



**U.S. Commission on Civil Rights
Public Briefing
“Immigration Detention Centers and Treatment of Immigrants”
Held on April 12, 2019 in Washington, D.C.**

**Testimony of Asian Americans Advancing Justice
May 13, 2019**

Asian Americans Advancing Justice (Advancing Justice) submits this testimony for the record for the public briefing “Immigration Detention Centers and Treatment of Immigrants” held on April 12, 2019 by the U.S. Commission on Civil Rights in Washington, D.C. Advancing Justice is a national partnership of five non-profit, non-partisan organizations that work to advance the human and civil rights of Asian Americans and Pacific Islanders (AAPIs) through advocacy, public policy, public education, and litigation. We are based in Washington, D.C., Atlanta, Chicago, Los Angeles, and San Francisco.

We appreciate this opportunity to submit testimony for the record on immigration detention centers and the treatment of immigrants. Immigration detention separates families and results in rampant violations of immigrants’ rights. The immigration detention system has grown nearly seven-fold since 1994, from an average daily detained population of 6,785 in 1994 to 45,890 as of February 2019.¹ As of March 6, 2019, Immigration and Customs Enforcement (ICE) had increased the average daily population of immigrant detainees to 50,049, a historic high.² In comparison, by the end of President Obama’s second term, the average daily population in immigration detention had reached just over 34,000.³ As of June 2018, 4,881 Asian immigrants were detained nationwide, many of whom were asylum seekers or refugees.⁴ The rapid expansion of detention over community-based alternatives to detention deeply harms immigrant communities.

¹ Emily Kassie, “How Trump Inherited His Expanding Detention System,” The Marshall Project (Feb. 12, 2019), <https://www.themarshallproject.org/2019/02/12/how-trump-inherited-his-expanding-detention-system>.

² Spencer Ackerman, “ICE Is Detaining 50,000 People, An All-Time High,” Daily Beast (Mar. 8, 2019), <https://www.thedailybeast.com/ice-is-detaining-50000-people-a-new-all-time-high>.

³ Kassie, *supra* note 1.

⁴ Transactional Records Access Clearinghouse, “Immigration and Customs Enforcement Detainees,” Syracuse University; Sunita Sohrabji, “Hundreds of Sikh Asylum Seekers Housed in Victorville Federal Prison Illegally Banned From Wearing Turbans,” India West (July 30, 2018), https://www.indiawest.com/news/global_indian/hundreds-of-sikh-asylum-seekers-housed-in-victorville-federal-prison/article_cfb6f080-9425-11e8-811b-5b3bfd2ed928.html.

I. Detention Impedes Access to Counsel

Detention creates significant burdens for immigrants trying to secure relief from removal to stay in the U.S. with their families and communities. Since deportation is classified as a civil rather than a criminal sanction, immigrants placed in removal proceedings do not have the same constitutional protections as criminal defendants.⁵ In particular, immigrants facing removal do not have the right to counsel at the government's expense, leaving many indigent or low-income immigrants to face an immigration judge without the assistance of an attorney.⁶ Detained immigrants have a harder time accessing legal help since many detention facilities are located in remote, rural areas.⁷ About 30 percent of detained immigrants are held in ICE facilities more than 100 miles from the nearest government-listed legal aid provider,⁸ and between 2007 and 2012, only 37 percent of all immigrants in removal proceedings had an attorney, and for immigrants in detention the representation rate plummeted to an abysmal 14 percent.⁹ For immigrants detained in a small city or rural area, the representation rate dropped even lower—to around 10 percent.¹⁰ Having a lawyer more than doubles a detained person's chance of winning their immigration case.¹¹ But every day, local families are being torn apart simply because they cannot afford an attorney to defend them.

II. Inhumane Detention Conditions Violate Detainees' Constitutional and Civil Rights

Detention not only imposes significant legal obstacles for immigrants but also often subjects immigrant detainees to deplorable human rights abuses. In detention facilities across the U.S., immigrants have been cruelly retaliated against for exercising their constitutional rights. South Asian asylum seekers protesting their prolonged detention by going on hunger strike have been retaliated against with solitary confinement and abusive force-feeding practices.¹² South Asian and Sikh detainees have also been denied religious accommodations, including being banned from wearing their turbans, being forced to cut their hair, and not being provided with vegetarian or vegan meals.¹³ Detainees, including multiple Bangladeshi detainees at the Stewart Detention Facility in Georgia, have also been punished with solitary confinement for refusing to work for \$1 per day.¹⁴

⁵ Ingrid Eagly & Steven Shafer, "Access to Counsel in Immigration Court," (Sept. 28, 2016), <https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court>.

⁶ *Id.*

⁷ Kyle Kim, "Immigrants Held in Remote ICE Facilities Struggle to Find Legal Aid Before They're Deported," Los Angeles Times (Sept. 28, 2017), <https://www.latimes.com/projects/la-na-access-to-counsel-deportation/>.

⁸ *Id.*

⁹ Eagly, *supra* note 5.

¹⁰ Kim, *supra* note 7.

¹¹ Eagly, *supra* note 5.

¹² Garance Burke & Martha Mendoza, "ICE Force-feeding Detainees on Hunger Strike," AP News (Jan. 31, 2019), <https://apnews.com/c4b201dac8bf48eba17485a5c357b810>.

¹³ Sohrabji, *supra* note 4.

¹⁴ Spencer Woodman, "Private Prison Continues to Send ICE Detainees to Solitary Confinement for Refusing Voluntary Labor," The Intercept (Jan. 11, 2018), <https://theintercept.com/2018/01/11/ice-detention-solitary-confinement/>. See also Ryan Devereaux & Spencer Woodman, "Immigrant Detainee Accuses ICE Contractor CoreCivic of Locking Him in Solitary Over \$8," The Intercept (Apr. 19, 2018), <https://theintercept.com/2018/04/19/solitary-confinement-immigration-detention-ice-corecivic/>.

In detention facilities nationwide there have been cases of medical neglect and even illness-related deaths under the custody of ICE personnel. Detainees often receive dangerously inadequate medical care, including unreasonable delays in care, poor practitioner and nursing care, inadequate emergency response, and inappropriate use of solitary confinement for mentally ill and suicidal detainees.¹⁵ As of January 2019, 188 detainees had died in ICE detention facilities since 2003, the year the agency was established.¹⁶ During the first two years of the Trump administration, 22 detainees died in ICE custody, and more immigrants died in detention in FY 2017 than in any year since 2009.¹⁷ A study of recent detainee deaths shows that about half of the deaths in ICE custody are attributable to inadequate medical care.¹⁸ Since March 2010, at least 74 people have died in immigration detention, but ICE has released death reviews in full or in part in only 52 of the cases.¹⁹ The number of miscarriages suffered by detained pregnant women also nearly doubled under the first two years of the Trump administration, with at least 18 women losing their pregnancies while in ICE detention in 2018 due to substandard medical care.²⁰

In May 2018, the Department of Homeland Security Office of the Inspector General conducted a surprise inspection of the Adelanto Detention Facility and the investigators concluded that conditions at the privately run facility amounted to “serious” violations of ICE’s own detention standards, representing “significant threats to the safety, rights, and health of detainees.”²¹ Violations included improper and overly restrictive use of solitary confinement, including placing detainees in disciplinary segregation without a hearing; delayed and grossly inadequate medical care, including doctors signing off on medical assessments that never happened; and a dentist refusing to fill cavities while suggesting detainees floss with strings pulled from their socks.²²

III. Immigration Detention Separates Families

Immigrants with deep ties to the U.S., including long-time residents and refugees, have also increasingly been targeted for detention and removal. In particular, ICE has targeted Southeast Asian refugee

¹⁵ Human Rights Watch, et al., “Code Red: The Fatal Consequences of Dangerously Substandard Medical Care in Immigration Detention,” (June 2018), <http://immigrantjustice.org/sites/default/files/content-type/research-item/documents/2018-06/Code%20Red-%20detention%20deaths%20report%20June%202018.pdf>.

¹⁶ Lisa Riordan Seville, Hannah Rapple, and Andrew W. Lehren, “22 Immigrants Died in ICE Detention Centers During the Past Two Years,” NBC News (Jan. 6, 2019), <https://www.nbcnews.com/politics/immigration/22-immigrants-died-ice-detention-centers-during-past-2-years-n954781>.

¹⁷ Human Rights Watch, *supra* note 15.

¹⁸ *Id.*

¹⁹ National Immigrant Justice Center, “Poor Medical Care, Deaths, In Immigrant Detention,” (June 20, 2018), <https://immigrantjustice.org/press-releases/poor-medical-care-deaths-immigrant-detention>.

²⁰ Scott Bixby, “Immigrant Miscarriages in ICE Detention Have Nearly Doubled Under Trump,” Daily Beast (Mar. 1, 2019), <https://www.thedailybeast.com/immigrant-miscarriages-in-ice-detention-have-nearly-doubled-under-trump>.

²¹ U.S. Dept. of Homeland Security, Office of Inspector General, “Management Alert - Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California,” (Sept. 27, 2018), <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-Sep18.pdf>.

²² *Id.*

community members with old removal orders who came to the U.S. at a very young age.²³ Among the Asian American immigrants detained by ICE in June 2018, approximately 43 percent of the Vietnamese Americans detained had lived in the U.S. for more than 20 years.²⁴ And 86 percent of Lao and 75 percent of Cambodian detainees had lived in the U.S. for more than 20 years.²⁵ In addition, ICE has targeted Iraqi Americans, another community largely comprised of refugees, for detention and removal. As of June 2018, 46 percent of the Iraqi Americans detained had lived in the U.S. for more than 20 years.²⁶

Many of the community members impacted by ICE's detention policies are lawful permanent residents (LPRs) who have lived in the U.S. with their families for decades, and many have U.S. citizen spouses and children. Southeast Asian American families with a detained family member experience devastating emotional distress and severe financial hardship as a result of the family separation that occurs when a loved one is detained.²⁷

IV. Recommendations

The administration's rapid expansion of the immigration detention system has escalated the separation of families and continues to strike fear into immigrant communities. Immigration detention is cruel and unnecessary to enforce our civil immigration laws. We recommend that the administration exercise greater prosecutorial discretion and withhold from arresting and detaining long-time members of our communities and the family members of U.S. citizens and lawful permanent residents. We also recommend drastic cuts to the detention budgets of ICE and U.S. Customs and Border Protection (CBP) within the Department of Homeland Security to reduce the number of detention beds. Instead we urge expanded use of alternatives to detention programs that will help keep our families together.

²³ Hannah Woerner, Katrina Dizon-Mariateague, and Nancy Nguyen, "Families Torn Apart: Trump's Quiet Attacks on the Southeast Asian Immigrant Community," Medium (Apr. 5, 2018), <https://medium.com/advancing-justice-aajc/families-torn-apart-trumps-quiet-attacks-on-the-southeast-asian-immigrant-community-e7fe21a9d2b3>.

²⁴ Transactional Records Access Clearinghouse, "Immigration and Customs Enforcement Detainees," Syracuse University.

²⁵ *Id.*

²⁶ *Id.*

²⁷ National Asian Pacific American Women's Forum & Southeast Asia Resource Action Center, "Dreams Detained, in Her Words: The Effects of Detention and Deportation on Southeast Asian American Women and Families," https://www.searac.org/wp-content/uploads/2018/09/dreams_detained_in_her_words_report-2.pdf.