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May 2016

# IMMIGRATION DETENTION

## Additional Actions Needed to Strengthen DHS Management of Short-Term Holding Facilities

# GAO Highlights

Highlights of [GAO-16-514](#), a report to the Ranking Member, Committee on Homeland Security, House of Representatives

## Why GAO Did This Study

DHS is responsible for providing safe, secure, and humane confinement for detained aliens who may be subject to removal or have been ordered removed from the United States. For example, during fiscal years 2014 and 2015, Border Patrol apprehended 823,768 aliens and held them temporarily in holding facilities. GAO was asked to examine DHS's management and oversight of holding facilities. This report examines the extent to which DHS has (1) standards in place for the short-term custody of aliens and monitors compliance with established standards and (2) processes in place for obtaining and addressing complaints from aliens in holding facilities.

GAO reviewed CBP and ICE data on time in custody and complaints. GAO also interviewed agency officials and visited 32 holding facilities selected based on geographical location and facility type, among other factors. The visit results are not generalizable, but provided insight to the oversight of holding facilities and management of complaints.

## What GAO Recommends

GAO recommends that DHS establish a process to assess time in custody data for all individuals in holding facilities; issue guidance on how and which complaint mechanisms should be communicated to individuals in short-term custody; include a classification code in all complaint tracking systems related to DHS holding facilities; and develop a process for analyzing trends related to holding facility complaints. DHS concurred with the recommendations and identified planned actions.

View [GAO-16-514](#). For more information, contact Rebecca Gambler at (202) 512-8777 or [gablerr@gao.gov](mailto:gablerr@gao.gov).

May 2016

## IMMIGRATION DETENTION

### Additional Actions Needed to Strengthen DHS Management of Short-Term Holding Facilities

## What GAO Found

The Department of Homeland Security's (DHS) U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) have standards for short-term holding facilities—which are generally designed to keep individuals in custody for 24 hours or less—and some processes to monitor compliance with the standards. For example, each component has policies governing the operation of holding facilities, and CBP has an annual Self-Inspection Program, which is designed to assess internal controls in all CBP operations, including holding facilities. However, U.S. Border Patrol, within CBP, and ICE do not have a process to fully assess data on the amount of time individuals are held in custody. Such a process could help these agencies in better understanding issues that GAO identified, such as data quality, level of compliance with agency standards, and factors impacting time in custody. For example, GAO identified potential irregularities with Border Patrol's fiscal year 2014 to 2015 time in custody data, due to, among other things, delays in agents recording individuals' "book-out" from holding facilities. In addition, although Border Patrol officials from 10 holding facilities GAO visited stated that time in custody rarely exceeds 72 hours, GAO noted that approximately 16 percent of Border Patrol's cases with complete data in fiscal years 2014 to 2015 exceeded this threshold. Developing and implementing a process to assess time in custody data, consistent with internal control standards, would provide Border Patrol and ICE with more visibility into the quality of their data, facility compliance with time in custody guidelines, and the factors impacting time in custody.

DHS has various mechanisms to obtain and address complaints related to holding facilities. Specifically, individuals can submit complaints directly to holding facilities or to one of various DHS entities, including the DHS Office of Inspector General (OIG) and Joint Intake Center (JIC). However, DHS and its components have not consistently communicated information to individuals in CBP and ICE holding facilities on these mechanisms. For example, during site visits to DHS holding facilities, GAO observed that the posters used to communicate DHS complaint mechanisms varied in their coverage. Providing guidance to holding facilities on which of DHS's various complaint mechanisms they should communicate to individuals in custody, consistent with internal control standards, would help DHS have better assurance that individuals in custody within holding facilities have received information on how to submit a complaint. DHS complaint mechanisms maintain data in various systems; however, most of these systems do not have a classification code for holding facilities to would allow users to readily identify the universe of complaints involving holding facilities and conduct trend analysis. For example, the JIC's complaint tracking system does not include a facility, facility type, or issue code related to holding facilities. GAO found that information identifying whether a complaint involved a holding facility may be located within narrative fields. Creating a classification code and conducting trend analysis on holding facility complaints, consistent with internal control standards, would provide DHS with useful information for management decisions, including targeting areas for compliance monitoring.

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## Abbreviations

CBP	U.S. Customs and Border Protection
CRCL	Office for Civil Rights and Civil Liberties
DHS	Department of Homeland Security
ERO	Enforcement and Removal Operations
ICE	U.S. Immigration and Customs Enforcement
JIC	Joint Intake Center
JICMS	Joint Integrity Case Management System
OFO	Office of Field Operations
OIG	Office of the Inspector General
OPR	Office of Professional Responsibility
POE	port of entry
PREA	Prison Rape Elimination Act
SIP	Self-Inspection Program

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May 26, 2016

The Honorable Bennie G. Thompson  
Ranking Member  
Committee on Homeland Security  
House of Representatives

Dear Mr. Thompson,

Within the Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) inspect and apprehend aliens based on their authorities, including immigration and customs-related law enforcement and investigative responsibilities.<sup>1</sup> CBP is the lead federal agency charged with keeping terrorists and their weapons, criminals and their contraband, and inadmissible aliens out of the country. Within CBP, the Office of Field Operations (OFO) inspects individuals at designated U.S. ports of entry (POE) to determine their admissibility to the country and U.S. Border Patrol interdicts and apprehends aliens between POEs.<sup>2</sup> For example, during fiscal year 2015, Border Patrol apprehended 337,117 aliens nationwide. ICE is responsible for apprehending aliens who may be removable from the United States for various reasons, including entering the country illegally or being convicted of certain crimes. Within ICE, Enforcement and Removal Operations (ERO) identifies, apprehends, detains, and removes aliens as appropriate.

After inspecting an individual for admissibility into the United States or while making an apprehension, DHS components may hold aliens at short-term holding facilities nationwide, which are located at OFO ports of entry, Border Patrol stations, and ICE ERO field offices, among other

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<sup>1</sup>Under U.S. immigration law, an “alien” is any person that is not a U.S. citizen or national. See 8 U.S.C. § 1101(a)(3).

<sup>2</sup>Ports of entry are facilities that provide for the controlled entry into or departure from the United States. Specifically, a port of entry is any officially designated location (seaport, airport, or land border location) where DHS officers or employees are assigned to clear passengers and merchandise, collect duties, and enforce customs laws, and where DHS officers inspect persons applying for admission into the United States pursuant to U.S. immigration law.

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locations.<sup>3</sup> DHS components may hold aliens at holding facilities in order to complete general processing and determine the appropriate course of action, such as transferring them to or from a court, jail, prison, other agency or other unit of the facility or agency, relocating such aliens into ICE detention facilities, removing them from the country, or releasing them, among other scenarios.<sup>4</sup> The population of individuals in holding facilities may include single adults, family units, and unaccompanied alien children, among other demographic groups.<sup>5</sup> Holding facilities are generally designed to keep individuals in custody for 24 hours or less and typically contain basic features, such as a concrete bench and a combination sink/toilet unit. Both DHS entities and immigration advocacy organizations have raised concerns about the conditions and overall time in custody at DHS short-term holding facilities. For example, in 2012, DHS's Office for Civil Rights and Civil Liberties (CRCL) conducted an investigation of holding facilities located within Border Patrol's Tucson Sector and identified a number of issues, such as inadequate medical care and inconsistencies regarding the amount of food provided to individuals. In 2009, advocacy organizations, including the American Civil Liberties Union, filed a since-settled lawsuit against DHS in regards to an ICE holding facility in Southern California, alleging that individuals were

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<sup>3</sup>The Immigration and Nationality Act, as amended, provides DHS with broad authority to detain aliens believed to be removable while awaiting a determination of whether they should be removed from the United States, as well as aliens ordered removed, and mandates that DHS detain certain categories of aliens. See 8 U.S.C. §§ 1225, 1226, 1226a, 1231.

<sup>4</sup>While our review is focused on short-term holding facilities, we have previously reported on detention facilities in a number of other reports, including GAO, *Immigration Detention: Additional Actions Needed to Strengthen Management and Oversight of Facility Costs and Standards*, [GAO-15-153](#) (Washington, D.C.: Oct. 10, 2014). Specifically, ICE has responsibility to provide safe, secure, and humane confinement for aliens in the United States who may be subject to removal while they await the resolution of their immigration cases or have been ordered removed from the United States. ICE fulfills this responsibility by applying various sets of detention standards at over 250 detention facilities that are either owned by ICE, owned by private contractors, or owned by or contracted to state and local governments. These facilities routinely hold aliens for over 24 hours.

<sup>5</sup>Our review is focused on holding facilities in general and all populations of aliens held at these facilities. For additional information on holding facility standards and care for unaccompanied alien children, see GAO, *Unaccompanied Alien Children: Actions Needed to Ensure Children Receive Required Care in DHS Custody*, [GAO-15-521](#) (Washington, D.C.: July 14, 2015).

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held in overcrowded and unsanitary cells for weeks beyond agency guidelines.<sup>6</sup>

You asked us to review DHS's management and oversight of holding facilities and its processes to address complaints filed by aliens in short-term custody. This report addresses the following questions: To what extent does DHS have (1) standards in place for the short-term custody of aliens and monitors compliance with established standards and (2) processes in place for obtaining and addressing complaints from aliens in holding facilities?

To address these questions, we visited a nongeneralizable sample of 32 CBP and ICE holding facilities in California, Florida, Texas, and Virginia. Specifically, we visited 17 Border Patrol facilities, 7 OFO facilities, and 8 ICE facilities.<sup>7</sup> We selected these facilities based on a mix of factors, such as facility type, differences in geographical location, number of apprehensions, and recommendations from DHS and advocacy organizations that work with individuals held in DHS's custody. We conducted semistructured interviews with holding facility personnel and senior officials with Border Patrol sectors, OFO field offices and ICE field offices regarding holding facility standards, compliance mechanisms and avenues for individuals to make complaints. The information we obtained from our holding facility visits cannot be generalized to all facilities, but provided us insights into the implementation of policies and procedures used by DHS to oversee holding facilities and manage complaints.

To determine the extent to which DHS has standards in place for the short-term custody of aliens and monitors compliance with established standards, we reviewed agency documentation, including holding facility policies and procedures and self-inspection results. We also interviewed Border Patrol, OFO, and ICE officials at the headquarters level who oversee holding facilities, as well as holding facility personnel and sector/field office officials. During these interviews, among other things, we determined the extent to which agencies use and analyze data, such

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<sup>6</sup>*Castellano v. Napolitano*, Case No. 2:09-cv-2281 (C.D. Cal. Filed April 1, 2009).

<sup>7</sup>We focused our site visits on OFO holding facilities at land POEs, rather than airport and seaport-based POEs, because the environment is more similar to Border Patrol and ICE holding facilities.

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as time in custody, for oversight purposes and discussed the various factors that could impact time in custody. In addition, we collected and analyzed fiscal year 2014 through 2015 Border Patrol data on apprehensions and time in custody—the most recent data maintained by Border Patrol at the time of our review—to determine the population and time in custody for individuals in holding facilities. To determine the reliability of these data, we reviewed Border Patrol documentation and interviewed agency officials responsible for ensuring data quality about e3—the system that Border Patrol uses to track information on aliens held in short-term custody. We determined that the apprehension data were sufficiently reliable for the purposes of our reporting objectives; however, we could not determine the reliability of the time in custody data because of potential irregularities, such as individuals indicated as having many months in custody. We also collected data from ICE on number of aliens in custody at ERO holding facilities; however, based on a review of ICE documentation and interviews with ICE officials responsible for ensuring data quality, we determined that the data were not reliable for our purposes because of missing and inaccurate data. Moreover, we were unable to analyze or determine the reliability of ICE data on time in custody because the agency does not include hours in custody in its standard reports or OFO time in custody data because the agency does not currently capture it nationwide. We discuss agency time in custody data, including reliability issues, in more detail in the report. We assessed DHS practices for monitoring holding facilities against *Standards for Internal Control in the Federal Government*.<sup>8</sup>

To determine the extent to which DHS has processes in place for obtaining and addressing complaints from individuals in holding facilities, we analyzed documentation on DHS Office of Inspector General (OIG), DHS CRCL, ICE/CBP Joint Intake Center (JIC), CBP INFO Center and ICE Detention and Reporting Information Line processes for managing complaints and interviewed officials from these complaint mechanisms. To better understand the characteristics of DHS complaint tracking systems, we analyzed fiscal years 2012 to 2014 data maintained in the Joint Integrity Case Management System (JICMS)—the system ICE and

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<sup>8</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00.21.3.1](#) (Washington, D.C.: November 1999). GAO recently revised and reissued *Standards for Internal Control in the Federal Government*, with the new revision effective beginning with fiscal year 2016. See [GAO-14-704G](#) (Washington, D.C.: September 2014).

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CBP use to track complaints reported to the JIC, including those related to holding facilities. We selected JICMS data to evaluate since it contains information on both ICE and CBP complaints. We could not use JICMS data or report on the universe of holding facility complaints because JICMS does not categorize holding facility complaints, as discussed in more detail later in this report. We also interviewed holding facility officials on their local processes for obtaining and addressing complaints and evaluated how holding facilities communicated available complaint mechanisms. Specifically, we observed whether holding facilities posted information on available complaint mechanisms, such as the DHS OIG, in holding cells/rooms or the processing area. We assessed DHS's processes for obtaining and addressing complaints against *Standards for Internal Control in the Federal Government*.<sup>9</sup> Additional details on our scope and methodology are contained in Appendix I.

We conducted this performance audit from May 2015 to May 2016 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

DHS components operate holding facilities at various locations nationwide. Border Patrol has approximately 203 holding facilities that are located at stations, checkpoints and forward operating bases.<sup>10</sup> OFO has approximately 129 holding facilities located at land POEs. ICE has 137 holding facilities that are located at ERO field offices and sub-offices. The reasons why individuals are taken into short-term custody vary by component.

- Border Patrol apprehends aliens along the land borders and between POEs due to suspected criminal activity or violations of U.S.

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<sup>9</sup>[GAO/AIMD-00.21.3.1](#).

<sup>10</sup>We estimated the number of holding facilities based on Border Patrol data showing aliens held in custody by Border Patrol location (e.g., station). According to Border Patrol officials, the number of holding facilities can fluctuate since some of them are located in non-permanent structures.

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immigration law, such as illegal entry into the United States or presence in the country without lawful immigration status, and transports them to Border Patrol holding facilities, where they undergo processing before being removed, released, or transferred to ICE for long-term detention, among other scenarios.

- OFO inspects all arriving persons to the United States to determine their citizenship or nationality, immigration status, and admissibility. This inspection can lead to persons being taken into temporary custody at POE holding facilities while awaiting repatriation to a foreign country; transfer or referral to another agency, such as ICE; or completion of inspection and associated processing.
- ICE takes aliens into custody upon their release from jails and prisons through the Criminal Alien Program and other efforts or apprehends aliens for various reasons, including through the National Fugitive Operations Program, and transports them to ICE holding facilities.<sup>11</sup>

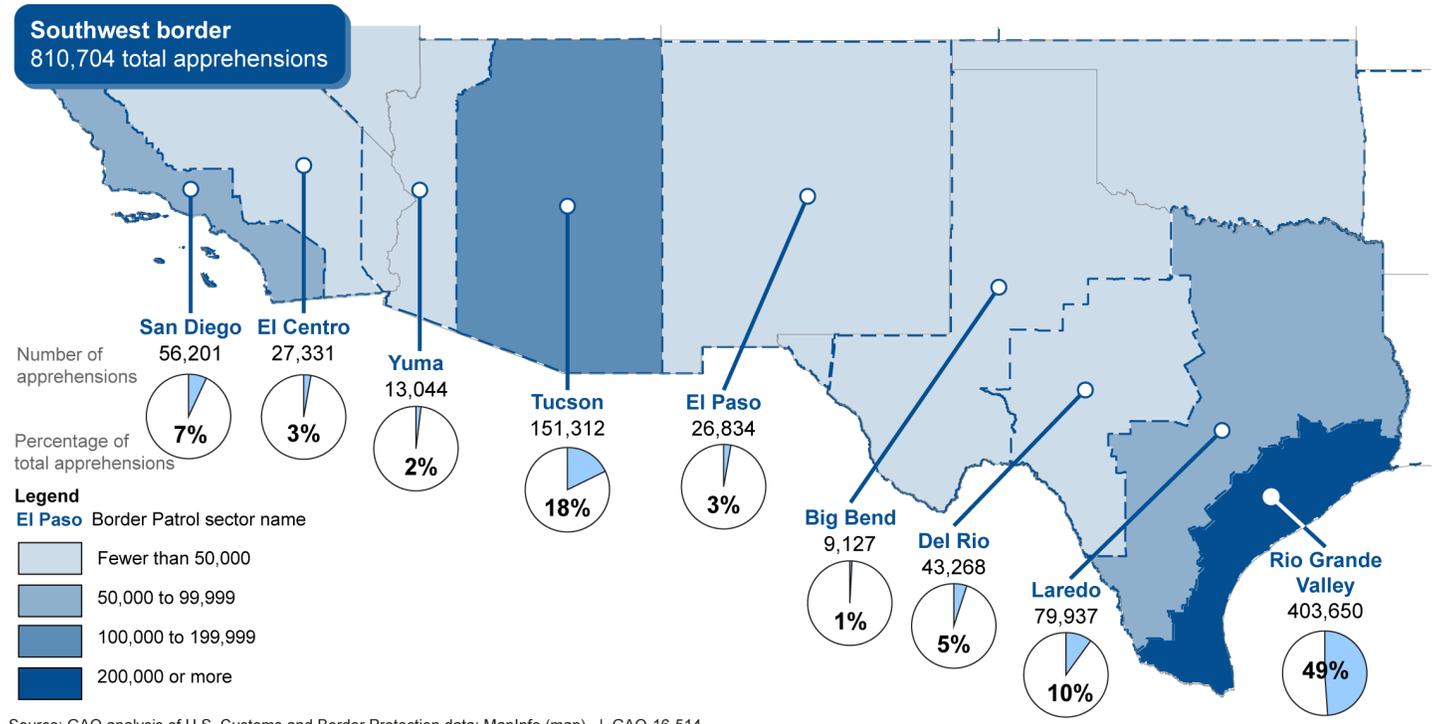
During fiscal years 2014 and 2015, Border Patrol apprehended 823,768 aliens and held them temporarily in holding facilities.<sup>12</sup> Approximately 98 percent of aliens apprehended by Border Patrol during those fiscal years were apprehended along the southwest border of the United States with Mexico. Of the 810,704 aliens whom Border Patrol apprehended along the southwest border, about 49 percent were apprehended in the Rio Grande Valley sector in Texas. Figure 1 shows the locations of aliens apprehended by Border Patrol along the southwest border during fiscal years 2014 through 2015.

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<sup>11</sup>In 2014, DHS outlined that its enforcement and removal priorities include the removal of aliens who pose a threat to national security, border security, and public safety. ICE's Criminal Alien Program is designed to identify, process, and remove criminal aliens from jails and prisons across the United States, while the focus of the National Fugitive Operation Program is on pursuing known at-large criminal aliens and fugitive aliens.

<sup>12</sup>We are not able to report on the number of aliens in short-term custody at ICE holding facilities because of limitations with ICE's data or the number of aliens at OFO holding facilities because at the time of our review OFO did not collect nationwide data.

**Figure 1: Border Patrol Apprehensions along the Southwest Border, Fiscal Years 2014 through 2015**



Source: GAO analysis of U.S. Customs and Border Protection data; MapInfo (map). | GAO-16-514

DHS officials at holding facilities conduct a number of activities in managing the short-term custody of aliens, including (1) processing, (2) care, and (3) monitoring.

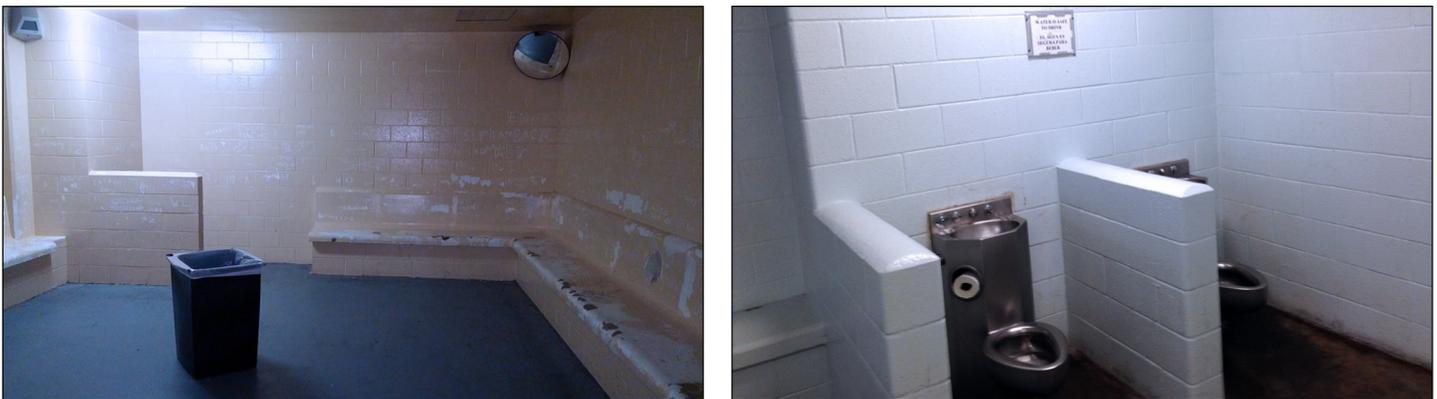
**Processing.** During processing, holding facility officials gather and record information from aliens. Specifically, holding facility officials collect and record information on aliens in agency databases; take fingerprints, if applicable; conduct records checks; and collect and maintain personal belongings. Holding facility personnel typically conduct these processing activities in a general area outside of the actual holding cells.

**Care.** Once processing is complete, holding facility officials typically place individuals in a secure holding cell or room and provide them with various

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types of care, including meals and water, restrooms, hygienic supplies and medical care.<sup>13</sup> Holding facilities maintain written or electronic custody logs to document care provided to individuals. Telephone access varies by holding facility; some facilities include a telephone in the holding cells, while other facilities maintain a telephone only in the processing area. Holding facilities and the conditions of confinement may vary by component, among other factors. For example, while all three components maintain secure cells, OFO sometimes places individuals in general waiting areas at POEs based on a risk assessment of individuals and facility space limitations. In addition, holding facility officials typically segment the population based on age, gender and other characteristics, such as risk. Figure 2 depicts a typical cell at DHS holding facilities.

**Figure 2: Example of a Holding Cell at DHS Holding Facilities, July and November 2015**



Source: GAO. | GAO-16-514

**Monitoring.** Holding facility officials monitor holding facilities primarily through video cameras and physical checks to help ensure that cells are kept clear of contraband and other potentially dangerous materials. For example, holding facility officials might conduct physical checks at various intervals throughout the day, which are designed for a number of purposes, including overseeing individuals in short-term custody, providing a deterrent for misconduct, and affording individuals the opportunity to communicate potential issues regarding their health or

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<sup>13</sup>We learned during our review that individuals in DHS's short-term custody may have injuries or medical issues that require treatment at off-site facilities, such as hospitals. For example, aliens apprehended by Border Patrol may have become injured during their journey across the border.

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safety. Holding facility personnel may conduct more frequent monitoring activities for high risk individuals who might show signs of distress, hostility, or other unusual behavior.

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## DHS Has Established Standards and Monitoring Processes for the Short-Term Custody of Aliens, but Could Better Assess Time in Custody Data

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### DHS Has Established Standards and Monitoring Processes for the Short Term Custody of Aliens

CBP and ICE have issued standards for the short-term custody of aliens that apply to their holding facilities nationwide. For example, CBP has established minimum standards that apply to both Border Patrol and OFO holding facilities, and each component also maintains a holding facility policy.<sup>14</sup> In addition, ICE has a policy that governs the operation of ERO holding facilities.<sup>15</sup> The Border Patrol, OFO, and ICE standards contain common requirements for holding facilities, including:

- Limiting aliens' total time in custody: Process and then transfer, remove, or release aliens as soon as is appropriate and operationally feasible.

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<sup>14</sup>CBP issued the *National Standards on Transport, Escort, Detention and Search (TEDS)* in October 2015, while Border Patrol issued the *Hold Rooms and Short Term Custody* policy in January 2008 and OFO issued the *Secure Detention, Transport, and Escort Procedures at Ports of Entry* in August 2008. The TEDS policy is intended as a foundational document, while the component-level policies generally contain more detail. TEDS does include specific requirements related to personal property, care of at-risk individual in custody, and sexual abuse and assault. According to CBP officials, Border Patrol and OFO holding facility policies would override TEDS if they contain more stringent requirements.

<sup>15</sup>ICE issued the *Operations of ERO Holding Facilities* policy in September 2014.

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- Conducting periodic physical checks of holding cells: Monitor holding cells directly and regularly when individuals are in custody.
  - Maintaining a detention log: Collect and preserve in written or electronic form general information from all individuals.
  - Providing various accommodations to individuals: Offer meals and snacks at specified intervals, as well as access to drinking water and restrooms at all times to individuals.
  - Safeguarding of individuals' personal property while in custody: Collect, inventory, and safeguard funds, valuables, and baggage, and other personal property.

Within these common elements, however, the Border Patrol, OFO and ICE standards for the short-term custody of aliens vary. For example, the Border Patrol and ICE holding facility policies state that, whenever possible, an individual should not be held for more than 12 hours while the OFO holding facility policy states that the detention of a person in a holding facility at POEs shall be for the "least amount of time necessary" to complete processing but generally less than 24 hours.<sup>16</sup> The policies also vary with respect to conducting physical checks of cells. The OFO and ICE holding facility policies require that personnel conduct physical checks of individuals placed inside of holding cells at least every 15 minutes, while the Border Patrol policy states that personnel must physically check holding cells on a regular basis for all individuals and every 15 minutes for individuals deemed to be high risk (e.g., an individual exhibiting unusual behavior such as signs of distress). Border Patrol, OFO, and ICE holding facilities may also use local standard operating procedures to augment agency standards for holding facilities. For example, an ICE holding facility that we visited maintained four local standard operating procedures on areas such as controlling and safeguarding personal property. Similarly, we learned during our site visits that other Border Patrol, OFO, and ICE holding facilities have local standard operating procedures.

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<sup>16</sup>The TEDS policy states that an alien should generally not be held for longer than 72 hours in CBP holding facilities.

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Agencies have also established processes for monitoring holding facilities for compliance with standards. Within CBP, the Management Inspections Division and designated officials from Border Patrol and OFO headquarters manage the annual Self-Inspection Program (SIP), which is designed to assess internal controls in all CBP operations, including holding facilities. The SIP varies from year-to-year and typically incorporates elements of holding facility policies. For example, the 2015 Border Patrol SIP covered the extent to which holding facilities maintained detention logs on aliens, including meal service, medical care, and other pertinent information. Border Patrol and OFO holding facilities reported in the SIP results for 2015 that they were generally compliant with holding facility standards.<sup>17</sup> Besides the SIP, Border Patrol and OFO officials told us that holding facilities monitor compliance with holding facility standards through daily activities. We learned from discussions with agency officials and observations during our site visits that these daily activities include: maintaining continuous surveillance of individuals through video cameras, conducting periodic physical checks of individuals, and having shifts overlap to allow independent personnel to review and verify actions taken to care for individuals. Moreover, regional Border Patrol sectors or OFO field offices may also undertake monitoring activities. For example, a senior OFO official stated that his field office conducts periodic spot-checks of holding facilities in its jurisdiction to verify compliance with holding facility standards.

Within ICE, holding facilities monitor compliance through daily activities. According to ICE officials, some of these daily activities include maintaining continuous surveillance of individuals through video cameras, as well as conducting periodic and end of day physical checks of detainees. During our site visits to ICE holding facilities, we also observed video cameras and written logbooks that notated the date and time ICE personnel inspected individual holding cells. In addition, ICE headquarters is currently developing a holding facility self-assessment tool intended to capture the level of compliance in ICE holding facilities nationwide with ICE's holding facility policy, such as standards related to

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<sup>17</sup>Although Border Patrol and OFO holding facilities reported in the SIP results for 2015 that they were generally compliant with hold room policies, there were some instances of non-compliance, such as several Border Patrol holding facilities reporting that they did not document meals provided to adults in Border Patrol's data system because they were not familiar with the policy requirement.

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providing meals and water and managing personal property. ICE headquarters provided us with the draft self-assessment tool and a project plan for its completion. ICE is currently in the final stages of reviewing the tool and expects to begin using it by June 2016.

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### CBP and ICE Could Improve Oversight by Better Assessing Time in Custody Data

CBP and ICE do not have a process or processes in place to fully assess their time in custody data, including the quality of the data, and the extent to which holding facilities are adhering to agency standards for time in custody and the factors affecting the length. CBP and ICE maintain data systems that record information on various elements for short-term custody of individuals, including time in custody.<sup>18</sup> Time in custody represents the time between when an individual is “booked in” and “booked out” of a holding facility.<sup>19</sup> CBP and ICE holding facility policies include standards for the number of hours that an individual should be held in short-term custody. According to agency officials, these standards are in place because holding facilities are not designed to hold individuals for long periods of time and thus generally do not have features such as beds and showers. However, based on our review of time in custody data, Border Patrol and ICE do not have a process to completely assess time in custody data and OFO has only recently initiated efforts to collect such data.

- Border Patrol has taken some steps to monitor time in custody data. For example, we learned during our site visits that a Border Patrol sector in Texas generates a detention dashboard report that tracks aliens’ total time in custody by station and a Border Patrol sector in Florida disseminates a regular report to stations with time in custody information on individuals. In addition, Border Patrol incorporated time in custody as an inspection item for individual stations in the 2015 SIP.<sup>20</sup> Further, Border Patrol officials responsible for managing the agency’s data told us that they address individual irregularities in time

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<sup>18</sup>Border Patrol maintains the e3 system, OFO uses the Secure Integrated Government Mainframe Access system and ICE maintains the ENFORCE system to track information on aliens, including time in custody.

<sup>19</sup>For the purposes of our review, this definition of time in custody does not include the time between an apprehension and book-in to a holding facility.

<sup>20</sup>For the 2015 Border Patrol SIP, Border Patrol stations reviewed a random sample of up to 15 aliens recorded in e3 to determine if time in custody exceeded 24 hours in any cases.

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in custody data as they discover them, such as incomplete or duplicative information. However, these Border Patrol headquarters officials told us that the agency is currently only tracking and producing regular reports for Border Patrol leadership about the time in custody for unaccompanied alien children and families but not for the rest of the detainee population. Border Patrol headquarters officials responsible for overseeing holding facilities told us that Border Patrol has not directed an entity at the headquarters level to assess time in custody data for all types of aliens in Border Patrol's custody.

- ICE produces various reports that include time in custody data for both detention and holding facilities; however, the information in these reports is limited. Specifically, the reports do not include total hours in custody by alien, despite ICE's holding facility policy specifying that individuals should not be held for longer than 12 hours absent exceptional circumstances. ICE headquarters officials indicated that ICE does not use time in custody data to monitor holding facilities, and ICE officials in the field stated that the agency is more focused on monitoring longer term detention facilities.
- OFO maintains fields in its automated database to track aliens' time in custody in holding facilities, although, according to OFO officials, most land POEs have not been consistently recording that information, with the exception of seven land POEs in California and Texas.<sup>21</sup> We previously reported in July 2015 that OFO did not yet have a policy requiring officers to use an automated database to record care provided to unaccompanied alien children, including book out dates and times, and most POEs did not use an automated database to track custody care actions.<sup>22</sup> In November 2015, OFO began piloting the mandatory automated collection of time in custody data for holding facilities at selected POEs. According to OFO headquarters officials,

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<sup>21</sup>While OFO does not capture time in custody data for all land POEs, officials from OFO holding facilities that we visited told us that they notify their POE's Port Director when individuals' time in custody exceeds a specified length (e.g., 12 hours in custody). Similarly, officials from Border Patrol holding facilities that we visited stated that they notify the Patrol Agent in Charge of individuals in custody for 24 hours or more and notify the sector when custody reaches or exceeds 72 hours.

<sup>22</sup>[GAO-15-521](#).

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OFO expects to expand the pilot program to all POEs in calendar year 2016.<sup>23</sup>

While Border Patrol and ICE produce some reports with time in custody data, more fully monitoring time in custody data could allow the agencies to identify potential trends and differences across all field locations. Specifically, Border Patrol and ICE could better understand (1) the quality of time in custody data, such as determining the sources of irregularities and uncovering missing or inaccurate data, and (2) the extent to which holding facilities are adhering to agency standards for time in custody and the factors affecting the overall length.

**Determining quality of time in custody data.** Our discussions with Border Patrol officials and analysis of Border Patrol's time in custody data for fiscal years 2014 to 2015 raised questions about the quality of the data. Specifically, we could not determine the reliability of Border Patrol's time in custody data for two reasons. First, Border Patrol expanded use of its e3 system to capture additional custody care information, including time in custody, and we identified challenges associated with entry of these data by Border Patrol personnel. According to Border Patrol officials, since fiscal year 2014 was the first full year that the agency collected electronic time in custody data across all facilities nationwide, agents in the field are still learning how to accurately and consistently record time in custody information. Second, we analyzed the Border Patrol's fiscal years 2014 and 2015 time in custody data from the e3 system and found irregularities, such as individuals with multiple months or negative hours in custody. Officials from Border Patrol headquarters could not fully explain the irregularities we found. Specifically, they told us that lengthy times in custody might result from officials in the field not temporarily booking out aliens for a hospital visit or court appearance or failing to record book-out dates and times in a timely manner.

We also identified issues involving the recording of book-out information during our site visits. For example, Border Patrol holding facility officials in three locations stated that agents forgetting to input book-out times into the e3 system could explain some lengthy times in custody. In particular,

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<sup>23</sup>Since OFO, as of March 2016, was in the process of piloting the mandatory collection of time in custody data for holding facilities, our finding in this section is directed at Border Patrol and ICE.

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a Patrol Agent in Charge at one Border Patrol holding facility stated that fiscal year 2014 data for his facility were likely inaccurate because there may have been delays, in some cases spanning weeks or months, in agents recording aliens' book-out times. While the data indicated that the facility held over 100 aliens for more than 24 hours, the official stated that it is extremely rare to hold aliens for 24 hours since the facility's operating hours are limited. Officials from Border Patrol headquarters said that they would not know if lengthy times in custody were either accurate or inaccurate due to data issues unless Border Patrol personnel conducted a more comprehensive analysis. Because of these reasons, we were unable to determine the reliability of Border Patrol's time in custody data.

Further, we could not assess the reliability of data on the number of hours individuals were in ICE holding facilities because ICE includes days, but not hours, in the year-end reports it produces with time in custody data. ICE provided a report for us with the time in custody by individual; however, this information was limited to number of days in custody, and for many individuals, the report included a "zero" for the overall duration. Based on findings from our audit work, an ICE data management official told us that ICE would include "book-in time" and "book-out time" in fiscal year 2016 reports to allow the reporting of hours in custody by individual. This is a positive step, which should help strengthen ICE's monitoring of time in custody data. However, this action does not address other reliability concerns we identified with ICE's time in custody data. Specifically, our analysis of ICE's data showed that one ICE holding facility was not electronically recording time in custody data in ENFORCE and another ICE holding facility was recording aliens in ENFORCE that were never in ICE's custody; rather the aliens were in custody at a Border Patrol holding facility where ICE ERO contributes resources. In response to the issues, ICE officials stated that, in 2016, these locations plan to modify standard operating procedures to strengthen the completeness or accuracy of their data in ENFORCE. While these are positive steps, without a process to fully monitor time in custody data, ICE is not positioned to address data reliability issues in a systematic manner.

**Determining level of compliance with agency guidelines and factors affecting time in custody.** While Border Patrol and ICE maintain specific guidelines regarding time in custody for individuals in short-term holding facilities, these agencies could better understand the level of compliance with the guidelines and factors impacting time in custody. Agency officials expressed concerns about individuals' time in custody at holding facilities. For example, Border Patrol officials in nine holding facilities we visited in California, Florida, and Texas told us that Border Patrol's twelve-hour

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guideline for time in custody is sometimes challenging to meet. They stated that a variety of factors could extend time in custody for individuals at holding facilities. First, Border Patrol sometimes has to process a large group of individuals simultaneously, such as when Border Patrol agents encounter a possible smuggling operation. Second, Border Patrol holding facilities may experience delays in transferring individuals to ICE custody due to ICE not having detention capacity and based on ICE offices not operating 24 hours/7 days per week to accommodate Border Patrol transfer requests. Third, Border Patrol may need to seek treatment for individuals with medical issues (e.g., dehydration, sprained ankle) prior to transferring them to ICE. An analysis of time in custody data would help Border Patrol understand the extent to which these factors might be impacting the agency's level of compliance with guidelines or whether data issues are skewing the numbers. For example, although Border Patrol officials from 10 holding facilities we visited stated that time in custody rarely exceeds 72 hours, we noted that approximately 16 percent of cases with complete data in fiscal years 2014 and 2015 exceeded this threshold.

Border Patrol and ICE provided various reasons why they are not more fully assessing time in custody data. For example, Border Patrol headquarters officials told us that they prioritize assessing time in custody data for unaccompanied alien children and families due to the legal requirements related to those populations, but that they generally rely on the field to monitor time in custody data for the rest of the population in short-term holding facilities.<sup>24</sup> An ICE data management official told us that the agency has the ability to report on hours in custody for aliens in holding facilities but has not done so in the past because ICE headquarters or external stakeholders have not been interested in these data. Additionally, an ICE headquarters official responsible for overseeing holding facilities stated that ICE does not currently use time in custody data to monitor holding facilities because the duration of custody is short

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<sup>24</sup>In particular, the *Trafficking Victims Protection Reauthorization Act of 2008* (TVPRA) requires that, barring exceptional circumstances, any federal department or agency that has unaccompanied alien children (UAC) in custody must transfer custody of such children to the U.S. Department of Health and Human Services not later than 72 hours after determining that such children are UAC. TVPRA § 235(b)(3) (8 U.S.C. § 1232(b)(3)). This provision does not apply to UAC from contiguous countries who meet certain determinations and who are thus allowed to withdraw their applications for admission and voluntarily return to those countries.

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and ICE field offices understand how to appropriately monitor time in custody. However, by not fully monitoring time in custody, agency officials at the headquarters level do not have visibility into data across holding facilities. *Standards for Internal Control in the Federal Government* recommend that entities process obtained data into quality information to support the internal control system and to achieve its objectives. The *Standards* also recommend that management entities should establish and operate monitoring activities to monitor the internal control system and evaluate the results.<sup>25</sup>

By developing and implementing a process to assess time in custody data, Border Patrol and ICE would have reasonable assurance about the quality of the data and the level of compliance with their own standards for time in custody. Border Patrol and ICE could also better understand the factors affecting time in custody in holding facilities. For example, Border Patrol would be better able to determine more accurately the extent to which agents at holding facilities may not be entering temporary or permanent book-out information for individuals and thus inadvertently increasing time in custody data. Additionally, Border Patrol would be better positioned to assess the impact that operational considerations, such as challenges in processing a large group of individuals simultaneously or coordinating transfers with ICE, have on time in custody at holding facilities nationwide. Similarly, ICE would be better positioned to assess the actual hours in custody for individuals in custody at its holding facilities to ensure that they are meeting the guidelines in its holding facility policy.

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<sup>25</sup>[GAO/AIMD-00.21.3.1.](#)

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## DHS Has Complaint Mechanisms for Individuals in Holding Facilities, but Could Better Communicate the Mechanisms and Classify and Analyze Complaint Data

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### DHS Has Multiple Mechanisms for Obtaining and Addressing Complaints Related to Holding Facilities

DHS and its components have multiple mechanisms at the holding facility and headquarters levels to obtain and address individuals' complaints regarding CBP and ICE holding facilities or personnel.<sup>26</sup> The types of complaints submitted through these mechanisms could relate to such issues as: (1) conditions of confinement, including the temperature of the hold rooms, the amount of noise or light in the facility, or the quality of the food; and (2) employee misconduct, including alleged use of force or verbal abuse by Border Patrol, OFO, and ICE employees.

DHS provides individuals in short-term holding facilities the opportunity to submit their complaints directly to CBP or ICE officials at the local holding facility. DHS headquarters and holding facility officials we spoke with told us that generally it is DHS's practice to address complaints immediately and at the lowest level possible through oral communication with Border Patrol, OFO, and ICE facility staff. Generally an individual would submit a complaint to a supervisor at a holding facility, who would try to resolve the complaint as quickly as possible, especially if a complaint related to the conditions of confinement. For example, according to CBP and ICE officials responsible for holding facilities, individuals make complaints, such as being cold or hungry and request that officers provide them a

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<sup>26</sup>According to DHS officials, complaints are sometimes submitted by other parties representing aliens, such as family members, attorneys, and advocacy organizations.

blanket or food. Officers will attempt to resolve such complaints as quickly as possible by supplying a blanket or providing a meal or a snack.

In addition to making complaints directly to officials at holding facilities, individuals in holding facilities can submit complaints through various mechanisms at the DHS or component headquarters level.<sup>27</sup> These mechanisms include: (1) DHS Office of Inspector General (OIG); (2) DHS Office for Civil Rights and Civil Liberties (CRCL); (3) CBP INFO Center; (4) ICE Detention Reporting and Information Line (DRIL); and (5) Joint Intake Center (JIC). Complaints can be submitted by telephone, e-mail, mail, or fax. For example, the DHS OIG operates a toll free hotline to receive complaints. Each of the five complaint mechanisms has a different purpose and is designed to address different issues, including alleged violations of civil rights and civil liberties and other types of grievances. According to DHS officials, complaints can be reported through any of these different mechanisms and the same complaint may be reported through multiple mechanisms. For example, according to an ICE official, the same complaint may be submitted to DHS OIG, DHS CRCL, and the JIC; however, only one investigation into the complaint may be conducted. Table 1 summarizes the different DHS mechanisms through which individuals can submit complaints, including the responsible DHS entity and the purpose of each mechanism.

**Table 1: Department of Homeland Security (DHS) Complaint Mechanisms Available for Obtaining and Addressing Complaints from Individuals in Holding Facilities**

Complaint mechanism and responsible entity	Purpose
<b>DHS Office of Inspector General (OIG)</b> DHS OIG Office of Investigations	Receive and investigate complaints of criminal and non-criminal misconduct by DHS employees and contractors, including holding facility complaints. DHS OIG also reviews and investigates allegations related to potential fraud, waste, abuse and mismanagement.
<b>DHS Office for Civil Rights and Civil Liberties (CRCL)</b> DHS CRCL Compliance Branch	Receive and investigate complaints alleging civil rights and liberties violations related to actions taken by DHS officials, employees or contractors, or as a result of DHS programs or activities, which may include allegations related to holding facility conditions. CRCL also works with the DHS components, including the DHS OIG to review and resolve complaints.

<sup>27</sup>These mechanisms are not specifically designed to address complaints from individuals in custody at holding facilities, but rather are available for anyone seeking to make a complaint related to DHS or its components.

Complaint mechanism and responsible entity	Purpose
<b>U.S. Customs and Border Protection (CBP) INFO Center</b> CBP Office of Public Affairs	Receive, manage and track general complaints submitted by the public related to, among other things, their experience with the inspection process at ports of entry. Complaints may be related to OFO or Border Patrol employees and the CBP INFO Center may refer complaints, as appropriate, to component management or investigative agencies.
<b>U.S. Immigration and Customs Enforcement (ICE) Detention Reporting and Information Line</b> ICE Office of Enforcement and Removal Operations	Receive a wide range of inquiries, such as requests for basic immigration case information, and complaints from stakeholders, including aliens in ICE custody. Refer complaints that cannot be immediately resolved to the appropriate ICE headquarters or field office for resolution.
<b>Joint Intake Center</b> ICE Office of Professional Responsibility and CBP Office of Internal Affairs	Receive, process, investigate and refer misconduct complaints involving ICE and CBP employees and contractors. In addition, coordinate misconduct complaints with the DHS OIG and refer them to the appropriate office for investigation, fact-finding or immediate management action.

Source: GAO analysis of DHS information. | GAO-16-514

### DHS Components Could Better Communicate Available Complaint Mechanisms

While DHS and its components make information publicly available on the various complaint mechanisms, they have not consistently communicated information to individuals in CBP and ICE holding facilities on mechanisms that are available for them to submit a complaint. DHS primarily advertises available complaint mechanisms through organizational websites. For example, ICE ERO includes information on its website advertising the DRIL, and the CBP website communicates information regarding the CBP INFO Center. In addition, DHS CRCL has a public guide available on its website listing the various DHS complaint mechanisms; however, this information is not consistently communicated in holding facilities. During our visits to Border Patrol, OFO, and ICE holding facilities we observed that the posters used to communicate DHS complaint mechanisms varied in their coverage. For example, while all 32 ICE and CBP holding facilities we visited included at least one poster on how to file a complaint with the DHS OIG or a component involving a potential incident of sexual abuse or assault related to the Prison Rape Elimination Act (PREA), the facilities differed in the extent to which they

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communicated how to submit a non-PREA complaint through DHS complaint mechanisms.<sup>28</sup> Specifically:

- **ICE.** We observed that most ICE holding facilities (six out of eight) posted information on how individuals can contact the DHS OIG to file non-PREA complaints, while half of the facilities (4 out of 8) posted information on the DRIL and a couple of facilities (2 out of 8) posted information on the JIC.<sup>29</sup> Half of the ICE holding facilities (4 out of 8) included a “speed dial” poster with phone numbers on external resources (e.g., “Mexican Consulate” or “Joint Intake Center”); however, the posters do not provide any information on these resources, including their purpose.
- **Border Patrol.** We observed that 4 of 17 Border Patrol holding facilities posted information on how individuals can contact the DHS OIG to file general complaints, but the remaining facilities did not have information posted on any complaint mechanisms, such as the JIC or CBP INFO Center.
- **OFO.** We observed that one OFO holding facility (one out of six) posted information on both the DHS OIG and CBP INFO Center; however, at the remaining facilities we did not see posted information on any reporting mechanisms.

Figure 3 shows an example of a PREA poster that we observed in a Border Patrol holding facility.

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<sup>28</sup>On March 7, 2014, DHS issued a final rule adopting its Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities, 79 Fed. Reg. 13,100 (March 7, 2014) (codified at 6 C.F.R. pt. 115). These standards satisfy the requirements of PREA which was enacted to, among other things, establish a zero-tolerance standard for rape in U.S. prisons and make the prevention of prison rape a top priority in each prison system. See Pub. L. No. 108-79, § 3, 117 Stat. 972, 974-75 (2003). DHS’s PREA standards generally apply to both holding facilities and detention facilities and require DHS to make public its zero-tolerance policy regarding sexual abuse and ensure this information is visible or continuously and readily available to detainees. Posters publicizing DHS’s zero tolerance policy regarding sexual abuse and assault include the DHS OIG hotline phone number that individuals can use to report sexual abuse and assault.

<sup>29</sup>ICE ERO has issued broadcast guidance to field offices directing them to ensure DRIL posters are easily visible and accessible to individuals in holding facilities.

Figure 3: Complaint Poster Observed in Border Patrol Holding Facility, September 2015



Source: GAO; U.S. Customs and Border Protection. | GAO-16-514

DHS components have undertaken some efforts to review complaints-related signage in holding facilities. For example, in 2015, the CBP Commissioner's Office directed OFO and Border Patrol to review complaints-related signage in holding facilities because of concerns that it might be outdated and not consistently in place. As part of that effort, the components issued guidance to the field; however, the guidance has been limited to ensuring PREA posters are in place and removing outdated signage. For example, the Border Patrol instructed all Border Patrol sectors to ensure that signage in holding facilities complied with PREA standards and remove any outdated signage related to the former Immigration and Naturalization Service. Similarly, OFO instructed holding facilities to ensure that proper signage, such as PREA information, is displayed in the detention areas. While OFO and Border Patrol took steps to evaluate complaints-related signage in holding facilities and clarify that PREA posters should be in place, they have not provided guidance to the field concerning how and which complaint mechanisms should be communicated to individuals in the holding facilities.

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According to DHS headquarters and holding facility officials, DHS has not placed an emphasis on which complaint mechanisms should be communicated because individuals are encouraged to submit complaints to holding facility personnel and an individual may be more likely to submit a complaint while in longer-term detention. For example, according to a Border Patrol official in the field, the majority of all complaints made by individuals are not made while they are in Border Patrol custody, but rather after they have been transferred to ICE custody in a detention facility. However, individuals in holding facilities may have a concern that they do not communicate because they may not be aware of the available complaint mechanisms. In addition, while CBP and ICE may encourage individuals to submit complaints to holding facility personnel rather than through external complaint mechanisms, individuals who need to file a complaint may not necessarily: (1) be able to get their complaint addressed at the field level, or (2) feel comfortable lodging a complaint to a local official, such as due to fear of retribution.<sup>30</sup> An ICE holding facility official shared this view, stating that it is important to inform individuals of external mechanisms like the DRIL since they may not be comfortable making a complaint locally or the local office may not properly resolve the issue. Furthermore, agency officials and advocacy organizations have expressed concerns about the transparency of DHS's processes for obtaining holding facility complaints. For example, during our review, both headquarters and field officials within the components stated that individuals may not understand the different avenues to file a complaint. In addition, in 2014, an advocacy organization expressed written concerns to DHS, noting that there are many different complaint mechanisms in place and the public is confused about where and how to submit complaints related to holding facilities.

*Standards for Internal Control in the Federal Government* state that management should document each unit's responsibilities through policy to allow management to effectively monitor the control activity. The standards also state that management should communicate quality information down and across reporting lines to enable personnel to perform key roles in achieving objectives, addressing risks, and

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<sup>30</sup>Among other scenarios, an individual might not be able to get their complaint addressed at the field level if it relates to employee misconduct rather than a condition of confinement. CBP and ICE officials are required to report potential employee misconduct to the JIC.

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supporting the internal control system.<sup>31</sup> By providing guidance to the field that specifies how and which complaint mechanisms should be communicated in holding facilities, Border Patrol, OFO, and ICE could better ensure that individuals have full recourse to the mechanisms available to them should they need to file a complaint about facility conditions, misconduct, abuse, or other issues.

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### DHS Does Not Maintain Classification Codes for Holding Facility Complaints in All Tracking Systems or Conduct Trend Analysis

Most of the complaint tracking systems that DHS and its components employ do not have classification codes for holding facilities that would allow agencies to readily identify which complaints are related to holding facilities and to analyze these complaints for potential trends.<sup>32</sup> DHS OIG, CRCL, CBP INFO Center, DRIL, and JIC maintain tracking systems for complaints; however, information on holding facilities is typically subsumed within a narrative field. In order to better understand the capabilities of DHS complaint tracking systems, we gathered data from JICMS because it contains information on both ICE and CBP complaints that may have originated from holding facilities. In reviewing the JICMS data, we found that it does not include a facility, facility type, or issue code related to holding facilities that would allow users to readily identify the universe of complaints involving holding facilities. Rather, we found that information identifying whether a complaint involved a holding facility may be located within narrative fields. We searched the database using potentially relevant issue codes and terms that would potentially uncover complaints in the narrative field, however, it was not always clear, even when reviewing the narrative field, whether a complaint was related to a holding facility.<sup>33</sup> For example, we identified complaints that alleged an individual's money was not returned to him or an individual was injured due to potential use of force. However it was unclear if these complaints related to ICE holding facilities or detention facilities.

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<sup>31</sup>[GAO/AIMD-00.21.3.1](#).

<sup>32</sup>These databases include the Enterprise Data System (DHS OIG); Entellitrak Database (CRCL); Compliment/Complaint Management System (CBP INFO Center); Custody Assistance and Inquiry Resolution System (DRIL) and Joint Integrity Case Management System (JIC).

<sup>33</sup>We searched the database using a number of terms associated with "hold" and "short-term."

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Upon our request, the CBP Office of Internal Affairs produced a report from JICMS showing potential holding facility complaints; however, officials from that office noted that it was a time consuming and labor intensive process, and that the report would not necessarily account for all holding facility complaints. According to DHS officials, with the exception of CRCL's database, the complaint tracking systems for the other mechanisms DHS OIG, DRIL, and CBP INFO Center—present similar limitations. Similarly, in February 2016, we reported that CRCL, DRIL, and JIC maintain medical-related complaint data in their respective tracking systems; however, the data, in most cases, is not tracked or analyzed for trending purposes.<sup>34</sup> Specifically, we found that while DHS provides various avenues for detainees to file medical care complaints related to immigration detention, DHS does not have a mechanism to readily determine the overall volume of medical-related complaints it receives, their status, or outcome.

DHS and component officials stated that there are not many complaints related to holding facilities, so they have not prioritized creating a specific classification code for holding facilities or conducted trend analyses on complaints related to holding facilities. However, without creating a classification code for holding facilities and conducting trend analysis, DHS does not have a way of knowing the number and types of complaints individuals may be submitting related to their short-term custody at CBP and ICE holding facilities. Moreover, CBP officials responsible for the CBP INFO Center indicated that trend analysis of complaints information would help CBP understand where there are potential operational issues and help the agency mitigate these issues. Additionally, a recent review of use-of-force incidents by the DHS OIG found that CBP should better analyze use-of-force data—which could be determined by complaints of employee misconduct—to inform departmental decision-making.<sup>35</sup>

According to *Standards for Internal Control in the Federal Government*, management should process the data it collects into quality information

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<sup>34</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>35</sup>DHS Office of Inspector General, “*CBP Use of Force Training and Actions To Address Use of Force Incidents*,” OIG-13-114 (September 2013).

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that can be used to support the internal control system. The *Standards* also call for management to develop procedures to monitor the performance of regular operations over time and that there be effective communication within and across agencies to help ensure appropriate decisions are made.<sup>36</sup> Creating a classification code for holding facilities within the various DHS complaint tracking systems would allow DHS to more readily access data on complaints related to individuals' short-term custody at CBP and ICE holding facilities. Such data could help DHS maintain greater visibility on the complaints, including complaint volume, facilities where complaints are filed, and differences across facility type—all of which could better position DHS to analyze and identify potential trends and use this information to inform management decisions. Additionally, analyzing this type of data for trends could help guide DHS's efforts during annual compliance monitoring, such as including inspection areas related to common complaints filed in holding facilities.

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## Conclusions

CBP and ICE maintain holding facilities across the nation, which contain basic features and are designed specifically for the short-term custody of individuals. CBP and ICE have standards and monitoring processes in place at the headquarters and field levels—including the amount of time an individual generally may be held—to help ensure that holding facilities are providing the appropriate care. While Border Patrol and ICE maintain systems to track time in custody, assessing the data to ensure its quality would improve its utility in accurately informing Border Patrol and ICE's operations. Furthermore, fully assessing their time in custody data would help the components better understand the various factors impacting time in custody, and would better position them to identify steps, if needed, to address the amount of time individuals are held in custody. In addition, DHS and its components have a number of complaint mechanisms in place. However, providing guidance to holding facilities on which of DHS's various complaint mechanisms they should communicate to individuals in custody would help CBP and ICE have better assurance that individuals in custody within holding facilities have received information on how to submit a complaint. In addition, developing a process for analyzing trends related to holding facility complaints would

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<sup>36</sup>[GAO/AIMD-00.21.3.1](#).

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provide CBP and ICE with more information to oversee such facilities and aid in management decision-making.

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## Recommendations for Executive Action

To enhance the monitoring of holding facilities, the Secretary of Homeland Security should direct Border Patrol and ICE to develop and implement a process to assess their time in custody data for all individuals in holding facilities, including:

- identifying and addressing potential data quality issues; and
- identifying cases where time in custody exceeded guidelines and assessing the factors impacting time in custody.

To strengthen the transparency of the complaints process, the Secretary of Homeland Security should direct CBP and ICE to develop and issue guidance on how and which complaint mechanisms should be communicated to individuals in custody at holding facilities.

To facilitate the tracking of holding facility complaints, we recommend that the Secretary of Homeland Security include a classification code in all complaint tracking systems related to DHS holding facilities.

To provide useful information for compliance monitoring, the Secretary of Homeland Security should direct CBP and ICE to develop and implement a process for analyzing trends related to holding facility complaints across their respective component.

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## Agency Comments and Our Evaluation

We provided a draft of this report to DHS for review and comment. DHS provided written comments, which are noted below and reproduced in full in appendix II, and technical comments, which we incorporated as appropriate.

DHS concurred with all four recommendations in the report and described actions underway or planned to address them. With regard to the first recommendation related to assessing time in custody data, DHS concurred and stated that Border Patrol and ICE will develop processes to assess time in custody data for all individuals in holding facilities. For example, ICE will take steps to validate length of stay data and identify potential data quality issues. With regard to the second recommendation that CBP and ICE develop and issue guidance on how and which

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complaint mechanisms should be communicated to individuals in holding facilities, DHS concurred and stated that CBP and ICE will develop and issue such guidance. For example, CBP plans to leverage an existing working group to develop and coordinate guidance on complaint mechanisms. With regard to the third recommendation that DHS include a classification code in all complaint tracking systems related to DHS holding facilities, DHS concurred and stated that the agency will take measures to add a code to tracking systems. Specifically, DHS plans to explore the feasibility of adding a source location code specific to holding facilities within tracking systems. With regard to the fourth recommendation that CBP and ICE develop and implement a process for analyzing trends related to holding facility complaints across their respective component, DHS concurred and stated that each component will institute a process. For example, CBP plans to develop reports on trends and patterns related to holding facilities. To the extent that CBP and ICE analyze trends in all complaint tracking systems, including JICMS, these steps should meet the intent of the recommendation. These planned actions, if fully implemented, should address the intent of the four recommendations contained in the report.

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We are sending copies of this report to the appropriate congressional committees, the Secretary of Homeland Security, and other interested parties. In addition, the report is 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 III.

Sincerely yours,



Rebecca Gambler  
Director, Homeland Security and Justice

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# Appendix I: Objectives, Scope, and Methodology

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Our objectives were to determine the extent to which the Department of Homeland Security (DHS) has (1) standards in place for the short-term custody of aliens and monitors compliance with established standards and (2) processes in place for obtaining and addressing complaints from aliens in holding facilities.

For this report, our scope covered holding facilities operated by U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE). Specifically, we included in our review holding facilities managed by CBP's U.S. Border Patrol and Office of Field Operations (OFO), as well as ICE's Enforcement and Removal Operations (ERO). Within OFO, we focused on holding facilities at land Ports of Entry (POE) and excluded air and maritime POEs since the environment at land POEs, including time in custody, is more similar to Border Patrol and ICE ERO holding facilities.

To address these questions, we visited a nongeneralizable sample of 32 CBP and ICE holding facilities in California (July 2015), Florida (August/September 2015), Texas (November 2015) and Virginia (January 2016)—to, among other things, observe holding facility conditions and conduct semistructured interviews with holding facility personnel and senior officials with Border Patrol sectors, OFO field offices and ICE ERO field offices. Specifically, we visited 17 Border Patrol facilities, 7 OFO facilities, and 8 ICE facilities. We selected these facilities based on a mix of factors, such as facility type, differences in geographical location, number of apprehensions and recommendations made by DHS and advocacy organizations that work with individuals held in DHS's custody. We focused the site visit interviews on holding facility standards, compliance mechanisms, and avenues for individuals to make complaints. The information we obtained from our holding facility visits cannot be generalized to all facilities, but provided us insights into the implementation of policies and procedures used by DHS to oversee holding facilities and manage complaints. Prior to our site visits, we interviewed five advocacy organizations to obtain their perspective on DHS's management of holding facilities. We identified these organizations through similar GAO work and the recommendations of officials with advocacy organizations. While not generalizable, this sample of organizations provided us with insights into the perspectives of advocacy organizations regarding DHS's short-term custody of aliens.

To determine the extent to which DHS has standards in place for the short-term custody of aliens and monitors compliance with established standards, we reviewed agency documentation, including holding facility

policies and procedures and self-inspection results. Specifically, we analyzed national standards for holding facilities covering, among other things, the conditions of confinement, such as the provision of meals and water, and time in custody. These standards include CBP's October 2015 *National Standards on Transport, Escort, Detention and Search*; Border Patrol's January 2008 *Hold Rooms and Short Term Custody* policy; OFO's August 2008 *Secure Detention, Transport, and Escort Procedures at Ports of Entry*; and ICE's September 2014 *Operations of ERO Holding Facilities* policy. To better understand the standards and monitoring processes in place, we interviewed Border Patrol, OFO, and ICE officials at the headquarters level that have responsibility for overseeing holding facilities, as well as holding facility personnel and sector/field office officials. During these interviews, among other things, we determined the extent to which agencies use and analyze data, such as time in custody, for oversight purposes and discussed the various factors that might impact time in custody. We assessed DHS practices for monitoring holding facilities against relevant standards in *Standards for Internal Control in the Federal Government*.<sup>1</sup>

In addition, we collected and analyzed fiscal year 2014 through 2015 Border Patrol data on apprehensions and alien time in custody—the most recent data maintained by Border Patrol at the time of our review—to determine the population and time in custody for aliens in holding facilities. To determine the reliability of this data, we reviewed Border Patrol documentation and interviewed agency officials responsible for ensuring data quality about e3—the system that Border Patrol uses to track information on aliens held in short-term custody. We determined that the apprehension data was sufficiently reliable for the purposes of our reporting objectives; however, we could not determine the reliability of the time in custody data because of potential irregularities, such as individuals indicated as having many months in custody, which we discuss in the report. We also collected data from ICE on the number of aliens in custody at ERO holding facilities; however, based on a review of ICE documentation and interviews with ICE officials responsible for ensuring data quality, we determined that the data was not reliable because of missing and inaccurate data, including a potentially significant

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<sup>1</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00.21.3.1](#) (Washington, D.C.: November 1999).

over-count in the number of aliens in custody at one holding facility. Moreover, we were unable to analyze or determine the reliability of ICE data on time in custody because the agency does not include hours in custody in its standard reports. We were unable to obtain OFO data on number of aliens and their time of custody at holding facilities because the agency does not currently collect it nationwide.

To determine the extent to which DHS has processes in place for obtaining and addressing complaints from aliens in holding facilities, we analyzed documentation on DHS Office of Inspector General (OIG), DHS Office for Civil Rights and Civil Liberties, ICE/CBP Joint Intake Center (JIC), CBP INFO Center, and ICE Detention and Reporting Information Line processes for managing complaints and interviewed officials from these complaint mechanisms. We learned from our review of documentation and interviews with agency officials that DHS complaint tracking systems generally do not have a classification code for holding facility complaints. To better understand the characteristics of these tracking systems, we analyzed fiscal year 2012-2014 data maintained in the Joint Integrity Case Management System (JICMS)—the system ICE and CBP use to track complaints reported to the JIC, including those related to holding facilities. We selected JICMS data to evaluate since it contains information on both ICE and CBP complaints. Based on this analysis, we confirmed that it was not possible to identify the universe of holding facility complaints in JICMS since the tracking system does not have a facility or issues type code associated with holding facilities. In addition, during our site visits, we interviewed holding facility officials on their local processes for obtaining and addressing complaints and evaluated how holding facilities communicated available complaint mechanisms. Specifically, we observed whether holding facilities posted information on available complaint mechanisms, such as the DHS OIG, in holding cells/rooms or in the processing area and we summarized the results of these observations by holding facility and complaint mechanism. We assessed DHS's processes for obtaining and addressing complaints against relevant standards in *Standards for Internal Control in the Federal Government*.<sup>2</sup>

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<sup>2</sup>[GAO/AIMD-00.21.3.1](#).

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We conducted this performance audit from May 2015 to May 2016 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.

# Appendix II: Comments from Department of Homeland Security

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



May 18, 2016

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

Re: Draft Report GAO-16-514, "IMMIGRATION DETENTION: Additional Actions Needed to Strengthen DHS Management of Short-Term Holding Facilities"

Dear Ms. Gambler:

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

The Department is pleased to note GAO's positive recognition that the U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) have standards and monitoring processes in place, at both the headquarters and field levels, to help ensure that detained aliens who may be subject to removal or have been ordered removed from the United States are provided safe, secure, and humane confinement in short-term holding facilities. In addition, we appreciate GAO's acknowledgement that DHS has multiple mechanisms for obtaining and addressing complaints related to conditions of confinement and alleged employee misconduct at holding facilities. DHS is committed to developing policies, procedures, and practices that further strengthen oversight of the nation's immigration detention system and facilitate legal immigration.

The draft report contained four recommendations, with which the Department concurs. Specifically, GAO recommended that the Secretary of Homeland Security:

**Recommendation 1:** Direct Border Patrol and ICE to develop and implement a process to assess their time in custody data for all individuals in holding facilities, including:

- Identifying and addressing potential data quality issues; and
- Identifying cases where time in custody exceeded guidelines and assessing the factors impacting time in custody.

**Response:** Concur. As the draft report acknowledged, CBP already has a process for the U.S. Border Patrol (USBP) Headquarters Statistics and Data Integrity (SDI) Division to receive an in-depth time in custody report (TIC) for unaccompanied alien children (UAC) and family units (FMUA) on a daily basis. The Assistant Chief at USBP Headquarters SDI Division routinely reviews these data sets to identify any irregularities and contacts the respective sector for corrective action, if applicable. USBP, however, will develop a process to expand the monitoring to include all individuals in custody.

In addition, the ICE Enforcement Integrated Database (EID)/ENFORCE currently contains the information necessary to better assess time in custody, including specific book-in/book-out times by hour and minute. Enforcement and Removal Operations (ERO) has already updated its reports to comply with this recommendation. Supporting documentation of this process will be provided to the audit team under separate cover. ICE Custody Management will collaborate with Law Enforcement Systems and Analysis (LESA) and Field Operations personnel to validate detainee length of stay data and identify potential data quality issues. Custody Management is developing a process to address cases where detainee length of stay exceeds current guidelines. Estimated Completion Date (ECD): May 31, 2017.

**Recommendation 2:** Direct CBP and ICE to develop and issue guidance on how and which complaint mechanisms should be communicated to individuals in custody at holding facilities.

**Response:** Concur. CBP established a Complaints and Discipline Work Group in October 2015. This working group meets on a regular basis to develop and coordinate guidance on how and which complaint mechanisms should be communicated to individuals in custody at holding facilities. CBP is also in the process of developing signage in both English and Spanish for how to submit complaints.

In addition, ICE Detention Reporting and Information Line (DRIL) has the capability to trend data among the call types documented by DRIL operators. At the moment, data is currently provided to management regarding long-term detention facility calls; however, data could be similarly compiled for holding facilities, when needed. Supporting documentation of this process will be provided to the audit team under separate cover. ERO HQ will send instructions to the Field Offices to post flyers in holding facilities that instruct detainees to report complaints using DRIL. ECD: May 31, 2017.

**Recommendation 3:** Include a classification code in all complaint tracking systems related to DHS holding facilities.

**Response:** Concur. ICE EID/ENFORCE currently contains the information necessary to better assess time in custody, including specific book-in/book-out times by hour and minute. ERO is already working on updating its reports to comply with this recommendation. Supporting documentation of this process will be provided to the audit team under separate cover.

DHS is currently exploring the feasibility of modifying all existing complaint collection systems so that they have a “source location code” that will clearly identify the origin of the complaint to be a short term holding facility. ECD: To Be Determined.

**Recommendation 4:** Direct CBP and ICE to develop and implement a process for analyzing trends related to holding facility complaints across their respective component.

**Response:** Concur. In addition to developing the guidance referenced in Recommendation 2, CBP’s Complaints and Discipline Work Group will be responsible for developing and implementing a process that analyzes trends related to holding facility complaints across their respective component. Additionally, CBP’s Complaints and Compliments Management System has the ability to develop specific categories for complaints, and can produce reports on trends and patterns.

A choice option currently exists when an individual who is calling into DRIL states he/she is currently located in an ICE holding facility. The call can designate the facility as a **Hold** facility type identifier. This function already exists and supporting documentation of this process will be provided to the audit team under separate cover. This information will then be used to identify any potential trends related to holding facility complaints. ECD: May 31, 2017.

Again, thank you for the opportunity to review and comment on the GAO’s draft report. Technical comments were provided previously under a separate cover. Please feel free to contact me if you have any questions. We look forward to working with you in the future.

Sincerely,



Jim H. Crumpacker, CIA, CFE  
Director  
Departmental GAO-OIG Liaison Office

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# Appendix III: GAO Contact and Staff Acknowledgments

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## GAO Contact

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

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## Staff Acknowledgments

In addition to the contact named above, Kirk Kiester (Assistant Director), Anthony Fernandez, Eric Hauswirth, Susan Hsu, Brian Lipman, Jon Najmi, Steven Rocker, and Mike Silver made key contributions to this report.

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