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## “I Still Need You”

The Detention and Deportation of Californian Parents





# **“I Still Need You”**

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# The Detention and Deportation of Californian Parents

On the morning of February 28, 2017 Romulo Avelica-Gonzalez pulled up to Academia Avance, a small charter academy in Highland Park, CA, to drop off two of his daughters at school. After dropping off one daughter, Romulo was pulled over by Immigration and Customs Enforcement (ICE) agents, who were unaware that 13-year-old Fatima was still in the backseat. Over uncontrollable sobs, Fatima filmed the arrest of her father with her cellphone.

Avelica-Gonzalez had a DUI charge from eight years ago and he was once charged with driving without a license. He also purchased a used car nearly 20 years ago, without knowing it bore a registration sticker that had been stolen from another car, *The Intercept* reported.<sup>1</sup> He has lived in the United States for 25 years, and is the father of four US citizen children.

He is one of thousands of Californian parents of US citizens who are now much more vulnerable to detention and deportation under President Trump's vastly expanded "priorities" for deportation. Those priorities potentially make nearly all 11 million undocumented immigrants "priority" targets for deportation—setting the stage for what could well be a nationwide dragnet that would harm millions of people.<sup>2</sup>

The California legislature is currently considering several initiatives that could help to mitigate the harms of immigration detention and protect Californian families. These initiatives would strive to make detention conditions more humane and would ensure that detained immigrants receive assistance from state-appointed attorneys. Some policymakers are seeking to limit such legal assistance based on assumptions about who these immigrant detainees are, particularly those with some kind of criminal history.

The purpose of the analysis set forth in this paper is to provide more detailed information on immigration detention in the state, with the goal of helping prompt better, more

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<sup>1</sup> Leighton Akio Woodhouse, "Video: 13-Year-Old Who Filmed Father's Arrest by ICE Struggles With His Absence," *The Intercept*, <https://theintercept.com/2017/03/08/video-13-year-old-who-filmed-fathers-arrest-by-ice-struggles-with-his-absence/> (accessed May 1, 2017).

<sup>2</sup> For analysis of Trump's immigration and border enforcement executive actions and Department of Homeland Security memos, see Human Rights Watch, "Questions and Answers: The Trump Administration's Immigration Enforcement Memos," March 2, 2017, <https://www.hrw.org/news/2017/03/02/questions-and-answers-trump-administrations-immigration-enforcement-memos>.

rights-respecting reforms. A key finding is our estimate that more than 10,000 parents of US citizens are detained in California each year. Another is that nearly half of the detainees had no criminal histories and that, among those with criminal records, those convicted of relatively minor non-violent offenses (such as immigration offenses, drug use or possession, or DUI) outnumbered those convicted of violent felonies by nearly three to one.



Romulo Avelica Gonzalez with his daughters. Image courtesy of the National Day Laborer Organizing Network.

The analysis here draws from data on immigration detainees held in California for the four-and-a-half year period from January 1, 2011 to June 30, 2015 (equivalent data on more recent periods was not available at time of the assessment), with a particularly detailed look at data from October 1, 2014 to June 30, 2015, the only portion of the period for which records generally included information as to whether the detainees had US citizen children. Our analysis reveals that California’s sprawling system held 15 percent of the immigrants detained nationwide during the period, and, as noted above, it suggests that tens of thousands of those detained in recent years were parents of US citizen children and that most detainees with criminal histories were convicted of relatively minor offenses. Given the Trump administration’s stated intention to ramp up enforcement efforts, this data provides a grim baseline, demonstrating the imperative of efforts to ensure fair deportation procedures and humane and dignified conditions for people held in immigration detention in California.<sup>3</sup>

“We’re not supposed to be separated from our parents,” Brenda Avelica, Romulo Avelica-Gonzalez’s 24-year old daughter told *The Intercept*. “Now it’s, like, where you at. I still need you.”<sup>4</sup>

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<sup>3</sup> Senate Bill 29 would prohibit California cities and counties from renewing or entering into new contracts with for-profit detention companies and require local jails to meet specific civil detention standards when holding immigrants, including standards on access to legal services, medical care, freedom from harm or harassment, and privacy. It would also prohibit an immigration detention facility from involuntarily placing a detainee in segregated housing because of his or her actual or perceived gender, gender identity, gender expression, or sexual orientation. A budget allocation being discussed in the California state assembly would allocate state funds to providing lawyers for people in immigration detention in California.

<sup>4</sup> Leighton Akio Woodhouse, “Video: 13-Year-Old Who Filmed Father’s Arrest by ICE Struggles With His Absence,” *The Intercept*, March 8, 2017.



# Immigration Detention Centers in California

## Average Daily Population in 2015



Immigration authorities detain noncitizens in 10 main California immigration detention facilities, which housed a total average daily population of 4,594, according to government data through December 5, 2015.<sup>5</sup>

<sup>5</sup> In addition to these main facilities, detainees may be placed under ICE detainers and held in other facilities before being transferred to a main immigration detention facility. Between October 1, 2014 and June 30, 2015, ICE detainees were held, at least temporarily, in more than 50 facilities throughout the state.

## Who is being detained?

Between January 1, 2011 and June 30, 2015, 292,221 adults entered ICE detention facilities in California, an average of about 65,000 a year. This represents about 15 percent of the population of people detained by ICE nationally during that time period.<sup>6</sup> In November of last year, DHS officials said they were holding more than 41,000 people at that time in immigration detention facilities nationally, a record number.<sup>7</sup> The current national or statewide population is not publicly available.

Immigrants detained in California are people who for the most part are arrested inside the state or apprehended at the border.<sup>8</sup> No matter where someone is arrested they may have long-term ties to the state or face persecution in their country of origin, which under international standards should be carefully considered before deportation.<sup>9</sup>

The majority of detainees in our dataset entered detention in the San Diego and Los Angeles areas. About 40 percent enter detention in San Diego or nearby El Centro suggesting that many are being detained after crossing the border. Another 20 percent enter detention in Los Angeles. Other Southern California detention centers, for example in San Bernardino or Santa Ana, also account for a large proportion of the initial facilities in which people are detained.

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<sup>6</sup> This report analyzes datasets obtained from US Immigration and Customs Enforcement pursuant to Freedom of Information Act requests that track both transfers within immigration detention and releases from detention. They function as a record of who was detained in each ICE facility on any given day. From 2011-2014, the data provides dates of admission, transfer and release, along with facility information. From October 2014 to June 2015, the data includes information about whether detainees were the parents of US citizen children. These datasets provide a snapshot of the detention and deportation system at a macroscopic and microscopic level. We can track where and when people enter the system, flow through the system and finally leave the system through removal or other type of release. We can track which detainees were held in which facilities and for how long they were held in each facility, as well as the length of their entire detention.

<sup>7</sup> Lauren Etter, "Record Numbers of Undocumented Immigrants Being Detained in U.S.," *Bloomberg News*, November 10, 2016, <https://www.bloomberg.com/news/articles/2016-11-10/record-numbers-of-undocumented-immigrants-being-detained-in-u-s> (accessed May 1, 2017).

<sup>8</sup> A small number of detainees were transferred into detention in California after being apprehended or detained in other states.

<sup>9</sup> Human Rights Watch has previously found that in 2011 and 2012, 101,900 migrants apprehended at the border – about 15 percent – were a parent of a US citizen child. Human Rights Watch, "Border Enforcement Policies Ensnare Parents of US Citizen Children," January 8, 2015, <https://www.hrw.org/news/2015/01/08/border-enforcement-policies-ensnare-parents-us-citizen-children>.

The majority (55 percent) of ICE detentions in California during the time our dataset covers ended in deportation.<sup>10</sup> Another 7 percent leave through a “voluntary return or departure.”<sup>11</sup> A recent study found that 68 percent of detained immigrants in California are unrepresented by counsel and that detained immigrants who had counsel prevailed in their cases more than five times as often as did their unrepresented counterparts.<sup>12</sup>

The time that detainees spend in detention varies greatly. While 84 percent of people in our dataset spent less than one month in detention, 8,298 spent more than 6 months and 1,787 spent more than a year. Most—64 percent—of the people who are held for under a month are released or removed within one day. Only one out of ten detainees in our dataset bonded out of detention. Though our data does not show who is or is not represented by counsel, a recent study of immigration bond hearings in California found that the odds of being granted bond are more than 3.5 times higher for detainees represented by attorneys than those who appeared pro se, net of other relevant factors.<sup>13</sup>

Human Rights Watch estimated whether California immigration detainees were parents of US citizen children by examining data for all immigration detainees held in California between October 1, 2014 and June 30, 2015, the only part of the period in question for which the records generally included such information. Where information on US citizen children was not included, we used statistical methods to address the gaps.<sup>14</sup> In total, we

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<sup>10</sup> A number of people were still in custody on the last date of each dataset. These detainees were not included when computing percentages.

<sup>11</sup> The remaining detainees were released from detention in other ways such as on bond or the own recognizance. The data does not allow for tracking these detainees to determine which ones were eventually returned to detention and/or deported.

<sup>12</sup> The California Coalition for Universal Representation, “California’s Due Process Crisis: Access to Legal Counsel for Detained Immigrants,” June 2016, <http://www.publiccounsel.org/tools/assets/files/o783.pdf> (accessed May 1, 2017).

<sup>13</sup> Emily Ryo, “Detained: A Study of Immigration Bond Hearings,” 50 *Law and Society Review* 117, 119 (2016).

<sup>14</sup> The variable for number and citizenship of children is not a mandatory field within ICE data and therefore much of the data is missing. It is unknown how many of the entries are missing because the detainee did not have children or whether ICE staff never entered data. There are many detentions where staff entered “None” in the child variable, so some staff do enter the data even when there are no children. To compound concern, the ambiguity around the data, the level of completeness of the variable, varies greatly by ICE area of responsibility (AOR) and facility. The St. Paul-Minneapolis AOR included the child variable in 39 percent of entries, while the Newark AOR only included it in 14 percent of entries. In California, the data was present in 20 percent of cases. Nonetheless, it is the only data available to begin to estimate the number of US citizen children of detainees. Human Rights Watch first had to normalize or “canonicalize” the child variable. It is an open-entry variable where ICE officials type in the entry. Therefore, the child variable contains numerous misspellings and varieties of ways agents entered the same information. For 64,900 detainees, there were 7,198 unique values of this variable that were reduced to determine whether the entry stated the detainee had a US citizen child. After canonicalization, Human Rights Watch used missing data imputation with a logistic regression method to estimate the probability that those entries without data may have had children. Detentions in each ICE area of responsibility were imputed separately. In other words, detainees were modeled only against others detained in the same area. Gender, age, nationality, marital status, initial intake date, whether a final order had been issued, and release reason were the variables used in the model. First, the variables were

estimate that slightly less than half (42 percent) of all non-citizens detained by ICE during that period in the state had at least one US citizen child. In the nine months analyzed, this amounts to more than 8,600 parents of US citizen children detained in California. At this rate—and assuming that the detainees held during this period were similar to detainees held during any other period—it is likely that more than 10,000 parents of US citizens are detained in California each year.

Our analysis also shows that parents of US citizen children were more likely than others to be deported from detention. We estimate that nearly 47 percent of the California detainees removed from the country had a US citizen child, while only 35 percent of people who were released from detention, rather than removed, had US citizen children.<sup>15</sup>

## Immigrant Detainees and Crime

Polls show that a supermajority of Americans—90 percent according to a recent CNN survey—support legalizing and providing a path to citizenship for unauthorized migrants in the US.<sup>16</sup> President Trump’s deportation rhetoric sidesteps this constituency by promising to deport immigrants “that are criminal and have criminal records, gang members, drug dealers”—to which few are opposed.<sup>17</sup> However, data show that only a small minority of the “criminals” the US has detained and deported were convicted of serious crimes: most deportees with criminal histories had been charged or convicted of relatively minor crimes such as offenses involving immigration, drug use or possession, or DUI. Instead of focusing on violent criminals, US immigration policy has ripped apart American families and communities through the deportation of large numbers of lawful residents and

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used to estimate a predicted probability of whether data was missing at all. This value was then used as the weight in the regression model predicting US citizen children. The results were then compared to the only public data on the subject, ICE’s report to Congress on deportations of US citizen children, and the model was adjusted accordingly. The model was allowed to mark a detainee as having a US citizen child if the predicted probability was .794, which produced figures comparable to ICE’s report on final orders issued and total number of parents removed.

Detention stays for 3,482 people were removed from FY 2015 data because ICE did not provide rows for the initial detention stays for these individuals.

<sup>15</sup> Conversely, 63 percent of detained parents of US citizen children were deported compared with 50 percent of those who did not have US citizen children.

<sup>16</sup> CNN/ORC International Poll released March 17, 2017, <http://i2.cdn.turner.com/cnn/2017/images/03/17/rel4g.-immigration.pdf> (accessed May 10, 2017).

<sup>17</sup> Amy B. Wang, “Donald Trump plans to immediately deport 2 million to 3 million undocumented immigrants,” *Washington Post*, November 14, 2016, [https://www.washingtonpost.com/news/the-fix/wp/2016/11/13/donald-trump-plans-to-immediately-deport-2-to-3-million-undocumented-immigrants/?utm\\_term=.5d5f7078cd4a](https://www.washingtonpost.com/news/the-fix/wp/2016/11/13/donald-trump-plans-to-immediately-deport-2-to-3-million-undocumented-immigrants/?utm_term=.5d5f7078cd4a) (accessed, May 1, 2017).

undocumented immigrants with less serious criminal histories. The profiles of people deported from California reflect these national trends.

Immigrants, especially those with criminal convictions, often have US citizen and permanent resident family members. These family members can be devastated by detention and separation from their loved ones.<sup>18</sup> The people with criminal histories in California's immigration detention centers are often people with non-violent criminal histories or with unclear histories that can be better understood only with the help of an attorney. Furthermore, many of these people are Californians with long histories of presence in the state, with strong ties to California families and communities, and with US citizen family members. As an immigrant's ties to the state grow, so does their tendency to look like other Californians, including the many US citizen residents of California who have criminal records.

In our data, criminal history information was included for people detained between October 1, 2014 and June 30, 2015. Nearly half—47 percent—of the people detained during this period had no criminal history. Based on the broad categorizations provided by ICE, we estimate that 9 percent of detainees could be identified as convicted of a violent felony as defined in California law.<sup>19</sup> Most of the rest—27 percent—had criminal histories that were relatively minor, with offenses involving immigration, drug use or possession, or DUI as their most serious crime. (The remaining 17 percent had criminal histories that were unclear.) Those convicted of relatively minor offenses thus outnumbered those convicted of felonies by nearly three to one.

Most of those with criminal histories, moreover, had committed no crimes in recent years. On average, the most recent conviction had occurred nearly seven years prior to being detained by immigration. The most recent criminal conviction for over half (51 percent) of

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<sup>18</sup> See Human Rights Watch, Torn Apart, January 2015, [http://features.hrw.org/features/Torn\\_Apart\\_US\\_immigration\\_reform\\_2014/](http://features.hrw.org/features/Torn_Apart_US_immigration_reform_2014/).

<sup>19</sup> ICE provided crime data as a description of the conviction offense rather than as a reference to penal or criminal code provision. Human Rights Watch coded each of these descriptions as included, potentially included, or not included within the ambit of California Penal Code section 667.5(c), which covers violent felonies. We also coded offenses into general offense categories including violent or potentially violent drug sale, drug use or possession, and immigration. Because ICE crime categorizations are broad, it was impossible to rule out the possibility that particular convictions fell within the ambit of section 667.5(c). Those whose convictions were potentially but not definitely within section 667.5(c) made up 16 percent of the population over the 9 months for which we have data.



Simon Rodriguez, 2, waves U.S. flags during a protest march to demand immigration reform in Los Angeles, California on October 5, 2013. © 2013 Lucy Nicholson/Reuters

all detainees with a criminal history was over five years old. Nearly a quarter (24 percent) of detainees with criminal records had a conviction over 10 years old.

In the 2011-2015 California data on immigration detainees, having a criminal history also correlated with having US citizen children, likely a reflection of how long people had lived in the US: the longer people live in the country, the more likely they will become parents of US citizen children and will have some type of criminal record, however minor. In fact, 11 percent of people with no criminal history in our data had a US citizen child, while 77 percent of people with criminal convictions had a US citizen child.

While this data suggests that people in immigration detention who have spent the longest time in the US are more likely to have criminal convictions, it is important to note that a

long series of studies have found that immigrants in the United States are less prone to commit crime than people born here.<sup>20</sup> People with criminal convictions in immigration detention have served their sentences and paid their debt to society. They are also likely to be people who came to the country as children, or who have lived in the state for many years. They are likely to be people with the strongest ties to California's communities and families, and the most likely to have serious concerns about the harm that they and their loved ones are likely to suffer from immigration detention and deportation.

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<sup>20</sup> Kristin F. Butcher, Anne Morrison Piehl, "Why are Immigrants Incarceration Rates so Low? Evidence on Selective Immigration, Deterrence and Deportation," National Bureau of Economic Research, July 2007, <http://www.nber.org/papers/w13229.pdf> (accessed, May 1, 2017).

# “I Still Need You”

## The Detention and Deportation of Californian Parents

The need for human rights safeguards for detained immigrants in the United States is acute and growing as the Trump administration pursues policies likely to increase the number of people held in immigration detention and placed in deportation proceedings. *“I Still Need You”* uses government data obtained via a Freedom of Information Act (FOIA) to provide a better understanding of those detained and deported in California. The data cover nearly 300,000 federal detentions of immigrants in facilities in California over a four-and-a-half year span from 2011 to 2015. Over that period an average of about 65,000 immigrants a year were detained in California in 15 facilities. Many of the detainees were parents of US citizen children. Although the records for most of period do not specify whether detainees have US citizen children, the records for one nine-month span (October 2014 to June 2015) generally do, and statistical methods can reliably fill the gaps. Analyzing the records for that nine-month span, Human Rights Watch found that nearly half—42 percent—of detainees had US citizen children, adding up to over 10,000 parents of US citizen children a year. Human Rights Watch calls on the state of California to approve two measures under consideration by the California state legislature that would address human rights abuses in immigration detention by reinforcing detention standards and providing lawyers at the state’s expense for detained immigrants.



*An ICE detainee rests his hands on the window of his cell in the segregation wing at the Adelanto immigration detention center, which is run by the Geo Group Inc, in Adelanto, California, on April 13, 2017.*

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