



September 4, 2020

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

RE: AB 3228 Private Detention Facilities (Bonta)

Dear Governor Newsom,

We write to you as organizations whose missions are focused on the protection of the human rights and dignity of all people, including non-citizens in the United States. We are deeply disturbed by authorities' failure to respond to abuses of immigrants in detention, and our concerns have taken on an even greater urgency during the Covid-19 pandemic. **As such, we write to express our support for AB 3228, a bill which provides necessary accountability and oversight for private detention facilities in the state of California.**

Private detention facilities in California pose a unique and critical challenge with respect to public health and safety during the Covid-19 pandemic. As has been extensively documented, immigration detention operators both public and private routinely engage in cost-cutting measures that endanger detained immigrants as well as staff.¹ Detention centers also routinely escape oversight, and their operations lack transparency.² During a pandemic in which the actions of a few can impact the wellbeing of so many, accountability for private prison operators is paramount.

AB 3228 would address this by requiring any immigration detention facility operator to adhere to the standards that they have agreed to in their contract with the federal government. If a private detention facility operator violates these standards individuals can bring a civil action against them.³

Our organizations have documented the abuses committed by private prison corporations and other immigration detention operators for years and are particularly concerned by reports of retaliation and neglect in California immigration detention facilities during the recent pandemic.⁴

¹ See Inter Alia, Amnesty International, "'We are adrift, about to sink': The Looming Covid-19 Disaster in United States Immigration Detention Facilities," April 7, 2020, <https://www.amnesty.org/en/documents/amr51/2095/2020/en/> (accessed September 3, 2020).

² Human Rights Watch, National Immigrant Justice Center, American Civil Liberties Union, *Justice-Free Zones: US Immigration Detention under the Trump Administration*, April 30, 2020, https://www.hrw.org/sites/default/files/supporting_resources/justice_free_zones_immigrant_detention.pdf.

³ California State Legislature, "AB-3228 Private Detention Facilities," https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB3228 (accessed September 3, 2020).

⁴ American Civil Liberties Union, "Detained Immigrants File Class Action Lawsuit Against ICE, Demand Immediate Releases During the Pandemic," April 21, 2020, <https://www.aclusocal.org/en/press-releases/detained-immigrants-file-class-action-lawsuit-against-ice-demand-immediate-releases> (accessed September 3, 2020); Andrea Castillo, "Advocates say hundreds of immigrants detained in California are on hunger strike. ICE says only two," *Los Angeles Times*, April 19, 2020, <https://www.latimes.com/california/story/2020-04-19/advocates-say-hundreds-of-immigrants-detained-in-california-are-on-hunger-strike-ice-says-just-two-are> (accessed September 3, 2020); Andrea Castillo and



We commend the work your administration has done to protect immigrants in California, and the oversight the Attorney General has exercised in these facilities through AB 103, which requires that office to perform inspections of immigration detention facilities in California. While we understand that the federal government has particular authority over some aspects of immigration law, California does have clear authority to protect the health and safety of those within its borders, including those inside private detention facilities.

Private immigrant detention facilities in California operate under a subpar inspection and compliance scheme. Even though Immigration and Customs Enforcement (ICE) sets specific conditions standards in their detention contracts, the agency often responds to violations of these standards with indifference, even when they result in death.⁵

The potential impact of this lack of oversight has only grown in the current pandemic. As of this date, private operators have not fully disclosed the number of facility employees and people in their custody who have tested positive for the virus that causes Covid-19, and are making medical decisions that not only affect those in their care, but can have dire consequences for public health at large. Yet private operators may perceive decisions to provide adequate medical care and to adopt measures that protect public health as being at odds with their financial interests.

Four of the five immigration detention facilities in California are currently operated by private actors: GEO Group (Mesa Verde and Adelanto), Core Civic (Otay Mesa), and the Management and Training Corporation (MTC) (Imperial).⁶ These operators act as federal contractors and are often shielded from liability; however, there are exceptions, particularly when an operator is violating the specific directions and guidance provided by a federal entity through a contract.⁷

Both the federal agency and private contractors have agreed upon specific standards within their contracts for these civil detention facilities. Deviations from those standards, particularly those that result in concrete harm to detained people, should be subject to investigation and redress, if warranted.

Brittney Mejia, "I am afraid for my life': Immigrant detainees plead to be released," *Los Angeles Times*, April 7, 2020, <https://www.latimes.com/california/story/2020-04-07/immigrant-advocates-sue-to-get-vulnerable-detainees-released-from-ice-custody-amid-coronavirus> (accessed September 3, 2020); American Civil Liberties Union, "ACLU Calls for a Reduction in Population at Imperial Regional Detention Facility During COVID-19 Pandemic," June 12, 2020, <https://www.aclusandiego.org/aclu-calls-for-a-reduction-in-population-at-imperial-regional-detention-facility-during-covid-19-pandemic/> (accessed September 3, 2020).

⁵ See Human Rights Watch, *Code Red: The Fatal Consequences of Dangerously Substandard Medical Care in Immigration Detention* (New York: Human Rights Watch, 2018), <https://www.hrw.org/report/2018/06/20/code-red/fatal-consequences-dangerously-substandard-medical-care-immigration>.

⁶ California Department of Justice, "The California Department of Justice's Review of Immigration Detention in California," February 2019, p. 13.

⁷ See *Campbell-Ewald Co. v. Gomez*, 577 U.S. (2016).



However, ICE has shown little to no willingness to hold private operators accountable for violations of minimum standards, even when their negligence results in death.⁸

We believe that AB 3228 provides an important avenue for justice when individuals suffer harm, neglect, or abuse at the hands of private operators who violate their standards of care. Therefore, we urge you to sign this bill as a means of providing protection and justice to those being detained in these facilities.

Sincerely,

A handwritten signature in black ink, appearing to read "Charanya".

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A handwritten signature in black ink, appearing to read "Clara Long".

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⁸ Charles Lane, "ICE Failed to Hold Detention Center Contractors Accountable, Report Finds," NPR, February 1, 2019 <https://www.npr.org/2019/02/01/690690056/ice-failed-to-hold-detention-center-contractors-accountable-report-finds> (accessed September 3, 2020).