

**Testimony from Lynn Tramonte, President, Anacaona LLC and Director,
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**On Immigration Policy Origins, Costs, Consequences,
and a Better Approach**

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Introduction

My name is Lynn Tramonte and I have been a Cleveland Heights resident since 2007. When I decided to move back to Ohio from Washington, DC in 2007, I intentionally chose to live in the Heights because of its racial and economic diversity, small town community feel, and values.

After starting my professional career as a consultant for the Immigration and Naturalization Service (currently, the U.S. Citizenship and Immigration Services branch of the Department of Homeland Security), I worked for national immigration policy and advocacy organizations based in DC for twenty years.

Anacaona provides media strategy and communications support for groups such as the Interfaith Immigration Coalition, Center for Immigration Law and Social Policy, International Institute of Akron, Essential Ohio Campaign, and Catholic Legal Immigration Network, Inc. I also am a freelance book coach, writer, and editor, consulting for Cleveland Edits, Get Published Now, and other non-profit organizations and socially responsible companies.

I am Director of the Ohio Immigrant Alliance, a group of immigrants and allies working together to make Ohio a better, more welcoming place for immigrants. We have worked on anti-detention and anti-deportation campaigns since 2007 (under different names). Currently, our priority is #ReuniteUS, a campaign to bring deported people home to their families and communities.

We recently published the first ever Ohio Migration Anthology, *Far From Their Eyes*, which includes stories, essays, paintings, and poems from various Ohioans with a connection to migration, including several in the greater Cleveland and Akron area.

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I am grateful for the opportunity to share my thoughts on immigration policy, democracy, and the immorality of financial incentives for incarceration.

Level Setting: Immigration Law and Policy

Being in the country without a visa is a violation of federal civil, not criminal, law. Immigration is the only area of civil law I am aware of that allows people to be incarcerated while they are going through a court process to resolve the matter.

For example, people going through an eviction are not jailed as the process plays out. That would not only be cruel, but counter-productive. It would keep them out of the workforce and unable to contribute to their debts. They would be unable to care for their kids, putting children at risk and extra strain on other family members and social services. Finally, the result of eviction—homelessness—is an extreme consequence and one that the law and policy should try to avoid whenever possible.

(While debtors' prisons are technically illegal in the United States, localities have found ways to exploit loopholes, but that is a topic for another day).

In the immigration context, the federal government uses incarceration to coerce people into accepting deportation, rather than continuing to fight their civil cases from jail. Incarceration is extremely expensive and emotionally taxing for families. It takes breadwinners out of homes and adds new costs for families (price-gouging phone and video calls, commissary accounts, and additional legal expenses, since lawyers costs rise when the person is detained and harder to access). Children, spouses, and the detained person all experience extreme emotional distress that can cause life-long, debilitating consequences.

Being detained makes it infinitely harder for an immigrant to find and pay a competent lawyer, and gather documents and evidence needed in their cases. That is actually the whole point of detaining immigrants for civil violations.

In Ohio, immigrants with lawyers are ten times more likely to win their cases if they have a lawyer. This means that Ohio immigrants who have a right to remain here under current law are losing their cases only because they are detained.

Racism Embedded in U.S. Immigration Law and Policy

The Reagan administration launched today's immigration jail system as a response to the exodus of Black men from Haiti and Cuba who were fleeing oppression and seeking asylum. The Reagan administration was well aware of the fact that the policy

“could create an appearance of ‘concentration camps’ filled largely by blacks,” and did it anyway. They invited private prison companies to carry out this mass incarceration. Federal immigration detention was the catalyst for the immoral “incarceration-for-profit” industry we are grappling with today.

By jailing people who are requesting asylum, we are essentially criminalizing the status of being a refugee. This despite the fact the United States has signed numerous international treaties committing to protecting refugees, after our failure to do so during the Holocaust.

Congress created some criminal penalties in immigration laws; an example is “entry without inspection” and “re-entry after deportation.” They are used as leverage to get immigrants to accept the civil consequence (deportation), avoiding criminal prosecution and lengthy federal prison sentences.

It gets worse. In a Supreme Court brief, professors from Columbia and UCLA document how the 1929 laws that created these criminal sanctions were progeny of an explicitly racist scheme to keep Mexican workers “in line.” By design, the statute would only implicate Mexican people (and now others) crossing a land border to work in the United States, not European migrants arriving on boats (and now planes).

The illegal entry/re-entry statutes were a compromise between Nativists who did not want Mexicans “diluting the racial purity” of the United States and agribusiness representatives who wanted Mexicans to work for them and not have rights. Keeping Mexican workers “under the thumb” through the constant threat of criminal prosecution kept them quiet on the job and provided a safety value through deportation if the population grew too large. As a businessman from Texas put it: “If we could not control the Mexicans and they would take this country it would be better to keep them out, but we can and do control them.”

This effect remains in force today, on the farms and factories in Willard, Norwalk, Salem, Lake County, and Ashtabula County, to name just a few places nearby.

Costs and Consequences

The size and scope of the federal immigration police force has increased dramatically over the past forty years, starting with the detention of Haitian and Cuban men mentioned previously and moving on to the aggressive policy at the southern U.S. border, which resulted in tens of thousands of deaths, as migrants took to more remote crossing points to try get to jobs they knew were waiting.

According to the [American Immigration Council](#), the Border Patrol’s budget increased 10-fold since 1993. Immigration and Customs Enforcement (ICE) was created in 2003,,

and its budget has already more than tripled. Congress appropriates enough money for the agency to detain between 35,000 and 55,000 immigrants per year, depending how the administration allocated funds.

Again, these are people being put in jail while they seek asylum in the courts, or other relief from deportation. This is considered “civil detention,” not punishment, but it looks, feels, and smells like a criminal sentence of unknown length.

In addition to the federal government, county governments and private companies profit off of the incarceration, monitoring, and deportation of immigrants. That profit creates a perverse incentive that ensures the system’s growth and survival, until we—who ultimately pay these costs—stand up and refuse to let our money go toward inflicting more pain and misery.

In Ohio, the jailers profiting from immigrants’ misery are county governments: Geauga and Seneca. CoreCivic used to detain immigrants for ICE in Youngstown at the Northeast Ohio Correctional Center, and Butler and Morrow Counties also used to have ICE contracts, but those have since ended.

The NEOCC has a history of medical neglect and mistreatment for which several lawsuits have been filed. [Goura Ndiaye](#), a refugee from Mauritania who lived in Ohio for decades, was deported by the prior administration with his hip completely detached from his body, following medical neglect by ICE and NEOCC.

This month, the Department of Homeland Security Office of Inspector General released a [report](#) indicating that NEOCC had failed to comply with protocols related to suicide prevention, record-keeping, and other issues in the death of an immigrant detained there for ICE, plus five areas of concern regarding medical care, safety, and security at the facility. Sadly, another life was lost, apparently due to suicide, just this month as the OIG report was issued.

The Butler County Jail is [notorious](#) for racial bias and physical assaults against detained immigrants and citizens, and lost its contract with ICE this year. The Morrow County Correctional Facility is also prohibited from housing immigrants for ICE after the Sheriff’s ineptness and malfeasance led to a [100% COVID infection rate](#) and a sharp rebuke by a federal (Trump-appointed) judge.

“Through inadequate testing, inadequate observation, and inadequate isolation strategies, Morrow allowed its infection numbers to soar exponentially, and now every detainee in the large and small dormitories has been infected. This reckless, out-of-control spread of infection is constitutionally unacceptable,” Judge Sarah D. Morrison [wrote](#) in a judicial order mandating the release of some people detained for ICE at this jail).

Beyond traditional incarceration (jail) costs, profits are also made through mark-ups on food, clothing, and bedding in jail commissaries; exorbitant fees for phone and video visitation; high immigration bonds that must be paid in their entirety and surcharges on “lending services” for those who can’t pay \$25,000 for their freedom; charging individuals’ for remote monitoring and ankle bracelets if they do win release; and charter deportation flights or commercial plane tickets if they lose their cases. The list goes on and on.

I cannot say that lawyers representing immigrants profit from this system, since those who work with detained people are poorly paid and operate under extremely difficult conditions. There is no indigent right to counsel in immigration matters, despite the deprivation of liberty, and representing someone in detention costs more than representing a free person. Many lawyers do so at great personal and financial sacrifice, because if they do not, who will? We need a guaranteed legal representation program for people facing such life-altering consequences as deportation. .

On top of the new costs of incarceration and deportation, incarceration takes a breadwinner out of the home. Poor families become poorer; teenagers have to take on financial and emotional burdens far beyond their years. Futures are stunted and some become homeless.

These are the personal and societal costs to families going through a loved one’s incarceration and deportation, some of which can be quantified, but whose impacts are most keenly felt psychologically.

Implications for Local Governments and Communities

Federal immigration laws are a mixture of mostly civil and some criminal provisions. Immigration law is one of the most complex, contradictory, counter-intuitive, and constantly changing areas of law and policy. Various federal courts have jurisdiction over these issues and set their own precedents. The federal administrative branch also has extensive authority to change how the law is applied. For example, the U.S. Attorney General has the power to “certify” and make precedent-setting decisions himself, in specific immigration cases.

The Constitution prohibits states from creating their own immigration laws. State and local governments do not have any immigration law training, much less access to federal immigration files and updates to the law and policy. They have no power to write immigration law and policy they are sometimes asked to enforce.

All this is true because immigration is a strictly federal function.

The line between federal immigration enforcement and local police used to be clearer. But following the September 11th, the Bush administration and then the preceding administrations intentionally blurred the roles.

In “Assumption of Risk: Legal Liabilities for Local Governments that Choose to Enforce Federal Immigration Laws,” legal and civil rights experts describe how assisting ICE in enforcement of civil immigration laws, including detaining immigrants beyond the scope of a criminal sentence, violates the Constitution and exposes localities to legal action.

Arizona taxpayers are on the hook for over \$200 million in legal fees, retraining, evaluation, hiring, and other reforms needed to eradicate immigration-based racial profiling from the Maricopa County Sheriff’s Office. This results from a decade of litigation about former Sheriff Joe Arpaio’s implementation of a multi-layered immigration enforcement scheme at the county level.

The county of Kent in Michigan was ordered to pay nearly \$200,000 to a U.S. citizen Marine vet, Jilmar Ramos-Gomez, for its role in arresting and detaining him. The Detroit ICE field office incorrectly insisted he was an undocumented immigrant.

Local governments might assume that the federal government would not ask them to break the law. That assumption is wrong. In fact, the federal government seems to have little to lose, other than credibility and relationships, by engaging local police this way. Their zeal to enforce immigration laws, the sheer size of the immigration detention and deportation system, and the lack of low cost legal resources to protect immigrants’ rights allow a lawless system to flourish.

Not only can a local role in immigrant enforcement expand racial profiling and cost taxpayers financially, but it also harms communities by fracturing relationships and sowing fear of the police. Given the city’s need to address potential racial bias in policing already, a strong policy prohibiting partnerships with ICE and training about how to not cross the line seems crucial.

What to Do Instead

Instead of the current immigration system that treats refugee status and work as a crime, I support a dramatic shift in immigration law and policy as per the recommendations of Peter L. Markowitz in his report “A New Paradigm for Humane and Effective Immigration Enforcement.”

Markowitz makes two key points: one, that detention and deportation is an extreme consequence for a civil law violation. Deportation means permanent banishment from one’s home, job, family, and life as they have known it—all for a paperwork violation. Does that sound fair? Of course not.

Second, the rule of law starts with reasonable laws, and the ability for discretion to be exercised when circumstances warrant a reprieve or alternative. In other areas of civil law, compliance is the goal, not pain and punishment.. When laws are so out of step with morality, they become impossible to enforce without serious, negative consequences for people and families.

A healthier immigration system would prioritize getting into compliance with the law over punishment and criminalization. Markowitz' recommendations include:

- Simplifying and streamlining immigration laws and grounds of deportation;
- Replacing punitive enforcement strategies with a system that allows for mediation, proportionate consequences, and a fair path to compliance;
- Dramatically reducing the use of incarceration in civil immigration matters
- Creating a federal legal services corps for immigration cases, similar to the public defender model in criminal cases; and
- Transforming U.S. immigration courts into a fully independent judiciary, outside of the control of the political branches of government, among many other reforms.

To respond to decades of a failed, disproportionate system in action, we are also recommending a program of citizenship for immigrants working in the United States without papers today. Finally, the Ohio Immigrant Alliance is also calling on the Biden administration to do everything in its power to allow deported people to return to their families in the United States.

Hundreds of pages of research document the significant harm that immigration raids, detention, and deportation have on children and families. The Trump administration executed several mass immigration raids in Ohio targeting nursery workers and protein processors, and families remain fractured.

Detention and deportation are not reasonable responses to an immigration paperwork problem, and the city of Shaker Heights should take no role in implementing such a devastating punishment on our residents.

Postscript

I'll end with this observation from my friend Saidu Sow, a Black Mauritanian man who came to the U.S. seeking asylum and left, decades later, on a deportation plane. He'd been in immigration jail for three years before his deportation in July 2021. Yes, deportations are still happening and they are still happening to good people.

This is what Saidu told a student journalist, Grace Goldstein, who interviewed him for the Kenyon Collegian magazine:

What I saw in ICE custody, it's horrible, and it's inhumane. And it was done by professional people who represent a state, or people who represent a federal government. And that's something that I will...I will not stop talking about. And I understand it was just a bad person who's lucky to get a job, and they abuse their authority. And they did things that they shouldn't, though, that is unequal, and inhumane. But, I had nobody to talk to at the time. But I'm glad I talked to you. And I'm glad that you're listening to what I'm telling you as well.

Are you listening?

The full interview with Saidu Sow and other interviews, essays, poems, stories, and paintings from Ohio immigrants and people connected to migration can be found in the new book, Far From Their Eyes: Ohio Migration Anthology, published by Anacaona for the Ohio Immigrant Alliance. See <https://bit.ly/OMAVolumeOne>.