

Detention Archipelago: Jailing Immigrants for Profit



This former jail in Taylor, Texas, now houses about 400 immigrant detainees from more than two dozen countries.

by Forrest Wilder

THE CHILD'S DRAWING SAYS IT BEST. Beneath a crayon sketch of a little girl standing next to a prison is the simple inscription: *feo*, meaning ugly, nasty, awful. That's how Nixcari, a nine-year-old Honduran girl, described her new home in the United States, the T. Don Hutto Residential Center, a 512-bed, privately run facility that opened last year in Taylor, Texas, about 20 miles northeast of Austin. She made the drawing while she was a prisoner there, along with her pregnant mother and her four-year-old sister, from December 2006 until last February, when they were suddenly released.

The mother, Denia, 27, says she fled Honduras with her children because her partner was abusing her.¹ Seeking asylum for herself and her kids, she crossed into Texas from Mexico on foot, where she met a man who offered to help. He took Denia and her daughters to his house, but his wife suggested Denia turn herself in.

Thinking the authorities would take pity on a five-months-pregnant woman with two children, she went to the nearest Border Patrol station. They were immediately detained. An immigration judge set her bond at \$18,000, plus \$3,000 for each child; unable to raise the money, the family was sent to Hutto, where they joined about 400 other prisoners from more than two dozen countries.

Now living in Houston with her mother, Denia describes her experience at Hutto as miserable. "They treat you badly, as if you aren't worth anything," she tells NACLA. With 20 minutes allowed for each meal, she says she had only enough time to try to coax her girls into eating. When she smuggled fruit out of the cafeteria, guards would seize it. At one point, a doctor at Hutto told her that her baby wasn't developing properly because of her improper and insufficient diet, but she says officials refused to adjust

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her meals. Denia later joined 25 other detainees in a brief hunger strike to protest the food; despite official promises, nothing changed.

She also says the guards threatened to separate her from her children if she didn't obey orders, traumatizing her daughters. "[The children] haven't forgotten what happened there," she says. "They're scared they'll have to go back. They start crying. They're scared even when they see police in the street."

Denia's account is typical of detainees at Hutto, which is owned and run by the Corrections Corporation of America (CCA), a publicly traded company that receives at least \$2.8 million each month from the Immigration and Customs Enforcement (ICE) for operating the facility. In sworn affidavits obtained by NACLA, current and past detainees report insufficient medical care, rampant depression, guards routinely threatening deportation, widespread weight loss due to unpalatable and rushed meals, and poor care for pregnant women.

One 12-year-old Salvadoran girl testified, "There were days when I would get really depressed. I would cry and tell my mom that all I wanted to do was to go home to my country, my El Salvador. I was tired of being locked up, mistreated, and not allowed to do anything." In another affidavit, dated October 23, a pregnant Nicaraguan woman attests that she went for months without a prenatal exam and that, after being diagnosed with a kidney infection, was told to drink water instead of being prescribed medicine. Margaret Thompson, an obstetrician, asserts in a related affidavit that this woman's care was "grossly inadequate and jeopardized the health of her and her unborn child."

A December 2006 Homeland Security inspector general's audit of five detention facilities, not including Hutto, found evidence of similar conditions. Many detainees, the audit says, were sickened by unsafe food and received inadequate medical care.² Similar findings are included in a scathing report on family detention issued in February by two refugee rights group.³ The report's authors, who interviewed detainees in December, concluded that ICE had developed "a penal detention model that is funda-

mentally anti-family and un-American," and called for Hutto to be shuttered.

With pressure mounting, ICE allowed reporters to tour the detention center, a former medium-security jail, in February. Gary Mead, assistant director of ICE's Office of Detention and Removal, led the hourlong tour. Tagging along were CCA's head of corporate communications, the director of the San Antonio ICE field office, and three ICE public affairs officers.

Mead and the government minders whisked reporters to six of the facility's sites, where government or CCA employees discussed their areas of expertise. Reporters were warned not to talk to the "noncriminal deportable alien families with children," as ICE labels its Hutto inmates, so as to respect their "privacy rights."

We were shown parents and their kids eating Jell-O and pizza in the cafeteria; an English-language class of about 20 children learning computer skills; and families watching television and hanging out in a small lounge (common to each of the facility's 11 dormitory "pods") overseen by a surveillance camera. Their uniforms, worn by both adults and children, aren't exactly prison jumpsuits, but green or blue scrubs, like those at hospitals. The detainees' eight-by-12-foot cells, which they clean themselves daily, consist of a metal bunk bed, sink, and toilet, behind a thick metal door. CCA officials say the doors are never locked, but a laser sensor alerts personnel to opening doors at night. Children must be in bed by 9 p.m., adults by 10.

Mead and other officials insisted that families are never threatened with separation and that their detainees are well behaved. "We don't really have discipline problems here," he said. "If someone became that disruptive, they would be taken to a traditional facility." But a provision in the contract between ICE and Williamson County for managing the facility stipulates that jail authorities "may separate unruly residents" while awaiting removal by ICE.

Bleak as the detention center looks, the tour guides put a humane face on it. Danny Coronado, a CCA employee, noted that new detainees aged five and under get a teddy bear, "just to ease them." As we were shown the facility's playground (detainees are allowed outside one hour each day), Mead said the razor wire surrounding three sides of the facility would soon come down. And daily classroom instruction, we were told, had recently been increased from one hour to four and would soon reach seven, complying with Texas education standards. Jean Bellinger, who heads education at Hutto, extolled the "fun" involved in "sharing cultures in this environment."

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DETAINING FAMILIES IS THE LOGICAL, IF EXTREME, result of U.S. immigration policy. While attention has been directed toward hard-line enforcement strategies—the deployment of National Guard troops to the southwestern border, ICE’s sensationalistic raids on undocumented workers, and the vigilantism of groups like the Minutemen—a vast network of immigrant jails has emerged to facilitate this crackdown. Hutto is but the latest example.

The number of beds reserved by ICE for noncitizens has exploded, from fewer than 7,500 in 1994 to 26,500 today. Sometime this year the number is expected to reach 32,000. The private prison industry has absorbed almost all of the growth in new detention beds, as the federal government has moved away from managing its own facilities. Just in the past year, GEO Group opened a 1,900-bed ICE facility in Pearsall, Texas; CCA unveiled the 1,524-bed Stewart Detention Center in Lumpkin, Georgia; and Management and Training Corporation built a 2,000-bed tent city in Raymondville, Texas. In January 2006, Homeland Security awarded KBR, a Halliburton subsidiary, a contract worth up to \$385 million to build temporary immigrant detention facilities in case of an “emergency influx of immigrants,” according to a KBR press release.

Private prison companies control about 20% of federal prison and detention beds, up from 3% in 2001, according to George Zoley, CEO of GEO Group. “That’s a remarkable turnaround,” he told analysts in a 2006 conference call. Zoley attributed the boom to the federal government’s appetite for locking up immigrants.

And because the average stay in ICE detention is short (about 40 days and falling), the number of people moving through the detention system is vast—230,000 each year and growing. This does not include the increasing number of noncitizens charged with federal immigration crimes who cram the dockets of border courthouses, a population that is helping to fuel the parallel explosion in U.S. Marshals Service jails. (The Marshals Service holds accused criminals awaiting adjudication.)

Detainees include border crossers, workers swept up in raids, residents whose legal status is in jeopardy, asylum seekers, and “criminal aliens” plucked from jail or prison. They are of all ages, nationalities, and backgrounds. Between fiscal years 1994 and 2004, Mexicans accounted for about one quarter of detention bed days, followed by Cubans, Salvadorans, Guatemalans, Hondurans, Chinese, Jamaicans, Haitians, and Dominicans, according to the Congressional Research

Service.⁴ (The CRS’s report contained no information on how the detainee population breaks down by gender.)

Nearly all the ICE facilities are located in the South and Southwest or near major ports, such as Miami and New York. The private sector operates most of the recently opened facilities for profit, with CCA and GEO Group dominating the market. The federal government now



Nixcari, 9, a former detainee, shows her drawing of the Hutto detention center.

spends about \$1 billion annually on immigrant detention; the average rate for an immigrant body is \$95 per day.

CCA, the industry leader, has posted six consecutive quarters of double-digit earnings increases. For an industry that struggled through the late 1990s under mountains of debt and an onslaught of high-profile scandals, the Bush administration’s crackdown on undocumented immigrants has been a propitious, and profitable, development.

PRIVATE PRISON DEVELOPERS OFTEN BUILD THEIR facilities on an “if we build it, they will come” basis. These speculative jails are designed to maximize market share, luring both ICE detainees and criminal populations, especially from the U.S. Marshals Service. For

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example, when CCA lost a contract for Bureau of Prisons inmates at its detention center in Eloy, Arizona, it landed 1,500 immigrant detainees from ICE a few months later. At the nearby Central Arizona Detention Center in Florence, CCA has a veritable cornucopia of inmates from the Marshals Service, ICE, the U.S. Air Force, and the Pascua Yaqui Tribe.

The detention archipelago has risen largely in poor, remote areas, effectively keeping immigration attorneys, family members, advocates, and the media out of reach. An



Undocumented immigrant families inside the Hutto detention center.

added advantage for prison developers is that desperate communities can be talked into hosting and underwriting prisons.

Take the facility in Raymondville, an impoverished town in south Texas nicknamed Prisonville for its three other jails. The town's \$60.7 million privately run detention center was financed using taxpayer-subsidized bonds issued by the county. The district attorney for the county alleges that the facility's builder, Houston-based Hale-Mills, overcharged by \$15 million. The bonds, held by private investors, must be paid back within two years, an extraordinarily short period of time, from a revenue stream dependent on filling the jail to the rafters with detainees. In the event of a default, the county, one of the poorest in the nation, will be left with the debt, while the facility's operator, Management and Training Corporation, is guaranteed at least \$28.75 per detainee each day from ICE. Thus the private prison industry privatizes profit while socializing the risk.

ICE boasts that at \$79 a head each day (up to \$4.7 million each month), Raymondville's jail is a bargain. Immigration rights advocates, on the other hand, are calling the place Ritmo, after Gitmo, the nickname for the naval base at Guantánamo Bay. The reported conditions at Raymondville resemble those reported at detention centers for prisoners of the war on terror: Lights are kept on 24 hours a day; there are no windows; the toilets and showers are open; group punishment is used for minor infractions; and detainees are allowed outside one hour each day and, until recently, were forced to eat with their hands. They have alleged racism, inadequate medical attention, spoiled food, and nonfunctioning phones.

Those detained in the immigration crackdown thus face the same legal limbo as do their counterparts from the war on terror. In a legal sense, "detention" is not a punitive measure; it is not, strictly speaking, "incarceration." But for detainees, this is a distinction without a difference. They are not being charged with a crime yet are still effectively serving time. "My clients repeatedly express that—'Why am I being treated like a criminal?'"

says Jodi Goodwin, an immigration attorney. Depending on their circumstances, detainees may have little access to immigration court. If they do, they must represent themselves before a hostile judge from the Justice Department, because they have no right to a government-paid attorney.

The line between "corrections" and "detention" is further blurred by the nature of the facilities. At least 80% of ICE beds for immigrants are located in local and state jails, many privately operated, as well as in for-profit detention centers.

"Whenever we talk about immigrant detention, we hear that it's civil detention, not criminal detention. But they're housed in places that look and smell like a jail," says Paromita Shah, associate director of the National Immigration Project of the National Lawyer's Guild. "People are suffering violations that almost amount to constitutional violations of their rights. And when that happens, detention becomes punitive."

THE RISE OF THE IMMIGRANT DETENTION COMPLEX can be traced to the 1990s, when a number of factors converged to increase the demand for space to hold noncitizens. First, the Border Patrol adopted a strategy of amassing its agents and other enforcement assets near major border cities such as San Diego and El Paso. A surge in the number of apprehensions resulted. Once in the custody of immigration authorities, these border crossers had to be disposed of. While Mexicans could be quickly returned across the border, other nationalities (“other than Mexicans,” or OTMs) had to be either let go with an order to appear in immigration court or held until they could be deported. With detention space lacking, most were let go. Anti-immigrant advocates derided this as a policy of “catch and release,” as it is popularly known today.

Second, sweeping immigration reform laws passed in 1996 by Congress and signed by President Clinton allowed the deportation of noncitizens convicted of such crimes as drunk driving, writing hot checks, shoplifting, and reentering the United States after being deported. The legislation required that any illegal immigrant deemed a “criminal alien”—that is, a noncitizen convicted or even suspected of breaking the law—be detained. The laws also authorized “expedited removal,” which speeds up the deportation process by curtailing access to immigration courts for those nabbed along the border or at ports.

Third, anti-immigrant sentiment consolidated around draconian political initiatives like California’s Proposition 187, which denied public benefits to undocumented workers and authorized the enforcement of immigration laws by local police. Though it was eventually overturned, Prop. 187’s approval by voters signaled to politicians that a hard line on “illegal aliens” could reap benefits.

Finally, the Bush administration reacted to the terrorist attacks of September 11, 2001, by escalating the immigrant crackdown. Suddenly the land borders of the United States, primarily the one shared with Mexico, became renewed sites of crisis. In 2003, regulating immigration became the responsibility of the Department of Homeland Security, whose security apparatus bolted into action. Authorities began rounding up immigrants on minor violations, and federal prosecutors began aggressively prosecuting immigration crimes. Immigration surpassed drugs as the No. 1 federally prosecuted crime in 2004.⁵

In October 2005, President Bush, while signing off on \$7.5 billion for immigration enforcement, including \$90 million for 2,000 new detention beds, summed up

the situation: “Today we capture many more illegal immigrants than we can send home, especially non-Mexicans. And one of the biggest reasons for that is, we don’t have enough bed space in our detention facilities. When there’s no bed space available, non-Mexicans who are caught entering our country illegally are given a slip that tells them to come back for a court appearance. And guess what—they don’t come back.” Later in his speech Bush laid down the law. “[O]ur goal is clear: to return every single illegal entrant, with no exceptions.”

This ambitious goal is laid out in the ominously titled “Endgame,” the 10-year plan for ICE’s Office of Detention and Removal (DRO), created in 2002 as part of Homeland Security.⁶ DRO will “remove all removable aliens” from the United States by 2012, according to the plan, including the 500,000-plus people who have ignored deportation orders, as well as the 300,000 “criminal aliens” serving sentences in jail or prison at any given time. It would also seem to include the

majority of the tens of thousands of non-Mexicans who illegally enter the United States every year. “Catch and release” becomes “catch and remove.”

To this end, “zero tolerance” programs have been implemented in certain border sectors to register and punish every wayward border-hopper. Funding for border security has more than doubled, from \$4.6 billion in 2001 to \$10.4 billion in 2007. During the same period the Border Patrol ranks swelled by 63% to about 15,000 agents. ICE has received millions in fresh appropriations to chase “absconders” living in the interior United States. And funds have been loosed to identify “criminal aliens” in jails or prisons who could be deported at the end of their sentences.

Despite the growth in the prison industry, it hasn’t kept pace with the demand generated by growing enforcement. An April 2006 inspector general’s report found that of 774,112 “illegal aliens” apprehended over the previous three years, 36% were let go due to a lack of detention space.⁷ The Bush administration has nonetheless made considerable progress. In less than a year and a half, about 8,500 new beds have been secured. Last August, Homeland Security chief Michael Chertoff

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announced that thanks to all the new detention capacity added over the previous year, the policy of catch-and-release had been effectively ended, replaced by “100% catch-and-remove for everybody caught at the border.”

The liberal use of “expedited removal” has greatly facilitated this accomplishment. Authorized in 1996, expedited removal wasn’t applied to the entire length of the two U.S. land borders until 2006. Under this program, certain OTMs are subject to mandatory detention, stripped of court relief, and flown back to their country of origin as quickly as possible. “It’s a very summary procedure, lacking in the fundamental due process rights,”

says Meredith Linsky, director of South Texas Pro Bono Asylum Representation.

Expedited removal, as implemented, has its limitations. Asylum seekers and other protected individuals are excluded, together with anyone who has been in the country longer than 14 days or has been picked up farther than 100 miles from the border. This policy hardly touches the estimated 12 million undocumented immigrants living in the United States. But that could change soon, according to Lee Teran, a law professor at St. Mary’s University Law School in San Antonio. “The next step would be to do [expedited removal] farther and farther into the interior of the country,” Teran said last year.

Indeed, Homeland Security has already begun taking the fight to undocumented immigrants settled in the United States. In a series of high-profile raids and SWAT-like ambushes called Operation Return to Sender, ICE agents have swept up about 14,000 people in dozens of states since June 2006. In an interview with National Public Radio in January, John Torres, director of DRO, said the sweeps targeted “the worst of the worst,” creating “an atmosphere of deterrence so that ultimately we gain the compliance that we’re looking for.”

While some nabbed certainly are criminals, ranging from violent offenders to people with DUIs, the internal dragnet has largely caught your run-of-the-mill undocumented worker. For example, the largest Return to

Sender action, the raid of Swift & Company meatpacking plants across several states last December, netted 1,297 undocumented workers, of whom 274 currently face criminal charges related to immigration violations and identity theft (that is, using the Social Security numbers of U.S. citizens to gain employment).

Many of these workers’ children have lost their parents, who have either been detained or deported. “In many cases, the children were born here, and the parents were undocumented,” the Reverend Juan Antonio Albaladejo of Cactus, Texas, where ICE arrested 292 workers, told the *Dallas Morning News*. “Then the state has to take the children and put them into foster care, separating families. They haven’t taken that into account.”

MAKING LIFE MISERABLE FOR UNDOCUMENTED immigrants has been a triumph. Border arrests are down 27% in the first quarter of 2007, compared with the same period in 2006, according to Homeland Security statistics. While apprehensions neither measure nor necessarily correlate with the number of people illegally entering, strict border enforcement, the threat of criminal prosecution, and catch-and-remove may have something to do with the trend. And for many U.S. citizens, this is a success story despite the human consequences. There will be calls for more of “what works.”

But tens of thousands of people will continue attempting to illegally enter every year, no matter how dangerous the undertaking or punitive the consequences. And there are 12 million others living illegally in the United States, just waiting to be snatched up, thrown in jail, and deported.

As for Denia and her children, they are comparatively lucky. Her attorneys speculate that she was let go in February because reporters were sniffing around, she was due to give birth soon, and she was a complainer. She has found attorneys to work pro bono on her asylum case, and the family is awaiting a hearing with an immigration judge. Meanwhile, the ACLU has filed a lawsuit against Chertoff on behalf of 10 children jailed at Hutto, calling for them to be released along with their parents.

Denia appeared with her children in March at a press conference announcing the lawsuit. She and her daughter Nixcari talked about their experience at Hutto. While they are not plaintiffs in the suit, they have chosen to use their relative freedom to speak up about those still detained at Hutto. “I would ask that immigration [authorities] and the president just, what’s it called?” Denia said. “Have a little heart.” **□**

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The Anti-Immigration Movement: From Shovels to Suits

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Immigrant Day Laborers: Myths and Realities

1. Most day laborers who search for employment at curbsides, in front of home improvement stores, or nearby busy thoroughfares are men and foreign born. However, there is a small (2% nationally) but growing female day labor market (see footnote 2). In New York, for example, there exist at least two hiring sites where women are the majority of workers. The jobs they undertake can include construction but are usually in the realm of domestic work—care giving and cleaning.
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