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August 31st, 2020

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

RE: Request for Signature on AB 3228 Private Detention Facilities (Bonta)

Dear Governor Newsom,

On behalf of the Ella Baker Center for Human Rights, I request your signature on AB 3228 (Bonta), a bill which would ensure accountability, transparency and human rights in civil detention facilities in our state. We ask that you sign this bill at a critical time for protecting the rights of those detained in our state.

Based in Oakland, the Ella Baker Center for Human Rights works to advance racial and economic justice to ensure dignity and opportunity for people with low incomes and people of color.

The state of California is home to more immigrants than any other state. Our state is also home to one of the largest immigrant detention systems in the country. Detention in California is set to expand to approximately 7,200 total beds, with potentially tens of thousands of individuals moving through these facilities in a calendar year.

Almost all of these detention facilities are owned and operated by private for-profit corporations, lacking basic transparency, accountability and minimum humanitarian standards. Although these facilities are run pursuant to federal contracts, California has the legal right and in fact the responsibility to ensure minimum human rights standards.

The COVID-19 pandemic presents a serious threat to those detained in these facilities. On average tens of thousands of individuals may pass through these facilities in a year, and are often cycled through multiple facilities before their release or removal. As a result, a single individual may come into contact with hundreds of other detainees during their stay in detention without any ability to practice social distancing.

When an outbreak of COVID-19 occurs in these facilities the potential for mass contamination is high, given the number of individuals held in close proximity, and the inadequate medical resources available. The result of an outbreak will be the hospitalization of dozens or even hundreds of individuals. The immediate impact will result in devastating consequences on the medical resources in surrounding communities, and the long term effect could mean death for hundreds.

Immigrant detention facilities operate under a subpar inspections regime, particularly when a private operator is involved. The lack of accountability with respect to oversight and conditions in these facilities is the result of an inadequate inspection and compliance scheme. Despite the fact that ICE sets specific conditions standards in their detention contracts, violations of these standards are routinely met with indifference, even when they result in death.

These facilities often lack adequate medical care for those detained, with the Department of Justice's report citing "access to medical care" as a common complaint across all detention facilities. The lack of proper medical care and access will likely be further strained with the threat of COVID-19.

Four of the five immigration detention facilities in California are currently operated by private actors, specifically the GEO Group, Core Civic, and the Management and Training Corporation (MTC). These operators are acting as federal contractors and are normally shielded from particular types of liability, however there are exceptions, particularly when an operator is violating the specific directions and guidance provided by a federal entity through a contract. In the case of civil detention facilities, both the federal agency and private contractors have agreed upon specific standards within their contracts, and any deviation from those standards, particularly those that result in negligence or harm, should create clear liability on behalf of the operator.

ICE has proven reluctant to terminate contracts with operators who routinely violate the standards set forth in their contracts, or to provide meaningful levels of oversight or enforcement. AB 3228 provides a mechanism through which violations of specific standards can lead to legal action, and provide meaningful recourse and consequences for these operators.

Through these steps we can ensure that all operators of these facilities are held to the standards that they agreed to when forming their contracts, and ensure the health and safety of everyone in the state of California.



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For the reasons stated above we strongly support AB 3228 (Bonta) and respectively request your signature on this vital measure.

Respectfully,

Emily Harris
Policy Director

CC: Governor Newsom's Office (leg.unit@gov.ca.gov)
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