



# Q & A

## Immigration Detention

### What is detention?

Detention is the current practice of the federal government holding immigrants in detention centers or prisons for violations of immigration law. Men, women and children can be detained for days, months or even years while their right to stay in the United States is decided in court. If they are not granted the right to stay they are deported to their countries of origin. The use of detention has expanded and increased dramatically in recent years, making immigration detention the fastest growing form of incarceration. It has also become a profitable business for many private corporations.

Since the implementation of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) in 1997, detention has become mandatory for cases classified as "criminal" (i.e. a controlled substance offense, a crime involving moral turpitude). In some instances, individuals may be detained indefinitely because they are considered a threat to national security or because their country of origin will not accept responsibility for them. Persons appealing a removal decision or applying for asylum status may also be detained until their cases are settled.

### Who faces detention?

Any immigrant, with or without legal status, can be detained for violations or suspected violations of immigration law. This includes families, unaccompanied children entering the country, refugees, asylum seekers, persons with medical conditions and other vulnerable populations

### Is breaking immigration law the same as breaking other laws?

Violations of immigration law ARE NOT considered a crime but are civil violations that place immigrants in non-criminal custody of the DHS until it is decided whether or not they have the right to stay.

### Who is in charge of detaining immigrants?

The Department of Homeland Security (DHS) is responsible for detaining immigrants and referring them to the correct legal proceedings. Immigration and Customs Enforcement (ICE) is the part of the DHS responsible for the investigation, arrest, detention and deportation of non-citizens. This is the second largest law enforcement agency in the country, second only to the FBI.

### How widespread is detention?

Detention for violations of immigration law is the fastest growing form of incarceration in the United States. In recent years, immigration detention and deportation rates have skyrocketed. More than 300,000 people were deported in 2007, and over 30,000 people were locked up in immigration detention on any given day in 2008. DHS has dramatically increased efforts to apprehend, detain and deport non-citizens, sowing fear in our communities and tearing families apart. In fiscal year 2007 DHS detained 311,000 immigrants, with an average of over 30,000 at an average stay of 37 days in one of the approximately 300 facilities. In 2008 DHS aims to detain up to 400,000 people, many of whom pose no threat to the community or public safety, including vulnerable populations such as asylum seekers, torture victims, pregnant women, families and the elderly. According to the Washington Post this means that "with roughly 1.6 million illegal immigrants in some stage of immigration proceedings, ICE holds more inmates a night than Clarion hotels have guests, operates nearly as many vehicles as Greyhound has buses and flies more people each day than do many small U.S. airlines."

### Total and Average Daily Immigration and Customs Enforcement Detentions, 2001 to 2007

	2001	2002	2003	2004	2005	2006	2007
Total number detained	209,000	202,000	231,500	235,247	237,667	256,842	<b>311,000</b>
Daily Average	20,441	20,282	21,133	21,919	19,619	21,450	<b>30,000</b>



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### **How much does it cost to detain this many people?**

The average cost of detention in 2008 was \$95 per person per day; the cost can soar to more than \$1.2 billion a year.

### **Where are immigrants detained?**

ICE uses several kinds of facilities to house people detained for immigration-related violations. More than 40% of immigration detainees are held in hundreds of local jails all across the United States. ICE detention facilities include:

1. service processing centers (SPCs), which are owned and operated by ICE;
2. contract detention facilities (CDFs), which are owned and operated by private-sector businesses on behalf of ICE;
3. facilities operated by state and local government entities that contract with ICE through intergovernmental service agreements (IGSAs);
4. and facilities operated by the Federal Bureau of Prisons and Office of Refugee Resettlement.

ICE owns and operates eight SPCs (in Florence, Arizona; El Centro, California; San Pedro, California; Miami, Florida; Batavia, New York; Aguadilla, Puerto Rico; El Paso, Texas; and Port Isabel, Texas) and contracts for seven CDFs (in San Diego, California; Denver, Colorado; Pompano Beach, Florida; Elizabeth, New Jersey; Houston, Texas; Pearsall, Texas; and Tacoma, Washington). In addition, ICE contracts with over 350 state and local jails, which are paid through IGSAs. On average, about 65% of ICE detainees are held in state and local jails. Of the remaining detainees, 18% are held in privately owned and operated contract facilities (CDFs) and 17% in ICE owned-and-operated facilities (SPCs).

### **What are the DHS facilities like?**

A report by the DHS Inspector General on five of its detention facilities found that none of the five was in compliance with agency standards pertaining to environment, safety, healthcare conditions of detention and the reporting of abuse. Audits conducted in 2007 by DHS's Inspector General and the Government Accountability Office revealed that DHS's system for monitoring detention conditions is deficient. Additionally, the bi-partisan U.S. Commission on International Religious Freedom found, in a study requested by Congress, that U.S. asylum seekers are detained under "inappropriate" and "jail-like conditions."

The Women's Commission for Refugee Women and Children and the Lutheran Immigration and Refugee Service found appalling conditions in their 2007 report of a DHS family detention facility in Texas. At the Hutto Center the food served made many children sick, separation of families was consistently used as disciplinary tool, at night young children were separated from their parents, children received only an hour of schooling per day, many of the detainees interviewed showed psychological trauma, and some families had been detained for over two years.

### **What are alternatives to detention?**

Detention should never be mandatory, indefinite or punitive in nature. Detention should be use after considering other alternatives, particularly in cases that do not present risk and in the cases of vulnerable populations. Alternatives to detention are alternative means of ensuring compliance of non-citizens in immigration proceedings. Alternative programs are designed to provide a proportional level of restriction upon non-citizens in immigration proceedings in order to ensure compliance. There are alternatives to detention such as release on parole, supervised release, community based programs, etc. that have been proved successful and can be cost effective.