

Prisoners of Profit

Immigrants and Detention in Georgia





This report is dedicated to the memory of Roberto Medina Martinez (1969-2009) and all immigrants who have perished in the custody of Immigration and Customs Enforcement.

"After twenty months away from home, you lose faith, you feel worthless, this place breaks you, it is made to break your soul. The constant screaming and verbal abuse the guards inflict on the detainees is just made to break your soul and handicap you."

-Pedro Guzman, formerly detained at Stewart Detention Center

"While international law recognizes every State's right to set immigration criteria and procedures, it does not allow unfettered discretion to set policies for detention or deportation of non-citizens without regard to human rights standards."

-Jorge Bustamante, Special Rapporteur on the Human Rights of Migrants

"I feel like I'm going crazy...When I get upset, they just give me more medicine. I can't tell them I'm really upset or they just put me in a helmet and handcuffs for a few days. That's torture! I don't see anybody. I don't really care about anything. I just want to get out and get into a program that will help me."

-Ermis Calderone, formerly detained at Stewart Detention Center

"I propose a worldwide ban on prolonged solitary confinement....Equally, individuals with mental disabilities should be provided with proper medical or psychiatric care and under no circumstances should they ever be subjected to solitary confinement."

- Juan Méndez, Special Rapporteur on Torture

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The American Civil Liberties Union of Georgia's mission is to advance the cause of civil liberties in Georgia, with emphasis on the rights of free speech, free press, free assembly, freedom of religion, due process of law and to take all legitimate action in the furtherance of such purposes without political partisanship.

The ACLU of Georgia National Security/Immigrants' Rights Project is dedicated to protecting international human rights and constitutional guarantees for immigrants and refugees, including detainees held in Georgia detention centers. To that end, the ACLU of Georgia is presenting this report to bring to light the human rights abuses and due process concerns posed by immigration detention throughout the state of Georgia.

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I. PREFACE

The United States is home to the largest number of non-citizen¹ detainees in the world.² Immigration and Customs Enforcement (ICE) detains over 30,000 individuals across the country every day in more than 250 facilities, including privately run facilities, facilities run by ICE, and prisons and jails run by local governments.³ Almost half of all immigrant detainees are housed in private for-profit facilities.⁴

The purpose of this project was to document and evaluate conditions of detention for immigrant detainees in Georgia per ICE standards, constitutional standards as articulated by the U.S. Constitution and Supreme Court decisions, as well as international human rights standards.⁵ Georgia houses four immigration detention centers, including the country's largest, the Stewart Detention Center.⁶ Of particular concern are conditions at the detention centers run by corporations, including the Corrections Corporation of America (CCA) and Detention Management, LLC, which operate three of the four facilities featured in this report.⁷

II. METHODOLOGY

This report focuses on conditions of detention for immigrants in the state of Georgia. The report is based on more than three years of research conducted by the American Civil Liberties Union Foundation (ACLU) of Georgia. The ACLU of Georgia interviewed 68 detainees who were detained in Georgia immigration detention facilities.⁸ In addition, detainees' family members and immigration attorneys were interviewed. The ACLU of Georgia also toured detention centers in Georgia and reviewed documents obtained from ICE and other governmental agencies through Freedom of Information Act (FOIA) requests. Those documents include agreements for operation of the facilities, grievances filed by detainees, domestic and international human rights reports, and reports from ICE and other governmental agencies. The ACLU of Georgia also sought responses from ICE, Executive Office of Immigration Review (EOIR), and the four facilities based on allegations included in the report. To the extent that we received responses, they are indicated throughout the report.

The report covers the four immigration detention facilities in Georgia. They include:

- ❖ Stewart County Detention Center (Lumpkin, Georgia)
- ❖ Irwin County Detention Center (Ocilla, Georgia)
- ❖ Atlanta City Detention Center (Atlanta, Georgia)
- ❖ North Georgia Detention Center (Gainesville, Georgia)

The ACLU of Georgia would again like to thank Immigration and Customs Enforcement, Corrections Corporation of America, Detention Management, LLC, and the City of Atlanta Department of Corrections for their cooperation in providing the ACLU of Georgia tours of the four detention center facilities. The ACLU of Georgia is, however, concerned about denial of access to parts of some facilities. Specifically, CCA and Detention Management, LLC staff denied the ACLU of Georgia access to the segregation units, despite our specific requests, at both the Stewart Detention Center and the Irwin County Detention Center. At Stewart, the ACLU of Georgia was also not allowed to see the law library. Refusal of access to the segregation units is troubling because we could not report upon confinement conditions at these most restrictive of units. Denial of access to the law library facilities makes it impossible to know if adequate due process protections are being provided to the detainees during their removal process.

III. EXECUTIVE SUMMARY

As the number of immigrants detained annually approaches half a million,⁹ the prison-like conditions¹⁰ of immigration detention facilities and the substandard treatment¹¹ afforded to the detainees are an area of increasing concern. Georgia is home to four immigration detention facilities: Stewart Detention Center (Stewart), North Georgia Detention Center (NGDC), Irwin County Detention Center (Irwin), and Atlanta City Detention Center (ACDC). Stewart is the largest detention facility in the U.S.¹² It has become common practice for ICE to contract with private companies to operate detention facilities;¹³ indeed, private companies run three of the four detention facilities in Georgia documented in this report.¹⁴ Corrections Corporation of America, the largest private prison company in the U.S., whose annual revenue in 2010 was \$1.7 billion, runs two of those facilities.¹⁵ Although it has been claimed that privatization of detention facilities is cost-effective, this proposition has been cast into serious doubt.¹⁶ What has been confirmed is the systemic violation of immigrant detainees' civil and human rights while detained in substandard prison-like conditions ill suited for civil detainees.¹⁷

The ACLU of Georgia has documented the current landscape of immigration detention in Georgia. The following methods were used for documentation:

- Interviews with 68 detainees from all four detention facilities
- Interviews with detainees' family members
- Interviews with immigration attorneys
- Detention center tours
- Reviews of responses from officials
- Review of grievances filed by detainees

Findings from these diverse sources raise serious concerns about violations of detainees' due process rights, inadequate living conditions, inadequate medical and mental health care, and abuse of power by those in charge.¹⁸

A. Due Process Concerns

ICE's aggressive "Operation Endgame" goal of deporting all removable aliens by 2012 overloads already overcrowded immigration court dockets. In furtherance of this goal, detainees' due process rights are violated, both in immigration court and at the detention facilities.

1. Due Process Concerns During the Removal Process

Some practices both at immigration court and by ICE officers are troubling. At the Stewart Immigration Court, the ACLU of Georgia is troubled by barriers to legal representation based on Stewart's remote location, the prevalence of telephonic hearings and telephonic meetings, overcrowded dockets resulting in unknown or rescheduled court dates, incomplete Notices To Appear, bond concerns, and a failure to consistently provide listings of pro bono attorneys to detainees. At the Atlanta Immigration Court, there were documented instances of immigration judges attempting to get detainees to sign stipulated orders of removal, a new policy which prevents attorneys from speaking to their clients before their hearings, delays in the removal process, and an inadequate removal process for foreign-language speaking detainees where translation is not consistently provided throughout every hearing. In addition, the ACLU of Georgia is troubled by detainees' accounts of being transported from Irwin to the Atlanta Immigration Court in substandard conditions and in a psychologically intimidating way. The following outlines the ACLU of Georgia's biggest concerns with the removal process.

a. ICE Officers and Immigration Judges Coerce Detainees to Sign Stipulated Orders of Removal

Detainees in each of the four facilities reported instances where ICE officers, deportation officers, and even immigration judges attempted to coerce detainees to sign stipulated orders of removal. Stipulated orders of removal allow for deportation of non-citizens without a hearing before an immigration judge.¹⁹ This procedure is used to expedite deportation of detained non-citizens who often are unaware of the rights they are giving up or the potential consequences that may result.²⁰ Immigrants who sign these orders waive their rights to a hearing before an immigration judge and agree to have a removal order entered against them, regardless of whether they are actually eligible to remain in the United States.²¹ There were instances where deportation officers screamed at detainees who refused to sign stipulated orders of removal and threatened them with permanent detention.²² There were two instances where a deportation officer physically forced detainees to sign the order.²³ Many Spanish speaking detainees also reported that they were pressured by deportation officers to sign a document written in English that they could not understand. As Stewart has the highest deportation rate in the country at 98.8 percent, with the Stewart Immigration Court having issued 8,731 deportation orders in 2010, these practices pose particularly serious concerns.²⁴

b. Non-Citizens are Detained in Excess of a Presumptively Reasonable Time

At Stewart, at least two detainees interviewed by the ACLU of Georgia were still in detention more than six months after their final orders of removal were issued.²⁵ In light of the serious due process concerns presented by indefinite detention, the U.S. Supreme Court has held that detention exceeding six months violates detainees' right to liberty without sufficient justification or adequate procedural safeguards where detainees' removal is not reasonably foreseeable.²⁶ In

addition, other detainees at Stewart with final orders of removal were not given 90-day custody reviews as required by regulation or were not notified of the results of such a review.²⁷

c. Non-English Speaking Detainees Cannot Effectively Communicate with ICE Officers

At all four facilities, the ACLU of Georgia found several instances of detainees being unable to communicate with ICE officers. For example, Dung Dang is originally from Vietnam and speaks only a little English.²⁸ When Dung was initially detained in February 2011, he was not provided with an interpreter and thus could not effectively communicate with the ICE officer.²⁹ At the North Georgia Detention Center, Spanish speaking detainees complained that they could not communicate with ICE officers and deportation officers because the officers only spoke English.³⁰

2. Facility Due Process Concerns

Detainee interviews at each facility revealed due process concerns including challenges related to communication for non-English speaking detainees, legal services, and visitation policies.

a. Non-English Speaking Detainees Are at a Disadvantage

Although the majority of immigrant detainees in Georgia only speak Spanish, the majority of detention facility staff and medical staff do not. Of the four facilities, Irwin had the largest bilingual staff with 20 percent of the staff able to speak Spanish; however, even at that facility, it is still common practice to have other detainees interpret.³¹ At ACDC, one detainee was afraid to interpret for other detainees since he was previously put in the segregation unit for interpreting.³² Thus, Spanish speaking detainees in Georgia are at a disadvantage in all areas of the detention and removal process and are vulnerable to due process violations.³³

b. Inadequate Information about Available Pro Bono Legal Services

All of the facilities exhibited problems with detainees' access to legal information. At ACDC, none of the detainees interviewed had been provided access to information about their basic legal rights. Detainees at Irwin, Stewart, and NGDC complained of not being notified of pro bono services and not being given a list of pro bono attorneys upon entry into the facilities.

c. Conditions for Attorney Visits are Inadequate and Raise Attorney/Client Confidentiality Issues

Attorney visits at Stewart and Irwin³⁴ are no-contact. This policy means that in order to communicate, attorneys and detainees must use phone calls, which may be monitored or recorded. In addition, until October 2011, NGDC did not allow contact attorney visits.³⁵ Finally, the Attorney Visitation Form at NGDC has a provision requiring attorneys to disclose all

confidential information learned in their interview with the detainee to the warden of the facility.³⁶

d. Law Library Concerns

Numerous problems were documented regarding law libraries at the facilities. First, many detainees complained about delays in gaining access to the law library. To access the law library, detainees must put in a paper request slip. This process could take days or even weeks. One detainee at Stewart put in three requests to use the law library, all of which went unanswered.³⁷ The second problem with the law library is that each facility limits detainees' access to a certain amount of time or visits per week. Third, not all facilities have adequate materials. At ACDC, there is only one computer for 300 detainees.³⁸ Detainees also expressed concern about the lack of adequate foreign language resources. Although all facilities had some legal books in Spanish, no detainees reported seeing books in other languages for non-English speaking detainees. The ACLU of Georgia is particularly concerned about challenges faced by detainees filing for asylum or withholding of removal, since a large part of proving such a case is through news articles and other public sources on the current political climate in their native country, as well as specific instances of persecution or abuse. The law library at NGDC does not have internet access, making it impossible for detainees to search the internet for news articles or to print them out.

B. Inadequate Living Conditions

Prison-like conditions at the detention centers expose immigrant detainees to harsh confinement and regulations ill suited for civil detainees. Many of these practices infringe upon international and regional human rights standards.³⁹ To make matters worse, since three of the four facilities are run by private companies, adequate supervision and accountability measures are lacking.

1. Transfer Takes Detainees Away from Family and Community

Both Irwin and Stewart are located in remote areas of Georgia and house a number of out-of-state detainees. The state of Georgia,⁴⁰ and Stewart in particular, receive more transfers than almost any other facility or state.⁴¹ Of the 28 detainees interviewed at Stewart, one-third had been transferred from out of state, and two-thirds of those had been transferred from North Carolina.⁴² One detainee said that in the eight months he had been detained at Irwin, he had not seen his family at all because of the distance.⁴³

2. Phone Services

Detainees expressed numerous concerns about phone services at the detention facilities. First, almost all detainees complained of the phone services being too expensive, sometimes prohibiting detainees from contacting their family members altogether.⁴⁴ Second, detainees were concerned about the lack of privacy when making phone calls since phones are located in the pods.⁴⁵ Third, there are concerns about the possible monitoring of detainees' calls, even calls to

their attorneys.⁴⁶ Fourth, detainees experienced technical problems with the phones such as dropped calls.⁴⁷ One detainee reported that at Irwin, calls last a maximum of 15 minutes.⁴⁸ Other detainees have stated that they are not allowed to make a free phone call and still others said that most of the pro bono numbers are out of date and connect to non-working numbers.⁴⁹

3. Inadequate Visitation Policy and Schedule

None of the four facilities offer contact visits for families and friends. In addition, all of the facilities have time limitations on the visits. Thus, detainees' family members will have to drive hours only to talk to them through the glass via phone for as little as 30 minutes. Some detainees have not been able to see their family members because they are undocumented and afraid that they may be detained as well if they visit.

4. Cell Conditions

Detainees expressed numerous concerns about the cell conditions, including temperature extremes and overcrowding. At ACDC, detainees of various security classifications are housed together, including those classified as the lowest and highest security levels, raising concerns about detainees' safety.⁵⁰

a. Segregation Unit

All four facilities have segregation units for administrative and disciplinary segregation. The ACLU of Georgia spoke with two detainees at Stewart who said they had been kept in segregation in excess of 60 days, one for five months.⁵¹ At ACDC, detainees expressed concerns about the sanitation of the segregation units, calling them "portable toilets."⁵² In addition, the ACLU of Georgia documented instances where detainees were denied privileges such as recreation, law library access, and phone access, and were given smaller portions at mealtime as a result of being placed in segregation. Detainees in segregation are allowed access to the shower less frequently than the general population.⁵³ Finally, and most problematic, detainees with mental health problems are put in segregation in lieu of receiving treatment.

5. Hygiene Concerns

The ACLU of Georgia documented instances where facilities ran out of hygiene items and detainees simply had to go without. At ACDC, detainees complained that they are not given deodorant and that the razor and razor blades they are given are used and could spread communicable diseases. One detainee at Stewart said that in his two months there, the water had stopped working on three separate occasions making it impossible to flush toilets, shower, or wash one's hands.⁵⁴

At Irwin, women are not given new underwear.⁵⁵ Instead, they are given used underwear and in at least one case, soiled underwear, causing a female detainee to get a serious infection, which

left scars on her legs and genitals.⁵⁶ At NGDC, female detainees are given new underwear but used sports bras.⁵⁷ Women are given sanitary napkins for their menstrual cycle, but they are only given a couple at a time and sometimes they must wait to get more if the facility runs out.⁵⁸

6. Food Concerns

Detainees had three main concerns about the food served at each detention facility: unusual mealtimes, insufficient quantity, and poor quality. Some detainees complained about the 15-hour period between dinner and breakfast. Most detainees also complained that portions were too small and some detainees began to work in the kitchen just so they could eat more. Detainees reported weight loss; one detainee lost 68 pounds while at Stewart. Several detainees also reported being served expired food or beverages and finding foreign objects in their food; this was especially prevalent at Stewart.⁵⁹

The food that detainees received for special diets for religious or medical reasons did not provide adequate nutrition. In addition, it was not medically appropriate for some detainees we spoke to and did not meet religious standards for others.

7. Voluntary Work Program

Stewart and NGDC both have voluntary work programs where detainees are paid \$1.00 to \$3.00 per day. This means that detainees work full time for pay that is far below minimum wage. At Irwin and ACDC, there is no official work program, but detainees are still required to perform work such as cleaning their pods and doing laundry. There is no compensation for this work.

8. Religious Services

Religious services at Stewart are entirely volunteer-based. This means that if there are no volunteers, there are no religious services. Although there are some services in Spanish, they are not always provided. Some detainees reported that religious services consisted only of playing the video of a service. Finally, religious services are not offered for all religions.

9. Recreation is Too Limited and Not Always Provided

At all facilities, recreation was offered too infrequently, in violation of ICE standards. At ACDC, there is no opportunity for detainees to have outdoor recreation. At NGDC, there were instances where detainees' only recreation time was in their pod. Recreation was also sometimes denied to detainees as punishment for small infractions such as not making one's bed.

C. Inadequate Medical and Mental Health Care

1. Intake Examinations Are Insufficient

Detainee interviews revealed three main concerns surrounding initial intake examinations. First, there is a delay, sometimes weeks long, in conducting medical examinations. Second, dental examinations are not a routine part of medical examinations. Third, many detainees are not asked any mental health questions during intake.

2. Medical and Mental Health Unit is Understaffed and Lacks Professional Full-Time Staff

Neither Stewart nor NGDC employ a doctor, only nurses. Although Irwin and ACDC each employ a doctor, detainees still uniformly complained of understaffing and only being able to see a nurse. It is almost impossible to see someone from the medical unit during the weekends for routine care.

Similarly, there is no psychiatrist employed at Stewart.⁶⁰ Although there is a psychiatrist on staff at NGDC and Irwin, he/she is employed on an on-call basis and is not physically present at the facility most of the time.⁶¹

3. Detainees Face Unreasonable Delays in Receiving Care

Almost all detainees who had requested to visit the medical units in their facility faced a wait time ranging from a day to weeks. In addition to delays in receiving treatment, detainees reported delays for receiving prescription medication. At Stewart, emergencies have taken at least one hour to address.⁶² One detainee at NGDC complained for two months of pain from gallstones. One night, when she was feverish and throwing up, she was brought to the medical unit three times before she was finally taken to the hospital.⁶³

4. Medical Unit Has a Shortage of Spanish Speaking Staff

None of the facilities employ a truly bilingual medical staff. As a result, there are often miscommunications, misdiagnoses, and failures to provide adequate treatment. A common practice documented at all four facilities is using other detainees as interpreters. Although Irwin has a phone translation service, at least one detainee reported that she still did not feel she could adequately communicate with the medical staff.⁶⁴

5. Treatment of Detainees with Mental Disabilities is Punitive Rather Than Care Oriented

Although ICE has acknowledged that segregation of detainees with mental disabilities is not appropriate and “often exacerbates mental illness,” this is an established practice at all four facilities.⁶⁵ At Irwin, because of this practice, detainees were afraid to discuss their mental health problems with the medical staff for fear of being put in segregation.

D. Abuse of Power

1. Failed Grievance Procedure

Detainees who had filed grievances did not get responses and did not feel that they were taken seriously, based on the lack of a response. This failed grievance procedure exists at both a facility and an agency level. This is supported by the fact that of the 160 grievances filed with the Department of Homeland Security (DHS) Office of Inspector General by detainees at the four facilities, all but six were closed without any further action.⁶⁶ Because of this widespread non-responsiveness, many detainees gave up filing grievances because they did not believe that it would do anything but get them in trouble with the guards.

2. Verbal and Physical Abuse

Verbal abuse was documented at all the facilities in varying degrees. At best, detainees reported that guards would shout at detainees to hurry them up at meal times. At the other end of the spectrum, verbal abuse came in the form of threats and racist slurs. This type of verbal abuse was also sometimes accompanied by physical violence. Detainees at two out of the four facilities reported physical abuse.⁶⁷ One detainee reported getting punched in the head by a guard, resulting in a scar on his forehead and trouble with his vision.⁶⁸

3. Retaliatory Behavior from Guards

Detainees at each facility relayed personal and secondhand stories of guards threatening detainees with segregation for refusing to follow orders and sometimes placing detainees into segregation as a means of retaliation. For example, after the ACLU of Georgia interviewed a detainee at Stewart, he was sent directly to the segregation unit and confined for 29 days.⁶⁹ Although he was not given a reason for being put in segregation, his wife believed that he was put in segregation as a consequence of speaking to the ACLU of Georgia.⁷⁰ Other forms of retaliation include denying detainees recreation, food, law library access, or telephone privileges. In 2009 and 2011, detainees at Stewart documented instances where CCA guards sent detainees to the segregation unit for complaining about the quality of the water.⁷¹ Detainees believe that this behavior is retaliatory, and that there is a pattern of sending detainees who complain about conditions to segregation to “shut them up.”⁷²

IV. BACKGROUND: Immigration Detention in the U.S. and Georgia

A. Immigration Detention in the U.S.: An Overview

In 2010, ICE detained more than 442,000 individuals - more than double the number of detainees in 2003 when ICE was first established as an agency.⁷³ Detaining these individuals costs taxpayers \$5.5 million per day.⁷⁴ The current cost to detain an immigrant is approximately \$166 per day, and that cost is rapidly increasing.⁷⁵ For the Fiscal Year 2012, the U.S. House of Representatives has approved a budget of \$2.75 *billion* for detention and removal - over \$184 million more than the previous year.⁷⁶

Despite the current landscape, mass immigration detention is a relatively recent development. The following section discusses federal law, regulations, and events that precipitated mandatory detention of non-citizens.

1. Federal Acts

Until the 1990s, release was the norm and detention the rare exception for non-citizens facing deportation. It was not until 1996 that drastic changes in U.S. immigration laws “increased the number of people subject to mandatory, prolonged, and indefinite detention.”⁷⁷ These measures included passage of the Antiterrorism and Effective Death Penalty Act and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). These Acts amended the Immigration and Nationality Act, and most significantly made detention the norm rather than the exception for several groups of non-citizens. The Acts mandated detention for nearly all persons placed in removal proceedings due to criminal convictions as well as asylum seekers arrested at the border,⁷⁸ and limited immigration judges’ discretion to waive removal proceedings in exceptional circumstances.⁷⁹

As a result of these policies, the number of non-citizen detainees has increased dramatically. From 2003 to 2007, there was a 40% “increase in the number of non-citizens held in detention on a given day,” and the number of immigrants in detention only continues to grow.⁸⁰ This marked expansion of the use of immigration detention is partly attributable to the statutory detention rules established under IIRIRA in 1996, and partly to the increased enforcement of immigration laws following September 11, 2001.⁸¹ The increase in enforcement after 9/11 did not go unnoticed by private prison company executives. Weeks after September 11, the head of the private prison company Cornell Corrections stated while speaking to stock analysts: “It is clear that since September 11 there’s a heightened focus on detention. More people are gonna (sic) get caught. So I would say that’s positive. The federal business is the best business for us, and September 11 is increasing that business.”⁸²

Although current immigration rhetoric paints immigrants as national security threats, most immigrants do not pose any danger to public safety.⁸³ Current immigration policies, however, mandate the unnecessary detention of many immigrants facing court proceedings.⁸⁴ In fact, most

people detained in this system have not committed a crime and have not been afforded basic due process rights.⁸⁵ The Obama administration is beginning to make strides toward repairing the arbitrary and faulty immigration detention system that currently exists, but the process has been too slow.⁸⁶ In spite of the acknowledgement on the part of DHS and the Obama administration that immigrant detainees should be housed in civil facilities, not in punitive conditions (or not detained at all in certain situations),⁸⁷ and that partnerships with corporations with a history of abuse and neglect should be severed, ICE continues to contract with third-party corporations. Most facilities have neither closed down nor renovated as was hoped.⁸⁸

2. Formation of ICE

Pursuant to the Homeland Security Act of 2002⁸⁹ (Act), the functions of Immigration and Naturalization Services (INS) were assumed by Immigration and Customs Enforcement (ICE) within the Department of Homeland Security (DHS). As part of the Act, ICE became the principal immigration enforcement and detention agency in the U.S. With formation of ICE, the federal government commenced a nation-wide crackdown on removable immigrants. Embodying this strategy, ICE adopted a new strategic plan called “Operation Endgame” in June 2003. The goal of “Operation Endgame” was to remove 100% of “removable aliens” by 2012.⁹⁰ The Office of Detention and Removal’s plan has been accompanied by a massive expansion of immigration detention, even in instances where detention is not justified by flight risk or danger. The detention population today includes legal permanent residents who have lived in the U.S. their entire lives, asylum seekers, torture survivors, single mothers, the sick, and the elderly.⁹¹

3. Pathways to Detention

60% of non-citizens detained by ICE in 2009 were detained through the Criminal Alien Program (CAP) (48%) and the 287(g) program (12%).⁹² Many non-citizens detained through these programs in fact do not have criminal convictions, even though these programs are purportedly focused on apprehending non-citizens with criminal convictions of a serious nature.⁹³

a. Local Enforcement/Entanglement

CAP, 287(g), and Secure Communities are programs that create partnerships between state and local law enforcement and ICE to facilitate ICE’s enforcement of immigration laws. These programs are each seriously flawed and have led to unjust arrests, detentions, and deportations. One significant contributing factor to such consistent and distressing shortcomings in these programs, according to the Inter-American Commission on Human Rights, is that local and state law enforcement officials are given a great amount of discretion in this process. ICE does not have sufficient oversight mechanisms, such as data collection, review processes, or direct supervision in place to prevent discriminatory practices.⁹⁴

i. CAP

Each year, CAP leads to the detention and deportation of scores of undocumented immigrants with no prior criminal conviction.⁹⁵ Roughly half of the people deported each year as a result of CAP should never have been detained.⁹⁶ ICE claims that CAP helps with identification, processing, and removal of non-citizens who are incarcerated in federal, state, and local prisons and jails throughout the U.S.⁹⁷ Its purported aim is to improve public safety by preventing “serious criminal aliens” from being released into the public.⁹⁸

Regardless of the purported goals of the program, CAP has led to a shocking number of costly and sometimes unjustified detentions and deportations. The program has a history of problems.⁹⁹ In 2009, for example, well over half of the 178,605 people who were arrested and detained through CAP had no criminal convictions at all.¹⁰⁰ Since 2009, deportation numbers have continued to rise and the gap between CAP’s intended goals and CAP’s actual, devastating results is growing as well. Studies have revealed that discrimination and racism frequently cloud the judgment of local police officers participating in CAP, and as a result, non-citizens with no criminal records find themselves detained.¹⁰¹

ii. Secure Communities

In 2008, DHS introduced the Secure Communities program.¹⁰² Purportedly initiated in an effort to remove “criminal aliens, those who pose a threat to public safety, and repeat immigration violators,” the program allows fingerprints of arrested individuals, which have been forwarded to the FBI, to then be shared with DHS.¹⁰³ As of October 2011, the Secure Communities program was active in 1,595 jurisdictions in 44 states and territories. The Obama administration’s goal is to have Secure Communities activated nationwide by 2013.¹⁰⁴ Although it has long been the practice of state and local law enforcement agencies to share the fingerprints of arrested individuals with the FBI, the Secure Communities program has added a further step: if the fingerprints come from a Secure Communities jurisdiction, the FBI will send them on to DHS.¹⁰⁵ Unlike other DHS or ICE programs, the Secure Communities program does not require any local or state law enforcement officials to undergo training, and there is no official agreement or contract between the state or local jail and DHS or ICE.¹⁰⁶ If there is a match in the DHS system and the individual is deemed potentially “deportable,” ICE is immediately notified.¹⁰⁷ This database contains personal information of over 91 million individuals, including travelers, applicants for immigration benefits, those who may have violated an immigration law in the past, and even U.S. citizens who have naturalized.¹⁰⁸ Even if an individual is not “deportable,” if DHS or ICE wish to further investigate their status, ICE may issue a detainer, which is a request asking the facility to detain the individual while further investigation takes place.¹⁰⁹ Officers run a person’s fingerprints through the system after an arrest has been made, before a conviction and in some cases even before charges. The arrested individual may have never committed a crime, may be found innocent, or may have their charges dropped. Regardless, his or her fingerprints are still sent to DHS. No oversight mechanism currently exists to monitor and address abuses,

and there are indications that arrests are often made solely for the purpose of checking individuals' immigration status once in jail.¹¹⁰

The Latino community is especially hard hit by Secure Communities as a disproportionate number of Latino individuals are taken into ICE custody through this program each year.¹¹¹ Although Latinos make up only 77% of the undocumented population in the United States, Latinos made up 93% of those arrested and subsequently deported through Secure Communities in fiscal year 2011.¹¹² In addition to this disturbing fact, it has been estimated (based on ICE statistics) that since its inception, approximately 3,600 U.S. citizens have been arrested by ICE through Secure Communities.¹¹³ Furthermore, the vast majority of those detained and deported through this program are not guilty of any violent crime. Traffic violations or being present in the country without documentation is often the extent of the individual's offenses.¹¹⁴ This is in spite of the many recommendations and procedural guidelines that prioritize detaining and deporting those who have been convicted of certain crimes or felonies.¹¹⁵ Local law enforcement has also expressed concern that the communities' trust in them has been greatly diminished due to the forced implementation of Secure Communities.¹¹⁶

State governments and police officials have begun to resist implementation of Secure Communities and some states and localities have even attempted to opt out of the program.¹¹⁷ In June 2011, the Director of ICE created a Secure Communities Task Force to investigate the rising discontent of local officials with the program.¹¹⁸ The Task Force's September 2011 report caused great controversy, with five of the 19 members resigning rather than endorsing the report. Of the remaining members, some recommended that the program be suspended. Although the Obama administration has yet to take action, there is growing support across the country for termination of the program.¹¹⁹

iii. 287(g)

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA), effective September 30, 1996, added Section 287(g) to the INA, which allowed certain duties that were previously performed only by ICE officials to be performed by state and local law enforcement officials.¹²⁰ Section 287(g), commonly referred to simply as "287(g)," authorized DHS to enter into agreements with local law enforcement agencies. As long as the appropriate training and supervision are provided by ICE officers, local police, sheriff deputies, and other law enforcement officers can perform certain functions of ICE officers, with all the authority that accompanies such a role.¹²¹ The stated purpose of 287(g) was to make communities safer.¹²² Because the training and supervision have been found to be highly insufficient, even the best of reasons fails to justify such a discriminatory and error-riddled system.¹²³

1) National Statistics on 287(g)

287(g) is widely regarded as a “failed Bush experiment” that has resulted in “widespread use of pretextual traffic stops, racially motivated questioning, and unconstitutional searches and seizures primarily in communities of color.”¹²⁴ In spite of the fact that many consider 287(g) a failure, 287(g) programs continue to be utilized during the Obama administration.¹²⁵ As of fall 2011, there were 69 state and local law enforcement agencies in 24 states across the country involved in 287(g).¹²⁶ In July 2009, DHS Secretary Janet Napolitano announced the agency’s intention to implement the program in 11 new jurisdictions, including Gwinnett County, Georgia.¹²⁷ This announced expansion disappointed advocates who had hoped that the program would be shut down, given the need for better controls documented by the U.S. Government Accountability Office in their January 2009 report.¹²⁸ Since that expansion, however, a number of jurisdictions have withdrawn from their agreements, citing problems with the program such as high costs and lack of oversight as the reason for withdrawal.¹²⁹ There are eight fewer jurisdictions participating in the program now than in 2009.¹³⁰

2) Abuse of Power under 287(g)

There is a troubling history of 287(g) agreements leading to operations that are rife with human rights abuses.¹³¹ A systemic lack of oversight has enabled state and local authorities acting under 287(g) to abuse their power. Complaints of racial profiling and abusive treatment are rampant.¹³² Among the problems with the system is the lack of accountability it fosters.¹³³ Although DHS released a new Memorandum of Agreement in 2009 that was supposedly aimed at addressing problems, it “actually takes a step back, especially in terms of transparency, as it attempts to further shield 287(g) from public scrutiny by declaring that documents related to 287(g) are no longer public records.”¹³⁴ 287(g) agreements have also lessened police effectiveness working with immigrant communities, as fear of deportation has inhibited immigrants from reporting crimes.¹³⁵

A clear example of abuse of 287(g) is the actions of the Maricopa County Sheriff’s Office (MCSO) in Phoenix, Arizona. On December 15, 2011, the Civil Rights Division of the Department of Justice (DOJ) issued a report on the findings of an investigation of MCSO.¹³⁶ The report found that MCSO “engages in racial profiling of Latinos; unlawfully stops, detains, and arrests Latinos” and operates its jails in a manner which discriminates against Latinos.¹³⁷ As a result of these findings, ICE finally terminated MCSO’s 287(g) program “to ensure that ICE detainees are not subject to the violations detailed in the DOJ’s report and that ICE’s immigration enforcement programs are not inadvertently a part of constitutional abuses.”¹³⁸ Thought to be one of the most egregious departments engaged in the 287(g) program, MCSO is not an aberration. As stated above, abuses pursuant to 287(g) abound in Georgia as well.

Earlier this year, it appeared that the Department of Homeland Security was finally responding to the problems of 287(g). In its 2012 Budget Request, officials of the Department of Homeland Security stated that they will not sign new 287(g) contracts and will terminate the “least

productive” of those agreements.¹³⁹ However, in March 2012, two new 287(g) programs were announced in Knox County, Tennessee and Horry County, South Carolina.¹⁴⁰

b. Border Enforcement

On November 2, 2005, DHS announced the Secure Border Initiative (SBI), which was purportedly aimed at reducing illegal immigration and further securing U.S. borders.¹⁴¹ This initiative consisted of two phases. The first phase expanded expedited removal and created a “catch and return” initiative.¹⁴² It also focused on adding more personnel and new technology to control the borders.¹⁴³ The second phase, unveiled in 2006, expanded operations to target undocumented workers along with all non-citizens, including refugees, legal permanent residents, and others with permission to reside in the U.S., who have criminal offenses on their records, including minor offenses.¹⁴⁴ In order to reduce the number of undocumented immigrants and to “reverse American citizens’ tolerance” of the presence of undocumented workers and residents, SBI attempts to identify and remove non-citizens with criminal convictions and to deter undocumented immigrants from immigrating or working in the US.¹⁴⁵ In 2009, approximately 19% of immigrants in removal proceedings were apprehended by U.S. Border Patrol.¹⁴⁶

1) Asylum Seekers

If a non-citizen arriving at the border “indicates an intention to apply for asylum...or a fear of persecution,” an asylum officer will conduct a credible fear interview.¹⁴⁷ By statute, however, the asylum seeker must be detained not only while awaiting the credible fear interview but also while awaiting its results.¹⁴⁸ Reports have found that asylum seekers can remain in detention for months while awaiting their credible fear determination.¹⁴⁹ Detaining asylum seekers in jail-like conditions has been largely criticized as an unduly harsh practice.¹⁵⁰

Under Directive 11002.1 issued on December 8, 2009, ICE modified parole determination guidelines for asylum seekers.¹⁵¹ Under this directive, arriving non-citizens who establish a credible fear of persecution or torture are to be detained until further consideration of their application for asylum.¹⁵² They may be paroled for “urgent humanitarian reasons” or “significant public benefit,” provided that they present neither a security risk nor a risk of absconding.¹⁵³ If deemed not a flight risk, the directive then goes on to list five categories of non-citizens who may meet the parole standards based on a case-by-case determination.¹⁵⁴ These categories include (1) non-citizens who have serious medical conditions, where continued detention would not be appropriate; (2) women who have been medically certified as pregnant; (3) certain juveniles; (4) non-citizens who will be witnesses in proceedings conducted by judicial, administrative, or legislative bodies; and (5) non-citizens whose continued detention is not in the public interest.¹⁵⁵

c. Worksite Enforcement

As part of the second phase of the Secure Border Initiative, a new interior enforcement strategy was announced in April 2006. The Worksite Enforcement Unit targets employers who knowingly hire undocumented workers as well as the workers themselves. In April 2009, Secretary Napolitano announced that ICE would focus its worksite enforcement program resources on the criminal prosecution of employers who knowingly hire undocumented workers.¹⁵⁶ This would be in addition to arresting and removing undocumented workers found in the course of these worksite enforcement actions.¹⁵⁷ This marks a significant shift in ICE's approach to employers from traditional enforcement actions such as administrative fines and sanctions to bringing criminal charges and seizing unlawfully-derived assets.¹⁵⁸ In 2009, there were 1,647 administrative arrests of non-citizens in worksite enforcement operations.¹⁵⁹ This marked a 60% decrease in the number of administrative arrests of non-citizens from 2008.¹⁶⁰ This drop may be due to the focus on employers rather than employees. The Worksite Enforcement Unit, however, remains a strong way to identify and locate non-citizens in the workforce.¹⁶¹

d. Statistics Snapshot

The ICE detention system consists of “an unwieldy patchwork of detention beds, located in hundreds of facilities nationwide.”¹⁶² There has been an explosive growth in the ICE detention system within the past few years.¹⁶³ Currently DHS maintains a daily detention capacity of 33,400 detainees per day, which is a record-high number.¹⁶⁴ In 1994, the daily detainee population was 6,785.¹⁶⁵ By 2001, after the passage and implementation of IIRIRA, that number more than tripled to 20,429.¹⁶⁶ After 9/11, the number of detained immigrants grew even more. Since 2003, the number of individuals in immigration detention has increased 86 percent.¹⁶⁷

The dramatic expansion of the immigration detention industry is particularly troubling because the rates of undocumented immigrants migrating to the U.S. have actually declined sharply over the past few years.¹⁶⁸ According to Pew Hispanic Center estimates, the annual flow of unauthorized immigrants into the U.S. was almost two thirds smaller from 2007-2009 than it was from 2000-2005.¹⁶⁹ With an overall reduction of eight percent in the undocumented population, there is no reason for DHS to continually increase the number of immigration detention beds and the budget to maintain them.

The expansion of the immigration detention system is putting a serious strain on government resources.¹⁷⁰ As a result, a huge amount of federal money is being spent on immigration detention each year. Not only has ICE's immigration detention program expanded significantly, but over the past eight years, the portion of ICE's budget allocated to custody operations has doubled.¹⁷¹ These costs have only continued to grow and for its 2012 fiscal year, the House of Representatives has approved a budget of \$2.75 *billion* for detention and removal. This is over \$184 million more than the previous year and enough for ICE to keep 34,000 immigrants detained at any one time. In 2009, a study found that the daily cost of immigration detention had risen to nearly \$141 per day.¹⁷² Between 2005 and 2009, the ICE budget for custody operations

nearly doubled, from \$860 million to \$1.72 billion in taxpayer money.¹⁷³ As of November 2011, the cost to detain an immigrant was even greater: approximately \$166 per day.¹⁷⁴

These numbers are not only staggeringly high, but the system is also inefficient. The current cost of \$166 per day is over 18 times greater than the \$8.88 per day that more humane alternatives to detention programs would cost.¹⁷⁵ Part of this is due to the fact that an alarmingly increasing number of immigration detention facilities are run by private companies and not by the U.S. government. As a result, immigrant detention is run as a for-profit business. However, as a recent ACLU report found, it is the private prison industry, not the American public, that profits from the ever expanding, unregulated immigration detention system in the U.S.¹⁷⁶ This tension between profit-making and efficiency has undermined human needs and protection of human rights.¹⁷⁷

Half of the immigrant detainee population was housed in private contract facilities in 2009.¹⁷⁸ Currently, CCA alone has a capacity of 90,037 beds across the country.¹⁷⁹ Most recently, ICE requested that its budget for FY 2012 be increased by more than \$50 million from FY 2011; this increase includes an allocation for 34,000 daily immigration detention beds, up from 33,400 last year.¹⁸⁰ Since the control of private prison corporations over the immigration detention industry only continues to grow, those extra 600 beds are likely to be operated by companies such as CCA.

In addition to these high costs, the human cost of detention is also unaccounted for. Detaining non-citizens across the U.S. takes fathers and mothers away from their children for long and undetermined periods of time. Detention limits non-citizens' rights, privacy, and ability to work, and puts emotional and economic strains on families. Since 2003, more than 120 immigrant detainees have died in ICE custody.¹⁸¹ Surrounding these deaths was evidence of poor hygiene, inadequate medical care, and inadequate attention from the guards.¹⁸² Because a systematic lack of oversight and transparency persists in immigrant detention facilities, the causes underlying these deaths and suicides are at times difficult to uncover.¹⁸³

Both the monetary and human costs of detention could decrease significantly if ICE were to employ alternatives to detention on a national level. Various factors contributing to cost reduction include curtailing lengthy periods of detention, reducing litigation, and preventing overcrowding of facilities.¹⁸⁴ Currently, pursuant to a Congressional directive, ICE operates three approved Alternative to Detention (ATD) programs.¹⁸⁵ They include: Intensive Supervision Appearance Program,¹⁸⁶ Enhanced Supervision Reporting,¹⁸⁷ and Electronic Monitoring.¹⁸⁸ In its 2009 directive, ICE prioritized the use of ATD programs in the next two years.¹⁸⁹ However, these ATD's have yet to be implemented on a national scale. In ICE's April 2010 report to Congress, it was stated that ATD's cost ICE on average \$8.88 per day per individual, which is \$110 a day less than what it costs to detain individuals.¹⁹⁰ However, ICE still has not expanded its ATD programs and the requested fiscal year 2012 budget for detention is 28 times its requested budget for ATD.¹⁹¹ In addition to ICE ATD's, a number of community-based programs have also been successful.¹⁹²

B. Overview of Immigration Detention in Georgia

This report focuses on the four immigration detention facilities in Georgia: the Stewart Detention Center (Stewart), North Georgia Detention Center (NGDC), Irwin County Detention Center (Irwin), and Atlanta City Detention Center (ACDC). ACDC is run by the City of Atlanta. The other three facilities, Stewart, NGDC, and Irwin, are run by private corporations.

The problem of privately run facilities was documented in DHS's report on immigration detention in 2009.¹⁹³ DHS's report included a recommendation that ICE "create capacity within the organization to assess and improve detention operations and activities without the assistance of the private sector."¹⁹⁴ In a press release following the report, DHS and ICE committed to this goal by announcing increased oversight over detention facilities and decreasing the number of privately run facilities.¹⁹⁵ DHS and ICE also committed to reducing reliance on detention in jails and jail-like facilities,



and instead providing alternative facilities more suitable to civil detention.¹⁹⁶ ICE also announced that it would contract with and build detention facilities near urban centers in order to reduce the number of transfers to remote communities and also allow detainees better access to legal counsel.¹⁹⁷

However, three of the four Georgia immigration detention facilities in Georgia are however operated by private companies. This includes Stewart, the largest detention center in the U.S.¹⁹⁸ Besides the CCA-run NGDC and Stewart, Irwin County Detention Center is run by Detention Management, LLC. Located in a rural community in southern Georgia, the facility came under the management of Detention Management, LLC in 2009 and began housing immigrant detainees in December 2010, contradicting ICE and DHS's announced policy of reducing their reliance on private, for-profit detention facilities and locating facilities in urban centers.

1. Georgia's Immigration Detention Facilities

- Stewart Detention Center (Stewart) is a 1,725-bed medium security all male facility in Lumpkin, Georgia.¹⁹⁹ Stewart is the largest immigration detention facility in the nation.²⁰⁰ Stewart has been under Corrections Corporation of America (CCA)'s management since 2006.²⁰¹
- North Georgia Detention Center (NGDC) is a 502-bed male and female facility in Gainesville, Georgia that has been under CCA management since 2009.²⁰²

- Irwin County Detention Center (Irwin) is a 1,201-bed male and female facility located in Ocilla, Georgia. Of those 1,201 beds, 512 are for immigrant detainees. Irwin opened in 2009, but it was not until December of 2010 that it began to house immigrant detainees. Irwin's staff is all employed by Detention Management, LLC.²⁰³

- Atlanta City Detention Center (ACDC) is a 1,300-bed facility for male and female detainees in Atlanta, Georgia. The facility is managed by the Atlanta Department of Corrections. The Atlanta Department of Corrections contracts with the U.S. Marshal Service and ICE to house up to 300 immigrant detainees.

2. Pathways to Detention in Georgia

The majority of immigrant detainees interviewed were detained after being stopped for traffic violations throughout Georgia. At Stewart, 14 detainees were stopped for traffic violations or apprehended at roadblocks in Cobb, DeKalb, Gwinnett, Houston, and Whitfield counties. In addition, five detainees were arrested in North Carolina at traffic stops or roadblocks. Only one interviewee of 68 was stopped while trying to enter at the border. At NGDC, four detainees were detained through traffic stops in Hall County, one at a traffic stop in DeKalb County, and one at a traffic stop in South Carolina. One female detainee was arrested by local Gainesville police after calling in a domestic violence complaint against her husband. At Irwin, five detainees were arrested throughout Georgia by local police officers. At ACDC, one detainee was detained at the border when he asserted his asylum claim. Two detainees were arrested in North Carolina. Five detainees were picked up by local police for traffic stops, arrest warrants, or calling the police to report a crime.

a) Local Enforcement Programs

i. Secure Communities in Georgia

Georgia activated the Secure Communities Program on November 17, 2009.²⁰⁴ In September 2011, 43 Georgia counties were participants in the program.²⁰⁵ However, on December 6, 2011, the remaining 116 counties from across Georgia joined the Secure Communities Program, making all 159 counties in Georgia participants in the program.²⁰⁶ As of December 31, 2011, 4,788 individuals had been removed or returned pursuant to Secure Communities.²⁰⁷ In December 2011, Clayton, Cobb, DeKalb, and Gwinnett had the largest number of total removals among all 159 Georgia counties.²⁰⁸ Gwinnett had the largest number of removals with 1,912 cases, accounting for 40% of all removals under the Secure Communities program in Georgia.²⁰⁹

ii. 287(g) in Georgia

Four counties in Georgia participate in 287(g): Cobb, Gwinnett, Hall, and Whitfield.²¹⁰ In 2010, the number of detainees put into deportation proceedings pursuant to 287(g) was: 2,011 in Cobb, 2,545 in Gwinnett, 755 in Hall, and 581 in Whitfield.²¹¹

b) Out-of-State Transfers to Georgia Facilities

Because the number and size of detention facilities in certain regions or circuits are not consistent with the number of non-citizens being arrested and detained in those locales, ICE has to rely on high numbers of costly, long-distance transfers to house detainees.²¹² The state of Georgia²¹³ and the Stewart Detention Center in particular receive more transfers than almost any other state or facility.²¹⁴ As of June 2011, Georgia received the fourth highest number of transferred detainees, that is, 9% of all transfers. Transfer is expensive. In addition to actual transfer costs, other costs associated with transfers include prolonged detention, duplicate medical and intake screenings, additional court time or court delays, and administrative paperwork.²¹⁵

In 2009, 52% of ICE detainees experienced at least one transfer. Between 1998 and 2010, 2 million detainees, or 40% of the total number of detainees, were transferred at least one time. The average distance of a transfer was 370 miles, with some common transfer routes covering over 1000 miles. Over 46% of those 2 million detainees were transferred more than once.²¹⁶ From 2004 until 2009, the number of detainee transfers tripled.²¹⁷ This has had a devastating impact not only on the family and community support systems for these men and women, but also on attorney-client relationships, which can be virtually impossible to maintain over such distances.²¹⁸ Also, once a detainee was transferred, his or her chances of spending a long period of time in detention greatly increased. Detainees who were transferred at least once typically spent an average of triple the amount of time in detention compared to those who had never been transferred.²¹⁹ Detainees who were transferred also experienced a greater chance of deportation: 74% of detainees who were transferred at least once were eventually deported, compared with 54% of those who were never transferred.²²⁰

Transferred detainees are at a disadvantage when seeking release; the opportunity for voluntary departure, parole, or a termination of removal proceedings are less likely to occur for a transferred detainee. Detainees who have been transferred long distances, as is the case for detainees who are transferred from North Carolina to Stewart, are less likely to prevail at bond hearings.²²¹ As a 2011 report from Human Rights Watch noted, a detainee can more successfully prove that he or she is not a flight risk when “evidence of family relationships and community ties” can be presented. For a detainee who has been moved hundreds of miles from that family or community, such proof is almost impossible to present.²²²

3. The Prison Corporations: CCA and Detention Management, LLC

a) Corrections Corporations of America

Corrections Corporations of America (CCA) is the largest private prison company in the U.S.²²³ In 2010, CCA earned almost \$1.7 billion.²²⁴ Since CCA's founding in 1983, it has grown to manage approximately 75,000 detainees including males, females, and juveniles at all security levels.²²⁵ Headquartered in Nashville, Tennessee, CCA has contracts to manage facilities in more than 60 institutions in 19 states and in Washington, DC.²²⁶ CCA currently manages 5 facilities in Georgia, including Stewart, NGDC, and the McRae Correctional Facility.²²⁷

In 2009, a 39 year-old man detained at the Stewart Detention Center, Roberto Medina Martinez, died of myocarditis,²²⁸ an inflammation of the heart muscle that is usually caused by a viral infection and is often treatable.²²⁹ Unfortunately, this is not an isolated incident of potential neglect or abuse at a CCA-owned or operated facility. CCA has had a reputation for poor management and turning a blind eye to abuses within its facilities for over 30 years.²³⁰ In 2010, CCA settled a lawsuit out of court over its operation of a facility in Idaho where staff failed to protect detainees from violence inflicted by other prisoners.²³¹ It has been alleged that detainees at CCA-operated facilities have in some cases died as a result of inadequate health care.²³² The disciplinary procedures at CCA facilities can be haphazard and arbitrary, extremely harsh, or completely unwarranted.²³³



b) Detention Management, LLC

Detention Management, LLC is a private, for-profit detention corporation based in Atlanta, Georgia. The company began operating the Irwin County Detention Center in Ocilla, Georgia, in 2010. Detention Management, LLC is Irwin County's largest private employer according to the Chairman of the Irwin Board of Commissioners. The Chairman also noted: "The more detainees that we can get will be better for our facility."²³⁴

V. LEGAL STANDARDS OF DETENTION

This report analyzes conditions of detention based on three sets of standards: ICE standards, constitutional standards, and international human rights standards. Although ICE's standards are non-binding, they are promulgated by the Department of Homeland Security and set forth aspirational standards for every immigration detention facility. Currently, the review process is completely internal and the only agency that evaluates facilities is ICE. Thus, it is imperative to assess the facilities not only according to ICE standards but also constitutional standards as set forth in the Fifth, Eighth, and Fourteenth Amendments of the U.S. Constitution, guaranteeing rights to all individuals including non-citizens.²³⁵ Finally, international human rights standards are relied upon, as there are rights which have reached the status of customary international law that are universally applicable to all human beings and must be protected by all countries. In addition, international and regional conventions and treaties which the U.S. has signed and ratified are binding upon the U.S.

A. ICE Standards

There is very little federal regulation addressing conditions of confinement for ICE detainees. However, since ICE is a division of DHS, under Title 8 U.S.C. § 1103(a)(2), the Secretary of Homeland Security has the authority to regulate conditions of confinement for immigrant detainees.²³⁶ Pursuant to this authority, DHS has set forth guidelines for ICE in the Detention Operations Manual.²³⁷ In 2000, ICE released its National Detention Standards (NDS), which consisted of 38 standards.²³⁸ In 2008, ICE replaced these standards with the "Performance Based National Detention Standards" (PBNDS 2008), which were supposed to take effect in all ICE facilities by January 2010.²³⁹ The PBNDS 2008 created 41 performance-based national detention standards, all targeting oversight and well-being of the detainees in custody while they awaited a determination in their removal proceedings or removal.²⁴⁰

PBNDS 2008 is organized according to seven categories: Safety, Security, Order, Care, Activities, Justice, and Administration and Management. Within these sections are subsections that address most aspects of detainee life including food, housing, recreation, medical care, and discipline.

Although the standards are not enforceable, ICE reviews facilities' compliance with PBNDS 2008. Despite recent efforts to either make these standards binding or put forth new binding standards, they remain non-binding. In addition, not all of the standards are applicable to Intergovernmental Service Agreements.²⁴¹ One of ICE's main detention reform goals in 2010 was to release new standards.²⁴² Although ICE did not release new standards in 2010, it did release the Performance-Based National Detention Standards 2011 (PBNDS 2011) in February 2012.²⁴³ The stated purpose of PBNDS 2011 is "to improve medical and mental health services, increase access to legal services and religious opportunities, improve communication with detainees with limited English proficiency, improve the process for reporting and responding to

complaints, reinforce protections against sexual abuse and assault, and increase recreation and visitation.”²⁴⁴ Since these standards do not yet uniformly apply to all detention facilities, this report analyzes conditions based on PBNDS 2008.²⁴⁵

B. Constitutional Standards

It is well established that non-citizens have due process rights under the Fifth and Fourteenth Amendments of the U.S. Constitution. The U.S. Supreme Court has held that provisions of the Fourteenth Amendment “are universal in their application, to all persons within the territorial jurisdiction, without regard to any differences of race, or color, or of nationality.”²⁴⁶ The Supreme Court expanded upon this holding in 1976 when it held that every non-citizen was entitled to due process, “even one whose presence in this country is unlawful, involuntary, or transitory.”²⁴⁷

The Supreme Court has further stated: “Prison walls do not form a barrier separating prison inmates from the protections of the Constitution.”²⁴⁸ Immigrant detainees depend on the facilities to provide basic human needs such as adequate living conditions, food, and medical treatment, which are constitutionally mandated. The Eighth Amendment, made applicable to the states by the Fourteenth Amendment, demands that no incarcerated persons receive cruel and unusual punishment. A claim under the Eighth Amendment exists when: (1) a prisoner is deprived of a basic human need,²⁴⁹ and (2) the defendant acted with deliberate indifference.²⁵⁰

Under the Fifth Amendment, non-citizens have basic due process rights in removal proceedings.²⁵¹ Because removal proceedings are civil in nature rather than criminal, there is no constitutional right to government-funded counsel for indigent immigration detainees.²⁵²

If an immigration judge or Board of Immigration Appeals issues a final order of removal, IIRIRA mandates that ICE detain non-citizens during the 90-day “removal period.”²⁵³ Removal is typically required within 90 days after the final order of removal is entered.²⁵⁴ Often detention continues for far longer than 90 days due to delays in procuring travel documents or situations where the U.S. does not have repatriation agreements with a non-citizen’s country of origin.²⁵⁵ This type of prolonged detention deprives individuals of their fundamental right to liberty without sufficient justification or adequate procedural safeguards.²⁵⁶ The U.S. Supreme Court has held that once a final order of removal has been issued, a period of detention exceeding six months is not a “reasonable time” if there is not a significant likelihood of removal.²⁵⁷ Since the decision in *Zadvydas v. Davis*, DHS updated its regulations to include a provision that if 90 days have passed since receiving a final order of removal, DHS must assess: (1) whether the non-citizen poses a flight risk or threat to public safety, and (2) whether removal is imminent because travel documents have been or will soon be obtained.²⁵⁸ If a non-citizen remains detained for six months, DHS conducts a second review inquiring whether removal of the non-citizen in the near future appears reasonably foreseeable.²⁵⁹

C. Regional and International Human Rights Standards

In addition to ICE and constitutional standards, immigrant detainees are also afforded rights under the international human rights framework. Viewing treatment of detainees through the lens of human rights provides a framework of rights that are inalienable and universally applicable to all people. Under human rights pedagogy, international standards place minimum conditions on all states regarding treatment of individuals



and groups. Analyzing treatment of detainees through the human rights corpus seeks to enforce minimum conditions that every human being is entitled to by virtue of being a human being. Since these rights are inalienable, an individual cannot lose these rights even when he or she is detained.²⁶⁰

The sources of international human rights law include binding conventions that the U.S. has signed and ratified, regional treaties, customary international law, and United Nations Principles. In addition, the U.S. also has an obligation to aspire to comply with resolutions and declarations to which the U.S. is a signatory. These norms set forth minimum standards to be afforded to detainees, including the right to personal liberty, due process and access to justice, humane treatment during detention, as well as equality and nondiscriminatory practices. These principles are codified in both regional and international law.

Among international human rights instruments the U.S. has signed and ratified are the International Covenant on Civil and Political Rights (ICCPR),²⁶¹ Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention),²⁶² International Convention on the Elimination of All Forms of Racial Discrimination (CERD),²⁶³ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),²⁶⁴ and the 1967 Protocol to the 1951 Convention Relating to the Status of Refugees.²⁶⁵ The U.S. is also signatory to the Universal Declaration of Human Rights (UDHR), which is now considered a central instrument of customary international law and is thus binding on all states.²⁶⁶ Although not binding law, the U.S. is also signatory to the UN Standard Minimum Rules for the Treatment of

Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (UN Body of Principles).²⁶⁷

In addition to international standards, the U.S. is also part of the regional body of the Organization of American States (OAS), which is made up of the 35 permanent states of the Americas.²⁶⁸ Within the OAS, the Inter-American Commission on Human Rights (IACHR) is entrusted with promoting and protecting human rights.²⁶⁹ As part of the OAS, the U.S. has signed the American Convention on Human Rights (American Convention),²⁷⁰ American Declaration on the Rights and Duties of Man (American Declaration),²⁷¹ and the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas (Inter-American Principles on Detention).²⁷²

Embodied in these regional and international treaties, conventions, and declarations are fundamental human rights. They include: 1) the right to personal liberty;²⁷³ 2) the right to due process and access to justice;²⁷⁴ 3) the right to humane treatment during detention,²⁷⁵ which includes a) the right to medical care, b) the right to be notified of transfer to other detention facilities, c) the right to have trained and qualified personnel and independent supervision, and d) the right to established disciplinary policy and due process; 4) the right to equality and non-discriminatory practices;²⁷⁶ 5) the right not to be subject to torture or cruel, inhuman, or degrading treatment or punishment;²⁷⁷ and 6) the right to seek asylum and non-refoulement.²⁷⁸ In addition, the UN High Commission for Refugees has specific guidelines relating to the detention of asylum seekers.²⁷⁹

The UN Special Rapporteur on the Human Rights of Migrants has stated: “[W]hile international law recognizes every State’s right to set immigration criteria and procedures, it does not allow unfettered discretion to set policies for detention or deportation of non-citizens without regard to human rights standards.”²⁸⁰

VI. FINDINGS

The following section documents the ACLU of Georgia's specific findings based on interviews conducted at Stewart, NGDC, Irwin, and ACDC as well as interviews with family members of detainees, review of documents obtained as result of FOIA requests, and tours of the facilities. This section is divided into two parts. The first section addresses due process concerns during the removal proceedings pertaining to ICE and the immigration court. The second section addresses concerns specific to each detention facility.

A. Removal Due Process Concerns

This section discusses due process violations at immigration court and by ICE officers at the facilities. Violations include coercion by immigration judges and deportation officers to get detainees to sign stipulated orders of removal, overburdened court dockets, delays in the removal process, failure to provide pro bono representation information, and lack of adequate language access for non-English speaking detainees.

1. Immigration Court

There are two immigration courts in Georgia: the Stewart Immigration Court in Lumpkin and the Atlanta Immigration Court in Atlanta.²⁸¹ Detainees at Stewart appear before the Stewart Immigration Court. All other detainees at NGDC, Irwin, and ACDC appear before the Atlanta Immigration Court. The following sub-sections outline due process concerns.

a. Stewart Immigration Court

The following issues seriously affect immigration detainees' right to due process: barriers to legal representation; overcrowded dockets that cause delays in detainees' immigration cases and bond hearings, thereby increasing the length of detainees' confinement; coercion by deportation officers; and inadequate access to available pro bono legal services.

Stewart has four courtrooms and three immigration judges on site. Presiding judges are the Hon. Barry Chait, Hon. Sandra Arrington, and Hon. Dan Trimble.²⁸² From FY 2007 to FY 2010, the national number of cases before immigration courts increased by 17 percent.²⁸³ At Stewart, the increase in cases between 2009 and 2010 alone was a staggering 27 percent, putting Stewart among the busiest immigration courts across the country.²⁸⁴ A recent report showed that in FY 2011, the Stewart Immigration Court issued 8,731 removal orders, giving it the highest removal rate in the country at 98.8 percent.²⁸⁵ As the court with the highest number of removal orders in the country, Stewart is the main contributor to making Georgia the state with the third largest number of deportation orders in the country.²⁸⁶ This increasingly high number of removal orders paired with the fact that few detainees at Stewart have legal representation raises serious concerns about whether detainees' due process rights are preserved during the removal process.

i. Barriers to Legal Representation

Only 43% of non-citizens in immigration court proceedings were represented in 2010.²⁸⁷ Legal representation for detained non-citizens numbered at 16% in 2008 and at less than 20% at 2010.²⁸⁸ Of the 28 interviews the ACLU of Georgia conducted at Stewart, only two detainees, Josue Cervantes and Ido Yelkal, had legal representation. This is well below the national average.²⁸⁹ Ido, who had been detained for over two years at the time of our interview, eventually let his attorney go because he could not afford to retain his services.²⁹⁰

1) Stewart's Remote Location

One of the main reasons why legal representation for detained individuals is scarce is because the majority of immigrant detainees are housed in facilities in rural locations far away from their homes and legal representation.²⁹¹ One immigration attorney reported that the biggest problem with Stewart is the remote location of the detention facility, which he believes is at least in part by design. "It's so remote that you can't even send overnight mail there."²⁹² This is particularly problematic since Stewart only accepts documents via mail and not by fax.

"Far distances hinder in two ways. Normally it takes an attorney from Atlanta the whole day to deal with a detained client. Also, the attorneys must charge for the whole day when they have consultation or court hearings. Most immigrants in detention are the working poor. It is cost prohibitive to hire an attorney to do the job properly. If they're lucky, the lawyer may be able to appear telephonically. The attorney does not have to charge so much for that, but you're stuck in office the entire day. In order to prepare the client, the attorney must travel.

100% of the cases I've fought at Stewart have not been paid and won't be repaid...I will never see those clients again. Attorneys must really think twice about taking Stewart clients...sometimes you just have to turn them down. The financial aspect is one consideration. Another is access to family and documents—since the client is so far away, the family can't get there. Family visits are limited. I fought one case with just half of the evidence because my client couldn't help with documentation.

There are other evidentiary problems with distance, like in the case of experts. Obtaining an expert physician to look at scars or conduct physiological evaluations is not possible. The family can't afford to pay a doctor to go visit a client at a jail so far away. I understand that detention centers aren't popular and that it's not easy to open them close to the city. But do they have to be so far away?"

– Atlanta-based immigration attorney²⁹³

Faced with these obstacles, the majority of detainees at Stewart are unrepresented. For those who do not have legal representation, the only resources are presentations by Catholic Charities, a "Know Your Rights" video, and handouts provided by the court.²⁹⁴ The Stewart Detainee

Handbook states that there is a “Know Your Rights” presentation given by volunteer legal representatives, and that the schedule is posted at the dorms.²⁹⁵ According to Jennifer Bensman, Program Director for Immigration and Legal Services at Catholic Charities, the organization provides a legal orientation program for all new arrivals at Stewart and NGDC.²⁹⁶ This training is meant to enable the detainees to represent themselves *pro se*.²⁹⁷ Catholic Charities has presentations almost every day at the courtrooms at Stewart, and that they see between 400-500 detainees a month. Catholic Charities also takes a few cases for individual representation. As of November 2011, Catholic Charities attorneys represented a handful of detainees at Stewart.²⁹⁸

With Catholic Charities only representing a small number of detainees, and because most detainees cannot afford representation, the majority of Stewart detainees are unrepresented. As a result, according to one Atlanta-based attorney: “People just accept deportation. . . because families can’t afford to hire an attorney or they are tired of being detained and waiting for court hearings.”²⁹⁹ Even those who do have legal representation often are only represented telephonically. An Atlanta-based immigration attorney commented: “If I came to Stewart for every court appearance my client would be bankrupt.”³⁰⁰

2) Telephonic Hearings and Telephone Access

Attorneys who represent clients at Stewart communicate with their clients primarily through telephone and represent their clients at immigration court through telephonic hearings. One Atlanta-based attorney told us that the phones at Stewart are unreliable: “Clients are not always able to call from Stewart. For a while, calls will come through and then won’t come through.”³⁰¹

Stewart Immigration Court allows attorneys to enter appearances via telephonic hearings.³⁰² However, beyond the problem of losing face-to-face contact with the judge, prosecutor, and client, some technical issues have also been documented.

“Stewart is willing to provide telephonic hearings; however, there have been multiple miscommunications that resulted in the revocation of my right to carry out telephonic hearings. For example, I told the court that I would be in my Gainesville office on a certain day, and they nonetheless called my Atlanta office. Then the next day the court called my Atlanta office when I told them I would be in Gainesville, in spite of my office doing everything humanly possible to let those people know where I would be. And in spite of the fact that this was the court staff’s or judge’s error, I was required to appear in person for telephonic hearings as punishment for not having been available for those calls. The court in Stewart has been known to use denying motions for telephonic hearings to punish attorneys. I have borne the brunt of this, as have other attorneys. The court will also call at times that are different than when they said they would call (e.g. 2 p.m. vs. 8 a.m.)”
-Duane, Gainesville-based immigration attorney³⁰³

All of these factors contribute to the low rate of legal representation at Stewart, illustrating the barriers detainees at rural facilities face in securing representation. As noted by ICE’s Dr.

Schriro, the highest rate of transfer is to facilities where there are few pro bono services, located far from cities where there is a larger number of immigration attorneys.³⁰⁴

ii. Overcrowded Dockets

With the high volume of cases at Stewart, there are necessarily long delays and overcrowded dockets. The biggest problem with the backlog at Stewart is that the longer non-citizens sit in detention, the more likely they are to accept removal orders to avoid further detention. One attorney told us: “My biggest problem with the process is that people are just taking orders of removal. They just accept deportation even though they are eligible for relief. There have been slam-dunk cases where relief would have been granted, but because of the expenses and the restlessness detainees face from being at the detention centers for so long, they just give up.”³⁰⁵

1) Unknown/Rescheduled Court Dates

Instances of waiting for months at Stewart before appearing before an immigration judge are well documented. In July 2008, Juan had been at Stewart for almost a month and still did not have a court date scheduled.³⁰⁶ In 2009, Jose Vallejo was detained at Stewart for over four months (from April 15, 2009 to August 17, 2009) and still had not seen an immigration judge.³⁰⁷ In July 2009, Ido Yelkal, a young Ethiopian man seeking asylum in the U.S. after several members of his family disappeared, were murdered, or were kidnapped because of their political views, arrived at Stewart.³⁰⁸ Over two years later, with an asylum application still pending, Ido was still detained at Stewart.³⁰⁹ As of August 2011, he had not been before a judge in over eight months, and was unsure when he was going to have a chance for a hearing.³¹⁰ In 2010, Pedro Guzman Perez had three different court dates scheduled throughout his first two months at Stewart.³¹¹ All were cancelled by the judge.³¹² When asked if he knew why his hearings were cancelled, Pedro responded that he was never given a reason.³¹³ Ugochukwu Ehienuo, a 23-year-old Nigerian, was detained at Stewart since July 2011.³¹⁴ As of September 27, 2011, Ugochukwu had still not seen an immigration judge.³¹⁵ Ugochukwu also related other detainees’ experiences of going to court, where there were 100 detainees scheduled for hearings, and the judge could only do about 50 and then canceled all the rest.³¹⁶ Most recently, in October 2011, Josue Cervantes waited three weeks from his arrival at Stewart to his first appearance in court.³¹⁷

2) Incomplete Notice to Appear (NTA)

A common trend among detainees interviewed is that their Notice to Appear (NTA) did not have a time and date for their court hearing. This is troublesome because without a hearing date, detainees do not have adequate time to prepare a case or procure counsel to enter an appearance. Upon being transferred to Stewart in July 2011, Ugochukwu Ehienuo received a NTA with no set hearing date.³¹⁸

3) Bond Concerns

Detainees' two main complaints about bond are the delay in having a bond hearing and the high and variable bond amounts. Javan Jeffrey was detained on June 3, 2011 and did not have a bond hearing until June 19 which was 16 days after he was initially detained.³¹⁹

“The whole process is like a kidnapping because no one is given access to justice, no one is placed before the judge, and no one is given a bond hearing. You are just left in limbo.”
–Omar Ponce³²⁰

Immigration attorney Carolina Antonini commented on the vastly different approach in bond amounts in Georgia versus other courts across the country.³²¹ She believes that there are people who have excellent cases, but are denied bond or forgo bond because they can't pay the cash.³²² Ms. Antonini told the ACLU: “We have outrageous bond levels. Not all detainees are eligible for bond, but the ones who are eligible are sometimes unable to be bonded out because the amount is so high...and it's a cash bond. This means that the family must come up with cash and it just doesn't make any sense.”³²³ Another attorney, who wished to remain anonymous, said that requiring a \$5,000 bond for driving without a license is ridiculous, and families lose all of their savings trying to get their family member out of jail.³²⁴

In addition, one detainee was denied bond while he was litigating his case for immigration relief.³²⁵ Pedro Guzman Perez applied for relief to stop his removal proceedings under the Nicaraguan Adjustment and Central American Relief Act and was not let out on bond while his case was pending.³²⁶ As a result, he was held at Stewart for 19 months before he was released to re-unite with his U.S. citizen wife and 4-year-old son still living in North Carolina.³²⁷ Pedro stated: "After twenty 20 months away from home, you lose faith, you feel worthless, this place breaks you, it is made to break your soul.”³²⁸ The constant screaming and verbal abuse the guards inflict on the detainees is "just made to break your soul and handicap you.”³²⁹

iii. Inadequate Legal Information

Individuals are only given the list of pro bono services at Stewart's Immigration Court if they tell the immigration judge that they wish to fight their case.³³⁰ When Jaime Lara received his NTA in July 2010, he was not provided with a listing of pro bono legal services.³³¹ An attorney told us that even if such a list exists, it is only in English.³³² Article 8 of the American Convention entitles a detainee to “the right...to be assisted by legal counsel of his own choosing.”³³³ Failure to notify detainees of pro bono legal resources and services denies them access to their due process right to be assisted by counsel.

b. Atlanta Immigration Court

Detainees at NGDC, Irwin, and ACDC have removal hearings at the Atlanta Immigration Court. Through interviews with detainees, the following problems have been documented: due process violations including immigration judges pressuring detainees to sign stipulated orders of removal, a new ICE policy which effectively prevents communication between clients and their attorneys before removal hearings, delays in the removal process resulting in extended periods of detention, and lack of adequate language access for non-English speaking detainees who often cannot understand or communicate effectively during their removal proceedings. Finally, the ACLU of Georgia found that conditions of transport between Irwin and the Atlanta Immigration Court are particularly troubling.

i. Immigration Judges Have Attempted to Get Detainees to Sign Stipulated Orders of Removal

The ACLU of Georgia interviewed two detainees who stated that they were pressured by immigration judges in Atlanta to sign stipulated orders of removal. Dung Dang, a Vietnamese detainee, stated that he was “basically ordered” to sign a removal order on April 5, 2011 when in front of an immigration judge.³³⁴ Despite having signed the order over two months ago, Dung was still detained at NGDC.³³⁵ Dung was told by other detainees that if you do not sign, they will keep you there indefinitely.³³⁶ Also at the Atlanta Immigration Court, a judge tried to get Cristian Morales to sign a voluntary departure order, which he refused to do.³³⁷ Cristian explained: “This happens all the time,”³³⁸ referring to non-English speakers being coerced to sign removal orders they don’t even understand. Cristian believes that the judge only began to “treat him like a human” after he showed that he could speak English.³³⁹

These two instances appear to violate international law. Non-citizens have basic due process rights during removal proceedings.³⁴⁰ These include the right to representation and to have explained to them the availability of free legal resources.³⁴¹ In addition, both the ICCPR and the American Convention grant all persons, no matter what type of proceeding they are in, the following due process rights: 1) the right to a hearing, with due process guarantees and within a reasonable time, by a competent, independent, and impartial tribunal; 2) prior notification in detail to the accused of the charges against him; 3) the right not to be compelled to be a witness against oneself or to plead guilty; 4) the right of the accused to be assisted by legal counsel of his own choosing and to communicate freely and privately with his counsel; 5) the right of the defense to examine witnesses present in court and to obtain their appearance as witnesses, experts or other persons who may throw light on the facts; and 6) the right to appeal the judgment to a higher court.³⁴² The IACHR has found that the rights set forth in Article 9 of the American Convention “establish a baseline of due process to which all immigrants, whatever their situation, have a right.”³⁴³ Attempts to coerce non-citizens to sign stipulated orders of removal before having had an opportunity to consult with counsel violate non-citizens’ rights under the U.S. Constitution and under international human rights law.

ii. ICE's New Policy Prevents Attorneys from Speaking to Their Clients Prior to Their Hearings

In January 2012, an attorney informed the ACLU of Georgia of a new problem at immigration court in Atlanta:

“In the last few weeks, ICE officers escorting detainees to court have prevented all attorneys from having any conversations with their clients before or after their case is called. Apparently this new policy was enacted because the wife of a detainee gave him something he shouldn't have had in jail. This policy has prevented us from both gathering necessary information before going in front of the judge and explaining the outcome of hearings afterwards. Also, this procedure has slowed down the docket because we are now forced to request time to speak with our client while we are in front of the judge. I've seen some of the judges step out for 10 to 15 minutes while we explain voluntary departure to our clients.” –Attorney Julio Moreno³⁴⁴

This new practice is problematic because, as noted earlier, detainees often have trouble communicating with their attorneys while in detention due to faulty phone services, detention centers' remote locations, or lack of contact visits. The time before a hearing is critical for an attorney to be able to communicate with their client and explain to them the nature of the proceedings. In addition, this new policy only exacerbates the situation with the already backlogged dockets. This is especially problematic for detainees from Irwin who have to travel the farthest for their court appearances.

iii. Delays in the Removal Process

Detainees awaiting hearings at the Atlanta Immigration Court reported long wait times in their removal cases. After having been detained for two months, Dung Dang never received a Notice To Appear (NTA).³⁴⁵ Similarly, Jose Cruz Morales was arrested April 30, 2011 and as of June 29, 2011, he still had not seen an immigration judge, received an NTA, or spoken to a deportation officer.³⁴⁶ In June 2011, Fredin Toledo had been at NGDC for more than a month and still had not gone before an immigration judge.³⁴⁷ Fredin was supposed to be transferred to Stewart and was told by his deportation officer that he would have to wait to see a judge until he was at Stewart.³⁴⁸ In fall of 2011, Florent Kalala was detained for 52 days at Irwin before his first court hearing.³⁴⁹

Delays in the removal process only make it easier to get detainees to sign stipulated orders of removal. Fredin Toledo said he felt pressured to sign the stipulated order of removal.³⁵⁰ “I was desperate after being jailed for so long. I'd rather just leave this country and be free.”³⁵¹ He added: “With so many others in the same boat, the only thing to do is to resign oneself and sign.”³⁵² These delays are also problematic because the longer a non-citizen is detained, the more profit the private prison company makes, since their contracts with ICE are on a per diem basis. Thus, there is an inherent tension between profit-making incentives for private prison companies,

such as CCA and Detention Management, LLC, and holding non-citizen detainees for as little time as necessary.³⁵³

iv. Foreign Language Speaking Detainees at a Disadvantage during the Removal Process

Edith Ornelas Mejia lived in Georgia for seven years before being detained.³⁵⁴ Edith became a single parent at the age of 16 and came to the U.S. to be able to support her son.³⁵⁵ She was arrested on July 6, 2011 at a traffic stop. She was taken to the Gwinnett County Jail and transferred to NGDC later that same day.³⁵⁶ Edith received her NTA on July 7, 2011; however, it was all in English except for a separate list of pro bono legal services.³⁵⁷ Since Edith could only read Spanish, she did not understand what the document was when she signed it.³⁵⁸

Foreign language speakers are also at a disadvantage during their removal hearings. Maria Francisco had an interpreter at her court hearing, so she understood that she was going to be removed, but she did not have anybody tell her in Spanish the details of what was happening before then.³⁵⁹ Apart from knowing that she was being deported, she did not know what was going on or what she could have done.³⁶⁰ “I really don’t know what’s being said much of the time.”³⁶¹

These women’s experiences are illustrative of a common problem.³⁶² The inability to understand charging documents due to lack of adequate language access violates detainees’ due process rights. Specifically, the rights under the ICCPR and the American Convention to have prior notification in detail to the accused of the charges against him are violated.³⁶³

v. Transport from Irwin to Atlanta Immigration Court

By the end of the fiscal year, Irwin plans to have a video courtroom on the premises that would be telephonically connected to the Atlanta Immigration Court.³⁶⁴ This would mean that detainees would no longer have in-person hearings once transferred to Irwin,³⁶⁵ making Irwin the only Georgia facility where detainees are not able to fight their cases in person.

The current arrangements for immigration hearings are far from ideal. According to detainees, Irwin detainees are transported by van to the Atlanta Immigration Court for their hearings, and the drive alone takes approximately three and a half hours. Detainees are kept in small, dirty holding cells when they are transferred to Atlanta for court appearances. The cells smell of urine and are often overcrowded, temperatures are often uncomfortably hot or cold, and the one available toilet is sometimes so dirty that some would refuse to use it; sometimes, toilet paper would be gone as well.³⁶⁶

“When we go to court in downtown Atlanta, they take us out at 1 a.m., put us on a bus at 2:30 a.m., and we get to court at 6 a.m. We are often at immigration court for hours waiting to see the judge. They only give you one sandwich for the entire 24 hours; it’s very tough. It’s like a punishment to go to court and when you’re there you can’t think well because you haven’t slept.” - Jose Ponce³⁶⁷

2. ICE Officers

This section covers due process violations committed by ICE officers.³⁶⁸ The ACLU of Georgia found that like the immigration courts, ICE officers often failed to adequately protect detainees’ due process rights by coercing detainees to sign stipulated orders of removal, detaining non-citizens for more than six months after their orders of final removal were issued, and not providing detainees with adequate language access for purposes of communicating about the status of their cases.

a. Coercion by ICE and Deportation Officers

A common thread at all four detention centers revealed through the interviews is that deportation officers threaten or coerce detainees to sign stipulated orders of removal.³⁶⁹ When Roberto Carillo arrived at Stewart in August 2010, he was asked to sign a stipulated order of removal.³⁷⁰ When he refused to do so, the deportation officer tried to coerce him by telling him that no matter what he did, he would be deported. As a result of this coercion, Roberto signed the order without fully understanding its consequences.³⁷¹ “This is one of the biggest problems,” said a Gainesville-based immigration attorney. “ICE officials sometimes force a detainee to sign a voluntary removal. If the detainee refuses to sign, the ICE officer will sometimes yell and scream at him or her.”³⁷² The attorney cited cases where ICE officers physically took detainees’ hands and forced them to sign the removal or put a fingerprint on the signature line.³⁷³

Similarly in April 2011, ICE officers at the Hall County Sheriff’s Office asked Luis Ventura to sign a stipulated order of removal before being transferred to NGDC.³⁷⁴ When he refused, the ICE officer told him that this was mandatory if he did not have identification papers.³⁷⁵ ICE officers tried to get Carlos Vargas to sign an order of voluntary departure on June 21, 2011.³⁷⁶ When he refused and asked for an attorney, the ICE officer responded: “That’s your problem; you’ll have to get one.”³⁷⁷ Daniela Esquivela was also asked by ICE officials to sign a stipulated order of removal while at the Hall County Jail in October 2011, but she refused.³⁷⁸

This problem also occurs at Irwin. After being arrested for a traffic violation, ICE officers asked Ignacio Morales if he would sign a stipulated order of removal.³⁷⁹ He did not know what to do. When he asked if he could call someone, he was told that he was not allowed.³⁸⁰ Ignacio Morales said that ICE officers kept yelling at him to sign the stipulated order of removal. “Sign, sign, sign! I felt pressured.”³⁸¹ Jovita Campuzano Jimenez, who does not understand English, was given a paper to sign at the Cobb County jail, but she did not understand what it said and refused

to sign it.³⁸² “When I refused, I was forced to sign it by [a Cobb County police] officer.”³⁸³ When Angela Kelley refused to sign the stipulated order of removal, she was told that she would be deported whether she signed it or not. “They told me I would stay in custody forever if I did not sign it.”³⁸⁴ Afraid to be deported for fear of persecution because of her sexual orientation, Angela did not sign the order.³⁸⁵

Like at Stewart, NGDC, and Irwin, a detainee at ACDC recounted how he was pressured to sign a stipulated order of removal. Edwin Edgold Omoregbe told us that in 2010, on three separate occasions, ICE attempted to get him to sign a voluntary deportation order.³⁸⁶

Coercive attempts to get detainees to sign stipulated orders of removal, without explaining the charges in a language they understand and without providing them an opportunity to contact an attorney, violate detainees’ due process rights.³⁸⁷

b. Non-citizens Detained in Excess of Presumptively Reasonable Time

Detainees have been held at Stewart for more than six months after issuance of their final orders of removal. In light of the serious due process concerns presented by indefinite detention, the U.S. Supreme Court has held that detention exceeding six months violates detainees’ right to liberty without sufficient justification or adequate procedural safeguards, where detainees’ removal is not reasonably foreseeable.³⁸⁸ Paul was issued a final order of removal in 2007 when he did not appear at a hearing that would help him maintain his status as an asylum seeker.³⁸⁹ However, Paul did not know about that order until he was detained in January 2011.³⁹⁰ At the time of the interview with the ACLU of Georgia, Paul had been detained at Stewart for over six months because there had been difficulties obtaining travel documents from his home country.³⁹¹ Ido Yelkal was detained at Stewart in summer of 2009.³⁹² Difficulties with travel arrangements kept coming up and Ido was detained for over two years before being removed.³⁹³ Another detainee, Pedro Guzman Perez, who had been in custody since November 2009 and had a final removal order issued on March 18, 2010, had not yet had a 90-day custody review as of July 2010, more than five months after issuance of his final order of removal.³⁹⁴ Dyna Khleang, a Cambodian asylum seeker, received a final order of removal on July 13, 2011.³⁹⁵ When interviewed in October 2011, he was still awaiting the results of his 90-day custody review. “I filed all my letters of support but I still have not heard.”³⁹⁶

c. Non-English Speaking Detainees Lack of Effective Communication with ICE Officers

The ACLU of Georgia documented the problem of detainees being unable to communicate with ICE officers and their deportation officers due to language barriers. Detainee Dung Dang at NGDC is originally from Vietnam and only speaks a little English.³⁹⁷ When Dung was initially detained in February 2011, he was not provided with an interpreter and thus could not effectively communicate with the ICE officer.³⁹⁸ At Irwin, Veronica was unable to communicate with her deportation officer at their initial meeting, so she could not stay informed about the status of her

deportation.³⁹⁹ Without interpreters, detainees are forced to rely on translations imparted by others not professionally trained or suited for this role. When Veronica was arrested by local police, her 13 year-old had to interpret for her when talking to the police officer at the roadblock as well as later when talking to ICE at the county jail⁴⁰⁰ After a friend took her children home from the jail, Veronica had to ask another detainee to interpret for her since she was not provided an interpreter.⁴⁰¹

B. Facility Findings

This section discusses findings at each detention facility: Stewart, NGDC, Irwin, and ACDC. Each section is broken down by facility into the following areas of concern: 1) Due Process, 2) Living Conditions, 3) Medical and Mental Health Care, and 4) Abuse of Power.

1. Stewart Detention Center

Background

The Stewart Detention Center (Stewart) is the largest immigration detention center in the U.S.⁴⁰² It is a 1,752-bed medium-security all-male facility in Lumpkin, Georgia.⁴⁰³ The detention center is often used to hold detainees who have been transferred from other parts of the country. Of the 28 detainees interviewed by the ACLU of Georgia at Stewart, approximately one-third were from out of state.⁴⁰⁴ The facility is located three hours south of Atlanta. There are few legal service providers such as immigration attorneys or pro bono resources in the area.

In September 2011, there were 13 officers, 71 ICE employees, and 63 other employees at Stewart.⁴⁰⁵ Two of the low-security housing units were made accessible for a tour along with the medical facility, visitation rooms, the outdoor recreation area, and the general library. The ACLU of Georgia was denied access to the law library and the segregation unit. CCA stated that the denial of access to the segregation unit was because of safety and security reasons.⁴⁰⁶

On June 27, 2006, Stewart County and CCA entered into an agreement for CCA to house federal prisoners at Stewart.⁴⁰⁷ The contract between CCA and Stewart County is in effect from July 1, 2006 until December 31, 2011, with a four-year renewal option upon mutual written agreement of both parties.⁴⁰⁸ According to CCA, the contract has been renewed through 2016.⁴⁰⁹ Under the Inter-Governmental Service Agreement (IGSA) between ICE and Stewart County, the per diem rate for each detainee accepted and housed is \$54.25.⁴¹⁰ Pursuant to the IGSA, medical services are provided through U.S. Public Health Services.⁴¹¹ Per the IGSA, Stewart County also agrees to allow periodic inspections of the facility by ICE.⁴¹²

Findings

Between 2008 and 2011, the ACLU of Georgia conducted 28 interviews with detainees at Stewart.⁴¹³ The ACLU of Georgia is particularly troubled by Stewart's remote location that effectively cuts detainees off from attorneys and family, consistent accounts of substandard living conditions including spoiled food and non-potable water, and insufficient physical and mental health care staffing levels.

1. Facility Due Process Concerns

Detainees at Stewart face numerous barriers in their removal hearings including inadequate access to law libraries, insufficient legal visitation areas that make communication between attorneys and clients unnecessarily difficult, and inadequate provision of legal orientation information and lists of pro bono services.

a. Not All Detainees Provided with Detainee Handbooks upon Entry

Through detainee interviews, the ACLU of Georgia found that detainees were not always given Detainee Handbooks upon entering the facility. This happened in November 2009, when officers informed Pedro Guzman Perez that they were “all out,” and again to Luis Vasquez in July 2010.⁴¹⁴ Failure to provide detainees with facility handbooks is in violation of ICE PBNDS Part 2, Section 4, subsection II.8, which reads: “Each newly admitted detainee will be oriented to the facility through written material on facility policies, rules, prohibited acts, and procedures”⁴¹⁵

b. Inadequacy of Legal Visitation Rooms

At Stewart, all visits including attorney visits are no-contact. Each visitation room has a telephone and a plexiglass wall with a small opening at the bottom. Some of the openings have been nailed shut, so attorneys and clients are unable to pass forms or paperwork to one another. On one occasion, an attorney had no alternative but to send the forms back to the detainee through a guard. Having to communicate in such a fashion presents obvious confidentiality problems. Immigration attorney Carolina Antonini described the problems she faced: “Stewart’s visitation room has a telephone with a cord so short that I cannot see my client’s face and he cannot see mine. You can’t meaningfully talk to a client when you’re looking at a wall. When I prepare my clients for testimony, I need to see their faces.”⁴¹⁶ Another attorney believes that no-contact visitation is completely inappropriate for attorney-client visits.⁴¹⁷

“When we have to speak through the phones there is no way of telling if the call is recorded or not. If we don’t use the phones then we have to yell, which also puts privacy at issue.”
–Immigration Attorney Carolina Antonini⁴¹⁸

Even while using the telephone, it is impossible for a detainee and his attorney to hear each other when the facility is having its count (eight times daily) because all of the officers congregate in the waiting area directly outside of the visitation rooms. This makes the hallway incredibly loud and makes it all but impossible to carry on a conversation. There is a one to two-inch opening between the door that leads into the room and the floor, which not only allows noise into the interview room, but also makes it very easy for guards outside the room to clearly hear conversations. The ACLU of Georgia has experienced this problem first-hand. During the summer of 2011, every interview conducted by the ACLU of Georgia was interrupted multiple times by the noisiness of the guards outside the door. During the visits on June 17, 2011 and July 25, 2011, the interviewers had to step outside and ask the guards to be quiet, and on the latter

occasion, the guards were asked six times to please lower their voices. When we asked the guard at the security desk to intervene on our behalf, he refused.⁴¹⁹

c. Inadequate Access to the Law Library and Insufficient Legal Texts

Detainees at Stewart have limited access to the law library and the materials are insufficient for detainees who require such access to prepare their cases for immigration relief. Detainees can request to access the law library by filing a paper request slip. Although the Detention Services Manager reports that detainees could use the library whenever they wanted, detainees stated that they were only allowed maximum access of three times per week for a set amount of time.⁴²⁰ In addition, in 2010, Omar Ponce told the ACLU of Georgia that the paper slip request system is unreliable and that he put in three requests to use the library, all of which went unanswered.⁴²¹

Moreover, the law library has insufficient resources. The law library is equipped with five to seven computers with access to Lexis-Nexis and immigration law books.⁴²² One detainee told us, however, that the legal books are all out of date.⁴²³ Another detainee expressed concern over lack of resources for Spanish speaking detainees.⁴²⁴ In addition, for detainees who do not speak Spanish or English (for example, detainees from Poland, Vietnam, and Cambodia whom we spoke to) there are no foreign-language resources.

“There is not enough legal information to help me with my case.”- Ugochukwu, discussing the limitations of the law library for filing for Withholding of Removal under the Convention Against Torture (CAT).⁴²⁵

Specifically, the ACLU of Georgia is concerned about the lack of sufficient resources for those detainees filing for asylum, CAT, and withholding of removal. To file a claim for relief for asylum or withholding of removal, an individual must show, respectively, a “well-founded fear” of persecution or that it is “more likely that not” that he will be persecuted if returned to his home country.⁴²⁶ In order to win CAT relief, an individual must show that it is more likely than not that he will be tortured if removed.⁴²⁷ A large part of proving the case is through news articles and other public sources on the current political climate and specific instances of persecution and abuse. The law library at Stewart does not allow for the detainees to search the internet for news articles. Thus, detainees cannot obtain sufficient supporting evidence from the law library to provide to the court in their asylum or withholding claims.⁴²⁸

2. Effects of Transfer to Stewart

The devastating impact of transfers on the detainees, their families, and communities has been discussed above, but the plight of detainees at Stewart is exceptionally acute. Certain “transfer routes” are habitually utilized, and of the top ten most frequently used routes, Stewart is the destination point for two.⁴²⁹ The most frequently used interstate transfer movement occurred between Mecklenburg County Jail in North Carolina and Stewart. Between February 2009 and August 2010, 15,959 detainees were transferred over 315 miles to this detention center.⁴³⁰ The

fifth most utilized transfer was also one that originated in North Carolina and ended at Stewart.⁴³¹ During that same time period, 7,320 detainees were taken over 414 miles from North Carolina’s Alamance County Detention Facility to Stewart.⁴³² Of the 28 men the interviewed at Stewart, one-third had been transferred from another state. Of those interviewees that were transferred, two-thirds were from North Carolina, which limits their access to their families and attorneys back home.⁴³³

Additionally, the long distance transfers are very costly. ICE spent over \$5 million transferring detainees from Mecklenburg County Jail to Stewart, and each transfer cost an average of \$325.95. This was the second most expensive transfer route, and yet it was also the most frequently used.⁴³⁴

a. Lack of Contact with Family, Attorneys, and Support Systems

Frequent and costly interstate transfers to Stewart not only inhibit detainees’ access to their lawyers but also to their local support systems.⁴³⁵ The location of Stewart reduces the number of family visits. Lumpkin, Georgia is a difficult drive for family members who live in Atlanta, and an almost impossible one for those from out of state.⁴³⁶

The Inter-American Commission on Human Rights has found: “Visiting rights are a fundamental requirement for ensuring respect of the personal integrity and freedom of the inmate and ... the state must establish positive provisions to effectively guarantee the right to maintain and develop family relations.”⁴³⁷ Stewart’s remote location makes attainment of visiting rights very difficult for many detainees. During the three months he had been detained in 2011, Ugochukwu Ehienulo’s father and mother were able to visit with him just once, for less than 30 minutes, after they drove 12 hours from Virginia.⁴³⁸ When Ugochukwu asked his deportation officer why he could not have stayed in detention in Virginia near his family, the officer replied that it was cheaper for him to come to Stewart.⁴³⁹ Most detainees do not even receive one visit from family members. Javan Jeffrey had been detained at Stewart since June 7, 2011. In over three months of detention, he had not been able to see his U.S. citizen wife and two U.S. citizen children, because they live in



Charlotte, North Carolina, a seven-hour drive away. They lack the resources for making the long trip.⁴⁴⁰ Furthermore, with the exception of El Refugio, there are no accommodations available for families in the town of Lumpkin.⁴⁴¹

Given the devastating impact of transfers on the detainees, both in terms of access to representation and their emotional wellbeing, a serious curtailment of transfers is necessary. Transfer is also of special concern when it is done with the aim of inhibiting a detainee from litigating his case. In 2010, Pedro Guzman Perez's deportation officer told him that he was being transferred from NGDC to Stewart "because he was fighting his case."⁴⁴²

b. Lack of Contact Visits

According to Stewart's Detainee Handbook, detainees are permitted one visit per week for up to one hour.⁴⁴³ Visitation rooms for family and friends are separate from attorney visitation rooms. All visits at Stewart are no-contact.⁴⁴⁴ In December 2009, Pedro Guzman Perez's wife and son traveled ten hours each way to see Pedro. Pedro's wife stated that "the visit went well but it was also heartbreaking to see Pedro and Logan [Pedro's son] playing 'hide and seek' through glass."⁴⁴⁵ Javan Jeffrey's wife was finally able to visit Javan for the first time in October.⁴⁴⁶ The fact that she could not touch or kiss her husband whom she had not seen for months made her feel "terrible."⁴⁴⁷

c. Phone Access

Detainees at Stewart face barriers to phone access, including prohibitively high phone charges, a high rate of technical problems with Stewart's phone system, and lack of privacy for callers. All of these factors seriously impact detainees' ability to communicate with their attorneys and families.

There is no privacy afforded for using the phones, which are located in the pods with two phones flanking a single bench.

According to the detainee handbook, telephone calls may be made collect or detainees can purchase a calling card through the commissary.⁴⁴⁸ The handbook includes numbers for free calls to legal assistance programs and consulates.⁴⁴⁹ At the time the ACLU of Georgia spoke to the detainees, phone services were managed by Correctional Billing Services, a division of Evercom Systems, Inc.⁴⁵⁰ Detainees have complained of dropped calls and connections issues. Grzegorz Kowalec was unable to get a connection for an international call to speak to his family in Poland.⁴⁵¹

In addition to technical problems, many detainees find the phones too expensive. Ugochukwu Ehienulo finds the telephone system unaffordable, and as a result, he rarely talks to his family in Virginia. Guards will not give detainees a courtesy call if they have no money unless it is a true emergency.⁴⁵² The handbook does not list the price of phone calls, but detainees have given

differing accounts. In October 2011, Josue Cervantes reported that the phone costs approximately \$5.00 for 12 minutes out of state or for 26 minutes in state.⁴⁵³ Josue explained that there are two ways to use the phone. The first is through a phone card which costs 19 cents/minute.⁴⁵⁴ The second is to put money on an account, which has a \$1.00 connection fee.⁴⁵⁵ He spends about \$40 per week on phone calls.⁴⁵⁶ Grzegorz Kowalec once spent \$7.00 for a 5-minute call to his sister.⁴⁵⁷ She eventually changed her number to a local number with a Lumpkin area code. Now the calls cost \$2.00 for 20 minutes.⁴⁵⁸ A number of the family members of detainees have changed their phone numbers to Lumpkin numbers if they are out of state or out of the country.⁴⁵⁹ Although the facility did not provide current rates, it did acknowledge that in order to avoid high prices many families buy cell phones with local area codes.⁴⁶⁰

However, not all out-of-state family members have a mobile phone and can change their area code. In 2009, detainee Jose Vallejo could not even communicate with his family telephonically because he could no longer afford phone cards.⁴⁶¹ “This is abuse,” he stated.⁴⁶² Since many detainees’ family members do not reside in Georgia, they must pay an elevated rate for out of state phone calls.⁴⁶³

3. Inadequate Living Conditions

This section documents problems with cell conditions, hygiene, water quality and water shortages, meals, the work program, religious accommodations, recreation, and inadequate supervision by CCA staff.

a. Housing Facilities

Stewart’s housing units are made up of six main housing areas also known as pods.⁴⁶⁴ These six areas are then broken down into smaller living units of various sizes. Detainees are housed according to their classification levels. Level 1 is low-security and detainees wear blue jumpsuits. Level 2 is medium-security and detainees wear orange jumpsuits. Level 3 is high-security and detainees wear red jumpsuits.⁴⁶⁵ According to the Detainee Handbook, Level 1 and Level 2



detainees may be housed together, and Level 2 and Level 3 detainees may be housed together, but Level 1 and Level 3 detainees can never be housed together.⁴⁶⁶ Each housing area has its own showers, toilets, and a dayroom. The dayroom provides televisions for entertainment as well as space for in-dorm recreational activities such as board games or cards.⁴⁶⁷ Stewart also

has a Special Management Unit known as the segregation unit, which consists of two sub-units of administrative segregation and disciplinary segregation.⁴⁶⁸

Level 1 (low-security) detainees live in pods, which are communal living/sleeping rooms with approximately 60 detainees per pod. Level 2 (medium-security) detainees are either housed in pods or in 2-man cells. The Level 3 (high-security) detainees are all housed in 2-man cells.

i. Cell Conditions

Josue Cervantes, a detainee classified as low-security, described his pod as follows. There are 64 cellmates, 32 bunks, two small slit windows, two television sets (one in Spanish and one in English, but the Spanish one is always on mute), four phones, tables, microwaves, five showers, three toilets, and three urinals.⁴⁶⁹ Raul⁴⁷⁰ described his pod to be about the size of a basketball court, a big open area with 66 people, three toilets, three urinals, and five showers.⁴⁷¹ Raul added that the space was “like a chicken coop” and was cramped and overcrowded.⁴⁷² Mahbubal added that Stewart “was like a human zoo.”



ii. Hygiene Concerns

According to international human rights standards, detainees’ right to humane treatment while in custody includes a right to hygienic conditions.⁴⁷³ In December 2008, Georgia Detention Watch conducted a humanitarian visit to Stewart and interviewed 16 detainees.⁴⁷⁴ The group wrote a report documenting its findings and documented violations.⁴⁷⁵ Among these concerns was a violation of personal hygiene standards.⁴⁷⁶ Hygiene is still a significant concern at Stewart.

Interviewees described the pods as unclean and overcrowded.⁴⁷⁷ Many detainees believe that rashes and colds are passed around because of the unclean and crowded environment. “Flu and colds are passed *everywhere*,” one detainee said.⁴⁷⁸

1) Kits

According to the Detainee Handbook, detainees are issued hygiene kits at intake.⁴⁷⁹ Included in the kit are soap, toothpaste, toothbrushes, combs, and a disposable razor. At the beginning of October 2011, the facility ran out of soap and toothpaste. Luckily, Josue Cervantes was able to buy some from the commissary, but those who could not afford it just had to do without.⁴⁸⁰ Ido told us that he receives a travel-sized toothpaste tube once every two weeks, and that it always runs out too soon.⁴⁸¹ This is in violation of the PBNDS on Personal Hygiene, which provides that “Staff shall provide male and female detainees personal hygiene items...[and] shall replenish supplies as needed.”⁴⁸²

2) Showers

In August 2010, Frank reported that although there are five showers in the pod for 58 people, two have been broken for some time.⁴⁸³ In October 2011, Josue Cervantes considered filing a complaint because hot water had been out in his pod for three days.⁴⁸⁴ This is in violation of ICE PBNDS on Hygiene which provides that: “Operable showers ... are thermostatically controlled to temperatures between 100 and 120 degrees Fahrenheit, to ensure safety and promote hygienic practices.”⁴⁸⁵

Detainees expressed concerns about the lack of privacy while showering. Mikyas Germachew feels uncomfortable when female guards patrol the area when he is showering.⁴⁸⁶ This is also the reason why Paul chooses to shower in his underwear.⁴⁸⁷ He noticed that his white boxers turn green in the shower.⁴⁸⁸ Other detainees have also expressed concerns about the water quality. In 2009, detainee Arman Garghani, who worked in a pod cleaning the showers, stated that the water was dirty and turned the whole shower green.⁴⁸⁹ Javan Jeffrey developed a skin rash from the water and had to go to the medical unit for topical ointment in order to treat the rash.⁴⁹⁰

3) Toilets/Urinals

The 2008 PBNDS requires that toilets be provided at a minimum ratio of one for every 12 male detainees or one for every 8 female detainees.⁴⁹¹ For males, urinals may be substituted for up to one-half of the toilets.⁴⁹² Damon reported that his pod of 60 detainees contained three toilets and three urinals.⁴⁹³ Other detainees have had access to far fewer. In July 2010, Juan stated that his pod had 62 detainees and there were only three toilets.⁴⁹⁴ This was confirmed by Pedro Guzman Perez, whose pod of 60 detainees only had three toilets.⁴⁹⁵ In August 2010, Felix stated that there were only three toilets for 60-70 men in his pod.⁴⁹⁶ This is in direct violation of ICE’s standards. When offered an opportunity to respond, the facility stated that Stewart had received a waiver during its last American Correctional Association audit, which, like PBNDS, requires a ratio of 1:12.⁴⁹⁷

There were also concerns expressed about toilet conditions. In 2009, Raul stated that toilet conditions were bad, “because with 66 people and three toilets, always two of three, sometimes even all three were clogged.”⁴⁹⁸ He added that since detainees were not provided with cleaning solutions with any type of chemicals, the detainees could not adequately clean the toilets.⁴⁹⁹

4) Instances of No Working Water

In addition to the water’s poor quality, the ACLU of Georgia was told that it was periodically turned off. Javan Jeffrey relayed that during his three months detained at Stewart, the water was turned off on at least three occasions.⁵⁰⁰ As a result, detainees were not able to flush the toilets, drink from the water fountain, or shower during those times.⁵⁰¹ According to ICE PBNDS on Personal Hygiene, detainees are entitled to running water 24 hours a day.⁵⁰²

5) Laundry

Ugochukwu Ehienulo said that the sheets, towels, and pillowcases are not regularly changed and that the only way to get fresh linen is to lie (“say you spilled something on it”).⁵⁰³ Another detainee said it took a month for him to get a new pair of socks and underwear after putting in a request.⁵⁰⁴ Josue Cervantes reported that his laundry was stolen during his second week he was at Stewart. It took CCA three weeks to replace it, so he was wearing the same underwear and pair of socks the entire time.⁵⁰⁵

iii. High-Security Units

In certain units, particularly in the high-security unit, some detainees were given mattresses that had been emptied of the filling.⁵⁰⁶ Paul had to request two mattresses because the one he had been issued was an empty lining.⁵⁰⁷ Other detainees would steal the stuffing from the mattress to thicken their own mattresses.⁵⁰⁸ When Paul complained about this, nothing was done about it.⁵⁰⁹ In fact, Paul’s cellmate, Mikyas Germachew, had the same problem with his mattress.⁵¹⁰ Mikyas had broken his back as a child, but the medical staff refused to issue him a new or second mattress. Although his back problems were noted in his records, the medical staff informed Mikyas that they were no longer giving new mattresses because “people were playing games” with them and getting things undeservedly.⁵¹¹ “[The medical provider] said I looked healthy, so no mattress.”⁵¹² As a result, both men have experienced back pain and Mikyas is taking pain medication to ease the pain in his lower back.⁵¹³

b. Poor Drinking Water Quality

In addition to water problems in the cells for showering and flushing toilets, the quality of the drinking water also poses concern. The drinking water was described as “green.”⁵¹⁴ A number of detainees do not drink the water given during meals, but instead go back to their cells and boil water in the microwave for drinking.⁵¹⁵

c. Food Concerns

There are numerous problems with food services at Stewart, including long periods between meal times, guards rushing detainees through their meals, and small meal portions. Even more troubling are the numerous instances where detainees were served rancid or expired food or found foreign objects in their meals.

Breakfast at Stewart is typically served between 5:30-7 a.m., lunch between 10 a.m.-12 p.m., and dinner between 4:30-7 p.m.⁵¹⁶ Detainees are not provided with any snacks. They have to go to the commissary to buy their own. Depending on the unit, detainees may have to wait as long as 13 hours between meals. Roberto Carillo ate dinner at 4:45 p.m. one evening and did not get breakfast until the next morning between 5:30 and 6:00am.⁵¹⁷ In an email from the warden, CCA acknowledged that this is true: “Breakfast service begins at 5 a.m., lunch service begins at

10 a.m. and dinner service begins at 4:15 p.m.”⁵¹⁸ In three months in detention, Javan Jeffrey had lost 15 lbs.⁵¹⁹ Damon lost 40 pounds during his detention.⁵²⁰ One detainee had to request that he be put on a special diet, which consisted of an Ensure dietary supplement once a day, because he was losing weight so rapidly. He had lost 35 pounds during his three months at Stewart.⁵²¹ Most disturbing, Grzegorz Kowalec has lost 68 pounds since being detained.⁵²²

The reasons for such widespread and unhealthy weight loss numbers are numerous, but the consensus among the men we spoke to was that meal times are rushed by the guards and that the food is inadequate and sometimes inedible. Mikyas Germachew said that the hours are irregular for breakfast, such that it could be as early as 5:45 a.m. or as late as 6:30 a.m.⁵²³ One morning, the meal call was particularly early, and he was still asleep.⁵²⁴ By the time he made it to the hall, others in his unit were still lining up, but he was told he was too late and was made to wait until lunch.⁵²⁵ The guard just smiled at him and said: “Thank you for coming. Goodbye.”⁵²⁶ Detainees are rushed through the meal lines and then through the meals themselves.⁵²⁷ Many experience average meal times lasting less than ten minutes.⁵²⁸ According to Ido Yelkal: “If you ever stop eating or put your fork down, they tell you you’re full and you need to go back to your cell.”⁵²⁹ Jose Nunez said he spent around \$30.00 a week on extra food because he was never full.⁵³⁰

Almost all detainees had complaints about the food quality. Ugochukwu Ehienuo stated that all meals have potato mixed with something, and that there is never enough to eat.⁵³¹ Javan Jeffrey added that there was never enough food, and the food was of poor quality.⁵³² Dyna Khleang told us that he does not eat the food because it is so bad.⁵³³ He only eats out of the commissary and spends on average \$40.00 per week on food.⁵³⁴

The nutritional quality of the food is inadequate. Detainees do not get any fruit and rarely get green vegetables or even meat.⁵³⁵ Chicken is served only once a week.⁵³⁶

A number of detainees have found foreign objects in their food and have been served spoiled or rancid food. Many detainees found hair and plastic in their food.⁵³⁷ Other detainees have found bugs and gnats in their meals.⁵³⁸ In July 2007, a detainee lodged a complaint with DHS/ICE Office of Professional Responsibility, stating that he was served spoiled milk on July 30.⁵³⁹ An investigation of this allegation found other detainees who also complained of being served expired milk, but the Senior Special Agent of the Office of Professional Responsibility stated in his November 2008 Investigation Report that corrective actions were immediately taken and that Stewart had not had spoiled milk issues since this incident.⁵⁴⁰ Despite this assertion, there are documented instances of expired milk being served in 2009. During the summer of 2009, Arman Garghani was served expired milk for breakfast on July 29 and then again on August 11 and August 12.⁵⁴¹ During the summer of 2010, all of the men interviewed had either found rocks in their beans or knew of people who had.⁵⁴² Damon told us that in August 2010, his hamburger meat was spoiled.⁵⁴³ During the summer of 2011, the vast majority of men we spoke with reported being served rancid or undercooked chicken.⁵⁴⁴ That same summer, Mikyas Germachew found a tooth in his chili.⁵⁴⁵ Accounts of detainees who were served expired products and who

found foreign objects in their food were also documented in Georgia Detention Watch's 2009 Report.⁵⁴⁶ As evidenced by more recent interviews, this problem has not been rectified.⁵⁴⁷

“When we do get chicken for dinner, it is bloody.” -Ugochukwu Ehienulo⁵⁴⁸

The commissary does not sell any fresh produce and is very expensive.⁵⁴⁹ Ugochukwu Ehienulo told us that it costs \$1.02 for a honey bun, and that all items are taxed.⁵⁵⁰ Another detainee said that all the food is much more expensive than it would be on the outside. In his 2 months at Stewart, he had already spent over \$100.00 on food.⁵⁵¹

The problems with meals at Stewart are compounded by the attitude of the guards.⁵⁵² Damon said that even the best food they receive is terrible and that guards taunt them by bringing in food and eating in front of them.⁵⁵³ Juan said that food was withheld from people who complained,⁵⁵⁴ and Paul said that when showed a guard undercooked food, he was told to throw it away and get another serving.⁵⁵⁵ According to Paul, he is not given extra time to eat in this situation, and sometimes the second helping is just as bad as the first.⁵⁵⁶

d. Voluntary Work Program

According to the Inter-American Principles on Detention: “All persons deprived of liberty shall have the right to work.” This includes the right “to receive a fair and equitable remuneration.”⁵⁵⁷ Since detainees at Stewart are paid wages so far below the minimum wage for full-time work, their right to fair remuneration may be violated. Stewart participates in a voluntary work program allowing detainees to work for wages of between \$1.00 and \$3.00 per day for a maximum of eight hours per day.⁵⁵⁸ Out of 28 detainees interviewed, 12 participated in the program.⁵⁵⁹ Jobs include cleaning up cells, working in the kitchen, and barber services.⁵⁶⁰ Dyna Khleang works as a barber and gets paid \$3.00 a day.⁵⁶¹ He stated that for this type of work, he was not paid enough.⁵⁶²

Even though the program is supposed to be voluntary, detainees' experiences are illustrative of its coercive nature. Omar Ponce was subjected to disciplinary action for refusing to work and for organizing a work strike in 2010.⁵⁶³ He was in the segregation unit for a week before he had his disciplinary review hearing.⁵⁶⁴ Another detainee was threatened with segregation if he refused to work less than eight hours per day.⁵⁶⁵ This is not atypical. Josue Cervantes relayed this account in October 2011:

“Three weeks ago, some detainees who worked at the kitchen wanted to stop working. The guards told them that if they stopped working, they would be charged by the disciplinary board. The guards then tried to get them to sign a document. I don't know what it was. The detainees refused to sign the document and shortly thereafter they were transferred from the blue to the orange unit for a couple days as punishment.”
-Josue Cervantes⁵⁶⁶

In response to this account, CCA stated that the incident was not “typical” but acknowledged that the incident “occurred on October 3. The matter was investigated and corrective action was taken by October 6. The inmates were moved back to the correct units, any disciplinary charges were expunged and all involved staff were appropriately counseled.”⁵⁶⁷

In addition, when the medical staff give orders for detainees to rest, these orders often go unheeded by CCA officers. Eduardo Zuniga stated that guards threatened him with “the hole” if he did not get up and get back to work despite medical orders to rest.⁵⁶⁸

e. Right to Free Expression of Religion

At Stewart, the right of detainees to free expression of religion is compromised in two ways: religious services are too few and run only by religious volunteers, and CCA staff does not accommodate detainees’ religious diets.

i. Religious Services

Religious services at Stewart are inadequate and led entirely by volunteers.⁵⁶⁹ The calendar for the September 2011 services consisted of Catholic, Christian,⁵⁷⁰ Muslim, Jewish, and Jehovah’s Witness services.⁵⁷¹ There were no listed services for any other religions. The schedule of services is determined by religious volunteers. As of September 2011, there was no Volunteer Program Coordinator, because the previous person in charge, a Catholic chaplain, was undergoing surgery.⁵⁷²

There is no chapel at Stewart; detainees have service in the mess hall. A chaplain comes on Fridays for Christian service and on Sundays for Catholic service.⁵⁷³ Dyna Khleang attended Christian service at Stewart.⁵⁷⁴ He told us that the chaplain does not speak or deliver a sermon, but that he plays a Spanish video.⁵⁷⁵ Ugochukwu Ehienulo and Ido Yelkal reported that services are in Spanish only, making it impossible for non-Spanish-speakers to understand.⁵⁷⁶

ii. Religious Diets

Some detainees reported that they were not afforded access to special diets to accommodate their religious beliefs. A Jewish detainee was denied kosher meals despite his repeated requests. According to the Detainee Manual, four diets are available: Regular Menu, Common Fare, Kosher, and Medical.⁵⁷⁷ Special diets are supposed to be offered to detainees with special medical or religious needs, but the medical staff and chaplain are often skeptical and refuse to give any special diets.⁵⁷⁸

Mikyas Germachew, coming from a Jewish family from Ethiopia, requested a kosher diet when he entered Stewart. The chaplain refused, claiming: “there were no black Jews.”⁵⁷⁹ After filing a formal grievance, the chaplain agreed to talk with him about his religion, but

after asking him questions such as “what does Jesus mean to you,” the chaplain still refused to recognize him as a Jew. The official in charge of receiving complaints at Stewart told Mikyas that “if it was up to me, I’d put you on kosher diet, but we have to go with what the chaplain says.”⁵⁸⁰ Mikyas eventually filed a grievance with DHS, but they had yet to get him access to kosher food. The chaplain told Mikyas that “DHS or the warden could tell me to approve this request, but I’m never going to approve.” In his response to the formal complaint, the chaplain stated that Mikyas was confused about his religion, and that he was not Jewish but Christian, and that even if his family and tribe in Africa were legitimately Jewish, this detainee was not.⁵⁸¹ The chaplain called Mikyas’ mother on the phone “to verify her family’s Jewish status” and asked her questions regarding her and Mikyas’ beliefs. He finally told her that she was Jewish, but Mikyas was not. Mikyas knows two Caucasian detainees who have told him that they are not Jewish, but wanted the better-quality food provided on a kosher diet. The chaplain did not question them about their motives or their faith.⁵⁸²

This treatment and the chaplain’s refusal to acknowledge Mikyas’ Jewish faith violated his right to freedom of religious affiliation and voluntary religious worship. This right is included both in ICE’s and Stewart’s handbooks and recognized in international law and the U.S. Constitution.⁵⁸³

f. Limited Recreation

Detainees’ recreation time is often shorter and less frequent than what is required by ICE’s standard on recreation.⁵⁸⁴ The recreation area consists of indoor and outdoor basketball courts, a library, an outdoor common area, and a clay field used for soccer.⁵⁸⁵ The Head Chief of Security Ernesto Ruiz reported that detainees at Stewart usually have an hour of recreation every day, which exceeds the five days perweek recommendations of ICE PBNDS guidelines.⁵⁸⁶ However, Ugochukwu Ehienuo shared that recreation never lasted more than 35 minutes.⁵⁸⁷ Numerous interviewees stated that recreation was not always guaranteed and that on some occasions when the facility was understaffed there was no recreation at all.⁵⁸⁸ Furthermore, when the weather is bad, since most recreational facilities are outside, recreation is cancelled for the day.⁵⁸⁹

g. Lack of Oversight

The guards at Stewart do not provide adequate supervision of detainees during the day, and detainees are sometimes threatened or even physically harmed by other detainees. In January 2010, a complaint was filed by a detainee stating that his cellmate drugged and sexually molested him.⁵⁹⁰ In addition, several detainees in the low-security unit informed us that the lights are left on at 75% power all night due to rape allegations.⁵⁹¹

In the high-security unit, the lack of oversight has led to a number of troubling issues and even posed dangers to the detainees. In summer of 2011, the high-security unit was made up of roughly 66 men, and six of the men in that unit were Africans. The other 60 were Latinos. With

two TVs in the common area, one was supposed to be reserved for English speakers and the other for Spanish speakers.⁵⁹² There were fights about whether both TVs will be Spanish or not because the majority of the unit speaks Spanish. The guards rarely stepped in and enforced the rule that there be at least one English-language channel. On one occasion the guard just left the area during an argument.⁵⁹³ When the guards do try to settle the arguments, it is often by sending everyone to their cell for the day as punishment or telling them they will be sent to their cells if they can't "work it out." The small minority of detainees in this unit fighting for an English channel sometimes have to retreat to their cells anyway. "I stay in my cell all day sometimes," Paul says. "It just gets so dangerous."⁵⁹⁴ Mikyas Germachew says that he has been threatened by members of gangs in his unit.⁵⁹⁵

4. Inadequate Medical and Mental Health Care

The medical and mental health care unit at Stewart is understaffed, resulting in many problems including lack of adequately licensed health care professionals, delays in receiving care, and an inadequate mental health care regime that cannot effectively treat detainees with mental disabilities. Under the IGSA, U.S. Public Health Service is responsible for providing all health care services at Stewart.⁵⁹⁶ The medical unit consists of medical, dental, and psychological services. Currently, the medical unit has seven nurses on staff who are employed through STG contracting.⁵⁹⁷ The medical equipment and radiological services are provided to Stewart through a Massachusetts-based services group.⁵⁹⁸

In May 2008, the Office of Detention and Removal Operations conducted an internal review of Stewart's compliance with detention standards.⁵⁹⁹ The review indicated deficient findings in the Access to Medical Care Standard.⁶⁰⁰ Although the ACLU of Georgia was not able to obtain a more recent review from ICE, interviews with the detainees indicated that medical care at Stewart is still inadequate.

a. Medical Care

The medical care unit consists of medical and dental examination rooms.⁶⁰¹ In addition, there are two seclusion rooms for detainees with infectious diseases or for those on suicide watch. In the dental unit, there are two dental assistants.⁶⁰²

i. Understaffed Medical Unit

In September 2011, the assistant warden stated that the medical unit had had no physician on staff since August 2011, but that a physician was scheduled to start in October.⁶⁰³ As of December 1, 2011, there still was no physician on staff.⁶⁰⁴ In addition, the ACLU of Georgia was informed by ICE that Stewart had been without a physician since August 2009, a period of almost two and half years and significantly longer than what had been imparted previously by CCA.⁶⁰⁵

With no physician and only seven nurses on staff at the 1,752 bed facility, the ratio of prisoners to nurses is 250:1.⁶⁰⁶

In addition to the onsite facility, detainees are sometimes sent to offsite facilities. These facilities include: Stewart Webster Hospital, Richland, Georgia (9 miles); Columbus Regional Medical Center, Columbus, Georgia (39 miles); Doctor's Hospital, Columbus, Georgia (39 miles); St. Francis Hospital, Columbus, Georgia (40 miles); and Phoebe-Putney Hospital, Albany, Georgia (57 miles) for mental health issues.⁶⁰⁷

One detainee who had surgery for a hernia in January 2010 began to have complications in late July and had to be taken to the hospital. He stated that the medical staff at Stewart almost dropped him off of a gurney on the way to hospital.⁶⁰⁸ When he first arrived at Stewart, Mikyas Germachew had swollen and infected gums.⁶⁰⁹ Because detainees are not allowed a dental visit until they have been detained for 12 months, he was told that either they could pull a few of his teeth, or he could gargle with salt water. He chose the salt water, and was given ibuprofen for the pain. He was never able to see a dentist or receive treatment for the infection.⁶¹⁰

Eduardo Zuniga suffered two injuries to his legs while working at the Stewart kitchen, and both injuries were undertreated. It is Stewart's policy to issue special shoes for those detainees working with heavy objects at the kitchen. The shoes have hard toes and soles that provide better traction—the regular shoes issued are very smooth and soft-soled. Due to a shoe shortage, Eduardo was told he would have to work in his regular shoes. His first injury came from a cooler dropping on his foot, which shattered his toenail. The medical staff refused to remove shards of the splintered nail from his foot. The toe became infected and Eduardo eventually removed the shards himself. Four months later, his toenail had still not grown back and the swelling persisted. After making numerous complaints, he was finally able to see a doctor. Eduardo injured his knee about a month later when he slipped on water on the kitchen floor. He was not allowed to get medical help for three days. The nurses and medical staff called him names like “crybaby” and “little girl.” The medical staff issued him one crutch despite the fact that medical records show he was supposed to receive two. His armpit became bruised and blistered. He missed meals for two days because he had to rest his arms and couldn't get to the meal hall without the crutch. Now back in Mexico, Eduardo continues to experience pain in his knee and is unable to walk comfortably. He has not been able to go to a doctor since he has no way of paying for it, so he still does not know the extent of the damage.⁶¹¹

ii. Unreasonable Delays in Receiving Medical Care

To access the medical unit at Stewart, detainees must fill out a Sick Call Request form.⁶¹² These requests can take days or even weeks to be answered.⁶¹³ The consensus among Stewart detainees was that the waits for medical treatment are too long.⁶¹⁴ The wait time for a regular visit can range from three hours to all day.⁶¹⁵ Men who request medical treatment have an average wait

time of three days. Responses to emergencies take at least an hour.⁶¹⁶ For example, Ugochukwu Ehienuo fractured his hand and had to go for an x-ray. It took three weeks for CCA to take him to the nearby hospital for an x-ray.⁶¹⁷ In October 2011, Grzegorz Kowalec fell and broke a tooth.⁶¹⁸ He had to wait for three days to see a member of the medical staff for this painful emergency.⁶¹⁹ Delays in receiving medical attention were also documented by ICE in its 2009 Conditions of Confinement Review.⁶²⁰ The report found that Stewart was deficient in providing detainees with physical examinations within 14 days of arrival at the facility, in violation of ICE's detention standards.⁶²¹ These detainees' accounts of delays in receiving treatment are in clear violation of international standards. Principle 25 of the UN Standard Minimum Rules provides that the medical staff should see *daily* "all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed."⁶²²

Compounding this problem is the allegation that no member of the medical staff speaks Spanish.⁶²³ As a result, many detainees reportedly have to try to communicate their medical issues by gesturing or trying to speak English. If there are other men waiting who can speak English, they are told to interpret.⁶²⁴

Eduardo Rodriguez requested to see a nurse after he arrived because the pain medicine he had been taking after oral surgery was not given to him once he arrived at Stewart.⁶²⁵ After a week of no medication and no response to his request to see someone, he was passing out from the pain.⁶²⁶ Eduardo was in visible pain while being interviewed.⁶²⁷

b. Mental Healthcare

The mental health wing has two mental health offices.; There is one clinical nurse and one psychologist, but no psychiatrist.⁶²⁸ In September 2011, the facility was in the process of bringing a psychiatrist on board.⁶²⁹ As of December 1, 2011, there was still no psychiatrist on staff.⁶³⁰

Detention is shown to adversely affect detainees' mental health.⁶³¹ Mikyas Germachew is a certified personal trainer who had always been an upbeat, outgoing, and active member of his community.⁶³² Since being detained at Stewart, Mikyas feels depressed and suffers from insomnia for the first time in his life. He says this has been the worst thing to happen in his life.⁶³³ At Stewart, he says, "I have been discriminated against, abused, and psychologically tortured."⁶³⁴ Experiences such as Mikyas' make provision of adequate mental healthcare for detainees all the more crucial.

i. Understaffed and Inadequate Mental Health Unit

Stewart's lack of full-time mental health staff is troubling.⁶³⁵ Numerous detainees we interviewed conveyed that they believed they were depressed. Some expressed fear over what would happen to them and their families. Others regretted the economic and emotional strain their detention was putting on their families and loved ones. Still others could not deal with the reality of being

confined in prison-like conditions. Amidst all these concerns, Stewart still has no psychiatrist on staff. Having only one clinical nurse and one psychologist is grossly insufficient to adequately serve the detainee population at the biggest detention center in the U.S.

ii. Treatment of Detainees with Mental Disabilities

According to Grzegorz, psychological and psychiatric treatment is only available for people who are “dangerous or suicidal.”⁶³⁶ Mikyas Germachew, who has become very depressed and anxious since his detention began at Stewart, said that the psychologist is really only available if a detainee is suicidal or really upset. “If you’re sad, they just put you on a pill.”⁶³⁷ Those with mental health problems are put into the segregation unit despite ICE’s acknowledgment that segregation can exacerbate rather than help detainees’ mental health conditions.⁶³⁸ Ermis Calderone’s case presents a clear example:

Ermis Calderone, a young man who suffers from bipolar disorder and frequent panic attacks, arrived at Stewart in early spring 2011. Before his detention at Stewart, he had struggled with addiction issues and depression. Both had been effectively treated through counseling, medication, and support programs. All that ended when he arrived at Stewart. According to Ermis, Stewart provides no programs like Alcoholics Anonymous for recovering addicts. Less than a week after arriving at Stewart, without a support system, a therapist, or his regularly prescribed medication, Ermis suffered a panic attack. While waiting for a medical appointment to re-visit his medication levels, Ermis sensed a panic attack coming. “I just wanted to take my clothes off so I could breathe, so I asked the guard if I could be taken back to my cell.” The guard refused. As he felt his heart begin to race and his vision blur, Ermis asked if he could at least go to the restroom. Again he was denied. An attack set in. Ermis’ panic attacks are never violent to others, but he sometimes will begin hitting himself in the head or striking his head against the wall. When the guard observed this, four guards threw him to floor, cuffed him, and held to ground until he was still. A nurse later told Ermis that he had had a stroke and that he should stop saying it was a panic attack. An outside physician later confirmed that he did not experience a stroke but a panic attack.⁶³⁹ Although no violence or threats of violence occurred during the episode, Ermis was placed in segregation.⁶⁴⁰ Ermis was in segregation for almost the entire time he was detained, which was over six months.⁶⁴¹ When the ACLU of Georgia spoke with Ermis in September 2011, his knuckles were bruised from punching the wall of his cell. His arms and wrists were still raw and scabbed from a recent suicide attempt.

Ermis was transferred to Stewart from North Carolina. His mother who lives in North Carolina has been able to visit three times, but she said that the trips were harrowing and that she had experienced great difficulty getting in to talk to her son, and that the guards were always rude to her.⁶⁴² Because of the long distance a lawyer would have to travel to visit with Ermis, his mother tried unsuccessfully for six months to obtain a lawyer for her son.

“I feel like I’m going crazy. My medicine is always changing, and it makes me crazy. When I get upset, they just give me more medicine. I can’t tell them I’m really upset or they just put me in a helmet and handcuffs for a few days. That’s torture! I don’t see anybody. I don’t really care about anything. I just want to get out and get into a program that will help me.” –Ermis Calderone⁶⁴³

5. Abuse of Power

Abuse of power problems documented include: classifying detainees with no criminal record or no violent criminal history as high security, lack of a meaningful grievance procedure, and mistreatment of detainees by guards. Mistreatment ranged from verbal to physical abuse, retaliatory behavior including the use of the segregation unit as a form of punishment, and abuse of detainees with disabilities.

a. Classification Status

Upon entering Stewart, each detainee is classified as: (1) blue – low-security level, (2) orange – medium-security level, or (3) red – high-security level. At intake, Javan Jeffrey was assessed as a classification Level 3 – red and was placed among detainees with potentially violent felony convictions. Javan Jeffrey only has one criminal conviction dating back to 2009 for Petit Larceny, a class A misdemeanor under New York Penal Law 155.25. Javan filed for reclassification on August 12, 2011, but had not yet received a response as of mid-November 2011. Paul, who had never been convicted of a felony or even misdemeanor was nonetheless classified as Level 3 – red, apparently because of his religious background and the fact that he was active at his mosque.⁶⁴⁴ Detainee classification is not only important because of housing but also because it determines whether or not a detainee can participate in the work program. Detainees classified as high-security can take on only a limited number of jobs inside the pod and some are not allowed to work at all.⁶⁴⁵

b. Failed Grievance Procedure

The current grievance procedure deprives detainees of a meaningful opportunity to have their grievances addressed. There are two disciplinary boards at Stewart: (1) the Unit Discipline Committee comprised of CCA employees only, and (2) the Institutional Disciplinary Panel, which has more authority and is comprised of two CCA officers and one ICE official.⁶⁴⁶ According to PBNDS standards and the Stewart Detainee Handbook, detainees have a right to file grievances by filling out a grievance form.⁶⁴⁷ If a detainee files a grievance, he is sometimes placed in segregation until he has a hearing. In addition, some detainees have mentioned that detainees who filed grievances were subjected to other retaliatory behavior by CCA officers such as being threatened or put in the segregation unit.⁶⁴⁸

Ugochukwu Ehienuo filed a grievance against an officer for calling him and two others, Ido Yelkal and Mikyas Germachew, “Niggas.” While awaiting the hearing, he was placed in segregation. At the hearing, the officer in charge of the disciplinary panel stated that he knew the accused officer and that he believed the guard had used the term in a “friendly” way. When Ugochukwu challenged this, the disciplinary head officer said that the officer would never have used that language and accused Ugochukwu and the others of lying. The officer on the disciplinary committee stated that Ugochukwu must have threatened the officer and found him in violation of the disciplinary code. Ugochukwu was sent to the segregation unit for ten days for threatening an officer. Because of this experience, Ugochukwu feels that the grievance procedure is a joke and he is hesitant to report any other abuse. When asked why he did not file a second grievance when another CCA officer called him a “bitch-ass Nigger,” he replied: “Writing them up is not going to change anything. It will just make me a target.” Mikyas Germachew was told by the grievance officer that his story was “bullshit,” and if he kept putting in grievances, “everyone will be watching you.”⁶⁴⁹ Ido Yelkal is afraid to put in a second grievance because he knows he will be beaten or put in “the hole.”⁶⁵⁰ Mikyas says he is sick of filing grievances, especially since they are either ignored or followed up by the officer too late to have any impact.⁶⁵¹ When asked to respond to these events, CCA provided a differing account.⁶⁵²

Omar Ponce was charged with refusal to be counted in daily head count, refusal to work, and organizing a work strike.⁶⁵³ He was in the segregation unit for a week before he had his hearing.⁶⁵⁴ In addition, he had no knowledge of when his hearing would be scheduled. As a result, he could not adequately prepare to defend his case and the Unit Discipline Committee sent him to the segregation unit for four more weeks.⁶⁵⁵ Although CCA confirmed that Omar Ponce was in segregation from June 9, 2011, to June 30, 2011, it claimed that it followed all PBNDS requirements regarding disciplinary actions and procedures.⁶⁵⁶

In addition to in-house grievances, detainees have a right to file complaints with the U.S. Department of Homeland Security Office of Inspector General (DHS OIG). Based on our interviews and responses to FOIA requests, in practice there has been almost no follow-up on the complaints.⁶⁵⁷ Javan Jeffrey mentioned that he has filed numerous complaints with ICE and DHS OIG but has never received any responses.⁶⁵⁸ According to grievance summaries the ACLU of Georgia obtained through FOIA requests, there were 94 complaints filed with DHS OIG by Stewart detainees, outnumbering the number of complaints from ACDC, NGDC, and Irwin combined.⁶⁵⁹ Complaints ranged from inadequate medical care, physical and verbal abuse, and food and hygiene concerns to violations of due process.⁶⁶⁰ Of those 94 complaints, all but three were administratively closed upon receipt.⁶⁶¹ In addition, there were 4 complaints filed with DHS Office of Civil Rights and Civil Liberties between 2007 and 2011.⁶⁶²

c. Mistreatment by CCA Officers

Reported mistreatment by CCA officers included verbal and physical abuse. Of particular concern is abuse that targets detainees with physical disabilities as well as threats and use of the segregation unit as punishment.

i. Verbal Abuse by CCA Officers

Almost all detainees interviewed stated that they were either the subject of or witness to verbal abuse by CCA officers. “There is a lot of verbal abuse by the guards.”⁶⁶³ Ugochukwu Ehienulo’s experience, recounted above, illustrates what is often a racial aspect of verbal abuse by CCA guards.

The two other men who were with Ugochukwu Ehienulo when they were called “Nigga,” Ido Yelkal and Mikyas Germachew, have similar stories as Ugochukwu’s. Neither was placed in segregation, but Ido says he was harassed by guards frequently after submitting the complaint. Examples of the harassment that these men stated they suffered included verbal abuse, unnecessarily invasive searches, taunting, and jokes to other guards that Ido was a troublemaker.⁶⁶⁴ After coming back from meal time one afternoon, a guard started eying Mikyas and chanting to the other guards, “Lemme search him. Lemme search him.” The guard did conduct a search, and Mikyas says he “was violated” during that search.⁶⁶⁵ Ido said that one particularly menacing guard was supposed to be moved to another unit, but he never was, and Ido would avoid that guard whenever possible due to the harassment he experienced.⁶⁶⁶ Dyna also told us that an officer once threatened to beat him and that all officers are disrespectful.

ii. Physical Abuse by CCA Officers

Although physical abuse was reported far less often than verbal abuse, the ACLU of Georgia documented cases of physical abuse by guards against detainees. One incident documented by the ACLU of Georgia is particularly troublesome.

On June 28, 2011, right before lockdown at approximately 10:45 p.m., a female officer locked Javan Jeffrey out of his cell. When he asked her to open it back up, she accused him of “pressing the buzzer” and would not reopen the cell until fifteen minutes later. The officer then threatened him saying she would write him up if he “did it again.” Once Javan was in his cell, the female officer got a male guard. The male guard entered the cell and punched Javan on the side of his face. Javan was sent to the medical unit for treatment. Javan presented the ACLU of Georgia with a medical chart showing a contusion and a laceration on his left forehead, which was bruised and swollen. Since the incident, Javan has suffered from hearing problems and loss of eyesight as a result of the injury. Javan filed a complaint with CCA regarding this incident.⁶⁶⁷

Other lesser though still serious examples of physical abuse include accounts of guards twisting detainees’ arms to prove their authority or disciplining detainees during count if they were perceived not to be paying attention or to be unruly.⁶⁶⁸ Another detainee told us that when they take longer to eat their meals, CCA officers shove them or yell at them to hurry up.⁶⁶⁹

iii. Retaliatory Behavior by CCA Officers

According to several detainees interviewed by the ACLU of Georgia, detainees believe that CCA guards engage in retaliatory behavior. One detainee was stripped of his right to buy items from the commissary and other detainees reported having been threatened or put into the segregation unit.⁶⁷⁰

1) Segregation Unit

Interviews revealed that CCA guards use the segregation unit as punishment for detainees who complain about the conditions of their detention. Guards threatened or actually sent detainees to the segregation unit for filing grievances, refusing to work, complaining about water quality, and perhaps even for speaking to the ACLU of Georgia.⁶⁷¹

a) Conditions

The segregation unit at Stewart consists of 40 single-man cells.⁶⁷² It is primarily used as a form of punishment for disciplinary issues.⁶⁷³ According to the Stewart Detainee Handbook, disciplinary offenses are ranked into four levels based on a scale from 100 to 400.⁶⁷⁴ Depending on the nature of the offense, per the Stewart Detainee Handbook, time spent in the segregation unit can range from 24 hours to 60 days.⁶⁷⁵ Angel described the segregation unit as consisting of one person per cell with food given to him, a nurse visiting him daily in his cell, a separate recreation yard, and no television or phone.⁶⁷⁶ According to Ermis Calderone, the recreation yard for detainees in segregation “is just a cage. It’s a tiny fence that keeps you from hanging out with others in the yard. We aren’t allowed to talk to anyone.”⁶⁷⁷

The ACLU of Georgia requested to visit the segregation unit during our tour of the facility on September 7, 2011, but the request was denied.⁶⁷⁸

b) Reasons for Being Placed in Segregation

Although the ACLU of Georgia was told by ICE that some detainees ask to be put in the segregation unit as a form of protective custody,⁶⁷⁹ Javan Jeffrey who had been in segregation six times did not know of anyone who fit this description.⁶⁸⁰ Instead, we were told that detainees are typically put into segregation as retaliation for complaining, filing a grievance, or not complying with orders. Javan Jeffrey believes that as a result of the assault incident and because he filed a grievance, he has been targeted by CCA guards.⁶⁸¹ This was confirmed by another detainee who told us that since Javan filed grievances, he is on the guards’ “radar” and everything he does gets him sent to the segregation unit.⁶⁸² Javan had been in the segregation unit seven times in less than three months.⁶⁸³ Javan’s wife told us that right after the ACLU of Georgia visited with Javan, he was put back in the segregation unit for 29 days and was told that he could only make one phone call during the entire time he was in the segregation unit. That marks Javan’s eighth time in

segregation. When asked to respond, CCA stated that Javan was in segregation for disciplinary reasons.⁶⁸⁴

Jaime Lara was threatened with segregation if he refused to work less than eight hours per day.⁶⁸⁵ In 2009, Arman Garghani told the ACLU of Georgia that when detainees complained that the shower water was dirty and turned the whole shower green, the guards sent them to the segregation unit.⁶⁸⁶ In August 2011, Mikyas Germachew confirmed that guards still sent detainees to segregation for complaining about the water.⁶⁸⁷

Grzegorz Kawalec has been placed in segregation twice.⁶⁸⁸ Once, he had a dangerously high fever, but there was no room for him in the medical center, and so he was moved to the segregation unit.⁶⁸⁹ The second time he was sent to segregation, he stayed there for two weeks, and the guards would not tell him why he was there.⁶⁹⁰ After two weeks, he was moved back into the general population.⁶⁹¹ “They said it was a mistake, and I hadn’t broken any rules.”⁶⁹² He said detainees are placed in segregation often. “Two, three weeks there is a short time. You go there for three weeks for talking back or being ‘disrespectful.’” A month or two, he says, is standard for more serious violations.⁶⁹³

c) Abuses While in Segregation

Detainees told the ACLU of Georgia that they suffered various abuses while in segregation, including denial of recreation and/or showers. Detainees also reported being placed in segregation for excessively long periods of time. For example, Javan Jeffrey told the ACLU of Georgia that while in segregation he was rarely allowed recreation, in violation of PBNDS standards.⁶⁹⁴ Angel also told us that those in segregation were only allowed into the yard two times the entire month he was there.⁶⁹⁵ In addition, Javan Jeffrey told us that detainees in segregation are only allowed to shower every other day and that the meal portions are smaller. Although showering every other day does not specifically violate ICE PBNDS, the section on segregation states: “Detainees ... will be afforded basic living conditions that approximate those provided to the general population.”⁶⁹⁶

In spite of the stated 60-day maximum, at least two men we spoke to had been in segregation for at least three months at a time.⁶⁹⁷ Roberto Carillo’s account is one such example of inhumanely long periods in segregation. Roberto was placed in the segregation unit for three months in 2011.⁶⁹⁸ Roberto added that being in the segregation unit for that long made him suicidal.⁶⁹⁹ As a result, CCA re-classified him from orange to red security level.⁷⁰⁰ Roberto was only let out because he went on a hunger strike for ten days.⁷⁰¹ In addition to Roberto Carillo’s experience, Ermis Calderone was held in segregation for five months.⁷⁰² CCA did not explicitly deny either of these accounts, but stated that both detainees were in segregation as a result of “continuous disciplinary issues.”⁷⁰³

Both of these instances violate ICE and international human rights standards. According to PBNDS standards, the maximum amount of time a detainee can be held in the segregation unit is

60 days.⁷⁰⁴ This is also reiterated in Stewart's Detainee Orientation Handbook, which says that time in segregation should not exceed 60 consecutive days.⁷⁰⁵ According to international standards, individuals can only be held in segregation for even shorter periods of time. The UN Special Rapporteur on Torture, Juan Méndez, has stated that individuals should not be subjected to more than 15 days of segregation.⁷⁰⁶ The Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas state that isolation "shall only be permitted as a disposition of last resort and for a strictly limited time, when it is evident that it is necessary to ensure legitimate interests relating to the institution's internal security, and to protect fundamental rights."⁷⁰⁷ Thus, placing Roberto Carillo in segregation for three months and Ermis Calderone in segregation for five months is in clear violation of Stewart's, ICE's, and international standards.

iv. Abuse of Detainees with Disabilities

When Eduardo Zuniga was in a pod that housed many elderly detainees and individuals with physical disabilities, he witnessed guards come up behind a blind man who spoke no English and suddenly yell at him, in English.⁷⁰⁸ These verbal attacks were not in response to anything the man had done. Juan knew of a man in wheelchair whom officers forced to sleep on the top bunk for no apparent reason.⁷⁰⁹

2. North Georgia Detention Center

Background

The North Georgia Detention Center (NGDC) is located in Gainesville, Georgia, about a 45 minute drive from Atlanta.

In March 2009, ICE contracted with CCA for 502 beds at NGDC to house female and male immigrant detainees.⁷¹⁰ Pursuant to this agreement, CCA entered into a contract with Hall County Commissioners to lease NGDC.⁷¹¹ The agreement is for a term of five years and will expire in 2014.⁷¹² This agreement caused friction between Hall County and the City of Gainesville because the city planned to buy the facility.⁷¹³ In addition, the city did not want a long-term incarceration facility in its downtown.⁷¹⁴ Councilman Danny Dunagan commented that the corporation taking over the Main Street jail is “notorious for mistreatment” of prisoners.⁷¹⁵

Despite this tension, NGDC began housing immigrant detainees in October 2009.⁷¹⁶ In February 2012, Hall County announced an agreement to sell NGDC to CCA. Hall County Commissioners’ decision not to discuss the potential sale with Gainesville’s City Council caused further friction between the city and the county.⁷¹⁷ City Manager Kip Padgett stated that maintaining a jail in the midtown area was not what city council members wanted. “Because of all the investment and time we’ve put into Midtown, we’d just hoped that they would make the long-term use of the jail something that was more conducive to what we were doing.”⁷¹⁸ Mayor Dunagan added: “They made a decision without contacting any of us. I’m disappointed. We don’t want a prison downtown, period.”⁷¹⁹ As of March 21, 2012, Hall County had allowed the City of Gainesville to make an offer of \$7.2 million for the property, matching CCA’s purchase price.⁷²⁰ However, at the time of publication of this report, negotiations are still ongoing.⁷²¹



The highest number of non-citizen detainees NGDC has held at any one time was 472 in December 2010.⁷²² As of October 2011, there were 368 non-citizen detainees held at NGDC.⁷²³ Of those, 32 were female. NGDC can house up to 70 female detainees.⁷²⁴

Non-citizen detainee housing units at NGDC are made up of 15 pods.⁷²⁵ Each pod has its own showers, toilets, and a common area equipped with a television, tables and chairs, and in-dorm recreational activities.⁷²⁶ There are also two special housing units.⁷²⁷ The facility also has outdoor

recreation, a kitchen, an intake-processing center, a medical unit, and a laundry room.⁷²⁸ The detention center houses three levels of detainees: (1) blue – low security, (2) orange – medium security, and (3) red – high security.⁷²⁹

As of September 17, 2011, there were 11 ICE employees at NGDC.⁷³⁰ As of October 2011, there were 54 CCA staff members, approximately 10% of whom spoke Spanish.⁷³¹

Findings

In December 2008, the Office of Detention and Removal Operations conducted an annual review of NGDC's compliance with Detention Standards.⁷³² NGDC received a rating of "acceptable" and the investigator found that no Detention Standards were violated.⁷³³ Again in August 2009, the Office of Detention and Removal Operations found NGDC "acceptable" and not deficient in any standards.⁷³⁴

The ACLU of Georgia's findings were very different. The ACLU of Georgia interviewed 15 individuals who were detained at NGDC. Of those, three were female. Based on accounts relayed by the detainees, the following section lays out four areas of concern: 1) due process concerns, 2) living conditions, 3) medical and mental health care, and 4) abuse of power. The ACLU of Georgia's research found many due process violations especially in cases of non-English speaking detainees, inadequate living conditions which include failure of CCA staff to provide appropriate hygiene items to female detainees, inadequate medical and mental care where CCA staff do not ask all detainees mental health questions at intake, and abuse of power by guards who retaliate against detainees who complain by sending them to the segregation unit.

1. Facility Due Process Concerns

a. List of Pro Bono Services not Provided to all Detainees at Intake

According to the National Detainee Handbook, immigrant detainees have a right to contact pro bono representation.⁷³⁵ Despite this, three out of 15 detainees we spoke to at NGDC were not notified about pro bono services.⁷³⁶ In addition to violating ICE standards, failure to notify non-citizens of local pro bono legal resources may violate detainees' due process rights, as mentioned above.⁷³⁷

b. Attorney Visits

Attorneys may visit detainees at NGDC seven days a week.⁷³⁸ According to the Detainee Handbook, family and friends' visitation is no-contact; however, the handbook does not say whether attorney visitations are contact visits or not. The ACLU of Georgia and other attorneys have traditionally had only no-contact visits. This means that attorneys must speak with their clients through a plexiglass wall using a phone. However, according to the warden of NGDC, this policy has changed and attorneys may now request a contact visit.⁷³⁹

The current attorney visitation policy may violate attorney-client privilege. Upon entering NGDC, attorneys must fill out the “Notification to Facility Visitors (Attorney)” form. A Gainesville attorney described the form as follows: “I was asked to give name, address, and other biographical information, and also asked to disclose all confidential information learned in my interview with the detainee to the warden, which I struck out and initialed.”⁷⁴⁰ The ACLU of Georgia was also required to fill out this form every time we met with a detainee, even though our visit was for purposes of human rights documentation and not for representation.⁷⁴¹ In addition, in some cases, the CCA staff make copies of materials and documents that attorneys bring in to give to the detainees.⁷⁴² These two practices violate attorney-client confidentiality by making CCA privy to attorney-client communications and exchanges of documents. In addition, based on detainee interviews and review of facility procedures, it is unclear if conversations through the telephone are monitored or recorded. In at least one case, a detainee was unable to obtain a non-supervised non-recorded phone call with his attorney in fall of 2011.⁷⁴³

c. Law Library Concerns

Detainees request access to the law library by submitting a Detainee Request Form to the Unit Manager.⁷⁴⁴ According to the Detainee Handbook, detainees can access the law library a maximum of five times per week for one hour at a time.⁷⁴⁵ The law library has two computers, which are equipped with Microsoft Word, Microsoft Excel, and Lexis-Nexis.⁷⁴⁶ In addition to computers, there are legal books (Benders 2010 edition).⁷⁴⁷ There is a library aide who works in both the law library and the regular library.⁷⁴⁸ If a detainee wishes to print something out from the internet, he/she must make a request to the Unit Manager.⁷⁴⁹

Legal materials are available in English and Spanish but no other languages.⁷⁵⁰ This is a problem for Dung Dang, a Vietnamese detainee who can barely understand English.⁷⁵¹ “The books in the law library are in English and I could only understand basic words,” he said.⁷⁵²

2. Inadequate Living Conditions

Living conditions at NGDC pose numerous concerns including NGDC’s location and its impact on detainees’ ability to communicate with their family members, cell conditions and hygiene, the segregation unit, food, voluntary work program, limited religious services, and infrequent recreation.

a. Transfer Takes Detainees Away from Family/Community

Although only four of the 15 detainees interviewed were originally arrested out of state, transfer of individuals to NGDC is still problematic. William Bey was arrested in October 2004 in Portland, Oregon.⁷⁵³ Since then, he has been transferred three times, most recently to NGDC in June 2011.⁷⁵⁴ Due to these transfers, William has lost contact information for his 17-year-old son in Seattle who does not know where he is.⁷⁵⁵ Two other detainees, Manny and Carlos Vargas, were both arrested in North Carolina, and Manny has not been able to see any family members

since being transferred to NGDC.⁷⁵⁶ “I feel like I’m being kidnapped and taken away from my family,” says Carlos.⁷⁵⁷

In addition to being transferred to NGDC, detainees are also often transferred from NGDC to other facilities.⁷⁵⁸ Detainee Fredin Toledo told us that he wishes he could stay at NGDC to be close to his family.⁷⁵⁹ In June 2011, Fredin was notified that he was being transferred to Stewart.⁷⁶⁰ He believed that he was being transferred in order to impair his ability to mount an effective case against his removal.⁷⁶¹

b. Lack of Contact Visits and Inadequate Visitation Schedule

Visitation for family members is capped at one visit per weekend for the duration of 30 minutes to one hour.⁷⁶² For those detainees whose families are in North Carolina, a visit during the weekend for only 30 minutes is unduly restrictive based on the travel time involved. In addition, visitation rooms at NGDC are no-contact. Eduardo Jurado stated that because of this, he is worried for his children to come and visit him because he looks like a prisoner.⁷⁶³ “When my kids are able to come visit me it will be hard. There is not a visiting room so I will only be able to talk to them through a phone and a glass windowpane. I will not be able to hug them or anything.”⁷⁶⁴ No-contact visits are wholly inconsistent with the civil detention model, which ICE has claimed to be implementing.⁷⁶⁵ In addition, this policy also impacts detainees’ right to maintain and develop family relations, as discussed above.⁷⁶⁶

c. Phone Services

Each pod has four telephones in it.⁷⁶⁷ The phones are located in the common room of the pods.

Phone services are provided to NGDC through Talton Communications.⁷⁶⁸ Although pricing of phone calls is not in the Detainee Handbook, William Bey told the ACLU of Georgia that he purchased a phone card from the facility for \$10.00 for 30 minutes.⁷⁶⁹ Carlos Vargas purchased a \$20.00 phone card, which allowed him to use the phone for one hour.⁷⁷⁰ Dung Dang has not been able to contact his family in Vietnam to inform them about his detention since international calls are too expensive.⁷⁷¹ Although Edith Ornelas Meijia was not sure exactly how much phone cards cost, she estimated that she spends about \$100.00 per week on calls to her children.⁷⁷² She added: “The facility does not limit calls, but the amount of money my family has to spend does.”⁷⁷³

Daniela Esquivela was able to purchase enough minutes to speak to her mother daily, but she stated that the phones are hard to hear and that her mom says she sounds “far away.”⁷⁷⁴ Daniela also added that the operator says all calls are monitored.⁷⁷⁵ In fact, the Detainee Handbook states that all conversations are subject to being monitored; for detainees to have unmonitored attorney calls, they must submit a Detainee Request Form to the Unit Manager.⁷⁷⁶

d. Cell Conditions

i. General

NGDC has a total of 25 housing units.⁷⁷⁷ The following descriptions are based on the ACLU of Georgia's observations during the facility tour and the information provided by facility officials. The ACLU of Georgia was shown both male and female housing units.⁷⁷⁸ Unit 1, a male housing unit, housed 240 detainees and had two case managers and one unit manager.⁷⁷⁹ Officers switch between two shifts, one walking around the pod and the second doing surveillance through live video feed.⁷⁸⁰ One of the pods in this unit had 96 detainees, 12 cells, and 8 showers. In each cell, there is a small window, a toilet, and a desk.⁷⁸¹ We did not see any detainees categorized as low-security level housed with detainees categorized as high-security level as signified by the color-coded prison uniforms.⁷⁸² In each pod, there are mailboxes for outgoing mail, grievances, ICE mail, and medical requests.⁷⁸³

In the female unit, there are three pods with 16 women per pod.⁷⁸⁴ Each pod has two showers and two phones.⁷⁸⁵ Women are housed within the pod in a cell with two women per cell. In the pod, there are four tables, a television, and a board with two clipboards of ICE information and NGDC information in English and Spanish.⁷⁸⁶ The board also includes consulate numbers and notices about sexual abuse including a toll-free number to call to report sexual abuse.⁷⁸⁷ Daniela Esquivela described her pod as follows: 16 female detainees of blue and orange classifications, the common area, and cells off of the common area.⁷⁸⁸ In each cell, there is a bunk bed, a toilet, and a sink.⁷⁸⁹ There are windows in the cell but they are opaque and one cannot see out of them.⁷⁹⁰ There are two showers in the pod.⁷⁹¹

ii. Hygiene Concerns

The ACLU of Georgia is concerned about the low number of toilets as well as inadequacy of hygiene supplies. In June 2011, Natalia Elzaurdia told us that for the last two days, she had run out of toilet paper and it had not yet been replaced.⁷⁹² As a temporary solution, she had asked to borrow some from her neighbor, but could not continue to do that for much longer.⁷⁹³ This problem persisted in October 2011.⁷⁹⁴ Daniela Esquivela added that it can take days or weeks for the facility to provide toilet paper in response to requests.⁷⁹⁵ This is in violation of PBNDS on Personal Hygiene, which provides: "Staff shall provide male and female detainees personal hygiene items appropriate for their gender and shall replenish supplies as needed."⁷⁹⁶ In addition, these findings are contrary to ICE's review of NGDC in December 2008, which found that "the facility provides and replenishes personal hygiene items as needed" and "gender-specific items are available."⁷⁹⁷ As mentioned above, inadequate hygiene standards violate international law.⁷⁹⁸

a. Female Hygiene Concerns

Upon entering NGDC, female detainees are given a “kit.” The kit consists of four pairs of socks, four pairs of underwear, three sports bras, three t-shirts, three uniforms, tennis shoes, and shower shoes.⁷⁹⁹ Among the hygiene supplies provided are soap, shampoo, lotion, toothbrush and toothpaste, and a roll of toilet paper.⁸⁰⁰ Unlike at Irwin, the underwear provided to female detainees is new, but the sports bras are not.⁸⁰¹ Daniela Esquivela told us that women are given a pack of sanitary napkins for when they are menstruating, but that they must ask for more once they run out.⁸⁰² The guards only give out three or four at a time, and if detainees need more, they have to keep going back to ask for more.⁸⁰³ Geraldine Ayala also added that they sometimes have to wait to get more sanitary napkins because “they run out.”⁸⁰⁴

iii. Segregation Unit

There are separate segregation units for males and females.⁸⁰⁵ According to the NGDC Detainee Handbook, there are two types of segregation: administrative and disciplinary.⁸⁰⁶ In the Female Unit, there are four cells, and in the Male Unit, there are eight.⁸⁰⁷ The ACLU of Georgia visited the Male Unit. Inside each cell there was a bunk bed, a toilet, a desk, and a small window.⁸⁰⁸ When we visited, there was no one in the segregation unit.⁸⁰⁹ Outside of the cells, there was one phone and one shower.⁸¹⁰

The warden of NGDC told us that detainees in the segregation unit shower on Mondays, Wednesdays, and Fridays.⁸¹¹ This is contrary to ICE’s 2008 audit which found that “[a]dministratively segregated detainees enjoy the same general privileges as detainees in the general population.”⁸¹² The PBNDS also provide that detainees in segregation “will be afforded basic living conditions that approximate those provided to the general population.”⁸¹³ The NGDC Detainee Handbook states that detainees are “expected to bathe daily” for hygiene concerns.⁸¹⁴ Allowing detainees in segregation to bathe only every other day disregards NGDC’s stated hygiene concerns and institutes more restrictive conditions for detainees in segregation. As mentioned above, the practice of solitary confinement is particularly problematic under international law. The U.N. Special Rapporteur on Torture has recommended that the practice of segregation be banned altogether as it “can amount to torture or cruel, inhuman or degrading treatment or punishment.”⁸¹⁵

e. Food Concerns

Three types of meals are served at NGDC: regular, common fare/kosher, and medical.⁸¹⁶ None of the detainees we spoke with were on special diets. Meals at NGDC are served three times a day. According to the Detainee Handbook, breakfast is served at 5 a.m., lunch at 10:00 a.m., and dinner at 4:15 p.m.⁸¹⁷ This schedule posed particular concern for Natalia Elzaurdia, a pregnant detainee. Natalia stated that “the feeding times are ridiculous; there are thirteen hours between dinner and breakfast.”⁸¹⁸ Although Natalia was eventually given increased portions due to her pregnancy, she was not given meals more frequently.⁸¹⁹ In addition, it took two or three days

once her request was approved for the portions to increase.⁸²⁰ Another detainee, Rodrigo de la Cruz, complained about the small portions.⁸²¹ He stated that he began working in the kitchen so he could get enough to eat.⁸²² In addition to problems with feeding times and portions, Jose Cruz Morales complained that they only have 5-10 minutes to eat.⁸²³ Jose told the ACLU of Georgia that in less than two months at NGDC, he had lost 26 pounds.⁸²⁴

Water is provided in large coolers in each pod.⁸²⁵ Unlike at Stewart, no interviewees expressed complaints about the quality of the water. There is also a commissary where detainees can fill out a form bi-weekly and purchase items, which are delivered to them.⁸²⁶ Daniela Esquivela said that the commissary is very expensive and explained that a pack of cereal at the commissary costs \$4.50.⁸²⁷

f. Voluntary Work Program

NGDC provides a voluntary work program for detainees, which pays between \$1.00 and \$3.00 per day.⁸²⁸ Detainees cannot work in excess of eight hours daily or 40 hours weekly.⁸²⁹ Of the 15 detainees interviewed, five participated in the voluntary work program.⁸³⁰ Of those, all worked in the kitchen and none were female.⁸³¹ Kitchen work pays \$2.00 a day and detainees typically use the money to buy extra food from the commissary or to buy phone cards.⁸³²

As mentioned above, payment of \$1.00 to \$3.00 per day may violate the Inter-American Principles on Detention, including the right “to receive a fair and equitable remuneration.”⁸³³

g. Religious Services

Religious services at NGDC are provided through the Chaplaincy Office and by community volunteers.⁸³⁴ According to the warden, NGDC employs a chaplain and has approximately 25 volunteers.⁸³⁵ Services are typically held in the pods or in an open housing unit.⁸³⁶ There are Catholic, Jewish, Muslim, and Christian services.⁸³⁷ Services are offered in Spanish and Bible Study classes are also offered.⁸³⁸

h. Recreation

Recreation at NGDC consists of two outdoor general population recreation yards and a special housing unit recreation yard for the female and male units.⁸³⁹ The outdoor recreation area was a courtyard with a basketball hoop but nothing else, not even benches or chairs.⁸⁴⁰ Under ICE PBNDS, recreation is to be provided a minimum of five days per week.⁸⁴¹ However, two female detainees said that they receive far less recreation time than that.⁸⁴² Geraldine Ayala told the ACLU of Georgia that she was only allowed outdoor recreation Monday through Wednesday.⁸⁴³ Daniela Esquivela told us that during one week in October she did not leave her pod once for recreation because it was too cold.⁸⁴⁴ Instead, according to Daniela, recreation was held in her pod where there was nothing to do but walk around.⁸⁴⁵ This is in violation of the Recreation PBNDS, which states: “Detainees will have daily opportunities to participate in leisure-time

activities outside their respective cells or rooms.⁷⁸⁴⁶ The requirement also specifically states that “indoor recreation may not be substituted for outdoor recreation.”⁷⁸⁴⁷

In a little over a month at NGDC, William Bey had seen recreation denied to others as punishment.⁸⁴⁸ This is in direct violation of the Recreation section of PBNDS, which provides that recreation cannot be denied as punishment.⁸⁴⁹

3. Inadequate Medical and Mental Health Care

The medical and mental health units at NGDC face serious barriers in providing adequate care because of the small size of the staff and absence of full-time professional staff.⁸⁵⁰ This results in undue delays in the provision of treatment to the detainees and an inability to communicate with foreign-language speaking detainees, as many staff are not bilingual.⁸⁵¹ In addition, the mental health care staff does not consistently ask mental health questions at intake,⁸⁵² which causes some people with mental disabilities to go untreated. Those with mental disabilities are often put in segregation in lieu of receiving treatment.⁸⁵³

a. Medical Care

All medical staff at NGDC are CCA employees.⁸⁵⁴ The medical unit has a general health area and a dental area.⁸⁵⁵ A nurse practitioner is at the facility five days per week.⁸⁵⁶ The medical director is on the premises four hours per week and is also available on an on-call basis.⁸⁵⁷ The dentist is there 16 hours per week.⁸⁵⁸ There are two observation cells: one is a medical observation cell where detainees on suicide watch are put and the second is a negative pressure cell.⁸⁵⁹ If a detainee needs medical assistance, he/she fills out a Sick Call Request.⁸⁶⁰ The ACLU of Georgia was told that a patient is typically seen within 24 to 48 hours.⁸⁶¹ In addition to the paper-slip system, the medical staff goes to the pods twice weekly and does pill call.⁸⁶² For outside care, NGDC has a contract with the North Georgia Medical Center and a second contract with the Habersham County Hospital for tuberculosis.⁸⁶³

i. Understaffed Medical Unit

NGDC does not employ a doctor on a full-time basis; only nurse practitioners who are there five days per week.⁸⁶⁴ When the ACLU of Georgia visited NGDC, there were only two nurses on the premises.⁸⁶⁵ The ACLU of Georgia believes that this number is too low to adequately serve a facility with a capacity of 502 detainees. The problem with failing to employ a doctor at the facility is highlighted by Natalia Elzaurdia’s experience:

When Natalia Elzaurdia was detained in May 2011, she and her fiancé were expecting their first child. At intake, Natalia told the nurse at the medical unit that she was four months pregnant. The nurse then conducted a urine test, and told Natalia that she was not pregnant. Natalia asked her to call the Gwinnett County Detention Center where she had previously taken two pregnancy tests. The nurse refused to call and conducted a chest x-ray against Natalia's protestations. Natalia asked for a blood test instead. The next day a blood test confirmed she was pregnant.

Natalia had requested to see a gynecologist as soon as she entered NGDC. At the time of the interview, days after she put in her request, she had yet to see a gynecologist. "I put in requests to two nurses and my deportation officer and still my concerns have not been addressed. I experience cramps in my abdomen daily. I want an ultrasound; I haven't been given one yet and I'm four months pregnant." Although she requested to see a doctor, Natalia only saw nurses. Natalia's family wrote to the warden and other NGDC officials, as well as DHS regarding Natalia's treatment, but never received a response.⁸⁶⁶

ii. Detainees Face Unreasonable Delays in Receiving Medical Care

The ACLU of Georgia found that detainees face unreasonable delays in receiving medical care. Although we were told that detainees are usually seen within 24 to 48 hours of putting in a request, detainees informed us that under-staffing leads to much longer delays.⁸⁶⁷ In June 2011, Bibi, entered NGDC.⁸⁶⁸ At intake, Bibi informed the nurse that he was HIV positive and needed daily medication.⁸⁶⁹ Despite this, Bibi told the ACLU of Georgia that it took ten weeks for him to begin receiving the necessary medication.⁸⁷⁰ In July 2011, Carlos Valdez Vargas informed us that when he had a cold it took three days after putting in a request for him to see a nurse and to receive medication.⁸⁷¹ Edith Ornelas Mejia put in a request in July 2011 to get a pap smear and she was told it would take at least two weeks.⁸⁷² Geraldine Ayala told the ACLU of Georgia that she complained for two months of pain due to gallstones and that the nurse at NGDC refused to send her to the hospital.⁸⁷³ As a consequence of her not receiving treatment on a timely basis, Geraldine became feverish one night and began throwing up.⁸⁷⁴ She was brought to the medical unit three times that night before being taken to the hospital for surgery.⁸⁷⁵

Natalia Elzaurdia's story as told above is yet another example of unreasonable delays in receiving medical care.⁸⁷⁶ As stated in the previous section, these delays are in violation of Principle 25 of U.N. Standard Minimum Rules which states that prisoners who are sick should be seen daily.⁸⁷⁷

iii. Medical Unit Has Dearth of Spanish Speaking Staff

Throughout 2011, detainees reported difficulties communicating with staff in the medical unit due to the language barrier. Edith Ornelas Mejia characterized the medical staff as "just barely bilingual"⁸⁷⁸ and Jose Cruz Morales stated that the staff only spoke English.⁸⁷⁹ He elaborated that when he went to the medical unit during intake, the nurse only spoke English during a routine

medical exam.⁸⁸⁰ Carlos Valdez Vargas added that when he went to the medical unit, not only did the staff not speak Spanish, but there was no interpreter present.⁸⁸¹ According to the detainees we spoke to, these language barriers lead to a lack of proper communication.⁸⁸² Without being able to properly communicate with the medical staff, it is impossible for the detainees to receive adequate medical treatment. According to Principle XX of the Inter-American Principles on Detention, detention facility staff should be trained in cultural sensitivity.⁸⁸³ The majority of the staff at NGDC should be able to speak Spanish, since it is the primary language for the majority of the detainees.

b. Mental Health

The Medical Unit at NGDC also includes a mental health unit. There is one psychiatrist who is on the premises four hours per week and also available on an on-call basis.⁸⁸⁴ The ACLU of Georgia believes that having one psychiatrist on a part time basis for 502 detainees is insufficient to adequately meet detainees' mental health needs.

i. Insufficient Mental Health Staff

It is well-documented that detention in general causes a myriad of mental health problems.⁸⁸⁵ Throughout our interviews, detainees expressed feelings of depression, anxiety, and stress. Since entering NGDC in March 2011, Eduardo Jurado experienced anxiety and insomnia due to the stress of being away from his family and being unable to provide for them.⁸⁸⁶ He stated: "I am really nervous about my family and what is going to happen to them. I provide for them so I don't know who will take care of them. If I get deported then my kids who were born here will have to go back to Mexico with me. At night I am just thinking all the time. I'm thinking about my family."⁸⁸⁷ These types of feelings are prevalent among detainees at various immigration detention facilities including NGDC according to detainee interviews. The ACLU of Georgia is concerned that one psychiatrist cannot adequately provide care to hundreds of detainees when he/she is only present at the facility for four hours per week.

ii. At Intake, Medical Staff Fails to Ask Mental Health Questions

According to Initial Admission procedures in ICE's National Detainee Handbook, detainees must undergo a thorough medical examination, which includes an assessment of physical and mental health.⁸⁸⁸ However, four detainees we spoke to explicitly stated that they were never asked mental health questions at intake.⁸⁸⁹ These detainees had been admitted between April and July 2011.⁸⁹⁰ Only one interviewee stated that the medical staff asked her mental health questions at intake.⁸⁹¹

iii. Treatment of Detainees with Mental Disabilities is Punitive Rather than Care Oriented

NGDC lacks effective treatment measures for detainees with mental disabilities. The National Detainee Handbook states that “all potentially suicidal or severely depressed individuals are treated with sensitivity and receive proper referrals for assistance.”⁸⁹² In addition, the NGDC Detainee Handbook urges detainees to talk to their Unit Manager if they are depressed or suicidal.⁸⁹³ However, when Natalia Elzaurdia told the CCA staff that she was suffering from anxiety and depression, she was not provided with any treatment.⁸⁹⁴ Natalia told us that she knew of other female detainees who experienced emotional difficulties due to being away from their children, all of whom had problems getting help.⁸⁹⁵ When asked what type of mental health care is provided at NGDC, Natalia replied that treatment is “negligible.”⁸⁹⁶ She added that instead of receiving treatment, detainees are just put in segregation.⁸⁹⁷

Among the detainees we spoke to, Daniela Esquivela was the only one who was offered any type of counseling.⁸⁹⁸

4. Abuse of Power

Unlike at Stewart, detainees we spoke with at NGDC did not complain of prevalent verbal and physical abuse. While some detainees complained of guards telling them to hurry up while eating or to “pay attention” during count, these complaints do not seem to rise to the level of verbal abuse.⁸⁹⁹

i. Retaliatory Behavior from Guards

Detainee Johnny told the ACLU of Georgia that “if you complain you will be a primary target.”⁹⁰⁰ The biggest concern expressed was retaliatory behavior from guards such as denying recreation to detainees or putting detainees in segregation. Manny told us that he knew of a fellow detainee who was taken to the “hole” (segregation unit) for three days during the winter of 2011 for arguing with an officer who claimed he threatened her.⁹⁰¹ Edith Mejia stated that she does not complain because she fears retaliation from the guards.⁹⁰²

ICE PBNDS specifically states that: “A detainee may be placed in Disciplinary Segregation only after being found guilty, through a formal disciplinary process, of a facility rule violation.”⁹⁰³ Placing detainees in segregation for minor infractions without a disciplinary hearing violates this standard.

3. Irwin County Detention Center

The ACLU of Georgia's research of Irwin revealed many of the same concerns as documented in other facilities and noted in the previous sections: Irwin's remote location inhibits detainees ability to find representation and be able to communicate and visit with their families; living conditions are substandard; female hygiene is an area of particular concern; and detainees often go untreated or receive inadequate treatment because of understaffed medical and mental health units.

Background

The Irwin County Detention Center (Irwin) is a 1,201-bed facility located in Ocilla, Georgia, a rural community more than three hours south of Atlanta.⁹⁰⁴ It was not until December 2010 that it began to house immigrant detainees.⁹⁰⁵ According to the Intergovernmental Service Agreement (IGSA) between the United States Marshals Service, the Federal Bureau of Prisons, ICE, and Irwin County, federal immigration detainees are housed at Irwin at a per diem rate of \$45.00.⁹⁰⁶ The agreement states that the period of performance is effective upon the date of signature of both parties and remains in effect unless terminated by either party with written notice.⁹⁰⁷ The facility houses female and male immigrant detainees in addition to U.S. Marshals Service detainees and county prisoners.⁹⁰⁸ There are currently approximately 300 U.S. Marshals Service detainees and 40 county prisoners being held at the facility. The capacity for immigrant detainees is 512 and in September 2011, the facility was at only half capacity.⁹⁰⁹ As of September 2011, 65 percent of the immigration detainees were male and 35 percent female.⁹¹⁰ The staff is comprised entirely of those employed by Detention Management, LLC.⁹¹¹

Findings

There were many detainee accounts attesting to serious and systematic problems with living conditions, medical attention, and treatment of detainees at Irwin.

1. Facility Due Process Concerns

a. Non-English Speaking Non-Citizens at a Disadvantage

Just as non-English speaking detainees are at a disadvantage during the removal process, they are also at a disadvantage at the detention center where they cannot understand the facility's rules and regulations or communicate with the guards. Each detainee the ACLU of Georgia interviewed was given a detainee handbook, but many non-English speakers were given the handbook only in English.⁹¹² Non-English speaking detainees are then at the mercy of cellmates and English speaking friends to translate the material.⁹¹³ Being denied information on rules and pro bono services not only makes daily life difficult and confusing, but detainees may miss opportunities to secure much-needed legal representation.

Without the provision of interpreters, detainees are forced to rely on translations imparted by others not professionally trained or suited for this role. One detainee, Veronica, had to rely on other detainees interpreting for her instead of being provided an interpreter.⁹¹⁴

The warden of Irwin said that approximately 20 percent of the staff was bi-lingual and that in addition to Spanish speaking staff, there were those who spoke German and French.⁹¹⁵ While this percentage is larger than that at ACDC,⁹¹⁶ it still violates regional human rights standards which provide that detention facility staff should be trained in cultural sensitivity.⁹¹⁷

b. Listing of Pro Bono Legal Services and Legal Rights Presentations Not Provided to All Detainees

Many detainees interviewed were aware of pro bono legal services they could utilize, and some had participated in presentations by Catholic Charities.⁹¹⁸ However, others had not been provided with a listing of pro bono services. When Maria Francisco arrived at Irwin, she requested a pro bono attorney but was told there was “no point; you will be deported anyway.”⁹¹⁹ She never saw a presentation or list of attorneys.⁹²⁰ Maria who does not have an attorney would be especially in need of such services. She said a judge has issued a final order of removal, but she did not really understand what was happening or what was decided in court.⁹²¹ Failure to provide listings of pro bono attorneys to detainees violates their due process rights to fair judicial proceedings under international law.⁹²²

As discussed in the ACDC section below, absence of legal rights presentations has been shown to have a negative impact on an immigrant’s case.⁹²³ The failure to provide all detainees with listings of pro bono attorneys and legal orientation presentations violates their right to due process and access to justice, specifically ICE PBNDS on group presentations on legal rights which states: “Detainees will have access to information and materials provided by legal groups. Organizations will be permitted to distribute information in response to specific legal inquiries.”⁹²⁴

c. Attorney Visits

The ACLU of Georgia and other attorneys have had difficulty with the attorney visitation policy at Irwin.

On Thursday, December 2, 2011, Chaka Washington traveled to Irwin to interview detainees. Upon arrival, Ms. Washington, a licensed Georgia attorney, was informed that she would not be allowed to meet with any of the detainees because the detention center required consent from U.S. Immigration and Customs Enforcement (ICE) prior to every visitation. Upon receiving this information, the ACLU of Georgia contacted ICE representative Pamela J. Reeves. After Ms. Reeves spoke with Irwin officials, Ms. Washington returned to the facility and provided officers with a listing of the names of the detainees with whom she wished to meet, only to be informed by the officers that she and an accompanying interpreter would not be able to meet with any detainees that day because “too much was going on” and that, if they left the names of the detainees with the officers, they could schedule a meeting with them the following day.⁹²⁵ Upon further inquiry with ICE, the ACLU of Georgia was informed that there was a lockdown at the facility that day.⁹²⁶

On December 6, 2011, the Captain of Irwin, Joshulyn Davis, stated to the Irwin staff: “Effective immediately Attorney visits for ICE will be non contact visits.”⁹²⁷ This new policy is problematic, because as stated in the Stewart and NGDC sections, no-contact visits violate attorney-client confidentiality and are wholly inconsistent with a civil detention model.

There are also concerns about monitoring of detainee phone calls to their attorneys. Dulce Bolanos-Estrada, who had an attorney provided to her through Catholic Charities, had only met with her in person once.⁹²⁸ Although she had been able to talk to her attorney over the phone, her phone calls were monitored and she was not been able to secure a private line to have a confidential conversation.⁹²⁹ This directly violates attorney-client confidentiality and ICE’s policy which states that “facilities may not monitor any call to an attorney.”⁹³⁰

d. Law Library Concerns

Although Irwin’s Detainee Handbook states that the law library is open Monday through Friday from 8 a.m. to 5 p.m., detainees have had difficulty accessing the law library.⁹³¹ Dulce Bolanos-Estrada wanted to visit the law library, but there was a wait period while her request was processed.⁹³² “You have to specifically ask the guards and schedule [a time to visit]. They are not very helpful.”⁹³³ At the time of the interview with the ACLU of Georgia, Dulce had been waiting for almost a week to visit the library.⁹³⁴ Maria Francisco was completely unaware that there was a law library or access to legal materials provided.⁹³⁵ Florent Kalala complained that for over 250 detainees at the facility, there are only two working computers in the law library.⁹³⁶

In January 29, 2012, two detainees drafted a petition which 25 other detainees signed.⁹³⁷ The petition highlighted the long delays in gaining access to the law library, researching and writing legal documents, printing the documents, and mailing the documents.⁹³⁸ According to the petition, accessing the law library, printing documents, and mailing documents all must go through a formal request system, which can take weeks.⁹³⁹ This cumbersome process paired with

only two working computers highlights the difficulties detainees face in preparing for their removal hearings.

The ACLU of Georgia asked to see the law library during its September 2011 tour to document what materials were present, but the request was denied.

2. Inadequate Living Conditions

a. Transfers Taking Detainees Away from Family and Community

Even when transferred from one facility to another within the state, transfers can be hard on detainees and their families. Ignacio Morales and his family lived about half an hour outside of Atlanta. When he was detained at the Cobb County jail, he was still able to see his five-year-old daughter.⁹⁴⁰ At the time he spoke with the ACLU of Georgia, he had been detained at Irwin for eight months and had not seen his family at all during that time because of the distance.⁹⁴¹ Jose Ponce says that the real problem with being detained at Irwin is its remote location.⁹⁴² He has only been able to communicate with his family by phone and that they have not been able to visit him in the two months he has been detained.⁹⁴³ Dulce Bolanos Estrada was transferred from NGDC to Irwin, which is much farther from her friends and family making it harder for them to visit with her.⁹⁴⁴ Norberto Neira has four children, two of whom are under 18; the youngest is just five years old.⁹⁴⁵ His children are suffering terribly from the separation, and he believes that his five year old will need to see a psychologist to work through this.⁹⁴⁶ When his wife and children come to visit him, the entire lobby is disturbed by the youngest child's crying; his "sobs, cries, screams [are] so loud."⁹⁴⁷ Article XXV of the American Declaration requires that states "shall take into account the need of persons to be deprived of liberty in places near their family, community, their defense counsel or legal representative, and the tribunal or other State body that may be in charge of their case."⁹⁴⁸ In addition, the IACHR has noted that: "Visiting rights are a fundamental requirement for ensuring respect of the personal integrity and freedom of the inmate." As such, if transfer strips detainees of this right, which it has been shown to do for detainees transferred to Irwin, it may violate their human rights.⁹⁴⁹

b. Phone Services

Irwin's handbook states that phone calls to attorneys and family members are monitored and are capped at 15 minutes per call.⁹⁵⁰ Like in other facilities, the cost of placing calls to outside the facility is extremely high, and many detainees spend all their money on phone calls alone.⁹⁵¹ Veronica pays \$30.00 to \$40.00 on phone calls every month,⁹⁵² and Jovita Campuzano Jimenez says it costs her \$5.00 for one 15 minute call and that she will spend over \$50.00 per month trying to talk to family members.⁹⁵³ Sometimes, she says, there is a busy signal, but she is still charged the full amount.⁹⁵⁴ Particularly at Irwin, with detainees living so far away from loved ones, access to a functioning and affordable phone system is a necessity.

c. Cell Conditions

i. General

The detention center houses three levels of detainees: (1) blue – low-security, (2) orange – medium-security, and (3) red – high-security. Level 3 detainees are kept separately from level 1 detainees.⁹⁵⁵

A total of 16 immigration units house detainees at Irwin.⁹⁵⁶ There are eight male and eight female units at Irwin. Each unit has 32 beds and is divided into a common area and two or four-person cells.⁹⁵⁷ The cells each have a shower, washbasin, and toilet.⁹⁵⁸ At intake, in addition to a medical screening that consists of a list of questions, a TB test, and a medical exam, hygiene items, uniforms, and bedding are distributed.⁹⁵⁹ As of fall 2011, only one non-ICE detainee was being detained in the immigration units. There are also three phones in each unit, tables for meals/recreation, and two televisions, one in Spanish and one in English.⁹⁶⁰

Jose Ponce says that being detained in prison-like conditions is “like being a caged animal.”⁹⁶¹ Some units have difficulty maintaining a stable temperature.⁹⁶² Temperatures fluctuate from extremely hot to extremely cold.⁹⁶³ In the two months Maria Francisco had been detained at Irwin, her unit had lost air conditioning three times.⁹⁶⁴ “The heat is unbearable,” she said.⁹⁶⁵

ii. Hygiene Concerns

Detainees often have to wait longer than one week to get clean sheets, towels, and pillowcases.⁹⁶⁶ A clean change of undergarments and socks are not easy to come by either. “It’s very gross. We have to wash them in our own cells,” says Dulce Bolanos Estrada.⁹⁶⁷ Maria Francisco also washes her clothes in the sink. They are supposedly washed, she says, but come back smelling bad and looking dirty.⁹⁶⁸ When towels, sheets, and other linens are changed, they are not clean.⁹⁶⁹ Insufficient washing of linens and undergarments at Irwin violates international human rights standards.⁹⁷⁰

iii. Segregation

On a tour of the facility on September 30, 2011, the ACLU of Georgia requested to visit the segregation unit but was denied access. We were informed that the segregation unit has 84 beds, and that in September 2011, it was less than 1/3 full.⁹⁷¹ The warden of Irwin told the ACLU of Georgia that most everyone placed in segregation was there for administrative reasons, such as protective custody.⁹⁷² At least two detainees, however, provided a different account.⁹⁷³

Angela Kelley did not know why she was being sent to segregation; “they just told me to go.”⁹⁷⁴ Even though detainees are usually held in segregation for a period of four days to a week,⁹⁷⁵ Angela was placed in segregation for much longer, and she felt much less safe in segregation.⁹⁷⁶ At the time of the interview, March 10, 2011, Angela Kelley had been in segregation for almost a

month.⁹⁷⁷ With lesser access to showers and phone, Angela felt lonely and threatened “because of the guards.”⁹⁷⁸ She was also denied recreation the entire time she was in segregation.⁹⁷⁹ This is contrary to the policy outlined in the Irwin Detainee Handbook, which states that “inmates/detainees confined to the special housing unit will be afforded one hour of recreation seven days a week.”⁹⁸⁰

Florent Kalala was placed in segregation twice for disciplinary infractions between September 2011 and January 30, 2012.⁹⁸¹ During his time in segregation, Mr. Kalala told the ACLU of Georgia that there is a list on the segregation unit’s wall, which states what privileges are revoked in segregation.⁹⁸² The privileges that are revoked include showering every day as well as access to the commissary, the law library, and recreation.⁹⁸³ Mr. Kalala stated that when he was in segregation in October 2011 for four days, he was denied access to the commissary and denied recreation.⁹⁸⁴

Although the ACLU of Georgia was not able to see the segregation unit firsthand, restricted access to showers and phone and denial of recreation violates the PBNDS, which provide that detainees in segregation “will be afforded basic living conditions that approximate those provided to the general population.”⁹⁸⁵ As stated in previous sections, the U.N. Special Rapporteur on Torture has recommended that the practice of segregation be banned altogether as it “can amount to torture or cruel, inhuman or degrading treatment or punishment.”⁹⁸⁶

d. Food Concerns

Three types of food options are available to detainees at Irwin: regular, kosher, and common fare.⁹⁸⁷ All meals are provided through satellite feeding in the units.⁹⁸⁸ Three meals per day are served, and breakfasts are served as early as 4:30 in the morning.⁹⁸⁹ The commissary sells food, snacks, and bottles of water when meals are not being served.⁹⁹⁰

According to detainee interviews, the food provided to detainees at Irwin is inadequate in quantity and subpar in quality.⁹⁹¹ Dulce Bolanos Estrada has lost 15 pounds since being detained, and has been served undercooked and rancid food.⁹⁹² “There is not enough food. A very small amount is given to each of us.”⁹⁹³ Maria Francisco too has been served rancid food.⁹⁹⁴ She also says the food is undercooked at times, and she has found hair in her food.⁹⁹⁵ One detainee found what looked like a worm in her food, and Veronica found a plastic glove in her meal.⁹⁹⁶ Maria Francisco had lost ten pounds in the two months she had been in Irwin in spite of spending around \$10.00 per week on extra food at the commissary and Veronica had also lost ten pounds since her arrival at Irwin, even after spending around \$30.00 per week at the commissary.⁹⁹⁷ In five weeks, Jovita Campuzano Jimenez had lost 24 lbs.⁹⁹⁸

Jose Ponce was transferred to Irwin in October 2011.⁹⁹⁹ He is diabetic, but does not receive medically appropriate meals.¹⁰⁰⁰ Instead, he is served general population food, which he says “has a lot of carbs.”¹⁰⁰¹ Jose told us that since they have not changed his diet, “I just try to eat the veggies, but they don’t give me enough.”¹⁰⁰² Florent Kalala, who has high blood pressure, also

does not receive a medically appropriate diet.¹⁰⁰³ Mr. Kalala told the ACLU of Georgia that the food is incredibly salty and that whenever he eats it, the sodium causes his blood pressure to rise.¹⁰⁰⁴

Additionally, detainees do not have enough time to eat their meals.¹⁰⁰⁵ Most detainees interviewed said they were given less than ten minutes to eat.¹⁰⁰⁶ Norberto Neira said he has often been given less than five minutes to eat.¹⁰⁰⁷

Hunger Strike at Irwin

In January 2012, the ACLU of Georgia received a letter through family members of detainees at Irwin. The letter stated that detainees were staging a hunger strike to protest the conditions at Irwin beginning Wednesday, January 25, 2012.¹⁰⁰⁸ The letter further stated: “This is our Right to be tak[en] care of with respect, dignity, and to be treat[ed] like human beings, not animals.”¹⁰⁰⁹ The letter continued “they feed us wors[e] than dogs,” “the taste of excess salt in the food makes us want to throw up,” and that the cost of food at the commissary is too high.¹⁰¹⁰ The letter also expressed concern over delays in receiving medications, guards being disrespectful to the detainees, and the high price of phone cards.¹⁰¹¹

When the ACLU of Georgia interviewed Florent Kalala and Jose Ponce on January 30, 2012, we learned that on Wednesday, January 25, 2012, a significant number of detainees in their pod participated in the hunger strike.¹⁰¹² Florent Kalala stated that nothing had changed as a result of the hunger strike and the food was still as inedible as ever.¹⁰¹³

e. Voluntary Work Program

The work program at Irwin is not compensated.¹⁰¹⁴ The “volunteers,” as the detainees are called, have duties that range from cleaning and kitchen duty to distributing clothing to new arrivals. Detainee interviews revealed that the work of the volunteers is poorly monitored at times, which has resulted in reports of abuse and discrimination dealt out to other detainees.¹⁰¹⁵ “All the volunteers yell,” Veronica says, “but the guards do, too.”¹⁰¹⁶

f. Recreation

Recreation is both indoor and outdoor at Irwin and includes volleyball, soccer, jump-rope, and access to an inside basketball court. Detainees are supposed to be allowed recreation a minimum of five times per week.¹⁰¹⁷ However, Jose Ponce told us that he is allowed outside into a caged field only three times per week.¹⁰¹⁸ This is in direct violation of ICE standards contained in the Detainee Handbook stating that “if a period of detention is expected to last longer than 72 hours then detainees will have an opportunity for one hour of outdoor recreation per day, five days per week.”¹⁰¹⁹

g. Inadequate Supervision

In spite of the number of detainees who know little or no English, guards are not bilingual, and other detainees often have to help interpret for them.¹⁰²⁰ Handbooks are given out in English to detainees who do not know English, and medical exams and interviews are conducted in English without any interpreters present.¹⁰²¹ Disciplinary rules are posted in Spanish, but these posters do not include many pieces of information that are outlined in detail in the handbook.¹⁰²²

During the intake process, detainee “volunteers” help distribute uniforms, undergarments, hygiene items, and linens to men and women arriving at the facility.¹⁰²³ Language barriers, a lack of available interpreters, and a lack of oversight have caused problems. Veronica, a non-English speaker, was issued soiled undergarments at intake.¹⁰²⁴ She asked a detainee in the work program if she could have clean ones.¹⁰²⁵ He refused and told her to wear what she was given. Thinking she had to obey this person, Veronica wore the soiled undergarments, which led to a serious infection that ultimately left scars on her legs and genitals.¹⁰²⁶ She found out later that he was not a guard, but she says she could not figure out who else to ask, and no one else was available for questions at the time of her intake.¹⁰²⁷

Other detainees interviewed by the ACLU of Georgia said that they also suffered when guards did not adequately supervise the kitchen staff who consequently did not prepare meals correctly. Norberto Neira said that certain detainees working in the kitchen would not make anything more than peanut butter and jelly sandwiches for meals, and on those days, detainees would not get hot meals at all.¹⁰²⁸

In the summer of 2011, a female unit, which consisted of mostly Spanish speaking women, was disrupted by arguments that kept arising over the two TVs in the unit. A detainee wanted to play two English speaking channels, and when others complained, an English speaking detainee told them that “this is America and the TVs would be in English.”¹⁰²⁹ The guard did not intervene or enforce the rules, and said nothing when the English speaking detainee began yelling at other women.¹⁰³⁰ “Most fights are about the microwave or TV, and we just have to go to our cells.”¹⁰³¹

With such weak supervision, many detainees have felt they have nowhere to turn when they have a problem. Veronica said another detainee was threatening her and trying to fight and Veronica did not know where to go or whom she could ask for help.¹⁰³²

h. Substandard Treatment of Non-English Speaking Detainees

Dulce Bolanos-Estrada, who speaks English and Spanish, says that she tries to interpret for others who do not speak English when she can.¹⁰³³ “I think,” Dulce says, “people who do not speak English are taken advantage of by the guards.”¹⁰³⁴ Ignacio Morales does not speak English well, and as a result, he has struggled to understand the rules, medical procedures, and what he needs to do if he has a grievance.¹⁰³⁵ Although he was given a detainee handbook when he arrived at Irwin, it was in English. Ignacio, who was taking pain medication twice daily for an

oral surgery he had undergone before arriving at Irwin, was not given his medication after arriving. At the time we spoke with him, he had been there for over a week and had passed out once because of the pain.¹⁰³⁶ With a Spanish/English dictionary, Ignacio submitted a request to see a dentist, and all he was able to write was “my teeth hurt.”¹⁰³⁷ Ignacio did not know the name or the role of the person to whom he gave the form, and he was unaware that he could file grievances with anyone.¹⁰³⁸ He says he feels like he is just being ignored, and complaining would only bring him harm.¹⁰³⁹ Jovita Campuzano Jimenez has similar thoughts about being ignored and being helpless to address the problem. “No one speaks Spanish. I have to find another detainee who can translate for me. That makes it very difficult and frustrating.”¹⁰⁴⁰ As mentioned, lack of Spanish speaking staff violates the Inter-American Principles on Detention.¹⁰⁴¹

3. Inadequate Medical and Mental Care

The Medical Unit provides both medical care and mental healthcare.¹⁰⁴² Unlike at the other immigrant detention centers in Georgia, dental care is provided off-site.¹⁰⁴³ The medical staff is employed from the Correctional HC Company. The unit contains observation rooms and treatment rooms.¹⁰⁴⁴ During a tour of the facility, the ACLU of Georgia was told that there was a doctor on site as well as a physician’s assistant. In addition, there are 11 nurses who are both Licensed Practical Nurses and Registered Nurses.¹⁰⁴⁵ The medical staff provides medical assistance to all prisoners and detainees housed in Irwin. In the mental health unit, there is a psychiatrist and a licensed social worker who are on call 24/7.¹⁰⁴⁶ A detainee can get in to see a member of the medical staff by requesting a visit through a sick call and filling out a form in either English or Spanish. In the event of a need for emergency care, the nearest hospital is the Irwin County Hospital, which is less than ten minutes away under normal driving conditions.¹⁰⁴⁷

a. Medical Care

i. Unreasonable Delays in Receiving Medical Care

Detainees at Irwin face unreasonable delays in receiving medical care, according to detainee interviews. The case of Dulce Bolanos Estrada, who was diagnosed with cancer in July 2009, provides an illustrative example.¹⁰⁴⁸ In spring of 2011, with three more months of chemotherapy to undergo, Dulce was detained at Irwin. At intake, she says they administered a TB test and asked her some questions at which point she told them she had cancer.¹⁰⁴⁹ She was not given a physical exam or a visit to the doctor that day, and over a week later, she was still waiting to see a doctor. All she was given was hydrocodone for the pain.¹⁰⁵⁰ “It has been a year since my last exam. I am in pain,” she said.¹⁰⁵¹ “They do not monitor my condition.... [The doctor] is never here.”¹⁰⁵²

Jovita Campuzano Jimenez requested medical care when she arrived at Irwin because she was in pain after being in an automobile accident.¹⁰⁵³ “I have repeatedly asked for an x-ray for really bad pain I have in my head from the accident. I have yet to receive anything. I have really blurred vision. The doctor is never in. I have just been ignored.”¹⁰⁵⁴

Although Ignacio Morales told the nurse at intake that he needed his pain medicine for his mouth, and although his medical records indicated this as well, he still had not received his medicine over a week after his arrival.¹⁰⁵⁵ Similarly, Jose Ponce told the nurse at intake that he was diabetic and had high blood pressure, but it took three weeks for him to start receiving his medication.¹⁰⁵⁶ Peter Obande Jacobs, who is also diabetic and has high blood pressure, stated that he did not receive medication until six days after he entered the facility.¹⁰⁵⁷

After putting in requests and filing complaints for over a month because she could not see a member of the medical staff, Angela Kelley went on a hunger strike that lasted six days. At the end of that period, she was finally able to see a nurse.¹⁰⁵⁸

As stated in previous sections, delays in receiving medical care exceeding one day violate international human rights principles.¹⁰⁵⁹

ii. Linguistic Barriers in Medical Unit

According to detainee interviews, no staff member of the medical unit is able to provide interpretation for detainees who do not speak English well or at all.¹⁰⁶⁰ Although interpretation can be secured through a phone service, few of the Spanish speaking detainees interviewed were aware of this option.¹⁰⁶¹ Jovita Campuzano Jimenez has tried to use the translation service, but she still felt frustrated. “Here, none of the medical staff can speak Spanish, but when I asked for an x-ray over the phone with the interpreter, I still got no response.”¹⁰⁶² Ignacio Morales could not receive pain medicine prescribed for his mouth, leaving him frustrated. “No one here speaks English. Communication has been very difficult.”¹⁰⁶³

When Maria Francisco first arrived at Irwin, she did not know she was talking to a member of the medical staff until someone took her blood.¹⁰⁶⁴ “There was no interpreter, and I had no idea why or what was happening. Even if you go because you’re sick they ignore you.”¹⁰⁶⁵ Although Irwin claims they provide medical request forms in both Spanish and English, neither Ignacio Morales nor Veronica were aware of this, and were forced to submit requests on forms they could not read.¹⁰⁶⁶ As mentioned above, this practice violates human rights standards.¹⁰⁶⁷

b. Mental Health

Like the other facilities, Irwin lacks non-punitive treatment, such as off-site counseling, for detainees with mental disabilities. This results in many detainees being afraid to voice their mental health concerns because they do not want to be sent to segregation.¹⁰⁶⁸

i. Treatment of Detainees with Mental Disability

Many detainees we spoke to are afraid to voice their mental health concerns because they believe that instead of receiving treatment, they will be placed in segregation. Many detainees suffer

from depression, anxiety, insomnia, and other emotional difficulties, often for the first time in their lives. The detainees we interviewed were generally afraid to talk about their mental health, or simply did not believe any good would come of talking to a mental health professional.¹⁰⁶⁹ Dulce Bolanos Estrada has been experiencing increasing feelings of depression since she was detained, but she is afraid to tell anyone about it.¹⁰⁷⁰ “I will never tell [the guards] about it because they will put you in the mental ward, which is much worse.”¹⁰⁷¹ Jovita Campuzano Jimenez agreed with this statement when she said she would do anything to prevent being put in the “mental hospital section.”¹⁰⁷² The practice of putting detainees with mental health problems in segregation clearly deters detainees from seeking treatment, resulting in conditions going untreated. In 2009, ICE itself acknowledged that segregation is “not conducive to recovery” and recommended stopping the usage of segregation cells to house detainees with mental health disabilities.¹⁰⁷³ In addition, mental healthcare providers have advised ICE that segregation is not an appropriate setting for long-term placement of detainees with mental disabilities and often exacerbates mental illness.¹⁰⁷⁴ This is also supported by the U.N. Special Rapporteur on Torture’s recommendation that the practice of segregation be absolutely banned in the case of those with mental disabilities, as mentioned above.¹⁰⁷⁵

4. Abuse of Power

a. Verbal Abuse

According to a number of interviewees, the guards at Irwin frequently yell or snap at the detainees.¹⁰⁷⁶ Veronica does not know what the guards are saying since they always speak in English, but she, like others interviewed by the ACLU of Georgia, is afraid to complain to them for fear of being yelled at or thrown into segregation.¹⁰⁷⁷ “Officers often scream at me,” says Jovita, who does not understand what they are saying and many times does not even know what she has done to provoke them.¹⁰⁷⁸ In addition to the hostile environment established by the guards, detainees who work in the facility yell at other detainees.¹⁰⁷⁹

b. Retaliatory Behavior from Guards

Detainees at Irwin are very afraid of retaliatory behavior from the guards if they complain or misspeak.¹⁰⁸⁰ Over two-thirds of the detainees interviewed expressed fear and concern at the possibility of complaining. Threats of being yelled at, of being placed in the mental health unit, or of being thrown into “the hole” dominate their thoughts when they consider complaining.¹⁰⁸¹

Maria Francisco was afraid to complain, especially because once she was threatened with being placed in “the hole.”¹⁰⁸² Her friend was sent to segregation for four days for complaining too much.¹⁰⁸³ After having her requests continually denied for medical treatment for blurred vision and headaches, Jovita Campuzano Jimenez is still afraid to complain. “[I]f you complain, it only gets worse.”¹⁰⁸⁴

c. Grievance Procedure

Most detainees interviewed by the ACLU of Georgia were provided little or no information about the grievance procedures at Irwin. Indeed, in some cases, detainees were unaware of the existence of a grievance procedure at all. The lack of knowledge most interviewees, especially those who did not speak English, had about the grievance procedure at Irwin was shocking. Maria Francisco, Jovita Campuzano Jimenez, and Ignacio Morales were completely unaware that they could submit a written grievance.¹⁰⁸⁵ All three were also afraid to complain to the guards, so they just remained silent.¹⁰⁸⁶ “I was told at orientation I could verbally complain, but nobody does,” Jovita said.¹⁰⁸⁷ Even those who are aware of the procedure, however, are afraid to use it because of the retaliation they may be subjected to as detailed above.

Angela Kelley submitted many complaints, but she says there was never any follow up.¹⁰⁸⁸ Failure to provide responses to grievances violates detainees’ rights to “receive a prompt response within a reasonable time.”¹⁰⁸⁹

Women Detainees at Irwin

Women in immigration detention facilities including the Irwin County Detention Center face particularly painful circumstances.

Victims of Abuse

Women often end up in detention because they were victims of abuse. Over half the women we interviewed had been victims of domestic violence.¹⁰⁹⁰ Veronica and Maria Francisco said they had never called the police when they were being beaten by their partners because they were afraid of being arrested and deported, which would hurt not only them but their children as well.¹⁰⁹¹ Maria's husband actually threatened to call ICE and have her deported if she complained about the beatings. She believed him and never called for help.¹⁰⁹² Her worst fears came true as she was finally arrested after police arrived at her home in response to a domestic violence call.¹⁰⁹³

Separation from Children and Family

Many of the women we interviewed were worried for their children because they were no longer with any immediate relatives or living at their own homes. Dulce Bolanos Estrada who fled to Georgia from New Orleans to escape an abusive husband has never been convicted of a crime. Now that she is detained, her young children (two, five, and seven), all of whom are U.S. citizens, are staying with relatives because she was their only caregiver. Her detention, she says, has torn apart the home she kept together. It seriously hurt the children and noticeably impacted them in a negative way.¹⁰⁹⁴ Clara, who had already received her final removal order, was terrified that her children, U.S. citizens, would be sent to their abusive father or put in state custody because she was told she would be deported regardless of the dates of her pending custody case.¹⁰⁹⁵ Because she could not afford an attorney, she had many questions about the future well-being and rights of her children, and she had no idea to whom she could turn.¹⁰⁹⁶ Maria Francisco's four young children, two of whom are still too young to even attend school, are U.S. citizens. They have been living with a relative since Maria's detainment. She does not know what she will do if she is deported.¹⁰⁹⁷ She wants her children in good schools, and she says they deserve to go to American schools since they are American.¹⁰⁹⁸ She had not seen her children at all in the two months she had been detained.¹⁰⁹⁹ Angela Kelley had not seen her baby, who was still in North Carolina, since 2009.¹¹⁰⁰

Veronica's children, all three of whom are U.S. citizens, are now back in Mexico because she had no family or friends who could provide a safe place for her children to live.¹¹⁰¹ A non-profit organization in her community, which is over four hours north of Ocilla, helped find family in Mexico where the children could stay until Veronica was released.¹¹⁰² At the time we spoke with her, Veronica had been detained for almost four months, and the extent of her record was a ticket for driving without insurance or a license.¹¹⁰³ Of the seven women interviewed by the ACLU of

Georgia, Jovita Campuzano Jimenez is the only woman whose children are still living with a parent.¹¹⁰⁴

Hygiene

The underwear women receive upon arrival is often used, even showing stains or signs that it is not properly washed.¹¹⁰⁵ As noted above, Veronica was issued soiled undergarments at intake and she asked a detainee working through the work program if she could have clean ones.¹¹⁰⁶ He refused and told her to wear what she was given.¹¹⁰⁷ As a result of wearing the soiled undergarments, Veronica developed a serious infection that ultimately left scars on her legs and genitals.¹¹⁰⁸ Irwin is the only facility where the ACLU of Georgia documented the practice of issuing used and dirty underwear to female detainees.

In the spring of 2011, a rash broke out in one unit, and most of the women had painful bumps on their chests.¹¹⁰⁹ In July 2011, another women's unit had a similar rash outbreak, and one woman had the rash spread across her back and side.¹¹¹⁰ None of the women interviewed ever found out why these outbreaks occurred, or what exactly the women had contracted.

Medical Needs

The medical needs of women at Irwin have been ignored, and as a result, treatable, even minor, problems have become major complications for some women in ICE custody at Irwin.¹¹¹¹

For example, detainee Angela Kelley suffered serious pain due to a lack of medical care for complications from breast implants.¹¹¹² Shortly after her arrival, she began to feel pain and requested to visit the doctor.¹¹¹³ This request was never granted.¹¹¹⁴ Finally, as a result of writing to authorities outside of Irwin, the facility allowed her to go to an off-site consultation. She was given antibiotics and pain medicine. Once she was placed in segregation, however, she had no access to medical help for her breast condition.¹¹¹⁵ A month after being placed in segregation, and after repeatedly complaining and filing requests, she was able to visit the medical unit, and it was discovered that a breast implant was leaking. It was determined that she needed to have surgery to remove the implant, but no surgery was ever scheduled. Her breast became swollen and painful, and she was unable to lift her arm. At the time of her release in August 2011, she still had not had an operation and was in severe pain due to the leaking implant.¹¹¹⁶

4. Atlanta City Detention Center

The ACLU of Georgia found that ACDC violates detainees' due process rights by failing to provide detainees with legal orientation presentations according to both international law and ICE guidelines.¹¹¹⁷ As documented in other facilities, living conditions are also problematic and ACDC houses high-security detainees with low-security detainees in violation of ICE standards.¹¹¹⁸ The medical and mental health units lack adequate staff, especially Spanish speaking staff, and detainees with mental health disabilities are put in segregation in lieu of receiving treatment. Finally, there is evidence of physical and verbal abuse by corrections officers, and there exists no adequate grievance procedure to address detainees' complaints.

Background

Federal prisoners began to be housed at the Atlanta City Detention Center (ACDC) pursuant to an Intergovernmental Service Agreement (IGSA) between the United States Marshals Service and Atlanta City Department of Corrections signed on April 1, 2002.¹¹¹⁹ According to the IGSA, more than 1,000 federal prisoners would be housed at the facility including adult male and female prisoners and male and female non-citizens detainees.¹¹²⁰ These individuals would be housed at ACDC at a per diem rate of \$53.07 per prisoner.¹¹²¹ The agreement was to remain in effect indefinitely, at the mutual option of termination by either party.¹¹²² On February 1, 2006, a modification to the IGSA increased the per diem rate from \$53.07 to \$68.00.¹¹²³

The U.S. Marshals have a separate contract with ICE to house 300 immigrant detainees at ACDC.¹¹²⁴ As of July 21, 2011, there were 110 immigrants detained at ACDC.¹¹²⁵

Findings

On May 13-15, 2008, the ICE Office of Detention and Removal Operations assigned Creative Corrections to perform an Annual Detention Review of ACDC.¹¹²⁶ ACDC received a rating of "good" and was found to be compliant with various standards.¹¹²⁷ In contrast, from 2009 to 2012, the ACLU of Georgia found many violations of not only ICE standards but constitutional¹¹²⁸ and international human rights standards.¹¹²⁹ The ACLU of Georgia interviewed 12 detainees at ACDC. We interviewed two of those detainees three times between 2010 and 2012.¹¹³⁰ All of the detainees we spoke to were male. The following section recounts their experience at ACDC.

1. Facility Due Process Concerns

The ACLU of Georgia documented numerous due process concerns at ACDC, including the fact that the great majority of guards at ACDC only speak English, making communication between non-English speaking detainees and guards difficult; lack of pro bono legal presentations; and a failure to keep law library reference materials up to date

a. Non-English Speaking Non-Citizens at a Disadvantage

As of July 21, 2011, ACDC employed 309 guards, only three of whom spoke Spanish.¹¹³¹ Officer Bond, Assistant Major of ACDC, stated that since so few guards spoke Spanish, it was normal for other detainees to serve as interpreters.¹¹³² Officer Bond also added that it is difficult to hire bilingual guards since they are not paid extra for being bilingual nor is it a qualification for the job.¹¹³³ Damien Alvarez was put into segregation for interpreting for another detainee.¹¹³⁴ Now, despite the shortage of Spanish speaking officers, Damien refuses to interpret for others for fear of being placed in segregation again.¹¹³⁵ The severe shortage of Spanish speaking staff makes it difficult for the majority of detainees to communicate with the staff at ACDC. This problem is compounded by Damien Alvarez's experience of being disciplined for translating for other detainees.

As mentioned above, a lack of Spanish speaking staff violates detainees' rights to have access to duly-trained and qualified personnel while in detention.¹¹³⁶ At the very least, the Inter-American Principles on Detention require that staff be able to speak Spanish since the majority of detainees speak only Spanish. Since less than one percent of the guards at ACDC speak Spanish, this violates not only detainees' rights to have trained and qualified personnel, but also their due process rights if they cannot communicate effectively.

b. Absence of Pro Bono Legal Presentations

Despite being located in the heart of Atlanta, the facility lacks a legal orientation program. Unlike at NGDC or Stewart, which have "Know Your Rights" presentations, none of the immigrants interviewed at ACDC said that they had attended any type of legal rights presentation.¹¹³⁷ This violates ICE PBNDS on legal rights groups' presentations, which states as an expected outcome: "Detainees will have access to information and materials provided by legal groups. Organizations will be permitted to distribute information in response to specific legal inquiries."¹¹³⁸ This also violates ICE's recommendation that a Legal Orientation Program should be expanded to all facilities.¹¹³⁹ ICE's 2008 review of ACDC documented that no group legal presentations had been conducted within the last 12 months; the review, however, determined group legal rights presentations to be "acceptable."¹¹⁴⁰

Lack of legal rights presentations has been shown to negatively impact an immigrant's case. In 2010, less than 20% of detained non-citizens had legal representation.¹¹⁴¹ A 2011 study, headed by a federal judge, found that immigrants with lawyers are five times more likely to win their cases than those without.¹¹⁴² The study found that an immigrant's access to an attorney can be as important as the facts in his or her case.¹¹⁴³ This direct link between representation and ability to obtain relief makes it even more imperative for detention centers to provide legal rights presentations for all detainees, especially those who are proceeding on their own without assistance of counsel.

c. Attorney Visits

ACDC does offer contact visits for attorneys, making it the only immigration detention facility in Georgia currently doing so. However, as detailed below, there are concerns about monitoring detainees' phone calls to their attorneys.

d. Law Library Concerns

The library contains legal books, typewriters, a copy machine, and a computer.¹¹⁴⁴ Detainees are allowed to make free copies of legal documents.¹¹⁴⁵ The rules for use of the legal center are posted near the computer.¹¹⁴⁶ The librarian sends out a list everyday for detainees to sign up.¹¹⁴⁷ A maximum of ten detainees are allowed in per hour; the time they get to spend on the one computer depends on how many other detainees are present.¹¹⁴⁸ One computer for a facility that can hold up to 300 detainees is clearly inadequate.¹¹⁴⁹ According to Sherwin Andrews, when he used the law library in spring 2009, all of the books were from 2007.¹¹⁵⁰ This violates ICE PBNDS standard of maintaining up-to-date materials.¹¹⁵¹ ICE also specifically recognized this problem in October 2009 and recommended that: "Legal reference materials should be current and complete."¹¹⁵² However, to the best of the ACLU of Georgia's knowledge, this problem had not been rectified as of March 30, 2012.

2. Inadequate Living Conditions

Detainees at ACDC expressed numerous problems with their living conditions. Communication and visitation with family members are inadequate because phone calls are very expensive, lack privacy, and are monitored. Family visitation is also unduly restrictive since detainees are only allowed no-contact visits, which are limited to 20 minutes. The ACLU of Georgia found numerous problems with cell conditions including mixing detainees of all security levels together, hygiene concerns, and segregation unit conditions. We also documented various food concerns, including detainees not receiving proper medical or religious diets. There are concerns about adequate religious services and a non-compensated work program. Finally, there is no opportunity for detainees to have outdoor recreation at ACDC.

a. Phone Services

Numerous detainees mentioned problems with the phones at ACDC.¹¹⁵³ Almost all detainees whom we spoke to stated that the phones were expensive. Behrouz Salamat stated that he is practically incapable of speaking to family members because the phone cards cost \$30.00 for ten minutes.¹¹⁵⁴ Edwin Edgold Omoregbe agreed, saying that at \$3.00 per minute, the phones are very expensive.¹¹⁵⁵ In addition to complaining about the price of the phone, Yassine Sanhaji added that there was no privacy for using the phones.¹¹⁵⁶ Andy Mathe added that the calls are monitored and sometimes drop all day long.¹¹⁵⁷

ACDC's practice of monitoring all calls violates attorney-client confidentiality.¹¹⁵⁸ In the ACDC Handbook, there is a provision where attorneys wishing not to have their attorney-client conversations recorded can make requests in writing to the Facility Commander to have their telephone numbers blocked from the monitoring process.¹¹⁵⁹ However, it is unclear whether or not these requests by attorneys are respected, and even if they are, the policy does not provide an option for a detainee to similarly request to have a call to an attorney blocked from monitoring. This also directly violates ICE's policy on telephone access to attorneys. The ICE National Detainee Handbook specifically states that "facilities may not monitor any call to an attorney."¹¹⁶⁰ In addition, ICE has recommended that "privacy shields to mute telephone conversations and protect the privacy of an attorney-client phone call should be installed on all of the phones that detainees use."¹¹⁶¹ However, it is unclear if privacy shields have been installed at ACDC.¹¹⁶²

b. Lack of Contact Visits

According to the ACDC Inmate/Detainee Handbook, visitations are scheduled for Wednesdays and Sundays according to the detainee's last name.¹¹⁶³ Detainees are allowed up to three adult visitors twice a week and all visits are limited to 20 minutes.¹¹⁶⁴ Visits are no-contact.¹¹⁶⁵

Hamid Karimiha complained he had difficulty hearing his wife and daughter through the plexiglass.¹¹⁶⁶ There is a small opening at the bottom of the window, so sometimes he would have to resort to talking to his family members through that in which case he would not be able to see them.¹¹⁶⁷

As noted above, no-contact visits are inconsistent with the civil detention model which ICE has claimed to be instituting¹¹⁶⁸ and contrary to regional human rights standards.¹¹⁶⁹

c. Cell Conditions

The housing units are located on the fifth floor of the building. Females and males are housed separately in different wings.¹¹⁷⁰ The common areas of each housing unit contain tables, two TVs (detainees choose channels, including Spanish ones), two water fountains, and six phones.¹¹⁷¹ There are seven showers, one of which is accessible by people with disabilities.¹¹⁷² The showers contain very small doors that would only cover the lower midriff section of a person's body.¹¹⁷³ In the women's housing unit, only women officers may supervise; however, in the men's housing unit, supervisors of either gender are allowed.¹¹⁷⁴ Detainees are allowed showers on Tuesdays, Thursdays, and on the weekend.¹¹⁷⁵

Every housing unit contains a bulletin board where notices for library hours, phone usage, and pro bono services, as well as rules and procedures about sexual abuse and other issues are posted.¹¹⁷⁶ There are also forms and a facility grievance box as well as a grievance box accessible only to ICE. ICE officers pick up contents once a week.¹¹⁷⁷ The ACLU of Georgia is not aware of any emergency grievance procedures.

The cells are small and contain two beds, a wooden table, a sink, and a toilet (both porcelain).¹¹⁷⁸ There is also a buzzer to call supervising officers.¹¹⁷⁹

i. Housing of Detainees of Various Security Classifications Together

Detainees are classified into three security levels: green, yellow, and red, with red indicating the highest security level.¹¹⁸⁰ According to the ACDC Detainee Handbook and the ICE National Detainee Handbook, detainees classified as green are not to be housed with detainees classified as red. However, according to detainee George Edigin, “everyone is mixed together.”¹¹⁸¹ In 2009, George told the ACLU of Georgia that detainees classified as red were mixed with detainees classified as green for many months.¹¹⁸² Andy Mathe, a detainee classified as green, stated that most detainees in his unit have green armbands but one has red.¹¹⁸³ This not only violates ICE and ACDC’s stated policy but also makes detainees fear for their safety.¹¹⁸⁴

Andy added that he and other immigrant detainees were initially placed in the general population and were only moved to the immigrant detainee unit after complaining.¹¹⁸⁵ Principle XIX of the Inter-American Principles on Detention dictates civil detainees’ right to be separated from prisoners serving time for criminal convictions.¹¹⁸⁶ ACDC’s practice of housing immigration detainees with general population prisoners violates this Principle.

ii. Hygiene Concerns

At intake, male detainees receive an airplane-sized toothbrush and toothpaste, a bar of soap, a roll of toilet paper, a pair of flip flops, a washcloth, and two jumpsuits.¹¹⁸⁷ Officer Bond stated that detainees sometimes receive a pillow if there are any in stock.¹¹⁸⁸ Detainees must purchase shampoo, additional toothpaste, and underwear.¹¹⁸⁹

Damien Alvarez had numerous hygiene concerns at ACDC.¹¹⁹⁰ He stated that the men are not given deodorant and since they can shower only every other day, the cells often smell bad.¹¹⁹¹ He added that they are only given one roll of toilet paper every Monday and are not given any more if they run out.¹¹⁹² In addition, towels are changed once a week and Damien said that they look dirty and make his skin itch.¹¹⁹³ Equally troubling, two detainees complained of being given old and recycled razor blades.¹¹⁹⁴ This is in direct violation of ICE’s policy which requires that razors be disposable and provided on a daily basis so that they are not shared.¹¹⁹⁵ The rationale for this is to prevent the spread of communicable diseases such as HIV and hepatitis.¹¹⁹⁶ Also, as noted above, international and regional human rights standards include the right to hygiene as part of a detainee’s right to humane treatment while in custody.¹¹⁹⁷ Towels that are not adequately sanitized and reused razor blades that could spread communicable diseases violate this right.

Richard Hylton was told that he should shower every day for medical reasons, but he was not allowed to do so at ACDC since detainees are only allowed to use the communal showers three

times a week.¹¹⁹⁸ Instead of having access to the shower to wash an infected area, he was forced to wash in the sink.¹¹⁹⁹ This inability to shower every day even for medical reasons is problematic, especially given the alternative of washing an infected private area in the communal sink.¹²⁰⁰

iii. Segregation Unit

The segregation and special housing units are located on the fourth floor; there are separate units for female and male detainees.¹²⁰¹ There is only one detainee per cell.¹²⁰² The doors for the cells are made of metal instead of wood and the walls are concrete.¹²⁰³ Instead of cots, detainees must sleep on a raised slab.¹²⁰⁴ There are also rooms that are used predominantly for suicide watch; detainees held in these rooms are not allowed to have sheets but are given a special suit to wear.¹²⁰⁵ According to Officer Bond, detainees from the general population and detainees with mental health problems are also housed in this unit.¹²⁰⁶ Other detainees may be brought here as result of a disciplinary proceeding.¹²⁰⁷

Detainees in segregation are only allowed out of their cells one at a time for one hour per day.¹²⁰⁸ At that time, they have access to an indoor recreational court as well as phones and TVs.¹²⁰⁹

Behrouz Salamat told us that the segregation unit “smells bad” and that there was too much noise.¹²¹⁰ Yassine Sanhaji added that the cells are like portable toilets and are very unsanitary.¹²¹¹ Yassine was put in the segregation unit for going on a hunger strike protesting his lack of medical attention in 2010 and was kept inside for 23 hours per day for six days.¹²¹² Damien Alvarez was put in segregation three times during his detention in 2011.¹²¹³ He told the ACLU of Georgia that the only book available to detainees in segregation is the Bible, the unit smells of urine, and most people detained there have mental disabilities.¹²¹⁴ He added that detainees with mental disabilities at the segregation unit screamed constantly, refused to shower, flooded the toilets causing them to overflow into other cells, and threw feces out of their food slots.¹²¹⁵ Damien had to complain for five days to get a toothbrush and toothpaste while he was in segregation.¹²¹⁶ The ACLU of Georgia witnessed firsthand detainees in segregation screaming and constantly lighting up the buzzer without receiving any reaction from the guard on duty.¹²¹⁷

The ACLU of Georgia is concerned about the practice of segregation at ACDC and the inhumane conditions that detainees are subjected to while in segregation. As noted above, this practice poses particular concern in the cases of detainees with mental health problems who are placed in segregation in lieu of receiving care, in light of the recommendation by the U.N. Special Rapporteur on Torture that the practice of segregation be absolutely banned in the case of those with mental disabilities.¹²¹⁸

d. Food Concerns

Immigrant detainees we spoke to voiced numerous concerns about the quality, quantity, and times of meals.¹²¹⁹ Andy Mathe told the ACLU of Georgia that breakfast is at 4 a.m., lunch at 11 a.m., and dinner at 4 p.m., leaving 12 hours between meals.¹²²⁰ He also added that they are only given five to ten minutes to eat.¹²²¹ Ebong Enobony said that he was always hungry even after eating because they are never given enough food.¹²²² Damien Alvarez added that they are only given enough to keep them alive.¹²²³

Andy Mathe told the ACLU of Georgia that the water tastes like sewer water and that he never drinks it.¹²²⁴ Edwin Edgold Omoregbe stated that the food is very poor and that he once found a cockroach in his food.¹²²⁵ Yassine Sanhaji complained of being served expired milk.¹²²⁶

Three detainees we spoke to have had problems receiving religious or medically appropriate meals at ACDC.¹²²⁷ Andy Mathe is allergic to pork and soy and stated that his dietary needs were not accommodated.¹²²⁸ He was served the same meals as other detainees and had to trade with others to get enough food.¹²²⁹ Richard Hylton, a diabetic detainee, was merely given a low-sodium diet.¹²³⁰ Yassine Sanhaji requested a *halal* diet as a practicing Muslim.¹²³¹ However, he was given “common fare” (vegetarian) instead of a *halal* diet.¹²³² The chaplain told him that it was too expensive to provide religious diets such as kosher, so they do not provide them.¹²³³ This is consistent with ICE’s 2009 Detention Standards Review which found that a vegetarian menu was provided for detainees with religious diets.¹²³⁴ Yassine Sanhaji added that although he was allowed to observe Ramadan in 2010, there was a nine-day delay in processing his request to ensure that he received meals at appropriate times.¹²³⁵

The chaplain of ACDC acknowledged to the ACLU of Georgia that the only dietary provision they make for detainees of various faiths is to put everyone on a “common fare” or vegetarian diet, rather than providing religiously appropriate diets.¹²³⁶ This violates ICE PBNDS on Food Service, which states that “special diets and special ceremonial meals will be provided for detainees whose religious beliefs require the adherence to religious dietary laws.”¹²³⁷

ACDC’s failure to accommodate detainees’ legitimate dietary restrictions further violates their right to humane treatment while in detention.¹²³⁸ In addition, improper nutrition threatens detainees’ health and well-being.

There is a commissary at ACDC but almost all detainees interviewed said that it was very expensive.¹²³⁹ George Edigin added that items at the commissary cost three to four times more than they ordinarily would.¹²⁴⁰ Edwin Edgold Omoregbe spent \$20.00 to 30.00 at the commissary per week.¹²⁴¹ In an effort to supplement his diet to meet his diabetic needs, Richard Hylton spent over \$800.00 at the commissary in just over two months.¹²⁴²

e. Work Program

There is no voluntary work program at ACDC. According to the ACDC Detainee Manual, however, all detainees are required to participate in cleaning of their assigned housing unit.¹²⁴³ This is different from Stewart and NGDC where detainees who choose to work are provided with payment.¹²⁴⁴ The ICE Detainee Handbook notes that local or state-owned jails would not allow detainees to participate in the work program.¹²⁴⁵ The ICE Detainee Handbook also acknowledges that because of this, detainees will not “necessarily receive monetary compensation for [their] work.”¹²⁴⁶ As such, detainees at ACDC are still required to do work but are not compensated, posing particular concern for indigent detainees who may be in need of funds to purchase phone cards or items from the commissary.

f. Religious Services

Religious services are held in the program room in each unit, which can be used for prayers if nothing else is scheduled.¹²⁴⁷ Prayer blankets are available to be checked out, but cannot be kept with the detainees.¹²⁴⁸

ACDC has a chaplain on staff, but religious services are also heavily dependent on volunteers.¹²⁴⁹ Yassine Sanhaji, a practicing Muslim, expressed his frustration that during one week in 2010, the Imam simply did not show.¹²⁵⁰

g. Recreation

The indoor recreation room at ACDC consists of a small court with a soccer ball, a basketball hoop, and two large windows.¹²⁵¹ There is no gym equipment available. The court may be accessed at any time that detainees are allowed in the common area.¹²⁵² Although ICE states that there is an outdoor recreation area,¹²⁵³ ACDC’s “outdoor” recreation is not a truly outdoor area, but instead consists of a large enclosed cement area with an opening blocked by bars on one of the walls.¹²⁵⁴ Cristian Morales and Edwin Edgold Omoregbe specifically complained about the fact that detainees are never allowed outside.¹²⁵⁵ Lack of outdoor recreation is a direct violation of ICE standards which state that “if a period of detention is expected to last longer than 72 hours then detainees will have an opportunity for one hour of outdoor recreation per day, five days per week.”¹²⁵⁶ The requirements also specifically state that “indoor recreation may not be substituted for outdoor recreation.”¹²⁵⁷ In addition, ICE recognized that access to outdoor recreation was “critical” to detainee health and wellbeing in its 2009 Detention Report.¹²⁵⁸

3. Inadequate Medical and Mental Care

At intake, detainees receive a medical screening.¹²⁵⁹ There is one room for a mental health screening and two others for basic physicals.¹²⁶⁰ The facility employs one doctor and 38 nurses. We were told that the doctor and one nurse are always on call.¹²⁶¹ The physician is at ACDC Monday through Friday during normal business hours.¹²⁶² The ACLU of Georgia was told that

there are usually four to six nurses in the facility.¹²⁶³ As acknowledged by Officer Bond, the Assistant Major of ACDC, most of the medical staff are not bilingual.¹²⁶⁴ However, they have a dial system for interpreters in every language.¹²⁶⁵

One dentist is also available Monday through Friday and he conducts annual screenings of detainees.¹²⁶⁶ Any emergency is sent to Grady Hospital.¹²⁶⁷ According to a nurse we spoke with at the facility, Nurse Anderson, medical staff at the facility can request that detainees be moved through Transport Authorization Request (TAR).¹²⁶⁸ She said that a detainee should be approved by ICE to be moved within minutes.¹²⁶⁹

a. Medical Care

i. Lack of Dental Examination at Intake

Of the 12 interviews conducted by the ACLU of Georgia at ACDC, three detainees specifically mentioned that they did not have a dental examination upon entering the facility. This violates ICE PBNDS on medical examinations, which states that they should include a routine dental examination.¹²⁷⁰

ii. Physical Exams Often Conducted Days After Detainees' Arrive

Medical examinations are often conducted days or weeks after detainees arrive. Edwin Edgold Omoregbe was not seen until a month after he arrived at the facility in 2010.¹²⁷¹ In 2011, it took Damien Alvarez ten days before he had a physical exam conducted.¹²⁷² Also in 2011, Richard Hylton did not have a physical until three weeks after he arrived at ACDC.¹²⁷³

This delay in initial health screenings violates both ICE's and ACDC's standards along with regional and international human rights standards. According to the ICE and ACDC Detainee Handbooks, it is imperative that detainees are screened immediately after entering the facility before they are released into the general population.¹²⁷⁴ This is still a requirement even if detainees are transferred from another detention facility to ACDC.¹²⁷⁵ Principle IX of the Inter-American Principles on Detention further provides that: "All persons deprived of liberty shall be entitled to an impartial and confidential medical or psychological examination...immediately following their admission to the place of imprisonment or commitment."¹²⁷⁶

iii. Unreasonable Delays in Receiving Medical Care

Detainees receive medical help by filling out a medical request form. This form must be received and permission granted before a detainee can receive treatment. Damien Alvarez found this process frustrating because even if he needed something as simple as a Tylenol for a headache, he had to file a request that could take three to four days to process, making it pointless.¹²⁷⁷ Ebong Enobony has sickle cell anemia.¹²⁷⁸ It took more than a week for him to have one of his prescriptions refilled.¹²⁷⁹ In addition, since there is only one doctor on staff, he

has had to wait up to a week to see the doctor.¹²⁸⁰ There are also long delays for receiving emergency care. In November 2011, Jag¹²⁸¹ began to experience painful swelling in his legs. The condition worsened to the point that he could not put weight on his legs and he developed blisters that were so big that if he touched them they would burst.¹²⁸² Jag put in an emergency medical request on a Saturday.¹²⁸³ However, he did not receive treatment over the weekend.¹²⁸⁴ It was not until the following Tuesday that Jag was taken to Grady Memorial Hospital where he was hospitalized for four days.¹²⁸⁵ Jag's experience indicates that there is not always a nurse and doctor on call, contrary to assertions of the ACDC staff.¹²⁸⁶ These instances of detainees waiting for days or weeks to receive medical treatment violate international standards, which state that medical staff should attend to detainees who complain of a medical condition daily.¹²⁸⁷

Richard Hylton arrived at ACDC on May 17, 2011. Richard has Type 2 diabetes. When he first arrived at ACDC, his blood sugar level was tested twice a day but the frequency of testing soon changed to once per week. Richard worried about his health because he was not able to monitor his blood sugar levels as consistently as he should. In addition, he is supposed to be on a diet appropriate for diabetics, but was placed on a low-sodium diet instead. Richard filed informal and formal complaints about his diet, but did not receive any meaningful responses. In order to maintain his blood sugar levels, Richard bought food from the commissary.

Upon arrival at ACDC, Richard had a small wart on his groin. Since then, it grew and began to accumulate puss and blood. After numerous complaints, he was finally taken to Grady Hospital. The doctor at Grady diagnosed it as HPV and gave him a prescription and a bacterial cream. The doctor also recommended that he see a dermatologist, which he was not been allowed to do. The doctor told him to wash the wart every day to keep it clean. Detainees at ACDC are not allowed to shower every day, so Richard could not clean his wart daily.¹²⁸⁸ The ACDC doctor told him to wash his groin area in the sink. He tried to do this but felt incredibly embarrassed since everyone in his unit could see him. Richard also added that the infected wart smelled bad and that the other detainees complained about the smell.

Richard also had a swollen left leg and his toes near his nails blackened since entering ACDC. He asked to see a foot specialist numerous times, but as of July 29, 2011, he still had not received medical attention or treatment. Richard specifically asked to see a podiatrist for his foot but his request was denied.¹²⁸⁹

On February 10, 2012, Richard's attorney received a response to his August 22, 2011 complaint to U.S. Department of Homeland Security's Office for Civil Rights and Civil Liberties regarding Richard's medical care and medical diet.¹²⁹⁰ Although the response stated that Richard was to be placed on a "diabetic diet within two days of his arrival at the facility,"¹²⁹¹ Richard states that he was placed on a low-sodium diet, which is only appropriate for people with high blood pressure and not those with Type 2 diabetes.¹²⁹² As a result, Richard could only eat the meals provided to him sparingly and in the ten months

he was detained at ACDC, he spent over \$4,000.00 at the commissary on food to ensure that he was able to keep his insulin levels up.¹²⁹³ Additionally, the response stated that Richard received surgery for his wart on September 1, 2011.¹²⁹⁴ The ACLU of Georgia notes that it took three and half months for him to receive adequate care.¹²⁹⁵

b. Mental Health

Although ACDC staff told the ACLU of Georgia that there are two psychiatrists at the facility and that the facility is in the process of hiring another, detainees reported that mental healthcare was not provided at ACDC.¹²⁹⁶ According to detainee Edwin Edgold Omoregbe, any mental health questions require referrals to Grady Hospital.¹²⁹⁷

i. Failure of Medical Staff to Ask Mental Health Questions at Intake of All Detainees

Although some detainees mentioned that they were asked mental health questions during intake, such as whether or not they had thoughts of killing themselves, this is not a uniform practice.¹²⁹⁸ Edwin Edgold Omoregbe was not asked any mental health questions during his intake in spring 2010.¹²⁹⁹ This is in direct contrast to ICE's finding in 2008 that at ACDC, "detainees receive a mental-health screening upon arrival."¹³⁰⁰

ii. Insufficient Provision of Mental Healthcare at the Facility

Yassine Sanhaji suffers from depression and receives medication.¹³⁰¹ Instead of receiving care and medication at the facility, he must be sent to Grady to receive his anti-depressants.¹³⁰² Cristian Morales also requested anti-depressants at entry screening.¹³⁰³ In order to receive medication, he was taken to Grady Hospital, where he was held in restraints for more than a day before he saw a doctor.¹³⁰⁴ Cristian added that the floor of the holding cell at Grady was covered in urine and that it took 48 hours total to get his prescription.¹³⁰⁵ Cristian did not actually begin receiving his medication until a week later.¹³⁰⁶

iii. Treatment of Detainees with Mental Disabilities is Punitive Rather than Care Oriented

Since mental health issues are generally addressed by staff at Grady Hospital rather than at ACDC, there is limited treatment for detainees at the facility. Instead of treatment, detainees say that those with mental health problems are placed in segregation.¹³⁰⁷ Richard Hylton was told by the guards that if he did not eat, he would be put in segregation "with the crazy people."¹³⁰⁸ The practice of placing detainees with mental disabilities in segregation is in direct violation of ICE's National Detainee Handbook, which requires all potentially suicidal or severely depressed individuals be "treated with sensitivity and receive the proper referrals for assistance."¹³⁰⁹

In October 2009, ICE itself acknowledged that segregation is “not conducive to recovery” and recommended that ICE stop using segregation cells.¹³¹⁰ In addition, mental healthcare providers have advised ICE that segregation is not an appropriate setting for long-term placement of detainees with mental disabilities and often exacerbates mental illness.¹³¹¹ In 2011, the Assistant Inspector General recommended that time limits should be established for holding detainees with mental disabilities in segregation.¹³¹² However, despite ICE’s concurrence with this recommendation, detainees with mental disabilities are still not receiving proper treatment and are instead are placed in segregation.¹³¹³ In addition, the Inter-American Commission on Human Rights Principles requirements for “involuntary seclusion,” such as having segregation authorized by a competent physician and notifying a family or legal representative, are not met at ACDC.¹³¹⁴

4. Abuse of Power

The ACLU of Georgia found that guards overstep their authority by being verbally and physically abusive to detainees, retaliating against detainees for small infractions, and failing to respond to detainees’ grievances in a meaningful way.

a. Physical/Verbal Abuse

Two detainees complained of verbal abuse from the guards.¹³¹⁵ Specifically, Damien Alvarez said that verbal abuse was prevalent particularly towards non-English speakers.¹³¹⁶ He added that he has been called a “spick” and a “wetback.” Cristian Morales also was called a “roach” by an officer.¹³¹⁷

One detainee reported physical abuse at ACDC.¹³¹⁸ Andy Mathe recounted that one day he was sitting in his cell talking to another detainee when a guard walked in.¹³¹⁹ The other detainee did not stop talking and the guard told him to get up and put his hands on the wall.¹³²⁰ When he did so, the guard kicked his legs to spread them further apart and the detainee fell on the floor and banged his head.¹³²¹

b. Retaliatory Behavior by Guards

Detainees believe that guards are unnecessarily harsh on the detainees for small infractions.¹³²² Cristian Morales told the ACLU of Georgia that detainees are put in segregation for 30 days for small disciplinary problems such as not making their beds.¹³²³ Edwin Edgold Omoregbe added that the guards do not treat detainees well and will put someone on lockdown for even the slightest infraction.¹³²⁴

c. Grievance Procedure

Five detainees interviewed by the ACLU of Georgia had filed grievances. None of the detainees we spoke with seemed satisfied with the grievance process.¹³²⁵ In 2009, Ebong Enobony wrote a

grievance to ICE and never got a response.¹³²⁶ In 2010, Cristian Morales filed a grievance against the guard who called him a “roach” but he never received a response.¹³²⁷ Behrouz Salamat submitted a grievance when he was not given a razor but stated that no one responded in “any substantial way.”¹³²⁸ In 2011, Yassine Sanhaji also filed a grievance, but he claims that the whole process is faulty because ICE always sides with officials at the facility.¹³²⁹ When we asked Damien Alvarez if he or any other detainees received any responses to their grievances, he replied “it never happens.”¹³³⁰ Along with the inadequacy and lack of transparency of the grievance process, some detainees are also afraid to use it. Andy Mathe told the ACLU of Georgia that he does not feel comfortable filing grievances because he does not want any the guards to have anything to use against him.¹³³¹

Inadequate grievance procedures violate detainees’ right to an effective grievance procedure. The fact that two detainees filed grievances but never received any type of response violates their right to “receive a prompt response within a reasonable time.”¹³³² In addition, in 2009, ICE’s Detention Standard Review found that there was no adequate grievance procedure in place for those who are “illiterate, disabled, or non-English speaking.”¹³³³

Detainee Deaths at Georgia Detention Centers

From 2003 until October 2011, 126 detainees died while in ICE detention.¹³³⁴ Three detainees have died in Georgia detention centers while in ICE custody between 2008 and 2011: Pedro Gumayagay, Roberto Medina Martinez, and Miguel Hernandez.¹³³⁵ All three of these deaths occurred at facilities run by Corrections Corporation of America.¹³³⁶

On January 29, 2008, Pedro Gumayagay died while detained at Stewart.¹³³⁷ According to ICE, Pedro Gumayagay's death was caused by metastatic adenocarcinoma of the lungs.¹³³⁸

The next year, another man perished while detained at the Stewart Detention Center. Roberto Medina Martinez, who had been in the U.S. for twelve years, was 39 years old when he died in ICE's custody on March 11, 2009. He left behind his wife and three children.¹³³⁹ Roberto Medina Martinez died of myocarditis, an inflammation of the heart muscle that is usually caused by a viral infection and is often treatable.¹³⁴⁰

An investigation conducted per a request by the DHS Office of Civil Rights and Civil Liberties revealed that upon intake, on February 18, 2009, Mr. Medina's chest x-ray indicated that he had low lung volumes and lower lobe atelectasis, which is a collapse of portions of the lung.¹³⁴¹ The physician who conducted the investigation classified atelectasis as a serious medical need and one which "without timely medical intervention will cause ... death."¹³⁴² Despite clear evidence of this condition, neither the nurse nor the physician assistant referred Mr. Medina for treatment.¹³⁴³ In addition, staff erroneously noted in Mr. Medina's file that his x-ray was normal.¹³⁴⁴

The possibility for medical intervention to address the infection prior to Medina's death was lost when, in violation of medical standards, the facility's physician failed to review his intake medical examination information.¹³⁴⁵ An investigation conducted following the death discovered that the physician was systematically failing to conduct reviews of medical examination information, thereby jeopardizing the health of the entire detention center population.¹³⁴⁶ When asked why the physician did not review Medina's medical examination, the physician stated that "she felt overwhelmed and wouldn't possibly have the time to review all Physical Examinations performed by RNs."¹³⁴⁷

Miguel Hernandez, a 54 year-old El Salvadorian national detained at NGDC, died on April 28, 2011.¹³⁴⁸ On the day he died, Miguel complained of "severe left calf pain, which started three days ago after shackles were too tight during a transfer from other facility," and had an elevated temperature of 101.1 degrees Fahrenheit and was taken to the Northeast Georgia Medical Center (NGMC).¹³⁴⁹ He was released back to NGDC later that day.¹³⁵⁰ While in a medical holding cell back at NGDC, Miguel Hernandez began to suffer from pain and shortness of breath.¹³⁵¹ He became disoriented, began foaming at the mouth and vomiting, and then lost consciousness.¹³⁵² At approximately 8:25 p.m., medical transport was called to bring him to NGMC and at 8:45 p.m., a medical emergency was called.¹³⁵³ A nurse at NGDC began to administer CPR while

waiting for the ambulance to arrive.¹³⁵⁴ EMS arrived at approximately 8:50 p.m. and the ambulance departed at 9:24 p.m.¹³⁵⁵ Miguel Hernandez was admitted to the emergency room at 9:41 p.m. and was pronounced dead on arrival.¹³⁵⁶ An investigation launched by DHS OIG found that Miguel Hernandez had suffered an acute myocardial infarction (heart attack).¹³⁵⁷ Miguel Hernandez's death marked the eighth death in ICE custody in fiscal year 2011.¹³⁵⁸

VII. CONCLUSIONS AND RECOMENDATIONS

A. Conclusions

This report documents various serious abuses in Georgia detention centers requiring immediate action. For the reasons set forth in the report, the conditions documented by the ACLU of Georgia violate detainees' constitutional and human rights as well as ICE standards.

These findings also confirm the problems inherent to detention of immigrants in privately run detention centers. There is deep-seated tension between the profit-making aims of CCA and Detention Management, LLC and what the American values of justice and liberty demand – humane conditions for those detained and releasing immigrants who pose no danger or flight risk.

B. Recommendations

1. Overall Recommendations

- Mandatory detention of immigrants must end;
- ICE should employ greater use of prosecutorial discretion to ensure that immigrants who pose no danger or flight risk are released from detention;
- ICE should provide meaningful bond hearings to all eligible detainees;
- ICE should make greater use of alternatives to detention, especially community-based approaches;
- ICE should promulgate a set of strengthened detention standards which are binding on all facilities holding immigrant detainees;
- ICE should terminate contracts with facilities that fail to meet its standards.

a. Due Process

- Apprehended non-citizens should have the opportunity to consult with legal counsel before consenting to a stipulated order of removal;
- Adequate interpretation must be provided throughout the deportation process by qualified and independent interpreters who are not detainees themselves;
- Lists of pro bono and consulate numbers must be up-to-date and distributed to every detainee upon his or her detention;
- Law libraries must be made more accessible;

- Information in law libraries must be up-to-date with access to updated online legal information;
- Visits with attorneys should be contact visits so as to not violate attorney-client confidentiality through having the guards exchange documents between attorneys and the detainees;
- Attorney-client calls must not be monitored under any circumstances.

b. Transfer of detainees

- ICE should stop transferring out-of-state detainees to Stewart and Irwin given their remote locations and inadequate access to legal representation.

c. Living Conditions

- ICE should promptly require that all facilities abide by at least the 2008 PBNDS, including through renegotiation of existing contracts, and also set short-term target dates for implementing the 2011 PBNDS standards in all facilities;
- Visits with family and friends should be contact visits to better fit a civil detention model;
- Phone cards should be reasonably priced and when detainees cannot afford a phone card, they should be allowed to use the phone on a pro bono basis;
- Facilities should always provide detainees with new underwear;
- Facilities should have a bilingual guard present in every unit and during every shift in order to facilitate communication with the detainees, and all unit managers should be able to speak Spanish;
- The food quality must improve significantly, and in particular, care must be taken to ensure that detainees are not served expired or undercooked food;
- Detainees must be provided with medically and religiously appropriate diets;
- Meals should be served at regular meal hours and detainees should be given adequate amounts and time to eat;
- All detainees including those in segregation must be afforded outdoor recreation at least five days per week.

d. Medical and Mental Care

- Medical unit staff should be bilingual and stop using other detainees as interpreters;

- Each facility should employ at least one doctor and one psychiatrist to work a minimum of five days per week at each facility;
- Detainees with mental disabilities should not be put in segregation under any circumstances;
- Detainees seeking non-emergency care should be seen within 48 hours.

e. Abuse of Power

- The grievance process must be made more transparent and accessible. This would include providing detainees with a copy of any grievance forms and decisions of the disciplinary committee. In addition, complaints filed with the Department of Homeland Security's Office of Inspector General or its Office for Civil Rights and Civil Liberties should be responded to, even if DHS OIG or CRCL ultimately decide not to take action.

Segregation

- Detainees should not be placed in segregation for more than 15 days per recommendation of the U.N. Special Rapporteur on Torture;
- Safeguards must be put in place to ensure that segregation is not used as a means of retaliation by the guards and that regular evaluations of detainees in segregation are performed by mental health professionals with the authority to recommend an end to segregation.

2. Facility-Specific Recommendations

a. Stewart Detention Center

- Stewart Immigration Court should end mass deportation hearings;
- ICE should stop detaining immigrants at this facility given the extent of the violations and the remote location of the facility.

b. North Georgia Detention Center

- The facility's administration should modify the "Notification to Facility Visitors (Attorney)" form so that it clearly states that confidential information must be released to the warden only in the event that it would affect the security and the welfare of the facility population;¹³⁵⁹
- A gynecologist must be employed for female detainees, even if it is only on an on-call basis;

- Detainees who choose to enroll in the voluntary work program must be paid minimum wage.

c. Irwin County Detention Center

- ICE should stop detaining immigrants at the Irwin County Detention Center given its remote location and the fact that it does not fit ICE's new detention model focusing on civil detention at facilities closer to urban centers;
- Plans for a courtroom with telephonic appearances at the Atlanta Immigration Court must not go forward;
- Detention Management, LLC staff should provide new underwear to female and male detainees and not used or dirty underwear;
- Detention Management, LLC should replace the current law library system with one that allows detainees to access, research, write, print, and mail legal documents without long delays.

d. Atlanta City Detention Center

- The City of Atlanta Department of Corrections should provide outdoor recreation to detainees;
- ICE should require the City of Atlanta Department of Corrections to abide by ICE PBNDS as a baseline for treatment of detainees at the Atlanta City Detention Center.

END NOTES

¹ In this report, the term “alien” will not be used unless quoting direct language. Instead, the term “non-citizen” or “immigrant” will be used throughout the report. For more information on the dehumanizing effects of constant usage of the terms “alien” and “illegal alien,” see e.g., Kevin R. Johnson, “*Aliens*” and the U.S. Immigration Laws: *The Social and Legal Construction of Nonpersons*, 28 Univ. of Miami Inter-American L. Rev. 263 (1996-97).

² Global Detention Project, *United States Detention Profile* (Jan.-June 2007), <http://www.globaldetentionproject.org/countries/americas/united-states/introduction.html>.

³ U.S. IMMIGRATIONS AND CUSTOMS ENFORCEMENT, *Fact Sheet: Detention Management* (Nov. 10, 2011), <http://www.ice.gov/news/library/factsheets/detention-mgmt.htm>.

⁴ Heather C. West et. al, *United States Department of Justice, Bureau of Justice Statistics, Prisoners in 2009*, 34. App. Table 20 (2010) (6.8% of adult state prisoners and 16.4% of adult federal prisoners in private prisons in 2009); Detention Watch Network, *The Influence of the Private Prison Industry in Immigration Detention*, www.detentionwatchnetwork.org/ (49% of immigration detainees in private facilities in 2009).

⁵ The human rights standards cited in this report are derived from regional and international treaties, conventions, declarations, and customary international law.

⁶ Corrections Corporations of America, *Stewart Detention Center* (2008), <http://www.cca.com/facility/stewart-detention-center>; see also Jeremy Redmon, *Stewart Facility Houses More Illegal Immigrants than Any Other State*, ATLANTA JOURNAL CONSTITUTION, January 17, 2011.

⁷ Corrections Corporation of America operates the Stewart Detention Center and the North Georgia Detention Center. Detention Management, LLC operates the Irwin County Detention Center.

⁸ From 2008 to 2012, the ACLU of Georgia interviewed a total of 68 detainees: 28 at the Stewart Detention Center (Stewart); 15 at North Georgia Detention Center (NGDC); 13 at the Irwin County Detention Center (Irwin); and 12 at the Atlanta City Detention Center (ACDC). One Irwin detainee was interviewed twice, in 2011 and 2012. Two ACDC detainees were interviewed three times between 2010 and 2012. The vast majority of interviews were conducted in person at the four detention centers. Additional information was obtained through speaking to detainees’ families and reviewing documentation provided by detainees and their families. Detainees interviewed included those who had received their Notice to Appear (NTA) and were awaiting removal hearings, those who were issued orders of removal and were awaiting deportation, and those filing for different forms of relief including voluntary departure, cancellation of removal, asylum, and withholding of removal.

⁹ Human Rights First, *Jails and Jumpsuits: Transforming the U.S. Immigration Detention System* (2011), <http://www.humanrightsfirst.org/wp-content/uploads/pdf/HRF-Jails-and-Jumpsuits-report.pdf>; see also Dr. Dora Schriro, U.S. DEP’T OF HOMELAND SECURITY, *Immigration Detention Overview and Recommendations 2* (Oct. 6, 2009), http://www.ice.gov/doclib/091005_ice_detention_report-final.pdf.

¹⁰ Detainees at all four detention centers are housed in large rooms, some with individual cells for sleeping, with communal sinks, toilets, and showers. Detainees wear colored jumpsuits and are under constant supervision of guards.

¹¹ Concerns include inadequate living conditions such as overcrowding and hygiene concerns, poor water and food quality, mistreatment of detainees by guards, and insufficient medical and mental health care.

¹² Corrections Corporation of America, *Stewart Detention Center*, <http://www.cca.com/facility/stewart-detention-center>; see also Jeremy Redmon, *Stewart facility houses more illegal immigrants than any other state*, ATLANTA JOURNAL-CONSTITUTION, January 17, 2011.

¹³ According to one report, facilities operated by private prison companies currently house nearly 50% of the more than 30,000 immigrants detained by Immigration and Customs Enforcement (ICE) at any given time. Detention Watch Network, *The Influence of the Private Prison Industry in Immigration Detention*, <http://www.detentionwatchnetwork.org/privateprisons>.

¹⁴ Stewart Detention Center, North Georgia Detention Center, and Irwin County Detention Center.

¹⁵ Corrections Corporation of America, 2010 Letter to Shareholders, 1(2010).

¹⁶ See David Shapiro, American Civil Liberties Union, *Banking on Bondage: Private Prisons and Mass Incarceration* 5-6 (Nov. 2011), www.aclu.org/files/assets/bankingonbondage_20111102.pdf. The report states that only the private prison industry benefits from these facilities while privatized detention costs governments, communities, and taxpayers.

¹⁷ *Id.*

¹⁸ Based on interviews conducted by the ACLU of Georgia from 2008 to February 2012 with detainees, detainees' family members, immigration attorneys, and firsthand observations of the facilities.

¹⁹ See American Civil Liberties Union, *Slamming the Courthouse Doors: Denial of Access to Justice and Remedy in America* 21 (Dec. 2010), http://www.aclu.org/files/assets/HRP_UPRsubmission_annex.pdf.

²⁰ *Id.*

²¹ *Id.*

²² Interview with Angela Kelley conducted by the ACLU of Georgia at Irwin County Detention Center on March 10, 2011; Interview with Gainesville-based immigration attorney conducted by ACLU of Georgia on March 22, 2011.

²³ Interview with Jovita Campuzano Jimenez conducted by the ACLU of Georgia at Irwin County Detention Center on March 10, 2011 and Interview with Atlanta-based attorney conducted by the ACLU of Georgia on March 28, 2011.

²⁴ TRAC Immigration, *U.S. Deportation Outcomes by Charge*, http://trac.syr.edu/phptools/immigration/court_backlog/deport_outcome_charge.php. In 2011, Georgia had the third largest number of deportation orders behind only Texas and California.

²⁵ Interviews with Paul and Ido Yelkal conducted by the ACLU of Georgia at Stewart on July 25, 2011 and August 13, 2011. For purposes of this report, this detainee wished to be referred to as Paul.

²⁶ *Zadvydas v. Davis*, 533 U.S. 678 (2001).

²⁷ Interviews with Pedro Guzman Perez and Dyna Khleang on July 6, 2010 and September 27, 2011 conducted by the ACLU of Georgia at Stewart.

²⁸ Interview with Dung Dang conducted by the ACLU of Georgia at NGDC on April 15, 2011.

²⁹ *Id.* The ACLU of Georgia sought a response to this statement from ICE on March 20, 2012 to which ICE responded that they either did not have enough information to research the case or that due to privacy concerns they were precluded from disclosing detailed information about individual cases. Email from William McCafferty, Assistance Field Office Director (Mar. 26, 2012). Obtained by the ACLU of Georgia via email.

³⁰ Interview with Dung Dang by the ACLU of Georgia at NGDC on April 15, 2011.

³¹ Information gathered during ACLU of Georgia's tour of the facility on September 30, 2011.

³² Interview with Damien Alvarez conducted by the ACLU of Georgia on August 3, 2011.

³³ Other areas of concern include deportation officers not speaking detainees' language. See part VI. "Findings" section A. "Removal Due Process Concerns" subsection (b)(iii); "Foreign Language Speaking Detainees are at a Disadvantage during the Removal Process." Another concern is medical staff not asking intake questions in detainees' language. See NGDC section (3)(a)(iii) "Medical Unit has Dearth of Spanish Speaking Staff." And lastly, availability of law library textbooks only in English. See NGDC section (1)(c) "Law Library Concerns."

³⁴ Email from Joshulyn Davis, Captain of Irwin, Re: Attorney Visits (Dec. 6, 2011). Obtained by the ACLU of Georgia during an attorney's visit to Irwin on December 7, 2011.

³⁵ Email from Pamela Reeves, Assistant Field Office Director of Public Affairs for the Atlanta Field Office (Dec. 19, 2011). Obtained by the ACLU of Georgia via email.

³⁶ Based on a copy of the attorney visitation form received by ACLU of Georgia during its October 28, 2011 visit to NGDC. A more detailed discussion of this form is included in the NGDC section 1(b) on “Attorney Visitation.”

³⁷ Interview with Omar Ponce conducted by ACLU of Georgia at Stewart on June 21, 2010.

³⁸ This information was provided by Officer Bond, Assistant Major of ACDC, during ACLU of Georgia’s tour of ACDC on July 29, 2011.

³⁹ For a full discussion of these standards refer to section (V)(c) “Legal Standards of Detention” in “Regional and International Human Rights Standards.”

⁴⁰ Human Rights Watch, *A Costly Move: Far and Frequent Transfers Impede Hearings for Immigrant Detainees in the United States* 22 (June 2011), <http://www.hrw.org/sites/default/files/reports/us0611webwcover.pdf>.

⁴¹ *Id.* at 20.

⁴² Interviews conducted at Stewart by the ACLU of Georgia on August 17, 2009, June 21, 2010, July 6, 2010, June 17, 2011, August 1, 2011, September 24, 2011, and September 27, 2011.

⁴³ Interview with Ignacio Morales conducted by the ACLU of Georgia at Irwin on October 17, 2011.

⁴⁴ Josue Cervantes told us that the phone costs approximately \$5.00 for twelve minutes out of state or for twenty-six minutes in state at Stewart. Interview conducted by the ACLU of Georgia at Stewart on October 14, 2011. At NGDC, Dung Dang has not been able to contact his family in Vietnam to inform them of his detention since international calls are too expensive. Interview with Dung Dang conducted by the ACLU of Georgia at NGDC on April 15, 2011.

⁴⁵ Based on detainee interviews and the ACLU of Georgia’s own observations during facility tours in 2011.

⁴⁶ For example, the Detainee Handbook at NGDC states that all conversations are subject to being monitored; for detainees to have unmonitored attorney calls, they must submit a Detainee Request Form to the Unit Manager. North Georgia Detention Center Detainee Handbook 2 (March 2011 Revision). ACDC and Irwin also have similar practices. *See* Atlanta City Detention Center Inmate/Detainee Handbook 22 (August 2010 Revision); Irwin County Detention Center Inmate/Detainee Handbook 8 (effective August, 2011).

⁴⁷ Interview with Andy Mathe conducted by the ACLU of Georgia at ACDC on July 11, 2011.

⁴⁸ Interviews conducted by the ACLU of Georgia at Irwin on July 22, 2011 and October 17, 2011.

⁴⁹ Interview with Javan Jeffrey on September 7, 2011 conducted by the ACLU of Georgia at Stewart.

⁵⁰ Interviews with George Edigin and Andy Mathe on July 7, 2009 conducted by the ACLU of Georgia at ACDC.

⁵¹ Interviews with Roberto Carillo on July 25, 2011 and Ermis Calderone on September 24, 2011, conducted by the ACLU of Georgia at Stewart.

⁵² Interview with Yassine Sanhaji conducted by the ACLU of Georgia at ACDC on August 11, 2010.

⁵³ For example, the Warden of NGDC told the ACLU of Georgia that detainees in the segregation unit shower only on Mondays, Wednesdays, and Fridays. Based on information from Warden of NGDC, Stacey Stone, and observations by the ACLU of Georgia during tour of the facility on October 21, 2011.

⁵⁴ Interview with Javan Jeffrey conducted by the ACLU of Georgia on September 27, 2011 at Stewart. In response to this allegation, CCA stated that at no time has Stewart lost water to the entire facility or for an extended period of time. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

- ⁵⁵ Interviews with Dulce Bolanos Estrada on March 10, 2011 and Veronica on July 22, 2011, conducted by the ACLU of Georgia at Irwin. For purposes of this report, Veronica wished to be referred by her first name only.
- ⁵⁶ For purposes of this report, this detainee wished to be referred to by her first name only. Interview with Veronica conducted by the ACLU of Georgia at Irwin on July 22, 2011.
- ⁵⁷ Based on information given by Warden of NGDC, Stacey Stone, and observations by the ACLU of Georgia during tour of the facility on October 21, 2011, and Interview with Daniela Esquivela conducted by the ACLU of Georgia at NGDC on October 21, 2011.
- ⁵⁸ Interview with Daniela Esquivela conducted by the ACLU of Georgia at NGDC on October 21, 2011. In response to this, CCA stated that hygiene items are distributed on an as needed basis. Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.
- ⁵⁹ When asked to respond, CCA denied that Stewart had any unusual, pervasive, or chronic food issues. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.
- ⁶⁰ Observed during ACLU of Georgia's tour of Stewart on September 7, 2011. Also confirmed by email from Pamela Reeves, Assistant Field Office Director of Public Affairs for the Atlanta Field Office (Dec. 1, 2011). Obtained by the ACLU of Georgia via email.
- ⁶¹ Based on information given by Warden of NGDC, Stacey Stone; observations by the ACLU of Georgia during tour of the facility on October 21, 2011; and Information gathered during ACLU of Georgia's tour of Irwin on September 30, 2011.
- ⁶² Interview with Ermis Calderone, Eduardo Zuniga, and Grzegorz Kowalec at Stewart.
- ⁶³ Interview with Geraldine Ayala by Gainesville-based attorney on behalf of the ACLU of Georgia on November 25, 2011.
- ⁶⁴ Interview with Jovita Campuzano Jimenez conducted by the ACLU of Georgia at the Irwin County Detention Center on March 10, 2011.
- ⁶⁵ U.S. DEP'T OF HOMELAND SECURITY, Office of Inspector General, *Management of Mental Health Cases in Immigration Detention* 15, OIG-11-62 (Mar. 2011).
- ⁶⁶ Based on response received to ACLU of Georgia FOIA Request No. 2011-150 filed July 29, 2011. Of the six complaints that were not closed without any further action, two were from ACDC, one from Irwin, and three from Stewart.
- ⁶⁷ Instances of physical abuse were reported at Stewart and ACDC.
- ⁶⁸ Interview with Javan Jeffrey conducted by the ACLU of Georgia at Stewart on September 7, 2011.
- ⁶⁹ Interview with Javan Jeffrey conducted by the ACLU of Georgia at Stewart on September 7, 2011.
- ⁷⁰ Phone Interview with Mrs. Jeffrey conducted by the ACLU of Georgia on September 12, 2011. When the ACLU of Georgia spoke to Mrs. Jeffrey in January 2012, we learned that Javan Jeffrey was deported in early December. Mrs. Jeffrey told us that Javan was kept in the segregation unit until he was deported in December 2011. Phone Interview with Mrs. Jeffrey conducted by the ACLU of Georgia on January 3, 2012. CCA did not directly dispute this stating that "Detainee Jeffrey was in segregation for disciplinary reasons." Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.
- ⁷¹ Interviews with Arman Garghani on August 17, 2009 and Mikyas Germachew on August 13, 2011, conducted by the ACLU of Georgia at Stewart.
- ⁷² Interview with Jaime Lara conducted by the ACLU of Georgia at Stewart on July 14, 2010.
- ⁷³ Nina Bernstein, *Immigration Detention System Lapses Detailed*, N.Y. TIMES, Dec 3, 2009.

⁷⁴ *Id.*

⁷⁵ *Id.* This figure is based upon ICE's capacity of 33,400 detention beds. See also U.S. DEP'T OF HOMELAND SECURITY, *U.S. Immigration and Customs Enforcement Salaries and Expenses, Fiscal Year 2012 Congressional Budget Justification* 57 (2011), <http://www.dhs.gov/xlibrary/assets/dhs-congressional-budget-justification-fy2012.pdf>.

⁷⁶ National Immigration Forum, *The Math of Immigration Detention: Runaway Costs for Immigration Do Not Add Up to Sensible Policies* 1 (August 2011).

⁷⁷ U. N. Human Rights Council, *Report of the Special Rapporteur on the Human Rights of Migrants, Mission to the United States of America*, A/HRC/7/12/Add.2 para 34 (Mar. 5, 2008) (prepared by Jorge Bustamante); see also Detention Watch Network, *The History of Immigration Detention in the U.S.*, <http://www.detentionwatchnetwork.org/node/2381>.

⁷⁸ Limited exceptions exist that allow for an immigrant's release before a credible fear determination, including a medical emergency or a necessary law enforcement objective. 8 C.F.R. § 1235.3(b)(2)(iii).

⁷⁹ *Id.*

⁸⁰ Virginia E. Sloan, Sharon Bradford Franklin, and Laura Olson, The Constitution Project, *Recommendations for Reforming our Immigration Detention System and Promoting Access to Counsel in Immigration Proceedings* 13 (Oct. 2009), <http://www.constitutionproject.org/manage/file/359.pdf>.

⁸¹ Migration Policy Institute, *Through the Prism of National Security: Major Immigration Policy and Program Changes in the Decade since 9/11* (Aug. 2011), http://www.migrationpolicy.org/pubs/FS23_Post-9-11policy.pdf; see also Center for Human Rights and Global Justice, Asian American Legal Defense and Education Fund, *Under the Radar: Muslims Deported, Detained, and Denied on Unsubstantiated Terrorism Allegations* (2011), <http://www.chrgj.org/projects/docs/undertheradar.pdf>.

⁸² Judy Greene & Sunita Patel, *The Immigrant Gold Rush: The Profit Motive Behind Immigration Detention* (submitted to the U.N. Special Rapporteur on the Human Rights of Migrants) (quoting Steve Logan, CEO of Cornell Corrections, a U.S. Private prison company in a Third Quarter 2011 conference call with analysts).

⁸³ TRAC Immigration, *Tracking Outcomes of ICE Deportation Filings*, <http://trac.syr.edu/immigration/reports/263>. Thus far, during FY 2011, there have been only two occasions where ICE alleged that individuals had engaged in terrorist activities; charges in both cases were dismissed; see also TRAC Immigration, *Immigration Backlog Rises for Another Year*, <http://trac.syr.edu/immigration/reports/269/>. According to TRAC, in 2011, a mere 8.3 percent of the pending caseload was made up of cases which ICE defines as "criminal," meaning those charged with misdemeanors or felonies, actions adverse to national security, or aiding terrorism.

⁸⁴ Georgia is one of a number of states which have passed or attempted to pass bills similar to the infamous Arizona anti-immigrant bill, SB 1070. HB 87 would compel all people in the state of Georgia, citizens and non-citizens alike, to carry identification documents on them at all times in order to avoid being detained by the police while proving their immigration status. The law authorizes the police to demand the identification documents of anyone subject to an "investigation." Furthermore, this "show me your papers" law gives police officers discretion in choosing who should be subjected to an investigation of immigration status and in determining what undefined information (other than a narrow list of enumerated identification documents) is "sufficient" to prove one's identity. This will inevitably lead to the profiling of anyone who looks or sounds "foreign." These provisions put police officers in the position of relying on stereotypes and characteristics such as race, ethnicity, or accent in deciding whom to stop and investigate, and what information is deemed "sufficient" to establish identity. Immigration Impact, *States that Passed Arizona-style Immigration Laws Now Face Costly, Uphill Legal Battles*, *Immigration Impact* (June 2011), <http://immigrationimpact.com/2011/06/03/states-that-passed-arizona-style-immigration-laws-now-face-costly-uphill-legal-battles/>; see also ACLU of Georgia, *Fact Sheet on House Bill 87, "Show Me Your Papers Provision"*, <http://www.acluga.org/news/2011/03/02/aclu-of-georgia-fact-sheet-on-house-bill-87-%E2%80%9Cshow-me-your-papers%E2%80%9D-legislation>; American Civil Liberties Union, *Preliminary Analysis on House Bill 87*, www.acluga.org/GeorgiaHB87PreliminaryAnalysis.pdf.

⁸⁵ TRAC Immigration, *Detention of Criminal Aliens: What Has Congress Bought?* Table 1, <http://trac.syr.edu/immigration/reports/224>; see also U.S. DEP'T OF HOMELAND SECURITY, *U.S. Immigration and Customs Enforcement Salaries and Expenses, Fiscal Year 2012 Congressional Budget Justification* 102, Table 38, <http://www.dhs.gov/xlibrary/assets/dhs-congressional-budget-justification-fy2012.pdf>. Of the 387,242 non-citizens removed in 2010, 218,710 or 57% did not have criminal records. Within the first nine months of 2010, only approximately 17% of those non-citizens removed were convicted of serious crimes. See also Michele Waslin, *Redefining Criminality: Untangling DHS' Record High Deportation Numbers*, *Immigration Impact* (Oct. 19, 2011), <http://immigrationimpact.com/2011/10/19/redefining-criminality-untangling-dhs%E2%80%99s-record-high-deportation-numbers>; TRAC Immigration, *ICE Targets Fewer Criminals in Deportation Proceedings* (Dec. 5, 2011), <http://trac.syr.edu/immigration/reports/268>.

⁸⁶ Human Rights First, *Jails and Jumpsuits: Transforming the U.S. Detention System* 22 (2011), <http://www.humanrightsfirst.org/wp-content/uploads/pdf/HRF-Jails-and-Jumpsuits-report.pdf>.

⁸⁷ Dr. Dora Schriro, U.S. DEP'T OF HOMELAND SECURITY, *Immigration Detention Overview and Recommendations* (Oct. 6, 2009), http://www.ice.gov/doclib/091005_ice_detention_report-final.pdf.

⁸⁸ Andrea Black, *ICE, Obama Cannot Build Their Way Out of Detention Crisis*, NEW AMERICA MEDIA, March 13, 2011, <http://newamericamedia.org/2011/03/ice-obama-cannot-build-their-way-out-of-detention-crisis.php>.

⁸⁹ Homeland Security Act of 2002, Pub. L. No. 107-296, 2002 U.S.C.C.A.N. (116 Stat.) 2135.

⁹⁰ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *Endgame: Office of Detention and Removal Strategic Plan, 2003-2012*, Form M-592 (Aug. 15, 2003).

⁹¹ Detention Watch Network, *Endorse the Campaign*, http://detentionwatchnetwork.org/DND_endorse.

⁹² Dr. Dora Schriro, U.S. DEP'T OF HOMELAND SECURITY, *Immigration Detention Overview and Recommendations* 12 (Oct. 6, 2009), http://www.ice.gov/doclib/091005_ice_detention_report-final.pdf.

⁹³ *Id.*

⁹⁴ Inter-American Commission on Human Rights, *Report on Immigration in the United States: Detention and Due Process* 61-62 (Organization of American States Dec. 2010).

⁹⁵ Sarah Kate Kramer, *Criminal Alien Program Likely to be limited in New York City Jails* (Oct. 4, 2011), <http://news.feetintwoworlds.org/2011/10/04/criminal-alien-program-likely-to-be-limited-at-new-york-city-jails>.

⁹⁶ *Id.*

⁹⁷ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *Criminal Alien Program*, <http://www.ice.gov/criminal-alien-program>.

⁹⁸ Congress has made its priority for removing such individuals clear by declaring that ICE “should have no greater immigration enforcement priority than to remove deportable aliens with serious criminal histories from the United States” House Committee on Appropriations, DHS Appropriations Bill, 2010, 11th Cong., 1st Sess, 2009, H. Rep. 111-157, 49-50.

⁹⁹ Brian Doherty, *Criminal Alien Program: Capturing Mostly Non-Criminals* (Oct. 7, 2009), <http://reason.com/blog/2009/10/07/criminal-alien-program-capturi>.

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²²⁸ Based on response received to ACLU of Georgia FOIA Request No. 10-1427, filed Dec. 3, 2009.

²²⁹ For a full discussion on Roberto Medina Martinez's death, refer to the section below on "Detainee Deaths at Georgia Detention Centers."

²³⁰ Phillip Mattered, Mafruza Khan, and Stephen Nathan, *Corrections Corporations of America: A Critical Look at Its First Twenty Years* iv-v (Dec. 2003), http://brentdharris.com/files/cca_report.pdf (December 2003); see also Lauren Markham, *Vigil at Stewart Detention Center to Call for Human Treatment of Detainees* (Nov. 17, 2010), <http://news.change.org/stories/vigil-at-stewart-detention-center-to-call-for-humane-treatment-of-detainees>.

²³¹ Rebecca Boone, *ACLU suing Corrections Corp. of America*, ASSOCIATED PRESS, March 11, 2010, <http://www.correctionsone.com/treatment/articles/2017869-ACLU-suing-Corrections-Corp-of-America>.

²³² Nina Bernstein, *Immigrant's Death Shows Hard Path to Detention Reform*, N.Y. TIMES, August 4, 2011, http://www.nytimes.com/2009/08/21/nyregion/21detain.html?pagewanted=1&_r=1&hp.

²³³ Many detainees at Stewart relayed accounts regarding being placed in segregation as retaliation by CCA guards. See Stewart Detainee Interviews: Javan Jeffrey, Jaime Lara, Arman Garghani, Mikyas Germachew, and Grzegorz Kowalec conducted by the ACLU of Georgia.

²³⁴ Jeremy Redmon, *Consolidation effort sends detainees to Georgia*, THE ATLANTA JOURNAL-CONSTITUTION, December 16, 2010, <http://www.correctionsone.com/homeland-security/articles/3083565-Consolidation-effort-sends-detainees-to-Georgia>.

²³⁵ *Mathew v. Diaz*, 426 U.S. 67, 78 (1976).

²³⁶ 8 U.S.C. § 1103(a)(2); *see also* 8 U.S.C. § 1103(a)(11)(A), which authorizes the Secretary of the Department of Homeland Security “to make payments from such funds appropriated for the administration and enforcement of the laws relating to immigration, naturalization and alien registration for necessary clothing, medical care, necessary guard hire, and the housing, care, and security of persons detained by the Service pursuant to Federal law under an agreement with a State or political subdivision of a State.”

²³⁷ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2000 Detention Operations Manual*, <http://www.ice.gov/detention-standards/2000>.

²³⁸ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *Fact Sheet: ICE Performance Based National Detention Standards* (Nov 20, 2008), http://www.ice.gov/pi/news/factsheets/detention_standards.htm.

²³⁹ *Id.*

²⁴⁰ *Id.*

²⁴¹ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards*, <http://www.ice.gov/detention-standards/2008>; PBNDS states that “*Procedures in italics are specifically required for SPCs and CDFs*. IGSA’s must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.”

²⁴² U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *Detention Reform Accomplishments*, <http://www.ice.gov/detention-reform/detention-reform.htm>.

²⁴³ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *Fact Sheet: ICE Detention Standards* (Feb. 24, 2012), <http://www.ice.gov/news/library/factsheets/facilities-pbnds.htm>.

²⁴⁴ *Id.*

²⁴⁵ Although the format of PBNDS 2011 mirrors PBNDS 2008’s seven categories, the ACLU of Georgia notes that PBNDS 2011 added sections under Part 4 – Care including “Medical Care for Women” and “Significant Self-Harm.” U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2011 Operations Manual ICE Performance-Based National Detention Standards*, <http://www.ice.gov/detention-standards/2011/>.

²⁴⁶ *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886).

²⁴⁷ *Mathew v. Diaz*, 426 U.S. 67, 78 (1976).

²⁴⁸ *Turner v. Safley*, 482 U.S. 78 (1987).

²⁴⁹ *Helling v. McKinney*, 509 U.S. 25, 31-32 (1993).

²⁵⁰ *Wilson v. Seiter*, 501 U.S. 294, 303 (1991). 837 (1994).

²⁵¹ *See Yamataya v. Fisher*, 189 U.S. 86, 100 (1903); *see also Aguilera-Enriquez v. INS*, 516 F.2d 565, 568–69 (6th Cir. 1975).

²⁵² *See Aguilera-Enriquez*, 516 F.2d at 568. Notably, the ACLU is currently litigating a class action lawsuit on behalf of immigration detainees with mental disabilities in Arizona, California, and Washington, who because of their disabilities lack the mental competence to represent themselves in removal proceedings. In December 2010, the district court ruled on plaintiffs’ preliminary injunction and held that the Rehabilitation Act requires the government to provide a “qualified representative” for two individual plaintiffs who are part of the class. *Franco-Gonzalez v. Holder* -- F.Supp.2d --, 2010 WL 5874537 (C.D.Cal. Dec. 27, 2010). The district court granted class certification in November 2011 and unsealed the order in December 2011.

²⁵³ INA § 241(a)(2). Congress included this provision in IIRAIRA after government findings that immigration authorities were able to remove only 13% of removable non-citizens when such individuals were released prior to their planned removal from the United States. U.S. DEP'T OF JUSTICE, *Memorandum from Glenn A. Fine, Inspector General, DOJ, to Michael J. Garcia, Acting Commissioner, INS* (Feb. 25, 2003).

²⁵⁴ INA § 241(a)(1).

²⁵⁵ U.S. DEP'T OF HOMELAND SECURITY, Office of Inspector General, *ICE's Compliance with Detention Limits for Aliens with a Final Order of Removal From the United States* 3 (Feb. 2007).

²⁵⁶ See Virginia E. Sloan, Sharon Bradford Franklin, and Laura Olson, The Constitution Project, *Recommendations for Reforming our Immigration Detention System and Promoting Access to Counsel in Immigration Proceedings* 26 (Oct. 2009), <http://www.constitutionproject.org/manage/file/359.pdf>. India, Pakistan, China and Haiti routinely hold detainees in post-removal detention for more than a year. For nationals of entirely “non-cooperative” countries—countries such as Cuba, Laos, and Vietnam, with which the United States has no repatriation agreement—detention times are shorter because it is readily established that removal is not foreseeable. U.S. DEPT' OF HOMELAND SECURITY, Office of Inspector General, *ICE's Compliance with Detention Limits for Aliens with a Final Order of Removal From the United States* 11-13 OIG-07-28 (Feb. 2007).

²⁵⁷ *Zadvydas v. Davis*, 533 U.S. 678 (2001); see also U.N. Human Rights Council, *Report of the Special Rapporteur on the Human Rights of Migrants, Mission to the United States of America* para 21, A/HRC/7/12/Add.2 (Mar. 5, 2008)(prepared by Jorge Bustamante).

²⁵⁸ 8 C.F.R. § 241.4(e). DHS may consider a number of factors in determining flight risk or danger, including whether the detainee has been disciplined while in custody, the severity and nature of any past criminal convictions, the detainee's mental health, evidence of rehabilitation, the detainee's ties, if any, to the United States, and any other relevant information; 8 C.F.R. § 241.4(f).

²⁵⁹ 8 C.F.R. § 241.4(k)(4)(i); U.S. DEP'T OF HOMELAND SECURITY, Office of Inspector General, *ICE's Compliance with Detention Limits for Aliens with a Final Order of Removal From the United States* 4, OIG-07-28 (Feb. 2007); 8 C.F.R. § 241.13(c).

²⁶⁰ United Nations Committee on Human Rights, General Comment No. 21, Article 10, *Humane Treatment of Prisoners Deprived of their Liberty*, para 3, UN Doc. HRI/Gen/1/Rev.1 (1994).

²⁶¹ International Covenant on Civil and Political Rights, 999 U.N.T.S. 171 [hereinafter ICCPR] *entered into force*, March 23, 1976. The United States ratified the covenant on June 8, 1992; see also Universal Declaration of Human Rights, *Ongoing Struggle for Human Rights-The Universal Declaration of Human Rights*, <http://www.udhr.org/history/timeline.htm>.

²⁶² Convention on the Prevention and Punishment of the Crimes of Genocide, Dec. 9, 1948, S. Exec. Doc. O, 81-1 (1949), 78 U.N.T.S. 277, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-1&chapter=4&lang=en.

²⁶³ International Convention on the Elimination of All Forms of Racial Discrimination, art. 21, December 1965, G. A. res. 2106, *entered into force* January 4, 1969, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4&lang=en.

²⁶⁴ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [hereinafter CAT], *adopted* December 10, 1984, G.A. res. 39/46, U.N. Doc. A/39/51, *entered into force* June 26, 1987, *ratified by the United States* on October 21, 1994.

²⁶⁵ 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, July. 28, 1951, 189 U.N.T.S. 150, <http://www.unhcr.org/protect/PROTECTION/3b73b0d63.pdf>. Note that the U.S. has not ratified the Convention Relating to the Status of Refugees, but only the 1967 Protocol which provides a definition of “refugee” and removes geographical and time limits of the original Convention, which limited the treaty's application to WWII European refugees. See United Nations Committee on Human Rights, *The War Behind Which Refugees Can Shelter*, http://www.unhcr.se/SE/Protect_refugees/pdf/magazine.pdf.

²⁶⁶ Universal Declaration of Human Rights, G.A. Res. 217A, at 71, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 12, 1948); *see also* The Universal Declaration of Human Rights, *History of the Document*, <http://www.un.org/en/documents/udhr/history.shtml>; International Standards that Relate to Detentions, Corrections, and Prisons, <http://inprol.org/files/CR10002.pdf>.

²⁶⁷ United Nations, Standard Minimum Rules for the Treatment of Prisoners, August 30, 1955, G.A. Res. 45/11, UN Doc A/RES/45/110 (Dec. 14, 1990), <http://www.unhcr.org/refworld/docid/3ae6b36e8.html> [Hereinafter “UN Standard Minimum Rules”]; *see also* United Nations, Body of Principles for the Protection of All Persons under Any Form of Imprisonment, GA Res. 43/173, UN Doc.A/RES/43/173 (Dec. 9, 1988), <http://daccess-ods.un.org/TMP/5468479.39491272.html> [Hereinafter “UN Body of Principles”].

²⁶⁸ Organization of American States, *Who We Are*, http://www.oas.org/en/about/who_we_are.asp.

²⁶⁹ The Inter-American Commission on Human Rights (IACHR) is a commission of the Organization of American States (OAS) and made up of seven elected members. The IACHR’s mandate is “to promote respect for human rights in the region” and it “acts as a consultative body to the OAS in this matter.” This mandate comes from the OAS charter and the American Convention on Human Rights. In 2008, the IACHR was concerned by the response to 9/11 by the United States government, which had led to an almost doubling of the ICE detainee population from 2001 to 2008. This increase, the IACHR considered, warranted an investigation to ensure that these large numbers of detainees were being treated humanely and that the practices and policies involved in their detention were “compatible with the United States’ obligations in the area of human rights.” After working with the U.S. to organize tours of facilities, the IACHR in 2009 toured six facilities located in Arizona and Texas. Concluding its investigation, the IACHR was “troubled by the lack of a genuinely civil detention system,” “disturbed by the impact that detention has on due process,” and “disturbed that the management and personal care of immigration detainees is frequently outsourced to private contractors.” *See* Inter-American Commission on Human Rights, *Report on Immigration in the United States: Detention and Due Process* 4 - 6 (Organization of American States Dec. 2010); Inter-American Commission on Human Rights, Organization of American States, *IACHR Publishes Report of Immigration in the United States* (Mar. 17, 2011), <http://www.cidh.oas.org/Comunicados/English/2011/21-11eng.htm>.

²⁷⁰ Organization of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S.T.S. no. 36, 1144 U.N.T.S. 123; *see also* Multilateral Treaties – American Convention on Human Rights, <http://www.oas.org/juridico/english/sigs/b-32.html>.

²⁷¹ American Declaration of the Rights and Duties of Man, O.A.S. Official Rec., OEA/Ser.L./V./II.23, doc. 21 rev. 6 (1948), reprinted in *Basic Documents Pertaining to Human Rights in the Inter-American System*, OEA/Ser. L.V/II.82, doc. 6 rev. 1(1992), http://www.hrea.org/index.php?doc_id=413.

²⁷² Inter-American Commission on Human Rights, Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm> [Hereinafter “IACHR Principles and Practices”].

²⁷³ *See* American Convention on Human Rights (Nov. 21, 1969), 1144 U.N.T.S. 143. American Declaration of the Rights and Duties of Man art. 1, O.A.S. Official Rec., OEA/Ser.L./V./II.23, doc. 21 rev. 6 (1948), reprinted in *Basic Documents Pertaining to Human Rights in the Inter-American System*, OEA/Ser. L.V/II.82, doc. 6 rev. 1(1992), http://www.hrea.org/index.php?doc_id=413; *see also* Universal Declaration of Human Rights art. 3; ICCPR art. 9, para. 3.

²⁷⁴ American Convention on Human Rights art. 8, which states that “every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law . . . for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature”; *see also* ICCPR art. 13.

²⁷⁵ ICCPR art. 10, para. 1; *see also* United Nations Committee on Human Rights, General Comment No. 21, Article 10, Humane Treatment of Prisoners Deprived of their Liberty para. 3, UN Doc. HRI/Gen/1/Rev.1 (1994).

²⁷⁶ Int’l Covenant on Elimination of All Forms of Racial Discrimination, December 21, 1965, G.A. Res. 21/06, <http://www2.ohchr.org/english/law/ccpr.htm>.

²⁷⁷ ICCPR art.7, <http://www2.ohchr.org/english/law/ccpr.htm>; *see also* CAT art. 1, para. 1, <http://www.hrweb.org/legal/cat.html>.

²⁷⁸ Universal Declaration of Human Rights art. 14, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948), <http://www.un.org/en/documents/udhr>.

²⁷⁹ U.N. HIGH COMMISSIONER FOR REFUGEES, UNHCR's Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum Seekers (Feb. 1999), www.unhcr.org/refworld/pdfid/3c2b3f844.pdf.

²⁸⁰ U.N. Human Rights Council, *Report of the Special Rapporteur on the Human Rights of Migrants, Mission to the United States of America* para 21, A/HRC/7/12/Add.2 (Mar. 5, 3008)(prepared by Jorge Bustamante).

²⁸¹ U.S. DEP'T OF JUSTICE, *EOIR Immigration Court Listing* (as of January 2012), <http://www.justice.gov/eoir/sibpages/ICadr.htm#GA>.

²⁸² <http://www.justice.gov/eoir/sibpages/lgd/about.htm>. The Hon. Barry Chait was sworn in on November 2011. <http://www.justice.gov/eoir/press/2011/IJInvestiture11182011.pdf>

²⁸³ U.S. DEP'T OF JUSTICE, Executive Office for Immigration Review, FY 2010 Statistical Yearbook. Executive Office for Immigration Review, Figure B2-B3 (Apr. 2010) [hereinafter "DOJ 2010 Year Book"], www.justice.gov/eoir/statpub/fy10syb.pdf.

²⁸⁴ *Id.*

²⁸⁵ TRAC Immigration, *U.S. Deportation Outcomes By Charge* (Jul. 26, 2011), http://trac.syr.edu/phptools/immigration/court_backlog/deport_outcome_charge.php.

²⁸⁶ *Id.* Georgia had the third largest number of deportation orders in 2011 behind only Texas and California.

²⁸⁷ DOJ 2010 Year Book, <http://www.usdoj.gov/eoir/statpub/fy10syb.pdf>.

²⁸⁸ *Id.* at G1.

²⁸⁹ Interviews conducted by the ACLU of Georgia at Stewart on October 14, 2011 and August 13, 2011. Barriers to legal representation at Stewart include lengthy average periods of detention, the facility's remote location which limits the number of available attorneys and contributes to higher fees, and failure of the facility to provide adequate information about pro bono representation.

²⁹⁰ Interview conducted by the ACLU of Georgia at Stewart on August 13, 2011.

²⁹¹ TRAC Immigration, *U.S. Deportation Outcomes By Charge* (Jul 26, 2011), http://trac.syr.edu/phptools/immigration/court_backlog/deport_outcome_charge.php.

²⁹² Interview conducted by the ACLU of Georgia at Stewart on March 22, 2011.

²⁹³ For purposes of this report, this attorney wished to remain anonymous. Interview with Atlanta-based immigration attorney conducted by the ACLU of Georgia on March 28, 2011.

²⁹⁴ This is based on interviews with attorneys, detainees, and Program Director of Catholic Charities Immigration and Legal Services, Jennifer Bensman, as well as court handouts provided to the ACLU of Georgia by Macon-based attorney.

²⁹⁵ Stewart Detainee Handbook, 27 (Last Updated Apr. 2011).

²⁹⁶ This program is funded by a grant from the Vera Institute of Justice. Phone Interview conducted by the ACLU of Georgia on November 11, 2011.

²⁹⁷ *Id.*

²⁹⁸ *Id.*

- ²⁹⁹ Interview with Atlanta-based attorney conducted by the ACLU of Georgia on March 28, 2011.
- ³⁰⁰ Phone Interview with Atlanta immigration attorney conducted by the ACLU of Georgia on October 26, 2011.
- ³⁰¹ *Id.*
- ³⁰² See INA § 240(b)(2), 8 C.F.R. § 1003.25(c).
- ³⁰³ For purposes of this report, this attorney wished to be referred to as Duane. Interview conducted by the ACLU of Georgia on March 22, 2011.
- ³⁰⁴ Dr. Dora Schriro, U.S. DEP'T OF HOMELAND SECURITY, *Immigration Detention Overview and Recommendations* 6-9 (Oct. 6, 2009), http://www.ice.gov/doclib/091005_ice_detention_report-final.pdf; see also U.S. DEP'T OF HOMELAND SECURITY, Office of the Inspector General, *Immigration and Customs Enforcement Policies and Procedures related to Detainee Transfers 1*, OIG-10-13 (Nov. 2009), <http://trac.syr.edu/immigration/library/P4225.pdf>.
- ³⁰⁵ Interview with Atlanta-based attorney by the ACLU of Georgia on March 28, 2011.
- ³⁰⁶ For purposes of this report, this detainee wished to be referred to as Juan. Interview conducted by the ACLU of Georgia at Stewart on July 21, 2008.
- ³⁰⁷ Interview conducted by the ACLU of Georgia at Stewart on August 17, 2009.
- ³⁰⁸ Interview conducted by the ACLU of Georgia at Stewart on August 13, 2011.
- ³⁰⁹ *Id.* In late August 2011, Ido received his final order of removal to his home country and wrote to the ACLU of Georgia that he would be flying out any day. He was afraid for his life.
- ³¹⁰ *Id.*
- ³¹¹ Interview conducted by the ACLU of Georgia at Stewart on July 6, 2010.
- ³¹² *Id.*
- ³¹³ *Id.*
- ³¹⁴ Interview conducted by the ACLU of Georgia at Stewart on September 27, 2011.
- ³¹⁵ *Id.*
- ³¹⁶ *Id.*
- ³¹⁷ Interview with Josue Cervantes conducted by the ACLU of Georgia at Stewart on October 14, 2011. The ACLU of Georgia sought a response to these statements from the Executive Office of Immigration Review (EOIR) on March 31, 2012. Lauren Alder Reid, Counsel for Legislative Affairs, stated that EOIR could not comment on specific allegations related to EOIR without having reviewed the entire report first. Email from Lauren Alder Reid, Counsel for Legislative Affairs, U.S. Department of Justice-EOIR (Apr. 5, 2012). Obtained by the ACLU of Georgia via email.
- ³¹⁸ Interview conducted by the ACLU of Georgia at Stewart on September 27, 2011.
- ³¹⁹ Interview conducted by the ACLU of Georgia at Stewart on September 7, 2011.
- ³²⁰ Interview conducted by the ACLU of Georgia at Stewart on June 21, 2010.
- ³²¹ Interview with Carolina Antonini conducted by the ACLU of Georgia on March 28, 2011.
- ³²² *Id.*
- ³²³ *Id.*

³²⁴ For purposes of this report, this attorney wished to be referred to as Duane. Interview conducted by the ACLU of Georgia on April 13, 2011.

³²⁵ Elise Foley, *Immigrant Freed from 19-Month Detention: “I treat my dogs much better than the detainees are treated”* (Jul 18, 2011), http://www.huffingtonpost.com/2011/05/18/immigrant-freed-from-detention_n_863893.html.

³²⁶ *Id.*

³²⁷ *Id.*

³²⁸ *Id.*

³²⁹ *Id.*

³³⁰ Interview conducted by the ACLU of Georgia at Stewart on July 14, 2010.

³³¹ *Id.*

³³² Interview with Atlanta-based attorney conducted by the ACLU of Georgia on April 13, 2011.

³³³ American Convention on Human Rights art. 8; *see also*, ICCPR art. 14; UN Body of Principles, princ. 10-18 (Dec. 9, 1988), <http://www.un.org/documents/ga/res/43/a43r173.htm>.

³³⁴ Interview with Dung Dang conducted by the ACLU of Georgia at NGDC on April 15, 2011.

³³⁵ *Id.*

³³⁶ *Id.*

³³⁷ Interview with Cristian Morales conducted by the ACLU of Georgia at ACDC on August 11, 2010.

³³⁸ *Id.*

³³⁹ *Id.* The ACLU of Georgia sought a response to these statements from the EOIR on March 31, 2012. Lauren Alder Reid, Counsel for Legislative Affairs stated that EOIR could not comment on specific allegations related to EOIR without having reviewed the entire report first. Email from Lauren Alder Reid, Counsel for Legislative Affairs, U.S. Department of Justice-EOIR (Apr. 5, 2012). Obtained by the ACLU of Georgia via email.

³⁴⁰ *See Yamataya v. Fisher*, 189 U.S. 86, 100 (1903); *see also Aguilera-Enriquez v. INS*, 516 F.2d 565, 568–69 (6th Cir. 1975).

³⁴¹ *Id.*

³⁴² American Convention on Human Rights art. 8 states that “every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law . . . for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature,” www.hrcr.org/docs/American_Convention/oashr.html. ICCPR art. 13 includes a right to fair deportation procedures. “An alien lawfully in the territory of a State Party to the present covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority,” <http://www2.ohchr.org/english/law/ccpr.htm>.

³⁴³ U.N. Human Rights Council, *Report of the Special Rapporteur on the Human Rights of Migrants, Mission to the United States of America* para 34, A/HRC/7/12/Add.2 (Mar. 5, 2008)(prepared by Jorge Bustamante), <http://www.cidh.oas.org/annualrep/2000eng/chap.6.htm>; *see also* Detention Watch Network, *The History of Immigration Detention in the U.S.*, www.detentionwatchnetwork.org.

³⁴⁴ Email from Julio Moreno, The Fogle Law Firm (Jan, 10 2012). Obtained by the ACLU of Georgia via email.

³⁴⁵ Interview with Dung Dang conducted by the ACLU of Georgia at NGDC on April 15, 2011.

³⁴⁶ Interview with Jose Cruz Morales conducted by the ACLU of Georgia at NGDC on May 11, 2011.

³⁴⁷ Interview with Fredin Toledo conducted by the ACLU of Georgia at NGDC on June 3, 2011.

³⁴⁸ *Id.*

³⁴⁹ Interview conducted by the ACLU of Georgia at Irwin on January 30, 2011.

³⁵⁰ Interview with Fredin Toledo conducted by the ACLU of Georgia at NGDC on June 3, 2011.

³⁵¹ *Id.*

³⁵² *Id.*

³⁵³ See David Shapiro, American Civil Liberties Union, *Banking on Bondage: Private Prisons and Mass Incarceration* (Nov. 2011), www.aclu.org/files/assets/bankingonbondage_20111102.pdf.

³⁵⁴ Interview with Edith Ornelas Mejia conducted by the ACLU of Georgia at NGDC on July 26, 2011.

³⁵⁵ *Id.*

³⁵⁶ *Id.*

³⁵⁷ *Id.*

³⁵⁸ *Id.*

³⁵⁹ Interview conducted by the ACLU of Georgia at Irwin on July 22, 2011.

³⁶⁰ *Id.*

³⁶¹ *Id.*

³⁶² Since Spanish is the most frequently spoken language at immigration court, at over 66 percent, during FY 2010, the majority of non-citizens encounter this same problem. See DOJ 2010 Year Book, <http://www.usdoj.gov/eoir/statspub/fy10syb.pdf>.

³⁶³ ICCPR art. 13; American Convention on Human Rights art. 9.

³⁶⁴ Information gathered during ACLU of Georgia's tour of Irwin on September 30, 2011.

³⁶⁵ *Id.*

³⁶⁶ Interview with Dulce Bolanos-Estrada conducted by the ACLU of Georgia at Irwin on March 10, 2011. In response to these statements regarding the holding cell conditions, ICE stated that "the cells are cleaned daily and the occupancy of each cell is monitored by supervisor." Email from William McCafferty, Assistant Field Office Director (Mar. 26, 2012). Obtained by the ACLU of Georgia via email.

³⁶⁷ Interview with Jose Ponce conducted by the ACLU of Georgia at Irwin on December 7, 2011.

³⁶⁸ As of September 16, 2011, there were 71 ICE employees at Stewart and 11 at NGDC. The numbers of ICE employees at Irwin and ACDC were not provided. Based on response to ACLU of Georgia FOIA Request No. 2011-12787 filed Aug. 8, 2011.

³⁶⁹ As mentioned earlier, stipulated orders of removal are problematic because they allow for expedited deportation of non-citizens without a hearing before an immigration judge. Detainees who sign these orders are often unaware of the rights they are giving up or the potential consequences that may result. See American Civil Liberties Union, *Slamming the Courthouse Doors: Denial of Access to Justice and Remedy in America* 21 (Dec. 2010), http://www.aclu.org/files/assets/HRP_UPRsubmission_annex.pdf.

³⁷⁰ Interview conducted by the ACLU of Georgia at Stewart on July 25, 2011.

³⁷¹ *Id.* The ACLU of Georgia sought a response to this statement from ICE on March 20, 2012 to which ICE responded that they either did not have enough information to research the case or that due to privacy concerns they were precluded from disclosing detailed information about individual cases. Email from William McCafferty, Assistant Field Office Director (Mar. 26, 2012). Obtained by the ACLU of Georgia via email.

³⁷² Interview conducted by the ACLU of Georgia on March 22, 2011.

³⁷³ *Id.*

³⁷⁴ Interview with Luis Ventura conducted by the ACLU of Georgia at NGDC on July 15, 2011.

³⁷⁵ *Id.* The ACLU of Georgia sought a response to this statement from ICE on March 20, 2012 to which ICE responded that they either did not have enough information to research the case or that due to privacy concerns they were precluded from disclosing detailed information about individual cases. Email from William McCafferty, Assistant Field Office Director (Mar. 26, 2012). Obtained by the ACLU of Georgia via email.

³⁷⁶ Interview with Carlos Vargas conducted by the ACLU of Georgia at NGDC on July 26, 2011.

³⁷⁷ *Id.* The ACLU of Georgia sought a response to this statement from ICE on March 20, 2012 to which ICE responded that they either did not have enough information to research the case or that due to privacy concerns they were precluded from disclosing detailed information about individual cases. Email from William McCafferty, Assistant Field Office Director (Mar. 26, 2012). Obtained by the ACLU of Georgia via email.

³⁷⁸ Interview with Daniela Esquivela conducted by the ACLU of Georgia at NGDC on October 21, 2011. The ACLU of Georgia sought a response to this statement from ICE on March 20, 2012 to which ICE responded that they either did not have enough information to research the case or that due to privacy concerns they were precluded from disclosing detailed information about individual cases. Email from William McCafferty, Assistant Field Office Director (Mar. 26, 2012). Obtained by the ACLU of Georgia via email.

³⁷⁹ Interview conducted by the ACLU of Georgia at Irwin on October 17, 2011.

³⁸⁰ *Id.*

³⁸¹ *Id.* The ACLU of Georgia sought a response to this statement from ICE on March 20, 2012 to which ICE responded that they either did not have enough information to research the case or that due to privacy concerns they were precluded from disclosing detailed information about individual cases. Email from William McCafferty, Assistant Field Office Director (Mar. 26, 2012). Obtained by the ACLU of Georgia via email.

³⁸² Interview conducted by the ACLU of Georgia at Irwin on March 10, 2011.

³⁸³ *Id.* The ACLU of Georgia sought a response to this statement from ICE on March 20, 2012 to which ICE responded that they either did not have enough information to research the case or that due to privacy concerns they were precluded from disclosing detailed information about individual cases. Email from William McCafferty, Assistant Field Office Director (Mar. 26, 2012). Obtained by the ACLU of Georgia via email.

³⁸⁴ Interview with Angela Kelley conducted by the ACLU of Georgia at Irwin on March 10, 2011.

³⁸⁵ *Id.* Angela Kelley is an LGBT detainee. The ACLU of Georgia sought a response to this statement from ICE on March 20, 2012 to which ICE responded that they either did not have enough information to research the case or that due to privacy concerns they were precluded from disclosing detailed information about individual cases. Email from William McCafferty, Assistant Field Office Director (Mar. 26, 2012). Obtained by the ACLU of Georgia via email.

³⁸⁶ Interview with Edwin Edgold Omoregbe conducted by the ACLU of Georgia at ACDC on July 22, 2010. The ACLU of Georgia sought a response to this statement from ICE on March 20, 2012 to which ICE responded that they either did not have enough information to research the case or that due to privacy concerns they were precluded from disclosing detailed information about individual cases. Email from William McCafferty, Assistant Field Office Director (Mar. 26, 2012). Obtained by the ACLU of Georgia via email.

³⁸⁷ See *Yamataya v. Fisher*, 189 U.S. 86, 100 (1903); see also *Aguilera-Enriquez v. INS*, 516 F.2d 565, 568–69 (6th Cir. 1975); American Convention on Human Rights art. 9; ICCPR art. 13.

³⁸⁸ *Zadvydas v. Davis*, 533 U.S. 678 (2001); see also U.N. Human Rights Council, *Report of the Special Rapporteur on the Human Rights of Migrants, Mission to the United States of America* para 21, A/HRC/7/12/Add.2 (Mar. 5, 2008)(prepared by Jorge Bustamante).

³⁸⁹ For purposes of this report, this detainee wished to be referred to as Paul. Interview conducted by the ACLU of Georgia at Stewart on July 25, 2011.

³⁹⁰ *Id.*

³⁹¹ *Id.*

³⁹² Interview conducted by ACLU of Georgia at Stewart on August 13, 2011.

³⁹³ *Id.* Ido was sent back to a country where his family members had been persecuted, kidnapped, and even murdered for their political stance. He was terrified of being sent back, as he was convinced that he would be murdered after arriving in his home country, just as his father and uncle had been.

³⁹⁴ Interview conducted by the ACLU of Georgia at Stewart on July 6, 2010.

³⁹⁵ Interview conducted by the ACLU of Georgia at Stewart on September 27, 2011.

³⁹⁶ *Id.* The ACLU of Georgia sought a response to these statements from ICE on March 20, 2012 to which ICE responded that they either did not have enough information to research the case or that due to privacy concerns they were precluded from disclosing detailed information about individual cases. Email from William McCafferty, Assistant Field Office Director (Mar. 26, 2012). Obtained by the ACLU of Georgia via email.

³⁹⁷ Interview with Dung Dang conducted by the ACLU of Georgia at NGDC on April 15, 2011.

³⁹⁸ *Id.*

³⁹⁹ For purposes of this report, this detainee wished to be referred to by her first name only. Interview conducted by the ACLU of Georgia at Irwin on July 22, 2011.

⁴⁰⁰ *Id.*

⁴⁰¹ *Id.*

⁴⁰² Corrections Corporation of America, *Stewart Detention Center*; <http://www.cca.com/facility/stewart-detention-center>; see also Jeremy Redmon, *Stewart Facility Houses More Illegal Immigrants than Any Other State*, ATLANTA JOURNAL-CONSTITUTION, January 17, 2011.

⁴⁰³ Corrections Corporation of America, *Stewart Detention Center*; <http://www.cca.com/facility/stewart-detention-center>.

⁴⁰⁴ Out of 28 detainees interviewed, nine were transferred from out of state. Of those, six were transferred from North Carolina.

⁴⁰⁵ Information provided by Assistant Warden Dennis Hasty to the ACLU of Georgia during the September 7, 2011 tour of the facility.

⁴⁰⁶ CCA also stated that during the tour, the ACLU of Georgia walked by the law library but did not ask to see it until the end of the tour, at which point officials determined that it would not be appropriate to go back through the facility to see the law library. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁴⁰⁷ Intergovernmental Service Agreement No. DROIGSA-06-0003 between Stewart County and Corrections Corporation of America 1 (Jun. 30, 2006).

⁴⁰⁸ Facility Management Executive Approval Form, 1. Although the ACLU of Georgia did not receive a renewal contract as part of its FOIA request, Stewart is still run by CCA as of January 2012.

⁴⁰⁹ Information provided to the ACLU of Georgia by Natasha Metcalf, Vice President of Partnership Development at CCA. Phone Interview conducted by the ACLU of Georgia on February 9, 2012.

⁴¹⁰ Intergovernmental Service Agreement No. DROIGSA-06-0003 between Stewart County and Corrections Corporation of America 2 (Jun. 30, 2006). In March of 2008, the rate was increased pursuant to a contract modification to a per diem rate of \$60.50. Amendment of Solicitation/Modification of Contract No. P0004 between Stewart County and ICE (Mar. 5, 2008).

⁴¹¹ *Id.* at 3-4.

⁴¹² *Id.* at 4.

⁴¹³ Areas of concern include: 1) Due Process, 2) Living Conditions, 3) Medical and Mental Health Care, and 4) Abuse of Power.

⁴¹⁴ Interviews conducted by the ACLU of Georgia at Stewart on July 10 and July 18, 2010.

⁴¹⁵ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards*, Admission and Release (Dec. 2, 2008), <http://www.ice.gov/detention-standards/2008>.

⁴¹⁶ Interview with Carolina Antonini conducted by the ACLU of Georgia on March 28, 2011.

⁴¹⁷ For purposes of this report, this attorney wished to be referred to as Duane. Interview conducted by the ACLU of Georgia on April 13, 2011.

⁴¹⁸ Interview with Carolina Antonini conducted by the ACLU of Georgia on March 28, 2011.

⁴¹⁹ When provided with an opportunity to respond, CCA stated: “This interview occurred during a shift change. During that time, approximately fifty (50) officers were clocking in and out, going to their post assignments, and passing information to each other. When the noise issue was brought to the attention of management, it was handled immediately, and the area was appropriately quiet.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁴²⁰ Interview with Javan Jeffrey on September 7, 2011 and Ugochukwu Ehienuo on September 27, 2011 conducted by the ACLU of Georgia at Stewart.

⁴²¹ Interview conducted by the ACLU of Georgia at Stewart on June 21, 2010. CCA responded to this allegation by stating that there was no record of Mr. Ponce’s filing a grievance related to this matter. CCA added that detainees are permitted up to three visits to the law library per week as a matter of routine. Extra law library time is permitted, using the same request system. Detainees with court deadlines are given priority. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁴²² The ACLU of Georgia notes that it requested to visit the law library during the facility tour but was denied access. The information about the number of computers is based upon interviews with detainees.

⁴²³ Interview with Javan Jeffrey conducted by the ACLU of Georgia at Stewart on September 7, 2011.

⁴²⁴ Interview with Pedro Perez conducted by the ACLU of Georgia at Stewart on July 6, 2010.

⁴²⁵ Interview with Ugochukwu Ehienuo conducted by the ACLU of Georgia at Stewart on September 27, 2011.

⁴²⁶ 8 C.F.R. § 1208.13(b); 8 C.F.R. § 1208.16(b)(2).

⁴²⁷ 8 C.F.R. § 1208.16(c)(2).

⁴²⁸ When provided with an opportunity to respond, CCA stated: “Detainees are free to conduct research in the law library. There is a printer available for their use, as well as paper and writing materials.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁴²⁹ Human Rights Watch, *A Costly Move: Far and Frequent Transfers Impede Hearings for Immigrant Detainees in the United States*, Table 2, 20 (June 2011), <http://www.hrw.org/sites/default/files/reports/us0611webwcover.pdf>.

⁴³⁰ *Id.*

⁴³¹ *Id.*

⁴³² *Id.*

⁴³³ Interviews conducted by the ACLU of Georgia at Stewart on August 17, 2009, June 21, 2010, July 6, 2010, June 17, 2011, August 1, 2011, September 24, 2011, and September 27, 2011.

⁴³⁴ Human Rights Watch, *A Costly Move: Far and Frequent Transfers Impede Hearings for Immigrant Detainees in the United States* 30, Table 11 (June 2011), <http://www.hrw.org/sites/default/files/reports/us0611webwcover.pdf>.

⁴³⁵ *Id.*

⁴³⁶ Out of 28 detainees interviewed, nine were transferred to Stewart from out of state. Of those, six were transferred from North Carolina.

⁴³⁷ IACHR, X & Y (Argentina), Report No. 38/96 (Merits), Case No. 11.506, para. 96 (October 15, 1996), <http://www.cidh/oas/org/annualrep/96eng/Argentina11506.htm>.

⁴³⁸ Interview conducted by the ACLU of Georgia at Stewart on September 27, 2011.

⁴³⁹ *Id.* The ACLU of Georgia sought a response to this statement from ICE on March 20, 2012 to which ICE responded that they either did not have enough information to research the case or that due to privacy concerns they were precluded from disclosing detailed information about individual cases. Email from William McCafferty, Assistant Field Office Director (Mar. 26, 2012). Obtained by the ACLU of Georgia via email.

⁴⁴⁰ Interview conducted by the ACLU of Georgia at Stewart on September 7, 2011.

⁴⁴¹ The closest motel is Kay-Lyn Kourt, eight miles away in Richland. See <http://clatl.com/atlanta/georgias-thriving-private-prison-industry-boost-from-new-immigration-law/Content?oid=3700500>. The one notable exception to this dearth of guesthouses in Lumpkin is El Refugio. Alterna launched this hospitality house in 2010 to better serve families and friends of Stewart detainees. At El Refugio, visitors receive free meals and lodging as well as emotional and spiritual support. Volunteers staff the house and visit with detainees at the detention center. Group visitations can be coordinated by volunteer house leaders, and in addition to providing housing for families and friends of detainees, El Refugio provides housing for attorneys and other human rights workers who must drive long distances. For more information, see <http://www.alternacommunity.com/get-involved/our-work/in-georgia/el-refugio>.

⁴⁴² Interview with Pedro Perez conducted by the ACLU of Georgia at NGDC on July 6, 2010. The ACLU of Georgia sought a response to this statement from ICE on March 20, 2012 to which ICE responded that they either did not have enough information to research the case or that due to privacy concerns they were precluded from disclosing detailed information about individual cases. Email from William McCafferty, Assistant Field Office Director (Mar. 26, 2012). Obtained by the ACLU of Georgia via email.

⁴⁴³ Stewart Detainee Handbook, 26 (last updated April 2011).

⁴⁴⁴ *Id.*

⁴⁴⁵ Interview conducted by the ACLU of Georgia at Stewart on July 6, 2010; see also Logan’s Dad Blog, <http://www.logansdad.org/pedros-story.php>.

⁴⁴⁶ Follow-up Phone Interview with Mrs. Jeffrey conducted by the ACLU of Georgia on October 31, 2011.

⁴⁴⁷ *Id.*

⁴⁴⁸ Stewart Detainee Handbook, 10 (last updated April 2011).

⁴⁴⁹ *Id.* at 12, 20.

⁴⁵⁰ *Id.* at 21. According to the Stewart Warden, CCA detainee phone services are now provided by Securus. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁴⁵¹ Interview conducted by the ACLU of Georgia at Stewart on June 17, 2011.

⁴⁵² *Id.*

⁴⁵³ Interview conducted by the ACLU of Georgia at Stewart on October 14, 2011.

⁴⁵⁴ *Id.*

⁴⁵⁵ *Id.*

⁴⁵⁶ *Id.*

⁴⁵⁷ Interview conducted by the ACLU of Georgia at Stewart on June 17, 2011.

⁴⁵⁸ *Id.*

⁴⁵⁹ *Id.* Grzegorz also mentioned three other people in his unit had done the same. In response to these statements regarding phone rates, CCA reiterated that they do not control the phone rates. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁴⁶⁰ *Id.*

⁴⁶¹ Interview conducted by the ACLU of Georgia at Stewart on August 17, 2009.

⁴⁶² *Id.*

⁴⁶³ Six of 28 interviewees' family members lived in North Carolina; at least one detainee's family members lived abroad.

⁴⁶⁴ Email from Pamela Reeves, Assistant Field Office Director of Public Affairs for the Atlanta Field Office (Dec. 1, 2011). Obtained by the ACLU of Georgia via email.

⁴⁶⁵ Stewart Detainee Handbook, 5 (last updated April 2011).

⁴⁶⁶ *Id.*

⁴⁶⁷ Stewart Detainee Handbook, 2 (last updated April 2011); also based on observations by the ACLU of Georgia during facility tour on September 9, 2011.

⁴⁶⁸ Stewart Detainee Handbook, 36 (last updated April 2011).

⁴⁶⁹ Interview conducted by the ACLU of Georgia at Stewart on October 14, 2011.

⁴⁷⁰ For purposes of this report, this detainee wished to be referred to as Raul. Interview conducted by the ACLU of Georgia at Stewart on April 6, 2011.

⁴⁷¹ *Id.*

⁴⁷² *Id.*

⁴⁷³ See IACHR Principles and Practices, princ. XI-XIII, X, XVIII (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>; see also UN Body of Principles (Dec. 9, 1988), <http://www.un.org/documents/ga/res/43/a43r173.htm>; UN Standard Minimum Rules (Dec. 14, 1990), <http://www.unhcr.org/refworld/docid/3ae6b36e8.html>.

⁴⁷⁴ Georgia Detention Watch, *Report on the December 2008 Humanitarian Visit to the Stewart Detention Center 6*, www.acluga.org/Georgia_Detention_Watch_Report_on_Stewart.pdf.

⁴⁷⁵ *Id.*

⁴⁷⁶ *Id.*

⁴⁷⁷ When asked to respond to these allegations, the Warden stated that the pods are clean and the number of inmates per pod meets all applicable standards. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁴⁷⁸ Interview with Mikyas Germachew conducted by the ACLU of Georgia at Stewart on August 13, 2011.

⁴⁷⁹ Stewart Detainee Handbook, 8 (last updated April 2011).

⁴⁸⁰ Interview conducted by the ACLU of Georgia at Stewart on October 14, 2011.

⁴⁸¹ Interview conducted by the ACLU of Georgia at Stewart on August 13, 2011.

⁴⁸² U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards* (Dec. 2, 2008), <http://www.ice.gov/detention-standards/2008.ICE>.

⁴⁸³ For purposes of the report, this detainee wished to be referred to as Frank. Interview conducted by the ACLU of Georgia at Stewart on August 11, 2010.

⁴⁸⁴ Interview conducted by the ACLU of Georgia at Stewart on October 14, 2011. The Facility responded to both of these allegations by acknowledging that “there was an instance in which the hot water boiler was broken and parts had to be ordered for the repair,” but that repairs are completed in a timely manner and that “during this time, a shower schedule was put in place so that hot showers were available to the affected detainees. The scheduled [sic] was delivered and explained to all units impacted by the shower schedule.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁴⁸⁵ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards* (Dec. 2, 2008), <http://www.ice.gov/detention-standards/2008>.

⁴⁸⁶ Interview conducted by the ACLU of Georgia at Stewart on August 13, 2011.

⁴⁸⁷ For purposes of the report, this detainee wished to be referred to as Paul. Interview conducted by the ACLU of Georgia at Stewart on August 25, 2011.

⁴⁸⁸ *Id.*

⁴⁸⁹ Interview conducted by the ACLU of Georgia at Stewart on August 17, 2009.

⁴⁹⁰ Interview conducted by the ACLU of Georgia at Stewart on September 27, 2011. The facility’s response to these allegations was that there were no records of complaints concerning water quality. CCA added that all medical care matters are handled by ICE Health Service Corps (IHSC), formerly Division of Immigration Health Services. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email. The Warden also refrained from commenting on any medical issues pertaining to particular detainees based on privacy laws.

⁴⁹¹ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards 3* (Dec. 2, 2008), <http://www.ice.gov/detention-standards/2008>.

⁴⁹² *Id.*

⁴⁹³ For purposes of the report, this detainee wished to be referred to as Damon. Interview conducted by the ACLU of Georgia at Stewart on April 19, 2011.

⁴⁹⁴ For the purpose of the report, this detainee wished to be referred to as Juan. Interview conducted by the ACLU of Georgia at Stewart on July 12, 2010.

⁴⁹⁵ Interview conducted by the ACLU of Georgia at Stewart on July 6, 2010.

⁴⁹⁶ Interview conducted by the ACLU of Georgia at Stewart on August 11, 2010.

⁴⁹⁷ CCA acknowledged that the ratios in the pod described are actually 1:12.4 – 1:13.2 for toilets and 1:13.7 - 1:14.7 for wash basins. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁴⁹⁸ For purposes of the report, this detainee wished to be referred to as Raul. Interview conducted by the ACLU of Georgia at Stewart on April 6, 2011.

⁴⁹⁹ *Id.* CCA claims that all units are provided with adequate cleaning supplies. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁵⁰⁰ Interview conducted by the ACLU of Georgia at Stewart on September 27, 2011.

⁵⁰¹ *Id.*

⁵⁰² U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards* 3 (Dec. 2, 2008), <http://www.ice.gov/detention-standards/2008>. CCA stated that at no time has Stewart lost water to the entire facility or for an extended period of time claiming that; “Water services may be interrupted due to required repairs. When that occurs, the detainee population is informed of the reason for the interruption in service and the expected time frame for the repairs. If showers are impacted, a shower schedule is established.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁵⁰³ Interview conducted by the ACLU of Georgia at Stewart on September 27, 2011.

⁵⁰⁴ Interview with Mikyas Germachew conducted by the ACLU of Georgia at Stewart on August 13, 2011.

⁵⁰⁵ Interview conducted by the ACLU of Georgia at Stewart on October 14, 2011. In response, CCA stated that “all laundry, linens, and blankets are washed and exchanged on an as needed basis.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁵⁰⁶ For purposes of the report, this detainee wished to be referred to as Paul. Interview conducted by ACLU of Georgia at Stewart on July 25, 2011.

⁵⁰⁷ *Id.*

⁵⁰⁸ *Id.*

⁵⁰⁹ *Id.*

⁵¹⁰ *Id.*

⁵¹¹ Interview by the ACLU of Georgia at Stewart on August 13, 2011.

⁵¹² *Id.*

⁵¹³ For purposes of the report, this detainee wished to be referred to as Paul. Interview conducted by the ACLU of Georgia at Stewart on July 25, 2011. CCA denied that detainees were given mattresses without stuffing. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁵¹⁴ Interviews conducted by the ACLU of Georgia at Stewart on August 11, 2010 and September 27, 2011.

⁵¹⁵ For purposes of this report, this detainee wished to be referred to as Paul. Interviews with Paul (July 25, 2011), Mikyas Germachew (August 13, 2011), and Ido Yelkal (August 13, 2011) conducted by ACLU of Georgia at Stewart. In response, CCA disputed the allegations that there were water quality issues. Specifically, CCA stated that the water quality was tested by an independent third party and that the water meets both county and state criteria. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁵¹⁶ Verified by almost all interviewees.

⁵¹⁷ Interview conducted by the ACLU of Georgia at Stewart on July 25, 2011.

⁵¹⁸ Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁵¹⁹ Interview conducted by the ACLU of Georgia at Stewart on September 27, 2011.

⁵²⁰ For purposes of the report, this detainee wished to be referred to as Damon. Interview conducted by the ACLU of Georgia at Stewart on April 19, 2011.

⁵²¹ Interview with Ido Yelkal conducted by the ACLU of Georgia at Stewart on August 13, 2011.

⁵²² Interview conducted by the ACLU of Georgia at Stewart on November 18, 2011.

⁵²³ Interview with Mikyas Germachew conducted by the ACLU of Georgia at Stewart on August 13, 2011.

⁵²⁴ *Id.*

⁵²⁵ *Id.*

⁵²⁶ *Id.*

⁵²⁷ Confirmed by Ido Yelkal and Eduardo Zuniga. Interviews conducted by the ACLU of Georgia at Stewart on August 13, 2011 and June 17, 2011.

⁵²⁸ The facility responded that detainees are given twenty minutes to eat. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁵²⁹ Interview with Ido Yelkal conducted by the ACLU of Georgia at Stewart on August 13, 2011.

⁵³⁰ Interview conducted by the ACLU of Georgia at Stewart on March 25, 2011.

⁵³¹ Interview conducted by the ACLU of Georgia at Stewart on September 27, 2011.

⁵³² Interview conducted by the ACLU of Georgia at Stewart on September 7, 2011.

⁵³³ Interview conducted by the ACLU of Georgia at Stewart on October 3, 2011.

⁵³⁴ *Id.*

⁵³⁵ Interview conducted by the ACLU of Georgia at Stewart on September 7, 2011.

⁵³⁶ Interview conducted by the ACLU of Georgia at Stewart on September 27, 2011.

⁵³⁷ Interviews with Dyna Khleang (September 27, 2011) and Eduardo Zuniga (June 17, 2011) conducted by the ACLU of Georgia at Stewart.

⁵³⁸ For purposes of the report, this detainee wished to be referred to as Felix. Interview conducted by the ACLU of Georgia at Stewart on August 11, 2010.

⁵³⁹ Investigation Reports Form Detention Center, *STEWART/Unknown/Incident Critical/Significant/LUMPKIN, STEWART, GA*, based on response received to ACLU of Georgia FOIA Request No. 11-12787, filed Aug. 8, 2011.

⁵⁴⁰ *Id.*

- ⁵⁴¹ Interview conducted by the ACLU of Georgia at Stewart on August 17, 2009.
- ⁵⁴² Interviews with Angel on July 14, 2010, Frank on August 11, 2010, and Jose Nunez on March 25, 2011 conducted by the ACLU of Georgia at Stewart.
- ⁵⁴³ For purposes of the report, this detainee wished to be referred to as Damon. Interview conducted by the ACLU of Georgia at Stewart on April 19, 2011.
- ⁵⁴⁴ Interviews with Dyna Khleang on September 7, 2011, Javan Jeffrey on September 7, 2011, and Ugochukwu Ehienuo on September 27, 2011 conducted by the ACLU of Georgia at Stewart.
- ⁵⁴⁵ Interview conducted by the ACLU of Georgia at Stewart on August 13, 2011.
- ⁵⁴⁶ Georgia Detention Watch, *Report on the December 2008 Humanitarian Visit to the Stewart Detention Center 5-6*, www.acluga.org/Georgia_Detention_Watch_Report_on_Stewart.pdf.
- ⁵⁴⁷ Although CCA denies that it has any unusual, pervasive, or chronic food issues, it does acknowledge that “occasional food issues are inevitable” but it states that the staff deals with issues immediately. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.
- ⁵⁴⁸ Interview with Ugochukwu Ehienuo conducted by the ACLU of Georgia at Stewart on September 27, 2011.
- ⁵⁴⁹ Based on Interview with Javan Jeffrey conducted by the ACLU of Georgia at Stewart on September 7, 2011.
- ⁵⁵⁰ Interview conducted by the ACLU of Georgia at Stewart on September 27, 2011.
- ⁵⁵¹ Interview with Josue Cervantes conducted by the ACLU of Georgia at Stewart on October 14, 2011.
- ⁵⁵² For purposes of this report, this detainee wished to be referred to as Damon. Interview conducted by the ACLU of Georgia at Stewart on April 19, 2011.
- ⁵⁵³ *Id.*
- ⁵⁵⁴ For purposes of the report, this detainee wished to be referred to as Juan. Interview conducted by the ACLU of Georgia at Stewart on July 12, 2010.
- ⁵⁵⁵ For purposes of the report, this detainee wished to be referred to as Paul. Interview conducted by the ACLU of Georgia at Stewart on July 25, 2011.
- ⁵⁵⁶ *Id.* In response, CCA stated that “the food at Stewart is handled according to applicable regulations. The most recent sanitation grade from the state was a 97%. At no time is food withheld from a detainee for any reason. Many staff members, including the Warden, eat the food prepared at the Stewart dining facility. Again, detainee complaints about food are handled by the staff immediately.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.
- ⁵⁵⁷ IACHR Principles and Practices, princ. XIV (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>.
- ⁵⁵⁸ Stewart Detainee Handbook, 24 (last updated April 2011).
- ⁵⁵⁹ Interviews conducted by the ACLU of Georgia at Stewart on August 17, 2009, July 6, 2010, August 11, 2010, March 25, 2011, April 19, 2011, June 17, 2011, August 13, 2011, September 24, 2011, and September 27, 2011.
- ⁵⁶⁰ *Id.*
- ⁵⁶¹ Interview with Dyna Khleang conducted by the ACLU of Georgia at Stewart on September 27, 2011.
- ⁵⁶² *Id.* The rate of \$1.00 to \$3.00 per day for full-time work falls well below the current national minimum wage.
- ⁵⁶³ Interview with Omar Ponce conducted by the ACLU of Georgia at Stewart on June 21, 2010.

⁵⁶⁴ *Id.* The ACLU of Georgia sought a response to this statement from Assistant Warden Dennis Hasty on March 20, 2012, but no response was provided by either Assistant Warden Hasty or Warden Swinton.

⁵⁶⁵ Interview with Jaime Lara conducted by the ACLU of Georgia at Stewart on July 14, 2010.

⁵⁶⁶ Interview with Josue Cervantes conducted by the ACLU of Georgia at Stewart on October 19, 2011.

⁵⁶⁷ Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁵⁶⁸ Interview with Eduardo Zuniga conducted by the ACLU of Georgia at Stewart on June 17, 2011. In response, CCA stated that it had no evidence of this incident. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁵⁶⁹ Interview with Ido Yelkal on August 13, 2011, and Dyna Khleang and Ugochukwu Ehienuo on September 27, 2011, conducted by the ACLU of Georgia at Stewart.

⁵⁷⁰ When asked what “Christian” services meant, Assistant Field Office Director Pamela Reeves stated that: “‘Christian Service’ means a Christian Service that is open to all. Services conducted may or may not reflect a ‘protestant’ religious tradition.” Email from Pamela Reeves, Assistant Field Office Director of Public Affairs for the Atlanta Field Office (Dec. 1, 2011). Obtained by the ACLU of Georgia via email.

⁵⁷¹ Based on the September 2011 Religious Services Calendar provided to the ACLU of Georgia on the September 7, 2011 tour of the facility.

⁵⁷² Information provided by Assistant Warden Dennis Hasty to the ACLU of Georgia during the September 7, 2011 tour of the facility.

⁵⁷³ Based on the September 2011 Religious Services Calendar provided to the ACLU of Georgia on the September 7, 2011 tour of the facility.

⁵⁷⁴ Interview with Dyna Khleang conducted by the ACLU of Georgia at Stewart on September 27, 2011.

⁵⁷⁵ *Id.*

⁵⁷⁶ Interviews conducted by the ACLU of Georgia at Stewart on August 13, 2011 and September 27, 2011.

⁵⁷⁷ Stewart Detainee Handbook, 6 (last updated April 2011).

⁵⁷⁸ The facility did not comment on medical diets, which are prescribed by IHSC. As to religious diets, the facility stated that it is in compliance with PBNDS. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁵⁷⁹ Interviews conducted by the ACLU of Georgia at Stewart on August 17, 2009, July 6, 2010, August 11, 2010, March 25, 2011, April 19, 2011, June 17, 2011, August 13, 2011, September 24, 2011, and September 27, 2011.

⁵⁸⁰ *Id.*

⁵⁸¹ *Id.*

⁵⁸² Interview with Mikyas Germachew conducted by the ACLU of Georgia at Stewart on August 13, 2011. In response, CCA stated that the facility followed all of applicable requirements for religious diets. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁵⁸³ See Stewart Detainee Handbook, 41 (last updated April 2011); ICCPR art. 1; ICCPR art. 5 ; U.S. CONST. amend. I.

⁵⁸⁴ ICE PBNDS on recreation states that detainees shall receive a minimum of one hour of outdoor recreation on a daily basis, weather permitting. See U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards Recreation* (Dec. 2, 2008), . <http://www.ice.gov/detention-standards/2008>.

⁵⁸⁵ Observed by the ACLU of Georgia during the September 7, 2011 tour of the facility. Also supported by detainee interviews.

⁵⁸⁶ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards Recreation* (Dec. 2, 2008), <http://www.ice.gov/detention-standards/2008>.

⁵⁸⁷ Interview conducted by the ACLU of Georgia at Stewart on September 27, 2011.

⁵⁸⁸ Interview with Josue Cervantes conducted by the ACLU of Georgia at Stewart on October 14, 2011.

⁵⁸⁹ Interview with Dyna Khleang conducted by the ACLU of Georgia at Stewart on September 27, 2011. When asked about these statements CCA responded; “Stewart fully complies with PBNDS requirements regarding recreation. Recreation call is conducted daily, weather permitting. The use of the recreation areas, including the outdoor field, gym and hardtop area, are rotated on an equal basis. The recreation schedule for the month is posted in all units on the first day of the month in both English and Spanish.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁵⁹⁰ Complainant alleged that his/her roommate first drugged him, then pulled down his/her pants and applied cream to his/her buttocks. (Complaint Received: 1/20/2010), <http://www.aclu.org/maps/sexual-abuse-immigration-detention-facilities>.

⁵⁹¹ *See* Interview with Ido Yelkal conducted by the ACLU of Georgia at Stewart on August 13, 2011.

⁵⁹² For purposes of the report, this detainee wished to be referred to as Paul. Interview conducted by the ACLU of Georgia at Stewart on July 25, 2011; Interviews with Mikyas Germachew and Ido Yelkal by the ACLU of Georgia at Stewart on August 13, 2011.

⁵⁹³ *Id.*

⁵⁹⁴ For purposes of the report, this detainee wished to be referred to as Paul. Interview conducted by the ACLU of Georgia at Stewart on July 25, 2011.

⁵⁹⁵ Interview conducted by the ACLU of Georgia at Stewart on August 13, 2011. Regarding this situation, CCA provided the following response: “All pods have two televisions – one which plays in English and one which plays in Spanish. The remotes are controlled by the pod officers. Stewart takes a number of steps to make sure that all detainees are treated fairly and that all detainees are safe. Gang activity is supposed to be reported by the detainees and there are several posters throughout the living areas listing the confidential hot line number to use. Stewart has received no calls regarding the issue described.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁵⁹⁶ Agreement # DROIGSA-06-0003. Agreement Between Stewart County and Corrections Corporation of America, 3. According to CCA, currently, ICE Health Service Corps (IHSC), formerly known as Division of Immigration Health Services, provides all medical and mental health care at the facility. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email. Stewart’s IGSA specifically states, however, that “Behavior problems (detainee who is not diagnosed as psychotic) and suicide observation will be the responsibility of the PROVIDER.” Intergovernmental Service Agreement No. DROIGSA-06-0003 4 (Jun. 30, 2006).

⁵⁹⁷ Information provided by Assitant Warden Dennis Hasty to the ACLU of Georgia during tour of the facility on September 7, 2011.

⁵⁹⁸ *Id.* When given an opportunity to respond to the statements regarding medical and mental health care at Stewart, CCA declined, stating that services are provided by ICE Health Services (IHSC) and applicable privacy laws. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁵⁹⁹ Office of Detention and Removal Operations, *ICE Detention Standards Compliance Review 1* (May 13-15, 2008).

⁶⁰⁰ *Id.*

⁶⁰¹ Observed by the ACLU of Georgia during its September 7, 2011 tour of facility.

⁶⁰² Information provided by Assistant Warden Dennis Hasty to the ACLU of Georgia during tour of the facility on September 7, 2011.

⁶⁰³ *Id.*

⁶⁰⁴ ICE Assistant Field Office Director Pamela Reeves advised the ACLU of Georgia that the physician elected not to come but that the ICE medical staff were still soliciting applicants to fill the position. Email from Pamela Reeves, Assistant Field Office Director of Public Affairs for the Atlanta Field Office (Dec. 1, 2011). Obtained by the ACLU of Georgia via email.

⁶⁰⁵ *Id.*

⁶⁰⁶ CCA provided the following response: “Medical care at Stewart is provided by IHSC, so CCA cannot respond. In addition, to the extent CCA has medical information, applicable privacy laws would prohibit CCA from discussing it.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶⁰⁷ Head Chief of Security during tour of facility on September 7, 2011; also confirmed by email from Pamela Reeves, Assistant Field Office Director of Public Affairs for the Atlanta Field Office (Dec. 1, 2011). Obtained by the ACLU of Georgia via email.

⁶⁰⁸ Interview with Ugochukwu Ehienulo conducted by the ACLU of Georgia at Stewart on September 27, 2011.

⁶⁰⁹ Interview conducted by the ACLU of Georgia at Stewart on August 13, 2011.

⁶¹⁰ *Id.* CCA provided the following response: “Medical care at Stewart is provided by IHSC, so CCA cannot respond. In addition, to the extent CCA has medical information, applicable privacy laws would prohibit CCA from discussing it.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶¹¹ Interview with Eduardo Zuniga conducted by the ACLU of Georgia at Stewart on June 17, 2010 and Phone Interview conducted by the ACLU of Georgia on November 16, 2011. Although the facility declined to address the medical concerns, it did state that “CCA provides boots to all detainees who work in the kitchen. They are ordered on a regular basis. As an example, in 2011, CCA ordered 75 pairs of boots. Detainee Zuniga never filed a grievance or made a formal or informal complaint about a lack of boots or any injuries suffered in the kitchen.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶¹² Stewart Detainee Handbook, 37 (last updated April 2011).

⁶¹³ CCA provided the following response: “Medical care at Stewart is provided by IHSC, so CCA cannot respond. In addition, to the extent CCA has medical information, applicable privacy laws would prohibit CCA from discussing it.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶¹⁴ This is also supported by the findings of Georgia Detention Watch, *Report on the December 2008 Humanitarian Visit to the Stewart Detention Center*, www.acluga.org/Georgia_Detention_Watch_Report_on_Stewart.pdf.

⁶¹⁵ Interview with Jorge Matilde Catalan conducted by the ACLU of Georgia at Stewart on July 21, 2008.

⁶¹⁶ Based on interviews with Ermis Calderone on September 24, 2011, Eduardo Zuniga on September 24, 2011, and Grzegorz Kowalec on June 17, 2011 conducted by the ACLU of Georgia at Stewart.

⁶¹⁷ Interview conducted by the ACLU of Georgia at Stewart on September 27, 2011.

⁶¹⁸ Interview conducted by the ACLU of Georgia at Stewart on November 11, 2011.

⁶¹⁹ *Id.* CCA provided the following response: “Medical care at Stewart is provided by IHSC, so CCA cannot respond. In addition, to the extent CCA has medical information, applicable privacy laws would prohibit CCA from discussing it.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶²⁰ Condition of Confinement Review Worksheet (Stewart, July 23-25, 2009), based on response received to ACLU of Georgia FOIA Request No. 11-12787, filed Aug. 8, 2011, 12.

⁶²¹ In fact, the report found that medical records for the majority of detainees (17 out of 30) showed that they did not have a physical examination completed in 14 days. *Id.* at 32.

⁶²² United Nations, Standard Minimum Rules for the Treatment of Prisoners, August 30, 1955, G.A. Res. 45/11, UN Doc A/RES/45/110 (Dec. 14, 1990), <http://www.unhcr.org/refworld/docid/3ae6b36e8.html>.

⁶²³ Interview with Eduardo Rodriguez conducted by the ACLU of Georgia at Stewart on March 25, 2011. CCA provided the following response: “Medical care at Stewart is provided by IHSC, so CCA cannot respond. In addition, to the extent CCA has medical information, applicable privacy laws would prohibit CCA from discussing it.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶²⁴ *Id.* CCA provided the following response: “Medical care at Stewart is provided by IHSC, so CCA cannot respond. In addition, to the extent CCA has medical information, applicable privacy laws would prohibit CCA from discussing it.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶²⁵ *Id.*

⁶²⁶ *Id.*

⁶²⁷ *Id.* CCA provided the following response: “Medical care at Stewart is provided by IHSC, so CCA cannot respond. In addition, to the extent CCA has medical information, applicable privacy laws would prohibit CCA from discussing it.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶²⁸ Observed during ACLU of Georgia’s tour of Stewart on September 7, 2011. Also confirmed by email from Pamela Reeves, Assistant Field Office Director of Public Affairs for the Atlanta Field Office (Dec. 1, 2011). Obtained by the ACLU of Georgia via email. CCA provided the following response: “Medical care at Stewart is provided by IHSC, so CCA cannot respond. In addition, to the extent CCA has medical information, applicable privacy laws would prohibit CCA from discussing it.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶²⁹ Based on information given by Assistant Warden Dennis Hasty during ACLU of Georgia’s tour of Stewart on September 7, 2011.

⁶³⁰ Confirmed by email from Pamela Reeves, Assistant Field Office Director of Public Affairs for the Atlanta Field Office (Dec. 1, 2011). Obtained by the ACLU of Georgia via email. When given an opportunity to respond, CCA stated the following: “Medical care at Stewart is provided by IHSC, so CCA cannot respond. In addition, to the extent CCA has medical information, applicable privacy laws would prohibit CCA from discussing it.” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email. However, Stewart’s IGSA specifically states: “Behavior problems (detainee who is not diagnosed as psychotic) and suicide observation will be the responsibility of the PROVIDER.” Intergovernmental Service Agreement No. DROIGSA-06-0003 4 (Jun. 30, 2006).

⁶³¹ For studies on the adverse effect of detention on mental health, see Justice Policy Institute, *Dangers of Detention*, http://www.justicepolicy.org/uploads/justicepolicy/documents/dangers_of_detention.pdf; see also, Physicians for Human Rights and the Bellevue/NYU Program for Survivors of Torture, *From Persecution to Prison: The Health Consequences of Detention of Asylum Seekers*.

⁶³² Interview conducted by the ACLU of Georgia at Stewart on August 13, 2011.

⁶³³ *Id.*

⁶³⁴ *Id.*

⁶³⁵ For studies on the adverse effect of detention on mental health, see Justice Policy Institute, *Dangers of Detention*, http://www.justicepolicy.org/uploads/justicepolicy/documents/dangers_of_detention.pdf; see also, Physicians for Human Rights and the Bellevue/NYU Program for Survivors of Torture, *From Persecution to Prison: The Health Consequences of Detention of Asylum Seekers*.

⁶³⁶ Interview conducted by the ACLU of Georgia at Stewart on June 17, 2011.

⁶³⁷ Interview conducted by the ACLU of Georgia at Stewart on August 13, 2011.

⁶³⁸ Interview with Ermis Calderone conducted by the ACLU of Georgia at Stewart on September 24, 2011; *see* U.S. DEP'T OF HOMELAND SECURITY, Office of Inspector General, *Management of Mental Health Cases in Immigration Detention* 15, OIG-11-62 (Mar. 2011).

⁶³⁹ *Id.*

⁶⁴⁰ Interview conducted by the ACLU of Georgia at Stewart on September 24, 2011.

⁶⁴¹ Interview conducted by the ACLU of Georgia at Stewart on September 24, 2011 and Phone Interview with Ermis' mother conducted by the ACLU of Georgia on November 23, 2011. Ermis Calderone was finally deported in November 2011.

⁶⁴² Phone Interview conducted by the ACLU of Georgia on November 23, 2011.

⁶⁴³ Interview with Ermis Calderone conducted by the ACLU of Georgia at Stewart on September 24, 2011 and Phone Interview with Ermis' mother conducted by the ACLU of Georgia on November 23, 2011. Ermis Calderone was finally deported in November 2011. Although CCA declined to address the medical concerns, it stated: "CCA's employees have acted appropriately with respect to this detainee. He has a lengthy disciplinary history including charges of cursing the staff, being physically aggressive with staff, engaging in acts which are harmful to himself and others, flooding his cell and yelling racial slurs and profanities. He was, on one occasion, physically restrained by staff when he resisted approved staff action designed to keep him from harming himself." Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶⁴⁴ For purposes of the report, this detainee wished to be referred to as Paul. Interview conducted by the ACLU of Georgia at Stewart on July 25, 2011. ICE, FBI, and local police surrounded Paul's house which he shared with his U.S. citizen wife and ordered him to get on the ground when he walked out. He did not know why he was being arrested, so he thought it might be because he was active at his mosque. An ICE official interrogated Paul for over two hours, asking him questions such as "who do you pray to?" At the end of the interrogation, the ICE official told Paul that he was a threat to national security. When he arrived at Stewart, Paul, without any record of having committed a crime, was classified as a high-security detainee. The ACLU of Georgia sought a response to this statement from ICE on March 20, 2012 to which ICE responded that they either did not have enough information to research the case or that due to privacy concerns they were precluded from disclosing detailed information about individual cases. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶⁴⁵ *Id.*

⁶⁴⁶ Based on information given by Assistant Warden Dennis Hasty during ACLU of Georgia's tour of Stewart on September 7, 2011.

⁶⁴⁷ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards* 35, <http://www.ice.gov/detention-standards/2008>; Stewart Detainee Handbook, 34 (last updated April 2011).

⁶⁴⁸ CCA denied these allegations stating: "Stewart has a robust and effective grievance process. Detainees are not placed in segregation or retaliated against in any way for utilizing the grievance process. Detainees are encouraged, through the detainee handbook, orientation videos, and postings throughout the facility, to understand and abide by the rules. They know they can make formal or informal verbal complaints, and file formal grievances. They can appeal grievance decisions at the facility level and, if dissatisfied with that result, appeal to ICE." Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶⁴⁹ Interviews conducted by the ACLU of Georgia at Stewart on August 13, 2011.

⁶⁵⁰ *Id.*

⁶⁵¹ *Id.*

⁶⁵² CCA stated the following: “These three detainees apparently were making a practice of resisting and causing problems when asked to sit near inmates of a different race. One detainee described them as young boys starting trouble. When a correctional officer required them to sit as assigned, Ehienuo filed a grievance, alleging the officer had used unprofessional language. A disinterested detainee witness specifically stated that the officer did not use inappropriate or unprofessional language and described the disruptive and disrespectful behavior of Ehienuo and other. The grievance was, accordingly, denied. None of these detainees had filed any form of written complaint about being violated or harassed by staff members....” Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶⁵³ Interview with Omar Ponce conducted by the ACLU of Georgia at Stewart on June 21, 2010.

⁶⁵⁴ *Id.*

⁶⁵⁵ *Id.*

⁶⁵⁶ Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶⁵⁷ Of the 94 complaints received by DHS OIG, 91 were closed immediately without further action. ACLU of Georgia FOIA Request No.11-08-04 filed August 8, 2011.

⁶⁵⁸ Interview conducted by the ACLU of Georgia at Stewart on September 7, 2011.

⁶⁵⁹ U.S. DEP’T OF HOMELAND SECURITY, Office of the Inspector General, OIG complaints by facility: 94 from Stewart, 29 from ACDC, 7 from NGDC, and 31 from Irwin. ACLU of Georgia FOIA Request No. 2011-150 filed July 29, 2011.

⁶⁶⁰ *Id.* Document 70.

⁶⁶¹ *Id.* Information as of September 29, 2011.

⁶⁶² ACLU of Georgia FOIA Request No.11-08-04 filed August 8, 2011. The complaints were still pending as of December 5, 2011.

⁶⁶³ Interview conducted by the ACLU of Georgia at Stewart on September 27, 2011.

⁶⁶⁴ *Id.*

⁶⁶⁵ *Id.*

⁶⁶⁶ Interview conducted by the ACLU of Georgia at Stewart on August 13, 2011.

⁶⁶⁷ Regarding this incident, CCA provided the following response: “Detainee Javan made this allegation and it was investigated in timely fashion. It was determined to be unsubstantiated. CCA reported the allegations to ICE, who also investigated.” CCA did not say whether ICE found the allegations substantiated or not. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶⁶⁸ For purposes of this report, this detainee wished to be referred to as Felix. Interview with Felix conducted by the ACLU of Georgia at Stewart on August 11, 2010.

⁶⁶⁹ Interview with Omar Ponce conducted by the ACLU of Georgia at Stewart on June 21, 2010. In response, CCA claimed that physical or verbal abuse of detainees by staff is simply not tolerated, but it did not provide any evidence of disciplinary action. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶⁷⁰ For purposes of this report, this detainee wished to be referred to as Felix. Interview with Felix conducted by the ACLU of Georgia at Stewart on August 11, 2010. Detainees who were personally threatened or put in segregation include Jaime Lara, Javan Jeffrey, Grzegorz Kowalec, Roberto Carillo, and Ermis Calderone. Detainees Arman Garghani and Mikyas Germachew also witnessed instances where other detainees were threatened or put in segregation. In response, CCA denied that guards engage in retaliatory behavior but acknowledged that it is routine for detainees in the segregation unit to be denied commissary privileges. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶⁷¹ CCA denied this allegation. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶⁷² Based on information given by Detention Services Manager Michael R. Gladish during ACLU of Georgia's tour of the facility on September 27, 2011.

⁶⁷³ Stewart Detainee Handbook, 36 (last updated April 2011).

⁶⁷⁴ Stewart Detainee Handbook, 31-34 (Last Updated Apr. 2011).

⁶⁷⁵ Stewart Detainee Handbook, 31 (Last Updated Apr. 2011).

⁶⁷⁶ For purposes of this report, this detainee wished to be referred to as Angel. Interview conducted by the ACLU of Georgia at Stewart on July 14, 2010.

⁶⁷⁷ Interview with Ermis Calderone by the ACLU of Georgia at Stewart on September 24, 2011.

⁶⁷⁸ CCA stated that the denial of access to the segregation unit was because of safety and security reasons. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶⁷⁹ Based on information from Detention Services Manager Michael R. Gladish during ACLU of Georgia's tour of the facility on September 27, 2011.

⁶⁸⁰ Interview conducted by the ACLU of Georgia at Stewart on September 7, 2011.

⁶⁸¹ *Id.*

⁶⁸² *Id.*

⁶⁸³ Javan Jeffrey arrived at Stewart on June 7, 2011 and at the time of our interview on September 7, 2011, he had already been in segregation several times. Interview conducted by the ACLU of Georgia at Stewart.

⁶⁸⁴ Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶⁸⁵ Interview with Jaime Lara conducted by the ACLU of Georgia at Stewart on July 14, 2010.

⁶⁸⁶ Interview conducted by the ACLU of Georgia at Stewart on August 17, 2009.

⁶⁸⁷ Interview with Mikyas Germachew conducted by the ACLU of Georgia at Stewart on August 13 2011. CCA denied that these events occurred, stating that CCA employees do not engage in retaliatory behavior. Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶⁸⁸ Interview with Grzegorz Kowalec by the ACLU of Georgia at Stewart on June 16, 2011.

⁶⁸⁹ *Id.*

⁶⁹⁰ *Id.*

⁶⁹¹ *Id.*

⁶⁹² *Id.*

⁶⁹³ *Id.* CCA responded that it adheres to all PBNDS standards and denied that detainees are sent to segregation "for three weeks for talking back or being disrespectful." Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁶⁹⁴ ICE PBNDS on Special Management Unit states that detainees in the segregation unit should receive an hour of recreation per day five days a week. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards* 15 Special Management Unit (Dec. 2, 2008), <http://www.ice.gov/detention-standards/2008>.

⁶⁹⁵ For purposes of this report, this detainee wished to be referred to as Angel. Interview conducted by the ACLU of Georgia at Stewart on July 14, 2010.

⁶⁹⁶ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards* 15 Special Management Unit (Dec. 2, 2008), <http://www.ice.gov/detention-standards/2008>.

⁶⁹⁷ Interviews with Roberto Carillo on July 25, 2011 and Ermis Calderone on September 24, 2011, conducted by the ACLU of Georgia at Stewart.

⁶⁹⁸ Interview with Roberto Carillo by the ACLU of Georgia at Stewart on July 25, 2011.

⁶⁹⁹ *Id.*

⁷⁰⁰ *Id.*

⁷⁰¹ *Id.*

⁷⁰² Interview conducted by the ACLU of Georgia at Stewart on September 24, 2011.

⁷⁰³ Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁷⁰⁴ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards* 15 Special Management Unit 2 (Dec. 2, 2008), <http://www.ice.gov/detention-standards/2008>.

⁷⁰⁵ Stewart Detainee Handbook, 31 (last updated April 2011).

⁷⁰⁶ *UN Special Rapporteur on torture calls for the prohibition of solitary confinement NEW YORK* (18 October 2011), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/445/70/PDF/N1144570.pdf?OpenElement>.

⁷⁰⁷ IACHR Principles and Practices, princ. XXII(3) (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>.

⁷⁰⁸ Interview conducted by the ACLU of Georgia at Stewart on June 16, 2011.

⁷⁰⁹ For purposes of this report, this detainee wished to be referred to as Juan. Interview conducted by the ACLU of Georgia at Stewart on July 12, 2011. When provided with an opportunity to respond, CCA stated that "these allegations had never been raised before, and CCA has no reason to believe they are true." Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁷¹⁰ Based on information given by Stacey Stone, Warden of NGDC, during ACLU of Georgia's tour of the facility on October 21, 2011. The ACLU of Georgia requested a copy of the IGSA agreement through a FOIA request but had not received it as of January 12, 2012.

⁷¹¹ CCA Source, *CCA Announces New Federal and State Contract Awards* (Spring 2009), <http://www.insidecca.com/cca-source/cca-announces-new-federal-and-state-contract-award>.

⁷¹² *Id.*

⁷¹³ Ashley Fielding, *Georgia: CCA gets what it wants*, GAINESVILLE TIMES, April 16, 2009, <http://www.gainesvilletimes.com/news/article/17561>.

⁷¹⁴ Jerry Gunn and Ken Stafford, *GCC says 'thanks but no thanks' to CCA*, ACCESS NORTH GA, May 14, 2009, <http://www.accessnorthgeorgia.com/detail.php?n=220387>.

⁷¹⁵ Private Officer News Network, *Georgia Police Unwilling to Aid Private Detention Center* (May 15, 2009), <http://privateofficernews.wordpress.com/2009/05/15/ga-police-unwilling-to-aid-private-detention-center-www-privateofficer-com>.

⁷¹⁶ Based on information given by Stacey Stone, Warden of NGDC, during ACLU of Georgia's tour of the facility on October 21, 2011; *see also* Inside CCA, *North Georgia Opens, Receives First Inmates*, <http://www.insidecca.com/inside-cca/north-georgia-opens>.

⁷¹⁷ B.J. Williams, *Council members surprised by county move to sell jail*, ACCESS NORTH GA, Feb. 21, 2012, <http://www.accessnorthga.com/detail.php?n=245931>.

⁷¹⁸ *Id.* *See also* Jerry Gunn, *Hall Commission approves old jail sale*, ACCESS NORTH GA, Feb. 21, 2012, <http://www.accessnorthga.com/detail.php?n=245926>; Aaron Hale, *Hall commissioners to vote on selling old jail to CCA*, ACCESS NORTH GA, Feb. 21, 2012, <http://www.gainesvilletimes.com/archives/63626/>.

⁷¹⁹ Ashley Fielding, *Decline in inmates fuels push to sell midtown jail*, GAINESVILLE TIMES, Feb. 22, 2012, <http://www.gainesvilletimes.com/archives/63704/>.

⁷²⁰ *See* Ashley Fielding, *Gainesville offers 7.2M for old Hall County jail*, GAINESVILLE TIMES, Mar. 21, 2012, <http://www.gainesvilletimes.com/section/6/article/64971/>.

⁷²¹ *Id.*

⁷²² Based on information given by Stacey Stone, Warden of NGDC, during ACLU of Georgia's tour of the facility on October 21, 2011; *see also* Inside CCA, *North Georgia Opens, Receives First Inmates*, <http://www.insidecca.com/inside-cca/north-georgia-opens>.

⁷²³ *Id.*

⁷²⁴ *Id.*

⁷²⁵ North Georgia Detention Center Detainee Handbook [hereinafter NGDC Detainee Handbook], 2 (revised 3/2/11).

⁷²⁶ *Id.*

⁷²⁷ Based on observations by the ACLU of Georgia during its tour of NGDC on October 21, 2011; *see also* NGDC Detainee Handbook, 2.

⁷²⁸ NGDC Detainee Handbook, 2.

⁷²⁹ *Id.* at 5.

⁷³⁰ Based on response received to ACLU of Georgia FOIA Request No. 2011-12787 filed Aug. 8, 2011.

⁷³¹ Based on information given by Stacey Stone, Warden of NGDC, during tour of ACDC facility on October 21, 2011.

⁷³² Creative Corrections, *ICE Detention Standards Compliance Review: Hall County Detention Center Annual Review 2* (December 8-9, 2008).

⁷³³ *Id.*

⁷³⁴ ICE Detention Standards Compliance Review, based on response received to ACLU of Georgia FOIA Request No. 11-12787, filed Aug. 8, 2011.

⁷³⁵ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, Office of Detention and Removal Operations, *National Detainee Handbook, Detention Management Division 12*, Release 1 [hereinafter “ICE Detainee Handbook”] (May 2008); *see also Section 23, Attorney Visits 13* (“You should receive a list of pro bono legal organizations operating in your area from the facility staff.”).

⁷³⁶ Interviews with Sergio Velasquez Espiria on April 15, 2011, Fredin Toledo on June 3, 2011, and Luis Ventura on July 15, 2011 conducted by the ACLU of Georgia at NGDC.

⁷³⁷ American Convention on Human Rights art. 8; *see also*, ICCPR art. 14; UN Body of Principles, princ. 10-18 (Dec. 9, 1988), <http://www.un.org/documents/ga/res/43/a43r173.htm>.

⁷³⁸ NGDC Detainee Handbook, 23; *see also* National Detainee Handbook, *Section 23, Attorney Visits 13*.

⁷³⁹ Based on information given by Stacey Stone, Warden of NGDC, during tour of facility on October 21, 2011. When the ACLU of Georgia met with Daniela Esquivela on October 21, 2011, we were allowed a contact visit. In addition, CCA stated that the “Notification to Facility Visitors (Attorney) Form provides a choice for attorneys to request a ‘Contact’ or ‘Non Contact Visit’ at their choice.” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email. The ACLU of Georgia also received a copy of the updated form and verified that it had both contact and non-contact options. Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁷⁴⁰ *Id.* The relevant section reads: “All other information is considered confidential and I agree to clear any other information through the Warden or designee...However any information which would have any affect [sic] on security and the welfare of detainees/residents or staff must be forwarded to the Warden or designee.”

⁷⁴¹ When asked to respond, CCA did not deny this but stated that the form also has a clause that states “...any information which would have any affect [sic] on security and the welfare of detainees/residents or staff must be forwarded to the Warden or designee.” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email. The ACLU of Georgia is troubled by the language of the form which seems to require that only certain information related to the convictions and time served may be released while all other information must be cleared through the Warden of the facility: “All other information is considered confidential and I agree to clear any other information through the Warden or designee.” CCA North Georgia Detention Center “Notification to Facility Visitors (Attorney)” 2. Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁷⁴² CCA provided the following response: “Copies are only made at the attorney's request and provided to the detainee in the presence of the attorney who requested the exchange. CCA-North Georgia Detention Center does not keep any legal copies, nor do we violate attorney-client confidentiality.” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁷⁴³ For purposes of this report, this detainee wished to be referred to as Johnny. Interview conducted by the ACLU of Georgia at NGDC on December 23, 2011. CCA provided the following response; “The Detainee Handbook clearly states that Talton Communications services manages the facility's detainee phone system; (Page 21) of the NGDC Detainee Handbook outlines the specifics regarding this matter.” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁷⁴⁴ NGDC Detainee Handbook, 22.

⁷⁴⁵ Based on information given by Warden of NGDC, Stacey Stone, and observations during ACLU of Georgia’s tour of the facility on October 21, 2011.

⁷⁴⁶ Interview with William Bey conducted by the ACLU of Georgia at NGDC on July 14, 2011.

⁷⁴⁷ *Id.*

⁷⁴⁸ Based on information given by Stacey Stone, Warden of NGDC, during tour of the facility on October 21, 2011.

⁷⁴⁹ Based on information given by NGDC's Library Aide during tour of the facility on October 21, 2011. CCA provided the following response: "Law Library is not equipped with internet access; therefore detainees would not be printing items from the internet. In the event that a detainee needs copies of information collected for their case, the Law Library Aid will assist them by printing information to the printer located beside the computer in the Law Library and that supplemental updates are done on a quarterly basis." Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁷⁵⁰ CCA provided the following response: "NGDC has a contract with Language Line Services that is available at the request of any detainee; requests would be made to the Library Aid overseeing the Law Library or may be requested to the ICE Agent over their cases. Upon request, special arrangements will be made to accommodate the request." Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁷⁵¹ Interview with Dung Dang conducted by the ACLU of Georgia at NGDC on April 15, 2011.

⁷⁵² *Id.*

⁷⁵³ Interview with William Bey conducted by the ACLU of Georgia at NGDC on July 14, 2011.

⁷⁵⁴ *Id.*

⁷⁵⁵ *Id.*

⁷⁵⁶ For purposes of this report, this detainee requested to be referred to as Manny. Interviews conducted with Manny on March 19, 2011 and Carlos Vargas on July 26, 2011 by the ACLU of Georgia at NGDC.

⁷⁵⁷ Interview with Carlos Vargas conducted by the ACLU of Georgia at NGDC on July 26, 2011.

⁷⁵⁸ The ACLU of Georgia sought a response to this statement from ICE on March 20, 2012 who stated that they either did not have enough information to research the case or that due to privacy concerns they were precluded from disclosing detailed information about individual cases. Email from William McCafferty, Assistant Field Office Director (Mar. 26, 2012). Obtained by the ACLU of Georgia via email.

⁷⁵⁹ Interview with Fredin Toledo conducted by the ACLU of Georgia at NGDC on June 3, 2011.

⁷⁶⁰ *Id.*

⁷⁶¹ *Id.* The ACLU of Georgia sought a response to this statement from ICE on March 20, 2012 to which ICE responded that they either did not have enough information to research the case or that due to privacy concerns they were precluded from disclosing detailed information about individual cases. Email from William McCafferty, Assistant Field Office Director (Mar. 26, 2012). Obtained by the ACLU of Georgia via email.

⁷⁶² NGDC Detainee Handbook, 22.

⁷⁶³ Interview with Eduardo Jurado conducted by the ACLU of Georgia at NGDC on March 19, 2011.

⁷⁶⁴ *Id.*

⁷⁶⁵ See U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, Press Release, *ICE announces major reforms to immigration detention system* (Aug. 6, 2009), <http://www.ice.gov/pi/nr/0908/090806washington.htm>; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2009 Immigration Detention Reforms*, http://www.ice.gov/pi/news/factsheets/2009_immigration_detention_reforms.htm.

⁷⁶⁶ IACHR, X & Y (Argentina), Report No. 38/96 (Merits), Case No. 11.506, para. 96 (October 15, 1996), <http://www.cidh/oas.org/annualrep/96eng/Argentina11506.htm>.

⁷⁶⁷ Based on information from Warden of NGDC, Stacey Stone and observations by the ACLU of Georgia during tour of the facility on October 21, 2011.

⁷⁶⁸ NGDC Detainee Handbook, 19.

⁷⁶⁹ Interview with William Bey conducted by the ACLU of Georgia at NGDC on July 14, 2011.

⁷⁷⁰ Interview with Carlos Vargas conducted by the ACLU of Georgia at NGDC on July 26, 2011.

⁷⁷¹ Interview with Dung Dang conducted by the ACLU of Georgia at NGDC on April 15, 2011.

⁷⁷² Interview with Edith Ornelas Mejia conducted by the ACLU of Georgia at NGDC on July 26, 2011.

⁷⁷³ *Id.* When asked to respond to the price of phone services, CCA claimed that they had no control over pricing which is set by ICE and Talton Communications. Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁷⁷⁴ Interview with Daniela Esquivela conducted by the ACLU of Georgia at NGDC on October 21, 2011.

⁷⁷⁵ The relevant passage in the handbook states: “Pursuant to ICE detainee telephone regulations, all conversations are subject to monitoring. Your use of this telephone constitutes consent to this monitoring. You must contact the Facility Investigator to request unmonitored attorney calls.” NGDC Detainee Handbook, 17.

⁷⁷⁶ *Id.* at 17, 20. When provided an opportunity to respond, CCA did not deny these allegations but stated: “The Detainee Handbook (page 21) outlines the procedures to exclude phone monitoring with attorneys. ‘Detainee’s [sic] who wish to exercise their Attorney confidentiality privileges while utilizing the detainee telephones, must submit a Detainee Request to their Unit Manager which shall include the attorney’s name and verifiable landline number. Once the number is confirmed, it will be excluded from the monitoring system.’” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁷⁷⁷ Based on information provided by Warden of NGDC, Stacey Stone, and observations by the ACLU of Georgia during tour of the facility on October 21, 2011.

⁷⁷⁸ *Id.*

⁷⁷⁹ *Id.*

⁷⁸⁰ *Id.*

⁷⁸¹ *Id.*

⁷⁸² *Id.* Level 1 detainees wear blue, level 2 orange, and level 3 red, according to the NGDC Detainee Handbook, 5.

⁷⁸³ *Id.*

⁷⁸⁴ *Id.*

⁷⁸⁵ *Id.*

⁷⁸⁶ *Id.*

⁷⁸⁷ *Id.*

⁷⁸⁸ Interview with Daniela Esquivela conducted by the ACLU of Georgia at NGDC on October 21, 2011.

⁷⁸⁹ *Id.*

⁷⁹⁰ *Id.*

⁷⁹¹ *Id.*

⁷⁹² According to Natalia, each detainee is given his/her own individual supply of toilet paper. Interview with Natalia Elzaurdia conducted by the ACLU of Georgia at NGDC on June 20, 2011.

⁷⁹³ *Id.* When asked for a response, CCA stated: “The Detainee Handbook (page 8) ‘Personal Hygiene’ states, ‘Personal hygiene items are issued upon admittance as well as, consumable hygiene items will be reissued weekly on an exchange basis by unit staff.’ Our records show that this detainee has never filed a formal grievance.” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁷⁹⁴ Interview with Daniela Esquivela conducted by the ACLU of Georgia at NGDC on October 21, 2011.

⁷⁹⁵ *Id.*

⁷⁹⁶ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards*, <http://www.ice.gov/detention-standards/2008>.

⁷⁹⁷ Creative Corrections, *ICE Detention Standards Compliance Review: Hall County Detention Center Annual Review* 4 (December 8-9, 2008).

⁷⁹⁸ See IACHR Principles and Practices, princ. XI-XIII, X, XVIII (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>; see also UN Body of Principles (Dec. 9, 1988), <http://www.un.org/documents/ga/res/43/a43r173.htm>; UN Standard Minimum Rules (Dec. 14, 1990), <http://www.unhcr.org/refworld/docid/3ae6b36e8.html>.

⁷⁹⁹ NGDC Detainee Handbook, 5.

⁸⁰⁰ *Id.*

⁸⁰¹ Based on information given by Warden of NGDC, Stacey Stone; observations by the ACLU of Georgia during tour of the facility on October 21, 2011; and Interview with Daniela Esquivela conducted by the ACLU of Georgia at NGDC on October 21, 2011.

⁸⁰² Interview with Daniela Esquivela conducted by the ACLU of Georgia at NGDC on October 21, 2011. When asked for a response, CCA stated: “Upon entry of the CCA-North Georgia Detention Center, detainees are issued a ‘personal hygiene kit,’ the Detainee Handbook (pages 8-9) outlines Personal Hygiene in detail. At no time has the CCA-North Georgia Detention Center run out of personal hygiene supplies. If detainees require additional supplies, they should notify their housing officer and the supplies will be promptly provided.” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁸⁰³ *Id.*

⁸⁰⁴ Interview with Geraldine Ayala by Gainesville-based attorney on behalf of the ACLU of Georgia on November 25, 2011.

⁸⁰⁵ Based on information from Warden of NGDC, Stacey Stone, and observations by the ACLU of Georgia during tour of the facility on October 21, 2011.

⁸⁰⁶ NGDC Detainee Handbook, 33.

⁸⁰⁷ Based on information from Warden of NGDC, Stacey Stone, and observations by the ACLU of Georgia during tour of the facility on October 21, 2011.

⁸⁰⁸ Based on observations by the ACLU of Georgia during tour of the facility on October 21, 2011.

⁸⁰⁹ *Id.*

⁸¹⁰ *Id.*

⁸¹¹ Based on information from Warden of NGDC, Stacey Stone, and observations by the ACLU of Georgia during tour of the facility on October 21, 2011. When asked for a response, CCA acknowledged this practice: “This statement is true; as described on page 35, question 7 in the CCA-North Georgia Detention Center Handbook.” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁸¹² Creative Corrections, *ICE Detention Standards Compliance Review: Hall County Detention Center Annual Review*, 30 (December 8-9, 2008). The audit states that the next annual review will be scheduled on or before December 8, 2009.

⁸¹³ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards 2*, <http://www.ice.gov/detention-standards/2008>.

⁸¹⁴ NGDC Detainee Handbook, 7.

⁸¹⁵ See U.N. News Centre, *Solitary Confinement Should be Banned in Most Cases, U.N. Expert Says* (Oct. 18, 2011), <http://www.un.org/apps/news/story.asp?NewsID=40097>.

⁸¹⁶ Based on information from Warden of NGDC, Stacey Stone, and observations by the ACLU of Georgia during tour of the facility on October 21, 2011.

⁸¹⁷ NGDC Detainee Handbook, 7.

⁸¹⁸ Interview with Natalia Elzaurdia conducted by the ACLU of Georgia at NGDC on June 20, 2011.

⁸¹⁹ *Id.*

⁸²⁰ *Id.*

⁸²¹ Interview with Rodrigo de la Cruz conducted by the ACLU of Georgia at NGDC on March 19, 2011.

⁸²² *Id.*

⁸²³ Interview with Jose Cruz Morales conducted by the ACLU of Georgia at NGDC on May 11, 2011.

⁸²⁴ *Id.* When provided with an opportunity to respond, CCA stated: “Detainees are not limited to a set time frame to complete their meals. Breakfast, lunch, and dinner are provided daily with adequate portions given. All meals are approved by a registered dietician and meet the required caloric intake.” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁸²⁵ Interview with Daniela Esquivela conducted by the ACLU of Georgia at NGDC on October 21, 2011.

⁸²⁶ Based on information provided by Warden of NGDC, Stacey Stone, and observations by the ACLU of Georgia during tour of the facility on October 21, 2011.

⁸²⁷ Interview with Daniela Esquivela conducted by the ACLU of Georgia at NGDC on October 21, 2011. The ACLU of Georgia was unable to clarify what size a “pack” is. In response to this statement, CCA claimed: “We provide both name brand and comparable (cost effective) items on our commissary list; prices are set by Mid-States and depending on the contract, mark-ups may/may not be added.” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁸²⁸ NGDC Detainee Handbook, 21.

⁸²⁹ *Id.*

⁸³⁰ Interviews with Eduardo Jurado on March 19, 2011, Manny on March 19, 2011, Rodriguez de la Cruz on March 19, 2011, Dung Dang on April 15, 2011, and Luis Ventura on July 15, 2011 by the ACLU of Georgia.

⁸³¹ *Id.*

⁸³² *Id.*

⁸³³ IACHR Principles and Practices, princ. XIV (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>.

⁸³⁴ NGDC Detainee Handbook, 20.

⁸³⁵ Based on information provided by Warden of NGDC, Stacey Stone, and observations by the ACLU of Georgia during tour of the facility on October 21, 2011.

⁸³⁶ Based on observations by the ACLU of Georgia on tour of the facility on October 21, 2011.

⁸³⁷ The ACLU of Georgia was provided with an October 2011 Calendar of Religious Services during tour of the facility on October 21, 2011.

⁸³⁸ *Id.*

⁸³⁹ NGDC Detainee Handbook, 2.

⁸⁴⁰ Based on observations by the ACLU of Georgia during tour of the facility on October 21, 2011.

⁸⁴¹ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards*, <http://www.ice.gov/detention-standards/2008>.

⁸⁴² Interviews with Daniela Esquivela on October 21, 2011 and Geraldine Ayala on November 25, 2011 conducted by the ACLU of Georgia at NGDC.

⁸⁴³ Interview with Geraldine Ayala by Gainesville-based attorney on behalf of the ACLU of Georgia on November 25, 2011.

⁸⁴⁴ Interview with Daniela Esquivela conducted by the ACLU of Georgia at NGDC on October 21, 2011.

⁸⁴⁵ *Id.* In response to these statements, CCA stated: "Recreation is offered 1 hour per day per policy on a voluntary basis. CCA-North Georgia Detention Center offers low impact activities to all detainees; these include cards, board games, and other indoor activities when weather is inclement." Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁸⁴⁶ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards*, <http://www.ice.gov/detention-standards/2008>.

⁸⁴⁷ *Id.*

⁸⁴⁸ Interview with William Bey conducted by the ACLU of Georgia at NGDC on July 14, 2011.

⁸⁴⁹ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards* 4 ("The recreation privilege shall be denied or suspended only if the detainee's recreational activity would unreasonably endanger safety or security"), <http://www.ice.gov/detention-standards/2008>.

⁸⁵⁰ The medical health unit does not employ an on-site doctor, but only nurse practitioners. The mental health unit only has one psychiatrist who is available on-site for four hours per week and on an on-call basis. Based on information given by Warden of NGDC, Stacey Stone, and observations during ACLU of Georgia's tour of the facility on October 21, 2011.

⁸⁵¹ Interviews with Edith Ornelas Mejia on July 26, 2011, Jose Cruz Morales on May 11, 2011, and Carlos Valdez Vargas on July 26, 2011, conducted by the ACLU of Georgia at NGDC.

⁸⁵² Four of 15 detainees that we spoke to were not asked mental health questions during their intake examinations in 2011 in violation of ICE PBNDS. Interviews with Sergi Velasquez on April 15, 2011, Jose Cruz Morales on May 11, 2011, Fredin Toledo on June 3, 2011, and Luis Ventura on July 15, 2011 conducted by the ACLU of Georgia at NGDC.

⁸⁵³ Information provided by Natalia Elzuardia. Interview conducted by the ACLU of Georgia at NGDC on June 20, 2011.

⁸⁵⁴ NGDC Detainee Handbook, 41.

⁸⁵⁵ Based on observations by the ACLU of Georgia on tour of the facility on October 21, 2011.

⁸⁵⁶ Based on information given by Warden of NGDC, Stacey Stone, and observations during ACLU of Georgia's tour of the facility on October 21, 2011.

⁸⁵⁷ *Id.*

⁸⁵⁸ *Id.*

⁸⁵⁹ *Id.* Negative pressure cells are used to house detainees with diseases such as tuberculosis.

⁸⁶⁰ NGDC Detainee Handbook, 41.

⁸⁶¹ *Id.*

⁸⁶² *Id.*

⁸⁶³ *Id.*

⁸⁶⁴ Based on information given by Warden of NGDC, Stacey Stone, and observations during ACLU of Georgia's tour of the facility on October 21, 2011.

⁸⁶⁵ Based on observations by the ACLU of Georgia during tour of the facility on October 21, 2011.

⁸⁶⁶ Interview with Natalia Elzaurdia conducted by ACLU of Georgia at NGDC on June 20, 2011 and letter from Francisco Elzaurdia and Adrian Piccini to Stacey Stone, Warden of NGDC on June 13, 2011. The ACLU of Georgia spoke to Natalia's father, Francisco Elzaurdia on December 6, 2011. Natalia was deported to Uruguay at the end of June. Within weeks of being deported, Natalia suffered a miscarriage. Natalia's father said that the loss has been extremely difficult on the family and that both he and his wife are planning to move back to Uruguay permanently to be with Natalia. When asked to provide a response, CCA stated: "Individual cases are protected by HIPPA; however, all policies and procedures are followed. Special cases are handled on an individual basis. A request may be made as defined under the routine/emergency services section of the Detainee Handbook (page 42) when an urgent need is needed." Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁸⁶⁷ Based on information given by Warden of NGDC, Stacey Stone, and observations by the ACLU of Georgia during tour of the facility on October 21, 2011.

⁸⁶⁸ For purposes of this report, this detainee requested to be referred to as Bibi. Interview conducted by the ACLU of Georgia at NGDC on January 23, 2012.

⁸⁶⁹ *Id.*

⁸⁷⁰ *Id.*

⁸⁷¹ Interview with Carlos Valdez Vargas conducted by the ACLU of Georgia at NGDC on July 26, 2011.

⁸⁷² Interview with Edith Ornelas Mejia conducted by the ACLU of Georgia at NGDC on July 26, 2011.

⁸⁷³ Interview with Geraldine Ayala by Gainesville-based attorney on behalf of the ACLU of Georgia on November 25, 2011.

⁸⁷⁴ *Id.*

⁸⁷⁵ *Id.* When asked to provide a response to the allegations in this paragraph, CCA stated: “Individual cases are protected by HIPPA; however, all policies and procedures are followed. When a detainee is identified as being HIV positive, medical can order the medication by noon, and have it in the following day for the detainee. At no time did this detainee or any other fail to receive necessary medication on an immediate basis. HIV Education/Testing is also available per page 43 of the North Georgia Detention Center Detainee Handbook. Appointments are scheduled according to medical necessity. Sick call guidelines are outlined on page 42 of the North Georgia Detention Center Detainee Handbook. Health appraisals are available for all detainees after 14 days of arriving to our facility; if there is unusual pain, discharge, etc., regular sick call procedures will be followed. All medical complaints are handled in the least invasive manner possible, should serious issues arise, outside medical referrals will take place.” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁸⁷⁶ Interview with Natalia Elzaurdia conducted by the ACLU of Georgia at NGDC on June 20, 2011.

⁸⁷⁷ Principle 25(1) states; “The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.” United Nations, Standard Minimum Rules for the Treatment of Prisoners, August 30, 1955, G.A. Res. 45/11, UN Doc A/RES/45/110 (Dec. 14, 1990), <http://www.unhcr.org/refworld/docid/3ae6b36e8.html>.

⁸⁷⁸ Interview with Edith Ornelas Mejia conducted by the ACLU of Georgia at NGDC on July 26, 2011.

⁸⁷⁹ Interview with Jose Cruz Morales conducted by the ACLU of Georgia at NGDC on May 11, 2011.

⁸⁸⁰ *Id.*

⁸⁸¹ Interview with Carlos Valdez Vargas conducted by the ACLU of Georgia at NGDC on July 26, 2011.

⁸⁸² When asked to respond, CCA stated: “The CCA-North Georgia Detention Center has a contract with Language Line Services and actively utilizes services if necessary. Bi-lingual staff is on-site and assist with translating on a regular basis. Since the date of activation in 2009, there have been no grievances filed against medical.” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁸⁸³ IACHR Principles and Practices, princ. XX (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>.

⁸⁸⁴ Based on information given by Warden of NGDC, Stacey Stone, and observations by the ACLU of Georgia during tour of the facility on October 21, 2011. When asked to respond, CCA acknowledged this and further stated: “CCA-North Georgia Detention Center has a contract with a psychiatrist on a part-time basis; however, he is available 24/7, and an on staff full-time Mental Health Coordinator who is also available 24/7.” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁸⁸⁵ See Justice Policy Institute, *Dangers of Detention* (Mar. 2011), http://www.justicepolicy.org/uploads/justicepolicy/documents/dangers_of_detention.pdf; see also Physicians for Human Rights and the Bellevue/NYU Program for Survivors of Torture, *From Persecution to Prison: The Health Consequences of Detention of Asylum Seekers*, idcoalition.org/wp-content/uploads/2009/06/phr-report.pdf.

⁸⁸⁶ Interview with Eduardo Jurado conducted by the ACLU of Georgia at NGDC on March 19, 2011.

⁸⁸⁷ *Id.*

⁸⁸⁸ ICE Detainee Handbook, 3.

⁸⁸⁹ CCA denied this allegation stating: “All detainees are asked Mental Health questions during their intake process by intake staff and the information is maintained in their confidential files that are maintained in Medical Records.” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁸⁹⁰ Interviews with Sergi Velasquez on April 15, 2011, Jose Cruz Morales on May 11, 2011, Fredin Toledo on June 3, 2011, and Luis Ventura on July 15, 2011 conducted by the ACLU of Georgia at NGDC.

⁸⁹¹ Interview with Daniela Esquivela conducted by the ACLU of Georgia at NGDC on October 21, 2011.

⁸⁹² National Detainee Handbook, *Section 18, Suicide Prevention* 11.

⁸⁹³ NGDC Detainee Handbook, 52.

⁸⁹⁴ Interview with Natalia Elzuardia conducted by the ACLU of Georgia at NGDC on June 20, 2011.

⁸⁹⁵ *Id.*

⁸⁹⁶ *Id.*

⁸⁹⁷ *Id.* CCA denied this practice stating: “Policy and procedure is followed with regards to mental health issues. At no time, has a detainee been placed in segregation for specific mental health reasons. The detainees may complete a request to be seen by the Mental Health Coordinator as defined in the Detainee Handbook. Sick call boxes are located in designated locations and are available for use by all detainees wishing to use it at any time.” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁸⁹⁸ Interview with Daniela Esquivela conducted by the ACLU of Georgia at NGDC on October 21, 2011.

⁸⁹⁹ Interview with Eduardo Jurado conducted by the ACLU of Georgia at NGDC on March 19, 2011.

⁹⁰⁰ For purposes of this report, this detainee wished to be referred to as Johnny. Interview conducted by the ACLU of Georgia at NGDC on December 23, 2011.

⁹⁰¹ For purposes of this report, this detainee wished to be referred to as Manny. Interview conducted by the ACLU of Georgia at NGDC on March 19, 2011.

⁹⁰² Interview with Edith Ornelas Mejia conducted by the ACLU of Georgia at NGDC on July 14, 2011. CCA denied this practice stating: “NGDC does not withhold recreation or unnecessarily place detainees in segregation. There are different avenues for detainees to address complaints as defined on pages 32-33 in the Detainee Handbook. There has been no retaliatory misconduct by CCA-North Georgia Detention Center staff.” Email from Stacey Stone, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

⁹⁰³ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards* 3 (Dec. 2, 2008), <http://www.ice.gov/detention-standards/2008>.

⁹⁰⁴ Information gathered during ACLU of Georgia’s tour of the Irwin County Detention Center on September 30, 2011.

⁹⁰⁵ *Id.*

⁹⁰⁶ Intergovernmental Service Agreement No. 20-07-0058, *Housing of Federal Prisoners between the United States Marshals Service, the Federal Bureau of Prisons of the Department of Justice, and the United States Immigration and Customs Enforcement of the Department of Homeland Security, to house federal detainees with the Local Government at the Irwin County Detention Center* 9 (July 25, 2007).

⁹⁰⁷ *Id.* at 4.

⁹⁰⁸ Information gathered during ACLU of Georgia’s tour of Irwin on September 30, 2011.

⁹⁰⁹ In addition to the immigrant detainee capacity being at only 50 percent, the entire facility of 1,200 beds is only at 50 percent capacity. Because of this, bondholders forced a Chapter 11 bankruptcy for the property in March 2012. The low number of immigrant detainees is due to “reported impediments including bureaucratic delays at ICE, murky authority over marketing, and public budget constraints.” See Margaret Newkirk, *Small-Town Lockups Without Prisoners Send Bonds Into Default*, BLOOMBERG NEWS, Mar. 22, 2012, <http://www.bloomberg.com/news/2012-03-22/small-town-lockups-without-prisoners-send-bonds-into-default.html>.

⁹¹⁰ Information gathered during ACLU of Georgia’s tour of Irwin on September 30, 2011.

⁹¹¹ *Id.*

⁹¹² Interview conducted by the ACLU of Georgia at Irwin on October 17, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹¹³ See Interviews conducted by the ACLU of Georgia at Irwin on March 10, 2011 and October 17, 2011.

⁹¹⁴ For purposes of this report, this detainee wished to be referred to by her first name only. Interview with Veronica conducted by the ACLU of Georgia at Irwin on July 22, 2011.

⁹¹⁵ Information gathered during ACLU of Georgia's tour of the facility on September 30, 2011.

⁹¹⁶ The ACLU of Georgia does not have information on what percentage of staff at Stewart and NGDC are bi-lingual.

⁹¹⁷ IACHR Principles and Practices, princ. XX (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>. (providing that staff in detention facilities should be trained in "psychological aspects relating to detention, cultural sensitivity and human rights procedures, and ensuring that centres are not administratively run by private companies or staffed by private personnel unless they are adequately trained.").

⁹¹⁸ Interviews conducted by the ACLU of Georgia at Irwin on March 10, 2011.

⁹¹⁹ Interview with Maria Francisco conducted by the ACLU of Georgia at Irwin on July 22, 2011.

⁹²⁰ *Id.* The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹²¹ *Id.*

⁹²² American Convention on Human Rights art. 8; see also, ICCPR art. 14; UN Body of Principles, princ. 10-18 (Dec. 9, 1988), <http://www.un.org/documents/ga/res/43/a43r173.htm>.

⁹²³ See Katzmann Immigrant Representation Study Group, *The New York Immigrant Representation Study Group Preliminary Findings* (May 3, 2011), graphics8.nytimes.com/packages/pdf/nyregion/050411immigrant.pdf.

⁹²⁴ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards: Legal Rights Groups Presentations 1* (Dec. 2, 2008), <http://www.ice.gov/detention-standards/2008>.

⁹²⁵ Information provided to the ACLU of Georgia by attorney Chaka Washington on December 2, 2011.

⁹²⁶ Email from Pamela J. Reeves, Assistant Field Office Director of Public Affairs for the Atlanta Field Office (Dec. 1, 2011). Obtained by the ACLU of Georgia via email. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹²⁷ Email from Joshulyn Davis, Captain of Irwin, Re: Attorney Visits (Dec. 6, 2011). Obtained by the ACLU of Georgia through an attorney visit to Irwin on December 7, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹²⁸ Interview with Dulce Bolanos-Estrada conducted by the ACLU of Georgia at Irwin on March 10, 2011.

⁹²⁹ *Id.*

⁹³⁰ ICE Detainee Handbook, 12.

⁹³¹ Irwin County Detention Center Inmate/Detainee Handbook, 10 (effective August, 2011). The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹³² Interview with Dulce Bolanos-Estrada conducted by the ACLU of Georgia at Irwin on March 10, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹³³ *Id.* The ACLU of Georgia sought a response to this statement from Irwin’s Warden on March 20, 2012, but no response was provided.

⁹³⁴ *Id.* The ACLU of Georgia sought a response to this statement from Irwin’s Warden on March 20, 2012, but no response was provided.

⁹³⁵ Interview with Maria Francisco conducted by the ACLU of Georgia at Irwin on July 22, 2011. The ACLU of Georgia sought a response to this statement from Irwin’s Warden on March 20, 2012, but no response was provided.

⁹³⁶ Interview with Florent Kalala conducted by the ACLU of Georgia at Irwin on January 30, 2012. Florent Kalala stated that while there were three computers at the law library, only two of them were operable. Florent Kalala further stated that the third computer had not been working for over four months and the staff at Irwin had yet to fix the computer. The ACLU of Georgia sought a response to this statement from Irwin’s Warden on March 20, 2012, but no response was provided.

⁹³⁷ A copy of the petition was given to the ACLU of Georgia by Florent Kalala on January 30, 2012 [hereinafter “Irwin Detainee Petition”]. The ACLU of Georgia sought a response to this statement from Irwin’s Warden on March 20, 2012, but no response was provided.

⁹³⁸ Irwin Detainee Petition at 2-3. The ACLU of Georgia sought a response to this statement from Irwin’s Warden on March 20, 2012, but no response was provided.

⁹³⁹ *Id.* The ACLU of Georgia sought a response to this statement from Irwin’s Warden on March 20, 2012, but no response was provided.

⁹⁴⁰ Interview with Ignacio Morales conducted by the ACLU of Georgia at Irwin on October 17, 2011.

⁹⁴¹ *Id.*

⁹⁴² Interview with Jose Ponce conducted by the ACLU of Georgia at Irwin on December 7, 2011.

⁹⁴³ *Id.*

⁹⁴⁴ Interview with Dulce Bolanos Estrada conducted by the ACLU of Georgia at Irwin on March 10, 2011.

⁹⁴⁵ Interview with Norberto Neira conducted by the ACLU of Georgia at Irwin on October 17, 2011.

⁹⁴⁶ *Id.*

⁹⁴⁷ *Id.*

⁹⁴⁸ Inter-American Commission on Human Rights, American Declaration of the Rights and Duties of Man, art XXV, O.A.S. Official Rec., OEA/Ser.L./V/II.23, doc. 21 rev. 6 (1948), reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser. L.V/II.82, doc. 6 rev. 1(1992), http://www.hrea.org/index.php?doc_id=413; *see also* IACHR Principles and Practices, princ. IX(4) (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>.

⁹⁴⁹ Inter-American Commission on Human Rights, X & Y (Argentina), Report No. 38/96 (Merits), Case No. 11.506, para. 96 (October 15, 1996), <http://www.cidh.oas.org/annualrep/96eng/Argentina11506.htm>.

⁹⁵⁰ Irwin County Detention Center Inmate/Detainee Handbook, 8 (effective August, 2011). The ACLU of Georgia sought a response to this statement from Irwin’s Warden on March 20, 2012, but no response was provided.

⁹⁵¹ Interviews conducted by the ACLU of Georgia on July 22, 2011 and October 17, 2011 at Irwin. The ACLU of Georgia sought a response to this statement from Irwin’s Warden on March 20, 2012, but no response was provided.

⁹⁵² For purposes of this report, this detainee wished to be referred to by her first name only. Interview with Veronica conducted by the ACLU of Georgia at Irwin on July 22, 2011. The ACLU of Georgia sought a response to this statement from Irwin’s Warden on March 20, 2012, but no response was provided.

⁹⁵³ Interview with Jovita Campuzano Jimenez conducted by the ACLU of Georgia at Irwin on March 10, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹⁵⁴ *Id.* The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹⁵⁵ Information gathered during ACLU of Georgia's tour of the facility on September 30, 2011.

⁹⁵⁶ *Id.*

⁹⁵⁷ *Id.*

⁹⁵⁸ *Id.*

⁹⁵⁹ *Id.*

⁹⁶⁰ *Id.*

⁹⁶¹ Interview with Jose Ponce conducted by the ACLU of Georgia at Irwin on December 7, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹⁶² The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹⁶³ Interview with Jose Ponce conducted by the ACLU of Georgia at Irwin on December 7, 2011.

⁹⁶⁴ Interview with Maria Francisco conducted by the ACLU of Georgia at Irwin on July 22, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹⁶⁵ *Id.*

⁹⁶⁶ The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹⁶⁷ Interview with Dulce Bolanos Estrada conducted by the ACLU of Georgia at Irwin on March 10, 2011.

⁹⁶⁸ Interview with Maria Francisco conducted by the ACLU of Georgia at Irwin on July 22, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was given.

⁹⁶⁹ *Id.* The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹⁷⁰ See IACHR Principles and Practices, princ. XI-XIII, X, XVIII (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>; see also UN Body of Principles (Dec. 9, 1988), <http://www.un.org/documents/ga/res/43/a43r173.htm>; UN Standard Minimum Rules (Dec. 14, 1990), <http://www.unhcr.org/refworld/docid/3ae6b36e8.html>.

⁹⁷¹ Information gathered during ACLU of Georgia's tour of Irwin on September 30, 2011.

⁹⁷² *Id.*

⁹⁷³ Interviews with Angela Kelley (March 10, 2011) and Florent Kalala (January 30, 2012) conducted by the ACLU of Georgia at Irwin.

⁹⁷⁴ *Id.* The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹⁷⁵ Interviews conducted by the ACLU of Georgia at Irwin on March 10, 2011 and July 22, 2011.

⁹⁷⁶ Interview with Angela Kelley conducted by the ACLU of Georgia at Irwin on March 10, 2011.

⁹⁷⁷ *Id.* The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹⁷⁸ *Id.*

⁹⁷⁹ *Id.* The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹⁸⁰ Irwin County Detention Center Inmate/Detainee Handbook, 8 (effective August, 2011).

⁹⁸¹ Interview with Florent Kalala conducted by the ACLU of Georgia at Irwin on January 30, 2012. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was given.

⁹⁸² *Id.*

⁹⁸³ *Id.*

⁹⁸⁴ *Id.* The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹⁸⁵ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards 2*, <http://www.ice.gov/detention-standards/2008>.

⁹⁸⁶ See U.N. News Centre, *Solitary Confinement Should be Banned in Most Cases, U.N. Expert Says* (Oct. 18, 2011), <http://www.un.org/apps/news/story.asp?NewsID=40097>.

⁹⁸⁷ Information gathered during ACLU of Georgia's tour of Irwin on September 30, 2011.

⁹⁸⁸ *Id.*

⁹⁸⁹ *Id.*

⁹⁹⁰ *Id.*

⁹⁹¹ ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

⁹⁹² Interview with Dulce Bolanos Estrada conducted by the ACLU of Georgia at Irwin on March 10, 2011.

⁹⁹³ *Id.*

⁹⁹⁴ Interview with Maria Francisco conducted by the ACLU of Georgia at Irwin on July 22, 2011.

⁹⁹⁵ *Id.*

⁹⁹⁶ For purposes of this report, this detainee wished to be referred to by her first name only. Interview conducted by the ACLU of Georgia at Irwin on July 22, 2011.

⁹⁹⁷ Interviews with Maria Francisco and Veronica conducted by the ACLU of Georgia at Irwin on July 22, 2011.

⁹⁹⁸ Interview with Jovita Campuzano Jimenez conducted by the ACLU of Georgia at Irwin on March 10, 2011. The ACLU of Georgia sought a response to these statements from Irwin's Warden on March 20, 2012, but no response was provided.

⁹⁹⁹ Interviews with Jose Ponce conducted by the ACLU of Georgia at Irwin on December 7, 2011 and January 30, 2012.

¹⁰⁰⁰ *Id.*

¹⁰⁰¹ *Id.*

¹⁰⁰² *Id.* The ACLU of Georgia sought a response to these statements from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰⁰³ Interview with Florent Kalala conducted by the ACLU of Georgia at Irwin on January 30, 2012. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰⁰⁴ *Id.* The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰⁰⁵ The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰⁰⁶ Interviews conducted by the ACLU of Georgia at Irwin on March 10, 2011 and October 17, 2011.

¹⁰⁰⁷ Interview with Norberto Neira conducted by the ACLU of Georgia at Irwin on October 17, 2011.

¹⁰⁰⁸ Letter provided by two sets of family members of detainees received via email by the ACLU of Georgia on January 24 and January 26, 2012.

¹⁰⁰⁹ *Id.*

¹⁰¹⁰ *Id.*

¹⁰¹¹ *Id.* The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰¹² Interviews with Florent Kalala and Jose Ponce conducted by the ACLU of Georgia at Irwin on January 30, 2012.

¹⁰¹³ Interview with Florent Kalala conducted by the ACLU of Georgia at Irwin on January 30, 2012.

¹⁰¹⁴ The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰¹⁵ Interviews conducted by the ACLU of Georgia at Irwin on March 10, 2011 and July 22, 2011.

¹⁰¹⁶ For purposes of this report, this detainee wished to be referred to by her first name only. Interview conducted by the ACLU of Georgia at Irwin on July 22, 2011. The ACLU of Georgia sought a response to these statements from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰¹⁷ Irwin County Detention Center Inmate/Detainee Handbook, 22 (effective August, 2011).

¹⁰¹⁸ Interview conducted by the ACLU of Georgia at Irwin on December 7, 2011.

¹⁰¹⁹ ICE Detainee Handbook, 20 (May 2008). The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰²⁰ Interviews conducted by the ACLU of Georgia at Irwin on July 22, 2011 and October 17, 2011.

¹⁰²¹ Interview conducted by the ACLU of Georgia at Irwin on October 17, 2011.

¹⁰²² Irwin did not provide a detainee handbook to the ACLU of Georgia at the time of the facility tour; *see also* interview conducted by the ACLU of Georgia at Irwin on October 17, 2011.

¹⁰²³ Interview conducted by the ACLU of Georgia at Irwin on July 22, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰²⁴ *Id.*

¹⁰²⁵ *Id.*

¹⁰²⁶ *Id.*

¹⁰²⁷ *Id.* The ACLU of Georgia sought a response to these statements from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰²⁸ Interview with Norberto Neira conducted by the ACLU of Georgia at Irwin on October 17, 2011.

¹⁰²⁹ *Id.*

¹⁰³⁰ *Id.*

¹⁰³¹ *Id.*

¹⁰³² *Id.* The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰³³ Interview with Dulce Bolanos Estrada conducted by the ACLU of Georgia at Irwin on March 10, 2011.

¹⁰³⁴ *Id.*

¹⁰³⁵ Interview with Ignacio Morales conducted by the ACLU of Georgia at Irwin on October 17, 2011. The ACLU of Georgia sought a response to these statements from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰³⁶ *Id.*

¹⁰³⁷ *Id.*

¹⁰³⁸ *Id.*

¹⁰³⁹ *Id.* The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰⁴⁰ Interview conducted by the ACLU of Georgia at Irwin on March 10, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰⁴¹ IACHR Principles and Practices, princ. XX (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>.

¹⁰⁴² Information gathered during ACLU of Georgia's tour of Irwin on September 30, 2011.

¹⁰⁴³ *Id.*

¹⁰⁴⁴ *Id.*

¹⁰⁴⁵ *Id.*

¹⁰⁴⁶ *Id.*

¹⁰⁴⁷ *Id.*

¹⁰⁴⁸ Interview with Dulce Bolanos Estrada conducted by the ACLU of Georgia at Irwin on March 10, 2011. The ACLU of Georgia sought a response to these statements from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰⁴⁹ *Id.*

¹⁰⁵⁰ *Id.*

¹⁰⁵¹ *Id.*

¹⁰⁵² *Id.* The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

- ¹⁰⁵³ Interview with Jovita Campuzano Jimenez conducted by the ACLU of Georgia on July 22, 2011.
- ¹⁰⁵⁴ *Id.* The ACLU of Georgia sought a response to these statements from Irwin's Warden on March 20, 2012, but no response was provided.
- ¹⁰⁵⁵ Interview with Ignacio Morales conducted by the ACLU of Georgia at Irwin on October 17, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.
- ¹⁰⁵⁶ Interview with Jose Ponce conducted by the ACLU of Georgia at Irwin on December 7, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.
- ¹⁰⁵⁷ Interview with Peter Obande Jacobs conducted by the ACLU of Georgia at Irwin on January 30, 2012. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.
- ¹⁰⁵⁸ Interview with Angela Kelley conducted by the ACLU of Georgia at Irwin on March 10, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.
- ¹⁰⁵⁹ *See* United Nations, Standard Minimum Rules for the Treatment of Prisoners, August 30, 1955, G.A. Res. 45/11, UN Doc A/RES/45/110 (Dec. 14, 1990), <http://www.unhcr.org/refworld/docid/3ae6b36e8.html>.
- ¹⁰⁶⁰ Interviews with Jovita Campuzano Jimenez, Ignacio Morales, and Maria Francisco conducted by the ACLU of Georgia at Irwin. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.
- ¹⁰⁶¹ Interviews conducted by the ACLU of Georgia at Irwin on March 10, 2011 and October 17, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.
- ¹⁰⁶² *Id.*
- ¹⁰⁶³ Interview with Ignacio Morales conducted by the ACLU of Georgia at Irwin on October 17, 2011.
- ¹⁰⁶⁴ Interview with Maria Francisco conducted by the ACLU of Georgia at Irwin on July 22, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.
- ¹⁰⁶⁵ *Id.*
- ¹⁰⁶⁶ Interviews conducted by the ACLU of Georgia at Irwin on July 22, 2011 and October 17, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.
- ¹⁰⁶⁷ IACHR Principles and Practices, princ. XX (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>.
- ¹⁰⁶⁸ Eight of the 13 interviewees were afraid to complain because of retaliation that might be exacted against them. Interviews conducted by the ACLU of Georgia at Irwin on March 10, 2011, July 22, 2011, October 17, 2011, and January 30, 2012.
- ¹⁰⁶⁹ Interviews conducted by the ACLU of Georgia at Irwin on March 10, 2011, July 22, 2011, and October 17, 2011.
- ¹⁰⁷⁰ Interview with Dulce Bolanos Estrada conducted by the ACLU of Georgia at Irwin on March 10, 2011.
- ¹⁰⁷¹ *Id.*
- ¹⁰⁷² *Id.*
- ¹⁰⁷³ Dr. Dora Schriro, U.S. DEP'T OF HOMELAND SECURITY, *Immigration Detention Overview and Recommendations* (Oct. 6, 2009), http://www.ice.gov/doclib/091005_ice_detention_report-final.pdf.

¹⁰⁷⁴ U.S. DEPARTMENT OF HOMELAND SECURITY, Office of Inspector General, *Management of Mental Health Cases in Immigration Detention* 15, OIG-11-62 (Mar. 2011), www.oig.dhs.gov/assets/Mgmt/OIG_11-62_Mar11.pdf.

¹⁰⁷⁵ See U.N. News Centre, *Solitary Confinement Should be Banned in Most Cases, U.N. Expert Says* (Oct. 18, 2011), <http://www.un.org/apps/news/story.asp?NewsID=40097>.

¹⁰⁷⁶ Interviews with Dulce Bolanos-Estrada on March 10, 2011, Angela Kelley on March 10, 2011, Veronica on July 22, 2011, and Maria Francisco on July 22, 2011 conducted by the ACLU of Georgia at Irwin on July 22, 2011.

¹⁰⁷⁷ Interview with Veronica conducted by the ACLU of Georgia on July 22, 2011. For purposes of this report, this detainee wished to be referred to as Veronica.

¹⁰⁷⁸ *Id.*

¹⁰⁷⁹ *Id.*

¹⁰⁸⁰ Interviews conducted by the ACLU of Georgia at Irwin on March 10, 2011, July 22, 2011, and October 17, 2011.

¹⁰⁸¹ Eight of the 13 interviewees were afraid to complain because of retaliation that might be exacted against them. Interviews conducted by the ACLU of Georgia at Irwin on March 10, 2011, July 22, 2011, October 17, 2011, and January 30, 2012.

¹⁰⁸² Interview with Maria Francisco conducted by the ACLU of Georgia at Irwin on July 22, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰⁸³ *Id.*

¹⁰⁸⁴ Interview with Jovita Campuzano Jimenez conducted by the ACLU of Georgia at Irwin on March 10, 2011. The ACLU of Georgia sought a response to these statements from Irwin's Warden on March 20, 2012, but no response was provided.

¹⁰⁸⁵ Interviews conducted by the ACLU of Georgia at Irwin on July 22, 2011 and October 17, 2011.

¹⁰⁸⁶ Interviews conducted by the ACLU of Georgia at Irwin on March 10, 2011, July 22, 2011, and October 17, 2011.

¹⁰⁸⁷ Interview with Jovita Campuzano Jimenez conducted by the ACLU of Georgia at Irwin on March 10, 2011.

¹⁰⁸⁸ *Id.*

¹⁰⁸⁹ IACHR Principles and Practices, princ. V (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm> (stating that "all persons deprived of liberty shall have the right...to lodge complaints or claims about acts of torture, prison violence, corporal punishment, cruel, inhuman or degrading treatment or punishment as well as concerning prison or internment conditions, the lack of appropriate medical or psychological care, and of adequate food."); see also UN Body of Principles, princ. 33 (Dec. 9, 1988), <http://www2.ohchr.org/english/law/treatmentprisoners.htm>.

¹⁰⁹⁰ Interviews with Dulce Bolanos Estrada on March 10, 2011, Jovita Campuzano Jimenez on March 10, 2011, Veronica on July 22, 2011, Clara on July 22, 2011, and Maria Francisco on July 22, 2011 conducted by the ACLU of Georgia at Irwin.

¹⁰⁹¹ Interviews with Veronica and Maria Francisco conducted by the ACLU of Georgia on July 22, 2011.

¹⁰⁹² Interview with Maria Francisco conducted by the ACLU of Georgia at Irwin on July 22, 2011.

¹⁰⁹³ *Id.*

¹⁰⁹⁴ Interview with Dulce Bolanos Estrada conducted by the ACLU of Georgia at Irwin on March 10, 2011.

¹⁰⁹⁵ For purposes of this report, this detainee wished to be referred to as Clara. Interview conducted by the ACLU of Georgia at Irwin on July 22, 2011.

¹⁰⁹⁶ *Id.*

¹⁰⁹⁷ Interview with Maria Francisco conducted by the ACLU of Georgia at Irwin on July 22, 2011.

¹⁰⁹⁸ *Id.*

¹⁰⁹⁹ *Id.*

¹¹⁰⁰ Interview with Angela Kelley conducted by the ACLU of Georgia at Irwin on March 10, 2011.

¹¹⁰¹ For purposes of this report, this detainee wished to be referred to as Veronica. Interview conducted by the ACLU of Georgia at Irwin on July 22, 2011.

¹¹⁰² *Id.*

¹¹⁰³ *Id.*

¹¹⁰⁴ Interview with Jovita Campuzano Jimenez conducted by the ACLU of Georgia at Irwin on March 10, 2011.

¹¹⁰⁵ Interviews with Veronica, Angela Kelley, and Maria Francisco conducted by the ACLU of Georgia at Irwin on March 10, 2011 and July 22, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

¹¹⁰⁶ For purposes of this report, this detainee wished to be referred to as Veronica. Interview conducted by the ACLU of Georgia at Irwin on July 22, 2011.

¹¹⁰⁷ *Id.*

¹¹⁰⁸ *Id.* The ACLU of Georgia sought a response to these statements from Irwin's Warden on March 20, 2012, but no response was provided.

¹¹⁰⁹ Interview with Dulce Bolanos Estrada conducted by the ACLU of Georgia at Irwin on March 10, 2011. The ACLU of Georgia sought a response to these statements from Irwin's Warden on March 20, 2012, but no response was provided.

¹¹¹⁰ For purposes of this report, this detainee wished to be referred to as Veronica. Interview conducted by the ACLU of Georgia at Irwin on July 22, 2011.

¹¹¹¹ Interviews conducted by the ACLU of Georgia at Irwin on March 10, 2011 and July 22, 2011.

¹¹¹² Interview with Angela Kelley conducted by the ACLU of Georgia at Irwin on March 10, 2011. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

¹¹¹³ *Id.*

¹¹¹⁴ *Id.*

¹¹¹⁵ *Id.*

¹¹¹⁶ *Id.* The ACLU of Georgia sought a response to these statements from Irwin's Warden on March 20, 2012, but no response was provided.

¹¹¹⁷ *See* American Convention on Human Rights art. 8; *see also*, ICCPR art. 14; UN Body of Principles, princ. 10-18 (Dec. 9, 1988), <http://www.un.org/documents/ga/res/43/a43r173.htm>.

¹¹¹⁸ ICE National Detainee Handbook, 4-5; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards: Legal Rights Groups Presentations 1* (Dec. 2, 2008), <http://www.ice.gov/detention-standards/2008>.

¹¹¹⁹ Intergovernmental Service Agreement 19-02-0068 for Housing of Federal Prisoners between United States Marshals Service and Atlanta City Department of Corrections 1 (Apr. 1, 2002).

¹¹²⁰ *Id.*

¹¹²¹ *Id.*

¹¹²² *Id.* at 3.

¹¹²³ *Id.* at 11.

¹¹²⁴ Although the ACLU of Georgia filed a FOIA and made an informal request to ICE requesting the IGSA between ICE and U.S. Marshals, the IGSA was not provided as of January 12, 2012. This information was provided by Officer Bond, Assistant Major of ACDC, during ACLU of Georgia's tour of ACDC on July 29, 2011.

¹¹²⁵ Information provided by Officer Bond, Assistant Major of ACDC, during ACLU of Georgia's tour of ACDC on July 29, 2011.

¹¹²⁶ Creative Corrections, *ICE Detention Standards Compliance Review: Atlanta City Detention Center 1* (May 23, 2008). This information is based on a report accessible through the online FOIA Library, <http://www.ice.gov/doclib/foia/isa/19020068atlantacitygaasofmodification1.pdf>.

¹¹²⁷ *Id.* at 2.

¹¹²⁸ For a full summary of these rights, refer to section V. "Legal Standards of Detention," sub-section B. "Constitutional Standards."

¹¹²⁹ For a full summary of these rights refer to section V. "Legal Standards of Detention," sub-section C. "Regional and International Human Rights Standards."

¹¹³⁰ See Interviews with Richard Hylton on July 29, 2011, August 3, 2011, and Phone Interview on February 28, 2012, and with Yassine Sanhaji on August 11, 2010, August 3, 2011, and February 20, 2012, conducted by the ACLU of Georgia.

¹¹³¹ Information provided by Officer Bond, Assistant Major of ACDC, during ACLU of Georgia's tour of ACDC on July 29, 2011.

¹¹³² *Id.*

¹¹³³ *Id.*

¹¹³⁴ Interview with Damien Alvarez conducted by the ACLU of Georgia at ACDC on August 3, 2011. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹¹³⁵ *Id.*

¹¹³⁶ U.N. Human Rights Council, *Report of the Special Rapporteur on the Human Rights of Migrants, Mission to the United States of America* para 21, A/HRC/7/12/Add.2 (Mar. 5, 2008)(prepared by Jorge Bustamante).

¹¹³⁷ Specifically, George Eldigin and Yassine Sanhaji mentioned that no one had come to talk with them about their rights. Interviews conducted by the ACLU of Georgia at ACDC on July 7, 2009 and August 11, 2010 and follow up Interview at ACDC on August 3, 2011. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹¹³⁸ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards 1* (Dec. 2 2008), <http://www.ice.gov/detention-standards/2008>.

¹¹³⁹ Dr. Dora Schriro, U.S. DEP'T OF HOMELAND SECURITY, *Immigration Detention Overview and Recommendations 24* (Oct. 6, 2009), http://www.ice.gov/doclib/091005_ice_detention_report-final.pdf.

¹¹⁴⁰ Creative Corrections, *ICE Detention Standards Compliance Review: Atlanta City Detention Center*, 6 (May 23, 2008).

¹¹⁴¹ 84% of non-citizen detainees were non-represented in 2007. See U.S. DEPARTMENT OF JUSTICE, Executive Office for Immigration Review, *FY 2007 Statistical Year Book* (March 2008), <http://www.usdoj.gov/eoir/statspub/fy07syb.pdf> (hereinafter “DOJ 2007 Year Book”). The U.S. government’s fiscal year runs from October 1.

¹¹⁴² Katzmann Immigrant Representation Study Group, *The New York Immigrant Representation Study Group Preliminary Findings* (May 3, 2011), graphics8.nytimes.com/packages/pdf/nyregion/050411immigrant.pdf.

¹¹⁴³ *Id.*

¹¹⁴⁴ Based on observations by the ACLU of Georgia during its tour of ACDC on July 29, 2011.

¹¹⁴⁵ *Id.*

¹¹⁴⁶ *Id.*

¹¹⁴⁷ *Id.*

¹¹⁴⁸ *Id.*

¹¹⁴⁹ This information was provided by Officer Bond, Assistant Major of ACDC, during ACLU of Georgia’s tour of ACDC on July 29, 2011.

¹¹⁵⁰ Interview with Sherwin Andres conducted by the ACLU of Georgia at ACDC on July 23, 2009.

¹¹⁵¹ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards 4* (Dec. 2, 2008), <http://www.ice.gov/detention-standards/2008>.

¹¹⁵² Dr. Dora Schriro, U.S. DEP’T OF HOMELAND SECURITY, *Immigration Detention Overview and Recommendations 24* (Oct. 6, 2009), http://www.ice.gov/doclib/091005_ice_detention_report-final.pdf.

¹¹⁵³ The ACLU of Georgia sought a response to this statement from ACDC’s Warden on March 20, 2012, but no response was provided.

¹¹⁵⁴ Interview with Behrouz Salamat conducted by the ACLU of Georgia at ACDC on July 22, 2010.

¹¹⁵⁵ Interview with Edwin Edgold Omoregbe conducted by the ACLU of Georgia at ACDC on July 22, 2010.

¹¹⁵⁶ Interview with Yassine Sanhaji conducted by the ACLU of Georgia at ACDC on August 11, 2010.

¹¹⁵⁷ Interview with Andy Mathe conducted by the ACLU of Georgia at ACDC on July 11, 2011. The ACLU of Georgia sought a response to these statements from ACDC’s Warden on March 20, 2012, but no response was provided.

¹¹⁵⁸ The ACLU of Georgia sought a response to this statement from ACDC’s Warden on March 20, 2012, but no response was provided.

¹¹⁵⁹ ACDC Detainee Handbook, 8.

¹¹⁶⁰ ICE Detainee Handbook, 12 (May 2008).

¹¹⁶¹ Dr. Dora Schriro, U.S. DEP’T OF HOMELAND SECURITY, *Immigration Detention Overview and Recommendations 24* (Oct. 6, 2009), http://www.ice.gov/doclib/091005_ice_detention_report-final.pdf.

¹¹⁶² The ACLU of Georgia sought a response to this statement from ACDC’s Warden on March 20, 2012, but no response was provided.

¹¹⁶³ Atlanta City Detention Center Inmate/Detainee Handbook [hereinafter “ACDC Detainee Handbook”] 22 (August 2010 Revision).

1164 *Id.*

1165 The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

1166 Interview conducted with Hamid Karimiha by the ACLU of Georgia at ACDC on May 6, 2011.

1167 *Id.*

1168 See U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, Press Release, *ICE announces major reforms to immigration detention system* (Aug. 6, 2009), <http://www.ice.gov/pi/nr/0908/090806washington.htm>; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2009 Immigration Detention Reforms*, http://www.ice.gov/pi/news/factsheets/2009_immigration_detention_reforms.htm.

1169 IACHR, X & Y (Argentina), Report No. 38/96 (Merits), Case No. 11.506, para. 96 (October 15, 1996), <http://www.cidh/oas/org/annualrep/96eng/Argentina11506.htm>.

1170 Based on observations by the ACLU of Georgia during its tour of ACDC on July 29, 2011.

1171 *Id.*

1172 *Id.*

1173 *Id.*

1174 *Id.*

1175 *Id.*

1176 *Id.*

1177 *Id.*

1178 *Id.*

1179 *Id.*

1180 Information provided by Officer Bond, Assistant Major of ACDC during ACLU of Georgia's tour of ACDC on July 29, 2011.

1181 Interview with George Edigin conducted by the ACLU of Georgia at ACDC on July 7, 2009.

1182 *Id.*

1183 Interview conducted with Andy Mathe by the ACLU of Georgia at ACDC on July 7, 2011. The ACLU of Georgia sought a response to these statements from ACDC's Warden on March 20, 2012, but no response was provided.

1184 *Id.*

1185 *Id.* The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

1186 See also UN Body of Principles, princ. 8 (Dec. 9, 1988), <http://www2.ohchr.org/english/law/treatmentprisoners.htm>.

1187 Information provided by Officer Bond, Assistant Major of ACDC during ACLU of Georgia's tour of ACDC on July 29, 2011.

1188 *Id.*

1189 *Id.*

1190 Interview conducted by the ACLU of Georgia at ACDC on August 3, 2011.

1191 *Id.*

1192 *Id.*

1193 *Id.*

1194 Interview with Yassine Sanhaji on August 11, 2010 and Edwin Edgold Omoregbe on July 22, 2010 conducted by the ACLU of Georgia at ACDC. The ACLU of Georgia sought a response to these statements from ACDC's Warden on March 20, 2012, but no response was provided.

1195 ICE Detainee Handbook, 18 (May 2008).

1196 *Id.*

1197 *See* IACHR Principles and Practices, princ. XI-XIII, X, XVIII (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>; *see also* UN Body of Principles, princ. 8 (Dec. 9, 1988), <http://www.un.org/documents/ga/res/43/a43r173.htm>; UN Standard Minimum Rules (Dec. 14, 1990), <http://www.unhcr.org/refworld/docid/3ae6b36e8.html>.

1198 Interview with Richard Hylton conducted by the ACLU of Georgia at ACDC on July 29, 2011 and August 3, 2011.

1199 *Id.*

1200 The ACLU of Georgia sought a response to these statements from ACDC's Warden on March 20, 2012, but no response was provided.

1201 Based on observations by the ACLU of Georgia during its tour of ACDC on July 29, 2011.

1202 *Id.*

1203 *Id.*

1204 *Id.*

1205 *Id.*

1206 *Id.*

1207 *Id.*

1208 Based on observations by the ACLU of Georgia during its tour of ACDC on July 29, 2011.

1209 *Id.*

1210 Interview with Behrouz Salamat conducted by the ACLU of Georgia at ACDC on July 22, 2010. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

1211 Interview with Yassine Sanhaji conducted by the ACLU of Georgia at ACDC on August 11, 2010. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

1212 *Id.*

¹²¹³ Interview with Damien Alvarez conducted by the ACLU of Georgia at ACDC on August 3, 2011. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹²¹⁴ *Id.*

¹²¹⁵ *Id.*

¹²¹⁶ *Id.*

¹²¹⁷ Based on observations by the ACLU of Georgia during its tour of ACDC on July 29, 2011. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹²¹⁸ See U.N. News Centre, *Solitary Confinement Should be Banned in Most Cases, U.N. Expert Says* (October 18, 2011), <http://www.un.org/apps/news/story.asp?NewsID=40097>; see also ICE October 2009 Report acknowledging that segregation is "not conducive to recovery" and recommending the banning of the practice of segregating detainees with mental health problems. Dr. Dora Schiro, U.S. DEP'T OF HOMELAND SECURITY, *Immigration Detention Overview and Recommendations* 22 (Oct. 6, 2009), http://www.ice.gov/doclib/091005_ice_detention_report-final.pdf.

¹²¹⁹ The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹²²⁰ Interview with Andy Mathe conducted by the ACLU of Georgia at ACDC on July 7, 2011.

¹²²¹ *Id.*

¹²²² Interview with Ebong Enofony conducted by the ACLU of Georgia at ACDC on July 23, 2009.

¹²²³ Interview with Damien Alvarez conducted by the ACLU of Georgia at ACDC on August 3, 2011.

¹²²⁴ Interview with Andy Mathe conducted by the ACLU of Georgia at ACDC on July 7, 2011. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹²²⁵ Interview conducted with Edwin Edgold Omoregbe conducted by the ACLU of Georgia at ACDC on July 22, 2010. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹²²⁶ Interview with Yassine Sanhaji conducted by the ACLU of Georgia at ACDC on August 11, 2010. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹²²⁷ The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹²²⁸ Interview with Andy Mathe conducted by the ACLU of Georgia at ACDC on July 7, 2011. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹²²⁹ *Id.*

¹²³⁰ Interviews with Richard Hylton conducted by the ACLU of Georgia at ACDC on July 29, 2011 and August 3, 2011. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹²³¹ Interview with Yassine Sanhaji conducted by the ACLU of Georgia at ACDC on August 11, 2010. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

1232 *Id.*

1233 *Id.*

1234 Condition of Confinement Review Worksheet 12 (ACDC, July 7-9 2009), based on response received to ACLU of Georgia FOIA Request No. 11-12787, filed Aug. 8, 2011.

1235 Interview with Yassine Sanhaji conducted by the ACLU of Georgia at ACDC on August 11, 2010. The ACLU of Georgia sought a response to this statement from Irwin's Warden on March 20, 2012, but no response was provided.

1236 Interview conducted by the ACLU of Georgia during its tour of ACDC on July 29, 2011. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

1237 U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards* 1, <http://www.ice.gov/detention-standards/2008>.

1238 See IACHR Principles and Practices, princ. XI-XIII, X, XVIII (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>; see also UN Body of Principles, princ. 8 (Dec. 9, 1988), <http://www.un.org/documents/ga/res/43/a43r173.htm>; UN, Standard Minimum Rules (Dec. 14, 1990), <http://www.unhcr.org/refworld/docid/3ae6b36e8.html>.

1239 The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

1240 Interview with George Edigin conducted by the ACLU of Georgia at ACDC on July 7, 2009.

1241 Interview with Edwin Edgold Omoregbe conducted by the ACLU of Georgia at ACDC on July 22, 2010.

1242 Interviews with Richard Hylton conducted by the ACLU of Georgia at ACDC on July 29, 2011 and August 3, 2011.

1243 ACDC Detainee Handbook, 26.

1244 As discussed above, detainees are paid \$1.00 to \$3.00 per day at Stewart and NGDC. This amount is well below minimum wage and may violate principle XIV of IACHR Principles which provides that all detainees have a right "to receive a fair and equitable remuneration." IACHR Principles and Practices, princ. XIV (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>.

1245 ICE Detainee Handbook, 19 (May 2008).

1246 *Id.*

1247 Based on observations by the ACLU of Georgia during its tour of ACDC on July 29, 2011.

1248 *Id.*

1249 Based on observations by the ACLU of Georgia during its tour of ACDC on July 29, 2011.

1250 Interview with Yassine Sanhaji conducted by the ACLU of Georgia at ACDC on August 11, 2010.

1251 Based on observations by the ACLU of Georgia during its tour of ACDC on July 29, 2011.

1252 *Id.*

1253 Email from Pamela Reeves, Assistance Field Office Director of Public Affairs for the Atlanta Field Office (Dec. 20, 2011). Obtained by the ACLU of Georgia via email.; see also Creative Corrections, *ICE Detention Standards Compliance Review: Atlanta City Detention Center* 27 (May 23, 2008), <http://www.ice.gov/doclib/foia/dfra-ice-dro/atlantacitydetentioncenteratlantaga0513152008.pdf>.

1254 Observed by the ACLU of Georgia during its visit to ACDC on February 20, 2012.

¹²⁵⁵ Interviews with Cristian Morales and Edwin Edgold Omoregbe conducted by the ACLU of Georgia at ACDC on August 11, 2010 and July 22, 2010.

¹²⁵⁶ ICE Detainee Handbook, 20 (May 2008).

¹²⁵⁷ *Id.*

¹²⁵⁸ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards 1*, <http://www.ice.gov/detention-standards/2008>.

¹²⁵⁹ Based on observations and staff interviews by the ACLU of Georgia conducted during its tour of ACDC on July 29, 2011.

¹²⁶⁰ *Id.*

¹²⁶¹ *Id.*

¹²⁶² *Id.*

¹²⁶³ *Id.*

¹²⁶⁴ Information provided by Officer Bond, Assistant Major of ACDC, during ACLU of Georgia's tour of ACDC on July 29, 2011.

¹²⁶⁵ Based on observations and staff interviews by the ACLU of Georgia conducted during its tour of ACDC on July 29, 2011.

¹²⁶⁶ *Id.*

¹²⁶⁷ *Id.*

¹²⁶⁸ Interview with Nurse Anderson conducted during ACLU of Georgia's tour of ACDC on July 29, 2011.

¹²⁶⁹ *Id.*

¹²⁷⁰ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *2008 Operations Manual ICE Performance Based National Detention Standards, Medical Care 2*, <http://www.ice.gov/detention-standards/2008> ("Detainees will have access to emergency and specified routine dental care provided under direction and supervision of a licensed dentist.")

¹²⁷¹ Interview with Edwin Edgold Omoregbe conducted by the ACLU of Georgia at ACDC on July 22, 2010.

¹²⁷² Interview with Damien Alvarez conducted by the ACLU of Georgia at ACDC on August 3, 2011.

¹²⁷³ Interviews with Richard Hylton conducted by the ACLU of Georgia at ACDC on July 29, 2011 and August 3, 2011.

¹²⁷⁴ ICE Detainee Handbook states that detainees will "undergo a thorough medical examination conducted by approved medical examiners within 14 days after our arrival." ³ (May 2008); ACDC Detainee Handbook states: "Upon arrival each detainee will be screened for medical problems to include tuberculosis testing." ⁴

¹²⁷⁵ *Id.*

¹²⁷⁶ IACHR Principles and Practices, princ. IX (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>; *see also* UN Body of Principles, princ. 24 (Dec. 9, 1988), <http://daccess-ods.un.org/TMP/5468479.39491272.html>.

¹²⁷⁷ Interview with Damien Alvarez conducted by the ACLU of Georgia at ACDC on August 3, 2011. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹²⁷⁸ Interview with Ebong Enobony conducted by the ACLU of Georgia at ACDC on July 23, 2009.

1279 *Id.*

1280 *Id.* The ACLU of Georgia sought a response to these statements from ACDC's Warden on March 20, 2012, but no response was provided.

1281 For purposes of this report, this detainee wished to be referred to as Jag. Phone interview conducted by the ACLU of Georgia on January 18, 2012. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

1282 *Id.*

1283 *Id.*

1284 *Id.*

1285 *Id.* The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

1286 Based on observations and staff interviews by the ACLU of Georgia conducted during its tour of ACDC on July 29, 2011.

1287 *See* United Nations, Standard Minimum Rules for the Treatment of Prisoners, August 30, 1955, G.A. Res. 45/11, UN Doc A/RES/45/110 (Dec. 14, 1990), <http://www.unhcr.org/refworld/docid/3ae6b36e8.html>.

1288 Based on conditions as of July 29, 2011.

1289 Interview with Richard Hylton conducted by the ACLU of Georgia at ACDC on July 29, 2011 and August 3, 2011.

1290 U.S. DEP'T OF HOMELAND SECURITY, OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES, *Report on Richard G. Hylton, Complaint No. 11-11-ICE-0307* (filed Aug. 22, 2011), documents received by the ACLU of Georgia from Mr. Hylton's attorney via email on February 22, 2012.

1291 *Id.*

1292 Interview conducted by the ACLU of Georgia at ACDC on July 29, 2011 and August 3, 2011. Phone Interview conducted by the ACLU of Georgia on February 28, 2012. Mr. Hylton was released from ACDC on February 1, 2012.

1293 Phone Interview conducted by the ACLU of Georgia on February 28, 2012.

1294 U.S. DEP'T OF HOMELAND SECURITY, OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES, *Report on Richard G. Hylton, Complaint No. 11-11-ICE-0307* (filed Aug. 22, 2011), documents received by the ACLU of Georgia from Mr. Hylton's attorney via email on February 22, 2012.

1295 The ACLU of Georgia sought a response to these statements from ACDC's Warden on March 20, 2012, but no response was provided.

1296 Based on observations by the ACLU of Georgia during its tour of ACDC on July 29, 2011. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

1297 Interview with Edwin Edgold Omoregbe conducted by the ACLU of Georgia at ACDC on July 22, 2010.

1298 Confirmed by interviews with Sherwin Andrews on July 23, 2009 and with Richard Hylton on July 29, 2011 and August 3, 2011 conducted by the ACLU of Georgia at ACDC.

1299 Interview conducted by the ACLU of Georgia at ACDC on July 22, 2010.

¹³⁰⁰ Creative Corrections, *ICE Detention Standards Compliance Review: Atlanta City Detention Center* 35 (May 23, 2008), <http://www.ice.gov/doclib/foia/dfra-ice-dro/atlantacitydetentioncenteratlantaga0513152008.pdf>.

¹³⁰¹ Interview conducted by the ACLU of Georgia at ACDC on August 11, 2010.

¹³⁰² *Id.*

¹³⁰³ Interview conducted by the ACLU of Georgia at ACDC on August 11, 2010.

¹³⁰⁴ *Id.*

¹³⁰⁵ *Id.*

¹³⁰⁶ *Id.*

¹³⁰⁷ See Interview with Yassine Sanhaji conducted by the ACLU of Georgia at ACDC on August 11, 2010.

¹³⁰⁸ Interview with Richard Hylton conducted by the ACLU of Georgia at ACDC on July 29, 2011. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹³⁰⁹ ICE National Detainee Handbook, 18.

¹³¹⁰ Dr. Dora Schriro, U.S. DEP'T OF HOMELAND SECURITY, *Immigration Detention Overview and Recommendations* (Oct. 6, 2009), http://www.ice.gov/doclib/091005_ice_detention_report-final.pdf.

¹³¹¹ U.S. DEP'T OF HOMELAND SECURITY, Office of Inspector General, *Management of Mental Health Cases in Immigration Detention* 15, OIG-11-62 (Mar. 2011).

¹³¹² *Id.* at 18.

¹³¹³ *Id.*

¹³¹⁴ IACHR Principles and Practices, princ. XXII (3) (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>.

¹³¹⁵ Interviews with Yassine Sanhaji on August 11, 2010 and Damien Alvarez on August 3, 2011 conducted by the ACLU of Georgia at ACDC. The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹³¹⁶ Interview conducted by the ACLU of Georgia at ACDC on August 3, 2011.

¹³¹⁷ Interview conducted by the ACLU of Georgia at ACDC on August 11, 2010.

¹³¹⁸ The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹³¹⁹ Interview conducted by the ACLU of Georgia at ACDC on July 7, 2011.

¹³²⁰ *Id.*

¹³²¹ *Id.*

¹³²² The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹³²³ Interview conducted by the ACLU of Georgia at ACDC on August 11, 2010.

¹³²⁴ Interview conducted by the ACLU of Georgia at ACDC on July 22, 2010.

¹³²⁵ The ACLU of Georgia sought a response to this statement from ACDC's Warden on March 20, 2012, but no response was provided.

¹³²⁶ Interview conducted by the ACLU of Georgia at ACDC on July 23, 2009.

¹³²⁷ Interview conducted by the ACLU of Georgia at ACDC on August 11, 2010.

¹³²⁸ Interview conducted by the ACLU of Georgia at ACDC on July 22, 2010.

¹³²⁹ Interviews conducted by the ACLU of Georgia at ACDC on August 11, 2010 and August 3, 2011.

¹³³⁰ Interview conducted by the ACLU of Georgia at ACDC on August 3, 2011. ACDC Detainee Handbook states that an answer will be provided within five working days, and if the matter requires further investigation, the detainee will be notified in writing. ACDC Detainee Handbook, 21.

¹³³¹ Interview conducted by the ACLU of Georgia at ACDC on July 7, 2011.

¹³³² See IACHR Principles and Practices, princ. V (Mar. 14, 2008), <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm> ("all persons deprived of liberty shall have the right... to lodge complaints or claims about acts of torture, prison violence, corporal punishment, cruel, inhuman or degrading treatment or punishment as well as concerning prison or internment conditions, the lack of appropriate medical or psychological care, and of adequate food"); see also UN Body of Principles, princ. 33 (Dec. 9, 1988), <http://daccess-ods.un.org/TMP/5468479.39491272.html>.

¹³³³ Condition of Confinement Review Worksheet 16, based on response received to ACLU of Georgia FOIA Request No. 11-12787, filed Aug. 8, 2011.

¹³³⁴ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *Detainees who died in ICE custody October 2003 – October 31, 2011* 3, <http://www.ice.gov/doclib/foia/reports/detaineedeaths2003-present.pdf>.

¹³³⁵ *Id.*

¹³³⁶ Two of the detainees who died were housed at Stewart and the third detainee was housed at NGDC. See U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *Detainees who died in ICE custody October 2003 – October 31, 2011* 3, <http://www.ice.gov/doclib/foia/reports/detaineedeaths2003-present.pdf>.

¹³³⁷ *Id.*

¹³³⁸ *Id.*

¹³³⁹ Georgia Detention Watch and ACLU of Georgia, *Press Release: Silent Vigil Marks Anniversary of Roberto Martinez Medina's Death* (Mar. 10, 2010), <http://www.acluga.org/news/2010/03/11/aclu-of-georgia-participates-in-silent-vigil-marking-anniversary-of-roberto-martinez-medina%E2%80%99s-death/>; see also U.S. DEP'T OF HOMELAND SECURITY, Data Entry Form re: Roberto Martinez Medina (Mar 24, 2009).

¹³⁴⁰ Based on response received to ACLU FOIA Request No. 10-1427, filed Dec. 3, 2009.

¹³⁴¹ U.S. DEP'T OF HOMELAND SECURITY, OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES, *Report on Roberto Martinez Medina, Complaint No. 09-06-ICE-0042*, based on response received to ACLU of Georgia FOIA Request No. CRCL-12-014, filed Dec. 30, 2011.

¹³⁴² *Id.*

¹³⁴³ *Id.*

¹³⁴⁴ *Id.* CCA provided the following response: "Medical care at Stewart is provided by IHSC, so CCA cannot respond. In addition, to the extent CCA has medical information, applicable privacy laws would prohibit CCA from discussing it." Email from Michael Swinton, Warden (Mar. 29, 2012). Obtained by the ACLU of Georgia via email.

¹³⁴⁵ Based on response received to ACLU FOIA Request No. 10-1427, filed Dec. 3, 2009.

1346 *Id.*

1347 U.S. DEP'T OF HOMELAND SECURITY, OFFICE FOR PROFESSIONAL RESPONSIBILITY, *Detainee Death Review, Case No. 200905296*, based on response received to ACLU of Georgia FOIA Request No. CRCL-12-014, filed Dec. 30, 2011.

1348 Information obtained by the ACLU of Georgia pursuant to FOIA Request No. 2011-150, filed July 29, 2011; *see also* ICE News Release, *ICE Detainee Passes Away at Georgia Medical Center* (Apr. 29, 2011), www.ice.gov/news/releases/1104/110429atlanta.htm.

1349 U.S. DEP'T OF HOMELAND SECURITY, Office of Inspector General *Report of Investigation (ROI) -111-ICE-ATL-00765* 1, 18 (NGDC Progress Notes). Information obtained by the ACLU of Georgia pursuant to FOIA Request No. 2011-150 on July 29, 2011.

1350 *Id.*

1351 Corrections Corporation of America, *Incident Report (10/20/08)* Information obtained by the ACLU of Georgia pursuant to FOIA Request No. 2011-150 on July 29, 2011.

1352 U.S. DEP'T OF HOMELAND SECURITY, Office of Inspector General *Report of Investigation (ROI) -111-ICE-ATL-00765* Exhibit 1, 5. Information obtained by the ACLU of Georgia pursuant to FOIA Request No. 2011-150 on July 29, 2011.

1353 Corrections Corporation of America, *Incident Report (10/20/08)* Information obtained by the ACLU of Georgia pursuant to FOIA Request No. 2011-150 on July 29, 2011.

1354 *Id.* at 1.

1355 *Id.*

1356 *Id.*

1357 U.S. DEP'T OF HOMELAND SECURITY, Office of Inspector General *Report of Investigation (ROI) -111-ICE-ATL-00765* Exhibit 1, 5. Information obtained by the ACLU of Georgia pursuant to FOIA Request No. 2011-150 on July 29, 2011.

1358 ICE News Release, *ICE Detainee Passes Away at Georgia Medical Center* (Apr. 29, 2011), www.ice.gov/news/releases/1104/110429atlanta.htm.

1359 Relevant section of the "Notification to Facility Visitors (Attorney)" form states: "All other information is considered confidential and I agree to clear any other information through the Warden or designee...However, any information which would have any affect [sic] on security and the welfare of detainees/residents or staff must be forwarded to the Warden or designee."



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