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## An Inside Look: Poor Nutritional Health in Migrant Detention Facilities

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### Executive Summary

Immigration has become a hot topic in the United States. Migrants from the Northern Triangle region of Central America (Guatemala, El Salvador, and Honduras) currently make up around 86% of the total 3.5 million Central Americans that reside in the U.S.<sup>1</sup> According to estimates from the Congressional Research Service (CRS), approximately 265,000 people of this region have left their respective countries in the past five years.<sup>2</sup> In 2019, it was estimated that over 508,000 people of this region were headed towards the U.S.<sup>3</sup> This group of people also represents the highest apprehensions at the border.<sup>4</sup> Currently, this group is the most affected by the U.S. Immigration and Customs Enforcement (ICE) and its policies.

ICE lacks accountability for enforcing its own rules. Many concerns and complaints have been raised by immigrant rights groups on the type of food given to migrants in detention facilities. The U.S. Department of Homeland Security (DHS) Office of Inspector General (OIG) has responded to the inquiries and conducted many

inspections. These inspections have shown violations of ICE's own National Detention Standards. To improve conditions within all detention facilities and create accountability, ICE should enact a grading system, like the system used by local health departments to grade restaurants, to all its privately-operated facilities. Those with a poor grade could be subject to closure, financial penalties, and mandatory training on safe food handling and the Performance-Based National Detention Standards (PBNDS).

### Brief Overview

#### Population affected

It is important to point out the group of people affected the most belong to the Northern Triangle region of Central America. While it is true that there are many groups of people that are directly impacted by ICE through apprehension, detention, and deportation migrants of this region have higher apprehension rates. CRS estimated that more than half (52%) of all border apprehensions are migrants of the region.<sup>5</sup> And in the first nine months of 2019, border patrol apprehended more than 363,000

migrants traveling in families from Guatemala, El Salvador, and Honduras.<sup>6</sup>

### Background

#### Detention facilities

ICE Enforcement and Removal Operations (ERO) is responsible for the apprehension, detention, and removal of undocumented individuals who live in the U.S.<sup>7</sup> All ICE detainees are held in civil, not criminal, custody in five different facility types.<sup>8</sup> ICE then sends its detainees to one of the 211 detention facilities that it has around the country.<sup>9</sup>

#### Oversight Policies

With so many detainees, ICE tends to contract out to privately operated facilities. In order to ensure that these facilities are following the guidelines, ICE has four primary systems in place.<sup>10</sup> However, ICE's systems are inconsistent with one another, which has caused poor quality control in keeping detainees safe and healthy. ICE's four inspection systems include:

- Contracts with a private company, the Nakamoto Group, that conducts annual and biennial inspections;

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- The Office of Detention Oversight, which inspects long-term detention facilities about once every three years;
- The ERO's own detention monitoring program through onsite detention service managers;
- Organizational Review Self-Assessments, where facilities that hold fewer than ten immigrants for less than 72 hours are allowed to conduct their own inspections.<sup>11</sup>

In addition, contracts between ICE and privately operated (for-profit) facilities are recommended, not obligated, to abide by the 2000 National Detention Standards,<sup>12</sup> the 2008 Performance-Based National Detention Standards (PBNDS),<sup>13</sup> or the 2011 PBNDS.<sup>14</sup>

### **Performance-Based National Detention Standards (PBNDS)**

ICE established PBNDS to achieve consistent conditions of confinement, program operations, and management expectations within the agency's detention system. The guidelines are ICE's commitment to improve detainee care, environmental health, and safety.<sup>15</sup> These standards specify that the detention facilities are to provide nutritionally balanced diets, protect from injury and illness by adequate food service training, practice sanitation techniques, provide sufficient space and time for detainees to eat meals, meet governmental health and safety codes, accommodate the ethnic and religious diversity of facility's

detainee population, provide therapeutic medical diets, and supplemental food shall be prescribed by appropriate clinicians.<sup>16</sup> However, private contractors are not completely applying these standards, regardless of ICE spending approximately \$2.3 billion dollars annually of its total budget on its custody operations.<sup>17</sup>

### **Description of the Problem**

#### *Investigations*

The DHS OIG conducted an unannounced visit to a detention facility in 2018,<sup>18</sup> it found numerous violations with expired food that aligned with previous investigations conducted in 2016.<sup>19</sup> In its 2016 visit, the OIG observed noncompliance with ICE standards with regards to food service such as spoiled and slimy food in the kitchen refrigerators.<sup>20</sup> Investigators found food past its expiration date, unlabeled meat, and unclear use-by labels for meat products.<sup>21</sup>

At one facility open packages of raw chicken leaked blood all over refrigeration units, lunch meat was slimy and foul smelling, and moldy bread was stored in the refrigerator.<sup>22</sup> At another detention facility, cross-contamination of meat and cheese were found stored together, lunch meat was unwrapped and unlabeled, chicken was foul smelling, and food in the freezer was expired.<sup>23</sup> At a third facility, open packaged food was not properly relabeled.<sup>24</sup> On numerous occasions independent investigators observed detention facilities failing to follow their own

guidelines. For example, Singh Indian refugees were fed meat sandwiches (that were frozen in the middle) without providing vegetarian alternatives, violating their own ethnic and religious accommodation guidelines.<sup>25</sup> Detainees were sometimes offered two pieces of bread with green beans for lunch and green beans with rice for dinner.<sup>26</sup> These choices are not only unhealthy, but also do not follow the U.S. Federal Dietary Guidelines of healthy nutrition.<sup>27</sup>

### **Policy Recommendations**

As discussed above, ICE detention facilities have formatted their standards to treat detainees fairly. All the policies that were briefly mentioned have drawbacks as it was shown through unannounced visits and investigations. The policy recommendations below have its own strengths and weaknesses that may or may not improve nutritional health within detention facilities.

#### **Policy Recommendation One**

This policy recommendation takes into consideration efficiency and sustainability, it also could be the easiest to carry out because it is an extension of existing policies already implemented. ICE relies on spot-checking and self-policing that has created nutritional health issues. To improve conditions within privately operated facilities and create accountability, ICE should enact a grading system, like the system used by local health departments to grade restaurants to all detention facilities,

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specifically the privately-operated facilities. It could:

- Increase unannounced food inspections to check on facilities' food. For instance, visits on a quarterly basis every year to ensure that the PBNDS are followed by privately operated facilities.
- Impose fines for low grades and specific violations of PBNDS. For instance, if a facility received a score of less than 70% twice in a twelve-month period, it could be subject to closure and financial penalties.<sup>28</sup>
- Local public health departments can conduct the inspections. For instance, local public health departments can check for compliance to the PBNDS guidelines. Using this existing infrastructure, rather than ICE having to hire and train new inspectors could be cost effective and time saving.

### **Policy Recommendation Two**

ICE should require extensive comprehensive training on safe food handling and PBNDS.<sup>29</sup> For instance, the training could improve basic steps of cleaning, separating, and chilling food.<sup>30</sup> This policy has promise because it has the main benefit of increasing awareness, training, and safe food handling.

### **Drawbacks to Policy Recommendations**

Drawbacks include extra workload for the local public health inspectors and the need to compensate them. Moreover,

additional funding needs to be distributed for a comprehensive training curriculum on PBNDS and safe food handling. As mentioned earlier, ICE has in place four primary systems that ensure facilities follow the national detention standards. Not only are there systems in place to combat the grading system recommendation but ICE has specific guidelines to improve detainee health and safety. Instead of enacting something new, it could be argued against the recommendations that the systems should inspect detention facilities frequently instead of annually or biennially. However, it is worth the investment to improve health conditions and transparency to make sure the detainees are not suffering from poor food quality and low nutritional value.

### **Conclusion**

As immigration becomes a more pertinent issue, policy changes that impact the well-being of detainees needs to be addressed, especially the poor food quality. For years, ICE has relied on inconsistent systems to ensure detainees' health and safety. This lack of accountability has led ICE to be riddled with lawsuits, public outrage and mistrust. Food inspections and food safety training need to be improved or the health conditions of detainees will continue to worsen. It is time to act and help establish efficient and sustainable nutritional health policies in migrant detention facilities. Change needs to happen now!

### **Endnotes**

<sup>1</sup> Batalova, J., O'Connor, J. B. A., & Bolter, J. (2019, October 10). Central American Immigrants in the United States. Retrieved from <https://www.migrationpolicy.org/article/central-american-immigrants-united-states>

<sup>2</sup> Meyer, Peter. (2019). Central American Migration: Root Causes and U.S. Policy (CRS Report No. IF11151). Retrieved from Congressional Research Service website: <https://fas.org/sgp/crs/row/IF11151.pdf>

<sup>3</sup> Ibid. (pg.1)

<sup>4</sup> Wilson, J. (2019). Recent migration to the United States from Central America: Frequently Asked Questions. Retrieved from Congressional Research Service website: <https://fas.org/sgp/crs/row/R45489.pdf> (pg.2)

<sup>5</sup> Ibid. (pg.2)

<sup>6</sup> Batalova, J., O'Connor, J. B. A., & Bolter, J. (2019). Central American Immigrants in the United States,

<sup>7</sup> Kelly, J. (2019). Concerns about ICE Detainee Treatment and Care at Four Detention Facilities. Office of Inspector General – Department of Homeland Security. Retrieved from OIG: <https://www.oig.dhs.gov/sites/default/files/assets/2019-06/OIG-19-47-Jun19.pdf> (pg. 2)

<sup>8</sup> Kelly, J. (2018). Ice's Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements. Office of Inspector General – Department of Homeland Security. Retrieved from OIG: <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf> (pg. 1)

<sup>9</sup> Ibid. (pg.1)

<sup>10</sup> Kelly, J. (2018). ICE's inspections and monitoring of detention facilities do not lead to sustained compliance or systemic improvements. Office of Inspector General – Department of Homeland Security. Retrieved from OIG: <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf> (pg.2-4)

<sup>11</sup> Ibid. (pg.2-4)

<sup>12</sup> U.S. Immigration and Customs Enforcement. (2019). 2000 Detention Operations Manual. Retrieved from:

<https://www.ice.gov/detention-standards/2000>

<sup>13</sup> U.S. Immigration and Customs Enforcement. (2019). 2008 Operations Manual ICE Performance-Based National Detention Standards. Retrieved from: <https://www.ice.gov/detention-standards/2008>

<sup>14</sup> U.S. Immigration and Customs Enforcement. (2019). 2011 Operations Manual ICE Performance-Based National Detention Standards. Retrieved from: <https://www.ice.gov/detention-standards/2011>

<sup>15</sup> Kelly (2019). Concerns about ICE Detainee Treatment, (pg. 2)

<sup>16</sup> U.S. Immigration and Customs Enforcement. (2016). ICE Detention Standards. Retrieved from: <https://www.ice.gov/doclib/detention-standards/2011/4-1.pdf>

<sup>17</sup> Kelly (2018). ICE's inspections and monitoring (pg. 15)

<sup>18</sup> Kelly (2019). Concerns about ICE Detainee Treatment, (pg.14)

<sup>19</sup> Roth, J. (2017). Management Alert on Issues Requiring Immediate Action at the Theo Lacy Facility in Orange, California. Office of Inspector General – Department of Homeland Security. Retrieved from OIG: <https://www.oig.dhs.gov/sites/default/files/assets/Mga/2017/oig-mga-030617.pdf>

<sup>20</sup> Ibid. (pg. 3)

<sup>21</sup> Ibid. (pg. 4)

<sup>22</sup> Kelly (2019). Concerns about ICE Detainee Treatment, (pg. 3-5)

<sup>23</sup> Ibid. (pg. 4)

<sup>24</sup> Ibid. (pg. 4)

<sup>25</sup> Teneng v. Trump, 5:18-cv-01609 (Ca 2018), (pg. 17-18)

<sup>26</sup> Ibid. (pg.17)

<sup>27</sup> U.S. Dept. of Health & Human Services (2019). Dietary Guidelines for Americans. Retrieved from: <https://www.hhs.gov/fitness/eat-healthy/dietary-guidelines-for-americans/index.html>

<sup>28</sup> County of LA Public Health. (2019). Grading and Posting Requirements for Retail Food Facilities. Retrieved from: <http://publichealth.lacounty.gov/eh/misc/ehpost.htm>

<sup>29</sup> U. S. Food & Drug Administration. (2019). Safe Food Handling. Retrieved from: <https://www.fda.gov/food/buy-store-serve-safe-food/safe-food-handling>.

<sup>30</sup> Ibid.