



# **Hudson County Jail: *The Case for Ending the ICE Contract***

November 22, 2020

In 2018, Hudson County Executive Thomas DeGise announced that the county would initiate a “path to exit” from its ICE contract.<sup>1</sup> When the contract was renewed for a two-year period in December 2018, Hudson County Freeholder Chairman Anthony Vainieri said that the vote was a “commitment to phase out” the contract.<sup>2</sup> The Hudson Freeholders passed a resolution in October 2018 such that “any continuation beyond 12/31/2020 must be authorized by a further resolution of the Board.”<sup>3</sup>

In recent months, there has been a massive decline in the numbers of people in ICE custody at Hudson County Jail, due in large part to COVID-19 and its impact on immigration enforcement. COVID-19 has hit Hudson County Jail particularly hard. Five Hudson County Jail employees, including two corrections officers, a commissary employee, and two nurses, have died due to

COVID-19 complications.<sup>4</sup> At least one ICE employee, over one hundred county employees, and seventeen people detained by ICE in Hudson County Jail have contracted COVID-19.<sup>5</sup> Dozens of other people held by the county at the jail have also been infected.<sup>6</sup> More than a dozen federal court decisions have concluded that the conditions in Hudson County Jail violate the constitutional substantive due process rights of people with medically vulnerabilities held in ICE custody.<sup>7</sup>

As the end of 2020 approaches, the time has come to make a decision about the Hudson County-ICE contract. This report presents (1) background information about Hudson County Jail and the ICE contract, (2) an analysis of the impact of ending the contract, (3) the case for ending the contract, and (4) ideas about how to mitigate the harm that ending the contract brings to individuals in our area who may still face detention. Based on this analysis, the report concludes that the time for ending the ICE contract at Hudson County Jail is long overdue.

## I. BACKGROUND

Hudson County began contracting with the federal government to hold people in immigration custody in 1996, guaranteeing a minimum of 256 beds for purposes of immigration confinement.<sup>8</sup> The contract was modified to provide reimbursement for certain transportation services as well.<sup>9</sup> The current contract provides that ICE will reimburse Hudson County \$120/bed.<sup>10</sup>

***Profiting off of the ICE Contract.*** In 2018, at a lesser rate of \$110/bed, Hudson County billed ICE more than \$25 million for jailing more than six hundred immigrants per day.<sup>11</sup> It is not clear how much of this is profit and how this profit is used. Hudson County claims that some of the funds go towards programming for immigrants in the jail and that \$200,000 is set aside for legal services for immigrants.<sup>12</sup> However, the amount of money Hudson

County bills ICE depends on the number of people ICE arrests and places at Hudson. The ICE population at Hudson this year has been at a historical low: 83 people as of November 19th, 2020 (see below). As county officials have acknowledged, it will not generate a significant amount of revenue.<sup>13</sup>

Regardless of the number of people placed by ICE at Hudson, the contract carries its own serious costs to the county. A series of deaths at the jail in 2017 and 2018, including three from suicide, prompted the county to spend more than \$10 million dollars refurbishing the jail.<sup>14</sup> In addition, Hudson County Jail is the subject of a wrongful death lawsuit following the death of Carlos Bonilla, a father who died of internal bleeding while held at the jail by ICE.<sup>15</sup> The lawsuit seeks compensatory and punitive damages against the county.<sup>16</sup> This is in addition to other wrongful death lawsuits and notices of claim filed by the families of other individuals who have been confined or have worked at the jail.<sup>17</sup>

***Disparate Impact on Communities of Color.*** In July 2019, the most recent date that country of origin data is available for the people held by ICE at Hudson County Jail, an estimated 16.4% of people in ICE custody were Black, and 73.3% were Latinx.<sup>18</sup> Nationwide, only 44% of immigrants in the U.S. identify as Latinx (which can also include White or Black racial identification) and 10% of immigrants in the U.S. identify as Black.<sup>19</sup> Thus, immigrants detained at Hudson County Jail are disproportionately Black and Latinx immigrants—90% of the population overall.

***Diminishing ICE Population.*** Due largely to changes in immigration enforcement policies during COVID-19 along with heroic efforts by individuals, community organizations, and legal service providers to secure releases of medically vulnerable individuals, the number of people held pursuant to Hudson County Jail's ICE

contract is down. This accords with a low population at the jail overall.<sup>20</sup> According to First Friends of New Jersey and New York, 83 people are detained by ICE at Hudson County Jail as of November 19, 2020.

**Poor Conditions Overall.** Poor conditions led Detention Watch Network to identify Hudson County Jail as one of ten facilities nationwide to “Expose and Close” in 2012.<sup>21</sup> Reporting by watchdog groups like New Jersey Advocates for Immigrant Detainees, the ACLU of New Jersey, and the New Jersey Civil Rights Defense Committee all have similarly condemned Hudson County Jail for a variety of inhumane practices, ranging from poor food, poor medical care (see below), physical and psychological abuse, solitary confinement, and other inhumane practices.<sup>22</sup>

**COVID-19.** Many people in the jail—people in custody and employees of the county and ICE—have been affected by COVID-19. Five Hudson County Jail employees, including two corrections officers, a commissary employee, and two nurses, have died due to COVID-19 complications.<sup>23</sup> At least 1 ICE employee and 14 people detained by ICE in Hudson County Jail have contracted COVID-19.<sup>24</sup> At least 60 people held at the jail have been infected overall.<sup>25</sup> The conditions at Hudson County Jail during the pandemic have been so unsafe that there have been more than a dozen federal court decisions holding that the conditions at Hudson violate the constitutional substantive due process rights of people in ICE custody.<sup>26</sup>

**Medical Neglect and Abuse.** Even prior to COVID-19, Hudson has had a history of medical neglect and preventable death. In less than an eight month span of time across 2017 and 2018, six people died, including one held in ICE custody.<sup>27</sup> Numerous complaints detail wrongful death and poor medical care:

- Carlos Bonilla died while in immigration custody due to internal bleeding. Mr. Bonilla's daughter filed a wrongful death lawsuit against Hudson County and its jail. The lawsuit states that the staff at Hudson County Jail were aware of Mr. Bonilla's serious medical conditions and previously prescribed medications, but did not give him treatment or provide him with his prescribed medications, ultimately resulting in his death.<sup>28</sup>
- Nelson Fernandez has a rare autoimmune disorder and relies on blood thinners to prevent fatal blood clots. Soon after he was placed in immigrant detention at Hudson County Jail, he began bleeding internally. A civil rights complaint was issued with the Department of Homeland Security including Mr. Fernandez's case along with 61 others demonstrating the pattern of substandard medical care at Hudson.<sup>29</sup>
- Claudel Dor, a man from Queens, had a brain tumor and was taken into custody before his scheduled surgery. He states that health care employees at the jail denied him his medication required to shrink the tumor because it was too expensive.<sup>30</sup>
- Complaints also note additional examples of medical neglect, including:
  - a diabetic woman rapidly losing weight because she does not receive sufficient insulin;<sup>31</sup>
  - 71-year-old woman losing most of her sight during confinement without being able to get an eye exam;<sup>32</sup> and

- an HIV positive woman in custody was not receiving any medication.<sup>33</sup>

***Marketing itself for expansion.*** Since committing to a “path to exit” from its ICE contract, Hudson County officials are looking for other ways to bring in replacement revenue.<sup>34</sup> To compensate for the anticipated loss of revenue, Hudson County Freeholders approved a contract with Mercer County for Hudson County to accept incarcerated individuals from Mercer.<sup>35</sup> However, the New Jersey Office of Public Defenders and the Mercer County Correctional Officers Union challenged the transfer of people from Mercer to Hudson resulting in a preliminary injunction preventing the contract from taking effect.<sup>36</sup>

## **II. Impact of Closure**

All individuals currently in Hudson County Jail are eligible for release, although ICE is unlikely to grant release without significant pressure and, in many cases, legal intervention. The mechanisms for release include:

- Humanitarian parole (for all, but used primarily in cases involving significant health issues or similarly humanitarian factors)
- Bond (for individuals who are bond eligible)
- Post-order custody review (for individuals detained for at least 90 days following a final order of deportation, with certain exceptions)
- Habeas litigation (for individuals who have legal challenges to mandatory detention)

In the event of the end of an ICE contract, those who are not released will be transferred to other facilities.<sup>37</sup> These may be far-off facilities, or may be other local facilities in the region. Historically, in NJ, there is some evidence that the end of an ICE contract can prompt releases throughout the region. When the ICE contract with Passaic County ended in 2005, many people were either released or transferred to local jails, which prompted those jails to release people to make room for transfers.<sup>38</sup> Additionally, in 2015 (when data was available), 87% of transfers by ICE from Hudson County were to locations in the same region (i.e. facilities under the same ICE docket control office).<sup>39</sup> All facilities in the region are currently under their stated capacity.

The end of an ICE contract may also drive down local immigration arrests. This impact is harder to measure given ICE's lack of transparency as to what prompts local operations. One can assume that even in the absence of local bed space, some individuals will continue to be targeted by ICE for arrest and transferred to other locations. This is particularly true for transfers from criminal custody, and also true for what ICE calls "targeted operations" where ICE goes to an individual's home or workplace specifically with the intent to arrest that individual. However, the availability of local bed space is believed to be one of several factors that may drive what ICE calls "collateral arrests." These are arrests of individuals who are not the targets of operations, but are identified during the course of the operations.

Without sufficient bed space locally, ICE may have less incentive to conduct collateral arrests in the region or may even lower the number of people it targets in a given operation. Some advocates in California have observed this effect as several facilities closed in the region.<sup>40</sup> Studies of jail construction in the criminal context also indicate that the availability of bed space may influence increasing incarceration rates.<sup>41</sup> It is more costly

for ICE to transport someone to a facility far away, and evidence shows that, during times of budget constraints, ICE will release individuals so long as there is no mandatory minimum payment they need to provide the local jailer.<sup>42</sup> There have been times when border enforcement has also driven bed space issues, such as periods during which many asylum seekers were sent from the Southern border to NJ facilities and less space was available for people targeted by local operations. ICE itself takes the position that border enforcement has diverted its resources from interior enforcement and driven down its interior arrests and detentions, demonstrating that capacity concerns motivate its decisionmaking.<sup>43</sup>

In summary, ending an ICE contract with a local facility will have varying impact across different populations:

For people in the facility at the time the contract is ended:

- Some people will be released.
- Some people will be transferred to local facilities in the same geographic area with ICE contracts. (This may prompt releases at those other facilities to make room for transfers.)
- Some people will be transferred to ICE facilities outside the local region, far from family and legal counsel. This can be minimized by litigation and policy efforts to prevent transfers.

For people in the community after the contract is ended:

- If the lack of bed space drives down certain types of enforcement, less



people may be arrested by ICE in the area.

- For people who are arrested by ICE in the area, some will be detained in other local facilities in the area.
- For people who are arrested by ICE in the area, some will be sent to facilities far away, further from family. Because their immigration cases are just beginning, these transfers will have the biggest impact because not only do they hinder access to counsel, but also they may result in their immigration cases being in jurisdictions where they may have a harder time prevailing on their cases. This harm can be addressed by dedicating resources to support individuals transferred to far-away facilities, and by supporting policy efforts to reduce detention overall.

For immigration detention overall:

- The end of an ICE contract locally can lend weight to national advocacy to end immigration detention and shift resources away from jail contracts and towards community-based alternatives to detention.
- The end of local contracts can result in ICE fast-tracking new contracts with private prison corporations or other local entities to continue its operations. These efforts can be addressed through national and local litigation

and advocacy to stop detention expansion.

For local and state efforts to decarcerate:

- ICE contracts are used to fund jails so they can offset the cost of incarcerating local community members. The end of an ICE contract locally can help jails scale down overall and create pressure for counties to shift resources away from incarceration and towards community-based alternatives to incarceration.
- Counties may react to the end of an ICE contract by finding other sources of revenue through other federal and local contracts. These efforts can be addressed through local advocacy to stop expansion and support decarceration.

### III. Why End the Hudson ICE Contract?

*Immigration detention at Hudson enables anti-immigrant policies.* Anti-immigrant policies—including raids in sanctuary cities and family separation at the border—rely on the availability of detention beds. When Hudson County devotes its resources to jailing immigrants for ICE, it is an active participant in these policies. For example, when ICE was intensively locking up asylum seekers along the border, many were shipped up to New Jersey because detention centers along the Southern border were overwhelmed. ICE should have released these asylum seekers on humanitarian parole—but so long as places like Hudson participate in the business of detention, more and more people will be cruelly detained as part of these anti-immigrant policies.

***Immigration detention at Hudson is inhumane.***

Immigration detention is punishment. People in Hudson County Jail are separated from their loved ones, must pay for phone calls to family and friends, are stripped of their clothes and belongings and must instead wear jumpsuits, are forced to “appear” in court through video conferencing in the jail, and are shackled when transported in and out of the jail for any reason. They include longtime lawful permanent residents, undocumented members of our community, and newly arrived asylum seekers fleeing persecution abroad. These are civil proceedings, but the conditions of their confinement are indistinguishable from criminal custody. Studies have shown that community-based alternatives to detention are highly effective, yet so long as jails seek to profit off detention, ICE will not meaningfully expand its use of these more humane alternatives.<sup>44</sup>

***Immigration detention at Hudson is deadly.***

More people died in ICE detention in this past fiscal year than in any year since 2005. Many of these deaths stem from medical neglect. Hudson County Jail has a poor track record of providing medical care, and has been the subject of dozens of complaints of poor medical care by those held in ICE custody in recent years. COVID-19 has only exacerbated this situation and has demonstrated that ICE detention is deadly not only for those in custody, but also for the employees who work at the jail as well.

***Immigration detention at Hudson harms Black and Latinx communities.***

Hudson County Jail disproportionately harms Black and Latinx communities. Ninety percent of people detained for ICE at Hudson County Jail are Black and/or Latinx, even though only 54% of immigrants in the U.S. are Black and/or Latinx. This disproportionate impact is a result of the systemic racism underlying the immigration system (and the criminal

legal system upon which it relies). Hudson County Jail is an active participant in this racist pipeline sweeping up people of color for deportation.

***Ending immigration detention at Hudson will further the broader movement to decarcerate and end immigration detention nationwide.*** Immigrant rights groups support the end of immigration detention nationwide and stand in solidarity with broader movements to decarcerate. No one should profit off of the incarceration of human beings. Ending ICE contracts locally sends a message to the federal government that we want no part in the incarceration of immigrants and in conjunction with similar movements nationwide, such as #CommunitiesNotCages and #CloseTheCamps, will force the federal government to choose more humane approaches to immigration policies.

By ending its contract with ICE, Hudson County can stand up for immigrant communities and stand against the racist anti-immigrant policies that depend on detention. It can reduce ICE's capacity to conduct arrests and operations locally. It can save lives by reducing the overall numbers of people in the jail. It can start to make up for the decades of harm that immigrants have suffered behind its bars.

#### **IV. How Do We Responsibly End the Hudson ICE Contract?**

Detention is never a “public service” to people whose freedom is deprived. If Hudson County wants to support individuals who may face detention, the county should lend its support towards addressing the concrete harms people may face if local arrests by ICE continue and transfers occur. It is important that any change to the ICE contract be accompanied by the following:

***Communicate with the community and advocates so immigrants in the facility can seek release and/or prepare legal defenses.*** Families, community organizations, and legal service providers need to meet with people currently in detention to identify as many people as possible who are eligible for release through humanitarian parole, bond, and habeas litigation, or to seek to expedite upcoming immigration court hearings if beneficial to the individual. Those who are likely to be transferred need to be provided with information about what this means for their ongoing cases and how to stay in touch with family, community, and their legal representatives if they are moved to a new facility. The amount of time and effort needed will depend on the number of people currently without legal representation or community support within the jail. Legal representation at Hudson is high and the number of people currently detained is low, so now is the best time to begin this process before ICE ramps up its enforcement.

***Invest in communities so that immigrants who are transferred or newly targeted for arrest can have greater access to phone calls, visitation, and legal services no matter where they are detained.*** Some individuals with ties to our region who would have been held at Hudson may instead be detained at a far-away facility. Their families and communities deserve financial resources to help them stay connected to their loved ones and secure legal representation in those far-away locations if needed. Some localities have developed a community defense fund to help families whose loved ones end up in far-away facilities meet these needs.

***Advocate for local and state policies that prevent transfers from local and state facilities into ICE custody.*** One of the most significant pipelines into the immigration detention system comes from local jails and state prisons. When people are released from criminal custody in local jails and state prisons—because their criminal case is

dismissed, their sentence is over, or because they are eligible for early or compassionate release under decarceration or COVID-19 related policies—they should go home to their families instead of facing a second punishment through immigration detention. Some localities and states have a policy of preventing these inhumane transfers into ICE custody. Adopting these in the region will help ensure that less people are subject to detention locally or in far-away facilities.

***Advocate for local and state policies that prevent detention expansion.*** When local contracts end, ICE often reacts by trying to find new contracts elsewhere or to expand the number of beds available in an existing contract. In addition to supporting federal efforts to defund detention nationwide, some states have also adopted their own state-wide policies banning private prisons, imposing a moratorium on detention expansion, or even phasing out local contracts throughout the state. These efforts can have a broader impact and help ensure that by closing down one facility, another does not rise in its place.

\* \* \*

The time to end the Hudson ICE contract is long past due. Extending the contract at this moment is an invitation to ICE to ramp up arrests and increase enforcement, just at the moment when arrests and detention are at historical lows. Particularly given the ongoing pandemic, any decision to continue the contract in 2021 is dangerous, inhumane, immoral, and irresponsible.

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Endnotes

<sup>1</sup> See Monsy Alvarado, *Hudson County is looking for other revenue so it can end contract to house ICE detainees*, NorthJersey.com (Dec. 27, 2019), <https://www.northjersey.com/story/news/new-jersey/2019/12/27/hudson-nj-seeking-other-revenue-so-can-end-contract-house-ice-detainees/2749774001/>.

<sup>2</sup> *Id.*

<sup>3</sup> See ICE-Hudson County Contract Renewal and Resolution, unamended, <https://assets.documentcloud.org/documents/4610684/DOC243.pdf>; see also

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Julian Coltre, *Despite 2020 end date on Hudson County contract with ICE, questions remain*, NJ Journal (Oct. 24, 2018), <https://www.nj.com/ijournal-news/2018/10/2020-end-to-contract-with-ice.html>.

<sup>4</sup> See John Heinis, *2nd Hudson County corrections officer dies from COVID-19, jail director says*, Hudson County View (May 11, 2020), <https://hudsoncountyview.com/2nd-hudson-county-corrections-officer-dies-from-covid-19-jail-director-says/>; Pete D'Auria, *Hudson County jail sees two new COVID-19 cases, the first since May*, NJ.com (Aug. 21, 2020), <https://www.nj.com/hudson/2020/08/hudson-county-jail-sees-two-new-covid-19-cases-the-first-since-may.html>.

<sup>5</sup> ICE, *Coronavirus Confirmed Cases*, <https://www.ice.gov/coronavirus> (last visited Nov. 21, 2020); *Twenty-Second Amended Declaration of Director Ron Edwards* (Sept. 21, 2020) (on file).

<sup>6</sup> See D'Auria, *Hudson County jail sees two new COVID-19 cases, the first since May*, NJ.com (Aug. 21, 2020), <https://www.nj.com/hudson/2020/08/hudson-county-jail-sees-two-new-covid-19-cases-the-first-since-may.html>.

<sup>7</sup> See *Cristian A.R. v. Decker*, 435 F. Supp. 3d 670, 683 (D.N.J. 2020); *Basank v. Decker*, 2020 WL 1053847, at \*8 (S.D.N.Y. 2020); *Durel v. Decker*, 445 F. Supp. 3d 99, 110 (D.N.J. 2020); *Jeferson V.G. v. Decker*, 2020 WL 1873018, at \*8 (D.N.J. 2020); *Marvin A.G. v. Decker*, 2020 WL 3481746, at \*3 (D.N.J. 2020); *Geovani M.-O. v. Decker*, 2020 WL 2511428, at \*5 (D.N.J. 2020); *Hernandez v. Decker*, 450 F. Supp. 3d 443, 448 (S.D.N.Y. 2020); *Santiago P. v. Decker*, 2020 WL 2487658, at \*1 (D.N.J. 2020); *Grant v. Decker*, 2020 WL 3402445, at \*4-5 (S.D.N.Y. 2020); *Coronel v. Decker*, 449 F. Supp. 3d 274, 286 (S.D.N.Y. 2020); *Ferreyra v. Decker*, 456 F. Supp. 3d 538, 555 (S.D.N.Y. 2020); *Yoscal M.G. v. Barr*, No. 2:20-cv-03736-MCA (D.N.J. Jun. 11, 2020); *Desmond K. B. v. Decker*, No. CV 20-6884 (KM), 2020 WL 4530003, at \*1 (D.N.J. Aug. 6, 2020),

<sup>8</sup> See Monsy Alvarado, *Hudson County's new deal with ICE could mean millions in new revenue*, NorthJersey.com (July 12, 2018), <https://www.northjersey.com/story/news/2018/07/12/hudson-county-approves-new-deal-ice-house-immigration-detainees/780775002/>; ICE-Hudson County Contract Renewal and Resolution, available at <https://assets.documentcloud.org/documents/4610684/DOC243.pdf>.

<sup>9</sup> See ICE-Hudson County Contract Renewal and Resolution, available at <https://assets.documentcloud.org/documents/4610684/DOC243.pdf>.

<sup>10</sup> *Id.*

<sup>11</sup> See Monsy Alvarado, *NJ and NY jails billed ICE \$87 milion in 2018 and they'll collect millions more this year*, NorthJersey.com (Sept. 3, 2019), <https://www.northjersey.com/story/news/new-jersey/2019/09/03/new-jersey-new-york-county-jails-billed-ice-87-m-2018-house-detainees/1545725001/>.

<sup>12</sup> *Id.*

<sup>13</sup> See Joshua Rosario, *Will Hudson County Freeholders renew expiring ICE contract?*, NJ.com (Nov. 16, 2020), <https://www.nj.com/hudson/2020/11/will-hudson-county-freeholders-renew-expiring-ice-contract.html>

<sup>14</sup> Pete D'Auria, *Hudson's jail was one of the most dangerous in NJ. Take a look inside the \$10 million renovations to make it safer*, NJ.com (July 2020), <https://www.nj.com/hudson/2020/07/hudsons-jail-was-one-of-the-most-dangerous-in-nj-take-a-look-inside-the-10-million-renovations-to-make-it-safer.html>.

<sup>15</sup> NYLPI, *Family of Man Who Bled to Death in Immigration Custody Sues Hudson County Over Medical Care*, <https://nylpi.org/family-of-man-who-bled-to-death-in-immigration-custody-sues-hudson-county-over-medical-care/>.

<sup>16</sup> *Id.*

<sup>17</sup> See Rodrigo Torrejon, *Family of correctional officer who died from COVID-19 plans to sue N.J. county for not providing PPE*, NJ.com (Nov. 11, 2020), <https://www.nj.com/coronavirus/2020/11/family-of-correctional-officer-who-died-from-covid-19-plans-to-sue-nj-county-for-not-providing-ppe.html>.

<sup>18</sup> Analysis of Country of Origin Data, Transactional Records Access Clearinghouse (Jul. 2019), Hudson <https://trac.syr.edu/phptools/immigration/detention/>.

<sup>19</sup> Migration Policy Institute, *Frequently Requested Statistics: Immigrants and Immigration in the U.S.* (2018), <https://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states>.

<sup>20</sup> Hudson County Correctional Facility Roster (updated July 5, 2020), <https://martincountysheriff.net/new-jersey/county-jail/hudson-county-correctional-facility/>

<sup>21</sup> See Lindsay Curcio, Anu Joshi, Camille Mackler, & Michael Mandel, *Hudson County Jail New Jersey Expose & Close*, (Nov. 2012), <https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN%20Expose%20and%20Close%20Hudson%20County.pdf>.

<sup>22</sup> See, e.g., *id.*; ACLU-NJ, *Behind Bars: The Failure of the Department of Homeland Security to Ensure Adequate Treatment of Immigration Detainees* (May 2007), <https://www.aclu.org/press-releases/aclu-new-jersey-provides-un-rapporteur-report-immigration-detention-outlines-concerns>; New Jersey Civil Rights Defense Committee, *Voices of the Disappeared: An Investigative Report of New Jersey Immigrant Detention* 31 (2008), [https://www.prisonlegalnews.org/media/publications/voices\\_of\\_the\\_disappeared\\_nj\\_immigration\\_detention\\_2008.pdf](https://www.prisonlegalnews.org/media/publications/voices_of_the_disappeared_nj_immigration_detention_2008.pdf); New Jersey Advocates for Immigration Detainees, *23 Hours in the Box: Solitary Confinement in Immigration Detention*, [https://www.afsc.org/sites/default/files/documents/23%20Hours%20in%20the%20Box\\_2.pdf](https://www.afsc.org/sites/default/files/documents/23%20Hours%20in%20the%20Box_2.pdf).

<sup>23</sup> See John Heinis, *2nd Hudson County corrections officer dies from COVID-19, jail director says*, Hudson County View (May 11, 2020), <https://hudsoncountyview.com/2nd-hudson-county-corrections-officer-dies-from-covid-19-jail-director-says/>; Pete D'Auria, *Hudson County jail sees two new COVID-19 cases, the first since May*, NJ.com (Aug. 21, 2020), <https://www.nj.com/hudson/2020/08/hudson-county-jail-sees-two-new-covid-19-cases-the-first-since-may.html>.

<sup>24</sup> ICE, *Coronavirus Confirmed Cases*, <https://www.ice.gov/coronavirus> (last visited Oct. 1, 2020).

<sup>25</sup> Pete D'Auria, *Hudson County jail sees two new COVID-19 cases, the first since May*, NJ.com (Aug. 21, 2020), <https://www.nj.com/hudson/2020/08/hudson-county-jail-sees-two-new-covid-19-cases-the-first-since-may.html>.

<sup>26</sup> See *supra* note 7 (collecting cases).

<sup>27</sup> Pete D'Auria, *Hudson's jail was one of the most dangerous in NJ. Take a look inside the \$10 million renovations to make it safer*, NJ.com (July 2020), <https://www.nj.com/hudson/2020/07/hudsons-jail-was-one-of-the-most-dangerous-in-nj-take-a-look-inside-the-10-million-renovations-to-make-it-safer.html>.

<sup>28</sup> See Monsey Alvarado, *Daughter of immigration detainee who died in custody sues Hudson County, its jail*, NorthJersey.com (May 31, 2019), <https://www.northjersey.com/story/news/new-jersey/2019/05/31/hudson-county-jail-immigration-detainee-died-daughter-sues/1290574001/>.

<sup>29</sup> See Nina Bernstein, *Health Care at New Jersey Immigrant Jail is Substandard, Watchdog Groups Say*, N.Y. Times (May 11, 2016), <https://www.nytimes.com/2016/05/12/nyregion/health-care-at-new-jersey-immigrant-jail-prompts-claim.html>.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> See Lindsay Curcio, Anu Joshi, Camille Mackler, & Michael Mandel, *Hudson County Jail New Jersey Expose & Close*, (Nov. 2019), <https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN%20Expose%20and%20Close%20Hudson%20County.pdf>.



<sup>34</sup> See Monsy Alvarado, *Hudson County is looking for other revenue so it can end contract to house ICE detainees*, NorthJersey.com (Dec. 27, 2019), <https://www.northjersey.com/story/news/new-jersey/2019/12/27/hudson-nj-seeking-other-revenue-so-can-end-contract-house-ice-detainees/2749774001/>.

<sup>35</sup> “Mercer County will pay Hudson \$11.2 million per year for up to 300 inmates, plus a flat rate of \$102 per inmate per day for any additional inmates above 300 in a calendar year.” *Id.*

<sup>36</sup> Sulaiman Abdur-Rahman, *Judge nixes Mercer-Hudson inmate transfer plan pending lawsuit outcome*, The Trentonian (Dec. 25, 2019), [https://www.trentonian.com/news/judge-nixes-merc-er-hudson-inmate-transfer-plan-pending-lawsuit-outcome/article\\_0f6e9258-2770-11ea-9e6d-5f4504686f82.html](https://www.trentonian.com/news/judge-nixes-merc-er-hudson-inmate-transfer-plan-pending-lawsuit-outcome/article_0f6e9258-2770-11ea-9e6d-5f4504686f82.html).

<sup>37</sup> Transfers also occur for a variety of reasons even when there is local detention space available. ICE sometimes transfers individuals to far-away facilities when their immigration court cases are concluded and/or to save costs if detention reimbursement is cheaper at other facilities. ICE has also been known to transfer people for retaliatory or punitive reasons.

<sup>38</sup> “When Passaic County announced the cancellation of the ICE contract in December 2005, scores of detainees were released either directly from Passaic County Jail or from neighboring facilities to make room for Passaic transfers.” New Jersey Civil Rights Defense Committee, *Voices of the Disappeared: An Investigative Report of New Jersey Immigrant Detention* 31 (2008), [https://www.prisonlegalnews.org/media/publications/voices\\_of\\_the\\_disappeared\\_nj\\_immigration\\_detention\\_2008.pdf](https://www.prisonlegalnews.org/media/publications/voices_of_the_disappeared_nj_immigration_detention_2008.pdf).

<sup>39</sup> TRAC, *Transfers of ICE Detainees from the Hudson County Correctional Facility (Jail)*, <https://trac.syr.edu/immigration/detention/201509/HUDSONJ/tran/>.

<sup>40</sup> “The end of the WCDF contract led to a reduction in local immigration enforcement activity. We don’t have solid data on this, but anecdotal evidence suggests that fewer people from Northern California are now being detained. ICE itself has admitted as much, pointing to reductions in bed space as a “challenge” to their operations. If true, it suggests closing detention facilities doesn’t just redirect immigration detention; it actually bites away at it. Less bed space makes it harder to house, detain, and deport people.” Interfaith Movement for Human Integrity, *Lessons from the ICE Detention Contract Termination in Contra Costa County, CA* 4 (Dec. 2019) <https://www.im4humanintegrity.org/19/12/lessons-from-the-ice-detention-contract-termination-in-contra-costa-county-ca/>.

<sup>41</sup> “Once jail capacity expands in these places, inertia among key institutional players (law enforcement, prosecutors, judges, etc.) may bias the local justice system to simply use a now more readily available resource: jail beds. National data suggests this possibility. Of the 216 county jails constructed between 1999 and 2005—a time of declining crime rates—the median jail population rose 27 percent after construction was completed.<sup>84</sup> A quarter of the new jails more than doubled in size by 2006, and the facilities had maintained their increased populations by 2013.” Chris Mai et al., Vera Institute, *Broken Ground: Why America Keeps Building More Jails and What It Can Do Instead* 27 (Nov. 2019), <https://www.vera.org/downloads/publications/broken-ground-jail-construction.pdf>.

<sup>42</sup> Detention Watch Network and Center for Constitutional Rights, *Banking on Detention: Local Lockup Quotas and the Immigration Dragnet* 6 (2015), <https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN%20CR%20Banking%20on%20Detention%20Report.pdf>

<sup>43</sup> “While ERO’s targeted immigration enforcement operations focus on the interior of the country, changes in migration flows at the Southwest Border directly impact nearly every area of the agency’s operations, including interior enforcement, detention capacity, transportation, removals, personnel, and overall expenditures....This sustained increase in migration has stretched resources across the U.S. government, requiring ERO to redirect its enforcement personnel and

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detention capacity to support border enforcement efforts as well as a significantly increased detained population. ***This has negatively impacted the number of ERO's interior arrests, as well as the percentage of removals stemming from such arrests, and has also changed the overall composition of ICE's detained population.*** Because much of ERO's limited detention capacity has been dedicated to housing aliens arrested by CBP, many of whom are subject to mandatory detention under U.S. immigration laws regardless of criminality, the increase in border apprehensions has resulted in a lower overall percentage of ICE detainees who have a criminal history (the vast majority of those arrested by ERO in the interior have criminal convictions or pending criminal charges, while those arrested by CBP at the border often do not have any known criminal history)." U.S. Immigration and Customs Enforcement Fiscal Year 2019 Enforcement and Removal Operations Report 3-4, <https://www.ice.gov/sites/default/files/documents/Document/2019/eroReportFY2019.pdf>.

<sup>44</sup> National Immigrant Justice Center, *A Better Way: Community-Based Programming as an Alternative to Immigrant Incarceration* (Apr. 2019), <https://immigrantjustice.org/research-items/report-better-way-community-based-programming-alternative-immigrant-incarceration>.