

## SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP

Chairwoman Lofgren, Ranking Member Buck, Chairman Nadler, and ranking Member Collins. In recent weeks there has been a slew of stories and baseless claims that have compared U.S. Immigration and Customs Enforcement detention facilities to that of the notorious Nazi death camps. That comparison is 100% inaccurate and is just another attempt by those on the left to push a false narrative that they hope will convince the American people that no illegal alien should be detained.

There have been several attacks at our facilities and attacks against our Agents and Officers. Also, there have been attacks against our contract detention facilities and contractors who work with us.

After more than three decades of enforcing immigration laws, I can assure you that if we do not have the ability to detain those that illegally enter our country until they see a judge and plead their case, we will never solve the immigration crisis on the border. Until then, illegal crossings will skyrocket beyond the already unprecedented levels. We have several Democratic Senators and Congressmen running for President that have said they would end immigration detention and what they call the "for profit prisons". These candidates who have been or are current lawmakers are ignoring facts.

Here are a few facts that that you should know. Seventy-two percent of all aliens detained in an ICE facility are Congressionally Mandated to be detained. That's right. 7 out of every 10 detained aliens are being detained because Congress demands it through statute. ICE couldn't release them, even if they wanted to, which they don't.

Another fact, nearly 9 out of every 10 aliens arrested by ICE in the interior of the United States are either a convicted criminal, or are pending criminal charges. If you simply look at the current recidivism rates, about half of all criminals will reoffend within a year, and up to 75% will reoffend within five years. Again, many of those in ICE custody are in fact criminals, and pose a danger to our communities, if released. So, these so-called prisons for profit are helping to keep our communities safe. There is no question about that.

ICE contracts most of its detention capacity to private contractors that finance, construct, and operate detention facilities, not only for the federal government but also for state and local governments. The left likes to call them for-profit prisons as a way to raise controversy over what they do. However, these companies are widely used because they do it better and cheaper than the government.

When I was the ICE Director, I can tell you that some of our most expensive detained beds were in facilities that ICE owned. Using outside contractors that run facilities like these as their core business function, not only saves millions in taxpayer funds, but it increases the quality of care for those being detained.

The quality of care provided in ICE contract detention facilities is in fact better than you would find in most federal or state institutions. The ICE contract facilities typically have not only more overall staff, but importantly more than double the number of healthcare staff, compared to state prisons for U.S. citizens. This is because the ICE detention contractors, must provide services in accordance with the PBNDS standards, developed under the Obama Administration, for civil detention care.

ICE also contracts some short-term beds with local sheriffs. When I was the ICE Director, I had numerous sheriffs across the country that would end their contract with ICE, or refuse to contract with ICE, because our detention standards were too high. Numerous sheriffs would tell me that they would not provide such high levels of standards for illegal aliens in their jail, when they don't give those programs to US citizens that are in their facilities.

ICE is fully committed to the highest level of quality, providing safe, secure, and humane environments for those in ICE custody and care. Our contract facilities operate in accordance with strict government standards, ICE Detention Standards, national accreditation and certification standards, medical accreditation agencies, and educational agencies. These facilities are also accredited by third-party accreditation agencies such as the American Correctional Association (ACA) and the National Commission on Correctional Healthcare (NCCHC).

When ICE was created after the 9/11 attacks, 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.

ICE subsequently undertook a revision of these standards to more clearly describe the desired outcomes to be accomplished, by adherence to the new requirements.

The 2008 Performance-Based National Detention Standards (PBNDS), developed in coordination with agency stakeholders, prescribed both the expected outcomes of each detention standard, and the expected practices required to achieve them. PBNDS 2008 was also designed to improve safety, security and conditions of confinement for detainees.

In keeping with its commitment to improve the conditions of care for ICE detainees, ICE further revised its detention standards in 2011. The Performance-Based National Detention Standards 2011 (PBNDS 2011) reflect ICE's ongoing effort to improve the conditions of care for what was then to be called civil detention, while maintaining a safe and secure environment for staff and detainees. The new standards were drafted with the input of many ICE personnel across the nation, as well as, recommendations from nongovernmental organizations and immigration advocacy groups.

PBNDS 2011 is 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.<sup>1</sup>

ICE began implementing PBNDS 2011 across its detention facilities several years ago, with priority initially given to facilities housing the largest populations of ICE detainees.

Now, forgive me, but I don't believe concentration camps had any detention standards. I also believe they didn't have medical services, dental services, law libraries, visitation, recreation, three nutritious meals a day, etc.

---

<sup>1</sup> ICE Detention Standards – ICE.GOV

I don't believe they were inspected numerous times a year by various investigative agencies like ICE's Office of Professional Responsibility (OPR), Office of Detention Oversight, or the DHS Inspector General, to ensure that detention facility services were in compliance with the standards. <sup>2</sup> I don't believe there were on-site monitors to daily review contract compliance and provide transparent accountability.

I encourage you to click on all three links, especially the last link about PBNDS 2011, and tell me that ICE is not providing professional and responsible care for ICE detainees.

Further, ICE has one of the lowest rates of deaths in custody of any program within the state and federal detention system. Unfortunately, people die in government custody all the time. The Department of Justice tracks the mortality rate of incarcerated individuals across the nation. A quick review of those reports will show that the average mortality rate in state prisons was 256 deaths per 100,000 persons. The mortality rate in federal prisons during the same period was 225 deaths per 100,000 persons.

In contrast, ICE averages 2.25 deaths per 100,000 persons with respect to the 400,000 people that go through the ICE system every year. This represents an average of only nine total deaths per year. State and local facilities have death rates over 2000% more than ICE.

That's an extraordinary achievement for ICE, given that most of the ICE detainees are from countries that don't have quality medical systems. In fact, many of the ICE detainees have never previously seen a doctor in their lives. Also, as can be seen by recent news reports, many of the individuals sent to ICE detention already had serious healthcare and mental health issues. The low death rate in ICE detention can only be attributed to an outstanding medical program and dedicated personnel.

Those are the facts. You can be the judge. ICE detention cannot be compared to death camps operated by Nazis. That hateful rhetoric being pushed by the left is just plain wrong.

---

<sup>2</sup> ICE Detention Standards – ICE.GOV

And if any states think they can pass a law, to eliminate Federal contractor operated detention facilities, like the State of California, they better wake up and read the Supremacy Clause in the United States Constitution. States do not have the lawful ability to interfere with Federal facilities.