

## PROLOGUE

### Detention Is Eugenics

I first whispered the words “detention is eugenics” in the fall of 2020. In the United States, stories about immigration detention had exploded in news media. Many were outraged by the detention of children and families and the policy of separating parents from children. Yet another example of reproductive injustice took place at Irwin County Detention Center in the US state of Georgia. According to testimony collected by Project South, detained people had undergone unnecessary surgeries at the direction of a private doctor contracted to provide gynecological health care.<sup>1</sup> The sterilizations brought renewed attention to the history of state-sponsored eugenics in the United States.

While horrified by the sterilizations, I was equally disturbed by what happened to the survivors after their surgeries and after public attention to their plight diminished; many were deported out of the United States while others remained in detention for indefinite periods of time, fighting against deportation. The detention and deportation machine is just one of the ways that asylum seekers and criminalized undocumented people face structural violence in the United States every day. Migrant detention centers are sites of pervasive medical neglect, under conditions that cause injury, illness, mental crises, and exposure to contagious diseases.<sup>2</sup> Incarcerated people are more likely to have untreated underlying health conditions and to experience accelerated aging that leads to weaker immune systems.<sup>3</sup> These

experiences have long-term effects on reproduction opportunities and parental relationships and also lead to premature death. Some detained people are fighting deportation to places where they have never lived as adults or where they have fled violence, economic insecurity, or climate chaos. At worst, deportation can mean a death sentence for some migrants, and at best it is a massive disruption to partnerships, parent-child relationships, and other forms of life-giving care. Even without surgeries that cause sterilization, detention curtails reproductive autonomy by impacting migrants' ability to parent when, where, and how they choose, as well as disrupting other life-giving-care relationships. Detention in privately run facilities contracted by the US office of Immigration and Customs Enforcement (ICE) is one of the primary ways that the government is involved in the reproductive control of migrants. My realization that reproductive injustice continues even if sterilization surgeries are halted helped me discern the core argument of this book: that detention itself is eugenics. By this I mean that incarceration, in all its forms, continues to function as eugenics, just as policies of institutionalization did in the early twentieth century.

Just months prior to the start of the pandemic, I moved to occupied Kumeyaay territory of the US-Mexico borderlands, also known as the San Diego-Tijuana metro region. Seeking to get involved in prisoner solidarity work as I had done in Northern California, I joined a grassroots organization that wrote letters to people confined in Otay Mesa Detention Center (OMDC) about twenty-five miles southeast of the city of San Diego. I learned that OMDC is run by a private corporation called CoreCivic that contracts with two agencies of the US federal government—ICE and the US Marshals Service—to detain a variety of people, including those seeking asylum; long-term residents of the United States undergoing deportation proceedings; and immigrants with a variety of statuses who are facing federal criminal charges, including but not limited to unauthorized reentry into the United States.

I also learned that facilities like OMDC are relatively new forms of state confinement in the United States. They were first invented in the 1980s to detain migrants from Haiti, Cuba, and Central America, and by 1994 immigrant detention centers in the United States held approximately 6,700 people per day.<sup>4</sup> However, it was two pieces of federal legislation passed in 1996—the Anti-Effective Death Penalty Act and the Illegal Immigration Reform and Immigrant Responsibility Act—that dramatically expanded the categories for which detention of an immigrant was mandatory. These policies incentivized private detention companies like

Corrections Corporation of America to expand from the criminal legal system into contracts to detain criminalized migrants. The company has operated a private detention center in the San Diego border region almost continuously since 1997. By 2019, Corrections Corporation of America had become CoreCivic, and the OMDC facility was part of the national detention of more than fifty thousand people daily by ICE.

The current five-year contract to operate OMDC was signed in 2019 in a midnight deal, an attempt to outrun a California state law outlawing private prisons (since overturned by courts). The contract ensures that a minimum of six hundred beds will be paid to CoreCivic by the federal government at least through 2024 (and potentially ten years beyond that), and for every person detained in excess of six hundred, CoreCivic earns \$138.29 per day.<sup>5</sup> Such contracts create an incentive for the two migrant policing agencies (ICE and US Border Patrol) to detain asylum seekers and to aggressively enforce laws against undocumented immigrants. ICE paid CoreCivic \$54 million for the fiscal year of 2019 at OMDC alone.<sup>6</sup>

Otay Mesa Detention Center is one of only a handful of facilities in the nation that also holds prisoners of the US Marshals Service, a shadowy federal law enforcement agency that contracts with county, state, and federal agencies to detain prisoners. As local organizers in San Diego, we know very little about this contract. Language appearing in the 2019 ICE contract with CoreCivic indicates that at OMDC, “a minimum of 596 beds will be available to the US Marshals. Of these 96 will be designed for females.” What we have heard from individuals being held in US Marshals’ custody is that they face a variety of immigration-related charges, including illegal reentry into the United States following a prior deportation.

The stakes of theorizing detention as a form of ongoing state-sponsored eugenics are made clear through an examination of the impact of the COVID-19 pandemic on people in migrant detention. The novel coronavirus had deadly consequences for people in congregate living settings such as nursing homes, and nowhere was this more acute than in carceral settings such as jails, prisons, detention centers, and state hospitals. I had only been writing to people detained at OMDC for a few weeks when the state of California shut down all but essential services to stop the spread of the novel coronavirus. We scrambled to move our letter-writing operations virtually and tried not to panic. From my years of human rights monitoring in Northern California prisons and researching this book, I had witnessed rampant medical neglect, medical abuse, and exposure to premature aging and death inside of institutions. I worried that the disease that came to be

known as COVID-19 would kill many loved ones and comrades who were locked up. Indeed, as of July 2023, the COVID Prison Project estimates that 2,933 incarcerated people in the United States have died from complications related to the novel coronavirus.<sup>7</sup> This includes people in state custody, Federal Bureau of Prisons custody, and eleven people in the custody of ICE. This number does not include people confined to other forced congregate living settings; for example, seventy-eight people died while testing positive for COVID-19 in California state hospitals by July 2023.<sup>8</sup>

The first person to die in ICE custody due to COVID-19 on May 6, 2020, was a fifty-seven-year-old man named Carlos Ernesto Escobar Mejia. Escobar Mejia lived in the United States in the Los Angeles area for forty years, having fled the brutal war in El Salvador in 1980 with his sisters.<sup>9</sup> He was unfortunately the only member of his family who never received legal status in the United States. Escobar Mejia was detained in Los Angeles in January 2020 and sent to OMDC to await deportation proceedings back to a country that he had not lived in his entire adult life. On March 22, the organization that I volunteered with received a letter regarding the ill health of Escobar Mejia from another person in the same housing unit. The letter pleaded with us to add Carlos to the list of people for whom local advocates were working to gain humanitarian release on the grounds that they were medically vulnerable to COVID-19. Under pressure, ICE officials conducted two reviews of medically vulnerable detainees in late March and early April and from that review knew that Escobar Mejia had underlying health conditions, including hypertension and diabetes, that put him at risk of severe COVID-19. In addition to these chronic illnesses, Escobar Mejia was also disabled in another way: he had recently undergone a surgery to remove his right foot and used a wheelchair the entire length of his detention. A judge ruled against Escobar Mejia's release on April 15, 2020, citing an arrest that occurred in the 1990s, which, according to the judge's interpretation, made Escobar Mejia a safety risk. At the time, OMDC had the highest number of confirmed cases of COVID-19 within an ICE-contracted facility in the nation—and the official number was probably a vast undercount given the shortage of testing kits at the time and practices of only testing the most seriously ill. It was probably inevitable that Escobar Mejia, stuck inside OMDC, would contract COVID-19. He was hospitalized on April 24, placed on a ventilator three days later, and, like many others, died alone in a hospital during the early stages of the novel coronavirus pandemic.

Escobar Mejia's death was not surprising given the history of medical neglect in detention centers nationwide, but it was still a shock. Even more

so because the same week that we learned of Escobar Mejia's death, a lawsuit filed by the American Civil Liberties Union of San Diego and Imperial Counties was successful in forcing ICE to release ninety-one medically vulnerable people from OMDC. Advocates scrambled to provide post-release support in the form of transportation, food, cell phones, and clean clothes.

Meanwhile, we continued to be alarmed about our *compas* who were still inside.<sup>10</sup> On May 11, 2020, I summarized what we were hearing from detained people, including:

- a lack of adequate cleaning supplies (not just hand soap was needed but also disinfectant to spray down surfaces);
- a lack of access to adequate masks and gloves (two masks per month, three gloves shared among a pod);
- that CoreCivic predicated access to masks and gloves on a signature on a form intended to release CoreCivic from liability of detainees getting sick, and the form was written in English only;
- retaliation for refusal to sign release-of-liability forms (April 10) and for making masks from T-shirts (ICE disputed use of pepper spray on detainees for making masks but confirmed removing women who refused to sign the liability form from a pod);
- movement of people within the facility, among pods, without testing or quarantining;
- testing limited to those with only the most severe symptoms (i.e., fever over 104 degrees); and
- inadequate quarantining of people who tested positive for COVID-19 (awaiting test results while still in the pod; returning to their pod after only seven days).

These refusals to protect detained migrants from the virus were later substantiated in multiple reports from local and national organizations.<sup>11</sup>

The unnecessary exposure of people in migrant detention to a highly contagious and deadly respiratory virus is only the latest manifestation of a long-standing practice of what I name in this book as carceral eugenics. During the COVID-19 pandemic, the ways that detention disables migrants and exposes them to premature death became apparent. However, there does not need to be a pandemic for migrant detention centers to

function as eugenics. Detention is part of a longer history of state confinement functioning to diminish the life opportunities of populations deemed undesirable. State confinement limits bodily autonomy, cuts people off from parental and other life-affirming relationships, and risks their early death. In this book I historicize the function of detention as a form of state-sponsored eugenics by telling the story of state hospitals, institutions for disability confinement, and reformatories in early twentieth-century California. This history shows that the deadly effects of migrant detention in the twenty-first century are not new problems or the aberration of a xenophobic US presidency. Instead, migrant detention continues a more than one-hundred-year legacy of carceral eugenics.