

# What You Should Know

## about Detention and DEPORTATION



### Frequently Asked Questions:

**Q: What is immigration detention and deportation?**

A: Immigration detention is the lock-up of non-citizens in a federal immigration detention center, jail facility, or a private corporate-owned and run prison while a determination is made whether or not these non-citizens are to be deported. The time spent in detention can last many years and for some last indefinitely. The U.S. detains more than 230,000 immigrants, including young children, each year. Deportation is the forced return (at government expense) and exile to one's country of origin. Since 1996, the U.S. has deported more than 1.5 million people.

**Q: Who can be deported?**

A: *Anyone* who is not a U.S. citizen can be deported. This includes refugees, student visa and business visa holders. Even longtime legal residents with green cards who only have been convicted of a first-time minor criminal offense without serving any time in jail can be deported regardless of their individual circumstances, although their spouse and children are U.S. citizens, they have been in the U.S. since they were children, or they can demonstrate rehabilitation.

**Q: What does a detention center look like and how are detainees treated?**

A: Immigrants are detained in places that look, smell, and feel like prisons and in some instances are even worse. They are often detained in state and local jails. They consistently face inadequate medical care, poor food, overcrowding, no programs, and little access to phones, legal materials, and fresh air. Detainees also often face difficulties and interference in communicating with their lawyers. The government regularly moves immigrant detainees to remote locations that separate them from their families, communities, and lawyers.

**Q: Why is detention a waste of your tax dollars?**

A: Immigrant detainees are the fastest growing portion of the U.S. prison population. The government annually spends \$1.2 billion of taxpayer money on detention, and continually requests increased levels of funding for more detention beds. Why? Colleen Rowley, an FBI special agent, explains: "After 9-11, FBI Headquarters encouraged more and more detentions for what seem to be essentially PR purposes." Meanwhile, the government ignores less costly alternatives to detention that have proven to be effective, such as home-visits.

**Q: Why should I be care about detention and deportation?**

A: In 1996, Congress passed legislation that significantly changed the immigration laws. These changes eliminated important legal rights that immigrants previously had to challenge their deportation. These laws also eliminated important due process protections that helped ensure that our government treated immigrants fairly and justly under the law. This is important to you – and everyone – because when the government has the power to deny legal rights and due process to one group of people (immigrants) it endangers **everyone's** legal rights and due process protections.

## **SPOTLIGHT on due process: How the detention and deportation system gets it wrong**

### **Sam's story**

Sam was born in a refugee camp in Thailand where his family was living after they fled the war in Cambodia. In 1984, when Sam was 5 years old he and his entire family were brought to the U.S. as refugees. Sam had a difficult adolescence and got in trouble with the law on several occasions for car theft and vandalism. When Sam was 20 he was convicted of burglary and served one year in jail. While in jail, Sam received counseling, finished his high school diploma, and began taking college classes. When he got out of jail, he got his Associate's Degree in counseling and worked with young refugee boys. He married an American citizen and has a 3-year-old citizen daughter. At his citizenship interview, his case was denied and he was taken into immigration detention. The immigration judge's only option under the 1996 laws was to deport Sam to Cambodia, a country where he never has lived. He will never be able to return to the U.S. to his wife and daughter.

### **How did this happen to Sam?**

In 1996, Congress eliminated a judge's power to both consider the individual circumstances of a case and to grant a waiver of deportation where a legal resident's crime was classified as an "aggravated felony" under immigration law. It also expanded the list of offenses classified as aggravated felonies, including crimes that were neither aggravated nor felonies. Because Sam's crime was designated an "aggravated felony," the judge could not consider Sam's new family and life changes.

### **Sources:**

2004 Yearbook of Immigration Statistics, Table 42 and 43, by the U.S. Department of Homeland Security, Office of Immigration Statistics (OIM).

Critics Decry Immigrant Detention Push, Associated Press, June 25, 2006.

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Detaining America's Immigrants: Is this the best solution?, authored by Scott Lewis and Paromita Shah; part of The Real Deal fact sheet series, a project of Detention Watch Network, the National Immigration Project, and the Rights Working Group.

Detention and Removal of Illegal Aliens, Office of Inspector General, Department of Homeland Security, April 2006. Also [www.ice.gov](http://www.ice.gov), August 7, 2006.

The President's Fiscal 2003 Immigration Budget, February 4, 2002

Note: Graphic art courtesy of Jeeun Lee

### **Q: What are the arguments against the current deportation and detention laws and policies?**

**Not allowing judges or immigration officials to consider the particular circumstances of an individual's case hurts America because it denies due process protections, a cornerstone of the American system of justice.** When the government violates the Constitution and denies due process for some, all of our freedoms are at risk.

**The government's blanket policy of automatically imprisoning thousands of immigrant families while they await deportation hearings is costly, cruel, and does nothing to solve the immigration problem.** We don't need to take people out of their communities and pay millions of dollars to jail families who have been contributing to our society. In 2006, the U.S. government spent \$90 million on detention alone at an average daily cost of \$85 per bed. When the government denies due process, wastes money, and treats people unfairly, it hurts all of us.

**America is a pro-family nation and government policies that separate families are not the American way.** Deportation and detention devastates families and hurts communities by taking away primary wage-earners and in some cases the only parent. This, in turn, increases evictions, and the need for public assistance, including foster care, and physical and mental health problems.

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