

Media Coverage of the ICE Detention Bed Quota
July 12, 2016

The immigration detention bed quota, contained in U.S. Department of Homeland Security appropriations language, is considered by Immigration and Customs Enforcement (ICE) and some members of Congress to require ICE to fill 34,000 detention beds daily at an annual cost to taxpayers of \$2 billion. This approach – which exists in no other law enforcement context – prevents ICE from saving taxpayer dollars by using less costly, effective alternatives when detention is not necessary, and guarantees a specific – and arbitrary – detention level, regardless of actual need.

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The Deportation System's 'Lock-up Quota' Is Just As Bad as It Sounds

By Michelle Chen – July 11, 2016

Law enforcement is in the business of dealing with insecurity. But the one thing that's always secure about America's law-enforcement system is the number of immigrants it imprisons each day. The government has written into law the number of non-citizens it seeks to deprive of freedom at any given moment: 34,000.

A study by Detention Watch Network (DWN) and Center for Constitutional Rights (CCR) explores the social impacts of the perverse incentive of the so-called "lockup quota" of 34,000 designated "beds" for immigrant detainees. The system locks in a federal funding stream and sustains jobs, commercial contracts, and a political consensus around the need for ever more "border security." So the detention industry banks on 34,000 bodies, culled from a bottomless supply of more than 11 million undocumented migrants, as Immigration and Customs Enforcement (ICE) and local police round up and funnel in potential deportees.

DWN and CCR argue that "Local lockup quotas that serve to protect the bottom line of private companies thus incentivize the imprisonment of immigrants."

The yearly spending—about \$2 billion for fiscal 2016—and the headcount are the two numbers that matter. The deportation machine has fueled the churn of warm bodies, which it prioritizes over concerns that other law enforcement systems must deal with like the actual charges against detainees, their due process rights, or questions of their safety or the public's.

The system has been on overdrive recently as the Obama administration accelerated deportations of Central American refugees who have not qualified for asylum. The goal is to restore "border security" by speeding their re-exile to dangerous home countries.

Migrants are warehoused under convoluted partnerships involving private vendors and state, local, and federal agencies. Homeland Security may contract out security duties to, or use facilities owned by, private vendors—dominated by Corrections Corporation of America (CCA) and GEO Group—with preordained headcount distributions ranging from 285 in Newark to more than 2,000 in San Antonio.

Abuse scandals regularly surface in immigrant detention centers, from allegations of sexual assault to the brutalization of transgender detainees. Though ICE has undertaken numerous reforms in recent years to enhance detainee health-care and regulatory oversight, a 2015 investigation of CCA facilities documented 32 deaths since 2004. Causes included cancer, cardiac arrest, and suicide. Many complain of being shunted into solitary confinement merely for protesting their conditions. Often victims of human rights violations in other countries are retraumatized in prolonged isolation. The social hardships of detention can diminish asylum prospects as they work through a labyrinthine legal bureaucracy.

While asylum application is rough for all detainees, those in for-profit detention facilities seem to qualify at even lower rates, according to a Center for American Progress analysis: "Poor conditions at these facilities, such as limited access to legal services, could contribute to low grant rates."

DWN and CCR conclude:

The financial incentives and bureaucratic pressures associated with the local lockup quotas are particularly worrying when combined with easily manipulated enforcement, detention and release practices. Through mechanisms like these,

financial considerations and private profit can affect government decisions to deprive immigrants of liberty at a concrete, local level.

The “financial considerations” contradict the human rights considerations of detainees like Wildin Guillen Acosta. The teenager recently resettled in Durham, North Carolina, after fleeing death threats from vicious gangs in Honduras. The star student was arrested earlier this year and detained indefinitely, after failing to qualify for asylum due to a botched legal process. He’d rather be getting ready to start college now.

While they scramble to navigate the bureaucracy as their deportation date nears, detainees may struggle just to survive another day in detention. Polyane, a young mother from Brazil who was detained at Karnes Residential Center in Texas, described the horrors she and her daughter faced in a letter to the government that described being arbitrarily denied bail, suffering from inadequate medical care, and being haunted by unresolved charges of sexual assault at the facility.

I am afraid that if I stay in this center something could happen to me or my daughter because the ICE tries to cover up everything and all news that happen here.

Whether or not detainees formally qualify for humanitarian relief, their detention arguably constitutes a massive human rights violation in itself.

Since the latest deportation drive began, according to DWN organizer Silky Shah (disclosure: a former colleague of the author), pressures have escalated for both the affected communities and detainees:

The raids have no doubt exacerbated the culture of fear that has already been created in immigrant communities by the Obama administration’s policies and continued collaboration with local police for immigration enforcement.

Several facilities have erupted with hunger strikes and uprisings in recent months, as frustrated detainees have rallied against poor conditions and demanded immediate release. Grassroots protests are erupting in communities as well. At Hillary Clinton’s recent North Carolina campaign event, teachers disrupted the gathering to protest the mistreatment of Acosta and other student detainees.

An immigration detention system that capitalizes on the harshest forms of confinement parallels other elements of the prison-industrial complex, from privatized state prisons to punitive court-imposed “financial obligations.” Watchdog groups note a pattern among private prison firms of working as de facto real-estate “marketers” for empty prison space. Jeremy Mohler of In the Public Interest says via e-mail:

CCA and GEO Group have long histories of actively marketing their empty facilities to governments of all sizes, including agencies handling immigration.... The result is an immigration detention system that cuts against the grain of our efforts to reduce prison populations, because private prison companies make more money when more people are locked up.

DWN and CCR demand the abolition of lock-up quotas, “publicly accessible and transparent” data reporting on private contracting practices and security deals, and an end to “contracting with private companies that lobby to pervert public policy via guaranteed minimums and other contractual giveaways.” But even if the commercial bonds are severed, the incentive to dehumanize migrants will persist, because the detention industry emanates from structures of global inequality and state violence. This is not just the logic of capitalist markets, but the institutional culture of the prison industry and political establishment.

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Bernie Sanders's Plan to Abolish Private Prisons, Explained

By German Lopez – September 18, 2015

Sen. Bernie Sanders wants to abolish a multibillion-dollar industry: private prisons.

The presidential hopeful introduced a **bill** on Thursday that would ban private prisons within a few years, taking aim at what he **called** a "broken criminal justice system" and **mass incarceration**.

The plan is just the latest in what's increasingly becoming one of the biggest issues of the Democratic primaries: criminal justice. Hillary Clinton recently released an **anti-drug plan** that tries to shift drug policies away from punitive criminal justice measures to public health programs, and Sanders and Martin O'Malley released **plans** for addressing racial justice issues.

Still, Sanders's plan by itself probably wouldn't do much to reduce mass incarceration. While private prisons are a favorite target of liberals like Sanders, they house a small percentage of convicted criminals. The most effective part of Sanders's plan, in fact, may be a provision that has nothing to do with private prisons at all.

Sanders's plan would ban private prisons within a few years

The bill takes six main steps, according to **Sanders's office**:

1. Prohibit local, state, and federal contracts for privately run prisons within two years, with the possibility of a one-year extension if deemed necessary by the US attorney general.
2. Eliminate private immigration detention centers within two years, with the possibility of a one-year extension if deemed necessary by the US attorney general.
3. End the requirement that the federal government maintain a certain number of beds for immigrant detainees.
4. Stop the detention of immigrant families caught at the border, and increase monitoring of immigrant detention facilities to ensure more humane conditions.
5. Increase oversight to stop private companies from overcharging inmates for services like banking and phone calls.
6. Reinstate the **federal parole system**.

Why Sanders introduced the plan

Sanders characterized the plan as a "good first step" toward fixing a problem both political parties now acknowledge: America has the **largest prison population** in the world, and housing all those inmates is very expensive.

"At a time when we are spending \$50 billion a year on our correctional system, it makes a lot more sense to me to be investing in jobs and education for our young people than in more and more jails," Sanders said in a **statement**. "Not only can we prevent thousands of lives from being destroyed, we can save billions of taxpayer dollars. Locking people up is a lot more expensive than schools."

The plan focuses on going after private prisons and the perverse incentives surrounding them. Private prison contracts typically pay companies for each inmate they house (often with **occupancy requirements**), so these companies stand to profit the most when there are more people to incarcerate. And in general, there are going to be more business opportunities for private prison companies if more inmates require more prisons.

As a result, private prison companies have a financial incentive to encourage mass incarceration. A **2011 report** from the Justice Policy Initiative found, for example, that private prison companies lobby and support politicians that back tough-on-crime policies like "three strikes" and "truth in sentencing" laws, which effectively increase the length of prison sentences.

Sanders's plan would also try to eliminate another way private companies profit from prisons: charging high rates and fees for basic services. For example, prison inmates don't have many options for banking and money transfers. So, as a **2014 report** from the Center for Public Integrity found, companies often charge exorbitant fees — as high as 45 percent in some states — for cash transfers, knowing inmates and their families have no choice but to pay up if they want to buy toothpaste and other items (which are also often overpriced) at prison stores. (This happens at both private *and* public facilities, which contract with private companies for these services.)

The plan would additionally increase the federal government's monitoring of immigrant detention centers to try to improve conditions at the facilities. The **American Civil Liberties Union** has repeatedly found that these facilities — many of which are **privatized** — deny basic services to detainees, including health care, legal representation, and access to telephones.

Sanders's plan also sneaks in a provision that has nothing to do with private prisons: bring back federal parole. This system, which lets inmates out early after they serve part of their sentences, was **eliminated** in 1984 at the federal level. But in addition to rewarding good behavior, it provides a way to ease mass incarceration: If a prisoner proves he's no longer a threat to the public, it might be better to let him out while keeping him under some sort of supervision.

Private prisons hold a small fraction of traditional US prisoners

Although the bill primarily focuses on private prisons, a small portion of US prisoners are in private facilities. Sanders acknowledges this: His office noted that 19.1 percent of federal prisoners and 6.8 percent of state inmates — or 8.4 percent of all prisoners in the US — were in private prisons in 2013. So the ban on private prisons would affect a small fraction of traditional prison inmates.

But Sanders's plan would help eliminate incentives to detain as many immigrants as possible

Sanders's ban on private prisons would have a much bigger impact on a different type of incarceration: immigrant detention centers.

About 62 percent of bed space for people detained by Immigration and Customs Enforcement is in privately run facilities, according to a **2015 analysis** by the advocacy group Grassroots Leadership. And a **2012 report** from the Associated Press found that private prison companies had spent tens of millions of dollars lobbying lawmakers and contributing to political campaigns to maintain and increase the flow of detainees — to some success.

To these companies' benefit, some immigration policies encourage more incarceration. The federal government, for instance, is required to maintain at least 34,000 beds for immigrant detainees. Critics have called this a "quota," although Secretary of Homeland Security Jeh Johnson **said** the federal government isn't required to keep the beds filled. Still, it likely provides some sort of incentive for incarceration — maintaining 34,000 beds for detainees is a waste of money if those beds go unused.

Sanders's plan addresses these issues: It abolishes private immigrant detention centers, and repeals the bed space requirement altogether.

The plan plays on a big liberal myth about private prisons and mass incarceration

One of the potential reasons Sanders focuses on private prisons, even though they're a small part of the criminal justice system, is it's good politics. Among liberals who back Sanders, there's a widely held belief that private prisons caused and perpetuated mass incarceration.

According to this view, allowing private prisons created a for-profit incentive to lock up as many people as possible, and, as a result, private prison companies have pushed for policies that led to mass incarceration to keep their big profits flowing.

This is the kind of belief that riles up Sanders's base. He and his supporters generally believe that money is corrupting politics, and that the rich use their wealth to push American lawmakers into selfish, wrongheaded policies. The idea that private prisons perpetuated mass incarceration plays into this antagonistic worldview toward money and politics.

There are two problems with this view: For one, private prisons are a small part of the criminal justice system, so they don't hold a lot of sway over the whole system. And two, it mixes up the causal relationship between privatization and mass incarceration.

Private prisons are a *response* to mass incarceration, not a cause of it. The Sentencing Project, which advocates for reduced incarceration, **explained** this in 2004, noting that the era of privatization came after mass incarceration began:

With a burgeoning prison population resulting from the "war on drugs" and increased use of incarceration, prison overcrowding and rising costs became increasingly problematic for local, state, and federal governments. In response to this expanding criminal justice system, private business interests saw an opportunity for expansion, and consequently, private-sector involvement in prisons moved from the simple contracting of services to contracting for the complete management and operation of entire prisons.

For example, in 2011, Ohio became the **first state** to sell a state prison to a private company. It figured that the expense of running the Lake Erie Correctional Institution was so high that it would be better if a private company — viewed as more efficient than the government — bore the costs. But Ohio only embraced this plan after mass incarceration consumed a big portion of its budget, forcing the state to look for new ways to save money. So mass incarceration led to privatization, not the other way around.

(A big caveat: There's some **academic debate** over whether private prisons really are more cost-efficient than public facilities. But the perception that they are is why the industry expanded after the 1980s — in response to mass incarceration.)

The actual cause of mass incarceration is much simpler: the **crime waves of the late 1960s to early 1990s**. During this era, the media propagated alarming reports about shootings, gang violence, and drugs. So the public demanded lawmakers do *something* about crime. And lawmakers, believing the threat of punishment would deter criminal activity, passed tough-on-crime policies that led to mass incarceration.

Understanding this cause is crucial to grasping why there's such a huge push to end mass incarceration today: Now that crime is near **historical lows**, and the **research** shows mass incarceration played a small role in the crime drop, lawmakers and the public are more open to the idea of relaxing tough-on-crime policies — and this push for reform is proceeding, particularly in state governments, despite the privatization of a small fraction of prisons.

Sanders's best idea for reducing mass incarceration has nothing to do with private prisons

In terms of fighting mass incarceration, the best idea in Sanders's plan might be the provision to bring back federal parole.

The **Sentencing Reform Act of 1984** eliminated federal parole and replaced it with "supervised release." But parole and supervised release are quite different, as the Congressional Research Service **explained**:

[W]hereas parole functions in lieu of a remaining prison term, supervised release begins only after a defendant has completed his full prison sentence. Where revocation of parole could lead to a return to prison to finish out a defendant's original sentence, revocation of supervised release can lead to a return to prison for a term in addition to that imposed for the defendant's original sentence.

Federal prisoners can still have sentences reduced through good behavior. But this is limited: According to **Families Against Mandatory Minimums**, current law lets inmates shave 47 days off each year of their sentence. Providing parole as an option could let even more well-behaved inmates out of prison early.

Still, even this part of Sanders's bill would play a small role in reducing mass incarceration: Federal inmates make up **about 14 percent** of all US prisoners, and only a few of them would likely qualify for and actually get parole.

But, as Sanders says, it could be a good first step. And it would potentially affect many more inmates' sentences than simply eliminating private prisons would.

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THE HUFFINGTON POST

Hillary Clinton Goes Big on Immigration Reform

By Elise Foley – May 6, 2015

WASHINGTON -- Hillary Clinton vowed on Tuesday that she would not only support immigration reform and protect deportation relief policies put forward by President Barack Obama. If elected president next year, she would expand them.

"If Congress continues to refuse to act, as president I would do everything possible under the law to go even further," the 2016 Democratic candidate said at an event with young undocumented immigrants, held at Las Vegas' Rancho High School.

Clinton's remarks, which essentially ran down the wish list of immigration activists, were more detailed than most expected. She argued that she would lean in on immigration, and she used that as an attack on Republican presidential candidates who have backed away from the issue.

On deportation relief, Clinton said she would do something that Obama hasn't: extend protections to the parents of Dreamers, the young undocumented immigrants who came to the U.S. as children. She said that other categories of undocumented immigrants should also be able to apply for such relief.

Some Dreamers are able to remain in the U.S. and work temporarily under Obama's 2012 Deferred Action for Childhood Arrivals program, or DACA. In November executive actions, the president extended similar protections to more Dreamers and to the parents of U.S. citizens and legal permanent residents. Those executive actions are currently blocked in the courts, but if they move forward, as many as 5 million undocumented immigrants could gain relief. Millions more would remain without protections.

On Tuesday, Clinton defended Obama's actions against attacks by Republicans. "He had to act in the face of inaction that was not on the merits but politically motivated for partisan reasons," she said.

Clinton said it was unrealistic to act as though all 11 million undocumented immigrants now in the U.S. could be deported. She said the idea was "beyond absurd. That's not going to happen."

She also addressed less widely discussed immigration issues, arguing that those in deportation proceedings -- at the very least, the young -- should receive more legal representation.

Clinton said she believes that undocumented immigrants who are children, who are particularly vulnerable such as transgender individuals, or who generally are not criminals should not be detained. She also criticized the congressional mandate that a certain number of detention beds be maintained and the fact that private prison companies run many immigrant detention facilities.

"People go out and round up people in order to get paid on a per-bed basis," she said. "That just makes no sense at all to me. That's not the way we should be running any detention facility."

Republican candidates have struggled with the issue of immigration in the past. Though it isn't typically the number one concern for Latinos in polls, it does tend to be more personal to those voters. Republicans' statements against undocumented immigrants likely contributed to the GOP's poor performance among Latinos in 2012.

Clinton, on the other hand, has potential to do well among Latinos. They favored her over Obama in the 2008 Democratic primaries, according to the Pew Research Center. And in the current campaign, she clearly views immigration as offering a positive contrast between herself and Republicans.

She said Tuesday that none of the GOP presidential candidates supports immigration reform the way she does. Sen. Marco Rubio (R-Fla.) and former Florida Gov. Jeb Bush (R), in particular, previously called for a path to citizenship but have since backed focusing on border security first or permitting undocumented immigrants to attain legal status only.

"When they talk about 'legal status,' that is code for second-class status," Clinton said.

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THE HUFFINGTON POST

Bed Quota Fuels ‘Inhumane’ and ‘Unnecessary’ Immigrant Detention: Report

By Roque Planas – Apr. 15, 2015

The private prison industry’s growing role in immigrant detention is due in part to Congress' requiring the federal government to maintain some 34,000 detention beds, according to a report released Wednesday.

The report, drafted by Grassroots Leadership, a nonprofit based in Austin, Texas, [calls on Congress](#) to eliminate the immigrant detention quota from its 2016 appropriations request.

The detention bed mandate was first inserted into the Homeland Security Appropriations Act of 2010. Today, private companies control about 62 percent of the immigrant detention beds used by Immigration and Customs Enforcement, according to the report. That's up from 49 percent in 2009. The rest of the beds are operated by the federal government. Of the 10 largest immigrant detention centers in the country, nine are operated by private companies.

“We simply detain too many people, and the federal mandate certainly drives a lot of that,” Rep. Adam Smith (D-Wash.) said Wednesday on a call with reporters organized by Grassroots Leadership. “Frankly, I think if you eliminate the bed mandate, that’s the first step toward eliminating privatization, because that’s a huge thing that’s driving their profits.”

The two largest private prison companies involved in detention -- Corrections Corporation of America and the GEO Group -- have lobbied Congress in order to push up the number of required immigrant detention beds, according to the study. CCA and the GEO Group together took in nearly half a billion dollars from immigrant detention services in 2014 alone, according to Grassroots.

CCA did not immediately respond to a request for comment. Pablo Paez, a spokesman for the GEO Group, denied that the company plays a role in promoting immigrant detention.

"As a matter of long-standing policy, GEO's governmental advocacy focuses on promoting the benefits of public-private partnerships and does not encompass immigration policies, which are set exclusively by the federal government," Paez told The Huffington Post in an email.

But the Grassroots report, citing lobbying disclosure forms, says that both companies have lobbied Congress on immigration issues. Between 2008 and 2014, CCA directly lobbied members of the Department of Homeland Security Appropriations Subcommittee, which set the bed quota, according to the report. Both CCA and the GEO Group have acknowledged in filings to the Securities and Exchange Commission that immigration reform or other efforts to liberalize the immigrant detention system would undermine the companies' business, the report says.

Both companies received contracts to operate family detention centers in Texas following the child migrant crisis last year. CCA runs the newly constructed, 2,400-bed family detention center at Dilley, while the GEO Group operates a 530-bed family detention center in Karnes City.

Mothers detained at the Karnes City facility [have launched hunger strikes twice this month](#) to protest their continued detention while they apply for asylum.

Marichuy Leal, a transgender woman who was released from a CCA-run detention facility in Eloy, Arizona, this year, described her detention as a traumatic experience.

“I got tortured in Mexico,” Leal said on Wednesday's call. She said she came to the United States seeking asylum, “but my torture kept going in the detention center. There's no safety in the detention center where I got detained. I was abused by my cellmate, abused by the security guards.”

Bethany Carson, a co-author of the study who spoke on the call, said the detention bed quota is “inhumane” and “unnecessary.” The Grassroots report urges policymakers to reduce the number of required detention beds through “community-based” alternatives to detention. The report does not describe those alternatives in detail, but Grassroots has in the past [endorsed programs](#) in which immigration authorities partner with non-governmental organizations to ensure that released migrants comply with court proceedings and find access to community services.

“The only beneficiaries from the detention quota are for-profit corporations that benefit from human pain,” Carson told reporters.

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The Seattle Times

Opinion: Jailing immigrants is inhumane, costly, and unnecessary

By Adam Smith – Mar. 30, 2015

The Northwest Detention Center is a large, privately operated detention facility in the Tacoma Tidelands that has been in the news a lot this past year. Despite multiple hunger strikes, public protests and the introduction of federal legislation to address issues at the facility, immigration officials are set to sign another multimillion-dollar contract with the same private prison company that has run it for years.

Due in large part to a misguided federal policy called the “detention bed mandate,” large, for-profit prison corporations that have the resources to build and maintain detention centers are left in charge of operating these facilities at a high cost to taxpayers, detainees and families of those affected.

In the United States, GEO Group, the company that runs the detention center, and the Corrections Corporation of America are the only two corporations large enough to bid on a contract like the Tacoma facility. That leaves us with a detention policy that benefits them, but not society.

The detention bed mandate, which was passed by Congress in 2009, requires U.S. Immigration and Customs Enforcement (ICE) to fill 34,000 detention beds for immigrants at any given time. Rather than targeting enforcement toward individuals who pose risks to our community, this indiscriminate quota incentivizes the inhumane and arbitrary detention of thousands for whom we have no justifiable reason to detain.

Take Ramon Mendoza Pascual, for example. In September 2013, Ramon had a few beers at a bar in Auburn and walked to his car to go home. Realizing he shouldn't risk driving, he called his wife, Veronica Noriega, for a ride home and waited in his car. When she arrived, he was gone. She was told later that Mendoza had been arrested on suspicion of DUI.

Despite the fact a judge had dropped the DUI charge, when Noriega went to court to pay her husband's bail, she was told Mendoza could not be freed. ICE had placed a hold on his case and he was being transferred to the Tacoma detention facility.

Ramon was a carpenter, a volunteer for a local charity, a husband and a father of three young children. But on that day all that mattered to ICE was his immigration status. He is neither a flight risk nor a danger, but he's now been detained at the facility for 18 months and can only see his family through a window.

Not only is this overuse of detention inhumane, it's also expensive. Since the passage of the detention bed mandate, the use of detention has skyrocketed to around 450,000 people detained every year. At an estimated cost of \$164 per day for each detainee, our government spends approximately \$5.5 million a day and more than \$2 billion a year on the detention of immigrants.

There are many less wasteful alternatives to detention that exist and offer a more fair, cost-effective and humane approach while still ensuring that more than 90 percent of individuals appear at immigration proceedings.

Community-based support programs are one such alternative that have proved successful. These are programs where nonprofits provide immigrants with legal services, case management, housing and more while they await immigration proceedings in their own homes, rather than in a detention center. A Baltimore-based immigration advocacy group, Lutheran Immigration and Refugee Service, has piloted community-based programs in the past and has built coalitions with local service partners in Seattle and elsewhere that provide important support and services at fractions of the cost of detention.

Other alternatives include telephonic reporting and release on bond, enabling individuals to remain in their communities and with their families at costs averaging \$5.16 per day, according to ICE. The stark contrast between \$5.16 and the \$164 per day it costs to detain an individual begs the question of why Congress requires ICE to detain 34,000 individuals each day.

There is no good answer. Despite being more humane, just and inexpensive, only 23,000 immigrants receive alternative surveillance compared to the minimum of 34,000 who are held in detention centers.

President Obama's budget request for fiscal year 2016 included a large expansion of so-called "alternatives to detention," or ATD. The bad news is the increased funding provides almost exclusively for ankle-bracelet monitoring, which only expands business opportunities for for-profit prison companies, like GEO. Additionally, this expanded funding does not repeal or reduce the 34,000 detention beds that are required to be filled. Any expansion of ATDs is only helpful and cost-effective if it's coupled with less detention.

Individuals should be detained only in cases where the government has proved that no other method is feasible. In order to ensure this, Congress must repeal mandatory detention laws and defund appropriations quotas that require 34,000 daily beds and instead invest money into community-based alternatives.

Until Congress acts, ICE will continue to sign contracts with GEO and heartbreaking stories like that of Ramon Mendoza Pascual and his family will continue to be our legacy.

U.S. Rep. Adam Smith, D- Bellevue, represents the 9th Congressional District.

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Los Angeles Times

Editorial: Dump the immigrant detainee quota

By Times Editorial Board – May 8, 2014

One of the more peculiar provisions in U.S. immigration law is the little-known requirement that 34,000 potential deportees be held in federal detention centers each night. The reason for this is murky; the original language was written into the federal budget by Sen. Robert Byrd (D-W.Va.) in 2009 and, as bizarre as it seems, has been there ever since.

Think about the policy implications of that. If Immigration and Customs Enforcement agents detain someone suspected of being in the country illegally, or someone whose legal status is jeopardized by a potentially deportable arrest, the decision about whether that person should be held or released on bond is budgetary, not judicial. This is preposterous, unjust and expensive, needlessly costing U.S. taxpayers hundreds of millions of dollars a year.

Yet that is what Congress has mandated, and administration officials have been reprimanded when they have allowed the numbers to fall significantly below the quota. Despite the fact that illegal immigration has declined substantially in recent years, the Department of Homeland Security continues to hold about 34,000 people on most nights.

During testimony in March before the House Appropriations Committee, Homeland Security Secretary Jeh Johnson suggested that he would like to treat the 34,000-bed mandate as something other than a quota. Johnson said he believed the requirement referred to the number of beds that must be available, not to the number of people who must fill them. House Republicans appeared unmoved, countering that Johnson didn't have the authority to interpret the budget law as he sees fit, and indicating that they would fight any effort to change the requirement.

The solution is to change the budget wording to make it both clear and sensible. For Congress to set a quota of how many people should be jailed each night conflicts with Americans' basic notions of justice. Whether someone requires detention should be decided by need, as calculated by judges and others charged with enforcing immigration laws, not to by an arbitrary congressional budget mandate.

The quota reflects a broader, troubling aspect of federal immigration policy, which operates under a presumption of detention rather than a presumption of innocence.

As this page noted in a recent editorial endorsing bond hearings for people detained on immigration infractions, the current dysfunctional Congress is unlikely to enact immigration reform this year. But Congress can at least fix this bit of silliness by dropping the bed quota from the next budget, and leaving enforcement decisions to the right people.

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Prison Hunger Strike Puts Spotlight on Immigration Detention

By Alex Altman – Mar. 17, 2014

An inmate hunger strike at a Washington detention center is raising questions about immigration detention quotas and enforcement.

Eleven days ago, Paulino Ruiz stopped eating. After nine months at Northwest Detention Center in Tacoma, Wash., which houses immigration detainees awaiting deportation, Ruiz was sick of eating a boiled potato at every meal. He was offended by the harsh treatment meted out by guards. And he was tired of making just \$1 per day for custodial work.

Perhaps most of all, he felt let down by the immigration policies of Barack Obama. Ruiz, 26, came to the U.S. at age three and says he is a legal resident of the U.S. But when he was released from prison last year after serving time for robbery, he was put on a path to deportation. “You can only get pushed so far,” Ruiz explains in a phone interview with TIME from inside the low-slung facility that sprawls across Tacoma’s tide flats. “More people have been deported since [Obama’s] been in office than anyone else in history.”

Ruiz chose the right time to protest. A facility-wide hunger strike started at breakfast on March 7 at the detention center, spreading by word of mouth, until by dinnertime about 750 of the facility’s 1,300 detainees were declining to eat, according to U.S. Immigration and Customs Enforcement (ICE). The strike turned a spotlight on immigration detention and deportation policies just as the White House is taking a fresh look at the issues.

On March 13, Obama announced he had ordered a review of his Administration’s immigration-enforcement policies. The next day, the President met for nearly two hours with 17 leading immigration-reform advocates at the White House. Obama told them he has asked Jeh Johnson, the new Secretary of the Department of Homeland Security (DHS), to conduct the review. Two of the enforcement policies Obama inherited are at the center of the Tacoma hunger strike. One is the so-called “bed mandate,” an arcane provision embedded in the annual DHS spending bill. The other is mandatory detention, which requires suspected immigration violators to be held indefinitely while a deportation review is pending, often without bond.

Introduced in 2007, the bed mandate sets a target for the number of undocumented immigrants DHS must house to receive its annual appropriation. The current quota is about 34,000 people. Immigration analysts say it forces law enforcement to pursue and detain undocumented immigrants simply to meet quotas, stripping them of discretion as they carry out their jobs. As a result, facilities like Northwest Detention Center are crammed with detainees who have committed minor infractions, such as traffic violations. Their detention costs taxpayers about \$160 per day, which quickly adds up: in the 2013 fiscal year, the U.S. shelled out more than \$2 billion on immigration detention. “It’s neither good policy nor good use of resources,” says Muzaffar Chishti, director of the Migration Policy Institute’s office at New York University’s School of Law.

In recent months, House Democrats have sought to strike the statute by stressing its ballooning costs — an appeal aimed at fiscal conservatives. They argue that alternatives to lengthy detention for nonviolent offenders, such as monitoring bracelets or supervised release—would be far cheaper and equally effective. “Neither party wants to see taxpayer money wasted,” says Rep. Bill Foster, an Illinois Democrat who has twice co-sponsored amendments to end the mandate. “This is something we can do on a bipartisan basis.”

But bipartisanship has flopped so far. In June, an amendment sponsored by Democratic Congressman Ted Deutch of Florida was defeated in a largely [party-line vote](#), with just eight Republicans joining the vast majority of Democrats in a failed effort to scrap the mandate. Deutch and Foster have tried to revive the issue without luck so far. Republicans say administration officials are allowing budget cuts to serve as an excuse for lax immigration enforcement. The GOP believes Obama has a habit of picking and choosing which parts of federal law he wants to

enforce, and defends the mandate as a statute that compels the government to lock up offenders or lose its funding. “This is not optional. It’s not discretionary,” Rep. John Culberson of Texas, a Republican, told Johnson at a hearing earlier this month. “There’s no prosecutorial discretion on the part of a police officer or your detention folks as to whether or not you’re going to fill 34,000 beds. You shall fill 34,000 beds.”

But immigration reformers believe the private-prison industry is unduly affecting the public debate. Private prison operators spend millions lobbying lawmakers on immigration detention and other issues that directly impact their bottom line. Like most detention centers, the facility in Tacoma is operated by a private contractor, the Geo Group. That corporation’s political-action committee has given more than \$100,000 to state, local and federal candidates so far in the 2014 cycle, [according to the Center for Responsive Politics](#). “It’s a wasteful taxpayer giveaway to special interests that hurts law enforcement and is inconsistent with the way we approach immigration in this country,” Deutch says.

The protesters in Tacoma were also reacting to the policy known as mandatory detention, which often locks up offenders indefinitely. The policy was expanded by a pair of laws passed in 1996 and strengthened by the Patriot Act after Sept. 11, 2001. It requires that categories of non-U.S. citizens be imprisoned without evaluating the threat they may pose, often without giving them a bond hearing. “You have people who might get arrested for something minor, but aren’t allowed to fight their case,” says Sandy Restrepo, a Washington State immigration lawyer involved with the hunger strike. “Either they have really high bonds set, or they’re ineligible for bond.”

Some of these detainees are legal residents of the U.S. Brought to the U.S. at age three from the Mexican state of Michoacan, Ruiz says he was raised in Oregon, where he graduated from high school. According to Ruiz, he spent years working construction and landscaping before he was arrested in 2008 for a drunken robbery. When he was released from prison last year, he says, he was remanded to the custody of ICE because of an immigration hold, and has been held without bond as he appeals his deportation. He says he has no ties to Mexico and his entire family lives in the U.S., including his ailing father. “I’m not a bad person,” Ruiz says. “I just made a mistake. I took responsibility for that. It hurts not to be able to be back with my family.”

It is unclear whether the review Obama ordered will result changes to either the bed quota or to the practice of mandatory detention. Earlier this month, in testimony before the House Homeland Security Subcommittee of the House Appropriations Committee, DHS Secretary Johnson told lawmakers that he interpreted the 34,000-bed mandate “to mean that we have to maintain 34,000 detention beds. Some of those beds might be empty at any given time.” That parsing, which the GOP disputes, would allow the Administration to detain fewer undocumented immigrants on a day-to-day basis even if Congress declined to change the law.

But the review ordered by Obama is unlikely to result in sweeping changes to enforcement—not least because the President does not want to hand Congressional Republicans an excuse to back further away from their halfhearted interest at rewriting U.S. immigration law. “We don’t know what the review will mean,” Chishti says. “He’s not promising anything. My own view is it will be modest.”

After more than a week, the number of detainees in Tacoma who are still skipping meals has dwindled to just a few. Andrew Munoz, a spokesman at the Department of Homeland Security’s Seattle office, said that ICE respected the right of detainees to register their opinions about their treatment. “While we continue to work with Congress to enact commonsense immigration reform, ICE remains committed to sensible, effective immigration enforcement that focuses on its priorities, including convicted criminals and those apprehended at the border while attempting to unlawfully enter the United States,” Munoz said.

Even if DHS decides to change course, it may be too late for immigrants like Ruiz. Suspended in limbo after a serious mistake, he finds himself caught in the gears of an immigration-enforcement machine that can’t often be stopped once it is engaged. “I’ve got my whole life invested in this country,” he says. “I feel like I deserve another opportunity.”

Correction appended, March 18: This story originally misspelled the surname of Florida Representative Ted Deutch.

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The New York Times

Detention Must Be Paid

By The Editorial Board – Jan. 20, 2014

Millions of Americans can't find work and have lost their unemployment benefits because Congressional Republicans insist the government can't afford to help them. But there is no shortage of money when it comes to hunting down unauthorized immigrants.

The House on Wednesday passed a trillion-dollar appropriations bill that includes \$39 billion for the Department of Homeland Security, \$16 billion of which is for immigration enforcement, a sum that House Republicans boast "will allow for the highest operational force levels in history" for Customs and Border Protection, among other things. The bill adds 2,000 agents at border ports and mandates that Immigration and Customs Enforcement "maintain a level of not less than 34,000 detention beds through September 30, 2014." This represents, at a cost of \$2.8 billion, "the highest detention capacity in history."

It is mindless to keep throwing billions at border enforcement and detention at a time when illegal immigration is at historic lows, when other, more pressing government functions are being starved and when none of the money spent actually goes toward solving the problem.

Take the irrational obligation to fill all those detention beds, at a cost of about \$122 a day. Why make the people who run a vast and expensive law-enforcement apparatus responsible for keeping prison beds warm rather than communities safe — especially when there are low-cost alternatives to detention that don't involve fattening the bottom lines of for-profit prison corporations?

Congress's arbitrary detention mandates and the Obama administration's aggressive use of its enforcement powers have pushed deportations to record levels of 400,000 a year. This has had no discernible effect on the overall problem, but it has caused abundant anguish in immigrant families and their communities.

What's most disheartening about the spending splurge is that it attacks only the symptoms of the ailing immigration system. It reflects a government cynically resigned to chipping away at the presence of millions of unauthorized immigrants, most of them noncriminals, instead of one willing to create a way for millions to come forward and get right with the law, freeing up taxpayer dollars to go after real threats.

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Immigrants jailed just to hit a number

By Robert M. Morgenthau – Jan. 19, 2014

Nobody likes quotas. When there's even a whiff of a parking-ticket quota, the public is outraged. When France imposed a quota on imported American movies, it provoked international controversy. But there is one quota — and a pernicious one — that no one denies. While the Congress is to be congratulated for passing an appropriations bill with bipartisan support, there are troublesome riders attached to it. One is the rider establishing a quota of a minimum of 34,000 immigrants in detention on a daily basis while they resolve their immigration status.

The detention quota is unprecedented and unique to the immigration context. As Florida Rep. Ted Deutch, a Democrat, explained to Bloomberg News in June 2013: “No other law enforcement agencies have a quota for the number of people that they must keep in jail.”

But hard-liners in Congress fight tirelessly to keep it in place. Last year, when the prisoner population dipped to 30,773, U.S. House Homeland Security Committee Chairman Michael McCaul wrote a pointed public letter to Immigration and Customs Enforcement (ICE) Director John Morton, informing him that he was “in clear violation of the statute” and its 34,000 prisoner requirement.

Notice that's not the number of immigrants Congress wants to deport; it's the number Congress insists on incarcerating while they await their fate. The quota can be found in a few lines of the 1,582-page government funding bill. The section requires ICE to continue to maintain that set number of people in immigration lock-ups — what the bill euphemistically calls “beds.” If that sounds like a lot of detainees, it is. As recently as 2005, when we had about the same number of undocumented immigrants in the United States as today, the average number of immigrants in detention was far lower — below 20,000.

In 2007, Congress for the first time passed a law with the 34,000 number; it has remained in place ever since. Last year, then-Homeland Security Secretary Janet Napolitano objected, telling Congress, “we ought to be detaining according to our priorities, according to public-safety threats, level of offense, and the like, not an arbitrary bed number.” Her plea fell on deaf ears.

Such a rigid number cannot help but have a corrupting influence on the entire process. Imagine trying to get a fair trial in criminal court if your state legislature mandated that judges had to fill a certain number of prison cells each day. It would be impossible. How can lawyers representing the federal Immigration and Customs Enforcement do their job dispassionately — seeking incarceration only of those who truly represent a danger to society or a risk of flight — if they know their funding is dependent upon hitting a number? Next time ICE lawyers seek to incarcerate an immigrant, the immigrant's lawyer should ask the ICE lawyer whether their request is on the merits — or to fill a quota.

The problem is, even taking my advice won't help most of those in the docks of our immigration courts: Fully 60% of the men and women detained by immigration judges in New York are not represented by counsel. Forced to defend themselves, their cases drag on endlessly. According to the most recent data from a think tank at Syracuse University, the average immigration case in immigration court has now been pending for 570 days without resolution.

For a free immigrant, long delays can work to their advantage. But for a detained immigrant, they can be brutal. While some immigration facilities are humane, a recent lawsuit by the ACLU alleges that many detainees face “deplorable conditions of confinement even worse than those faced by convicted prisoners.”

It is a serious problem, and a shameful injustice, but one with straightforward solution. Congress should repeal the quota. And until then, ICE lawyers and immigration judges should ignore it. Justice demands no less.

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Shah: Immigration detention quotas must be stopped

By Silky Shah – Nov. 22, 2013

Border security concerns and a road map to citizenship have been the cornerstones of this year's immigration debate. While immigration policy reform stalled well before the government shutdown, the detention system's dirty little secret has persisted: Every year since 2007, the annual congressional budget has required U.S. Immigration and Customs Enforcement to keep a minimum of tens of thousands of immigrants in detention.

Currently, the daily quota requires that 34,000 immigrants be incarcerated. These quotas are arbitrary and have very human consequences, with Immigration and Customs Enforcement separating families and needlessly packing jails across the country, to the tune of more than \$5 million per day.

These sums often line the pockets of the private prison corporations that run nearly half of those jails. Nothing in any congressional bill thus far remedies this pernicious system and unless the detention bed quota is abolished, the provisions in the Senate's immigration bill that reform immigrant detention will be toothless. Immigrant detention has swollen in recent years, increasing from 70,000 people locked up in 1996 to some 400,000 last year. Often, immigrants are held without legal counsel hundreds of miles from their families. Most of the detention facilities are county jails hoping to pad their dwindling local budgets and private prison companies looking for easy profit. The implications of the quota here in Texas are significant because the state holds the dubious distinction of housing the most detention beds - nearly 8,000 - in the country.

Currently, 50 percent of immigration detention beds are operated by private companies, and the government quota means that these federal contracts are among the most lucrative, guaranteed profit-generators. But that profit is fueled directly by the unjust and unnecessary suffering of immigrant families. And the worst of it is that many immigrants held in detention centers are eligible for release and there is no sensible reason for their incarceration other than the arbitrary quotas.

There is a more profound human cost. Due to the reliance on profit-driven and cash-strapped subcontractors, many detained immigrants are subject to poor medical and mental health care, leading to senseless injury and death. This year alone, four individuals, three of whom were younger than the age of 30, have died while detained in Texas. Polk County Detention Center, a private facility northeast of Houston, typifies the deplorable conditions of detention. At Polk, detainees are held for up to 23 hours a day in their cells and are often denied access to recreational activities and the outdoors. Many immigrants are confined to overcrowded cells with more than 20 other detainees and have complained that they are left ill for days before receiving medical treatment.

In February, Immigrations and Customs Enforcement released hundreds of immigrants from detention centers across the country, citing sequestration cuts as the primary cause. Many questioned why individuals who were easily released due to budget cuts were in detention in the first place. During a House Judiciary Committee hearing weeks later, U.S. Rep. Spencer Bachus, R-Ala., pointedly questioned Immigration and Customs Enforcement Director John Morton about "an overuse of detention," asking, "Is it possible that you are detaining more people than you need to?"

The current version of the Border Security, Economic Opportunity and Immigration Modernization Act, S. 744, would include several positive reforms to the detention system. Most critically, it would allow for immigrants who are required to be detained under immigration law to be considered for alternatives to detention programs. Currently, at least 60 percent of immigrants in detention are held without a judge being able to review their case. The potential for these individuals to be released from incarceration after review by a judge is a significant feature of the bill and could begin a much-needed reduction in the use of detention. But if the 34,000-bed quota isn't eliminated, this critical reform won't have an impact.

The quota is contradictory to American values of due process and fairness, and it should be eliminated immediately.

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Little-Known Immigration Mandate Keeps Detention Beds Full

By Ted Robbins – Nov. 19, 2013

Imagine your city council telling the police department how many people it had to keep in jail each night. That's effectively what Congress has told U.S. Immigration and Customs Enforcement with a policy known as the "detention bed mandate." The mandate calls for filling 34,000 beds in some 250 facilities across the country, per day, with immigrant detainees.

When NPR visited the Department of Homeland Security's detention center in Florence, Ariz., hundreds of men — nearly all from Latin America — were lining up for lunch. They were caught by the Border Patrol or, if apprehended away from the border, by local police and Immigration and Customs Enforcement. People can stay behind the razor-wire fences for days, weeks or years.

NPR was not allowed to talk with anyone in the detention center, but Francisco Rincon, who was recently released from Florence on bond, says he was in the facility for three weeks. Every day he was in detention cost taxpayers at least \$120. Add up all the nation's detention centers and that's more than \$2 billion a year.

The detention bed mandate, which began in 2009, is just part of the massive increase in enforcement-only immigration policies over the last two decades. The last time Congress passed a broad immigration law dealing with something other than enforcement — such as overhauling visa or guest worker policies — was 1986.

Supporters of the directive include Rep. Hal Rogers, chairman of the House Appropriations Committee. In an email, the Kentucky Republican wrote that the bed mandate is "intended to compel the agency to enforce existing immigration law."

But Janet Napolitano, former secretary of the Department of Homeland Security, called the bed mandate "artificial" when [she spoke to](#) a House Appropriations subcommittee in April. "We ought to be managing the actual detention population to risk, not to an arbitrary number," she said.

Supporters: Mandate Ensures Deportations

Immigrants in detention range from violent criminals to people with no criminal history. On the day NPR visited Florence, nearly two-thirds of the 400 detainees had no known criminal record.

Take Rincon. He came to the U.S. from Mexico eight years ago and had no trouble with the law. Then he was arrested by the Border Patrol near Tucson when he took a wrong turn on his way home from work as a day laborer. Rincon has a hearing before an immigration judge in February, and he says he'll ask to remain in the U.S. legally. "Because for Mexicans, particularly from Chiapas, where I'm from, it is very hard to get a visa," he says through an interpreter. "Otherwise, we come with visas."

That kind of story upsets immigrant-rights activists. They say ICE and local police departments are arresting more and more people for less and less.

"They're trying to pick people up for either very minor traffic violations or other minor convictions that wouldn't be considered serious, but that they can quantify as a criminal alien," says Nina Rabin, an immigration law professor at the University of Arizona.

Immigration hardliners not only disagree with that contention, they want even more aggressive enforcement. They say the current detention system is too lax — and point to a startling statistic: As of October, a total of 870,000 immigrants

have absconded after being ordered deported following their release from detention. They've gone back underground. ICE confirms that number.

Jessica Vaughan, director of policy studies for the Center for Immigration Studies, a Washington-based think-tank that favors tougher enforcement, says the only way to make sure that people ordered deported actually leave is to keep them under lock and key.

"Detention is necessary because of the high risk that people are simply going to flee or skip out on their hearings," Vaughan says.

Looking For Less Expensive Alternatives

Victor Cerda, ICE's head of detention and removal during part of the George W. Bush administration, says that argument is "very simplistic." Such extensive detention, he says, is "very expensive. It's very resource intensive." Cerda agrees that detention is the surest way to hold people, but says that building tens of thousands more detention beds is unrealistic.

"If you know what the problem is and the complexity of it, you quickly realize that there is not enough money in the government," he says. "And I don't think the taxpayers are ready to fork over the amount necessary to detain everybody."

There are options besides locking up tens of thousands of people. Alternative forms of supervision range from GPS-monitored ankle bracelets to routine check-ins with ICE. Those alternatives can cost less than \$10 a day, but the budget for alternatives is only about 3 percent of the federal budget for detention.

The immigration bill passed by the Senate earlier this year calls for increased use of detention alternatives, but the House has yet to pass an immigration overhaul. It reinforced the status quo in June — voting down a Democratic-sponsored end to the detention bed mandate.

To listen to the story, please click here:

<http://www.npr.org/player/v2/mediaPlayer.html?action=1&t=1&islist=false&id=245968601&m=246096241>

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Immigration reform could still leave thousands in detention

By Silky Shah – Oct. 25, 2013

In just a few weeks, President Obama's administration will hit the two-million mark in deportations. During his time in office, we've also seen a massive expansion of the number of people detained in immigration jails, to more than 400,000 a year.

The impact of this increased enforcement has fueled the drive towards comprehensive immigration reform, which the president said Thursday he expects the House to take up again after considerable movement in the Senate last summer. Unfortunately, for the detention system, immigration reform won't mean much.

Currently, the detention system is run on a quota that requires at least 34,000 immigrants be detained daily. This quota mandated by the Congressional Appropriations committee each year will mean that even if immigration reform results in relief for some of the 11 million undocumented immigrants living in the U.S., many will still be targeted to fill immigration jail beds.

When people are detained they are taken from their families and communities. Local economies are impacted and families often lose their chief breadwinner. When someone isn't there to support children of those detained, they are often shipped off to the [foster care system](#). Policies like the detention bed quota effectively force immigration and local police to find people that are deportable in order to make sure beds are filled.

With a network of more than 250 jails and detention centers operated by federal, state, and local government, as well as by private industry, the system exacts a grim toll on immigrant communities (emotional, physical and financial) at the taxpayers' expense, (more than [\\$2 billion](#) was spent on immigration detention in fiscal year 2012). Immigrants in detention are often denied basic needs, such as adequate food and hygiene, and access to fresh air and sunlight and many are subjected to solitary confinement.

To exacerbate the issue, immigrants in detention have no access to counsel, meaning that more than 80% end up representing themselves in immigration court. During the shutdown, this was even more intensified due the furloughing of legal orientation programs that educate immigrants about their legal options. Beyond that, the ever-expanding [immigration case backlog](#) was most likely affected with several courts closed during the shutdown. The repercussions of the shutdown are still unclear, but there is no doubt that immigrants in detention were affected. Not surprisingly, detaining immigrants has become good business. [Prison corporations lobby](#) heavily to secure these government contracts to increase their profits in a billion-dollar industry, while county jails benefit by using money earned from detaining immigrants to fill gaps in their shrinking budgets. Of the 34,000 detention beds, 50% are operated by private prison companies, such as Corrections Corporation of America (CCA) and the GEO Group.

Immigration and Customs Enforcement (ICE) has yet to codify standards for detention, meaning there are basically no rules to how people are held. More than 132 deaths have occurred in detention since 2003—many of which could have been prevented with proper medical attention or mental health services. The case of [Roberto Martinez Medina](#) is sadly exemplary. Medina, who was held at the CCA operated Stewart Detention Center in Columbus, GA, was a 39-year-old Mexican national who died of a heart infection after three days of requesting medical attention for a treatable condition. In May, [two Guatemalan nationals committed suicide](#) within one week of each other at Eloy Detention Center, another CCA facility in Arizona.

Until the quota is eliminated, tens of thousands of people continue to be torn from their families, communities, and livelihoods and swept up into detention facilities where they are locked in prison cells, waiting indefinitely in subhuman conditions for their cases to be decided. Time is of the essence.

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The outdated immigrant detention system

By Katharina Obser – Oct. 18, 2013

The purpose of the U.S. immigration detention system is simple: to facilitate that an individual in Immigration and Customs Enforcement (ICE) custody appears before immigration court and complies with any final orders. And yet the system itself is anything but; it is a complicated web of jails and jail-like facilities, private prisons, county jails, and federal detention centers, that detains over 400,000 individuals each year.

ICE has worked to develop and implement some critical improvements to the system, though additional reforms remain needed. One overarching obstacle overshadowing much of this: the bed “mandate.” As Congress returns from the brink of the fiscal cliff, and as a new candidate prepares for confirmation to lead the Department of Homeland Security, now is a key moment to consider responsible ways to shrink the federal budget.

The bed “mandate” requires that each night a minimum number of people have to be detained in the system – at least that’s how some members of Congress interpret DHS appropriations language. Mandating what is effectively a quota of beds flies in the face of American values and best practices in the criminal justice system, and precludes a meaningful individualized assessment of the need to detain. And yet it’s the norm for our immigration detention system, where every day 34,000 beds in jails and jail-like facilities around the country are filled with immigration detainees, whether or not that actually makes sense. The price tag to the U.S. taxpayer? Around \$2 billion per year, or more than \$5 million per day.

Criminal justice systems across the country have increasingly recognized that someone awaiting a court hearing who does not pose a danger to society or flight risk can be released on bond, recognizance, or on a far more cost-effective and more humane alternative to detention. States like Texas have set an example, passing significant criminal justice reforms, and yet when it comes to immigration detention, Congress has missed key opportunities to do the same.

If the purpose of immigration detention is to ensure that an individual in ICE custody appears before immigration court, then alternatives to detention, where needed and appropriately used, make a tremendous impact helping to prevent families from being torn apart, or keeping an asylum seeker from traumatizing conditions – all while saving taxpayer money. Groups from across the political spectrum, including the Council on Foreign Relations’ Independent Task Force on U.S. Immigration Policy, the International Association of Chiefs of Police, the Heritage Foundation, the Texas Public Policy Foundation (home to Right on Crime) and others have all endorsed alternatives for the costs they save, and, as former ICE Assistant Secretary Julie Myers Wood has noted, the current full service alternatives program used by ICE results in a 99 percent compliance rate with final hearings and compliance with final orders of removal in 84 percent of cases. But despite their effectiveness and low cost, Congressional appropriations for alternatives to detention continue to be dwarfed by that for detention beds.

Some members of Congress, including Reps. David Price (D-N.C.) and Lucille Roybal-Allard (D-Calif.) have long opposed the “mandate” language and have worked to clarify it. And in June, Reps. Ted Deutch (D-Fla.) and Bill Foster (D-Ill.) introduced an amendment to strike the bed “mandate” from the DHS appropriations bill, and won 190 votes and vocal support from a number of members of Congress, helping to give the issue the profile it deserves. This fall, more than 60 members of Congress have signed a letter urging opposition of this costly and impractical quota.

Congress has the rare opportunity to reduce unnecessary expenditures and do right by the public interest as well. It should eliminate the bed “mandate” in immigration detention in future funding and appropriations measures, allow ICE flexibility in its budget to shift funds from detention to more cost-effective alternative measures, and direct ICE to limit detention to cases only where alternate monitoring measures won’t achieve the government’s objectives. Reforming the immigration detention system comes with countless complex challenges. Eliminating the bed “mandate” should not have to be one of them.

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Controversial quota drives immigration detention boom

By Nick Miroff - Oct. 13, 2013

KARNES CITY, Tex. — In the past five years, Homeland Security officials have jailed record numbers of immigrants, driven by a little-known congressional directive known on Capitol Hill as the “bed mandate.”

The policy requires U.S. Immigration and Customs Enforcement (ICE) to keep an average of 34,000 detainees per day in its custody, a quota that has steadily risen since it was established in 2006 by conservative lawmakers who insisted that the agency wasn’t doing enough to deport unlawful immigrants.

But as illegal crossings from Mexico have fallen to near their lowest levels since the early 1970s, ICE has been meeting Congress’s immigration detention goals by reaching deeper into the criminal justice system to vacuum up foreign-born, legal U.S. residents convicted of any crimes that could render them eligible for deportation.

The agency also has greatly expanded the number of undocumented immigrants it takes into custody after traffic stops by local police.

Department of Homeland Security (DHS) officials say that they are not needlessly jailing immigrants to meet a quota and that they find plenty of candidates for detention and deportation by targeting criminals who pose a threat to public safety and border security.

But critics of the mandate note that the majority of ICE detainees are not violent offenders. Immigration judges eventually allow many to remain in the United States, but the detainees may spend months in costly federal custody, even when far cheaper alternatives are available, such as ankle bracelets and other forms of electronic monitoring.

With federal spending on immigration detention and deportation reaching \$2.8 billion a year, more than doubling since 2006, the mandate has met growing skepticism from budget hawks in both parties, particularly after DHS officials told Congress during the “sequestration” debate in April that the agency could save money by lowering the bed mandate to 31,800 and relying on cheaper alternatives to jails. But House Republicans successfully pushed back, set the mandate at 34,000 detainees and ordered ICE officials to spend nearly \$400 million more than they requested.

ICE operations are largely unaffected by the government shutdown, since the agency’s workers are among the federal employees considered essential, DHS officials have said.

Some of the additional money provided by Congress will be spent filling beds at places such as the brightly painted Karnes County Civil Detention Center, which opened here last year amid bobbing oil derricks on the rolling plains south of San Antonio. It holds more than 600 detainees, but ICE prefers not to call them that.

They are “residents,” guarded by unarmed “resident advisers,” and they sleep in air-conditioned, unlocked “suites” with flat-screen TVs overlooking volleyball courts and soccer fields. The low-security facility, built and operated on the government’s behalf by a private contractor, the GEO Group, offers computer labs, libraries and microwaves for making popcorn.

“This place is great,” said one young man from Honduras, strumming a government-issued bass guitar in a recreation room, along with newfound band mates from El Salvador and Guatemala.

Most detainees here are Central American migrants picked up along the border. Having requested asylum, they await an ICE interview to determine if they have a legitimate fear of returning home.

In the meantime, they can earn \$3 a day working on cleaning crews or in the laundry room, and there are free English classes, “life skills” instruction and tutorials in Microsoft Word and Excel. They dine in a cafeteria cheerfully appointed with Southwestern art and Georgia O’Keefe prints.

The jail has become a showcase for improved detention conditions, especially as ICE relies less on the low-cost bed space offered by aging, rural county jails and signs contracts with for-profit private detention companies that include incentives such as guaranteed minimum-occupancy payments.

Congress's expanding detention goals have been a boon to the contractors, especially Florida-based GEO Group and Tennessee-based Corrections Corp. of America.

The two companies have won hundreds of millions of dollars' worth of ICE contracts in recent years while lobbying Congress on immigration enforcement issues.

Former ICE director Julie Myers Wood, who led the agency from 2006 to 2008 under President George W. Bush, said a congressional mandate for ICE to maintain a minimum number of detainees was a reasonable guideline at the outset of her tenure, when the Border Patrol was making more than a million arrests per year. But today, she said, "it doesn't make sense."

Defenders of the bed mandate say it remains a useful tool to compel ICE to devote the maximum amount of resources to catching and deporting illegal migrants and foreign-born legal residents who commit crimes, including dangerous gang members, rapists and other violent felons.

With an estimated 11 million undocumented immigrants living in the United States, they argue, there's still a vast pool of potential deportees for the agency to pursue, or as Rep. John Abney Culberson (R-Tex.) put it, "plenty of customers."

"We know ICE can fill more than 34,000 beds, so why would they use less?" said Culberson, a member of the House Homeland Security appropriations subcommittee, which ties ICE funding to its compliance with the mandate.

Four countries — Mexico, Guatemala, Honduras and El Salvador — accounted for 88 percent of all immigration detainees in 2011, the most recent year for which statistics were available.

Broad range of offenses

As illegal border crossings have declined, a growing portion of ICE detainees are legal U.S. residents who face deportation after completing a jail term or probation, targeted by ICE's Secure Communities program. Of the 33,391 immigrants held in federal custody on Sept. 7 — a single-day snapshot provided by ICE — 19,864 were convicted criminals, according to the agency.

Yet ICE's definition of criminals includes a broad range of offenders, and a 2009 internal review found that only 11 percent of detainees had been convicted of violent crimes.

Jose Luis Vargas, a legal U.S. resident since 1986, was arrested by San Antonio police three years ago after neighbors reported a marijuana plant growing in his garden, among his tomatoes and prickly pear cactus.

Vargas, 52, said he had planned to make a poultice with the plant to alleviate joint pain from diabetes, which has left him with impaired vision and an amputated finger.

After two years on probation for the marijuana charge, ICE officials took Vargas into custody and tried to deport him to Mexico. He spent nearly three months in ICE's South Texas Detention Facility until an immigration judge ordered his release.

"They didn't treat me badly, but when I'd have to ride to the hospital, I'd miss lunch, and being in handcuffs so much was bad for my circulation," Vargas said.

Immigrant rights advocates say detainees such as Vargas, who was two years shy of paying off the 30-year mortgage on his San Antonio home, should be allowed to remain under cheaper, less severe forms of ICE supervision, such as GPS-enabled electronic monitoring.

Those alternatives can cost less than \$10 a day, they say, while the cost of keeping someone in immigration jail exceeds \$150.

“The explicit purpose of ICE detaining people is to make sure they show up for their immigration hearings, so it would make sense to consider less costly, more humane alternatives that meet that same goal,” said Ruthie Epstein, legislative policy analyst for the American Civil Liberties Union.

Immigrant advocates and attorneys say the majority of detainees taken into ICE custody today have convictions for lesser offenses such as drug possession — or no criminal record at all.

Nearly 48 percent of the 350,000 immigrants over the past 16 months who triggered an “ICE detainer” — a request by the agency that local jails or police hold an individual until ICE can pick them up — had no criminal convictions, not even traffic violations, according to the TRAC Immigration Project.

Almost half of all potential deportees who appear in immigration court are allowed to remain in the United States, according to TRAC data.

But many end up spending months, even years, in ICE custody while they await a ruling.

Detention alternatives

ICE officials have testified to Congress that Alternatives to Detention programs — geared toward legal residents with family and community ties — have had compliance rates of 96 percent with court-ordered appearances. Yet the agency’s budget for alternatives is less than \$100 million, dwarfed by its detention budget. The comprehensive immigration bill approved by the Senate in June would expand use of these methods, but the legislation faces increasingly dim prospects in the House.

ICE officials also note that they have limited discretion over which detainees are eligible for alternative forms of supervision. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 greatly expanded the scope of crimes that could trigger deportation.

More than two-thirds of the immigrants in ICE custody on Sept. 7, for instance, were “mandatory cases,” including drug offenders, violent offenders and anyone involved in prostitution-related crimes, among other violations that trigger automatic detention. Pending immigration legislation would give greater discretion to federal judges to assign detention on a case-by-case basis.

“We’re not forcing poor little people to be in there to meet a quota,” said Rep. John Carter (R-Tex.), chairman of the House Homeland Security appropriations subcommittee.

“The law is the law, and none of these people are being held contrary to the law,” he said.

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The Madness of U.S. Immigration Policy, Continued

By the Editors – Sep. 26, 2013

Imagine if Congress mandated that an arbitrary number of jail cells be filled with prisoners -- regardless of the crime rate. Authorities would be required to incarcerate people, no matter the circumstances or the affront to human rights. That's basically the state of immigration detention in the U.S.

Thanks to a line in the appropriations [bill](#) that finances the Department of Homeland Security, 34,000 beds must be available in immigration detention facilities regardless of the flow of illegal immigrants into the U.S. or the rate, or nature, of crimes they commit. The Immigration and Customs Enforcement agency interprets the mandate as a requirement to keep "a yearly average daily population of approximately 34,000 individuals," former ICE Director [John Morton told](#) a congressional panel in March.

As the number of beds has increased -- from 19,702 in 2001 to 34,000 in 2012 -- the number of noncitizens detained has kept pace, at a cost of approximately \$120 a day for each prisoner. This is what happens when public policy is written in reverse, mandating outcomes without regard to inputs.

Some detained noncitizens are violent criminals who need to be locked up. Others are mothers or fathers who have committed traffic violations. Their forced separation from families and jobs undermines both social cohesion and the economy -- at taxpayer expense.

Undocumented immigrants tracked in alternative (nondetention) programs appeared for administrative hearings more than 90 percent of the time, [according](#) to Julie Myers Wood, a former assistant secretary of [Homeland Security](#) in the George W. Bush administration. They complied with final orders 84 percent of the time. Yet ICE detains more than 400,000 immigrants in more than 250 jails and other facilities at an annual cost of \$2 billion.

Why? Partly because punitive actions against undocumented immigrants are popular in some congressional districts and partly because a more rational approach would disrupt cherished revenue streams. Private-prison lobbies have pushed to keep lucrative detention centers open. And local officials have "treated the increase in bed mandates as a source of revenue for counties and a job creator for their region," according to a 2013 National Immigration Forum [report](#).

[Bloomberg News](#) has [reported](#) on ICE's efforts to increase efficiency by moving immigrants held in [Alabama](#) to a facility in [Georgia](#). Senator [Richard Shelby](#) of Alabama, the ranking Republican on the Senate Appropriations Committee, threatened to block ICE requests to the committee if Alabama's detention beds were not retained. Shelby's parochialism isn't an anomaly. In its 2014 budget, the White House requested \$120 million less for immigration detention beds than [House Republicans](#) want. An amendment sponsored by Democratic Representatives Ted Deutch and [Bill Foster](#) sought to strike the detention mandate from the Homeland Security appropriation bill altogether. Their [amendment](#) failed in June on a largely partisan vote.

Many alternatives to detention, such as ankle bracelets, curfews and home visits, cost no more than a few dollars a day. ICE has reported that, as of May 2011, 41 percent of its detainees were classified as Level 1 -- the lowest-risk group. Yet ICE lacks the discretion to shift its policy.

Americans can disagree about the nature of immigration and the best ways to reform the system (or not). But wasting money on an arbitrary prison mandate serves no one's interest. It's hard to see how the micromanagement by Congress, and the waste of taxpayer funds, will be reversed for 2014; the House appropriations process has been a shambles. Next spring, Deutch and Foster should reintroduce their amendment. And the House should show the good sense to put authority -- and discretion -- for detaining immigrants where it belongs.

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Congress Mandates Jail Beds for 34,000 Immigrants as Private Prisons Profit

By William Selway and Margaret Newkirk – Sep. 24, 2013

Noemi Romero, who came to the U.S. illegally at age 3, was arrested in January working at a Phoenix grocery store, where she used someone else's name to get the job.

Romero, a 21-year-old who likes to draw and dance, spent the next four months behind bars, almost half of it in a cramped cell at a 1,596-bed detention center in Eloy, Arizona, run by [Corrections Corp. of America](#). The company, with [Geo Group Inc. \(GEO\)](#) and other for-profit prison operators, holds almost two-thirds of all immigrants detained each day in federally funded prisons as they face deportation, U.S. data show. Under law, taxpayers must pay to keep 34,000 people like Romero in jail, at a cost of about \$120 each per day, even as the number of immigrants caught sneaking across the border has fallen by more than half since the past recession began.

Since 2009, when then-Senator [Robert Byrd](#), a West Virginia Democrat, inserted a change into the [Homeland Security](#) Department's annual spending bill, federal immigration officials have been placed in the unusual position of operating under a statutory quota on how many people to hold behind bars. Congressional Republicans have been defending it ever since.

"People are being kept in detention -- in many cases for weeks or months at a time -- without consideration for the individual circumstances," said Denise Gilman, co-director of the Immigration Clinic at the University of Texas law school in Austin. "This is being done at a tremendous financial cost to taxpayers and a tremendous human cost to families."

Detention Quota

Prisons are one of the few institutions that states and the federal government have moved to privatize, creating a booming business for [Corrections Corp. \(CXW\)](#) and Geo, the two publicly traded companies that dominate the market. Both actively lobby Congress. Serving as government jailer has been a hit on [Wall Street](#), as Corrections Corp. and Geo have each about doubled in value since mid-2010.

The results haven't always been good. Regulatory, court and state records show that privately run prisons have been troubled by staffing shortages, rapid employee turnover or cost-cutting that has led to dangerous conditions for inmates, and some academic studies have cast doubt on the industry's core claim of saving taxpayers' money. This year, Ohio auditors faulted Corrections Corp. after assaults almost tripled following its takeover of a state prison, and a riot at its Natchez, Mississippi, immigrant facility left a guard dead and 20 people injured last year.

No Impediment

Such incidents have proven no obstacle to growth for Corrections Corp. and Geo. This month, California Governor [Jerry Brown](#) moved to commit more than \$1.14 billion over the next three years to lease thousands of prison cells, while Geo said it won a federal contract, valued at \$8.5 million a year, to hold as many as 400 immigrants in Alexandria, Louisiana.

While states and the federal government move to curb the nation's prison population, immigration detention has been protected by Congress. The "bed mandate," as it's called on Capitol Hill, forces President [Barack Obama](#)'s administration to fill a minimum of 34,000 prison slots a day. Congress has pressed to ensure the beds are full, and lawmakers say it forces U.S. Immigration and Customs Enforcement to find and deport the millions who are in the country illegally.

Mandate Reminder

Texas Republican Michael McCaul, the Homeland Security Committee chairman in the [House of Representatives](#), told ICE officials in February that they were “in clear violation of statute” when the detainee population fell to 30,773 after 2,200 were released to save money.

While the number held varies daily, the average follows the level set by Congress. Through mid-April, around the midpoint of the federal budget year, ICE detainees averaged 33,811 a day, according to records obtained through a Freedom of Information Act request. Brian Hale, an ICE spokesman, declined to comment.

The Obama administration has questioned the need to hold so many. It has asked Congress to cut the bed quota so it can use less costly measures, such as ankle bracelets, to ensure that detainees show up in court. Lawmakers have rejected the move.

At an April hearing, then-Homeland Security Secretary [Janet Napolitano](#), whose department includes ICE, called the mandate “artificial” and said reducing the required number of detainees would let the agency free low-risk offenders who could be on supervised release.

Prioritize Detentions

“We ought to be detaining according to our priorities, according to public-safety threats, level of offense and the like,” she said, “not an arbitrary bed number.”

In June, Representative Ted Deutch, a Florida Democrat, proposed an amendment to remove the requirement from next year’s appropriations bill.

“No other [law-enforcement](#) agencies have a quota for the number of people that they must keep in jail,” he said. “Mandating ICE detain 34,000 individuals a day does not secure our borders or make us safer.”

The proposal lost 232 to 190, on a largely [party-line vote](#). Lawmakers and immigration advocates say the quota forces ICE to squander taxpayer money to needlessly hold people like Romero.

“It’s not just pressure,” said North Carolina Representative [David Price](#), the top Democrat on the House Homeland Security appropriations subcommittee. He was the panel’s chairman when Congress passed the mandate.

“It’s a requirement that they choose one course rather than the other, when the alternatives to detention would be less expensive and equally effective,” Price said. He said he tried, and failed, to stop the inclusion of the mandate language during negotiations between House and Senate lawmakers. In the end, he voted for the final bill in 2009.

Another Name

Romero’s arrest was for using another person’s name in order to obtain work. In an interview, she said she had planned to apply for [temporary legal status](#) that became available in 2012 for people like her, who had been brought illegally to the U.S. as children. She got a \$7.65-an-hour grocery cashier job in order to earn the \$465 application fee, using a legal resident’s name, she said.

She was arrested in a workplace raid and pleaded guilty to criminal impersonation. She ended up in a khaki uniform reserved for low-level felons held at Eloy, where she says she was offered a chance to work legally on the prison’s inmate staff for \$1 a day. She stayed in her cell drawing instead and lay awake and claustrophobic most nights in a space with two bunks and just a few feet of room to walk, she said.

Detention Cost

The U.S. immigration agency spends about \$2 billion annually on detention. While most are in for-profit prisons, ICE data show the rest are scattered among jails run by local governments paid to hold immigrants.

The greater use of detention is an outgrowth of get-tough immigration policies that started amid security concerns after the Sept. 11 terrorist attacks and expanded rapidly, as Presidents [George W. Bush](#) and Barack Obama pursued border crackdowns and increased arrests and deportations of people in the country illegally.

Since 2005, the number of beds to hold undocumented immigrants has surged 84 percent, according to the [Congressional Research Service](#). That has helped boost revenue for commercial prison operators and cash-strapped governments alike, as companies and lawmakers with jails in their districts have pushed for a greater share of a growing pie.

Revenue Driver

Federal contracts accounted for about 43 percent, or \$752 million, of Corrections Corp.'s 2012 revenue -- up from about 23 percent in 2000 -- including \$206 million from ICE in the most recent year. The flood of cash spurred construction, expansion and conversion of jail space to accommodate immigrants, by prison companies and government agencies, sometimes leading to clashes between states with rival facilities for detainees, such as a 2010-2011 spat between lawmakers from Alabama and Georgia.

Congress pressured both Bush and Obama to confine undocumented immigrants, saying it would prevent them from avoiding deportation proceedings.

The expansion of the detention system began in 2004, when the Intelligence Reform and Terrorism Prevention Act, a response to Sept. 11, directed Homeland Security to add 8,000 beds a year, provided Congress supplied the money. The job fell to the House and Senate appropriations panels. The budget writers committed funds for 33,400 beds by 2009 from 18,500 in 2005, [Congressional Research Service](#) data show.

Company Lobbying

Both Corrections Corp. and Geo rely on Washington lobbyists to advance their interests. Corrections Corp. has spent more than \$13 million on lobbyists since 2005, among them past appropriations-committee employees, according to Senate records. The company's representatives disclose lobbying on annual appropriations bills that set Homeland Security spending, including the one that created the bed mandate. Geo has spent more than \$2.8 million lobbying over that time.

"Private detention facilities are heavily invested in Congress appropriating money for this phenomena," said Muzaffar Chishti, the Migration Policy Institute director at [New York](#) University's law school. "There is a huge private interest involved in all this."

Geo has never taken a position on incarceration or immigrant detention policies, and its involvement in politics is limited to discussing the benefits of privatization with officials, said Pablo Paez, a company spokesman.

Narrow Focus

Corrections Corp. and its lobbyists don't advocate for laws or policies that determine whether someone is jailed or the prison terms they face, said Steve Owen, a spokesman. He said the company does lobby on government spending decisions that affect its contracts.

"We do lobby on appropriations to ensure our partners -- and therefore our contracts -- are fully funded," Owen said in a statement. "Lobbying for full funding of our government partners in the appropriations process is something our company has done for many years."

In 2009, the year Congress set the bed quota, as many as 25 lobbyists represented Corrections Corp. on budget and appropriations issues, according to filings with Congress. Since the 2008 elections, Corrections Corp., Geo and Management & Training Corp., the three biggest prison operators, have donated at least \$132,500 to the campaigns of members of Congressional subcommittees that appropriate money to ICE and determine how much is spent on

incarceration, according to the data from the Center for Responsive Politics, a Washington-based nonprofit group that tracks campaign spending.

Supporting Lawmakers

Most of the contributions were made by Corrections Corp. and nearly half, 43 percent, went to Republican Representatives Hal Rogers of Kentucky, the appropriations committee chairman; [John Carter](#) of Texas, head of the panel's homeland security subcommittee; Robert Aderholt of Alabama, Carter's predecessor in that post; and John Culberson of Texas, a member of the subcommittee, which oversees ICE's budget.

"In terms of CCA's political giving, we support individuals who are open to solutions that partnership corrections can provide to serious national challenges, such as recidivism, pension liabilities and prison overcrowding," Owen said.

Congress proved a receptive audience. Adding beds for illegal immigrants became political shorthand for taking a strong stance on protecting U.S. borders, said Price, the former subcommittee leader when Byrd added the bed quota.

Powerful Backer

Byrd, an outspoken supporter of detention for illegal immigrants who died in June 2010, was chairman of the homeland security sub-panel of the Appropriations Committee when the detainee quota passed. The senator wanted to ensure that cost increases wouldn't lead ICE to fund fewer beds, said a former aide who asked not to be identified because he wasn't authorized to discuss committee deliberations.

Republicans have backed the bed mandate since then, saying it compels the administration to enforce immigration laws. ICE holds undocumented immigrants rounded up by fugitive-operations teams, which target those with criminal records and those picked up by local law enforcement and border-patrol agents.

"This bill holds the administration's feet to the fire," Alabama's Aderholt said last year as the homeland security appropriations panel raised the bed quota to its current level.

Holding Line

"In response to the administration's repeated attempts to water down enforcement, this bill directs ICE to maintain 34,000 detention beds," Aderholt said.

Some lawmakers have a more parochial interest in supporting the mandate: money and jobs in their districts, both in private prisons and in those built by local governments to get a share of the immigrant-detention business. The economic-development stake in jailing immigrants was on display at a March hearing, at which lawmakers grilled [John Morton](#), the ICE director who later resigned, for releasing detainees because of budget constraints. During the hearing, Representative Tom Marino, a Pennsylvania Republican, complained to Morton about not getting enough inmates to fill detention beds in his district, including one where it costs \$82.50 a day for each detainee.

"Why not take advantage -- more advantage -- of facilities like this, and particularly in Pike County, who built a whole new facility just to house these individuals?" he asked Morton.

Local Jobs

Aderholt also got involved in a fight to keep immigrant detainees and ICE dollars in his state, along with Alabama Senator [Richard Shelby](#), the top Appropriations Committee Republican and a member of the sub-panel that handles ICE's budget. Both assisted an Alabama jail that held about 250 immigrants in Gadsden after ICE's Atlanta office announced that it was moving inmates to a new private facility in Georgia run by Detention Management LLC, based in Atlanta. Company disclosures to bondholders and ICE e-mails obtained through an open-records request indicate that Georgia's congressional delegation had lobbied ICE to use the Georgia jail, putting the agency in a bind.

“Where those bodies come from is anybody’s guess,” said one 2010 e-mail received by ICE’s Atlanta director, Felicia Skinner, adding that the agency would have to either detain more immigrants, or move them from the Alabama jail or a Corrections Corp. facility in Georgia. The sender’s name was blacked out.

When ICE announced that it would fill the new Georgia beds with immigrants held in Alabama, in a move the agency said would save transportation costs, Aderholt and Shelby both intervened, with Shelby’s appropriations-committee staff threatening to block some ICE requests if the agency didn’t resolve the matter to the senator’s satisfaction, according to the e-mails.

Satisfying Both

Both sides won in a 2012 decision. ICE kept 300 immigrant detention beds in the Alabama jail this year and 357 at the Georgia facility, which was forced into bankruptcy last year.

“Etowah County jail is a safe, secure facility to house detainees that operates with the high level of standards dictated by ICE, while providing a low cost-per-day rate,” Aderholt said in a statement. Shelby spokesman Jonathan Graffeo didn’t respond to requests for comment.

Republicans continued to defend the bed quota this year, rebuffing the Obama administration’s request to spend \$120 million less on incarceration capacity.

Representatives Carter and Culberson, the Texas Republicans, and Jennifer Hing, a spokeswoman for Rogers, the Appropriations Committee chairman, and said keeping the quota compels ICE to do its job.

Enforcement Mandate

It “is an instrument to require ICE to actually enforce the law,” Carter said in a statement. “The administration may want to reduce those levels by releasing dangerous illegal criminals into the streets of America, but I stand firm in my belief we must enforce the laws we have.”

Culberson said jail company representatives have voiced support for the quota, and he says ICE’s reliance on the providers helps save taxpayer money. He said his views weren’t influenced by the contractors, and that ICE could detain even more people than it already does, were enforcement stepped up.

“They clearly have far more demand than they have current beds,” he said.

A third to as many as half of the detainees on any given day are held at the discretion of ICE, which has focused on criminals, recent border crossers and those undocumented immigrants “who have seriously gamed the system,” Morton told Congress in March. Others with certain criminal records must be held by law.

Petty Theft

Lisa Fernandez’s husband, Orlando Fernandez Taveras, is one of the latter group. A legal resident who came to the U.S. as a baby in 1978, Taveras has been held since 2009, his wife said, because of two petty thefts.

“Why are we spending hundreds of thousands to keep him in jail, when he could be out working and supporting his family?” she said. “Why would you keep someone in jail if you didn’t have to?”

Last year, U.S. District Court Judge Terry Hatter forced immigration judges to grant bond hearings for California inmates detained for more than six months. After 400 such hearings beginning in November, about two-thirds were released on bail, according to an April court filing.

Obama has deported record numbers of immigrants. In e-mails between field-office workers and former ICE administrator David Venturella, and other documents obtained under an open-records request, employees were told to divert resources to increasing their arrests and deportations of those with criminal records because of concern in Washington that those numbers were too low.

Combing Records

Venturella, now a GEO executive, referred questions about the e-mails to the company's Paez, who declined to comment. The exchange of messages included suggestions from one field office, in Atlanta, for increasing the number of immigrant arrests and deportations. They included combing through old probation lists to find foreigners who had once committed a crime, searching driver license databases for aliens, setting higher bail, and participating in roadblocks set up by local police, according to the documents.

Such a roadblock caught Eduardo Zuniga in suburban Atlanta in 2011, his wife, Deborah, said. Police set it up where a road dead-ended at the drive of an apartment complex with a growing Latino population, she said, and Zuniga was arrested because he didn't have a license.

A decade-old drug conviction, for which he got probation, made him a criminal alien and landed him in Corrections Corp.'s 1,752-bed Lumpkin, Georgia, detention center for months, said his wife, a U.S. citizen. Then he was deported.

Care Giver

A construction worker and church volunteer, Zuniga had put her through a two-year business school and helped her care for her four children, two of them disabled, his wife said.

"He would do anything for us, if it's go out and pick up garbage, to make sure my kids ate," she said.

This year, the Senate moved to recast the nation's immigration laws, an effort that has drawn resistance from some Republicans because it would provide a path to permanent residence to those who came to the U.S. illegally. Under the Senate bill, one provision would give ICE and judges greater discretion to release detainees that aren't a risk to the community. Another part, tied to increased border enforcement, calls for spending \$1.6 billion over 10 years to prosecute immigrants who enter the U.S. illegally, according to Congressional Budget Office [estimates](#).

Monitoring Revenue

Much of that would likely go to Corrections Corp. and Geo, which also contract with the [Federal Bureau](#) of Prisons to hold inmates, said Kevin Campbell, an industry analyst with Avondale Partners LLC in Nashville.

"It looks like there would be more enforcement and that would drive demand for more beds," Campbell said. "That's one of the long-term positives for the industry."

Since Congress returned from its August recess, immigration issues have been pushed aside by questions over the use of force in Syria and a potential government shutdown next month if steps to fund operations aren't taken.

For Romero, the former Phoenix cashier arrested at her job, any changes will come too late. After a petition campaign by an activist group, Puente Arizona, Romero was released. Now she lives with her parents and takes community college courses. Temporary legal status has been pushed out of her reach: Her arrest made her a criminal alien and ineligible for the program for those who entered the country illegally as children.

"I really have no option," Romero said.

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DHS Requirement Keeping 34,000 Immigrants Locked Up Daily To Continue

By Mike Bruschini - Jul. 9, 2013

A budget requirement for the federal government to hold 34,000 people for possible deportation in prison has received little attention as the House of Representatives considers the Senate's Gang of Eight immigration reform bill.

The policy, driven by law-and-order advocates in both parties who say the government could do more to crack down on illegal immigration, helps explain why detention costs for undocumented immigrants have more than doubled since 2006, to \$2.8 billion annually. The rise has occurred even as the number of those caught along U.S. borders has fallen by two-thirds, according to government statistics.

Immigrant-rights advocates say the detention requirement forces the government to needlessly lock up thousands of people who could be supervised in less-confining ways for much less money, subjecting them to sometimes-harsh treatment in prison-like facilities as they await deportation hearings.

The requirement was implemented in 2007 by Congress as part of the Department of Homeland Security's 2007 appropriation, and will continue if the House-passed DHS budget becomes law. An amendment to end the provision received support from House Democrats, though Reps. Justin Amash, Thomas Massie, and Mark Sanford were three of only eight Republican votes in support of the amendment, which failed 232-190 in June.

"The amendment [would have removed] the requirement in the underlying bill that ICE maintain at least 34,000 detention beds," Rep. Amash (R-Mich.) explained on his Facebook page, "which ICE has interpreted to mandate an average daily population for 34,000 individuals. ICE shouldn't be held to some arbitrary figure for detentions."

But it's not just bureaucrats and restrictionists behind the program, according to Reuters.

The detention quota also delivers millions of dollars annually to private prison companies such as Corrections Corporation of America and GEO Group, which together handle about half of all immigration detainees.

CCA and GEO Group are key players in Washington, spending millions of dollars in the past decade to lobby Congress and contributing to the campaigns of lawmakers who support tough immigration policies.

It's unlikely the detention quota will end without contention from bureaucrats in the DHS and cronies of the prison industry, but as Shikha Dalmia writes in an article published earlier today on immigration, Republicans in Congress would be better served advocating limited government, not militarized borders or a set requirement for how many people land in jail for being in this country unlawfully as a result of the country's flawed immigration policy.

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Insight: Congress keeps detention quota despite immigration debate

By Andy Sullivan – Jul. 8, 2013

WASHINGTON (Reuters) - As Congress weighs sweeping changes to the U.S. immigration system, one thing is unlikely to change: a requirement that the government lock up more undocumented immigrants than it says is necessary.

Despite tight budgets and declining illegal immigration, Congress requires the Department of Homeland Security to hold about 34,000 people a day in centers for detainees facing possible deportation. That's at least 2,000 more than the Obama administration says is necessary, representing an added cost of about \$132 million a year, critics say.

The daily quota, which began in 2007, appears to be unique in the world of law enforcement, where patrol officers and prison and jail managers typically are not told how many people they need to keep behind bars.

The policy, driven by law-and-order advocates in both parties who say the government could do more to crack down on illegal immigration, helps explain why detention costs for undocumented immigrants have more than doubled since 2006, to \$2.8 billion annually. The rise has occurred even as the number of those caught along U.S. borders has fallen by two-thirds, according to government statistics.

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The detention quota also delivers millions of dollars annually to private prison companies such as Corrections Corporation of America and GEO Group, which together handle about half of all immigration detainees. CCA and GEO Group are key players in Washington, spending millions of dollars in the past decade to lobby Congress and contributing to the campaigns of lawmakers who support tough immigration policies.

The companies say they do not advocate specific policies that would increase the number of people behind bars, but this claim draws skepticism from immigrant-rights groups and other critics.

The Department of Homeland Security estimates it actually needs only about 31,800 detention beds on a typical day to manage the asylum seekers, hardened criminals and terror suspects who await deportation in a network of 247 local jails, federal detention centers and private facilities across the nation.

"It doesn't make sense to have a numerical requirement," said Julie Myers Wood, who headed Homeland Security's Immigration and Customs Enforcement division under Republican President George W. Bush and believes the DHS should be given more flexibility in handling undocumented immigrants. "The goal is not to see how many people are detained."

'YOU FOLLOW THE LAW'

Despite such criticism, the House passed a spending bill last month that would keep the 34,000-bed quota in place. The bill provides more money for lower-security monitoring programs, but would prevent immigration officials from moving detainees into those programs without congressional approval. The Senate has backed similar legislation in the past.

Republicans, who are the most vocal backers of the quota, say there should not be a problem filling the 34,000 beds given that more than 11 million people are in the United States illegally.

"Enforcement is enforcement, and if the law says, 'This is what happens,' you follow the law," said John Carter of Texas, the Republican chairman of the House subcommittee that funds the Department of Homeland Security.

Some Democrats on Carter's subcommittee say the quota makes no sense at a time when Congress is slashing spending on everything from defense to aid for low-income families.

"My impression is it becomes a kind of proxy to show how tough one is on immigration," said North Carolina Representative David Price, the committee's top Democrat, who backed an unsuccessful effort to kill the quota last month.

Opponents of the quota also argue that many people now being locked up could be supervised through less expensive means such as electronic ankle bracelets. Such methods typically cost 30 cents to \$14 per day, compared with the \$164 per day it costs to detain an immigrant, according to immigrant-rights groups.

The detention policy has drawn little attention even as talks on overhauling immigration laws have heated up in Washington. A bill that passed the Democrat-led Senate in June would exempt many of those who are now in the country illegally from deportation, but it also calls for expanded enforcement along the U.S.-Mexico border, a measure that could lead to thousands more apprehensions and deportations. The plan is likely to face a tougher road in the House, where the Republican leadership has emphasized increased border security and expressed much less enthusiasm about potential citizenship opportunities for undocumented immigrants.

THE PUSH FOR A QUOTA

The requirement that Homeland Security aim to detain a certain number of undocumented workers each day was established in 2007 at the urging of a Democrat - Senator Robert Byrd of West Virginia, who died in 2010. At the time, Byrd and other lawmakers were concerned that Bush's administration was not allocating enough resources to handle an influx of detainees as it stepped up enforcement of immigration laws.

The flow of illegal immigrants across U.S. borders has dropped steadily since 2000, as a shaky U.S. economy has provided fewer opportunities for undocumented workers and economic conditions in Mexico have improved. Increased border security on the U.S. side also appears to have discouraged some people from attempting to enter the United States illegally. U.S. Customs and Border Patrol caught 365,000 people at the Mexican border in the last fiscal year, down from 1.7 million in 2000.

As the government has continued to step up immigration enforcement, the number of deportations has risen steadily. Last year, 410,000 undocumented immigrants were deported, more than double the number from a decade earlier. The Obama administration has focused on deporting those who have committed crimes in the United States; 55 percent of those deported during the last fiscal year had a criminal record.

But many Republicans in Congress push the daily detention quota because they view Obama as soft on illegal immigration. That stems largely from the White House's decision to avoid deporting younger immigrants who were brought to the United States illegally by their parents, and its push to give millions of those immigrants a pathway to U.S. citizenship.

(Editing by David Lindsey and David Brunnstrom)

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Detention centers releases may have silver lining

By Ruthie Epstein - Feb. 28, 2013

Earlier this week, the U.S. Immigration and Customs Enforcement (ICE) reportedly put on supervised release several hundred immigrants who had been jailed across the country awaiting removal hearings. The decision reportedly came in anticipation of Friday's seemingly inevitable sequestration, which will lead to belt-tightening across the federal government. Some of the response from Congress has been reactionary.

Rep. Lamar Smith (R-Texas) said, "Spending cuts are no excuse for releasing thousands of criminals and illegal immigrants into our communities. The administration is either incompetent and unable to prioritize spending, or reckless. Neither is acceptable."

Smith's scare-mongering is irresponsible.

The truth is that current immigration detention practices are deeply flawed and inefficient. To put it in the language of policy priorities, it wastes money while costing the U.S. its values. For the immigration detention system, the sequester may actually help impose some of the rationality the system desperately needs, including the supervised release of individuals who had no business in detention in the first place.

For starters, there is no evidence that supervised release programs pose a threat to the public. Alternatives to detention have long been used in the criminal justice system for individuals who have been charged with a crime but not convicted or sentenced. Alternatives have also been a standard component of the federal immigration enforcement system for years. The company that provides alternatives to ICE has reported that 96 percent of individuals enrolled in their programs showed up for their final hearing in 2011.

Furthermore, the vast majority of detained immigrants have no criminal history or are low risk. In fact, Dora Schriro, who has run two state prison systems and currently serves as commissioner of correction in New York City, wrote IN a 2009 report that immigration detention standards "impose more restrictions and carry more costs than are necessary to effectively manage the majority of the detained population."

While the use of alternatives to detention will not make us less safe, they will save taxpayers millions of dollars. That's a fact worth noting. ICE spends \$2 billion annually to detain over 400,000 immigrants in jails and jail-like facilities. These immigrants include asylum seekers fleeing persecution, legal immigrants who overstayed their visas, recent border crossers, and lawful permanent residents who were charged with or convicted of crimes that may make them removable; if convicted and sentenced, they've already done their time.

Alternatives are dramatically less expensive than immigration detention – 30 cents to \$14 per person per day compared to \$164 per person per day for detention. The director of the Santa Clara Office of Pretrial Services in California noted at a Human Rights First event last fall that independent auditors found the pretrial services program saved \$26 million for Santa Clara County over the course of just six months in 2011. The director of the New Orleans' new pretrial services program reported at another Human Rights First event that Orleans Parish could potentially save \$1.4 million per year with the program. The Council on Foreign Relations, the Heritage Foundation, and the Texas Public Policy Foundation, home to the criminal justice reform coalition Right on Crime, Human Rights First, and others have all advocated for expanded use of alternatives, citing cost savings.

Rather than using the releases as a scare tactic, those in Washington on both sides of the aisle should recognize that this particular move is a step towards imposing some rationality on a system that has exploded in recent years due to fear, not facts. It begins to bring practice into alignment with our nation's goals and values - perhaps one of the few silver linings that MAY emerge from the sequester.

In a 1987 Supreme Court opinion, then-Chief Justice William Rehnquist said, "In our society, liberty is the norm and

detention prior to trial is the carefully limited exception.” The government should not spend money to detain immigrants unnecessarily when less costly and effective alternatives exist. Congress should recognize responsible stewardship of taxpayer dollars when it sees it. During budget negotiations, it should eliminate the quota that undermines ICE’s ability to replace detention with alternatives and it should direct the agency to detain only when necessary. To do otherwise is to perpetuate a tremendous waste of taxpayer money and government resources.

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