

February 15, 2019

Re: HB624 Immigration Detention Facilities Act.

Dear New Mexico State legislators:

We the undersigned organizations and individuals fully support and endorse HB624 the Rubio-Maestas Immigration Detention Facilities Act for New Mexico. Within our state, we want to:

- 1) halt the opening of new Immigration and Customs Enforcement (ICE) detention facilities**
- 2) prevent the expansion of existing ICE detention facilities, and**
- 3) implement immediate independent unannounced oversight of existing ICE detention facilities until they expire and close.**

Immigration detention is civil administrative confinement for holding people while their immigration proceedings are litigated.¹ The Department of Homeland Security (DHS) states clearly that ICE detention is “civil, not criminal, custody, which is not supposed to be punitive.”² ICE acknowledges that “immigration detention is not punishment”.³ Yet, the US Commission on Civil Rights found that 1) migrants “detained by ICE in its own and in for-profit prison company-run facilities are treated as less than human”, 2) that these “facilities are subjecting detained immigrants to torture-like conditions”, 3) detained individuals are subjected to “torture-like mental pain and suffering”, and 4) some detention center officials and guards “intentionally cause and threaten detainees with physical pain or suffering.”⁴ The Department of Homeland Security Office of Inspector General (DHS OIG) determined that the Otero County Processing Center in Chaparral, NM, which is run by the private prison company Management and Training Corporation, was problematic in its use of solitary, that staff mistreated those in detention, and that the conditions were unsanitary.⁵ Last year at the Cibola County Correctional Center Roxsana Hernández died, medical neglect is implicated, and an independent autopsy indicates

¹ ICE, “Detention Management,” U.S. Immigration and Customs Enforcement, Immigration Enforcement, Detention Management, January 3, 2018, <https://www.ice.gov/detention-management>.

² DHS OIG, “Concerns about ICE Detainee Treatment and Care at Detention Facilities” (Washington, D.C.: Department of Homeland Security (DHS) Office of Inspector General (OIG), December 11, 2017), 1, <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>.

³ Dora Schriro, “Immigration Detention Overview and Recommendations” (Washington D.C.: Department of Homeland Security, Immigration and Customs Enforcement, October 6, 2009), 4, <https://www.ice.gov/doclib/about/offices/odpp/pdf/ice-detention-rpt.pdf>.

⁴ USCCR, “With Liberty and Justice for All: The State of Civil Rights at Immigration Detention Facilities,” A Briefing Before the United States Commission on Civil Rights, Statutory Enforcement Report (Washington D. C.: U.S. Commission on Civil Rights, 2015), 147, 149, 151, http://www.usccr.gov/pubs/Statutory_Enforcement_Report2015.pdf.

⁵ DHS OIG, “Concerns about ICE Detainee Treatment and Care at Detention Facilities.”

she was beaten while in ICE custody.⁶ Human Rights Watch found widespread and chronic problems with medical care services at ICE detention centers.⁷ DHS OIG found that ICE inspections do not resolve problems at ICE facilities,⁸ a fact that corroborates independent studies.⁹

As enshrined in the New Mexico constitution, all individuals located in the state have a right to humane and just treatment, *habeas corpus*, and due process.¹⁰ Migrants held in ICE detention routinely suffer violations of these fundamental rights. Given the severe and chronic failures of ICE detention, it is time for New Mexico to end it, and implement immediate oversight until immigration detention facilities in the state are closed.

Sincerely,

⁶ Scott Bixby and Betsy Woodruff, "Trans Woman Was Beaten in ICE Custody Before Death, Autopsy Finds," November 26, 2018, sec. us-news, <https://www.thedailybeast.com/trans-woman-roxsana-hernandez-rodriguez-beaten-in-ice-custody-before-death-pathologist-finds>; TLC, "Death of Trans Woman in ICE Detention Highlights Need for Action," Transgender Law Center (TLC), May 29, 2018, <https://transgenderlawcenter.org/archives/14287>.

⁷ Clara Long and HRW, "Code Red: The Fatal Consequences of Dangerously Substandard Medical Care in Immigration Detention" (New York, NY: Human Rights Watch (HRW), American Civil Liberties Union (ACLU), National Immigrant Justice Center (NIJC), Detention Watch Network (DWN), 2018), <https://www.hrw.org/report/2018/06/20/code-red/fatal-consequences-dangerously-substandard-medical-care-immigration>.

⁸ DHS OIG, "ICE's Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements" (Washington D. C.: Department of Homeland Security (DHS) Office of Inspector General (OIG), 2018), <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>.

⁹ NIJC, "ICE's Failed Monitoring of Immigration Detention Contracts," Policy Brief from Heartland Alliance's National Immigrant Justice Center (NIJC) (Chicago, IL: National Immigrant Justice Center, September 2016), [https://www.immigrantjustice.org/sites/default/files/content-type/research-item/documents/2016-11/Inspections Policy Brief FINAL2 2016 10 03.pdf](https://www.immigrantjustice.org/sites/default/files/content-type/research-item/documents/2016-11/Inspections%20Policy%20Brief%20FINAL2%202016%2010%2003.pdf); NIJC, "Lives in Peril: How Ineffective Inspections Make ICE Complicit in Immigration Detention Abuse," The Immigration Detention Transparency and Human Rights Project (Washington D. C.: National Immigrant Justice Center, October 2015), <http://immigrantjustice.org/lives-peril-how-ineffective-inspections-make-ice-complicit-detention-center-abuse-0>; Nathan Craig and Margaret Brown Vega, "'Why Doesn't Anyone Investigate This Place?': Complaints Made by Migrants Detained at the Otero County Processing Center, Chaparral, NM Compared to Department of Homeland Security Inspections and Reports" (El Paso, TX: Detained Migrant Solidarity Committee (DMSC) and Freedom for Immigrants (FFI), 2018), <https://www.freedomforimmigrants.org/report-on-otero>.

¹⁰ "Constitution of the State of New Mexico: Adopted January 21, 1911" (1911), <http://www.sos.state.nm.us/nmconst2017.pdf> Article II § 4, 7, 18.