The immigration detention bed mandate, contained in U.S. Department of Homeland Security appropriations language, is considered by Immigration and Customs Enforcement (ICE) and some members of Congress to require ICE to fill 34,000 detention beds daily at an annual cost to taxpayers of $2 billion. This approach – which exists in no other law enforcement context – prevents ICE from saving taxpayer dollars by using less costly, effective alternatives when detention is not necessary, and guarantees a specific – and arbitrary – detention level, regardless of actual need.

- MSNBC: “Immigrant detention and the ‘bed mandate’” (10/26/2013)………………Video (linked)
- MSNBC: “Immigration reform could still leave thousands in detention” (10/25/2013)……Page 2
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- Univision: “Cuota de detención de indocumentados” (10/14/2013)………………Video (linked)
- Bloomberg View: “The Madness of U.S. Immigration Policy, Continued” (9/26/2013)……Page 8
- Bloomberg: “Congress Mandates Jail Beds for 34,000 Immigrants as Private Prisons Profit” (9/24/2013)…………………………………………………………………………………………………………………….Page 9
- Reason.com: “DHS Requirement Keeping 34,000 Immigrants Locked Up Daily To Continue” (7/9/2013)……………………………………………………………………………………………………………………………………….Page 16
- Reuters: “Insight: Congress keeps detention quota despite immigration debate” (7/8/2013)…Page 17
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Immigration reform could still leave thousands in detention

By Silky Shah – Oct. 25, 2013

In just a few weeks, President Obama’s administration will hit the two-million mark in deportations. During his time in office, we’ve also seen a massive expansion of the number of people detained in immigration jails, to more than 400,000 a year.

The impact of this increased enforcement has fueled the drive towards comprehensive immigration reform, which the president said Thursday he expects the House to take up again after considerable movement in the Senate last summer. Unfortunately, for the detention system, immigration reform won’t mean much.

Currently, the detention system is run on a quota that requires at least 34,000 immigrants be detained daily. This quota mandated by the Congressional Appropriations committee each year will mean that even if immigration reform results in relief for some of the 11 million undocumented immigrants living in the U.S., many will still be targeted to fill immigration jail beds.

When people are detained they are taken from their families and communities. Local economies are impacted and families often lose their chief breadwinner. When someone isn’t there to support children of those detained, they are often shipped off to the foster care system. Policies like the detention bed quota effectively force immigration and local police to find people that are deportable in order to make sure beds are filled.

With a network of more than 250 jails and detention centers operated by federal, state, and local government, as well as by private industry, the system exacts a grim toll on immigrant communities (emotional, physical and financial) at the taxpayers’ expense, (more than $2 billion was spent on immigration detention in fiscal year 2012). Immigrants in detention are often denied basic needs, such as adequate food and hygiene, and access to fresh air and sunlight and many are subjected to solitary confinement.

To exacerbate the issue, immigrants in detention have no access to counsel, meaning that more than 80% end up representing themselves in immigration court. During the shutdown, this was even more intensified due the furloughing of legal orientation programs that educate immigrants about their legal options. Beyond that, the ever-expanding immigration case backlog was most likely affected with several courts closed during the shutdown. The repercussions of the shutdown are still unclear, but there is no doubt that immigrants in detention were affected. Not surprisingly, detaining immigrants has become good business. Prison corporations lobby heavily to secure these government contracts to increase their profits in a billion-dollar industry, while county jails benefit by using money earned from detaining immigrants to fill gaps in their shrinking budgets. Of the 34,000 detention beds, 50% are operated by private prison companies, such as Corrections Corporation of America (CCA) and the GEO Group.

Immigration and Customs Enforcement (ICE) has yet to codify standards for detention, meaning there are basically no rules to how people are held. More than 132 deaths have occurred in detention since 2003–many of which could have been prevented with proper medical attention or mental health services. The case of Roberto Martinez Medina is sadly exemplary. Medina, who was held at the CCA operated Stewart Detention Center in Columbus, GA, was a 39-year-old Mexican national who died of a heart infection after three days of requesting medical attention for a treatable condition. In May, two Guatemalan nationals committed suicide within one week of each other at Eloy Detention Center, another CCA facility in Arizona.

Until the quota is eliminated, tens of thousands of people continue to be torn from their families, communities, and livelihoods and swept up into detention facilities where they are locked in prison cells, waiting indefinitely in subhuman conditions for their cases to be decided. Time is of the essence.

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The outdated immigrant detention system

By Katharina Obser – Oct. 18, 2013

The purpose of the U.S. immigration detention system is simple: to facilitate that an individual in Immigration and Customs Enforcement (ICE) custody appears before immigration court and complies with any final orders. And yet the system itself is anything but; it is a complicated web of jails and jail-like facilities, private prisons, county jails, and federal detention centers, that detains over 400,000 individuals each year.

ICE has worked to develop and implement some critical improvements to the system, though additional reforms remain needed. One overarching obstacle overshadowing much of this: the bed “mandate.” As Congress returns from the brink of the fiscal cliff, and as a new candidate prepares for confirmation to lead the Department of Homeland Security, now is a key moment to consider responsible ways to shrink the federal budget.

The bed “mandate” requires that each night a minimum number of people have to be detained in the system – at least that’s how some members of Congress interpret DHS appropriations language. Mandating what is effectively a quota of beds flies in the face of American values and best practices in the criminal justice system, and precludes a meaningful individualized assessment of the need to detain. And yet it’s the norm for our immigration detention system, where every day 34,000 beds in jails and jail-like facilities around the country are filled with immigration detainees, whether or not that actually makes sense. The price tag to the U.S. taxpayer? Around $2 billion per year, or more than $5 million per day.

Criminal justice systems across the country have increasingly recognized that someone awaiting a court hearing who does not pose a danger to society or flight risk can be released on bond, recognizance, or on a more cost-effective and more humane alternative to detention. States like Texas have set an example, passing significant criminal justice reforms, and yet when it comes to immigration detention, Congress has missed key opportunities to do the same.

If the purpose of immigration detention is to ensure that an individual in ICE custody appears before immigration court, then alternatives to detention, where needed and appropriately used, make a tremendous impact helping to prevent families from being torn apart, or keeping an asylum seeker from traumatizing conditions – all while saving taxpayer money. Groups from across the political spectrum, including the Council on Foreign Relations’ Independent Task Force on U.S. Immigration Policy, the International Association of Chiefs of Police, the Heritage Foundation, the Texas Public Policy Foundation (home to Right on Crime) and others have all endorsed alternatives for the costs they save, and, as former ICE Assistant Secretary Julie Myers Wood has noted, the current full service alternatives program used by ICE results in a 99 percent compliance rate with final hearings and compliance with final orders of removal in 84 percent of cases. But despite their effectiveness and low cost, Congressional appropriations for alternatives to detention continue to be dwarfed by that for detention beds.

Some members of Congress, including Reps. David Price (D-N.C.) and Lucille Roybal-Allard (D-Calif.) have long opposed the “mandate” language and have worked to clarify it. And in June, Reps. Ted Deutch (D-Fla.) and Bill Foster (D-Ill.) introduced an amendment to strike the bed "mandate" from the DHS appropriations bill, and won 190 votes and vocal support from a number of members of Congress, helping to give the issue the profile it deserves. This fall, more than 60 members of Congress have signed a letter urging opposition of this costly and impractical quota.

Congress has the rare opportunity to reduce unnecessary expenditures and do right by the public interest as well. It should eliminate the bed “mandate” in immigration detention in future funding and appropriations measures, allow ICE flexibility in its budget to shift funds from detention to more cost-effective alternative measures, and direct ICE to limit detention to cases only where alternate monitoring measures won’t achieve the government’s objectives. Reforming the immigration detention system comes with countless complex challenges. Eliminating the bed “mandate” should not have to be one of them.

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'Bed mandate' ensures 34,000 immigrants are detained each day

Interview by David Brancaccio - Oct. 18, 2013

With the debt ceiling raised for a while and the government reopened, President Obama is calling for lawmakers to buckle down and get to work on such sweeping matters as the half-trillion dollar farm bill and the overhaul of the immigration system. On that last one, there's renewed attention to a little-known directive from Congress known as the "bed mandate."

As The Washington Post highlighted, it's a kind of quota. U.S. Immigration and Customs Enforcement has to keep an average of 34,000 people detained each day. The measure has key support from members of Congress who want to draw a hard line against the kind of immigration that can compete for American jobs and raise costs of social services. And this "bed mandate" has fueled a powerful industry, something Enrique Acevedo – journalist and anchor at Univision News – has been following.

"We're talking about over 200 facilities around the country, that's more than 150,000 bed spaces. The 'bed mandate' argues that at least 34,000 of those beds should be filled every day," Acevedo says. "We're talking about federal spending on detention that reaches $2.8 billion every year -- that's been doubling since 2006 -- at a time when budget issues have become a frequent discussion in Washington."

To listen to the interview, please click here: [http://www.marketplace.org/topics/economy/bed-mandate-ensures-34000-immigrants-are-detained-each-day](http://www.marketplace.org/topics/economy/bed-mandate-ensures-34000-immigrants-are-detained-each-day)
Controversial quota drives immigration detention boom

By Nick Miroff - Oct. 13, 2013

KARNES CITY, Tex. — In the past five years, Homeland Security officials have jailed record numbers of immigrants, driven by a little-known congressional directive known on Capitol Hill as the “bed mandate.” The policy requires U.S. Immigration and Customs Enforcement (ICE) to keep an average of 34,000 detainees per day in its custody, a quota that has steadily risen since it was established in 2006 by conservative lawmakers who insisted that the agency wasn’t doing enough to deport unlawful immigrants.

But as illegal crossings from Mexico have fallen to near their lowest levels since the early 1970s, ICE has been meeting Congress’s immigration detention goals by reaching deeper into the criminal justice system to vacuum up foreign-born, legal U.S. residents convicted of any crimes that could render them eligible for deportation.

The agency also has greatly expanded the number of undocumented immigrants it takes into custody after traffic stops by local police.

Department of Homeland Security (DHS) officials say that they are not needlessly jailing immigrants to meet a quota and that they find plenty of candidates for detention and deportation by targeting criminals who pose a threat to public safety and border security.

But critics of the mandate note that the majority of ICE detainees are not violent offenders. Immigration judges eventually allow many to remain in the United States, but the detainees may spend months in costly federal custody, even when far cheaper alternatives are available, such as ankle bracelets and other forms of electronic monitoring.

With federal spending on immigration detention and deportation reaching $2.8 billion a year, more than doubling since 2006, the mandate has met growing skepticism from budget hawks in both parties, particularly after DHS officials told Congress during the “sequestration” debate in April that the agency could save money by lowering the bed mandate to 31,800 and relying on cheaper alternatives to jails. But House Republicans successfully pushed back, set the mandate at 34,000 detainees and ordered ICE officials to spend nearly $400 million more than they requested.

ICE operations are largely unaffected by the government shutdown, since the agency’s workers are among the federal employees considered essential, DHS officials have said.

Some of the additional money provided by Congress will be spent filling beds at places such as the brightly painted Karnes County Civil Detention Center, which opened here last year amid bobbing oil derricks on the rolling plains south of San Antonio. It holds more than 600 detainees, but ICE prefers not to call them that.

They are “residents,” guarded by unarmed “resident advisers,” and they sleep in air-conditioned, unlocked “suites” with flat-screen TVs overlooking volleyball courts and soccer fields. The low-security facility, built and operated on the government’s behalf by a private contractor, the GEO Group, offers computer labs, libraries and microwaves for making popcorn.

“This place is great,” said one young man from Honduras, strumming a government-issued bass guitar in a recreation room, along with newfound band mates from El Salvador and Guatemala. Most detainees here are Central American migrants picked up along the border. Having requested asylum, they await an ICE interview to determine if they have a legitimate fear of returning home.
In the meantime, they can earn $3 a day working on cleaning crews or in the laundry room, and there are free English classes, “life skills” instruction and tutorials in Microsoft Word and Excel. They dine in a cafeteria cheerfully appointed with Southwestern art and Georgia O’Keefe prints.

The jail has become a showcase for improved detention conditions, especially as ICE relies less on the low-cost bed space offered by aging, rural county jails and signs contacts with for-profit private detention companies that include incentives such as guaranteed minimum-occupancy payments.

Congress’s expanding detention goals have been a boon to the contractors, especially Florida-based GEO Group and Tennessee-based Corrections Corp. of America.

The two companies have won hundreds of millions of dollars’ worth of ICE contracts in recent years while lobbying Congress on immigration enforcement issues.

Former ICE director Julie Myers Wood, who led the agency from 2006 to 2008 under President George W. Bush, said a congressional mandate for ICE to maintain a minimum number of detainees was a reasonable guideline at the outset of her tenure, when the Border Patrol was making more than a million arrests per year. But today, she said, “it doesn’t make sense.”

Defenders of the bed mandate say it remains a useful tool to compel ICE to devote the maximum amount of resources to catching and deporting illegal migrants and foreign-born legal residents who commit crimes, including dangerous gang members, rapists and other violent felons.

With an estimated 11 million undocumented immigrants living in the United States, they argue, there’s still a vast pool of potential deportees for the agency to pursue, or as Rep. John Abney Culberson (R-Tex.) put it, “plenty of customers.”

“We know ICE can fill more than 34,000 beds, so why would they use less?” said Culberson, a member of the House Homeland Security appropriations subcommittee, which ties ICE funding to its compliance with the mandate.

Four countries — Mexico, Guatemala, Honduras and El Salvador — accounted for 88 percent of all immigration detainees in 2011, the most recent year for which statistics were available.

**Broad range of offenses**

As illegal border crossings have declined, a growing portion of ICE detainees are legal U.S. residents who face deportation after completing a jail term or probation, targeted by ICE’s Secure Communities program.

Of the 33,391 immigrants held in federal custody on Sept. 7 — a single-day snapshot provided by ICE — 19,864 were convicted criminals, according to the agency.

Yet ICE’s definition of criminals includes a broad range of offenders, and a 2009 internal review found that only 11 percent of detainees had been convicted of violent crimes.

Jose Luis Vargas, a legal U.S. resident since 1986, was arrested by San Antonio police three years ago after neighbors reported a marijuana plant growing in his garden, among his tomatoes and prickly pear cactus. Vargas, 52, said he had planned to make a poultice with the plant to alleviate joint pain from diabetes, which has left him with impaired vision and an amputated finger.

After two years on probation for the marijuana charge, ICE officials took Vargas into custody and tried to deport him to Mexico. He spent nearly three months in ICE’s South Texas Detention Facility until an immigration judge ordered his release.
“They didn’t treat me badly, but when I’d have to ride to the hospital, I’d miss lunch, and being in handcuffs so much was bad for my circulation,” Vargas said.

Immigrant rights advocates say detainees such as Vargas, who was two years shy of paying off the 30-year mortgage on his San Antonio home, should be allowed to remain under cheaper, less severe forms of ICE supervision, such as GPS-enabled electronic monitoring.

Those alternatives can cost less than $10 a day, they say, while the cost of keeping someone in immigration jail exceeds $150.

“The explicit purpose of ICE detaining people is to make sure they show up for their immigration hearings, so it would make sense to consider less costly, more humane alternatives that meet that same goal,” said Ruthie Epstein, legislative policy analyst for the American Civil Liberties Union.

Immigrant advocates and attorneys say the majority of detainees taken into ICE custody today have convictions for lesser offenses such as drug possession—or no criminal record at all.

Nearly 48 percent of the 350,000 immigrants over the past 16 months who triggered an “ICE detainer” — a request by the agency that local jails or police hold an individual until ICE can pick them up — had no criminal convictions, not even traffic violations, according to the TRAC Immigration Project.

Almost half of all potential deportees who appear in immigration court are allowed to remain in the United States, according to TRAC data.

But many end up spending months, even years, in ICE custody while they await a ruling.

Detention alternatives

ICE officials have testified to Congress that Alternatives to Detention programs — geared toward legal residents with family and community ties — have had compliance rates of 96 percent with court-ordered appearances. Yet the agency’s budget for alternatives is less than $100 million, dwarfed by its detention budget. The comprehensive immigration bill approved by the Senate in June would expand use of these methods, but the legislation faces increasingly dim prospects in the House.

ICE officials also note that they have limited discretion over which detainees are eligible for alternative forms of supervision. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 greatly expanded the scope of crimes that could trigger deportation.

More than two-thirds of the immigrants in ICE custody on Sept. 7, for instance, were “mandatory cases,” including drug offenders, violent offenders and anyone involved in prostitution-related crimes, among other violations that trigger automatic detention. Pending immigration legislation would give greater discretion to federal judges to assign detention on a case-by-case basis.

“We’re not forcing poor little people to be in there to meet a quota,” said Rep. John Carter (R-Tex.), chairman of the House Homeland Security appropriations subcommittee.

“The law is the law, and none of these people are being held contrary to the law,” he said.
The Madness of U.S. Immigration Policy, Continued

By the Editors – Sep. 26, 2013

Imagine if Congress mandated that an arbitrary number of jail cells be filled with prisoners -- regardless of the crime rate. Authorities would be required to incarcerate people, no matter the circumstances or the affront to human rights. That’s basically the state of immigration detention in the U.S.

Thanks to a line in the appropriations bill that finances the Department of Homeland Security, 34,000 beds must be available in immigration detention facilities regardless of the flow of illegal immigrants into the U.S. or the rate, or nature, of crimes they commit. The Immigration and Customs Enforcement agency interprets the mandate as a requirement to keep “a yearly average daily population of approximately 34,000 individuals,” former ICE Director John Morton told a congressional panel in March.

As the number of beds has increased -- from 19,702 in 2001 to 34,000 in 2012 -- the number of noncitizens detained has kept pace, at a cost of approximately $120 a day for each prisoner. This is what happens when public policy is written in reverse, mandating outcomes without regard to inputs.

Some detained noncitizens are violent criminals who need to be locked up. Others are mothers or fathers who have committed traffic violations. Their forced separation from families and jobs undermines both social cohesion and the economy -- at taxpayer expense.

Undocumented immigrants tracked in alternative (nondetention) programs appeared for administrative hearings more than 90 percent of the time, according to Julie Myers Wood, a former assistant secretary of Homeland Security in the George W. Bush administration. They complied with final orders 84 percent of the time. Yet ICE detains more than 400,000 immigrants in more than 250 jails and other facilities at an annual cost of $2 billion.

Why? Partly because punitive actions against undocumented immigrants are popular in some congressional districts and partly because a more rational approach would disrupt cherished revenue streams. Private-prison lobbies have pushed to keep lucrative detention centers open. And local officials have “treated the increase in bed mandates as a source of revenue for counties and a job creator for their region,” according to a 2013 National Immigration Forum report.

Bloomberg News has reported on ICE’s efforts to increase efficiency by moving immigrants held in Alabama to a facility in Georgia. Senator Richard Shelby of Alabama, the ranking Republican on the Senate Appropriations Committee, threatened to block ICE requests to the committee if Alabama’s detention beds were not retained. Shelby’s parochialism isn’t an anomaly. In its 2014 budget, the White House requested $120 million less for immigration detention beds than House Republicans want. An amendment sponsored by Democratic Representatives Ted Deutch and Bill Foster sought to strike the detention mandate from the Homeland Security appropriation bill altogether. Their amendment failed in June on a largely partisan vote.

Many alternatives to detention, such as ankle bracelets, curfews and home visits, cost no more than a few dollars a day. ICE has reported that, as of May 2011, 41 percent of its detainees were classified as Level 1 -- the lowest-risk group. Yet ICE lacks the discretion to shift its policy.

Americans can disagree about the nature of immigration and the best ways to reform the system (or not). But wasting money on an arbitrary prison mandate serves no one’s interest. It’s hard to see how the micromanagement by Congress, and the waste of taxpayer funds, will be reversed for 2014; the House appropriations process has been a shambles. Next spring, Deutch and Foster should reintroduce their amendment. And the House should show the good sense to put authority -- and discretion -- for detaining immigrants where it belongs.
Congress Mandates Jail Beds for 34,000 Immigrants as Private Prisons Profit

By William Selway and Margaret Newkirk – Sep. 24, 2013

Noemi Romero, who came to the U.S. illegally at age 3, was arrested in January working at a Phoenix grocery store, where she used someone else’s name to get the job.

Romero, a 21-year-old who likes to draw and dance, spent the next four months behind bars, almost half of it in a cramped cell at a 1,596-bed detention center in Eloy, Arizona, run by Corrections Corp. of America. The company, with Geo Group Inc. (GEO) and other for-profit prison operators, holds almost two-thirds of all immigrants detained each day in federally funded prisons as they face deportation, U.S. data show. Under law, taxpayers must pay to keep 34,000 people like Romero in jail, at a cost of about $120 each per day, even as the number of immigrants caught sneaking across the border has fallen by more than half since the past recession began.

Since 2009, when then-Senator Robert Byrd, a West Virginia Democrat, inserted a change into the Homeland Security Department’s annual spending bill, federal immigration officials have been placed in the unusual position of operating under a statutory quota on how many people to hold behind bars. Congressional Republicans have been defending it ever since.

“People are being kept in detention -- in many cases for weeks or months at a time -- without consideration for the individual circumstances,” said Denise Gilman, co-director of the Immigration Clinic at the University of Texas law school in Austin. “This is being done at a tremendous financial cost to taxpayers and a tremendous human cost to families.”

Detention Quota

Prisons are one of the few institutions that states and the federal government have moved to privatize, creating a booming business for Corrections Corp. (CXW) and Geo, the two publicly traded companies that dominate the market. Both actively lobby Congress. Serving as government jailer has been a hit on Wall Street, as Corrections Corp. and Geo have each about doubled in value since mid-2010.

The results haven’t always been good. Regulatory, court and state records show that privately run prisons have been troubled by staffing shortages, rapid employee turnover or cost-cutting that has led to dangerous conditions for inmates, and some academic studies have cast doubt on the industry’s core claim of saving taxpayers’ money. This year, Ohio auditors faulted Corrections Corp. after assaults almost tripled following its takeover of a state prison, and a riot at its Natchez, Mississippi, immigrant facility left a guard dead and 20 people injured last year.

No Impediment

Such incidents have proven no obstacle to growth for Corrections Corp. and Geo. This month, California Governor Jerry Brown moved to commit more than $1.14 billion over the next three years to lease thousands of prison cells, while Geo said it won a federal contract, valued at $8.5 million a year, to hold as many as 400 immigrants in Alexandria, Louisiana.

While states and the federal government move to curb the nation’s prison population, immigration detention has been protected by Congress. The “bed mandate,” as it’s called on Capitol Hill, forces President Barack Obama’s administration to fill a minimum of 34,000 prison slots a day. Congress has pressed to ensure the beds are full,
and lawmakers say it forces U.S. Immigration and Customs Enforcement to find and deport the millions who are in the country illegally.

**Mandate Reminder**

Texas Republican Michael McCaul, the Homeland Security Committee chairman in the House of Representatives, told ICE officials in February that they were “in clear violation of statute” when the detainee population fell to 30,773 after 2,200 were released to save money.

While the number held varies daily, the average follows the level set by Congress. Through mid-April, around the midpoint of the federal budget year, ICE detainees averaged 33,811 a day, according to records obtained through a Freedom of Information Act request. Brian Hale, an ICE spokesman, declined to comment.

The Obama administration has questioned the need to hold so many. It has asked Congress to cut the bed quota so it can use less costly measures, such as ankle bracelets, to ensure that detainees show up in court. Lawmakers have rejected the move.

At an April hearing, then-Homeland Security Secretary Janet Napolitano, whose department includes ICE, called the mandate “artificial” and said reducing the required number of detainees would let the agency free low-risk offenders who could be on supervised release.

**Prioritize Detentions**

“We ought to be detaining according to our priorities, according to public-safety threats, level of offense and the like,” she said, “not an arbitrary bed number.”

In June, Representative Ted Deutch, a Florida Democrat, proposed an amendment to remove the requirement from next year’s appropriations bill.

“No other law-enforcement agencies have a quota for the number of people that they must keep in jail,” he said. “Mandating ICE detain 34,000 individuals a day does not secure our borders or make us safer.”

The proposal lost 232 to 190, on a largely party-line vote. Lawmakers and immigration advocates say the quota forces ICE to squander taxpayer money to needlessly hold people like Romero.

“It’s not just pressure,” said North Carolina Representative David Price, the top Democrat on the House Homeland Security appropriations subcommittee. He was the panel’s chairman when Congress passed the mandate.

“It’s a requirement that they choose one course rather than the other, when the alternatives to detention would be less expensive and equally effective,” Price said. He said he tried, and failed, to stop the inclusion of the mandate language during negotiations between House and Senate lawmakers. In the end, he voted for the final bill in 2009.

**Another Name**

Romero’s arrest was for using another person’s name in order to obtain work. In an interview, she said she had planned to apply for temporary legal status that became available in 2012 for people like her, who had been brought illegally to the U.S. as children. She got a $7.65-an-hour grocery cashier job in order to earn the $465 application fee, using a legal resident’s name, she said.

She was arrested in a workplace raid and pleaded guilty to criminal impersonation. She ended up in a khaki uniform reserved for low-level felons held at Eloy, where she says she was offered a chance to work legally on
the prison’s inmate staff for $1 a day. She stayed in her cell drawing instead and lay awake and claustrophobic most nights in a space with two bunks and just a few feet of room to walk, she said.

Detention Cost

The U.S. immigration agency spends about $2 billion annually on detention. While most are in for-profit prisons, ICE data show the rest are scattered among jails run by local governments paid to hold immigrants. The greater use of detention is an outgrowth of get-tough immigration policies that started amid security concerns after the Sept. 11 terrorist attacks and expanded rapidly, as Presidents George W. Bush and Barack Obama pursued border crackdowns and increased arrests and deportations of people in the country illegally.

Since 2005, the number of beds to hold undocumented immigrants has surged 84 percent, according to the Congressional Research Service. That has helped boost revenue for commercial prison operators and cash-strapped governments alike, as companies and lawmakers with jails in their districts have pushed for a greater share of a growing pie.

Revenue Driver

Federal contracts accounted for about 43 percent, or $752 million, of Corrections Corp.’s 2012 revenue -- up from about 23 percent in 2000 -- including $206 million from ICE in the most recent year. The flood of cash spurred construction, expansion and conversion of jail space to accommodate immigrants, by prison companies and government agencies, sometimes leading to clashes between states with rival facilities for detainees, such as a 2010-2011 spat between lawmakers from Alabama and Georgia.

Congress pressured both Bush and Obama to confine undocumented immigrants, saying it would prevent them from avoiding deportation proceedings.

The expansion of the detention system began in 2004, when the Intelligence Reform and Terrorism Prevention Act, a response to Sept. 11, directed Homeland Security to add 8,000 beds a year, provided Congress supplied the money. The job fell to the House and Senate appropriations panels. The budget writers committed funds for 33,400 beds by 2009 from 18,500 in 2005, Congressional Research Service data show.

Company Lobbying

Both Corrections Corp. and Geo rely on Washington lobbyists to advance their interests. Corrections Corp. has spent more than $13 million on lobbyists since 2005, among them past appropriations-committee employees, according to Senate records. The company’s representatives disclose lobbying on annual appropriations bills that set Homeland Security spending, including the one that created the bed mandate. Geo has spent more than $2.8 million lobbying over that time.

“Private detention facilities are heavily invested in Congress appropriating money for this phenomena,” said Muzaffar Chishti, the Migration Policy Institute director at New York University’s law school. “There is a huge private interest involved in all this.”

Geo has never taken a position on incarceration or immigrant detention policies, and its involvement in politics is limited to discussing the benefits of privatization with officials, said Pablo Paez, a company spokesman.

Narrow Focus

Corrections Corp. and its lobbyists don’t advocate for laws or policies that determine whether someone is jailed or the prison terms they face, said Steve Owen, a spokesman. He said the company does lobby on government spending decisions that affect its contracts.
“We do lobby on appropriations to ensure our partners -- and therefore our contracts -- are fully funded,” Owen said in a statement. “Lobbying for full funding of our government partners in the appropriations process is something our company has done for many years.”

In 2009, the year Congress set the bed quota, as many as 25 lobbyists represented Corrections Corp. on budget and appropriations issues, according to filings with Congress. Since the 2008 elections, Corrections Corp., Geo and Management & Training Corp., the three biggest prison operators, have donated at least $132,500 to the campaigns of members of Congressional subcommittees that appropriate money to ICE and determine how much is spent on incarceration, according to the data from the Center for Responsive Politics, a Washington-based nonprofit group that tracks campaign spending.

Supporting Lawmakers

Most of the contributions were made by Corrections Corp. and nearly half, 43 percent, went to Republican Representatives Hal Rogers of Kentucky, the appropriations committee chairman; John Carter of Texas, head of the panel’s homeland security subcommittee; Robert Aderholt of Alabama, Carter’s predecessor in that post; and John Culberson of Texas, a member of the subcommittee, which oversees ICE’s budget.

“In terms of CCA’s political giving, we support individuals who are open to solutions that partnership corrections can provide to serious national challenges, such as recidivism, pension liabilities and prison overcrowding,” Owen said.

Congress proved a receptive audience. Adding beds for illegal immigrants became political shorthand for taking a strong stance on protecting U.S. borders, said Price, the former subcommittee leader when Byrd added the bed quota.

Powerful Backer

Byrd, an outspoken supporter of detention for illegal immigrants who died in June 2010, was chairman of the homeland security sub-panel of the Appropriations Committee when the detainee quota passed. The senator wanted to ensure that cost increases wouldn’t lead ICE to fund fewer beds, said a former aide who asked not to be identified because he wasn’t authorized to discuss committee deliberations.

Republicans have backed the bed mandate since then, saying it compels the administration to enforce immigration laws. ICE holds undocumented immigrants rounded up by fugitive-operations teams, which target those with criminal records and those picked up by local law enforcement and border-patrol agents.

“This bill holds the administration’s feet to the fire,” Alabama’s Aderholt said last year as the homeland security appropriations panel raised the bed quota to its current level.

Holding Line

“In response to the administration’s repeated attempts to water down enforcement, this bill directs ICE to maintain 34,000 detention beds,” Aderholt said.

Some lawmakers have a more parochial interest in supporting the mandate: money and jobs in their districts, both in private prisons and in those built by local governments to get a share of the immigrant-detention business. The economic-development stake in jailing immigrants was on display at a March hearing, at which lawmakers grilled John Morton, the ICE director who later resigned, for releasing detainees because of budget constraints. During the hearing, Representative Tom Marino, a Pennsylvania Republican, complained to Morton about not getting enough inmates to fill detention beds in his district, including one where it costs $82.50 a day for each detainee.
“Why not take advantage -- more advantage -- of facilities like this, and particularly in Pike County, who built a whole new facility just to house these individuals?” he asked Morton.

**Local Jobs**

Aderholt also got involved in a fight to keep immigrant detainees and ICE dollars in his state, along with Alabama Senator Richard Shelby, the top Appropriations Committee Republican and a member of the sub-panel that handles ICE’s budget. Both assisted an Alabama jail that held about 250 immigrants in Gadsden after ICE’s Atlanta office announced that it was moving inmates to a new private facility in Georgia run by Detention Management LLC, based in Atlanta. Company disclosures to bondholders and ICE e-mails obtained through an open-records request indicate that Georgia’s congressional delegation had lobbied ICE to use the Georgia jail, putting the agency in a bind.

“Where those bodies come from is anybody’s guess,” said one 2010 e-mail received by ICE’s Atlanta director, Felicia Skinner, adding that the agency would have to either detain more immigrants, or move them from the Alabama jail or a Corrections Corp. facility in Georgia. The sender’s name was blacked out.

When ICE announced that it would fill the new Georgia beds with immigrants held in Alabama, in a move the agency said would save transportation costs, Aderholt and Shelby both intervened, with Shelby’s appropriations-committee staff threatening to block some ICE requests if the agency didn’t resolve the matter to the senator’s satisfaction, according to the e-mails.

**Satisfying Both**

Both sides won in a 2012 decision. ICE kept 300 immigrant detention beds in the Alabama jail this year and 357 at the Georgia facility, which was forced into bankruptcy last year.

“Etowah County jail is a safe, secure facility to house detainees that operates with the high level of standards dictated by ICE, while providing a low cost-per-day rate,” Aderholt said in a statement. Shelby spokesman Jonathan Graffeo didn’t respond to requests for comment.

Republicans continued to defend the bed quota this year, rebuffing the Obama administration’s request to spend $120 million less on incarceration capacity.

Representatives Carter and Culberson, the Texas Republicans, and Jennifer Hing, a spokeswoman for Rogers, the Appropriations Committee chairman, and said keeping the quota compels ICE to do its job.

**Enforcement Mandate**

It “is an instrument to require ICE to actually enforce the law,” Carter said in a statement. “The administration may want to reduce those levels by releasing dangerous illegal criminals into the streets of America, but I stand firm in my belief we must enforce the laws we have.”

Culberson said jail company representatives have voiced support for the quota, and he says ICE’s reliance on the providers helps save taxpayer money. He said his views weren’t influenced by the contractors, and that ICE could detain even more people than it already does, were enforcement stepped up.

“They clearly have far more demand than they have current beds,” he said.

A third to as many as half of the detainees on any given day are held at the discretion of ICE, which has focused on criminals, recent border crossers and those undocumented immigrants “who have seriously gamed the system,” Morton told Congress in March. Others with certain criminal records must be held by law.
Petty Theft

Lisa Fernandez's husband, Orlando Fernandez Taveras, is one of the latter group. A legal resident who came to the U.S. as a baby in 1978, Taveras has been held since 2009, his wife said, because of two petty thefts.

“Why are we spending hundreds of thousands to keep him in jail, when he could be out working and supporting his family?” she said. “Why would you keep someone in jail if you didn’t have to?”

Last year, U.S. District Court Judge Terry Hatter forced immigration judges to grant bond hearings for California inmates detained for more than six months. After 400 such hearings beginning in November, about two-thirds were released on bail, according to an April court filing.

Obama has deported record numbers of immigrants. In e-mails between field-office workers and former ICE administrator David Venturella, and other documents obtained under an open-records request, employees were told to divert resources to increasing their arrests and deportations of those with criminal records because of concern in Washington that those numbers were too low.

Combing Records

Venturella, now a GEO executive, referred questions about the e-mails to the company’s Paez, who declined to comment. The exchange of messages included suggestions from one field office, in Atlanta, for increasing the number of immigrant arrests and deportations. They included combing through old probation lists to find foreigners who had once committed a crime, searching driver license databases for aliens, setting higher bail, and participating in roadblocks set up by local police, according to the documents.

Such a roadblock caught Eduardo Zuniga in suburban Atlanta in 2011, his wife, Deborah, said. Police set it up where a road dead-ended at the drive of an apartment complex with a growing Latino population, she said, and Zuniga was arrested because he didn’t have a license.

A decade-old drug conviction, for which he got probation, made him a criminal alien and landed him in Corrections Corp.’s 1,752-bed Lumpkin, Georgia, detention center for months, said his wife, a U.S. citizen. Then he was deported.

Care Giver

A construction worker and church volunteer, Zuniga had put her through a two-year business school and helped her care for her four children, two of them disabled, his wife said.

“He would do anything for us, if it’s go out and pick up garbage, to make sure my kids ate,” she said.

This year, the Senate moved to recast the nation’s immigration laws, an effort that has drawn resistance from some Republicans because it would provide a path to permanent residence to those who came to the U.S. illegally. Under the Senate bill, one provision would give ICE and judges greater discretion to release detainees that aren’t a risk to the community. Another part, tied to increased border enforcement, calls for spending $1.6 billion over 10 years to prosecute immigrants who enter the U.S. illegally, according to Congressional Budget Office estimates.

Monitoring Revenue

Much of that would likely go to Corrections Corp. and Geo, which also contract with the Federal Bureau of Prisons to hold inmates, said Kevin Campbell, an industry analyst with Avondale Partners LLC in Nashville. “It looks like there would be more enforcement and that would drive demand for more beds,” Campbell said. “That’s one of the long-term positives for the industry.”
Since Congress returned from its August recess, immigration issues have been pushed aside by questions over the use of force in Syria and a potential government shutdown next month if steps to fund operations aren’t taken.

For Romero, the former Phoenix cashier arrested at her job, any changes will come too late. After a petition campaign by an activist group, Puente Arizona, Romero was released. Now she lives with her parents and takes community college courses. Temporary legal status has been pushed out of her reach: Her arrest made her a criminal alien and ineligible for the program for those who entered the country illegally as children.

“I really have no option,” Romero said.
DHS Requirement Keeping 34,000 Immigrants Locked Up Daily To Continue

By Mike Bruschini - Jul. 9, 2013

A budget requirement for the federal government to hold 34,000 people for possible deportation in prison has received little attention as the House of Representatives considers the Senate's Gang of Eight immigration reform bill.

The policy, driven by law-and-order advocates in both parties who say the government could do more to crack down on illegal immigration, helps explain why detention costs for undocumented immigrants have more than doubled since 2006, to $2.8 billion annually. The rise has occurred even as the number of those caught along U.S. borders has fallen by two-thirds, according to government statistics.

Immigrant-rights advocates say the detention requirement forces the government to needlessly lock up thousands of people who could be supervised in less-confining ways for much less money, subjecting them to sometimes-harsh treatment in prison-like facilities as they await deportation hearings.

The requirement was implemented in 2007 by Congress as part of the Department of Homeland Security's 2007 appropriation, and will continue if the House-passed DHS budget becomes law. An amendment to end the provision received support from House Democrats, though Reps. Justin Amash, Thomas Massie, and Mark Sanford were three of only eight Republican votes in support of the amendment, which failed 232-190 in June.

"The amendment [would have removed] the requirement in the underlying bill that ICE maintain at least 34,000 detention beds," Rep. Amash (R-Mich.) explained on his Facebook page, "which ICE has interpreted to mandate an average daily population for 34,000 individuals. ICE shouldn't be held to some arbitrary figure for detentions."

But it's not just bureaucrats and restrictionists behind the program, according to Reuters.

The detention quota also delivers millions of dollars annually to private prison companies such as Corrections Corporation of America and GEO Group, which together handle about half of all immigration detainees.

CCA and GEO Group are key players in Washington, spending millions of dollars in the past decade to lobby Congress and contributing to the campaigns of lawmakers who support tough immigration policies.

It's unlikely the detention quota will end without contention from bureaucrats in the DHS and cronies of the prison industry, but as Shikha Dalmia writes in an article published earlier today on immigration, Republicans in Congress would be better served advocating limited government, not militarized borders or a set requirement for how many people land in jail for being in this country unlawfully as a result of the country's flawed immigration policy.

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Insight: Congress keeps detention quota despite immigration debate

By Andy Sullivan – Jul. 8, 2013

WASHINGTON (Reuters) - As Congress weighs sweeping changes to the U.S. immigration system, one thing is unlikely to change: a requirement that the government lock up more undocumented immigrants than it says is necessary.

Despite tight budgets and declining illegal immigration, Congress requires the Department of Homeland Security to hold about 34,000 people a day in centers for detainees facing possible deportation. That's at least 2,000 more than the Obama administration says is necessary, representing an added cost of about $132 million a year, critics say.

The daily quota, which began in 2007, appears to be unique in the world of law enforcement, where patrol officers and prison and jail managers typically are not told how many people they need to keep behind bars. The policy, driven by law-and-order advocates in both parties who say the government could do more to crack down on illegal immigration, helps explain why detention costs for undocumented immigrants have more than doubled since 2006, to $2.8 billion annually. The rise has occurred even as the number of those caught along U.S. borders has fallen by two-thirds, according to government statistics.

Immigrant-rights advocates say the detention requirement forces the government to needlessly lock up thousands of people who could be supervised in less-confining ways for much less money, subjecting them to sometimes-harsh treatment in prison-like facilities as they await deportation hearings.

The detention quota also delivers millions of dollars annually to private prison companies such as Corrections Corporation of America and GEO Group, which together handle about half of all immigration detainees. CCA and GEO Group are key players in Washington, spending millions of dollars in the past decade to lobby Congress and contributing to the campaigns of lawmakers who support tough immigration policies.

The companies say they do not advocate specific policies that would increase the number of people behind bars, but this claim draws skepticism from immigrant-rights groups and other critics.

The Department of Homeland Security estimates it actually needs only about 31,800 detention beds on a typical day to manage the asylum seekers, hardened criminals and terror suspects who await deportation in a network of 247 local jails, federal detention centers and private facilities across the nation.

"It doesn't make sense to have a numerical requirement," said Julie Myers Wood, who headed Homeland Security's Immigration and Customs Enforcement division under Republican President George W. Bush and believes the DHS should be given more flexibility in handling undocumented immigrants. "The goal is not to see how many people are detained."

'YOU FOLLOW THE LAW'

Despite such criticism, the House passed a spending bill last month that would keep the 34,000-bed quota in place. The bill provides more money for lower-security monitoring programs, but would prevent immigration officials from moving detainees into those programs without congressional approval. The Senate has backed similar legislation in the past.

Republicans, who are the most vocal backers of the quota, say there should not be a problem filling the 34,000 beds given that more than 11 million people are in the United States illegally.
"Enforcement is enforcement, and if the law says, 'This is what happens,' you follow the law," said John Carter of Texas, the Republican chairman of the House subcommittee that funds the Department of Homeland Security.

Some Democrats on Carter's subcommittee say the quota makes no sense at a time when Congress is slashing spending on everything from defense to aid for low-income families.

"My impression is it becomes a kind of proxy to show how tough one is on immigration," said North Carolina Representative David Price, the committee's top Democrat, who backed an unsuccessful effort to kill the quota last month.

Opponents of the quota also argue that many people now being locked up could be supervised through less expensive means such as electronic ankle bracelets. Such methods typically cost 30 cents to $14 per day, compared with the $164 per day it costs to detain an immigrant, according to immigrant-rights groups.

The detention policy has drawn little attention even as talks on overhauling immigration laws have heated up in Washington. A bill that passed the Democrat-led Senate in June would exempt many of those who are now in the country illegally from deportation, but it also calls for expanded enforcement along the U.S.-Mexico border, a measure that could lead to thousands more apprehensions and deportations. The plan is likely to face a tougher road in the House, where the Republican leadership has emphasized increased border security and expressed much less enthusiasm about potential citizenship opportunities for undocumented immigrants.

THE PUSH FOR A QUOTA

The requirement that Homeland Security aim to detain a certain number of undocumented workers each day was established in 2007 at the urging of a Democrat - Senator Robert Byrd of West Virginia, who died in 2010. At the time, Byrd and other lawmakers were concerned that Bush's administration was not allocating enough resources to handle an influx of detainees as it stepped up enforcement of immigration laws.

The flow of illegal immigrants across U.S. borders has dropped steadily since 2000, as a shaky U.S. economy has provided fewer opportunities for undocumented workers and economic conditions in Mexico have improved. Increased border security on the U.S. side also appears to have discouraged some people from attempting to enter the United States illegally. U.S. Customs and Border Patrol caught 365,000 people at the Mexican border in the last fiscal year, down from 1.7 million in 2000.

As the government has continued to step up immigration enforcement, the number of deportations has risen steadily. Last year, 410,000 undocumented immigrants were deported, more than double the number from a decade earlier. The Obama administration has focused on deporting those who have committed crimes in the United States; 55 percent of those deported during the last fiscal year had a criminal record.

But many Republicans in Congress push the daily detention quota because they view Obama as soft on illegal immigration. That stems largely from the White House's decision to avoid deporting younger immigrants who were brought to the United States illegally by their parents, and its push to give millions of those immigrants a pathway to U.S. citizenship.

(Editing by David Lindsey and David Brunnstrom)

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Detention centers releases may have silver lining

By Ruthie Epstein - Feb. 28, 2013

Earlier this week, the U.S. Immigration and Customs Enforcement (ICE) reportedly put on supervised release several hundred immigrants who had been jailed across the country awaiting removal hearings. The decision reportedly came in anticipation of Friday’s seemingly inevitable sequestration, which will lead to belt-tightening across the federal government. Some of the response from Congress has been reactionary.

Rep. Lamar Smith (R-Texas) said, “Spending cuts are no excuse for releasing thousands of criminals and illegal immigrants into our communities. The administration is either incompetent and unable to prioritize spending, or reckless. Neither is acceptable.”

Smith’s scare-mongering is irresponsible.

The truth is that current immigration detention practices are deeply flawed and inefficient. To put it in the language of policy priorities, it wastes money while costing the U.S. its values. For the immigration detention system, the sequester may actually help impose some of the rationality the system desperately needs, including the supervised release of individuals who had no business in detention in the first place.

For starters, there is no evidence that supervised release programs pose a threat to the public. Alternatives to detention have long been used in the criminal justice system for individuals who have been charged with a crime but not convicted or sentenced. Alternatives have also been a standard component of the federal immigration enforcement system for years. The company that provides alternatives to ICE has reported that 96 percent of individuals enrolled in their programs showed up for their final hearing in 2011.

Furthermore, the vast majority of detained immigrants have no criminal history or are low risk. In fact, Dora Schriro, who has run two state prison systems and currently serves as commissioner of correction in New York City, wrote IN a 2009 report that immigration detention standards “impose more restrictions and carry more costs than are necessary to effectively manage the majority of the detained population.”

While the use of alternatives to detention will not make us less safe, they will save taxpayers millions of dollars. That’s a fact worth noting. ICE spends $2 billion annually to detain over 400,000 immigrants in jails and jail-like facilities. These immigrants include asylum seekers fleeing persecution, legal immigrants who overstayed their visas, recent border crossers, and lawful permanent residents who were charged with or convicted of crimes that may make them removable; if convicted and sentenced, they’ve already done their time.

Alternatives are dramatically less expensive than immigration detention – 30 cents to $14 per person per day compared to $164 per person per day for detention. The director of the Santa Clara Office of Pretrial Services in California noted at a Human Rights First event last fall that independent auditors found the pretrial services program saved $26 million for Santa Clara County over the course of just six months in 2011. The director of the New Orleans’ new pretrial services program reported at another Human Rights First event that Orleans Parish could potentially save $1.4 million per year with the program. The Council on Foreign Relations, the Heritage Foundation, and the Texas Public Policy Foundation, home to the criminal justice reform coalition Right on Crime, Human Rights First, and others have all advocated for expanded use of alternatives, citing cost savings.

Rather than using the releases as a scare tactic, those in Washington on both sides of the aisle should recognize that this particular move is a step towards imposing some rationality on a system that has exploded in recent years due to fear, not facts. It begins to bring practice into alignment with our nation’s goals and values -
perhaps one of the few silver linings that MAY emerge from the sequester.

In a 1987 Supreme Court opinion, then-Chief Justice William Rehnquist said, “In our society, liberty is the norm and detention prior to trial is the carefully limited exception.” The government should not spend money to detain immigrants unnecessarily when less costly and effective alternatives exist. Congress should recognize responsible stewardship of taxpayer dollars when it sees it. During budget negotiations, it should eliminate the quota that undermines ICE’s ability to replace detention with alternatives and it should direct the agency to detain only when necessary. To do otherwise is to perpetuate a tremendous waste of taxpayer money and government resources.