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## **An Open Letter to EOIR, DHS, Core Civic, LaSalle Corrections, and The GEO Group re COVID-19 in Georgia**

In the midst of one of the most pressing public health challenges our country has ever seen, the undersigned organizations call on the Executive Office for Immigration Review and the Department of Homeland Security to take comprehensive measures that put the health and well-being of our communities at the forefront. Georgia is operating under National and State Declarations of Emergency,<sup>1</sup> as well as a statewide declaration of

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<sup>1</sup> See *Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak* (Mar. 13, 2020), <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/> (finding that the “spread of COVID-19 within our Nation’s communities threatens to strain our Nation’s healthcare systems”); Office of the Governor of Georgia, *Declaration of Public Health State of Emergency*, Executive Order 03.14.20.01 (Mar. 14, 2020), <https://gov.georgia.gov/document/2020-executive-order/03142001/download> (recognizing that the coronavirus can “spread from person-to-person and can result in serious illness or death,” and that “COVID-19 is proliferating via ‘community spread,’ meaning people have contracted the virus in areas of Georgia as a result of direct or indirect contact with infected persons, including some who are not sure how or where they came infected”).

judicial emergency.<sup>2</sup> It is of the utmost importance that federal immigration agencies follow the lead of state initiatives deemed essential for protecting the health and well-being of the entire population during this public health crisis.

As nonprofit legal and social service organizations that work with immigrant communities, community leaders, and concerned residents of the state of Georgia, we write to you to address your response to COVID-19, a disease the World Health Organization has characterized as a global pandemic. We urge you to consider the words of the World Health Organization: “The challenge for many countries who are now dealing with large clusters or community transmission is not whether they **can** [suppress and control the virus] – it’s whether they **will**. Some countries are struggling with a lack of capacity. Some countries are struggling with a lack of resources. **Some countries are struggling with a lack of resolve.**”<sup>3</sup> We write with an urgent hope that you will demonstrate the requisite resolve.

### **Prioritize the health and safety of the public.**

We support the recommendations of the non-profit legal services providers who wrote to you on March 13, 2020,<sup>4</sup> and, recognizing that our health and well-being is inextricably linked with the health and well-being of our neighbors, we call on you to act in the interest of the people in ICE custody in Georgia; the people in removal proceedings before Georgia’s immigration courts; the people employed by EOIR and DHS, including contracted employees; the people who will work and volunteer to provide health and hospice care to the sick and the dying; and the general public.

We call on you to immediately:

- **Parole all Persons Detained in Georgia at the Robert A. Deyton Detention Facility, the Stewart Detention Center, Irwin County Detention Center, and Folkston ICE Processing Center.** Detention center conditions make persons in detention inherently vulnerable to contamination, infection, and

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<sup>2</sup> See

<https://www.gasupreme.us/wp-content/uploads/2020/03/CJ-Melton-amended-Statewide-Jud-Emergency-order.pdf>

<sup>3</sup> World Health Organization, WHO Director-General’s opening remarks at the media briefing on COVID-19 (March 11, 2020), available at:

<https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> (emphasis added).

<sup>4</sup>

[https://www.splcenter.org/sites/default/files/ltr\\_to\\_ice\\_and\\_wardens\\_re\\_covid-19\\_-\\_2020.03\\_-\\_final.pdf](https://www.splcenter.org/sites/default/files/ltr_to_ice_and_wardens_re_covid-19_-_2020.03_-_final.pdf)

outbreak.<sup>5</sup> ICE is not prepared to contain the coronavirus or adequately treat those in its custody given the shortage of Airborne Infection Isolation Rooms (AIIRs) in relation to the number of persons in detention, and the inability to separate people who are symptomatic with adequate space. This endangers detainees and staff. Parole can be managed safely, and we stand willing to assist in this process as members of the legal, social service and religious communities. Parole of individuals over the age of 60 or with medical conditions should begin immediately.

- **Cease all ICE field operations and publicly state that ICE will not conduct enforcement activities in and around medical facilities.** Conducting ICE field operations at this critical time sows fear and creates community distrust. Requiring individuals to transit from across the state and appear in person at ICE offices is unwise. GPS monitoring devices should be removed because they may impede public health social distancing practices. Residents of Georgia and Alabama must be able to seek testing and treatment without fear of ICE intrusions, arrests, and detentions.
- **Close Georgia Immigration Courts to all but urgent cases, extend all deadlines, and continue all cases without penalty toward the individuals appearing in court.** The nationwide postponement of non-detained master calendar hearings is an important, but insufficient, first step. All hearings must be continued except for those urgent cases where the parties so request, including bond hearings. As stated in the Supreme Court of Georgia’s Order Declaring Statewide Emergency, “in particular, courts should give priority to matters necessary to protect health, safety, and liberty of individuals.”<sup>6</sup> For those urgent cases, issue a standing order facilitating permission to attend hearings via phone, by either blanket approvals of such requests or allowing attorneys to request to appear telephonically via email.<sup>7</sup>
- Immediately make public all protocols EOIR and its contractors are implementing to contain the spread of COVID-19.

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<sup>5</sup> <https://time.com/5801847/washington-state-immigrant-detention-coronavirus/>

<sup>6</sup> See

<https://www.gasupreme.us/wp-content/uploads/2020/03/CJ-Melton-amended-Statewide-Jud-Em-ergency-order.pdf>

<sup>7</sup> *E.g. Standing Order (March 16, 2020) Telephonic Appearances and Requests to Continue due to COVID-19 Concerns in Cases before Immigration Judge Elizabeth A. Kessler, Baltimore Immigration Court*

**With respect to releasing people currently held in detention and suspending Atlanta Field Office ICE operations:**

Our communities have witnessed the devastating effects of mass detention on people held in ICE facilities. Under the Trump administration, there has been a notable increase in reported deaths in detention; an alarming trend that is tied to fatal medical neglect, unsanitary conditions, and inadequate resources for people detained.<sup>8</sup> Many Georgia detainees are survivors of torture who have endured deeply traumatic experiences and sought refuge in the U.S. Torture survivors have complex mental health needs. The lack of adequate health care, combined with the fear of contracting a highly-contagious and deadly disease while confined, will have devastating impact on their mental health and well-being.

This global pandemic demands immediate action to minimize the propagation of the coronavirus and physical and mental harm to people in ICE custody. Historically, people in ICE custody have not received adequate medical care.<sup>9</sup> On behalf of the Georgians and Alabamans in detention at Stewart Detention Center, Irwin County Detention Center, Folkston ICE Processing Center, and Robert A. Deyton Detention Facility, we call on ICE to release *all* people from detention. ICE should not force persons in its custody in Georgia to risk exposure to coronavirus. Additionally, legal access for detainees seeking to communicate with their attorneys or to secure legal representation is severely limited, as attorneys and legal advocates lose the ability to have legal visits with clients and potential clients. This implicates the legal and constitutional rights of the detainees.

While coordinating to release the persons in your custody, if ICE has not already, ICE should immediately provide necessary hygienic supplies at all ICE detention centers (soap,

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<sup>8</sup> See, e.g. *Black hole' of medical records contributes to deaths, mistreatment at the border*, <https://www.politico.com/news/2019/12/01/medical-records-border-immigration-074507> (The Department of Homeland Security's inadequate medical technology and record-management for the thousands of migrants who pass through its custody are contributing to poor care and even deaths, according to lawsuit records reviewed by POLITICO.);

<sup>9</sup> See, e.g., *Testimony from Stewart Underscores Ongoing Abuse*, <https://projectsouth.org/stewart-detention-center-underscores-ongoing-abuse-and-racist-judge/>; *Deaths at Migrant Detention Centers*, <https://www.aila.org/infonet/deaths-at-adult-detention-centers>; *Fraihat v. U.S. Immigration & Customs Enforcement*, 19-cv-01546, Dkt. No. 1 (C.D. Cal. filed Aug. 19, 2019) (complaint setting forth detailed allegations of ICE medical misconduct, mistreatment, and neglect in detention facilities throughout the United States); *Fatal Neglect: How ICE Ignores Deaths in Detention* (Feb. 2016) (describing inadequate medical care).

hand sanitizer and toilet paper) at no cost to those individuals, allow individuals to make calls for free to their loved ones without limit to the number or length of calls, and make video conferencing technology available for social visits while in person social visits are not an option. Persons in detention should be released so they may reunite with their families and communities at home.

The suspension of all ICE field operations is critical to ending the fear within the community and it also serves to decrease the risk that ICE officers spread COVID-19. Government agencies across the state of Georgia have already recognized the importance of protecting the public health at this moment and have suspended their normal operations: the Georgia General Assembly suspended session indefinitely, early voting was suspended in Georgia; multiple county libraries have cancelled all events and activities; schools and universities have closed; group gatherings have been suspended; Fulton County Schools has closed school buildings and district offices until further notice; and public buildings across the state of Georgia have been closed, all in an effort to contain the spread of the coronavirus.<sup>10</sup> Given this backdrop, ICE should discontinue community enforcement actions.

### **With respect to suspending hearings before the Atlanta Immigration Court:**

On March 16, 2020, President Trump issued a set of guidelines advising the public to avoid groups of more than ten and urged older people to stay at home altogether.<sup>11</sup> The Atlanta Immigration Court is a place of congregation.<sup>12</sup> Hearings require significant numbers of people, including older people, to travel from all across the state under penalty of deportation.<sup>13</sup> The Atlanta Immigration Court requires people to sit on packed

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<sup>10</sup> See *Metro county services reduced, adapted for coronavirus control*, <https://www.ajc.com/news/local/metro-county-services-reduced-adapted-for-coronavirus-control/rGtPsPINAykekONrI8OhVJ/>; *Fulton schools cancels classes 'until further notice' amid coronavirus fears*,

<https://www.ajc.com/news/local/fulton-schools-canceled-until-further-notice-amid-coronavirus-fears/W6ivnQb6f7jkiGhIMJ4m7L/>

<sup>11</sup> <https://www.cnn.com/2020/03/16/politics/white-house-guidelines-coronavirus/index.html>

<sup>12</sup> See Letter of Ashley Tabaddor, President, NAIJ to James McHenry, Director, EOIR (Mar. 12, 2020),

[https://www.naij-usa.org/images/uploads/newsroom/NAIJ\\_Letter\\_to\\_EOIR\\_Director\\_Re\\_Coronavirus.pdf](https://www.naij-usa.org/images/uploads/newsroom/NAIJ_Letter_to_EOIR_Director_Re_Coronavirus.pdf) (explaining “[y]esterday, the World Health Organization declared the COVID-19 outbreak a pandemic, and National Institute of Allergy and Infectious Diseases Director Dr. Anthony Fauci testified before the House Committee on Oversight and Reform that “things will get worse than they are right now.”)

<sup>13</sup> *Id.* (stating that “non-detained master calendar dockets typically bring 50 or more respondents into each courtroom; on busy days, some of our Immigration Courts schedule 13 or more master calendar dockets per day[.]” and “master calendar dockets bring hundreds of people into close

benches, often for hours at a time. That makes the Atlanta Immigration Court a potential vector for community spread of the virus. In response to public outcry, EOIR took an important first step by postponing all non-detained master calendar hearings occurring between March 16 and April 10. This is insufficient, however, in light of a lack of a similar policy for detained dockets and merits hearings, and lack of blanket postponement of filing deadlines. So long as immigration courts remain open, individuals will be forced to make an impossible choice between risking their health and the health of their communities, and risking a final order of removal for not appearing at their hearings. So far in 2020, 82.5% of those in removal proceedings in Georgia do not have legal representation.<sup>14</sup> It would be dangerous and irresponsible to hinge our efforts to contain a global pandemic on the ability of all pro se respondents to file motions to continue. As we have been reminded, containment is not just about the people who must go to court; it is about all those who work in the court and those they come in contact with. Requiring employees to come into work and respondents to attend their court hearings will certainly expose Georgia and Alabama residents to the virus, from public transportation and rideshares, to shared entrances, exits, elevators, and bathrooms, to the courtroom itself.

EOIR announced on March 14 that it will be postponing all non-detained master calendar hearings in Boston, Los Angeles, Newark, New York, Sacramento, and San Francisco;<sup>15</sup> EOIR announced on Sunday, March 16, 2020 at 10:49 pm that it will be postponing all non-detained master calendar hearings in all courts.<sup>16</sup> As of March 16, however, the EOIR hotline does not communicate any information about the postponements, and respondents' master calendar hearings are coming up as the originally scheduled dates. We urge EOIR to update their hotline immediately so that respondents can be assured that they should not be engaging in risky behavior by coming into court.

Now is not the time for incrementalist approaches. We call on EOIR to immediately close the Atlanta immigration court, extend all deadlines, and continue all cases without penalty toward the individuals appearing in immigration court except in those cases where the

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and extended contact with each other and with the Immigration Judges, interpreters, and court staff.”)

<sup>14</sup> See Details on Deportation Proceedings in Immigration Court by Hearing Location and Attendance, Representation, Nationality, Custody, Month and Year of NTA, Outcome, and Current Status,

<https://trac.syr.edu/phptools/immigration/nta/>

<sup>15</sup> See DOJ EOIR, Twitter post, March 13, 2020, 8:13 PM, [https://twitter.com/DOJ\\_EOIR/status/1238664636188237824](https://twitter.com/DOJ_EOIR/status/1238664636188237824)

<sup>16</sup> See DOJ EOIR, Twitter post, March 15, 2020, 10:49 pm, [https://twitter.com/DOJ\\_EOIR/status/1239383175882776576](https://twitter.com/DOJ_EOIR/status/1239383175882776576)

parties agree that the case is urgent, permitting those cases to proceed via telephonic appearances by respondents and counsel. At this moment, the Atlanta Immigration Court should be making every effort to minimize risk – and to send a signal that this is *not* a time for business as usual.<sup>17</sup>

### **We call on you to act now.**

This moment calls for individuals in positions of leadership to act, and to act quickly. The undersigned Georgia community declares that these actions are imperatives. Our collective failure to acknowledge the urgency of the moment has caused a national pandemic. Without immediate leadership, the pandemic will exponentially increase and cause wide-ranging, long-lasting harm to Georgia and the nation. We fear that a lack of appropriate response by DHS and EOIR will lead to further inundation of our health care system, exhausting healthcare workers, endangering patients, harming the wider community, and leading to unnecessary deaths both in detention facilities and throughout the state. The mathematics of the pandemic's anticipated spread are inexorable; the only way to prevent it is aggressive social distancing starting right now.<sup>18</sup> We need to get and keep as many residents of Georgia at home as possible and residents of Georgia must be able to access healthcare and care for others in the community without fear of ICE arrests, ICE surveillance, or deportations.

As public servants in Georgia, you have the power and the responsibility to prevent this harm. Please respond to Innovation Law Lab by March 19, 2020 with your plan for taking robust action to save lives and prevent further infection, in line with recommendations above.

March 17, 2020

Innovation Law Lab: [ariel@innovationlawlab.org](mailto:ariel@innovationlawlab.org)

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<sup>17</sup> See, e.g., Sarah Jarvis, *Coronavirus: The Latest Court Closures and Restrictions* (Mar. 12, 2020) (identifying nearly 40 federal courts and court systems that have closed or issued rules to limit the spread of COVID-19),

<https://www.law360.com/articles/1252836/coronavirus-the-latest-court-closures-and-restrictions>

<sup>18</sup> See Tomas Pueyo, *Coronavirus: Why You Must Act Now for Politicians, Community Leaders and Business Leaders: What Should You Do and When?* (Updated Mar. 13, 2020),

<https://medium.com/@tomaspueyo/coronavirus-act-today-or-people-will-die-f4d3d9cd99ca>;

Nicholas Kristoff and Stuart A. Thompson, *How Much Worse the Coronavirus Could Get, in Charts*, NY Times (Mar. 13, 2020),

<https://www.nytimes.com/interactive/2020/03/13/opinion/coronavirus-trump-response.html>.

Asian Americans Advancing Justice, Atlanta  
Center for Victims of Torture, Atlanta  
Compassionate Atlanta  
Congregation Bet Haverim  
El Refugio  
Georgia Asylum Immigration Network  
Georgia Detention Watch  
Georgia Latino Alliance for Human Rights  
Immigration Defense Unit, City of Atlanta Office of the Public Defender  
Justice in Motion  
Latino Community Fund  
New Sanctuary Movement  
Project South  
Southern Center for Human Rights  
Southern Poverty Law Center  
Tahirih Justice Center: Atlanta  
Tzedek Georgia