



NHCSL

THE NATIONAL HISPANIC CAUCUS OF STATE LEGISLATORS

RESOLUTION

No. 2021-01

Ban Private Detention in Immigration Law Enforcement

Reported to the Caucus by the NHCSL Immigration Force
Rep. Louis Ruiz (KS), Chair

Sponsored by Rep. Lillian Ortiz-Self (WA)

Ratified by the Caucus on March 26, 2022

WHEREAS, all people in confinement deserve basic medical care, nutrition, and safety from violence, and private, for-profit prison operators put financial gain above the public interest of safety and rehabilitation;¹ and,

WHEREAS, the independent Office of the Inspector General of the Department of Justice found in 2016 that private prisons have higher rates of violence, including higher rates of staff uses of force;² and,

WHEREAS, according to decades of research, cost savings claims associated with privatization of prisons and detention facilities are unfounded and private prison companies often reduce operating costs and maximize profits for shareholders by offering staff lower salaries with limited benefits and less training compared to staff

¹ Kara Gotsch and Vinay Basti, *Capitalizing on Mass Incarceration: U.S. Growth in Private Prisons* (The Sentencing Project, Aug. 2, 2018), available at <https://www.sentencingproject.org/publications/capitalizing-on-mass-incarceration-u-s-growth-in-private-prisons/>

² Office of the Inspector General, *Review of the Federal Bureau of Prisons' Monitoring of Contract Prisons* (US Department of Justice, Aug 2016) available at <https://oig.justice.gov/reports/2016/e1606.pdf#page=2>

employed by public facilities, thereby compromising safety and security within private detention facilities;³ and,

WHEREAS, on January 26, 2021, President Biden signed an executive order directing the Attorney General not to renew Department of Justice contracts with privately operated criminal detention facilities⁴ and, upon signing, President Biden remarked that this executive order was the “first step to stop corporations from profiting off of incarceration that is less humane and less safe;”⁵ and,

WHEREAS, President Biden’s executive order did not address the immigration detention setting;⁶ and,

WHEREAS, most people confined in immigration detention facilities nationwide are confined in privately-run facilities, with approximately 73 percent of all people in immigration detention confined in privately-run facilities during fiscal year 2017;⁷ and,

WHEREAS, in inspections conducted from 2018 through 2019, the independent Office of the Inspector General of the Department of Homeland Security, found numerous safety violations at immigration detention facilities operated by private prison companies, including unsanitary food and living conditions, improper and overly restrictive use of segregation, and untimely and inadequate detainee medical care;⁸ and,

³ Kara Gotsch and Vinay Basti, *Capitalizing on Mass Incarceration: U.S. Growth in Private Prisons* (The Sentencing Project, Aug. 2, 2018) (collecting research), available at <https://www.sentencingproject.org/publications/capitalizing-on-mass-incarceration-u-s-growth-in-private-prisons/>

⁴ Executive Office of the President, *Executive Order on Reforming Our Incarceration System to Eliminate the Use of Privately Operated Criminal Detention Facilities* (January 26, 2021), available at <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/>

⁵ Mario Parker, et al, *Biden to Order Justice Department to End Private Prison Use* (Bloomberg Law, Jan 27, 2021), available at <https://news.bloomberglaw.com/white-collar-and-criminal-law/biden-to-order-justice-department-to-end-use-of-private-prisons>

⁶ Jesse Franzblau, *Phase out of Private Prisons Must Extend to Immigration Detention System* (National Immigrant Justice Center, Jan. 28 2021), available at <https://immigrantjustice.org/staff/blog/phase-out-private-prisons-must-extend-immigration-detention-system>

⁷ Detention Watch Network, *New Information from ICE ERO's July Facility List*, available at <https://www.detentionwatchnetwork.org/sites/default/files/DWN%20Spreadsheet%20Memo.pdf>

⁸ See for example, Office of the Inspector General, *Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California* (Department of Homeland Security, Sept. 27, 2018), available at <https://www.oig.dhs.gov/sites/default/files/assets/Mga/2018/oig-18-86-sep18.pdf>; Office of the Inspector General, *Concerns about ICE Detainee Treatment and Care at Four Detention Facilities* (Department of Homeland Security, June 3, 2019), available at <https://www.oig.dhs.gov/sites/default/files/assets/2019-06/OIG-19-47-Jun19.pdf>; and, Office of the Inspector General, *Capping Report: Observations of Unannounced Inspections of ICE Facilities in 2019* (Department of Homeland Security, July 1, 2020), available at <https://www.oig.dhs.gov/sites/default/files/assets/2020-07/OIG-20-45-Jul20.pdf>

WHEREAS, in September 2020, the US House Oversight Committee found that people in private, for-profit immigration detention facilities have died after receiving inadequate medical care.⁹

THEREFORE, BE IT RESOLVED, that the National Hispanic Caucus of State Legislators calls on the White House to extend the Executive Order to include the phasing out of DHS private detention facilities.

BE IT FURTHER RESOLVED, that the National Hispanic Caucus of State Legislators calls on the White House to also extend the Executive Order to include US Marshals Service contracts.

BE IT FINALLY RESOLVED, that the National Hispanic Caucus of State Legislators calls on the President to eliminate and the United States Congress to prohibit the use of private, for-profit immigrant detention facilities.

THE NATIONAL HISPANIC CAUCUS OF STATE LEGISLATORS UNANIMOUSLY RATIFIED THIS RESOLUTION ON MARCH 26, 2022, AT ITS ANNUAL MEETING IN WASHINGTON, DC.

⁹ Committee on Oversight and Reform and Subcommittee on Civil Rights and Civil Liberties, *The Trump Administration's Mistreatment of Detained Immigrants: Deaths and Deficient Medical Care by For-Profit Detention Contractors* (Sept. 2020), available at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-09-24.%20Staff%20Report%20on%20ICE%20Contractors.pdf>