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From Penal to “Civil”: A Legacy of Private Prison Policy in a Landscape of Migrant Detention

Sarah Lopez

In 2016 the Bureau of Prisons announced it would phase out all contracts with private prison corporations (a decision that was reversed with the incoming Trump administration in 2017). This verdict prompted the US Immigration and Customs Enforcement (ICE), the federal bureaucracy that oversees immigration enforcement, to reevaluate its reliance on private prison corporations to manage migrant detention. ICE’s final report concludes: “Because legitimate restriction on physical liberty is inherently and exclusively a governmental authority, much could be said for a fully government-owned and government-operated detention model, if one were starting a new detention system from scratch. But of course *we are not starting anew*.”¹

By 2016 a detention infrastructure—a network of detention facilities, transportation services, county and city jails, among other related services and sites—was fully established and largely owned, built, and managed by private corporations. Within this nationwide system, the state of Texas detains and incarcerates more noncitizens than any other in the nation.² Since the 1980s, private corporations have built at least sixteen detention centers for the federal government, nine other county and city jails were repurposed or built anew to detain migrants, and five private Criminal Alien Requirement (CAR) facilities were erected to incarcerate so-called criminal aliens.³ In 1970 Texas had the capacity to detain about 1,500 migrants. In 2017 Texas had the capacity to detain and incarcerate over 30,000 migrants daily (fig. 1) capturing about 26 percent of the nation’s detention space and 50 percent of its migrant prison population.⁴

The large-scale infrastructure of migrant detention in Texas today is possible in part because private prison corporations have developed new ways to design, build, and manage detention. While only 15 percent of the US prison system is privately owned and managed, an estimated 73 percent of the migrant detention system is owned and managed by about five private companies.⁵



Figure 1.
Map depicting the location of detention centers and migration prisons in Texas, 2015. Drawn by Tsering Wangyal Shawa

Critical scholarship on detention and incarceration tends to focus on policies and practices from various disciplinary perspectives; few examine the built environment of detention as a primary source of evidence. Sociologists and political scientists illuminate how and why immigration policies and enforcement, on the one hand, and mass incarceration of largely black and brown people, on the other, have culminated in the mass incarceration of migrants in the US today.⁶ Activist organizations, anthropologists, historians, and legal scholars examine the racialization and criminalization of migrants, the rise of a prison-state in the context of neoliberal governance, the flagrant human rights abuses of those detained, and the influence of detention on ideas of citizenship, subjecthood, and sovereignty.⁷ Geographers have brought critical analysis of space, networks, and situated material histories into the mix.⁸ But the specific ways that the built environment supports and even shapes immigration enforcement and policy warrant further exploration.⁹ This essay examines a landscape of migrant detention and migrant incarceration in Texas to reveal a uniquely spatial and architectural

story that cannot be told through other sources, shedding new light on the role that the buildings' logistical, physical, and representational aspects play in immigration enforcement.

I argue that the construction and design of facilities in Texas has formalized and institutionalized the “penal turn” and “criminalization of migration” reflected in immigration policy into an intractable material reality with long-term consequences. Not only has the evolving design of detention facilities contributed to today's increasingly punitive experience of detention, but also industries push to build more and larger detention facilities that they manage with ongoing and renewable ICE contracts shapes immigration policy itself. The evidence for these claims can be found in a historical accounting of the incremental construction of detention facilities, from the 1960s (when Texas had two publicly owned and managed detention centers) to the present.

I also argue that the US government is not driving—and even positions itself as a passive actor in—critical design decisions that translate detention practices into bricks and mortar. The US government has increasingly outsourced the design and management of civic institutions as part of a neoliberal turn starting in the 1970s, but unlike post offices or courthouses, the immobilization of migrants is, as stated above, “exclusively a governmental authority,” performed by architecture itself. Since at least 1992, one of the world's largest prison corporations, Geo Group Inc., initiated a “design/build” component into their corporate structure, which means that in addition to the long-term management of facilities, in-house designers and construction companies oversee the building process from start to finish.¹⁰ This grants the corporation broad powers to envision and enact detention space with, first and foremost, a narrow pool of shareholders' interests in mind, rather than the design of detention space being embedded in an extended public process, or at a minimum, subject to periodic public review.

In 2016 ICE recognized that “they were not starting anew”; the existing detention landscape deterred the government from assuming a different relationship with private industry amid mounting evidence of systematic abuse and misconduct. Once in place, buildings have inertias of their own. Unlike other aspects of immigration enforcement that might change from administration to administration, the buildings, building contracts, and building industry shape immigration enforcement and detention practices for years to come. There is a temporal disjuncture between immigration policy and detention facility longevity. It is through architecture that private influences on immigration policy institutionalize punitive enforcement for future generations.

These arguments expand on existing research on incarceration and migrant detention in three ways. First, the detention construction industry—what Sean Anderson and Jennifer Ferng call the “detention-industrial complex”—mirrors the development of the prison-industrial complex in a more extreme form.¹¹ Key ingredients, beyond the rotating door of government immigration officials working for prison corporations, are building contracts and buildings themselves that play an important role in shaping public–private relationships in a material sense. Building contracts between the federal government, counties and cities, and private corporations involve long-term guarantees of future revenue—in some cases the government promises to pay corporations for a minimum number of migrant detainees per facility for years whether or not people are actually detained.¹² The large up-front capital investments necessary to build new facilities and high cost of operations and maintenance are only justified through long-term gains; private corporations thus have great incentives to ensure long-term detention. Two interlocking processes hamper civic engagement with US detention practices: first, facilities are built *quickly*. The fast construction of ever-larger facilities means that people with stakes in the decision have less time to react. Private corporations offer fast construction, demonstrative of the building industries’ capacity, as a benefit to the US government. But building permanent and semipermanent structures quickly is a structural change that impedes citizens and activist’s future potential for engagement with and resistance to new facility construction. Second, private contracts allow the government to finance construction without undergoing a protracted public review process. How centers are built and financed should not be understood as the logistical execution of immigration policy; they in fact influence transparency, accessibility, and engagement with immigration policy.

Second, representations of the architecture of migrant detention and incarceration stigmatize migrants in the minds of the public, as the experience of being detained influences migrants’ own subjective understandings of themselves.¹³ A history of immobilizing migrants in Texas shows the development of two tracks: one is so-called administrative detention and the other is migrant incarceration. Each track has its own facility type to institutionalize legal distinctions spatially. Yet migrants experience detention as imprisonment, and migrants caught reentering the US after formal deportation labeled as “criminal aliens” serve time in extremely punitive penal environments. The use of a generic penal architecture for both facility types normalizes imprisoning migrants who are awaiting trial and criminalizing unauthorized border crossings (throughout the twentieth century, immigration offenses have not always

been prosecuted). Meanwhile, the government's use of the distinction between administrative detention versus punitive incarceration allows it to maintain juridical and physical control over migrants.

Finally, architecture is evidence of the distance between ICE's stated goals and its grounded practices. Facility contracts promise to "ensure the human rights of all detainees."¹⁴ In response to a damning internal audit of its performance in 2009 and mounting pressure from activists and lawyers, in 2012 ICE constructed the first "civil detention facility" in Karnes County. Building this facility is an acknowledgment (however symbolic) of its own failure to build an infrastructure of detention that is aligned with ICE's public mission. It also elevates architecture as a critical measure of ICE's ethical treatment of persons in its custody. By commissioning a civil facility, the federal government recognizes that the physical environment is not only symbolic of the state but its concrete embodiment, alongside the legal and institutional frameworks through which it engages migrants and asylum seekers. How do we understand the dozens of *noncivil* detention facilities, constructed both before and after Karnes, that constitute the bulk of the detention landscape? What role does design play in shaping the character and quality of US engagement with foreigners?

To identify the practices of major private prison corporations—whose records are unavailable—driving the spatial and material characteristics that define a landscape of detention, I examine the location, design, and management of private facilities. Research conducted by legal experts and activist organizations such as Detention Watch Network, the Global Detention Project, the American Civil Liberties Union, and Grassroots Leadership track the expansion of detention facilities and the human rights abuses of the detained. ICE facility contracts (a limited number are on the Freedom of Information Act Library online portal) are also necessary; however, ICE has not yet provided the contracts I requested in 2015. The American Institute of Architects (the profession's national organization) *Justice Facilities Review* from 1979 to the present, as well as Texas state construction and engineering trade journals, reveals the building trades' evolving attitudes toward detention. Publicly available ICE documents outline their design requirements, and congressional hearings on recent detention centers, add a modicum of information about ICE's design philosophy. Finally, informal interviews with formerly detained migrants produced cognitive drawings that illustrate various experiences inside the detention facilities.

Tracking the expansion of Texas's infrastructure of detention shows how policymaking in a neoliberal era happens on the ground, where private com-

panies make highly contentious publicly funded decisions that affect millions of the world's most vulnerable people. Unmoored from civic responsibility, global corporations like GEO Group construct a landscape of detention that outlives political cycles, immigration policies, and popular opinions about so-called migrant criminality.

The Ambivalent Origins of Detention

Programmatically, detention centers are places to quarantine individuals who are awaiting a legal process that will determine if they are imprisoned, deported, or released. They are “administrative” processing centers. This definition, however, evokes false distinctions between detention centers and prisons and masks ongoing debates about the punitive dimensions of deportation.

When deportation and detention were established in the Geary Act of 1892, they were challenged on constitutional grounds. Supreme Court justices argued that forcibly removing persons from the US inflicted undue harm. These arguments lost; rather than punishment, deportation was heretofore defined as an administrative process, thus the rights and punishments associated with criminal prosecution, such as the Fifth and Sixth Amendments, were not automatically attributed to immigrants detained. In a close reading of these congressional cases, Kelly Lytle Hernández argues that unlawful residence in the US was thus technically decriminalized, which ironically produced a more permissive environment to detain and deport primarily Chinese laborers. The Supreme Court argued that “deportation is not a punishment for crime” and “detention . . . is not imprisonment in a legal sense.”¹⁵

Detention facilities are merely “tools of accountability, guaranteeing that a person is on hand and in a certain condition,” as he or she is often subjected to legal investigations that are “difficult to apply to stadiums, forests, camps, and other places where modern governments have concentrated recalcitrant populations.”¹⁶ Today that is still the functional definition. Dora Schriro, a former ICE employee who conducted an internal review of ICE operations in 2009, notes: “Immigration proceedings and civil proceedings and immigrant detention is not punishment.”¹⁷

In addition to detention centers managed by ICE (technically called “service processing centers”), migrants who are serving sentences are incarcerated in immigration prisons (CAR facilities) managed by the Bureau of Prisons, as well as county and city jails.¹⁸ This distinction dates to the Immigration Act of 1929, when “unlawfully entering” through land and sea borders became a crime; unauthorized entry is a misdemeanor and reentry is a felony. By 1932

a new jail was built in El Paso to support the act, which resulted in the conviction of tens of thousands of primarily Mexicans.

The distinction between detention centers and CAR facilities further solidifies the false binary of “good migrants” versus “bad migrants,” sometimes understood as asylum seekers running from persecution versus economic migrants who cross illegally. An estimated half of those detained in detention centers in Texas are asylum seekers from over two hundred countries—since I commenced this research in 2015, I have met people from El Salvador, Guatemala, Honduras, Eritrea, Sudan, Cameroon, Iraq, and the Central African Republic—many of whom are fleeing political, social, and religious persecution. However, many of those in CAR facilities are Mexican “economic migrants” who are incarcerated for reentry. Studies show that Mexicans are increasingly fleeing social and political repression, related to an unstable government and drug cartels. Also, migrants who risk reentry often have a longer history of settlement in the US, which leads to families geographically dispersed across the border.¹⁹ “Reentry” is often an attempt to reunite with family on one side after visiting family on the other. Once caught, unauthorized border-crossers who have been previously deported are incarcerated for up to two years alongside a range of non-US citizens. In 2017 nearly 39 percent of “aliens” serving time in federal prisons (after which they enter deportation proceedings) were immigration offenders. People compelled to cross the border are spatially and socially stigmatized as criminals with lifelong consequences (figs. 2 and 3).

Detention scholarship often rightly refers to migrant detention as prison—while “not prison in a legal sense,” stripping migrants of the freedom of mobility is one of the harshest punishments available to governments. But it is important to note that innocent people are not only incarcerated in detention centers; they can also be found in federal CAR prisons, where they are subject to the Bureau of Prison’s standards and systems of management. The architecture of these two distinct “types” (one an administrative processing place, the other designed to punish) should help clarify the differences.

It does not.

The majority of migrants detained languish in detention centers modeled on prisons. Schriro’s 2009 ICE audit summarizes this relationship: “Civil detention and criminal incarceration become blurred by civil enforcement systems’ adoption of correctional policies and practices, their performance standards, and most notably their use of penal institutions and personnel.”²⁰ Migrants are often detained in prisons that were refurbished as detention centers, in detention centers that later become prisons, or in county and city jails. Thus detention centers, CAR facilities, and county jails are the same sociospatial

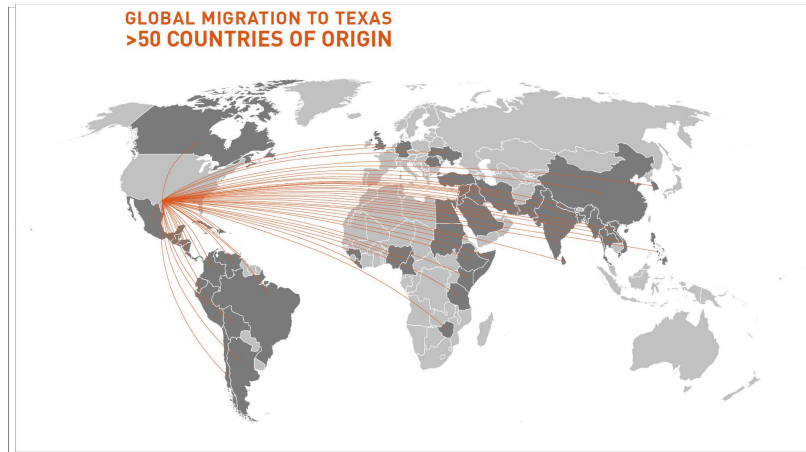


Figure 2. Map of where migrants who are detained in Texas come from, 2015. Drafted by Joyce Hanlon and Katie Slusher; information from Transactional Records Access Clearinghouse, Syracuse University

mechanism of, to use Loïc Wacquant's refrain, "closure and control."²¹

The La Salle Detention Center, built by a private company for future use as a detention facility *or* convict prison, illustrates the point. From the exterior, the large rectilinear edifice with a flat roof is distinguished from a warehouse or light-industrial workspace by a double perimeter fence topped with concertina wire, surrounding ring road, sally port, fenced concrete yard, absence of landscaping, and three flags marking the entrance—the US flag, the Texas state flag, and a flag for the corporation that owns and manages the center. The interior dormitories, kitchen, break room for employees, library, chapel, storage facility, barbershop, and medical ward are all finished with the same cinder-block white painted walls and industrial furnishings. The suicide watch room and solitary confinement are identical in square footage, with a bolted toilet and sink in one corner. The levels of security and surveillance are here coherent with places designed for criminal convicts, yet this was imagined (and has been used) as a place that could also detain migrants, providing evidence that materials, facility layout, and siting are not distinguished according to the specific needs or requirements of different populations (fig. 4).

As Jason Stanley argues, "Deliberately obscuring the crucial distinction between someone who violates a law and someone whose character leads them to repeatedly commit serious crimes is an effective strategy for masking gross in-

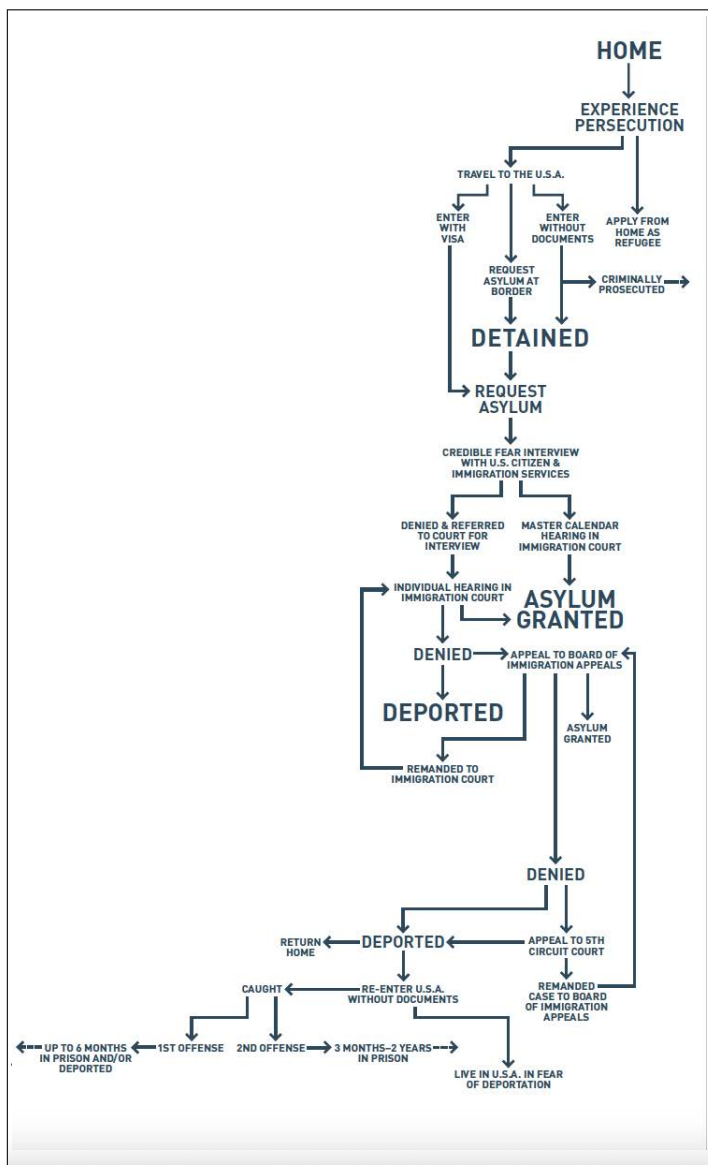


Figure 3. Schematic legal-flow chart illustrating the bureaucratic “processing” of migrants upon arrival to the United States. Drawing by Katie Slusher; information from Grassroots Leadership and Dr. Denise Gilman



Figure 4. La Salle County Regional Detention Center, Encinal, Texas. The private prison corporation, Emerald Companies, broke ground on this female and male detention facility in 2002. Today it houses migrants awaiting trial and civilian convicts. Photographed by C. J. Alvarez

justice.”²² The architectural and spatial homology between the administrative and penal realms of migrant detention and immigrant or civilian incarceration normalizes the “criminal alien” and criminalizes the detained in the minds of the public. Architecture and space

help obscure distinctions between persons seeking protections, violating an immigration law, and acting out of malice.

Publicly Owned and Operated Detention: Service Processing Centers

Throughout the twentieth century, migrants have been detained and convicted of immigration-related crimes, but historians argue that detention and criminal prosecution for immigration offenses were uncommon. Detention was reserved for “enemy aliens” such as Japanese internment in World War II. Angel Island and Ellis Island, two major federal immigration facilities, closed in 1940 and 1954, respectively. In the southern border region, however, David Hernández identifies distinct phases of Latino detention: medical detention between World War I and World War II, detention associated with Depression-era repatriation in the 1930s and the establishment of the Immigration Act of 1929, Operation

Wetback roundups in the 1950s, and then refugee detention in the 1980s.²³ The two oldest *continuously operating* detention centers in Texas—the Port Isabel Service Processing Center and El Paso Service Processing Center—were constructed just after “Operation Wetback.”

Port Isabel offered a formal institutional space as a counterpoint to temporary labor camps established during Operation Wetback. Processing “shadow” migrations that spiked during the Bracero Program (1942–64), a binational labor program that created temporary contracts for hundreds of thousands of Mexicans to work in US agriculture, the Immigration and Naturalization Services (INS), which preceded ICE, built a camp in the US–Mexico border town of McAllen in 1953.²⁴ The camp closed in 1961, the year Port Isabel commenced construction.

The Port Isabel Center, Texas’s oldest continuously operating facility to date, was built on an abandoned naval base thirty miles northeast of Brownsville.²⁵ Port Isabel was chosen as an “ideal location . . . due to closeness to the Gulf, Florida and Cuban coasts and the Mexican border.” The attorney general at the time noted that the “border situation is combined at Port Isabel as in no other place.”²⁶ Here, drug smugglers and migrants could be intercepted, and repatriations performed. Port Isabel was also established as the new INS headquarters, previously located in El Paso. The *Brownsville Herald’s* speculation about the relocation—“the immigration commissioner has long been at odds with El Paso, mainly because of newspaper editorial criticism of his office”—identifies a potential downside to the INS’s location in an urban setting.²⁷ On 315 acres of land outside a small town, the Port Isabel facility combined a Border Patrol academy, Border Patrol station, and detention headquarters, with a capacity to detain up to 685 persons daily.

Shortly after Port Isabel was erected, in 1967, the El Paso detention center was relocated and rebuilt. El Paso had a Border Patrol Academy that also functioned as an immigration station dating to the 1930s.²⁸ But it was on contested land that was returned to Mexico in the historic Chamizal Agreement of 1964. The new El Paso center was relocated one mile inland from the US–Mexico border. Constructed out of concrete, cinder block, and brick, four rectilinear dormitories housed up to 192 men each. Women and juveniles were detained in separate church and charity facilities nearby. Archival photographs illustrate dormitories lined with windows letting in natural light and “latrines” include semi-private stalls (fig. 5). In an article titled “U.S. Detention Facility Almost Like Army Camp: Detainees Amazed at Fine Treatment,” the INS’s district director notes:

The camp was built as inconspicuous as it could be. . . . the absence of watchtowers and strict confinement measures are designed to make life easier to the deportee while in facility. The people detained here are not violent criminals. They merely are charged with being illegally in the U.S. and are awaiting investigation before being returned to Mexico, or whatever country they are from.²⁹

Nonetheless, as is standard now, the facility had twelve-foot fencing topped with electrified concertina wire that set off alarms when touched. Almost two hundred men were in sixty-by-thirty-foot barracks with no air-conditioning. Polished steel mirrors replaced glass that could be used as a weapon or to hurt oneself. An immigration official in El Paso conceded: “Any time you put a fence around a place, you can’t get away entirely from the feeling of prison.”³⁰ Which material components demarcate a prison from other facility types is a debate that continues to this day.

In the 1980s, embedded in the ongoing political machinations of the Cold War, a series of historic events and political crises, in combination with changing refugee law, eventually contributed to the expansion of detention practices. The Mariel boat lift from Cuba, Haitian refugee crisis, and protracted civil war in the Central American countries of El Salvador, Guatemala, and Honduras resulted in mass migrations. The Refugee Law of 1980—which expanded the Immigration and Nationality Act of 1952 whereby migrants from communist countries could be granted political asylum—made it so that anyone fleeing oppressive regimes could apply for asylum.³¹ Nationally, asylum applications filed climbed from 26,512 in 1980 to 101,679 in 1989, as it became increasingly difficult to expedite the deportation of “undesirable” refugees.³² Rather than release individuals into the community pending court hearings, the INS shifted policy toward detainment. This largely affected Central Americans entering through south Texas, Chinese entering in New York, and Haitians entering through south Florida. By 1988 so-called mandatory detention was enacted into US law, which triggered a need for more detention space.³³

Humanitarian crises manifested in a construction frenzy at Port Isabel, which due to its “strategic location” received over fifteen thousand asylum applications in 1989 alone, largely from Central American political refugees.³⁴ From February to March 1989, Port Isabel used temporary tents to expand its capacity from 425 to 1,800 persons; the following year the facility allegedly detained 10,000 people.³⁵

The Port Isabel and El Paso detention centers were (and still are) government-owned and -managed facilities whose material histories correspond with a logic of migration and international politics. El Paso has always been an

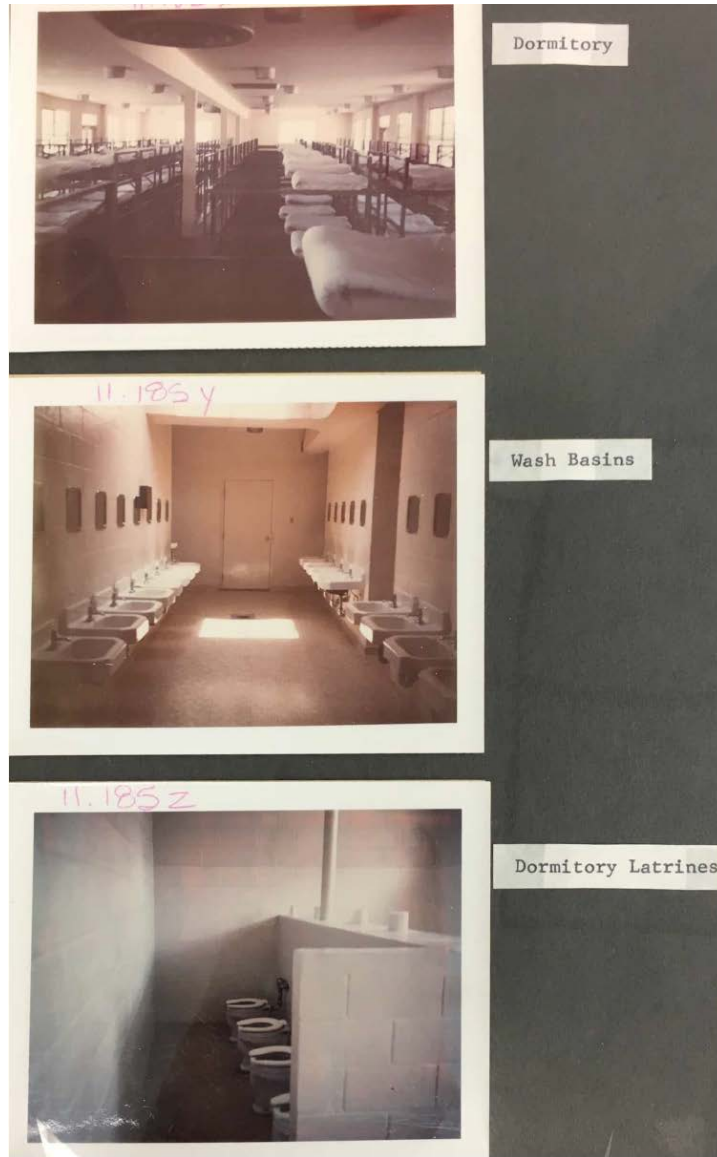


Figure 5. Border Patrol Station dormitory, "El Paso, Texas, Alien Detention Facility." US Citizenship and Immigration Services History Office and Library

important migrant crossing along the US–Mexico boundary, and Port Isabel is strategically located to address both maritime and land migrations. In keeping with this logic, Texas’s third processing station was built in the border city of Laredo in 1984.

Spatial Conditions for a Punitive Infrastructure of Private Detention

The reasons for where and why detention centers are built changed in the 1980s when—with the exception of city and county jails—private corporations began to shape the development of a detention landscape using a distinctly market logic independent of migrant routes, long-term immigration policy like the Bracero Program, or major historic events. Signaling shifting ideologies toward public institutions and the welfare state, the INS began contracting with private firms in 1979.³⁶ Initially, private companies offered food preparation, vocational training, medical assistance, and inmate transportation (as they had in the early 1900s before the government assumed the mantle of incarceration-related sectors). But, in the 1980s and 1990s, they began to construct privately owned facilities that were leased to governments for direct government operation.³⁷ The private prison corporation argued that it would save the government money in the cost of both construction and housing detainees daily. While these promises were untested, the private sector was able to deliver *faster* construction (buildings were erected in two to three years rather than five to six), and the government could finance facility construction in new ways.³⁸ Government officials could avoid requesting to increase public debt to build prisons through publicly-voted-on budgets; now, contracted facilities could be paid for via operational accounts rather than capital accounts, minimizing democratic engagement with and potential roadblocks to facility expansion.³⁹

Federal immigration policies and programs in the late 1980s and 1990s increased the number of persons eligible for detention. As argued by Patrisia Macías-Rojas, the war on drugs and rise of mass incarceration in a post–civil rights era played an important role in the rise of migrant detention and the merger of immigration and crime control, or what Juliet Stumpf calls “criminal migration.”⁴⁰ Noncitizens were occupying prison bed space needed for US citizens. Macías-Rojas tracks the “penal turn” in immigration enforcement through the implementation and growth of the Criminal Alien Program, established in 1988, which was charged with deporting noncitizen criminals but ended up resulting in larger funding streams for the INS to finance detention “beds” and expand immigration prisons.

Furthermore, the Illegal Immigration Reform and Immigration Responsibility Act of 1996, which greatly expanded the categories of migrants who were deportable and subject to mandatory detention, shifted the balance of who and how individuals were detained, turning smaller policy moves (like “mandatory detention”) into systemic detention. Shortly after, in response to 9/11, the INS moved from the Department of Justice to the Department of Homeland Security (which was split into ICE, Customs and Border Protection, and Citizenship and Immigration Services), funding increased for migration enforcement, and the language of “the war on terror” was incorporated into agencies responsible for immigration proceedings.

These policy measures coincided with Texas’s political climate of punishment, weakening rural economies, and borderland geography to make it a locus for prison and detention construction. In Texas, both Democrat and Republican governors in the 1980s and 1990s began turning away from reform and parole for civilian convicts toward a tough on crime—which translated into more prison time and prison beds—position.⁴¹ New civilian prison construction during this period bolstered private industry, which quickly pivoted to capture a burgeoning market in migrant detention.

In the 1980s and 1990s, punitive immigration policy and tough on crime politics mirrored developments in the design and construction fields. The building industry was increasingly rooted in ideologies of efficiency, expediency, and security with little, if any, attention given to shaping national standards or the psychological impacts of confinement. While not the focus of this essay, throughout the history of prison design, the extent to which the goals of incarceration can be enforced through formal design have been debated. Falling along a spectrum from punishment to reform, critical design elements include access to the outdoors, the size of cells or dormitories (from single occupancy to hundreds of persons), direct versus indirect supervision concepts, and the use of solitary confinement. Back in 1790, when the Prison Society passed a law to build solitary cells, arguing that if men were not transformed through “moral reform” then “the terror of isolation” would work, they asserted architectural form as determinative of social outcomes.⁴²

In the 1980s and 1990s, just as new prisons and detention centers were being envisioned and built in Texas, the *Justice Facilities Review*, an annual publication of the American Institute of Architects on “justice architecture,” documented prison design as turning away from notions of rehabilitation. Juries composed of three architects and three practitioners from the judiciary, corrections, and law enforcement repeatedly described prisons as “non-normative environments.”⁴³

Nonnormative environments, also referred to as the “hardening” of facilities, rely on small dark cells, caged recreational spaces, an absence of natural light (replaced by “borrowed light,” where skylights and clerestories are used to channel indirect light in lieu of windows), harsh fluorescent lighting, increase in use of concrete floors, crude signage, and minimal person-to-person contact. Reduced human contact is achieved by an “indirect supervision concept” that relies on video surveillance, video visitation, one-way glass, and nonoverlapping circulation spaces for both employees and inmates that can contribute to a sense that those incarcerated are always being watched while also interminably isolated.

By the end of the 1990s the jurors warned of the consequences of design: “Feelings were that once a facility is toughened, there may be no going back—it is difficult to rescind philosophical and architecture decisions.”⁴⁴ They argue that “the behavior of those confined and the response of those who operate these facilities will be directly influenced by the built environment.”⁴⁵ They even question the building of prisons themselves:

Our corrections and detention systems are racing to keep pace with an ever-increasing demand. With larger and larger facilities, design and construction are pushed to their absolute limits. The use of *prototypical designs* is a major trend. At the same time, good construction sites that are acceptable to our communities are few and far between. In many cases, facilities are located on sites with poor building conditions that drive up construction costs and extend the time required to bring the facility on line. The jury is especially concerned about the ongoing operational cost that will be the downside of this construction boom. Once again we ask, can we really afford to continue to try to solve our problems by building more beds?⁴⁶

In a chase to acquire government contracts, professional architecture firms often lost to construction companies and private prison corporations’ design/build teams who developed cost-effective technologies to standardize prisons, build them off-site, and use prefabricated designs. As noted in a trade journal, off-site, prefabricated, and modular construction satisfied a growing demand for “cost-efficient” prison beds: “Mass-produced modular cells or precast concrete or steel reduce cost and save time.”⁴⁷ Building fully wired and piped rooms off-site also solved the problem of finding skilled construction workers available to build jails in remote locations. Construction teams experimented with “technology integration” such as video installations that would replace face-to-face court hearings or person-to-person visitations. New technologies in combination with specific prison layouts attempted to maximize surveillance without increasing staff. These design trends are geared to lowering the “long-term operational costs,” many of which are associated with staffing facilities

in rural localities.⁴⁸ The construction industry was especially keen to the fact that “staffing is one cost factor that may be addressed by design.”⁴⁹

In the early 1980s local firms often built and designed local jails, but by the 2000s building jails, juvenile detention centers, and prisons was a veritable “niche for contractors.”⁵⁰ The Texas firm Hale-Mills Construction (one of several) has relied on prison construction as its second-largest source of revenue after retail space, producing over \$590 million for the company since its founding in 1971.⁵¹

By the 2000s, private prison companies were no longer capitalizing on a detention market: they were attempting to influence immigration policy.⁵² Between 2004 and 2014, Corrections Corporation of America (now CoreCivic) and GEO Group spent \$22 million lobbying the government with regard to immigration issues; \$10 million was focused solely on Homeland Security appropriations. As Geo stated in its 10-K report: “Immigration reform laws which are currently a focus for legislators and politicians at the federal, state and local level also could materially adversely impact us.”⁵³ This lobbying money parallels congressional changes. For the first time in history, the Department of Homeland Securities Appropriations Act of 2004 allocated money to fund eight thousand detention “beds.” By 2010 this provision became a so-called bed quota, with the government funding the maintenance of thirty-four thousand beds daily. The 230,000 persons detained in 2005 rose to 440,000 persons by 2013, with government spending increasing from \$7 million to \$2 billion annually.⁵⁴ ICE’s policies implemented after 2005 such as Operation Streamline or the end of “catch and release” continued to increase those eligible for detention, as well as criminalize predominately Latinx migration.⁵⁵

The US government is not driving the design decisions that translate this detaining boom into bricks and mortar. In 2007 ICE published a *Design Standards* manual to “establish operational directions and architectural relationships for ICE spaces.”⁵⁶ Companies like Geo Group refer to this manual for detailed information about ICE’s “organizational, operational, and functional” requirements, or programmatic aspects. Plans, photographic illustrations, and dimensions describe ICE offices; even the fax and copy machine room is drafted. However, the manual does not provide detailed specifications for the facilities’ primary program—the detainee living quarters. After 250 pages, the section titled “Detainee Living Zone” is blank. The following pages read “Contractor Responsibility.” These spaces are “typically defined and controlled by the Contract Detention Facility Service Provider,” such as Geo Group.⁵⁷ The design of the detainee living quarters exerts great influence over the daily lives

of noncitizens in ICE custody; while ICE controls the amount of daylight in its own offices, they deem corporations as better suited to determine migrants' architectural standards.

Penal Model of Migrant Detention

The incremental construction of facilities in Texas institutionalized the above policy and architectural trends into a penal model of migrant detention. This model makes little material distinction between prisons and detention. Like prison construction, detention centers are built quickly out of temporary or modular building components at inhuman scales that hold hundreds if not thousands of people. Facilities are geographically isolated from critical networks, designed to support punitive management and increasingly rely on remote surveillance. The largest spike in facility construction occurred between 2005 and 2010 (postlobbying), when at least eleven detention facilities and city and county jails used to detain migrants were erected on average 105 miles from the nearest city with pro bono legal services.⁵⁸

Private industry played a great role in the design and siting of these facilities. Whereas CCA/CoreCivic built one of the nation's first private detention facilities in 1984 in Houston, arguing that it saved the government more than half the cost of building a new 350-person Service Processing Center, all subsequent construction has occurred in small rural towns.⁵⁹

The first private-rural facility constructed in 1985 was written up in the *Del Rio News Herald*. The article, "West Texas Site Wanted for Alien Detention Center," detailed plans for a \$450,000, fifteen-thousand-square-foot building on five acres of land. The project would be a minimum-security unit that housed a maximum of two hundred inmates and employed twenty to twenty-five local residents. Del Rio mayor Jim Shumann agreed that the center would be a "good opportunity for Eden and Concho County."⁶⁰ Prison prospectors promised counties suffering from declining agriculture and oil industries that prisons would provide economic benefits, without seasonal changes, from incoming jobs and handsome profits.⁶¹ Eventually counties began to compete for such "opportunities" by donating land, upgrading sewer systems, or offering property and tax abatements.

As contracts accumulated throughout the 2000s, corporations innovated expedient design and construction; rather than two to three years, facilities were constructed in twelve to eighteen months.⁶² These projects were also growing in size.⁶³ The Willacy Detention Center, built on the outskirts of the small farming community of Raymondville in 2006, is an migrant detention

camp with a capacity to detain two thousand people that was erected in ninety days. Modestly tested at McAllen in 1953 and Port Isabel in 1989, by 2006 methods for building temporary structures quickly evolved into a sophisticated science designed to minimize investment and maximize profit in the near-term. Sprung, a company that specializes in “high performance fabric building solutions,” designed and fabricated ten two-hundred-person pods out of synthetic Kevlar fabric.⁶⁴ Using this product, Hale-Mills Construction company built a permanent detention facility at Willacy in record time. Willacy is also an example of a detention camp that was then repurposed as an immigration prison or CAR facility.

Aerial views of the footprints of detention facilities and one architectural plan available to the public through the ICE *Design Standards* manual provide evidence of the material overlap between prison design and detention design. In aerial view, detention center footprints cohere with the barracks, telephone pole, radial, self-enclosed, singular and comb layouts typical of nineteenth- and twentieth-century prisons. The ICE manual published a plan of the South Texas Detention Center (known by its location in Pearsall) that illustrates a “telephone pole” layout, where parallel rectangular spaces connected by a central spine control interior circulation. Classification and categorization are fundamental to Pearsall’s organization; the southern wing houses female and juvenile dorms, and the northern wing houses men in stacked dormitories. Three wings used for solitary confinement radiate from the end of the spine, with a panoptic view from a room positioned in the central crossing (fig. 6).

This architectural plan, however, illustrates innovations that are unique to twentieth-century detention design. Here, a federal courthouse is embedded in the facility, built merely as an additional room. Similarly, the hospital is a series of rooms in the facility rather than a separate building. Color coding in the plan’s key labels these two areas as “Other Government Owned” (i.e., “other” than ICE). The “intake-processing” area as well as “removals” is “ICE Operated.” The building’s dorm units and solitary confinement are “Contractor Operated.” In the case of Pearsall, Geo Group technically owns and manages the facility, but the key shows at least three distinct and autonomous juridical spaces. Geo Group is thus tasked with providing spatial islands for the federal government to exercise its authority without influencing the outcomes.

The contractor-operated dormitories are the spaces that shape migrants’ daily lives. Understanding their layout and how they are experienced requires testimonies from those who have endured them. In an interview, Miguel, an asylum seeker from Colombia, drew the “pod” where he spent four months at Pearsall as he awaited trial. The drawing illustrates a large rectilinear space

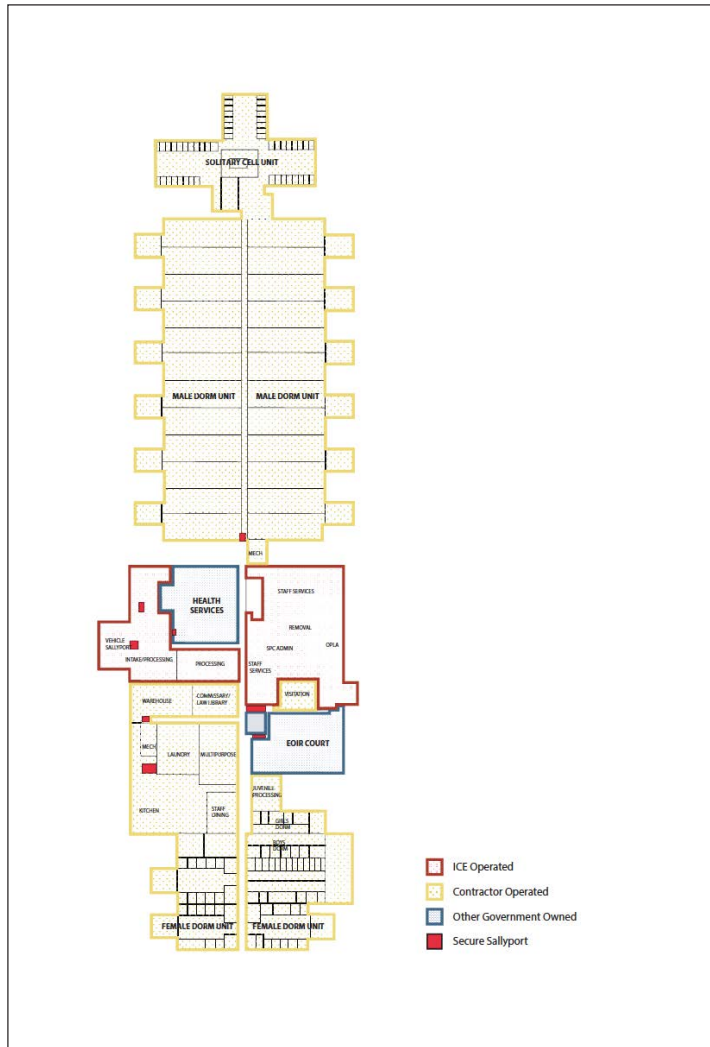


Figure 6. South Texas Detention Center, Geo Group Inc., Pearsall, Texas. This schematic rendering is based on the only publicly available architectural drawing of an immigrant detention center found in the 2007 ICE *Design Standards* manual. Drawing by Anjulie Palta, 2018

lined with bunk beds on each wall. Two long tables line the center of the room. Each end has a television. Bathrooms and showers are depicted at one end; a recreational room is on the other. Across from the bathrooms is a small private room. He explained that one hundred men (from all over the world) slept; ate breakfast, lunch, and dinner; went to the bathroom and showered; prayed and played basketball or paced in this pod twenty-four hours a day, seven days a week, with few breaks or exceptions. The bathrooms are not private. Men (and female guards) witness others defecating. The pod has no skylight or windows. The outdoor space is a caged “rec room” with a narrow clerestory at the top that is covered with concertina wire (fig. 7).

As described earlier, lack of fresh air and natural light is a mechanism of spatial punishment. The ICE *Design Standards* manual considers this and requires facilities to have recreational spaces, which can occur in two settings: a large “centralized recreation field” or a “small recreation yard located directly adjacent to the housing area.”⁶⁵ From both ICE’s and the corporations’ point of view, small yards are preferable; a small yard “reduces the amount of detainee movement and associated escort supervision.”⁶⁶ The small caged room at Pearsall is defined as a “yard” when in actuality it is an extension of the dormitory. With few, if any, opportunities to go outside, men negotiate the psychological and corporeal states of ninety-nine other individuals, exacerbating experiences of claustrophobia, dislocation, and disorientation. A man from Singapore brought to the US as a child and detained at Pearsall for ten months recalls: “You really don’t get to see the outside, you don’t get to see the grass or whatever” unless you crouched toward the ground to peer through a “very small drain hole for the water to flow out of the rec area. If you look through that you were able to see the grass on the other side.”⁶⁷

Detention facilities have an abstract and generic architecture that conjures a “utilitarian neutrality” similar to Walmart and Amazon facilities, yet the design choices embedded in their form are neither absent nor unimportant.⁶⁸ Rather, private prison corporations that view detention as a problem of management rather than a space that shapes daily experience for thousands of people rationalize design choices through a logic of efficiency and economies of construction. A top manager of JE Dunn Construction, an international firm that has built several prisons, detention centers, and Border Patrol stations in Texas, described the driving factor behind detention design as “cost per bed.” This echoes Geo Group’s design and management philosophy, which emphasizes “cost effectiveness” as one of its prime objectives, achieved by building with

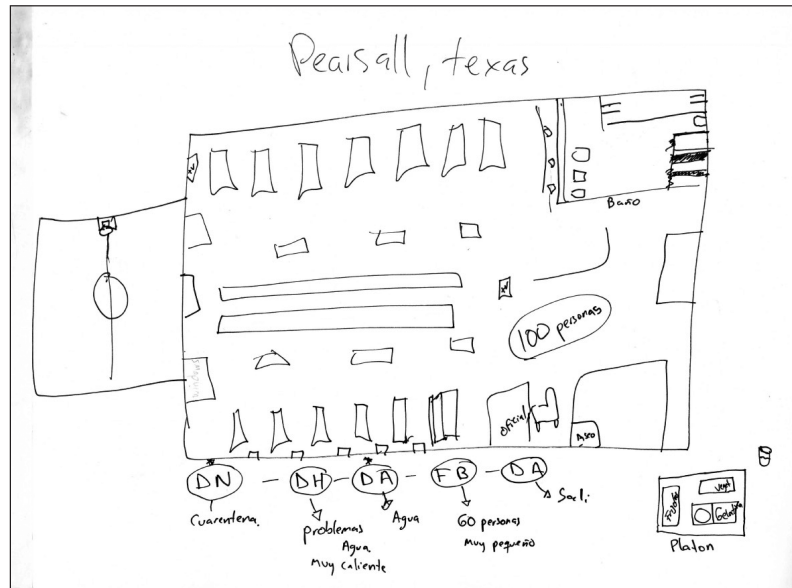


Figure 7.
Cognitive Drawing, Miguel, Austin, Texas, 2015.
A migrant drawing of his dormitory or "pod" in Pearsall, where alongside ninety-nine other men he spent four months. Drawing by Miguel, facilitated by Jessica Carey-Webb and Sarah Lopez, 2015

future expansion in mind.⁶⁹ In so doing, noncitizen populations are guinea pigs used to test new low-cost technologies of immobilization.

These low-cost technologies result in single-story facilities that are one large mass broken up with interior masonry partitions and covered with a flat roof. Designing discrete buildings for offices, dormitories, courthouses, and separate yards would cost more. Ever-larger dormitories that house fifty to one hundred men rather than cells with two to eight persons compromises individuals' privacy and security but keeps costs down. These technologies are not limited to the formal aspects of design; they are also evident in facility management. While this is currently being challenged in court, for years corporations have hired noncitizens to work at the facilities in which they are incarcerated for one to three dollars a day.

While the siting of detention facilities has an ambiguous impact on the cost of detention, it has a damning effect on migrants. Land in rural localities is cheaper, but the labor and expertise needed to build is more expensive, and it is hard to secure experienced employees. This siting, however, may increase

one's time in detention. Immigration lawyers argue that legal representation greatly increases one's chance of winning asylum and reducing sentences. As Alison Mountz notes, by limiting migrants' access to services, press, and legal support, as well as family and friends, "geography is used to deny access to rights."⁷⁰ Furthermore, migrants are relocated from New York or Florida to Texas, resulting in what Nancy Hiemstra calls a "chaotic geography" of immigrant detention whereby migrants lose representation after they cross state lines and are relocated far from airports.⁷¹

In the context of detention, "cutting costs" is a euphemism for both governmental agencies and private corporations making *design choices* that take the specific needs and requirements of the migrant population into account.

"Civil Detention"

In 2012 ICE announced its "first-ever designed-and-built civil detention center" in "the entire history of immigration detention."⁷² While certain features echo existing facilities such as a two-story perimeter wall and a sally port for vehicles to drop off apprehended persons in a secure zone, Karnes County's design is unique. The detainee "living quarters" are small, approximately eight-person rooms with private bathrooms in a two-story building that wraps around and is open to an interior courtyard. This means detainees have access to natural light, outside air, and outdoor space. There is also a significant change in the rules governing the space: detainees can leave their rooms and occupy different parts of the building at will for most of the day. Computers with internet service and phones are accessible, and visitation does not occur through a glass partition (fig. 8).

Karnes's location fifty-two miles outside San Antonio on a farm to market road that leads outside town, however, means that like previous facilities this one is removed from urban resources such as legal advocates and social workers. In the Rio Grande plains region, on productive soil once used for grain, sorghum, corn, and hay, Karnes is adjacent to another prison, which, alongside a series of oil fields, transitions the local economy away from agricultural dependency.

While it is tempting to read this new "civil detention" center as an improvement to the infrastructure of migrant detention, understanding these design decisions in a broader context reveals both the limitations of formal design to fix a broken immigration system while also asserting the importance of the role of architecture and design in a potential rethinking of that very system.

Karnes was built due to both public pressure and migrant resistance. By the mid-2000s, Texas's growing detention infrastructure was met with increasingly

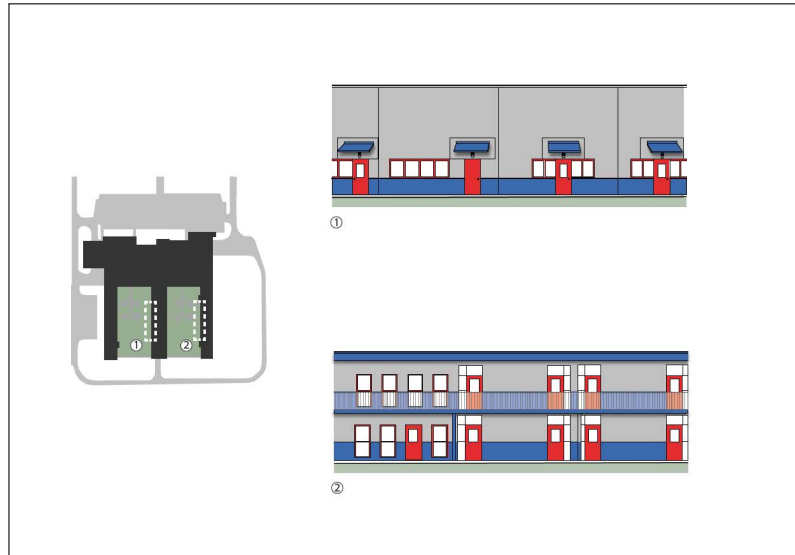


Figure 8. Karnes County Civil Detention Center renamed Karnes County Residential Center, Karnes, Texas. This is the first and only example of the Immigration and Customs Enforcement's efforts to build a "civil detention" facility. In Argenta Architecture's winning design, migrant living quarters are erected around a double courtyard. Drawing by Anjulie Palta, 2018

frequent protests and allegations of abuse from detainees, migrant activists, and legal counsel. Wardens were fired for rape, asylum seekers and migrants received substandard medical attention, and scores of individuals went on hunger strike to protest protracted stays without hearings and inhumane treatment.⁷³ Migrants committed and attempted suicide at increasing rates.⁷⁴ In 2008 protests turn violent when Reeves Detention Center erupted in riots over the unexplained death of an epileptic detainee.

A year later, ICE conducted an internal audit of its facilities:

As a matter of law, Immigration Detention is unlike Criminal Incarceration. Yet Immigration Detention and Criminal Incarceration detainees tend to be seen by the public as comparable, and both confined populations are typically managed in similar ways. . . . With only a few exceptions, the facilities that ICE uses to detain aliens were originally built, and currently operate, as jails and prisons to confine pre-trial and sentenced felons. Their design, construction, staffing plans, and population management strategies are based largely upon the principles of command and control.⁷⁵

This audit prompted the creation of ICE's Office of Detention Policy and Planning. The creation of this office is a startling admission: the majority of ICE facilities were constructed *without* a formal mechanism in place for the federal government to distinguish so-called detention from incarceration, and without a clear government position on the relationship between facility design, planning, and policy. As Jonathan Simon argues, "Prisons have often served as a site for . . . establishing national standards."⁷⁶ By holding an architectural competition to design a new model of detention, ICE identified design as a means toward institutional reform.⁷⁷

Rather than bring about a fundamental spatial and material change to the system, however, the Karnes facility has become a one-off representational showpiece amid an otherwise still-existing penal landscape of detention. Initially built to house low-risk, first-time male crossers (many of whom were asylum seekers), in 2012 Karnes was repurposed as a family detention facility to detain women and children.⁷⁸ At this time, ICE director Henry Lucero conducted media tours; detainees were rebranded as "residents," guards became "resident advisers," and cells or pods were called "suites." The Karnes County Civil Detention Center was renamed the Karnes County Residential Center. These media tours made photographs of Karnes interior, difficult to obtain for most facilities, available on mainstream websites.

Aesthetic upgrades and the linguistic rebranding of detention inspired ire from conservatives. Jessica Vaughan, the director of the Center for Immigration Studies, addressed Congress during a hearing titled "Holiday on ICE": "Descriptions of the brand-new ICE detention facility in Karnes City, Texas evokes images of college campuses where parents pay room and board." ICE reforms "trivialize immigration law enforcement and minimize the consequences of illegal immigration." Rather than build humane centers, "the humane thing to do would be to make clear to these illegal aliens that immigration to the United States is a false dream for them and help them return home and get on with their lives."⁷⁹ Her assertion positions existing facilities as bearers of an anti-immigrant and law-and-order fundamentalist perspective.

However, the social and sexual violence that has occurred at Karnes since it became a family facility challenges the conception of Karnes as a more humane facility. Female detainees have endured alleged rape (sometimes perpetrated in front of children) and received substandard medical attention. Two women at Karnes have tried to commit suicide, and multiple women have endured hunger strikes to advocate for the release of their family while they await trial.⁸⁰ Here, analysis of architecture presents a dialectic: from the perspective of daily

experience, access to the outdoors is qualitatively better than spending months in a windowless pod, but the larger lesson of Karnes is that formal design alone does not and cannot provide a solution to the current immigration system. An institutional reform of ICE practices demands a much broader rethinking of the relationship between architecture, immobilization, and the processing of immigration claims.

From “Man-Days” to Beds

In an INS record from 1976, detention and deportation costs are described under the following headings: “average cost per man-day of detention” and “average cost of detention per alien.”⁸¹ In contemporary ICE contracts, the words *alien* and *man* are replaced with *beds*; contracts include guaranteed minimums for “Beds Per Day.” This synecdoche, symptomatic of the dehumanization of migrant persons, is also evidence of the central role of architecture and its beds in ICE and industry’s imagination, used as a rhetorical device to distance the engineers of detention space from their involvement in incarcerating largely innocent people.

The architecture of detention matters. Every day, architectural design grants or prohibits a person’s access to the sky. As a state architecture, the detention center sends a clear message to a global audience, and to individuals who become new Americans, about American core values, ethics, and responsibilities toward the world’s migrant populations. Architecture is also a critical form of evidence of how the US immigration policy and detention system operates, and for whom.

Tracing a history of building a detention infrastructure in Texas alongside a history of immigration and detention policy is an important reminder that immigration policy and design are not separate realms; they are mutually constituted and they reinforce each other. Thus it is problematic that the federal government ostensibly drives policy while private corporations drive design. The government has granted corporations broad powers to make decisions about where to locate centers, how to house detainees, what information is publicly available, and how to manage daily routines. As a result, private industry is not merely implementing US immigration policy; it is shaping it.

The design and management of facilities present clear evidence of the often-unstated US position of extreme punishment as the basis of a US detention philosophy, largely embodying the values of a neoliberal pro-privatization and anti-immigrant bloc wedded to law-and-order fundamentalism. The dis-

tance between corporate practices and democratic processes also means that fundamental values of transparency and access are here compromised. While building detention facilities might appear to be a benign step toward realizing immigration policy, this history illustrates how the design, construction, and management of facilities by private corporations is, in part, designing immigration policy itself.

Perhaps most important, focusing on design and architecture as a critical aspect of immigration policy provides an opportunity to rethink spatial systems. Tracing the history of building a system is essential to imagining its undoing, to developing a “spatial imagination” that reimagines what the relationships are, and should be, between migrants, citizens, and their environments.⁸²

Notes

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