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et al.,

Plaintiffs,

v.

U.S. IMMIGRATION AND CUSTOMS *et al.*,

Defendants.

: 19-cv-01546-

Declaration of Elizabeth Jordan in of Plaintiffs' Reply Brief in

Preliminary Injunction

Date: April 13, 2020
Time: 9:00 a.m.
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*Admitted Pro Hac Vice
**Pro Hac Vice Application Forthcoming

I, Elizabeth Jordan, declare as follows:

1. I am an attorney duly licensed to practice law in the States of Louisiana and New York and am appearing *Pro Hac Vice* in this case. I am counsel of record for Plaintiffs in the above-captioned case. This declaration is based upon my personal knowledge. If called to testify, I would testify competently to the facts described in this declaration.
2. I submit this declaration in support of Plaintiffs' Reply Brief in Support of Emergency Motion for Preliminary Injunction.

EXHIBITS IN SUPPORT OF PLAINTIFFS' REPLY BRIEF IN SUPPORT OF EMERGENCY MOTION FOR PRELIMINARY INJUNCTION

1. Attached as **Exhibit A** is a true and correct copy of Department of Homeland Security Office of the Inspector General, U.S. Immigration and Customs Enforcement's Alternatives to Detention (Revised) (Feb. 4, 2015), available at https://www.oig.dhs.gov/assets/Mgmt/2015/OIG_15-22_Feb15.pdf (last visited Apr. 8, 2020).
2. Attached as **Exhibit B** is a true and correct copy of National Immigrant Justice Center, ICE Released Its Most Comprehensive Immigration Data Yet. It's Alarming. (Mar. 13, 2018), available at https://immigrantjustice.org/staff/blog/ice-released-its-most-comprehensive-immigration-detention-data-yet (last visited Apr. 8, 2020).
3. Attached as **Exhibit C** is a true and correct copy of American Immigration Council, Fact Sheet, Immigrants and Families Appear in Court (July 30, 2019), available at https://www.americanimmigrationcouncil.org/research/immigrants-and-families-appear-court (last visited Apr. 8, 2020).
4. Attached as **Exhibit D** is a true and correct copy of Memorandum from Attorney Gen. William Barr to Director of Bureau of Prisons, (April 3, 2020) available at https://www.justice.gov/file/1266661/download (last

visited Apr. 8, 2020).

5. Attached as **Exhibit E** is a true and correct copy of U.S. Immigration and Customs Enforcement Fiscal Year 2019 Enforcement and Removal Operations Report, available at https://www.ice.gov/sites/default/files/documents/Document/2019/eroReportFY2019.pdf (last visited Apr. 8, 2020).
6. Attached as **Exhibit F** is a true and correct copy of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations Bond Managemer , (Aug. 19, 2014) available at https://www.aila.org/File/Related/16051730f.pdf (last visited Apr. 8, 2020).
7. Attached as **Exhibit G** is a true and correct copy of Peter B. Berg, Assistant Dir., Field Operations, Updated Guidance: COVID-19 Detained Docket Review-Effective Immediately (Apr. 4, 2020).
8. Attached as is a table of court decisions addressing the COVID-19 pandemic and request for release of people detained in immigration detention centers across the country.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 9, 2020 in Denver, Colorado.

Elizabeth Jordan

EXHIBIT A

OFFICE OF INSPECTOR GENERAL

U.S. Immigration and Customs Enforcement's Alternatives to Detention (Revised)

Homeland Security

February 4, 2015

OIG-15-22

HIGHLIGHTS

U.S. Immigration and Customs Enforcement's Alternatives To Detention

February 4, 2015

Why We Did This

ICE's Intensive Supervision Appearance Program offers alternatives to detention. We reviewed whether: (1) the rate at which individuals in the Intensive Supervision Appearance Program have absconded or committed criminal acts has been reduced since 2009; (2) ICE can improve the effectiveness of its alternatives to detention program, either by revising or expanding its Intensive Supervision Appearance Program contract, or through other cost-effective means; and (3) ICE's Risk Classification Assessment is effective.

What We Recommend

We made five recommendations to improve ICE's management of the Intensive Supervision Appearance Program and the Risk Classification Assessment.

For Further Information:
Contact our Office of Public Affairs at (202) 254-4100, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

According to U.S. Immigration and Customs Enforcement (ICE), the Intensive Supervision Appearance Program is effective because, using its performance metrics, few program participants abscond. However, ICE has changed how it uses the program and no longer supervises some participants throughout their immigration proceedings. As a result, ICE cannot definitively determine whether the Intensive Supervision Appearance Program has reduced the rate at which aliens, who were once in the program but who are no longer participating, have absconded or been arrested for criminal acts. ICE should adjust its performance metrics to reflect changes in its criteria for program participation.

ICE instructed field offices to consider redetaining noncompliant Intensive Supervision Appearance Program participants, but most field offices do not have sufficient funding for detention bed space to accommodate all noncompliant participants. ICE could improve the effectiveness of the program by allocating some Intensive Supervision Appearance Program contract funds to redetain noncompliant participants.

ICE developed a Risk Classification Assessment to assist its release and custody classification decisions. However, the tool is time consuming, resource intensive, and not effective in determining which aliens to release or under what conditions.

Agency Response

ICE concurred with all five recommendations.

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

February 4, 2015

MEMORANDUM FOR: The Honorable Sarah R. Saldaña
Director
U.S. Immigration and Customs Enforcement

FROM: John Roth
Inspector General

SUBJECT: *U.S. Immigration and Customs Enforcement's Alternatives to Detention*

Attached for your information is our revised final report, *U.S. Immigration and Customs Enforcement's Alternatives to Detention (OIG-15-22)*. We incorporated the formal comments from the U.S. Immigration and Customs Enforcement (ICE) in the final report.

The report contains five recommendations aimed at improving ICE's management of its alien release decisions and terms of release. Your office initially concurred with Recommendation 1, 2, 3, and 4, and did not concur with Recommendation 5.

Based on information provided in your initial response, we clarified Recommendation 5 and provided ICE with an opportunity to modify its response. ICE modified its response and now concurs with the Recommendation 5. We consider Recommendations 1, 2, 3, 4, and 5 resolved and open.

As prescribed by the *Department of Homeland Security Directive 077-01, Follow-Up and Resolutions for Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) corrective action plan and (2) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to appropriate congressional committees

with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website.

Please call me with any questions, or your staff may contact Anne Richards, Assistant Inspector General for Inspections, at (202) 254-4100.

Errata page for OIG-15-22
U.S. Immigration and Customs Enforcement's Alternatives to Detention

Change made to Recommendation 5, page 13, (see below):
We revised the recommendation for clarity:

OIG Draft Language:

Recommendation 5. We recommend that ICE Executive Associate Director for the Office of Enforcement and Removal Operations: Revise the Risk Classification Assessment special vulnerabilities module to ensure that ICE conducts medical evaluations in accordance with the ICE Performance Based National Detention Standard on medical care.

OIG Final Report Language:

Recommendation 5. We recommend that ICE Executive Associate Director for the Office of Enforcement and Removal Operations: Revise the Risk Classification Assessment special vulnerabilities module to ensure that when ICE conducts the Risk Classification Assessment at a detention facility, medical staff or trained ERO officers ask detainees relevant medical questions in a setting that provides privacy.

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Abbreviations

ATD	Alternatives to Detention
DHS	Department of Homeland Security
ENFORCE	Enforcement Case Tracking System
ERO	Enforcement and Removal Operations
FY	fiscal year
GPS	Global Positioning System
ICE	U.S. Immigration and Customs Enforcement
INA	Immigration and Nationality Act
ISAP	Intensive Supervision Appearance Program
OIG	Office of Inspector General
RCA	Risk Classification Assessment

Results of Inspection

The *Immigration and Nationality Act*, as amended, grants U.S. Immigration and Customs Enforcement (ICE) administrative authority to detain aliens during the process of removing them from the United States. ICE's Intensive Supervision Appearance Program offers alternatives to detention. Under the program, ICE supervises aliens it has released from detention, and monitors them electronically. As a condition of release, ICE requires aliens to appear in immigration court for removal proceedings and comply with removal orders from the United States.

We reviewed whether: (1) the rate at which individuals in the Intensive Supervision Appearance Program have absconded or committed criminal acts has been reduced since 2009; (2) ICE can improve the effectiveness of its alternatives to detention program, either by revising or expanding its Intensive Supervision Appearance Program contract, or through other cost-effective means; and (3) ICE's Risk Classification Assessment is effective.

According to ICE, the Intensive Supervision Appearance Program is effective because, using its performance metrics, few program participants abscond. However, ICE has changed how it uses the program and no longer supervises some participants throughout their immigration proceedings. As a result, ICE cannot definitively determine whether the Intensive Supervision Appearance Program has reduced the rate at which aliens, who were once in the program but who are no longer participating, have absconded or been arrested for criminal acts. ICE should adjust its performance metrics to reflect changes in its criteria for program participation.

ICE instructed field offices to consider redetaining noncompliant Intensive Supervision Appearance Program participants, but most field offices do not have sufficient funding for detention bed space to accommodate all noncompliant participants. ICE could improve the effectiveness of the program by allocating some Intensive Supervision Appearance Program contract funds to redetain noncompliant participants.

ICE developed a Risk Classification Assessment to assist its release and custody classification decisions. However, the tool is time consuming, resource intensive, and not effective in determining which aliens to release or under what conditions.

We made five recommendations to improve ICE's management of the Intensive Supervision Appearance Program and the Risk Classification Assessment.

Background

The *Immigration and Nationality Act*, as amended (INA), grants ICE administrative authority to detain aliens during the process of removing them from the United States. ICE's Office of Enforcement and Removal Operations (ERO) manages and oversees Federal immigration detention. ERO detains aliens to ensure they appear in court for immigration hearings and comply with removal orders that immigration courts may issue.

ERO tracks more than 1.8 million aliens in immigration removal proceedings, but ICE's budget only funds 34,000 detention beds. Because ERO cannot detain all aliens who are waiting to appear in immigration courts or waiting for removal, it prioritizes detention bed space for: (1) aliens it is required to detain under the INA; (2) those who pose a risk to public safety if released; and (3) those at risk of absconding. However, ERO may not detain all aliens who fall in these three categories. For example, ERO cannot indefinitely detain most aliens who have a final removal order, but are not removable from the United States.[1] ERO may also not be able to detain all aliens who are at risk of absconding.

In 2003, to provide additional options for supervised release, Congress appropriated funds to pilot a 5-year Intensive Supervision Appearance Program (ISAP). Called ISAP I, the program operated in ten cities; it ran from 2004 to 2009. In June 2008, Congress appropriated approximately $62 million to fund the first year of a program called ISAP II, which was designed to expand the original program nationwide. For fiscal year (FY) 2014, Congress appropriated approximately $90 million for the program; ERO plans to renew the program contract for ISAP III in November 2014. Our report focuses on ISAP II.

ERO uses ISAP II in conjunction with the less restrictive release conditions associated with payment of a bond, or having to report periodically to an ERO field office. Under ISAP II, ERO, through a contractor, provides a supervised alternative to detention using technology and case management. The intent of this supervised release is to increase compliance with release conditions, appearances in immigration court for removal hearings, and final removal orders that immigration courts may issue.

[1] Certain countries refuse to issue travel documents to their nationals who are under final removal orders or countries delay the removal process. Since 2001, the U.S. Supreme Court has determined that ICE generally should not detain aliens with a final removal order for longer than 6 months if there is no significant likelihood of removal in the reasonably foreseeable future. Even if there is no significant likelihood of removal within the reasonably foreseeable future, however, DHS regulations permit the continued detention of certain classes of removable aliens on account of special circumstances, such as national security or public safety reasons. *See* 8 C.F.R. § 241.14(f). Decisions include *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) and *Clark v. Martinez*, 543 U.S. 371, 386 (2005).

ISAP II currently has two supervision options, Technology-Only and Full-Service. As of February 2014, there were 10,833 active Technology-Only program participants and 11,368 active Full-Service participants. ERO's contractor provides electronic monitoring services for both programs, either through use of an ankle bracelet that enables Global Positioning System (GPS) monitoring or voice recognition software for telephonic reporting. Contractor charges for supervision vary by type of monitoring. The full cost of Technology-Only supervision is difficult to estimate because ERO does not track the cost of using its personnel to manage cases, but the contractor charges $0.17 a day per participant for telephonic monitoring and $4.41 for GPS monitoring. For Full-Service supervision, the contractor provides case management, as well as electronic monitoring, and charges an average of $8.37 a day per participant.

Contractor-provided case management includes:

- encouraging participants to comply with immigration proceedings, obtain travel documents, and plan for return to their country of origin;
- providing information on transportation, medical care, religious services, legal resources, and other community resources;
- scheduling unannounced visits to the participant's work and/or living address;
- scheduling participant visits to the contractor's office; and
- reporting any instances of program noncompliance to ERO, such as tampering with or removing a GPS ankle bracelet or missing a visit.

When ISAP II expanded to a nationwide program in 2009, ERO identified three high priority categories of aliens to enroll:

(1) aliens with final removal orders who are not removable from the United States and cannot be legally held in custody more than 6 months, but who are a danger to the community;
(2) aliens in removal proceedings, not issued final removal orders, who are at high risk of absconding; and
(3) aliens with final removal orders, previously released under supervision, who violate the terms of supervision by committing crimes or otherwise fail to comply with release conditions.

Risk Classification Assessment

ICE implemented the Risk Classification Assessment (RCA) in January 2013, in response to a 2009 immigration detention review.[2] The RCA is a module in ICE's Enforcement Case Tracking System (ENFORCE), which ERO uses to

[2] Dr. Dora Schriro, *Immigration Detention Overview and Recommendations*, ICE, October 6, 2009.

track detention, removal, and release operations. When ERO first detains an alien, ERO uses the RCA to generate standardized recommendations for:

(1) detention or release;
(2) custody classification level for detained aliens;
(3) immigration bond amount, if applicable; and
(4) community supervision level (including ISAP II) for released aliens.

ICE expects ERO officers to complete the RCA at intake or within 5 days of detention, unless detention is mandatory. Appendix D shows the RCA information ERO collects for each alien.

Intensive Supervision Appearance Program Performance Metrics Need Revision

According to ERO, ISAP II is effective because, using its performance metrics, few program participants abscond. However, ERO has not adjusted its performance metrics to account for changes in the criteria for ISAP II participation. In 2011, ERO began removing some participants from the program and reducing GPS monitoring for others when their immigration proceedings were delayed. As a result, ERO cannot definitively determine whether ISAP II has reduced the rate at which aliens, who were once in the program but who are no longer participating, have absconded or been arrested for criminal acts. In addition, some program participants willfully violate the terms of ISAP II supervision, but ERO currently does not have sufficient resources to redetain these aliens.

Intensive Supervision Appearance Program

When ERO expanded ISAP II nationwide in 2009, it developed performance metrics to verify the effectiveness of the program. At that time, ERO was enrolling aliens in the program who were at high risk of committing criminal acts, absconding, or violating the terms of their release, such as reporting requirements. ERO intended for these aliens to continue participating in ISAP II and remain under supervision until their immigration cases were completed, either because they were removed from the United States or granted an immigration benefit, such as asylum. Thus, to determine whether ISAP II would reduce the rate of those who absconded or were arrested for criminal acts, ERO only measured the rate for those participating in the program.

For contract years 2010 through 2012, ERO reported that the rates at which ISAP II participants absconded and were arrested for criminal acts declined each year. Figure 1 and appendix E show these numbers as percentages of the total number of aliens whose ISAP II participation ended during the contract year.

Figure 1: Number of ISAP II Participants Who Absconded or Were Arrested

Contract Year [November to November]	2010	2011	2012
Total number of participants whose participation in ISAP II ended during the contract year	8,591	12,268	17,524
Number of participants who absconded	927 (10.79%)	982 (8.00%)	851 (4.86%)
Number of participants arrested by other law enforcement agency	576 (6.70%)	729 (5.94%)	705 (4.02%)

Source: ISAP II annual reports from contract years 2010 through 2012.

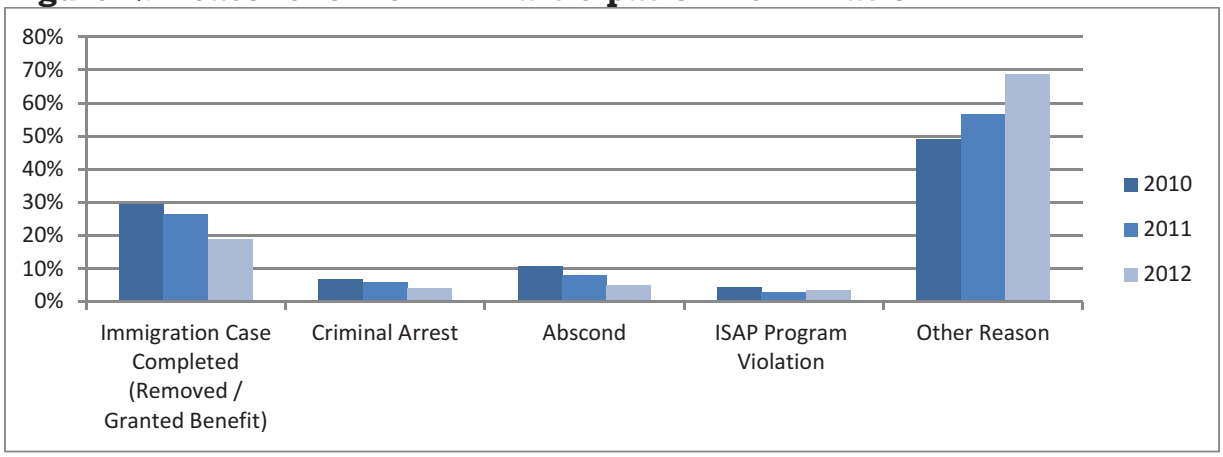
In 2011, ERO changed the criteria for participation in ISAP II for aliens whose immigration proceedings were delayed, when ERO had no control over the delays. Specifically, ERO changed participation criteria for:

- Non-removable aliens: ERO headquarters instructed field offices to terminate ISAP II participation for aliens in the program who could not be removed from the United States and not enroll additional nonremovable aliens in the program. For example, ERO terminated the participation of Cuban criminals who could not be repatriated because Cuba would not accept them. According to ERO, it could release most of these aliens from detention using an immigration bond or another monitoring method, such as having them report to an ERO field office.

- Aliens at risk of absconding: ERO headquarters instructed field offices to limit GPS monitoring for aliens who did not yet have a removal order, but were waiting to appear in immigration court, and were generally compliant with the terms of ISAP II supervision. According to ERO, because some immigration cases can take years to complete, it was not always feasible to continue GPS monitoring for aliens waiting to appear in immigration court. ERO also reasoned that those who had been complying with program terms and had a set court date would be less likely to abscond months before the court date. ERO headquarters recommended using another monitoring method during this period, such as having participants report telephonically.

As a result of these changes in criteria, as shown in figure 2, and in more detail in appendix E, ERO terminated the participation of more than half of its compliant ISAP II participants before their immigration cases were completed through removal from the United States or granting of an immigration benefit.

Figure 2: Reasons for ISAP II Participation Termination



Source: ISAP II annual reports from contract years 2010 through 2012.

Although ERO reasoned these changes in participation would increase ISAP II's effectiveness, the office did not define effectiveness. Nor did ERO update its performance metrics to account for former ISAP II program participants who had absconded or were arrested for criminal acts after their participation ended. Although ERO ended participation in ISAP II for many aliens before their immigration cases were completed, the office continued to measure whether aliens absconded or were arrested for criminal acts only while actually participating in ISAP II.

As a result, ERO cannot accurately determine whether transitory participation in ISAP II reduces the rate at which aliens, who were once in the program, later abscond or are arrested for criminal acts. To better evaluate the program's effectiveness, ERO should develop and implement performance metrics to determine whether transitory participation in ISAP II contributes over time to reducing the rate at which aliens abscond or are arrested for criminal acts.

Program Violators

ERO does not have sufficient resources to redetain participants who willfully violate ISAP II's terms of supervision, such as those who tamper with GPS monitors or miss appointments. Beginning in 2012, ERO instructed field offices to consider redetaining noncompliant participants, but most field offices do not have sufficient funding for the number of beds needed to accommodate program violators.[3] ERO officers said that dedicating funding for approximately 150 to 200 detention beds nationally, to redetain program violators as necessary, would discourage willful noncompliance. Currently, ERO uses most ISAP II contract funds for electronic monitoring and supervision. ERO could improve ISAP II's effectiveness by allocating some ISAP II contract funds to redetaining noncompliant participants.

Recommendation 1. We recommend that ICE Executive Associate Director for the Office of Enforcement and Removal Operations: Develop and implement performance metrics to evaluate Intensive Supervision Appearance Program effectiveness.

Recommendation 2. We recommend that the Principal Deputy Assistant Secretary: Assess and report on the feasibility of using funds from the Alternatives to Detention (ATD) program to provide detention beds for noncompliant Intensive Supervision Appearance Program participants.

[3] *Alternatives to Detention (ATD) Program Guidance,* Executive Associate Director for Enforcement and Removal Operations, August 10, 2012; *De-escalation of Alternatives to Detention Full Service Participants,* Associate Director, Custody Management, January 31, 2013.

Management Comments and OIG Analysis

We evaluated ICE's written response and have made changes to the report where we deemed appropriate. A summary of ICE's written response to the report recommendations and our analysis of the response follows each recommendation. A copy of ICE's response, in its entirety, is appendix C. ICE concurred with all report recommendations. We appreciate ICE's comments and contributions.

Management Response: ICE officials concurred with Recommendation 1. In its response ICE said the program has established metrics to evaluate effectiveness and programmatic success of the Alternatives to Detention program. However, ICE has found it difficult to develop a methodology that can measure appropriately the latent effects of Alternatives to Detention participation on aliens' future compliance with their reporting and court appearance requirements. ICE will continue to assess existing data and data collection methods with a view to identify more specifically the challenges that need resolution before such a methodology can be implemented. After the initial evaluation, ICE will work to develop one or more performance metrics to gauge such latent effects. ICE requests that this recommendation be considered resolved and open pending the results of this initial evaluation, which ICE estimates completing by July 1, 2015.

OIG Analysis: We consider ICE's proposed actions responsive to the intent of Recommendation 1, which is resolved and open. Rather than focusing solely on the latent effects of program participation, ICE officials may want to consider performance metrics that recognize milestones participants achieve while enrolled in the program. These milestones could include obtaining travel documents and planning for departure. This recommendation will remain open pending our receipt of ICE's developed and implemented performance metrics to evauate ISAP effectiveness.

Management Response: ICE officials concurred with Recommendation 2. ICE responded that it believes there is sufficient detention capacity to accommodate noncompliant ATD participants should the program's increased monitoring and/or reporting requirements prove insufficient to correct noncompliant behavior. ICE will continue to exercise its prosecutorial discretion appropriately when deciding whom to detain, and align ATD resources appropriately with ICE's enforcement priorities. Should future need for additional bed space funds arise, ICE will reprogram, as it has in the past, funds from other programs, including ATD. ICE requests that this recommendation be considered resolved and closed.

OIG Analysis: We consider ICE's actions partially responsive to the intent of Recommendation 2, which is resolved and open. ICE officials stated there is sufficient detention capacity to accommodate noncompliant ATD participants,

but many field office directors said they need existing detention bed space for higher risk cases. ICE has the option of reprogramming funds, but this process is cumbersome. We will close this recommendation when ICE officials obtain a legal opinion on whether reserving a portion of existing ATD funding to redetain noncompliant participants is feasible. ICE may, as a matter of policy, continue to fund redetention of noncompliant participants through other means, or not fund redetention at all.

Risk Classification Assessment is Ineffective to Determine Release Decisions

ICE developed the RCA to assist its release and custody classification decisions. However, the tool is time consuming, resource intensive, and not effective in determining which aliens to release or under what conditions. In addition, RCA questions on special vulnerabilities conflict with ICE's Performance Based National Detention Standards.

Processing Time and Resources

As shown in appendix D, ERO field officers ask each alien as many as 178 RCA questions during intake processing. This requirement adds 15 to 30 minutes to each alien interview. The RCA also requires at least two ERO levels of review. As a result, completing the RCA can add several hours to alien intake processing. To avoid holding aliens overnight at intake processing, ICE headquarters authorizes its field offices with high intake volume the option of postponing the RCA for up to 5 days.[4] However, postponing the RCA requires field officers to conduct two risk assessments, (1) an informal assessment at intake and (2) the formal RCA later.

The RCA adds unnecessary processing time because it does not allow ERO officers the ability to triage an alien's intake; officers must ask each alien every RCA question.[5] For example, officers must ask aliens who are:

- a risk to public safety all questions related to terms of release;
- too ill to detain all questions related to terms of custody; and
- redetained because ERO has scheduled their removal all questions related to terms of custody and terms of release.

Alien Release Decisions

The RCA does not enhance the quality of ERO field office release decisions. For example, the system is not capable of making recommendations on complex cases and refers such cases to an ERO supervisor.[6] As shown in appendix F, of the 228,095 RCA decisions made between July 30, 2012, and December 31, 2013, the RCA made no recommendation for 41,971, or 18.4 percent of cases. When the system does make a recommendation, ERO officers routinely override the recommendation. Of the 228,095 RCA recommendations

[4] RCA guidance states that all aliens must have an RCA completed as early in the process as possible, unless they are subject to mandatory detention and will be removed within 5 days, in which case the RCA is not necessary.
[5] ERO officers do not ask male aliens whether they are pregnant or nursing.
[6] The system refers high risk aliens with serious medical issues to ERO supervisors. RCA also refers aliens with both minor criminal convictions and weak community ties to ERO supervisors.

between July 30, 2012, and December 31, 2013, ERO officers overrode 49,861, or 21.9 percent of the RCA recommendations.

RCA recommendations are of limited value to ERO officers in determining which aliens to place on ISAP II. For example, the system generally recommends bond for higher risk releases and supervision without a bond for lower risk releases. In practice, ERO field offices are encouraged to ensure compliance among higher risk releases with a combination of a bond and ISAP II GPS monitoring. RCA recommendations also do not take into account ISAP II's available funding for new participants or the program's Full-Service and Technology-Only geographic locations.

RCA Predictive Capabilities

ICE did not design the RCA to improve its predictive capabilities over time. For example, ICE headquarters does not evaluate the rate at which:

- aliens kept in detention were later granted relief;
- aliens determined not to be vulnerable were later determined to require specialized care;
- ICE lowered bond amounts for aliens unable to pay bond;
- immigration judges offered bonds to aliens ICE had determined not to release; or
- aliens recommended for release who abscond.

RCA Special Vulnerabilities Assessment

RCA questions on special vulnerabilities conflict with ICE's Performance Based National Detention Standards medical screening guidance.[7] According to the Standards, all detainees must undergo an intake medical screening within 12 hours of entry into a detention facility.[8] Appendix G shows the Standards medical screening questionnaire and the RCA special vulnerability questions. The Standards require that a medical professional or trained detention officer conduct the screening and provide privacy to the detainee. In contrast, an ERO officer may not have the necessary medical training and cannot offer privacy when asking the RCA special vulnerabilities questions.

[7] ICE, *Performance Based National Detention Standards 2011*, as modified by February 2013 errata, 4.3 Medical Care, page 288. http://www.ice.gov/doclib/detention-standards/2011/medical_care.pdf.
[8] *Performance Based National Detention Standards 2011,* pages 288–289. http://www.ice.gov/doclib/detention-standards/2011/medical_care.pdf.

As shown in appendix G, most of the 31 RCA special vulnerabilities questions have a medical component.[9] ICE can protect vulnerable populations better by ensuring medical staff or ERO officers trained in the Standards conduct the detainee intake medical screenings.

Recommendation 3. We recommend that ICE Executive Associate Director for the Office of Enforcement and Removal Operations: Revise the Risk Classification Assessment tool to eliminate nonmaterial questions when statutory requirements, humanitarian considerations, or bed space limitations determine custody and release decisions.

Recommendation 4. We recommend that ICE Executive Associate Director for the Office of Enforcement and Removal Operations: Establish and implement performance measures to evaluate and improve the accuracy, efficiency, and effectiveness of the Risk Classification Assessment.

Recommendation 5. We recommend that ICE Executive Associate Director for the Office of Enforcement and Removal Operations: Revise the Risk Classification Assessment special vulnerabilities module to ensure that when ICE conducts the Risk Classification Assessment at a detention facility, medical staff or trained ERO officers ask detainees relevant medical questions in a setting that provides privacy.

Management Response: ICE officials concurred with Recommendation 3. ICE responded it reviews RCA deployment success on an ongoing basis and has already made changes to the RCA to allow for more efficient processing. ICE continues to pursue enhancements and efficiencies. For example, in August 2013, ICE streamlined the RCA by generating an automatic detain decision in expedited removal cases, allowing field offices to skip the submission/approval steps otherwise required. ICE said it initiated a formal process to review whether greater efficiencies could be achieved by eliminating nonmaterial questions, without lessening the RCA's usefulness. The process will require input from ERO field offices and relevant ICE headquarters programs, analysis of performance measures and other data, and an assessment of the costs and benefits of any possible changes. However, ICE officials disagree with the examples of nonmaterial questions cited in the our report, and cannot commit to making specific changes before ICE completes its assessment. ICE requests that this recommendation be considered resolved and open pending completion of its review of the RCA, which ICE estimates completing by July 31, 2015.

[9] The RCA special vulnerabilities questions include serious physical illness, serious mental illness, disability, age, pregnancy, and risk based on sexual orientation or gender identity, all of which the Standards' medical screening covers. The RCA special vulnerabilities questions also include whether an alien is a victim of persecution or torture, sexual abuse or violent crime, or human trafficking. While these cases may require medical attention, the RCA does not instruct ERO officers to refer the case to medical staff.

OIG Analysis: We consider ICE's proposed actions responsive to the intent of Recommendation 3, which is resolved and open.

Management Response: ICE officials concurred with Recommendation 4. ICE responded that it will continue to use performance measures to improve RCA accuracy, efficiency, and effectiveness. Since initial deployment, ICE has measured RCA accuracy, efficiency, and effectiveness by using a variety of performance measures. These include field office completion rates, recommendation rates by type, decision rates by type, and system override rates.

ICE also conducted rigorous analyses of RCA recommendations and field office decisions, cross referencing every crime category and flight risk factor. ICE used this data to assess the likely impact of a large number of possible changes. Based on this ongoing analysis, as well as input from field offices, ICE said it made significant RCA process changes in August 2013 and January 2014, such as for scoring and decision logic. These changes have reduced override rates from 21.9 percent to 7.6 percent for all decisions from January to August 2014, and have resulted in RCA recommendations that are more closely aligned with ICE's enforcement priorities. ICE notes the importance that some overrides are not only expected, but even desirable. Supervisors must maintain the ability to exercise discretion and the RCA requires written justifications in cases where recommendations are overridden.

Further, the principal goals of the RCA are to promote consistency and transparency in detention-related decision making and to better align field office decisions with ICE policies and priorities. ICE said it disagrees with the hypothetical performance measures listed in our report, as the RCA was not intended to predict factors such as the likely future rulings of immigration judges or a detainee's ability to pay bond. ICE deployed the most recent set of scoring changes in January 2014. Further review of performance measures and consideration of additional changes are ongoing. ICE requests that this recommendation be considered resolved and closed.

OIG Analysis: We consider ICE's proposed actions partially responsive to the intent of Recommendation 4, which is resolved and open. ICE should provide us documentation on the program analysis it described. Based on ICE's description, the metrics developed focus on whether field officers are completing the RCA and whether the RCA's recommendations match the decisions officers would already make. The RCA offers ICE an opportunity to use its limited resources more effectively. ICE officials may want to consider performance metrics to evaluate how the RCA can provide field officers better information or allow officers to work more efficiently.

Management Response: ICE did not concur with Recommendation 5 in its original response. ICE officials responded that in some circumstances, ICE

asks the RCA Special Vulnerability questions in field office facilities. ICE said that field office facilities are not governed by ICE detention standards. Based on ICE's original response, we clarified Recommendation 5 to apply only when ICE conducts the Risk Classification Assessment at a detention facility. We provided ICE with an opportunity to modify its original response. ICE modified its response and now concurs with Recommendation 5. ICE will ensure that controls are in place to ensure that RCA Special Vulnerability assessments performed at detention facilities are conducted in a setting that provides privacy to the alien being assessed, and in accordance with applicable detention standards. ICE said modifications to the RCA would not be necessary to implement this recommendation.

OIG Analysis: We consider ICE's proposed actions responsive to the intent of Recommendation 5, which is resolved and open. ICE should provide us documentation on the controls it implements to ensure that RCA Special Vulnerability assessments performed at detention facilities are conducted in accordance with applicable detention standards.

Appendix A

Transmittal to Action Official

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

February 4, 2015

MEMORANDUM FOR: The Honorable Sarah R. Saldaña
Director
U.S. Immigration and Customs Enforcement

FROM: John Roth
Inspector General

SUBJECT: *U.S. Immigration and Customs Enforcement's Alternatives to Detention*

Attached for your information is our revised final report, *U.S. Immigration and Customs Enforcement's Alternatives to Detention (OIG-15-22)*. We incorporated the formal comments from the U.S. Immigration and Customs Enforcement (ICE) in the final report.

The report contains five recommendations aimed at improving ICE's management of its alien release decisions and terms of release. Your office initially concurred with Recommendation 1, 2, 3, and 4, and did not concur with Recommendation 5.

Based on information provided in your initial response, we clarified Recommendation 5 and provided ICE with an opportunity to modify its response. ICE modified its response and now concurs with the Recommendation 5. We consider Recommendations 1, 2, 3, 4, and 5 resolved and open.

As prescribed by the *Department of Homeland Security Directive 077-01, Follow-Up and Resolutions for Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) corrective action plan and (2) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to appropriate congressional committees

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website.

Please call me with any questions, or your staff may contact Anne Richards, Assistant Inspector General for Inspections, at (202) 254-4100.

Appendix B

Scope and Methodology

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the Department.

We reviewed ICE's alternatives to detention. Our objectives were to determine whether:

(1) the rate at which individuals in the ISAP II program have committed criminal acts or absconded has been reduced since 2009;
(2) ICE can improve the effectiveness of its alternatives to detention program, either by revising or expanding its ISAP II contract, or through other cost-effective means; and
(3) ICE's release risk assessment tool is effective.

We conducted field work for this report from April 2013 to April 2014. We conducted more than 100 interviews with ICE officials, ICE contractors, nongovernmental organizations, and officials from the Department of Justice Executive Office for Immigration Review, and the Probation and Pretrial Service Office, Administrative Office of the United States Courts. These included in-person and telephone interviews with ERO field office directors, deputies, and assistants from 18 of the 24 ERO field offices. We interviewed ERO headquarters staff, including detailed field officials to headquarters. We also interviewed ICE officials from the Law Enforcement and Statistical Analysis Unit. We conducted eight field site visits to interview ERO supervisory and nonsupervisory officers. We obtained direct access to the ENFORCE database and conducted an independent review of alien records in the ISAP II program, and aliens for whom ERO had conducted risk classification assessments.

We conducted this review under the authority of the *Inspector General Act of 1978*, as amended, and according to the Quality Standards for Inspections and Evaluation issued by the Council of the Inspectors General on Integrity and Efficiency.

Appendix C

ICE Comments to the Draft Report

Office of Management and Administration

U.S. Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20536

U.S. Immigration and Customs Enforcement

January 28, 2015

MEMORANDUM FOR: Anne L. Richards
Assistant Inspector General for Inspections
Office of Inspector General

FROM: Radha C. Sekar
Executive Associate Director
Management and Administration

SUBJECT: Management Response for OIG Draft Report, "ICE's Alternative to Detention" dated October 7, 2014 (OIG Project No. 13-065-ISP-ICE)

Thank you for the opportunity to review and comment on the subject draft report. U.S. Immigration and Customs Enforcement (ICE) appreciates the Office of Inspector General's (OIG) work in planning and conducting its review and issuing this report.

ICE concurs with all five recommendations in the draft report. Of these, ICE is requesting closure of three recommendations. OIG's recommendations and ICE's responses are as follows:

Recommendation 1: We recommend that ICE's Executive Associate Director for the Office of Enforcement and Removal Operations**:** Develop and implement performance metrics to evaluate Intensive Supervision Appearance Program effectiveness.

Response: Concur. While the ICE program has established metrics to evaluate effectiveness and programmatic success of the Alternatives to Detention (ATD) program, it has found it difficult to develop a methodology that can appropriately measure the latent effects of ATD participation on aliens' future compliance with their reporting and court appearance requirements. ICE will continue to assess existing data and data collection methods with a view to more specifically identifying the challenges that need to be overcome before such a methodology can be put into place. After the initial evaluation, ICE will work to develop one or more performance metrics to gauge such latent effects.

ICE requests that OIG classify this recommendation as resolved and open pending the results of this initial evaluation.

Estimated Completion Date (ECD): July 1, 2015

www.ice.gov

Management Response for OIG Draft Report, "ICE's Alternative to Detention" dated October 7, 2014 (OIG Project No. 13-065-ISP-ICE)

Recommendation 2: We recommend that the ICE [Acting Director] assess and report on the feasibility of using funds from the Alternative to Detention program to provide detention beds for noncompliant Intensive Supervision Appearance Program (ISAP) participants.

Response: Concur. ICE believes there is sufficient detention capacity to accommodate non-compliant ATD participants should the program's increased monitoring and/or reporting requirements, including the use of GPS, prove insufficient to correct non-compliant behavior. ICE will continue to appropriately exercise its prosecutorial discretion when deciding who to detain, and appropriately align ATD resources with the agency's enforcement priorities. If the need for additional funds for bed space arises in the future, ICE will, as it has in the past, reprogram funds from other programs (including ATD).

ICE requests that this recommendation be considered resolved and closed.

Recommendation 3: We recommend that ICE's Executive Associate Director for the Office of Enforcement and Removal Operations: Revise the Risk Classification Assessment tool to eliminate nonmaterial questions when statutory requirements, humanitarian considerations, or bed space limitations determine custody and release decisions.

Response: Concur. ICE has reviewed the success of the Risk Classification Assessment's (RCA) deployment on an ongoing basis, has already made changes to the RCA to allow for more efficient processing, and continues to pursue enhancements and efficiencies. For example, in August of 2013 ICE streamlined the RCA by generating an automatic detain decision in Expedited Removal cases, allowing Field Offices to skip the submission/approval steps otherwise required. ICE has initiated a formal process to review specifically whether greater efficiencies could be achieved by eliminating non-material questions, without lessening the RCA's usefulness. The process will require input from Enforcement and Removal Operations (ERO) Field Offices and relevant ICE headquarters programs, analysis of performance measures and other data, and an assessment of the costs and benefits of any possible changes. However, ICE disagrees with the examples of non-material questions cited in the OIG report, and cannot commit to making specific changes before it has completed its assessment.

ICE requests that this recommendation be considered resolved and open pending completion of its review of the RCA.

Estimated Completion Date (ECD): July 31, 2015

Recommendation 4: We recommend that ICE's Executive Associate Director for the Office of Enforcement and Removal Operations: Establish and implement performance measures to evaluate and improve the accuracy, efficiency, and effectiveness of the Risk Classification Assessment.

Response: Concur. ICE will continue to use performance measures to improve the accuracy, efficiency, and effectiveness of the RCA. Ever since the RCA's initial deployment, ICE has measured the accuracy, efficiency, and effectiveness of the RCA through the use of a variety of performance measures, including Field Office completion rates, recommendation rates by type,

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decision rates by type, and system override rates. ICE has also conducted rigorous analyses of RCA recommendations and field office decisions cross referencing every crime category and flight risk factor, and used this data to assess the likely impact of a large number of possible changes. Based on this ongoing analysis as well as input from Field Offices, ICE made significant changes in August 2013 and January 2014 to the RCA process, scoring and decision logic. These changes have reduced override rates from 21.9% to 7.6% (for all decisions from January – August 2014), and has resulted in RCA recommendations that are more closely aligned with ICE enforcement priorities. It is important to note that some number of overrides is not only expected but even desirable; supervisors must maintain the ability to exercise discretion, and the RCA requires written justifications in cases where recommendations are overridden. Further, the principal goals of the RCA are to promote consistency and transparency in detention-related decision-making, and to better align Field Office decisions with ICE policies and priorities; ICE disagrees with the hypothetical performance measures listed in the OIG report, as the RCA was not intended to predict factors such as the likely future rulings of immigration judges or an individual's ability to pay bond. The most recent set of scoring changes were deployed by ICE in January 2014. Further review of performance measures and consideration of additional changes are ongoing.

ICE requests that this recommendation be considered resolved and closed.

Recommendation 5: Revise the Risk Classification Assessment special vulnerabilities module to ensure that when ICE conducts the Risk Classification Assessment at a detention facility, medical staff or trained ERO officers ask detainees relevant medical questions in a setting that provides privacy.

Response: Concur. ICE will ensure that controls are in place to ensure that RCA Special Vulnerability assessments performed at detention facilities are conducted in a setting that provides privacy to the alien being assessed, in accordance with applicable detention standards. Modifications to the RCA would not be necessary to implement this recommendation.

ICE requests that this recommendation be considered resolved and closed.

Again, thank you for the opportunity to review and comment on this draft report. Technical and sensitivity comments have been sent under separate cover. We look forward to working with you in the future.

Should you have any questions, please contact Michael Moy, Senior Portfolio Manager, at (202) 732-6263 or by e-mail at Michael.C.Moy@ice.dhs.gov.

Appendix D

Risk Classification Assessment Checklist

ENFORCE Database Tab	Examples of Data Recorded	Data Fields
Person Details	• Biographical Information • Tracking Information (photos, fingerprints, alien number, and social security number)	26
Encounter Details	• Apprehension Information • Physical Description	45
Supporting Information	• Relatives • Attorney/Representative	13
Summary	• Supervisory Approval	11
Special Vulnerabilities[10]	• Physical and Mental Illness • Victim of Persecution/Abuse	31
Mandatory Detention	• Subject to Mandatory Detention in INA • Final Removal Order	5
Risk to Public Safety	• Most Severe Conviction • Disciplinary Infractions	20
Risk of Flight	• Immigration Violation History • Community Ties	27
Total Data Fields		**178**

Source: ENFORCE.

[10] A complete list of Special Vulnerabilities questions is included in appendix G.

Appendix E

ISAP II Termination Rates (Full-Service/Technology-Only)

Contract Year [November to November]	2010			2011			2012		
Full-Service (FS) Technology-Only (TO)	FS	TO	Total	FS	TO	Total	FS	TO	Total
Total Served	19,996	5,782	25,778	24,047	11,333	35,380	24,359	16,093	40,452
Active in Program (at end of contract year)	13,429	3,758	17,187	13,862	9,250	23,112	12,611	10,317	22,928
Terminated from Program (at end of contract year)	6,567	2,024	8,591	10,185	2,083	12,268	11,748	5,776	17,524
Reasons for Termination									
Departure Verified (Final Order of Removal)	999	122	1,121	1,126	203	1,329	923	220	1,143
Relief/Benefit Granted	601	100	701	603	168	771	401	433	834
Departure Verified (Voluntary Departure)	526	22	548	963	61	1,024	1,087	133	1,220
Departed the United States while in proceedings	142	1	143	121	5	126	95	9	104
Total Favorable Outcomes	**2,268**	**245**	**2,513**	**2,813**	**437**	**3,250**	**2,506**	**795**	**3,301**
No Longer Required to Participate (As determined by ERO)	2,534	1,110	3,644	5,429	1,033	6,462	7,488	3,904	11,392
Arrested by ICE for Removal	83	65	148	99	63	162	97	95	192
Pending Departure Verification	183	31	214	147	31	178	160	92	252
Arrested by Other Law Enforcement Agency	515	61	576	640	89	729	546	159	705
Other (No longer required to report: medical or deceased)	120	84	204	133	27	160	161	39	200
Total Neutral Outcomes	**3,435**	**1,351**	**4,786**	**6,448**	**1,243**	**7,691**	**8,452**	**4,289**	**12,741**
Pre-Removal Order Program Absconder	432	59	491	395	40	435	271	59	330
Post-Removal Order Program Absconder	325	111	436	405	142	547	348	173	521
Pre-Removal Order Program Violator	61	45	106	107	56	163	156	205	361
Post-Removal Order Program Violator	46	213	259	17	165	182	15	255	270
Total Unfavorable Outcomes	**864**	**428**	**1,292**	**924**	**403**	**1,327**	**790**	**692**	**1,482**

Source: ISAP II annual reports for contract years 2010 through 2012.

ISAP II Termination Rates – Percentages

Contract Year [November to November]	2010		2011		2012	
Full-Service (FS) Technology-Only (TO)	Total		Total		Total	
Total Served	25,778		35,380		40,452	
Active in Program (at end of contract year)	17,187		23,112		22,928	
Terminated from Program (at end of contract year)	8,591		12,268		17,524	
Reasons for Termination						
Full-Service (FS) Technology-Only (TO)	Total	Percent	Total	Percent	Total	Percent
Departure Verified (Final Order of Removal)	1,121	13.05%	1,329	10.83%	1,143	6.52%
Relief/Benefit Granted	701	8.16%	771	6.28%	834	4.76%
Departure Verified (Voluntary Departure)	548	6.38%	1,024	8.35%	1,220	6.96%
Departed the United States while in proceedings	143	1.66%	126	1.03%	104	0.59%
Total Favorable Outcomes	**2,513**	**29.25%**	**3,250**	**26.49%**	**3,301**	**18.83%**
No Longer Required to Participate (As determined by ERO)	3,644	42.42%	6,462	52.67%	11,392	65.01%
Arrested by ICE for Removal	148	1.72%	162	1.32%	192	1.10%
Pending Departure Verification	214	2.49%	178	1.45%	252	1.44%
Arrested by Other Law Enforcement Agency	576	6.70%	729	5.94%	705	4.02%
Other (No longer required to report: medical or deceased)	204	2.37%	160	1.30%	200	1.14%
Total Neutral Outcomes	**4,786**	**55.70%**	**7,691**	**62.68%**	**12,741**	**72.71%**
Pre-Removal Order Program Absconder	491	5.72%	435	3.55%	330	1.88%
Post-Removal Order Program Absconder	436	5.08%	547	4.46%	521	2.97%
Pre-Removal Order Program Violator	106	1.23%	163	1.33%	361	2.06%
Post-Removal Order Program Violator	259	3.01%	182	1.48%	270	1.54%
Total Unfavorable Outcomes	**1,292**	**15.04%**	**1,327**	**10.82%**	**1,482**	**8.45%**

Source: ISAP II annual reports for contract year 2010 through 2012.

Appendix F

Risk Classification Assessment Overrides

RCA No Recommendation	Final Decisions			
	Detain in the Custody of this Service	Detain, Eligible for Bond	Release on Community Supervision	Total
Detain in the Custody of this Service	117,291	226	2,157	**119,674**
Detain, Eligible for Bond	42,957	17,933	4,002	**64,892**
Release on Community Supervision	252	267	1,039	**1,558**
Officer to Determine - Detain or Release on Community Supervision	17,573	12,010	12,388	**41,971**
Totals	**178,073**	**30,436**	**19,586**	**228,095**
228,095 Total Decisions and 41,971 with No Recommendation = 18.4 % with No RCA Recommendation[11]				

RCA Overrides	Final Decisions			
	Detain in the Custody of this Service	Detain, Eligible for Bond	Release on Community Supervision	Total
Detain in the Custody of this Service	117,291	226	2,157	**119,674**
Detain, Eligible for Bond	42,957	17,933	4,002	**64,892**
Release on Community Supervision	252	267	1,039	**1,558**
Officer to Determine - Detain or Release on Community Supervision	17,573	12,010	12,388	**41,971**
Totals	**178,073**	**30,436**	**19,586**	**228,095**
228,095 Total Decisions and 49,861 with ERO Overrides = 21.9 % with ERO Overrides[12]				

Source: ICE RCA Cumulative Report, December 2013.

[11] Between January 2014 and August 2014, the no recommendation rate was 15.7 percent.
[12] Between January 2014 and August 2014, the override rate was 7.6 percent. ICE officials said they reduced the override rate by adjusting the RCA's scoring and decision logic.

Appendix G

Medical Screening and Special Vulnerabilities Checklists

Reset Form | Email Form | Print Form

ICE Health Service Corps

Intake Screening

Patient was identified by (check 2 sources): ☐ Arm Band ☐ Picture ☐ Verbally ☐ Other: _____

If detainee was transferred from another facility, did a medical transfer summary accompany the detainee? ☐ No ☐ Yes ☐ N/A

Time of arrival in camp: _____ Time of initial screening: _____

S:

1. What language do you speak? ☐ English ☐ Spanish ☐ Other: _____ Name or INT # _____

Medical Screening

2. How do feel today? (Explain in his/ her own words)

3. Are you currently having any pain? ☐ Yes ☐ No If yes, complete pain assessment below:
   3a. Character of pain: 3b. Location: 3c. Duration: 3d. Intensity: (0-10 pain scale) 3e. What relives pain or makes it worse?

4. Do you have any significant medical problems? ☐ Yes ☐ No
   If yes, explain:

5. Do you take any medication on a regular basis, including over the counter and herbal? ☐ Yes ☐ No
   If yes, list medications:

6. Do you have any allergies to include allergies to medication or food? ☐ Yes ☐ No
   If yes, list medications:

7. Are you now or have you ever been treated by a doctor for a medical condition to include hospitalizations? ☐ Yes ☐ No
   If yes, explain:

8. Have you ever had a persistent cough for more than three weeks, coughed up blood, had a persistent fever, night sweats, or unexplained weight loss? ☐ Yes ☐ No If yes, explain:

9. Are you pregnant? ☐ Yes ☐ No ☐ N/A (male) If yes, date of last menstrual period: _____

10. Have you had any recent acute changes with your vision? ☐ Yes ☐ No
    If yes, explain:

Oral Screening

11. Are you having any significant dental problems? ☐ Yes ☐ No
    If yes, explain:

Mental Health Screening

12. Have you ever tried to kill yourself? ☐ Yes ☐ No
    If yes, When did the attempt occur? _____ Method: ☐ Gun ☐ Hanging ☐ Cutting skin ☐ Pills ☐ Other
    If attempt was within the last 90 days, make referral immediately and ensure safety.

13. Are you currently thinking about killing or harming yourself? ☐ Yes ☐ No
    If Yes, make referral immediately and ensure safety.

Last Name:	First Name:
A#:	Country of Origin:
Date of Camp Arrival (DCA):	DOB:
Medical Clinic:	Sex:

IHSC Form 795-A 03/2011 Page 1 of 3

ICE Health Service Corps

Intake Screening (Continued)

14. Do you have a history of assaulting or attacking others or have you ever been locked up for fighting while in jail/prison? ☐ Yes ☐ No
    Have you ever been in jail or prison? ☐ Yes ☐ No If yes, when? _____
    Do you know of someone in this facility whom you wish to attack? ☐ Yes ☐ No If yes, who is this person? _____
    If Yes, make referral immediately and ensure safety.
15. Do you now or have you ever heard voices that other people don't hear; seen things or people that others don't see; or felt others were trying to harm you for no logical or apparent reason? ☐ Yes ☐ No If yes, explain: _____
16. Have you ever been diagnosed with a mental illness or have you ever been hospitalized for psychiatric reasons? ☐ Yes ☐ No
    If yes, explain: _____
17. Is there a history of mental illness in your family? ☐ Yes ☐ No
    If yes, What illness? _____
18. Have you been a victim of physical or sexual abuse? ☐ Yes ☐ No
    If yes, explain: _____
19. Do you feel that you are currently in danger of being physically or sexually assaulted? ☐ Yes ☐ No
    If yes, explain: _____
20. Have you ever sexually assaulted anyone? ☐ Yes ☐ No
    If yes, explain: _____

Learning/Cultural/Religious Assessment

21. Is there anything important to know about your religious or cultural beliefs that are of concern to you while in detention? ☐ Yes ☐ No
    If yes, explain: _____
22. Have you ever had difficulties learning or understanding written information? ☐ Yes ☐ No
    If yes, explain: _____

Substance Use/Abuse Screening

23. Have you ever been **treated** for drug or alcohol problems or suffered **withdrawal** symptoms from drug use? ☐ Yes ☐ No
    If yes, explain: _____
24. Do you now or have you ever used tobacco products, drank alcohol or used drugs? (If yes, give details below) ☐ Yes ☐ No
    If yes, explain: _____

Substance Use/Route of Use	Date of Last Use	Amount/Quantity Last Used

O:

☐ Patient appears to have **normal** physical/emotional characteristics **and no barrirers to communication.**
☐ Patient appears **oriented** to person, place and time. ☐ Patient appears **NOT to be oriented** to: ☐ Person ☐ Place ☐ Time

Last Name:	First Name:
A#:	Country of Origin:
Date of Camp Arrival (DCA):	DOB:
Medical Clinic:	Sex:

IHSC Form 795-A 03/2011 Page 2 of 3

ICE Health Service Corps

Intake Screening (Continued)

O: (Continued)

Explain any abnormalities the patient appears to have: _____

If you observe any of the following, check the appropriate box:

☐ Skin Broken out in bumps/ rash	☐ Malnourished appearance	☐ Shaking/ tremors	☐ Agitation	☐ None Observed
☐ Inability to focus or concentrate	☐ Developmental disabilities	☐ Excessive sweating	☐ Cuts or bruises	
☐ Patient wears glasses or contacts	☐ Bizarre or crazy behavior	☐ Physical disabilities	☐ Needle Tracks	

Comments: _____

Vital Signs

T _____ P _____ resp. _____ BP _____ hgt. _____ wt _____

HGC Results: ☐ Positive ☐ Negative ☐ N/A (male)

A:

Initial Medical Screening: ☐ Normal ☐ Abnormal

P:

Disposition:
- ☐ General Population
- ☐ General population with referral for medical/mental health care
- ☐ Isolation until medically evaluated
- ☐ Referral for immediate medical/mental health or dental care

Education:
- ☐ Tuberculosis and CXR explained to patient and process completed with appropriate shielding
- ☐ Physical exam scheduled for patient
- ☐ Access to medical/dental/mental health care, grievance process explained to patient
- ☐ Patient given the Dealing with Stress and Medical Orientation and Health Information Brochure in the patient's language
- ☐ Patient verbalized understanding of any teaching or instruction
- ☐ Patient was asked if he or she had any additional questions, and any questions were addressed

Care/ Interventions/ Follow-up:
- ☐ See SF 600 for detailed assessment and plan.
- ☐ Physical exam scheduled for patient.
- ☐ The following care/treatment was given during this intake screening: _____

_____ Provider's Signature | _____ Date | _____ Time | _____ Stamp/Printed Name

Last Name:	First Name:
A#:	Country of Origin:
Date of Camp Arrival (DCA):	DOB:
Medical Clinic:	Sex:

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RCA: Special Vulnerabilities

ENFORCE TABS Data Fields	
Does a Special Vulnerability exist? Inquire, observe, and review all documentation. If based on your assessment, the vulnerability exists, select the appropriate boxes below.	
Serious Physical Illness (Yes/No)	
Assess whether the individual has been diagnosed or claims to have a serious physical illness such as: diabetes, seizures, HIV AIDS, heart problems, cancer, epilepsy, or other serious illness.	
Ask:	• Has the individual been hospitalized in the past six months? • Is the individual taking prescription medication? • Does the individual require daily medical care? • Is the individual terminally ill?
Review sources of information including: medical records or prescription medications, information on I-794 or I-795 or other medical intake screening documents.	
Serious Mental Illness (Yes/No)	
Assess through questioning, observation and documentation whether the individual has or claims to have a serious mental illness.	
Ask:	• Has the individual been hospitalized or treated for mental illness? • Is the individual taking medication for mental illness?
Observe:	• Did the individual appear to be disoriented? • Does the individual appear to be aware of his/her surroundings? • Is the individual unable to focus on instructions? • Is the individual hearing voices? • Is the individual expressing irrational or violent thoughts towards themselves or others?
Disabled (Yes/No)	
Assess whether the individual has a serious physical or mental disability.	
Ask:	• Does the individual require assistance with the activities of daily living, such as bathing, eating, toileting, and dressing?
Observe:	• Does the individual use a wheelchair, cane, crutches, walker or have a prosthesis? • Is the individual blind, deaf, mute, an amputee, or have other disabilities?
Elderly (Yes/No)	
Assess whether the individual has physical indicators of infirmity or fragility caused by old age. Although elderly status is often defined as being 65 years or older, the key issue is whether the individual is infirm due to old age (some under 65 may meet that definition and some 65 or older may not).	
Pregnant (Yes/No)	
Ask female individuals if they are currently pregnant or have reason to believe they are pregnant.	
Nursing (Yes/No)	
Ask female individuals if they are currently nursing an infant/toddler.	

Source: ENFORCE.

RCA: Special Vulnerabilities

ENFORCE TABS Data Fields	
Does a Special Vulnerability exist? Inquire, observe, and review all documentation. If based on your assessment, the vulnerability exists, select the appropriate boxes below.	
Primary Caretaking Responsibility (Yes/No)	
Ask the individual if he/she is the primary person responsible for the care of a child, elderly person or an individual who otherwise is unable to care for him or herself. If the response is positive, inquire about the circumstances regarding that dependent, such as: relationship, age, nature of infirmity, and who is currently caring for that dependent.	
Risk Based on Sexual Orientation/Gender Identity (Yes/No)	
Ask the individual if he/she fears any harm in detention based on his/her sexual orientation or gender identity.	
Victim of Persecution/Torture (Yes/No)	
In making your assessment, consider country of origin, documentation of claim, and evidence of trauma. Note: If the individual answers positively, provide the detainee with the number for UNHCR: 1-888-272-1913.	
Ask:	• Were you persecuted in your home country, or have you been tortured?
Note:	• If the individual answers positively, provide the detainee with the number for UNHCR: 1-888-272-1913.
Victim of Sexual Abuse or Violent Crime (Yes/No)	
Review any evidence substantiating the claim. Note: If the individual answers positively, provide the detainee with number for the federally funded National Domestic Violence Hotline: 1-800-799-7233 which can also assess eligibility for U visas.	
Ask:	• Have you been the victim of sexual abuse or violent crime?
Note:	• If the individual answers positively, provide the detainee with number for the federally funded National Domestic Violence Hotline: 1-800-799-7233 which can also assess eligibility for U visas
Victim of Human Trafficking (Yes/No)	
Verbatim what is in the Ask: and Note: fields	
Ask:	• Since entering the United States, has someone intimidated, deceived, obligated or forced you into prostitution or labor against your will?
Note:	• If the individual answers positively, contact the local ICE HSI duty agent and provide biographic and location details to the ICE HSI duty officer for further investigation.
Other (Yes/No)	
If you believe individual would be vulnerable in detention for a reason not listed here, check this box and provide further details below.	

Source: ENFORCE.

Appendix H

Major Contributors to This Report

Marcia Moxey Hodges, Chief Inspector
Lorraine Eide, Lead Inspector
Jennifer Kim, Inspector
Morgan Ferguson, Inspector

Appendix I

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Washington, DC 20528-0305

EXHIBIT B

ICE Released Its Most Comprehensive Immigration Detention Data Yet. It's Alarming.

March 13, 2018

AUTHOR: Tara Tidwell Cullen

Here Is What We've Learned From It, And A Link For You To Study The Data Yourself.

The Department of Homeland Security (DHS) is notoriously obscure about the systems it uses to detain immigrants in the United States. Without a court order, it is rare that DHS's Immigration and Customs Enforcement (ICE) divulges any details about where its jails and prisons are located, who or how many people are held there, or any details about how they are managed — including how much taxpayers spend to keep them open, and who gets that money.

NIJC's Transparency Project (/transparency) has detailed this lack of accountability in numerous reports, most recently in *ICE Lies* (/ICElies), where we teamed up with the Detention Watch Network to show how DHS's patterns of irresponsible governance— including fiscal mismanagement and secrecy in its detention operations — contribute to a failure of accountability for ongoing human rights violations. Last month, the DHS Office of Inspector General released a report (https://www.oig.dhs.gov/sites/default/files/assets/2018-02/OIG-18-53-Feb18.pdf) finding that ICE violated federal procurement laws in 2014 when it signed, and in 2016 extended, a contract for more than $1 billion (https://www.washingtonpost.com/business/economy/inside-the-administrations-1-billion-deal-to-detain-central-american-asylum-seekers/2016/08/14/e47f1960-5819-11e6-9aee-8075993d73a2_story.html?utm_term=.368c7d00258e) with private prison company Core Civic (formerly Corrections Corporation of America, or CCA) to build and operate the South Texas Family Residential Detention Center via a pass-through Inter-Governmental Service Agreement with the City of Eloy, Arizona.

This lack of transparency has become an issue in Congress's federal budget negotiations, with advocates and a growing number of senators and representatives calling for appropriators to cut ICE's funding.

In the past several months, ICE has released some facility information in response to Freedom of Information Act requests. Most recently, the Immigrant Legal Resource Center obtained an extensive and detailed list of DHS facilities in response to a FOIA request (/sites/default/files/content-type/page/documents/2018-03/2017-6-22_ILRC_FOIA_to_ICE_FINAL.pdf) it filed as part of its research on sanctuary cities (https://www.ilrc.org/sites/default/files/resources/rise_of_sanctuary-lg-20180201.pdf). This list contains a relative trove of information about how immigration detention is currently operating in the United States.

View and download the Excel data file via Scribd (/ice-detention-facilities-november-2017)

About the data: The set of 10 lists includes data on types of contracts, demographics, medical care providers, and inspections history for more than 1,000 federal facilities that detain immigrants, including county jails, Bureau of Prisons facilities, Office of Refugee Resettlement centers, hospitals, and hotels (more on those down

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below). Customs and Border Patrol facilities are not included in the data. DHS compiled the data between November 4 and 6, 2017 — about one month into fiscal year (FY) 2018.

Here are 7 highlights of what NIJC found in our review of this new data:

(/)

1. The Number Of People Locked Up By ICE Reached A Record High (Again)

In November 2017, ICE reported that its total average daily population for FY 2018 was 39,322 people. This marks the second year in a row the U.S. government hit an unprecedented high in how many immigrants it incarcerates.

2. ICE Is Detaining Kids, Sometimes For Months

ICE currently has nine facilities available to detain juveniles, with approximately six of those limited to under 72 hours. These are neither family detention centers nor Office of Refugee Resettlement children's shelters; instead, ICE contracts with juvenile jails to hold children under 18 separate from adults, including their family members. The facilities used to jail children for longer than 72 hours are the Northern Oregon Juvenile Detention facility in The Dalles, Oregon; the Abraxas Academy Detention Center in Morgantown, Pennsylvania; and the Cowlitz County Juvenile facility in Longview, Washington. While the average detention population for these facilities is only one to three children, the average length of stay for a juvenile detained in one of the three facilities ranges from 100 to 240 days. This means that in recent years ICE has detained dozens of children in juvenile jails for many months on end, in remote locations far from family and any accessible legal representation.

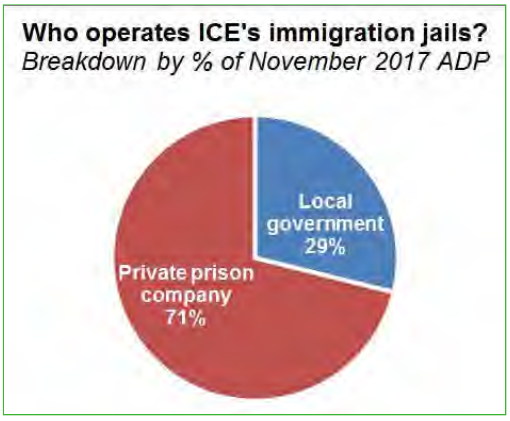
3. ICE Categorizes The Vast Majority Of People Locked Up As Posing No Danger To The Community

ICE reports that an average of 71 percent of people detained on a given day were subject to "mandatory detention" in the first month of FY 2018 (the only period for which this data was provided). An average of 51 percent of the daily population that month were marked as "non-criminal," and 51 percent also were classified as posing "no threat." Twenty-three percent were classified as the lowest "Level 1" threat, which typically includes people with low-level and nonviolent criminal convictions. Only 15 percent were classified at the highest threat level.

4. Private Prison Companies Dominate The Detention System

On an average day in November 2017, most people in ICE custody were in prisons operated by private companies.

About 71 percent of the average daily population that month were held in privately operated jails. An average of more than 15,000 people daily were held in 33 jails where local governments signed contracts with the federal government (known as Inter-Governmental Service Agreements or U.S. Marshal Service Intergovernmental Agreements) and then subcontracted facility operations to private, for-profit companies.



(https://immigrantjustice.org/sites/default/files/jail-operators_for-web.jpg)

5. ICE Contracts With Hotels, And Has Detained Thousands Of People At One In San Diego

The facility lists include 12 hotels, some listed as active since 2009. Most of the hotels have never had an average daily population of more than three people — except the Quality Suites San Diego Otay Mesa (https://www.choicehotels.com/california/san-diego/quality-inn-hotels/ca506). ICE has booked thousands of people into this hotel since fiscal year 2016, including children. Most of them were individuals transferred

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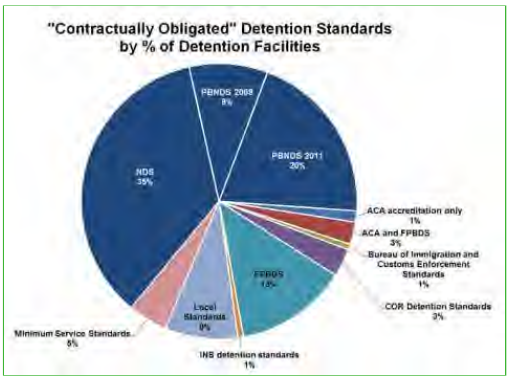
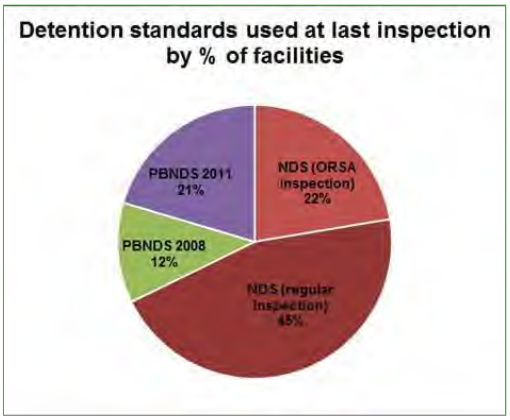
from another facility, but some were being booked into ICE custody for the first time. The maximum population listed for the first month of fiscal year 2018 was 120 people, and the average daily population at the hotel in fiscal year 2017 was 22 people. All of these individuals were listed as "non-criminal" with "no ICE threat level."
(/)

6. Figuring Out Which Detention Standards Govern A Jail Is Still A Murky Business

Only 65 percent of ICE's adult detention centers are contractually bound by one of the agency's three sets of detention standards - known as the 2000 National Detention Standards (NDS), 2008 Performance-Based National Detention Standards (PBNDS), and 2011 PBNDS. About 14 percent of detained immigrants — an average of 5,000 people a day — are held in facilities contracted under other standards including American Correctional Association accreditation guidelines, the Department of Justice's 2000 Federal Performance-Based Detention Standards (FPBDS) for federal prisons, and standards created by Immigration and Naturalization Service (INS), the agency that predated ICE. Some contracts only bind jail operators to the vaguely worded "minimum service standards," "local standards," or to "COR Detention Standards" which refer to the Contracting Officer Representative and pertain to enforcement of the technical aspects of a facility's contract rather than conditions inside the jail. According to ICE, however, regardless of the standards listed in the contract, all of its facilities are inspected under one of the three sets of ICE standards. In 2014, the Government Accountability Office reported that, to avoid opening full detention contracts to negotiation



(https://immigrantjustice.org/sites/default/files/contracted-standards-by-facility-for-web2.jpg)



(https://immigrantjustice.org/sites/default/files/last-inspection-standards-byfacility_for-web.jpg)

(https://www.documentcloud.org/documents/2168965-government-accountability-office-october-2014.html#document/p35/a227798), ICE sometimes obtains a facility's agreement to be inspected according to a newer set of standards without explicitly incorporating the new standards into the contract. This practice has created a web of varying guidelines, making it difficult to untangle what standards actually govern a facility's performance. According to the new data, which lists both the contracted standards and the standards applied at the last inspection, only 63 percent of immigrants are held in detention centers that were last inspected under the PBNDS 2011, the most robust set of guidelines. Twenty-four percent of immigrants are in jails inspected under the least stringent 2000 NDS, and 13 percent are in jails inspected under the PBNDS 2008. Twenty-two percent of immigration jails are smaller detention centers which were permitted to conduct their own inspections, known as Organizational Review Self-Assessments (ORSAs).*

7. No Matter What Happens To Immigrants In Their Care, Jails Keep Passing Inspections

Every "authorized" ICE facility has passed every inspection since 2012, even those where multiple people have died, some later reported to be as a result (/fatalneglect) of medical neglect (https://www.hrw.org/news/2016/07/07/us-deaths-immigration-detention). This pattern continues one which

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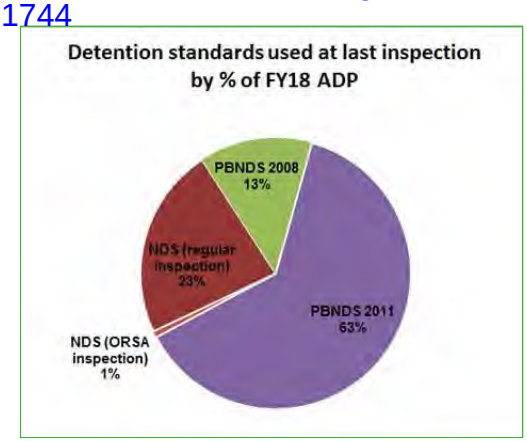
NIJC found in our 2015 analysis (/livesinperil) of ICE inspections reports, which revealed that only one out of 106 facilities was given a deficient rating on an annual inspection after 2009, when Congress passed an appropriations law stating the federal government must discontinue contracts with immigration detention facilities that fail two consecutive inspections. As in 2015, the new data suggests that facilities have an opportunity to have their final rating adjusted after an inspector finds it deficient. The ICE inspections involve two rounds of review before a final rating is assigned: the inspector makes a "recommended" rating, which then is reviewed by ICE and assigned a final rating. In the November 2017 list, four facilities are reported to have had a recommended rating in their last inspection of "deficient," "at-risk," or "does not meet standards." As of November, the final rating for all of these jails had been pending for more than 100 days — by far the longest-pending inspections of more than 200 detention centers listed. The new list also reveals that in November 2017, ICE detained an average of 98 people per day at nine jails listed as "not inspected."



(https://immigrantjustice.org/sites/default/files/last-inspection-standards-byadp_for-web.jpg)

The new data set also includes a list of 13 facilities classified as "use prohibited," most of which are noted as having failed two consecutive inspections in 2008 and 2009, just before the appropriations law took effect. According to ICE's list, some of these facilities still occasionally hold a small number of individuals.

View and download the Excel data file via Scribd (/ice-detention-facilities-november-2017)

If you have questions, or spot an error in our analysis, contact NIJC via the press room (/press-room-contact-us).

Tara Tidwell Cullen is NIJC's director of communications.

***Correction:** An earlier version of this post stated that 22 percent of immigrants were held in jails permitted to conduct their own unregulated "self-assessment" for their last inspections. It has been updated to reflect that 22 percent of immigration jails were permitted to conduct these types of inspections.

TAGS

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