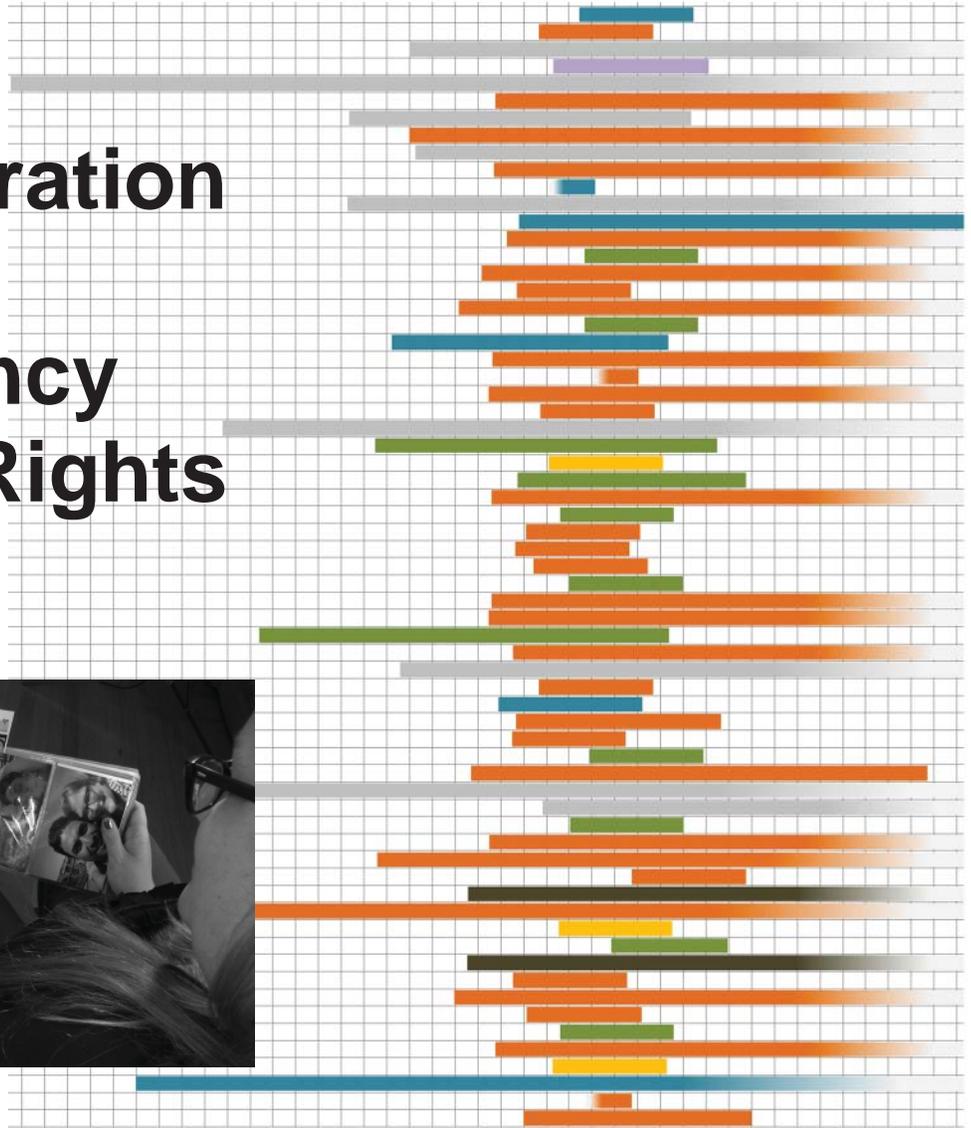


The Immigration Detention Transparency & Human Rights Project



**Freedom of Information Act Litigation
Reveals Systemic Lack of Accountability
in Immigration Detention Contracting**

August 2015 Report

**NATIONAL
IMMIGRANT
JUSTICE CENTER**
A HEARTLAND ALLIANCE PROGRAM

immigrantjustice.org

Executive Summary

The National Immigrant Justice Center's (NIJC's) three-year Freedom of Information Act (FOIA) litigation has resulted in the most comprehensive public release to date of Department of Homeland Security (DHS) immigration detention center contracts and inspections. The thousands of pages of documents provide an unprecedented look into a failed system that lacks accountability, shields DHS from public scrutiny, and allows local governments and private prison companies to brazenly maximize profits at the expense of basic human rights.

NIJC's pursuit of transparency and accountability began in April 2011 with a FOIA request¹ seeking all U.S. Immigration and Customs Enforcement (ICE) detention facility contracts, as well as inspection reports dating back to 2007. Notwithstanding President Obama's 2009 directive to increase government transparency, it took four years, one federal lawsuit, two depositions of ICE officers deemed experts in immigration detention contracting and inspections, and a federal court order² to obtain documents for more than 100 of the country's largest detention facilities. The average daily population for these facilities represents approximately 92 percent of the 33,400 detention beds ICE maintained on an average day in 2012³ (the most recent year for which NIJC obtained documents). (See Fig. 1)

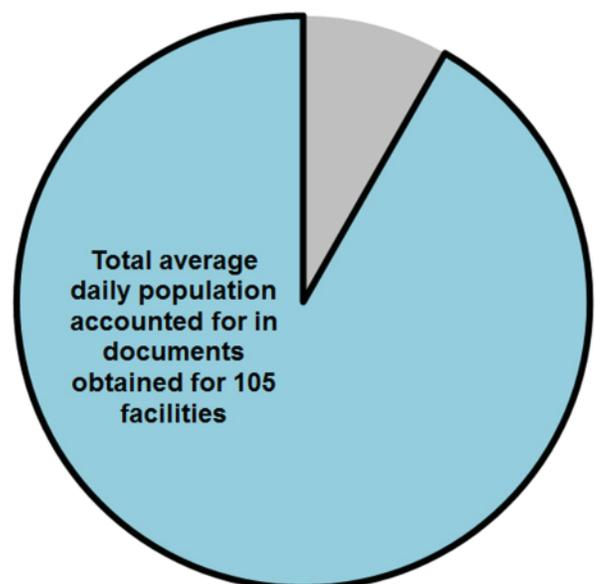
Links to the ICE contracts are at immigrantjustice.org/TransparencyandHumanRights

For this first of a series of reports, NIJC has reviewed and posted 90 contracts, four partial contracts, and the deposition testimony of a former ICE contracting officer who describes the agency's contracting processes.⁴ We owe significant gratitude to a team of *pro bono* attorneys from the global law firm Dentons US LLP, who represented NIJC in the litigation and depositions. Several of NIJC's findings reflect those in an October 2014 Government Accountability Office (GAO) report, which highlighted the lack of uniformity in how ICE tracks expenditures within and across facilities and criticized ICE's lack of explanation for why it has allowed many facilities to lag in implementing the most current ICE detention standards.⁵ NIJC will release a second report analyzing hundreds of ICE inspection reports later this year.

NIJC's review of the contracts reveals:

- The immigration detention contracting process is convoluted and obscure, suffering from a significant lack of uniformity in how contracts are created, executed, and maintained.
- There is a lack of consistency and clarity as to which detention standards govern which facilities.
- Forty-five facilities operate with indefinite contracts, mostly under outdated standards.
- Tracking the taxpayer dollars ICE pays to local and private contractors to detain immigrants is daunting, and for some facilities, nearly impossible.
- The practice of contracting and subcontracting with private entities shields many ICE detention facilities from public (taxpayer) scrutiny.

**NIJC's data covers 92%
of the 33,400 beds ICE filled in 2012**



- At least 12 contracts will expire in the next three years, providing an opportunity for advocates to raise questions about the efficacy of keeping these facilities open and ensure any modifications or extensions contain robust standards.

To address these issues, NIJC calls on ICE to:

- Provide public access to information regarding the detention center contracting process.
- Require that all facilities adhere to the 2011 Performance-Based National Detention Standards (2011 PBNDS), the most-current and robust set of ICE detention standards, without further delay.
- End the practice of entering into indefinite contracts and revisit any existing contracts which do not contain explicit renegotiation dates.
- Refrain from entering into contracts agreeing to minimum bed guarantees.
- Throughout the contracts negotiation process for individual detention facilities, engage with legal service providers, faith groups, and other local and national non-governmental organizations that visit facilities, to address human rights and due process issues they observe.

NIJC calls on Congress to increase government transparency and improve oversight of ICE by passing the following two pieces of legislation:

1. Accountability in Immigration Detention Act, sponsored by Rep. Adam Smith (D-WA)
2. Protecting Taxpayers and Communities from Local Detention Quotas Act, sponsored by Reps. Ted Deutch (D-FL), Bill Foster (D-IL), and Smith.

The full text of this report, accompanying charts, and links to the ICE detention center contracts are available at immigrantjustice.org/publications/TransparencyandHumanRightsAugust2015.