

**WRITTEN STATEMENT BEFORE THE  
COMMITTEE ON THE JUDICIARY: SUBCOMMITTEE ON IMMIGRATION POLICY  
AND ENFORCEMENT**

**“Holiday on ICE: The U.S. Department of Homeland Security’s  
New Immigration Detention Standards”**

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**March 28, 2011**

**Dehumanizing Detention**

Americans for Immigrant Justice (AI Justice) provides free legal services to low-income immigrants, including detainees in Immigration and Customs Enforcement (ICE) custody. We also document conditions at Florida detention centers and have written numerous reports documenting our concerns (available at [http://aijustice.org/?page\\_id=664](http://aijustice.org/?page_id=664)).<sup>1</sup>

This statement includes information from AI Justice reports that span more than two decades as well as significant new accounts. It is based on hundreds of interviews with detainees, AI Justice’s own observations, medical and detention records, and conversations with jail and immigration officials.

ICE detainees are being held for civil violations only. Yet detention Standards adopted in 2000 and 2008 were based on correctional models used to house persons in criminal custody.

In 2009, after a rash of horrific detainee deaths and mistreatment, ICE announced ambitious plans to reform its detention system. One desperately needed reform: detention standards that truly address the mistreatment and abuse of detainees. Years later, we are still waiting for ICE standards with real teeth, standards that are enforceable and enforced -- and prevent the appalling abuses we see to this day.

Detainees remain at the mercy of the Department of Homeland Security (DHS). DHS officials determine where detainees are held and have control over how detainees are treated while in ICE custody. Oversight is woefully inadequate.

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<sup>1</sup> AI Justice Reports include: *Dying for Decent Care: Bad Medicine in Immigration Custody*, February 2009; *Securing our Borders: Post 9/11 Scapegoating of Immigrants*, April 2005; *Haitian Refugees: A People in Search of Hope*, May 2004; *I Running Out of Hopely - Profiles of Children in INS Detention in Florida*, October 2002; *Supplement to A Double Standard of Treatment: INS Detainees In Florida*, April 2002; *INS Detainees in Florida: A Double Standard of Treatment*, December 2001; *Cries for Help: Medical Care at Krome Service Processing Center and in Florida’s County Jails*, December 1999; *Florida County Jails: INS’s Secret Detention World*, November 1997; *Krome’s Invisible Prisoners: Cycles of Abuse and Neglect*, July 1996. [http://aijustice.org/?page\\_id=664](http://aijustice.org/?page_id=664)

## **Their Own Words**

Americans for Immigrant Justice has documented dehumanizing detention conditions for years. In our client's own words, here are some examples:

- *“There are a lot of women here who are scared and depressed and many who have been hospitalized with mental health problems. There was one woman who was crying all the time and refusing to eat because she had been separated from her husband. We were very worried about her, so a couple of women and I wrote a letter to the immigration officials, telling them what was happening and requesting that she and her husband be placed in the same facility. One of the ICE officers came to talk to us; he told us that we were not allowed to send joint letters to them, and that we had broken the rules by sending a group letter. I felt really bad – I had been trying to help this woman and instead I just got in trouble.”*

**A detainee** worried about a suicidal woman detained at the Broward Transitional Center in Pompano Beach, Florida in 2011,

- *“At the (Glades County Jail) clinic, I could no longer speak, only cry. A nurse told me she was sorry, but that the doctor had resigned so there was no doctor. I sat in a chair and clutched my stomach.... I thought I was going to die.”*

**Miguel Bonilla Cardona**, who suffered a ruptured appendix in 2008 at the ICE-contracted Glades County jail in Central Florida.

- *“Once the sexual attack and rape were over, the effects were so awful. I felt like I'm not the same person. I was scared all the time. I used to be a really outgoing, friendly, confident, strong woman. But then I could hardly look people in the eye. I must express my deep frustration and sense of outrage toward the DHS that apparently knew, or should have known, that when I was placed in the sole custody of Wilfredo Vazquez I would be a likely victim.”*

**M.C.**, raped in 2007 by an ICE officer who transported her to a detention facility.

- *“He had a valid passport and visa, but when he requested political asylum, he was arrested and taken to the Krome detention center in Miami. His medications for high blood pressure and an inflamed prostate were taken away, and when he fell ill during a hearing, a Krome nurse accused him of faking his illness. When he was finally transported, in leg chains, to the prison ward of a nearby hospital, it was already too late. He died the next day.”*

Acclaimed author **Edwidge Danticat**, describing her Uncle's death in ICE custody in 2003. Following his death, AI Justice had to file a lawsuit to obtain Joseph's medical records.

- *“I have to pee on myself putting a towel on my laps [sic] to prevent the urine [from] running all over myself. When I have to do the other necessity [it] is very uncomfortable [and] unsanitary.... Don't you think I'm still a human being?”*

**Felipe Perez-Leon**, a paraplegic denied handicap-accessible facilities in at an Atlanta jail in 2007.

ICE detainees include pregnant women, families, the sick and elderly, legal permanent residents, DREAM Act youth, asylum seekers, torture survivors, victims of human trafficking and even U.S. citizens. They are among those targeted for deportation. Most detainees have no criminal record and pose no threat to U.S. communities. Most of those who have records, many of which involve minor infractions, already have completed their sentences and paid for their crimes. ICE warehouses most immigration detainees in local and county jails or in large, privately run facilities.

Many government employees responsible for the care and custody of ICE detainees are competent and dedicated. Nonetheless, detainees remain in dire need of protection from abusive and arbitrary treatment.

Typical problems in detention include:

- Sexual assault
- Excessive use of force
- Misuse of isolation
- Unsanitary and overcrowded facilities
- Inadequate recreational time and/or lack of outdoor recreation
- Lack of adequate access to attorneys and legal materials
- Lack of competent, professional interpreters
- Retaliation if detainees complain and lack of due process
- Lack of independent oversight, leading to gross violations of detention standards and basic human rights.

In addition to the above, substandard medical care is a chief complaint from detainees. AI Justice has documented troubling complaints including:

- Wrongful and/or suspicious deaths
- Delayed and denied urgently needed healthcare
- Shortages of qualified staff
- Improper care of mentally ill patients
- Inadequate care of physically disabled patients
- Denied, mistaken and insufficient prescription medication
- Difficulty getting access to medical records

### **Deaths in Detention**

After someone dies under suspicious circumstances, family members have to fight for answers.

Valery Joseph, a Haitian who came to this country as a boy, had suffered from seizures and was 23 years old when he died on June 20, 2008 at the Glades County Detention Center, where another detainee had almost died from an ruptured appendix a month earlier.<sup>2</sup>

While initially placed at Krome, Mr. Joseph was transferred to Glades. There he was chided by guards and some fellow detainees. Medical staff were well aware of his history of seizures and

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<sup>2</sup> A separate statement regarding Miguel Bonilla was submitted to this Committee on March 26, 2012.

that he had a learning disability. Yet the staff repeatedly cleared Mr. Joseph to be placed in “confinement,” a practice typically used to discipline detainees, despite his having most contraindications for confinement. A person who suffers seizures should not be left alone and unmonitored for long periods of time. Yet a fellow detainee described his frequent stays in confinement: “They mostly kept Valery in the hole. If he was out in the pod more than a couple of days that was a lot.”

Mr. Joseph wrote a request to Immigration, begging to be sent back to Krome where they have a separate medical unit. He was not transferred and his health rapidly deteriorated. He died while in isolation. Autopsy results said he died of natural causes brought on by a seizure.<sup>3</sup>

Dr. Barry Crown conducted a thorough neuropsychological review of Mr. Joseph’s medical records. Dr. Crown’s conclusion: “It is my opinion that mental-health and health-care staff were negligent in their diagnosis, care, and treatment of Mr. Joseph.”<sup>4</sup>

Mr. Joseph’s mother said she learned about her son’s death from Valery’s girlfriend, who’d received a call from the chaplain at Krome. Mr. Joseph’s mother left several messages at the Glades jail in an effort to learn where her son was. She went to the Glades jail and was told she needed to go to Krome for information. So she drove more than 90 miles to Krome, only to be denied entrance; a Chaplain met them at the entrance gate and told them all he knew was what was in the news—that her son had died. Valery’s mother had to hire an attorney to find out where her son’s body was.

Our attempts to obtain information regarding medical care and staffing provided to Glades detainees initially were unsuccessful. ICE said we needed to talk to jail officials, Glades referred us to Armor, who the jail contracts with to provide detainees’ medical care, and Armor said they didn’t have to give us anything.

### **Another Suspicious Case**

We had to file a lawsuit to get 81-year old Reverend Joseph Dantica’s medical records from ICE following his death in late 2004. An asylum seeker who had regularly travelled to the U.S. with a visa and always complied with the requirements set forth, Reverend Dantica was detained following his arrival at Miami’s airport. Though Rev. Dantica’s medical condition deteriorated during his detention at Krome, his lawyer was told he couldn’t be released until he passed his asylum interview. Moments into the interview, Rev. Dantica began vomiting violently and was accused of faking his illness. Eventually he was transferred to the prison ward of Jackson Memorial Hospital in leg restraints and died the following day. Reverend Dantica’s family was not allowed to see him either at Krome or in the hospital.

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<sup>3</sup> See e.g., Carmen Gentile, “Group Calls for inquiry Into Death of Detainee,” *The New York Time*, July 15, 2008; Trenton Daniel, “Clues Sought to man’s jail death,” *The Miami Herald*, July 15, 2008; Luis F. Perez and William E. Gibson, “Death of West Palm man in federal custody under scrutiny,” *South Florida Sun-Sentinel*, July 9, 2008.

<sup>4</sup> “Dying for Decent Care: Bad Medicine in Immigration Custody,” pp. 16-17, AI Justice Report, February 2009 <http://www.fiacfla.org/reports/DyingForDecentCare.pdf>

Many female detainees have reported not receiving regular gynecological and obstetric care. There have been problems with pregnancies, as well. In December 2003 a client at BTC who had classic symptoms of an ectopic pregnancy was simply given Tylenol as the only treatment. Even after she began to bleed profusely, her complaints were ignored. When she was finally rushed to the emergency room she learned about the loss of her unborn child and the removal of her fallopian tube.

Another BTC detainee, an African-born asylum seeker who was the victim of a politically motivated gang rape in her home country, was pressured to carry the baby to term. Only after AI Justice took the case was she informed that she could get an abortion at her own expense while in custody. This woman was eventually released and miscarried.

Incident reports from the Glades County jail documented examples of unacceptable mental health treatment and the improper use of force on detainees with mental-health issues. Several incidents reflect the problem, which include the inappropriate use of mace and forcible restraint. When used on detainees with mental illness, such practices can threaten their mental stability as well as their physical health.

### **Unacceptable Treatment**

One Glades report documented a November 2007 incident in which a woman diagnosed with depression and on suicide watch was sprayed in the face with mace. Her offense: She had spread feces on the walls of her holding cell and refused to clean it. There was no indication in the jail's incident report that she posed a threat to her own safety, to other people, or to any property when she was maced.

Instead, it appears that jail staff used a chemical spray on detainees for punitive reasons, a clear violation of ICE National Detention Standards which allow immediate force only if necessary to prevent a detainee from harming himself, others, and/or property "when a detainee acts violently or appears on the verge of violent action(s)." These standards also expressly forbid using force on detainees as a punitive measure.<sup>5</sup>

In another disturbing case: A detainee, who had slit her wrists, was placed in isolation – a move that is more likely to exacerbate suicidal tendencies and mental illness than to stabilize or improve mental health. Worse, Glades officers ordered the woman to strip naked so they could place her in a restraint smock. She refused and threatened to bang her head against the wall. Eventually, she took off all her clothes except her underpants.

Two officers then restrained her arms while another forcibly removed her undergarment. Officers wrapped her in the restraint smock and placed her in a restraint chair. All this was documented in a jail incident report. Such treatment of mentally ill detainees violates ICE Standards and contributes to making suicide a principle cause of death in detention.

Our February 2009 report, "Dying for Decent Care: Bad Medicine in Immigration Custody," documents how failure to properly care for detainees with mental health issues can pose a danger

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<sup>5</sup> See e.g., FIAC Letter to Joseph Greene, November 17, 2008.

both to detainees and others housed with them. Additionally, we discuss in detail the routine neglect of disabled detainees, the serious problems facing detainees in obtaining proper medication, the unique obstacles ICE detainees who don't speak English face in obtaining medical and mental health care, and unhealthy, unsafe living conditions in many of the facilities housing ICE detainees.

### **Sexual Abuse**

AI Justice has also documented widespread sexual, physical and emotional abuse of detainees.<sup>6</sup> In 1990 there were serious, rampant complaints of sexual and other abuse at Krome. Yet despite the glare of publicity and high-level government investigations, little was done to address the issue. Two teachers and a nurse who spoke to reporters about the abuse were dismissed. Krome guards who publically complained of abuse felt their own safety was in jeopardy.

Abuses of ICE detainees continued. In 2000 more than 15 officers were accused of sexually assaulting Krome detainees. Many of these same officers had been implicated in abuse charges in 1990.

The 2000 investigation yielded few results. Two officers plea bargained, and all the female detainees were removed from Krome and placed in a maximum security Miami Dade County jail, Turner Guilford Knight Correctional Center (TGK). Although the INS District Director said that all but one of the 36 INS standards were being met at TGK, a detailed and highly critical government review assigned an "at-Risk" rating regarding conditions for Immigration detainees and the women were all moved to the Monroe County jail in Key West in 2004.

Reports of sexual abuse of detainees continued. In 2007, for example, an ICE agent was charged with raping M.C., a female detainee during transport.

M.C., whose own statement was submitted to this Subcommittee on March 28, 2011, is an AI Justice client.<sup>7</sup> ICE Officer Wilfredo Vasquez ultimately pleaded guilty to two accounts of sexual assaults and was sentenced to 87 months. The judge said that if the case had gone to trial, he most likely would have received a far harsher sentence. A pre-sentencing report recommended a sentence of up to 14 years.<sup>8</sup>

AI Justice has learned of recent sexual abuse allegations at three immigration detention facilities in Florida.

### **Cruel and Abusive**

Other abuses by guards are a longstanding concern. In 1998, detainees at the Jackson County jail (JCCF), 60 miles northwest of Tallahassee, Florida, provided detailed, credible declarations claiming that officers taunted them with racial epithets, threw them in solitary for requesting

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<sup>6</sup> See written testimony of Cheryl Little, Executive Director, Florida Immigrant Advocacy Center, before the National Prison Rape Elimination Commission, December 13, 2000.

<sup>7</sup> See Statement for the Record Submitted to Subcommittee on Immigration Policy and Enforcement, by M.C., March 26, 2011.

<sup>8</sup> Vanessa Blum, "Former Customs officer gets 7-year prison sentence in sex case," South Florida Sun-Sentinel, July 10, 2008.

medical attention or food, beat them and subjected them to potent shocks from electrified (50,000 volt) riot shields and stun guns, sometimes when they were shackled to a concrete bed.<sup>9</sup> Detainees called it “being crucified.”

Following complaints by advocates, all the Immigration detainees were removed from the facility but officials didn’t issue the results of their investigation until 2000. As late as April 1999, investigators had reportedly attempted to interview only one of the 17 detainees who gave AI Justice sworn statements, and the one individual was deported without even having been interviewed.<sup>10</sup>

On April 18, 2000, AI Justice received a copy of the Department of Justice’s Civil Rights Division’s findings. They concluded, among other things, that certain conditions at JCCF violated the constitutional rights of Immigration detainees, as well as the constitutional and federal statutory rights of juveniles housed at the facility. They found deficiencies at JCCF in the following areas: medical and mental health care, use of force, security and protection from harm, fire safety and lack of exercise. They also found that the facility was not meeting its constitutional responsibilities regarding access to courts.<sup>11</sup>

### **An Electric Stun Shield**

Specifically, the investigation concluded that “facility staff engage in excessive and unwarranted use of restraints to control inmates, causing serious risk of bodily harm. This facility frequently uses four-point restraints (securing the inmate’s wrists and ankles to eye-bolts attached to cement-block beds with mattresses removed), a severe practice high up on the continuum of control techniques, as a first step when inmates become boisterous and do not respond to verbal counseling. In a number of these instances, four-point restraint was an unreasonably excessive control technique.” The investigation also found that the Jackson jail had a practice of restraining inmates in a prone position (on their stomachs) which created a risk of asphyxiation. Investigators also noted:<sup>12</sup>

“At JCCF, four-point restraint is used for extended lengths of time without enough guidance to staff about whether continuation is appropriate. JCCF sometimes uses stun shields to gain inmate compliance when inmates fail to obey orders. Stun shields have been used at JCCF in a variety of ways. When the shield is activated, a startling blue arc of electricity may be seen at various points on its face. The most severe use of the shield is activating it and placing it in contact with the inmate’s body, which causes most individuals to lose muscle control and collapse.”<sup>13</sup>

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<sup>9</sup> See e.g., Andres Viglucci, “Immigrants allege abuse at jail in N. Florida,” *The Miami Herald*, July 30, 1998; Teresa Mears, “Detainees held by INS say jails rife with abuse,” *the Boston Globe*, August 2, 1998; “INS Detainees Abused in Jail, Advocates Allege,” *Reuters*, July 31, 1998; “A shock to the System,” *Miami New Times*, August 5, 1998; Andres Viglucci, “Activists Assail probe of jail torture,” *The Miami Herald*, June 24, 1999.

<sup>10</sup> Andres Viglucci, “Activists assail probe of jail torture,” *The Miami Herald*, June 24, 1999.

<sup>11</sup> Letter to Cheryl Little and Joan Friedland, FIAC attorneys, from Dana L. Shoenberg, Special Litigation Section, Civil Rights Division, U. S. Department of Justice, April 18, 2000.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

That same year, on September 22, 1998, detainees in Florida's Manatee County jail said they were cuffed, stripped naked and dragged through their own waste back to cells flooded with water from five sprinklers broken by detainees during the protest. Detainees also claimed they were stripped naked and left in freezing cells for hours as punishment and that County Sheriff's deputies provoked the disturbance by staging a raid in retaliation for detainees protesting over poor jail conditions and treatment.

### **Disturbing Video**

The Assistant INS Director said "we understand [the detainees] were mistreated in some way." INS also asked Manatee County officials to investigate.<sup>14</sup> Detainees told AI Justice that the entire incident (more than an hour) was videotaped by jail officials and we filed a Freedom of Information Act request to obtain the video. We received only about 15 minutes of videotape, and it is disturbing.

While AI Justice hasn't received complaints as serious as those described above, there is still cause for concern. During a visit to Wakulla jail last November, a detainee said he witnessed a guard slam another detainee onto the ground because the detainee was verbally arguing with the guards. When another detainee refused to take a sleeping pill because he wanted to take it later at night he was placed in segregation without a disciplinary order, a violation of standards. Eleven detainees also described their medical complaints.

### **Other Concerns**

Detainees have also complained about officer mistreatment based on religious and racial bias. Recently a Wakulla detainee reported that he overheard a staff member tell a Muslim detainee that she would not mail one of his packages because, "there might be a bomb in it." Detainees also have complained that guards disrespectfully call them "boys." One detainee noted that Wakulla officers frequently and unnecessarily yell at detainees. He also stated that the guards, "Treat us like animals."

Another frequent complaint from detainees is the exorbitant cost of phone calls. Detainees report it costs \$15 for a 10 minute domestic phone call at Wakulla – a jail so remote that most relatives cannot visit. If they do manage to visit, they can only see their loved ones via video – a sterile, disappointing experience. Baker County detention facility also offers only video visitation. This runs counter to ICE standards that encourage visitation to maintain detainee morale and family relationships. Considering that many relatives may be seeing detainees for the last time before they are deported, a video visitation should be unacceptable.

Immigrants detained at Baker today, many of whom have been held long term, have no exposure to sunlight. The recreation room is covered with a concrete roof; the only window is high up on a side wall, with mesh to allow fresh air in. We are concerned about the water at Glades, a yellow, murky, foul-smelling liquid provided to detainees.

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<sup>14</sup> See e.g., Andres Viglucci, "INS detainees: Officers were Violent," *The Miami Herald*, December 23, 1998; "Another Ugly Incident," Editorial, *The Miami Herald*, December 24, 1998.

## **Deplorable Mistreatment**

Today, detention abuses and unacceptable conditions still abound nationwide. ICE documents obtained by the Houston Chronicle last year via a Freedom of Information Act request revealed deplorable detainee mistreatment.

Among the most disturbing discovery was the disconnect between the findings of ICE's own inspectors and those of ICE-paid private monitors: While ICE publicly released glowing reports of detention facilities issued by contracted monitors, its own inspectors documented serious violations of detention standards that were not made public. For example:

- A county jail in Iowa failed to provide medication to detainees diagnosed with tuberculosis.
- A Houston center run by Corrections Corporation of America had deficiencies in medical care, use of force and "abusive treatments toward detainees." It fired one employee for an improper relationship with a detainee. Other employees were counseled for cursing and yelling at detainees.
- Women at the Rolling Plains Regional Jail and Detention Center in Texas, run by a corrections company, told ICE inspectors that the hot showers burned their skin and made their hair fall out.
- And at the Mira Loma county jail in California, managed by the Los Angeles Sheriff's Department, ICE inspectors were told by its inspectors to "serve a subpoena" so they could see the medical records of a detainee with healthcare complaints. For years, ICE inspectors have found other deficiencies, including improper Taser use and giving Tylenol to cure or prevent detainee illnesses. Yet ICE continues to contact with this facility.<sup>15</sup>

Though immigrants in ICE custody have a number of rights, including the constitutional protection against cruel and unusual punishment, they often don't know those rights or find it impossible to assert them in such an environment.

## **'A Great Injustice'**

Perhaps the greatest fear detained parents have is losing custody of their U.S. born children forever, a legitimate concern. Parents may not know that custody hearings have been scheduled, and, even if they do know chances are they can't participate because they're in detention. Caseworkers may not even know that a parent is in detention or where the parent is detained. Parent's ability to participate in proceedings may depend on whether they have an attorney or the attitude of detention staff. Even parents who are aware of upcoming hearings often don't know they have the right to appear telephonically while in detention, or are unable to assert that right with detention staff.

Blanca Benitez Banegas knows this firsthand. She and her common-law husband were placed in ICE custody shortly before Christmas 2006, and their two U.S. citizen boys were placed in foster

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<sup>15</sup> Susan Carroll, *ICE paints bleak picture of detention system*. The Houston Chronicle. Oct. 10, 2011. <http://www.chron.com/news/houston-texas/article/ICE-paints-bleak-picture-of-detention-system-2209428.php>

care—even though Blanca, who had never committed a crime, begged ICE to place them with her sister, a legal permanent resident. For two long months, while in ICE detention in a Florida jail and two Texas jails, Blanca had no idea where her sons were, and they had no idea where she and their father were.

When Blanca was finally transferred back to Florida she had no idea that a court hearing was scheduled to determine who would have custody of her boys. Blanca said:

“To suddenly tear us apart and not tell my children where I am and where their father is, and to not tell me where my children are for two months—I think this is a great injustice. I’m just fighting for my children and my family to be together. But I felt like I was being punished for a terrible crime, I’m not a criminal and my children aren’t criminals.”<sup>16</sup>

### **Lost in Detention**

Local detention facilities are a secret detention world. In Florida, these facilities are located in isolated areas, ranging from the Monroe County Detention Center in Key West, Florida—at Florida’s southern tip—to the Wakulla County Facility—in north Florida. Some, such as the Broward Transitional Center are operated by private corporations such as the GEO Group.

County jails are, by definition, short term facilities. They are not designed for prisoners who are held a year or longer. Asylum seekers, who have committed no crime and are running for their lives, are often mixed with ICE detainees and jail inmates with criminal convictions. Asylum seekers and detainees who finished serving criminal sentences are treated as criminals and transported in handcuffs and shackles, sometimes even within the facility.

Many immigrants are detained for months or even years. However, ICE detention facilities are not designed for long-term prisoners. Neither county jails nor large, ICE owned and managed detention sites have the programs, services or medical care offered in federal prisons and other facilities that keep prisoners for more than six months.

ICE detainees are often classified as maximum security prisoners even if they are asylum seekers or have not been convicted of a crime. Unlike criminal prisoners, detainees are not eligible for work release programs or to be trustees. Indeed, as “maximum security” prisoners, ICE detainees with criminal convictions generally face a harsher security classification than they had if they served a sentence.

### **Standards Not Binding**

ICE has taken no visible action to ensure that Florida’s county jails meet any standards regarding treatment of detainees. Contracts we’ve seen between the federal government and the counties are absurdly incomplete and provide few requirements as to how the counties should treat ICE detainees – even though Florida county jails are not subject to state supervision.

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<sup>16</sup> Declaration of Blanca Banegas-Benites to AI Justice (then Florida Immigration Advocacy Center), March 23, 2007; Alfonso Chardy, *Sent Away*. The Miami Herald, July 27, 2007.

When detainees are held in a county jail, they fall into a black hole. Their ICE files often do not follow them when they are transferred. Their personal property, including documents needed for their cases, may be left behind at other facilities. Officials running the jails know nothing about immigration law or procedure or the status of detainees' cases. Detainees have great difficulty contacting their deportation officers, who may be far away.

In county jails, detainees' ability to find an attorney is severely circumscribed. There are generally no pro bono groups in the area. The list given to detainees of legal services agencies providing free or low-cost representation is incomplete, inaccurate, and useless. Often, the detainees have limited ability to reach outside because jail telephones only permit collect calls or calls are prohibitively expensive.

Detainees often are transferred from facility to facility and may end up a long distance from their lawyers. Their lawyers have difficulty contacting them by telephone because they cannot call them directly and generally cannot leave messages for detainees to call. Mail sent by lawyers to detainees sometimes does not reach them. Attorney-client privilege is often undermined by jail officers.

### **Coerced Deportations**

Video conferencing of immigration court hearings places detainees at a disadvantage – especially when their attorney is far away and difficult to contact. Adding insult to injury, a South Florida detention facility for minimum security detainees has only one immigration judge, and this judge has approved 10,000 stipulated orders for deportation in the last three years, a national record. How many detainees were coerced into signing those orders by detention officers or Customs and Borders Patrol?

The law library is a critical resource for detainees who cannot find or afford an attorney and are representing themselves in deportation proceedings. Detainees at numerous detention centers report that: libraries lack research materials, long waits to use the library, little time available for using the library, broken computers and printers. At Wakulla County Jail in North Florida only one or two computers are functioning at any given time. The detention standard requires “regular access” to the law library, defined as no less than five hours a week. This standard is routinely violated according to detainees. At Wakulla, recent visits to detention centers raise concerns about the continued disregard of detention standards.

For detainees who have attorneys, private phone calls to their counsel are essential. Yet Wakulla jail violates the detention standard that states detainees “will be able to have confidential contact with attorneys and their authorized representatives in person, on the telephone, and through correspondence.” Wakulla also has a staff person remain in the room during the entire attorney-client call. These violations of standards seriously curtail detainees' right to defend themselves against deportation.

## CONCLUSION

The current detention policy is overly broad and inhumane. Immigrants who are neither dangerous nor likely to flee should not be detained. Those currently detained—whether severely ill, asylum seekers or others challenging deportation orders—should be fairly considered for parole and other alternatives. The alternatives are cheaper, more humane, and can be structured to ensure participants regularly appear before immigration authorities.

While innocent detainees continue to suffer needlessly, the surge in immigration detention has greatly benefited private prison operating companies, like Corrections Corporation of America (CCA) and the GEO Group, whose stocks sharply increased following President Bush's February 2006 proposal to increase spending on immigration detention. The same cannot be said for ICE detainees, 84 percent of whom are without attorneys. Unlike U.S. criminal suspects, ICE detainees are not entitled to a court-appointed lawyer. Asylum seekers are more than twice as likely to be without attorneys as non-detained asylum seekers. Those represented are four to six times more likely to win their case.<sup>17</sup>

Without independent monitoring and public scrutiny of its detention centers, ICE continues to place detainees in unacceptable facilities that violate ICE standards and place detainees at risk of abuse.

In such an oversight vacuum, ICE tolerates a culture of cruelty and indifference to human suffering. Detainees routinely report being treated as criminals, being abused physically and sexually, and having painful medical symptoms ignored. They also face retaliation for demanding better treatment or complaining that fellow detainees have been abused. We do not know if this happens because the detainees are foreign, imprisoned, have no lawyer to defend them or all of the above. We do know from years of direct experience that cruel and inhumane treatment of detainees is a systemic problem.

We are pleased that the administration is trying to improve conditions in immigration detention. We admire the work of Dr. Dora Schriro, who recommended the shift to civil detention and numerous improvements in detention conditions. We also understand the difficulty of implementing reform when the ICE officers union has called for the resignation of ICE chief John Morton and claims that reform is making detention too soft.

That's not what we see in Florida's detention facilities. We see detainees with no criminal history treated like hardened criminals while their basic human rights routinely abused. The 2011 Performance-Based National Detention Standards are a step in the right direction, but are not enforceable and likely won't benefit detainees held in county jails. Moreover, like the earlier Standards, they're based on models used to incarcerate criminal offenders.

Only independent, external scrutiny and enforceable detention standards will ensure that the DHS and ICE carry out their moral and legal responsibility to provide decent and safe conditions

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<sup>17</sup> Scott Lewis and Paromita Shah, *Detaining America's Immigrants: Is this the Best Solution?* Detention Watch Network, National Immigration Project, and Rights Working Group.  
<http://65.36.162.162/files/RealDealDetention.pdf>.

for detainees who are in civil detention. Given the dramatic increase of detainees over the years—ICE detainees represent the fastest growing prison population in the country—the need for proper scrutiny is more critical now than ever.

Detention clearly is no joke. Labeling the March 28, 2012 Congressional hearing “Holiday on ICE” is particularly offensive and demonstrates serious disregard for the abuses so many detainees have had to endure.

Lives are at stake. The urgency for enforceable detention standards cannot be overstated. AI Justice makes the following recommendations with a sense of outrage at the mistreatment of immigration detainees over the years and frustration with the lack of improvement. Yet it also does so in the hope that enforceable detention Standards and effective oversight will result in good faith safeguards that better protect the basic rights of those in U.S. Immigration detention.

### **To the Administration and Congress**

- Establish an independent oversight commission composed of immigration experts to oversee detention conditions in U.S. immigration custody. Its mission: to ensure that the conditions and practices for detainees meet established legal and human-rights standards.
- Strengthen and issue regulations that codify ICE detention standards so that all immigration detention facilities provide decent and safe conditions by force of law. Require ICE detention facilities and all contracted facilities to annually report their compliance with the detention standards.
- Require an independent investigation of each immigration detainee death. Require DHS to annually submit a report to the Judiciary Committees of the U.S. House and U.S. Senate with detailed information on all the deaths, including the cause of death and the results of related investigations.
- Promote alternatives to detention by shifting ICE funding from detention beds to proven, community-based alternatives. Prioritize the release of vulnerable detainees, such as detainees with ongoing medical or mental-health issues.