IMMIGRATION AND CUSTOMS ENFORCEMENT

Immigration Detention Overview and Recommendations

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Executive Summary

This Report provides a comprehensive review and evaluation of the U.S. Immigration and Custom Enforcement (ICE) system of Immigration Detention. It relies on information gathered by Dr. Dora Schriro, most recently the Director of the Office of Detention Policy and Planning, during tours of 25 facilities, discussions with detainees and employees, meetings with over 100 non-governmental organizations and federal, state, and local officials, and the review of data and reports from governmental agencies and human rights organizations.

The findings are based on analyses of the ICE detainee population and arrest activities conducted specifically for this review. The Report describes the policy, human capital, informational, and management challenges associated with the rapid expansion of ICE's detention capacity from fewer than 7,500 beds in 1995 to over 30,000 today, without the benefit of tools for population forecasting, management, on-site monitoring, and central procurement.

The Report identifies important distinctions between the characteristics of the Immigration Detention population in ICE custody and the administrative purpose of their detention—which is to hold, process, and prepare individuals for removal—as compared to the punitive purpose of the Criminal Incarceration system.

The Report underscores the opportunity for ICE, in coordination with stakeholders, to design and implement a detention system with policies, facilities, programs, and oversight mechanisms that align with the administrative purpose of Immigration Detention.

The Report provides a seven part framework for meeting the challenge of developing a new system of Immigration Detention. It concludes with concrete recommendations for reform in each of the seven areas of focus.

Core Findings

- ICE operates the largest detention and supervised release program in the country. A total of 378,582 aliens from 221 countries were in custody or supervised by ICE in FY 2008; activities in 2009 remain at a similar level. On September 1, 2009, ICE had 31,075 aliens in detention at more than 300 facilities throughout the United States and territories, with an additional 19,169 aliens in Alternative to Detention programs.

- Of the aliens in detention on September 1, 66 percent were subject to mandatory detention and 51 percent were felons, of which, 11 percent had committed violent crimes. The majority of the population is characterized as low custody, or having a low propensity for violence.

- With only a few exceptions, the facilities that ICE uses to detain aliens were built, and operate, as jails and prisons to confine pre-trial and sentenced felons. ICE relies primarily on correctional incarceration standards designed for pre-trial felons and on correctional principles of care, custody, and control. These standards impose more restrictions and

carry more costs than are necessary to effectively manage the majority of the detained population.

- ICE is comprised primarily of law enforcement personnel with extensive expertise performing removal functions, but not in the design and delivery of detention facilities and community-based alternatives.

- ICE utilizes a number of disparate strategies to detain aliens in its custody, supervise aliens on community supervision, and provide medical care to the detained population.

Key Recommendations

- ICE should establish a system of Immigration Detention with the requisite management tools and informational systems to detain and supervise aliens in a setting consistent with assessed risk. ICE should provide programs to the detained population commensurate with assessed need and create capacity within the organization to assess and improve detention operations.

- In coordination with stakeholders, ICE should develop a new set of standards, assessments, and classification tools to inform care, custody restrictions, privileges, programs, and delivery of services consistent with risk level and medical care needs of the population. ICE should expand access to legal materials and counsel, visitation, and religious practice. ICE should also develop unique provisions for serving special populations such as women, families, and asylum seekers.

- ICE should establish a well-managed medical care system, with comprehensive initial assessments to inform housing assignments and ongoing care management. ICE should establish clear standards of care for detainees and monitor conditions systematically.

- ICE should provide federal oversight of key detention operations and track performance and outcomes. It should place expert federal officials on-site to oversee detention operations, to intercede as necessary, and to ensure that there are appropriate grievance and disciplinary processes.

Next Steps

Some recommendations can be actualized soon; others will require further analysis, including a comprehensive budget review. In order for ICE to achieve sustainable, organizational change, it must continue the progress of recent months.

Introduction

Information for this report was gathered during tours of 25 Immigration and Customs Enforcement (ICE) facilities; conversations with detainees and staff; meetings with over 100 non-governmental organizations (NGOs); discussions with state and local elected officials, employees at the Department of Homeland Security and the Department of Justice, and members of Congress and their staff. The data was reviewed along with reports from a variety of organizations including the Government Accountability Office, Department of Homeland Security, the United Nations, the American Bar Association, and other NGOs.

The Challenge and the Opportunity: A System of Immigration Detention

For purposes of this report, the Criminal Incarceration system refers to the authority the government has to incarcerate an individual charged with, or convicted of, a criminal offense. Immigration Detention refers to the authority ICE has to detain aliens who may be subject to removal for violations of administrative immigration law.[1]

As a matter of law, Immigration Detention is unlike Criminal Incarceration. Yet Immigration Detention and Criminal Incarceration detainees tend to be seen by the public as comparable, and both confined populations are typically managed in similar ways.[2] Each group is ordinarily detained in secure facilities with hardened perimeters in remote locations at considerable distances from counsel and/or their communities. With only a few exceptions, the facilities that ICE uses to detain aliens were originally built, and currently operate, as jails and prisons to confine pre-trial and sentenced felons. Their design, construction, staffing plans, and population management strategies are based largely upon the principles of command and control. Likewise, ICE adopted standards that are based upon corrections law and promulgated by correctional organizations to guide the operation of jails and prisons. Establishing standards for Immigration Detention is our challenge and our opportunity.

An Introduction to the Organization of the Report

The Report begins with a description of the current ICE system of detention. It incorporates findings from analyses of populations, systems, and infrastructure. The Report then outlines a framework of reforms and recommendations based on seven components that ICE must address in order to design a successful system of Immigration Detention. These seven components,

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[1] ICE does not have authority to detain aliens for criminal violations. That authority lies exclusively with the Department of Justice, subject to review of the federal courts. For instance, although many aliens who enter illegally have committed a misdemeanor criminal offense in violation of 8 U.S.C. 1325, ICE does not have authority to detain aliens for that criminal violation while criminal proceedings are pending. Instead, the Department of Justice holds that authority. Although ICE has no criminal detention authority, ICE has administrative authority pursuant to the Immigration and Nationality Act to detain aliens during the removal process.

[2] Immigration proceedings are civil proceedings and immigration detention is not punishment. *Zadvydas v. Davis*, 533 U.S. 678, 609 (2001). Conditions of confinement in immigration detention may change based upon a detainee's criminal and immigration record.

summarized below, are Population Management, Alternatives to Detention, Detention Management, Programs Management, Medical Care, Special Populations, and Accountability.

- **Population Management** encompasses the continuum and the conditions of control exercised by ICE over aliens in its custody from least to most restrictive, and the strategies by which aliens are managed pending removal or granting of relief from removal. Population Management consists of the policies and the processes that collectively create a system for administratively supervised and detained aliens.

- **Alternatives to Detention** (ATD) are the community-based supervision strategies that make up a significant portion of less restrictive conditions of control. These alternatives relate closely to Population Management, but for the purposes of this report, ATD is presented as a distinct component.

- **Detention Management** focuses on the core operating assumptions and regulations that affect the conditions of detention.

- **Programs Management** addresses the design and delivery of programs provided to detainees: a law library allowing detainees access to legal information; indoor and outdoor recreation; family contact including visitation and communication by mail and phone; and religious activities.

- **Medical Care,** including medical, mental health, and dental care, must be available to all detainees in ICE custody. Medical care is an important facet of Programs Management. However, for the purposes of this report, medical care is presented as a distinct component.

- **Special Populations** include families with minor children, females, the ill and infirm, asylum seekers, and vulnerable populations. Population, Detention, and Programs Management are modified to meet the detention requirements of Special Populations.

- **Accountability** concerns the operating framework and process for decision-making by which ICE provides oversight, pursues improvement, and achieves transparency in the execution of each part of its plan.

The Report concludes with significant, although not exhaustive, recommendations for reform in each of the seven areas of focus. Some recommendations can be actualized soon; others will require further analysis, including a comprehensive budget review.

Overview

A Description of the Program and the Population

The Office of Detention and Removal Operations (DRO) is the largest program within Immigration and Customs Enforcement (ICE). DRO oversees the apprehension, supervision, and removal of inadmissible and deportable aliens. DRO has 24 field offices and 186 subfield

offices, as well as the Deport Center in Chicago, Illinois[3], and participates in the Justice Prisoner and Alien Transportation System (JPATS)[4] in Kansas City, Kansas. The DRO's operating budget for fiscal year (FY) 2009 is $2.6 billion and includes authorization to employ 8,379 fulltime employees, primarily deportation officers (DO) and immigration enforcement agents (IEA).

ICE operates the largest detention system in the country. During FY 2008, ICE supervised a total of 378,582 aliens from 221 countries, with 58 percent from Mexico, 27 percent from Central American nations, and four percent from the Caribbean. ICE also operates the largest system of community supervision in the country. During calendar year (CY) 2008, more than 51,000 aliens were released from detention into the community via bond (29,000), order of recognizance (12,000), order of supervision (10,000), or parole (650). In FY 2009 to date, approximately 90 percent of detainees are either from Mexico (62%), Central American nations (25%), or the Caribbean (3%). By the end of FY 2009, ICE will have detained approximately 380,000 aliens.

On average, an alien is detained 30 days. The length of detention however, varies appreciably between those pursuing voluntary removals and those seeking relief. As much as 25 percent of the detained population is released within one day of admission, 38 percent within a week, 71 percent in less than a month, and 95 percent within four months. Less than one percent of all admissions, about 2,100 aliens, are detained for a year or more.

As of September 1, 2009, ICE was detaining 31,075 aliens in more than 300 facilities throughout the United States and territories. Of this total, 66 percent are subject to mandatory detention and 51 percent are felons, of which, 11 percent had committed UCR Part-1 violent crimes[5]. The most common crimes committed by criminal aliens are those involving dangerous drugs, traffic offenses, simple assault, and larceny. Nine percent of the detained population is female, of which 33 percent are criminal aliens, including three percent who committed UCR Part-1 crimes. As of September 1, 2009, ICE was also supervising 19,160 aliens in alternative to detention (ATD) programs.

The majority of detention demand results from arrests in the San Antonio (9%), Houston (8%), Atlanta (7%), Miami (7%), Los Angles (6%), New Orleans (6%), New York (6%), and Phoenix (5%) field offices. The majority of ICE detention capacity is located in the San Antonio (14%), Phoenix (9%), Atlanta (8%), Houston (7%), Miami (6%), and New Orleans (6%) field offices areas. Although the majority of arrestees are placed in facilities in the field office where they are arrested, significant detention shortages exist in California and the Mid-Atlantic and Northeast states. When this occurs, arrestees are transferred to areas where there are surplus beds.

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[3] The ICE Deport Center processes deportation dispositions resulting from the Bureau of Prison (BOP), the Indiana and Illinois Departments of Corrections, and jails in the Chicago metropolitan area.

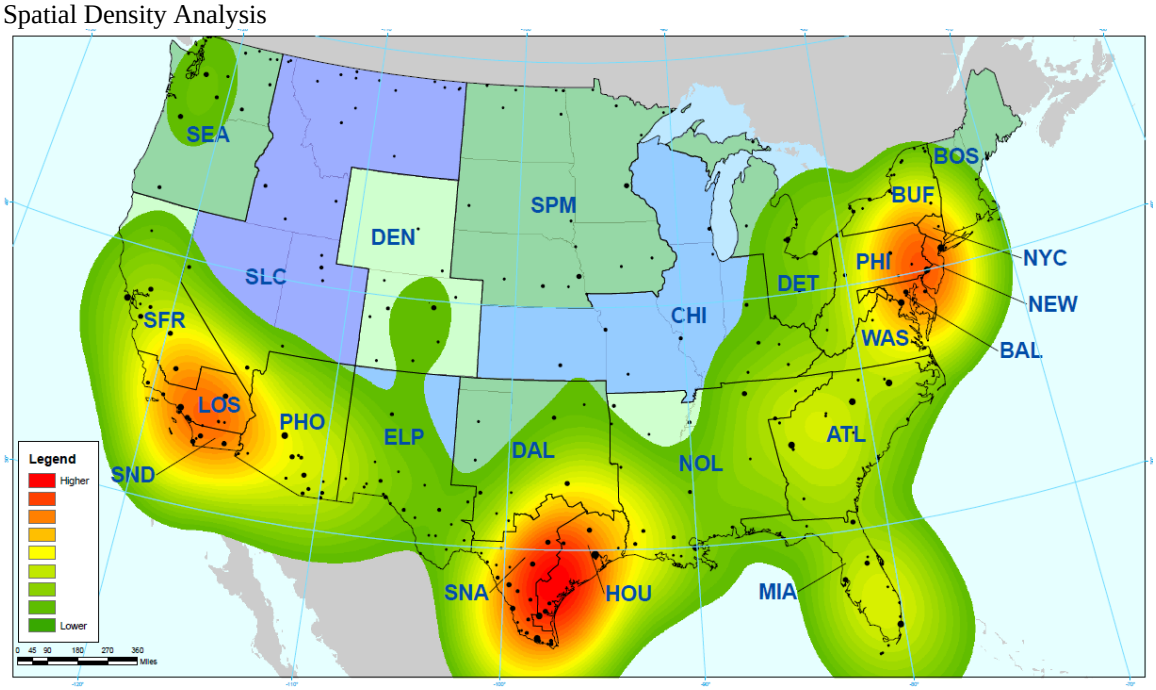
[4] JPATS provides transportation services for the BOP, the U.S. Marshals Service (USMS), and ICE.

[5] The Uniform Crime Reports (UCR) contains official data on crime that is reported to law enforcement agencies across the United States who then provide the data to the Federal Bureau of Investigation (FBI). For reporting purposes, criminal offenses are divided into two major groups: Part I offenses (the more serious offenses) and Part II offenses. In Part I, the UCR is divided into two categories: violent and property crimes. Aggravated assault, forcible rape, murder, and robbery are classified as violent, while arson, burglary, larceny-theft, and motor vehicle theft are classified as property crimes.

The following four maps illustrate the distribution of detention demand, detention capacity, and the variance between demand and capacity.

Detention Demand

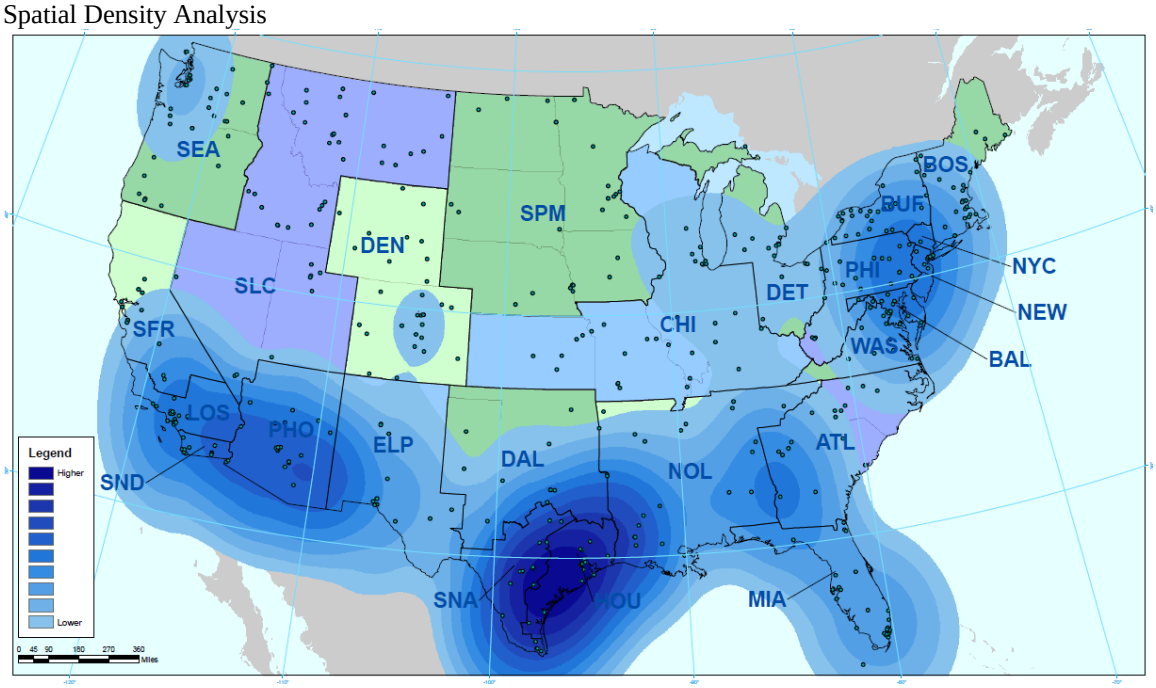
FY 2009 Average Daily Population by Arrest Site Location
Spatial Density Analysis



The majority of detention demand results from arrests in the San Antonio (9%), Houston (8%), Atlanta (7%), Miami (7%), Los Angles (6%), New Orleans (6%), New York (6%), and Phoenix (5%) field offices

Detention Capacity

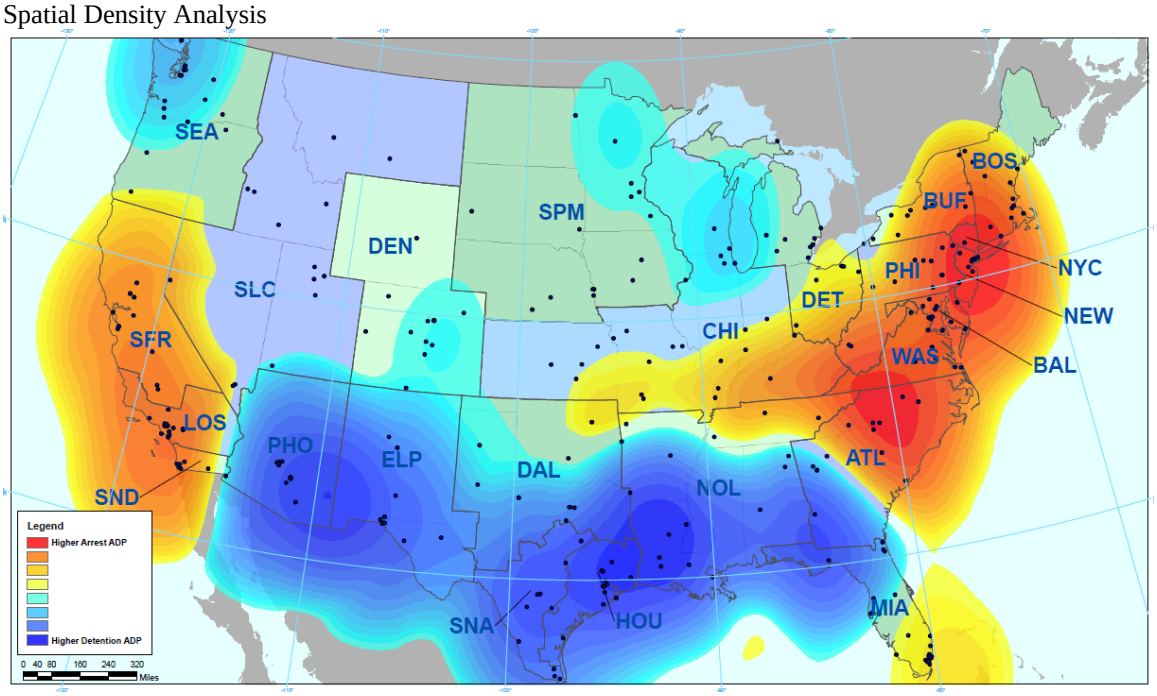
FY 2009 Average Daily Population by Detention Facility Location
Spatial Density Analysis



The majority of ICE detention capacity is located in the San Antonio (14%), Phoenix (9%), Atlanta (8%), Houston (7%), Miami (6%), and New Orleans (6%) field offices areas

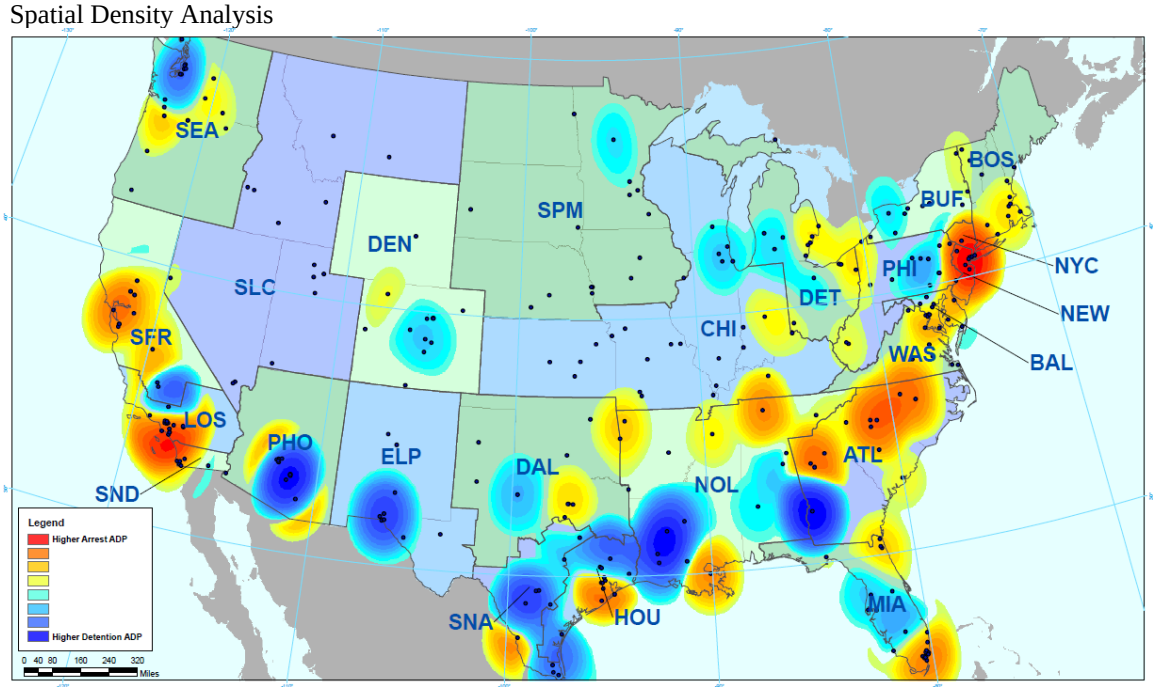
Detention Demand v. Capacity (National Perspective)

Variance of FY 2009 Average Daily Population by Arrest Site Location and Detention Facility Location
Spatial Density Analysis



Although the majority of arrestees are placed in facilities in the field office where they are arrested, significant detention shortages exist in California and the Mid-Atlantic and Northeast states

Detention Demand v Capacity (Regional Perspectives)
Variance of FY 2009 Average Daily Population by Arrest Site Location and Detention Facility Location
Spatial Density Analysis



Distribution of regional detention demand, detention capacity, and the variance between demand and capacity locally

A Description of Detention Facilities

The ICE population encompasses all of the aliens under the authority of ICE including those aliens who are booked-in at field offices and subfield offices or other locations and then immediately released or removed, as well as those who are held temporarily in holding areas and staging locations or assigned to detention facilities where they may remain for one day or less to more than a year.

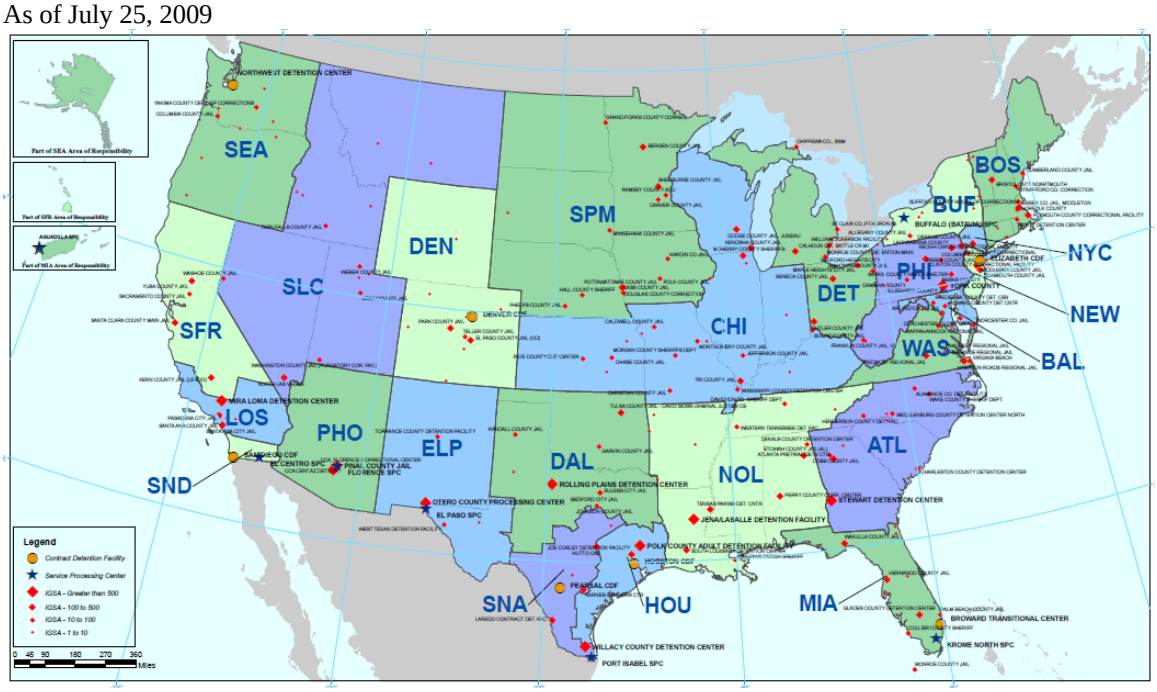
ICE operates two types of temporary facilities: holding areas and staging locations. Both holding areas and staging locations are often co-located in field offices and subfield offices. ICE detention standards dictate that aliens may be held in a holding area for up to 12 hours and in a staging location up to 16 hours. These facilities do not provide sleeping quarters or shower facilities. Holding areas and staging locations represent three percent of the average daily detained population and 84 percent of all book-ins.

There are also two types of detention facilities: those designated to house aliens for fewer than 72 hours and those designated to house aliens for more than 72 hours. Most facilities (93%) are approved by ICE for detention greater than 72 hours. On occasion, ICE places aliens in other facilities, usually BOP facilities and medical centers. The degree of difference between detention facilities and among holding areas and staging locations, as well as the time that a detainee actually remains at any location, varies.

ICE assigns aliens to over 300 detention facilities. In FY 2009, approximately 88% of the detainee population was held in 69 facilities. Approximately 50 percent of the detained population is held in 21 facilities. These include seven Service Processing Centers (SPC) owned by ICE and operated by the private sector; seven dedicated Contract Detention Facilities (CDF) owned and operated by the private sector; and seven dedicated county jail facilities, with which ICE maintains intergovernmental agency service agreements (IGSA)[6]. The medical care at these locations is provided by the Division of Immigration Health Services (DIHS). ICE requires that these facilities comply with its national detention standards.

IGSA, SPC and CDF facilities in use during FY 2009

As of July 25, 2009



Includes dedicated and non-dedicated IGSA facilities

The other 50 percent of the population is detained primarily in non-dedicated or shared-use county jails through IGSA. These facilities, approximately 240 in number, also house county prisoners and sometimes, other inmates. Fewer than 50 of these jails detain on average 100 or more aliens daily. Many of these IGSA with county correctional systems pre-date ICE. They were negotiated on behalf of the U.S. Marshal Service prior to the inception of ICE and the terms of these agreements are out of date. The majority of agreements with IGSA facilities do not contain the national detention standards. However, an evaluation is conducted annually to ascertain the extent to which they comply. Congress included language in the FY 2009 appropriations bill requiring ICE to discontinue use of any facility with less than satisfactory ratings for two consecutive years.

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6 The seven Service Processing Centers are El Paso SPC (El Paso TX), Krome (Miami FL), Port Isabel SPC (Los Fresnos TX), Batavia SPC (Buffalo NY); El Centro SPC (El Centro CA), Florence SPC (Florence AZ) and Aguadilla SPC (Agudilla PR). The seven Contract Detention Facilities are Pearsall S. Texas CDF (Pearsall TX), Northwest CDF (Tacoma WA), Houston CDF, Otay- Mesa CDF (San Diego CA), Broward Transitional CDF (Pompano Beach FL), Denver CDF (Aurora CO) and Elizabeth CDF (Elizabeth NJ). The seven dedicated IGSA facilities are Stewart Detention Center (Lumpkin GA), Eloy FCF (Eloy AZ), Willacy County DC (Raymondville TX), Mira Loma DC (Lancaster CA), Otero County Processing Center (Chaparral NM), Jena/LaSalle Detention Facility (Jena LA) and Laredo Processing Center (Laredo TX).

Females are assigned to approximately 150 jails, with about half of the women in 18 locations. Currently, 38 families with minor children are detained in two family residential facilities (FRF); last month, Assistant Secretary Morton announced the conversion of one of the two FRF to a female-only facility.

Approximately 1,400 non-criminal asylum seekers are detained daily. As is the case with female detainees, asylum seekers are dispersed to a number of locations, many of them an appreciable distance from the services and resources that they need.

Detention Cost

The cost to detain aliens varies appreciably between facilities, as do the terms and conditions of the contracts and IGSAs. At some locations, ICE pays for every bed, regardless of whether it is occupied. At other locations, the per diem is reduced when a certain occupancy level is achieved. The majority of contracts with private prison providers are short in duration (typically five years), whereas most IGSAs with county sheriffs have no expiration.

The published per diem rate captures much but not all of the direct and indirect bed day cost that ICE incurs. On-site medical care provided by DIHS and offsite medical care approved by DIHS represents additional cost. Furthermore, transportation between detention facilities, the education provided detained minors, and facility rent and other services lead to even greater costs. The published per diem rate for ATD participation represents the contract cost only and does not include ICE personnel assigned to the ATD unit and fugitive operations activities and other expenditures.

The Nexus between Policy and Population Growth

ICE promotes public safety and national security by ensuring the departure of removable aliens from the United States. With an estimated 11.6 million immigrants unlawfully present in the United States today,[7] ICE focuses primarily on dangerous and repetitive criminal aliens.

While aliens are apprehended by a variety of arresting entities, ICE is involved in the arrest of most deportable immigrants, as the majority of cases involve aliens encountered when they are in criminal custody.

[7] Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2008, DHS Office of Immigration Statistics

Aliens Apprehended by Arresting Authority
FY2009 Average Daily Population (ADP) as of 6/30/2009

Agency	Entity	FY 2009 Admissions	FY 2009 ADP
ICE	Criminal Alien Program (CAP)	178,605 (48%)	15,269 (48%)
ICE	Office of State and Local Coordination (287g)	44,692 (12%)	3,159 (10%)
ICE	Office of Investigations	21,969 (6%)	2,213 (7%)
ICE	DRO, Other	19,017 (5%)	2,116 (7%)
ICE	Fugitive Operations	16,395 (5%)	2,009 (6%)
CBP	Office of Border Patrol	70,976 (19%)	4,988 (15%)
CBP	Office of Field Operations	12,187 (3%)	1,657 (5%)
Other	Other	5,641 (2%)	609 (2%)
Total		369,482 (100%)	32,020 (100%)

Notes:
FY 2009 Admissions are pro-rated as of 6/30/2009
Does not include BOP and Office of Refugee Resettlement (ORR) facilities

The size of the detained alien population is a function of the number of admissions and removals or releases and the total number of days in detention. Over time, policies have changed, priorities have been refined and new strategies have been adopted, resulting in a greater number of unlawfully present aliens apprehended and detained. While the detained population has increased appreciably over time, the proportion of the arrested population who are criminal aliens has remained fairly constant.

Initial Book-ins FY2007 to FY2009 to date

Fiscal Year	Non-Criminal Initial Book-ins	%	Criminal Initial Book-ins	%	Totals
FY 2007	183,106	66%	94,493	34%	277,599
FY 2008	238,766	68%	114,345	32%	353,111
FY 2009	243,900	66%	125,583	34%	369,483

Notes:
FY2009 Initial Book-ins is pro-rated as of 6/30/2009
Does not include BOP, ORR or Mexican Interior Repatriation Program (MIRP) facilities

Currently, 60 percent of aliens detained by ICE are encountered through the Criminal Alien Program (48%) and the 287(g) Program (12%). Although these programs are focused on criminal aliens, not all aliens encountered through these programs have criminal convictions.

Criminal Alien Program (CAP)
FY2009 ADP as of 6/30/2009

Fiscal Year	Criminal	Non Criminal	Total	Criminal	Non Criminal
Average Daily Population					
FY 2008	7,652	4,532	12,184	63%	37%
FY 2009	9,079	6,190	15,269	59%	41%
Initial Book-ins					
FY 2008	69,808	79,259	149,067	47%	53%
FY 2009	77,500	101,105	178,605	43%	57%

Notes:
FY2009 Initial Book-ins is pro-rated as of 6/30/2009
Does not include BOP, ORR or Mexican Interior Repatriation Program (MIRP) facilities

Office of State and Local Coordination 287(g) Program
FY2009 ADP as of 6/30/2009

Fiscal Year	Criminal	Non Criminal	Total	Criminal	Non Criminal
Average Daily Population					
FY 2008	1,021	1,329	2,349	43%	57%
FY 2009	1,490	1,669	3,159	47%	53%
Initial Book-ins					
FY 2008	10,545	27,231	37,776	28%	72%
FY 2009	15,533	29,159	44,692	35%	65%

Notes:
FY2009 Initial Book-ins is pro-rated as of 6/30/2009; Does not include BOP, ORR or MIRP facilities

Another program targeted at criminal aliens, Secure Communities, has the potential to significantly expand criminal alien enforcement through interoperable technology that improves information exchange between law enforcement agencies and DHS. As evident in the above tables, many aliens released from jails do not have convictions at the time of their release. Since this new technology has the potential to identify large volumes of aliens with low level convictions or no convictions, ICE and its state and local partners expect to continue to enhance their efforts focusing on the more dangerous criminal aliens and those with repeat offenses.

The Criminal Alien, State and Local 287(g), and Secure Communities programs impact admissions; in contrast, the docketing and dispositions of cases by the Executive Office of Immigration Review (EOIR) affects releases. EOIR is currently allocated 253 immigration judges. An additional 28 positions are expected in FY 2010. EOIR also receives funds to provide the Legal Orientation Program (LOP). The LOP provides general information about the kinds of legal relief available to detainees and is currently provided to newly admitted aliens at 50 detention facilities. Data indicates LOP participants move an average of 13 days more quickly through the immigration courts than detainees who do not have access to the program.

POPULATION MANAGEMENT

Discussion of ICE Population Management

Organization and Operations

DRO has 24 field offices and 186 subfield offices. Each of the field offices is headed by a Field Office Director (FOD), who reports directly to the DRO Deputy Director through the Assistant Director for Field Operations. The FOD oversees the agency's enforcement activities locally, including detention and Alternatives to Detention. The majority of staff within DRO at headquarters and in the field is focused on enforcement, not on detention. In August 2009, Assistant Secretary Morton established an Office of Detention Policy and Planning (ODPP) in the Office of the Assistant Secretary, creating the first office specifically dedicated to detention policy and planning.

Distribution of Detention Responsibilities

Ordinarily, the acquisition and renewal of detention beds, the assignment of detainees to facilities and ATD programs, and the transportation of detainees between facilities are accomplished centrally from headquarters and coordinated regionally in the field. ICE delegates these responsibilities directly to the field as collateral duties. It also delegates the operation of detention facilities to the private sector and county sheriffs departments.

On-site monitoring and annual evaluations are also performed primarily by the private sector. ICE contracts with one vendor for on-site monitoring at 53 of the approximately 300 detention facilities. It contracts with another vendor to conduct an annual assessment of compliance with detention standards at every facility currently in use. ICE also requests assessments of facilities that have not been recently occupied. The FY 2009 combined cost for oversight and system-wide assessments is $31,000,000. Where deficiencies are identified, the facility is required to submit an action plan and then remediate within a prescribed period of time. Action plans should be provided in a more timely fashion and should be monitored by ICE.

In addition to monitoring contract compliance, ICE maintains a presence at every facility, primarily through a DO. Every detainee is assigned to a DO, whose duties include at least one face-to-face contact each week to discuss the alien's status in the removal process. Site visits and case conferencing should occur regularly, and mechanisms are needed to ensure detainees who are transferred to another facility maintain contact with their assigned DO or are promptly reassigned to another DO.[8] Additionally, site visits and case conferencing should be consistently documented and routinely audited. Clear performance expectations should be issued, and additional staff training and supervision provided. It may also be

[8] When detainees are permanently transferred to another facility outside the area of responsibility of the sending office, the receiving office reassigns a DO to their case. The exceptions are for detainees transferred for the purposes of removal (staging of population for a charter or JPATS removal) and room and board cases (R&B). R&Bs are generally cases where all proceedings have been concluded but removal is not imminent or the issuance of travel documents are delayed.

beneficial to conduct a workload analysis to ensure staffing is adequate to ensure weekly contacts occur.

DRO also assigns a Contract Officer Technical Representative (COTR) and an assistant field office director (AFOD), to key facilities. The COTR is a specialist in procurement and a generalist in detention operations. The AFOD, a field office administrator, is a specialist in enforcement who generally has less specialized experience in managing a detention facility. The AFOD and the COTR report to the FOD. DRO does not expressly require the FOD, the AFOD, or the COTR to routinely tour detention facilities. Likewise, documentation of tours is not systematic and training is not formalized. In August 2009, Assistant Secretary Morton announced the plan to hire full-time, on-site detention administrators for the first time.

Assistant Secretary Morton also recently transitioned the Detention Facility Inspection Group (DFIG), which was responsible for auditing detention facilities and investigating for cause, to the Office of Detention Oversight (ODO) within the Office of the Assistant Secretary, Office of Professional Responsibility (OPR). DFIG was previously based in Washington D.C, while ODO will operate from three regional offices in Arizona, Texas and Washington D.C., thereby increasing access to the field with a goal of increasing inspections and lowering costs.

Allocation of Oversight Activities by ICE and Others

Type facility	Percent of alien population detained	On-site monitoring by vendor	Annual evaluation by vendor	On-site ICE COTR	On-site ICE AFOD/ SDDO
SPC	11%	7 (11%)	100%	7 (11%)	6 (11%)
CDF	16%	6 (15%)	100%	7 (16%)	7 (16%)
ICE-only IGSA	25%	7 (25%)	100%	5 (20%)	7 (25%)
Shared IGSA	45%	32 (26%)	100%	2 (5%)	2 (5%)
Other	3%	1 (0%)	N.A.	0 (1%)	1 (0%)
Total	**100%**	**52 (77%)**	N.A.	**23 (53%)**	**23 (57%)**

A total of 52 facilities in which 77% of the total population is detained, is overseen by an on-site contract monitor. A total of 23 facilities in which 57% of the total population is detained, is overseen by an on-site contract monitor, an ICE COTR, and an ICE AFOD/SDDO. At the remaining facilities, in which the remaining 23% of the population is detained, the immigration detainees are monitored by the same staff that oversees the criminal population and no additional oversight is provided

The oversight of the ATD contracts is provided by the Chief of the Alternatives to Detention Unit and the COTR.

In addition to oversight and investigation provided by ICE, the DHS Office of the Inspector General (OIG) and the Office of Civil Rights and Civil Liberties (CRCL) receive complaints and investigate allegations, each within their domain. The OIG may elect to open a file or refer the matter to OPR.

Each of these strategies includes informal and formal notifications and written reports. The reliability, timeliness, distribution, and storage of the information, as well as the organizational response, however, are not uniform and can hinder oversight. An additional challenge is ensuring that the various assessments are complete, ratings are validated, and compliance and performance problems are identified and resolved. ICE's challenge is also complicated by issues related to human capital, its information systems, detention standards, and other population management tools. These are all critical to creating and sustaining an effective detention system.

Human Capital

Today, DRO is comprised primarily of law enforcement personnel with extensive experience performing removal functions, but not necessarily in the design and delivery of detention facilities and community-based Alternatives to Detention. Limited in-house expertise on this subject matter makes it difficult to develop and evaluate Requests for Proposals and independently evaluate providers' performance. Other personnel issues also affect DRO. A number of management positions at headquarters are filled with staff from the field on short-term assignments, impeding the development of in-house expertise and institutional knowledge. The relatively large number of vacancies, the result of turnover and new positions not yet filled, increases the work load for the current staff in headquarters and the field and thwarts recruitment and retention efforts. A concerted effort is underway to develop in-house expertise. The establishment of the Office of Detention Policy and Planning is a critical first step.

Communication and Guidance to the Field

Written guidance to the field is limited. A series of operational memoranda are the basis for policy direction. A number of these are modified in part by superseding memoranda, and others are revised verbally. ICE has yet to formally publish policy and procedure or technical manuals specific to detention. The field should have access to timely, clear and complete written guidance about its critical functions—such as determining an alien's bond amount, eligibility for parole, or suitability for placement in an ATD program—so as to ensure effective staff performance and case processing. Furthermore, training materials and job performance expectations should be further developed.

ICE relies primarily on correctional detention standards designed for pre-trial felons for field guidance. The national detention standards that the Immigration and Naturalization Service (INS) introduced in 2000 with input from NGOs, which were then updated by ICE in 2008, are based upon the American Correctional Association (ACA) jail detention standards for pre-trial felons. These standards currently apply to all federal detainees, Immigration Detention and Criminal Incarceration alike, carrying criminal incarceration policies and practices into the arena of immigration detention. These standards impose more restrictions and carry more costs than are necessary to effectively operate the facilities required for the majority of ICE's Immigration Detention population. Accordingly, ICE needs to develop Immigration Detention standards consistent with the needs of its population.

Observations about the Execution of Population Management Activities

Classification

ICE classifies detainees as low, moderate, or high custody. The primary basis for classification is criminal history. The majority of the population is classified as low custody; the minority is classified as high custody.

In general, the current system distinguishes between non-criminal aliens, non-violent criminal aliens, and violent criminal aliens. In practice, however, non-criminal aliens and non-violent criminal aliens are frequently housed together, as are non-violent criminal aliens and violent criminal aliens. Moreover, these disparate groups are often managed similarly. The present custody classification system needs to be refined to properly distinguish within categories of crimes for degree of seriousness and to ascertain propensity for violence. ICE should determine whether or not to maintain three custody levels or adopt two—lower and higher custody. It should also align the supervision assumptions for each classification level with the level of assessed risk, as well as provide written guidance and training for field personnel.

ICE also needs a risk assessment instrument to implement a nationwide Alternatives to Detention program, in addition to a medical care classification system with a pre-assessment instrument. These two strategies are addressed later in this report.

Systems for Reporting

Comparable detention systems routinely rely on a number of basic reports, including a daily count sheet of all detainees in custody by facility, a roster of the population assigned to ATD supervision, a current list of all detention facilities with information about their operating and emergency capacities, the numbers of beds that are vacant and off-line for repair, and per diem pricing. Prior to bringing online the on-site detention managers, ICE needs to work toward developing these reports and publishing a daily list of individuals in its custody, their location, and those that are participating in ATD. ICE also needs to centralize and consolidate its records of contracts, service agreements, renewals, and vendors' performance.

Population Management Information

ICE maintains a system of records, referred to as Enforce, which is comprised of three main modules: Enforce Alien Booking Module (EABM), Enforce Alien Removal Module (EARM), and the Enforce Alien Detention Module (EADM).

EABM is used when an alien is encountered, otherwise known as an arrest or apprehension. Government officials use it at ports of entry, along the border, and within the United States to record an arrest, gather biographical and biometric data, and initiate processes and paperwork to begin administrative removal or immigration court proceedings against the alien.

EARM is the case processing module used to record case actions and decisions some of which are collected chronologically. It is also used to record dispositions of immigration court hearings and other administrative decisions, and to track the removal of an alien or record court terminations or grants of relief such as asylum.

The EADM module tracks book-ins and book-outs from detention among and between facilities. It also contains information on the facilities themselves, and needs to be expanded to include fields to capture information about detainee misconduct, grievances, and medical care. A records module specific to Alternatives to Detention is currently being added.

An anomaly of this system of records is that the majority of computer entry screens are at centralized sites such as major facilities, field offices, and sub offices, and not at the places of detention, particularly IGSA locations. This is especially significant to the EARM and EADM data bases, as the recording of the book-ins and book-outs frequently occurs after the actual events. Improvements to this system could better ensure the accuracy of the count as well as timeliness.

Moving forward, ICE needs more data about its operations for planning and evaluation purposes. The IGSAs and private prison contracts in place today have few reporting requirements and DIHS collects some information about its on-site activities, but does not maintain any information about IGSA on-site activities. Instead, ICE relies primarily upon contract monitors and facility operators to report information about basic detention activities and looks to the ATD vendors to provide information about community supervision activities. ICE should explore ways to optimize its databases, and those of its sister agencies, to enhance the volume of data as well as the timeliness and quality of its data entry. ICE should also install additional terminals to enter data in real time. Data entry should be routinely audited for accuracy at headquarters and in the field.

Population Management Recommendations

- The ideal system should create the capacity to detain and to supervise aliens consistent with assessed risk. This system should also afford opportunity to deliver programs and provide for the health and well-being of the population. The size of the system must be manageable; the design of the facilities must support the delivery of care as well as custody and control; and the requirements of special detainee populations as well as the population as a whole must be met. Facility locations and bed capacity should be aligned with arrest activity and opportunities to utilize ATD. The facilities should be placed nearby consulates, pro bono counsel, EOIR services, asylum offices, and 24-hour emergency medical care. The system should be linked by transportation. The oversight and management of the detention system must be supported by ICE by focusing on detention as a distinct discipline.

- ICE should develop and implement Immigration Detention standards and operating procedures that specifically reflect the legal requirements of the detained population. Immigration Detention should be implemented with a uniform policy, promulgated through standard procedure manuals and staff trainings. Any future ICE detention facilities should be designed and constructed consistent with these Immigration Detention standards and existing facilities should be staffed and operated to reflect these standards. Future requests for proposals and IGSA should incorporate operating assumptions that

are consistent with Immigration Detention standards. For optimal results, discussions leading to the development of Immigration Detention policy and its execution through the drafting of detention standards and operating procedures should reengage governmental and nongovernmental stakeholders and for-profit and non-profit providers. The discussions should focus on the underlying assumptions that inform operating decisions about movement, meal service, housing, dress, visitation, work, and worship, among other important daily activities. These operating assumptions should be incorporated as well in the facility design manual.

- There should be additional attention given to the efficiency and the effectiveness of existing and new systems of detention. ICE should improve efficiency by centralizing certain functions such as bed acquisition and utilization, regionalizing coordination and implementation, and decentralizing detention oversight. ICE should improve effectiveness by routinely collecting and analyzing key performance indicators over time. ICE should create capacity within the organization to assess and improve detention operations and activities without the assistance of the private sector. ICE should discontinue contracts and IGSAs when the facility's performance is unsatisfactory.

- ICE should establish a system of data tracking and assessment to inform management decisions about detention policy. A five-year population forecast with expected rates of growth for violent aliens, other criminal and non-criminal aliens, females, families, and a corresponding bed plan should be prepared and updated annually. ICE should maintain a count sheet and a current roster of all aliens detained by ICE and their locations, both updated daily. The system should utilize validated custody and medical care instruments to individually assess aliens in detention and to collect information about the population as a whole to refine housing, staffing, medical care, and other program requirements. To maintain accurate detention records and to capture all cost incurred by the agency, ICE should enter all aliens into its data base immediately upon the transfer of custody to ICE. To maintain complete and accurate records, ICE should have access to secure terminals at facilities that detain aliens.

- ICE should conduct a comprehensive analysis of detention costs, as well as the projected costs of this report's recommendations. This study should evaluate the budget impact of all of the following: renegotiating contracts to include less-restrictive detention strategies for non-criminal and non-violent populations, as well as other detention standards that reflect the nature of immigration detention; providing medical care and earlier medical assessments and classifications; and releasing aliens from detention on Alternatives to Detention programs. This budget analysis should be updated and renewed regularly.

- ICE should adopt informal and formal problem solving processes. This could include an office within ICE to receive and quickly respond to complaints and concerns about individual aliens and their detention and to develop processes to find and fix the underlying issues.

ALTERNATIVES TO DETENTION

Observations about Alternatives to Detention

Today, ICE operates three ATD programs. Two ATD programs, Intensive Supervision Appearance Program (ISAP) and Enhanced Supervision Reporting (ESR), are provided by vendors on contract with ICE. The third ATD program, Electronic Monitoring (EM), is operated by ICE, and about 250 ICE employees are assigned to the program. ISAP, which has a capacity for 6,000 aliens daily, is the most restrictive and costly of the three strategies using telephonic reporting, radio frequency, and global positioning tracking in addition to unannounced home visits, curfew checks, and employment verification. ESR, which has a capacity for 7,000 aliens daily, is less restrictive and less costly, featuring telephonic reporting, radio frequency, and global positioning tracking and unannounced home visits by contract staff. EM, which has a capacity for 5,000 aliens daily, is the least restrictive and costly, relying upon telephonic reporting, radio frequency, and/or global positioning tracking.

Some observers have criticized what they see as overly restrictive conditions of supervision imposed by ICE on aliens who are released to the community on an ATD program.

Aliens should be assigned conditions of supervision according to an assessment of the alien's flight risk and danger to the community. In practice, however, assignment to a program is determined in part by residency. ISAP and ESR are available to aliens who live within a 50 to 85 mile radius of the 24 field offices. EM is offered to aliens who live in other locations to the extent that funds are available.

In 2008, Congress directed ICE to develop a plan for the nationwide implementation of an ATD program. ICE recently awarded a contract to provide an ATD program that consolidates all of the supervision strategies into one program. When the plan is underway, it will replace current routines with practices that increase participation and successful completions. In order to implement a plan, ICE needs to develop a validated risk assessment instrument specifically calibrated for the U.S. alien population. The tool should assess initial and ongoing suitability for participation. As is the case with population management, ICE should ascertain each participating alien's need for supervision on the basis of factors such as the alien's propensity for violence, and approve a supervision strategy that fits the alien's profile. The risk assessment instrument can also be used to ascertain the program's optimal pool of participants.

Recommendations about Alternatives to Detention

- ICE should develop a nationwide implementation plan for the ATD program plan this fall. The plan should include a risk-assessment instrument that will enable ICE to estimate the number of aliens that will be enrolled in a nationwide program and to determine whether additional funds are required for nationwide expansion. The plan should include publication of a technical manual and provision of additional, ongoing staff training. The design of the program should be based on a comprehensive review of existing innovative ATD programs and best practices. The average length of time an alien

spends in an ATD program should be monitored to ensure it is comparable to aliens who are detained, in order to maximize the number of successful completions and reduce overall spending. Finally, to further reduce absconding, fugitive apprehension strategies should be reviewed and revised. Employing an in-house subject matter expert can expedite implementation of the plan.

- In 2007 ICE modified its parole guidelines in response to a request by organizations advocating for asylum seekers who had been found to have a credible fear of persecution or torture. Secretary Napolitano has requested a review of the agency's parole policy and the review is underway.

- It is likely that additional aliens who are statutorily eligible, but not otherwise qualified due to a lack of community ties, would qualify for ATD if not-for-profit and NGOs would sponsor them. ICE should seek community partners and pilot this effort.

DETENTION MANGEMENT

Observations about Detention Management

Care, Custody and Control

Detention Management speaks directly to the care, custody and control of the alien population. In turn, care, custody, and control constitute the conditions of detention.

All but a few of the facilities that ICE uses to detain aliens were built as jails and prisons. A number of them are located in fairly remote areas and are not near public transportation. In some instances, ICE detainees are assigned to facilities where they are housed with pre-trial and sentenced inmates. The facilities to which ICE detainees are assigned vary in age and architecture. Quite a few do not have windows. A number consist of single and double celled units and others are dormitories of varying size.

Movement is largely restricted and detainees spend the majority of time in their housing units. A recreation area is often adjacent to the housing unit and meals are served in the dayroom in quite a few locations, not in a separate dining hall. Access to recreation, religious services, the law library, and visitation can be improved. Segregation cells are often used for purposes other than discipline. For example, segregation cells are often used to detain special populations whose unique medical, mental health, and protective custody requirements cannot be accommodated in general population housing. Translation services should be more readily available in order to minimize staff reliance on other detainees for interpretation.

The demeanor of the Immigration Detention population is distinct from the Criminal Incarceration population. The majority of the population is motivated by the desire for repatriation or relief, and exercise exceptional restraint. According to reports provided by contract monitors and submitted by the field, relatively few detainees file grievances, fights are infrequent, and assaults on staff are even rarer.

Numerous changes could be made to improve the care and management of the detainee population. For example, individual complaints regarding the provision of medical care should be carefully considered and responded to in a prompt fashion, and the overall provision of medical care should be systematically managed to ensure appropriate remedies are implemented where necessary. When an alien is transferred to another facility, ICE should ensure seamless transfer of communication to a new DO.

Detainee safety and security is a primary responsibility of ICE. It requires a well maintained physical space and comprehensive infectious disease containment practices. To ensure safety and security, ICE needs an improved system of record-keeping, with the creation of institutional detainee files that are continuously updated. ICE must correctly assess custody requirements and swiftly identify medical and mental health issues as they arise. The system must make better use of sound practices such as welfare checks, key and tool control, non-invasive searches, a viable suicide prevention program, and practices that comply with the Prisoner Rape Elimination Act. New ICE detention standards need to distinguish which detention practices are applicable under what circumstances. Benefits and restrictions should be related to the assessed level of risk.

Detainee health and well-being is equally important. Nutritional meals and fresh foods, appropriate and clean clothes, adequate toiletries, access to outdoor recreation, a wellness program, and contact with counsel and community are all critical. Postage, phone cards, and other commissary items should be available.

Finally, a credible grievance process, sustained in an environment that is free from intimidation and retaliation, is critical.

Recommendations on Detention Management

- At many locations, the DO is the government's only representative. It is essential that a DO has contact with all of the aliens on his or her caseload as scheduled and that the contact includes a status report on the alien's removal or petition for relief. When an alien is transferred to another facility, ICE should ensure seamless transfer of communication to a new DO. Further, the DO should receive training to be able to assess the general well-being or demeanor of persons on their caseload.

- ICE should require detention operators to incorporate direct supervision and unit management into their detention management. Direct supervision would place specially trained security officers in the housing units to improve communication and enhance observation. Unit management would assign the identification and resolution of problematic conditions of detention primarily to housing unit staff. Both detention management strategies promote timely problem-solving.

- ICE should develop specialized caseloads of aliens including those who are chronically, medically, or mentally ill or have been detained a significant length of time to improve case management and expedite removal, release or relief. Where aliens have had final orders of removal and are not likely to be released, discharge and reentry planning should be completed by caseworkers and carried out in cooperation with nearby NGOs.

- ICE needs to ensure that the detainee grievance and disciplinary processes afford detainees full and fair consideration. ICE should be directly involved in grievance appeals and disciplinary findings that result in a loss of privileges or liberties.

- ICE should adopt the fewest number of custody classifications necessary to operate safe and secure detention facilities. ICE should manage the population proportionately to the risk they present.

- Detained aliens should have access to the housing unit dayroom, outdoor recreation, and to programs and support space in other parts of the detention facility consistent with their custody classification and comparable with other populations detained at that location.

- ICE should also consider, in consultation with its stakeholders, normalizing the living environment for low-custody aliens.

- ICE should affirm the conditions of detention that it seeks to provide for a Immigration Detention population and then assess each facility's performance and physical condition to determine whether to continue to use the facility in its current capacity, modify its mission, or cancel the contract.

PROGRAMS MANAGEMENT

Observations about Programs Management

Every detention facility is required to provide four programs services in addition to medical care. They are 1) Law Library and Other Activities affording Access to the Court; 2) Recreation; 3) Family Contact including Visitation and Communication by Mail and Telephone; and 4) Religious Activities and Observances. These requirements are not unique to ICE. Both jails and prisons are required by statute and case law to offer these services, but ensuring compliance at detention facilities presents an ongoing challenge.

Law Library and Other Activities affording Access to the Court include attorney and consulate visits, phone calls and legal mail, the EOIR-funded legal orientation program (LOP), translation services, and hearings before an immigration judge when provided by law. The libraries vary appreciably in size and staff with many relying on detainee law clerks for their operation. Many of the jails used by ICE have non-contact visiting booths only and no room specifically designed for contact attorney visits. Attorneys report problems contacting their clients by mail and accessing them in the facility for pre-hearing consultations. They also report that their clients are transferred to locations prohibitively far away, and that they are not notified when their clients are moved. A number of facilities can improve counsel meeting rooms, such as by installing privacy shields which mute telephone conversations and protect the privacy of an attorney-client phone call. Detainees' access to consulates and pro bono counsel can be improved by ensuring that phone numbers are readily provided to detainees and are accurate.

Recreation encompasses indoor, as well as outdoor, recreation. Outdoor recreation is distinctly different than outdoor exercise which is usually limited to a "run," ordinarily without recreation equipment. Indoor recreation may include a gym in addition to the housing unit dayroom. Aliens assigned to protective custody and administrative and disciplinary segregation are often limited to outdoor exercise.

Family visitation is often limited to noncontact visits of fairly short duration. With many facilities a considerable distance away, some families are unable to afford a facility visit. Phone calls are also expensive. Steps could be taken to improve a detainee's ability to contact family members, such as making phone cards available and enhancing the family visitation meeting rooms.

Jails, prisons, and ICE detention facilities are all subject to the Religious Land Use Institutionalized Persons Act (RLUIPA). RLUIPA affords institutionalized persons the opportunity to practice sincerely held beliefs. Non-denominational religious services are not always available. Proselytizing is infrequent but occurs. There are often fixed objects unique to a particular faith on display. Religious diets and religious objects are not always provided. Finally, religious dress and head coverings, and hair length and facial hair, are not always permitted consistent with custody classification.

Recommendations for Programs Management

- The Law Library should be sufficient in size and appropriately staffed to afford aliens daily access. Legal reference materials should be current and complete. There should be dedicated space for contact legal visits and opportunity for pre-hearing consultations. Legal mail should be delivered promptly to the alien, or returned immediately to the attorney. Detainees who are represented by counsel should not be transferred outside the area unless there are exigent health or safety reasons, and when this occurs, the attorney should be notified promptly. Privacy shields to mute telephone conversations and protect the privacy of an attorney-client phone call should be installed on all of the phones that detainees use. The telephone numbers for legal resources and consulates should be kept current. Finally, the Legal Orientation Program (LOP) should be expanded to all detention facilities.

- Indoor and outdoor recreation should be available to the general and special populations consistent with risk and appropriate to each population. Access should be expanded to the greatest number of hours daily and no less than that afforded other populations.

- Family visitation should be improved with expanded hours, appropriate space, affordable phone calls, and accessible mail service.

- ICE should implement, at every facility, opportunities for aliens to practice their faith in a neutral environment where non-denominational religious services are available and proselytizing does not occur. Religious diets and religious objects and texts should also be provided. Finally, religious dress and head coverings, and the choice of hair length and

facial hair, should be permitted consistent with custody classification. Access to worship and study should be afforded.

- A subject matter expert (SME) should oversee each of the four programs, develop policy and procedure, provide technical assistance, modify each program to meet the population's cultural and language requirements, and audit for compliance.

MEDICAL CARE

Observations about Medical Care

The delivery of detainee medical care is shared by the Division of Immigration Health Services (DIHS)[9], sheriffs departments, and private prison providers.

DIHS coordinates off-site medical care for 100 percent of the population and provides on-site medical care to about 50 percent of the total population, which is spread out among 21 detention facilities. The medical care services provided vary considerably by location, as does the staffing in the specialty areas. DIHS on-site provider staff is comprised predominately of contract employees, who face more relaxed professional credentialing procedures than regular employees. DIHS also staffs four ICE holding/staging locations.

ICE does not have an electronic medical records system for all facilities or uniform paper reporting requirements and little reliable medical care information is available about the population as a whole. There is no medical classification system other than a limited use coding of healthy and unhealthy, and there is no mental health classification system. There is no policy on the maintenance, retention, and centralized storage of medical records; instead, a new medical record is opened each time a detainee is transferred to another detention facility. After the detainee is transferred from the facility the file remains on site. While a medical summary should accompany detainees upon their transfer, it does not routinely occur.

The cost to provide medical care should also be established and updated annually.

The assessment, treatment, and management of pandemic and contagious diseases is inconsistent across DIHS-staffed and non-dedicated IGSA facilities. Improvements should be made to ensure that all facilities are capable of managing large scale outbreaks.

The current mental health intake assessment is quite brief and does not lend itself to early identification and intervention. This is limited primarily to an overview of the detainee handbook. Routine assessments should be made of aliens who remain detained or who exhibit symptoms of distress. Staffing varies at DIHS facilities and is frequently quite limited at IGSA locations. The number of aliens identified as having DSM diagnoses and prescription practices

[9] DIHS, a unit within Public Health Services (PHS) at the U.S. Department of Health and Human Services (DHHS), is detailed to ICE by means of a memorandum of understanding.

differ appreciably. Few beds are available for in-house psychiatric care for the mentally ill. Aliens with mental illness are often assigned to segregation, as are aliens on suicide watch.

Steps can be taken to ensure that detainees with other special needs, such as chronic medical conditions, convalescent care, and infirmities associated with aging, have their needs met effectively. For example, facilities should provide step down beds and more ADA accessible facilities should be available to house detainees with special needs. Specialists to diagnose and treat each of these populations, specialized case management, and prescription reviews are all indicated.
A comprehensive review upon arrival at the detention facility and preventive clinical services would help to identify aliens at risk and provide needed stabilization. Aliens with mental illness would benefit from improved staffing, appropriate housing, access to step down services, and specialized case management.

Within the last month, ODPP hired a medical care systems administrator and Assistant Secretary Morton announced that ICE will recruit a Medical Director and establish a medical care advisory group. ICE recently issued a policy on the notification of detainee deaths in ICE custody.

Recommendations for Medical Care

- There should be one integrated medical care system. ICE should adopt a coordinated approach to assessing and managing medical care across the agency including a system of medical care records for all detainees. This would help establish the cost to provide medical care to inform future budget requests. ICE needs to consider whether IGSA facilities, each with its own medical care provider, can participate in a unified system. ICE may benefit from forming an office designated to assume accountability and authority for the integrated delivery of medical service system-wide.

- The ICE infection control program should feature a comprehensive TB control program; structure a surveillance system; mandate education for staff; and offer continuing medical education to medical care providers.

- ICE should develop and implement a system for a preliminary medical and mental health screening and the medical and mental health classification for detainees. The preliminary screening would be designed for use by lay personnel when the alien is transferred to the custody of ICE. It would be used to inform alien assignments to a detention facility consistent with medical need. The medical and mental health classification would be completed by appropriately credentialed medical care personnel at the detention facilities to which aliens are assigned and would not be delegated to contract employees. Aliens identified as having elevated medical and mental health requirements should be assigned to appropriately staffed and equipped detention facilities.

SPECIAL POPULATIONS

Observations on Special Populations

Special Populations cut across Population Management, Detention Management, and Programs Management to tailor each of these three components to meet the unique needs of families with minor children, females, the ill and infirm, asylum seekers, and other vulnerable populations.

Families with minor children are assigned to family residential facilities (FRF), where the conditions of detention are normalized to the extent possible. Parents oversee their children. A parent of either sex may room with minor children up to the age of six. A parent may room with minor children of the same sex up to the age of 18. The children attend school on-site and have limited access to community resources. Currently ICE operates one FRF, the Berks FRF.

Detained women are impacted in part due to their relatively small number. They make up nine percent of the detained population and are assigned to approximately 150 detention facilities across the country where they are often one of very few Immigration Detention females. As a result, they are not likely to have comparable or gender appropriate access. Many facilities employ men primarily and assign female detainees to open bay housing where there is little privacy.

As noted above, ICE assigns aliens to detention facilities prior to completing the medical screening. Thus it relies on the facility provider to determine whether the alien has been appropriately placed. As a result, the chronically ill, the medically ill, the mentally ill, the elderly, and the handicapped are not always in facilities where the staffing, proximity to emergency medical care, and physical space are most conducive to their conditions. When the facility elects to keep and not transfer the detainee, the alien is often reassigned within the facility to segregation for enhanced supervision, a location that is not conducive to recovery.

There are approximately 1,400 non-criminal asylum seekers detained daily. As is the case with female detainees, asylum seekers are dispersed to a number of locations, some of which are an appreciable distance from the services and resources that they need. Consolidating non-criminal asylum seekers into one or several facilities close to systems of support should be considered. Medical care and other programs services should be provided consistent with the identified needs of these detainees.

Recommendations for Special Populations

- The female population should be consolidated in facilities close to population centers proximate to their arrest location and near pro bono counsel. The conditions of detention should be modified to meet their special requirements for safety and well-being. The T. Don Hutto facility, rededicated as an all female facility, now enables ICE to minimize its assignment of small numbers of females to a large number of IGSA facilities in remote locations. It also enables ICE to implement gender specific recommendations and assess

their effects before implementing gender specific recommendations as part of a national plan.

- Female staff should be assigned to supervise the female population or, male staff should be required to knock and announce prior to entering female detainee housing units and holding cells.

- NGOs and non-profit agencies should be invited to assist eligible individuals in special populations, as well as the general population, to establish community ties and develop viable release plans to qualify for placement in ATD programs, and then to maintain compliance with their conditions of ATD supervision.

- The utilization of segregation cells for medical isolation or observation should be discontinued immediately.

ACCOUNTABILITY

Observations on Accountability

Accountability is the keystone to detention reform. Accountability encompasses government oversight, transparency, and a commitment to continuous improvement. ICE strives toward increased accountability through the development of detention standards specific for immigration detainees, the introduction of newly established on-site ICE detention experts, the development of the ODO, and consideration of a detainee locator system.

Recommendations for Accountability

- ICE should review and revise the Performance Based National Detention Standards to reflect the requirements and other needs that are unique to the population of immigrant detainees. The new standards should be reassessed periodically.

- ICE should continue to establish additional on-site detention administrator positions to provide government oversight at IGSA locations, and assign a SME with the requisite education and experience to coordinate, train, and assess this endeavor. The identification of facilities to be included in this expansion should take into account the size of ICE population, operating difficulties, and proximity to other IGSA locations.

- ICE should continue to establish additional ODO teams to expand government oversight to IGSA locations. Each interdisciplinary team should conduct routine and random inspections and investigate for cause. The identification of facilities to be included in this expansion should consider the size of ICE population, operating difficulties, and proximity to other IGSA locations. ICE should also determine how many facilities each team will be assigned.

- ICE should consider how to allocate and integrate the work performed by the on-site detention administrators and ODO teams with that of the existing contract monitors and the contractor performing annual evaluations in order to optimize coverage and maintain optimal conditions of detention at all locations. Private sector participation in oversight, a core governmental responsibility, should be reviewed and modified, particularly where there is duplication of effort. Ultimately, ICE should establish and maintain a presence at each facility in which its population is placed.

- ICE should formulate a plan to optimize the presence of other ICE staff, particularly deportation officers, who are currently assigned to detention facilities and then implement its plan.

- ICE should publish key performance indicators on the ICE website quarterly.

- ICE should create and maintain a current detainee locator system on the ICE website.

Appendix

Facility Tours

Atlantic City Detention Center
Berks Family Residential Facility
Buffalo Detention Facility
Chicago Deport Center
Chicago Staging Facility
El Centro Service Processing Center
Elizabeth Service Processing Center
Eloy Detention Center
Florence Service Processing Center
Justice Prisoner and Alien Transportation System
Maricopa County Jail
McHenry County Jail
Migrant Operations Center (GITMO)
Mira Loma Detention Facility
Northwest Detention Center
Otay Detention Facility
Port Isabel Service Processing Center
San Diego Staging (B-18)
San Pedro Service Processing Center
South Louisiana Detention Center
Springfield MO BOP Medical Facility
Stewart Detention Center
T. Don Hutto Family Residential Facility
Varick Street Detention Center
Willacy County Detention Center

NGO and Other Stakeholders

Adult Faith Formation for Catholic Social Teaching and Family Life, Seattle Archdiocese
American Bar Association, Commission on Immigration (ABA)
American Civil Liberties Union (ACLU)
American Corrections Association (ACA)
American Gateways
American Immigration Lawyers Association (AILA)
American of State Correctional Administration (ASCA)
American-Arab Anti Discrimination Committee
Amnesty International USA (AIUSA)
Anti-Defamation League (ADL)
Arab American Institute
Arab Community Center for Economic and Social Services (Michigan)
Asian American Justice Center
Asylum Law
Breakthrough
Bill of Rights Defense Committee (Massachusetts)
Brooklyn Law School
Border Research, Southwest Institute for Research on Women, Bacon Immigration Law & Policy Program
Breakthrough (New York)
Capital Area Immigrants' Rights
Carnegie Corporation of New York
Cardozo University School of Law
Catholic Legal Immigration Network (CLINIC)
Center for American Progress
Center for National Security Studies
Central American Legal Assistance
Chicago Bar Foundation (CBF)
Citizenship Counts
City Bar Justice Center
Civil Rights Bureau NYS Attorney General's Office
Clinical Associate Professor of Law
Coalition for Humane Immigrant Rights of Los Angeles
Columbia University School of Law
Defending Immigrants (Seattle)
Detention and Asylum Program, Women's Refugee Commission
Detention Watch Network
Faith & Action for Strength Together (FAST)
Florence Immigrant and Refugee Rights Project
Florida Immigrant Advocacy Center (FIAC)

Four Freedoms Fund
Hebrew Immigrant Aid Society (HIAS)
Highland Park Reform Church
Human Rights First (HRF)
Human Rights Watch (HRW)
Illinois Coalition for Immigrant and Refugee Rights
Immigrant Defense Project
Immigration Advocates Network
Immigration Clinic (University of Texas School of Law)
Immigration Equality
Immigration Project of the Legal Assistance Foundation of Metropolitan Chicago (LAF)
Inter-American Commission on Human Rights
James E. Rogers College of Law, University of Arizona
Justice Sector Reform, Human Rights, Peace and Social Justice Program
Kids in Need of Defense (KIND)
Leadership Conference on Civil Rights & the Leadership Conference on Civil Rights Education Fund
Legal Aid of Western Missouri
Legal Aid Society, Immigration Law Unit
Legal Momentum Immigrant Women Program
Lutheran Immigrant and Refugee Services (LIRS)
Migration Policy Institute
Muslim Public Affairs Council
National Asian Pacific American Women's Forum
National Coalition for Immigrant Women's Rights
National Council of La Raza
National Immigrant Justice Center (NIJC)
National Immigrant Project of the National Lawyers Guild (Family Petitioner)
National Immigration Forum
National Immigration Law Center
National Latina Institute for Reproductive Health
New Jersey Immigration Policy Network
New Orleans Workers' Center for Racial Justice Counsel
New York County District Attorney's Office
New York Immigration Coalition
New York University/Bellevue Hospital Center for Survivors of Torture
New York University School of Law
Northwest Immigrant Rights Project
One America, Seattle
One America, Washington
New Orleans Workers' Center for Racial Justice
Open Society Policy Center

Organization of American States
Penn Law University of Pennsylvania
Penn State University Dickinson School of Law
Pew Hispanic Center
ProBAR
Probono
Rights Working Group
Seattle Archdiocese
Seattle University School of Law
Second Circuit Court of Appeals
South Asian Americans Leading Together (Maryland)
Southwest Institute for Research on Women, University of Arizona
Special Opportunities Fund at Carnegie Corp of New York
Tennessee Immigrant and Refugee Rights Coalition
Texas Rio Grande Legal Aide
The Ford Foundation
The Moss Group, Inc.
Unbound Philanthropy
United Nations High Commissioner for Refugees
United States Conference of Catholic Bishops (USCCB)
United States Commission on International Religious Freedom (USCIRF)
United States Democracy
United States Justice Fund at the Open Society Institute
University of Texas School of Law
University of Washington School of Law Immigration Law Clinic
Vera Institute of Justice
Volunteer Advocates for Immigrant Justice
Washington Defender Association's Immigration Project
Women’s Refugee Commission
Yale University School of Law

Congressional Contacts and Other Elective Officials and Staff
Congressional Asian Pacific American Caucus
Congressional Hispanic Caucus
Congressional Progressive Caucus
Health, Education, Labor and Pensions (HELP) Committee
House Democratic Caucus State of Washington
House Homeland Security Committee
House Judiciary Committee
House Majority Whip State of Washington
House of Representatives Committee on the Judiciary
House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Membership
House of Representative, State of Washington delegation
Permanent Representative of the United States Mission
Representative Carter
Representative Robles-Allard
Senate Drug Caucus
Senate Homeland Security and Governmental Affairs Committee
Senate Judiciary Committee
Senate Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Membership
Senator Feinstein staff
State of Washington Governor
State of Washington Governor's Office of Executive Policy
State of Washington House of Representatives delegation
Subcommittee on Homeland Security Committee on Appropriations

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About the Author

Dora Schriro is one of the foremost experts on correctional policies in the country, and served first as Secretary Janet Napolitano's Special Advisor on ICE Detention & Removal, then as Director of the ICE Office of Detention Policy and Planning. She has received prestigious awards from both Harvard University and the National Governors Association for her immensely successful recidivism reduction policies as the Director of the Arizona Department of Corrections for six years. She also served as the Director of the Missouri Department of Corrections for eight years.