



Life, Liberty and the Pursuit of Immigration Detention

Immigration detention is unjust, dehumanizing and wholly unnecessary. Immigrants are picked up arbitrarily and held without access to a lawyer. For-profit prisons lobby to worsen the situation; they make money every night a cell is full. We need help telling Americans that immigration detention is ripping families apart while generating financial gain for the prison industrial complex.



THE ISSUE:

Private prison corporations have sold the American public a lie, and we have bought it without question. This lie is that detention - the incarceration of 34,000 non-citizens every day - is necessary to protect the American public and the integrity of our borders. However, private prisons have failed to tell us that alternatives to detention overseen by communities are 79% less expensive and 95% as effective. Read this Bloomberg article for more context.

WHY IS YOUR STORY IMPORTANT?

These private prisons lobby our government to secure Congressionally mandated quotas to ensure their beds are always filled. They then pass the unnecessary human and financial costs of the immigration detention system onto the American public, making profit from taxpayer dollars. The laws they support force indiscriminate and un-targeted incarceration that rips hard-working families apart. Detained immigrants have fewer rights than someone charged with mass murder. These process issues might not sound like much, but they matter.

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The Issue

Background

There is increasing discussion about the state of the US detention system for immigrants. An article in Bloomberg a week ago is as good an intro as any.

34,000 are detained every day. This does not include those picked up at the border - another 700,000 a year who are returned immediately. These people in immigration detention are people who have been in US for up to 20 years. If there is sufficient suspicion they are detained, with no right to a lawyer, held and moved to different centers (half have been transferred at least twice) and behind a bureaucratic maze which means their families cant track them down. They have practically no rights are caught in a terrible system - they have fewer rights than even a murder suspect - it's guilty until proven innocent.

Many groups are trying to find ways to both reform the system and to convince the public that it doesn't make sense. There are many angles to this - the cost to tax payers, the fact that private corporations run the prisons and lobby to mandate minimum levels of detainees, the comparison between rights for criminals and potential violations of immigration, the fact that it rips families apart, the lack of effectiveness of the practice of incarceration. You have many angles that you can play with.

We hope you enjoy sinking your teeth into this issue!

Insight Into the Issue

Private prison corporations have sold the American public a lie, and we have bought it without question. This lie is that detention - the incarceration of 34,000 non-citizens every day¹ - is necessary to protect the American public and the integrity of our borders. However, private prisons and the federal government have failed to tell us that alternatives to detention overseen by communities are 79% less expensive and 95% as effective. Instead, these private prisons lobby our government to secure Congressionally mandated quotas to ensure their beds

¹ This does not include the people picked up at the border and immediately deported.



are always filled. For Fiscal Year 2014, the House of Representatives has made clear that it intends to fund immigration detention at levels that exceed the request from the Administration, specifically \$5.6 million per day spent on immigration detention to fulfill a Congressionally mandated quota of 34,000 people detained on any given day.²

These prisons corporations then pass the unnecessary human and financial costs of the immigration detention system onto the American public, making profit from taxpayer dollars by locking up victims of human trafficking and other people we pledge to protect. Moreover, while funding for incarceration expands, funding for higher education decreases.³ For example, the City of Adelanto (CA) has three of the largest incarceration centers in the country— a federal prison, the county jail, and the Adelanto Immigration Center, but there are no high schools in Adelanto, and the elementary schools are failing. There are no after-school clubs and no community centers. Instead it's the hub of mass incarceration.⁴

There are many different reasons why a person is detained. For example, most of the people detained in New Jersey are asylum seekers who expressed a fear of persecution at our nation's border. Under laws passed in 1996, asylum seekers have to be mandatorily detained. Other people are turned over to ICE after they serve time for a crime that would make them deportable. Other people are picked up by ICE in raids of businesses or homes. Other people are picked up during daily activities, i.e. jaywalking across the street or riding a bike at night without a light. If an undocumented immigrant calls the police because of domestic violence, the police often take in the battered wife and detain her for immigration violations.

Some examples of people in immigration detention, include John Ferron (U.S. veteran and father of 8 U.S. Citizens, see <http://huff.to/1dbKG7i>); Pedro Guzman (a father who missed his appearance for an asylum application, see <http://bit.ly/VzLTjG>); Lizbeth Mateo (first year law students who were brought to the U.S. when they were young, see <http://lat.ms/17ajDYc>).

People like John, Pedro, and Lizbeth are not charged with anything when they are stripped of their freedom and detained. It's a guilty until proven innocent scenario where the person in immigration detention (many of whom are green card holders) have to prove that they are not deportable through a number of different forms of relief under immigration law (i.e. asylum, T

² What happens if you only have 17,000 that may fit ICE's priorities for detention? Too bad, 17,000 additional lucky winners have been selected to win the worst prize ever.

³ <http://www.cacs.org/images/dynamic/pressAttachments/55.pdf>

⁴ Vickie Mena, mother of two, resident of Adelanto, and visitation program coordinator, see <http://www.dailynews.com/general-news/20130923/state-signs-deal-to-park-prisoners-in-adelanto>



visas for victims of human trafficking, cancellation of removal, etc.). The government justifies immigration detention by claiming that the person is either a threat to society or at risk to abscond (i.e. if we release them, they will not show up to their immigration hearing).

People in immigration detention are subjected to human and civil rights abuses. For example, people like Esmeralda Sota are raped by officers and forced to perform oral sex: <http://bit.ly/tfjNTy>. Other issues include poor food and medical care: http://youtu.be/5fFB_BTHuzg.

Meanwhile, these private prisons contracting with U.S. Immigration and Customs Enforcement (ICE) are rarely held accountable for their decisions and actions. In fact, the current model of immigration detention oversight does not effectively address or prevent human and civil rights abuses. Only U.S. Immigration and Customs Enforcement (ICE) and its umbrella agency, DHS, conduct audits of immigration detention facilities. There is no independent oversight of the facilities from taxpayers or a body without detention and deportation quotas. As there is no independent oversight, there are untold human and civil rights abuses. (Here is a report on grievances filed with ICE from one former immigration detention facility in NYC, but note that most people in detention are afraid to file grievances with ICE because of retaliation: <http://bit.ly/16sgs2C>) Immigrants who have been abused by detention guards are made invisible by a code of silence, the threat of retaliation by guards, and a culture that stigmatizes incarcerated people.

The lack of independent oversight is compounded by the lack of a legally protected right for taxpayers and family members to visit detention facilities and by the isolating nature of civil detention. Community Initiatives for Visiting Immigrants in Confinement (CIVIC) and its affiliated visitation programs routinely meet with immigrants in detention who have been isolated for months in remote detention facilities because phone calls can cost up to \$5.00 per minute (outrageous, right? see our infographic in case you are in disbelief as to how this could happen: <http://bit.ly/15Vnx9F>), they have no right to a court-appointed attorney, and no law protects a right to visitation. Violating basic notions of due process, the immigration detention system prohibits people in detention and visitors from reporting on basic conditions and human rights abuses. For example, on the inside, people in detention are thrown into solitary confinement, transferred away from communities of support⁵, or permanently exiled through deportation. On the outside, visitors are continually denied visitation privileges that in effect eliminate independent oversight of detention facilities. In fact, as CIVIC has started to transition from simply a visitation program network to a group focused on providing independent oversight,

⁵ People are transferred in the middle of the night without any notice. 46% of people in immigration detention are transferred at least twice. See our infographic: <http://www.endisolation.org/civic-infographic/>



CIVIC has received some pushback from ICE; most recently, ICE suspended three of our visitation programs and blacklisted our volunteers (see <http://lat.ms/14we2ZW>) less than 48-hours after CIVIC's Christina Fialho wrote a blog for the Huffington Post entitled, "Who Is Overseeing Immigration Detention?" (see <http://huff.to/1aVfny5>).

Goals

We would like our teams to find ways to shift the attitudes of the American public away from "not caring" or "they're probably guilty anyway" to thinking that we need a better, fairer, more practical system.

One idea for reform that we are advocating for is civilian oversight to a system that is largely unregulated. Civilian review of police activity at the city and county level was first proposed in the 1950s because of widespread dissatisfaction with the internal disciplinary procedures of police departments. By the end of 1997, more than 75 percent of the nation's largest cities (more than 80 cities across the country) had civilian review systems. Despite this progress in local police oversight, there exists no equivalent civilian review system in our nation's immigration detention system.

In other words, there is not one civilian oversight body that has the power to hold U.S. Immigration and Customs Enforcement accountable. We want to implement that consistent civilian oversight. We cannot wait 47 years--and over 19,000,000 people later--to implement an effective civilian review system.

Target Audience

Initially, we thought our audience would be conservative Republicans. However, we realized that if only 5% of the American public knows about immigration detention, then we first have to start the movement and the revolution with the people who already agree with us but just don't know that detention exists.

We need help to better identify attitudes that audience members might already hold toward immigration/immigrants and detention, and to think about how we could shift those.



Specific Ideas/Hooks/Concepts

Thinking back on why we were initially moved to join the fight against isolation, abuse, and immigration detention, we can remember how our lives were forever changed the first time we visited someone in immigration detention or the first time we sat in a courtroom and watched people be ordered deported in chains and without an attorney. So, we need the viewers of this creative piece to come face to face with the humanity of those who are confined in immigration detention. Here are some ideas:

1) The hypocrisy of the inside system and the outside system. There is something really compelling here. We push capitalism and democracy across the world, and promote a basic set of human rights, but we don't live up to our marketing message. Are we afraid that people won't buy what we're selling if they knew the truth? President Obama calls us exceptional--let's behave like we're exceptional.

2) The creative piece could call on the audience to interact with it in some way. I think of Patrisse Cullors' piece, *Stained*, where the audience is asked to crowd around caution tape and become witness and defendant, performing aspects of the of the criminal legal system--police, jury, and corrections officers--all within the course of 20 minutes. One of the most unnerving parts of *Stained* was when one of the performers began to hysterically laugh and then that laughter turned to crying turned back to laughter, and it was impossible to decipher which one it was. It made you feel uncomfortable, concerned, and angry, but most importantly inquisitive. The other interesting part was when the audience went from being just behind the caution-tape--just outside of the performers, space, the prison space--to being part of the performance. There was a heavy black theater curtain, which encircled the entire performance (including the audience standing outside of the caution tape). The theater curtain locked everyone in, creating a space where the watcher cannot be differentiated from the watched. We do not necessarily want to create a live performance: I think something tangible that can be shared, like a video, is better. However, it would be great for the audience to go from onlooker on the outside, to visitor, to person in detention.

3) Another idea we had was adapting Kafka's "The Trial" to the immigration detention context. We found that someone else in Australia had a similar idea: <http://www.theage.com.au/national/echoes-of-kafka-in-trials-of-detention-20120831-255qv.html>

4) GEO Group, one of the largest prison corporations, has an awesome logo: <http://www.geogroup.com/>. The world is featured in the "O", which makes me think that this private prison is detaining the world. When I worked for the Global Detention Project, I thought the same



thing because I would encounter Guatemalans being detained in Mexico, Mexicans being detained in Guatemala, French people detained in the United States, etc, etc.

If you were to go down the path of civilian oversight, we believe we could use some of the following arguments:

- Increased community oversight means that we know what is happening to people in detention, just like us.
- Ensure that we are safeguarding basic freedoms guaranteed in our Bill of Rights
- Provide people in immigration detention with an avenue for filing complaints that is less intimidating than submitting a grievance directly to ICE or the jail staff.
- For Americans, this means that we will have more information about how our tax dollars are being used and we will be able to either improve detention or end it once we wake up to the abuses in detention. Once we do this, then we will be able to say with a little more conviction that the United States is exceptional (Note: personally, we aren't too keen on the idea of American exceptionalism).

Facts You Can Play With

(1) For Fiscal Year 2014, the House of Representatives has made clear that it intends to fund immigration detention at levels that exceed the request from the Administration, specifically \$5.6 million per day spent on immigration detention to fulfill a Congressionally mandated quota of 34,000 people detained on any given day. Due to the staggering amount of taxpayer dollars spent on the immigration detention system and the lack of independent oversight of the system articulated above, taxpayers should have the right to monitor the conditions and treatment of people detained through CIVIC's community visitation programs.

(2) Many people have compared the immigration detention system to Kafka's bureaucratic nightmare of "The Trial." CIVIC volunteers are well positioned to hold our government accountable for our broken immigration system as visitor volunteer experience the various Catch 22's that plague immigrants who are unnecessarily detained. For example:

- (a) Immigration detention is the consequence of violating civil immigration laws and is supposedly a civil form of confinement. However, the reality nationwide is that people who are detained are predominantly held in county jails or private detention facilities that are no different from state penitentiaries. Moreover, because immigration violations are civil in nature, people who are detained are not afforded court appointed attorneys (like

they would be in the criminal legal system) and must represent themselves in immigration court unless they can afford to hire a private attorney. As a result, over 84% of immigrants in detention must represent themselves in complicated legal proceedings which they have very little understanding of and which, in many cases, are conducted in a language they do not understand.

- (b) It is incredibly difficult for family members of immigrants who are detained or community volunteers to obtain information that is necessary to advocate on behalf of immigrants in detention. For example, immigrants in detention are not afforded a free phone call and calls cost up to \$5 per minute with phone accounts that often can only be set up by families on the outside. Since people cannot call their family to notify them of their whereabouts or ask them to create the necessary phone account, immigrants in detention often languish in prison for weeks or months without any contact with the outside world. A 2009 ICE report explained that 95 per cent of noncitizens are released within four months, although approximately 2,100 noncitizens are detained for a year or more.⁶ While 2,100 may not seem like an alarming number of individuals, a portion of these individuals have languished in detention for over five years because there is no time limit for how long someone may be in immigration detention (contrast this with France, where the maximum length of time one can spend in immigration detention is 45 days, or 60 days in Portugal),⁷
- (c) Visitation is not a legally protected right. Many contracting jails that detain immigrants implement complicated visitation policies that require the person who is detained to make an appointment to see their loved one for a particular time and day and require lots of information that the detained person may not know off the top of their head. Since they cannot call their loved ones to obtain this information or let their family know about the day and time they made the visitation appointment for, there is no way for them to set up a visit.⁸
- (d) Lastly, immigrants who are detained are issued an Alien Registration Number (or A-number) by the government that is required to find out any information about a person who is detained such as where they are held or when is their next court appearance. However, many contracting jails do not use this number and use a different internal jail ID

⁶ US Department of Homeland Security Immigration and Customs Enforcement, Immigration Detention Overview and Recommendations 6 (2009).

⁷ E.g., Nina Bernstein, Sick Detained Immigrant to Appeal to U.N. for Help, N.Y. Times, 25 June 2010, at A27.

⁸ Makes us think of "Go Fish" (Is my appointment on Monday at 3pm? No, Go Fish. Is my appointment on Thursday at 11am? No, Go Fish)



number. As a result, many family members or CIVIC community volunteers are cut off from crucial information they need simply because no one has access to this A-number.

(3) Filing a complaint about detention conditions formally, such as sexual assault by jail staff or instances of serious medical neglect, is very risky. Persons in detention fear retaliation by both jail staff and Immigration and Customs Enforcement (ICE) and our experience confirms that such fears are well founded. In many cases where the government was made aware that CIVIC volunteers were providing support to people in detention, such persons have been transferred with no warning to remote facilities without a community presence or their deportation was expedited. If a safe space is made for persons in detention to file complaints through CIVIC, although retaliation is a possibility, the outcomes of grievances may be monitored to protect the health and safety of persons in detention.

(4) We believe a large majority of the American public would agree that secrecy and isolation are fertile breeding grounds for abuses of power. The federal government relies upon a discourse of “security” and “protection” to justify the necessity of the current immigration detention system and the way it is administered. The discourse of protection flows two ways: (1) it is articulated as protection of the American public from people who are in the US “illegally” and (2) it is used to justify the isolation and lack of information made available about persons who are already in the immigration detention system. While we believe privacy and security are incredibly important concerns on an individual level, we also understand that transparency and community engagement are essential to the functioning of a true democracy on an institutional level. We believe the discourse of protecting the security of individuals in detention while holding them prisoner must be challenged. The federal government is attempting to deal with a problem articulated as “illegality” through means that violate our understanding of the legal rights and due process that should be afforded to all persons.

Guidelines

- 1) We do not use the word “detainees” because it is dehumanizing.
- 2) We like “criminal legal system” rather than “criminal justice system” because its not as just as it should be.
- 3) We see immigration detention as part of the mass incarceration system.