

INTRODUCTION

As abolitionist organizers of immigration bond funds, we are guided by a shared vision that everyone should have the freedom to migrate and to stay. This vision stands in sharp contrast to the United States Immigration System which was built on a strategy of exclusion aimed at racializing, then containing and expelling mainly Black and Brown migrants through a process of criminalization. The immigration system is closely tied to the expansion of the criminal punishment system, both which ultimately seek to practice social control and deprive people of their freedom.

In direct response to the increased criminalization, detention, and deportation of hundreds of thousands of migrants across the country, organizers and communities have come together to formalize the establishment of immigration bond funds. Immigration bond is one of the few release valves that allow some people to be released. As organizers, we use bond payment as a tactical intervention to release as many people as possible from cages, but we must also proactively acknowledge the limitations of this intervention. Some of these limitations include:

- **The system uses bond eligibility to further criminalize people by deciding who is worthy enough to merit release on bond.** Immigration Customs Enforcement (ICE) relies heavily on the criminal punishment system--whether directly or indirectly--to execute arrests and detention. Nearly 70% of people are subject to “mandatory detention” and are not eligible for bond through the court system primarily because of past contact with the criminal punishment system. This means that most people detained by ICE will never be able to fight their deportation outside of a cage.
- **Most people will not obtain a bond through the immigration court system.** Even when eligible for a bond hearing, judges grant bond in less than half of cases. While judges are supposed to consider a number of factors when making a decision about granting bond, the most significant consideration in granting or denying bond is whether or not a person has had contact with the criminal punishment system. Given that the vast majority of ICE arrests rely on past criminalization, for most people, the chances of getting bond are very low. This hurdle is exacerbated by the low level of representation which significantly diminishes chances of success; only 14% of people in detention are able to secure representation in removal proceedings.

- **Being released on bond is not the same as being free.** Electronic monitoring, including GPS tracking through ankle shackles and phone-based applications, in-person or phone “check-ins”, restrictions on mobility and other conditions of release are often imposed on people released on bond. Although being released on bond significantly impacts the likelihood of ultimate success, cases will typically take years before they are resolved. Continuous surveillance is not only detrimental to an individual and their family’s quality of life, but it makes them more vulnerable to re-arrest, re-detention, and deportation. It also expands and normalizes social control while benefiting for-profit companies and aiding data-collection for expanded surveillance.

We recognize the tension that exists in supporting as many people as possible to get out of cages, while paying into a system that creates racialized and criminalizing categories of people.

We must name that bond payment is *not* a solution to immigration detention, nor a system that we are trying to “improve.” We join our comrades across the country that are calling for an end to detention and deportations. We demand freedom for all.

WHY OUR DEMANDS CANNOT BE ABOUT CHANGING OR ENDING THE IMMIGRATION BOND SYSTEM

Legislation in the 1980s and 1990s laid the groundwork for modern-day incarceration—including the expansion of the immigration detention system. Creating more categories of criminalization and less opportunities for release was written into law, and locking up migrants was part of the calculus in expanding the criminal punishment system. In other words, these laws were designed to keep people in, and it is working.

Below are some of the reasons why ending immigration bond or changing or “improving” the bond system is not an approach that will get us closer to freedom for all:

- **Ending immigration bond or making some changes to the process will not impact the vast majority of people in immigration detention, and could inadvertently make it harder for others to be released.** An immigration bond is one of the few options for getting people out of jail. Ending immigration bond does not mean that people will ultimately be released; it simply means that they will have to go through a different process. Furthermore, while it may appear that capping the amount of bail that a judge may set would make it easier for certain people to be released, the opposite could be true. Judges already deny the majority of bond requests (roughly 52%), and imposing a cap would not take away that power. Finally, we should never advocate putting a price on freedom.
- **Ending immigration bond would leave the process of release entirely up to immigration judges or ICE.** Under Immigration Nationality Act § 236c, immigration judges already have the authority to release anyone in detention who is not subject to mandatory detention under either bond or conditional parole. But immigration judges very rarely release people on conditional parole and there is no historical indication that they would use this option more if bond is eliminated. We run the risk of immigration judges simply not granting release. On the other hand, ICE regularly uses its statutory discretion to grant conditional or humanitarian parole to release people, particularly people arrested at the border. But this discretion is rarely used to grant release to people targeted through “interior enforcement.”
- **Ending immigration bond could also inadvertently support the expansion of surveillance and social control.** Over time, the number of people on the “non-detained” docket has increased. Frequently, people who are arrested by ICE but placed on the “non-detained” docket are forced to join some type of formal surveillance program. This number will continue to rise as ICE expands its capacity to surveil people around the country on a regular basis beyond these formalized programs. People may be out of detention, but that does not mean that ICE will not ultimately cage and deport them. It means that ICE will constantly track their lives and the risk of re-arrest and detention will always be present. This risk is not only endured by the person who was initially surveilled, but imposed on virtually anyone in their community with whom they interact. ICE notoriously carries out so-called “collateral” arrests on a regular basis and initiates investigations against migrants based on information collected through the surveillance of others.

DEVELOPING FRAMING THAT REFLECTS OUR COMMITMENT TO ENDING ALL FORMS OF CRIMINALIZATION, INCARCERATION, AND SURVEILLANCE

While we face immense adversity in the struggle for freedom, we must not fall into the trap of false solutions that do not bring us closer to abolition of the Prison Industrial Complex. Ending immigration bond is not an abolitionist tactic, because it does not address the aspects of the system that prevent most people from being released. We propose the following alternative framing which is more in line with our values and with strategies being used by abolitionist migrant justice organizers across the country.

- **We demand that ICE release every single person who is currently detained.** ICE has the statutory power to release everyone from detention, including people subject to “mandatory detention.” We should expose that power and demand freedom.
- **We demand that the Biden Administration direct DHS to stop enforcement efforts and release everyone from detention.** The Biden Administration has the authority, through both executive orders and policy memorandums, to exert control over enforcement operations in the Executive Branch. This includes the power to release people from detention, and the power to stop all deportations through the use of “prosecutorial discretion.”
- **We demand that Congress defund ICE and CBP and instead invest in autonomous programs and services that communities need--including housing, healthcare, and education.** The government wastes over 23 billion dollars per year caging and deporting people. Following the lead of the [Defund Hate Coalition](#), we must demand significant cuts to the deportation dragnet budgets that facilitate the destruction of our communities while also advocating for the reinvestment in programs that will give people the dignity and respect they deserve.
- **We demand the passage of the New Way Forward Act and other efforts to repeal or stop the advancement of an enforcement-focused approach to immigration.** White supremacist immigration and “criminal justice” laws passed primarily in the 1980s, and 1990s have enabled the targeting, jailing, and deportation of millions of people—particularly Black and Brown migrants. The [New Way Forward Act](#) would move us powerfully toward ending the prison-to-deportation pipeline, including ending harmful statutory provisions like mandatory detention, police-ICE collaborations, for-profit detention, and safe return for people already deported due to these harmful laws. Other efforts like the national [#NoMoreExclusions](#) action, the state-based [#StopICETransfers](#) & [The VISION Act](#) campaigns, and the local [Erase the Database](#) campaign have similar goals. We must actively work to end harmful practices that facilitate the prison-to-deportation pipeline.