

[Locked Up but Not Forgotten: Opening Access to Family & Community in the Immigration Detention System](#), from **NYU School of Law Immigrant Rights Clinic** (April 2010)

The report focuses on the role of family and community visitation for detainees within the detention system, emphasizing its importance to meeting the needs of detainees, and the need for visitation policy reform at ICE and in Congress.

- **Findings:**

Family and community visitation boosts detainees' morale, facilitates transitions back into communities, both domestically and in detainees' countries of origin, provides a vital link to families who do not visit for fear of deportation, and assists detainees in pursuing their immigration case, securing letters of support from the community, and gathering funds for bond and relief applications. Visitors also help mitigate deficits in the level of medical care provided, pressure facilities to improve conditions, and help detainees navigate complex and abstruse grievance procedures.

Unfortunately, detainees in local jails are given minimal access to family and community members, and visitation is dependent on often arbitrary and detrimental facility rules that impair positive community participation by relying on a detention standard that treats visitation as a security concern meriting substantial restriction.

- **Recommendations:**

As a baseline, ICE should abandon the practice of detention except where immigrants pose a flight risk or danger to the community.

ICE should terminate its reliance on state and local jails. It should increase guaranteed visitation opportunities, and should permit all family members to visit a relative in detention, regardless of visitors' immigration status.

ICE should limit transfers, and give detainees advance notice and opportunity to prepare when transfers are necessary. ICE should also ensure that detainees receive free or low-cost telephone access.

Congress should repeal the mandatory detention law, and provide detainees with legal counsel.

[Locked Up Far Away: The Transfer of Immigrants to Remote Detention Centers in the United States](#) from **Human Rights Watch** (December 2009)

This report examines the scope and human rights impacts of U.S. immigration detainee transfers between detention centers. It analyzes previously unpublished Immigration and Customs Enforcement (ICE) data, as well as interviews with detainees, family members, advocates, attorneys, and government officials.

- **Findings:**

Between 1999 and 2008, 1.4 million detainee transfers occurred. Transfers are more common than previously believed and are increasing in number, more than doubling from 2003 (122,783) to 2007 (261,941). The large numbers of transfers are due to ICE's use of detention as a tool for immigration control, and the absence of effective policies to prevent unnecessary and burdensome transfers. Although transfers in the criminal justice system are limited by the Sixth Amendment right to face trial in the jurisdiction where a crime occurred, ICE has staunchly opposed any legal or policy limits to its immigration transfer power.

Although non-citizens are often originally detained near their place of residence, they are routinely transferred by ICE hundreds or thousands of miles away to remote detention facilities. Non-citizens residing in highly populated cities, such as New York or Los Angeles, are being transferred to remote facilities in Arizona, Louisiana, or Texas. Almost invariably, there are fewer prospects for finding an attorney in the distant locations to which they are transferred. Transfers occur frequently and without warning, such that family members and attorneys may spend days or weeks tracking down a vanished detainee. Transfers often present insurmountable obstacles to detainees' access to counsel, impede their rights to challenge detention, often result in huge personal strains on them and their families, and can ultimately result in wrongful deportations. Finally the great numbers of transfers send detainees to the Fifth Circuit, a circuit known for its low ratio of immigration attorneys to detainees, and for its hostility to the rights of non-citizens.

- **Recommendations:**

ICE needs a transfer policy with greater clarity of purpose and protections against abuse. New guidelines should be issued by ICE and the Executive Office for Immigration Review (EOIR) so that transfers occur only in instances in which human rights are not threatened.

Federal regulations should be amended to require that the Notice to Appear (the document stating the government's reason for believing an immigrant is deportable) is filed with the immigration court nearest to the location where the detainee is arrested. Furthermore, Congress should amend the Immigration and Nationality Act to place a reasonable check on ICE's transfer authority.

To address deprivation of access to counsel, new facilities should be located where there is a significant immigration bar or legal services community. ICE should revise detention standards to refrain from transferring detainees who are represented by local counsel, whenever possible; reinstate transfer standards which previously required notification to counsel once the detainee is en route to a new facility, and require that such notification be completed within 24 hours from the time the detainee is en route. Also, in collaboration with the EOIR, ICE should establish a pilot project providing low-cost or pro bono legal services to immigrants held in remote detention facilities.

Finally, alternatives to detention should be utilized whenever possible.

[Recommendations for Reforming Our Immigration Detention System and Promoting Access to Counsel in Immigration Proceedings](#) from **The Constitution Project** (December 2009)

This report discusses the growth in the use of immigration detention and the lack of sufficient access to counsel for non-citizens in removal proceedings.

- **Findings:**

Increasing numbers of non-citizens are subject to removal from the U.S., and have been spending longer periods in detention while their removal proceedings are pending. The number of non-citizens in immigration detention during removal proceedings has increased threefold since 1996, due to increasingly restrictive immigration laws and narrower interpretations of those laws. More than 300,000 people are held in immigration detention each year. Despite the “civil”—as opposed to “criminal”—nature of immigration law offenses, detainees are often held in state and local jails, many of them in substandard, remote facilities. In the last five years alone, media coverage has highlighted 83 deaths within immigration facilities lacking adequate medical care.

Additionally, the laws governing removal are complex and may prove overwhelming for individuals with little or no knowledge of English. Unlike criminal defendants, non-citizens in removal proceedings have no general right to government-funded counsel, despite the magnitude of the deprivation at stake in a deportation case. Nearly two-thirds of non-citizens in removal proceedings are unrepresented.

- **Recommendations:**

In order to facilitate pro bono representation: the Board of Immigration Appeals’ (BIA) Pro Bono Project should be expanded to accommodate a large percentage of the BIA’s caseload; the federal Legal Orientation Program should be provided to all respondents in removal proceedings; a federally-funded system to refer indigent non-citizens in removal proceedings to pro bono attorneys should be established; and the Department of Justice (DOJ) and EOIR should provide guidance to Immigration Judges on how to encourage pro bono representation.

In order to remove barriers to legal representation, the Department of Homeland Security (DHS) and DOJ should: discourage the involuntary transfer of detainees when transfer adversely affects an existing attorney-client relationship; discourage the construction and use of detention facilities in geographic areas without sufficient access to interpreters and attorneys; allow respondents sufficient time to secure representation for appeals before the BIA; and provide information on federal court petitions for review in BIA decisions rejecting appeals.

Revised detention policies should reflect due consideration for vulnerability of asylum-seekers and for the community ties that lawful permanent residents (LPR) have developed in the United States. Furthermore, in the area of access to counsel, Congressional action is needed to ensure fair process for non-citizens subject to removal. Congress should amend the Immigration and Nationality Act (INA) to afford immigration judges discretion to appoint counsel for indigent non-citizens in standard removal proceedings.

[Jailing Refugees: Arbitrary Detention of Refugees in the US Who Fail to Adjust to Permanent Resident Status](#) from **Human Rights Watch** (December 2009)

This report examines the arbitrary and indefinite detention of resettled refugees who fail to comply with the requirement that they adjust to LPR status after one year in the U.S. It urges amendments to the INA to eliminate mandatory detention of refugees who have not adjusted status, and recommends making adjustment of status automatic upon refugees' admission to the U.S.

- **Findings:**

In August and October 2009, Human Rights Watch interviewed refugees detained by ICE, in Arizona and Pennsylvania who had failed to adjust to LPR status after one year in the U.S. These refugees are held in ICE detention until their adjustment of status applications are processed and adjudicated, which can last from months to years.

Many refugees did not understand the requirement to apply for LPR status after one year in the U.S. The few who did know of the requirement were unaware that there would be negative legal consequences for failure to apply. There is no expiration date on the I-94 card that refugees receive upon entry, so many assume that they have permanent permission to live in the U.S. Limited English language skills further increase the likelihood that refugees will fail to understand the need to apply for adjustment. Furthermore, the government does not remind refugees of the need to adjust, and even issues travel documents to refugees who have not adjusted after one year, allowing them to travel outside the U.S.

ICE's indefinite detention of resettled refugees causes severe psychological stress and anxiety to an already vulnerable population, who, by definition, are individuals who fled their countries of origin due to past persecution or a well-founded fear of future persecution. In addition to the negative consequences to refugees and their families, DHS's policy of detaining unadjusted refugees is unnecessarily costly to US taxpayers.

- **Recommendations:**

Detention should only be imposed for a clear legal reason, be of a defined duration (renewable only if the requirements for detention still apply), and only be carried out as a last resort, with the justification for detention diminishing the longer a person remains detained.

The majority of resettled refugees are not a flight risk, nor do they pose a danger to their communities. Permitting refugees to file their LPR applications without placing them in detention would greatly reduce the cost to taxpayers and eliminate the disruption to refugees and their families.

A more durable solution would be to grant LPR status to resettled refugees at the time of their admission into the U.S. Legislation should be enacted to amend the Immigration and Nationality Act to eliminate the requirement of adjustment of status after one year and the correlated detention of unadjusted refugees.

[The U.S. Immigration and Customs Enforcement Process for Authorizing Medical Care for Immigration Detainees](#) from **Department of Homeland Security Office of the Inspector General** (December 2009)

This report evaluates the effectiveness of the Treatment Authorization Request (TAR) process that ICE uses to arrange and pay for the medical care of immigration detainees. It identifies various limitations that hinder the processing of medical requests, such as administrative burdens and incomplete submissions.

- **Findings:**

For nonemergency care, detention facilities are required to submit TARs when detainees need health services. The Division of Immigration Health Services (DIHS) employs a Covered Services Package to outline general medical coverage policies.

A detainee may request health care that onsite clinicians can provide without further review from DIHS. However, when the healthcare request exceeds the capabilities of the onsite clinic, the facility submits a TAR request, requesting offsite care. TAR requests serve to limit medical treatment to that within the DIHS coverage policy. Managed care coordinators (MCCs), the nurses based at DIHS headquarters, evaluate the requests based on existing coverage policy, to ensure that the care requested is within the scope of the Covered Services Package.

From October 2006 through March 2009, ICE received more than 110,000 requests for offsite medical care. The MCCs expressed concern regarding insufficient staffing to meet their workload. MCCs are critical to the interaction between ICE and offsite medical providers. They can serve to lessen problems that facilities and health care providers encounter, such as difficulty locating an appropriate specialist or difficulty obtaining a timely appointment.

Pursuant to ICE detention standards, detention facilities must provide detainees an “unrestricted opportunity to freely request health services.” Cases of delayed authorization have prompted advocacy groups to allege that ICE has difficulty providing necessary care to immigration detainees.

- **Recommendations:**

The existing medical treatment request process can be improved through a reduction in pre-authorization review, expansion of case management functions, and improvement in relationships with outside medical providers who deliver care to immigration detainees.

Since more than 97% of TARs are approved, and many that are denied are denied because of incomplete information and are eventually approved when resubmitted, the TAR process should be changed to decrease the amount of pre-service review. Additionally, MCC roles should be changed to ensure more case management for detainees and support to detention facilities.

Additional case management and enhancements to the way ICE authorizes medical services would improve overall detainee health care. A change to the TAR submission process can support expanded case management and a greater focus on retaining

physicians and hospitals in areas near ICE detention facilities. With a reduction in the administrative burden associated with the TAR process, local MCCs and expanded support to facilities, ICE can better meet its legal responsibilities for detainee health care.

[Huge Increase in Transfers of ICE Detainees](#) from **Transactional Records Access Clearinghouse** (December 2009)

This bulletin provides statistical data on transfers of ICE detainees.

- **Findings:**

In 2009, the total of individuals held in ICE detention reached an estimate of 369,483 detainees, more than twice the number in 1999. As the number of detainees has grown, ICE has not attempted to balance where it located new detention beds with where individuals were apprehended. Instead, ICE has adopted a free-wheeling transfer policy to deal with resulting imbalances. Under this policy, ICE often transports detainees from their point of initial detention to locations often over long distances and frequently in remote areas. The number of detainees that ICE has transferred each year has grown much more rapidly than the already surging population held in custody by the agency.

In 1999, one out of every five (19.6%) of detainees was transferred. During the first six months of 2008, the majority (52.4%) of detainees were transferred. Furthermore, ten years ago, one out of twenty detainees experienced multiple transfers (5.6%). In 2008, one out of four detainees (24%) was subject to multiple transfers.

As a result of these trends, the number of times that detainees are transferred actually exceeds the total number of individual detainees.

[An Innovative Pro Bono Response to the Lack of Counsel for Indigent Immigrant Detainees](#) from **City Bar Justice Center NYC Know Your Rights Project** (November 2009)

This report analyzes data on 158 detainees counseled by pro bono volunteers at the Varick ICE detention facility, between December 11, 2008 and July 9, 2009, in Lower Manhattan.

- **Findings:**

Of the 158 detainees counseled, 39.2% of them had possible meritorious claims for relief from removal. 10% of the detainees interviewed had been granted bond, but the amount was set so high that they could not raise the funds and thus remained detained. The overwhelming majority of the detainees interviewed (85%) had been living in the United States for more than five years; 65% had been living in the country for over 10 years; and 28% had been in the U.S. for more than 20 years.

Almost none of the immigrants interviewed had any knowledge of the provisions of law under which they might have a defense to removal. Although the Varick facility includes a law library, very few of the detainees mentioned having used it or being able to do legal research on their own. For many of them, the pro bono volunteers were the only lawyer they had spoken to about their case.

Some of the detainees interviewed were shipped to other parts of the country where access to counsel is even less available than in the New York City metropolitan area. Some were transferred before the volunteer attorney helping them could finish researching the case.

- **Recommendations:**

A significant number of the detainees interviewed at the Varick facility had colorable claims for relief from removal. The City Bar Justice Center recommends that there be government-funded appointed counsel for all detained immigrants who cannot afford private counsel.

90% of those granted a bond were not able to post it. Bond amounts for detained immigrants with family and ties in the New York City region should be set substantially lower, and alternatives to detention should be used whenever possible. Granting manageable bonds to individuals who do not pose a security threat or flight risk would reduce the cost to the government of housing the individual and would put the individual in a position of greatly increased access to legal counsel and resources. Detainees already consulting with attorneys based in the New York area should not be transferred for the duration of their proceedings.

[Attorneys' Perspectives on the Rights of Detained Immigrants in Minnesota](#) from the **University of Minnesota Hubert H. Humphrey Institute of Public Affairs** (November 2009)

This report presents the finding from a systematic sampling of attorneys who reported on violations of rights of detained immigrant clients. Since many immigrants rarely understand the detention process or are aware of their rights, attorneys were surveyed as an important source of information on the rights of detained immigrants.

- **Findings:**

The report points to ICE's mission to "protect national security by enforcing our nation's customs and immigration laws" and their stated priorities to combat human trafficking and smuggling, violent transnational gangs, and sexual predators. Despite this mission, a substantial portion of ICE's budget and workforce is dedicated to arresting and detaining non-violent working immigrants.

38% of the immigration lawyers in the study reported that, during the past two years, they had represented at least one U.S. citizen who was wrongly detained by ICE and held in immigration detention. In addition to U.S. citizens, attorneys surveyed also reported representing non-citizens who were in the country legally.

Many immigrants are lost in the opaque detention system without being able to contact attorneys, family or friends. Lawyers in the study reported that it takes an average of 6 days before they are able to make initial contact with their detained clients. This leads to the majority of immigrant detainees being deported without ever having consulted with a lawyer.

Almost all of the attorneys mentioned language barriers faced by their clients, and many reported that detention facilities lacked foreign language interpreters, making communication nearly impossible. The inability to communicate exacerbates immigrants' difficulties using telephones, accessing funds and personal documents, receiving visitors, and obtaining medical care.

- **Recommendations:**

Foreign-born persons should be provided with the same protections as U.S. citizens when they are arrested and detained. DHS has issued ICE detention standards that address a detained immigrant's right to safety and freedom from physical violence, right to access to medical care, right to communication via mail and telephones, rights to family visits, and right to representation. From the perspective of attorneys in Minnesota there are clear violations of even the most minimal standards.

The report urges federal and local authorities to take immediate steps to make the ICE standards mandatory for all detention facilities, to carefully monitor compliance and to publish regular reports listing violations.

[The Los Angeles County Sheriff's Department 28th Semiannual Report](#) from **Police Assessment Resource Center** (October 2009)

This report analyzes how the Los Angeles Sheriff's Department (LASD) handles undocumented immigrants from initial arrest until release. It contrasts the old and proposed new agreement between Los Angeles County and ICE. ICE has had a presence in Los Angeles County jails since 2005 and has presented a proposed new agreement to the County on a take it or leave it basis. The report further looks at the conditions at the Mira Loma Detention Facility (Mira Loma), the largest public detention facility to contract with ICE nationwide.

- **Findings:**

Under the proposed new ICE agreement, the LASD would have nearly complete responsibility for processing inmates for deportation. The proposed agreement shifts most of the work previously performed in the jail by ICE to the LASD Inmate Reception Center (IRC), dramatically increasing the administrative and resource strain on the IRC. The IRC processes 200-300 people a week, and is already overburdened as it is.

The report found that Mira Loma is a well-run and well managed jail. It serves as a model for low to medium security jails. The problem is that it is, nevertheless, a jail. The detainees housed in Mira Loma are a combination of asylum-seekers, individuals charged with civil violations of immigration laws, and persons who have already served time for any crime they may have committed in the past. It may not be appropriate to subject them to detention designed for convicted criminals.

- **Recommendations:**

Immigrant inmates are divided into three levels, based on how great a risk ICE believes the inmate to pose to the community. The three levels are not fully defined in the proposed ICE agreement. The scope of these levels must be clearly defined so that the LASD understands which crimes are top priorities to ICE. Given that there is no ability to track individually who is receiving an ICE detainer as a result of an interview, the LASD

should create a tracking mechanism that distinctly captures this data and enables analysis.

Detainees at Mira Loma are permitted to meet with retained lawyers at any time. However, attorney meetings occur in the Visiting Room, where all other visitations also occur. Mira Loma should provide an Attorney Room, separate from the regular Visitor Room, in order to enable attorney-client privacy.

There is never any physical contact permitted between detainees and their family at Mira Loma, no matter the level of risk or proximity of impending deportation. Detainees are only permitted to meet with family members behind a glass partition, which extends, not only between the detainee and visitors, but above them as well, creating a cage. The jail's stated reasoning is that there is a risk of exchange of contraband. The report recommends that contraband concerns be handled in other ways, including metal detectors and searches of visitors and recommends that detainees receive physical contact with their families.

The conditions of confinement at Mira Loma should better reflect the detainee population, 22 percent of which have no serious criminal background. Additionally, detainees wait an average of 6 to 8 weeks before their first master calendar hearing; there is a need to increase the number of immigration judges hearing cases at Mira Loma. Currently, three immigration judges, one of which presides via video-conferencing, hear 800 cases a month there.

[Immigration Detention Overview and Recommendations](#) from **Department of Homeland Security Immigration and Customs Enforcement** (October 2009)

This report describes the current ICE system of detention and outlines a framework of reforms and recommendations based on seven components that ICE must address in order to design a successful system of detention. The seven components are Population Management, Alternatives to Detention, Detention Management, Programs Management, Medical Care, Special Populations, and Accountability.

- **Findings:**
60 percent of aliens detained by ICE are apprehended through the Criminal Alien Program and the 287(g) program. Although these programs are focused on criminal aliens, not all aliens encountered through them have criminal convictions. With few exceptions, the facilities that ICE uses to detain aliens were built, and operate, as jails and prisons to confine pre-trial and sentenced inmates. Written guidance to ICE field staff is limited. ICE has not formally published policy and procedure or technical manuals specific to detention. ICE relies primarily on correctional incarceration standards, which impose more restrictions and carry more costs than are necessary to effectively manage the majority of the detained population.
- **Recommendations:**
Correctional standards impose more restrictions and carry more costs than necessary to effectively operate the facilities required for most of ICE's immigration detention population. ICE needs to develop Immigration Detention standards consistent with the

needs of its population. ICE should provide programs to the detained population commensurate with assessed need and create capacity within the organization to assess and improve detention operations.

ICE should develop a new set of standards, assessments, and classification tools that address care, custody restrictions, privileges, programs, and delivery of services consistent with risk level and medical care needs of the population. Access to legal materials and counsel, visitation, and religious practice should be expanded. ICE should also develop unique provisions for caring for special populations such as women, families, and asylum seekers.

There should be clear standards of care for detainees and monitoring of conditions, systematically, through a well-managed medical care system, with comprehensive initial assessments to inform housing assignments and ongoing care management.

ICE should implement federal oversight of detention operations and track performance and outcomes. It should place federal officials on-site to oversee detention operations, to intercede as necessary and to ensure that there are appropriate grievances and disciplinary processes.

[Immigration Detention: Can ICE Meet Its Legal Imperatives and Case Management Responsibilities?](#) from **Migration Policy Institute** (September 2009)

This report looks at whether the ICE database and case tracking system adequately serves the agency's need to adhere to its legal mandates governing bond and parole, to administer its custody review processes for post-removal order detainees, to assess the eligibility of detainees for alternative programs and to abide by national detention standards. The report further lays out what it deems as necessary for ICE to meet the data needs that are essential for the new ICE detention reforms to succeed.

- **Findings:**

The US immigrant detention system has long been governed by standards identical to correctional standards for criminal populations. ICE's goal for revamping detention is to bring it in line with ICE's civil detention authority. ICE intends to reduce its reliance on local jails and private prisons, address concerns about conditions of confinement, and centralize management of its detention system.

Although ENFORCE (ICE's database and case tracking system) captures important biographic, immigration status, and detention information, it may be missing information that would allow ICE to make informed and timely decisions.

The disclosure that 10 more detainees died while in ICE custody between 2004 and 2007 than had originally been reported underscores the need for detention reform and, specifically, for reform of ICE's information systems.

- **Recommendations:**

To create a system suitable for civil detainees, ICE may need more information on those in its custody than it currently collects, and different data on detainees will be needed as the system is revamped.

ICE must undertake an intensive analysis of its information systems and begin tracking important information about detainees, including whether the individual: constitutes a risk and why; meets the criteria for release or parole; may have a claim to US citizenship; has special medical conditions; has complied with the government; and whether the person has been treated in compliance with ICE's national standards.

ICE should review its contracts for detention space, with the goal of maximizing the cost savings realized by expanding alternative-to-detention programs. Additionally, ICE should capture information that would allow it to adhere to its national standards, including information on when and how it has complied with the standards.

ICE should also initiate an analysis of how ENFORCE relates to other databases within the DHS and other federal agencies; how ICE collects the information that populates ENFORCE; the fields that ENFORCE contains; and time-series data on all ICE detainees since ENFORCE was implemented.

[Detention Conditions and Human Rights Under the Obama Administration: Immigrant Detainees Report from Basile, Louisiana](#), from **New Orleans Workers' for Racial Justice** (July 2009)

This report is based on the accounts of over 100 immigrant detainees in a privately-run immigrant detention center in Basile, Louisiana, a facility known for repeated incidences of prisoner abuse. The detainees acted as human rights monitors, reporting human rights violations and substandard detention practices to jail staff, immigration officials, and advocates.

- **Findings:**

Detainee reports reveal that the Basile facility consistently violates ICE's own minimum standards, as well as all standards of human decency. Violations occurred in numerous areas, including: medical care, hunger strikes, disciplinary policy and administrative and disciplinary segregation, access to legal materials, telephone access and correspondence and other mail, food service, and religious practices. Generally, detainees reported scarcity and deplorable conditions, no access to fundamental information, severe isolation, lack of transparency, and lack of responsible oversight. These concerns are pushing detainees to the limit of their physical and mental well-being. Furthermore, the report finds that detainees who do complain about substandard conditions are subject to abuse and retaliation. Prison staff and ICE officials responded to complaints with hostility, refused to speak with detainees, offered no interpretation services, rejected written complaints, and took aggressive disciplinary action, including frequent use of solitary confinement. In response to these conditions, detainees have initiated a series of hunger strikes with limited success.

[A Broken System: Confidential Reports Reveal Failures in U.S. Immigrant Detention Centers](#), from **National Immigration Law Center, ACLU of Southern California, and Holland & Knight, LLP** (July 2009)

This report analyzes previously unreleased, first-hand reports in order to assess the federal government's compliance with its own standards for regulating immigrant detention facilities. After finding woefully inadequate compliance with standards of detention, the report goes on to make substantive recommendations on how to improve the government's oversight of conditions within the U.S.'s immigration detention system. In addition to reviewing more than 18,000 pages of unreleased documents, the authors deposed two senior ICE officials in the preparation of this report.

- **Findings:**

This report reveals pervasive and extreme violations of the government's own detention standards as well as fundamental violations of basic human rights. ICE currently holds more than 31,000 immigrant detainees per day, over 320,000 per year, in various facilities throughout the U.S. Despite the enormous size of the U.S. detention system, there is little information available on the internal practices of detention facilities, and the system itself is incredibly unregulated as the detention standards advanced by ICE are not legally binding, lack uniformity, and many expressly do not apply to Intergovernmental Service Agreement facilities (IGSAs), which are free to adopt alternative standards. Furthermore, the government's past attempts to monitor facility compliance with detention standards appear to be inadequate. This is due primarily to deficiencies within ICE's compliance unit, which is understaffed and poorly trained. Additionally, facility reviewers consistently make basic mistakes (such as identifying the wrong facility), and when a violation is actually identified, headquarters rarely required that additional steps be taken to cure the identified violation. Of the 15 detention standards relating to detainees' constitutional and statutory due process rights and their ability to effectively challenge their deportation cases while in detention, this report found serious and widespread violations of each standard by facilities across the U.S.

- **Recommendations:**

ICE should: promulgate regulations that give ICE's national detention standards the force of law; strengthen the current ICE national detention standards to ensure that they provide an appropriate level of protection for civil detainees; create and enforce a graduated system of penalties for noncompliant facilities; provide training on detention standards for all detention-related personnel in all immigration detention facilities; increase presence at detention facilities; ensure advocates can report standards violations without retaliation; ensure that IGSA facilities are held to the same standards as Service Processing Centers and Contract Detention Facilities; increase transparency by making publicly available a map of all facilities in use and a system to locate detainees; make public all reports and internal facility reviews and ratings; compile and make public data about most frequently violated standards, allowing for additional training; inform the public about new monitoring plans and seek feedback from NGOs; clarify standards and facility ratings criteria; conduct annual audits of facility reviews; require unannounced facility inspections; require facility reviewers to conduct confidential interviews with detainees and make interpreters available to facilitate interviews; strengthen review training and require "refresher" training; ensure that inspections are done by reviewers

who monitor detention standards full-time; require the reviewer to write a detailed narrative; require detainee grievances to be reviewed before ICE inspections or independent evaluators; appoint an independent auditor to monitor conditions, report to Congress, and suggest changes; expand legal rights and other programming; and establish a pilot program to provide court-appointed legal counsel to detained immigrants.

Congress should: codify key portions of the ICE national detention standards into statute; halt the expansion of the immigration detention system; and provide for more alternatives to detention.

[Immigration and Custom Enforcement Detention Bedspace Management](#), from Department of Homeland Security, Office of Inspector General (April 2009).

- **Findings:**

ICE has limited assurance that it is acquiring detention bedspace in a cost-effective manner. ICE has not implemented its 2007 National Detention Management Plan to increase use of larger, strategically located detention facilities to increase program consistency, improve conditions of detention, and lower costs. Instead, ICE has focused increasingly on removal versus detention and has utilized alternative facilities and strategies for addressing bedspace requirements. ICE has expanded reliance on ad hoc intergovernmental service agreements—since FY2006, ICE use of IGSA facilities increased 32%. Weak controls at IGSA facilities resulted in ICE overspending on detention and unauthorized charges, e.g. duplicate costs and excess overtime charges. ICE lacks sufficient data to forecast detention needs and conduct capacity planning.

- **Recommendations:**

The DHS OIG recommended that ICE 1) update plans for cost-effective acquisition of bedspace, 2) establish adequate and effective financial and management controls, and 3) improve data gathering and analysis capabilities. ICE concurred and provided planning details to make improvements.

[U.S. Detention of Asylum Seekers: Seeking Protection, Finding Prison](#), from **Human Rights First** (April 2009).

This report examines DHS detention policies and practices relating to asylum seekers since 2003. HRF interviewed detained asylum seekers, visited detention facilities, met with ICE and DHS officials and interviewed pro bono legal service providers to prepare the report.

- **Findings:**

DHS has dramatically increased the use of detention since taking over asylum and immigration matters in 2003 (between 2003-09, HRF estimates at least 48,000 asylum seekers have been detained). DHS has also increased the use of jail and jail-like facilities, a model inappropriate for asylum seekers, by 62 percent since 2003 (including new mega-facilities). ICE's parole policy is restrictive and unevenly applied throughout the country. Guidelines issued in Nov. 2007 increased parole eligibility requirements for asylum seekers. The system lacks safeguards to ensure that detention is justified in individual cases. Government spending on detention has skyrocketed, despite findings

that participants in alternative programs have high appearance rates. Asylum seekers' ability to win asylum is hindered by detention (lack of access to counsel, withdrawn claims, video conference hearings), and their health suffers in detention (increased trauma and depression, medical staff shortages, lack of interpreters).

- **Recommendations:**

Regulations and legislation should be put in place guaranteeing that asylum seekers have their custody reviewed in an immigration court hearing; the parole process should be reformed with a nationwide program for supervised release; DHS should stop using jails and jail-like facilities and stop opening facilities located in remote areas far from legal representation resources, immigration courts and medical staffing; DOJ should implement nationwide Legal Orientation Programs and end use of video hearings; conditions of detention should be improved (e.g., medical and mental health care); senior policy positions relating to asylum should be bolstered within DHS; DHS should provide timely and accurate statistics on detention of asylum seekers; the recommendations of the U.S. Commission on International Religious Freedom regarding expedited removal should be implemented.

[Immigration and Customs Enforcement's Tracking and Transfers of Detainees](#) from **Dept. of Homeland Security, Office of Inspector General** (March 2009).

- **Findings:**

ICE has improved efforts to track detainees, but it still has work to do in informing detainees of transfer destinations and providing quick medical examinations. Agency staff interviewed generally considered completing and providing copies of the transfer forms to detainees a low priority and did not know that they were responsible for informing detainees' legal representatives of transfers. Medical staff at detention facilities did not always conduct physical examinations within 14 days, as required by the National Detention Standard for Medical Care.

- **Recommendations:**

Internal controls are needed to strengthen detainee tracking, transfer notification standards should be improved, internal controls are needed to improve timeliness of health care provided to detainees, and internal controls are needed to ensure documentation in inspection reports of non-compliance with detention standards.

[Jailed without Justice: Immigration Detention in the USA](#) from **Amnesty International** (March 2009).

This report focuses on US immigration enforcement shortcomings, particularly with regards to detention, in an international human rights law context.

- **Findings:**

There is inadequate judicial review for civil immigration detentions, oversight of ICE officers' parole decisions is lacking, bonds vary widely and are often unrealistically high, lawful permanent residents can be placed in "mandatory detention" for minor offenses (akin to arbitrary detention), detention alternatives are more cost-effective and efficient, immigrant detainees face significant barriers to legal representation, despite

international standards immigrant detention is often punitive in nature (serious shortcomings in medical care, 74 detainee deaths in the past five years).

- **Recommendations:**

US congress should legislate for presumption against detention, US government should explore non-custodial detention alternatives, detention and conditions of release should be subject to judicial review, US congress should legislate to guarantee individual hearings on merits of detention, US should use enforceable human rights detention standards and establish independent oversight of compliance.

[Dying for Decent Care: Bad Medicine in Immigration Custody](#) from the **Florida Immigrant Advocacy Center** (March 17, 2009).

This study finds significant shortcomings in provision of health care to ICE detainees.

- **Findings:**

Conditions of medical care have been deteriorating, funding is inadequate, detention is not cost effective, ICE oversight of detention facilities is lacking, detention facility staff often treats detainees cruelly, detainees are transferred in retaliation, and essential healthcare is often delayed or denied.

- **Recommendations:**

The Administration and Congress should establish independent oversight commission; strengthen detention standards regulations and require compliance for ICE-run and contracted detention facilities; strengthen regulations for DHS to give a timely report of all detainee deaths; submit annual report to Congress including detailed information regarding the cause of death.

DHS and ICE should ensure consistent provision of medical care in detention facilities; improve the Division of Immigration Health Services' policies regarding approved treatment; require mental health screening/care; train ICE personnel to treat detainees more humanely.

[Detained and Dismissed: Women's Struggles to Obtain Health Care in United States Immigration Detention](#) from **Human Rights Watch** (March 17, 2009).

This study focuses on conditions of women's health care in immigration detention facilities.

- **Findings:**

The study finds that appropriate treatment was often delayed or denied, that detainees sometimes were denied healthcare request in retaliation.

ICE's Covered Services Package, revised in September 2008 but not yet implemented, now provides that detainees will have "a continuum of health services" including "gender-appropriate examinations."

- **Recommendations:**

DHS should synchronize care with UN migrant rights standards; incorporate American Public Health Association women's health standards for correctional institutions and National Commission on Correctional Health Care's policy on women's health care into ICE medical standards; improve oversight/tracking of detainees' complaints; require detention facilities to report grievances received from detainees to the DHS Inspector General.

ICE and the Division of Immigration Health Services should establish a formal case management process for pregnant women, nursing mothers or other women with serious health concerns; conduct outreach to detention facilities to give the same level of care as non-detainees.

[Halfway Home: Unaccompanied Children in Immigration Custody](#) from the **Women's Refugee Commission** (February 2009).

This study examines living conditions for unaccompanied children in immigration proceedings.

- **Findings:**

Care in the Division of Unaccompanied Children's Services (DUCS), a program run through the Department of Health and Human Services (HHS) is more appropriate than Border Patrol/ICE for unaccompanied minors in immigration proceedings. The INS-DHS changeover provided a needed separation of care (DUCS) and prosecution (DHS). DHS still is the "gatekeeper" that decides when children will be transferred to DUCS care.

- **Recommendations:**

Assure adherence to TVPRA (William Wilberforce Trafficking Victims Protection Reauthorization Act), especially with regards to determining age and screening for possible human trafficking victims. Collect information in a more consistent way, honor confidentiality (DUCS not to share classified files with DHS). More autonomy for HHS/DUCS to exercise their role as legal custodian of the unaccompanied children. Finalize the Joint Operations Manual to delineate the distinct roles of different agencies and increase transparency. Provide a plan for young adults between 18-21 years old. Provide adequate funding for DUCS. Improved DHS oversight.

[DHS: Organizational Structure and Resources for Providing Health Care to Immigration Detainees](#) from the **U.S. Government Accountability Office** (February 2009).

The GAO was requested to answer 3 questions relating to: (1) ICE's organizational structure, (2) annual health care spending/staffing/services provided to ICE detainees, and (3) determining whether ICE mortality rate can be compared to Bureau of Prisons or US Marshals Service.

- **Findings:**

(1) ICE's organizational structure is not uniform – recently HHS reassigned medical personnel to DHS. (2) ICE health care data is incomplete, but available data shows spending, staffing and services have grown proportionately: FY 2003 to FY 2007 ICE detainee health care spending went up 47 percent and population increased about 40

percent. (3) GAO could not compare ICE mortality rate to BOP or USMS, citing health care “goals, scopes of services, and population demographics.”

[Unseen Prisoners: A Report on Women in Immigration Detention Facilities in Arizona](#) from the **University of Arizona**, Southwest Institute for Research on Women, College of Social and Behavioral Sciences, Bacon Immigration Law and Policy Program, James E. Rogers College of Law (January 2009).

2007-2008 year-long study based on over 40 interviews covering the three detention facilities in Arizona, two of which are private for-profit prisons contracted by ICE.

- **Findings:**

This report found substandard medical and mental health care, the mixing of immigration detainees with people serving criminal sentences, family separation, inadequate phone access and legal information, harsh punitive conditions for non-criminal detainees, and aggressive prosecution and detention for low-risk detainees.

- **Recommendations:**

Mandatory detention statutes should be modified or eliminated. There should be more outside oversight of detention standards. There should be gender-specific regulations, maintenance of statistics, and training to protect victims of domestic or sexual violence. Family separation should be considered in detention determinations. The use of alternatives to detention should be expanded. The use of expedited removal should be limited. There should be more comprehensive regulation of medical care, including provisions for pregnant and nursing mothers, multilingual staff and materials, and separation of ICE detainees from criminal offenders, among others.

[Detention and Deportation in the Age of ICE](#) from the **ACLU of Massachusetts** (December 2008).

Report regarding ICE detention conditions based on interviews with 40 detainees, plus advocates and lawyers, and on government reports.

- **Findings:**

This report found that in 2007, ICE spent over \$10 million to transfer nearly 19,400 detainees. There are abuses during the deportation process, including coercion and lack of informed consent. Immigrants are being detained for excessive periods of time. Detention conditions are inadequate and include overcrowding, staff abuse, punitive conditions for non-criminal detainees, and inadequate medical care. There is a lack of oversight of local facilities contracted by ICE.

- **Conclusion:**

Immigration detention is not “punitive or retaliatory” by design, yet ICE subjects immigrant detainees to punitive treatment and inadequate living conditions to create disincentives for immigrants to seek legal recourse to remain in the country.

- **Recommendations:**

The Massachusetts State Government should end 287(g) agreements with DHS or improve oversight and monitoring; end residential and worksite raids or protect rights where conducted; improve access to immigrants arrested in raids.

Massachusetts Sheriffs and Jail Administrators should ensure humane treatment of ICE detainees; provide transparent and accountable grievance processes; provide transparent and accountable medical care systems; segregate immigration detainees from criminal detainees; ensure recreation access; improve access to visitation; reduce overcrowding; ensure dietary requirements are met; ensure functional telephones.

The US Congress should adopt legislation mandating humane treatment of ICE detainees and require regulatory detention standards with compliance reports; shift resources from detention to alternatives to detention; add due process protections to custody review processes; mandate reporting of deaths in detention.

DHS should decrease detention numbers, especially asylum seekers and medically or mentally ill persons; halt new detention center contracts pending review of alternatives to detention; promulgate enforceable detention standards; stop conducting raids pending review of fairness and efficacy; clarify the mission of the Division of Immigration Health Services; promote accountability and transparency within DIHS, including appeals of treatment request denials; investigate allegations of inadequate medical care; ensure retaliatory transfers are not used against detainees who file grievances; maintain regular presence of ICE personnel or toll-free telephone access at detention facilities; expand free phone access to DHS investigatory offices; improve oversight of detention facilities; promote independent reviews of detention facilities; ensure detainee access to programs at local jails; create real-time tracking of detainee location that is accessible to family and attorneys; ensure detainees are advised of deportation and allowed to coordinate with family; create tracking system for length of detention.

[Report on the December 2008 Humanitarian Visit to the Stewart Detention Center](#) from **Georgia Detention Watch** (December 2008).

This report outlines observations made by a group of concerned Georgia residents during a visit to the Stewart Detention Center. It is based on interviews with sixteen detainees and includes recurring concerns voiced by the interviewees.

- **Findings:**

This report collected allegations of violations of medical care standards (e.g., ignored medical attention requests); allegations of violations of food service standards (e.g., denial of food as a punitive measure, inadequate food safety and sanitation practices); allegations of violations of disciplinary system standards, allegations of violations of personal hygiene standards (including non-functioning toilets); and poor communication between staff and detainees (including verbal abuse of detainees).

- **Recommendations:**

Recommendations include improving response time to medical requests; ensuring compliance with the Performance-Based National Detention Standards; reducing average

length of detention stay to relieve stress or that contributes to mental health issues; ensuring compliance with food service standards; adhering to due process protections in the disciplinary system; raising staff wages to attract a more competent and bilingual staff; meeting the functioning toilet-to-men ratio mandated by personal hygiene standards; enhancing accountability and transparency around maintenance of detainee health records and detainee deaths; and enforcing detention standards through regulations.

[Crossing the Line: Human Rights Abuses of Migrants in Short-Term Custody on the Arizona-Sonora Border](#) by **No More Deaths** (September 2008).

This report documents civil rights and human rights abuses of short-term immigrant detainees (less than 72 hours in custody) apprehended by ICE and Border Patrol. The study surveys findings from volunteers and medical professionals working with detainees in Southern Arizona in 2006-2008.

- **Findings:**

This report found a failure to respect the “basic dignity” of migrants; denial of food and water; failure to provide medical treatment; overcrowded holding cells and inadequate detention conditions; verbal and physical abuse; dangerous transportation practices; family separation; repatriation of vulnerable women and children at night; failure to return belongings to detainees upon release; failure to inform detainees of their rights; a lack of translated materials; and coercion to sign forms. The report concludes that abuses are systemic and consistent.

- **Recommendations:**

The report recommends increased oversight of short-term detention practices.

[Voices from Detention: A Report on Human Rights Violations at the Northwest Detention Center in Tacoma, Washington](#) from **OneAmerica** (July 2008).

This report examines human rights violations against immigrant detainees in the Northwest Detention Center, a private prison contracted by ICE, in Tacoma, Washington. It is based on interviews with four attorneys, a family members, 41 detainees and ICE and GEO officials.

- **Findings:**

This report found violations of due process rights; coercion to get detainees to sign papers; abuse by personnel (including strip search incidents, physical abuse, and unreasonable transfers); widespread shortcomings in medical care (including a detainee who died in detention of heart failure); inadequate health care; insufficient food and widespread food poisoning; inadequate access to primary-language information; overcrowded and unsanitary living conditions; and violations of visitation rights.

- **Recommendations:**

Immigration policy should be synched with international human rights standards. Immigrants should be detained when there is a security or flight risk, and instead the use of detention alternatives and parole (especially for refugees) should be expanded. Detainees should have better access to attorneys. Multilingual printed materials should

be made available for detainees. More privacy should be allowed. Food quality and quantity for detainees should be improved. Improve medical and mental health care. Improve visitation rights and telephone access. Make grievance processes safer and more efficient. Improve leisure and educational activities.