

NATIONAL
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DETENTION
WATCH NETWORK

An Inside Look at the ICE Inspections System

November 2, 2015

immigrantjustice.org/TransparencyandHumanRights

Today's Presenters

- **Claudia Valenzuela**
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- **Mary Small**
Policy Director, Detention Watch Network
- **Yazmin Contreras**
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- **Jessica Vosburgh**
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Lives in Peril:

How Ineffective Inspections
Make ICE Complicit in
Immigration Detention Abuse



The Immigration
Detention
Transparency
and Human
Rights Project

October 2015 Report

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WATCH NETWORK

detentionwatchnetwork.org

Our Findings:

- The Obama administration failed to improve oversight or gain control over the sprawling immigration detention system and the problematic conditions approximately 34,000 immigrants face in custody every night.
- The failures of the inspections system have made ICE complicit in obscuring human rights violations in detention facilities.
- Public and private contractors who operate the jails that detain immigrants are able to continue multi-million dollar contracts – funded by American taxpayers – even when they fail to comply ICE's own detention standards.

Obama's 2009 Reform Promises

1. Increase government transparency
2. Fix detention oversight



the WHITE HOUSE PRESIDENT BARACK OBAMA

BRIEFING ROOM ISSUES THE ADMINISTRATION

Home • Transparency and Open Government

Transparency and Open Government

Memorandum for the Heads of Executive Departments and Agencies

SUBJECT: Transparency and Open Government

My Administration is committed to creating an unprecedented level of openness in Government. We will work together to ensure the public trust and participation, and democracy and



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U.S. Immigration and Customs Enforcement

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2009 Immigration Detention Reforms

December 12, 2011

Today, ICE Director John Morton announced substantial steps, effective immediately, to reform the immigration detention system. These reforms will address the vast majority of current immigration detention, while allowing ICE to maintain a significant, robust detention capability for serious immigration enforcement.

2009 DHS Appropriations Act:

“Provided further, That effective April 15, 2009, none of the funds provided under this heading may be used to continue any contract for the provision of detention services if the two most recent overall performance evaluations received by the contracted facility are less than ‘adequate’ or the equivalent median score in any subsequent performance evaluation system.”

ICE Enforcement and Removal Operations (ERO) inspections count toward this provision.

Fig. 5: Standards applied for most recent inspection obtained

DETENTION FACILITY	DETENTION STANDARDS APPLIED AT MOST RECENT ERO or ODO INSPECTION (YEAR OF INSPECTION)
ADELANTO EAST CORRECTIONAL FACILITY, CA (GEO Group)	PBNS (2012)
ADELANTO WEST CORRECTIONAL FACILITY, CA (GEO Group)	PBNS (2012)
BAKER COUNTY SHERIFF DEPARTMENT, FL	2000 NDS (2012)
BEDFORD HEIGHTS CITY, OH	2000 NDS (2012)
BERGEN COUNTY JAIL, NJ	2000 NDS (2012)
BERKS COUNTY FAMILY SHELTER, PA	ICE Residential Standards
BOONE COUNTY JAIL, KY	2000 NDS (2012)
BRISTOL COUNTY DETENTION CENTER, MA	2008 PBNS (2012)
BROWARD TRANSITIONAL CENTER, FL (GEO Group)	PBNS (2012)
DENVER CONTRACT DETENTION FACILITY, CO (GEO Group)	2008 PBNS (2011)*
BUTLER COUNTY JAIL, KS	2000 NDS (2011)
BUTLER COUNTY JAIL, OH	2000 NDS (2012)
CALDWELL COUNTY DETENTION CENTER, MO	2000 NDS (2012)
CALHOUN COUNTY CORRECTIONAL CENTER, MI	2000 NDS (2012)
CALIFORNIA CITY CORRECTIONAL CENTER, CA (CCA)	2008 PBNS (2011)
CAMBRIA COUNTY JAIL, PA	2000 NDS (2011)
CARVER COUNTY JAIL, MN	2000 NDS (2011)
CASS COUNTY JAIL, NE	2000 NDS (2011)
CENTRAL ARIZONA DETENTION CENTER, AZ (CCA)	PBNS (2012)
CHARLESTON COUNTY DETENTION CENTER, SC	2000 NDS (2012)
CHASE COUNTY DETENTION FACILITY, KS	2000 NDS (2011)
CLINTON COUNTY CORRECTIONAL FACILITY, PA	2000 NDS (2012)
CONTRA COSTA COUNTY JAIL WEST, CA	2000 NDS (2011)
DEKALB COUNTY DETENTION CENTER, AL	2000 NDS (2012)
DELANEY HALL DETENTION FACILITY, NJ	PBNS (2012)
ELIZABETH CONTRACT DETENTION FACILITY, NJ (CCA)	2008 PBNS (2011)
DODGE COUNTY JAIL, WI	2000 NDS (2012)
DOUGLAS COUNTY CORRECTIONS, NE	2008 PBNS (2012)*
EAST HIDALGO DETENTION CENTER, TX (GEO Group)	2000 NDS (2011)
HOUSTON CONTRACT DETENTION FACILITY, TX (CCA)	2008 PBNS (2012)
EL PASO COUNTY JAIL, CO	2000 NDS (2012)
NORTHWEST DETENTION CENTER, WA (GEO Group)	2008 PBNS (2012)
SAN DIEGO CONTRACT DETENTION FACILITY, CA (CCA)	2008 PBNS (2011)*
ELOY FEDERAL CONTRACT FACILITY, AZ (CCA)	2008 PBNS (2012)
ESSEX COUNTY, NJ	PBNS (2012)
ETOWAH COUNTY JAIL, AL	2000 NDS (2012)

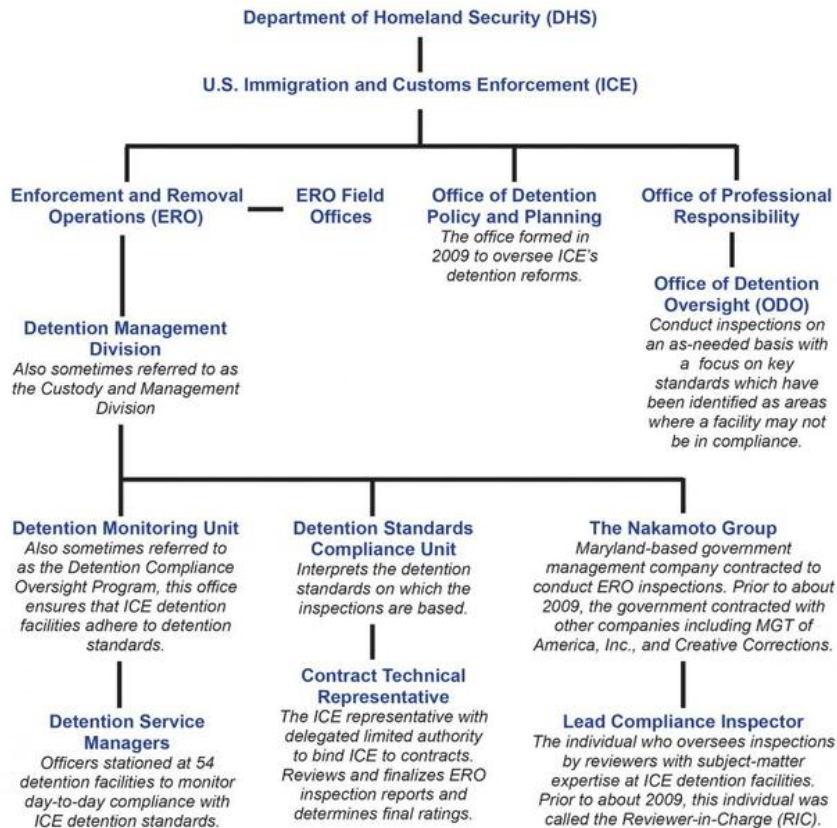
ICE Detention Standards

- **2000 National Detention Standards**
- **2008 Performance-Based National Detention Standards**
- **2011 Performance-Based National Detention Standards**

“The PBNDS 2011 are crafted to improve medical and mental health services, increase access to legal services and religious opportunities, improve communication with detainees with no or limited English proficiency, improve the process for reporting and responding to complaints, and increase recreation and visitation.”

ICE's Internal Inspections Process

ICE Offices Involved in Detention Center Inspections



Sources: January 2014 deposition in NIJC v. DHS of the head of the ICE Detention Monitoring Unit; ICE website; and Government Accountability Office October 2014 report

The 1-2-3s of the "324":

The Life of an Immigration Detention Inspection Form

The information in this chart is based on the January 2014 deposition in *NIJC v. Department of Homeland Security* of the head of the U.S. Immigration and Customs Enforcement (ICE) Detention Monitoring Unit. Transcript is available at: www.documentcloud.org/documents/2105816-neveleffs-deposition.html

The reviewers who perform the inspection are employees of The Nakamoto Group, a Maryland-based government management contractor.



1. Reviewers with subject-matter expertise visit a facility and complete their sections of the inspections checklist, known as Form G-324A



2. Reviewers meet with the Lead Compliance Inspector (LCI) or Reviewer-in-Charge (RIC) to generate a complete 324 form



4. Nakamoto sends the form to ICE's Detention Monitoring Unit
This office is responsible for the "day-to-day" monitoring of detention standards.

3. The LCI or RIC pass the inspection form on to the "Nakamoto operations team" where it "gets packaged."
Nakamoto does not inform ICE whether changes are made to the form between the time of the inspection and when the 324 is delivered to ICE.

5. The form continues on to the Contract Technical Representative at ICE's Detention Standards Compliance Unit (DSCU)
If the facility requires a Uniform Corrective Action Plan (also referred to as "Plan of Action"), the DSCU reviews the 324 for deficient ratings and communicates with reviewers to determine a final rating.

6. The DSCU communicates the final rating to the Assistant Director or Deputy Assistant Director for Detention Management, who signs off as "Review Authority" in a memo that is sent to the ICE Enforcement and Removal Operations (ERO) Field Office responsible for the facility.
The 324 also is uploaded to ICE's SharePoint document management system, filed in paper form at ICE's ERO office in Washington, D.C., and sent to government management contractor Capgemini, which enters the inspection results into ICE's Facility Management Program System.

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“The contractor has latitude to get to the final result”

— ICE Detention Monitoring Unit Director, January 2014 deposition in NIJC v. DHS

Q. Is there a paper trail that ICE has access to when the form Three Twenty-Four goes through the entity's hierarchy?

...

THE WITNESS: I can only speculate.

...

MR. OSWALD: And the cause for speculation is?

THE WITNESS: The cause for speculation is, you know, it's a contract mechanism the way we establish our contractor is basically performance based, meaning that the contractor has latitude to get to the final result.

BY MR. ANDALMAN:

Q. Got it. So potentially a document could be modified within the outsourced entity and ICE would not have access to records of that?

A. Again, I'm speculating that potentially.

**Fig. 6:
Failed inspections,
2007-2012**

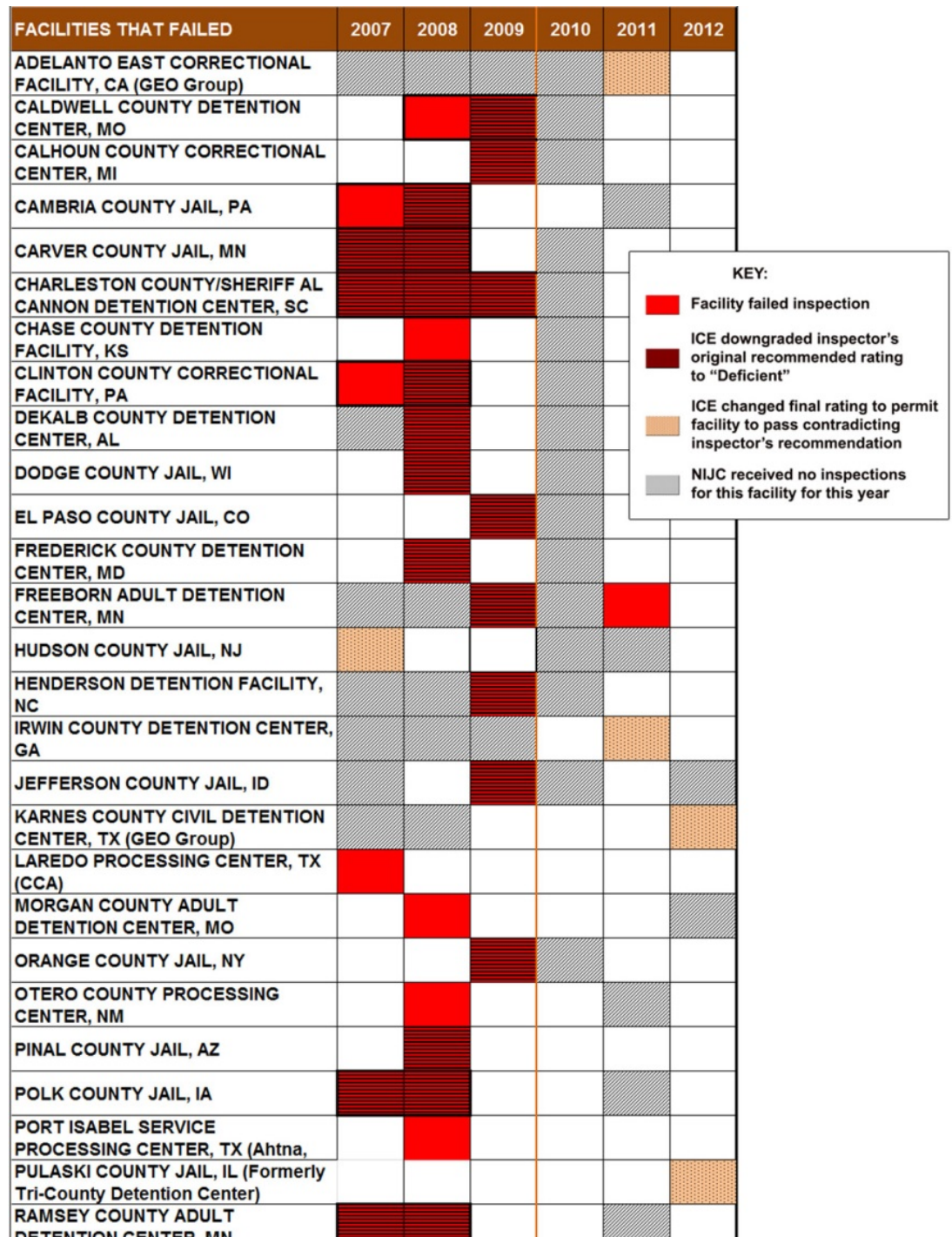


Fig. 1:
Inspection
checklist excerpt

(from Eloy 2012
ERO inspection)

PART 4 – 20. FOOD SERVICE				
This Detention Standard ensures that detainees are provided a nutritionally balanced diet that is prepared and presented in a sanitary and hygienic food service operation.				
Components	Meets Standard	Does Not Meet Standard	N/A	Remarks
1. The food service program is under the direct supervision of a professionally trained and certified Food Service Administrator (FSA). The Responsibilities of cooks and cook foreman are in writing. The FSA determines the responsibilities of the Food Service Staff.	<input checked="" type="checkbox"/>			The Food Service Administrator (FSA), who is employed by Canteen Corporation, is responsible for the
2. The Cook Foreman is on duty on days when the FSA is off duty and vice versa.	<input checked="" type="checkbox"/>			
3. The FSA provides food service employees with training that specifically addresses detainee-related issues. In ICE Facilities this includes a review of the "Food Service" standard.	<input checked="" type="checkbox"/>			
4. (MANDATORY) Knife cabinets close with an approved locking device and the on-duty cook foreman maintains control of the key that locks the device. Knives and keys are inventoried and stored in accordance with the Detention Standard on Tool Control	<input checked="" type="checkbox"/>			
5. All knives not in a secure cutting room are physically secured to the workstation and staff directly supervises detainees using knives at these workstations. Staff monitor the condition of knives and dining utensils	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The facility does not use knives, however, the condition of other dining utensils is monitored by food service staff.
6. Special procedures (when necessary) govern the handling of food items that pose a security threat.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Yeast, mace, nutmeg, cloves and other food items that pose a security threat are not used in the facility. Spices and sugars are secured in the dry storage room in a locked cabinet.
7. Operating procedures include daily searches (shakedowns) of detainee work areas.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8. The FSA monitors staff implementation of the facility population count procedures. These procedures are in writing. Staff are trained in count procedures.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Assigned detention officers are trained in count procedures and are responsible for conducting counts.

Summary of standard

List of components that comprise the standard

Some components are marked as "mandatory." A rating of "Does Not Meet Standards" or "Deficient" on one of these components should result in failure of the overall inspection.

Fig. 2:
First tier to the ERO checklist is a rating of individual components within a given standard.

PART 7 - 41. TRANSFER OF DETAINEES				
This Detention Standard ensures that transfers of detainees from one facility to another are professionally and responsibly managed in regard to notifications, detainee records, safety and security, and protection of detainee funds and personal property.				
Components	Meets Standard	Does Not Meet Standard	N/A	Remarks
10. For medical transfers, transporting officers receive instructions regarding medical issues.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Transportation officers will receive specific instructions regarding medical issues.
11. Detainee's funds, valuables and property are returned and transferred with the detainee to his or her new location.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	All funds and personal property are returned to the detainee during the release process.

Fig. 3:
Second tier to the ERO checklist is a rating for an overall standard, which is based on the ratings of individual components.

PART 7 - 41. TRANSFER OF DETAINEES				
<input checked="" type="checkbox"/> Meets Standard <input type="checkbox"/> Does Not Meet Standard <input type="checkbox"/> N/A <input type="checkbox"/> Repeat Finding				
Remarks: <i>(Record significant facts, observations, other sources used, etc.)</i> An interview with an ICE representative indicated that ICE staff are aware of the responsibilities regarding notification of a detainee's attorney of record when a transfer is made outside the Field Office area. Field Office staff are also aware of the case management issues regarding a medical transfer. In addition, interviews with Booking staff indicated that they are well versed in the procedures and issues involved in the transfer of detainees. All property and funds are signed for by the detainee upon departure. Safety and security are always a consideration in any movement of a detainee.				
(b)(6), (b)(7)(c) 02/24/2012 Reviewer's Signature / Date				

Fig. 4:
Third tier to the ERO checklist is a rating for the overall facility, which is based on the ratings given to standards.

LCI Review Assurance Statement	
<p>By signing below, the Lead Compliance Inspector (LCI) certifies that all findings of noncompliance with policy or inadequate controls contained in the Inspection Report are supported by evidence that is sufficient and reliable. Furthermore, findings of noteworthy accomplishments are supported by sufficient and reliable evidence. Within the scope of the review, the facility is operating in accordance with applicable law and policy, and property and resources are efficiently used and adequately safeguarded, except for the deficiencies noted in the report.</p>	
Lead Compliance Inspector: (Print Name) (b)(6), (b)(7)(c)	Signature (b)(6), (b)(7)(c)
Title & Duty Location Lead Compliance Inspector, The Nakamoto Group, Inc.	Date February 24, 2012
Team Members	
Print Name, Title, & Duty Location (b)(6), (b)(7)(c) Food & Environmental Health and Safety-CI, The Nakamoto Group, Inc.	Print Name, Title, & Duty Location (b)(6), (b)(7)(c) Medical CI, The Nakamoto Group, Inc.
Print Name, Title, & Duty Location (b)(6), (b)(7)(c) Security-CI, The Nakamoto Group, Inc.	Print Name, Title, & Duty Location
Recommended Rating: <input type="checkbox"/> Meets Standards <input checked="" type="checkbox"/> Does Not Meet Standards	

What are the final ratings based on?

- 5 of 6 the facilities we review in this report, and 29 of the 35 reviewed by the GAO during roughly the same time period, have substantial variations in their findings.
- In 2011, Baker had 14 deficient components and received a “Good” rating. The next year, it had only 5 deficient components, but dropped to “acceptable.”
- Etowah was given an acceptable rating despite having *absolutely zero* documented deficiencies. So what was that rating based on?

Deaths in Detention

- The Eloy Federal Contract Facility in Arizona has the highest number of known deaths of any detention facility, including at least six suicides since 2003.
- In 2012 Eloy passed on the overall suicide prevention standard even though:
 - Failed to comply with one of its major components: the suicide watch room contained objects which could be used to commit suicide.
 - Problem was quickly dismissed by the inspectors because of assurances that individuals on suicide watch are monitored.
 - Taking facility staff members' at their word is common
 - This inspection failure may be tied to the suicide at Eloy earlier this year

Inadequate Medical Care

- Inspections found that medical staffing was inadequate at Stewart despite 5 vacant positions (at least two of which had been vacant for over two years),
- At both Stewart and Eloy, intake exams were not promptly (or ever) reviewed by a physician as required.

Sexual assaults

- Although the number of sexual assault allegations are recorded, they are often swiftly and cursorily dismissed.
- Eloy's 2011 inspection references 10 allegations of sexual assault in the past year, but then dismisses them all as “unfounded or unsubstantiated.”
- Stewart's 2012 ERO report mentions six allegations of sexual assault or abuse, and then proceeds to methodically dismiss or minimize them. Two were downgraded, three found unsubstantiated, and the final one relabeled as physical assault, despite the clear sexual nature of the incident: the victim was severely beaten after refusing to provide sexual favors.
- However, we *know* at least two sexual assault happened at Eloy in the 14 months prior to its inspection.
 - Tanya Guzman, a transgender woman who was held in an all-male pod at Eloy, was assaulted in December 2009 by a guard who was later convicted of the assault.
 - Four months later, despite the first assault and frequent complaints of harassment and abuse, Eloy continued to detain her in the male pod and she was assaulted by another detained person.

Flexible definitions

- And they contort the basic meaning of standards to allow facilities to pass.
 - At both Baker and Etowah, fully enclosed indoor rooms are counted as providing outdoor recreation essentially because they have windows which allow in light and air.

Statements versus evidence

- *Inspectors often take facility staff at their word*
 - In 2012, At the Tri-County Detention Center (now Pulaski County Jail), a new fire alarm system had been recently installed but had yet to be tested and emergency generators did not cover critical areas including medical.
 - However, because facility staff had plans to address these problems, the environmental health and safety standard was **preemptively** marked as having been fulfilled.
- Inspectors track whether or not policies exist rather than inquire into their implementation or effectiveness.

Recommendations

- **Increase transparency and oversight of the inspections process:**
 - Make ERO and ODO inspections available to the public in a timely manner.
 - Provide public reporting on suicide attempts, hunger strikes, work program stoppages, use of solitary confinement, use of force, and other significant events at detention centers.
 - Submit quarterly reporting to Congress on inspection and oversight activities of detention facilities, to be made available to the public.

Recommendations

- **Improve the quality of inspections**
 - Establish a DHS ombudsman outside of ICE to conduct unannounced inspections of immigration detention facilities at least once per year, with complete findings made available to the public.
 - Engage detained immigrants during inspections, as well as other stakeholders, in order to capture a broader range of concerns.

Recommendations

- **Institute consequences for failed Inspections**
 - Place detention facilities on probation and subject them to more intensive inspections after the first finding of substantial non-compliance.
 - Terminate contracts within 60 days for those facilities with repeat findings of substantial non-compliance.

Thank you for joining us

View the inspections, report, and a recording of the webinar where this presentation was featured:

immigrantjustice.org/TransparencyandHumanRights

Tell us how you've used these docs in your advocacy
(and send us inspections or contracts you've obtained to add to the site):

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Contact the presenters:

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