



February 7, 2021

Re: Testimony in Support of the Dignity Not Detention bill (SB 478)

Dear Chair Smith, Vice-Chair Waldstreicher and Members of the Judicial Proceedings Committee:

Asian Americans Advancing Justice | AAJC writes to express our strong support for the Dignity Not Detention Act (SB 478) and urge you to pass the bill out of committee. As detailed below, immigrant detention is harmful and unnecessary. This bill would prevent profit-driven expansion of detention in Maryland. Advancing Justice | AAJC works to advance the human and civil rights of Asian Americans through advocacy, public policy, public education, and litigation. Founded in 1991, Advancing Justice | AAJC is one of the nation's leading experts on civil rights issues of importance to the Asian American and Pacific Islander (AAPI) community including immigration and immigrants' rights, census, hate incidents, language access, technology, and telecommunications, and voting rights.

Immigration is an important issue to Asian Americans. 92% of Asian Americans are immigrants or the children of immigrants. Maryland is home to over 415,000 Asian Americans making up 7% of the population. Around 266,000 of them are immigrants and around 39% of Maryland's Asian American population are limited English proficient. Overall, 15 percent of Marylanders are immigrants, and nearly 275,000 Marylanders are undocumented.¹ The issue of undocumented migration and immigration enforcement is often thought of only as a Latino issue. In fact, there are around 35,000 undocumented Asian immigrants living in Maryland.

Immigration detention separates families and results in rampant violations of immigrants' rights. While immigrant detention is technically "civil" in nature, it is substantially the same as criminal detention. In fact, it has been argued that ICE detention is worse than state or federal prison or jails as immigrants receive little to no services, such as support groups or counseling for addiction or victims of trauma or domestic violence.² While the Supreme Court originally allowed civil detention as an exception for people who are a "flight risk or danger to the community," it has ballooned over the past few decades to many people who are neither. The immigration detention system has grown nearly seven-fold since 1994, from an average daily

¹ All data in this testimony related to Asian Americans residing in Maryland can be found at aapidata.com.

² See our blog, "A Mother's Fight Against Deportation," which describes a former client's experience in detention. She was arrested for alcohol abuse driven by domestic violence and not allowed to attend AA meetings that criminal detainees attended. <https://medium.com/advancing-justice-aaajc/a-mothers-fight-against-deportation-e36e8aa3dc44>

detained population of 6,785 in 1994 to 45,890 as of February 2019. As of March 6, 2019, Immigration and Customs Enforcement (ICE) had increased the average daily population of immigrant detainees to 50,049, a historic high. In comparison, by the end of President Obama's second term, the average daily population in immigration detention had reached just over 34,000. As of June 2018, 4,881 Asian immigrants were detained nationwide, many of whom were asylum seekers or refugees. The rapid expansion of detention over community-based alternatives to detention deeply harms immigrant communities.

Asian immigrants make up a significant portion of the population of detained immigrants nationally. As of June 2018, there were as many as 4,881 Asian immigrants in detention out of 50,000 total at the time. Many of them were asylum seekers who were seeking protection in the United States under our asylum laws. The majority of Asian immigrants detained were from India, China, Bangladesh, Nepal, Iraq, Vietnam, and Pakistan. Indian immigrants alone made up almost half of all detained Asian immigrants. Our current detention system impacts not only asylum seekers, but also immigrants including long-time members of our communities, lawful permanent residents (LPRs), and family members of U.S. citizens. Within the Asian American community, Southeast Asian refugees have been notably targeted. In June 2018, about 43% of Vietnamese Americans detained lived in the United States for over two decades. The percentage of Lao and Cambodian Americans detained who lived here for over twenty years is even higher at 86% and 75%, respectively. Southeast Asian households who have a family member that is detained face family separation and the continued hardship of not knowing whether their families will be able to reunite or be separated indefinitely.

Detention not only imposes significant legal obstacles for immigrants in accessing counsel but also often subjects immigrant detainees to deplorable human rights abuses. In detention facilities across the U.S., immigrants have been cruelly retaliated against for exercising their constitutional rights. South Asian asylum seekers protesting their prolonged detention by going on hunger strike have been retaliated against with solitary confinement and abusive force-feeding practices. South Asian and Sikh detainees have also been denied religious accommodations, including being banned from wearing their turbans, being forced to cut their hair, and not being provided with vegetarian or vegan meals. Detainees, including multiple Bangladeshi detainees at the Stewart Detention Facility in Georgia, have also been punished with solitary confinement for refusing to work for \$1 per day.

In detention facilities nationwide there have been cases of medical neglect and even illness-related deaths under the custody of ICE personnel. Detainees often receive dangerously inadequate medical care, including unreasonable delays in care, poor practitioner and nursing care, inadequate emergency response, and inappropriate use of solitary confinement for mentally ill and suicidal detainees. As of January 2019, 188 detainees had died in ICE detention facilities since 2003, the year the agency was established. During the first two years of the Trump

administration, 22 detainees died in ICE custody, and more immigrants died in detention in FY 2017 than in any year since 2009. A study of recent detainee deaths shows that about half of the deaths in ICE custody are attributable to inadequate medical care. Since March 2010, at least 74 people have died in immigration detention, but ICE has released death reviews in full or in part in only 52 of the cases. The number of miscarriages suffered by detained pregnant women also nearly doubled under the first two years of the Trump administration, with at least 18 women losing their pregnancies while in ICE detention in 2018 due to substandard medical care.

In May 2018, the Department of Homeland Security Office of the Inspector General conducted a surprise inspection of the Adelanto Detention Facility and the investigators concluded that conditions at the privately run facility amounted to “serious” violations of ICE’s own detention standards, representing “significant threats to the safety, rights, and health of detainees.” Violations included improper and overly restrictive use of solitary confinement, including placing detainees in disciplinary segregation without a hearing; delayed and grossly inadequate medical care, including doctors signing off on medical assessments that never happened; and a dentist refusing to fill cavities while suggesting detainees floss with strings pulled from their socks.

Immigrant detention is by and large unnecessary. The vast majority of detained immigrants are simply neither a flight risk nor a danger to the community. One alternative for released immigrant detainees, the Family Case Management Program had a 99 percent effectiveness rate — meaning almost every single person enrolled in the program showed up for all immigration appointments and court hearings.³ The perverse incentives of private prison corporations ought to be obvious. But perverse financial incentives also operate within federal contracts to local jails to house immigrant detainees. Local institutions too seek money to expand or maintain employees and facilities.

As an organization that engages in federal advocacy, we understand that the federal government will ultimately have to decide to end or scale back immigrant detention. But if states choose to restrict immigrant detention, it would have both a real impact on detention and send a powerful message to Congress and the President that Marylanders oppose immigrant detention. In my experience when states and localities take positions on immigration, their Congressional delegations follow their lead. We thank you for holding a hearing on this important bill and urge you to vote for it. Please feel free to contact me with any questions at messaheb@advancingjustice-aajc.org.

³ See Department of Homeland Security, OIG report “US ICE’s Award of the Family Case Management Program Contract” <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-22-Nov17.pdf> See also, ACLU blog The Tried-And-True Alternatives to Detaining Immigrant Families <https://www.aclu.org/blog/immigrants-rights/immigrants-rights-and-detention/tried-and-true-alternatives-detaining>

Sincerely,

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