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September 3, 2020

Governor Gavin Newsom
1303 10th Street, Suite 1173
Sacramento, CA 95814

RE: SUPPORT AB 3228 Private Detention Facilities (Bonta)

Dear Governor Newsom,

We write to you to ask that you sign AB 3228 a bill focused on accountability for private detention operators in the state of California.

This bill would protect the health and safety of those held in private civil detention and criminal facilities in our state. Critically, it would empower individuals who have been harmed by for-profit corporations to seek justice against detention operators who violate their contracts.

At a time when social justice is critical, and health and human safety are paramount, this bill protects the vital interest of our state, without burdening governmental agencies or authorities. Most importantly, this bill would protect the health and safety of immigrants in detention facilities located in California.

Private immigrant detention centers, operated under contracts with ICE, are subject to certain safety requirements.¹ ICE uses three sets of standards – the National Detention Standards (“NDS”), the 2008 Performance-Based National Detention Standards (“PBNDS”), and a 2011 version of the PBNDS – “to govern conditions in locked facilities housing adult immigration detainees.”² The standards that apply to a particular facility “are determined by considerations

¹ Xavier Becerra, *The California Department of Justice’s Review of Immigration Detention in California*, CAL. DEPT. OF JUSTICE (Feb. 2019), <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/immigration-detention-2019.pdf>.

² *Id.* at 7.

such as the facility's size, type, staffing, actual or potential costs of executing physical and operational changes, and the year ICE and the operating entity entered into an agreement."³

Beyond these ordinary standards, in light of the ongoing COVID-19 pandemic, on April 10, 2020, ICE issued a "COVID-19 Pandemic Response Requirements" ("PRR"), "intended for use across ICE's entire detention network" and "applying to all facilities housing ICE detainees."⁴ The PRR was subsequently updated on June 22, 2020, in response to additional information about COVID-19.⁵ The PRR requires of all ICE facilities, among other things, compliance with the CDC's *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities* and identifying detainees at higher risk of serious illness from COVID-19.⁶

There have been widespread reports of violations of the PRR's COVID-19 safety measures. For example, in the Otay Mesa facility, operated by CoreCivic, by May of 2020, there were 155 confirmed cases among detained individuals, and eleven among the facility staff.⁷ Carlos Ernesto Escobar Mejia, a man detained at Otay Mesa, died in May of 2020, as friends who were also detained said "they did everything they could to alert ICE and CoreCivic...of his worsening condition, and that the officials responsible for his well-being failed to take those alerts seriously."⁸

³ *Id.*

⁴ U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, *Covid-19 Pandemic Response Requirements*, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (June 22, 2020), <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>.

⁵ *See Id.*

⁶ *Id.* at 8-11.

⁷ Ryan Devereaux, *ICE Detainee Who Died of COVID-19 Suffered Horrifying Neglect*, THE INTERCEPT (May 24, 2020), <https://theintercept.com/2020/05/24/ice-detention-coronavirus-death/>; *see also* Arelis R. Hernández, *ICE detainee in California is first in U.S. immigration custody to die of coronavirus*, THE WASHINGTON POST (May 7, 2020), https://www.washingtonpost.com/national/coronavirus-ice-detainee-death/2020/05/06/3be3852e-8ff2-11ea-9e23-6914ee410a5f_story.html.

⁸ *Id.*

We believe that AB 3228 would provide an important and necessary remedy for individuals in these facilities who are seeking justice. It is imperative that we ensure that private corporations protect human life and public health and safety with the utmost care and accountability. Therefore, we respectfully ask for your support on this bill.

Sincerely,
ALAMEDA COUNTY PUBLIC DEFENDER

A handwritten signature in blue ink, appearing to read "Brendon D. Woods", with a stylized flourish at the end.

Brendon D. Woods
Public Defender