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# **Prisons and Punishment:** **Immigration Detention in California**

January 2019

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Human Rights First is an independent advocacy and action organization that challenges America to live up to its ideals. We believe American leadership is essential in the struggle for human rights so we press the U.S. government and private companies to respect human rights and the rule of law. When they don't, we step in to demand reform, accountability, and justice. Around the world, we work where we can best harness American influence to secure core freedoms.

We know that it is not enough to expose and protest injustice, so we create the political environment and policy solutions necessary to ensure consistent respect for human rights. Whether we are protecting refugees, combating torture, or defending persecuted minorities, we focus not on making a point, but on making a difference. For over 30 years, we've built bipartisan coalitions and teamed up with frontline activists and lawyers to tackle issues that demand American leadership.

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## Executive Summary

In the name of national security, the Trump Administration has taken numerous steps that threaten the human rights of asylum seekers and other immigrants. Several of these punitive actions—such as family separation, asylum bans, and the “Remain in Mexico” plan—received significant attention. Less noted, however, is the increase in—and overuse of—immigration detention. In January 2019 Immigration and Customs Enforcement (ICE) reported that its average daily detainee population climbed to 48,000 people—an all-time high.

Now President Trump is requesting \$4.2 billion for 52,000 detention beds. That’s \$798 million more than the amount allocated by the Senate Appropriations Committee. While the administration claims the funding is needed “to address the recent surge in illegal immigration across the Southern Border,” border crossings are at historic lows. The increase in immigration detention is due largely to the refusal of ICE to release people on parole or other legal authority, often in violation of its own standards.

Other than Texas, California has more ICE beds than any other state. It is home to the second largest adult detention facility in the country, the Adelanto ICE Processing Center, which holds up to 1,940 people. In September 2018 the Department of Homeland Security’s (DHS) Office of the Inspector General (OIG) published a report on Adelanto, documenting deficient medical care, overly restrictive segregation, and violations of ICE’s own detention standards. Seven people died there between 2010 and 2017, making it the deadliest immigration detention center in the United States.

From October 2018 through early January 2019, Human Rights First investigated immigration detention in California.<sup>1</sup> Researchers visited the Adelanto facility, the Otay Mesa Detention Center, the Imperial Regional Detention Center in Calexico, the Mesa Verde Detention Center in Bakersfield, and the Theo Lacy Detention Center in Orange County. The Orange County Sheriff denied our request to visit the James A. Musick Detention Center, the only other detention facility in Southern California. During these visits, researchers accompanied by a team of health and legal professionals spoke to over 115 detainees as well as ICE officers and facility representatives.

Human Rights First’s findings include:

- ☑ Many asylum seekers and other immigrants are held for months and years even though they qualify for release under U.S. law, regulations, and other relevant criteria. They include Patrick,<sup>2</sup> a gay man from Namibia finally released after three years, a man from Russia released after 18 months when he was granted asylum, and a wheelchair bound Mexican woman detained for 14 months. At the Imperial facility, a Honduran asylum seeker has been detained for over four years despite having family in the United States.
- ☑ Detention is a barrier to legal representation. Many detained asylum seekers and other immigrants do not have a lawyer. The largest detention facilities are located more than one hundred miles from the nearest metropolitan centers, where legal services providers and attorneys are located. Communication barriers make it difficult for those in detention to contact potential counsel. Compounding the problem is a general lack of pro bono legal services for immigrants.
- ☑ Many held in immigration detention in California report denials of, or deficiencies in, health care, long waits to see health professionals, and a lack of proper medication. ICE officials at the Imperial detention center failed to provide an Indian asylum seeker diabetes medication for 11 days, even though he informed health staff of his condition upon arrival. A 33-year-old hearing-impaired Mexican asylum seeker waited over six months for a hearing aid after his old one broke. Detained women said numerous

gynecological problems go untreated. Further, following a December 2017 policy change ending the presumption of release for pregnant women, ICE now detains many pregnant women in California despite the well-documented harmful effects of detention on both pregnant women and fetal development.

- ☑ Immigration detainees at facilities in California suffer sub-standard conditions and abuse. The OIG recently reported on sub-par conditions at both the Adelanto and Theo Lacy detention centers. DHS was sued during the summer of 2018 for detaining people in inhumane conditions at the Victorville federal prison. The suit asserts that detainees were forced to remain in their cells for most of the day, lacked access to showers, and were denied visits and telephone use. Transgender women recounted numerous instances of verbal abuse and transphobic slurs from both detention facility staff and other detainees, and of being placed in segregation without an opportunity to appeal that decision.

Congress and the Trump Administration should end the massive overuse of detention, which not only violates the U.S. Constitution and human rights treaties, but also wastes billions of taxpayer dollars. Instead, ICE should use cost-effective and humane community-based case management programs, which produce near perfect appearance rates. Congress and the Trump Administration should also improve oversight, detention conditions, and legal release procedures. At the same time, the U.S. government, along with the states and municipalities, should provide more funding for legal representation for immigrants and asylum seekers, particularly those in detention. Human Rights First's recommendations are more fully detailed at the end of this report.

## Asylum Seekers and Immigrants are Jailed in California Facilities for Lengthy Periods

In a January 25, 2017 Executive Order, President Trump called for immigrants to be detained for the duration of their removal proceedings. ICE's use of detention is skyrocketing under the Trump Administration, greatly increasing both the number of asylum seekers and immigrants held in detention and the length of time they spend in these prison-like facilities. The number of individuals detained under this administration hit an all-time record daily average of 48,000 during the winter of 2018, 8,000 more than currently funded by congress.<sup>3</sup>

During the course of its research, Human Rights First met with or learned of many asylum seekers and immigrants jailed for well-over a year—including one detainee who was held in immigration detention for over four years in California. These asylum seekers come from all over the world, including El Salvador, Honduras, Haiti, Mexico, Namibia, and Russia. They include:

- **Patrick a gay man seeking asylum from Namibia who was detained for over three years at Theo Lacy.** Patrick has been unrepresented throughout his asylum case, but recently the U.S. Court of Appeals for the Ninth Circuit ruled there was substantial evidence of his past persecution, overturning the immigration judge's denial of asylum and remanding his case for further consideration. For much of his detention, Patrick was detained in a segregation unit because of his sexual orientation. He requested parole but was denied release. In December 2018 an immigration judge finally granted Patrick a \$2,500 bond in his *Rodriguez*<sup>4</sup> bond hearing, a hearing which is required under the *Rodriguez* case for certain detained individuals after 180 days of detention, after community members secured a sponsor willing to house him upon release.
- **A married couple, Rina and Aleks who fled Russia, were detained for 8 and 15 months respectively at Adelanto when Aleks was granted asylum by an immigration judge.** Aleks and Rina arrived at the southern border in June 2017 to seek asylum, were separated, and held in different parts of the Adelanto facility. After seven months of detention, Rina's depression and anxiety had steadily

deteriorated to the point that she attempted suicide in early 2018 while detained at Adelanto. After an immigration judge granted Rina a \$5,000 *Rodriguez* bond, which a local church paid, she was released in early 2018. Aleks was not granted bond and ICE denied each of Aleks's parole requests even though he submitted evidence establishing his identity, community ties, and lack of criminal history or flight risk. After an immigration judge granted Aleks's asylum application in November 2018, he was released after 15 months of detention and reunited with his wife.

- **Elvin, an asylum seeker from El Salvador who has been detained one year and six months at Otay Mesa.** An immigration judge granted Elvin a \$12,500 bond, but he remains in detention because he cannot afford to pay it. He is fighting his case on appeal without a lawyer and suffers from a medical problem for which he is not receiving treatment.
- **Ana, a Salvadoran asylum seeker who has thus far been detained 11 months in total, seven months at Musick and four months at Adelanto.** An immigration judge denied Ana's request for a *Rodriguez* bond because she does not have family in the United States. She reported that she fled her country because she was a police officer in El Salvador in an anti-extortion police unit who testified against gang members, but the Salvadoran authorities would not protect her identity. Describing her time at the Musick detention center she said "[i]t's torture to be in that place."
- **Marcel from the Democratic Republic of Congo has been detained for one year and eight months at Imperial.** Marcel was separated from his wife and child when they sought protection together at an official U.S. border entry point. His wife and child were paroled from ICE custody and are living in Washington State with family, but Marcel remains in detention.
- **Jose, a 25-year-old man seeking asylum from Mexico, has been detained for over one year, is currently at Mesa Verde.** He was first detained for seven months at the Contra Costa detention facility before it was closed. Then he was transferred to the Mesa Verde facility where he has been detained an additional four months. While his family used to drive one hour to visit him at the Contra Costa facility, the drive now takes four hours.

During Human Rights First's tours of these California detention centers, researchers met with other many long-term detainees, including:

At the Imperial detention facility, a Honduran asylum seeker who has been in detention for over four years.

- **At the Adelanto detention center**, a Russian woman seeking asylum who has been detained nearly a year, a Gambian man seeking asylum detained for two years and six months, a Cameroonian man detained more than one year, and a Haitian man seeking asylum who has been detained for two years.
- **At the Mesa Verde detention center**, a man seeking asylum from El Salvador, who is confined to a wheelchair, has been in immigration detention for two years and six months.
- **At the Otay Mesa detention center**, two transgender women asylum seekers who have been detained for over six months in the male housing units. ICE noted that one immigration detainee at Otay Mesa had been, at the time of the tour in November 2018, held for 1,984 days—five years and 159 days.
- **At the Theo Lacy detention facility**, a Haitian man seeking asylum who has been detained for two years.



## ICE Denies Asylum Seekers Release on Parole

Asylum seekers who request refugee protection at a U.S. airport or land border ports of entry—such as border posts at San Ysidro and Calexico—are termed “arriving” asylum seekers. U.S. regulations currently block them from receiving prompt immigration court custody hearings. As a result, ICE acts as both judge and jailer in deciding whether to continue to detain or release asylum seekers on parole. The standards for release of these asylum seekers are outlined in ICE’s 2009 Asylum Parole Directive, which states that those who meet certain criteria—which include a credible fear of persecution or torture, identity, and lack of security or flight risk—should generally be paroled.<sup>5</sup>

Former DHS secretary John Kelly stated in a February 20, 2017 memorandum implementing President Trump’s January 25, 2017 order that the parole policy was still “in full force and effect.”<sup>6</sup> However, a subsequent report issued by Human Rights First revealed that in the wake of the order, ICE rarely paroled asylum seekers at many facilities. ICE statistics released to the ACLU and Center for Gender and Refugee Studies (CGRS) through a Freedom of Information Act request showed that ICE was rarely releasing asylum seekers from detention facilities in parts of California, among several other districts. The Los Angeles field office—which oversees the Adelanto, Theo Lacy and James A. Musick detention centers—denied 92 percent of parole requests between February and September 2017.<sup>7</sup>

Human Rights First, along with the ACLU and CGRS, filed a lawsuit, *Damus v. Nielsen*,<sup>8</sup> challenging the systematic denial of parole to arriving asylum seekers in the Los Angeles field office and four other field offices across the country. A July 2018 order from a federal judge in *Damus* blocked the blanket denial of parole requests and required ICE to conduct individualized parole determinations and to release asylum seekers unless an individualized determination finds a person has not established her or his identity, is a flight risk, or poses a danger to the public.<sup>9</sup>

While parole grant rates have risen since the July 2018 order, local pro bono and other attorneys told Human Rights First researchers that the Los Angeles ICE field office continues to deny parole even when release is warranted, or to impose high—and often unaffordable—bonds as a condition for release. Attorneys report that despite submitting documents establishing their clients’ identities and community ties, ICE often fails to provide individualized reviews of parole requests and then inexplicably denies release based on vague and baseless claims that the asylum seeker constitutes a flight risk.

Due to ICE’s failure to follow the Parole Directive, asylum seekers who satisfy the its criteria may spend months, if not years, languishing in detention. For example:

- **Jordy, an 18-year-old Honduran tortured for his refusal to join a gang due to his Christian faith, was denied parole despite the support of a pastor and other community members and detained for over six months.** Jordy fled Honduras after he was kidnapped and tortured for his refusal. On Jordy’s 18<sup>th</sup> birthday, he was transferred from a juvenile Office of Refugee Resettlement shelter to the Adelanto detention center. Jordy’s pro bono attorney immediately submitted a parole request to ICE along with proof of Jordy’s identity, proof he had no criminal history, and a sponsor letter from a pastor who visited Jordy for months and promised to house and provide for him if he were released from detention. ICE denied the parole request claiming that Jordy was a flight risk. Jordy’s attorney prepared a second parole request supported by 15 letters of support from community members who expressed their commitment to support Jordy and ensure he attended all future hearings and immigration appointments. A month later, Jordy received another denial based on alleged flight risk. He was eventually released from detention after an immigration judge granted him an \$8,000 bond.

- **Leonel, an asylum seeker from Cameroon was denied parole and has been detained for over one year.** Leonel requested parole and submitted his national identity card, birth certificate, and supporting documentation from his U.S. lawful permanent resident cousin, including his cousin's passport and tax return. ICE denied his parole request claiming that he was a flight risk without even interviewing him. Despite the requirement under the Parole Directive that ICE interview all arriving asylum seekers regarding parole, Leonel told Human Rights First, "no one is ever interviewed" and that "parole is not working." Leonel reported that out of 80 people in his detention housing unit at Adelanto, only one was granted parole during his term of detention.
- **Rosa, an asylum seeker from El Salvador has been detained at Otay Mesa since May 2018.** After receiving a positive credible fear determination, Rosa submitted a parole request supported by her identity documents, along with identity and proof of residence documents from her aunt, a U.S. citizen who lives in Los Angeles. ICE never responded to Rosa's parole request. At Rosa's second preliminary immigration court hearing, she asked for additional time to find a pro bono lawyer to represent her and the immigration judge denied her request. She was ordered removed before submitting an asylum application, and forced to appeal the decision by herself.
- **Fshaye, an asylum seeker from Eritrea, was denied parole and only released after an immigration judge granted him asylum after seven months of detention.** Fshaye sought protection at an official port of entry and, as an arriving asylum seeker, was ineligible for an immediate immigration court bond hearing. He requested parole, providing proof of his identity and documents from his cousin, a lawful U.S. permanent resident. ICE denied his request, claiming that he was a flight risk. After six months of detention, Fshaye became eligible for a *Rodriguez* bond hearing before an immigration court. The judge set a *Rodriguez* bond of \$2,500 based on the same documents he submitted to ICE in support of his request for parole. The judge cited Fshaye's family ties in the United States and the strength of his asylum claim, which the judge believed mitigated any potential flight risk. Fshaye was unable to pay the \$2,500 bond, however, because he had no source of income. He remained in detention an additional month until an immigration judge granted his asylum application.

## ICE Sets Prohibitively High Bonds

Some detained immigrants and asylum seekers—including those already in the United States or those who crossed over between U.S. ports of entry—may have their continued detention assessed by an immigration judge in a custody hearing known as a "bond hearing." ICE also has the authority to release certain immigrant detainees from detention upon payment of a bond. In addition, as California is within the jurisdiction of the U.S. Court of Appeals for the Ninth Circuit, "arriving" asylum seekers and others detained for more than 180 days may be eligible for a bond hearing before an immigration judge pursuant to several rulings, depending on the geographic location of their detention and the statutory provision under which they are detained.<sup>10</sup> However, this essential safeguard is only available under the *Rodriguez* case after six months in detention. An example of the importance independent judicial review of an individual's continued detention, includes:

- **Josie, an asylum seeker from Ecuador was denied parole even though she had four siblings that are U.S. citizens, and was only released after obtaining a *Rodriguez* bond from an immigration judge after seven months in detention.** Josie sought protection at an official port of entry on the southern border in March 2018. Despite her four siblings in New York, as well as several other family members that are U.S. citizens, ICE denied Josie's parole request twice claiming she was a flight risk. After Josie was detained for six months, her pro bono attorneys submitted the same documentation to the

immigration court. DHS counsel requested a bond of \$12,000. The immigration judge, however, focused on the fact that she had no criminal record and extensive family ties in the United States and set a \$2,000 *Rodriguez* bond with conditions to be set by ICE upon her release.

Asylum seekers and other immigrants are often denied release or left to languish in detention due to bond amounts set too high for them to afford. These “high bond” or “no bond” policies cause many to remain in unnecessarily long-term and prolonged detention, penalizing asylum seekers and immigrants who lack financial resources. Human Rights First spoke to the following asylum seekers impacted by these policies during detention visits, including:

- **Roger, an asylum seeker from Nicaragua, detained at Imperial because he could not afford to pay an excessively high \$25,000 bond.** An immigration judge granted his bond but set it at \$25,000 based on arguments from DHS counsel that he was a flight risk. He remained in detention long after the bond grant because he could not afford to pay the amount set.
- **Arjun, a 21-year-old asylum seeker from India—who has a brother and a cousin that are U.S. citizens—remained in detention because he could not afford to pay a high bond.** Arjun’s brother and cousin who both live in Central California provided sponsor documents in support of his bond request. Nevertheless, an immigration judge set Arjun’s bond at \$17,500. He could not afford to pay the bond so remained in detention.
- **Armando, an asylum seeker from Cuba, was granted a \$15,000 bond during a *Rodriguez* bond hearing.** Armando submitted proof of his identity, his lack of criminal history, along with documents from relatives who are U.S. citizens offering to house him upon release from detention. The immigration judge set the bond amount at \$15,000 to mitigate the “flight risk” he found in the case.

### **Costly and Unnecessary Detention Violates International Treaties**

U.S. treaty commitments—the Refugee Convention, its Protocol, and the International Covenant on Civil and Political Rights—prohibit detention that is unnecessary, disproportionate, or otherwise arbitrary—as well as detention that lacks crucial safeguards such as court assessment of continued detention. Under these treaties, continued detention is prohibited when alternative measures could be used to assure compliance with immigration appointments.<sup>11</sup> Not only do Trump Administration detention policies and practices violate U.S. human rights and refugee protection commitments, but as a nation that has historically been a global leader in protecting vulnerable refugees, it also sets a poor example for countries around the world struggling to host very large numbers of refugees and other forcibly displaced people.

The Trump Administration’s massive over-reliance on detention is also extremely costly. DHS requested \$2.8 billion to fund an average daily level of 52,000 detention beds for fiscal year 2019.<sup>12</sup> The number of people ICE is detaining has hit an all-time high, with the daily average being around 48,000 people as of the start of 2019—8,000 more than funded by Congress.<sup>13</sup> ICE calculates the cost for each bed in adult immigration detention to be \$121.90 per day and \$319 per day for a family detention bed.<sup>14</sup> Comparatively, community-based management or other alternative to detention programs, have proven highly effective in assuring appearance and are significantly more cost-effective than the use of immigration detention.<sup>15</sup> For example, the ICE Family Case Management Program (FCMP) achieved a 99 percent attendance rate for ICE check-ins and 100 percent attendance rate at court hearings.<sup>16</sup> Cost estimates for these various alternatives-to-detention are between 17 cents and \$17 per adult and \$36 per family per day.<sup>17</sup> Yet, despite the successful achievements in the first year of operation, the Trump Administration cancelled the FCMP in 2017.<sup>18</sup> The desire to hold asylum seekers in detention, rather than



to employ more cost-effective alternatives, makes clear that these policies are aimed at penalizing those who seek protection in the United States and attempting to deter others from the same.

## Detention is a Barrier to Legal Representation in California

A national study on access to counsel in immigration proceedings found that only 14 percent of detained immigrants were represented by legal counsel; conversely 69 percent of those who were released obtained counsel.<sup>19</sup> The same study found that immigrants with representation, as compared to those without, were 15 times more likely to submit an application for relief, and five-and-a-half times greater to receive it.<sup>20</sup> For detained asylum seekers, having quality legal representation can be the difference between winning their cases, and facing deportation to the country where they fear persecution or torture. The difference is between spending months or years incarcerated and being released to seek protection safely in the community. Yet the U.S. immigration system does not provide court-appointed counsel to immigrants facing deportation who are unable to afford a lawyer, and they are forced to navigate a legally complex process with a government prosecutor opposing them in immigration court.

Without legal representation, asylum seekers and immigrants face great difficulties navigating U.S. asylum law and immigration court removal proceedings. For example:

- **Rosa, a 22-year-old Salvadoran woman detained for six months at Otay Mesa detention center, was ordered deported without counsel.** Rosa wanted to seek asylum, however she could not find a pro bono lawyer to represent her before the Otay Mesa immigration court and could not afford to hire a private immigration attorney. At her second preliminary hearing, Rosa asked the immigration judge for an adjournment to find a lawyer to help her prepare and file her asylum application. However, the immigration judge denied her request. She was ordered removed without having had the opportunity to submit an asylum application. She was forced to appeal this decision pro se to the Board of Immigration Appeals.

Asylum seekers and immigrants held in California facilities face tremendous difficulties securing legal representation, a challenge that is exacerbated by the remote location of many immigration jails and the gaps in funding for legal representation. For example:

- ☑ **Detention Facilities Are Often in Remote Locations and Far from Legal Services Providers.** Most of the detention centers in California are located far from metropolitan areas and legal service providers. Adelanto detention center is located two hours' drive from downtown Los Angeles. Mesa Verde detention center is located five hours from San Francisco, which is the immigration court that has jurisdiction over cases of individuals detained at Mesa Verde. A recent study by a University of Southern California researcher found that individuals detained at remote detention facilities often experience significantly longer detention.<sup>21</sup>
- ☑ **Some Remote Facilities Conduct Hearings by Video-Teleconference Raising Fair Hearing Concerns.** All individuals detained at the remote Mesa Verde detention facility are forced to have their cases heard by video-teleconference (VTC) with immigration judges and government counsel located in San Francisco. VTC proceedings present numerous technological and practical limitations which raise concerns over whether the individual's right to a fair hearing and due process are circumscribed.<sup>22</sup>
- ☑ **Remote Imperial Facility Lacks Both Legal Representation and Legal Orientation Presentations.** Imperial detention center is located near Calexico, a two-hour drive east of San Diego along the U.S. border with Mexico. The detention center has a maximum capacity of 782 individuals and a daily average

population of about 673. At the time of Human Rights First's visit in November 2018, 82 percent of those detained were identified as asylum seekers. Of those interviewed by Human Rights First, none reported having pro bono representation. The facility lacked even a Legal Orientation Program (LOP), the DOJ-funded program that provides basic legal information, assisting immigration detainees to make better informed decisions, obtain counsel, complete their cases faster, and ultimately saving taxpayers \$17.8 million a year.<sup>23</sup>

- ☑ **Insufficient Attorney Visitation Rooms and Delays.** Even where there are some pro bono legal services, attorneys report lengthy wait times to visit clients and insufficient visitation rooms to meet with clients in a confidential setting.

At the Adelanto detention facility, ICE and GEO set up an appointment call line where attorneys can call one business day in advance of their intended visit to make an appointment to see a client. However, attorneys report that the appointment line often goes unanswered, making it difficult to impossible to set up an appointment. Further, the east wing of the facility (where all the women and a smaller population of the men are detained) has only two attorney visitation rooms. As a result, even when the appointment line is answered, time slots are often full. Attorneys also reported that on both wings of the Adelanto facility, and regardless of whether they have an appointment or not, they wait on average at least 45 minutes to over an hour to see their clients.

At the Musick detention center, attorneys cannot set up client appointments in advance. Generally, attorney-client visitation is conducted in an open space at the facility where guards and ICE officers stand in the same room. There are two small rooms that attorneys can use if available, however, the guard station is located immediately next to these rooms with little privacy afforded.

At the Theo Lacy detention center, attorneys are only allowed to meet with their clients in non-contact booths, with their client separated from them by Plexiglas, that afford no privacy from neighboring attorneys or prison guards and make it more difficult for attorneys to complete simple tasks, such as reviewing documents with clients.

- ☑ **Barriers to Attorney-Client Communication by Phone.** In addition to being detained in facilities far from counsel and family, individuals in immigration detention must also contend with extortionate rates to place phone calls out of the facilities and phones are often located in a non-private setting that does not provide the confidentiality required for attorney-client calls.

The Mesa Verde detention facility was the subject of a class-action lawsuit and settlement agreement, *Lyon v. ICE*, that required ICE, among other things, to provide an increased number of private phone booths in the detention center and to offer phone credit or other accommodations for those who cannot afford to pay for calls.<sup>24</sup> Due to severe constraints on telephone use at the detention facilities, contacting attorneys, securing witnesses, and gathering evidence was nearly impossible. While the facility now has private phone booths in each of the dormitories, individuals are still forced to pay the high fees to make phone calls.

In December 2018, ICE, the Orange County Sheriff's Department, and GEO Group were sued for violating the constitutional rights of individuals detained at the Adelanto, Theo Lacy, and Musick detention centers by undermining communication between detained individuals and legal counsel.<sup>25</sup> The suit outlines how telephone access is severely restricted, non-confidential, and expensive to the point that many detained individuals have no opportunity to contact non-profit legal services organizations or private

attorneys for legal help.<sup>26</sup> The suit also describes how in-person meetings with counsel are extremely limited, further undermining effective representation.

- ☑ **Lack of Official Legal Orientation Programs at Several Large California Facilities.** The federal LOP has helped extend legal information to individuals in immigration detention by funding non-profit legal services providers to visit facilities and conduct presentations about the immigration system and individuals' rights. Only two of the California detention centers, Adelanto and Otay Mesa, have an official federally-funded LOP. While some local non-profit legal services providers conduct Know-Your-Rights presentations at other facilities, with their own limited funding, the efficacy of such programs is constrained. Groups report to Human Rights First that they experienced numerous obstacles, such as ICE being unwilling to provide lists of recently detained individuals in need of the presentations, as well as inadequate space and time to conduct the presentations in the detention centers.

Recently several important initiatives were established in Los Angeles,<sup>27</sup> Northern California,<sup>28</sup> as well as a statewide measure, to increase pro bono representation of immigrants in removal proceedings. However, each have restrictions on eligibility for representation, limiting the number of individuals who may receive pro bono representation. Carve-outs based on residency or criminal background should be eliminated from future funding, following in the example of the criminal justice system, to ensure due process in the immigration system. Further, despite the increase in funding through these private, local, and state initiatives, the need for pro bono representation in detention often exceeds the amount of help available. While additional action is needed to help address these gaps, the immigration system would be best served by court-appointed and government-funded legal counsel for immigrants and asylums seekers who cannot afford counsel, a move that would enhance the efficiency of the entire system.

## Deficient Medical Care at Facilities in California

At each of the California facilities Human Rights First toured, detained people complained of inadequate healthcare, long delays before being attended to by staff and health professionals, insufficient provision of medication for physical ailments, and lack of appropriate mental health care for survivors of torture and trauma. The accounts of individuals detained in these facilities, coupled with the findings of Human Rights First researchers, confirms that the immigration detention system is incapable of handling the health needs of those within the detention facilities' walls.

## Medical and Dental Needs Are Left Unmet

People detained at various California detention facilities reported that medical professionals often fail to provide adequate healthcare for new, existing, or emergency conditions. These accounts are corroborated by a September 2018 DHS OIG report, which found that the Adelanto detention center provided inadequate medical care to detainees.<sup>29</sup> The OIG also found that the Adelanto facility does not provide even basic dental care, despite the fact that ICE's Performance-Based National Detention Standards (PBNDS)<sup>30</sup> "expect detention facilities to provide dental care, including checkups, cleanings, and procedures" once the detainee has been detained for six months. The OIG reported that facility records indicate that dentists have not conducted any cleanings or cavity fillings in the last four years, despite detainees routinely being held for more than six months. One of the detention center's dentists stated that he "barely has time to do cleanings and screenings, so as a result he does not do fillings," but instead performs extractions. One detainee reported to OIG that several of his teeth fell out while he waited over two years for fillings.

At the Imperial and Mesa Verde detention facilities, dental care staff stated that no routine checkups or cleanings are provided to detainees until they are detained for at least one year.

Human Rights First met with the following individuals who recounted other unmet or neglected health needs:

- **An Armenian woman misdiagnosed with liver problems rather than ovarian cancer.** Irena, a 50-year-old Armenian woman detained at Adelanto, experienced severe stomach pain and swelling that often caused her to vomit. Once she was eventually taken to the hospital, medical staff misdiagnosed her with liver problems due to alcoholism. Irena, however, did not drink alcohol. Over the next three weeks, her health continued to deteriorate, and she was then released from detention. Upon release, a doctor diagnosed her with ovarian cancer.
- **A near-blind Cameroonian asylum seeker was left for months with dental problems.** Elsa, a woman seeking asylum from Cameroon detained at Imperial, suffers from near-blindness and other health ailments. She waited over four months in extreme pain to have several teeth pulled. Dental staff told her they could only remove the problematic teeth, as opposed to providing other preventative care, because their contract limited them to extractions.
- **A hearing-impaired asylum seeker waited over six months for a working hearing aid.** Andres, a 33-year-old hearing-impaired Mexican asylum seeker detained at Adelanto, has lived in the United States since 2003 and has three children who are U.S. citizens. He has been detained for the last 13 months and cannot hear out of his right ear and has limited hearing in his left ear. The hearing aid he was using when first taken into custody no longer worked properly. Six months ago, he had an appointment with a specialist who said he needed a new and improved hearing aid. He has been waiting since then for ICE to sign off on this request. Andres has even offered to pay for the hearing aid himself, but this request was denied.
- **A woman suffering from fibroids, vaginal bleeding, and pain waiting months to see a gynecologist.** Irene, a 37-year-old woman seeking asylum from Mexico has been detained for 14 months at Otay Mesa. For five months, she experienced pain in her abdominal area. She was finally taken to the hospital, in shackles, for an ultrasound after waiting three months for a response to her request. The hospital told her she has uterine fibroids and needed to see a gynecologist. Upon return to the detention center, she was given ibuprofen pain killers and told to wait for an appointment. She has been waiting two months despite complaining several times to CoreCivic staff about vaginal bleeding.

## Delays in Receiving Healthcare

Many individuals also reported long delays in receiving standard and emergency care from medical professionals at detention facility medical clinics. Human Rights First researchers frequently heard statements from detained individuals such as, “if you have an emergency, you can die before they respond.” A 21-year-old woman detained at Imperial who is seeking asylum from Guatemala recounted a guard telling her, “if you are breathing, you can wait” in response to her request for medical care.

The DHS OIG found that medical care at Adelanto is frequently delayed. The OIG reviewed 80 medical grievances filed between November 2017 and April 2018 and found delays in treatment for persistent conditions, lack of urgent medical care, and failure to provide prescribed medication. The OIG also interviewed detainees who complained about delays of weeks or months to see a medical professional. These findings are corroborated by a 2017 outside medical review and a 2017 quality improvement investigation conducted by the facility’s own

medical clinic that found that 60 to 80 appointments were canceled because there was not sufficient staff to escort detainees from their cells to the clinic.<sup>31</sup>

Human Rights First spoke to the following individuals detained in California who all described delays in necessary healthcare:

- **A woman hemorrhaged for over two months before receiving emergency care.** Roxana, a 40-year-old Salvadoran woman detained at Otay Mesa complained of hemorrhaging for over two months and was repeatedly ignored until she fainted. She was taken to the hospital and had to have a blood transfusion in the hospital parking garage.
- **A 53-year-old woman ended up in wheelchair in detention.** Marlana, a woman seeking asylum from Mexico, has been detained for 14 months at Otay Mesa. She was repeatedly denied treatment after complaining of severe back pain. CoreCivic guards forced her to walk despite her continued complaints, and she ended up falling and hurting herself further. She is now confined to a wheelchair. She reports that guards continue to accuse her of lying about her pain.
- **An Indian man waiting for months for dental treatment of extreme pain in his mouth.** Nigel, a man seeking asylum from India, saw the dentist at Imperial due to extreme pain in his mouth. He was given painkillers but was not treated for the cause of pain. He was told by the MTC dental staff he needs additional treatment, but he has been waiting for two months. Every time he eats his teeth hurt him.
- **A diabetic man was forced to wait 11 days for his medication.** Manoj, a 36-year-old man seeking asylum from India, detained at Otay Mesa told the health staff about his diabetes upon arrival at the facility. It took 11 days for him to get his required medication.

## **Inadequate Care for Vulnerable Populations in California Detention**

### **Pregnant Women**

All but one of the detention centers visited by Human Rights First researchers currently detain pregnant women. On December 14, 2017, ICE issued a directive which eliminated the presumption against detaining pregnant women and removed critical reporting requirements regarding their treatment in detention—including in California. This change in policy has resulted in irreversible harm to women detained by ICE.

A complaint filed with the DHS's Office for Civil Rights and Civil Liberties (CRCL) and OIG in September 2017 detailed the account of Teresa, a 31-year-old Honduran woman who was four months pregnant when she arrived at the southern border to seek asylum and suffered a miscarriage in detention. Teresa first notified CBP officers of her extremely heavy blood flow while at the CBP facility on the border, yet she was transferred to the Otay Mesa Detention Center instead of a hospital. At the detention center, she notified the medical personnel of her bleeding and asked to be taken to the hospital, which did not happen. Several days later, medical staff at Otay Mesa confirmed she had miscarried.<sup>32</sup>

In March 2018, the American Academy of Pediatrics and other medical groups called on DHS to stop detaining pregnant women as "conditions in DHS facilities are not appropriate for pregnant women" and detention puts the health of pregnant women at "great risk."<sup>33</sup>

ICE's policy change is already placing more pregnant women and their pregnancies in harm's way. At the time of Human Rights First's visit to Otay Mesa, ICE confirmed that 10 pregnant women were currently detained at the facility. Human Rights First spoke with one of them:



- **Elisa, a 20-year-old woman from Honduras.** When Human Rights First's researcher met with her, Elisa was several months pregnant as a result of rape that occurred in her country. She has an aunt living in Texas who is willing to house her if she were released from detention. She described her fear that she is not receiving nutritious food and thereby negatively impacting the development of her child.

Because none of the detention facilities' medical units are equipped to provide the specialized care needed by pregnant women, the women are taken outside the detention center for their routine medical visits.

## Lesbian, Gay, Bisexual, and Transgender (LGBT) Persons

LGBT individuals are 97 times more likely to be sexually assaulted than non-LGBT people in immigration detention according to Center for American Progress analysis.<sup>34</sup> On half the tours that Human Rights First conducted, transgender women were among the general detained population. None were housed according to their gender identity but were instead held in the general male population. Transgender women recounted numerous instances of verbal abuse and transphobic slurs from both detention facility staff and other detainees. Despite reporting this behavior, they received no response from ICE. Human Rights First researchers spoke with two of the four self-identifying transgender women who were detained at Otay Mesa at the time of the tour and one woman described the following experiences of abuse while in detention:

- **Alicia, a 29-year-old transgender woman from Mexico, who has been detained for six months in the male housing units** has experienced transphobic slurs from members of the facility staff and other detainees and received no protection when she submitted complaints about this maltreatment. She was also placed in disciplinary segregation for one week, without an opportunity to appeal, based on what she said was a false accusation by another detainee.

## Lack of Mental Health Care

Asylum seekers have often endured violence, torture, and other forms of persecution and abuse in their home countries or during their journeys to the United States. Detention in and of itself can be a traumatizing or re-traumatizing experience for these asylum seekers, and facilities typically lack the trauma-informed services and mental health care that can help asylum seekers cope with the trauma they have and continue to endure. Medical and mental health experts have documented that many detained asylum seekers suffer from mental health problems, including post-traumatic stress disorder (PTSD), depression, and anxiety. Medical research has confirmed that detention itself causes high levels of anxiety, depression, and PTSD, and that these symptoms worsen the longer asylum seekers are held in detention.<sup>35</sup>

At the Adelanto detention center, a psychiatrist who participated in Human Rights First's tour interviewed an asylum seeker who shared that the psychological services he was receiving were abruptly terminated when he requested testimony from the mental health practitioner for his asylum hearing. The psychiatrist further remarked that the male dorms at Adelanto were strikingly quiet, possibly indicating an unstable environment, and feelings of insecurity or unease among the individuals in the dorm. At the Mesa Verde detention center, numerous individuals stated that the only form of mental health care provided at the facility was medication to aid sleep.

Many detainees who need supportive psychotherapy do not receive it while in ICE custody. Impediments include a simple lack of availability, the need to affirmatively request it, delays in receiving services, and fear of negative consequences for seeking help. For example, Human Rights First spoke to the following individuals who experienced inadequate mental health treatment:

- **Amelia, a 47-year-old woman seeking asylum from Brazil who has been detained at Imperial for 11 months.** She spent one week in the facility's medical unit due to depression. However, because her depression is related to her prolonged detention, she did not improve after her time in the medical unit.
- **Demba, a 26-year-old Gambian asylum seeker, detained at the Adelanto ICE Processing Center for over two and a half years.** He is experiencing depression and describes his current state as, "I feel pain all over my body. When I feel my problems, I cannot sleep." The medication the health staff prescribed makes him "lazy and sleepy." When he shared this with the health staff, they took him off this medication and since then have only provided him with Ibuprofen.
- **Alicia, a transgender woman detained for six months at Otay Mesa was diagnosed with depression the one time she saw the psychologist.** She was told the psychologist would request treatment for her chronic depression, but has never seen the psychologist again.
- **Ellen, a 26-year-old woman seeking asylum from Cameroon is currently detained at Mesa Verde.** She described having a series of nightmares since being detained in which she relives the persecution she experienced in Cameroon. She told Human Rights First: "you can go crazy in here." After she saw the mental health providers and told them of her nightmares she was offered medication but has not been seen by the mental health care staff again.

## Asylum Seekers are Detained in Prison-Like Conditions

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*"It is torture, it is not life. People who ask for asylum are treated like criminals here."*<sup>36</sup>

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While immigration proceedings are civil in nature, the reality for those held in immigration detention facilities during their proceedings closely resembles that of penal incarceration, blurring the lines between civil and penal confinement. Human Rights First identified a number of inhumane and punitive conditions at several California immigration detention centers. The conditions in these facilities are essentially identical to those in criminal correctional facilities, including use of prison uniforms and limited outdoor access. In fact, the Theo Lacy and Musick facilities are criminal facilities, within which the ICE detained population are housed in separate housing units. However, the same Orange County Sheriff Department guards work with both the criminal and immigration population, further blurring the lines between the conditions and treatment for both.

Detainees reported a range of punitive and harsh conditions and treatment, including racist statements and maltreatment from facility staff and officers, unhygienic living conditions and food, limited recreation time, and inappropriate use of segregation. Many of these conditions violate the various ICE detention standards that the California facilities claim to adhere to, including ICE's PBNDS. In June 2018, the DHS OIG issued a report finding that neither of ICE's inspection methods ensure consistent compliance with detention standards, nor do they adequately follow up on identified deficiencies or consistently hold facilities accountable for correcting them.<sup>37</sup> The OIG found that ICE's inspections do not "fully examine the actual conditions or identify all deficiencies."<sup>38</sup>

During the summer of 2018, ICE transferred thousands of immigrants and asylum seekers to the Victorville Federal Prisons in Victorville, CA, a facility run by the Federal Bureau of Prisons.<sup>39</sup> Individuals reported being kept for prolonged periods, in some cases up to 23 hours a day, in their cell without access to showers, healthcare, outdoor recreation, or telephones to call family or legal counsel. Marco, an asylum-seeking client of Human Rights First was not allowed to use a telephone for the first 20 days of detention at Victorville prison. Nor was he given a

change of clothing during those three weeks. He was eventually transferred to Adelanto detention center after two months of detention at Victorville prison. Lawsuits against ICE were filed challenging the inhumane conditions for those detained at Victorville prison and the violation of their constitutional rights.<sup>40</sup> A federal district court ordered the government to give these individuals' access to legal assistance and eventually all of the individuals were transferred out of Victorville.<sup>41</sup>

In addition to the above, the following are examples of how California immigration detention closely resembles penal confinement:

☑ **Insufficient or Inadequate Outdoor Recreation.** Correctional and legal experts have documented the importance of regular outdoor access for detained or imprisoned individuals. In fact, the American Bar Association Civil Immigration Detention Standards recommend “extended access to indoor and outdoor recreation and exercise activities on a daily basis.”<sup>42</sup> Even the 2011 PBNDS’s standard for optimal level of compliance for outdoor recreation is “four hours a day access, seven days a week, to outdoor recreation.”<sup>43</sup> Human Rights First researchers observed limits on outdoor recreation that threaten the wellbeing of detainees. For example, at the Adelanto detention center, facility staff informed Human Rights First that detainees were allowed a minimum of two hours of outdoor recreation every day. Nearly every detainee we interviewed, however, independently contradicted this and claimed that detainees receive one to one and a half hours of outdoor recreation only four times per week.

☑ **Misuse of Segregation and Solitary Confinement.** Placing individuals in disciplinary or administrative segregation is strictly governed by the PBNDS. Yet, numerous reports by individuals in detention and DHS OIG inspections have found immigration detention centers in clear violation of these guidelines.

In 2018, DHS OIG found that detainees at the Adelanto ICE Processing Center have been placed in disciplinary segregation “prematurely and inappropriately.” Contrary to ICE standards, which require that a detainee be placed in disciplinary segregation only after a finding by a disciplinary hearing panel that the detainee committed a prohibited act or violated a rule, only seven out of 14 detainee files reviewed included a disciplinary panel decision. For those seven detainees who had received a disciplinary hearing, the penalties they faced were greater than those recommended by the disciplinary panel decision. The OIG found that some of these detainees lost the ability to have contact visits with family members or purchase items from commissary while in segregation.

In 2017, DHS OIG similarly found that Theo Lacy’s segregation policy violated ICE detention standards.<sup>44</sup> OIG inspectors read in the Orange County Sheriff Department detainee handbook that those in disciplinary segregation are isolated for 24 hours a day in a cell with no access to visitors, recreation, or group religious services. Inspectors also found that individuals in segregation were only released briefly every other day to shower. This treatment is a stark violation of the governing PBNDS requirements.<sup>45</sup>

☑ **Unhygienic and Unsanitary Conditions.** During Human Rights First’s tours and through interviews with hundreds of detained people, Human Rights First researchers noted a range of conditions that raise serious sanitary and hygiene concerns. For example:

- **Andres, a Mexican asylum seeker detained at the Adelanto** detention center, complained that the water detained individuals are given is often dirty and has a foul taste because the jugs are not cleaned out.
- **Detainees at the Otay Mesa** detention center complained of excessive temperatures and lack of air conditioning in the dorms in August 2018. A Honduran asylum seeker said, “This is an oven. It’s like they’re cooking us in here.”<sup>46</sup>

- **Marco, a man seeking asylum from Venezuela reported several times to GEO, the company running the Adelanto facility, that a man in his housing unit had a rash on his skin.** No action was taken in response to his reports. After several weeks, once other individuals in the housing unit also developed the rash on their skin, the unit was placed under quarantine due to a diagnosis of chicken pox. Marco experienced three other quarantines while detained at the Victorville Federal Bureau of Prisons facility with other asylum seekers and immigrants during the summer months of 2018.

**The Theo Lacy detention center** was the subject of a 2017 report by the DHS OIG which found serious concerns, including some that pose a health risk, at the facility. Some of the problems included, “moldy and mildewed shower stalls, refuse in cells.”<sup>47</sup> Inspectors also observed “slimy, foul-smelling lunch meat that appeared to be spoiled.”<sup>48</sup>

- ☑ **Unsafe Conditions.** Numerous individuals recounted dangerous conditions in detention, including:
  - Keith, a 40-year-old man seeking asylum from Jamaica currently detained at Mesa Verde has been in immigration detention for one year and five months. He was physically attacked by another individual detained at the facility. At Mesa Verde all individuals sleep in dormitory style rooms that have capacity for up to 100 individuals per room, as opposed to smaller cells. Keith did not feel safe any longer because his attacker remained in the same in the dorm as him, despite telling facility staff about the attack and requesting a transfer.
  - Jean, a 32-year-old asylum seeker from Haiti, was sexually assaulted at the Adelanto detention facility by another detainee. Despite notifying the GEO guards and ICE officers about this sexual assault, he has not been informed of any formal investigation. When he shared this incident and the fact that he was having trouble sleeping with the facility’s mental health practitioner, he was told to exercise as a manner of coping with the mental trauma.
- ☑ **Maltreatment and Discrimination from Facility Staff.** Numerous individuals interviewed by Human Rights First described repeated instances of discriminatory statements, intimidation, and harassment by ICE officers and facility staff, including:
  - Elena, a Mexican asylum seeker, stated that there is ample discrimination towards Hispanic individuals, and particularly Mexicans. Officers have made comments, such as, “What the f\*\*\*, Mexican?” to her. She also alleges that a nurse refused to help her when she was feeling ill and the nurse told her, “Go back to Mexico” after refusing to use telephonic interpretation.
  - **An individual detained at the Musick facility who is partially deaf** reported being yelled at by facility guards for not listening to them and then again reprimanded when he walked up to the guards to try hear them.
- ☑ **Limits on Visitation.** Local visitation groups serve as a vital support system for detained individuals and as a compliance check on the facility, as volunteer visitors are often the first individuals to learn of abuse or violations. In a concerning move, ICE informed one such visitation group at Otay Mesa, Souls Offering Loving and Compassionate Ears (SOLACE), that they must sign a “Volunteer Code of Ethics” form barring them from sharing information they learn (even with detainee’s consent) without the written consent of the facility’s warden.<sup>49</sup> After Freedom for Immigrants, a national organization that coordinates visitation programs at various detention facilities, tried contacting ICE on behalf of SOLACE, ICE punitively blocked access to Freedom for Immigrants’ dedicated hotline from within the detention center.<sup>50</sup>

## RECOMMENDATIONS

### End Unnecessary, Costly, and Inhumane Immigration Detention

- ✓ The Trump Administration should end its policies of detaining asylum seekers and immigrants regardless of whether they meet the criteria for release under applicable U.S. law and regulations. Instead, detention should always be used as a last resort and applicable parole, bond, and other criteria should be applied.
- ✓ Congress should sharply limit the funding provided for immigration detention in order to decrease its massive overuse and the high average daily detention population. Alternatives to detention, which are significantly more cost-effective and humane than detention, should be implemented when additional measures are determined necessary to assure appearance in an individual case. Community-based case management programs, which generate high appearance rates, should be used rather than programs that resort to punitive and intrusive ankle shackles.
- ✓ Congress must conduct oversight on the failure of the Trump Administration to follow laws, rules, and other authorities that authorize release of eligible asylum seekers from detention.

### Support Access to Legal Representation

- ✓ DOJ should continue to fund the cost effective and successful Legal Orientation Program and expand its existence to all detention facilities.
- ✓ Congress and California state, local, and private funders should support funding for universal legal representation without any carve-outs.
- ✓ Congress should support expanded LOPs and press DOJ to stop undermining access to counsel.
- ✓ Congress should push for common-sense changes to improve access to counsel at detention facilities, including requiring more confidential attorney-client visitation rooms and guaranteeing contact visits for attorneys with clients.

### Stop Detention of Vulnerable Populations

- ✓ ICE should discontinue its policy of detaining pregnant individuals, who should be able to access the critical health care services they need. Instead, ICE should release them to continue their cases outside of detention and reinstitute the presumption that pregnant individuals should not be subject to detention.
- ✓ ICE should discontinue its policy of detaining LGBT individuals. Where detention is deemed necessary, ICE must provide an infrastructure for housing transgender people based on their gender identity.
- ✓ DHS should end the transfer of children who turn 18 from ORR custody to ICE custody and instead secure alternative, community-based housing options.

### Address Medical and Mental Health Care Deficiencies and Gaps

- ✓ ICE, detention facility operators, and their health subcontractors should implement reforms and policies to provide adequate and timely medical care and medications, including the use of qualified and professional interpretation services during all medical visits. All medical and mental health conversations and exams should be conducted in a separate, closed room to ensure privacy and confidentiality.
- ✓ ICE and detention facility operators should work with communities to implement Independent Medical Oversight Boards (IMOB) to increase public transparency and accountability on the delivery of quality



medical and mental health care for immigrant detainees. The IMOB could have several functions, including regulation, auditing, accreditation, reporting, investigating, and monitoring. The IMOB should also have the authority to review individual cases and medical files brought before it by detainees, attorneys, or advocates to ensure adequate care. IMOB members could include county leaders, medical and mental health professionals, representatives of advocacy or community-based groups and attorneys familiar with correctional and/or detention settings.

- ☑ Adequate mental health services should be provided to individuals identified as having mental health problems and those who affirmatively request these services. These services should include thorough evaluations, individual and group counseling, and prescription of medications.

### **Strengthen Standards and Oversight**

- ☑ Civil immigration detainees should not be held in facilities with penal conditions. Instead, ICE should adopt standards for detention centers that provide a more normalized environment, consistent with the ABA Civil Immigration Standards, which call for the least restrictive form of custody. Detainees should, for example, be permitted to wear their own clothing and move freely among various areas within a secure facility, have access to true outdoor recreation for extended periods, and have privacy in the toilets and showers.
- ☑ ICE and detention facility operators, as well as DHS's OIG and CRCL, should increase oversight of detention facility staff to prevent maltreatment, improper use of force, and discrimination.
- ☑ Congress must conduct oversight of ICE's failure to comply with necessary medical and mental health care to asylum seekers and immigrants in detention, as provided for by the PBNDS.

## APPENDIX

Detention Center	Location	Operator	Capacity	Population
Adelanto ICE Processing Center	Adelanto, CA	GEO	1,860	Adult men & women
Otay Mesa Detention Center	San Diego, CA	CoreCivic	1,458	Adult men & women
Imperial Regional Detention Center	Calexico, CA	Management Training Corporation	782	Adult men & women
Mesa Verde Detention Center	Bakersfield, CA	GEO	400	Adult men & women
Theo Lacy Facility	Orange, CA	Orange County Sheriff	958 (locally, combined with Musick)	Adult men
James A. Musick Facility	Irvine, CA	Orange County Sheriff	958 (locally, combined with Theo Lacy)	Adult men & women
Yuba County Jail	Marysville, CA	Yuba County Sheriff	192*	Adult men & women
Yolo County Detention Center	Woodland, CA	Yolo County	24*	Children

\*Estimate provided to Human Rights First by local legal service providers

<sup>1</sup> See Appendix for information for each CA detention center, including: facility operator, location, population capacity, and demographics.

<sup>2</sup> To safeguard the confidentiality and privacy of asylum seekers and immigrants, Human Rights First has used pseudonyms in this report.

<sup>3</sup> Aleaziz, Daily Beast, "ICE Might Be Violating Federal Law By Keeping Immigrants Detained During The Shutdown" (Jan. 9, 2019), : <https://www.buzzfeednews.com/article/hamedaleaziz/shutdown-ice-detention-may-violate-federal-law>.

<sup>4</sup> For information about prolonged detention bond hearings, see Centro Legal, ACLU, et al, "Practice Advisory Prolonged Detention Bond Hearings in the Ninth Circuit under *Aleman Gonzalez v. Sessions*," (Jun. 7, 2018), [https://centrolegal.org/wp-content/uploads/2018/06/2018.06.07\\_Aleman-Gonzalez\\_Practice-Advisory\\_FINAL.pdf](https://centrolegal.org/wp-content/uploads/2018/06/2018.06.07_Aleman-Gonzalez_Practice-Advisory_FINAL.pdf).

<sup>5</sup> ICE Policy Directive No. 11002.1, "Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture," (Dec. 8, 2009) [hereinafter Asylum Parole Directive].

<sup>6</sup> DHS, Implementing the President's Border Security and Immigration Enforcement Improvements Policies (Feb. 20, 2017).

<sup>7</sup> *Damus v. Nielsen*, Complaint, <https://www.aclu.org/legal-document/damus-v-nielsen-complaint>.

<sup>8</sup> Human Rights First, "Groups Challenge Trump Administration's Arbitrary Detention of Asylum Seekers," (Mar. 2018), <https://www.humanrightsfirst.org/press-release/groups-challenge-trump-administration-s-arbitrary-detention-asylum-seekers>.

<sup>9</sup> <https://www.aclu.org/legal-document/memorandum-opinion-granting-preliminary-injunction>.

<sup>10</sup> See, e.g. Centro Legal, ACLU, et al, "Practice Advisory Prolonged Detention Bond Hearings in the Ninth Circuit under *Aleman Gonzalez v. Sessions*," (Jun. 7, 2018), [https://centrolegal.org/wp-content/uploads/2018/06/2018.06.07\\_Aleman-Gonzalez\\_Practice-Advisory\\_FINAL.pdf](https://centrolegal.org/wp-content/uploads/2018/06/2018.06.07_Aleman-Gonzalez_Practice-Advisory_FINAL.pdf); ACLU, "Practice Advisory: Prolonged Detention Challenges After *Jennings v. Rodriguez*," (Mar. 21, 2018), [https://www.aclu.org/sites/default/files/field\\_document/2018\\_03\\_21\\_jennings\\_v\\_rodriguez\\_practice\\_advisory.pdf](https://www.aclu.org/sites/default/files/field_document/2018_03_21_jennings_v_rodriguez_practice_advisory.pdf).

<sup>11</sup> International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171, Art. 9(1), 9(4); The American Declaration of the Rights and Duties of Man, art. XXV, O.A.S. Res. XXX (1948), O.A.S. Off. Rec. OEA/Ser. LV/I. 4 Rev. (1965); United Nations Convention Relating to the Status of Refugees art. 31, July 28, 1951, 189 U.N.T.S. 137; United Nations Protocol Relating to the Status of Refugees art. 1 ¶ 1, Jan. 31, 1967, 606 U.N.T.S. 267; U.N. High Comm'r for Refugees, Detention Guidelines, Guideline 3 ¶ 17, 4 ¶ 18 (2012).

<sup>12</sup> Department of Homeland Security, Budget in Brief (2019), <https://www.dhs.gov/sites/default/files/publications/DHS%20BIB%202019.pdf>.

<sup>13</sup> Aleaziz, Daily Beast, "ICE Might Be Violating Federal Law By Keeping Immigrants Detained During The Shutdown" (Jan. 9, 2019), : <https://www.buzzfeednews.com/article/hamedaleaziz/shutdown-ice-detention-may-violate-federal-law>.

<sup>14</sup> Department of Homeland Security, U.S. Immigration and Customs Enforcement Budget Overview Fiscal Year 2018, <https://www.dhs.gov/sites/default/files/publications/ICE%20FY18%20Budget.pdf>.

<sup>15</sup> Vera Institute of Justice, Testing Community Supervision for the INS: An Evaluation of the Appearance Assistance Program (2000) (noting that 84 percent of asylum seekers who participated in the lower level Appearance Assistance Program appeared in court); U.S. Government Accountability Office, Alternatives to Detention: Improved Data Collection and Analyses Needed to Better Assess Program Effectiveness (2014).

<sup>16</sup> Acer, Just Security, "Studies: Mass Detention of Migrant Families is Unnecessary, Inefficient," ( Jul. 5, 2018), <https://www.justsecurity.org/58897/studies-show-mass-detention-family-migrants-unnecessary-inefficient/>.

<sup>17</sup> Acer and Barnard, Human Rights First, Top 10 Reasons Family Incarceration is Not a Solution," (Jun. 27, 2018), <https://www.humanrightsfirst.org/blog/top-10-reasons-family-incarceration-not-solution/>; Acer, Just Security, "Studies: Mass Detention of Migrant Families is Unnecessary, Inefficient," (Jul. 5, 2018), <https://www.justsecurity.org/58897/studies-show-mass-detention-family-migrants-unnecessary-inefficient/>; Am. Civ. Liberties Union, Alternatives to Immigration Detention: Less Costly and More Humane than Federal Lock-Up, [https://www.aclu.org/sites/default/files/assets/aclu\\_atd\\_fact\\_sheet\\_final\\_v.2.pdf](https://www.aclu.org/sites/default/files/assets/aclu_atd_fact_sheet_final_v.2.pdf).

<sup>18</sup> Acer, , "Studies: Mass Detention of Migrant Families is Unnecessary, Inefficient."

<sup>19</sup> Eagly and Shafer, "A National Study of Access to Counsel in Immigration Court," University of Penn L R (2015) Vol 164 No 1; Eagly, Shafer, and Whalley, "Detaining Families: A Study of Asylum Adjudication in Family Detention," Cal. L. R. (2018), Vol 106 No 785, 815, 821.

<sup>20</sup> Eagly and Shafer, "A National Study of Access to Counsel in Immigration Court," University of Penn L R (2015) Vol 164 No 1.

<sup>21</sup> Ryo, Peacock, American Imm. Council, "The Landscape of Immigration Detention in the United States," (Dec. 2018), 3, 23.

<sup>22</sup> Eagly, "Remote Adjudication in Immigration," Northwestern University L R (2015) Vol. 109, No. 4.

<sup>23</sup> ABA, "Statement of ABA President Hilarie Bass Re: Justice Department's action on Legal Orientation Program for immigrants," (Apr. 25, 2018), [https://www.americanbar.org/news/abanews/aba-news-archives/2018/04/statement\\_of\\_hilarie0/](https://www.americanbar.org/news/abanews/aba-news-archives/2018/04/statement_of_hilarie0/).

[https://www.americanbar.org/news/abanews/aba-news-archives/2018/04/statement\\_of\\_hilarie0/](https://www.americanbar.org/news/abanews/aba-news-archives/2018/04/statement_of_hilarie0/); Assistant Director for Custody Management Johnson, ICE, Memorandum, "Updated Guidance: ERO Support of the U.S. Department of Justice Executive Office For Immigration Review Legal Orientation Program," (Nov. 30, 2017), <http://apps.washingtonpost.com/g/documents/local/ice-memo-on-legal-aid-program/2904/>.

<sup>24</sup> Notice of proposed Settlement Agreement *Lyon v. ICE*, Case No. 3:13-cv-05878-EMC, [https://www.aclunc.org/sites/default/files/Exhibit%20B%20Notice%20of%20Proposed%20Settlement\\_0.pdf](https://www.aclunc.org/sites/default/files/Exhibit%20B%20Notice%20of%20Proposed%20Settlement_0.pdf).

<sup>25</sup> ACLU Southern California, "Lawsuit: ICE Detention Centers Deny Detainees Contact with Attorneys," (Dec. 17, 2018), <https://www.aclusocal.org/en/press-releases/lawsuit-ice-detention-centers-deny-detainees-contact-attorneys>.

<sup>26</sup> Id.

<sup>27</sup> For more information on the L.A. Justice Fund, see <https://www.calfund.org/lajusticefund/>.

<sup>28</sup> For more information on the Northern California Collaborative for Immigrant Justice, see <https://www.sfbar.org/jdc/legal-services/immigration/nccij.aspx>.

<sup>29</sup> DHS, Office of the Inspector General, Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California (Sept. 27, 2018), <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-Sep18.pdf>.

<sup>30</sup> For more information about the PBNDS, see ICE, 2011 Operations Manual ICE Performance-Based National Detention Standards, <https://www.ice.gov/detention-standards/2011>.

<sup>31</sup> DHS, Office of the Inspector General, Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California (Sept. 27, 2018), <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-Sep18.pdf>.

<sup>32</sup> American Immigration Council, "Increasing Numbers of Pregnant Women Facing Harm in Detention, Administrative Complaint filed with Office for Civil Rights and Civil Liberties, and the Office of the Inspector General," (Sept. 26, 2017), 8-9, available at <https://www.americanimmigrationcouncil.org/advocacy/detained-pregnant-women>.

<sup>33</sup> AAP News, "AAP, medical groups urge ICE not to detain pregnant women," (Apr. 2, 2018), <http://www.aappublications.org/news/2018/04/02/pregnancyimmigration040218>.

<sup>34</sup>Center for American Progress, “ICE’s Rejection of Its Own Rules Is Placing LGBT Immigrants at Severe Risk of Sexual Abuse,” (May 30, 2018),

<https://www.americanprogress.org/issues/lgbt/news/2018/05/30/451294/ices-rejection-rules-placing-lgbt-immigrants-severe-risk-sexual-abuse/>.

<sup>35</sup> Physicians for Human Rights & The Bellevue/NYU Program for Survivors of Torture, *From Persecution to Prison: The Health Consequences of Detention for Asylum Seekers* (June 2003) <http://physiciansforhumanrights.org/library/reports/from-persecution-to-prison.html> (“Study physicians . . . found extremely high symptom levels of anxiety, depression and post-traumatic stress disorder (PTSD) among detained asylum seekers.”).

<sup>36</sup> Asylum Seeker from Romania, interview on file with Human Rights First.

<sup>37</sup> DHS, OIG, “ICE’s Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements,” (Jun. 26, 2018), <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>.

<sup>38</sup> Id.

<sup>39</sup> LA Times, “Victorville prison strains to handle hundreds of immigrant detainees: ‘We cannot take care of these inmates,’” (Jul. 13, 2018) <https://www.latimes.com/local/lanow/la-me-victorville-detainees-20180713-story.html>.

<sup>40</sup> ACLU, “Complaint: *Teneng v. Trump*,” <https://www.aclu.org/legal-document/teneng-v-trump-complaint?redirect=legal-document/tenang-v-trump-complaint>; ACLU, “Rodriguez v. Nielsen,” <https://www.aclusocal.org/en/cases/rodriguez-castillo-v-nielsen>.

<sup>41</sup> ACLU, “Judge Orders that Detainees Can Meet with Attorneys in Person or by Phone,” (Jun. 21, 2018), <https://www.aclusocal.org/en/press-releases/court-finds-immigration-detainees-held-incommunicado-victorville-prison-must-be>; ACLU, “Rodriguez v. Nielsen,” <https://www.aclusocal.org/en/cases/rodriguez-castillo-v-nielsen>.

<sup>42</sup> ABA, *Civil Immigration Detention Standards* (2014), <https://www.americanbar.org/content/dam/aba/administrative/immigration/abaimmdetstds.authcheckdam.pdf>.

<sup>43</sup> ICE, 2011 PBNDS Operations Manual, <https://www.ice.gov/doclib/detention-standards/2011/5-4.pdf>.

<sup>44</sup> DHS, OIG, “Management Alert on Issues Requiring Immediate Action at the Theo Lacy Facility in Orange, California,” (Mar. 6, 2017), <https://www.oig.dhs.gov/sites/default/files/assets/Mga/2017/oig-mga-030617.pdf>.

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<sup>46</sup> KPBS, “Asylum Seekers At Otay Mesa Facility Allege Uncomfortably High Temperatures,” (Aug. 31, 2018), <https://www.kpbs.org/news/2018/aug/31/asylum-seekers-otay-mesa-facility-allege-intolerab/>.

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<sup>48</sup> Id. 3.

<sup>49</sup> Morrissey, “ICE moves to silence detention center volunteer visitors,” SD Tribune (Nov. 5, 2018) <http://www.sandiegouniontribune.com/news/immigration/sd-me-immigration-detention-visitors-20181105-story.html>.

<sup>50</sup> Id.