



A Better Way

**Community-Based Programming
as an Alternative to Immigrant Incarceration**

**NATIONAL
IMMIGRANT
JUSTICE CENTER**
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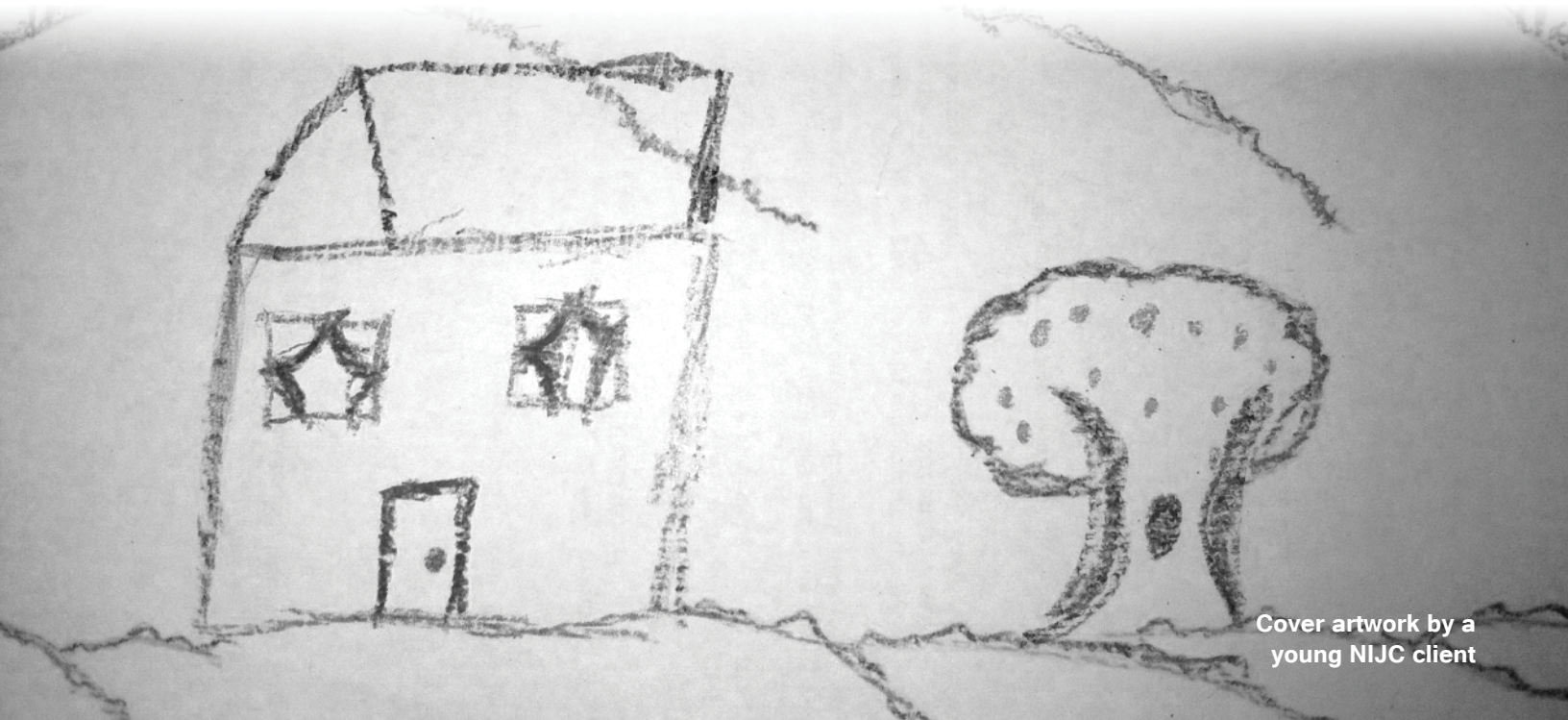
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How should the United States treat asylum seekers and immigrants who seek safety and stability in our communities? The question implicates legal, ethical, moral, and economic considerations. The United States government has answered with wasteful policies rooted in cruelty and at odds with evidence-based analyses of migration management.

There is a better way.



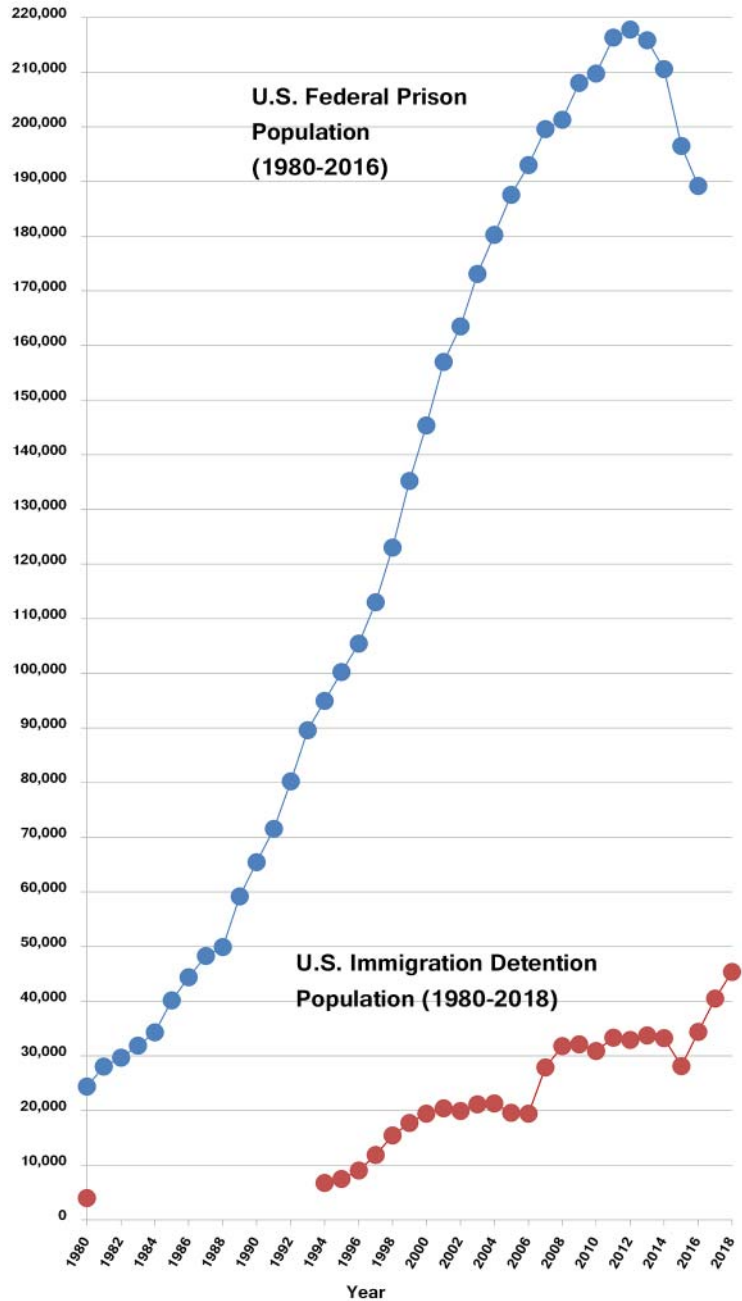
Cover artwork by a
young NIJC client

Human rights norms and international law demand that immigrants benefit from a presumption of liberty during case adjudication. The use of immigration detention has been repeatedly proven inefficient, ineffective, and at odds with human welfare and dignity. Throughout the world, governments and non-governmental organizations are operating a growing variety of alternatives to detention. Evidence-based studies consistently prove **community-based programs** to be safer than a detention-based approach, vastly less expensive, and far more effective at ensuring compliance with government-imposed requirements. Most importantly, community-based alternatives offer a framework for refugee and migrant processing that is welcoming and allows families and communities to remain together.¹

Instead of pursuing alternatives, the United States has dramatically expanded its reliance on immigration detention in recent decades. Prior to the 1980s, the United States government rarely jailed individuals for alleged violations of the civil immigration code.² This changed in the late 1980s, and the use of detention increased significantly after the government authorized the indefinite detention of Haitian asylum seekers at Guantanamo Bay in 1991, claiming a need to control the movement of arriving refugees and migrants.³ Using many of the same structures that were fueling mass incarceration of communities of color across America, the United States started locking up immigrants at unprecedented levels.⁴

The immigration detention system quickly metastasized, fueled by profit and fear. Today it is a sprawling network of wasteful prisons operated by for-profit companies, county jails, and a small number of processing centers owned by Immigration and Customs Enforcement (ICE) that are interchangeable from jails in structure and practice.⁵ The number of individuals locked in immigration detention skyrocketed from an average of 7,000 per day in 1994 to more than 50,000 in 2019.⁶ The Trump administration is demanding even more funds to open more immigrant jails and expand those already in operation, beyond spending levels approved by Congress.⁷

Human rights violations are rampant throughout United States immigration jails (*see Appendix*). Those who leave the system carry psychological and physical scars. Asylum seekers and immigrants should be welcomed to the United States, not greeted by a jail cell. A transformative approach to migration management, developed in reliance on evidence-based analysis and comparative models, could support immigrants and their families in a manner that invests in all communities.



The National Immigrant Justice Center calls for an end to the use of immigration detention in the United States and the adoption of programming that reflects the following best practices:

- 1. community-based and community-supported**
- 2. operated exclusively by nonprofit organizations, using a case management model**
- 3. imposes the least onerous obligations possible on participants, without using ankle shackles or other GPS tracking devices**
- 4. commits to the development of trust between nonprofit operators and participants, including assurances that nonprofit operators will not be beholden to the government for compliance monitoring**

Furthermore, as long as the United States government continues to use immigration detention, “Alternatives to Detention” (ATD) programming must be utilized as a tool to reduce the number of immigrants who are incarcerated, not as a mechanism to increase the number of immigrants under government control.

This report is written in three parts. The first part provides a brief overview of domestic and international law regarding the use of immigration detention and an introduction to community-based programming as a humane, cost-efficient and effective alternative. The second part highlights three examples of alternative community-based models operating in Chicago, Sweden, and Canada. The third part contrasts these models with the ATD programs currently in operation under ICE’s management, which run largely at odds with accepted best practices. An appendix following the report’s conclusion provides a bibliography of existing resources documenting the persistent rights abuses, waste, and corruption within ICE’s immigration detention system.



Homes in Chicago’s Pilsen neighborhood

Adam Jones/Creative Commons

I. Best Practices for Community-Based Programs

A presumption of liberty for asylum seekers and immigrants should be foundational for any nation endeavoring to respect basic human rights. The sacred rights to liberty and protections against arbitrary arrest and detention are embedded in foundational domestic and international human rights instruments, including the United States Constitution, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.⁸ The United Nations High Commissioner for Refugees (UNHCR) prescribes that immigration detention “should normally be avoided and be a measure of last resort.”⁹

The UNHCR has released guidelines instructing governments that utilize immigration detention to urgently consider alternatives, stating:

*There are various ways for governments to address irregular migration – other than through detention – that take due account of the concerns of governments as well as the particular circumstances of the individual concerned. In fact, there is no evidence that detention has any deterrent effect on irregular migration. Regardless of any such effect, detention policies aimed at deterrence are generally unlawful under international human rights law as they are not based on an individual assessment as to the necessity to detain. Apart from ensuring compliance with human rights standards, governments are encouraged to review their detention policies and practices in light of the latest research in relation to alternatives to detention.*¹⁰

The international community’s embrace of alternatives to detention is rooted in the protection of human rights and based on a body of evidence finding that alternatives to detention when properly implemented are effective at ensuring compliance and vastly less expensive than detention.¹¹ Numerous studies of dozens of alternatives-to-detention programs around the world have found community-based programming to maintain average compliance rates of 90 percent or higher,¹² while costing up to 80 percent less than detention.¹³

In 2015, a collaborative of more than 400 civil society organizations known as the International Detention Coalition (IDC) completed a wide-ranging analysis of more than 250 examples of alternative programming in 60 different countries.¹⁴ In the resulting report, *There Are Alternatives*, the IDC found that successful models engage individuals in the immigration process through informative and community-supported programming, contributing to “positive compliance, case resolution, cost, and health and wellbeing outcomes.”¹⁵ The IDC’s findings echoed those of a 2011 UNHCR study that reviewed alternative programming in five countries in addition to reviewing the secondary literature.¹⁶

These studies reveal a clear set of best practices that contribute to successful alternative programming with high compliance rates¹⁷:

- Alternatives-to-detention programming should always constitute a **true alternative to detention**, not an alternative to release.
- Participating asylum seekers and migrants must be treated with **dignity, humanity, and respect**.
- Participants should be provided **case management** support based on individualized needs assessments. This support should include the provision of clear information regarding participants’ rights and obligations with regard to immigration processing and the consequences of non-compliance.

- Participants should receive referrals to **community-supported services**, including legal services, social services, and medical and mental health support.
- Any restrictions and compliance obligations placed on participants must be the **least onerous possible**.

In short, immigrants are most likely to engage and comply with their immigration proceedings if they feel they have been through a humane, fair and efficient process that was explained to them throughout and not while at constant risk of detention and forced removal.¹⁸

II. Models of Success: Chicago, Sweden and Canada

Community-based and community-supported alternative programs are operating successfully throughout the world and in the United States, where nonprofit organizations have stepped in to provide the legal orientation and social service supports asylum seekers and immigrants are not receiving from the government. Internationally, alternative programming has proven successful across a wide variety of adjudication systems and migrant populations, including asylum seekers and long-time undocumented and lawfully present community members.¹⁹ As the following models demonstrate, community-based programming provides a feasible new model for the United States' migration processing system as a whole.

The first model is the Marie Joseph House operated by the Interfaith Community for Detained Immigrants (ICDI), a community-based non-governmental program operating in Chicago for asylum seekers recently released from immigration detention. ICDI stands as an example of the holistic approach to alternative programming that could easily serve as a replacement for immigration detention in the United States. International models are similarly instructive, and those featured here from Sweden and Canada highlight successful community-based programs operated with the support and cooperation of their governments.



Artwork by a young NIJC client

Chicago: The Interfaith Community for Detained Immigrants’ Marie Joseph House²⁰

Throughout the United States, nonprofit organizations have opened their doors to welcome asylum seekers and immigrants seeking safety and stability. One such program, the Marie Joseph House, operated by the Interfaith Community for Detained Immigrants (ICDI) in Chicago, Illinois, provides food, shelter, housing, and robust case management support for asylum seekers immediately after their release from immigration detention. ICDI describes its goal as “building a welcoming community,” and this spirit becomes immediately clear upon entering the Marie Joseph House. The ICDI model provides a visionary framework for alternative programming.

The Marie Joseph House provides food and shelter for men, women, and families, along with an individual case manager for each guest responsible for ensuring referrals and connections to religious, health, legal, educational, language, and vocational services that are already well established in the community. ICDI staff and volunteers augment their case management services through networked connections with other nonprofits throughout the Chicago area, deftly connecting program participants with existing community resources. This holistic model ensures asylum seekers and immigrants receive the information and tools they need to navigate their immigration cases. ICDI’s case management staff also has observed the positive impact its programming has on the larger community, as volunteers and community members learn about new cultures and traditions.

ICDI provides the following services:

- **Case management:** A case worker assesses each participant’s unique needs and creates an individualized plan for case management, including steps to ensure access to necessary benefits and identification documents as well as tools like education, financial literacy programs and credit unions.
- **Community-based and community-supported services connections:** Participants receive direct referrals and transportation support for dental care, physical care, vision care, mental health care, and counseling. Specialized partnerships are available to make direct referrals for trauma-informed service providers for survivors of torture and/or trauma. English-language assessments provide opportunities for participants to enroll in English as a Second Language classes. Staff members assist immigrants seeking job training programs or job placements to best utilize their skills.



**Artwork by Chicago students
to be sent to detained families**

- **Accompaniment and legal referrals:** An ICDI case manager or volunteer accompanies residents to their immigration court appearances, check-ins with ICE, and other court-imposed obligations. ICDI ensures that every program participant has legal representation for their immigration court cases through appropriate referrals to legal service partners in the community.
- **Post-transition services:** Once individuals have gained the skills and tools necessary to secure stable independent living, ICDI assists with finding independent community housing or provides a slower transition through a second-stage model, where residents reside for a time-limited period in a cooperative housing unit with partially subsidized costs.

ICDI's staff members readily observe that the program would be even more successful if participants were not forced to endure immigration detention prior to entry. Many ICDI participants spend the first months in the Marie Joseph House recovering from the physical and emotional stress they endured in immigration detention. Immigrants often lose weight in immigration detention because of insufficient and poor quality food, and those who have already endured trauma are regularly re-traumatized by punishing conditions and frequent use of solitary confinement.²¹ ICDI's case management staff estimates that most residents could move through the welcome stage of the program into independent living in approximately half the time if they were not encumbered by the lingering physical and emotional scars left by immigration detention.

One participant explains, "To me, ICDI is an immigration hospital. They take emotionally broken people, who have been oppressed in their homeland, and provide a supportive and caring environment where they help people adjust to life in the United States, helping them heal from the trauma they once faced in their country."

Not surprisingly, ICDI staff report extremely high compliance rates among their participants and attribute these rates to programming that provides participants with the support and information they need to fully understand and engage with the system. It is easy to imagine how programs like ICDI—with proper financial support and staffing—could replace the existing detention system with a cheaper, kinder, and effective method of welcoming and supporting asylum seekers and immigrants to the United States.²²



Mural in the Pilsen neighborhood of Chicago
Natalia Wilson/ Creative Commons

Sweden: Reception Centers and Community Programming for Asylum Seekers²³

Although Sweden is not wholly without immigration detention, and advocates fear a recent rise in the use and duration of detention,²⁴ its practice remains significantly limited compared to the United States: people may be detained no more than two weeks while the government verifies their right to remain in the country.²⁵ Instead of relying on jail cells, Sweden welcomes asylum seekers to reception centers followed quickly by integration into community placements.

Sweden's community-based programming includes the following components:

- **Initial screening and assessment:** Upon their arrival to Sweden, asylum seekers first go to open reception centers, where they register with the Swedish Migration Agency and receive an initial screening and assessment to determine health, psychosocial, economic, and other needs.
- **Case management:** After the screening and assessment, asylum seekers are provided a photo identification card which can be used to access various services within the community.²⁶ A caseworker explains the Refugee Status Determination process and orients asylum seekers to their rights and entitlements in the country.²⁷
- **Community placement:** Typically, asylum seekers spend several weeks at an open reception center before transferring to community housing in apartments close to the Swedish Migration Agency reception offices.²⁸ Families are housed together and in their own housing units; single asylum seekers are likely to share a unit with others.²⁹ Although the Migration Agency may be involved in selecting asylum seekers' place of residence, asylum seekers maintain full freedom of movement in the community.³⁰
- **Human needs:** Asylum seekers arriving in Sweden are provided medical care, including the right to gynecological care, prenatal care, and free emergency medical or dental care.³¹ While living in community housing, asylum seekers regularly meet with their caseworkers and receive free legal assistance and interpreter services, if requested, at government expense.

Sweden's welcoming and supportive approach has proven a marked success. In 2017, 76,640 asylum seekers were registered with the reception centers, with over 35,000 people placed into housing accommodations.³² The program's success bears out the importance of robust case management in supporting asylum seekers' compliance with the migration process. In Sweden, if an asylum seeker receives a negative decision from the Migration Board they have between 14 and 30 days to either voluntarily repatriate, repatriate with the assistance of a caseworker, or face forced escort home. The vast majority of participants in Sweden's community-based programming, 68 percent, comply with voluntary repatriation when found ineligible to remain.³³



A briefing for asylum seekers ahead of registration at the Swedish Migration Agency. © UNHCR/Fredrik Sperling

Canada: Presumption of Release and Progress toward Developing Alternatives

Like the United States, the Canadian government faces criticism for over-reliance on immigration detention and concerns over conditions within detention facilities. However, newly revised guidelines governing the use of detention adopt a presumption of liberty for asylum seekers and immigrants, noting that “Canadian law regards detention as an exceptional measure.”³⁴ The guidelines require release of all immigrants unless the government meets its evidentiary burden to demonstrate that detention is warranted based on all circumstances of the case.³⁵ In all cases, the government’s immigration agency is required to consider release without conditions first and, only when necessary, consider alternatives to detention under conditions “tailored to the particular circumstances of the individual.”³⁶

In 2018, the Canadian government embarked on a partnership with three non-governmental organizations—the Salvation Army, the John Howard Society of Canada, and the Toronto Bail Program—to provide “supervision and case management services to individuals released to the community.”³⁷ This partnership expands on a model created by the Toronto Bail Program, which supports immigrants in



A demonstration in Toronto.

Can Pac Swire/Creative Commons

their applications for release and then provides robust case management.³⁸ The program supports a mixed population including asylum seekers, those who do not have or have lost lawful immigration status, and those who have been placed in deportation proceedings after involvement in the criminal justice system. The bail program has succeeded, with a compliance rate of 94 percent as of 2013-2014.³⁹ It is also a massive cost-saver, coming in at \$10-12 (in Canadian dollars) per day per person, compared with \$179 (in Canadian dollars) per day per person for detention.⁴⁰

The Canadian Council for Refugees has celebrated the Toronto Bail Program for facilitating the release of individuals who otherwise could not afford to secure their own release, but also has expressed concerns that the nature of the program and its very name are borrowed from the criminal justice system.⁴¹ “Release models for those detained on immigration grounds,” the Council notes, “must not contribute to real or perceived criminalization of migrants.”⁴² Additionally, programs such as the bail program can inadvertently negatively impact individuals not chosen to participate in the program, who face significant challenges otherwise obtaining release. Despite these concerns, the growth of government-supported alternative programs throughout Canada is an important illustration of movement toward lesser reliance on detention in a country managing significant migration flows.

III. The U.S. Government's Compromised Attempts to Implement "Alternatives to Detention" Programming

In 2019, ICE received \$184 million in taxpayer dollars to continue to operate a massive "Alternatives to Detention" (ATD) program with approximately 95,500 participants.⁴³ The administration now seeks an additional \$25 million in 2020 to add approximately 24,500 participants annually.⁴⁴ NIJC supports the promotion and creation of alternative programming when it follows the five best practices identified in Part I. When these practices are not implemented, such programming is harmful to immigrants and alienates immigrant communities.

Unfortunately, ICE's ATD programming, known in its current iteration as the Intensive Supervision Appearance Program (ISAP), is implemented directly at odds with best practices:

- **It is not community-based:** The ISAP program is run by a company called BI Incorporated, a wholly owned subsidiary of Geo Group, a multinational private prison company that jails tens of thousands of immigrants each year in private prisons contracted with ICE across California, Texas, Washington, Colorado and Florida.⁴⁵ The use of a private prison corporation's subsidiary to operate ATD programming eliminates the benefits provided by community support and misaligns financial incentives so dramatically as to make a mockery of the entire system.
- **It does not provide case management:** ISAP does little to build immigrants' trust in the United States' immigration system. The program's component parts include (as described by ICE), "a combination of home visits, office visits, alert response, court tracking, and/or technology."⁴⁶ ISAP participants are monitored and surveilled directly by ICE deportation officers or by Contractor Case Specialists working at the direction of ICE.⁴⁷ Participants receive little if any orientation to the immigration process they are navigating and ISAP's internal rules are randomly and inconsistently applied.⁴⁸
- **It fails to recognize the dignity of participants:** ISAP is marked by a lack of respect for its participants, with advocates and immigrant participants attesting to confusing processes, harassment by ICE and BI officials, and the arbitrary nature of reporting obligations and penalties.

David,⁴⁹ an NIJC client subject to ISAP, recalls: "Every time I went to check-ins with ISAP, my officer told me that I had to leave the country and that I couldn't stay. He always asked me how much money I had saved to buy plane tickets to go back to my country... I told him every month that my attorneys filed an appeal and that I didn't have to leave. He ignored me or laughed and said that I would have to leave. I felt like he was trying to intimidate me.... I felt like crying. I would call my attorneys to make sure that he wasn't telling the truth, but every time I went back he said the same thing. I was scared that he was right because he seemed so certain."

- **It imposes ankle shackles and onerous reporting obligations:** ISAP relies heavily on ankle shackles utilizing GPS tracking along with restrictive and randomly imposed reporting obligations.⁵⁰ NIJC attorneys report that ankle shackles are frequently placed on individuals released from detention into ISAP without any apparent consideration of necessity, and even for vulnerable populations such as survivors of torture and mothers who were separated from their children under the "zero-tolerance" policy of 2018. The stigma that accompanies wearing an ankle shackle, combined with overly restrictive check-in requirements that involve long travel time and hours-long delays, makes it extremely difficult for ISAP participants to find regular employment and meet necessary family and community obligations. As the UNHCR notes, overly onerous conditions such as those imposed by ISAP "can lead to non-cooperation ... and can set up individuals willing to comply to instead fail."⁵¹



An NIJC client wears an ankle shackle after she is released from detention.

Sarah, an NIJC client, remembers the trauma she suffered because of the ankle monitor she wore as an ISAP participant: “I cried often when I had it on. It was strange to look down at my leg and see it there. People turned to look at me when they saw it. I felt very small when people would turn to look at me. I remember once when two children pointed at the monitor and then covered their mouths with their hands. I felt like I was less of a person.”

Another NIJC client, Gloria, has been forced to wear an ankle shackle for more than 10 months. She is confused by the apparent randomness with which ICE utilizes GPS monitoring. “When I was in detention,” she recalls, “they told me that if I was lucky I would have it removed at the first appointment or maybe the second one. I have had this on for about 10 months and ICE has never even mentioned the ankle monitor to me. They never ask if it hurts me or if it is working. I don’t know why I still have the monitor on. I know people who had theirs taken off after eight days, or three months, but mine is still on. Other people tell me that it depends on the ICE officer who is in charge of your case.”

- **It is used to supplement detention and increase surveillance, not decrease incarceration:** ISAP has been implemented primarily as a surveillance program for people, including asylum seekers, who previously were unnecessarily detained and should have been released to the community without any reporting obligations. Essentially, ISAP is treated as a supplement to a rapidly increasing detention system. *The budget for and number of participants enrolled in ICE’s ISAP program has steadily increased while the budget and number of immigrants in secure detention has concurrently skyrocketed.*⁵²

Despite its many shortcomings, even ICE’s compromised ATD programming boasts significant advantages over the use of detention. The cost of daily participation in the ICE program is \$4.43 per day, compared to the daily costs of detention which are \$129.64 for one adult and \$295.94 for a member of a family unit.⁵³ And despite myriad systemic flaws that set participants up to fail, the compliance rate was still 77 percent in 2018.⁵⁴

In January 2016, the Obama administration implemented a formal ATD pilot that operated in closer alignment with best practices for alternative programming, known as the **Family Case Management Program (FCMP)**.⁵⁵ Designed in reliance on a case management model, the program incorporated many of the elements recommended by the IDC.⁵⁶ One major failing of FCMP’s implementation, however, was that – like ISAP – the program was not community-based and instead operated under contract by Geo Care, a division of the Geo Group. The program, which was still in its infancy when the Trump administration terminated it in June 2017, did manage to demonstrate successful outcomes, with rates of compliance at 99 percent and high levels of cost-efficiency.⁵⁷

“If there was another way, it would change everything.”

Izzie is an elite tennis player, dancer and scientist pursuing his medical degree. Before he fled to the United States, he endured death threats and beatings in his home country because of his sexual orientation. An immigration judge granted him asylum in June 2017, but for three and a half months before that, ICE detained him in a county jail. After he was released, Izzie moved into ICDI's Marie Joseph House, where he received case management support until he transitioned into independent living. These are his words.

I will always remember being on the airplane coming to the United States. I thought I was coming to a place where you could be free and live your life in truth. I thought the environment would be welcoming. What I encountered was the opposite.

When I came out of the airport, I went to the line for visa holders. An officer asked me questions and I was answering them. Then the officer told me I was going to be taken to another room. It took them about six hours to call me. I knew something was wrong.

From there I was put in shackles and taken in a van with no windows to a jail. It felt like I was being captured. What I learned in jail is that it doesn't matter how strong your case is or how strong you are, you're not going to come out the same. Up until I left Nigeria, I was a confident and independent person. I was brave and adventurous. I always thought there was nothing that could break me, that I could walk through fire. Then I went to jail and learned that's actually not true; no one can endure this. In immigration jail, we would sit together, and people would show you their scars and you would hear stories of what they had been through before coming here. The guards would threaten us with solitary confinement for spending too much time talking to each other. They treated us like animals.

I wish people in the United States could see what is going on behind those concrete walls. You have to go through it to actually understand. I remember a man in jail with me who was coughing up blood. He went to see the nurse, and the nurse said he should go back to his cell because he was faking it. I remember another man who prayed all the time, every minute. He would pray, and then he would break down and cry but still he would pray because he'd lost so much, and he couldn't go home. In jail, whenever anyone won their case, we would all come together and pray. You get to a point where you have no memories of a time when there was not suffering in your journey.

This pain does not go away. It's both physical and emotional. When I was finally released, I found I could not feel any joy. I just felt drained, like I had nothing left. I had nightmares, dreaming that the officers would come take me back to jail. When I first arrived at the Marie Joseph House, it was hard to see past everything that had happened. Hard to believe that any person actually wanted to help me. I had lost my country, lost my family, lost all that I had lived, and then they took my confidence. It's been a long road from there to here. It's not easy.

The injury left behind by immigration jail is in the heart. I see a police officer or I hear a siren and my heart races. I have to breathe deeply. Once I had a panic attack because a police car went by. It makes the work of adjusting to a new life harder. Everything around you reminds you of what you just endured in jail. You progress, but it is hard to feel free.

What would it mean if there was another way? If from the airport, they took you to a house instead of a jail, and they said: You are going to stay here until you see the judge, without handcuffs or shackles. You would stay in that home, and the path would be one of waiting, waiting and hoping for an outcome that will light you up with joy when it comes to pass. That, in my opinion, would be a path worth remembering, a path that would build strength instead of shackling. A path that would not make you lose time and pull you down to the ground. You would not lose who you are in this kind of process. You would not lose your dignity and you would not lose your pride. You would be able to talk to people while looking straight at them instead of to the floor; you would be able to walk down the street and hear sirens and instead of shaking with fear, you would think, "it's OK, they are here to protect me."

If there was another way, it would change everything.

Conclusion

A rational assessment of the United States' mass incarceration of immigrants solely on the basis of irregular entry or migration status shows this approach to be radically anti-immigrant and wasteful. And this assessment is not new. In 2015, the United States Conference of Catholic Bishops and the Center for Migration Studies issued a report calling for the immigration detention system to be entirely dismantled and replaced with a network of community-based support programs.⁵⁸ Rooted in a faith-based approach to migration processing, the report states:

...[T]he US immigrant detention system represents a far cry from solidarity or communion. It divides us from our brothers and sisters. It contributes to the misconception that immigrants are criminals and a threat to our unity, security and well-being. It engenders despair, divides families, causes asylum-seekers to relive trauma, leads many to forfeit their legal claims, and fails to treat immigrants with dignity and respect. Human flourishing occurs in loving relation to others. Yet detention incapacitates and segregates people, denying them freedom and preventing their participation in society.⁵⁹

The United States' immigration detention system and those who operate it commit daily, well-documented abuses with impunity, with little chance of effective or meaningful oversight. Immigrants and their loved ones continue to suffer the harmful consequences of a system that focuses solely on detention, without regard for human rights. That system is dehumanizing, expensive, ineffective, wasteful, and at odds with values and traditions of welcoming and accepting immigrants. Instead of continuing these harms, the United States should end the use of immigration detention and pursue the development of holistic community-based programming already at work in communities here in the United States and throughout the world.

Endnotes

1. For a comprehensive analysis of the increasing use of immigration detention internationally despite a growing consensus by governments regarding the need to pursue alternatives programs because of the “growing threat to the well-being of migrants worldwide” caused by detention, see Robyn Sampson and Grant Mitchell, *Global Trends in Immigration Detention and Alternatives to Detention: Practical, Political and Symbolic Rationales*, JOURNAL ON MIGRATION AND HUMAN SECURITY (2013), <https://journals.sagepub.com/doi/pdf/10.1177/233150241300100302>. Sampson and Mitchell further explore the political and narrative barriers to governments integrating alternatives-to-detention programs and propose a shift in the language of “border control” to that of “migration management.” Using this framework, Sampson and Mitchell propose, governments can “manage migration well by using a range of strategies to oversee migrants in the community while fulfilling expectations regarding compliance and case resolution outcomes, without the human and financial costs of detention.” *Id.* at 107.
2. See, e.g., Ana Raquel Minian, *America Didn't Always Lock Up Its Immigrants*, THE NEW YORK TIMES (Dec. 1, 2018), <https://www.nytimes.com/2018/12/01/opinion/sunday/border-detention-tear-gas-migrants.html> (“[By the 1950s], detention was reserved for migrants who were deemed likely to abscond or who posed a threat to national security or public safety. By 1955, only four people in immigration custody were seeking entry into the country.”); Lenni P. Benson, *As Old As The Hills: Detention and Immigration*, 5 INTERCULTURAL HUM. RTS. L. REV. 11, 39-40 (2010), https://digitalcommons.nyls.edu/cgi/viewcontent.cgi?article=1416&context=fac_articles_chapters (recounting instances of immigrant detention in the nineteenth century, as well as detention as a response to Cold War fears in the 1940s and 1950s).
3. See, e.g., Minian, *supra* note 2 (“[U.S. immigration officials] also conceived of detention as a way to deter migrants – particularly Haitians... from setting sail to the United States...”), Benson, *supra* note 2 at 42-45 (“Detention [of Haitian asylum-seekers] was justified as a way of deterring Haitians from attempting to enter the U.S. without documents.”); see also BRANDT GOLDSTEIN, *STORMING THE COURT: HOW A BAND OF LAW STUDENTS FOUGHT THE PRESIDENT AND WON* (2005). Current Attorney General William Barr was a strong proponent of the George H.W. Bush administration’s program of interdicting Haitian refugees on the high seas, detaining them at Guantanamo Bay in appalling conditions, and denying them access to lawyers. See *David Cole, No Relief: William Barr Is as Bad as Jeff Sessions — if Not Worse*, AMERICAN CIVIL LIBERTIES UNION (Dec. 7, 2018), <https://www.aclu.org/blog/criminal-law-reform/no-relief-william-barr-bad-jeff-sessions-if-not-worse>.

4. See A. Naomi Paik, *US Turned Away Thousands of Haitian Asylum-Seekers and Detained Hundreds More in the 90s*, The Conversation (June 28, 2018), <https://theconversation.com/us-turned-away-thousands-of-haitian-asylum-seekers-and-detained-hundreds-more-in-the-90s-98611> (“When the U.S. detained Haitian refugees indefinitely, it set a precedent.”); Minian, *supra* note 2 (“Immigration detention came to be part and parcel of the growing incarceration trend of the 1980s.”). For chart data on U.S. Prison Population see Bureau of Justice Statistics, *Key Statistics, Estimated number of persons supervised by U.S. adult correctional systems, by correctional status, 1980-2016*, <https://www.bjs.gov/index.cfm?ty=kfdetail&iid=487> (visited Apr. 15, 2019). For chart data on U.S. immigration detention population see Heidi Altman and Mary Small, *Immigration Detention and the DHS Spending Negotiations — An Explainer*, NATIONAL IMMIGRANT JUSTICE CENTER, (Feb. 11, 2019), <https://immigrantjustice.org/staff/blog/immigration-detention-and-dhs-spending-negotiations-explainer>. Immigration detention data between 1980 and 1994 was not available in digital format.
5. See Livia Luan, *Profiting from Enforcement: The Role of Private Prisons in U.S. Immigration Detention*, MIGRATION POLICY INSTITUTE (2018), <https://www.migrationpolicy.org/article/profitting-enforcement-role-private-prisons-us-immigration-detention>.
6. See J. Rachel Reyes, *Immigration Detention: Recent Trends and Scholarship*, CENTER FOR MIGRATION STUDIES (2019), <http://cmsny.org/publications/virtualbrief-detention/>; Spencer Ackerman, *ICE is Detaining 50,000 People, A New All time High*, THE DAILY BEAST (Mar. 8, 2019), <https://www.thedailybeast.com/ice-is-detaining-50000-people-a-new-all-time-high>.
7. See Heidi Altman, *DHS’ Secret Detention Expansion is Dangerous for Immigrants, and for Democracy*, NIJC (Jan. 10, 2019), <https://immigrantjustice.org/staff/blog/dhss-secret-detention-expansion-dangerous-immigrants-and-democracy>.
8. For a full discussion of applicable international law provisions, see Alice Edwards, *Legal and Protection Policy Research Series: Back to Basics: The Right to Liberty and Security of Person and ‘Alternatives to Detention’ of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants*, UNITED NATIONS HIGH COMMISSION FOR REFUGEES (2011), <https://www.unhcr.org/4dc949c49.pdf>. Further, with regard to asylum seekers, the 1951 Refugee Convention—to which the U.S. remains lawfully bound—provides that asylum seekers and refugees should not be punished for their manner of entry. See Convention and Protocol Relating to the Status of Refugees, art. 31, July 28, 1951, 189 U.N.T.S. 150.
9. United Nations High Commission for Refugees, *Detention Guidelines* at 6 (2011), <https://www.unhcr.org/publications/legal/505b10ee9/unhcr-detention-guidelines.html>.
10. *Id.* at 7.
11. See, e.g., Edwards, *Back to Basics*, *supra* note 8; Ophelia Field, *Legal and Protection Policy Research Series: Alternatives to Detention of Asylum Seekers and Refugees*, UNITED NATIONS HIGH COMMISSION FOR REFUGEES (2006), <https://www.refworld.org/pdfid/4472e8b84.pdf>; see International Detention Coalition, *There Are Alternatives* (2015), <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf>.
12. See Edwards, *supra* note 8 at 88.
13. See International Detention Coalition, *Alternatives to Detention* (2018), <https://idcoalition.org/alternatives-to-detention/>.
14. See IDC, *There are Alternatives*, *supra* note 11.
15. See IDC, *There are Alternatives*, *supra* note 11 at iii (noting that “alternatives” does not have one universal legal definition, but rather several formulated by migration policy stakeholders). The IDC’s findings echoed those of a 2011 UNHCR study that reviewed alternative programming in five countries as well as secondary literature.
16. See Edwards, *supra* note 8.
17. See IDC, *There are Alternatives*, *supra* note 11 at 13 (listing “elements of successful alternatives” in section 2.5.1); and Edwards, *supra* note 8 at 84 (listing common factors contributing to higher compliance rates).
18. See IDC, *There are Alternatives*, *supra* note 11.
19. See IDC, *There are Alternatives*, *supra* note 11 at ii-iii.
20. Information included in this section is drawn from the authors’ interviews with Interfaith Community for Detained Immigrants staff, on file with NIJC.
21. For more resources and descriptions of the systemic abuses throughout the immigration detention system, see *Appendix*.
22. ICDI’s Marie Joseph House is one of many creative non-profit-run programs operating to provide community-based and community-supported housing and social supports to immigrants recently released from ICE detention in the U.S. These programs are largely scalable and, as with ICDI, would be able to more effectively secure immigrants’ integration into independent community living if they were the first stop for asylum seekers and migrants entering immigration processing, rather than following detention. The National Detention Bond Fund operated by the non-profit Freedom for Immigrants, for example, assists individuals in posting bond to secure release from ICE custody, and then ensures their connection with community accompaniment volunteers who provide tailored community-based support and referrals. The program, in operation since 2010, costs approximately \$17 per day and boasts a 100 percent compliance rate with court proceedings. See Freedom for Immigrants, *Freedom for Immigrants’ National Detention Bond Fund*, <https://www.freedomforimmigrants.org/national-bond-fund>; and Ashoka, *The Alternatives to Immigrant Detention Everyone Should Know About*, FORBES (Sep. 25, 2018), <https://www.forbes.com/sites/ashoka/2018/09/25/the-alternative-to-immigrant-detention-everyone-should-know-about/#4045c9a1102b>.
23. See IDC, *There are Alternatives*, *supra* note 11 at 62; see further Asylum Information Database, *Types of Accommodation – Sweden*, <http://www.asylumineurope.org/reports/country/sweden/reception-conditions/housing/types-accommodation> (citing Swedish Migration Agency, Annual Report 2017, 53-54).
24. See Global Detention Project, *Country Report: Immigrant Detention in Sweden: Increasing Restrictions, Deportations, Growing Civil Society Resistance* (July 2018), <https://www.globaldetentionproject.org/immigration-detention-in-sweden-increasing-restrictions-and-deportations-growing-civil-so>

ciety-resistance. Additionally, in a 2016 Human Rights Watch Report, interviews with 44 unaccompanied immigrant minors making their way through the Swedish processing system highlighted significant concerns with the program including inadequate health screenings and care for children who had experienced sexual violence. See Human Rights Watch, *Seeking Refuge - Unaccompanied Children in Sweden* (June 9, 2016), <https://www.hrw.org/report/2016/06/09/seeking-refuge/unaccompanied-children-sweden>.

25. See Global Detention Project, Sweden (July 2018), https://www.globaldetentionproject.org/countries/europe/sweden#_ftnref17.

26. See International Detention Coalition, *Alternatives to Detention in Sweden* (2015), <https://idcoalition.org/alternatives-to-detention-in-sweden/>.

27. See Ginbot Abraha, *A Handbook for Asylum Seekers in Sweden*, ASYLUM RECEPTION IN FOCUS, 12 (2007), <http://www.temaasyl.se/Documents/NTG-dokument/A+Handbook+for+Asylum+Seekers+in+Sweden.pdf>.

28. See IDC, *Alternatives to Detention in Sweden*, *supra* note 26.

29. See European Migration Network, *The Organisation Of Reception Facilities For Asylum Seekers In Sweden* at 6 (2013), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/26.sweden_national_report_reception_facilities_final_september2013_en.pdf.

30. See Asylum Information Database, *Freedom of Movement – Sweden* (2017), <https://www.asylumineurope.org/reports/country/sweden/reception-conditions/access-and-forms-reception-conditions/freedom-movement>.

31. See European Migration Network, *supra* note 29 at 6.

32. See Asylum Information Database, *supra* note 23.

33. See IDC, *There are Alternatives*, *supra* note 11 at 11. Voluntary return programs are also markedly less expensive than forced escorted deportations. In the European Union, for example, voluntary return to another country within the European Union is estimated to cost between 300-600 euros compared with up to 1,500 for escorted deportations. *Id.* at 11-12.

34. See Immigration and Refugee Board of Canada, *Guidelines Issued by the Chairperson, Pursuant to paragraph 159(1)(h) of the Immigration and Refugee Protection Act at Guideline 1-1-3* (Apr. 1, 2019), <https://irb-cisr.gc.ca/en/legal-policy/policies/Pages/GuideDir02.aspx>.

35. See *id.* at Guideline 1.1.6.

36. See *id.* at Guidelines 3.1.2. and 1.1.12.

37. See Global Detention Project, *Immigration Detention in Canada* (June 2018), <https://www.globaldetentionproject.org/countries/americas/canada>.

38. See IDC, *There Are Alternatives*, *supra* note 11 at 34; see also Edwards, *supra* note 8 at 56.

39. See *id.*

40. See International Detention Coalition, *Alternatives to Detention in Canada* (2015), <https://idcoalition.org/alternatives-to-detention-in-canada/>.

<https://idcoalition.org/alternatives-to-detention-in-canada/>.

41. See Canadian Council for Refugees, *Alternatives to Detention: CCR Comments Regarding the Toronto Bail Program* (Jan. 2015), <https://ccrweb.ca/en/alternatives-detention-comments-toronto-bail-program>.

42. See *id.*

43. See U.S. Immigration and Customs Enforcement, *Congressional Budget Justification, Fiscal Year 2020* at ICE-10 and O&S-16-17 (2019), https://www.dhs.gov/sites/default/files/publications/19_0318_MGMT_CBJ-Immigration-Customs-Enforcement_0.pdf.

44. See *id.*

45. See Jason Fernandes, *Alternatives to Detention and the For-Profit Immigration System*, CENTER FOR AMERICAN PROGRESS (June 9, 2017), <https://www.americanprogress.org/issues/immigration/news/2017/06/09/433975/alternatives-detention-profit-immigration-system/>.

46. See ICE FY2020 Congressional Budget Justification, *supra* note 43 at O&S-17.

47. See *id.* at O&S-153.

48. See Rutgers School of Law Immigrant Rights Clinic & American Friends Service Committee, *Freed but Not Free: A Report Examining the Current Use of Alternatives to Immigration Detention* (July 2012), [HTTPS://WWW.AFSC.ORG/SITES/DEFAULT/FILES/DOCUMENTS/FREED-BUT-NOT-FREE.PDF](https://www.afsc.org/sites/default/files/documents/freed-but-not-free.pdf).

49. Pseudonym used here and for all client stories to protect privacy.

50. See *Freed but Not Free*, *supra* note 48 at 15-17.

51. United Nations High Commissioner for Refugees, *Global Roundtable on Alternatives to Detention of Asylum-Seekers, Refugees, Migrants and Stateless Persons: Summary Conclusions* (May 2011), <https://www.unhcr.org/protection/expert/536a00576/global-roundtable-alternatives-detention-asylum-seekers-refugees-migrants.html>.

52. See ICE FY2020 Congressional Budget Justification, *supra* note 43.

53. See *id.* at O&S-6, 117, 152.

54. *Id.* at O&S-154.

55. See Women's Refugee Commission, *Family Case Management Program: Backgrounder* (Nov. 5, 2018), <https://www.womensrefugeecommission.org/rights/resources/1653-family-case-management-program>.

56. See *id.*

57. See *id.*

58. Migration and Refugee Services/United States Conference of Catholic Bishops and The Center for Migration Studies, *Unlocking Human Dignity: A Plan to Transform the U.S. Immigrant Detention System* (2015), <http://www.usccb.org/about/migration-and-refugee-services/upload/unlocking-human-dignity.pdf>.

59. *Id.* at 5.

Appendix

Recent Reports Documenting Abuse and Corruption in U.S. Immigration Jails – April 2019

“Being detained was difficult in every way. You are a prisoner. I am 6-foot-2 and the bunk in my cell was too short for me. The food is not good, and there is not enough. If you do not have money to purchase something from the commissary you go hungry. You are punished if you share your commissary with someone who is hungry. They turn off the phones, so you can’t speak to your attorney or family. I learned that my mother had a heart attack and was in the hospital for a week. I had no way of communicating with her.”

— Daniel, medical student, asylee, and National Immigrant Justice Center client, describing the five months he spent in immigration custody in a Midwest county jail

Despite voluminous evidence showing community-based programming to be a better, cheaper alternative to detention, the U.S. government jails more than 50,000 immigrants each day at a more than \$3 billion annual cost to taxpayers.¹ Thousands of pages have documented persistent human rights abuses and corruption in the U.S. immigration detention system. These reports have been published by the Department of Homeland Security’s (DHS) own watchdog agency, non-governmental organizations, and medical experts. The U.S. government, under the Trump administration and administrations before it, face lawsuits for their complicity in the trauma caused by detention, including preventable deaths and unnecessary human suffering. Yet these officials continue to expand the system, fail to mitigate ongoing harms, and ignore the availability of more compassionate alternatives.

This appendix provides a bibliography of some of the most recent and robust reporting on persistent rights abuses and corruption within the immigration detention system. Together these reports demonstrate the human suffering that is endemic to immigration detention.

Persistent rights abuses

Disability Rights California, *There is No Safety Here: The Dangers for People with Mental Illness and Other Disabilities in Immigration Detention at GEO Group’s Adelanto ICE Processing Center*, March 2019.

An investigation at the Adelanto Detention Center, which is owned by GEO Group and holds about 2,000 people, found that immigrants held at the jail are subjected to punitive, prison-like conditions that harm people with disabilities; the jail’s mental health care and medical care system are inadequate, made worse by harsh and counter-therapeutic practices; the facility significantly underreported data on the number of suicide attempts which occurred there; and the jail fails generally to comply with disability antidiscrimination laws as well as with ICE’s own detention standards regarding the treatment of people with disabilities.

AVAILABLE AT: [HTTPS://WWW.DISABILITYRIGHTSCA.ORG/POST/THERE-IS-NO-SAFETY-HERE-THE-DANGERS-FOR-PEOPLE-WITH-MENTAL-ILLNESS-AND-OTHER-DISABILITIES-AT](https://www.disabilityrightscalifornia.org/post/there-is-no-safety-here-the-dangers-for-people-with-mental-illness-and-other-disabilities-at-adelanto-ice-processing-center/)

¹ See U.S. Immigration and Customs Enforcement, *Congressional Budget Justification, Fiscal Year 2020* at ICE-10 (2019), https://www.dhs.gov/sites/default/files/publications/19_0318_MGMT_CBJ-Immigration-Customs-Enforcement_0.pdf.

California Department of Justice, *Immigration Detention in California*, February 2019.

After inspecting all ten California immigration detention facilities over the course of 2018, the California Attorney General found that facilities deployed “unnecessarily harsh” use of force and search tactics; failed to employ bilingual staff or provide language services; delivered substandard, delayed, and/or inadequate medical care; and engaged in unsafe suicide watch and solitary confinement practices.

AVAILABLE AT: [HTTPS://OAG.CA.GOV/SITES/ALL/FILES/AGWEB/PDFS/PUBLICATIONS/IMMIGRATION-DETENTION-2019.PDF](https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/immigration-detention-2019.pdf)

Detainee Allies, *Testimony from Migrants and Refugees in the Otay Mesa Detention Center*, February 2019.

Through written correspondence with hundreds of individuals detained at the Otay Mesa Detention Center in San Diego, California, Detainee Allies discovered inhumane conditions including contaminated or insufficient food; lack of access to legal representation; medical neglect; forced labor and wage theft; denial of access to mail and phones; lack access to basic hygiene necessities; and prolonged or indefinite detention.

AVAILABLE AT: [HTTP://WWW.DETAINEEALLIES.ORG/WP-CONTENT/UPLOADS/2019/01/FINAL_DETAINEE-ALLIES-2019-0131B.PDF](http://www.detaineeallies.org/wp-content/uploads/2019/01/FINAL_DETAINEE-ALLIES-2019-0131B.PDF)

American Immigration Council, *The Landscape of Immigration Detention in the United States*, December 2018.

This comprehensive overview of the immigration detention system documents “numerous civil and human rights violation complaints, including allegations of substandard medical care, sexual and physical abuse, and exploitative labor practices.”

AVAILABLE AT: [HTTPS://AMERICANIMMIGRATIONCOUNCIL.ORG/RESEARCH/LANDSCAPE-IMMIGRATION-DETENTION-UNITED-STATES](https://americanimmigrationcouncil.org/research/landscape-immigration-detention-united-states)

The Intercept, *Detained, then Violated*, April 2018.

In early 2018, The Intercept published the results of a massive investigation into allegations of sexual abuse in ICE detention. The results were astounding, documenting 1,224 complaints of sexual abuse filed between 2010 and September 2017, most of which were never investigated.

AVAILABLE AT: [HTTPS://THEINTERCEPT.COM/2018/04/11/IMMIGRATION-DETENTION-SEXUAL-ABUSE-ICE-DHS/](https://theintercept.com/2018/04/11/immigration-detention-sexual-abuse-ice-dhs/)

DHS Office of Inspector General, *Concerns about ICE Detainee Treatment and Care at Detention Facilities*, December 2017.

DHS's Inspector General began engaging in unannounced inspections of ICE facilities in 2016,² and this report outlines the findings of five such inspections conducted in 2017. The inspections revealed "problems that undermine the protection of detainees' rights, their humane treatment, and the provision of a safe and healthy environment." Specific problems identified include: failure to provide interpretation services; failure to respond to grievances; insufficient phone access; and an atmosphere of disrespect from detention staff toward detained individuals.

AVAILABLE AT: [HTTPS://WWW.OIG.DHS.GOV/SITES/DEFAULT/FILES/ASSETS/2017-12/OIG-18-32-DEC17.PDF](https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-DEC17.PDF)

DHS Office of Inspector General (OIG), *Management Alerts regarding urgently unsafe or harmful conditions*, 2019 and 2018.

Since announcing its program of unannounced inspections of ICE facilities in 2016, the OIG has issued management alerts flagging particularly egregious conditions, including:

1) In 2019, the OIG inspected the Essex County Correctional Facility in New Jersey and found raw, spoiled and expired meat, leaks in every housing unit and moldy showers, and no outdoor recreation space.

AVAILABLE AT: [HTTPS://WWW.OIG.DHS.GOV/SITES/DEFAULT/FILES/ASSETS/2019-02/OIG-19-20-FEB19.PDF](https://www.oig.dhs.gov/sites/default/files/assets/2019-02/OIG-19-20-FEB19.PDF)

2) In 2018, the OIG inspected the Adelanto ICE Processing Center in California and found widespread alarming conditions including nooses made from braided bed sheets hanging throughout the jail.³

AVAILABLE AT: [HTTPS://WWW.OIG.DHS.GOV/SITES/DEFAULT/FILES/ASSETS/2018-10/OIG-18-86-SEP18.PDF](https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-SEP18.PDF).

Penn State Law Center for Immigrants' Rights Clinic, *Imprisoned Justice: Inside Two Georgia Immigration Detention Centers*, May 2017.

This report on the findings of interviews conducted with individuals detained at two detention centers in Georgia provides a harrowing recounting of abuses, including: limited access to family visitation and legal representation; insufficient and inedible food, including reports of hair, plastic, bugs, and rocks in food; insufficient provision of undergarments; and the use of solitary confinement for punishment.

AVAILABLE AT: [HTTPS://PROJECTSOUTH.ORG/WP-CONTENT/UPLOADS/2017/06/IMPRISONED_JUSTICE_REPORT-1.PDF](https://projectsouth.org/wp-content/uploads/2017/06/IMPRISONED_JUSTICE_REPORT-1.PDF)

² See Office of Inspector General, U.S. Dep't of Homeland Security, *DHS OIG To Periodically Inspect CBP and ICE Detention Facilities* (Mar. 15, 2016), <https://www.oig.dhs.gov/assets/pr/2016/oigpr-031516b.pdf>.

³ The Inspector General noted that officers at the facility were dismissive of the importance of the prevalence of the braided sheets, which is particularly alarming in light of a death by suicide at the facility a year and half prior in which a man hanged himself with exactly such a braided bedsheet. See Peter Holley, *An Undocumented Immigrant Hanged Himself After 3 Months in an ICE Detention Center*, WASHINGTON POST (Mar. 29, 2017), https://www.washingtonpost.com/news/post-nation/wp/2017/03/29/an-illegal-immigrant-hanged-himself-after-three-months-in-an-ice-detention-center/?utm_term=.83b044380074.

Southern Poverty Law Center, et al., *Shadow Prisons: Immigrant Detention in the South*, November 2016.

This report provides the findings of a seven-month investigation into six immigration detention centers throughout the South, including three for-profit contract prisons and three county jails contracting with ICE, finding abuses throughout all six.

AVAILABLE AT:

[HTTPS://WWW.SPLCENTER.ORG/SITES/DEFAULT/FILES/JP_SHADOW_PRISONS_IMMIGRANT_DETENTION_REPORT.PDF](https://www.splcenter.org/sites/default/files/jp_shadow_prisons_immigrant_detention_report.pdf)

Deaths attributable to medical negligence

Human Rights Watch, *Code Red: The Fatal Consequences of Dangerously Substandard Medical Care in Immigrant Detention*, June 2018.

In this report, Human Rights Watch and co-authors provide an overview of deaths in immigration detention utilizing the expertise of independent medical experts, finding that “medical care lapses contributed or led to 23 deaths in 19 different detention facilities since March 2010,” comprising approximately half of all deaths in custody during the relevant time period. This report followed and affirmed the findings of two previous reports on medical negligence and insufficient medical care contributing to deaths in ICE custody.⁴

AVAILABLE AT: [HTTPS://WWW.HRW.ORG/REPORT/2018/06/20/CODE-RED/FATAL-CONSEQUENCES-DANGEROUSLY-SUBSTANDARD-MEDICAL-CARE-IMMIGRATION](https://www.hrw.org/report/2018/06/20/code-red/fatal-consequences-dangerously-substandard-medical-care-immigration)

Harm to families and children

Human Rights First, *Family Incarceration Continues to Endanger Children, Impede Access to Legal Information and Waste Government Resources*, March 2019.

Human Rights First researchers visited ICE’s two largest family detention facilities, the South Texas Family Residential Detention Center and the Karnes County Residential Center, where ICE was at the time detaining ten pregnant women and babies under the age of one year. The report reaffirms the existing literature on the harms caused to children by detention and documents the many ways in which access to counsel and due process are undermined in these jails. In one particularly harrowing example, detained mothers at Dilley reported having been turned away by onsite clinic staff at night when trying to obtain medical care for their children suffering from fevers.

AVAILABLE AT:

[HTTPS://WWW.HUMANRIGHTSFIRST.ORG/SITES/DEFAULT/FILES/SHORT_DETENTION_REPORT_MARCH_2019.PDF](https://www.humanrightsfirst.org/sites/default/files/short_detention_report_march_2019.pdf)

⁴ See Human Rights Watch, *Systemic Indifference: Dangerous and Substandard Medical Care in US Immigration Detention* (May 2017), <https://www.hrw.org/report/2017/05/08/systemic-indifference/dangerous-substandard-medical-care-us-immigration-detention>; American Civil Liberties Union, Detention Watch Network, and National Immigrant Justice Center, *Fatal Neglect: How ICE Ignores Deaths in Detention* (Feb. 2016), https://immigrantjustice.org/sites/immigrantjustice.org/files/Fatal%20Neglect_ACLU%2C%20DWN%2C%20NIJC.pdf.

Medical and Psychiatric Subject Matter Experts for DHS’s Office of Civil Rights and Civil Liberties, Whistleblower Letter to Congress, July 2018.

In the summer of 2018, two medical and psychiatric subject matter experts for DHS’s Office of Civil Rights and Civil Liberties spoke out as whistleblowers regarding the unavoidable and devastating harm to child safety caused by ICE’s detention of immigrant family units. Specifically, Drs. Allen and McPherson’s observations included weight loss in children that went “largely unnoticed by the facility medical staff,” severe mental and developmental health effects, seizures among infants, and wrongly administered vaccinations. “In our professional opinion,” they wrote, “there is no amount of programming that can ameliorate the harms created by the very act of confining children to detention centers. Detention of innocent children should never occur in a civilized society, especially if there are less restrictive options, because the risk of harm to children simply cannot be justified.”

AVAILABLE AT: [HTTPS://WWW.WHISTLEBLOWER.ORG/WP-CONTENT/UPLOADS/2019/01/ORIGINAL-DOCS-LETTER.PDF](https://www.whistleblower.org/wp-content/uploads/2019/01/original-docs-letter.pdf)

ICE Advisory Committee on Family Residential Centers, *Report of the ICE Advisory Committee on Family Residential Centers*, October 2016.

ICE commissioned an advisory committee to study the practice of family detention in 2016; the committee’s report recommended that the agency discontinue its practice of family detention, concluding it was “neither appropriate nor necessary” and that “detention or the separation of families for purposes of immigration enforcement or management are *never* in the best interest of children.”

AVAILABLE AT: [HTTPS://WWW.ICE.GOV/SITES/DEFAULT/FILES/DOCUMENTS/REPORT/2016/ACFRC-REPORT-FINAL-102016.PDF](https://www.ice.gov/sites/default/files/documents/report/2016/ACFRC-REPORT-FINAL-102016.pdf)

Women’s Refugee Commission, *Locking Up Family Values, Again: The Detention of Immigrant Families*, May 2016.

Based on tours of the Artesia and Karnes family detention facilities, along with numerous interviews with detained families, advocates, and government officials, the Women’s Refugee Commission found that “large-scale family detention results in egregious violations of our country’s obligations under international law, undercuts individual due process rights, and sets a poor example for the rest of the world.”

AVAILABLE AT: [HTTPS://WWW.WOMENSREFUGEECOMMISSION.ORG/ISSUES/55-DETENTION/1040-FAMILY-DETENTION](https://www.womensrefugeecommission.org/issues/55-detention/1040-family-detention)

Corruption in contracting and inspection practices

DHS Office of Inspector General, *ICE Does Not Fully Use Contracting Tools to Hold Detention Facility Contractors Accountable for Failing to Meet Performance Standards*, January 2019.

In 2019, DHS's Inspector General found that ICE consistently fails to hold its private contractors accountable for not instituting or meeting its own detention standards. Further, the Inspector General found that when ICE did find that a contractor had violated standards, they frequently issued waivers of contractually obligated requirements instead of levying the required financial penalties.

AVAILABLE AT: [HTTPS://WWW.OIG.DHS.GOV/SITES/DEFAULT/FILES/ASSETS/2019-02/OIG-19-18-JAN19.PDF](https://www.oig.dhs.gov/sites/default/files/assets/2019-02/OIG-19-18-JAN19.PDF)

DHS Office of Inspector General, *ICE's Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements*, June 2018.

In another Inspector General Report, the agency found ICE's contracted inspection regimes, "do not fully examine actual conditions or identify all deficiencies" in private prisons, while ICE's own Office of Detention Oversight conducted inspections so infrequently, they could not properly ensure meaningful compliance.

AVAILABLE AT: [HTTPS://WWW.OIG.DHS.GOV/SITES/DEFAULT/FILES/ASSETS/2018-06/OIG-18-67-JUN18.PDF](https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-JUN18.PDF)

National Immigrant Justice Center, *Lives in Peril: How Ineffective Inspections Make ICE Complicit In Detention Center Abuse*, October 2015.

This report compiles ICE inspections documents from 105 immigration detention facilities from 2007-2012. In its findings, the report concludes there were "fundamental inconsistencies within and between inspection reports for individual detention centers which suggests that the immigration detention inspection process is a sham—designed to perpetuate a broken and abusive system." Specifically, NIJC found that inspections were announced in advance, conducted under outdated standards, and rarely took place, even following reports of human rights violations and deaths in custody.

AVAILABLE AT: [HTTPS://WWW.IMMIGRANTJUSTICE.ORG/RESEARCH-ITEMS/REPORT-LIVES-PERIL-HOW-INEFFECTIVE-INSPECTIONS-MAKE-ICE-COMPLICIT-DETENTION-CENTER](https://www.immigrantjustice.org/research-items/report-lives-peril-how-ineffective-inspections-make-ice-licit-detention-center)

National Immigrant Justice Center, *ICE's Systemic Lack of Accountability in Immigration Detention Contracting*, August 2015.

Following lengthy litigation under the Freedom of Information Act, NIJC was able to obtain thousands of pages of ICE's inspections and contracting documents. NIJC's analysis reveals that facilities operated under outdated standards, and that the practice of subcontracting with private prisons shielded those contractors from transparency, oversight, and accountability.

AVAILABLE AT: [HTTPS://WWW.IMMIGRANTJUSTICE.ORG/RESEARCH-ITEMS/REPORT-ICES-SYSTEMIC-LACK-ACCOUNTABILITY-IMMIGRATION-DETENTION-CONTRACTING](https://www.immigrantjustice.org/research-items/report-ices-systemic-lack-accountability-immigration-detention-contracting)