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March 27, 2017

Honorable Chris Stewart
U.S. House of Representatives
253 West St George Blvd, Suite 100
St George, Utah 84770

Representative Stewart:

I represent over 1,000 members of the Court Watchers for Constitution Originalists. This letter will be sent to the group and also widely published on social media.

I am motivated to write this letter by a sense of terror in what is happening in the USA at the current time. I fear for my own welfare as well as that of my loved ones.

This letter is to request that you sponsor the following:

1. An investigation into the patterns and practices of the U.S. Marshal service, Bureau of Prison Operations with regard to the CCA Nevada Southern Detention Center, among others. And,
2. Legislation that would correct several defects in the current justice system which will be explained in more particularity in this letter

BACKGROUND

The USA, on a per capita basis, leads the world in the number of pre trial detainees who have never been convicted and are imprisoned awaiting trial.

<http://www.americasquarterly.org/aborn-prisons>

Only 3% of the pretrial detainees ever go to trial. 97% are so desperate to get out of pretrial detention that they plead guilty in some kind of plea deal. Otherwise, the federal prosecutors and prison staff make life miserable for them until they do accept a plea deal.

<http://www.nolo.com/legal-encyclopedia/how-criminal-cases-actually-go-trial.html>

Ever since the ill conceived Bail Reform Act, the presumption of innocence until proven guilty is dead. The original intent of the founding fathers was to make release on bail a fundamental, constitutional right. (*Street v. State, 43 Miss. 1, 10, 24-25 (1870)*) (*"But in the United States the accused has a constitutional right to bail in all*

'except in capital cases' . . . Under the [B]ill of [R]ights, bail before conviction is a matter of right (and not of discretion) for all offenses, except those that are capital . . .)

But, congress gave federal judges a gift, the discretion to deny bail that heretofore did not exist except in capital offenses. Now, with that new gift from congress, judges routinely imprison pretrial defendants, not convicted, into a hell hole of abuse and loss of liberty. Federal judges have an inherent bias and conflict of interest because they, like the federal prosecutors, are federal employees, part of the federal government and share social and professional commonalities as members of the federal team. Moreover, many prisons are privatized and have incentives to keep them full. Federal judges may see it as their duty to keep these for-profit prison federal contractors full of pretrial detainees.

Shima Baradaran, Assistant Professor of Law at BYU Law School, has written extensively about the loss of the right to bail and its related devastation to the presumption of innocence until proven guilty.
<http://moritzlaw.osu.edu/students/groups/oslj/files/2012/01/Baradaran.pdf>

HAPPENING RIGHT NOW

Regardless of where you stand on the rightness or wrongness of the Bundy family in Nevada and their supporters, you must recognize that all accused have a right to:

1. Release on bail or their own recognizance pending trial to allow time and proper environment for preparation of their defense.
2. Even under the ill conceived (and I believe unconstitutional) Bail Reform Act, the bar is set very high for the government to prove beyond a reasonable doubt that the accused are too dangerous and a flight risk to remain free.
3. If detained but not convicted, prison should not be a punishment and the non convicted detainee retains the same civil rights as people outside the prison walls.

However, that is not what is happening. Right now, as I write, Ryan Bundy, Ammon Bundy and Ryan Payne have been thrown into solitary confinement under extremely inhumane conditions. Ryan Bundy describes in his own voice and words, the horrific conditions that he is subject to as a NON CONVICTED prisoner. These three prisoners are being punished for not submitting to strip/body cavity searches. These humiliating and demeaning searches violate the 4th amendment. In his recording, Ryan describes how they must submit to these searches every time they go to and come from a court hearing.

Ryan Bundy on the horrific conditions of solitary confinement for NON CONVICTED prisoners: <https://www.youtube.com/watch?v=YAGH2sq5C-s>

The ACLU has addressed the sexual abuse nature of strip/cavity searches in prison:

<https://www.aclu.org/invasive-search>

CONCLUSION

Prisons in the USA have little, if any, oversight or monitoring. They are worlds unto themselves with prison staff free to inflict punishment and abuse as they see fit. Therefore, we request the following from you, our congressional representative:

1. Conduct an investigation into the CCA Nevada Southern Detention Center in Pahrump, NV. As part of the investigation, please contact prison operations for the U.S. Marshals Service. N. Hackmaster is Deputy Director of Prison Operations. 703 740 8400.
2. Ask that Ryan Bundy, Ammon Bundy and Ryan Payne be released from solitary confinement pending the outcome of the investigation.
3. Introduce legislation requiring prisons to treat non convicted prisoners in a manner different from convicted prisoners affirming their right to all the civil rights enjoyed by the non prison population while being detained.
4. Investigate the broader issue of pretrial detention being imposed by courts across the nation through abuse of judicial discretion and misuse and misapplication of the Bail Reform Act wherein the courts fail to meet the clear and convincing evidence standard for detaining prisoners prior to trial. This would include the built in bias of federal judges presiding over cases brought by fellow employees, federal prosecutors.
5. Introduce legislation either repealing or modifying the Bail Reform Act wherein the issue of dangerousness and flight risk must be raised to an even higher evidentiary standard of beyond a reasonable doubt as opposed to clear and convincing.
6. Introduce legislation restricting the use of strip/body cavity searches for both non convicted and convicted prisoners under the 4th amendment requiring probable or reasonable cause. Require prisons that insist on prison staff security and safety, do so through body scanners, not strip searches.
7. Introduce remedial legislation addressing the broader issue of inhumane treatment of prisoners in solitary confinement.

Thank you for your time and attention to this issue of the utmost importance and gravity. We will be contacting you for further updates on your progress in addressing these issues and offering any assistance to facilitate the process.

Sincerely,

Loren Edward Pearce
President

CC: Facebook, Twitter, Youtube and other