



May 11, 2020

SENT VIA EMAIL

RE: Opposition to Ionia Immigration Detention Center

Dear Ionia Board of Commissioners:

On behalf of the Michigan Coalition for Immigrant and Refugee Rights (MCIRR), we write to urge the Board of Commissioners to decline the proposal from Immigration Customs Enforcement (ICE) to build a privately-run immigrant jail in Ionia. MCIRR is a state-wide coalition comprised of over 70 nonprofit member organizations. Our mission is to coordinate educational and organizational efforts that build capacity within Michigan's immigrant advocacy community; support immigrants' rights in federal, state, and local policy; and promote a more positive and inclusive atmosphere for immigrants and refugees in Michigan.

On April 28, 2020, we learned that David Frenkel — environmental, energy and sustainability program manager for the U.S. Immigration and Customs Enforcement (ICE) — wrote a letter to the Ionia County Board of Commissioners dated Thursday, April 23, 2020, which proposes a 152,000-plus square feet detention facility in Ionia. A copy of that letter is attached as **Attachment A** for your reference. The undersigned organizations are concerned that the expansion envisioned by ICE *cannot be accomplished without undermining due process and civil rights protections* for those who will be detained.

In this letter, we provide evidence demonstrating that: (1) ICE's detention system and practices already suffer from broken practices which will be ingrained in the expansion of this facility and will further jeopardize the lives and civil rights of those detained (a brief history of Immigration Centers of America makes it clear that the proposed facility will be no different); (2) the vast majority of those who would be detained pursuant to this proposed expansion will not have meaningful access to any form of legal counsel, especially pro bono counsel; and (3) there is simply no public safety need or justification for the proposed expansion, and, in fact, it is quite the opposite as the public would be *far better served by decreasing* the numbers of those detained and utilizing community-based alternatives to detention for those not released on their own recognizance.

1. Immigration Centers of America has a history of rampant and flagrant abuses.

ICE is constitutionally and ethically obligated to provide for the health and safety of those whom it detains. Furthermore, the Constitution of the United States requires immigration detention to be civil and non-punitive.¹ Nevertheless, the immigration detention system is overwhelmingly

¹ *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

outsourced to for-profit prison companies and local jails. This sprawling system is notorious for abusive and inhumane conditions and widely criticized for its lack of transparency and accountability.

Fueled by politics and the insidious consequences of campaign donations and lobbying by the private prison industry,² the immigration detention system already devalues the lives, health, and safety of those jailed within its walls. This is not speculation. It is well documented that for-profit private prisons companies cut corners that maximize profits³ and put lives at risk. Advocates, investigators, and formerly detained immigrants frequently report that conditions in both private and county jails that contract with ICE are profoundly inhumane.⁴ Individuals in detention report receiving food with worms and insects and discolored water.⁵ Credible reports of abuse of force by officers and excessive use of segregation and lockdown are common.⁶ ICE oversight of its existing standards is already lacking, as the current system of inspections and oversight is rife with loopholes and woefully inadequate to prevent and remedy egregious failures.⁷

Specific to the proposed expansion here, the private company that would be running this detention center has its own history of abuse. In 2015, the Department of Homeland Security Office for Civil Rights and Civil Liberties (CRCL) opened an investigation into Immigration Centers of America's Farmville detention center (ICA Farmville) after receiving complaints regarding medical care, use of force and restraints, lack of religious accommodation, environmental health and safety, among several other abusive conditions of detention. CRCL stopped the investigation when ICE adopted its recommendations but continued to receive complaints of abuses shortly thereafter the conclusion of its onsite investigation.

The risk of death is not theoretical, it is all too real. In October 2011, Anibal Ramirez-Ramirez, a Salvadoran national, detained at ICA Farmville died five days after being processed in the facility. ICE's own contractor, Creative Corrections, found that in addition to information about Mr. Ramirez-Ramirez's vomiting, involuntary bowel movements, and extreme disorientation not being communicated upon transfer between facilities, the intake process was inadequate, and when the nurses checked on Mr. Ramirez-Ramirez, they even failed to take his basic vital signs.⁸ They also concluded that the multiple delays in referring him to higher-level care, violating medical-care

² Eli Watkins and Sophie Tatum, CNN, "Private prison industry sees boon under Trump administration," Aug. 18, 2017, <http://www.cnn.com/2017/08/18/politics/private-prison-department-of-justice/index.html>.

³ Alan Gomez, USA Today, "Trump plans massive increase in federal immigration jails," Oct. 17, 2017, <https://www.usatoday.com/story/news/world/2017/10/17/trump-plans-massive-increase-federal-immigrationjails/771414001/> (reporting that GEO Group's stock price has increased 63% and CoreCivic's 81% since the 2016 presidential election).

⁴ See, e.g., Southern Poverty Law Center and National Immigration Project, *Shadow Prisons: Immigrant Detention in the South* (2016), https://www.splcenter.org/sites/default/files/ijp_shadow_prisons_immigrant_detention_report.pdf

⁵ *Id.*

⁶ *Id.*

⁷ Caitlin Dickerson, The New York Times, "Trump plan would curtail protections for detained immigrants," Apr. 13, 2017, <https://www.nytimes.com/2017/04/13/us/detained-immigrants-may-face-harsher-conditions-undertrump.html>.

⁸ DHS, *Death Investigation for Anibal Ramirez-Ramirez*, May 31, 2012, available at <https://www.documentcloud.org/documents/2695511-Ramirez-Ramirez-Anibal.html#document/p119/a273314>, p. 119

standards which require detainees' medical needs to be met in a timely manner,⁹ and may have directly contributed to Mr. Ramirez-Ramirez's death¹⁰,

To make matters worse, the proposal comes at a time of unprecedented health risks during the COVID-19 pandemic. Jails and detention centers have been found to be largely incapable of implementing social distancing, providing sufficient hygiene products and personal protective equipment, or having proper medical equipment and personnel to effectively respond to an outbreak. Already, epidemiologists report that this crisis is not going to be a quick recovery, as the above measures will necessarily be the "new normal." It is of little utility to build even larger places prone to become the next viral epicenters, especially when there are perfectly sufficient alternatives available. Jails, in particular, also act as breeding grounds for infection in their surrounding communities.¹¹

2. The vast majority of those who would be detained pursuant to the proposed expansion will not have meaningful access to legal counsel.

The undersigned organizations include the primary pro bono legal service providers for immigrants detained in ICE's Detroit areas of responsibility (AORs). As of the submission of this letter, none of our organizations have received inquiries or requests for consultations regarding our capacity to provide pro bono legal services to a new or newly expanded detention facility. This is an immediate red flag indication that access to legal counsel is not even a serious consideration in ICE's proposed expansion planning. Lacking such inquiries, we now take it upon ourselves to inform you that the expansion proposed by ICE cannot be effectuated in a manner that will provide meaningful access to pro bono legal services for the vast majority of those detained, which will inevitably result in constitutional violations.

It is widely recognized by legal practitioners that immigration law is highly complex and such cases often raise issues of life and death.¹² Although the Immigration and Nationality Act provides a right to counsel, this right is only realized for those who can afford to pay a lawyer or who secure a pro bono attorney. The right, therefore, means nothing to most immigrants in detention, where, nationally, fewer than 20% of all immigrants are able to find counsel.¹³ Many factors contribute to this due process crisis, including: the complexity of detained removal defense for even experienced lawyers; the intensive resources necessary to mount an effective defense for an individual detained far from relevant witnesses and evidence; and the remote location of many ICE facilities.¹⁴ Despite

⁹ Non-compliance with ICE PBNDS 2008 Medical Care, section (II)(2), Ramirez-Ramirez, available at: <https://www.documentcloud.org/documents/2695511-Ramirez-Ramirez-Anibal.html#document/p27/a273319>, pp. 27-28.

¹⁰ *Id.*, <https://www.documentcloud.org/documents/2695511-RamirezRamirez-Anibal.html#document/p120/a273318>, p. 120.

¹¹ "COVID-19 Model Finds Nearly 100,000 More Deaths Than Current Estimates, Due to Failures to Reduce Jails," ACLU, Washington State University, University of Pennsylvania, and University of Tennessee (2020), https://www.aclu.org/sites/default/files/field_document/aclu_covid19-jail-report_2020-8_1.pdf

¹² *Mendoza v. Lynch*, 646 F. App'x 458, 463 (6th Cir. 2016).

¹³ Ingrid Eagly and Steven Shafer, American Immigration Council, *Access to Counsel in Immigration Court* (2016), <https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court>.

¹⁴ Kyle Kim, Los Angeles Times, "Immigrants held in remote ICE facilities struggle to find legal aid before they're deported," Sept. 28, 2017, <http://www.latimes.com/projects/la-na-access-to-counsel-deportation/>.

those challenges, the importance of legal representation during removal proceedings cannot be overstated—among immigrants in detention, those with legal representation are twice as likely to obtain immigration relief.¹⁵

To be clear, expansion will, without a doubt, mean more detained immigrants facing removal without a lawyer. In Detroit, pro bono legal service providers are already stretched far beyond their limits. The undersigned are already unable to meet the legal service needs of people currently detained within the AOR and have no reason to believe ICE's expansion will be accompanied by increased private or public funding for detained legal services to offset the additional needs.

3. Expansion undermines, rather than protects, public safety. Community-based alternatives to detention are cheaper, effective, and humane.

More immigration detention beds means more families separated, and communities are torn apart. This expansion will largely correspond with ramped-up interior enforcement operations. These operations will in no way reflect the “public safety” mission ICE touts. Instead, the new detention beds will be filled with fathers of the more than 4,000,000 United States citizen children of an undocumented parent, causing, at a minimum, economic instability and immense psychological harm for generations to come.¹⁶

Private prisons fail to deliver on their lofty promises of economic activity. Periled as an economic engine, such detention center projects have unique complexities and needs which are not adequately addressed in typical jail models. An example of such failure is found in Texas, where an entire facility had to be deemed uninhabitable and left the county \$2 million short in its estimated budget and on the hook for \$78 million in unpaid bonds and significant job losses.¹⁷ Unfortunately for local communities, these projects are often temporary booms that end suddenly after sucking up critical infrastructure project funding and bloating public debt financings.¹⁸

A plethora of alternatives to detention (ATDs), including parole, affordable bond, community-based support programs and regular check-ins, has long existed as a superior option to the mass incarceration of immigrants. ATDs cost a fraction of the cost of detention—less than 10% of the costs, according to the Government Accountability Office.¹⁹ ATDs are also very effective, with recent pilot programs demonstrating rates of compliance with immigration check-ins and hearings of between 95 and 99%.²⁰

¹⁵ Eagly and Shafer, *supra* n. 2.

¹⁶ American Immigration Council, U.S. citizen children impacted by immigration enforcement, <https://www.americanimmigrationcouncil.org/research/us-citizen-children-impacted-immigration-enforcement>.

¹⁷ Parrott, Max W. and Leanos, Reynaldo Jr., "Boom and Bust: How Private Detention Centers Wreak Economic Havoc on the Counties that Turn to them for Stability" (2018). CUNY Academic Works. https://academicworks.cuny.edu/gj_etds/320

¹⁸ Private Prison Boom Goes Bust (2015), San Antonio Express-News, <https://www.expressnews.com/news/local/article/Private-prison-boom-goes-bust-6459964.php>.

¹⁹ United States Government Accountability Office. Alternatives to Detention (Nov. 2014), <http://www.gao.gov/assets/670/666911.pdf>.

²⁰ American Civil Liberties Union. Alternatives to Immigration Detention: Less Costly and More Humane than Federal Lock Up (2014), <https://www.aclu.org/other/aclu-fact-sheet-alternatives-immigration-detention-atd>.

On any given day, ICE jails more than three times the number of immigrants jailed only twenty years ago.²¹ Moves to expand this already bloated system are an insult to our national values and to the taxpayer's wallet.

The undersigned stand united in our opposition to ICE's efforts to expand the detention system. We urge you to **vote "no"** on the resolution to approve this expansion.

At a minimum, significantly more due diligence is needed to determine the specifics of this project. It is imperative to ask the following questions to ICE before voting on any resolution:

1. What has Immigration Centers of America done to demonstrate that their well-documented history of inhumane and problematic operations has been sufficiently addressed where such behavior will be prevented now?
2. Will the proposed facility hold men who have been separated from their children and families?
3. What specific actions will be done at this facility to guarantee access to counsel, where the only information provided on this topic are generic talking points written by Immigration Centers of America which reference only an organization that is not local to this community?

We urge you to favor practical and humane solutions over profit-driven and unnecessary methods known to create immense misery and irreparable harm to individuals, families, and communities at large.

Sincerely,

/s/Monica C. Andrade

Monica C. Andrade
Eastside Co-Chair

/s/Eva Alvarez

Eva Alvarez
Steering Committee Secretary

²¹ National Immigrant Justice Center, 7 reasons why Congress must reject Trump's deadly bid to expand immigration detention (June 2017), <http://immigrantjustice.org/staff/blog/7-reasons-why-congress-must-rejecttrumps-deadly-bid-expand-immigration-detention>.

MCIRR Member Organizations:

The 313 Project
Accounting Aid Society
African Bureau for Immigration & Social Affairs (ABISA)
Arab Community Center for Economic and Social Services (ACCESS)
Arcus Center for Social Justice Leadership
American Civil Liberties Union (ACLU) of Michigan
Asian and Pacific Islander American Vote Michigan (APIA-Vote Michigan)
Arbor Circle Group
Blue Water Safe Horizons
Casa Latina- Ann Arbor
Catholic Charities of Southeast Michigan
Catholic Diocese of Gaylord – Secretariat for Peace and Justice
Catholic Services of Macomb – Immigration and Refugee Services Lapeer
CODE Legal Aid, Inc.
Detroit Hispanic Development Corporation
Diocese of Grand Rapids Immigration Legal Services
Diocese of Kalamazoo Immigration Assistance Program
Dominican Sisters - Grand Rapids
Farmworker Legal Services
Freedom House
Garden of Dreams Preschool
Garfield Park Neighborhood Association
Hamtramck School Based Health Center
Hispanic Center of Western Michigan
Immigrant Connection at City Life Church
International Affairs Center
International Institute of Metropolitan Detroit
Jewish Family Services (Detroit)
Justice for Our Neighbors
Justice Strategies
Keys Grace Academy/Keys Management
Latin Americans United for Progress
Latin Americans for Social and Economic Development
Lakeshore Legal Aid, La Vida
Legal Aid & Defender Association, Inc.
Lemkin House, Inc.
Lighthouse Immigrant Advocates
SafeHouse Center
Samaritas (formerly Lutheran Social Services of Michigan)
Macomb International Service Center
Mercy Health - Saint Mary's Clinic Santa Maria
Mexican American Council, Inc.
Migrant Legal Aid
Michigan Immigrant Rights Center
Michigan League for Public Policy
Michigan State University College of Law Immigration Law Clinic
Michigan UU Social Justice Network
Noor's Heaven of West Michigan Services
Oceana Hispanic Center

Office of Social Justice (Christian Reform Church)
Piast Institute
Refugee Outreach Collective
Senior Neighbors
Sisters Home Visitors of Mary
Sisters of Mercy
Southwest Detroit Immigrant and Refugee Center
St. Vincent Catholic Charities Immigration Law Clinic
Telamon Corporation
The Immigrant Connection at City Life Church
Thomas M. Cooley Law School Immigrant Rights and Civil Advocacy Clinic
Thrive: A Refugee Support Program
Unitarian Universalist Church of Greater Lansing
University of Detroit Mercy - Immigration Law Clinic
United Hispanic Workers of Detroit
Voces Battle Creek
Washtenaw Health Plan
Washtenaw Interfaith Coalition for Immigrant Rights
Wayne State University Law School Asylum and Immigrant Law Clinic
Workers' Center of West Michigan (Micah Center)
Yoruba American Community
YWCA Kalamazoo

*List current as of March 16, 2020