

**CENTRAL FALLS
DETENTION FACILITY CORPORATION**

March 15, 2021

The Honorable Even P. Shanley
Chair, House State Government & Elections Committee
State House
82 Smith Street
Providence, RI 02903

RE: H 5749, H 5750 and H 5751

Dear Chairman Shanley and Honorable Members of the House State Government & Elections Committee:

I am the Chairman of the Board of Directors for the Central Falls Detention Facility Corporation which oversees the operation of the Wyatt Detention Facility in Central Falls, Rhode Island. I along with my fellow board members were appointed by the Mayor of Central Falls in a voluntary capacity. We operate as a public board required to follow the Open Meeting Act. The legislation referenced above is scheduled for hearing before your committee today and I am submitting this written testimony in lieu of my personal appearance before the committee to address my concerns with the legislation. I want to thank you in advance for your consideration of my written testimony.

Introduction and Overview

I would first like to clear up the misstatements and misconceptions about the Wyatt Detention Facility that have been circulating for the past few years. Statements have been made by individuals, which have been repeated by the media, which perpetuate the myth that the Wyatt Detention Facility is a private, for profit prison. This is false - plain and simple.

The Central Falls Detention Facility Corporation, which oversees the Wyatt Detention Facility, is a public corporation and an instrumentality and agency of the City of Central Falls. It was created by statute in 1991 in these very chambers and it is the only municipal detention facility corporation in the State of Rhode Island. The Mayor of the City of Central Falls has the sole authority to appoint the five-member board of directors who then must each be approved by the Central Falls City Council. These five members constitute an independent board that has a fiduciary duty to the corporation and are not beholden to the Mayor, the City Council, any private corporation or bondholders.

The same statutes that created the corporation also authorized the corporation to issue bonds for the renovation and expansion of the facility in 2005. To put it in terms that everyone can relate to, the corporation took out a mortgage but instead of a bank holding the mortgage, bonds were issued. The bondholders do not own the Wyatt and they do not make a bigger profit if the Wyatt houses more detainees – the bondholders would simply get their money back at a set interest rate. And just as a bank has no control over what you do with your house, the

bondholders also have no control over the daily operations of the Wyatt Detention Facility including what Federal agencies the Wyatt contracts with.

I hope this dispels any belief that the Wyatt is a private, for profit prison.

There is one final misconception that must be corrected. Many in the public think that the Wyatt has any say in whether a detainee is placed into or released from the Wyatt. This is 100 percent false. The only people who determine whether a detainee is housed or released from the Wyatt are governmental agencies and judges and the Wyatt is required to follow those directives.

H 5751

Putting aside whether the State of Rhode Island has the legal authority to exercise oversight over a facility that houses detainees in the legal custody of the United States Marshals Service, H 5751 would grant the State of Rhode Island the ability to conduct inspections of the Wyatt Detention Facility twice a year. At present, the Wyatt Detention Facility is subject to three federal audits every year. The United States Department of Homeland Security, Office of Detention Oversight conducts an annual inspection to determine if the facility is compliant with established standards for I.C.E. detainees. Another more detailed annual audit is also conducted by subject matter experts regarding the treatment of I.C.E detainees housed at the Wyatt. The United States Marshal Service conducts annual Quality Assurance Reviews (QARs) to determine if the facility is complaint with the federal standards utilized for detainees in the custody of the United States Marshal Service. The facility is inspected every three years by the American Correctional Association for accreditation by that association. The facility is also audited every three years to determine its compliance with the federal standards required by the Prison Rape Elimination Act. The facility has never failed any of these audits and has been accredited by the ACA since its opening in the early 90s. It is unclear what standards the State of Rhode Island would use to monitor the facility and if the State even had the jurisdiction to determine any non-compliance in a facility subject to federal standards. However, it is abundantly clear that oversight is not an issue at the Wyatt Detention Facility and any further audits would only serve as a distraction to the daily operations of the facility and further burden state resources and finances.

H 5749, H 5750

There has been public outcry regarding the housing of I.C.E. detainees at the Wyatt Detention Facility and I believe that these bills are directed at prohibiting I.C.E detainees from being housed in any corrections facility in the State. I would like to bring to your attention a few issues regarding the desire to prohibit all contract with I.C.E. in Rhode Island. Clearly the Rhode Island Department of Corrections is a state agency which is subject to the oversight of the State of Rhode Island. However, the Wyatt Detention Facility houses federal detainees pursuant to contracts entered into between the corporation and the Federal Government. Any attempt to interfere or nullify those federal contracts would have an impact not only on the ability of the corporation to pay its debts, but it might also trigger a violation of the contract clause contained in the United States Constitution. In general, the clause states that no state shall pass a law that

impairs a contract. I am not a constitutional scholar so I will leave that argument for more learned minds than mine.

Canceling the contract with I.C.E. was attempted in the recent past when the CFDFC board of directors voted to suspend the contract with I.C.E. in April of 2019. At the same time, the Central Falls City Council also passed a resolution to rescind its 1991 approval which established the CFDFC, and Bill H 5959 was also introduced in the General Assembly to dissolve the CFDFC. These actions led to a lawsuit being filed in the Federal Court with the board of directors, the corporation, the Central Falls City Council and the Mayor of Central Falls all named as defendants. That lawsuit remains pending today. It is unclear if legislation that references for-profit, private prisons is an attempt to directly impact the Wyatt Detention Facility (a public corporation), but I will leave that to the sponsors to clarify that point.

As a final note I do want to bring to the committee's attention that pursuant to the legislation that established the municipal detention facility corporations in 1991, I would like to read a statute that was passed by the General Assembly in 1991 – R.I.G.L. § 45-54-21 that states:

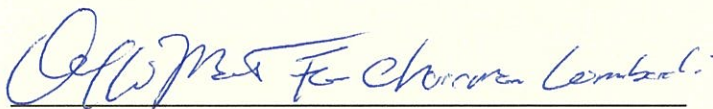
The state pledges to and agrees with the holders of any bonds or notes issued by the corporation, that the state will not limit or alter the rights vested in the corporation to fulfill the terms of any agreements made with the holders until those bonds or notes, together with their interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds or notes.

History of Section.

(P.L. 1991, ch. 421, § 1.)

Although I do not know what actions the bondholders would take if the municipal detention facility laws were repealed, if the past provides us any insight, I expect that the State of Rhode Island would find itself as a named defendant in a \$130,000,000 lawsuit brought by the bondholders.

Thank you for your time and attention to this matter.



James Lombardi – Chairman
Central Falls Detention Facility Corporation