



STATEMENT OF THE AMERICAN IMMIGRATION COUNCIL

SUBMITTED TO THE HOUSE SUBCOMMITTEE ON OVERSIGHT, MANAGEMENT, & ACCOUNTABILITY

HEARING ON OVERSIGHT OF ICE DETENTION FACILITIES: IS DHS DOING ENOUGH?

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The American Immigration Council (“Council”) is a non-profit organization that has worked to increase public understanding of immigration law and policy—and the role of immigration in American society—for over 30 years. We write to thank the Subcommittee for scheduling this hearing to discuss ICE immigration detention facilities and their impact on immigrants, their families, and communities across the United States.

Immigration detention in the United States is rife with problems that limit due process and negatively impact the ability of immigrants to effectively defend themselves in court. In recent years, the Council has submitted numerous complaints to the Department of Homeland Security's Office of Civil Rights and Civil Liberties documenting widespread abuse in ICE detention. Today, we write to share our knowledge about these problems and inform the Subcommittee of these systemic human rights and due process violations. We hope that our perspective provides insight context for this important hearing.

Systemic Failures: Inadequate Medical and Mental Healthcare Treatment for People Detained in ICE Facilities

Far too frequently, immigrants in ICE detention experience civil and human rights violations, including inadequate medical care, sexual and physical abuse, exploitative labor practices, and even death.

The placement of ICE detention centers in rural areas—including facilities used to detain children and families—creates significant barriers to obtaining needed medical care.¹ Moreover, even detention centers that are located in urban areas are often understaffed and inadequately prepared to meet the



needs of the detained populations.² The systemic understaffing of medical units in ICE detention centers has serious consequences for the people detained in them.

For example, in June 2019, the Council identified a 71-year-old pre-diabetic man suffering from Parkinson's disease, a traumatic brain injury, chronic kidney disease, heart disease, and dementia who was detained by ICE in Aurora, Colorado ("Aurora"). The level of care in this contract facility was so deficient that this man was forced to rely on other detainees for help with day-to-day activities, such as showering. He was also denied critical medication because—according to the nurse—the facility did not have sufficient medicines in stock.³ His condition deteriorated considerably while he was detained in Aurora. He told family members that he feared he would die in detention. He ultimately lost the ability to walk.⁴

Another person - a 28-year-old man detained in Aurora for five months in 2019 - suffered from serious physical and emotional effects relating to prior sexual trauma. He reported that, while he was detained in Aurora, he experienced severe pain and bleeding stemming from his prior experience. This man and his advocates reported difficulty in obtaining medical treatment for his condition as well as his medical records. His condition went untreated for the duration of his detention.⁵ He described his experience in Aurora as follows:

Being detained there was terrible. The guards don't treat people well. They even say that they will not get us medical help unless we're dying. Not until we are dead will they help us.⁶

Further, another man detained in Aurora from August 2018 until June 2019 suffered from the effects of a traumatic brain injury, a seizure disorder, depression, anxiety, bipolar disorder, and post-traumatic stress disorder (PTSD). He experienced at least two seizures while in custody in Aurora. He had a history of at least two suicide attempts prior to being detained by ICE—both of which occurred while he was held in segregation at other facilities in the past. He also attempted suicide during his detention in Aurora. At the end of April, this man suffered a mental health crisis prompted by his frustration with his inadequate medical care. He injured his hand and yet did not receive medical attention for two days; he had to elevate his request with a GEO lieutenant in order to gain access to a medical provider. However, once examined, the nurse mocked him, causing his mental stability to spiral. Based on threats of self-harm, he was placed on suicide watch at the Aurora facility.⁷

Similar issues are also prevalent in the family detention context.⁸ In 2015, the Council filed a complaint regarding inadequate medical treatment at the South Texas Family Residential Treatment Center in Dilley, Texas, where women were required to wait for up to 14 hours in the sun to receive medical care. For example, a woman with two broken fingers and a child who was vomiting blood were both instructed to "drink water" and were denied further care; more than 250 children were improperly administered adult doses of the Hepatitis A vaccine; intravenous fluids were administered through a bent needle; a five-year-old was denied prescription medication; and a woman with breast cancer was repeatedly denied care.⁹ One woman described her experience with medical staff at the South Texas Family Residential Center in these words:



Simply, they don't care. What is more important for them is control. These are delicate situations when someone is sick and vulnerable. They just care about control.¹⁰

Four years after this complaint, the Council continues to document ongoing medical problems at the South Texas Family Residential Center. After an alarming increase in the number of infants held in detention, we raised the alarm about their treatment and urged their immediate release.¹¹

Immigration detention facilities have also faced allegations of physical and sexual abuse of people in their custody.¹² In fiscal year 2015, 729 reports of abuse by ICE personnel or the staff at detention facilities were reported through ICE's Enforcement and Removal Operations' Detention Reporting and Information Line.¹³ In Aurora, the Council documented physical and sexual harassment, including an instance when contract staff tackled and restrained a detainee to remove his shoes and socks before placing him in solitary confinement. The Council has also documented the confinement of a transgender woman in men's housing, where she was denied critical medical attention and subjected to extensive verbal and sexual harassment.¹⁴ The woman said that:

People at Aurora Facility—both male detainees and guards—sometimes think it is their right to harass and grope me.¹⁵

For many, the failure to provide adequate medical care or protection from abuse has dire consequences. ICE has acknowledged at least 185 deaths of immigrants in detention between October 2003 and July 2018.¹⁶ A whistleblower email obtained by the press indicates that at least some of these deaths were preventable.¹⁷ Just this year, eight people have died in ICE custody.¹⁸

Systemic Failures: Due Process Violations

The over-detention of people across the country in jail-like settings undermines due process and prevents thousands of people from having their fair day in court.

Immigration detention is strictly civil in nature, which means that it is supposed to be “nonpunitive and merely preventative.”¹⁹ However, many aspects of immigration detention make it indistinguishable from criminal incarceration.²⁰ For example, detainees' liberty is highly restricted by regimented daily scheduling: there is constant surveillance, limited visitation hours and phone calls, and required government-issued uniforms and identification wristbands.²¹ Additionally, immigration detainees can be disciplined, subjected to limited contact with outsiders, and ultimately held in segregation.²²

Working with experienced and competent counsel significantly impacts the likelihood of success in immigration removal proceedings, and despite the fact that immigrants are subject to criminal-like detention, they are not provided government-appointed counsel.²³ Immigrants in removal proceedings only have legal representation when they are able to obtain counsel at their own expense.²⁴ In the family detention context, immigrants who are represented by attorneys are 14 times more likely to win their cases in court.²⁵ While nearly 40 percent of immigrants nationally are



represented by counsel, less than 20 percent of immigrants in ICE detention are represented by attorneys.²⁶ Moreover, ICE detention facilities present several unique and significant barriers that prevent immigrants from obtaining attorneys.²⁷

As an example, contact with outsiders can be limited or unnecessarily expensive for immigration detainees held in privately-run detention facilities in which officials are permitted to control and manipulate the price of phone calls, including calls to legal counsel.²⁸ These prices are often too high for detainees to afford.²⁹ Immigration detention facilities are often located in rural, remote locations of the U.S. where it is difficult to find competent and experienced legal counsel.³⁰ Additionally, ICE regularly transfers immigration detainees between facilities, sometimes in different states. The Council has found that more than half of all detained immigrants are subject to such transfers.³¹ Because transfers can cross state and circuit-court jurisdictional lines, it can be difficult for detainees to find legal counsel who can represent them throughout the entirety of their cases.³²

Systemic Failures: Immigration Detention Is Exceptionally Expensive

Privately-run immigration detention centers cost the government exorbitant amounts of money each year. The average cost of detaining someone in ICE custody is approximately \$130 per day, although that cost varies depending on prices set by private prison companies.³³ Despite this high cost, the federal government has become more and more reliant on immigration detention. At the end of 2018, the President's budget request provided for 52,000 beds in immigrant detention centers.³⁴ And yet, detention is typically not necessary to ensure that immigrants and families appear in court. Our research shows that from January 2008 - June 2019, less than 20 percent of all non-detained immigrants in removal proceedings failed to appear in court.³⁵ Of those non-detained immigrants who were represented by counsel, 97 percent showed up in court.³⁶

In contrast, the Executive Office for Immigration Review's Legal Orientation Program, which provides help to detainees seeking legal counsel, saved the government nearly 18 million dollars.³⁷ Similarly, releasing individuals on parole, under Orders of Supervision (electronic monitoring, periodic check-ins with ICE officers, or travel restrictions), or on their own recognizance after they have signed paperwork committing to attend scheduled immigration court hearings, are viable alternatives to detention.³⁸

In light of the foregoing facts, we urge the committee to demand greater accountability from those tasked with enforcing our immigration laws, and to work to foster a system with greater respect for due process and the needs of vulnerable populations across the United States.

We thank you for the opportunity to submit this statement, and for the Subcommittee's efforts to engage in a thoughtful conversation about the impact of ICE detention on immigrants throughout the U.S.



- ¹ Letter from American Immigration Council, American Immigration Lawyers Association, and Catholic Legal Immigration Network, Inc. to Cameron Quinn and John V. Kelly (February 28, 2019), https://americanimmigrationcouncil.org/sites/default/files/general_litigation/complaint_urges_immediate_release_of_infants_from_immigration_detention.pdf.
- ² Letter from American Immigration Council and American Immigration Lawyers Association to Assistant Director Stewart D. Smith, Acting Inspector General Jennifer Costello, Officer Cameron Quinn, and Acting Director Mark Morgan, 5-6 (June 11, 2019), https://www.americanimmigrationcouncil.org/sites/default/files/general_litigation/complaint_supplement_failure_to_provide_adequate_medical_and_mental_health_care.pdf.
- ³ *Id.*
- ⁴ *Id.*
- ⁵ *Id.* at 8-9.
- ⁶ *Id.*
- ⁷ *Id.* at 3-4.
- ⁸ American Immigration Council, "Deplorable Medical Treatment at Family Detention Centers" (Washington, DC: 2015), <https://www.americanimmigrationcouncil.org/news/deplorable-medical-treatment-family-detention-centers> (last visited Sept. 23, 2019).
- ⁹ *Id.*
- ¹⁰ *Id.*
- ¹¹ AIC, *supra* note 1.
- ¹² Ian Peacock and Emily Ryo, *The Landscape of Immigrant Detention in the United States* (Washington, DC: American Immigration Council, 2018), 5, <https://americanimmigrationcouncil.org/research/landscape-immigration-detention-united-states>.
- ¹³ *Id.* at 25-26.
- ¹⁴ AIC, *supra* note 2 at 6-7.
- ¹⁵ *Id.* at 7.
- ¹⁶ Peacock, *supra* note 12 at 5.
- ¹⁷ Ken Klippenstein, "ICE Detainee Deaths Were Preventable: Document," TYT, June 3, 2019, <https://tyt.com/stories/4vZLCHuOrYE4uKagy0oyMA/688s1LbTKvQKNCv2E9bu7h>.
- ¹⁸ See, e.g. U.S. Immigration and Customs Enforcement, "ICE detainee from Mexico passes away at Illinois hospital," June 12, 2019, <https://www.ice.gov/news/releases/ice-detainee-mexico-passes-away-illinois-hospital> (last visited September 23, 2019).
- ¹⁹ Peacock, *supra* note 12 at 8.
- ²⁰ *Id.*
- ²¹ *Id.*
- ²² *Id.*
- ²³ *Id.*
- ²⁴ Ingrid Eagly and Steven Shafer, *Access to Counsel in Immigration Court* (Washington, DC: American Immigration Council, 2016), 1, <https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court>.
- ²⁵ TRAC, *Representation makes fourteen-fold difference in outcome: immigration court "women with children" cases*, 2015, <http://trac.syr.edu/immigration/reports/396/> (last visited September 23, 2019).
- ²⁶ *Id.* at 5.
- ²⁷ *Id.* at 1.
- ²⁸ PennState Law Center for Immigrants' Rights Clinic, *Imprisoned Justice: Inside Two Georgia Immigrant Detention Centers*, 2017, 43, https://projectsouth.org/wp-content/uploads/2017/06/Imprisoned_Justice_Report-1.pdf.
- ²⁹ *Id.*
- ³⁰ Peacock, *supra* note 12 at 15-16, 21.
- ³¹ *Id.* at 18.
- ³² *Id.* at 19.
- ³³ Southern Poverty Law Center, National Immigration Project of the National Lawyers Guild, and Adelante Alabama Worker Center, *Shadow Prisons: Immigrant Detention in the South*, 2016, 10, <https://perma.cc/2GMD-M9RD>.
- ³⁴ Peacock, *supra* note 12 at 7.
- ³⁵ American Immigration Council, *Immigrants and Families Appear in Court: Setting the Record Straight* (Washington, DC: 2019), 2, https://www.americanimmigrationcouncil.org/sites/default/files/research/immigrants_and_families_appear_in_court_setting_the_record_straight.pdf.
- ³⁶ *Id.*
- ³⁷ Cost Savings Analysis - The EOIR Legal Orientation Program, 3 (2012), https://www.justice.gov/sites/default/files/eoir/legacy/2013/03/14/LOP_Cost_Savings_Analysis_4-04-12.pdf.



³⁸ American Immigration Council, *Seeking Release From Immigrant Detention* (Washington, DC: 2013), 2, https://www.americanimmigrationcouncil.org/sites/default/files/research/seeking_release_from_immigration_detention.pdf.