



AMERICAN **BAR** ASSOCIATION

**Commission on Immigration**

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# Navigating Immigration Detention:

A Guide for Family and Friends  
of Individuals in Detention



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The Commission on Immigration (COI) directs the American Bar Association’s efforts to ensure fair treatment and full due process rights for immigrants, asylum-seekers, and refugees within the United States. Acting in coordination with other Association entities, as well as governmental and non-governmental bodies, the Commission works to:

- Advocate for statutory and regulatory modifications in law and governmental practice consistent with ABA policy;
- Provide continuing education and timely information about trends, court decisions and pertinent developments for members of the legal community, judges, affected individuals and the public; and
- Develop and assist the operation of pro bono programs that encourage volunteer lawyers to provide high quality, effective legal representation for individuals in immigration proceedings, with a special emphasis on the needs of the most vulnerable immigrant and refugee populations.

*The Commission on Immigration would like to thank its Special Advisor Dr. Dora Schriro for proposing and drafting this Family and Friends Guide on behalf of those who have loved ones in civil immigration detention.*

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# A GUIDE FOR FAMILY AND FRIENDS OF INDIVIDUALS IN DETENTION

When a friend or family member is arrested and placed in immigration detention, it can be devastating. It is common for family and friends to wonder: What happens next? What are my loved one's rights? What resources are available to help them? This guide describes Immigration and Customs Enforcement's (ICE) responsibilities to detained individuals. This includes its responsibility to ensure every detention facility complies with all relevant detention standards so that your loved ones receive the care to which they are entitled under the law throughout their time in ICE custody.

Upon admission to a detention facility, your loved one should receive a copy of two handbooks, the ICE Enforcement and Removal Operations National Detainee Handbook and that facility's handbook supplement which when combined, should inform every new arrival of their rights and the facilities' responsibilities – beginning with their right to receive important information in a language or format they understand and the facilities' responsibility to comply. You can find ICE's National Detainee Handbook, in English online at: <https://www.ice.gov/sites/default/files/documents/Document/2017/detainee-handbook.PDF>.

ICE's handbook and the facility's Supplemental Handbook are premised upon ICE Detention Standards, the rules by which all the detention facilities agree to operate and the conditions upon which detained people can rely. These rules are based on both federal statutes, or laws, and decisions by federal courts. Currently, ICE has five different sets of detention standards for adults in its custody. Most people in its custody are assigned to facilities that follow its 2016 revision of ICE's 2011 Performance-Based National Detainee Standards, or PBNDS 2011 (rev. 2016), thus this guide is based primarily on PBNDS 2011 (rev. 2016) as well. The revisions made in 2016 incorporated recently enacted federal legal and regulatory requirements and the corresponding ICE policies and policy statements.

It is important to note that increasingly, ICE is assigning people to correctional facilities where the majority of people are inmates. In these places, it is more likely that ICE's National Detention Standards 2020 (NDS 2019) are in use. These detention standards are more deferential to those jurisdictions' local practices and their facilities' prisoner population.

## THIS GUIDE

The ABA Commission on Immigration prepared this guide for the friends and family members of people in detention, so that you are knowledgeable about the rights of individuals in ICE custody,

and you will have a list of resources and contacts that may be helpful if you believe your loved one's rights are at risk.

## WHAT IS IMMIGRATION AND CUSTOMS ENFORCEMENT, OR ICE, AND WHAT IS THEIR ROLE IN DETENTION?

ICE is an agency within the Department of Homeland Security (DHS) that, among its other responsibilities, manages the detention of individuals who are accused of violating immigration laws in the United States or at its borders. Under U.S. immigration law, ICE is required to detain some foreign-born individuals it encounters inside the United States when they are in violation of their immigration status. In addition, ICE has the discretion to detain individuals who are placed in immigration proceedings or who are in the process of being removed from the United States.

Even though everyone in ICE's custody is in a civil – and not a criminal – proceeding, the ways that ICE detains people in immigration proceedings are very similar to the ways in which the criminal justice system holds prisoners before trial and after sentencing.

In fact, ICE detains almost all the individuals in its custody in correctional facilities operated by uniformed staff in ways that closely resemble jails and prisons. That is why it is important for you to know that everyone in ICE's custody is entitled to conditions of detention which are as good as, or better than, those in jail awaiting trial or sentencing.

## THE RIGHTS OF INDIVIDUALS IN IMMIGRATION DETENTION

### WHAT HAPPENS WITH MY LOVED ONE'S CASE AFTER THEY ARE DETAINED BY ICE?

Depending on your loved one's circumstances, an individual in ICE detention may have the right to a hearing before an immigration judge. Some individuals do not have the right to appear before an immigration judge; for example, those who have an outstanding removal order (where they were ordered removed but failed to depart), those who are subject to Expedited Removal proceedings (and do not express fear of return), and those who were deported previously and then returned to the United States without authorization. Your loved one may also be approved for release on bond or parole while they await their scheduled hearing. Additionally, if they qualify, your loved one may defend themselves against removal by seeking protections to remain in the United States such as asylum, withholding of removal, or cancellation of removal. These protections are usually referred to as relief from removal. Your loved one may also choose to leave the United States voluntarily before their hearing if they are eligible to do so under the law or may seek voluntary departure as an alternative to being ordered deported by an immigration judge. If your loved ones have questions about the removal process, they can call any of the

lawyers on ICE's list of free legal services providers on the secure phone line that should be in every housing unit. They can also call the American Bar Association (ABA) Legal Orientation Information Line from any ICE facility on the secure phone line by using the 2150# speed dial code. Their facility's law library may also have information about these options for legal relief.

#### DOES MY LOVED ONE HAVE THE RIGHT TO AN ATTORNEY?

Every individual who is in immigration detention has the right to have an attorney. However, unlike the criminal justice system where representation is provided by the government if an individual cannot afford to pay for a lawyer, in immigration proceedings it is up to the person in immigration proceedings to either hire an attorney or find an attorney or accredited representative who will represent them for free if they choose to be represented. If your loved one believes that they may qualify for some form of immigration relief, they are encouraged to talk to a lawyer at the earliest opportunity to have their claim reviewed and prepare applications for relief.

Every individual in ICE detention who has an attorney, has the right to communicate with that attorney by means of confidential legal visits at the facility, confidential phone calls (phone calls that are not monitored or recorded), and confidential mail (mail that is scanned in the presence of your loved one for items that are not allowed). Importantly, confidential mail must not be read by ICE, and confidential phone calls are also required for attorney client communication. An individual who cannot afford or find an attorney or accredited representative to represent them has the right to represent themselves.

#### DOES MY LOVED ONE HAVE ACCESS TO LEGAL RESOURCES EVEN IF THEY ARE NOT REPRESENTED BY AN ATTORNEY?

Every individual in detention has the right to conduct legal research, get the necessary forms to advance their cause, and make copies of legal material. These services are supposed to be available in the detention facility's law library. The law library should be made available to people in detention for at least one hour for five or more days each week. ICE is expected to provide additional time for those working on a deadline. All those in ICE custody also have the right to use the facility's law library to access approved legal materials and office equipment (such as copy machines, typewriters, and computers) to copy and prepare legal documents.

In some communities where detention facilities are located, there is a legal services organization that provides group "Know Your Rights" presentations and other assistance related to immigration court proceedings for unrepresented people in ICE custody. When these presentations are available, any detained individual should be allowed to attend so long as there is space. The detention facility should post announcements of the presentations in the housing

units, law library, and other areas of the facility to which detained individuals have access ahead of the scheduled presentation. There should also be a sign-up sheet in every housing unit so your loved one can register. It is highly recommended that individuals who can attend these presentations do so to learn about what to expect in immigration proceedings and in immigration court for those who qualify to appear before a judge, as well as any potential defenses from removal that may be available to them. Attendees who are unrepresented should also be able to speak individually with the presenters at the conclusion of the group presentation to obtain additional information that could be helpful to them. Finally, the facility is supposed to provide any person who asks for writing paper, envelopes, and stamps for legal correspondence with those items. Indigent individuals (anyone who has less than \$15 in their “commissary account,” (discussed below) representing themselves pro se (or without an attorney)), are also allowed to make free phone calls on an as-needed basis to family or other individuals who are helping them prepare for their immigration case.

## HOW CAN MY LOVED ONE KEEP IN TOUCH WITH ME AND OTHER MEMBERS OF THEIR COMMUNITY?

Every individual in ICE detention has the right to maintain family and community ties through telephone calls, letters sent through the U.S. postal service, visitors, and the ability to get married.

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### PHONE CALLS

Every individual who is detained has the right to place phone calls. Once your loved one has arrived at the facility, they can place one brief, free call to a person of their choosing. Later, detained individuals with funds in their commissary account, may make phone calls from their housing unit. In the event of a family emergency, detained people with insufficient funds can ask either a facility staff member or an ICE employee for a free phone call. It is important to note that any detained person’s calls can be monitored and recorded by ICE, except phone calls to their lawyer, Embassy, or a court.

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### MAIL

Every individual in detention has the right to send and receive mail through the U.S. Postal Service however, both outgoing and incoming mail including mail to and from attorneys or to and from your loved one’s Embassy will be inspected for contraband (any items that are not permitted in the facility such as tobacco products, or in your loved one’s possession such as cash – both paper money and coins or checks). All personal mail content is also subject to scanning for safety and security reasons.

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## VISITORS

Every individual in ICE detention has the right to receive visitors unless it threatens the safety, security, or order of the facility. It is also possible that the facility may impose, as a penalty for a rule violation, no personal visits for a fixed number of days. Depending on the facility, visits may be contact visits (which take place in a room with tables and chairs and may offer the opportunity for you and your loved one to exchange a brief hug or kiss at the beginning and end of the visit), non-contact visits (where you and the person you are visiting are in a booth but are separated from one another at all times by a clear partition), or video-visits (a non-contact visit where you are and your loved one are in different parts of the facility and visit remotely by video). Generally, visits should last for the maximum period that the facility is able to provide but not be less than one hour under ordinary circumstances. When it comes to the length of a visit, the facility should give special consideration to family circumstances and individuals who have traveled long distances.

Visitors and anything they bring to the facility may be searched. It is recommended that visitors only bring into the facility items that they will need during the visit. Usually, facilities have lockers in which you can secure disallowed items such as cell phones and wallets, but visitors may also be asked to leave personal property in their car. All visitors must wear appropriate clothing and behave in an orderly way while in the facility. If visitors are disruptive, they can be told to leave, and the facility may limit their ability to visit in the future.

Visitors may bring certain items to an individual in detention; usually, a pair of prescription glasses, legal documents, or a change of clothing for an anticipated release from custody, but an ICE officer must first check and approve everything before it is introduced into the facility and left for your loved one. Anything someone in detention accepts from a visitor that was not approved by an officer such as currency in any amount, can be taken from them and seized as contraband, subjecting both the visitor and the person in detention who is found with contraband to administrative and criminal penalties, so it is important for their well-being and yours, to avoid bringing anything with you on the visit that has not been reviewed and approved by an ICE officer.

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## MARRIAGE IN DETENTION

People in ICE detention can get married while they are detained if they meet that state's legal requirements to marry, are deemed mentally competent, and their future spouse will certify that they will marry the detained person.

WHAT SHOULD THE DETENTION FACILITY PROVIDE MY LOVED ONE TO KEEP THEM SAFE AND SOUND WHILE IN CUSTODY?

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## THE ABILITY TO MAINTAIN PERSONAL HYGIENE AND PERSONAL GROOMING

Every individual in ICE detention has the right to maintain their appearance and personal hygiene. This includes regular opportunities to brush their teeth with a toothbrush and toothpaste, to bathe with soap, to shave with a disposable razor, and to wash their hair with shampoo. Your loved one is entitled to engage in each of these activities with adequate water at an appropriate temperature. Additionally, the facility must provide detained people with toiletries, hygiene products and services including soap, shampoo, a toothbrush and toothpaste, a comb, access to a disposable shaving razor, haircuts, as well as sanitary products for individuals who menstruate, as often as needed, and at no cost to anyone in ICE's custody.

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## BEDDING AND TOWELS

Everyone in ICE detention has the right to a mattress and pillow, bed sheets, pillowcase, blankets, and towels, all of which must be clean and in good condition.

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## CLOTHING AND FOOTWEAR

Every individual in ICE detention has the right to several uniforms and changes of underclothes, socks, and footwear that are clean and in good condition. These items must be provided in the correct size and must be appropriate for the weather and season (e.g., warm clothing in cold conditions and light clothing in warmer conditions).

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## LAUNDRY SERVICES

Every individual in ICE detention has the right to wear clean clothes, bathe with clean towels, and sleep on clean sheets, pillowcase, and blankets. The facility must launder detainee clothes including seasonal outerwear, sheets, towels, and blankets according to the schedule that is posted in all the housing units. At the minimum, detained people shall be able to change socks and underwear daily; change sheets, pillowcases, and towels once weekly; change blankets seasonally; and change uniforms twice weekly. Detained persons must also be able to launder their clothes with soap that the facility provides.

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## ADEQUATE LIVING CONDITIONS

Every individual in ICE detention has the right to be assigned to a housing unit with proper air circulation and heating, working toilets, hand sinks, showers, water fountains, and telephones. Both living areas and food preparation, service, and storage areas should be treated routinely for rodents, insects, and mold. The facility must test detainee phones daily including the confidential phone lines to ensure they are working, and immediately report any phone that is not working correctly for repair or replacement. The facility also must report and repair (or replace as soon



as possible) any inoperable bathroom fixtures, showers, water fountains, lighting, television sets, and microwave ovens.

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## MEALS

Every individual in ICE detention has the right daily, to three nutritious and appetizing meals approved by a dietitian. The meal service must allow sufficient space and time for detained persons to consume the food in a relatively relaxed atmosphere. Food service facilities and equipment are inspected regularly by the health department.

Your loved one may request a religious diet. A healthcare provider may also prescribe a medical diet for your loved one. Dedicated facilities are also expected to serve meals reflecting the detainee populations' ethnic and religious diversity.

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## PERSONAL SPACE

Every individual in ICE detention has a right to their own bed and a storage container for the clothing that the facility issues as well as approved personal property and their legal documents. Detained people are expected to keep the area immediately around their assigned space tidy, make their bed every morning, and store their personal property in their container. Everyone detained at an ICE facility is also expected to keep their area clean by taking steps such as throwing away their trash and cleaning the sink in the dayroom or bathroom after using it. No one is compensated for performing these tasks.

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## INDOOR AND OUTDOOR RECREATION

Every detained person has the right to one hour of recreation daily, outside their living area, except those who are assigned to disciplinary segregation; they shall receive at least one hour a day out of their cell, five times per week. However, if outdoor recreation is canceled or not available due to inclement weather for example, ICE does not require that additional indoor recreation be provided. It is also important to note that detained people assigned to a facility that does not offer outdoor recreation may be eligible to request a voluntary transfer to a facility that does provide outdoor recreation.

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## HEALTHCARE

Every detainee has the right to receive necessary and appropriate medical, dental, and mental healthcare free of charge. Your loved one should be able to request access to healthcare at any time, including when they are sick or injured, have a chronic health problem, need medical treatment, or need to take medication to stay well. Depending upon the facility, your loved one will request non-emergency healthcare either by submitting a sick call slip (a written request) to

a detention officer or placing it in a designated box in their housing unit or reporting to sick call which is held daily in the housing unit or a designated place nearby. If your loved one has a medical emergency, they should communicate directly with a detention officer and request immediate attention. Depending upon the facility to which your loved one is assigned, they may also have the right to get a second or an outside opinion on a health condition, but in these instances, they are expected to pay for it. If they are unsure whether they have this opportunity, suggest to them that they check with their facility.

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## WOMEN'S HEALTHCARE

ICE recognizes every woman in its custody has the right to age-appropriate and necessary medical and mental health care. As part of every woman's intake health assessment, she should receive age-appropriate assessments and preventive women's health services, as medically appropriate. Throughout their detention, women shall be provided gynecological and obstetrical health care, consistent with recognized community guidelines for women's health services. Medical and mental health interviews, screenings, appraisals, examinations, procedures, and the administration of medication must be done in settings that respect the woman's privacy in accordance with safe and orderly operations of the facility. A detained individual's request to see a health care provider of the same gender shall be considered and if it is not feasible, a same-gender chaperone will be provided.

Additionally, a pregnant person in custody should have access to pregnancy services including routine or specialized prenatal care, pregnancy testing, comprehensive counseling and assistance, postpartum follow-up, lactation services and abortion services. A pregnant person in detention cannot be restrained, unless there are extraordinary circumstances that make restraints absolutely necessary.

In July 2021, ICE issued a Directive, instructing its ICE Health Service Corp (IHSC) to assess detention facilities to determine their ability to meet the needs of detained people who are pregnant and monitor and track the medical condition of individuals who are pregnant while in ICE custody. When it is determined that a facility cannot provide appropriate medical care in a particular case, the pregnant person will be transferred to another detention facility or off-site treatment facility that can provide appropriate medical care. This policy can be found online at <https://www.ice.gov/detain/directive-identification-and-monitoring-pregnant-detainees>.

Although not yet incorporated into the PBNDS, all the facilities housing pregnant people are required to comply.

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## SUICIDE PREVENTION AND MENTAL HEALTH CARE

ICE requires every detention facility provide preventive supervision, treatment, and therapeutic follow-up, and that detention staff are trained how to identify individuals at risk of self-harm and how to refer them for an immediate assessment. Likewise, detained people are encouraged to tell their housing officer or another staff member right away if they are depressed, think they may hurt themselves, if someone else has threatened to hurt themselves, or if they desire counseling. Detained people at risk of suicide should be placed on suicide watch immediately and monitored on a continual basis, preferably in the medical unit. If a greater level of care is required than the detention facility can provide, ICE has provisions for referral to a facility that can provide a higher level of care.

If your loved one is struggling emotionally or identifies someone else who is, they can also communicate directly with ICE via the Detention Reporting and Information Line (DRIL) and should be referred immediately to an appropriate health professional. Information about how to access DRIL is discussed in the Resources section below.

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#### SEXUAL ABUSE AND ASSAULT AWARENESS

ICE has a zero-tolerance policy against sexual abuse or assault of anyone in ICE custody and requires all facilities to operate a program on sexual abuse and assault prevention and intervention (SAAPI). Every facility's program must include procedures for reporting and investigating all incidents of sexual abuse or assault and ensure that any detained person who is victimized receives immediate medical care and other services as required.

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#### SMOKE-FREE FACILITIES

Tobacco products, lighters, and matches are all considered contraband. Smoking is not allowed anywhere in detention facilities, on the grounds, or in facility vehicles.

#### WHAT ARE MY LOVED ONE'S RIGHTS WHEN IT COMES TO PRACTICING THEIR RELIGION?

ICE affirms every detained person has the right to practice their religious faith and all facilities must give them reasonable access to religious services and support including a religious diet consistent with their faith, visits from a religious representative, religious texts, headwear, prayer rugs, and other religious property. ICE also expects that all facilities shall give individuals in detention access to religious resources, services, instruction, and counseling, as available.

#### HOW CAN MY LOVED ONE SECURE AND ACCESS PERSONAL FUNDS WHILE IN DETENTION?

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#### COMMISSARY ACCOUNT

Every person in ICE’s custody has a “commissary account,” a financial account that the facility maintains for them while they are in detention. Any money that your loved one had in their possession when they were detained, and any money they receive while at the facility is deposited in the commissary account. Your loved one can use their commissary account to withdraw money to purchase stamps, place phone calls, purchase items for sale in the commissary or vending machines on the premises, or to send money to you or others. ICE is required to transfer the balance of the commissary account with a detained individual if they are transferred to another facility or return it to them upon their release to the community, or their removal from the United States.

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#### A NOTE ON COMMISSARIES AND VENDING MACHINES

ICE is obligated to provide detained people with all their necessities, so ICE does not require any of the facilities that it uses to operate a commissary or provide vending machines for the people who are detained there. ICE also does not regulate how facilities should operate a commissary or vending machines if they decide to offer one or both options. Decisions as to how much to mark up the items sold, and when to refund money or issue “store” credit to detained people, or to exchange items are not regulated by ICE with two exceptions. One, facilities that sell postage stamps must charge face value and two, facilities must strive to reduce telephone costs, including using emerging telecommunications, voiceover and Internet protocol technologies; however, ICE does not require facilities to refund the balance of a prepaid phone card to a detained person before their release, transfer or removal. Additionally, ICE allows facilities operating commissaries or vending machines to deny detained people with personal funds in their commissary account the opportunity to make purchases as punishment for rule violations, or as an additional penalty to impose on detained people sentenced to disciplinary segregation (discussed further below).

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#### VOLUNTARY WORK PROGRAM

No one in ICE’s custody can be compelled to work; however, many detention facilities operate a volunteer work program and to do so, they must comply with ICE’s governing detention standard. These guidelines include a detained person’s ability to opt in – and opt out – of the program at any time. Detained people must be compensated a minimum of \$1.00 for one day of work not to exceed 8 hours a day and no more than five days a week, for a maximum of 40 hours in a seven-day week. Most facilities pay program participants at the end of each day that they work. Everyone in the program should be paid in full before their release, transfer, or removal. Payment should be made to the detained person’s commissary account. Although it is expressly prohibited, some facilities have been known to compensate people in the work program with phone calls and commissary items or other non-monetary means.

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## INDIGENT PEOPLE IN ICE'S CUSTODY

ICE considers any detained person who has less than \$15 in their commissary account as indigent (a person of limited means, someone who is poor). In addition to proving postage for legal mail as noted above, the detention facility must provide indigent people with limited postage for general correspondence and free phone calls under certain circumstances such as when they are representing themselves pro se in their immigration proceedings and in the event of a family emergency.

## ARE THERE ANY OTHER ACTIVITIES IN WHICH LOVED ONES CAN PARTICIPATE?

ICE does not require any of the facilities it uses to provide educational programs, job training, drug and alcohol treatment of any kind, or related activities such as Alcoholics Anonymous. Still, some facilities do offer one or more of these activities. Individuals who have the opportunity to participate in any of these offerings are encouraged to do so if they are so inclined.

## WHAT ARE CUSTODY LEVELS AND HOW WILL THEY AFFECT MY LOVED ONE?

ICE classifies detained people according to the degree of risk that they present to others, using four custody levels: **(1) low**, **(2) medium-low**, **(3) medium-high**, and **(4) high**. A person in detention has the right to be classified correctly, based on up-to-date accurate and objective information. If a detained person believes a mistake has been made and they were classified incorrectly or assigned in error to either the general population or special population housing (discussed below), they also have the right to appeal those decisions to the facility's administration using the facility's grievance system and if dissatisfied with the facility's response, or fearing retaliation, appeal or communicate directly with ICE.

Despite ICE's sorting of people into four levels of risk they may present to others, ICE allows detention facilities to combine people assessed as low with medium-low custody levels and people assessed as medium-high with high custody levels in the same housing units. This mixing usually happens so that facilities can be kept as full as possible. Some detention facilities have dormitories (housing units in which detained people can move around freely throughout the day) and cellblocks (where detained people are separated from each other in the housing unit, assigned to cells, typically with one, two, four, or six beds each, where they are locked-in most of the day and are far less likely to have the same opportunity to access to move around their housing unit).

Generally, people assigned to low and medium-low custody are placed in dormitories and people assigned to medium-high and high custody, to cellblocks. ICE also color-codes detained people's uniforms by their custody level. Usually, people in ICE's low-level custody are issued blue uniforms; people in medium-level custody are issued orange uniforms; and people in high-level

custody are issued red uniforms. With people in both medium-low and medium-high custody wearing the same color uniform, it can be difficult to discern who is medium-low custody and who is thereby not believed to have a propensity for violence, and who is medium-high custody and who is thereby believed to have a propensity for violence. ICE's requirement that all people in its custody wear color-coded uniforms also upsets many detained people including those who believe they were over-classified and are concerned that when they appear in an orange or red uniform before an immigration judge, the judge will think they are violent or dangerous which may impact the outcome of their cases.

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## AMENITIES IN HOUSING

Every detained person has the right to an assigned bed and storage container, access a sink, toilet, shower, telephone, and a place to eat, and, to varying degrees, socialize, watch television, participate in other forms of passive recreation, conduct legal research, observe one's religion, and exercise outdoors whenever possible. The typical housing unit in both General Population and Administrative Segregation has a sleeping area with beds, usually bunk beds to maximize floor space, and storage containers, one per person, for their personal property. There is also a multi-purpose area, usually called the "dayroom," furnished with tables and chairs, bulletin boards with schedules, key phone numbers, and other information for detained people who are housed there, a bank of working telephones, and usually a sink, microwave oven, a coffee urn with hot water, and several television sets. The dayroom is where detained people eat their meals, play cards, board games, or dominos, read a newspaper and borrow a paperback book, use the microwave oven, and watch television either on the television that broadcasts programming in English or another one that broadcasts in Spanish. Sometimes, there is a third television that streams informational messages in English and Spanish. Amenities are comparable in Disciplinary Segregation (discussed below) but the detainees' access to them is significantly more limited as are their interactions with other people in ICE's custody.

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## POPULATION MANAGEMENT

Once classified as low, medium-low, medium-high, or high custody, every person in ICE's custody is assigned to General Population housing where activities are provided and movement is permitted consistent with their custody classification, or they are assigned to Special Management Units (SMU), either for their protection (Protective Custody) or administrative proceedings, or as punishment, depending on the purpose of the Unit. Population assignments can be temporary or indefinite. There are two types of SMUs: (1) Administrative Segregation and (2) Disciplinary Segregation.

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## ADMINISTRATIVE SEGREGATION

Administrative Segregation is housing used for one of three reasons. They are (1) detained people who are experiencing difficulty living with others in the same custody level and cannot be safely housed anywhere else in General Population, their assignment to Protective Custody may be indefinite; (2) detained people who are being investigated for, or are awaiting a hearing on disciplinary violations; their assignment to administrative segregation is temporary; or (3) detained people who are scheduled to be transferred to another detention facility or released or removed within 24 hours; their assignment to administrative segregation should be less than one day.

It is important to note, no one should be assigned to Administrative Segregation as punishment. As such, every person in Administrative Segregation has a right to the same types of services as detained people in the General Population, however, their access to services may be more limited than those in General Population according to the reason they are assigned there. The services of which access may be modified include showers, recreation, presentations by legal rights groups, general telephone calls, general visitation, religious guidance, and personal property and materials including legal, religious, and leisure reading.

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## DISCIPLINARY SEGREGATION

Disciplinary Segregation is a penalty that may be imposed by the facility's Institutional Disciplinary Panel after an investigation and finding that a detained person committed a rule violation. It is ICE's policy that facilities reserve Disciplinary Segregation as punishment only for those who committed the most serious rule violations (those in the "greatest" or "highest" offense categories) and then, for no more 30 days when it is imposed (discussed below).

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## ICE'S EXCEPTIONS TO ITS RULES

ICE allows some facilities to house people in its custody in civil proceedings with people in criminal proceedings or those who are sentenced and serving time. In these facilities, usually it is the men in ICE's custody who are assigned to open bays or to cells alongside men in the custody of a sheriff's department, state correctional system, the U.S. Bureau of Prisons, or the U.S. Marshals Service. Relatedly, frequently it is the women in ICE's custody who are assigned to cells regardless of their custody level and remain locked-down most of the day because they are collocated in the same housing units with women in the criminal justice system.

## HOW DOES ICE HANDLE DISCIPLINING PEOPLE IN DETENTION?

ICE distinguishes offenses or prohibited acts by four levels of seriousness, each with its own corresponding sanctions. The four levels are (1) "greatest," (2) "high," (3) "high moderate," and (4) "low moderate" offense categories.

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## INFORMAL RESOLUTION

Should there be an infraction, ICE expects the facility will try to informally resolve what it considers “minor incidents,” low moderate offenses, typically, verbal disputes involving more than one detained person or a detained person and a staff member, possessing property belonging to another person or unauthorized clothing, malingering or feigning illness, and smoking. But where informal resolution is not possible or pursued, ICE has established procedures to resolve incidents.

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## FORMAL RESOLUTION

The formal disciplinary system requires first, a detention officer will write an incident report. After filing an incident report, the facility shall initiate an investigation within 24 hours. If the charges are serious (greatest, high, or high moderate offenses), the facility may temporarily assign that person to Administrative Segregation pending the outcome of the investigative process. Once the investigation is complete, the facility is required to give the person accused of misconduct a copy of an Institutional Disciplinary Plan (IDP) before the Institutional Disciplinary panel meets. Depending upon the outcome of the investigation, the panel may withhold a privilege such as suspending commissary pending for a low moderate offense or sentence them to Disciplinary Segregation usually not to exceed 30 days for a major infraction. Any facility that sentences a detained person to Disciplinary Segregation or extends a sentence to Disciplinary Segregation beyond 30 days, must notify ICE and provide its justification for doing so. The disciplinary system does not always work as it is supposed to, and some facilities over-use disciplinary segregation. A detained person who disagrees with the panel’s decision can – and should be encouraged to – appeal the decision using the facility’s detainee grievance system (discussed below) or communicate with one of the other resources listed in this handbook.

## WHAT ARE ICE’S SECURITY PROCEDURES?

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### PROHIBITING CONTRABAND

Contraband is anything that is not allowed at the facility. Contraband items in detention facilities include tobacco and tobacco products, alcohol and illegal drugs, dangerous objects, deadly weapons, explosives, anything that could disguise or change a detained person’s appearance or be used to help someone escape, a camera, video, recorder, cell phones, or other device that could be used to make photos, audio or video recordings of detained people, staff, or government property, and any excess facility-issued or unauthorized personal property.

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## COUNT



The purpose of the count is to ensure everyone is where they are supposed to be and that they are not in medical distress. Facilities vary in the number of counts that they conduct per day, but every detained person should be counted three or more times a day, at times that do not interfere with their meals and access to programs. Detained people are expected to cooperate and may be subject to discipline if they fail or refuse to do so. Detention staff are also expected not to disrupt their sleep when counts are conducted during the night.

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## SEARCHES

ICE differentiates between searches of detained people's property and their assigned space, and their person. Detained people and their property can be searched upon admission to the facility, entering their housing unit, after a visit, and occasionally for general safety and security reasons. These searches are known as "pat down searches." Housing Units and other areas frequented by detained people are also subject to searches. Those searches are called "shake downs."

**Searches of Persons.** A detained person may be subjected to a "strip search" (a bodily search after the removal of all their clothes) only for cause (a good reason). A strip search must be conducted by an officer who is the same gender as the detained person.

**Searches of Property and Assigned Space.** Searches of a detained person's property and personal space must be done with care so as not to disturb its contents. Searches will be conducted in the presence of that individual whenever possible. Any item confiscated must be documented and whenever possible, placed in storage and returned to your loved one upon their release.

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## USES OF FORCE AND RESTRAINTS

In limited instances, detention staff may use physical force and then, only the force absolutely necessary to control a detained individual. These are instances where verbal commands do not suffice and others in the immediate area are at risk of harm or to prevent serious damage to property. Under no circumstances may an ICE or facility employee use physical force or restraining devices as punishment.

## RESOLUTION AND RESOLUTION RESOURCES

### IF MY LOVED ONE'S RIGHTS ARE BEING VIOLATED IN DETENTION, WHOM SHOULD THEY CONTACT?

If your loved one believes that their rights have been violated in detention, there are resources available to you and them, depending on the nature of the complaint. These resources are described below.

## ICE'S GRIEVANCE SYSTEM

ICE's Grievance System includes three processes, (1) one for informal complaints, (2) another for formal resolution, and (3) an expedited option to resolve emergency situations.

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### INFORMAL COMPLAINTS

Any person in ICE's custody who has a question, request, concern, complaint, or wants more information about the facility's rules, has the right to speak with a staff member or an ICE officer at the facility, or submit a written request to the facility or directly to ICE, using either a blank piece of paper, or the facility's request form.

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### FILING A COMPLAINT THROUGH THE FACILITY'S GRIEVANCE OFFICER

Every individual in ICE detention has the right to file a complaint formally or informally regarding a condition of detention or a decision by the facility with which they disagree without fear of retaliation. Your loved one can utilize the facility's Grievance System and submit a completed ICE's grievance form, or a written statement to a Grievance Officer. ICE expressly forbids any staff member to harass, discipline, punish or otherwise retaliate against any detainee for filing a complaint or grievance.

If a detained person has a concern, ICE recommends that they try talking to an officer or other staff member to solve the problem informally. If your loved one does not feel comfortable talking to an officer or other staff member, or if talking has not helped solve the problem then, your loved one should file a formal grievance. At some facilities, detained people may pursue a formal grievance at the same time as they try to resolve the problem informally.

If the facility's Grievance Officer does not provide the relief the detained person requested, they can appeal that decision to the Grievance Appeal Board, sometimes called the Grievance Appeal Committee. Some facilities allow detained people in detention to appeal to their Facility Administrator.

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### EMERGENCY GRIEVANCES

Every facility is required to have its own procedure to handle situations that impact your loved one's life, health, and safety. It is ICE's instruction that your loved one should contact the facility's Grievance Officer or the Facility Administrator immediately if their complaint involves an immediate threat to their health or safety.

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### FILING A COMPLAINT THROUGH ICE

Additionally, facilities shall allow any ICE/ERO detainee dissatisfied with the facility's response to a grievance or those fearing retaliation to be able to appeal or communicate directly with ICE/ERO.

#### ICE DETENTION REPORTING AND INFORMATION LINE (DRIL)

People in detention can communicate directly with ICE's Detention Reporting and Information Line (DRIL). They can call to obtain basic immigration case information, to report an incident of sexual or physical assault or abuse, serious or unresolved problems at their facility, that they are a victim of human trafficking, or to let ICE know that their detention separated them from their minor children for whom they are a primary caregiver. They can – and should – also report if they have a serious mental disorder or condition. If they believe that disorder or condition impacts their ability to represent themselves and/or to participate in an immigration court case, they should also notify the immigration judge; you can also convey any of these concerns on their behalf.

The DRIL is toll-free and available at **(888) 351-4024** or via the pro-bono network on a facility phone at **9116#**. Trained operators are available to members of the public as well as people currently in ICE detention. DRIL informational posters in English and Spanish should be posted in housing units in every detention facility. Language assistance is also available.

#### DHS OFFICE OF INSPECTOR GENERAL (OIG)

The DHS Office of Inspector General investigates fraud, waste, abuse, and criminal misconduct involving DHS programs, personnel, and funds. Any detained individual who believes staff has mistreated or abused them or violated their civil rights, or a loved one on their behalf, can file a complaint with DHS for free by phone, fax, or mail. Family members and friends can also contact the DHS Office of Inspector General.

- Phone: **(800) 323-8603**
- Fax: **(202) 254-4297**
- Mail: DHS Office of Inspector General, Attn: Office of Investigations Hotline, 245 Murray Drive SW, Bldg. 410, Mail Stop 2600, Washington, D.C. 20528

#### DHS JOINT INTAKE CENTER (JIC)

Complaints of a sexual nature involving an ICE employee or another detained person also can be sent to DHS' Joint Intake Center (JIC) for free by email, phone or mail.

- Phone: **(877) 246-8253**
- Fax: **(202) 344-3390**
- Email: [Joint.Intake@dhs.gov](mailto:Joint.Intake@dhs.gov)
- Mail: ICE Joint Intake Center, P.O. Box 14475, 1200 Pennsylvania Ave. NW, Washington, D.C. 20044

## DHS OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES (CRCL)

DHS Office for Civil Rights and Civil Liberties (CRCL) investigates civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel. Any detained individual who believes Department personnel or facility staff has mistreated or abused them or violated their civil rights, or a loved one on their behalf, can file a complaint with DHS for free by fax, mail, or email.

- Fax: **(800) 323-8603**
- Email: [CRCLCompliance@hq.dhs.gov](mailto:CRCLCompliance@hq.dhs.gov)
- Mail: Department of Homeland Security, Office for Civil Rights and Civil Liberties Building 410, Mail Stop #0190, Washington, DC 20528

## DHS OFFICE OF THE IMMIGRATION DETENTION OMBUDSMAN (OIDO)

DHS Office of the Immigration Detention Ombudsman (OIDO) assists individuals with complaints about violations of ICE immigration detention standards or staff misconduct. OIDO also provides independent oversight of immigration detention facilities and serves as an independent agent in the resolution of problems that arise. Any detainee with complaints involving misconduct, excessive force, violation of a detained person's rights, violations of law, standards of professional conduct, contract terms, or policy related to immigration detention committed by employees or contractors of DHS, can file a complaint for free by email, fax, or mail. The OIDO also prepared a resource, Frequently Asked Questions, to help you complete their form. It is available online at: [https://www.dhs.gov/sites/default/files/2022-07/FAQ\\_OIDO%20Case%20Intake%20Form%20%28DHS%20Form%20405%29\\_508.pdf](https://www.dhs.gov/sites/default/files/2022-07/FAQ_OIDO%20Case%20Intake%20Form%20%28DHS%20Form%20405%29_508.pdf).

- Fax: **(202) 282-8482**
- Email: [detentionombudsman@hq.dhs.gov](mailto:detentionombudsman@hq.dhs.gov)
- Mail: U.S. Department of Homeland Security, Office of the Immigration Detention Ombudsman, Mail Stop #0134, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528

## ICE OFFICE OF PROFESSIONAL RESPONSIBILITY (OPR)

Anyone in detention with allegations of serious employee and contractor misconduct, or a loved one on their behalf, can also file a complaint directly with the Office of Professional Responsibility (OPR) Investigations Division within ICE for free by phone or email.

- Phone: **(877) 246-8253**
- Email: [Joint.Intake@dhs.gov](mailto:Joint.Intake@dhs.gov) or [iceoprintake@ice.dhs.gov](mailto:iceoprintake@ice.dhs.gov)

## ICE ENFORCEMENT AND REMOVAL OPERATIONS (ERO) CUSTODY MANAGEMENT DIVISION

Enforcement and Removal Operations (ERO) is responsible for the operation of ICE detention facilities including complaints and concerns about its policies, programs, and operations, and ICE civil enforcement priorities, immigration detention, and ICE actions involving U.S. citizens. Anyone in detention, or a loved one on their behalf, can file detention-related complaints with ICE's ERO Custody Management Division for free through ERO's Contact Center of Operations (ECCO) by email, online utilizing the ERO Contact Form available at <https://www.ice.gov/webform/ero-contact-form>, or calling ICE's Detention Reporting and Information Line (DRIL).

- Phone: **(888) 351-4024** or via the pro-bono network at **9116#**. These calls are free and facility staff cannot record or monitor any of these calls.
- Email: [ERO.INFO@ice.dhs.gov](mailto:ERO.INFO@ice.dhs.gov)
- ERO Online Contact Form: <https://www.ice.gov/webform/ero-contact-form>.

## WHERE CAN I LEARN MORE ABOUT DETENTION STANDARDS AND MY LOVED ONE'S RIGHTS IN DETENTION?

### ICE'S NATIONAL DETAINEE HANDBOOK

Every individual in ICE detention should receive a copy of ICE's National Detainee Handbook and the facility's Handbook Supplement upon their arrival at the detention center. It should be provided in a language that they understand. ICE's Detainee Handbook is also online but in English only. You can access it at <https://www.ice.gov/sites/default/files/documents/Document/2017/detainee-handbook.PDF>.

### ICE DETENTION STANDARDS

ICE has a comparable set of rules for detention facilities called Detention Standards. ICE Detention Standards describe the conditions of immigration detention that ICE requires most of the facilities that it uses to maintain. What can be confusing is that ICE has six different sets of standards, five of which establish the conditions of detention for facilities housing adults in its custody, and the sixth for facilities that shelter families. There are also differences between the detention standards in effect at facilities reserved only for people in ICE's custody (ICE describes these facilities as "dedicated") and facilities primarily housing people in the custody of county, state, or federal law enforcement agencies (ICE describes these facilities as "non-dedicated").

As noted above, this guide is based primarily on ICE's assurances for adults in its 2011 Performance-Based National Detention Standards, revised in 2016 (PBNDS 2011 (rev. 2016)), and primarily in use at dedicated facilities to which the majority of adults in ICE's custody are assigned. In comparison, ICE's most recent detention standards, the 2019 National Detention Standards (NDS 2019), are in effect at an increasing number of non-dedicated facilities for adults. These standards are deferential to those jurisdictions' policies and practices.

At the time of publication, ICE had agreements with public and private providers to house the people in its custody in 135 facilities in 39 states and three territories, of which 23 facilities were dedicated and the remaining 112 were non-dedicated.

ICE's Performance Based National Detention Standards, of which there are three versions (PBNDS 2008, PBNDS 2011, and PBNDS 2011 (rev. 2016)) with 42 to 44 standards including 24 of which have been revised, are in use primarily at dedicated facilities. ICE's National Detention Standards, of which there are two versions (NDS 2000 and NDS 2019) with 38 and 33 standards respectively, are in effect at some non-dedicated facilities. Also of note, increasingly, ICE is assigning people in its custody to non-dedicated facilities where the detention standards that the primary occupant – usually, the U.S. Marshals Service (USMS) – uses, are in effect. In these places, everyone in ICE's custody is treated as if they are USMS prisoners. At the time of publication, people in ICE's custody are being held in 46 non-dedicated facilities governed by USMS standards.

If you would like to know which detention standards govern the conditions of detention at the facility where your loved one is detained, go online to <https://www.ice.gov/detain/detention-management> and once you have opened the site, look for the section, "Detention Statistics," then select "ICE Statistics" for the current fiscal year and open that link. At the bottom of the page titled, "ICE Detention Statistics" are several tabs; select "Facilities FY--" (the current fiscal year). On that table is a list of all the facilities in use in that year and each facility's status (dedicated or non-dedicated) and its assigned set of detention standards.

Once you know which of the six sets of ICE detention standards are in effect at the facility to which your loved one is assigned, you can also find all of those standards online at the links provided below.

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#### NATIONAL DETENTION STANDARDS

National Detention Standards for Non-Dedicated Facilities 2000 at:

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

National Detention Standards for Non-Dedicated Facilities 2019 at:

<https://www.ice.gov/doclib/detention-standards/2019/nds2019.pdf>.

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#### PERFORMANCE BASED NATIONAL DETENTION STANDARDS

Performance Based National Detention Standards 2008 at:

<https://www.ice.gov/detain/detention-management/2008>.

Performance Based National Detention Standards 2011 at:

<https://www.ice.gov/detain/detention-management/2011>.

Performance Based National Detention Standards 2011 (rev. 2016) at:

<https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf>.

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## FAMILY RESIDENTIAL STANDARDS 2020

Family Residential Standards 2020 at <https://www.ice.gov/doclib/frs/2020/2020family-residential-standards.pdf>.

## I HAVE AN UNANSWERED QUESTION ABOUT IMMIGRATION PROCEEDINGS, LEGAL REMEDIES TO REMAIN IN THE UNITED STATES, ICE DETENTION STANDARDS, OR MY LOVED ONE'S RIGHTS. WHOM SHOULD I CONTACT?

If you or your loved one has questions about immigration proceedings or any of ICE's detention standards in effect at a facility that houses immigration detainees, or if you or your loved one wishes to report a problem about that facility, you can also contact the ABA Commission on Immigration's Detention Hotline by phone for free. The ABA information line relies on staff and volunteers to provide information about removal proceedings, options for release from detention, legal relief, referrals to legal service providers, how to raise complaints about detention conditions and medical services, and more.

- To contact the ABA Detainee Hotline by phone, call (202) 442-3363.
- Individuals in detention can call the information line for free from a detention facility by dialing 2150#. The calls are confidential. The information line operates from 9 am to 5 pm Eastern Time, Monday through Friday.

## CONCLUSION

We hope this Guide will help you determine the rights that your loved one has in immigration detention and provide you with the resources to obtain assistance or additional information.