

Congress of the United States

Washington, DC 20510

January 16, 2020

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

Kathleen Hawk Sawyer
Director
Federal Bureau of Prisons
320 First St., NW
Washington, DC 20534

Dear Ms. Sawyer and Mr. Albence:

We write to express our concern about the rapidly spinning revolving door between your agencies and the private prison and detention industries, and to request information about the policies and procedures that U.S. Immigration and Customs Enforcement (ICE) and the Federal Bureau of Prisons (BOP) have in place to prevent corruption and ensure compliance with federal law.

The private prison and immigration detention industries have experienced rapid growth in recent years, driven largely by federal government contracts with private facilities. Between 2000 and 2016, the number of prisoners held in private prisons increased by 47%.¹ Between 2000 and 2016, the number of immigrants held in private facilities rose by 442%,² and the numbers have continued to rise under the Trump administration.³ In 2018, just 19 private immigration detention facilities received over \$800 million from ICE to detain nearly 18,000 migrants, with over half of that population detained in facilities owned by GEO Group (GEO).⁴ One study estimates that more than 70% of detained migrants are held in privately operated facilities.⁵

Major private prison and detention companies, including GEO, CoreCivic, LaSalle Management Company (LaSalle), and Management & Training Corporation (MTC), are profiting off this increase in private detention. The four companies received over 85% of the at least \$800 million

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

² *Id.*; Center for American Progress, "How Private Prisons Are Profiting Under the Trump Administration," Hauwa Ahmed, Aug. 30, 2019, <https://www.americanprogress.org/issues/democracy/reports/2019/08/30/473966/private-prisons-profiting-trump-administration/>.

³ Center for American Progress, "How Private Prisons Are Profiting Under the Trump Administration," Hauwa Ahmed, Aug. 30, 2019, <https://www.americanprogress.org/issues/democracy/reports/2019/08/30/473966/private-prisons-profiting-trump-administration/>.

⁴ Daily Beast, "\$800 Million in Taxpayer Money Went to Private Prisons Where Migrants Work for Pennies," Spencer Ackerman and Adam Rawnsley, Jan. 2, 2019, <https://www.thedailybeast.com/dollar800-million-in-taxpayer-money-went-to-private-prisons-where-migrants-work-for-pennies>.

⁵ *Id.*

ICE paid to private detention facilities in 2018.⁶ GEO, CoreCivic, and MTC operate all private prisons contracting with BOP, and more than half of detained migrants are held in a facility operated by either CoreCivic or GEO Group.⁷ In fact, GEO alone won more than \$327 million in contracts from ICE in 2018, the first full fiscal year during the Trump administration.⁸

These government connections play a critical role for the private prison industry. In 2018, GEO Group spent \$1.5 million on lobbying – nearly three times the total spent in 2015.⁹ The company exclusively used lobbyists who had prior government experience.¹⁰ In the same year, CoreCivic spent \$1.23 million on lobbying.¹¹

The growing connections between the federal government and the for-profit prison and detention industry are made more troubling by the fact that in recent years, a number of key officials have left ICE and BOP to work for private prison and immigration detention companies – with several of these officials in positions where they work with or solicit business from their former colleagues. This raises important questions about conflicts of interest and corruption. These officials include:

- Scott Sutterfield, ICE’s deputy director and then acting director for the New Orleans field office, left his position in late 2019 to work as a development executive responsible for creating business opportunities at LaSalle, the private prison company that operates six of the eight new for-profit facilities that ICE recently started using in the region.¹² Recent reporting indicates that Sutterfield—while at ICE—may have been involved in decisions regarding detention of asylum seekers in the region while he was in negotiations for post-government employment with LaSalle.¹³
- Tracey Valerio, the ICE official in charge of all contracting, left ICE in April 2018 and later worked as a paid expert witness for GEO in a lawsuit alleging that GEO had

⁶ *Id.*

⁷ Center for American Progress, “How Private Prisons Are Profiting Under the Trump Administration,” Hauwa Ahmed, Aug. 30, 2019, <https://www.americanprogress.org/issues/democracy/reports/2019/08/30/473966/private-prisons-profiting-trump-administration/>; Detention Watch Network, “New Information from ICE ERO’s July Facility List,” <https://www.detentionwatchnetwork.org/sites/default/files/DWN%20Spreadsheet%20Memo.pdf>.

⁸ POGO, “Locking in Profits: Top ICE Officials Leave Agency to Serve Its Top Contractor,” Nick Schwellenbach, Dec. 18, 2018, <https://www.pogo.org/investigation/2018/12/locking-in-profits-top-ice-officials-leave-agency-to-serve-its-top-contractor/>.

⁹ Open Secrets, “GEO Group: Lobbying Totals, 1998-2019,” Accessed on January 13, 2020, <https://www.opensecrets.org/orgs/lobby.php?id=D000022003>.

¹⁰ Open Secrets, “Client Profile: GEO Group,” Accessed on January 13, 2020, <https://www.opensecrets.org/federal-lobbying/clients/lobbyists?cycle=2016&id=D000022003>; Open Secrets, “Detention center contractors will keep reaping profit even after DHS upheaval,” Camille Erickson, Apr. 15, 2019 <https://www.opensecrets.org/news/2019/04/detention-center-contractors-keep-reaping-profit-after-dhs-upheaval/>.

¹¹ Open Secrets, “CoreCivic Inc: Lobbying Totals, 1998-2019,” Accessed on January 13, 2020, <https://www.opensecrets.org/orgs/lobby.php?id=D000021940>.

¹² Mother Jones, “ICE’s Revolving Door: Top Official Goes to Work for Private Prison Company,” Noah Lanard, Nov. 25, 2019, <https://www.motherjones.com/politics/2019/11/ices-revolving-door-top-official-goes-to-work-for-private-prison-company/>.

¹³ *Id.*

violated minimum wage laws.¹⁴ Valerio was accused of violating federal law prohibiting contracting officials from receiving compensation from companies to whom their agencies awarded certain contracts while in government service for a requisite period of time.¹⁵

- Frank Lara, BOP's assistant director, issued an order calling for the transfer of inmates to privately run prisons, was involved in "oversight of 11 private correctional facilities under contract with the Bureau," and left the Bureau in early 2018 to begin working as GEO's director of operations in August 2018.¹⁶
- Daniel Ragsdale, the second highest-ranking official at ICE and acting head of the agency, left ICE in early 2017 to join GEO, where he is Executive Vice President for Contract Compliance.¹⁷
- David Venturella, the head of ICE's Enforcement and Removal Operations, left the agency in 2012 to join GEO as an Executive Vice President and is currently Senior Vice President of Client Relations.¹⁸ Last year, private communications revealed that Venturella lobbied the federal government to reimburse GEO for its legal expenses after the company was sued for allegedly forcing detained people to work for little or no pay.¹⁹

This pattern of high-level ICE and BOP officials leaving their posts to work for the same companies that they were in charge of regulating raises questions and concerns about corruption and compliance with federal contracting and conflict of interest law. Federal contracting law prohibits former federal agency officials from receiving compensation as "an employee, officer, director, or consultant" from a contractor that received an award of at least \$10 million for at least one year after leaving the agency.²⁰ Federal conflict of interest laws ban federal employees from participating "personally and substantially" in any particular matters that impact their financial interest or the financial interest of "any person or organization with whom [the employee] is negotiating or has any arrangement concerning prospective employment."²¹ Federal regulations further prohibit employees from working on particular matters if they are "seeking

¹⁴ Daily Beast, "Ex-ICE Official Paid to Defend \$1-a-Day Wages for Immigrants," Nick Schwellenbach, Dec. 17, 2017, <https://www.thedailybeast.com/ex-ice-official-paid-to-defend-dollar1-a-day-wages-for-immigrants>.

¹⁵ POGO, "Locking in Profits: Top ICE Officials Leave Agency to Serve Its Top Contractor," Nick Schwellenbach, Dec. 18, 2018, <https://www.pogo.org/investigation/2018/12/locking-in-profits-top-ice-officials-leave-agency-to-serve-its-top-contractor/>.

¹⁶ *Id.*; Government Executive, "Federal Official Boosted Use of Private Prisons; Now He Has a Top Job at One," Eric Katz, Aug. 29, 2018, <https://www.govexec.com/management/2018/08/federal-official-boosted-use-private-prisons-now-he-has-top-job-one/150911/>.

¹⁷ Daily Beast, "Ex-ICE Official Paid to Defend \$1-a-Day Wages for Immigrants," Nick Schwellenbach, Dec. 17, 2017, <https://www.thedailybeast.com/ex-ice-official-paid-to-defend-dollar1-a-day-wages-for-immigrants>; LinkedIn, "Dan Ragsdale: Executive Vice President for Contract Compliance at The GEO Group," Accessed on January 13, 2020, <https://www.linkedin.com/in/dan-ragsdale-1321bbb1>.

¹⁸ POGO, "Locking in Profits: Top ICE Officials Leave Agency to Serve Its Top Contractor," Nick Schwellenbach, Dec. 18, 2018, <https://www.pogo.org/investigation/2018/12/locking-in-profits-top-ice-officials-leave-agency-to-serve-its-top-contractor/>.

¹⁹ Daily Beast, "ICE Boss to Take Private Prison Gig," Betsy Swan, May 9, 2017, <https://www.thedailybeast.com/ice-boss-to-take-private-prison-gig>.

²⁰ 41 USC. S. 2104. <https://www.law.cornell.edu/uscode/text/41/2104>

²¹ 18 USC. S 208. <https://www.govinfo.gov/content/pkg/USCODE-2012-title18/html/USCODE-2012-title18-part1-chap11-sec208.htm>

employment” with a person or organization impacted by the matter, even if negotiations are not ongoing.²² Finally, President Trump’s executive order on ethics commitments by executive branch appointees restricts agency appointees from lobbying their former agency for five years.²³

The recent increase in contracts awarded to private prison and immigration detention companies, combined with a demonstrated pattern of agency officials leaving to work for those same companies, raises particular concerns about corruption, conflicts of interest, and your agencies’ ethics rules and guidance. To help us better understand how you are working to prevent corruption and conflicts of interest, we ask that you answer the following questions.

1. What policies and procedures does your agency have in place to ensure that no employee participates in a matter that would impact a private prison or detention facility while an agency employee is seeking employment with that industry?
 - a. Do you require employees to disclose when they are seeking employment or are in employment negotiations?
 - b. Do you require employees to recuse themselves from matters that may impact companies at which they are seeking employment or are in employment negotiations?
 - c. What measures does your agency take to ensure employees working on major contracts or decisions are not involved in active job searches or job negotiations?

2. What policies and procedures does your agency have in place to ensure no former employee receives compensation from a contractor in violation of federal law?
 - a. Do you have programs designed to inform current and departing employees of federal restrictions on post-agency employment? If so, please list and describe those programs.
 - b. Do you take proactive measures to ensure former employees are not receiving compensation in violation of federal law? If so, please list and describe those measures.
 - c. Do you have post-employment compensation reporting requirements for former employees? If so, please list and describe those requirements.

3. What policies and procedures does your agency have in place to ensure former officials do not lobby your agency within five years of departure?
 - a. Do you have programs designed to inform current and departing employees of restrictions in federal law on their post-agency lobbying? If so, please list and describe those programs.
 - b. Do you vet every lobbyist for compliance with the five-year ban on lobbying by former agency officials? If so, please describe your vetting process.

²² 5 CFR part 2635, subpart F. <https://oge.gov/Web/OGE.nsf/Employee%20Standards%20of%20Conduct>


²³ White House, Executive Order: Ethics Commitments by Executive Branch Appointees, Jan. 28, 2017, <https://www.whitehouse.gov/presidential-actions/executive-order-ethics-commitments-executive-branch-appointees/>.

- c. Do you have post-employment lobbying reporting requirements for former employees? If so, please describe those requirements.
4. How many former agency officials have departed since January 2012 who now work or at any time since their departure worked for a private prison or private immigration detention company?
5. When did ICE become aware that Tracey Valerio received compensation from GEO for her consulting work?
- a. What actions did ICE take upon learning of this issue?
6. When did ICE become aware of Scott Sutterfield's job negotiations with LaSalle?
- a. Did ICE take action to ensure that Mr. Sutterfield did not participate in any decision that could impact LaSalle once it became aware of the negotiations?

Sincerely,




Elizabeth Warren
United States Senator



Kamala D. Harris
United States Senator



Pramila Jayapal
United States Senator



Ayanna Pressley
Member of Congress

Cc:

Ethics Official. U.S. Immigration and Customs Enforcement
Danielle M. Clark, Ethics Officer, Federal Bureau of Prisons