Living Conditions in U.S. Immigration Detention Centers

Brianne Hansen

Summary

Immigrant detention centers are used to hold potential immigration law violators while their case is being processed, but within these facilities many individuals experience poor living conditions. These conditions range from inadequate health care to abuse. This treatment can lead to poor physical and mental health outcomes for detainees as well as negative social and economic effects for their families. Public perspective, legislation, and economic incentives all encourage this poor treatment, while detention policies enable them. Nonprofits work to solve this issue through visitation programs, political advocacy, and community-based alternatives to detention. The Federal Government has addressed this issue most effectively through creating alternative to detention programs, but some local governments, believing that immigration enforcement is too strict, have implemented additional policies which protect undocumented immigrants from detention and deportation.

Key Terms

Department of Homeland Security (DHS)—The federal U.S. department responsible for public security.¹

Immigration and Customs Enforcement (ICE)—The federal agency within the DHS responsible for enforcing immigration law, including administering the apprehension, detention, and deportation of immigrants.²
Detention Centers—Facilities, generally prisons, where people suspected of violating immigration law are held while their case is processed. These individuals are subject to all the same conditions as the convicted persons in the prisons.

Asylum Seeker—A non-citizen requesting sanctuary. An asylum seeker generally has a reasonable fear of returning to his or her home country. If the request is approved, the individual is given refugee status.

Undocumented Immigrant—A non-citizen who illegally enters the United States with the intention to remain.

Flight Risk—An individual is considered a “flight risk” when there is a high probability that he or she will attempt to evade ICE supervision and immigration procedures.

Office of Inspector General (OIG)—“The OIG [for the DHS] conducts and supervises independent audits, investigations, and inspections of the programs and operations of DHS, and recommends ways for DHS to carry out its responsibilities in the most effective, efficient, and economical manner possible. [They] also seek to deter, identify and address fraud, abuse, mismanagement, and waste of taxpayer funds invested in Homeland Security.”

Bed Quota—This requires ICE to maintain a specific number of immigration detention beds on a daily basis. This number has increased since it was established in 2009.

Intergovernmental Service Agreement (IGSA)—“IGSAs are agreements between the federal government and a state or local government to provide detention beds in jails, prisons, and other local or state government detention facilities. While government owned, these facilities may be operated by either local or state agencies or by a private company in the business of providing detention services. Some of these facilities may even be dedicated for federal use.”

Context

Immigration detention is the practice of imprisoning people suspected of being undocumented immigrants while the government processes his or her immigration status. The Department of Homeland Security (DHS) has a broad jurisdiction over detention. DHS can apprehend individuals “at the border, during employment or household raids, as a result of police traffic stops, or after having been convicted of a criminal offense.” Detention is generally used as a way to supervise individuals to ensure that they attend hearings and respect the decisions made by the U.S. legal system. People are also held “for the purpose of identifying persons and determining nationalities, preventing [...] unauthorized entry, and expelling or ensuring the enforcement of a deportation order.” Sometimes, asylum seekers are also detained pending a decision on their request for asylum.

Immigration detention in the U.S. has changed dramatically throughout history, increasing significantly in the past few decades. In 1864, the first federal office for immigration control was established. With the passage of the Immigration Act of 1882, which states that the federal government holds responsibility for immigration regulation, the office became much more

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active. The government continued to become more involved in immigration enforcement through other legislation, such as the Chinese Exclusion Act and the opening of Ellis Island (potentially the first U.S. detention center). After Ellis Island closed in 1954, the practice of immigration detention slowed significantly. However, in the 1970s, detention regained popularity as focus was directed towards large increases in Caribbean migration and refugee flows. The modern U.S. immigration detention system began to form in the early 1980s, when the Immigration and Naturalization Service (INS) “systematically apprehended undocumented migrants from certain countries” and set up new detention centers in Puerto Rico and the U.S. mainland in order to accommodate the larger amount of detainees. In 1986, the federal government passed the Immigration Control and Reform Act (IRCA), which increased spending for detention and removal/intelligence activities significantly. The Illegal Immigrant Reform and Immigrant Responsibility Act of 1996 (IIRIRA) greatly expanded the beds available for detainees. After the 9/11 terrorist attack, Congress passed the Homeland Security Act of 2002 which dissolves the INS and transfers authority to the Department of Homeland Security, shifting the focus of immigration enforcement more towards national security and anti-terrorism.

As per current operations, detainees are typically housed in prisons, and over 60% of these managed by private organizations. As reported by Immigration and Customs Enforcement (ICE) with data from 2007, these individuals are detained for 37 days on average but may be detained for months or even years. The number of detainees has increased dramatically in the past couple decades (figure 1). Immigration detention is the fastest growing type of incarceration. In 2008, 230,000 people were detained, more than three times the number in 1999. This costed about $2 billion annually. In fiscal year (FY) 2017, the cost went up to $3.076 billion.

Detainees include persons with a wide variety of different characteristics. DHS detains individuals suspected of violating immigration law, but, as in any legal system, errors sometimes occur. Amnesty International identified over a hundred cases in the past decade where US citizens and lawful permanent residents were wrongly placed in deportation proceedings. Therefore, detainees include many groups of people ranging from undocumented individuals, lawful permanent residents, U.S. citizens, asylum seekers, and human trafficking victims. These individuals include men, women, and children, with most being between 26 and 35 years old. ICE detainees represent virtually every country, various security classifications, and medical conditions ranging from healthy to terminally ill. Specific information on statistics of detainees is not readily available.

The living conditions of detainees is often an issue in immigration detention centers. Harmful treatment practices include inadequate medical attention, lack of due process, and abuse. Between 2010 and 2016, officials in the DHS Office of Inspector General reported receiving about 33,000 complaints asserting “a wide range of abuses in immigration detention.” The living conditions of detainees can result in serious negative consequences, including poor physical, mental, social, and fiscal health for the detainees.
Contributing Factors

Perceptions of Undocumented Immigrants

Perceptions of undocumented immigrants contribute to increased enforcement which leads to more people living in poor conditions in detention. In 2016 at a United Nations Third Committee, four independent organizations reported that xenophobia—fear and/or hatred of foreigners—is increasing globally. In the US specifically, many experts have reported an increase in incidences of racism and xenophobia. However, these concepts are abstract and difficult to measure, meaning that the research is indeterminate. Specific to immigrants, views are constantly shifting. According to a 2018 survey by Pew Research Center, 26% of the participants said that they believed that undocumented immigrants are more likely to commit crime than U.S. citizens and 29% said they felt at least somewhat unsympathetic towards undocumented immigrants. Additionally, Xia Wang, an assistant professor at Arizona State, found that the public perceives immigration, particularly undocumented immigration, to be highly associated with crime. This perception is highly correlated with the size of the immigrant population rather than other factors. Since the immigrant population has been increasing since the 1970s, this public perception is likely a larger issue now than in the past. These perceptions paint immigrants, legal and illegal, as criminals while academic reports state that “the majority of [these people] are not a threat to the general public.” This attitude towards immigration makes criminal punishment (ex. incarceration) seem like a logical approach to undocumented immigrants.

The negative public perception of immigration is particularly evident in the changing American rhetoric used towards immigrants. Fernández writes in her review, “the mythology of American immigration invokes, honors, and celebrates European immigrants as heroic, praiseworthy, and the builders of the nation. […] Contemporary immigrants are constructed as a ‘problem,’ deemed unassimilable, burdens on public resources, lazy, criminal, and dangerous.” She continues, writing, “Policy narratives constructed two opposing target groups—hardworking ‘taxpayers/citizens […] versus ‘freeloading’ immigrants.” In July this year, it was reported that the Justice Department instructed US attorneys to use “illegal alien” and not “undocumented” when describing the undocumented population. By describing people as “illegal,” it associates them with crime which makes it seem rational to treat them like criminals. Additionally, describing people as “alien,” instead of using a term like “person,” dehumanizes them. Using this language makes it easier to justify or understand poor treatment of undocumented immigrants.

The militarization of enforcement also shows these negative perceptions of immigrants. Coleman and Kocher say, “the US Southwest has been transformed, particularly over the last 40 years, into a densely militarized space—literally littered with old and new interdiction technologies. These include fences, walls, vehicle barriers, vehicle checkpoints, ground sensors, and most recently, electronic surveillance towers.” Using military force to defend from undocumented immigrants shows that many Americans view
these people as dangerous or as a threat. These issues lead to more immigrants being detained, as stated in the context, meaning there are likely to be more instances of mistreatment, assuming the proportion of detainees who experience bad treatment remains constant.

**Legislation**

These perceptions have contributed to an increased strictness in laws enforcing undocumented immigration, ultimately affecting the treatment of detainees. America’s approach to crime has tended to be more punitive and aggressive in the past few decades, evident from the rise in incarcerations (figure 2) and from phrases like “war on drugs” and “tough on crime.” As undocumented immigrants have become more associated with crime politically, they have also been more associated with crime legally.

The increase in immigration enforcement management can be linked to a swath of legislation passed in the early to mid-1990s. According to Coleman and Kocher, the new laws “expanded the criminal grounds for removal from the US and created new detention and deportation procedures with limited court oversight.” Some examples of these new laws is the 1996 Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) which made detention mandatory for legal immigrants with minor criminal convictions, or those without proper documentation, including refugees. IIRIRA and AEDPA also increased immigrant detention in one other major way: immigrants no longer have the right to ask for a deportation waiver from an immigration judge. Before, waivers were granted in about half the relevant cases for reasons including a history of lawful living, military service, business ownership, years of paying income taxes, and having US citizen spouses or children.

This legislation creates an environment where treatment of undocumented immigrants is less lenient. By eliminating waivers and making detention mandatory, the law treats undocumented immigrants as criminals and a threat to society. Most detainees are placed in prisons, and much of the prison staff “assume[s] that the [detainee] would not be in prison if [he or] she had not committed some crime.” With this view, criminal treatment of undocumented immigrants becomes more acceptable. More recently in 2004, Congress enacted the Intelligence Reform and Terrorism Prevention Act, requiring DHS to expand detention capacity by 8,000 beds per year from FY 2006 through FY 2010. And in FY 2010, Congress attached DHS funding to the immigration bed quota, initially set at 33,400 beds per day but rising to 34,000 in FY 2012. (However, quotas were omitted from the FY 2017 appropriations bill.) Trump signed an executive order in January 2017 which expanded ICE’s enforcement protocol to most unauthorized immigrants, regardless of whether they have a criminal record, while during Obama's administration, ICE mainly focused on unauthorized immigrants with a criminal conviction. As the number of detainees increases, more people are likely experience poor living conditions in detention centers simply because there are more detainees (assuming the proportion of detainees who face poor conditions remains constant.)

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Economics and Politics

Privatization of the prison system also contributes to poor treatment of immigrants because of the incentive to minimize costs and maximize profits. While a detention center is any facility a person suspected of violating immigration law is held, these facilities are most often prisons. Over 60 percent of all detainees are held in private prisons through Intergovernmental Service Agreements (IGSAs). These prisons, being profit-motivated, have an incentive to minimize costs. The Geo Group, which operates 64 immigration detention facilities and prisons with 74,861 beds in the United States, has been criticized for increasing its profits by lowering worker wages, reducing inmate access to healthcare, and ignoring safety and sanitation standards.

In August 2016, former Deputy Attorney General Sally Yates stated that private facilities “do not maintain the same level of safety and security” as publicly owned ones. There is some statistical evidence that public prisons protect the safety of inmates better. A 2001 reanalysis of National Survey of State Prison Privatization showed that the rate of major incidents, like inmate-on-inmate assault, is higher at private facilities than at public facilities. However, this re-analysis also showed that there were not many differences between the conditions in private and public facilities. While the research is inconclusive and studies are often not sufficiently rigorous to provide adequate data, some research does suggest that private prisons create poor living conditions for detainees.

In addition to privatization creating perverse incentives, localization can also create conflicting incentives. Most detainees are kept in local or state prisons, meaning that local politics and ideologies can affect the treatment of the detainees. Coleman and Kocher write, “what happens on the ground in terms of how the power to police immigration is taken up is very much conditioned by site-specific legal and political context.” For example, many areas in the United States lack political diversity, and Pew Research finds a large partisan divide with regards to views on immigration. This could mean that some local prisons are likely managed almost exclusively by people with a particular views of undocumented immigrants. These ideologies and perspectives could lead to poorer conditions for detainees. For instance, prison staff may view detainees very negatively or may focus on security above living conditions, which would likely affect detainees’ overall wellbeing.

Detention Center Policies

Many detention policies create environments where detainees experience poor living conditions. For example, poor oversight policies allow mistreatment of detainees can continue without consequences. In a study from December 2006, “the OIG (Office of Inspector General) found instances of non-compliance with ICE health care standards at four of the five facilities it visited. Additionally, the OIG found that ICE inspectors routinely failed to note instances of facility noncompliance with standards related to health care.” This suggests that ICE uses inadequate supervision methods for its detention centers. Additionally, the government sometimes gives ICE responsibility over its own oversight. In the Zadvydas v. Davis Supreme Court decision, the General

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**Intergovernmental Service Agreement (IGSA)**

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Accounting Office reported that ICE was detaining hundreds of people illegally, but the GAO recommended that ICE fix the problem themselves. Poor oversight can create an environment where bad practices are not reported and are allowed to continue. Without proper oversight, detainees are likely to continue to receive the same level of care.

In addition to poor oversight, inadequate transparency also creates an environment where mistreatment of detainees can continue unchecked. ICE acknowledged 83 detainees who died while in custody or immediately after release from 2004 to 2009. However, these deaths were only acknowledged by ICE after many requests and protests from advocacy groups. Even then, there are not many details surrounding the circumstances of these deaths. Experts say, “Given the lack of public, verifiable information about ICE detainee conditions, it is difficult to address the veracity of ICE claims.” In some cases the public does not know about detention center conditions and studies are unable to verify the information given. This means that many people who would attempt to change poor detention center conditions do not because they do not know about them or do not have access to accurate information. Without accountability to the public, poor detention conditions will likely continue to be under-addressed.

There is also evidence for overcrowding and other deficient policies in detention centers. For example, in 2018 The Independent reported on overcrowded immigrant detention centers in Texas; by the end of 2010 in California, corrections facilities averaged 175% over capacity, and in 2014, 18 states reported they were operating at over 100% capacity. As discussed previously, the detention bed quota has increased which can easily lead to overcrowding if there are not enough facilities to support the growth in detainees. Overcrowding would make it more likely that prison staff is unable to adequately monitor each individual which means that detainees likely receive less care than appropriate. There is also evidence for other deficient detention policies. An independent report on a correction center in Delaware found major shortfalls, including failures to follow standard procedures, mistakes made by tired and inexperienced staff, communication and leadership problems, and unaddressed grievances. A 2017 report issued by the Inspector General’s Office of DHS found that four of the five detention centers inspected failed to meet federal standards. These poor management policies create and sustain poor living conditions for detainees.

**Detainees’ Inability to Self-Advocate**

Detainees are often unable to self-advocate, contributing to an environment where poor living conditions are not reported. Detention centers sometimes maintain order by using tactics which silence detainees. Dow cites ICE’s operation manual when he writes that “detainees are regularly transferred from jail to jail without warning, usually in the middle of the night. Transfers are used to punish detainees who seek media attention, to break up peaceful hunger strikes, [and] to isolate detainees from legal help. [. . .] In the course of transfers and processing into new jails, detainees’ essential legal paperwork commonly disappears, their personal property is stolen, and...
families lose track of their loved ones since the immigration agency explicitly disclaims responsibility for informing family of the unannounced moves.\textsuperscript{64} Detainees are also silenced within a single facility often through segregation and solitary confinement. These conditions restrict detainees ability to communicate effectively with others. Detainees also often lack the legal power to change their situation. A 2005 study by the US Commission on International Religious Freedom (USCIRF) found that most detainees were poorly informed by ICE of their rights.\textsuperscript{65} Without knowledge of what they should be guaranteed as detainees, people in these detention centers often do not realize that their rights are being violated, meaning that violations continue without resistance from the victims. Detainees in these conditions are generally unable to self-advocate effectively, meaning that if they are being mistreated, they are unable to adequately appeal. Poor detention conditions, particularly undertreated health issues, can also contribute to detainees inability to self-advocate.\textsuperscript{66} This creates a cycle where detainees are unable to self-advocate which enables poor detention conditions, making it even harder for these individuals to get help for their situations.

### Consequences

#### Health

**Physical Health**

Detainees' physical health often suffers as a result of poor conditions. There are many reported incidences of food and water deprivation as well as inadequate health care and overcrowding. There have also been reports of unsanitary food which can cause food poisoning and other negative health effects.\textsuperscript{67} There is limited exposure to the outdoors, some centers limiting time to one hour per week. Many detainees are often not exposed to much sunlight.\textsuperscript{68} This neglect of basic health necessities can result in weight loss, malnutrition, dehydration, muscle deterioration, and many other negative health consequences.\textsuperscript{69}

Medical care specifically can be a big issue in detention centers. Legal advocacy groups report that as many as 80% of detainees were dissatisfied or experienced problems with medical care.\textsuperscript{70} A 2009 study reported that “among inmates in federal prisons, state prisons, and local jails, 38.5%, 42.8%, and 38.7%, respectively, suffered a chronic medical condition. The study concluded that many inmates failed to receive care while detained.\textsuperscript{71} From 2003 to 2016, there were 155 reported deaths in immigration detention, many of which appear to be a result of poor living conditions.\textsuperscript{72} This number does not include the unreported deaths or the deaths which occurred after release resulting from neglect within the centers. Many deaths in detention centers suggest a failure to complete initial screenings, continue care, and seek expert referrals.\textsuperscript{73} Even when death is avoided, there can be permanent consequences for the detainee’s physical health.
**Mental Health**

In addition to poor physical health, detention is also associated with negative mental health consequences. These consequences include higher rates of psychological distress and suicidality. In a study on asylum seekers, a small subset of detainees, the researchers found that mental health “was extremely poor and worsened the longer that individuals were in detention.”

Significant symptoms of depression were present in 86% of the 70 detained asylum seekers, anxiety was present in 77% and PTSD in 50%.[75] Many of the detainees also reported verbal abuse by officials and solitary confinement as a form of punishment. These reports suggest that the poor treatment of detainees affects their mental health. It is important to note that many detainees, particularly asylum seekers who are fleeing dangerous circumstances, are likely to experience negative mental health before detention.

However, even if conditions are preexisting, detention centers often fail to appropriately address them. There are reports of “segregation” used as a punitive intervention for detainees with mental health problems. Combined with a system-wide lack of mental health counseling, the punitive use of segregation creates a disincentive for detainees to seek mental health care. Several groups have documented the use of segregation in response to detainees asking for mental health services.[76] Many of these detainees likely develop worse symptoms as a result of the lack of treatment. These mental health consequences will likely have social impacts as well, affecting detainees’ relationships with family and friends and their ability to work and manage their household effectively. Evidence suggests that inadequate living conditions contribute to poor mental health in detainees which can affect society more broadly.

**Social**

**Children & Families**

Separated families face many negative consequences as a result of poor conditions in detention centers. Some examples of poor treatment include restricting visitation rights and unnecessarily keeping children away from their parents. Experts have refuted policies such as family separation because of their negative effects.[79] Parents who are separated from their children and unable to visit them regularly can face negative psychological consequences.[80] Additionally, parent detention has been linked to negative consequences for their children like poor mental health, social isolation, aggression, withdrawal, and low academic achievement.[81] When children are separated from their parents, they “experience emotional trauma, safety concerns, economic instability, and diminished overall well-being. This can lead to interruptions in these children's schooling, depression, aggression and rebellion.”[82] The effects of parental detention and poor living conditions likely have long-term effects on these individuals and their families.

Children who are detained face additional negative effects. In September 2018, 12,800 children were detained as compared with 2,400 in May 2017. Unaccompanied children are traditionally been given sponsors such as parents
or extended family members after entering the U.S., but there is often a period of time where children are detained while searching for a sponsor. Experiencing the trauma of detention as a child can have long-term consequences: “Alterations in a child’s ecology as a result of toxic stress can have measurable effects in his or her developmental trajectory, with lifelong consequences for educational achievement, economic productivity, health status, and longevity.” Family unity is not only important for individual’s health, but for societal health as well. As discussed previously, family separation can lead to emotional, educational, and financial instability.

**Women**

Female detainees face negative treatment specific to their gender. The Women’s Commission of Refugee Women and Children report many instances of unfair treatment towards women asylum seekers, including denial of feminine hygiene products and restrictions from activities or resources provided to male detainees, including access to translation services, English classes, and vocational activities. The Commission found that women are especially at risk of abuse and neglect, that “the physical, psychosocial, and legal needs of women are frequently ignored,” and that the women studied report high rates of sexual assault and abuse. There were 1,224 complaints filed between January 2010 and September 2017, but relatively few are fully investigated. An officer was the perpetrator in 59% of claims. There are also numerous stories of pregnant women who are treated unfairly or not given the medical and nutritional attention necessary for a healthy pregnancy. However, there is little data available on the numbers of incarcerated pregnant women and even less on the care provided. While all female detainees who face these poor conditions are likely negatively impacted, female asylum seekers potentially have worse consequences because many of them are fleeing violence and gender-based persecution.

**Economic**

Poor living conditions can result in negative economic consequences at a micro and macro level. A study of detainees in Southern California found that 94% of detainees reported being “a source of financial and/or emotional support” to their families pre-detention. Additionally, 64% of respondents who considered themselves a financial support reported that during their time in detention, their family was late paying rent, mortgage, or utility bills. Not only can detention negatively impact individuals and their families, but it can also impact the economy more broadly by reducing human capital and labor. Time spent idle in detention centers as well as the mental and physical trauma of abuse can result in a loss of skill. Evidence shows that many of them are financial providers, and they may not be able to return to the same work post-detention or produce at the same level as they could before detention. Additionally, ICE uses taxpayer money to pay for detention centers. In the fiscal year of 2002, ICE budgeted almost $1.6 million per day for detention beds. The number of detainees has grown significantly since then, so the budget has likely increased.
Practices

Volunteer Visits and Oversight

There are many organizations coordinating volunteer visits with detainees. Programs range from nationwide efforts to local programs to religious-based programs. Many organizations have volunteer visitors focus mostly on providing human connection, instructing them to ask basic questions and develop friendships. Other organizations train volunteers to provide additional support. For example, Freedom for Immigrants runs one of the largest nationwide programs, operating at 55 detention centers in 23 states. Volunteers are specifically supposed to meet weekly with detainees to inform them of rights, connect them with family, and track their situation. The organization then writes reports, files class action lawsuits, and sends complaints to the Office of Civil Rights and Liberties to demand policy change. Freedom for Immigrants does this through partnerships with the ACLU, Human Rights Watch, and others.

These organizations hope that by providing human connection and helping detainees maintain family and community ties—often only available through visitation programs—they will be able to help improve the conditions detainees experience. Detainees often feel isolated and these programs can soothe that feeling. Additionally, improving transparency and reporting human rights violations that translates into policy change can improve the quality of life for detainees.

Impact

It is likely that these programs do positively impact detainees’ well-being, but unfortunately there is limited research on the impacts of visitation programs. Experts have said that volunteer visitation programs can act as “a ‘stability zone’ which softens the psychological impact of confinement” and that these positive impacts multiply in cases where detainees experience violence and coercion. Research shows that prison visits can decrease prisoner misconduct, suggesting that visits could improve conditions for other detainees rather than just the one who is visited. While unfortunately, there is not a lot of research on the benefits of visits on detainee conditions, many detainees testify of the personal positive impact visits had on them.

It is even more difficult to research the impact of advocacy. However, there are some examples of success. Freedom for Immigrants reports various examples of successful legislation that have likely been in part a result of their efforts. For example, they consulted on and advocated for an amendment in California’s budget which “gave the state Attorney General the power and resources to monitor all public and private immigration detention facilities,” hopefully helping improve conditions for detainees. However, it is difficult to measure the impact of legislation on detainees, let alone the impact of advocacy on legislation.

Gaps

Because there is a lack of research on this practice, there is not strong evidence that it is an effective solution. Additionally, while visitation is likely a
good approach given current immigration detention policies, it is reactionary versus preventative. Although there is a possibility that visitation programs improve oversight and transparency, they do not address the other contributing factors. Organizations that lobby for better policy address the root causes better, but as stated previously, the research on the effectiveness of this approach is scarce.

Similarly, visitations may not have long-term impacts. Some of the positive benefits of visits, like inmate misconduct, are temporary. This is likely because, as stated before, visitations do not address the main causes of this issue.

Additionally, this solution is difficult to scale. Nonprofit organizations working on these issues are not large or powerful enough to do this at the scale necessary to solve the problem. Organizations would eventually need a program in each facility (including those undisclosed by ICE) and enough volunteers to visit all detainees. It would be extremely difficult to find an adequate number of volunteers.

**Government Alternatives to Detention**

Most countries do not rely primarily on detention to enforce immigration laws. Detention can be costly, inefficient, and inhumane. One common method of enforcing immigration is monitoring. Essentially, potential immigration law violators continue to live in the community under supervision while their case is being processed. In 2003, the U.S. began the Intensive Supervision Appearance Program (ISAP) as a pilot program and it has continued to be renewed since it began, modified over time. ICE currently runs three ATD (alternative to detention) programs. The first two, ISAP and Enhanced Supervision Reporting (ESR), are contracted by ICE to private organizations. The third program, Electronic Monitoring (EM), is operated by ICE. ISAP, which has a capacity for over 11,000 individuals daily, is the most restrictive and costly of the three strategies.

They are subject to “strict rules, including a 12-hour home curfew, three face-to-face meetings per week with their caseworker, and unannounced telephone calls and visits.” Each participant is also “fitted with a GPS monitoring ankle bracelet and required to install voice-recognition technology on his or her home telephone line.” The other two programs are similar but less intensive. ESR, which has a capacity for 7,000 individuals daily, is less restrictive and less costly, featuring telephonic reporting, radio frequency, and global positioning tracking and unannounced home visits by contract staff. EM, which has a capacity for 5,000 individuals daily, is the least restrictive and costly, relying upon telephonic reporting, radio frequency, and/or global positioning tracking. These programs were implemented “to provide expanded options” for people who would likely be detained. Additionally, ERO keeps track of more than 1.8 million persons in immigration removal proceedings, but ICE’s budget only funds 34,000 detention beds. This means that there must be other methods of monitoring to keep up with the large number of persons in removal proceedings. However, these alternatives are only offered to those not subject to mandatory detention and not considered a threat to the community or a **flight risk**.
Impact

By limiting detention, it is intuitive that a person who would otherwise be detained experiences less harmful living conditions. For example, because the center is not providing for all of the individual’s sustenance, it cannot provide inadequate sustenance. A study of detention versus ATD programs in Australia shows that ATD programs “[improve] the wellbeing of [migrants] when compared with […] detention and does not exacerbate existing trauma.” Additionally, former detainees reported that “community placement was less harmful.” Additionally, immigrants are better able to hire attorneys and access other resources, enabling them to self-advocate more effectively. ATD programs are also better for individuals’ mental health by allowing them freedom and allowing them to maintain relationship with family. These programs are also less expensive.

Gaps

However, many immigration advocates call these alternatives to detention alternative forms of detention because of some additional negative effects associated with them. ICE officers have broad discretion over who gets put in which program and how heavily a person will be monitored. There is vague criteria for the programs as well as insufficient training for the staff.

Additionally, there are many negative emotional and social consequences from ankle monitors. Individuals with ankle monitors are criminalized by the public while many are not an actual threat. Ankle monitors also play recorded messages which can cause humiliation. Individuals on these programs often face curfews and mobility restrictions that can hurt job prospects, relationships, etc. There are also physical limitations associated with the ankle monitor including needing to charge the device and adjust to the extra weight.

There are also issues with the required check-ins. A 2012 report from Rutgers School of Law states that the “psychological effects of the check-in requirements include, but are not limited to, inability to sleep, loss of appetite, anxiety, stress, paranoia, and general lack of willpower to continue with one’s immigration proceedings.” The report also mentions that an attorney once said the reporting requirements felt similar to “psychological warfare,” making some individuals’ experiences miserable enough that they believe it may be better just to go to their home country.

Immigration lawyers and advocates also say ICE frequently uses these programs with people already released from detention centers. This means that how these practices are currently being implemented often does not help people who would be detained but, in fact, can extend negative effects of immigration enforcement for those released from detention centers. The growth in alternatives has not been accompanied with a decline in detention.

While these programs have gaps, many immigration advocates prefer it to detention. Conditions seem to be better for those put on these programs instead of in detention, largely because this eliminates prison staff’s total power over the individuals. However, these programs only help those that
qualify for program. Those who are considered dangerous to the community or have a high flight risk are still detained in prisons. These ATD have capacity for a very small fraction of the total detainees, meaning the overall impact is small. However, these ATD can be scaled. Although these practices have potential, the current implementations do not have strong positive impacts.

*Community-Based Alternatives to Detention*

These community-based alternatives are similar to ICE’s ATD programs but they are currently run by nongovernmental organizations and they focus much less on supervision and provide social support. They often imitate the qualities of the federal Refugee Resettlement Program. In the United States, some detainees (about 30% in FY 2016) have the opportunity to be released on a cash bond, similar to bail for prisoners, while their case is being processed. Alternative accompaniment programs support people through paying this bond and providing support for their legal and basic needs. *Freedom for Immigrants* is a larger nonprofit organization that runs one of these programs. They have a Revolving Immigration Detention Bond Fund which pays the cash bond for detainees. They support these individuals through their Post Release Accompaniment Program (PRAP) which assists immigrants in “[obtaining] release on parole [. . .] and [if needed] provides them with housing, connections to attorneys, transportation to immigration court, and limited financial support.” They also assign each released person with a volunteer who helps provide them with a first meal and provides ongoing weekly support. Volunteers will also sometimes open up their homes for a few months for those who do not have a place to stay.

These organizations believe that these programs are not only more humane but more effective than detention. *Freedom for Immigrants* reports that these programs cost on average $17 per person per day versus the $145 average that detention costs. Additionally, these individuals still comply with court proceedings at very high rates. In the 1990s, the Vera Institute for Justice partnered with the INS to run a pilot program. They found that 94% of individuals with past criminal convictions and 93% of asylum seekers, high flight risk individuals, came for their hearings. *Freedom for Immigrants*, which has been running their bond program since 2010, has a 100% compliance rate. These organizations argue that that these programs are effective at enforcing immigration law while being advantageous financially and more humane.

*Impact*

Similar to ICE ATD programs, removing people from detention centers means they are no longer subject to poor conditions within the centers. More than that though, experts find many other positive benefits from the program. Lutheran Immigration and Refugee Service (LIRS) has suggested that giving these individuals access to social support improves their likelihood to comply with program policies. Additionally, individuals released from detention are eight times more likely to win their case, meaning that these programs can directly address one of the contributing factors to this issue—detainee’s inability to self-advocate.
Gaps

Additionally, like other ATD programs, these services only help those that qualify for the program. This means that those detained will continue to face poor treatment. These programs also may not work for those individuals. Additionally, as currently implemented, these programs are mostly pilot programs, meaning the current impact on human rights violations is very small. These could be scaled through additional nonprofits or legislative intervention.

Loosening Immigration Enforcement Case Study: Sanctuary Cities

This practice can be implemented in a variety of ways and is a much broader issue, so this brief will not address every aspect of this practice. It is also important to note that this section will not discuss changing immigration laws (ex. Creating new path to legal immigration, etc.) but simply putting less resources into enforcing the laws that currently exist.

There is a wide variety of immigration enforcement practices across countries. For example, in 2013, Australia had very strict enforcement policies, requiring any person unlawfully residing in the country to be detained, while Canada adopted very liberal immigration policies. Additionally, there is variation within the United States' own history on immigration enforcement. Before DHS was created in the aftermath of the 9/11 terrorist attack, border enforcement and immigration enforcement were the responsibilities of two separate executive cabinets. Additionally, the funds and resources dedicated to immigration enforcement has increased over the past decade. These policies vary with different presidents and political cycles. If the United States chose to pursue more lenient immigration enforcement practices, it could do so by decreasing the budget, decreasing staff dedicated to locating potential violators, decreasing the detention bed quota, shifting priorities, etc. The U.S. could spend less time and resources on immigration enforcement.

One specific practice of more lenient immigration enforcement practices in the U.S. are sanctuary cities. Sanctuary cities implement varied practices, but in general, they are cities which “[limit their] cooperation with federal immigration enforcement agents.” They often do this by refusing to hold arrested persons found to be undocumented longer than necessary, so that ICE has time to get a warrant. While these policies are controversial, by some interpretations they are in accordance with past supreme court rulings. DHS has also stated that complying with its request to hold inmates is voluntary.

There are various reasons people advocate for more lenient enforcement practices. Many believe that communities are safer with more lenient immigration enforcement practices because undocumented immigrants are more likely to trust the police, meaning they are more likely to report crimes, testify as a witness, and work with police in other ways. Additionally, Americans on average are less concerned about immigrants in general than they have been at some points in the past. The issue has not always been as politically charged or as partisan. Americans are more likely to say that immigrants strengthen the country and do not pose a threat than they did historically.
unlawful immigration, some people believe that undocumented immigrants help the U.S., specifically its economy, more than they hurt it. This means that immigration enforcement costs a lot while not providing a lot of benefit.\textsuperscript{144}

\textbf{Impact}

Similar to the alternatives to detention, it is intuitive to think that if there are less people being detained, less people are facing poor conditions within detention centers. There also seems to be other positive impacts from more lenient immigration enforcement practices. A lot of research and experts suggest that sanctuary cities are safer because of the lenient policies.\textsuperscript{145} Additionally, sanctuary cities are statistically better off economically than non-sanctuary cities, having higher median incomes, lower poverty rates, high labor force participation rates, and lower unemployment and public assistance.\textsuperscript{146} However, it is difficult to determine for certain how many of these differences come as a result of immigration enforcement policies rather than as a result of other factors. Sanctuary cities and their impacts are very controversial.

\textbf{Gaps}

Many people feel that it is very important to enforce immigration. Not enforcing laws could undermine the legitimacy of them. More lenient enforcement practices could potentially encourage higher rates of undocumented immigration. Additionally, many argue that undocumented immigrants negatively impact the U.S. economy. They may hurt some American citizens by forcing them to compete for jobs. While others argue that undocumented immigrants positively impact the economy, many argue against the proposed economic benefits of immigration by stating that undocumented immigrants have low levels of education. They argue that low levels of education reduce the average educational levels for the U.S. which hurts the economy.\textsuperscript{147}

Sanctuary cities in particular are controversial because of the state and local rights. Many people think it is important for the federal government and for local governments to coordinate on legal procedures. Not coordinating can cause confusion and delegitimize the law. There are also arguments that the positive impacts mentioned above about crime are not true. Some crime in these cities may actually be facilitated by undocumented immigration.\textsuperscript{148} Ultimately, this practice is highly controversial both in the research and in politics at large.

\textit{Note: Deprivatizing detention centers is another widely discussed solution to improving conditions within detention centers, but since this policy has not been implemented in the United States, there is limited impact data which is why is was not included as a practice in the brief.}

\textbf{Key Takeaways}

- Poor living conditions in detention centers affect many detainees. Conditions include inadequate health care, lack of basic necessities, sexual assault, unfair treatment, and more.
• The consequences of these conditions include poor physical and mental health for the individual as well as social and economic costs for the family.

• Research suggests that alternatives to detention, including ICE alternatives and community-based alternatives, can effectively address this problem. However, there seem to be more gaps with current ICE alternatives than there are with community-based alternatives.

• However, these alternatives are only available to those who qualify for the program, meaning that individuals who remain in detention are still subject to poor living conditions. Visitation programs and political advocacy may improve these conditions, but there is little impact data available.
Endnotes

14 Ibid.


77 Note: "Segregation refers to the practice of separating vulnerable individuals or those who have been deemed dangerous to themselves or others from the general population in a prison or detention facility. Segregation takes different forms in different facilities, but is most commonly a designated housing unit that is separate from the general population. Administrative segregation is used when a detainee is at risk of harming themselves or others or for those who need "protective custody" or who have certain medical conditions. Disciplinary segregation is used for detainees who break facility rules. Solitary confinement can be used in either case.


84 According to Dr. Colleen Kraft, toxic stress is "prolonged exposure to hormones such as cortisol, epinephrine, norepinephrine -- fight or flight hormones -- and then inflammatory hormones [...] In a very young child, that disrupts brain development." For more information: Shoichet, Catherine E. "Doctors Saw Immigrant Kids Separated from Their Parents. Now They’re Trying to Stop It." CNN. June 19, 2018. Accessed December 15, 2018.


