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March 24, 2011

Felipe González, Chair
Esteemed Commissioners
Inter-American Commission on Human Rights
Organization of American States
1889 F Street, NW
Washington, D.C. 20006

RE: Submission re. Racial Profiling in Gwinnett and Cobb Counties, Georgia, and Conditions of Detention at Stewart and Irwin County Detention Centers

Dear Mr. González and Esteemed Commissioners:

This submission is in regards to racial profiling and human rights abuses related to implementation of the 287(g) program in two Georgia counties as well as conditions of detention at two immigration detention facilities in Georgia.

The ACLU of Georgia has compiled two reports on two 287(g) counties in Georgia—namely, Cobb and Gwinnett—and documented abuse and racial profiling that warrant an investigation by the Inter-American Commission on Human Rights. The Gwinnett County report highlights the continuing problem of racial profiling which has escalated since the implementation of 287(g), because it is clear that many Latino community members are stopped by police officers on pre-textual grounds.¹ The Cobb County report demonstrates that implementation of 287(g) has led to racial profiling and human rights violations.²

In addition, the ACLU of Georgia and Georgia Detention Watch have documented conditions of detention at the Stewart Detention Center which led to the publication of a report,³ as well as at the Irwin County Detention Center. Conditions at these two facilities are in contravention of international human rights standards.

¹ See generally, American Civil Liberties Union of Georgia, THE PERSISTENCE OF RACIAL PROFILING IN GWINNETT TIME FOR ACCOUNTABILITY, TRANSPARENCY, AND AN END TO 287(G) (November 2009), available at <http://www.acluga.org/GwinnettRacialReportFinal1.pdf> [hereinafter Gwinnett Report].

² See generally, American Civil Liberties Union of Georgia, TERROR AND ISOLATION IN COBB HOW UNCHECKED POLICE POWER UNDER 287(G) HAS TORN FAMILIES APART AND THREATENED PUBLIC SAFETY (October 2009), available at <http://www.acluga.org/racial%20profiling%20Cobb.pdf> [hereinafter Cobb Report].

³ Georgia Detention Watch, REPORT ON THE DECEMBER 2008 HUMANITARIAN VISIT TO THE STEWART DETENTION CENTER (April 2009), available at http://www.acluga.org/Georgia_Detention_Watch_Report_on_Stewart.pdf [hereinafter Stewart Report].

I. Racial Profiling in Cobb and Gwinnett Counties

The stated purpose of the 287(g) program is to facilitate collaboration between local officers and Immigration and Customs and Enforcement (ICE), so local officers have the “necessary resources and latitude to pursue investigations relating to violent crimes, human smuggling, gang/organized crime activity, sexual-related offenses, narcotics smuggling and money laundering.”⁴ On July 30, 2010, ICE released a memorandum outlining “the civil immigration enforcement priorities of ICE as they relate the apprehension, detention, and removal” of unauthorized immigrants.⁵ The first priority level relates to unauthorized immigrants who pose a danger to national security or a risk to public safety.⁶ The second priority level relates to recent unauthorized entrants.⁷ The third priority level relates to unauthorized immigrants who are fugitives or otherwise obstruct immigration controls.⁸

However, the Gwinnett and Cobb County reports document accounts that illustrate that the stated 287(g) program priorities are not being adhered to, because as local officers engage in racial profiling and stop Latinos and immigrants on pre-textual grounds, minor traffic violations are often the pretext relied upon to detain immigrants. In the course of conducting arrests or detentions, the officers have also denied language access, performed illegal searches, used excessive force, and engaged in misconduct.

A. Gwinnett County

The attached Gwinnett County report documents lack of adherence to 287(g) priorities through conducting pre-textual stops also affecting U.S. citizens and Legal Permanent Residents as well as civil rights violations.⁹ The report shows “that police officers are targeting immigrants and people of color for stops, searches, and interrogations,” under the guise of traffic violations.¹⁰

i. Additional Accounts

Karla¹¹ has lived in the U.S. for 15 years.¹² In January 2010, Karla was stopped around 5:00 p.m. as she was returning from the grocery store on Williams Road near Singleton Road.¹³ The Gwinnett County police officer was on a side street when he saw her and started to follow.¹⁴

⁴ U.S. Immigration and Customs Enforcement, *Delegation of Immigration Authority Section 287(g), Immigration and Nationality Act*, available at http://www.ice.gov/pi/news/factsheets/section287_g.htm (last visited March 18, 2010) [hereinafter ICE 287(g) Program].

⁵ U.S. Immigration and Customs Enforcement, *Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens*, available at http://www.ice.gov/doclib/civil_enforcement_priorities.pdf (last visited August 18, 2010).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *See generally*, Gwinnett Report.

¹⁰ Gwinnett Report at 5.

¹¹ In order to respect the interviewee’s wishes to remain anonymous, only her first name is used.

¹² Interview with Karla in Gwinnett County (July 24, 2010).

¹³ *Id.*

¹⁴ *Id.*

Karla asked the police officer what she had done and he replied “nothing.”¹⁵ Karla insisted: “Why are you stopping me then?” He replied: “You know why, you don’t have a driver’s license; this is indicated in my system.”¹⁶ Karla was given a ticket citation for driving without a driver’s license and was arrested. Karla was not read her Miranda rights nor was she notified of her right to contact her consular officer.¹⁷ Karla went to traffic court and paid her fine including a \$20 charge for interpretation services.¹⁸ Karla thinks she was “stopped due to racial profiling because [the police] know this area is all Hispanic. [She has] a valid tag, insurance, all [her] lights were working and was driving properly.”¹⁹ Karla does not feel safe in her community due to police harassment and is reluctant to call the police due to her immigration status.²⁰

José Mata Jimenez has lived in the U.S. for 17 years.²¹ On December 22, 2009, José was stopped on Dawson Road when he leaving work.²² The Gwinnett County police officer was heading in the same direction as José when at the Jimmy Carter Road cross-section, the police officer stopped several feet before the light and then changed lanes to get behind José.²³ According to José: “It was racial profiling, because I was not doing anything wrong.”²⁴ José received a ticket for a suspended driver’s license and was arrested.²⁵ José does not feel safe in this community and moved to the county border with DeKalb County in an attempt to avoid certain areas of Gwinnett County due to police harassment.²⁶

B. Cobb County

Latinos and “foreign looking” persons are subjected to meritless traffic stops and baseless arrests by Cobb police officers.²⁷ In 2008, the jail processed 3,180 inmates for deportation of which almost 69% were for traffic violations.²⁸ Furthermore, most traffic violations for which immigrants have been arrested and detained could have only been discovered after the stop, such as driving without a license.²⁹

The attached Cobb County report documents abuse of the 287(g) power through lack of adherence to 287(g) priorities and engaging in pre-textual stops and a myriad of civil rights violations.³⁰

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Interview with José Mata Jimenez in DeKalb County (July 25, 2010).

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ Cobb Report at 10.

²⁸ I.C.E Historical O/R Report provided by the Cobb County Sheriff’s Office pursuant to Open Records Act Request.

²⁹ *Id.*

³⁰ *See generally*, Cobb Report.

i. Additional Account

Jessica Colotl is a 21-year-old smart hard working student at Kennesaw State who has worked nights in order to pay her tuition and hopes to become a lawyer.³¹ In late March, as Jessica Cotel pulled into her university parking lot, a campus police officer pulled her over, telling her that she was "impeding the flow of traffic."³² She could not produce a license due to her undocumented status and eventually ended up at the Cobb County jail and this is when 287(g) kicked in.³³ Jessica was placed in deportation proceedings.³⁴ Before long, she found herself behind bars at the Alabama Detention Center, awaiting deportation to Mexico, a country she has not lived in for over 10 years and which she hardly remembers.³⁵ Jessica was only released after strongly voiced and sustained demands by the community, including her sorority sisters, and after the ACLU contacted the DHS headquarters on her behalf, as her placement in deportation proceedings was clearly out of line with 287(g) priorities.³⁶ But Cobb County Sheriff Neil Warren obtained a new warrant for her arrest a few days after she was released, saying she lied about her address when she was booked into jail following her initial arrest.³⁷ Jessica is currently out on bond and hopes to resume her education.³⁸

II. Human Rights Violations at Stewart and Irwin County Detention Centers

A. Stewart Detention Center

In April 2009, Georgia Detention Watch released a report on conditions at the Stewart Detention Center based on interviews with sixteen detainees conducted in December 2008.³⁹ The Georgia Detention Watch report used the ICE Performance Based National Detention Standards as the standard by which to gauge conditions at Stewart, as well as constitutional and international human rights standards, and made specific recommendations in several areas in addition to medical care, including food services, the disciplinary system, personal hygiene, and staff training and development.⁴⁰

As the report details, complaints at Stewart have ranged from inadequate medical care, arbitrary transfers, prolonged detention, and inadequate access to interpreters and counsel, to verbal and physical abuse.⁴¹ The facility is about one hour from the closest hospital, in Columbus.

In March 2009, Roberto Martinez Medina, a 39-year-old immigrant held at Stewart died of a treatable heart infection. To this day, many unanswered questions surround his death.

³¹ Rhonda Cook and Andria Simmons, *Illegal immigrant KSU student hopes to stay in U.S.*, A.J.C., May 14, 2010, available at <http://TEST.ajc.com/news/illegal-immigrant-ksu-student-483440.html>.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ See generally, Stewart Report.

⁴⁰ *Id.*

⁴¹ *Id.*

B. Irwin County Detention Center

On March 10, 2011, the ACLU of Georgia paid a visit to the Irwin County Detention Center which is more than three hours away from Atlanta, and met and spoke at length to three women who had disturbing accounts to share about the grossly inadequate access medical care at the facility; the poor hygiene conditions (the underwear they receive is used); insufficiency and poor quality of the food they are given which has led to significant weight loss; as well as absence of Spanish-speaking personnel or lack of availability of materials in other languages.

The Irwin County Detention Center is the newest immigration detention facility in Georgia. The community was provided with no opportunity to provide input before ICE started detaining immigrants at this remote facility back in December 2010.

III. Relevant documents

Attached, please find the ACLU of Georgia and Georgia Detention Watch reports.

IV. Summary of other steps taken, if any, to resolve the issues

The ACLU of Georgia has made attempts to inform Gwinnett and Cobb counties of the racial profiling and abuse of 287(g), to no avail. Neither county has adopted a comprehensive non-racial profiling policy for their police officers. When the Cobb County report came out, it was sent to the Cobb County Commissioners to dissuade them from renewing their 287(g) Memoranda of Agreement with ICE; but they decided to go ahead and renew. The Gwinnett County Commissioners have also been unresponsive to the report. The sheriffs in both counties have been wholly dismissive of the report and the accounts contained therein.

The ACLU of Georgia is in touch with the Department of Justice Civil Rights Division, which has initiated an informal investigation into practices in Cobb and Gwinnett.

The ACLU of Georgia has also submitted a formal complaint to the Department of Homeland Security Office for Civil Rights and Civil Liberties in regards to the abuses in Cobb and Gwinnett Counties.

To this day, we have not received a response to any of our complaints.

In regards to detention conditions, the local office of Immigration and Customs Enforcement refused to meet with us to discuss the findings of the Stewart report or the death of Roberto Martinez Medina. It was only in October 2010, at instigation of the DHS Office of Civil Rights and Civil Liberties, that they finally granted us a meeting. At this meeting, they assured that they will be looking into complaints about the conditions faced by detainees. However, they have since refused to convey to us a mechanism for timely and effective communication of complaints.

In addition, the DHS Office of Civil Right and Civil Liberties has indicated that they have initiated an investigation into the death of Roberto Martinez Medina. It is not clear to us at what stage this investigation lies, however.

After the Irwin County Detention Center visit, we contacted the ICE Office of Detention Policy and Planning to advise them about the issues we had witnessed. Though the ICE Office of Detention Policy and Planning has assured us that “all appropriate care has been rendered” in regards to the case of a particular detainee, it is not clear to us what steps if any have been taken to address the situation of absence of medical care and the poor hygiene conditions for detainees.

V. Conclusion

The 287(g) program in Cobb and Gwinnett has encouraged and served as a justification for racial profiling and civil and human rights violations by some police officers acting as immigration agents. As the ACLU of Georgia reports show, police officers have misused the power granted to them under the agreement by engaging in racial profiling of the Latino and immigrant communities. Given the reports and documentation of continuing instances of racial profiling and abuse of the 287(g) power, it is clear that many Latino community members in Gwinnett and Cobb counties have been stopped without probable cause or reasonable suspicion. Even citizens are scared to contact the police, because they feel that the police officers are focused on apprehending immigrants. The programs lack the proper oversight mechanisms on the state or local levels, and allow for abuse of power by police officers who are not well trained. Therefore, an investigation into the 287(g) program is warranted in Gwinnett and Cobb.

Similarly, conditions at the Stewart and Irwin County Detention Centers are rife with abuse and warrant a thorough investigation. An investigation by a body such as the Inter-American Commission on Human Rights is all the more necessary due to the absence of enforceable standards and an independent and effective oversight mechanism.

Please do not hesitate to contact me by phone or email if I can help provide additional information about this submission. Thank you in advance for your attention to this matter.

Sincerely,

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Encl: The American Civil Liberties Union of Georgia, THE PERSISTENCE OF RACIAL PROFILING IN GWINNETT TIME FOR ACCOUNTABILITY, TRANSPARENCY, AND AN END TO 287(G) (November 2009); The American Civil Liberties Union of Georgia, TERROR AND ISOLATION IN COBB HOW

UNCHECKED POLICE POWER UNDER 287(G) HAS TORN FAMILIES APART AND THREATENED PUBLIC SAFETY (October 2009); Georgia Detention Watch, REPORT ON THE DECEMBER 2008 HUMANITARIAN VISIT TO THE STEWART DETENTION CENTER (April 2009).