



AILA's Take on Detention

For more information, go to www.aila.org/detention.

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America's immigration detention practices undermine the fundamental principles of due process and fairness, and require immediate systemic reform. Annually, the Department of Homeland Security (DHS) unnecessarily detains about 400,000 people, including asylum seekers and other vulnerable people. Many detainees are held for prolonged periods despite the fact that they have families, jobs and pose no threat to public safety. Detention is extremely expensive—costing American taxpayers \$2 billion last year alone. Detention should be a last resort, used only when other means of supervision are not feasible, and especially when more cost effective alternatives are available.

End the detention bed quota. Immigration detention should be based on actual need.

- Congress has set an arbitrary quota mandating that DHS maintain 34,000 beds *per day* regardless of the demonstrated need. DHS interprets the quota as requiring that it not only maintain those beds but also keep every bed filled every day. Whether it's beds or people, Congress should not be prescribing an arbitrary detention number.
- DHS does not want or need more beds. In its most recent three budget requests, DHS has *reduced* its requested funding from Congress for detention beds. But Congress continues to overfund detention—forcing the agency to detain unnecessarily.
- A leading Republican says beds means beds. On March 11, 2014, John Carter (R-TX), Chairman of the House Homeland Security appropriations subcommittee, stated: "You have to have available 34,000 beds under this law. They don't all have to have somebody sleeping in them every night, but they have to be made available." Nonetheless, Chairman Carter, and others on the subcommittee, said that the only way to ensure enforcement of immigration laws and removals is through detention.
- The federal government needlessly detains thousands of immigrants. From FY 2000–2012, the number of immigrants detained grew from 167,000 to 478,000. Each day, ICE detains thousands of individuals—including long time lawful residents and asylum seekers—who are not threats to public safety. From 2009 to 2011, most immigration detainees had no criminal history.
- Immigration detention is used to ensure people appear at court hearings or to protect the community when an individual poses a safety threat. However, in many situations, detention is not needed to meet those goals.

The federal government must afford due process to those detained.

- DHS subjects thousands of individuals to prolonged detention without providing them any opportunity to appear before a judge to request release, use of a bond, or other alternatives.
- The Supreme Court has ruled that prolonged detention without review by a judge is unconstitutional.
- Everyone deprived of their liberty should be afforded a hearing before a judge to decide whether detention is necessary.

Greater use of alternatives to detention is more cost effective and humane than detention.

- Finite taxpayer dollars should be spent to expand more cost-effective alternatives—like supervision and electronic GPS monitoring—that ensure public safety and are more humane. These alternative methods cost between 70 cents and \$17 per day—a fraction of the cost of detention (at about \$122 per day).
- Federal, state and local authorities in the criminal justice field have greatly expanded the use of alternatives to incarceration. For example, Texas expanded its alternatives programs and achieved significant reductions in crime and was able to reduce detention costs by \$2 billion.

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