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U.S. Immigration and Customs Enforcement

News

August 6, 2009



2009 Immigration Detention Reforms

Today, Assistant Secretary John Morton announced substantial steps, effective immediately, to overhaul the immigration detention system. These reforms will address the vast majority of complaints about our immigration detention, while allowing ICE to maintain a significant, robust detention capacity to carry out serious immigration enforcement.

The Current System

The present immigration detention system is sprawling and needs more direct federal oversight and management. While ICE has over 32,000 detention beds at any given time, the beds are spread out over as many as 350 different facilities largely designed for penal, not civil, detention. ICE employees do not run most of these. The facilities are either jails operated by county authorities or detention centers operated by private contractors.

The Future

With these reforms, ICE will move away from our present decentralized, jail-oriented approach to a system wholly designed for and based on ICE's civil detention authorities. The system will no longer rely primarily on excess capacity in penal institutions. In the next three to five years, ICE will design facilities located and operated for immigration detention purposes. These same reforms will bring improved medical care, custodial conditions, fiscal prudence, and ICE oversight.

Specific Steps

Assistant Secretary Morton is taking the following steps, effective immediately.

- Creating an Office of Detention Policy and Planning (ODPP) which will be led by Dr. Dora Schriro and a team of experts. The singular function of this office is to plan and design a civil detention system tailored to ICE's needs.
- Hiring an expert in healthcare administration and an expert in detention management to staff the

ODPP and support Dr. Schriro.

- Hiring a medical expert to provide an independent review of medical complaints and denials of requests for medical services.
- Recruiting and hiring 23 ICE detention managers to work in 23 significant facilities – facilities which collectively house more than 40 percent of our detainees. These 23 federal employees will be responsible for ensuring appropriate conditions of custody. This is a substantial move to increase direct federal oversight.
- Establishing of an Office of Detention Oversight (ODO) within the Office of Professional Responsibility (OPR). OPR is independent of DRO and the ODPP and reports directly to the assistant secretary. The ODO will be located in regional offices to ensure agents and personnel have more ready access to facilities to conduct routine and random inspections more frequently. The ODO will also investigate detainee grievances in a neutral manner.
- Forming two advisory groups of local and national organizations interested in ICE's detention system. These groups will provide feedback and input to the assistant secretary. One will focus on general policies and practices, while the other will focus on detainee health care.
- Discontinuing use of family detention at the T. Don Hutto Family Residential Facility in Texas. In place of housing families, we will propose that the Texas facility will be used solely as a female detention center. Presently, Hutto is used to detain families and low custody females. Detained families will now be housed at Berks Family Residential Center in Pennsylvania.

The Role of the Office of Detention Policy and Planning (ODPP)

The ODPP is responsible for designing a new civil detention system to meet the needs of ICE. The ODPP will shape the future design, location and standards of civil immigration detention facilities. The ODPP will design facilities for ICE, such that ICE no longer relies primarily on a penal model. When assessing where to locate facilities, ODPP will consider access to legal services, emergency rooms and transportation hubs, among other factors.

The ODPP will evaluate the entire detention system in a methodical way, with seven areas of focus, each with benchmarks for progress. These seven areas are as follows:

- **Population Management:** To ensure the best location, design and operation of facilities reflecting the unique nature of civil detention;
- **Detention Management:** To ensure appropriate custodial conditions and federal oversight of the day-to-day detention functions, including classification, discipline and grievances;
- **Programs Management:** To ensure the provision of religious services, family visitation, recreation and law libraries;
- **Health Care Management:** To ensure the timely provision of medical, dental and mental health assessment and services;
- **Alternatives to Detention Management:** To develop a national strategy for the effective use of alternatives to detention including community supervision;
- **Special Populations Management:** To provide attention to women, families, the elderly and vulnerable populations;
- **Accountability:** To ensure ICE employees perform the core functions of detention oversight, detainee classification and discipline, and grievance review.

The Role of the Office of Detention Oversight (ODO)

The ODO will be part of OPR, an office independent of DRO which reports directly to the assistant secretary. The ODO will have regional offices in addition to a presence in Washington, D.C. ICE is

moving to a regional structure to provide ODO agents and personnel with more ready access to facilities, to increase the number of inspections, both routine and random, and to reduce travel costs. In addition to inspecting facilities more frequently, ODO will review complaints about facilities and address any detainee grievances not resolved by DRO or the Division of Immigration Health Services. The ODO will be staffed by agents and personnel currently assigned to the Detention Facility Inspection Group. The ODO will report to OPR's Acting Director Timothy Moynihan.

The Role of the Office of Detention and Removal Operations (DRO)

Dave Venturella, formerly the director of Secure Communities, is now the acting director of DRO. Under Acting Director Venturella's supervision, DRO will continue to have full operational responsibility for the detention system. DRO will work closely with the ODPP and ODO. However, no employees currently in DRO will be transferred to the new offices and their supervision and duties will not change. As the detention system is reformed and new facilities are designed and opened, DRO will have operational control over those facilities and responsibility for the detainees in those facilities.

ICE is recruiting and hiring 23 detention experts who will work in DRO. These 23 detention experts will monitor and work from within 23 significant ICE facilities. ICE expects this will provide direct federal monitoring of conditions in facilities housing more than forty percent of ICE detainees. This is another significant step in ensuring more direct federal oversight of the detention system.

U.S. Immigration and Customs Enforcement (ICE) is the largest investigative arm of the Department of Homeland Security.

ICE is a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities. For more information, visit www.ICE.gov. To report suspicious activity, call 1-866-347-2423.

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Fact Sheet

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ICE DETENTION REFORM: PRINCIPLES AND NEXT STEPS *Secretary Napolitano Announces New Immigration Detention Reform Initiatives*

Department of Homeland Security (DHS) Secretary Janet Napolitano and U.S. Immigration and Customs Enforcement (ICE) Assistant Secretary John Morton today announced a series of new initiatives as part of the Department's ongoing immigration detention reform efforts to enhance the security and efficiency of ICE's nationwide detention system while prioritizing the health and safety of detainees.

The reform efforts address the seven major components of the detention system outlined in a comprehensive review conducted by Dora Schriro, the former ICE Office of Detention Policy and Planning Director, over the past several months, focusing on greater federal oversight, specific attention to detainee care, and uniformity at detention facilities.

Core Principles to Guide Long-Term Efforts:

- ICE will prioritize efficiency throughout the removal process to reduce detention costs, minimize the length of stays and ensure fair proceedings;
- ICE will detain aliens in settings commensurate with the risk of flight and danger they present;
- ICE will be fiscally prudent when carrying out detention reform;
- ICE will provide sound medical care; and
- ICE will ensure Alternatives to Detention (ATD) are cost effective and promote a high rate of compliance with orders to appear and removal orders.

One-Year Benchmarks:

Secretary Napolitano has also established one-year benchmarks for detention reform that will be completed by the end of fiscal year 2010:

- Review contracts for all detention facilities to identify opportunities for improvement and move forward with renegotiation and termination of contracts as warranted.
- Revise immigration detention standards to reflect the conditions appropriate for various immigration detainee populations; and
- Issue two competitive bids for detention facilities that will reflect all five core principles of immigration detention reform.

Immediate Reforms:

Secretary Napolitano and Assistant Secretary John Morton announced the following reforms on Oct. 6. Implementation will begin immediately.

Each of these reforms are expected to be budget neutral or result in cost savings through reduced reliance on contractors to perform key federal duties and additional oversight of all contracts.

Population Management

- **Effective immediately**, ICE will create a library of contracts for all facilities with which ICE has active agreements and centralize all contracts under ICE headquarters' supervision. At present, the Office of Acquisitions at ICE headquarters negotiates and manages only 80 of the more than 300 active contracts for detention facilities. The remaining contracts are overseen by disparate ICE field offices and the Office of the Federal Detention Trustee.
- **Effective immediately**, ICE will aggressively monitor and enforce contract performance in order to ensure contractors comply with terms and conditions—especially those related to conditions of confinement. When confronted with repeated contractual deficiencies, ICE will pursue all available avenues for remedying poor performance, including termination of contracts.
- **Cost:** In the long term, this effort is expected to yield cost savings and a better managed and more efficient contracting process, though these initiatives may require additional resources at headquarters.

Alternatives to Detention (ATD)

- **This fall**, ICE will submit to Congress a nationwide implementation plan for the Alternatives to Detention Program (ATD).
- ICE will develop an assessment tool to identify aliens suitable for ATD.
- ICE will continue to work with the Department of Justice to expedite the adjudication of ATD cases to reduce costs.
- **Cost:** ATD costs substantially less per day than detention: the most expensive form of ATD costs only \$14 per day compared to the cost of detention, which varies per facility but can exceed \$100 per day.

Detention Management

- **Effective immediately**, ICE will devise and develop a risk assessment and custody classification, which will enable detainees to be placed in an appropriate facility.
- **On Oct. 30**, following the first meeting of the detention advisory group, Assistant Secretary Morton will host an industry day and begin market research about utilizing converted hotels, nursing homes and other residential facilities as immigration detention facilities for non-criminal, non-violent populations.
- **Cost:** Such facilities that are commensurate with risk are anticipated to save money over the long term, pending a comprehensive assessment.

Program Management

- **As of Sept. 18**, ICE began housing non-criminal, non-violent populations, such as newly arriving asylum seekers, at facilities based on assessed risk including the Broward Transitional Center in Florida, which is located near immigration service providers.
- ICE will also provide staff to support trial attorneys in assessing the credibility of asylum seekers' claims and identifying and addressing asylum fraud.
- **Cost:** As the overall population of these facilities will not change, ICE anticipates this initiative will be budget-neutral.

Medical Care

- **Within the next six months**, ICE will devise and implement a medical classification system to support immigration detainees with unique medical or mental health needs.
- **Cost:** Minimizing transfers will decrease costs associated with transportation and delays in proceedings.

Special Populations

- **On Sept. 17**, ICE released the last family from the T. Don Hutto Family Residential Facility (Hutto) in Texas. **Effectively immediately**, ICE will detain only females at Hutto and will consolidate the female populations from three disparate facilities—Willacy, Pearsall, and Port Isabel—into Hutto, allowing ICE to better monitor the needs of and develop programs specific to this population
- **Cost:** ICE was paying \$2.8 million per month at Hutto even when the facility was far from capacity. By more fully utilizing the facility's capacity and consolidating the female populations from multiple facilities, this change will yield substantial savings each month. An interim renegotiation will save ICE nearly \$900,000 per month through the end of the calendar year.

Accountability

- **On Aug. 7**, ICE announced the intent to hire 23 federal employees to provide on-site oversight at ICE's largest detention facilities.
- As a result of the reforms announced today, ICE will more than double the number of on-site personnel from 23 to more than 50 to place federal employees in the facilities where more than 80 percent of ICE detainees are housed, strengthening day-to-day oversight at these facilities.
- ICE is developing training courses, policies and procedures to ensure this cadre of personnel is well trained and managed. The jobs were posted on USAJOBS on Sept. 18.
- **Cost:** At present, ICE pays more than \$200,000 per facility at more than 30 facilities for contractors to monitor conditions. For approximately \$160,000, ICE can pay for a federal employee's salary, benefits, training and equipment to monitor the facility.
- Effective immediately, ICE is accelerating efforts to provide an online locator system for attorneys, family members and others to locate detained aliens.
- **Cost:** Although implementing the locator system will require an initial information technology investment, providing counsel and family members online access to location information will free up ICE personnel normally spent answering location inquiries.

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