



COMMITTEE ON HOMELAND SECURITY

FOR IMMEDIATE RELEASE

Hearing Statement of Oversight, Management, and Accountability Subcommittee Chairwoman Xochitl Torres Small (D-NM)

Oversight of ICE Detention Facilities: Is DHS Doing Enough?

September 26, 2019

We are here to discuss the oversight of Immigration and Customs Enforcement's detention facilities and whether DHS is doing enough to ensure that ICE's own detention standards are being met. Before we start, I'd like to take a moment to acknowledge some of the challenges the Subcommittee had in arranging today's hearing. We're holding two panels this afternoon because ICE declined to sit on the same panel with Nakamoto, the contractor it chose to conduct inspections on its behalf since 2011. The Department's lack of cooperation makes it more challenging for Congress to do its job.

As I recently stated at a meeting with DHS leaders, it's important to this Subcommittee to bring voices together at the same table to engage in a problem-solving discussion. This issue is particularly important to me as two of ICE's facilities, the Otero ICE Processing Center and the Cibola County Correctional Center, detain upwards of 1,300 migrants in my home district. Upon visiting these facilities, I have become increasingly concerned about the conditions of confinement. I am not alone in having these concerns.

While ICE has processes in place to conduct oversight of these facilities, DHS's Office of Inspector General last year found that these processes were insufficient to sustain compliance with ICE's own standards. For example, ICE's contractor, which conducts about one hundred inspections annually, is responsible for evaluating compliance with up to 42 standards composed of over 600 elements over the course of just a few days. As a result, these inspectors end up missing some clear violations of detention standards, like a phone not working properly. The OIG also observed inspectors misreporting that detainees knew how to obtain assistance from ICE officers when those detainees had indicated that exact opposite. Of additional concern is the fact that even when these deficiencies are identified, ICE's processes have not ensured that they are corrected.

For example, ICE has Detention Service Monitors on site at several detention facilities to monitor compliance with detention standards. However, these monitors told the OIG that when they identify violations, they have no means of enforcing corrective action. Instead of pressuring facilities to correct deficiencies or issuing financial penalties for noncompliance, in some cases ICE grants waivers so the facilities don't have to abide by certain standards. For example, as the OIG reported, from October 2015 to June 2018, ICE only issued 2 financial penalties and granted 65 waivers – 63 of which had no end date. One of these waivers, at Otero in my district, permitted low custody individuals with no criminal history to comingle with individuals with more serious criminal records. The standard that typically keeps these detainees separated is an important one that directly impacts the safety of migrants in detention.

Finally, I have concerns that inspections by ICE's contractor are announced far in advance giving facilities ample opportunity to clean things up just in time for the inspection. I understand that the OIG made several recommendations to ICE to correct these issues, and I look forward to hearing what steps ICE has taken and whether they are leading to more sustained compliance with standards. I also look forward to hearing about the oversight work that the OIG conducts at ICE facilities. The OIG's oversight work in this space has been critical in shining a light on the conditions of confinement. Recent reports have identified serious violations of ICE's standards, including food service issues endangering the health of detainees and inappropriate segregation practices infringing on detainee rights. However, the scope of OIG's inspections is limited by its lack of subject matter experts, like medical doctors to evaluate the quality of medical care. I am encouraged by the fact that the OIG is developing a plan to contract with such expert experts who could engage in this oversight work, and I hope to hear that this plan is being put into action.

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