

ICE Is the Ugly Face of Big-Government Populism

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Rather than address its egregious abuses, the Republican Party is uniting in praise for the agency.



Norsk Telegrambyra AS / Reuters

House Republicans passed [a resolution](#) Wednesday that lauded as “brave” and “heroic” the federal workers of Immigration and Customs Enforcement, or ICE, the bureaucracy that identifies, arrests, immiserates, imprisons, and deports unlawful immigrants (though *not* the one that stands guard at the border to stop unlawful entries).

Two hundred and forty-four GOP representatives voted in favor.

They want to be seen as standing up for law and order while portraying Democrats who are critical of ICE as favoring “open borders.”

The nonbinding, symbolic resolution is of a piece with the GOP’s treatment of the agency as a political opportunity more than an arm of the federal government that is prone to abuses—not because its personnel are uniquely deplorable, but because it aggressively intrudes into relatively powerless communities, mostly deals with people who lack money for quality legal aid, and is under no obligation to provide those it arrests with attorneys in the vast majority of cases, as they concern civil rather than criminal infractions.

Consider the GOP's posture toward ICE in relative terms.

Cast your memory back to the Obama administration. Imagine that House Democrats in those years had passed a resolution lauding Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) personnel shortly after the revelation of [the gun-walking debacle](#), or a resolution with effusive praise for the personnel of the IRS shortly after it was revealed that the revenue agency [applied more intensive scrutiny to political nonprofit groups](#) that tried to secure tax-exempt status.

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Now consider ICE’s recent record—and behold the GOP piling effusive praise on bureaucrats whose ineptitude and misbehavior is flagrant and damaging, even as it agitates to give that bureaucracy more money without anything approaching sufficient effort to reform its abuses.

Among the dysfunctional ICE bureaucracy’s most egregious shortcomings: the wrongful arrest and incarceration of U.S. citizens and legal residents. Davino Watson was [wrongfully imprisoned](#) for 1,273 days. [Sergey Mayorov](#) was wrongfully imprisoned for 324 days.

Mark Lyttle was [wrongfully imprisoned](#) for 53 days, then wrongfully deported and “forced to cross the Mexican border on foot with only \$3 in his pocket,” an ACLU summary of his ordeal alleges. “Lyttle endured 125 days wandering through Mexico, Honduras, Nicaragua, and Guatemala, sleeping in streets and shelters, and even being imprisoned in a Honduran jail, before he was finally referred to a U.S. consular officer in Guatemala who actually listened to his story. The officer obtained confirmation of Lyttle’s U.S. citizenship by calling one of his brothers who serves in

the U.S. military. Only through the extensive efforts of Lyttle's family and a lawyer was he finally able to return."

One might imagine that plucking Americans out of their lives, strip-searching them, confining them to cages, and rendering them terrified, unable to work, and unable to see their families would be considered as scandalous by the GOP as the wrongful application of extra scrutiny to nonprofit organizations seeking to obtain tax-exempt status.

Yet every House Republican except the unusually principled Representative Justin Amash is now on record extolling the personnel of the agency that subjects hundreds of Americans each year to either wrongful arrest or the wrongful extension of federal or local incarceration.

NPR [reported](#) on the phenomenon just before President Donald Trump took office, highlighting the case of an American named Lorenzo Palma. "It's illegal for U.S. immigration authorities to hold Americans in detention," the news organization noted. "However, [an NPR analysis](#) of data obtained through a Freedom of Information Act Request shows that hundreds of American citizens each year find themselves in a situation similar to Palma's. Those data show that from 2007 through July of last year, 693 U.S. citizens were held in local jails on federal detainers—in other words, at the request of immigration officials. And 818 more Americans were held in immigration detention centers during that same time frame, according to data obtained through a separate FOIA request by Northwestern University professor [Jacqueline Stevens](#) and [analyzed by NPR](#)."

An April 2018 [investigation](#) by the *Los Angeles Times* documented ongoing injustices. "Immigration and Customs Enforcement agents repeatedly target U.S. citizens for deportation by mistake, making wrongful arrests based on incomplete government records, bad data and lax investigations," the newspaper reported. "Victims include a landscaper snatched in a Home Depot parking lot in Rialto and held for days despite his son's attempts to show agents the man's U.S. passport; a New York resident locked up for more than three years fighting deportation efforts after a federal agent mistook his father for someone who wasn't a U.S. citizen; and a Rhode Island housekeeper mistakenly targeted twice, resulting in her spending a night in prison the second time even though her husband had brought her U.S. passport to a court hearing. They and others described the panic and feeling of powerlessness that set in as agents took them into custody without explanation and ignored their claims of citizenship."

The sexual abuse of immigrants in ICE custody is another of the most egregious shortcomings of the federal agency and its employees.

When the nonprofit group Community Initiatives for Visiting Immigrants in Confinement, or CIVIC, [analyzed](#) Department of Homeland Security data on

complaints filed by those locked up in its custody, it found that “sexual assault has been documented at 76 immigration detention facilities,” that in the most recent 6 years of available data 33,126 complaints of sexual or physical abuse were filed against people in DHS custody, that ICE detainees accounted for 44 percent of those complaints, and that they prompted just 570 investigations.

“Sexual abuse is a problem that is widely underreported in the outside world, so there’s little question that number does not represent the full scope of the problem,” the ACLU noted in its own recent analysis of the longtime problem. “But one thing is clear: the sexual abuse of immigration detainees is not an isolated problem, limited to one rogue facility or merely the result of a handful of bad apple government contractors who staff the nation’s immigration centers.”

Just one day before the GOP’s vote extolling ICE employees, *The New York Times* [noted](#) that “ICE has reported 1,310 claims of sexual abuse against detainees from fiscal years 2013 to 2017,” a number that is both awful to contemplate and that almost certainly understates the actual incidence of sexual abuse suffered by those in custody.

That prisoners in ICE custody are assaulted and abused should be no surprise. Take a [recent report](#) published by the Department of Homeland Security’s Office of the Inspector General. Released just last month, it documents ways that ICE fails to adequately inspect and oversee the places where it incarcerates people.

For example, inspectors that ICE pays are supposed to interview prisoners in private when ascertaining if they are being mistreated. Instead, “inspectors had brief, mostly group conversations with detainees in their detention dorms or in common areas in the presence of detention facility personnel.” What’s more, “during one inspection, a facility guard translated for a detainee. Inspectors did not consistently follow up with the facility or ICE staff on issues detainees raised.”

Another documented example affected the fate of those wrongfully arrested by ICE. “A detention standard requires the facility to allow detainees to help other detainees voluntarily and free-of-charge prepare legal documents,” the inspector general explained. “In addressing a deficiency in this area, the facility responded that it did not permit such assistance, stating, ‘It is the policy of the [facility] not to allow inmates/detainees to assist others with their legal issues ... The [facility] chooses not to change its policy regarding the issues noted.’”

Summing up its findings, the report notes a general failure to address even well-documented problems. It also identified routine illegal strip searches, and the ongoing mixing of violent criminals with people who are, at most, guilty of unlawful entry to America:

The frequency of repeat deficiencies in the same facilities, and the high number of deficiencies inspectors identify at facilities expose the problems associated with ICE's inability to consistently follow up on corrective actions. Even well documented deficiencies that facilities commit to fixing routinely remain uncorrected for years. For example, several facilities continue to strip search all incoming detainees without establishing reasonable suspicion, as required by detention standards.

Even when inspections documented this as a deficiency, the facilities continued routine strip searches of detainees during intake without proper documentation. Other examples of repeat deficiencies include facilities failing to notify ICE about alleged or proven sexual assaults. We also found less egregious repeat deficiencies such as instances where officers open incoming general correspondence without the presence of the addressed detainee or do not allow detainees to participate in recreation for the maximum time required by the standard.

In one facility, ICE granted a waiver to allow the comingling of detainees of different custody classification levels. The standard requirement is to avoid comingling of low-custody detainees, who have minor, non-violent criminal histories or only immigration violations, with high-custody detainees, who have histories of serious criminal offenses. The facility asserted that "a corrective plan of action is not readily available due to overwhelming expense, time and space limitations associated with full compliance with the standards ... Separation of detainees by classification levels ... may prove to be an undue burden upon the facility."

This is a portrait of an agency that is beset with serious, known abuses, but whose employees are unable and at times unwilling to fix them.

It is worth observing that many ICE abuses happened during the Obama administration. Its officials bear some of the blame for the agency's record.

Had the GOP Congress of those years tried to exercise critical oversight—or had the Republican who took over the presidency in January 2017 called for reforms to ICE or budget cuts—I'd be praising the GOP right now. Instead, the GOP Congresses prior to 2017 complained that President Barack Obama was "handcuffing" the agency and urged him to give ICE personnel even *more* leeway, while President Trump has sought even more money for the agency that wrongfully imprisons Americans, sexually abuses detainees, and utterly fails to fix even those shortcomings that are documented by overseers, all without doing anything to remedy those outrageous problems.

The GOP's failures of oversight for the entirety of the time that it has controlled Congress would be scandalous enough. That the House GOP has now taken to extolling ICE as it too pushes to lavish more money on the agency without fixing its

well-documented, hugely consequential problems makes the GOP responsible for exacerbating injustice and immiseration.

That few in the conservative movement care to indict the GOP for enabling rather than stopping these tyrannical federal abuses is the latest illustration of how hollow its righteous rhetoric about liberty and government excesses ring in matters involving people with badges and victims who lack wealth or political affiliations or white skin. And that's true without even touching upon the cruel separation of kids from their parents.

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