



UNSEEN PRISONERS: A Report on Women in Immigration Detention Facilities in Arizona

Executive Summary



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Roughly three hundred women are currently detained in immigration detention facilities in Arizona. Large scale detention of immigrants is a relatively recent phenomenon, and detention of women in significant numbers is even more recent. Women have only been detained in immigration detention facilities in the state since 2001. They have been placed in facilities that largely house other populations, either male immigration detainees or people serving criminal sentences of either sex. There is little public information about or awareness of immigration detention facilities, and in light of the small numbers of women and their recent addition, even less information or awareness about their treatment.

The University of Arizona's Southwest Institute for Research on Women (SIROW), with support from the Bacon Immigration Law and Policy Program of the James E. Rogers College of Law, undertook this report in order to fill this information gap and determine the extent to which immigration detention facilities in Arizona are responsive to the needs of women detainees. Over a twelve month period from September 2007 through August 2008, SIROW researchers and law students conducted interviews with over forty people who have knowledge about the facilities, including currently and previously detained women, family members of detainees, and attorneys and social service providers who have worked with women in immigration detention facilities.

The three facilities that currently house women immigration detainees in Arizona are in Florence and Eloy, two small remote desert towns a significant distance from the Tucson and Phoenix metropolitan areas. The government agency in charge of the detention and removal of immigrants, Immigration and Customs Enforcement (ICE), contracts with the private for-profit prison company Corrections Corporation of America to run two of the three facilities. The third facility is a county jail in Florence in which ICE contracts for bed space for immigration detainees.

Based on its research, this report identifies the following key concerns about the conditions of confinement for women in these three immigration detention facilities. The list below includes a few highlights from women interviewed in the report. Many more detailed accounts that support these findings are described in the body of the report.

Inadequate medical care

- *A was detained while six months pregnant. She spent over a month in detention, and during this time was unable to receive appropriate prenatal care, including monitoring of a potentially dangerous ovarian cyst, prenatal vitamins, or extra padding for her bed.*

- *L received a diagnosis of cervical cancer just prior to her detention. Despite her repeated requests, she waited for months to see a nurse after she arrived in detention. When she eventually had the nurse's visit, she was given aspirin. Only after an emergency arose one month later did she finally succeed in seeing an oncologist.*

Failure to recognize the mental health needs of women detainees

- *M, an undocumented 25 year old woman, arrived in detention straight from the hospital, where she was taken after her abusive partner severely beat her and turned her over to ICE. She received no mental health care or counseling during her five months in detention.*

Mixing women immigration detainees with people serving criminal sentences

- *T was one of many women who described being terrified of the federal prisoners in her cell block. She routinely skipped meals for fear of encountering them in the dining hall.*

Family separation

- *The majority of women interviewed were separated from at least one U.S. citizen child under the age of 10.*
- *The majority of women interviewed were transferred to Arizona from out of state. As a result, they were hundreds or at times thousands of miles away from their families and communities during their time in detention.*
- *L was in detention after her abusive husband reported her to ICE. He visited her in detention to inform her he was taking their two young U.S. citizen children with him to Mexico. Despite his history of abusive behavior and her constant efforts, L was unable to communicate with Child Protective Services or any other government entity to help her remove the children from his care. At the time of her interview, she had been unable to communicate with her children for the entire eight months of her detention.*

Inadequate access to telephones and legal materials

- *Numerous women interviewed were unable to place even a single call to their families for weeks after their arrival at the detention facility. They described exorbitant rates for phone calls, including calls to attorneys and consulates.*

- *Most women are unable to obtain legal counsel. The legal materials provided in the facilities are limited and some are only available in English.*

Severe penal conditions for women who are not serving criminal sentences

- *Immigration detainees are in administrative rather than criminal proceedings. Yet women described conditions of confinement that are in many cases more restrictive than in county jails or prisons, including limited access to recreation, a complete absence of programming or activities, frugal provision of food and other supplies, and the routine use of strip searches and shackling during transport.*

Aggressive government prosecution and detention of women who pose no security threat or flight risk

- *Attorneys reported that ICE routinely appeals decisions to release pregnant women on bond, rejects or does not respond to applications for humanitarian parole of victims of domestic violence, refugees, or women with serious health conditions, and refuses to reduce bonds for families unable to pay.*

The following recommendations, discussed at greater length throughout the body of the report and in its final section, emerge from this research. It is important to note that many of the recommendations identified extend to the treatment of all detainees, men and women alike. At the same time, one of the goals of this report is to highlight the unique needs of women. Their distinctive characteristics - medical, psychological, social, and cultural - shape the concerns and recommendations identified.

This report's recommendations address the need for changes at multiple levels. It is impossible to examine any aspect of the immigration detention system without addressing the federal legislation and agency policies that have led to the current state of affairs. Thus, the report includes general recommendations and three key concerns of women detainees that Congress and executive agencies should address at the national level. At the same time, there are many specific concerns about conditions of detention in Arizona that could be addressed without the need for national policy changes. Therefore, the report also offers a detailed list of recommendations for the facilities and government agencies to undertake at the state and local level.

In December 2008, ICE district and facility personnel met with SIROW to discuss the report's findings and recommendations. Agency representatives denied that most of the problems outlined in this report exist. At the time of publication, the extent to which ICE will take any responsive measures remains unclear.

(1) GENERAL RECOMMENDATIONS

1. **Congress:** Eliminate or reduce the statutory grounds for mandatory detention. Amend immigration laws to provide all individuals with the opportunity for a bond hearing before a judge in which their individual circumstances are considered.
2. **Congress/Department of Homeland Security (DHS):** Codify the detention standards so that they are legally enforceable with outside oversight.
3. **DHS:** Establish gender specific regulations to address the needs of women detainees.
4. **DHS/Immigration and Customs Enforcement (ICE):** Release detention population statistics broken down by gender.

(2) KEY CONCERNS OF WOMEN IMMIGRATION DETAINEES

A. Family Separation

1. **Congress:** Amend immigration laws to expand eligibility for individualized bond hearings. In these hearings, require that the impact of detention on families be one of the factors considered in deciding whether detention is necessary.
2. **DHS/ICE:** Consider the impact of detention on families in making determinations regarding the availability of bond and parole.
3. **DHS/ICE:** Establish and implement a policy that states that in cases where detention is necessary and parole is not an option, ICE officials shall place primary caregivers of minor children in facilities near where their children are residing and only permits transfer in documented emergencies.
4. **ICE and Child Protective Services (in Arizona and other states):** Develop policies to facilitate parent detainees' ability to communicate about custody issues.

B. ICE's Discretionary Determinations

1. **Congress and DHS:** Expand the use of community-based alternatives to detention that apply restrictions on freedom of movement proportional to the individual's flight and security risk.
2. **DHS/ICE:** Expand the use of parole and ensure that parole criteria are consistently and fairly applied.

C. *Expedited Removal*

1. Congress: Limit or eliminate the use of expedited removal.
2. DHS/ICE: Require ICE officers and detention facility personnel to be trained to recognize and appropriately respond to survivors of domestic and sexual violence and gender-based persecution.

(3) CONDITIONS CONCERNS

A. *Medical Care*

1. Congress: Pass legislation to require DHS to establish legally enforceable procedures for the timely and effective delivery of medical care to immigration detainees.
2. DHS: Provide enforceable regulations to guarantee women appropriate gynecological and obstetrical care.
3. ICE: Halt or strictly limit the practice of detaining nursing mothers and pregnant women to cases in which no alternative arrangements exist.
4. ICE, Central Arizona Detention Center (CADC), Eloy Detention Center (Eloy), and Pinal County Jail (PCJ): Respond to medical requests in a timely fashion.
5. ICE, CADC, Eloy, and PCJ: Provide onsite or telephonic translation assistance for appointments with medical staff.

B. *Mental Health Care*

1. Congress: Pass legislation to require DHS to establish legally enforceable procedures for the timely and effective delivery of mental health care to immigration detainees.
2. ICE, CADC, Eloy, and PCJ: Facilitate detainees' access to on-site psychiatrists and psychologists and increase the availability of counseling services to be used in conjunction with, or instead of, medication.

C. *Security*

1. ICE: Increase the use of community-based alternatives to the detention of nonviolent detainees who pose minimal security or flight risk.
2. ICE: Limit the use of shackles and eliminate it altogether for pregnant detainees.

3. ICE, CADAC, Eloy, and PCJ: Train facility personnel to be familiar with the circumstances of ICE detainees and understand the differences between immigration detainees and people serving criminal sentences.
4. ICE, CADAC, Eloy, and PCJ: Encourage bilingual guards to communicate with detainees in their native language or use translation or interpretation services.
5. ICE, CADAC, Eloy, and PCJ: Facilitate onsite or telephonic translation assistance for non-English speaking detainees, particularly during private meetings with case managers.
6. ICE, CADAC: Refrain from mixing ICE detainees with people in pre-trial criminal detention or those who are serving criminal sentences.
7. ICE, CADAC: Halt routine strip searches and, if necessary because of specific security concerns, conduct strip searches individually rather than in groups.

D. Access to Telephones

1. ICE, CADAC, Eloy, and PCJ: Ensure that all detainees can place at least one free domestic telephone call upon arrival at the detention facility.
2. ICE, CADAC, Eloy, and PCJ: Ensure that detainees can make free calls to legal service providers and consulates.
3. ICE, CADAC, Eloy, and PCJ: Ensure that indigent detainees can make free calls to courts and for personal and family emergencies.
4. ICE, CADAC, Eloy, and PCJ: Protect detainees from phone card systems with exorbitant rates.

E. Access to Legal Counsel/Assistance

1. ICE: Require Deportation Officers and/or case managers to provide detainees with regular individual information about the status of their case.
2. ICE, CADAC, Eloy, and PCJ: Provide detainees with access to writing supplies, photocopies, and public notaries without charge.
3. ICE, CADAC, Eloy, and PCJ: Provide detainees with legal materials in languages other than English.

F. Visitation

1. ICE, CADAC: Provide privacy for attorney visits.

2. ICE, PCJ: Provide dedicated space for regular contact visits for attorneys and families.

G. Food and Provisions

1. ICE, CADAC, Eloy and PCJ: Provide indigent detainees a means of obtaining food after the final meal of the day at 4 p.m.
2. ICE, CADAC, and PCJ: Improve the quality of the food.
3. ICE, PCJ: Ensure that women detainees receive provisions, including hygienic and sanitary supplies, on a regular basis and in sufficient quantity.

H. Activities

1. ICE, CADAC, Eloy and PCJ: Allow detainees to spend a minimum of one full hour of each day at recreation time.
2. ICE, CADAC, Eloy, and PCJ: Provide job opportunities, activities, and non-English language reading materials to ICE detainees.
3. ICE, Eloy and PCJ: Provide women detainees with increased opportunities for movement outside their pod.
4. ICE, Eloy and PCJ: Provide women detainees with equal access to the dining hall, library, recreation facilities, and medical clinic.
5. ICE, PCJ: Provide an outdoor recreation area.

I. Transfer

1. DHS/ICE: Develop a centralized system for family members to locate detainees.
2. ICE: Ensure that attorneys and family members are notified in advance of detainee transfers.
3. ICE: Improve the conditions of transport, and in particular, increase sensitivity to women's mental and physical health concerns during transit.
4. ICE: Ensure that at least one officer of the same gender as the detainee is present at all times during transfer.
5. ICE, CADAC, Eloy, and PCJ: Ensure that transferred detainees can place a call to their family and attorney within 24 hours of arrival at the detention facility.

The complete report is available at
<http://www.law.arizona.edu/depts/clinics/ilc/UnseenPrisoners.pdf>.

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