



Lutheran Immigration and Refugee Service

Backgrounder

LIRS Talking Points on Immigration Detention January 2017

Background

- Every day, the United States locks up tens of thousands of men, women, and families with children, who are charged with breaking our immigration laws. Our laws allow immigrants may be locked up regardless of their status as an asylum-seeker, trafficking victim, or non-violent and clean criminal record. **In late 2016, roughly 42,000 people were detained on any given day in approximately 250 facilities.**
- Congress has also set an immigration detention bed quota set by Congress requires DHS to maintain the capacity to hold 34,000 immigrants locked up on any given day. This quota stands in clear opposition to a just and fair process for immigrants.
- **The majority of detained individuals are held in facilities run by private prison corporations like CoreCivic (formerly CCA) and the GEO Group.** In August 2016, DOJ announced it would phase out the use of private prisons **because of safety concerns and they are less cost effective.** In December 2016, a nonpartisan Department of Homeland Security (DHS) advisory council recommended that DHS also move away from using private prisons. To date, however, DHS continues hold most migrants in private facilities and local jails, even when these facilities have repeatedly failed to meet DHS' standards for care and custody.

Who is locked up in immigration detention?

- Recent border arrivals, immigrants who committed minor infractions (trafficking violations), people who are apprehended in the interior because of their undocumented status as well as those who have committed crimes.
- In fiscal year 2016, **2%** were in **deportation proceedings** with an aggravated felony (over 4,700), less than **5%** were in detention because of a criminal charge (almost 11,000), and **.01%** were in detention because of national security charges. Over **85% of immigrants are in removal proceedings** because of their immigration status (approximately 200,000 people).¹ **353,000 individuals were locked up in immigration detention in fiscal year 2016.**

¹ See data from the Transactional Records Access Clearinghouse (TRAC) at Syracuse University, available at: http://trac.syr.edu/phptools/immigration/charges/deport_filing_charge.php (last accessed Jan. 19, 2017).

- **In fiscal year 2016, over 100,000 asylum-seekers were detained in the United States at some point in their immigration removal process.**² People held in detention can also be survivors of torture and human trafficking, and victims of violent crime. Regardless of their immigration case, every person in detention faces the threat of deportation.

Why is LIRS opposed to detention without an individualized security assessment?

- **Detention conditions are, by any standard, inappropriate.** Since 2003, at least 165 migrants have died in immigration detention. Monitoring of detention facilities by LIRS and other groups has found widespread violations of detained individuals' human rights, including the right to adequate medical and mental health care, due process, and access to family.
- **Detention is traumatizing. It also separates families and it impedes access to counsel and basic services. Only 14% of persons in immigration detention** have attorneys to represent them in their immigration case. This means it is almost impossible for immigrants to obtain relief despite being eligible. Many of those in immigration detention, including asylum-seekers, appear in court by video-teleconference, which makes it extremely difficult to meaningfully participate.
- **The cost of detention is extremely high.** For FY 2016, the federal government budgeted **\$2.3 billion** for the detention of immigrants.
- **Humane and cost effective alternatives to detention exist.** Alternatives range from highly restrictive forms of electronic monitoring to less restrictive forms of community-based support. Alternatives cost as little as a **few pennies a day to \$35 dollars** a day depending on the type of intensity of the supervision.
- **A person should never be locked up simply because of his or her immigration status.** LIRS promotes access to due process and the utilization of best practices in alternatives to detention that prevent family separation, utilize community-based case management services, guarantee compliance with immigration officials, and save taxpayers billions of dollars.
- **There is no humane way to detain children and their parents.** Courts have repeatedly held that children should only be detained in the least restrictive and for the shortest amount of time possible. However, the U.S. continues to detain asylum-seeker parents and children in three family detention facilities in Texas and Pennsylvania.

² This estimate is based on the number of credible fear and reasonable fear interviews conducted by DHS United States Citizenship and Immigration Service, available at: <https://www.uscis.gov/outreach/asylum-division-quarterly-stakeholder-meeting-5>

Detention of asylum-seekers makes them more vulnerable

- **Undocumented persons who are apprehended trying to enter the U.S. (including asylum-seekers and other vulnerable migrants) are placed into expedited removal proceedings.** They are not allowed to apply for immigration status and can be returned home without a hearing before an Immigration Judge.
- **Persons in expedited removal who express a fear of return (asylum-seekers) must prove that there is a “significant possibility” that they have been persecuted or have a well-founded fear of future persecution or torture on at least one of five protected grounds:** race, religion, nationality, political opinion, or membership in a particular social group. Only those asylum-seekers who establish “credible fear” during this interview are allowed to go before a judge to ask for asylum or other protection.
- **Asylum-seekers and other vulnerable individuals in expedited removal are subject to mandatory detention.** Most will remain in detention until they either win their immigration case or are deported. Asylum-seekers with complicated cases can be detained for months and even years while their case moves through the court.