

**Congress of the United States**  
**Washington, DC 20515**

January 28, 2021

The Honorable David Pekoske  
Acting Secretary  
Department of Homeland Security  
1880 2nd Street SW  
Washington, DC 20024

Dear Acting Secretary Pekoske:

We applaud the Biden Administration's commitment to advancing racial equity and supporting underserved communities by offering the "Executive Order on Reforming Our Incarceration System to Eliminate the Use of Privately Operated Criminal Detention Facilities" on January 26, 2021. This Executive Order instructed the Department of Justice (DOJ) to phase out its use of private prisons by requiring the Attorney General to not renew contracts with privately operated criminal detention facilities. With this order, President Biden sent a strong message to the nation that the administration of justice should be free of profit-based incentives. We request that your department apply the same principles and take action to phase out the use of privately operated immigration detention facilities under Immigration and Customs Enforcement (ICE).

As you know, the Trump Administration expanded the use of private prison companies in the immigration detention system. According to a 2020 ACLU report, 81 percent of people detained in ICE custody nationwide were held in facilities owned or managed by private prison corporations, as of January 2020. Between the start of the Trump administration and January 2020, private prison companies housed 91 percent of all people held in detention centers.<sup>1</sup>

As sentencing reform has reduced the number of prisoners nationwide, private prison companies have sought to maintain this for-profit business model by filling beds with detained immigrants. Private prison companies such as CoreCivic and the GEO Group have greatly benefited under the Trump administration, receiving more than half of the contracts for ICE detention. In 2019, CoreCivic received a total of \$574 million in revenue from its contracts with ICE,<sup>2</sup> while the GEO Group received a total of \$708 million in revenue.<sup>3</sup> Entrenching profit incentives into our nation's detention system violates our nation's basic guiding principles of justice and fairness.

The recent Executive Order acknowledges a DOJ Office of Inspector General report that found private prisons fail to uphold the safety and security of the individuals in their custody. This remains true for private immigration detention facilities, as they have been plagued by a long history of abuse and neglect. In a 2019 Office of the Inspector General Report, inspectors discovered egregious violations that jeopardized the safety, health, and wellbeing of detained

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<sup>1</sup> ACLU, *Justice-Free Zones: U.S. Immigration Detention Under the Trump Administration* 5 (2020) [https://www.hrw.org/sites/default/files/supporting\\_resources/justice\\_free\\_zones\\_immigrant\\_detention.pdf](https://www.hrw.org/sites/default/files/supporting_resources/justice_free_zones_immigrant_detention.pdf)

<sup>2</sup> CoreCivic, Inc., Annual Report (Form 10-K), at 41, 61 (Feb. 20, 2020)

<sup>3</sup> The GEO Group, Inc., Supplemental Information, Fourth Quarter and Full Year 2019, at 12 (2020); The GEO Group, Inc., Annual Report (Form 10-K), at 32, 44 (Feb. 26, 2020).

immigrants.<sup>4</sup> Reports from community and legal groups have found health and safety violations ranging from expired and rotten food being served to detained immigrants to medical needs being unaddressed to the point where multiple lawsuits have been filed for medical malpractice and wrongful death at private immigration detention centers across the country. All detention facilities have a basic responsibility to protect the wellbeing of individuals in their custody, and on far too many occasions, privately-run facilities have failed to meet that standard.

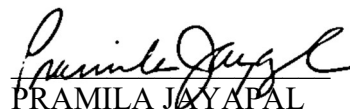
Further, private prison contracts create a barrier to transparency and accountability for what happens at these facilities. Efforts to address reports of neglect and abuse in privately operated immigration detention facilities are often delayed, if not completely thwarted, by the lack of clear lines of responsibility. Whether it is reporting disease outbreaks or decisions about necessary medical care, it is all too often the case that both entities redirect responsibility to the other. The severe danger of this lack of accountability combined with an incentive to lower costs to maximize profits was exemplified this past summer after reports emerged of unwanted and unnecessary medical procedures performed on immigrant women at the Irwin County Detention Center, a private prison operated by LaSalle Corrections. In fact, under the previous administration, ICE stated that they have no responsibility for oversight of the privately operated immigration detention facilities with which they contract.

Finally, this Executive Order echoes similar announcements from previous administrations to phase out the DOJ's use of private prisons.<sup>5</sup> As a result, private prison companies immediately turned their focus to the detention of immigrants to recoup potential losses due to the shift in policy for criminal detention.

The Federal Government has a responsibility to ensure the safe and humane treatment of those in its care, and that must be as true for individuals detained in private prisons in DOJ custody as it is for individuals detained in private prisons in the Department of Homeland Security custody. We stand ready to work with the Biden Administration to end the use of private immigration detention facilities by ICE.

Sincerely,

  
\_\_\_\_\_  
JASON CROW  
Member of Congress

  
\_\_\_\_\_  
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<sup>4</sup> Office of the Inspector General, Department of Homeland Security, *Concerns about ICE Detainee Treatment and Care at Four Detention Facilities* (June 3, 2019).

<sup>5</sup> Department of Justice, *Phasing Out Our Use of Private Prisons* (Aug. 18, 2016) <https://www.justice.gov/archives/opa/blog/phasing-out-our-use-private-prisons>.

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