



U.S. Immigration and Customs Enforcement

STATEMENT

OF

JAMES T. HAYES, JR.

DIRECTOR

OFFICE OF DETENTION AND REMOVAL OPERATIONS

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
DEPARTMENT OF HOMELAND SECURITY**

REGARDING A HEARING ON

**“MEDICAL CARE AND TREATMENT OF IMMIGRATION
DETAINEES
AND DEATHS IN DRO CUSTODY”**

BEFORE THE

**HOUSE APPROPRIATIONS COMMITTEE
SUBCOMMITTEE ON HOMELAND SECURITY**

**Tuesday, March 3, 2009 @ 1:00 pm
2141 Rayburn House Office Building**

Good afternoon, Chairman Price, Congressman Rogers and distinguished Members of the Committee. My name is James Hayes, and I am the Director of Detention and Removal Operations (DRO) at U.S. Immigration and Customs Enforcement (ICE). It is my privilege to appear before you to discuss the detention processes, medical care and treatment of ICE detainees.

DRO's core mission is the arrest, detention, and removal of inadmissible and deportable aliens. In doing so, we enforce the law as enacted by Congress. Our authority to arrest and detain aliens is contained in the Immigration and Nationality Act (Sections 236 and 241), first in 1952 and subsequently revised and expanded by Congress. In carrying out our mission, one of our highest priorities is to provide a safe, secure and humane detention environment for detainees, including providing health care to those in our custody. We take this responsibility very seriously and have created a comprehensive detainee health care program and a rigorous inspection program to that end. I am personally committed to ensuring that ICE detainees are treated humanely and receive adequate medical care for the duration of their time in custody.

DRO will work closely with the Secretary's Special Advisor Dora Schriro to review and implement recommendations made by the Department's Working Group on Detainee Health Care, which considered detainee health care improvements and delivered its report to former Deputy Secretary Paul Schneider on January 26, 2008. The Working Group included the Office of Health Affairs and individual external medical experts commented on its reports.

Additionally, as you are aware, this Committee funded an assessment of medical care provided to ICE detainees that will be performed by the Office of Professional Responsibility, in

consultation with the Department's Office of Health Affairs. I understand the contract for that assessment will be awarded by mid-April, and we look forward to cooperating fully with the review.

THE ICE DETENTION SYSTEM

ICE uses detention as a tool to ensure that aliens amenable to removal from the United States are in fact removed. The detention facilities that ICE uses can be grouped according to function and ownership. Service Processing Centers (SPCs) are owned by ICE and staffed by a combination of federal and contract employees. Contract Detention Facilities (CDFs) are owned by private companies that contract directly with the government and staffed by a combination of federal and contract employees. Inter-governmental Service Agreement facilities (IGSAs) are operated by local governments and are usually public facilities but can also be privately owned. Dedicated IGSAs are facilities with detention space reserved exclusively for ICE. Other facilities used by ICE include staging facilities for transportation, holding facilities, and hospitals for emergency care.

Approximately 67 percent of the current ICE population is in IGSA facilities, 15 percent in Contract Detention Facilities, and 10 percent in ICE-owned facilities; the remainder is housed by the Office of Refugee Resettlement, the Bureau of Prisons, or other, less restrictive detention settings. In Fiscal Year 2009, the ICE detention program is funded for 33,400 beds. Currently, ICE estimates that 442,941 detainees will spend time in ICE custody this year. The vast majority

of these detainees will be in ICE's care for approximately 30 days or less prior to their deportation from the United States.

ICE uses both internal and external programs to ensure that all facilities we use to house detainees provide safe, humane conditions of confinement. ICE contracts with two companies recognized for their expertise in detention management to conduct inspections and ensure ongoing quality control. Detention professionals from Creative Corrections perform annual detention facilities inspections previously performed by ICE employees on a collateral duty basis. Detention experts from the Nakamoto Group serve as on-site, full time quality assurance inspectors at our 37 largest facilities. The on-site contractor will be performing the same function on a regional basis for our other facilities by third quarter FY 2009. To ensure that identified deficiencies are immediately addressed, in January of this year, I directed that any deficiency be immediately reported to me for review so I can closely track progress in correcting the deficiency. It has always been ICE policy to address and correct deficiencies involving life and health safety issues; however, I believe the higher level of visibility will speed remediation efforts.

Internally, in 2007, ICE created the Detention Facilities Inspection Group (DFIG) to conduct specialized inspections of detention facilities and to investigate allegations of mistreatment and non-compliance with our detention standards. The Inspection Group does not report to me, but to the ICE Office of Professional Responsibility (OPR), which independently inspects and reviews ICE offices, operations, and processes.

DETAINEE HEALTH CARE SERVICES

To ensure detainees receive medical treatment in accordance with community standards of care, my office partners with U.S. Public Health Service commissioned officers to provide or arrange for health care in 23 detention facilities that ICE uses, including all seven ICE-owned Service Processing Centers. The Division of Immigration Health Services has more than 700 doctors, nurses, and other health care professionals. During Fiscal Year 2008, ICE spent over \$128 million on detainee health care, including basic and advanced care for detainees at the above mentioned facilities as well as advanced care for detainees housed at other detention facilities.

Since the creation of ICE in 2003, more than 1.7 million individuals have passed through ICE detention facilities. ICE currently tracks all health care provided to detainees in detention facilities staffed by DIHS and advanced care authorized for all ICE detainees through the DIHS Managed Care Program. Last summer, we began developing plans to add health records to our modernization of detainee records, with the goal of tracking all health care provided to those in ICE custody.

The initial health screening must occur within 12 hours of a detainee's arrival at a facility to determine each detainee's medical, mental health, and/or dental needs. Included in this process is either a chest x-ray or skin test for tuberculosis. Immediate attention is provided to detainees who present a danger or an imminent risk to themselves or others, such as infectious diseases, uncontrolled mental health disorders, or conditions that would deteriorate if not addressed immediately by medical personnel.

These initial health screenings have proven, in some cases, to be life saving. For example, last August, a Mexican national arrested by ICE agents during a worksite enforcement operation was diagnosed during his initial health screening in ICE custody with an abdominal aortic aneurysm, a serious and potentially life-threatening condition. DIHS took immediate action and arranged for this detainee to undergo a surgical procedure that literally saved his life.

In addition to the initial health care screening, ICE detainees receive a health appraisal and physical examination within 14 days of arrival to identify medical conditions that might require monitoring and treatment. Through the screening, physical exam, and any other subsequent evaluations, medical staff ensure detainees receive prescription medications, consultations, and follow-up appointments for conditions. Scheduled visits include appointments made in advance for ambulatory care or specialty care clinics. Unscheduled visits are performed for emergent or urgent conditions.

If language difficulties prevent the health provider or officer from directly communicating with a detainee for purposes of completing a medical screening or health evaluation, the officer is required to obtain translation assistance. ICE has several translation service contracts in place to meet this need.

All ICE detainees, regardless of classification, have access to sick call. Detainees have the opportunity to request health care services provided by a physician or other qualified medical

officer in a clinical setting. Procedures are in place to ensure that all requests for care are received by the health service provider in a timely manner.

The sick call process provides detainees access to non-emergency medical services, and all facilities are required to have regularly scheduled times when medical personnel will be available to see detainees who have requested service. For emergency or urgent medical services, detainees may notify any facility staff at any time that a problem occurs, and medical staff or 911 will be called immediately.

Medical care provided at each detention facility also includes access to prescription medications. Prescriptions written for detainees by the health service provider are filled either by an on-site pharmacy or by a local community pharmacy.

The ICE Medical Program articulates the health care services, medical products, and treatment options that are available to any detainee in custody, including treatment for conditions that pose an imminent threat to life, limb, hearing, or sight. Medical conditions which the local treating physician believes would cause suffering or deterioration of a detainee's health are also assessed and evaluated through the DIHS Managed Care Program. The Program uses a network of more than 500 hospitals, 3,000 physicians, and 1,300 other health care facilities to provide a wide range of medical services available to all ICE detainees.

Detainees who require care beyond what can be provided at their detention facility are provided those services through the Managed Care Program. Each year, DIHS handles more than 40,000

requests for outside services. The average turnaround time for a request is 2.6 days, and 98 percent of requests are approved. Relying on DIHS' managed care network, ICE ensures that detainees get access to specialized treatment for cancer, heart conditions, diabetes, as well as a variety of general surgical procedures, including those covering appendicitis, diseases of the gall bladder, and orthopedics.

CHALLENGES AND IMPROVEMENTS

Last year, ICE revised its National Detention Standards and plans to begin a phased implementation of new performance-based detention standards. ICE will begin implementing the Performance Based National Detention Standards this April in ICE-owned detention facilities; ICE expects to have the new standards fully implemented in all detention facilities housing ICE detainees by June 2010. In administering the new standards, ICE has developed a compliance monitoring program including a new unit dedicated to ensuring day-to-day compliance and expert, trained detention management staff assigned to each DRO field office.

In the five months since I became the permanent DRO Director, I have reviewed our detention system, including the health care delivery system currently used. We are faced with a variety of challenges, including: that 90 percent of our detainee population comes from 10 of the world's most underdeveloped nations and have generally not received adequate health care prior to entering ICE custody: that of the detainees medically screened by DIHS in Fiscal Year 2008, 34 percent of detainees were identified as having chronic health care problems including cases of

hypertension and diabetes that were previously undiagnosed; the lack of available detention space in areas where ICE is busiest, including southern California, New England, and the mid-Atlantic region; and the rising health care costs for a detainee population in generally poor health.

Before I conclude, I would like to make a few comments regarding detainee deaths. While a single death of a detainee is a tragedy, and potentially a failure of the system, the Detainee Health Program has an overall death rate that is well below those in comparable detention or correctional settings. Although exact comparisons of mortality rates between ICE facilities and other correctional and jail settings are difficult, mortality rates at ICE facilities have significantly decreased since 2004.

The mortality rate for ICE detainees in 2008 was 2.7 deaths per 100,000 detainees. As GAO reported, given the generally poor health of detainees who enter ICE custody, the comparatively low death rate among ICE detainees provides evidence of the extraordinary measures ICE takes to prevent the death of any ICE detainee in our care.

When a death does occur, ICE reports it immediately to our Office of Professional Responsibility (OPR) and the DHS Office of the Inspector General (OIG) to determine if an investigation into the circumstances of the detainee's passing is warranted. Facilities are also required to report all deaths to the local medical examiner or coroner's office, who will conduct an autopsy if required. DIHS also conducts an independent review of some in-custody deaths based on the

individual circumstances. This year, we will start reporting all deaths in ICE custody to the Department of Justice's Bureau of Justice Statistics.

Despite steady improvement and increased investment in recent years, I believe our detention management system can be strengthened further. We have recognized the need for such improvement and have taken significant steps in working toward our goal of having the safest detention management system in the United States. I look forward to working with Dr. Schriro to build upon this progress. Our comprehensive detainee health program is based on comprehensive medical care, sound management, continuous review, and process improvement. Our detention oversight procedures work to ensure a safe, secure, and humane detention environment. ICE's detention and medical service processes are continually monitored by both internal and external experts with the ultimate goal of providing the best possible conditions of confinement and health care to those in our custody. As I mentioned at the start of my statement, the well being of our detainees is among our highest priorities and most important responsibilities.

Thank you for the opportunity to appear before you today, and I look forward to answering any questions you may have.