

Report on the Role of Private Security Companies in Migrant Detention in the U.S. and their Impact on the Protection of the Rights of Migrants

Submitted to the United Nations Working Group on the Use of Mercenaries as a Means of Violating Human Rights and Impeding the Exercise of the Right of Peoples to Self Determination

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SECTION I: INTRODUCTION

Brief Overview of the United States' Use of Private Security Companies in Migrant Detention and Border Management

The U.S. migrant detention system bears the distinction of being both the largest and the most privatized in the world.² The first private migrant detention facility was opened by Corrections Corporation of America (now known as CoreCivic) in Houston, Texas in 1983.³ Within a few years, a second company, Wackenhut Corrections Corporation (now known as The GEO Group) was also awarded a contract to run a migrant detention center.⁴ Over the ensuing decades, other private migrant detention contractors entered the arena amid policy changes expanding immigration enforcement, resulting in a “multi-billion dollar industry built on the incarceration of immigrants.”⁵

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² Danielle C. Jefferis, *Private Prisons, Private Governance: Essay on Developments in Private Sector Resistance to Privatized Immigration Detention*, 15 Nw. J. L. & Soc. POL'Y 82, 87 (2019), <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1192&context=njlsp> [<https://perma.cc/ZC85-RS5B>].

³ *Id.* at 86. The Houston Processing Center was not only the first private migrant detention facility, but also the first private prison in the U.S. *Id.*

⁴ Madison Pauly, *A Brief History of America's Private Prison Industry*, MOTHER JONES (June 2016), <https://www.motherjones.com/politics/2016/06/history-of-americas-private-prison-industry-timeline/>. See Immigration Detention 101, DETENTION WATCH NETWORK, <https://www.detentionwatchnetwork.org/issues/detention-101> [<https://perma.cc/B8PK-TRF8>], for a summary of the legal and policy changes resulting in increased migrant detention, including amendments to the Immigration and Nationality Act in the 1980s, the passage of the Antiterrorism and Effective Death Penalty Act and the Illegal Immigrant Reform and Immigrant Responsibility Act in 1996, and post-9/11 changes to immigration enforcement.

⁵ Emily Kassie, *Detained: How the United States Created the Largest Immigration Detention System in the World*, THE MARSHALL PROJECT (Sept. 24, 2019), <https://www.themarshallproject.org/2019/09/24/detained> [<https://perma.cc/DG7R-ECUD>].

The idea of privatizing migrant detention did not originate with the Trump administration; this administration's policies, however, have yielded many opportunities for private security companies (PSCs) to grow and profit from the business of detaining migrants. During its first three years, the Trump administration has expanded the infrastructure of America's migrant detention system by over 50 %, and increased the detention budget for U.S. Immigration and Customs Enforcement by 23 %.⁶ The use of private facilities to hold migrants has similarly exploded since Trump took office.⁷ Of the 20 largest detention centers opened under the Trump administration, which account for the bulk of all new beds, 14 are privately operated.⁸ By 2018, approximately 67 % of all civilly detained migrants had been held in at least one private detention facility;⁹ as of January 2020, this number had increased to 81 %.¹⁰ These facilities are earning the companies who operate them — especially those companies that receive the largest contracts, such as The GEO Group and CoreCivic¹¹ — significant sums of money: a USA Today investigative report from December 2019 estimated this “booming business” at \$3 billion a year.¹²

While this report will focus on the private sector's involvement in detaining migrants, the extent of PSC involvement in U.S. immigration and border management now extends well beyond detention. PSCs have become deeply entrenched in a growing number of activities both in the country's interior and along the border — a phenomenon that some academics and NGOs have termed a “border-industrial complex.”¹³ Some companies describe their work as filling various “market segments,” and have pursued a type of vertical integration where they provide products and services at multiple stages in the processing of migrants who enter

⁶ EUNICE HYUNHYE CHO ET AL., AM. CIVIL LIBERTIES UNION, HUMAN RIGHTS WATCH & NAT'L IMMIGRANT JUSTICE CTR., JUSTICE-FREE ZONES: U.S. IMMIGRATION DETENTION UNDER THE TRUMP ADMINISTRATION 14, 16 (2020), https://www.aclu.org/sites/default/files/field_document/justice-free_zones_immigrant_detention_report_aclu_hr_w_nijc_0.pdf [<https://perma.cc/KN8V-ZTLR>] (hereinafter JUSTICE-FREE ZONES).

⁷ Monsy Alvarado et. al, *‘These People are Profitable’: Under Trump, Private Prisons are Cashing in on ICE Detainees*, USA TODAY (Dec. 20, 2019), <https://www.usatoday.com/in-depth/news/nation/2019/12/19/ice-detention-private-prisons-expands-under-trump-administration/4393366002/> [<https://perma.cc/T6YL-GQLA>].

⁸ See JUSTICE-FREE ZONES, *supra* note 6, at 15 (2020).

⁹ EMILY RYO & IAN PEACOCK, AM. IMMIGRATION COUNCIL, THE LANDSCAPE OF IMMIGRATION DETENTION IN THE UNITED STATES 2 (Dec. 2018), https://www.americanimmigrationcouncil.org/sites/default/files/research/the_landscape_of_immigration_detention_in_the_united_states.pdf [<https://perma.cc/BE2K-JMUW>]; see also FREEDOM FOR IMMIGRANTS, *Detention by the Numbers* (2018), <https://www.freedomforimmigrants.org/detention-statistics/> [<https://perma.cc/4XD9-GAZR?type=image>] (hereinafter *Detention by the Numbers*).

¹⁰ JUSTICE-FREE ZONES, *supra* note 6, at 17.

¹¹ Alan Zibel, *Detained for Profit: Spending Surges Under U.S. Immigration Crackdown*, PUBLIC CITIZEN (2019), <https://www.citizen.org/article/detained-for-profit-spending-surges-under-u-s-immigration-crackdown/?eType=EmailBlastContent&eid=99b84c28-441b-483f-8ed9-7a15ed73524d> [<https://perma.cc/7ZR3-STHW>].

¹² Alvarado et al., *supra* note 7.

¹³ See Michael Dear, *Beware the Growing U.S.-Mexico Border Industrial Complex*, BERKELEY BLOG (Oct. 6, 2015), <https://blogs.berkeley.edu/2015/10/06/beware-of-the-growing-us-mexico-border-industrial-complex/> [<https://perma.cc/9HGK-BW5W>]; TODD MILLER, TRANSNATIONAL INSTITUTE & NO MORE DEATHS, MORE THAN A WALL: CORPORATE PROFITEERING AND THE MILITARIZATION OF US BORDERS 19 (2019), <https://www.tni.org/files/publication-downloads/more-than-a-wall-report.pdf> [<https://perma.cc/GSU3-Z8XV>].

the U.S.¹⁴ These main stages, or segments, include: security at ports of entry and along the border; detention; transportation; and post-release location monitoring.

Security at Ports of Entry and Along the U.S. Border

At ports of entry, private security guards join government employees in monitoring the movement of individuals across the U.S. border. For example, at the San Ysidro Port of Entry between Tijuana, Mexico, and San Diego, California, Paragon Systems, Inc. (Paragon) provides such private security services.¹⁵ Paragon also provides security for the temporary tent court facilities established at the border by the U.S. government to facilitate its “Migrant Protection Protocols.”¹⁶ Additionally, in December 2019, the government entered into a \$277 million dollar contract with ISS Action Inc. (ISS Action) to provide security guard and related services along the U.S.-Mexico border.¹⁷ ISS Action is just one of many private companies with whom the federal government contracts to provide security services or technology along the border or in the interior; data culled from government websites show that between 2010 and mid-2019, the U.S. government contracted with over 50 companies to provide a variety of services and products for the surveillance and tracking of migrants.¹⁸

Detention Services

Several PSCs currently own and/or operate immigration detention facilities in the U.S. Six of these companies – The GEO Group (GEO), CoreCivic, Management & Training Corporation (MTC), LaSalle Corrections (LaSalle), Caliburn International (Caliburn), and Immigration

¹⁴ See CARL TAKEI, WRITTEN STATEMENT OF THE AMERICAN CIVIL LIBERTIES UNION BEFORE THE UNITED NATIONS WORKING GROUP ON THE USE OF MERCENARIES AS A MEANS OF VIOLATING HUMAN RIGHTS AND IMPEDING THE EXERCISE OF THE RIGHT OF PEOPLES TO SELF DETERMINATION 8, n. 43 (Apr. 27, 2017), <https://www.aclu.org/other/aclu-statement-discussing-private-prisons-and-human-rights-united-nations-working-group> [<https://perma.cc/U2YQ-U8HX>].

¹⁵ *Abuse by Private Security Agents at U.S.-Mexico Border Denounced*, SAN DIEGO UNION-TRIB. (Sept. 22, 2016), <https://www.sandiegouniontribune.com/en-espanol/sdhoy-abuse-private-security-san-ysidro-2013aug06-story.html> [<https://perma.cc/2J3X-S4XG>]; see also Roman Gressier, *The Silenced Voices at the U.S.-Mexico Border*, CRIME REPORT (Mar. 18, 2019), <https://thecrimereport.org/2019/03/18/captives-of-la-lista-the-real-border-crisis/> [<https://perma.cc/HV6X-YGMH>].

¹⁶ Laura Lynch & Leidy Perez-Davis, *Searching for Fairness and Transparency – A Firsthand Look at the Port Courts in Laredo and Brownsville*, THINK IMMIGRATION (Sept. 16, 2019), <https://thinkimmigration.org/blog/2019/09/16/due-process-disaster-in-the-making-a-firsthand-look-at-the-port-courts-in-laredo-and-brownsville/> [<https://perma.cc/2NA5-CEL9>]. These tent courts, also known as port courts, were first set up to hold hearings for migrants under the Trump administration’s “Migrant Protection Protocols” (known as the “Remain in Mexico” policy). Nicole Acevedo, *New Border Tent Courts Create a ‘Faux Process’ for Asylum-Seekers, Attorneys Say*, NBC NEWS (Sept. 12, 2019), <https://www.nbcnews.com/news/amp/ncna1053196> [<https://perma.cc/EPD4-MZRM>]. The protocols require asylum seekers to wait in Mexico until their immigration court dates. Temporary courts along the border were built to adjudicate these claims. *Id.*

¹⁷ Daniel Seiden, *NYC Firm Withstands G4S’s Protest of \$277 Million Border Award*, BLOOMBERG LAW (Dec. 18, 2019), <https://news.bloomberglaw.com/federal-contracting/nyc-firm-withstands-g4ss-protest-of-277-million-border-award> [<https://perma.cc/K24P-SMDP>].

¹⁸ This figure is based on data published by the U.S. government on usaspending.gov and the Federal Procurement Data System’s website (fpds.gov), and analyzed by investigative journalism outlet Sludge. Spreadsheets of this data are available at https://docs.google.com/spreadsheets/d/1Tut9q-Clcfc8ryueATzEZGZor2_7eIFH0_JTM8GE_Yg/edit#gid=858397753 and <https://docs.google.com/spreadsheets/d/1psA8LU0tNrRjD8EC2MvnVt0DGuOCWiDwj2D5HCnDdl4/edit#gid=687382852>.

Centers of America (ICA) – will be profiled in greater detail later in this report. Over the past decade, additional companies operating or providing security for migrant detention facilities have included: Asset Protection and Security Services, L.P.; MVM, Inc.; Ahtna Support and Training Services, LLC; Cornell Companies, Inc. (a subsidiary of GEO); Global Precision Systems, LLC; Akima Global Services, LLC; Emerald Correctional Management; and Doyon-Akal JV 1.¹⁹

Transportation Services

After being taken into custody, migrants are often moved between detention sites or deported back to their home countries. The U.S. government contracts with a large number of PSCs to provide both air and ground transportation of migrants. Through U.S. Immigration and Customs Enforcement’s transportation division, ICE Air Operations, the government has contracted with companies such as Zephyr Aviation and CSI Aviation to move migrants between detention sites and to deport them.²⁰ GEO Transport, another GEO subsidiary, operates a fleet of over 300 vehicles for ground transportation of migrants.²¹ Similarly, CoreCivic operates a transportation subsidiary called TransCor.²² Government data reveals that from 2010 to present, U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection have together contracted with approximately 40 private companies to provide ground or air transportation services.²³

Post-Release Location Monitoring

Finally, PSCs are involved in the post-detention monitoring of migrants who are released from detention and allowed to remain in the United States pending their immigration hearings. BI Inc, another subsidiary of GEO, has alone received contracts of over \$500 million since 2004 to manufacture ankle monitors and smartphone applications that track released detainees, as well as to manage the related Intensive Supervision Appearance Program.²⁴ Another company, Libre by Nexus (Libre), contracts directly with individual migrants, charging them approximately \$420 per month in exchange for posting bond on their behalf so they can be

¹⁹ See *id*; Robin Urevich & Capital & Main, *What Happened at an Immigrant Detention Center While ICE Officials Looked the Other Way?*, NEWSWEEK (June 28, 2018), <https://www.newsweek.com/ice-immigration-detention-migrants-detainees-abuse-scandal-1000685> [<https://perma.cc/577J-CUXC>]; Detainees Leaving ICE Detention from the El Paso Service Processing Center, TRAC, <https://trac.syr.edu/immigration/detention/201509/EPC/exit/> (last visited May 11, 2020) [<https://perma.cc/C22Q-D7D8>].

²⁰ Jaden Urbi, *Here’s Who’s Making Money from Immigration Enforcement*, CNBC (June 29, 2018), <https://www.cnbc.com/2018/06/28/companies-profiting-immigration-enforcement-private-sector-prison-tech.html> [<https://perma.cc/MH85-QAH7>].

²¹ *Id.*

²² The TransCor Story, TRANSCOR, <https://transcor.com/our-story> (last visited May 11, 2020) [<https://perma.cc/UB4W-8WFL>].

²³ This figure is also based on data published by the U.S. government and analyzed by investigative journalism outlet Sludge. See *supra* note 18 for more information.

²⁴ Lautaro Grinspan, *Many of Miami’s immigrants Wear Ankle Monitors. Will Technology Betray Them?* MIAMI HERALD (Aug. 24, 2019), <https://www.miamiherald.com/news/local/immigration/article234230202.html> [<https://perma.cc/8E9P-VQ35>]; Lucas High, *Boulder’s BI Incorporated has earned more than a half-billion dollars from ICE contracts*, DAILY CAMERA (Jul. 13, 2018), <https://www.dailycamera.com/2018/07/13/boulders-bi-incorporated-has-earned-more-than-half-billion-dollars-from-ice-contracts/> [<https://perma.cc/BQQ9-XET8>].

released from detention as they await the resolution of their immigration cases.²⁵ As part of the contract with Libre, migrants must wear the company's GPS ankle monitors.²⁶

Brief Overview of Government Agencies Involved in the Detention of Migrants

In order to understand how PSCs fit into the migrant detention landscape in the United States, it is important to have an overview of the various government entities involved in migrant processing and detention. The administration and enforcement of U.S. immigration law is spread across a number of government agencies. Four such agencies play an outsized role in immigration detention: U.S. Customs and Border Protection; U.S. Immigration and Customs Enforcement; the Office of Refugee Resettlement; and U.S. Marshals Service.

U.S. Customs and Border Protection

U.S. Customs and Border Protection (CBP), an agency within the Department of Homeland Security (DHS), is responsible for securing United States borders both at and between official ports of entry.²⁷ CBP “[f]unctions as the initial component of a comprehensive immigration enforcement system.”²⁸ With over 60,000 employees, CBP is the largest federal law enforcement agency in the United States.²⁹

Migrants seeking to enter the United States at a port of entry, such as a border crossing, an airport, or a seaport, face inspection by CBP officers who determine whether they are admissible to enter.³⁰ When CBP finds that a person is not admissible, it may either permit that person to withdraw his application and turn him away, or it may detain him.³¹ In between ports of entry, CBP agents monitor the border to prevent migrants from entering without inspection.³² Individuals found entering without inspection are transferred to processing and detention centers.³³

All CBP detention facilities are run by the agency itself, although private contractors may provide various support services such as food service.³⁴ According to CBP policy, adult

²⁵ Michael E. Miller, *Va. Regulators Threaten to Shut Down Company Accused of Preying on Undocumented Immigrants*, WASH. POST (Oct. 10, 2019), https://www.washingtonpost.com/local/va-regulators-threaten-to-shut-down-company-accused-of-preying-on-undocumented-immigrants/2019/10/10/42f6b79e-eb94-11e9-9c6d-436a0df4f31d_story.html [<https://perma.cc/7KPM-B7YN>].

²⁶ *Id.*

²⁷ U.S. CUST. & BORDER PROT., *SNAPSHOT: A SUMMARY OF CBP FACTS AND FIGURES 1* (2020), <https://www.cbp.gov/sites/default/files/assets/documents/2020-Feb/CBP-Snapshot-Feb-2020.pdf> [<https://perma.cc/Z6WK-JX8N>] (hereinafter *CBP FACTS & FIGURES*).

²⁸ Immigration Inspection Program, U.S. CUST. & BORDER PROT., <https://www.cbp.gov/border-security/ports-entry/overview> (last modified Feb. 21, 2014) [<https://perma.cc/6GFG-Y5N9>].

²⁹ *CBP FACTS & FIGURES*, *supra* note 27, at 1.

³⁰ Immigration Inspection Program, *supra* note 28.

³¹ AM. IMMIGRATION COUNCIL, *IMMIGRATION DETENTION IN THE UNITED STATES BY AGENCY 1* (2020), https://www.americanimmigrationcouncil.org/sites/default/files/research/immigration_detention_in_the_united_states_by_agency.pdf [<https://perma.cc/XN3E-4K4V>].

³² Border Patrol Overview, U.S. CUST. & BORDER PROT., <https://www.cbp.gov/border-security/along-us-borders/overview#> (last modified Apr. 26, 2018) [<https://perma.cc/8ZGH-V28Z>].

³³ AM. IMMIGRATION COUNCIL, *IMMIGRATION DETENTION*, *supra* note 31, at 1.

³⁴ *Id.*

detainees “should generally not be held for longer than 72 hours in CBP hold rooms or holding facilities.”³⁵ After being processed at a CBP facility, adult detainees may be summarily deported through the “expedited removal” process,³⁶ released, or transferred to another detention facility.³⁷

U.S. Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement (ICE), another agency within DHS, investigates and enforces violations of U.S. immigration law.³⁸ ICE Enforcement and Removal Operations (ERO) has a mandate to manage “all aspects of the immigration enforcement process, including identification and arrest, domestic transportation, detention, bond management, and supervised release, including alternatives to detention.”³⁹ In this role, ERO oversees the civil detention of migrants pending the outcome of their immigration case, meaning that ICE’s detainees have not been charged with a crime; rather, they are held largely to ensure their appearance in immigration court.⁴⁰ ICE detainees may either be transferred from CBP custody or arrested within the United States by ICE itself.⁴¹

ICE detainees are held in a range of types of detention facilities. The American Immigration Council lists the five most common types of ICE detention facilities as follows:

- Service Processing Centers owned by ICE but often operated by private security companies;
- Contract Detention Facilities owned and operated by PSCs;
- Non-Dedicated Intergovernmental Service Agreements (IGSAs), which are often city or county jails that hold ICE detainees alongside their normal jail population;
- Dedicated IGSAs, which are facilities owned by local governments (and which may be run by PSCs) that exclusively house ICE detainees; and
- U.S. Marshals Service Intergovernmental Agreements, which are facilities owned by local governments that house both ICE detainees and individuals in the custody of the U.S. Marshals Service.⁴²

³⁵ U.S. CUST. & BORDER PROT., NATIONAL STANDARDS ON TRANSPORT, ESCORT, DETENTION, AND SEARCH 14 (2015), <https://www.cbp.gov/sites/default/files/assets/documents/2020-Feb/cbp-teds-policy-october2015.pdf> [https://perma.cc/VXR8-MKRB].

³⁶ 8 U.S.C. § 1225(b)(1)(A)(1); *see also* AM. IMMIGRATION COUNCIL, A PRIMER ON EXPEDITED REMOVAL (2019), https://www.americanimmigrationcouncil.org/sites/default/files/research/primer_on_expedited_removal.pdf [https://perma.cc/8EL6-3ZYC].

³⁷ 8 U.S.C. § 1226(c).

³⁸ Who We Are, U.S. IMMIG. & CUST. ENFORCEMENT, <https://www.ice.gov/about> (last visited May 12, 2020) [https://perma.cc/QNS4-3VQQ].

³⁹ *Id.*

⁴⁰ RYO & PEACOCK, AM. IMMIGRATION COUNCIL, *supra* note 9, at 5.

⁴¹ AM. IMMIGRATION COUNCIL, IMMIGRATION DETENTION, *supra* note 31, at 3.

⁴² *Id.*

Some detainees are held in ICE custody for the duration of their proceedings in immigration court, while others pay a bond and are released.⁴³ The average length of detention in ICE custody was 55 days as of December 2019, though many migrants were detained for a significantly longer period.⁴⁴

Office of Refugee Resettlement

Under U.S. law, unaccompanied minors must be held for no longer than 72 hours by CBP before being transferred to the custody of the Department of Health and Human Services (HHS).⁴⁵ The Office of Refugee Resettlement (ORR), an agency within HHS, has been in charge of the housing and placement of unaccompanied migrant minors since 2003.⁴⁶ Under the U.S. Immigration and Nationality Act, these children must be held in the “least restrictive setting that is in the best interest of the child.”⁴⁷ Typically, this means that migrant minors who come to the United States unaccompanied must be released to a sponsor such as a parent, legal guardian, or adult relative as quickly as possible.⁴⁸ While ORR is locating a sponsor, or if a sponsor is unavailable, the minor is to be sent to an ORR permanent shelter.⁴⁹

Permanent shelters are run almost completely by nonprofit organizations and are state-licensed as childcare facilities.⁵⁰ The average stay in a permanent shelter was 89 days in the first quarter of fiscal year 2019.⁵¹ When ORR shelters are operating at 85 % capacity for three or more consecutive days, ORR policy permits it to open temporary facilities called influx shelters.⁵² Temporary influx shelters are not state-licensed and are only intended for the short-term detention of unaccompanied minors.⁵³

U.S. Marshals Service

The United States Marshals Service (USMS) is a law enforcement agency within the U.S. Department of Justice (DOJ).⁵⁴ In addition to its primary roles of “protecting the federal judiciary, apprehending fugitives, managing and selling seized assets acquired by criminals

⁴³ JUSTICE-FREE ZONES, *supra* note 6, at 23.

⁴⁴ AM. IMMIGRATION COUNCIL, IMMIGRATION DETENTION, *supra* note 31, at 4.

⁴⁵ 8 U.S.C. § 1232(b)(3).

⁴⁶ Unaccompanied Alien Children, OFF. OF REFUGEE RESETTLEMENT, <https://www.acf.hhs.gov/orr/programs/ucs> [<https://perma.cc/MW4J-JTFK>].

⁴⁷ 8 U.S.C. 1232(c)(2)(A).

⁴⁸ Settlement Agreement at 10, *Flores v. Reno*, Case No. CV 85-4544-RJK (Px) (C.D. Cal. 1997), https://www.aclu.org/files/pdfs/immigrants/flores_v_meese_agreement.pdf [<https://perma.cc/ZAG4-W8M5>].

⁴⁹ AM. IMMIGRATION COUNCIL, IMMIGRATION DETENTION, *supra* note 31, at 8.

⁵⁰ Frequently Asked Questions Regarding Unaccompanied Alien Children, U.S. DEP’T OF HEALTH & HUM. SERVS., <https://www.hhs.gov/programs/social-services/unaccompanied-alien-children/faqs/index.html> (last updated Aug. 7, 2018) [<https://perma.cc/WM2N-QVU8>].

⁵¹ ORR Fact Sheet on Unaccompanied Alien Children’s Services, OFF. OF REFUGEE RESETTLEMENT (Mar. 28, 2019), <https://www.acf.hhs.gov/orr/resource/orr-fact-sheet-on-unaccompanied-alien-childrens-services> [<https://perma.cc/9E2Z-C75E>].

⁵² Children Entering the United States Unaccompanied: Section 7, OFF. OF REFUGEE RESETTLEMENT (Sept. 18, 2019), <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-7#7.1> [<https://perma.cc/Y37F-SCZ6>].

⁵³ AM. IMMIGRATION COUNCIL, IMMIGRATION DETENTION, *supra* note 31, at 9–10.

⁵⁴ U.S. MARSHALS SERVICE, FACT SHEET: U.S. MARSHALS SERVICE 2020 1 (2020), <https://www.usmarshals.gov/duties/factsheets/overview.pdf> [<https://perma.cc/X43G-F4B2>].

through illegal activities, housing and transporting federal prisoners and operating the Witness Security Program,”⁵⁵ USMS also has custody over migrants who have been charged with a federal crime.⁵⁶

Under the Trump administration’s “zero tolerance” policy, first enacted in April 2018, U.S. attorney’s offices along the U.S.-Mexico border were directed to criminally prosecute all cases of illegal entry.⁵⁷ Illegal entry is a misdemeanor in the first instance, while any subsequent reentry is a federal felony.⁵⁸ Increased criminal prosecution of first-time illegal-entry offenses has led to a surge in migrants in USMS custody due to felony charges for illegal reentry.⁵⁹ As prosecutions have increased, so has funding for USMS: in 2019, the U.S. Congress approved \$155 million earmarked for pretrial detention of immigrants by USMS as part of a broader border spending bill.⁶⁰ USMS does not operate its own detention facilities, contracting instead with state or local jails, private detention centers, or the U.S. Bureau of Prisons (BOP) for space within their facilities.⁶¹

SECTION II: LACK OF TRANSPARENCY

Despite the important role played by PSCs in migrant detention and related activities, key information needed to fully understand this role is often inaccessible and difficult to find. One can easily find mention of particular PSCs in media coverage and NGO reports, but there is no source of information on the role of PSCs that is current, comprehensive, and correct. Even a task as simple as coming up with a list of all PSCs that have contracts for migrant-related work can be a quixotic undertaking. Actually locating these contracts would be an even tougher feat. Answers to even simple questions remain elusive: Which PSCs operate migrant detention facilities, which facilities does each company operate, and how much is each PSC paid for this work? Which PSCs have contracts for guard services, migrant transport, or electronic ankle bracelets, or other migrant-related work, and how much are these contracts worth? How has all of this changed and developed over time? Neither ICE nor the PSCs themselves have been forthcoming in making this information publicly available. Although the federal Freedom of Information Act (FOIA)⁶² provides a mechanism for the public to request records from federal agencies, the process to obtain records from ICE has proven to be arduous and often ineffective.⁶³ The net effect is a substantial lack of transparency about the role of PSCs in migrant detention and related activities.

⁵⁵ *Id.*

⁵⁶ AM. IMMIGRATION COUNCIL, IMMIGRATION DETENTION, *supra* note 31, at 10.

⁵⁷ Q&A: *Trump Administration’s “Zero-Tolerance” Immigration Policy*, HUMAN RIGHTS WATCH (Aug. 16, 2018), <https://www.hrw.org/news/2018/08/16/qa-trump-administrations-zero-tolerance-immigration-policy#q4> [<https://perma.cc/TL8B-SM9K>] (hereinafter HRW Q&A)

⁵⁸ *See* 8 U.S.C. § 1325(a).

⁵⁹ Seth Freed Wessler, *Inside the U.S. Marshals’ Secretive, Deadly Detention Empire*, MOTHER JONES (Oct. 2018), <https://www.motherjones.com/crime-justice/2019/10/inside-the-us-marshals-secretive-deadly-detention-empire/> [<https://perma.cc/9TJA-MQXX>].

⁶⁰ *Id.*

⁶¹ *See id.*

⁶² 5 U.S.C. § 552 (2020).

⁶³ *See US: Suit Filed Over Immigration FOIA Request*, HUMAN RIGHTS WATCH (Jan. 10, 2019), <https://www.hrw.org/news/2019/01/10/us-suit-filed-over-immigration-foia-request> [<https://perma.cc/F46F-H8DR>].

ICE maintains a website to inform the public about its work, but that website makes virtually no mention of the role of PSCs. Over the years, even finding a list of all migrant detention facilities has been difficult. In March 2018, the U.S. Congress required ICE to post a monthly-updated list of all its detention facilities, including average daily population figures for each; however, six months later, NGOs characterized ICE's posted spreadsheets as "woefully inaccurate and even deceptive," omitting several large, new, and controversial facilities.⁶⁴ Even today, it is not clear that ICE's spreadsheets listing detention facilities are complete. For example, the posted spreadsheets do not include MTC's Bluebonnet Detention Center in Texas, although that facility is identified both on the ICE's "Detention Facility Locator" (discussed below) and on MTC's own website.⁶⁵

These spreadsheets also are not easy to locate on the ICE website, and the information they contain is inconsistent with information posted elsewhere on the ICE website. One might expect to find a list of detention facilities under the website's link for "Detainee Facilities," which links to ICE's "Detention Facility Locator."⁶⁶ But to find the spreadsheets, one must follow links first to "Detention Management" and then to "Facility Inspections," where a link for "Dedicated and Non Dedicated Facility List" appears in a right-hand sidebar menu of "Related information."⁶⁷ A more serious problem is that the information is inconsistent. Inexplicably, the list of detention facilities at the "Detention Facility Locator" includes only 137 detention facilities, whereas the spreadsheets mandated by Congress, located elsewhere, list 221 facilities.⁶⁸ Conversely, as noted above, the longer list omits at least one of the facilities that appears on the shorter list.⁶⁹ There is no way to tell which of the lists, if either, is correct.

Neither these divergent facility lists nor anything else on the ICE website illuminates the role played by PSCs in migrant detention. Neither the "Detention Facility Locator" list nor the spreadsheets found under "Facility Inspections" indicates whether a facility is operated by a PSC, much less which PSC.⁷⁰ A similar lack of transparency on the role of PSCs can be seen in

⁶⁴ DETENTION WATCH NETWORK & NAT'L IMMIGRANT JUSTICE CTR., SECRET EXPANSION: ICE'S DECEPTION ABOUT METASTASIZING DETENTION SYSTEM CONTINUES 1 (2018), https://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2018-09/ICE_Facilities_Matrix_Memo_2018-09-05_1.pdf [<https://perma.cc/3Z3W-AVYH>]. The missing detention facilities included five detention centers, three of which had capacities of over a thousand. Five Bureau of Prison (BOP) facilities also slipped through the cracks, which had the net result of increasing ICE's detention capacity almost 4% overnight, without any oversight or notice. *Id.* at 1-2.

⁶⁵ See U.S. Immig. & Cust. Enforcement, ERO Custody Management Division, Authorized Dedicated & Non-Dedicated Facility Lists (Apr. 6, 2020) <https://www.ice.gov/facility-inspections> (last visited May 12, 2020; a link to the spreadsheet can be found on the right-hand side of the webpage) [<https://perma.cc/Q7CH-JHLN>] (hereinafter Authorized Dedicated & Non-Dedicated Facility Lists); Detention Facility Locator, U.S. IMMIG. & CUST. ENFORCEMENT, <https://www.ice.gov/detention-facilities> (last visited May 12, 2020) [<https://perma.cc/TU7P-S8H4>] (hereinafter Detention Facility Locator); Detention Services, MGMT. & TRAINING CORP. <https://www.mtctrains.com/detention/#division-map> (last visited May 12, 2020) [<https://perma.cc/3P8P-6FHX>] (hereinafter MTC Detention Services).

⁶⁶ See Detention Facility Locator, *supra* note 65.

⁶⁷ Facility Inspections, U.S. IMMIG. & CUST. ENFORCEMENT, <https://www.ice.gov/facility-inspections> (last visited May 12, 2020) [<https://perma.cc/Q7CH-JHLN>].

⁶⁸ Cf. Authorized Dedicated & Non-Dedicated Facility Lists, *supra* note 65; Detention Facility Locator, *supra* note 65.

⁶⁹ See *Id.* See also MTC Detention Services, *supra* note 65.

⁷⁰ Authorized Dedicated & Non-Dedicated Facility Lists, *supra* note 65; Detention Facility Locator, *supra* note 65. Curiously, and inexplicably, there is one exception. The spreadsheet entry for "Central Texas Detention Facility"

the “Overview” discussion of “Detention Management,” which says not a word about the use of PSCs.⁷¹ More broadly, nowhere on its website does ICE disclose its policies and practices on using detention facilities that are managed by, and sometimes even owned by, PSCs. Nor is there an explanation of other migrant-related functions performed for ICE by PSCs. Contracts between ICE and PSCs are not available on the ICE website, except to the limited extent that particular contracts appear in the website’s “FOIA Library.”⁷² Even those contracts appear only in redacted form.⁷³

Information provided on the PSCs’ own websites likewise fails to provide answers to many of the important questions about these companies’ role in migrant detention and related activities. For example, the LaSalle website lists the facilities managed by the company, but does not indicate which of its facilities house detained migrants, which house correctional system inmates, and which house both.⁷⁴ Privately-held companies – including four of the six PSCs profiled in Section III below – are not required to make public disclosures of financial information.⁷⁵ As a consequence, their websites say nothing about the amount of revenue attributable to their migrant detention or other ICE-related work. Publicly-held companies, in contrast, are required to make financial information available to the public. The two giants in the private detention field, CoreCivic and GEO, are publicly held, and as a result, their websites do provide extensive financial information, including figures for total annual revenue and the share of that revenue that is attributable to ICE.⁷⁶ However, it is unclear whether the revenue from ICE also includes revenue from IGSA’s, in which ICE contracts with a town to detain migrants, and then the town contracts with the PSC to build or operate the facility. Additionally, revenue from ICE is not prominently displayed on these two PSCs’

is followed by “(GEO)” - referring to The GEO Group, a PSC with a heavy involvement in migrant detention. Authorized Dedicated & Non-Dedicated Facility Lists, *supra* note 65.

⁷¹ See Detention Management, U.S. IMMIG. & CUST. ENFORCEMENT, <https://www.ice.gov/detention-management> (last visited May 12, 2020) [<https://perma.cc/4BV8-HTNL>].

⁷² FOIA Library, U.S. IMMIG. & CUST. ENFORCEMENT, <https://www.ice.gov/foia/library> (last visited May 12, 2020) [<https://perma.cc/4CNG-QTD4>]. The FOIA Library contains documents that ICE has previously produced in response to FOIA requests.

⁷³ See, e.g., Contract Number ODT-5-C-0003, Corrections Corp. Am., for Detention Services at Otay Mesa Facility in San Diego, California (July 7, 2005), <https://www.ice.gov/doclib/foia/contracts/odt5c0003orderhscedm09j00051cca.pdf> [<https://perma.cc/RZ3P-4SN6>].

⁷⁴ Our Locations, LASALLE CORR., <http://www.lasallecorrections.com/our-locations/> (last visited May 12, 2020) [<https://perma.cc/L33L-Y85Q>] (hereinafter LASALLE Our Locations).

⁷⁵ See U.S. Private Companies, LIBRARY OF CONGRESS, <https://guides.loc.gov/company-research/private> (last visited May 12, 2020) [<https://perma.cc/U4GZ-N227>]. Publicly-held companies, on the other hand, are regulated by the U.S. Securities and Exchange Commission (SEC) and required to file comprehensive annual company reports, describing what the company does, identifying subsidiaries, and providing important financial data. See Exchange Act Reporting and Registration, U.S. SECURITIES & EXCHANGE COMM’N (Oct. 24, 2018), https://www.sec.gov/smallbusiness/goingpublic/exchangeactreporting#.Xn_HiIJKT3M.email (last visited May 12, 2020) [<https://perma.cc/YFK7-ZFEA>].

⁷⁶ See generally CoreCivic, Inc., Annual Report (Form 10-K) 5, F-6 (Feb. 20, 2020), <http://ir.corecivic.com/static-files/78f48d3d-5df1-44e2-ba20-fce435193496> [<https://perma.cc/GW33-KKZS>]; GEO Group, Annual Report (Form 10-K) (Feb. 26, 2020), <http://investors.geogroup.com/Cache/IRCache/cdf2d868-2ef2-d95f-6096-954030483167.pdf> [<https://perma.cc/H29K-VQZB>].

websites. To find those figures, one first must know to click on a link for “Investors,” or “Investor Relations”⁷⁷ and then pore through the fine print of lengthy financial reports.

Complicated contractual arrangements and irregular means of obtaining contracts contribute to the difficulty in obtaining a full and clear picture of the scope of PSCs’ migrant-related activities. Very few detention facilities are operated under direct contracts between ICE and a PSC.⁷⁸ Instead, most “privately-run detention facilities are contracted indirectly with either local governments or the U.S. Marshals Service (USMS) acting as a middleman.”⁷⁹ Some of these contracts are obtained by highly irregular means. For example, when ICE sought to open a new migrant detention facility in Dilley, Texas, instead of entering into a new contract, ICE modified an existing migrant detention IGSA with Eloy, Arizona, a small city some 900 miles away from Dilley.⁸⁰ CoreCivic (then operating as Corrections Corporation of America) already had a contract with Eloy to manage a migrant detention facility in the town, and negotiated directly with ICE as to the terms of the Eloy/ICE agreement modification.⁸¹ Eloy then immediately contracted with CoreCivic to build and manage the new Dilley facility.⁸² When this contracting process was criticized by DHS’s Office of the Inspector General, ICE responded by signing a new agreement with the city of Dilley, which then signed a new contract with CoreCivic, ensuring that CoreCivic could continue managing the facility – a task that, the preceding year, had generated \$171 million in revenue.⁸³

To fill gaps in public information about the role of PSCs in migrant-related work, the media and NGOs have sought to use the federal Freedom of Information Act (FOIA).⁸⁴ Under this law, members of the public can request documents from federal government agencies such as ICE.⁸⁵ An initial limitation of FOIA is that it only permits requests to government agencies,

⁷⁷ See, e.g., Investor Relations, CORECIVIC, <http://ir.corecivic.com/> (last visited May 12, 2020) [<https://perma.cc/DYD2-YQUE>]; Investor Relations, GEO GROUP, INC., <http://investors.geogroup.com/> (last visited May 12, 2020) [<https://perma.cc/SX9C-4VJT>].

⁷⁸ MARY SMALL ET AL., DETENTION WATCH NETWORK, A TOXIC RELATIONSHIP: PRIVATE PRISONS AND U.S. IMMIGRATION DETENTION 7 (2016), https://www.detentionwatchnetwork.org/sites/default/files/reports/A%20Toxic%20Relationship_DWN.pdf [<https://perma.cc/BWU8-C7WA>].

⁷⁹ *Id.*

⁸⁰ U.S. Dept. HOMELAND SEC., OFF. INSPECTOR GEN., IMMIGRATION AND CUSTOMS ENFORCEMENT DID NOT FOLLOW FEDERAL PROCUREMENT GUIDELINES WHEN CONTRACTING FOR DETENTION SERVICES 2 (Feb. 21, 2018) <https://www.oig.dhs.gov/sites/default/files/assets/2018-02/OIG-18-53-Feb18.pdf> [<https://perma.cc/A2SC-CHUK>].

⁸¹ *Id.* at 3-4.

⁸² *Id.* at 4.

⁸³ Nomaan Merchant, *New Deal Keeps Open Facility that Detains Immigrant Families*, AP NEWS (Oct. 17, 2018), <https://apnews.com/cfe75057db534f28aecd0a01e04f9786> [<https://perma.cc/RD84-6S4Q>].

⁸⁴ See, e.g., Pending NIJC Transparency Project Freedom of Information Act Requests, NAT’L IMMIGRANT JUSTICE CTR., <https://www.immigrantjustice.org/pending-nijc-transparency-project-freedom-information-act-requests> (last visited May 12, 2020) [<https://perma.cc/B2YT-ZJUS>] (hereinafter Pending NIJC FOIA Requests); Am. Immigration Council, FOIA, <https://www.americanimmigrationcouncil.org/foia> (last visited May 12, 2020) [<https://perma.cc/T5DZ-6G45>].

⁸⁵ 5 USC § 552.

and thus, although the federal detention of migrants would seem to be an inherently governmental function, FOIA requests cannot be made to PSCs.⁸⁶

Even when requesting documents directly from ICE, the FOIA process is far from trouble-free. FOIA requests directed to ICE have often been met with delays and refusals, forcing those who request the documents to sue for their release.⁸⁷ For example, In December 2017, the ACLU of Colorado filed a FOIA request seeking documents related to the death of a migrant at GEO's Aurora detention facility.⁸⁸ In response, "ICE produced only five pages, none of which gave an explanation about his death."⁸⁹ Following an appeal to the agency, ICE responded in July 2018, saying its investigation into the death had been completed and that additional documents would be produced.⁹⁰ When, nine months later in April 2019, no further documents had been produced, the ACLU of Colorado filed suit for an order requiring ICE to produce the requested documents.⁹¹ After the suit was filed in May 2019, ICE finally turned over its report on the detainee's death.⁹² Unfortunately, this scenario is a common one. The National Immigration Justice Center (NIJC) reports that it currently has three outstanding FOIA requests, two pending since June 2018 and one pending since July 2014.⁹³ Through these requests, NIJC is seeking to discover such information as the number of facilities ICE uses for migrant detention, occupancy figures for these facilities, and whether ICE is providing a comfortable and safe environment for detainees.⁹⁴ As of May 2020 – nearly 6 years after NIJC filed its first FOIA request – litigation is ongoing.⁹⁵

SECTION III: PROFILES OF MAJOR PRIVATE SECURITY COMPANIES IN MIGRANT DETENTION

Section III of this report profiles the six PSCs currently responsible for detaining the great majority of migrants in the United States: Caliburn International, CoreCivic, The GEO Group, Immigration Centers of America, LaSalle Corrections, and Management & Training Corporation. Specific information provided includes: the company's entrance into, and expansion within, the migrant detention business; financial information regarding the company's migrant detention operations and profits; and current trends reflected in, or key features particular to, the operations of each company.

⁸⁶ Adam Snitzer, *The Nation's Largest Private Prisons Operator is Based in Florida. And Profits Are Up*, MIAMI HERALD (Apr. 22, 2019), <https://www.miamiherald.com/news/business/biz-monday/article227477119.html> [https://perma.cc/J9F6-AWE3]; Takei, *supra* note 14, at 11.

⁸⁷ See, e.g., Pending NIJC FOIA Requests, *supra* note 84; *Detention Watch Network (DWN) v. Immigration Customs and Enforcement (ICE) and Department of Homeland Security (DHS)*, CTR. CONST. RTS. (Dec. 3, 2019), <https://ccrjustice.org/home/what-we-do/our-cases/detention-watch-network-dwn-v-immigration-customs-and-enforcement-ice-and> [https://perma.cc/5FYV-Y7BS].

⁸⁸ ACLU COLORADO, *CASHING IN ON CRUELTY: STORIES OF DEATH, ABUSE AND NEGLECT AT THE GEO IMMIGRATION DETENTION FACILITY IN AURORA*, 3-4 (2019), https://aclu-co.org/wp-content/uploads/2019/09/ACLU_CO_Cashing_In_On_Cruelty_09-17-19.pdf [https://perma.cc/P4T7-FY9X].

⁸⁹ *Id.* at 4.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ Pending NIJC FOIA Requests, *supra* note 84.

⁹⁴ *Id.*

⁹⁵ *Id.*

Caliburn International

Caliburn International (Caliburn) is a relatively new entrant onto the migrant detention scene, and is the only private, for-profit security company currently detaining unaccompanied migrant children in the U.S. Private equity firm DC Capital Partners founded Caliburn in 2018 through a series of corporate acquisitions that would give Caliburn “the ability and scale to support national defense, international diplomacy, and homeland security client readiness.”⁹⁶ Among these acquisitions, Caliburn purchased Comprehensive Health Services, Inc. (CHS), a company primarily focused on providing global medical services.⁹⁷ In 2015, CHS had won a contract of \$188 million to operate the Homestead temporary influx facility (Homestead) for unaccompanied migrant youth arriving at the U.S. border.⁹⁸ With the acquisition of CHS, which now operates as a wholly-owned Caliburn subsidiary,⁹⁹ Caliburn positioned itself to move into the business of detaining migrant children.

Although CHS has no background in the provision of child welfare services, it continues to expand its footprint in the detention of migrant children. The exact number of child migrant detention centers that CHS runs is difficult to ascertain: the company’s website is a blank page that redirects the viewer to Caliburn’s website,¹⁰⁰ and the Caliburn website contains no information regarding what facilities are run by CHS.¹⁰¹ To the contrary, the company makes only a single passing mention, on its webpage about its various “markets” (e.g. support for U.S. military operations and cleanup of nuclear and chemical waste), that its work “includes temporary and permanent shelter care services.”¹⁰² Nothing on Caliburn’s website links it in any way to the detention of migrants, or migrant children.¹⁰³

Newspaper reports and other third-party sources that have attempted to identify how many child migrant detention centers CHS operates have produced conflicting information.¹⁰⁴

⁹⁶ Caliburn Int’l Corp., Registration Statement (Form S-1) 118 (2018), <https://www.sec.gov/Archives/edgar/data/1750690/000119312518303218/d632104ds1.htm> [<https://perma.cc/V9E4-UDGH>] (hereinafter Caliburn Registration).

⁹⁷ *Id.* at 3.

⁹⁸ Contract Summary, Indefinite Delivery / Indefinite Quantity (IDIQ) Contract, PIID HHSP2332015001721, USASpending.gov, https://www.usaspending.gov/#/award/CONT_IDV_HHSP2332015001721_7555 (last viewed May 13, 2020), [<https://perma.cc/32A5-NXVU>].

⁹⁹ Comprehensive Health Services, COMPREHENSIVE HEALTH SERVICES <https://www.chsmedical.com/> (last viewed May 11, 2020) [<https://perma.cc/X8KE-9YDM>].

¹⁰⁰ *Id.*

¹⁰¹ Caliburn, CALIBURN, <https://www.caliburnintl.com/> (last viewed May 11, 2020) [<https://perma.cc/YWA4-BVU4>].

¹⁰² Markets, CALIBURN, <https://www.caliburnintl.com/markets/> (last viewed May 11, 2020) [<https://perma.cc/2SAU-J4PW>].

¹⁰³ Caliburn, *supra* note 101.

¹⁰⁴ See, e.g., AM. FRIENDS SERVICE COMM., INVESTIGATE, *The Corporate Interests Behind the Homestead Migrant Youth Detention Center* (Apr. 24, 2019), <https://investigate.afsc.org/updates/homestead-detention-center> [<https://perma.cc/KP2M-4C6W>] (CHS received additional licenses to operate three new youth detention centers in South Texas); Graham Kates, *Contractor that Holds Migrant Children Scraps Plans for Holiday Party at Trump Golf Club*, CBS NEWS (Nov. 25, 2019), <https://www.cbsnews.com/news/caliburn-international-holiday-party-trump-national-golf-club/> [<https://perma.cc/BNV6-PFL5>] (CHS is running at least four child migrant centers in Texas); Garance Burke & Martha Mendoza, *Trump Admin Shifting to Privatize Migrant Child Detention*, FRONTLINE (Oct. 3, 2019), <https://www.pbs.org/wgbh/frontline/article/trump-admin-shifting-to-privatize-migrant-child-detention/> (CHS operating six facilities including three “tender age” shelters in the Rio Grande Valley, with plans

According to these sources, CHS currently runs somewhere between three and six facilities for unaccompanied migrant youth in Texas’s Rio Grande Valley; some sources report that the company has plans to open an additional facility in El Paso County.¹⁰⁵ Caliburn’s lack of transparency surrounding CHS’s involvement in the detention of migrant youth makes it difficult for media outlets and other nongovernmental organizations to provide oversight on its operations or play any kind of watchdog function.

This lack of transparency extends to the company’s finances as well. Because Caliburn is not a public company and therefore does not have to make filings with the U.S. Securities and Exchange Commission (SEC),¹⁰⁶ a comprehensive picture of the company’s finances is difficult to piece together. It has, however, been reported that as of March 2019, CHS had received almost \$500 million from HHS to run Homestead.¹⁰⁷

The little information that has come out publicly about CHS’s expanding involvement in detaining migrant children has sounded alarm bells for child welfare and human rights advocates. Much of this concern arises from the company’s prior management of Homestead.¹⁰⁸ As a temporary emergency influx facility, Homestead was only meant to house children for a short period of time – no more than 20 days, according to the guideline set in the settlement agreement stemming from *Flores v. Reno* (the *Flores* Settlement Agreement).¹⁰⁹ In fact, during the period leading up to December 2018, children spent an average of 89 days in the detention center.¹¹⁰ Although this average is over four times the *Flores* guideline, Homestead enjoyed exemptions from state child welfare licensing and inspection due to its status as a “temporary influx center.”¹¹¹ This meant, for example, that

to open a seventh facility in El Paso.); Lauren Villagran, *Private Contractor Building Shelter for Unaccompanied Migrant Children in El Paso County*, EL PASO TIMES (Nov. 8, 2019), <https://www.elpasotimes.com/story/news/2019/11/08/shelter-unaccompanied-migrant-children-being-built-el-paso/2535077001/> [<https://perma.cc/Q66M-8RHY>].

¹⁰⁵ *Id.*

¹⁰⁶ See U.S. Private Companies, LIBRARY OF CONGRESS, *supra* note 75.

¹⁰⁷ *The Corporate Interests Behind the Homestead Migrant Youth Detention Center*, *supra* note 104.

¹⁰⁸ See generally AMNESTY INT’L, NO HOME FOR CHILDREN: THE HOMESTEAD “TEMPORARY EMERGENCY” FACILITY (2019) https://www.amnestyusa.org/wp-content/uploads/2019/07/Homestead-Report_1072019_AB_compressed.pdf [<https://perma.cc/R8CF-5R4Y>] (hereinafter NO HOME FOR CHILDREN). Homestead was put into “warm status” on November 30, 2019; this was a lukewarm victory for immigration activists, as warm status means that HHS still retains access to the facility and can re-open it at any time. See Alex Daugherty & Monique O. Madan, *HHS to Shutter Homestead Detention Center, A Victory for Immigration Activists*, WLRN (Oct. 28, 2019), <https://www.wlrn.org/post/hhs-shutter-homestead-detention-center-victory-immigration-activists#stream/0> [<https://perma.cc/T6U5-X83S>].

¹⁰⁹ Richard Gonzales, *Immigrant Advocates Ask Court to Release Unaccompanied Minors Detained In Florida*, NPR (May 31, 2019), <https://www.npr.org/2019/05/31/728822381/immigrant-advocates-ask-court-to-release-unaccompanied-minors-detained-in-florid> [<https://perma.cc/GT7B-5XL8>].

¹¹⁰ AMNESTY INT’L, *No Home for Children: US Government Detention of Children at Homestead Facility Cruel and Unlawful* (July 17, 2019), <https://www.amnestyusa.org/reports/no-home-for-children-us-government-detention-of-children-at-homestead-facility-cruel-and-unlawful/> [<https://perma.cc/8NZ3-D8DR>].

¹¹¹ NO HOME FOR CHILDREN, *supra* note 108, at 20. The *Flores* Settlement Agreement requires that minors be housed in detention facilities that meet certain minimum standards. See Abbie Gruwell, *Unaccompanied Minors and the Flores Settlement Agreement: What to Know*, NAT’L CONF. STATE LEGIS. (Oct. 30, 2018), <https://www.ncsl.org/blog/2018/10/30/unaccompanied-minors-and-the-flores-settlement-agreement-what-to-know.aspx> [<https://perma.cc/X6QC-3YL4>]; see also *Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children*, 84 Fed. Reg. 44392 (Aug. 23, 2019). However, in an emergency or if there is an influx of migrants, the government has more flexibility in these standards. *Id.*

CHS had no obligation to meet state educational standards, did not screen its employees through Florida’s child abuse and neglect background check system, and had fewer requirements in the provision of health care.¹¹²

In the absence of licensing and inspection, human rights violations occurred at Homestead. One example of this is sexual abuse of detained minors. Florida’s Department of Children and Families has said there were at least seven reports of sexual abuse at Homestead between June of 2018 and July of 2019.¹¹³ The actual number of incidents of sexual abuse that occurred at Homestead is likely higher: the telephone CHS provided for children to report sexual abuse allegations was located five feet away from a ping-pong table in the facility’s recreation room, creating a lack of privacy that may have dissuaded children from making reports.¹¹⁴

A snapshot of day-to-day life at Homestead illustrates conditions that one reporter described as “prison-like.”¹¹⁵ Children detained at Homestead were locked behind towering perimeter walls, with guards on patrol around the clock.¹¹⁶ Their schedules were regulated down to the minute: showers were limited to five minutes, mealtimes restricted to 15 minutes, and free time limited to less than two hours a day.¹¹⁷ A 16-year-old girl who was detained at Homestead told Amnesty International that if a child disobeyed any part of this highly regimented routine, “the child would be shadowed one-on-one at all times and made to sit in a separate space in the classroom and during meals.”¹¹⁸ Family contact was also severely restricted: CHS limited the children’s telephone calls with family members to ten minutes, twice a week,¹¹⁹ and forbade siblings who were detained together to hug each other.¹²⁰ Testimonials taken from children at Homestead and filed in federal court told stories of fear, anxiety and depression, with some children cutting themselves in response to their living conditions.¹²¹

Another cause of public outcry about Homestead stemmed from Caliburn’s connection to former White House Chief of Staff John Kelly.¹²² As this report discusses in detail in Section IV

¹¹² *The Corporate Interests Behind the Homestead Migrant Youth Detention Center*, *supra* note 104.

¹¹³ Monique O. Madan, ‘Children Should Not Be Detained’: Homestead Center Violating Rights, *Amnesty Says*, MIAMI HERALD (July 19, 2019) <https://www.miamiherald.com/news/local/immigration/article232831982.html> [<https://perma.cc/Z8LA-GPDJ>].

¹¹⁴ *Id.*

¹¹⁵ Jerry Iannelli & Tarpley Hitt, *Feds Holding 1,000 Migrant Children at Miami-Area Compound, Lawmaker Says*, MIAMI NEW TIMES (June 18, 2018), <https://www.miaminewtimes.com/news/1000-migrant-children-held-in-homestead-florida-wasserman-schultz-says-10451472> [<https://perma.cc/WJV4-LGWA>]. Lawyers for detained children have also described conditions in similar terms. See Kates, *Contractor Scraps Plans*, *supra* note 104.

¹¹⁶ Madan, ‘Children Should Not Be Detained’, *supra* note 113.

¹¹⁷ Skyler Swisher, ‘They Don’t Belong here.’ *Democratic Candidates Use Homestead Migrant Shelters as Backdrop to Blast Trump Immigration Policies.*, S. FLA. SUN-SENTINEL (Jun. 26, 2019), <https://www.sun-sentinel.com/news/politics/fl-ne-homestead-shelter-politics-20190625-t5ofcxhvlvch3eso2jqc5htltu-story.html> [<https://perma.cc/6ZFT-G5SQ>].

¹¹⁸ NO HOME FOR CHILDREN, *supra* note 108, at 24.

¹¹⁹ Swisher, *supra* note 117.

¹²⁰ Madan, ‘Children Should Not Be Detained’, *supra* note 113.

¹²¹ Kates, *Contractor Scraps Plans*, *supra* note 104.

¹²² See, e.g., Julia Conley, ‘Sick, Dystopian Stuff’: Former Trump Adviser Kelly Joins Board of Company Running Immigrant Detention Centers, COMMON DREAMS (May 3, 2019), <https://www.commondreams.org/news/2019/05/03/sick-dystopian-stuff-former-trump-adviser-kelly-joins-board-company-running> [<https://perma.cc/9JDM-NRYA>]. Critics argue that the over \$222 million Caliburn received in government contracts from 2018 to 2019 to operate its detention centers is a flagrant conflict of

below, Kelly was involved in the Trump administration’s implementation of the zero-tolerance policy at the U.S.-Mexico border that led to the separation of thousands of migrant children from their families in 2018, resulting in their subsequent placement in facilities such as Homestead.¹²³ Kelly then left the White House and joined the board of Caliburn, where he profited financially off of the very policy he helped create while serving in the government.¹²⁴ The negative publicity surrounding Kelly’s actions – an extreme example of a form of influence-peddling known colloquially as the “revolving door” – may be part of what led the government to decline to renew its contract with Caliburn in 2019.¹²⁵ However, while the closing of Homestead was cited by advocates and activists as a victory against PSCs, this “victory” may prove short-lived: Homestead remains in “warm status,” ready to reopen at any time, and if it reopens, nothing prevents Caliburn from obtaining the contract to run it once again.¹²⁶

CoreCivic

CoreCivic – formerly known as Corrections Corporation of America (CCA) – is one of the most prominent players in migrant detention in the United States. Founded in 1983, CoreCivic reported \$1.98 billion in total annual revenue in 2019.¹²⁷ As of April 2020, CoreCivic houses a combination of U.S. citizen prisoners and migrants in approximately 120 facilities throughout the United States.¹²⁸ While the company has long been primarily associated with the private prison business, it actually entered the migrant detention business in the same year it was founded.¹²⁹ In 1983, CoreCivic was one of the first private companies to detain migrants when it converted a motel in Houston, Texas into a detention center, where it detained 87 undocumented migrants on the first day of business.¹³⁰ Later, in 2006, CoreCivic increased its presence in the migrant detention sector by being one of the first companies to convert a

interest, especially as the number of children held in U.S. detention has skyrocketed as a result of policies Kelly shaped during his time at the White House. *Id.*

¹²³ Salvador Rizzo, *John F. Kelly Joins Board of Contractor Running Shelters for Migrants*, WASH. POST (May 4, 2019), https://www.washingtonpost.com/politics/john-kelly-joins-board-joins-board-of-contractor-running-shelter-for-migrant-teens/2019/05/04/e28000fc-6e87-11e9-a66d-a82d3f3d96d5_story.html [<https://perma.cc/D7KU-TSGP>].

¹²⁴ Kates, *Contractor Scraps Plans*, *supra* note 104.

¹²⁵ See Daugherty & Madan, *supra* note 108.

¹²⁶ See *Id.* Rumbings of Homestead’s reopening have been swelling since the new year. On January 13, 2020, two federal sources from the Department of Homeland Security said that Homestead may be opening in the coming months if the number of unaccompanied minors crossing the border keeps rising; whether or not it would still be run by Caliburn is unclear. See Monique O. Madan, *Homestead May be Reopening to House Minors, Feds Say. If So, Who Will Land the Contract?*, MIAMI HERALD (Jan. 13, 2020), <https://www.miamiherald.com/news/local/immigration/article239249613.html> [<https://perma.cc/GRT5-AQ7B>].

¹²⁷ CoreCivic, Inc., Annual Report (Form 10-K) 5, F-6 (Feb. 20, 2020), <http://ir.corecivic.com/static-files/78f48d3d-5df1-44e2-ba20-fce435193496> [<https://perma.cc/GW33-KKZS>] (hereinafter CoreCivic 2019 Annual Report).

¹²⁸ See Find a Facility, CORECIVIC.COM, <https://www.corecivic.com/facilities> (last visited May 10, 2020) [<https://perma.cc/B4KT-A9BK>] (listing 122 CoreCivic-owned or run facilities, including facilities run for ICE, state departments of corrections, and USMS).

¹²⁹ Shane Bauer, *Today It Locks Up Immigrants. But CoreCivic’s Roots Lie in the Brutal Past of America’s Prisons*, MOTHER JONES (Sept. 2018), <https://www.motherjones.com/crime-justice/2018/09/corecivic-private-prison-shane-bauer-book/> [<https://perma.cc/9BNZ-3Q2R>].

¹³⁰ *Id.*

prison into an immigration facility, when it opened the T. Don Hutto Residential Center in Taylor, Texas.¹³¹ This facility became, for a time, the largest family migrant detention center in the United States.¹³²

CoreCivic has continued to expand its capacity in the migrant detention sphere in recent years. In 2014, the company received a \$1 billion no-bid contract from the federal government to operate a family detention center in Dilley, Texas.¹³³ That facility—the South Texas Family Residential Center—is now the largest family detention center in the United States.¹³⁴ By 2017, approximately 21% of migrant detainees in the United States were kept in CoreCivic facilities.¹³⁵ Between 2018 and 2019, the number of CoreCivic-operated facilities that had ICE as its primary customer increased by 50%.¹³⁶ During this time, CoreCivic also spent tens of millions of dollars to expand at least one such facility – the Otay Mesa Detention Center, near San Diego, CA.¹³⁷ By the end of 2019, counting only those CoreCivic facilities with ICE as the primary customer, the company had the capacity to house 16,398 migrants.¹³⁸ For context, in May 2019, ICE was detaining approximately 52,000 migrants.¹³⁹

As migrant detention has soared in recent years, contracts with ICE have become an increasingly important part of CoreCivic’s business plan. In 2007, CoreCivic relied on ICE for only 13% of its revenue, whereas state customers accounted for 49% of revenue, and BOP and USMS combined to account for 27% of revenue.¹⁴⁰ By 2017, however, that number had nearly doubled, as CoreCivic received a full 25% of its revenue from ICE.¹⁴¹ This trend has

¹³¹ Terry Cook, *The Long Road to T. Don Hutto*, AUSTIN AM.-STATESMAN (June 28, 2018) <https://www.statesman.com/news/20180628/terry-cook-the-long-road-to-t-don-hutto> [<https://perma.cc/2EFB-QSE4>].

¹³² Bauer, *supra* note 129. Since 2009, ICE detains only women at the Hutto facility. *Id.*

¹³³ Chico Harlan, *Inside the Administration’s \$1 Billion Deal to Detain Central American Asylum Seekers*, WASH. POST (Aug. 14, 2016), https://www.washingtonpost.com/business/economy/inside-the-administrations-1-billion-deal-to-detain-central-american-asylum-seekers/2016/08/14/e47f1960-5819-11e6-9aee-8075993d73a2_story.html [<https://perma.cc/Z6Z5-86BM>].

¹³⁴ AM. FRIENDS SERVICE COMM., INVESTIGATE, *CoreCivic Inc.*, <https://investigate.afsc.org/company/corecivic> (last visited May 10, 2020) [<https://perma.cc/XW4F-2QZW>]. As of July 2019, South Texas Residential Center accounted for over 70 % of ICE’s family detention bed space.

¹³⁵ Hauwa Ahmed, *How Private Prisons Are Profiting Under the Trump Administration*, CTR. AM. PROGRESS (Aug. 30, 2019), <https://www.americanprogress.org/issues/democracy/reports/2019/08/30/473966/private-prisons-profiting-trump-administration/> [<https://perma.cc/Z9DV-LE3R>].

¹³⁶ *Compare* CoreCivic, Inc., Annual Report (Form 10-K) 15-23 (Feb. 25, 2019), <http://ir.corecivic.com/static-files/60371436-e930-40bc-8cfa-830d12b4edd0> [<https://perma.cc/NVR8-GJJC>] (hereinafter CoreCivic 2018 Annual Report) (listing eight facilities with ICE as the primary customer) *with* CoreCivic 2019 Annual Report, *supra* note 127, at 17-22 (listing 12 facilities with ICE as the primary customer).

¹³⁷ CoreCivic 2018 Annual Report, *supra* note 136 at 23 (showing that Otay Mesa Detention Center was undergoing a \$43 million expansion, with \$14.3 million spent as of December 31, 2018).

¹³⁸ CoreCivic 2019 Annual Report, *supra* note 127, at 17-22. This bed total does not take into account facilities that may have ICE as the non-primary customer.

¹³⁹ Jessica Campisi, *More than 52,000 Migrants Detained by ICE Marks All-Time High*, THE HILL, (May 21, 2019), <https://thehill.com/homenews/administration/444730-more-than-52000-migrants-detained-by-ice-marks-all-time-high> [<https://perma.cc/DNG6-C264>].

¹⁴⁰ Madison Pauly, *Trump’s Immigration Crackdown is a Boom Time for Private Prisons*, MOTHER JONES, (May 2018), <https://www.motherjones.com/politics/2018/05/trumps-immigration-crackdown-is-a-boom-time-for-private-prisons/> [<https://perma.cc/C9MF-3HMQ>]; CoreCivic, Inc., Annual Report (Form 10-K) 15 (Feb. 27, 2008), <http://ir.corecivic.com/static-files/cc8d243b-b24f-4b0e-8e3e-030df030eef4> [<https://perma.cc/5K4D-AUAA>].

¹⁴¹ Pauly, *Trump’s Immigration Crackdown*, *supra* note 140.

continued through the present: in 2019, CoreCivic relied on ICE for 29% of its \$1.98 billion revenue.¹⁴²

CoreCivic's growth has led to increased scrutiny and criticism of the way the company treats the people housed in its facilities. In 2016, after spending four months working undercover as a guard at one of CoreCivic's facilities in Louisiana, an investigative journalist published a book and a series of investigative reports detailing, among other things, troubling practices at the facility.¹⁴³ This exposé emphasized how understaffed the facility was, and highlighted numerous instances of detainees being— sometimes violently—mistreated by guards.¹⁴⁴ Four months later, the company changed its name of over 30 years from Corrections Corporation of America to CoreCivic.¹⁴⁵ While the company's CEO stated at the time that the name change was intended to reflect "how the business has changed and how [they] have diversified,"¹⁴⁶ the move was seen by many as a rebranding effort designed to distance the company from significant negative publicity.¹⁴⁷

As it moves further into the migrant detention business, one of the main challenges CoreCivic faces is how to capitalize on the economic opportunities presented by migrant detention while avoiding the negative publicity that can result from doing so. At the same time as the company has made increasing profits from the Trump administration's immigration policies, it has expressed ongoing concern about how its image and profits could be damaged by negative public perception of its involvement in migrant detention, particularly the detention of families and children. For example, the company recently told shareholders that the reason its stock dropped significantly in 2018 was because of "controversy regarding certain administration policies, including aspects of the administration's Zero Tolerance Border Policy."¹⁴⁸ A financial report from late 2019 reveals that CoreCivic had identified an increase in "activist resistance" to such policies as one of the biggest "risk factors that could materially affect [CoreCivic's] business, financial condition or future prospects."¹⁴⁹ This risk became reality in 2019 when some of the nation's biggest banks—including JPMorgan Chase, Bank of America, and Wells Fargo—all announced that they would no longer provide financing for

¹⁴² CoreCivic 2019 Annual Report, *supra* note 127, at 12.

¹⁴³ Bauer, *supra*, note 129.

¹⁴⁴ *Id.* See also Shane Bauer, *My Four Months as a Private Prison Guard*, MOTHER JONES (July 2016), <https://www.motherjones.com/politics/2016/06/cca-private-prisons-corrections-corporation-inmates-investigation-bauer/> [https://perma.cc/E4RM-PNBZ].

¹⁴⁵ *Corrections Corporation of America Rebrands as CoreCivic*, CORECIVIC (Oct. 28, 2016), <https://www.corecivic.com/news/corrections-corporation-of-america-rebrands-as-corecivic> [https://perma.cc/2SLZ-HB69].

¹⁴⁶ Devlin Barrett, *Private-Prison Firm CCA to Rename Itself CoreCivic*, WALL ST. J. (Oct. 28, 2016), <https://www.wsj.com/articles/private-prison-firm-cca-to-rename-itself-corecivic-1477666800> [https://perma.cc/48LR-7HP6].

¹⁴⁷ Becca Andrews, *Private Prison Company Frees Itself From Its Old Corporate Identity*, MOTHER JONES (Oct. 28, 2016), <https://www.motherjones.com/politics/2016/10/corrections-corporation-america-private-prison-rebranding/> [https://perma.cc/QW4L-H69P].

¹⁴⁸ Proxy Statement, CoreCivic, Inc. 30 (May 16, 2019), <http://ir.corecivic.com/static-files/0856d086-bf0e-42bf-804d-bb8e0d2482a0> [https://perma.cc/S46U-C27Y].

¹⁴⁹ CoreCivic, Inc., Quarterly Report (Form 10-Q) 48 (Nov. 7, 2019), <http://ir.corecivic.com/static-files/232c7e80-59e7-45a6-ab32-ff6da36ee76a> [https://perma.cc/57QT-52KQ].

companies that operate private detention centers and private prisons due to public outrage over the mistreatment of migrant children.¹⁵⁰

CoreCivic has responded to these concerns by mounting an aggressive marketing and public relations campaign that seeks to control the narrative around its activities. Aware that detaining children has caused particular public outrage, the company recently added a “Facts” section to its website where it assures the public that it “do[es] not and will not operate facilities for the purpose of housing unaccompanied migrant children.”¹⁵¹ This webpage makes no mention of the fact that the company does detain hundreds of children at its family detention center, the largest such facility in the country.¹⁵² Aware of public concern over its outsized presence in, and profits from, migrant detention, the company has adopted the slogan: “A Valued But Limited Role in America’s Immigration System.”¹⁵³ A similar phrase appears in online materials created by the Day 1 Alliance, a new trade association founded by CoreCivic, GEO, and MTC that is “dedicated to educating and informing Americans on the small but valued role the private sector plays in addressing corrections and detention challenges in the United States.”¹⁵⁴

CoreCivic’s current marketing rhetoric seeks to portray the company as a provider of social services and a protector of human rights. For example, the company presents its family detention center as a place that affirmatively “provides families with medical services like vaccinations, legal assistance for immigration cases, and Pre-K through 12th-grade schooling.”¹⁵⁵ Further, it positions itself as the solution to human rights violations occurring in government-owned facilities, such as overcrowding and poor conditions: “[e]nding the use of private contractors like [CoreCivic] would lead to more and worse humanitarian crises,”¹⁵⁶ the company warns on its website. As Section V of this report will explore, this rhetoric stands in contrast to the company’s troubled human rights record.

The GEO Group, Inc.

The GEO Group, Inc. (GEO) is one of the largest PSCs in the United States engaged in migrant detention and related regulation of migrants. It was formed in 1984 under the name

¹⁵⁰ N’dea Yancey-Bragg, *Bank of America to Cut Ties with Companies that Help Run Immigrant Detention Centers, Private Prisons*, USA TODAY, (June 27, 2019) <https://www.usatoday.com/story/money/2019/06/27/bank-america-cut-ties-detention-centers-private-prisons/1589221001/> [<https://perma.cc/F793-EKK7>].

¹⁵¹ 10 Facts About CoreCivic, CORECIVIC, <https://www.corecivic.com/private-detention> (last visited May 10, 2020) [<https://perma.cc/5VKT-7RRR>].

¹⁵² *The Dilley Pro Bono Project*, AM. IMMIGRATION LAW. ASS’N (Oct. 30, 2019), <https://www.aila.org/practice/pro-bono/find-your-opportunity/family-detention-pro-bono-project> [<https://perma.cc/X7DS-5GK8>]. The children detained at the South Texas Family Residential Center are not unaccompanied minors; they are detained with their mothers. *Id.*

¹⁵³ 10 Facts About CoreCivic, *supra* note 151.

¹⁵⁴ Day 1 Alliance Launches As United Voice For Private Sector In Corrections & Detention, DAY 1 ALLIANCE, (Oct. 25, 2019) <https://day1alliance.org/resource/day-1-alliance-launches-as-united-voice-for-private-sector-in-corrections-and-detention/> (last visited May 10, 2020) [<https://perma.cc/R78U-SD64>].

¹⁵⁵ 10 Facts About CoreCivic, *supra* note 151.

¹⁵⁶ *Id.*

Wackenhut Corrections Corporation,¹⁵⁷ and received its first ICE contract in 1987.¹⁵⁸ As of December 2019, GEO managed and/or owned 95,000 beds within 129 correctional and detention facilities around the world,¹⁵⁹ of which 65 facilities and 74,452 beds are in the U.S.¹⁶⁰ These include 15 migrant detention facilities – with a total capacity of 16,055 beds – that are owned as well as managed by GEO, nine of which are under direct contract with ICE and six of which GEO operates under an intergovernmental agreement between ICE and a local government.¹⁶¹ GEO owns and operates two additional facilities, with a combined capacity of 3,049 beds, that detain migrants under contracts with USMS.¹⁶² In addition to these GEO-owned facilities, GEO may also manage additional migrant detention facilities under contracts with local governments.¹⁶³

GEO received its first contract with ICE in 1987 for the Aurora ICE Processing Center in Colorado, a migrant detention facility,¹⁶⁴ which GEO continues to own and operate to date.¹⁶⁵ The Aurora ICE Processing Center, which held 150 immigrants in 1987,¹⁶⁶ has the capacity to hold 1,532 immigrants as of December 2019.¹⁶⁷ Other GEO facilities that hold migrants include, among others: Adelanto Processing Center in Adelanto, California, with a capacity of 1,940;¹⁶⁸ Karnes County Family Residential Center in Karnes City, Texas, with a capacity of 1,158;¹⁶⁹ South Texas ICE Processing Center in Pearsall, Texas, with a capacity of 1,904;¹⁷⁰ and Rio Grande Processing Center in Laredo, Texas with a capacity of 1,900.¹⁷¹ All of these facilities

¹⁵⁷ Geo Group History Timeline, GEO GROUP, https://www.geogroup.com/history_timeline (last visited May 7, 2020) [<https://perma.cc/P3B5-RFVR>].

¹⁵⁸ *Id.*

¹⁵⁹ GEO Group, Annual Report (Form 10-K) 3 (Feb. 26, 2020), <http://investors.geogroup.com/Cache/IRCache/cdf2d868-2ef2-d95f-6096-954030483167.pdf> [<https://perma.cc/H29K-VQZB>] (hereinafter GEO 2019 Annual Report).

¹⁶⁰ Our Service Locations, GEO GROUP, <https://www.geogroup.com/Locations> (last visited May 7, 2020) [<https://perma.cc/4RMR-Z6QC>].

¹⁶¹ See Supplemental Information: Fourth Quarter and Full Year 2019 at 20, GEO GROUP, <http://investors.geogroup.com/Cache/IRCache/08e037c9-0026-e36e-c693-75ab3e61a687.PDF?O=PDF&T=&Y=&D=&FID=08e037c9-0026-e36e-c693-75ab3e61a687&iid=4144107> [<https://perma.cc/9F8J-BEAF>] [hereinafter GEO 2019 Supplemental Information].

¹⁶² See *id.*; Authorized Dedicated & Non-Dedicated Facility Lists, *supra* note 65.

¹⁶³ See GEO 2019 Supplemental Information, *supra* note 161, at 23; Authorized Dedicated and Non-Dedicated Facility Lists, *supra* note 65; Detention Facility Locator, *supra* note 65.

¹⁶⁴ Geo Group History Timeline, *supra* note 157.

¹⁶⁵ Our Locations: Aurora ICE Processing Center, GEO GROUP, <https://www.geogroup.com/FacilityDetail/FacilityID/31> (last visited May 7, 2020) [<https://perma.cc/JG6C-RAPU>].

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*; GEO 2019 Annual Report, *supra* note 159, at 10.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.* at 12.

¹⁷⁰ *Id.* at 13.

¹⁷¹ *Id.*

hold adults,¹⁷² with the exception of Karnes, which houses women and their minor children.¹⁷³

In addition to migrant detention, GEO also contracts with ICE to provide transportation and electronic monitoring services. GEO's subsidiary, GEO Transport, Inc. (GTI), provides transportation services of migrants from one detention center to another.¹⁷⁴ Another GEO wholly owned subsidiary, B.I. Incorporated (BI Inc.), contracts with ICE to provide a range of "alternatives to detention."¹⁷⁵ BI Inc. runs ICE's Intensive Supervision Appearance Program III (ISAP III),¹⁷⁶ which subjects participants to various levels of monitoring and supervision, including telephonic reporting, GPS tracking through ankle monitors, and a smartphone tracking application.¹⁷⁷ As of March 2020, BI Inc. was responsible for monitoring almost 90,000 migrants in ISAP III, more than 35,000 of whom wore electronic ankle bracelets.¹⁷⁸

GEO's migrant-related work is an exceptionally lucrative portion of its business. The company's overall revenue has grown from \$40 million in 1991 to nearly \$2.5 billion in 2019.¹⁷⁹ Much of this growth in recent years is attributable to GEO's migrant-related work. In terms of revenue, ICE was GEO's largest customer in 2019, generating 29% of its 2019 revenue of \$2.48 billion,¹⁸⁰ rising steadily from 18% of its 2015 revenue of \$1.84 billion.¹⁸¹ These revenue figures, sizeable as they are, appear not to include revenue from migrant-related

¹⁷² Adelanto Processing Center PREA Audit at 2, 4, GEO GROUP (Oct. 19, 2017), https://www.geogroup.com/Portals/0/PREA_Certifications/2017/Adelanto%20Final%20Report%20May2017.pdf [https://perma.cc/4QY4-CGPT]; Rio Grande Processing Center PREA Audit at 23, GEO GROUP (Aug. 1, 2016), https://www.geogroup.com/Portals/0/PREA_Certifications/Rio%20Grande%20Detention%20Center.pdf [https://perma.cc/VM5J-6X5N]; Our Locations: South Texas Processing Center, GEO GROUP, <https://www.geogroup.com/FacilityDetail/FacilityID/44> [https://perma.cc/E8BP-EGFN].

¹⁷³ Karnes Family Residential Center PREA Audit at 2, 4, GEO GROUP (Aug. 17, 2017), https://www.geogroup.com/Portals/0/PREA_Certifications/2017/KarnesCountyRC-052017%20PREA%20Certification%20Report.pdf [https://perma.cc/6PBH-QSRT]. From April to November 2019, Karnes held adult women only. But it has operated as a family detention center at all other times. See Isabela Diaz, *When ICE Emptied Out an All-Women Detention Center in Texas, Chaos Ensued*, TEXAS OBSERVER (Nov. 6, 2019), <https://www.texasobserver.org/ice-karnes-all-women-detention/> [https://perma.cc/C953-FWGH].

¹⁷⁴ Secure Transportation, GEO GROUP, https://www.geogroup.com/GEO_Transport_Inc (last visited May 7, 2020) [https://perma.cc/FD6J-ZU72].

¹⁷⁵ Electronic Monitoring, GEO GROUP, https://www.geogroup.com/Electronic_Monitoring (last visited May 7, 2020) [https://perma.cc/N8XC-KW5Z].

¹⁷⁶ Immigration Services, BI INC., <https://bi.com/immigration-services/> (last visited May 7, 2020) [https://perma.cc/HF2P-ZP6U]; Ruthie Epstein, *ICE is using an alternative to immigrant detention. But it's inhumane*, WASH. POST (Sep. 5, 2018), <https://www.washingtonpost.com/news/worldpost/wp/2018/09/05/trump-immigrants-2/> [https://perma.cc/EHY9-D5AN].

¹⁷⁷ See ICE Alternatives to Detention (ATD) Program, on Detention Management webpage, U.S. IMMIG. & CUST. ENFORCEMENT, <https://www.ice.gov/detention-management#tab2> (last visited May 7, 2020) [https://perma.cc/64KM-5AMB]; Products and Services, BI INC., <https://bi.com/products-and-services/> (last visited May 7, 2020) [https://perma.cc/4BQD-F7SX].

¹⁷⁸ ICE Alternatives to Detention (ATD) Program, *supra* note 177.

¹⁷⁹ GEO Form 10-K for 2019, *supra* note 159, at 3.

¹⁸⁰ GEO 2019 Supplemental Information, *supra* note 161, at 4, 12.

¹⁸¹ Supplemental Information: Fourth Quarter and Full Year 2015 at 4, 12, GEO GROUP, <https://www.snl.com/Cache/IRCache/63a4c50c-884f-91fd-e96f-93345a3a0112.PDF?O=PDF&T=&Y=&D=&FID=63a4c50c-884f-91fd-e96f-93345a3a0112&iid=4144107> [https://perma.cc/W63S-WX2A].

work under contracts with local governments or USMS. Taking account of that additional revenue would make GEO's total migrant-related revenue even larger.¹⁸²

GEO has spent a considerable amount of money on campaign contributions and lobbying efforts, suggesting a strategy "to build political influence."¹⁸³ For instance, one day after the Obama administration's August 2016 announcement that it would phase out its use of private correctional prisons, a GEO subsidiary reportedly gave \$100,000 to a pro-Trump super PAC (political action committee) named Rebuilding America Now.¹⁸⁴ A month after the Obama administration ordered a review of ICE's use of private detention facilities, GEO Corrections Holdings donated \$125,000 to the same super PAC.¹⁸⁵ During the 2016 presidential campaign, GEO reportedly gave \$225,000 to a Trump-supporting super PAC, while its own CEO and political action committee gave \$225,000 to a committee that backed Trump and other Republican efforts.¹⁸⁶ When President Trump was elected, GEO donated \$250,000 to his inaugural committee to support festivities celebrating the inauguration.¹⁸⁷

Expenditures to build political influence have continued since the election. In 2017, GEO reportedly paid \$3.2 million to professional lobbyists and spent \$4.7 million on political contributions.¹⁸⁸ That same year, GEO moved its annual conference from its usual location near its headquarters in Boca Raton, Florida, to the Trump National Doral Miami golf resort.¹⁸⁹ The company's vice president has reported staying at the Trump International Hotel in Washington at least 10 times.¹⁹⁰

In addition to spending millions on lobbying and political contributions, GEO has resisted state regulation. When California enacted a law prohibiting the creation or extension of contracts for private detention facilities within that state, GEO sued California in federal court to strike the law down.¹⁹¹ The Trump administration filed suit challenging the law as well.¹⁹² Signed in mid-October 2019, the law permitted the operation of facilities that had a valid government contract as of its effective date of January 1, 2020.¹⁹³ To take advantage of this exception, ICE immediately solicited bids for private detention facilities in California, and on December 20, 2019, entered into two 15-year contracts with GEO — together worth \$3.7 billion.¹⁹⁴ These

¹⁸² *See id.*

¹⁸³ Snitzer, *supra* note 86.

¹⁸⁴ Alvarado et al., *supra* note 7.

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ Snitzer, *supra* note 86.

¹⁸⁸ *Id.*

¹⁸⁹ Alvarado et al., *supra* note 7.

¹⁹⁰ *Id.*

¹⁹¹ Rebecca Plevin, *4 Things We Learned From GEO Group's Lawsuit Over Immigration Detention in California*, DESERT SUN (Jan. 2, 2020), <https://www.desertsun.com/story/news/2020/01/02/4-things-we-learned-geo-groups-lawsuit-over-immigration-detention-california/2798568001/> [<https://perma.cc/74CH-B3B5>].

¹⁹² Liam Dillion, *Trump Administration Sues California Over Private Prison Ban*, DESERT SUN (Jan. 25, 2020), https://www.desertsun.com/story/news/crime_courts/2020/01/25/trump-administration-sues-california-over-private-prison-ban/4579277002/ [<https://perma.cc/XY4J-9ETL>].

¹⁹³ Rebecca Plevin, *ICE Signs Long-term Contracts Worth Billions for Private Detention Centers, Dodging New State Law*, DESERT SUN (Dec. 22, 2019), <https://www.desertsun.com/story/news/2019/12/20/ice-signs-long-term-contracts-private-detention-centers-two-weeks-ahead-state-law/2713910001/> [<https://perma.cc/MXP8-YFC7>].

¹⁹⁴ *Id.*

contracts will allow the continued operation of GEO's Adelanto and Mesa Verde detention centers, and additionally will allow GEO to expand its migrant detention capacity by converting three nearby GEO-owned prisons into detention facilities for migrants.¹⁹⁵

Immigration Centers of America

Immigration Centers of America (ICA) was founded in 2007¹⁹⁶ by a group of businessmen from Virginia.¹⁹⁷ Since the company's founding, it has exclusively provided migrant detention and transportation services for ICE.¹⁹⁸

ICA currently operates a single migrant detention facility, the Farmville Detention Center, in the town of Farmville, Virginia, 70 miles from the state capital, Richmond.¹⁹⁹ Farmville Detention Center is owned by Prince Edward County and run by ICA under an Intergovernmental Services Agreement (IGSA).²⁰⁰ The facility opened in August 2010.²⁰¹ In 2011, the DHS Office of Detention Oversight wrote, "The facility is wholly dedicated to housing only ICE detainees for periods in excess of 72 hours."²⁰² By 2018, over 25,000 immigrants had passed through Farmville Detention Center, according to ICA.²⁰³

The Farmville Detention Center predominantly holds adult men,²⁰⁴ although a 2012 inspection by ICE Enforcement and Removal Operations (ERO) indicated that sometimes a

¹⁹⁵ Plevin, *4 Things We Learned*, *supra* note 191.

¹⁹⁶ See Certificate of Organization, Immigration Centers of America – Farmville LLC, VA. ST. CORP. COMM'N (June 6, 2007),

<https://cis.scc.virginia.gov/EntitySearch/BusinessInformation?businessId=500593&source=FromEntityResult&isSeries=False> [<https://perma.cc/S3BU-39VF>]; Certificate of Organization, Immigration Centers of America LLC, VA. ST. CORP. COMM'N (June 6, 2007),

<https://cis.scc.virginia.gov/EntitySearch/BusinessInformation?businessId=500600&source=FromEntityResult&isSeries=False> [<https://perma.cc/S3BU-39VF>]. On June 6, 2007, the Virginia State Corporation Commission issued several separate certificates of incorporation to entities sharing the same address: one to an entity called "Immigration Centers of America LLC," another "Immigration Centers of America – Farmville LLC," and one to "ICA LLC."

¹⁹⁷ Sue Sturgis, *Richmond Investors Plan to Cash in on Immigrant Detainees*, FACING SOUTH (Oct. 14, 2008), <https://www.facingsouth.org/2008/10/richmond-investors-plan-to-cash-in-on.html> ("The company [is] owned by two real estate developers and the CEO of a company that sells industrial mixers to bakeries...") [<https://perma.cc/YTX9-FNV2>].

¹⁹⁸ Immigration Centers of America Proposal to Michigan Land Bank Fast Track Authority at 4 (Oct. 1, 2018), http://media.woodtv.com/nxs-woodtv-media-us-east-1/document_dev/2018/10/16/ICA%20detention%20center%20Michigan%20Land%20Bank%20RFIQ_1539728247646_59192410_ver1.0.pdf [<https://perma.cc/E5ZA-84CL>] [hereinafter ICA Proposal].

¹⁹⁹ Location, ICA-FARMVILLE, https://ica-farmville.com/?page_id=43 (last visited May 9, 2020) [<https://perma.cc/E7AT-SXKJ>].

²⁰⁰ FREEDOM FOR IMMIGRANTS, *Detention in Your District: Virginia Congressional District 5* (Dec. 2019), <https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5dfd48d92fe264098a51d003/1576880346541/DIYD+VA5+v2+Final.pdf> [<https://perma.cc/828V-3QNV>].

²⁰¹ U.S. DEP'T HOMELAND SEC., IMMIG. & CUST. ENFORCEMENT, OFFICE PROF. RESPONSIBILITY, OFFICE OF DETENTION OVERSIGHT QUALITY ASSURANCE REVIEW: IMMIGRATION CENTERS OF AMERICA-FARMVILLE 1 (Mar. 1-3, 2011), <https://www.documentcloud.org/documents/2388774-ica-farmville-va-2011-odo-inspection.html> [<https://perma.cc/6Q8U-56GP>].

²⁰² *Id.*

²⁰³ ICA Proposal, *supra* note 198, at 4.

²⁰⁴ Mallory Noe-Payne, *Five Questions Answered About Farmville's ICE Detention Facility*, WVTF (Jan. 7, 2020), <https://www.wvtf.org/post/five-questions-answered-about-farmville-s-ice-detention-facility#stream/0> [<https://perma.cc/8TMW-UBSH>].

small number of adult women are also detained there.²⁰⁵ In 2012, ERO listed Farmville’s current bed space as 584,²⁰⁶ but a subsequent report by ICE’s Office of Detention Oversight (ODO) indicated that the bed capacity had increased to 1,752 by 2015.²⁰⁷ For that same year, ODO reported an average daily population of 734 detainees.²⁰⁸ As of 2020, ICE pays a guaranteed minimum of \$119.82 per person per day for the first 500 detainees held at ICA-Farmville.²⁰⁹ For any additional detainees over 500, ICE pays \$28.26 per person.²¹⁰

A separate limited liability company sharing the same business address as Immigration Centers of America is registered in Virginia under the name ICA Transportation, LLC.²¹¹ In a proposal that ICA prepared for a town where it hoped to open a new facility, ICA noted that as of 2018, they “have logged over 8.1 million miles of successful and safe transportation” of migrants for ICE.²¹²

ICA does not appear to have attempted to expand for much of its first decade. However, over the past few years, ICA has sought to open new detention centers in Illinois, Wisconsin, Michigan, and Maryland.²¹³ In September 2018, the Virginia State Corporation Commission issued certificates of organization for three new LLCs that share ICA’s business address in Richmond, Virginia: ICA-II, LLC; ICA-III, LLC; and ICA-IV, LLC.²¹⁴ These new LLCs may correspond

²⁰⁵ Memorandum from Assistant Director for Custody Management, U.S. Immig. & Cust. Enforcement, to Enrique M. Lucero, Field Office Director, Washington Field Office, U.S. Immig. & Cust. Enforcement, Re: Immigration Centers of America Farmville Annual Review 2012, at 2 (May 29, 2012), <https://www.documentcloud.org/documents/2388771-ica-farmville-va-2012-ero-inspection.html> (Listing the average daily population of adult males as 351, and adult females as 48) [<https://perma.cc/G5Y7-NG9P>].

²⁰⁶ *Id.*

²⁰⁷ U.S. DEP’T HOMELAND SEC., IMMIG. & CUST. ENFORCEMENT, OFFICE PROF. RESPONSIBILITY, OFFICE OF DETENTION OVERSIGHT QUALITY ASSURANCE REVIEW: IMMIGRATION CENTERS OF AMERICA-FARMVILLE 2 (July 7-9, 2015), <https://www.documentcloud.org/documents/2840181-2015FarmvilleVA.html> [<https://perma.cc/7PZ7-F7S9>].

²⁰⁸ *Id.*

²⁰⁹ U.S. DEP’T HOMELAND SEC., IMMIG. & CUST. ENFORCEMENT, BUDGET OVERVIEW FISCAL YEAR 2020, at 118, https://www.dhs.gov/sites/default/files/publications/19_0318_MGMT_CBJ-Immigration-Customs-Enforcement_0.pdf [<https://perma.cc/QWN2-EHLX>]; *see also* May 2019 Housing Invoice – ICA Farmville, VA (June 1, 2019), <https://www.documentcloud.org/documents/6455883-ICA-Farmville-May-2019-Housing-Invoice1.html> [<https://perma.cc/YVC6-V2LT>].

²¹⁰ *Id.*

²¹¹ Certificate of Organization, ICA Transportation LLC, VA. ST. CORP. COMM’N (Dec. 13, 2011), <https://cis.scc.virginia.gov/EntitySearch/BusinessInformation?businessId=638619&source=FromEntityResult&isSeries=False> [<https://perma.cc/34VD-Y6YS>].

²¹² ICA Proposal, *supra* note 198, at 4.

²¹³ *See* Elvia Malagon, *A Tiny Illinois Town Has Become the Latest Battleground in the Effort to Build an Immigration Detention Center Near Chicago*, CHI. TRIB. (Mar. 19, 2019), <https://www.chicagotribune.com/news/ct-met-dwight-illinois-immigration-detention-centers-20190314-story.html> [<https://perma.cc/KK7U-CMF4>]; *500-bed Immigration Detention Facility Proposed for New Richmond, WI*, KTSP (Apr. 18, 2019), <https://kstp.com/news/500-bed-immigration-detention-facility-proposed-for-new-richmond-wisconsin/5313362/> [<https://perma.cc/YD7N-LTWC>]; Catherine Shaffer, *Governor Whitmer Cancels Ionia Immigrant Detention Center Deal*, MICH. RADIO (Feb. 16, 2019), <https://www.michiganradio.org/post/governor-whitmer-cancels-onia-immigrant-detention-center-deal> [<https://perma.cc/M74G-GNG3>]; Lillian Reed, *An Eastern Shore Town was Awash With Debt. Then a Private Immigrant Detention Contractor for ICE Called.*, BALT. SUN (Dec. 19, 2019), <https://www.baltimoresun.com/politics/bs-md-ci-sudlersville-detention-20191213-20191216-cbczujqxsjeczb2v47uy7lqri-story.html> [<https://perma.cc/G4WJ-DVKH>].

²¹⁴ Certificate of Organization, ICA-II, LLC, VA. ST. CORP. COMM’N (Sept. 19, 2018), <https://cis.scc.virginia.gov/EntitySearch/BusinessInformation?businessId=1049940&source=FromEntityResult>

to ICA's expansion efforts, as a means of cabining risk and liability among a variety of separate business entities.²¹⁵

At present, all of ICA's expansion efforts have stalled or been blocked. In early 2017, for instance, ICA and government officials from Dwight, Illinois, entered into talks about opening a 1,200-bed immigration detention facility in the town.²¹⁶ Negotiations progressed, and village trustees from Dwight voted to annex and re-zone 88 acres for the project in March 2019, despite public protests.²¹⁷ With the land secured, ICA would have needed to secure a contract with ICE to operate the facility by September 2020.²¹⁸ However, in response to ICA and the town of Dwight's plans, members of the Illinois legislature prepared legislation to extend the state's ban on for-profit prisons to include migrant detention facilities.²¹⁹ The bill passed the Illinois House of Representatives and Senate, taking effect on June 21, 2019.²²⁰ With this legislation, Illinois became the first state in the nation to ban private migrant detention centers,²²¹ thwarting ICA's expansion efforts.

ICA also attempted to expand to the town of Ionia, Michigan, making the sole bid to purchase the site of a defunct state correctional facility in October 2018.²²² The proposed plan would create a 166,000 square foot, 600-bed facility that would house adult male and female ICE detainees.²²³ The company highlighted the economic benefits of the project in its proposal to the town, explaining that the construction of the facility would create 289 jobs, \$43.3 million

&isSeries=False [https://perma.cc/44RZ-R7ZC]; Certificate of Organization, ICA-III, LLC, VA. ST. CORP. COMM'N (Sept. 19, 2018),

https://cis.scc.virginia.gov/EntitySearch/BusinessInformation?businessId=1049961&source=FromEntityResult &isSeries=False [https://perma.cc/N4QT-T42D]; Certificate of Organization, ICA-II, LLC, VA. ST. CORP. COMM'N (Sept. 19, 2018),

https://cis.scc.virginia.gov/EntitySearch/BusinessInformation?businessId=1049975&source=FromEntityResult &isSeries=False [https://perma.cc/K5K5-7LJM].

²¹⁵ See, e.g., Danielle D'Onfro, *Limited Liability Property*, 39 CARDOZO L. REV. 1365, 1410 (2018) ("[L]imited liability typically cabins liability to the operating company, which may or may not have any meaningful assets of its own.")

²¹⁶ David Giuliani, *Would New ICE Jail Affect County?*, DAILY JOURNAL (Feb. 9, 2019), https://www.daily-journal.com/news/local/would-new-ice-jail-affect-county/article_7499b406-295a-11e9-b0b9-c3f2025a1c60.html [https://perma.cc/PT7F-PW69].

²¹⁷ Molly Jirasek, *Village of Dwight Votes in Favor of Immigration Detention Center*, 25 NEWS: WEEK.COM (Mar. 11, 2019), https://week.com/2019/03/11/village-of-dwight-votes-in-favor-of-building-ice-detention-center/ [https://perma.cc/85Y8-WGVR].

²¹⁸ *Illinois Village Approves Immigration Detention Center Plan*, NBC CHI. (Mar. 19, 2019), https://www.nbcchicago.com/news/local/illinois-village-approves-immigration-detention-center-plan/81962/ [https://perma.cc/AZ67-D67G].

²¹⁹ Elvia Malagón, *ICE Detainees Could not be Held in Private Detention Centers Under Measure Heading to Illinois Governor*, CHI. TRIB. (May 18, 2019), https://www.chicagotribune.com/news/breaking/ct-met-immigration-ice-private-detention-center-bill-illinois-20190517-story.html [https://perma.cc/5SWW-PW8N].

²²⁰ Bill Status of HB2040, ILL. GEN. ASSEMBLY, http://www.ilga.gov/legislation/billstatus.asp?DocNum=2040&GAID=15&GA=101&DocTypeID=HB&LegID=117547&SessionID=108 [https://perma.cc/M6BQ-ANVS].

²²¹ Jamie Ehrlich, *Illinois Bans Private Immigration Detention Centers*, CNN (June 21, 2019), https://www.cnn.com/2019/06/21/politics/illinois-private-detention-centers-immigration-ice-raids/index.html [https://perma.cc/2NV8-YQ2N].

²²² Steve Gunn, *Private Developer Wants to Make Deerfield Prison an Immigration Detention Center*, IONIA SENTINEL-STANDARD (Oct. 17, 2018), https://www.sentinel-standard.com/news/20181017/private-developer-wants-to-make-deerfield-prison-immigration-detention-center [https://perma.cc/PAA9-T2VA].

²²³ ICA Proposal, *supra* note 198, at 8.

in economic output, and \$3 million in tax revenue.²²⁴ Additionally, ICA estimated that the continued operation of the detention facility would create 363 jobs, \$34.5 million in economic output, and \$1.6 million in tax revenue annually.²²⁵ Ionia's City Council held a meeting in February 2019, and several Michigan residents decried the proposal.²²⁶ ICA's expansion plans were hampered when Michigan governor Gretchen Whitmer cancelled the sale of the site after she sought and did not receive an assurance from ICE that the facility would not be used to hold parents who had been separated from their children.²²⁷

Around the same time ICA pursued expansion in Michigan and Illinois, it also explored the possibility of opening a detention center in Wisconsin, in response to a request for proposals from ICE, which called on PSCs to open a 500-bed facility within 100 miles of its field office in St. Paul, Minnesota.²²⁸ ICA considered two sites in western Wisconsin: Baldwin and New Richmond.²²⁹ Eventually, ICA dropped both plans.²³⁰ ICA withdrew its proposal in New Richmond as city officials appeared poised to reject its offer because they believed it did not fit in their city's development plans.²³¹ Residents of New Richmond widely spoke against the plan, "opposing the detention of immigrants [] and expressing concerns about property values and the use of tax dollars."²³² ICA's plan to open a detention center in Baldwin fell through in part due to the cost of infrastructure improvements.²³³

Finally, ICA entered into talks with the town of Sudlersville, Maryland, after ICE put out a call for companies to open a private detention center near Baltimore.²³⁴ However, in December 2019, ICA announced that it had put the plans on hold.²³⁵ ICA spokesman John Truscott explained that "[g]iven the federal budget uncertainty and some other factors, it doesn't make sense to keep spending money on a process with so many unknowns."²³⁶ Around the same time, Maryland lawmakers had begun drafting legislation that would ban private, for-profit migrant detention facilities in the state.²³⁷ Beyond these four stalled efforts at expansion, there have been no media reports about ICA's further expansion plans.

²²⁴ *Id.* at 9.

²²⁵ *Id.*

²²⁶ Mitchell Boatman, *Speakers Urge Ionia City Council to Reject a Proposed Illegal Immigrant Detention Facility*, IONIA SENTINEL-STANDARD (Feb. 7, 2019), <https://www.sentinels-standard.com/news/20190207/speakers-urge-ionia-city-council-to-reject-proposed-illegal-immigrant-detention-facility> [<https://perma.cc/8BHR-RGKZ>].

²²⁷ Shaffer, *supra* note 213.

²²⁸ Rich Kremer, *500-Bed Immigrant Detention Center Proposed in St. Croix County*, WISC. PUB. RADIO (April 11, 2019), <https://www.wpr.org/500-bed-immigrant-detention-center-proposed-st-croix-county> [<https://perma.cc/5QYS-46UA>].

²²⁹ Maria Perez, *A Company Tried to Open an Immigrant Detention Center in Wisconsin. A Community that Voted for Trump Said No – Again*, MILWAUKEE JOURNAL SENTINEL (Apr. 30, 2019), <https://www.jsonline.com/story/news/2019/04/30/feds-want-build-immigration-detention-centers-its-not-simple/3553996002/> [<https://perma.cc/TB22-LPCP>].

²³⁰ *Id.*

²³¹ *Id.*

²³² *Id.*

²³³ *Id.*

²³⁴ Reed, *supra* note 213.

²³⁵ *Id.*

²³⁶ *Id.*

²³⁷ Lillian Reed, *Maryland Lawmaker Aims to Ban Private Immigration Detention Centers in the State as ICE Seeks Facility Here*, BALT. SUN (Dec. 19, 2019), <https://www.baltimoresun.com/politics/bs-md-ci-sudlersville-ica-ice-20191217-20191218-2zexe7cgybcmndc3jtksoqgiye-story.html> [<https://perma.cc/CY3A-RLUV>].

ICA is operated through a series of limited liability companies, rather than as a publicly traded company, so it is not required to file financial reports with the U.S. Securities and Exchange Commission.²³⁸ This limits the amount of information publicly available about ICA's company profits. The financial information available about the company comes from documents obtained under the Freedom of Information Act (FOIA) by the National Immigrant Justice Center's Transparency and Human Rights Project. These FOIA documents reveal that the town of Farmville paid ICA \$1,869,783.98 in February 2019²³⁹; \$1,849,294.98 in March 2019²⁴⁰; and \$2,097,381.25 in May 2019²⁴¹, indicating that ICA has an estimated annual revenue of between \$22 million and \$24 million.

LaSalle Corrections

LaSalle Corrections (LaSalle) is a privately-owned company involved in developing, financing, building, and operating prisons and migrant detention centers.²⁴² It began operations in 1997 when it won a contract to build a prison in Louisiana. Soon it was winning contracts not just to build prisons but also to operate them.²⁴³ According to its website, LaSalle currently operates 18 facilities in Georgia, Louisiana, and Texas, with a total capacity of over 13,000;

²³⁸ See Exchange Act Reporting and Registration, *supra* note 75. Public companies in the United States are required to file detailed annual reports using Form 10-K, and quarterly reports on Form 10-Q. *Id.* LLCs typically register with the Secretary of State of their home state and are not required to publicly disclose financial information. See Limited Liability Companies and Limited Liability Partnerships, § 2.02 (2019), <https://advance.lexis.com/document/?pdmfid=1000516&crd=4e3d097e-38bb-4ec6-9526-c67df47747d5&pddocfullpath=%2Fshared%2Fdocument%2Fanalytical-materials%2Furn%3AcontentItem%3A5YP2-MR61-JD6P-218F-00000-00&pdtocnodeidentifier=AACAAC&ecomp=yd5dk&prid=a30dd1b0-fc4e-4e58-b4e6-34d1f0ce1137> [https://perma.cc/RPX5-4DFY] (noting that in many states, LLCs may be formed without even a written operating agreement, and that financial information must typically be available to the members of the LLC but not the general public).

²³⁹ February 2019 Housing Invoice - ICA Farmville, VA (Mar. 1, 2019), <https://www.documentcloud.org/documents/6450463-ICA-Farmville-Housing-Invoice-February-2019.html> [https://perma.cc/5QUT-XU6M].

²⁴⁰ Email from Carol Anne Seal, Town of Farmville Treasurer, to Jill Grant, regarding Housing Payment (Mar. 14, 2019), <https://www.documentcloud.org/documents/6430092-March-2019-Email-Invoice-Transfer-1-8-Million.html> [https://perma.cc/H8CH-A925]. This email notes that the Town of Farmville had not yet received the "Transportation Payment," and that the payment was for housing only.

²⁴¹ May 2019 Housing Invoice – ICA Farmville, VA, *supra* note 209.

²⁴² About Us, LASALLE CORRECTIONS, <http://www.lasallecorrections.com/about-us/> (last visited May 3, 2020) [https://perma.cc/E4M9-H3VU].

²⁴³ Matthew Clarke, *LaSalle Corrections: A Family-Run Prison Firm*, PRISON LEGAL NEWS (Feb. 13, 2013), <https://www.prisonlegalnews.org/news/2013/feb/15/lasalle-corrections-a-family-run-prison-firm/> [https://perma.cc/E67R-SLUM].

the actual numbers may be even higher.²⁴⁴ In Texas, LaSalle operates through its Texas-based affiliate, LaSalle Southwest.²⁴⁵

LaSalle expanded its operations to include the detention of migrants following the 2016 election of President Donald Trump. At the time, domestic prison populations had begun to fall due to changes in the law aimed at reducing mass incarceration, threatening revenues for private prison companies like LaSalle.²⁴⁶ Hearing the new president's rhetoric on immigration, LaSalle's co-founder, Billy McConnell, reportedly saw a fortuitous new opportunity for his company in the detention of migrants.²⁴⁷

At present, LaSalle runs 13 detention centers that hold migrant detainees.²⁴⁸ Of these facilities, six are located in Louisiana, one is in Georgia, one is in Arizona, and five are in Texas.²⁴⁹ LaSalle owns as well as operates at least two of these facilities: Richwood Correctional Center and River Correctional Center.²⁵⁰ Facilities managed by LaSalle house only adults, male and female; LaSalle does not operate detention facilities for children or families.²⁵¹ LaSalle's Prairieland Detention Center houses exclusively migrants, but all of its other facilities house both migrants and correctional inmates.²⁵² It is not clear to what extent, if at all, correctional inmates and migrants are held separately from each other in these facilities.

LaSalle's migrant facilities are not operated under direct contracts between the company and ICE. Instead, all of LaSalle's migrant detention contracts are with local governments, which in turn have signed agreements with the federal government to house detained migrants in

²⁴⁴ About Us, LASALLE, *supra* note 242. Although this webpage states that "LaSalle currently manages 18 facilities," it may be out of date and the actual number may be higher. A different page on the website titled "Our Locations" purports to list "all of our current facilities and office locations," and that list includes 26 locations. While a few of these are office locations, inmate capacity figures are given for 21 facilities, and two more are identified as a "jail" or "detention center." LASALLE Our Locations, *supra* note 74. This disparity is an example of the difficulties, discussed in Section II, in obtaining complete and accurate information on the migrant-related activities of PSCs.

²⁴⁵ About Us, LASALLE, *supra* note 242.

²⁴⁶ See Noah Lanard, *ICE's Revolving Door: Top Official Goes to Work for Private Prison Company*, MOTHER JONES (Nov. 25, 2019), <https://www.motherjones.com/politics/2019/11/ices-revolving-door-top-official-goes-to-work-for-private-prison-company/> [<https://perma.cc/2EHJ-NHL3>]; Nomaan Merchant, *Louisiana becomes new hub in immigrant detention under Trump*, AP NEWS (Oct. 9, 2019), <https://apnews.com/c72d49a100224cb5854ec8baea095044> [<https://perma.cc/RJ74-GQGX>].

²⁴⁷ Alvarado et al., *supra* note 7.

²⁴⁸ See Authorized Dedicated and Non-Dedicated Facility Lists, *supra* note 65; LASALLE Our Locations, *supra* note 74. Because LaSalle's own website does not indicate which of its facilities house migrants, it is necessary to compare LaSalle's list with the lists of migrant detention facilities on the ICE website.

²⁴⁹ See *id.*

²⁵⁰ FREEDOM FOR IMMIGRANTS, *Detention in Your District: Louisiana Congressional District 5* (Dec. 2019), <https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5e021b602fb9601681036259/1577196395312/DIYD+LA+v2+Final.pdf> [<https://perma.cc/E2QA-Q3MH>].

²⁵¹ See Authorized Dedicated and Non-Dedicated Facility Lists, *supra* note 65; LASALLE Our Locations, *supra* note 74.

²⁵² Authorized Dedicated and Non-Dedicated Facility Lists, *supra* note 65. Of the facilities shown on LaSalle's website to be LaSalle facilities, only one — Prairieland Detention Center — is operated under a DIGSA (Dedicated Intergovernmental Service Agreement), an agreement under which the facility is dedicated exclusively to migrant detention.

their local jail or correctional facility.²⁵³ One example is LaSalle’s Richwood Correctional Center in Richwood, Louisiana. Before the local government entered into an Intergovernmental Service Agreement (IGSA) with ICE in 2019, this facility housed people serving criminal sentences or held on criminal charges.²⁵⁴ Since the IGSA, this LaSalle-operated facility has housed both migrants and people held on criminal charges.²⁵⁵

It is impossible to say how much money LaSalle earns in any given year from its migrant detention operations, because LaSalle’s earnings figures are not publicly disclosed.²⁵⁶ Because LaSalle is a privately-held company, for which shares are not publicly traded in the stock market, LaSalle is not obligated to undergo reviews by external auditors or to share its financial information with the general public. However, a rough estimate of how much LaSalle may have been paid to manage migrant detention centers can be gleaned from information on occupancy levels combined with information on the daily rates paid by ICE for migrant detention in the states in which LaSalle does business. Using this calculation method, a November 2019 media report estimated that, if facility occupancy levels held constant, LaSalle would receive \$136 million a year for migrant detention at the six Louisiana jails with which it has contracts.²⁵⁷ This amount does not include the additional annual revenue LaSalle generates from the six migrant detention facilities it operates in other states.

LaSalle’s successful efforts to win and retain contracts with local governments may be aided by its campaign contributions and executive hiring decisions. In Louisiana, LaSalle has reportedly made campaign contributions to the sheriffs in two parishes with which the company has migrant detention contracts,²⁵⁸ and to at least one of Louisiana’s representatives in the U.S. Congress.²⁵⁹ LaSalle’s hiring practices illustrate the “revolving door” phenomenon discussed further in Section IV below, where government officials transition to leadership positions in private companies, and vice versa. Four Members of Congress have noted with concern that:

“Scott Sutterfield, ICE’s acting director for the New Orleans field office, left his position in late 2019 to work as a development executive responsible for creating business opportunities at LaSalle, the private prison company that operates six of the eight new for-profit facilities that ICE recently started using in the region.”²⁶⁰

²⁵³ Authorized Dedicated and Non-Dedicated Facility Lists, *supra* note 65 (indicating that of the facilities identified on LaSalle’s website to be LaSalle facilities, seven are operated under IGSA (Intergovernmental Service Agreements); three are operated under USMS IGAs (U.S. Marshals Service Intergovernmental Agreements); and one is operated under a DIGSA (Dedicated Intergovernmental Service Agreement).

²⁵⁴ FREEDOM FOR IMMIGRANTS, *Detention in Your District: Louisiana Congressional District 5*, *supra* note 250.

²⁵⁵ *Id.*

²⁵⁶ Bryn Stole, *In North Louisiana, Sheriff And Private Prison Operator Trade Prisoners for ICE Detainee*, NOLA (Oct. 21, 2019), https://www.nola.com/news/article_9927b374-f388-11e9-8eca-43ec3c782d9f.html [<https://perma.cc/RPX6-ZXBE>].

²⁵⁷ Lanard, *supra* note 246.

²⁵⁸ Alvarado et al., *supra* note 7.

²⁵⁹ Rep. Mike Johnson - Louisiana District 04, OPEN SECRETS, https://www.opensecrets.org/members-of-congress/contributors?cid=N00039106&cycle=2018&recs=100&type=l___ (last visited May 8, 2020) [<https://perma.cc/D35H-MQYU>].

²⁶⁰ Letter from Senators Elizabeth Warren, Kamala Harris, and Pramila Jayapal, and Representative Ayanna Pressley to Matthew Albence, Acting Director of U.S. Immig. & Cust. Enforcement, and Kathleen Hawk Sawyer,

These Members of Congress expressed further concern that “[r]ecent reporting indicates that Sutterfield—while at ICE—may have been involved in decisions regarding detention of asylum seekers in the region while he was in negotiations for post-government employment with LaSalle.”²⁶¹

Management & Training Corporation

Management & Training Corporation (MTC) is a PSC operating in the corrections business since 1981,²⁶² and in migrant detention since the 1990s.²⁶³ MTC has a global reach, operating various facilities and programs in the U.S., United Kingdom, and Australia.²⁶⁴ MTC also develops logistics training in Egypt through the “USAID-funded Workforce Improvement and Skill Enhancement project.”²⁶⁵ Besides providing medical, dental, and mental health services for incarcerated and detained individuals in its own facilities, MTC also provides healthcare in other facilities, contracting with BOP, ICE, USMS, and state departments of corrections.²⁶⁶ Some of these facilities are operated by private security industry giants GEO and CoreCivic.²⁶⁷

MTC was one of the first three PSCs, alongside CoreCivic and GEO, that contracted with the government to detain migrants.²⁶⁸ Although these three PSCs began as powerhouses in the industry, MTC has fallen behind the other two as a private detention operator. Newer private contractors, such as LaSalle,²⁶⁹ threaten to overtake MTC's spot as the third largest operator, and MTC now lags far behind CoreCivic and GEO in terms of number of facilities, number of migrants detained, and migrant detention-based revenue.²⁷⁰ Despite its continued association with industry giants CoreCivic and GEO, MTC currently operates only five migrant detention facilities: one in California, one in New Mexico, and three in Texas.²⁷¹

Director of the Federal Bureau of Prisons (Jan. 16, 2020), <https://pressley.house.gov/sites/pressley.house.gov/files/2020.01.16%20ICE%20BOP%20Letter.pdf> [<https://perma.cc/ERK9-3HUW>].

²⁶¹ *Id.*

²⁶² About Us, MANAGEMENT & TRAINING CORPORATION, <https://www.mtctrains.com/about-us/> (last visited May 9, 2020) [<https://perma.cc/V7QT-JR2W>].

²⁶³ SMALL ET AL., DETENTION WATCH NETWORK, *supra* note 78, at 2.

²⁶⁴ About Us, MTC, *supra* note 262. According to MTC, it operates “24 Job Corps centers, 22 correctional facilities, 11 prison and detention medical departments, 5 detention centers, one probation and parole contract, and one workforce development site” in these countries. *Id.*

²⁶⁵ MGMT. & TRAINING CORP., DEVELOPING LOGISTICS TRAINING AND EDUCATION IN EGYPT 1, <https://www.mtctrains.com/international/> (last visited May 9, 2020) [<https://perma.cc/7ZBA-GQTN>].

²⁶⁶ MGMT. & TRAINING CORP., MTC MEDICAL 1-2, <https://www.mtctrains.com/corrections-medical-services/> (last visited May 9, 2019) [<https://perma.cc/4V39-8AK5>].

²⁶⁷ Corrections Medical Services, MANAGEMENT & TRAINING CORPORATION, <https://www.mtctrains.com/corrections-medical-services/#division-map> (last visited May 9, 2020) [<https://perma.cc/JVG9-KR2X>].

²⁶⁸ SMALL ET AL., DETENTION WATCH NETWORK, *supra* note 78, at 2.

²⁶⁹ See Lanard, *supra* note 246.

²⁷⁰ SMALL ET AL., DETENTION WATCH NETWORK, *supra* note 78, at 12. See also Financial Incentives, DETENTION WATCH NETWORK, <https://www.detentionwatchnetwork.org/issues/financial-incentives> (last visited May 9, 2020) [<https://perma.cc/T8V3-TBGT>]; *Detention by the Numbers*, *supra* note 9.

²⁷¹ MTC Detention Services, *supra* note 65. In August 2019, MTC decided not to expand its detention services to Wyoming and withdrew interest to submit a proposal—even after city and county officials publicly resolved

Like many other PSCs operating in the migrant sphere, MTC is a privately held company, so the company is not required to disclose any financial information to the public.²⁷² In the absence of public reporting requirements, it is left to sources such as the media and NGOs to uncover relevant financial information and inform the public about the operations of the company. Public Citizen, a think tank based in Washington D.C., reported in June 2018 that the federal government had spent \$469 million on contracts with MTC in the 17 months since Donald Trump took office.²⁷³ A 2018 news report indicated that MTC “has made nearly \$38 million” running just one of its Texas detention centers.²⁷⁴ Another website that consolidates federal contract and grant data reported that MTC entered into a contract for “detention and transportation services” with DHS for a potential value of over \$40 million in 2019.²⁷⁵ Because the company is not required to file its financial information with the government, the general public lacks access to key, up-to-date financial information regarding MTC’s involvement in the migrant detention sphere.

In addition to operating migrant detention facilities, MTC also operates several Criminal Alien Requirement (CAR) prisons, or prisons that house non-citizens who commit federal crimes.²⁷⁶ CAR prisons emerged in 2005, after the U.S. government began expediting the criminal prosecution of individuals crossing the border.²⁷⁷ MTC is one of several PSCs to operate these correctional facilities that house strictly migrant prisoners.²⁷⁸ At the time of this report’s publication, MTC runs at least three CAR prisons for the BOP, in addition to its five migrant

to support the corporation. Andrew Graham, *Utah Private Prison Company has Bowed out of Planned Evanston Immigration Detention Center*, SALT LAKE TRIB. (Aug. 20, 2019), <https://www.sltrib.com/news/politics/2019/08/20/utah-based-private-prison/> [https://perma.cc/ZAG9-S7J7]. MTC’s Director of Corporate Communications pointed to nonimmigrant-related contracts and projects that prohibited MTC from pursuing the Wyoming detention center. *Id.* Protestors and pro-immigrant organizations that had called on MTC to withdraw the proposal declared the decision a victory. *Id.*

²⁷² Chris Jones, *Utah Company Making Millions off Crisis on the Border*, KUTV (June 22, 2018), <https://kutv.com/news/local/utah-company-has-stake-in-controversial-immigration-policies> [https://perma.cc/FZ8P-SP3T].

²⁷³ PUB. CITIZEN, TRUMP’S PRISON PROFITEERS 1 (June 11, 2018), <https://www.citizen.org/wp-content/uploads/migration/trumps-prison-profiteers-fact-sheet.pdf> [https://perma.cc/A73V-25DX].

²⁷⁴ Jones, *supra* note 272.

²⁷⁵ Indefinite Delivery Contract 70CDCR19D00000010, GovTRIBE, <https://govtribe.com/award/federal-idv-award/indefinite-delivery-contract-70cldr19d00000010> (last viewed May 9, 2020) [https://perma.cc/NF32-JFTZ].

²⁷⁶ Shadow Prisons, DETENTION WATCH NETWORK, <https://www.detentionwatchnetwork.org/issues/shadow-prisons> (last viewed May 9, 2020) [https://perma.cc/2MYN-MZFG].

²⁷⁷ *Id.*

²⁷⁸ See Contract Prisons, FEDERAL BUREAU OF PRISONS, https://www.bop.gov/about/facilities/contract_facilities.jsp (last viewed May 9, 2020) [https://perma.cc/3BVT-WKVP]; CI Giles W. Dalby, Federal Bureau of Prisons, <https://www.bop.gov/locations/ci/dal/> (last viewed May 9, 2020) [https://perma.cc/7VHB-TQLH]; CI Taft, FEDERAL BUREAU OF PRISONS, <https://www.bop.gov/locations/ci/taf/> (last viewed May 9, 2020) [https://perma.cc/T7QY-URDH]. GEO is also known to operate CAR prisons. See, e.g., CI Big Spring (Flightline), FEDERAL BUREAU OF PRISONS, <https://www.bop.gov/locations/ci/bsf/> (last viewed May 9, 2020) [https://perma.cc/5W96-S7SQ]; CI Big Spring, FEDERAL BUREAU OF PRISONS, <https://www.bop.gov/locations/ci/bsc/> (last viewed May 9, 2020) [https://perma.cc/H8HD-WM8C]; CI D. Ray James, FEDERAL BUREAU OF PRISONS, <https://www.bop.gov/locations/ci/drj/> (last viewed May 9, 2020) [https://perma.cc/8SQK-BAQ5].

civil detention centers.²⁷⁹ CAR prisons are supposed to serve a different purpose and population than civil detention facilities for migrants. For example, civil detention is not intended to be punitive; in theory, the government’s rationale for civil detention is to increase migrants’ likelihood of attending deportation hearings.²⁸⁰ CAR prisons, on the other hand, house migrants who have committed a crime and are intended to be punitive.²⁸¹

In practice, the populations held in these two types of detention facilities look more alike than one might expect. While CAR prisons hold “criminal aliens,” the majority of migrants currently incarcerated in CAR prisons have committed no federal crime other than crossing the border undocumented.²⁸² The U.S. government can decide whether to process such individuals criminally or civilly for this act; in other words, these prisoners could also have been civilly processed and released under U.S. law.²⁸³ The prosecution of migrants for illegal entry leads to increased incarceration,²⁸⁴ a service provided largely by PSCs like MTC who profit from this policy.

A 2014 investigation into CAR prisons by the American Civil Liberties Union (ACLU) revealed that “by statute, most of [the CAR prisons’] records are exempt from the open records law that apply to other federal prisons.”²⁸⁵ Exemption from the open records law, in addition to the BOP’s hesitation to disclose basic information about CAR prisons, has made information about these sites difficult to access, leading activists to refer to CAR facilities as “shadow prisons.”²⁸⁶

MTC’s most notorious shadow prison is the Willacy County Regional Detention Facility in Raymondville, Texas.²⁸⁷ From 2006-2011, MTC operated this facility, originally named the Willacy County Correctional Institution, through a contract with ICE.²⁸⁸ Nicknamed “Tent City” for its ten Kevlar domes housing hundreds of detainees each, or “Ritmo” – a play on the word “Gitmo,” short for Guantanamo Bay – because of the “indefinite detention immigrants faced there,” the Willacy County Correctional Institution shut down in 2011 due to multiple allegations of guards sexually abusing prisoners.²⁸⁹

The closing of this troubled facility, however, was short-lived. After ICE cancelled its contract with MTC once DHS opened criminal investigations into 13 Willacy County employees, MTC turned around and signed a new 10-year, \$532 million contract that same year with a

²⁷⁹ Contract Prisons, *supra* note 278; Corrections Services, MANAGEMENT & TRAINING CORPORATION, <https://www.mtcprisons.com/corrections/> (last viewed May 9, 2020) [<https://perma.cc/G2PT-P2MC>].

²⁸⁰ Kassie, *supra* note 5.

²⁸¹ See Contract Prisons, *supra* note 278.

²⁸² AM. CIVIL LIBERTIES UNION, WAREHOUSED AND FORGOTTEN: IMMIGRANTS TRAPPED IN OUR SHADOW PRIVATE PRISON SYSTEM 2 (2014), <https://www.aclu.org/sites/default/files/assets/060614-aclu-car-reportonline.pdf> [<https://perma.cc/8AWQ-VBNW>].

²⁸³ *Id.*

²⁸⁴ HRW Q&A, *supra* note 57.

²⁸⁵ AM. CIVIL LIBERTIES UNION, *supra* note 282, at 5.

²⁸⁶ *Id.* at 25.

²⁸⁷ Shadow Prisons, *supra* note 276.

²⁸⁸ AM. CIVIL LIBERTIES UNION, *supra* note 282, at 83.

²⁸⁹ Jeremy Raff, *ICE is a Godsend for One Small Town in Texas*, THE ATLANTIC (July 11, 2018), <https://www.theatlantic.com/politics/archive/2018/07/ice-prison-trump-immigration-crackdown/564539/> [<https://perma.cc/QP8M-F4JJ>]. “Ritmo” was coined as “a portmanteau of *Raymondville* and *Gitmo*.” *Id.*

different federal agency, the BOP, to house migrant prisoners at the very same facility.²⁹⁰ Problems continued, and in 2014 2,000 immigrants at the Willacy County Correctional Institution rioted in protest of poor conditions, including substandard medical care.²⁹¹ The uprising destroyed many of the structures that made up the “Tent City” and led to the closure of the facility for the second time.²⁹²

MTC got yet a third chance to operate the facility when the Willacy County Correctional Institution re-opened in 2018 at the direction of the Trump administration.²⁹³ MTC contracted with a third federal agency – USMS this time – replacing the destroyed tents with newly-constructed cell blocks for the re-opening, and rebranding under a new name, the Willacy County Regional Detention Facility.²⁹⁴ MTC maintains this contract to the current day.²⁹⁵ Given the Trump administration’s call to criminally prosecute even more migrants for undocumented entry, the number of migrants in CAR prisons – run primarily by PSCs – will likely continue to increase.²⁹⁶

SECTION IV: CONNECTIONS BETWEEN PRIVATE SECURITY COMPANIES AND THE GOVERNMENT AND THEIR POTENTIAL IMPACT ON PUBLIC POLICY

PSCs in the migrant detention business profit from government policies that increase detention populations and minimize regulation and oversight of detention activities. In the U.S., these companies devote vast resources to what can be seen as attempts to influence government leaders to create these types of policies. They hire former government officials, contribute to local and national political campaigns, lobby for favorable legislation, and patronize the U.S. President’s businesses. Some companies also seek to increase revenue and impact public policy by drafting bills and working with legislators to get them passed, or by marketing their services and products directly to the leaders of economically struggling towns and counties. Section IV of this report will explore the various ways in which PSCs seek to influence government policy.

Relationships and the “Revolving Door”

High-ranking government officials regularly transition from leadership positions in government to leadership positions at private companies; the same is true for corporate leaders transitioning into government service.²⁹⁷ As mentioned earlier, individuals who make the transition from working in government leadership and regulatory positions to working in the private sector and vice versa are said to use the “revolving door” between the

²⁹⁰ *Id.*

²⁹¹ *Id.*; Shadow Prisons, *supra* note 276.

²⁹² *Id.*

²⁹³ Raff, *supra* note 289.

²⁹⁴ *Id.*

²⁹⁵ See Corrections Services, *supra* note 279. As with its other CAR prisons, MTC lists the Willacy County Regional Detention Facility under its Corrections Services page, not its Detention Services page, and there is no indication that the facility houses only migrants. See *Id.*

²⁹⁶ Shadow Prisons, *supra* note 276.

²⁹⁷ Will Kenton, *Revolving Door*, INVESTOPEDIA (Feb. 2, 2020), <https://www.investopedia.com/terms/r/revolving-door.asp> [<https://perma.cc/RS3F-A8DX>].

government and private industry.²⁹⁸ Although this practice may not be inherently controversial, it creates an environment fraught with potential conflicts of interest,²⁹⁹ and where influence can be misused to the detriment of the public interest and the health and rights of migrants. In some cases, private companies directly profit from policies that their corporate executives created while serving in the government.³⁰⁰

As mentioned in Section III, Former White House Chief of Staff John Kelly's path between government service and the private security industry provides a textbook example of this revolving door. In 2017, Kelly left the board of the investment firm DC Capital Partners to become Secretary of DHS and then White House Chief of Staff.³⁰¹ While serving in the Trump administration, Kelly was widely credited as the architect of the administration's "zero tolerance" policy, which separated nearly 3,000 immigrant children from their parents³⁰² during the summer of 2018 in an effort to deter immigration.³⁰³ During this same period of time, DC Capital Partners acquired Comprehensive Health Services (CHS) and formed Caliburn International, which became CHS's parent company.³⁰⁴ With the acquisition of CHS, Caliburn became the only for-profit PSC to house migrant children separated from their families while this zero tolerance policy was in force.³⁰⁵ In 2018, CHS received two government contracts totaling \$272 million to operate the child migrant detention center Homestead.³⁰⁶

John Kelly stepped down from his position with the Trump administration at the end of 2018.³⁰⁷ Less than five months later, Kelly joined the board of Caliburn,³⁰⁸ and CHS (now a Caliburn subsidiary) was awarded a new \$273 million contract with the government.³⁰⁹ At the time this report was written, Kelly remains on the Caliburn board and CHS has begun expanding its footprint in the child migrant detention market throughout Texas.³¹⁰ Both Kelly

²⁹⁸ *Id.*

²⁹⁹ *Id.*

³⁰⁰ See Graham Kates, *John Kelly Joins Board of Company Operating Largest Shelter for Unaccompanied Migrant Children*, CBS NEWS (May 3, 2019), <https://www.cbsnews.com/news/john-kelly-joins-board-of-caliburn-international-company-operating-largest-unaccompanied-migrant-children-shelter/> [<https://perma.cc/7E4Y-VPK3>]; Lanard, *supra* note 246.

³⁰¹ Kates, *John Kelly Joins Board*, *supra* note 300.

³⁰² *Ms. L. v. U.S. Immig. & Cust. Enforcement*, 18cv0428 DMS (MDD), 2019 U.S. Dist. LEXIS 38882, at *4 (S.D. Cal. Mar. 8, 2019).

³⁰³ John Haltiwanger, *John Kelly Proposed Separating Children from their Parents to Deter Illegal Immigration Last Year, and Now the Trump Administration Can't Get its Story Straight*, BUSINESS INSIDER (June 18, 2018), <https://www.businessinsider.com/kelly-proposed-family-separation-to-deter-illegal-immigration-in-2017-2018-6> [<https://perma.cc/ZK5R-WSWT>].

³⁰⁴ AM. FRIENDS SERVICE COMM., INVESTIGATE, *The Corporate Interests*, *supra* note 104.

³⁰⁵ Garance Burke & Martha Mendoza, *Private Sector Seeks to Profit by Detaining Migrant Kids*, AP NEWS (Oct. 3, 2019), <https://apnews.com/23efc15e8d4e4940a267cf596c9e0614> [<https://perma.cc/887P-HN8V>].

³⁰⁶ Press Release, House Comm. on Oversight & Reform, Oversight Committee Investigates For-Profit Immigrant Detention Center Contractors, (Jul. 11, 2019), <https://oversight.house.gov/news/press-releases/oversight-committee-investigates-for-profit-immigrant-detention-center>. [<https://perma.cc/5SSJ-C9RL>].

³⁰⁷ *Id.*; Kates, *John Kelly Joins Board*, *supra* note 300.

³⁰⁸ *Id.*

³⁰⁹ Press Release, Oversight Comm., *supra* note 306. Monique O. Madan, *Critics Deplore this Migrant Shelter. Its Operator Just Got a Huge, Hush-Hush No-Bid Deal.*, MIAMI HERALD (May 1, 2019), <https://www.miamiherald.com/news/local/immigration/article229744049.html> [<https://perma.cc/H2XQ-THXH>].

³¹⁰ Villagran, *supra* note 104; Monique O. Madan, *Firm That Runs Homestead Detention Center is Looking to Hire 250 Workers for Texas Sites*, MIAMI HERALD (July 26, 2019),

and the companies that he helps lead as a Caliburn board member have directly benefited financially from the zero tolerance policy that he created while in government.³¹¹

John Kelly's story is just one example of how the revolving door between government and PSCs can benefit the companies and individuals involved. Scott Sutterfield, formerly the head of ICE's New Orleans field office, which coordinated ICE operations throughout much of the American South, now works as a development executive for LaSalle.³¹² While Sutterfield worked for ICE, eight new immigration detention centers opened in Louisiana and Mississippi, six of which are operated by LaSalle.³¹³ As mentioned earlier in this report, four Members of Congress recently expressed concern that "[r]ecent reporting indicates that Sutterfield – while at ICE – may have been involved in decisions regarding detention of asylum seekers in the region while he was in negotiations for post-government employment with LaSalle."³¹⁴ Media reports estimate that LaSalle will receive \$136 million this year alone from ICE for operating the six new facilities.³¹⁵ Further examples of the revolving door between the private security industry and the U.S. government can be seen in companies including GEO, CoreCivic, and ICA, among others.³¹⁶

Campaign Donations

PSCs also seek to influence government actors and policies through donations to political campaigns. For example, members of the House of Representatives' Homeland Security Appropriations committee, which oversees ICE's budget for immigration detention, were some of the top recipients of campaign donations from PSCs.³¹⁷ The original three PSCs to

<https://www.miamiherald.com/news/local/immigration/article233159346.html> [<https://perma.cc/Q8TD-WD6T>].

³¹¹ Letter from Sen. Elizabeth Warren, et al., *supra* note 260 (indicating that Kelly likely receives an annual retainer of \$100,000 for his role on the board of Caliburn).

³¹² Lanard, *supra* note 246.

³¹³ *Id.*

³¹⁴ Letter from Senators Elizabeth Warren, Kamala Harris, and Pramila Jayapal, and Representative Ayanna Pressley to Matthew Albence, Acting Director of U.S. Immig. & Cust. Enforcement, and Kathleen Hawk Sawyer, Director of the Federal Bureau of Prisons (Jan. 16, 2020),

<https://pressley.house.gov/sites/pressley.house.gov/files/2020.01.16%20ICE%20BOP%20Letter.pdf> [<https://perma.cc/ERK9-3HUW>].

³¹⁵ *Id.*

³¹⁶ Among the board of directors for private prison giant GEO is Julie M. Wood, former head of ICE. Board of Directors, GEO GROUP, INC. https://www.GEOgroup.com/board_of_directors (last visited May 8, 2020)

[<https://perma.cc/KM6B-E8GH>]. Also on GEO's board of directors are Norman A. Carlson, the former Director of the Federal Bureau of Prisons and Scott M. Kernan, former Secretary of the California Department of Corrections and Rehabilitation. *Id.* Harley G. Lappin, Former Executive Vice President of CoreCivic, also previously served as Director of the Bureau of Prisons. Harley G. Lappin, BLOOMBERG,

<https://www.bloomberg.com/profile/person/17297552> (last visited May 8, 2020) [<https://perma.cc/C99M-V5XQ>]. James Chaparro, Director of Strategy and Planning at Immigration Centers of America, previously served as Executive Associate Director for Enforcement and Removal Operations at ICE. Letter from Russell Harper, President & CEO, Immigration Centers of America, to Michigan Land Bank Fast Track Authority (Oct. 1,

2018), http://media.woodtv.com/nxs-woodtv-media-us-east-1/document_dev/2018/10/16/ICA%20detention%20center%20Michigan%20Land%20Bank%20RFIQ_1539728247646_59192410_ver1.0.pdf [<https://perma.cc/587Z-4VXB>].

³¹⁷ Madison Pauly, *Private Prison Companies Poured Record Cash into the 2018 Elections*, MOTHER JONES (Nov. 12, 2018), <https://www.motherjones.com/politics/2018/11/private-prison-companies-poured-record-cash-into-the-2018-elections/> [<https://perma.cc/ZU6P-UFX6>].

enter the migrant sphere—GEO, CoreCivic, and MTC—also lead the sector in campaign contributions.³¹⁸ These companies all have political action committees, or PACs, that pool campaign contributions to donate to campaigns, candidates, or legislation.³¹⁹ In 2018, GEO contributed \$1.2 million to federal candidates, parties, and committees through company and PAC donations,³²⁰ while CoreCivic contributed \$359,199.³²¹ MTC’s PAC contributed \$111,950 to federal candidates.³²² GEO spent half of its total contributions on congressional candidates in Texas, where the company operates over a dozen facilities.³²³ CoreCivic, meanwhile, focused on candidates from Tennessee, where it is headquartered.³²⁴

PSCs also make significant political campaign donations at the state and local levels. In 2016 and 2017, for example, the combined state-level campaign contributions of GEO, CoreCivic, and MTC topped \$1.66 million, with GEO alone giving over \$1 million.³²⁵ Smaller PSCs also make significant state campaign contributions: in 2019, LaSalle made campaign donations to sheriffs in at least three different Louisiana counties.³²⁶ ICA has contributed \$12,350 to Republican state-level candidates in Virginia since 2011.³²⁷

Lobbying

In addition to using the revolving door and campaign donations to foster and leverage government connections and influence public policy, PSCs also hire teams of lobbyists from both political parties to advance their legislative and regulatory interests. These lobbyists often have former federal government experience, providing another example of how the revolving door between government and the private sector can benefit these companies.

GEO, CoreCivic, and MTC have all retained lobbyists with political connections at the highest level of government. Among MTC’s lobbyists, for example, is Marc Lampkin, who previously worked as a senior staffer for former Speaker of the House John Boehner and as a deputy

³¹⁸ *Id.*

³¹⁹ *Id.*

³²⁰ GEO GROUP, INC., POLITICAL ACTIVITY AND LOBBYING REPORT (2018), https://www.GEOgroup.com/Portals/0/SR/Political%20Engagement/Political_Activity_and_Lobbying_Report_2018.pdf [<https://perma.cc/2M5F-TAQF>].

³²¹ CoreCivic Inc, 2018 Cycle, OPEN SECRETS, <https://www.opensecrets.org/orgs/summary.php?id=D000021940&cycle=2018> (last viewed May 8, 2020) [<https://perma.cc/5TNP-NGNR>].

³²² Management and Training Corp, OPEN SECRETS, <https://www.opensecrets.org/pacs/lookup2.php?cycle=2018&strID=C00208322> (last viewed May 8, 2020) [<https://perma.cc/2VJC-E5SL>].

³²³ Steve Horn, *Private Prison Firms Use Revolving Door Lobbying, Generous Campaign Donations*, PRISON LEGAL NEWS (Aug. 6, 2018), <https://www.prisonlegalnews.org/news/2018/aug/6/private-prison-firms-use-revolving-door-lobbying-generous-campaign-donations/> [<https://perma.cc/2YJL-ZM3R>].

³²⁴ *Id.*

³²⁵ *Id.*

³²⁶ Alvarado et al., *supra* note 7; Associated Press, *Rural Economy Becomes Dependent on Immigration Prisons*, COURTHOUSE NEWS (Oct. 9, 2019), <https://www.courthousenews.com/rural-economy-becomes-dependent-on-immigration-prisons/> [<https://perma.cc/8C7A-SSYV>]. LaSalle operates 10 facilities throughout Louisiana. LASALLE Our Locations, *supra* note 74.

³²⁷ Immigration Centers of America, VPAP.ORG, https://www.vpap.org/donors/221988-immigration-centers-of-america/?start_year=all&end_year=all (last visited May 8, 2020) [<https://perma.cc/5K65-5YV8>].

campaign manager for George W. Bush's 2000 presidential campaign.³²⁸ Other MTC lobbyists include former senior aides to senators, deputy assistants for vice presidents, and legislative correspondents for members of the U.S. House of Representatives.³²⁹ CoreCivic's lobbying team includes Jeffrey Miller, former campaign manager to former Texas Governor and U.S. Secretary of Energy Rick Perry's 2016 presidential run,³³⁰ as well as senior aides to President Bill Clinton and deputy and associate chiefs of staff for multiple Members of Congress.³³¹ GEO, meanwhile, hired Richard Sullivan, the national co-finance chairman during Hillary Clinton's 2008 and 2016 presidential campaigns, and Brian Ballard, Trump's Florida finance chairman during his presidential campaign, to lobby for the company.³³² GEO's interests are further represented by other former senior-level staffers and members of Congress.³³³

In 2019, CoreCivic spent \$1.65 million on lobbying,³³⁴ GEO spent \$1.52 million,³³⁵ and MTC spent \$820,000.³³⁶ While these are substantial expenditures, successful lobbying efforts can benefit these companies significantly. In 2015, for example, CoreCivic (under its previous name, CCA) successfully lobbied against the Justice is Not for Sale Act, a bill that would have banned private prisons.³³⁷ CoreCivic was also one of the driving forces behind the failure of the Private Prison Information Act in 2015, which would have forced private prison companies to disclose contract and facility details.³³⁸ In 2018, GEO lobbied for the Intensive Supervision Appearance Program (ISAP), a detention alternatives program.³³⁹ The main provider of the monitoring technology used in ISAP is BI, Inc., a GEO subsidiary.³⁴⁰ In 2019, BI, Inc. earned \$26.7 million in revenue from ISAP.³⁴¹

While required lobbying disclosure forms ask companies to disclose which "specific lobbying issues" they worked on during the given time period, these forms do not define "specific."

³²⁸ Horn, *Private Prison Firms*, *supra* note 323.

³²⁹ *Id.*

³³⁰ *Id.* See also Steve Horn, *Architect of Energy Secretary Rick Perry's Political Comeback Now Lobbies for Dakota Access Owner*, DESMOG (Apr. 5, 2017), <https://www.desmogblog.com/2017/04/05/rick-perry-jeff-miller-dakota-access> [<https://perma.cc/XV8N-4MLH>].

³³¹ Horn, *Private Prison Firms*, *supra* note 323.

³³² *Id.*

³³³ *Id.*

³³⁴ CoreCivic Inc, 2020 Cycle, OPEN SECRETS, <https://www.opensecrets.org/orgs//summary?id=D000021940> (last visited May 8, 2020) [<https://perma.cc/H2TM-36D2>].

³³⁵ GEO Group, Annual Lobbying Totals: 1998-2019, OPEN SECRETS, <https://www.opensecrets.org/orgs/lobbying?id=D000022003> (last visited May 8, 2020) [<https://perma.cc/XTV4-H8QX>].

³³⁶ Management & Training Corp, Annual Lobbying Totals: 1998-2019, OPEN SECRETS, <https://www.opensecrets.org/orgs/lobbying?id=D000027364> (last visited May 8, 2020) [<https://perma.cc/X69H-PPCR>].

³³⁷ SMALL ET AL., DETENTION WATCH NETWORK, *supra* note 78, at 11.

³³⁸ *Id.*

³³⁹ Horn, *Private Prison Firms*, *supra* note 323.

³⁴⁰ About BI Incorporated, BI, <https://bi.com/company/about-us/> (last visited May 8, 2020) [<https://perma.cc/NT6X-N4TP>]. BI, Inc. contracts with ICE to provide ISAP, "a comprehensive case management system and location monitoring system", including ankle bracelets and other GPS tracking mobile applications. Immigration Services, BI, <https://bi.com/immigration-services/> (last visited May 8, 2020) [<https://perma.cc/2MKE-LWYQ>]; Products – Services, BI, <https://bi.com/products-and-services/> (last visited May 8, 2020) [<https://perma.cc/AQ9B-LC6H>].

³⁴¹ GEO 2019 Annual Report, *supra* note 159, at 55.

Thus, according to one NGO that tracks corporate lobbying activities, “some filers name bills by number and title while others provide vague descriptions that offer little information.”³⁴² As a result, the public is often left in the dark regarding the details of companies’ lobbying activities. In June 2019, for example, California Senator Kamala Harris reintroduced the Detention Oversight Not Expansion (DONE) Act, which sought to end the expansion and construction of migrant detention centers and increase government oversight of existing detention center operations.³⁴³ Lobbying disclosure forms filed by GEO for the first three quarters of 2019 reflect only vague descriptions of the company’s activities, for example, that it lobbied for issues such as “promoting the use of public-private partnerships in correctional services.”³⁴⁴ Because of lax reporting requirements, it is exceedingly difficult for the public to track the lobbying activities of PSCs or to verify statements they make such as GEO’s claim that “...GEO [does not] take a position on immigration enforcement policies or detention policies.”³⁴⁵

Patronage of Trump Properties

One form of corporate influence-seeking gaining increased attention recently is the patronage of properties owned by U.S. President Donald Trump. Refusing to sever ties to his companies or place his assets in a blind trust so as to avoid a real or perceived conflict of interest, President Trump instead maintains his assets in a family-managed trust that positions him and his family to derive a direct financial benefit from his presidency.³⁴⁶ This arrangement has created what the *Washington Post* called “a potential avenue of influence that is unique to Trump: the chance for a corporation to engage in a private business transaction with the president.”³⁴⁷

The list of corporations that have patronized—or planned to patronize—Trump businesses since Trump took office includes several PSCs operating in the migrant detention sector. After holding its annual multiday leadership conference near its Boca Raton headquarters for several years, GEO moved its gathering in 2017 to the Trump National Doral Miami, a signature property in Trump’s real estate empire.³⁴⁸ Caliburn International had planned to

³⁴² Bills, OPEN SECRETS, <https://www.opensecrets.org/federal-lobbying/bills> (last visited May 8, 2020) [<https://perma.cc/RZV8-SJ52>].

³⁴³ FREEDOM FOR IMMIGRANTS, *Introducing the DONE Act*, <https://www.freedomforimmigrants.org/done-act> (last visited May 8, 2020) [<https://perma.cc/2BQE-ELMZ>].

³⁴⁴ Lobbying Report: First Quarter 2019, Ballard Partners, <https://disclosurespreview.house.gov/ld/ldxmlrelease/2019/Q1/301028405.xml> [<https://perma.cc/345Q-PC7F>]; Lobbying Report: Second Quarter 2019, Ballard Partners, <https://disclosurespreview.house.gov/ld/ldxmlrelease/2019/Q2/301047829.xml> [<https://perma.cc/7LJ4-CLFQ>]; Lobbying Report: Third Quarter 2019, Ballard Partners, <https://disclosurespreview.house.gov/ld/ldxmlrelease/2019/Q3/301076722.xml>. [<https://perma.cc/H9JM-5YQ9>].

³⁴⁵ *Id.*

³⁴⁶ All the President’s Profiting, OPEN SECRETS, <https://www.opensecrets.org/trump/trump-properties> (last visited May 8, 2020) [<https://perma.cc/B25F-C86A>].

³⁴⁷ Amy Brittain & Drew Harwell, PRIVATE-PRISON GIANT, RESURGENT IN TRUMP ERA, GATHERS AT PRESIDENT’S RESORT, WASH. POST (Oct. 25, 2017), https://www.washingtonpost.com/politics/with-business-booming-under-trump-private-prison-giant-gathers-at-presidents-resort/2017/10/25/b281d32c-adee-11e7-a908-a3470754bbb9_story.html [<https://perma.cc/GX6K-BAJ3>].

³⁴⁸ *Id.*

host its 2019 holiday party at the Trump National Golf Club in Virginia, but moved to a different venue after a copy of the invitation was leaked to media outlets.³⁴⁹ According to Citizens for Responsibility and Ethics in Washington (CREW), a government watchdog organization, the ethical questions raised by such corporate actions were unprecedented before Donald Trump's presidency.³⁵⁰

Drafting Legislation

At times, PSCs have sought to influence policy by directly drafting legislation that would serve their own interests. In 2017, GEO – which operates Karnes County Residential Center, one of two large family detention centers in Texas³⁵¹ – wrote a bill that would grant childcare licenses to family detention centers.³⁵² If passed, this bill would have allowed GEO to detain children indefinitely while awaiting deportation,³⁵³ effectively circumventing the general rule set forth in *Flores v. Sessions* that migrant children cannot be held in non-childcare-licensed facilities for longer than 20 days.³⁵⁴ Despite medical testimony on the harmful effect of family detention centers on children,³⁵⁵ the bill passed the Texas Senate³⁵⁶ before dying in the Texas House of Representatives.³⁵⁷ According to the Deputy Director of Programs at Common Cause, a government watchdog group, PSCs have a history of working with the conservative American Legislative Exchange Council (ALEC) to draft and pass other anti-immigration, pro-detention bills at the state level.³⁵⁸

³⁴⁹ Kates, *Contractor Scraps Plans*, *supra* note 104.

³⁵⁰ *Id.*

³⁵¹ Karnes County Residential Centre, U.S. IMMIG. & CUST. ENFORCEMENT, <https://www.ice.gov/factsheets/karnes-county-residential-center> (last visited May 8, 2020) [<https://perma.cc/SH53-XCUC>]; CoreCivic operates another family detention center, South Texas Family Residential Center in Dilley, Texas. South Texas Family Residential Center, CORECIVIC <https://www.corecivic.com/facilities/south-texas-family-residential-center> (last visited May 8, 2020) [<https://perma.cc/SM4M-VL2A>].

³⁵² David Dayen, *Private Prison Corporation Wrote Texas Bill Extending How Long Immigrant Children Can be Detained*, THE INTERCEPT (May 2, 2017), <https://theintercept.com/2017/05/02/private-prison-corporation-wrote-texas-bill-extending-how-long-immigrant-children-can-be-detained/> [<https://perma.cc/95WN-H87U>]; Gus Bova, *Texas Senate Votes to License 'Baby Jails' as Child Care Facilities*, TEX. OBSERVER (May 9, 2017), <https://www.texasobserver.org/texas-senate-votes-license-baby-jails-child-care-facilities/> [<https://perma.cc/9DES-VXDM>]; Democracy Now!, *Texas State Rep. Admits GEO Wrote Immigrant Detention Bill in State Legislature* (May 3, 2017), https://www.democracynow.org/2017/5/3/headlines/texas_state_rep_admits_GEO_group_wrote_immigrant_detention_bill_in_state_legislature [<https://perma.cc/3XJU-HF76>].

³⁵³ Dayen, *supra* note 352.

³⁵⁴ *Flores v. Sessions*, Case No. CV 85-4544, Dkt. No. 455 30 (C.D. Cal. July 9, 2018), <https://www.aila.org/File/Related/14111359v.pdf> [<https://perma.cc/FF4R-WNF3>].

³⁵⁵ Kimberly Avila Edwards, Texas Pediatric Society, Senate Veteran Affairs & Border Security Committee Testimony Against Senate Bill 1018 by Sen. Huges Texas Pediatric Society (Mar. 29, 2017), <https://txpeds.org/sites/txpeds.org/files/documents/sb-1018-sen-vabs-edwards-3-29-17.pdf> [<https://perma.cc/XP3Z-VWJD>].

³⁵⁶ Julián Aguilar, *Senate Passes Bill to Ease Licensing for Immigration Detention Centers*, TEX. TRIB. (May 9, 2017), <https://www.texastribune.org/2017/05/09/senate-tentatively-passes-bill-ease-licensing-immigration-detention-ce/> [<https://perma.cc/2FD8-RBRR>].

³⁵⁷ Sine Die Report for the 85th Legislature, TEXAS CATHOLIC CONFERENCE OF BISHOPS, <https://txcatholic.org/sine-die-for-the-85th-legislature/> [<https://perma.cc/N8FC-7JDL>].

³⁵⁸ Nancy Scola, *Exposing ALEC: How Conservative-Backed State Laws Are All Connected*, THE ATLANTIC (Apr. 14, 2012), <https://www.theatlantic.com/politics/archive/2012/04/exposing-alec-how-conservative-backed-state-laws-are-all-connected/255869/> [<https://perma.cc/P4ZN-U3K7>].

Marketing Directly to Economically Struggling Towns

Another way that PSCs interact with governments in pursuit of the companies' economic interests is by marketing themselves to economically struggling towns as a way to save the town's economy. These marketing efforts have met with mixed success lately, due to growing local protests.³⁵⁹ However, as recent events in McFarland, California illustrate, the stable income generated by a detention contract can prove too enticing to refuse. In late 2019, GEO marketed a plan to McFarland city leaders to convert two local prisons slated for closure into federal migrant detention centers, as annexes to the company's 400-bed Mesa Verde ICE Processing Center.³⁶⁰ With this expansion, GEO would increase its capacity in the area by 1,400 detainees.³⁶¹ In February 2020, residents opposed to the plan celebrated as the McFarland Planning Commission denied GEO's bid.³⁶² Two months later, however, the McFarland City Council reversed the Planning Commission's decision, citing the town's "desperate financial condition."³⁶³

McFarland's reversal appears to have been motivated, at least in part, by the economic devastation wrought by COVID-19. In urging the City Council to support GEO's proposal, McFarland's city manager noted that the pandemic has forced the city into debt, threatening the town's ability to provide basic public services.³⁶⁴ The city's community development director further stated that the approximately \$500,000 in annual payments the city would receive from GEO was "one of, if not the only solution right now that we have at the table ... It's not going to fix all the problems, but it is hope."³⁶⁵ Given the ongoing, devastating impact of COVID-19 on local economies all across the United States, more towns and cities may follow McFarland's course.

³⁵⁹ See, e.g., Caleb Bauer, *CoreCivic Pulls Plans for Elkhart County Immigration Detention Center*, SOUTH BEND TRIB. (January 23, 2018) https://www.southbendtribune.com/news/local/corecivic-pulls-plans-for-elkhart-county-immigration-detention-center/article_1114cbe4-ff9b-11e7-9df0-93e7fae32cdb.html [https://perma.cc/FW69-HYNL] (After marketing for nearly two years, another PSC giant, CoreCivic, pulled out from its plan to build a 250,000 private immigration facility in Elkhart County, Indiana after public protest).

³⁶⁰ Press Release, GEO Group, *The GEO Group Signs Contracts With U.S. Immigration and Customs Enforcement for Five Facilities in California Totaling 4,490 Beds* (Dec. 23, 2019), <http://investors.GEOgroup.com/file/Index?KeyFile=401815102> [https://perma.cc/C9EN-8T8K].

³⁶¹ Gonzalo Santos, *Community Voices: No More Immigrant Detention Facilities in McFarland or Anywhere Else*, BAKERSFIELD.COM (February 16, 2020), https://www.bakersfield.com/opinion/community-voices-no-more-immigrant-detention-facilities-in-mcfarland-or/article_188aec14-4e09-11ea-83ed-7ba3e7225bf1.html. [https://perma.cc/7MR5-FR29].

³⁶² Miriam Jordan, *An ICE Detention Center? You Picked the Wrong Town, Residents Say*, N.Y. TIMES (February 20, 2020), <https://www.nytimes.com/2020/02/20/us/immigration-detention-bakersfield-mcfarland.html> [https://perma.cc/GL35-HVQU]; Rebecca Plevin, *Mayor Resigns After McFarland Denies GEO Group's Plan to Convert Prisons into Immigration Centers*, DESERT SUN (Feb. 19, 2020), https://www.desertsun.com/story/news/politics/immigration/2020/02/19/mcfarland-denies-GEO-plan-convert-prisons-into-immigration-detention-centers/4792122002/?utm_source=oembed&utm_medium=onsite&utm_campaign=storylines&utm_content=news&utm_term=2714043001 [https://perma.cc/F7W4-KBVX].

³⁶³ Rebecca Plevin, *McFarland City Council Approves GEO's Plan to Expand Immigration Detention in Kern County*, DESERT SUN (April 24, 2020), <https://www.desertsun.com/story/news/politics/immigration/2020/04/24/mcfarland-approves-GEOs-plan-expand-immigration-detention/3015465001/> [https://perma.cc/3JE5-4FHN].

³⁶⁴ *Id.*

³⁶⁵ *Id.*

Litigation Against Governments and Government Officials

PSCs also turn to litigation to advance their policy agendas or to challenge policies they view as unfavorable to their interests. In late 2019, Governor Gavin Newsom of California signed a bill to ban private prisons and migrant detention facilities in the state.³⁶⁶ This law, Assembly Bill 32 (2019),³⁶⁷ prevented the state from renewing or entering into new migrant detention contracts with PSCs beginning in January 2020.³⁶⁸ According to the law's author, the purpose of the law was to "end the well-documented abuse of California residents by for-profit, private corporations."³⁶⁹ With nearly 4,500 immigration detention beds in California,³⁷⁰ GEO stood to suffer significant financial losses from the new law.

In January 2020, GEO responded by filing a lawsuit against California's governor and state attorney general.³⁷¹ In its pleadings, GEO argues that ICE's resources are stretched thin and that ICE and USMS need private detention centers to handle the ever-growing population of detainees.³⁷² The pleadings also claim that California's ban on private detention facilities poses a threat to \$4 billion in capital investment and future revenue for GEO over the next 15 years.³⁷³ A coalition of migrant rights NGOs has called the lawsuit "a shameless attempt to protect profits."³⁷⁴

SECTION V. HUMAN RIGHTS VIOLATIONS AGAINST MIGRANTS DETAINED IN DETENTION CENTERS OPERATED BY PRIVATE SECURITY COMPANIES

Migrants detained in PSC-operated facilities have been subjected to a host of human rights violations that are both frequent and severe. These include inadequate medical care, unsanitary conditions and lack of essential hygiene supplies, excessive use of force, sexual

³⁶⁶ Veronica Stracqualursi, *California to Shut Down Private Prisons and Immigrant Detention Centers*, CNN (Oct. 12, 2019), <https://www.cnn.com/2019/10/12/politics/california-law-ban-private-for-profit-prisons/index.html> [<https://perma.cc/7SQZ-CLZR>].

³⁶⁷ Assem. Bill 32, 2019-2020 Sess., ch. 739, 2019 Cal. Stat., https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB32 [<https://perma.cc/X22A-JHJY>].

³⁶⁸ Andrea Castillo, *California Bans For-Profit Prisons and Immigrant Detention Facilities*, L.A. TIMES (Oct. 11, 2019), <https://www.latimes.com/california/story/2019-10-11/california-bans-for-profit-prisons-and-immigrant-detention-facilities> [<https://perma.cc/J4E8-D9GQ>].

³⁶⁹ Rebecca Plevin, *4 Things We Learned*, *supra* note 191.

³⁷⁰ *The GEO Group Signs Contracts with U.S. Immigration and Customs Enforcement for Five Facilities in California Totaling 4,490 Beds*, BUSINESS WIRE (Dec. 23, 2019), <https://www.businesswire.com/news/home/20191223005099/en/GEO-Group-Signs-Contracts-U.S.-Immigration-Customs> [<https://perma.cc/E6XA-YWRV>].

³⁷¹ Complaint, *Geo Group v. Newsom*, No. 19-CV-2491 (S.D. Cal. Dec. 30, 2019), <https://www.courthousenews.com/wp-content/uploads/2019/12/CalifPrivatePrisonBan-COMPLAINT.pdf> [<https://perma.cc/3ZEB-LYJW>]. In addition to filing suit, GEO worked with ICE to evade the impact of the law by quickly entering into 15-year detention center contracts in the short time remaining before the effective date of the new law. See *supra* pp. 22-23.

³⁷² *Id.* at 16.

³⁷³ *Id.* at 24.

³⁷⁴ Press Release, Immigrant Legal Resource Ctr., Dignity not Detention Coalition Condemns GEO Lawsuit: "A Shameless Attempt to Protect Profits" (Dec. 31, 2019), <https://www.ilrc.org/dignity-not-detention-coalition-condemns-geo-lawsuit-shameless-attempt-protect-profits> [<https://perma.cc/E7JN-BVG5>].

abuse, inappropriate use of solitary confinement, forced labor, discrimination on the basis of race, religion, sexual orientation and gender identity, and prolonged detention of children in a prison-like facility. This spring, the arrival of the COVID-19 pandemic has added a new and urgent danger to the dire situations many detained migrants already face.

The discussion of human rights violations that follows is, necessarily, illustrative rather than exhaustive. The picture that emerges, though, is clear: PSCs are failing to respect the human rights of the migrants detained in their facilities.

Inadequate Medical Care

Substandard medical care and a lack of access to medical treatment for migrants in detention have led to significant suffering and, in some cases, to preventable deaths.³⁷⁵

At several detention facilities, experts have alleged that delayed access to medical care resulted in the death of detainees. In 2016, Rafael Barcenas Padilla died of pneumonia at MTC's Otero Detention Facility in New Mexico.³⁷⁶ After going to the medical unit in the detention facility with a high fever and other severe symptoms, he was prescribed albuterol.³⁷⁷ However, the facility lacked the equipment to administer the medication.³⁷⁸ Barcenas did not see a doctor for two days; when he finally did, the doctor sent him to the hospital.³⁷⁹ Rather than calling an ambulance, staff made Barcenas wait two hours to be transported by the facility's van.³⁸⁰ Experts who reviewed his case said that he should have been immediately evacuated to a hospital.³⁸¹

In a review of GEO's Adelanto detention facility in California, DHS's Office of the Inspector General reported that one-third of all grievances filed at the facility were related to delayed access to medical care: "Four of the 13 detainees we interviewed reported waiting weeks and months to see a doctor."³⁸² The report goes on to note that three Adelanto detainees had died since fiscal year 2015, and that a lack of timely care contributed to their deaths.³⁸³

Detainees have also reported that medical care providers at private security facilities fail to prescribe them necessary medicines. A migrant with post-traumatic stress disorder alleged

³⁷⁵ HUMAN RIGHTS WATCH, SYSTEMIC INDIFFERENCE: DANGEROUS & SUBSTANDARD MEDICAL CARE IN US IMMIGRATION DETENTION 1 (2017), https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5a9da33f0d9297a1f84f60f2/1520280385430/HRW_Report.pdf [<https://perma.cc/T9BA-KX3R>].

³⁷⁶ Complaint at 99, *Fraihat v. U.S. Immig. & Cust. Enforcement*, Case No. 19-cv-01546 (C.D. Cal 2019), https://creeclaw.org/wp-content/uploads/2019/08/E-filed-Fraihat_v_ICE_Complaint_to_file_8_19.pdf [<https://perma.cc/Q99P-KTTL>].

³⁷⁷ *Id.*

³⁷⁸ *Id.*

³⁷⁹ *Id.*

³⁸⁰ *Id.*

³⁸¹ *Id.* at 100.

³⁸² Off. Inspector Gen., U.S. Dep't Homeland Sec., Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California 8 (2018), <https://www.oig.dhs.gov/sites/default/files/assets/Mga/2018/oig-18-86-sep18.pdf> [<https://perma.cc/EQA6-EYD7>].

³⁸³ *Id.*

that he was denied his medications at CoreCivic’s Central Arizona Detention Center (CADC), on the grounds that “they were not allowed in CADC per the facility’s policies.”³⁸⁴ He was not offered any alternative medications or treatments, and contemplated suicide.³⁸⁵ Meanwhile, detainees at CoreCivic’s T. Don Hutto Residential Facility in Texas reported that the only treatment provided by medical staff in many cases is ibuprofen and water.³⁸⁶

Detained migrant children face dire consequences from delayed or inadequate medical care. Yasmin Juárez brought a lawsuit against CoreCivic after her one-year-old daughter Mariee died in 2018, shortly after the two were released from CoreCivic’s South Texas Family Residential Center in Dilley, Texas.³⁸⁷ In testimony to Congress, Juárez recounted repeatedly bringing Mariee to the clinic at the facility for treatment for a respiratory infection, and seeing three physician assistants over the course of a week before being seen by a doctor.³⁸⁸ The doctor prescribed only over-the-counter medicine that was not appropriate for children Mariee’s age, and her condition worsened.³⁸⁹ Before Juárez was able to take Mariee to see a doctor at the detention center again, the two were released to Juárez’s mother in New Jersey.³⁹⁰ In New Jersey, Juárez took Mariee to a hospital where she was diagnosed with a viral lung infection and transferred first to the intensive care unit and then to a special pediatric hospital.³⁹¹ Mariee died after six weeks in the hospital.³⁹² Juárez later learned that Mariee’s medical record from the South Texas Family Residential Center said that she had no medical restrictions and was “medically cleared.”³⁹³ Human Rights First has noted that the infant children held at both the South Texas Detention Center and GEO’s Karnes County Residential Center in Texas are at “particular risk of infection with communicable diseases because they may not be fully vaccinated.”³⁹⁴

Many private detention facilities do not provide basic dental care. DHS’s Office of the Inspector General reviewed access to dental care at GEO’s Adelanto facility in 2018 and concluded that “although the center’s two dentists identified cavities and placed detainees on a waitlist for fillings, no detainees have received fillings in the last 4 years.”³⁹⁵ A detainee at LaSalle’s Winn Correctional Center in Louisiana reported that he had been denied dental

³⁸⁴ Padilla v. U.S. Cust. & Border Prot., 2018 U.S. Dist. LEXIS 158258 at *3 (D. Ariz. 2018).

³⁸⁵ *Id.*

³⁸⁶ DETENTION WATCH NETWORK, T. DON HUTTO RESIDENTIAL CENTER: IMMIGRANT DETENTION INSPECTION SERIES 2 (2017), https://www.detentionwatchnetwork.org/sites/default/files/Hutto%20Inspection_DWN%20and%20Grassroots%20Leadership_2017.pdf [<https://perma.cc/B2LT-2FLJ>].

³⁸⁷ Nomaan Merchant, *Private Prison Company Sued in Death of 1 Year Old Migrant Child*, PBS NEWS HOUR (July 31, 2019), <https://www.pbs.org/newshour/nation/private-prison-company-sued-in-death-of-1-year-old-migrant-child> [<https://perma.cc/L38Y-U689>].

³⁸⁸ Julia Webster, *Her 19-Month-Old Daughter Died After Being Held at an ICE Facility. Here’s What Yasmin Juárez Told Congress*, TIME (July 11, 2019), <https://time.com/5624391/yasmin-juarez-migrant-mom-congressional-testimony/> [<https://perma.cc/QG3G-YG2S>].

³⁸⁹ *Id.*

³⁹⁰ *Id.*

³⁹¹ *Id.*

³⁹² *Id.*

³⁹³ *Id.*

³⁹⁴ HUMAN RIGHTS FIRST, FAMILY INCARCERATION CONTINUES TO ENDANGER CHILDREN, IMPEDE ACCESS TO LEGAL INFORMATION & WASTE GOVERNMENT RESOURCES 2 (2019), https://www.humanrightsfirst.org/sites/default/files/Short_Detention_Report_March_2019.pdf [<https://perma.cc/T8R7-PYCP/>].

³⁹⁵ OFF. INSPECTOR GEN., *supra* note 382, at 8 (2018).

care for months, and as a result, “was forced to remove the remnants of a rotten tooth on his own, without anesthetic.”³⁹⁶

When detainees are transferred among facilities, their medical records are often not transferred with them, resulting in a lack of continuity of care. ICE Enforcement and Removal Operations inspected CoreCivic’s Houston Contract Detention Facility and Eloy Federal Contract Facility, finding that released or transferred detainees did not receive discharge treatment plans or copies of their medical records, in violation of ICE Performance-Based National Detention Standards.³⁹⁷

Unsanitary Conditions

Reports from various privately run detention centers paint a picture of unsafe and unsanitary conditions within these centers, from dilapidated physical facilities to food safety issues and a lack of access to basic hygiene products. Indeed, a 2019 investigation of four detention facilities (three of which were privately operated) by DHS’s Office of the Inspector General found “unsafe and unhealthy conditions to varying degrees” at all facilities.³⁹⁸

Detainees have complained of lack of access to hygiene products. At CoreCivic’s Stewart Detention Center in Georgia, for example, detainees stated that they did not receive either soap or lotion,³⁹⁹ while female detainees at CoreCivic’s Elizabeth Contract Detention Facility in New Jersey reported that they were provided an inadequate number of sanitary pads.⁴⁰⁰ Detainees at LaSalle’s West Texas Detention Center said that they received only a single pair of underwear for an entire week of detention, and also reported being denied toothbrushes and toothpaste.⁴⁰¹

Food safety issues have been documented at a large number of detention facilities. The DHS Office of the Inspector General found food safety issues at three GEO detention centers, including chicken that “smelled foul and appeared to be spoiled,” unwrapped and improperly stored meats and cheeses, and expired food.⁴⁰² Detainees at CoreCivic’s Elizabeth Contract

³⁹⁶ FREEDOM FOR IMMIGRANTS, *Detention in Your District: Louisiana Congressional District 5*, *supra* note 250.

³⁹⁷ 2016 ERO Inspection Report: Houston Contract Detention Facility (Jan. 2016) at 115, <https://www.documentcloud.org/documents/6574916-2016-ERO-Inspection-Report-Houston-CDF-TX.html> [<https://perma.cc/KYH9-A7DL>]; 2016 ERO Inspection Report: Eloy Federal Contract Facility (Feb. 2016) at 110, <https://www.documentcloud.org/documents/6572756-2016-ERO-Inspection-Eloy-AZ.html> [<https://perma.cc/F3EK-7SS2>].

³⁹⁸ OFF. INSPECTOR GEN., U.S. DEP’T HOMELAND SEC., CONCERNS ABOUT ICE DETAINEE TREATMENT AND CARE AT FOUR DETENTION FACILITIES ii (2019), <https://www.oig.dhs.gov/sites/default/files/assets/2019-06/OIG-19-47-Jun19.pdf> [<https://perma.cc/R2RG-U7G2>].

³⁹⁹ Off. Inspector Gen., U.S. Dep’t Homeland Sec., Adult Detention Oversight 16-047-ISP-ICE, Stewart Detention Center 3 (2017), https://www.oig.dhs.gov/sites/default/files/assets/FOIA/OIG_FOIA_Stewart-Detention-Center-Work-Papers.pdf [<https://perma.cc/GGS4-64QF>] (hereinafter Off. Inspector Gen., Oversight of Stewart Detention Center).

⁴⁰⁰ ELENI BAKST & OLGA BYRNE, HUMAN RIGHTS FIRST, AILING JUSTICE: NEW JERSEY 4 (2018), <https://www.humanrightsfirst.org/sites/default/files/Ailing-Justice-NJ.pdf> [<https://perma.cc/DW3Y-973B>].

⁴⁰¹ REFUGEE & IMMIGRANT CENTER FOR EDUCATION & LEGAL SERVICES (RAICES) ET AL., “I WAS TREATED LIKE AN ANIMAL”: ABUSES AGAINST AFRICAN DETAINEES AT THE WEST TEXAS DETENTION FACILITY 15 (2018), https://www.raicestexas.org/wp-content/uploads/2017/04/WTDF_Report_Final.pdf [<https://perma.cc/K2VR-GP6L>] [hereinafter RAICES ET AL.].

⁴⁰² OFF. INSPECTOR GEN., CONCERNS ABOUT ICE DETAINEE TREATMENT AND CARE, *supra* note 398, at 3-4.

Detention Facility in New Jersey reported food containing worms and maggots, and white-tinged water from a drinking fountain, which two detainees referred to as “pure bleach.”⁴⁰³ A 2016 lawsuit brought by a detainee at ICA’s Farmville, Virginia facility alleged “rotten maggots infested food” and “a rock the size of a bean in his food tray.”⁴⁰⁴

More generally, the conditions at a variety of facilities are unsanitary and dilapidated, posing risks to the health of detainees. At LaSalle’s Jackson Parish Correctional Center in Louisiana, a detainee alleged that toilets regularly back up and that the dormitories have a pervasive stench.⁴⁰⁵ Multiple detainees at CoreCivic’s Elizabeth Contract Detention Facility reported that poor ventilation had led to severe dust buildup in the facility, which triggered many detainees’ asthma and allergies.⁴⁰⁶ In 2013, ICE waived the requirement at ICA’s Farmville Detention Center that the facility have one toilet for every 12 men and eight women; as of October 2019, the waiver still remained in place, according to the National Immigrant Justice Center.⁴⁰⁷

Excessive Use of Force

There have been troubling reports of the use of excessive force at many detention centers operated by PSCs, including physical beatings and the use of pepper spray. Many, though not all, of these incidents have occurred in response to non-violent protests by detainees.

The Director of ICA’s Farmville Detention Center acknowledged in November 2019 that, on average, the facility uses pepper spray about 30 times a month.⁴⁰⁸ In one incident, pepper spray was used when, following a mumps outbreak that sickened at least 24 people, detainees refused to eat food from the cafeteria, citing fear that improperly washed utensils and dishes could increase the spread of mumps.⁴⁰⁹ According to one of the detainees, 20 guards entered their dormitory in “riot gear” and used pepper spray on the detainees.⁴¹⁰ The pepper spray caused one detainee to suffer an asthma attack, but he was denied an inhaler for 15 minutes.⁴¹¹

⁴⁰³ Bakst & Byrne, HUMAN RIGHTS FIRST, *supra* note 400, at 4–5.

⁴⁰⁴ *Brizuela v. Immigration Ctrs. of Am.*, 206 U.S. Dist. LEXIS 170161 at *2-3 (E.D. Va. 2016).

⁴⁰⁵ Stole, *supra* note 256.

⁴⁰⁶ Bakst & Byrne, HUMAN RIGHTS FIRST, *supra* note 400, at 4.

⁴⁰⁷ See Memorandum from Thomas C. Finley, Acting Unit Chief, Det. Standards Compliance Unit, U.S. Immig. & Cust. Enforcement, to Tae D. Johnson, Assist. Dir. Custody Mgmt., U.S. Immig. & Cust. Enforcement (June 6, 2013), <https://www.documentcloud.org/documents/6454439-IMMIGRATION-CENTERS-of-AMERICA-FARMVILLE-2013.html> [<https://perma.cc/46JP-MRQJ>]; Policy Brief - The Dark Money Trail Behind Private Detention: Immigration Centers of America-Farmville, NAT’L IMMIGRANT JUSTICE CTR (Oct. 7, 2019), <https://immigrantjustice.org/research-items/policy-brief-dark-money-trail-behind-private-detention-immigration-centers-america> [<https://perma.cc/EE86-S8UV>].

⁴⁰⁸ Alexa Massey, *Detention Center: An Inside Look*, KENBRIDGE VICTORIA DISPATCH (Dec. 5, 2019), <https://www.kenbridgevictoriadispatch.com/2019/12/05/detention-center-an-inside-look/> [<https://perma.cc/E44T-VLBX>].

⁴⁰⁹ Monsy Alvarado et al., *Deaths in Custody. Sexual Violence. Hunger Strikes. What We Uncovered Inside ICE Facilities Across the US*, USA TODAY, (Dec. 22, 2019) <https://www.usatoday.com/in-depth/news/nation/2019/12/19/ice-asylum-under-trump-exclusive-look-us-immigration-detention/4381404002/> [<https://perma.cc/CP4V-4323>].

⁴¹⁰ *Id.*

⁴¹¹ *Id.*

Excessive use of force has also been reported at detention facilities operated by LaSalle. Officers at LaSalle’s Richwood Detention Center in Louisiana reportedly responded with physical violence when dozens of detainees engaged in a hunger strike to protest their poor living conditions and the recent death of a fellow detainee.⁴¹² At least one of the detainees was hurt badly enough to require hospitalization.⁴¹³ A correctional supervisor involved in another incident at Richwood pled guilty in 2019 to conspiring with five other Richwood officers to “inflict cruel and unusual punishment against the inmates under their care,” after “spraying a chemical agent in [five inmates’] face[s] and eyes while the inmates were handcuffed, compliant, kneeling on the floor, and not posing a physical threat to anyone.”⁴¹⁴ The supervisor admitted that he and other officers concocted a false report to cover up their actions.⁴¹⁵

LaSalle’s Winn Parish Correctional Center and West Texas Detention Facility have also had recent reports of excessive use of force. In December 2019, officers at LaSalle’s Winn Correctional Center in Louisiana used pepper spray to disrupt a protest by about 50 detainees, leading to the hospitalization of at least one detainee.⁴¹⁶ At LaSalle’s West Texas Detention Facility, 30 detainees who were interviewed reported being pepper sprayed on at least one occasion, and 14 of the 30 said they also had been physically assaulted by officers.⁴¹⁷ One of these detainees reported being hit in the face four times, after which his hands were cuffed behind his back and he was kicked in the ribs.⁴¹⁸ When he asked for help from two medical officers who witnessed the ongoing incident, they said, “We didn’t see anything.”⁴¹⁹ Another of these detainees reported being beaten, pushed to the ground, and having his head slammed into the concrete, despite his not resisting.⁴²⁰

At GEO’s Adelanto facility in California, video footage appears to document the use of excessive force on detainees engaged in a hunger strike.⁴²¹ The detainees had been protesting conditions at the facility and discrimination by guards, and demanded to speak to a supervisor or a representative from ICE.⁴²² The video shows the detainees sitting at a table with their arms locked together, as guards pepper spray them at least three times before forcibly

⁴¹² FREEDOM FOR IMMIGRANTS, *Detention in Your District: Louisiana Congressional District 5*, *supra* note 250.

⁴¹³ *Id.*; Alvarado et al., *Deaths in Custody*, *supra* note 409.

⁴¹⁴ Press Release, U.S. Attorney’s Off., W.D. La., U.S. Dep’t of Justice, Former Richwood Correctional Supervisor Pleads Guilty to Role in Physical Assault of Inmates (Jan. 31, 2019), <https://www.justice.gov/usao-wdla/pr/former-richwood-correctional-supervisor-pleads-guilty-role-physical-assault-inmates> [<https://perma.cc/2CV7-2UVH>].

⁴¹⁵ *Id.*

⁴¹⁶ Nomaan Merchant, *ICE Confirms Officers in Louisiana Jail Pepper-Sprayed Protesting Migrants*, PBS NEWS HOUR, (Dec. 4, 2019) <https://www.pbs.org/newshour/nation/ice-confirms-officers-in-louisiana-jail-pepper-sprayed-protesting-migrants> [<https://perma.cc/2SKU-E77A>]; FREEDOM FOR IMMIGRANTS, *Detention in Your District: Louisiana Congressional District 5*, *supra* note 250.

⁴¹⁷ RAICES ET AL., *supra* note 401.

⁴¹⁸ *Id.* at 4.

⁴¹⁹ *Id.* at 4.

⁴²⁰ *Id.* at 5.

⁴²¹ Tom Dreisbach, *Exclusive: Video Shows Controversial Use of Force Inside an ICE Detention Center*, NPR (Feb. 6, 2020), <https://www.npr.org/2020/02/06/802939294/exclusive-video-shows-controversial-use-of-force-inside-an-ice-detention-center> [<https://perma.cc/8QRV-DUNJ>].

⁴²² *Id.*

dragging them away from the table.⁴²³ At CoreCivic’s La Palma Correctional Center in Arizona, a detainee reported that “a Salvadoran [man] was grabbed by the head and slammed against the wall for taking papers out of his belongings” on his first day at the facility.⁴²⁴

Sexual Abuse

Sexual abuse is reportedly widespread within private migrant detention facilities. According to a 2017 complaint by the nongovernmental organization CIVIC (now Freedom for Immigrants), sexual assaults had been documented at 76 migrant detention facilities, and the five facilities with the highest number of complaints were all privately run.⁴²⁵ ICE data released through FOIA requests reveals over 1,448 allegations of sexual abuse between 2012 and March 2018.⁴²⁶ ICE found 12 % of the claims to be substantiated, and the rest to be unsubstantiated or unfounded; when asked by an investigative journalist from *The Intercept*, ICE would not disclose its reasons for finding the remaining claims unsubstantiated or unfounded.⁴²⁷

Of the sexual assault allegations by detained migrants recorded by ICE between October 2015 and March 2018, 24% were made against ICE contractors, a category that appears to include staff at private detention facilities.⁴²⁸ Some complaints have been raised in United States courts, including the case of *Doe v. United States*, in which female former detainees at CoreCivic’s T. Don Hutto Residential Center sued the company, a male detention officer, and a facility administrator after the male officer sexually assaulted them while transporting them to the airport or bus station after they posted bond.⁴²⁹ In a separate criminal case, the male guard was convicted on state and federal charges for his actions.⁴³⁰ Among other complaints of sexual abuse by guards, a female detainee at LaSalle’s Jack Hartwell Immigration center claimed that a guard sexually assaulted her,⁴³¹ and a male detainee at LaSalle’s West Texas

⁴²³ *Id.*

⁴²⁴ JUSTICE-FREE ZONES, *supra* note 6, at 41.

⁴²⁵ Letter from Rebecca Merton, National Inspection Monitor, CIVIC, & Christina Fialho, Co-Founder/Executive Director, CIVIC, to Thomas D. Homan, Director, U.S. Immig. & Cust. Enforcement et al. 1–2 (Apr. 11, 2017), https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5a9da297419202ab8be09c92/1520280217559/SexualAssault_Complaint.pdf [<https://perma.cc/NW2V-SUFC>].

⁴²⁶ Alice Speri, *Detained, Then Violated*, INTERCEPT (Apr. 11, 2018), <https://theintercept.com/2018/04/11/immigration-detention-sexual-abuse-ice-dhs/> [<https://perma.cc/47VF-5ULE>]. Note that this data is not disaggregated into abuses that occurred in private detention facilities and abuses that occurred in government-run facilities.

⁴²⁷ *Id.*

⁴²⁸ See ICE Sexual Abuse Statistics, INTERCEPT (Apr. 11, 2018), <https://theintercept.com/document/2018/04/11/ice-sexual-abuse-statistics/> [<https://perma.cc/N7SB-D5TS>].

⁴²⁹ *Doe v. United States*, 831 F.3d 309, 313 (5th Cir. 2016). At the time that the plaintiffs brought the case, CoreCivic operated under the name “Corrections Corporation of America” (CCA). The civil claim against CCA and its officers was dismissed on procedural grounds: 42 U.S.C. § 1983 permits individuals to bring claims for conduct arising “under color of state law,” but the court found that CCA’s private detention center was instead serving a federal function, despite the Intergovernmental Service Agreement with Williamson County, Texas. *Id.* at 317.

⁴³⁰ *Id.* at 313, 317.

⁴³¹ Jasmin Caldwell, *Waco Immigrant Advocates Call for End to LaSalle Corrections Contract*, KCEN NEWS (July 27, 2018), <https://www.kcentv.com/article/news/local/waco-immigrant-advocates-call-for-end-to-lasalle-corrections-contract/500-578109383> [<https://perma.cc/56JU-Y6PC>].

Detention Facility alleged that a guard forced him against a wall and, through his clothing, fondled his penis and groin area.⁴³²

Private detention facilities are also frequently unable to protect detained migrants from sexual abuse by other migrants, or provide effective remedies. Sexual assaults by fellow detainees accounted for 68 % of reports received by ICE between October 2015 and March 2018.⁴³³ In a case brought against CoreCivic, a detainee at the Central Arizona Correctional Center alleged that he was sexually assaulted by a fellow detainee during recreation time, and that the psychologist and psychiatrist on site refused to provide treatment or address the anxiety and depression he subsequently developed.⁴³⁴

Detainees have at times said they have faced retaliation for reporting sexual abuse. After one detainee at LaSalle’s Johnson County Detention Center reported a sexual assault to officers at the facility, he was charged with the crime of false report, a charge that he alleges was intended to chill his free speech.⁴³⁵ In another case, a female detainee at CoreCivic’s T. Don Hutto Residential center in Texas alleged that a female guard repeatedly sexually abused her.⁴³⁶ As the victim was preparing to report the abuse, the guard said that the rest of the staff at the center would not believe her.⁴³⁷ The victim told journalists, “I was scared because I thought she was gonna deport me—that they could send me to another detention center and deport me.”⁴³⁸

Minors in migrant detention also have reported sexual abuse. In 2019, the Department of Justice revealed that it had received over 4,500 complaints of sexual abuse of migrant children in detention facilities between October 2014 and July 2018.⁴³⁹ Of these complaints, 178 were about detention staff members sexually assaulting migrant children.⁴⁴⁰ One facility where there were reports of sexual abuse of minors was the Homestead temporary influx facility for unaccompanied children, operated by Comprehensive Health Services (CHS), now a subsidiary of Caliburn.⁴⁴¹ In one case, a CHS youth care worker was sentenced to 10 years in prison for engaging “in inappropriate relationships with minors she met at the shelter by

⁴³² RAICES ET AL., *supra* note 401, at 5.

⁴³³ ICE *Sexual Abuse Statistics*, *supra* note 428.

⁴³⁴ Ansu v. CoreCivic, No. CV-18-03851-PHX-DWL (DMF), 2020 U.S. Dist. LEXIS 28865, at *2-*3 (D. Ariz. 2020). The outcome of this case is still pending. Defendants have filed motions to dismiss.

⁴³⁵ Complaint at 2, Roe v. Johnson Cty., No. 3:18-CV-02497-B-BN (N.D. Tex. Sept. 19, 2018).

⁴³⁶ Tina Vasquez, *In Search of Safety: An Investigation of Abuse at an Immigration Detention Facility*, REWIRE.NEWS (Mar. 8, 2019), <https://rewire.news/article/2019/03/08/search-safety-investigation-abuse-immigration-facility/> [<https://perma.cc/YP9Q-E9PH>].

⁴³⁷ *Id.*

⁴³⁸ *Id.*

⁴³⁹ Matthew Haag, *Thousands of Immigrant Children Said They Were Sexually Abused in U.S. Detention Centers, Report Says*, N.Y. TIMES (Feb. 27, 2019), <https://www.nytimes.com/2019/02/27/us/immigrant-children-sexual-abuse.html> [<https://perma.cc/8EZD-QF7W>].

⁴⁴⁰ *Id.*

⁴⁴¹ See NO HOME FOR CHILDREN, *supra* note 108, at 29. Since August 2019, no children have been housed at Homestead. Monique O. Madan, *All Children Have Been Moved from Homestead Detention Center. They’re not Coming Back*, MIAMI HERALD (Aug. 3, 2019), <https://www.miamiherald.com/news/local/immigration/article233488172.html> [<https://perma.cc/E8WN-4AP2>].

sending and receiving explicit videos and images.”⁴⁴² Incidents of abuse at Homestead have likely been underreported: Amnesty International found that Homestead had inadequate systems for children to report allegations of sexual abuse.⁴⁴³ The phone that children could use to report sexual abuse was located “in an open-air cubicle within five feet of a ping pong table in a recreation room,” failing to provide the privacy needed to report abuse and thus deterring reporting.⁴⁴⁴

Inappropriate Use of Solitary Confinement

Solitary confinement has been widely used at a number of privately-operated migrant detention centers. PSCs have reportedly resorted to the use of solitary far too frequently, and in many instances, migrants placed in solitary have been kept there for extended lengths of time. At ICA’s Farmville Detention Center in Virginia, 208 individuals were placed in solitary confinement between January 2016 and May 2018, and eight of them were left there for 75 days or longer.⁴⁴⁵ Over the same time span, 1,191 individuals were held in solitary, with 112 placed in solitary for over 75 days, at GEO’s Adelanto ICE Processing Center in California.⁴⁴⁶ GEO’s use of solitary at Adelanto has been so egregious that DHS’s own Office of Civil Rights and Civil Liberties characterized it as “inhumane” and against ICE policy on solitary confinement.⁴⁴⁷

Although medical experts say that solitary confinement is particularly damaging for people with mental health issues,⁴⁴⁸ a significant percentage of migrants placed in solitary already suffered from mental illness. As reported by *The Atlantic*, “From 2016 to early 2018, about 40 % of the cases of people being placed in solitary confinement by ICE involved immigrants with mental illnesses—even though the agency’s own doctors and lawyers warn that such treatment severely worsens these illnesses.”⁴⁴⁹ At ICA’s Farmville facility, 53 of the 208 migrants placed in solitary between January 2016 and May 2018 were known to have mental illnesses.⁴⁵⁰ At GEO’s Adelanto facility, over two-thirds of the 1,191 people held in solitary during the same time span suffered from mental illnesses.⁴⁵¹ One such woman with a

⁴⁴² Press Release, U.S. Dep’t of Justice, Former Shelter Worker Sentenced to 10 Years of Imprisonment for Attempting to Coerce and Entice an Unaccompanied Alien Minor to Engage in Illicit Sexual Activity (Nov. 1, 2017), <https://www.justice.gov/usao-sdfl/pr/former-shelter-worker-sentenced-10-years-imprisonment-attempting-coerce-and-entice> [https://perma.cc/Q3SW-DQED].

⁴⁴³ NO HOME FOR CHILDREN, *supra* note 108, at 29.

⁴⁴⁴ *Id.* at 30.

⁴⁴⁵ Nick Schwellenbach et al., Project on Government Oversight (POGO), *ISOLATED: ICE Confines Some Detainees with Mental Illness in Solitary for Months*, POGO (Aug. 14, 2019), <https://www.pogo.org/investigation/2019/08/isolated-ice-confines-some-detainees-with-mental-illness-in-solitary-for-months/> [https://perma.cc/R96Q-CHM9].

⁴⁴⁶ *Id.*

⁴⁴⁷ Ian Urbina, *The Capricious Use of Solitary Confinement Against Detained Immigrants*, *THE ATLANTIC* (Sept. 6, 2019), <https://www.theatlantic.com/politics/archive/2019/09/ice-uses-solitary-confinement-among-detained-immigrants/597433/> [https://perma.cc/YV95-RNG6].

⁴⁴⁸ See Jeffrey L. Metzner & Jamie Fellner, *Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics*, 38 *J. AM. ACAD. PSYCHIATRY & L.* 104, 104-05 (2010), <http://jaapl.org/content/jaapl/38/1/104.full.pdf> [https://perma.cc/K2J4-EJC7].

⁴⁴⁹ Urbina, *supra* note 447 (analyzing solitary confinement at all ICE detention centers, not just those operated by PSCs).

⁴⁵⁰ Schwellenbach et al., *supra* note 445.

⁴⁵¹ *Id.*

“severe” depressive disorder and post-traumatic stress disorder was kept in solitary for 372 days; another woman with a mental disorder was detained for 454 days.⁴⁵² The use of solitary confinement in these circumstances can have dire consequences. At MTC’s Taft facility in California, two detainees who were placed in solitary despite histories of mental illness and prior suicide attempts ended up hanging themselves in their cells.⁴⁵³ Similarly, a detainee at CoreCivic’s Stewart Detention Center, who was placed in solitary despite his known history of schizophrenia and bipolar disorder, committed suicide in 2018.⁴⁵⁴

PSCs have placed migrants in solitary confinement without appropriate justification. A report published by the American Civil Liberties Union expressed concern that solitary has been used as a punishment for very minor infractions.⁴⁵⁵ At CoreCivic’s La Palma facility in Arizona, for example, a migrant said he was placed in solitary for 30 days “for telling a correctional officer he did not want to participate in a lockdown.”⁴⁵⁶ At LaSalle’s Winn facility in Louisiana, a detainee was reportedly sent to solitary for taking a shower at 11:00 p.m.⁴⁵⁷

Migrants have also been placed in solitary confinement in retaliation for non-violent protests or attempts to speak with the media. At CoreCivic’s Stewart Detention Center in Georgia, at least 30 migrants were placed in solitary, some for as long as 60 days, for their participation in hunger strikes between April 2016 and February 2017.⁴⁵⁸ LaSalle, at its Richwood Correctional Center in California, has also used solitary confinement to punish hunger strikers; in one case, a detainee committed suicide after being placed in solitary.⁴⁵⁹ At LaSalle’s Winn Detention Center, migrants reportedly were placed in solitary for attempting to speak with reporters who were touring the facility.⁴⁶⁰

PSCs have at times used the threat of solitary confinement to induce migrants to perform forced labor, as discussed below.

⁴⁵² *Id.*

⁴⁵³ Seth Freed Wessler, ‘*This Man Will Almost Certainly Die*’, THE NATION, (Jan. 28, 2016), <https://www.thenation.com/article/archive/privatized-immigrant-prison-deaths/> [<https://perma.cc/PTQ2-BT9F>].

⁴⁵⁴ José Olivares, *How Solitary Confinement Kills: Torture and Stunning Neglect End in Suicide at Privately Run ICE Prison*, THE INTERCEPT (Aug. 29, 2019), <https://theintercept.com/2019/08/29/ice-solitary-mental-health-corecivic/> [<https://perma.cc/9Q6E-EP28>].

⁴⁵⁵ JUSTICE-FREE ZONES, *supra* note 6, at 38.

⁴⁵⁶ *Id.* at 40.

⁴⁵⁷ *Id.*

⁴⁵⁸ Spencer Woodman, *Exclusive: ICE Put Detained Immigrants in Solitary Confinement for Hunger Striking*, THE VERGE (Feb. 27, 2017), <https://www.theverge.com/2017/2/27/14728978/immigrant-deportation-hunger-strike-solitary-confinement-ice-trump> [<https://perma.cc/X5JM-PYG3>]. Although a CoreCivic spokesperson insisted that no one was placed in solitary “in retaliation for hunger strikes,” the relevant logs listed “hunger strike” as CoreCivic’s primary motivation for placing striking detainees in isolation. *Id.*

⁴⁵⁹ Gaby Del Valle, *What We Know About the Asylum-Seeker Who Committed Suicide in ICE custody*, VICE NEWS, (Oct. 17, 2019), https://www.vice.com/en_us/article/qvgnvb/what-we-know-about-the-asylum-seeker-who-committed-suicide-in-ice-custody [<https://perma.cc/6MAT-CFAQ>].

⁴⁶⁰ JUSTICE-FREE ZONES, *supra* note 6, at 38, 40.

Forced Labor

The use of forced labor in private detention centers is reportedly widespread. Detained migrants in many facilities perform tasks such as scrubbing bathrooms and showers, sweeping and mopping floors, preparing and serving meals, washing dishes, doing laundry, painting walls, maintaining landscaping, and even performing clerical work for the company detaining them – all for as little as \$1 a day.⁴⁶¹

Contrary to the claims of the PSCs, this work is not truly voluntary. Detained migrants report being forced to provide their labor by threats of punishment and by their need to purchase necessities such as food, water and hygiene products, which the PSCs fail to provide in sufficient amounts.⁴⁶² A detainee at GEO's Adelanto facility in California, who worked as a janitor and a barber, reported being threatened with solitary confinement if he "stopped working or encouraged other detainees to stop working."⁴⁶³ His other reason for participating in what Adelanto called its "Voluntary Work Program" was to enable him to purchase food, bottled water and hygiene products from the Adelanto commissary – items he needed because of Adelanto's failure to provide them in sufficient quantity.⁴⁶⁴ A migrant at CoreCivic's La Palma facility in Arizona also disputed the characterization of the detainee work program as "voluntary." He agreed to clean floors for \$1 per day because the meals at La Palma left him "continuously hungry," so he needed the money to buy purchase food at the commissary.⁴⁶⁵

These complaints are not isolated in nature. Detainees at GEO's Aurora detention facility in Colorado reported being threatened with solitary confinement for refusal to work, and as a result, they worked between two and eight hours a day for the \$1 daily rate, "serving food, cleaning the facilities, doing laundry, and stripping and waxing floors."⁴⁶⁶ CoreCivic has been accused of forcing detainees to work at its Stewart Detention Center in Georgia "through threats of physical violence, solitary confinement, and deprivation of basic necessities."⁴⁶⁷ Similar complaints have been made by detainees at CoreCivic's T. Don Hutto Residential Center in Texas,⁴⁶⁸ and at its Otay Mesa detention center in California.⁴⁶⁹

This cheap migrant labor results in massive financial savings for these companies. For example, during a one-month period, GEO paid a total of only \$1,680 for detainee labor at its

⁴⁶¹ *Id.* at 43; Complaint at ¶¶ 6, 45-46, *Novoa v. GEO Group, Inc.*, Civil Action No. 5:15-cv-02514 (C.D. Cal. Dec 19, 2017), <https://www.burnscharest.com/wp-content/uploads/2017/12/2017-12-19-Novoa-Dkt-1-Complaint2.pdf> [<https://perma.cc/PJ54-KCSE>].

⁴⁶² *Id.* at ¶¶ 7, 36; JUSTICE-FREE ZONES, *supra* note 6, at 57.

⁴⁶³ Complaint, *supra* note 461, at ¶¶ 56, 57, 60.

⁴⁶⁴ *Id.* at ¶ 59.

⁴⁶⁵ JUSTICE-FREE ZONES, *supra* note 6, at 57.

⁴⁶⁶ *Menocal v. GEO Group, Inc.*, 882 F.3d 905, 911 (10th Cir. 2018).

⁴⁶⁷ *Barrientos v. Corecivic, Inc.*, 332 F. Supp. 3d 1305, 1307 (M.D. Ga. 2018).

⁴⁶⁸ Katie Hall, *Lawsuit Accuses Taylor Facility of Forcing Immigrant Detainees to Work for Little or No Pay*, AUSTIN AMERICAN-STATESMAN (Feb. 27, 2018), <https://www.statesman.com/news/20180227/lawsuit-accuses-taylor-facility-of-forcing-immigrant-detainees-to-work-for-little-or-no-pay> [<https://perma.cc/38MA-BZ7A>].

⁴⁶⁹ *Owino v. CoreCivic, Inc.*, Case No. 17-CV-1112 JLS (NLS), 2018 U.S. Dist. LEXIS 81091 at *2 (S.D. Cal. May 14, 2018).

Aurora facility.⁴⁷⁰ This labor would have cost GEO an estimated \$125,000 had workers been hired from outside the facility.⁴⁷¹

Racial and Religious Discrimination

Numerous reports have surfaced in recent years of detainees being mistreated or verbally abused at PSC-operated detention centers due to racial or religious discrimination.

Somali detainees held at LaSalle's West Texas Detention Facility reported being subjected to a pattern of mistreatment, including frequent racial slurs.⁴⁷² When one Somali detainee asked for underwear and socks, the warden replied, "Shut your black ass up. You don't deserve nothing. You belong at the back of that cage."⁴⁷³ Several Somalis reported being called "monkey," "boy," "motherfucking Africans," "animals," and "N*."⁴⁷⁴

Complaints of race discrimination have also arisen at GEO and CoreCivic detention facilities. At GEO's South Texas Detention Facility, a detainee who was called "monkey" by one of the guards believes that his subsequent placement in solitary was due to his race.⁴⁷⁵ At CoreCivic's Otay Mesa Detention Center in California, a detainee reported being denied pain medication and an X-ray by a medical staff member who had previously expressed his dislike of "illegals [that] only come to the US to steal jobs from White people."⁴⁷⁶ Mexican migrants at the same Otay Mesa facility complained that they were "grouped together and designated as part of a gang entirely based on their nationality," leading the guards to subject them to unjust punishments.⁴⁷⁷

Muslim detainees also report facing discrimination. At CoreCivic's Stewart Detention Center, a detainee reported having to wait weeks to receive a copy of the Koran.⁴⁷⁸ When he finally received it mere hours before the start of Ramadan, he was told that the "Koran is not a good thing" and that he should convert to Christianity.⁴⁷⁹ When he refused, "he was prevented from adequately praying for the remainder of Ramadan."⁴⁸⁰ Another detainee at Stewart reported that Muslims sometimes have had to miss prayer and deal with "snide comments" about their religion from detention center staff.⁴⁸¹ Muslim detainees at Stewart also reported

⁴⁷⁰ Madison Pauly, *How a Private Prison Company Used Detained Immigrants for Free Labor*, MOTHER JONES (Apr. 3, 2017), <https://www.motherjones.com/politics/2017/04/geo-forced-labor-lawsuit/> [<https://perma.cc/699S-PM8S>].

⁴⁷¹ *Id.*

⁴⁷² RAICES ET AL., *supra* note 401, at 2, 12.

⁴⁷³ *Id.* at 11.

⁴⁷⁴ *Id.* at 12.

⁴⁷⁵ FREEDOM FOR IMMIGRANTS, PERSECUTED IN U.S. IMMIGRATION DETENTION: A NATIONAL REPORT ON ABUSE MOTIVATED BY HATE 6 (2018), https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5b3174e46d2a73f2d1f56aab/1529967847644/FFI_NatReportAbuse_062518.pdf [<https://perma.cc/9N4Z-VRUV>] (hereinafter PERSECUTED IN U.S. IMMIGRATION DETENTION).

⁴⁷⁶ *Id.*

⁴⁷⁷ *Id.*

⁴⁷⁸ *Id.* at 9.

⁴⁷⁹ *Id.*

⁴⁸⁰ *Id.*

⁴⁸¹ Off. Inspector Gen., Oversight of Stewart Detention Center, *supra* note 399.

that during Ramadan, when Muslims fast from sunup to sundown, no accommodations to the food delivery schedule were made for Muslim detainees.⁴⁸² At GEO's Adelanto facility, a Muslim detainee said he was not allowed to attend religious services, and he was not given halal or kosher meals.⁴⁸³

Discrimination against LGBTQ+ individuals

Members of the LGBTQ+ community are particularly vulnerable to discrimination and human rights violations in migrant detention facilities.⁴⁸⁴ Indeed, one quarter of the substantiated incidents of sexual abuse in detention involve a transgender detainee.⁴⁸⁵ In addition to reports of sexual abuse, guards and fellow detainees frequently make homophobic and transphobic remarks.

CoreCivic's Cibola Detention Center in New Mexico was the only private migrant detention facility that had a separate transgender unit, but after repeated allegations of misconduct and abuse, all transgender detainees were transferred out in February 2020.⁴⁸⁶ Many of the allegations related to inadequate medical care, particularly for HIV-positive detainees.⁴⁸⁷ Indeed, in May 2018 Roxsana Hernandez, a transwoman asylum seeker, died of complications related to HIV after 16 days at Cibola; her autopsy also indicated physical abuse.⁴⁸⁸ Another trans detainee at Cibola told guards that she was bleeding from her rectum, but was not able to receive medical care for 13 days.⁴⁸⁹

At MTC's Otero County Processing Center in New Mexico, 12 gay and transgender asylum seekers alleged sexual harassment and abuse from other detainees, verbal abuse from guards, the denial of hormone therapy for trans detainees, and placement in solitary confinement for making complaints.⁴⁹⁰ A complaint made by several NGOs on behalf of these

⁴⁸² PERSECUTED IN U.S IMMIGRATION DETENTION, *supra* note 475, at 9.

⁴⁸³ *Id.*

⁴⁸⁴ LGBTQ Immigrants, NAT'L IMMIGRANT JUSTICE CTR., <https://www.immigrantjustice.org/stop-abuse-detained-lgbt-immigrants> (last visited May 14, 2020) [<https://perma.cc/M5SC-5EL4>].

⁴⁸⁵ *Id.*

⁴⁸⁶ Luis Zambrano, *Transgender Group Applauds Transfer of Detainees from Criticized ICE Facility in New Mexico*, CRONKITE NEWS: ARIZ. PBS (Feb. 25, 2020), <https://cronkitenews.azpbs.org/2020/02/25/transgender-unit-cibola-county-correctional/> [<https://perma.cc/YAC3-X646>]. Prairieland Detention Center in Texas, currently operated by LaSalle, has a unit that was built to house transgender detainees, but as of February 2018, the unit had not opened and there were no plans to open it to house transgender detainees in the future. Tess Owen, *That ICE Prison for Transgender Immigrants? It Never Opened*, VICE (Feb. 1, 2018), https://www.vice.com/en_us/article/7xegnz/that-ice-prison-for-transgender-immigrants-it-never-opened [<https://perma.cc/4WF9-KNFB>].

⁴⁸⁷ FREEDOM FOR IMMIGRANTS, *Detention in Your District: New Mexico Congressional District 2* (Dec. 2019), <https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5dfd487496d9e6052037a53f/1576880246732/DIYD+NM+v2+Final.pdf> [<https://perma.cc/RF4N-423F>].

⁴⁸⁸ *Id.*

⁴⁸⁹ Hamed Aleaziz, *A Secret Memo Revealed How A Transgender Immigrant Bleeding From Her Rectum Waited 13 Days For Care While Jailed by ICE*, BUZZFEED NEWS (Mar. 4, 2020), <https://www.buzzfeednews.com/article/hamedaleaziz/transgender-immigrant-detainees-medical-care-memo> [<https://perma.cc/26T5-Z8NL>].

⁴⁹⁰ Robert Moore, *Gay, Transgender Detainees Allege Abuse at ICE Facility in New Mexico*, WASH. POST (Mar. 25, 2019), <https://www.washingtonpost.com/immigration/gay-transgender-detainees-allege-abuse-at-ice-facility->

asylum seekers details transwomen forced to bathe and shower with cisgender men, guards giving excessive pat-down searches to gay and transgender detainees, and homophobic and transphobic slurs.⁴⁹¹

Gay and trans detainees at LaSalle’s Winn Correctional Center in Louisiana also alleged physical and verbal abuse, including a guard threatening a trans detainee “with physical harm, going as far as to say he would beat to death any detained individuals who made him angry.”⁴⁹²

Prolonged Detention of Minors in Prison-like Conditions

Between March 2018 and August 2019, children ages 13 to 17 were held for extended lengths of time at the Homestead temporary influx facility for unaccompanied children, operated by Caliburn subsidiary CHS.⁴⁹³ In the period leading up to December 2018, children housed at Homestead spent an average of 89 days there.⁴⁹⁴ Overall, more than 14,300 children were detained at Homestead for some amount of time.⁴⁹⁵

Children detained at Homestead were held in “prison-like conditions,” according to a lawsuit filed by the Center for Human Rights & Constitutional Law.⁴⁹⁶ The facility was huge – it had the capacity to hold up to 3,200 children,⁴⁹⁷ and the actual occupancy ranged up to 3,000 children at a time.⁴⁹⁸ The 13 to 16-year-olds slept 12 to a room, and the 17-year-olds slept in huge rooms where 72 bunk beds, lined up in rows, held 144 children.⁴⁹⁹ The children were

[in-new-mexico/2019/03/25/e33ad6b6-4f10-11e9-a3f7-78b7525a8d5f_story.html?noredirect=on](https://www.washingtonblade.com/2020/03/27/advocacy-groups-demand-ice-release-lgbtq-detainees-from-la-detention-center/)
[<https://perma.cc/Y9YH-DKCR>].

⁴⁹¹ Letter from Kristin Greer Love, Staff Attorney, ACLU of New Mexico, et al. to Wayne Cox, Assistant Field Office Director, U.S. Immig. & Cust. Enforcement, et al. 3 (March 25, 2019), https://www.aclu-nm.org/sites/default/files/field_documents/advance_copy_of_3.25.2019_las_americas_santa_fe_dreamers_project_aclu-nm_letter_to_dhs_re_otero.pdf [<https://perma.cc/3EEF-3JE4>].

⁴⁹² Michael K. Lavers, *Advocacy Groups Demand ICE Release LGBTQ Detainees from La. Detention Center*, WASH. BLADE (Mar. 27, 2020), <https://www.washingtonblade.com/2020/03/27/advocacy-groups-demand-ice-release-lgbtq-detainees-from-la-detention-center/> [<https://perma.cc/9DZ4-BW73>].

⁴⁹³ Ray Sanchez & Rosa Flores, *Migrant Children Removed From Controversial Homestead, Florida Facility*, CNN (Aug. 3, 2019), <https://www.cnn.com/2019/08/03/us/florida-homestead-unaccompanied-minors-removed/index.html> [<https://perma.cc/VM2G-PDCS>]; NO HOME FOR CHILDREN, *supra* note 108, at 3, 35. Prior to its acquisition by Caliburn, CHS had operated Homestead from June 2016 to April 2017, when it was temporarily closed due to a decline in arriving unaccompanied minors. *Id.* at 35-36.

⁴⁹⁴ *Id.* at 10.

⁴⁹⁵ Sanchez & Flores, *supra* note 493.

⁴⁹⁶ Mimi Dwyer & Alexander Stockton, “You Can’t Give a Friend a Hug”: The Alleged Prison-like Conditions at the Largest U.S. Migrant Children’s Shelter, VICE NEWS (May 31, 2019), https://www.vice.com/en_us/article/a3xnxz/you-cant-give-a-friend-a-hug-the-alleged-prison-like-conditions-at-the-largest-us-migrant-childrens-shelter [<https://perma.cc/8GKA-XRFN>].

⁴⁹⁷ *Homestead Child Migrant Detention Facility Shutting Down*, NBC MIAMI (Oct. 28, 2019), <https://www.nbcmiami.com/news/local/homestead-detention-center-will-not-have-contract-renewed-reports/2021336/> [<https://perma.cc/JX9V-Y4TZ>].

⁴⁹⁸ Jay Willis, *An Empty Detention Center for Immigrant Children is Costing Taxpayers \$720,000 a Day*, GQ (Sept. 19, 2019), <https://www.gq.com/story/homestead-immigrant-children-detention-facility-empty> [<https://perma.cc/W66R-XCSB>].

⁴⁹⁹ NO HOME FOR CHILDREN, *supra* note 493, at 11.

kept on a very regimented schedule. They were woken at 6:30 and put to bed at 10:00.⁵⁰⁰ Showers were limited to 5 minutes, and calls to family limited to ten minutes, twice a week.⁵⁰¹ They were allowed only two or three hours a day of free time, and could never go outside the buildings on their own.⁵⁰²

Children at Homestead were not allowed to touch each other under any circumstances, not even to comfort their own siblings.⁵⁰³ If children made any physical contact with other children, even loved ones with whom they had grown up, a staff member would write a report about the incident, and the children would be told that this could affect their immigration cases, according to a lawyer from the National Center for Youth Law.⁵⁰⁴

According to reports, there were significant problems at Homestead with the quality of education and language services, provision of hygiene products, detention of children with chronic or acute medical conditions, access to medical treatment, and the complaints mechanism for reporting sexual abuse or other mistreatment.⁵⁰⁵

Inadequate Response to COVID-19

The COVID-19 pandemic threatens to exacerbate many of the issues mentioned above. As the pandemic spreads across the United States, public health experts recommend social distancing, washing hands frequently with soap or hand sanitizer, and wearing face masks and gloves, among other precautions.⁵⁰⁶ The approximately 40,000 people in migrant detention around the United States have not been able to adequately follow these practices due to their confinement.⁵⁰⁷ No figures are currently available for the number of confirmed cases of COVID-19 solely in privately-operated migrant detention centers. However, within all migrant detention centers, government run and privately operated, as of May 6, 2020, ICE had confirmed 705 cases of COVID-19 out of 1,460 detainees tested for the virus.⁵⁰⁸ Thirty-

⁵⁰⁰ Hatzel Vela, *Local 10 News Takes Tour of Homestead Facility Housing Immigrant Children*, LOCAL 10 (June 22, 2016), <https://www.local10.com/news/2016/06/22/local-10-news-takes-tour-of-homestead-facility-housing-immigrant-children/> [<https://perma.cc/P49P-AKAZ>].

⁵⁰¹ Monique O. Madan, *No Hugs, Kids Cutting Themselves: Court Gets Unprecedented Peek Inside Homestead Shelter*, MIAMI HERALD, (June 2, 2019) <https://www.miamiherald.com/news/local/immigration/article231075518.html> [<https://perma.cc/6PED-3M5A>].

⁵⁰² NO HOME FOR CHILDREN, *supra* note 493, at 22, 23.

⁵⁰³ Madan, *No Hugs*, *supra* note 501; John Burnett, *Inside The Largest And Most Controversial Shelter for Migrant Children In The U.S.*, NPR (Feb. 13, 2019), <https://www.npr.org/2019/02/13/694138106/inside-the-largest-and-most-controversial-shelter-for-migrant-children-in-the-u-> [<https://perma.cc/U43M-ES85>].

⁵⁰⁴ *Id.*

⁵⁰⁵ NO HOME FOR CHILDREN, *supra* note 493, at 3, 23; Letter from Leah Chavla, Policy Advisor, Women's Refugee Comm'n, to Jonathan Hayes, Acting Director, Off. Refugee Resettlement 2, 5 (Mar. 19, 2019).

⁵⁰⁶ Coronavirus Disease 2019 (COVID-19): Protect Yourself, CTR. DISEASE CONTROL, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html> (last updated Apr. 13, 2020) [<https://perma.cc/TB87-LRS9>].

⁵⁰⁷ AMNESTY INT'L, USA: 'WE ARE ADRIFT, ABOUT TO SINK': THE LOOMING COVID-19 DISASTER IN UNITED STATES IMMIGRATION DETENTION FACILITIES 5 (2020), <https://www.amnesty.org/download/Documents/AMR5120952020ENGLISH.PDF> [<https://perma.cc/CB69-4GM4>].

⁵⁰⁸ Hamed Aleaziz & Adolfo Flores, *An Immigrant Who Tested Positive for the Coronavirus Has Died in ICE Custody*, BUZZFEED NEWS (May 7, 2020), <https://www.buzzfeednews.com/article/hamedaleaziz/ice-detainee-dies-coronavirus-otay->

nine ICE employees working at detention centers have also tested positive, a number that does not include private contractors.⁵⁰⁹

In response to this growing crisis, ICE has convened a working group of doctors, disease control specialists, and detention experts.⁵¹⁰ The recommendations of this working group have been to reduce the population of detention facilities to 70 % of pre-pandemic numbers, stagger mealtimes, and move to telephone and videoconferencing visitation, as well as to screen and isolate new detainees who display symptoms of COVID-19.⁵¹¹ Reports from within private detention facilities show that these measures, where implemented, have not halted the spread of COVID-19. Indeed, there are reports of detainees with COVID-19 at facilities operated by LaSalle,⁵¹² CoreCivic,⁵¹³ GEO⁵¹⁴ and MTC.⁵¹⁵ CoreCivic's Otay Mesa Detention Center in California has become a hotbed of COVID-19, with over 136 confirmed cases among ICE detainees.⁵¹⁶

On May 6, 2020, ICE confirmed the first death of a detainee from COVID-19.⁵¹⁷ Carlos Escobedo Mejia, a 57-year-old detainee at CoreCivic's Otay Mesa Detention Center, passed away two weeks after testing positive for the virus.⁵¹⁸ He had high blood pressure and diabetes, two risk factors for complications from COVID-19, but had been denied bond in mid-April after an immigration judge deemed him to be a flight risk.⁵¹⁹ About one in five detainees

mesa?utm_source=The%252BMarshall%252BProject%252BNewsletter&utm_campaign=106c9690b6-EMAIL_CAMPAIGN_2020_05_07_11_40&utm_medium=email&utm_term=0_5e02cdad9d-106c9690b6-174546641 [https://perma.cc/3CL3-DMDH]

⁵⁰⁹ Arelis R. Hernandez, *ICE Detainee in California is first in U.S. Immigration Custody to Die of Coronavirus*, WASH. POST (May 7, 2020), https://www.washingtonpost.com/national/coronavirus-ice-detainee-death/2020/05/06/3be3852e-8ff2-11ea-9e23-6914ee410a5f_story.html [https://perma.cc/N9YE-XB5Z].

⁵¹⁰ ICE Guidance on COVID-19, U.S. Immig. & Cust. Enforcement, <https://www.ice.gov/coronavirus> (last updated May 13, 2020) [https://perma.cc/F3ST-KMFV].

⁵¹¹ *Id.*

⁵¹² Jacqueline DeRobertis, *ICE Detainee Tests Positive for Coronavirus in Louisiana Private Prison Facility*, ADVOCATE (Apr. 7, 2020), https://www.theadvocate.com/baton_rouge/news/coronavirus/article_5974b09a-7927-11ea-b779-dfd95b161fe7.html.

⁵¹³ Max Rivlin-Nadler, *Otay Mesa COVID-19 Outbreak Now the Largest at a US Immigration Detention Center*, KPBS (Apr. 14, 2020), <https://www.kpbs.org/news/2020/apr/14/otay-mesa-detention-center-now-largest-immigration/> [https://perma.cc/SK5W-44FX].

⁵¹⁴ Noah Lanard, *A Second ICE Detainee in Louisiana Has Tested Positive for COVID-19*, MOTHER JONES (Apr. 6, 2020), <https://www.motherjones.com/coronavirus-updates/2020/04/new-positive-coronavirus-case-ice-detention-louisiana-lasalle-parish/> [https://perma.cc/VEE2-SDTL].

⁵¹⁵ Lauren Villagran, *Advocates: Two Cases of Coronavirus Detected at El Paso-Area Immigrant Detention Center*, EL PASO TIMES (Apr. 9, 2020), <https://www.elpasotimes.com/story/news/2020/04/09/coronavirus-el-paso-immigrant-advocates-two-cases-covid-19-otero-detention-center/5126930002/> [https://perma.cc/M8XT-84XY].

⁵¹⁶ Aleaziz & Flores, *supra* note 508. *The Los Angeles Times* reports that over 66 USMS inmates have also tested positive for COVID-19 at Otay Mesa. Kate Morrissey, *San Diego Detainee is First in ICE Custody to Die of COVID-19*, L.A. TIMES (May 6, 2020), https://www.latimes.com/california/story/2020-05-06/first-ice-detainee-dies-coronavirus-otay-mesa-detention-center?_amp=true&utm_source=The+Marshall+Project+Newsletter&utm_campaign=106c9690b6-EMAIL_CAMPAIGN_2020_05_07_11_40&utm_medium=email&utm_term=0_5e02cdad9d-106c9690b6-174546641 [https://perma.cc/N6UH-E5WX].

⁵¹⁷ Hernandez, *supra* note 509.

⁵¹⁸ *Id.*

⁵¹⁹ *Id.*

at Otay Mesa have been determined to be medically vulnerable by ICE and CoreCivic, but only two had been released from the facility by the time of Escobedo Mejia's death.⁵²⁰

GEO's Aurora ICE Processing Center in Colorado was among the first ICE detention centers to have confirmed COVID-19 cases among its staff in March 2020.⁵²¹ However, Amnesty International reports a lack of preparation for the outbreak: as of late February 2020, the facility "apparently had no comprehensive plan in place to prevent and address COVID-19 cases."⁵²² By April 14, three GEO employees and two ICE employees at the Aurora facility had tested positive for COVID-19.⁵²³ Fourteen immunocompromised plaintiffs at Aurora, including nine who are HIV-positive, filed suit for their release due to their particular vulnerability to the virus.⁵²⁴ The day after their lawsuit was filed, eight of the plaintiffs were released from detention, but at least as of April 15, the rest remained in custody.⁵²⁵

After an employee at CoreCivic's Elizabeth Detention Center in New Jersey tested positive for COVID-19 in March, several detainees commented that no changes had been made to improve sanitary conditions: the detainees continue to sleep in common dormitories, "[t]hey have gone as many as three days without hand soap ... and no one has received gloves or masks to protect themselves."⁵²⁶

The practice of housing potentially-affected individuals together is known as "cohorting," and goes against guidance from the Centers for Disease Control, since it may facilitate transmission by putting individuals who have been infected into close contact with others who are uninfected.⁵²⁷ However, ICE guidelines permit cohorting at detention facilities due to the limited number of single rooms.⁵²⁸ After an employee at CoreCivic's Stewart Detention Center tested positive for COVID-19, 33 detainees who had come into contact with the employee were quarantined together in a separate housing unit.⁵²⁹ Cohorting has also been reported at GEO Group's Aurora Detention Facility⁵³⁰ and at CoreCivic's Otay Mesa Detention Center.⁵³¹

⁵²⁰ *Id.*

⁵²¹ AMNESTY INT'L, USA: 'WE ARE ADRIFT, ABOUT TO SINK,' *supra* note 507, at 8.

⁵²² *Id.*

⁵²³ Conor McCormick-Cavanagh, *Lawsuit Seeks Release of At-Risk Detainees from Aurora ICE Facility*, WESTWORD (Apr. 14, 2020), <https://www.westword.com/news/colorado-lawsuit-asks-geo-group-and-ice-to-release-vulnerable-detainees-in-aurora-facility-11686811>.

⁵²⁴ *Id.*

⁵²⁵ *Id.* (April 15 update).

⁵²⁶ Emily Kassie, "Everybody's Scared": Panic at Immigrant Detention Center After Positive Coronavirus Test, THE MARSHALL PROJECT (Mar. 24, 2020), <https://www.themarshallproject.org/2020/03/24/everybody-s-scared-panic-at-immigrant-detention-center-after-positive-coronavirus-test> [<https://perma.cc/F5YN-L4YM>].

⁵²⁷ Fernanda Echavari & Noah Lanard, *A Doctor on ICE's Response to the Pandemic: "You Could Call It COVID-19 Torture,"* MOTHER JONES (Apr. 13, 2020), <https://www.motherjones.com/politics/2020/04/a-doctor-on-ices-response-to-the-pandemic-you-could-call-it-covid-19-torture/> [<https://perma.cc/AL4K-ZQ7V>].

⁵²⁸ *Id.*

⁵²⁹ Jeremy Redmon, *Georgia Immigration Detention Employee Tests Positive for Coronavirus*, ATLANTA J. CONST. (Mar. 31, 2020), <https://www.ajc.com/news/breaking-news/georgia-immigration-detention-employee-tests-positive-for-coronavirus/scDYEmROtOSowK2ULLPt5K/> [<https://perma.cc/6RWF-R5Q2>].

⁵³⁰ AMNESTY INT'L, USA: 'WE ARE ADRIFT, ABOUT TO SINK,' *supra* note 507, at 9.

⁵³¹ Hernandez, *supra* note 509.

As COVID-19 continues to threaten detained migrants, migrants have faced retaliation for seeking better conditions. A group of women detained at GEO's Lasalle Detention Center in Louisiana asked staff at the facility about precautions they were taking to prevent the spread of coronavirus, and a GEO administrator used pepper spray on them.⁵³² At CoreCivic's Otay Mesa facility, a group of detained women who requested masks were threatened with pepper spray.⁵³³ Reports have also emerged that detainees at ICA's Farmville Detention Center in Virginia were placed in solitary confinement after going on a hunger strike to protest conditions during the COVID-19 outbreak.⁵³⁴

On April 20, a federal judge issued a temporary injunction requiring ICE to "identify and track" all detainees who are particularly vulnerable to COVID-19, and consider releasing them.⁵³⁵ The court found that preliminary evidence showed that ICE's COVID-19 response suggested "systemwide inaction" going beyond mere negligence.⁵³⁶ However, as of the writing of this report, tens of thousands of migrants remain in ICE custody at both private and government-run detention facilities, and for them, the situation remains dire. Citing in particular the unsanitary conditions and poor healthcare at GEO's Northwest Processing Center in Washington, UN Special Rapporteur on the Human Rights of Migrants Felipe González Morales has issued a statement calling for alternatives to migrant detention in light of the COVID-19 outbreak.⁵³⁷

⁵³² Noah Lanard, *The Women Asked ICE for Soap. They Got Pepper-Sprayed Instead*, MOTHER JONES (Apr. 22, 2020), https://www.motherjones.com/coronavirus-updates/2020/04/ice-pepper-spray-lasalle/?utm_source=The+Marshall+Project+Newsletter&utm_campaign=8d638060bd-EMAIL_CAMPAIGN_2020_04_23_11_44&utm_medium=email&utm_term=0_5e02cdad9d-8d638060bd-174546641 [https://perma.cc/V8HX-R9RA].

⁵³³ Aleaziz & Flores, *supra* note 508.

⁵³⁴ Alan Macleod, *Inmates at Privately-Run ICE Camp Go on Hunger Strike Amid COVID-19 Outbreak, Deteriorating Conditions*, MINTPRESS NEWS (Apr. 3, 2020), <https://www.mintpressnews.com/inmates-ice-camp-go-hunger-strike-amid-covid-19/266369/> [https://perma.cc/8RPV-KKHC]. Detainees at CoreCivic's Otay Mesa Detention Center in California who participated in a hunger strike in protest of the facility's response to COVID-19 in mid-April were also threatened with solitary confinement and suspended access to their commissary accounts. Hugo Ramirez, *Inside Otay Mesa Detention Center: 'We Are Wondering When this Nightmare Will End.'* SAN DIEGO UNION TRIB (May 5, 2020), https://www.sandiegouniontribune.com/opinion/commentary/story/2020-05-05/coronavirus-inside-otay-mesa-detention-center-nightmare?utm_source=The+Marshall+Project+Newsletter&utm_campaign=106c9690b6-EMAIL_CAMPAIGN_2020_05_07_11_40&utm_medium=email&utm_term=0_5e02cdad9d-106c9690b6-174546641 [https://perma.cc/Y4XT-AZZE].

⁵³⁵ Order Granting Plaintiff's Motion for Preliminary Injunction at 38, *Fraihat v. U.S. Immig. & Cust. Enforcement*, Case No. EDCV 19-1546 JGB (SHKx) (C.D. Cal. Apr. 20, 2020), <https://creelaw.org/wp-content/uploads/2020/04/2020-04-20-132-Order-Granting-Amicus-Brs.-Subclass-Cert.-PI.pdf> [https://perma.cc/X9WG-YPR2].

⁵³⁶ *Id.* at 32.

⁵³⁷ Press Release, OHCHR, US: Migrants 'Held for Processing' Should be Released from COVID-19 High-Risk Detention Centres (Apr. 27, 2020), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25827&LangID=E> [https://perma.cc/TC93-Y8PA].

VI. CONCLUSION

Private, for-profit security companies have come to dominate the migrant detention landscape in the United States. From its inception in 1983 to the present, the for-profit migrant detention industry has become a \$3-billion-a-year behemoth, detaining (as of January 2020) just over 80% of all individuals in ICE custody. The industry's growth has been particularly dramatic under the administration of President Donald Trump, whose immigration policies have vastly increased the number of detained migrants, and whose contracting decisions have favored PSCs.

The outsized role of PSCs in migrant detention is cause for concern. The industry's profitability is entirely dependent on the continued large-scale detention of asylum seekers and other migrants who have come to the U.S. fleeing violence and extreme poverty. This raises a risk that PSCs' owners and executives will seek to influence immigration policy in ways that align with their profit motive. As was detailed in Section IV, PSCs have contributed to political campaigns, engaged in lobbying, hired former government officials, and patronized the president's businesses, in what can be seen as attempts to influence the government to adopt policies friendly to their business interests. The dangers this poses to democratic governance are exacerbated by the lack of transparency, outlined in Section II, regarding the full nature and extent of PSCs' role in migrant detention and related activities.

The role of PSCs in migrant detention in the U.S. is troubling for an additional reason: migrants detained in these facilities are subjected to a host of very severe violations of their most basic human rights. As shown in Section V, migrants detained in for-profit detention centers have been denied adequate medical care, held in squalid and unsanitary conditions, and subjected to the excessive use of force, sexual abuse, solitary confinement, forced labor, and discrimination based on race, religion, sexual orientation and gender identity. Not even children have been spared, and not even a global pandemic has led to much-needed reforms. It remains to be seen whether 2020 – a presidential election year – will bring about a change in leadership within the federal government, and if so, what the place of PSCs will be under a new administration.