

May 20, 2020

Attorney General Xavier Becerra
1300 I Street
Sacramento, CA 95814

**Re: Investigation and Accountability for Deaths in California Private Immigration
Detention Facilities**

We are writing to express our grief, outrage, and grave concern over the death of Choung Woong Ahn, a 74 year old man who died in his cell on Sunday evening in the Mesa Verde Detention Facility, a private facility owned and operated by the GEO Group. Mr. Ahn had been held in this facility since February and suffered from diabetes, hypertension and heart- and lung-related issues. His case was a clear example of a medically vulnerable individual who was denied their right to life by ICE and GEO.

Reports have stated the preliminary cause of death was self-strangulation, though ICE will supposedly investigate his cause of death. We do not need the agency which created the circumstances for this death to conduct an investigation. The reality is clear for everyone to see: ICE is acting as the judge, jury and executioner in these cases.

This is now the second death in detention in California in the month of May. The first was Carlos Escobar Mejia, a 57 year old man who died from exposure to COVID-19 at the Otay Mesa facility, owned and operated by the for-profit CoreCivic. What happened to Mr. Ahn and Mr. Escobar Mejia is happening to thousands of immigrants detained in the state of California. We need action and we need it now.

We need an investigation into what took place by an independent agency, with the goals of protecting the health and safety of the individuals in those facilities. That investigation should come from your office.

We are writing this letter to your office to expressly remind you of your power under AB 103 to “engage in reviews of county, local, or private locked detention facilities in which noncitizens are being housed or detained for purposes of civil immigration proceedings in California.” We are aware that you completed a preliminary review of these facilities in 2019. We are also aware that your power to enter these facilities remains in place until 2027.

While your office may not have jurisdiction over the decisions of ICE or the federal government, it does retain clear jurisdiction over the conduct of private corporations. This includes retaining jurisdiction over federal contractors who are violating the terms of their contract and are thus no longer immune from either civil or criminal liability. **"When a contractor violates both federal law and the government's express instructions... there is no immunity."** *Campbell-Ewald Co. v. Gomez*, 577 U.S. _____. 193 L.Ed.2d 571 (2016).

As it stands, ICE has issued COVID-19 Pandemic Response Requirements, which include "mandatory requirements" for all facilities housing ICE detainees as well as best practices. Dedicated detention facilities—those housing only ICE detainees—as well as non-dedicated facilities with mixed populations, including local jails, "must" (1) comply with their applicable detention standards and facility contract; (2) comply with the CDC Interim Guidelines and the March 27, 2020 Action Plan; (3) notify the local ICE Field Office Director and Federal Medical Center of known or suspected COVID-19 cases; and (4) notify the FOD and FMC "as soon as practicable" of any detainee meeting CDC's criteria for higher risk of harm.

There have been numerous and clear instances in which these operators are violating the standards of care in their contracts, as well as federal and state laws that govern these facilities.

These private operators are clearly acting outside of the law. Your office is tasked with upholding the law in the state of California. Therefore it is unacceptable to us that your office has failed to even recognize its authority to act in this context when people are dying at the hands of these private operators.

In conclusion we summarize our requests as the following:

1. Initiate a specific and thorough investigation into the deaths of Mr. Ahn and Mr. Esobar Mejia, assessing the criminal and civil liability of private operators.
2. Initiate reviews of health and safety conditions, and contractual violations of all five immigrant detention facilities in the state of California.
3. Provide clear legal guidance as to consequences applicable to private operators who break the law or violate their contracts in these facilities. This includes the now mandatory requirements for operators to comply with ICE performance based standards as well as CDC guidance.

Sincerely,

A. L. Costa Community Development Center
ACLU Foundations of California
Action Team for Immigrant Rights (ATIR)
African Advocacy Network
Alianza Sacramento
American Friends Service Committee, US-Mexico Border Program
Asian Americans Advancing Justice - Asian Law Caucus
Asylum Sponsorship Project
Bay Area Asylum Support Coalition (BAASC)
Black Alliance for Just Immigration
California Coalition for Women Prisoners
California Collaborative for Immigrant Justice (CCIJ)
California Immigrant Youth Justice Alliance
California Sanctuary Campaign
CALMA: Collective Action for Laborers, Migrants, & Asylum Seekers
Campaign for Immigrant Detention Reform (CIDR)
Catholic Charities SF
Central American Resource Center (CARECEN) of California
Centro Legal de la Raza
Coastside Immigrant Advocacy Group
Council on American-Islamic Relations (CAIR) of California
Disability Rights California
Dolores Street Community Services (DSCS)
Esperanza Immigrant Rights Project
Freedom for Immigrants
Haven Law Group
Immigrant Defenders Law Center
Immigrant Defense Advocates
Immigrant Legal Defense
Indivisible Sacramento
Inland Coalition for Immigrant Justice

Interfaith Movement for Human Integrity
Kehilla Community Synagogue
Kern Youth Abolitionists (KYA)
Law Office of Ravi Patel
Law Office Of Vanessa Frank
Legal Allies
Monument Impact
National Immigration Project of the National Lawyers Guild
Nikkei Resisters
NorCal Resist
North Bay Organizing Project
North Bay Rapid Response Network: Napa, Solano and Sonoma Counties
Open Door Legal
Opening Doors, Inc
Pacifica Social Justice
Pangea Legal Services
Porterville City Council Member, District 1
Public Counsel
Pueblo Sin Fronteras
Sacramento Immigration Coalition
Sacred Heart Community Service
San Bernardino Community Service Center
San Francisco Bay Area Day of Remembrance Committee
San Francisco District Attorney
San Francisco Public Defender
San Joaquin College of Law - New American Legal Clinic
Services, Immigrant Rights & Education Network (SIREN)
UFW Foundation
University of California, Irvine Law Students for Immigrant Justice
University of San Francisco Immigration & Deportation Defense Clinic
USC Gould School of Law Immigration Clinic
Wellstone Democratic Renewal Club