

# Congress of the United States

Washington, DC 20515

July 16, 2024

The Honorable Alejandro Mayorkas  
Secretary of Homeland Security  
U.S. Department of Homeland Security  
2707 Martin Luther King Jr Ave SE  
Washington, DC 20528

Dear Secretary Mayorkas:

We write regarding the recent announcement that Immigration and Customs Enforcement (ICE) is closing the South Texas Family Residential Center in Dilley, Texas (“Dilley”) while expanding the overall use of immigration detention. There is no humane way to detain families, and the Department of Homeland Security (DHS) made the right decision to end family detention in 2021. As Reuters reported, the closing of Dilley has the potential to save American taxpayers \$129 million,<sup>1</sup> so we are pleased that DHS has finally decided to close this facility.<sup>2</sup> However, we are deeply troubled that ICE plans to use the cost savings from this closure to expand the use of immigration detention, in particular facilities operated by private, for-profit prison companies. We urge you to move away from the use of private, for-profit detention, consistent with President Biden’s January 2021 Executive Order phasing out use of for-profit prisons in the federal prison system.

You previously testified regarding your concern about “the overuse of detention...where alternatives to detention would suffice.”<sup>3</sup> We share that concern. The problems with immigration detention facilities, ranging from unsafe and inhumane conditions to the overuse of solitary confinement and unwarranted medical procedures, are well-documented by DHS’s Office of Inspector General, media reports, and non-profit organizations.<sup>4</sup> Given that reliable

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<sup>1</sup> Ted Hesson, *Exclusive: Biden officials kept immigration jails despite internal cost concerns*, REUTERS (Sep. 27, 2023), <https://www.reuters.com/world/us/biden-officials-kept-immigration-jails-despite-internal-cost-concerns-2023-09-27/>.

<sup>2</sup> On February 16, 2024, Ranking Member Jayapal, Melanie Stansbury, and 50 members of the House of Representatives called for increased transparency from DHS Secretary Alejandro Mayorkas regarding immigration detention centers that had been recommended for closure by ICE, including Dilley, see, <https://jayapal.house.gov/2024/02/16/jayapal-stansbury-call-for-transparency-on-conditions-at-immigration-detention-centers/>.

<sup>3</sup> Department of Homeland Security Resource Management and Operational Priorities, Before the H. Comm. on Appropriations, Subcomm. on Homeland Security, 117th Cong. (2021) (testimony of Hon. Alejandro Mayorkas, Secretary, Dep’t of Homeland Security).

<sup>4</sup> See, e.g. Joseph V. Cuffari, *Management Alert – Immediate Removal of All Detainees from the Torrance County Detention Facility*, Office of Inspector General, DEP’T OF HOMELAND SECURITY (Mar. 16, 2022), <https://www.oig.dhs.gov/sites/default/files/assets/2022-05/OIG-22-31-Mar22-mgmtalert.pdf>; Joseph V. Cuffari, *ICE Major Surgeries Were Not Always Properly Reviewed and Approved for Medical Necessity*, Office of Inspector General, DEP’T OF HOMELAND SECURITY (Jan. 23, 2024), <https://www.oig.dhs.gov/sites/default/files/assets/2024-01/OIG-24-16-Jan24.pdf>; Tom Dreisbach, *Government’s own experts found ‘barbaric’ and ‘negligent’ conditions in ICE detention*, NPR (Aug. 16, 2023), <https://www.npr.org/2023/08/16/1190767610/ice-detention-immigration-government-inspectors-barbaric-negligent-conditions>; Katherine Peeler, MD, et. al., “Endless Nightmare”: Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention, PHYSICIANS FOR HUMAN RIGHTS (Feb. 6, 2024), <https://phr.org/our-work/resources/endless-nightmare-solitary-confinement-in-us-immigration-detention/>.

and cost-effective alternatives to detention (ATDs) are available, increasing detention is not the optimal use of the cost savings from closing Dilley.

Community-based ATDs like the Family Case Management Program (FCMP) that ICE operated from January 2016 through June 2017 produced compliance rates of 99 percent with immigration check-in appointments and court appearances. FCMP operated effectively at a cost of just \$38 per family, per day, compared to a daily cost of \$150 for detention.<sup>5</sup> Studies consistently show that most people are best equipped to successfully complete their removal proceedings when they have full access to the support of their families and communities and legal representation.<sup>6</sup>

We are also concerned that ICE plans to increase detention capacity run by private, for-profit companies, specifically in the Adelanto Detention Center, given the numerous problems in that facility.<sup>7</sup> We are likewise worried about the prospect that ICE may enter into contracts with new facilities operated by county jails or other private companies.

While President Biden ordered that the federal prison system phase out contracts with the private prison industry when he began his term in January 2021, no such directive was issued for the immigration system.<sup>8</sup> In fact, the use of private prisons in the immigration system has grown: as of July 2023, 90.8 percent of individuals in immigration detention were held in detention facilities owned or operated by private prison companies, up from 81 percent in 2020.<sup>9</sup> For-profit, privately-owned prisons are incentivized to make as much money as possible, often at the expense of the care and protection of individuals forced into their care. These facilities lack necessary oversight and are unsafe, which lead to a lack of sufficient health care and resources for detained individuals.<sup>10</sup>

Private prison companies prioritize profits over people and care. This was made especially clear in a recent report from in which medical experts determined that 95 percent of

<sup>5</sup> DHS OIG, *U.S. Immigration and Customs Enforcement's Award of the Family Case Management Program Contract (Redacted)* OIG-18-22 (Nov. 30, 2017) at 5, <https://www.oig.dhs.gov/reports/2018/us-immigration-and-customs-enforcements-award-family-case-management-program-contract>.

<sup>6</sup> *AILA Policy Brief: Recommendations on the Expansion and Implementation of Immigration Legal Representation Programs*, AILA (Mar. 1, 2022), <https://www.aila.org/library/aila-policy-brief-recommendations>; *Advocates and Lawmakers Rally to Demand Right to Counsel in Immigration Court and \$150M for Legal Services Funding*, VERA (Mar. 13, 2024) <https://www.vera.org/newsroom/advocates-and-lawmakers-rally-to-demand-right-to-counsel-in-immigration-court-and-150m-for-legal-services-funding>.

<sup>7</sup> John V. Kelly, *Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California*, Office of Inspector General, DEP'T OF HOMELAND SECURITY (SEP. 27, 2018), <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-Sep18.pdf>

<sup>8</sup> *Executive Order on Reforming Our Incarceration System to Eliminate the Use of Privately Operated Criminal Detention Facilities*, WHITE HOUSE (Jan. 26, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/executive-order-reforming-our-incarceration-system-to-eliminate-the-use-of-privately-operated-criminal-detention-facilities/>.

<sup>9</sup> Eunice Cho, *Unchecked Growth: Private Prison Corporations and Immigration Detention, Three Years into the Biden Administration*, ACLU (Aug. 7, 2023), <https://www.aclu.org/news/immigrants-rights/unchecked-growth-private-prison-corporations-and-immigrationdetention-three-years-into-the-biden-administration>.

<sup>10</sup> See, e.g., Sean Bryant, *The Business Model of Private Prisons*, INVESTOPEDIA (Mar. 24, 2022) <https://www.investopedia.com/articles/investing/062215/business-model-private-prisons.asp>; In the Public Interest, *Cutting Corners in America's Criminal Justice System: How Corrections Companies Harm Prisoners and the Public in Pursuit of Profit* (Apr. 2016) [https://www.inthepublicinterest.org/wp-content/uploads/ITPI\\_CuttingCorners\\_Corrections\\_April2016.pdf](https://www.inthepublicinterest.org/wp-content/uploads/ITPI_CuttingCorners_Corrections_April2016.pdf).

in-custody deaths ICE reported between 2017 and 2021 were preventable.<sup>11</sup> Of the 15 immigration detention centers with the highest number of deaths during this period, 13 are run by private prison companies.<sup>12</sup> This includes the Adelanto Detention Facility and the Northwest ICE Processing Center in Tacoma, Washington, both run by GEO Group.<sup>13</sup>

Furthermore, some of the most egregious abuses of immigrants occurred in detention facilities run by private companies. Unnecessary medical interventions, forced labor, abuse of solitary confinement, and intimidation have run rampant at privately operated detention centers.<sup>14</sup> Immigration detention is meant to be civil in nature, not punitive. Yet immigrants detained by ICE in facilities increasingly operated by private prison companies face punishing conditions and neglect that some do not survive.

Closing Dilley is a long-overdue step which will improve the integrity of the immigration system, protect immigrants, and reduce wasted government expenditures. We should not squander this positive step by increasing harmful immigration detention when more humane and cost-effective alternatives exist. We urge you to consider alternatives to expanding the immigration detention system.

Thank you for your attention to this important matter.

Sincerely,



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Pramila Jayapal  
Ranking Member  
Subcommittee on  
Immigration Integrity,  
Security, and Enforcement



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Adam Smith  
Member of Congress

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<sup>11</sup> Eunice Hyunhye Cho, Tessa Wilson, et. al, *Deadly Failures Preventable Deaths in U.S. Immigration Detention*, PHYSICIANS FOR HUMAN RIGHTS (June 25, 2024), <https://phr.org/wp-content/uploads/2024/06/REPORT-ICE-Deadly-Failures-ACLU-PHR-AO-2024.pdf>

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> See, e.g. Reese Ramirez, *UW Center for Human Rights reveals violations in the Northwest Detention Center*, THE TACOMA LEDGER (Oct. 23, 2023) <https://thetacomaledger.com/2023/10/23/uw-center-for-human-rights-reveals-violations-in-the-northwest-detention-center/>; *Settlement in Forced Labor Case Against Private Prison Company Operating Immigration Detention Center*, SOUTHERN POVERTY LAW CENTER (Oct. 19, 2023), <https://www.splcenter.org/presscenter/settlement-forced-labor-case-against-private-prison-company-operating-immigration>; Eesha Pandit, *The Many Abuses at the Irwin County Detention Center in Georgia*, THE NATION (Oct. 30, 2020), <https://www.thenation.com/article/society/hysterecemies-sterilization-irwin-county/>;