



February 8, 2021

The Honorable William C. Smith, Jr.  
Chair, Senate Judicial Proceedings Committee  
2 East, Miller Senate Office Building  
Annapolis, MD 21401

RE: SB0478 Correctional Services – Immigration Detention – Prohibition (Dignity Not Detention Act)

Dear Chairman Smith and Members of the Committee,

On behalf of the Vera Institute of Justice (Vera), we are writing in strong support of SB478, to prohibit new or the renewal of existing contracts with private entities for the purpose of immigration detention, and to end any current state or local contracts (Intergovernmental Service Agreements or “IGSAs”) for immigration detention by June 2021. This bill was passed by the Maryland General Assembly last session. We urge you to report this bill out favorably.

As you may know, the mission of Vera is to drive change and to build and improve justice systems that serve and foster safe, healthy, and empowered communities by fighting mass criminalization and ending mass incarceration. At Vera’s Center on Immigration and Justice, we work towards a vision of justice, fairness and freedom for immigrants, where the humanity and dignity of all people are centered.

Hundreds of thousands of immigrants each year, many seeking protection from persecution and violence, are criminalized and unnecessarily detained in jails and prisons across the country where it is difficult to access legal services and conditions are inhumane.<sup>1</sup> An estimated 70 percent of people in detention are left to fight for their lives alone, against trained government prosecutors in a system that is biased against them.<sup>2</sup> As a result, not only do immigrants languish in carceral conditions for indefinite periods of time, but those in detention are far less likely to reach a successful outcome in their immigration cases.<sup>3</sup>

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<sup>1</sup> Due in part to the historic and unprecedented impacts of the COVID-19 pandemic and border enforcement trends, national detention population numbers are currently at historic lows. During FY 2020, ICE booked 182,000 people into detention, compared to more than half a million people in FY 2019. Though ICE is not currently using its full detention bed capacity, it remains funded at levels that permit it to detain hundreds of thousands of people per year. See FY2020 Detention Statistics and FY2019 Detention Statistics, <https://www.ice.gov/detain/detention-management>.

<sup>2</sup> For more information, see Vera’s testimony to the Senate Judicial Proceedings Committee in support of SB317, Right to Counsel in Immigration Proceedings Bill (submitted on January 25, 2021), to establish the right to appointed counsel for detained immigrants and advance universal representation for immigrants facing deportation.

<sup>3</sup> Ingrid V. Eagly & Steven Shafer, “A National Study of Access to Counsel in Immigration Court”, *University of Pennsylvania Law Review* 164, No. 1 (2015), 9 (detained immigrants with counsel obtained a successful outcome (i.e., case termination or relief) in 21% of cases, ten-and-a-half times greater than the 2% rate for their pro se counterparts), <https://perma.cc/7J65-CZCM>.

While the justification for depriving immigrants of their liberty has been that immigrants fail to appear in court, studies have shown this claim to be untrue.<sup>4</sup> Instead, over the last several decades, our nation's civil immigration system has become an extension of the criminal legal system, carrying forward inhumane policies grounded in systemic racism that disproportionately impact Black immigrants.

As COVID-19 cases continue to surge across the country, we must ensure the health and safety of everyone in our communities. The ICE detention system is ill-suited to protect detained people from the COVID-19 pandemic, undermining broader attempts to address this public health crisis. There is inadequate oversight of conditions in these facilities, where claims of medical neglect and abuse are rampant, access to sanitizing products and protective equipment are lacking, and social distancing is often impossible. The majority of detained people do not have a lawyer to advocate for their release from detention or relief from deportation. And detention reinforces systemic racism and the disproportionate impacts of this pandemic: research suggests that Black immigrants are more likely to be detained than the overall immigrant population. Despite these concerns, **ICE has detained more than 114,000 people nationwide during the pandemic** and continues to book people from the community into detention and transfer people between facilities at an alarming rate and in defiance of public health recommendations.

ICE detention facilities, like other jails and prisons, have been the site of several hotspots and outbreaks, though the full scope of COVID-19 infection among people in detention is unknown due to poor oversight and monitoring. While ICE has been under-reporting the true scope of COVID-19 in detention,<sup>5</sup> 9,241 people in detention are known to have tested positive for COVID-19 as of **February 5, 2021** at 124 of the more than 200 facilities in which ICE maintains beds. Fiscal year 2020 had the highest annual death toll of people in ICE custody in 15 years, with COVID-19 as the cause of eight of the 21 reported deaths. The frequent transfer of individuals throughout the immigration detention system poses unique threats to the rapid spread of the virus throughout the entire detention system.

Research by Vera has also shown that federal contracts with local jails through IGSA's have additional implications beyond the pandemic: the promise of federal revenue incentivizes

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<sup>4</sup> Nina Siulc and Noelle Smart, *Evidence Shows That Most Immigrants Appear for Immigration Court Hearings*, (New York: Vera Institute of Justice, 2020), <https://www.vera.org/publications/immigrant-court-appearance-fact-sheet>

<sup>5</sup> Vera researchers have built one of the only epidemiological models forecasting the likely spread of COVID-19 in ICE detention centers. The results are alarming: between March and May of this year, the number of people with COVID-19 in ICE facilities was likely 15 times higher than official numbers reported, and this was before COVID-19 infections would have peaked in detention. See Dennis Kuo, Noelle Smart, Zachary Lawrence, and Adam Garcia, *The Hidden Curve: Estimating the Spread of COVID-19 among People in Detention*, (New York: Vera Institute of Justice, 2020), <https://www.vera.org/the-hidden-curve-covid-19-in-ice-detention>:

counties to overbuild their facilities and rely on the detention of immigrants and asylum seekers for financial gain. IGSA's have played a key role in jail expansion in the United States over the last few decades, enabling local administrators to build larger jails and expand their operating budgets by detaining community members and harming communities.<sup>6</sup> All three current Maryland immigration detention centers are county jails that detain people on behalf of ICE through IGSA's. And in the summer of 2019, reports indicated that ICE was exploring opening a detention center near Baltimore County.<sup>7</sup>

While the new federal administration is taking initial steps to ameliorate some of the harms inflicted on immigrant communities and reduce mass incarceration, these steps do not address the majority of profit-based incentives that lead to mass incarceration, such as federal immigration detention centers run by private companies and the collaboration with state and local governments to hold people for ICE through IGSA's in jails and prisons. Local communities bear heavy costs due to the immigration detention and deportation system to respond to the needs of those who are left behind and the separation of families, including loss of housing, food insecurity, mental health impacts, foster care usage and business losses.<sup>89</sup> The fallout from detention inevitably leads to incalculable human and societal costs. And as more people are needlessly brought into detention amid a public health crisis, the threat to immigrants, staff, and our communities at large will compound, deepening the crisis, further straining our health care system, economy, and the state's efforts to contain the virus.

Maryland can and should take steps toward an immigration system that treats people with dignity and respect. To disable the racist drivers of the criminal legal to immigration system pipeline, to end the punitive consequences of being detained, to disable a punitive system that serves no purpose other than to demonize and criminalize people seeking a better life in this country, Maryland has an opportunity and imperative with SB478 and we therefore urge you to report out this bill favorably.

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<sup>6</sup> For more information, see Vera's In Our Backyards Initiative, <https://www.vera.org/in-our-backyards#>

<sup>7</sup> Lillian Reed and Thalia Juarez, "ICE exploring possible Baltimore-area detention facility to hold 600 to 800 detainees," *Baltimore Sun* (July 18, 2019), <http://www.baltimoresun.com/politics/bs-md-pol-ice-detention-facility-20190708-20190718-ignt6vla6vgtbnbdlks5r46kj2m-story.html>.

<sup>8</sup> See for example Randy Capps, Heather Koball, Andrea Campetella et al., *Implications of Immigration Enforcement Activities for the Well-being of Children in Immigrant Families* (Washington, DC: Urban Institute and Migration Policy Institute, 2015), <https://perma.cc/Z8V9-H6MK>

<sup>9</sup> In Vera's analysis of 21 universal representation programs serving detained people (or "21 programs serving detained people without regard to the merits of the case"), the average length of residency in the United States by those selected for representation was 14 years. Seventy-seven percent (and 92 percent of those with Maryland residency) of those with families were the primary breadwinners. Although not representative of all people in detention, these statistics demonstrate that many people detained are entrenched members of the community. See *Rising to the Moment: Advancing the National Movement for Universal Representation (Years 1-3 of the SAFE Imitative)* (New York: Vera Institute of Justice, 2020), <https://www.vera.org/downloads/publications/rising-to-the-moment.pdf>:



Thank you for your consideration. Please feel free to reach out to me at [nsiulc@vera.org](mailto:nsiulc@vera.org) for additional questions or information.

Sincerely,

A handwritten signature in black ink, appearing to read "Nina Siulc".

Nina Siulc  
Director of Immigration Research  
Vera Institute of Justice

cc: Vice Chair Waldstreicher  
Senator Bailey  
Senator Carter  
Senator Cassilly  
Senator Hettelman  
Senator Hough  
Senator Jackson  
Senator Lee  
Senator Sydnor  
Senator West