

2012

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Recommended Citation

Norma E. Loza, *Abuse in Illinois Immigration Detention Centers: Does the Current System Grant Human Rights to All Humans?*, 17 Pub. Interest L. Rptr. 143 (2012).

Available at: <http://lawcommons.luc.edu/pilr/vol17/iss2/11>

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No. 2 • Spring 2012

FEATURE ARTICLE

**ABUSE IN ILLINOIS
IMMIGRATION DETENTION
CENTERS: DOES THE
CURRENT SYSTEM GRANT
HUMAN RIGHTS TO
ALL HUMANS?**

by NORMA E. LOZA

Raquel Gomez was held in solitary confinement in immigration detention centers in Illinois and Wisconsin for 15 months before being given asy-

Loyola Public Interest Law Reporter

lum.¹ During that time, she was permitted to have contact only with jail officers, who abused her both mentally and physically because she was transgendered.² The officers physically assaulted Gomez on numerous occasions and only referred to her through homophobic slurs and other degrading names.³ At times, she was even forced to sleep on toilet paper in a cold, dark room.⁴

Upon her release, she discussed her treatment with reporters of the Chicago RedEye and the major Spanish network, Univision, in an effort to reveal the egregious human rights violations that occur in many immigration facilities across the country.⁵

ILLINOIS'S IMMIGRANT DETENTION PROBLEM

Nearly 400,000 immigrants each year are incarcerated in immigration detention centers throughout the United States.⁶ In December 2011, the National Immigrant Justice Center (NIJC) and the Midwest Coalition for Human Rights (MCHR) released a report in opposition to a newly proposed, 700-bed, private detention facility in Crete, Illinois.⁷ The report also called on the Obama Administration to close three current immigrant detention facilities they allege have a record of the most severe human rights violations, two of which are in Illinois: Jefferson County Jail and Tri-County Detention Center.⁸

Many of the immigrants in the Jefferson County Jail and Tri-County Detention Center belong to the low-risk population, meaning they either have no criminal records or have committed only minor offenses.⁹ Additionally, although strongly discouraged, authorities detained many inmates with mental and medical health issues.¹⁰

Detainees are frequently denied legal counsel, communication with their families, consistent hot meals, medication, clean clothing and medical services.¹¹ The report indicates that lax standards and improper oversight would allow for even greater abuses in the proposed private detention facility.¹²

Overall, the NIJC/MCHR report advocated for the reduction of mass immigration detention, in favor of alternatives including the use of electronic ankle bracelets and curfews.¹³ Such alternatives would prevent detainees from suffer-



ing the abuses outlined above, as well as greatly reduce the spending of billions of taxpayers' dollars used to detain immigrants.¹⁴

NIJC has also filed a claim against the Department of Homeland Security (DHS) Office of Civil Right and Civil Liberties and the Office of Inspector General demanding that the Obama Administration investigate abuse allegations and take action to protect lesbian, gay, bisexual and transgender (LGBT) immigrants in DHS custody.¹⁵

Jane Zurnamer, the Director of Policy at NIJC, highlights the particular vulnerability of the LGBT community, stating, "Many [LGBT individuals] have fled their countries because of hostility due to their sexuality or sexual orientation. They come to the U.S. for protection, only to find that they are abused here."¹⁶

Ms. Gomez is just one of seventeen LGBT detainees represented by NIJC.¹⁷ The complaint describes violations including sexual assault, sexual harassment, denial of medical and mental health treatment, arbitrary long-term solitary confinement and frequent harassment by officers and facility personnel.¹⁸

A POSSIBLE REMEDY: PREA IMPLEMENTATION

As an initial step to remedy abuse, one suggested solution is to expand the reach of the Prison Rape Elimination Act (PREA).¹⁹ The PREA sets a “zero-tolerance standard” for prison rape and creates guidelines to hold correctional facilities accountable for protecting inmates.²⁰ If local authorities and facility operators fail to comply with PREA provisions, federal funding would be cut.²¹

The term “prison” in the PREA includes “any federal, state, or local confinement facility, including local jails, police lockups, juvenile facilities, and state and federal prisons.”²² By defining prison broadly, short-term lockups, such as holding facilities and small local jails, are also subject to the provisions of PREA.²³ For some reason, however, immigration detention centers have never been included.

Why has the federal government worked so hard to prevent PREA implementation in immigration facilities? That is “the million dollar question,” according to Jane Zurnamer.²⁴ No one can confirm the rationale for the policy, but Zurnamer suggests that, because immigration has always been a controversial topic, perhaps politicians are afraid of how their constituencies will react if they show any leniency.²⁵

Nevertheless, expanding PREA to include immigrant detention facilities would allow for proper oversight of the detention population and staff to prevent assaults.²⁶ It would establish internal protocols for responding to reported abuse, require the investigation of reports filed through advocacy groups or counsel, create protocols to prevent retaliation to detainees who report assaults and allow independent organizations to audit PREA compliance.²⁷

In statements made by the U.S. delegation to the U.N. Committee against Torture in 2006, Thomas Manheim, Associate Deputy Attorney General, responded that there was simply no need for PREA expansion to immigration detention centers because of DHS’s steps to post instructions on reporting sexual misconduct and PREA training for detention officers.²⁸

Yet, those steps, as well as all subsequent reforms, have proven insufficient to stop human rights violations.²⁹ Zurnamer explains that “they are aspirational standards without any oversight or legally binding provisions.”³⁰

RENEWED EFFORTS TO IMPLEMENT REFORM

After criticism about the treatment of immigrant detainees, the Obama Administration pledged to reform the immigration detention system in 2009.³¹ Homeland Security Secretary Janet Napolitano responded by announcing a series of initiatives aimed at transforming the system.³² However, as of October 2010, a year after the administration’s announcement, none of the promised reforms had taken place.³³

The December 2011 report advocating the closing of these three immigrant detention facilities in Illinois and Kentucky is the most recent attempt by groups like NIJC and MCHR to call attention to the problems of the immigration detention system.³⁴

Recognizing the inadequate federal response, several politicians decided to show their own support for NIJC and MCHR efforts. U.S. Representatives Michael Quigley (D-IL) and Jared Polis (D-CO) wrote a letter asking the U.S. Government Accountability Office to conduct a detailed audit of immigration detention facilities. In the letter, they implored the government to examine the incidence of sexual violence, identify what steps DHS is taking to rectify the problem and suggest actions that would eliminate sexual violence from the immigration detention system.³⁵

The letter, signed by 30 members of Congress, cited the complaints NIJC submitted to the DHS Office of Civil Rights and Civil Liberties in 2011 on behalf of the seventeen LGBT immigrants.³⁶

Only after the publication of this letter did the U.S. Government Accountability Office announce plans to investigate complaints of sexual violence against immigrants in the custody of DHS.³⁷ However, there are no new plans from the DOJ for the expansion of PREA or any other policy changes, even after the congressional letter’s mention of PREA standards.³⁸

In light of the continual reports of the sexual violations in immigration detention facilities, the federal government should enact a stronger and more effective policy. The government must protect the human rights of all those on American soil by expanding PREA to immigration detention centers, closing the facilities in Illinois and administering alternative solutions.

NOTES

- 1 Georgia Garvey, *LGBT Abuse Alleged*, REDEYE (Apr. 13, 2011), available at <http://www.immigrantjustice.org/sites/immigrantjustice.org/files/RedEye.LGBT%20Abuse%20alleged.04-14-11.pdf>.
- 2 Phone interview with Jane Zurnamer, Director of Policy, NIJC (Mar. 16, 2012) (referring to an interview aired on Univision – Al Punto con Jorge Ramos (June 22, 2011), available at <http://www.immigrantjustice.org/news/media-coverage-systemic-abuse-lgbt-immigrants-detention>).
- 3 *Id.*
- 4 Garvey, *supra* note 1.
- 5 *See, e.g., id.*; Zurnamer, *supra* note 2.
- 6 ISOLATED IN DETENTION: LIMITED ACCESS TO LEGAL COUNSEL IN IMMIGRATION DETENTION FACILITIES JEOPARDIZES A FAIR DAY IN COURT, NAT'L IMMIGRANT JUSTICE CTR. (Sept. 2010), http://immigrantjustice.org/sites/immigrantjustice.org/files/Detention%20Isolation%20Report%20FULL%20REPORT%202010%2009%2023_0.pdf; NOT TOO LATE FOR REFORM: A CALL FOR PRESIDENT OBAMA TO CLOSE FAILED IMMIGRATION DETENTION FACILITIES, HALT COSTLY PRIVATIZATION & RESTORE BASIC HUMAN RIGHTS, NAT'L IMMIGRANT JUSTICE CTR. (Dec. 2011), <http://www.immigrantjustice.org/sites/immigrantjustice.org/files/NIJC-MCHR%20Not%20Too%20Late%20for%20Reform%20Report%202011%20FINAL.pdf>.
- 7 *Immigrant Detention Centers in Illinois Cited in New Report for Human Rights Violations*, HUFFINGTON POST (Dec. 13, 2011), http://www.huffingtonpost.com/2011/12/12/immigrant-detention-cente_n_1143329.html.
- 8 *Id.*
- 9 *Id.*
- 10 *Id.*
- 11 *Id.*
- 12 NOT TOO LATE FOR REFORM, *supra* note 6.
- 13 *The Math of Immigration Detention: Runaway Costs for Immigration Detention Do Not Add up to Sensible Policies*, NAT'L IMMIGRANT FORUM (Aug. 2011), <http://www.immigrationforum.org/images/uploads/MathofImmigrationDetention.pdf>.
- 14 *Id.*
- 15 *Mass Civil Rights to Complaint Details Systematic Abuse of Sexual Minorities in U.S. Immigration Detention*, NAT'L IMMIGRANT JUSTICE CTR. (Apr. 13, 2011), http://immigrantjustice.org/press_releases/mass-civil-rights-complaint-details-systemic-abuse-sexual-minorities-us-immigration-d; *Human Rights Group Reports Continued Abuse against Detained LGBT Immigrants*, NAT'L IMMIGRANT JUSTICE CTR. (Oct. 25, 2011), http://www.immigrantjustice.org/press_releases/human-rights-group-reports-continued-abuse-against-detained-lgbt-immigrants.
- 16 Zurnamer, *supra* note 2.
- 17 *Id.*

- 18 Yasmin Nair, *NIJC Files Mass Civil Rights Complaint on Behalf of LGBT Immigrant Detainees*, WINDY CITY TIMES (Apr. 13, 2011), <http://www.windycitymediagroup.com/gay/lesbian/news/ARTICLE.php?AID=31423>.
- 19 *Policy Brief: The Prison Rape Elimination Act: Obama Must Protect Immigrants from Sexual Assault*, NAT'L IMMIGRANT JUSTICE CTR. (Aug. 2011), <http://www.immigrantjustice.org/sites/immigrantjustice.org/files/Policy%20brief%20PREA%202011%2008%2030%20FINAL.pdf>.
- 20 *Id.*
- 21 *Id.*
- 22 Prison Rape Elimination Act of 2003, Pub. L. 108-79, 117 Stat. 972 (2003), 42 U.S.C.A. §15602.
- 23 *The Department of Justice's Efforts to Prevent Staff Sexual Abuse of Federal Inmates*, U.S. Dep't of Justice, Office of the Inspector General Evaluation and Inspections Division, *Report Number I-2009-004*, ii (Sept. 2009), available at <http://www.justice.gov/oig/reports/plus/e0904.pdf>.
- 24 Zurnamer, *supra* note 2.
- 25 *Id.*
- 26 *Policy Brief, supra* note 19.
- 27 *Id.*
- 28 Thomas Manheim, et al., *Oral Statement by the United States Delegation to the Committee Against Torture*, United States Dep't of State (May 5, 2008), available at <http://web.archive.org/web/20080516022203/http://www.state.gov/documents/organization/66174.pdf>.
- 29 Zurnamer, *supra* note 2.
- 30 *Id.*
- 31 *Immigration Detention Centers in Kentucky, Illinois Violate Rights, Report Says*, FOX NEWS LATINO (Dec. 12, 2011), <http://latino.foxnews.com/latino/news/2011/12/12/3-immigrant-detention-centers-in-kentucky-illinois-violate-rights-report-says/>.
- 32 *Id.*
- 33 *Id.*
- 34 *Immigrant Detention Centers in Illinois Cited in New Report for Human Rights Violations, supra* note 7.
- 35 *GAO to Investigate Allegations of Sexual Abuse in Immigration Detention System: Government Watchdog responds to Congressional Concerns over NIJC Complaints*, NAT'L IMMIGRANT JUSTICE CTR. (Feb. 13, 2011), http://www.immigrantjustice.org/press_releases/gao-investigation-announcement-sexual-abuse.
- 36 *Id.*
- 37 *Id.*
- 38 Zurnamer, *supra* note 2.