



## Prolonged Detention Fact Sheet

Around the country, Immigration and Customs Enforcement (“ICE”) detains immigrants for extremely long periods of time before, during, and after their removal proceedings. In recent years, analyses of government data—including data compiled for *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013), a class action challenging prolonged immigration detention in California—have documented the significant human and fiscal costs of the current detention regime.

The data reveals that many of those detained have strong legal arguments to remain in the United States and ultimately win their cases. This includes long-time lawful residents with relatively minor criminal convictions (such as drug possession offenses), asylum seekers with no criminal history who are imprisoned for years even after they have been found to have a credible claim, and others with extensive family ties to this country, including having U.S. citizen children. Indeed, a substantial majority of those with a criminal history present no danger or flight risk and can be safely released on bond, or under other conditions of supervision (including electronic monitoring), particularly given that they have all served their criminal sentences before coming into ICE custody.

Nonetheless, ICE continues to detain these immigrants, separating them from their U.S. citizen family members and the communities to which they have deep ties, all at great cost to taxpayers.

### **A Study of Data Concerning *Rodriguez* Class Members Reveals that a Significant Percentage Will Win Their Cases.<sup>1</sup>**

A review of data concerning *Rodriguez* class members (who, by definition, have been detained for at least 180 days while their cases have remained pending) found that the average length of detention for individuals who applied for relief from deportation was **421 days**. The average detention length for all *Rodriguez* class members was **404 days**.

Out of 595 individuals detained for 180 days or longer in the Central District of California *alone*, 176 of them—**30%**—had already won their immigration cases during the study period, and 207 or **35%** were projected to win their cases.

The percentage of individuals who won their immigration cases was even higher for detainees subject to prolonged mandatory detention: **38%** won their cases during the study period.

The win rate among asylum seekers is also high: 35% of those who applied for relief from deportation won their cases during the study period.

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<sup>1</sup> In *Rodriguez*, the ACLU represents a certified class of all noncitizens detained in the Central District for more than 180 days and who have a pending immigration case before the immigration courts or on appeal. As part of the lawsuit, the federal government provided data on 1,026 class members over the course of a two and a half-year period. This data examined detention lengths and the results of removal proceedings for those whose proceedings concluded during the time of the study.

### **Most of these Individuals Present no Danger and Flight Risk<sup>2</sup>**

As a result of the *Rodriguez* District Court's orders requiring bond hearings for certain individuals held for six months or longer, Immigration Judges have conducted approximately **1,262 individual bond hearings** from approximately November 2012 until January 2014. Of the bond hearings conducted under the Court's orders, **69%** of those individuals were ordered released (on bond and/or an alternative to detention) by Immigration Judges who considered their individual situation and determined they were not a flight risk or danger to the community. Of the individuals ordered released, **55%** have already paid their bond and been released, and more are projected to do so in the future. Through January 2014, **480 people** detained in the Central District of California have been released as a result of the Court's orders in *Rodriguez*. Numerous individuals across the Ninth Circuit (outside of the Central District) also have been released through bond hearings conducted pursuant to the Ninth Circuit's decision in *Rodriguez*.<sup>3</sup>

### **Data Compiled from EOIR Records Shows Extremely Long Average Detention Lengths For People Who Have Strong Arguments Against Deportation.<sup>4</sup>**

While the *Rodriguez* dataset does not contain information about people outside the Central District of California, data as well as anecdotal evidence suggests that the experience there is not unique.

For example, at the Mira Loma facility in California, detainees who won their immigration cases spent an average of **164 days** in detention in 2012 and **228 days** in 2011. By comparison, at the Eloy Detention Facility in Arizona, detainees who won their cases spent on average **190 days** in detention in 2012 and **184 days** in 2011.

### **Prolonged detention occurs at great cost to taxpayers.**

According to ICE, the cost of detention per day is \$119.<sup>5</sup> Just looking at the 207 studied *Rodriguez* class members who *won* their cases, the federal government spent approximately **\$10,370,493** to detain them before they ultimately won their cases and were released.<sup>6</sup>

For class members in *Rodriguez* who apply for relief, the federal government saves approximately **\$28,679** in detention costs for each person who is released after six months of detention.<sup>7</sup>

In contrast, secure alternatives to detention such as electronic monitoring devices typically cost no more than \$14 per day, and have proven effective at ensuring that immigrants appear for court in well over 90% of cases – as high as 99% according to some government statistics.

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<sup>2</sup> The District Court in *Rodriguez* ordered the government to provide periodic status reports on bond hearings

### **Who Are The People In Prolonged Detention?**

Many individuals detained for significant periods of time are long-term residents of the United States with significant family ties in the country. Data collected on *Rodriguez* class members reveals that, over time, approximately

## Individual Case Examples

The following cases provide just a few examples of individuals who spent years in detention without receiving a hearing in front of an immigration judge to determine whether they were a flight risk or danger to the community. All eventually won their cases and returned to their families—but after years of unnecessary, harrowing, and expensive detention.

**Warren Joseph** is a lawful permanent resident from Trinidad who has lived in the United States for nearly 22 years along with his five U.S. citizen children and his U.S. citizen mother and sister. Mr. Joseph is also a decorated veteran of the Gulf War and was decorated for rescuing fellow soldiers after being injured in battle. In 2001 he unlawfully purchased a handgun to sell to individuals to whom he owed money; after assisting with the investigation, he was not given prison time. But after two years on probation and struggling with Post Traumatic Stress Disorder, he violated his probation by moving to his mother's house without first notifying the probation officer. After a six month prison sentence, Mr. Joseph was placed in removal proceedings and subjected to mandatory detention, where he remained for more than three and a half years before conclusively winning his case and release.

**Ahilan Nadarajah** escaped repeated and brutal torture by soldiers in the Sri Lankan Army. Arriving in the United States in 2001, he was immediately arrested at the border, then detained by ICE for nearly five years and held in M48 (Sh6) his Naser Ajh 702.4825 Nadaraj 0067s 000817 (chē 5.2(m fiurther a parole with bond, ICE later rejected his attempt to tender money forand brup t5.5(thengrau)3.9(tndst)5.78hati

and although she was the primary support for her U.S. citizen mother who suffers from Alzheimer's disease, her 17-year-old and 11-year-old daughters, and her 5-year-old granddaughter, she was nevertheless forced to endure seven months of immigration detention. Prior to her detention, Ms. Ruiz had worked full-time as a roofer with the United Union of Waterproofers and Allied Workers from 1996 until an accident in 2009, which left her with severe back and neck pain. This pain was aggravated while she was in detention to such an extent that at one point her doctor feared she would require surgery to avoid paralysis. In granting her application for cancellation of removal, the immigration judge emphasized the "substantial equities in [her] favor," including her "work history, tax history and property ownership," as well as the fact that