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August 31, 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 dually as Tides Foundation and Tides Advocacy concerned with the health and safety of vulnerable individuals who are incarcerated and detained during the COVID-19 pandemic.

In particular we are writing to express our profound concern over the fate of those detained in immigrant detention facilities in the state of California, based on the threat posed by COVID-19.

At this time COVID-19 has contaminated all four privately operated immigration detention facilities in California, with growing concern that it will soon result in death for those detained and cause a devastating impact on the surrounding community.

The immigration detention capacity in California may expand to 7,200 beds by the end of this year. 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.

These facilities often lack adequate medical care for those detained. An inspection by the California Attorney General's office found "access to medical care" as a common complaint across all detention facilities.¹ The lack of proper medical care and access will likely be further strained with the threat of COVID-19. A more serious concern may also include the need to hospitalize critically ill detainees, and the burden this will place on local hospitals in rural regions that lack the capacity to deal with a widespread outbreak potentially involving hundreds of individuals.²

While we very clearly understand that these facilities are used by the federal government to house immigrants, we are also aware that these privately-run facilities are subject to certain mandatory requirements outlined in ICE's ERO COVID-19 Pandemic Response Requirements.³ In addition to the mandatory requirements related to public health, ICE has issued broad requirements related to the day to day operations of these facilities, including requirements related to health and safety in these facilities.⁴

Based on reports in the press and by those detained inside these facilities, it appears that these private corporations are routinely violating the health and safety requirements for these facilities in their daily operations. ⁵

That is why we are asking you to sign AB 3228, an important piece of legislation which requires for-profit operators to adhere to the standards of care in their contracts, including these critical requirements related to public health and safety.

The threat of COVID-19 in immigrant detention facilities not only threatens the lives of those detained, but can have dire consequences for surrounding communities. If and 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 this outbreak will be the hospitalization of dozens or hundreds of individuals. The immediate impact will result in devastating consequences on the medical resources in that area and the long-term effect could mean death for hundreds.

As a result, the consequences of COVID-19 in immigrant detention are dire for those detained, but should be of grave concern to the public given the significant challenges this potential outbreak has for California as a whole.

We therefore urge you to support AB 3228 as an important step in ensuring proper medical care and accountability in these facilities.

Sincerely,



Tuti B. Scott
Interim CEO, Tides



Romilda Justilien
CEO, Tides Advocacy

¹ The California Department of Justice's Review of Immigration Detention in California, February 2019, <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/immigration-detention-2019.pdf>

² Modeling COVID-19 and Its Impacts on U.S. Immigration and Customs Enforcement (ICE) Detention Facilities, 2020 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7228433/>

³ ICE ERO COVID-19 Pandemic Response Requirements (Version 3.0, July 28, 2020) <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>

⁴ ICE Performance-Based National Detention Standards (PBNDs) for 2008 and 2011, <https://www.ice.gov/detention-standards/2008>; <https://www.ice.gov/detention-standards/2011>

⁵ Kate Morrissey "Detainees at Otay Mesa detention centers were offered masks but only if they signed contracts" The San Diego Tribune, April 10, 2020 <https://www.sandiegouniontribune.com/news/immigration/story/2020-04-10/otay-mesa-detention-center-gets-masks-but-asks-detainees-to-sign-contract-first>; Rebecca Plevin "Immigrants, advocates, members of Congress decry chemical use at ICE facility in Adelanto", Palm Springs Desert Sun, June 27, 2020 <https://www.desertsun.com/story/news/politics/immigration/2020/06/27/immigrants-members-congress-decry-chemical-use-ice-facility-adelanto/3273095001/>; "Death of 74-year-old in immigration jail is seen as suicide", The Associated Press, May 19, 2020 <https://abcnews.go.com/Health/wireStory/death-74-year-immigration-jail-suicide-70774858>