South at the Stewart Detention Center on Nov. 2, 2016.
- <sup>359</sup> Interview by Project South at the Stewart Detention Center on Dec. 21, 2016.
- <sup>360</sup> Interview by Project South at the Stewart Detention Center on Apr. 29, 2016.
- <sup>361</sup> Interview by Project South at the Stewart Detention Center on Aug. 13, 2016.
- <sup>362</sup> Interview by Project South at the Stewart Detention Center on Sept. 16, 2016.
- <sup>363</sup> Interview by Project South at the Stewart Detention Center on Nov. 16, 2016.
- <sup>364</sup> Interview by Project South at the Stewart Detention Center on Oct. 26, 2016.
- <sup>365</sup> Interview by Project South at the Stewart Detention Center on Nov. 16, 2016.
- <sup>366</sup> Azadeh Shahshahani and Anton Flores, *Living Nightmare for Detained Immigrants in Georgia*, Huffington Post (Nov. 23, 2014), [http://www.huffingtonpost.com/azadeh-shahshahani/living-nightmare-for-deta\\_b\\_6208916.html](http://www.huffingtonpost.com/azadeh-shahshahani/living-nightmare-for-deta_b_6208916.html); see also ACLU of Georgia, *Georgia Immigrant Detainees "Riot" Over Maggot-Filled Food*, (Jun. 26, 2014) <https://www.acluga.org/en/news/Georgia-Immigrant-Detainees-Riot-Over-Maggot-Filled-Food>.
- <sup>367</sup> *Id.*
- <sup>368</sup> Roque Planas, *Undocumented Immigrants Decry Solitary Confinement at Georgia Detention Center*, Huffington Post (Oct. 14, 2015), [http://www.huffingtonpost.com/entry/immigrants-solitary-confinement-georgia-detention-center\\_us\\_561d83cbe4b0c5a1ce61044d](http://www.huffingtonpost.com/entry/immigrants-solitary-confinement-georgia-detention-center_us_561d83cbe4b0c5a1ce61044d).
- <sup>369</sup> *Id.*
- <sup>370</sup> Press Release, Project South, Georgia Detention Watch Calls For The Immediate Release Of The Detained Stateless Palestinian, (May 12, 2015), <http://projectsouth.org/gdw-release-alaa-yasin/>.
- <sup>371</sup> *Id.*
- <sup>372</sup> *Id.*
- <sup>373</sup> Interview by Project South at the Stewart Detention Center on Nov. 11, 2016.
- <sup>374</sup> Sponsor Woodman, *Exclusive: ICE Put Detained Immigrants in Solitary confinement for Hunger Strike*, The Verge (Feb. 27, 2017), <http://www.theverge.com/2017/2/27/14728978/>

[immigrant-deportation-hunger-strike-solitary-confinement-ice-trump](#).

<sup>375</sup> *Id.*

<sup>376</sup> *Id.*

<sup>377</sup> Interview by Project South at the Stewart Detention Center on Sept. 9, 2016.

<sup>378</sup> *Supra*, note 374.

<sup>379</sup> *Supra*, note 374.

<sup>380</sup> Interview by Project South at the Stewart Detention Center on Dec. 21, 2016.

<sup>381</sup> Available at: <https://www.ice.gov/detention-facility/irwin-county-detention-center>.

<sup>382</sup> LaSalle Corrections, (Last updated 2017), <http://www.lasallecorrections.com/locations/georgia/irwin-county-detention-center/?back=locations>

<sup>383</sup> *Id.*

<sup>384</sup> *Id.*

<sup>385</sup> *Id.*

<sup>386</sup> Irwin Tour Documents, on file with author.

<sup>387</sup> Interview by Penn State Law's Center for Immigrants' Rights Clinic on September 20, 2016.

<sup>388</sup> *Id.*

<sup>389</sup> Detained immigrant interview

<sup>390</sup> Interview by Project South at the Irwin County Detention Center on Jun. 6, 2016.

<sup>391</sup> Interview by Project South at the Irwin County Detention Center on Jun. 6, 2016.

<sup>392</sup> Interview by Project South at the Irwin County Detention Center on Jul. 7, 2016.

<sup>393</sup> Interview by Project South at the Irwin County Detention Center on Jul. 10, 2016.

<sup>394</sup> Interview by Project South at the Irwin County Detention Center on Sept. 24, 2016 and Oct. 21, 2016.

<sup>395</sup> Interview by Project South at the Irwin County Detention Center on Nov. 12, 2016.

<sup>396</sup> Interview by Project South at the Irwin County Detention Center on Jul. 14, 2016.

<sup>397</sup> Interview by Project South at the Irwin County Detention Center on Jul. 14, 2016.

<sup>398</sup> Interview by Penn State Law's Center for Immigrants' Rights Clinic on Sept. 20, 2016.

<sup>399</sup> Interview by Project South at the Irwin County Detention Center on Jun. 30, 2016.

<sup>400</sup> Irwin County Detention Center Detained Immigrants Handbook, at 11 (Jun. 2016)

<sup>401</sup> Interview by Project South at the Irwin County Detention Center on Sept. 24, 2016 and Oct. 21, 2016.

<sup>402</sup> Interview by Project South at the Irwin County Detention Center on Jul. 1, 2016.

<sup>403</sup> Interview by Project South at the Irwin County Detention Center on Jul. 7, 2016.

<sup>404</sup> Irwin Tour Documents, on file with author.

<sup>405</sup> U.S. Immigration and Customs Enforcement, *Video Teleconference Technology for Attorney/Client Meetings at*

*Irwin County Detention Center*, (Jan. 2017).

<sup>406</sup> *Supra*, note 400, at 52.

<sup>407</sup> *Id.*

<sup>408</sup> *Id.*

<sup>409</sup> Interview by Project South at the Irwin County Detention Center on Jun. 8, 2016.

<sup>410</sup> *Supra*, note 257, at 411.

<sup>411</sup> *Supra*, note 400, at 52.

<sup>412</sup> *Supra*, note 400, at 52.

<sup>413</sup> *Supra*, note 400, at 52.

<sup>414</sup> Interview by Project South at the Irwin County Detention Center on Jul. 7, 2016.

<sup>415</sup> Interview by Project South at the Irwin County Detention Center on Jul. 1, 2016.

<sup>416</sup> Interview by Project South at the Irwin County Detention Center on Jul. 20, 2016.

<sup>417</sup> Interview by Project South at the Irwin County Detention Center on Jul. 7, 2016.

<sup>418</sup> Interview by Project South at the Irwin County Detention Center on Jul. 7, 2017.

<sup>419</sup> Interview by Project South at the Irwin County Detention Center on Jul. 10, 2016.

<sup>420</sup> Interview by Project South at the Irwin County Detention Center on Sept. 24, 2016.

<sup>421</sup> Interview by Project South at the Irwin County Detention Center on Jul. 7, 2016.

<sup>422</sup> Interview by Project South at the Irwin County Detention Center on Jul. 1, 2016.

<sup>423</sup> Interview by Project South at the Irwin County Detention Center on Sept. 24, 2016.

<sup>424</sup> Interview by Project South at the Irwin County Detention Center on Oct. 6, 2016.

<sup>425</sup> Interview by Project South at the Irwin County Detention Center on Jul. 20, 2016.

<sup>426</sup> Interview by Project South at the Irwin County Detention Center on Jul. 1, 2016.

<sup>427</sup> Interview by Project South at the Irwin County Detention Center on Jul. 10, 2016.

<sup>428</sup> Interview by Project South at the Irwin County Detention Center on Aug. 31, 2016.

<sup>429</sup> Interview by Project South at the Irwin County Detention Center on Jul. 1, 2016.

<sup>430</sup> Interview by Project South at the Irwin County Detention Center on Aug. 31, 2016.

<sup>431</sup> Interview by Project South at the Irwin County Detention Center on Jul. 7, 2016.

<sup>432</sup> Interview by Project South at the Irwin County Detention Center on Jul. 20, 2016.

<sup>433</sup> *Supra*, note 257, at 238.

<sup>434</sup> Interview by Project South at the Irwin County Detention Center on Jul. 1, 2016.

<sup>435</sup> *Supra*, note 400, at 9.

<sup>436</sup> Interview by Project South at the Irwin County Detention Center on Jul. 7, 2016.

- <sup>437</sup> Interview by Project South at the Irwin County Detention Center on Aug. 31, 2016.
- <sup>438</sup> Interview by Project South at the Irwin County Detention Center on Jul. 20, 2016.
- <sup>439</sup> Interview by Project South at the Irwin County Detention Center on Aug. 31, 2016.
- <sup>440</sup> Interview by Project south at the Irwin County Detention Center on Sept. 24, 2016.
- <sup>441</sup> Interview by Project South at the Irwin County Detention Center on Jun. 11, 2016 and Jul. 1, 2016.
- <sup>442</sup> Interview by Alterna in Guatemala on Jun. 8, 2016.
- <sup>443</sup> Interview by Project South at the Irwin County Detention Center on Jun.11, 2016 and Jul. 1, 2016.
- <sup>444</sup> Interview by Project South at the Irwin County Detention Center on Nov. 12, 2016.
- <sup>445</sup> Interview by Project South at the Irwin County Detention Center on Jul. 1, 2016.
- <sup>446</sup> Irwin Tour Documents, on file with author.
- <sup>447</sup> United Nations High Commissioner for Human Rights, *International Covenant on Civil and Political Rights, Article 10*, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.
- <sup>448</sup> Interview by Project South at the Irwin County Detention Center on Jul. 14, 2016.
- <sup>449</sup> Interview by Project South at the Irwin County Detention Center on Jul. 7, 2016.
- <sup>450</sup> Interview by Project South at the Irwin County Detention Center on Jun. 8, 2016.
- <sup>451</sup> Interview by Project South at the Irwin County Detention Center on Oct.21, 2016.
- <sup>452</sup> Interview by Project South at the Irwin County Detention Center on Aug. 31, 2016.
- <sup>453</sup> Interview by Project South at the Irwin County Detention Center on Jul. 1, 2016.
- <sup>454</sup> Interview by Project South at the Irwin County Detention Center on Aug. 31, 2016.
- <sup>455</sup> Interview by Project South at the Irwin County Detention Center on Nov. 11, 2016.
- <sup>456</sup> United States Department of Justice, *Report and Recommendations Concerning the Use of Restrictive Housing*, 99 (2016), <https://www.justice.gov/archives/dag/file/815551/download>.
- <sup>457</sup> Irwin Tour Documents on file with author.
- <sup>458</sup> *Id.*
- <sup>459</sup> *Id.*
- <sup>460</sup> Interview by Project South at the Irwin County Detention Center on Jun. 11, 2016 and Jul. 1, 2016.
- <sup>461</sup> Interview by Project South at the Irwin County Detention Center on Jul. 1, 2016.
- <sup>462</sup> Interview by Project South at the Irwin County Detention Center on Jul. 1, 2016.
- <sup>463</sup> Irwin Tour Documents on file with author.
- <sup>464</sup> Interview by Project South at the Irwin County Detention Center on Aug. 31, 2016.
- <sup>465</sup> Interview by Project South at the Irwin County Detention Center on Jul. 10, 2016.
- <sup>466</sup> Interview by Project South at the Irwin County Detention Center on Aug. 31, 2016.
- <sup>467</sup> Interview by Project South at the Irwin County Detention Center on Jun. 30, 2016.
- <sup>468</sup> *Supra*, note 211.
- <sup>469</sup> Southern Poverty Law Center, et al, *supra*, note 303; ACLU of Georgia, et al, *supra*, note 30, at 5.
- <sup>470</sup> United Nations High Commissioner for Refugees, *Detention Guidelines: Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 29 (2012), <http://www.unhcr.org/en-us/publications/legal/505b10ee9/unhcr-detention-guidelines.html>





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