

July 16, 2024

The Honorable Gene L. Dodaro  
Comptroller General  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Dear Mr. Dodaro:

I write to request that the Government Accountability Office (GAO) comprehensively and expeditiously review mental health care provided by U.S. Immigration and Customs Enforcement (ICE) to noncitizens in its custody across all immigration detention facilities.

ICE, the lead agency responsible for detaining noncitizens in the United States, holds individuals from a wide variety of countries and backgrounds in its immigration detention facilities. As of June 30, 2024, over 37,000 individuals were in ICE detention.<sup>1</sup> Many of these individuals have fled persecution or abuse, leaving them traumatized, and many have mental health care needs.

ICE exercises significant control over the lives of the noncitizens in civil immigration custody waiting for resolution of their immigration cases or removal from the United States. ICE has established standards for immigration detention, which state that ICE must detain individuals in the most humane manner possible with adequate mental health and medical care.<sup>2</sup> ICE's 2011 Performance-Based National Detention Standards require facilities to provide detained individuals with access to appropriate and necessary mental health care through an in-house or contracted mental health program.<sup>3</sup> The program is required to provide comprehensive screening of mental health concerns; referral as needed for evaluation, diagnosis, treatment, and monitoring of mental illness; crisis intervention and management of acute mental health episodes; transfer to licensed mental health facilities of individuals whose mental health needs exceed the capabilities of the facility; and a suicide prevention program.<sup>4</sup>

In 2016, the DHS Office of the Inspector General (OIG) reported that only 21 of the 230 ICE detention facilities existing at the time offered in-person mental health services.<sup>5</sup> In 2018, the DHS OIG found that detained individuals reported waiting weeks or months to see a mental

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TRAC Immigration, Immigration Detention Quick Facts, <https://trac.syr.edu/immigration/quickfacts/> (last visited July 12, 2024).

<sup>2</sup> Department of Homeland Security, U.S. Immigration Customs Enforcement, *Performance-Based National Detention Standards 2011*, PBNDS 2011 (revised Dec. 2016).

<sup>3</sup> Department of Homeland Security, U.S. Immigration Customs Enforcement, *Performance-Based National Detention Standards 2011*, PBNDS 2011, 269 (revised Dec. 2016).

<sup>4</sup> *Id.*

<sup>5</sup> Department of Homeland Security Office of Inspector General, *ICE Still Struggles to Hire and Retain Staff for Mental Health Cases in Immigration Detention*, OIG-16-113-VR (Washington, D.C.: July 21, 2016).

concerns related to the provision of mental health services. For example, in 2021, the DHS OIG reported that at one detention facility both psychologist positions and four of five mental health coordinator positions were vacant (with three coordinator positions remaining vacant for 459 days).<sup>7</sup> Additionally, in 2022, the DHS OIG reported that individuals detained at another facility had inadequate access to mental health care for suicide prevention.<sup>8</sup>

ICE's deficiencies in mental health care and staffing levels have real and lasting consequences. The failure to adequately meet individuals' mental health needs has contributed to the pervasive and harmful use of solitary confinement in ICE facilities,<sup>9</sup> as well as suicides, suicide attempts, and other instances of self-harm.<sup>10</sup>

These issues raise serious questions about ICE's ability and capacity to provide adequate care to detained individuals with mental health needs. We ask that GAO conduct a study to examine the following questions:

1. What does available data show regarding the mental health care needs of detained individuals and the extent to which ICE has provided adequate mental health care to individuals in its custody?
2. To what extent has ICE developed, implemented, and adhered to policies and procedures for assessing and meeting the mental health care needs of detained individuals and providing mental health care?
3. How does ICE oversee compliance with its policies and procedures for mental health services and what are the results of this oversight?
4. How does ICE ensure sufficient levels of staffing to meet the mental health care needs of detained individuals?
5. What steps is ICE taking to address suicide prevention within detention facilities?
6. What policies guide how detention facility staff receive and evaluate medical and mental health information provided by a detained individual, and how does that information impact treatment and custody determinations?

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<sup>6</sup>Department of Homeland Security Office of the Inspector General, *Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California*, OIG-18-86 (Washington, D.C.: Sept. 27, 2018).

<sup>7</sup>Department of Homeland Security Office of the Inspector General, *Violations of Detention Standards amid COVID-19 Outbreak at La Palma Correctional Center in Eloy, AZ*, OIG-21-30 (Washington, D.C.: Mar. 30, 2021).

<sup>8</sup>Department of Homeland Security Office of the Inspector General, *Violations of ICE Detention Standards at Folkston ICE Processing Center and Folkston Annex*, OIG-22-47 (Washington, D.C.: June 30, 2022).

<sup>9</sup>Physicians for Human Rights, “*Endless Nightmare*”: *Torture and Inhumane Treatment in Solitary Confinement in U.S. Immigration Detention* (Feb. 2024), <https://phr.org/our-work/resources/endsless-nightmare-solitary-confinement-in-us-immigration-detention>; Project on Government Oversight, *Isolated: ICE Confines Some Detainees with Mental Illness in Solitary Confinement for Months* (August 2019), <https://www.pogo.org/investigations/isolated-ice-confines-some-detainees-with-mental-illness-in-solitary-for-months>.

<sup>10</sup>Rafael Bernal, *Suicide attempts highlight mental health concerns in immigrant detention*, The Hill (Mar. 3, 2023), <https://thehill.com/latino/3881755>; Innovation Law Lab, *Suicide Attempt at New Mexico ICE Detention Center Less Than 4 Months After Death by Suicide at Same Facility Already Under Intense Scrutiny for Chronic & Severe Federal Standards Violations*, (Dec. 8, 2022), <https://innovationlawlab.org/press-releases/another-suicide-attempt-at-torrence>; Gace Deng, *At least 6 suicide attempts this year at Tacoma ICE detention center; 911 calls show*, Washington Standard (April 10, 2024), <https://washingtonstatestandard.com/2024/04/10/at-least-6-suicide-attempts-this-year-at-tacoma-ice-detention-center-911-calls-show/>.

7. How does ICE make determinations about releasing noncitizens with mental health conditions and to what extent does it have policies and procedures for developing release plans and ensuring the safe release of individuals from custody?
8. Other issues GAO deems appropriate.

It is critical that the mental health care provided to those in ICE custody meets or exceeds the appropriate standard of care and that any lapses or negligence are identified and quickly addressed. I appreciate your attention to this matter and look forward to working with you.

Sincerely,



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Richard J. Durbin  
Chair

cc: The Honorable Lindsey O. Graham  
Ranking Member, Senate Committee on the Judiciary