



August 2020

# IMMIGRATION DETENTION

## ICE Should Enhance Its Use of Facility Oversight Data and Management of Detainee Complaints

# GAO Highlights

Highlights of [GAO-20-596](#), a report to Congressional Committees

## Why GAO Did This Study

ICE is the lead agency responsible for providing safe, secure, and humane confinement for detained foreign nationals in the United States. ICE has established standards for immigration detention related to complaint processes, medical care, and other areas.

The joint explanatory statement accompanying the Consolidated Appropriations Act, 2019, includes a provision for GAO to review ICE's management and oversight of detention facilities and detention-related complaints. This report examines ICE and other DHS entities' mechanisms for (1) overseeing compliance with immigration detention facility standards and how ICE uses oversight information to address any identified deficiencies; and (2) receiving and addressing detainee complaints, and how ICE uses complaint information. GAO analyzed documentation and data on inspections and complaints at facilities that held detainees for over 72 hours during the last 3 fiscal years—2017 through 2019; visited 10 facilities selected based on inspection results and other factors; and interviewed officials.

## What GAO Recommends

GAO is making six recommendations, including that ICE ensures oversight data are recorded in a format conducive to analysis, regularly conducts trend analyses of oversight data and detention-related complaint data, and requires that ERO field offices record the resolutions of detention-related complaints. DHS concurred.

View [GAO-20-596](#). For more information, contact Rebecca Gambler, (202) 512-8777, [gablerr@gao.gov](mailto:gablerr@gao.gov).

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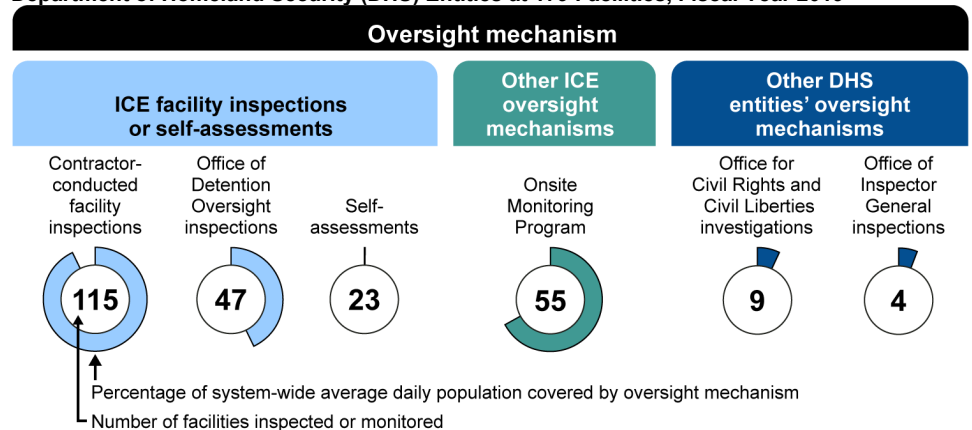
# IMMIGRATION DETENTION

## ICE Should Enhance Its Use of Facility Oversight Data and Management of Detainee Complaints

### What GAO Found

The Department of Homeland Security's (DHS) U.S. Immigration and Customs Enforcement (ICE) and other DHS entities use, in part, inspections to oversee detention facilities and address identified deficiencies. As shown below, in fiscal year 2019, most of ICE's 179 facilities that housed adults for over 72 hours underwent inspections by contractors or its Office of Detention Oversight, while smaller facilities conducted self-assessments. ICE also conducted onsite monitoring at facilities. Further, two DHS offices conducted inspections related to certain aspects of facilities. ICE collects the results of its various inspections, such as deficiencies they identify, but does not comprehensively analyze them to identify trends or record all inspection results in a format conducive to such analyses. By ensuring inspection results are recorded in a format conducive to analysis and regularly conducting comprehensive analyses of results, ICE would be better positioned to identify and address potential trends in deficiencies.

**Detention Facility Oversight by U.S. Immigration and Customs Enforcement (ICE) and Other Department of Homeland Security (DHS) Entities at 179 Facilities, Fiscal Year 2019**



Source: GAO analysis of DHS data. | GAO-20-596

ICE and DHS entities have various mechanisms for receiving and addressing detention-related complaints from detainees and others. However, while some of these entities conduct some analyses of the complaint data they maintain, ICE does not regularly analyze detention-related complaint data across all of its relevant offices. By regularly conducting such analyses, ICE could identify and address potential trends in complaints. Additionally, ICE does not have reasonable assurance that Enforcement and Removal Operations (ERO) field offices—which oversee and manage detention facilities—address and record outcomes of detention-related complaints referred to them for resolution, or do so in a timely manner. For example, GAO's analysis of data from one referring office—the Administrative Inquiry Unit—indicated that for certain noncriminal complaints the unit refers, ERO field offices did not provide resolutions back to the unit for 99 percent of referrals. Without requiring that ERO field offices record any actions taken on, and the resolutions of, detention-related complaints, ICE does not have reasonable assurance that field offices are addressing them.

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**Abbreviations**

CRCL	Office for Civil Rights and Civil Liberties
Custody Management	Custody Management Division
DHS	Department of Homeland Security
DRIL	Detention Reporting Information Line
EARM	ENFORCE Alien Removal Module
ERO	Enforcement and Removal Operations
ICE	U.S. Immigration and Customs Enforcement
NDS	National Detention Standards
ODO	Office of Detention Oversight
OIG	Office of Inspector General
PBNS	Performance-Based National Detention Standards

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August 19, 2020

### Congressional Committees

Within the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) is the lead agency responsible for providing safe, secure, and humane confinement for detained foreign nationals in the United States. In fiscal year 2020, ICE was appropriated more than \$3 billion to operate the immigration detention system.<sup>1</sup> While ICE's population of detainees fluctuates over time, ICE reported that, on average, the daily detainee population was more than 50,000 in fiscal year 2019.<sup>2</sup>

According to ICE guidance, because the agency exercises significant authority when it detains foreign nationals, ICE must do so in the most humane manner possible, with a focus on providing sound conditions and care.<sup>3</sup> ICE has established standards for immigration detention that cover a variety of areas, including medical care; legal services; and grievance procedures, among others. For example, ICE's immigration detention standards require that facilities provide a process for detainees to submit detention-related complaints either at the facilities or to ICE and DHS offices.

We and the DHS Office of Inspector General (OIG) have previously reported on ICE and other DHS entities' oversight of immigration detention facility compliance with detention standards and processes for addressing detainee complaints. For example, in our November 2013 report on sexual abuse and assault in ICE detention facilities, we found that ICE and DHS used facility inspections and other mechanisms to oversee prevention and intervention efforts, but facility inspection reports did not consistently assess all requirements expected by inspection

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<sup>1</sup>Department of Homeland Security (DHS) Appropriations Act, 2020, Pub. L. No. 116-93, div. D, 133 Stat. 2317 (2019).

<sup>2</sup>Department of Homeland Security, U.S. Immigration and Customs Enforcement, Fiscal Year 2021 Budget Overview Congressional Justification. Fiscal year 2019 data were the most recent full year of data available at the time of our review.

<sup>3</sup>Department of Homeland Security, U.S. Immigration and Customs Enforcement, *Performance-Based National Detention Standards 2011*, PBNDS 2011 (Washington, D.C.: revised December 2016).

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protocols.<sup>4</sup> In our February 2016 report on detainee medical care, we found that DHS and ICE offices had implemented multiple levels of oversight (e.g., inspections) as well as mechanisms for detainees and others to report medical grievances (e.g., telephone hotlines). However, DHS and ICE had not systematically analyzed data they collected related to these efforts to identify larger trends.<sup>5</sup> We made several recommendations to help address these and other weaknesses. DHS generally concurred with, and implemented, these recommendations. In June 2018, the DHS OIG found that ICE's mechanisms for overseeing detention facilities helped to identify and correct some deficiencies but did not provide adequate oversight or systematic improvements to detention conditions.<sup>6</sup> The DHS OIG made recommendations to help address these issues, which we discuss later in this report.

The joint explanatory statement accompanying the Consolidated Appropriations Act, 2019, includes a provision for us to follow up on the DHS OIG's June 2018 report by examining ICE's management and oversight of detention facilities.<sup>7</sup> Our report examines (1) ICE and other DHS entities' mechanisms for overseeing compliance with immigration detention facility standards, and how ICE uses oversight information to address any identified deficiencies; and (2) ICE and other DHS entities' mechanisms for receiving and addressing detainee complaints, and how ICE uses complaint information.

To address both of these objectives, we visited a nongeneralizable sample of 10 immigration detention facilities in New Jersey, Florida, Arizona, and Washington that hold detainees for over 72 hours (over-72-

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<sup>4</sup>GAO, *Immigration Detention: Additional Actions Could Strengthen DHS Efforts to Address Sexual Abuse*, [GAO-14-38](#) (Washington, D.C.: Nov. 20, 2013).

<sup>5</sup>GAO, *Immigration Detention: Additional Actions Needed to Strengthen Management and Oversight of Detainee Medical Care*, [GAO-16-231](#) (Washington, D.C.: Feb. 29, 2016).

<sup>6</sup>Department of Homeland Security, Office of Inspector General, *ICE's Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systematic Improvements*, OIG-18-67 (Washington, D.C.: June 26, 2018).

<sup>7</sup>Conference Report, H.R. Rep. No. 116-9, at 483 (Feb. 13, 2019), accompanying Consolidated Appropriations Act, 2019 (H.J. Res. 31), Pub. L. No. 116-6, 133 Stat. 13.

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hour facilities).<sup>8</sup> We selected these facilities based on a variety of factors, including facility type (e.g., those that operate under contracts with private companies and agreements with state and local governments); geographic dispersion; range of oversight mechanisms in place; and to encompass a range of past facility inspection results, among other factors. During these site visits, we interviewed, for example, ICE Enforcement and Removal Operations (ERO) field office officials and ICE onsite monitors about the oversight mechanisms in place and processes for receiving and addressing detainee complaints. We toured several areas of each detention facility, including intake, the medical unit, and housing units, among other areas. The information we obtained from our facility visits cannot be generalized to all facilities or detainees but offers insight into the processes used by DHS to oversee detention facilities and to collect and address detainee complaints.

To determine the extent to which ICE and other DHS entities have mechanisms to oversee compliance with immigration detention facility standards, and how ICE uses the oversight information to address any identified deficiencies, we reviewed ICE documents, such as guidance and policies for conducting inspections and onsite monitoring. We, in part, analyzed oversight data from fiscal years 2017 through 2019 to determine the extent of oversight performed across facilities and the most common deficiencies identified through ICE inspections that require corrective action.<sup>9</sup> We assessed the reliability of these data by reviewing related documentation and interviewing officials knowledgeable about how the data were entered and maintained. We determined the data were reliable for the purpose of describing the extent and results of oversight activities.

Within ICE, we also interviewed officials from offices responsible for immigration detention facility oversight, including ERO's Custody

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<sup>8</sup>In fiscal year 2019, ICE housed detainees in a total of 179 over-72-hour facilities. ICE also houses detainees in shorter-term, under-72-hour detention facilities. In addition, ICE has holding facilities typically for housing individuals for 24 hours or less, but generally no more than 72 hours, in order to complete general processing and determine the appropriate course of action, such as transfer into an ICE under- or over-72-hour detention facility. ICE generally does not detain children, with the exception of children whom the agency detains with their families at a family residential facility. Responsibility for housing unaccompanied children lies with the Office of Refugee Resettlement in the Department of Health and Human Services. This report focuses on over-72-hour facilities and does not address short-term facilities or family residential facilities.

<sup>9</sup>We selected this period to focus our analysis on the 3 most recent fiscal years of data available at the time of our review.



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Management Division (Custody Management)—responsible for overseeing the compliance of detention facilities with detention standards—and the Office of Detention Oversight (ODO)—which conducts independent inspections of selected detention facilities. Further, we interviewed officials from the Office for Civil Rights and Civil Liberties (CRCL) and the DHS OIG. During these interviews, we discussed the processes each of these offices use to inspect or monitor over-72-hour facilities and how they share and use oversight results. We assessed how ICE analyzes and uses the results of its oversight efforts against *Standards for Internal Control in the Federal Government*. Specifically, we analyzed ICE’s efforts against the principles related to monitoring data and processing data into quality information.<sup>10</sup> We further assessed how ICE analyzes and uses results against the Project Management Institute’s practices for monitoring and regularly assessing performance.<sup>11</sup>

To determine the extent to which ICE and other DHS entities have mechanisms for receiving and addressing detainee complaints, and how ICE uses complaint information, we reviewed relevant processes used by ICE’s Detention Reporting Information Line (DRIL) and Joint Intake Center, CRCL, and DHS OIG. We reviewed documentation, including DHS and ICE memorandums, guidance, and manuals related to how these offices are to receive, refer, investigate, resolve, and record complaints. We obtained and analyzed DHS and ICE entities’ data on detention-related complaints received from fiscal years 2017 through 2019—the most recent 3 fiscal years of data maintained by these DHS entities’ data systems at the time of our review. To determine the reliability of the complaint and inspections results data, we reviewed relevant documentation, interviewed agency officials, and conducted testing. We determined that CRCL, DRIL, Joint Intake Center, and DHS OIG complaint data were sufficiently reliable for the purposes of describing the number of detention-related complaints each office received and the primary focus areas of the complaints. We interviewed officials from these offices regarding their complaint processes and about any analyses they conducted of these data. To assess DHS and ICE complaint mechanisms and how ICE uses complaint information, we compared their processes against the principles related to monitoring

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<sup>10</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

<sup>11</sup>Project Management Institute, *A Guide to the Project Management Body of Knowledge*, 6th ed. (Newtown Square, PA: 2017).

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data and processing data into quality information, developing and maintaining documentation, and remediating deficiencies in the *Standards for Internal Control in the Federal Government*.<sup>12</sup>

In addition, during our site visits to detention facilities, we interviewed a sample totaling 74 detainees about their experiences with the complaint processes at their respective detention facilities.<sup>13</sup> We developed our questions for detainee interviews based on requirements in detention standards regarding grievance processes. We also observed information available to detainees on how to submit complaints, such as posters that ICE detention standards require facilities to post in housing units. Further, we conducted limited testing of mechanisms available to detainees for filing complaints by placing calls to DHS and ICE hotlines from telephones within 25 detainee housing units. Appendix I provides additional details on our scope and methodology.

We conducted this performance audit from April 2019 to August 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

ICE is responsible for detaining certain foreign nationals in civil custody for the administrative purpose of holding, processing, and preparing them for removal from the United States.<sup>14</sup> ICE detainees include men and women from a wide variety of countries and with criminal and noncriminal

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<sup>12</sup>[GAO-14-704G](#).

<sup>13</sup>At nine of the 10 detention facilities we visited, we randomly selected detainees to interview on the day of our visit. These interviews were voluntary and anonymous. We ensured that our sample of detainees was random yet representative of the population detained at each facility, including detainees of different security levels and genders and detainees located in different housing units.

<sup>14</sup>The Immigration and Nationality Act, as amended, provides DHS with broad discretion (subject to certain legal standards) to detain, or release, aliens on bond, conditional parole, or terms of supervision, depending on the circumstances and statutory basis for detention. The law requires DHS to detain particular categories of aliens, such as those deemed inadmissible for certain criminal convictions or terrorist activity; or those ordered removed; during the removal period. See 8 U.S.C. §§ 1225, 1226, 1226a, 1231.

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backgrounds.<sup>15</sup> ICE owns and operates some of its detention facilities. Others are owned and operated by private companies through contracts with ICE, or owned by state or local governments or private entities and operated under intergovernmental agreements with ICE. Additionally, some facilities exclusively house ICE detainees, and others house ICE detainees and other confined populations, either together or separately. In fiscal year 2019, ICE detained adult foreign nationals in 179 over-72-hour facilities. Table 1 describes the types of these facilities, the number of each type, and the percentage of the average daily detained population that was housed in each facility type during fiscal year 2019.

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<sup>15</sup>As previously noted, ICE generally does not detain children, with the exception of children whom the agency detains with their families at a family residential facility. ICE must transfer unaccompanied alien children—minors under 18 years of age who lack lawful immigration status and do not have a parent or legal guardian present or available in the United States to provide care and physical custody—to the Department of Health and Human Services' Office of Refugee Resettlement's custody within 72 hours of determining that they are unaccompanied alien children. See 8 U.S.C. § 1232(b)(3) ); 6 U.S.C. § 279(g).

**Table 1: U.S. Immigration and Customs Enforcement (ICE) Over-72-Hour Detention Facility Types and Detainee Populations, Fiscal Year 2019**

Facility type	Description	Number of facilities	Percentage of average daily population housed in facility type
Service processing center	Facility owned and primarily operated by ICE; exclusively houses ICE detainees.	5	8
Contract detention facility	Facility owned and operated by private company under direct ICE contract; exclusively houses ICE detainees.	10	17
Nondedicated intergovernmental service agreement facility	Facility owned by state or local government or private entity, operated under an agreement with ICE; houses ICE detainees and other confined populations, either together or separately.	89	31
Dedicated intergovernmental service agreement facility	Facility owned by state or local government or private entity, operated under an agreement with ICE; exclusively houses ICE detainees.	14	26
U.S. Marshals Service intergovernmental agreement or contract facility	Facility owned by state or local government or private entity, operated under an agreement or contract with U.S. Marshals Service; houses ICE detainees and other populations, either together or separately.	61	18
<b>Total</b>		<b>179</b>	<b>100</b>

Source: GAO analysis of ICE information. | GAO-20-596

Note: This table presents information on facilities that house exclusively adult detainees for over 72 hours. ICE also houses detainees for fewer than 72 hours at short-term facilities. ICE generally does not detain children, with the exception of children whom the agency detains with their families at a family residential facility.

## Standards for ICE Detention Facility Conditions

As previously discussed, ICE has developed standards for immigration detention that dictate how facilities should operate to ensure safe, secure, and humane confinement for immigration detainees. ICE has updated detention standards that were originally developed in 2000 several times, resulting in various versions—or “sets”—of standards that differ with respect to their scope, rigor, and the laws and regulations they incorporate. Contracts or agreements between ICE and detention facilities specify which set of standards facilities are required to follow. Table 2 summarizes the three principal sets of detention standards applicable to over-72-hour immigration detention facilities.

**Table 2: U.S. Immigration and Customs Enforcement (ICE) Detention Standards for Over-72-Hour Facilities, Fiscal Year 2019**

Detention standards	Description	Number of facilities under standards	Percentage of average daily population in facilities under standards
2000/2019 National Detention Standards	These standards were derived from American Correctional Association standards and developed by the former Immigration and Naturalization Service within the Department of Justice in 2000. In December 2019, ICE issued the 2019 National Detention Standards, in which it condensed or eliminated several of the 2000 standards, such as those related to emergency plans, marriage requests, and contraband. In the 2019 update, ICE also streamlined certain detention standards, such as those pertaining to food service and environmental health and safety, and expanded others, such as those related to medical care, disability access, and sexual abuse and assault prevention and intervention.	110	22
2008 Performance-Based National Detention Standards	These standards are a revised version of the 2000 National Detention Standards that prescribe both the expected outcomes of each detention standard and the expected practices required to achieve them.	17	10
2011 Performance-Based National Detention Standards	These standards, and a successive revision in 2016, codified changes resulting from federal laws, DHS regulations, and ICE policies that had been established since the 2008 standards. Changes included those related to standards for sexual abuse and assault prevention and intervention, disability protections, and language access. These standards also introduce provisions that represent optimal levels of compliance with the standards.	52	68

Source: GAO analysis of ICE information. | GAO-20-596

Note: This table presents information on standards for facilities that house exclusively adult detainees for over 72 hours. ICE developed a fourth set of detention standards—the 2007 Family Residential Standards—to apply to its facilities that house families in detention. Facilities under private contract with the U.S. Marshals Service are to adhere to the Federal Performance-Based Detention Standards, which incorporate elements of American Correctional Association standards, Department of Justice standards, and the 2000 National Detention Standards.

### Roles and Responsibilities for Detention Facility Oversight and Detention-Related Complaints

Various ICE and DHS offices have roles and responsibilities for overseeing ICE detention facilities and receiving and responding to detention-related complaints. ICE’s ERO has primary responsibility for overseeing the compliance of ICE detention facilities with applicable immigration detention standards. Within ERO, Custody Management oversees routine detention facility inspections and monitoring; the Custody Programs Division oversees DRIL, which obtains and refers detention-related calls to appropriate ICE offices; and the Field Operations Division oversees 24 field offices that manage local detention operations. Within ICE’s Office of Professional Responsibility, ODO conducts independent inspections of selected immigration detention

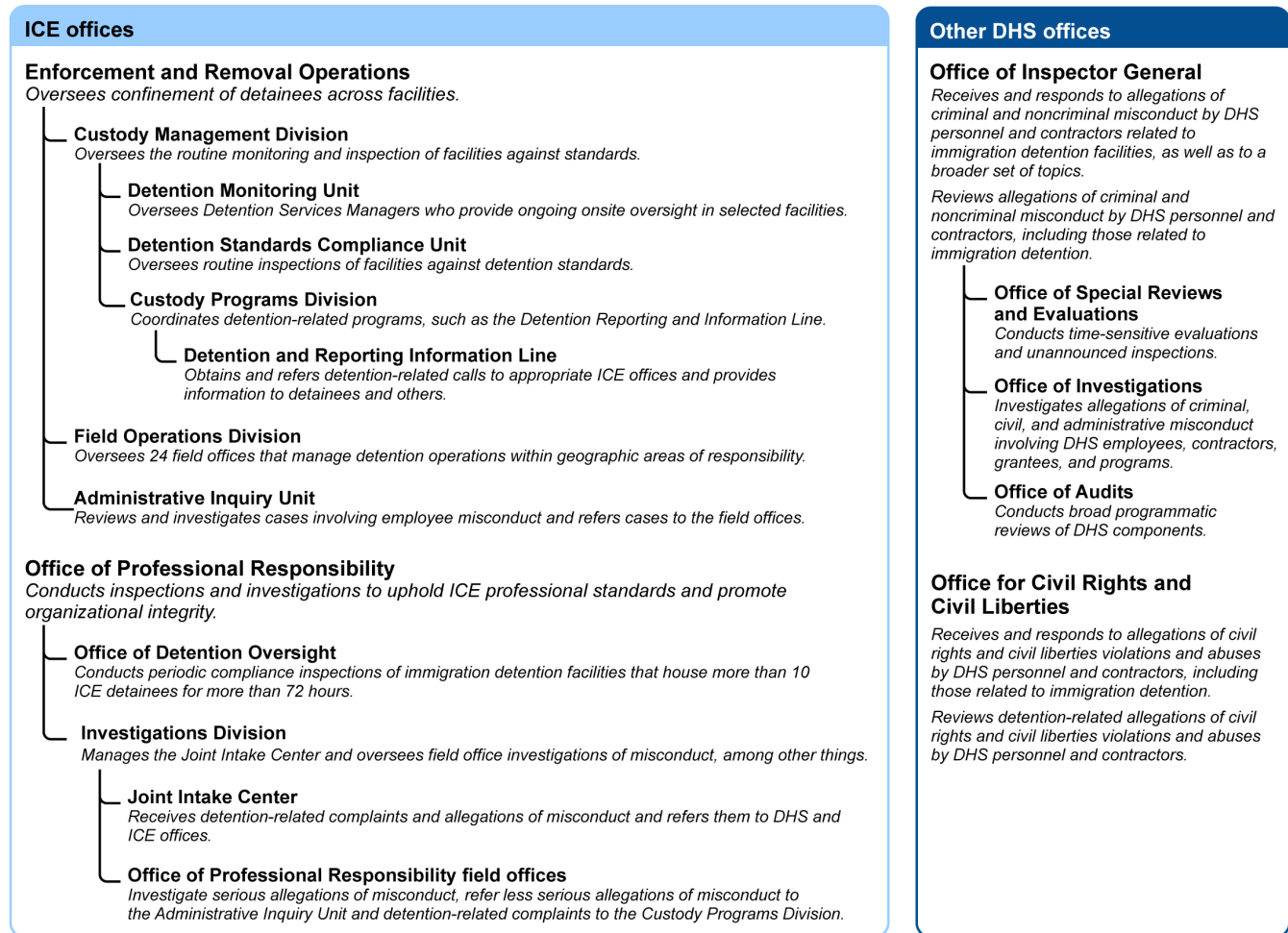
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facilities. The Office of Professional Responsibility Investigations Division oversees the Joint Intake Center, which obtains, reviews, and refers allegations of misconduct by ICE personnel and contractors, including detention-related allegations, among other responsibilities. Within DHS, other entities that have responsibilities related to overseeing detention facility conditions include the OIG and CRCL.<sup>16</sup> Figure 1 summarizes the roles and responsibilities of each of these offices for detention oversight and receiving and responding to detention-related complaints.

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<sup>16</sup>The DHS Appropriations Act, 2020, and accompanying Explanatory Statement, established and provided \$10 million for a new DHS Office of the Immigration Detention Ombudsman for the purpose of establishing and administering an independent, neutral, and confidential process to address cases in which department officers or other personnel are found to have engaged in misconduct or violated the rights of individuals in immigration detention; establishing an accessible standardized process regarding complaints; and conducting unannounced inspections of detention facilities, among other functions. See Pub. L. No. 116-93, div. D, title I, § 106, 133 Stat. 2317 (2019). On January 28, 2020, the DHS Acting Deputy Secretary signed a memorandum establishing the Office of the Immigration Detention Ombudsman within DHS. DHS officials reported that the office submitted a draft operational framework and charter to the Acting Secretary for review and approval in June 2020. Further, the department anticipated selecting an ombudsman in the summer of 2020, according to DHS officials.

**Figure 1: U.S. Immigration and Customs Enforcement (ICE) and Other Department of Homeland Security (DHS) Offices' Roles and Responsibilities for Detention Facility Oversight and Detention-Related Complaints**



Source: GAO analysis of DHS information. | GAO-20-596

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## ICE and Other DHS Entities Use Inspections and Other Mechanisms to Monitor Facility Compliance with Standards, but ICE Does Not Fully Analyze and Monitor Results

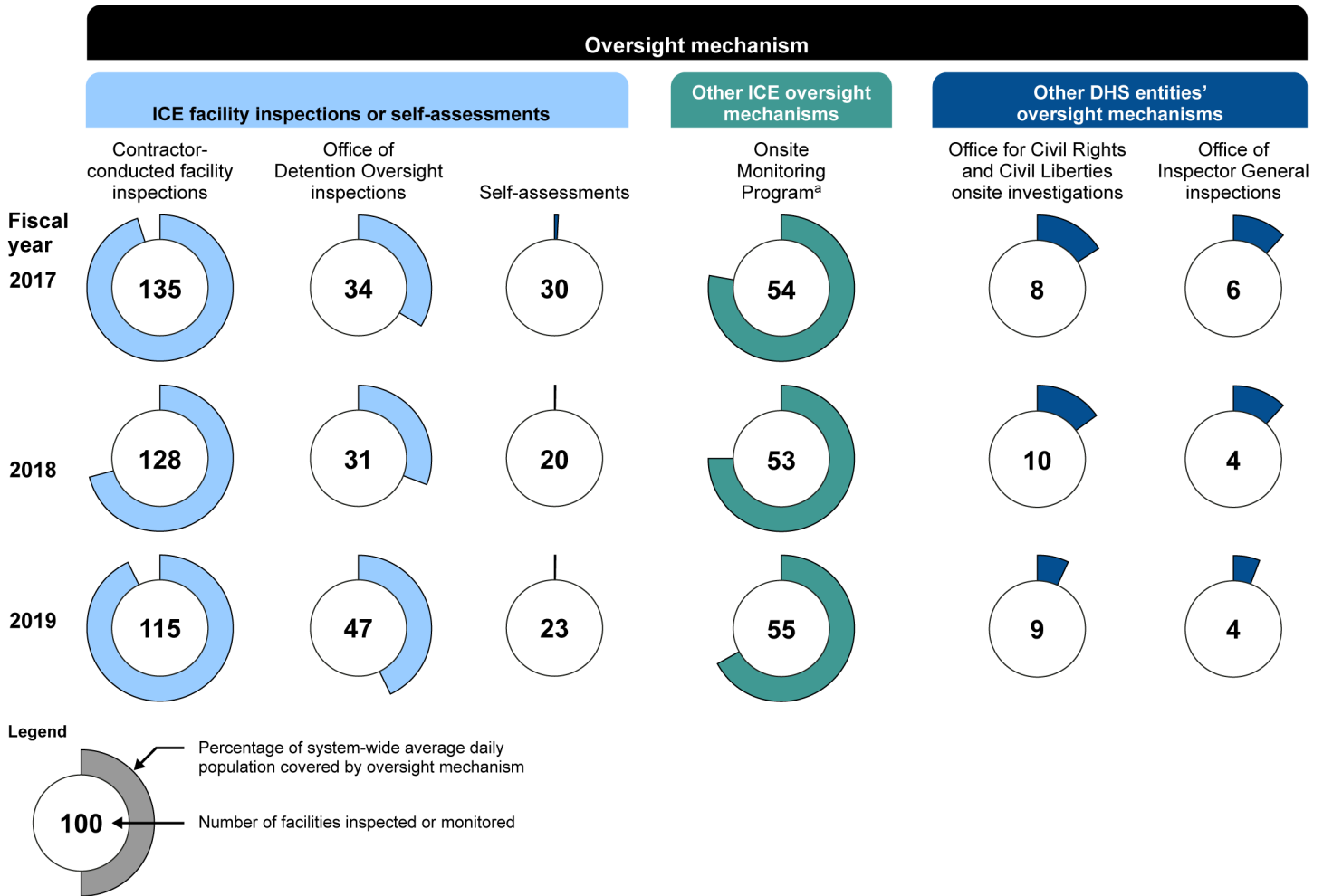
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### ICE and Other DHS Entities Use a Number of Mechanisms to Inspect and Monitor Detention Facilities

ICE and other DHS entities use a number of mechanisms to oversee detention facilities. From fiscal years 2017 through 2019, these oversight mechanisms included (1) facility inspections contracted or conducted by ICE and self-assessments completed by facilities; (2) other ICE oversight mechanisms, including onsite monitoring; and (3) other DHS entities' oversight mechanisms. ICE concentrated its inspection and monitoring efforts on the largest detention facilities—those that house the greatest average daily population each year. For instance, in fiscal year 2019, ICE-contracted inspections were conducted at 115 of 179 facilities (64 percent of facilities) that housed 93 percent of the average daily population of detainees in over-72-hour adult detention centers. Onsite monitoring was performed at 55 facilities (31 percent) that housed 67 percent of the average daily population of detainees. Facilities that housed smaller detainee populations generally completed self-assessments, referred to as ICE Operational Review Self-Assessments. For example, in fiscal year 2019, 23 facilities, accounting for 0.47 percent of the total average daily population of detainees, completed self-assessments. Figure 2 provides an overview of these ICE and DHS oversight mechanisms and the extent they were used during the period.



**Figure 2: U.S. Immigration and Customs Enforcement (ICE) and Department of Homeland Security (DHS) Detention Center Oversight Performed by Each Mechanism, Fiscal Years 2017-2019**



Source: GAO analysis of DHS data. | GAO-20-596

Note: This figure represents oversight mechanisms for facilities housing adult detainees for over 72 hours only. The percentage of the system-wide average daily population is based on our analysis of data in ICE's Enforcement Integrated Database. According to ICE, the average daily population is calculated by summing the total number of detainees at midnight each day in each facility and dividing by the number of days being measured (in this case, by the 365 days in a fiscal year). Because each facility may be subject to multiple oversight mechanisms in a given year, the number of facilities inspected or monitored for each fiscal year is more than the total number of facilities at which ICE housed detainees that year (e.g., 198 inspections were conducted of the 179 over-72-hour facilities that housed adult detainees in fiscal year 2019).

<sup>a</sup>The Onsite Monitoring Program provides ongoing monitoring of facilities, rather than periodic inspections. Detention Services Managers, who provide the monitoring, may be placed full-time at one facility or rotate among multiple facilities.

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## ICE Facility Inspections and Facility Self-Assessments

**Custody Management inspections.** ICE’s Custody Management—the division of ICE that oversees routine detention facility inspections and monitoring—employs a contractor to conduct inspections of detention facilities against ICE detention standards. Contracted inspections are to include reviews of facility records, interviews with facility staff and detainees, and visual inspections of all areas of the facility. The contractor utilizes a checklist inspection form to identify “line item” deficiencies at a facility. Line items represent smaller components of an overall detention standard, and facilities can receive deficiencies for individual line items without receiving a deficiency on the standard overall. The form also provides space for the contractor to make notes about line items within a standard, allowing the contractor to clarify why an item is or is not deficient. In addition, contractors are to record observations or concerns regarding the facility’s compliance with aspects of the detention standards not explicitly incorporated into the form.

According to ICE policy, contracted inspections are to be conducted annually or biennially at facilities that are authorized to house detainees for more than 72 hours and that have an average daily population of 10 or more detainees. After 2 consecutive years of overall passing ratings for annual inspections, those facilities with an average daily population of fewer than 50 detainees may be moved to a biennial inspection schedule. Following the inspection, the contractor is to submit a completed inspection report to Custody Management.

In 2019, in response to a recommendation from the DHS OIG, ICE established a system of quality assurance teams to oversee contracted inspections.<sup>17</sup> Under this system, at least one member of the quality assurance team is to accompany ICE contract inspectors during their annual facility inspections. Upon conclusion of the inspection, the quality assurance team member is to submit a final report to ERO. Concerns with the data on deficiencies identified through inspections are to be brought to the attention of the ERO Detention Standards Compliance Unit, which is to address any findings with the contracting officer representative assigned to the inspection contractor.

From fiscal years 2017 through 2019, Custody Management contracted for 115 to 135 inspections of over-72-hour adult facilities per fiscal year. The 115 facilities inspected by the contractor in fiscal year 2019 accounted for over 93 percent of the average daily population of over-72-

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<sup>17</sup>The recommendation was made in OIG-18-67.

hour adult detention facilities, and the inspections identified 1,384 deficiencies. Of facilities that received an annual inspection in fiscal year 2019, eight were provided with a technical assistance review or rated as Does Not Meet Standards or Deficient.<sup>18</sup> The area in which deficiencies were most frequently identified in fiscal year 2019 was food service, which includes food preparation guidelines and adherence to religious diets, among other things. The next most common area for deficiencies was environmental health and safety, which includes items related to facility cleanliness, handling of hazardous materials, and fire safety. These two categories accounted for over 25 percent of deficiencies identified in fiscal year 2019. Table 3 shows the five most common detention standards in which deficiencies were identified through these inspections in fiscal year 2019.

**Table 3: Immigration Detention-Related Deficiencies Most Frequently Identified by Custody Management Division Contracted Inspections, Fiscal Year 2019**

Detention standard	Description of standard	Total deficiencies	Percent of all deficiencies
Food service	Ensures that detainees are provided a nutritionally balanced diet that is prepared and presented in a sanitary and hygienic food service operation.	219	15
Environmental health and safety	Requires the maintenance of facility standards of cleanliness and sanitation, safe work practices, and control of hazardous substances and equipment.	165	11
Special Management Units	Protects detainees, staff, contractors, volunteers and the community from harm by segregating certain detainees from the general population in Special Management Units.	138	9
Detainee handbook	Requires that, upon admission, every detainee be provided comprehensive written orientation materials that describe such matters as the facility's rules and sanctions, grievance system, and programs and medical care, in English, Spanish, and other languages and that detainees acknowledge receipt of those materials.	102	7
Staff/detainee communication	Encourages and requires informal direct and written contact among staff and detainees, as well as informal supervisory observation of living and working conditions. Requires the posting of hotline informational posters from the Department of Homeland Security Office of Inspector General.	75	5

Source: GAO analysis of U.S. Immigration and Customs Enforcement information. | GAO-20-596

Note: The deficiencies in this table include those identified through all inspections conducted by the contractor, including preoccupancy inspections, in addition to annual inspections. Detention standard

<sup>18</sup>If a facility received a *Does Not Meet Standards* or *Deficient* rating, the inspection team found that detention functions were not performed at the *Meets Standards* level and that the facility's internal controls were weak, allowing for serious deficiencies in one or more program areas.

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descriptions are from the 2011 Performance-Based National Detention Standards (revised 2016), the most recent iteration of this set of standards, which applied to over-72-hour adult facilities housing 68 percent of detainees in this type of facility in fiscal year 2019.

**Office of Detention Oversight inspections.** The Office of Professional Responsibility's ODO conducts independent inspections of facilities that house detainees for over 72 hours and have an average daily population of over 10 detainees to assess compliance with the appropriate set of ICE detention standards. From fiscal years 2017 through 2019, ODO conducted 30 to 47 inspections of over-72-hour adult facilities per fiscal year, typically operating under a 3-year inspection cycle in which each relevant facility was generally inspected at least once every 3 years.

According to ODO guidance, during its inspections, ODO is to assess facility compliance with a core set of immigration detention standards that, if found to be deficient, could have the greatest impact on detainee life, health, and safety.<sup>19</sup> ODO may also inspect individual facilities against additional standards based on trends and areas of concern found in various sources, such as Custody Management inspection reports and previous ODO inspection findings. The inspections also are to include interviews with a representative sample of detainees, according to ODO guidance. ODO staff are to lead all inspections and use contract subject matter experts as needed. In fiscal year 2018, ODO conducted 31 inspections of over-72-hour adult facilities and reported that it identified a total of 419 deficiencies.<sup>20</sup> Table 4 below shows the top deficiencies, by detention standard category, identified in ODO's annual report on fiscal year 2018 inspections. Similar to Custody Management inspection results, the two detention standards in which ODO inspections most commonly identified deficiencies were food service and environmental health and safety.

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<sup>19</sup>According to ODO guidance, core detention standards include those that directly affect detainee life, health, and safety, including environmental health and safety, use of force, food service, and medical care. ODO officials told us that they conduct an annual review to determine the core standards for the following fiscal year.

<sup>20</sup>In addition to 31 over-72-hour adult facilities, ODO inspected two other detention facilities in fiscal year 2018. In its fiscal year 2018 annual report, ODO reported that it identified a total of 419 deficiencies across all 33 of these inspections. See Department of Homeland Security, Office of Professional Responsibility, *FY 2018 Annual Report on Inspections* (Washington, D.C.).

**Table 4: Immigration Detention-Related Deficiencies Most Frequently Identified by Office of Detention Oversight (ODO) Inspections, Fiscal Year 2018**

Detention standard	Description of standard	Number of deficiencies	Percent of total deficiencies
Environmental health and safety	Requires the maintenance of facility standards of cleanliness and sanitation, safe work practices, and control of hazardous substances and equipment.	63	15
Food service	Ensures that detainees are provided a nutritionally balanced diet that is prepared and presented in a sanitary and hygienic food service operation.	62	15
Use of force	Authorizes staff to use necessary and reasonable force after all reasonable efforts to otherwise resolve a situation have failed, for protection of all persons; to minimize injury to self, detainees, staff and others; to prevent escape or serious property damage; or to maintain the security and orderly operation of the facility.	42	10
Admission and release	Protects the community, detainees, staff, volunteers, and contractors by ensuring secure and orderly operations when detainees are admitted to or released from a facility.	35	8
Medical care	Ensures that detainees have access to appropriate and necessary medical, dental, and mental health care, including emergency services.	32	8

Source: U.S. Immigration and Customs Enforcement information. | GAO-20-596

Note: The most recent data available on deficiencies identified by ODO is for fiscal year 2018. ODO officials told us they plan to finalize the annual report detailing deficiencies identified in fiscal year 2019 by September 2020. The deficiencies in this table include those ODO identified at 31 over-72-hour adult detention facilities as well as two other facilities ODO inspected in fiscal year 2018. Detention standard descriptions are from the 2011 Performance-Based National Detention Standards (revised 2016), the most recent iteration of this set of standards, which applied to over-72-hour adult facilities housing 68 percent of detainees in this type of facility in fiscal year 2019.

The joint explanatory statement accompanying the Consolidated Appropriations Act, 2019, directed ICE to increase the frequency of ODO inspections of over-72-hour detention facilities from once every 3 years to twice per year not later than the end of fiscal year 2019.<sup>21</sup> The Explanatory Statement accompanying the DHS Appropriations Act, 2020, included \$14 million above DHS’s request for fiscal year 2020 for hiring at ODO to increase the frequency of detention inspections, as well as \$7 million for ODO that remains available until September 30, 2021.<sup>22</sup>

<sup>21</sup>See H.R. Rep. No. 116-9, at 485, accompanying Pub. L. No. 116-6, 133 Stat 13.

<sup>22</sup>Portion of 2020 Explanatory Statement accompanying Division D of the Consolidated Appropriations Act, 2020 (Pub. L. No. 116-93, 133 Stat. 2317), available at <http://docs.house.gov/bills/thisweek/20191216/BILLS-116HR1158SA-JES-DIVISION-D.pdf>.

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According to ODO officials, the office is in the process of hiring additional inspectors and plans to conduct at least one inspection of each over-72-hour facility with an average daily population of more than 10 detainees in fiscal year 2020. ODO officials stated that, because hiring and training inspectors is a lengthy process, ODO intends to implement a phased approach to inspecting the 130 identified facilities at least once for fiscal year 2020 and inspect the 130 identified facilities twice each year by the end of fiscal year 2021.<sup>23</sup> ODO and Custody Management officials told us that the increase in ODO inspections may impact the frequency and scope of contracted inspections and that final decisions by ICE management are pending.

**Operational review self-assessments.** For facilities with an average daily population of less than 10 detainees not subject to the contracted or ODO inspections described above, ERO field offices are to work with facilities to conduct annual self-assessments. These self-assessment reviews are checklist inspections completed by ERO field office and facility staff that assess facility compliance against the 2000 National Detention Standards. Of the 179 over-72-hour adult detention facilities that housed detainees during fiscal year 2019, 23 facilities housing 0.47 percent of the average daily population of detainees completed a self-assessment.<sup>24</sup>

For all deficiencies identified through ODO and Custody Management inspections and self-assessments, Custody Management is to work with ERO field offices and facilities to develop a corrective action plan. Field offices are responsible for confirming that corrective actions have been taken at facilities within their geographic areas of responsibility.

**Detention Monitoring Program.** Custody Management oversees the onsite Detention Monitoring Program, through which Detention Services Managers have a continuous presence at facilities to conduct ongoing compliance reviews and assist the facility in developing and monitoring corrective actions to ensure compliance is achieved and maintained.<sup>25</sup>

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<sup>23</sup>ODO does not inspect all 179 ICE detention facilities because it does not inspect those with an average daily population of fewer than 10 detainees.

<sup>24</sup>It is not possible to readily determine the number of deficiencies identified by self-assessments, as discussed later in this report.

<sup>25</sup>Continuous monitoring is conducted by Detention Services Managers and by Detention Standards Compliance Officers. Both titles have the same role and responsibilities. For brevity, this report uses the term Detention Services Manager to encompass both groups.

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Detention Services Managers are to speak with detainees on a regular basis to help identify issues within a facility, monitor facility conditions to identify any deficiencies, and collaborate with facility staff to fix the deficiencies. Facilities may be assigned a Detention Services Manager on a part- or full-time basis. Custody Management officials told us that, as of November 2019, there were 39 active Detention Services Managers. These Detention Services Managers were located part- or full-time in 55 of the 179 over-72-hour facilities that housed detainees in fiscal year 2019 and accounted for 67 percent of the average daily population.

**Local compliance teams.** In addition to inspections and ongoing monitoring managed by ICE headquarters offices, some ERO field offices have taken the initiative to establish local detention standards compliance teams. These teams may be composed of field office staff and sometimes facility staff who are responsible for overseeing facilities' compliance with detention standards on an ongoing basis. Two of the four field offices we visited had a compliance team in place, and field office officials at both said that having a compliance team is helpful in ensuring facilities comply with detention standards. A Custody Management headquarters official also told us that compliance teams result in facilities resolving deficiencies more quickly and easily because Detention Services Managers can communicate directly with them rather than having to go through the ERO field office. In addition, one facility official said that facility staff would struggle to comply with detention standards in the absence of a compliance team and Detention Services Manager.

#### Other DHS Entities' Oversight Mechanisms

In addition to ICE's inspection and monitoring mechanisms, DHS's OIG and CRCL are to provide oversight of detention facilities' adherence to detention standards and federal laws.

The DHS OIG has three offices with oversight mechanisms that address ICE detention facilities. The Office of Special Reviews and Evaluations conducts unannounced inspections of immigration detention facilities to evaluate the facilities against the ICE detention standards and evaluations of ICE detention programs. The office conducted unannounced inspections of four detention facilities in fiscal year 2019 and issued a report with its findings and one recommendation related to field office oversight and compliance with detention standards.<sup>26</sup> ICE then has the opportunity to respond to those recommendations and may take

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<sup>26</sup>Department of Homeland Security, Office of Inspector General, *Capping Report: Observations of Unannounced Inspections of ICE Facilities in 2019*, OIG-20-45 (Washington, D.C.: July 1, 2020).

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corrective action. The DHS OIG's Office of Audits—which is responsible for conducting broad, programmatic reviews of DHS components—may conduct reviews focusing on immigration detention facilities. Finally, the Office of Investigations investigates alleged cases of criminal, civil, and administrative misconduct on the part of DHS employees, contractors, grantees, and programs, including ICE employees and grantees in detention centers.

CRCL receives and conducts onsite investigations of alleged violations of civil rights and civil liberties by DHS components, including allegations involving ICE detention facilities. CRCL conducted nine onsite investigations of ICE facilities in fiscal year 2019, resulting in 215 recommendations. After each investigation, CRCL is to develop a memorandum that provides a general overview of the onsite investigation conducted, the recommendations that resulted from the inspection, and the response from ICE.

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**ICE Collects Information on Inspection Results but Does Not Comprehensively Analyze Available Results Data and Does Not Collect Other Results Data in a Usable Format**

ICE collects information on the results of contracted detention facility inspections, including deficiencies identified and corrective actions taken to address those deficiencies. However, ICE has not comprehensively analyzed available data on contracted inspections results in a manner to enable potential trends in inspection deficiencies, such as recurring deficiencies, to be identified and addressed. In addition, Custody Management, which is responsible for contracted inspections and managing and overseeing detention operations, does not have access to data on deficiencies identified through ODO inspections in a format that allows for ready analysis. Further, ICE does not maintain data on self-assessments conducted by small facilities or the corrective actions developed to address identified deficiencies in a data system that allows for systematic tracking and analysis.

**Custody Management Collects Data on Its Contracted Facility Inspection Results but Does Not Comprehensively Analyze the Data**

After conducting an annual inspection of a detention facility, the contracted inspector uploads the results into the database utilized by Custody Management. However, Custody Management does not analyze the results data in a way that could identify trends in deficiencies, which it could use to inform management decisions, such as how to address common deficiencies.

Inspection results data include descriptions of deficiencies identified; the standard to which each deficiency relates; and the date of the inspection, among other information. Custody Management officials told us that by policy, its staff are to review the data for completeness and accuracy within 2 weeks of an inspection. The contractor that conducts inspections



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provides Custody Management with monthly analyses of data on deficiencies identified through inspections that highlight standards with a high rate of failure and the frequency of failures. However, these analyses are limited to the most recent month and do not evaluate trends over time or across facilities. Additionally, according to a senior Custody Management official, the division has shared information based on analyses of quarterly inspections data with a leadership team; however, these analyses have been limited to a particular fiscal year quarter or facility.

The Project Management Institute states that managers should monitor programs' progress and performance results to ensure the goals of the program are met.<sup>27</sup> To better enable management oversight for monitoring the results of a specific program, *Standards for Internal Control in the Federal Government* calls for the assessment of agency performance over time.<sup>28</sup>

Custody Management officials said they would like to do more analysis of the data but had not done so because they had not allocated resources toward such an effort. In addition, officials from one office within Custody Management stated that, as a result of findings and recommendations from the OIG and GAO in 2018 and 2016, respectively, the department would like to explore methods of analyzing the data to identify trends.<sup>29</sup> These same officials noted that any data analysis would likely be done by a contractor but that they do not have a plan to issue a contract or to include more extensive requirements for data analysis in the existing contract for conducting inspections.

Analyzing data on deficiencies identified through inspections over time could provide information that could help ICE invest its limited oversight resources more efficiently. In particular, we found that analysis of Custody

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<sup>27</sup>Project Management Institute, *A Guide to the Project Management Body of Knowledge*.

<sup>28</sup>[GAO-14-704G](#).

<sup>29</sup>In June 2018, the DHS OIG reported that ICE's detention facility inspections, inspection follow-up processes, and onsite facility monitoring helps identify and correct some deficiencies but does not ensure adequate oversight or systemic improvements in detention conditions, with some deficiencies remaining unaddressed for years. In 2016, GAO recommended that the Secretary of Homeland Security direct ICE to track inspection results and conduct analyses of oversight data to enhance DHS's and ICE's ability to make more effective business decisions with respect to the provision of medical care. DHS concurred and implemented the recommendation with regard to medical care but has not done so more generally. See [OIG-18-67](#); and [GAO-16-231](#).

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Management data from its annual contracted inspections could show trends or changes over time that could, in turn, highlight areas for improvement.

- In our analysis of Custody Management’s inspections results, we found that facilities overseen by one ERO field office received less than 3 percent of all inspection deficiencies the contractor identified nationwide in fiscal years 2017 and 2018. However, these same facilities received nearly 19 percent of all deficiencies in fiscal year 2019. Conversely, another ERO field office oversaw facilities that collectively accounted for nearly 30 percent of deficiencies in fiscal year 2017 but 10 percent in fiscal year 2019. Identifying such changes from year to year could help identify ERO field offices where facilities’ compliance with standards has increased or decreased, or help identify best practices for improving compliance.
- We also identified deficiencies that recurred in multiple years, including at least 242 that occurred in both 2018 and 2019.<sup>30</sup> For instance, we identified one facility that was found to have a deficiency regarding contingency plans for emergency situations in each of the 3 years for which we had data. Another facility was cited in consecutive years for deficiencies related to religious practices, including access to religious services. Identifying trends in repeat deficiencies over time and within or across facilities could help ICE target technical assistance, such as training on specific standards, to address ongoing issues in detention facilities and could identify problem areas for specific facilities so that they can be addressed.
- We found that while approximately 49 percent of over-72-hour adult facilities were owned by a state or local government or private entity and operated under an agreement with ICE, these facilities accounted for nearly 63 percent of deficiencies identified in fiscal year 2019. Conversely, facilities owned and operated by private companies and operated under contract with ICE, which housed nearly 17 percent of the average daily population, accounted for just over 1 percent of deficiencies in that fiscal year. This analysis indicates that compliance with standards may vary based on the ownership and operational construct of a facility and that this type of analysis could help Custody

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<sup>30</sup>Our analysis was conducted by matching language entered into the department’s database to identify the standard subcomponent found deficient. Because our analysis only identified exact text matches, there may be additional recurring deficiencies that were not identified.

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Management target oversight and support to types of facilities that are likely to have a greater number of deficiencies.

By regularly conducting more comprehensive analyses of inspections results data, such as over time, and within and across facilities and regions, ICE could be better positioned to identify potential trends in facility condition deficiencies and to implement solutions to efficiently address them and improve the conditions of ICE's detention facilities.

#### Custody Management Does Not Have Access to Data on Deficiencies Identified through ODO Inspections in a Format Conducive to Analysis

Custody Management does not have access to results from ODO's inspections in a format conducive to analysis and, thus, ICE does not systematically analyze the results of ODO inspections. With regard to how data on deficiencies identified through ODO inspections are stored and maintained, ODO records the results of its inspections in a narrative format that it shares with Custody Management. Specifically, a Custody Management official explained that Custody Management receives ODO reports on individual inspections that include a narrative description of the findings and a spreadsheet that lists the deficiencies identified in that individual inspection in a table. Custody Management officials said that, due to the narrative format in which ODO records information on deficiencies identified through its inspections, the division cannot easily incorporate this information into its database. Rather, Custody Management staff store information on ODO deficiencies in a SharePoint folder, which allows colleagues access to the information, but an official told us that systematic analysis would require significant staff resources to compile or compare inspection results. As a result, Custody Management does not currently analyze data on deficiencies identified through ODO inspections to identify potential trends in facility condition deficiencies, such as trends over time and within and across facilities and regions.

Moreover, although ODO is in the process of developing a data system to store inspection results, no plans are in place to ensure that Custody Management can access the data in a format conducive to analysis. Due to the increasing number of inspections ODO will conduct in coming years, as mandated by the Consolidated Appropriations Act, 2019, ODO officials told us the office has awarded a contract to develop a data system for the recording of results of ODO inspections and other purposes.<sup>31</sup> The new system is to store data on deficiencies identified

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<sup>31</sup>As discussed previously, the Consolidated Appropriations Act, 2019, directed ICE to increase the frequency of ODO inspections of over-72-hour detention facilities from once every 3 years to twice per year. See H.R. Rep. No. 116-9, at 485, accompanying Pub. L. No. 116-6, 133 Stat 13.

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through inspections and produce statistical reports to allow for analysis. While this could be a positive step, ODO officials stated there are no plans to ensure that Custody Management can access ODO inspections results data from this new system in a format conducive to analysis, although they do plan to provide Custody Management with statistical information upon request. Additionally, Custody Management officials we interviewed, including the head of the unit responsible for overseeing detention standards compliance, were unaware of efforts to develop the system as of April 2020. Although ODO officials said they had informed some Custody Management officials of the development of the database, no discussions had been held specifically regarding the system or how ODO could provide Custody Management information from the database in a format conducive to analysis.

Without access to ODO inspections results data in a format conducive to analysis, Custody Management will not be positioned to analyze ODO inspections results to identify trends or changes over time or within and across facilities and regions which, according to one Custody Management official, is one of that division's responsibilities.<sup>32</sup> According to Custody Management officials, it would be helpful to have data on deficiencies identified through ODO inspections and information on corrective actions in a format that allows it to be uploaded into Custody Management's system and compared with contracted inspection results. However, while the new system is intended to produce statistical reports to allow for analysis of data on deficiencies identified through ODO inspections and corrective actions, neither ODO nor Custody Management officials identified specific plans to share or analyze the resulting data.

To better enable management oversight for control activities, *Standards for Internal Control in the Federal Government* calls for management to design an information system that enables information related to operational processes to become available to the entity on a timely basis. *Standards for Internal Control in the Federal Government* also notes that management should process data obtained into quality information, monitor performance results, and assess performance over time.<sup>33</sup>

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<sup>32</sup>This official stated that Custody Management is responsible for analyzing facility inspection data from all inspections, although this responsibility is not explicitly stated in the guidance, which is in the process of being updated.

<sup>33</sup>[GAO-14-704G](#).

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Similarly, the Project Management Institute states that managers should monitor programs' progress and performance results to ensure the goals of the program are met.<sup>34</sup>

As noted above, our analysis of the results of contracted inspections illustrated that analyzing the results could show trends or changes over time that could highlight areas for improvement as well as position ICE to implement solutions for efficiently addressing them. With the increased number of ODO inspections and ODO's efforts to develop a data system, analysis of ODO inspections data could yield similar benefits. Custody Management is responsible for managing and overseeing facility compliance with detention standards. Taking steps to ensure that Custody Management can access data on deficiencies identified through ODO's inspections in a format that is conducive to analysis would help ensure that Custody Management can conduct more comprehensive analysis of ODO inspection results. Further, regularly conducting analyses of data on deficiencies identified through ODO inspections would better position ICE to identify potential trends in facility condition deficiencies and to implement solutions to efficiently address them and improve detention conditions.

**Custody Management Does Not Maintain Data on Deficiencies or Corrective Action Plans from Self-Reported Assessments in a Format Conducive to Tracking and Analysis**

As described earlier, small facilities—those with an average daily population of fewer than 10 detainees—are to complete an annual self-assessment rather than receiving an annual inspection by Custody Management contractors. Unlike data on deficiencies identified through annual contract inspections for larger facilities, Custody Management does not store self-assessment results in a database. Rather, Custody Management officials told us that staff scan worksheets with results for each self-assessment and store them electronically at a site accessible to all staff. However, this format is not conducive to tracking of self-assessment results, such as facility deficiencies, because the information is stored in a narrative format in individual files. Custody Management officials told us that they see value in storing self-assessments in a more usable format and are planning to require that ERO field offices submit self-assessment results in a format that can be readily uploaded into Custody Management's database. However, Custody Management officials could not provide further details or documentation on this planned effort, such as a draft policy or time line.

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<sup>34</sup>Project Management Institute, *A Guide to the Project Management Body of Knowledge*.

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Custody Management similarly does not use a centralized system to manage information on actions to address deficiencies identified through self-assessments. Rather, Custody Management tracks information on corrective action plans and implementation of those plans through email communications between headquarters and the responsible field offices. Custody Management officials told us they do not consider it a priority to include information on corrective actions in any unified database because self-assessments apply to a small number of detainees, and it is easier for officials to utilize the current process to manage them. However, although facilities that conducted self-assessments housed less than 1 percent of adult detainees in over-72-hour facilities from fiscal years 2017 through 2019, ICE guidance states that the self-assessment process is intended to help ICE fulfill its responsibility to ensure that detention facilities are safe, secure, and humane for detainees, staff, and the public. Maintaining information on corrective actions through emails does not permit managers to easily track the status of corrective actions. Because emails are linked to individual staff, information on the implementation of corrective actions may be lost if the responsible headquarters official leaves his or her position. In addition, there is no ongoing historical record of corrective actions taken in a specific facility nor is there a way to analyze the effectiveness of corrective actions over time.

*Standards for Internal Control in the Federal Government* calls for management to design an information system that enables information related to operational processes to become available to the entity on a timely basis and notes that management should use quality information to achieve the entity's objectives. Further, management should process the obtained data into quality information that supports the internal control system.<sup>35</sup> Recording data on self-assessment results and corrective actions in a format that is conducive to tracking and analysis would enable Custody Management to be aware of any trends in deficiencies across self-assessments. Recording such information would also enable Custody Management to readily access information on the status of corrective actions that resulted from self-assessments and help provide reasonable assurance that such actions have been taken.

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<sup>35</sup>[GAO-14-704G](#).

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## ICE Is Planning Actions to Help Ensure Facilities Address Deficiencies Identified through the Detention Monitoring Program

ICE is planning actions to help ensure facilities address deficiencies identified through the Detention Monitoring Program. As described earlier, ICE assigns Detention Services Managers to selected detention facilities to provide ongoing monitoring of facilities' compliance with detention standards. However, facilities are not required or directed to address deficiencies identified by Detention Services Managers. Further, although Detention Services Managers are directed to attend facility management meetings when permitted, and some reported sharing findings with facility management during our site visits, they are not required to share those findings with facility staff or managers. When Detention Services Managers identify deficiencies in facility compliance, ICE's On-Site Monitoring Control Program guidance directs them to document the deficiencies and provide a list of identified deficiencies to their managers in Custody Management. However, the guidance does not include a requirement that facilities address the deficiencies or a process to ensure that field offices or facilities are doing so.

Through our audit work, both we and the DHS OIG identified concerns that facilities and field offices may not address deficiencies identified through the Detention Monitoring Program. In 2018, the DHS OIG found that a Detention Services Manager's effectiveness depends on the ERO field office's willingness to correct deficiencies that the Detention Services Manager identifies.<sup>36</sup> To address these findings, the OIG recommended that ERO develop protocols for field offices to require facilities to implement corrective actions resulting from Detention Services Managers' identification of noncompliance with detention standards.

We also found that detention facilities may not address deficiencies identified by Detention Services Managers. Detention Services Managers we spoke with said that ERO field offices and facilities may not take action to address the identified deficiencies because the managers' findings have "no teeth"—facilities and field offices are not required to correct identified deficiencies. In our site visits, facility staff, field office officials, and Detention Services Managers at eight of the 10 facilities we visited stated that the effectiveness of the Detention Services Manager, and his or her ability to impact changes at the facility, are dependent on the Detention Services Manager's personality and relationship with field office officials and facility staff.

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<sup>36</sup>OIG-18-67.

Further, we found that because Detention Services Managers have an onsite presence at facilities, they may have visibility into aspects of facility conditions that annual inspections do not. As a result, when facilities address deficiencies identified by Detention Services Managers on an ongoing basis, they may increase their compliance with the standards overall. Our analysis showed that the average number of deficiencies identified by Custody Management contracted inspections at facilities with Detention Services Managers was lower than at facilities without Detention Services Managers, as shown in table 5.

**Table 5: Average Number of Deficiencies Identified by Contracted Inspections at Detention Facilities with and without Detention Services Managers**

<b>Fiscal year</b>	<b>Facilities without Detention Services Manager</b>	<b>Facilities with Detention Services Manager</b>
2017	18	7
2018	21	7
2019	21	6

Source: GAO analysis of U.S. Immigration and Customs Enforcement information. | GAO-20-596

ICE has taken some steps and plans to take additional action to enhance Detention Services Managers' authority within detention facilities. In December 2019, ERO provided guidance to field office managers stating that it would designate Detention Services Managers as representatives of contracting officers for detention standards, enabling them to communicate directly with detention facility contractors to resolve identified deficiencies. Additionally, a report ICE submitted to us in January 2020 reported that ERO Custody Management had tentatively scheduled field office compliance team training for two field offices to respond to the OIG's recommendation. Further, ICE submitted a report to the DHS OIG in February 2020 noting that the guidance for the Detention Management Control Program was in the process of being revised and would include guidelines and requirements on how field office staff would work with Detention Services Managers. As of April 2020, ICE had not yet finalized these revisions, and officials were uncertain about when the updated guidance would be completed.

According to a DHS OIG official, Detention Services Managers are valuable assets to the oversight system, and ICE must establish protocols directing field offices to address Detention Services Managers' findings in order to be responsive to the OIG's recommendation. The OIG's analysis of ICE's response to the recommendation further stated that ICE's



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planned actions were responsive to the recommendation and that the office will evaluate the guidance and how ERO field office staff will work with Detention Services Managers upon its finalization. We agree that protocols to ensure that facilities correct deficiencies identified by Detention Services Managers would help strengthen facilities' compliance with detention standards. Taking steps to address the DHS OIG's 2018 recommendation by requiring facilities to address deficiencies identified by Detention Services Managers would help strengthen facilities' compliance with detention standards.

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## ICE and Other DHS Entities Have Mechanisms to Receive Detainee Complaints, but ICE Could Further Analyze Complaints and Provide Greater Assurance They Are Addressed

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### ICE and Other DHS Entities Have Various Mechanisms Available for Detainees to Submit Complaints

ICE and other DHS entities provide various ways through which complaints related to immigration detention can be reported. Detainees can submit complaints directly at ICE detention facilities through formal and informal processes, guided by requirements in ICE detention standards. Additionally, detainees and other stakeholders, such as attorneys, family members, and members of advocacy groups, can submit detention-related complaints through various mechanisms to ICE and DHS offices and components. Several DHS and ICE entities are responsible for obtaining and addressing detainee complaints.

### Detainees Can Submit Complaints Directly at Immigration Detention Facilities

Detainees can submit complaints directly at immigration detention facilities through formal and informal methods, and those methods vary by facility. ICE detention standards encourage facility staff and detainees to resolve complaints at the lowest level possible, or in an informal manner. All 10 facilities we visited had procedures for detainees to submit complaints informally through oral or written methods, such as speaking to a facility staff member. At all 10 facilities we visited, detainees could

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also submit formal complaints through written complaint forms they could drop in designated boxes or, in some cases, via electronic tablets.

Immigration detention standards require that detention facilities provide detainees with a handbook that fully describes all policies, procedures, and rules in effect at the facility, including grievance procedures. We observed during our site visits that facilities may also choose to show detainees an orientation video that explains how to file a complaint. Of the 74 detainees we interviewed, 48 said they received handbooks with instructions explaining how to file complaints at their facilities, and almost all of these detainees (45 of 48) said the handbook was in a language they understood. We observed handbooks available in languages other than English, such as Spanish and Punjabi. ICE officials said detainees can request handbooks in their native languages.

Detainees we interviewed were largely aware of how to submit complaints while at a detention facility—most knew at least one method by which they could do so. Specifically, out of 74 detainees we interviewed, 27 said that if they needed to file a complaint, they would submit a written complaint at the facility; nine said they would tell an officer at their facility about the complaint; 11 said they would either submit a written complaint or tell an officer; three said they would call a complaint hotline (discussed below); and six cited another method. Seventeen detainees said that they did not know how to file complaints, and one detainee did not answer this question. Figure 3 shows examples of a grievance box where detainees can submit general grievances as well as an example form in which detainees can write grievances and appeal a response to a grievance, should they choose to do so. Appendix II provides additional information about the detainee interviews we conducted and what detainees told us about their experiences with complaint processes at detention facilities.

**Figure 3: Examples of a Grievance Box and Grievance Form at U.S. Immigration and Customs Enforcement Detention Facilities**



Detainee Name: \_\_\_\_\_ Log #: \_\_\_\_\_  
 A Number: \_\_\_\_\_ Room & Bunk: \_\_\_\_\_  
 Complaint/Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Action Requested by Detainee: \_\_\_\_\_  
 \_\_\_\_\_  
 Detainee Signature: \_\_\_\_\_ Date/Time: \_\_\_\_\_  
 Received By: \_\_\_\_\_ Date/Time: \_\_\_\_\_  
*Must be filed within 5 days of original incident or issue.*  
 -----  
*Response to Detainee within 5 days is required.*  
 Departmental Findings/Actions Taken: \_\_\_\_\_  
 \_\_\_\_\_  
 Department Head: \_\_\_\_\_  
 Date of Findings: \_\_\_\_\_ Date returned to Detainee: \_\_\_\_\_  
 Facility Administrator: \_\_\_\_\_ Comments: \_\_\_\_\_  
 \_\_\_\_\_ Date: \_\_\_\_\_  
 -----  
*Detainee must return within 5 days of receipt and check appropriate box.*  
 I would like this matter:  
 ( ) Referred to the Detainee Grievance Committee  
 ( ) I agree with the resolution  
 Detainee Signature: \_\_\_\_\_ Date/Time: \_\_\_\_\_  
*Original to be filed with Grievance Log / Pink to Detainee / Yellow to Detainee File*  
 3/2016

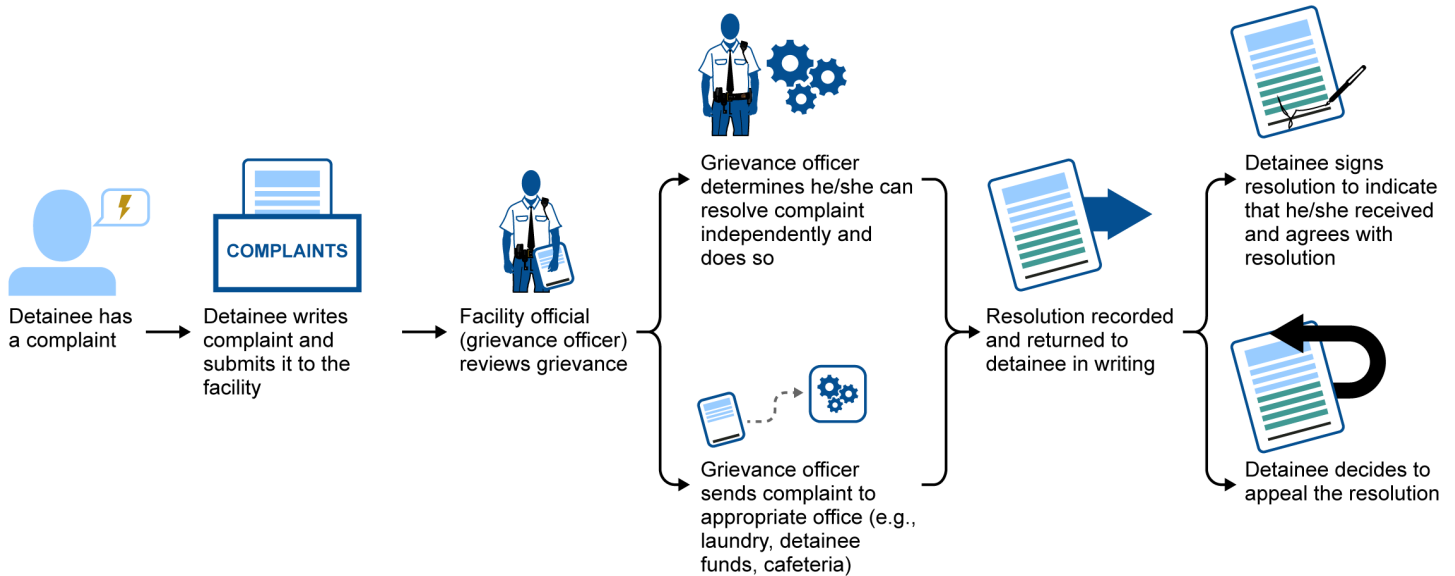
Sources: GAO; U.S. Immigration and Customs Enforcement. | GAO-20-596

At each of the 10 facilities we visited, an individual was appointed to oversee detainee complaint processes, generally referred to as a grievance officer. Based on our interviews with detention facility officials, the grievance officer generally collects, assesses, and assists in responding to complaints. Immigration detention standards note that facilities could appoint a grievance officer or convene a grievance committee. At the facilities we visited, the grievance officer was generally also to ensure that complaints go to the appropriate departments within the facility. For instance, if a detainee files a complaint about medical care, the grievance officer was to send that complaint to the medical office at the facility. According to ICE detention standards, once a facility receives a complaint, the facility is to attempt to investigate and respond within a certain time frame, usually 5 days. ICE detention standards also

obligate the facility to respond to a detainee complaint, in writing, with the resolution and an option to appeal. Facilities are required to notify the local ERO field office about certain grievances, such as those related to sexual or physical assault, among others.

ICE detention standards also require that facilities maintain logs of the complaints they receive, and facilities we visited maintained those logs in varying formats. According to our interviews with facility officials, the grievance officer typically maintains and oversees the grievance log. Based on our review of these logs and our interviews at facilities, most (nine out of 10) facilities we visited maintained grievance logs electronically, such as in Excel spreadsheets or other electronic applications, and facility officials populated those logs manually. Two facilities we visited that used tablets to collect complaints also used the tablets to auto-populate their grievance logs. One facility that we visited maintained its grievance log in a paper journal. Detainee complaints varied, based on our review of these selected logs, and included complaints about laundry services; visitation; and housing officers, among other things. See figure 4 for an example of the complaint process at a detention facility.

**Figure 4: Example Process for Complaints Submitted and Resolved at the Detention Facility Level**



Source: GAO analysis of ICE information. | GAO-20-596

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Detainees May Submit  
Complaints to Various ICE and  
DHS Entities

Detainees may also submit complaints through a variety of mechanisms to various ICE and DHS entities. In particular, the ICE Detention Reporting and Information Line (DRIL) is a call center within ICE ERO that receives complaints related to detention facilities, including detention-related issues and issues to do with immigration cases.<sup>37</sup> The ICE Office of Professional Responsibility's Joint Intake Center, DHS OIG, and CRCL receive complaints by various methods, including phone hotlines, online, mail, or fax.<sup>38</sup>

Once a complaint is submitted to an ICE or DHS office, the office is to consider various factors to determine how the complaint will be addressed, including whether to investigate the complaint or to refer it to another entity, such as another ICE or DHS headquarters office or ERO field office.<sup>39</sup> Figure 5 illustrates how detainee complaints may be submitted and transferred across different DHS and ICE offices that receive, refer, and investigate them.

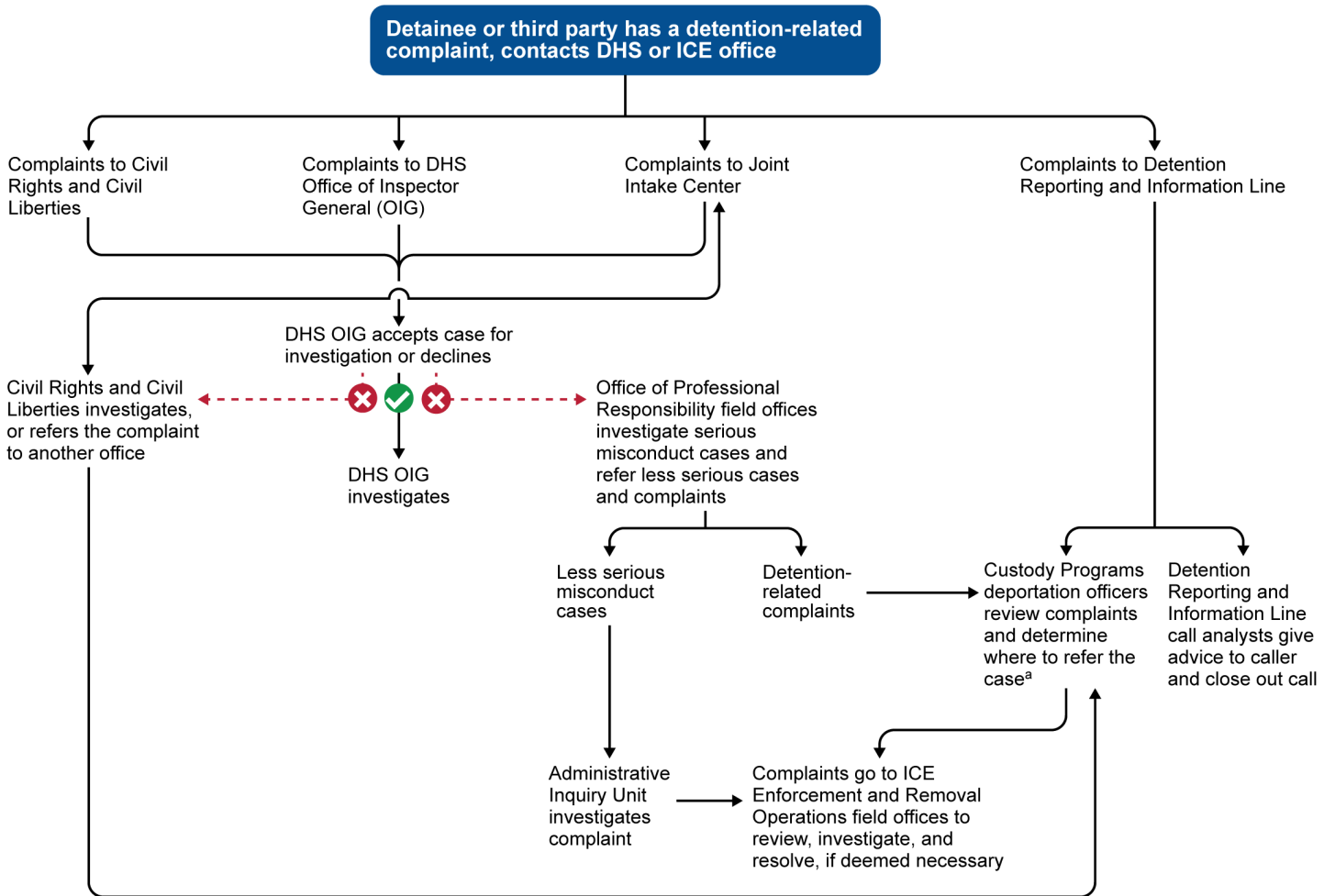
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<sup>37</sup>According to DRIL officials, the call center's primary focus is resolving communication and logistical challenges by providing information or routing issues to the appropriate party to resolve. DRIL officials refer to the calls the center receives as inquiries, issues, or concerns. For the purposes of this report, we refer to calls DRIL categorizes as "detention-related concerns" as complaints.

<sup>38</sup>CRCL officials refer to the issues the office receives as allegations. For the purposes of this report, we refer to detention-related issues reported to CRCL as complaints. The Joint Intake Center is within the Office of Professional Responsibility's Investigations Division.

<sup>39</sup>Because detainees may submit a complaint through multiple offices and mechanisms, the same complaint may be included in complaint data for multiple entities.

**Figure 5: Process for Addressing Detainee Complaints Submitted through Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) Offices**



Source: GAO analysis of DHS information. | GAO-20-596

Note: Offices do not open and investigate every complaint they receive for a variety of reasons, including, for example, that they determined a complaint was already resolved, does not contain sufficient information for investigation, or is outside of the scope of their office's work. Offices log complaints that they receive in their respective data systems.

<sup>a</sup>Custody Programs can refer complaints to the DHS OIG, Joint Intake Center, and Office for Civil Rights and Civil Liberties, if deemed appropriate. However, officials from the Office for Civil Rights and Civil Liberties said that it is uncommon that they receive referrals from Custody Programs.

- **DRIL.** DRIL is intended to provide a means for detainees and others to communicate directly with ERO to answer questions and resolve concerns. DRIL receives calls from detainees and others, such as

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attorneys and advocacy groups, regarding issues with immigration detention and administrative immigration proceedings. Call analysts who answer these phone calls are to provide information to detainees and others to address their complaints, if possible. If call analysts determine that the complaint should be referred to an ERO field office or another component, they elevate the complaint to deportation officers in Custody Programs—the office that oversees DRIL—who refer calls to appropriate ICE and DHS offices. According to ICE data, DRIL received 13,031 calls with detention-related concerns from fiscal years 2017 through 2019 in facilities that held detainees for longer than 72 hours. Among these 13,031 detention-related concerns, common areas of focus included about 2,200 complaints related to medical care at detention facilities, such as a detainee alleging that their medication was denied; over 1,100 complaints related to detainee property, such as a detainee trying to locate property prior to removal; and about 900 complaints related to telephone access, such as a detainee alleging that a facility restricted telephone use.

- **Joint Intake Center.** The ICE Joint Intake Center, under the Office of Professional Responsibility's Investigations Division, receives, reviews, and refers allegations of criminal and noncriminal misconduct by ICE and U.S. Customs and Border Protection personnel and contractors. Officials said that the Joint Intake Center enters the complaints it receives in its case management system, which automatically refers misconduct complaints to the Investigations Division field offices.<sup>40</sup> The Investigations Division field offices can accept and investigate misconduct claims that they deem to be serious, according to Office of Professional Responsibility officials. Additionally, the field offices can decline to investigate complaints, in which case they refer detention-related complaints to Custody Programs and less serious allegations of misconduct to the Administrative Inquiry Unit, according to Office of Professional Responsibility officials. The Joint Intake Center received 6,610 detention-related complaints from fiscal years 2017 through 2019 from facilities that housed detainees for longer than 72 hours. Among these 6,610 detention-related complaints, common areas of focus included over 600 complaints about detainee-on-detainee sexual assault, such as inappropriate touching; over 800 complaints about use of force,

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<sup>40</sup>The Investigations Division's case management system electronically routes all complaints involving ICE employees and contractors to the DHS OIG for the right of first refusal upon receiving the complaints, according to Office of Professional Responsibility officials. If the OIG declines to accept the case, the data system sends the case to the Investigations Division field offices, according to officials.

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such as use of pepper spray; and over 500 complaints about physical abuse, such as an allegation of physical assault.<sup>41</sup>

- **DHS OIG.** The DHS OIG obtains and reviews allegations of criminal and noncriminal fraud, waste, and abuse by DHS personnel and contractors. The DHS OIG has the right of first refusal for complaints that come through different headquarters-level offices, including the Joint Intake Center and CRCL, meaning that those offices have to send all complaints that they receive through the DHS OIG, according to OIG officials. The DHS OIG opened and investigated 155 complaints from fiscal years 2017 through 2019, according to OIG officials. From fiscal years 2017 through 2019, the DHS OIG received a total of 6,589 detention-related complaints. Among these 6,589 detention-related complaints, common areas of focus included about 2,800 complaints related to the denial of rights or due process, such as denying a detainee access to legal resources; about 2,200 complaints related to detainee abuse, such as excessive force by an officer; and about 1,000 complaints related to other civil rights or civil liberties issues, such as an allegation of discrimination based on religion.
- **CRCL.** CRCL obtains and reviews allegations of civil rights and civil liberties violations and abuses by DHS personnel and contractors. From fiscal years 2017 through 2019, CRCL received 4,865 detention-related complaints from facilities that housed detainees for longer than 72 hours. Among these 4,865 detention-related complaints, common areas of focus included about 1,600 complaints related to conditions of detention, such as issues with segregation; about 1,200 complaints related to due process, such as removal from the United States or release from a detention facility; and about 1,200 complaints related to mental or medical care at detention facilities.

For additional detail on detention-related complaint data, see appendix III.

One method detainees may use to submit complaints to DRIL, Joint Intake Center, DHS OIG, and CRCL is by telephone. ICE detention standards obligate facilities to provide at least one operable telephone per 25 detainees. We observed telephones in 25 housing units at 10 detention facilities we visited. The ratio of detainees to telephones ranged from five telephones for five detainees in a segregation unit to five

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<sup>41</sup>Both sexual assault and physical assault allegations made to the Joint Intake Center could include detainee-on-detainee assault, detainee-on-staff assault, staff-on-detainee assault, and contractor-on-detainee assault, for example.



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telephones for 120 detainees in general housing areas. We tested telephones in 24 of 25 housing units and, in all instances, we were able to reach the DRIL, Joint Intake Center, and DHS OIG complaint hotlines.<sup>42</sup>

We checked to see if hotline instructions for DRIL, the Joint Intake Center, and DHS OIG were posted near telephones. In 18 of the 25 housing units we visited, these postings were located near the telephones. In seven housing units, posters were located farther away from the telephones—such as across the room—or had such small print we could not read them. When we observed that the hotline posters were not near the telephones or when we could not read the posters, we notified facility staff. Facility staff told us that they would reprint or relocate the posters accordingly. Figure 6 shows an example of the DRIL poster instructing detainees on how to call the helpline and a bulletin board at an ICE detention facility containing posters with contact information for other hotlines.

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<sup>42</sup>We visited the 25<sup>th</sup> housing unit prior to 9:00 AM, which was before the telephones become operational for detainees, so we were unable to test them.

**Figure 6: Example of a Detention Reporting and Information Line Poster and Bulletin Board Containing Posters with Information for Other Complaint Hotlines**



Sources: GAO; U.S. Immigration and Customs Enforcement. | GAO-20-596

## ICE and DHS Offices Maintain Data on Detention-Related Complaints, but ICE Does Not Comprehensively Analyze Detention-Related Complaints to Help Inform Management Decisions

DRIL, the Office of Professional Responsibility Investigations Division, DHS OIG, and CRCL all maintain data on issues and complaints that they receive, including detention-related complaints, in their individual databases. These offices conduct some analyses on the data that they maintain; however, ICE does not comprehensively analyze these data to help inform its management and oversight of immigration detention facilities.

- DRIL.** DRIL maintains data on detention-related complaints in its data system, including the call topic, the detention location, and other call information. DRIL conducts analyses of its data that, according to DRIL officials, the office sends to Congress annually. These analyses include detailed information on detention-related calls that the line receives. For instance, the analyses break out call topics, including immigration case concerns and detention concerns. The analyses also provide information on call connectivity and the offices to which the line referred calls.

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- **Office of Professional Responsibility Investigations Division/Joint Intake Center.** The Investigations Division maintains data on issues related to criminal and noncriminal misconduct, including those related to detention-related complaints in its data system. The Investigations Division maintains case information, including dates associated with the case; the case status; and a summary of the incident, among other case information. According to officials, the Investigations Division, which manages the Joint Intake Center, does not produce annual reports on detention-related complaints that go through the Joint Intake Center. However, the Investigations Division has the capability to produce reports on detention-related complaints in its database, when needed.
  - **DHS OIG.** DHS OIG maintains data on various issues related to fraud, waste, and abuse and mismanagement or other criminal and noncriminal misconduct at DHS offices and entities, including those related to detention-related complaints in its data system. DHS OIG data includes information on dates associated with the complaint; a narrative explanation of the complaint; and DHS OIG actions associated with the complaint, among other information. The DHS OIG's semiannual reports to Congress report how many complaints the OIG hotline received, how many complaints DHS OIG referred to other components or agencies, and how many complaints DHS OIG closed. However, the DHS OIG's semiannual reports do not break down the topics of the complaints and do not enumerate the number or types of detention-related complaints that DHS OIG received.
  - **CRCL.** CRCL maintains data on various allegations related to violations of civil rights and civil liberties at DHS offices and entities, including ICE detention-related complaints in its data system. These data include dates associated with the complaint; a narrative field describing the complaint; and the detention location associated with the complaint, among other information. CRCL develops annual reports for Congress that report how many complaints the office received, how many investigations the office opened, and describe CRCL's process regarding recommendations resulting from those investigations. Additionally, CRCL's annual reports describe the number of complaints by the primary focus area of the complaint and the DHS component. For instance, one of the focus areas is "Conditions of Detention."

While DRIL, the Office of Professional Responsibility Investigations Division, DHS OIG, and CRCL maintain data on detention-related complaints and conduct some analyses of these data, these analyses encompass all types of complaints that each office receives and are not

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always specific to detention-related complaints. For example, CRCL reports include analyses of complaints related to different DHS components, such as the Transportation Security Administration, or complaints of retaliation across DHS. Further, these analyses focus on issues and complaints submitted to an individual office and do not consider trends in complaints across ICE and DHS offices.

ICE is the primary entity responsible for overseeing and ensuring the conditions of confinement in immigration detention facilities. As DRIL, the Office of Professional Responsibility Investigations Division, CRCL, and DHS OIG all maintain data on the detention-related complaints that they collect, opportunities exist for ICE to conduct analyses of detention-related complaint data, such as over time, within or across facilities and regions, and by facility type.

In our analysis of detention-related complaint data that ICE and DHS offices collect and maintain, we found trends in detention-related complaints over time and across regions. For example, we identified common complaint categories across databases and fiscal years. More specifically, from fiscal years 2017 through 2019, complaints related to sexual abuse were among the five most common categories of detention-related complaints for the Joint Intake Center, DHS OIG, and CRCL. We also identified complaints that recurred across fiscal years. For instance, DRIL data for fiscal years 2017 through 2019 indicate that detainees repeatedly alleged problems with their property at detention facilities, such as detention facilities losing track of detainee property. Additionally, we identified several detention facilities and areas of responsibility that consistently had more complaints each year than others, based on our analysis of DRIL data. For example, we found that across all 3 fiscal years, the facilities overseen by one field office were the source of about 4 percent of complaints, while detainees in these facilities comprised less than 2 percent of the average daily population over this period. In several areas of responsibility close to the southwest border, complaints to DRIL nearly doubled from fiscal year 2018 to fiscal year 2019, which outpaced the growth in average daily population in these areas of responsibility.

ICE officials also told us that while they do not comprehensively analyze data on the detention-related complaints received by ICE and DHS offices, they oversee detention-related complaint processes through

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facility inspections and onsite monitoring.<sup>43</sup> However, these facility inspections—described earlier in this report—focus on the facility processes for addressing complaints rather than the substance of the complaints. In addition, inspections and onsite monitoring of individual facilities do not identify potential trends in the nature, frequency, locations, or other characteristics of detention-related complaints across ICE’s detention facilities either regionally, nationally, by facility type, or over time.

ICE officials told us that detainee complaints are a method of communication between ICE and detainees and help to inform ICE about the conditions of facilities from detainees’ perspectives. *Standards for Internal Control in the Federal Government* provides that management should use quality information to achieve the entity’s objectives and that management should process the obtained data into quality information that supports the internal control system. Management should use that quality information to make informed decisions to support the program goals.<sup>44</sup> By regularly conducting analyses of detention-related complaint data that ICE and DHS offices already collect and maintain, ICE could obtain valuable information that could strengthen its ability to manage and oversee conditions of confinement in its detention facilities. Specifically, by conducting comprehensive analyses of complaint data—such as over time and within and across facilities and regions—ICE could use the results to identify areas for improvement and implement solutions to efficiently address those areas.

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### ICE Does Not Have Reasonable Assurance That Field Offices Address Detention-Related Complaints

ERO field offices receive detention-related complaints from DRIL and the Administrative Inquiry Unit for investigation and resolution. However, ICE does not have reasonable assurance that ERO field offices are investigating or resolving these complaints or doing so in a timely manner.

DRIL officials told us that after they refer detention-related complaints to ERO field offices, they cannot readily track the complaint to completion because field offices do not always notify DRIL about whether or how they resolved a complaint. When ERO field offices receive a complaint from DRIL, they may determine that an investigation is warranted or that an investigation is unnecessary because, for example, the office

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<sup>43</sup>Immigration detention standards, against which detention facilities are inspected and monitored, include processes for addressing detainee complaints at detention facilities.

<sup>44</sup>[GAO-14-704G](#).

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previously resolved the complaint, or the complaint does not contain enough information to take action. ERO field offices can elect to record this determination and any actions taken in response to the complaint in ICE's ENFORCE Alien Removal Module (EARM) data system. DRIL has access to EARM, and officials from DRIL said that it is helpful when field office officials notate these dispositions in this system for the purposes of tracking the status of complaints and knowing if a field office has resolved a complaint. For instance, when DRIL call analysts see in the EARM comment field that the complaint was already resolved, they know that they do not have to follow up on the complaint or refer the complaint to another office. According to DRIL officials, it would be useful for ERO field offices to record that conclusion in EARM in the event, for example, that the detainee calls back asking for an update on their complaint. However, DRIL officials said that ERO field offices are not required to notate whether a detainee issue or complaint was resolved in EARM and that field offices do so about half of the time.

DRIL officials told us that they are in the process of creating a new data system for tracking calls that ERO field offices will be able to access. According to DRIL officials, they plan to request that ERO field offices record the resolutions of calls DRIL refers to them and close the cases in the system. DRIL officials said that the new data system would facilitate timely and efficient tracking, analysis, and resolution of detention concerns that DRIL receives. While developing such a system could be a positive step, the effort is in its initial stages and, as of April 2020, DRIL had not finalized system requirements or begun the procurement process. Further, as discussed below, DRIL does not oversee ERO field offices and, according to ICE officials, field offices are not required to record actions taken on, and resolutions of, complaints they receive from DRIL.

Similar to DRIL, officials from the Administrative Inquiry Unit also told us that because they do not receive complete or timely data from ERO field offices, they do not have assurance that ERO field offices address the complaints the unit refers to them, or do so in a timely manner. The Administrative Inquiry Unit refers various types of complaints to ERO field offices.

One type of complaint is a management inquiry, which is a noncriminal or minor allegation of misconduct that the program office addresses,

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independent of Office of Professional Responsibility oversight.<sup>45</sup> The Administrative Inquiry Unit requires in its guidance that ERO field offices conduct full administrative inquiries of these allegations, meaning that offices are to appoint a supervisor to collect evidence and write a memorandum documenting their findings. These supervisors are trained by the Office of Professional Responsibility. ERO field offices are to return the memorandum to the Administrative Inquiry Unit within 60 days, according to this guidance.<sup>46</sup>

The Administrative Inquiry Unit also sends two other types of complaints—which we refer to as management notification cases—to ERO field offices. The unit does not request that ERO field offices conduct full investigations of these complaints. Management notification cases may not contain sufficient information—such as names, locations, or details regarding the specific acts of alleged misconduct—to immediately initiate full investigations. Rather, ERO field offices are to review these complaints and determine whether or not a full management inquiry is warranted.<sup>47</sup> If an ERO field office decides that a management

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<sup>45</sup>According to data on Administrative Inquiry Unit cases, examples of management inquiries the unit has referred to ERO field offices include the following: a detainee alleged that the facility gave his funds to another detainee; a detainee alleged that an officer used excessive force; and a detainee alleged that officers retaliated against him for filing grievances, among others. According to Administrative Inquiry Unit officials, independent Office of Professional Responsibility fact finders conduct management inquiry investigations that could result in adverse actions against field office employees. These fact finders take sworn statements from witnesses and interviewees.

<sup>46</sup>Field managers from the Office of Professional Responsibility act as points of contact and provide guidance to ERO field office fact finders over the course of management inquiry investigations, according to Office of Professional Responsibility officials. Once the fact finder submits the findings report to the Administrative Inquiry Unit, the Administrative Inquiry Unit reviews the report to determine whether the allegation is substantiated or unsubstantiated.

<sup>47</sup>The Administrative Inquiry Unit calls the cases we refer to as management notifications “Information Only” and “JIC Log” cases. If a management inquiry case does not contain enough information for a full administrative inquiry, the Administrative Inquiry Unit may decide to classify it as an “Information Only” case. An “Information Only” case does not require a full administrative inquiry because it does not contain sufficient information, and the receiving ERO field office must determine whether further action is feasible and necessary. If the Office of Professional Responsibility determines that a complaint does not contain adequate information for a full inquiry, then it classifies that case as a “JIC Log” and sends those cases to the Administrative Inquiry Unit. In this instance, the case is never classified as a management inquiry. Information Only and JIC Log cases generally contain similar allegations as management inquiry cases based on our review of data on these cases.

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notification case should be investigated, then the case is upgraded to the management inquiry process.

**Management notifications.** The Administrative Inquiry Unit requests further information on the resolution of management notification cases if the ERO field office official in charge of addressing the notification decides that further action is needed, such as opening an investigation or taking corrective actions. According to Administrative Inquiry Unit officials, ERO field offices rarely notify the Administrative Inquiry Unit whether they reviewed or took any actions on management notification cases. Data from the Joint Intake Center indicate that of 4,637 management notification complaints sent to ERO field offices from fiscal year 2017 through fiscal year 2019, 4,623 (99 percent) either had no resolutions or had resolutions indicating that the last action taken on the case was the Administrative Inquiry Unit notifying ICE management of the case.<sup>48</sup> According to Administrative Inquiry Unit officials, receiving resolutions to management notification cases would provide the unit assurance that ERO field offices review the complaints and take action when necessary. Additionally, having complete case data for management notification cases would allow the Administrative Inquiry Unit to more accurately track the outcomes of cases.

An Administrative Inquiry Unit official told us that the unit is planning to update the process for management notification cases. According to the official, the unit is planning to ask ERO field offices to notify the Administrative Inquiry Unit of any actions taken on the cases within 1 week. The unit plans to develop a template for ERO field offices to record this information and send it back to the unit in this time frame. Officials from the Administrative Inquiry Unit also said that the unit is developing a method of determining whether a field office already has enough evidence to resolve a case by reaching out to ERO field offices to collect evidence outside of the formal management inquiry process. While these could be positive steps, the Administrative Inquiry Unit could not provide

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<sup>48</sup>Officials from the Administrative Inquiry Unit told us that a full inquiry into these complaints is not always necessary. However, similar to DRIL, the Administrative Inquiry Unit officials said that in order for them to track and maintain information on cases, it is also helpful when ERO field offices record the resolution of complaints in EARM. This resolution could include whether or not a field office decided to conduct a full inquiry. This way the unit can also look at EARM and then update the case in the Investigation Division's database, according to these officials.



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any details or documentation, such as a draft template or time frames, for them.

**Management inquiries.** The Administrative Inquiry Unit requests that ERO field offices provide the resolutions for all management inquiry cases by sending back a formatted report outlining the findings of the investigation within 60 days of receiving the case. Based on our analysis of Administrative Inquiry Unit data, the unit sent 994 detention-related management inquiry cases to field offices from fiscal years 2017 through 2019 and closed 861 of those cases in its data system.<sup>49</sup> Of those 861 closed cases, Administrative Inquiry Unit data indicate that field offices submitted 148 (17 percent) within the requested 60 days. Of the remaining cases, 713 (83 percent) exceeded 60 days from the date the case was created in the data system to the date the case was closed; 547 (64 percent) exceeded 90 days; and 380 (44 percent) exceeded 120 days. Requiring that field offices submit timely information on the resolution of management inquiry cases would help ensure the field offices investigate and resolve complaints in a manner timely enough to implement corrective actions before, for instance, a detainee leaves a facility.

Officials from both DRIL and the Administrative Inquiry Unit said that while they would benefit from receiving information about the resolution of detention-related complaints they refer to ERO field offices, ERO field offices only sometimes record the dispositions in EARM or otherwise provide case resolutions to their offices. ICE officials told us this is because ERO field offices are not required to record actions taken on, and resolutions of, complaints they receive from either office or to address them within a set time frame. Our review of ICE documentation similarly did not indicate any such requirements for ERO field offices. Officials from ICE ERO Field Operations Division—the ICE headquarters component that oversees ERO field office operations—told us that they are not involved in detainee complaints. They said that while they oversee ERO field offices, that oversight has never involved ensuring that field office officials record actions taken on, and resolutions of, detainee complaints and that they do not have processes or guidance for field offices to handle detainee complaints. Rather, they rely on the referring office to provide parameters for field offices regarding detainee complaints.

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<sup>49</sup>The remaining cases that were not closed were initiated in fiscal year 2019.

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*Standards for Internal Control in the Federal Government* states that management should evaluate issues or complaints and determine the appropriate corrective actions to remediate deficiencies on a timely basis. Management should then complete and document corrective actions to remediate deficiencies in a timely manner. Additionally, management should document in policies each unit's responsibility for achieving objectives and related risks and control activity design, implementation, and operative effectiveness.<sup>50</sup> Without requiring that ERO field offices record any actions taken on, and the dispositions of, detention-related complaints referred by DRIL and the Administrative Inquiry Unit, ICE does not have reasonable assurance that ERO field offices are addressing these complaints or doing so in a timely manner.

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## Conclusions

Ensuring that the tens of thousands of foreign nationals that ICE houses in detention facilities are provided with safe, secure, and humane confinement is an important responsibility. ICE and DHS oversee immigration detention facilities through a variety of inspection and monitoring programs. While ICE maintains data on the results of contracted detention facility inspections, it does not regularly conduct comprehensive analyses of these data, which would better position ICE to identify potential trends in facility condition deficiencies and implement solutions to efficiently address them. Similarly, as ODO conducts an increasing number of inspections, ensuring that data on deficiencies identified through ODO inspections are recorded in a format that is conducive to analysis would help ensure that Custody Management can conduct more comprehensive analysis of ODO inspections results. Finally, Custody Management does not record data on self-assessment results and corrective actions in a format conducive to analysis. Doing so would enable Custody Management to be aware of any trends in the results, as well as to readily access information on the status of corrective actions and help provide reasonable assurance that such actions have been taken.

ICE and DHS offices also provide multiple mechanisms through which detainees in ICE custody or other stakeholders, such as advocacy groups or family members, can submit detention-related complaints. ICE and DHS offices maintain data on these complaints, but ICE does not comprehensively analyze detention-related complaint data, which could help it identify areas for improvement and implement solutions that could improve conditions of confinement in its detention facilities. In addition,

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<sup>50</sup>[GAO-14-704G](#).

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ensuring that ERO field offices record any actions taken on, and the resolutions of, complaints referred by DRIL and the Administrative Inquiry Unit, could help provide ICE with reasonable assurance that ERO field offices are addressing these complaints and doing so in a timely manner.

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## Recommendations for Executive Action

We are making the following six recommendations to ICE:

The Director of ICE should direct Custody Management to regularly conduct analyses of contracted facility inspections oversight data over time, within and across facilities and regions, and in a manner to enable trends in inspection deficiencies to be identified and addressed. (Recommendation 1)

The Director of ICE should direct the Office of Detention Oversight and Custody Management to take steps to ensure that data on deficiencies identified through Office of Detention Oversight's inspections are recorded in a format that is accessible to Custody Management for analysis purposes. (Recommendation 2)

The Director of ICE should regularly conduct analyses of data on deficiencies identified through Office of Detention Oversight's inspections. (Recommendation 3)

The Director of ICE should ensure that all Operational Review Self-Assessment results and corrective actions are recorded in a format that is conducive to tracking and analysis. (Recommendation 4)

The Director of ICE should regularly conduct analyses of detention-related complaint data from relevant offices, including analyses of data over time, within and across facilities and regions, and at a level necessary to identify and address potentially reoccurring complaints. (Recommendation 5)

The Director of ICE should require that ERO field offices record any actions taken on, and the resolutions of, detention-related complaints referred to them from the Detention Reporting and Information Line and Administrative Inquiry Unit in a timely manner. (Recommendation 6)

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## Agency Comments and Our Evaluation

We provided a draft of this report to DHS for review and comment. DHS provided formal, written comments, which are reproduced in full in appendix IV. DHS also provided technical comments, which we incorporated as appropriate. DHS concurred with our recommendations and described actions planned or underway to address them.

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With regard to our first recommendation that Custody Management regularly conduct analyses of contracted facility inspections oversight data, DHS stated that ICE will analyze facility inspection findings on a monthly basis and develop a quarterly report that includes trends and recommendations for resolving repeated deficiencies. Provided that ICE's analyses consider contracted facility inspections oversight data over time, within and across facilities and regions, and in a manner to enable trends in inspection deficiencies to be identified and addressed, these actions should meet the intent of our recommendation.

With respect to our second recommendation that ODO and Custody Management ensure that data on deficiencies identified through ODO's inspections are recorded in a format that is accessible to Custody Management for analysis purposes, DHS stated that ODO and Custody Management would work together over the next year to identify relevant data fields for Custody Management to receive, identify options for providing the data, and implement the best option. DHS also described interim steps the offices were taking to make ODO deficiency data more accessible to Custody Management in the short-term. In regard to our third recommendation that ICE regularly conduct analyses of data on deficiencies identified through ODO inspections, DHS stated that once ODO and Custody Management complete their efforts to make the data accessible to Custody Management for analysis purposes, Custody Management will incorporate the data into its data system for continual tracking and analysis. Further, DHS stated that the new case management system ODO is implementing will enable ODO to regularly analyze its inspections data and identify deficiency trends. Provided ICE uses the capabilities it is developing to regularly conduct analyses of ODO data to identify potential trends in facility condition deficiencies and implement solutions to efficiently address them, DHS's planned actions will meet the intent of our second and third recommendations.

In regard to our fourth recommendation that ICE ensure all Operational Review Self-Assessment results and corrective actions are recorded in a format that is conducive to tracking and analysis, DHS stated that ICE will begin tracking the information in a Custody Management data system. If fully implemented, these actions will meet the intent of our recommendation.

With respect to our fifth recommendation that ICE regularly conduct analyses of detention-related complaint data from relevant offices, DHS noted that Custody Management regularly analyzes detention-related complaint data and that ICE will continue to make improvements to these

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efforts. To fully meet the intent of this recommendation, ICE should ensure that its analyses encompass detention-related complaint data from all relevant offices including ICE DRIL and Office of Professional Responsibility Investigations Division, and DHS OIG and CRCL. Further, ICE should ensure that its analyses examine data from the relevant offices over time, within and across facilities and regions, and at a level necessary to identify and address potentially reoccurring complaints.

In response to our sixth recommendation that ICE require that ERO field offices record any actions taken on, and the resolutions of, detention-related complaints referred to them from the Detention Reporting and Information Line and Administrative Inquiry Unit in a timely manner, DHS stated that ICE will implement a database that will enable ERO field offices to record this information. To fully meet the intent of our recommendation, once ICE implements this system, it should require that ERO field offices record actions taken on, and the resolutions of, detention-related complaints in the system.

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We are sending copies of this report to the appropriate congressional committees and the Acting Secretary of Homeland Security, as well as other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions, please contact me at (202) 512-8777 or [gablerr@gao.gov](mailto:gablerr@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made significant contributions to this report are listed in appendix V.



Rebecca Gambler  
Director, Homeland Security and Justice

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*List of Committees*

The Honorable Shelley Moore Capito  
Chairman  
Subcommittee on Homeland Security  
Committee on Appropriations  
United States Senate

The Honorable Jon Tester  
Ranking Member  
Subcommittee on Homeland Security  
Committee on Appropriations  
United States Senate

The Honorable Lucille Roybal-Allard  
Chairwoman  
Subcommittee on Homeland Security  
Committee on Appropriations  
House of Representatives

The Honorable Chuck Fleischmann  
Ranking Member  
Subcommittee on Homeland Security  
Committee on Appropriations  
House of Representatives

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# Appendix I: Objectives, Scope, and Methodology

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This report examines (1) U.S. Immigration and Customs Enforcement (ICE) and other Department of Homeland Security (DHS) entities' mechanisms for overseeing compliance with immigration detention facility standards, and how ICE uses oversight information to address any identified deficiencies; and (2) ICE and other DHS entities' mechanisms for receiving and addressing detainee complaints and how ICE uses complaint information.

To address both of these objectives, we focused our review on ICE and DHS entities' oversight and complaint mechanisms at facilities used by ICE to hold adult detainees for over 72 hours.<sup>1</sup> We visited a nongeneralizable sample of 10 detention facilities in New Jersey, Florida, Arizona, and Washington. In September 2019, we visited Elizabeth Contract Detention Facility, Bergen County Jail, and Hudson County Correctional Facility in New Jersey. In October 2019, we visited Krome North Processing Center, Glades County Detention Center, and Broward Transitional Center in Florida; Eloy Detention Center, La Palma Correctional Center, and Florence Service Processing Center in Arizona; and the Tacoma Northwest Detention Center in Washington. We used data from ICE's Facilities Project Management System and Enforcement Integrated Database to select these facilities to represent a mix of characteristics. These characteristics were facility type (e.g., those that operate under contracts with private companies and agreements with state and local governments), detention standards governing the facility, range of oversight mechanisms in place, range of past facility inspection results, and the ICE Enforcement and Removal Operations (ERO) field office responsible for overseeing the facility. The information we obtained from our facility visits cannot be generalized to all facilities but offers insight into the processes used to oversee detention facilities and to collect and address detainee complaints.

To determine the extent to which ICE and other DHS entities have mechanisms to oversee compliance with immigration detention

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<sup>1</sup>In fiscal year 2019, ICE housed detainees in a total of 179 over-72-hour facilities. ICE also houses detainees in shorter-term, under-72-hour detention facilities. In addition, ICE has holding facilities typically for housing individuals for 24 hours or less, but generally no more than 72 hours, in order to complete general processing and determine the appropriate course of action, such as transfer into an ICE under- or over-72-hour detention facility. ICE generally does not detain children, with the exception of children whom the agency detains with their families at a family residential facility. Responsibility for housing unaccompanied children lies with the Office of Refugee Resettlement in the Department of Health and Human Services. This report does not address short-term facilities or family residential facilities.

standards, and how ICE uses the oversight information to address any identified deficiencies, we reviewed ICE documents, such as guidance and policies for conducting inspections and onsite monitoring. We also reviewed examples of inspection reports and corrective action plans for addressing identified deficiencies. We analyzed data from ICE and other DHS entities for fiscal years 2017 through 2019—the most recent data available at the time of our review—to determine the number of facilities at which the mechanism was implemented and the percentage of the average daily detained population covered by the mechanism. In addition, we analyzed ICE Custody Management Division data and Office of Detention Oversight information for the same period to determine, among other things, the number and types of deficiencies identified through these offices’ inspections and any trends in the deficiencies. We assessed the reliability of these data sources by reviewing related data manuals and dictionaries, checking the data for any obvious errors and anomalies, and interviewing officials from ICE and other DHS entities who were knowledgeable about their guidance and procedures to maintain, update, and correct inspection data. We worked with ICE officials to address anomalies we identified. We determined that the data were reliable for the purposes of describing the extent and results of oversight activities.

We also interviewed officials at DHS headquarters and the detention facilities we visited about their oversight efforts. At ICE headquarters, we interviewed ERO Custody Management Division and Office of Professional Responsibility Office of Detention Oversight officials about their guidance and procedures for identifying and addressing deficiencies and data they maintained on inspections and corrective actions. Further, we interviewed officials from the DHS Office for Civil Rights and Civil Liberties and the DHS Office of Inspector General (OIG) about their oversight of immigration detention facilities. Additionally, during our site visits, we interviewed ERO field office personnel and detention facility officials about oversight efforts at their detention facilities. We assessed the ICE and DHS entities’ processes against their own guidance and the principles related to monitoring data and processing data into quality information in the *Standards for Internal Control in the Federal Government*.<sup>2</sup> We further assessed how ICE analyzes and uses results

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<sup>2</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).



against the Project Management Institute's practices for monitoring and regularly assessing performance.<sup>3</sup>

To determine the extent to which ICE and other DHS entities receive and address detainee complaints and how ICE uses complaint information, we reviewed relevant processes used by ICE's Detention and Reporting Information Line (DRIL) and Joint Intake Center, and the DHS Office for Civil Rights and Civil Liberties (CRCL) and Office of Inspector General for obtaining and addressing complaints. We reviewed documentation, including ICE and DHS memorandums, guidance, and manuals regarding how these offices are to receive, refer, investigate, resolve, and record detention-related complaints. We also reviewed written procedures developed by the detention facilities we visited to guide their local grievance processes. Further, we reviewed ICE detention standards that establish requirements for complaint processes at detention facilities.<sup>4</sup> We analyzed complaint data for fiscal years 2017 through 2019—the most recent 3 fiscal years of data maintained by ICE and DHS entities' data systems at the time of our review—to determine the number of detention-related complaints each office received and the primary focus areas of the complaints.<sup>5</sup> To determine the reliability of ICE and DHS entities' complaint data, we reviewed manuals, guidance, and policies; interviewed agency officials; and conducted electronic testing. We determined that the data were sufficiently reliable for the purposes of describing characteristics and trends associated with complaint data.

During our site visits, we toured several areas of each detention facility, including intake; the medical unit; and two or more detainee housing units, among other areas. We visited a total of 25 housing units and tested telephones in 24 units to ensure that they reached hotlines that

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<sup>3</sup>Project Management Institute, *A Guide to the Project Management Body of Knowledge*, 6th ed. (Newtown Square, PA: 2017).

<sup>4</sup>ICE detention standards establish requirements for complaint processes at detention facilities in various areas. These areas include, among others, providing information to detainees about complaint processes, detainee access to telephones through which they can call complaint hotlines, and detainee access to translation services for making complaints.

<sup>5</sup>We analyzed data on detention-related complaints made from over-72-hour facilities for DRIL, the Joint Intake Center, and CRCL. DHS OIG data did not specify the facility where the complainant was located, and we therefore were unable to determine which records were associated with over-72-hour facilities. Accordingly, our analysis of DHS OIG data included all detention-related complaints.

detainees can call to submit complaints.<sup>6</sup> In each of the 25 housing units, we observed the extent to which there were posters that ICE detention standards require facilities to post that provide instructions to detainees regarding how to submit complaints. We also observed facility infrastructure associated with local grievance processes, such as the presence and placement of boxes in which detainees may submit written grievances.

During our site visits, we also interviewed local ICE ERO field office officials; ICE onsite monitors; and detention facility personnel about processes for obtaining, reviewing, investigating, and recording detainee complaints at the facility level, as well as their involvement in addressing complaints referred to them by DHS headquarters offices. At nine of the 10 facilities we visited, we interviewed a total of 74 detainees about their experiences with the complaint processes at their respective detention facilities.<sup>7</sup> At each detention facility, we randomly selected eight to 10 detainees to interview on the day of our site visit. These interviews were voluntary and anonymous, and we did not collect any identifying information. We ensured that our sample of detainees was random yet representative of the population detained at each facility with respect to security levels and genders. Specifically, we ensured that our sample of detainees at each facility included detainees from different housing units, since detainees of different genders and security levels are housed separately. To randomly select a representative sample of detainees at each facility, we requested a list of detainees at the facility on the day of our visit and used a random number generator to select detainees to interview. In particular, we first used the random number generator to identify eight to 10 potential interviewees. We then assessed whether the sample included detainees from housing units used for different security levels and genders. If it did not, we used the random number generator to select additional detainees until our selection included eight to 10 detainees from housing units used for different security levels and genders.

We based our questions for detainee interviews on requirements in detention standards regarding grievance processes. Specifically, we developed a list of questions based on each of the three sets of detention

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<sup>6</sup>We visited one housing unit prior to 9:00 AM, which was before the telephones become operational for detainees, so we were unable to test them.

<sup>7</sup>We did not interview detainees at the remaining facility because we conducted the visit in support of two GAO reviews.

standards governing grievance processes at the detention facilities at the time of our visits, since different sets of ICE detention standards have slightly different requirements for grievance processes. For instance, at facilities that were required to follow the 2000 National Detention Standards, we used the question set based on the grievance process requirements in the 2000 National Detention Standards. To ensure the validity of our detainee interview questions, we consulted with GAO subject matter experts with experience interviewing detainee populations to gather insights on question design and worked with a GAO interpreter to translate the questions into Spanish.

We interviewed detainees in several languages, including but not limited to English, Spanish, Portuguese, and Creole, among others. We interviewed English-speaking detainees in English. For Spanish-speaking detainees, we conducted the interviews using a GAO interpreter whose native language was Spanish, or a translation line service. For all other languages, we solely used a translation service.<sup>8</sup> To ensure uniformity in the administration of our interview questions, we provided the same introduction and instructions to each detainee. Prior to the start of each detainee interview using the translation service, we reviewed the detainee questions and instructions to ensure that the interpreter understood them, instructed the interpreters to translate the questions in full without paraphrasing, and requested that the interpreters ask us for any needed clarification. We analyzed the detainee interview results by categorizing detainee responses into discrete categories. For closed-ended questions, we categorized the responses into each response choice (e.g., “yes,” “no,” or “not sure”). For open-ended questions, one analyst coded the detainee responses into prevailing categories, and another analyst reviewed the categories and coding. The analysts discussed any inconsistencies and reached a consensus. Through our interviews and analysis, we observed that detainees interpreted certain questions differently or in ways that did not match the intent of the question. In these instances, we deemed the detainee responses unreliable for the purposes of categorizing and counting and excluded them from our results. The information we obtained from our physical observations and detainee interviews cannot be generalized to all facilities or detainees but

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<sup>8</sup>We discontinued detainee interviews on three occasions—in one instance because the translation service could not locate a translator for a detainee who spoke a particular language, and in two instances because detainees determined midway through the interview that they did not wish to proceed.

offers insight into processes used to collect and address detainee complaints.

We also interviewed ICE and DHS headquarters officials about their processes for collecting and addressing detention-related complaints. In particular, we interviewed officials from ICE ERO's Detention Reporting and Information Line and Office of Personal Responsibility Joint Intake Center, as well as DHS's OIG and Office for Civil Rights and Civil Liberties, about their processes and policies for receiving, referring, investigating, resolving, and recording detention-related complaints. We also discussed the detention-related complaint data these offices maintain in their respective data systems and any ways in which they use that data. Additionally, we interviewed officials from the ERO Field Operations Division and ERO Custody Management Division to determine their involvement and oversight over complaint processes at detention facilities and ICE headquarters. We assessed DHS and ICE complaint mechanisms and how ICE uses complaint information against principles related to monitoring data and processing data into quality information, developing and maintaining documentation, and remediating deficiencies in the *Standards for Internal Control in the Federal Government*.<sup>9</sup>

We conducted this performance audit from April 2019 through August 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>9</sup>[GAO-14-704G](#).

# Appendix II: Detainee Interviews on Experiences with Complaint Processes at Detention Facilities

This appendix provides additional information on interviews that we conducted with 74 detainees in nine different U.S. Immigration and Customs Enforcement (ICE) detention facilities. We focused these interviews on the detainees' experiences with the complaint processes at their respective detention facilities. We developed our questions based on the requirements in the 2000 National Detention Standards (NDS), 2008 Performance-based National Detention Standards (PBNDS), and 2011 PBNDS. We developed three separate sets of interview questions, with one set for each set of detention standards. At each facility we visited, we used the interview question set for the detention standards the facility was obligated to adhere to at the time of the interview. For instance, at a facility that was to adhere to the 2000 NDS, we asked the set of questions based on the grievance requirements in the 2000 NDS. Table 6 lists the questions we asked detainees and the corresponding detention standards.

**Table 6: Detainee Interview Questions and Applicable U.S. Immigration and Customs Enforcement (ICE) Detention Standards, including the 2000 National Detention Standards (NDS), 2008 Performance-Based National Detention Standards (PBNDS), and 2011 PBNDS**

Interview questions	Detention standards
1. Approximately how long have you been here at this facility?	2000 NDS, 2008, 2011 PBNDS
2. When you arrived, did you receive any written materials or watch a presentation that explained how to make complaints? <ul style="list-style-type: none"> <li>a. Were these instructions written in a language that you understand?</li> <li>b. If these instructions were not written in your language or in a way that you could understand, did somebody assist you to understand how to make a complaint? Please explain.</li> </ul>	2000 NDS, 2008, 2011 PBNDS
3. What are the ways you can submit a complaint at this facility?	2000 NDS, 2008, 2011 PBNDS
4. Have you made an oral or written complaint at this facility? <ul style="list-style-type: none"> <li>a. If you made the complaint orally, who did you make the complaint to (Detention Services Manager, staff, housing unit officer)?</li> <li>b. If you made the complaint in writing, how did you do that?</li> <li>c. How did the facility or ICE resolve your complaint, and how long did it take?</li> <li>d. Were you satisfied with how the facility or ICE resolved your complaint?</li> <li>e. If not, did you ask to appeal the complaint?</li> <li>f. Did you feel that ICE or facility staff treated you differently after making the complaint? If so, in what way?</li> </ul>	2000 NDS, 2008, 2011 PBNDS
5. How would you make a complaint if you had an emergency?	2000 NDS, 2008, 2011 PBNDS

**Appendix II: Detainee Interviews on Experiences with Complaint Processes at Detention Facilities**

Interview questions	Detention standards
6. Do you know how to make complaints related to medical care at this facility? <sup>a</sup> a. Have you made a medical complaint? b. If so, how long did it take you to see a medical professional? c. How long did it take for your medical complaint to be resolved? d. Were you satisfied with how your complaint was handled and resolved? Why, or why not?	2008, 2011 PBNDS
7. How would you find assistance in making a complaint if you need it?	2000 NDS, 2008, 2011 PBNDS
8. Do you have access to a translator if you need it to make a complaint?	2000 NDS, 2008, 2011 PBNDS
9. Do you have access to working phone lines where you can call complaints into a hotline? a. Are there instructions on how to use the phone line to make a complaint in a language that you understand?	2008, 2011 PBNDS
10. What, if anything, could this facility do to improve how it receives and addresses complaints?	2000 NDS, 2008, 2011 PBNDS
11. Is there anything related to how detainees can make complaints at this facility that you feel is important for us to know? <sup>a</sup>	2000 NDS, 2008, 2011 PBNDS

Source: GAO. | GAO-20-596

<sup>a</sup>Detainees interpreted this question in a variety of ways that did not match the intent of the question. For instance, many detainees interpreted question six as whether the detainee knew how to request to see a doctor or medical professional at their facility. Therefore, we deemed the detainee responses unreliable for the purposes of categorizing and counting.

We analyzed detainee responses to our interviews by categorizing responses for each question and then counting those categories. In our analysis of the detainees' responses, we determined that detainees interpreted several questions in a variety of ways. For these questions, we did not count and summarize responses because such analysis would be unreliable. For instance, we omitted question 11 from our analysis because we determined that it produced a wider variety of responses than allowed for categorizing and counting. Table 7 summarizes detainee responses to selected detainee interview questions that spanned all three detention standard sets.

**Appendix II: Detainee Interviews on  
Experiences with Complaint Processes at  
Detention Facilities**

**Table 7: Summary of Detainee Responses to Interview Questions about Facility Complaint Processes**

Question	Detainee responses (out of 74 total respondents)
When you arrived at the facility, did you receive written materials that explained how to make complaints?	<ul style="list-style-type: none"> <li>• Forty-eight detainees said that they received written materials explaining how to make complaints. Of those 48 detainees, 45 detainees said that the instructions were written in a language they could understand.</li> <li>• Twenty-five detainees said that they did not receive written materials explaining how to make complaints.</li> <li>• One detainee did not respond to this question.</li> </ul>
What are the ways you can submit a complaint at this facility?	<ul style="list-style-type: none"> <li>• Twenty-seven detainees said that they could submit a written complaint.</li> <li>• Eleven detainees said that they could submit a written complaint or tell an officer about the complaint.</li> <li>• Nine detainees said that they could tell an officer about the complaint.</li> <li>• Three detainees said that they could call a complaint hotline.</li> <li>• Six detainees cited other methods of filing complaints, such as through their attorneys.</li> <li>• Seventeen detainees said that they did not know how to file complaints, and one detainee did not answer this question.</li> </ul>
Have you submitted a complaint at this facility?	<ul style="list-style-type: none"> <li>• Twenty-one detainees made complaints, either through oral, written, or oral and written methods. Of those 21 detainees, eight detainees said that they were satisfied with how the facility resolved their complaints.</li> </ul>
How would you make a complaint if you had an emergency? <sup>a</sup>	<ul style="list-style-type: none"> <li>• Fourteen detainees said that they would submit their emergency in writing.</li> <li>• Twenty-nine detainees said that they would tell a facility or U.S. Immigration and Customs Enforcement (ICE) official.</li> <li>• Eleven detainees said that they would trigger an alarm, such as an emergency button, to alert the facility of an emergency.</li> <li>• Six detainees said that they would submit an emergency in writing or tell a facility or ICE official.</li> <li>• Seven detainees gave alternate options for making an emergency complaint, such as telling the law librarian or screaming.</li> <li>• Ten detainees said that they did not know how to make an emergency complaint.</li> </ul>
How would you find assistance in making a complaint if you need it? <sup>a</sup>	<ul style="list-style-type: none"> <li>• Twenty-six detainees said that they would ask an officer for help with grievances.</li> <li>• Seventeen detainees said that they would ask another detainee for help with grievances.</li> <li>• Fifteen detainees said that they did not know where to find assistance.</li> <li>• Twelve detainees said that they would write a request or grievance if they needed help.</li> <li>• Three detainees said that they would be referred to a grievance form if they asked for help.</li> <li>• Ten detainees said they would go to other sources for help, such as an attorney.</li> </ul>
Do you have access to a translator if you need it to make complaints?	<ul style="list-style-type: none"> <li>• Twenty detainees said that they obtained translation services from bilingual detainees.</li> <li>• Twenty detainees said that they did not have access to a translator.</li> <li>• Twenty-seven detainees said that they have access to a translator, including the ICE translation line and translation from housing officers or other facility or ICE staff.</li> <li>• Seven detainees either did not respond to this question or did not know whether they had access to a translator.</li> </ul>

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**Appendix II: Detainee Interviews on  
Experiences with Complaint Processes at  
Detention Facilities**

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<b>Question</b>	<b>Detainee responses (out of 74 total respondents)</b>
What, if anything, could the facility do to improve the complaint process?	<ul style="list-style-type: none"><li>• Seven detainees said that the facility could provide better access to the grievance process through factors like accessible grievance forms, better education about the process, and guards willing to help detainees with grievances.</li><li>• Six detainees said that the facility should provide translation services for grievances.</li><li>• Eight detainees said that the facility should be more responsive to grievances by resolving grievances faster and guards not ignoring detainees who have grievances.</li><li>• Five detainees said that the facility could improve humane treatment of detainees.</li><li>• Four detainees said that they did not file grievances because they did not know who read grievances or that they feared retaliation.</li><li>• Nine detainees cited other ways for the facility to improve, such as food service, and concerns with medical services.</li><li>• Sixteen detainees said that they did not know how the facility could improve the grievance process, and 19 detainees said that they did not think the facility could improve the grievance process.</li></ul>

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Source: GAO. | GAO-20-596

<sup>a</sup>Some detainees identified multiple approaches they would take, and their responses were counted in more than one category. Therefore, detainee responses to the question sum to greater than 74.



# Appendix III: Data on Detention-Related Complaints That Detainees and Others Made to the Department of Homeland Security

This appendix provides additional detail on the number, types, and time frames of detention-related complaints made to the ICE Detention Reporting and Information Line, ICE Joint Intake Center, DHS Office of Inspector General (OIG), and DHS Office for Civil Rights and Civil Liberties from fiscal years 2017 through 2019. Each office maintains data on detention-related complaints in different databases, different formats, and using different data fields. Additionally, because complainants can submit the same complaint to multiple offices if they choose to do so, the same complaint could be maintained in multiple office databases. For instance, if a detainee called a complaint into DHS OIG and into the Joint Intake Center, the complaint would exist in both databases. Because of this, we analyzed data from each office discretely to accommodate for the differing methods that the offices use to store data. The categories of complaints presented in the tables below reflect categories in each respective database.

The Detention Reporting and Information Line received a total of 13,031 detention-related complaints from fiscal year 2017 through fiscal year 2019. Table 8 describes the five most common complaint categories over this time period.

**Table 8: Five Most Common Categories of Detention-Related Complaints Received through the Detention Reporting and Information Line (DRIL), Fiscal Years 2017-2019**

Category of complaint	Number of allegations	Examples of complaints in category <sup>a</sup>
<b>Fiscal year 2017</b>		
Other	681	<ul style="list-style-type: none"> <li>Detainee alleged that an officer was rude.</li> </ul>
Medical	613	<ul style="list-style-type: none"> <li>Detainee alleged that they made a request to see a doctor and still had not seen a doctor 1 month later.</li> </ul>
Detainee funds account	500	<ul style="list-style-type: none"> <li>Detainee alleged that funds for phone calls disappeared.</li> </ul>
Property	331	<ul style="list-style-type: none"> <li>Detainee alleged that U.S. Immigration and Customs Enforcement (ICE) did not transfer their property when they transferred facilities.</li> </ul>
ICE/facility personnel misconduct	261	<ul style="list-style-type: none"> <li>Detainee alleged that they were verbally abused by a detention officer.</li> </ul>
<b>Fiscal year 2018</b>		
Other	854	<ul style="list-style-type: none"> <li>Detainee asked for an update on a previously submitted complaint.</li> </ul>
Medical	742	<ul style="list-style-type: none"> <li>Detainee alleged that they received medication for a condition that did not work, and the medical unit would not provide different medication.</li> </ul>

**Appendix III: Data on Detention-Related  
Complaints That Detainees and Others Made to  
the Department of Homeland Security**

<b>Category of complaint</b>	<b>Number of allegations</b>	<b>Examples of complaints in category<sup>a</sup></b>
Property	319	<ul style="list-style-type: none"> <li>• Detainee requested assistance with obtaining their personal clothing prior to removal, after allegedly receiving no response from their deportation officer.</li> </ul>
Family separation/parental interests	286	<ul style="list-style-type: none"> <li>• Detainee alleged that they were separated from their minor child at the border and requested location information on their child.</li> </ul>
Telephone access	247	<ul style="list-style-type: none"> <li>• Detainee alleged that facility was denying detainees' telephone access to call family members.</li> </ul>
<b>Fiscal year 2019</b>		
Medical	832	<ul style="list-style-type: none"> <li>• Detainee alleged that they had a health condition and needed to go to the hospital, but the facility refused to send them to the hospital.</li> </ul>
Detainee funds account	633	<ul style="list-style-type: none"> <li>• Detainee called to inquire about the amount of funds in their account.<sup>b</sup></li> </ul>
Family separation/parental interests	538	<ul style="list-style-type: none"> <li>• Detainee alleged that they were being transferred to another facility and requested to not be separated from their son who was staying at the same facility.</li> </ul>
Property	473	<ul style="list-style-type: none"> <li>• Detainee alleged that the mail room does not send legal documents on time.</li> </ul>
Telephone access	385	<ul style="list-style-type: none"> <li>• Detainee alleged that their calls were monitored by the facility.</li> </ul>
<b>Total complaints</b>	<b>13,031<sup>c</sup></b>	

Source: GAO analysis of U.S. Immigration and Customs Enforcement information. | GAO-20-596

<sup>a</sup>Examples provided in this table do not encompass all topics that complaints in each category may address. The "Category of Complaint" reflects categories in this database, and the corresponding examples of complaints in each category reflect how DRIL categorized the complaints.

<sup>b</sup>Data include some detainee requests, such as requests for information or help locating property, comingled with complaints.

<sup>c</sup>This total includes complaints made from facilities that housed adult detainees for longer than 72 hours. In instances where the complainant did not specify their detention location, we omitted those records from our analysis.

The Joint Intake Center received 6,610 detention-related incidents from fiscal year 2017 through fiscal year 2019. Table 9 describes the five most common complaint categories over this time period.

**Appendix III: Data on Detention-Related  
Complaints That Detainees and Others Made to  
the Department of Homeland Security**

**Table 9: Top Five Detention-Related Complaint Categories Received by the Joint Intake Center, Fiscal Years 2017-2019**

<b>Category of complaint</b>	<b>Number of allegations</b>	<b>Examples of complaints in category<sup>a</sup></b>
<b>Fiscal year 2017</b>		
Detainee/alien - calculated use of force	260	• Detainee alleged that an officer used a steel baton to gain control of a detainee.
Noncriminal misconduct	202	• Detainee alleged that an officer did not help them after being harassed by another detainee.
Detainee/alien - sexual assault (detainee-on-detainee)	181	• Detainee alleged inappropriate touching from another detainee.
Detainee/alien - medical issue	178	• Detainee alleged inadequate treatment of medical condition.
General misconduct - other noncriminal	160	• Detainee alleged discrimination based on gender.
<b>Fiscal year 2018</b>		
Detainee/alien - calculated use of force	302	• Detainee alleged officer used force when breaking up fight between detainees.
Detainee/alien - sexual assault (detainee-on-detainee)	184	• Detainee alleged unwanted sexual advances from another detainee.
Detainee/alien - medical issue	179	• Detainee alleged medical staff refused to give them medication.
Detainee - admission and release	157	• Detainee alleged that their voluntary deportation was delayed.
Noncriminal misconduct	123	• Detainee generally complained about treatment at the facility.
<b>Fiscal year 2019</b>		
Detainee/alien - sexual assault (detainee-on-detainee)	269	• Detainee allegedly made a verbal threat of rape to another detainee.
Detainee/alien - calculated use of force	264	• Detainee alleged excessive force during arrest.
Detainee/alien - hunger strike	180	• Detainee initiated a hunger strike at a facility due to alleged retaliation.
Detainee/alien - physical assault (detainee-on-detainee)	149	• Detainee alleged physical assault by another detainee.
Detainee - staff-detainee communications	104	• Detainee alleged they could not get in touch with a deportation officer.
<b>Total complaints</b>	<b>6,610<sup>b</sup></b>	

Source: GAO analysis of U.S. Immigration and Customs Enforcement information. | GAO-20-596

<sup>a</sup>Examples provided in this table do not encompass all topics that complaints in each category may address. The "Category of Complaint" reflects categories in this database, and the corresponding examples of complaints in each category reflect how the Joint Intake Center categorized the complaints.

<sup>b</sup>This total includes complaints made from facilities that housed adult detainees for longer than 72 hours. In instances where the complainant did not specify their detention location, we omitted those records from our analysis.

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**Appendix III: Data on Detention-Related  
Complaints That Detainees and Others Made to  
the Department of Homeland Security**

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The DHS OIG received a total of 6,589 detention-related complaints from fiscal year 2017 through fiscal year 2019. Over this time period, OIG referred 3,069 to the ICE Office of Professional Responsibility, which manages the Joint Intake Center to investigate or refer the case to other offices. Table 10 describes the five most common complaint categories over this time period.

**Appendix III: Data on Detention-Related  
Complaints That Detainees and Others Made to  
the Department of Homeland Security**

**Table 10: Top Five Categories of Detention-Related Complaints Received by the Office of Inspector General (OIG), Fiscal Years 2017-2019**

<b>Category of complaint</b>	<b>Number of allegations</b>	<b>Examples of complaints in category<sup>a</sup></b>
<b>Fiscal year 2017</b>		
Detainee/prisoner/suspect related abuse	1,187	Detainee alleged that they were wrongfully placed on lockdown after they were falsely accused of fighting.
Denial of rights/due process	954	Detainee alleged that U.S. Immigration and Customs Enforcement (ICE) was ignoring their requests to be deported in a timely manner.
Other civil rights/civil liberties	126	Detainee alleged that there was drug trafficking taking place in the detention facility.
Noncriminal misconduct	58	Detainee alleged that an officer was rude when they requested a housing unit transfer to get away from another detainee.
Detainee reported sexual abuse/sexual assault	44	Detainee alleged their detention facility was ignoring their grievances related to sexual abuse.
<b>Fiscal year 2018</b>		
Denial of rights/due process	942	Detainee alleged that their deportation officer would not work with their attorney and slowed down their immigration case.
Detainee/prisoner/suspect related abuse	550	Detainee alleged that the facility did not have enough bathrooms, and some detainees had to go outside.
Other civil rights/civil liberties	511	Detainee alleged that a facility officer discriminated against the detainee based on his religion.
Noncriminal misconduct	96	Detainee alleged that the detention facility mishandled their evidence for her immigration case.
Criminal misconduct	38	Detainee alleged physical assault by a county inmate.
<b>Fiscal year 2019</b>		
Denial of rights/due process	906	Detainee alleged that the facility denied them access to the law library.
Detainee/prisoner/suspect related abuse	469	Detainee alleged that an ICE officer physically and verbally abused them during the arrest.
Other civil rights/civil liberties	342	Detainee alleged that other detainees were assaulting him because of his sexuality.
Noncriminal misconduct	129	Former detainees alleged that ICE officers deported them without their legal paperwork.
Detainee reported sexual abuse/sexual assault	44	Detainee alleged that an officer was having sexual conversations with other detainees.
<b>Total complaints</b>	<b>6,589</b>	

Source: GAO analysis of OIG information. | GAO-20-596

Note: The data in this table represent all detention-related complaints that the Department of Homeland Security (DHS) OIG received but did not open for investigation. Over this time period, DHS OIG opened 155 complaints for investigation, according to DHS OIG officials. Given that the investigations for these complaints may be ongoing, we did not include them in our analysis.

**Appendix III: Data on Detention-Related  
Complaints That Detainees and Others Made to  
the Department of Homeland Security**

Additionally, data in this table also exclude cases that the DHS OIG administratively closed. DHS OIG generally administratively closes complaints when the complaint does not contain enough information for investigation or if the complainant does not allow the office to share his or her identity outside of the office. DHS OIG officials told us that the office administratively closed 518 complaints that it received from fiscal years 2017 through 2019.

<sup>a</sup>Examples provided in this table do not encompass all topics that complaints in each category may address. The “Category of Complaint” reflects categories in this database, and the corresponding examples of complaints in each category reflect how the DHS OIG categorized the complaints.

The Office for Civil Rights and Civil Liberties received 4,865 detention-related complaints from fiscal year 2017 through fiscal year 2019. Table 11 describes the five most common complaint categories over this time period.

**Table 11: Top Five Categories of Detention-Related Complaints Received by the Office for Civil Rights and Civil Liberties, Fiscal Years 2017-2019**

Category of complaint	Number of allegations	Examples of complaints in category <sup>a</sup>
<b>Fiscal year 2017</b>		
Conditions of detention	690	Detainee alleged that their phone privileges were revoked because they obtained three behavioral charges.
Due process	411	Detainee alleged that they never received an answer to their deportation appeal and that the facility refused to let them print documents for their immigration case.
Medical/mental health care	316	Detainee alleged that they did not receive medical treatment for their potentially broken jaw and that they could not eat.
Abuse of authority/misuse of official position	65	Detainee’s attorney alleged that an U.S. Immigration and Customs Enforcement (ICE) deportation officer tried to force detainee to sign deportation papers.
Sexual assault/abuse	43	Detainee alleged that facility did not protect them after being forced to perform sexual acts for other detainees.
<b>Fiscal year 2018</b>		
Conditions of detention	570	Detainee alleged that facility staff made them take a shower against their will.
Medical/mental health care	476	Detainee alleged that they did not receive medication for bipolar disorder and schizoaffective disorder for a week and that the facility never offered them counseling.
Due process	416	Detainee alleged that an ICE deportation officer pressured them into signing documents without a translator.
Abuse of authority/misuse of official position	55	Detainee alleged that officers keep threatening to take away recreation time for detainees.

**Appendix III: Data on Detention-Related  
Complaints That Detainees and Others Made to  
the Department of Homeland Security**

<b>Category of complaint</b>	<b>Number of allegations</b>	<b>Examples of complaints in category<sup>a</sup></b>
Legal access	55	Detainee alleged that they were in isolation for 6 months and could not send or receive legal mail.
<b>Fiscal year 2019</b>		
Medical/mental health care	389	Detainee alleged that ICE denied a surgery that the detainee scheduled prior to being detained.
Conditions of detention	373	Detainee alleged that officers retaliated against them for filing a witness statement about a detainee/guard altercation.
Due process	362	Detainee alleged that their deportation officer was not working on their case and that they urgently needed to be deported to care for a family member.
Abuse of authority/misuse of official position	69	Detainee alleged that an officer retaliated against them for requesting toilet paper.
Sexual assault/abuse	53	Detainee alleged that a facility nurse sexually assaulted them during a medical exam.
<b>Total complaints</b>	<b>4,865<sup>b</sup></b>	

Source: GAO analysis of Office for Civil Rights and Civil Liberties information. | GAO-20-596

<sup>a</sup>Examples provided in this table do not encompass all topics that complaints in each category may address. The "Category of Complaint" reflects categories in this database, and the corresponding examples of complaints in each category reflect how the Office for Civil Rights and Civil Liberties categorized the complaints.

<sup>b</sup>This total includes complaints made from facilities that housed adult detainees for longer than 72 hours. In instances where the complainant did not specify their detention location, we omitted those records from our analysis.

# Appendix IV: Comments from the Department of Homeland Security

U.S. Department of Homeland Security  
Washington, DC 20528



**Homeland  
Security**

July 30, 2020

Rebecca Gambler  
Director, Homeland Security and Justice  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Re: Management Response to Draft Report GAO-20-596, "IMMIGRATION  
DETENTION: ICE Should Enhance Its Use of Facility Oversight Data and  
Management of Detainee Complaints"

Dear Ms. Gambler:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

The Department is pleased with GAO's positive recognition that the U.S. Immigration and Customs Enforcement (ICE) has taken steps to enhance Detention Services Managers' (DSM) authority in the Detention Monitoring Program, which was established to help ensure detention facility compliance with detention standards. The program requires the presence of DSMs, who provide onsite monitoring of facilities and its compliance with detention standards, and whose presence and collaboration with the detention facility personnel helps address any inspection deficiencies more rapidly. GAO's analysis in the draft report demonstrated that the average number of deficiencies identified during contracted inspection at detention facilities was lower with the presence of a DSM. DSMs are valuable assets to the detention oversight system and ICE will continue to enhance the Detention Monitoring Program.

ICE is committed to transparency, collaboration, and resolving all concerns, complaints, and allegations with our stakeholders (e.g., persons in custody, the public, non-governmental organizations, faith-based organizations, academic institutions, attorneys, and advocacy groups), as appropriate. As part of our mission, ICE detention standards require that facilities respond to detainee complaints in writing with a resolution and an



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**Appendix IV: Comments from the Department  
of Homeland Security**

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option to appeal. ICE's Enforcement and Removal Operations (ERO) then collects, analyzes, and evaluates internal and external information to promote and improve compliance with processes and detention standards. Specifically, ERO analyzes complaint data to identify any trends, such as food or religious access, and produces a weekly report that is distributed to ERO leadership. This information is then used to make changes or improve practices within detention facilities. ICE will continue to similarly assess its practices, procedures, and processes to ensure the overall safety, security, and well-being of our nation.

The draft report contained six recommendations for ICE with which the Department concurs. Attached find our detailed response to each recommendation. DHS previously submitted technical comments under a separate cover for GAO's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

JIM H  
CRUMPACKER

Digitally signed by JIM H  
CRUMPACKER  
Date: 2020.07.30  
15:49:26 -04'00'

JIM H. CRUMPACKER, CIA, CFE  
Director  
Departmental GAO-OIG Liaison Office

Attachment

**Attachment: Management Response to Recommendations  
Contained in GAO-20-596**

GAO recommended that the Director of ICE:

**Recommendation 1:** Direct Custody Management to regularly conduct analyses of contracted facility inspections oversight data over time, within and across facilities and regions, and in a manner to enable trends in inspection deficiencies to be identified and addressed.

**Response:** Concur. ICE's ERO Custody Management Division (CMD) currently conducts analysis of ICE facilities' annual inspections within and across the ICE detention system, including comparisons of deficiencies and other related data over time. ERO will augment its process by analyzing facility inspection findings on a monthly basis and will develop a quarterly report that will include trends and recommendations for resolving repeated deficiencies. This will highlight areas of improvements to inform management decisions that address common deficiencies. Estimated Completion Date (ECD): July 30, 2021.

**Recommendation 2:** Direct the Office of Detention Oversight and Custody Management to take steps to ensure that data on deficiencies identified through Office of Detention Oversight's inspections are recorded in a format that is accessible to Custody Management for analysis purposes.

**Response:** Concur. The ICE ERO CMD and ICE Office of Professional Responsibility (OPR) Office of Detention Oversight (ODO) reviewed the collection of data regarding OPR ODO inspection of deficiencies, as well as creating uniform corrective action plans (UCAP), starting in April 2020. As a result: 1) OPR ODO provides ERO CMD with final inspection reports in a format that more easily enables ERO staff to create UCAPs; 2) ODO's Deficiency Tracker Chart was modified to clearly identify standards applicable to a detention facility; and 3) ODO made the tracker chart available in a SharePoint library readily accessible to ERO staff. These steps provided ERO with ODO inspection deficiency data that is more accessible in the short-term, while ODO and CMD work to develop and implement a long-term solution. Together, ODO and CMD will meet the following milestones:

- ERO CMD will complete identifying all data fields and the format of inspection deficiencies data from OPR ODO;
- OPR ODO will review ERO data requirements and identify options for providing the data;
- ERO CMD and OPR ODO will agree on the most optimal option; and

- ERO CMD and OPR ODO will implement the option.

Once ICE implements the selected option, ERO CMD will incorporate the data into the Facility Performance Management System for continual tracking and analyzing of inspections deficiencies from all ICE sources. OPR ODO and ERO CMD will also periodically assess the procedures to determine if changes are needed to the process and data. ECD: July 30, 2021.

**Recommendation 3:** Regularly conduct analyses of data on deficiencies identified through Office of Detention Oversight's inspections.

**Response:** Concur. ICE's OPR ODO will deploy a new case management system that will enable ODO to regularly analyze data generated from its inspections and identify deficiency trends within areas of responsibility and/or across agency detention facilities. Additionally, ODO will use this data to prepare for upcoming fiscal year (FY) inspections by determining whether the core set of national detention standards reviewed to assess a detention facility compliance needs to be amended to include additional standards as part of the annual inspection process. This will allow ODO to inspect detention facilities against the national detention standards that have the greatest impact on the life, health, safety, and well-being of ICE detainees. ECD: July 30, 2021.

**Recommendation 4:** Ensure that all Operational Review Self-Assessment results and corrective actions are recorded in a format that is conducive to tracking and analysis.

**Response:** Concur. ICE's ERO Detention Management Division (DMD) will begin tracking Operational Review Self-Assessments (ORSAs) and corrective actions in its Facility Performance Management System (FPMS) starting in quarter two of FY 2021. ORSA annual submissions from ERO field offices are due to Headquarters DMD by September 30, 2020. ERO DMD can centralize and systematically track ORSA deficiencies and corrective actions by entering and tracking this information in FPMS will enable. ECD: July 30, 2021.

**Recommendation 5:** Regularly conduct analysis of detention-related complaint data from relevant offices, including analysis of data over time, within and across facilities and regions, and at a level necessary to identify and address potentially reoccurring complaints.

**Response:** Concur. ICE is responsible for assessing and investigating all reported allegations and complaints that it receives through the various intake mechanisms. ICE's OPR assesses, processes, and investigates complaints and allegations of employee misconduct that are reported to the Joint Intake Center (JIC) and not retained by the DHS Office of Inspector General (OIG). OPR will retain detention-related criminal employee misconduct allegations and may refer non-criminal employee misconduct allegations to

ICE program offices as Management Inquiries for action and resolution. Complaints related to detention that do not involve employee misconduct (which are categorized separately from allegations) are forwarded to ERO for information or action, as appropriate.

Once ERO receives a complaint from the OIG Hotline, DHS Civil Right and Civil Liberties, and/or the OPR JIC, it is reviewed by a data analyst and tracked until a resolution is obtained from the field office. ICE's ERO CMD regularly analyzes detention-related complaint data over time and across regions to determine whether there are overarching concerns or chronic issues across facilities. For example, if ICE determines complaints concerning food at a specific facility are substantiated and related to the vendor who is responsible for the food at multiple facilities, ICE will initiate corrective actions across facilities to ensure the issues are addressed. ERO also continues to use this analysis for strategic planning at the program and field office level to ensure decisions, including corrective actions, are tailored for that field office. ERO is in compliance with the Standards for Internal Controls in the Federal Government because it uses the analysis of the complaint data to strengthen its management and oversight of conditions in detention facilities. ICE will continue to make improvements to the process or personnel at a level necessary to identify and address potentially recurring complaints. ECD: July 30, 2021.

**Recommendation 6:** Require that ERO field offices record any actions taken on, and the resolutions of, detention-related complaints referred to them from the Detention Reporting and Information Line and Administrative Inquiry Unit in a timely manner.

**Response:** Concur. ICE's ERO CMD Custody Programs Division (CPD) drafted a performance work statement for a close-loop inquiry resolution database system that is currently under review by the ICE Office of the Chief Information Officer (OCIO). This system will enable the ERO field offices to record any action taken and resolution for all detention-related complaints. The target contract award date for the procurement of the system and vendor support services is no later than December 31, 2020. Upon contract award and continuing throughout Calendar Year 2021 and the first half of 2022, ERO CMD CPD will work with OCIO to install, test, and deploy the close-loop inquiry resolution database system to all ERO field offices. After contract award, ICE will work to identify more specific interim milestone dates for the contract's period of performance. ECD: July 30, 2022.

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# Appendix V: GAO Contact and Staff Acknowledgments

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## GAO Contact

Rebecca Gambler, at (202) 512-8777 or [gablerr@gao.gov](mailto:gablerr@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Taylor Matheson (Assistant Director), Kisha Clark (Analyst-in-Charge), Isabel Band, Pamela Davidson, Cynthia Grant, Eric Hauswirth, Miriam Hill, Susan Hsu, Samuel Moore, and Sasan J. “Jon” Najmi made key contributions to this report.

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