

# **The Math of Immigration Detention:**

*Runaway Costs for Immigration Detention Do  
Not Add Up to Sensible Policies*

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## Executive Summary

One symptom of our broken immigration system is the exorbitant spending wasted on detaining hundreds of thousands of immigrants annually. Physical detention, as costly and severe as it is, should only be used in limited circumstances, such as for holding immigrants whose release would pose a serious danger to the community. For the majority of individuals currently in immigration detention, the government could use less expensive alternatives to detention to serve their needs. Billions of dollars could be saved if the government reduced its overreliance on detention and properly allocated resources towards more humane and cost-effective alternative methods of monitoring.

Immigration and Customs Enforcement (ICE), located in the Department of Homeland Security (DHS), has begun prioritizing enforcement against immigration violators who pose a danger to the community, rather than using limited resources to target people who are simply trying to make a living. However, ICE's use of discretion has been limited so far, and resources are still used to detain and deport aspiring citizens who pose no risk. Wise use of prosecutorial discretion is a huge opportunity to reshape our vast immigration detention system, yet the opportunity is being squandered.

Despite a more focused approach by DHS to immigration enforcement, the White House continues to ask for billions of dollars for the detention operations of ICE. For the Fiscal Year that begins October 1, 2012 (Fiscal Year 2013), DHS and the White House requested \$1.959 billion for DHS Custody Operations. This funding level would amount to \$5.4 million per day spent on immigration detention. The current cost to detain an immigrant is approximately \$164 per day at a capacity of 32,800 daily detention beds. Congress would spend even more.

Many of these detention dollars flow to enormous private prison corporations that stand to reap significant profits when more and more immigrants are detained.

Detention should not be used as the default approach to enforcing immigration laws. Less wasteful and equally effective alternatives to detention exist. They range in cost from as low as 30 cents to \$14 a day. If only individuals convicted of serious crimes were detained and less expensive alternative methods were used to monitor the rest of the currently detained population, taxpayers could save more than \$1.6 billion per year—over an 80% reduction in annual costs. An examination of the numbers makes it clear—the dollars spent to detain immigrants do not add up to something that makes sense.

## An Overview of Immigration Detention Costs

The Department of Homeland Security (DHS) requested about \$2 billion in funding for immigration detention for FY 2013, which runs October 1, 2012 – September 30, 2013.<sup>1</sup> This pot of money would provide Immigration and Customs Enforcement (ICE) with funding to maintain a detention capacity of 32,800 people in nearly 250 facilities<sup>2</sup> on any given night, including operational expenses,<sup>3</sup> at an average of \$5.35 million per day.<sup>4</sup> Congress has made clear that it intends to fund immigration detention at levels that exceed the request from the Administration, specifically 34,000 daily detention beds for FY 2013. Current funding levels appropriated by Congress for FY 2012 support 34,000 beds per day.

Two figures are used in calculating the average daily cost of immigration detention per person: \$122 per daily bed is the number ICE commonly provides for detention costs,<sup>5</sup> but \$164 per daily bed includes ICE's operational expenses.<sup>6</sup> The higher cost figure was confirmed by ICE officials in August 2012.<sup>7</sup>

- \$1,959,363,000 FY 2013 Presidential annual budget request for custody operations / 365 days in a year = \$5.4 million per day.
- \$5.4 million per day / 32,800 immigrant detainees = \$164 daily cost to tax payers per immigrant detainee.<sup>8</sup>

These costs are a slight decline from the \$166 per daily bed the National Immigration Forum calculated based on 2011 numbers.<sup>9</sup> The decline is attributed to the President requesting \$91 million less for Custody Operations and attempting to reduce daily detention bed numbers by 1,200.

Congress endeavors to spend even more taxpayer money, exceeding what DHS has requested, on the detention operations of ICE. For Fiscal Year 2013, the House of Representatives approved a budget of \$2.026 billion for Custody Operations, which is nearly \$67 million more than the President's request and would accommodate the detention of 34,000 immigrants on any given day. DHS sought to detain 1,200 fewer individuals each day. The Congressional funding level

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<sup>1</sup> Dep't of Homeland Security, U.S. Immigration and Customs Enforcement Salaries and Expenses, Fiscal Year 2013 Budget Justification, p. 1036, available at <http://www.dhs.gov/xlibrary/assets/mgmt/dhs-congressional-budget-justification-fy2013.pdf> [hereinafter, "DHS FY 2013 Budget Justification"]. DHS requested \$1,959,363,000 for Custody Operations in FY 2013, however, in H.R. 5855, the House of Representatives increased the proposed amount for immigration detention by \$66.98 million in order to increase the number of detention beds to 34,000. See Department of Homeland Security Appropriations Bill Committee Report, p. 50, available at <http://appropriations.house.gov/uploadedfiles/homeland-fy13-fullcommitteeereport.pdf>. H.R. 5855 has been referred to the Senate for approval. See House Approves Fiscal Year 2013 Homeland Security Appropriations Bill, available at <http://appropriations.house.gov/news/documentsingle.aspx?DocumentID=298983>.

<sup>2</sup> Dep't of Homeland Security, Office of Inspector General Report, "Management of Mental Health Cases in Immigration Detention" (March 2011), p. 1, available at [http://www.oig.dhs.gov/assets%5CMgmt%5COIG\\_11-62\\_Mar11.pdf](http://www.oig.dhs.gov/assets%5CMgmt%5COIG_11-62_Mar11.pdf).

<sup>3</sup> DHS FY 2013 Budget Justification, *supra* note 1 at 1068-1069.

<sup>4</sup> See *id.* at 1036.

<sup>5</sup> *Id.* at 1067.

<sup>6</sup> In calculating bed rates, collateral costs need to be accounted for as well. ICE officially projects bed cost at \$122; however this figure excludes payroll costs for employees who operate the detention system. If payroll is included, the cost of detention beds increases to \$164 per bed—a more accurate assessment. See *id.*

<sup>7</sup> USA Today, "Immigrants Prove Big Business for Prison Companies (August 2012) available at, <http://www.usatoday.com/news/nation/story/2012-08-02/immigration-prison/56689394/1>

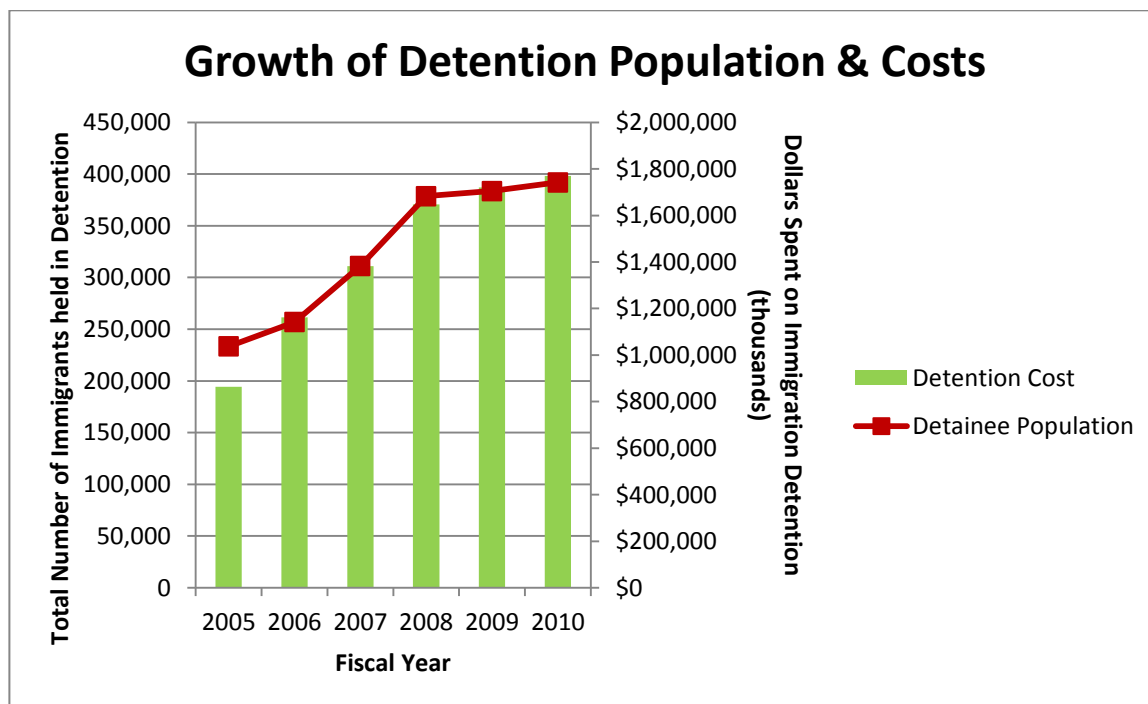
<sup>8</sup> The average daily population of detention centers is typically below the maximum capacity, thus if calculated for actual population numbers, the daily cost of detaining an individual would be even higher. See, Dep't of Homeland Security, U.S. Immigration and Customs Enforcement, Total Removals (May 2011), available at <http://www.ice.gov/doclib/about/offices/ero/pdf/ero-removals.pdf>.

<sup>9</sup> National Immigration Forum, *The Math of Immigration Detention* (August 2011).

would amount to \$5.54 million per day spent on immigration detention or \$163 per day per person.

The exorbitant costs associated with immigration detention result from the dramatic growth of this industry in recent years, as illustrated in Figure 1. The number of daily detention beds has nearly doubled over the past eight years, from 18,000 in 2004 to the current capacity of 34,000.<sup>10</sup> From 2001 to 2010 the total number of immigrants who pass through ICE detention per year has also nearly doubled, from 209,000 individuals in 2001 to almost 392,000 individuals in 2010.<sup>11</sup>

Figure 1<sup>12</sup>



The types of detention facilities used by ICE also dictate costs. Increased strain has been placed on state and local jails that hold immigrant detainees on behalf of ICE. This is due to the majority of immigrant detainees being housed in space ICE rents from approximately 220 state

<sup>10</sup> See, Dep’t of Homeland Security, Office of Inspector General, Detention and Removal of Illegal Aliens (April 2006), p. 1036, available at [http://www.dhs.gov/xoig/assets/mgmtrpts/OIG\\_06-33\\_Apr06.pdf](http://www.dhs.gov/xoig/assets/mgmtrpts/OIG_06-33_Apr06.pdf); See footnote 1.

<sup>11</sup> ACLU, “Securely Insecure: The Real Costs, Consequences & Human Face of Immigration Detention” (January 2011), available at [http://www.detentionwatchnetwork.org/sites/detentionwatchnetwork.org/files/1.14.11\\_Fact%20Sheet%20FINAL\\_0.pdf](http://www.detentionwatchnetwork.org/sites/detentionwatchnetwork.org/files/1.14.11_Fact%20Sheet%20FINAL_0.pdf) [hereafter “ACLU, “Securely Insecure”]; Dep’t of Homeland Security, U.S. Immigration and Customs Enforcement, Immigration Enforcement Actions: 2010 (June 2011), available at <http://www.dhs.gov/xlibrary/assets/statistics/publications/enforcement-ar-2010.pdf> [hereafter “Immigration Enforcement Actions: 2010”] (stating that ICE detained approximately 363,000 immigrants in FY 2010).

<sup>12</sup> See, Transactional Records Access Clearinghouse, “Growth in Number Detained,” Syracuse Univ. (Feb. 11, 2010), available at <http://trac.syr.edu/immigration/reports/224/include/4g.html>; Transactional Records Access Clearinghouse, “Immigration and Customs Enforcement (ICE) Budget Expenditures,” Syracuse Univ. (Feb. 11, 2010), available at <http://trac.syr.edu/immigration/reports/224/include/3.html>; See also, Detention Watch Network, “The Influence of the Private Prison Industry in the Immigration Detention Business” (May 2011), available at <http://www.detentionwatchnetwork.org/sites/detentionwatchnetwork.org/files/PrivatePrisonPDF-FINAL%2005-11-11.pdf>.

and local jails.<sup>13</sup> Alternatively, as discussed later, the correctional industry has designed and built some facilities to house ICE detainees exclusively. In addition, ICE currently owns and operates six detention facilities, called Service Processing Centers (SPCs).<sup>14</sup> ICE has proposed closing some SPCs to lower costs.<sup>15</sup> Finally, ICE utilizes seven Contract Detention Facilities (CDFs) that are operated by contractors but house solely ICE detainees. ICE claims to be “exploring” cost efficiencies in these facilities.

Efforts to restructure ICE’s detention system are increasingly politically charged. Political pressure plays a large role in keeping open detention centers where problems have been abundant, including the Etowah County Detention Center in Alabama.<sup>16</sup> Terminating use of a contracted or leased detention facility has been difficult because of political pressure to keep the jobs created by the detention centers.<sup>17</sup> The demand for jobs creates an incentive to find more detainees to fill the jails, regardless of poor conditions of confinement or whether or not those incarcerated within merit detention.<sup>18</sup>

### Prosecutorial Discretion

Over the past two years, ICE has attempted to shift enforcement practices away from haphazard and sweeping methods, to more targeted efforts focused on individuals whose removal is a high priority for the agency. This is a smart and needed shift. From 1996 to 2006, 65% of immigrants who were detained and deported were detained after being arrested for non-violent crimes.<sup>19</sup> In 2009 and 2010, over half of all immigrant detainees had no criminal records.<sup>20</sup> Of those with any criminal history, nearly 20% were merely for traffic offenses.<sup>21</sup>

ICE now says its policy is to prioritize apprehension and detention of individuals convicted of serious criminal offenses. The first step towards more focused enforcement came in June 2010 when ICE Director John Morton released a memorandum outlining the civil immigration enforcement priorities of ICE, focusing on removing individuals who are a threat to national security, public safety, and border security.<sup>22</sup> With regard to detention, this directive stated “as a general rule, ICE detention resources should be used to support the enforcement priorities...or for aliens subject to mandatory detention by law.” It also directed ICE personnel to avoid detention where possible of individuals with serious physical or mental illnesses or who are disabled, pregnant, nursing, or are primary caretakers, or whose detention is “not in the public interest.”

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<sup>13</sup> Inter-American Commission on Human Rights, “Report on Immigration in the United States: Detention and Due Process” (December 2010), p. 1067, available at <http://cidh.org/pdf%20files/ReportOnImmigrationInTheUnited%20States-DetentionAndDueProcess.pdf>; [Detention Reform Accomplishments, Immigration and Customs Enforcement, http://www.ice.gov/detention-reform/detention-reform.htm](http://www.ice.gov/detention-reform/detention-reform.htm).

<sup>14</sup> Located in Batavia, New York; El Centro, California; El Paso, Texas; Florence, Arizona; Miami, Florida; and Los Fresnos, Texas. El Paso is currently being converted to office space and El Centro is being considered for co-location of ICE field offices. DHS FY 2013 Budget Justification, *supra* note 1 at 1067-1068.

<sup>15</sup> *Id.* at 1068

<sup>16</sup> The Nation, “How One Georgia Town Gambled its Future on Immigration Detention” [Hannah Rappleye](http://www.thenation.com/article/167312/how-one-georgia-town-gambled-its-future-immigration-detention) and [Lisa Riordan Seville](http://www.thenation.com/article/167312/how-one-georgia-town-gambled-its-future-immigration-detention), (April 2012), available at <http://www.thenation.com/article/167312/how-one-georgia-town-gambled-its-future-immigration-detention>.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* (citing Gary Mead, executive director for enforcement and removal operations for ICE, stating “I do not believe we will be allowed to leave Etowah without serious repercussions against our budget.”).

<sup>19</sup> ACLU, “Securely Insecure,” *supra* note 10.

<sup>20</sup> *Id.*; “Immigration Enforcement Actions: 2010,” *supra* note 10.

<sup>21</sup> *Id.*

<sup>22</sup> U.S. ICE Memorandum: Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens (June 2010), available at <http://www.ice.gov/doclib/news/releases/2010/civil-enforcement-priorities.pdf>.

In June 2011, ICE released another memorandum detailing the use of prosecutorial discretion consistent with immigration enforcement priorities outlined in the June 2010 memorandum.<sup>23</sup> Specific to detention, under the 2011 memorandum, the term “prosecutorial discretion” applies to a broad range of enforcement decisions, including “deciding whom to detain or to release on bond, supervision, personal recognizance, or other condition.”<sup>24</sup> Factors to consider include a person’s criminal history, the agency’s civil immigration enforcement priorities, the circumstances of the person’s arrival in the United States, and the person’s pursuit of education in the United States, among other things.<sup>25</sup>

In August 2011, DHS Secretary Napolitano announced that backlogged immigration cases would be reviewed for prosecutorial discretion, and that prosecutorial discretion should be applied consistently in new immigration cases.<sup>26</sup> Despite the promise of this announcement, more than one year after the 2011 prosecutorial discretion memorandum was issued, ICE had identified only nine percent of the non-detained cases as amenable for prosecutorial discretion<sup>27</sup>, and only 4,363 cases had been administratively closed or dismissed of the 232,181 cases that have been reviewed.<sup>28</sup>

The slow pace of prosecutorial discretion is dire for detained individuals. With detention costs high and deprivation of the liberty a severe governmental action, the potential of prosecutorial discretion is arguably at its zenith in cases involving detainees. Amazingly, less than one percent of detained cases that ICE has reviewed had been identified as eligible for prosecutorial discretion.<sup>29</sup>

ICE could save millions of dollars by applying prosecutorial discretion in decisions about whom to detain and whom to release. The guidance issued so far offers a mechanism to inject practicality and deliberation into the enforcement system, but much remains to be done to maximize the use of prosecutorial discretion in immigration enforcement, especially regarding the use of detention.

## **Privatization of ICE-owned Detention Facilities**

The expansion of the immigrant detention system has directly benefitted the private prison industry. Corrections Corporation of America (CCA) is the largest ICE detention contractor, operating a total of fourteen ICE-contracted facilities with a total of 14,556 beds.<sup>30</sup> GEO Group, Inc. (GEO), the second largest ICE contractor, operates seven facilities with a total of 7,183 beds.<sup>31</sup> In 2011, CCA and GEO reported annual revenues of \$1.73 billion and \$1.6 billion respectively.<sup>32</sup> In December 2010 GEO purchased B.I. Incorporated, a company that has

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<sup>23</sup> Immigrations and Custom Enforcement memorandum regarding Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens (June 2011), available at <http://www.ice.gov/doclib/secure-communities/pdf/prosecutorial-discretion-memo.pdf>.

<sup>24</sup>*Id.* at 2-3.

<sup>25</sup>*Id.* at 4.

<sup>26</sup> ICE Case-by-Case Review Statistics (June 2012), available at <http://www.documentcloud.org/documents/367098-ice-review-stats.html>.

<sup>27</sup>*Id.*

<sup>28</sup>*Id.*

<sup>29</sup>*Id.*

<sup>30</sup> Detention Watch Network, “The Influence of the Private Prison Industry in Immigration Detention,” *supra* note 10.

<sup>31</sup>*Id.*

<sup>32</sup> Corrections Corporation of America, “CCA Announces 2011 Fourth Quarter and Full-Year Financial Results” (Feb. 2012), available at <http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-newsArticle&ID=1658614&highlight>; 4-traders, “The Geo Group, Inc.: The GEO

lucrative government contracts with ICE as the sole administrator of its alternatives to detention program.<sup>33</sup> Private prison companies in 2011 housed nearly half of all immigration detainees.<sup>34</sup>

Private prison corporations have also exerted their influence on legislators by lobbying for laws that detain immigrants more frequently and for longer periods of time.<sup>35</sup> According to the Associated Press, the three corporations with the lion's share of ICE detention contracts, including CCA and GEO, together spent at least \$45 million in the past decade on campaign donations and lobbyists at the state and federal levels.<sup>36</sup> The cozy relationships between legislators and private prison corporations are perhaps best illustrated by Arizona's controversial S.B. 1070 bill, which was drafted in the presence of officials from CCA.<sup>37</sup> Of the 36 co-sponsors of S.B. 1070, 30 received campaign contributions from private prison lobbyists or companies, including CCA.<sup>38</sup>

The influence of private prison corporations is even more troubling given persistent and numerous complaints by detainees held at private facilities, including sexual abuse,<sup>39</sup> inadequate access to translators, prolonged detention, and insufficient medical treatment.<sup>40</sup> ICE detention standards, designed to guide the operation of immigration detention facilities, are not expressly enforceable at many of the facilities under contract with ICE.<sup>41</sup> Given the lack of strict standards and proper oversight at these facilities, sub-par conditions at these locations come as little surprise.

The role of private prisons in immigration detention was on a prominent stage this year. A high-profile private immigration detention facility opened in March 2012 in Karnes, Texas. GEO Group, Inc. built the facility to specifications set by ICE, and designed it to be the first "civil detention center" intended to house low-risk, adult males.<sup>42</sup> The Karnes facility has been controversial; some say that the accommodations are too plush for the detainees housed there and others note that alternatives to detention would be a more cost-effective option for detainees in the facility.<sup>43</sup> The Karnes facility allows for greater unescorted movement, more recreational opportunities, and better visitation.<sup>44</sup> The facility cost GEO \$32 million to build, but

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Group Reports Fourth Quarter 2011 Results" (Feb. 2012), available at <http://www.4-traders.com/THE-GEO-GROUP-INC-12753/news/The-Geo-Group-Inc-The-GEO-Group-Reports-Fourth-Quarter-2011-Results-and-Announces-Adoption-of-Ca-14033010/>.

<sup>33</sup> See, "The GEO Group Announces Acquisition of BI Incorporated," GEO Group (Dec. 2010), available at [http://bi.com/geo\\_group\\_announces\\_acquisition\\_of\\_bi\\_incorporated](http://bi.com/geo_group_announces_acquisition_of_bi_incorporated).

<sup>34</sup> USA Today, "Immigrants Prove Big Business for Prison Companies", Associated Press, (August 2012) available at, <http://www.usatoday.com/news/nation/story/2012-08-02/immigration-prison/56689394/1>

<sup>35</sup> ACLU, "Securely Insecure," *supra* note 10.

<sup>36</sup> USA Today, "Immigrants Prove Big Business for Prison Companies, (August 2012) available at, <http://www.usatoday.com/news/nation/story/2012-08-02/immigration-prison/56689394/1>

<sup>37</sup> Laura Sullivan, "Prison Economics Help Drive Ariz. Immigration Law," National Public Radio, (Oct. 28. 2010), available at <http://www.npr.org/templates/story/story.php?storyId=130833741>.

<sup>38</sup> Justice Policy Institute, "Gaming the System" (June 22, 2011), p. 30, available at [http://www.justicepolicy.org/uploads/justicepolicy/documents/gaming\\_the\\_system.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/gaming_the_system.pdf).

<sup>39</sup> Between the creation of ICE detention centers in 2003 and August 2010, there have been more than 15 separate documented incidents and allegations of sexual assault, abuse, or harassment, involving more than 50 alleged detainee victims. See, National Immigration Forum, "Summaries of Recent Reports on Immigration Detention" (June 2011) p. 11, available at <http://www.immigrationforum.org/images/uploads/2010/DetentionReportSummaries.pdf> citing Human Rights Watch, "Detained and at Risk" (August 2010).

<sup>40</sup> See generally, *id.*

<sup>41</sup> ACLU, "Securely Insecure," *supra* note 10.

<sup>42</sup> "ICE opens its first-ever designed-and-built civil detention center", ICE News Release (March 13, 2012), available at <http://www.ice.gov/news/releases/1203/120313karnescity.htm>.

<sup>43</sup> U.S. House of Representatives, "Holiday on ICE" Hearing, statement of Jessica M. Vaughan, available at <http://judiciary.house.gov/hearings/Hearings%202012/Vaughan%2003282012.pdf>.

<sup>44</sup> *Id.*

they plan to recoup their costs with an estimated \$15 million in annual revenue from operating the facility.<sup>45</sup> ICE will reimburse GEO at a rate of \$68.75 per day per detainee for the first 480 detainees, and \$56.48 for all detainees above 480.<sup>46</sup> A fundamental question raised by the Karnes facility is whether it is appropriate and economically wise to incarcerate the kind of low-risk detainees housed there. While the Karnes facility may be a step up from jails that lease bed space to ICE, it continues to enhance the influence of private prison companies, who have much to gain from detaining as many people as possible.

## The Need to Detain and Alternatives to Detention

Persistent questions surround ICE's need to detain individuals on such a massive scale. For example, in 2009, an ICE report found only 11% of detainees had committed what ICE considered to be violent crime and the majority of detainees posed no threat to the general public.<sup>47</sup> Given the predominantly non-criminal make-up of the immigration detention population and the expenses and concerns surrounding detention, more humane and cost-effective alternatives should be pursued. Many immigrants currently in ICE custody could be safely released and, if necessary, monitored with alternative methods, such as telephonic and in-person reporting, curfews, and home visits.<sup>48</sup>

Recognizing that individual circumstances should be considered when making detention determinations, ICE launched a risk assessment tool pilot program in Washington and Baltimore in May 2010 that was designed to assist ICE employees in determining the detention and medical needs of detainees during the intake process, including when it may be appropriate to use an Alternative to Detention (ATD) program.<sup>49</sup> Work began to automate the risk assessment process in April 2011.<sup>50</sup> No information has been made public to indicate whether the risk assessment tool has been released beyond the pilot programs or is now fully deployed.<sup>51</sup> Widespread and uniform use of the risk assessment tool could reduce unnecessary detention and better utilize ATD programs by enrolling appropriate individuals.

As with detention decisions, concerns exist about the appropriateness of the population that ICE enrolls into ATD programs. Currently, ICE uses intensive electronic monitoring on some individuals as an alternative to *release*. These individuals pose no danger and are a very low flight risk and could simply be released on bond or their own recognizance. Instead, ICE could use ATD programs to mitigate flight risk in the cases of many detainees where that is the only obstacle to release.

Currently ICE's ATD program has two primary components: Full-Service (FS) in which contractors provide equipment and monitoring services along with case management, or Technology-Only (TO) in which the contractor provides equipment but ICE continues to

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<sup>45</sup> "A Kinder, Gentler Immigrant Detention Center," LOS ANGELES TIMES (March 17, 2012), available at <http://articles.latimes.com/2012/mar/17/nation/la-na-detention-salad-bar-20120318>.

<sup>46</sup> Intergovernmental Service Agreement between DHS ICE and Karnes County (December 2010) available at, <http://www.ice.gov/doclib/foia/isa/karnescountycivildetentionfacility-igs11-0004.pdf>.

<sup>47</sup> See generally, Dora Schriro, U.S. Immigration and Customs Enforcement, Immigration Detention Overview and Recommendations (Oct. 2009), p. 2, available at <http://www.ice.gov/doclib/about/offices/odpp/pdf/ice-detention-rpt.pdf>.

<sup>48</sup> Anil Kalhan, Columbia Law Review, "Rethinking Immigration Detention" (July, 21, 2010), p. 55, available at [http://www.columbialawreview.org/assets/sidebar/volume/110/42\\_Anil\\_Kalhan.pdf](http://www.columbialawreview.org/assets/sidebar/volume/110/42_Anil_Kalhan.pdf).

<sup>49</sup> ICE Detention Reform Accomplishments, available at <http://www.ice.gov/detention-reform/detention-reform.htm>.

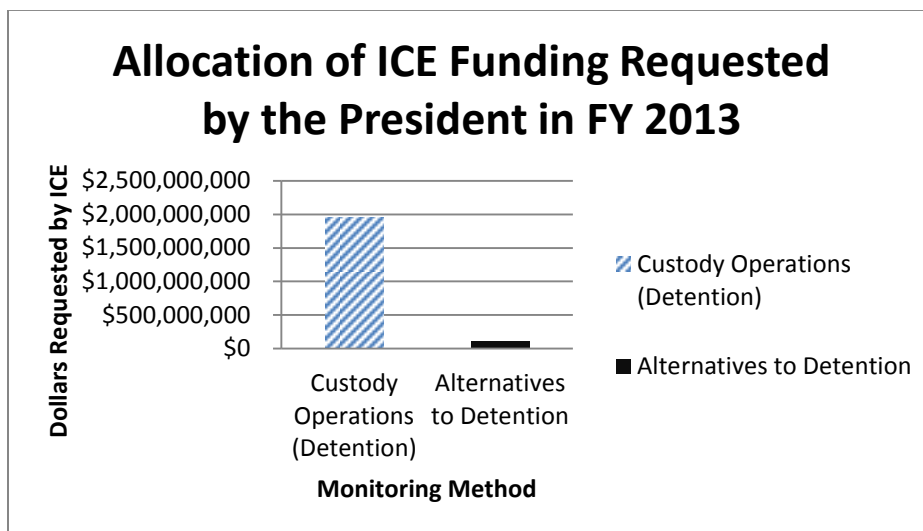
<sup>50</sup> *Id.*

<sup>51</sup> *Id.*



supervise the participants.<sup>52</sup> ICE has grown the size of these ATD programs. As of June 8, 2012, there were 23,289 individuals enrolled in ICE ATD programs; 11,571 were in the Full-Service program while 11,718 were in the Technology-Only program.<sup>53</sup> This represents a notable increase in enrollment from the same date in 2011 when 18,960 total individuals were enrolled in ATD programs.<sup>54</sup> Budgetary figures reflect this growth; for the 2013 fiscal year (Oct. 1, 2012 – Sept. 30, 2013), the President requested \$111.59 million for ATD programs, a \$39.2 million increase from FY 2012.<sup>55</sup> However, as illustrated in Figure 2 below, spending on ATDs remains dwarfed by spending on traditional detention.

Figure 2<sup>56</sup>



Financial justifications support expanding ATD programs. Existing alternatives range in cost from as low as 30 cents up to 14 dollars a day per individual.<sup>57</sup> Thus, even if the most expensive alternative programs<sup>58</sup> were used to monitor the overwhelming majority of detainees without violent criminal histories, a tremendous amount of resources and money would be saved. If ICE limited its use of detention to individuals who have committed violent crimes, the agency could save nearly \$4.4 million a night, or \$1.6 billion annually—an 82% reduction in costs.<sup>59</sup>

<sup>52</sup> DHS FY 2013 Budget Justification, *supra* note 1 at 1085-1086.

<sup>53</sup> Statistics delivered by ICE officials during the 2012 American Immigration Lawyers Association’s Annual Conference, Nashville, TN, June 13-16, 2012. For comparison, on January 22, 2011 there were 13,583 participants in the FS category and 3,871 in the Technology-Assisted (now called Technology-Only) category. Dep’t of Homeland Security, U.S. Immigration and Customs Enforcement Salaries and Expenses, Fiscal Year 2012 Congressional Budget Justification, p. 1074, available at <http://www.dhs.gov/xlibrary/assets/dhs-congressional-budget-justification-fy2012.pdf> [hereafter “DHS FY 2012 Budget Justification”].

<sup>54</sup> *Id.* to AILA conference statistics.

<sup>55</sup> DHS FY 2013 Budget Justification, *supra* note 1 at 1084.

<sup>56</sup> DHS FY 2013 Budget Justification, *supra* note 1 at 1084.

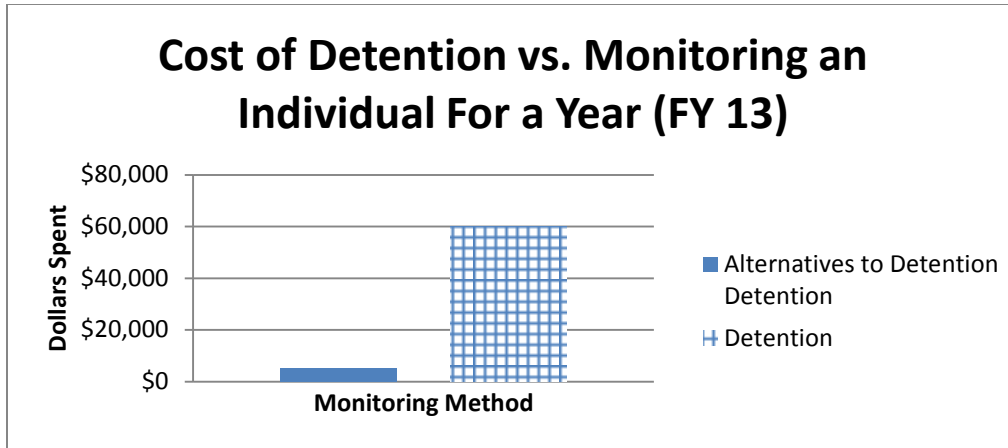
<sup>57</sup> *See, id.*

<sup>58</sup> Dep’t of Homeland Security, ICE Detention Reform: Principles and Next Steps (Oct. 2009), available at [http://www.dhs.gov/xlibrary/assets/press\\_ice\\_detention\\_reform\\_fact\\_sheet.pdf](http://www.dhs.gov/xlibrary/assets/press_ice_detention_reform_fact_sheet.pdf).

<sup>59</sup> 11% of detainees have committed violent crimes (.11) \* 32,800 detainees per night = 3,608 violent detainees per night. 32,800 detainees per night – 3,608 violent detainees = 29,192 nonviolent detainees. 29,192 nonviolent detainees \* \$14 a day for alternative to detention monitoring = \$408,688 a day to monitor nonviolent detainees. 3,608 violent detainees \* \$164 a day for detention = \$591,712 a day to detain violent detainees. \$408,688 on alternatives to detention for nonviolent detainees + \$591,712 on detention for violent detainees = \$1,000,400 a night to monitor and detain. \$5,400,000 currently spent each night to detain immigrants - \$1,000,400 a night if only detaining those who committed violent crimes = \$4,399,600 saved each night.

- \$4,399,600 saved each night \* 365 = \$1,605,854,000 savings per year or a savings of over 81.9% as compared to the current cost for Custody Operations.

Figure 3<sup>60</sup>



Even beyond the large financial savings, there are significant programmatic reasons to expand ATD programs. These programs have a very high compliance rate among participants. In FY 2010, the last year for which appearance data is available, ATD programs exceeded the target for appearance rates for immigration hearings by 35.8 percent; the target was 58 percent and the actual FY 2010 rate was 93.8 percent.<sup>61</sup>

### Conclusion

Fiscal accountability by the Federal Government is critical in our current economy, yet immigration detention continues to raise enormous fiscal concerns. The urgency for an alternative approach is further fueled by numerous humanitarian concerns endemic to immigration detention. ICE must reexamine and modify how and why it detains people, including maximizing its alternatives to detention programs to take advantage of cost savings. In addition, the government must be prudent with limited resources by detaining only those who actually pose a risk to the security of the country. The fiscal interests of private prison corporations are insufficient rationale to maintain the current wasteful and bloated immigration detention system. Prioritizing the use of scarce resources is the responsible thing to do, is consistent with other immigration policies, and will help accomplish the important objective of promoting national security. A close examination of the figures makes it clear: the numbers behind immigration detention simply do not add up to sensible policy.

<sup>60</sup> \$14 a day for alternative detention procedures \* 365 days a year = \$5,110 a year to monitor an individual using alternatives, \$164 a day to detain an individual \* 365 days a year = \$59,860 a year to detain an individual. See DHS FY 2013 Budget Justification, *supra* note 1.

<sup>61</sup> DHS FY 2012 Budget Justification, *supra* note 57 at 925.