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The House Is on Fire but We Kept the Burglars Out: Racial Apathy and White Ignorance in Pandemic-Era Immigration Detention

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Abstract: Past research shows that crises reveal the sensitive spots of established ideologies and practices, thereby providing opportunities for social change. We investigated immigration control amid the pandemic crisis, focusing on potential openings for both challengers and proponents of immigration detention. We asked: How have these groups responded to the pandemic crisis? Have they called for transformative change? We analyzed an original data set of primary content derived from immigrant advocates and stakeholders of the immigration detention industry. We found as the pandemic ravaged the world, it did not appear to result in significant cracks in the industry, as evidenced by the consistency of narratives dating back to pre-pandemic times. The American Civil Liberties Union's (ACLU) criticisms of inhumane conditions in immigration detention resembled those from its pre-pandemic advocacy. Private prison companies, including CoreCivic and GEO Group, emphasized their roles as ordinary businesses rather than detention managers during the pandemic, just as they had before the crisis. U.S. Immigration and Customs Enforcement (ICE), however, manufactured an alternative storyline, emphasizing "COVID fraud" as the real threat to the "Homeland." Although it did not call for radical change, it radically shifted its rhetoric in response to the pandemic. We discuss how these organizations' indifference towards structural racism contributes to racial apathy and how the obliviousness and irresponsibility of industry stakeholders resembles white ignorance.

Keywords: COVID; immigration detention; racial apathy; white ignorance; crimmigration; institutional legitimacy



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1. Introduction

The pandemic has been a time of crisis, a crisis of greater magnitude than most of us have ever experienced. In such times, people tend to seek stability and order to escape the chaos brought on by crises, turning to institutions of social control for a sense of normalcy and security, which can strengthen such institutions (Berger 2009; Olmo 1990). In the era of COVID-19, however, the precariousness and vulnerability brought on by the pandemic and people's reactions to it potentially destabilized institutions of social control. Indeed, conditions within places where people live and work together indoors, such as detention facilities,¹ accelerate the spread of the virus (Hooks and Libal 2020). Although immigration detention has long been the subject of scholarly and activist criticism (e.g., see Golash-Boza 2016; Kirkham 2012; Sullivan 2010), the devastating effects of the pandemic have prompted new and more urgent condemnations of the immigration detention industry and its practices. Meanwhile, the Movement for Black Lives (M4BL) has challenged the foundation of the criminal justice system, calling for transformative cultural and community

changes that would involve the disbanding of police and defunding of prisons (Bell 2016; Carruthers 2018; M4BL 2019). Accordingly, the legitimacy of the immigration detention industry, which is embedded in the criminal justice system, has likely deteriorated further.

The pandemic and the corresponding condemnation of the industry, in addition to M4BL's compelling criticisms of the criminal justice system, have created an opportunity for immigrant advocates to call for radical, transformative change. We might expect the current environment to inspire the ACLU, for example, to advocate for changes such as "abolishing ICE" and ending immigration detention. We also might expect this context to prompt industry stakeholders to utilize explicitly racist and nativist narratives that pathologize migrant bodies, characterizing them as diseased, in order to rationalize enforcement, detention, and deportation. After all, migrants have historically been a convenient target for such discourse (Li and Nicholson 2021; Markel and Stern 1999). However, we know relatively little about the effects of the pandemic on not only immigrant advocacy but also the reactions of the immigration detention industry. Specifically, a dearth of research examines the apparent decline in the industry's legitimacy, the challenges from advocacy groups, and the responses of industry stakeholders. This gap is significant because the legitimacy or lack thereof of immigration detention has implications for the institution's future and the fates of thousands of migrants. Additionally, the discursive politics of immigration control, including immigration detention, is embedded in the broader immigration politics that inform ideologies and practices that affect all migrants and their communities far beyond the walls of detention facilities.

To address this gap, we qualitatively analyzed an original data set of primary content of over 700 public documents released in 2020 by the American Civil Liberties Union (ACLU), the private prison industry, including CoreCivic and the GEO Group, Inc. (hereafter, GEO), and the U.S. Immigration and Customs Enforcement (ICE). Using a critical race theory lens (Bracey 2015; Watkins Liu 2018), we examined what these groups say and what they do not say, considering that omissions and oversights could be equally as important as what is said. Given the white supremacist history of immigration policy (Glenn 2015; Golash-Boza et al. 2019), continued racist practices at every stage and level of immigration control and the criminal justice system more broadly (Alexander 2012; Aranda and Vaquera 2015; Armenta 2017; Arriaga et al. 2020), and overrepresentation of Black and Brown men in lockup² and deportation numbers (Golash-Boza 2016; Golash-Boza and Hondagneu-Sotelo 2013; Zarrugh 2020), it is telling if these groups fail to mention race in the immigration detention industry.

We found that the ACLU continues to criticize practices within immigration detention during the pandemic, but it does so within the confines of its pre-pandemic criticisms. Industry stakeholders also relied on pre-pandemic narratives. They are outwardly indifferent towards the pandemic crisis and relatively silent about their role in exacerbating the spread of the virus within detention facilities and the surrounding communities. Private prison companies continued to characterize themselves as ordinary service-providing businesses, bemoaning the financial losses due to the pandemic, thus demonstrating not only apathy but also insensitivity and recklessness towards individuals in detention facilities and to all adversely affected by the pandemic. Moreover, ICE not only appears unconcerned about the plight of at-risk and infected individuals in detention, but it has also manufactured an alternative storyline with a new enemy: "COVID fraud." In directing its efforts towards "Operation Stolen Promise," ICE overlooks its actions in enforcement, detainment, and deportation that amplified the deadly effects of the pandemic and emphasizes its role as protector of law and order of the "Homeland," demonstrating a remarkably irresponsible and cruel position. ICE ignores the pandemic spreading across the country like a wildfire and instead chooses to focus on those "stealing our promises."

These findings further our understanding of the discursive environment of U.S. immigration politics and offer critical insights into the processes of maintaining and challenging the status quo in the context of crises. They inform existing work on the racialization of migrants within immigration control in two meaningful respects. First, the seemingly

contradictory narratives presented by the critics and enforcers of immigration detention during the pandemic did not effectively loosen the foundation of the institution. Altogether, this collection of claims contributes to *racial apathy* (Forman and Lewis 2006). The conversation remains largely disengaged with the interlocking systems of exclusion and exploitation underlying migrant suffering, thus minimizing the racism faced by migrants and reinforcing color blindness. Second, the storylines of the immigration detention industry contribute not only to racial apathy but to *white ignorance* as well (Mills 2007; Mueller 2020). This is evident in aspects of their accounts, including how they aggressively disregard the effects of the pandemic in detention and unmistakably overlook their role in spreading the virus. In the context of not only the pandemic but also Black movements that are effectively centering racial oppression on the global stage and promoting the dissolution and defunding of multiple aspects of the criminal justice system, ICE and private prison companies are so divorced from reality their obliviousness appears willful, aggressive, and militant.

2. Background: Immigration Detention in the Pandemic

COVID-19, caused by the novel, severe, acute respiratory syndrome coronavirus 2 (SARS-CoV-2), was first reported in December 2019 in Hubei Province, China. Since then, the World Health Organization has declared it a pandemic (WHO 2021). As of September 2021, over 200 million people globally have contracted the disease that led to more than 4.5 million deaths. The U.S. alone has totaled more than 40 million cases and over 500,000 deaths (Johns Hopkins Coronavirus Resource Center 2021).

As an industrialized country with unparalleled clinical and research capacity, the exceptionally high rates of COVID-19 in the U.S. are largely due to the federal government's failure in forming and executing effective policies in response to the pandemic (Carter and May 2020; Haffajee and Mello 2020). Among other things, the poor response to COVID-19 was a symptom of a medical system that prioritizes profits and reinforces health inequity (Carter and May 2020; Okonkwo et al. 2020).

For a multitude of reasons, migrants in detention are among the groups disproportionately impacted by the virus. Above all, institutionalized populations, such as those living in orphanages, nursing homes, and custodial settings, constitute some of the most vulnerable groups to infectious diseases as they live in close quarters with limited mobility (Barnett and Grabowski 2020; Marouf 2021; Wang et al. 2020). Their frequent interaction with staff members also increases the chance of cross-infection (Barnett and Grabowski 2020). Meanwhile, overcrowding, poor ventilation, rudimentary healthcare, lack of basic hygiene, and insufficient testing in prisons, jails, and immigration detention centers further exacerbate the danger of contagious diseases (Arriaga et al. 2020; Franco-Paredes et al. 2020; Keller and Wagner 2020). Such damning conditions, combined with the already elevated risk for a variety of diseases among migrant detainees due to existing health disparities (Meyer et al. 2020), have led to exceptionally high rates of COVID-19 in immigration detention centers (UCLA Law n.d.). The pandemic persists as we write. On one hand, the introduction of effective vaccines encourages cautious optimism. On the other hand, unequal access to vaccines and treatments both globally and domestically is accompanied by reports of outbreaks among the hardest hit and least protected populations, including migrants in detention. As of early September 2021, ICE reported that 27,149 detainees have tested positive for COVID-19 since the start of the pandemic and that nine people have died while in ICE custody (ICE Staff 2020c). However, researchers criticize these numbers, arguing ICE is severely underreporting the spread of the pandemic in its facilities. They estimate that the number of people in lockup who have contracted the virus is up to 15 times higher than what ICE has reported (Smart et al. 2021). Predictive models suggest that the vast majority of detainees will contract the disease even under the most optimistic scenario (Irvine et al. 2020).

Furthermore, immigrant detention in the pandemic presents a threat not only to migrant detainees but also to public health in general. Research indicates that prison staff

also experience substantially higher COVID-19 case prevalence than the U.S. population overall (Ward et al. 2021) as they share “an environment known to amplify, accelerate, and act as a reservoir for outbreaks of respiratory diseases” with the prison inmates (Montoya-Barthelemy et al. 2020, p. 888). As staff members commute between work and home, carrying the virus into the communities where they live (Keller and Wagner 2020; Kinner et al. 2020), the local healthcare systems could have been or may still be overwhelmed as new variants spread, as most ICE detention facilities are often located in small, isolated towns (Eason 2017) with limited medical resources (Keller and Wagner 2020). Additionally, the frequent transfer of detainees among facilities risks transmitting the disease across different communities (Keller and Wagner 2020; Meyer et al. 2020).

Alerted by the rapid spread of COVID-19 among ICE detainees and detention facility staff, public health experts called for the release of most if not all ICE detainees to minimize the risk of exacerbating the pandemic (Lopez et al. 2021). While claiming to heed these suggestions, ICE continued its enforcement efforts throughout the pandemic and failed to adhere to COVID-19 safety guidelines (Dyer 2021; Miller et al. 2020). Given the record level of immigration detention under the Trump administration (Cho et al. 2020), ICE’s (in)action during COVID-19 poses a tremendous risk to both the detainees and public health. Meanwhile, ICE also continued to deport migrants (e.g., ICE Staff 2020a), many from COVID-infested facilities and some diagnosed with the disease, demonstrating that the U.S. and its agencies are actively and knowingly spreading the virus globally (Miller et al. 2020; Montes 2020).

ICE’s failure in addressing the COVID-19 crisis has not gone unnoticed. In addition to criticism from immigrant rights advocates such as the ACLU (e.g., see Cho 2020a), mainstream media have also covered the disastrous impacts of ICE’s insufficient response to the pandemic both domestically (e.g., Hackman 2020; La Gorce 2020) and globally (e.g., Keller and Wagner 2020; Montes 2020). For instance, in April 2021, the *New York Times* (Niu et al. 2021) published a thorough account of ICE’s mishandling of COVID-19 that ended with a call to release more detainees. Although immigration detention has long been the subject of scholarly and activist criticism (see Ebert et al. 2020 and references therein), the current pandemic appears to have provided a new entry point to expose the cruelty of the industry and to challenge its legitimacy. We therefore ask: Have critics of immigration detention taken advantage of this opening to expose and further delegitimize this practice? How has the immigration detention industry responded to its critics and the crisis?

3. Materials and Methods

3.1. Research Design

To answer these questions, we analyzed an original data set of primary content of over 700 documents released in 2020 by ACLU, the private prison industry (including CoreCivic and GEO Group), and ICE.³ We selected these groups because they represent a diverse network of organizations with varying connections to and interests in immigration control, allowing us to examine criticisms and responses to those criticisms in relation to one another. We selected ACLU based on our investigation of news media coverage of immigration detention between 1995 and 2018 (see Ebert et al. 2020; Estrada et al. 2020). Among all of the quotes from representatives of advocacy organizations, ACLU was the most frequently quoted. The ACLU is a well-known civil rights organization with a long history of advocacy related to immigration detention. Because of this history, the ACLU holds a political “insider” status and maintains a degree of institutional authority on par with ICE and private prison companies. The ACLU is opposed to immigration detention that violates the rights of immigrants. Even though it has not historically been opposed to immigration detention, per se, we included the ACLU in this study because we were curious if the pandemic prompted it to fundamentally shift its position regarding immigration detention.

Because private prison companies have physical custody of over 70% of immigrants detained in the U.S. (Freedom for Immigrants 2018), which generates a substantial portion

of their revenue (Gilman and Romero 2018), they also have a vested interest in maintaining the legitimacy of immigration detention. Thus, the way they frame immigrant detention during the pandemic is central to addressing our research questions. We selected CoreCivic and GEO Group⁴ specifically because they are the two largest publicly traded prison companies and constitute more than 50% of the market share in private immigration detention (Juárez et al. 2018; Oliver 2018). Finally, ICE is the federal agency empowered to enforce and regulate immigration policies, and, as such, holds a degree of power, status, and resources beyond what is available to other groups. ICE has a vested interest in promoting dominant ideologies that legitimate immigration control, a system from which it benefits (Jackman 1994; Lamont et al. 2014). Thus, the way ICE frames immigration detention in the midst of the pandemic provides insight into how powerful groups legitimate and reproduce inequality in the context of a crisis.

We based our analysis on documents available to the public because they provide insight into the “front stage” image a group is trying to project (Goffman 1959). Press releases, in particular, represent an official view on a topic, designed to project a carefully crafted and negotiated public image or argument. In order to maintain legitimacy, organizations will often engage in “... elaborate displays of confidence, satisfaction, and good faith ...” (Meyer and Rowan 1977, p. 358) to demonstrate to the public that their goals have merit and their methods in achieving these goals are reputable. Furthermore, press releases serve as a source of other media, such as the news media (Majstorović 2007), and are important for the dissemination of seemingly convincing messages (Bail 2012). Thus, discussions of the pandemic within these documents provide a measure of how groups used the “opportunity” of the crisis to reframe their positions in relation to the immigrant detention industry.

3.2. Data Collection

To collect data from the ACLU, we searched all press releases and blog posts in 2020 that the ACLU released under the topic “Immigrants’ Rights and Detention.” This search returned 32 press releases and 23 blog posts. Most of these—28 and 13, respectively—covered COVID-19 in immigration detention, primarily pertaining to the increased risks of the virus among migrants in lockup. The majority of those that did not discuss the pandemic (eight of 14) were published prior to 12 March 2020,⁵ in the weeks before the pandemic became widespread in the U.S., and the remaining six covered topics ranging from abortion access to unlawful detainment of migrants. We searched the websites of CoreCivic and GEO Group to gather their press releases. We also searched Wayback Machine and GlobeNewswire after discovering that the companies do not include all of their past press releases on their websites. Altogether, these searches returned 38 CoreCivic press releases and 16 GEO Group press releases from 2020, of which 22 and four, respectively, mentioned the pandemic in some capacity. Eleven of the remaining 28 were released prior to 12 March 2020, and the other 17 discussed such topics as financial reports, new policies and programs (such as reentry-focused legislation), and facility contract information. To collect data from ICE, we examined 631 news releases from 2020. In the heading of each news release, ICE included a label that identified the topic of the news release, such as “Enforcement and Removal,” “Narcotics,” and “Operational.” Of its 631 news releases, 170 were released prior to 12 March and of the remaining 461, ICE labeled 49 of these “COVID-19.”

3.3. Data Analysis

We began data analysis in summer 2020 with the intent of examining how narratives changed during the early months of the pandemic, specifically with documents from January through April 2020. We began by conducting a pilot analysis of approximately 10% of the data, taking notes on patterns that emerged from the text. This preliminary analysis served as the foundation of a codebook that the four-person research team developed across multiple meetings and rounds of testing. After reaching an intercoder reliability score

of 90%, we divided the remaining data between authors for systematic coding. We used NVivo, a qualitative software program that facilitates the coding process and provides a systematic way of analyzing data, for paragraph-level coding of documents that mentioned COVID-19 (or a variation of the term).

During this phase of coding, we continued to meet regularly to discuss concerns and periodically conduct further intercoder reliability checks. Through these conversations, we realized that, to fully address our research question on how groups have responded to the pandemic crisis, we needed to expand data analysis to include documents from the entirety of 2020. We also realized the importance of including documents that did not specifically address COVID-19 but were nonetheless published during this period, which allowed us to consider what these organizations were talking about when their conversations did not center on the pandemic. Thus, we expanded our initial data collection and analysis efforts to include all documents published in the year 2020. In addition, we supplemented our primary data with a sample of news media coverage⁶ on both the pandemic and the immigration detention industry in order to contextualize the emergent patterns.

4. Results

4.1. *The Continuing Attack on Inhumane Conditions in Immigration Detention: ACLU*

The ACLU responds to the COVID-19 pandemic by taking a critical stance on the conditions within detention—not on detention itself. Of the 32 press releases and 23 blog posts regarding immigration detention from 2020, the majority (28 and 13, respectively) focused on COVID-19 in immigration detention. Given the current social context of the pandemic, ACLU relied more heavily on narratives related to the health risks of imprisoned migrants rather than other factors. Often, this narrative involved ACLU presenting living conditions within detention facilities as a public health issue that creates unnecessary health risks for detained immigrants. In the following, Andre Segura, legal director for the ACLU of Texas, described these risks, arguing that immigration detention is a “clear violation of their constitutional rights”:

Detention centers like the Montgomery Processing Center cannot adequately protect the lives of those like our clients: There is no way to practice social distancing in a detention center, and they do not have access to face masks or even regular access to basic hygiene. Limiting the number of people held in jails is critical to prevent a COVID-19 outbreak at MPC and the surrounding community. (ACLU Staff 2020b)

The ACLU’s critical stance towards aspects of immigrant detention, however, was not limited to the context of the pandemic alone. In some cases, the ACLU used the pandemic and the increased health risks that it poses as evidence to support the ACLU’s position on immigrant detention that predated the pandemic. The following quote from Bobby Hodgson, a staff attorney for the NYCLU, continued calls for ICE to end its “No-Release Policy” that began well before the COVID-19 pandemic (e.g., see Kang 2018):

ICE improperly manipulated the detention process to imprison almost everyone they arrest, and right now that decision is putting many people in harm’s way as COVID-19 spreads. (ACLU Staff 2020c)

Hodgson emphasized the vulnerability of immigrants as a result of the pandemic and used this victimization as a reason for ICE to act “right now.” However, the pandemic itself is not what made ICE’s “No-Release Policy” a problem. Other passages about immigration detention operations more generally displayed a similar pattern. The one below, for example, connected problems with immigration detention during the pandemic to a larger pattern of conduct associated with the Trump administration:

The rapid spread of COVID-19 in immigration detention facilities is a prime example of everything that has gone wrong with immigration detention . . . It is little coincidence that a disproportionate number of detention centers that now

have confirmed cases of COVID-19 came online under the Trump administration. (Cho 2020b)

In the passage, Cho used the pandemic as “a prime example” of problems related to immigration detention under the Trump administration. Rather than depicting COVID-19 as a qualitatively new problem and challenge for immigration detention, Cho employed the pandemic as the latest opportunity to criticize the Trump administration’s overall handling of immigration detention without calling for radical change.

While COVID-19 is a prominent part of the passages above, the narratives mirror those that ACLU has used to discuss a number of pre-pandemic topics, such as detention conditions and family separation. Typically, these narratives present immigrants as victims of poor physical and legal conditions at the hands of federal government entities. To provide one pre-pandemic example from January 2020, the following quote from Alanah Odoms Herber, ACLU of Louisiana executive director, explained how the Trump administration and immigration agencies victimized asylum seekers by failing to release them from detention on parole in Louisiana:

Seeking asylum is a legal right, but the Trump administration has continued to subject asylum seekers . . . to unconscionable and unlawful cruelty . . . We will not stand by while ICE uses private contractors to detain and abuse vulnerable people exercising their right to seek asylum at our borders. (ACLU Staff 2020a)

As in passages from the pandemic, Herber’s statement expressed how detained immigrants suffered “unconscionable and unlawful cruelty” at the hands of the Trump administration and other federal government branches. ACLU, then, did not entirely change its messaging to focus solely on the COVID-19 pandemic. Rather, it adapted many previous campaigns to fit within the altered context of immigrant detention in the pandemic era.

4.2. Business as Usual: Private Prison Companies

Private prison companies never discussed the increased risk of infection and spread of the virus in detention facilities, nor did they acknowledge their role in exacerbating the spread of the virus. Of its 16 press releases in 2020, GEO Group referenced the pandemic in four, but the virus was not the focal point of any of them. CoreCivic was more responsive; 22 of its 38 press releases in 2020 discussed COVID-19. However, of these 22, only 11 focused on the pandemic, including announcements regarding testing, deaths, and CoreCivic’s Coronavirus Medical Action Plan. The other 11 mentioned the pandemic, but centered on other topics such as financial reports, contract information, and changes in corporate structure. Regardless of CoreCivic’s increased acknowledgment of the virus, neither company actually responded to public criticisms of detention in the pandemic era.

When referencing their operations in the context of the pandemic, private prison companies often characterized COVID-19 as a threat to business, and they presented their response to the crisis in a favorable light. They discussed their handling of the pandemic in ways similar to how other businesses might respond to any other challenge. The following quote from Damon Hininger, president and CEO of CoreCivic, illustrates this:

This pandemic is creating unprecedented challenges for businesses and industries... But I believe it can also be an opportunity for organizations to support current employees and help those who may be looking for a new career following a job loss. We are proud to step forward to help in both of these ways. (CoreCivic Staff 2020a)

Here, Hininger distanced CoreCivic from the negative consequences of ongoing immigration detention amid a pandemic to present the company as a positive opportunity for prospective employees in a time when jobs were scarce. Although certainly insensitive to the people who suffered serious health consequences of COVID-19, this tactic of discussing the pandemic in economic terms was common. The passage below from a GEO Group

press release, for example, used the pandemic to explain decreases in the number of people it detained and resultant “lower full-year 2020 revenues”:

Our ICE Processing Centers and U.S. Marshals Service facilities began experiencing lower overall occupancy in late March 2020 as a result of declines in crossings and apprehensions along the U.S. Southwest border, as well as, a decrease in court and sentencing activity at the federal level in the United States due to the COVID-19 pandemic. (GEO Group Staff 2020a)

Beyond perpetuating the abstraction of detained people as a profit-generating capacity (Doty and Wheatley 2013; Douglas and Sáenz 2013; Golash-Boza 2016), this passage enabled GEO Group to identify the pandemic as a force defined by its loss of corporate dollars rather than human lives.

When private prison companies acknowledged the effect of the pandemic on individuals, this discussion tended to happen in economic terms with a focus on their employees—not on the individuals they imprison. For example, after discussing the financial impact of the pandemic on GEO Group, the chairperson and CEO, George Zoley, thanked employees:

During the second quarter, we experienced some favorable cost trends that resulted in better than expected financial performance. While we are encouraged by these favorable trends, our company continues to face challenges associated with the COVID-19 pandemic, which has had a negative operational and financial impact across several segments of our company. In the face of these challenges, our frontline employees have shown incredible commitment and perseverance, helping our company manage through these difficult times, and we are thankful for their dedication and daily sacrifice. (GEO Group Staff 2020b)

Rather than discussing how the pandemic affected the people that GEO Group detains, Zoley described the economic challenges and thanked the employees for sacrificing themselves. The CEO of CoreCivic went so far as to highlight the company’s beneficent approach towards its employees by rewarding them a \$500 Hero bonus for “steadfastly answering the call to serve and protect our communities and those in our care.” Hininger explained, “The bonus program is one way we can show our appreciation for their focus and dedication during this challenging time” (CoreCivic Staff 2020a). Once again, any discussion of the companies’ commitment to ensure the safety of the individuals they imprison was conspicuously absent.

Despite attempts to focus on their role as an ordinary service-providing business in the midst of the pandemic, private prison companies could not completely escape acknowledging the actual service they provide: prison management. When discussing this aspect of their business, private prison companies described the need for more cautious operations posed by the pandemic and their fulfillment of necessary changes without addressing the increased risk of infection and spread of the virus in detention facilities or acknowledging their role in accelerating the spread of COVID-19. This message appeared as an affirmation that private prison companies prepared and implemented plans to protect those in detention facilities. For example,

CoreCivic is working hard to protect our employees, those entrusted to our care, and our communities during the COVID-19 pandemic. We have a Coronavirus Medical Action Plan in place at each of our facilities, which we’ve been working on since January. (CoreCivic Staff 2020c)

In this passage, CoreCivic framed itself as a good steward that developed widespread policies to protect its employees, wards, and communities. As it related to detained immigrants, “those entrusted to our care” is a vague and palatable phrase that reinforces CoreCivic’s paternalistic authority over a vulnerable and dependent population. When evidence suggested that detention during the COVID-19 pandemic poses a high risk of transmission, private prison companies reaffirmed their implementation of sufficient safety practices and used descriptions of cases as “asymptomatic” to minimize the perceived harm

caused by COVID-19 (e.g., see [CoreCivic Staff 2020b](#)). These descriptions of COVID-19 cases within facilities framed private prison companies as beneficent caregivers, which, in turn, deflected attention away from the dangers faced by immigrant detainees related to confinement in a pandemic.

4.3. *Silence and the “Stolen Promise”: ICE*

Instead of applying a generous spin to its role in immigration detention that resembled those used by private prison companies, ICE generally avoided discussing the effects of the pandemic within detention altogether. As an alternative, ICE turned to the “customs” side of its operations to present itself as the solution to a so-called COVID-19 contraband crisis.

ICE’s unique presentation of the pandemic became apparent when comparing it both to other organizations’ pandemic coverage and to its own pre-pandemic news releases. In 2020, ICE produced 631 news releases, 49 (8%) of which mentioned COVID-19 in some capacity. Notably, 8% is a much smaller relative share of documents compared to those produced by the ACLU (41 of 55, or 75%) or GEO Group and CoreCivic (26 of 55, or 48%) during the same time. While this is not entirely surprising given that each are different groups with distinct (but overlapping) foci, the magnitude of the difference in coverage is still striking, particularly when we examined the content of the material. Prior to the pandemic, ICE typically presented itself as an “immigration” agency that handled enforcement through practices such as detention and deportation. When discussing the pandemic in its 2020 coverage, however, ICE appeared much less consistent in its emphasis on immigration enforcement.

Of the 49 news releases, only six discussed ICE’s response to the pandemic within detention facilities, such as reports of people in detention testing positive for the virus and announcements of testing in facilities. For example, Henry Lucero, executive associate director for ICE’s Enforcement and Removal Operations (ERO), talked about ICE’s plans to prioritize testing for families in detention:

We take the responsibility to care for the families in our custody very seriously and we are working with all of our partners to determine how to reduce the spread of COVID-19, not only at our FRCs, but at all locations housing ICE detainees. ([ICE Staff 2020b](#))

Here, ICE directly addressed the effects of the virus within its facilities and described its “caring” response, a notable rarity in its news releases given its insistent silence on the prevalence of the virus within its facilities. One possible reason for the small number of news releases directly describing ICE’s response to the pandemic in detention facilities might be that ICE developed a webpage devoted to COVID-19 guidance, which was initially posted on 14 March 2020 ([ICE Staff 2020c](#)). However, there was a meaningful, qualitative difference between the two forms of communication. A webpage devoted to COVID-19 in detention is not as publicly visible and proactive as press releases and, accordingly, is likely something that would only be discovered by parties actively seeking it out. On the other hand, press releases are documents meant for more widespread public consumption. Given these differences, it is telling that ICE did not actively release many public statements about its response to the virus and instead, relegated this coverage to a single webpage.

Instead of publicly addressing the risks of detention during the COVID-19 pandemic, ICE diverted attention elsewhere in the vast majority of its public content. Oftentimes, ICE focused on other operations and policies that were in place pre-pandemic. Out of the 49 press releases that mentioned COVID-19, 10 addressed policy updates, such as increases in flexibility in workplace compliance and updates to the Student and Exchange Visitor Program (SEVP), and nine discussed additional operations in place, including “removal flights.” For example, a news release reported on the return of 209 U.S. citizens “on the return leg of two removal flights via ICE Air Operations”:

ICE will continue to work with the State Department to facilitate the safe return of U.S. citizens on future removal flight returns from Guatemala, Honduras and

El Salvador throughout the duration of the COVID-19 pandemic. (ICE Staff 2020a)

In such announcements, ICE emphasized its benevolent role in providing the safe return of U.S. citizens, and, in turn, downplayed its unpleasant role in deportations. ICE did not refer to these as “deportations” but instead used the term “removals,” further masking its distasteful practice of continuing deportations amid a global pandemic, which served to spread the virus globally (Kassie and Marcolini 2020). Again, instead of addressing the risks of enforcement, detention, and deportation during the COVID-19 pandemic and its role in amplifying the risks, ICE continued its pre-pandemic narratives of focusing on policies and procedures that existed before the crisis.

ICE not only minimized the seriousness of deportations and detention in its news releases but also diverted attention away from the severity of the pandemic within detention facilities and from its own failures and transgressions. ICE’s creation of an alternate reality, in which it functioned primarily as a customs agency that protects Americans from the alleged threat of “COVID fraud”, is especially illustrative of this pattern. While ICE discussed the customs side of its operations in a handful of pre-pandemic news releases from 2020, it primarily did so in its limited coverage of counterfeit merchandise (five out of the 175 news releases prior to 12 March 2020⁷). Of the 49 news releases that mentioned the virus, however, approximately half (n = 24) covered COVID-related criminal activity, including news releases on “COVID fraud.”

For example, ICE announced the launch of Operation Stolen Promise in April 2020 “to protect the Homeland from the increasing and evolving threat posed by COVID-19-related fraud and criminal activity” (ICE Staff 2020e). On 30 November, it announced Operation Stolen Promise 2.0 “with the specific goal of countering the threat of counterfeit vaccines, treatments and supplies” (ICE Staff 2020g). ICE framed the fraud as a major problem amid the pandemic that required ICE’s attention: “Surging criminal activity surrounding the COVID-19 pandemic requires an equally robust investigative response to protect the American public” (ICE Staff 2020e). In announcing its efforts to combat “COVID fraud,” ICE relied on nationalist and racist language to celebrate its role as protector of “the Homeland,” ensuring the “health and safety of the American public” (ICE Staff 2020f). It also publicized that NBC’s Today Show and ABC’s Good Morning America featured its “efforts to combat COVID-19 fraud” (ICE Staff 2020d), creating the image that mainstream media (and, hence, likely the public) approve of its work.

For ICE, then, immigration control during the pandemic was more about touting its valiant efforts protecting Americans from potential foreign contraband and criminals than about protecting detained immigrants from an actual deadly pandemic within its detention facilities. It is not surprising that ICE failed to acknowledge its role in spreading the virus in communities throughout the U.S. and across the globe, but it is remarkable how little attention ICE paid to the effects of the pandemic on people it imprisons and deports.

5. Discussion: Racial Apathy and White Ignorance

Berger (2009, p. 493) argued that “[c]rises present ruptures, breaks in the norm that provide opportunities to exacerbate or overturn existing ideologies and practices.” Given this and the well-documented threat immigration detention poses to public health during a pandemic, we might have expected ACLU to adopt new and more subversive arguments against the institution. In the context of the global racial justice movement, we might have expected these new arguments to target structural racism as the root cause of the violations of immigrant rights and to call for radical change, such as ending detention entirely and abolishing ICE. We might also have expected the current context of the pandemic to inspire industry stakeholders to use historical narratives that pathologize migrant bodies, characterizing them as diseased, in order to rationalize enforcement, detention, and deportation (Li and Nicholson 2021; Markel and Stern 1999).

Our results suggested that, although each organization adapted its narratives about immigration detention to various degrees, the pandemic did not lead to significant cracks

in the system. We argue that the collection of varying and dialogic frames contributes to *racial apathy*, as they remain largely indifferent to the interlocking systems of exclusion and exploitation underlying migrant suffering, thus minimizing the racism migrants experience and reinforcing color blindness. In 2020, private prison companies, ICE, and ACLU, failed to mention anything about how the immigration system in the U.S. was built to maintain a certain racial order, i.e., white supremacy (Sáenz and Douglas 2015). In other words, they assumed the immigration system's racial innocence (Murakawa and Beckett 2010). Under such assumption, it is extremely difficult, if not impossible, to challenge the system itself and propose transformative change: If the system is innocent, one can only critique the practices. Meanwhile, the system, through the frames presented by ICE and private prison companies and even ACLU, continues to depict migrants as "exotic others," i.e., criminals, profitable bodies, victims to be saved and cared for, etc. As such, while the frames from ACLU appeared to contradict those from ICE and private prison companies, the narratives presented by the three parties formed a dialogue that naturalizes "immigrant" as a degraded category and immigration detention as a legitimate institution, despite its sometimes questionable practices.

Furthermore, we argue that, in the context of not only the pandemic but also Black movements that are effectively placing racial oppression on the global stage and promoting the dissolution and defunding of multiple aspects of the criminal justice system, the frameworks of industry stakeholders, including ICE and private prison companies, contribute to racial apathy as well as the epistemology of *white ignorance*. Mills (2007, p. 13) introduced it as follows:

Imagine an ignorance militant, aggressive, not to be intimidated, an ignorance that is active, dynamic, that refuses to go quietly—not at all confined to the illiterate and uneducated but propagated at the highest levels of the land, indeed presenting itself unblushingly as knowledge.

This militant unawareness denies the racial reality that defines the structure of American society. In doing so, it reinforces the racial order of white supremacy. Aspects of white ignorance are evident in accounts by ICE and private prison companies, including the ways in which they aggressively disregarded the effects of the pandemic in detention and unmistakably overlooked their role in spreading the virus. In the current context, they appear so divorced from reality that their obliviousness appears proactive. In the following, we further discuss how the groups contribute to the process of racial apathy and the epistemology of white ignorance.

5.1. Comfortable and Convenient Criticism: ACLU

In 2020, ACLU did not call for transformative change in response to the pandemic. Much of ACLU's coverage of COVID-19 within immigrant detention aligned with critical framing against immigration detention prior to the pandemic, where news media coverage focused on human rights violations within these facilities and bad management practices (Ebert et al. 2020). Although the content of its press releases and blogs may have contained strongly worded language (e.g., referring to immigration detention as a "death trap," calling for Congress to "reduce funding to ICE for detention operations and shift to community-based alternatives to immigration detention that are not driven by profit" (Cho 2020b)), the targets of this criticism were specific individuals, practices, and organizations, not the existence of immigration detention. As such, ACLU failed to question the legal system that categorizes certain migrants as "illegal."

ACLU's criticisms of immigration detention represented racial apathy in that its relatively superficial critiques resemble the "minimization of racism" frame of color-blind racism (Bonilla-Silva 2017). Though critiques related to human rights violations and bad management are clearly intended to advocate for the rights of migrants, ACLU avoids any discussions of how the racialization and criminalization of migrants serves to rationalize their expropriation. In this way, its rhetoric plays a role in minimizing systematic inequality and does little to question how "illegality" is socially constructed and rooted in global

power dynamics (Armenta 2017; De Genova 2004; Golash-Boza 2016; Gómez Cervantes 2021; Menjívar 2021).

5.2. Profiting from Crises: Private Prison Companies

Private prison companies prioritized the concerns of their shareholders, their employees, and even themselves as businesses over the oppression and suffering of migrants. Despite acknowledging base concerns about the pandemic in their detention facilities, private prison companies failed to engage meaningfully with critiques from ACLU or other public health experts. Instead, CoreCivic and GEO Group framed the pandemic as threatening to business and employees. They continued to present themselves as ordinary businesses rather than prison operators, much in the same way as they did before the pandemic (Ebert et al. 2020). However, the companies also took advantage of the opportunity of this crisis to present themselves as solutions to the hardships created by the pandemic.

Given the pivotal role the industry played in spreading COVID-19 and in reinforcing a carceral state that deprives poor communities of color access to resources needed to respond to major disasters effectively, this form of self-presentation represents a distortion of reality that reinforces the epistemology of white ignorance. Such narratives resemble those emerging from the aftermath of many other crises: The most dispossessed groups (in this case, migrant detainees, poor communities, and communities of color with little access to medical resources or space for quarantine) suffer disproportionately as a direct consequence of neoliberal reforms (in this case, privatized mass incarceration), yet these groups are relegated back to the same oppressive private market that is thought to be the most “efficient” place to fulfill their needs after the disaster (Silva 2016). Naomi Klein (2010) described this phenomenon as disaster capitalism, wherein beneficiaries of neoliberal marketization exploit the fear and disorientation generated by unexpected crises to further advocate for their agenda. These strategies are not surprising given the private prison companies’ financial interests and pre-COVID narratives, but they nonetheless provide insight into how, without directly vilifying or criminalizing migrants, the companies implicate immigrant detainees as the “Other,” whose well-being is of little concern.

5.3. Smoke and Mirrors and Moral Panics: ICE

In contrast to both the ACLU and the private prison industry, ICE attempted to take advantage of the pandemic by creating an alternative reality that not only excused itself from its responsibilities in worsening the pandemic through immigration detention but also reinforced its role as enforcer and protector of law and order. Although it maintained its self-characterization as a law-and-order agency, the agency manufactured a moral panic (Cohen 2011; Flores-Yeffal et al. 2019) to change its, and thus America’s, enemy from “illegal” immigrant to foreign contraband. Nonetheless, this new focus continued to criminalize and dehumanize immigrants as threats, classifying them as invisible criminal others who do not matter and racializing them without resorting to explicit racial language. Indeed, in the pandemic era, ICE characterized itself less as an “immigration” agency that manages enforcement and more as a “customs” agency that protects Americans from COVID-related fraud. By making this change, ICE deflected attention away from the increased risk of the virus among detained individuals and surrounding communities. This narrative instantiated white ignorance, expressed apathy towards immigrants, and demonstrated remarkable irresponsibility and cruelty towards those negatively impacted by the pandemic.

Instead of rationalizing immigration detention through characterizing migrants as diseased, ICE practically ceased discussion of immigration detention altogether. It is not surprising that ICE failed to acknowledge its role in spreading the virus, but what is surprising is how little attention ICE paid to the effects of the pandemic on people affected by its practices. Differences in uses of the pandemic aside, industry stakeholders, including private prison companies and ICE, stand together in their rare responses to criticisms of their practices and their silence about their role in exacerbating the negative effects of the

pandemic. Again, these patterns reinforce white ignorance, in that they were indifferent towards migrants in detention and seemingly oblivious about the effects of the virus in detention and their role in spreading the virus within detention facilities and beyond. In its news releases, ICE seldom talked about the virus in detention facilities, as was the case with GEO Group and to a lesser extent CoreCivic. This silence is conspicuous.

The quietness of the industry is particularly evident when we examined calls from public health experts and news media coverage of the pandemic in these months. Our supplementary sample of *New York Times* (NYT) coverage of COVID-19 and the industry (see page 11) illustrated the peculiarity of ICE's and private prison companies' inaction and lack of attention paid to the pandemic within their facilities. In articles published from 12 March to 30 April 2020 that mentioned the industry and COVID-19, nearly all (30 out of 32) reported on problems and criticisms of (mostly) ICE's actions/efforts in heightening the negative effects of the pandemic in terms of detainment, enforcement, and deportation. For example, an 18 March article on the pandemic reported problems with ICE's inactions:

Many ICE detainees say they feel like sitting ducks who will inevitably be infected. "The officials here have not said anything to us about what is happening outside, or any extra precautions that we should take," said a 40-year-old man from the Congo who is detained in a Karnes City, Texas, facility. (NYT Staff 2020b)

Another article reported on ICE's practice of continuing arrests in places with growing numbers of COVID-19 cases, noting that:

One agency whose operations did not appear to have been affected by the outbreak was the U.S. Immigration and Customs Enforcement, or ICE, whose agents have continued to arrest immigrants around New York City over the past 10 days . . . alarming advocates and lawyers who believe they could endanger vulnerable people who are already in custody. (NYT Staff 2020a)

The NYT articles discussed the role of the industry in amplifying the pandemic, the increased risk of the virus in detention, and the increased risk of spreading the virus in deportation efforts. In the face of similar messages, some governments, such as that of Spain, decided to close down immigration detention (Brandariz and Fernández-Bessa 2021). ICE, on the other hand, carried on and discussed contraband.

6. Conclusions

We argue that the narratives concerning immigration detention in the U.S. during the pandemic crisis represent a form of racial apathy in that they play upon deeply embedded broader discourses that racialize migrants as either threatening or vulnerable, all the while assuming the legal and economic systems through which they are racial and exploited as racially innocent (Murakawa and Beckett 2010). In the context of the pandemic and of the broader movements that have effectively highlighted racial oppression and challenged the foundation of the criminal justice system, the doggedness of industry stakeholders in remaining apathetic and their resistance against acknowledging reality also reinforces white ignorance.

The implications and significance of our findings should be understood within the history of the U.S. immigration system and its deep connections to racial formation in this country. Prior studies have established that race and racism are both the basis and products of immigration management in the U.S., an institution initially designed with the explicit goal to maintain white supremacy, which it continues to do so albeit more subtly (for a review, see Sáenz and Douglas 2015). As such, it not only constitutes the ideological boundaries of racial categories but also has material implications for which races can be physically present on U.S. soil and the consequences of this presence (Lopez 2006). Therefore, the complete absence of a racial perspective from all three groups is curious and significant in understanding the contemporary ideological terrain of immigration politics. This absence or amnesia needs to be situated in the context of post-Civil Rights color blindness. Since the Civil Rights movement, as explicit racism became publicly less

acceptable, “crime” and “law and order” emerged as racially coded language, adopted by many politicians in order to appeal to white voters (Campbell and Schoenfeld 2013). White racial backlash against civil disobedience during the Civil Rights movement and the war on drugs are prime examples of this tactic (Beckett 1997; Weaver 2007). The consequence of this shift is the expansion of racialized social control in the form of hyper-policing and mass incarceration of people of color, which increasingly includes migrants, and the contraction of language we can use to talk about racism (Murakawa and Beckett 2010). Critical race theorists and sociologists have named this contradiction “racism without racists” or color-blind racism (Bonilla-Silva 2017; Lopez 2006).

ICE’s story surrounding its “Operation Stolen Promise” appears to be an extension of the racist “law and order” tactic wherein Latinx migrants are increasingly criminalized (e.g., see Armenta 2017). In contrast, the frames used by the private companies reveal another key aspect of immigration control in contemporary U.S.—its neoliberal transformation (Silva 2016). The “racial neutrality” in their story appears to stem not from the legal system but from the market. The divergence between ICE and the private prison companies in their presentation of the pandemic might lead one to think that their logics are parallel alternatives. Yet, considering how closely they must work with one another to enable immigration detention, we should see these stories as complementary and as a clear illustration of how, under a neoliberal paradigm, governmentality becomes infused with market logic (Peters 2006). Therefore, the campaign for “law and order” is not only a racial project but also a capitalist enterprise, constituting the contemporary chapter of the long history of interdependence between capitalism and racism (Alexander 2012). In short, through examining how racial apathy and white ignorance manifest in frames around immigration detention during a pandemic, our research threaded together the two pillars of racialized immigration enforcement—white supremacy and capitalism—and exemplified how violence against migrants is tolerated, justified, and normalized in these intersecting systems of oppression.

Although our results imply that the pandemic did not lead to significant cracks in the system, the cracks may yet arrive and cracks may exist in other arenas. The ACLU did not meaningfully change in response to the pandemic in terms of its arguments concerning immigration detention, at least during our study’s time frame. Although the organization has not yet recommended (that we are aware of) abolishing ICE, ending immigration detention, or closing the more than 200 ICE facilities nationwide, in an April 2021 press release, it recommended the closure of 39 ICE detention facilities (ACLU Staff 2021a). ACLU reiterated and expanded upon this press release in a May 2021 report, recommending that the DHS “close detention facilities located in remote areas, opened without clear justification, and those with established records of abuse” and replace them with “community-based case management,” run by nonprofit organizations (ACLU Staff 2021b). Additionally, in 2021, ACLU called for transformative change in other arenas, and it linked racism and immigration detention. Through avenues outside of press releases and blogs, the ACLU publicized its support for reparations and for abolishing the police (ACLU Staff 2021c; Fernandez 2021), and it connected ICE and law enforcement in documents other than press releases (Mukpo 2020). Future research could analyze if ACLU continues to recommend more radical change and to target structural racism as the root cause of the violations of immigrant rights.

We chose to focus on the ACLU as a major critic of immigration detention practices due to the organization’s large scale of coverage of such practices and the frequency with which media outlets reference the organization. Yet ACLU’s politics are also limited by these characteristics: It is outwardly opposed to detention practices that violate immigrants’ rights, not the practice of immigration detention itself. While this might be a strategic choice not fully reflective of the intentions of the actors within the organization, it is nonetheless the outward facade of the organization and it contributes to public discourses about migrants and immigration control. Other organizations and movements grounded in intellectual traditions that are more explicit in their systemic critique of the root causes of migration

and migrant suffering exist. For example, the Detention Watch Network has published several reports explicitly calling for the abolishment of the U.S. immigrant detention system, many of which have recently connected this call for action to the pandemic by pointing to the inhumane and unsafe treatment migrants have experienced in detention during the pandemic. Likewise, the Occupy ICE protest movement, which began in Portland, Oregon, in 2018, placed the dissolution of ICE at the forefront of their demands. The initial protest in Portland generated similar “occupations” of immigrant detention centers across the nation. A systematic, longitudinal examination of more radical organizations and collective action was beyond the scope of the current investigation, but it is, nonetheless, important and worthy of study. As we have witnessed in recent years, at least some ideas from radical movements are being introduced to mainstream audiences. A glimpse of this change can indeed be found in the ACLU’s response to policing and reparations. A study of this process could very well demonstrate that the pandemic and additional contextual factors loosened the foundation of immigration control as well.

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Notes

- ¹ We periodically use the term “facility” to describe places migrants and non-migrants are imprisoned. We understand that this term conceals the severity of these places where people are held against their will, but we use it because it is commonly used in our data.
- ² An examination of the immigrant population in the U.S. reveals that immigrant detention is highly racialized and gendered (which is also reflective of the classed, racialized, and gendered processes of border crossing, legality, and authorization, to name a few). Although ICE does not report racial and ethnic characteristics of the people it detains, we can see from these numbers that foreign-born individuals who are most likely racialized as white (i.e., people born in Europe and living in the U.S.) are vastly underrepresented in immigration lockup. Of the 41,268 individuals in immigration detention in March 2018, 85.2% were reported as men and 28.5% were born in Mexico, 41% in Central America, and approximately 1% in Europe ([TRAC Immigration 2019](#)). However, of the 44,760,622 foreign-born individuals in the U.S. in 2018, 48.2% were reported as men, and 25% were born in Mexico, 8% in Central America, and 10.8% in Europe ([Budiman et al. 2020](#)).
- ³ Available upon request.
- ⁴ We did not include Management and Training Corporation (MTC) in our study because it is a privately held prison contractor and, consequently, does not publicize much of its business operations.
- ⁵ 12 March 2020 emerged from our data as the start date for the recognition of the pandemic, as the first reference to COVID-19 from ACLU and CoreCivic appeared on this date. ICE initially issued COVID-19 guidance on 14 March and GEO Group released its first press release about the virus on 30 April.
- ⁶ Using Nexus Uni to search for *New York Times* articles released between 12 March 2020 and 30 April 2020 with the keywords (“COVID” OR “coronavirus”) and (“Immigration and Customs Enforcement” OR “CoreCivic” OR “GEO Group”), we found 32 eligible articles (35 total returns, with three repeat articles). See the previous footnote for the rationale of the 12 March start date. The end date of 30 April 2020 was somewhat arbitrary; in order to contextualize the emergent patterns, we wanted a snapshot of data to compare coverage and, therefore, we did not need to examine the remainder of the year.

⁷ Here, we discuss a few irregularities and discrepancies in these data. Although these five news releases were comparable to the pandemic-era discussion of COVID-19 contraband, a total of 28 out of the 175 news releases were customs-related in that they discussed some form of contraband, but they primarily discussed drug-related offenses of groups or individuals. Furthermore, we initially collected these 175 news releases in October 2020; in May 2021, however, ICE's website included only 170 news releases in this same time period.

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