



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



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Executive Summary

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.

I. Background

A. The basics of immigration detention

Immigration detention is the fastest growing form of incarceration in the United States.¹ On any given day, there are 28,700 people in immigration detention, housed in over 350 different facilities around the country.² In Arizona, five detention facilities house 3,000 immigration detainees, and this number is expected to grow significantly in the coming years.³

Immigrants may be placed in detention facilities while they go through the legal process called removal, which determines whether they are eligible to stay in the United States. In addition, at the conclusion of the removal proceedings, if they are subject to a final order of removal, they may remain in detention while the U.S. makes arrangements for their deportation. Immigration detainees can spend weeks, months, and even years in detention, depending on the degree of complexity of their removal proceedings and travel arrangements and whether they or the government choose to pursue all available appeals.⁴

The population of immigration detainees can be roughly broken down into two groups. First, there are detainees who have been convicted of a crime in the United States that triggers deportation proceedings. The list of deportable offenses has been vastly expanded in recent years to include virtually all criminal convictions, including misdemeanor non-violent theft offenses such as shoplifting and minor drug offenses. Many of the immigrants in this group have lived in the country for years as legal permanent residents prior to their conviction, and the conviction itself may be several years in the past. They often have significant community and family ties in this country, including U.S. citizen children. Importantly, these individuals are not in detention for the purpose of “serving time” for their crime. They are placed in detention after already serving any sentence imposed by the criminal justice system. In many cases, the court

¹ Nina Bernstein, *Few Details on Immigrants Who Died in U.S. Custody*, NEW YORK TIMES (May 5, 2008).

² *ICE Policies Related to Detainee Deaths and the Oversight of Immigration Detention Facilities*, Department of Homeland Security, Office of the Inspector General 1 (June 2008); see also ICE website <http://www.ice.gov/partners/dro/dmp.htm?searchstring=endgame>.

³ In 2007, ICE added 625 new bed spaces for detainees in Florence, Arizona. See <http://www.ice.gov/pi/dro/facilities/pinal.htm>. ICE anticipates growth of over 500 new beds in Eloy, Arizona, in 2008. Phone interview with Brian Martin, Public Information Officer for Corrections Corporation of America, Eloy Detention Center, June 2008.

⁴ According to ICE data for 2007, 25% of detainees remain in detention for more than 44 days, ten percent (nearly 3,000 individuals) remain for more than 85 days, and two percent (over 500 individuals) remain for over 210 days. *Alien Detention Standards: Telephone Access Problems Were Pervasive at Detention Facilities; Other Deficiencies Did Not Show a Pattern of Noncompliance*, Gov't Accountability Office 48 (July 2007), available at <http://www.gao.gov/new.items/d07875.pdf> (hereafter “GAO Report on Alien Detention Standards”).

imposed no sentence or a very brief sentence for the crime that triggers deportation.⁵

The second group of detainees have not been convicted of any crime. They are charged only with a civil, rather than criminal, violation of immigration law for entering the country or arriving at a port of entry without proper documentation. According to ICE data, more than half of the detainees in ICE custody at any given time have never been convicted of any crime.⁶ These immigrants may have been apprehended at the border without travel documents, or swept up in interior enforcement actions in the interior of the country. For Mexican nationals attempting to cross into Arizona, this detention is often short-term, since they are rapidly repatriated back across the border. However, immigrants from other countries often spend a significant period of time in detention awaiting their deportation.

For individuals in either of these groups, if they have any claim for legal relief from deportation, they frequently remain detained until their legal case is resolved. For example, there is a significant population of detainees who are asylum-seekers. Under current law, these refugees must be detained until they establish a “credible fear of persecution” in their home countries, which renders them eligible to apply for relief from deportation.⁷ Even after such a finding is made, the government may continue to detain asylum-seekers while their legal claim for relief is adjudicated. It takes a minimum of months, and can take years if there are appeals, to resolve legal claims for relief from deportation.

Immigration detention has grown exponentially over the past decade due to provisions in the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), federal legislation passed by Congress in 1996. IIRIRA mandates detention for certain broad categories of noncitizens, including virtually any noncitizen with a criminal conviction and arriving aliens who lack proper documentation. Mandatory detention means that there is no consideration of whether individuals that fall under one of these categories pose a flight risk or threat while their deportation is pending. Instead, noncitizens in these categories must be detained for the entire duration of their removal proceedings. Unlike in the criminal justice context, where there is an individual judicial determination of the availability and amount of bail, noncitizens subject to mandatory detention have no judicial review of the determination to detain them nor consideration of release on bond.

⁵ See *Forced Apart: Families Separated and Immigrants Harmed by U.S. Deportation Policy*, Human Rights Watch (July 2007), available at <http://www.hrw.org/reports/2007/us0707/index.htm> (hereafter “Forced Apart”).

⁶ See GAO Report on Alien Detention Standards, *supra* note 4, at 48 (reporting that, as of 2006, 58% of detainees were noncriminal aliens).

⁷ See *In Liberty's Shadow: U.S. Detention of Asylum Seekers in the Era of Homeland Security*, Human Rights First (January 2004), available at http://www.humanrightsfirst.org/asylum/libertys_shadow/Libertys_Shadow.pdf (hereafter “In Liberty's Shadow”).

In addition, even noncitizens who are not in a category in which detention is mandatory are often detained. Although ICE has the authority to grant detainees who are not subject to mandatory detention humanitarian parole or release on bond, it does not often exercise its discretion to authorize such releases.⁸ In cases where detainees are given a bond, it is often too high for them to pay to gain release.⁹

The growth of detention has accelerated further in the aftermath of September 11. In response to the terrorist attacks, Congress passed the USA PATRIOT Act, which among other things gives the Attorney General the right to detain anyone who the Attorney General has “reasonable grounds” to believe is involved in terrorist activities or in any other activity that endangers national security.¹⁰ In addition, with the passage of the Homeland Security Act, Congress transferred many of the enforcement responsibilities of the former Immigration and Naturalization Service (INS) to a new agency, Immigration and Customs Enforcement (ICE), part of the newly created Department of Homeland Security (DHS). In 2003, ICE adopted the strategic plan, “Operation Endgame,” which aims to remove all removable aliens by 2012 through the development of enforcement and detention infrastructure and strategies.¹¹ In 2004, Congress passed the Intelligence Reform and Terrorism Prevention Act, which requires DHS to increase detention beds by 40,000 by the year 2010.¹²

As a result of all these laws and initiatives, there has been a drastic increase in immigration detention over the past decade. While in 1996, INS had the capacity to detain 8,270 people per day, in 2001, just five years later, daily detention capacity reached 19,702.¹³ As of 2008, ICE has received funding for 32,000 detention beds, representing a 73 percent increase since 2005.¹⁴

⁸ *Immigration Enforcement: ICE Could Improve Controls to Help Guide Alien Removal Decision Making*, U.S. Gov't Accountability Office 23 (2007), available at <http://www.gao.gov/new.items/d0867.pdf> (noting ICE's need for guidance in the use of discretion in encounters with noncitizens who present humanitarian issues or who are not ICE targets); *Audit Report: Detention and Removal of Illegal Aliens*, DHS, Office of the Inspector General 31 (April 2006), available at http://www.dhs.gov/xoig/assets/mgmt/rpts/OIG_06-33_Apr06.pdf, (between 2001 and 2004, of a total of 998,481 apprehensions, only eight percent were released on bond).

⁹ By statute, the lowest bond an Immigration Judge can order for an immigration detainee is \$1,500. INA § 236(a)(2), 8 U.S.C. § 1226(a)(2) (2006).

¹⁰ See Alison Siskin, *Immigration-Related Detention: Current Legislative Issues*, Congressional Research Service Report for Congress (updated January 25, 2007).

¹¹ *An Assessment of United States Immigration and Customs Enforcement's Fugitive Operations Teams*, DHS, Office of the Inspector General 5 (March 2007); see also *Endgame: Office of Detention and Removal Strategic Plan, 2003-2012: Detention and Removal Strategy for a Secure Homeland*, ICE: Office of Detention and Removal Operations (2003).

¹² Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, 118 Stat. 3638 (2004).

¹³ GAO Report on Alien Detention Standards, *supra* note 4, at 1.

¹⁴ *Semi-Annual Report on Compliance with ICE National Detention Standards*, ICE Office of Detention and Removal Operations 5 (January-June 2007) (hereafter “Semi-Annual Report”), available at http://www.ice.gov/doclib/pi/news/newsreleases/articles/semi_annual_dmd.pdf.

B. Women in immigration detention

1. A growing population

Women make up a growing share of the population of immigration detainees. According to ICE, women now account for ten percent of the daily population detained by ICE, which would suggest roughly 3,000 women are held in immigration detention on any given day.¹⁵

The increasing number of women in detention is due to the interplay of several factors. Federal criminal prosecution of immigration violations has increased dramatically in recent years, resulting in more women as well as men charged with immigration violations.¹⁶ Immigrant women also make up a growing share of the low-wage immigrant workforce.¹⁷ With this increase in women workers, those who are undocumented are inevitably affected by interior ICE enforcement, specifically workplace raids.¹⁸ Finally, over the past several decades, increased prosecution of drug offenses and harsh mandatory sentencing as part of the “war on drugs” has resulted in a drastic rise in the number of women in both prison and jail.¹⁹ It has also corresponded with an increase in noncitizens prosecuted for drug offenses.²⁰

All these factors - increased prosecution of immigration violations, workplace raids, and harsh sentencing for drug offenses - have resulted in a growing population of noncitizen women in prison and jail. Given the scope of mandatory detention and ICE’s rare use of parole, these women are highly likely to be transferred to immigration custody during or after their sentences. In addition, women are migrating to the United States, both with and without legal

¹⁵ Email sent to the National Immigrant Justice Center from Kendra Wallace, National Outreach Coordinator, Office of Policy, ICE (May 14, 2008) (on file with SIROW).

¹⁶ From 1996 to 2000, the number of prosecutions for immigration offenses more than doubled. Of the 14,540 defendants charged with immigration offenses in 2000, 7.7% were women. See John Scalia and Marika F. X. Litras, *Immigration Offenders in the Federal Criminal Justice System, 2000*, Bureau of Justice Statistics, U.S. Department of Justice 4 (August 2002).

¹⁷ According to census data, women made up 44% of the country’s low-wage immigrant work force in 2002. Urban Institute, *A Profile of the Low-Wage Immigrant Workforce* (November 2003), available at <http://www.urban.org/publications/310880.html>.

¹⁸ For example, in a raid in Houston, Texas on a rag-exporting factory in June 2008, 130 of the 166 people detained were women. James Pinkerton, *Employer Arrests Could Follow Houston Immigration Raid*, HOUSTON CHRONICLE (June 26, 2008). This raid was just one of many. According to ICE statistics for the 2007 fiscal year, ICE made 863 criminal arrests and 4,077 administrative arrests across the nation solely as a result of worksite enforcement efforts. *Id.* As of August 2008, ICE was on pace to far surpass these numbers for the 2008 fiscal year. See <http://www.ice.gov/pi/news/factsheets/worksites.htm>.

¹⁹ The number of women incarcerated in state or federal prisons nationwide increased nearly eight fold between 1990 and 2000. The increase in the rate of imprisonment for women has outpaced the increase for men every year since the mid-1980’s. Barbara Bloom et. al., *Gender-Responsive Strategies: Research, Practice, and Guiding Principles for Women Offenders* 3, National Institute of Corrections (2003) (hereafter “Gender-Responsive Strategies”). While the major factor driving growth in the male prison population is violent offenses, the major factor for women prisoners is increased drug charges. *Id.*

²⁰ *Immigration and Criminal Justice System Fact Sheet*, Women in Prison Project (April 2007), available at <http://www.womensadvocateministry.org/>.

authorization, in ever-growing numbers.²¹ As the number of women migrants increase, the number of those apprehended and detained for civil violations of immigration law increases as well.

2. A population with distinctive characteristics and needs

The overall increase in women, both citizen and noncitizen, in the criminal justice system over the past several decades has resulted in a growing literature on the distinctive needs women prisoners present. Key differences include:

- Unique medical needs.²²
- High prevalence of survivors of physical and/or sexual abuse.²³
- Distinctive mental health needs.²⁴
- High prevalence of primary caregivers to dependent children.²⁵
- Tendency to have committed nonviolent crimes, and unlikely to be violent in custody.²⁶
- Tendency to be viewed by facility staff as “inconvenient and difficult to work with in a system designed to supervise the behavior of men.”²⁷

This report’s findings indicate that many of these factors are relevant to the population of women immigration detainees as well. Their applicability is described in greater detail in the forthcoming sections of the report.

C. The facilities

Removal proceedings are a civil administrative process, rather than a criminal one. Yet detention facilities are indistinguishable from jails, and in fact, jails and prisons often house immigration detainees along with people serving or awaiting criminal sentences. There are four main types of facilities that ICE uses to house immigration detainees.

1. Service Processing Centers (SPCs): ICE operates these facilities directly. There are eight SPCs throughout the country, and they house approximately 13 percent of all ICE detainees.²⁸

²¹ In 2005, women accounted for 54.6% of all new permanent residents in the United States. In 2002, a census survey estimated that over forty percent of undocumented adult migrants are women. *Migration by Region: North America 2*, United Nations Population Fund, available at http://www.unfpa.org/swp/2006/presskit/docs/factsheet_namerica.doc.

²² *Gender-Responsive Strategies*, supra note 19, at 39.

²³ According to a study by the Bureau of Justice Statistics, just under half of the women in correctional populations but only 1 in 10 men indicated past abuse. *Id.* at 41.

²⁴ Women are twice as likely to be diagnosed with depression as men, and two to three times as likely to experience anxiety disorders, including post-traumatic stress disorder. *Id.* at 43. They are also more likely than men to somatize, which refers to physical symptoms that cannot be fully explained as a medical conditions. *Id.* at 44.

²⁵ *Id.* at 16. Approximately 70% of all women under correctional supervision have at least one child younger than the age of 18. *Id.* at 7.

²⁶ *Id.* at 16.

²⁷ *Id.* at 24.

2. Contract Detention Facilities (CDFs): ICE contracts with private prison companies to run these facilities, of which there are seven throughout the country. They house about 17 percent of ICE detainees.
3. Intergovernmental Services Agreements (IGSAs): ICE contracts for bed space in state and local jails on a reimbursable basis through IGSAs. There are over 350 facilities with these contracts. They house the majority of ICE detainees, approximately 67 percent.²⁹
4. Federal Bureau of Prison (BOP) facilities: ICE jointly uses five such facilities throughout the country, which house three percent of ICE detainees.³⁰

Women detainees are slightly more likely to be housed in IGSAs or CDFs than are men. ICE recently estimated that approximately 68% of women detainees are in IGSAs, 25% are in CDFs, and 7% are in SPCs.³¹ Fifty percent of all female detainees are held in ten facilities in Texas, Florida, Arizona, Alabama, California, and Washington.³² The remaining half are primarily held in hundreds of local and state jails and prisons with IGSAs throughout the country. The prevalence of women in IGSAs may be attributable to the rapid increase in the number of women detained. Other than the ten facilities referenced above that house women in significant numbers, ICE arranges for small numbers of beds in already existing jail or prison facilities, where women are intermixed with people in the criminal justice system.

In Arizona, there are five ICE facilities that house adult detainees for 72 hours or more: Florence Service Processing Center (FSPC), Central Arizona Detention Center (CADC), Florence Correctional Center (FCC), Pinal County Jail (PCJ), and Eloy Detention Center (Eloy). The first four of these facilities are located in Florence, Arizona, a small town approximately 65 miles from both the Tucson and Phoenix metropolitan areas. There are nine correctional institutions located in Florence, three of which hold immigration detainees.³³ Of the estimated 25,500 people who live in Florence, close to 17,000 are behind bars, including over 700 immigration detainees.³⁴

²⁸ Although ICE reports running eight SPCs, only seven are currently operational since the abrupt closure of San Pedro Service Processing Center in October 2007. See Ben Ehrenreich, *Death on Terminal Island*, LOS ANGELES MAGAZINE (Sept. 1, 2008).

²⁹ Like CDFs, IGSAs can be run by private companies, which are contracted by the state or local entities. For example, ICE has an IGSA with Williamson County, Texas, to run the T. Don Hutto Correctional Center, and the county has in turn contracted with Corrections Corporation of America to operate the 512-bed facility. See <http://www.ice.gov/pi/news/factsheets/huttofactsheet.htm>.

³⁰ The statistics provided on the number and proportional share of each type of facility can be found on ICE's website: <http://www.ice.gov/partners/dro/dmp.htm>.

³¹ Email from Kendra Wallace, *supra* note 15.

³² The detention facilities that house 50% of all women detainees are Pearsall (CDF in Pearsall, TX), Broward (CDF in Pompano Beach, FL), Willacy (IGSA in Raymondville, TX), Pinal County Jail (IGSA in Florence, AZ), Hutto (IGSA in Taylor, TX), Etowah County Jail (IGSA in Gadsen, AL), San Diego (CDF in San Diego, CA), Houston (CDF in Houston, TX), Tacoma (CDF in Tacoma, WA), and Port Isabel (SPC in Los Fresnos, TX). *Id.*

³³ <http://www.town.florence.az.us/>

³⁴ Amy Goldstein and Dana Priest, *In Custody, In Pain*, WASHINGTON POST (May 12, 2008).

The fifth detention facility is located in Eloy, Arizona, approximately 30 miles southwest of Florence. Eloy has close to 11,000 residents. The Corrections Corporation of America has built three facilities on the outskirts of town, including the Eloy Detention Center, making it the largest town employer.³⁵

Of these five facilities, all but one, FCC, house or have housed women detainees. ICE began detaining women in Arizona in significant numbers in 2001, at first housing them either in Florence SPC or CADC. In 2006, ICE established additional contracts with Eloy and PCJ to detain women. Currently, Florence SPC no longer houses women detainees for more than 72 hours. The largest population of women is housed in PCJ, which holds roughly 150 women. Eloy currently holds roughly 100 and CADC holds an additional 50, bringing the total number of women detained in the state to approximately 300. This is roughly 10 percent of the total population of immigration detainees in the state. Basic information about each of the four facilities that house women is provided in the following charts.³⁶

PINAL COUNTY JAIL ("PCJ")	
Facility Operator	Pinal County
Address	951 N Pinal Parkway Florence, AZ 85232
Type of Facility	County Jail with a DHS Intergovernmental Service Agreement
People housed	County inmates Immigration detainees
History	<ul style="list-style-type: none"> • 1996: Opened with a maximum capacity of 472 county inmates. • 2006: Added DHS contract. • April 2006: Began housing women immigration detainees.
Current Facility Capacity	1,506 total 625 ICE detainees
Total Number of Immigration Detainees (as of June 2008)	494
Female : Male Immigration Detainees	152 : 342

³⁵ Shelley Shelton, *Fourth Prison in Eloy Area to Hold 3,060*, ARIZONA DAILY STAR (Oct. 9, 2007).

³⁶ The information in this paragraph and the charts was drawn from the following sources: Josh Kelley, *Pinal Plans Newest Jail to Hold ICE Migrants; U.S. Would Pay County to Hold 625 Detainees*, THE ARIZONA REPUBLIC (Sept. 20, 2005); phone interview with PCJ Commander Deborah Powell (June 2008), phone interview and email exchange with Brian Martin, Public Information Officer, CCA Eloy (July 2008); phone interview and email exchange with Ryan Henricks, Public Information Officer, CADC (January 2008); Division of Immigration Health Services website, <http://www.inshealth.org/Facilities/Florence.shtm>; ICE website, <http://www.ice.gov/pi/dro/facilities/florence.htm>.

CENTRAL ARIZONA DETENTION CENTER ("CADC")	
Facility Operator	Corrections Corporation of America
Address	1155 N Pinal Parkway PO Box 1048 Florence, AZ 85232
Type of Facility	Contract Detention Facility
People housed	U.S. Marshals Service inmates Inmates in transit through TransCor Immigration detainees Pascua Yaqui inmates United States Air Force inmates
History	Opened in 1994 with 512 beds
Current Facility Capacity	3200
Total Number of Immigration Detainees (as of November 2007)	52
Female : Male Immigration Detainees	52 : 0 (currently no male detainees)

FLORENCE SERVICE PROCESSING CENTER ("FSPC")	
Facility Operator	Immigration and Customs Enforcement
Address	3250 N. Pinal Parkway Florence, Arizona 85232
Type of Facility	Run by Immigration and Customs Enforcement
People housed	Immigration detainees
History	<ul style="list-style-type: none"> • 1942-1948: WWII internment camp for enemy soldiers. • 1948: Converted to a detention center for first time offenders. • 1983: INS acquired the facility.
Current Facility Capacity	422
Total Number of Immigration Detainees	422
Female : Male Immigration Detainees	0 : 422 (currently no female detainees)

ELOY DETENTION CENTER ("ELOY")	
Facility Operator	Correction Corporation of America
Address	1705 E Hanna Road Eloy, AZ 85231
Type of Facility	Contract Detention Facility
People housed	Immigration detainees
History	<ul style="list-style-type: none"> • 1994: Opened to house both Bureau of Prison (BOP) inmates and ICE detainees • 2006: Lost BOP contract, began housing ICE female detainees
Current Facility Capacity	1,500
Total Number of Immigration Detainees (as of July 2008)	1,500
Female : Male Immigration Detainees	93 : 1,407

D. Applicable standards

1. Detention standards

In 2000, the Attorney General and INS, in consultation with the American Bar Association, developed a set of national standards for detention facilities. They are currently contained in the "Detention Operations Manual" ("DOM") and consist of 38 standards, covering everything from visitation policies to food service to access to legal materials. Appendix A provides a summary of the standards. They are intended to apply to all SPCs and CDFs, and to IGSA's that house immigration detainees for more than 72 hours.

Importantly, the Detention Standards are not codified as laws or regulations, making them practically unenforceable. ICE states that it is committed to ensuring that the detention standards are met by all facilities.³⁷ It has established a Detention Standards Compliance Unit, which conducts over 350 inspections a year in authorized detention facilities.³⁸ As of 2007, ICE has hired two outside contractors and established an internal Detention Facilities Inspection Group, actions which are intended to add additional levels of review and expertise to the inspection and compliance process.³⁹

Despite these steps, noncompliance with the detention standards is widespread. The Government Accountability Office recently conducted a review of

³⁷ *Detention Management Program*, U.S. Immigration and Customs Enforcement (last modified Jan. 26, 2007) available at www.ice.gov/partners/dro/dmp.htm.

³⁸ *Id.*

³⁹ *Semi-Annual Report*, *supra* note 14.

ICE's implementation of the detention standards and found significant problems with noncompliance in the 23 facilities it visited.⁴⁰ The Department of Homeland Security's own Inspector General conducted an audit that found serious noncompliance in five facilities as well.⁴¹ Other advocacy and human rights organizations have also conducted studies and undertaken litigation that have documented widespread violations of the detention standards.⁴²

On September 12, 2008, ICE announced new "Performance-Based" Detention Standards. These standards redrafted the 38 standards in the DOM and added four new standards.⁴³ In its announcement of the new standards, ICE stated: "The performance based standards . . . focus on expected outcomes and contain clear practices and outcome measures. Each outcome measure demonstrates how well a detention facility's protocols, procedures, and practices are achieving the desired result."⁴⁴ ICE aims to have the new standards take full effect in all facilities housing ICE detainees in January 2010, however, there will remain no enforcement mechanism to ensure facility compliance with the new standards.

2. Other applicable standards

In addition to the detention standards, there are general standards of treatment under domestic and international law that apply to immigration detention facilities. Domestically, under the U.S. Constitution, immigration detainees, as civil detainees rather than convicted prisoners, may not be detained in conditions that amount to punishment.⁴⁵ Furthermore, the Eighth Amendment's prohibition of "cruel and unusual punishment" sets a bare minimum level of

⁴⁰GAO Report on Alien Detention Standards, *supra* note 4, at 1. The GAO selected 8 of the 38 detention standards to review at 23 detention facilities from May 2006 through May 2007. The review discovered systematic noncompliance regarding telephone access and site specific deficiencies in several of the other examined standards, including medical care, use of force, food service, recreational opportunities, access to legal materials, and overcrowding.

⁴¹*Audit Report: Treatment of Immigration Detainees Housed in ICE Facilities*, DHS, Office of Inspector General (December 2006) (documenting multiple instances of non-compliance with detention standards related to health care, environmental health and safety, general conditions of confinement, and the reporting of abuse).

⁴² See, e.g., *Voices from Detention: A Report on Human Rights Violations at the Northwest Detention Center*, OneAmerica and Seattle University School of Law (July 2008); *Locking up Family Values: the Detention of Immigrant Families*, Women's Commission for Refugee Women and Children and Lutheran Immigration and Refugee Service (2007); *Behind Bars: The Failure of the Department of Homeland Security to Ensure Adequate Treatment of Immigration Detainees in New Jersey*, ACLU of New Jersey (2007); *Chronic Indifference: HIV/AIDS Services for Immigrants Detained by the United States*, Human Rights Watch (December 2007); Nina Bernstein, *Immigrants Challenge Federal Detention System*, NEW YORK TIMES B3 (May 1, 2008); *Landmark Settlement Announced in Federal Lawsuit Challenging Conditions at Immigrant Detention Center in Texas*, ACLU Press Release (August 2007), available at <http://www.aclu.org/immigrants/detention/31469prs20070827.html>; *Orantes-Hernandez v. Gonzales*, 504 F.Supp.2d 825, 876 (C.D. Cal., 2007) (finding significant violations of detention standards regarding access to legal materials, telephone use, and attorney visits).

⁴³ The four new standards are News Media Interviews and Tours, Searches of Detainees, Sexual Abuse and Assault Prevention and Intervention, and Staff Training.

⁴⁴ See ICE press release, available at <http://www.ice.gov/pi/icedetaineeinfo.htm>.

⁴⁵ *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).

treatment of convicted prisoners that immigration detention facilities must meet or surpass.⁴⁶

In addition, international law requires the humane treatment of all people in custody. The United States has binding legal obligations under the International Covenant on Civil and Political Rights (“ICCPR”) (specifying, among other things, that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“CAT”) (obligating the United States to educate personnel who are involved in the confinement of detainees about the anti-torture provisions of the convention). In addition, there are several international agreements that, while not legally binding, set out important guiding principles applicable to immigration detainees, particularly the Universal Declaration of Human Rights (“UDHR”) (prohibiting torture, including cruel and inhumane treatment), the Convention on the Elimination of All Forms of Racial Discrimination (“CERD”) (protecting against discrimination in the use of detention and in the conditions throughout its duration), and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (outlining 39 principles for the humane treatment of prisoners and detainees).⁴⁷

3. Gender specific standards

The current detention standards make little reference to the distinctive needs of women detainees. Only four of the 38 detention standards refer specifically to women detainees. The standard entitled “Admission and Release” addresses the appropriate personal hygiene supplies that women may and may not receive in detention.⁴⁸ The “Hold Rooms” standard specifies that pregnant women in holding cells must be given regular access to food.⁴⁹ The standard regarding transportation specifically requires that women be provided with alternate means of transportation for trips lasting over six hours and instructs transporting officers to avoid the use of restraints on women unless there are exceptional circumstances.⁵⁰ Finally, the “Use of Force” standard states that pregnant detainees present special considerations.⁵¹

The new performance-based standards (PBNDS) include some additions and minor alterations to the DOM’s references to women’s needs. In particular, the PBNDS standard on medical care requires that female detainees receive access to

⁴⁶ *Jones v. Blanas*, 393 F.3d 918 (9th Cir. 2004) (conditions of confinement for civil detainees must be superior to convicted prisoners and pre-trial criminal detainees).

⁴⁷ For a discussion of human rights standards applied to immigration detention, see Michelle Brané and Christiana Lundholm, *Human Rights Behind Bars: Advancing the Rights of Immigration Detainees in the United States through Human Rights Frameworks*, 22 GEO. IMMIGR. L.J. 147 (2008).

⁴⁸ DOM, “Admission and Release.”

⁴⁹ DOM, “Hold Rooms in Detention.”

⁵⁰ DOM, “Transportation.”

⁵¹ DOM, “Use of Force.”

pregnancy management services, which include “routine prenatal care, addiction management, comprehensive counseling and assistance, nutrition, and post-partum follow up.” It also requires gender appropriate examinations for all detainees. The “Transportation Standard” adjusts and expands the former specifications for the land transportation of women.⁵²

The body of this report details the many needs of women detainees that are unaddressed by the current detention standards and the PBNDS. Other related bodies of law have recognized the importance of incorporating gender specific considerations into incarceration policies. For example, the U.N. Standard Minimum Rules for the Treatment of Prisoners states that institutions housing women prisoners should make arrangements for the treatment of pregnant and post-natal prisoners.⁵³ Similarly, the Convention on the Elimination of All Forms of Discrimination Against Women calls for governments to ensure that incarcerated women receive free services for pregnancy and post-natal conditions.⁵⁴

In the context of women asylum-seekers and refugees, both the U.S. Department of Justice and Department of State have issued guidelines for incorporating gender-sensitive insights into both substantive and procedural aspects of the asylum and refugee determination process.⁵⁵ The guidelines emphasize the need to be aware of cultural and societal factors, and to be sensitive to the prevalence of sexual and domestic violence, when interviewing women and adjudicating their claims.

II. Methodology

This report is based on information drawn from interviews conducted with women currently and formerly detained in immigration detention facilities in Arizona and attorneys and social service providers who have worked closely with women detainees in the state. The SIROW researcher and trained law students conducted interviews between August 2007 and August 2008. All interviewees reviewed and signed informed consent forms, which described the voluntary and confidential nature of the research (see Appendix B), prior to their interviews.

⁵² Specifically, it prohibits bus trips for women detainees of more than 10 hours, provides that they must be seated in the front of the vehicle, limits searches by officers of the opposite sex to extreme circumstances, and requires officers to account for their time when transporting detainees of the opposite gender.

⁵³ Standard Minimum Rules for the Treatment of Prisoners, Article 23.

<http://www.ohchr.org/english/law/treatmentprisoners.htm>

⁵⁴ Convention on the Elimination of All Forms of Discrimination Against Women, Article 12, *available at* <http://www.un.org/womenwatch/daw/cedaw/>. Although helpful guidance, the Convention is not binding since the U.S. is the only developed country that has not ratified this convention.

⁵⁵ *Considerations for Asylum Officers Adjudicating Asylum Claims From Women*, memorandum from Phyllis Coven, Office of International Affairs, U.S. Department of Justice (May 26, 1995), *INS Publishes Gender Persecution Guidelines*, 72 No. 22 INTERPRETER RELEASES 771, 771 (June 1995); *Gender Guidelines for Overseas Refugee Processing*, Department of State (2000), *available at* http://cgrs.uchastings.edu/documents/legal/gender_guidelines/US_DOS_Overseas_Gender_Guidelines.pdf.

After several months of negotiations, SIROW received permission from ICE to conduct five days of interviews in October 2007 in the two CDFs that house women detainees in Arizona, Central Arizona Detention Center (CADC) and Eloy Detention Center (Eloy). SIROW repeatedly requested permission to interview ICE and facility personnel. These requests were denied. In addition, SIROW repeatedly requested permission from ICE to interview detainees in Pinal County Jail (PCJ). These requests were also denied.

Staff of the Florence Immigrant and Refugee Rights Project (FIRRP), a nonprofit organization that provides legal assistance and support to immigration detainees in Arizona, introduced the study to women detainees during group “Know Your Rights” presentations in the week preceding the interviews. Detainees interested in volunteering to be interviewed provided their names and alien registration numbers (“A numbers,” the identification system used by ICE) to the FIRRP staff to relay to SIROW. On the designated days, the detainees who had volunteered were called to visitation.

The research team interviewed a total of 17 detainees: ten in CADC and seven in Eloy. Interviews of detainees were conducted in private rooms.⁵⁶ ICE prohibited the use of audio-recording equipment in the detention facilities, so all information from the detainee interviews is based on the researchers’ handwritten notes.

In addition to the interviews with current detainees, the research team interviewed 19 attorneys and social service providers, four previously detained women, and two family members of detainees. Participating attorneys and social service providers were identified by FIRRP staff and through word of mouth. Previous detainees and family members were identified by FIRRP and participating attorneys from among their former clients. Data from these interviews is drawn from a combination of notes taken during the interview and transcriptions of audio-recorded interviews. Direct quotes from interviews appear as block quotes or in quotation marks, all other information is paraphrased.

Tables 1-3 summarize the characteristics of the interview subjects. It is important to note that the small group of current and former detainees who volunteered to participate is not necessarily reflective of the overall population of detainees. Of particular note, none of the current detainees was in detention directly after an attempt to cross the border. Instead, all the participants had lived in this country for a significant period of time and nearly all were in detention after being convicted of a deportable offense. This may be attributed to the fact that women willing to participate in such a study were more likely to be

⁵⁶ For the detainees in Eloy, the interviews were conducted in the rooms ordinarily used for attorney visitation. For the detainees in CADC, on the day preceding the interviews, ICE informed SIROW that the detainees would be transported to Florence SPC for their interviews. As a result, the interviews were conducted in a private room in SPC rather than at CADC. Upon arrival at the facility at 9 a.m., when the interviews were scheduled to begin, the SIROW researcher learned that the detainees had been roused at 4 a.m. in order to be transported ten minutes down the road to SPC for their interviews.

acculturated to the United States and/or in detention for a lengthy period of time. In addition, a high proportion of interviewees had attorney representation, another factor that may have made them more comfortable volunteering to participate.⁵⁷

Because ICE denied SIROW’s requests to interview detainees in PCJ, the report draws information on this facility from a variety of direct and indirect sources. First, a few of the current detainees interviewed had been detained in PCJ before they were transferred to CADC. In addition, several attorneys interviewed had clients in PCJ, and two of the FIRR staff interviewed worked in the facility on a routine basis. In addition, women detainees in PCJ wrote a letter detailing significant concerns with the facility and sent it to FIRR in January 2008. The letter requests that FIRR share the document with organizations that could help address its concerns. The University of California Davis Immigration Law Clinic conducted an independent verification process of the letter’s concerns and drafted a summary report. Both the letter and summary report are cited as additional sources of information in this report.

The report should be read with the limitations of the study in mind. The information is drawn from a relatively small number of participants that is not necessarily representative of the entire detainee population. Because the researchers were not permitted to interview ICE or facility personnel, all information was obtained from detainees and their advocates. Finally, the researchers relied entirely on self-reporting and did not conduct independent corroboration of the information provided by interview subjects.

Table 1: Current Detainees

In order to protect their anonymity, only certain characteristics are included in the following tables, and age ranges rather than specific ages are provided. The current and former detainees interviewed came from the following countries: England, Mexico, Jamaica, Colombia, Philippines, Cuba, Argentina, Dominican Republic, El Salvador, Panama, and Guatemala.

	Age	Length of time in U.S.	Length of time in detention at time of interview	Legal status	Family status and location (in Arizona, out of state, or abroad)	Attorney	Eventual outcome (if known as of August 2008)
D1	20-30	20 years	8 months	Legal Permanent Resident (LPR)	2 U.S. citizen girls (3 and 4 years old) out of state	Yes	Deported
D2	30-40	31 years	2 months	LPR	3 U.S. citizen children (9 month old, 11 and 13 year olds) in AZ	No	Unknown

⁵⁷ In the overall population of immigration detainees, only about one in ten has an attorney. Dana Priest and Amy Goldstein, *Careless Detention: Medical Care in Immigrant Prisons*, WASHINGTON POST A1 (May 11, 2008).

	Age	Length of time in U.S.	Length of time in detention at time of interview	Legal status	Family status and location (in Arizona, out of state, or abroad)	Attorney	Eventual outcome (if known as of August 2008)
D3	40-50	23 years	6 months	Undocumented (Undoc.)	2 foreign-born daughters living in U.S. (23 and 25) and 2 U.S. citizen daughters (8 and 9) in AZ	No	Released; legal case still pending
D4	20-30	7 years	2 months	Undoc.	No children. Aunt and cousin in AZ	No	Released on bond; legal case pending
D5	40-50	19 years	2 years (first 6 mos. in SPC; rest in CADC)	LPR	2 daughters, youngest now finishing high school out of state	No	Deported
D6	30-40	25 years	6 months (brief initial detention out of state, then 1 month in PCJ, 5 months in CADC)	LPR	Mother and 2 U.S. citizen children: 14 year old boy and 12 year old girl, all out of state	Yes	Deported
D7	40-50	25 years	6 months (same as D6)	LPR	Husband and 2 U.S. citizen children: 20 year old boy and 18 year old girl, all out of state	Yes	Deported
D8	40-50	12 years	15 mos.	LPR	U.S. citizen husband and 3 children: 2 U.S. citizens (10 and 6) and one Canadian citizen (12), all out of state	No	Still detained
D9	20-30	12 years	3 months and 1 week	Undoc.	Husband and 4 U.S. citizen children: two boys (6 and 4) and two girls (2 and 1)	No	Released on parole and granted relief from deportation
D10	30-40	10 years	8 months (first 3 in county jail out of state; next 5 in CADC)	Undoc.	Husband, 3 U.S. citizen children (4, 6, and 8), 2 teenage daughters from previous marriage, and mother and father (all out of state)	Yes	Deported
D11	20-30	21 years	8 months	Visa petition pending	Most of family out of state, including U.S. citizen son (9)	No	Deported

	Age	Length of time in U.S.	Length of time in detention at time of interview	Legal status	Family status and location (in Arizona, out of state, or abroad)	Attorney	Eventual outcome (if known as of August 2008)
D12	40-50	16 years	1 year	LPR	U.S. citizen husband and 5 U.S. citizen children	No	Still detained
D13	30-40	12 years	7 months	Undoc.	One U.S. citizen son (10 years old)	Yes	Unknown
D14	30-40	29 years	20 days	LPR	2 U.S. citizen children: 6 year old daughter and 9 year old son, staying with mother	No	Granted relief from deportation and released
D15	30-40	16 years	6 weeks	LPR (with potential claim of citizenship)	Mother and brother out of state	No	Unknown
D16	20-30	14 years	2 months	Undoc.	1 year old U.S. citizen son in AZ	No	Deported
D17	20-30	21 years	7 months	LPR	5 year old U.S. citizen son out of state	No	Still detained

Table 2: Previous Detainees

	Age	Length of time in U.S. when detained	Duration and location of detention	Legal status	Family status and location	Attorney	Eventual outcome (if known)
PD1	30-40	Apprehended at the border	8 months in Eloy	Undoc.	6 children in country of origin	Yes	Granted asylum
PD2	20-30	22 years	2 weeks in Eloy	LPR	3 U.S. citizen children, 2 boys and one 2 month old girl (breastfeeding) in AZ	Yes	Released on bond with case pending
PD3	40-50	27 years	10 days in Eloy	Undoc.	4 children: 18, 14, 13, and 8 (youngest is U.S. citizen), all in AZ except oldest has been deported	Yes	Released on bond with case pending
PD4	20-30	23 years	Detained in CADC twice: first for one month, then lost bond appeal and returned for ~ 6 wks	Undoc.	Married to U.S. citizen; 6 months pregnant with first of 2 U.S. citizen sons when detained	Yes	Released on bond; over one year later granted relief from deportation

Table 3: Attorneys and Social Service Providers

Participants were located in Florence, Phoenix, Tucson, and Florida.

	Type of practice	Experience with women detainees
A1	Paralegal	Provided "Know Your Rights" Presentations and follow up assistance to women in Eloy
A2	Pro bono attorney	Represented 1 woman asylum seeker in Eloy
A3	Social worker	Provides social services to women detained in all facilities
A4	Private immigration attorney	Women detainees make up about 10% of his clients; works regularly in all the detention facilities
A5	Private immigration attorney	Represents immigrants and occasionally detainees; has represented ~5 women in Eloy and Florence
A6	Private immigration attorney	Women detainees make up about 20% of his clients; works in both Florence and Eloy
A7	Pro bono attorney	Represented 1 woman asylum seeker in Eloy
A8	Private immigration attorney	Has represented a handful of women detainees
A9	Private immigration attorney	Has represented many women detainees; works regularly with detainees in both Eloy and Florence
A10	Private immigration attorney	Has represented ~6 women detainees
A11	Private immigration attorney	Has represented 2 women detainees in CADC, works regularly with male detainees in Florence and Eloy
A12	Public, private and pro bono attorney	Has represented several women detainees in Florence and Eloy
A13	Private immigration attorney	Represents 3-4 detained women each month in Florence and Eloy
A14	Non-profit attorney	Conducts "Know Your Rights" presentations, provides pro se assistance, representation at bond hearings, and occasionally further representation to women detainees in Florence
A15	Non-profit attorney	Conducts "Know Your Rights" presentations and provides pro se assistance and occasional representation to women detainees in Florence SPC and CADC
A16	Non-profit attorney	Conducted "Know Your Rights" presentations and provided pro se assistance and occasional representation to women detainees in Florence
A17	Non-profit attorney	Represented one woman detained in PCJ
A18	Paralegal	Conducts "Know Your Rights" presentations and follow up assistance to women detainees in Eloy
A19	Non-profit attorney	Coordinates pro se assistance and Know Your Rights presentations for detainees in Florence and Eloy

III. Conditions

The following sections detail the concerns about conditions identified through SIROW's research. General concerns identified are discussed in each section, with the specific interviews or other sources for the information noted in footnotes. Detailed comments from interviewees are also contained in footnotes. In order to maintain the anonymity of interviewees, the citations refer to the source of each comment by numbers assigned to each subject, preceded by either "D" for current detainee, "PD" for previous detainee, or "A" for attorney or social service provider. In addition, detainees' stories that illustrate a given concern use pseudonyms and are provided in separate gray boxes throughout the remainder of the report. Each section concludes with recommended actions to address the concerns identified, which are further elaborated upon in the final section of this report.

A. Medical care

1. General concerns

The Detention Standards require that all detainees have access to medical services that promote detainee health and general well being.⁵⁸ Yet as discussed below, nearly every detainee interviewed described receiving poor quality medical care for problems ranging from routine health concerns to grave conditions.

Delay was the most common complaint voiced by detainees about the facilities' provision of medical care. Detainees repeatedly described waiting for weeks at a minimum for responses to their medical requests. At CADAC, seven of the ten women interviewed described waiting several weeks for responses to their requests for help.⁵⁹ Detainees described similarly long waiting times in Eloy.⁶⁰

In addition, several detainees reported that when they did finally receive medical attention, it was inadequate to the point of being humiliating and/or dangerous. A few examples follow:

⁵⁸ DOM, "Medical Care."

⁵⁹ D1 (long delays in response to request for treatment of knee pain and cyst in armpit), D2 (waited over a month for response to request for treatment of migraines and psychiatric visit), D3 (waited for weeks for a response to request for treatment of the flu), D4 (in her experience it takes 3-4 weeks to respond to medical requests), D6 (waited over a month for response to request for treatment of stinging skin condition on her face), D7 (waited for months and filed three separate requests for treatment of migraines, anxiety, and stomach pain, including vomiting and bleeding. Finally saw a doctor but still has received no treatment. Even requests for an extra blanket and Advil have been ignored or refused), D10 (waited two weeks for response to request for treatment of the flu; by the time of response, it was no longer a problem. She also knows other women whose requests were finally processed after they had been deported).

⁶⁰ D11 (takes weeks to respond to medical requests), D12 (waited for several months to see a nurse about her cervical cancer, which was diagnosed prior to her arrival in Eloy; waited another month to see an oncologist), D14 (requested Ibuprofen for carpal tunnel since day she arrived, 20 days ago, and still has received no response), PD2 (requested treatment for migraines 3 times in 2 weeks of detention, and finally the nurse responded with Ibuprofen).

- A detainee in Eloy had received a diagnosis of cervical cancer while she was in a New Jersey jail prior to her detention. After she arrived in detention, despite repeated requests, she waited for several months to see a nurse. 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.⁶¹
- One detainee in CADC with severe knee pain reported that she was given 30 days of Ibuprofen, told to lose weight, and refused further treatment. At times the pain was so debilitating she could not walk to pill call to receive the Ibuprofen.⁶²
- One attorney recounted the experience of one of her clients detained in CADC, who had undergone female genital mutilation (“FGM”) in her home country before she fled to the United States. While in detention, she began to have severe lower abdominal pain, which was most likely a long-term effect of FGM. She was told to exercise and watch her diet. After nearly six months in detention without care, she was taken to a public hospital where an ultrasound found a cyst that had grown to be the size of a five-month-old fetus. Although ICE had actively opposed efforts to release her up to this point, she was abruptly released within days of receiving this news, with no money or health insurance to cover the surgery. At the time the attorney was interviewed for this report, her client had still not been able to receive the surgery.⁶³
- Another attorney described extremely negligent care received by her client in PCJ, who entered the facility with complex and serious health problems including advanced cancer and psychiatric problems. Her client spent over a year in the facility, and was consistently denied the urgent medical attention she required. Requests were denied or ignored for everything from a biopsy to determine the extent of her cancer to an extra blanket for the pus exuding from her leg.⁶⁴

In addition to concerns about the timing and quality of medical care, detainees also raised serious privacy concerns. The Detention Standards require that the facilities protect the privacy of detainees’ medical information.⁶⁵ They specifically require that for initial medical screenings, if language difficulties prevent communication, the health care officer in the facility must obtain translation assistance. However, women described no formalized translation assistance and few medical personnel who could speak languages other than English. In both CADC and Eloy, detainees reported that non-English speaking

⁶¹ D12.

⁶² D1.

⁶³ A16.

⁶⁴ A17.

⁶⁵ DOM, “Medical Care.”

detainees are expected to bring another detainee to translate for them in medical appointments.⁶⁶

Access to medical records was another issue raised repeatedly by detainees and their representatives in describing the problems with the medical care system in detention. One detainee in Eloy described waiting for seven months and filing numerous requests before she was able to obtain her own medical records.⁶⁷

The women detainees in Pinal County Jail who wrote a letter to FIRR in January 2008 detailing their concerns with their treatment devoted a substantial portion of their letter to medical issues. Their description of the medical care echoes the problems described by the detainees interviewed in the other facilities. In their own words:

Medical care that is provided to us is very minimal and general. Basic care for most of us: "Drink a lot of water and Ibuprofen." Some of the detainees come with open sores, to have a nurse see them is a long process. Daily we have to constantly remind the officers that the detainees need help. If you do not speak English, you cannot fuss, the only thing you can do is go to bed and suffer. Going to ICE medical, we are at the mercy of the nurse's mood. We have no privacy when our health record is being discussed. You get your diagnosis in front of non-medical staff and other detainees. . . . When we have complained to the nurses we get ridiculed with replies like, "You should have made better choices... ICE is not here to make you feel comfortable ... our hands are tight [sic] ... Well we can't do much you are getting deported anyway . . . learn English before you cross the border . . . mi casa no es su casa."

2. Women's distinctive health concerns

The facilities are particularly unresponsive to women's distinctive health needs. One woman interviewed was detained for nearly a month in CADC while she was six months pregnant. She was shackled during transport to and from the facility. At the facility, she was denied monitoring or treatment for an ovarian cyst that posed a risk to herself and the fetus, and received no response to her requests for prenatal vitamins or extra padding for her bed.⁶⁸ (Her case is described more fully in the box below.) Another woman interviewed was separated from her breastfeeding baby daughter, who was less than two months old, while she was detained in Eloy for two weeks. Her request for a pump was denied and she had to express her milk supply manually. In addition, it took the facility four days to

⁶⁶ D7, D11, D12.

⁶⁷ D12.

⁶⁸ PD4.

respond to her requests for attention to the residual bleeding she was experiencing from childbirth.⁶⁹

In addition to these direct accounts, attorneys described several cases of disregard for the health needs of women detainees. Since 2006 alone, three women told FIRR staff that they suffered miscarriages while detained. In all three cases, their detention continued for several months after the miscarriage.⁷⁰ Attorneys also described that the government routinely fights their efforts to get pregnant detainees released on bond.⁷¹ One private attorney knew of a nursing mother held for ten days in Eloy without access to a pump to relieve and maintain her milk supply.⁷² She was unable to continue breastfeeding upon release. Finally, two detainees at CADC reported observing negligent or abusive treatment of pregnant detainees.⁷³

Ana was born in Agua Prieta, Mexico, a border town just south of the Arizona border, and came to the United States as a baby. She has lived in Tucson for her whole life. When she was 17, she was an honor roll student at a Tucson public school. She and her mother were undocumented; her younger two siblings were U.S. citizens. She had a job at a store in the mall. One day her mother came to the store and asked her to buy several hundred dollars worth of merchandise from the store with a credit card that her mother said belonged to a friend of her stepfather. In fact, the credit card was a fake and Ana and her mother were charged with receipt of stolen property.

Several years later, the district attorney's office initiated a prosecution for the crime. By this time, Ana was engaged to a U.S. citizen. The judge reduced her sentence to a misdemeanor, and she served a brief sentence in county jail. She was then immediately transferred to CADC, as ICE initiated deportation proceedings against her.

The immigration judge in Florence granted her bond after one month of detention. ICE appealed the bond decision. Ana commented, "A lot of people [say], 'well maybe because they thought you were a threat to flee.' [But] why would I want to go anywhere if I've been here my whole life. Where would I go?"

⁶⁹ PD2.

⁷⁰ A16 (woman fleeing domestic violence in Mexico was arrested coming across the border. During her interrogation by Border Patrol, she miscarried in the bathroom. She didn't tell anyone in CADC, but eventually told A16. After 8 months in detention and advocacy on her behalf by FIRR, ICE released her on humanitarian parole); A18 (in less than six months, worked with two women who miscarried while detained in Eloy. One requested a doctor and received only sanitary pads to deal with the bleeding).

⁷¹ A14, A19.

⁷² A12.

⁷³ D1 (recalls a detainee who was pregnant as a result of rape in the desert. She was severely depressed, and didn't come out of her cell for her special meal call [an extra serving due to her pregnancy]. One of the guards yelled at her so intensely that she fainted. The rest of the girls in the pod came together and complained about the guard and he was eventually removed from their unit); D6 (during her time in CADC, has observed two pregnant detainees receive little attention to their medical needs).

ICE won the appeal and Ana was sent back to Florence. At this point, she was six months pregnant. She was transported back to the facility in shackles. She, her attorney, and her doctor all alerted ICE of her pregnancy but she remained in detention. Prior to her detention, her doctor instructed her to have periodic monitoring of a cyst in her ovary in order to ensure that it did not grow to a size that would endanger herself and the fetus. Yet despite repeated written and verbal requests, she never received a sonogram while in detention.

Finally, after over a month in detention, ICE abruptly released Ana. During her time in detention, she had one visit with a doctor. She was assigned a top bunk but managed to trade with another detainee. Her requests for extra padding for the bed and prenatal vitamins were ignored. She recalls often feeling hungry after meals. But throughout her interview, she emphasized that she was one of the lucky ones. She had money in her account to buy food at the commissary. It was junk food, but at least it filled her stomach.

Concerns identified in this section support the following recommendations:

- Congress: Pass legislation to require DHS to establish legally enforceable procedures for the timely and effective delivery of medical care to immigration detainees.
- DHS: Provide enforceable regulations to guarantee women appropriate gynecological and obstetrical care.
- ICE: Halt or strictly limit the practice of detaining nursing mothers and pregnant women to cases in which no alternative arrangements exist.
- ICE, CADAC, Eloy, and PCJ: Respond to medical requests in a timely fashion.
- ICE, CADAC, Eloy, and PCJ: Provide onsite or telephonic translation assistance for appointments with medical staff.

B. Mental health

The Detention Standards make little reference to mental health care in the facilities, other than requiring staff to be trained to recognize signs and situations potentially indicating suicide risk.⁷⁴ This is a notable gap in the standards, given the significant mental health needs of the population housed in the facilities. Many detainees come to the facility with preexisting mental health conditions. Of the 17 detainees interviewed, five required psychiatric treatment for preexisting conditions.⁷⁵ While most were able to eventually resume prescriptions for psychiatric medications, they described significant delays, along with limited to

⁷⁴DOM, "Suicide Prevention and Intervention."

⁷⁵ D2, D5, D10, D11, D17.

nonexistent access to non-medical treatment options such as therapy or counseling.⁷⁶

Other detainees arrive in detention as a direct result of recent trauma or violence. Other studies have demonstrated that asylum-seekers who are placed in detention are likely to suffer from Post Traumatic Stress Disorder, major depression, or other mental health problems.⁷⁷ These disorders may be particularly prevalent among women detainees.⁷⁸ Several social service providers and attorneys interviewed emphasized the high proportion of women detainees with whom they have worked who are victims of violence.⁷⁹ Of the 21 current and former detainees interviewed, five divulged during their interviews that they were survivors of domestic violence. Two of the five were in detention as a direct result of the violence.⁸⁰ In addition, two attorneys interviewed commented on the prevalence of rape victims among border crossers who end up in detention facilities.⁸¹ Yet the facilities have no personnel or programs in place to address the potential mental health needs of recent victims of violence.

Many detainees need treatment for the mental strain and anxiety created by detention itself. Several attorneys and service providers interviewed commented on the distinctive psychological strain of immigration detention. One social service provider described the “first traumatic moment of the detention experience” for post-criminal conviction detainees. They often have no warning that they are going to be detained after serving their criminal sentences. As he described it, the jail or prison “will go through the motions of releasing you - they’ll give you all the possessions and sign you out and then, as they’re opening up the cell, they take you to another holding area where ICE picks you up. Then you’re transported to God knows where...”⁸² Several of the detainees interviewed described the shock of detention upon leaving jail, having received no forewarning that they would be detained and possibly deported at the end of their criminal sentence.⁸³

⁷⁶ D2 (took CADC one month to respond to request to meet with psychiatrist or psychologist [detainee was unsure which]); D17 (took Eloy 3 or 4 weeks to respond to her request to meet with a psychiatrist).

⁷⁷ *From Persecution to Prison: The Health Consequences of Detention for Asylum Seekers*, Physicians for Human Rights and the NYU/Bellevue Center for Survivors of Torture 1-2 (June 2002).

⁷⁸ *Refugee Women at Risk: Unfair Laws Hurt Asylum Seekers*, Lawyers Committee for Human Rights 11 (2002); available at http://www.humanrightsfirst.org/refugees/reports/refugee_women.pdf (“For survivors of torture, rape and other forms of gender-based persecution, detention often exacerbates the symptoms of post-traumatic stress and depression.”)

⁷⁹ A1 (40%); A3 (vast majority); A4; A12; A14 (well over half); A15 (vast majority), A18.

⁸⁰ D4 (in detention after boyfriend beat her and dropped her off at border patrol); D10 (in detention after abusive spouse reported her use of false identity documents to border patrol).

⁸¹ A12, A14 (during her three years as an attorney working in the detention facilities, had personal experience with two women who were rape victims and knew of others anecdotally).

⁸² A3.

⁸³ D1 (LPR who had lived in this country since she was 6 years old, learned of immigration hold a few weeks before scheduled release from jail, but told it was simply a matter of protocol and she would be home soon. Instead, she was in detention for over 8 months and was eventually deported, shortly after her interview for this report); D2 (LPR who had lived in this country since she was 3 months old, was incarcerated for six months in county jail for a probation violation and had no warning of her immigration detention until the day of her scheduled release); D6 and D7 (LPR sisters who had lived here since they were 10 and 16 were picked up by ICE during a routine parole visit 3 years after they had served their jail sentences); D14 (LPR for 18 years, unexpectedly picked up by ICE on the day of her scheduled release from jail); PD3 (undocumented mother

In addition to the initial shock, the indefinite nature of detention presents another distinctive psychological challenge experienced by detainees. As one attorney put it, “Unlike a criminal sentence, which you usually know ‘all right, I’m here for six months, if I do whatever the time is,’ with immigration proceedings, it feels indefinite.”⁸⁴ Detention can last days, weeks, months, or even years. The length of detention depends not only on how long legal proceedings take but also how long arrangements for deportation take even after a final order of deportation. One detainee interviewed had received a final order of deportation after five months of detention, and at the time of her interview had been waiting an additional two months to actually be deported. In her interview, she described the strain of not knowing whether she would be deported the next day or months in the future.⁸⁵

One indication of the psychological strain of detention was the recurring mention by attorneys of clients who told them they felt like they were going to die in detention.⁸⁶

The facilities make no discernable effort to address the psychological harm of the detention experience. Detainees can obtain prescriptions for antidepressants and anxiety medications, but psychological counseling support is far more difficult to obtain. Several detainees described symptoms of severe anxiety and depression, yet if they were not previously on some sort of prescription medication, they were unlikely to seek out help. For example, one detainee at CADC who spoke openly of her struggles with depression said she knew anti-depression medication was available, but in her view, it was for the federal marshal prisoners. She explained that she didn’t like pills, and it had never occurred to her to request a visit with a psychologist or psychiatrist.⁸⁷

Another detainee described suffering an anxiety attack after nearly two months of detention in Eloy.⁸⁸ She did not know what was happening to her. She spent the day of the attack in the clinic. The following day a doctor came to visit her. She is a monolingual Spanish-speaker, and was forced to ask a guard to interpret during the doctor’s visit. The doctor did not offer her any medication or follow up support.

detained by ICE when she was picking up her son from his probation visit, in transit for 24 hours without access to phone, unable to call anyone to pick up her other children from school).

⁸⁴ A4.

⁸⁵ D10.

⁸⁶ A4, A17, A19.

⁸⁷ D3.

⁸⁸ D16.

Maria is 25 years old. She was born in Mexico and came to this country when she was 17. She and her family are undocumented and work as seasonal farmworkers. At the time of her interview, she had been detained in CADC for two months.

Maria's detention was the culmination of an abusive relationship. Her boyfriend kidnapped her, severely beat her, and turned her in to ICE. She was taken to a hospital for treatment of her injuries, and then transferred directly to CADC. The facility has not responded in any way to the traumatic circumstances of Maria's arrival. She has received no psychiatric attention.

Maria is eligible for a special visa for victims of domestic violence. Her deportation proceedings have been placed on hold while she applies for the visa. Although the visa application can take a significant period of time to process and Maria has no criminal record, the government has refused to release her while her case is pending. Since her family cannot afford the \$1,500 bond, she remains detained. None of her relatives have come to visit her because of their undocumented status.

Concerns identified in this section support the following recommendations:

- **Congress:** Pass legislation to require DHS to establish legally enforceable procedures for the timely and effective delivery of mental health care to immigration detainees.
- **DHS:** Require ICE officers and detention facility personnel to receive training in recognizing and responding to survivors of domestic and sexual violence and gender-based persecution.
- **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. Mixed population

The detention standards state that detainees should be housed according to a classification system, in which detainees with minor and nonviolent criminal records are separated from higher risk detainees.⁸⁹ However, the mixing of women detainees with inmates in the criminal justice system, as well as the mixing of high and low security risk women detainees, was one of the concerns most frequently raised by both detainees and their advocates.

⁸⁹ DOM, "Detainee Classification System."

At the time interviews were conducted in October 2007, women detainees at CADC were held in the same pod as federal marshal prisoners.⁹⁰ Nine of the ten detainees interviewed talked at length about the negative consequences of this mixing of populations.⁹¹ Several detainees described the constant fear and bullying they experienced as a result of the federal marshal prisoners.⁹² One detainee described it as a “ticking time bomb,” emphasizing that it is just a matter of time before something terrible happens to one of the ICE detainees.⁹³

In Eloy, there are no federal prisoners, but the women do not appear to be separated by level of security risk. As a result, there is a similar dynamic of fear between the less acculturated detainees, including recent border-crossers, and some of the post-criminal conviction detainees. When asked about the social dynamics in her pod, one detainee described that the undocumented live in fear of the women who have been in jail.⁹⁴ Another detainee interviewed, an asylum-seeker fleeing traumatic circumstances in her home country, described refusing to leave her cell because the other women scared her.⁹⁵

Several of the attorneys interviewed also identified the mixed population in the pods as one of the most significant concerns for women detainees. One attorney said it is the main problem voiced by his clients when asked if they feel safe in detention. He explained,

First, it's a cultural difference, if you see a woman with a tattoo... people are afraid of that. You have somebody here who's from Guatemala who's indigenous... they're being told to get in back of the line, they take their food, they want money from them. . . they're frightened, physically frightened. . .⁹⁶

Another attorney noted the imbalance of power between the different populations. On the one hand, the federal marshal prisoners don't have much to lose by behaving aggressively, because many may be facing long sentences and may be accustomed to the culture of incarceration. On the other hand, the ICE

⁹⁰ Federal marshal prisoners are individuals arrested by any federal agency and held in custody by the U.S. Marshal Services from the time they are brought into federal custody until they are either acquitted or incarcerated.

⁹¹ D1, D3, D4, D5, D6, D7, D8, D9, D10.

⁹² D1 (the federal marshals are terrifying for many ICE detainees); D4 (federal marshals are more aggressive); D5 (many of the younger girls who don't speak English get scared and bullied); D6 (very fearful of the federal marshals. They cut in front of her in line, and she stays quiet); D7 (she is scared of the federal marshals because they are bigger and American. They are treated better by the guards); D8 (federal marshals bully and manipulate ICE detainees, especially recent border crossers. The federal marshals get preferential treatment in terms of services, clothing, and sleeping arrangements); D9 (lots of intimidation, fighting, and yelling from natives [federal marshals], who call the ICE detainees “illegals.” They always receive preferences for jobs); D10 (she is scared to be sleeping in the same room with these dangerous women who might be murderers. Fights often break out between ICE and federal marshals. They are treated better by the guards because they can speak English).

⁹³ D3.

⁹⁴ D16.

⁹⁵ PD1.

⁹⁶ A4.

detainees have everything to lose, since they are often far from any kind of support network, have no idea how long they will remain detained, and in many cases have no familiarity with prison culture.⁹⁷

2. Use of shackles and strip searches

Many of the detainees expressed intense frustration at the extensive security measures taken by the facilities despite the fact that the detainees are not serving criminal sentences. In particular, the facilities' use of shackles and strip searches often appear out of step with the actual risk posed by the detainees.

The detention standards only permit the use of restraints on women in exceptional circumstances.⁹⁸ However, women described the routine use of shackles in situations that posed minimal flight or security concerns. For example, one woman apprehended at the border who was fleeing violence in Guatemala was taken in arm and ankle shackles on a multi-hour bus and plane trip to Eloy.⁹⁹ Even many months later, when recounting the experience during her interview for this report, she broke down. In another example, one woman interviewed was routinely transported in shackles to CADC and for any visits outside the facility when she was six months pregnant.¹⁰⁰

Strip searches are a security measure of particular concern for women detainees. The detention standards recognize the gravity of strip searches. They instruct facilities to only use the invasive practice after a legal visit if there is a reasonable suspicion that the detainee is concealing contraband. The standards also state that if strip searches are normally required after a contact visit in a facility, there should be an alternative procedure available to allow for a non-contact visit.¹⁰¹

Despite these standards, CADC detainees described being subject to routine strip searches after legal visits. Many detainees described these experiences as humiliating and traumatizing. The strip searches are conducted in groups. One detainee described being strip searched in front of numerous other detainees while she was menstruating.¹⁰² Another said she was depressed for days after the first strip search, and noted that many women leave the strip search crying.¹⁰³ At Eloy, detainees did not report frequent strip searches.

⁹⁷ A15.

⁹⁸ DOM, "Transportation."

⁹⁹ PD1. Similarly, D14 described being shackled at various stages during a two day long transport via bus and plane from California, where she had completed her jail sentence, to Arizona.

¹⁰⁰ PD4 (laughing and commenting on the use of shackles, "Where are we going to go? I'm really going to get far!").

¹⁰¹ DOM, "Visitation." The new performance-based detention standards have removed this provision. They still require reasonable suspicion prior to a strip search.

¹⁰² D7.

¹⁰³ D3.

3. Treatment by guards

On the whole, detainees reported mixed treatment by the guards in all three facilities, with some supportive and helpful and others disrespectful and intimidating. Inability to communicate with the guards due to language barriers was one of the biggest problems identified by detainees. The non-English speaking detainees interviewed described routinely needing to ask bilingual (in English and Spanish) detainees to translate for them.¹⁰⁴ This practice raises particular privacy concerns for conversations with medical personnel and case managers.¹⁰⁵ Two monolingual Spanish-speaking detainees in CADC reported that all the case managers in the facility speak only English, which has made it difficult for them to report concerns about their personal safety in the facility.¹⁰⁶

Detainees in Eloy complained that some of the guards give preferential treatment to some of the detainees.¹⁰⁷ The favorites are usually the post-criminal conviction English-speaking detainees, who tend to be more acculturated and “tougher.”¹⁰⁸ One monolingual Spanish speaking detainee, who was in detention for working with false papers, said that she felt safer during her brief time in county jail.¹⁰⁹ At the detention facility, she doesn’t believe that the guards will protect her from the other detainees, who often bully her. On multiple occasions she reported that she and other undocumented detainees have skipped meals rather than go into the dining hall and interact with the other detainees.

PCJ has only been under contract with ICE since 2006; the facility was previously used as a county jail and the majority of its pods continue to house county inmates. Attorneys observed that the guards at PCJ are particularly out of touch with the distinctive needs of immigration detainees as opposed to people serving criminal sentences.¹¹⁰ One attorney was struck by this when she reminded a guard that the detainees needed access to a photocopier and he replied, “What would they need copies for?” She noted that, given the fact that the vast majority of detainees have pending immigration court cases and are representing themselves pro se, this comment reflects a lack of awareness on the part of the PCJ staff.

Attorneys raised additional concerns about the unique power dynamics between women detainees and guards. Several attorneys commented that women in particular are frequently pressured by guards into signing agreements to accept deportation.¹¹¹ Two service providers described cases in which women had their

¹⁰⁴ D1, D6, D7.

¹⁰⁵ As discussed in the section on medical care, this practice violates the detention standard on medical care, which requires that facilities protect the privacy of detainees’ medical information. DOM, “Medical Care.”

¹⁰⁶ D6, D7.

¹⁰⁷ D12, D13, D14, D16.

¹⁰⁸ D13, D16.

¹⁰⁹ D16.

¹¹⁰ A14.

¹¹¹ A1, A5, A8.

hand physically grabbed and maneuvered in an effort to have them sign the required documents.¹¹² In addition, some attorneys observed that women are sexualized by the guards, receiving better treatment if they are flirtatious.¹¹³

Concerns identified in this section support the following recommendations:

- ICE: Limit the use of shackles and eliminate it altogether for pregnant detainees.
- ICE, CADC, Eloy, and PCJ: Train facility personnel to be familiar with the circumstances of ICE detainees and understand the differences between immigration detainees and people awaiting or serving criminal sentences.
- ICE, CADC, Eloy, and PCJ: Encourage bilingual guards to communicate in detainees' native language or use translation or interpretation services.
- ICE, CADC, Eloy, and PCJ: Facilitate onsite or telephonic translation assistance for non-English speaking detainees, particularly during private meetings with case managers.
- ICE, CADC: Refrain from mixing ICE detainees with people awaiting or serving criminal sentences.
- ICE, CADC: Halt routine strip searches and, if necessary because of specific security concerns, conduct strip searches individually rather than in groups.

D. Telephone access

Given the isolated location of the detention facilities, telephone access is a crucial issue for immigration detainees. Phone calls are often their only means of contact with their families, attorneys, consulates, and social service providers. The importance of phones is acknowledged in the Detention Standards, which state that “[f]acilities holding [ICE] detainees shall permit them to have reasonable and equitable access to telephones.” The Detention Standards also require that detainees be permitted to make free calls to free legal service providers and consulates, and indigent detainees be further permitted to make free calls to courts and for personal or family emergencies.¹¹⁴ In addition, the detention standard regarding transfers requires that indigent detainees be permitted one domestic phone call at government expense upon arrival at a new facility.¹¹⁵

The phone systems in all three contract facilities were not in compliance with the Detention Standards. The problem most frequently raised in interviews was the inability of detainees to contact family members in the United States

¹¹² A1, A5.

¹¹³ A14, A15.

¹¹⁴ DOM, “Telephone Access.”

¹¹⁵ DOM, “Detainee Transfer.”

initially upon arrival at the facility because they had no money available to place even a single call. In CADC, five of the ten detainees interviewed reported that, upon arrival in the facility, they were unable to reach their family for anywhere from two weeks to over a month.¹¹⁶ Three women detained in Eloy described similar problems.¹¹⁷ One woman previously detained in CADC was unable to reach her family for the entire ten days of her detention.¹¹⁸

Even well after initial arrival, detainees continued to struggle to communicate with their families. The most common obstacle described by detainees was expense. At both CADC and Eloy, detainees can either deposit money into an account to be charged or they can call collect. The accounts are prohibitively expensive for the majority of detainees.¹¹⁹ In addition, detainees described significant delays in getting money into their accounts so that they could place calls.¹²⁰ Many detainees described that women with accounts would help those who could not afford them by lending out phone time or asking their families to pass along messages to other detainees' families.¹²¹

Despite the Detention Standard's provisions regarding free calls to attorneys and consulates, numerous detainees reported that they were either unaware of this rule or that it was not put into practice.¹²² Detainees at both CADC and Eloy reported consistent problems in reaching FIRR, the only free legal service provider available to detainees.¹²³ FIRR has an automated system that initially picks up all calls to the office. Not only does this make it impossible to place a collect call (which they should not have to do according to the Detention Standards), but even if they used their own funds for the call, the phone system at CADC does not connect to answering machines so detainees cannot leave messages. Attorneys interviewed at FIRR described receiving calls in which one woman would manage to get through to them by phone, and then pass the phone around among several detainees who all had various messages to relay.¹²⁴ Since nearly all outside counsel

¹¹⁶ D2 (unable to reach family for 2 weeks upon arrival); D3 (unable to make a phone call for 3 weeks after transfer from SPC to CADC due to expense and delay in transferring money to her account); D6 and D7 (unable to call families throughout transfer from east coast to Arizona because no opportunity to access a phone); D9 (unable to call family after arrived at facility for almost a month due to lack of funds. She complained to her case manager and in response was given 3 pieces of paper and envelopes).

¹¹⁷ D13 (unable to call family when arrived until another detainee lent her three minutes of phone time); D14 (unable to call mother to tell her she had been picked up by ICE until one week after she had been released from jail, when she finally used someone else's phone card); PD2 (could not call family for 2 days until account was set up. Family could not locate her; did not have her A number and could find no central number to call).

¹¹⁸ PD3 (unable to call family because lacked money to cover even a single call).

¹¹⁹ D6 and D7 (went 20 days without speaking to family because couldn't afford to place the call); D10 (can't reach family because of the expense. Has spoken to family twice in 8 months); D14 (has mostly communicated by mail, only talked to family on phone once in 20 days she's been in detention).

¹²⁰ D3, D8, D9, A14 (all describing delays in getting money into account ranging from one to three weeks).

¹²¹ D7 (sometimes she will have her family call other families of desperate detainees who can't afford an account), PD3, PD4.

¹²² D4 (never heard of free calls to attorneys. Would be hard to arrange since case manager only speaks Spanish); D6 (facility recently posted that there are free calls for emergency but she doesn't know how to request it).

¹²³ D1, D2, D9.

¹²⁴ A14 and A15.

are in Tucson or Phoenix, most represented detainees lack sufficient funds to call their attorneys.¹²⁵

With regard to calls to consulates, two detainees specifically reported that they were unable to place free calls to their consulates from within the facility.¹²⁶

Another obstacle to phone access is loss of personal property. One attorney noted that many of her clients have no way to obtain the phone numbers of those whom they wish to contact. Because their property is taken when they are detained, they are without contact information, particularly numbers stored in their cell phones.¹²⁷

One final problem of particular concern for women and unacknowledged by the Detention Standards is the need to place calls to Child Protective Services (CPS). One detainee described her intense frustration in being unable to place calls to Phoenix Child Protective Services to determine the whereabouts of her own son. She had no money in her account and CPS would not accept collect calls.¹²⁸ At the time of her interview, she had been unable to communicate with CPS for the entire duration of her two month stay in detention.

Linda was born in a South American country and came to the United States 10 years ago on a temporary visa. After her visa expired, she continued to live here without legal status, working for a dairy company in Utah. She married a Mexican man who was physically and emotionally abusive. He was so determined to keep control of her that he destroyed her identity documents and had false Mexican identity documents made for her to carry on her at all times. He wanted to ensure that if she were ever picked up by the immigration authorities, she would be deported to Mexico, where he could find her, rather than to her home country.

The abuse finally became intolerable and Linda left him. In an act of revenge, her husband called the police and reported that she was carrying false identity documents. She was prosecuted for forgery, and although she had no prior criminal record and had never used the identity documents for any purpose, she was convicted and deportation proceedings were initiated. Because her forgery charge is considered an aggravated felony under federal immigration law, she had virtually no hope of relief from deportation. As she put it, "My only crime was leaving a life of violence."

¹²⁵ D13 (hasn't called attorney because no money); A17 (client in PCJ unable to call her so they communicate through her husband).

¹²⁶ D10 (at time of interview, had been trying for four months to place a call from CADC to her consulate. Had made 14 requests to the facility, they respond that they are not authorized to arrange the call. To her knowledge, the only consulate detainees have successfully called from the facility is the Mexican consulate); D12 (while detained in Eloy, she made repeated requests for free calls to her consulate that were unanswered. Eventually she paid for these calls).

¹²⁷ A15.

¹²⁸ D16.

At the time of her interview, Linda had been in detention for 8 months. She spent the first 3 months detained in a county jail in Utah and was then transferred to CADC. After three more months of fighting her case from CADC, she exhausted all legal avenues of relief and spent the two months before her interview simply awaiting her deportation. Her deportation was delayed because of her lack of identity documents, compounded by the fact that her home country does not have a sizable population of repatriated detainees and therefore processing travel arrangements are not routine for consulates.

Linda had spent the entirety of her time in CADC trying without success to place a phone call to her consulate in order to resolve the problem with her identity documents. The facility's prepaid phone account system would not connect to the automated system at the consulate. While at CADC, she had made 14 requests for help in placing this phone call, but her requests were either ignored or denied. In her observation, only detainees from Mexico could successfully place calls to their consulate.

As a result of the expense of the phone system, Linda had spoken with her family twice over the past five months. Her frustration with this limited ability to communicate with the outside world escalated as she struggled for information about her own children. Just before she was transferred from Utah to Arizona, her abusive husband visited her at the county jail to inform her that he was taking their three children, U.S. citizens ages 4, 6, and 8 years old, to Mexico. Since then, she had been unable to get anyone to help her track down her children. ICE told her it was not their problem. The Utah police said it was not their problem. Her relatives in Utah were unwilling to come forward because they are undocumented and especially fearful after what had happened to Linda.

Linda described the empty days awaiting her deportation in stark terms, saying it is a form of torture to leave a mother with nothing to do all day long but worry about her children.

Concerns identified in this section support the following recommendations:

- ICE, CADC, Eloy, and PCJ: Ensure that all detainees can place at least one free domestic telephone call upon arrival at the detention facility.
- ICE, CADC, Eloy, and PCJ: Ensure that detainees can make free calls to free legal service providers and consulates.
- ICE, CADC, Eloy, and PCJ: Ensure that indigent detainees can make free calls to courts and for personal and family emergencies.
- ICE, CADC, Eloy, and PCJ: Protect detainees from phone card systems with exorbitant rates.
- ICE, Arizona Child Protective Services: Develop policies to facilitate parent detainees' ability to communicate about custody issues.

E. Access to legal counsel and other assistance

Unlike individuals facing criminal charges, individuals facing civil immigration violations have no right to free legal counsel. However, they do have a right to counsel at their own expense.¹²⁹ This right is seriously undermined by the remote location of the detention facilities. The fact that all three facilities are located in remote desert areas over an hour away from both Tucson and Phoenix makes it much more difficult for detainees to access legal service providers. The limited financial means of the vast majority of detainees makes it all the more unlikely that they will be able to retain counsel. Many of the detainees spoke of their inability to hire a lawyer because of limited finances.¹³⁰ The Florence Immigrant and Refugee Rights Project, the main pro bono legal service provider for detainees in Arizona, could not possibly provide individual representation for all the detainees. Instead it predominantly provides assistance to detainees in representing themselves pro se.

The Detention Standards recognize this reality and have several provisions to enable detainees to adequately represent themselves. Facilities must provide access to a law library at least five hours per week, and the library must provide specific immigration and legal materials, computers, writing implements, paper, and office supplies for legal proceedings. Detainees must be able to obtain photocopies of legal materials for court proceedings. Unrepresented detainees who do not speak English must be provided with more than English legal materials. Facilities must also assist unrepresented detainees with services such as a notary public and certified mail for legal proceedings.¹³¹

All three facilities fail to comply with these provisions. At CADC, detainees reported that all the law library materials are in English.¹³² At Eloy, legal materials are provided to the women on a cart that does not contain the Spanish materials.¹³³ At PCJ, there are few legal materials available and those that are provided are all in English.¹³⁴ Detainees at both CADC and Eloy reported charges for writing implements and limited supplies of paper and pens.¹³⁵ Detainees at all three facilities had significant problems obtaining photocopies.¹³⁶ At both CADC

¹²⁹ Immigration and Nationality Act (INA) § 292, 8 U.S.C. § 1362 (2006).

¹³⁰ D5, D8, D9, D12, D14, D16, D17.

¹³¹ DOM "Access to Legal Materials."

¹³² D4, D9.

¹³³ A18.

¹³⁴ PCJ Letter and UC Davis Summary Report.

¹³⁵ D2 (difficult to get paper and pens); D3 (had to submit a request and it's a "big deal" to get a hold of pens and paper; she didn't have this problem when she was detained at SPC); D4 (the facility gives detainees without any money 3 sheets of paper and 3 envelopes, but any more must be purchased and must pay for pens and pencils); D8 (although representing herself pro se, she has had to buy paper, pens, and pay for legal mailings); D9 (has had to buy pens from the commissary); D16 (relies on friends to lend her money for envelopes and stamps in exchange for plucking people's eyebrows); PD3 (charged for paper, pens, and envelopes).

¹³⁶ D2 (couldn't make copies at CADC so had to ask the security guards at SPC to make her copies just before her last hearing commenced); D5 (had to ask a favor of case manager to get copies made); D9 (no copies made)

and Eloy, detainees reported delays of several weeks in receiving the services of a notary public.¹³⁷ One attorney reported that her clients in PCJ were also having problems receiving the services of a notary.¹³⁸ Timely access to a notary is especially crucial for primary caregivers, who often need notarized statements to make arrangements for their dependents' care while they are detained.

In addition to the limited supplies and materials, the facilities also lack personnel equipped to provide a minimal level of support to detainees through the legal process. Each detainee is assigned a deportation officer (DO), who is intended to oversee all aspects of the deportation process. However, no detainee interviewed found her DO to be a helpful resource. Most detainees either did not know who their DO was or found the DO to be unavailable or unhelpful.¹³⁹ Detainees in CADC also complained that the "case managers," who are guards intended to help with individual questions and concerns, were unhelpful because they did not speak Spanish and lacked information.¹⁴⁰ In addition, one detainee expressed frustration that although ICE officials would visit the facility every few weeks and women would line up with questions and concerns, the officials never had any information or guidance to share.¹⁴¹ Several detainees considered the lack of information available about their case to be the most difficult aspect of detention.¹⁴²

Finally, for those detainees who do have representation, funded either through their own means or through pro bono assistance, access to counsel is undermined by the telephone access issues discussed in the foregoing section.

Teresa was born in Michoacán, Mexico, and came to this country when she was 14 years old. At the time of her interview, she was 28 years old and had been in detention in Eloy for almost 2 months.

When she first came to the United States, she had worked in a restaurant in Kansas for many years. At one point, one of her coworkers told her she could help her get her legal status. They went to an office with American flags on the wall, she signed some papers, paid \$1,500, and got a new identity document. She was told it was necessary to change her name to obtain lawful status. Years later, after she had moved to Phoenix, she was charged with

in facility; when asked, told to do so at SPC); D11 (has had to pay for photocopies); UC Davis Summary Report (inadequate access to photocopies at PCJ).

¹³⁷ D10 (waited over 2 weeks in CADC to get a statement notarized that would allow her to obtain her children's medical records from Utah); D11 (waited two weeks to get statement notarized in Eloy); D14 (had to harass guards for at least a week to get a letter notarized so she could grant guardianship to her mother in order for her children to start school).

¹³⁸ A14 (clients report that they were told that the notary was only for the county inmates).

¹³⁹ D9 (DO unavailable); D10 (DO's are useless, never have information); D11 (No contact with DO); D12 (DO insults her, says she's risk to society); D13 (doesn't know DO); PD4 (not sure she ever met her DO).

¹⁴⁰ D1, D6 (neither case manager speaks Spanish, so you have to have another detainee translate if you want to talk to one of them about a problem), D7, D8, D9.

¹⁴¹ This also raises a concern that ICE is failing to comply with the "Staff Detainee Communication" detention standard, which requires ICE to conduct visits to detention facilities at least once per week.

¹⁴² D2, D4, D11.

working with a false name. She spent 6 months in Maricopa county jail and then arrived in Eloy while her deportation proceedings were underway.

Teresa fled her abusive husband two years ago. The last straw was when he pushed her out of the car when she was two months pregnant, breaking her leg and jaw. After that incident, she left her husband and raised her son on her own.

When she was sent to jail, her son was turned over to Child Protective Services (CPS). While in jail, CPS informed her that her former husband was fighting for custody of their son. She has been unable to reach CPS since she has been in detention to learn the whereabouts of her son. She is terrified that he is with his father.

Teresa has no attorney for her deportation proceedings. She thinks she has an attorney through CPS but can't reach anyone. She has no money in her account and CPS won't accept collect calls so there is no way to reach them. She called her consulate when she first arrived and they told her there was nothing they could do for her.

Friends lend her money for envelopes and stamps, so she can write letters to try to find help. She's written to Chicanos por la Causa and the church, asking for someone to help her. In exchange for the money for the mailing, she plucks people's eyebrows.

After her interview, Teresa wrote a letter to the researcher, which read in part:

Dear Sra. XXXX, God willing you are well. I write you this letter because I feel very alone and without hope to move forward. How and when I am going to see my son? If it is that I keep living it is because God has given me strength to arise, but there are very difficult days and without any help because I don't have money. Oh Sra.XXX . . . how I wish with all my heart that I could recover my son and that they would give me a few days to leave and recover my son. This is the best and only wish that I ask of God and I wish that I had a lawyer or a person that would help me. . . . [Translated from Spanish]

Concerns identified in this section support the following recommendations:

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

F. Visitation

1. Attorney visitation

The Detention Standards require that legal visitation must be permitted seven days a week for at least eight hours on weekdays and four hours on weekends/holidays. They state that a private room should be provided.¹⁴³ Despite these clear requirements, the hours and procedures for arranging for attorney visits vary at each facility. Several attorneys who regularly practice in the detention facilities commented on the difficulty posed by the lack of standardized procedures for visitation.¹⁴⁴

Attorneys raised particular concerns about legal visits in CADDC, which despite the detention standard's requirement of a private room, are conducted in a large group room. Attorneys sit with their clients at one of several tables inside. The walls are plexiglass and male detainees sit outside awaiting meetings or phone calls. Both detainees and attorneys commented on the stressful dynamic this creates for women detainees and their attorneys, who are often the subject of stares and inappropriate catcalls from the male detainees outside the room.¹⁴⁵

Pinal County Jail has a particularly harsh visitation policy. The default for all visits is video-conferencing, in which the detainee communicates via video screen with the visitor. Attorneys can arrange "contact" visits (in which the detainee and attorney are separated by glass but in the same room) 24 hours in advance. One attorney objected to this system, stating that in some cases it is difficult to arrange for advanced notice and the video-monitoring is an unacceptable option. He questioned, "How are you supposed to conduct an attorney-client visit through this delayed television monitor on a telephone? . . . [I]t takes away from personal contact, and you're talking about a detained person, this is one of their limited contacts with the outside world."¹⁴⁶

2. Family visitation

For non-attorney visits, the Detention Standards state that at a minimum, visits should be permitted during set hours on Saturdays, Sundays, and holidays. They also state that "to the extent practicable, the facility shall accommodate the scheduling needs of visitors for whom weekends and holidays pose a hardship."¹⁴⁷

Each facility appears to have different rules for non-attorney visits. In CADDC, visitation is permitted three days per week for two hours per day (6 hours total). In Eloy, generally visitation is permitted between 8:00 a.m and 3:30 p.m on

¹⁴³ DOM, "Visitation."

¹⁴⁴ A6, A9.

¹⁴⁵ D6, D7, A4 (even as a male attorney, he does not feel safe at CADDC, with all the men leering at his clients), A14, A15.

¹⁴⁶ A4.

¹⁴⁷ DOM, "Visitation."

weekends and federal holidays (15 hours total). The facility also states that arrangements can be made for special family visits on weekdays between 8:00 a.m and 3:30 p.m with permission in advance.

For the majority of detainees, these regulations are beside the point, because visits from friends and family are rare or nonexistent. The majority of detainees have been transported hundreds or thousands of miles away from their home communities.¹⁴⁸ The time and expense involved in coming to the facility from out of state is insurmountable for most detainees' families. Even those with families in Arizona often have relatives without legal status who fear coming to the facility and risking deportation themselves.¹⁴⁹ Tellingly, of all the detainees interviewed for this study, the only one who spoke of regular family visits was a Cuban detainee whose family in Phoenix came to visit nearly every week. Because Cubans cannot be repatriated, they face no current risk of deportation.¹⁵⁰

Finally, non-attorney visits at PCJ raise perhaps the greatest concern of all. PCJ's policy is that all non-attorney visitors have no alternative other than through video-conferences. As a result, detainees are unable to have contact visits with their loved ones during the entire duration of their detention. One attorney with a client whose family is in Florida described the frustration experienced by her client's husband, who has not made the trip out to Arizona because he would only be able to see his wife on video screen, which he can already do from Florida during court hearings.¹⁵¹

Concerns identified in this section support the following recommendations:

- ICE, CADDC: Provide privacy for attorney visits.
- ICE, PCJ: Provide dedicated space for regular contact visits for attorneys and families.

G. Food and provisions

The detainees interviewed were consistent in their assessment of the quality of the food at each of the facilities. Detainees who had spent brief stays in the Service Processing Center all commented on the higher quality of food there.¹⁵²

¹⁴⁸ Of the 17 detainees interviewed, 12 were from out of state.

¹⁴⁹ D7 (too difficult for family to come all the way from Florida; it would require 8 days off work to come by bus, and the plane is too expensive); D16 (no one has come to visit her because they don't have papers; they are scared to come to the facility); PD4 (mother couldn't come visit because undocumented); A11 (client's sister had just received her green card and didn't come visit because too nervous).

¹⁵⁰ D9.

¹⁵¹ A17.

¹⁵² D3, D5, D6, D7, D8 (only place where she had fruit and meat).

Detainees had serious complaints about the quality of the food at CADC and PCJ.¹⁵³ At Eloy, most detainees interviewed found the food acceptable.¹⁵⁴

Detainees at both CADC and Eloy complained about small portions.¹⁵⁵ This is particularly problematic for detainees who lack the resources to buy additional food at the commissary. At all the facilities, dinner is served at 4 p.m. Since detainees are not permitted to take food back to their cells, they go to bed hungry if they don't have money to buy commissary food.¹⁵⁶

Two women interviewed at CADC had spent time in PCJ and said the food there was even worse than at CADC.¹⁵⁷ Current detainees at PCJ devoted a substantial section of their complaint letter to the food. They wrote:

We also have the rights to receive 3 nutritious meals a day. Breakfast is by far the only nutritious meal given to us. Our meals are not nutritiously balanced. Lunch and dinner consist of bread, beans, pasta, and potatoes. The trays are cold and dirty from the previous day. The food is all mix, pudding in the bread, the rice and beans full of water. If we get a professional and compassionate officer, she will make sure we have a decent tray to eat. Most of the officers will reply "welcome to prison or jail" or "I am sure the food is better than the desert's food" The kitchen at PCJ does not follow proper handling guidelines with food temperature. The majority of us are taking some kind of medication for upset stomache [sic].

The Detention Standards require the regular issuance and replenishment of personal hygiene items and clothing.¹⁵⁸ However, all the facilities presented problems with the provision of basic necessities such as shoes, clothing, and hygiene supplies. At CADC, three detainees expressed frustration that they were not issued new shoes and clothing even when their current supply was in disrepair.¹⁵⁹ During her interview, one detainee was wearing visibly broken shoes and explained that her repeated requests for new shoes had not been answered.¹⁶⁰ She explained that detainees knew that the only way to get new shoes was to swap with a detainee who was about to be deported.

¹⁵³ D2, D3, D4, D5, D6 (all commenting on the bad quality of food at CADC).

¹⁵⁴ D11, D12, D13, D16, PD2.

¹⁵⁵ D7 (federal marshal prisoners serve food and give larger portions to friends. She has lost weight during her months in detention); PD4 (detained in CADC while pregnant and was often hungry, even though she received on extra sandwich due to her pregnancy); D12 (food at Eloy is not bad but not enough. She tries to collect some extra food for those who lack money to go to commissary); D16 (food in Eloy is not bad but not enough. She tries to keep some hidden in her cell for later because dinner is at 4pm).

¹⁵⁶ D4 (early meal times are difficult if can't afford to buy food at commissary); D10 (can't afford food at commissary, would rather use money to call daughter); PD1 (she'd get hungry because fed so early and had no money to buy from commissary); PD2 (meal times are too early given that you can't save food).

¹⁵⁷ D6, D7.

¹⁵⁸ DOM, "Admission and Release" and "Issuance and Exchange of Clothing, Bedding and Towels."

¹⁵⁹ D6, D7, D8.

¹⁶⁰ D7.

At Eloy, detainees must buy sandals from the commissary to wear in the shower if they prefer not to shower barefoot. More than one detainee specifically mentioned this as a cost that is difficult to afford for many of the detainees.¹⁶¹ They are also issued soap only, not shampoo, so detainees without money for the commissary must use the soap for shampoo.¹⁶²

One detainee who had spent time previously at PCJ described the tiny amount of shampoo issued was not enough to get through the week.¹⁶³ One social service provider who works closely with detainees in PCJ described the cultural insensitivity of the small and infrequent provision of necessary supplies. Many women detainees feel humiliated or ashamed to ask the guards for items such as shampoo, soap, and feminine hygiene products, and are therefore forced to go without these products for weeks at a time.¹⁶⁴

Concerns identified in this section support the following recommendations:

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

H. Activities

1. Jobs

The Detention Standards state that all facilities with a work program will provide detainees who are physically and mentally able to work with the opportunity to do so.¹⁶⁵ Most detainees are anxious to obtain a job as a means of earning money (jobs pay one dollar per day) and breaking up the monotony of the day. However, women detainees at all three facilities reported limited opportunities for work.

At CADDC, detainees expressed frustration about the limited jobs available to them. They are only permitted to work jobs within the pod, unlike the federal marshal prisoners, who can work in positions in other parts of the facility as well. Despite this restriction, the few jobs that do not require leaving the pod are often assigned instead to federal prisoners rather than detainees.¹⁶⁶

¹⁶¹ D14, PD2.

¹⁶² D14.

¹⁶³ D6.

¹⁶⁴ A3.

¹⁶⁵ DOM, "Voluntary Work Program."

¹⁶⁶ D1, D9.

More detainees at Eloy had jobs. However, detainees in Eloy also commented on the difficulty of receiving a job, particularly for recent detainees who are not “favorites” of the guards, which often correlates with being English-speaking and more acculturated to the United States.¹⁶⁷

2. Classes and resources

Lack of programming was a repeated concern raised by the detainees in all the facilities. Detainees who had previously served criminal sentences stated that their time spent in jail was actually easier than the time spent in immigration detention because there were classes and activities to fill the time in jail.¹⁶⁸ Several detainees said that the lack of activities was the hardest aspect of their experience in detention.¹⁶⁹

At the time detainees were interviewed in CADC, the facility was offering a few classes for the first time, but detainees repeatedly voiced frustration that they were unable to attend them because the limited spaces available were filled by federal marshal prisoners.¹⁷⁰ One detainee reported that when she complained about the preference for the federal marshal prisoners, an official explained to her that the ICE detainees come and go so quickly that they don’t get priority.¹⁷¹ At the time of her interview, she had been detained eight months.

In addition to the lack of programming, all the reading materials in the CADC library are in English except the Bible and a legal handbook produced by FIRRP.¹⁷²

At Eloy, there are no classes whatsoever. The monotony and confinement is particularly intense for the women detainees at Eloy because they virtually never leave their pod. The men leave their living area to go to the dining hall, the medical clinic, and church services. In contrast, all of these services are brought to the women’s pod. In order for women to move anywhere in the facility, they must have security escorts. As a result, the facility attempts to minimize the mobility of the women detainees. They eat their meals in the common area of their pod.¹⁷³ Their medical appointments take place in a cell within their pod.¹⁷⁴ Church services take place in the pod.¹⁷⁵ The library comes to them in the form of a cart of books.¹⁷⁶ One detainee attributed the frequent conflicts between the women to being confined in one room all day long with nothing to do.¹⁷⁷

¹⁶⁷ D14, D16.

¹⁶⁸ D10, D16 (in jail they could go to parenting, drug rehabilitation classes; here there is nothing).

¹⁶⁹ D7, D10 (it is a form of torture for mothers separated from their children to be forced to sit and worry about their children all day long), D14.

¹⁷⁰ D7, D8, D10.

¹⁷¹ D10.

¹⁷² D6, D10.

¹⁷³ A19.

¹⁷⁴ D12, D14.

¹⁷⁵ D12, D14.

¹⁷⁶ A18.

¹⁷⁷ D14.

PCJ presents a similar situation. The ICE detainees are in a separate pod from the county inmates, and the facility is scrupulous about keeping the populations separate. As a result, however, women rarely leave their pod. The medical area is adjacent to their pod, the library comes to them in the form of a cart of books, they eat all their meals in the pod rather than going to a separate dining hall, and as discussed at greater length below, there is no outdoor recreation.¹⁷⁸

One attorney interviewed noted that there are important legal implications to the lack of programming available in the facilities.¹⁷⁹ One of the only forms of relief from deportation for many immigrants is called “cancellation of removal.” In order to determine whether an immigrant qualifies for this form of relief, the court undertakes a balancing test, weighing various factors for and against granting relief. One of the key factors in favor of relief is evidence of rehabilitation. However, the lack of programming in the facilities makes it impossible for women to demonstrate that they have in fact taken steps towards rehabilitation.¹⁸⁰

3. Recreation

The detention standards require at least one hour a day of recreation time, five days per week for all facilities and seven days a week for all but the IGSA.¹⁸¹

At CADC, detainees consistently reported that they received less than one hour of recreation per day. Of the ten detainees interviewed, seven estimated recreation time to be in the range of 20-40 minutes rather than the required one hour.¹⁸² They also described it occurring at all hours, even as early as 6 a.m.¹⁸³

Detainees reported similar problems in Eloy.¹⁸⁴ In addition to the short amount of time allowed for recreation, in Eloy the women were also frustrated by their limited access to the yard.¹⁸⁵ The men detained in the facility have access to four yards, including a walking track. The women, on the other hand, were only permitted to use one small section of the yard, which has no walking track.

PCJ presents an especially serious concern regarding recreational time. The facility has no available outdoor recreation area.¹⁸⁶ Recreation time takes place in an indoor room with one basketball and one basketball hoop.¹⁸⁷ The Detention

¹⁷⁸ A14.

¹⁷⁹ A14.

¹⁸⁰ A14.

¹⁸¹ DOM, “Recreation.”

¹⁸² D1 (often reduced to 25-30 minutes); D2 (anywhere from 20-60 minutes); D4 (30-60 minutes); D7 (20-40 minutes, usually 30); D8 (usually under an hour); D9 (often 20-30 minutes, never a full hour); D10 (never one hour, usually half).

¹⁸³ D2; D8; D10.

¹⁸⁴ D11, D14, D16.

¹⁸⁵ D11; D14.

¹⁸⁶ D7; A14.

¹⁸⁷ A14; UC Davis Summary Report.

Standards state that all detainees should have outdoor recreation, and if none is available, after six months, ICE must consider transfer to another facility. However, there are numerous detainees in PCJ who have been in the facility for six months and more without the consideration of transfer.¹⁸⁸

Concerns identified in this section support the following recommendations:

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

I. Transfer

For purposes of this report, transfer refers to the transportation of detainees from one detention facility to another or from incarceration in one state to detention in another. As noted above, 12 of the 17 detainees interviewed were transferred from out of state. This small sample appears to accurately reflect the overall makeup of detainees in the facilities.¹⁸⁹

The “Transfer” detention standard states that in the case of represented detainees, ICE must notify the attorney of transfer while the detainee is en route.¹⁹⁰ One attorney whose client was transferred from Florida to Arizona received no notification from ICE at any point during or after the transfer, first to Florence SPC and then to PCJ.¹⁹¹ She only learned of the transfer from her client.

An additional provision of the “Transfer” detention standard requires that detainees have the ability to place one domestic call upon arrival at their final destination, and if they are indigent, the call must be at government expense.¹⁹² As discussed in Section III.D on telephone access, numerous detainees reported significant difficulties in placing phone calls to their families for weeks after they arrived at the facility.¹⁹³ In addition, several attorneys noted the lack of a uniform system for concerned family members to locate detainees.¹⁹⁴ Detainees can be

¹⁸⁸ A14.

¹⁸⁹ In fact, the Public Information Officer at Eloy reported that 90% of the detainees are transferred from out of state. Email exchange with Bryan Martin, May 23, 2008.

¹⁹⁰ DOM, “Detainee Transfer.”

¹⁹¹ A17.

¹⁹² DOM, “Detainee Transfer.”

¹⁹³ See *supra*, notes 116-118.

¹⁹⁴ A6, A13, A19.

lost to their family members for days or weeks because they are unable to call and their families have no central number to call to locate them.¹⁹⁵

Detainees and attorneys identified significant concerns with the physical transport of detainees to the facility. Three illustrative experiences follow:

- A detainee in Eloy who had developed cancer while she was serving a jail sentence out of state described her traumatic transfer to Arizona. On the flight, she urinated on the seat because she was not permitted to get up and use the bathroom. One of the officers repeatedly shouted at the detainees, calling them “f*cking illegals” and other obscenities.¹⁹⁶
- Another detainee in Eloy was transferred to Arizona from California over the course of two days in which she was shackled, transported by bus and plane, held in several different holding rooms, and never told where she was going or given the opportunity to contact her family.¹⁹⁷ On the flight, she had to use the bathroom but was afraid to go past all the men (she was one of four women on the flight). She asked for her shackles to be removed because she had her period. Her request was denied and a guard had to help her with her pants.
- An asylum-seeker was apprehended at the U.S./Mexico border in California. She told the Border Patrol she was terrified to return to her home country. She was then transported, shackled at the ankles and wrists, by bus and plane to Eloy.¹⁹⁸

Concerns identified in this section support the following recommendations:

- DHS/ICE: Increase the use of alternatives to detention that permit women to stay in or near their home communities.
- DHS/ICE: Develop a centralized system for family members to locate detainees.
- ICE: Ensure that attorneys and family members are notified in advance of transfers.
- ICE: Improve the conditions of transport, and in particular, increase sensitivity to women’s mental and physical health concerns during transit.
- ICE: Ensure that at least one officer of the same gender as the detainee is present at all times during transfer.
- ICE, CADIC, 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.

¹⁹⁵ A13.

¹⁹⁶ D12.

¹⁹⁷ D14.

¹⁹⁸ PD1.

IV. Key concerns

In addition to the conditions of confinement detailed above, the interviews also identified three key areas of particular concern about the impact of the immigration detention system on women. The following three sections highlight detention's destructive impact on families, ICE's failure to exercise its discretion to release particularly vulnerable or needy detainees, and the ways in which the legal process known as expedited removal endangers the lives of women refugees and asylum-seekers.

A. Family separation

More than any other issue, separation from their families was identified by women as the most difficult aspect of detention.¹⁹⁹ Table 4 captures the impact of detention on the family of each woman interviewed. As the table reflects, of the 21 women interviewed, all but three were separated from U.S. citizen children. The majority of these children were under the age of 10. Not only were the women separated from their families, but in many cases their families were in different states, making visitation extremely unlikely. Twelve of the seventeen currently detained women were transferred to Arizona from out of state.

Four women described their frustrating attempts to communicate with Child Protective Services (CPS) from within detention. They confronted significant obstacles and severe distress in attempting to locate their children and/or negotiate their placement. In two of these cases, the women were unable to locate their children during their detention, and were fearful that they had been turned over to abusive spouses by CPS.²⁰⁰ Two other women were struggling to communicate with CPS over custody disputes from within detention.²⁰¹

Several of the attorneys interviewed emphasized the legal implications of family separation. Many women abandon their claims because they simply cannot stand the separation from their children necessitated by a stay in detention while their legal case is proceeding.²⁰² As one attorney explained,

What makes working with women particularly difficult, I think, is the fact that . . . they have the responsibility of their children who are left outside. Just worrying about them and wanting to be with them becomes their number one objective. Sometimes they are willing to

¹⁹⁹ D5, D6, D7, D9, D10, D11, D16, D17.

²⁰⁰ D10, D16.

²⁰¹ D3 (detained while in the middle of a custody dispute over her 8 and 9 year old daughters. At the time of her interview, had been detained for 5 months, and spent the entire time struggling to communicate with CPS. It was hard to afford the phone calls, and when she would place the call, she was often unable to reach anyone or leave a message. She signed a paper for the FIRR social worker to represent her in communicating with CPS, but CPS would not accept this arrangement); D17 (gave a friend temporary custody of her 5 year old son while she was in prison, but at the time of her interview, was concerned this was not a good arrangement and for 7 months had been unable to reach anyone to help her make new arrangements for his care).

²⁰² A13, A14, A16, A18.

forego forms of relief just to get deported so they can get out and come back and be able to be with their children. . . .Their needs are so different from men. All they want is their children. So it's very hard to work with them because they don't want to . . . hear "you have to be here four months fighting your case." They just say, "You know, I don't care about my case; I care about my kids."²⁰³

Table 4: Impact of Detention on Families

	Family members impacted	Location of family
D1	Two U.S. citizen girls, 3 and 4 years old, will be adopted	California
D2	Separated from 9 month old baby and 11 and 13 year old sons, all U.S. citizens.	Arizona
D3	U.S. citizen daughters, 8 and 9 years old, are with Child Protective Services	Arizona
D6	Has not seen her 2 U.S. citizen children, 14 year old boy and 12 year old girl, in 6 months. Rarely able to speak on the phone.	Florida
D7	Has not seen her husband or 2 U.S. citizen children, 20 year old boy and 18 year old girl, in 6 months. Rarely able to speak on the phone.	Florida
D8	Separated from husband and 3 children, 2 U.S. citizens (6 and 10 years old) and 1 Canadian citizen (12 years old)	California
D10	3 U.S. citizen children, 4, 6, and 8 years old, are missing, most likely taken by abusive father to Mexico. Parents and 2 teenage daughters from previous marriage, all undocumented, are unable to visit due to cost and risk of apprehension	Utah
D11	9 year old U.S. citizen son in California has been placed with his uncle by CPS while she is detained	California
D12	Husband and 5 U.S. citizen children are in Florida	Florida
D14	2 U.S. citizen children, 6 year old daughter and 9 year old son, are with mother	California
D16	Unable to communicate with CPS regarding her 1 year old U.S. citizen son. Concerned he may be with abusive father	Arizona
D17	5 year old U.S. citizen son in temporary custody of friend who is dying of AIDS	California

²⁰³ A13.

	Family members impacted	Location of family
PD1	6 children in Guatemala	Guatemala
PD2	Separated from 2 young sons and 2 month old daughter for 2 weeks while breastfeeding	Arizona
PD3	Unable to call her 4 children, 17, 14, 13, and 8 years old (youngest is US citizen), during entirety of her 10 day detention. On the day of her apprehension, no one arrived to pick them up from school. Eventually they stayed with their uncle and aunt during her detention	Arizona
PD4	Had 2 U.S. citizen sons in course of her detention and deportation proceedings. Detained while pregnant with the first	Arizona

Angela and Raquel are sisters from a South American country. They lived in Florida as legal permanent residents since they were 10 and 16 years old. At the time of their interviews, they were 35 and 41 and had spent the past six months in detention in CADDC. Each one has 2 U.S. citizen children, ranging in age from 12 to 20 years old, all of whom are currently living with their mother and Raquel's husband in Florida.

Their problems began in 2004 when they were involved in a drug transaction. They were convicted and spent less than a year in jail. While serving their sentence, the government offered to release them on parole and remove their immigration hold if they served as informants. They agreed and were released on a 10 year parole. They reported to their parole officer faithfully every 8 weeks for two years. Then one day they arrived at their regular parole visit and ICE agents were there to pick them up.

Their detention came as a complete surprise. Despite their agreement with one branch of the government, they found themselves detained by another branch of the government, facing deportation proceedings for an aggravated felony.

After a short time in two different detention facilities in Florida, they were abruptly transferred to Arizona. They had no prior notice of the transfer, and were unable to call their family to let them know they were leaving the state until after the plane flight, arrival in Arizona, and processing at the facility.

Eventually their family hired an attorney to represent them in fighting their deportation. Their entire family – their mother, Raquel's husband, and all four children – moved into a one room apartment in order to afford the attorney. They made a claim for relief under the Convention Against Torture, which prohibits the government from returning anyone to a country where they will more likely than not face torture. Angela and Raquel believed they faced torture and possibly death in their home country due to their role in the

government's prosecution of the druglords. In August, after nearly 4 months in detention, they won their case.

The government appealed, however, and at the time of their interviews, they remained in detention. They were ineligible for release on bond because they each had originally been convicted of an aggravated felony. As a result, they faced at least several more months in detention while the appeal was pending. Both sisters talked about the strain the distance placed on their families. But the plane flight was prohibitively expensive, and it would require 8 days off of work to come by bus. Even phone calls were difficult. At one point they went for 20 days without talking to their children because their family in Florida could not pay the phone bill.

Several months after their interviews for this report, Angela and Raquel lost their appeal. No brief was filed on their behalf because they couldn't afford to retain their attorney for the appeal. They were unable to bear the thought of further months in detention and therefore waived further appeal. They were deported after spending nearly 10 months in detention.

Concerns identified in this section support the following recommendations:

- **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.
- **DHS/ICE:** Consider the impact of detention on families in making determinations regarding the availability of bond and parole.
- **DHS/ICE:** Establish and implement a policy that places primary caregivers of minor children in facilities near where their children are residing and only permits transfer in documented emergencies.
- **ICE, Child Protective Services:** Develop protocol to facilitate parent detainees' ability to communicate about custody issues.

B. ICE's discretionary determinations

Within the current legal framework, if an immigrant does not fall into one of the categories for which detention is mandatory, ICE can exercise its discretion in determining whether to release the detainee pending his or her court hearing. When making this determination, ICE guidance instructs officers to consider a number of factors, including humanitarian issues, flight risk, availability of detention space, and threat to the community.²⁰⁴ If release is deemed

²⁰⁴ 8 C.F.R. §236.1

appropriate, ICE has several options. It can offer parole, “release on an order of recognizance” (ROR), in which the detainee agrees to report to officers regularly and appear at court hearings, or release on bond, in which the detainee must pay a bond that is retrievable at the conclusion of proceedings. In addition, in certain circumstances, ICE can release the detainee into one of two “supervised release” programs that use electronic monitoring devices and various reporting devices to ensure that immigrants appear at their scheduled court hearing.²⁰⁵

If ICE chooses not to exercise its discretion in favor of release, a detainee who is not subject to mandatory detention can request a bond hearing before an immigration judge (IJ). The IJ may grant release on bond no less than \$1,500. However, ICE can appeal this determination.²⁰⁶

In 2007, the Government Accountability Office (GAO) conducted an audit to determine whether ICE ensures that its discretion in the apprehension and removal process is used in the most fair, reasoned, and efficient manner possible. The report concluded that ICE was not providing officers with sufficient guidance in making discretionary determinations regarding detention.²⁰⁷

The findings here illustrate the serious concerns raised by ICE’s resistance to exercise its discretion to release eligible detainees. In case after case of women interviewed in this report, ICE not only refused to release detainees, but actively opposed efforts by detainees and their advocates to request ROR, bond, or humanitarian or medical parole.

A few particularly striking examples, some of which are described at more length in other sections of the report, follow:

- Maria, an undocumented seasonal farmworker who wound up in detention when her abusive boyfriend beat her and dropped her off at border patrol, remains in detention because her family cannot afford the \$1,500 bond. ICE has rejected her advocate’s requests that she be released on her own

²⁰⁵ The first program, the Intensive Supervision Appearance Program (ISAP), requires participants to comply with a variety of requirements, including wearing electronic monitoring devices, home and local office visits, employment verification and curfews. Initiated as a pilot program in 2004, ISAP is now implemented in 12 cities nationwide (none of which is in Arizona). The second program, Enhanced Supervision/Reporting (ESR), was established more recently, in 2007, and employs similar methods but has fewer home and in-person reporting requirements. ESR is available in 24 field offices around the country. See ICE Fact Sheet on Alternatives to Detention, *available at* <http://www.ice.gov/pi/news/factsheets/080115alternativestodetention.htm>.

²⁰⁶ 8 C.F.R. §236.1.

²⁰⁷ *Immigration Enforcement: ICE Could Improve Controls to Help Guide Alien Removal Decision Making*, U.S. Gov’t Accountability Office 23 (2007), *available at* <http://www.gao.gov/new.items/d0867.pdf>. A memo from the Commissioner of the INS in 2000 demonstrates that these problems have a long history in the institutional culture of immigration enforcement. The memo reviews the importance of discretion and reminds officers that its use does not lessen the agency’s commitment to enforce immigration laws. Memorandum from Doris Meissner, Comm’r of INS to Regional Directors, et al. 1 (Nov. 17, 2000). The GAO Report suggests that, if anything, the tendencies identified in the 2000 memo have only grown stronger in the years since its issuance.

recognizance pending her application for a special visa for victims of domestic violence.²⁰⁸

- Ana, an undocumented immigrant convicted of a minor nonviolent crime she committed when she was 17, was granted bond by an Immigration Judge after one month in detention. ICE appealed and reversed the bond determination. When Ana was returned to detention, she was six months pregnant. She spent over a month of her pregnancy detained before ICE agreed to release her on bond.²⁰⁹ One attorney confirmed that this is not an outlier case. In her experience, ICE routinely appeals bond hearings for pregnant women.²¹⁰
- Lourdes fled domestic violence in Mexico, was apprehended at the border, and suffered a miscarriage during her Border Patrol interrogation. Her attorney described fighting for eight months to get her client released on humanitarian and medical parole in light of her miscarriage and fragile emotional state.²¹¹
- Laura had an advanced stage of cancer in her leg and groin area, arthritis, liver cysts, and had been diagnosed with bipolar anxiety disorder when she arrived at PCJ. Her attorney waited for over six months for ICE to respond and reject her request for humanitarian parole for her client. Only after 15 months in detention and the filing of a federal lawsuit was Laura released.²¹²

Concerns identified in this section support the following recommendations:

- Congress/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.
- DHS/ICE: Expand the use of parole and ensure that parole criteria are consistently and fairly applied.

C. Expedited removal

Expedited removal is a process in which certain immigrants who lack authorized travel documents may be summarily removed by immigration officials without any opportunity for judicial review or a hearing before a judge. The procedure was established in 1996 in the Illegal Immigration and Immigrant Responsibility Act. The 1996 law requires that immigrants subject to expedited removal be placed in detention pending their deportation. The statute attempts to

²⁰⁸ D4, A14.

²⁰⁹ PD4.

²¹⁰ A14.

²¹¹ A16.

²¹² A17.

protect refugees and asylum-seekers from expedited removal by requiring that if an immigrant expresses a fear of return to her country, she must be granted a credible fear interview by an asylum officer, which is subject to judicial review. In addition, it grants the government discretion to release on parole detained asylum-seekers after their credible fear interviews while they are awaiting their asylum hearing.

Since the law's passage, advocacy groups have raised significant concerns about the expedited removal process.²¹³ A full appraisal of the many problems with the law is beyond the scope of this report. However, several interviewees raised specific concerns about its impact on women detainees.

First, several attorneys commented that detainees in expedited removal are a virtually invisible population - even more so than the rest of the detainees because they have no access to court. FIRRP rarely comes into contact with detainees subject to expedited removal because it gives "Know Your Rights" presentations only to detainees who have scheduled court hearings and has limited time to see detainees that do not have court hearings.²¹⁴

Much of the expedited removal process occurs before women arrive in detention, at the time they are apprehended. However, an immigrant who expresses a fear of return at any point short of her final deportation order should be permitted a credible fear interview. One attorney commented on how unlikely it is that a detainee would articulate her fear in the detention setting:

[The] credible fear process is so opaque, it is so difficult to understand what is happening, they would have to be a real survivor to articulate it in that setting, being held in the pods . . . Really, it would be difficult for any of us in that situation and particularly with someone who actually has a fear and doesn't know how to articulate it in accordance with the laws of the U.S. . . . The ones who have the most fear and the best cases are going to be the least able to articulate it in that setting.²¹⁵

In one exceptional case, a former FIRRP staff member had the opportunity to interview a woman in expedited removal and took her declaration. It provides a

²¹³ Most notably, in 1998 Congress created an independent and bipartisan commission, the U.S. Commission on International Religious Freedom (USCIRF), to conduct a study of expedited removal to determine how the procedure was affecting asylum-seekers. After extensive research, the USCIRF issued its *Report on Asylum Seekers in Expedited Removal* in February 2005. The Report found serious deficiencies in the implementation of expedited removal. See http://www.uscirf.gov/index.php?option=com_content&task=view&id=1892&Itemid=1. Two years later, USCIRF issued a report card announcing that most of the initial report's recommendations have not been implemented. *Expedited Removal Study Report Card: Two Years Later*, United States Commission on International Religious Freedom 5 (2007) (hereafter "USCIRF Report Card"), available at http://www.uscirf.gov/images/stories/pdf/scorecard_final.pdf.

²¹⁴ A14, A15, A19.

²¹⁵ A15.

vivid account of how the detention facilities fail to provide women with a realistic opportunity to express their fear of return. The detainee described the following scene, which had occurred in Eloy on the day she first spoke with FIRRPP about a possible asylum claim based on domestic violence.

[A]t 3:00 in the afternoon, an official came to find me in my cell. He called for me to come down and began speaking to me in English. When he saw that I did not understand what he was saying, he got angry and began to yell at me in broken Spanish. I understood very little of what he was saying, but he kept screaming "*miedo*" [fear] at me, loudly in front of all the other women detainees. He also seemed to be saying that I was already deported and demanded to know why I had told the other official that I was not afraid to go back to my country and was now telling the Florence Project that I was. He was standing very close to me. He is a big man with tattoos on each arm. I was quite intimidated by him.

I told him that I had not told the official in Phoenix that I was afraid to go back because that official had not really asked me, but instead asked if I had committed murder in my country or been in jail there. The woman from the Florence Project, I told him, had asked me simply if I was afraid to return and the truth is that I am. . . . Then he took me aside and asked me why I was afraid. I told him that I was afraid of my husband. He got very angry and started yelling at me, saying that he did not care if my husband hits me or even kills me, that he only wanted to know if I had "*miedo*" [fear]. I said that I did have "*miedo*" [fear].²¹⁶

Eventually this detainee received a credible fear interview and was found to have a credible fear of return. Detention is no longer mandatory after the credible fear interview, and the court agreed that she could be released on bond. However, she was unable to pay her \$5,000 bond. She told FIRRPP that she could not withstand the strain of detention any longer, so she chose deportation rather than waiting in detention for her asylum hearing.²¹⁷

One of the previous detainees interviewed provides a glimpse into expedited removal gone awry, as she was deported despite her viable asylum claim. As described below, she was able to flee again and eventually received asylum. Her story demonstrates both the high stakes of expedited removal and the problems of detaining asylum seekers both in and out of expedited removal.

²¹⁶ Signed statement provided to FIRRPP and shared in redacted form with SIROW (on file with SIROW).

²¹⁷ A1, A14.

Cristina is a 39 year old from a Central American country. In 2006-2007, she spent eight months detained in Eloy. At the time of her interview, she had been released from detention for three months. Cristina fled an abusive spouse in her home country. During her journey north, she was kidnapped and tortured by bandits but managed to escape. When she reached the border, she was apprehended by Border Patrol. According to her account, when she spoke with the two Border Patrol agents who apprehended her, she begged them, "Please don't send me back, in the name of God, don't send me back. I am scared to return." She recalls that if you look at photos of her face then, she looked like death. Despite her pleas, she was placed in expedited removal and after 12 days in a short-term detention facility near the border, she was deported.

She returned to the same danger she had fled, and almost immediately was forced to flee again. Again she was caught by Border Patrol, and again she told the agent she was afraid to return. This time she had an agent who recognized her right to a credible fear interview. Rather than being deported, she was shackled around the ankles and wrists and transported by bus and plane to Eloy. During her interview for this report, she broke down as she recalled this trip.

In Eloy, she met with the Florence Project before her court hearing, and after learning about the circumstances of her flight from her home country, they arranged for pro bono counsel. Eventually, after 8 months in detention, Cristina was granted asylum.

She had a difficult time during her interview speaking in detail about her time in detention, but did offer a few glimpses of her experience. She said she spent nearly the entire time in her own cell. She didn't like to spend time in the common area of the pod because the other women scared her. Unlike some of the women whose relatives would send them money, she had no one to contact and no source of money. Sometimes she would go to bed hungry because dinner was so early. Other women bought food and provisions like shampoo and soap. But she had to use the soap they provided as shampoo, which was very rough and made her hair feel awful. She knew no one in the country to come visit her. She missed fresh air.

Concerns identified in this section support the following recommendations:

- **Congress:** Limit or eliminate the use of expedited removal.
- **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.

V. Recommendations

The following recommendations address the concerns identified in the foregoing sections. The recommendations are directed to Congress, DHS, ICE, and each of the facilities, and are discussed in three parts: (1) General recommendations that address over-arching concerns; (2) Recommendations that respond to the three key concerns identified in the report: family separation, ICE's discretionary determinations, and expedited removal, and (3) Specific recommendations to address conditions concerns.

1. GENERAL RECOMMENDATIONS

- **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 can be considered.

As discussed in the background section of this report, the increase in women in detention is a result of immigration policies that make detention mandatory for many immigrants in deportation proceedings. Many of the women interviewed in this report were subject to mandatory detention because they had been convicted of crimes that are categorized as aggravated felonies. Many of the women were first time offenders, the crimes were minor and non-violent, and/or the women have life circumstances that make their flight risk extremely low. None of these considerations could be taken into account, however, under the current law.

Similarly, one woman interviewed and many women who could not be reached to participate in this study are subject to mandatory detention because they arrived at the border without entry documents. Many of these women are fleeing persecution and violence and yet, like the woman interviewed for this report, are placed in detention for months while their application for asylum or another form of relief is pending. Again, their life circumstances make the risk that they will abscond prior to their legal proceedings highly unlikely, yet the current law requires that they are detained.

In response, Congress should amend the Illegal Immigration Reform and Immigrant Responsibility Act in order to grant more discretion in the use of detention so that women are not needlessly separated from their families and subjected to potentially traumatizing conditions.²¹⁸

²¹⁸In making this recommendation, this report joins a growing chorus of voices urging that this country's detention system be reformed. *See, e.g.*, Editorial, *Dying in Detention*, NEW YORK TIMES (June 11, 2008) ("Recent news reports from The Times, The Washington Post and CBS News have shone a harsh light on the immigration detention system, finding alarming evidence of shoddy care, inadequate staffing, lax standards, secrecy and chronic ineptitude."); *Immigration Policy in U.S. Is Criticized by U.N. Aide*, NEW YORK TIMES (March 8, 2008) (report by expert on migrant rights at the United Nations Human Rights Council condemns the overuse of detention); *In Liberty's Shadow*, *supra* note 7.

- **Congress/Department of Homeland Security (DHS):** Codify the detention standards so that they are legally enforceable with outside oversight.

This report has documented multiple instances in which the facilities are in open and obvious violation of the detention standards. Other audits and reports have documented similar patterns of noncompliance in other facilities. There is currently no legal means of addressing this high degree of noncompliance. Congress should order DHS to codify the detention standards into legally binding regulations so that the protections they offer can be enforced.²¹⁹

- **DHS: Establish gender specific regulations to address the needs of women detainees.**

At a minimum, regulations should address the distinctive medical needs of women, including treatment of pregnant and post-natal detainees, access to female health service providers and interpreters, access to routine gynecological exams, and the provision of basic needs such as sanitary supplies.²²⁰

The proposed gender specific regulations should also address the mental health needs of women in detention who are either asylum seekers or victims of recent violence. For women who are survivors of torture, rape, and other forms of gender-based violence and persecution, detention can exacerbate symptoms of post-traumatic stress and depression.²²¹ Regulations should provide for services and trained personnel to address these mental health impacts.²²²

²¹⁹Recently, a group of nonprofit organizations and former detainees filed a law suit against Michael Chertoff, Secretary of the Department of Homeland Security, demanding comprehensive, enforceable advocacy standards. The lawsuit is currently pending in U.S. District Court in Manhattan. See Nina Bernstein, *Immigrants Challenge Federal Detention System*, NEW YORK TIMES B3 (May 1, 2008); see also Complaint available at <http://www.nationalimmigrationproject.org/>

²²⁰ No provisions in the current Detention Standards address the specific needs of pregnant and post-natal women for medical treatment, nutritional provisions, and physical accommodations. The new Performance Based National Detention Standards (PBNDS), which DHS states will be fully implemented by facilities by 2010, are a step in the right direction. The new standard on medical care requires that female detainees receive access to pregnancy management services, which include “routine prenatal care, addiction management, comprehensive counseling and assistance, nutrition, and post-partum follow up.” It also requires gender appropriate examinations for all detainees. It does not give further specificity to these requirements, nor does it include mention of preventive gynecological screenings such as pap smears and mammograms. More importantly, these new standards, like the DOM, are not legally enforceable and have no outside oversight.

²²¹ *Refugee Women at Risk*, *supra* note 78.

²²² Again, the new PBNDS on medical care is a step in the right direction. It requires that all facilities have a mental health program that provides for an initial screening and subsequent treatment and evaluation of all detainees. The PBNDS also includes a new “Staff Training” standard that requires all staff to receive an initial orientation that covers cultural diversity, and that in addition, staff with regular contact with detainees receive initial and annual training in social and cultural lifestyles of the detention population. The specific mental health needs of women detainees outlined in this report should inform the facilities’ implementation of these new standards.

- **DHS/Immigration and Customs Enforcement (ICE):** Release detention population statistics broken down by gender

DHS should maintain current statistics about the number of women in detention, the number who are asylum seekers, the length of their detention, and the number and location of all facilities, including local jails, used to hold women detainees. All such statistics should be made publicly available.

2. RECOMMENDATIONS TO ADDRESS 3 KEY CONCERNS

Family separation

- **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.

In reconsidering the grounds for mandatory detention as recommended above, Congress should ensure that immigration courts have the discretion to consider the impact of detention on families. Other studies have demonstrated that the United States is “far out of step with international human rights standards and the practices of other nations, particularly nations that it considers to be its peers . . . in not weighing family ties or providing for some proportionality analysis in all of its deportation proceedings.”²²³ At the very least, this proportionality analysis should apply to determinations of the necessity of detention pending deportation.

- **DHS/ICE:** Consider the impact of detention on families in making determinations regarding the availability of bond and parole.
- **DHS/ICE:** Establish and implement a policy that places primary caregivers of minor children in facilities near where their children are residing and only permits transfer in documented emergencies.
- **ICE/Child Protective Services:** Develop policies that facilitate parent detainees’ ability to communicate about custody issues.

ICE’s Discretionary Determinations

- **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.

This report has highlighted many cases in which the needs of women immigration detainees would be better served by some form of parole or

²²³ *Forced Apart*, *supra* note 5.

supervised release. Other studies have documented the cost-effectiveness and successful appearance rates of many such programs.²²⁴ The Inspector General of DHS itself recently concluded that alternatives to detention programs should be expanded.²²⁵ Congress should appropriate more funding to the development of community-based alternatives to detention.²²⁶ At the same time, DHS should expand its use of such programs for people who are not otherwise eligible for release.

It is important to note that not all alternatives to detention are alike. ICE's current alternatives programs all employ electronic monitoring devices that raise significant concerns about their health effects, the social stigma associated with their use, and the significant restrictions they place on their wearers' freedom of movement.²²⁷ In most cases, less restrictive methods, such as enrollment in community or faith-based programs, are sufficient to ensure appearance at scheduled hearings.

- **DHS/ICE:** Expand the use of parole and ensure that parole criteria are consistently and fairly applied.

ICE should reform the current institutional culture that expends agency resources fighting to detain immigrants who pose no flight risk or security threat. In addition, DHS should take steps to ensure the consistency and fairness of parole determinations. One important step would be to draft enforceable regulations to replace the current guidelines regarding parole determinations and permit judicial review of these determinations.²²⁸

²²⁴Between 1997 and 2000, the Vera Institute of Justice coordinated a highly successful alternative program through a contract with legacy INS. See http://www.vera.org/publication_pdf/aapfinal.pdf.

²²⁵*Detention and Removal of Illegal Aliens*, DHS Office of Inspector General (April 2006) (including as one of three recommendations the expansion of alternatives to detention) *available at* http://www.dhs.gov/xoig/assets/mgmtrpts/OIG_06-33_Apr06.pdf.

²²⁶ Current legislation pending in Congress, the Secure and Safe Detention and Asylum Act (S. 3114), would increase funds allocated to alternatives to detention programs, among other changes.

²²⁷ See letters from the American Civil Liberties Union and National Immigration Law Center to ICE regarding concerns raised by the use of electronic monitors in recent worksite raid, on file in redacted form with SIROW. Current bills pending in Congress, the Protect Citizens and Residents from Unlawful Raids and Detention Act (S. 3594) and the Immigration Oversight and Fairness Act (H.R. 7255), would help to ensure that ICE focus on community-based alternatives to detention programs. Rather than electronic monitoring, these programs rely on community support and legal education to ensure compliance with court appearances.

²²⁸ The need for such regulations specifically with regard to the parole of asylum-seekers is discussed at length in the report *In Liberty's Shadow*, *supra* note 7, and in the recently updated USCIRF Report Card, *supra* note 213. The Secure and Safe Detention and Asylum Act, the Protect Citizens and Residents from Unlawful Raids and Detention Act, and the Immigration Oversight and Fairness Act, *supra* notes 226 and 227, would establish consistent criteria for parole determinations for asylum-seekers and allow review of parole decisions by immigration judges.

Expedited Removal

- **Congress:** Limit or eliminate the use of expedited removal.

This small scale research study uncovered at least two instances in which expedited removal resulted in the deportation of women with bona fide asylum claims. Undoubtedly there are countless such cases that never come to light, given the rapidity of the procedure and the invisibility of the women it affects.²²⁹ The procedure runs counter to fundamental principles of due process. It should be eliminated or strictly limited to emergency situations.

- **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.

As discussed in Section I.D.3 on applicable standards, other government agencies have recognized the need for sensitivity and guidance in working with women refugees and asylum-seekers. ICE should look to the guidelines published by the Department of Justice and Department of State for guidance.²³⁰

3. RECOMMENDATIONS TO IMPROVE CONDITIONS OF DETENTION

Medical care

- **Congress:** Pass legislation to require DHS to establish legally enforceable procedures for the timely and effective delivery of medical care to immigration detainees.²³¹
- **DHS:** Provide enforceable regulations to guarantee women appropriate gynecological and obstetrical care.
- **ICE:** Halt or strictly limit the practice of detaining nursing mothers and pregnant women to cases in which no alternative arrangements exist.²³²

²²⁹ See USCIRF Report on Expedited Removal and USCIRF Report Card, *supra* note 213.

²³⁰ See *supra* note 55. This training should be incorporated into the required training in cultural diversity and social and cultural lifestyles referenced in the new PBNDS on Staff Training.

²³¹ The Detainee Basic Medical Care Act is proposed legislation that is a step in the right direction. This Act, recently introduced in both the House and Senate (H.R. 5950 and S. 3005), would require DHS to implement procedures that provide better care to detainees as well as improve oversight of the medical care system. The bill was introduced shortly after the New York Times and Washington Post both ran stories about systemic problems with health care in immigration detention facilities. See Nina Bernstein, *Few Details on Immigrants Who Died in Custody*, NEW YORK TIMES (May 5, 2008) (reporting that over 66 detainees have died while in immigration custody from January 2004 to November 2007); Dana Priest and Amy Goldstein, *Careless Detention: Medical Care in Immigrant Prisons*, WASHINGTON POST (May 11-14, 2008), (four part series detailing egregious mistreatment of detainees around the country, including in Arizona), available at <http://www.washingtonpost.com/wp-srv/nation/specials/immigration/index.html>.

²³² In response to public outcry over the detention of nursing mothers during worksite raids in Fall 2007, ICE released an internal memo emphasizing that ICE agents should exercise discretion in determining whether to detain nursing mothers. This memo came out after the mother interviewed in this report was detained while nursing her two month old baby. However, isolated reports suggest that the memo has not put an end to the practice of detaining nursing mothers. See, e.g., Julia Preston, *Immigrant, Pregnant is Jailed Under Pact*, NEW

- ICE, CADAC, Eloy, and PCJ: Respond to medical requests in a timely fashion.²³³
- ICE, CADAC, Eloy, and PCJ: Provide onsite or telephonic translation assistance for appointments with medical staff.²³⁴

Mental health care

- Congress: Pass legislation to require DHS to establish procedures for the timely and effective delivery of mental health care to immigration detainees.²³⁵
- DHS: Require ICE officers and detention facility personnel to receive training in recognizing and responding to survivors of domestic and sexual violence and gender-based persecution.²³⁶
- ICE, CADAC, 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.

Security

- ICE: Increase the use of community-based alternatives to the detention of nonviolent detainees who pose minimal security or flight risk.
- ICE: Limit the use of shackles and eliminate it altogether for pregnant detainees.²³⁷
- 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 awaiting or serving criminal sentences.²³⁸

YORK TIMES (July 20, 2008) (reporting that a nine month pregnant immigrant stopped for a routine traffic violation gave birth while detained and was separated from her nursing infant for two days and barred from taking a breast pump into the jail where she was detained). A more formal mechanism, such as judicial review of parole decisions, is warranted to ensure that mothers and infants are not subjected to needless and potentially damaging separation.

²³³ This will be required under the new PBDNS on Medical Care, which lists as one expected outcome "timely follow-up" to health care requests.

²³⁴ This will be required under the new PBDNS, which lists as one expected outcome that non-English speaking detainees "will be provided interpretation/translation services" for medical appointments.

²³⁵ The Detainee Basic Medical Care Act, *supra* note 231, covers mental health care as well as medical care.

²³⁶ This training should be incorporated into the required training in cultural diversity and social and cultural lifestyles referenced in the new PBDNS on Staff Training.

²³⁷ There is increasing recognition by state and federal corrections facilities that the routine shackling of pregnant women is inappropriate. Three states have legislation regulating the use of restraints on pregnant women: Illinois, California and Vermont. For further analysis of the concerns raised by shackling pregnant women, see the website of the Rebecca Project, www.rebeccaproject.org and Amnesty International <http://www.amnestyusa.org/violence-against-women/abuse-of-women-in-custody/letter-use-of-restraints-on-pregnant-women-in-the-us/page.do?id=1108304>.

²³⁸ This should be incorporated into the training required in all facilities by 2010 under the new PBDNS on Staff Training. See discussion of the new standard, *supra* note 222.

- ICE, CADAC, Eloy, and PCJ: Encourage bilingual guards to communicate in detainees' native language or use translation or interpretation services.
- ICE, CADAC, Eloy, and PCJ: Facilitate onsite or telephonic translation assistance for non-English speaking detainees, particularly during private meetings with case managers.
- ICE, CADAC: Refrain from mixing ICE detainees and people awaiting or serving criminal sentences.
- ICE, CADAC: Halt routine strip searches and, if necessary because of specific security concerns, conduct strip searches individually rather than in groups.²³⁹

Telephones

- ICE, CADAC, Eloy, and PCJ: Ensure that all detainees can place at least one free domestic telephone call upon arrival at the detention facility.
- ICE, CADAC, Eloy, and PCJ: Ensure that detainees can make free calls to free legal service providers and consulates.
- ICE, CADAC, Eloy, and PCJ: Ensure that indigent detainees can make free calls to courts and for personal and family emergencies.
- ICE, CADAC, Eloy, and PCJ: Protect detainees from phone card systems with exorbitant rates.²⁴⁰
- ICE, Arizona Child Protective Services: Establish protocol to facilitate communication between detained parents and their children.

Access to legal counsel/assistance:

- ICE: Require Deportation Officers and/or case managers to provide detainees with regular individual information about the status of their case.²⁴¹
- ICE, CADAC, Eloy, and PCJ: Provide detainees with access to writing supplies, photocopies, and public notaries without charge.
- ICE, CADAC, Eloy, and PCJ: Provide detainees with legal materials in languages other than English.

²³⁹ This would comply with the new PBNDS on Searches, which requires that strip searches shall not be routine and must be made "in a manner designed to assure as much privacy to the detainee as practicable."

²⁴⁰ This would comply with the new PBNDS on telephone access, which requires that detainees have access to "reasonably priced telephone services."

²⁴¹ The new PBNDS on Staff-Detainees Communication requires ICE staff to provide detainees with "general information" about the immigration court process. In light of the complicated nature of immigration proceedings and the isolation of detainees, this report recommends that ICE provide individualized information about case status. This does not encompass the provision of legal advice, but rather, specific information about hearing dates and court procedures relevant to the individual's case.

Visitation

- ICE, CADDC: Provide privacy for attorney visits.
- ICE, PCJ: Provide dedicated space for regular contact visits for attorneys and families.

Food and Provisions

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

Activities

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

Transfer

- DHS/ICE: Develop a centralized system for family members to locate detainees.
- ICE: Ensure that attorneys and family members are notified in advance of detainee transfers.
- ICE: Improve the conditions of transport, and in particular, increase sensitivity to women's mental and physical health concerns during transit.
- ICE: Ensure that at least one officer of the same gender as the detainee is present at all times during transfer.
- ICE, CADDC, 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.

Addendum

SIROW circulated a pre-publication draft of this report to the Field Office Director of ICE (who is responsible for all facilities in Arizona) with an invitation to participate in a roundtable discussion of the report's findings and recommendations. The proposed roundtable would have included ICE regional and facility level representatives as well as CCA and county personnel working in each of the three facilities. The roundtable was proposed in order to initiate dialogue about potential steps ICE and the facilities could take to address the concerns identified in the report and explore possibilities for collaboration with SIROW. In particular, SIROW identified the recommendations regarding programming for detainees, trainings for ICE and facility personnel, and coordination with Child Protective Services as areas that could benefit from the University of Arizona's resources.

ICE declined to participate in the roundtable. However, the Field Office Director did agree to meet with SIROW and the Executive Director of FIRR on December 9, 2008. Eleven ICE representatives attended the meeting, including the Field Office Director, officers in charge of each facility, and U.S. Public Health Service officers who work in the three facilities. In the meeting, ICE denied that most of the problems identified in the report are genuine concerns and emphasized its commitment to providing high quality treatment of immigration detainees. The meeting participants did not believe that the report's findings indicated a need for further trainings, procedures, or policy changes. At the time of publication, the extent to which ICE will take any responsive measures remains unclear.

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* * * * *

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Appendix A: Summary of ICE Detention Standards

The following table is provided as an Appendix to the *Semi-Annual Report on Compliance with ICE National Detention Standards*, ICE Office of Detention and Removal Operations 5 (January-June 2007), available at http://www.ice.gov/doclib/pi/news/newsreleases/articles/semi_annual_dmd.pdf

APPENDIX A: ICE NATIONAL DETENTION STANDARDS

The current 38 National Detention Standards serve as the basis for the facility reviews conducted for this report. The following synopsis of each standard sets the context for understanding the results of the facility compliance evaluations.

1	Access to Legal Materials	Facilities holding ICE detainees shall permit detainees access to a law library, and provide legal materials, facilities, equipment and document copying privileges, and the opportunity to prepare legal documents.
2	Group Presentation on Legal Rights	Facilities holding ICE detainees shall permit authorized persons to make presentations to groups of detainees for the purpose of informing them of U.S. immigration law and procedures, consistent with the security and orderly operation of each facility. ICE encourages such presentations, which instruct detainees about the immigration system and their rights and options within it. All facilities shall fully cooperate with authorized persons seeking to make such presentations.
3	Visitation	Facilities holding ICE detainees shall permit authorized persons to visit detainees, within security and operational constraints. To maintain detainee morale and family relationships, ICE encourages visits from family and friends. Facilities shall allow detainees to meet privately with their current or prospective legal representatives and legal assistants, and also with their consular officials. To better inform the public about ICE detention operations, facilities shall permit representatives of the news media and non-governmental organizations to have access to non-classified and non-confidential information about their operation; given appropriate notice, to tour facilities; and, with permission from ICE and the detainees, to interview individual detainees.
4	Telephone Access	Facilities holding ICE detainees shall permit them to have reasonable and equitable access to telephones, including telephone access to legal representatives and consular officials without charge.

5	Admissions and Release	The procedures a facility follows in admitting and releasing detainees protect the health, safety, and welfare of each person. During the admissions process, detainees undergo screening for medical purposes; have their files reviewed for classification purposes; submit to a standard body search ¹ ; and personally observe and certify the examination, categorization, inventorying, and safeguarding of all personal belongings. During the release process, detainees return clothing, bedding, and other facility-issued items; participate in identity-verification procedures; and complete documents in accordance with facility procedures, including certifying receipt of all inventoried personal property, including funds and valuables.
6	Classification System	All ICE detention facilities will implement this Detainee Classification System (DCS). CDFs and IGSA facilities may continue using the systems established locally, if the classification criteria are objective and all procedures meet ICE requirements. The classification system created through these standards will ensure that each detained alien is placed in the appropriate category and physically separated from detainees in other categories.
7	Correspondence and Other Mail	All facilities will ensure that detainees send and receive correspondence in a timely manner, subject to limitations required for the safety, security, and orderly operation of the facility. Other mail will be permitted, subject to the same limitations. Each facility will widely distribute its guidelines concerning correspondence and other mail.

¹ The September 20, 2000 DMCP Detention Standard on Admission and Release on the Search of Detainee and Property states that each new arrival will be strip-searched, in accordance with the "Detainee Search" Standard. On October 15, 2007 the DRO Director signed a memorandum amending the Admission and Release Standards. The memorandum states "all facilities housing Immigration and Customs Enforcement (ICE) detainees shall permit detainees to change clothing and shower in private room without being visually observed by a staff member, unless there is reasonable suspicion that the individual possesses contraband. It goes on to state that facilities are reminded that strip searches, cavity searches, monitored changes of clothing, monitoring showering... for the purpose of searching for contraband are prohibited, absent reasonable suspicion of contraband possession. Facilities may use less intrusive means to detect contraband, such as clothed pat searches, intake questioning, x-rays and metal detectors.

8	Detainee Handbook	<p>Every OIC will develop a site-specific detainee handbook to serve as an overview of, and guide to, the detention policies, rules, and procedures in effect at the facility. The handbook will also describe the services, programs, and opportunities available through various sources, including the facility, ICE, private organizations, etc. Every detainee will receive a copy of this handbook upon admission to the facility. Detainees are expected to behave in accordance with the rules set down in the handbook, and will be held accountable for violations. Therefore, the facility staff will advise every detainee to become familiar with the material in the handbook.</p>
9	Food Services	<p>It is ICE policy to provide detainees with nutritious, attractively presented meals, prepared in a sanitary manner while identifying, developing and managing resources to meet the operational needs of the food service program.</p>
10	Funds and Personal Property	<p>All facilities will provide for the control and safeguarding of detainees' personal property. This will include the secure storage of funds, valuables, baggage and other personnel property; a procedure for documentation and receipting of surrendered property; and the initial and regularly scheduled inventories of all funds, valuables and other property.</p>
11	Detainee Grievance Procedures	<p>Every facility will develop and implement standard operating procedures (SOP) that address detainee grievances. Among other things, each SOP must establish a reasonable time limit for: (i) processing, investigating, and responding to grievances; (ii) convening a grievance committee to review formal complaints; and (iii) providing written responses to detainees who file formal grievances, including the basis for the decision. The SOP must also prescribe procedures applicable to emergency grievances. All grievances will receive supervisory review, and include guarantees against reprisals.</p>

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12	Issuance and Exchange of Clothing, Bedding and Towels	Basic hygiene is essential to the well-being of detainees in the custody of the U.S. Immigration and Customs Enforcement (ICE). Therefore, ICE policy requires that all facilities housing ICE detainees in accordance with this standard provide clean clothing, bedding, linens and towels to every ICE detainee upon arrival. Further, facilities shall provide ICE detainees with regular exchanges of clothing, linens, and towels for as long as they remain in detention.
13	Marriage Requests	All marriage requests from ICE detainees receive a case-by-case review.
14	Non Medical Emergency Escort Trip	The U.S. Immigration and Customs Enforcement (ICE) provides detainees with approved staff-escorted trips into the community for the purpose of visiting critically ill members of the detainee's immediate family, or for attending their funerals. This Standard applies to ICE only (SPCs/CDFs). All facilities shall refer all such requests to the Field Office Director.
15	Recreation	All facilities shall provide ICE detainees with access to recreational programs and activities, under conditions of security and supervision that protect their safety and welfare.
16	Religious Practices	Detainees of different religious beliefs will be provided reasonable and equitable opportunities to participate in the practices of their respective faiths. These opportunities will exist equally for all, regardless of the number of practitioners of a given religion, whether the religion is "mainstream", whether the religion is "Western" or "Eastern", or other such factors. Opportunities will be constrained only by concerns about safety, security, the orderly operation of the facility, or extraordinary costs associated with a specific practice.
17	Voluntary Work Program	Every facility with a work program will provide detainees the opportunity to work and earn money. While not legally required to do so, ICE affords working detainees basic Occupational Safety and Health Administration (OSHA) protections.

18	Hunger Strike	All facilities will follow accepted standards of care in the medical and administrative management of hunger-striking detainees. Facilities will do everything within their means to monitor and protect the health and welfare of a hunger-striking detainee, consistent with legal authority and standard medical and psychiatric practice. Facilities will make every effort to obtain the hunger striker's informed consent for treatment, especially when the hunger strike is threatening his/her life or long-term health.
19	Medical Care	All detainees shall have access to medical services that promote detainee health and general well-being. Medical facilities in service processing centers and contract detention facilities will maintain current accreditation by the National Commission on Correctional Health Care.
20	Suicide Prevention and Intervention	All staff working with ICE detainees in detention facilities will be trained to recognize signs and situations potentially indicating a suicide risk. Staff will act to prevent suicides with appropriate sensitivity, supervision, and referrals. Any clinically suicidal detainee will receive preventive supervision and treatment.
21	Terminal Illness, Advanced Directives and Death	All facilities shall have policies and procedures addressing the issues of terminal illness, fatal injury, advance directives, and detainee death. Each will address notification of all concerned, from family to ICE. In the cases of Terminal Illness, Advance Directive requests and detainee death, IGSA's and CDFs shall contact ICE immediately. ICE shall implement the necessary procedures specified in this standard.
22	Contraband	Detention staff will handle and properly dispose of contraband in accordance with the standard operating procedures of the facility. Contraband will be destroyed in the presence of at least one official observer, and those involved will document every instance of contraband-destruction.

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23	Detention Files	All facilities will create a detention file for each ICE detainee booked into the facility for more than 24 hours. The detention file will contain copies and, in some cases, the originals of documents including, among other things, the classification sheet, medical questionnaire, property inventory sheet, disciplinary records, etc.
24	Disciplinary Policy	To provide a safe and orderly living environment, facility authorities will impose disciplinary sanctions on any detainee whose behavior is not in compliance with facility rules and procedures.
25	Emergency Plan	Every facility will develop plans and procedures for handling emergency situations reasonably likely to occur. The goal of these "contingency plans" is to control the situation without endangering lives or property.
26	Environmental Health and Safety	Each facility will establish a hazardous materials program for the control, handling, storage, and use of flammable, toxic, and caustic materials. This will protect detainees, staff, and visitors, preventing breaches in safety and security. Among other things, the facility will include the identification and labeling of hazardous materials in accordance with applicable regulations, standards and codes (Occupational Safety and Health Administration (OSHA), National Fire Protection Association, etc.); will provide warnings of incompatible materials, etc.
27	Hold Rooms in Detention Facilities	Hold rooms will be used for the temporary detention of individuals awaiting removal, transfer, EOIR hearings, medical treatment, intra-facility movement, or other processing into or out of the facility.
28	Key and Lock Control	Every facility will maintain an efficient system for the use, accountability, and maintenance of keys and locks.
29	Population Counts	All facilities shall implement an effective system for counting detainees. Formal and informal counts will be conducted as necessary to ensure around-the-clock accountability for all detainees.

30	Post Orders	<p>Each officer will have written post orders that specifically apply to his/her current duties. The post orders will specify the duties of the post officer, along with instructions on how to perform those duties. The step-by-step procedures will include enough detail to guide a novice assigned to the post. The OIC will also develop post orders for non-permanent assignments (details, temporary housing units, emergency changes, etc.). If events preclude advance planning, the OIC will issue a post order as soon as possible after the need arises.</p>
31	Security Inspections	<p>In an area with heightened security requirements, the post officer must thoroughly understand all aspects of facility operations. Specially trained officers only will be assigned to these security-inspection posts.</p>
32	Special Management Units (ADM)	<p>Administrative segregation is a non-punitive form of separation from the general population used when the continued presence of the detainee in the general population would pose a threat to self, staff, other detainees, property or the security or orderly operation of the facility. Examples include a detainee awaiting an investigation or hearing for a violation of facility rules, a detainee requires protection or a detainee is scheduled for release, removal, or transfer with 24 hours.</p> <p>Each facility will establish a Special Management Unit that will isolate certain detainees from the general population. The Special Management Unit will have two sections, one for detainees in Administrative Segregation; the other for detainees being segregated for disciplinary reasons (see the "Special Management Unit [Disciplinary Segregation]" Standard).</p>
33	Special Management Units (DSC)	<p>Each facility will establish a Special Management Unit that will isolate certain detainees from the general population. The Special Management Unit will have two sections, one for detainees being segregated for disciplinary reasons; the other for detainees being segregated for administrative reasons (see "Special Management Unit [Administrative Segregation]" Standard).</p>

34	Tool Control	Every facility will establish a tool-control policy with which all employees shall comply. The Maintenance Supervisor shall maintain a computer-generated or typewritten inventory of tools and equipment, and storage locations. These inventories shall be current, filed, and readily available during an audit.
35	Transportation	The U.S Immigration and Customs Enforcement (ICE) will take all reasonable precautions to protect the lives, safety, and welfare of officers, other personnel, the general public, and the detainees themselves involved in the ground transportation of detainees. Detainees in transit from the facility to another institution or one jurisdiction to another will be transported in a safe and humane manner, under the supervision of trained and experienced personnel.
36	Use of Force	The use of force is authorized only after all reasonable efforts to resolve a situation have failed. Officers shall use as little force as necessary to gain control of the detainee; to protect and ensure the safety of detainees, staff, and others; to prevent serious property damage; and to ensure the security and orderly operation of the facility. Physical restraints shall be used to gain control of an apparently dangerous detainee only under specified conditions.
37	Staff-Detainee Communication	Procedures must be in place to allow for formal and informal contact between key facility staff, ICE staff and ICE detainees and to permit detainees to make written requests to ICE staff and receive an answer in an acceptable time frame.

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38	Detainee Transfer	Immigration and Customs Enforcement (ICE) often transfers detainees from one facility to another for a variety of reasons. This standard prescribes the procedures and notification requirements to be followed when transferring a detainee. ICE will make all necessary notifications when a detainee(s) is transferred. If the detainee(s) is being transported by Justice Prisoner Alien Transportation System (JPATS), ICE will adhere to JPATS protocols. In deciding whether to transfer a detainee, ICE will take into consideration whether the detainee is represented before the immigration court. In such cases, Field Office Directors will consider the detainee's stage within the removal process, whether the attorney of record is located within reasonable driving distance of the detention facility and where immigration court proceedings are taking place.
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Appendix B: Informed Consent Forms

Informed consent forms were provided to participating current detainees, previously detained women, detainees' family members, attorneys, and social service providers, respectively. Forms were available in English and Spanish. The English version of the forms for current detainees and attorneys are provided here. All forms were approved by the University of Arizona Human Subjects Protection Program.

Informed Consent Form for Detainees

Research on Women in Immigration Detention Facilities

Introduction

You are being invited to participate in a research study. The information in this form is provided to help you decide whether or not to take part. The researchers are available to answer your questions and provide additional information. If you decide to participate, you will be asked to sign one of the copies of this consent form. You may keep the other copy for your own records.

What is the purpose of this research study?

The purpose of this study is to learn about women in immigration detention facilities. The information gathered will allow the Florence Immigrant and Refugee Rights Project (“the Florence Project”) to better tailor its services to meet the needs of women who are detained. It will also allow for researchers, detention facility officers, and the other interested parties to better understand the characteristics and needs of women in immigration detention facilities.

This is a general research study about women detainees. The researcher will not be able to address any individual problems you may be having.

Why are you being asked to participate?

You are being invited to participate because you are an adult woman in an immigration detention facility in Arizona.

What will happen if you participate?

If you participate, a researcher will come to meet with you during visitation hours at the detention facility. The researcher will ask you questions about the following topics:

- Your background (where you are from, your age, marital status, etc.)
- Your family (whether you have children/siblings, where they live, etc.)
- Why you are in detention and how long you have been detained,
- Any specific legal, medical, mental health, or social services needs you may have.

The researcher will talk to you for 30 to 60 minutes. You will not have to answer any questions that you do not want to answer.

Are there any risks to me?

There are no risks involved with participation in this study. If you find the interview stressful or upsetting, you can ask for a break or stop participating immediately.

Your participation in this study will have no impact, positive or negative, on your individual legal case. It will also have no impact on your treatment in the facility. Your lawyer (if you

have one), the Florence Project, the facility, and Immigration and Customs Enforcement (ICE) have nothing to do with this research and will NOT be notified of your decision whether or not to participate.

Are there any benefits to me?

There are no direct benefits to you from participation in this study.

Will there be any costs to me?

There are no costs to you other than your time.

Will I be paid to participate in the study?

You will not be paid to participate in this study.

Will the information that is obtained from me be kept confidential?

Yes. During the interview, the researcher will take handwritten notes of your responses. Your name will not be recorded on the notes. The notes will be kept in a locked cabinet offsite of the detention facility that no one other than the researcher can access. No one else – not detention facility officers, your lawyers, nor anyone else – will have access to the information you tell the researcher.

You will not be identified by name in any reports or publications resulting from the study. Instead, the researchers will use pseudonyms (made-up names) in place of your actual name.

May I change my mind about participating?

Yes. Your participation in this study is completely voluntary. You may decide not to participate at all, or discontinue your participation at any time.

Whom can I contact for additional information?

You can obtain further information about this study or voice concerns or complaints by calling the researcher, Nina Rabin, (520) 621-7331, rabin@email.arizona.edu. If you have questions concerning your rights as a research participant, have general questions, concerns or complaints, cannot reach the researcher, or want to talk to someone else, you may call the University of Arizona Human Subjects Protection Program office at (520) 626-6721. (If out of state use the toll-free number 1-866-278-1455).

Your Signature

By signing this form, I affirm that I have read the information contained in the form, that the study has been explained to me, that my questions have been answered and that I agree to take part in this study.

I do not give up any of my legal rights by signing this form.

Name (Printed)

Participant's Signature

Date signed

Statement by person obtaining consent

I certify that I have explained the research study to the person who has agreed to participate, and that she has been informed of the purpose, the procedures, the possible risks and potential benefits associated with participation in this study. Any questions raised have been answered to the participant's satisfaction.

Name of study personnel

Signature

Date signed

Informed Consent Form for Attorneys

Research on Women in Immigration Detention Facilities

Introduction

You are being invited to participate in a research study. The information in this form is provided to help you decide whether or not to take part. The researchers are available to answer your questions and provide additional information. If you decide to participate, you will be asked to sign one of the copies of this consent form. You may keep the other copy for your own records.

What is the purpose of this research study?

The purpose of this study is to learn about women in immigration detention facilities. The information gathered will allow the Florence Immigrant and Refugee Rights Project (“the Florence Project”) to better tailor its services to meet the needs of women who are detained. It will also allow for researchers, detention facility officers, and the other interested parties to better understand the characteristics and needs of women in immigration detention facilities.

Why are you being asked to participate?

You are being invited to participate because you have provided legal representation or social services to a woman in an immigration detention facility in Arizona.

How many people will be asked to participate in this study?

Approximately 25 attorneys will be asked to participate in this study.

What will happen if you participate?

If you participate, a researcher will come to meet with you in a time and place of your convenience. The researcher will ask you questions about the following topics:

- Your client’s background (national origin, age, marital status, etc.)
- Your ability to access/communicate with your client in detention
- Your client’s experience in detention
- Any legal, medical, mental health, or social services needs of your client.

The researcher will talk to you for 30 to 60 minutes. You will not have to answer any questions that you do not want to answer. You will not be asked to provide the name or any specific identifying information about your client. You will also not be asked to provide any information that would violate the attorney client privilege.

Are there any risks to me?

There are no risks involved with participation in this study.

Are there any benefits to me?

There are no direct benefits to you from participation in this study.

Will there be any costs to me?

There are no costs to you other than your time.

Will I be paid to participate in the study?

You will not be paid to participate in this study.

Will video or audio recordings be made of me during the study?

The researcher would like to make an audio recording of the interview with you to be certain that your responses are recorded accurately. The researcher will only do so if you check the box below:

I give my permission for audio recordings to be made of me during my participation in this research study.

If you prefer not to give permission, we will not audio record your responses.

Will the information that is obtained from me be kept confidential?

Yes. During the interview, the researcher will take handwritten notes of your responses. If you give permission, your interview may also be audio recorded. Your name will not appear on the handwritten notes or audio records. Both the notes and audio records will be transferred to electronic files, which will be stored on a secure server that no one other than the researcher can access. The notes will be kept in a locked cabinet that no one other than the researcher can access.

No one other than the researcher will be informed of your participation in this study. You will not be identified by name in any reports or publications resulting from the study. Instead, the researcher will use pseudonyms in place of your actual name.

In addition, representatives of regulatory agencies (including the University of Arizona Human Subjects Protection Program) may access your records to ensure quality of data and study conduct. They will not review the records for any other purpose and will not make publicly available any information contained in the study records.

May I change my mind about participating?

Yes. Your participation in this study is completely voluntary. You may decide not to participate at all, or discontinue your participation at any time.

Whom can I contact for additional information?

You can obtain further information about this study or voice concerns or complaints by calling the researcher, Nina Rabin, (520) 621-7331, rabin@email.arizona.edu. If you have questions concerning your rights as a research participant, have general questions, concerns or complaints, cannot reach the researcher, or want to talk to someone else, you may call the University of Arizona Human Subjects Protection Program office at (520) 626-6721. (If out of state use the toll-free number 1-866-278-1455). If you would like to contact the Human Subjects Protection Program via the web, please visit the following website: <http://www.irb.arizona.edu/contact/>.

Your Signature

By signing this form, I affirm that I have read the information contained in the form, that the study has been explained to me, that my questions have been answered and that I agree to take part in this study.

I do not give up any of my legal rights by signing this form.

Name (Printed)

Participant’s Signature

Date signed

Statement by person obtaining consent

I certify that I have explained the research study to the person who has agreed to participate, and that he or she has been informed of the purpose, the procedures, the possible risks and potential benefits associated with participation in this study. Any questions raised have been answered to the participant’s satisfaction.

Name of study personnel

Signature

Date signed