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Alternatives To Immigrant Detention Under Biden:

Expansion Of Immigrant Industrial Complex

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Abstract

This article examines the political reasons for the expansion of alternatives to detention (ATD) for immigrants under President Joe Biden’s administration. Enrollment in ATDs has doubled since the beginning of Biden’s presidency in January 2021, a stark growth after over ⅔ of voters polled by the ACLU said they would support the elimination of private immigrant detention centers.¹ To understand the growth of ATD, I analyze the bipartisan expansion of immigrant detention and militarization of the U.S. Mexico border, discussing the Democratic Party’s history of criminalizing immigrants and bolstering surveillance in service of racist notions of “national security.” I then describe the corrupt entanglement between Democratic politicians and private detention lobbyists and interest groups, as well as evaluate their rhetoric to brand ATD as cost-effective and restorative. ATDs constitute an expansion of state control and surveillance over immigrant communities. Biden and the Democratic Party’s pivot towards ATDs reflect their commitment to neoliberalism and a system of racial capitalism, which seeks to create private profit off the exploitation and racialization of BIPOC immigrants as “other” and “criminal.” To bolster their egalitarian image and evade criticism from immigrant rights advocates, the Democratic Party co-opts the language of humane case management and uses it to portray ATDs as reform.

¹ “Two-Thirds of Voters Want to Stop the Expansion of For-Profit Immigrant Detention | News & Commentary,” *American Civil Liberties Union* (blog), January 12, 2022, 3, <https://www.aclu.org/news/civil-liberties/two-thirds-of-voters-want-to-stop-the-expansion-of-for-profit-immigrant-detention>.

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Introduction

Amongst a global pandemic, irreversible climate change and the decimation of whole cities, financial liberalization and its subsequent destabilization of native communities, whispers of a third World War, threats of political and religious persecution, persistent settler-colonial genocide and more, there is much structural, imperial violence that makes home, however defined, feel unsafe for immigrants. The border between the U.S. and Mexico is the most frequently crossed border in the world, and over 350 million immigrants annually seek refuge in America, revered as the “land of the free” and a “nation of immigrants.”²

Despite wishes to begin anew or seek a safer home, immigrants are met at the U.S. border with the largest immigrant detention system in the world, in which they are immediately apprehended by Customs and Border Patrol (CBP) and detained by Immigration and Customs Enforcement (ICE) until further legal proceedings or eventual deportation. Immigrant detention has grown exponentially since 1979, with the average daily population skyrocketing from 2,371 to over 49,000 in 2019. Moreover, immigrants’ average length of time spent in detention has increased from a modest 3 days to over a month.³ The rapid expansion of immigrant detention, alongside its rising costs and political discourse about how it positively or negatively defines American values, cements it as a core topic of debate within U.S. domestic and international policy.

Donald Trump’s presidential campaign and administration in particular is known for its staunch anti-immigrant stance. On the campaign trail, Trump was condemned for his flagrant racism — in 2015 and 2016, he called all Mexican immigrants “rapists” who “bring crime and

² “About The Border - Smart Border Coalition,” <https://smartbordercoalition.com/about-the-border>.

³ “How the U.S. Created the World’s Largest Immigrant Detention System,” The Marshall Project, September 24, 2019, <https://www.themarshallproject.org/2019/09/24/detained>.

drugs,” argued for a ban on all Muslims coming to the U.S., and refused to censure white supremacists and neo-Nazis that supported him online.⁴ During his administration, Trump significantly expanded immigrant detention by over 50 percent and signed contracts to open over 40 new detention facilities, 80% of them privately owned and for profit.⁵ Since Trump’s presidency, numerous reports by the ACLU, HumanRightsWatch, and other news sources detailed the egregious human rights abuses within detention centers, spanning from medical negligence and physical and mental harassment to failure to provide basic human resources such as toothbrushes or blankets.

In April 2018, Project South filed a lawsuit against private detention company CoreCivic on behalf of immigrants detained at the Stewart Detention Center in Lumpkin, Georgia.

According to Rewire News Group, the lawsuit alleged that the company “violates human trafficking laws and employs a deprivation scheme to force immigrants detained at Stewart to work for sub-minimum wages, and then threatens to punish them for refusing to work through solitary confinement or loss of access to necessities.” Law firm Outten & Golden filed another lawsuit against a GEO Group detention center in Colorado for engagement in similar practices, signaling a pattern that private detention centers break human trafficking laws.⁶ Furthermore, a report from the Cato Institute detailed a record high of 51 deaths during the Trump administration, which advocates attribute to poor and underfunded medical facilities and

⁴ German Lopez, “Donald Trump’s Long History of Racism, from the 1970s to 2020,” Vox, July 25, 2016, <https://www.vox.com/2016/7/25/12270880/donald-trump-racist-racism-history>.

⁵ “More of the Same: Private Prison Corporations and Immigration Detention Under the Biden Administration | News & Commentary,” *American Civil Liberties Union* (blog), October 5, 2021, <https://www.aclu.org/news/immigrants-rights/more-of-the-same-private-prison-corporations-and-immigration-detention-under-the-biden-administration>.

⁶ “Private Prison Campaign Cash Still Welcomed by Some Democrats in the Trump Era,” Rewire News Group, accessed May 7, 2022, <https://rewirenewsgroup.com/article/2018/09/14/private-prison-campaign-cash-still-welcomed-by-some-democrats-in-the-trump-era/>.

irresponsible COVID-19 response.⁷ The consistent investigations into immigrant detention swayed the American public's views greatly, and by 2021, 68 percent of voters polled by the ACLU and YouGov said they would support the end of contracts with for-profit private immigrant detention centers.⁸

Such a popular and passionate consensus made it crucial that presidential candidates running against Trump's reelection have a strong platform on immigration and immigrant detention. Joe Biden publicly condemned Trump's racist behaviors and expansion of private, for-profit detention in his 2020 campaign. On Biden's website under "The Biden Plan for Securing Our Values as a Nation of Immigrants," it reads, "Trump has waged an unrelenting assault on our values and our history as a nation of immigrants. It's wrong, and it stops when Joe Biden is elected president." Biden's campaign boasted that it would modernize America's immigration system, welcome immigrants, and reassert America's commitment to asylum-seekers and refugees. Regarding ending for-profit detention centers, Biden claims in his platform that, "No business should profit from the suffering of desperate people fleeing violence."⁹

Yet, despite Biden's strong criticism of private immigrant detention under Trump, now President Biden has notably failed to curb private detention centers and even maintains similar usage to Trump. According to the ACLU, 79% of ICE detainees were held in private prison facilities in September 2021 of the Biden administration, a mere 2% difference from January 2020 of the Trump administration. Thus, 4 out of 5 people in ICE detention remain held in privately-run facilities.¹⁰ Furthermore, Biden argued that he would "immediately reverse the

⁷ "21 People Died in Immigration Detention in 2020," Cato Institute, October 22, 2020, <https://www.cato.org/blog/21-people-died-immigration-detention-2020>.

⁸ "Two-Thirds of Voters Want to Stop the Expansion of For-Profit Immigrant Detention | News & Commentary."

⁹ "The Biden Plan for Securing Our Values as a Nation of Immigrants," Joe Biden for President: Official Campaign Website, accessed May 7, 2022, <https://joebiden.com/immigration/>.

¹⁰ "More of the Same."

Trump Administration’s cruel and senseless policies that separate parents from their children at [the U.S.] border,” in his first 100 days. This primarily refers to Trump’s Zero Tolerance policy, which detained and criminally prosecuted every migrant who didn’t cross the U.S. border using an official port of entry. Because children cannot be criminally prosecuted through the same processes as their guardians, this led to the cruel and systematic separation of families. Yet, according to the National Immigrant Justice Center, Biden continues to “routinely [separate] families through detention and deportation as part of [his] interior immigration enforcement practices.”¹¹ Biden also promised \$450,000 payouts to the families of the over 5,500 children separated, but later walked away from settlement negotiations after receiving backlash from conservative outlets.

Instead of providing separated families with much deserved reparations, Biden has approved giving BI Incorporated, a GEO group subsidiary, \$440 million to provide their alternatives to detention (ATD) services.¹² Where a presidential administration funnels its money is a significant indicator of its political agenda, thus a logical question arises. Why has the Biden administration failed to close private immigrant detention despite its promises and instead expanded ATD?

Expansion of the Immigrant Detention Complex through ATD

In light of the horrific separation and criminalization of immigrants, many news sources and policy think tanks suggest that the government move towards ATD instead of funding

¹¹ “The Biden Administration Routinely Separates Immigrant Families,” National Immigrant Justice Center, accessed May 7, 2022, <https://immigrantjustice.org/staff/blog/biden-administration-routinely-separates-immigrant-families>.

¹² Stef W. Kight, “Biden’s Migrant Tracking Plan Still Funds for-Profit Detention Group,” Axios, February 15, 2022, <https://www.axios.com/2022/02/15/biden-for-profit-detention-alternative>.

private detention. The suggestions operate on the assumption that getting rid of physical detention centers will result in more peaceful and humane immigration relations and procedures. Through the propagation of this common sense, the Biden administration has overseen the largest expansion of ATD to date. Following Trump, the number of people enrolled in ATD programs, according to ICE, roughly doubled from around 87,000 in January 2021 to nearly 183,000 in February 2022. The budget for ATDs has grown concurrently within the last 5 years, starting from \$126 million in Fiscal Year (FY) 2017 to a whopping \$443 million in FY 2022.¹³ Despite ATDs being branded as a more considerate and compassionate alternative to conventional detention, its swift rise warrants more attention. ATDs under the Biden administration result in increased mass surveillance and destabilization of immigrant communities, ultimately leading to even higher detention rates.

ATD programs are operated under ICE and utilize a variety of technologies to surveil “noncitizens” who are awaiting immigration court hearings, have a deportation order, or who the agency otherwise decides warrants monitoring. Even longtime residents of the United States who have a history of compliance or green card holders who are in removal proceedings can be monitored under ICE’s discretion.¹⁴ ICE has experimented with a variety of ATD initiatives, but its most ubiquitous, and now sole program, is the Intensive Supervision Appearance Program (ISAP) operated by BI Incorporated, a subsidiary of GEO Group. GEO Group is a multinational private prison company that also contracts with ICE to build and operate immigrant detention facilities. Thus, the same corporation responsible for the cruel, racist system of mass incarceration across the U.S. and globally is also in charge of immigrant detention and its

¹³ “Over 180,000 Immigrants Now Monitored by ICE’s Alternatives to Detention Program,” accessed May 7, 2022, <https://trac.syr.edu/immigration/reports/678/>.

¹⁴ “Alternatives to Immigration Detention: An Overview,” American Immigration Council, March 17, 2022, <https://www.americanimmigrationcouncil.org/research/alternatives-immigration-detention-overview>.

“alternatives.” ICE has purportedly directed over \$281 million to BI Incorporated in 2021, according to USASpending.¹⁵

Within ISAP, immigrants are subject to one or a combination of GPS ankle monitors, telephonic reporting, and SmartLINK. Accompanying these regulations, they may also have weekly office check-ins and unannounced home visits. GPS ankle monitors allow ICE to obtain an “immediate and accurate one-time location fix in real time” and can provide ICE officers with “turn-by-turn directions” to the location of an immigrant user’s device “at a minimum of once every 30 seconds.” Telephonic reporting requires immigrants to check in at specific intervals over the phone using voice matching technology, and they must respond within minutes to prevent noncompliance accusations. SmartLINK is a smartphone application that requires users to check in with immigration officials either by uploading a selfie or answering a call from their case manager. Through SmartLINK, ICE officers can view the GPS coordinates of all their clients on a shared map. They also have a “predictive analysis” feature which makes decisions about future risk based on the equipment and movement patterns of an immigrant user, making SmartLINK a comprehensive monitoring and apprehension assistance tool. All of these technologies in conjunction with one another justify privacy and surveillance concerns. ICE officers’ abuse of this private data came under fire in August 2019 when data from GPS reports were used to execute search warrants for the largest ICE raid in U.S. history, targeting 680 immigrants working for Koch Foods in Mississippi.¹⁶

As of March 2022, 181,369 people are monitored under ISAP—28,746 using ankle monitors, 126,844 using the SmartLINK app, and 34,137 using telephonic check-ins.¹⁷ Notably,

¹⁵ Kight, “Biden’s Migrant Tracking Plan Still Funds for-Profit Detention Group.”

¹⁶ Flipsnack, “ICE Digital Prisons Report_FINAL (1),” Flipsnack, accessed May 6, 2022, <https://www.flipsnack.com/justfutures/ice-digital-prisons-1u8w3fnd1j/full-view.html>.

¹⁷ “Alternatives to Immigration Detention.”

usage of SmartLINK technology has more than quadrupled under the Biden administration, from about 27,000 to more than 118,000 between January 2021 and February 2022.¹⁸ Moreover, Biden seeks to implement a new “home curfew” pilot this summer and has asked Congress to budget for 400,000 more immigrant enrollments. The program mandates that immigrant enrollees stay home from 8 p.m. to 8 a.m., with exceptions for job schedules that provide work authorization or extraordinary circumstances.¹⁹

Despite ATDs being marketed as an “alternative” to release without supervision or as a way to supervise under less dangerous conditions, it is crucial to note that ICE themselves categorize ATD as an expansion. According to their website under Detention Management, “ICE describes ATD not as a substitute for detention, but as a program that ‘allows ICE to exercise increased supervision over a portion of those who are not detained.’”²⁰ According to a report by the Center for American Progress, “many on-the-ground activists... [say] that ISAP and detention go hand in hand. ‘Everybody knows somebody who was just living their life on ISAP and then got picked up, for something as little as [the ankle monitor] ran out of batteries or the thing stopped working.’” When Marco Tulio Hernandez, an asylum seeker from Honduras who had been in and out of ISAP for 4 years was asked if he’d met anyone else in detention who’d been enrolled in ISAP, he replied, “There’s two people here in the room with me now.”²¹

If ATDs do not function to limit the growth and pervasiveness of immigrant detention, then what is their purpose? I argue that alternatives to detention constitute an expansion of state control and surveillance under the immigrant industrial complex. Despite the Biden

¹⁸ “Over 180,000 Immigrants Now Monitored by ICE’s Alternatives to Detention Program.”

¹⁹ Ted Hesson, “U.S. to Try House Arrest for Immigrants as Alternative to Detention,” *Reuters*, February 8, 2022, sec. United States, <https://www.reuters.com/world/us/us-try-house-arrest-immigrants-alternative-detention-2022-02-08/>.

²⁰ “Detention Management | ICE,” accessed May 7, 2022, <https://www.ice.gov/detain/detention-management>.

²¹ “Alternatives to Detention and the For-Profit Immigration System,” *Center for American Progress* (blog), accessed May 7, 2022, <https://www.americanprogress.org/article/alternatives-detention-profit-immigration-system/>.

administration and the Democratic Party condemning blatant interpersonal racism on behalf of Trump, their policies that support the digital caging of immigrants still prioritize profit over wellbeing and further structural racism. Similar to detention centers, alternatives to detention criminalize predominantly immigrants of color, isolating them from community support and excluding them from fully participating in society. The Democratic Party's commitment to receiving donations from and signing multibillion dollar contracts with private detention corporations such as GEO Group and CoreCivic reflect a neoliberal pattern of repackaging carceral expansions as reform to bolster public image.

Neoliberal Bipartisanship within Immigrant Detention

Biden's actions to expand ATD within a neoliberal framework can be understood through his Democratic predecessors' actions. The implementation and expansion of immigrant detention, through what scholars name the immigrant industrial complex, has always been bipartisan. The immigrant industrial complex as defined by Tanya Golash-Boza is the "confluence of public and private sector interests in the criminalization of undocumented migration, immigration law enforcement, and the promotion of 'anti-illegal' rhetoric."²² Developed with regard to the prison and military industrial complexes, the immigrant industrial complex understands the lack of meaningful legislation to deal with undocumented migration and the appropriation of billions of dollars to the Department of Homeland Security through the relentless pursuit of financial and political capital. Thus, participation in the immigrant industrial complex is fundamentally neoliberal. Neoliberalism can be defined as the commitment to

²² Tanya Golash-Boza, "The Immigration Industrial Complex: Why We Enforce Immigration Policies Destined to Fail: The Immigration Industrial Complex," *Sociology Compass* 3, no. 2 (March 2009): 295–309, <https://doi.org/10.1111/j.1751-9020.2008.00193.x>.

market-oriented solutions and public-private partnership to govern the economy and even combat social ills. Instead of promoting redistribution to ameliorate the effects of poverty or unemployment, neoliberal policy prioritizes investment in the market and the private sector, resulting in a relationship where private sector actors and ideas are deeply influential and embedded in government affairs.²³ In the case of immigrant detention, government laws work within a well-oiled system to create an “undesirable other,” “illegal aliens,” which then motivates “popular support for government spending to safeguard the nation.”²⁴

Scaffolding for the immigrant industrial complex first emerged in the late 1700s and early 1800s as categories of citizenship, race, and “legality” were legally produced. Immigration laws restricted naturalization to white individuals, while those deemed “likely to become a public charge,” namely communities of color who were forced into contract labor, were barred from entry.²⁵ In 1882, the Chinese Exclusion Act became the first federal law to restrict immigration based on race. This law incited anti-Asian propaganda and violence, and set legal precedent for the state to expel any category of immigrants at its will through the plenary power doctrine: the legislation declared that the “right to exclude or expel aliens, or any class of aliens, absolutely or upon certain conditions, in war or in peace, is an inherent and inalienable right of every sovereign nation.” The Chinese Exclusion Act motivated the creation of the nation’s first immigration inspectors, a process of deportation, and the first immigrant detention facility in the world, Ellis Island Station.²⁶ As discussed by Historian Mae Ngai, the “illegal alien” is “defined

²³ Lily Geismer, “Democrats and Neoliberalism,” Vox, June 11, 2019, <https://www.vox.com/polyarchy/2019/6/11/18660240/democrats-neoliberalism>.

²⁴ Golash-Boza, “The Immigration Industrial Complex.”

²⁵ Karen Manges Douglas and Rogelio Sáenz, “The Criminalization of Immigrants & the Immigration-Industrial Complex,” *Daedalus* 142, no. 3 (2013): 199–227.

²⁶ “Detention Timeline,” Freedom for Immigrants, accessed May 6, 2022, <https://www.freedomforimmigrants.org/detention-timeline>.

precisely by the illegality of their existence: their inclusion in the nation is a social reality but a legal impossibility.”²⁷

In the early 1980s, Ronald Reagan militarized the U.S.-Mexico border as a result of his detention as deterrence policy aiming to punish Latin American migration, criminalization of asylum seekers, and call for a “War on Drugs.” In 1993, the world’s first private prison and later detention company, Corrections Corporation of America, now CoreCivic was formed. Remarkably, in its first year, the company entered its first federal government contract to host an immigrant detention facility in Texas. Clearly in collusion with CoreCivic’s expansion, the Reagan administration established its Mass Immigration Emergency Plan, mandating that 10,000 immigration detention beds “be located and ready for use at any given time.”²⁸ Despite the immigrant industrial complex’s origins in a Republican presidency, its maintenance and expansion is equally attributed to Democratic administrations like Bill Clinton’s and Barack Obama’s, the latter which Biden was keenly involved in. Clinton and Obama both expanded detentions widely, criminalized migration through criminal prosecutions, and militarized the border, demonstrating how strict and profitable immigration enforcement is a key pillar of the Democratic Party’s governance.

To rationalize and normalize the immense border militarization and mass detention under his administration, Clinton participated in similar rhetoric as Trump, scapegoating immigrants as stealing jobs. He claimed, “The jobs they hold might otherwise be held by citizens or legal immigrants. The public service they use impose burdens on our tax payers. That’s why our administration has moved aggressively to secure our borders more by hiring a record number of

²⁷ Laure Gillot-Assayag, “Mae M. Ngai, Impossible Subjects: Illegal Aliens and the Making of Modern America,” *Transatlantica*, no. 1 (February 28, 2016), <https://doi.org/10.4000/transatlantica.7988>.

²⁸ “Detention Timeline.”

new border guards, by deporting twice as many criminal aliens as ever before. We are a nation of immigrants, but we are also a nation of laws.”²⁹ In 1994, Clinton entered the United States into the North American Free Trade Agreement (NAFTA), which caused severe long-term job loss and economic stagnancy in Mexico. NAFTA is characterized by its imperial displacement of Mexican small farm operators and workers. Almost as if he knew — he did — that it would create this displacement and subsequent motivation to migrate, Clinton enlisted the Army Corps of Engineers to fence the U.S.-Mexico border. This intentional policy choice was followed by a reinforcement in border patrol, which tripled in size and became the second largest enforcement agency in the U.S. at the time. Clinton’s passage of NAFTA alongside the criminalization of immigrants and enhancements to CBP crystallizes a playbook of prioritizing American neoliberal profit through opening trade pathways, justifying the disposal of immigrants displaced by U.S. power through liberal, moral appeals, then profiting off the disposal by fueling increasingly complex detention machinery.

Following NAFTA, a series of uprisings in for-profit immigrant detention facilities were met with a violent reassertion and conflation of immigrants with criminality in order to justify their detainment. In 1996, Clinton passed The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and the Antiterrorism and Effective Death Penalty Act (AEDPA), which “essentially [expands] the list of ‘crimes of moral turpitude,’ including non-violent drug and other charges, for which both legal immigrants and undocumented non-citizens can be subjected to mandatory detention and deportation.”³⁰ These two laws, together known as “The 1996 Laws” could be applied retroactively and impose 3-year, 10-year, and lifetime bars on

²⁹ “The Democrats’ Long War on Immigrants,” The Intercept, accessed May 7, 2022, <https://theintercept.com/2021/02/17/intercepted-podcast-democrats-immigrants-border/>.

³⁰ Douglas and Sáenz, “The Criminalization of Immigrants & the Immigration-Industrial Complex.”

those returning to the U.S. after deportation. Within a few short years, the number of average daily detentions tripled, and “deportations shot up to an average of 150,000 people annually.”³¹

This meteoric rise in detentions cannot be discussed without making connections to the rampant anti-Blackness and structural racism embedded in the U.S. According to scholar Harsha Walia, half of the people detained by ICE within the last decade “came under its radar through what’s called the ‘Criminal Alien Program’ which uses collaborations between local law enforcement and federal immigration enforcement as a pipeline for expulsion.”³² Not only does this collaboration between ICE and the police disproportionately affect Black and Afro-Caribbean communities, but it also creates a type of double or triple enforcement informed by the war on crime, war on immigration, war on welfare and the like. All these ideological policies accepted and nurtured by the Democratic Party create a subtle “pathologizing rhetoric” in which culture (read: moral, ethnic deficiency) is the cause of poverty. Thus, the logic that immigrants must be reprimanded regardless of their sociopolitical origins, is born.

In his 2010 speech on immigration at American University, Barack Obama declared, “No matter how decent they are, no matter their reasons, the 11 million who broke these laws should be held accountable.” Joe Biden echoed these sentiments in another speech where he argued that prisoners deserve legal retribution for crime. He claimed, “It doesn’t matter whether or not they are the victims of society. The end result is they’re about to knock my mother on the head with a lead pipe, shoot my sister, beat up my wife, take on my sons. So I don’t want to ask what made them do this. They must be taken off the street. They are beyond the pale, many of those people... We have no choice but to take them out of society.”³³ What’s critical to reflect upon in

³¹ “Detention Timeline.”

³² “The Democrats’ Long War on Immigrants.”

³³ “The Democrats’ Long War on Immigrants.”

both these sentiments is the chronic stress of responsibility on the individual instead of the systemic social, political, and economic inequality created out of racial capitalism. Furthermore, it is important to question who, or which groups are being protected and scapegoated when U.S. presidents invoke qualms about public safety. In these Democratic agendas, racial capitalism — the process of making money off the exploitation of people of color — works synergistically with neoliberalism.

Neoliberalism's ideology valorizes the efficient and entrepreneurial spirit of the individual and purports that "market forces" will reward good products and services. In the case of immigrant detention, representatives of GEO Group absolve themselves of responsibility to the harms of immigrant detention by claiming that they provide necessary and timely services to the government, which is ill-equipped to handle the "border crisis" and influxes of new immigrants on their own. Politicians justify increased militarization at the border and budgets devoted to incarcerating immigrants because immigrants supposedly made the individual "choice" to cross the border and commit "illegal crimes." However, this notion of individual responsibility and market forces must consider geopolitics, imperialism, and how the government makes clear interventions to construct race and illegality under the law. The need for immigrant detention is not a result of market forces, but clearly socially constructed by the state and corporations to make money off criminalized, "deviant" communities of color.

Unsurprisingly, Obama and Biden spent billions of dollars bolstering the U.S.-Mexico border in their administration, similarly to Clinton and Reagan. They upped border security's budget by \$600 million, bankrolled 1,000 new border patrol agents, 1,000 new ICE and CBP agents, mandated a minimum of 34,000 immigrant detention beds in 2009, and expanded the "Secure Communities" program which "relies on federal and local law enforcement partnerships

to carry out ICE’s detention priorities.” By the end of Barack Obama and Joe Biden’s term, detention numbers were “at a record high of over 40,000 per day and the Obama administration [had] deported over 3 million people, more than all presidents since 1890 combined.”³⁴

Democratic presidents stake their political campaigns on a commitment to “egalitarian” values and promote liberal multicultural ideals of race and culture. However, their vested interest in bulking up CBP, militarizing the U.S.-Mexico border, and detaining immigrants of color tells a vastly different story — Democrats are heavily incriminated in the monstrous manufacturing of the immigrant industrial complex, both in ideology and physical scale.

Entanglement of Immigrant Detention Lobbyists and Politicians

Private detention companies and government actors have a mutually beneficial and codependent relationship. Democratic presidents like Biden have incentive to support the immigrant industrial complex because the industry itself supports their campaign funds, and the two major private detention companies GEO Group and CoreCivic rely on government contracts to make up 50% of their revenue.³⁵ The two companies combined made \$1.3 billion from ICE contracts in 2019, and contracts with ICE alone make up at least a quarter of their bottom line.³⁶

To keep profits flowing, private detention companies must influence the political process to ensure policies that necessitate growth in their services pass. This is especially evident in the 2020 election, in which the private detention industry collectively spent \$2.1 million in campaign

³⁴ "The Democrats' Long War on Immigrants."

³⁵ John Moore/Getty Images, "Think Private Prison Companies Are Going Away Under Biden? They Have Other Plans," The Marshall Project, November 17, 2020, <https://www.themarshallproject.org/2020/11/17/think-private-prison-companies-are-going-away-under-biden-they-have-other-plans>.

³⁶ Stef W. Kight, "Biden to Launch New Migrant Detention Program to Curb For-Profit Spaces," Axios, February 8, 2022, <https://www.axios.com/2022/02/08/scoop-biden-reinvents-migrant-detention>.

donations to political candidates and political action committees.³⁷ A disproportionate 90% of funds went to support Republican candidates, yet it is notable that still 10% of funds went to Democratic ones, considering the Party’s pledge to withdraw from all private prisons and presumably detention centers. According to [opensecrets.org](https://www.opensecrets.org), GEO Group, CoreCivic, and Management & Training Corp. spent \$82,811, \$44,873, and \$62,282 respectively on Democratic candidates.³⁸

Many immigrant justice and campaign finance advocates have criticized private detention companies’ personal investments in political candidates. On January 10, 2018, Campaign Legal (CLC) filed a lawsuit against the Federal Election Committee, arguing that GEO Group violated the ban on federal contractors giving money in federal elections. According to CLC, “The reason that federal contractors have been barred from making contributions for the past 75 years is to prevent pay-to-play in the contracting process. Public officials are supposed to make contracting decisions based on what is best for the public, not based on who spent the most money getting them elected.” CLC further asserted in their case that “since Trump was elected with GEO’s backing, the company has reaped enormous political and financial benefits, including a new \$110 million taxpayer-funded contract.”³⁹ Not only does this demonstrate a lack of strong anti-corruption enforcement on behalf of the government, but it also makes crystal clear that lucrative government contracts can be secured through thinly-veiled bribery.

Private detention companies’ insistence on donating to some Democratic candidates suggests that there is political leeway in whether those Democrats will follow through on

³⁷ Julia Lurie, “Private Prisons Have Spent More on This Election than Any Other in History,” *Mother Jones* (blog), accessed May 8, 2022, <https://www.motherjones.com/politics/2020/10/private-prisons-have-spent-more-on-this-election-than-any-other-in-history/>.

³⁸ “For-Profit Prisons | OpenSecrets,” accessed May 7, 2022, <https://www.opensecrets.org/industries/indus.php?ind=G7000&cycle=2020>.

³⁹ “CLC v. FEC (GEO Group Contractor Contribution),” Campaign Legal Center, accessed May 7, 2022, <https://campaignlegal.org/cases-actions/clc-v-fec-geo-group-contractor-contribution>.

terminating private detention contracts. According to political scientist Loren Collingwood, the main way that politicians increase and maintain campaign funds is by signaling to special interests like private prison companies that they sponsor or cosponsor legislation that, if enacted, would be profitable for them. He argues that cosponsorship is a willingly used strategy by politicians to garner election funds without getting penalized by run of the mill voters who don't typically keep track of legislative sponsorships. Collingwood found that Republicans are more likely to co-sponsor punitive legislation that would increase the bottom line of detention companies, yet the Democratic co-sponsors who do the same will receive much more campaign money, up to hundreds of thousands more.⁴⁰ Because Democratic candidates take a slightly larger political risk, detention companies give them a disproportionate amount of money for their vote, making cosponsorship a particularly bankable endeavor.

Legislators with detention facilities in their districts, regardless of which political party they are affiliated with, are disproportionately likely to co-sponsor detention legislation. An example of this is Henry Cuellar (D-TX) who has received the second most financial backing from detention companies of all congressional members, both Republican and Democrat. Cuellar received a grand total of \$88,990 from Geo Group and CoreCivic from 2012 to 2018 and as a result voted in line with Trumpian immigration policies 68.9% of the time. California governor Jerry Brown similarly received \$91,200 combined from GEO Group and CoreCivic in his final gubernatorial race, the most of any Democratic politician in the past 10 years.⁴¹ Correspondingly,

⁴⁰ "How the Prison-Industrial Complex Undermines Immigrant Rights," Non Profit News | Nonprofit Quarterly, November 24, 2021, <https://nonprofitquarterly.org/how-the-prison-industrial-complex-undermines-immigrant-rights/>.

⁴¹ Madison Pauly, "Thanks to Trump's Family Separations, Democrats Are in the Hot Seat for Taking Private Prison Cash," *Mother Jones* (blog), accessed May 7, 2022, <https://www.motherjones.com/politics/2018/07/thanks-to-trumps-family-separations-democrats-are-in-the-hot-seat-for-taking-private-prison-cash/>.

California has the highest rates of electronic monitoring and immigrants enrolled under ISAP than any other state.

It is then unsurprising that the trend of laws passed has always benefited detention centers. Two bills by the 114th Congress's House of Representatives convey this: "To Amend the Immigration and Nationality Act, To Penalize Aliens Who Overstay Their Visas and For Other Purposes" and "To Amend the Immigration and Nationality Act to Provide for Extensions of Detention of Certain Aliens Ordered Removed and For Other Purposes."⁴² Both proposals constitute a profit for immigrant detention companies because one supports penalization and increases the stipulations under which immigrants are detained, while the latter allows for immigrants to stay in detention facilities longer. As long as private detention companies retain a financial stake in political actors, especially Democrats who publicly assume responsibility for immigrant justice, there will never be significant and meaningful decarceral reform.

Push for Meaningful Reform Amongst Profit-Driven Human Rights Abuses

Although government officials and private detention companies have negotiated win-win immigration policies amongst themselves for over 30 years, politicians no longer have impunity for maintaining these relationships. In fact, many have been pressured by advocates to refuse and return money from the private detention industry. According to MotherJones, "following revelations that Hillary Clinton's presidential campaign had accepted thousands in contributions from private prison lobbyists, her campaign promised to donate direct contributions from the industry to charity." Furthermore, after a petition criticized San Diego Democrats for receiving

⁴² "How the Prison-Industrial Complex Undermines Immigrant Rights."

private detention contributions, California state Senate majority leader Toni Atkins moved in haste to give away thousands of dollars she had received.⁴³

Much of the pushback against political actors is informed by tireless efforts from immigrant justice advocates to receive government transparency and accountability. Their collective organizing work solidifies how privatization of detention centers result in careless budget cuts and horrendous standards of care that torture and abuse immigrants. In their consistent press releases, organizers and reporters demonstrate how government oversight is futile in the case of privately-owned centers. The detention of immigrants is meant to be “civil” in law, yet the conditions immigrants must endure are akin to criminal punishment. According to the Detention Watch Network, ICE’s inspection process to assess the quality and ethics of detention centers are based on the standard adopted by each detention facility. There are four versions of the standards in use: the 2000 National Detention Standards revised in 2019, and the 2008 and 2011 Performance-Based National Detention Standards (PBNDS) revised in 2016.⁴⁴ Because none of these standards are legally codified however, there is little legal recourse if facilities fail to meet standards. Thus, detention centers are freely given the choice to decide what standards they abide by, and even so there is little motivation to meet them.

Immigrant advocates argue that the national detention standards are abysmal to begin with and neglect to factor in crucial human needs. According to the American Immigration Council, the PBNDS is explicitly based on criminal pre-trial detention, with little to no revisions made since its inception in 2011.⁴⁵ Even the most updated standards omit covering community

⁴³ “Private Prison Campaign Cash Still Welcomed by Some Democrats in the Trump Era.”

⁴⁴ “Detention Oversight,” Detention Watch Network, February 8, 2016, <https://www.detentionwatchnetwork.org/issues/detention-oversight>.

⁴⁵ “Alternatives to Immigration Detention.”

health aspects of detaining individuals, such as the affordability of phone calls, contact visitation, or whether the remoteness of a facility limits access to legal services and community support.

There have been meager efforts by Congress to hold detention facilities accountable, but companies have found easy ways to circumvent inspection. In 2009, Congress passed a bill requiring ICE to stop contracting with any facility that failed two inspections in a row. However, instead of resulting in the closure of facilities with abominable conditions, inspections gave detention centers a loophole to prove their “innocence” and viability as government contractors. Because inspections are pre-announced and do not include interviews from those incarcerated at detention centers, even the best efforts at government oversight fail to identify conditions of abuse. Documents revealed through a Freedom of Information Act request revealed stark data that, “no facility has been closed as a result of failing two inspections in a row, and recent documents from ICE show very few facilities failing even one inspection.”⁴⁶

Government inspections fail to uncover the callous and barbaric actions of ICE representatives and detention centers, so immigrant activists have put in immense labor to fill in these gaps of knowledge. Profit-driven detention causes sustained physical and mental trauma to immigrants, evidenced by how adult detainees experience chronic stress and commonly associated systems, including “severe cardiovascular risk factors due to heightened anxiety, headaches, and hair loss.”⁴⁷ Immigrants who are more than likely to have pre-existing health conditions due to war, famine, or a myriad of other reasons experience exacerbated health problems such as high blood pressure and complex PTSD. This systemic damage to adult immigrants’ health will be passed down through generations of their children. According to AP

⁴⁶ “Detention Oversight.”

⁴⁷ “Policy Brief | 5 Reasons to End Immigrant Detention,” National Immigrant Justice Center, accessed May 7, 2022, <https://immigrantjustice.org/research-items/policy-brief-5-reasons-end-immigrant-detention>.

News, at the largest emergency shelter set up by the Biden administration to hold separated minors, “Paramedics were called regularly to treat children suffering from panic attacks so severe their hands would constrict into balls and their bodies would shake... Some had marks on their arms indicating self-harm, and federal volunteers were ordered to keep out scissors, pencils or even toothbrushes that could be used as a weapon.”⁴⁸ Holding adults and children in prison-like conditions where they have inadequate food and water and limited medical, dental, and mental health services inflicts indelible trauma. Politicians like Congressmember Alexandria Ocasio-Cortez have equated detention centers to Nazi concentration camps and reference how migrant children are being held in the same facilities used for Japanese internment in WW2.⁴⁹

It is painful and disappointing to confront the legacies of exclusion and violence embedded within America’s immigration system. Through the news, we are bombarded with images of cement floors for sleeping, hybrid toilet-drinking fountains, frigid ice boxes, and thin aluminum blankets⁵⁰, then forced to reconcile that with how the U.S. state, which claims to uphold values of freedom, liberty, and justice for all, is wholly complicit in these actions. Regardless of whether advocates are calling for reform or abolition, they have successfully claimed the dominant narrative on immigrant detention and forced politicians to adapt their stances. To continue reaping profits, neoliberalist politicians and corporations must absorb new industries and shapeshift their strategy to address the calls for closure of immigrant detention.

⁴⁸ “Panic Attacks Highlight Stress at Shelters for Migrant Kids,” AP NEWS, June 14, 2021, <https://apnews.com/article/government-and-politics-politics-stress-immigration-health-0801f0a93bf74a51e405562cb3c1c55c>.

⁴⁹ “Alexandria Ocasio-Cortez Compares Migrant Detention Facilities to Concentration Camps | CNN Politics,” accessed May 7, 2022, <https://www.cnn.com/2019/06/18/politics/alexandria-ocasio-cortez-concentration-camps-migrants-detention/index.html>.

⁵⁰ Ray Sanchez Allen Sheena Jones, Dave Alsup, Keith, “The Chill of Detention: Migrants Describe Their Experiences in US Custody,” CNN, July 8, 2018, <https://www.cnn.com/2018/07/07/us/separated-families-detention-conditions/index.html>.

This sets forth the landscape for creating ATDs and marketing them as more just, restorative, and cost-effective.

What Makes ATD Profitable “Reform”

On a quarterly earnings call just two days after the 2020 election, CoreCivic CEO Damon Hininger was asked about the possibility that a Biden administration may end the company’s contracts with the federal Bureau of Prisons. He replied confidently, “We think our risk is pretty minimal there.” Whereas private prisons used to make up 15% of the company’s revenue in 2010, it now makes up just 2%.⁵¹ Such a rapid drop demonstrates the cunning and powerful ways in which for-profit detention companies adapt their platforms to maximize profit and expedite new services fitting the political landscape. In light of the Democratic Party moving to ban private prisons and mass incarceration’s increasing negative visibility, corporate leaders “protect against risk with diversification” and “have taken steps to insulate against a major loss of incarceration business” by pivoting to a broader, less “controversial” mix of services, like ATD.⁵²

ATD makes profitable reform because it allows politicians to distance themselves from detention centers, whilst increasing immigrants’ surveillance and connection to the state. Within Biden’s first month as president, he openly proclaimed his reversal of Trump-era rules like the ethnic-based Muslim Ban and public charge rules that weaponize welfare. Borrowing a page from Obama’s playbook, he asserted his commitment to reinstating DACA and implemented minor reforms like revising the United States Citizenship and Immigration Services’ mission

⁵¹ “Think Private Prison Companies Are Going Away Under Biden?”

⁵² Ibid.

statement and outlawing the detention of pregnant immigrants.⁵³ Notably, much of the news coverage on Biden sympathizes with his attempts to rollback Trump policies and stresses how bureaucracy is limiting and slow, and that immigrant detention cannot be dismantled overnight: The “Biden team will have to produce studies and legal arguments, draft new plans, and, at times, allow for lengthy public comment periods, before they alter the Trump doctrine,” reads an article in the *New Yorker*.⁵⁴

However, much of this discourse neglects how Biden has had opportunities to abolish private immigrant detention altogether. At the start of his presidency, Biden withdrew from private prisons but neglected to include private detention in the action, despite the two industries being inextricably linked.⁵⁵ Over 15 immigrant activist organizations mobilized together to urge Biden to defund private detention, but Biden has remained virtually silent on the issue.⁵⁶ In 2019 and 2020, 28% of GEO Group’s total revenue came from ICE detention contracts, reaping in between \$660 million and \$710 million in profits each year.⁵⁷ According to the ACLU, corporations like GEO Group earn approximately the same amount of revenue from ICE detention contracts as they do from the Department of Justice (Bureau of Prisons and U.S. Marshals Service) contracts combined, making immigrant detention its most lucrative service.⁵⁸

⁵³ “The State of Immigration 2022,” Boundless, February 23, 2022, <https://www.boundless.com/blog/biden-immigration-tracker/>.

⁵⁴ Sarah Stillman, “The Race to Dismantle Trump’s Immigration Policies,” *The New Yorker*, February 1, 2021, <https://www.newyorker.com/magazine/2021/02/08/the-race-to-dismantle-trumps-immigration-policies>.

⁵⁵ cperetz, “The Biden Administration Is Expanding Private Immigration Detention,” Detention Watch Network, September 29, 2021, <https://www.detentionwatchnetwork.org/pressroom/releases/2021/biden-administration-expanding-private-immigration-detention>.

⁵⁶ “Immigrant Rights Activists Coordinate Nearly 20 Actions Across the Country as a National Day of Action Demanding the Biden Administration To Shut Down Detention Centers, End Deportations and Release All People in Immigration Detention,” United We Dream, accessed May 8, 2022, <https://unitedwedream.org/press/immigrant-rights-activists-coordinate-nearly-20-actions-across-the-country-as-a-national-day-of-action-demanding-the-biden-administration-to-shut-down-detention-centers-end-deportations-and-release-a/>.

⁵⁷ Kight, “Biden’s Migrant Tracking Plan Still Funds for-Profit Detention Group.”

⁵⁸ “More of the Same.”

The Biden administration faces immense pressure to address the record number of migrant encounters at the U.S.-Mexico border this year, so it is even more suspicious why Biden has yet to make a formal statement on ATD expansions and their supposed benefits for immigration policy. Much of the reports on ATD have been from policy institutes and news sites, who zero in on the cost-effectiveness of ATD. According to Axios, “ATD programs can cost the government almost 50 times less per person than physically housing people in detention facilities. The government pays \$142 per day for a detention bed, but as little as \$3 per day for ATD services.”⁵⁹

However, this narrative of ATD being cost-effective and more humane by giving immigrants reprieve from detention is flawed. ATD may be cheaper daily compared to detention, but this observation neglects the fact that immigrants under ATD will be enrolled and surveilled for much longer than they would be detained. Immigrants under ATD are placed under the courts’ non-detained dockets, meaning that their cases will hold less priority compared to those detained and extend much longer, often by years. Understandably, the longer an immigrant is ensnared under the state through ATD, the more private detention companies will profit from lengthened contracts with the government.

If the DHS budget requests \$440 million to provide ATD to 140,000 more immigrants in 2022 as Biden plans, that means the administration allocates about \$3,142 per immigrant for the year and \$8.61 per day.⁶⁰ The average wait for a non-detained case to resolve is about 3 years, meaning the cost of ATD per immigrant would cost well over \$9,000. Meanwhile, the average length of time an immigrant stays in detention is 33 days, according to the Marshall Project.⁶¹ 33

⁵⁹ Kight, “Biden’s Migrant Tracking Plan Still Funds for-Profit Detention Group.”

⁶⁰ “Biden Wants More Money for Costly and Ineffective ‘Alternatives to Detention,’” CIS.org, accessed May 7, 2022, <https://cis.org/Arthur/Biden-Wants-More-Money-Costly-and-Ineffective-Alternatives-Detention>.

⁶¹ “How the U.S. Created the World's Largest Immigrant Detention System.”

days multiplied by an average of \$124 per day comes out to a \$4092 total cost for detention. All of this is not to say that Biden should keep immigrant detention centers, but rather to point out that ATD is not nearly as cost-effective as the media depicts. In fact, the cost of ATD is double that of detention taking into account time, meaning it doubles the profit for private detention companies who sponsor ATD. Unsurprisingly, the first two cities in which Biden hopes to roll out his new house arrest proposal are Houston and Baltimore; the Houston-Greenspoint immigration court has the second-longest court delays in the U.S. and an average of 1,653 days to complete cases, and Baltimore is not far behind with an average of 1,320 days.⁶²

Another reason why ATD is profitable and reaps “savings” is because it externalizes the costs of detention to the immigrant enrollee. There is little research on the hidden fees of ATD, but a report by Equal Justice Under Law on electronic monitoring details how, “The set-up fee for ankle monitors is between \$175 and \$200. The daily fee ranges from \$5 to \$40.”⁶³ As mentioned earlier, immigrants who participate in SmartLINK as an ATD also must procure their own cellphones to participate. For a form of detention known for its affordability, this is very expensive and inaccessible for immigrants who likely face significant challenges finding jobs and making ends meet in a country where they will be discriminated against for their citizenship status. Furthermore, immigrants who cannot pay the associated costs of implementing, maintaining, and repairing their electronic monitoring devices may even be at risk of physical detention.⁶⁴

ATDs are poised to secure massive profits for private detention companies within the next couple of years. Their precipitous rise under the Biden administration can be explained by a

⁶² “Biden Wants More Money for Costly and Ineffective ‘Alternatives to Detention.’”

⁶³ “Shackled: The Realities of Home Imprisonment,” Equal Justice Under Law, accessed May 7, 2022, <https://equaljusticeunderlaw.org/thejusticereport/2018/6/12/electronic-monitoring>.

⁶⁴ “Alternatives to Detention and the For-Profit Immigration System.”

neoliberal need to dissociate from the negative press of detention centers, while still endorsing an alternative that advantages private profit. Rather than replace, ATDs act as a supplement to immigrant detention. Therefore, companies like GEO Group and CoreCivic are not only retaining their business of high volume private detention, but also expanding into alternatives that are doubly profitable and outsource maintenance costs to the very immigrants whose lives they irreparably disrupt.

Obscuring and Repackaging Expansion of ATD

ATD marks a huge policy pivot under Biden’s administration, but conspicuously, there have been very few press releases or speeches on Biden’s behalf justifying the expansion. On Biden’s initial immigration platform, he writes, “proven alternatives to detention and non-profit case management programs, which support migrants as they navigate their legal obligations, are the best way to ensure that they attend all required immigration appointments. These programs also enable migrants to live in dignity and safety while awaiting their court hearings—facilitating things like doctor visits, social services, and school enrollment for children. Evidence shows that these programs are highly effective and are far less expensive and punitive than detaining families.”⁶⁵ Nowhere within alternatives to detention does he specify the implementation of electronic monitoring through ankle monitors and SmartLINK. In his White House “Action the Biden-Harris Administration Has Taken to Address the Border Challenge” briefing, it describes how, “[Health and Human Services] has surged case management resources to dramatically increase the rates by which children are united with their sponsors.”⁶⁶ In both of these excerpts,

⁶⁵ “The Biden Plan for Securing Our Values as a Nation of Immigrants.”

⁶⁶ “Action the Biden-Harris Administration Has Taken to Address the Border Challenge,” The White House, June 15, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/15/action-the-biden-harris-administration-has-taken-to-address-the-border-challenge/>.

Biden notably puts emphasis on the benefits and restorative processes of case management, propagating the narrative that investing in ATD allows migrants to live and work in the U.S. freely and with ample support. However, both press statements conflate surveillance ATD and case management, which both fall under the larger umbrella of “alternatives.” Case management can work as a more community-oriented partnership between nonprofits and grassroots organizations to provide comprehensive legal representation, job training, housing support, etc., but this depiction does not accurately represent Biden’s policy.

Biden boasts his prioritization of case management and community-based, non-profit support for immigrants, but he has yet to provide significant funding for its execution. In 2019, DHS did incorporate some aspects of the Family Case Management Program (FCMP) into ISAP, but this was before Biden’s administration and constitutes a very small proportion of the immigrant community. According to the American Immigration Council, of the 182,607 people in ATDs as of March 2022, only 1,238 were enrolled in FCMP, under 0.7% in total.⁶⁷ Furthermore, FCMP case managers who are supposed to help provide referrals and information to participants are hired by GEO Group, the same private detention company whose associated agents commit verbal and physical abuse to immigrants. In 2021, Congress appropriated just \$5 million to establish a new Case Management Pilot Program, compared to \$440 million given to ATD. In 2022, the House Appropriations Homeland Security Subcommittee aimed to increase the amount funded to nonprofits and local communities through a FEMA grant program to \$100 million, but that amount was flagged down by Congress.⁶⁸ Conflating ATD and case

⁶⁷ “Alternatives to Immigration Detention.”

⁶⁸ “DHS Rolls out New Alternatives to Detention Pilot Program with Expanded Migrant Services,” *BorderReport* (blog), August 17, 2021, <https://www.borderreport.com/hot-topics/immigration/dhs-rolls-out-new-alternatives-to-detention-pilot-program-with-expanded-migrant-services/>.

management acts to obscure and stymie conversation surrounding the true harmful effects of ATD.

Private detention companies utilize similar reformist rhetoric to frame their ATDs as facilitating community support and aligned with the immigrant justice movement. Under their “Strengthening Communities” tab, BI Incorporated claims, “BI technologies allow courts and correctional agencies to release individuals to community supervision where they can live their lives, support families, and contribute to the community. In turn, with the support of these innovative tools, supervising officers gain a much better understanding of how a person is doing in the community.”⁶⁹ To describe SmartLINK, the app that enables onerous and laborious virtual check-ins on behalf of ICE officers, the company writes, “BI SmartLINK provides a secure platform for officers and clients to share information, making remote case management a reality... [it increases] positive outcomes by placing the tools individuals need to be successful and accountable in the palm of their hands.”⁷⁰

GEO Group, the owner of BI Incorporated, portrays its surveillance technology as a helpful tool to rehabilitate and integrate immigrants into communities. The company assuages criticism of their carceral practices by stressing their philanthropy work and ethical standards. GEO Group shares on their website that their mission is to “develop innovative public-private partnerships with government agencies around the globe that deliver high quality, correctional, community reentry, and electronic monitoring services while providing industry leading rehabilitation and community reintegration programs to the men and women entrusted to our care.”⁷¹ It also offers that they have “responsibility to conduct [their] business in an ethical and

⁶⁹ “GPS Tracking Monitoring - BI Incorporated,” accessed May 7, 2022, <https://bi.com/gps/>.

⁷⁰ “Smartphone Monitoring,” *BI Incorporated* (blog), accessed May 7, 2022, <https://bi.com/mobile-monitoring/>.

⁷¹ “Who We Are,” accessed May 7, 2022, https://www.geogroup.com/who_we_are.

transparent way” and operates a philanthropy that donates money to educational facilities and community organizations.

Multinational corporations like GEO Group and CoreCivic brand themselves as having sincere respect and responsibility for supporting immigrants who have been “entrusted” into their care, yet the very source of their profiteering is established through the forced detention and oppression of immigrants. Private detention companies and politicians’ attempts to co-opt community support initiatives reflect a self-interested need to portray themselves as reformists, rather than a true commitment to the health, wellbeing, and safety of immigrant communities.

The Bottom Line

Despite efforts to reframe ATD as a restorative and dignified way to supervise immigrants as they await court hearings, it has actually done very little to decrease the number of people detained and continues to criminalize and inflict trauma on immigrants. The data suggests that an increase in enrollment of ATDs over the last decade has not corresponded with a significant decrease in detention numbers. For example, the average daily number of people in ICE detention centers rose from 19,254 in FY 21 to 21,709 in FY 22, even while the number of people in ATD programs increased by nearly 47,000 over that period.⁷² In 2021, ICE received \$440 million to greatly expand ATD, alongside another whopping \$2.8 billion to continue manufacturing its ever-growing detention system.⁷³ According to the National Immigrant Justice Center, “ISAP has been implemented primarily as a surveillance program for people, including asylum seekers, who previously were unnecessarily detained and should have been released to

⁷² “Over 180,000 Immigrants Now Monitored by ICE’s Alternatives to Detention Program.”

⁷³ admin, “Government Alternatives to Detention,” Detention Watch Network, February 8, 2016, <https://www.detentionwatchnetwork.org/issues/alternatives>.

the community without any reporting obligations.”⁷⁴ Because it is treated as a supplement for detention, it only increases the number of immigrants caught up in state-sponsored enforcement and surveillance.

ATD programs are also praised for having high compliance rates of over 99%, but this data neglects high absconcion rates under ISAP, meaning the choice to cut off an ankle bracelet, delete SmartLINK, fail to return calls, or otherwise ignore ICE contact attempts. Data on compliance with court appearances relies mostly on early court dates when there is less immediate fear of deportation. However, a leaked ICE document shows that when the decision to deport is made, most immigrants are no longer enrolled in ISAP. Among those who remained enrolled from 2015 to 2020, the average absconcion rate was 84%, proving ATDs to be highly ineffective in achieving their original purpose.⁷⁵

The name “alternatives to detention” in itself is a large misconstrual, considering ATDs’ punitive nature. Biden has attempted to lump together case management alternatives to detention with surveillance ATDs, but in reality, ATDs lack any case management and often entail frequent harassment from ICE and BI officials. David, a 49-year-old client of the National Immigrant Justice Center recalls:

“Every time I went to check-ins with ISAP, my officer told me that I had to leave the country and that I couldn’t stay. He always asked me how much money I had saved to buy plane tickets to go back to my country... I told him every month that my attorneys filed an appeal and that I didn’t have to leave. He ignored me or laughed and said that I would have to leave. I felt

⁷⁴ “Report | A Better Way: Community-Based Programming as an Alternative to Immigrant Incarceration,” National Immigrant Justice Center, accessed May 7, 2022, <https://immigrantjustice.org/research-items/report-better-way-community-based-programming-alternative-immigrant-incarceration>.

⁷⁵ “Leaked ICE Doc Shows ‘Alternatives to Detention’ Program Has ‘Little Value’ but ‘Significant Expense’ | Fox News,” accessed May 7, 2022, <https://www.foxnews.com/politics/alternatives-detention-program-enrolled-illegal-immigrants-abscond>.

like he was trying to intimidate me.... I felt like crying. I would call my attorneys to make sure that he wasn't telling the truth, but every time I went back he said the same thing. I was scared that he was right because he seemed so certain.”⁷⁶

Alongside exposure to constant verbal abuse, many immigrants attest to the random and arbitrary nature of reporting obligations and penalties. There is already much stigma that accompanies wearing an ankle shackle, but overly-restrictive check-in requirements make it immensely difficult for immigrants to fulfill their daily work, chores, and familial and community obligations. Some in person check-ins require long travel times paired with hours-long delays, and many immigrants must sit and charge their ankle monitors for hours at a time to avoid getting penalized for missing a check-in.⁷⁷ According to the UN Refugee Agency, all of these conditions “can lead to non-cooperation... and can set up individuals willing to comply to instead fail.”⁷⁸

ATD is not conducive to Biden's goal of “welcoming immigrants in our communities” and “reasserting America's commitment to asylum-seekers and refugees.”⁷⁹ Not only does it fail to achieve its purpose of encouraging compliance and reducing the amount of people harmed by private detention, but its supporters and contractors are also marked by a clear disrespect for immigrant enrollees' livelihoods. Surveillance does not protect or aid immigrant communities in navigating asylum or legal obligations; it effectively encourages noncompliance and crippling distrust and fear.

⁷⁶ “Report | A Better Way.”

⁷⁷ Sarah Betancourt, “‘Traumatizing and Abusive’: Immigrants Reveal Personal Toll of Ankle Monitors,” *The Guardian*, July 12, 2021, sec. US news, <https://www.theguardian.com/us-news/2021/jul/12/immigrants-report-physical-emotional-harms-electronic-ankle-monitors>.

⁷⁸ “Report | A Better Way.”

⁷⁹ “The Biden Plan for Securing Our Values as a Nation of Immigrants.”

Conclusion

“Compassion knows no borders. Love has no walls. All people are sacred across bars and borders.” – Interfaith Movement for Human Integrity

My work puts in conversation the expansion of ATD with Democratic neoliberal efforts to pursue private profit whilst performing the illusion of justice. Alternatives to detention allow for increased control and surveillance over immigrant communities in the name of reform; it is just one of many examples of the U.S. criminalizing, scapegoating, and systematically targeting BIPOC under state definitions of “health and safety” and “national security.” Almost all the funding for ATDs go to the same corporations that profit from the expansion of both alternatives to detention and detention itself. If surveillance measures were a true alternative to detention, then private companies like GEO Group’s main sources of income would be in direct competition with one another, a structural incompatibility within neoliberal capitalist development. The enmeshment of politicians and private detention companies journey back to the 1980s with the inception of the immigrant industrial complex, a bipartisan creation that systemically criminalized immigration and asylum so that racialized immigrants of color could be detained for profit. Although Democratic government actors criticize Republicans for their outright support of racial purity and deportation, their alignment with private detention companies is shown through their reliance on corporate campaign donations and biased policymaking. Investing in ATD allowed for politicians under scrutiny to fund detention quietly, under the guise of benevolent community-based management.

Democrats have a long history of socially constructing race and illegality through immigration policy, but they receive less criticism from the left because they operate under the guise of incremental reform. For example, despite the incomprehensible, irrevocable pain and suffering that erupted in Obama's wake, his reputation is shockingly unstained. In 2009, Obama was awarded the Nobel Peace Prize for his "extraordinary efforts to strengthen international diplomacy and cooperation between peoples" and applauded for his passage of Deferred Action for Childhood Arrivals, a policy which gave a notably less politically controversial group of immigrants, "Dreamers," a pathway to citizenship.⁸⁰ However, it must be reiterated that DACA passed in exchange for ramped-up border and internal enforcement and increasing integration of the criminal justice and immigration systems.⁸¹ Thus, it is imperative that the American public question the reactionary politics of reform and how it often makes invisible "conservative counterinsurgency" to the benefit of virtue-signaling Democratic politicians.⁸²

As shown through history, immigrants have always been assigned ever-shifting categories of good and bad, criminal and innocent, worthy and undeserving, their humanity never truly recognized unless legible through neoliberal value systems. Whether or not an immigrant is afforded with community support and basic resources to live and thrive should not be a partisan issue. In the words of scholar Elizabeth Hanna Rubio, "To tie victory to state recognition is to only fortify the power it wields over immigrant lives." Immigrant justice organizers have long called for the abolition of all forms of detention, and it is crucial now, more than ever, that we engage in their political projects and give direct aid and support to immigrants in need. To stop

⁸⁰ "The Democrats' Long War on Immigrants."

⁸¹ Elizabeth Hanna Rubio, "'We Need to Redefine What We Mean by Winning': NAKASEC's Immigrant Justice Activism and Thinking Citizenship Otherwise," *Amerasia Journal*, October 31, 2019, <http://www.tandfonline.com/doi/abs/10.1080/00447471.2019.1682921>.

⁸² Dylan Rodriguez, "Reformism Isn't Liberation, It's Counterinsurgency," *LEVEL* (blog), October 21, 2020, <https://level.medium.com/reformism-isnt-liberation-it-s-counterinsurgency-7ea0a1ce11eb>.

reiterations of the immigrant industrial complex, we must be vigilant towards incoming technology, like ICE risk assessment algorithms and biometric wearables, that can be commodified and abused in the near future.⁸³ We must refuse the false Democratic promises of inclusion and expressly protest against politicians who seek to expand surveillance and claim it is restorative. Ultimately, justice is rooted in community care, not corporations.

⁸³ Flipsnack, “ICE Digital Prisons Report_FINAL (1).”