

# The Critical Role of Contracted Immigration Processing Centers

More immigrants reside in the United States than any other country in the world. As of 2017, more than 40 million people living in the U.S. were born in another country. This number continues to grow, as more than 1 million immigrants arrive in the U.S. each year. While 77% of all immigrants are in the country legally, almost a quarter are in the country illegally.<sup>1</sup> The majority of these individuals can be engaged in alternatives to detention programs; however, those who pose public safety risks and flight risks are best served through the use of immigration processing centers.

Contractors play a vital role in supporting immigration processing centers. In 2019, the average daily population in ICE's Enforcement and Removal Operations (ERO) custody was 50,165, and at times, the population exceeded 56,000.<sup>2</sup> Over 90% of that capacity was provided through contractual agreements with contractor-operated processing centers (65%) or with local jails (25%).<sup>3</sup>

However, civilly detaining immigrants in local jails poses multiple difficulties. ICE officials shared with the Homeland Security Advisory Council that "county jails are, in general, the most problematic facilities for immigration detention. Because most of them are mixed-use facilities primarily handling county detainees in the criminal-justice process, such facilities often will not accept the full range of detailed detention standards that ICE has developed. . . Moreover, the officials operating such county facilities can be resistant to changes in their practices in response to identified problems."<sup>4</sup>

Eliminating contractors as an option for ICE would result in reliance on local jails and would reduce the quality of service provided to immigrants. Contracting to provide processing centers:

- **Ensures facilities are highly accountable for quality standards**  
Contractors are held accountable for performance outcomes and are subject to daily monitoring, frequent audits, and unannounced visits by ICE and others.
- **Provides services tailored to the needs of immigrants**  
Processing centers provide individuals with medical, legal, and personal resources. They can also participate in voluntary recreation and programming activities.
- **Supports surge capacity**  
With wide, daily fluctuations in the number of people placed in immigration processing centers, government agencies rely on contractors to nimbly respond to changing capacity needs.
- **Allows for expedited court appearances**  
People in processing centers average 34.3 days in the center awaiting court proceedings<sup>5</sup> compared to the 705 days average wait time for immigrants in the community.<sup>6</sup>

## Whom Does ICE Detain in Processing Centers and Other Facilities?

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In 2019, 3.3 million unauthorized immigrants remained in communities while awaiting their court proceedings.<sup>7</sup> Government officials ultimately decide if an individual can remain in a community or should be detained. ICE considers multiple factors to include criminal history, immigration history, supervision history, family and community ties, status as a caregiver or providers, and other humanitarian or medical considerations.<sup>8</sup>

Historically ICE, regardless of the administration, has taken the position that to ensure public safety, individuals with criminal backgrounds are placed in processing centers or local jails, rather than remaining in communities while awaiting court proceedings. Although immigrants are being detained civilly, more than 86% of the 143,000 individuals arrested by ICE in 2019 had criminal convictions or pending charges. These convictions and charges included:<sup>9</sup>

- 1,900 convictions and charges for homicide
- 1,800 convictions and charges for kidnapping
- 12,000 sex offenses with more than 5,000 convictions and charges for sexual assault
- Over 45,000 convictions and charges for assault
- Over 10,000 convictions and charges for weapons offenses
- Over 67,000 convictions and charges for crimes involving drugs
- Over 74,000 convictions for Driving Under the Influence

ICE also determines if an individual poses a flight risk. Factors such as previously missing immigration hearings and outstanding or previous removal (deportation) orders are considered. According to a Government Accountability Office report in 2017, almost a quarter of the people who were apprehended crossing the southwest border had been apprehended previously.<sup>10</sup>

Those whom government officials deem a flight risk can be housed in a processing center to await their court proceedings. Their court appearance is expedited, and on average, those individuals spend 34.3 days in a processing center.<sup>11</sup> In contrast, those awaiting court proceedings in the community have an average 705 day wait time.<sup>12</sup>

## ICE Contracts to Detain Individuals

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ICE relies on contractors to detain immigrants. In 2019, the average daily detained population was 50,165, and at times, the population exceeded 56,000.<sup>13</sup> Only 10 percent of those individuals were housed in federally-operated facilities. Approximately 65 percent were housed in contractor-operated processing centers, and 25 percent were housed in local jails.<sup>14</sup> For ICE to purchase, construct, or lease only federally-owned and operated processing centers would be prohibitively expensive. ICE officials estimated that the cost would “exceed \$1.3 billion and could be as much as \$5-6 billion.”<sup>15</sup> This leaves the government with two viable options: contract with companies to build and operate immigration processing centers or contract with local jails to house immigrants with the general prison population. Processing centers provide clear advantages. These centers provide services that focus on the unique needs of immigrants, have a high level of accountability, and meet fluctuating capacity needs.

## Providing Services that Meet the Unique Needs of Immigrants

Contractors often go above and beyond contractual requirements to provide quality services that meet the unique needs of immigrants. Contractor-operated centers provide individuals with:

- **Comprehensive and responsive medical care:** Processing centers provide each individual a comprehensive medical screening upon arrival and ongoing care for chronic and acute illness.
- **Legal materials and services:** Centers partner with community organizations to provide legal presentations to immigrants. They also provide access to an on-site law library and full-time library staff to assist them in preparing for immigration proceedings.
- **Opportunities for recreation, education, and counseling services:** While not required to participate, individuals have opportunities to participate in recreation, English classes, and trauma counseling. They can also earn a GED or INEA, the Mexican equivalent of a GED.

## Ensuring Accountability and Quality

Contractor-operated processing centers are held accountable in multiple ways:

- ICE maintains full-time, on-site staff at each contractor-operated center. This staff monitors daily operations to ensure the center meets contract requirements.
- ICE's Office of Detention Oversight (ODO) inspects facilities frequently, reviews complaints about facilities, and addresses detainee grievances.
- An independent third-party conducts an annual inspection of each center to ensure the center remains in compliance with the Performance-Based National Detention Standards (PBNDS and 2019 NDS), which ICE developed in conjunction with stakeholders to ensure safety, security, and quality conditions.<sup>16</sup> These inspection reports are available to the public on the ICE website.

Contractor-operated centers outperform local jails in meeting the PBNDS and 2019 NDS requirements. In the two most recent annual audits, local jails were the only type of facility to receive a "Does Not Meet Standard" or "Deficient" rating.<sup>17</sup> Additionally, when local jails hold only a small number of unauthorized immigrants, they do not reach the threshold for ICE annual inspections.<sup>18</sup> This means individuals can be placed in jails throughout the country without any oversight.

## Supporting Daily Population Fluctuations

The actual population in processing centers fluctuates widely from day to day and is difficult to predict. ICE relies on contractors to handle surges in population. In 2019, the average daily population in processing centers was 50,165; however, at times, the population exceeded 56,000 individuals.<sup>19</sup> Contractor-operated centers provide ICE with the ability to quickly meet the increased capacity needs without needing to spend taxpayer dollars to build new facilities. When populations decrease, ICE decreases its use of contract facilities, mitigating the challenges that ICE would otherwise face trying to manage the population fluctuation.

## Conclusion

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Contractors play a key role in supporting an essential element of the immigration system: operating immigration processing centers. ICE uses contracted processing centers to house individuals with criminal backgrounds and to move flight risks quickly through the court system. Using contractors to

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operate processing centers provides a cost-effective method for ICE to meet variable capacity needs while ensuring quality treatment within the centers. Eliminating the option to utilize contractors would result in over-reliance on local jails, which can be problematic for immigrants for multiple reasons.



Lawmakers should continue to review the standards for safety, security, and humane treatment that processing centers must adhere to. Centers that fail to meet these standards should no longer serve the immigration population. These standards should include access to legal materials and services, comprehensive and responsive medical care, and opportunities for recreation, education, and counseling services. Lawmakers are encouraged to visit contract processing centers and see first-hand the approach taken in these centers.

<sup>1</sup> Budiman, A. (2020, August). Key findings about U.S. immigrants. *Pew Research Center*. <https://www.pewresearch.org/fact-tank/2020/08/20/key-findings-about-u-s-immigrants/>

<sup>2</sup> ICE (2020). The Fiscal Year 2019 ICE Enforcement and Removal Operations Report. Retrieved from <https://www.ice.gov/features/ERO-2019>

<sup>3</sup> Department of Homeland Security Advisory Council (December 2016). Report of the Subcommittee on Privatized Immigration Detention Facilities. (p. 6). Retrieved from <https://www.dhs.gov/sites/default/files/publications/DHS%20HSAC%20PIDF%20Final%20Report.pdf>

<sup>4</sup> Department of Homeland Security Advisory Council (December 2016). Report of the Subcommittee on Privatized Immigration Detention Facilities. (p. 9). Retrieved from: <https://www.dhs.gov/sites/default/files/publications/DHS%20HSAC%20PIDF%20Final%20Report.pdf>

<sup>5</sup> ICE (2020). The Fiscal Year 2019 ICE Enforcement and Removal Operations Report. Retrieved from <https://www.ice.gov/features/ERO-2019>

<sup>6</sup> Esthimer, M. (2019). Crisis in the Courts: Is the Backlogged U.S. Immigration Court System at Its Breaking Point? Retrieved from <https://www.migrationpolicy.org/article/backlogged-us-immigration-courts-breaking-point>

<sup>7</sup> ICE (2020). Alternatives to Detention Program. Retrieved from <https://www.ice.gov/detention-management>

<sup>8</sup> ICE (2020). Alternatives to Detention Program. Retrieved from <https://www.ice.gov/detention-management>

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<sup>9</sup> ICE (2020). The Fiscal Year 2019 ICE Enforcement and Removal Operations Report. Retrieved from <https://www.ice.gov/features/ERO-2019>

<sup>10</sup> GAO. (2017, Jan.). Report to the Chairman on Homeland Security House of Representatives. Border Patrol. Retrieved from <https://www.gao.gov/assets/690/682074.pdf>.

<sup>11</sup> ICE (2020). The Fiscal Year 2019 ICE Enforcement and Removal Operations Report. Retrieved from <https://www.ice.gov/features/ERO-2019>

<sup>12</sup> Esthimer, M. (2019). Crisis in the Courts: Is the Backlogged U.S. Immigration Court System at Its Breaking Point? Retrieved from <https://www.migrationpolicy.org/article/backlogged-us-immigration-courts-breaking-point>

<sup>13</sup> ICE (2020). The Fiscal Year 2019 ICE Enforcement and Removal Operations Report. Retrieved from <https://www.ice.gov/features/ERO-2019>

<sup>14</sup> Department of Homeland Security Advisory Council (December 2016). Report of the Subcommittee on Privatized Immigration Detention Facilities. (p. 6). Retrieved from <https://www.dhs.gov/sites/default/files/publications/DHS%20HSAC%20PIDF%20Final%20Report.pdf>

<sup>15</sup> Department of Homeland Security Advisory Council (December 2016). Report of the Subcommittee on Privatized Immigration Detention Facilities. (p. 9). Retrieved from:

<https://www.dhs.gov/sites/default/files/publications/DHS%20HSAC%20PIDF%20Final%20Report.pdf>

<sup>16</sup> ICE. (2012). ICE Detention Standards. Retrieved from <https://www.ice.gov/factsheets/facilities-pbnds>

<sup>17</sup> Based on a review of audits in 2020 and 2019 available on <https://www.ice.gov/facility-inspections>

<sup>18</sup> ICE (2020). 2019 National Detention Standards for Non-Dedicated Facilities. Retrieved from <https://www.ice.gov/detention-standards/2019>

<sup>19</sup> ICE (2020). The Fiscal Year 2019 ICE Enforcement and Removal Operations Report. Retrieved from <https://www.ice.gov/features/ERO-2019>