



Women's Health and Rights in Immigration Detention

By Nora Ellmann

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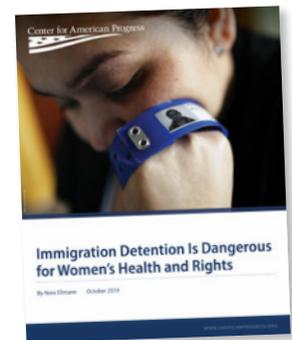
Immigration detention is dangerous for the health and rights of women and girls. Detention facilities fail to provide adequate women's health care or enforce acceptable standards of care. Moreover, they routinely inflict abuse and neglect that further damage the physical and mental health of women and girls in immigration custody. Detention policies and practices have expanded in scope and cruelty under the Trump administration, which has targeted immigrant women of color who are at the nexus of a political agenda steeped in white supremacy and misogyny. Yet the violations of women's health and rights in immigration custody transcend one administration. In its current form, the U.S. immigration detention system is antithetical to reproductive justice, denying freedom and bodily autonomy and separating women from their families and communities.

A humane immigration system would seek to drastically limit the scope of detention, especially for particularly vulnerable groups, and instead increase investment in community-based alternatives to detention while implementing evidence-based, trauma-informed standards of care and strong accountability measures for those detained. Achieving such a system requires robust, transparent data and the end of policies that target and undermine the health and rights of detained women and girls.

A new Center for American Progress report, "Immigration Detention Is Dangerous for Women's Health and Rights," assesses violations of women's health in immigration custody in key areas such as maternal health, reproductive autonomy, mental health, and sexual abuse.¹ The report includes numerous policy recommendations in these areas and for the oversight and enforcement of immigration detention standards, including:

Maternal health

From October 2017 through August 2018, U.S. Immigration and Customs Enforcement (ICE) reportedly detained 1,655 pregnant women.² In fiscal years 2017 and 2018, a reported 28 women had miscarriages in ICE custody.³ Women have reported experiencing miscarriages after being shackled across the arms, legs, and belly, and medical professionals report women being shackled during labor and immediately postpartum.⁴ CAP's report makes the following key policy recommendations:



See also: "[Immigration Detention Is Dangerous for Women's Health and Rights](#)" by Nora Ellmann

- End the detention of pregnant people except under extraordinary circumstances
- Ban the use of shackling of pregnant people in immigration custody under any circumstance
- Collect data on the number of pregnant people in immigration custody, the services they receive, and their experiences
- Implement evidence-based standards for perinatal care in immigration custody and enforce these standards through congressional and agency oversight

Reproductive autonomy

The Trump administration's efforts to undermine access to reproductive health care for women and girls in immigration custody is exemplified by former Director of the Office of Refugee Resettlement Scott Lloyd. During his tenure, Lloyd did not approve a single request for a minor seeking abortion care; those who were able to obtain abortions did so only after court intervention.⁵ CAP's report makes the following key policy recommendations:

- Enforce the constitutionally protected right to access abortion care and stop illegal interference in access to abortion care for people in immigration custody, particularly minors
- Ensure access to the full spectrum of quality, noncoercive reproductive health care and family planning in detention, including abortion, contraception, and HIV and STI treatment
- Repeal the Hyde Amendment and funding restrictions that prevent government funding for abortions for detained immigrants, and enact universal health care that includes coverage for people in immigration custody
- Repeal and prevent the enactment of state laws restricting access to abortion care, including restrictions meant to limit the number of providers, gestational limits, and special requirements for minors
- Rescind the memorandum of agreement⁶ between the U.S. Department of Homeland Security (DHS) and the U.S. Department of Health and Human Services (HHS) that provides for information sharing and allows ICE to target, detain, and deport sponsors and other members of a family applying to sponsor a child in U.S. Office of Refugee Resettlement (ORR) custody

Mental health

Of more than 8,400 reports of solitary confinement in ICE detention from 2012 to early 2017, more than half involved a person placed in solitary for more than 15 days, and about one-third of cases involved a person with a mental illness.⁷ In 2017, 1 in 8 transgender people in ICE custody were held in solitary protective custody.⁸ CAP's report makes the following key policy recommendations:

- End the detention of people with mental health issues and survivors of trauma except under extraordinary circumstances
- Ban all use of solitary confinement in immigration custody, including for punitive, protective, and mental health reasons

- Implement trauma-informed, culturally competent standards of medical and mental health care in immigration custody, and enforce the provision of quality mental health services

Sexual abuse

Of 1,224 complaints of sexual abuse in DHS custody between January 2010 and September 2017, only 43 were investigated; 59 percent of alleged perpetrators were identified as detention officers or private contractors.⁹ In FY 2017, LGBTQ people in ICE detention were 97 times more likely to be victims of sexual abuse than non-LGBTQ people.¹⁰ CAP's report makes the following key policy recommendations:

- End the detention of immigrants who are particularly vulnerable to abuse, including LGBTQ people and disabled people, except in extraordinary circumstances
- Ensure that transgender women in detention are housed according to their gender identity
- End HHS' religious exemptions to Prison Rape Elimination Act enforcement that allow care to be denied to LGBTQ survivors and those seeking comprehensive reproductive health services in ORR custody
- Improve oversight and enforcement in order to prevent sexual assault and harassment in detention and hold perpetrators accountable

Oversight and enforcement

From 2009 to 2016, the proportion of women in ICE custody increased by 60 percent, up to 14.5 percent.¹¹ Meanwhile, from FY 2015 to FY 2018, the average length of stay in ICE custody nearly doubled to 39.4 days.¹² In recent years, about one-third of children in ORR custody have been girls.¹³ From FY 2012 to FY 2018, the number of children referred to ORR custody increased by more than 250 percent,¹⁴ and from FY 2015 to FY 2018, the average length of stay in ORR custody more than doubled to 60 days.¹⁵ CAP's report makes the following key policy recommendations:

- Implement evidence-based standards of health care that are consistent and binding across all detention facilities
- Enforce health standards through a range of penalties and incentives, and hold detention facilities and individuals accountable for violating the health and rights of women and girls in immigration custody
- Collect robust data on women and girls in immigration custody and make data publicly available
- Reform immigration detention procedures to phase out contracts with private companies and local and county jails, end mandatory detention, and limit the detention of vulnerable groups—including pregnant people, LGBTQ people, people with disabilities, and survivors of trauma

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Endnotes

- 1 Nora Ellmann, "Immigration Detention Is Dangerous for Women's Health and Rights" (Washington: Center for American Progress, 2019), available at XX INSERT LINK TO REPORT XX.
- 2 Tina Vasquez, "ICE Increased Risks for Pregnant Migrants in Detention. What Is the Agency Doing About It?," *Rewire News*, April 5, 2019, available at <https://rewire.news/article/2019/04/05/ice-increased-risks-pregnant-migrants-detention/>.
- 3 Marie Solis, "28 Women Have Miscarried in ICE Custody in the Last Two Years," *Vice*, March 5, 2019, available at https://www.vice.com/en_us/article/yw8egw/ice-detention-miscarriages-honduran-woman-stillbirth.
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- 5 Carter Sherman, "How the Trump administration tries to stop undocumented teens from getting abortions," *Vice News*, February 28, 2018, available at https://news.vice.com/en_us/article/xw5kvz/exclusive-how-the-trump-administration-tries-to-stop-undocumented-teens-from-getting-abortions.
- 6 Women's Refugee Commission, National Immigrant Justice Center, and American University Washington College of Law Clinical Program, "Children as Bait: Impacts of the ORR-DHS Information-Sharing Agreement" (New York: 2019), available at <https://www.immigrantjustice.org/research-items/report-children-bait-impacts-orr-dhs-information-sharing-agreement>.
- 7 Spencer Woodman and others, "Solitary Voices: Thousands of Immigrants Suffer in Solitary Confinement in ICE Detention," *The Intercept*, May 21, 2019, available at <https://theintercept.com/2019/05/21/ice-solitary-confinement-immigration-detention/>; Antonio Cucho and Karrie Kehoe, "How US immigration authorities use solitary confinement," *International Consortium of Investigative Journalists*, May 20, 2019, available at <https://www.icij.org/investigations/solitary-voices/how-us-immigration-authorities-use-solitary-confinement/>.
- 8 Sharita Gruberg, "ICE's Rejection of Its Own Rules Is Placing LGBT Immigrants at Severe Risk of Sexual Abuse," *Center for American Progress*, May 30, 2018, available at <https://www.americanprogress.org/issues/lgbt/news/2018/05/30/451294/ices-rejection-rules-placing-lgbt-immigrants-severe-risk-sexual-abuse/>.
- 9 Alice Speri, "Detained, Then Violated: 1,224 Complaints Reveal a Staggering Pattern of Sexual Abuse in Immigration Detention. Half of Those Accused Worked for Ice," *The Intercept*, April 11, 2018, available at <https://theintercept.com/2018/04/11/immigration-detention-sexual-abuse-ice-dhs/>.
- 10 Gruberg, "ICE's Rejection of Its Own Rules Is Placing LGBT Immigrants at Severe Risk of Sexual Abuse."
- 11 American Civil Liberties Union, "Still Worse Than Second-Class: Solitary Confinement of Women in the United States" (New York: 2019), available at https://www.aclu.org/sites/default/files/field_document/062419-sj-solitaryreportcover.pdf.
- 12 Freedom for Immigrants, "Detention by the numbers," available at <https://www.freedomforimmigrants.org/detention-statistics> (last accessed September 2019); U.S. Immigration and Customs Enforcement, "Budget Overview: Fiscal Year 2020 Congressional Justification" (Washington: U.S. Department of Homeland Security, 2019), available at https://www.dhs.gov/sites/default/files/publications/19_0318_MGMT_CBJ-Immigration-Customs-Enforcement_0.pdf.
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- 15 U.S. Office of Refugee Resettlement, "Facts and Data"; Jennifer Podkul and Cory Shindel, "Death by a Thousand Cuts: The Trump Administration's Systematic Assault on the Protection of Unaccompanied Children" (Washington: Kids in Need of Defense, 2018), available at https://supportkind.org/wp-content/uploads/2018/05/Death-by-a-Thousand-Cuts_May-2018.pdf.