



# DESTRUCTIVE DELAY

A Qualitative Report on the State of Interior  
Immigration Enforcement and the Human  
Cost of Postponing Reform

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# **Destructive Delay: A Qualitative Report on the State of Interior Immigration Enforcement and the Human Cost of Postponing Reforms**

National Day Laborer Organizing Network  
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## Introduction

In March of 2014, President Obama made public that he had instructed Sec. of Homeland Security Jeh Johnson (later also enlisting Attorney General Eric Holder) to provide recommendations for executive action to make US immigration policy “more humane.”<sup>1</sup> The admission that current practices were not humane and the indication that the executive branch would address the problems itself was expected to free immigration from the hyper-political debate of Congress and focus it on sound policy. However, since the early Spring announcement, the administration has yet to share what those recommendations are and when they will be implemented. Instead, the White House has broken its own deadlines, subordinating its policy first to its legislative strategy and then to electoral considerations with a new promise of acting after the midterm elections and ‘by the holidays.’<sup>2</sup>

**While the administration delays reforms to Immigration and Customs Enforcement (ICE) policies and procedures, those who work with immigrant communities report an increase in aggressive tactics and a decrease in methods of review and accountability within the agency. One organizer reflected, “It’s like someone eating all the ice cream in the freezer on Sunday knowing they’re going on a diet on Monday. ICE is more out of control than ever.”**

This report illuminates the inhumane interior Immigration and Customs Enforcement practices that continue unabated while the President postpones action and it highlights the human cost of the delay. The key findings shed light on an agency driven by one calculated mission, to meet a draconian deportation quota, regardless of the costs to public safety, institutional integrity, moral or constitutional considerations.

Through almost three dozen interviews with front-line organizers, legal experts, and people in deportation proceedings, *Destructive Delay* collects previously disparate and disconnected stories of the lived experience of ICE enforcement activity into a single document. The report provides real-life context for the rhetoric of the debate and gives an inside look into how immigration policy is actually working on the ground.

point on immigration is that it is both harder on enforcement than any previous administration while also being smarter. While the former is undoubtedly felt on the ground, the contents of this report call into question the latter claim. The White House has implemented the Deferred Action for Childhood Arrivals program and defined procedures for prosecutorial discretion that are meant to narrow the scope of who should be targeted for removal, and yet has ensured record deportation rates through the continuation of indiscriminate enforcement as well as the rapid expansion of programs that enlist local law enforcement in immigration activity such as the “secure communities” program<sup>3</sup>.

The adverse impact of such programs is well documented: collusion with ICE lowers confidence in law enforcement.<sup>4</sup> Moreover, as localities seek to build protections from what many feel is the agency’s overreach, ICE appears to be retaliating and penetrating into new areas such as court rooms and even DMV facilities further eroding public trust as it attempts to circumvent such initiatives.

Meanwhile ICE is pursuing a public relations strategy to label each detainee with the stigmatizing categories of “criminals” and conflating the term with “those who pose a threat to public safety.” The result creates the context for ICE to act with impunity and use the harshest often irregular interpretation of its own discretion guidelines regardless of the complex reality on the ground or the impact of targeting these individuals

Reports from individuals and organizers demonstrate how ICE works around those stated priorities by using them as a pretext for indiscriminate home raids, stop-and-frisk like sweeps, dehumanizing conditions in detention, and its collaboration with local police forces known for racial profiling and other civil rights violations.

While reporters and politicians who have become accustomed to viewing immigration only through the lens of Washington politics may describe the post-election delay as a smart move for the President, this report reframes it as a willful continuance of inhumane and broken policies with real human consequences. It shows, through the eyes of those whose doors are pounded upon by agents carrying fake photos and wearing vests that read ‘police,’ that it is ICE that is a public threat and that sweeping executive immigration reform cannot come soon enough.

## Key Findings

- ICE's "targeted enforcement operations" are renewed raids by another name. In recent months, advocates and community members report increasing numbers of "collateral arrests" made during "targeted operations," with limited or no application of prosecutorial discretion.
- While states and localities increasingly seek to limit the detention and deportation of community members by adopting "TRUST" policies that restrict collaboration between police and ICE, ICE has responded by going after immigrants in new and disturbing ways, including detaining people at court buildings and in probation programs, and arresting people on the basis of decades-old criminal convictions.
- ICE has retaliated against community organizers and immigrants who organize against deportations. In the most egregious cases, ICE has revoked the visitation rights of detainees' family members and used solitary confinement and deportation to punish those who organize in detention or otherwise protest against ICE actions.
- ICE does not apply prosecutorial discretion consistently. In many cases, people with no criminal histories are denied prosecutorial discretion solely on the basis of prior immigration violations. In the case of people with criminal convictions, ICE neglects to consider existing positive factors that support a grant of discretion. Such problems also apply to those people applying for the Deferred Action for Childhood Arrivals program.
- ICE continues to collaborate with rogue law-enforcement agencies, including agencies that have been indicted or are under investigation for civil rights violations, racial profiling, use of quotas, and corruption. By collaborating with these agencies to deport and detain people, ICE is complicit in and at times incentivizing civil and human rights violations.
- ICE's inconsistent policies for transgender detainees, particularly those who are victims of violence, leave them particularly vulnerable while in detention. In some cases, complaints of sexual assault and rape at detention centers are ignored or actively suppressed. In one case, the victim of an assault was placed in solitary confinement after reporting the incident.
- ICE Field Offices operate with little to no accountability or supervision from its headquarters or other independent bodies. In frequent cases, ICE minimizes or refuses communication between community stakeholders and ICE offices. Department of Homeland Security investigations of claims regarding violations of civil rights and civil liberties are conducted internally, with no public oversight or involvement.
- Over the last several months ICE has gone through numerous changes in leadership. At a headquarter level there have been four different heads of the department since former Director John Morton left in July 2013. At the Field Office level, there have also been numerous shifts of Directors, in some cases leaving lawyers and community organizations without access to information needed to support their constituencies in their immigration-related cases. These changes in leadership are often done under the radar, leaving community advocates at national and local levels without sufficient information about who is making final decisions about immigration and deportation cases, and without a way to communicate, effectively appeal, or keep these officers accountable.

## Raids & Collateral Detentions

Immigration and Customs Enforcement (ICE) claims that, as policy, they no longer take part in immigration raids. Instead, they conduct “targeted enforcement” operations to arrest “priority” individuals who present a danger to the public.<sup>5</sup> On the ground, however, there is little difference. As implemented by ICE, “targeted enforcement” looks very much like a raid. In a targeted enforcement operation, ICE stakes out a single home, apartment building, business, or—in some cases—an entire neighborhood in search of its target. Along the way, ICE agents request identification from anyone they encounter, often arresting and placing in deportation proceedings individuals who were not the stated target of the operation. A variety of branches of ICE, including Fugitive Operations teams acting under the Criminal Alien Program and as part of the [Criminal Alien Removal Initiative](#), conduct these “targeted enforcement” operations under the direction of the local Field Office Director.

Immigrants and community advocates around the country have received a significant increase in reports in the last six months from people who were detained as “collateral” during these raids. This increase is especially acute in places like Louisiana, New York, Philadelphia, Wisconsin, Washington, Alabama, Massachusetts, and Illinois. Reports from Georgia and Connecticut document this shift more sharply within the last month, with numerous collateral arrests of people with old criminal convictions or prior deportation orders. In places like Arizona, local organizers have seen these home raids and collateral arrests for a long time

Some of this increase in “targeted enforcement” is a direct response to policy changes at the national and local level that place limits on collaboration between local law enforcement and ICE. As ICE agents have less access to potential targets through the courts and the jails in certain localities, they have looked to different—and often highly problematic—avenues to detain people who fit their priority criteria and continue to fulfill their targets and quotas. An internal ICE e-mail from January 2013 obtained by NDLO and Asian Americans Advancing Justice – Asian Law Caucus through a Freedom of Information Act (FOIA) request reads, “On the subjects that do not meet the new criteria for having a detainers placed [according to ICE’s December 2012 Guidance on the Use of Detainers], get what info you can on them, Booking sheet, address, etc., and forward to FUG ops so they can be picked up.”<sup>6</sup> The information gathered referred to in this e-mail, is then used to conduct these raids.

Over the last several years, state and local policy changes have limited ICE collaboration with local law enforcement agencies. In particular, over the last year, local policies limiting submission to ICE detainers have increased dramatically. Currently there are at least 257 localities with policies that restrict ICE access to jails.<sup>7</sup> Many of these policies are driven by the desire of state and local elected officials to uphold due process, restore trust eroded by association with ICE, and to protect residents from deportation. Rather than evolving alongside localities and reducing harmful deportations, ICE has responded by arresting people in new and different ways, including conducting enforcement operations in homes and communities. Immigration policy experts predict that such enforcement is on the rise. Paromita Shah, Associate Director of the National Immigration Project of the National Lawyer’s Guild, notes that high-level immigration officials have confirmed that, as there are more limits on collaboration between ICE and local law-enforcement agencies, “we will see heightened enforcement in the community. They [ICE] mean raids or getting people in the street”, Shah explains,

“My kids shake whenever they hear a knock at the door. They think it’s the agents now coming to take their mother away.”

These raids have been traumatizing and destructive for the families and communities caught up as “collateral”. Maria Velasquez, an immigrant living in Chicago, Illinois whose husband was arrested by ICE agents in November 2014 during an enforcement operation targeting someone else, says that her children have since become fearful of law-enforcement figures. “My kids shake whenever they hear a knock at the door. They think it’s the agents now coming to take their mother away.” This is a common experience reported by parents, regardless of whether their children are US citizens.

A report published in May of 2013 found that 44% of Latinos are less likely to call police when witness to or victim of a crime out of fear that authorities will inquire about their immigration status or the status of people they know.<sup>8</sup> In places where several community members have been detained by ICE during a raid, the effects can also be seen even in people who have not yet lost a family member to detention or deportation. Adelina Nichols, Executive Director of the Georgia Latino Alliance for Human Rights (GLAHR), has spent the last two weeks talking and organizing with people in Southern Georgia who recently experienced a wave of raids. She reports that people are “hopeless” and “disheartened.” She explains, “People tell me that they are scared to open the door, that

they are making plans in case they are deported suddenly. It's been a lot of listening to the tears, the cries, and the pleas of the people who are looking for alternatives for survival."

The raids have also contributed to distrust between local law enforcement and immigrant communities and created an increasingly tense relationship between immigration enforcement agents and community advocates. In several raids, ICE officers have worn vests with the word "police" on them. The officers identify themselves as immigration agents only after people open the door for them or in some cases, only after people actually allow them inside their homes. People whose family members were arrested in this way report that they no longer open the door to help police officers, out of fear that the police are actually immigration agents.

Anibal Fuentes was arrested by ICE in Chicago, a "Sanctuary City" located in Cook County, where employees do not collaborate with ICE. For Anibal, his arrest "means that there is no such thing as a safe place, or a safe city. ICE can still get us in our homes even if our cities and counties don't help."

Immigrant communities also report suspicions about tactics used by ICE in its raids. Several individuals and community organizers who witnessed the raids expressed doubts about whether the photographs of

"targets" ICE showed people were real, or just an excuse to engage with other people in order to investigate their immigration status and backgrounds. One person in Chicago who was detained as collateral during a raid reported from detention that when he was arrested, "the man they were looking for had already been detained. I remember his name and his picture, because they showed it to me and my wife, and when ICE took me, he was right there [in the same van] already in their custody."<sup>9</sup>

To Fernando Lopez and Jolene Elberth, two organizers with the New Orleans Congress of Day Laborers, it is suspect that the home raids have increased since they began to publicly organize against the Criminal Alien Removal Initiative (CARI) late last year. In November 2013 the Congress of Day Laborers and the New Orleans Workers' Center for Racial Justice published a [report](#) documenting racial profiling and other civil rights violations by immigration agents in New Orleans, including arbitrary detentions and the use of military-grade mobile fingerprinting devices.<sup>10</sup>

The release of the report was followed by a civil disobedience outside the New Orleans ICE office calling for ICE to "Stop the Raids." In response, the local ICE spokesperson said, "As a matter of policy, ICE does not do immigration raids. ICE only conducts targeted enforcement. The Criminal Alien Removal Initiative teams go to a pre-selected location looking for that individual. In

**Yestel Velasquez, Louisiana:** "I had gone to the auto shop and I had just finished talking to the mechanic when I saw a bunch of cars pulling up behind me. I stopped to let them go through and saw that several men got off with vests that just said 'Police' on them. I thought it was the local, normal police, and saw that they began to put everyone in a line. When they put me in the line too, they never told me they were looking for someone specific, and I didn't see a warrant or arrest documents. Even when they fingerprinted, handcuffed me and took me in, they didn't tell me why until I got to their offices. They said it was because I had a deportation, and they put me in detention [...]"

I see ICE agents around our communities all the time, in people's houses, the apartment complexes, hiding behind cars, going to stores and arresting people in the parking lot. And you tell me, what are they [ICE agents] doing looking for dangerous people in a parking lot? They are going after people who look Latino, not just those who are undocumented. Here in New Orleans we already know where ICE goes, and how they work with the police. We know that they are targeting Latinos, and that they only do operations in our neighborhoods. Supposedly they are looking for one person, but if they ask me, and I can prove to them that it is not me who they are looking for, why would they detain me too?"

**Anibal Fuentes, Illinois:** "I heard knocking on the door, and saw that there were three men dressed in vests that said 'Police'. They showed me a picture of a man who they were looking for and asked me if I knew him. I told them I did not. One of the officers asked me for my identification. When I turned to get it, they came into my home. They went into all the rooms and told the rest of my family members to go into the living room, including my two brothers and my wife, who was carrying our one-year-old son. One of the officers had a gun drawn, and was pointing it at my family and me. When we were in the living room I realized that they were immigration agents. I gave them my identification, and they called on the phone to check my name. Then they handcuffed me, and took me to immigration detention. If it hadn't been because my family contacted community organizations, I would have been deported like others who were in detention with me. I have no criminal record, but because I've been stopped at the border before, they wanted to deport me again. I never thought that would happen to us"

most instances, there is one person at that location who is wanted. But the people around them, yes, absolutely, they're going to check their status. They would be fingerprinted. And if the individual (being sought) is not there, they may very well check the status of other people who are there. There is some discretion and gray area<sup>11</sup>."

For a few months after the report and civil disobedience, ICE in New Orleans was quieter. Then, in the summer, the Congress of Day Laborers began to hear again about people being detained. But ICE's tactics had changed. "Before ICE used to round people up in the community. Now, they go to people's houses. They show them a picture of a person they usually don't know. Even if the person isn't there, everyone in the house still gets fingerprinted using the biometric machines. The only difference is ICE makes sure to show people a photograph so that they can say it is targeted enforcement and not a raid," explained Lopez.

## Expanding its Net, Undermining Other Agencies

In recent months, individuals and community organizers in Alabama, Wisconsin, Louisiana, Illinois, New York, New Jersey, Connecticut, and Massachusetts have received increased reports of people taken into custody by ICE at courts or on their way to probation offices<sup>12</sup>. These same community members and advocates report

increased efforts to target and detain people with outdated criminal convictions – some as old as 1991 - who have had no subsequent interaction with ICE or the criminal justice system. These practices are not only circumventing local policies on collaboration between local law enforcement agencies and ICE, they show that ICE is going out of their way to detain people with any type of criminal record, regardless of positive equities that would qualify them for discretion, with little or no regard to whether they have successfully reintegrated into society, whether they have a chance for rehabilitation, or—in the case of people with old convictions—how their life has changed since their conviction. The stories behind some of these cases call into question the argument made by ICE, DHS and the White House that targeting these individuals increases public safety.

In Georgia, organizers and immigrant communities report seeing more systematic and mass detentions of people on probation. "This is new. It has been happening for just about three weeks. In Tifton [Georgia] it happened last week. I don't know if the pressure we have put on police has made them more reluctant to work with ICE, and so ICE is looking for other ways to take people. They used to do it sporadically, but now it is more systematic. If they don't grab a person at probation, they'll take them at home," explains Adelina Nichols, Executive Director of GLAHR. Nichols and other staff members and volunteers recently visited the towns of Macon, Warner Robbins,

**Paulina Gomez, Georgia:** "We are hearing a lot of cases of more roadblocks in the city of Atlanta and surrounding areas, as well as ongoing racial profiling of immigrant people during traffic stops. The increase has been accompanied by aggressive messaging from the southern regional office about the ICE detainers as a community safety measure to protect the broader community from criminal activity and violent offenders that would otherwise walk. This has been true particularly in the aftermath of the Fulton [Georgia] county resolution win regarding ICE detainers."

**Maria Velazquez, Illinois:** "My husband and I have lived together in this apartment with our three children for a long time. On September 3<sup>rd</sup> of this year [2014] three men came to our door. I didn't know that they were immigration until much later. I opened the door, and they showed me a photograph of a man who I had never seen before, and told me his name. Even though I told them that I had never seen the man before, they told me they needed to search the house to make sure he wasn't there. I never thought we had anything to fear. We've never done anything wrong. They asked my entire family for our papers. When my husband and I showed them our consulate ID cards, the agents got on the phone and reported our names to someone. I'm still not sure, but I think one of the agents was a police officer and two said they were with immigration. They asked my husband to step outside the door, and they handcuffed him, and told my children and me that he was a criminal and that they needed to take him away.

Later I found out he has a minor crime, a misdemeanor supposedly for trying to steal something. But he went to court, and paid all his fines, and the judge told him it was okay to come back with his family. It's the only thing he has on his record. Since he was detained I've had to work full time and take care of my kids on my own. They cry every night asking for their father. My kids shake whenever they hear a knock at the door. They think it's the agents now going to take their mother away. I'm scared too. They have my information. What if they come back for me?"

**Jasmine Rivera, Philadelphia:** "In some counties ICE meets with the district attorney twice per week. In Chester county the juvenile court system reports all undocumented juveniles to ICE. Driver's license check-points are used to identify undocumented immigrants. And we have noticed an increase of arrests in the suburbs of Philadelphia, where there are no ICE hold policies"

Albany, Fitzgerald and Tifton, to gather testimony from community members and teach people about their rights. Community members reported that, in one morning ICE agents went to the homes of 50-60 people who were on probation and arrested them. "ICE goes knocking on doors and people think they are okay because they are on probation, and if they are doing everything right, why would ICE detain them?" says Michelle Morales, GLAHR organizer.

Javier Nava, one of the immigrants who was detained in the Tifton raid, says that he expects ICE to return to his town. "The time that they detained me, they took 50 people. When I was released the immigration officer gave me a piece of paper and said that I should carry it with me, because they were going to keep coming back, and without it they could take me again. Then the next Monday they came back for more people, and then again on Wednesday. All the lawyers here and in Atlanta have cases from Tifton. My probation officer told me ICE asked them for a list of people on probation in this town. They'll be back."

Although the increase in ICE arrests of people on probation and at courthouses has been reported by organizers throughout the country, it is most pronounced in places where new state or local policies prevent collaboration between local law enforcement and ICE, leading ICE to look for other ways to fulfill its detention and deportation quota. In Connecticut, for example, since the passage of the TRUST Act, the Connecticut Department of

Corrections has drastically reduced the practice of holding people on ICE detainer requests. However, ICE is now detaining people at the probation office, some of whom have zero criminal convictions and are completing alcohol rehabilitation programs or mental health counseling. The director of probation for the Milford Superior Court admitted to Attorney Diane Polan that his office notifies ICE of anyone on probation who "appears to be foreign born" or who "self-reports as foreign born." "We are worried that now ICE waits for people in the courthouse, or at the probation office, or even at the court-mandated alcohol rehabilitation class. When people go, ICE is already waiting there for them," explains John Jairo Lugo a local organizer with Unidad Latina en Acción in New Haven. This means that despite the TRUST Act, ICE agents still gain access to information about people's immigration status, address, court appearances, and their probation schedules, which they use to detain people who would otherwise be protected under the TRUST Act.

ICE has also increased arrests of people with old criminal records stemming from incidents during one's youth or a previous stage of life. ICE considers anyone with a criminal conviction to be "high priority" regardless of how much time has passed since the conviction or whether the person has been rehabilitated or reformed. Abraham Paulos, with Families for Freedom in New York, reports that about two months ago, ICE arrested a woman whose last criminal conviction was in 1991. "She has four kids, has been clean since then, and has had no contact with law enforcement. Then [ICE] came to her house and

**Javier Nava, Georgia:** "On Thursday September 11 [2014] at 6 in the morning, my stepdaughter called me and said that her husband had been taken by some officers. He had been on probation for 6 months. He didn't owe anything, no money or anything. My stepdaughter didn't realize the officers were immigration agents. Within 5 minutes of her call, there were immigration agents at my door too. My wife got up and opened the door. Without introducing themselves the agents came into my house. I thought that they were the probation officers. A few minutes into the conversation one of the agents who spoke Spanish said that they were with immigration.

They took 50 people that day.

In a very polite way I told them that what they were doing to me was not legal because I didn't have any problems with immigration. The immigration agent responded that I had broken the laws of the United States [...]. I was arrested for not having a driver's license and more than 5 years ago I had a DUI, but I have learned from my mistakes, and I am not a violent person. And I know my rights. [...], They took my fingerprints, took pictures, made me sign papers, and I am now in deportation.

They have continued to come and take people. I also hear stories from different towns. But people have to keep going to work. They leave the house not knowing whether they will see their children again. It's impossible to hear that the President says that families are not being separated. Our experience shows that those are lies.

And I'm not scared to speak up. If I have to leave the country, at least I know that I will be happy with myself that I did not stay quiet. I am in deportation now but it doesn't matter. I don't have hope that they will let me stay in this country. I just want the time to sell a few of my things, gather a little bit of money and go to Mexico. It's hard to live here. For all of us it is very hard"

picked her up," he explained. Her story exemplifies ICE's policy to target anyone with a conviction, disregarding any positive factors showing that the person poses no danger to the community. Similarly, raids in Tifton, Georgia in mid-September targeted people with Driving Under the Influence convictions, some as old as 2008. Similar instances were mentioned in every state where interviews were conducted for this report, including Arizona, Washington, Illinois, New York, Connecticut and Massachusetts.

For Families for Freedom, an organization that works with immigrants with criminal records, ICE's new focus on people with outdated convictions has been particularly problematic, because many of these people receive extremely high bonds upon being taken into custody, up to \$20,000 dollars. When most families cannot afford the bond, they remain detained throughout the course of their immigration proceedings. "It's like they're kidnapping people. Agents come to their homes at 4:00 or 5:00 in the morning, waking up the family. Once they are in [detention], they can't get out. They don't have access to bond, and they can't come back to their families. Some have done time [in jail], like five years in the 80s and have been out since then, and have been trying to rehabilitate their lives. It's really hard for us, there is nothing we can say. We think that's going to be on the increase," says Paulos.

Especially when the largest federally prosecuted crime is immigration-related<sup>13</sup> and taking into consideration that more than 30% of Americans (that

number jumps to 49% of Black men and 44% of Latino men) will have been arrested by age 23, it becomes more questionable to use such contact with law enforcement or previous conviction as a determinant for prioritization for deportation without weighing the circumstance and rehabilitation of the individual.<sup>14</sup> Yet it is difficult to obtain political support for people with outdated convictions. Paulos sees for example that politicians and the public shy away from supporting cases of people with criminal convictions in deportation proceedings. He explains, "In certain facilities they have gotten more brazen when it comes down to this population. They know clearly that there isn't a lot of public support, or support in general for them [people with criminal records],"

Organizers who work supporting people in deportation around the country, know that unless there are exceptional circumstances, elected officials generally do not make calls or write letters of support for people with previous contact with the criminal justice system.<sup>15</sup> "Criminal cases have always been harder, but now they are searching out people with old criminal records. [They are r]eally using the records to justify the enforcement and be able to say that they are detaining people that are priority," explains Jolene Elberth.

By arresting immigrants at court, during probation, or after decades-old criminal convictions, ICE undermines the functioning of the criminal justice system. Despite its many flaws, the criminal justice system provides more opportunity for robust due process protections than

**Abraham Paulos, Families for Freedom, New York:** "I got a call yesterday about a guy who had a possession of marijuana charge. Judge told him he had 5 years probation. He has been doing good and checking in for 3 years, and he just got picked up while he was going to check in with his probation officer."

**Megan Fountain, Unidad Latina en Acción, Connecticut:** "People get picked up by ICE even if their charges are dismissed. They spend months in detention. It's clear to us that ICE is interested in picking up anyone that they can, and its people with minor convictions, people who took some kind of plea, did some kind of probation, or people who got acquitted [...] They are combing through court records. We have people who are green card holders who do some kind of probation and then in the middle of it, they go to probation office, and ICE will be there waiting for them. It's clear that their goal is to detain as many people as possible. In any way that they can."

**Diane Polan, Law Offices of Diane Polan, LLC, Connecticut** "My client was a Saudi Arabian student at a university here. His student visa expired because he was no longer in school. He got arrested after he suffered a mental health breakdown and was acting bizarrely on campus. I represented him in court and we applied for a pre-trial diversion program called the Supervised Diversionary Program, available to people with mental health issues who have been involved in criminal conduct that is not too serious. The program can be granted for up to two years; if successful, the charges are dismissed. The person never pleads guilty and is not convicted; that's why it's called a 'diversionary' program [...] The program was granted in court on March 19, 2014, for 18 months. He was ordered to continue in therapy and see his probation officer. My client appeared at the Probation Office in Milford for his first meeting with his probation officer on May 14th. He was met there by an ICE agent who immediately detained him. He was in custody until July when he posted bond in immigration court. He is currently facing deportation, even though he has no criminal record."

any immigration proceeding. Immigrants released after attending court or complying with probation have been deemed fit by the criminal justice system to live amongst their family and community, and, in some cases, to receive treatment or a chance for rehabilitation. By detaining and deporting these individuals, and framing their deportations as a public safety measure, ICE is undermining the decisions of the judges who deemed these individuals worthy of a second chance. The result is to disrupt the process of re-integration and rehabilitation by separating families harshly and suddenly. Deportation is used as a second, disproportionate punishment for immigrants, over and above the punishment they have already received in the criminal system. Although it may be politically convenient, ICE's indiscriminate targeting of anyone who has come into contact with the criminal justice system – regardless of the gravity of the charge or evidence of rehabilitation – does not increase public safety. Instead, it destroys the lives of individuals, families and communities.

Although he had been found to have reasonable fear of persecution or torture, and he had a pending stay of removal, ICE deported him through the back of the detention center while his family and advocates conducted a vigil in front.

## Retaliation

In recent months, Community organizers and immigrants have experienced retaliation from ICE in response to their advocating for improved conditions, implementation of stated policy, a moratorium on removals, or to protect the rights of those in custody. "In retaliation for organizing, ICE has denied people's visitation rights, gone out of their way to keep people in detention even when granted bond, and even put people's family

members in solitary confinement," says Carlos Garcia, Executive Director of the Puente Human Rights Movement in Arizona. "ICE has denied the visitation rights of at least two of the most outspoken families [with relatives in Eloy]." Organizers in Tacoma, Washington working with immigrants who participated in a hunger strike in March of 2014, have observed similar retaliation against families of those who led these actions. Maru Mora Villapando, one of these organizers, explains that the wife of one of these leaders has her visits often cut short. "Before she used to get one hour, but since its up to their discretion she sometimes gets only 10 or 20 minutes."

The recent case of Jaime Valdez exemplifies the type of retaliation organizers are seeing around the country. Jaime's father participated in a hunger strike to bring attention to his son's ongoing immigration detention. Garcia explains that during the hunger strike guards at Jaime's detention facility "picked him up in the middle of the night, told him he was 'a special case,' and drove

him to the border. He still had an appeal pending. In a normal situation, he would not have been deported with an appeal pending, and he would have been taken to the border with other detainees, not in the middle of the night in a van."

Other people who have participated in protests or hunger strikes inside detention centers report similar punishments or retaliation. In another Arizona case, Ardani Rosales, a man with no criminal record and two U.S. citizen

**Samuel Singleton-Freeman, Voces de la Frontera, Wisconsin:** "On May 27, ICE agents detained Manuel Lopez while he was getting into his minivan to drive his children to school. That day, ICE agents raided homes and workplaces throughout Milwaukee's south side, arresting at least 21 people supposedly targeted for serious crimes. Stephanie, Manuel's partner of 20 years, and their children -- Destiny, 14, Briana, 11, Maya, 9, and Eli, 2 -- watched as Manuel was taken away. Manny is 33 years old. He has lived in the U.S. since he was 8, first in Texas and then in Milwaukee.

When he was young Manuel's family lived in an impoverished neighborhood plagued by gang violence, poor schools, unemployment, and a lack of resources for new immigrants. Latino youth were picked on and joined together for protection. By the time he was in high school, Manuel had befriended gang members. After graduating, Manuel went to work in a meat-packing factory with his father, but in 2000, he was laid off. Manny's daughter Destiny had just been born. In debt and needing to support his young family, Manny agreed to deliver cocaine once for a friend who promised him money. Manny's friend had set him up, and he delivered cocaine to police. He pled guilty and was sentenced to eight months in prison and twenty years' probation.

In those 20 years Manny has become a leader at his church, and a responsible father. His wife says he was stupid for what he did, but that he did his time and paid his dues. While he was in jail he took classes and helped his fellow prisoners, and he spoke to community members about what he had done affected his family and why they

children. Although he had been found to have reasonable fear of persecution or torture, and he had a pending stay of removal, ICE deported him through the back of the detention center while his family and advocates conducted a vigil in front. Following his deportation, Rosales returned to the United States to appeal his case, turning himself in to immigration officers at the border and applied for humanitarian parole. In the wake of organizing and national pressure, an Immigration Judge granted him a \$10,000 bond. His family immediately raised money to pay for the bond and made “Welcome Home Daddy” signs. But the next day, ICE filed an emergency appeal of the Immigration Judge’s bond determination. Rosales remains in detention. Those who have supported hunger strikes in Texas and Washington similarly report the use of detention and deportation to deter organizing.

Organizers in New Orleans also report retaliation against individuals in deportation proceedings who speak out against ICE. For example, in May 2014, Yestel Velasquez and Wilmer Palmas, both members of the Congress of Day Laborers, were detained as collateral during a targeted operation at an auto shop frequented by Latino clients. With support from the Congress of Day Laborers and the New Orleans Center for Racial Justice, Yestel and Wilmer filed a complaint with the Department of Homeland Security’s Civil Rights and Civil Liberties Division to denounce ICE’s abusive, race-based actions at the auto shop and were granted 3-month stays of removal. Nonetheless, they remained in detention, which advocates argued was unfair. From detention, Yestel and Wilmer reached out to national organizations to talk about their cases. The day after they spoke with national organizations, ICE changed its position on their stays of removal and informed them that they would be deported by the end of the week. Saket Soni, executive director at

the Center was quoted in an NBC story about the case, “I think they are trying to deport the evidence. I think they moved up the departure date because of public outcry and the anticipation of bad publicity in the coming weeks.”<sup>16</sup> Subsequently, immigrant and civil rights organizations led a national effort to support Yestel and Wilmer. The result was mixed—Yestel received a one-year stay of removal, but Wilmer was deported, even though both men had very similar equities in their cases.

New Orleans organizers suspect that ICE’s retaliation against people like Yestel and Wilmer is designed to intimidate others from speaking out. Congress of Day Laborer members, for example, are aware of rumors that ICE has carried photographs of their civil disobedience actions while conducting raids. “At least two members have told us that they saw pictures of our civil disobedience as screen saver or backgrounds in the officer’s hand-held devices. They weren’t looking for the people in the picture, but they are all members of the Congress of Day Laborers. If that’s true, it is a form of intimidation. They know who goes to protests and who participates in the marches,” says Fernando Lopez. The two Congress of Day Laborer organizers, Lopez and Elberth, also believe ICE may be denying prosecutorial discretion to people based on their involvement in civil rights and labor rights activism. They point to the case of Gustavo Bonilla-Noriega, who has been a member of the Congress of Day Laborers for over one year. Gustavo received a stay of removal last year. When the stay expired, he submitted a new request, citing even stronger equities than he had the previous year. ICE denied his request. Elberth, explains that “the denial of Gustavo’s case doesn’t make sense, especially as his case has gotten stronger. I keep trying to understand the reasoning for the denial if it’s not payback.” Lopez says It’s the message to the community that ‘if you

shouldn’t get involved with drugs. Manny has a lot of support from the community, from his church, and from his children’s school, but he remains in detention with little chances of getting out”

**Francisco Aguirre, Oregon:** “That Friday early in the morning two agents came knocking at my door trying to take me into custody, without any warrant. Since I am a human rights promoter, I know my rights and I am a leader in my community. I refused to let the agents in my house without a warrant, and I told them they could not take me with them. I called my friends and community members right away. They showed up and showed support and asked that those federal agents leave the property. It had never passed my mind that immigration would come get me. I am in the process of getting a U-visa.

ICE says that I am a ‘risk to public safety’ because when I was 19 years old I was arrested with some drug charges. Although I was not guilty, I had a bad lawyer and didn’t speak much English. The lawyer they told me I should just plead guilty, so I did. And then I got deported. So much time has passed since then. I have lived in this country for almost 20 years. I have helped build our local organizations and the workers’ center. I have helped my fellow immigrants. I have children who I am raising and providing for. But none of that counts. They have made me go to such an extreme that I am now taking sanctuary in a church. I can’t go outside because I know they will separate me from my children.”

organize and raise your voice, we know who you are and your life is in our hands.”

In Wisconsin, Illinois and Georgia, ICE retaliation has been more subtle, and directed more at organizers than at people in detention, although it impacts both. Organizers report that their local ICE Field Office stopped communicating with them after they participated in actions and civil disobedience that called negative attention to local ICE practices. “A supervisor in the Milwaukee ICE office used to share basic information with us—Alien numbers, bond information, possible relief options, deportation dates—about people whose families we were working with,” remembers Samuel Singleton-Freeman, an organizer at the Wisconsin-based organization Voces de la Frontera, for example. But in June 2014 the organization organized a civil disobedience in front of the local ICE office, in response to a sweep that resulted in several community members being taken into immigration custody.<sup>17</sup> Singleton-Freeman says that after that, the communication has been inconsistent. The supervisor who was his contact told him at the time that he would no longer give him information because of the organization’s involvement in the civil disobedience.

## Failure to properly apply prosecutorial discretion

According to ICE, prosecutorial discretion is the prioritization of resources to “ensure that the aliens it removes represent, as much as reasonably possible, the agency’s enforcement priorities, namely the promotion of national security, border security, public safety, and

the integrity of the immigration system.<sup>18</sup> ICE’s three “priority” groups are people with criminal records, people who recently crossed the border, and people with a prior removal or repeated immigration violations. However, ICE is supposed to give each case individual consideration, taking into account both positive and negative factors, even for those who fit into a “priority” group. As ICE’s own memorandum reads, “no one factor is determinative. ICE officers, agents, and attorneys should always consider prosecutorial discretion on a case-by-case basis. The decisions should be based on the totality of the circumstances<sup>19</sup>” and not one single factor.

On the ground, it’s a different story. Around the country, immigrants and organizers report that, when it comes to people who fall within one or more of the priority categories, ICE is not taking into consideration the “totality of the circumstances.”

In Chicago, organizers point to several high-profile cases where the local ICE field office has refused to exercise prosecutorial discretion for people with prior immigration violations, despite the presence of numerous positive factors. Most recently, ICE denied a stay of removal for Felipe Diosdado, a Mexican immigrant who came to ICE’s attention when he applied for the state’s Temporary Visitor’s Driver’s License. Mr. Diosdado has two United States Citizen children and numerous other positive equities. His supporters also argue that “the circumstances of Mr. Diosdado-Arellano’s encounter with immigration authorities warrant special consideration of his removal in the context of the public interest.<sup>20</sup>” They explain, “The state officer who turned Mr. Diosdado-

**Elder Gomez Lopez, Puente Movement, Arizona:** “When the protests [in support of my release] first started, the guards didn’t know who they were for. On the fourth day, the detention center guards realized that it was a hunger strike, and that they were talking about me. I talked to my mom over the phone [from detention], on calls that I knew were being recorded but we didn’t care, and she said she was doing the hunger strike. That’s when I told her that I would be joining her too, and I started a hunger strike in detention. When the guards realized what I was doing they took me to the ‘hole’ [solitary] and they locked down the other 250 people in my section. I don’t know why they did that, maybe to make the other people angry at me. The guards wanted us to know that there were consequences for doing what I was doing. They threatened to move me to another detention center and to force-feed me, but taking part in the hunger strike was a good thing for me and I lasted for a long time.

The guards would tell me that my actions would not lead to anything, because I would never get out of detention. They took my visitation away, and I was in solitary for about 60 days, all because of the hunger strike I was doing inside, and what my mom and other activists were doing outside. When I came out of the ‘hole’ I heard there had been another hunger strike, this time with all 1,500 people detained. They were fighting for their rights, protesting violence from the guards, the bad food, how cold it was. Although I had nothing to do with it they told me it was my fault because I had started it, and they put me back in the ‘hole,’ along with a few others. The punishments are harsh. I’m glad I am out now, but I think about all the others who stayed behind” (**former detainee at Eloy Detention Center in Eloy, Arizona**)

**Yestel Velasquez, Louisiana:** “On a Monday, on August 4th I called from the detention center to a meeting in Washington D.C. with ally organizations. I told them about my arrest, and how the Latino community is treated in

Arellano over to immigration was not acting according to their [Illinois Secretary of State] policies. The state of Illinois created the TVDL program to ensure that undocumented immigrants had access to car insurance and were registered and authorized to drive. Publicity regarding Mr. Diosdado-Arellano's initial detention, and news about his potential removal, has and would further undermine the state of Illinois' TVDL program and the relationship between immigrant communities and the government of the state of Illinois." Mr. Diosdado has also received support from Governor Patt Quinn, Secretary of State Jesse White, and Senator Richard Durbin.

But on September 15, 2014, ICE denied Mr. Diosdado's stay of removal request, citing his prior immigration violation. Mr. Diosdado's attorney, Mony Ruiz-Velazco argues that ICE could have exercised prosecutorial discretion from the moment they were called by the Illinois Secretary of State's office, "ICE consented to go to this place where people normally should feel safe, and made an arrest there. Their practices have been very harmful to the community in so many ways." As Diosdado waits for a review of the decision of the local field office, Ruiz-Velazco explains that even when cases like his are successful, "it takes an inordinate amount

of resources to do a prosecutorial discretion request. It's not just filing it and putting forward all the documentation and positive factors in the case, it's also expecting a denial, and then to go to higher levels, and to do all the organizing. It just seems like a waste of resources on our side as advocates and on their side."

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During "targeted enforcement actions" people arrested as collateral are regularly placed into removal proceedings if they fit into one of the priority categories – particularly people with criminal records or a prior deportation. "If [ICE] ha[s] any reason to detain a person, they will," explains Elberth, from New Orleans. "It's like [ICE agents] are looking for the one factor that is negative on their record. They don't care about positive factors, or the family's need, just about the one negative factor to validate themselves and their actions."

She describes the recent case of community member Eric Carrillo, who was deported on September, 18, 2014. Seventeen years ago, Eric was convicted of a felony for dating a woman who was 16 years old when he was 23. Elberth advocated with ICE to stop Eric's deportation, pointing out that he had lived in the United States for 23 years, has 4 United States citizen daughters who depend on him financially and

New Orleans [...] The guards at the jail would get angry and question why I was talking to so many people. The very next day, ICE started to take me to get my documents at the consulate and told me I would be deported that week, even though they had given me a stay [of removal] for another month. They were unhappy that I had talked to the organizations the day before.

That Friday they took all the people who were getting deported that day at 3 in the morning, including Wilmer who was arrested with me at the auto shop. Then they came back for me at 8 or 9 in the morning. I told them that the flight must already have left, but the guard said it was waiting just for me. I reminded them that they were not able to get my travel documents, but he said that didn't matter. They took me to another facility, told me to change clothes, and then had me detained for 8-9 hours. Then they gave me back my uniform, and sat me by the hallway where all the people who are getting out [of detention] walk through. I think they were just trying to get back at me because they couldn't deport me and because I filed the civil rights complaint. It bothered them a lot that I was talking about their abuse of authority and the mistakes that they have committed. No one likes to be shown their own mistakes.

Recently when I went to my check-in with ICE, there was a line of agents just waiting there at the office, which never happens. They the ones who had arrested me. Why would they be there on that day when I have my check-in, and in the waiting area? When I was leaving the office they were all standing by the glass window facing the elevator, smiling and waiving. I think they were trying to intimidate me, play a psychological trick. I waved at them and smiled politely."

emotionally, and has become a responsible leader in his church and his community. She also highlighted that a judge in 2008 found that, given the circumstances, Mr. Carillo's "conviction is not for a particularly serious crime" and that "the fact that he has coexisted in the community for the past 11 years is a serious indicator that he does not pose such a threat<sup>21</sup>." Elberth explains, "Eric was clearly not a danger to the community. His family is suffering economically and psychologically. But ICE can say they deported a felon. They [ICE] are doing everything they can to arrest people with criminal records because it makes them look good, not because they care about public safety."

## Complicity with [other] rogue agencies

ICE regularly collaborates with local law enforcement agencies that are under investigation for, or have been found liable for, systemic civil rights violations. ICE does not take into account the lawfulness of a local agency's conduct when deciding whether to initiate deportation proceedings against a person arrested by that agency. As a result, unlawful, race-based stops by rogue local law enforcement agencies can and do lead to deportation. For example, ICE regularly initiates deportation proceedings against people arrested by the Maricopa County Sheriff's Office, despite the fact that the Department of Justice (DOJ) found MCSO responsible for the worst case of racial profiling its investigator had ever seen.<sup>22</sup> ICE also regularly initiates deportation proceedings against individuals who

have been convicted for using false information to work under an Arizona law that is being challenged in federal court as unconstitutional. ICE also collaborates with other local law enforcement agencies around the country, including Alamance County, North Carolina, Cobb, DeKalb, and Gwinnett Counties in Georgia, which have been found liable for racial profiling and other civil rights violations, as well as police officers in East Haven, Connecticut who were prosecuted by the FBI for violence and corruption.

For example, in September 2014 a lawsuit was filed on behalf of several individuals alleging that the DeKalb County Police Department pressures officers to issue tickets and make arrests, encourages corruption, and harms the relationship with the public<sup>23</sup>. Police departments in Arkansas, New York, Alabama and Michigan are also facing investigations into quota-driven arrests<sup>24</sup> ICE continues to cooperate with all of these agencies, despite being under investigation for practices that breed corruption.

ICE also continues to collaborate with states or other localities that have Arizona-like laws that criminalize undocumented immigrants and have a stated goal of driving immigrants out through attrition. In Georgia, a recent study found ICE arrests rose 953% from 2007 to 2013 with 96% of those detained having dark or medium complexion in 2013<sup>25</sup>. Local organizers and community members point to laws such as Senate Bill 350, which penalizes people who have four or more driving without

**Mony Ruiz Velasco, Illinois:** "My client Esmeralda is a domestic violence victim who was deported, and she should not have been. She was picked up by ICE after a judge held her in contempt for refusing to testify in a sexual assault and domestic violence case—that should have been a flag. Throughout the process of deporting her, ICE had a lot of chances to find out that she was a domestic violence victim. She was married to a legal permanent resident, and has U.S. citizen children. She had some options. If they had done a good job interviewing her they would have realized she was a victim, and taken the appropriate steps. Instead they very quickly deported her based on an old order. So I think this is a case where you can really see how they [ICE agents] are not making assessments, especially people who are pro se on a case-by-case basis, to really determine whether they should use prosecutorial discretion. Even though she was a higher priority because she had a prior removal, she had other positive factors that should be considered under the prosecutorial discretion memo, and ICE somehow missed them all. Now she has been deported, her children are with the abuser, and she is having a hard time returning to the US."

**Paromita Shah, National Immigration Project:** "Christian, 22 years old, had been living in the United States since the age of eight. He came to the attention of ICE after his father's asylum application was denied in 2009 by an Immigration Judge. Christian's father placed Christian's name on the asylum application, therefore including him in the removal proceedings. When Christian's father was issued a deportation order, Christian was also ordered deported as the son. Christian did not leave the US because he has a US Citizen daughter with Turner's Syndrome. Christian applied for DACA with USCIS. Almost six months later, ICE came to pick up Christian despite the fact that his DACA application was pending. Two days after Christian was detained, USCIS denied his DACA request: the "you have not established that you warrant a favorable exercise of prosecutorial discretion" box was checked. He remained in detention. His lawyer filed an I-246 Stay of Removal based on his lack of criminal history and his daughter's medical history, which ICE denied. The attorney sought help from the USCIS Ombudsman office, US Representative's offices, and the AILA liaison, but ICE deported Christian shortly after the DACA denial."

a license charges with a felony, making them a priority for deportation and ineligible for various types of relief, as evidence of the criminalization of every-day life. In Georgia, “The most common reason people end up in deportation proceedings is police check-points. Police do roadblocks and then check for people’s licenses, explains Michelle Morales. She and other Georgia-based advocate, as well as community members, say that these check-points target Latino immigrants, and are placed around Latino communities or gathering areas. “People are also pulled over while driving, and only cited with tickets for driving without a license, a charge which could not have been suspected by the police officer simply from seeing the driver,” says Morales.

ICE’s use of prosecutorial discretion for individuals funneled into deportation proceedings as a result of unlawful arrest by rogue law enforcement agencies is at its best inconsistent. In Arizona, concerted organizing has succeeded in pressuring ICE to use of discretion for some of Arpaio’s raid victims. ICE’s denial of prosecutorial discretion in other similar cases sends the message that deportation quotas trump civil rights. For these reasons, the [Blue Ribbon commission](#) made up of undocumented and formerly undocumented immigrants, recommended recently that “in jurisdictions where local governments have announced their intention to violate civil rights, DHS should immediately suspend enforcement activities. <sup>26</sup>”

## Lack of Protections, Oversight, & Procedure for Transgender Detainees

In immigration detention centers around the country there is a disregard for the lives and safety of transgender immigrants in detention. Testimonies from organizers and immigrants show that there are inconsistent policies for treatment of transgender detainees, particularly those who are victims of violence. Complaints of sexual assault and rape at detention centers have been ignored. In one case, the victim was placed in solitary confinement after reporting being assaulted.

The case of Marichuy Leal Gamino, a transgender immigrant who has been in detention in Eloy, Arizona for three years, has shown the severe limitations of ICE and the immigration detention system to guarantee the safety and support needed by these detainees. The detention center housed Marichuy with men at Eloy and was not able to protect her from being sexually assaulted by her cellmate in the summer of 2014. Immediately after the assault, she reported the abuse to the facility staff. But despite clear guidelines in the Prison Rape Elimination Act (PREA)<sup>27</sup> the detention center instead tried to cover up the attack by pressuring Marichuy to sign a statement claiming the rape was consensual. After Marichuy’s report became public, she was placed in solitary confinement.

According to Olga Tomchin, who has been part

**Israel Lopez Bautista, Illinois:** “I was born in Guatemala, I am 43 years old, and I am a father of 3 children who work to better their future. I came to the United States 5 years ago. I have worked in restaurants and in construction, painting and gardening, and anything that allows me to live a dignified life. As a day laborer I often look for work on the corner. One day, at around 11 in the morning we saw a blue van arrive at the corner, and some men with guns got off and asked me for my ID. I gave them my consulate ID from my country, and they said that it didn’t count and arrested me.

The Latino Union of Chicago mobilized with my children to ask for my release and to ask that I not be deported. The truth is that I have no criminal record. I came here to work, with my only crime being coming here without papers looking to live. All of us deserve a chance to improve our lives. I am in deportation proceedings and I want to tell my story so that others fight with me too.” (Deported in December 2013)

**Megan Fountain, Connecticut:** “We had a big problem with East Haven police. The FBI had to come in and the Department of Justice came in and indicted four East Haven police for systematic brutality against community members. East Haven was our Maricopa County. One of our members, Edgar Marin, had an encounter with one of these police officers. After the officer assaulted him, he arrested Edgar and charged him with assaulting a police officer, a felony. So you have this police officer who has been found guilty of systematic discrimination and violence against Latinos by the Department of Justice, but ICE still picks up Edgar after his arrest by this police officer. To ICE, Edgar Marin is a felon. But when you uncover the real story, you see that he is a green card holder, a person with a wife who is a United States citizen, and a son who is also a citizen. You realize he pled guilty because he was victimized by the police. ICE just looked at the felony. They picked him up at his workplace a few years after he had completed probation and moved on with his life. It took a lot of people to mobilize for ICE to pay attention to how he got that felony to begin with, and to understand that they were being complicit in deporting this man who was really a victim of a racist police officer”

of the campaign to release Marichuy., the first mistake that ICE made was putting her in a male facility, and keeping her there after she reported harassment. "ICE has absolutely refused to follow the letter and spirit of the [PREA] regulations, and house transgender women such as Marichuy, according to their gender identities," she explains. Not housing Marichuy in a facility according to her gender placed her in a vulnerable situation, from which detention center staff could not protect her, and to which they were unequipped to react. When advocates questioned ICE about placing Marichuy in solitary confinement, a high-ranking ICE staff responded, "While we are unable to provide specifics, we can confirm that in certain cases of alleged trauma, detainees can be placed into a medical observation/special needs unit and to allow for appropriate investigation in their assigned quarters. These special units have the same amenities as the general population.<sup>28</sup>" For Marichuy's advocates, this is an unacceptable response to the trauma that she has experienced. They argue that ICE can exercise prosecutorial discretion and use alternatives to detention to allow Marichuy to recover from the trauma with her family outside of the detention center.

Like most transgender and gender-non-confirming immigrants in detention, Marichuy faces a particularly high

risk of sexual violence. The Center for American Progress reports that gay, lesbian, bisexual and transgender detainees are 15 times more likely to be sexually assaulted than their heterosexual and cisgender counterparts.<sup>29</sup> As people have come together to organize for Marichuy, other transgender immigrants in Arizona have begun to speak about their experiences inside the detention center. Simonne Ramirez-Lopez, who was recently released from Eloy Detention Center for example, said in an interview for this report that "being out [as transgender] in detention is getting constant harassment. Not from everyone, but there are always those few who make threats. And the guards just look at you and laugh," she explained. In an open letter from LGBTQ advocates to members of Congress, Marichuy's case is set as one example of the need for a widespread policy change in the way ICE treats and detains transgender immigrants and other vulnerable populations, "If ICE cannot guarantee LGBTQ people's safety, they should not be detaining them,<sup>30</sup>" they state.

For Carlos Garcia at Puente, who works closely with immigrants at Eloy, Marichuy's story is also part of the context of how the Eloy detention center is run. "The Eloy administration is not capable of guaranteeing a minimum level of safety and dignity for transgender people. In fact, it is not safe for anyone. Eloy detention center has a long

**Natally Cruz, Puente Movement, Phoenix:** "Four months ago we had a case of a man who was driving down the freeway, and he got pulled over by the police. Since he didn't have a driver's license the police officer called ICE right there, and handed him the phone. The man told ICE his information, and they looked him up. When the man handed the phone back to the police officer, he heard the police officer ask the person on the phone, 'Why don't you want to pick him up. I told you he is here without papers, and it's your job.' And when ICE didn't come get him, the police officer took him to the ICE office to make sure he got processed. We are helping him fight his deportation case now [...] We get a lot of cases of people pulled over by the police who are charged with nothing but not having a driver's license and then transferred to ICE."

**Marlon Santos, Chicago, Illinois:** "I went on vacation with my children to Michigan. I was with my friend near the lake, putting his boat back on the car, when a police officer approached us. None of us were driving or doing anything wrong, but he still asked us for our IDs. I didn't have anything, and neither did my friend, but the driver of the car had a driver's license. When he saw we didn't have an ID, he asked us if we were 'illegal.' At that moment I realized that that was the only thing that he saw that was suspicious about us – that we looked like immigrants. Maybe he heard us speak Spanish, and my accent is not great. But right there he called ICE and told them to pick us up. I spent two months in detention and almost got deported. They had already scheduled my deportation when the community was able to help me out. [...] I don't think police are supposed to do that if we haven't done anything wrong."

**Marina Velazquez, Massachusetts:** "My partner and father of my 5 children is Adan Robledo. He was deported a from our home in Springfield [Massachusetts] after 12 years living here. He told me that ICE had begun moving him on Monday, without having responding to the stay of deportation application. They did not permit him to make a phone call for two days. ICE denied us the opportunity to call for a review of the decision I had been on hunger strike and fighting for him for months. I even talked to his immigration officer, who just responded to me, 'It's your fault your family is suffering. Why did you have children with an illegal?' It was very hard for me. My partner's case has been mishandled by the ICE office regional directors, and I have been treated with disrespectfully. What the ICE office is doing is unacceptable and incredibly cruel. I have continued to organize with Just Communities so that this doesn't happen to other families. [...] But ICE didn't listen to us about my husband, and we're still trying to get them to listen to us now."

history of conditions that have led to nearly a dozen deaths in the last decade, including two suicides just last year," he explains. The suicides sparked an investigation into the detention center practices, but as Marichuy's case illustrates, there continues to be great need for improvement in the treatment of detainees, in particular vulnerable populations and transgender immigrants. .

Allegations of sexual assault and inappropriate reactions to sexual violence are not unique to transgender immigrants or to Eloy detention center. As recently as September 30th 2014 the Mexican American Legal Defense Fund filed a complaint regarding the sexual abuse of women in DHS custody at the Karnes County residential center in Texas. The complaint alleges that guards at this detention center in Texas were sexually harassing female detainees. The complaint reads, "It is clear from both the alleged continuing conduct and the failure to respond to reports of abuse that either there is no prevention plan in place for the Karnes Center or the Karnes Center policy is not being properly implemented, overseen or enforced."<sup>31</sup>

## **No independent accountability or useful supervision**

Over the last year, ICE has gone through numerous changes in leadership. . At headquarters level there have been four different heads of the department since former Director John Morton left in July 2013. At the Field Office level, there have also been numerous shifts of Directors, in some cases leaving community organizations without access to information needed to support their constituencies in their immigration-related cases. These changes in leadership are often done under the radar, leaving community advocates and lawyers unclear about who is actually making decisions regarding implementation of prosecutorial discretion. In addition there is a general lack of accountability and supervision for ICE Field Offices from ICE headquarter or other independent bodies. In some cases, there is little or no communication with community stakeholders and the ICE office. Even in instances of claims regarding possible violations of civil rights and civil liberties, the Department of Homeland Security investigates ICE internally.

After John Morton left in July 2013, John Sandweg served as Director for seven months. <sup>32</sup> When Sandweg left, in February 2014, ICE announced that Acting Deputy Director Daniel Ragsdale would serve as interim Director.<sup>33</sup> One month later, in March 2014, Thomas Winkowski was appointed "Principal Deputy Assistant Secretary,<sup>34</sup>" and Ragsdale was assigned the title of "Deputy Director"<sup>35</sup>. Over the course of these changes, it has been unclear who is actually making decisions on the cases at headquarters

level. Different directors have maintained different levels of communication with community advocates. Under the current leadership, advocates and attorneys have been frustrated by a lack of communication from headquarters, which now appears to be rubber-stamping decisions from the Field Offices without engaging in substantive review.

"We used to get more concrete responses from headquarters before. They actually reviewed the decisions and there was more communication. Now all

At a headquarter level there have been four different heads of the department since former Director John Morton left in July 2013.

they are doing is backing up the decision of the local office," explained Fernando Lopez, from the Congress of Day Laborers in New Orleans. He added that some times they don't even get responses from headquarters before a person is deported. Other times, they get responses almost instantaneously, suggesting a cursory, superficial review. It remains to be seen whether there will be changes once Sarah Saldaña, picked by the Obama administration to be new director of ICE, takes over the agency<sup>36</sup>.

At the Field Office level, there have also been numerous shifts of Directors. For example, the New Orleans ICE Field office has had four different directors since January 2014. The constant changes have made it difficult for local organizers to establish relationships with the directors of the offices. The latest New Orleans Field Office Director, David Rivera, is the former director of the Georgia ICE Field Office. His departure from Georgia has affected organizers in that state. Michelle Morales, an organizer with GLAHR, reports that since Rivera's departure, the Field Office has "closed itself off completely. We used to have a contact with the former director, and some times he would help us get people out of detention, but since he left the office we have just seen closed doors."

In many cases, these changes leave community organizations without access to information needed to support their constituencies.

"For community advocates, having access to information from ICE is crucial to be able to support their community members. People in detention already have very little resources. It's expensive to call their family

members and they can't afford their own lawyer. They often rely on organizations like ours to facilitate that conversation. When the ICE office refuses to recognize the role of community organizations like ours, this severely limits the resources available for people in detention and their ability to have their voices heard" states Ileri Unzueta, organizer with Undocumented Illinois.

This lack of transparency, supervision, accountability, and independent oversight has severe consequences for individuals and communities. It means there is little to no public oversight of ICE's application of prosecutorial discretion, conditions in detention centers, and ICE's civil rights abuses. Even in instances of claims regarding possible violations of civil rights and civil liberties, the Department of Homeland Security investigates ICE internally, without public oversight. United States Representative Adam Smith from Washington state recognized this when he introduced a bill to improve detention conditions in May of 2014 in response to a hunger strike by Tacoma detainees demanding better living conditions. He stated, "Right now the facilities are audited by the same people – ICE – who put out the regulations. Unsurprisingly, ICE thinks ICE is doing an amazing job."<sup>37</sup>

In each of the instances described in this report, community advocates have appealed to supervisory bodies and elected officials to try to bring some level of accountability for the actions and decisions of local Field Offices but instead ICE Headquarters has signed off on their removal. Outside of making repeat appeals locally

and at headquarters, there is little recourse for immigrants denied prosecutorial discretion, and no outside supervision of ICE decisions. Even in cases of civil rights violations, investigations are handled internally. Jolene Elberth notes that "ICE shouldn't be reviewing civil rights complaints within their own department. The police can't monitor themselves, it has to be someone else doing it." Her co-organizer, Fernando Lopez adds, "It shouldn't even be up for discussion whether people who are complaining about civil rights abuses should remain in detention while the same agency is investigating the claims. It's a joke that ICE chooses whether to keep them in detention and whether civil rights abuses took place."

Without accountability or independent review, organizers and community members have found no option except to mobilize the community and galvanize public support in cases of wrongdoing. As Puente Director Carlos Garcia explains, "We don't have a contact in Washington D.C. that is responsive to what happens here. We have only been able to work things out by escalating or pushing political buttons." Ileri Unzueta Carrasco, from Illinois concludes, "They are inconsistent in their communication because there are no consequences for not communicating with us or not listening to detainees. If they do something that we disagree with, they don't care, and there is no body independent of ICE that is monitoring their actions."

## On The Research Methods

The results of this report are based on qualitative interviews with organizations and individuals around the country who have experience with immigration enforcement through their work and/or personal experience. The interviewees were selected based on their work monitoring local enforcement practices and their engagement in deportation defense work. Most of the contributors collaborate in some capacity with the National Day Laborer Organizing Network as members or as part of the #Not1More Campaign. A majority of the people whose cases are highlighted in this report have organized against their deportation with local community organizations as part of this campaign.

The report does not intend to make claims about quantitative changes in ICE enforcement implementation. Rather it is documentation of what immigrant communities and advocates see every day in their work. Although it is intentionally one-sided and qualitative, centering the perspective of those who experience the effect of enforcement, whenever possible it includes supporting evidence via documents obtained through Freedom of Information Act Requests. Most of the findings are based on qualitative reports. We encourage statistical research into any of these claims, and trust that those who are seeing the enforcement every day in their communities are often the first to identify changing trends.

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The **#Not1More Campaign** is an open-source initiative of grassroots groups organizing to advance immigrant rights through organizing deportation-defense campaigns with individuals in deportation proceedings, promoting local policy that creates a bright line between law enforcement and federal immigration authorities, and presses for executive action to halt deportations, terminate criminalization programs, and expand affirmative relief.

Launched in 2001, the **National Day Laborer Organizing Network (NDLO)** was formed as a grassroots immigrant-led collaboration between 12 community-based organizations and worker centers; all dedicated to our mission of improving the lives of low-wage day laborers. Since our formation, NDLO's purpose has been to serve as a vehicle that connects and strengthens day laborer organizations and immigrant rights groups so that they can replicate effective local strategies, share institutional wisdom, and effectuate progressive social changes. In unifying these base-building organizations, NDLO's primary role is to facilitate translocal movement that elevates local struggles and workers' voices to achieve economic and social equality for immigrant communities.

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