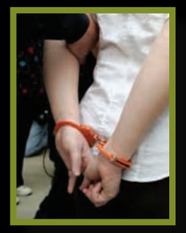
In Their Own Words

Enduring abuse in Arizona immigration detention centers

ACLU

Acknowledgements



This report would not have been possible without the participation of the men and women who shared their stories of struggle and hope. We are profoundly grateful and dedicate this report to them and their families as well as all who are detained in Arizona and across the country.

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The American Civil Liberties Union of Arizona

The American Civil Liberties Union of Arizona is the state's premier guardian of liberty, working daily in the courts, the Arizona Legislature and communities statewide to defend and preserve individual rights and freedoms guaranteed to all by the Constitution and the laws of the United States and Arizona. The ACLU of Arizona is an affiliate of the ACLU, the largest civil liberties organization in the country, with more than 500,000 members.

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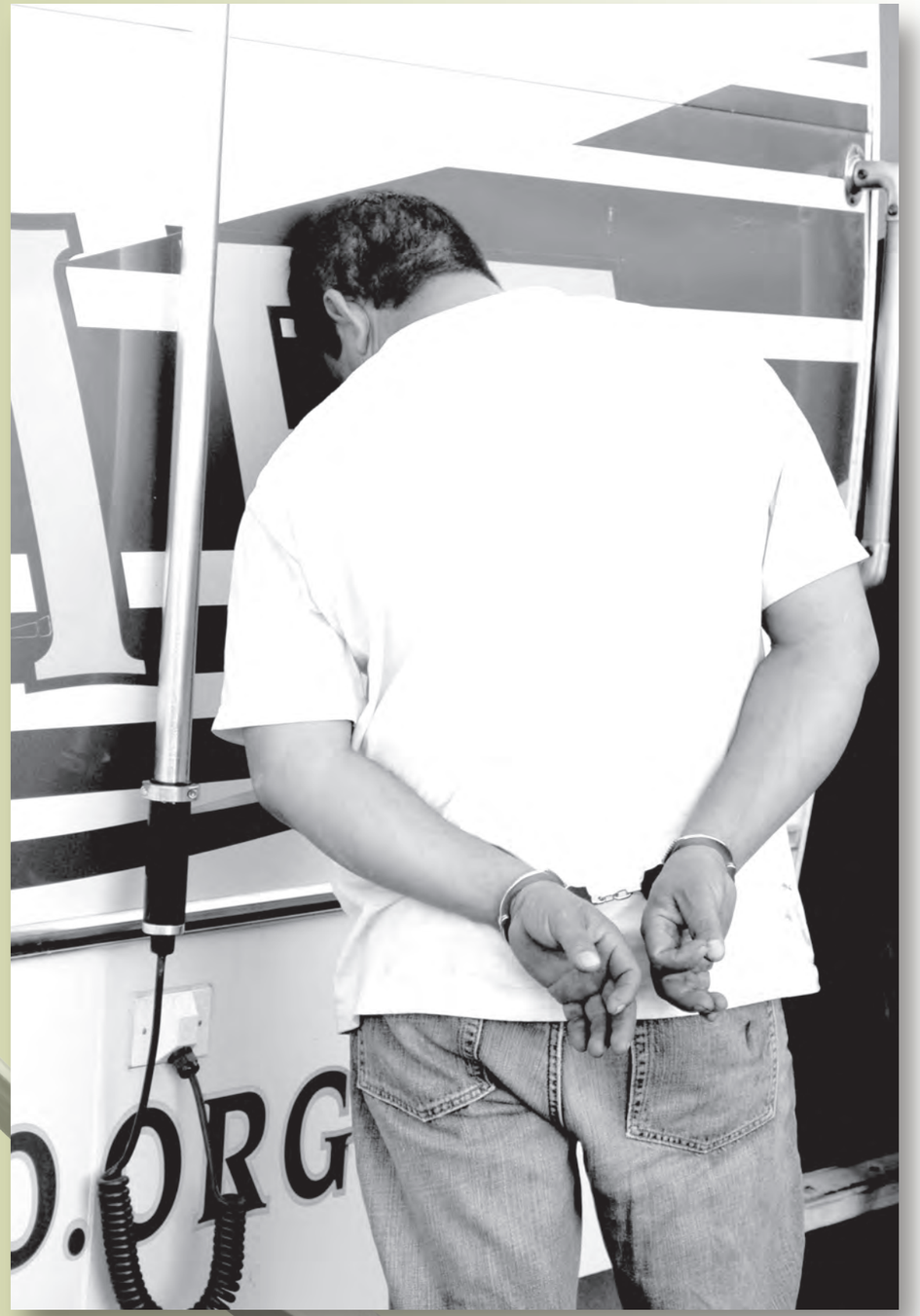

Executive Summary

As the federal government continues its reliance on immigration detention, more and more people, including thousands in Arizona, are forced to endure injustices and inhumane treatment. Through contracts with private corporations and local county jails, U.S. Immigration and Customs Enforcement (ICE) detains 3,000 immigrants on any given day in Arizona – a 58 percent increase over six years. These men, women and children represent 10 percent of the country's detained immigrant population.

To put a human face on the issue of immigration detention, the ACLU of Arizona conducted 115 face-to-face interviews with people detained in Eloy and Florence, Arizona, corresponded with detainees, interviewed family members, and reviewed hundreds of government records including more than 500 detainee grievances. What emerges are the stories of people who have suffered systemic civil and human rights abuses related to inhumane conditions and inadequate legal protections, especially in these five areas:

Increased detentions resulting from local immigration enforcement > The federal government's reliance on local law enforcement to identify and detain suspected non-citizens has led to an increase in non-violent, low-risk persons being funneled through Arizona's immigration detention system.

Inhumane conditions at Pinal County Jail > Pinal County Jail has received "deficient" ratings in 2007, 2008 and 2009, yet ICE continues to contract with the county for detention beds. Detention officers frequently place ICE detainees on lockdown for minor infractions, including not making a bed, not moving quickly enough, or saving a piece of fruit to eat later in the day.

Denial of grievances and lack of accountability > ICE Detention Standards are not fully implemented in detention facilities across the country. These standards are self-monitoring and non-legally enforceable. At the privately-contracted Eloy Detention Center (EDC), one of the largest ICE facilities in the country, accountability is a constant problem for detainees.

Abusive treatment of vulnerable populations > Vulnerable populations in detention have unique needs and are at a higher risk for sexual assault and physical abuse. The ACLU of Arizona documented five cases involving transgender or gay detainees who were sexually assaulted or treated in an abusive manner.

Deficient medical and mental health care > The standards for medical care are governed by the ICE Detention Standards, which vary in their application from facility to facility, even within the 22-mile area of the Arizona ICE facilities.

The United States recently affirmed its obligation to "ensure the human rights of all immigrants, documented and undocumented alike." However, with over 400,000 people expected to be detained by federal immigration authorities this year, our government must remedy major deficiencies immediately by:

- Terminating contracts with Arizona facilities that pose a risk to the safety and well-being of immigrants in ICE custody;
- Reducing the number of people subjected to detention in Arizona by utilizing more cost-effective, community-based alternatives to detention; and
- Ensuring conditions in Arizona detention facilities comport with basic human rights and needs.

Letter from the Executive Director

Known early on as the first "international bill of rights," the Universal Declaration of Human Rights (UDHR) recognizes that "the inherent dignity and...the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world."

But where does the United States stand today in this pursuit of human dignity and equal rights? When looking at the treatment of immigrants in this country – and in the state of Arizona in particular – it's clear we haven't made much progress. While the United States has recognized that its laws and policies are far from perfect, and has committed to engage in efforts with the international community to improve its human rights record at home, this commitment stands in stark contrast with the daily reality for hundreds of thousands of people who are subjected to the inhumane U.S. immigration enforcement and detention system.

In 2009, the Department of Homeland Security (DHS) announced plans to "overhaul the U.S. immigration system in an effort to improve detention center management, and prioritize health, safety and uniformity among immigration detention facilities, while ensuring security and efficiency." To date, detention reforms have resulted in very little change on the ground, where it matters most. Both state and federal governments continue their aggressive enforcement efforts with little accountability and no effective mechanisms for measuring stated policy goals. Meanwhile, egregious human rights and constitutional violations continue to occur every day in detention facilities across Arizona.

Through our interviews and correspondence with detainees, we've been able to document the experiences of mental anguish caused by detention and physical abuse suffered by many immigrants. We've heard stories of how parents are separated indefinitely from their children; how lesbian, gay, bisexual, and transgender (LGBT) detainees are placed in segregation for months; how detainees struggle to get medical attention, make a phone call, or visit with a loved one.

We are sharing these stories with the public, policy makers, and community stakeholders so that we can influence change and implement humane and sensible policies that comport with the U.S. Constitution and human rights treaties that mandate respect for the basic rights and dignity of all people.

Alessandra Soler Meetze
Executive Director, ACLU of Arizona
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> *This Declaration is based upon the spiritual fact that man must have freedom in which to develop his full stature, and through common effort to raise the level of human dignity."*
>
> **Eleanor Roosevelt**
> Upon the adoption of the Universal Declaration of Human Rights (UDHR) at the United Nations, 1948

I Introduction

In recent years, immigrants in Arizona have experienced an extreme convergence of enforcement measures targeted at them, their families, their communities, and those who support them. The actions of government officials have led to widespread civil and human rights violations, including racial profiling, arbitrary and prolonged detention, deprivation of medical care and basic human needs, and separation from family and community.

Fueled by a combination of hostile state and federal laws, draconian enforcement policies, and racist and anti-immigrant rhetoric, immigrants and in some cases U.S. citizens are regularly subjected to discriminatory and constitutionally-flawed laws and policies. On the federal level, the growth of the immigration detention system is unparalleled, and continues to operate through increasing privatization and without legally enforceable standards. It's fueled by mandatory detention laws, cooperative agreements with local governments, and minimal due-process protections. In Arizona, many officials have made it publicly and perfectly clear that they are more than willing to serve as the testing ground for anti-immigrant laws. The passage of Senate Bill 1070 as a measure to create "attrition through enforcement" reflects the core goal of many in Arizona government: make life so inhospitable that people are forced to leave the state. Police agencies and jails throughout the state operate lock-step within a myriad of federal programs with minimal oversight or transparency.

ICE currently detains hundreds of thousands of non-citizens in facilities across the country, the majority of which are operated by private prison corporations and county jail officials. On August 6, 2009, the Obama Administration acknowledged that reforms are necessary in the immigration detention system and announced that DHS would work in the next three to five years to adopt a non-punitive "truly civil" model for immigration detention. DHS and ICE officials, nationally and in Arizona, continue to work with non-governmental agencies and others to accomplish some of these reforms.

Despite these efforts, however, the system continues to operate with little transparency and accountability, ineffective standards and inadequate procedures for monitoring facilities. Furthermore, the federal government continues to rapidly expand cooperative agreements with local law enforcement agencies, which continues to fuel the detention and deportation system with minimal oversight or constitutional protections.

In Arizona, ICE contracts with local government and private corporations, and operates an ICE-owned facility. On any given day, 3,000 immigrants face deportation proceedings in these detention centers.[1] These men, women and children comprise approximately ten percent of the country's detained immigrant population.[2]

I have been in ICE detention for over three and a half years[3]*...*

ICE Detention Centers

There are five long-term detention centers in Arizona that are ICE-operated or under contract with ICE to detain adult immigrants:

The Florence Detention Center, also known as the ICE Service Processing Center, is a 717-bed, ICE-owned detention facility. Within this center is the Florence Staging Facility (FSF), where individuals go through ICE intake and are transferred to facilities in the area. Both men and women are held in this facility.

The Pinal County Adult Detention Center, commonly known as Pinal County Jail, houses 625 male detainees. ICE Enforcement and Removal Operations (ERO) has an Inter-Governmental Services Agreement (IGSA) with Pinal County, Arizona.

The Eloy Detention Center, owned and operated by the Corrections Corporation of America, is a 1,500-bed detention center for men and women. ICE Enforcement and Removal Operations (ERO) has an Inter-Governmental Services Agreement (IGSA) with the City of Eloy, Arizona.

ICE also contracts with the Corrections Corporation of America at two separate facilities in Florence: the **Florence Correctional Center** (FCC) and **Central Arizona Detention Center** (CADC).

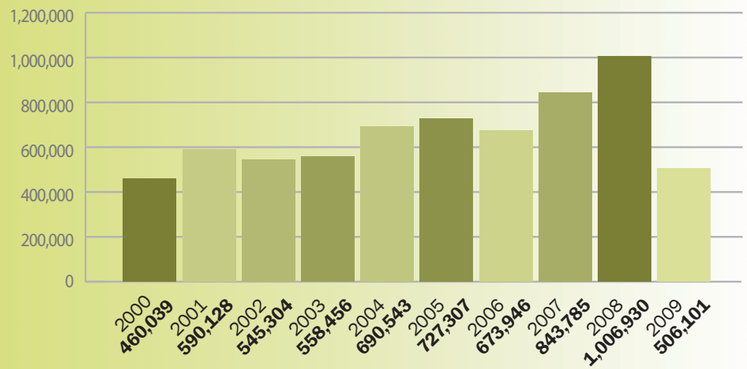
Contrary to public misconceptions, the detained population in Arizona consists of a diverse group of people with legally complex cases. Many people in detention do not have criminal convictions yet they are incarcerated while the immigration and federal courts resolve their immigration cases, which are administrative and not criminal matters under U.S. law. Some detainees have sought asylum or have been admitted to the United States as refugees. Others are longtime, lawful permanent residents of the United States with close ties to the community, including spouses and children who are U.S. citizens. Despite government assertions that migrants in Arizona are detained for brief periods of time, immigrants may languish in detention for months or years while they wait for their cases to be decided by the immigration courts, the Board of Immigration Appeals (BIA) and the federal courts.

Advocates remain concerned over persistent abuses and a lack of progress in the implementation of reforms on the ground. Detained immigrants in Arizona face serious issues related to conditions of confinement and lack of due process. Deficient conditions and punitive treatment in Arizona detention centers not only compromise the safety and well-being of those detained, but also impact their ability to do what is most important to them: present a legal defense against deportation.

While detention is generally justified as necessary to ensure court appearances or to prevent people from committing dangerous acts in communities across the country, the reality remains that the majority of people detained in the federal immigration system are generally non-criminal and non-violent. Despite repeated statements by DHS that they will focus enforcement resources on criminal populations, immigrants from all corners of the globe continue to be detained, regardless of criminal history, immigration violations, or humanitarian factors that would favor their release.

Number of People Detained in Arizona ICE Facilities 2000 - 2009

These totals were compiled from ICE data received through a FOIA request. They show the number of unique individuals detained over a given period of time at any one of the five long-term ICE facilities in Arizona. 2009 data is for the first and second quarters of the fiscal year.



II Growing Detention Through Local Enforcement

The socio-political environment in Arizona has created a breeding ground for the federal government to experiment with its immigration enforcement programs. In recent years, ICE detention and removal efforts in Arizona have increased as a direct result of both amplified enforcement on the Arizona-Mexico border and increased interior enforcement through so-called "cooperative agreements" with local police, county jails and state prisons.[5]

Nationally, ICE ACCESS (Agreements of Cooperation in Communities to Enhance Safety and Security) programs have contributed significantly to the number of people placed in ICE detention. For example in 2009, 60 percent of people placed in ICE detention were identified through local law enforcement initiatives such as 287(g) and Criminal Alien Program (CAP).[6] However, even by ICE accounts the majority of people booked into custody through these programs are identified as not having been convicted of a crime.[7]

"Hay una persecución masiva en contra de los inmigrantes en Arizona." (There is a massive persecution against immigrants in Arizona.)

A detainee in Florence [4]

In Arizona, nine law enforcement agencies participate in the 287(g) program.[8] All fifteen counties in the state participate in the Secure Communities program, which was expanded statewide just months after the passage of SB 1070 in April 2010.[9]

Agencies that participate in 287(g) programs have officers that are cross-designated to perform federal immigration enforcement duties, including arresting, detaining, and interrogating persons believed to be non-U.S. citizens. These officers also process certain immigration orders and initiate removal proceedings. Under a 287(g) memorandum of agreement, local law enforcement officers may be deputized to perform 287(g) duties during the course of their regular patrol duties and/or within the jails.

Through the Secure Communities program, jail officials collect fingerprints from every person booked into a local jail. These fingerprints are then submitted and checked in federal biometrics databases. In cases where fingerprints match those in DHS immigration databases, a person may be transferred to immigration custody regardless of the manner in which the person was brought into custody or whether the person is actually convicted of a crime.

In practical terms, the unrelenting enforcement of immigration laws by Arizona agencies through federal agreements and broadly interpreted state laws has permitted operations targeted at immigrant communities. It has also increased the number of non-violent non-criminals funneled through the detention-deportation pipeline in Arizona. Just as significant is the climate of fear and distrust of law enforcement that this unyielding attack has created among immigrants and, in particular, the Latino community.

The 287(g) program has been widely examined and criticized by government and non-government agencies. Findings by the U.S. Government Accountability Office (GAO) and the Office of Inspector General (OIG) include ICE's failure to adequately supervise and train 287(g)-designated officers, sufficiently track data and institute transparent mechanisms to address civil rights violations.[10] Similar to criticisms of 287(g), Secure Communities has also come under great scrutiny for failing to deliver on its primary goal of apprehending and deporting dangerous criminals.

Héctor

has lived in Tucson, Arizona since he was 5 years old, when he was adopted by his U.S. citizen relatives. He graduated from high school and earned a bachelor's degree in political science from the University of Arizona. In the summer of 2010, Héctor was stopped by local police for a traffic violation. Once in custody, he was fingerprinted, identified as a non-U.S. citizen, and transferred to ICE custody. He didn't spend any time in jail for a criminal offense, yet was detained for five months at the Florence Correctional Center, a privately-owned prison contracted by ICE in Florence, Arizona. Héctor was recently granted legal residency in the U.S.

The continued use of both programs without meaningful changes in the face of these critiques has resulted in serious violations of human and civil rights, including racial profiling, unlawful arrests and prolonged and unnecessary detention of immigrants as well as U.S. citizens in Arizona.

For example, Josue, a U.S. citizen of Mexican descent, was arrested and booked into the county jail for driving while intoxicated. Upon intake at the jail, he was questioned by Maricopa County Sheriff's Office (MCSO) deputies for several hours about his immigration status. Despite repeatedly telling officers that he was born in Phoenix and although his mother provided a copy of his birth certificate, he was transferred to ICE custody. Once he arrived at the ICE office, Josue's original birth certificate was eventually located in a property box and he was released from immigration custody.[11]

Maribel, a former detainee, was also targeted. "The police stopped me in Phoenix just because I have dark hair and look Latina," she wrote in a letter to the ACLU-AZ. "I did not commit any infraction. I showed (the officer) my ID from here, and (he) looked at it and told me, 'This is not you. This ID is false.' The police was just looking for an excuse to report me to immigration." Maribel was detained in Florence for over one month. She was eventually released on bail to fight her case. She has been living in the U.S. for more than 10 years and has two U.S. citizen sons and a lawful permanent resident husband.[12]

Nowhere has this sort of discrimination been more greatly felt than in Maricopa County, which has become an important example of the abuses that have been made possible not only by the 287(g) program, but by the willingness of the federal government to continue agreements with a county that has a documented record of violating the rights of migrants and others and refuses to be held accountable for violations.[13]

Currently, the Maricopa County Sheriff's Office participates in a "jail model" 287(g) agreement with ICE.[14] The Sheriff's office reports that deputies have arrested 2,516 "illegal immigrants" and have "turned over" 38,548 immigrants to ICE for deportation.[15] Since 2007, MCSO has conducted 22 "crime suppression sweeps" and 27 worksite raids pursuant to state human smuggling and employer sanctions laws.[16]

In many instances, people arrested during worksite raids and sweeps are charged with minor offenses – such as having a small crack in their windshield or a broken taillight – or misdemeanor offenses such as failure to show identification or trespassing. After their arrest, these individuals are booked into jails where they are asked about their immigration status and shuffled through the criminal court system, where they may or may not be convicted of a crime. They're eventually transferred into ICE custody, where they're either expeditiously deported from the United States or transferred to a long-term detention center where they begin their battle to remain in the country. Because 287(g) jail officials are granted the authority to interrogate people about their immigration status and prepare charging documents to initiate deportation, the entire criminal and immigration process – from initial arrest to removal – can take place completely on paper within the walls of the county jail, with little or no opportunity to assert due process rights, and with minimal involvement from the local ICE office.

They put us in a 8x20 cell. 23 of us. We did not know what was happening or where we were going. About 6 hours later transportation picked us up.[17]

Fabiana

Fabiana has lived in the U.S. since she was 12 years old. She is the mother of a 4-year-old U.S. citizen daughter and engaged to a U.S. citizen. Fabiana was arrested by Maricopa County Sheriff's deputies during a worksite raid. She has no criminal history in the U.S. and no criminal charges were filed against her resulting from the raid. After being interrogated and detained by county officials, she was transferred to the ICE field office in Phoenix, where she was detained in temporary holding cells for an entire day. Instead of releasing her, ICE transferred Fabiana back to the county jail, where she was held in a small intake cell with 20 other women, the majority of whom had been booked into the jail on criminal charges. There were no beds, blankets or hygiene items in the intake cell. The cell was freezing cold, and the women had to huddle together to stay warm. She did not sleep at all while she was there. At 4 a.m., deputies gave her two pieces of bread, peanut butter, and juice. She was not told how long she would be there. Later that morning, Fabiana was taken back to the ICE holding cells. She sat on a concrete bench in the ICE holding cell for another 12 hours until she was transferred to long-term detention in Florence, where she remained for three weeks until an immigration judge granted her request for bail. Fabiana posed no threat to the community, yet ICE continued to detain her, shuttling her from one cell to another in Phoenix, exposing her to terrible jail conditions and keeping her in a constant state of uncertainty and fear, separated from her family.[18]

Many people report that during the intake process in county jails, they're pressured to waive the few rights they have and to sign documents without explanation of their contents. They're not, in these cases, allowed to call family or attorneys, and are subjected to verbal abuse and unsafe and degrading conditions of confinement. One detainee was told by an officer in Phoenix, "It's not going to make a difference if you fight your case. You're going to get deported. You're just wasting your time."[19]

ACLU-AZ heard similar accounts from other detainees who experienced this treatment. Tomas, for example, was arrested during an MCSO "crime sweep" in the summer of 2009. He was arrested by officers for a broken taillight. He recalls that during the intake process at MCSO's Fourth Avenue Jail, he was questioned about his immigration status between eight and ten times by Sheriff's deputies and constantly pressured to agree to voluntary departure to Mexico. Tomas refused, because he has lived in the U.S. for a long time and is married to a U.S. citizen. After refusing to sign any document without speaking to a lawyer, he was placed in a cell separated from other detainees, and deputies refused to answer his questions or allow him to call his wife. He was eventually transferred to the detention center in Florence, and was released on bail.[20]

Similarly, Samuel, a business owner who has lived in Phoenix for 20 years, called the interrogation by Maricopa County sheriff's deputies "el martillo de abuso" or "the hammer of abuse," referring to the repeated, insistent demands by deputies to answer questions about his immigration status. Samuel refused to answer, repeatedly asking to speak to his attorney. He was transferred to the Florence detention center and eventually released on bail.[21]

Despite the Department of Homeland Security's repeated pledge to pursue detention reforms, their continued contracting with and use of the MCSO jails directly contradicts the stated goals of detention reform and enforcement priorities.[22] The prioritization of enforcement, measured in increased deportations and occupied detention beds, has resulted in the use of jail facilities that subject people to dangerous conditions and inhumane treatment.[23]

In an interview conducted in February 2010 by volunteers with the Arizona-based humanitarian organization No More Deaths, a group of women who had been deported to Mexico explained the conditions of confinement at the MSCO Estrella Jail, where they were detained between one and two months.

"The three interviewees reported collectively on conditions in La Estrella," according to the No More Deaths interview. "(They) reported that guards would yell at women who didn't understand English, that guards laughed at a woman who was mentally ill and ... would randomly declare that the room was under 'lockdown,' which meant that no one could leave their beds or talk. The women reported that the guards said to them, 'You don't have rights here. You are in our country. You are no one.' They were given deportation papers to sign that were in English and were not translated for them. Before deportation, the three women reported that they were moved to another facility, also in Maricopa, for around forty hours. In this facility, more than thirty people were held in one tiny room, so that they could not lie or sit down. The room was extremely cold and had only one exposed toilet in the corner. They were deported at around 11 a.m. and were not given food the morning they were deported."[24]

In a similar story reported by No More Deaths, P.O., a 41-year-old man from Mexico who has resided in Phoenix for 13 years, was arrested in Phoenix by the Maricopa County Sheriff's Office for failure to show identification. He told the jail officials that he takes medication daily for diabetes, and repeatedly asked for medical care over the course of the next nine days, and was denied. The MCSO cells were extremely cold and were overcrowded and very dirty, and P.O. and others had to sleep on the floor. He was deported to Nogales, Mexico at about 8 p.m., having spent eight hours in ICE detention. The day after his deportation, in Nogales, Sonora, P.O.'s blood sugar was checked and it was dangerously high. He states that his blood sugar was never checked during the time of his detention. He states that they were given one meal per day of peanut butter, bread, juice, and cookies, while detained by MCSO.[25]

Working hand-in-hand with the ICE ACCESS programs, the federal detainer regulations authorize local officials to detain suspected non-citizens for up to 48 hours until they are transferred to federal custody. The ACLU-AZ has documented several cases involving the misapplication of these regulations, among them stories of people being held beyond the 48 hours permitted by regulation, or transferred between county jails and temporary ICE holding cells to circumvent the regulations. Formerly detained people have reported that during several days of transfers they were not allowed visits or phone calls to family or attorneys, provided hygiene items, a change of clothes, or a shower. Most distressing to all of those who experienced this treatment was that they were not given any information about where they were being transferred from one day to the next, or when they would be released or allowed to see a judge.[26]

The federal government's system of relying on local law enforcement to identify and detain suspected non-citizens has proven to be fundamentally flawed. In their current form and operation, these programs will continue to serve as a dangerous and costly assault on human and civil rights.

Recommendations on federal-local immigration enforcement programs

- End the practice of local enforcement of federal civil immigration law.
- Establish formal complaint procedures to ensure that individuals who are wrongfully arrested and/or wrongfully identified by state and federal databases may seek redress.
- Require local jurisdictions collaborating with DHS to issue periodic reports with arrest and identification statistics for oversight and accountability. Those jurisdictions whose statistics indicate racial profiling or non-compliance should be terminated from the program.

III The Pinal County Jail: Contracting Away Human Rights

The most notable area of growth in immigration detention over the past several years has involved the contracting between ICE and private corporations and county governments across the country for detention beds. Currently, ICE utilizes space at 270 facilities for long-term immigration detention. Many of these are county jails with punitive conditions and are wholly inconsistent with ICE's civil detention objectives.

> *"We don't go by ICE rules. We go by the Sheriff's rules."*
>
> **PCJ Detention Officer**
> to ICE detainee [27]

Since 2005, ICE has used the Pinal County Jail (PCJ) in Florence, Arizona to detain immigrants facing removal proceedings in Arizona. The total jail capacity is 1,540, with the majority of the beds used for county detainees and 625 beds contracted to ICE to detain adult men and women. In the winter of 2009, however, after major efforts by female detainees to document abuses at the jail and advocacy by the ACLU-AZ and other organizations, including a fact-finding mission by the Inter-American Commission on Human Rights, the women were transferred from the jail to other contract facilities in Eloy and Florence.[28]

Detainees and advocates in Arizona express serious frustrations with the use of a county jail to confine people for civil immigration proceedings. While ICE officials and the agency's detention standards describe immigration detention as non-punitive, conditions at PCJ can only be described as extreme and abusive. Of the five detention facilities in Eloy and Florence, advocates report that they receive the most complaints from those in custody at PCJ. The conditions of confinement at the five facilities, which are within 22 miles of each other, are remarkably inconsistent. At the ICE-owned Florence Detention Center, for example, detainees have virtually unrestricted access to a new soccer field, yet less than two miles away at PCJ, detainees' only exposure to natural light and air is for one hour per day through a chain-link fence at the top of an indoor recreation pen surrounded by concrete walls. "Para salir de aqui, rogamos que nos deporten" ("We often pray to be deported, just to get out of here"), stated one PCJ detainee interviewed by the ACLU-AZ.[29]

The ACLU-AZ is especially concerned about conditions of confinement in several areas at PCJ, including detainee access to contact visits, access to counsel, religious accommodations, access to outdoor recreation, and reported abusive treatment toward detainees. In addition to the documentation efforts of women who were detained at PCJ, in March 2011 approximately 90 men detained at PCJ participated in a hunger strike to protest these inhumane conditions.

While local attorneys generally have regular opportunity for contact visits with clients at the Eloy and Florence detention centers, there are significant problems with the system for attorney visitation at PCJ. Although the Intergovernmental Service Agreement (IGSA) with the county was negotiated in advance of the facility's expansion to hold ICE detainees, it is noteworthy that no appropriate space for attorney visits was created when designing this addition to the jail.

The main visitation area at PCJ consists of tele-video booths for family visits and tele-video rooms for attorney visits. The use of tele-video equipment to conduct legal visits is particularly difficult, as there is no guarantee of privacy and no contact with the client in order to share legal documents or obtain signatures. The alternative to these tele-video attorney visits is a "contact" visit, conducted in the basement of the jail. Only one attorney may have a contact visit at a time, and often must wait anywhere from 15 to 30 minutes until their client is escorted to the visitation room by a detention officer. In these "contact booths," the only actual manner of contact is a pass-through

slot where a few sheets of paper may be shared. The pass-through is not even wide enough to share a pen in cases where there are legal documents requiring a signature. Discussions between a detainee and his/her attorney in the contact booths are conducted over a telephone, which again raises concerns about privileged information being overheard or monitored by detention personnel.

Detainees held in the other four Florence and Eloy facilities are allowed to have regular contact visits from family and friends. However, PCJ only allows family visits over tele-video equipment. Many of the people detained in Arizona have support networks throughout the U.S. and given the remote location of PCJ families and friends often travel hundreds of miles to visit their loved one often at great expense. It cannot be overstated how important these visits are; for detainees fighting their cases, there is great uncertainty in the immigration process and fear while one is in detention. Visits from family and friends provide essential emotional support and guidance.

In a letter written to advocates in August 2009, women who were detained at PCJ summarized grievances from over 30 detainees.[30] Among the complaints was not being allowed contact visits with family. "Here at PCJ," one detainee wrote, "the only way to have a visit with our families is by way of a televised screen and a telephone. [W]e do not have the right to contact visits, unless it is an attorney who is visiting us, which makes our stay here more depressing and affects us psychologically, since in circumstances such as these (being denied our liberty) we need all the support of our families. As if that were not enough, some of the detained have been far removed from their cities of residence, which makes family visits impossible."[31]

Through correspondence with the ACLU-AZ, ICE officials state that they facilitate contact visits for detainees held at PCJ by transporting them to the Florence Detention Center when requests are made in advance.[32] However, when asked about contact visits with family, almost all detainees to whom we spoke indicated they were either denied requests for contact visits or did not know that they could even request such a visit.

In correspondence and interviews, detainees also emphasize that the punitive environment at PCJ contributes to detention officers treating ICE detainees like "criminals" by placing them on "lockdown," searching cells and issuing disciplinary write-ups for minor issues such as not making a bed, not moving quickly enough, or saving a piece of fruit from their meal to eat later in the day. These write-ups sometimes result in placement in segregation and/or the loss of the few privileges given, such as commissary or telephone time. Some of the most disturbing reports from detainees include detention officers threatening that even the most minor disciplinary write-ups will be reported to the immigration court and will negatively affect their legal defense. When faced with these real or perceived consequences, many detainees report that they choose not to file grievances.

"We also wish to denounce the inhumane and degrading treatment which we are given in this jail," wrote one detainee in a letter to the ACLU-AZ. "The majority of sheriffs who take care of us treat us with contempt and as if we were dangerous criminals. Here in PCJ, they treat us by yelling at us and threaten to lock us all day in our cells, as if it were not enough to already be deprived of our liberty."[33]

Joe

Joe is South African and a legal resident of the U.S. He came to America when he was 12 years old with his mother, father, and two siblings. Joe was detained for over three months at the Pinal County Jail after being arrested by ICE at the probation office in Phoenix, where he was on the verge of completing two years of probation for a minor drug offense. While detained at PCJ, he witnessed verbal abuse and harassment by jail officials. "They treat us like county inmates," he says. "There's a lot of yelling, a lot of searches. They confiscated my books and refused to return them." Eventually, Joe was granted a humanitarian waiver allowing him to remain in the U.S. with his wife and family.

In approximately May of 2010, ICE engaged in a process to reclassify and move detainees between the five detention facilities in Florence and Eloy. During the course of these transfers, many of the men who were transferred to PCJ stated their refusal to be transferred, citing abusive treatment and poor conditions at the county jail. Despite their protests, the men said they were threatened, pepper-sprayed, and forcibly transferred by detention officers. In his letter to the ACLU-AZ, a man who was detained for eight months writes, "Me and 22 other detainees were removed from the Florence Correctional Center/Corrections Corporation of America (FCC/CCA) against our will. Most of us were already detainees here before and we know the treatment here, that is why we refuse to come here to PCJ [...] I'm here again and nothing change since I left. The treatment is even worse. It is difficult to keep positive here at PCJ. I hope this testimony from me and the other detainees will bring some changes here at PCJ and detention centers all across America."[34]

In its reform announcements, DHS included as one of its immediate goals the following: "ICE will aggressively monitor and enforce contract performance in order to ensure contractors comply with terms and conditions – especially those related to conditions of confinement. When confronted with repeated contractual deficiencies, ICE will pursue all available avenues for remedying poor performance, including termination of contracts."[35]

Correcting basic problems in the conditions of confinement for ICE detainees is not only necessary to comply with the federal government's authority for civil and not punitive detention, but essential for maintaining legal rights and protections for persons who are deprived of their liberty and facing court proceedings with extremely high stakes.

It is therefore shocking and disappointing that despite receiving "deficient" audit ratings for the years 2007, 2008, and 2009, and the persistence of documented human rights violations at PCJ, ICE continues to contract with the county for detention beds.[36]

Recommendations for creating transparency and accountability in immigration detention facilities

- Immediately terminate the detention contract with Pinal County Jail.
- Require all detention facilities utilized for the detention of civil immigration detainees to adhere to uniform ICE Detention Standards.
- Identify contractors who do not comply with ICE Detention Standards and terminate their contracts.
- Discontinue the use of private, for-profit prison contractors for use in civil immigration detention.
- Utilize more cost-efficient, community-based alternatives to detention and release policies.
- In cases where detention is warranted, use the least restrictive setting possible, ensuring humane detention conditions for all detainees.
- Train all personnel who have daily contact with immigrants in the detention system in accordance with the principles of civil detention, including regular training on detention standards, working with vulnerable populations, grievance procedures and civil and human rights obligations.

Francisco

Francisco spent 14 months in ICE custody at the Eloy Detention Center on a minor drug possession offense for which he spent 10 days in county jail. Francisco has lived in Phoenix since he was a young child, where he also attended grade school and high school. His mother and stepfather are legal residents and his two young sisters are U.S. citizens. He also has a 4-year-old U.S citizen daughter. Francisco's stepfather filed a family petition on his behalf when he was a minor, which was pending at the time of Francisco's arrest. Current immigration laws require mandatory detention, even of people who have very old or minor convictions like Francisco. In these cases, immigration judges are not allowed to consider family, work or community ties to decide whether one should be released on bail to continue his case outside of detention. Separated from his family for more than a year and faced with the possibility of deportation to a place where he has no family or support, Francisco and his family endured uncertainty and significant hardships. His case was eventually granted by the immigration judge and today he is a legal resident.

IV Grievances Denied

The 2008 Performance-Based National Detention Standard on grievances states that its scope and purpose are intended to "protect detainees' rights and ensure they are treated fairly by providing a procedure by which they may file formal grievances and receive timely responses relating to any aspect of his/her detention."[37]

> *"[A] credible grievance process, sustained by an environment that is free from intimidation and retaliation, is critical."*
>
> **Dr. Dora Schriro**
> Immigration Detention Overview and Recommendations
> ICE Office of Detention Policy and Planning
> October 6, 2009

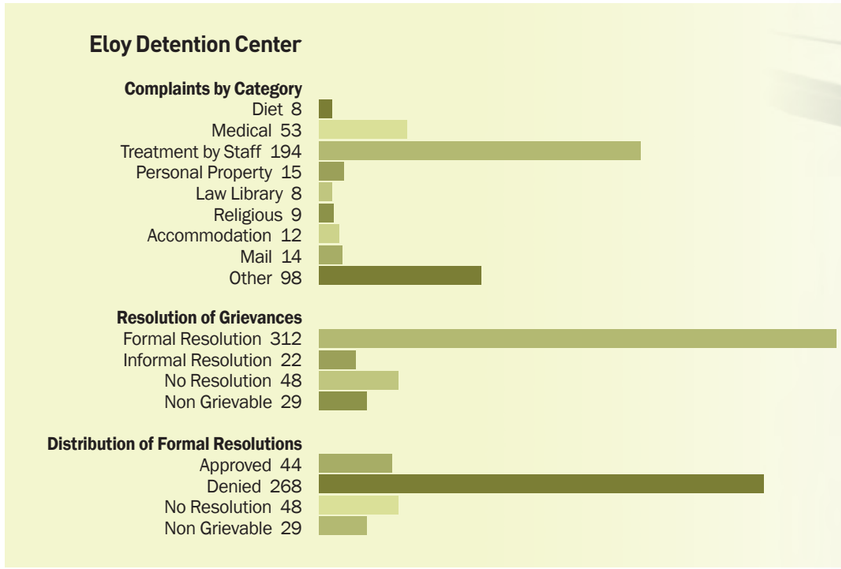
However, men and women detained in all five Arizona facilities noted that grievance procedures are unclear, ineffective and inadequate to address the problems they face in detention. Several people indicated that they do not even attempt to file grievances because they are afraid of retribution by officers and other staff who may consider their requests or grievances an annoyance. Detainees in some facilities explained that they have to request grievance forms from detention officers, that officers often ask details about the nature of the grievance before supplying the form, and sometimes have to wait several days before receiving a form.

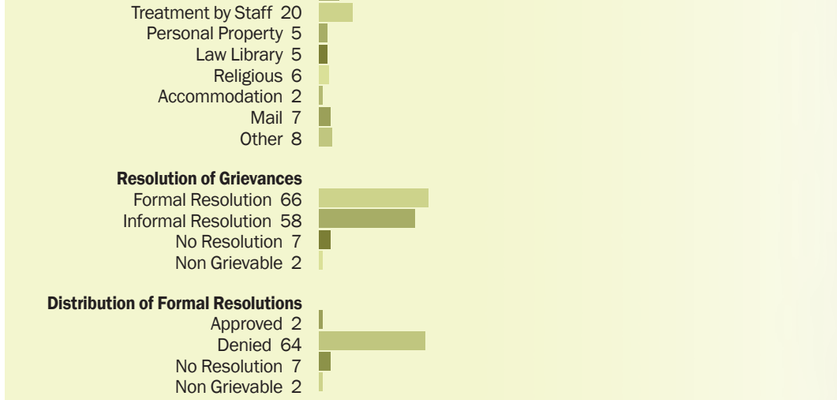
As with many privately-owned contract facilities, accountability is a constant problem for detainees at Corrections Corporation of America (CCA)- Eloy Detention Center (EDC), one of the largest ICE facilities in the country. One woman who was detained at EDC for over one year told us, "ICE needs to take some responsibility here. We cannot complain to CCA because they tell us to contact ICE, and ICE tells us to talk to CCA. Here we do not have rights."[38]

At PCJ, detainees report that they are uncertain whether ICE reviewed grievances or whether the review process was limited to jail staff. Alarmingly, several detainees in each of the Arizona facilities indicated that detention officers commonly threaten detainees with transfer to PCJ if they file grievances, complain, or make requests that are deemed unreasonable by guards.

One of the recent reforms implemented by DHS is the inclusion of detention monitors in various facilities throughout the country. In Arizona, however, detainees report that they rarely see ICE liaisons or monitors and that when they do come to the housing units, they are often unresponsive or state that they are unable to resolve any particular problem. In their recent report, researchers with the Women's Refugee Commission noted that ICE detention managers at two of the Arizona facilities held employment at those facilities prior to these positions, raising concerns about their objectivity and effectiveness in monitoring.[39]

The ACLU-AZ reviewed 500 grievances lodged by men and women detained in Florence and Eloy between 2005 and 2009; the results are indicated in the graphs on page 21.





Recommendations for resolving and addressing detainee grievances

- Develop clear and standardized grievance procedures, including appeals, for detainees in all ICE facilities as well as for advocates to file on behalf of detainees.
- Require timely and thorough resolution of grievances, with notice to detainees of decisions reached in each case.
- Require facilities to document all grievances and allow detainees the opportunity to file a written grievance in all cases, even those that are resolved through "informal" channels.

Tanya

Tanya is a transgender woman who has lived in Tucson, Arizona for almost 20 years. Her family members are U.S. citizens and lawful residents, and reside in Arizona. She was detained by ICE at the Eloy Detention Center for seven months. In custody, Tanya was held in a men's housing unit and isolated in the Special Housing Unit (SHU) for approximately six weeks. She experienced multiple incidents of extreme harassment and abuse relating to her gender identity. After reporting an incident involving detention center staff, she was sent to SHU for approximately ten days. Tanya was told they were investigating her case but was not provided documentation or interviewed about her placement in isolation. Tanya was also threatened by a male detainee who tried to force her to engage in oral sex. When she reported this to an officer, she was sent to SHU and does not think that the detainee who threatened her was disciplined in any way. Tanya also experienced verbal and mental abuse by detention officers who constantly harassed her for wearing her hair in a ponytail or cuffing her pant legs. They repeatedly threatened her with isolation. While she was detained, Tanya suffered depression and anxiety. She is now out of detention and in the process of applying for asylum.

V Vulnerable Populations in Detention

Vulnerable populations in detention include the mentally ill, asylum-seekers, torture survivors and children, as well as women and lesbian, gay, bisexual and transgender (LGBT) immigrants. As the detention population across the country has increased, so have the number of detainees with unique needs and those at higher risk for sexual assault, physical abuse and other trauma while detained. Given the particular needs and risks associated with these populations, it is imperative that ICE systemically address the placement and conditions of confinement that these populations are subjected to while in their custody.

> *"Before anything else, I am human."*
>
> **A transgender detainee** at Eloy Detention Center [40]

LGBT Detainees in Arizona

LGBT immigrants in detention often face significant harassment, discrimination and abuse at the hands of fellow detainees, as well as by detention personnel. The ACLU of Arizona interviewed a number of gay and transgender detainees held in ICE facilities in Arizona. Some of their specific concerns include being housed with detainees of a gender with which they don't identify, inadequate medical care, detention staff divulging confidential information, placements in segregation, and physical and sexual violence.

A number of incidents of sexual assault in immigration detention facilities have been publicly reported in recent years.[41] Over the course of this project, the ACLU of Arizona documented five cases involving transgender or gay detainees who were sexually assaulted or treated in an abusive manner while in detention in Arizona facilities.

While ICE does not systemically track the number of sexual assaults in detention facilities across the country, these and other reported cases very likely represent only a fraction of the actual cases of sexual abuse of immigrants in detention. Under-reporting of sexual abuse among detained and immigrant populations is common for a variety of reasons including lack of information about reporting mechanisms, fear of retaliation or possible deportation, and actual deportation from the United States prior to a report being filed and investigated.

The sexual assaults committed against immigrant women at the T. Don Hutto detention center in Texas (reported in May 2010) spurred ICE to take some steps to correct policies that placed immigrants at a heightened risk of sexual abuse while in custody. The proposed changes include revisions to search and transportation policies, improvements to medical procedures in rape cases, and data collection on incidents of abuse. However, ICE still does not currently have standards or other policies that specifically address the concerns and problems that LGBT immigrants face in detention. Based on interviews conducted with advocates and LGBT detainees in Arizona, ICE should ensure that all standards and assessments addressing abuse in detention be revised to specifically include protections for LGBT detainees.

"My client was raped in detention," wrote a local immigration attorney to ACLU-AZ in April of 2009. "He has no criminal record, and before leaving [his] home county, was raped. He passed the credible fear interview but our request for humanitarian parole was recently denied. While he was detained in Florence, he was raped by another detainee in the bathroom. It was reported to the police, but the prosecutor in Pinal County declined to prosecute. After the rape, he was placed in

Leticia

Leticia is the mother of two U.S. citizen children and has lived in Phoenix, Arizona for 20 years. Originally from Guatemala, Leticia was detained in Florence and then Eloy for 21 months. She has never been arrested or convicted of any crime. When asked about her situation, she says, "The law of ICE is so unfair to people. I am a single mother, working, honest, fighting here in this jail for months, separated from my children, fighting for my case. This law, which separates many families, closes the door to fixing our immigration status, destroys the lives and futures of our children who are citizens and are paying the consequences of this great cruelty."

Despite her clean record and family ties, ICE continued to detain her in deplorable and inhumane conditions. For more than one year, while detained at PCJ, Leticia was not allowed to have contact visits with her children, did not have outdoor recreation, and suffered depression and anxiety.

isolation. He couldn't eat, couldn't sleep; just kept reliving trauma. He is completely alone, not even a television. We can only visit him on certain days because he is in protective custody. Everything has to be put on lock-down for him to be moved to visitation. When he is brought to visitation (or anywhere else), he is shackled hands, feet, and waist. They refuse to take off the shackles even to speak with me, and this is despite the fact that we are in a non-contact booth through a glass window. And the guards stand right outside. He is also in stripes. It is so degrading, after having been a victim, that I am truly outraged."[42]

Another major problem discovered in Arizona facilities affecting LGBT immigrants is the overuse of segregation, either in a Special Housing Unit or isolated cell. LGBT persons are sometimes placed in segregation based on their sexual identity, with the stated reason of protecting the detainee from harassment or threats by other detainees – often called "protective custody." While in "protective custody," however, detainees are often subjected to prolonged periods of isolation and treated harshly, and their physical and emotional well-being and safety are threatened.

ICE Detention Standards state that segregation is not to be used as a punitive measure.[43] However, detainees and their attorneys report that conditions in the segregated units are deplorable; there is no regular access to telephones and detainees are shackled when taken to court and for medical or legal visits. In many cases, immigrant detainees have been placed in isolated cells without being provided documentation evidencing the reason or given a review for such a placement. In the majority of cases detainees do not know whether they are in disciplinary or administrative segregation, how long they will be in segregation or that they may appeal their custody placement. In many of these cases, detention officials have not considered requests to be released from segregated units or provided any alternative arrangements to ensure that LGBT detainees are both protected and not subjected to cruel and punitive conditions.

Simon's experience is an example of a particularly vulnerable case. As a gay man who has suffered prior assaults, harassment and threats in his home country and while detained in the United States, Simon is especially susceptible to harassment. He is HIV-positive and, in order to maintain his health, requires constant medical monitoring and an environment with minimal stress and anxiety. Simon was placed in "protective custody" when he was detained in Eloy because he told officers that he had been previously assaulted and was afraid for his safety. While in "protective custody," he was made to wear an orange disciplinary jumpsuit and was shackled any time he was taken to court or for visitation. He felt humiliated and worried that the shackles would give the immigration judge the wrong impression and negatively affect his immigration case. Even though Simon's family wanted to visit him at the detention center, he did not want them to see him in shackles. As a result of these traumas, and compounded by his continued detention, Simon suffers from severe depression and anxiety.[44]

Detained Women in Arizona

Advocates have consistently campaigned for detention standards and regulations that specifically address the needs of immigrant women in detention. Since approximately 2000, INS/ICE began to detain large numbers of women in Arizona. There are approximately 300 women detained by ICE in Arizona on any given day at the Eloy Detention Center, a CCA-contracted facility. Adult immigrant women account for approximately 10 percent of the total detainee population in Arizona.

The ACLU-AZ interviewed and corresponded with over 50 women detained and formerly detained in ICE custody in Arizona. For the majority of the women, ICE detention was the first time many of them had ever been subjected to arrest and jail. As a smaller segment of the detained immigrant population, women often struggle to obtain basic needs and are at a heightened risk for harassment and assault while in custody.[45]

A 2009 report published by the University of Arizona's Southwest Institute for Research on Women (SIROW) documented the issues and detention conditions that immigrant women encounter in the facilities in Eloy and Florence.[46] Among those findings are that women did not receive adequate medical or mental health care, were often mixed together with women serving criminal sentences, and were often transferred from faraway states. In most cases, researchers found that women were separated from at least one child. In cases where children were placed in state custody, women faced significant obstacles in accessing their state's Department of Child and Family Services to participate in guardianship and custody decisions while they remained in detention.

"I have lived 11 years in this country, and I have two young children who need me," says Sylvia, a woman who was detained at PCJ. "Let ICE say that my children no longer need me; I am a single mother and my children depend on me, just like my parents, who are citizens. To this date, I have taken care of my parents who are sick, and I am a nurse. I cannot stand this incarceration any longer. That is what they want, to bring one to a point of despair so one will quit fighting her case."[47]

The Women's Refugee Commission also published a report in October 2010 detailing their findings after a delegation visited women detained in Florence and Eloy in the summer of 2010.[48] Sadly, despite the fact that a year passed between the two reports, many of the problems described in the SIROW report persist in the women's detention facilities.

Prior to summer 2010, women were also regularly detained at the privately-owned CADC in Florence, which had serious problems. Women reported that there were infestations of insects in the dorms; outdoor recreation was limited and inconsistent; there was mold in the bathrooms; and the temperature in the dorms was very hot. When the women tried to raise these problems with jail officials, they were ignored or discouraged from filing grievances.

"She felt as if she was being treated like an animal," one local attorney said about her client's experience while detained at that facility. "She was in a room with 14 other women, with one very dirty toilet. She had a rash all over her body – she is assuming that it was from the clothes she was wearing. She said that she only slept for about an hour a night. She frequently had nightmares. There was no air conditioning and no air in the room that she was housed in. One of the guards would leave the door open for them so that there would be a little bit of air circulating, but the others would make a point to keep the door closed at all times."[49]

Recommendations on the detention and treatment of vulnerable populations

- Amend the risk assessment tool to prioritize vulnerable populations – such as LGBT immigrants, pregnant or nursing mothers, families, and persons with medical or mental health issues – for release.
- Provide comprehensive training for officers on how to identify vulnerable populations, including LGBT individuals.
- Only use segregation as a last resort and ensure that all persons placed in segregation be afforded regular and meaningful access to visitation, medical care, the telephone, law library and other basic needs.
- Require ICE detention facilities to issue periodic reports about placements in segregation and continued use of segregation.
- Extend the Prisoner Rape Elimination Act's National Standards to Prevent, Detect, and Respond to Prison Rape to include immigration detention facilities.

VI Deficiencies in Medical and Mental Health Care

Adequate and timely medical and mental health care is critical for people in immigration detention. Many people will be held in custody for months and even years while they apply for legal remedies and await decisions from appellate courts. Detained refugees and asylum-seekers who have experienced severe trauma in their home countries and persons with existing medical conditions often suffer symptoms that are exacerbated by detention. In our interviews, even detainees with no previous medical problems expressed serious concern about changes in their physical and mental health while in custody, including depression, anxiety, sleeplessness and significant weight loss.

"Individual complaints regarding the provision of medical care should be carefully considered and responded to in a prompt fashion, and the overall provision of medical care should be systemically managed to ensure appropriate remedies are implemented where necessary."

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ICE Health Service Corps is primarily responsible for the medical and mental health care provided to individuals in ICE custody. In Arizona facilities, those responsibilities are also shared by county jail and private prison providers. The standards for medical care are governed by the ICE Detention Standards, which are not legally binding and vary in their application from facility to facility, even within the 22-mile area of the Arizona ICE facilities. Despite some changes in the provision of local medical care, persistent deficiencies and inconsistencies in the delivery of medical care continue to have a negative impact on the detained population in Arizona.

Among the most commonly reported problems by detainees in Arizona is that their requests for medical care were not taken seriously by detention staff, nor conveyed to appropriate medical staff. It was also reported that detainees experienced delays before being seen by or receiving treatment from a provider, and were not given care consistent with prior treatment. In some cases, detainees told us that they provided detention center medical staff with previous medical records and prescriptions, yet still did not receive consistent or timely care. In one case, a man suffering from bipolar disorder and depression told us it took medical staff approximately three weeks to provide him with his anti-psychotic medication. Upon intake at Eloy, he told a nurse about his condition and the names of the medications he had been prescribed. While he waited for his medication, he became increasingly frustrated and was eventually placed in isolation for "acting out" in general population.[50]

In a letter written to the ACLU-AZ, women detained at the Pinal County Jail stated that the medical care they were provided was inadequate. "The solution to all our physical ailments is 'drink lots of water' so our heads won't hurt," wrote one of the women. "'Drink lots of water' so our stomach won't hurt. 'Drink lots of water' because my ear hurts. 'Drink lots of water' because my back hurts. 'Drink lots of water' because I'm dizzy and feel like vomiting. 'Drink lots of water' because my tooth hurts. 'Drink lots of water' because I have high blood pressure. 'Drink lots of water' because I have low blood pressure. 'Drink lots of water' because I have acne."[51]

If you do not die here from sadness for being imprisoned, you'll die from lack of medical attention.[52]

Angela

Angela is a 40-year-old Jamaican woman who has been a lawful resident for 33 years. She is blind in one eye and suffers from a painful and recurring skin disease. Upon her detention at Eloy, she provided her medical history. Over the course of her four-month detention, she began to experience significant pain and swelling of her face. Despite multiple requests for pain medication and attention from a doctor, she was not provided care until she fainted in her housing unit and was rushed to a local hospital. She remained in the hospital for several days and was given intravenous antibiotics. Angela filed a grievance with the detention center about their untimely response to her medical needs. Soon after she filed her grievance, she was released from custody.[53]

I violated an immigration law of civil character not penal, but I'm being treated like a dangerous person without any right to have contact visits with my family...[54]

Helen

Helen was detained at Eloy Detention Center for one month. For almost the entire time she was detained, she experienced severe vaginal bleeding. She filed medical requests and told staff that this was not normal for her monthly period, but they still did not consider her situation a medical emergency. The bleeding became so severe that Helen experienced blurred vision, fainting, and could not walk. Helen continued to file requests to see a doctor. Ultimately, detention officers called a medical emergency and Helen was taken to a local hospital, where doctors performed a complete hysterectomy.[55]

Cases involving persons with serious medical conditions also raise questions about ICE's methods for assessing a detainee's medical needs upon arrest. A detainee with serious health issues should not be placed in a detention setting, but rather released under supervised release or a community-based alternative program. In one case, the ACLU-AZ requested humanitarian parole for a Jamaican man detained at Pinal County Jail; he was diagnosed with a severe brain injury and suffered from daily seizures. At the time of filing our request, this man had suffered over 15 seizures while detained at the jail. The request for parole was denied despite extensive documentation of his medical condition, the negative effects of the detention setting on his physical condition, extensive family support, and the ability to obtain medical care upon his release.

Serious problems with medical care in detention facilities across the country have been widely reported by media, non-governmental organizations and in lawsuits that describe the dangerous and inadequate conditions in facilities across the country and among specific populations such as women[56] and the mentally ill.[57] A lawsuit filed in June 2007 and recently settled by the ACLU and ACLU of San Diego and Imperial Counties specifically cites the cases of 11 detainees who suffered a variety of serious medical and mental health issues that went untreated while detained at an ICE-contract facility in San Diego. In that case, ICE officials agreed to increase medical staffing, meet national standards on correctional health care, and change its policy on "non-emergency" medical care at the San Diego Correctional Facility (SDCF).[58]

These and many other deficiencies in the immigration detention medical care system indicate a failure by ICE to meet constitutional and human rights obligations, leading to needless suffering and even death. Following litigation and extensive media coverage of detainee deaths, ICE has also issued a directive for the Notification and Reporting of Detainee Deaths, which requires officials to notify various agencies, U.S. Congress and the deceased's family and consulate. Between October 2003 and January 2011, 118 immigrants died while in ICE custody. Ten immigrants died in custody in Arizona from various causes, including three suicides.[59]

Recommendations for addressing deficiencies in medical and mental health care provided to immigration detainees

- Require that detention standards include guarantees for the timely and effective delivery of medical and mental health care.
- Amend the risk assessment tool and provide updated parole directives to local field offices, emphasizing that persons with severe medical and mental health conditions be released on parole or into a supervised release or community-based alternative program. Any determination to continue to detain a person with major medical issues must be reviewed by an independent medical monitor.

VII Conclusion and Additional Recommendations

Arrest, detention, and deportation have devastating and long-term effects on individuals going through the process, as well as on their families and communities. The case examples and issues presented in this report are intended to serve as a necessary reminder of the pressing need for reform. Central to any reform is the need for ongoing discussions with advocates, detainees, their families and communities.

"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

International Covenant on Civil and Political Rights
Article 10 (1)
Ratified by the U.S. in 1992

The current immigration detention system in the U.S. violates a number of constitutional and international rights that are meant to ensure fair treatment and non-discrimination, access to justice and personal liberty, as well as to protect against inhumane and degrading treatment, arbitrary detention and arrest. These rights and protections are enshrined in the International Covenant on Civil and Political Rights, the Convention against Torture, and the Convention on the Elimination of All Forms of Racial Discrimination – treaties ratified by the U.S. that apply to the rights of migrants and detained persons.

In addition to the recommendations outlined throughout this report, it remains imperative that the U.S. Congress amend current immigration laws that have allowed the detention system to expand so rapidly, subjecting more and more people to dangerous and inhumane conditions of confinement. Specifically, Congress must review and narrow the list of criminal convictions under the Immigration and Nationality Act that subject individuals to mandatory detention, and must also provide greater discretion to immigration judges to grant bonds to persons that pose no threat and are not a flight risk.

While both DHS and ICE have been working to develop performance-based detention standards, this process has been significantly delayed and continues to be an ineffective way to monitor the vast network of detention facilities across the country. Congress should enact binding and enforceable detention standards applicable in all immigration detention facilities, including contract facilities. Finally, legislative action must be taken to extend the right to court-appointed counsel for indigent individuals undergoing immigration proceedings, and should expand funding for legal services to non-profit organizations offering free or low cost immigration legal services.

The ACLU of Arizona commends DHS and the local ICE office for their willingness to engage with advocates and attorneys on detention and enforcement issues. The agency must increase its efforts to limit the use of detention, especially for members of vulnerable populations and those with family and community ties in the U.S.

This country defends human rights but is turning into an oppressor and persecutor of immigrants.[60]

Ester

Ester, her mother, and younger sister are from Guatemala. During their arrest by CBP in the Arizona desert, Ester witnessed her mother being beaten by a CBP officer. Ester was pushed to the ground, which caused bruising to the left side of her body. While detained at a CBP jail, Ester's mother stated that she wanted to file a complaint but was told that she was going to be deported and that it wouldn't make a difference. Ester's mother and sister, who is a minor, were released but Ester was detained in Eloy. When she arrived at the detention center, she was examined and given medication for pain. She did not file a grievance or complaint with ICE or CBP. Ester said, "I didn't feel as if I had any rights. If I spoke out, who would listen? Who would help?" After being detained for three months, Ester was released on bail and reunited with her family.[61]

Endnotes

1 This figure does not include persons held in county jails and prisons pursuant to immigration detainers or those held in short-term custody along the U.S.-Mexico border.

2 Approximately 200 unaccompanied minors are detained in five separate facilities in the Phoenix area, while their removal proceedings before the immigration court are pending. Unaccompanied minors are in ICE custody but in the care of the Office of Refugee Resettlement Division of Unaccompanied Children's Services (ORR-DUCS). For more information about immigrant children in custody in Arizona, see the work of the Florence Immigrant and Refugee Rights Project at http://www.firrp.org/ and the recent report by the Women's Refugee Commission at http://www.womensrefugeecommission.org/reports/doc_download/656-migrant-women-and-children-at-risk-in-custody-in-arizona.

3 Correspondence with ACLU-AZ, June 2010.

4 Interview with ACLU-AZ (name withheld), August 2009.

5 For a general summary of ICE activities in Arizona, see http://www.ice.gov/news/library/factsheets/az-enforcement.htm.

6 Dora Schriro, *Immigration Detention Overview and Recommendations*, ICE Office of Detention Policy and Planning, (October 6, 2009).

7 Id.

8 By the end of 2010, these agencies included Maricopa County, Pima County, Yavapai County, Pinal County, Arizona Department of Public Safety, Arizona Department of Corrections, Phoenix Police, Mesa Police and Florence Police. See http://www.ice.gov/news/library/factsheets/287g.htm#signed-moa.

9 See http://www.ice.gov/doclib/about/offices/secure-communities/pdf/activated-arizona.pdf. The ACLU and other civil rights organizations challenged SB 1070 in *Friendly House et. al v. Whiting*, No. 2:10-CV-01061-MEA (D. Ariz. filed 05/17/10). The preliminary injunction blocking the law from going into effect was upheld by the Ninth Circuit Court of Appeals in *U.S.A. v. Brewer et. al*, No. 10-16645 (9th Cir. April 11, 2011).

10 GAO, *Immigration Enforcement: Better Controls Needed over Program Authorizing State and Local Enforcement of Federal Immigration Laws*, GAO-09-109 (January 2009); OIG *The Performance of 287(g) Agreements*, OIG-10-63 (March 2010); OIG, *The Performance of 287(g) Agreements Report Update*, OIG-10-124 (September 2010).

11 Interview with ACLU-AZ (pseudonym used), June 2009.

12 Correspondence with ACLU-AZ, August 2009.

13 In July 2009, for example, MCSO denied the Inter-American Commission on Human Rights access to its jails as part of a fact-finding mission on the rights of migrants in the U.S. See http://www.acluaz.org/issues/prisoner-rights/2009-07/371.

14 In October 2009, MCSO signed a revised 287(g) agreement with the federal government that allowed the county to continue its jail program but discontinued the street-level task force program, which had been in operation since 2007 and was the subject of great criticism for numerous civil rights violations. See http://www.azcentral.com/arizonarepublic/news/articles/2009/10/03/20091003arpaio-ice1003.html

15 Statistics as of December 2010. Maricopa County Sheriff's Office statistics available at http://www.mcso.org/.

16 The ACLU of Arizona serves as co-counsel in two cases challenging MCSO's unconstitutional police practices, including racial profiling. See, *Mora v. Arpaio et. al*, No. CV 09-0 1719-PHX-DGC, (D. Ariz. filed Aug. 19, 2009) (Challenging the unlawful arrest and detention of a U.S. citizen and lawful permanent resident during an MCSO worksite raid), and *Ortega Melendres, et. al v. Arpaio et. al*, No. 07-CV-2513-GMS, (D. Ariz. filed Dec. 12, 2007) (Challenging unlawful stops and arrests of Latino motorists during MCSO sweeps).

17 Correspondence with ACLU-AZ, June 2010.

18 Interview with ACLU-AZ (pseudonym used), November 2009.

19 Interview with ACLU-AZ (name withheld), June 2010.

20 Interview with ACLU-AZ (pseudonym used), July 2009.

21 Interview with ACLU-AZ (pseudonym used), July 2009.

22 Stephen Lemons, in "The Bird" column, *Phoenix New Times*, February 11, 2010: http://www.phoenixnewtimes.com/2010-02-11/news/no-room-for-arpaio-at-the-wells-fargo-inn-and-a-hispanic-homemaker-bears-witness-against-ice-and-mcso/.

23 See http://immigration.change.org/blog/view/immigrants_stuck_in_limbo_with_courts_backlog_at_all-time_high; http://www.chron.com/disp/story.mpl/metropolitan/6909471.html.

24 Email from NMD volunteer to ACLU-AZ, Feb 13, 2010; on file with author.

25 Email from NMD volunteer to ACLU-AZ, Feb 17, 2010; on file with author.

26 In June 2010, a coalition of organizations including the ACLU submitted a letter to the Department of Homeland Security identifying a number of problems with current detainer practices. The letter is available at http://www.aclu.org/files/assets/Detainers_revised.pdf.

27 Interview with ACLU-AZ (name withheld), June 2010.

28 The Inter-American Commission's findings and March 2011 report can be found at: http://cidh.oas.org/Comunicados/English/2011/21-11eng.htm.

29 Interview with ACLU-AZ (name withheld), August 2009.

30 In the winter of 2009-2010, ICE moved all of the women from the Pinal County Jail to CADC in Florence and EDC in Eloy. As of the writing of this report, there are no women detained at the Pinal County Jail.

31 Correspondence with ACLU-AZ, August 2009.

32 Letter from ICE Field Office to ACLU-AZ, November 2009; on file with author.

33 Correspondence with ACLU-AZ, August 2009.

34 Correspondence with ACLU-AZ, May 2010.

35 See http://www.dhs.gov/xlibrary/assets/press_ice_detention_reform_fact_sheet.pdf.

36 See http://www.ice.gov/doclib/foia/dfs/avgdailypop_fy09.pdf (last accessed December 15, 2010).

37 2008 ICE Performance Based National Detention Standards (hereinafter PBNDS) available at http://www.ice.gov/detention-management/.

38 Interview with ACLU-AZ, February 2010.

39 *Migrant Women and Children at Risk: In Custody in Arizona*, Women's Refugee Commission, October 2010; available at http://www.womenscommission.org/programs/detention/women-in-detention.

40 Interview with ACLU-AZ, (name withheld), December, 2009.

41 *Detained and at Risk: Sexual Abuse and Harassment in United States Immigration Detention*, Human Rights Watch, August 25, 2010; available at http://www.hrw.org/en/news/2010/08/25/us-immigration-detainees-risk-sexual-abuse.

42 Email from local immigration attorney to ACLU-AZ, April 2009.

43 2008 ICE PBNDS, Standard 2.15 Special Management Units.

44 Interview with ACLU-AZ (pseudonym used), June 2010.

45 See *Detained and at Risk: Sexual Abuse and Harassment in United States Immigration Detention*, Human Rights Watch, *supra note* 41.

46 *Unseen Prisoners: A Report on Women in Immigration Detention Facilities in Arizona*, University of Arizona Southwest Institute for Research on Women, January 2009. http://sirow.arizona.edu/files/UnseenPrisoners.pdf.

47 Correspondence with ACLU-AZ (pseudonym used), August 2009.

48 See *Migrant Women and Children at Risk, Women's Refugee Commission*, *supra note* 39.

49 Email from local immigration attorney to ACLU-AZ, July 16, 2010.

50 Interview with ACLU-AZ (name withheld), February 2010.

51 Correspondence with ACLU-AZ, August 2009.

52 Correspondence with ACLU-AZ, December 2009.

53 Interview with ACLU-AZ (pseudonym used), November 2009.

54 Correspondence with ACLU-AZ, December 2009.

55 Interview with ACLU-AZ (pseudonym used), August 2010.

56 Human Rights Watch, *Detained and Dismissed: Women's Struggles to Obtain Health Care in United States Immigration Detention*, March 2009, http://www.hrw.org/en/reports/2009/03/16/detained-and-dismissed; Southwest Institute for Research on Women, *Unseen Prisoners: A Report on Women in Immigration Detention Facilities in Arizona*, January 2009, http://sirow.arizona.edu/files/UnseenPrisoners.pdf.

57 Texas Appleseed, *Justice for Immigration's Hidden Population: Protecting the Rights of Persons with Mental Disabilities in the Immigration Court and Detention System*, March 2010, http://www.texasappleseed.net/index.php?option=com_docman&task=doc_download&gid=313&Itemid; Human Rights Watch and ACLU, *Deportation by Default: Mental Disability, Unfair Hearings, and Indefinite Detention in the US Immigration System*, July 2010, http://www.aclu.org/human-rights/deportation-default-mental-disability-unfair-hearings-and-indefinite-detention-us-immig.

58 *Woods et. al. v. Morton et. al,*. No. 08-55376 (9th Cir. 2011); http://www.aclusandiego.org/news_item.php?cat_id_sel=002&sub_cat_id_sel=000014&article_id=001095.

59 ICE List of Deaths in ICE Custody, http://www.ice.gov/doclib/foia/reports/detaineedeaths2003-present.pdf (Note that ICE reports that Mr. Rogelio Canales-Baca from Honduras died at the Pike County Jail in Pennsylvania, and was detained at the Pinal County Jail in Arizona. Based on information obtained via FOIA, however, Mr. Canales-Baca was detained at the Pinal County Jail in Arizona where he was found in his cell at the time of his death by hanging).

60 Correspondence with ACLU-AZ, August 2009.

61 Interview with ACLU-AZ (pseudonym used), June 2010.

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