

ICE Slow to Deport Detained; Illegal Immigrants From Va. Victims Of 'Broken' System  
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Illegal immigrants detained as part of the stepped-up enforcement effort in Virginia stay in the country far longer than they should because of a detention and deportation system beset by waste and dysfunction, according to lawyers, detainee accounts and observations of courtroom proceedings.

Detainees are often held by Immigration and Customs Enforcement for weeks, if not months, after they have consented to deportation. Federal officials regularly misplace files or fail to bring detainees to court hearings, resulting in needless additional jail time at taxpayer expense. In some cases, detainees are transported round trip between Arlington County and jails in central Virginia to appear for a few minutes before an immigration judge via videoconference, even though the immigration court is just down the street in Arlington.

During recent court proceedings before an immigration judge, in more than half the cases the government was missing detainee files, did not know where detainees were being held or failed to bring a detainee to a facility with proper videoconferencing equipment. In one instance, the government lost track of a nursing mother who had been separated from her newborn, thinking she was in a Hampton Roads jail; she was sitting in court a few feet away and wearing an electronic monitoring bracelet. In another case, Judge Wayne R. Iskra grew so frustrated over a detainee's missing file that he berated the government prosecutor in open court, asking her, "How would you like to sit in jail for two more weeks?"

"The system is broken!" the judge said.

ICE officials reject claims that their operations are strained, saying the agency has made "significant strides."

"The process is working well," said Marc Moore, assistant director for field operations with ICE's detention and removal program. "We'll continue to make changes and use our staff and resources to identify and arrest the greatest numbers of individuals."

For ICE's Washington field office, which includes the District and Virginia, the average amount of time a detainee is held has decreased from 75 days to 62 days in the past two years, but one reason is that the agency is moving detainees to larger detention facilities in Texas, Georgia and other states when bed space is lacking.

Legal advocates say the system is rife with errors as it grows more clogged. In records gathered this summer by the District-based CAIR Coalition, which provides legal services to immigrants in Virginia jails, government prosecutors came to court without

detainees' files in 60 of 162 cases. In 81 cases, ICE failed to bring the detainee to his or her mandatory court hearing.

Handwritten letters from detainees seeking help from immigrant advocacy groups, obtained by The Washington Post, relate tales of lost and inaccurate records and detainees' inability to get even the simplest information about their case status. One desperate inmate wrote that he has been waiting for eight months while his requests to be deported go unanswered; another, also jailed for eight months, said he wants to be deported but that his name had been entered incorrectly into a police database and that he could not get anyone to fix it.

"It's a very frustrating process for everybody," said Ofelia Calderon, an Arlington immigration lawyer. "I had three cases last month where ICE didn't even know my client was in their custody."

The Justice Department's Executive Office for Immigration Review notes whenever a detainee or detainee's file does not make it to the scheduled court hearing, but the agency does not perform a regular audit of those numbers or publish them in reports, spokeswoman Elaine Komis said.

Nationwide, ICE deported or obtained voluntary departures for 338,000 immigrants from October 2007 to August, up from 206,000 from October 2005 to September 2006, when the agency did not include voluntary departures in its totals. A new ICE program known as 287(g) partly accounts for the increase in detainees, as it essentially deputizes local police and jail officers to assist the agency.

From Prince William and Loudoun counties, Herndon and other Virginia jurisdictions that have adopted 287(g), an additional 1,134 illegal immigrants were transferred into federal custody in the past year, a 540 percent increase over the same period in 2007. The vast majority were turned over to ICE by the jail in Prince William. That led to severe crowding at the jail, which was eased after jail officials and Rep. Frank R. Wolf (R-Va.) protested to ICE directors.

Under federal law, illegal immigrants who commit crimes must complete their criminal sentences in county jails or state prisons before they are transferred to ICE custody.

Court hearings to determine detainees' eligibility for bail, deportation or legal release are then conducted through the Arlington court by videoconference. But because only four of the nine county facilities that contract with ICE have the equipment, detainees are shuffled across the state, often missing their court appointments. The Arlington Detention Center doesn't have videoconferencing equipment, so ICE detainees are sometimes driven hundreds of miles to one of the four jail facilities downstate that do have the cameras, even though the immigration court is less than two miles away.

"We gain in efficiency by having one set of judges serving multiple areas," said Moore, who also praised the videoconferencing system's "flexibility" to serve scattered facilities

efficiently and said ICE is planning to add new equipment next year at three of the five Virginia facilities that lack it.

On any given day in Virginia, 900 to 1,100 immigrant detainees are in ICE custody, and the logistical challenges are considerable, ranging from language barriers to limited bed space to outside political pressure. As local jails and police departments take a greater enforcement role in response to growing calls for more deportations, the agency must coordinate its operations with hundreds of police jurisdictions and detention facilities.

For detainees, hiring a lawyer is the best way to avoid falling through the cracks. But for those who cannot afford one, ICE is not obligated to provide legal counsel. With little chance of contacting an ICE case officer, advocates say, detainees are often left in jail for months, awaiting a flight or bus ride to their native countries.

"It's a waiting game with no foreseeable end," said Brittney Nystrom, an immigration advocate and lawyer with National Immigration Forum. "No one knows when they'll be deported. . . . The system is simply overwhelmed."

Recently, at the Arlington immigration court, on the top floor of an office tower high above the Ballston Metro station, Norma Portales arrived with her 2-month-old son, Jeffrey, in one hand, her 4-year-old son, Ivan, in another, and an electronic monitoring device on one of her ankles. Framed posters of Abraham Lincoln, the Statue of Liberty and Ellis Island crowded the walls. The blurry faces of detainees appeared via videoconference on an old television, piped in from jails elsewhere.

Portales, who speaks little English, remained quiet when the judge read her name and turned to the video monitor. When she didn't appear on the video link, the jail guard on the other end in Hampton Roads told the court that Portales had been transferred to Fairfax County.

No one -- not the judge, the prosecutor, the jailers or her defense attorney (whom she'd never met) -- knew where Portales was, even though she was sitting right next to them and wearing the electronic ankle bracelet that tracked her whereabouts.

Portales, 26, had been arrested two weeks earlier, accused of making an illegal U-turn in Reston.

Portales said she was jailed in Fairfax for six days, moved to the ICE processing center in Merrifield, then driven in handcuffs to the jail in Hampton Roads in the middle of the night. With her unable to breast-feed, her infant fell ill and ended up in the emergency room. "My kids were asking for me and crying," said Portales, a Honduran native who crossed the border illegally in 2001. Now back with her children, she charges the ankle bracelet like a cell phone each night as she waits for a new immigration hearing.

She was more fortunate than Chester resident Eugenio Silva. Silva, 63, had been living legally in the United States since 1978, when he and his wife came from Paraguay. He

started an auto-repair business and put two daughters through college. But when he went to renew his residency card in August, he was whisked away to the Virginia Beach Jail, accused of lying about a two-decade-old criminal violation by federal agents who then misplaced his file.

After several weeks, Silva's attorney, Jim Tom Haynes, went looking for the file. It had been sitting on a shelf in Merrifield.

"This happens constantly," Haynes said.

Silva said he befriended some of the 26 immigrants in his Virginia Beach cellblock and found that several had been there for five, even 10 months.

"I think people don't care about these cases," he said in a telephone interview from his home a day after his release. "I sat there for 30 days with no one to run my business. Right now, with the economic situation what it is, this was very hard. I didn't know what time or what day I was going to court, or even if I was going to court. I just worried."

Credit: Washington Post Staff Writers