

Highlights of GAO-04-434, a report to congressional requesters

Why GAO Did This Study

The U.S. Supreme Court's June 2001 ruling, *Zadvydas v. Davis*, held that indefinite detention of certain removable aliens was unlawful if their removal was not likely in the reasonably foreseeable future, even if they were deemed to be a threat to the community or a flight risk. U.S. Immigration and Customs Enforcement (ICE) conducts post order custody reviews of removable aliens to determine if continued detention is in compliance with laws and regulations. ICE is to assure that aliens meet the conditions of their release. This report addresses (1) what information ICE has to assure that its custody reviews are timely and consistent with the *Zadvydas* decision and implementing regulations and (2) how ICE has assured that aliens released on orders of supervision have met the conditions of their release.

What GAO Recommends

GAO recommends that the Secretary of the Department of Homeland Security direct the Assistant Secretary for ICE to (1) ensure that ICE has complete, accurate, and readily available information to help assure compliance with the *Zadvydas* decision and implementing regulations; (2) determine ICE deportation officer staffing needs; and (3) provide guidance to ICE deportation officers on prioritizing their supervision caseloads.

ICE agreed to implement GAO's recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-04-434.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Richard M. Stana, 202-512-8777, stanar@gao.gov.

IMMIGRATION ENFORCEMENT

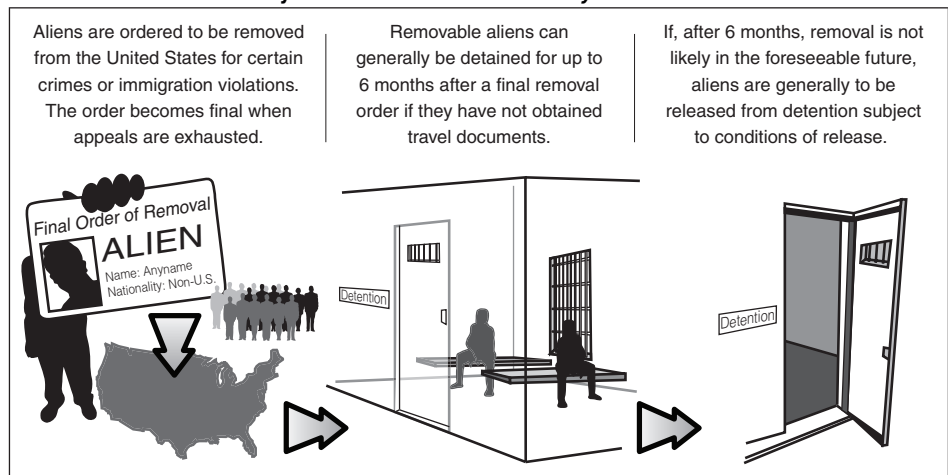
Better Data and Controls Are Needed to Assure Consistency with the Supreme Court Decision on Long-Term Alien Detention

What GAO Found

ICE does not have information that provides assurance that its custody reviews are timely and its custody determinations are consistent with the *Zadvydas* decision and implementing regulations. One reason ICE has difficulty providing assurance is that it lacks complete, accurate, and readily available information to provide deportation officers when post order custody reviews are due for eligible aliens. In addition, ICE does not have the capability to record information on how many post order custody reviews have been made pursuant to regulations and what decisions resulted from those reviews. Therefore, ICE managers cannot gauge overall compliance with the regulations for aliens who have been ordered to be removed from the United States. Although ICE is in the process of updating its case management system, ICE officials said that they did not know when the system will have the capability to capture information about the timeliness and results of post order custody reviews.

ICE also does not have readily available information on how many aliens have been released on orders of supervision pursuant to the *Zadvydas* regulations, or whether these aliens have met the conditions of their release (i.e., periodically report to ICE and continue to seek travel documents from their home country). One reason for this is that ICE does not have the capability to track aliens' actions required by the conditions of their release. ICE officials also reported that ICE has a shortage of deportation staff, but they did not know how many staff are needed to manage the supervision caseload. Despite ICE's challenges in this area, ICE has not provided guidance to its field offices to help them prioritize deportation officer duties and supervision cases. Such prioritization could help ICE target its resources on those supervision cases that present the highest risk to public safety.

Alien Removal and Custody Review Process under *Zadvydas*



Source: GAO.