

# Locked Up but not forgotten

opening access to family & community  
in the immigration detention system

EXECUTIVE SUMMARY



New York University School of Law Immigrant Rights Clinic  
In cooperation with: American Friends Service Committee (AFSC)  
New Jersey Advocates for Immigrant Detainees

april 2010

## **organizations**

### **American Friends Service Committee (AFSC)**

The American Friends Service Committee (AFSC) is a Quaker organization that has worked for over 90 years to uphold human dignity and respect for the rights of all persons. Since its inception, AFSC has worked on behalf of immigrants and refugees around the world, including relief and reconstruction work in Europe after World Wars I and II. In keeping with this history, AFSC's New York Metropolitan Regional Immigrant Rights Program, based in Newark, New Jersey, addresses the needs of the most vulnerable immigrants and promotes a vision of trust, fairness, and a deep regard for the dignity and rights of all people. The program provides legal counseling and advocacy services on behalf of immigrants in New Jersey, including those in detention; it provides leadership training to encourage members of immigrant communities to participate in actions to support more humane policies; and it addresses policy issues and root causes of migration. For more information, visit: <http://www.afsc.org>.

### **New Jersey Advocates for Immigrant Detainees**

New Jersey Advocates for Immigrant Detainees is a coalition of organizations and individuals, including American Friends Service Committee (AFSC) Immigrant Rights Program; Casa de Esperanza; the Episcopal Immigration Network; Lutheran Office of Governmental Ministry in NJ; NJ Association on Correction; NJ Forum for Human Rights; Pax Christi NJ; Middlesex County Coalition for Immigrant Rights; People's Organization for Progress- Bergen County Branch; the Reformed Church of Highland Park; Sisters of St. Joseph of Chestnut Hill ESL; Unitarian Universalist Congregation at Montclair; and First Friends.

### **NYU Immigrant Rights Clinic**

The Immigrant Rights Clinic is a leading institution in both local and national struggles for immigrant rights. Students engage in direct legal representation of immigrants and community organizations, and in immigrant rights campaigns at the local, state, and national level. Students have direct responsibility for all aspects of their cases and projects.

## **authors & acknowledgments**

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The authors are grateful to Professor Nancy Morawetz of the Immigrant Rights Clinic for her guidance, direction, and support throughout this entire process.

**“On the inside, without people on the outside, you feel totally lost, all alone. Those people want to sign the deportation papers and just go home, because they have no hope.”**

Harry Pangemanan,  
Reformed Church of Highland Park

## executive summary

The Obama administration has committed itself to reforming the nation's expansive and controversial immigration detention system. In August of 2009, Department of Homeland Security (DHS) Secretary Janet Napolitano and Immigration and Customs Enforcement (ICE) Assistant Secretary John Morton announced that the agency would be taking steps towards the creation of a civil detention system tailored to the agency's asserted needs and purposes, a plan that will likely take years to come into fruition. Details about what the system might look like have emerged in recent news stories, with the agency signaling that it is looking into converting hotels and nursing homes into immigration detention centers. As it works toward implementing its long-term plan, the administration must not lose sight of what it can do immediately for the people currently trapped in a system that is a complete failure and that does not consider the individual in each case and ask whether detention is necessary at all.

This report examines access to family and community, a part of the day-to-day immigration detention experience that is severely restricted in the current system yet can be improved *immediately*. For the thousands of people that ICE holds in jails and detention centers across the country—many of whom pose no flight risk or danger to the community—detention amounts to near total isolation from the outside world, often for prolonged periods of time. In a system where fighting against wrongful detention and deportation can take months and sometimes years, severing people from their homes and restricting access to family and community through unreasonable and inhumane rules contradicts the notion that the immigration detention system is civil or administrative in nature. In effect, immigration detention is punishment—not just for the immigrants in detention, but for their families and communities as well.

Facts for this report were gathered through visits to county jails and the Elizabeth Detention Facility in New

Jersey, and dozens of interviews with current and former detainees, families of detainees, church members, advocates, and community groups that strive to provide detainees with companionship at the New Jersey facilities. Our fieldwork demonstrates that in the current immigration detention system, detainees fortunate enough to have access to family and community rely on family and community visitors to fill critical gaps in the system and provide them with much needed moral support and advocacy. Detainees who have no one on the outside on whom they can rely, on the other hand, easily lose hope of staying in the country—regardless of the strength of their claims to remain in the U.S.

## Key Findings

- Immigration detainees in state and local jails are given minimal access to family and community, and the degree of access is dependent upon the rules of the particular facility. Frequent and arbitrary transfers across facilities and exorbitant telephone rates further impair detainees' ability to maintain communication with family and community members.
- Visitation from family and community members boosts morale among detainees and provides them with the hope needed to pursue legitimate claims for relief. Visitation also promotes detainees' transition either back into their community in the U.S. or their country of origin.
- In cases where family members are too afraid to visit a loved one in detention for fear that they too may be detained, visitation by community groups provide detainees with a vital link to family.
- Restrictions of non-legal visits to brief periods of time (usually 30 minutes) are arbitrary and detrimental in a detention system where 84% of people are unrepresented. Detainees rely on visitors for tasks as diverse as articulating a theory of relief, securing letters of support from the community, and gathering funds for bond and relief applications.
- The current immigration detention system impairs positive community participation by relying on a detention standard that treats visitation as a security concern meriting substantial restriction.
- Visitors help detainees navigate complex and unclear grievance procedures. In a system that lacks accountability, visitors are an important source of information about day-to-day conditions at detention facilities.
- Family and community visitors help mitigate def-



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icits in the level of care that detainees receive in facilities. Visitors help ensure that detainees are receiving appropriate medical care and pressure facilities to improve detention conditions.

From the experiences of family and community members in New Jersey, this report seeks to articulate a vision of what visitation with family and community should look like, and what ICE should do now in order to appreciably improve the day-to-day reality of detainees trapped in a system that deprives them of their basic dignity and humanity. It seeks to provide ICE with an opportunity to learn from the on-going struggles of detainees, families, and community members in attempting to maintain necessary social relations. ICE must abandon the conception of visitation as a privilege and adopt a conception of visitation that takes into account the emotional and legal needs of immigration detainees. We propose several immediate reforms and long-term legislative recommendations aimed at capturing the values that visitation serves in the immigration detention context and providing content for a new standard or regulation regarding visitation and access to family and community. We do not explore legal and religious visitation, which are much more established forms of visitation.

### Key Recommendations

#### PROPOSALS FOR IMMEDIATE AGENCY REFORMS

- ICE should cease detaining immigrants in state and local jails, starting with those facilities that unduly restrict detainees' access to family and community.
- ICE should provide visitors at all facilities with at least one hour for general visits and more generous limits for families that have to travel long distances to visit a relative in detention.
- ICE should require all facilities to provide weekend and holiday visitation opportunities.
- ICE should prohibit the use of restrictive visitor lists and quotas and should monitor "shared-use" facilities to ensure that lists and quotas are not applied against immigration detainees.
- ICE should provide detained parents immediate access to contact visits and cease detaining people at jails that prohibit them or impose long waiting periods for contact visits.
- ICE should permit all family members to visit a relative in detention, regardless of their immigration status.

- ICE's visitation standard should recognize that unrepresented detainees need ample access to family and community members in order to build their legal cases.
- ICE should promote rather than impair participation by community and volunteer groups by pressing jails to relax restrictions on access.
- ICE should issue a new standard, to be followed up by a binding regulation, which captures all of the values and benefits of visitation explored in this report.
- ICE should issue a new standard, to be followed up by a binding regulation, which would mitigate the many disruptive effects of transfers. As a matter of policy, ICE should ensure that detainees are given advance notice of a transfer and ample opportunity to inform family, friends, and lawyers.
- ICE should ensure that detainees receive free or low-cost telephone access, which is necessary for the difficult tasks of self-representation and for maintaining communication with family and community.
- ICE should provide trainings for detention facility staff on the importance of access to family and community in the immigration detention system.
- ICE should use detention only where an immigrant poses a flight risk or danger to a community.

#### PROPOSALS FOR LONG-TERM LEGISLATIVE REFORMS

- Congress should repeal the mandatory detention law, which creates a culture that disregards and denigrates humanity and liberty.
- Congress should provide detainees with legal counsel.

## DETENTION CENTERS IN NEW JERSEY



Bergen County Jail (*Hackensack*)  
Essex County Correctional Facility (*Newark*)  
Elizabeth Detention Facility (*Elizabeth*)  
Hudson County Correctional Center (*Kearny*)  
Monmouth County Correctional Institution (*Freehold*)  
Sussex County Jail [Keogh Dwyer Correctional Facility] (*Newton*)

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**NEW JERSEY ADVOCATES  
FOR IMMIGRANT DETAINEES**



New York University School of Law