



June 27, 2022

VIA ELECTRONIC FILING

Molly C. Dwyer
Clerk of Court
United States Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Re: The GEO Group, Inc. et al. v. Gavin Newsom et al., Nos. 20-56172, 20-56304, argued and submitted on June 21, 2022

Dear Ms. Dwyer:

Amici submit this letter to correct two inaccuracies presented at oral argument regarding the impact of AB 32. During their presentation to the court, attorneys for the GEO Group and the United States argued that the federal government relies exclusively on private detention facilities in California.

We respectfully submit the following facts to demonstrate that AB 32 is not a complete ban on contracted detention facilities. U.S. Immigration and Customs Enforcement (ICE) does not rely exclusively on private detention facilities in California, but also detains immigrants in Yuba County Jail, under an active Intergovernmental Services Agreement.¹ This contract provides capacity to detain 220 individuals. Notably, the contract term runs through **2099**.² The facility is also listed as a detention facility on ICE's website.³

Because Appellants have argued that AB 32 is preempted in part because it will close all contracted facilities in California, Amici submit this clarification to ensure the Court decides the appeal on a complete and accurate record.

¹ Contract available in full at: <https://imadvocates.org/wp-content/uploads/2022/06/1-ICE-Contract-12.15.08.pdf>

² The California Department of Justice's Review of Immigration Detention in California (February 2019). Page 34 "ICE and Yuba County amended their IGSA's period of performance on January 11, 2018. The amendment extends the agreement indefinitely, from December 14, 2018, until December 14, 2099, but may be terminated by either party with 60 days' written notice" <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/immigration-detention-2019.pdf>

³ Immigration and Customs Enforcement Website: <https://www.ice.gov/detain/detention-facilities/yuba-county-jail>

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California state facilities

Additionally, Appellants argued that AB32 serves to impermissibly discriminate against the federal government. In examining this argument, Judge Ikuta inquired as to the functional impact of AB 32 on any governmental entity beyond the federal government. In this regard, Amici would note that since the enactment of AB32, the state of California has also been required to terminate all of its private prison contracts, including with GEO Group. This is because AB32 mandates an end to the use of private detention facilities at both the state and federal level. News reports detail the closure of **all** private prisons in California starting in 2019 and ending in 2020.⁴ The termination of these contracts provide important context to the functional impact of AB 32 on the state of California which is relevant to any analysis on intergovernmental immunity.

Respectfully submitted,

s/ Jaclyn Gonzalez
Jaclyn Gonzalez
IMMIGRANT DEFENSE ADVOCATES
P.O. Box. 21826
El Sobrante, CA 94803
P: (510) 847-6247
jackie@imadvocates.org
Attorney for Amici, CCIJ et al.

⁴ “In 2019, CDCR took the major step of...closing the Central Valley Modified Community Correctional Facility (MCCF), a contracted in-state private, for-profit prison. In 2020, CDCR ended its final three contracts with private, for-profit prisons, including Desert View MCCF, Golden State MCCF, and the McFarland Female Community Reentry Facility.” Sheyanne Romero, California inmates won't be set free soon, Taft Midway Driller, (May 7, 2021) https://www.taftmidwaydriller.com/news/california-inmates-wont-be-set-free-soon/article_ae668e06-2d48-5012-9ef4-d7bbc9a65cf3.html

CERTIFICATE OF SERVICE

I certify that, on June 27, 2022, a true and correct copy of the foregoing letter was served via the Court's CM/ECF system on all counsel of record.

s/ Jaclyn Gonzalez

Jaclyn Gonzalez

Attorney for Amici, CCIJ et al.