

1 Federal Respondents note, however, that the U.S. Department of Homeland Security
2 (“DHS”) has broad authority under 8 U.S.C. § 1231(g) to determine the placement and transfer of
3 detainees to appropriate detention facilities. Section 1231(g) explicitly authorizes DHS to arrange for
4 appropriate places of detention for individuals detained pending removal or a decision on removal.
5 *See also* 2011 U.S. Immigration and Customs Enforcement, Performance-Based National Detention
6 Standards 2011 (rev. 2016), [https://www.ice.gov/doclib/detention-](https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf)
7 [standards/2011/pbnds2011r2016.pdf](https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf). This includes the authority to acquire, build, lease, and operate
8 detention facilities to meet operational needs. Placement and transfer decisions are made based on
9 operational priorities, including proximity to immigration courts, facility capacity, security needs,
10 medical care, and the ability to meet detention standards. For example, detainees may be placed in
11 facilities near immigration courts to ensure efficient processing and participation in removal
12 proceedings. Transfers occur when detainees need to be relocated to other facilities due to medical
13 care, overcrowding, operational necessity, or security concerns.

14 The Ninth Circuit’s decision in *GEO Group v. Newsom*, 50 F.4th 745 (9th Cir. 2022), further
15 reinforces DHS/ICE’s authority over detention and transfers. In *Geo Group*, the court held that
16 California’s AB 32, which banned private detention facilities, was preempted by federal law. The
17 court emphasized that federal immigration law grants DHS/ICE’s exclusive authority to manage
18 detention operations, including the ability to contract with private entities and determine appropriate
19 detention locations.

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Accordingly, Federal Respondents ask the Court to deny the motion and defer to ICE’s discretion when determining the placement of immigration detainees.

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Respectfully submitted,

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I certify that this memorandum contains 322 words, in compliance with the Local Civil Rules.