



Statement for the Record

U.S. House of Representatives Committee on the Judiciary - Subcommittee on Immigration and Citizenship

Hearing on "The Expansion and Troubling Use of ICE Detention"

September 26, 2019

The National Immigration Forum (the Forum) advocates for the value of immigrants and immigration to the nation. Founded in 1982, the Forum plays a leading role in the national debate about immigration, knitting together innovative alliances across diverse faith, law enforcement, veterans and business constituencies in communities across the country. Leveraging our policy, advocacy and communications expertise, the Forum works for comprehensive immigration reform, sound border security policies, balanced enforcement of immigration laws, and ensuring that new Americans have the opportunities, skills, and status to reach their full potential.

Introduction

The Forum appreciates the opportunity to provide our views on the excessive levels of immigration detention. We believe that the record number of detainees are unnecessary and exorbitant. With Congress already demonstrating a commitment to fund safe and effective alternatives to detention (ATDs), there is no reason why immigration detention has reached record levels – with an average daily population exceeding 50,000.¹

Maintaining an average daily population of immigrant detainees above 50,000 is a waste of taxpayer funds and is in tension with congressional spending limits. In fiscal year (FY) 2016, U.S. Immigration and Customs Enforcement (ICE) maintained an average of 34,000 beds,² which itself represented a significant increase over detention levels of the 1990s and 2000s. Even with the influx of Central American migrants in recent years, an increase of 50 percent or more above that already inflated number is unwarranted and unnecessary, and represents a drain on taxpayer funds. Given the negative impacts of

¹ Spencer Ackerman, "ICE Is Detaining 50,000 People, an All-Time High," The Daily Beast, Updated Mar. 8, 2019, <https://www.thedailybeast.com/ice-is-detaining-50000-people-a-new-all-time-high>.

² Laurence Benenson, National Immigration Forum, "The Math of Immigration Detention, 2018 Update: Costs Continue to Multiply," May 9, 2018, <https://immigrationforum.org/article/math-immigration-detention-2018-update-costs-continue-multiply/>.

detaining individuals in immigration detention, especially children and families,³ the Forum believes that ATDs are a humane substitute that also save taxpayers money.

Alternatives to Detention Are Cheap and Effective

Detention of non-dangerous immigrants is a budget item ripe for cost savings. Such savings can be achieved by deprioritizing the detention of immigrants without criminal records and moving those immigrants into alternatives to detention (ATD) programs. ATDs can cost as little as 70 cents to \$17 per person per day, with an average ATD contract costing between \$5 and \$6 per person per day.⁴ In contrast, ICE spends an average of more than \$200 each day to detain someone in immigration detention, and, when detaining families, spends even more – upwards of \$300 per person per day.⁵

U.S. Immigration and Customs Enforcement (ICE) relies on several different approaches to ATDs, including electronic monitoring, case management, parole/bond, and check-ins. ATDs have proven to be highly effective in ensuring immigration court attendance, with many programs exceeding 90 percent success rates,⁶ with some “full service” ATD programs featuring case management yielding success rates above 95 percent.⁷ Accordingly, the Department of Homeland Security (DHS) has recently endorsed ATDs, touting its high success rates and “strong alien cooperation.”⁸

In recent years, Congress has prioritized ATDs, funding a projected average of approximately 80,000 participants at \$187 million in FY 2018.⁹ This represents a significant increase above FY 2012 levels, when Congress appropriated \$38 million for approximately 12,000 ATD slots.¹⁰

The use of electronic monitoring, specifically through ankle monitors, has become increasingly prevalent. In July 2018, over 38,000 immigrants were fitted with ankle

³ National Immigration Forum, “Fact Sheet: Family Separation at the U.S.-Mexico Border,” June 20, 2018, <https://immigrationforum.org/article/factsheet-family-separation-at-the-u-s-mexico-border/>.

⁴ See “The Math of Immigration Detention.”

⁵ See “The Math of Immigration Detention.”

⁶ American Immigration Lawyers Assoc., et al., “The Real Alternatives to Detention,” June 2019, <https://www.aila.org/infonet/the-real-alternatives-to-detention>.

⁷ National Immigration Forum, “Infographic: Alternatives to Detention,” June 27, 2018, <https://immigrationforum.org/article/infographic-alternatives-to-detention/>.

⁸ U.S. Department of Homeland Security, Fiscal Year 2018 Budget Justification, at ICE-O&S-179, https://www.dhs.gov/sites/default/files/publications/CFO/17_0524_U.S._Immigration_and_Customs_Enforcement.pdf.

⁹ Christian Penichet-Paul, Omnibus Appropriations for Fiscal Year (FY) 2018: Department of Homeland Security (DHS), Mar. 29, 2018, <https://immigrationforum.org/article/omnibus-appropriations-fiscal-year-fy-2018-department-homeland-security-dhs/>.

¹⁰ See “The Math of Immigration Detention.”

monitors, representing nearly half of all individuals in the Intensive Supervision of Appearance Program (ISAP), ICE's primary ATD program.¹¹

As the Use of ATDs Rises, Detention Levels Should Fall

DHS' increasing reliance on ATDs has not been met with a corresponding reduction in immigration detention.¹² ATDs all too often have been used to supplement, rather than replace, immigrants held in detention.¹³ With detention levels and ATD slots both reaching record levels, the end result is that significantly more people are under some form of DHS detention or monitoring. The Forum believes that increasing ATDs without a corresponding reduction in immigration detention is a missed opportunity that minimizes the positive impacts of ATDs.

By not utilizing ATDs as actual "alternatives" — and not removing low-priority individuals from the detained population — the federal government has missed opportunities for cost savings. Over the past decade, Congress and multiple administrations have failed to take advantage of opportunities to save taxpayer funds unnecessarily spent on immigrant detention.

Over the past three years, Congress has repeatedly increased funding for immigration detention and boosted the detained immigrant population.¹⁴ And even when Congress has sought to limit detention levels, as it did in the February 2019 budget deal, the current administration has continued to use reprogramming authority to shift additional DHS funds into immigration detention.¹⁵

The continuing cycle of increasing immigration detention funding year after year is wasteful and unnecessary. As detention levels and detention costs continue to rise, these unnecessary taxpayer expenses will only climb further. Absent additional pushback from Congress, through the appropriations process and elsewhere, such trends are likely to continue for the foreseeable future.

Conclusion

The National Immigration Forum believes that immigration detention levels are excessive and waste taxpayer dollars. At the same time, the Forum is encouraged by the success of ATD programs that are cheap and effective. Congress should act to ensure DHS utilizes

¹¹ Colleen Long, et al., "ICE issuing more immigrant ankle monitors. But do they work?" Associated Press, Aug. 25, 2018, <https://www.apnews.com/dfcdc6302e154753a526c04706df45d6>.

¹² See "The Math of Immigration Detention."

¹³ American Immigration Lawyers Assoc., et al., "The Real Alternatives to Detention," June 2019, <https://www.aila.org/infonet/the-real-alternatives-to-detention>.

¹⁴ See "The Math of Immigration Detention."

¹⁵ See Dara Lind, "Congress's deal on immigration detention, explained," Vox.com, Feb. 12, 2019, <https://www.vox.com/2019/2/12/18220323/immigration-detention-beds-congress-cap>.

ATDs as originally intended – as a substitute for immigration detention. Immigrants who pose no threat to public safety and are likely to appear in immigration court under ATDs, should be placed on ATDs, rather than detained.