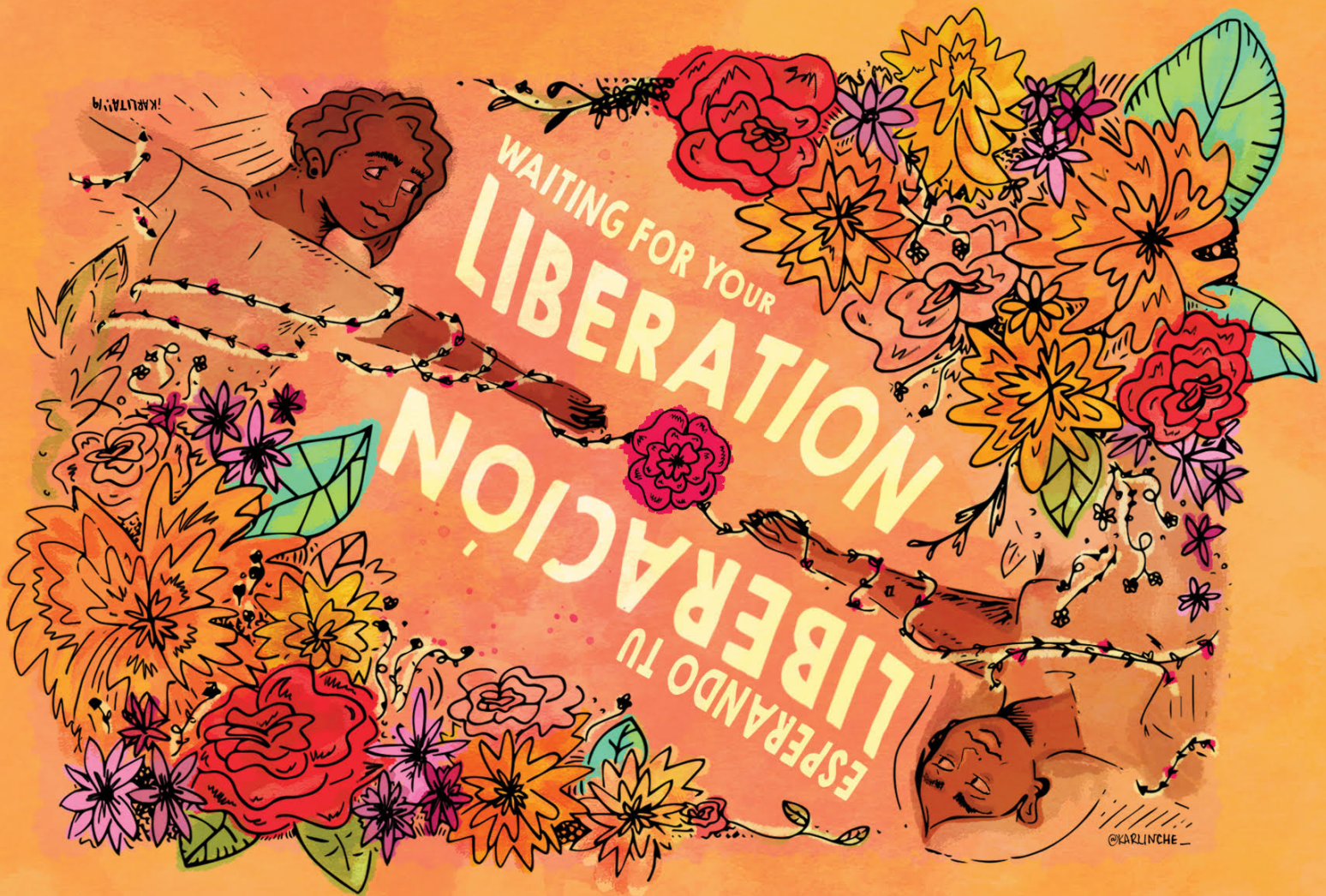


Cruel by Design:

Voices of Resistance From Immigration Detention



Cover art by: Karla Rosas (@karlinche_), commissioned by The Center for Cultural Power.



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1 INTRODUCTION

“Well, you’re going to have to die of something.” These are the words spoken by a guard to immigrants held at Hudson County Correctional Facility as the COVID-19 pandemic started to race through detention facilities throughout the country in March, 2020.¹ They were on a hunger strike so they could obtain soap and toilet paper.

That those detained felt compelled to take such drastic action in the midst of a pandemic speaks to how the practices of U.S. Immigration and Customs Enforcement (ICE) helped to spread the coronavirus. Longstanding abusive conditions in ICE facilities—overcrowding, lack of medical care, and unsanitary conditions—exacerbated the pandemic in the facilities themselves and in the surrounding communities.² And by continuing to detain people, subjecting them to unsafe conditions, transferring people from state to state, and deporting individuals with COVID-19 to countries such as India, Haiti, Guatemala, and El Salvador, ICE also exported the virus globally.³

ICE practices during the pandemic shine a spotlight on the violence of an immigration detention system that periodically enters the collective conscious. ICE’s horrific detention practices before and during the pandemic have included family separation; sexual abuse of children; unnecessary hysterectomies; use of force; deployment of chemical agents such as pepper spray; arbitrary and punitive use of solitary confinement; prolonged detention; and medical neglect, occasionally resulting in death.¹⁴ These are just some of the more extreme manifestations of an immigration detention system that subjects tens of thousands of people to unnecessary cruelty every day.

By drawing from firsthand accounts of ICE detention conditions, this report focuses on the urgent need for not only release from imprisonment but an end to a cruel system. While there are many accounts of the harms of the immigration detention system, most of them fall short by not challenging detention as part of a strategy of deterrence, one that aims to discourage migration and to limit people’s ability and will to fight deportation.

This report shows how the harms associated with ICE detention practices are embedded in the structures of the immigration control regime rather than a manifestation of a broken system. In doing so, it offers a summary of U.S. detention laws to illustrate how the system is designed to make it as easy as possible for the federal government to exclude and deport people. It also shows how the detention system deploys multiple tactics to undermine the ability of individuals to fight deportation. In addition, the report highlights the stories of people who’ve been held in ICE detention, and their resistance and resilience in the face of a draconian system.

Piecemeal reforms alone will not be sufficient for remedying the cruelty of this system. What is ultimately required is far-reaching transformation, one aimed at ending detention as a tool of the U.S. regime of exclusion.

The Stories

This report features the narratives of five people who were recently in ICE detention. These stories paint a clear picture. U.S. immigration laws are not “broken,” but working as intended. They are cruel by design—denying liberty, discouraging people from fighting to stay, deterring people from migrating and returning—in order to enable not only widespread detention, but also mass exclusion and deportation. The candor and less formal nature of the conversations on which the narratives are based brought out the human emotion often absent from legal declarations, which must fit within the multifactor legal tests that are ultimately used by immigration judges to decide who gets to be free. These stories these five individuals share show how the ICE detention system and the agents who staff it regularly employ tactics intended to break spirits. They also demonstrate how a system rife with medical neglect, bureaucracy, secrecy, and retaliation undermines people’s ability to fight their deportation cases. At the same time, these accounts illustrate the tremendous will of people to thrive and overcome systems of oppression, by highlighting the power of organizing and community support.

These stories paint a clear picture. The laws are not “broken,” but working as intended. They are cruel by design—denying liberty, discouraging people from fighting to stay, deterring people from migrating and returning—in order to enable not only widespread detention, but also mass exclusion and deportation.

“IMMIGRANTS ARE WARRIORS, WE ARE FIGHTING FOR OUR LIVES. *We left behind a whole life, made up of both emotional and physical things: our homes, our family and friends who love and miss us, our community...I feel that in this country I have a better sense of security. I would not be here if I felt this was something I could have in my country.”*



Joaris Hernandez

Joaris left El Salvador in March 2017, after gang members assaulted her and threatened to kill her if she didn’t work for them. When she arrived in the United States seeking asylum, she was detained with men even though she is a trans woman. Joaris was in solitary confinement for two of the eight months she was in detention. She lives in New York and continues to fight for the right for everyone to live a dignified life.



“ONE OF THE THINGS THAT THEY USE A LOT IN COURT IS COMMUNITY—A DANGER TO THE COMMUNITY.

*So, if you're a danger to the community you need to leave...if I'm a danger to the community, they're trying to protect the community. Who are they protecting? Thanks to ICE's decision to keep me in custody...my wife is physically, emotionally, and financially drained. **Is this the way US immigration protects its own? Who are they protecting? My son? Living without the father that provides him the security and emotional stability that a child needs for his early years...depriving him of his best friend...I don't understand, is my family going through the suffering, because I was not born in this country?***

Nilson Barahona Marriaga

Nilson is an immigrant from Honduras who has lived in Georgia for 20 years. Nilson was detained at Irwin County Detention Center during the COVID-19 pandemic. He helped organize a hunger strike to demand that the facility follow public health guidelines and release medically vulnerable people. He was put in solitary confinement and transferred to a different detention center. Nilson was not subject to mandatory detention, and was finally released after 13 months and reunited with his wife and young son.

“I MEAN, ALL THE CAMEROONIANS...WE GOT SEPARATED, AND WE DIDN'T EVEN KNOW WHERE WE WERE GOING TO.

*In the middle of the night, about 11 p.m., they told us to pack our bags...we had no idea where we were going to. We just pray like, we don't know what these people what they're gonna do to us. **We don't know where they're taking us...and we got into the buses, but we were chained...on our feet and our hands.***

Keshia C.

Keshia made the journey to the United States in 2019, to escape the brutal civil war in her home country of Cameroon. While in immigration custody, ICE transferred her three times within seven months across the southern United States while seeking asylum. After Keshia was released from detention in June 2020, she was able to go to Minnesota to reunite with her family.



Joseph Thompson

Joseph is a green card holder from Jamaica who grew up in New Jersey and New York. He was subject to mandatory detention for two years before winning his release. He is a father and a chef who loves working in the kitchen.

"SOMETIMES MY HEART SKIPS. *It's kind of like a bulging tire. I could be walking, and then boom. But [ICE] told me they'd rather me be deported than get the surgery. They don't care about us one bit. Not if we're sick, if we have a broken leg or an eye patch. **So long as they can deport you, they don't care."***

"I AM HELPING A LOT OF PEOPLE WHO ARE IN DETENTION WITH THE SAME SITUATION AS ME, BECAUSE, REALLY I KNOW, IT WAS HORRIBLE IN THIS SITUATION. *And really we need a lot of help...we are human, but ICE doesn't think that...they make situations like the one I had, only because they want to hear you say, **'Please deport me.' That's it."***



Edinson Calderon

Edinson left Venezuela six years ago, seeking fairness and freedom outside the economic crisis and homophobia in his home country. When he arrived in the United States, ICE detained him for four months while he waited for the processing of his asylum claim. Edinson is a human rights activist who started the campaign *Una Carta Salva Una Vida*.

Contemporary Developments In Immigration Detention

Mass detention of Cubans on the "Mariel" boatlift and Central Americans and Haitians fleeing civil war and political violence. Construction of the detention center at Fort Allen in Puerto Rico to detain Haitian asylum-seekers fleeing political violence.

1980–1985

The federal Anti-Drug Abuse Act ("ADAA") of 1988 requires the mandatory detention of noncitizens (including lawful permanent residents) convicted of the new category of "aggravated felony," covering convictions for murder and certain drug- and firearm-related crimes. The Immigration Act of 1990 and the Immigration and Nationality Technical Corrections Act of 1994 limit relief for noncitizens with criminal convictions and expand the number of criminal offenses that qualify as an "aggravated felony" to include crimes like fraud, theft, and burglary.

1988–1994

Offshore detention of Haitians and Cubans at the U.S. Naval Base in Guantánamo Bay, Cuba.

1991–1994

The Illegal Immigration Reform and Immigration Responsibility Act of 1996 ("IIRIRA") and Anti-Terrorism and Effective Death Penalty Act of 1996 ("AEDPA") broaden legal authority to detain and grounds triggering mandatory detention, expanding the "aggravated felony" category, including offenses not considered felonies in state law. It also made deportation mandatory for people convicted of "aggravated felonies".

1996

Settlement in *Flores v. Reno* class action requires immigration authorities to provide certain protections to minor children, including housing them in the custody of the Office of Refugee Resettlement.

1997

In *Demore v. Kim*, 538 U.S. 510 (2003), the Supreme Court upholds the mandatory detention of certain immigrants during deportation proceedings.

2003

Department of Homeland Security (DHS) is created through the Homeland Security Act of 2002, replacing the Immigration and Naturalization Service with the following branches: United States Citizenship and Immigration Services ("USCIS"), Customs and Border Protection ("CBP") and Immigration and Customs Enforcement ("ICE").

Bush Administration opens T. Don Hutto Residential Center, a 512-bed family detention center operated by private prison contractor, Corrections Corporation of America, at the cost of \$2.8 million dollars per month.

2006

Congress dramatically increases funding for detention in its annual appropriations bill, allocating funds for a detention bed quota of 34,000 immigration detention beds per day.

2009

In response to organizing pressure, Obama Administration halts detention of noncitizen families at T. Don Hutto.

Obama Administration expands the "Secure Communities" program, authorizing fingerprints taken at any police precinct in the country to be automatically shared with DHS. This significantly deepens the entanglement of local law enforcement and federal immigration policing and enables the detention and deportation of an unprecedented number of people.

2011

President Trump signs Executive Orders directing DHS to add 5000 border agents, take steps to begin construction of more border walls, and increase construction and creation of additional detention facilities along the southern border.

2017

Trump Administration issues a series of guidelines, regulations and policies drastically limiting ability of migrants to seek asylum at the southern border, including the Migrant Protection Protocols ("MPP"), which requires asylum-seekers at the southern border to remain in Mexico for the duration of their immigration proceedings.

2018–2019

Pursuant to federal public health regulations codified at Title 42, Trump Administration's Center for Disease Control orders ports of entry to turn away people seeking asylum due to COVID-19 pandemic.

2020

From March of 2020 through November of 2021, nine immigrants detained by ICE die of COVID-19, and at least 30,000 people detained by ICE test positive for the virus. In numerous lawsuits such as the class action case *Fraiht v. ICE*, federal courts order releases of some detained immigrants who are particularly vulnerable to severe COVID-19 illness.

2014

Obama Administration resumes practice of family detention, creating several detention facilities in New Mexico and Texas that housed up to 3000 Central American families at a time.

2017–2018

Trump Administration initiates "family separation" policy, requiring border agents to remove children from their asylum-seeking parents at the border and detaining thousands of children in ORR custody separate from parents. Thousands of parents are prosecuted for illegal entry under a "Zero Tolerance" program and/or detained by ICE or deported from the U.S. without their children.

2019

Attorney General Barr issues *Matter of M-S*, legal decision ordering immigration judges to deny release on bond for asylum-seekers until conclusion of their immigration proceedings unless they are granted parole.

2021

Biden Administration attempts to rescind authority for the MPP program, but Supreme Court orders the program to continue. Biden restarts the MPP policy of expelling asylum-seekers to Mexico, and Title 42 expulsions remain in force.

2 THE WORLD'S LARGEST DETENTION SYSTEM


 The immigrant detention and deportation system has grown tremendously in the United States over the past 25 years.

Massive government investment in migration control following the founding of the Department of Homeland Security (DHS) in 2002 has spawned the largest immigration detention system in the world.⁵ In 1994, the average daily population of people in immigration detention was 6,785; in 2020, it was 33,724. Holding up to fifty thousand people a day, the detention system cost more than \$3 billion in fiscal year 2020 alone.⁶ The staggering growth of this system has been an integral part of an ever-hardening border policing regime, along with an expanding interior ICE policing apparatus and police-to-deportation pipeline.

Multiple factors, including economic, cultural, and political trends, have long shaped US detention practices. This has always involved the construction of associated enemies—for example, Chinese immigrants in the late 1800s and suspected communists and anarchists in the first half of the twentieth century.⁷ Yet it is only in fairly recent history that mass detention has become a consistent feature of the immigration system. The US government policy of using mass detention as deterrence was enacted in the early 1980s to prevent migration from Haiti and Cuba,⁸ even though the attorney general at the time cautioned that “detention could create an appearance of ‘concentration camps’ filled largely by blacks.”⁹ Since then, detention as a form of deterrence to migration has become a central strategy of US migration policy and has taken multiple forms over the years; under Presidents Obama and Trump, it included indefinite family detention.¹⁰

The explosion of mass detention followed the founding of DHS, under which migration control became part of the well-funded system of “homeland security.” The political objectives of presidential administrations have influenced the particulars of immigration detention, as with many aspects of immigration policy. But one of the primary logics used to justify the mass exclusion of migrants and the deportation of immigrants—that certain categories of people are a threat and therefore deserving of excessive policing and punishment—has remained consistent across administrations.

The mass detention system imprisons a wide range of immigrants, including people seeking asylum, survivors of torture, and people with lawful status who have lived in the United States for decades. Detainees also include people with children or spouses who are US citizens, long-



term green card holders, people with medical and mental health conditions, elderly people, and infants.


Mandatory detention and deportation laws, and the government's aggressive application of other punitive immigration laws, have played a key role in enabling the widespread imprisonment of hundreds of thousands of immigrants annually. Put into place during the late 1980s and 1990s, a time when politics emphasizing harsh punishment was dominant, mandatory detention means that people are not entitled to a bond hearing and must remain in detention for the duration of their deportation proceedings.¹¹ Many people subject to mandatory detention due to certain criminal convictions also face mandatory deportation, which means that they do not have the right to a judicial process to fight deportation—regardless of length of residency, family or community ties, or the risks they face post-deportation.¹²

The federal government has spent an estimated \$333 billion on immigration policing, detention, and deportation since DHS was created in 2003.¹³ The budget for detention continues to increase—President Biden's 2021 budget request calls for \$2.8 billion for immigration detention, more than triple the amount of DHS spending on detention in 2005.¹⁴

ICE detains people in a sprawling network of facilities. There were more than five hundred thousand people detained in over two hundred jails in fiscal year 2019.¹⁵ The ICE detention system combines facilities that have contracts with private prison companies, county and city jails, and state prisons. Immigration detention, like domestic mass incarceration in the United States, has spawned a complex of interests invested in perpetuating mass detention and deportation.¹⁶ The two largest private prison companies that are contractors for the detention system, CoreCivic (formerly Corrections Corporation of America) and GEO Group, Inc., have lobbied heavily on immigration policy and spending and have doubled their revenue since 2005.¹⁷

From 2009 to 2017, Congress instituted a detention-bed quota that required ICE to maintain a predetermined number of detention beds (thirty-four thousand in 2017).¹⁸ Many detention facility contracts include a guaranteed minimum that requires ICE to pay for these beds regardless of whether or not they are filled.¹⁹ Although Congress no longer has a detention bed quota, ICE has increased the use of guaranteed minimums, where ICE pays contractors for a minimum number of bed space regardless of whether they are used or not.²⁰

Abusive and substandard conditions in immigration detention are the norm. A lack of regulations and enforceable standards²¹—as well as the challenges of accessing quality legal counsel while in immigration detention (the government is not required to provide lawyers for people in immigration proceedings)—exacerbate these conditions. US immigration authorities routinely



detain people in extremely cold holding cells, where people are compelled to sleep on the floor with very little to protect them.²² People are also routinely denied medical care, and, since 2003, more than two hundred people have died in ICE custody.²³ In addition, ICE routinely uses solitary confinement—one study found that 40 percent of people held in solitary had mental health issues.²⁴

ICE detention is much like a “black box” with few avenues for release.²⁵ People are placed in facilities with extremely limited access to legal support; indeed, the majority of people in detention do not have legal representation.²⁶ Moreover, because ICE officials have a tremendous amount of power over people in ICE custody, people are routinely denied requests for release or misinformed of their rights.²⁷

ICE DURING COVID— A SNAPSHOT OF A CRUEL SYSTEM OF “CONTAINMENT”

ICE practices during the rise of the global COVID-19 pandemic are just the most recent example of the cruelty of the immigration system. As the pandemic escalated to a crisis within the United States and around the world, ICE’s response highlighted not only the suffering exacted by the detention and deportation system, but also how the system undermines public safety. Despite pandemic safety guidelines and multiple lawsuits, ICE’s response was not to release people, but to continue to arrest people and to conduct raids, including in areas that had been deemed a “containment area” to limit the spread of the virus.²⁸ ICE caused a COVID-19 outbreak in the Farmville Detention Center after it transferred dozens of immigrants in order to transport ICE agents to police a BLM protest in Washington, DC (agency regulations do not allow employee transport without detainees on board).²⁹ A study by Detention Watch Network found that ICE practices contributed to the spread of COVID-19 across the United States (see Figure 2).

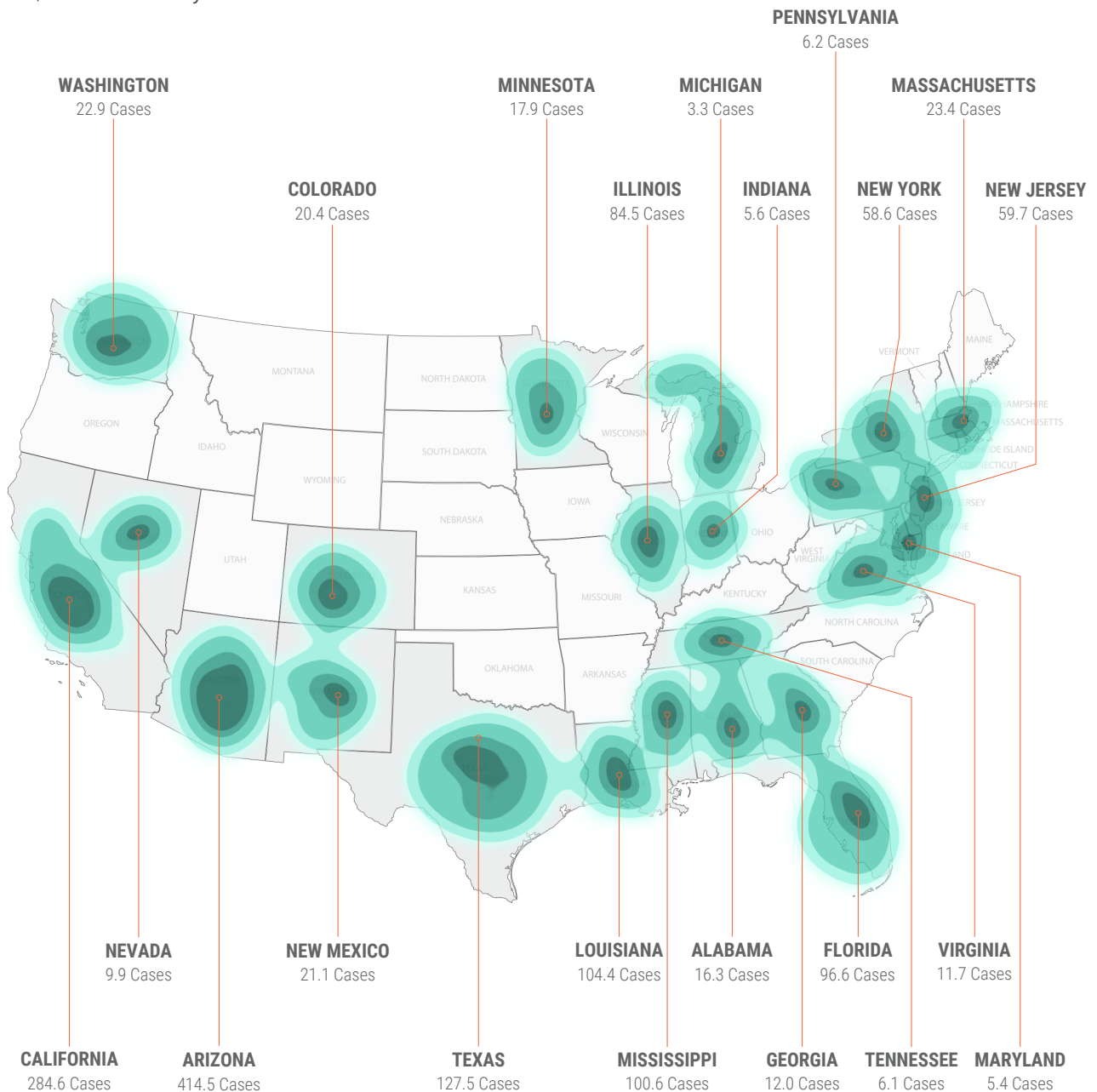
Within detention centers, ICE failed to implement quarantine procedures for newly detained

individuals, leading to outbreaks across facilities. (ICE flew at least 750 domestic flights transferring individuals between ICE facilities from March to July 2020.³⁰) ICE staff also withheld information from detainees about the virus, and often failed to provide soap, hand sanitizer, and personal protective equipment (PPE). Moreover, ICE failed to implement testing procedures widely after state lockdowns began.³¹ ICE routinely used solitary confinement with limited medical care, sometimes for weeks, as a form of quarantine.³² As a result of such practices, 2020 saw the highest number of deaths in ICE detention in fifteen years; COVID-19 was the cause of eight out of twenty-one deaths.³³

As if this was not enough, ICE continued to deport people, including those with COVID-19—effectively facilitating the spread of the pandemic to countries around the world.³⁴ ICE deported people even to countries that had travel restrictions.³⁵ Guatemala was one of them; its government reported that 186 deportees tested positive for COVID-19 upon arrival between March and June 2020.³⁶

Figure 1. ICE the Superspreader

This map shows the additional cases of COVID-19 attributable to ICE detention in 25 states from May 1 to August 1, 2020, as estimated by Detention Watch Network.²⁷



* Gregory Hooks et al., Hotbeds of Infection: How ICE Contributed to the Spread of COVID-19 in the United States (United States: Detention Watch Network, December 2020), accessed August 31, 2021, https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN_Hotbeds%20of%20Infection_2020_FOR%20WEB.pdf


3 LAWS THAT EMPOWER EXCLUSION, DETENTION AND DEPORTATION

 The well-funded US deportation apparatus has thrived due to a complex array of statutes that regulate who is authorized to enter and remain, for how long, and under what conditions.³⁷

By design, these laws provide very limited opportunities for legal inclusion or for liberty—whether in the form of gaining legal status, winning release from detention, or being able to fight one’s deportation. This legal framework has enabled the current mass detention and deportation system to flourish.

The political climate of the 1980s and 1990s saw the convergence of the War on Crime and anti-immigrant politics. Out of this convergence emerged new legislation that has had far-reaching consequences for non-citizens. The Anti-Drug Abuse Act, for example, signed into law in 1988, created a new way of categorizing criminal convictions for non-citizens—the “aggravated felony.” The law provided for mandatory detention of non-citizens convicted of an aggravated felony.³⁸ In the ensuing years, Congress passed laws to make it easier to detain and deport people, including by expanding the definition of aggravated felony, and the immigration consequences associated with such convictions.³⁹ This punitive trend dramatically accelerated in 1996, when Congress passed the Anti-Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA).⁴⁰ These laws dramatically expanded the ability of immigration authorities to detain entering migrants and increased requirements to detain long-term resident immigrants who had been convicted of a wide swath of offenses.⁴¹ Notably, Congress vastly expanded the list of criminal offenses that constitute aggravated felonies—including offenses that are neither “aggravated” nor “felonies.” Changes to the law also eliminated key defenses against deportation, augmenting the federal government’s ability to deport people, including those convicted of an aggravated felony, for instance, without a formal hearing in front of an immigration judge.⁴²

Mandatory detention and deportation laws severely limit an immigrant’s ability to challenge their case in court. The system allows ICE officers to have broad discretion regarding, among other matters, who to detain, who can be released, where someone is detained and how often they are transferred, and the conditions under which they are detained. The law also allows ICE to hold many people indefinitely. And those who manage to win release from detention in immigration court may still be subject to burdensome check-in requirements and/or electronic surveillance.



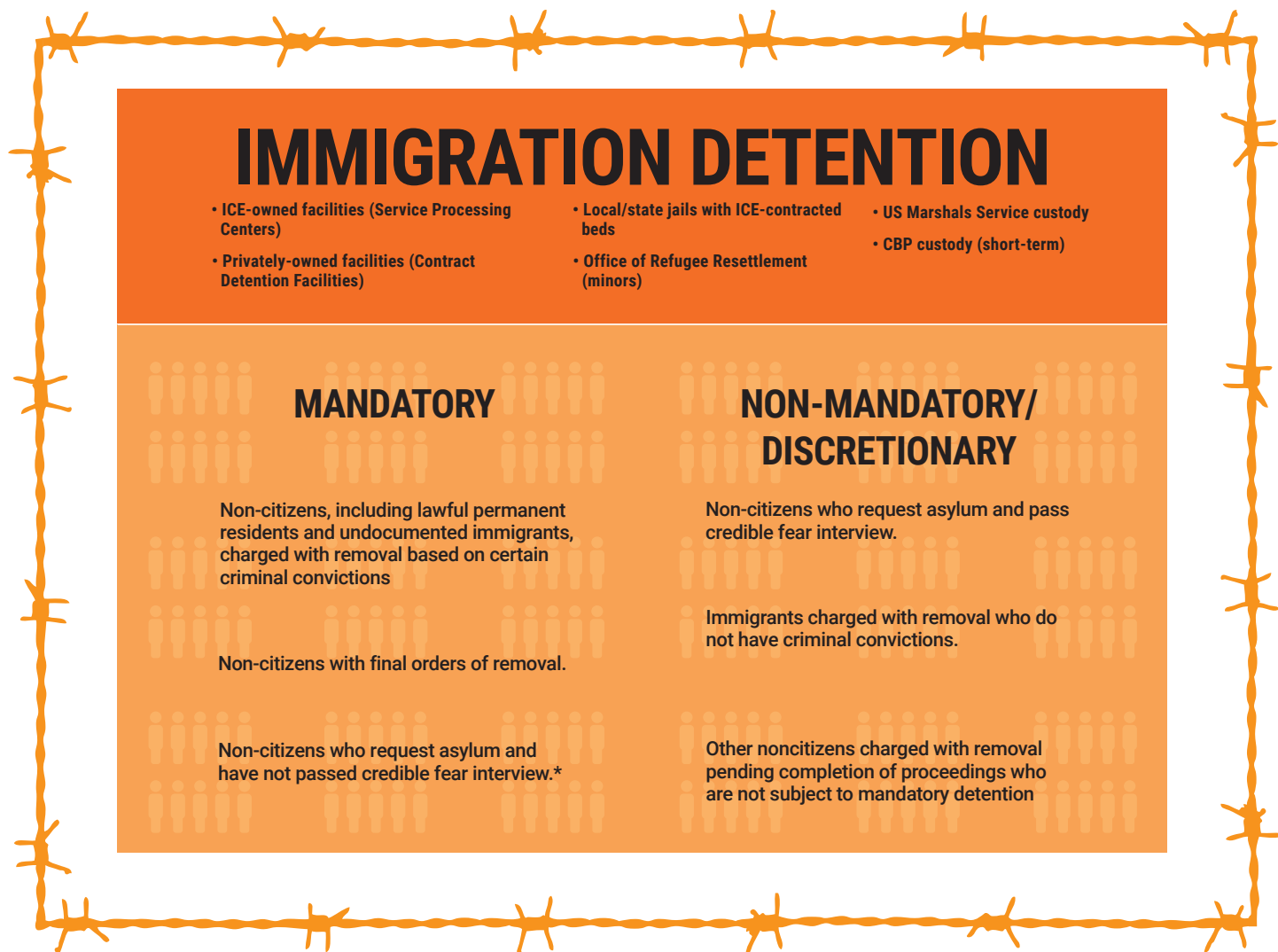
ICE can also re-detain people at any time, even those who are complying with the terms of their release. In addition, ICE transfers people between detention centers at will, and retaliates against those who fight back by instituting further punishments (e.g., solitary confinement) or by accelerating their deportation. All these practices are within the bounds of the law, and the agency is rarely, if ever, disciplined for its tactics. For such reasons, legal advocacy provides amelioration at best.

The following section describes how people in immigration proceedings face a complex legal framework that places an immense burden, particularly on detained individuals, to demonstrate eligibility for immigration benefits or release from detention. Because immigration proceedings are considered civil, even when people face mandatory detention or deportation, the government does not provide legal counsel if someone cannot afford a lawyer.⁴³ Yet because the laws are designed to facilitate mass detention and deportation, even the most robust legal representation cannot succeed in meaningful reduction of the detention and deportation system. Reliance on lawyers and courts alone to effect change is simply not enough.

How the Law Bolsters ICE's Power to Detain

As described above, US immigration laws have become increasingly punitive—restricting the legal entry of immigrants and severely limiting a person's ability to fight their deportation. The statutes authorizing the detention of immigrants are no exception. There are four main provisions of the Immigration and Nationality Act (INA) that grant broad authority to DHS to detain immigrants. As detailed below, three of these provisions generally require mandatory detention of immigrants under particular circumstances—including those who face deportation due to certain criminal convictions. The other provision grants ICE the discretion to detain other immigrants who are subject to deportation but not subject to mandatory detention.⁴⁴ (See *Figure 2, Mandatory and Discretionary Detention*.) These provisions, discussed below, give ICE broad discretion over whom to detain, and are part of a legal scheme where an immigrant's ability to challenge their deportation and detention is extremely limited. Immigration detention is a civil system, but one that offers few meaningful opportunities for release, little to no oversight, and indefinite periods of detention.⁴⁵ Consequently, hundreds of thousands of immigrants are detained each year pending the outcome of their immigration case with few to no options for release.

Figure 2. Mandatory and Discretionary Detention



*Some non-citizens may be subject to expedited removal pursuant to the INA. In addition, beginning in January 2019 and continuing into the Biden Administration, DHS began requiring asylum seekers to “remain in Mexico” pending their asylum hearings through the “Migrant Protection Protocols” (“MPP”), which have been challenged in litigation as violating the right to seek asylum. In March 2020, purportedly in response to the coronavirus pandemic, the Trump Administration’s Center for Disease Control issued an order pursuant to Section 265 of U.S. Code Title 42 prohibiting the entry of individuals presenting at a port of entry, including asylum seekers. The “Title 42” policy of expelling immigrants without access to asylum hearings or other due process has continued through the Biden Administration and has also been challenged in litigation.



Mandatory Detention

Immigration law mandates detention for people, including longtime green card holders, with a broad range of criminal convictions—regardless of how old the convictions are or how long the person in question has lived in the United States.⁴⁶ In addition, some asylum seekers are subject to mandatory detention.


Because there is no right to a bond hearing under mandatory detention, ICE has argued that the statutes discussed in this section authorize the indefinite detention of individuals while their immigration cases are still pending, and, in some circumstances, following a final order of removal. Although the federal Court of Appeals in different circuits have introduced legal standards that find indefinite detention unreasonable and in violation of constitutional due process,⁴⁷ ICE continues to defend its right to hold people indefinitely.

Mandatory Detention and Criminalization: INA Section 236(c)

In 1996, IIRIRA codified INA Section 236(c) which requires mandatory detention for immigrants with a wide range of criminal convictions. This includes permanent residents who have certain criminal convictions and have not yet been issued an order of deportation. The statute applies without qualification—without regard to how long ago the person came into contact with the criminal legal system, even if decades have passed; and without regard to the person’s length of residence in the United States, to family ties, or to dependents who rely on them to survive. Immigrants released from criminal custody, or who are on parole, supervised release, or probation, are not exempt from detention. There are sixteen overlapping, broad categories of alleged removable conduct that authorize ICE to subject an immigrant to mandatory detention,⁴⁸ encompassing hundreds of criminal offenses ranging from misdemeanors to felonies. The mandatory detention laws apply even when there is no formal conviction. Dismissed charges or diversion programs,⁴⁹ and in some cases even mere allegations of conduct,⁵⁰ are sufficient to characterize a noncitizen as “criminal” for the purposes of mandatory detention. There are extremely limited opportunities to argue for release.⁵¹

Mandatory Detention and Asylum under INA Section 235(b)

People who request asylum at a U.S. port of entry or after arrest by CBP after entering without authorization are subject to mandatory detention under INA Section 235(b). Many people who enter the country in this way are not only subject to mandatory detention but are also forced into expedited removal proceedings, a sped-up deportation process with even fewer due process protections than are found in standard proceedings.⁵² Once detained, if a noncitizen demonstrates that they are



seeking asylum or have a fear of persecution, they are entitled to a “credible fear” interview where they explain the danger they are fleeing in the country of origin.⁵³ Even when an officer finds that they have “credible fear,” asylum seekers remain in mandatory detention pending a decision in their case. Asylum seekers can be released only if ICE chooses to grant parole,⁵⁴ but if parole is not granted, they do not have the opportunity to appear before a judge to seek bond.

Mandatory Detention—INA Section 241(a): Ninety-Day “Removal Period”

When a noncitizen becomes subject to a final order of removal, INA Section 241(a) authorizes mandatory detention during a ninety-day “removal period,” during which ICE will try to deport the person. During the ninety days, “under no circumstance” is ICE permitted to release a noncitizen who is being removed based on certain criminal grounds.⁵⁵ These grounds are even more extensive than under 236(c).⁵⁶ The statute also authorizes detention of immigrants beyond the ninety-day removal period if the person in custody falls within certain categories—for example, if the person is inadmissible under INA Section 212(a), or if the person has been ordered deported due to certain criminal convictions or terrorist-related grounds, or if DHS has determined that the person is “a risk to the community.”⁵⁷ Otherwise, the noncitizen must be released on an order of supervision if not removed within the ninety-day period.⁵⁸

Discretionary Detention—INA Section 236(a)

In many cases, people who are arrested by ICE are not subject to mandatory detention and are held under what is called “discretionary detention.” Under this provision, throughout a person’s removal proceedings, ICE has the option to continue to detain the individual or release them on bond or conditional parole. ICE also has the power to hold immigrants in detention indefinitely, subjecting people to dehumanizing conditions of confinement, even when less harmful alternatives are available.⁵⁹ In other words, even though ICE essentially has full, unilateral discretion to release people who are not subject to mandatory detention at any time, regardless of whether or not a judge grants bond, in practice, it is rare for ICE to use its power to release people who are detained. For example, the New York Civil Liberties Union (NYCLU) and the Bronx Defenders exposed that starting in mid-2017, the New York ICE Field Office had a policy of categorically denying release to individuals subject to discretionary detention.⁶⁰ As the result of a class action lawsuit, the ICE New York Field Office was ordered to conduct an individualized assessment of whether a given individual poses a danger or a flight risk before deciding to detain the person, including a consideration of whether the individual can be released on bond or conditional parole.⁶¹

AN UNJUST BOND SYSTEM

Most immigrants who are detained pursuant to § 236(a)—the discretionary detention statute—have the best chance for release at a bond hearing, but even then face stacked odds. For instance, ICE attorneys are not bound to the rules of evidence and almost anything is admissible in court, which permits them to make thin or fully unsubstantiated allegations of dangerousness against detained people. Yet the burden is placed on an immigrant to prove that they are not a “danger” to society.

ICE has the discretion to make an initial decision whether to release an immigrant on bond—a monetary amount and conditions set to ensure an immigrant attends all their hearings when released—and, if so, how much that bond amount may be, subject to a statutory minimum of \$1,500.⁶² If ICE decides not to release a person on bond or sets a bond higher than the person is able to pay, the person may seek a custody redetermination hearing—referred to as a bond hearing—before an Immigration Judge (IJ). At the bond hearing, the IJ may grant bond, deny bond, or raise or lower the bond amount set by ICE.

Bond amounts for those who are granted a bond hearing can be set during a court proceeding where evidence is presented. An immigrant has the burden of proving that they merit bond by showing that they (1) do not pose a danger to the community, and (2) are not a flight risk. When assessing danger and flight risk, various factors are supposed to be taken into account, including past contact with the criminal legal system; family members in the United States with lawful immigration status; whom the client would live with if released; community ties, such as religious activities or volunteering; length of time in the United States; existence of any potential immigration relief; ability to pay bond; and any other humanitarian factors, such as the person’s status as the primary caregiver for young children or individuals with health issues and the person’s own medical or mental health conditions.⁶³ If an IJ determines that an immigrant is not a danger to the community, a bond is set to address flight risk. All immigration judges have the legal authority to forgo setting a monetary bond and release an individual on their own recognizance (ROR),⁶⁴ but this rarely happens in practice.

Bond amounts are cost prohibitive or extremely burdensome to many immigrants who win their bond hearings. Bond starts at a minimum of \$1,500, but the median bond amount from 2018–2020 ranged from \$5,000 to \$15,000, varying widely across immigration court locations and individual judges.⁶⁵ Some bonds have been set as high as \$250,000; there is no legal limit to the amount that can be set.⁶⁶ To put this into perspective, the 2021 federal poverty line for a year’s salary for a one-person household is \$12,000. Yet immigrants who face multidimensional barriers to economic security are expected to pay up to \$15,000 to return home.

Bond amounts drastically differ across the country. Advocates have shown that ethnicity and country of origin can play a role in higher bond amounts for certain detained persons.⁶⁷ Furthermore, many judges do not consider ability to pay when setting bond amounts, even though it is one of the factors that is supposed to be taken into account. This leads to unnecessary and arbitrary prolonged detention, even for those who have been found not to pose a flight risk or danger to the community. However, the alternative to bond, staying in detention, is often even more disastrous than taking on substantial debt to make bond. Prolonged detention can last for months and may result in eviction, termination of employment, and other financial complications. Some people are willing to give up everything to be released.⁶⁸ In reality, though, very few immigrants in detention have the resources or support to afford their release.⁶⁹

Furthermore, even when an IJ grants release on bond, the government can appeal the decision. If the government appeals the decision to the BIA, and the BIA halts the bond decision before the detained immigrant is released, they will no longer be eligible for release until the appeal process is over. This means that an IJ can determine that an immigrant is neither a flight risk nor a danger to the community and grant them release on a bond amount they are able to pay—but the person could still remain incarcerated for a prolonged period of time simply because the government appeals the decision.



Alternatives to Detention (ATD) Are Also Carceral

ICE refers to its supervised release program as “alternatives to detention,” but **it is more accurately an alternative form of detention.** These programs enable ICE to continue to surveil and control immigrants, even when they are not physically detained.

ICE’s “alternatives to detention” (ATD) program enables ICE to monitor people who are on its non-detained docket, which includes people with pending cases or those whose deportation is deferred.⁷⁰ According to ICE, as of August 2020 there were over 3.3 million people on the non-detained docket.⁷¹ ICE supervision programs continue to grow—President Biden’s budget request for FY2022 includes expanded access to ATDs.⁷²

ICE, an immigration judge, or a district judge can set enrollment in an ATD as a condition of release from immigration jail. People under supervision are frequently subject to onerous requirements, including regular office or home visits. ICE can change the frequency of these visits at any time. ICE can also impose travel restrictions, such as a prohibition on traveling out of state. ICE also has the discretion to re-detain any person on an ATD.⁷³

ICE is increasingly relying on electronic monitoring. People subject to ATDs may be monitored by ICE through various means including telephonic reporting (where phone calls are compared against a voiceprint), GPS ankle monitoring, or more recently, a facial recognition app called SmartLINK.⁷⁴ As of May 2021, 96,574 individuals were enrolled in ICE’s ATD program, and 31,069 were made to wear ankle shackles, which impose significant restraints on wearers’ freedom of motion.⁷⁵ These ankle monitors are equipped with GPS capabilities that allow ICE to monitor an individual’s location and movement in real time. They use radio frequency signals to send alerts to a monitoring station if the device is tinkered with or removed, or if the individual leaves the designated area of travel. The devices hold a charge for about six hours at most, and must be charged for hours twice a day by a power cord while the device is still attached to the body, requiring the wearer to remain close to an electrical outlet or other power source. The devices can also broadcast preprogrammed audio messages, such as an alert that the device must be charged, causing alarm to the individual wearing the device.

Ankle monitors have been reported to cause inflammation, severe cramps, bleeding, sores, and numbness around the foot and leg, as well as damaging psychological effects.⁷⁶ In 2016, one woman filed a complaint with the DHS Office of the Inspector General after experiencing electric shocks, bruising, skin eruptions, hair loss, headaches, chest pain, and difficulty breathing after being fitted with an ankle shackle.⁷⁷


NARRATIVES OF DETENTION AND RESISTANCE

As discussed above, the laws that govern the U.S. immigration system are restrictive by design—they are not intended to enable fair judgments or opportunities for liberty but rather to facilitate deportation and deter people from returning. Compounding the dehumanizing politics of the immigration detention system, the law requires attorneys to flatten the complex experience of each person in detention into one of a select few legally cognizable harms, and does not permit people to tell their full stories in their own words.⁷⁸

In the following subsections, we excerpt from declarations (sworn statements filed by people challenging their detention)⁷⁹ and interviews with formerly detained people. These stories and texture to the declarations, illustrating the expressive ways in which people recount their own experiences of how the entire immigration detention system—the legal framework and DHS’s cruel policies and practices—causes immense and varied harms. The stories also highlight how people continue to persevere and resist in the face of a destructive and dehumanizing policing, detention, and deportation system.

Medical Neglect and Mental Health

Immigration detention often creates and exacerbates health risks for those detained, with health care neglect contributing significantly to avoidable deaths.⁸⁰ Keshia C., an asylum seeker from Cameroon, fled her country because she was facing threats from the military. At only nineteen years of age, Keshia traveled by foot through several countries before arriving at the US-Mexico border where she was immediately taken into US Customs and Border Protection (CBP) custody. While detained at the T. Don Hutto Detention Center in Texas, Keshia explained, “I never saw a doctor . . . because medical staff always told their patients they were lying, and prescribed medication that was not related to the conditions people were suffering from. We complained to ICE officials.”⁸¹ A diabetic woman held at Laredo Detention Center in Texas reported a similar experience in June 2020: she was not given insulin for several weeks after being transferred to the detention center.⁸² Another immigrant was handed the wrong medication by a nurse at Laredo Detention Center on at least two occasions.⁸³ The tragic consequences of healthcare failures in detention resulted in the deaths of thirty-five people from April 2018 through



December 2020, twenty-six of them attributable to medical causes, including eight from COVID-19.⁸⁴ Medical neglect in detention runs the gamut from failures of preventive education and treatment, to devaluation of symptoms that quickly escalate, to disregard and delay in treatment for catastrophic diagnoses.⁸⁵ Healthcare failures within detention spread illness and hasten the deterioration of those who enter detention. Medical neglect leaves immigrants less well-off if they are able to return home—from ICE’s perspective, however, since the goal is deportation and not release, there is no incentive to provide adequate medical care.


Exacerbating Mental Health Issues

Detention conditions brought Edinson Calderon, an asylum seeker, to the brink of suicide. Edinson was denied his right to live openly as a gay man in Venezuela. Anti-LGBTQ+ laws and societal homophobia forced him to pursue a life free from fear. Upon entering the US immigration system, he regularly felt stymied because all instructions and communication were in English, if any were given at all. Once in detention, he asked a doctor why he was placed in a jail if he was seeking asylum. Because of this simple question, the doctor placed him in an “emergency setting,” which was really an isolation unit. Edinson spent four to five days in a tiny room with a bed, shower, and toilet. He was not told when he would be released: “For me, really, that situation was so horrible—so horrible because in my head, I started thinking bad things. I [thought] maybe I will try to kill myself inside [here].”⁸⁶

Edinson’s experience of rapid mental deterioration in detention led him to create an immigration detention letter-writing program after release. He exchanged correspondence with a transgender woman whose records indicate she was assigned male at birth. Because of the document discrepancy, ICE placed her in isolation for two years, during which time she attempted suicide twice. Says Edinson: “We are human, but ICE doesn’t think that because they try to kill you . . . they make all the situations [dire] because they want to hear you say, ‘please deport me.’”⁸⁷

Adequate mental health care in immigration detention is virtually nonexistent, despite the fact that the psychological impacts of having to survive mandatory confinement deteriorate the mind and physical body.⁸⁸ Lack of resources for mental health services, or simply the unwillingness to provide mental health services despite the overwhelming need, leaves detained people feeling desperate and alienated. As a result, more and more detained people suffer from depression, anxiety, and post-traumatic stress disorder (PTSD), which often evolve into other mental health complications.⁸⁹

Without proper care, many immigrants in detention experience worsening mental health. A fifty-year-old man held in ICE detention for over seven years and detained at Adelanto Detention




Center in California explained: “In ICE detention, I was diagnosed with schizophrenia and major depressive disorder with psychotic features. . . . At Adelanto, my mental health has worsened. The medical staff keeps changing the type and amount of medicine I take.”⁹⁰ ICE’s decision not to prioritize the mental health of detained immigrants perpetuates conditions that unnecessarily break down the mental state of those in custody to the point where flashbacks and trauma can last for years. The US immigration detention and deportation system, which detains over a hundred thousand people per year, actively contributes to generations of trauma.⁹¹ Among the most vulnerable are trans people in detention.

After being persecuted and sexually assaulted by gang members in El Salvador for identifying as a transgender woman, Joaris Hernandez migrated to the US to seek asylum and was placed in a men’s-only immigration detention facility. “Being inside is terrible and being detained with men, as a trans woman, is particularly difficult,”⁹² Joaris said. ICE agents advised her against any attempts to switch into a women’s facility because the transfer process could prolong her time in detention. However, while detained, Joaris was harassed, assaulted, and sexually abused. Although Joaris reported the sexual abuse, she was not given any counseling or mental health care. The day of the assault, doctors completed invasive tests on Joaris in front of male guards. Joaris asked the guards to leave or at least turn their backs, but they refused: “I was naked which was horrible because the two security agents were men—they saw how the doctor tested my sex organs. It was traumatizing . . . that was something that killed me because they saw the entire penetrative testing process of a sexual violation” as entertainment. “That night I couldn’t feel calm and I had a nervous breakdown. I was screaming uncontrollably and I couldn’t keep still.”⁹³ Instead of receiving mental health care, guards took her to the psychiatric clinic, where she was placed in isolation for four days.

Nonexistent Preventive Care

Nilson Barahona-Marriaga, an immigrant from Honduras who lived in Georgia for over twenty years, came to the US on a visa when he was eighteen years old to reunite with his family.⁹⁴ After having contact with the criminal legal system, he was transferred to ICE custody. When Nilson entered Irwin County Detention Center in Georgia, he knew his “sugar was high,” but he was surprised when the medical department at the detention center advised him that he would require dialysis and recommended insulin three times a day.⁹⁵ Nilson refused. “They were like, what do you mean, ‘no’?” He asked for guidance on how to improve his condition without drugs, “because I didn’t even know what diabetes was.” The food given in detention was largely composed of starchy foods, and light on protein and vegetables. Medical staff stated they could not control what detention operators provided.



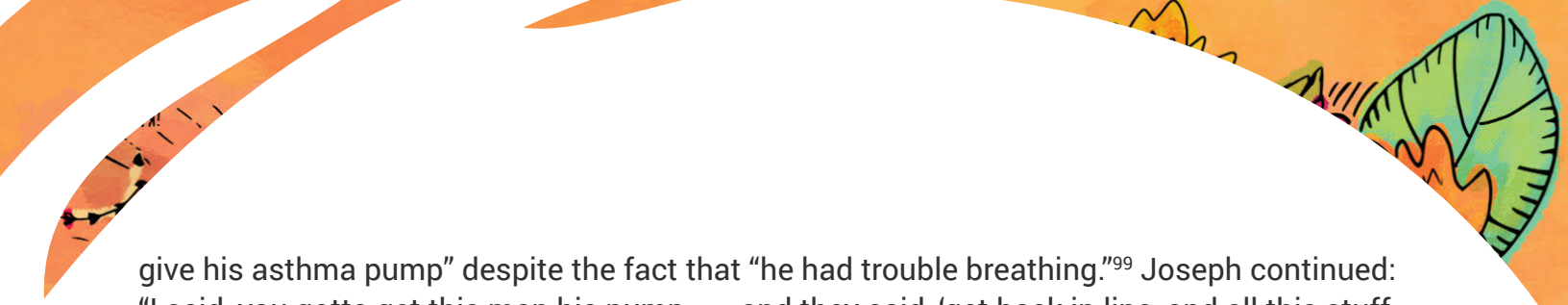
“This huge corporation, who’s making money off of making us sick. Because if you think about it, if they give us the food we are supposed to be eating, there was no need for all of that medication. . . . They will give you all of that medication, they will write it up, and they will charge you for it.”⁹⁶ Illness “was a moneymaker” for the detention operators.

The commissary at the detention center charged for healthier foods. Nilson decided to create his own treatment plan and asked his family to send him tennis shoes so he could exercise and began trading his starchy foods with others for vegetables.

In declarations filed in April 2020, immigrants detained at Etowah County Detention Center in Gadsden, Alabama, recounted the lack of preventative medical care in the jail. One immigrant who has been in ICE custody since 2016 stated: “I also have Barrett’s esophagus, which puts me at a higher risk for cancer. I have not had an endoscopy or biopsy since being in ICE custody, which is meant to be conducted yearly to monitor my Barrett’s esophagus and detect potentially cancerous cells.”⁹⁷ Another immigrant, from Ecuador, explained that he arrived at Etowah in 2018. “I’ve had about five seizures here, the most recent in February. Around October 17, 2019, I was served contaminated food. Something in it affected me and I started seizing and fell on the side of the bed and broke my rib. No one found me for thirty minutes until my cellmates came and picked me up. It’s been five months and I’m still having pain in my side. It took them four months to give me pain pills for it. I also had an allergic reaction and had bumps all over my body. I asked for medication to control the seizures but they told me every time I get a seizure I should just go to observation. When I get them I have to just lie on my bed and hope it passes. Sometimes they’re fifteen minutes long, when it’s bad it’s thirty to forty-five minutes. Sick calls usually take around three days to respond to, so if anything were seriously wrong, they wouldn’t get to me in time.”⁹⁸

Denials and Delays in Treatment

Treatment delays even in cases of acute distress are common, and protesting such delays can result in retaliation. Joseph Thompson, who traveled to the United States from Jamaica as a teenager to reunite with his mother, is an example. Although Joseph has immigration status in the US, he was transferred to ICE custody in 2018 after coming into contact with the criminal legal system. While detained at Alamance County Detention Center in North Carolina, he observed denials of treatment for a man who had been diagnosed with asthma. “They wouldn’t



give his asthma pump” despite the fact that “he had trouble breathing.”⁹⁹ Joseph continued: “I said, you gotta get this man his pump . . . and they said, ‘get back in line, and all this stuff, be quiet, shut the hell up.’ . . . One of them slapped me up against the wall—why? Because I was speaking up for this man.” That same day, Joseph himself was denied his beta-blocker, prescribed for an irregular heartbeat.

Joaris was diagnosed on April 28, 2020 with HIV following an in-detention sexual assault. However, she did not receive any treatment until June, and even then, locked in solitary confinement, had no idea the pills she was given were related to the diagnosis.¹⁰⁰ The medication was inconsistent. “One day I would be given pills and the next day I wouldn’t; or I would be given pills for two days and then for a couple of days I would not get any. I just wasn’t sure what their purpose was. In June, I was given two months worth of pills—what I should have already taken—all at once. But this was only for one prescribed pill, not the other medicine that was also prescribed.”

Delays and denials in treatment in ICE detention during the COVID-19 pandemic were rampant. A fifty-four-year-old Jamaican man held in ICE custody at Stewart Detention Center in Georgia stated in April 2020: “I am very concerned because one of my cellmates had a cough and was sick. He put in a request to see a doctor, but they said he wasn’t a priority so he didn’t see a doctor. He was not isolated from the rest of us.”¹⁰¹ The man went on to add: “I am particularly worried about my own health because my medical condition has worsened since entering ICE custody.”¹⁰²

An attorney representing detained immigrants at Farmville Detention Center in Virginia explained: “Since June 22, 2020, we have received calls from dozens of distressed clients who were not part of the cohort recently transferred to the facility, reporting widespread fever, coughing, and difficulty breathing in several of the dorms. Multiple people experiencing fever and aches requested Tylenol. In one dorm, a nurse initially denied the request and said they should try to fight the symptoms without medication. Later, some clients were given Tylenol and blankets. Clients reported that Tylenol was given on occasion in some of the dorms, but not in other dorms. No other treatment has been given.”¹⁰³ The attorney added: “One individual, who had a fever of 105 degrees, was given Tylenol and a blanket and told that there was nothing else they could do for him and that he should drink water. He was not tested for COVID-19.”¹⁰⁴ And: “Another individual in Dorm 5 reported not receiving assistance for several days, and ultimately fainting and falling to the floor, where he was left for several minutes before receiving any assistance.”¹⁰⁵



Breaking Spirits: Routine Dehumanization



✂ ICE detention is in many ways a waiting game, where ICE tests people's wills to see if they will give up fighting and agree to be deported. The deck is stacked in the government's favor—by design, there are few legal options to win release and ICE deploys multiple tactics to wear down people's will.

An investigation by the DHS Office of the Inspector General in 2018 found substandard conditions throughout the detention system. Conditions included “significant food safety issues,” insufficient outside recreation, segregation practices that “violated standards and infringed on detainee rights,” and dilapidated and moldy bathrooms.¹⁰⁶ These conditions and practices persist, despite ICE's acknowledgment of the need to address these issues. Recent declarations and interviews with people who have experienced ICE detention underscore that it continues to be characterized by routinely dehumanizing tactics and treatment. Disregard for the well-being of people in detention continues. Isolation, neglect, abuse, and mistreatment induce fear, anxiety, depression, and despair.

As Edinson explains: “I helped a lot of people who are in detention with the same situation as me, because really I know, it was horrible in this situation.” He continues, “And really we need a lot of help, because I think we are humans. We are human, but ICE doesn't think that because they try to kill you. That's it. Because they make all the situations like the one I had, only because they want to hear you say, ‘Please deport me,’ that's it. So they don't try to do something bad to your body, but they do a lot of bad things in your mind, yeah.”¹⁰⁷

Isolation

Isolation in detention takes many forms—in addition to being locked up and removed from your home and community, within detention facilities ICE routinely deprives people of recreation, denies access to the law library, and limits contact with the outside world. As described in the following section, ICE uses solitary confinement for punitive purposes. But they also regularly use isolation for what they refer to as “administrative segregation,” “a non-punitive form of segregation,” including for people with medical or mental health conditions.¹⁰⁸



During the COVID-19 pandemic, ICE agents have regularly resorted to solitary confinement, a harmful and unnecessary abuse of power.


As a person held by ICE at Hudson County Correctional Facility in New Jersey explained: “In March, we were put on lockdown 23.5 hours a day in our cells, only allowed out for just thirty minutes each day. We were on lockdown for months, with only gradual increases in time out of our cells. . . . We have no access to television or to books in our cells. . . . At first, we would try to draw things or make pictures or bracelets for our children, something to pass the time and to keep us focused on something positive. I would keep plastic scraps to make bracelets out of. We might draw on an old piece of fabric, a design to send to our families, to let them know that we were thinking of them even though we could not see them. But when the guards saw what we were doing, they would make us stop, and confiscate the little gifts we made for our families, and destroy them.”¹⁰⁹

In April 2020, under a federal court ruling, *Fraihat v. ICE*,¹¹⁰ the agency was required, among other things, to assess an individual’s risk factors related to COVID-19 within one week to determine whether they should be released from detention. Despite the requirements of the ruling, ICE repeatedly denied requests for release.¹¹¹ The lawyer for a thirty-year-old asylum seeker from Cuba detained at the Otero County Processing Center described his client’s situation: “His merits hearing originally scheduled for June 1, 2020 was rescheduled by the Immigration Judge after we served her with an evaluation from a licensed psychologist which indicated that our client was experiencing PTSD. Shortly thereafter, ICE determined that our client was a danger to himself and was placed into ‘protective’ solitary confinement. We filed a *Fraihat* request on June 9, 2020 and ICE has not adjudicated the request yet [as of June 23, 2020], although the client’s merits case has been rescheduled once again. He has been detained since April 2, 2019.”¹¹²

Harming Morale and Limiting Legal Advocacy

During the early stages of the pandemic, in addition to suspending visitation, in many cases ICE restricted recreation as well as communication channels with the outside world. This not only hindered people’s ability to fight for release and their deportation case, it also increased their feelings of despondency and fear.

One detained person reported: “In late March 2020, the [Hudson County] facility suspended all in-person visitation. They have also canceled all programming—educational, spiritual, and recreational. We no longer have access to the gym or the law library. For two months now we’ve lost nearly all physical contact with the outside world. We spend nearly the entire day, every day,



in the dorms. There's nothing to do but worry and panic."¹¹³ The person continued: "Although communicating with my lawyer has been difficult, things are even worse for the women who have been representing themselves in court. With the law library closed, they cannot access the basic information and forms necessary to prepare their cases. Still, the court seems to churn along as usual, and I see my friends' rights trampled in the process."¹¹⁴


Joseph, who was detained for two years, explained how ICE is able to control communication with the outside world: "They monitor your mail, too. So like, if you try to write certain people or certain groups, to help you out or to report something, they don't send it off. Your mail don't get sent, you know. Then you have to call such and such, 'Did you get my mail?' 'No, what mail?' You know what I mean?"¹¹⁵

Keshia said of her experience in ICE detention: "I felt locked up somewhere away from the whole world. There's no one. My family, I couldn't contact them. So I felt alone, like I was lost."¹¹⁶

Mistreatment: Arbitrary Discipline, Abuse of Power

Mistreatment is a common feature of ICE detention. A person detained at Hudson stated: "The guards abuse their power here, they verbally abuse us, disrespect us, and threaten us with the Box [solitary confinement] if we do anything other than take their abuse in silence. If you complain, they say, 'Oh, you don't like how we treat you? So get out of this country!' They threaten us with infractions if we talk back, saying that the infractions will hurt our immigration case. They use foul language and racist slurs against us. They treat us horribly."¹¹⁷ The person offered another example: "Many of the guards here are very mean and have no respect for the detainees. They treat us like prisoners. One time I tried to ask for sanitizer to clean the sinks, and the guard got upset. He said I was bothering him, and that if it were up to him he'd put me on a plane right now and deport me to Jamaica. If you speak up for yourself, you will have problems here."¹¹⁸

And: "So many things here are unjust. There are a lot of things that officers will do because they know they have more power than us. For example, often with breakfast we get a piece of fruit, and a lot of guys who don't have families to put money in their commissary will try to save the fruit for later in the day so that they will have something to eat when they are hungry. But the officers go through our belongings and throw the food away. Sometimes they will turn off the water when we are mid-shower and force us to get out with soap still on our bodies. This happened to me once before a meal. I still had fifteen minutes until lunchtime but an officer still kicked me out mid-shower."¹¹⁹



Joaris also shared an example of how agents abuse their power. “The agents in the detention centers tell us that if we report them or we misbehave, they have the right to relay that information to judges. I was told that . . . it is a kind of threat.”¹²⁰

Keshia shared: “I had a hard time in the detention because of the way ICE would treat the Blacks from the Whites . . . even with our immigration cases, the judges were not being fair to us. I could see a clear form of can I say, of discrimination, we were not being treated fairly, as compared to the Latinos and people . . . from other countries. In terms of let’s say, for example, medical attention, we were being neglected. . . . Also, sometimes in terms of parole, applying for a parole out of the detention, we were being denied. All the Blacks, the Africans, were being denied parole.”¹²¹


Humiliation, Disorientation, and Wearing People Down

The immigration detention system is designed to discourage people’s will to fight. The system is extremely disorienting—for those awaiting immigration proceedings, there is no set time for their release. Detainees are often unaware of how limited their legal options are and have to represent themselves in complicated legal proceedings. They can be transferred between facilities without warning. The system intentionally functions as a barrier to hope.

Edinson describes the harm of indefinite imprisonment: “It’s not like when you do something bad and you have a sentence and they give you the sentence and you can understand, well, I’ll be here one year or one month or something like that. But the most horrible for me was that they never told me why or when or how long I would be there. And also the problem is the language. . . . Because they, I think that, in a right world, they would prepare people who work in there. If somebody has the same situation as me, or other people who aren’t like me . . . a lot of people tried to kill themselves. I know about that, someone who tried to kill himself in detention because he didn’t understand anything.”¹²²

A person detained at Elizabeth shared: “The lockdown is like being in the Box [solitary confinement] for months on end, but I hadn’t done anything wrong to get there. It also means we have no privacy, because we are stuck with our cellmates. We begged the guards to allow our cellmates to step out of the cell while we defecated, but the guards laughed and told us to get over our embarrassment and ‘shit’ in front of each other. Being forced to do that, in front of another man just feet away from you, is an indignity I will never forget.”¹²³

“They design it in the way they make it real hard for you to fight,” explains Joseph. “They make it real miserable for you. So you don’t want to be in there, not even for a day. You don’t want to stay in there. You know, so you rather just give up. You know they want you to give up quick, and



they don't like it when you fight. When you in there fighting, oh, they don't like that. They put you through hell they send you. I seen they sent one guy in like nine different states in two weeks. He went to nine different states."

Keshia shared: "The detention experience is something that I'll never want to go back to. I'll never. I don't even want to dream of going back there. It's not good. The treatment is not good. You know the way the Blacks are being treated. Being inferior. It's not good."


Bureaucracy and Secrecy

 **The bureaucracy of detention, an opaque system of delays, transfers, and expulsions, facilitates the pursuit of deportation at any cost.**

ICE carries out its routine operations—moving people within and between centers, pushing forward with dangerous deportation flights, processing and maintaining records—without regard to people's immigration cases, health, or safety. People are flown between detention centers without explanation. Case files are misplaced or unavailable, sabotaging people's chances at immigration relief. ICE grants medical clearance to deport those who are not physically well, and makes little to no effort to honor court orders and options for legal relief. The machinery whirs on, unobstructed by the lives it claims.

Transfers

It is regular practice for ICE to move people in detention between centers, without notice to detained people or their loved ones. Even in March 2020, when most people had stopped nonessential travel, ICE put Sirous Asgari on nine flights in two weeks.¹²⁴ His sworn statement reflected on how he sought voluntary departure, but was denied, and how the arbitrary exercise of control over his body took its toll: "I was placed on a flight to the Boston area. . . . From there I was flown to Newark, New Jersey. . . . At Newark, I was supposed to get off the plane, but I was informed that my flight to Iran was canceled. The plane then went to Texas, and from there back to [Alexandria Staging Facility in Louisiana]. On March 23rd I was put on another flight, this time to Harrisburg, Pennsylvania. . . . We flew to Brownsville, Texas, and several of us disembarked and rode on a bus to the CBP Station at Rio Grande . . . From there we were taken on a bus to Port Isabel Detention Center in Brownsville. We slept on a concrete floor and then were taken to the airport the next morning and flown to Toledo, Ohio. . . . From there we went to Richmond,



Virginia . . . and then returned to [Alexandria Staging Facility] on March 24 with more than a hundred people on board. After each of these journeys, I was so traumatized that I consulted with the mental health staff at ASF. If I would have been allowed to depart voluntarily, all this suffering could have been avoided.”¹²⁵

ICE rarely provides any rationale for transfers. When Edinson arrived, they shackled him and moved him from *las hieleras* (iceboxes)—a common name for the extremely cold CBP holding cells near the border—to a detention center in Arizona, where he was held in solitary confinement for four days, and then to Otay Detention Center in San Diego.¹²⁶


As Edinson recounts, “They sent me on a bus—a long trip, around four or five hours to the desert. I was so scared because all this time it came to me. Maybe this is like Hitler’s time because they don’t explain to you what was happening. But they don’t talk to me in Spanish. Yes, only talking in English . . . ”¹²⁷ While ICE has denied that profit factors into transfer decisions, there is a clear profit motive for private detention centers to increase the number of people detained—in addition to contracts that include “guaranteed minimums” where ICE is required to pay for a minimum number of detention beds (even if they are not occupied), some contracts include a daily rate for each detainee.¹²⁸

Transfers make it even more difficult to fight an immigration case than it already is at baseline. During his interview, Joseph reflected, “You know they’ll move you around quite a bit. And that’s how they kind of lose you in the system so they try to frustrate you . . . and say if you got, like, court and things like that, you miss your court date or any important documents you supposed to get, you end up missing it.”¹²⁹

Disappearing into “the System”

Bureaucratic dysfunction is the norm, and ICE has no incentive to streamline operations when that dysfunction aligns with the agency’s primary purpose: to deport people. Many detainees talked about how clerical errors, lack of notice and information, and the nominal medical clearance allowed deportations to proceed at any cost.

In detention, people are restricted from their own medical and immigration paperwork, which makes it very difficult to file custody redetermination requests and applications for relief. Joaris’s paperwork was given to another detainee, who then tried to appear on her court date: “After my credible fear interview an ICE officer mistakenly handed copies of my paperwork and the interview to the wrong person, an Ecuadorian man . . . and I only happened to learn of this by pure coincidence. . . . He showed me the paperwork but it had my name on it! I explained to him



that the paperwork he had was mine and that therefore the court date was for me, not for the judge to listen to his case. But he insisted it was his because it had his signature. An ICE officer said it wouldn't matter, that everything would be fine."

During the pandemic, people attempting to submit requests for release due to health risks and disabilities pursuant to a court order were denied access to their own medical files: An attorney shared, "On the same day the *Frai*hat notice was posted in the dorms at the Laredo Detention Center, [CoreCivic] stopped fulfilling requests for medical records and told the women that only ICE could give them access to their own medical records. Several clients have reported that they don't understand how to request their medical records given this confusion."¹³⁰ At the same time, "the medical records departments at both STIPC [the South Texas ICE Processing Center] and the Laredo Detention Center were instructed by ICE not to release medical records to attorneys, even with HIPAA releases. . . . The [deportation officer] explained that her supervisor told her that 'due to the sensitive nature of the information contained in the medical records,' only detainees can request their own records. . . . The DO said she was simply following orders from her supervisor and refused to authorize the release of medical records."¹³¹

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Commonplace errors have major consequences. One individual from Puerto Rico, born in 1958, testified that "ICE is detaining me and seeking to deport me under a different, mistaken identity: [Redacted], born on [Redacted] 1963 in the Dominican Republic. I have never used that name and I do not know anyone by that name. At some point ICE also claimed that I was from Mexico."¹³² At the time the declaration was filed, this person had been held in ICE detention for approximately 7 years.¹³³ In another case, Joseph was almost deported, even though his deportation was on hold pending appeal: "They tried to put me on a plane one time. When I . . . was in the [Board of Immigration Appeals] because you know while you're in the BIA, it's mandatory . . . they can't deport you until your case becomes final. Yeah, they was trying to put me on a plane one time . . . I had the guy call BIA, because he didn't believe me, and BIA told him on the speakerphone, yes get Mr. Thompson off that list."¹³⁴

When these bureaucratic failures go unacknowledged and unaddressed, people break down. Nilson felt like giving up when ICE failed to give him his own paperwork: "[A] lot of people will have the chance to fight and win. . . . They will just quit. . . . [Let me] give you a personal example. I went to court, right? I told them I came here with a visa. They asked me to prove it. I say 'Okay,

no problem.' I talked to the ICE officer. And I told him, 'Look, I came here with a visa. And there has to be a copy of I9 form, and I want a copy of it. How can I do that?' They told me [to tell] my deportation officer that I need a copy of my I9 form. He replied to me saying that he cannot get it because all of my files are in court. . . . So if all of my files are in court, how come they say that I need to present the proof when they have everything that is on my file? I mean . . . those kinds of things just make you like, want to be like, you know, forget it."¹³⁵


Sometimes, people disappear into the system for days and weeks at a time. During the pandemic, the location of people transferred between detention centers and hospitals was erased from the online detainee locator, leading one family to imagine the worst: "We started calling the morgue and funeral homes. He always calls, so either he's dead or he's been kidnapped."¹³⁶ He turned up twelve days later in an area hospital with COVID-19.¹³⁷

Other lives have vanished altogether. One young man with schizophrenia was deported to Mexico without any provision for his continued care.¹³⁸ Even though his father had arranged for his son's voluntary departure to Mexico, and where he was to be picked up by his mother, ICE deported him earlier than the scheduled departure without notifying the family.¹³⁹ Despite the family's attempts to locate their loved one, he remained missing two years later.¹⁴⁰

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Retaliation

Immigrants in ICE detention regularly stand up for their rights despite the inhumanity and cruelty they repeatedly face. These individuals are often met with increased violence and retaliation from ICE.




Despite the risk of retaliation, immigrants continue to advocate for themselves and build solidarity on the inside through direct action, hunger strikes, sign-on letters, speaking to reporters and advocates on the outside, and so much more.

Use of Force

The use of force is also a common form of retaliation for immigrants in ICE detention. Joseph, who was transferred to ICE custody after an encounter with the criminal legal system, described an incident where guards tased him six times for refusing to eat the food provided to him.


“They fractured my thumb,” he recalled, “and tased me six times. All because I didn’t want to eat the food. They beat on me. I was on a liquid diet for four days. They had one person on my neck, one person on my upper back, one person on my lower back, and two guys holding my leg. They were punching me on my side and everything.”



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The use of tear gas and rubber bullets against detained immigrants has also been reported. In a 2020 declaration, the Director of Removal Defense for the Refugee and Immigrant Center for Education and Legal Services (RAICES) explained that detained immigrants at the South Texas ICE Processing Center (STIPC) “demanded to speak to ICE officers to complain about the lack of masks and cleaning supplies, as well as the fact that new people were being brought into the dorm that could potentially introduce them to the [COVID-19] virus. Rather than discussing these concerns with the detainees and providing more comprehensive information about precautions that would be taken to reduce their risk of exposure to COVID-19, guards sprayed pepper spray in detainees’ faces, shot canisters of tear gas into the dorm, and shot rubber bullets at detainees, injuring several.”¹⁴¹

In March 2020, detained immigrants at Bristol County Jail in Massachusetts went on a work strike to protest unsanitary and dangerous conditions amid the COVID-19 pandemic, and were met with retaliation.¹⁴² The detained immigrants who usually served meals, did laundry, and cleaned tables refused to complete these tasks. In order to stop the protest, Bristol County Sheriff Thomas Hodgson and about 15 officers entered the jail. According to an attorney who represents people detained at Bristol, the officers pointed guns at immigrants who sheltered under plastic tables.¹⁴³



These acts of retaliation are regular occurrences for immigrants detained in ICE detention facilities and jails across the US, and the law often does not provide any real protection or redress for detained immigrants who are unjustly harmed.


Hunger Strikes and Transfers

Detained immigrants across the United States have engaged in hunger strikes to protest their incarceration and conditions of confinement.¹⁴⁴ Hunger strikes often serve as a last resort effort by immigrants to demand their freedom. A report by ACLU and Physicians for Human Rights found a pattern of hunger strikes and retaliation against detained immigrants at ICE detention centers and jails across the country.¹⁴⁵ According to ICE's own policy, all staff are trained annually to recognize the signs of a hunger strike and the procedures for referral for medical assessment. These policies provide a less intrusive alternative to force-feeding detained immigrants on hunger strike if their medical condition becomes imminently life threatening. Yet, in practice these policies are not followed, and immigrants often face retaliation. On November 1, 2019, five South Asian asylum seekers detained at the LaSalle Detention Facility in Jena, Louisiana, began a hunger strike for freedom. Throughout the course of their hunger strike, the men on strike were subjected to force-feeding and forced hydration.¹⁴⁶ One hunger striker at Etowah County Jail in Alabama was on a hunger strike for four days when facility officials "forcibly brought me to the hospital . . . and forced a catheter through my urine tract to my bladder in order to torture me."¹⁴⁷

ICE also regularly uses their discretion to transfer immigrants to different detention centers and jails as a form of retaliation against any form of organizing by detained immigrants.

A detained immigrant named Luis Yboy Flores was at the Mesa Verde Detention Facility in California when a small group of immigrants decided to start a hunger strike to protest their prolonged detention. In order to break up the growing momentum at Mesa Verde, ICE transferred Luis to another detention center in the middle of the night.¹⁴⁸ Keshia shared that when she was at T. Don Hutto Detention Center in Texas, some women planned a protest while high-ranking officials were visiting the facility and, as a result, experienced retaliation through transfers. Keshia stated: "We were being transferred based on the fact that the Africans in the Don Hutto Detention Center were fed up with the way they were being treated by ICE. The Cameroonians were divided into three groups. We got separated, and we didn't even

ICE also regularly uses their discretion to transfer immigrants to different detention centers and jails as a form of retaliation against any form of organizing by detained immigrants.



know where we were going.” She added: “We got transferred in March 2020. We had no idea where we were going, and they chained us on our hands, our tummies, and our legs. We got into the bus and from there, we got on the airport. The planes were kind of small. We were chained even in the plane until my group got to Mississippi. We were taken to Adams County Detention Center in Mississippi.”¹⁴⁹

Solitary Confinement and Deportations


ICE frequently uses solitary as a form of retaliation.¹⁵⁰ Placing immigrants in isolation units or solitary confinement is an abusive practice that is detrimental to the health of incarcerated individuals.¹⁵¹ Yet, ICE continues to use this practice against detained immigrants across the United States.

In September 2020, the House Committee on Homeland Security released a majority staff report finding that detained immigrants often face punishment for speaking out. After inspecting eight private and county-run detention facilities overseen by ICE and speaking to over four hundred detained immigrants, the Committee found, for example, that guards used threats of segregation “for engaging in permissible acts that detention staff considered disruptive, like submitting too many medical requests.”¹⁵² A man detained by ICE in Hudson County Jail in New Jersey explained that when he and other detained individuals organized a hunger strike in March 2020 to demand better safety measures and the release of vulnerable people in detention, ICE “responded by locking us all in our cells, with no TV, no commissary, and no phone calls. They claimed these measures were taken because of the pandemic, but we knew it was retaliation for our strike.”¹⁵³



The [House Committee on Homeland Security] found, for example, that guards used threats of segregation “for engaging in permissible acts that detention staff considered disruptive, like submitting too many medical requests.”

After Joaris filed a complaint about an ICE officer, she was told she should transfer to another unit. Rather than being transferred, Joaris was placed in solitary for two months. The United Nations Special Rapporteur of the Human Rights Council has stated that solitary confinement extending beyond fifteen days may lead to irreversible psychological damage: Joaris describes what she experienced: “[The other people held in solitary] flooded their rooms with toilet water and it seeped into my cell. They banged on the doors loudly, kicking the doors. The food was terrible and in order to use the bathroom I was still handcuffed. . . . There was constant screaming as well. It was just horrible. Sometimes I didn’t even want to leave my cell to use the



bathroom. Again I had a crisis of depression and considered using the pills I was prescribed to commit suicide. The psychiatrist and the therapist helped me, they found out I was hoarding pills and what I was planning. Again I was taken to the clinic. A counselor spoke with me. I decided that I needed to wait. I stayed in isolation and waited out my time . . . from June until August I was in isolation. . . . I had a lot of anxiety and felt very traumatized.”¹⁵⁴


Reflecting on his experience at Irwin County Detention Center in Georgia, Joseph said: “[There] was women in there [who] was getting abused, molested . . . and if they speak on something or say something, you know, they will go to the hole, they’d go to stay in the hole. I seen women in there that, because they speak on something or don’t like something, or somebody made a pass at them, they were punished for it.”

He continued, “And they leave you in the hole, you know, because you’re not, technically, not even supposed to be in there for a week or two weeks, but they keep you in there, like, a month, two months, three months, you know. All because they keep you separated from other people, so you won’t speak ’cause you don’t have access to the basic necessities, as far as a computer and all that stuff, or phone.”¹⁵⁵

ICE also uses deportation to retaliate against immigrants who speak out publicly about the abuse they experience in detention. Deportations send a message to detained immigrants that if they dare to speak out publicly about the abuses they’ve experienced, they too could be deported at any time regardless of the legal status of their cases.

Hector García Mendoza is an example. He was the named plaintiff in a class action lawsuit challenging conditions at Elizabeth Detention Center in New Jersey. His case was before a federal judge for consideration when ICE deported him to Mexico with no notice to his attorneys or family members.¹⁵⁶ Similarly, Yoel Alonso Leal, a Cuban asylum seeker and named plaintiff in a class action lawsuit challenging the Trump administration’s policy of detaining asylum seekers, was retaliated against and deported by ICE during mass protests demanding his release. Leal spoke up publicly about being denied adequate medical attention during his nine months in detention and his story drew the attention of activists and members of Congress.¹⁵⁷

5 CONCLUSION: LEADING THE WAY

 In such horrific and inhumane circumstances, hope is hard to come by. And yet the people who contributed to this report made clear that the system, even though it tried, failed to claim their humanity.

Each person has stories of connection and friendship with other people, both inside and outside, that helped them survive. For those who participated, collective actions built resilience, purpose, belonging, and a sense of self.

Edinson, on what inspired him to start his organization, Una Carta Salva Una Vida:


“ Yeah, I heard different stories, different backstories. . . . The relationship for me with them is that I see in every story, my face, you know, when I was there. And for me, those people are like my family, because I have no family here. You know, for that reason I try to help the people because when I was there, [Queer Detainee Empowerment Project] helped me . . . for that reason, I’m doing this. ”

Nilson, on the connections from detention he carries into his fight from the outside:

“ I didn’t want my wife to feel like I was abandoning everything. Like giving up the fight. So I have to fight it till the end, to the point that I could say, ‘Okay, there was not nothing else I could have done’. . . . I keep fighting and fighting, and after I find out that there were so many people who didn’t feel strong enough to raise their voice and say, ‘This is my injustice. You know, this is not fair. That just gives me another boost.’ Like, okay, you may think that you don’t have what you need in order to fight for your rights. But I do. And while I’m fighting for my rights, I will be fighting for yours, too. . . . I can’t leave and move forward thinking that I left somebody behind. And now that I’m out here . . . I can’t forget that I left people behind. People are suffering while I’m free. ”

Keshia, on what prompted the women inside to write a collective letter protesting treatment of African women in detention:

“ The letter was talking about the conditions, how ICE [is] treating the Africans, how the facility is treating the immigrants—that was what the letter was talking about . . . especially because the judge in Texas kept on failing the Cameroonians. . . . They didn’t make it at their final court hearing, and when they were denied the asylum, they were given an order of deportation. . . . No one wanted to go before the judge and be denied asylum and get a deportation order. . . . Some of the ICE officers were kind of forcing those with deportation orders to sign . . . so it made everyone so scared. Because nobody wanted to go before the judge and fail the case and be deported. That’s why the letter was written because it was alarming, it was really scary. Scary. ”



Much like Nilson, Edinson, and Keshia, people in ICE detention across the country organized against the dangerous conditions of detention when the COVID-19 pandemic began. They engaged in resistance efforts, organizing protests and hunger strikes,¹⁵⁸ work stoppages,¹⁵⁹ and media-outreach efforts,¹⁶⁰ and otherwise worked to save as many lives as possible in a rapidly unfolding crisis.

In March 2020, for example, people detained at Bristol County House of Correction in Massachusetts wrote and distributed public letters,¹⁶¹ alerting officials and the public to the overcrowding,¹⁶² poor sanitation,¹⁶³ staff with COVID-19 symptoms,¹⁶⁴ and the utter lack of safety precautions in the facility.¹⁶⁵ They demanded improved conditions, the release of people with serious medical conditions, and the deportation of those who had consented to it.¹⁶⁶ When ICE failed to respond to their demands, the men in one unit of the facility organized a work strike.¹⁶⁷ Their peaceful resistance was met with armed aggression by the Bristol County sheriff and officers.¹⁶⁸ In May, when several people in the facility refused to willingly be transported to a unit that held people recently admitted with no COVID-19 precautions, the sheriff and officers responded to the peaceful refusal with violence.¹⁶⁹ Following this incident, the facility came under state and federal investigation.¹⁷⁰ ICE fully shut down the Bristol facility in May 2021.¹⁷¹

As such incidents—and this report more broadly—demonstrate, the crisis of ICE detention cannot be solved through piecemeal reforms, or solely by ending private prisons, improving conditions, or subjecting more people to electronic monitoring. The core of this problem is the ever-hardening immigration policing regime—both at the border and in the interior—and the legal framework that is designed to limit avenues for freedom and liberty.

As the immigration policing and detention system has exploded, so too has the field of immigration advocacy and legal support. Yet while tireless advocacy and organizing has brought public attention to the abuses associated with detention, the frustration of fighting for fairness and justice through the US legal system is felt widely—by those directly impacted, their loved ones, advocates, and legal practitioners—as it offers extremely few legal avenues for liberty. This points to the need for bold solutions that acknowledge that the detention system cannot be fixed. The ongoing human rights crisis of immigration detention requires a far-reaching critique aimed at dismantling the larger deportation and migration control system that gives rise to, and allows the abusive conditions of detention to thrive.

Ending the immigration detention, deportation, and border-policing regimes is the only way forward. People currently in detention, and those who have survived it, are already leading the way.

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Enforcement Act of 1994, Pub. L. No. 103-322, 1208 Stat. 1796, and the 1 Immigration and Nationality Technical Corrections Act of 1994, Pub. L. No. 103-416, 108 Stat. 4305 (October 25, 1994).

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- 52 INA § 235(b)(1).
- 53 INA § 235(b)(ii); 8 C.F.R. § 208.30(b).
- 54 8 C.F.R. § 208.30(f).
- 55 INA § 241(a)(2).
- 56 Compare INA § 241(a)(2) (prohibiting the release of anyone found inadmissible or deportable under any criminal or terrorism grounds) with INA § 236(c) (requiring the detention of a narrower group of individuals found inadmissible or deportable on such grounds).
- 57 INA § 241(a)(6).
- 58 INA § 241(a)(3).
- 59 INA Section 236(a) authorizes ICE to determine whether to detain immigrants and place them in removal proceedings. People who fall within the categories subject to mandatory detention pursuant to INA Section 236(c) are not governed by 236(a).
- 60 New York Civil Liberties Union, “ICE Defied Court Orders, Maintained Secret No-Release Policy: NYCLU, Bronx Defenders,” December 21, 2020, <https://www.nyclu.org/en/press-releases/ice-defied-court-orders-maintained-secret-no-release-policy-nyclu>



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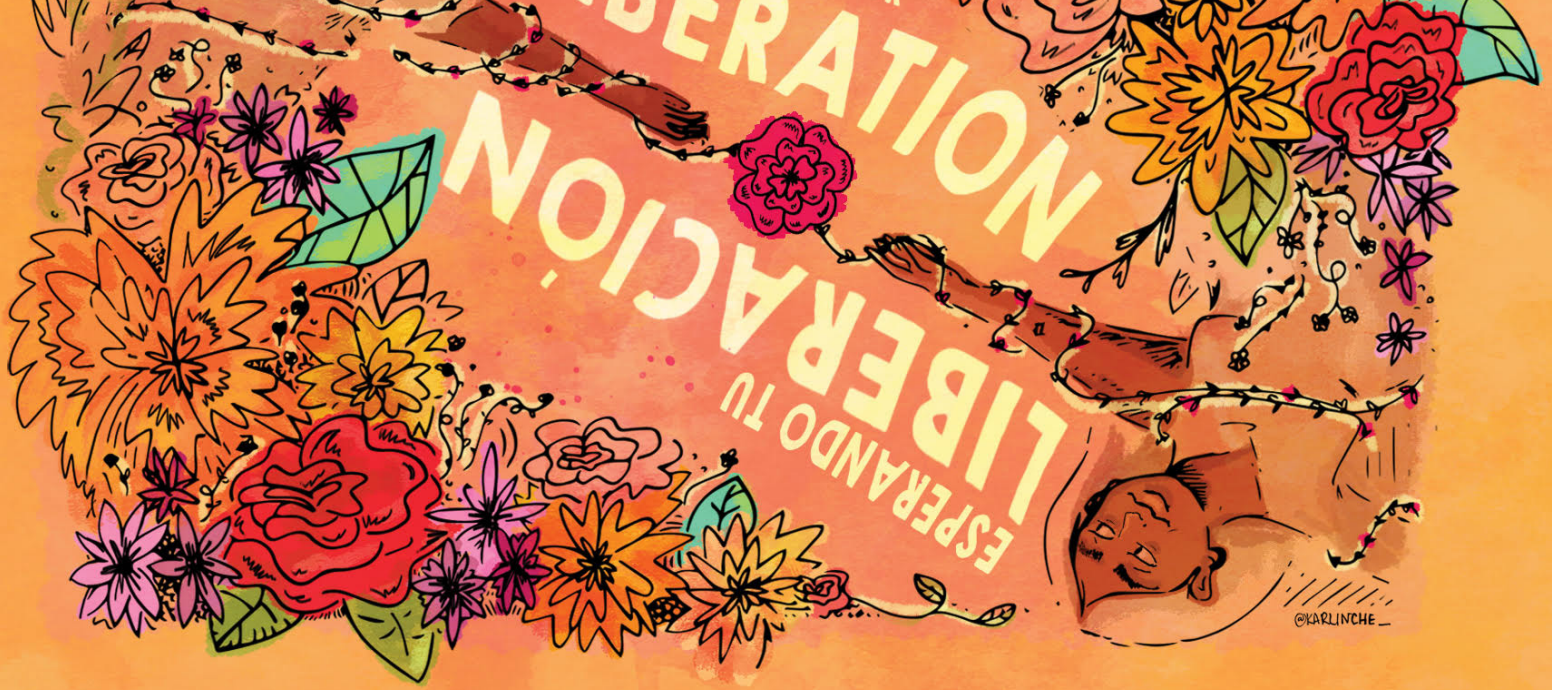


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- 161 *First Letter From ICE-B Unit*, March 18, 2021, <https://d279m997dpfwgl.cloudfront.net/wp/2020/03/BHOC-EMERGENCY.pdf>; *Letter from ICE-A Unit*, March 20, 2021, <https://d279m997dpfwgl.cloudfront.net/wp/2020/03/Bristol-TEAM-A-Covid-letter-.pdf>; *Second Letter From ICE-B Unit*, March 23, 2021, https://d279m997dpfwgl.cloudfront.net/wp/2020/03/DHOC-Letter-2_3_23_20.pdf. These letters formed the basis of an emergency lawsuit challenging the continued detention of everyone in the facility. *Savino v. Souza*, 453 F. Supp. 3d 441 (D. Mass 2020) (certifying class); *Savino v. Souza*, 458 F. Supp. 3d 317 (granting preliminary injunction).
- 162 The ICE-B Unit reported fifty-seven people housed in one large room, all in bunk beds three feet apart. *First Letter from ICE-B Unit*, *supra* note 149. The ICE-A Unit reported forty-seven people housed in one large room, all in bunk beds three feet apart, and noted, in particular, that no social distancing was possible during mealtimes. *Letter from ICE-A Unit*, *supra* note 149.
- 163 *Second Letter from ICE-B Unit*, *supra* note 149 (demanding that the Sheriff decontaminate the facility, as he promised would be done in a televised message; assurance that the soap in the bathroom is antibacterial and has not been diluted; gloves and brushes for cleaning workers to use to clean bathrooms; and supplies to disinfect the phones after each use).
- 164 See *First Letter from ICE-B Unit*, *supra* note 149 (reporting that two staff members had exhibited COVID-19 symptoms, including coughing and sneezing, during shifts); *Second Letter from ICE-B Unit*, *supra* note 149 (same).
- 165 *First Letter from ICE-B Unit*, *supra* note 149 (reporting ICE transferring newly arrested people directly to the unit, without quarantine); *Letter from ICE-A Unit*, *supra* note 149 (reporting that, despite the sheriff’s televised address promising improved sanitation and social distancing, no separation or distancing had occurred; moreover, after suspending family visits “to contain the virus from entering the building,” ICE continued transferring new arrestees into the facility with no quarantine period); *Second Letter From ICE-B Unit*, *supra* note 149 (reporting that one officer had told people that the coronavirus was “nothing more than a flu,” requesting that staff wear masks and gloves, and demanding accurate information regarding positive cases of COVID-19 among staff and detained people).
- 166 See *First Letter from ICE-B Unit*, *supra* note 149; *Second Letter from ICE-B Unit*, *supra* note 149.
- 167 Shannon Dooling, “ICE Detainees in Bristol County Go on Work Strike over Conditions amid Coronavirus Fears,” *WBUR*, March, 31, 2020, <https://www.wbur.org/news/2020/03/31/ice-detainees-in-bristol-county-go-on-work-strike-protesting-conditions-amid-coronavirus-outbreak>.
- 168 Julia Rock and Sara Van Horn, “Bristol County Correctional Center Officials Retaliate after ICE Detainees Declare Work Strike,” *UpriseRI*, March 31, 2020, <https://upriseri.com/2020-03-31-julia-rock-sara-van-horn>.
- 169 See Catherina E. Shoichet, “After Violence Erupted in an ICE Detention Facility, a Message Left on a Window Said, ‘HELP US’,” *CNN*, May 22, 2020, <https://www.cnn.com/2020/05/22/us/ice-detention-coronavirus-violence-hunger-strikes/index.html>.
- 170 Laura Crimaldi, “Bristol Sheriff Violated Immigration Detainees’ Civil Rights during May Melee, Attorney General Says,” *Boston Globe*, December 15, 2020, <https://www.bostonglobe.com/2020/12/15/metro/bristol-sheriff-violated-immigration-detainees-rights-during-may-melee-attorney-general-says>; Maria Sacchetti, “ICE to Stop Detaining Immigrants at Two County Jails under Federal Investigation,” *Washington Post*, May 20, 2021, https://www.washingtonpost.com/immigration/ice-detentions-county-jails-halted/2021/05/20/9c0bdd1e-b8de-11eb-a6b1-81296da0339b_story.html.
- 171 Sacchetti, “ICE to Stop Detaining Immigrants at Two County Jails under Federal Investigation.”





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