

**Behind Bars: The Failure of the
Department of Homeland Security
to Ensure Adequate Treatment
of Immigration Detainees in New Jersey**



Table of Contents

Immigration Detention Policy in the United States	1
Legal Standards Regarding Immigration Detention	3
Immigration Detention in New Jersey	5
Summary of Conditions	7
Physical Abuse	8
Verbal Abuse	9
Medical Care	10
Dental Care	11
Transfers	11
Phone and Library Access	12
Commingling of Immigration Detainees	13
Lockdown	14
Visitation	15
Facility Conditions	15
Recreation	16
Clothing/Supplies	16
Religious Practice	17
Recommendations	18

On any given day, close to 1,000 individuals are subject to immigration detention in New Jersey, many held in county jails throughout the state while awaiting a deportation hearing, the outcome of an appeal or ultimate deportation. Faced with uncertainty over whether they can stay in the United States or will be deported, immigration detainees must endure confinement in some of the most severe conditions for months and, in many cases, years.

Lack of federal regulations and government oversight has led to inconsistent and inhumane treatment of detainees in local jails. Currently, the only guidelines available to ensure consistent treatment and care of detainees are the Bureau of Immigration and Customs Enforcement's (ICE) national detention standards, which are not legally binding. This means that breaches of the standards cannot be challenged in court.

This report highlights the conditions of confinement faced by immigration detainees in county jails across the state of New Jersey and attempts to shed light on the conditions immigrant detainees are forced to endure. Because the conditions of immigrant detainees are subject to frequent change, this report presents a snapshot of conditions to which immigrant detainees in New Jersey are subject.

The ACLU-NJ compiled information for this report through individual interviews with detainees and letters from detainees over a four-month period from March 2006 to July 2006. The detainees the ACLU-NJ interviewed were in custody because they had either overstayed a visa or entered the country without inspection and were apprehended by local law enforcement or immigration officials. Some were lawful permanent residents with previous criminal convictions for which they had already served their sentences or paid fines, but these criminal convictions stripped them of their lawful immigration status and made them deportable.

Immigration Detention Policy in the United States

Immigration detention is not a new phenomenon. For almost a century, immigration was regulated by local jurisdictions. Local port commissioners would decide how to handle immigrants arriving at various points of entry. Throughout most of the 19th century, detention and deportation of immigrants was rare, though not unheard of. The drive for federal regulation of immigration was spurred in part by the large-scale arrival of Chinese immigrants in the 19th century, who had largely been brought to the United States as contract labor to build the railroads.¹

Ellis Island opened its immigrant-processing operations in 1891, and while it stands today for many as a symbol of welcome, for years, particularly during its last 25 years, 1930 to 1954, it served as a grim detention center referred to by one Supreme Court Justice as effectively an “island” prison.²

After Ellis Island closed, the Immigration and Naturalization Service (INS) abandoned its detention policy. For the next 26 years, it detained immigrants only in cases in which they likely had absconded or posed a serious threat or danger to society.

Starting in 1980, several factors resulted in a shift in detention policy toward the use of detention as a deterrent to entering the United States. Among these factors was the arrival in 1980 of nearly 125,000 Cubans who over the course of about six months left the port city of Mariel for the United States. Then, in 1981, the arrival of Haitian “boat people” in the United States led President Reagan to order their mass detention, as

¹ The Chinese Exclusion Act of 1882 suspended Chinese admissions to the United States for 10 years. This legislation marks the first time the United States restricted immigration solely on the basis of race or national origin.

² Justice Robert Jackson's dissent in *Shanghnessy v. United States ex. Rel. Mezei* (1953) 345 US 206, 220

they were considered to be “economic” rather than “political” refugees. As the 1980s progressed, the civil wars in Central America led to the flight of thousands of Salvadorans, Nicaraguans and Guatemalans, causing INS to notify Congress of its need for more detention space. From 1973 to 1980, the average daily number of immigrants in detention almost doubled.

Also during the 1980s, INS enforcement strategies, influenced by rhetorical and political attention paid to the “War on Drugs,” began to focus on noncitizen ex-offenders convicted of drug crimes. The apprehension, detention and expulsion of these people became such a priority that even longtime lawful permanent residents of the United States (i.e., green card holders) with U.S.-born children who posed very little danger of absconding were held in detention facilities pending deportation.

In 1996, the Congress passed legislation that led to a dramatic increase in immigration detention. Prompted by the first World Trade Center attack in 1993 and the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City, President Clinton signed the Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA). These laws created mandatory detention without bond for certain categories of immigrants and greatly expanded the number of crimes for which noncitizens could lose their legal status and be deported. Previously, crimes that could result in deportation were limited to murder, rape and other serious felonies. With IIRAIRA, minor drug offenses, some cases of drunk driving, shoplifting, and any conviction carrying a sentence of one year or longer, whether or not the sentence was suspended or actually served, required deportation. Furthermore, the laws eliminated the possibility of discretionary relief from deportation and were made retroactive.

These new laws so dramatically increased the demand for detention space that shortly after their passage, INS petitioned Congress to authorize temporary rules allowing some mandatory detention provisions to be postponed. Since the enactment of both federal laws, immigration detention has skyrocketed across the country, including New Jersey.

From 1994 to 2001, the average daily detention population in the United States more than tripled, from 5,532 to 19,533. Today, the immigration agency holds some 30,000 people in detention on any given day throughout the United States.³

The U.S. Department of Homeland Security (DHS) in 2005 arrested over 1.3 million people, including both the undocumented and legal permanent residents, of which approximately 238,000 were held in detention; a little over 208,000 were formally removed.⁴

Immigration detention in the United States is equivalent to prison, where freedom of movement is restricted, detainees wear prison uniforms and are kept in a punitive setting, even though under U.S. law an immigration violation is a civil offense, not a crime.

Immigration detention has been on the rise, and the trend is likely to continue. Reports that an estimated 11 million to 12 million undocumented immigrants reside in the United States have sparked a debate about the need for comprehensive immigration reform. However, many of the bills put forth in Congress emphasize enforcement over broader reform, and would criminalize undocumented immigration status, deputize local law enforcement with the authority to arrest individuals based on immigration status alone and create additional detention space.

³ Statement of John P. Torres, Director, Office of Detention and Removal Operations, U.S. Immigration and Customs Enforcement, before the House Homeland Security Committee, Subcommittee on Border, Maritime, and Global Counterterrorism. March 15, 2007: <http://hsc.house.gov/SiteDocuments/20070315162647-42745.pdf>

⁴ DHS Annual Report, “Immigration Enforcement Actions: 2005,” published in January 2006: http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2005/Enforcement_AR_05.pdf

Legal Standards Regarding Immigration Detention

The U.S. Supreme Court has stated that deportation proceedings, which are administrative proceedings, are civil in nature and are not to be considered punishment for a past crime.⁵ At the same time, however, the court has acknowledged the serious consequences of deportation, most famously in the words of Justice Brandeis, who stated that deportation may result “in the loss of both property and life, or of all that makes life worth living.”⁶

Immigration detention, consequently, is also considered to be civil in nature, and in theory should not be used as punishment. The term “detention,” however, is in reality a euphemism for imprisonment, since immigration detainees, like all prisoners, lose their liberty. And deprivation of liberty is at the core of the interests protected by the due process clause of the Fifth Amendment to the U.S. Constitution. The U.S. Supreme Court has long recognized that the Constitution’s most fundamental guarantees apply to both citizens and noncitizens, including those who have not entered the United States through legal means.⁷

Despite the serious nature of immigration detention, and despite federal case law, international and domestic standards have not adequately addressed the particular situation of immigrants in administrative detention under the 1996 laws. Refugee and immigrant rights advocates contend that blanket application of mandatory detention as a result of those laws has resulted in the arbitrary detention of tens of thousands of people. Detention is considered arbitrary if it is not authorized by law, or when it is random, capricious or not accompanied by fair procedures for legal review. For example, despite Supreme Court precedent, many individuals in immigration detention, including lawful permanent residents with longstanding ties to the United States, are given no opportunity to seek legal review of their detention and be released on bail while challenging their deportation.

Many in immigration detention are stateless or come from countries that will not take them back. When immigration detainees are held indefinitely and do not know when, if ever, they will be released, their detention becomes arbitrary, even if their initial detention was carried out in accordance with the law. For this reason, the U.S. Supreme Court has ruled that such individuals cannot be detained indefinitely.⁸ However, as this report will explain, many detainees spend months or years in jail challenging indefinite detentions.

In addition, the current U.S. practice of detaining asylum seekers runs contrary to standards of international law, which clearly state that those seeking asylum should not be detained, even if they are present unlawfully or have arrived with irregular documents. As international refugee law scholar Arthur Helton has said, “[D]etention for purposes of detention is a form of punishment, in that it deprives a person of their liberty for no other reason than their having been forced into exile.”⁹

⁵ *INS v. St. Cyr*, 533 U.S. 289, 324 (2001)

⁶ *Ng Fung Ho v. White*, 259 U.S. 276, 284 (1922)

⁷ In *Shaughnessy v. United States* 345 U.S. 206, 212 (1953), for example, the Supreme Court ruled that noncitizens are entitled to due process before being deported: “Aliens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law.” Similarly, in *Plyler v. Doe*, 457 U.S. 202, 210 (1981), the court held: “Whatever his status under the immigration laws, an alien is surely a ‘person’ in any ordinary sense of that term. Aliens, even aliens whose presence in this country is unlawful, have long been recognized as ‘persons’ guaranteed due process of law by the Fifth and Fourteenth Amendments.”

⁸ *Zadvydas v. Davis*, 533 U.S. 678 (2001)

⁹ Arthur C. Helton, “Detention of Refugees and Asylum-seekers: A Misguided Threat to Refugee Protection,” from Gil Loescher, co-editor, “Refugees and International Relations”(Oxford University Press, 1989)

Despite the fact that immigration detainees represent one of the fastest growing segments of the incarcerated population, there are no federal regulations governing the conditions of their detention.

Currently, each county jail, private contract facility and service processing facility (a facility owned and run by DHS) is supposed to comply with DHS/ICE national detention standards.¹⁰

The DHS national detention standards, promulgated in November 2000, are fairly comprehensive, encompassing areas from legal access to religious and medical services and marriage requests. The standards specifically cover visitation, access to legal materials, telephone privileges and group presentations on legal rights. These standards are contained in the “Detention Operations Manual.”¹¹

However, these guidelines are just that — guidelines, with no force of law. Because they are not codified as federal regulations, there is no enforcement mechanism to mandate compliance. Consequently, immigration detainees who want to challenge the conditions of their confinement fall into a legal no man’s land. The absence of enforceable regulations makes it very difficult to address inhumane conditions, lack of medical care and other rights violations.

Most immigrant rights advocates agree that to the extent that the detention standards represent *minimum* required policies and procedures, they are adequate; the main problem stems from lack of adequate enforcement on the part of DHS.¹² Despite DHS efforts to enforce compliance with detention standards, county jails in New Jersey that house immigrants fall far short of providing even the basic necessities for detainees and are rarely in compliance with the standards.

Types of Detention Centers

Immigrants are typically detained in four types of facilities:

- service processing centers
- private contract detention facilities
- federal Bureau of Prisons facilities
- state or local government facilities, mainly county jails, used by ICE

Service processing centers are owned and operated by ICE, while contract detention facilities are private facilities run by private companies such as the Corrections Corporation of America. The largest percentage of immigration detainees are held in local and state facilities; ICE contracts with county jails to rent space in which to house immigration detainees while they await hearings, deportation or the resolution of their immigration cases. The Bureau of Prisons’ facilities are funded either directly through congressional appropriations to the bureau or through ICE reimbursement.

Immigrant detainees typically wait in these county jails anywhere from a few weeks to a few years pending an ultimate disposition of their cases. Outside the immigration context, county jails are generally used for county inmates serving short sentences or awaiting trial, sentencing or release on bond. Unlike prisons, county jails are not designed for long-term housing of inmates. Many lack necessary facilities such as ade-

¹⁰ The DHS detention standards are available online: <http://www.ice.gov/partners/dro/opsmanual/index.htm>

¹¹ *Ibid*

¹² When the Department of Homeland Security (DHS) was created pursuant to the Homeland Security Act of 2002, the former Immigration and Naturalization Service was abolished. Its various functions were subsumed into the DHS under three different bureaus: Citizenship and Immigration Services (CIS), Immigration and Customs Enforcement (ICE), and Customs and Border Patrol (CBP). Within ICE, the Office of Detention and Removal is in charge of conditions of confinement for immigration detainees.

quate legal libraries, recreation facilities, medical, dental and mental health services and reliable access to the outside world.

Nevertheless, many immigrant detainees are forced to linger in jail indefinitely pending deportation or disposition of their cases. Some spend up to four to five years in these ill-equipped jails with no clear prospect of resolution.

The ACLU-NJ interviewed approximately 25 detainees who were being held in immigration detention facilities in the state because of previous criminal convictions for which they had served time in either federal or state prisons. The ACLU-NJ asked them to compare their conditions of confinement where they served their sentences with their experiences in immigration detention in New Jersey. They were asked specifically to compare their experiences with medical care, food, cleanliness, legal library access, phone access, visitation and physical/verbal abuse. Nearly all told the ACLU-NJ that their experiences in New Jersey county jails were worse than federal or state prisons in every category.

Immigration Detention in New Jersey

The following five county jails in New Jersey held immigrant detainees during the time research for this report was conducted: Hudson County Correctional Center in Kearny; Middlesex County Adult Correctional Center in North Brunswick; Monmouth County Correctional Institution in Freehold; Bergen County Jail in Hackensack; and Keogh-Dwyer Correctional Facility in Newton, Sussex County. Passaic County Jail in Paterson, which gained notoriety for its poor treatment of detainees (see box on next page), ended its contract with ICE at the end of 2005, a few months after DHS had begun auditing the facility.

In addition to the county jails, the Elizabeth Detention Center, a private facility run by the Corrections Corporation of America, holds approximately 300 detainees. Unlike the county jails, the Elizabeth Detention Center does not hold detainees in deportation proceedings based on past criminal convictions. Rather, Elizabeth detainees are in custody because they entered the country without valid documents (many are in expedited removal and are applying for asylum); have previous deportation orders; or have been living in the United States without valid documents.

New Jersey counties have made millions of dollars renting their jail space to DHS to house immigration detainees. Since Hudson County started holding immigration detainees, it has received close to \$10.4 million; Middlesex \$5 million; and Bergen County \$4 million.¹³ Hudson County has completed an expansion and improvement project of the correctional center specifically for immigration detainees. The U.S. Marshall Service and INS provided Hudson County \$7 million in capital funding — the largest award to a local government for construction projects. This new and expanded facility will include 512 beds, reflecting a trend toward increasing immigration detention in New Jersey.¹⁴

The ACLU-NJ obtained the DHS contracts with four county jails — those in Hudson, Monmouth, Sussex and Bergen counties — through the New Jersey Open Public Records Act, which requires government agencies to disclose public records such as vendor contracts.¹⁵ These contracts are called Intergovernmental Service Agreements. Each of these service agreements describes the maximum number of immigration de-

¹³ Brian Donohue and Tom Feeney, “Federal detainees, county headaches,” *The Star-Ledger*, June 3, 2005

¹⁴ Hudson County Board of Chosen Freeholders Resolution, No. 157-3-2002

¹⁵ Despite its requests under the state Open Public Records Act, the ACLU-NJ did not receive DHS contracts with the Middlesex County Adult Correctional Institution or Passaic County Jail.

tainees each jail can house, provides an explanation of the jail's intention to comply with minimum detention standards, and specifies the contract period, the rate paid by DHS per detainee per day and the number of beds offered by the jail.

The jails in Bergen, Sussex and Monmouth provide for only the “mandatory minimum conditions of confinement” during the contract period. These minimum standards are as follows:

- adequate, trained jail staff 24 hours a day to supervise prisoners and ensure that the prisoners are counted at least every 24 hours
- full security coverage and surveillance¹⁶
- three meals per day that meet the recommended dietary allowances of the National Academy of Sciences
- 24-hour emergency medical care
- smoke and fire detection and alarm systems¹⁷
- water supply and waste disposal programs that are certified to be in compliance with applicable laws and regulations

Hudson County Correctional Center simply allows for the “periodic inspections of the facility by INS” to ensure acceptable levels of service and conditions of confinement. All of the contracts provide for standard medical services within the jail. However, DHS must approve and pay for any medical visit that a detainee needs outside the facility. None of the contracts the ACLU-NJ received contain standards such as public phone access, presentations by legal rights groups, reasonable access to legal materials, access to counsel, visitation or recreation — all of which are specified in the DHS national detention standards.

Passaic County Jail

Subject to two major federal investigations, Passaic County Jail, notorious for the harsh treatment of all prisoners, came into the national spotlight for its treatment of immigration detainees in particular. Before September 11, Passaic County Jail housed approximately 50 immigration detainees on average; by October 2001 the number grew to 98; to 306 in November 2001 and peaking at 417 in early December 2001.¹⁸

In the Passaic County Jail, immigration detainees were being housed with criminal inmates and were being treated as criminal inmates, and sometimes worse. Said one immigrant detainee, “We are seen as the waste of America.”¹⁹ While being housed in the same cells as criminal inmates, many immigrant detainees feared for their safety and were subject to abuse from criminal detainees.²⁰

Immigration detainees in Passaic say they were subjected to poor conditions and indignities such as being denied medical attention, being attacked by dogs at the whim of jail guards and undergoing other physical and verbal abuse. A November 17, 2004 investigative report on National Public Radio's “All Things Considered” relied on medical records to corroborate detainees' accounts of attacks by dogs. Detainees have responded to the harsh conditions at Passaic in various ways, including hunger strikes.²¹ In February 2005, a Korean detainee was found dead in his isolation cell, where he had hanged himself.²² He was held in a “segregated discipline unit,” but was not under suicide watch despite the fact that he had tried to hang himself before. These incidents prompted the Office of Inspector General to conduct an audit of the jail facilities.

In December 2005, Passaic County Sheriff Jerry Speziale, under whose authority these instances of abuse and mismanagement occurred, ended his contract with DHS and stopped holding immigration detainees, a few months after federal auditors had begun to inspect the facility and investigate complaints.²³

¹⁶ The Keogh-Dwyer Correctional Facility in Sussex County does not make reference to this point.

¹⁷ *Ibid*

Summary of Conditions

Below is a summary of the chief complaints made by immigration detainees held in New Jersey's county jails. Information was gathered through in-depth interviews with detainees, as well as letters and correspondence received directly from them.

Incarceration or physical confinement is one of the most serious liberty interests in any democratic society. Long-term and potentially indefinite detention, in particular, is a most pressing issue for immigrant detainees. Indefinite detention can result when the detainee is stateless, from a country with which the United States does not have a repatriation agreement or when the detainee's country of origin is unwilling to accept him or her back.

What is the solution in these cases? Detention for life?

This had been the government position until the U.S. Supreme Court ruled in *Zadvydas v. Davis* that indefinite detention of immigrants was unconstitutional, and that after six months the government must release a detainee if removal is not foreseeable in the future (subject to some limitations, such as if the detainee is believed to be "specially dangerous"). There are exceptions to the six-month deadline in certain cases — for example, if the government believes the detainee has not cooperated in removal efforts or if the detainee has requested a stay of removal while an appeal is pending.

Custody review procedures were in place for long-term detainees even before the *Zadvydas* case. Under those procedures, every detainee subject to a final order of deportation — that is, one in which all appeals have been exhausted — must undergo a custody review if the person continues to be in ICE custody 90 days after his or her final order of deportation. At this hearing, ICE takes into account several factors: community or family ties, whether the detainee poses a danger to society, risk of flight, education and job prospects. With the *Zadvydas* ruling, the Supreme Court allowed detainees to file petitions for habeas corpus should they continue to be detained beyond the six-month limit.

Despite the Supreme Court ruling, long-term detention continues to be a problem in New Jersey's county jails. One reason is that detainees do not enjoy the right to appointed legal counsel, as criminal defendants and other people in many civil proceedings do. Without legal representation, detainees have much greater difficulty challenging their detention.

The ACLU-NJ interviewed some detainees in the Hudson County Correctional Center who have filed habeas corpus petitions because DHS would not release them after the six-month removal period. Some had rarely — or in some cases — never seen their deportation officers. One Haitian detainee told the ACLU-NJ that he had never met the deportation officer who was supposed to complete his custody review. Soon after filing a habeas corpus petition, he was transferred to a detention center in Louisiana, far from his family in New Jersey.

¹⁸ U.S. Department of Justice Office of the Inspector General, "The September 11 Detainees: A Review of the Treatment of 19 Aliens Held on Immigration charges in Connection with the Investigation of the September 11 Attacks," April 2003, p.168: <http://www.fas.org/irp/agency/doj/oig/detainees.pdf>

¹⁹ Karen Keller, "Passaic County Jail ends the housing of immigrant detainees," Herald News, December 29, 2005

²⁰ *Supra* note 18, p. 169

²¹ Susan Sachs, "New Jersey: Newark: Detainees End Hunger Strike," The New York Times, January 23, 2003

²² Nina Bernstein, "New Jersey: Paterson: Man Found Dead in Jail Cell," The New York Times, February 17, 2005

²³ *Supra* note 19

A detainee from Somalia, Mohamed Jama, was held in immigration custody for nearly four years. A federal court had issued an injunction halting the deportation of Somalis because of the absence of a functioning central government and civil war that has plagued the country since 1991. However, in 2005, in a 5-to-4 decision, the U.S. Supreme Court held that the lack of a functioning central government in Somalia did not bar such deportations.

Consequently, DHS kept him in custody. When the ACLU-NJ interviewed Jama, he said, “I believe I am going to be here for the rest of my life.”

Jama, whose nine-year-old daughter was born in the United States and living in Harlem, sought supervised release to a cousin in Queens who had found him a job in a grocery store.

In November 2006, just a week after the ACLU-NJ filed a habeas corpus petition to seek Jama’s release, the government deported him to Somalia, at a time when the security situation in the country had deteriorated significantly.²⁴

In his affidavit to the court, Jama had written: “Although my greatest fear is remaining in immigration detention for the rest of my life and never regaining my freedom, I am also frightened about what could happen if the United States tried to remove me to Somalia.”

Physical Abuse

Immigration detainees in New Jersey have faced threats and physical abuse by jail guards at disturbing levels, even though the detention standards clearly state that the “use of force is authorized only after all reasonable efforts to resolve a situation have failed. Officers shall use as little force as necessary to gain control of the detainee ... [p]hysical restraints shall be used to gain control of an apparently dangerous detainee only under specified conditions.”

Some of the worst physical abuse of immigrant detainees has taken place at Passaic County Jail, which had instituted a practice of using dogs on immigration detainees for no other reason than to frighten them. Two former detainees are suing the jail because they were terrorized by dogs. The New York Times reported, “[t]wo or three times a week, they said, often around 3 a.m. when the detainees were fast asleep in dormitory cells housing about 50 men, the electronic doors would open and 10 to 20 officers would rush in with four to six unmuzzled, barking dogs on leashes. The dogs, mostly German Shepherds, would strain to within inches of the detainees’ faces, they said.”²⁵

Furthermore, in a piece that aired on National Public Radio’s “All Things Considered” on November 17, 2004, investigative reporter Daniel Zwerdling cited medical records of a detainee who had been bitten by a dog.²⁶ Zwerdling also interviewed Sadek Awaed, an Egyptian detainee whose unprovoked beating by guards at Hudson County Correctional Center prompted an investigation by the DHS Office of Inspector General into the matter.²⁷

²⁴ Nina Bernstein, “Man’s Deportation to Somalia Sets off a Wave of Concern over Safety,” The New York Times, November 22, 2006

²⁵ Nina Bernstein, “9/11 Detainees in New Jersey say they were abused with dogs,” The New York Times, April 3, 2006

²⁶ To learn more about the NPR investigative report on abuse at the Passaic County Jail, visit: <http://www.npr.org/templates/story/story.php?storyId=4173701>

²⁷ Department of Homeland Security Office of Inspector General, “Treatment of Immigration Detainees Housed at Immigration and Customs Enforcement Facilities,” December 2006: http://www.dhs.gov/xoig/assets/mgmt/rpts/OIG_07-01_Dec06.pdf

The following is an excerpt from an ACLU-NJ interview with a Jordanian detainee who spent over a year in the Passaic County Jail before he was transferred to Bergen County Jail.

Detainees are not named in this report in order to protect their safety.

Passaic County Jail is a very sad memory. The way they treat people? One day during a search of our dormitory, a guard came in and started to yell at a very old Indian man in the bunk next to mine. The man was very old and never said anything, but the guard grabbed him and called him a 'stupid old man' and threw him back in his bed, where he laid crying to himself. I am now in Bergen County Jail, and it does not feel like jail because I am not in Passaic.

A Turkish detainee told the ACLU-NJ he was beaten by guards at Monmouth County Correctional Institution, an account that he claims was witnessed by several detainees. On June 12, 2006, after an earlier fight between two detainees, both cell blocks containing immigration detainees were searched by guards. During the search, guards went from cell to cell demanding all detainees get out of their cells, face the wall and put their hands up. The detainee provided the ACLU-NJ with the following written account:

When I asked why I was being told to do this, a guard yelled at him and said, "Do you speak English!" After this, the guard, a white man, punched me in my stomach and I fell to the floor. Soon after that about 7 guards came up to me and started beating me. They mainly hit me on the head and tied arms and legs up behind my back. After the beating I briefly lost his breath and felt like I stopped breathing briefly. The guards carried me out of the cell and used my head to open the door.

About three days later, the Turkish detainee spoke with a DHS official, who finally negotiated a visit to the doctor for him. The detainee reported the incident to him, but there was no follow up. He told the ACLU-NJ that his injuries included a black eye and a welt on his head. His glasses were also broken. For three days after the incident, he did not receive any medical attention. The outcome of his talk with the DHS official was that he was written up on a disciplinary charge for fighting with or threatening a guard.

In Bergen County Jail, an Indian detainee wrote to the ACLU-NJ about his treatment by guards in the jail. He has since been transferred to Perry County Correctional Center in Uniontown, Alabama.

The [officer] told me to put my hand up and I asked him why, because I had not done anything wrong. After grabbing my neck, he yelled in my ear to put my hand up. Besides trembling with fear of being beaten I felt sharp pain in my neck, after searching my cell the officer put me and my cell mate back in our cell and closed the door behind us. As they were leaving someone shouted "fuck you," and officers thought it was I, so they reopened my cell door, pulled me out and threw me against the banister. One of the officers had his hand grabbing and pressing on my neck while shouting in my ear and another officer was threatening to throw me off the banister onto the floor. At this point six officers surrounded me trying to intimidate and coerce me to curse at them. I was trembling with fear and too afraid to say anything.

Verbal Abuse

Immigration detainees throughout New Jersey are subject to humiliating insults, threats and other forms of verbal abuse. Many detainees report that verbal abuse is so common that it has almost become unremarkable

to them. Since September 11, detainees, especially Muslim detainees from Middle Eastern or South Asian countries, are forced to endure even more pointed insults from jail guards. Detainees in all county jails in New Jersey recount hearing epithets such as “fucking immigrant,” “terrorist” and “foreigner” and are told to “go back home.”

“I am constantly called ‘Taliban, terrorist, Osama,’ etc. only because I am from Afghanistan,” said a detainee held in Monmouth County Correctional Institution.

In Middlesex County Adult Correctional Center, one guard in particular was known for singing the American national anthem as loudly as he could every time he passed the male immigration cell block. He would tell the detainees, “If you don’t look like me, you gotta leave.” After repeated complaints to the warden, this guard was finally assigned to a different cell block so that he would no longer have to pass the immigration cell block.²⁸

A petition submitted to the ACLU-NJ in June 2006 was signed by 103 immigration detainees in Monmouth County Correctional Institution describing abusive conditions at the jail.

The officers at MonMouth county jail from the lieutenant in charge ... down to the rest of the officers except for a few of them are extremely abusive both physically, verbally and mentally. The situation is out of control, with detainees being beat ... simply because they do not understand commands given in English, when it was obvious they do not understand or cannot comprehend the English language. Officers have been known to open detainee’s cells in the middle of the night and beat them up. A lot of times when you complain the response would be “this is a white man’s country and white man’s law, and you ain’t got no fucking rights immigrants’. The attitude now of a lot of detainees is not to complain, because you either get beaten up, written up or simply ignored.

Medical Care

The ICE national detention standards state that “[a]ll detainees shall have access to medical services that promote detainee health and general well-being.”²⁹ Unfortunately, the ACLU-NJ’s observations of the county jails suggest that immigration detainees do not receive an adequate level of medical care. Contract facilities such as the Elizabeth Detention Center have medical facilities that are run by the U.S. Public Health Service and located in the detention center itself. In county jails, by contrast, immigration detainees receive whatever health care the county jail provides county inmates. DHS must first authorize the care, which can take several days, a problematic circumstance for anyone facing a serious health issue, particularly one that requires immediate attention. County jails, meant to be temporary holding facilities, are ill-equipped to provide adequate medical care to long-term immigration detainees.

A 58 year-old Ghanaian man detained at the Passaic County Jail nearly died because his heart surgery was not approved early enough. Here is his statement:

I had been taken to the hospital on three different occasions: once for chest pain, once for high blood pressure and finally for a surgery after a heart attack. Each time the doctors told me I need surgery, and it wasn’t until I had a heart attack that I finally got it. I stayed in the hospital for two weeks and I was handcuffed the entire time and even in

²⁸ ACLU-NJ interview with two male detainees, one from Haiti and one from Sudan, at Middlesex County Adult Correctional Center

²⁹ INS Detention Standard, “Medical Care,” September 20, 2000

the ambulance on the way to the hospital. The doctor in the hospital said the surgery should have been done a long time ago, even over the objections of DHS.

The process through which detainees request health care is referred to as “sick call.” The ICE national detention standards state that facilities with 50 to 200 detainees must provide sick call at least three days a week, and in facilities with over 200 detainees, a minimum of five days a week. These standards are not being met. At the Monmouth County Correctional Institution, for example, detainees frequently complained about having to wait two to three weeks to see a doctor.

One of the most disturbing cases that the ACLU-NJ discovered during our investigation was that of a 58-year-old Pakistani man who uses a wheelchair. Detained in Hudson County, he has had a long history of high blood pressure, high cholesterol and Type II diabetes and had been recovering from spinal surgery. As a detainee with disabilities, he is unable to visit the library, participate in outdoor recreation, take a shower, receive food or medical treatment and go to legal visitation without paying another detainee for assistance. When he requested help from jail guards, he was told he would have to wait. As a result, he often missed recreation or sick call while waiting. The jail made no accommodation for this detainee despite requests by his lawyer and the ACLU-NJ. Since the writing of this report, this detainee has deteriorated to the point that he can barely move the right side of his body. His overall health has declined, and his pain medication has not been dispensed. The ACLU-NJ has written letters to DHS to advocate for this detainee’s release based on his health or at least that he receive medical attention. DHS only indicated that they would “look into the situation,” but at the writing of this report, he is still lingering in detention as his health deteriorates.

Dental care

The DHS/ICE national detention standards provide for proper dental care for detainees including an initial screening and routine treatment for those detained over six months. Many detainees complained of inadequate dental care, and most have never seen a dentist while in detention. The ACLU-NJ interviewed a Jordanian detainee who suffered serious dental pain stemming from a physical altercation with another detainee that caused him to lose two teeth. The altercation took place in the Passaic County Jail, and he was not allowed to see a dentist until he was transferred to the Bergen County Jail, five months later. Four detainees in Monmouth County Correctional Institution told the ACLU-NJ that they had requested to see a dentist via the sick call procedure and had waited at least two months before they were called. One detainee who had been detained in both Middlesex and Hudson counties told the ACLU-NJ that the jails had an “extraction-only” policy, meaning other treatments, such as root canals or X-rays, were not offered.

Transfers

Frequent transfer between jails is common among the immigrant detainee population in New Jersey. The ICE national detention standards state that detainees can be transferred from one facility to another “for a variety of reasons.” According to the standards, a detainee being transferred will only be notified of the transfer “immediately prior to leaving the facility.” If he or she is represented by an attorney, the attorney will be notified of the transfer only after the detainee is “en route to the new location.”

Nearly every detainee the ACLU-NJ spoke with had at one time or another been transferred. Some detainees the ACLU-NJ interviewed said their lawyers were not notified at all about their transfer and that they were not given an opportunity to make a free call to tell their families. Some facilities failed to transfer medical and other records with the detainees. A detainee told the ACLU-NJ that after he was transferred from the Middlesex County Adult Correctional Center to the Hudson County Correctional Center, “I went to see a doctor with the same problem and they didn’t know about it; I didn’t see my record.”

Most detainees are transferred more than once. For example, a detainee from Trinidad was detained in the Monmouth County Correctional Institution in December 2003; transferred to Middlesex County Adult Correctional Center, where he stayed until January 2005; and then finally transferred to the Hudson County Correctional Center in April 2006. A Somali detainee, first detained in October 2002, has been held in every single county jail in New Jersey except the Keogh-Dwyer Correctional Facility. Detained in Monmouth County, where he was transferred in March 2006, he had not received his prescription medication or his reading glasses.

For detainees who are unrepresented and trying to secure legal help, the frequent transfers, which can sometimes be out of state, create yet another obstacle to obtaining legal assistance. The transfers also make it more difficult for detainees to receive family visits (see section below on visitation). In addition, frequent transfers from one facility to another make it difficult for advocacy groups to monitor conditions, file complaints or pursue legal actions, since detainees are sometimes transferred before any legal action can be taken or just after such action is taken. Many detainees believe that ICE uses transfers as a way of punishing detainees who stand up for their rights. This allegation is difficult to prove since ICE's own standards grant the agency wide discretion to transfer detainees for a number of reasons.

Phone and Library Access

The overwhelming majority of immigrant detainees are not represented by attorneys and must navigate on their own through the complex world of immigration law and square off against trained government lawyers. Compounding the problem is that simple access to telephones and the law library is often out of reach for detainees.

The DHS standards make clear that immigration detention facilities must allow the detainee to make direct, *not collect*, calls to local immigration courts, federal and state courts, legal service providers or to a government office to obtain relevant documents, and to family members in an emergency.

However, the ACLU-NJ found that detainees in all county jails complained of limited phone access. Many reported that when they try to make collect calls to family, friends and their lawyers, often their calls are blocked because the receiving numbers may have technology that automatically blocks collect calls.

The detention standards state that “[t]he facility shall enable all detainees to make calls to the INS-provided list of free legal service providers and consulates at no charge to the detainee or the receiving party.”³⁰ Despite this standard, no detainee in any of the county jails in New Jersey can make direct calls to pro bono legal service providers.

As a result, at least two nonprofit organizations that serve New Jersey's jail population, both included on the list of free legal service providers, have been forced to limit the degree to which they can accept collect calls from detainees, given the high cost of routinely accepting collect calls from such a vast pool of individuals. Even when nonprofits cannot directly represent detainees, they are able to mail them information that might not be available in the law library in the county jail, as well as other legal self-help materials. Therefore, having phone access to request information from such organizations is critical.

Access to legal materials is essential to indigent immigration detainees who must represent themselves. The ICE national detention standards state that detainees must have access to a law library at least five hours per week and adequate access to computers or typewriters.³¹ However, once again, the ACLU-NJ found that the reality fell far short of the standards.

³⁰ INS Detention Standard, “Telephone Access,” September 20, 2000

³¹ INS Detention Standard, “Access to Legal Materials,” September 20, 2000

Immigration detainees in all jails told the ACLU-NJ that access to the law library was sporadic, and that the legal materials available were outdated, inadequate or, as one detainee in Monmouth County noted, “dismal.” Detainees in the Hudson County Correctional Center reported that they are permitted to access the library twice a week.³² Similarly, in the Monmouth County Correctional Institution, detainees are only allowed to go the library once a week, for an hour only, and the entire cell block of roughly 60 detainees shares one computer.³³

Immigration detainees in the Bergen County Jail had previously received regular access to the law library, but were moved to an older part of the jail, where conditions are worse, and they have limited access to the library. The ACLU-NJ communicated with detainees at the Bergen County Jail in June 2006, at which point they had not been able to access the law library for more than six weeks. In Middlesex County, detainees said that library access is more regular than in other jails. “Middlesex is the best so far. We are allowed go to the library four to five times a week if we want. The worst was Hudson County. The books are much better at Middlesex,” said a Trinidadian detainee transferred from the Hudson County Correctional Center to the Middlesex County Adult Correctional Center. These accounts demonstrate that library access for immigration detainees is inconsistent from one facility to the next.

Commingling of Immigration Detainees With the General Inmate Population

As previously noted, immigration detainees are held based on civil, not criminal, law. Many have led law-abiding lives free from even an accusation of crime. Nevertheless, they are routinely housed with the general inmate population consisting of individuals charged with and convicted of serious crimes, including assault. In the aftermath of the September 11 attacks, immigrant detainees often became a target of abuse, hostility and, at times, attacks by other inmates.

The DHS/ICE national detention standards do not specifically address the commingling of immigration detainees and the general inmate population. Instead, they advise that all facilities holding immigration detainees should implement a Detainee Classification System for use within the immigration detainees that classifies detainees by the seriousness of their criminal convictions. Under the standards, for instance, “Level 3,” or highest threat, detainees should not be mixed with “Level 1,” or lowest threat, detainees.³⁴

The situation for women detainees in New Jersey is even more dire. Because of their lower numbers in the county jails, women immigration detainees tend to be housed with county inmates in almost every single county jail. Warden Edward Cicchi of the Middlesex County Adult Correctional Center stated, “When we have females, we don’t have a separate spot to put them, so they’re in with the general population.”³⁵

Excerpt from the daily journal kept by a female immigration detainee who was confined with nonimmigration detainees at the Middlesex County Adult Correctional Center:

Once in the cell, the inmate’s cell doors were reopened and a few of them barged into my cell. I was in here by myself scared and shaking. The inmates would ask me questions and laugh at me for crying. Some of the inmates would congregate outside my cell and make fun of me. That night I heard a knock at my door. I was surprised because every-

³² ACLU-NJ interviews with detainees from Trinidad, Russia, Gambia and Haiti at the Hudson County Correctional Center

³³ ACLU-NJ interviews with detainees from Afghanistan, Albania, Jamaica and Somalia at the Monmouth County Correctional Institution

³⁴ INS Detention Standard, “Detainee Classification System,” February 2002:

<http://www.ice.gov/doclib/partners/dro/opsmanual/classif.pdf>

³⁵ Samantha Henry, “When jailed females are mixed with criminals,” Herald News, April 26, 2006

one else just entered. The lady introduced herself as an INS detainee. She felt bad for me and told me the unofficial rules of the jail. She warned me to be careful about the showers and who I spoke to. I have never been so scared in my entire twenty-three years here on earth. As I walked toward the door, which was conveniently located next to the shower, I put 2 and 2 together. People had warned me about that shower, and now I knew why ... The entire 7 days I was in prison, I never showered.

Excerpt from newspaper article, “When jailed females are mixed with criminals”:³⁶

When Sharon Nyantekyi, a Rutgers University honors student, was taken into custody last month for a civil immigration violation, she had no criminal history — never as much as high school detention.

Yet she was shackled, taken to the Middlesex County Adult Correction Center, and placed among the general female inmate population.

“We’re not criminals, and we were mixed in with criminals,” said Nyantekyi, speaking of herself and other female immigration detainees she met in jail. “To be just thrown in there was like being thrown to the wolves.”

Lockdown

A frequent grievance of immigration detainees in New Jersey is the amount of time they spend each day under “lockdown,” which refers to restrictions on movement throughout the facility. Each facility has a different policy on the matter, but frequently, detainees must endure a lockdown that confines them to their cells all day. As one Trinidadian detainee at Middlesex told the ACLU-NJ, “We have 24-hour lockdown sometimes for three to four days, and sometimes we are allowed out only to shower.”

Detainees at the Middlesex County Adult Correctional Center in particular have complained that the guards use lockdown at whim and punitively. They are often locked down for at least 16 hours a day, during which they are unable to meet with their attorneys or visitors as the restrictions on movement apply to persons coming to visit the jail as well.

Further, detainees complained that 24-hour lockdown is used as a form of collective punishment for the entire immigration population for incidents involving only some detainees. For example, in the jail in Monmouth County, 24-hour lockdowns lasted for eight consecutive days because of an incident involving only one detainee.

An excerpt from a petition of several detainees complaining about conditions at the Middlesex County Adult Correctional Center:

Sanctioned policies include indiscriminate lockdown. This varies depending on how management feels on a given day. Our ability to access the courts and visit the law library becomes a privilege not a right. Denial of our basic rights is determined by officials here at the jail on a day-by-day basis.

³⁶ *Ibid*

From the wife of a detainee from Jamaica detained in the Middlesex County Adult Correctional Center:

I get worried when I don't hear from [my husband]. I know that he has been in lock down because the jail is training new officers. He is frustrated because during his free time he needs to do research on his case because he does not have a lawyer.

Visitation

Isolation from family and community is a reality for all incarcerated people. For immigration detainees, the isolation is coupled with a fear of deportation and long-term or even permanent exile from family members. This is why immigration detainees are so concerned about being able to receive visitors.

The DHS/ICE national detention standards advise that facilities holding immigration detainees “permit authorized persons to visit detainees,” recognizing that this would maintain “detainee morale and family relationships.” In practice, each county jail has its own visitation policy, including the requirement that every detainee be strip-searched before and after any contact visit. At least three county jails in New Jersey hold detainees who are under New York jurisdiction and are from the New York area. This creates difficulties for family members who must travel a longer distance to visit their relatives being held in New Jersey, especially if they rely on public transportation. Some of the county jails are not readily accessible by public transportation. For example, family members and friends of detainees held in Monmouth County must travel hours to see a detainee, with visits lasting only 30 to 45 minutes.³⁷

The Bergen County Jail, which was found to have the strictest policy, allows only parents, guardians, spouses, significant others, grandparents, aunts, uncles, siblings or children to visit detainees. This seemingly comprehensive list excludes people who are as emotionally close, or in some cases, closer to the detainee, such as cousins or friends. Excluding these people from jail visits also undermines and isolates detainees who need to communicate in person with potential witnesses who are not immediate family members. The DHS/ICE national detention standards clearly allow for visits with nonfamily members, cousins and friends unless they pose “a threat to the security and good order of the institution.”³⁸ A Belorussian detainee in the Bergen County Jail wrote in a grievance form: “I want to know why I can't put my friend or my girlfriend on the visit list. I haven't seen my best friend or my girlfriend for the past two months.” In response, a jail official stated: “The visiting policy allows for visits from your immediate family only.”

In Middlesex County, detainees are not allowed to have physical contact with their visitors and are under threat of losing in-person visits altogether. A female detainee from Jamaica told the ACLU-NJ that the jail had installed videophones that are intended to be used in place of face-to-face visits. “Other INS inmates in other facilities receive contact visits. We don't get contact visits here, but now we stand to lose the face-to-face visits we do have.”

Facility Conditions

As noted, county jails, which are designed to hold people for a limited period, are not well-suited to immigration detainees who sometimes remain there for prolonged periods. Crowded conditions in short-term jails make life miserable for immigration detainees who may be detained for a few months to several years. Immigration detainees' complaints about conditions include: having two showers for 48 people, cells blocks with extremely cold temperatures and an inability to keep cells clean for lack of cleaning supplies.

³⁷ This is the official visitation time limit on the Monmouth County Web site; however, detainees have complained that their visits only last 15 minutes.

³⁸ INS Detention Standard, “Visitation,” September 20, 2000

In the Middlesex County Adult Correctional Center, immigration detainees are held in one of two types of cell blocks, one designed for “high-security” inmates and the other for “low-security” inmates. The ACLU-NJ interviewed detainees from both cell blocks, and no detainee was able to articulate why they were chosen for one or the other; some stated they were frequently transferred from one cell block to the other. Detainees in all jails consistently complained about the cold temperature and poor ventilation in their cells. Detainees interviewed by the ACLU-NJ in both the Hudson and Middlesex jails complained of second-hand cigarette smoke permeating through the vents. One detainee from Trinidad complained that everyone smokes in the jail, including guards and inmates, and he doesn’t have the freedom of movement to get away from the smoke. A female Peruvian detainee in Middlesex complained the jail was “always smelling of smoke and I don’t know where it is coming from.” A group of detainees in Middlesex County complained that the “air vents on the pods are filthy and clogged; a few of us suffer from symptoms like constant dry coughs. Those of us who suffer from chronic sinusitis are given no treatment or inadequate treatment.”³⁹

Recreation

Exercise and recreation are essential to mental and physical well-being. Detainees confined for long days indoors with little natural air or light should be provided a respite complete with fresh air and the opportunity to exercise. The DHS/ICE detention standards provide that “[e]very effort shall be made to place a detainee in a facility that provides outdoor recreation. If a facility does not have an outdoor area, a large recreation room with exercise equipment and access to sunlight will be provided.” The standards add that outdoor recreation should be made available to detainees for at least one hour every day, five times a week weather permitting and, if outdoor recreation is not possible, indoor recreation (with access to natural light) should be made available one hour each day.⁴⁰

However, due to a general lack of oversight by DHS and poor enforcement, many detainees complained of inadequate and inconsistent recreation opportunities and facilities. Many detainees in Middlesex County complained that they were not allowed to have outdoor recreation unless they purchased a \$60 pair of shoes from the commissary, which was impossible for most detainees.

Clothing/Supplies

The DHS/ICE detention standards specify the items detainees should receive upon entering immigration detention. The standards state that “[e]ach detention facility shall have a policy and procedure for the regular issuance and exchange of clothing, bedding, linens and towels. The supply of these items shall exceed the minimum required for the number of detainees to prevent delay in replacing the items.”⁴¹

The ACLU-NJ interviewed dozens of detainees in all county jails in New Jersey, excluding the Keogh-Dwyer Correctional Facility, and found that the standard regarding clothing had not been met. No detainee was given more than one uniform. Some detainees are forced to buy basic items such as towels, soap, toothpaste and toothbrushes from the commissary. A female detainee in Middlesex County told the ACLU-NJ that “you get new stuff when a detainee leaves and gives it to you.”⁴²

³⁹ The ACLU-NJ received a March 26, 2006 petition signed by 10 detainees at the Middlesex County Adult Correctional Center with complaints about conditions in the facility.

⁴⁰ INS Detention Standard, “Recreation,” September 20, 2000

⁴¹ INS Detention Standard, “Issuance and Exchange of Clothing, Bedding and Towels,” September 20, 2000

⁴² ACLU-NJ interview with a Jamaican detainee in Middlesex County Adult Correctional Center

From a Jamaican detainee in Monmouth County Correctional Institution:

My grievance was in regards to not having a towel, nor getting one upon my arrival at the facility. I've written twice, with no response. I've told ICE agents twice and they said they would look into the matter, no solution from either party. I ended up getting a towel from a fellow detainee that was leaving.

When detainees' uniforms are in the wash, they often have no other clothes to wear because they have not been issued enough clothing. "You are lucky to have come and visit me when my clothes are not in the wash, otherwise I would be in my underwear," a Gambian detainee in Hudson County told the ACLU-NJ.

Religious Practice

Religious freedom for all faiths is a cornerstone of our democracy, and it applies to prisoners, including immigration detainees. The DHS DHS/ICE detention standards promise that detainees "will have the opportunity to engage in group religious activities, consistent with the safe, secure and orderly operation of the facility."⁴³

Detainees in the Monmouth County Correctional Institution are allowed to attend Muslim group prayers or Juma on Fridays. However, Muslim detainees must sign up in advance to attend, and only a specific number of detainees are allowed to attend. One Albanian detainee in Monmouth County told the ACLU-NJ that "Friday Juma they only let five to seven people go, and this Friday they did not let me go because my name was not on the list. [Other detainees] told me they always do this to Muslims." Detainees in Middlesex County complained of the same problem. "Only five people are allowed outside for group prayer; it's first come, first served," said a Sudanese Muslim detainee in Middlesex County.

Detainees in Bergen, Monmouth and Middlesex counties told the ACLU-NJ that they are allowed to wear religious head garments, specifically kufis, only during prayer or within the living quarters. Many detainees are fearful of complaining because of possible retaliation by jail officials.

⁴³ INS Detention Standard, "Religious Practices," September 20, 2000

Recommendations

Trends indicate that immigration detention is likely to increase over the next few years. If so, then it is even more important that facilities holding immigration detainees comply with the DHS/ICE detention standards. To make the standards enforceable, federal action will be required. However, even in the absence of federal regulations, it is the job of the local district offices of ICE in New Jersey and New York to ensure compliance with the standards.

To improve detention conditions so that they conform to basic standards of humane treatment, the ACLU-NJ makes the following recommendations:

- The DHS/ICE national detention standards must be strengthened to meet human rights principles and become enforceable regulations so that breaches and violations of these standards may be legally challenged by detainees themselves or through their representatives.
- To ensure compliance with the standards, the New York and New Jersey district ICE offices must exercise greater oversight of detention conditions and treatment of detainees. At a minimum, they should conduct inspections of all county jails and other facilities holding immigration detainees once every six months.
- Breaches of the detention standards, such as denial of phone access, medical care and dental care, must be rectified immediately.
- Every effort should be made to prevent the commingling of immigration detainees, particularly asylum seekers and women, with the general inmate population.
- Given the human and financial costs of detention, ICE should explore noncustodial alternatives such as parole, supervised release to family members, regular reporting requirements or bond options.
- International law unequivocally mandates the humane treatment of all detainees, regardless of the reason for their detention. In particular, the detention of asylum seekers violates the laws and conventions — such as the International Covenant on Civil and Political Rights — to which the United States is a signatory. Consequently, asylum seekers should only be detained to the extent necessary to verify an asylum seeker's identity and to determine whether the individual is asserting a legitimate claim for asylum.
- The ICE district offices in New Jersey and New York must ensure that detainees who continue to remain in custody are receiving prompt and fair custody reviews and implement release programs for persons who are stateless or cannot be deported to their home countries. The prolonged and indefinite detention of immigration detainees is a violation of both international and U.S. law.

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