



Immigrant Detention in the United States

“No cell is so isolated so as to exclude the Lord, none. He is there . . . His paternal and maternal love reaches everywhere.”

—Pope Francis, National Audience of Italian Prison Chaplains, October 23, 2013

Why Detain Immigrants?

The stated purpose or goal of immigrant detention has been to ensure that individuals appear for their removal proceedings and do not abscond after a final order of removal has been issued. While detention may be necessary for certain individuals considered to be community security concerns or flight risks, the majority of individuals currently in [detention](#) do not need to be detained to ensure attendance at their immigration proceedings.¹ For this reason, the government should be utilizing individual assessments on the appropriateness of detention for all individuals it seeks to detain.

Explaining the Growth of Immigrant Detention

Immigrant detention in the United States has reached record levels. In Fiscal Year (FY) 2001, the now defunct Immigration and Naturalization Service (INS) detained 204,459 people.² By FY 2014, the total number of persons detained by the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) agency had risen to 425,728.³ The FY 2014 detention

rate represents more than five times the number of people entering the federal prison system for criminal offenses.⁴

The increase in immigrant detention in the last twenty years can be attributed to federal immigration policies and priorities that have increasingly focused on enforcement and normalized deportations. The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996⁵ promulgated mandatory detention laws for certain immigrants and initiated a “get tough on undocumented immigration” era. Through expedited legal removal proceedings, harsher penalties, and mandatory detention, IIRIRA begat the first wave of large-scale immigrant detention in the U.S. As removals became a high immigration priority of the U.S. government, the use of immigrant detention increased in an effort to keep immigrants in custody while they awaited deportation.

Private Prison Contractors and Immigrant Detention

Starting around 2003, in an effort to keep up with the demand for immigrant detention beds, DHS began to rely upon a diverse set of facilities such as local and state jails, for-profit prisons, and federal prisons to house the growing numbers of immigrant detainees. Since 2009, the number of immigrant detention beds that ICE must make available has been determined by Congressional appropriators. ICE views this detention bed number be a minimum allocation or floor. This “bed

1 In fact, the U.S. currently detains 77 percent of all asylum seekers in proceedings. HUMAN RIGHTS FIRST, LIFE ON LOCKDOWN 2 (2015).

2 DORIS MEISSNER, DONALD KERWIN, MUZAFFAR CHISHTI, CLAIRE BERGERON, MIGRATION POLICY INSTITUTE, IMMIGRATION ENFORCEMENT IN THE UNITED STATES: THE RISE OF FORMIDABLE MACHINERY 131 (2013); DOJ Bureau of Statistics, *Federal Criminal Case Processing Statistics*, <http://bjs.ojp.usdoj.gov/fsrc/var.cfm?t=new> (last visited Nov. 14, 2016).

3 Reed Karaim, *Immigrant Detention: Is the System too Harsh*, 25 CQ RESEARCHER 38 (October 23, 2015), <http://library.cqpress.com/cqresearcher/document.php?id=cqresrre2015102300>.

4 Meissner et al., *supra* note 1 at 131.

5 P.L. 104–208 (1996).

mandate” of 34,400 detention beds led in part to a continued buildup of immigrant detention facilities and an increased reliance on private prison contractors. Currently, for-profit contractors [operate 73%](#) of the entire immigrant detention system,⁶ including nine of the ten largest detention centers.⁷ In addition to lack of accountability and oversight of these facilities, asylum seekers detained in for-profit facilities have been found to be [40 percent less likely](#) to obtain relief than those in ICE facilities.⁸

Catholic Response to Immigrant Detention

The U.S. Conference of Catholic Bishops’ Migration and Refugee Services (USCCB/MRS) is concerned about the growth of immigrant detention. While USCCB/MRS acknowledges the right of governments to enforce their immigration laws, USCCB/MRS has asked the U.S. government work to reform the immigrant detention system and end the painful suffering and human indignity that the current system inflicts on many immigrants and their families. In the pastoral letter, [Strangers No Longer: Together on the Journey of Hope](#), the Mexican and U.S. Catholic Bishops recognized the right of the sovereign to control and protect its borders, stating: “we accept the legitimate role of the U.S. . . . government in intercepting undocumented migrants who attempt to travel through or cross into [the country].” The bishops emphasized, however, that “. . . [w]e do not accept . . . some of the policies and tactics that our government has

employed to meet this . . . responsibility.”⁹

The U.S. Catholic Bishops have also addressed immigrant detention in [Responsibility Rehabilitation and Restoration: A Catholic Perspective on Crime and Criminal Justice](#), stating: “We bishops have a long history of supporting the rights of immigrants. The special circumstance of immigrants in detention centers is of particular concern. [The government] uses a variety of methods to detain immigrants some of them clearly inappropriate.”¹⁰ USCCB strongly believes that the current immigrant detention system threatens family unity and, as such, must be reformed to prevent unnecessary family separation, particularly of young children from their families.

Furthermore, in 2015, Bishop Elizondo and Bishop DiMarzio noted in [Unlocking Human Dignity: A Plan to Transform the U.S. Immigrant Detention System](#) that: “[The U.S. immigration detention system] 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.”¹¹

Are There Alternatives to Detention?

There are alternatives to detention available that are more humane and more cost effective than detention. DHS estimates that in FY 2017 detention will cost taxpayers approximately \$126 per

6 Astrid Galvan, *Feds Reviewing Use of Private Immigration Facilities*, AP (Aug. 29, 2016), <http://bigstory.ap.org/article/f8266a1360ed4534964f02b9dec89cd3/feds-reviewing-use-private-immigration-facilities>.

7 Chico Harlan, *The Private Prison Industry Was Crashing – Until Donald Trump’s Victory*, WASHINGTON POST (Nov. 20, 2016), <https://www.washingtonpost.com/news/wonk/wp/2016/11/10/the-private-prison-industry-was-crashing-until-donald-trumps-victory/>.

8 SHARITA GRUBERG, CENTER FOR AMERICAN PROGRESS, *HOW FOR-PROFIT COMPANIES ARE DRIVING IMMIGRATION DETENTION POLICIES* 8 (DEC. 2015).

9 *Strangers No Longer: Together on a Journey of Hope*, A Pastoral Letter Concerning Migration from the Catholic Bishops of Mexico and the United States, No. 78 (January 23, 2003).

10 *Responsibility Rehabilitation and Restoration, A Catholic Perspective on Crime and Criminal Justice*, A Statement of the Catholic Bishops of the United States (Nov. 15, 2000).

11 USCCB/MRS AND CENTER FOR MIGRATION STUDIES, [UNLOCKING HUMAN DIGNITY: A PLAN TO TRANSFORM THE U.S. IMMIGRANT DETENTION SYSTEM](#) 5 (2015).

person per day for those in adult detention, \$161 per person per day for those in family detention, and over \$2 billion a year in total.¹² In contrast, certain Alternative to Detention (ATD) programs can cost as little as \$10 per person per day and are extremely effective in ensuring compliance with immigration proceedings and orders.

USCCB Alternative to Detention Pilot Program

Consistent with the work and words of Pope Francis, USCCB/MRS works to end large-scale immigrant detention, in part by advocating for increased use of ATDs. In January 2014, USCCB, along with its Catholic partners, launched a case management-based ATD program in Boston, Massachusetts and Baton Rouge, Louisiana. The program, operated in cooperation with DHS, offered a holistic ATD “pilot” program providing community support to eligible individuals such as asylum seekers, torture victims, pregnant women, primary caregivers, elderly, and victims of crime who would otherwise be detained. The expansion of such community-based, case-management ATD programs would promote human dignity and reduce family separation while also decreasing the financial burden on the taxpayer. USCCB/MRS urges lawmakers to revise the mandatory detention policy and to implement expanded ATD programs

What Can I Do to Stop Immigrant Detention and Stand in Solidarity with Detainees?

- Contact your Representative and Senators and ask them to abolish the current 34,400 detention bed mandate and to fund community supported ATD models run and administered by NGOs in lieu of immigrant detention;

- Urge the President to use discretion and stop detaining vulnerable populations;
- Share our materials and raise awareness in your local communities about immigrant detention and the bed quota;
- Join a [visitation or pastoral care group](#) in your community and visit a detention facility;¹³ and
- Assist families that have been torn apart by immigrant detention by offering rides to the detention facility so that they can see their loved ones, helping to prepare meals, or offering other assistance.

12 DHS, CONGRESSIONAL BUDGET JUSTIFICATION FOR FY 2017 39 (2016), available at <https://www.dhs.gov/sites/default/files/publications/FY2017CongressionalBudgetJustification-Volume2.pdf>.

13 Lutheran Immigrant and Refugee Services, *Immigrant Detention Visitation Program*, http://lirs.org/wp-content/uploads/volunteer-toolboxdownloads/CasaDePaz_Training_Manual.pdf

