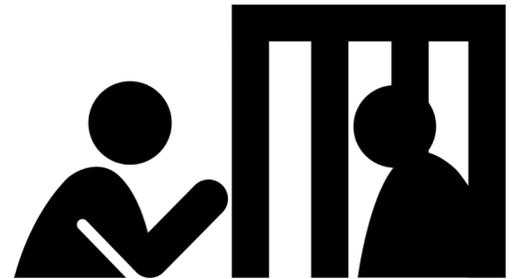


# The U.S. Immigration Detention System is Cruel & Mismanaged

## 10 REASONS WHY CONGRESS MUST DEFUND ICE

The Trump administration has asked Congress for \$2.7 billion dollars to lock up approximately 430,000 immigrants in fiscal year 2019.<sup>1</sup> This bid comes at a time when the number of immigrants jailed by U.S. Immigration and Customs Enforcement (ICE) is already nearly double what it was a decade ago.<sup>2</sup>

ICE runs a massive detention system comprised largely of county jails and private prisons. The administration uses this system to jail mothers and fathers torn from their children, asylum seekers, and community members taken from their loved ones during racially biased sweeps. Those behind bars suffer unsafe conditions, sexual abuse, and—far too often—death. The agency flouts congressional efforts at oversight.



**Enough is enough. Congress must not be complicit in a detention system that disregards the value of life and scoffs at basic accountability standards. This document explains 10 reasons why Congress must immediately cut ICE's detention budget.**

### 1. People are dying in immigration jails because of government negligence.

Fifteen people have died in immigration custody since President Trump was inaugurated.<sup>3</sup> In May, 33-year-old Roxana Hernandez died after fleeing violence she faced as a transgender woman in Honduras.<sup>4</sup> Her death marked a year since Jean Jimenez-Joseph committed suicide after suffering in solitary confinement for 19 days in the Stewart Detention Center in Georgia.<sup>5</sup> Eleven other people died in custody in 2017. Many of the deaths that occur in immigration custody are attributable to medical negligence.<sup>6</sup>

### 2. Immigration detention is central to the administration's policy of separating families.

The New York Times reports that the Department of Homeland Security (DHS) separated more than 700 children, including 100 under the age of four, from their parents at the border between October 2017 and April 2018.<sup>7</sup> The administration's "zero tolerance" policy of prosecuting all individuals crossing the southern border has caused these numbers to skyrocket.<sup>8</sup> When parents are torn from their children, ICE holds them for prolonged periods in detention while their children suffer alone in the custody of the Department of Health and Human Services.<sup>9</sup> Funding the ICE detention system enables the family separation policy, referred to by many as state-sponsored terror.<sup>10</sup>

***"Being detained was difficult in every way. You are a prisoner. The food is not good, and there is not enough. You are punished if you share your commissary with someone who is hungry. They turn off the phones, so you can't speak to your attorney or family. I learned that my mother had a heart attack and was in the hospital for a week. I had no way of communicating with her."***

***-Daniel, NIJC client, on his five months in ICE custody as he sought asylum<sup>11</sup>***

### 3. Conditions in immigration detention are punishing and unsafe.

DHS's own Inspector General recently reported that conditions in many ICE jails are concerning and "undermine the protection of detainees' rights, their humane treatment and the provision of a safe and healthy environment."<sup>12</sup> Individuals in detention report receiving food with worms and insects and discolored water.<sup>13</sup> Credible reports of officers' abuse of force and excessive use of segregation and lockdown are common.<sup>14</sup>



### 4. Sexual abuse and assault is rampant in immigration detention, yet ICE fails to take action.

More than 1,000 allegations of sexual abuse in ICE custody were filed between 2010 and 2017.<sup>15</sup> Laura Monterrosa, one brave woman who came forward with allegations of sexual assault while in ICE custody, experienced an "onslaught of retaliation tactics" including dozens of hours in solitary confinement.<sup>16</sup> In March 2018, Congress gave ICE until May 22 to document its plan to achieve full compliance with the requirements of the Prison Rape Elimination Act (PREA).<sup>17</sup> According to ICE's own website, approximately 10% of those detained—nearly 4,000 people—are jailed in facilities that lack PREA protections.<sup>18</sup>

### 5. The system operates under a sham inspections regime.

ICE's more than 200 jails and private prisons are governed by three different sets of standards.<sup>19</sup> Only approximately 60 percent of immigrants are jailed in detention centers that are inspected under the most recent set of standards.<sup>20</sup> The inspections system to gauge compliance with these standards is woefully inadequate to remedy egregious failures.<sup>21</sup> ICE's own

data suggests that facilities have the opportunity to adjust their final inspections ratings adjusted after preliminary findings mark them deficient.<sup>22</sup> Indeed, all "authorized" ICE facilities have passed every inspection since 2012, even where deaths have occurred due to medical neglect.<sup>23</sup>

### 6. ICE needlessly jails vulnerable populations for prolonged periods, including asylum seekers, pregnant women, and LGBTQ individuals.

ICE has abandoned any meaningful exercise of discretion in deciding who to detain and for how long. The result is the jailing of vulnerable populations on a massive scale. ICE now jails asylum seekers for the duration of their proceedings, regardless of individualized risk factors.<sup>24</sup> ICE recently modified its own policies so as to dramatically increase the detention of pregnant women.<sup>25</sup> The agency is also detaining more elderly individuals with chronic medical conditions.<sup>26</sup> Vulnerable populations are at a much higher risk of suffering harm in immigration detention. LGBTQ individuals, for example, are 97 times more likely to be sexually victimized in ICE custody.<sup>27</sup>

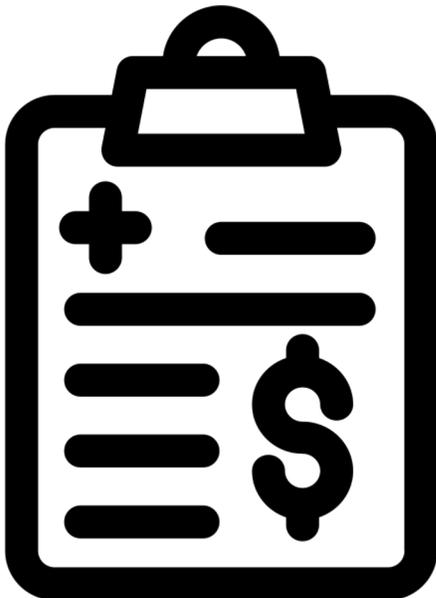
### 7. The detention system operates at odds with due process rights.

Immigration detention facilities are in remote locations, often hours from the nearest legal service provider.<sup>28</sup> The vast majority of detained indigent immigrants are unable to find lawyers to represent them in immigration court.<sup>29</sup> In one large immigration jail in rural New Mexico, the National Immigrant Justice Center (NIJC) found that even with all local immigration attorneys at their maximum capacity, there would only be enough lawyers to represent approximately six percent of the jail's population.<sup>30</sup> Unrepresented, immigrants are far less likely to be able to effectively pursue or obtain protection in the United States.<sup>31</sup>



## 8. Private prison companies profit from immigration detention.

More than two thirds of those in ICE custody on an average day are held in a privately operated jail.<sup>32</sup> The ways in which private prison companies are incentivized to cut corners has been well documented.<sup>33</sup> And yet, the private prison industry is this administration's primary partner in seeking expansion, with CEOs and shareholders reaping vast rewards.<sup>34</sup> The deprivation of liberty should never be driven by profit motives.



## 9. ICE engages in chronic fiscal mismanagement of the detention system and flouts congressional oversight.<sup>35</sup>

A recent Government Accountability Office (GAO) report described ICE's recent pattern of reprogramming and transferring "millions of dollars within, into, and out of the Custody Operations account to adjust for differences in funds provided versus actual costs of immigration detention."<sup>36</sup> The GAO uncovered basic math errors in ICE's detention costs calculations and revealed that the agency determines its projected average detention population using unreliable modeling by "starting with the prior year's funding level" and figuring out how many people it can jail with that amount.<sup>37</sup> ICE regularly violates requirements imposed by congressional appropriators, including basic transparency requirements.<sup>38</sup>

## 10. ICE prioritizes the use of detention over cheaper and more compassionate alternatives.

ICE receives funding to maintain alternative to detention programs that allow individuals to reside in the community while their removal proceedings are pending. These programs are vastly less expensive than detention<sup>29</sup> and have demonstrated to achieve appearance rates of between 91 and 99 percent.<sup>40</sup> Yet this administration has rejected such alternatives, terminating a pilot program known as the Family Case Management Program that boasted compliance rates of 99 percent and offered asylum seekers the chance to rebuild their lives while their cases proceeded.<sup>41</sup>

**ICE uses detention as a weapon to separate families and devastate communities.**

**NIJC calls on members of Congress to respond and:**

- 1. Cut funds for DHS detention and enforcement,**
- 2. Engage in strong oversight of the immigration detention system through frequent information requests,**
- 3. Demand robust detention standards and monitoring that protect lives and due process.**

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## Endnotes:

1. The White House seeks funding to maintain an average daily population of 52,000 people. See Executive Office of the President of the United States, [2019 Budget Fact Sheet: Stronger Border Security](#). In its Congressional Budget Justification ICE documents the average length of stay in an ICE facility as 44 days; based on this number an Average Daily Population of 52,000 would result in approximately 430,000 immigrants in detention over the course of the fiscal year. Department of Homeland Security, U.S. Immigration and Customs Enforcement Budget Overview, [Fiscal Year 2019 Congressional Justification](#).
2. Sources for the figures in the graph are as follows: Congressional Research Service, [Immigration-Related Detention: Current Legislative Issues](#), Apr. 28, 2004 (for 1994 - 2000); Congressional Research Service, [Immigration-Related Detention: Current Legislative Issues](#), Jan. 12, 2012 (for 2001 - 2012); Immigration and Customs Enforcement, [Draft, Fiscal Year 2014 ICE Enforcement and Removal Operations Report](#) (for 2013 - 2014); U.S. Department of Justice, [Report and Recommendations Concerning the Use of Restrictive Housing](#), Jan. 2016 (for 2015); Geneva Sands, [ABC News, "Immigration-related arrests by ICE increase under President Trump"](#), Apr. 17, 2017 (for 2016), Department of Homeland Security, U.S. Immigration and Customs Enforcement Budget Overview, [Fiscal Year 2019 Congressional Justification](#), at p. 5 (for 2017); Tara Tidwell Cullen, National Immigrant Justice Center, ["ICE Released Its Most Comprehensive Immigration Detention Data Yet. It's Alarming"](#), Mar. 13, 2018 (for 2018).
3. Jeanne Kuang, *Houston Chronicle*, ["Immigration detention deaths reach the highest total since 2009"](#), Jan. 16, 2018.
4. James Cook, *BBC News*, ["Roxana Hernandez: Anger over transgender migrant's death in US"](#), May 31, 2018.
5. Jeremy Redmon, *Atlanta Journal Constitution*, ["ICE detainee who died in Georgia was isolated for 19 days"](#), May 16, 2017.
6. See American Civil Liberties Union, Detention Watch Network, National Immigrant Justice Center, [Fatal Neglect: How ICE Ignores Deaths in Detention](#) (2016); Human Rights Watch, [US: Deaths in Immigration Detention](#) (July 7, 2016) (finding substandard medical care to have contributed to at least 7 of 18 deaths in immigration custody from 2012 to 2015).
7. Caitlin Dickerson, *The New York Times*, ["Hundreds of Immigration Children Have Been Taken From Parents at U.S. Border"](#), Apr. 20, 2018.
8. Joshua Breisblatt, American Immigration Council, ["DHS Prosecutes Over 600 Parents in Two-Week Span and Seizes Their Children"](#), May 25, 2018.
9. See, e.g., John Burnett, National Public Radio, ["To Curb Illegal Immigration, DHS Separating Families at the Border"](#), Feb. 27, 2018.
10. Masha Gessen, *The New Yorker*, ["Taking Children from their Parents is a Form of State Terror"](#), May 9, 2018.
11. Daniel won asylum in the United States after enduring five months in a county jail that contracts with U.S. Immigration and Customs Enforcement (ICE) to detain immigrants during their removal proceedings. Daniel shared his story publicly while speaking out in support of the Dignity for Detained Immigrants Act, H.R. 3923. See National Immigrant Justice Center, ["There is No Dignity in Detention: Daniel's Story"](#), Oct. 3, 2017.
12. Department of Homeland Security Office of the Inspector General, OIG 18-32, [Concerns About ICE Detainee Treatment and Care at Detention Facilities](#), Dec. 11, 2017.
13. Southern Poverty Law Center and National Immigration Project, [Shadow Prisons: Immigrant Detention in the South](#) (2016).
14. Id.
15. Alice Speri, *The Intercept*, ["Detained, then Violated"](#), Apr. 11, 2018.
16. Maris Solis, *Newsweek*, ["Sexual Abuse Allegations at Texas Immigration Detention Center Prompt Democrat Calls for Investigation"](#), Feb. 26, 2018.
17. The National Immigrant Justice Center and nine other organizations submitted a letter to DHS and ICE leadership outlining this and 16 other detention-related requirements imposed on ICE by the report accompanying the Fiscal Year 2018 spending bill that was signed into law in March 2018. See NIJC et al., Letter to DHS Secretary Kirstjen Nielsen and Acting ICE Director Thomas Homan re [Immigration detention: accountability and transparency obligations imposed by the FY2018 omnibus spending bill](#), Apr. 5, 2018.<sup>xx</sup>
18. See U.S. Immigration and Customs Enforcement, [PREA Fact Sheet](#), last accessed June 5, 2018.<sup>xx</sup>
19. See National Immigrant Justice Center and Detention Watch Network, National Immigrant Justice Center [Freedom of Information Act Litigation Reveals Systemic Lack of Accountability in Immigration Detention Contracting](#) (Aug. 2015).
20. Tara Tidwell Cullen, National Immigrant Justice Center, ["ICE Released Its Most Comprehensive Immigration Detention Data Yet. It's Alarming"](#), Mar. 13, 2018.
21. See Detention Watch Network and National Immigrant Justice Center, [Lives in Peril, How Ineffective Inspections Make ICE Complicit in Immigration Detention Abuse](#) (2015).
22. Id.; see also Tara Tidwell Cullen, National Immigrant Justice Center, ["ICE Released Its Most Comprehensive Immigration Detention Data Yet. It's Alarming"](#), Mar. 13, 2018.
23. Id.
24. See Michael Tan, American Civil Liberties Union, ["ICE is Illegally Imprisoning Asylum Seekers"](#), Mar. 15, 2018.
25. See Maria Sachetti, *Washington Post*, ["Trump administration ends automatic release from immigration detention for pregnant women"](#), Mar. 29, 2018.
26. U.S. Immigration and Customs Enforcement, Office of Professional Responsibility, Office of Detention Oversight, [FY 2017 Annual Report on Investigations, Oct 1, 2016 – Sept. 30, 2017](#).
27. Sharita Gruberg, Center for American Progress,

- [“ICE’s Rejection of Its Own Rules is Placing LGBT Immigrants at Severe Risk of Sexual Abuse,”](#) May 30, 2018.
28. See Patrick Lee, Pro Publica, [“Immigrants in detention centers are often hundreds of miles from legal help,”](#) May 16, 2017.
  29. Ingrid Eagly and Steven Shafer, American Immigration Council, [Access to Counsel in Immigration Court](#) (2016).
  30. See National Immigrant Justice Center, [What Kind of Miracle: the Systemic Violation of Immigrants’ Right to Counsel at the Cibola County Correctional Center](#) (Nov. 2017).
  31. See, e.g., Ingrid Eagly and Steven Shafer, American Immigration Council, [Access to Counsel in Immigration Court](#) (2016) (detained immigrants with lawyers are eleven times more likely to pursue relief and at least twice as likely to obtain relief as those without counsel).
  32. Tara Tidwell Cullen, National Immigrant Justice Center, [“ICE Released Its Most Comprehensive Immigration Detention Data Yet. It’s Alarming.”](#) Mar. 13, 2018.
  33. See American Civil Liberties Union, [Warehoused and Forgotten: Immigrants Trapped in Our Shadow Private Prison System](#) (June 2014).
  34. Jeff Sommer, New York Times, [“Trump Immigration Crackdown is Great for Private Prison Stocks,”](#) Mar. 10, 2017.
  35. For a full accounting of ICE’s fiscal mismanagement of the immigration detention system, see Detention Watch Network and National Immigrant Justice Center, [ICE Lies: Public Deception, Private Profit](#) (Jan. 2018).
  36. Government Accountability Office, GAO 18-343, [Immigration Detention: Opportunities Exist to Improve Cost Estimates](#) (Apr. 2018).
  37. Id.
  38. See, e.g., National Immigrant Justice Center, [“ICE has already missed two detention reporting deadlines set by Congress in March.”](#) May 17, 2018.
  39. Alternatives to detention cost between \$.70 and \$17 per day, compared to \$133.99 per day for one adult detention bed. See National Immigration Forum, [The Math of Immigration Detention](#), Aug. 22, 2013; Department of Homeland Security Immigration and Customs Enforcement, [Budget Overview Fiscal Year 2018 Congressional Justification](#) (May 2017).<sup>xx</sup> See also Government Accountability Office, GAO 15-26, [Alternatives to Detention: Improved Data Collection and Analyses Needed to Better Assess Program Effectiveness](#) (Nov. 2014).
  40. American Immigration Lawyers’ Association, National Immigrant Justice Center, et. al, [The Real Alternatives to Detention](#) (June 2017).
  41. Frank Bajak, ABC News, [“ICE shuts detention alternative for asylum-seekers,”](#) June 9, 2017.

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