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13 *& Freedom For Immigrants*

14 **UNITED STATES DISTRICT COURT**
15 **SOUTHERN DISTRICT OF CALIFORNIA**

16 **THE GEO GROUP, INC.,**

17 Plaintiff,

18 v.

19 **GAVIN NEWSOM, in his Official**
20 **Capacity as Governor of California;**
21 **XAVIER BECERRA, in his Official**
22 **Capacity as Attorney General of**
23 **California,**

24 Defendants.

Case No. 19-2491

BRIEF OF AMICI CURIAE
IMMIGRANT LEGAL RESOURCE
CENTER, HUMAN RIGHTS
WATCH, AND FREEDOM FOR
IMMIGRANTS IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
MOTION FOR PRELIMINARY
INJUNCTION AND DEFENDANTS'
MOTION TO DISMISS

Hearing Date: April 23, 2020

Hearing Time: 1:30 pm

Dept: 4D

Trial Date: None set

Action Filed: December 30, 2019

The Honorable Janis L. Sammartino

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STATEMENT OF INTEREST

Immigrant Legal Resource Center (“ILRC”), Human Rights Watch, and Freedom For Immigrants (“FFI,” formerly Community Initiatives for Visiting Immigrants in Confinement) (collectively, “*Amici*”) respectfully submit this brief in support of Defendants.¹

ILRC is a national nonprofit legal support center with offices in California, Texas, and Washington D.C. The mission of the ILRC is to work with, educate, and enhance the capacity of immigrants, community organizations, and the legal sector in order to build a democratic society that values diversity, dignity, and the rights of all people. Founded in 1979, the ILRC is regarded as one of the foremost experts on engaging immigrants and developing their leadership in the democratic process, providing expertise on complex issues of immigration law, procedure and policy, and engaging in advocacy and educational initiatives on policies that affect immigrants.

Human Rights Watch is a non-profit, independent organization and the largest international human rights organization based in the United States. Since 1978, Human Rights Watch has investigated and exposed human rights violations and challenged governments to

¹ Counsel for all parties have consented to the filing of this brief. No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No persons other than the *amici* or their counsel made a monetary contribution to this brief’s preparation or submission.

1 protect the human rights of citizens and noncitizens alike. Human
2 Rights Watch investigates allegations of human rights violations in
3 more than 90 countries around the world, including in the United
4 States, by interviewing witnesses, gathering information from various
5 sources, and issuing detailed reports. Where human rights violations
6 have been found, Human Rights Watch advocates for the enforcement
7 of those rights with governments and international organizations and
8 in the court of public opinion.

9 FFI (formerly Community Initiatives for Visiting Immigrants in
10 Confinement) was founded in 2010 as the first immigration detention
11 visitation program in California. It then joined forces with four other
12 visitation programs around the country and established a national
13 visitation network. Between 2012 and the present, FFI helped to grow
14 a national visitation network and launched the largest national free
15 hotline for people in immigration detention. FFI's affiliated
16 visitation network visits and monitors 69 immigrant prisons and jails
17 in California and nationwide. Through these visits, FFI gathers data
18 and stories to combat injustice at the individual level and push for
19 systematic change.

20 *Amici* believe that the Court in this matter would benefit from
21 our organizations' experiences working on the ground with people
22 held in privately run immigration detention facilities. *Amici*
23 respectfully submit that such experience helps elucidate the current
24 threat to the health, safety, and welfare of these populations.

1 **ARGUMENT**

2 **I. INTRODUCTION**

3 At present, four out of the seven immigration detention centers
4 in California are privately run facilities. These four hold an average
5 of nearly 3,600 people on a given day, or approximately 95% of the
6 total immigration detainee population in California.² These privately
7 run detention facilities hold various populations including asylum
8 seekers and long-term residents of California, many of whom are
9 parents of U.S. citizens,³ sometimes for days, sometimes for months
10 or years. Many people are held without individualized bond hearings,
11 lacking the ability to even ask a judge whether they may fight their
12 case out of detention.

13 Those detained in California-based privately run immigration
14 detention centers are exposed to a host of inhumane conditions, from
15 serious, sometimes deadly, lack of adequate medical care to sexual
16 abuse to everyday indignities. The true extent of inhumane conditions
17 in privately run immigration detention centers in California is
18 impossible to determine without full access to these centers, but even
19 the limited anecdotal evidence that is available to *Amici* is horrific.

21 ² *“I Still Need You”: The Detention and Deportation of Californian*
22 *Parents*, Human Rights Watch (May 15, 2017), [https://www.hrw.org/](https://www.hrw.org/report/2017/05/15/i-still-need-you/detention-and-deportation-californian-parents)
23 [report/2017/05/15/i-still-need-you/detention-and-deportation-](https://www.hrw.org/report/2017/05/15/i-still-need-you/detention-and-deportation-californian-parents)
24 [californian-parents](https://www.hrw.org/report/2017/05/15/i-still-need-you/detention-and-deportation-californian-parents); *see also Detention by the Numbers*, Freedom For
25 [Immigrants](https://www.freedomforimmigrants.org/detention-statistics/), [https://www.freedomforimmigrants.org/detention-](https://www.freedomforimmigrants.org/detention-statistics/)
26 [statistics/](https://www.freedomforimmigrants.org/detention-statistics/).

27 ³ *Supra* fn. 2.

1 One person bled to death after an attempt to remove “the largest
2 abdominal mass” a doctor had ever seen, which went undetected by
3 detention center staff even though the detained person constantly
4 complained of pain and requested treatment over the course of two
5 years. Another person suffered a miscarriage when she fell on her
6 stomach while shackled at her hands and feet, and then was denied the
7 necessary medical and mental health follow-up care. Detained
8 persons suffer serious mental health conditions and yet do not have
9 access to mental health professionals or are placed in solitary
10 confinement. Since 2017, 11 of 35 ICE in-custody deaths have been
11 apparent suicides.⁴

12 Particularly vulnerable populations such as women and LGBTQ
13 individuals are subject to unique degradation and sex abuse. Instead
14 of finding refuge, torture victims who fled to the United States
15 precisely because they were seeking asylum from persecution
16 elsewhere are locked away in abusive and dangerous detention
17 centers.⁵ Detained persons have even gone on hunger strikes for
18 something as basic as new underwear.

19 _____
20 ⁴ *Deaths at Adult Detention Centers (AILA Doc. No. 16050900)*,
21 American Immigration Lawyers Association (updated March 9,
2020), <https://www.aila.org/infonet/deaths-at-adult-detention-centers>.

22 ⁵ In 2014, 84% of asylum seekers who suffer a positive credible fear
23 of persecution in their home countries were detained. Olga Byrne,
24 Eleanor Acer & Robyn Barnard, *Lifeline on Lockdown: Increased US*
25 *Detention of Asylum Seekers*, Human Rights First (July 2016),
<http://www.humanrightsfirst.org/sites/default/files/Lifeline-on-Lockdown.pdf>.

1 This brief offers examples of the conditions of privately run
2 immigration detention centers in California based on stories learned
3 by *Amici* through their interactions with detained persons. *Amici* seek
4 to underscore the vital importance of the State of California using its
5 police powers to protect the health, safety, and welfare of the
6 extremely vulnerable population stuck inside the privately run
7 immigration detention facilities.

8 California’s privately run immigration detention centers are
9 currently not compatible with the fundamental rights of its residents
10 and the concept of basic human dignity. The State has decided that
11 the risks to the health, safety, and welfare of its residents in these
12 facilities is simply too great to allow them to continue in operation.
13 *Amici* urge the Court to consider the significant evidence that the
14 health, safety, and welfare of immigration detainees is at serious risk
15 in these facilities in deciding the various pending motions before the
16 Court.

17 **II. THE HEALTH, SAFETY, AND WELFARE OF**
18 **DETAINEES ARE AT SIGNIFICANT RISK IN**
19 **PRIVATELY RUN IMMIGRATION DETENTION**
20 **FACILITIES.**

21 Evidence available to *Amici* indicate systemic issues with the
22 general welfare, health, and safety of those detained in California’s
23 immigration detention centers. California has the “general authority
24 to ensure the health and welfare of inmates and detainees in facilities
25 within its borders” *United States v. California*, 921 F.3d 865,
26

1 886 (9th Cir. 2019). As the accounts below illustrate, there is an
2 urgent need to address widespread risk to detainees in these privately
3 run facilities.

4 **A. These facilities lack adequate medical care.**

5
6 One of the top complaints by immigration detainees in
7 California is lack of access to adequate medical care.⁶ In the
8 individual accounts presented below, individuals suffered because of
9 unreasonable delay in receiving care, treatment by unqualified staff,
10 and inappropriate treatment and care. *Amici* believe that many more
11 such cases exist, indicating substandard medical care in privately run
12 immigration detention centers in California. Systemic failure to
13 provide adequate medical care is likely given that many staff
14 providing medical care at these immigration detention centers are
15 unqualified to conduct complicated medical assessments.⁷ In some

16 _____
17 ⁶ *Top Complaints in California Immigration Detention Facilities*,
18 Community Initiatives for Visiting Immigrants in Confinement
19 (“CIVIC”) (Aug. 28, 2015), <http://www.endisolation.org/blog/archives/1278>.

20 ⁷ U.S. Immigration and Customs Enforcement’s Office of Detention
21 Oversight itself noted that in Adelanto, for instance, “approximately
22 50 percent of ADF’s medical staff hires are new graduates” with a
23 “definite difference between their skills and those of more
24 experienced nurses.” Clara Long & Grace Meng, *Systemic
25 Indifference: Dangerous & Substandard Medical Care in US
26 Immigration Detention*, Human Rights Watch (May 8, 2017),
27 [https://www.hrw.org/report/2017/05/08/systemic-
28 indifference/dangerous-substandard-medical-care-us-immigration-
detention](https://www.hrw.org/report/2017/05/08/systemic-indifference/dangerous-substandard-medical-care-us-immigration-detention).

1 cases, medical staff may even ignore their duty of care entirely.⁸

2 **Raul Ernesto Morales-Ramos**, a 44-year old man, died in
3 April 2015 while detained in the Adelanto Detention Facility, run by
4 GEO Group, from organ failure and suffering widespread signs of
5 cancer.⁹ Despite the fact that he had complained of pain and exhibited
6 cancer symptoms over the course of two years, and had a large,
7 clearly visible abdominal mass, Mr. Morales-Ramos did not receive
8 adequate medical care until just a month before he died. His death
9 resulted from a critical lapse of care: had he been diagnosed and
10 treated sooner, Mr. Morales-Ramos’ cancer was treatable.¹⁰

11 Likely already suffering from symptoms of cancer, Mr.
12 Morales-Ramos was first referred for follow-up with a doctor for

13
14 ⁸ Office of Inspector General, *Management Alert—Issues Requiring*
15 *Action at the Adelanto ICE Processing Center in Adelanto,*
16 *California*, OIG-18-86 (September 27, 2018) (during its inspection of
17 Adelanto, the OIG “observed two doctors walking through
18 disciplinary segregation and stamping their name on the detainee
19 records, which hang outside each detainee’s cell, indicating that they
20 visited with the detainee. However, we observed them doing so
21 without having any contact with 10 of the 14 detainees in disciplinary
22 segregation”).

23 ⁹ All facts in this story are from Human Rights Watch’s review of
24 U.S. Immigration and Customs Enforcement records detailed in
25 *Systemic Indifference: Dangerous & Substandard Medical Care in US*
26 *Immigration Detention. See supra* fn. 7.

27 ¹⁰ One medical reviewer who examined the case found that “Had Mr.
28 Morales’ gastrointestinal symptoms been evaluated much sooner as
was clinically indicated, it is possible that the malignancy from which
Mr. Morales died, might have been caught at a time when it was still
treatable.” *Supra* fn. 7.

1 gastrointestinal symptoms in April 2013 while detained at the Theo
2 Lacy Facility in Orange County, California. More than a year later, in
3 May 2014, this consultation had not yet occurred, and Mr. Morales-
4 Ramos was transferred to Adelanto with no documentation of his
5 gastrointestinal symptoms. There, he was seen by registered nurses
6 several times over the next nine months after submitting sick call
7 requests for body aches, weight loss, pain in his joints, knees, and
8 back, and diarrhea. No one thought to diagnose or treat him for
9 cancer.

10 In February 2015, having suffered for a year without proper
11 treatment, Mr. Morales-Ramos submitted a grievance in which he
12 pled, “To who receives this. I am letting you know that I am very sick
13 and they don’t want to care for me. The nurse only gave me
14 ibuprofen and that only alleviates me for a few hours. Let me know if
15 you can help me. I only need medical attention.” Four days later, a
16 nurse practitioner saw Mr. Morales-Ramos but missed all symptoms
17 of cancer, instead instructing him to increase his water intake and
18 exercise and documenting that his symptoms were resolved. A few
19 weeks later, on March 2, 2015, another nurse saw Mr. Morales-Ramos
20 and noted a distended abdomen but “did not detect a mass or
21 protrusion.”

22 A consultation with a doctor finally occurred on March 6, 2015.
23 This doctor—observing Mr. Morales-Ramos just four days after a
24 nurse failed to detect a mass—documented the “largest [abdominal
25 mass] she had ever seen in her practice,” which was “notably visible
26

1 through the abdominal wall.” She scheduled Mr. Morales-Ramos for
2 a colonoscopy, which did not occur until about one month later.
3 During the colonoscopy, Mr. Morales-Ramos began to experience
4 abdominal bleeding after a doctor attempted to remove the mass. Mr.
5 Morales-Ramos was transferred to the hospital and died three days
6 later after a surgical attempt to stop his bleeding.¹¹

7 **Monserrat Ruiz Cuevas** suffered a miscarriage while detained
8 at Mesa Verde Detention Center in Bakersfield, which is run by Geo
9 Group.¹² After her miscarriage, Ms. Ruiz said that she was further

10 _____
11 ¹¹ A recent OIG report on Adelanto and three other facilities called out
12 the “poor condition” of the physical plant, “including mold and
13 peeling paint on walls, floors, and showers, and unusable toilets” in
14 the bathrooms, which creates “health issues for detainees, including
15 allergic reactions and persistent illnesses.” Office of Inspector
16 General, *Concerns about ICE Detainee Treatment and Care at Four
17 Detention Facilities*, at 8, OIG-19-47 (June 3, 2019),
18 [https://www.oig.dhs.gov/sites/default/files/assets/2019-06/OIG-19-47-
20 Jun19.pdf](https://www.oig.dhs.gov/sites/default/files/assets/2019-06/OIG-19-47-
19 Jun19.pdf). These concerning physical-plant conditions compound the
21 risks presented by inadequate and inattentive medical care by medical
22 staff. That same report found “egregious” violations of basic food
23 safety practices at Adelanto, including “lunch meat and cheese were
24 mixed and stored uncovered in large walk-in refrigerators; lunch meat
25 was also unwrapped and unlabeled; chicken smelled foul and
26 appeared to be spoiled; and food in the freezer was expired.” *Id.* at 4.
27 Such neglect to basic food safety puts the health of all detainees at
28 risk.

22 ¹² *Letter to Timothy S. Aitken, Field Office Director, U.S. Immigration
23 and Customs Enforcement re: Violations of Policy Regarding
24 Detention, Shackling, and Care of Pregnant Women at Mesa Verde
25 Detention Facility*, American Civil Liberties Union of Southern
26 California (June 18, 2015), [https://www.aclusocal.org/sites/default/
29 files/wp-content/uploads/2015/06/Mesa-Verde-Ruiz-Letter-](https://www.aclusocal.org/sites/default/
27 files/wp-content/uploads/2015/06/Mesa-Verde-Ruiz-Letter-
28)

1 denied access to adequate follow-up medical and mental health care.

2 When Ms. Ruiz first arrived at Mesa Verde on May 8, 2015,
3 after seeking asylum based on a credible fear of persecution or torture,
4 staff conducted a pregnancy test. However, Ms. Ruiz said that she
5 was not informed of the result. Instead, Ms. Ruiz only learned she
6 was pregnant several days later after she experienced heart and
7 breathing complications, was transported to a hospital for urgent care
8 (while fully shackled), and examined by a doctor who informed her
9 she was pregnant and had severe dehydration.

10 After her pregnancy was confirmed, Ms. Ruiz said she was still
11 not provided with access to specialized medical care. On May 12,
12 2015, she complained of back pain and other distressing symptoms
13 but had to wait two days until staff determined she should be sent to a
14 hospital. On May 14, 2015, while walking to the transportation van to
15 go to the hospital, Ms. Ruiz was shackled in both leg and arm
16 restraints. She tripped over her shackles and fell on her stomach
17 while being transported to a hospital to receive urgent medical care
18 related to her pregnancy. Once at the hospital, Ms. Ruiz said she was
19 kept in shackles the entire time and the doctor did not take any steps
20 to address her concerns about harming her baby because of the fall.

21 The following day, on May 15, 2015, Ms. Ruiz began bleeding
22 heavily and experiencing other symptoms of miscarriage. She said
23 she was transported to the hospital in handcuffs, waited several hours
24

25 _____
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1 to see the doctor while handcuffed to the stretcher, and then
2 transferred to the hospital bed and handcuffed to the bed. After she
3 was evaluated, the doctor told Ms. Ruiz that she had lost her child.
4 Ms. Ruiz said she was then transported back to Mesa Verde that same
5 day, once again in handcuffs.

6 After her miscarriage, Ms. Ruiz said that she did not receive
7 any necessary follow-up gynecological care or mental health services.
8 Despite the fact that she continued to experience ongoing bleeding
9 and vaginal irritation, she said there were no efforts to ensure that she
10 had not contracted an infection or that her hemorrhaging had ceased.
11 Even after Mesa Verde medical staff determined that she needed
12 urgent care from a gynecologist, Ms. Ruiz was never provided with
13 this care, she said. Instead, she only received Tylenol and milk of
14 magnesia.

15 Ms. Ruiz also said that she did not receive any mental health
16 care (further discussed in section II.B.i, below) although she was
17 visibly weeping and depressed for several days. Ms. Ruiz said she
18 was eventually taken to see a psychiatrist who chuckled and said that
19 all he could do for her was prescribe sleeping medication. Ms. Ruiz
20 was subsequently granted asylum and released to live with her
21 partner, a legal permanent resident.

22 **Jose L.** lost the ability to walk more than just short distances,
23 and perhaps also lost sight in his right eye, due to failure to receive
24 adequate medical care while detained at Geo Group's Adelanto
25
26

1 Detention Facility.¹³ Jose, a 54-year-old former green card holder
2 who had lived in the U.S. for 32 years, had a history of lower back
3 pain and diabetes. In mid-2013, Jose was working in the facility
4 kitchen when he slipped and fell, hitting his hip and back. After his
5 pain became uncontrollable and he could not stand up for more than
6 five minutes, Jose asked to see a doctor but had to wait 18 months
7 before seeing a surgeon. This unreasonable delay left Jose in pain and
8 with decreased function. Jose was eventually scheduled for surgery
9 but was deported before he could have the surgery.

10 Unreasonable delays in receiving care may have also resulted in
11 Jose becoming legally blind in his right eye. In July 2014, Jose began
12 to complain about losing vision in his right eye and severe pain, which
13 was eventually diagnosed as proliferative diabetic retinopathy, a
14 common complication of diabetes. From the time he first complained,
15 it took five days for Jose to receive an initial evaluation by a
16 physician, who thought he might have a retinal detachment, which
17 according to medical experts should have been deemed an emergency.
18 Forty-eight hours later, the optometrist found Jose’s eye had
19 hemorrhaged and recommended that he see a retinal specialist as soon
20 as possible. It then took the facility doctor four days to submit a
21 request for authorization stating, “needs retinal specialist ASAP,” and
22

23 ¹³ All facts in this story are from Human Rights Watch’s review of
24 U.S. Immigration and Customs Enforcement records detailed in
25 *Systemic Indifference: Dangerous & Substandard Medical Care in US*
26 *Immigration Detention. See supra* fn. 7.

1 over a month before Jose was seen by a retinal specialist. Afterward,
2 numerous recommendations for follow-up appointments with a retinal
3 specialist were delayed. For example, a follow-up scheduled for one
4 week later occurred four weeks later. At one point, the retinal
5 specialist cancelled the appointment due to non-payment, presumably
6 by U.S. Immigration and Customs Enforcement (“ICE”).

7 Because proliferative diabetic retinopathy does not develop
8 overnight, symptoms should have been observed during Jose’s annual
9 eye exam in February 2014. Jose’s diabetes does not appear to have
10 been managed well overall, and although his sugar level was high, the
11 doctors did not make changes to his insulin dosages.

12 **B. Vulnerable populations face particular challenges.**

13
14 Many immigration detainees are survivors of violence and
15 torture. These detainees are unusually vulnerable and may often fall
16 victim to additional harms while in detention, a particularly ironic
17 circumstance given that they have often entered the country seeking,
18 as intended by federal policy, asylum from persecution in their home
19 countries. This is sadly reflected in the fact that there is a high
20 number of attempted and completed suicides at immigration detention
21 centers.¹⁴ “I think doing something like that is something that has

22 _____
23 ¹⁴ Paloma Esquivel, “*We don’t feel okay here*”: *Detainee Deaths,*
24 *Suicide Attempts, and Hunger Strikes Plague California Immigration*
25 *Facility*, Los Angeles Times (Aug. 8, 2017), [http://www.latimes.com/
26 local/lanow/la-me-ln-adelanto-detention-20170808-story.html](http://www.latimes.com/local/lanow/la-me-ln-adelanto-detention-20170808-story.html); *see*
27 *also supra* fn. 8 (stating that from December 2016 to December 2017,

1 crossed the mind of all of us who are locked up here,” a detainee at
2 Geo Group’s Adelanto said of suicide.¹⁵

3 **i. These facilities lack adequate mental health**
4 **care, including suicide prevention measures.**

5 The high rate of suicide at California’s privately run
6 immigration detention centers must be understood within the context
7 of a system that has a track record of failure to treat mental health
8 issues and suicide risk.

9 First, suicide risks are not addressed. At Adelanto, the Office
10 of Inspector General (OIG) reported in September 2018 “the recurring
11 problem of detainees hanging bedsheet nooses at the Adelanto
12 Center.”¹⁶ During an inspection, the OIG observed braided bedsheets
13 hanging in 15 out of the approximately 20 male detainee cells
14 visited.¹⁷ Despite their potential to assist in suicide, ICE did not
15 remove the hanging bedsheets as it was “not a high priority”
16 according to “two contract guards.”¹⁸ Due to Adelanto’s inadequate
17 approach to placing potentially suicidal detainees in punitive suicide
18 watch cells without any mental health treatment, detainees may fail to
19

20 _____
21 there were reports of at least seven suicide attempts at Adelanto, and
22 that 4 of the 20 detainee deaths reported nationwide between October
23 2016 to July 10, 2018 were the result of self-inflicted strangulation).

23 ¹⁵ *Supra* fn. 14.

24 ¹⁶ *Supra* fn. 8.

25 ¹⁷ *Id.*

26 ¹⁸ *Id.*

1 disclose suicidality.¹⁹ This, combined with the lackadaisical approach
2 to removing suicide threats, creates an unnecessarily dangerous
3 environment.

4 Second, private immigration detention centers attempt to treat
5 detained persons suffering from mental health problems by putting
6 them in solitary confinement instead of providing individualized
7 treatment.²⁰ Two attorneys of clients with mental health conditions
8 detained in Adelanto Detention Center told Human Rights Watch their
9 clients were regularly put into isolation because adequate mental
10 health care was unavailable.²¹ In one particular case, a detained
11 person had done well in a psychiatric facility, but when she was
12 returned to Adelanto, she did not receive the same medication she had
13 received in the hospital. She became unstable and suicidal and was
14 repeatedly put in isolation.²² Another attorney working with detained
15

16 ¹⁹ *There Is No Safety Here: The Dangers for People with Mental*
17 *Illness and Other Disabilities in Immigration Detention at GEO*
18 *Group’s Adelanto ICE Processing Center*, at 13, Disability Rights
19 California (Mar. 5, 2019), <https://www.disabilityrightsca.org/post/there-is-no-safety-here-the-dangers-for-people-with-mental-illness-and-other-disabilities-at>.

20 ²⁰ *Id.* at 20 (noting “Review of detainee records confirm the lack of
21 individualized care. For example, clinical staff repeatedly recommend
22 “breathing techniques and physical exercise,” even for detainees in
23 highly restrictive units with extremely limited out-of-cell recreation
24 time, and thus almost no opportunity to engage in “physical
25 exercise.”).

26 ²¹ *Supra* fn. 7; *see also supra* fn. 19.

27 ²² *Supra* fn. 7.

1 persons stated, “I’ve had clients, very mentally ill clients . . . who’ve
2 suffered from schizophrenia and various psychotic episodes, and the
3 way [detention center operators] responds to that is to put people in
4 solitary.”²³ At one point, eight percent of people in immigration
5 detention interviewed by FFI at Adelanto reported that they had been
6 held in solitary confinement.²⁴

7 Studies suggest that solitary confinement may severely
8 exacerbate previously existing mental health issues. Because of this,
9 the United Nations special rapporteur on torture has stated that
10 solitary confinement of any duration of time for those with
11 psychosocial disabilities is cruel, inhuman, or degrading treatment.²⁵

12 ²³ Alexis Perlmutter & Mike Corradini, *Invisible in Isolation: The Use*
13 *of Segregation and Solitary Confinement in Immigration Detention*,
14 National Immigrant Justice Center and Physicians for Human Rights
(Sept. 2012) [https://www.immigrantjustice.org/sites/
15 immigrantjustice.org/files/Invisible%20in%20Isolation-The%20Use%
16 20of%20Segregation%20and%20Solitary%20Confinement%2
0in%20Immigration%20Detention.September%202012_7.pdf](https://www.immigrantjustice.org/sites/immigrantjustice.org/files/Invisible%20in%20Isolation-The%20Use%20of%20Segregation%20and%20Solitary%20Confinement%20in%20Immigration%20Detention.September%202012_7.pdf).

17 ²⁴ Christina Fialho & Victoria Mena, *Abuse in Adelanto: An*
18 *Investigation into a California Town’s Immigration Jail*, CIVIC and
19 Detention Watch Network (October 2015),
20 [https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/
21 5a9dad7be4966b064c98e07c/1520283004817/CIVIC_DWN-
Adelanto-Report_old.pdf](https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5a9dad7be4966b064c98e07c/1520283004817/CIVIC_DWN-Adelanto-Report_old.pdf).

22 ²⁵ Juan Ernesto Mendez (Special Rapporteur on Torture and Other
23 Cruel Inhuman or Degrading Treatment or Punishment), *Torture And*
24 *Other Cruel, Inhuman Or Degrading Treatment Or Punishment*, U.N.
25 Doc. A/66/268 (Aug. 5, 2011), [https://documents-dds-ny.un.org/doc/
26 UNDOC/GEN/N11/445/70/PDF/N1144570.pdf?OpenElement](https://documents-dds-ny.un.org/doc/UNDOC/GEN/N11/445/70/PDF/N1144570.pdf?OpenElement)
27 (“Mendez Statement”); see also Jamie Fellner, *Callous and Cruel:*
28 *Use of Force against Inmates with Mental Disabilities in US Jails and*

1 The Special Rapporteur cites to studies that have found that spending
2 seven days in solitary confinement can lead to a decline in brain
3 activity, and that over seven days, the decline may be irreversible.²⁶
4 According to a recent OIG report, the Adelanto facility compounds
5 the innate risks of solitary confinement to all persons by a failure to
6 follow rules regarding recreation, basic hygiene practices, and
7 unnecessary restraints.²⁷

8 **ii. Other vulnerable populations face serious risks**
9 **in private immigration detention facilities.**

10 In addition to the lack of mental health care and issues faced by
11 the general population of detained persons, certain groups of
12 unusually vulnerable detained persons such as women and LGBTQ
13 individuals suffer additional problems in private detention facilities.

14 Because there are fewer women than men in these facilities,
15 their particular needs are often overlooked. They are often
16 consolidated, with lower security risk women housed along with
17 higher security risk women, resulting in more constrictive conditions
18 for all women than their male counterparts.

19 _____
20 *Prisons*, Human Rights Watch (May 12, 2015), [https://www.hrw.org/
21 report/2015/05/12/callous-and-cruel/use-force-against-inmates-
22 mental-disabilities-us-jails-and](https://www.hrw.org/report/2015/05/12/callous-and-cruel/use-force-against-inmates-mental-disabilities-us-jails-and); Maureen L. O’Keefe, et al., *One Year
23 Longitudinal Study of the Psychological Effects of Administrative
24 Segregation*, National Institute of Justice (Oct. 31, 2010),
25 <https://www.ncjrs.gov/pdffiles1/nij/grants/232973.pdf>.

26 ²⁶ Mendez Statement, *supra* fn. 25, at 1 (*citing* Stuart Grassian,
27 *Psychiatric Effects of Solitary Confinement* (1993)).

28 ²⁷ *Supra* fn. 11, at 5–6.

1 Sexual and physical abuse is a serious problem in California’s
2 immigration detention centers, and certain populations such as
3 LGBTQ detained persons face higher risks of abuse. Data obtained
4 by FFI from the Department of Homeland Security Office of the
5 Inspector General shows at least 1,016 reports of physical and sexual
6 abuse filed by people in detention nationwide between May 2014 and
7 July 2016.²⁸ Two privately run California facilities—Geo Group’s
8 Adelanto and CoreCivic’s Otay Mesa Detention Center—are among
9 the five facilities with the most sexual assault complaints *in the*
10 *nation*.²⁹ At Otay, Yordy Cancino, a gay man, reported that he
11 experienced consistent sexual harassment by guards.³⁰ Mr. Cancino
12 said that when he took showers, one of the male guards would

13

14 ²⁸ *Letter to Thomas D. Homan, Director, U.S. Immigration and*
15 *Customs Enforcement, et al.*, CIVIC (April 11, 2017),
16 https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5a9da297419202ab8be09c92/1520280217559/SexualAssault_Complaint.pdf.

17
18 ²⁹ *Id.*

19 ³⁰ *Complaint to the Office for Civil Rights & Civil Liberties within the*
20 *Department of Homeland Security, Freedom For Immigrants* (April
21 11, 2017), https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5a9da297419202ab8be09c92/1520280217559/SexualAssault_Complaint.pdf (“FFI Complaint”);
22 *see also* Mari Payton, *Advocacy Group: If You’re Abused in*
23 *Immigration Detention, the Government Doesn’t Care*, NBC San
24 Diego (April 27, 2017, updated on April 28, 2017),
25 <https://www.nbcsandiego.com/news/local/Advocacy-Group-If-Youre-Abused-in-Immigration-Detention-the-Government-Doesnt-Care-420666314.html>.

26

28

1 position himself so that he could see Mr. Cancino naked and guards
2 would call him over the detention facility radio, “Cancino, my royal
3 princess, wake up.”³¹

4 LGBTQ detained persons are fifteen times more likely than the
5 general population of detained persons to be sexually assaulted in
6 detention centers.³² Detained transgender women often suffer abuse
7 because they are housed with men or in prolonged isolation.³³ These
8 conditions create particular and unreasonable mental and physical
9 health risks for an already vulnerable population. The documented
10 high risk of sexual assault in Otay and Adelanto underlines the
11 uniquely critical needs to protect transgender women in these
12 facilities.

13 **C. Private detention facilities limit access to counsel**
14 **and legal services.**

15 The harmful, abusive, and even life-endangering conditions of
16 confinement described above are exacerbated by the fact that most
17 detained persons have no access to counsel. An estimated 68% of
18

19
20 _____
³¹ FFI Complaint, *supra* fn. 30.

21 ³² *A Call for Change: Protecting the Rights of LGBTQ Detainees*, Just
22 Detention International (Feb. 2009), [https://justdetention.org/wp-](https://justdetention.org/wp-content/uploads/2015/10/Call-for-Change-Protecting-the-Rights-of-LGBTQ-Detainees.pdf)
23 [content/uploads/2015/10/Call-for-Change-Protecting-the-Rights-of-](https://justdetention.org/wp-content/uploads/2015/10/Call-for-Change-Protecting-the-Rights-of-LGBTQ-Detainees.pdf)
[LGBTQ-Detainees.pdf](https://justdetention.org/wp-content/uploads/2015/10/Call-for-Change-Protecting-the-Rights-of-LGBTQ-Detainees.pdf).

24 ³³ *See US: Transgender Women Abused in Immigration Detention*,
25 Human Rights Watch (March 23, 2016), [https://www.hrw.org/news/](https://www.hrw.org/news/2016/03/23/us-transgender-women-abused-immigration-detention)
26 [2016/03/23/us-transgender-women-abused-immigration-detention](https://www.hrw.org/news/2016/03/23/us-transgender-women-abused-immigration-detention).

1 immigration detainees in California are unrepresented by counsel.³⁴
2 Studies at Adelanto suggest that as few as 12.3% of detainees are
3 represented.³⁵ In that facility as in other private facilities, access to
4 counsel is restricted due to several factors including costly telephone
5 access, limited visitation, and frequent and distant transfers.
6 Telephone calls are extremely expensive for detainees. Prior to 2013,
7 calls could be as exorbitant as \$5.00 per minute. Since then, the FCC
8 set interstate caps for rates charged to detainees, but rates can still be
9 as high as 25 cents per minute. Visitation is also unreasonably
10 restricted. In January 2017, FFI filed a complaint against Geo
11 Group's Adelanto, documenting visit denials and unreasonable
12 visitation waiting times.³⁶ Also in 2017, over 60 faith leaders and
13 attorneys were denied visits to Adelanto without being provided any
14 reason.³⁷ On top of this, current restrictions make it difficult if not
15 impossible to bring interpreters to detention centers, limiting the
16 ability of legal workers to communicate with detainees.

18 ³⁴ *California's Due Process Crisis: Access to Legal Counsel for*
19 *Detained Immigrants*, The California Coalition for Universal
20 Representation (June 2016), [http://www.publiccounsel.org/tools/](http://www.publiccounsel.org/tools/assets/files/0783.pdf)
21 [assets/files/0783.pdf](http://www.publiccounsel.org/tools/assets/files/0783.pdf).

21 ³⁵ *Supra* fn. 24.

22 ³⁶ *CIVIC Files Civil Rights Complaint Alleging Frequent Denial of*
23 *Visits at Adelanto Since Trump's Election*, CIVIC (Jan. 18, 2017),
24 <http://www.endisolation.org/blog/archives/1170>.

24 ³⁷ *ICE Violates First Amendment Rights of 60+ Attorneys and Faith*
25 *Leaders*, CIVIC (June 27, 2017), [http://www.endisolation.org/](http://www.endisolation.org/blog/archives/1265)
26 [blog/archives/1265](http://www.endisolation.org/blog/archives/1265).

