



U.S. Immigration and Customs Enforcement

STATEMENT

OF

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**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
U.S. DEPARTMENT OF HOMELAND SECURITY**

**Regarding
Oversight of Detention Facilities**

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEE ON OVERSIGHT, MANAGEMENT, & ACCOUNTABILITY**

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Introduction

Chairwoman Torres Small, Ranking Member Crenshaw and distinguished members of the Subcommittee, thank you for opportunity to testify today regarding U.S. Immigration and Customs Enforcement (ICE) oversight of its detention facilities. ICE Enforcement and Removal Operations (ERO) manages and oversees the nation's immigration detention system, one of the most highly transient and diverse populations of any detention or correctional system in the world. Detainees placed into ICE ERO custody represent virtually every nation on earth, have various security classifications and threat levels, and often arrive in ERO custody with complex detention needs, including medical care. ERO takes the health, safety, and general welfare of its detained population extremely seriously and is committed to continually evaluating and improving the care detainees receive.

ICE Detention Standards

ERO detains individuals to ensure their presence for immigration proceedings and for removal from the United States after they are subject to an executable final order of removal. Detention is an important and necessary part of immigration enforcement, and ICE ERO provides a range of comprehensive services to ensure the welfare of all those in its custody. Through a robust inspections program, the agency ensures detention facilities used to house ICE detainees do so in accordance with ICE national detention standards, which are often much more rigorous than those that apply to other detained populations. These standards were promulgated in cooperation with ICE stakeholders, the American Correctional Association (ACA), and representatives of

non-governmental organizations (NGOs) to ensure that all individuals in ICE custody are treated with dignity and respect and are provided with the best possible care.

ICE utilizes a nationwide network of detention facilities, including 5 ICE-owned, contractor operated Service Processing Centers (SPCs), 8 privately owned and/or operated Contract Detention Facilities (CDFs), 12 Intergovernmental Service Agreement (IGSA) facilities which are dedicated to housing ICE detainees, and approximately 200 shared-use IGSA's.

ICE uses three sets of detention standards for its adult detained population nationwide the National Detention Standards (NDS) 2000, Performance-Based National Detention Standards (PBNDS) 2008, and PBNDS 2011. All ICE detention standards specify the living conditions appropriate for detainees and help to ensure a safe and secure environment and cover areas such as medical care, food service, environmental, health and safety, the use of segregated housing, access to legal and religious resources, and visitation. These standards are included in contracts or agreements with both publicly or privately-operated detention facilities and exceed industry standards--which is evident from the number of local jails who are unwilling to meet ICE's more rigorous requirements and have instead elected to detain other populations.

When ICE was formed, the agency operated its detention system under a set of National Detention Standards (NDS), which were based upon the policies and procedures that existed at the time of its issuance in September 2000. The NDS were drafted to govern every aspect of the detention operations at the ICE-owned SPCs and CDFs and were designed to establish consistent conditions of confinement, programming, and management expectations within the agency's detention system. For many of the requirements, local jails needed to meet the objective of the standard. ICE subsequently undertook a revision of these standards to more clearly delineate the results or outcomes to be accomplished by adherence to their requirements. PBNDS 2008 revised

the NDS to outline the results or outcomes to be achieved and to improve the safety, security, and conditions of detainee confinement. PBNDS 2008 prescribed both the expected outcome of each detention standard and the expected practices required to achieve them. Four new standards were added under PBNDS 2008: Searches of Detainees; Sexual Abuse and Assaults Prevention and Intervention; News Media Interviews and Tours; and Staff Training.

In keeping with its commitment to improve the immigration detention system, ICE further revised its detention standards in 2011. PBNDS 2011 reflect ICE's ongoing effort to tailor the conditions of immigration detention to its unique purpose while maintaining a safe and secure detention environment for staff and detainees and represent an important step in detention reform. They were drafted with the input of many ICE personnel across the nation, as well as the perspectives of DHS' Office for Civil Rights and Civil Liberties (CRCL) and various NGOs. PBNDS 2011 were crafted to improve medical and mental health services, increase access to legal services and religious opportunities, improve communication with detainees with limited English proficiency, improve the process for reporting and responding to complaints, reinforce protections against sexual abuse and assault, and increase recreation and visitation. PBNDS 2011 was recently revised in 2016 to include important updated standards on disability identification, assessment, and accommodation, as well as medical care for women. These facilities vary in size, composition, operator, and contract mechanism, and different versions of these three sets of national detention standards currently apply to ICE's various detention facilities, as provided for in the applicable contract or agreement.

ICE Detention Facility Inspections

The safety, health, and rights of individuals in ICE's custody are paramount, and ICE remains committed to continually improving detention operations to promote a safe and secure

environment for both detainees and staff. To ensure ICE's detention facilities meet the requisite standards, ICE and DHS provide oversight through a multi-layered inspections program. ICE conducts annual or biennial reviews of all facilities over a certain population and utilizes a self-inspection process for facilities with very small populations or where detainees are held under 72-hours. At many ICE facilities, oversight is also provided by on-site ICE detention service managers who work full-time at detention facilities to monitor conditions. Additionally, the ICE Office of Detention Oversight (ODO), the DHS CRCL and the DHS Office of Inspector General (OIG), all conduct reviews and inspections and have open access to ICE detention facilities.

ICE ensures that its facilities comply with existing policies and standards through its comprehensive and multilayered inspections program, which provides assurance that detainees in ICE custody are housed in the least restrictive environment consistent with the safety and security of the detained population and orderly facility operations. The annual detention inspection, conducted by an independent third-party contractor, ensures that facilities remain in compliance with ICE's standards and that any deficiencies noted are resolved by facility management, while periodic follow-up inspections help ensure ongoing compliance throughout the year.

Contractually, ICE has enlisted The Nakamoto Group, Inc. to conduct inspections for facilities around the United States that house ICE detainees. This includes annual inspections, pre-occupancy inspections, and special inspections as ordered by ICE using the applicable set of detention standards. Contract inspectors typically spend three days auditing each facility, and in addition to an environmental health & safety subject matter expert, each inspection team includes a health professional (i.e., physician, physician's assistant, registered nurse, or nurse practitioner) and a Detainee Rights subject matter expert. When deficiencies are found during any type of

inspection or review, ERO works with the field offices and facilities to ensure timely corrective actions are implemented and maintained.

ICE has also developed and utilizes a standardized checklist during its inspections to ensure that the most critical elements of the various detention standards are always assessed. This detailed checklist helps inspection teams focus on the most critical elements of the ICE detention standards, about 700 key areas that ensure conditions are appropriate. The ICE detention standards have about 4,000 measurable requirements in total. While the checklist allows for a more standardized review process, it also provides an opportunity for data to be captured in a way that allows for comparative analysis and monitoring of trends and eliminates human errors associated with memory issues and/or attention deficits.

Further, in addition to the checklist, inspectors are required to provide ICE a written report that includes, at a minimum, an Inspection Summary, a Facility Snapshot/Description, Areas of Concern/Significant Observations, and Recommended Rating and Justification. Additionally, the inspectors must submit a completed Significant Incident Summary form that identifies any significant incidents such as assaults, uses of force, deployment of special reaction teams, escapes, grievances, psychiatric/medical referrals, and detainee deaths.

In addition to these inspections, ICE detention facilities are subject to ERO special assessments, audits, reviews, and site visits by the ICE ODO and DHS CRCL, while other unannounced visits and inspections are also periodically conducted by the DHS OIG and the U.S. Government Accountability Office.

DHS Office of the Inspector General Reporting

ICE continues to work daily with its field offices, the ICE ODO, and DHS CRCL to ensure that facilities comply with ICE detention standards, to take corrective actions when needed, and to address recommendations provided by the DHS OIG. ICE greatly appreciates the work conducted by the DHS OIG regarding the inspection process and carefully evaluates its recommendations for ensuring the welfare of its detained population.

In a June 26, 2018, report entitled, *ICE's Inspection and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements*, the DHS OIG made five recommendations, with which ICE concurred, and which have been used to implement significant improvements to the inspections process.

In response to OIG's findings, ICE is re-evaluating the existing inspection scope and methodology in the statement of work for annual and biennial contracted inspections to ensure inspection procedures are adequate and appropriately resourced to fully evaluate detention conditions at facilities. Upcoming new contract requirements include, but are not limited to, the extension of the annual facility inspection by an additional day (from three to four days), an increase in the number of subject matter experts on inspection teams (to include two health experts), and interviews with detainee volunteers (teams must include either a bilingual inspector or access to interpretive services) along with a list of major grievance areas or concerns that arise during these discussions.

ICE has also created a Quality Assurance Team (QAT) consisting of seasoned federal employees to perform quality assurance reviews of ICE's contract inspectors during each annual inspection. QAT members review contractor performance, interview detainees, review grievances and complaints, evaluate use of force, and review segregation practices, among other

things. ICE employees also attend and observe inspections to monitor The Nakamoto Group, Inc. inspection teams on a regular, but random, basis to ensure compliance.

Furthermore, ICE is also developing a follow-up inspection process for select facilities where egregious or numerous deficiencies are identified; updating and enhancing current procedures to ensure verification of all corrective actions for identified deficiencies, including better tracking of all corrective actions by facility, responsible field office, and status of resolution; and developing protocols for ICE ERO field offices to require facilities to implement formal corrective action plans resulting from deficiencies identified from on-site monitors.

In conclusion, ICE has made significant changes to inspection protocols following the release of several relevant OIG reports and continues to reshape and reevaluate the detention inspection and oversight process where necessary, including with regard to its contract inspection provider. ICE also notes that where relevant, it has held contractor-appropriate discussions about necessary improvements and will continue to enforce its detention standards and procedures for the safe, secure, and humane treatment of aliens in ICE custody.

Conclusion

ICE understands that immigration enforcement actions, including detention, often have a significant impact on individuals and their families. However, the agency's mission requires it to uphold the nation's immigration laws as passed by Congress, many of which require the detention of those individuals whose presence is necessary for immigration proceedings or for removal from the United States. ICE is committed to carrying out this process with the highest level of professionalism and welcomes the opportunity to discuss the care provided to its

detained population, as well as the oversight mechanisms in place in order to ensure detainee welfare and agency and contractor accountability.

Thank you again for the opportunity to testify regarding this important matter and I look forward to answering any questions you may have.