



**Statement on Mandating the Use of Immigration Detention Beds**  
**Hearing before the House of Representatives Appropriations Committee**  
**March 14, 2013**

Americans for Immigrant Justice and the Women's Refugee Commission welcome the House Appropriations Committee's oversight hearing on Immigration Enforcement. The Committee's consideration of the implications of the recent decision by the Immigration and Customs Enforcement agency (ICE) to release hundreds of low-risk immigrant detainees as a pre-sequester, cost savings measure is well-timed. Given the fiscal crisis now facing the United States, it is prudent to examine whether a Congressional mandate to the Department of Homeland Security (DHS) to fill an explicit number of immigration detention beds on a daily basis is appropriate. In addition to the opportunity to implement a more fiscally sound detention policy increasing the use of cost effective and efficient alternatives, this is an historic opportunity for Congress to realign the immigration detention system with our national values of treating all humans with dignity and respect.

*The Immigration Detention System: Quick Facts and Figures*

ICE is located within DHS and operates the nation's immigration detention system. In Fiscal Year 2012, the average daily population in ICE facilities was 34,000 with an average cost of \$166 per person per day.<sup>1</sup> In Fiscal Year 2010, 392,000 individuals were held in an ICE facility.<sup>2</sup>

ICE holds immigrant detainees in three different types of facilities. ICE contracts with a network of 250 state and local jails as well as seven Contract Detention Facilities (CDF). The CDFs are owned and operated by private companies under exclusive contract with ICE while the state and local jails or Intergovernmental Service Agreement Facilities house federal immigration detainees alongside their criminal inmate populations under intergovernmental Service Agreements with ICE. The private prison companies with the majority of all contracts with ICE are Corrections Corporation of America (CCA) and GEO group. In addition, ICE uses six Service Processing Centers which are federally-owned facilities that are operated by ICE staff and/or contractors and which house about 13 percent of ICE detainee population.<sup>3</sup>

---

<sup>1</sup> <http://news.yahoo.com/immigrants-prove-big-business-prison-companies-084353195.html> ("The total average nightly cost to taxpayers to detain an illegal immigrant, including health care and guards' salaries, is about \$166, ICE confirmed ....")

<sup>2</sup> National Immigration Forum, *The Math of Immigration Detention* 3 (Aug. 2011), <http://www.immigrationforum.org/images/uploads/MathofImmigrationDetention.pdf>.

<sup>3</sup> <http://www.ice.gov/news/library/factsheets/detention-mgmt.htm>

### *Who is Detained by ICE?*

Non-citizens enter ICE custody in a number of ways. If they arrive at a port of entry at the border of the United States without proper documentation (such as a valid visa) and express a fear of returning to their home country will be detained pending further legal proceedings. They may be may be apprehended during enforcement sweeps conducted by DHS at their homes or workplaces. Finally, a large segment of the detainee population enters the detention system directly from state or federal criminal custody. This referral from criminal custody to immigration detention is done using “detainers.”

While certain immigrants with criminal convictions are subject to mandatory detention, most are eligible for release if they can demonstrate to ICE officials or an Immigration Judge that they are not a flight risk or a danger to the community. Despite fears and concerns over the release of hundreds of immigrants from detention in advance of the sequester, the truth is that most immigrant detainees have no criminal convictions. Indeed, 77 per cent of the individuals detained by ICE through the detainer process have no criminal conviction.<sup>4</sup> The outrage and fear that individuals have expressed at these releases should be targeted at the government officials who have needlessly spent millions of dollars a year to hold hundreds of thousands of non-criminals when less costly alternatives to detention and alternative forms of detention exist.

### *Broward Transitional Center: A Case Example*

These detentions include several current women who were assisted by Americans for Immigrant Justice. One example is Carmen<sup>5</sup> who fled to the United States seeking safety from an abusive domestic partner and another assailant who nearly killed her with a machete. Apprehended at the border in Texas in 2012, she was detained at the Broward Transitional Center (BTC) in Pompano Beach, Florida and placed in removal proceedings where she applied for asylum. As she began to display symptoms of post-traumatic stress disorder and depression, BTC medical staff identified her as a victim of domestic violence and made arrangements for Carmen to seek therapy at a local domestic violence shelter.

After Carmen had been detained for more than six months, AI Justice requested her release, providing documentation to her deportation officer that Carmen had family members in the United States who were able and willing to support Carmen throughout the pendency of her asylum case. Both Carmen and her attorney were told by ICE that detainees are not released while their cases are on appeal and so Carmen continued to languish in detention. Carmen was finally released in late February with no explanation. In total, Carmen had been detained for 9 months. At this point, ICE had paid an average of \$124-\$164 per day to GEO Corporation, which has an ICE contract at BTC, to detain Carmen. Thus, taxpayers paid approximately \$30,000 to detain, not a criminal, but an asylum seeker and a domestic violence and torture survivor.

While critics may argue that the failure to release Carmen is a rarity in a larger, well-functioning system, this is not the case. Of the women who contacted AI Justice following their release from BTC in late February, only one had a criminal conviction: for driving

---

<sup>4</sup> <http://trac.syr.edu/immigration/reports/310/>

<sup>5</sup> The client's name was changed to protect her privacy.

without a license. Eight out of 9 had passed a reasonable fear interview, credible fear interview or applied for a U-visa. The ninth woman was a non-criminal, failed asylum-seeker from Haiti who was not subject to removal to Haiti under current Administration policies. While the time spent at BTC ranged from 1 – 5 months, none of these women came directly to BTC. Most were held at detention facilities along the border and transferred at least once before arriving at BTC. These women include:

- Marilu first came to the U.S. about 10 years ago where she met Andres who promised to help her regularize her status. Instead, Andres took her documents, threatened to have her deported and began to rape and beat her regularly. Years after the birth of their son, she escaped from Andres, living with her son and trying to start a new life. She was apprehended for driving without a license, put into removal proceedings and removed to her home country. She was forced to leave her son, Juan, behind in the care of a friend. Back in her country, Marilu worked hard with the hope of bring back Juan when her family began to be threatened by gang members. Fearing for her life, Marilu fled to the U.S. She was transferred to BTC where she expressed a fear of return to her country. Marilu passed her Reasonable Fear interview with an asylum officer. After almost 5 months of detention, she was released and placed on an order of supervision. She is currently in withholding only proceedings and is reunited with her 8-year-old son.
- Maria who fled her home country leaving her three minor children behind to escape her abusive husband. She passed her Reasonable Fear interview with an asylum officer. She was released after almost 5 months in detention. She is currently in withholding only proceedings.

#### *Alternative Forms of Detention and Alternatives To Detention*

There are other options for individuals like Carmen, Maria and Marilu who were each held for over 5 months in a penal detention environment. Alternatives forms of detention and alternatives to detention (ATD) have been consistently proven to ensure that individuals in immigration proceedings appear for hearings and deportation. There are many forms of alternatives including releasing people to a responsible sponsor or family member, with information on when they need to appear before a court (like many pre-trial programs do in our criminal justice system across the country), requiring periodic check-ins with a detention officer or case worker or something more restrictive like house arrest or GPS programs for those who may present a higher risk of flight. Additionally, community support programs are in their early implementation stages for immigration detainees, but have long been used for criminal and delinquent detainees.

ICE runs three ATD programs: Intensive Supervision Appearance Program (ISAP) which employs contractors who monitor participating immigrants using: telephonic reporting, radio frequency, global positioning system, and unannounced home visits; Enhanced Supervision/Reporting (ESR) a contractor-operated program that uses the same monitoring methods as ISAP and Electronic Monitoring (EM) which is operated by ICE and is available to

immigrants residing in locations not covered by the ISAP or ESR contracts. EM monitors immigrants using telephonic reporting, radio frequency and global positioning technologies. Expert studies consistently find ATD yield high compliance rates and are therefore an effective solution to the costs of detention without sacrificing compliance. In FY 2010 the government's ATD programs yielded a 93.8 percent appearance rate for immigration hearings, which exceeded the target rate by 35.8 percent. In 2009, ICE reported appearance rates of 87 percent for ISAP participants, 96 percent for ESR participants, and 93 percent for EM participants.<sup>6</sup>

Carmen reports that when she was released from BTC, she was fitted with an ankle monitoring device through the ISAP office in Miami. Carmen then traveled out of state to live with her family members who have been waiting to assist and support her for months. When Carmen reported to ISAP in that state they removed the ankle monitoring device and ISAP is continuing to monitor her via regular home visits and telephonic reporting.

The average cost of alternatives can vary from 17¢ a day to \$44 a day depending on the level of restriction or services provided.<sup>7</sup> At best, this represents a savings of from \$80 to \$163.83 per person per day over incarceration in immigration detention facilities.

### *Conclusion*

Now is the time to truly embrace alternatives to detention that allow us to implement rule of law more efficiently, for less money and more humanely than outdated and expensive methods of imprisonment. It is an opportunity to benefit from American ingenuity and enter a new age. Some members of Congress have argued that releasing detainees was not necessary as ICE has a surplus in its budget. This is not good fiscal policy. If ICE is able to fulfill its mandate to detain only those individuals who face mandatory detention, pose a flight risk or pose a danger to the community with less money than it has been authorized to spend, the money should be returned and used for other purposes to reduce the federal deficit.

Congress needs to be held accountable for directing the unnecessary detention of thousands of people at great expense to taxpayers and our communities. The costs of immigration detention go further than the direct cost of paying for prison beds. The use of a penal, prison-based system to detain asylum-seekers, parents, business owners and homeowners has a devastating effect on our communities and economy. We can no longer afford these social, fiscal and civil liberty costs. Instead we should be investing in evidence-based alternatives to detention and alternative forms of detention that allow people to remain with their families and continue to contribute to their communities throughout their immigration proceedings.

---

<sup>6</sup> [www.ice.gov/pi/news/factsheets/alternativestodetention.html](http://www.ice.gov/pi/news/factsheets/alternativestodetention.html)

<sup>7</sup>