



**Right to Visitation in U.S. Immigration Detention
FACT SHEET**

Copyright © 2013
Community Initiatives for Visiting Immigrants in Confinement (CIVIC)
All rights reserved.
Printed in the United States of America
Authored by Christina Fialho*

CIVIC is dedicated to ending the isolation and abuse of persons in immigration detention by building and strengthening community visitation programs across the United States. Visitation programs connect persons in civil immigration detention with community members. These volunteer visitors provide immigrants in detention with a link to the outside world, while also preventing human rights abuses by creating a community presence in otherwise invisible detention facilities.

CIVIC provides capacity-building support to current visitation groups, resources and training to new groups, and a communication platform for all visitation groups. CIVIC combines this practical approach to social change with a vision of social justice, setting in motion a national movement to combat the isolating experience of immigration detention.

For more information, please visit our website at www.endisolation.org

* Christina Fialho is the Co-Executive Director of CIVIC, a 2012 Echoing Green Fellow, and a Steering Committee Member of the Detention Watch Network. She also is an attorney licensed to practice law in California. Drafts of this fact sheet were reviewed by W. David Ball, Professor at Santa Clara University School of Law and Co-Chair of the Corrections Committee of the American Bar Association's Criminal Justice Section. Any errors in the fact sheet are those of CIVIC.

No Right to Visitation: Fact Sheet

Every day immigrants disappear into a network of over 250 jails and private prisons, and the community has no legally protected right to visit these disappeared persons. Without a right to visitation, families and community members often cannot locate disappeared loved ones for weeks or even years. These immigration enforced disappearances combined with the lack of a legally protected right to visitation have resulted in a system that removes undocumented individuals—who are already vulnerable to abuse—from public sight.

With little connection to the outside world and limited access to legal, medical, or social resources, these individuals remain incarcerated indefinitely although they have not committed a crime. To combat the isolating experience of immigration detention, communities throughout the United States are establishing volunteer-based visitation programs offering friendship and a connection to the outside world. Community visitation programs (CVPs) not only transform the hearts and minds of individual visitors by providing them with opportunities to build sustained relationships with persons in immigration detention, but also ensure that persons in immigration detention can maintain family and community ties. In addition, CVPs keep the government accountable by providing independent oversight of the immigration detention system and a consistent community presence in these facilities.

Key Findings

- Persons remain isolated in immigration detention and families remain disconnected from their loved ones because U.S. law does not protect a person's right to receive visits while in immigration detention.
- People in immigration detention are given minimal access to family and community visitation, and the degree of access is dependent upon the rules of the particular jail or for-profit prison.
- Starting a CVP at a U.S. immigration detention

facility often takes longer than a year because ICE's Performance Based National Detention Standards (PBNDS) and ICE's 2011 directive on visitation do little to incentivize detention facilities to welcome CVPs.

- Whether any one CVP remains in operation is entirely within the broad discretion of the individual detention facility because the PBNDS and the directive are not enforceable by law.
- CVPs hold the government accountable, help to maintain family and community ties, and facilitate re-entry post release.
- CVPs are a cost-effective and low-risk solution to expanding services to persons in immigration detention.
- The State of Illinois has taken one positive step toward granting reasonable access to ICE detention facilities for one CVP with the passage of the Access to Religious Ministry Act of 2008.
- In 2008, the European Parliament and the Council of the European Union established the Return Directive, which is the first binding supranational document that dictates, "Relevant and competent national, international and nongovernmental organisations and bodies shall have the possibility to visit detention facilities."
- In the United Kingdom's equivalent to ICE's PBNDS, it states, "The Centre must maintain up-to-date lists of local befriending groups and contact details of the Association of Visitors to Immigration Detainees (AVID)¹ and ensure that detainees are aware of their services."

Key Recommendations

- ✓ ICE should update PBNDS 5.7 or amend its intergovernmental service agreements or contracts to require the contracting facility to maintain up-to-date contact lists of CVPs.
- ✓ Congress should pass a new federal statute that provides community groups with reasonable access to visiting persons in immigration detention.
- ✓ President Obama should sign an executive order creating a legally protected right to visitation.

¹ AVID is the UK's national visitation network, similar to CIVIC.