



ICE on Trial Toolkit

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General overview of the campaign

ICE on Trial is a series of coordinated people's tribunals on a national scale, strategizing to address ICE's (and in particular detention centers') flagrant human rights abuses through grassroots organizing, pressuring legislators and oversight mechanisms, and putting forth lawsuits where applicable. Given that this is the starting point of a new campaign, all information presented here is meant to serve as suggestions or starting points for organizers to determine the lay out, strategy, and timing of their respective tribunals. Organizers are encouraged to adapt this guide to the needs, demands, and strategy of their local context and targets.

Planning a Tribunal

Key Considerations

Given that this is the launch of a new campaign, there are several important considerations to keep in mind when thinking through the logistics, location, and security for your local tribunal. As we already know, ICE relies heavily on retaliation to harass and intimidate people inside detention centers. Therefore, keeping in mind the possibility of retaliation (before, during, and after the tribunal) is crucial and should entail discussing possible responses and support that can be provided to folks who are currently detained and their families. When thinking about the location of your tribunal, it's useful to have clarity regarding which surrounding areas are private or public property. In line with this is the question of permits issued by the city or county, this should be assessed keeping in mind the experience local organizations have had with public events in the past. As is usual for these sort of events, police liaison roles should be determined prior to the tribunal.

Judges

Resistencia's tribunals typically have between four and six judges who are in charge of doing interviews with people who are detained, reporting these findings during the tribunal, listening the testimonies of the public, and incorporating all of this information into the drafting of a formal decision regarding the Northwest Detention Center. The number of judges is contingent on the number of testimonies the organizers of the tribunal are aiming to include. Generally, Resistencia aims to have at least 5 different testimonies from folks currently detained in the Northwest Detention Center. Those who are asked to be judges are individuals deeply involved in the work against detention centers or involved in racial justice movements led by people of color, most judges are organizers, advocates, or attorneys. Resistencia is very intentional about incorporating a diverse set of perspectives in the selection of judges, opting to stray away from only having attorneys take on this role. However, attorneys, unlike any other judge, are able to carry out multiple visits in one day and are usually allowed to bring in a notebook to take notes. This should be noted when selecting judges and making plans for visitation. For attorneys who are judges, it is important that they emphasize to people they are visiting that they are not there to do a consultation or to take on their case, solely to gather information and testimonies. This should also be made clear by the organizers prior to the date of the visitation to ensure those being visited don't have expectations outside of what the tribunal entails. Potential judges are contacted two months prior to the actual tribunal. When reaching out to potential judges, Resistencia schedules 1-1 calls or has email exchanges where details about the tribunal, expectations, and commitments are explained at length so folks can determine whether they can support as judges in the tribunal. In this tribunal, judges are expected to commit to at least two full days for the event, one day to carry out visitation with people detained to gather information and a second to present information gathered, deliberate, and issue a decision at the tribunal itself.

Documenting testimonies

One of the main responsibilities of judges in Resistencia's tribunals, is collecting evidence through interviews with people currently detained the day prior to the tribunal. As such, it's important that judges avoid any possible interference in the process on behalf of ICE/staff from the detention center. Judges are encouraged to travel in groups the day of the visitation and are asked to not mention anything about the tribunal to staff in the detention center. Given that the decision during the tribunal is largely based on the content of the interviews with people detained, judges are asked to take time immediately after their visit (usually in the car prior to leaving) to jot down thoughts and observations from each of their interviews so as to ensure as much information as possible is retained/used for the tribunal. When selecting folks to be interviewed by judges, it is important to keep in mind the type of language that is used to describe the conditions inside the detention center. Priority should be given to testimonies that vividly capture the details of life inside the detention center, this allows for the images and experiences of those in detention to be better communicated to the audience at the hearing.

Sample Questions for Judges

**Always key to respect folx' wishes/remember to ask if they would like us to use their name or not*
***Please feel free to tailor these to the focus your local tribunal wishes to have*

- 1) What are some of the worst problems you see inside this detention center?
- 2) How would you describe the quality of food?
- 3) How often have you or the other people detained seen a doctor when sick? How often does this provide you with relief from symptoms?
- 4) Do you have examples of situations you or others detained have been in that show a picture of what it is like inside the detention center?
- 5) What would you want folks at the tribunal to know? If you could say one thing to those attending, what would it be?
- 6) Have you seen guards or staff retaliate against people detained? If so, how?
- 7) Have you been transferred? If so, what was that like?

Political Education

Peoples' tribunals have history of being spaces where communities collectively question the role of the state in carrying out human rights abuses. Therefore, when thinking through the messaging and content of all materials relating to the tribunal, intent should be put behind questioning and countering the narrative of the "good" vs "bad" immigrant. This is an opportunity for us to continue building our collective knowledge regarding how and with what intent the state criminalizes our communities.

Tribunal Decisions

These decisions are drafted during the tribunal and then finalized shortly after. Usually, Resistencia tries to circulate a summarized version of the decision among those detained in Northwest Detention Center, however it should be noted this is difficult to set up and could lead to retaliation on behalf of ICE authorities. For this campaign, we are aiming to coordinate follow up advocacy and litigation strategies using the tribunal decisions as a basis.

Logistics

Event Set Up

Resistencia's tribunal is planned as a day-long event that takes place during the first week of February, therefore ensuring all necessary materials are ready is crucial to the success of the event. Given the high volume of attendees Resistencia devotes a lot of resources to securing enough chairs, appropriate sound equipment, food, and tents for the tribunal. Given the tribunal takes place during winter and right outside the detention center, having access to waterproof equipment is preferred.

Interpretation

In thinking about making the event as accessible as possible for community members, keep in mind language justice considerations ideally providing interpretation into at least one other language during your tribunal.

Entertainment / Other Activities

Tribunals are day-long events, as such, it's important to plan activities for those attending who might to take a break from the tribunal. Resistencia usually has materials ready for the audience to write letters to people currently detained as well as activities for children (making art for people who are detained). Additionally, it should be noted that during the time when judges are deliberating, Resistencia typically has musical performances from local artists.

Outreach

- **Community Organizations:** When preparing for the tribunal, Resistencia makes sure to reach out and coordinate with other organizations in the Tacoma area. Many times, this collaboration includes having individuals from these organizations support as judges for the tribunal. Given that the attendance for Resistencia's tribunal is usually about 300 people, support from other organizations and volunteers is crucial to ensuring the event is successful.
- **Media:** Outreach to local media is done with plenty of anticipation considering the event has been happening for several years and Spanish media has been involved in covering it. Resistencia contacts the media one or two weeks in advance and again the Friday before in order to secure coverage for the week leading up to the event as well as the day itself.

Sample Planning Timeline*

**Based on NWDC Resistance's planning*

Two months prior: reaching out to potential judges and confirming participation. Resistencia begins evidence-gathering process for information to be presented during the tribunal.

One month prior: outreach to community organizations in the area for support.

Two weeks prior: outreach to media and securing of materials needed for tribunal.

One week prior: Sending out an email to connect judges with one another so that coordination for visitation can begin. In this email, Resistencia ensures to include the following:

- Explanation of who each judge is, the work they carry out, and how their perspective is of value to this process
- Samples of previous decisions issued in past tribunals
- Information about the detention center (what to expect, dress code, how to interact with staff, etc.)
- A schedule for both the day of visitation as well as that of the hearing itself

Two days before: judges are given the names of the people detained they will be meeting with that Saturday. This is done so close to the actual date of the visit because of the tendency for people to be transferred in and out of the detention center. This happens so regularly that confirmation of interviewees can only be done a few days before the actual visit.

One day prior: judges arrive to detention center to carry out visitation and interviews.

Sample Schedule for day of tribunal:

- ✓ *Event is scheduled for noon and begins around 1:00pm, at this point judges should have their prepared report backs ready and food should be served for attendees.*
- ✓ *Tribunal kicks off with an introduction done by lead organizational member, who gives a brief summary of the current immigration detention system, why this hearing is taking place and what the overall goals of the tribunal are.*
 - *NWDC Resistencia's tribunal starts with an acknowledgement that we are on occupied land that belongs to Indigenous tribes, Resistencia names this along with the actual tribes whose land the tribunal is taking place on.*
- ✓ *Judges are introduced to the audience, explaining why each of them was chosen to participate in this tribunal. The format is explained to attendees, no questions are taken during each testimony, open mic begins after all testimonies are read.*
- ✓ *Judges report back on the interviews they carried out the day before (usually each judge takes about 15 mins in their report back). Again, here descriptive/illustrative language is encouraged so as to best communicate with vivid details the experiences and perspectives of those currently detained in this facility. Here it is important to highlight the need for these report backs to address criminalization and provide a counter to the pervasive narrative of "criminals" vs "good immigrants", emphasizing that the system is created to continuously expand and profit.*
- ✓ *Once judges have done their respective summaries of the testimonies they heard, they gather to begin drafting their decision for the tribunal. In the meantime, the microphone is open for members of the audience to share their own stories and perspectives on the detention center. Resistencia prioritizes people of color that have experienced this system directly.*
- ✓ *Once the judges return with their decision, the decision is read out loud to the audience. The decision is then discussed by those present and follow up steps are determined for the tribunal.*
- ✓ *The hearing ends with a reminder for all attendees of current campaigns, how to get involved, upcoming actions, a reminder to share the decision, etc.*

Examples of People's Tribunals

Links to livestreams from NWDC Resistencia's most recent peoples' tribunals:

- [Link 1](#)
- [Link 2](#)
- [Link 3](#)

Other examples of people's tribunals from other countries:

- Brazil - [Article](#)
- Philippines - [Article](#)

- Mexico - [Article](#)

Communications

Check out the #ICEonTrial Media Toolkit, [here](#).

Visuals

Campaign [artwork](#)

Collecting Information

Visitation

As outlined earlier in the toolkit, visitation is a powerful tool for documenting conditions, in particular human rights abuses, inside detention centers. ICE is known for carrying out temporary and superficial changes inside detention centers to cover up substandard conditions. Speaking to people who are currently detained, especially those who have been detained for prolonged periods, provides invaluable insight into the conditions inside the detention center across time.

Conversations with formerly detained folks

The greatest level of expertise comes from those directly affected by the immigrant detention system. Therefore, we encourage those planning their own tribunals to incorporate the leadership, experience, and perspective of those who have at some point been detained. Depending on the length of their detention, they can provide detailed accounts of the conditions inside detention centers, during transfers, etc.

Public Records Request

It's ok, and even strategic, to seek the same information from multiple sources. Don't hesitate to file a public records request, even if you're also filing a FOIA request. Sometimes, a public records request takes much less time in producing a response (compared to a FOIA).

Check out this website for information about state open records laws: <https://www.rcfp.org/open-government-guide>

Inspection

Individuals can apply to tour a facility under ICE's Stakeholder Access Program, which includes a tour of the facility as well as the opportunity to interview detained individuals. Unfortunately, an increasing number of these requests are being denied or delayed for long periods of time, though results vary wildly by field office and by requesting group. Check out pages 15 of this toolkit for more information about how to request a tour:

https://www.detentionwatchnetwork.org/sites/default/files/Using%20ICE%20Contracts%20&%20Inspections%20to%20End%20Abusive%20Detention%20Toolkit_NIJC,%20DWN.pdf

Visits can also be arranged through the office of elected officials. Usually this first requires proposing this to the office of the elected official and constant follow up until the visit takes place (it's important to ensure that these visits include interviews with people who are currently detained).

Media coverage of conditions in detention centers

- ✓ **Set up a news alert** for your local newspaper(s) and popular local news websites/blogs.
- ✓ Be sure to do a search of past articles or news reports as well!

Already published reports and submitted complaints

A lot of documentation work has likely already been done about abuses and problems at your local facility! Be sure that you're not forgetting about recent reports that have been written by organizers or advocates, or complaints that have been submitted to the DHS Office of Inspector General or the DHS Office of Civil Rights and Civil Liberties.

The government itself also regularly publishes information that we can use to make our case, so be sure to look through recent inspection reports from ICE, many of which you can find at the Immigrant Detention Transparency and Human Rights Project here:

<https://www.immigrantjustice.org/issues/transparencyandhumanrights>

Potential Detention Litigation

Litigation offers a powerful tool for holding ICE accountable for the abuses that are endemic to the immigration detention system. While there are countless ways to pursue accountability through the court system, some of the primary forms that local groups might consider, including impact litigation, FOIA litigation, and FTCA complaints, are briefly described below. Please feel free to reach out to DWN staff or other DWN members who specialize in legal work to discuss these in more detail.

Impact Litigation

Impact litigation is intended to create positive social change and influence public policy through lawsuits. Lawsuits may be class action or individual claims with broader, usually constitutional, significance where these cases seek to set new standards. While these have the potential to create systemic change, they also require significant time and resources. Examples of current impact litigation in the detention context include:

- **MENOCAL ET AL. V THE GEO GROUP** is a lawsuit focusing on labor violations occurring at the Denver Correctional Detention Facility (DCDF) in Colorado. In a class action lawsuit, plaintiffs allege that detained persons were forced to work for only \$1 per day or nothing at all. The lawsuit asserts DCDF violated the federal Trafficking Victims Protection Act, which prohibits modern-day slavery.
- **ABDI ET AL. V DUKE ET AL.** is a lawsuit filed by the New York Civil Liberties Union and International Refugee Assistance Project that challenges the federal government's practices of denying parole and bond to arriving asylum-seekers detained at the Buffalo Federal Detention Facility. While the case is ongoing, a preliminary injunction required that asylum-seekers receive information about parole in language they understand. The preliminary injunction also required some due process improvements, including that previously-denied parole requests be reconsidered.

FOIA

The Freedom of Information Act (FOIA) allows any person, regardless of status, the right to request access to records from any federal agency. Federal agencies handle their own records and are required to disclose information requested through FOIA unless it falls under one of the nine exemptions dealing with national security, personal privacy and law enforcement. While FOIA requests should not require litigation, ICE has become increasingly unresponsive to FOIA requests, so litigation is very often required to actually obtain the information sought. If you are not satisfied with an agency's initial response, you can file an administrative appeal. There are numerous examples of organizations using FOIA and subsequent litigation to obtain needed information, while also exposing the depths of ICE's culture of secrecy.

In one example, in September of 2016, numerous organizations led by the Adelante Worker Center in Alabama submitted a FOIA request to the Office for Civil Rights and Civil Liberties, a component within DHS, seeking disclosure of the "Super- Recommendations Memorandum" discussed in CRCL's 2015 Report about the Etowah detention facility. After failing to receive a response from CRCL, the organizations submitted an administrative appeal which was also ignored, and subsequently brought suit in December 2017.

FTCA Complaint

In general, it is very difficult for individuals to sue the federal government. One of the limited ways that people who have experienced abuse in detention can seek accountability is through the Federal Tort Claims Act (FTCA). The FTCA permits private parties to sue the United States in a federal court for damages caused by persons acting on behalf of the United States. Procedurally, an individual must first submit an FTCA complaint, to which the government has six months to respond. If the government rejects the complaint or, more often, allows six months to pass with no response, the individual can then file in federal district court. While FTCA complaints don't usually have the potential for sweeping policy change that impact litigation does, they can provide compensation to individuals (or their families) who have been harmed and can be used to bolster organizing and storytelling work in very similar ways while requiring far fewer resources.

One example of a successful FTCA complaint is that of **Sara Hernandez- Gonzalez v. United States of America**, which alleged that negligence caused the death of Roberto Medina Martinez who was detained at the Stewart Detention Center. The records obtained for the case show Mr. Medina was the victim of systemic negligence on the part of the medical staff at Stewart. Sara Hernandez- Gonzalez is Mr. Medina's widow and was awarded \$1 million in damages for her husband's wrongful death.