



Department of Homeland Security Office of Inspector General

Immigration and Customs Enforcement's Tracking and Transfers of Detainees





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Preface

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.

This report addresses the strengths and weaknesses of Immigration and Customs Enforcement's Office of Detention and Removal Operations. It is based on interviews with employees and officials of relevant agencies and institutions, direct observations, and a review of applicable documents.

The recommendations herein have been developed to the best knowledge available to our office, and have been discussed in draft with those responsible for implementation. We trust this report will result in more effective, efficient, and economical operations. We express our appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in black ink that reads "Richard L. Skinner".

Richard L. Skinner
Inspector General

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Abbreviations

DHS	Department of Homeland Security
ENFORCE	Enforcement Case Tracking System
FY	Fiscal Year
ICE	Immigration and Customs Enforcement
IGSA	Intergovernmental Service Agreement
OIG	Office of Inspector General

OIG

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Executive Summary

We conducted an audit of United States Immigration and Customs Enforcement's detainee tracking and transfer processes. Our objectives were to determine to what extent the agency has: (1) improved its ability to track and monitor detainees; (2) properly notified detainees of transfers; and (3) provided detainees with timely initial medical screenings and physical examinations.

Immigration and Customs Enforcement's detainee tracking efforts have improved since our last report, dated November 2006 (OIG-07-08), with accuracy rates increasing from 90% to 94%. Immigration and Customs Enforcement correctly accounted for 433 (94%) of the 459 detainees we sampled.

At the time of transfer, Immigration and Customs Enforcement does not always provide detainees the name of the facility to which they are being sent. The Detainee Transfer Notification form was not properly completed for 143 of the 144 transfers we tested. Agency staff interviewed generally considered completing and providing copies of the transfer forms to detainees a low priority. Also the staff interviewed did not know that they were responsible for informing detainees' legal representatives of transfers.

Medical staff at detention facilities did not always conduct physical examinations within 14 days, as required by the National Detention Standard for Medical Care; detainees received timely physical examinations in 248 (80%) of the 312 tested exams. Noncompliance can result in a higher incidence of untreated or undiagnosed illnesses and promote the spread of infectious diseases.

The Immigration and Customs Enforcement concurred with four recommendations and concurred in part with three recommendations. We have incorporated Immigration and Customs Enforcement comments into the body of this report, and made changes where appropriate. These comments are included in their entirety as Appendix B.

Background

In March 2003, U.S. Immigration and Customs Enforcement (ICE) became part of the Department of Homeland Security (DHS). ICE's mission is to prevent acts of terrorism by targeting the people, money, and materials that support terrorist and criminal activities. ICE's responsibilities are to:

- Provide adequate and appropriate custody management to support the processing of removable aliens;
- Facilitate the processing of removable aliens through the immigration court; and
- Enforce removal of aliens from the United States.

ICE Detention and Removal Office is also responsible for the following key elements:

- Identify and remove all high-risk illegal alien fugitives and absconders;
- Ensure that those aliens who have already been identified as criminals are expeditiously removed; and
- Develop and maintain a robust removal program with the capacity to remove all final-order cases.

In FY 2007, ICE detained more than 311,000 aliens, with an average daily population of more than 30,000 and an average length of stay of 37 days. In FY 2008, ICE had an estimated 32,000 funded bed spaces for detainees. In FY 2007, ICE removed 276,912 detainees from the United States and transferred 261,910 detainees from one detention facility to another.

ICE operates seven detention facilities, known as Service Processing Centers, in Aquadilla, Puerto Rico; Batavia, New York; El Centro, California; El Paso, Texas; Florence, Arizona; Miami, Florida; and Los Fresno, Texas. ICE augments its Service Processing Centers with seven Contract Detention Facilities in Aurora, Colorado; Houston, Texas; Laredo, Texas; Seattle, Washington; Elizabeth, New Jersey; Queens, New York; and San Diego, California. ICE also uses state and local jails on a fixed price basis through Intergovernmental Service Agreements (IGSAs).

ICE National Detention Standards are designed to identify a minimum level of acceptable custody and conditions of confinement. The primary purpose of these standards is to provide

uniform guidance regarding the detention, safety, and well-being of detainees in custody. These standards include guidance on a variety of topics, including detainee transfers and medical care. Only facilities housing detainees for more than 72 hours are required to meet these standards. ICE inspects these facilities annually to ensure compliance.

Service Processing Centers and Contract Detention Facilities use commissioned corps officers in the Public Health Service to deliver onsite medical care. Local jails rely mainly on other onsite clinicians, such as contractors or staff employed by county public health departments.

ICE facilities use a detainee classification system to ensure that detainees are housed at appropriate levels and physically separated from each other, based on risk. There are three classification levels generally distinguished by criminal convictions, ranging from Level 1 (lowest risk) to Level 3 (highest risk). The classification system informs detention facility personnel of the level of security and attention required for each detainee.

According to our November 2006 report, *Review of U.S. Immigration and Customs Enforcement's Detainee Tracking Process* (OIG-07-08), the detainee tracking system was up-to-date 90% of the time because information was not recorded in the Deportable Alien Control System within the first 5 days of detainment as required. In addition, ICE made incorrect contractor payments. We recommended that ICE: (1) issue formal instructions to field offices requiring timely Deportable Alien Control System entries and proper supervisory review; (2) perform daily or periodic reconciliations and train staff responsible for verifying the accuracy of Deportable Alien Control System records; and (3) obtain a reimbursement of \$7,955 for the net overpayments to a detention facility. The three recommendations have been fully addressed.

In response to our OIG-07-08 audit report, ICE issued a policy memorandum on February 1, 2007, requiring that the detention screen in the Deportable Alien Control System be updated within 24 hours of detaining or transferring an alien. (See Appendix C for a copy of this memorandum.) Subsequently, on September 30, 2007, ICE instituted the ENFORCE tracking system, the Alien Detention Module component, to replace Deportable Alien Control System, which ultimately provided a more efficient way to electronically process and track detainees in and out of ICE detention facilities. ENFORCE automated many of the

administrative control functions associated with the arrest, detention, and deportation of illegal aliens. In addition, on August 11, 2008, ICE instituted the ENFORCE Alien Removal Module component, a case management system, to replace the Deportable Alien Control System and improve the efficiency of the detention and removal process. ICE immigration enforcement agents, deportation officers, and detention removal assistants have the responsibility to update ENFORCE when a detainee is taken into custody, transferred, or removed.¹ ICE did not update its February 2007 memorandum to reflect institution of the new tracking system.

Results of Audit

Detainee Tracking Has Improved, but More Can Be Done

ICE detainee tracking has improved since the November 2006 audit, but additional procedures are needed to ensure full compliance with ICE's recording requirements. Despite institution of the new tracking system, ICE staff interviewed at the five detention facilities we visited did not always update ENFORCE properly or timely. See Appendix A for details of the five detention facilities selected for review.

As summarized in Table 1, ICE correctly accounted for 433 (94%) of the 459 detainees we sampled in ENFORCE, which is an improvement over the 90% accuracy rate resulting from our 2006 testing.

¹ ICE procedures require ENFORCE to be updated within 24 hours of detainee book-ins, transfers, or removals, to provide an accurate snapshot of the detainee population.

Detention Facility	ADP in FY 08*	Sample Size	Correct in ENFORCE	Errors	Classification			
					N/A	Level 1	Level 2	Level 3
Suffolk County House of Corrections (IGSA) Boston, MA	245	55	49	6	0	6	0	0
Krome Service Processing Center Miami, FL	646	100	94	6	0	1	1	4
Eloy Detention Facility (IGSA) Eloy, AZ	1,468	104	98	6	2	4	0	0
Pinal County Jail (IGSA) Florence, AZ	449	100	96	4	0	2	2	0
Denver Contract Detention Facility Aurora, CO	407	100	96	4	0	0	4	0
Totals	3,215	459	433	26	2	13	7	4

* Average Daily Population in Fiscal Year 2008 as of January 14, 2008.

Information on the correct detention facility for the 26 detainees sampled was not input for up to 11 days, with detainees inaccurately accounted for an average of 3.7 days in the tracking system. In one case, according to the ENFORCE database, a detainee arrived at Arizona’s Pinal County Jail on May 1, 2008, but jail and billing records indicated that the detainee was not booked-in until May 12, 2008, 11 days late.

We also identified four detainees who were transferred from three different Massachusetts IGSA’s to Suffolk County House of Corrections during a long holiday weekend. The four detainees were subsequently deported, yet ENFORCE had no record of their stay at Suffolk County House of Corrections from February 15, 2008, to February 16, 2008.

At two other facilities tested, jail records accurately indicated that three detainees were deported, yet at the time of our review, ENFORCE recorded the detainees as still being in ICE custody. For example, one detainee was deported from the Denver Contract Detention Facility in Aurora, Colorado, on June 6, 2008, but ENFORCE was not updated to reflect the detainee’s deportation by the time of our visit on June 9, 2008.

Continuous knowledge of each detainee’s location is imperative to ensure the safety of the public, detention facility staff, and other detainees. If ENFORCE is not updated in a timely and accurate

way, family members and legal representatives could be misinformed of the whereabouts of detainees. In addition, there is a potential risk of improperly accounting for dangerous detainees. For instance, 27% of the 26 detainees not properly tracked in ENFORCE were categorized as Level 2, and 15% were categorized as Level 3.

For some facilities, ICE's detainee information is recorded in various tracking systems, including log books, Excel spreadsheets, contractor records, and locally developed systems, created as an alternative to the Deportable Alien Control System. The information was considered more easily accessible and reliable in the locally developed tracking systems than in the Deportable Alien Control System. Although these alternative systems were designed to better track detainees, they inadvertently caused more work than necessary. For example, ICE staff interviewed at one IGSA facility used a locally developed system to augment Deportable Alien Control System entries. When ICE moved a detainee from one facility to another, an ICE official was responsible for updating three tracking systems with the same information. With the institution of ENFORCE, locally developed tracking systems should be eliminated.

Reliable information is critical for informed decision making and effective management oversight. In turn, increased management oversight would greatly enhance ICE's ability to meet detainee tracking requirements, identify emerging tracking issues, and assess the success of the overall detainee-tracking process. ICE can better administer its management oversight by implementing internal controls to strengthen the effectiveness of its tracking process.

Transfer Notification Procedures Should Be Improved

According to the National Detention Standard for Detainee Transfers, ICE is responsible for notifying a detainee, immediately prior to leaving the facility, of his or her new facility. A Detainee Transfer Notification form must include the new facility name, address, and telephone number. Also, the form advises the detainees of their responsibility to notify family members of their transfers. (See Appendix D for an example of a Detainee Transfer Notification form.) According to the Detainee Transfer Standard, the form should be given to the detainee at the time of transfer to the new facility. For security purposes, the specific plans and time schedules for transfers are not discussed with the detainee. A copy

of the transfer notification should be maintained in the detainee's detention file.

In FY 2007, ICE transferred 261,910 detainees because of specialized medical needs, requested changes of venue by the Executive Office of Immigration, recreational needs when a required recreation was not available, or security purposes. ICE staff at the five locations visited did not properly complete the Detainee Transfer Notification form for 143 of the 144 transfers we tested.² Interviews revealed that some ICE staff were not aware of transfer procedures required by the Detainee Transfer Standard. For example, ICE staff interviewed at one site visited were not aware that the Detainee Transfer Notification form was required until the facility began using the form in March 2008. Testing at this facility after March 2008 revealed the Detainee Transfer Notification forms were not used.

ICE management at the sites visited had conflicting opinions on where the Detainee Transfer Notification forms should be stored and when they should be used. Contrary to the Detainee Transfer Standard, management officials at the five facilities said the forms should be placed in the detainees' Alien File.³ We tested available Alien Files at the five facilities and did not locate any Detainee Transfer Notification forms.

ICE staff interviewed considered the Detainee Transfer Notification form a low priority. Safety considerations involved with transferring detainees are overriding. ICE management at one site visited considered the Detainee Transfer Notification form unnecessary if a detainee was being transferred to a new location to be deported, although the Detainee Transfer Standard does not indicate such exceptions. For example, ICE transferred a detainee from Pinal County Jail in Florence, Arizona to Los Angeles, California on May 28, 2008. ICE then deported the detainee from Los Angeles, California on May 29, 2008, but a Detainee Transfer Notification form was not documented.

Further, according to the National Detention Standard for Detainee Transfer, when a detainee has legal representation, ICE is required to notify the representative of record that the detainee is being

² The OIG exempted transfers between the Florence Service Processing Center and the Pinal County Jail from this test because ICE does not consider detainee movements between these facilities, located on the same campus, as transfers.

³ The detainee's Alien File is the record that contains copies of information regarding all transactions involving an individual as he or she passes through the immigration and inspection process. The Alien File accompanies the detainee as they move through the immigration process.

transferred. This notification should be recorded in the detainee's Alien File. ICE staff interviewed at the sites visited said they did not notify the detainee's legal representative because they considered the notifications to be the detainee's responsibility. Developing a screen in ENFORCE to identify legal representatives would facilitate compliance with legal representative notification procedures.

It is important to the detainee population that ICE prepare Detainee Transfer Notification forms so that a detainee will know the name, address, and telephone number of the new facility and be able to advise family members and/or legal counsel who wish to visit. Detainees may be transferred anywhere in the United States, depending on a facility's space availability. Failure to adhere to transfer notification procedures could create confusion for family members and legal representatives regarding the whereabouts of the detainee.

ICE conducts inspections to determine overall compliance with the National Detention Standards, including the Detainee Transfer Standard. Inspection reports for the five following facilities that we tested inaccurately reported these facilities as compliant in using the Detainee Transfer Notification form:

1. Suffolk County House of Corrections (Boston, MA) – Inspection report from June 6-8, 2007, conducted by two ICE staff.
2. Krome Service Processing Center (Miami, FL) – Inspection report from April 17-19, 2007, conducted by four ICE staff, and inspection report from April 22-24, 2008, conducted by Creative Corrections.
3. Eloy Detention Facility (Eloy, AZ) – Inspection report from February 19-21, 2008, conducted by Creative Corrections.
4. Pinal County Jail (Florence, AZ) – Inspection report from August 7-9, 2007, conducted by two ICE staff.
5. Denver Contract Detention Facility (Aurora, CO) – Inspection report from October 2-4, 2007, conducted by Creative Corrections.

We noted a similar finding regarding annual inspections in our May 2008 report, *ICE Policies Related to Detainee Deaths and the Oversight of Immigration Detention Facilities* (OIG-08-52). Although these inspections are a risk management tool and only show a snapshot of the facility, each inspection reported that transfer notification forms were reviewed and had no problems.

Inadequate management oversight decreases ICE's ability to ensure that facilities are complying with ICE National Detention Standards.

Medical Screenings and Physical Examinations Are Not Always Timely

According to the National Detention Standard for Medical Care, detainees are required to receive an initial medical screening within 24 hours of arrival and a physical examination within 14 days after arrival. Initial medical screenings should include observation and interview questions related to a detainee’s physical well-being, potential suicide risk, and possible mental disabilities, including mental illness and mental retardation. New arrivals should receive a tuberculosis test as part of the medical screening to prevent the spread of this communicable disease.

Facility	Medical Screening Within 24 Hours		Physical Exam Within 14 Days	
	Non-Compliance	Sample Size	Non-Compliance	Sample Size
Suffolk County House of Corrections (IGSA) Boston, MA	5	34	16	34
Krome Service Processing Center Miami, FL	2	97	1	75
Eloy Detention Facility (IGSA) Eloy, AZ	3	92	28	77
Pinal County Jail (IGSA) Florence, AZ *	0	100	9	62
Denver Contract Detention Facility Aurora, CO	1	97	10	64
Totals	11	420	64	312
	3%		20%	

* Note: The OIG accepted medical screenings completed at the Florence Service Processing Center if they were performed within 24 hours of arrival, because of its proximity to the Pinal County Jail.

As shown in Table 2, medical staff at detention facilities did not always provide initial medical screenings in a timely manner. In some instances, detainees did not receive a medical screening or there were delays between the date of arrival and the date a clinician conducted the screenings. Of the 11 instances of non-compliance with medical screenings, 3 detainees received a medical screening after the 24 hour requirement, and 8 detainees did not receive a medical screening at all or did not receive an updated screening when they were rebooked into the facility. Medical staff conducted the screenings from 1 to 12 days late. In

one instance, a detainee with a book-in date of December 14, 2007, did not receive an initial medical screening until December 27, 2007.

Some facilities did not conduct initial screenings during busy detainee book-in periods. In one case, a medical facility was not fully staffed to process a daily average of up to 90 arriving detainees. Officials at this facility said that medical staffing was at times 50%. As of June 2008, it was staffed at 80%. Because of staff shortages, detainees did not always receive timely medical screenings. For example, one detainee arrived at this facility on January 14, 2008, and received no initial medical screening. Additionally, the detainee did receive a physical examination until March 1, 2008, which was 32 days late. Noncompliance with the timeliness of medical evaluations can result in treatable illnesses going undetected and the spread of infectious diseases inside detention facilities. To ensure that medical evaluations are conducted on time, medical facilities must be fully staffed and ready to handle high influxes of detainees.

In addition, health care providers at each facility are required to conduct a physical examination within 14 days of a detainee's arrival. The physical examination allows for early detection and treatment of diseases and disorders. If there is documented evidence of a physical examination within the previous 90 days, the facility health care provider may determine that a new physical is not required. Four of the five facilities we visited had difficulty meeting ICE's physical examination timeliness requirement.

As illustrated in Table 2, we determined that 64 (20%) of 312 detainees requiring a physical examination did not receive an exam within the 14-day requirement or did not receive one at all. Specifically, 43 (67%) of the 64 detainees sampled received physicals between 1 and 236 days late for an average of 56 days late, and 21 (33%) of 64 detainees did not receive a physical examination at all.

Based on our review, hard-copy medical records can be unreliable. Medical staff interviewed at one ICE facility provided medical records in hardcopy form, but we were unable to determine if the medical screenings were performed timely because the dates appeared to be crossed out and changed. In contrast, Krome Service Processing Center used an electronic case management system and had significantly fewer delays in providing medical evaluations. The electronic system calculated the days a detainee was in custody and generated a reminder for medical staff when a

detainee's 14-day physical was due. Instituting an electronic case management system at detention facilities could improve internal controls, decrease medical care timeliness issues, and offer a more accessible and effective method of record keeping nationwide.

Generally, most of the facilities sampled complied with preparing medical transfer summaries. The Detainee Transfer Standard requires that when a detainee is transferred within the Detainee Immigration Health Service System, a medical transfer summary and an official health record should accompany the detainee. Medical transfer summaries are essential for a detainee's safety while in transit because they contain the detainee's current physical and mental status and current medications with instructions. Such information also aids the receiving facility in processing medical screenings.

Sometimes the receiving medical staff interviewed did not have access to detainees' medical transfer summaries, which resulted in excess work for the medical staff. For example, in one receiving detention facility, the staff interviewed had to re-do the medical history part of the initial medical screening process. ICE should conduct a survey to identify other facilities that have similar problems accessing medical transfer summaries.

Overall, timely medical screenings and physical examinations are an important part of ICE medical care procedures. As previously stated, noncompliance with the Medical Care standard can result in a higher incidence of untreated or undiagnosed illnesses and promote the spread of infectious diseases. The ICE Medical Care standard recognizes the need to perform timely evaluations, yet oversight to ensure compliance is not always effective.

For example, an ICE inspection report inaccurately gave one facility reviewed in 2007 an acceptable rating for the Medical Care standard. The inspection report gave acceptable ratings to portions of the report asking if physical examinations were performed within 14 days of detainee arrivals and if all detainees received mental health screenings upon arrival. During our testing, physical examinations and medical screenings at this facility were not always performed timely. ICE annual facility inspection reports did not identify noncompliance with the Medical Care standard in three of the five facilities we reviewed. By implementing internal controls to ensure compliance, ICE can improve the timeliness of health care provided to detainees.

Recommendations

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

Recommendation #1: Conduct a best practices study to determine how to improve ENFORCE data entry and distribute the results to all facilities.

Recommendation #2: Eliminate the use of locally developed ICE detainee tracking systems in lieu of ENFORCE.

Recommendation #3: Issue specific guidance outlining the proper use of the Detainee Transfer Notification form and develop procedures to hold appropriate management accountable for its use.

Recommendation #4: Develop and implement internal controls to improve management oversight of the annual facility inspection process to ensure that if standards are not followed at a facility, the non-compliance is documented in the inspection report.

Recommendation #5: Develop procedures to ensure that legal representative notifications are made as required. Also, develop a screen in ENFORCE to include information about the detainee's representative of record to facilitate the attorney notification process.

Recommendation #6: Implement internal controls to ensure that detention facilities comply with the National Detention Standard for Medical Care regarding the timeliness of initial medical screenings and physical examinations. In addition, implement an electronic case management system for ICE detainees to facilitate timely medical evaluations.

Recommendation #7: Conduct a study and institute controls at medical facilities to ensure that all receiving medical staff have access to the medical transfer summaries.

Management Comments and OIG Analysis

ICE concurred with four recommendations and concurred in part with three recommendations. We consider recommendations 2, 3, 4, and 7 resolved and closed. We consider the remaining three recommendations open until ICE provides details and documentation on corrective actions

taken so that we can determine whether the actions adequately address the substance of our findings and recommendations.

Management Comments to Recommendation #1

ICE concurred with our recommendation regarding conducting a best practices study to determine how to improve ENFORCE data entry. In October 2008, the Detention and Removal Office restructured the Executive Information Unit, which is responsible for ensuring accountability, consistency, and efficiency in statistical reporting. A new sub-unit, the Data Quality and Integrity Unit, will: (1) coordinate with the Detention and Removal Field Offices to provide guidance and instructions on effective utilization of Detention and Removal Office information systems; (2) develop data entry policies and standard operating procedures; and (3) conduct audits to monitor compliance with data entry requirements. The Data Quality and Integrity Unit will conduct a best practices study to ensure that data entry is completed in an appropriate and timely manner.

OIG Analysis

We consider ICE's proposed actions responsive to the recommendation. However, this recommendation will remain open until the Data Quality and Integrity Unit provides the completed best practices study.

Management Comments to Recommendation #2

ICE concurred with our recommendation regarding eliminating use of locally developed detainee tracking systems. However, ICE believed that any local tracking systems the audit team observed in use at IGSA's are neither in ICE's control nor relied upon by ICE for detainee tracking. Rather, IGSA's likely rely upon their own internal tracking of their detained populations. ICE will issue a policy memorandum stating that transfer, book-in, and book-out data must be entered within a reasonable time frame into the ENFORCE Alien Detention Module, and that ENFORCE and its components are the exclusive system of record for detainee tracking. This memo will replace the February 1, 2007, memorandum regarding data entry in the retired Deportable Alien Control System.

OIG Analysis

ICE issued a memorandum on February 12, 2009, eliminating the use of locally developed ICE detainee tracking systems in lieu of ENFORCE. We consider this recommendation closed.

Management Comments to Recommendation #3

ICE concurred with our recommendation regarding issuing guidance outlining the proper use of the Detainee Transfer Notification form and stated that ICE's standard operating procedures require that Detainee Transfer Notification forms be placed in the detainee files, including the Alien File. While proper use of the Detainee Transfer Notification forms is already mandated and is part of standard training, ICE will issue a reminder to field officers of this requirement. All employees, including management, are accountable for following these standard operating procedures.

OIG Analysis

ICE issued a memorandum on January 15, 2009, reminding field officers of their ongoing obligation with regard to Detainee Transfer Notification forms. We consider this recommendation closed.

Management Comments to Recommendation #4

ICE concurred in part with our recommendation to develop and implement internal controls to improve management oversight of the annual facility inspection process and stated that effective management oversight is critical to meeting ICE's detention mission. ICE has contracted with the Nakamoto Group to provide on-site verification of compliance with the National Detention Standards and the new Performance-Based National Detention Standards for all ICE detention facilities. ICE has also contracted with Creative Corrections to conduct annual inspections of all detention facilities that house ICE detainees. By using third party reviewers, ICE will be able to objectively measure the performance of all facilities housing detainees. As part of the Detention and Removal Office's yearly assessment, scheduled to take place in the second quarter of FY 2009, ICE will look for ways to continue to improve management oversight of the annual inspection process at the agency's detention facilities.

OIG Analysis

ICE has proposed actions responsive to the recommendation by developing and implementing internal controls to improve management oversight of its annual inspection process. We consider this recommendation closed.

Management Comments to Recommendation #5

ICE concurred with our recommendation to develop procedures to ensure that legal representative notifications are made and stated that prompt notification of legal representatives is imperative to facilitate ongoing attorney client communication. The new National Detention Standards provide that an alien's legal representative of record must be notified as soon as practicable, but no later than 24 hours after a detainee has been transferred to a new detention location. Currently, ENFORCE Alien Removal Module contains a screen listing the alien's attorney of record and contact information. As part of an upgrade review, ICE will look at the feasibility of integrating this data with the ENFORCE Alien Detention Module so that officers are prompted to contact legal representatives of record when transfers, book-ins, and book-outs take place.

OIG Analysis

We consider ICE's proposed actions responsive to the recommendation. However, the recommendation will remain open until ICE provides evidence of steps taken to ensure that legal representative notifications are made.

Management Comments to Recommendation #6

ICE concurred in part with our recommendation to implement internal controls to ensure that detention facilities comply with National Detention Standards for Medical Care and stated that it is committed to improving efficiency in providing initial health screenings and 14 day health appraisals to detainees. Facilities that do not meet these standards, as identified through the annual inspection process, are rated as deficient and are required to take corrective action. Implementation of the recently issued National Detention Standards started on October 1, 2008, and will be completed by January 1, 2010. By July 1, 2010, all detention facilities will be evaluated against the new National Detention Standards. As part of this process, ICE will examine control activities that can be implemented to ensure its facilities are meeting the detention standards.

With regard to the second part of the recommendation, ICE stated it has begun exploring the possibility of adopting an electronic health record system.

OIG Analysis

We consider ICE's proposed actions responsive to the recommendation. However, the recommendation will remain open until ICE provides evidence that it has instituted controls to ensure that medical evaluations

are timely. With regard to the second part of the recommendation, we believe ICE should implement an electronic case management system at its service processing centers and contract detention facilities because it could improve internal controls, decrease medical care timeliness issues, and offer a more accessible and effective method of record keeping nationwide.

Management Comments to Recommendation #7

ICE concurred in part with our recommendation regarding conducting a study and instituting controls to ensure medical staff have access to medical transfer summaries and stated that such control activities are essential to providing efficient medical care. ICE stated that because a survey would have limited effect in ameliorating these inefficiencies, it will instead issue memoranda to all Detention and Removal Office and Department of Immigration Health Services personnel involved in detainee management reminding them of proper use, handling, and delivery of all medical records during ICE detainee transfers

OIG Analysis

ICE issued memoranda on December 22, 2008, to the Detention and Removal Office and the Department of Immigration Health Services reminding personnel of the proper use, handling, and delivery of medical records during transfers of ICE detainees. We consider this recommendation closed.

Appendix A

Purpose, Scope, and Methodology

Our objectives were to determine to what extent the agency has: (1) improved its ability to track and monitor detainees; (2) properly notified detainees of transfers; and (3) provided detainees with timely initial medical screenings and physical examinations.

We conducted field work at ICE headquarters in Washington, DC, and site visits to five ICE detention facilities: (1) Suffolk County House of Corrections, Boston, Massachusetts; (2) Krome Service Processing Center, Miami, Florida; (3) Eloy Detention Facility, Eloy, Arizona; (4) Pinal County Jail, Florence, Arizona; and (5) Denver Contract Detention Facility, Aurora, Colorado.

We interviewed personnel at all ICE locations visited. We reviewed detention files, medical records, Alien Files, and policies and procedures related to ICE, including the National Detention Standards, Detention Removal Operations Policies and Procedures Manual, Division of Immigration and Health Services Health Records Standard, and the ENFORCE Detention Module Instructor Guide. We also reviewed prior DHS OIG audit and inspection reports and Government Accountability Office reports.

The ICE detention system consists of more than 400 local and state facilities under IGSA, seven Service Processing Centers, and seven Contract Detention Facilities. We chose to visit facilities of various types, sizes, and locations across the United States. In addition, we considered the number of transfers at detention facilities when selecting our sites. We judgmentally selected five sites from the Deportable Alien Control System for testing using the following criteria:

- Suffolk County House of Correction, IGSA, in Boston, Massachusetts, because of its small size (average daily population of 245 detainees);
- Krome Service Processing Center in Miami, Florida, because it was a medium-sized Service Processing Center (average daily population of 646) and because it was ranked as the fifth highest in detainee transfers from October 2007 through January 2008;
- Eloy Detention Facility, IGSA, in Eloy, Arizona, because of its large size (average daily population of 1,468);
- Pinal County Jail, IGSA, in Florence, Arizona, (average daily population of 449) because of its proximity to the

Appendix A

Purpose, Scope, and Methodology

Eloy Detention Facility in Eloy, Arizona, and for its high detainee transfer rates; and

- Denver Contract Detention Facility, in Aurora, Colorado, because it was a medium sized contract facility (average daily population of 407).

ICE Boston provided the detainee universe from its locally developed tracking system, which reported 271 detainees housed at Suffolk County House of Correction from February 16, 2008, through February 18, 2008. From this universe, we randomly and judgmentally selected 55 detainees (20%) for testing; we visited the facility on February 20, 2008. In addition, we visited the ICE facility in Burlington, Massachusetts on February 21, 2008, March 13, 2008, and June 30, 2008.

ICE staff at the Krome Service Processing Center provided the universe of detainees by extracting data from ENFORCE reports for daily populations, then manipulated the data to determine the net number of detainees for March 24, 2008, through March 28, 2008. This universe totaled 648 detainees. We randomly selected 100 detainees (15%) from this universe, and we visited the facility from April 1-3, 2008.

ICE staff at Eloy Detention Facility provided monthly reports of detainee populations for March 2008, April 2008, and May 2008 from ENFORCE; this universe totaled 2,272 detainees. We randomly selected 104 (4%) for testing, and visited the facility from June 2-4, 2008. Similarly, at the Pinal County Jail, ICE staff provided the detainee population for May 2008, which totaled 1,107 detainees. We randomly selected 100 (9%) detainees for testing from ENFORCE, and visited the facility from June 4-6, 2008.

Using ENFORCE, ICE staff at the Denver Contract Detention Facility provided the May 2008 detainee population, which totaled 984 detainees, including 98 transfers. We randomly selected 50 transfers and 50 detainees for a total sample of 100 (10%), and we visited the facility from June 9-10, 2008.

We relied on computer processed data in ENFORCE to achieve our audit objectives. We compared ENFORCE to source data maintained by the jails to verify book-in and book-out dates. Our tests showed some ICE data input errors, as reported herein. However, we concluded that the data generally was reliable enough to support our audit findings.

Appendix A
Purpose, Scope, and Methodology

We conducted our audit between January 2008 and July 2008 under the authority of the *Inspector General Act of 1978*, as amended, and according to 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 we met these standards.

We would like to thank the Immigration and Customs Enforcement Agency for their cooperation and courtesies extended to our staff during this review.

Appendix B Management Comments to the Draft Report

Office of the Assistant Secretary

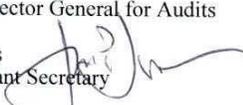
U.S. Department of Homeland Security
500 12th Street, SW
Washington, DC 20024



U.S. Immigration
and Customs
Enforcement

January 2, 2009

MEMORANDUM FOR: Anne L. Richards
Assistant Inspector General for Audits

FROM: John P. Torres
Acting Assistant Secretary 

SUBJECT: ICE Response to OIG Draft Report titled
"Immigration and Customs Enforcement's Tracking and
Transfers of Detainees," dated October 28, 2008

Thank you for providing the U.S. Immigration and Customs Service (ICE) the opportunity to review and comment on the subject Office of the Inspector General's (OIG) draft report.

Generally, ICE agrees with the OIG's recommendations regarding the agency's procedures for tracking and transferring of ICE detainees and we are committed to considering any suggestions that will allow ICE to improve the oversight of all facilities that house individuals in our care. However, we note below a number of specific methodological and contextual concerns with the draft report. Additionally, we have provided technical corrections under separate cover. We would appreciate any amendment of the draft report that the OIG deems warranted.

I. Methodology

ICE is dedicated to improving both the tracking of detainees through the transfer process and its provision of timely medical evaluations to the detained population. However, we are concerned that the methodology utilized in the draft report may have generated inaccurate data that is not representative of ICE management of all detainees nationwide. ICE currently houses its detained population in three different types of detention facilities:

- Service Processing Centers (SPC) are detention facilities where ICE is the primary operator and controlling party.
- Contract Detention Facilities (CDF) are facilities that provide detention services under a competitively-bid contract awarded by ICE.
- Intergovernmental Service Agreement (IGSA) facilities are those where a cooperative agreement has been established between ICE and a state, territory or political subdivision for the construction, renovation or acquisition of equipment, supplies or materials

www.ice.gov

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required to establish acceptable conditions of confinement and detention services. ICE may enter into an IGSA with any such unit of government that guarantees to provide adequate bed space for ICE detainees, in addition to the clothing, food and drink, security and other services specified in ICE's detention standards.

While IGSA facilities must comply with ICE's detention standards, unlike at SPCs and CDFs, ICE does not proscribe the specific procedures IGSA's must utilize to comply with these standards. ICE's relationship with IGSA's is not representative of ICE management of its detained population nationwide. Because the methodology used in the draft report does not differentiate between SPCs, CDFs, and IGSA's, the observations and recommendations may not be representative of ICE's management of its detained population nationwide, given the difference between management of IGSA's and other ICE facilities.

Moreover, the sites selected present specific methodological problems. For example, Pinal County Jail, one of the IGSA sites selected by the auditors, has a high processing rate due to its proximity to the border. Many of the aliens processed at Pinal County Jail are detained for fewer than twelve hours, are not "booked" into detention, or do not require transfer paperwork since they are either redistributed to other on-site facilities or are quickly removed from the United States. It is not clear from the draft report that the auditors took these circumstances into account. Selection of this particular facility may have resulted in inaccurate results because of the specific nuances associated with this sample pool.

Furthermore, the OIG's audit relies upon a total sample population of 459, or .0014 percent of the agency's annual detained population. The OIG noted that ICE detained more than 311,000 aliens in FY 2007. While we understand that the OIG did not set out to conduct a statistically significant survey that would provide results that could be broadly attributed to all ICE facilities, this important point should be clearly specified early in the report. Instead, the judgment criteria used in this audit are not set forth until Appendix A of the draft report. A definition early in the report of "judgmental" versus "nonjudgmental" factors would help to ensure that readers understand that a non-scientific (i.e. judgment) sampling was applied. This explanation would preclude the reader's assumption that testing was performed according to statistical criteria.

II. Contextual Presentation

We are also concerned that in several places in the draft report broad statements are made which may be interpreted as factual expert opinion and that specific conclusions in the draft report are not supported by the underlying audit results. For example, without analysis or explanation, the draft report states that the timeliness of health screenings accelerates the detained population's mortality. *See e.g.*, Page 10, Paragraph 4. Moreover, the draft report states that "Facilities often overlooked conducting [initial medical screenings]," when in fact these were conducted in 96% of the sample tested by the OIG. *See e.g.*, Page 1, Paragraph 4, Sentence 2. We ask that the OIG review its conclusions and qualify statements that are neither based on expert opinion nor supported by the results generated by the audit.

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III. Responses to the OIG's Recommendations

Despite these concerns, we generally agree with the intent of the recommendations. We have provided individual responses to each recommendation below. We look forward to continued collaboration with you and members of your office to improve our policies.

Recommendation 1: "Conduct a best practices study to determine how to improve ENFORCE data entry and distribute the results to all facilities."

ICE concurs with this recommendation. We are committed to ensuring accountability, consistency, and accuracy in the removal data documented in ENFORCE. In October 2008, ICE's Office of Detention and Removal Operations (DRO) re-structured the Executive Information Unit (EIU), which is responsible for ensuring accountability, consistency, and efficiency in statistical reporting. In furtherance of this mission, a sub-unit of EIU, the newly organized Data Quality and Integrity (DQ&I) Unit will: (1) coordinate with the DRO Field Offices to provide guidance and instruction on effective utilization of DRO information systems; (2) develop data entry policies and standard operating procedures (SOPs); and (3) conduct audits to monitor compliance with data-entry requirements. With regard to data entry into ENFORCE, this unit has already begun the process of identifying specific cases that need to be updated and/or closed out, as well as issuing policy guidance regarding the timely entry of data in all databases. For example, on December 8, 2008, ICE issued a policy memorandum to the field mandating that complete data on all removal cases be entered in the ENFORCE Alien Detention Module (EARM) within 96 hours of actual removal. In furtherance of these responsibilities, the DQ&I Unit will conduct a best practices study to ensure that data entry is completed in an appropriate and timely manner.

Based upon this information, and the formation of the DQ&I, it is requested that this recommendation be considered resolved and closed.

Recommendation 2: "Eliminate the use of locally developed detainee tracking systems in lieu of ENFORCE."

ICE concurs with this recommendation. We note that the draft report does not clarify whether its observations regarding locally-developed detainee tracking systems relate to activities at SPCs and CDFs, or IGSA facilities. ICE's docket control for all detained aliens is captured through the ENFORCE Alien Removal Module (EARM) and the ENFORCE Alien Detention Module (EADM). DRO field offices are responsible for maintaining and updating the data for aliens who are housed at IGSA facilities. In other words, any local tracking systems observed by the audit team at IGSA facilities are not in ICE's control nor relied on by ICE for tracking of detainees. Rather, they likely pertain to their internal tracking of their detained population for their own use. Security, privacy laws, policies and directives would preclude the agency from allowing open access to the ENFORCE system to IGSA facilities.

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As noted above, a recently issued DRO policy memorandum reiterates to the field the necessity of entering data on all removal cases within 96 hours of actual removal in EARM. Similarly, we will issue a policy memorandum reflecting that transfer, book in, and book out data must be entered within a reasonable time frame into EADM, and that ENFORCE and its EADM/EARM components are the exclusive system of records as to detainee tracking. This memo will replace the February 1, 2007 memorandum regarding data entry into the retired DACS system.

Recommendation 3: "Issue specific guidance outlining the proper use of the Detainee Transfer Notification form and develop procedures to hold appropriate management accountable for its use."

ICE concurs with this recommendation. ICE's standard operating procedures require that the Detainee Transfer Notification forms are placed within the detainee files, including the A-file. While proper use of the Detainee Transfer Notification forms is already mandated and is part of all standard training, ICE will issue a reminder to the field notifying officers of their ongoing obligation with regard to Detainee Transfer Notification forms. As part of regular audits, detainee files are subject to random inspections to verify that all documentation required, include this Detainee Transfer Notification form, have been properly completed and placed within detainee files. All employees, including management, are held accountable to these standard operating procedures.

Recommendation 4: "Develop and implement internal controls to improve management oversight of the annual facility inspection process."

ICE agrees in part with this recommendation. Effective management oversight of the facility inspection process is critical to meeting ICE's detention mission. To this end, ICE has already taken significant steps to develop and implement internal controls to improve management oversight of facilities. ICE has contracted with the Nakamoto Group to provide on-site compliance verification with the National Detention Standards and the new Performance-Based National Detention Standards (PBNDS) for all ICE detention facilities. ICE has also contracted with Creative Corrections to conduct annual inspections of all detention facilities that house ICE detainees. By using third party reviewers, ICE is able to objectively measure the performance of all the facilities housing detainees. ICE is confident that this process is adequately supervised and that the facilities are held accountable for any deficiencies identified. In fact, facilities rated deficient must produce a Plan of Action identifying corrective action to be taken. As part of DRO's yearly management assessment, which will take place in the second quarter of fiscal year 2009, ICE will examine methods to continue to improve management oversight of the annual inspection process for the agency's detention facilities.

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Recommendation 5: "Develop procedures to ensure that legal representative notifications are made as required. Also, develop a screen in ENFORCE to include information about the detainee's representative of record to facilitate the attorney notification process."

ICE concurs that prompt notification of legal representatives is imperative to facilitate ongoing attorney client communication. The new PBNDS provides that an alien's legal representative of record must be notified of an alien's transfer as soon as practicable, but no later than 24 hours after the detainee has arrived at a new detention location.

ICE is currently entering a review of the EARM and EADM components of ENFORCE in anticipation of a systematic upgrade. Currently, EARM contains a screen listing the alien's attorney of record and contact information. As part of the upgrade review, ICE will look at the feasibility of integrating this data with EADM so that officers are prompted to contact legal representatives of record when transfers, book-ins, and book-outs, take place.

Recommendation 6: "Implement internal controls to ensure that detention facilities comply with the National Detention Standard for Medical Care regarding the timeliness of initial medical screenings and physical examinations. In addition, implement a system of electronic health records for ICE detainees to facilitate timely medical evaluations."

ICE concurs in part with this recommendation. ICE is committed to improving efficiency in providing initial health screenings and 14 day health appraisals to detainees. The Nakamoto Group and Creative Corrections review these expected practices as part of their facility reviews. Facilities that do not meet these standards are rated as deficient and are required to take corrective action. Implementation of the recently issued PBNDS started on October 1, 2008 and will be completed by January 1, 2010. By July 1, 2010 all detention facilities will be evaluated against the PBNDS. As part of this process, ICE will examine control activities that can be implemented to ensure its facilities are meeting the detention standards.

With regard to the second part of the recommendation, we note while ICE has begun exploring the possibility of adopting an electronic health record (EHR) system, ICE is concerned that the OIG's recommendation to implement a nationwide EHR does not adequately recognize the full scope of issues, including patients' rights and privacy concerns at stake which often implicate both state and federal law. We also ask that the recommendation specify whether it is intended to apply exclusively to CDFs and SPCs or if it includes IGSAAs, with the understanding that mandating the use of an EHR at IGSAAs would pose additional challenges.

Recommendation 7: "Conduct a survey and institute controls at medical facilities to ensure that all receiving medical staff have access to the medical transfer summaries."

ICE concurs in part with this recommendation. We believe that control activities ensuring that medical summaries are transferred with detainees are essential to providing efficient medical care. Because a survey would have limited affect in ameliorating these inefficiencies, we will instead issue memoranda to all DRO and DIHS personnel involved in detainee detention and

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transfer reminding them of the proper use, handling, and delivery of all medical records during transfers of ICE detainees.

IV. Conclusion

In conclusion, we would like to express our appreciation of the OIG's work in conducting this audit. We value the OIG's audits as management tools that we can use toward improving the execution of the agency's mission. We thank the audit team for taking the time to discuss these issues with us. Our many management officials and subject matter experts are available to you at your convenience to discuss the issues outlined in this letter.

If you have any further questions or concerns, please feel free to contact Margurite Barnes, OIG Portfolio Manager in ICE's Audit Liaison Office at (202) 732-4161.

Appendix C
Data Entry into the Deportable Alien Control System

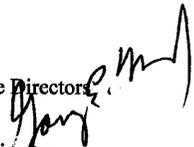
Office of Detention and Removal Operations

U.S. Department of Homeland Security
425 I Street, NW
Washington, DC 20536



**U.S. Immigration
and Customs
Enforcement**

FEB 1 2007

MEMORANDUM FOR: Field Office Directors 
FROM: Gary Mead
Assistant Director
Management
SUBJECT: Data Entry Into the Deportable Alien Control System (DACS) and
Jail Bill Reconciliation.

Please ensure data entry into the Detention Screen (DETS) of DACS is done within 24 hours of placing an alien in detention or within 24 hours of transferring a detained alien.

Please ensure jail bills are reconciled on at least a monthly basis. Periodic reconciliation with appropriate supervisory oversight will help to prevent improper payments to detention facilities.

If you have any questions regarding this policy, contact Mr. Tim Perry, Deputy Assistant Director, Detention Management Division at 202-732-2912.

www.ice.gov

Appendix D
Detainee Transfer Notification Form



**U.S. Immigration
and Customs
Enforcement**

DETAINEE TRANSFER NOTIFICATION

This Form To Be Completed And Given To The Detainee

DETAINEE NAME: _____ A# _____

NATIONALITY: _____

TRANSFER INFORMATION

NAME OF NEW FACILITY: _____

ADDRESS OF NEW FACILITY: _____

TELEPHONE NUMBER _____
OF NEW FACILITY: _____

I hereby acknowledge that I have received the transfer information. I have also been notified that it is my responsibility to notify family members or others, if I so desire.

Detainee Signature: _____ A# _____ Date: _____

Officer Signature: _____ Date: _____

Revised September 13, 2004

Appendix E
Major Contributors to this Report

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Executive Secretary
Director, GAO/OIG Liaison Office
Acting Assistant Secretary for ICE
Assistant Secretary for Office of Policy
Assistant Secretary for Office of Public Affairs
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Congressional Oversight and Appropriations Committees, as appropriate



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DHS Office of Inspector General/MAIL STOP 2600,
Attention: Office of Investigations - Hotline,
245 Murray Drive, SW, Building 410,
Washington, DC 20528.

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