

Immigration Prisons: Operating in the Shadows

Immigration reform and mass incarceration may seem like different worlds, but they get entangled when it comes to detaining immigrants. The numbers are staggering—in 2012, the federal government detained twice as many people in facilities overseen by ICE (Immigration and Customs Enforcement, housed in the Department of Homeland Security) as in BOP (Bureau of Prisons, part of the Department of Justice). The magnitude of the system, its reliance on private prisons, and the fact that it incarcerates many people whose only crime is entering the US illegally combine to make immigration prisons a source of great concern.

Most people held by ICE are in the midst of civil (non-criminal) proceedings to determine whether they have a right to stay in the United States. Using what is called a “detainer,” ICE officers can ask that any person in police custody be held for 48 extra hours to allow an ICE investigation, simply on the grounds that ICE has opened an investigation.³⁷⁵ If found to be undocumented, immigrants are transported and detained. In the criminal justice system, accused people are presumed innocent until proven guilty and are entitled to certain protections. The detainer system moves a person accused of non-criminal, administrative offenses into the immigration court system, which does not extend these protections.³⁷⁶

In addition to the impact on the detained person and his/her family, who may now be separated by thousands of miles, this policy also makes immigrants afraid of going to police,

even when they are victims of crimes, which decreases overall public safety.³⁷⁷

A 2009 report written for ICE contains the following disturbing observations about the agency’s detention operations:

With only a few exceptions, the facilities that ICE uses to detain aliens were built, and operate, as jails and prisons to confine pre-trial and sentenced felons. ICE relies primarily on correctional

incarceration standards designed for pre-trial felons and on correctional principles of care, custody, and control. These standards impose more restrictions and carry more costs than are necessary to effectively manage the majority of the detained population.

ICE is comprised primarily of law enforcement personnel

*with extensive expertise performing removal functions, but not in the design and delivery of detention facilities and community-based alternatives.*³⁷⁸

A third system, bridging the gap between ICE’s detention facilities and federal prisons, is the “criminal alien requirement” (CAR) prisons, which the ACLU refers to, in a 2014 report, as a “shadow private prison system.”³⁷⁹ Thirteen of these prisons nationwide house around 25,000 people, who fall mainly into two categories: immigrants convicted of drug offenses and immigrants who have reentered the US illegally after being deported previously.³⁸⁰ The CAR system was set up in 1999. Since then, “without a single vote in Congress, officials across three administrations: created a new classification of federal prisons only for

**“You shall have one law for stranger and for the citizen, for I am the ETERNAL your God.”
 (Leviticus 24:22)**

Rashi: “I am the ETERNAL your God”—The God of all of you. Just as I make My name One for you, I make My name One for strangers.

³⁷⁵ Though the 2012 Supreme Court ruling that struck down most of Arizona’s law on immigration policing has somewhat restricted ICE’s powers. Various cities and counties, and four states—California, Illinois, Massachusetts, and New York—have also passed laws curbing or eliminating cooperation with ICE without a proper judicial warrant. For a 2013 list, see <http://lawprofessors.typepad.com/immigration/2013/12/resistance-to-secure-communities-continues-to-growking-county-washington-passes-ordinance-restrictin.html>

³⁷⁶ Hernandez, David Manuel. “Pursuant to Deportation: Latinos and Immigrant Detention,” *Latino Studies*, 2008: <http://www.palgrave-journals.com/1stjournal/v6/n1/full/1st20082a.html>

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³⁷⁸ <http://www.ice.gov/doclib/about/offices/odpp/pdf/ice-detention-rpt.pdf>

³⁷⁹ <https://www.aclu.org/warehoused-and-forgotten-immigrants-trapped-our-shadow-private-prison-system>

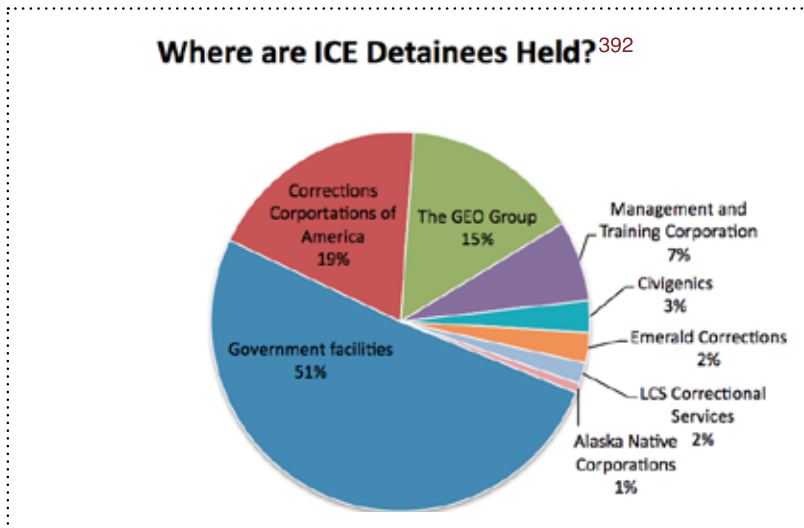
³⁸⁰ <https://www.themarshallproject.org/2015/02/24/a-most-unsurprising-riot>

immigrants; decided that private companies would run the facilities; and filled them by changing immigration enforcement practices.”³⁸¹

Conditions in these prisons include a variety of abuses not unique to CAR: poor food, inadequate medical care, harassment by corrections officers, and poor maintenance and cleanliness. The Bureau of Prisons has itself acknowledged, “Contractor is unable to successfully achieve their own

plans of action to correct deficient areas” and “Lack of healthcare has greatly impacted inmate health and wellbeing”; nevertheless, contracts have consistently been renewed.³⁸² Contract provisions incentivize filling CAR facilities to 115% of design capacity and call for at least 10% of housing to be in solitary

confinement—double the rate at ordinary prisons.³⁸³ For more on issues unique to private prisons, see page ___.



of beds be filled, it is not hard to understand how standards for filling them might be relaxed.

• From 2007-2013, the number of detainees issued by ICE increased from less than 15,000 to some 250,000 per year, as a result of the Secure Communities³⁸⁷ program.³⁸⁸ With the

some updated weekly, about the federal prison population, at <http://www.bop.gov/about/statistics/>. In contrast, while ICE documents its annual number of removals from the country, statistics about detention are far harder to find.

• Current U.S. legislation is read by some members of Congress to require that at least 34,000 immigrants be held in detention beds at all times at a cost of \$2 billion annually.³⁸⁶ If laws or contracts mandate a certain number

of beds be filled, it is not hard to understand how standards for filling them might be relaxed.

• In December 2014, the Department of Homeland Security opened the nation’s largest immigrant detention facility, in Dilley, TX, to house 2,400 women and children. Previously, the largest permanent center for migrants was in Pennsylvania, with about 100 beds.³⁸⁹ The facility is operated by Corrections Corporation of America, which has a documented history of abuses.³⁹⁰ Conditions at Dilley have been compared to the internment camps to which Japanese Americans were sent during World War II.³⁹¹

Facts and Figures

Numbers of People Incarcerated

• In 2012, federal prisons held 196,600 people.³⁸⁴ The same year, the US detained approximately 400,000 immigrants, in a variety of settings.³⁸⁵

• BOP makes it fairly easy for the public to access statistics,

³⁸¹ <http://interactive.fusion.net/shadow-prisons/>

³⁸² <http://thinkprogress.org/justice/2014/06/11/3447208/how-these-prisons-for-noncitizens-compound-all-the-problems-with-us-incarceration/>

³⁸³ <https://www.themarshallproject.org/2015/02/24/a-most-unsurprising-riot>

³⁸⁴ <http://www.bjs.gov/content/pub/press/cpus12pr.cfm>

³⁸⁵ <http://www.detentionwatchnetwork.org/resources>

³⁸⁶ http://www.huffingtonpost.com/azadeh-shahshahani/living-nightmare-for-deta_b_6208916.html

³⁸⁷ Secure Communities was the program that required local law enforcement to send the fingerprints of every person they arrested to ICE, giving federal agents a chance to detain any undocumented immigrants. It has been replaced by the Priority Enforcement Program, which seeks to focus only on suspected terrorists, gang members, and people convicted of violent crimes.

³⁸⁸ <http://www.immigrationpolicy.org/perspectives/faulty-legal-arguments-behind-immigration-detainers>

³⁸⁹ <http://www.nytimes.com/2014/12/16/us/homeland-security-chief-opens-largest-immigration-detention-center-in-us.html>

³⁹⁰ <http://www.newsweek.com/operators-americas-largest-immigrant-detention-center-have-history-inmate-293632>

³⁹¹ <https://www.themarshallproject.org/2015/05/21/the-south-texas-family-residential-center-is-no-haven>

³⁹² <http://www.detentionwatchnetwork.org/privateprisons>

What's Sending Them There?

- In 2009, only 11% of ICE detainees were found to have committed a violent crime.³⁹³

- From 2008-2012, immigration cases made up the largest sector of federal criminal cases. In 2013 (the most recent year for which data are available), drug cases just barely edged immigration out, each taking up 31.2% of cases.³⁹⁴ Prosecutions have spiked since the 2005 beginning of Operation Streamline, which requires the federal government to bring criminal charges against everyone who crosses the US southern border illegally.

- When looking only at federal cases brought against immigrants, immigration-related offenses are a clear majority, comprising 67% of primary convictions. Drugs come in second at 22%.³⁹⁵

Costs and Alternatives

- ICE reports it spends \$119 per day to support each detained person, but it acknowledges this figure underreports

real costs. Factoring in operating expenses, a more realistic figure is \$159.³⁹⁶

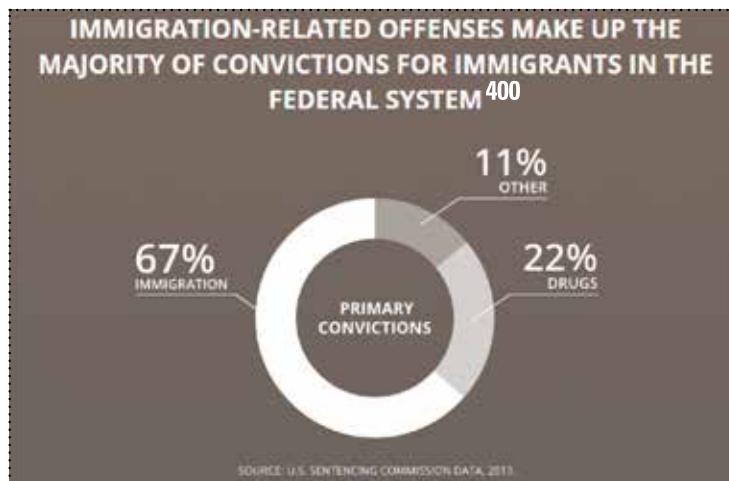
- The 2013 immigration reform bill, which passed the Senate but died in the House, allocated \$46 billion to secure America's southern border. This is roughly equal to what all 50 states combined spend annually on corrections, or seven times the federal Bureau of Prisons' budget for one year.

- Alternatives to Detention can include electronic monitoring, telephonic and in-person reporting, curfews, and home visits.³⁹⁷

- Existing alternatives range in cost from as low as 0.17 cents up to \$17 dollars a day per individual. In 2012, the average per-person cost for alternative measures was \$5.94.³⁹⁸

“Central American toddlers and mothers [are] the new face of mass detention... ICE's misguided effort to build child-friendly prison camps repeats the inhumanity that the U.S. government inflicted on Japanese-American families during World War II.”³⁹⁹

- Carl Takei, ACLU



Sample Partner Organizations

- ACLU, particularly in states that house CAR prisons (Georgia, Mississippi, New Mexico, North Carolina, Oklahoma, Pennsylvania, and Texas)
- Grassroots Leadership
- Detention Watch Network

³⁹³ <http://www.ice.gov/doclib/about/offices/odpp/pdf/ice-detention-rpt.pdf>

³⁹⁴ http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2014/FY13_Overview_Federal_Criminal_Cases.pdf

³⁹⁵ <http://interactive.fusion.net/shadow-prisons/>

³⁹⁶ <http://immigrationforum.org/blog/themathofimmigrationdetention/>

³⁹⁷ <http://immigrationforum.org/blog/themathofimmigrationdetention/>

³⁹⁸ <http://immigrationforum.org/blog/themathofimmigrationdetention/>

³⁹⁹ <https://www.themarshallproject.org/2015/05/21/the-south-texas-family-residential-center-is-no-haven>

⁴⁰⁰ <http://interactive.fusion.net/shadow-prisons/>