



## ICE's Rejection of Its Own Rules Is Placing LGBT Immigrants at Severe Risk of Sexual Abuse

By [Sharita Gruberg](#) Posted on May 30, 2018, 12:00 pm



Getty/Corbis//Robert Daemmrich Photography IncThe perimeter fence of the T. Don Hutto detention facility of the Immigration and Customs Enforcement center is seen.

[Laura Monterrosa](#) is a queer asylum seeker from El Salvador. After being targeted by homophobic gang violence and having her life threatened, she decided to seek safety in the United States. In May 2017, she presented herself at the border, seeking asylum, and was detained at the T. Don [Hutto](#) detention center, an all-women immigration detention facility run by the private prison company [CoreCivic](#). In November, she reported to U.S. Immigration and Customs Enforcement (ICE) that a guard had sexually abused her on multiple occasions. After ICE's Office of Professional Responsibility and the local sheriff's office looked into the allegations, ICE [closed her case](#), saying that her account "could not be corroborated" and "lacked evidence to pursue any further action." Laura's attorney reported investigators even asked if the relationship with the guard was [consensual](#). After ICE closed the case, the [FBI intervened](#) and picked up the investigation. Despite a pending FBI investigation into these incidents, ICE would not release Laura—nor would it fire the guard. Laura remained trapped inside Hutto with her alleged abuser. Desperate, Laura ingested 51 prescription pain pills in an attempt to kill

herself. In February 2018, ICE reportedly placed her in [isolation](#) for three days, during which time she claimed ICE tried to get her to recant her accusation of sexual abuse. A month later, Laura was finally [released](#) from detention after a [judge ordered](#) ICE to provide mental health care outside the detention facility.

The Center for American Progress received information about ICE's treatment of LGBT immigrants in detention for fiscal year 2017 from a [congressional letter](#) to Department of Homeland Security (DHS) Secretary Kirstjen Nielsen from Rep. Kathleen Rice's (D-NY) office. This information reveals that LGBT immigrants are being held in detention for long periods of time, in unsafe conditions, and at a far greater risk of sexual violence than the general population. These facts indicate that Laura's story is not unique under the Trump administration's policy of treating every unauthorized immigrant as a deportation priority.

### **LGBT immigrants in detention report high rates of sexual assault and sexual abuse**

ICE's 2014 Prison Rape Elimination Act (PREA) regulations require an annual publication of sexual assault data. Making the data publicly available is important as a means of helping advocates hold ICE accountable for its response to sexual assault in detention. While ICE has not yet publicly released any of the required annual data since 2014, Rep. Rice requested data from ICE on sexual assault of people in detention, and these findings are staggering—even compared with the high rate of [sexual victimization](#) of [LGBT people](#) in U.S. jails and prisons. ICE reported to Rep. Rice that it received 227 reports of sexual abuse and assault in FY 2017. Twenty-eight of these reports involved an LGBT victim. In FY 2017, ICE detained [323,591](#) people. ICE reported to Rep. Rice that in FY 2017, 467 immigrants disclosed being LGBT during intake to a detention facility. This means that although LGBT people were 0.14 percent of the people ICE detained in FY 2017, they accounted for 12 percent of victims of sexual abuse and assault in ICE detention that year. In other words, assuming each report of sexual violence is substantiated and involves a separate victim, LGBT people in ICE custody are 97 times more likely to be sexually victimized than non-LGBT people in detention.

### **ICE is housing transgender immigrants in unsafe situations**

ICE is placing LGBT immigrants in harm's way by not releasing them from detention when they should be and has reverted to its practice of detaining transgender women with men or in solitary confinement, contrary to its [own rules](#). In recognition of their heightened vulnerability to sexual abuse, [DHS' PREA rule](#) requires an individualized placement determination for transgender people. In its response to Rep. Rice, ICE claims it is making these assessments. However, the custody data that Rep. Rice received indicate this is not the case. Despite the continued existence of an Obama-era [memo](#) on caring for transgender immigrants, not one of the nearly [250 facilities](#) ICE detains immigrants in is bound to comply with this guidance. Rather than automatically applying across DHS detention facilities, this guidance requires a contractual agreement with the facility. ICE opened a pod for transgender immigrants in [Cibola County, New Mexico](#), but that facility's contract with ICE does not include a requirement that it comply with the transgender care memo. ICE reported to Rep. Rice that it detains transgender women in 17 facilities. Four are all-male facilities. Thirteen have a mix of male and female populations. Except for the transgender pod at Cibola, ICE has not provided information about whether ICE detained transgender women with other women, with men, or in isolation in these facilities. The average amount of time transgender people were detained in FY 2017 was 99 days, more than double the [43.7 day average](#) all immigrants spent in ICE custody. With [nearly 80](#) countries criminalizing LGBT

people, the [extended period](#) of time they spend in detention may be due to waiting for a judge to review their cases for relief from deportation, such as asylum.

Rep. Rice's office also obtained information about the use of solitary confinement for LGBT immigrants in detention. In recognition of the risks that come with placing vulnerable populations, such as LGBT people, in solitary confinement, [ICE's own rules](#) stipulate that solitary should only be used as a last resort. In those cases, solitary confinement should "not ordinarily exceed a period of 30 days." According to Rep. Rice's office, 1 in 8 transgender people detained by ICE were placed in solitary confinement in FY 2017. The United Nations recognizes the placement of LGBT people in solitary confinement for their own protection as a [form of torture](#). After [15 days](#), solitary confinement may cause irreversible psychological damage. According to the information that ICE provided Rep. Rice, LGBT immigrants who were detained in solitary for more than 14 days spent an average of 52 days in solitary confinement.

### **ICE must stop wasting resources on detaining vulnerable populations**

Rep. Rice's office emailed ICE on February 14 asking how it could justify expending its limited detention resources on vulnerable populations such as LGBT people. Rice's office shared this exchange with CAP, including ICE's reply, which was dated April 3:

ICE is committed to faithfully executing our duty to enforce immigration laws. In Executive Order (EO) 13,768, *Enhancing Public Safety in the Interior of the United States*, the President directed that ICE "[m]ake use of all available systems and resources to ensure the efficient and faithful execution of the immigration laws of the United States." 82 Fed. Reg. 8799 (Jan. 25, 2017). As made clear in former Secretary Kelly's February 20, 2017 memorandum, *Enforcement of the Immigration Laws to Serve the National Interest*, "the Department no longer will exempt classes or categories of aliens from potential enforcement." To that end, in EO 13,767, the President directed that the "Secretary shall immediately take all appropriate actions to ensure the detention of aliens apprehended for violations of immigration law pending the outcome of their removal proceedings or their removal from the country to the extent permitted by law." 82 Fed. Reg. 8793, 95 (Jan. 25, 2017).

This response indicates that ICE does not prioritize how it expends its enforcement resources and no longer meaningfully takes into account the threat that detention poses to vulnerable populations, such as LGBT people, in making its custody decisions. This is reckless and unacceptable and will lead to more LGBT people being sexually victimized on ICE's watch.

### **Conclusion**

The Trump administration's policy of detaining immigrants without parole or bond pending the resolution of their case or deportation — combined with its rejection of policies meant to protect vulnerable populations from abuse in detention — has led to horrifically high rates of sexual abuse and solitary confinement of LGBT immigrants. Not only are these abusive conditions inhumane, but they are also in violation of the department's own rules implementing the PREA. ICE must end its dangerous practice of arbitrarily detaining LGBT people in unsafe conditions and ensure that its standards, guidance, and rules are rigorously enforced.

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