

United States Senate
WASHINGTON, DC 20510

April 15, 2019

Matthew T. Albence
Acting Director
U.S. Immigration and Customs Enforcement
500 12th St., SW
Washington, D.C. 20536

Dear Mr. Albence:

We write to report the findings of our investigation into private companies under contract with Immigration and Customs Enforcement (ICE) to operate or inspect immigration detention facilities. Following last summer's family separation crisis caused by the Trump Administration's ill-conceived zero-tolerance policy, we opened an investigation into the role private contractors played in the immigration detention industry.

In November 2018, we wrote to CoreCivic and the GEO Group, the two largest private immigration detention contractors, asking for information about the detention facilities that they operate, and the inspection results, facility deficiencies, and any ICE waivers or notifications received at the facilities they operate.¹ We also wrote to the Nakamoto Group, the contractor responsible for auditing immigration detention facilities, asking that company to explain discrepancies between their inspection results and the results of inspections by the Department of Homeland Security (DHS) Office of the Inspector General (OIG), and to provide information on their inspections of numerous DHS detention facilities.²

All three of these companies responded to our request. But after reviewing these responses, we are even more concerned over the problems with ICE's contract detention centers and inspection services. No entity took responsibility for the numerous failures identified by the DHS Inspector General. The responses from CoreCivic and GEO failed to address our concerns, raising questions about their ability and willingness to meet federal detention standards designed to ensure the health and safety of immigrants in detention. The Nakamoto Group has been – according to OIG – responsible for insufficient inspections of detention facilities.³ But their response to these OIG findings provided no indication that the company would meaningfully respond to the OIG findings and address deficiencies in its inspection practices and, according to a new letter we received from OIG earlier this month, “made factual errors ...misrepresent[ed] OIG reporting.”⁴

¹ See Attachment 1; Letter from Senator Elizabeth Warren et al. to CoreCivic, November 15, 2018. See also Attachment 2; Letter from U.S. Senators to GEO Group, November 15, 2018.

² See Attachment 3; Letter from Senator Elizabeth Warren et al. to Nakamoto Group, November 15, 2018.

³ U.S. Department of Homeland Security Office of Inspector General, “ICE’s inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements,” June 26, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>.

⁴ See Attachment 4(a); Letter from John Kelly, Acting Inspector General, Department of Homeland Security, April 4, 2019.

Based on these responses, it appears that there is no entity in charge of and taking responsibility for the conditions at ICE detention facilities. The facilities themselves failed to answer our questions or respond to our concerns, with GEO describing itself only as “a contractor who supports ICE.”⁵ And Nakamoto, the contractor that ICE relies on to ensure facilities are meeting standards, failed to address the concerns identified by OIG, providing a response to us that OIG described as containing “errors and misrepresentations” regarding the OIG findings.

We wish to bring these issues to your attention and request information about how your agency plans to address these severe management deficiencies, which appear to be contributing to conditions that cause considerable harm to immigrants in detention.

CoreCivic and GEO Group Responses

On November 15, 2018, we sent letters to CoreCivic⁶ and GEO Group⁷, the two largest private immigration detention contractors in the United States, to request information about the companies’ compliance with federal immigration detention standards following an OIG report about unsafe conditions and mistreatment of immigrants at a number of privately-run immigration detention centers.

Both companies responded to our letters by refusing to provide the requested information, disclaiming any responsibilities for their actions, and referring us to ICE. For example, CoreCivic wrote that “because ICE...is responsible for health care...any additional questions about facility healthcare would be best directed at ICE.”⁸ CoreCivic also wrote that it “respectfully defers to its government partners regarding specific questions pertaining to particular audits.”⁹ Similarly, in response to separate requests for contracts, inspection records and audit results, and a list of waivers, GEO Group wrote back in each instance that it “respectfully request[s] that you direct this request to ICE for a response.”¹⁰ The companies – who are paid millions of dollars in taxpayer funds – failed to provide us with any of the information we requested to evaluate their ability to effectively administer detention facilities, meet ICE requirements, and respond to the findings of OIG.

In fact, both companies also failed to acknowledge serious concerns related to findings by OIG of health and safety violations at their facilities. OIG has found violations in CoreCivic facilities that “undermine[d] the protection of detainees’ rights, their humane treatment, and the provision of a safe and healthy environment.”¹¹ OIG also found serious health and safety violations at

⁵ See Attachment 2(a); Response letter from GEO Group to Senator Elizabeth Warren et al., February 27, 2019.

⁶ See Attachment 1; Letter from Senator Elizabeth Warren et al. to CoreCivic, November 15, 2018.

⁷ See Attachment 2; Letter from Senator Elizabeth Warren et al. to GEO Group, November 15, 2018.

⁸ See Attachment 1(a); Response letter from CoreCivic to Senator Elizabeth Warren et al., February 8, 2019.

⁹ *Id.*

¹⁰ See Attachment 2(a); Response letter from GEO Group to Senator Elizabeth Warren et al., February 27, 2019.

¹¹ U.S. Department of Homeland Security Office of Inspector General, “Concerns about ICE Detainee Treatment and Care at Detention Facilities,” December 11, 2017, <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>.

facilities operated by GEO group, where conditions were so bad that one dentist “suggested detainees could use string from their socks to floss if they were dedicated to dental hygiene.”¹²

Although we raised these issues in our letters to both GEO Group and CoreCivic, neither company directly acknowledge the concerns. GEO Group claimed that their Adelanto facility “ranks in the top tier of any comparable detention or correctional facility in the United States.”¹³ CoreCivic touted their facility’s “features,” claiming they provided detainees with a “safe and appropriate environment,”¹⁴ but not acknowledging our concerns.¹⁵

CoreCivic and GEO Group failed to address our serious and substantive concerns and those identified by OIG. We are therefore asking that you provide us with information about each immigration detention facility operated by CoreCivic and GEO Group, their inspection records and results of audits, information about deficiencies cited in the reviews, as well as evidence that those deficiencies have been or are being addressed. Our complete list of questions appears at the end of this letter.

Nakamoto Group

We also sent a letter¹⁶ on November 15, 2018 to Nakamoto Group, a private contractor responsible for conducting inspections of immigration detention facilities to ensure they are in compliance with federal detention standards. We requested information about Nakamoto’s response to a September 27, 2018 report¹⁷ by OIG, which documented poor conditions and mistreatment of immigrants at a facility inspected by Nakamoto and an explanation for the findings of a June 26, 2018 OIG report¹⁸ concluding that Nakamoto’s “inspection practices are not consistently thorough,” and that “[a]s a result, the inspections do not fully examine actual conditions or identify all deficiencies.”¹⁹

The Nakamoto response raised particular concerns because the company – which is responsible for providing “ICE the assurance that the critical portion of the [National Detention] Standards are substantially being complied with”²⁰ and is paid millions²¹ of taxpayer dollars annually to do so – failed to take responsibility for serious deficiencies in their inspection identified by OIG.

¹² U.S. Department of Homeland Security Office of Inspector General, “Management Alert – Issues Requiring Action at the Adelanto Processing Center in Adelanto, California,” September 27, 2018, <https://www.oig.dhs.gov/reports/2018/management-alert-issues-requiring-action-adelanto-ice-processing-center-adelanto-california/oig-18-86-sep18>.

¹³ See Attachment 2(a); Response letter from GEO Group to Senator Elizabeth Warren et al., February 27, 2019.

¹⁴ See Attachment 1(a); Response letter from CoreCivic to Senator Elizabeth Warren et al., February 8, 2019.

¹⁵ *Id.*

¹⁶ See Attachment 3; Letter from Senator Elizabeth Warren et al. to Nakamoto Group, November 15, 2018.

¹⁷ U.S. Department of Homeland Security Office of Inspector General, “Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California,” September 27, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-Sep18.pdf>.

¹⁸ U.S. Department of Homeland Security Office of Inspector General, “ICE’s inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements,” June 26, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>.

¹⁹ *Id.*

²⁰ See Attachment 3(a); Response from Nakamoto Group, December 4, 2018, at 1.

²¹ USA Spending, Nakamoto Group, Inc., https://www.usaspending.gov/#/keyword_search/Nakamoto

This failure has serious consequences. For example, OIG's report on the conditions at the Adelanto ICE Processing Center in Adelanto, California identified severe health and safety violations that "posed[d] significant health and safety risks" to detainees.²² By not conducting rigorous inspections, Nakamoto may share responsibility for these dangerous and unacceptable conditions to go unchecked.

In the company's December 4, 2018 response²³ to our letter, Nakamoto denied the OIG findings, and was highly critical of OIG's methodology and conclusions. Nakamoto's response had several troubling implications:

- (1) **Nakamoto indicated that the standards and inspection methodology used to determine compliance were not adequate.** The company indicated that their "inspections are a snapshot of what we observed on that particular visit, usually once a year," using "a checklist form developed by ICE several years ago...only requir[ing] reporting on the most critical components, as detailed on that form."²⁴ Nakamoto also indicated that the surveys they conducted resulted in a corrective action plan for problems only if they appeared on the ICE checklist; other deficiencies "do not generate corrective action plans."
- (2) **Nakamoto also indicated that they took no responsibility for the results of their inspections, or for any problems inspectors may have missed.** According to their response, "our reports can include only that which was verified while we were on site, notwithstanding any changes that may have occurred before or after the inspection. ... If another entity observed an issue while they were at the facility, that was not ongoing during our inspection, we of course cannot be accountable for that." With regard to questions about the adequacy of the survey, Nakamoto directed responsibility to ICE, telling us that "ICE has and does provide Nakamoto with guidance on all issues. The contract language defines the procedures used for inspections," that "the inspection methodology has been approved by ICE ... Updates to the inspection methodologies have also been approved by ICE," and that ICE is responsible for "final approval" of inspection reports.²⁵
- (3) **Nakamoto denied the OIG findings that implicated their inspection methodologies and results,** accusing OIG of "report[ing] erroneously," "misrepresentation, "inaccurately reported findings," and suggesting that OIG did not use qualified inspectors by claiming, "It would be advantageous for OIG to use inspectors with detention and corrections backgrounds for future inspections to avoid this type of embarrassment to their office and ICE."²⁶ When given the opportunity,

²² U.S. Department of Homeland Security Office of Inspector General, "Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California," September 27, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-Sep18.pdf>.

²³ See Attachment 3(a); Response from Nakamoto Group to Senator Elizabeth Warren et al., December 4, 2018.

²⁴ Nakamoto response, at 1.

²⁵ Nakamoto response, at 4-5.

²⁶ See Attachment 3(a), page 2.

Nakamoto failed to provide any indication that the company took the concerns raised by OIG seriously, or that it plans to address them in any meaningful way.

This response revealed that the company under contract with ICE to ensure safety and quality standards in immigration detention refuses to accept the findings of DHS's own independent inspectors, or to take any responsibility for their own work to hold private detention centers accountable. This response appears to indicate that Nakamoto has no intention of working with ICE to address the issues documented by OIG in an effort to improve the inspection process.

To obtain additional context on the Nakamoto response, Senator Warren's office sent the response to OIG and requested a response.²⁷ The Inspector General's office briefed Senator Warren's staff by phone on February 21, 2019, and responded in writing on April 4, 2019.²⁸

OIG's reply letter revealed numerous problems with Nakamoto's response to the allegations, and with their work for DHS. According to the Inspector General, Nakamoto's response to the Senate inquiry "makes factual errors and misrepresents OIG reporting," "misquote[s] [the OIG's] public report and show[s] a misunderstanding of [the] findings," and contains "gross misrepresentations of [OIG] fieldwork techniques."²⁹

The OIG letter also reiterated its significant concerns with Nakamoto's inspection practices, which are established and required by ICE. According to OIG, "Nakamoto's visits are announced and the facility has weeks to prepare for the inspection," meaning that OIG inspections "provid[e] a more accurate picture of what the facility looks like on a daily basis,"³⁰ and that because "the inspection scope" used by Nakamoto – which is "determined by ICE – is too broad, the Nakamoto inspections are not thorough."³¹ As a result, ICE staff have described these inspections as "very, very, very difficult to fail," and "useless"³²

Conclusion

The response to our investigation was distressing, revealing a failure at multiple levels. The two private contractors we asked for information refused to provide it, indicating that doing so was the responsibility of ICE. And the Nakamoto Group responded to OIG's identification of weaknesses in its inspection methodologies with information that OIG determined to be false and misleading – and provided no information indicating it was taking the OIG findings seriously or acting to improve the inadequacies OIG identified in its inspection protocols.

²⁷ See Attachment 4; Letter from Senator Elizabeth Warren to John Kelly, Acting Inspector General, Department of Homeland Security, February 28, 2019.

²⁸ See Attachment 4(a); Letter from John Kelly, Acting Inspector General, Department of Homeland Security, to Senator Elizabeth Warren, April 5, 2019.

²⁹ See Attachment 4(a).

³⁰ *Id.*

³¹ *Id.*

³² U.S. Department of Homeland Security Office of Inspector General, "ICE's inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements," June 26, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>.

To help us address these problems and better understand the current conditions in immigration detention facilities operated by private contractors and ICE's process for addressing issues with private contractors' inspections, please respond to the following question no later than April 26, 2019.

Questions regarding Nakamoto Group

1. Does ICE agree with Nakamoto's criticism of the OIG's findings and methodologies? If not, please describe why not; if yes, please describe why.
2. What specific actions has the ICE taken to address the findings of OIG?
3. Has ICE made any changes to inspection protocols following the release of the OIG reports? If so, how has ICE communicated these changes to Nakamoto?
4. When does the current Nakamoto contract with ICE expire? In light of OIG's findings, what new contractual requirements is ICE considering for Nakamoto or its successor responsible for inspecting ICE facilities?
5. Please provide copies of any and all communications between Nakamoto and any ICE officials regarding the findings and recommendations of the OIG reports and any actions taken in response to these findings and recommendations.




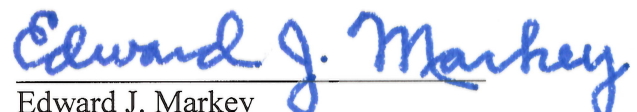
Questions regarding CoreCivic and GEO Group

6. Please provide a list of each individual immigration detention facility operated by CoreCivic and GEO Group. For each facility, please provide the facility name, the facility address, a copy of the most recent federal contract granting the companies the right to manage the facility, and the total number of detained immigrants housed in the facility, including information on how many of these detainees are under the age of 18.
7. For each facility identified above, please provide copies of all inspection records or other audits or reviews of compliance and conditions at the facility, including a list of all deficiencies cited at each facility and the entity conducting the audit, since CoreCivic or GEO Group began operations at the facility. For any deficiencies listed, please provide evidence, if any, that CoreCivic or GEO Group corrected those deficiencies. Please provide copies of results from all inspections, including those conducted by Nakamoto or any other private auditors or any federal, state, or local inspectors, auditors, or regulators.
8. For each facility identified above, please provide a list of all ICE waivers granted to the facility to waive noncompliance with cited deficiencies. For each waiver, please provide all correspondence with the contractor, including the initial waiver request, the ICE decision on the waiver, and any additional communications related to the waiver request. Please provide an overview of the process by which ICE reviews and grants waivers from auditors for cited deficiencies.

9. Please provide copies of any notification letters ICE has received informing the agency that CoreCivic or GEO Group has been credibly accused³³ of forced labor violations, as required by the Homeland Security Acquisition Regulations, the Federal Acquisition Regulations, and Executive Order 13627 implementing U.S. government contractor compliance with the Trafficking Victims Protection Act, and any responses you have sent.
10. In their February 27, 2019 response to our letter, GEO Group included a document titled “Response to the OIG Report on Adelanto, California ICE Processing Center” that acknowledges the deficiencies OIG documented at the Adelanto ICE Processing Center’s Health Services section in the above-mentioned September 27, 2018 OIG report. With regard to those deficiencies, GEO Group’s response claims to have “clarified or corrected all of the concerns, with the review and approval of ICE.”³⁴ Please describe the actions GEO Group has taken specifically to address the deficiencies documented by OIG at Adelanto Health Services.


Thank you for your attention to this matter. We look forward to your response.

Sincerely,

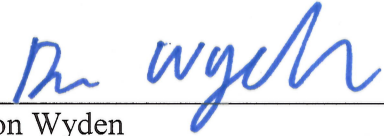

Elizabeth Warren
United States Senator
Richard Blumenthal
United States Senator
Bernard Sanders
United States Senator
Edward J. Markey
United States Senator

³³ The Guardian, “Private prison companies served with lawsuits over using detainee labor,” Amanda Holpuch, November 25, 2018, <https://www.theguardian.com/us-news/2018/nov/25/private-prison-companies-served-with-lawsuits-over-usng-detainee-labor>.

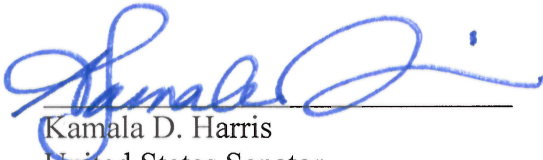
³⁴ See Attachment 2(a); Response letter from GEO Group to Senator Elizabeth Warren et al., February 27, 2019.



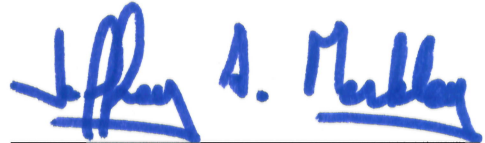
Kirsten Gillibrand
United States Senator



Ron Wyden
United States Senator



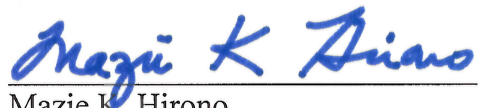
Kamala D. Harris
United States Senator



Jeffrey A. Merkley
United States Senator



Cory A. Booker
United States Senator



Mazie K. Hirono
United States Senator



Tom Udall
United States Senator