
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. The first private migrant detention facility was opened by Corrections Corporation of America (now known as CoreCivic) in Houston, Texas in 1983. 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. 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.”

1 The Center for International Human Rights (CIHR) of Northwestern Pritzker School of Law (Chicago, USA) is dedicated to human rights education and legal and policy advocacy within the United States and worldwide. CIHR is in special consultative status with the United Nations Economic and Social Council (ECOSOC). The following individuals contributed to the preparation of this report: Bridget Arimond, Keith Armstrong, Jayne Chorpash, Carolyn Frazier, Reilly Frye, Daniel Iverson, Prapoosa KC, Alejandra Ortiz Díaz, and Noor Tarabishy.
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.
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 %. The use of private facilities to hold migrants has similarly exploded since Trump took office. Of the 20 largest detention centers opened under the Trump administration, which account for the bulk of all new beds, 14 are privately operated. By 2018, approximately 67 % of all civilly detained migrants had been held in at least one private detention facility, as of January 2020, this number had increased to 81 %. These facilities are earning the companies who operate them — especially those companies that receive the largest contracts, such as The GEO Group and CoreCivic — significant sums of money: a USA Today investigative report from December 2019 estimated this “booming business” at $3 billion a year.

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.” 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

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


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


12 Alvarado et al., supra note 7.

the U.S. 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.  

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.” 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. 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.

**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

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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/du-process-disaster-in-the-making-a-firsthand-look-at-the-port COURTS-in-laredo-and-brownsville/ [https://perma.cc/2NAS-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.
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-C1cfC8ryueATzE2G0zor2_7elFH0_JTM8GE_Yg/edit#gid=858397775 and https://docs.google.com/spreadsheets/d/1psA8LU0tNjrDJ8EC2MvnVt0DGuOCWiDwj2DSHcNdI4/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. 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

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

**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 outsize 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. CBP “functions as the initial component of a comprehensive immigration enforcement system.” With over 60,000 employees, CBP is the largest federal law enforcement agency in the United States.

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. 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. In between ports of entry, CBP agents monitor the border to prevent migrants from entering without inspection. Individuals found entering without inspection are transferred to processing and detention centers.

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

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26 *Id.*


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


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].


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

**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. 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.” 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. ICE detainees may either be transferred from CBP custody or arrested within the United States by ICE itself.

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.

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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.\textsuperscript{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.\textsuperscript{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).\textsuperscript{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.\textsuperscript{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.”\textsuperscript{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.\textsuperscript{48} While ORR is locating a sponsor, or if a sponsor is unavailable, the minor is to be sent to an ORR permanent shelter.\textsuperscript{49}

Permanent shelters are run almost completely by nonprofit organizations and are state-licensed as childcare facilities.\textsuperscript{50} The average stay in a permanent shelter was 89 days in the first quarter of fiscal year 2019.\textsuperscript{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.\textsuperscript{52} Temporary influx shelters are not state-licensed and are only intended for the short-term detention of unaccompanied minors.\textsuperscript{53}

**U.S. Marshals Service**

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

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\textsuperscript{43} JUSTICE-FREE ZONES, supra note 6, at 23.  
\textsuperscript{44} AM. IMMIGRATION COUNCIL, IMMIGRATION DETENTION, supra note 31, at 4.  
\textsuperscript{45} 8 U.S.C. § 1232(b)(3).  
\textsuperscript{47} 8 U.S.C. 1232(c)(2)(A).  
\textsuperscript{49} AM. IMMIGRATION COUNCIL, IMMIGRATION DETENTION, supra note 31, at 8.  
\textsuperscript{53} AM. IMMIGRATION COUNCIL, IMMIGRATION DETENTION, supra note 31, at 9–10.  
through illegal activities, housing and transporting federal prisoners and operating the Witness Security Program,” USMS also has custody over migrants who have been charged with a federal crime.

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. Illegal entry is a misdemeanor in the first instance, while any subsequent reentry is a federal felony. 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. 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. 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.

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) 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. 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.
60 Id.
61 See id.
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.
66 See Detention Facility Locator, supra note 65.
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. 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.” Even those contracts appear only in redacted form.

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. Privately-held companies – including four of the six PSCs profiled in Section III below – are not required to make public disclosures of financial information. 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. However, it is unclear whether the revenue from ICE also includes revenue from IGSAs, 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’
websites. To find those figures, one first must know to click on a link for “Investors,” or “Investor Relations” 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. Instead, most “privately detention facilities are contracted indirectly with either local governments or the U.S. Marshals Service (USMS) acting as a middleman.” 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. 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. Eloy then immediately contracted with CoreCivic to build and manage the new Dilley facility. 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.

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). Under this law, members of the public can request documents from federal government agencies such as ICE. An initial limitation of FOIA is that it only permits requests to government agencies,

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79 Id.
81 Id. at 3-4.
82 Id. at 4.
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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{88} In response, “ICE produced only five pages, none of which gave an explanation about his death.”\textsuperscript{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.\textsuperscript{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.\textsuperscript{91} After the suit was filed in May 2019, ICE finally turned over its report on the detainee’s death.\textsuperscript{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.\textsuperscript{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.\textsuperscript{94} As of May 2020 – nearly 6 years after NIJC filed its first FOIA request – litigation is ongoing.\textsuperscript{95}

\textbf{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.


\textsuperscript{87} See, e.g., Pending NIJC FOIA Requests, \textit{supra} note 84; Detention Watch Network (DWN) \textit{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].


\textsuperscript{89} \textit{Id.} at 4.

\textsuperscript{90} \textit{Id.}

\textsuperscript{91} \textit{Id.}

\textsuperscript{92} \textit{Id.}

\textsuperscript{93} Pending NIJC FOIA Requests, \textit{supra} note 84.

\textsuperscript{94} \textit{Id.}

\textsuperscript{95} \textit{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.” Among these acquisitions, Caliburn purchased Comprehensive Health Services, Inc. (CHS), a company primarily focused on providing global medical services. 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. With the acquisition of CHS, which now operates as a wholly-owned Caliburn subsidiary, 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, and the Caliburn website contains no information regarding what facilities are run by CHS. 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.” Nothing on Caliburn’s website links it in any way to the detention of migrants, or migrant children.

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

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. 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). In fact, during the period leading up to December 2018, children spent an average of 89 days in the detention center. 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.” This meant, for example, that

105 The Corporate Interests Behind the Homestead Migrant Youth Detention Center, supra note 104.
106 See U.S. Private Companies, LIBRARY OF CONGRESS, supra note 75.
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

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


114 Id.


118 No HOME FOR CHILDREN, supra note 108, at 24.

119 Swisher, supra note 117.


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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{127} As of April 2020, CoreCivic houses a combination of U.S. citizen prisoners and migrants in approximately 120 facilities throughout the United States.\textsuperscript{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.\textsuperscript{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.\textsuperscript{130} Later, in 2006, CoreCivic increased its presence in the migrant detention sector by being one of the first companies to convert a
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

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

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].
companies that operate private detention centers and private prisons due to public outrage over the mistreatment of migrant children.\textsuperscript{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.”\textsuperscript{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.\textsuperscript{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.”\textsuperscript{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.”\textsuperscript{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.”\textsuperscript{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,”\textsuperscript{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

\begin{footnotesize}
\begin{itemize}
\item \[10 Facts About CoreCivic, CORECIVIC, \url{https://www.corecivic.com/private-detention} (last visited May 10, 2020) [https://perma.cc/5VKT-7RRR].\]
\item \[The Dilley Pro Bono Project, AM. IMMIGRATION LAW. ASS’N (Oct. 30, 2019), \url{https://www.aila.org/practice/pro-bono/find-your-opportunity/family-detention-pro-bono-project} [https://perma.cc/X7DS-5GK8]. The children detained at the South Texas Family Residential Center are not unaccompanied minors; they are detained with their mothers. \url{Id}.\]
\item \[10 Facts About CoreCivic, supra note 151.\]
\item \[Day 1 Alliance Launches As United Voice For Private Sector In Corrections & Detention, DAY 1 ALLIANCE, (Oct. 25, 2019) \url{https://day1alliance.org/resource/day-1-alliance-launches-as-united-voice-for-private-sector-in-corrections-and-detention/} (last visited May 10, 2020) [https://perma.cc/R78U-SD64].\]
\item \[10 Facts About CoreCivic, supra note 151.\]
\item \[\url{Id}.\]
\end{itemize}
\end{footnotesize}
Wackenhut Corrections Corporation, and received its first ICE contract in 1987. As of December 2019, GEO managed and/or owned 95,000 beds within 129 correctional and detention facilities around the world, of which 65 facilities and 74,452 beds are in the U.S. 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. GEO owns and operates two additional facilities, with a combined capacity of 3,049 beds, that detain migrants under contracts with USMS. In addition to these GEO-owned facilities, GEO may also manage additional migrant detention facilities under contracts with local governments.

GEO received its first contract with ICE in 1987 for the Aurora ICE Processing Center in Colorado, a migrant detention facility, which GEO continues to own and operate to date. The Aurora ICE Processing Center, which held 150 immigrants in 1987, has the capacity to hold 1,532 immigrants as of December 2019. Other GEO facilities that hold migrants include, among others: Adelanto Processing Center in Adelanto, California, with a capacity of 1,940; Karnes County Family Residential Center in Karnes City, Texas, with a capacity of 1,158; South Texas ICE Processing Center in Pearsall, Texas, with a capacity of 1,904; and Rio Grande Processing Center in Laredo, Texas with a capacity of 1,900. 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.
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.
166 Id.
168 Id.
169 Id. at 12.
170 Id. at 13.
171 Id.
hold adults, with the exception of Karnes, which houses women and their minor children.

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. Another GEO wholly owned subsidiary, B.I. Incorporated (BI Inc.), contracts with ICE to provide a range of “alternatives to detention.” BI Inc. runs ICE’s Intensive Supervision Appearance Program III (ISAP III), which subjects participants to various levels of monitoring and supervision, including telephonic reporting, GPS tracking through ankle monitors, and a smartphone tracking application. 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.

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. 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, rising steadily from 18% of its 2015 revenue of $1.84 billion. These revenue figures, sizeable as they are, appear not to include revenue from migrant-related work.
work under contracts with local governments or USMS. Taking account of that additional revenue would make GEO’s total migrant-related revenue even larger.\textsuperscript{182}

GEO has spent a considerable amount of money on campaign contributions and lobbying efforts, suggesting a strategy “to build political influence.”\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{186} When President Trump was elected, GEO donated $250,000 to his inaugural committee to support festivities celebrating the inauguration.\textsuperscript{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.\textsuperscript{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.\textsuperscript{189} The company’s vice president has reported staying at the Trump International Hotel in Washington at least 10 times.\textsuperscript{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.\textsuperscript{191} The Trump administration filed suit challenging the law as well.\textsuperscript{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.\textsuperscript{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.\textsuperscript{194} These

\textsuperscript{182} See id.
\textsuperscript{183} Snitzer, supra note 86.
\textsuperscript{184} Alvarado et al., supra note 7.
\textsuperscript{185} Id.
\textsuperscript{186} Id.
\textsuperscript{187} Snitzer, supra note 86.
\textsuperscript{188} Id.
\textsuperscript{189} Alvarado et al., supra note 7.
\textsuperscript{190} Id.
\textsuperscript{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.
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-
247646_59192410_ver1.0.pdf [https://perma.cc/ESZA-B4CL] [hereinafter ICA Proposal].
200 FREEDOM FOR IMMIGRANTS, Detention in Your District: Virginia Congressional District 5 (Dec. 2019), https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5dfd48d9fe264098a51d003/1576880
346541/DIYD+VAV5+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),
202 Id.
small number of adult women are also detained there. In 2012, ERO listed Farmville’s current bed space as 584, but a subsequent report by ICE’s Office of Detention Oversight (ODO) indicated that the bed capacity had increased to 1,752 by 2015. For that same year, ODO reported an average daily population of 734 detainees. As of 2020, ICE pays a guaranteed minimum of $119.82 per person per day for the first 500 detainees held at ICA-Farmville. For any additional detainees over 500, ICE pays $28.26 per person.

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. 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.

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. 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. These new LLCs may correspond


210 Id.


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...
in economic output, and $3 million in tax revenue.\textsuperscript{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.\textsuperscript{225} Ionia’s City Council held a meeting in February 2019, and several Michigan residents decried the proposal.\textsuperscript{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.\textsuperscript{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.\textsuperscript{228} ICA considered two sites in western Wisconsin: Baldwin and New Richmond.\textsuperscript{229} Eventually, ICA dropped both plans.\textsuperscript{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.\textsuperscript{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.”\textsuperscript{232} ICA’s plan to open a detention center in Baldwin fell through in part due to the cost of infrastructure improvements.\textsuperscript{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.\textsuperscript{234} However, in December 2019, ICA announced that it had put the plans on hold.\textsuperscript{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.”\textsuperscript{236} Around the same time, Maryland lawmakers had begun drafting legislation that would ban private, for-profit migrant detention facilities in the state.\textsuperscript{237} Beyond these four stalled efforts at expansion, there have been no media reports about ICA’s further expansion plans.

\textsuperscript{224} Id. at 9.
\textsuperscript{225} Id.
\textsuperscript{227} Shaffer, supra note 213.
\textsuperscript{230} Id.
\textsuperscript{231} Id.
\textsuperscript{232} Id.
\textsuperscript{233} Id.
\textsuperscript{234} Reed, supra note 213.
\textsuperscript{235} Id.
\textsuperscript{236} Id.
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. 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 2019, $1,849,294.98 in March 2019, and $2,097,381.25 in May 2019, 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. 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. 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&crid=4e3d097e-38bb-4ec6-9526-c67df4774d5&wpdocfullpath=%2Fshared%2Fdocument%2Fanalytical-materials%2Fun%3Acontentitem%3ASYP2-MR61-J06P-218F-00000-00&ptocnodeidentifier=AACAAC&ecomp=yd5dk&pkey=a30dd1b0-fe4e-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).


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.


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

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. 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.

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

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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.


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.


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.\textsuperscript{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.\textsuperscript{254} Since the IGSA, this LaSalle-operated facility has housed both migrants and people held on criminal charges.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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,\textsuperscript{258} and to at least one of Louisiana’s representatives in the U.S. Congress.\textsuperscript{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.”\textsuperscript{260}

\textsuperscript{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 IGSAs (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).

\textsuperscript{254} FREEDOM FOR IMMIGRANTS, Detention in Your District: Louisiana Congressional District 5, supra note 250.

\textsuperscript{255} Id.


\textsuperscript{257} Lanard, supra note 246.

\textsuperscript{258} Alvarado et al., supra note 7.


\textsuperscript{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.”

**Management & Training Corporation**

Management & Training Corporation (MTC) is a PSC operating in the corrections business since 1981, and in migrant detention since the 1990s. MTC has a global reach, operating various facilities and programs in the U.S., United Kingdom, and Australia. MTC also develops logistics training in Egypt through the “USAID-funded Workforce Improvement and Skill Enhancement project.”

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. Some of these facilities are operated by private security industry giants GEO and CoreCivic.

MTC was one of the first three PSCs, alongside CoreCivic and GEO, that contracted with the government to detain migrants. 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, 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. 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.

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261 Id.


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].


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/TRV3-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.\textsuperscript{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.\textsuperscript{273} A 2018 news report indicated that MTC “has made nearly $38 million” running just one of its Texas detention centers.\textsuperscript{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.\textsuperscript{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.\textsuperscript{276} CAR prisons emerged in 2005, after the U.S. government began expediting the criminal prosecution of individuals crossing the border.\textsuperscript{277} MTC is one of several PSCs to operate these correctional facilities that house strictly migrant prisoners.\textsuperscript{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


\textsuperscript{274} Jones, \textit{supra} note 272.

\textsuperscript{275} Indefinite Delivery Contract 70CDCR19D00000010, GOVTRIBE, https://govtribe.com/award/federal-idv-award/indefinite-delivery-contract-70cdcr19d00000010 (last viewed May 9, 2020) [https://perma.cc/NF32-JFTZ].

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

\textsuperscript{277} Id.

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. CAR prisons, on the other hand, house migrants who have committed a crime and are intended to be punitive.

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. 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. The prosecution of migrants for illegal entry leads to increased incarceration, 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.” 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.”

MTC’s most notorious shadow prison is the Willacy County Regional Detention Facility in Raymondville, Texas. From 2006-2011, MTC operated this facility, originally named the Willacy County Correctional Institution, through a contract with ICE. 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.

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
different federal agency, the BOP, to house migrant prisoners at the very same facility.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{294} MTC maintains this contract to the current day.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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

\textsuperscript{290} Id.
\textsuperscript{291} Id; Shadow Prisons, supra note 276.
\textsuperscript{292} Id.
\textsuperscript{293} Raff, supra note 289.
\textsuperscript{294} Id.
\textsuperscript{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.
\textsuperscript{296} Shadow Prisons, supra note 276.
government and private industry. Although this practice may not be inherently controversial, it creates an environment fraught with potential conflicts of interest, 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.

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. 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 parents during the summer of 2018 in an effort to deter immigration. During this same period of time, DC Capital Partners acquired Comprehensive Health Services (CHS) and formed Caliburn International, which became CHS’s parent company. 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. In 2018, CHS received two government contracts totaling $272 million to operate the child migrant detention center Homestead.

John Kelly stepped down from his position with the Trump administration at the end of 2018. Less than five months later, Kelly joined the board of Caliburn, and CHS (now a Caliburn subsidiary) was awarded a new $273 million contract with the government. 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.

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298 Id.
299 Id.
301 Kates, John Kelly Joins Board, supra note 300.
304 AM. FRIENDS SERVICE COMM., INVESTIGATE, The Corporate Interests, supra note 104.
307 Id; Kates, John Kelly Joins Board, supra note 300.
308 Id.
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


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.


315 Id.


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.
324 Id.
325 Id.

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campaign manager for George W. Bush’s 2000 presidential campaign.\textsuperscript{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.\textsuperscript{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,\textsuperscript{330} as well as senior aides to President Bill Clinton and deputy and associate chiefs of staff for multiple Members of Congress.\textsuperscript{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.\textsuperscript{332} GEO’s interests are further represented by other former senior-level staffers and members of Congress.\textsuperscript{333}

In 2019, CoreCivic spent $1.65 million on lobbying,\textsuperscript{334} GEO spent $1.52 million,\textsuperscript{335} and MTC spent $820,000.\textsuperscript{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.\textsuperscript{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.\textsuperscript{338} In 2018, GEO lobbied for the Intensive Supervision Appearance Program (ISAP), a detention alternatives program.\textsuperscript{339} The main provider of the monitoring technology used in ISAP is BI, Inc., a GEO subsidiary.\textsuperscript{340} In 2019, BI, Inc. earned $26.7 million in revenue from ISAP.\textsuperscript{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.”

\textsuperscript{328} Horn, Private Prison Firms, supra note 323.
\textsuperscript{329} Id.
\textsuperscript{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].
\textsuperscript{331} Horn, Private Prison Firms, supra note 323.
\textsuperscript{332} Id.
\textsuperscript{333} Id.
\textsuperscript{337} SMALL ET AL., DETENTION WATCH NETWORK, supra note 78, at 11.
\textsuperscript{338} Id.
\textsuperscript{339} Horn, Private Prison Firms, supra note 323.
\textsuperscript{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.”\textsuperscript{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.\textsuperscript{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.”\textsuperscript{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.”\textsuperscript{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.\textsuperscript{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.”\textsuperscript{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 annualmultiday 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.\textsuperscript{348} Caliburn International had planned to


\textsuperscript{345} *Id.*

\textsuperscript{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].


\textsuperscript{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. 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.

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 Texas – wrote a bill that would grant childcare licenses to family detention centers. If passed, this bill would have allowed GEO to detain children indefinitely while awaiting deportation, 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. Despite medical testimony on the harmful effect of family detention centers on children, the bill passed the Texas Senate before dying in the Texas House of Representatives. 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.

350 Id.
353 Dayen, *supra* note 352.
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. 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. With this expansion, GEO would increase its capacity in the area by 1,400 detainees. In February 2020, residents opposed to the plan celebrated as the McFarland Planning Commission denied GEO’s bid. Two months later, however, the McFarland City Council reversed the Planning Commission’s decision, citing the town’s “desperate financial condition.”

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. 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.” 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.

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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. This law, Assembly Bill 32 (2019), prevented the state from renewing or entering into new migrant detention contracts with PSCs beginning in January 2020. 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.” With nearly 4,500 immigration detention beds in California, 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. 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. 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. A coalition of migrant rights NGOs has called the lawsuit “a shameless attempt to protect profits.”

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

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369 Rebecca Plevin, 4 Things We Learned, supra note 191.
372 Id. at 16.
373 Id. at 24.
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].
377  Id.
378  Id.
379  Id.
380  Id. at 100.
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.” He was not offered any alternative medications or treatments, and contemplated suicide. 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.

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. 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. The doctor prescribed only over-the-counter medicine that was not appropriate for children Mariee’s age, and her condition worsened. 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. 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. Mariee died after six weeks in the hospital. 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.” 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.”

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.” A detainee at LaSalle’s Winn Correctional Center in Louisiana reported that he had been denied dental care.

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385 Id.
389 Id.
390 Id.
391 Id.
392 Id.
393 Id.
care for months, and as a result, “was forced to remove the remnants of a rotten tooth on his own, without anesthetic.”

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.

**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.

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, while female detainees at CoreCivic’s Elizabeth Contract Detention Facility in New Jersey reported that they were provided an inadequate number of sanitary pads.

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.

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.

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


\(^{405}\) Stole, supra note 256.

\(^{406}\) Bakst & Byrne, *HUMAN RIGHTS FIRST*, supra note 400, at 4.


\(^{410}\) 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.\footnote{412 FREEDOM FOR IMMIGRANTS, Detention in Your District: Louisiana Congressional District 5, supra note 250.} At least one of the detainees was hurt badly enough to require hospitalization.\footnote{413 Id.; Alvarado et al., Deaths in Custody, supra note 409.} 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.”\footnote{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].} The supervisor admitted that he and other officers concocted a false report to cover up their actions.\footnote{415 Id.}

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.\footnote{416 Id.} 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.\footnote{417 RAICES ET AL., supra note 401.} 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.\footnote{418 Id. at 4.} When he asked for help from two medical officers who witnessed the ongoing incident, they said, “We didn’t see anything.”\footnote{419 Id. at 4.} Another of these detainees reported being beaten, pushed to the ground, and having his head slammed into the concrete, despite his not resisting.\footnote{420 Id. at 5.}

At GEO’s Adelanto facility in California, video footage appears to document the use of excessive force on detainees engaged in a hunger strike.\footnote{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/BQ9B-3U75].} 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.\footnote{422 Id.} 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...
dragging them away from the table. 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.

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. ICE data released through FOIA requests reveals over 1,448 allegations of sexual abuse between 2012 and March 2018. 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.

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. 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. In a separate criminal case, the male guard was convicted on state and federal charges for his actions. 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, and a male detainee at LaSalle’s West Texas

423 Id. 424 JUSTICE-FREE ZONES, supra note 6, at 41.
427 Id.
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.
Detention Facility alleged that a guard forced him against a wall and, through his clothing, fondled his penis and groin area.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.”\textsuperscript{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.\textsuperscript{439} Of these complaints, 178 were about detention staff members sexually assaulting migrant children.\textsuperscript{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.\textsuperscript{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

\begin{footnotesize}
\begin{itemize}
\item[\textsuperscript{432}] RAICES ET AL., supra note 401, at 5.
\item[\textsuperscript{433}] ICE Sexual Abuse Statistics, supra note 428.
\item[\textsuperscript{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.
\item[\textsuperscript{437}] Id.
\item[\textsuperscript{438}] Id.
\item[\textsuperscript{440}] Id.
\end{itemize}
\end{footnotesize}
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 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

443 No Home for Children, supra note 108, at 29.
444 Id. at 30.
446 Id.
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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.”\textsuperscript{456} At LaSalle’s Winn facility in Louisiana, a detainee was reportedly sent to solitary for taking a shower at 11:00 p.m.\textsuperscript{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.\textsuperscript{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.\textsuperscript{459} At LaSalle’s Winn Detention Center, migrants reportedly were placed in solitary for attempting to speak with reporters who were touring the facility.\textsuperscript{460}

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

\textsuperscript{452} Id.
\textsuperscript{455} JUSTICE-FREE ZONES, supra note 6, at 38.
\textsuperscript{456} Id. at 40.
\textsuperscript{457} Id.
\textsuperscript{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/XSJM-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.
\textsuperscript{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

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).
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

471 Id.
472 RAICES ET AL., supra note 401, at 2, 12.
473 Id. at 11.
474 Id. at 12.
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.\textsuperscript{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.\textsuperscript{483}

**Discrimination against LGBTQ+ individuals**

Members of the LGBTQ+ community are particularly vulnerable to discrimination and human rights violations in migrant detention facilities.\textsuperscript{484} Indeed, one quarter of the substantiated incidents of sexual abuse in detention involve a transgender detainee.\textsuperscript{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.\textsuperscript{486} Many of the allegations related to inadequate medical care, particularly for HIV-positive detainees.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{490} A complaint made by several NGOs on behalf of these

\textsuperscript{482} PERSECUTED IN U.S IMMIGRATION DETENTION, supra note 475, at 9.
\textsuperscript{483} Id.
\textsuperscript{485} Id.
\textsuperscript{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].
\textsuperscript{487} FREEDOM FOR IMMIGRANTS, Detention in Your District: New Mexico Congressional District 2 (Dec. 2019), https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5dfdd487496d9e6052037a53f/1576880246732/DIYD+NM+v2+Final.pdf [https://perma.cc/RF4N-423F].
\textsuperscript{488} Id.
\textsuperscript{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

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494 Id. at 10.
495 Sanchez & Flores, supra note 493.
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. They were woken at 6:30 and put to bed at 10:00. Showers were limited to 5 minutes, and calls to family limited to ten minutes, twice a week. They were allowed only two or three hours a day of free time, and could never go outside the buildings on their own.

Children at Homestead were not allowed to touch each other under any circumstances, not even to comfort their own siblings. 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.

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.

**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. 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. 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. Thirty-

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


504 Id.

505 Id.


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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 GEO 514 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...
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

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520 Id.
521 AMNESTY INT’L, USA: ‘WE ARE ADRIFT, ABOUT TO SINK,’ supra note 507, at 8.
522 Id.
524 Id.
525 Id. (April 15 update).
528 Id.
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


533 Aleaziz & Flores, supra note 508.


536 Id. at 32.

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.