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Report to Congressional Requesters

March 2020

IMMIGRATION DETENTION

Care of Pregnant Women in DHS Facilities

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GAO Highlights

Highlights of GAO-20-330, a report to congressional requesters

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Why GAO Did This Study

In December 2017, the Department of Homeland Security (DHS) updated its policy on pregnant women, removing language that stated that pregnant women would generally not be detained except in extraordinary circumstances or as mandated by law. Within DHS, CBP temporarily holds individuals in its facilities and processes them for further action, such as release or transfer to ICE. ICE manages the nation's immigration detention system. ICE utilizes various facility types to detain individuals, such as those owned and operated by ICE and contract facilities. GAO was asked to review issues related to the care of pregnant women in DHS facilities.

This report examines (1) what available data indicate about pregnant women detained or held in DHS facilities, (2) DHS policies and standards that address the care of pregnant women, and (3) what is known about the care provided to pregnant women in DHS facilities.

GAO analyzed available DHS data and documents from calendar years 2015 through 2019, including detention data, inspection reports and data, and complaints; reviewed policies related to the care of pregnant women; and interviewed agency officials and three national non-governmental organizations. GAO also interviewed a non-generalizable sample of 14 pregnant women detained or released by DHS and five non-governmental organizations in four field locations that had the greatest number of detentions of pregnant women, among other things.

What GAO Found

GAO's analyses of U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) data on pregnant women found:

- ICE detained pregnant women over 4,600 times from calendar year 2016 through 2018, with more than 90 percent resulting from CBP arrests.
- Sixty-eight percent of these detentions were for 1 week or less, while 10 percent were for more than 30 days.
- Seventy-eight percent of these initial detentions occurred at facilities staffed with ICE medical personnel.

ICE has policies and detention standards that address a variety of topics regarding the care of pregnant women, such as pregnancy testing requirements, for which non-governmental organizations, professional associations, and federal agencies have issued recommended guidance. However, some facility types—which vary based on who owns, operates, and provides medical care at the facility—did not address all these pregnancy-related topics in their policies and standards, such as prenatal vitamins, as of December 2019. ICE has plans to address the gaps GAO identified in these facility types, including updating some of its policies and detention standards in February 2020. In regards to CBP, its facilities are designed for holding individuals for no more than 72 hours, and therefore are not equipped to provide long-term care. Nonetheless, CBP has some policies and standards regarding pregnant women for its short-term facilities, including those related to nutrition and the circumstances in which restraints could be used.

GAO's analyses of inspections and complaint mechanisms offered the following insights into the care provided to pregnant women:

- ICE inspections found 79 percent or greater compliance with most of its pregnancy-related performance measures. For example, inspections found 91 percent of pregnant woman were seen by an obstetrician-gynecologist within 30 days of pregnancy confirmation, from December 2016 through March 2019. According to ICE officials and agency documentation, ICE has processes in place to address non-compliance. Additional inspections identified pregnancy-related issues at 13 facilities from January 2015 through July 2019. The facilities or ICE have taken actions to address the issues.
- CBP generally relies on offsite care for pregnant women, and as a result has limited information on care CBP provided. However, CBP has efforts underway to enhance medical support at selected facilities.
- Over 100 complaints were filed about ICE's and CBP's care of pregnant women from January 2015 through April 2019. Of these complaints, 3 were substantiated or partially substantiated, and 24 were unsubstantiated or partially unsubstantiated. In most cases there was not enough information for the investigating agency to determine whether proper care had been provided.

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Abbreviations

CBP	U.S. Customs and Border Protection
CRCL	Office for Civil Rights and Civil Liberties
DHS	Department of Homeland Security
FRS	Family Residential Standards
ICE	U.S. Immigration and Customs Enforcement
IIDS	ICE Integrated Decision Support
IGA	intergovernmental agreement
IGSA	intergovernmental service agreement
IHSC	ICE Health Service Corps
NCCHC	National Commission on Correctional Health Care
NDS	National Detention Standards
NGO	nongovernmental organization
OB-GYN	obstetrician-gynecologist
OFO	Office of Field Operations
PBNDS	Performance Based National Detention Standards
USMS	U.S. Marshals Service

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Congressional Requesters:

The health and safety of pregnant women in the custody of the Department of Homeland Security (DHS) have been a concern in recent years for a number of policymakers, medical associations, and advocacy groups. For example, a March 2018 letter written to DHS by various medical groups[1] noted their concerns about the health risks associated with detaining pregnant women. The letter reported that the maternal psychological state in detention can negatively affect fetal and child development and that shackling during pregnancy can have serious physical and mental health impacts on pregnant women. In addition, some Members of Congress have introduced bills to, in part, limit the use of restraints on pregnant women, set healthcare standards, and require the use of alternatives to detention for pregnant women.[2]

In 2017, the President issued a series of executive orders related to border security and immigration, including an Executive Order that addressed DHS's immigration enforcement priorities. Specifically, on January 25, 2017, the President issued an Executive Order instructing federal agencies, including DHS, to employ all lawful means to ensure the enforcement of the immigration laws of the United States against all removable foreign nationals.[3] On February 20, 2017, the Secretary of

[1]Medical associations included the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, and the American Academy of Family Physicians.

[2]A recent example is the Alternatives to Detention Act of 2019, two versions of which have been introduced in the House (H.R. 532), in January 2019, and the Senate (S. 1894) in June 2019. In addition, the Stop Shackling and Detaining Pregnant Women Act (H.R. 3563) was introduced in the House in June 2019.

[3]*Enhancing Public Safety in the Interior of the United States*, Exec. Order No. 13768, 82 Fed. Reg. 8799 (Jan. 25, 2017). The term "foreign national" in this report is synonymous with the term "alien" in the Immigration and Nationality Act, i.e., a person who is not a citizen or national of the United States. See 8 U.S.C. § 1101(a)(3),(a)(22). A foreign national may be removable on statutory grounds of inadmissibility, Immigration and Nationality Act (INA) § 212(a), 8 U.S.C. § 1182(a), if they have no prior lawful admission, or deportability, INA § 237, 8 U.S.C. § 1227, if they were previously lawfully admitted. See 8 U.S.C. § 1229a(e)(2). The lawfulness of a prior admission may be at issue in removal proceedings. See 8 U.S.C. §§ 1182(a)(6)(C)(i) (inadmissibility for having fraudulently obtained admission into the United States), 1227(a)(1)(A) (deportability for having been inadmissible at the time of entry).

Homeland Security issued a memorandum implementing the Executive Order.[4] In accordance with the Executive Order and memorandum, DHS is no longer required to allocate resources according to tiered immigration enforcement priorities, which had previously placed threats to national security, border security, and public safety in the highest priority category. Instead, various categories of removable individuals are general priorities for removal, and DHS is authorized to take action against any removable foreign national, including pregnant women, encountered during its law enforcement operations. The memorandum states that DHS components may allocate resources to prioritize enforcement activities, such as by prioritizing enforcement against convicted felons or gang members.

DHS cannot practicably pursue immigration enforcement action against all persons who may be subject to removal from the United States,[5] and, therefore, DHS must continue to exercise prosecutorial discretion in the enforcement of U.S. immigration law, given the administration's removal priorities and available resources.[6] At the time the Executive Order and February 2017 memo were issued, the U.S. Immigration and Customs Enforcement (ICE) was also operating under an August 2016 memo, titled *Identification and Monitoring of Pregnant Detainees*, that stated that pregnant women would generally not be detained except in extraordinary

[4]Department of Homeland Security, *Enforcement of the Immigration Laws to Serve the National Interest* (February 2017).

[5]DHS estimated in 2015 that the total foreign national population in the United States was about 27.3 million, and of that number, about 12 million foreign nationals were without lawful status or presence. DHS's *Population Estimates: Illegal Alien Population Residing in the United States: January 2015* is the most recent report that DHS issued on this population. According to DHS, the remaining approximately 15.3 million foreign nationals includes lawful permanent residents (13.2 million), resident nonimmigrants (2 million), and individuals granted refugee or asylee status (0.1 million), as of 2015. DHS reported data on lawful permanent residents and those without lawful presence or status as of January 2015, and data for resident nonimmigrants and refugees or asylees as of September 2015. Data on foreign national populations come from DHS's Office of Immigration Statistics, see DHS Office of Immigration Statistics, *Population Estimates: Lawful Permanent Resident Population in the United States: January 2015* (Washington, D.C.: May 2019); *Nonimmigrants Residing in the United States: Fiscal Year 2015* (Washington, D.C.: September 2017); *Refugees and Asylees: 2015* (Washington, D.C.: November 2016); and *Population Estimates: Illegal Alien Population Residing in the United States: January 2015* (Washington, D.C.: December 2018).

[6]Prosecutorial discretion is the longstanding authority of an agency charged with enforcing a law to decide how to use its resources in the enforcement of the law.

circumstances or as mandated by law.[7] For example, ICE would be required to detain a pregnant woman if she fell within one of the law's mandatory detention categories, which includes foreign nationals deemed inadmissible for certain criminal convictions or terrorist activity, or those who have been ordered removed.[8] This August 2016 memo was superseded in December 2017 by a memo under the same title that removed the language stating that absent extraordinary circumstances or a legal requirement, pregnant women will generally not be detained by ICE. In December 2019, we reported that the number of detentions of pregnant women increased from calendar year 2016 to calendar year 2018.[9]

You asked us to review issues related to DHS's detention of pregnant women. This report examines (1) what available data indicate about pregnant women detained or held in DHS facilities; (2) policies and standards that DHS has to address the care of pregnant women, and the extent to which they are applicable across all facilities; and (3) what is known about the care provided to pregnant women in DHS facilities.

To address all three objectives, we interviewed DHS officials from ICE and U.S. Customs and Border Protection (CBP) in headquarters and four field locations, pregnant detainees, and non-governmental organizations (NGO) to obtain their perspectives on the care of pregnant women in DHS custody. We selected locations based on ICE detention facilities that had the greatest number of detentions of pregnant women from fiscal years 2014 through 2017,[10] which included a mix of facility types.[11] For each of our site visits, we observed the facility operations and conducted

[7]This is in accordance with a 2014 DHS memorandum, entitled *Policies for the Apprehension, Detention and Removal of Undocumented Immigrants* (Nov. 20, 2014).

[8]For mandatory detention categories, see 8 U.S.C. §§ 1225, 1226(c), 1226a, 1231.

[9]GAO, *Immigration Enforcement: Arrests, Detentions, and Removals and Issues Related to Selected Populations*, GAO-20-36 (Washington, D.C.: Dec. 5, 2019).

[10]These were the most recent data available at the time of our site selection. Although some data were available in 2014, ICE did not begin collecting data on all pregnant women until June 2015.The four ICE facilities we visited in California and Texas collectively accounted for 87 percent of initial book-ins and 53 percent of detention days for pregnant women during this time period.

[11]Specifically, we selected ICE detention facilities to include a variety of facility types, based on who owns and operates the facility, who provides the medical services, and what detention standards they have in place. We discuss ICE detention facilities and standards later in this report.

semi-structured interviews with ICE and contract officials responsible for oversight or management of the facility, as well as ICE or contract medical staff.[12] In addition, we interviewed 10 pregnant women who were detained at three of the four ICE facilities we visited.[13] We interviewed an additional four pregnant women at a local shelter in Texas after their release from DHS custody.[14] We also observed facility operations and conducted six semi-structured interviews with CBP officials at four Border Patrol facilities and four Office of Field Operations (OFO) ports of entry that were located in the four locations we selected. Moreover, we conducted semi-structured interviews with officials from five local and three national NGOs to obtain their perspectives on the care of pregnant women in DHS custody.[15] While these site visits and interviews with field officials, pregnant women, and NGOs are not generalizable and may not be indicative of the care provided at all detention facilities, they provided us with perspectives on the care provided to pregnant women.

To address the first objective, we reviewed data sources that ICE uses to track pregnant women in detention from calendar years 2016 through 2018 and matched these data with various ICE databases.[16] Specifically, we matched ICE records for pregnant women with data from ICE's individual-level detention dataset to determine the total number of

[12]In total, we conducted 16 interviews with ICE and contract staff, and some interviews involved multiple officials. Specifically, we conducted 12 interviews with ICE and contract officials responsible for oversight or management of the facility, and four interviews with ICE and contract medical staff.

[13]With the consent of these women, we conducted structured interviews to obtain insight into the care they received at their respective ICE facility. According to ICE, these were the only adult pregnant women detained at these facilities during the time of our visits. At the time of our site visits, ICE identified a total of 10 pregnant women detained at three of the four facilities, and there were no pregnant women detained at the fourth ICE facility at the time of our visit. We interviewed detainees in Spanish, and we used a translation service for interviews conducted in other languages.

[14]All of these women spoke Spanish, and as such, we used an interpreter provided by our staff and staff at the shelter.

[15]We selected local NGOs or coalitions based on their representation of detained populations located near our site visit locations and their coordination with ICE and CBP. We selected national NGOs based on their healthcare expertise and publication of recommended guidance for the care of detained pregnant women. National NGOs included the American College of Obstetricians and Gynecologists, National Commission on Correctional Health Care, and American Correctional Association.

[16]We selected these years since ICE first collected data on all pregnant women beginning in June 2015, and 2018 was the last full year of available data for our audit.

detentions of pregnant women, as well as the length of detention, facility location, case status, arresting agency, gestation of pregnancy, and whether there is an associated criminal conviction (criminality). We reported on total detentions since a pregnant woman may have been detained multiple times during a calendar year. Our analysis is based on over 4,600 detainee records we were able to match, including 1,377 for 2016; 1,150 for 2017; and 2,094 for 2018.[17] We also merged the detention data with data from ICE's weekly facility list report, as of February 2019,[18] to determine characteristics of the facilities in which our study population were detained—such as who owned and operated the facility, who provided medical services, and in what state the facility was located. Finally, we also analyzed ICE data on pregnancy outcomes—abortions, births, stillbirths, and miscarriages—from 2015 through June 2019—which includes, but is not limited to, our study population of over 4,600 detentions from 2016 through 2018. To determine the number of pregnant women held by CBP, we analyzed summary data for the most recent data available.[19] We also analyzed CBP's significant incident reports to identify pregnancy outcomes from 2015 through February 2019.[20] We assessed the reliability of the data used in each of our analyses by reviewing relevant information about these systems, interviewing knowledgeable agency officials, and conducting electronic tests to identify missing data, anomalies, or potentially erroneous values. We determined the data were sufficiently reliable for describing general information on pregnant women in DHS custody.

To address the second objective, we analyzed ICE and CBP policies and standards and training documents that address the care of pregnant

[17]ICE collected data for 1,437 pregnant detainees in 2016; 1,170 in 2017; and 2,126 in 2018. We excluded 60 of the unique pregnant detainee records for 2016; 20 for 2017; and 32 for 2018 because we were unable to match these records to individual-level detention data. A detainee could have more than one detention.

[18]At the time that we merged the data sets, the February 2019 list was the most recent report.

[19]In March 2018, OFO began collecting self-reported data on pregnant women held at its ports of entry. We analyzed these data from this date through September 2019. In March 2017, Border Patrol began collecting self-reported data on pregnant women in two of its nine southwest border sectors, including gestation data. We analyzed these data from this date through March 2019.

[20]CBP has requirements for reporting certain types of incidents, such as deaths. According to CBP officials, although there is no requirement to report miscarriages and births, some are reported at the discretion of CBP officials. As such, it is possible that not all information was reported. The data include reports only involving foreign nationals.

women. Policies and detention standards we analyzed included (1) ICE policies and detention standards that govern the conditions of confinement at ICE detention facilities, and (2) CBP policies for Border Patrol and OFO, and CBP's national standards.[21] Furthermore, we developed 16 pregnancy-related topics—such as pregnancy testing requirements, prenatal care, and the use of restraints—and categorized agency policies and standards accordingly.[22] We analyzed the extent to which ICE facility types had a policy or detention standard that addressed each of these 16 topics. For this analysis, facility type was based on who owns and operates the facility and provides medical care. Further, for each of these topics, we summarized recommended guidance published by NGOs, professional associations, and federal agencies, and assessed the extent to which each ICE facility type had a policy or detention standard that generally aligned with recommended guidance.[23] We spoke with ICE and CBP officials in headquarters and the selected field locations noted above to obtain their perspectives on policies, detention standards—including any planned updates—and related training.

To address the third objective, we analyzed inspections results, agency data, and complaint information. Specifically, we analyzed reports and data from five ICE inspections that address compliance with pregnancy-

[21]U.S. Customs and Border Protection, *National Standards on Transport, Escort, Detention, and Search* (October 2015).

[22]We developed these pregnancy-related topics based on our review of guidance from professional associations and NGOs, NGO complaints and media reports, ICE's and CBP's policies and detention standards, and reports issued by federal agencies. Further, we did not include recommended guidance that was not directly relevant to the care of pregnant women once detained, such as guidance on detention determinations and child care.

[23]We selected this guidance based on our research and review of non-governmental and agency documents and recommendations from NGO officials. Recommended guidance is from American College of Obstetricians and Gynecologists, National Commission on Correctional Health Care, and the American Correctional Association, as well as other relevant organizations including the United Nations, the National Women's Law Center, American Civil Liberties Union, and working groups assembled by both the Departments of Justice and Homeland Security. Because the specificity of the guidance varies across entities, we summarized the recommended guidance for our report purposes. NGO officials we spoke with said that although their recommended guidance was designed to apply in a criminal incarceration setting, their recommended guidance is also applicable to immigration detention.

related policies and detention standards from 2015 through July 2019.[24] We also analyzed ICE documentation on corrective actions that facilities reported taking to address inspection findings. Further, we reviewed and categorized complaints that detainees, family members, NGOs, or other parties submitted through various complaint systems from January 2015 through April 2019—the latest available complaints at the time of our review—regarding ICE's and CBP's care of pregnant women. We selected these complaint systems because they contained relevant information on the care of pregnant women, according to DHS officials. In addition, we analyzed agency documentation on the extent to which complaints could be substantiated, and any corrective actions that agencies and facilities reported taking to address complaints. We also reviewed ICE medical data from calendar year 2016 through 2018.[25] We also reviewed significant incident reports that CBP documented for incidents that involved a pregnant woman being sent to a hospital from 2015 through February 2019.[26] We assessed the reliability of the data used in each of our analyses by reviewing relevant information about these systems, interviewing knowledgeable agency officials, and conducting electronic tests to identify missing data, anomalies, or potentially erroneous values. We determined the data were sufficiently reliable for our purposes of understanding what is known about the care of pregnant women in DHS custody. Further, we interviewed ICE and CBP officials in headquarters and selected field locations, as previously described. We interviewed pregnant women who were detained, as well as representatives of NGOs, to obtain their perspectives on the care of pregnant women in DHS custody. Appendix I describes our analyses of ICE data, inspections, and complaints in greater detail.

We conducted this performance audit from August 2018 to March 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that

[24]These were the most recent data available at the time of our review. We selected these inspections because they review some aspect of the care provided to pregnant women. CBP officials told us that they did not have inspections that address the care of pregnant women.

[25]As mentioned previously, 2016 was the first year that ICE collected data on all pregnant women.

[26]These were the most recent data available at the time of our request.

the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Federal Roles and Responsibilities

Within DHS, ICE is responsible for immigration enforcement and removal operations. This entails, among other duties, identifying, arresting, and detaining foreign nationals for the administrative purpose of facilitating their appearance during removal proceedings, and for processing, and preparing them for removal from the United States, among other things. As such, ICE manages the nation's immigration detention system, which houses foreign nationals detained while their immigration cases are pending or after being ordered removed from the country. ICE generally has broad discretion in determining whether to detain removable foreign nationals or release them under various conditions, unless the law specifies that detention is mandatory.[27] Additionally, foreign nationals arriving at the U.S. border or a port of entry without valid entry documents and placed into expedited removal proceedings[28] are required to be detained while awaiting an inadmissibility determination and, as applicable, any subsequent credible fear decision.[29] Except in cases where detention is mandatory, ICE may release an individual pending the outcome of removal proceedings and has various release options for

[27]See 8 U.S.C. § 1226. Conditions of release include bond, conditional parole, terms of supervision, or other alternatives to detention.

[28]Expedited removal under Immigration and Nationality Act (INA) § 235(b) is the process by which a DHS immigration officer may, subject to statutory criteria, order arriving and other designated foreign nationals removed from the United States without formal removal proceedings under INA § 240. See 8 U.S.C. § 1225(b).

[29]Foreign nationals may indicate an intention to apply for asylum or express a credible fear of persecution or torture if they are returned to their home country. After a credible fear referral, screening and determination, aliens are generally to be detained pending review of such determination, their removal, or a decision on any subsequent asylum application. Individuals found to have a credible fear and referred to immigration court for an asylum hearing may receive a bond hearing and therefore be eligible for release on bond, conditional parole, terms of supervision or other alternatives to detention.

doing so, including the Alternatives to Detention program.[30] While foreign nationals are detained, ICE is responsible for providing accommodations and medical care to individuals in detention with special needs or vulnerabilities, such as those who are pregnant.[31] ICE's December 2017 memo, *Identification and Monitoring of Pregnant Detainees,* sets forth policy and procedures to ensure pregnant detainees in ICE custody are identified, monitored, tracked, and housed in an appropriate facility.

CBP is a component within DHS and the lead federal agency charged with a dual mission of facilitating the flow of legitimate travel and trade at our nation's borders while also keeping terrorists and their weapons, criminals and their contraband, and inadmissible foreign nationals out of the country. CBP temporarily holds individuals to complete general processing and determine the appropriate course of action, such as transferring them to a court, jail, prison, or another agency; relocating them into ICE detention facilities; removing them from the country; or releasing them—as CBP has discretion to release individuals with a notice to appear in court. Within CBP, individuals, including pregnant women, could be held by Border Patrol or OFO.[32]

[30]We have previously issued work on ICE's Alternatives to Detention program, and the extent of its cost effectiveness. See GAO*, Alternatives to Detention: Improved Data Collection and Analyses Needed to Better Assess Program Effectiveness*, GAO-15-26 (Washington, D.C., Nov. 13, 2014). Further, as reported in GAO-20-36, ICE does not track specific characteristics of individuals enrolled in its Alternatives to Detention program, including pregnant women. In addition, we have previously reported on the challenges with identifying medical costs at ICE detention facilities. See GAO, *Immigration Detention: Additional Actions Needed to Strengthen Management and Oversight of Detainee Medical Care*, GAO-16-231 (Washington, D.C., Feb. 29, 2016) and GAO, *Immigration Detention: Additional Actions Needed to Strengthen Management and Oversight of Facility Costs and Standards,* GAO-15-153 (Washington, D.C., Oct. 10, 2014). Specifically, for some facilities, we reported that costs for medical care are typically included in each facility's per diem rate for housing detainees and ICE pays a set fee per day per detainee. As such, medical care costs are not tracked separately.

[31]ICE includes pregnant women as one of its vulnerable populations.

[32]Border Patrol operates between the ports of entry, while OFO operates at the ports of entry. Border Patrol has 20 sectors while OFO operates 328 land, air, and sea ports of entry—which provides for the controlled entry into or departure from the United States. Specifically, a port of entry is any officially designated location (seaport, airport, or land border location) where DHS officers or employees are assigned to clear passengers and merchandise, collect duties, and enforce customs laws, and where DHS officers inspect persons entering or applying for admission into, or departing the United States pursuant to U.S. immigration and travel controls.

ICE Detention Facility Types, Detention Standards, and Medical Care

ICE detains individuals in both under-72-hour and over-72-hour detention facilities.[33] Detention facilities may be for male only, female only, or both; and some are specifically reserved for family units (also known as family residential centers). ICE uses various types of detention facilities to hold detainees for more than 72-hours. These include ICE owned and operated detention facilities, also known as service processing centers,[34] as well as facilities that ICE oversees but the day-to-day operations are generally run by another entity,[35] as follows:

- contract detention facilities owned and operated by a private company under direct ICE contract that exclusively houses ICE detainees,
- facilities owned by state or local government or private entity, operating under an intergovernmental service agreement (IGSA), that exclusively houses ICE detainees or houses ICE detainees and other confined populations,[36] and
- facilities owned by state or local government or private entity, operating under an intergovernmental agreement (IGA), or contract,

[33]In addition to detention facilities, ICE may detain an individual in a hold room. Hold rooms are used for detention of individuals awaiting removal, transfer, immigration hearings, medical treatment, intra-facility movement, or other processing into or out of a facility. According to ICE, an individual may not be confined in a facility's hold room for more than 12 hours.

[34]According to ICE officials, contract staff may operate at these facilities.

[35]ICE personnel have a presence at these facilities to carry out ICE responsibilities—such as making detention determinations—and to provide oversight.

[36]All of ICE's family residential centers are operated under an IGSA.

with U.S. Marshals Service (USMS), that exclusively houses ICE detainees or houses ICE detainees and other confined populations.[37]

ICE detention facilities are generally required to adhere to one of four sets of detention standards. The detention standards vary depending on the contract or agreement.[38] As we have previously reported, ICE's detention standards are based on the American Correctional Association's expected practices and have been updated when ICE identified issues of heightened concern or gaps in agency procedures.[39] Some detention facilities used by ICE are not obligated to adhere to ICE's detention standards—because, for example, ICE is a rider on the contract and the facility may be held to other standards.[40]

[37]ICE may be a rider on an USMS contract—which allows ICE to use a facility for the purpose of detaining individuals in ICE custody. USMS has no role in the oversight of ICE detainees in these facilities, according to ICE officials. Further, ICE officials stated that ICE would not have USMS transport or escort any of its DHS immigration detainees, and CBP officials stated that USMS may escort a DHS detainee during federal criminal court proceedings but that this would be rare. Individuals in DHS custody—which may include pregnant women—could be referred to the Department of Justice for criminal prosecutions. USMS detains those individuals who have been remanded to their custody by a federal judge. USMS also provides courtroom security for federal criminal court proceedings. We have ongoing work on pregnant women in Bureau of Prisons and USMS custody.

[38]Our prior work has examined ICE's efforts to have all contracted facilities operating or inspected under the newest detention standards, see GAO-15-153 (Washington, D.C., Oct. 10, 2014). We have ongoing work on ICE's detention contracts.

[39]See GAO-15-153. The American Correctional Association develops expected practices for correctional facilities, and correctional facilities can apply to be accredited by the American Correctional Association. According to the American Correctional Association, its expected practices represent correctional practices that ensure staff and inmate safety and security; enhance staff morale; improve record maintenance and data management capabilities; assist in protecting the agency against litigation; and improve the function of the facility or agency at all levels. According to officials from the American Correctional Association, their expected practices are applicable to immigration detention.

[40]Although they may not be obligated to adhere to one of the four sets of detention standards, according to ICE officials, facilities used by ICE to house single adults for more than 60 days are inspected against one of the four sets of detention standards.

Further, on-site medical care may be directly provided by ICE Health Service Corps (IHSC) or other entities at these detention facilities.[41] IHSC provides direct on-site medical services in 20 ICE facilities authorized to house detainees for over 72 hours. In addition to any applicable detention standards, IHSC staff must also adhere to IHSC policies. At detention facilities that are not staffed with IHSC personnel (non-IHSC facilities), medical care is provided onsite by local government staff or private contractors and overseen by IHSC.[42]

ICE inspects "authorized" detention facilities against detention standards and any applicable IHSC policies.[43] Table 1 details information on each of the detention standards, the number of authorized facilities contractually obligated to each standard, the percent of the average daily population at each, and the presence of IHSC staff.

Table 1: U.S. Immigration and Customs Enforcement (ICE) Detention Standards, Number of Authorized Facilities, Percent of the Average Daily Population, and ICE Health Service Corps (IHSC) Presence, As of February 2019

Detention standard	Description	Number of authorized facilities obligated to adhere to standard	Percent of average daily population, fiscal year 2019	Number of authorized facilities that are also staffed by IHSC[a]
2000 National Detention Standards (NDS)[b]	The 2000 NDS are a set of standards intended to govern the conditions of confinement at ICE detention facilities. They dictate how facilities should operate to ensure safe, secure, and humane confinement for immigration detainees, laying out requirements that covered facilities must meet to remain in operation.	73	11.1	0

[41]Facilities serviced by IHSC include service processing centers, contract detention facilities, IGSA facilities, and family residential centers. IHSC personnel include Commissioned Corps officers of the Department of Health and Human Services' Public Health Service. IHSC provides direct care at designated facilities to include medical, dental mental health, and public health services. In addition, IHSC also has the authority to provide health care to detainees, as well as to authorize treatment of detainees in hospitals outside of detention facilities while in ICE custody. See 42 U.S.C. § 249; 42 C.F.R. § 34.7(a).

[42]IHSC is to provide medical case management and oversight for detainees housed at non-IHSC facilities.

[43]According to ICE officials, authorized facilities are those facilities that are used on a frequent and regular basis. Facilities that are not used on a frequent basis are deemed non-authorized and are not inspected by ICE. Non-authorized facilities could include hold rooms, staging facilities, and hospitals.

Detention standard	Description	Number of authorized facilities obligated to adhere to standard	Percent of average daily population, fiscal year 2019	Number of authorized facilities that are also staffed by IHSC[a]
2007 Family Residential Standards[b]	ICE approved the Family Residential Standards in 2007 to apply to its facilities that house families in detention. The standards are based on ICE analysis of family detention operations and state statutes that affect children.	4	5.2	3
2008 Performance-Based National Detention Standards (PBNDS)	ICE revised its standards to align with the fourth edition of the *American Correctional Association's Performance-Based Standards for Adult Local Detention Facilities*. This version introduces expected outcomes, or results that the required procedures found in the standards are expected to accomplish.	14	8.3	1
2011 PBNDS[c]	The 2011 version of the standards, like the 2008 PBNDS, outline expected outcomes for each standard. This version also introduces provisions, which are non-mandatory, and which represent optimal levels of compliance with the standards. The standards were updated in 2016, and are referred to as the 2011 PBNDS with 2016 revisions.	40	63.9	14
Obligated to other standards	Some facilities are not obligated to adhere to ICE's detention standards. However, facilities used by ICE to house single adults for more than 60 days are inspected against one of its detention standards. For example, U.S. Marshals Service intergovernmental agreement facilities are under agreements to adhere to Department of Justice detention standards. Facilities under private contract with the U.S. Marshals Service are to adhere to the Federal Performance-Based Detention Standards, which incorporate elements of American Correctional Association expected practices, Department of Justice standards, and the 2000 NDS. For ICE inspection purposes, ICE holds facilities affiliated with the U.S. Marshals Service to one of its national standards listed above.	78	11.6	0

Source: GAO analysis of ICE documentation. | GAO-20-330

Note: This table includes authorized facilities, which, according to ICE officials, are those facilities that are used on a frequent and regular basis. Authorized facilities are inspected by ICE. The table does not include non-authorized facilities—such as hold rooms, staging facilities, and hospitals—or facilities that ICE no longer utilizes as of February 2019.

[a]Two additional facilities—staging facilities—are non-authorized but staffed by IHSC.

[b]ICE updated its 2000 NDS in December 2019 and ICE officials stated that facilities will be inspected against the 2019 standards starting March 1, 2020. Further, officials stated that they are in the process of updating the 2007 Family Residential Standards.

[c]Whether a 2011 PBNDS facility is contractually required to adhere to the 2016 revision is dependent upon the contract language negotiated in each agreement. As of September 2019, ICE had 47 facilities operating under 2011 PBNDS, of which 31 were contractually required to meet the 2016 revision when ICE begins inspecting for compliance under the revised standards.

CBP Facilities, Standards, and Medical Care

CBP operates all of its short-term holding facilities and hold rooms, and does not utilize contract services for the management of individuals in CBP custody. In October 2015, CBP issued its first nationwide standards, which govern CBP's interaction with detained individuals.[44] The standards include requirements regarding transport, escort, detention, and search provisions, as well as care for "at-risk individuals", which includes pregnant women.

Given that CBP short-term facilities are intended to hold individuals for no more than 72 hours, CBP historically did not have on-site medical professionals at most of its facilities.[45] However, as a result of surges in unaccompanied minors and families crossing the border, CBP issued a directive in January 2019 titled *Interim Enhanced Medical Efforts (January 2019)*. According to the directive, enhanced medical services were needed to address growing public health concerns and mitigate risk to, and improve care for, individuals in CBP custody along the southwest border. The January 2019 directive was superseded by a December 2019 directive, *Enhanced Medical Support Efforts,* which also calls for medical support to mitigate risk to, and sustain enhanced medical efforts for persons in CBP custody along the southwest border. A related memo issued by the CBP Commissioner, titled CBP's *Expansion of Existing Medical Services Contracts and Expedited Deployment of Additional Contracted Medical Services Personnel to the Southwest Border,* called for the expansion of CBP's medical services contract to numerous Border Patrol facilities and OFO ports of entry along the southwest border.[46] This effort is discussed later in our report.

[44]U.S. Customs and Border Protection, *National Standards on Transport, Escort, Detention, and Search* (Washington D.C., October 2015).

[45]We previously reported that although Border Patrol officials from 10 facilities we visited stated that time in custody rarely exceeds 72 hours, we noted that approximately 16 percent of cases with complete data in fiscal years 2014 and 2015 exceeded this threshold. See GAO, *Immigration Detention: Additional Actions Needed to Strengthen DHS Management of Short-Term Holding Facilities,* GAO-16-514 (Washington, D.C., May 26, 2016).

[46]We currently have ongoing work on CBP's care and custody of detainees.

DHS Had Over 4,600 Detentions of Pregnant Women from 2016 through 2018 for Different Lengths of Time and In Varying Types of Facilities

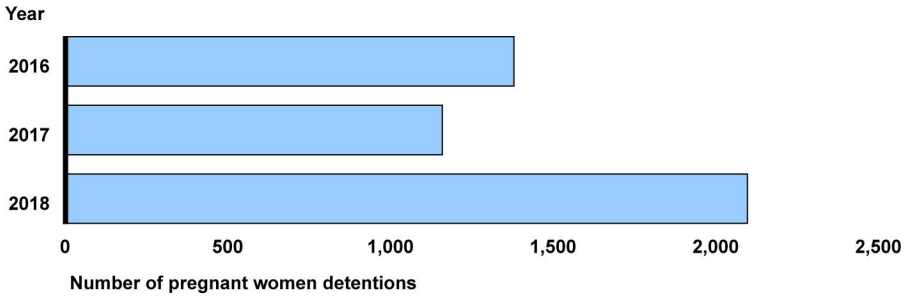
About Two-thirds of ICE's Detentions of Pregnant Women Were for a Week or Less

Number of pregnant women detentions. From calendar year 2016 through 2018, ICE had over 4,600 detentions of pregnant women.[47] The number of detentions decreased from 1,380 in calendar year 2016 to 1,160 in 2017, and then increased to 2,098 in calendar year 2018 (see figure 1).[48]

[47]We selected these years based on the first year ICE collected data on all pregnant women at both IHSC and non-IHSC staffed facilities (2016) and the most recent full year of data (2018) at the time of our review.

[48]To obtain more information on the characteristics of pregnant women, we analyzed individual pregnant detainee data in conjunction with the ICE detention data. ICE collected data for 1,437 pregnant detainees in 2016; 1,170 in 2017; and 2,126 in 2018. We excluded 60 of the unique pregnant detainee records for 2016; 20 for 2017; and 32 for 2018 because we were unable to match these records using alien number and book-in date (date of intake) combinations. According to ICE officials, this may be due to data entry errors. Our analysis is based on the unique pregnant detainee records we were able to match: 1,377 for 2016; 1,150 for 2017; and 2,094 for 2018. Of those we were able to match, we identified 19 pregnant women that were detained more than once in our time period. ICE also recorded 675 pregnant detainees in 2015; however, we excluded these records from our analysis since ICE did not collect complete data on this population in 2015.

Figure 1: Immigration and Customs Enforcement Detentions of Pregnant Women, Calendar Years 2016 through 2018



Source: GAO analysis of U.S. Immigration and Customs Enforcement data. | GAO-20-330

Data Table for Figure 1: Immigration and Customs Enforcement Detentions of Pregnant Women, Calendar Years 2016 through 2018

Year	Number of pregnant women detentions
2016	1380
2017	1160
2018	2098

Notes: Our analysis is based on the 1,377 unique pregnant detainee records for 2016; 1,150 for 2017; and 2,094 for 2018 that we were able to match to the detention data. The number of detainees may not equal the number of detentions because a woman may have been detained multiple times during a calendar year.

Of the more than 4,600 detentions of pregnant women from calendar year 2016 through 2018, 32 percent involved pregnant women who were expedited removal cases and were subject to mandatory detention, including those that awaited a credible fear determination.[49] Of the remaining detentions, 49 percent involved pregnant women who were deemed inadmissible and were either awaiting their hearing or an adjudication by an immigration judge, 11 percent involved pregnant women who had a final order of removal, and the remaining detentions (8 percent) involved various other immigration-related circumstances, such as those for which ICE was unable to obtain travel documents. Further, as we reported in December 2019, detentions of non-criminal pregnant

[49]Other pregnant women may have been subject to mandatory detention when they were initially detained, however, ICE updates the status of each individual's record, as they move through immigration proceedings. As such, our data represents the case status at the time ICE extracted these data. For example, some pregnant women that were initially detained and were claiming credible fear—and were subject to mandatory detention, may have subsequently received their credible fear determination from DHS, and their case and custody status would change accordingly.

women accounted for most of the total detentions of pregnant women each year (ranging from 91 to 97 percent).[50]

Length of detention. From calendar years 2016 through 2018, 68 percent of ICE detentions of pregnant women were for 7 days or less, 22 percent for 8 to 30 days, and 10 percent for more than 30 days, as shown in table 2.

Table 2: Length of U.S. Immigration and Customs Enforcement Detentions of Pregnant Women, Calendar Years 2016 through 2018

Calendar Year	0 -1 day	2 -7 days	8 -15 days	16 -30 days	31 - 90 days	91 - 180 days	181 - 270 days	271 -334 days	Total detentions[a]
2016	627	600	61	42	41	9	0	0	**1,380**
2017	328	449	117	144	108	14	0	0	**1,160**
2018	523	644	316	338	261	13	1	1	**2,097**

Source: GAO analysis of Immigration and Customs Enforcement data. | GAO-20-330

Note: Our analysis is based on the 1,377 unique pregnant detainee records for 2016; 1,150 for 2017; and 2,094 for 2018 that we were able to match to the detention data. The number of detainees may not equal the number of detentions because a woman may have been detained multiple times during a calendar year.

[a]We were unable to determine the length of detention for one record because the individual had an ongoing detention, as of May 2019. As such, the total detentions for 2018 in this table, is listed as 2,097 rather than 2,098.

According to ICE officials, individual circumstances of each case dictate how long they detain a pregnant woman. For example, ICE may determine not to release a pregnant woman from ICE custody if her case is adjudicated quickly, she is ordered removed, and she is cleared to travel by a medical professional.

Pregnancy outcomes. Our analysis of ICE data shows that from January 2015 through July 2019, 58 pregnant women in ICE custody experienced

[50]See GAO-20-36. For the purposes of that report, we referred to potentially removable individuals without criminal convictions known to ICE as “non-criminals” and individuals with criminal convictions known to ICE as “convicted criminals”. According to ICE, ICE officers electronically request and retrieve criminal history information from the FBI’s National Crime Information Center database, which maintains a repository of federal and state criminal history information, and other sources. We used ICE’s determination on criminality for our analysis.

a miscarriage, two had an abortion, and one gave birth.[51] Of those, 37 miscarriages and one birth involved women detained at IHSC-staffed facilities at the time of the outcome.[52] Some of these women were in our study population of over 4,600 detentions from calendar years 2016 through 2018, but some were pregnant women detained in 2019.

Most ICE Detentions of Pregnant Women Were at IHSC-Staffed Facilities; and Some Data on Gestation of Pregnancy Were Available

Detention facility. Our analyses of ICE data found that of the over 4,600 detentions of pregnant women, 78 percent of detentions of pregnant women were initially detained at an IHSC-staffed facility.[53] See appendix II for more details on these data. According to ICE officials, pregnant women may first learn about their pregnancy when a test is performed during their intake into a detention facility. These over 4,600 detentions of pregnant women resulted in approximately 50,300 detention days with more than 66 percent of total detention days spent at IHSC-staffed facilities (see App. II).[54]

Some facilities may have a large number of detention days associated with the intake of pregnant women, but may not detain women for a long period of time before releasing or transferring them. For example, at a facility that had one of the largest number of detention days for pregnant women, officials stated that they generally release women once the

[51]According to some ICE policies and detention standards, in the event of a threat to a woman's life from carrying a pregnancy to term, or else in cases of rape or incest, ICE must bear the cost of a detainee's decision to terminate a pregnancy; otherwise the woman must bear the cost. In addition to these outcomes, we identified 24 women for which there was a concern about a potential miscarriage or premature labor; however records did not indicate that a miscarriage or labor occurred.

[52]According to ICE officials, they generally do not detain women in their third trimester. This could contribute to the lower number of births. We were unable to determine the facility for two miscarriages.

[53]Facility information is based on ICE's February 2019 facility list report. It is possible that facilities may change over time, including if they are staffed by IHSC, among other things. For example, between 2016 and 2018, two facilities became IHSC-staffed facilities and one was no longer staffed by IHSC.

[54]If a woman was detained in more than one facility on the same day, we counted this as 1 day in each facility.

pregnancy is confirmed. Further, according to ICE officials, ICE will try to transfer pregnant women from their initial detention facility to an IHSC-staffed detention facility or a family residential center—if she is part of a family unit—to ensure they are provided the appropriate accommodations and care. For example, ICE may transfer a pregnant woman awaiting a credible fear determination, as these cases may take longer to process and result in longer detention stays. However, an IHSC official also stated that ICE may detain pregnant women at non-IHSC facilities if ICE believes that the facility can provide the appropriate level of care.[55] Nearly 70 percent of pregnant women's detention days were spent at an IHSC-staffed facility or a family residential center. Contract detention facilities—both IHSC-staffed and non-IHSC—had the highest average number of days for the detention of pregnant women, as shown in table 3.

Table 3: Detention Days Spent by Pregnant Women at Each U.S. Immigration and Customs Enforcement (ICE) Facility Type, Calendar Years 2016 through 2018

Facility type and ICE Health Service Corps (IHSC) presence	Total detention days	Minimum number of days	Maximum number of days	Average number of days
Contract detention facility/IHSC	**11,239**	1	332	24
Contract detention facility /non-IHSC	**747**	1	156	36
Service processing center/IHSC	**7,900**	1	128	3
U.S. Marshals Service intergovernmental agreement /non-IHSC	**3,660**	1	161	12
Intergovernmental service agreement /IHSC[a]	**13,923**	1	147	9
Intergovernmental service agreement /non-IHSC[a]	**11,809**	1	170	13
Other[b]/IHSC	**284**	1	3	2
Other[b]/non-IHSC	**778**	6	41	6
Total	**50,340**	**1**	**332**	**7**

Source: GAO analysis of ICE data. | GAO-20-330

Notes: Our analysis is based on the 1,377 unique pregnant detainee records for 2016; 1,150 for 2017; and 2,094 for 2018 that we were able to match to the detention data. We were unable to determine the length of detention for one record which is generally due to an ongoing detention. If a woman was detained in more than one facility on the same day, we counted this as 2 days—1 day in each facility.

[a]Includes family residential centers.

[b]"Other" facilities include Bureau of Prisons, hold rooms, staging facilities, and hospitals, among other facilities.

[55]According to our analysis of ICE data, of the over 4,600 detentions of pregnant women, 37 percent involved a pregnant woman that had at least one transfer during her detention.

Gestation of pregnancy. Of the 1,450 detentions of pregnant women for which gestation data were available, 49 percent were for women in their first trimester and 41 percent were for women in their second trimester at the time of intake.[56] Ten percent were for women in their third trimester at the time of intake. Of the detentions involving pregnant women in their third trimester, 75 percent were released within one week or less, 9 percent between 8 and 15 days, and the remaining 16 percent between 16 and 90 days. According to ICE officials, ICE does not detain pregnant woman in their third trimester or a pregnant woman who is unlikely to be removed. However, officials stated that there are instances when it takes ICE time to gather information prior to making a custody determination—such as when it needs to collect criminal conviction data to making a custody determination—which could result in detained pregnant women who are nearing or in their third trimester. This is consistent with what ICE officials told us during our visits to facilities in all four locations—that they generally do not detain pregnant women in their third trimester.[57] However, some explained, that pregnant women in their third trimester may be detained if, for example, they are subject to mandatory detention.

CBP Has Data on Pregnant Women in Certain Locations and Has Taken Action that Could Provide Additional Information on Pregnant Women at Other Locations

Number of pregnant women. Because of CBP facilities' short-term nature and limited on-site medical care, CBP does not routinely conduct

[56]We analyzed available gestation data from calendar years 2016 through 2018. Of the over 4,600 detentions of pregnant women, data for 1,450 detentions were available. Specifically, data on estimated delivery date were readily available for pregnant women detentions at non-IHSC facilities. More limited gestation data were available on detentions at IHSC-staffed facilities. IHSC–staffed facilities began to collect these data more consistently in June 2018—similar to non-IHSC facilities. ICE does not require these data to be collected. However, this information would be available in medical records prior to this date because, according to an IHSC official, gestation can be calculated using other data, such as last menstrual cycle.

[57]Further, CBP officials in the four locations we visited—which include Border Patrol and OFO facilities—generally all stated that ICE will not take pregnant women in their third trimester, or in some cases, at all. They stated that ICE will either release the woman without taking physical custody from CBP, or CBP will have to use their discretion to release the women if they can no longer hold them. In addition, our prior work found similar results, as we reported in GAO-20-36 that ICE officials in all six areas of responsibility we visited stated that they are less likely to detain and may release a woman who is having a high risk pregnancy or in the third trimester of her pregnancy.

pregnancy tests of women in their custody, and as such, has limited data on pregnancy.[58] However, ICE data provide insight into CBP encounters with pregnant women. Specifically, our analysis of ICE data from calendar years 2016 through 2018 indicated that nearly 4,400 of ICE's over 4,600 detentions of pregnant women resulted from CBP arrests.

In addition, OFO and Border Patrol collected some data on women in their custody who reported being pregnant. OFO reported holding over 3,900 pregnant women from March 2018 through September 2019 at its ports of entry.[59] At the two sectors where Border Patrol is required to collect such data, Border Patrol reported holding over 750 pregnant women in its facilities from March 2017 through March 2019.[60] As shown in table 4, most of these women reported being in their second or third trimester. These women may have been transferred to ICE and may also be included in the count of pregnant women detained by ICE.

[58]CBP has not historically had medical personnel onsite at most of its locations, as previously stated. Some CBP detention facilities had contracts or agreements for medical services during the time period covered in our review, but CBP officials stated that they generally refer individuals to local medical providers in their area, as appropriate and for all emergent or serious issues—including concerns presented by pregnant women. In addition, if CBP needed to provide a pregnancy test to a woman in its custody, officials stated that they would take the woman to an offsite medical provider.

[59]In March 2018, OFO began collecting self-reported data on pregnant women they hold at ports of entry—which includes 328 land, air, and sea ports of entry. OFO, at all ports of entry, uses a standard form when processing an individual that includes a question about pregnancy. Of these pregnant women held by OFO, almost 2,100 women were held at southwest border land ports of entry from March 2018 through March 2019.

[60]In March 2017, Border Patrol began collecting self-reported data on pregnant women in two of its nine southwest border sectors (Yuma and Tucson). Border Patrol began collecting these data due to a court order, see *Unknown Parties v. Johnson*, Order Granting Motion for Preliminary Injunction, Doc. 244, No. CV-15-00250 (D. Az. Nov. 18, 2016). These women may have been transferred to ICE and may also be included in the count of pregnant women detained by ICE. Yuma Sector accounted for 60 percent of these total apprehensions. Border Patrol agents at other sectors may inquire about pregnancy but this is not required.

Table 4: Number and Percent of Women that Reported to be Pregnant, by Trimester, March 2017 through March 2019 in Two Southwest Border Patrol Sectors

Trimester	Count	Percent
First trimester	138	18
Second trimester	331	44
Third trimester	283	38
Total	**752**	**100**

Source: GAO analysis of Border Patrol data. | GAO-20-330

Notes: These data represent women that self-reported being pregnant at two Border Patrol sectors. Border Patrol has 20 sectors, nine of which are southwest border sectors. It is possible that some women in their first trimester may not be aware that they are pregnant. According to U.S. Immigration and Customs Enforcement (ICE) officials, many of the pregnant women that they detained first learned about their pregnancy upon taking a pregnancy test during the intake process at an ICE detention facility.

In accordance with its January 2019 directive, *Interim Enhanced Medical Efforts (January 2019),* CBP developed a standardized health interview form that can be used by Border Patrol and OFO. The form includes a question about pregnancy and nursing[61] which could allow for additional data on the number of women in CBP custody that report being pregnant. In December 2019, CBP officials told us that they distributed the form to its field locations.[62]

Pregnancy Outcomes. In addition, we reviewed CBP significant incident reports to determine if any pregnant woman encountered or held by CBP had experienced a birth, stillbirth, or miscarriage during calendar year 2015 through February 2019. Our analysis of CBP reports during this time frame found that pregnant women encountered or apprehended by CBP experienced 43 births, three miscarriages, and six stillbirths after being taken to the hospital by CBP.[63] In some of these incidents, Border Patrol agents encountered pregnant women in the field and took them directly to

[61]According to a December 2019 directive, which superseded the January 2019 directive, the form is required, at a minimum, for all individuals under the age of 18 in custody along the southwest border.

[62]We currently have ongoing work on CBP's care and custody of detainees.

[63]These data were obtained from CBP significant incident reports. CBP has requirements for reporting certain types of incidents, such as deaths. According to CBP officials, although there is no requirement to report miscarriages and births, some are reported at the discretion of CBP officials. As such, it is possible that not all information was reported.

the hospital. In these cases, the pregnant woman was not in a Border Patrol facility directly prior to being taken to the hospital.[64]

DHS Policies and Detention Standards that Address the Care of Pregnant Women Vary by Facility Type and Component

ICE Policies and Detention Standards Address a Range of Pregnancy-Care Topics that Vary across Facility Types; ICE Has Planned Updates to Address Gaps

ICE has policies and detention standards that address a variety of pregnancy-related topics regarding the care of pregnant women, such as pregnancy testing requirements, the use of restraints, and prenatal care. However, we identified certain facility types that did not address all pregnancy-related topics in their policies or detention standards as of December 2019, which ICE is taking actions to address.[65] Appendix III details ICE's policies and detention standards related to the care of pregnant women in detention. For the purpose of our analysis, the facility type is based on contractually obligated detention standards and the presence of IHSC staff, as these factors dictate which detention standards the facility type is required to adhere to and whether IHSC policies apply.[66]

Specifically, we identified 16 topics related to the care of pregnant women and found that in most facility types, ICE had at least one policy or

[64]Specifically, 17 of the 37 births and two of the three stillbirths reported by Border Patrol involved pregnant women taken to the hospital after being encountered in the field and prior to be taken to a CBP facility.

[65]ICE may have more general policies at some of these facility types that address these topics, such as HIV care, but they are not specific to pregnant women.

[66]In addition to detention standards and IHSC policies, ICE issues agency-wide policies, such as memos and directives, which are to be followed by ICE personnel, but are not applicable to contracted detention staff unless noted in their contract or agreement. These policies include requirements regarding the identification of pregnant women and the use of restraints during transport.

detention standard that addressed many of these topics.[67] Further, we found that if the facility type had policies or detention standards in place regarding a specific topic on the care of pregnant women, at least one of the policies or detention standards generally aligned with recommended guidance from professional associations, NGOs, and federal agencies, (see app. IV for our summary of recommended guidance and associated examples).[68] In addition, we found that from calendar years 2016 through 2018, 64 percent of the detentions of pregnant women were initially detained at the two facility types that had the most policies or detention standards related to each of the pregnancy topics, as of December 2019. Table 5 shows whether policies or detention standards at the various facility types addressed each of the 16 topics, as well as the associated number of detentions of pregnant women—based on the facility in which they were first detained and number of detention days from calendar years 2016 through 2018.

[67]We reviewed information from associations and organizations, agency policies and detention standards, non-governmental complaints, and media reports to identify and categorize 16 topics related to the care of pregnant women. All 16 topics were addressed in nationally recommended guidance.

[68]Recommended guidance is from American College of Obstetricians and Gynecologists, National Commission on Correctional Health Care, and the American Correctional Association, as well as other relevant expert and medical organizations including the United Nations, the National Women's Law Center, American Civil Liberties Union, and working groups assembled by both the Departments of Justice and Homeland Security. We summarized the recommended guidance for our report purposes. Further, we did not include recommended guidance that was not directly relevant to the care of pregnant women once detained, such as guidance on detention determinations and child care. For example, recommended guidance generally states pregnant women should not be detained except in extraordinary circumstances.

Table 5: U.S. Immigration and Customs Enforcement (ICE) Pregnancy-Related Policies or Detention Standards by Facility Type, as of December 2019

		Facility type based on contractually obligated detention standard and ICE Health Service Corps (IHSC) presence							
		2000 National Detention Standards (NDS)	2000 NDS +IHSC[b]	2007 Family Residential Standards (FRS)	2007 FRS + IHSC	2008 Performance-Based NDS (PBNDS)	2008 PBNDS +IHSC	2011 PBNDS[c]	2011 PBNDS +IHSC[c]
Pregnant women detentions	**Number and percent of pregnant women detentions, initial detention facility, calendar years 2016 through 2018[a]**	80 (2)	0	108 (2)	703 (15)	7 (0.2)	0	84 (2)	2,887 (62)
	Number and percent of detention days of pregnant women, calendar years 2016 through 2018[a]	2,450 (5)	0	1,585 (3)	6,793 (14)	202 (0.4)	53 (0.1)	4,077 (8)	26,473 (53)
Pregnancy-related care topic[d]	Intake health screening involving pregnant women	No	Yes	No	Yes	Yes	Yes	Yes	Yes
	Pregnancy testing at intake	No	Yes	No	Yes	Yes	Yes	Yes	Yes
	Access to abortion[e]	No	Yes	No	Yes	No	Yes	Yes	Yes
	Provision of prenatal care	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Provision of postnatal care	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Provision of perinatal/labor care	No	No	No	No	No	No	Yes	Yes
	Mental health services and counseling for pregnant women	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Care for pregnant women with substance use disorder	No	Yes	No	Yes	Yes	Yes	Yes	Yes
	HIV care for pregnant women	No	No	No	No	No	No	Yes	Yes
	Vaccinations for pregnant women[f]	No	No	No	No	No	No	No	No
	Prenatal vitamins	No	No	No	No	No	No	Yes	Yes
	Nutrition for pregnant women	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Special accommodations for pregnant women[g]	No	No	No	No	Yes	Yes	Yes	Yes
	Segregation of pregnant women[h]	No	No	N/A	N/A	No	No	Yes	Yes
	Use of restraints on pregnant women	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Record keeping on pregnant women actions	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes

Yes: Indicates that the facility type had at least one policy or detention standard that addressed the topic, as of December 2019.
No: Indicates that no such policy or standard existed at this facility type, as of December 2019.
N/A: not applicable, as family residential centers do not segregate individuals.

Source: GAO analysis of ICE policies and detention standards | GAO-20-330

Notes: In addition to the policies listed above that are applicable at detention facilities, ICE also has policies that require ICE to provide specific oversight at facilities for some of these topics, such as segregation. Further, ICE has a policy regarding the use of restraints on pregnant women when transporting them to a facility. Prior policies that no longer apply may have been in effect before this date. Further, ICE has revised, or is revising, some of its policies and standards that will address some of the gaps identified in this table.

[a]Percentages do not total to 100 because some ICE facilities are not required to adhere to a set of detention standards—but may be inspected against one—or ICE did not specify the detention standard in its facility list report. Facilities not required to adhere to a set of ICE detention standards may be obligated to other standards such as expected practices by the American Correctional Association. Further, according to ICE officials, ICE's facility list report is intended to generate information for facilities that it inspects, and not for infrequently used facilities. These facility types accounted for about 17 percent of the detention days of pregnant women from calendar years 2016 through 2018. The majority of these detention days were in facility types that, although not contractually obligated to adhere to a set of ICE detention standards, ICE last inspected them against 2000 NDS or 2008 PBNDS.

[b]No IHSC-staffed facilities were obligated to 2000 NDS based on ICE's weekly facility list from February 2019.

[c]These detention standards were revised in 2016, but not all facilities are obligated to adhere to the 2016 revisions. Whether a 2011 PBNDS facility is contractually required to adhere to the 2016 revision is dependent upon the contract language negotiated in each agreement. As of September 2019, ICE has 47 facilities operating under 2011 PBNDS. Of these, 31 are contractually required to meet the 2016 revision and will be inspected for compliance under the revised standards beginning in January 2020.

[d]We reviewed guidance from associations and organizations, agency policies and detention standards, non-governmental organization complaints, and media reports to identify and categorize these topics.

[e]Access to abortion refers to women having the option and access to terminate a pregnancy generally at the detainee's expense. It does not refer to ICE providing abortion services.

[f]At IHSC staffed facilities, IHSC policies exists regarding influenza but not any other vaccinations. Specifically, the January 2018 policy states that pregnant women are recommended to receive the influenza vaccination each year.

[g]Special accommodations for pregnant women include beds low to the ground and adjusted work and leisure schedules.

[h]According to ICE officials, they refer to the segregation of detainees from the general population, as being placed in Special Management Units either administratively or for violating disciplinary policies. Detainees placed into administrative segregation generally have the same privileges as detainees housed in the general population. Detainees housed in disciplinary segregation generally have fewer privileges, but still interact daily with staff, medical personnel, legal advisors, and others.

ICE is taking numerous actions to address these gaps in its policies and detention standards. For example, according to ICE officials, ICE has updated, or is in the process of updating, its policies and detention standards, and these updates will address many of the gaps that we identified for the pregnancy-related topics. Specifically, ICE revised its 2000 NDS in December 2019 and the 2007 Family Residential Standards are under revision and will be sent to management for review in February

2020.[69] According to IHSC officials, the revised standards will address all of the gaps we identified for 2007 Family Residential Standards and 2000 NDS facility types.[70] Further, IHSC officials stated that they are revising IHSC's Women's Health Directive and guidance on care for chronic conditions to include required and recommended vaccines for pregnant women and HIV care, respectively—which will address these gaps at IHSC-staffed facilities. Finally, according to ICE officials, facility types operating under the 2008 PBNDS will be modified to either the 2019 NDS 2019 or 2011 PBNDS.

In addition to these updates, in accordance with ICE's December 2017 memo on *Identification and Monitoring of Pregnant Detainees,* ICE is to ensure pregnant detainees receive appropriate medical care, and ensure detention facilities are aware of their obligations regarding directives and detention standards that apply to pregnant detainees, among other things.[71] ICE has mechanisms for maintaining oversight of pregnant detainees, as required by policy. Specifically, ICE collects data to monitor the condition of pregnant women in its custody, and according to ICE officials, ensures that the facility can accommodate the woman. In addition, IHSC conducts weekly reviews that focus on high-risk pregnancies, pregnancies in the third trimester, and recent miscarriages. According to an IHSC official, ICE inspections can contribute to IHSC's understanding of the care of pregnant women at a given facility.[72] Further, although ICE officials stated that it does not have training dedicated to the care of pregnant women in ICE detention specifically, its basic training

[69]These 2000 NDS revised standards are called the 2019 National Detention Standards for Non-Dedicated Facilities. The standards generally cover the pregnancy-related topics. According to ICE officials, facilities will be inspected against the 2019 standards starting March 1, 2020, giving them approximately 60 days for implementation. ICE will be initiating contract modifications for affected facilities during that time.

[70]After the standards are finalized, ICE will implement the revised standards through individual contract modifications with individual facilities. According to ICE officials, this can require detailed and lengthy negotiations with contractors, so the implementation process may last several months.

[71]In addition, IHSC officials are to (a) ensure proper notification that a pregnant woman has been detained; (b) recommend when a pregnant detainee's transfer to another facility is necessary for appropriate medical care; (c) monitor and track the condition of pregnant detainees, including any risk factors or concerns; (d) ensure oversight of facility capabilities to ensure a pregnant detainee's needs can be accommodated; and (e) develop and maintain a system for tracking and monitoring all pregnant detainees at IHSC-staffed facilities and non-IHSC facilities.

[72]We discuss facility inspections later in this report.

includes instruction on pregnant detainees. This training is in addition to the professional qualifications of medical staff onsite.[73]

CBP Has Policies and Standards Regarding Its Short-Term Care of Pregnant Women

CBP has some policies and standards regarding the care of pregnant women held in their short-term facilities. Specifically, CBP has national standards on the transport, escort, detention, and search of detainees, with specific requirements for pregnant women. For example, these standards state that barring exigent circumstances, CBP must not use restraints on pregnant detainees unless they have demonstrated or threatened violent behavior, have a history of criminal or violent activity or an articulable likelihood of escape exists. Further, Border Patrol and OFO have policies that address nutrition and special accommodations for pregnant women. See appendix V for more details on CBP policies related to pregnant women. Although these policies and national standards do not cover the full range of the 16 pregnancy-related care topics we identified, CBP facilities are designed for holding individuals for no more than 72 hours; therefore, CBP's facilities are not equipped to provide long-term care. Specifically, CBP does not routinely conduct pregnancy testing and historically it did not have on-site medical care at all its facilities. For the policies and standards that CBP does have in place regarding pregnant women, we found that they generally aligned with the recommended guidance from expert and professional organizations.

In addition to policies that direct the care of pregnant women, although CBP does not have training dedicated to the care of pregnant women specifically, CBP provides initial and annual refresher training on its national standards for the transport, escort, detention, and search of detainees, which includes requirements for pregnant women.

[73]At IHSC-staffed facilities, IHSC officials stated that it conducts training at orientation and during annual competency assessments for its registered nurses and conducts training for mid-level and advanced providers.

DHS Inspections, Medical Data, and Complaints Offer Insights into the Care Provided to Pregnant Women

ICE Inspections Found 79 Percent or Greater Compliance with Most of Its Pregnancy-Related Performance Measures

ICE uses various inspections for accessing facilities' compliance with policies and detention standards—the frequency and focus of which vary.[74] Some inspections also include pregnancy-related performance measures, such as a measure assessing whether a pregnancy test was performed at intake. We reviewed results from the five ICE inspections that address compliance with pregnancy-related policies and detention standards from 2015 through June 2019. These inspections vary in their scope and targeted facility types (see app. I for more details on each of these inspections). These inspections—along with available medical data—offer insight into the care of pregnant women.[75] Two inspections include pregnancy-related performance measures, and compliance with these measures ranged from 53 to 100 percent, with most indicating 79 percent or more compliance.

Specifically, one inspection of 129 ICE detention facilities—that included inspections of both IHSC-staffed and non-IHSC facilities—found that compliance was 91 percent or more for each of the six performance measures from December 2016 through March 2019, as shown below.

- Pregnancy testing performed at intake: 93 percent
- Pregnancy testing performed prior to x-rays or initiating medication: 100 percent

[74]We previously reported that ICE officials responsible for detention oversight stated that these various inspections complement one another and serve different purposes. See GAO-15-153.

[75]We selected these inspections because they review some aspect of the care provided to pregnant women. Some of these inspections measure compliance with ICE's recommended practices which may not be covered by policies or detention standards at all facilities. We have ongoing work on oversight of ICE detention facilities, including inspections and complaints.

- Obstetrician-gynecologist (OB-GYN) consult ordered within 7 days of pregnancy confirmation: 98 percent
- Patient seen by OB-GYN within 30 days of pregnancy confirmation: 91 percent
- Prenatal vitamins prescribed: 100 percent
- Screened for HIV, sexually transmitted infections, and viral hepatitis: 95 percent[76]

Instances of non-compliance—which were 9 percent or less for each measure—occurred at 16 detention facilities subject to a range of detention standards. Three of these facilities were IHSC-staffed facilities, and 13 were non-IHSC facilities. IHSC documentation indicates that corrective actions are to be implemented to help address inspection findings. See appendix VI for details on the number of records reviewed during the inspections, and the compliance rates.

Our analysis of available medical data and interviews with pregnant detainees showed similar findings regarding pregnancy testing at intake. Specifically, from calendar year 2016 through 2018, 92 percent of women in ICE detention facilities received a pregnancy test either the same day as intake to the facility or the next day. This could include women who arrived at a detention facility in the evening and are tested the next day.[77] Of the remaining, 3 percent were tested within 2 to 3 days of intake, 4 percent were tested between 4 days and 2 weeks, and 2 percent were tested after 2 weeks of being detained.[78] According to the 10 pregnant women we interviewed who were detained at 3 ICE detention facilities we

[76]According to ICE officials, screening for HIV, sexually transmitted infections, and viral hepatitis reflects recommended practices, but is not specifically required by policies or detention standards.

[77]Of the over 4,600 detentions of pregnant women, we were able to determine when the pregnancy test was provided for about 3,800—based on these women being in an IHSC-staffed facility at some point.

[78]Totals do not equal 100 percent due to rounding.

visited,[79] all 10 stated that they received a pregnancy test when they arrived at the facility or within the same day.

For the second inspection that included performance measures related to the care of pregnant women at IHSC-staffed facilities, overall compliance was 79 percent or more for most of the nine performance measures from fiscal years 2015 through 2018.[80] The following shows the minimum level of overall compliance for all facilities during this timeframe.[81]

- OB-GYN consult ordered and documented within 7 days of pregnancy confirmation: 75 percent
- Patient seen by OB-GYN within 30 days: 92 percent
- Prenatal vitamins prescribed: 95 percent
- Detainee education documented at each encounter: 79 percent
- Records reviewed by provider after OB appointment: 79 percent
- Proper diet ordered: 86 percent
- Appropriate labs ordered if not obtained from OB-GYN: 79 percent

[79]We interviewed pregnant detainees at three of the four ICE detention facilities we visited—which include IHSC-staffed and non-IHSC staffed facilities. The fourth facility did not have any pregnant detainees at the time of our visit. In addition, we interviewed four pregnant women at a local shelter after their release from a DHS detention facility. It was not always clear where these women had been detained or held. In some cases, their experiences may reflect being held by CBP at a port of entry or Border Patrol facility prior to being transferred to an ICE facility. As a result, their perspectives are not included here. See appendix VII for details on all interviews with pregnant women. We did not verify detainees' claims following these interviews.

[80]The average compliance from fiscal years 2015 through 2018 cannot be determined for all performance measures because the extent to which IHSC collected and reported information varied by year. Therefore, we reported the minimum percent compliance reported during this time period. If a facility did not self-report its data, it was considered to be non-compliant (zero percent). According to ICE officials, they have developed a streamlined set of 15 performance measures for use beginning in calendar year 2019, and two of these measures are related to pregnancy standards—specifically whether pregnancy testing was conducted at intake, and whether pregnant patients were seen by an OB-GYN within 30 days of being in custody. Officials said that these measures will provide a more comprehensive way to determine the quality of care, while reducing data collection and reporting requirements for measures that were of no clinical benefit. Officials said that they have collected three quarters of data and have begun to analyze trends.

[81]The level of compliance for some measures varied from year to year. Furthermore, compliance varied across some facilities during any given year. See appendix VI for additional information on these inspections.

- Pregnant patient screened for HIV, sexually transmitted infections, and viral hepatitis: 81 percent
- Hepatitis B vaccine offered: 53 percent

However, for one measure—whether the Hepatitis B vaccine was offered—compliance was 53 percent. ICE officials stated that this performance measure reflects recommended practices but is not specifically required by policy or detention standards. According to ICE officials, any issues identified during IHSC inspections are handled locally at the field level through facilities' quality improvement processes, which includes developing corrective action plans. See appendix VI for the average annual compliance for each measure from fiscal years 2015 through 2018.

Our analysis of available medical data for IHSC-staffed facilities and interviews with pregnant detainees and NGOs provides additional perspectives regarding these issues on the care of pregnant women. Specifically, our analysis of ICE data showed 422 detentions in which a pregnant woman was in an IHSC-staffed facility at some point received at least one referral to an OB or OB-GYN between calendar year 2016 and 2018. Based on ICE's performance measures, pregnant women are to receive an OB-GYN referral within 7 days of pregnancy confirmation—although available data showed that most pregnant women were being released from detention within 7 days.[82] In addition, our analysis of ICE data showed that detentions in which a pregnant woman was in an IHSC-staffed facility at some point were assigned certain special needs, such as a special diet (1,245), lower bunk (113), no heavy lifting (87), and limitations on the use of restraints (316).[83] In addition, all 7 of the pregnant women we spoke with in IHSC-staffed detention facilities said that they received appropriate accommodations, such as a lower bunk and blankets.[84] Similarly, 6 of the 7 pregnant women we spoke with at

[82]Our analysis of the over 4,600 detentions of pregnant women showed that 68 percent were released from detention within 7 days, which is within the required timeframe for submitting an OB-GYN referral. The remaining 32 percent of pregnant women (nearly 1,500) may have been detained in non-IHSC facilities, for which information may be contained in narrative notes but not structured data fields for which were able to readily analyze.

[83]These data are for IHSC-staffed facilities, while data for non-IHSC facilities may be contained in narrative notes and not structured data fields that we can analyze.

[84]One woman we spoke with at a non-IHSC facility said that she was frequently cold, and would have liked to receive a sweater, more blankets, and a thicker mattress.

IHSC-staffed facilities said that they were provided proper nutrition and snacks. The other pregnant woman did not discuss the adequacy of the nutrition she was provided.[85]

In addition, both of these two inspections provided insights into OB-GYN referrals and prenatal vitamins that were generally similar to the information we obtained from pregnant detainees at the locations we visited. Specifically, the above inspections indicated 75 to 98 percent compliance on performance measures related to access to OB-GYN care. Eight of the 10 pregnant women we spoke with in ICE detention did not express concerns about access to OB-GYN when asked about the sufficiency of medical care. However, two stated that they would like more timely access to an OB-GYN, and they did not know when their appointments would occur.[86] In addition, representatives from three NGOs stated that they heard concerns about pregnant women not having access to OB-GYN care or prenatal vitamins. Further, the above inspections indicated 95 to 100 percent compliance on performance measures related to prescribing prenatal vitamins, and all 10 of the pregnant women we spoke with in ICE detention said that they were provided prenatal vitamins.

Although they did not have specific performance measures, three additional inspections identified 19 findings related to the care of pregnant women.[87] All of the findings occurred at non-IHSC facilities.

- Three of the 19 findings indicated that medical care was not provided or offered. For example, one pregnant woman was not offered a mental health assessment after reporting that she had a miscarriage at a prior facility.

[85]The three pregnant women at the non-IHSC staffed facilities said that they were not provided adequate nutrition and snacks. For example, two of the women said that they did not receive any snacks, while one stated that she did not receive extra snacks because of her pregnancy.

[86]According to an ICE official, the date and time of the appointments are not disclosed for security reasons.

[87]These 19 findings were made at 13 different facilities. These inspections included (1) ICE's Office of Detention Oversight inspections from January 2015 through July 2019, (2) ICE's Enforcement and Removal Operations inspections from January 2015 through March 2019, and (3) IHSC's Field Medical Coordinator inspections from fiscal years 2015 through 2017. We reviewed information that resulted from a total of 854 inspections.

- Seven included a recommendation to provide additional medical care, such as pregnancy testing.
- Four indicated insufficient documentation, such as medical records that were not transferred between facilities, or no documentation that pregnancy testing had occurred.
- Five indicated that a required policy did not exist or did not specify the required standards of care.

All but one of the facilities inspected took corrective actions to address the findings. For example, one inspection found that the facility's initial health assessment form did not address pregnancy testing. In response, the facility updated its intake screening form to include pregnancy testing. ICE determined that the facility that did not implement corrective actions to address deficiencies identified during the inspection would not be used for the detention of ICE detainees. See appendix VI for additional information on each deficiency, recommendation, and corrective action.

Additionally, our review of available data and interviews with pregnant detainees and officials at the locations we visited provided insight into issues related to segregation and the use of restraints—generally finding that these were rarely used. Specifically, our review of ICE data identified two pregnant women who were initially detained from 2015 through 2018, and segregated at some point during their detention—one for 8 days and one for over 4 months.[88] In both cases, ICE reported the reason for the segregation was that the detainee was a threat to the facility's security. Further, all 10 of the pregnant women we interviewed stated that they had not been segregated, and all the detention officials we interviewed at the four locations we visited stated that they were not aware of any instances of pregnant women being segregated.[89] Similarly, none of the 10 pregnant detainees reported being placed in restraints, and the officials we interviewed at the four locations generally stated that pregnant women are not to be restrained except in extreme circumstances, such as risk of violence or escape—which is consistent with ICE policies and standards.[90] One official said that he was aware of an incident where a pregnant woman was restrained when she attempted to harm herself and her child. In addition, officials from five local organizations or coalitions we

[88]One of these women was in our population of the more than 4,600 detentions of pregnant women.

[89]We conducted 16 interviews at four ICE detention facilities with ICE officials, including medical staff, and contracted detention staff.

[90]Some officials did not specifically discuss the policy on restraints.

spoke with stated that they had not heard concerns about instances of the use of restraints or segregation.

CBP Generally Takes Pregnant Women to Offsite Facilities for Care, and Has Plans to Enhance its Medical Support

CBP generally relies on offsite care for pregnant women, and as a result, has limited available information on care CBP provided to pregnant women. However, they have efforts underway to enhance its medical support at selected facilities. As previously discussed, CBP facilities are designed for short-term care,[91] and CBP does not routinely administer pregnancy tests and generally did not have on-site medical personnel. According to CBP officials, they typically refer individuals to local medical providers in their area, as appropriate and for all emergent or serious issues—including concerns presented by pregnant women. In addition, if CBP needed to provide a pregnancy test to a woman in its custody, it would take the woman to an offsite medical provider.

Our analyses of available data indicate that CBP took pregnant women for a hospital visit or admission at least 168 times from 2015 through 2018.[92] See table 6 for additional information. Ninety-nine percent of these hospital trips involved Border Patrol, while the remaining 4 percent involved OFO.

[91]CBP field officials we spoke with told us that their facilities were not designed to hold pregnant women, as they have historically held single men, and that they have limited ability to provide special accommodations. For example, officials said that pregnant women are to be provided mats, but that they are not equipped with beds. Reports have also raised concerns about overcrowding at Border Patrol facilities, including facilities where we visited and observed pregnant women. For additional information, see Department of Homeland Security, Office of the Inspector General, *Management Alert–DHS Needs to Address Dangerous Overcrowding and Prolonged Detention of Children and Adults in the Rio Grande Valley*, OIG-19-51 (Washington, D.C.: July 2019).

[92]We identified an additional five incidents where Office of Field Operations took a pregnant woman to the hospital from January through February 2019. As discussed earlier in the report, CBP did not collect comprehensive data on pregnant women during this time period. Further, some of these hospital visits were the result of CBP encountering pregnant women in the field, while in other cases CBP took pregnant women to the hospital from a CBP facility.

Table 6: Number of Times U.S. Customs and Border Protection (CBP) Reported Taking Pregnant Women to the Hospital for a Visit or Admission, Calendar Years 2015 through 2018

	Border Patrol	Office of Field Operations	CBP total
2015	26	0	**26**
2016	56	0	**56**
2017	37	0	**37**
2018	47	2	**49**
Total	**166**	**2**	**168**

Source: GAO analysis of CBP documents. | GAO-20-330

Note: These data were obtained from significant incident reports. According to CBP officials, it is possible that not all incidents were reported, as some discretion exists as to when to file these reports. There were 168 significant incident reports that involved a pregnant woman being sent to a hospital—of which 62 percent were taken from a CBP facility to the hospital, and the remaining were taken directly to the hospital upon being encountered in the field.

Although CBP generally relies on offsite care for pregnant women, CBP established some on-site medical care and has efforts underway to enhance its medical support at additional Border Patrol facilities and OFO ports of entry.[93] Specifically, one port of entry and three Border Patrol facilities established on-site medical care in 2013 and 2015, respectively. CBP officials at one of these locations told us that they developed on-site medical care based on the volume of crossings, as well as the operational costs for transporting individuals to offsite medical facilities and performing hospital watches. Subsequently, CBP's January 2019 memo regarding enhanced medical efforts at CBP facilities included efforts to expand medical support.[94] According to a senior CBP official, the agency had staffed more than 40 Border Patrol facilities and OFO ports of entry along the southwest border with on-site contracted medical care, as of January 2020.[95] According to CBP officials, contracted medical staff provide enhanced medical support through initial health intake interviews, medical assessments, diagnosis, treatment, referral, and follow up for persons in custody, including pregnant women. CBP officials stated that

[93]We currently have ongoing work on CBP's care and custody of detainees.

[94]According to Border Patrol officials, initial locations were selected based on the number of family units and unaccompanied children, the proximity and availability of offsite medical care, and consultations with field officials.

[95]Brian S. Hastings, Chief of Law Enforcement Operations, U.S. Border Patrol, *Assessing the Adequacy of DHS Efforts to Prevent Child Deaths in Custody*, testimony before the House Subcommittee on Border Security, Facilitation & Operations, Committee on Homeland Security, 116th Cong., 2nd sess., January 14, 2020.

they will continue to rely on offsite care to provide emergency or advanced care.[96]

Over 100 Complaints Were Filed about ICE and CBP's Care of Pregnant Women

DHS has various processes to obtain and address the hundreds of medical care complaints it receives annually.[97] Specifically, an individual can file a complaint directly to facilities, ICE, CBP, and other DHS entities, including the Office of Inspector General and Office for Civil Rights and Civil Liberties (CRCL).[98] We identified 107 unique complaints that detainees, family members, NGOs, or other parties submitted to various entities from January 2015 through April 2019—54 that involved ICE's care of pregnant women, 50 that involved CBP, and 3 that involved both.[99] As shown in figure 2, some of these complaints were under investigation as of August 2019, and some were substantiated; however, in most cases there was not enough information for the investigating agency to determine if proper care had been provided, among other things.[100]

[96]If CBP utilizes the health interview form, and a detainee reports being pregnant, then a medical assessment is required according to the December 2019 directive.

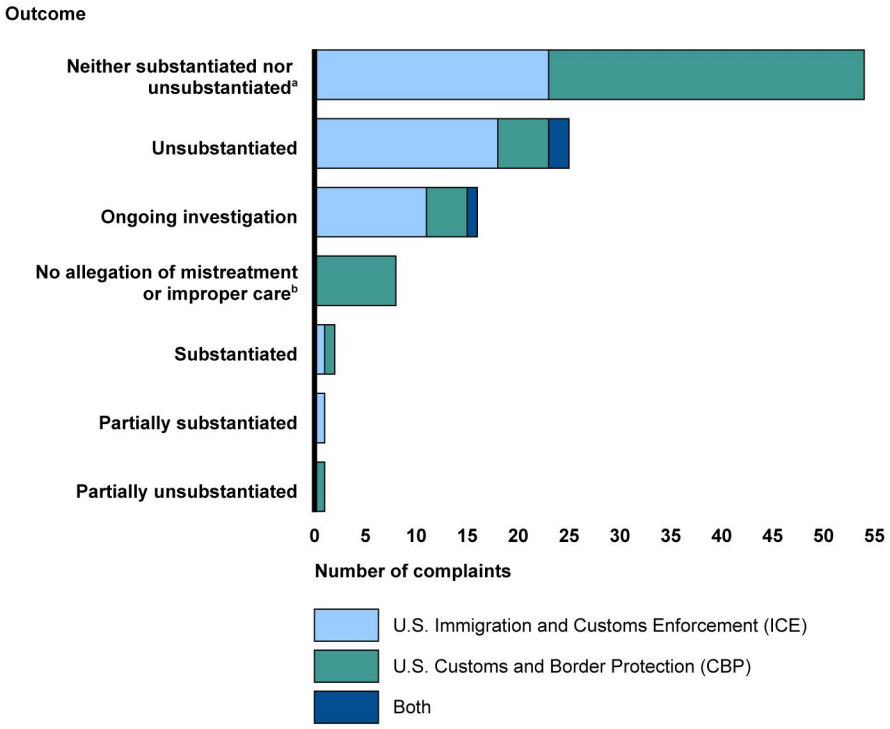
[97]GAO-16-231.

[98]The Office of Inspector General and CRCL generally determine whether to take their own action on the complaints or forward them to a DHS component, such as ICE or CBP, for resolution. The Office of Inspector General has the right of first refusal to investigate allegations opened by CRCL for investigation. For our report purposes, we refer to the agency that conducts the investigation as the "investigating agency."

[99]Specifically, we reviewed complaint data from CRCL, DHS's Office of Inspector General, and IHSC. These complaints may have been regarding the over 4,600 detentions of pregnant women that we identified in this report, or could have been for pregnant women that were detained before or after our time period. We excluded from our analysis one additional complaint where it was unclear which agency the allegation was being made against.

[100]We did not evaluate the sufficiency of these investigations or the determinations made.

Figure 2: Outcomes of Complaints Regarding U.S. Immigration and Customs Enforcement's and U.S. Customs and Border Protection's Care of Pregnant Women, January 2015 through April 2019



Source: GAO analysis of complaints from ICE Health Service Corps, CBP, Department of Homeland Security Office of Inspector General, and Department of Homeland Security Office for Civil Rights and Civil Liberties. | GAO-20-330

Data Table for Figure 2: Outcomes of Complaints Regarding U.S. Immigration and Customs Enforcement's and U.S. Customs and Border Protection's Care of Pregnant Women, January 2015 through April 2019

Outcome	ICE	CBP	Both ICE and CBP
Neither substantiated nor unsubstantiated[a]	23	31	0
Unsubstantiated	18	5	2
Ongoing investigation	11	4	1
No allegation of mistreatment or improper care[b]	0	8	0
Substantiated	1	1	0
Partially substantiated	1	0	0
Partially unsubstantiated	0	1	0

Notes: These data are based on 107 unique complaints—54 that involved ICE's care of pregnant women, 50 that involved CBP, and 3 that involved both components.

[a]These complaints were not substantiated or unsubstantiated for a variety of reasons. For some complaints, the investigating agency determined that it did not have enough information to conduct an

investigation. In other cases, the agency investigated the complaint, but determined that it did not have enough information to establish whether the complaint was substantiated or unsubstantiated, or agency documentation did not clearly specify whether the complaint was substantiated or unsubstantiated.

[b]These complaints described an event that occurred, such as a miscarriage, but the complaint did not allege that mistreatment or improper care had occurred.

Regarding the complaints against ICE, the most common type was that ICE allegedly did not provide medical care, or that the medical care was not quality or timely. See appendix VIII for additional information about the number and types of complaints submitted.

Eleven of the 54 complaints against ICE remained open as part of an on-going investigation, while the remaining 43 were closed.[101] Of the 43 complaints that were closed:

- An investigation substantiated one complaint that prenatal vitamins had not been provided at an IHSC-staffed facility. In response, ICE reported taking actions to address the complaint.
- Investigations partially substantiated one complaint regarding delays in medical care being provided. According to ICE, the delays had resulted from the time required to get medication approved. In response to the complaint, ICE reported coordinating with the facility to address the issues identified.
- Investigations found that 18 complaints were unsubstantiated. For example, ICE's review of medical records found that appropriate care had been provided.
- For the remaining 23 closed complaints, the complaint was not substantiated or unsubstantiated for a variety of reasons. For 11 complaints, the investigating agency determined that it did not have enough information to conduct an investigation, or the agency investigated the complaint but did not have enough information to establish whether the complaint was substantiated or unsubstantiated. For example, the allegation did not contain detailed biographical information, medical records did not contain enough information, or the detainee had been released and the agency could not follow-up. For the remaining 12 complaints, agency documentation did not

[101]In August 2019, officials from DHS CRCL told us that one of the previously closed complaints had been re-opened as an investigation.

clearly specify whether the complaint was substantiated or unsubstantiated.[102]

Regarding complaints against CBP, the most common type was that pregnant women had allegedly been physically, verbally, or otherwise mistreated. See appendix VIII for additional information about the number and types of complaints submitted.

Of the 50 complaints against CBP, four remained open as part of an on-going investigation, while the remaining 46 were closed. Of the 46 complaints that were closed:

- An investigation substantiated one complaint that a Border Patrol agent violated social media policy by posting a picture and information about a pregnant woman in custody. In response, CBP reported that the employee was suspended for two days.
- Investigations found that five complaints were unsubstantiated, and one was partially unsubstantiated.[103] For example, an investigation included a review of video footage at a port of entry, among other things, and found that excessive force had not been used.
- Eight complaints described an event that occurred, such as a miscarriage, but the complaint did not allege that mistreatment or improper care occurred.[104]
- For the remaining 31 closed complaints, the complaint was not substantiated or unsubstantiated—for a variety of reasons. For 10 complaints, the investigating agency determined that it did not have enough information to conduct an investigation, or the agency investigated the complaint but did not have enough information to establish whether the complaint was substantiated or unsubstantiated. For the remaining 21 complaints, agency documentation did not

[102]For example, according to officials from CRCL, their investigation of complaints may not necessarily result in a determination on whether a complaint is substantiated or unsubstantiated. However, it could lead to other findings—related or unrelated to the complaint—such as whether the agency has sufficient policies and procedures.

[103]For the complaint that was partially unsubstantiated, the agency lacked sufficient information to determine whether the remaining aspects of the complaint were substantiated.

[104]For three of these eight complaints, additional documentation indicated whether proper care had been provided during the event. For two of these events, documentation indicated that proper care had been provided. In one case, proper care had been provided, but a CBP official was found to have displayed unprofessional conduct by making insensitive remarks during the event.

clearly specify whether the complaint was substantiated or unsubstantiated.

With regard to the three complaints that involved allegations against both ICE and CBP, one remained open as part of an on-going investigation, while the other two complaints were found to be unsubstantiated.

Agency Comments

We provided a draft of this report to DHS for review and comment. DHS provided comments, which are reproduced in appendix IX. DHS also provided technical comments, which we incorporated as appropriate. In addition, we provided relevant excerpts of the report to American College of Obstetricians and Gynecologists, American Correctional Association, and National Commission on Correctional Health Care for review. Officials from these entities provided technical comments, which we incorporated as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees and the Acting Secretary of the Department of Homeland Security. In addition, the report is available at no charge on the GAO website at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-8777 or goodwing@gao.gov. Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix X.

Sincerely yours,

Gretta L. Goodwin
Director, Homeland Security and Justice Issues

List of Requesters

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
House of Representatives

The Honorable Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform
House of Representatives

The Honorable Karen Bass
House of Representatives

The Honorable Nanette Barragán
House of Representatives

The Honorable Donald S. Beyer Jr.
House of Representatives

The Honorable Tony Cárdenas
House of Representatives

The Honorable André Carson
House of Representatives

The Honorable Katherine Clark
House of Representatives

The Honorable Steve Cohen
House of Representatives

The Honorable J. Luis Correa
House of Representatives

The Honorable Adriano Espaillat
House of Representatives

The Honorable Dwight Evans
House of Representatives

List of Requesters Continued

The Honorable Ruben Gallego
House of Representatives

The Honorable Vicente Gonzalez
House of Representatives

The Honorable Raúl M. Grijalva
House of Representatives

The Honorable Eleanor Holmes Norton
House of Representatives

The Honorable Pramila Jayapal
House of Representatives

The Honorable Hakeem Jeffries
House of Representatives

The Honorable Barbara Lee
House of Representatives

The Honorable James P. McGovern
House of Representatives

The Honorable Gwen S. Moore
House of Representatives

The Honorable Frank Pallone, Jr.
House of Representatives

The Honorable Mark Pocan
House of Representatives

The Honorable Jamie Raskin
House of Representatives

The Honorable Lucille Roybal-Allard
House of Representatives

List of Requesters Continued

The Honorable Jan Schakowsky
House of Representatives

The Honorable David Scott
House of Representatives

The Honorable Juan Vargas
House of Representatives

The Honorable Nydia M. Velázquez
House of Representatives

The Honorable Bonnie Watson Coleman
House of Representatives

Appendix I: Methodology for Analyses of Data, Inspections, and Complaints

This appendix provides additional details on selected methodologies used to address our questions. Specifically, this includes information on our analyses of U.S. Immigration and Customs Enforcement (ICE) data and inspection findings and Department of Homeland Security (DHS) complaints used to address these questions:

1. What do available data indicate about pregnant women detained or held in DHS facilities?
2. What policies and standards does DHS have to address the care of pregnant women, and to what extent are they applicable across all facilities?
3. What is known about the care provided to pregnant women in DHS facilities?

Analyses of ICE Data

To address our first and third objectives, and provide context for our second objective, we reviewed data sources that ICE uses to track pregnant women in detention from calendar years 2016 through 2018 and matched these data with various ICE databases. We selected these years since ICE first collected data on all pregnant women beginning in June 2015, and 2018 was the last full year of available data for our audit.[1] Specifically, we matched ICE Health Service Corps (IHSC) records for pregnant women detained during calendar years 2016 through 2018 with

[1]From August 2013 to June 2015, IHSC collected data on pregnant women at IHSC-staffed facilities only. IHSC staff recorded these pregnancies in IHSC's medical record systems. From June 2015 to January 2016 ICE used a separate pregnancy tracking spreadsheet maintained by field medical coordinators to track pregnancies in non-IHSC staffed facilities. Beginning in January 2016, ICE implemented a new process to track all pregnancies (at both IHSC and non-IHSC staffed facilities). ICE officials stated that they would not document a positive pregnancy test if the individual was released prior to being fully processed, and as such, these women would not be included in our count.

individual-level detention dataset the ICE Integrated Decision Support (IIDS) database[2] to determine the total number of detentions of pregnant women,[3] as well as the length of detention,[4] facility location, case category status,[5] arresting agency, gestation of pregnancy,[6] when the pregnancy test was conducted,[7] and whether there is an associated criminal conviction (criminality).[8]

[2]According to ICE, IIDS is a data warehouse populated by Enforcement Case Tracking System information related to the investigation, arrest, booking detention, and removal of persons encountered during immigration and criminal law enforcement investigations and operations conducted by certain DHS components, namely ICE and CBP. DHS personnel utilize the Enforcement Case Tracking System applications to enter information into the system.

[3]We reported on total detentions since a pregnant woman may have been detained multiple times during a calendar year.

[4]To conduct our analysis on length of detention, we compared initial book-in date with the most recent book-out date to calculate the total days in detention for each of our selected populations.

[5]Case category provides information on where the individual is in their immigration proceedings. Some of these could be an indicator of mandatory detention, categories of which are enumerated under 8 U.S.C. §§ 1225, 1226(c), 1226a, and 1231. ICE has data fields on mandatory detention, but does not maintain historical data for all mandatory detentions. ICE officials stated that this is only something that they need to track for current detainees. We used case status to help determine whether some women may have been subject to mandatory detention.

[6]We analyzed data on the gestation of pregnant women, and found that from calendar years 2016 through 2018, of the over 4,600 detentions of pregnant women, we were able to determine the gestation period for 1,450 detentions. Data on estimated delivery date were readily available for our analyses for pregnant women detentions at non-IHSC facilities, and we had more limited data on detentions at IHSC-staffed facilities. IHSC–staffed facilities began to collect similar structured data in June 2018. ICE does not require these data to be collected. However, this information would be available in medical records prior to this date because, according to an IHSC official, gestation can be calculated using other data, such as last menstrual cycle.

[7]Of the over 4,600 detentions of pregnant women, we were able to determine when the pregnancy test was provided for about 3,800—based on these women being in an IHSC-staffed facility at some point.

[8]To conduct our analysis of criminality, we used ICE's determination of criminality—criminal or non-criminal—which ICE determines by conducting electronic criminal history checks. For the purposes of this report, we referred to potentially removable individuals without criminal convictions known to ICE as "non-criminals" and individuals with criminal convictions known to ICE as "convicted criminals." According to ICE, ICE officers electronically request and retrieve criminal history information from the FBI's National Crime Information Center database, which maintains a repository of federal and state criminal history information, and other sources.

To conduct our analyses, we matched pregnancy data to the IIDS detention data using alien number and excluded additional records we were unable to match. Because individuals may have multiple detentions, we compared the admission or book-in date from each data source with the book-in dates from the IIDS detention data, and excluded additional records with dates more than 30 days apart.[9] ICE collected data for 1,437 pregnant detainees in 2016; 1,170 in 2017; and 2,126 in 2018. We excluded 60 of the unique pregnant detainee records for 2016; 20 for 2017; and 32 for 2018 because we were unable to match these records to the IIDS individual-level detention data using alien number and book-in date combinations. According to ICE officials, this may be due to data entry errors. As a result, our analyses are based on over 4,600 detainee records we were able to match: 1,377 for 2016; 1,150 for 2017; and 2,094 for 2018. In general, this was our study population, unless otherwise noted in the report.

We also merged the detention data with data from ICE's weekly facility list report, as of February 2019, to determine who owned and operated the facility, whether it was staffed by IHSC officials, and in what state the facility was located.[10] Further, we merged additional IHSC data with our study population to determine the number of obstetrician-gynecologist referrals and numbers that were assigned certain special needs, such as a special diet, lower bunk, no heavy lifting, and limitations on the use of restraints.[11] We also obtained and analyzed data from ICE's Segregation Review Management System to determine if any of the pregnant women had been segregated.[12]

[9]Of those we were able to match, we identified 19 pregnant women that were detained more than once during the time period covered in our review.

[10]At the time that we merged the data sets, the February 2019 list was the most recent. It is possible that facilities may change over time, including if they are staffed by IHSC, among other things. For example, between 2016 and 2018, two facilities became IHSC-staffed facilities and one was no longer staffed by IHSC.

[11]These data are for detentions in which women were detained at IHSC-staffed facilities at some point. Data on obstetrician-gynecologist referrals and special needs for women that were only detained in non-IHSC facilities may be contained in narrative notes and not structured data fields.

[12]According to ICE officials, data on segregation is documented in this system if (1) individuals are segregated for more than 14 days or 14 days out of any 21-day period or (2) if special vulnerable populations (e.g. pregnant women) are segregated for any period of time. These segregation data were for 2015 through 2018.

Finally, we analyzed ICE IHSC data on pregnancy outcomes—abortions, births, stillbirths, and miscarriages.[13] These women who experienced such outcomes while detained may include the same women reported in our study population of more than 4,600 pregnant women detentions from calendar years 2016 through 2018, as well as pregnant women detained in calendar year 2015 and January through June 2019. We did not merge the outcome data with our other data sets, but were able to confirm that most of the outcomes were associated with alien numbers from the over 4,600 detentions in our study population.

We assessed the reliability of the data used in each of our analyses by analyzing available documentation, such as related data dictionaries; interviewing ICE officials knowledgeable about the data; conducting electronic tests to identify missing data, anomalies, or potentially erroneous values; and following up with officials, as appropriate. We determined the data were sufficiently reliable for describing general information on pregnant women detained by ICE, as well as the care provided to them.

Analyses of ICE Inspection Results

To address our third objective, we analyzed reports and data from five ICE inspections that address compliance with pregnancy-related policies and detention standards from 2015 through July 2019—the most recent information available at the time of our review.[14] We selected these inspections because they review some aspect of the care provided to pregnant women.[15] Table 7 provides additional information on these inspections.

[13]We used information available in structured data fields and narrative fields to conduct these analyses—including diagnostic code data and narrative notes.

[14]We reviewed ICE's inspections and excluded from our analysis three ICE inspections that were not in scope because they did not address pregnancy-related care or were not compiled into an electronic format. For example, officials told us that self-assessments conducted by over-72 hour facilities with an average daily population of fewer than 10 detainees are not compiled into an electronic format. We also asked ICE officials responsible for providing oversight at ICE facilities (Detention Service Managers) for information in their weekly reports regarding the care of pregnant women. In response, officials said they identified one issue regarding a pregnant female in Border Patrol custody who was awaiting release, but was not in an ICE detention facility.

[15]For these same five inspections, we also reviewed available site visit inspection reports for facilities we planned to visit during our site visits.

Table 7: Description of U.S. Immigration and Customs Enforcement (ICE) Inspections that Include Assessments on the Care Provided to Pregnant Women

Type of inspection	Description	Inspection results we reviewed
ICE Health Service Corps (IHSC) Quality of Medical Care inspections	Contractor inspections of selected detainee files in IHSC-staffed and non-IHSC facilities that includes pregnancy-related performance measures.	We analyzed performance measure data from inspections of 129 facilities from December 2016 through March 2019.
IHSC Continuous Quality Improvement inspections	Inspections in which IHSC-staffed detention facilities report information, including pregnancy-related performance measures.	We reviewed annual inspection reports from fiscal years 2015 through 2018, which include performance measure data. The number of inspected facilities each year during this timeframe was generally around 20.
ICE Office of Detention Oversight inspections	Inspections of over-72-hour detention facilities (both IHSC-staffed and non-IHSC facilities) that assess compliance with applicable detention standards, including those related to the care of pregnant women.	We reviewed 131 inspection reports published from 2015 through July 2019.
ICE Enforcement and Removal Operations inspections	Contractor inspections of over-72-hour detention facilities (both IHSC-staffed and non-IHSC facilities) to determine compliance with applicable detention standards, including those related to the care of pregnant women. Inspections also include pre-occupancy reviews to determine whether facility operations and detention conditions are appropriate to house detainees.	We reviewed reports listing any instances where pregnancy-related standards were not met during 479 inspections from January 2015 through March 2019.
IHSC Field Medical Coordinator inspections	Inspections of over-72-hour detention facilities that are not IHSC-staffed, and use a file review and inspection worksheet to access the quality of medical care, including care of pregnant women.	We reviewed reports listing any instances where pregnancy-related standards were not met during 244 inspections from fiscal years 2015 through 2017. ICE did not compile this same information for fiscal year 2018 at the time of our review.

Source: GAO analysis of ICE information. | GAO-20-330

Note: Some facilities that ICE inspected during these inspections detain only male detainees, and as such, pregnancy-related policies and standards would not be applicable at these facilities.

As noted in the table, two of these inspections contained pregnancy-related performance measures. The remaining three inspections assess compliance and identified findings related to the care of pregnant women, but did not have specific performance measures. For the three inspections that did not contain performance measures, we categorized the nature of each finding, such as a recommendation to provide additional medical care. We developed these categories based on a content analysis of the inspection findings, which involved one analyst categorizing the finding and a second person verifying the categories. If there were differences in analyses, these were reconciled through discussion between the two analysts and a final determination of the appropriate category was made. We also analyzed ICE documentation on corrective actions that facilities reported taking to address inspection

findings, and used ICE facility data to determine who provided medical care at these facilities.[16]

To determine the scope and any limitations of inspection reports and data, we spoke with agency officials responsible for managing these inspections and the data systems used for documenting results. We also reviewed relevant documentation, such as data dictionaries and inspection worksheets. We determined that these data were sufficiently reliable for our purposes of describing the results of inspections regarding the care of pregnant women in ICE custody.

Analyses of Complaints

We reviewed and categorized complaints that detainees, family members, non-governmental organizations, or other parties submitted to various entities from January 2015 through April 2019—the latest available complaints at the time of our review—regarding ICE and CBP's care of pregnant women. Specifically, we reviewed complaint data from DHS's Office for Civil Rights and Civil Liberties (CRCL),[17] DHS's Office of Inspector General,[18] and IHSC.[19] We selected these complaint systems because, according to DHS officials, they contained relevant information on the care of pregnant women, could be queried in an electronic format,

[16]These facility data include information on, among other things, who owns and operates the facility, who provides the medical services, what populations they detain, and what detention standards they have in place.

[17]CRCL reviews allegations of civil rights and civil liberties violations and abuses by DHS personnel and contractors, including violations of rights while in immigration detention. It receives complaints from a number of sources, including media reports, non-governmental organizations, DHS Office of Inspector General, and a complaint form on its website that can be used by detainees or others on their behalf. Officials told us that they do not receive a large number of allegations related to pregnancy, but of the pregnancy-related complaints they receive, the majority are submitted by non-governmental organizations.

[18]DHS's Office of Inspector General investigates complaints of criminal and non-criminal misconduct by DHS employees and contractors. Anyone can submit a complaint to the Office of Inspector General through information provided on its website. Officials told us that overall they received about 44,000 complaints in 2018 and over 20,000 in 2017.

[19]IHSC reviews and investigates medical care complaints related to immigration detention. These complaints may be submitted by any detainee in custody, family members or other detainees on behalf of another detainee, or ICE employees. Officials we spoke with estimated that they receive several thousand complaints per year, while less than 10 percent of these originate from females.

and minimized duplicate complaints across systems.[20] We categorized each complaint based on a content analysis of the complaint narrative, which involved one analyst categorizing the complaint and a second person verifying the category. If there were differences in analyses, these were reconciled through discussion between the two analysts and a final determination of the appropriate category was made. We developed categories for 10 pregnancy outcomes, including births or miscarriages at a DHS facility or hospital, as well as 20 categories to describe the nature of the concerns, including physical mistreatment, use of restraints, or medical care not provided. The total number of concerns identified in our analysis exceeds the number of unique complaints filed because each unique complaint may identify more than one area of concern. We also used ICE facility data to determine, for example, who provides medical care at the facilities where the alleged events occurred.[21]

In addition, we analyzed agency documentation on the extent to which complaints could be substantiated, and any corrective actions that agencies and facilities reported taking to address complaints. To determine the scope and any limitations of the complaint information we received, we spoke with agency officials responsible for managing these complaint processes and the data systems used for documenting results. We also reviewed relevant documentation, such as user manuals for complaint systems.

[20]Based on these criteria, we excluded three additional complaint systems from our analysis. For example, according to ICE and CBP officials that manage a joint complaint system, they refer complaints that they receive to the Office of the Inspector General for review and these would be duplicative of what we obtained from the Office of the Inspector General. We excluded duplicate complaints from our analysis so that each complaint was counted once. Further, we excluded from our analysis one additional complaint where it was unclear which agency the allegation was being made against. In total, we analyzed 107 unique complaints.

[21]Not all complaints included information on the facilities where the alleged events occurred.

Appendix II: Initial Detention Facility and Detention Days for Pregnant Women in U.S. Immigration and Customs Enforcement Facilities

This appendix provides additional details on our analyses of U.S. Immigration and Customs Enforcement (ICE) data from calendar years 2016 through 2018 on (a) where pregnant women were initially detained and (b) facilities that had the largest number of detention days involving pregnant women. In particular, these analyses describe whether the facility has ICE Health Service Corps (IHSC) staff and who owns and operates the facility, based on contracts or agreements.

Initial detention facility. Our analyses of ICE data found that of the over 4,600 detentions of pregnant women, in regards to IHSC presence, almost 78 percent of detentions of pregnant women were initially detained at an IHSC-staffed facility.[1] Further, 51 percent were at service processing centers that are owned and primarily operated by ICE, all of which were also staffed by IHSC, as shown in table 8. According to ICE officials, many pregnant women first learn about their pregnancy when a test is performed during their intake into a detention facility.

Table 8: Percent of U.S. Immigration and Customs Enforcement (ICE) Detentions of Pregnant Women by Initial Detention Facility Type and ICE Health Service Corps (IHSC) Presence, Calendar Years 2016 through 2018

	IHSC-staffed facility	Non-IHSC facility	Total
Service processing center	51.7	0.0	**51.7**
Intergovernmental service agreement[a]	17.4	12.4	**29.8**
Contract detention facility	5.6	0.1	**5.7**
U.S. Marshals Service intergovernmental agreement	0.0	3.1	**3.1**

[1]Facility information is based on ICE's February 2019 facility list report. It is possible that facilities may change over time, including if they are staffed by IHSC, among other things. For example, between 2016 and 2018, two facilities became IHSC-staffed facilities and one was no longer staffed by IHSC.

Other[b]	2.8	6.8	**9.6**
Total[c]	**77.6**	**22.4**	**100**

Source: GAO analysis of Immigration and Customs Enforcement data. | GAO-20-330

Notes: Our analysis is based on the 1,377 unique pregnant detainee records for 2016; 1,150 for 2017; and 2,094 for 2018 that we were able to match to the detention data. Facility information is based on ICE's February 2019 facility list report and the facility in which the pregnant women were initially detained. They may have been transferred after their initial detention. Of the pregnant women detentions, 37 percent experienced at least one transfer during this time period—which could include transfers to hospitals.

[a]Data include family residential centers.

[b]Other include hold rooms, staging facilities, and hospitals, among other facilities.

[c]Percentage may not sum to totals due to rounding.

Although pregnant women were initially detained in various facility types—based on IHSC presence and who owns and operates the facility, most occurred in eight specific detention facilities located in three states. Specifically, of ICE's over 4,600 pregnant women detentions from calendar year 2016 through 2018, 86 percent were initially detained in one of eight of these detention facilities—with one facility having 45 percent of the intakes of pregnant women.[2]

Facilities with the most number of detention days. For these over 4,600 detentions of pregnant women, ICE detained them for a total of almost 50,300 days from calendar year 2016 through 2018.[3] Our analyses of ICE data found that of the 50,300 detention days of pregnant women, in regards to IHSC presence, 66 percent of these days were at an IHSC-staffed facility. Further, over half were at intergovernmental service agreement facilities—including family residential centers, as shown in table 9. Some facilities may have a large number of detention days associated with the intake of pregnant women, but these facilities may not detain women for a long period of time before releasing or transferring them. For example, at a facility that had one of the largest number of detention days for pregnant women, officials stated that they generally release women once the pregnancy is confirmed.

[2]These eight facilities include two service processing centers, four intergovernmental service agreements (including family residential centers), one contract detention facility, and one staging facility. Six of these facilities were IHSC-staffed and two were non-IHSC facilities.

[3]If a pregnant woman was released the same day that she was initially detained, this would count as one day in detention. If a woman was detained in more than one facility on the same day, we counted this as 1 day in each facility.

Table 9: Percent of Detention Days of Pregnant Women, by U.S. Immigration and Customs Enforcement (ICE) Detention Facility Type and ICE Health Service Corps (IHSC) Presence, Calendar Years 2016 through 2018

	IHSC-staffed facility	Non-IHSC facility	Total
Service processing center	15.7	0.0	**15.7**
Intergovernmental service agreement[a]	27.7	23.5	**51.1**
Contract detention facility	22.3	1.5	**23.8**
U.S. Marshals Service intergovernmental agreement	0.0	7.3	**7.3**
Other[b]	0.6	1.5	**2.1**
Total	**66.2**	**33.8**	**100**

Source: GAO analysis of Immigration and Customs Enforcement data. | GAO-20-330

Notes: Our analysis is based on the 1,377 unique pregnant detainee records for 2016; 1,150 for 2017; and 2,094 for 2018 that we were able to match to the detention data. Facility information is based on ICE's February 2019 facility list report. The table above includes over 50,300 detention days. If a woman was detained in more than one facility on the same day, we counted this as 1 day in each facility.

[a]Data include family residential centers.

[b]Other includes hold rooms, staging facilities, and hospitals, among other facilities.

Although pregnant women spent their detention days in various facility types—based on IHSC presence and who owns and operates the facility, most occurred in 19 specific detention facilities located in seven states. Specifically, of those days that pregnant women were detained by ICE, 89 percent of these days were in one of these 19 detention facilities.[4]

[4]These 19 facilities include 10 intergovernmental service agreements (including family residential centers), two service processing centers, five contract detention facilities, and one U.S. Marshals Service intergovernmental agreement. Ten of these facilities were IHSC-staffed and nine were non-IHSC facilities.

Appendix III: U.S. Immigration and Customs Enforcement Policies on Care for Pregnant Women

U.S. Immigration and Customs Enforcement (ICE) detention facilities and staff are subject to a variety of policies, including ICE-wide policy directives and memoranda, ICE Health Service Corps (IHSC) policies, and detention standards, as of December 2019.[1] We categorized and summarized these policies and standards, as shown below.

ICE-wide Policies

ICE-wide policies are directed at ICE staff and officers, and not to contractors or facility staff. The following ICE policies address pregnant detainees and ICE supervision of pregnant detainees:

- *ICE Directive 11032.3: Identification and Monitoring of Pregnant Detainees* (2017)
- *ICE Directive 11065.1: Review of the Use of Segregation for ICE Detainees* (2013)
- *ICE Directive 11002.1: Parole of Arriving Aliens found to Have a Credible Fear of Persecution or Torture* (2010)
- *ICE Memorandum: Use of GPS Monitoring Devices on Persons who are Pregnant or Diagnosed with a Severe Medical Condition* (2009)
- *ICE ERO [Enforcement and Removal Operations] Policy 11155.1: Use of Restraints* (2012)
- *Enforcement and Removal Operations National Detainee Handbook* (2016)

[1]At the time of our review, ICE had updated, or was in the process of updating, some of its policies and standards. The policies and standards referenced in this appendix were current as of December 2019.

These ICE-wide policies do not apply to contract or facility staff unless ICE modified the facility's contract or if these are already included in the facility's detention standards to which they are obligated. However, the *National Detainee Handbook* is a resource for detainees at detention facilities operating under ICE detention standards, excluding family residential centers. We categorized these policies and summarized them accordingly.

Intake health screening inquiries about pregnancy. The policy refers to ICE's responsibility to monitor detention facilities and ensure they meet national detention standard requirements to provide all newly admitted detainees an initial medical screening including pregnancy screening.

- *ICE Directive 11032.3: Identification and Monitoring of Pregnant Detainees* (2017)

Provision of prenatal care. ICE supervisory staff have responsibilities to ensure that pregnant detainees receive appropriate medical care, including transfer to a different facility if necessary. ICE medical staff also have a responsibility to monitor the condition of pregnant detainees and communicate any concerns to supervisory staff.

- *ICE Directive 11032.3: Identification and Monitoring of Pregnant Detainees* (2017)
- *Enforcement and Removal Operations National Detainee Handbook* (2016)

Segregation of pregnant women. ICE has a responsibility to monitor the use of segregation at detention facilities to ensure that they are adhering to detention standards.[2]

- *ICE Directive 11065.1: Review of the Use of Segregation for ICE Detainees* (2013)

Use of restraints on pregnant women. Officers should take reasonable precautions to avoid causing discomfort when transporting a restrained

[2]According to ICE officials, they refer to the segregation of detainees from the general population, as being placed in Special Management Units either administratively or for violating disciplinary policies. Detainees placed into administrative segregation, generally have the same privileges as detainees housed in the general population. Detainees housed in disciplinary segregation generally have fewer privileges, but still interact daily with staff, medical personnel, legal advisors, and others.

detainee. At processing sites or non-ICE detention facilities, ICE personnel shall follow local policies and procedures.

- *ICE ERO Policy 11155.1: Use of Restraints* (2012)

Record keeping on pregnant women actions. ICE supervisors should ensure that ICE staff and contracted medical staff have processes to notify them of the arrival of a pregnant woman to a detention facility and ensure staff and facilities are aware of their obligations regarding pregnant detainees. IHSC staff are responsible for monitoring the condition of pregnant women while detained, as well as maintaining their medical records. Any instance of segregation of a pregnant woman must be documented in writing.

- *ICE Directive 11032.3: Identification and Monitoring of Pregnant Detainees* (2017)
- *ICE Directive 11065.1: Review of the Use of Segregation for ICE Detainees* (2013)

IHSC-wide Policies

IHSC policies are directed specifically toward IHSC staff at detention facilities where IHSC provides medical services. The following IHSC policies address pregnant detainees:

- *ICE Directive 11772.2: Women's Health Services* (2017)
- *ICE Directive 11741.4: Health Assessment* (2016)
- *ICE Directive 11742.2: Pre-Screening* (2015)
- *ICE Directive 11744.2: Intake Screening and Intake Reviews (*2016)

We categorized these policies and summarized them accordingly.

Intake health screening inquiries about pregnancy. Intake screening includes pregnancy testing of women 10 to 56 years of age as well as questioning of pregnancy status.

- *ICE Directive 11772.2: Women's Health Services* (2017)
- *ICE Directive 11742.2: Pre-Screening* (2015)
- *ICE Directive 11744.2: Intake Screening and Intake Reviews* (2016)

Pregnancy testing at intake. Intake screening includes pregnancy testing of women 10 to 56 years of age and inquiry of reproductive health including previous pregnancies.

- *ICE Directive 11772.2: Women's Health Services* (2017)
- *ICE Directive 11741.4: Health Assessment* (2016)
- *ICE Directive 11744.2: Intake Screening and Intake Reviews* (2016)

Access to abortion. In the event of a threat to a woman's life from carrying a pregnancy to term, or else in cases of rape or incest, ICE must bear the cost of a detainee's decision to terminate a pregnancy; otherwise the woman must bear the cost. ICE should offer medical resources to support effective recovery and follow-up care.

- *ICE Directive 11772.2: Women's Health Services* (2017)

Provision of prenatal care. Pregnant women should be seen by medical providers at least once a month while detained. They should also be referred to an obstetric specialist, and their medical records shared with the specialist to facilitate care.

- *ICE Directive 11772.2: Women's Health Services* (2017)
- *ICE Directive 11741.4: Health Assessment* (2016)
- *ICE Directive 11744.2: Intake Screening and Intake Reviews* (2016)

Provision of postnatal care. A postpartum detainee must receive postnatal care from a medical provider, in consultation with an obstetric specialist, at least once a month.

- *ICE Directive 11772.2: Women's Health Services* (2017)

Mental health services and counseling for pregnant women. Any female detainee who gave birth, miscarried, or terminated a pregnancy within the last 30 days must receive a mental health evaluation, with the evaluation to occur no later than 72 hours after initial referral.

- *ICE Directive 11772.2: Women's Health Services* (2017)

Care for pregnant women with substance use disorder. Chemically dependent pregnant women are considered high-risk and should be referred to an obstetrician or other appropriate medical provider as soon as they are identified.

- *ICE Directive 11772.2: Women's Health Service* (2017)
- *ICE Directive 11744.2: Intake Screening and Intake Reviews* (2016)

Use of restraints on pregnant women. Pregnant detainees or those in postdelivery recuperation should not be restrained except in extraordinary circumstances that are documented by a supervisor or directed by a medical authority, whether in an ICE detention facility, in transport, or at a medical facility. Detainees in active labor or delivery can never be restrained. Even if restraints are used, a pregnant woman should never be restrained face down or on her back, or restrained with a belt that constricts the abdomen or pelvis.

- *ICE Directive 11772.2: Women's Health Service* (2017)

Record keeping on pregnant women actions. Intake screenings and assessments including pregnancy test results must be documented, as are risk factors for high risk pregnancies. Any use of restraints or request for abortion services must be documented. ICE supervisory staff must be notified within 72 hours of the arrival at a detention facility of a pregnant woman.

- *ICE Directive 11772.2: Women's Health Service* (2017)
- *ICE Directive 11741.4: Health Assessment* (2016)
- *ICE Directive 11744.2: Intake Screening and Intake Reviews* (2016)

ICE Detention Standards

Entities that have a contract or agreement with ICE to hold immigration detainees are generally contractually obligated to one of four sets of detention standards. These standards address a range of our pregnancy-related categories of care and vary by standard.

- *2000 ICE National Detention Standards* (NDS)
- *2007 ICE Family Residential Standards* (FRS)
- *2008 ICE Performance-Based National Detention Standards 2008* (2008 PBNDS)
- *2011 ICE Performance-Based National Detention Standards 2011* (2011 PBNDS)

We categorized these standards and summarized them accordingly. The 2011 PBNDS standards received revision in 2016. Whether a 2011

PBNDS facility is contractually required to adhere to the 2016 revision is dependent upon the contract language negotiated in each agreement.[3] Where appropriate, the summaries below note changes to policy as a result of those revisions.

Intake health screening inquiries about pregnancy.

- 2008 PBNDS: Initial screening should be done within 12 hours of arrival and should inquire about the possibility of pregnancy.
- 2011 PBNDS: Initial screening should be done within 12 hours of arrival and should inquire about the possibility of pregnancy. In the 2016 revisions, the evaluation also includes a pregnancy test for women aged 18 to 56.

Pregnancy testing at intake.

- 2008 PBNDS: Initial screening should be done within 12 hours of arrival and should inquire about the possibility of pregnancy.
- 2011 PBNDS: In the 2016 revisions, initial screening includes pregnancy testing of women 18 to 56.

Access to abortion.

- 2011 PBNDS: If the life of the mother is endangered by carrying the fetus to term, or in the case of rape or incest, ICE will assume the costs to terminate the pregnancy. ICE shall arrange the transportation for the medical appointment, and to counseling services if requested in all cases, including those where rape, incest, or risk to life do not apply. Every facility, either directly or via contractor, must provide female detainees with access to counseling for pregnancy planning if the detainee wishes to receive an abortion.

Provision of prenatal care.

- FRS: Female residents will have access to pregnancy management services including routine prenatal care
- 2008 PBNDS: Female detainees will have access to pregnancy management services including routine prenatal care

[3]As of September 2019, ICE had 47 facilities operating under 2011 PBNDS, of which 31 were contractually required to meet the 2016 revision when ICE begins inspecting for compliance under the revised standards.

- 2011 PBNDS: Pregnant detainees will have access to pregnancy management services including routine prenatal care. They will also receive access to a specialist and receive a health assessment. The 2016 revisions note those actions should occur as soon as appropriate or within two working days. The 2016 revisions also give the medical provider authority to identify pregnant detainees' special needs such as diet or housing requirements and inform all necessary staff and authorities.

Provision of postnatal care.

- FRS: Female residents will have access to pregnancy management services including postpartum follow-up care.
- 2008 PBNDS: Female detainees will have access to pregnancy management services including postpartum follow-up care.
- 2011 PBNDS: Pregnant detainees will have access to pregnancy management services including postpartum follow-up care. After giving birth, receiving an abortion or miscarrying, mental health assessments should also be offered.

Provision of perinatal/labor care.

- 2011 PBNDS: Pregnant detainees will have access to specialized care including labor and delivery.

Mental health services and counseling for pregnant women.

- FRS: Pregnant females will have access to pregnancy management services that include counseling and assistance.
- 2008 PBNDS: Pregnant females will have access to pregnancy management services that include counseling and assistance.
- 2011 PBNDS: Pregnant detainees will have access to care including counseling and assistance. Detainees can also request transportation to religious, medical and social counseling when considering termination of a pregnancy. In 2016 revisions, intake screening should include education to female detainees about mental health services related to pregnancy and women's health.

Care for pregnant women with substance use disorder.

- 2008 PBNDS: Female detainees will have access to pregnancy management services that include addiction management.

- 2011 PBNDS: In 2016 revisions, all chemically dependent pregnant detainees are to be considered high risk and referred to an obstetrician or other provider capable of addressing their needs immediately.

HIV care for pregnant women.

- 2011 PBNDS: Medical personnel shall provide all detainees diagnosed with HIV/AIDS medical care consistent with national recommendations and guidelines disseminated through the U.S. Department of Health and Human Services, the Center for Disease Control, and the Infectious Diseases Society of America.[4]

Prenatal vitamins.

- 2011 PBNDS: Pregnant detainees will have access to prenatal care including prenatal vitamins.

Nutrition for pregnant women.

- NDS: Physicians may order snacks or supplemental feedings to increase protein or calories for reasons including pregnancy. In hold rooms, pregnant women should have regular access to snacks, milk, and juice.
- FRS: Physicians may order snacks or supplemental feedings to increase protein or calories for reasons including pregnancy. Pregnant women will have access to pregnancy management services that include nutrition.
- 2008 PBNDS: Physicians may order snacks or supplemental feedings to increase protein or calories for reasons including pregnancy. In hold rooms, pregnant women should have regular access to snacks, milk, and juice. Pregnant women will have access to pregnancy management services that include nutrition.
- 2011 PBNDS: Physicians may order snacks or supplemental feedings to increase protein or calories for reasons including pregnancy. In hold rooms, pregnant women should have regular access to snacks, milk, and juice. Pregnant women will have access to pregnancy management services that include nutrition. Special consideration is given to pregnant women when providing meals and snacks during transportation. In the 2016 revisions, the medical provider is

[4]These include guidelines for the care of pregnant women with HIV.

responsible for identifying special needs of pregnant detainees, including diet, and notifying all necessary staff.

Special accommodations for pregnant women.

- 2008 PBNDS: In hold rooms, pregnant women will have access to temperature appropriate clothing and blankets and may, depending on facility, have access to bunks, cots, or beds, normally not kept in hold rooms.
- 2011 PBNDS: In hold rooms, pregnant women will have access to temperature appropriate clothing and blankets and may, depending on facility, have access to bunks, cots, or beds, normally not kept in hold rooms. Pregnant detainees should also have access to lactation services in the facility. In the 2016 revisions, the medical provider is responsible for identifying special needs of pregnant detainees and notifying all necessary staff.

Segregation of pregnant women.

- 2011 PBNDS: In the 2016 revisions, it is stated that women who are pregnant, post-partum, recently had a miscarriage, or recently had a terminated pregnancy should as a general matter not be placed in a Special Management Unit. In very rare situations, a woman who is pregnant, postpartum, recently had a miscarriage, or recently had a terminated pregnancy may be placed in a Special Management Unit as a response to behavior that poses a serious and immediate risk of physical harm, or if the detainee has requested to be placed in protective custody administrative segregation and there are no more appropriate alternatives available. Also in the 2016 revisions, a facility administrator must notify the appropriate field office director in writing as soon as possible, but no later than 72 hours any time a pregnant woman or one who recently had a miscarriage is placed in segregation. In all cases, in the 2016 revisions, this decision must be approved by a representative of the detention facility administration, in consultation with a medical professional, and must be reviewed every 48 hours.

Use of restraints on pregnant women.

- NDS: Pregnant detainees should be given special consideration if restrained as a result of a physical encounter. A medical professional should be consulted immediately in the aftermath, and the detainee

examined. Pregnant detainees should be restrained in such a way as to avoid harming the fetus such as not restraining face down.

- FRS: Medical staff will advise on the necessary precautions to take when restraining a pregnant detainee and restraint should be done only when other methods have been tried or are impracticable.
- 2008 PBNDS: Medical staff will advise on the necessary precautions to take when restraining a pregnant detainee. Pregnant detainees should be restrained in such a way as to avoid harming the fetus such as not restraining face down.
- 2011 PBNDS: A pregnant detainee is not to be restrained except in truly extraordinary circumstances. Even then, it must be documented by a supervisor and directed by a medical authority. Women in active labor or delivery can never be restrained, and if restrained, the detainee should never be face down, on her back, or restrained with a belt that constricts the area of pregnancy.

Record keeping on pregnant women actions.

- NDS: The medical provider of a facility will notify the ICE officer in charge whenever a pregnant detainee is identified and any use of force or application of restraints on a detainee should be followed by a medical examination, and its results documented.
- FRS: The medical provider of a facility will notify the ICE facility administrator whenever a pregnant detainee is identified. A treatment plan should be developed for any detainee requiring close medical supervision, and approved by the appropriate physician or other medical provider.
- 2011 PBNDS: When a detainee is pregnant, an alert is notified in their medical record and the facility administrator will receive notice. If a detainee is transferred, it is the administrator's responsibility to inform ICE of the medical alert. Any use of restraints requires documented approval, including in the detainee's detention and medical files and guidance from the on-site medical authority. A request to terminate a pregnancy must be documented in the medical file and signed by the detainee. In the 2016 revisions, ICE supervisory staff must be informed within 72 hours when a pregnant detainee is identified.

Appendix IV: Recommended Guidance on the Care of Pregnant Women Detainees

Numerous professional associations, non-governmental organizations, and federal agencies have issued guidance on care to be provided to pregnant women.[1] Specifically, we reviewed the following guidance:

- American Civil Liberties Union: *Worse than Second-Class: Solitary Confinement of Women in the United States* (2014)
- American College of Obstetricians and Gynecologists:
  - *Committee Opinion: Health Care for Pregnant and Postpartum Incarcerated Women and Adolescent Females* (2016)
  - *Guidelines for Perinatal Care, Eighth Edition*[2] (2017)
- *American Correctional Association Performance-Based Standards and Expected Practices for Adult Correctional Institution, 5th Edition*
- *Joint Public Correctional Policy on the Treatment of Opioid Use Disorders for Justice Involved Individuals*[3] (2018)

[1]Officials from the American College of Obstetricians and Gynecologists, National Commission on Correctional Health Care, and the American Correctional Association, stated that although their recommended guidance was designed to apply in a criminal incarceration setting, their recommended guidance is also applicable to immigration detention. In addition to the guidance we reviewed on incarcerated pregnant women, broader recommended guidance exists on the care of pregnant women such as the American College of Obstetricians and Gynecologists's *Committee Opinion: Optimizing Postpartum Care, Committee Opinion: Opioid Use and Opioid Use Disorder in Pregnancy, and Committee Opinion: Maternal Immunization*, among others.

[2]Co-authored by the American Academy of Pediatrics.

[3] A joint policy released by the American Correctional Association and the American Society of Addiction Medicine.

- *Joint Statement on the Federal Role in Restricting the Use of Restraints on Incarcerated Women and Girls during Pregnancy, Labor, and Postpartum Recovery*[4]
- National Commission on Correctional Health Care (NCCHC):
  - *Position Statement: Restraint of Pregnant Inmates* (2015)
  - *Position Statement on Solitary Confinement (Isolation)* (2016)
  - *Position Statement on Breastfeeding in Correctional Settings*[5] (2018)
  - *Standards for Health Services in Jails* (2018)
- Sufrin C., *Pregnancy and Postpartum Care in Correctional Settings,*[6] National Commission on Correctional Health Care, Clinical Resources Series. (2018)
- National Women's Law Center: *Women Behind Bars: A state-by-state report card and analysis of federal policies on conditions of confinement for pregnant and parenting women and the effect on their children* (2010)
- *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)* (2010)
- U.S. Department of Homeland Security (DHS): *Report of the DHS Advisory Committee on Family Residential Centers*[7] (2016)

[4]The statement was endorsed by the following organizations: the American Congress of Obstetricians and Gynecologists (as of January 2018, all activities of this entity fall under the American College of Obstetricians and Gynecologists), American Jail Association, American Psychological Association, Human Rights Project for Girls, NCCHC, and the National Council of Juvenile and Family Court Judges.

[5]This paper was endorsed by the American College of Obstetricians and Gynecologists.

[6]This paper was endorsed by the American College of Obstetricians and Gynecologists.

[7]The Committee included representatives from the following: Los Angeles County Department of Mental Health, Covington & Burling LLP, WestEd, Women's Refugee Commission, American Academy of Pediatrics, The Moss Group Inc., University of California Hastings College of the Law, University of California Hastings Center for Gender & Refugee Studies, Young Center for Immigrant Children's Rights at the University of Chicago, National Immigrant Women's Advocacy Project at American University Washington College of Law, ASISTA, Cooper Medical School of Rowan University, University of Michigan Law School, Connecticut Department of Emergency Services and Public Protection, and Jackson Walker LLP.

- *U.S. Department of Justice, Bureau of Justice Assistance: Best Practices in the Use of Restraints with Pregnant Women and Girls Under Correctional Custody*[8] (2014)
- *U.S Department of Justice Report and Recommendations Concerning the Use of Restrictive Housing*[9] (2016)

Because the specificity of the guidance varies across entities, we summarized the recommended guidance for our report purposes.[10] For example, guidance on nutrition may range from calling for additional meals for pregnant women to more specifically outlining extra caloric and dietary needs. Our summary statement for each of the pregnancy-related topics is included below, along with examples from relevant recommended guidance.[11]

Intake health screening inquiries about pregnancy.

- Summary of recommended guidance: The sources that have guidance generally agree that intake health screenings should include inquiry regarding pregnancy and related conditions.
- Example: “Screening is performed on all inmates upon arrival at the intake facility…The receiving screening form…inquires as to the

[8]Produced by the Department of Justice’s National Task Force on the Use of Restraints with Pregnant Women under Correctional Custody that included representation from the following: Policy Research Associates, the US Health and Human Services Substance Abuse and Mental Health Services Administration, National Institute of Corrections, National Center for Trauma-Informed Care, Association of State Correctional Administrators, National Women’s Law Center, Federal Bureau of Prisons, Immigration and Customs Enforcement, American Jail Association, North Carolina Department of Public Safety, the Alvin S. Glenn Detention Center (South Carolina), National Resource Center on Justice Involved Women, Center for Effective Public Policy, Alpert Medical School of Brown University, Women and Infants Hospital of Rhode Island, NCCHC, New York City Department of Correction, American Correctional Association, Human Rights Project for Girls, the Maternity Care Coalition of Riverside Correctional Facility (Pennsylvania), Tohono O’odham National Correctional Facility, Multnomah County Sheriff’s Office, Maryland Department of Public Safety and Correctional Services, Louisiana State University Health-Shreveport, Florida Department of Juvenile Justice.

[9]The Working Group that developed the report included representation from the following Department of Justice components: Federal Bureau of Prisons, Civil Rights Division, Office of Justice Programs, United States Marshals Service, Executive Office of United States Attorneys, and the Attorney General’s Advisory Committee.

[10]We did not include recommended guidance that was not directly relevant to the care of pregnant women, such as guidance on child care.

[11]Not all source documents included recommended guidance for each of the topics.

inmate's…possible, current, or recent pregnancy…" – NCCHC *Standards for Health Services in Jails* (2018)

Pregnancy testing at intake.

- Summary of recommended guidance: Sources that have guidance generally agree that pregnancy testing should be conducted on newly detained women of childbearing age, but some provide additional guidance on when this should be done, and this may vary.
- Example: "All women at risk for pregnancy should be offered a pregnancy test within 48 hours of admission…A simple approach would be to offer pregnancy testing to all women under the age of 55." – *Pregnancy and Postpartum Care in Correctional Settings* (2018)
- Example: "…medical providers should continue to offer pregnancy tests to every female of child-bearing age who is newly detained…" – *Report of the DHS Advisory Committee on Family Residential Centers* (2016)

Access to abortion.

- Summary of recommended guidance: Sources that have guidance generally agree abortion services should be offered to detained pregnant women, with one source providing additional details, including swift facilitation of a woman's choice of termination and non-interference of outside bodies in the decision.
- Example: "Pregnancy termination is generally to be performed as safely and as early in pregnancy as possible…Termination of pregnancy should not depend on whether or not the specific procedure is available on site. Each woman will decide what option to choose…this decision is to be made without undue interference by outside bodies, including governmental bodies." – *Report of the DHS Advisory Committee on Family Residential Centers* (2016)

Provision of prenatal care.

- Summary of recommended guidance: Sources that have guidance generally agree that some form of prenatal care should be provided to detained pregnant women, but differ on the level of specificity for the standard of care, from stating simply that prenatal care be provided to specifying requirements including regularly scheduled obstetric care and access to 24-hour emergency care.
- Example: "Incarcerated women who wish to continue their pregnancies should have access to readily available and regularly

scheduled obstetric care, beginning in early pregnancy and continuing through the postpartum period. Incarcerated pregnant women also should have access to unscheduled or emergency obstetric visits on a 24-hour basis." – American College of Obstetricians and Gynecologists *Committee Opinion: Health Care for Pregnant and Postpartum Incarcerated Women and Adolescent Females* (2016)

- Example: "Prenatal care in correctional facilities must reflect national standards, including visit frequency with a qualified prenatal care provider, screening and diagnostic tests, and referrals for complications." – *Pregnancy and Postpartum Care in Correctional Settings* (2018)

Provision of postnatal care.

- Summary of recommended guidance: Sources that have guidance generally agree that the provision of postnatal care be provided to women who give birth. However, they vary in their specifics. For example, some specifically state that lactation service or postnatal birth control should be provided. One source also recommends specific forms of accommodation to aid postnatal recovery.
- Example: "…appropriate accommodations should be made, such as allowing women to rest when needed…Discharge instructions from the hospital, which may include postpartum blood pressure monitoring or diabetes screening, should be adhered to." – *Pregnancy and Postpartum Care in Correctional Settings* (2018)[12]
- Example: "Allow immediately postpartum women to breastfeed their babies and have lactation support services from the hospital." – NCCHC *Position Statement on Breastfeeding in Correctional Settings* (2018)

Provision of perinatal/labor care.

- Summary of recommended guidance: Sources that have guidance generally agree a pregnant woman should be transported to a hospital if there are signs of labor. Some sources state that detention staff be trained in emergency delivery in the event of a delivery occurring in the facility, away from professional care.

[12]According to the American College of Obstetricians and Gynecologists's *Committee Opinion: Optimizing Postpartum Care*, this initial assessment should be followed up with ongoing care as needed, concluding with a comprehensive postpartum visit no later than 12 weeks after birth.

- Example: “Due to the time necessary to arrange transport to a nearby hospital, there is a low threshold to send pregnant inmates out for evaluation of a labor when signs or symptoms of labor or ruptured membranes are present… Any facility that houses pregnant women should have an emergency delivery kit available on-site, and health staff should be trained in its use in the event that a delivery occurs in the facility.” – *Pregnancy and Postpartum Care in Correctional Settings* (2018)
- Example: “Having a preexisting arrangement to have the babies of incarcerated women delivered at a local hospital reduces confusion and uncertainty when a woman goes into labor.” – National Women’s Law Center Women Behind Bars: *A state-by-state report card and analysis of federal policies on conditions of confinement for pregnant and parenting women and the effect on their children* (2010)

Mental health services and counseling for pregnant women.

- Summary of recommended guidance: Sources that have guidance generally agree that pregnant and postpartum women should have access to mental health/counseling services.
- Example: “Pregnant inmates are given comprehensive counseling and care in accordance with national standards and their expressed desires regarding their pregnancy.” – NCCHC *Standards for Health Services in Jails* (2018)

Care for pregnant women with substance use disorder.

- Summary of recommended guidance: Sources that have guidance generally agree that addicted pregnant women should have access to screening and specialized addiction-treatment programs.
- Example: “Screening for drug and alcohol use is a first step and is followed with referral to treatment. For women who report opiate use, the standard of care is not to detoxify from opiates during pregnancy due to the fetal risks of withdrawal. Rather the standard of care is to

provide…methadone or buprenorphine…" – *Pregnancy and Postpartum Care in Correctional Settings* (2018)[13]

- Example: "The standard of care for pregnant women with [opioid use disorder] is [medications for addiction treatment] and should therefore be offered/continued for all pregnant detainees and incarcerated individuals." – *Joint Public Correctional Policy on the Treatment of Opioid Use* (2018)

HIV care for pregnant women.

- Summary of recommended guidance: Sources that have guidance generally agree that pregnant women should have access to testing and treatment of HIV for the benefit of both the mother and child.
- Example: "The Centers for Disease Control and Prevention recommends universal opt-out HIV screening for pregnant women; with early detection, prevention of mother-to-child transmission can be accomplished…" – *Pregnancy and Postpartum Care in Correctional Settings* (2018)

Vaccinations for pregnant women.

- Summary of recommended guidance: Sources that have guidance generally agree that vaccines recommended for pregnant women be provided to detainees in accordance with accepted medical guidelines.
- Example: "Current recommendations are that all pregnant women should be vaccinated with the flu vaccine during flu season and tetanus, diphtheria, and pertussis during the third trimester, regardless of whether they were vaccinated outside of pregnancy." – NCCHC *Standards for Health Services in Jails* (2018)
- Example: "Vaccines related to pregnancy should be offered pursuant to CDC guidelines…" – *Report of the DHS Advisory Committee on Family Residential Centers* (2016)

[13]According to the American College of Obstetricians and Gynecologists's *Committee Opinion: Opioid Use and Opioid Use Disorder in Pregnancy "*For pregnant women with an opioid use disorder, opioid agonist pharmacotherapy is the recommended therapy and is preferable to medically supervised withdrawal because withdrawal is associated with high relapse rates (55–57), ranging from 59% to more than 90% (58), and poorer outcomes. Relapse poses grave risks, including communicable disease transmission, accidental overdose because of loss of tolerance, obstetric complications, and lack of prenatal care."

Prenatal vitamins.

- Summary of recommended guidance: The sources that have guidance generally agree that prenatal vitamins should be provided to pregnant women, and some sources state that prenatal vitamins should be provided to breastfeeding women.
- Example: “Pregnant women must also receive prenatal vitamins that contain, among other essential vitamins and minerals, 400mcg to 800mcg of folic acid... Women with documented anemia (hemoglobin<11) should receive additional iron supplementation.” – *Pregnancy and Postpartum Care in Correctional Settings* (2018)
- Example: “Appropriate nutrition and prenatal vitamins should be given to lactating women…” – NCCHC *Standards for Health Services in Jails* (2018)

Nutrition for pregnant women.

- Summary of recommended guidance: Sources that have guidance generally recommend special nutrition regimens for pregnant women, with varying degrees of specificity, ranging from recommending the use of supplements broadly to specifying required nutrients such as folic acid and calcium and extra calories in the form of additional meals, larger meals, or food between meals, and in some cases specifying that these requirements also apply for postpartum women.
- Example: “Pregnant and postpartum women have additional nutritional needs and should be counseled on the importance of adequate nutrition. Diets provided by correctional institutions should be specialized to the women’s needs and be rich in whole grains, calcium, and fruits and vegetables. In the second and third trimesters, women require an additional 300 calories per day…” – *Pregnancy and Postpartum Care in Correctional Settings* (2018)

Special accommodations for pregnant women.

- Summary of recommended guidance: Sources that have guidance generally agree that accommodations should be provided to pregnant women. Some sources specify accommodations such as appropriate programming and hygiene for pregnant women and nursing mothers, appropriately adjusted work assignments and exercise, and bottom bunks.
- Example: “Activity for pregnant women must take into account the physical constraints of being in a correctional facility. All pregnant

women must have a bottom bunk so that they do not risk falling from a top bunk. Certain work assignments may be inappropriate…Work assignments should be adjusted accordingly. In the absence of medical or obstetric complications, 30 minutes or more of moderate exercise a day on most, if not all, days of the week is recommended." – *Pregnancy and Postpartum Care in Correctional Settings* (2018)

Segregation of Pregnant Women.

- Summary of recommended guidance: Sources that have guidance generally agree that pregnant women should not be placed in segregation, though some suggests this could be necessary in certain cases.
- Example: "Women who are pregnant, who are postpartum, who recently had a miscarriage, or who recently had a terminated pregnancy should not be placed in restrictive housing…In very rare situations, a woman who is pregnant, is postpartum, recently had a miscarriage, or recently had a terminated pregnancy may be placed in restrictive housing as a temporary response to behavior that poses a serious and immediate risk of physical harm…" – *U.S Department of Justice Report and Recommendations Concerning the Use of Restrictive Housing* (2017)

Use of Restraints on Pregnant Women.

- Summary of recommended guidance: Sources that have guidance generally agree that restraints generally should not be used on a pregnant woman, except when necessary. Some sources indicate that if restraints are necessary, it should be well documented and require approval and assessment from a senior official and/or medical professional. Some sources specify the types of restraints that should never be used including abdominal restraints, handcuffs behind the back, and leg and ankle restraints.
- Example: "Restraint of pregnant inmates during labor and delivery should not be used. The application of restraints during all other pre- and postpartum periods should be restricted as much as possible and, when used, done so with consultation from medical staff and in the least restrictive means possible. […] All uses of restraints in pregnant inmates must be documented and reviewed." – NCCHC *Position Statement: Restraint of Pregnant Inmates* (2015)
- Example: "Policies and procedures on the use of restraints on pregnant women and girls under correctional custody should be

developed collaboratively by correctional leaders and medical staff who have knowledge about the potential health risks…The use of restraints on pregnant women and girls under correctional custody should be limited to absolute necessity." - U.S. Department of Justice, Bureau of Justice Assistance: *Best Practices in the Use of Restraints with Pregnant Women and Girls Under Correctional Custody* (2014)

Record Keeping on Pregnant Women Actions.

- Summary of recommended guidance: Sources that have guidance generally agree that accurate records of detention regarding pregnant women should be kept, with varying levels of specificity ranging from noting that records should be kept for incidents of restraint to specifying how documentation is kept and reviewed. One source notes that medical records should also be easily accessible for offsite care providers.
- Example: "If detention continues ICE should ensure…reporting of detention to ICE Headquarters and continued review of the need to detain." – *Report of the DHS Advisory Committee on Family Residential Centers* (2016)
- Example: "Obstetrician-gynecologists and other obstetric care providers of antepartum care should be able to either primarily provide or easily refer to others to provide a wide array of services. These services include… [T]imely transmittal of prenatal records to the site of the woman's planned delivery so that her records are readily accessible at the time of delivery." – American College of Obstetricians and Gynecologists *Guidelines for Perinatal Care, Eighth Edition* (2017)

Appendix V: U.S. Customs and Border Protection Policies on Care for Pregnant Women

U.S. Customs and Border Protection (CBP) and its components, Border Patrol and the Office of Field Operations (OFO), have several policies and standards that address the care and treatment of pregnant women in their custody. Specifically, these include the following:

- CBP: *National Standards on Transport, Escort, Detention, and Search* (2015)[1]
- OFO: *Personal Search Handbook* (2004)
- OFO: *Directive: Secure Detention, Transport and Escort Procedures at Ports of Entry, CBP Directive No. 3340-030B* (2008)
- Border Patrol: *U.S. Border Patrol Policy: Hold Rooms and Short Term Custody* (2008)

Summaries of these policies and standards are provided below, along with the titles of the policies or standards on which each summary is based.[2]

Processing and holding. Officers and agents will consider pregnancy when expediting processing of vulnerable detained persons and when placing detained persons with others in hold rooms and holding facilities.

[1]As part of its implementation of this policy, OFO required its personnel to complete an assessment for all detainees in its custody to evaluate detainees' safety, whether they may be considered an at-risk detainee or at risk of posing a threat to others, known or reported medical or mental health issues and level of risk to themselves, other detainees, and staff based on the information available at the time of the assessment. This includes a question about pregnancy. As stated previously in this report, CBP has since developed a standardized health interview form that can be used by OFO and Border Patrol.

[2]Not all policies and standards included language for each of the bulleted items.

- *Secure Detention, Transport and Escort Procedures at Ports of Entry* (2008) and *U.S. Border Patrol Policy: Hold Rooms and Short Term Custody* (2008)

Mental health services and counseling for pregnant women. If an agent or officer observes signs of mental illness, it should be reported to a supervisor and appropriate medical care be provided or sought, including calling emergency services in the event of an emergency.

- *Transport, Escort, Detention, and Search* (2015)

Nutrition for pregnant women. Pregnant detainees should be offered a meal every six hours they are in detention and have access to snacks, milk, or juice at all times.

- *Transport, Escort, Detention, and Search* (2015); *Secure Detention, Transport and Escort Procedures at Ports of Entry* (2008); and *U.S. Border Patrol Policy: Hold Rooms and Short Term Custody* (2008)

Special accommodations for pregnant women. Reasonable accommodations should be made for pregnant women, including placement in the least restrictive appropriate setting. If circumstances permit, pregnant women should not be placed in hold rooms or other secure areas, but instead in an open area under supervision.

- *Transport, Escort, Detention, and Search* (2015); *Secure Detention, Transport and Escort Procedures at Ports of Entry* (2008); and *U.S. Border Patrol Policy: Hold Rooms and Short Term Custody* (2008)

Use of restraints on pregnant women. Officers and agents should not use restraints on pregnant women unless they demonstrate or threaten violence, have a criminal and/or violent history, or there is an articulable escape risk. Even if restraints are used, pregnant detainees are not to be restrained face-down, on their backs, or with a belt that constricts the area of her pregnancy. Pregnant women can never be restrained while in active labor or delivery. All use of restraints must be documented.

- *Transport, Escort, Detention, and Search* (2015)

Record keeping on pregnant women actions. All physical interactions with pregnant women must be recorded after they occur. Any medical emergency must be recorded as soon as practical after emergency services have been contacted. Further, Border Patrol agents must create a booking record for persons detained and the record must include a medical annotation for conditions requiring care, including pregnancy.

- *Transport, Escort, Detention, and Search* (2015) and *U.S. Border Patrol Policy: Hold Rooms and Short Term Custody* (2008)

Appendix VI: U.S. Immigration and Customs Enforcement Inspection Results for Care of Pregnant Women

U.S. Immigration and Customs Enforcement (ICE) uses various inspections for accessing facilities' compliance with policies and detention standards—the frequency and focus of which vary.[1] Some inspections also include pregnancy-related performance measures, such as a measure assessing whether a pregnancy test was performed at intake. We analyzed reports and data from five ICE inspections that address compliance with pregnancy-related policies and detention standards from 2015 through June 2019—the most recent data available at the time of our review. We selected these inspections because they review some aspect of the care provided to pregnant women.[2] These inspections address compliance at ICE detention facilities where on-site medical care is provided by both ICE Health Service Corps (IHSC) as well as other entities (non-IHSC facilities).

Pregnancy-related Performance Measures at IHSC-staffed and non-IHSC Facilities

We reviewed results from IHSC's inspections of IHSC-staffed and non-IHSC facilities, which includes pregnancy-related performance measures. We found that instances of non-compliance occurred at 16 facilities subject to a range of detention standards. Three of these facilities were

[1]We previously reported that ICE officials responsible for detention oversight stated that these various inspections complement one another and serve different purposes. See GAO, *Immigration Detention: Additional Actions Needed to Strengthen Management and Oversight of Facility Costs and Standards,* GAO-15-153 (Washington, D.C., Oct. 10, 2014).

[2]See appendix I for additional information on how we selected these inspections.

IHSC-staffed, and 13 were non-IHSC. Table 10 shows results from December 2016 through March 2019.

Table 10: Compliance with Pregnancy-related Measures at U.S. Immigration and Customs Enforcement Health Service Corps-staffed (IHSC) and non-IHSC Facilities, December 2016 through March 2019

	Records reviewed		
Pregnancy-related measure	**Number of non-compliant records**	**Number of compliant records**	**Percent compliance**
Does the facility perform a pregnancy test on females aged 10 to 56 during intake screening?[a]	40	549	93
Was a pregnancy test performed prior to x-ray or before initiation of any medications?	0	57	100
Was an obstetrician-gynecologist consult ordered for each pregnant patient within 7 days of pregnancy confirmation?	1	47	98
Was the pregnant patient seen by an obstetrician-gynecologist within 30 days of pregnancy confirmation?	3	29	91
Was the pregnant patient screened for HIV, sexually transmitted infections, and viral hepatitis?[b]	2	41	95
Were prenatal vitamins prescribed?	0	58	100

Source: GAO analysis of U.S. Immigration and Customs Enforcement (ICE) data. | GAO-20-330

Notes: Data on whether a pregnancy test was performed on all females aged 10 to 56 during intake screening are from December 2016 through March 2019. Data for all other measures are from a shorter time period—October 2018 through March 2019—based on changes to ICE's data collection practices.

These inspections consist of file reviews to assess the quality of medical care. The number and percent of non-compliant and compliant records refers to the records that IHSC reviewed as part of the inspections for which there was a yes or no response.

Some measures are not applicable to all pregnant women due to their length of stay. For example, not all pregnant women are detained for 30 days—and therefore, the measure of whether the pregnant woman was seen by an obstetrician-gynecologist within 30 days of pregnancy confirmation would not be applicable. There were 28 non-applicable records for this measure. In addition, there was 1 non-applicable record for whether a pregnancy test was performed prior to x-ray or before initiation of any medications; 12 for whether an obstetrician-gynecologist consult was ordered within 7 days; 17 for whether the patient was screened for HIV, sexually transmitted infections, and viral hepatitis; and 2 regarding prenatal prescriptions. We excluded non-applicable records when calculating the percent of records in compliance.

[a]In a prior version of the inspection, this question asked "was a pregnancy test performed on females aged 10-54 during intake screening?" For reporting purposes, we combined these two versions of the question regarding pregnancy testing.

[b]IHSC officials said that screening for HIV, sexually transmitted infections, and viral hepatitis reflects recommended practices but is not required by detention standards.

Pregnancy-related Performance Measures at IHSC-staffed Facilities

We reviewed information on pregnancy-related performance measures reported by facilities staffed by IHSC. Table 11 shows results from fiscal years 2015 through 2018.

Table 11: Average Annual Compliance with Pregnancy-related Measures at Facilities Staffed by ICE Health Service Corps (IHSC), Fiscal Years 2015 through 2018

Performance (percentage)	Fiscal Year 2015	Fiscal Year 2016[a]	Fiscal Year 2017	Fiscal Year 2018
Was an obstetrician-gynecologist consult ordered and the scheduled appointment time documented within 7 days of identification of condition? (target 100%)[b]	87	–	91	–
Obstetrician-gynecologist consult ordered is documented within 7 business days of identification (target 100%)	–	–	–	80
Obstetrician-gynecologist scheduled appointment time documented within 7 business days of identification (target 100%)	–	–	–	75[d]
Pregnant patients seen by obstetrician-gynecologist within 30 days	92	–	–	–
Prenatal vitamins prescribed (target 100%)	95	–	–	–
Detainee education documented at each encounter (target 100%)	100[c]	–	91	79[d]
Records reviewed by provider after obstetrician appointment (target 100%)	99	–	92	79[d]
Proper diet ordered? (target 100%)	86[c]	–	–	–
Appropriate labs ordered if not obtained from obstetrician-gynecologist (target 100%)	92	–	91	79
Pregnant patient screened for HIV, sexually transmitted infections, and viral hepatitis	81	–	–	–
Hepatitis B vaccine offered	53	–	–	–

Legend: - Data was not reported

Source: GAO analysis of U.S. Immigration and Customs Enforcement (ICE) data. | GAO-20-330

Notes: IHSC did not report data on all measures from fiscal year 2015 through 2018. Data that was not reported is left blank. If a facility did not report data during any given time period, IHSC considered it to be non-compliant (zero percent).

Some of these inspections measure compliance with ICE's recommended practices, but may not be covered by policies or detention standards at all facilities.

[a]IHSC's annual report for fiscal year 2016 stated that compliance on pregnancy-related measures increased from 93 percent to 100 percent, but the report did not provide additional details on specific measures. According to IHSC officials, they no longer have the underlying data on the fiscal year 2016 inspections.

[b]IHSC officials explained that this measure was divided into two separate measures in fiscal year 2018—with one measure focused on documenting that the obstetrician-gynecologist consultation was ordered, and the second measure focused on documenting that the appointment time was scheduled.

[c]According to IHSC documentation, these data were collected only during the third and fourth quarters of fiscal year 2015.

[d]According to IHSC documentation, these data were collected only during the first and second quarters of fiscal year 2018.

Although the table shows average annual compliance across all IHSC-staffed facilities, variation exists between facilities, and over time. For example, in fiscal year 2018, one facility improved its performance on the measure of whether prenatal vitamins were prescribed from 33 percent compliance in the first quarter to 100 percent compliance in the second quarter. In addition, in fiscal year 2018, facilities' compliance with each measure ranged as follows:[3]

- Obstetrician-gynecologist consult ordered is documented within 7 business days of identification: 50 to 100 percent (average 80 percent)
- Obstetrician-gynecologist scheduled appointment time documented within 7 business days of identification: 15 to 100 percent (average 75 percent)
- Detainee education documented at each encounter: 0 to 100 percent (average 79 percent)
- Records reviewed by provider after obstetrician appointment: 0 to 100 percent (average 79 percent)
- Appropriate labs ordered if not obtained from obstetrician-gynecologist: 50 to 100 percent (average 79 percent)

Deficiencies, Recommendations, and Corrective Actions for ICE Inspections of Pregnancy-related Detention Standards

Three additional ICE inspections identified 19 findings at 13 facilities related to the care of pregnant women. All of the findings occurred at non-IHSC facilities. Table 12 provides additional information on the findings and corrective actions that facilities reported taking.

[3]If a facility did not self-report its data, it was considered to be non-compliant (zero percent). Two facilities did not report any data in fiscal year 2018, while an additional five facilities did not report information for part of the year, and one facility's information was not reported because the facility closed. When we reported the ranges for each fiscal year in the bulleted list below, we excluded facilities that did not report information in any quarter during the fiscal year, but included facilities that reported information for all or some quarters. This means that some facilities' yearly average may be lower as a result of non-reporting in a quarter. The average for the fiscal year is based upon all facilities' data in all quarters, regardless of whether each facility reported complete data.

Table 12: Deficiencies, Recommendations, and Reported Corrective Actions for U.S. Immigration and Customs Enforcement (ICE) Inspections of Pregnancy-related Care, January 2015 through July 2019

	Inspection finding	Reported corrective actions
Medical care was not provided or offered	Review of a pregnant woman's medical record found that she did not receive a health appraisal within 24 hours of arrival, as required.	The facility directed all medical staff that pregnant women are required to have a health assessment performed immediately.
	This same pregnant woman—who did not receive the health appraisal within 24 hours—was not afforded access to specialized care, including an obstetric evaluation.	The facility educated staff that obstetrician-gynecologist appointments need to be conducted immediately, according with the stage of pregnancy.
	This same pregnant woman was not offered a mental health assessment after a reported miscarriage at a different facility.	The facility instructed medical staff that all documentation pertinent to continuity of care needs to follow a detainee upon transfer to another facility. The facility also requested the medical records from the other facility.
Recommendation to provide additional medical care	ICE Health Service Corps (IHSC) recommended that the facility considering conducting pregnancy testing for all females under age 50.	The facility updated its policy to include required standards and began conducting pregnancy testing for all females under the age of 50.
	IHSC recommended that the facility conduct pregnancy testing for all females under age 50.	The facility began conducting pregnancy testing on all females.
	IHSC recommended that the facility conduct pregnancy testing for all females under age 50.	The facility began conducting pregnancy testing on all women under age 50 within 14 days of arrival.
	IHSC recommended that the facility conduct pregnancy testing for all females between ages 10 and 54.	The facility re-educated staff and incorporated pregnancy testing for females between age 10 and 54 into its intake form.
	IHSC recommended that the facility conduct pregnancy testing for all females of child bearing age.	The facility began offering a pregnancy test to all women under age 50 within 14 days of arrival.
	IHSC recommended that the facility conduct testing for sexually transmitted infections and HIV for all pregnant women.	The facility sends pregnant women to an obstetrician-gynecologist who determines which labs to order.
	IHSC recommended that all pregnant women be referred to an obstetrician specialist within 7 days of arrival and evaluated by an obstetrician within 30 days of arrival.	ICE did not require a corrective action plan for this recommendation because the facility met standards, despite the recommendation.
Insufficient documentation	A review of seven female detainee medical files found that all were questioned about pregnancy during intake screening; however, four files did not document completion of pregnancy tests.	The facility provided remedial training to all medical staff regarding documentation, and compliance is monitored through daily chart review.
	The facility's initial health assessment form did not address pregnancy testing, among other requirements.	The facility updated its intake screening form to include pregnancy testing and other required elements.

	Inspection finding	Reported corrective actions
Insufficient documentation	Medical/psychiatric alert forms were present in 20 of 21 detainee records with medical conditions requiring close care; however, the medical record of a pregnant detainee with a history of methamphetamine use did not have the alert form.	The facility instructed all medical staff to use the alert form in all medical files requiring close care.
	A pregnant woman's medical records were not transferred between facilities, and the paperwork that was transferred did not document her miscarriage.	The facility instructed medical staff that all documentation pertinent to continuity of care needs to follow a detainee upon transfer to another facility. The facility also requested the medical records from the other facility.
Policy did not exist or specify required standards of care	The facility's use-of-force policy did not address several procedures required by the standard, including use-of-force in special circumstances for pregnant detainees.	The facility updated its policy to include all required standards for use-of-force incidents.
	The facility's use-of-force policy did not address use of force in special circumstances, including pregnant detainees.	The facility's policy was revised to comply with the detention standard.
	The facility did not have a policy outlining special precautions to be taken when restraining pregnant detainees.	The facility implemented a policy that specified special precautions to be taken when restraining pregnant detainees.
	The facility's policy did not address special precautions to be taken when restraining pregnant detainees and the policy did not require that medical personnel be consulted prior to restraining pregnant detainees.	The facility did not implement corrective actions to address any of the deficiencies identified during the inspection. As a result, ICE determined that the facility is not appropriate for the detention of ICE detainees.
	ICE recommended that the facility review or create policies for a number of issues, including pregnant women.	The facility began conducting pregnancy testing on all females under age 50, and has taken steps to update its policies.

Source: GAO analysis of ICE information. | GAO-20-330

Notes: Deficiencies indicate non-compliance with applicable detention standards, while recommendations reflect best practices but are not required by detention standards.

These findings are from the following inspections: (1) ICE's Office of Detention Oversight inspections from January 2015 through July 2019, (2) ICE's Enforcement and Removal Operations inspections from January 2015 through March 2019, and (3) ICE Health Service Corp's Field Medical Coordinator inspections from fiscal years 2015 through 2017. We reviewed information that resulted from a total of 854 inspections. All of the findings occurred at facilities not staffed by ICE Health Service Corps.

Appendix VII: Summary of Interviews with Pregnant Women Regarding Their Care in Department of Homeland Security Custody

We interviewed ten pregnant women who were detained at three of the four U.S. Immigration and Customs Enforcement (ICE) facilities we visited, including facilities staffed by ICE Health Service Corps (IHSC-staffed) and non-IHSC facilities.[1] We interviewed an additional four pregnant women at a local shelter in Texas which provides temporary accommodations to those in need of housing after their release from DHS custody. These four women may not have known which agency they had been detained or held by prior to entering the shelter. As a result, their perspectives are listed separately in the table below from the 10 women with whom we spoke at ICE detention facilities. Table 13 summarizes the perspectives of these 14 pregnant women. Although these interviews are not generalizable and may not be indicative of the care provided at all detention facilities, they provided us with perspectives on the care provided to pregnant women. We did not independently verify statements made by these 14 women we interviewed.

[1]We visited four ICE facilities from April 2019 through June 2019, located in California and Texas, during the course of our work. At the time of our site visits, ICE identified a total of 10 pregnant women detained at three of the four facilities. With the consent of these women, we conducted structured interviews to obtain insight into the care they received at their respective ICE facility. According to ICE, these were the only adult pregnant women detained at these facilities during the time of our visits.

Table 13: Perspectives of 14 Pregnant Women Detained or Released from Department of Homeland Security (DHS) Custody

	Perspectives of 10 pregnant women detained at U.S. Immigration and Customs Enforcement (ICE) facilities	Perspectives of four pregnant women released from DHS custody[a]
Pregnancy testing	All 10 stated that they received a pregnancy test when they arrived at the facility or within the same day.	Three of the four women said that they did not receive a pregnancy test. The fourth woman did not state whether she received a pregnancy test but said that she received an ultrasound after stating that she was pregnant.
Accommodations	Nine of the 10 women said that they received appropriate accommodations, such as a lower bunk and blankets. One woman at a non-IHSC facility said that she was frequently cold, and would have liked to have received a sweater, more blankets, and a thicker mattress.	None of the women said that they received appropriate accommodations. For example, all of the women said that they slept on the floor.
Prenatal vitamins	All 10 stated that they received prenatal vitamins.	Three of the four women said that they did not receive prenatal vitamins. One woman said that she did not receive prenatal vitamins because she already had her own.
Nutrition and snacks	Six of the 10 women said that they were provided proper nutrition and snacks. One woman at an IHSC-staffed facility did not discuss the adequacy of the nutrition she was provided. Three women at a non-IHSC facility said that they were not provided adequate nutrition and snacks. For example, two of the women said that they do not receive any snacks, while one stated that she does not receive extra snacks because of her pregnancy.	None of the four women said that they received adequate nutrition and snacks. For example, three of the women said that they did not receive additional food because of their pregnancy.
Medical care	Four of the 10 women identified concerns regarding medical care. For example, two of the women in IHSC-staffed facilities stated that they would like more timely access to an obstetrician-gynecologist appointment, and they did not know when their appointments would occur.[b]	All four of the women identified concerns with medical care. For example, one woman said that officials were dismissive when she requested a visit at the clinic because she felt sick.
Segregation	All 10 of the women stated that they had not been segregated.	All four of the women stated that they had not been segregated.
Restraints	All 10 of the women stated that they had not been placed in restraints.	All four of the women stated that they had not been placed in restraints.

Source: GAO analysis of interviews with pregnant women detained at ICE facilities and after release from DHS custody | GAO-20-330

Notes: Although these interviews are not generalizable and may not be indicative of the care provided at all detention facilities, they provided us with perspectives on the care provided to pregnant women. We did not independently verify statements made by these 14 women we interviewed.

[a]These four women may not have known which agency they had been detained or held by prior to entering the shelter. In some cases, their experiences may reflect being held by U.S. Customs and Border Protection (CBP) at a port of entry or Border Patrol facility prior to being released or transferred to an ICE facility. Specifically, two of the four women reported spending some time at a CBP facility prior to being transferred to an ICE facility, while the other two women were unsure. As a result, their perspectives are listed separately from the 10 women we spoke with in ICE detention facilities.

[b]According to an ICE official, the date and time of the appointments are not disclosed for security reasons.

Appendix VIII: Complaints Regarding U.S. Immigration and Customs Enforcement's and U.S. Customs and Border Protection's Care of Pregnant Women

We analyzed and categorized complaints that detainees, family members, non-governmental organizations, or other parties submitted to various entities from January 2015 through April 2019 regarding U.S. Immigration and Customs Enforcement's (ICE) and U.S. Customs and Border Protection's (CBP) care of pregnant women. Specifically, we reviewed complaints from Department of Homeland Security's (DHS) Office for Civil Rights and Civil Liberties (CRCL), DHS's Office of Inspector General, and ICE Health Service Corps (IHSC). We identified a total of 107 complaints—54 regarding ICE, 50 regarding CBP, and three regarding both ICE and CBP.[1]

Complaints against ICE

We identified 54 unique complaints submitted from January 2015 through April 2019 regarding ICE's care of pregnant women. Each of the 54 complaints may identify more than one area of concern, and as such we identified 104 concerns. The most common concern was that ICE allegedly did not provide medical care or the medical care was not quality or timely.

As previously described in this report, the investigating agency determined that one complaint was substantiated and one complaint was

[1]See appendix I for additional information about how we identified these complaints. These complaints may have been regarding the over 4,600 detentions of pregnant women that we identified in this report, or could have been for pregnant women that were detained before or after our time period. We excluded from our analysis one additional complaint where it was unclear which agency the allegation was being made against.

partially substantiated. The remaining complaints were either still open as part of an on-going investigation,[2] unsubstantiated by the investigating agency, or the complaint was not substantiated or unsubstantiated for a variety of reasons. Table 14 provides additional information on the number and types of concerns identified in the 54 complaints regarding ICE's care of pregnant women.

[2]These complaints were open as of August 2019.

Table 14: Number of Concerns Alleged in Complaints Regarding U.S. Immigration and Customs Enforcement's (ICE) Care of Pregnant Women, by ICE Health Service Corps (IHSC) Presence, January 2015 through April 2019

	Medical provider at facility		
Type of concern	**IHSC-staffed**	**Non-IHSC**	**Total**
Medical care not provided, not timely, or not quality	16	20	**36**
General concerns about the detention of pregnant women	15	6	**21**
Mistreatment (physical, verbal, or other)	2	12	**14**
Accommodations (not provided lower bunk or proper clothing)	5	2	**7**
Use of restraints or segregation	3	4	**7**
All other concerns[a]	11	8	**19**
Total	**52**	**52**	**104**

Source: GAO analysis of complaints from IHSC, Department of Homeland Security Office of Inspector General, and Department of Homeland Security Office for Civil Rights and Civil Liberties (CRCL). | GAO-20-330

Notes: The total number of concerns identified in this table (104) exceeds the number of unique complaints filed (54) because each unique complaint may identify more than one area of concern. This table excludes three complaints that involved both ICE and Customs and Border Protection—one of which was still open as part of an ongoing investigation, and two of which were unsubstantiated. This table excludes one additional complaint where it was unclear which agency the allegation was being made against.

These exclude complaints that did not allege mistreatment or improper care, but rather noted, for example, that a miscarriage or birth had occurred in ICE custody. However, if the complaint alleged that a miscarriage was the result of insufficient care, it was included.

We removed duplicate complaints that were filed with more than one entity so that each complaint was counted once.

These complaints may have been regarding the over 4,600 detentions of pregnant women that we identified in this report, or could have been for pregnant women that were detained before or after our time period.

The investigating agency determined that one complaint was substantiated and one complaint was partially substantiated. The remaining complaints were either still open as part of an on-going investigation, unsubstantiated by the investigating agency, or was not substantiated or unsubstantiated for a variety of reasons.

[a]These concerns involve various allegations, such as potential exposure to disease, personal property taken, medical records not provided, prenatal vitamins not provided, or proper nutrition not provided.

Complaints against CBP

We identified 50 unique complaints submitted from January 2015 through April 2019 regarding CBP's care of pregnant women. Each of the 50 complaints may identify more than one area of concern, and as such we identified 81 concerns. The most common concern was that pregnant women had allegedly been physically, verbally, or otherwise mistreated.

As previously described in this report, the investigating agency determined that one complaint was substantiated. The remaining

complaints were either still open as part of an on-going investigation, unsubstantiated or partially unsubstantiated by the investigating agency, the complaint was not substantiated or unsubstantiated for a variety of reasons, or the complaint described an event that occurred, such as a miscarriage, but did not allege that mistreatment or improper care occurred. Table 15 provides additional information on the number and types of issues identified in the 50 complaints regarding CBP's care of pregnant women.

Table 15: Number of Concerns Alleged in Complaints Regarding U.S. Customs and Border Protection's (CBP) Care of Pregnant Women, by Component, January 2015 through April 2019

	CBP component			
Type of concern	**Border Patrol**	**Office of Field Operations**	**Not specified**	**Total**
Mistreatment (physical, verbal, or other)	13	19	1	**33**
Passport or entry concerns[a]	0	11	0	**11**
Medical care not provided, not timely, or not quality	6	3	0	**9**
Accommodations (temperature too cold, slept on floor)[b]	1	6	2	**9**
Proper nutrition not provided	1	5	0	**6**
All other concerns[c]	5	8	0	**13**
Total	**26**	**52**	**3**	**81**

Source: GAO analysis of complaints from CBP, Department of Homeland Security Office of Inspector General, and Department of Homeland Security Office for Civil Rights and Civil Liberties (CRCL). | GAO-20-330

Note: The total number of concerns identified in this table (81) exceeds the number of unique complaints filed (50) because each unique complaint may identify more than one area of concern. This table excludes three complaints that involved both Immigration and Customs Enforcement and CBP—one of which was still open as part of an ongoing investigation, and two of which were unsubstantiated. This table excludes one additional complaint where it was unclear which agency the allegation was being made against.

These exclude complaints that did not allege mistreatment or improper care, but rather noted, for example, that a miscarriage or birth had occurred in CBP custody. However, if the complaint alleged that a miscarriage was the result of insufficient care, it was included.

We removed duplicate complaints that were filed with more than one entity so that each complaint was counted once.

These complaints may have been regarding the over 4,600 detentions of pregnant women that we identified in this report, or could have been for pregnant women that were detained before or after our time period.

The investigating agency substantiated one of the complaints in this table, while the remaining complaints were either still open as part of an on-going investigation, unsubstantiated or partially unsubstantiated by the investigating agency, or was not substantiated or unsubstantiated for a variety of reasons.

[a]These concerns include allegations, such as a pregnant woman being denied admission to the U.S. because she was pregnant. According to CBP officials, pregnancy is not a factor to be used when determining admissibility.

[b]According to CBP officials, most of their facilities are temperature-controlled.

[c]These concerns involve various allegations, such as potential exposure to disease, personal property taken, medical records not provided, sexual assault, or use of restraints.

Appendix IX: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

March 3, 2020

Gretta Goodwin
Director, Homeland Security and Justice Issues
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Management Response to Draft Report GAO-20-330, "IMMIGRATION DETENTION: Care of Pregnant Women in DHS Facilities"

Dear Ms. Goodwin:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

DHS is pleased to note GAO's recognition that U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) have policies and standards regarding the screening and care of pregnant women. The Department also values GAO reporting on the many actions taken by ICE and CBP to provide pregnant women with appropriate accommodations and levels of care. For example, the draft report mentions aspects of ICE training, screening, transfer, care and treatment, reporting, monitoring, reviews, and inspections specific to pregnant women. The report also notes that ICE inspections of facilities show a high level of compliance with the standards evaluated in the report.

As GAO observed, ICE exercises discretion in making custody determinations on a case-by-case basis, taking into account the totality of circumstances regarding each individual case, unless the alien is subject to mandatory detention. As such, ICE detains pregnant females subject to mandatory detention and whose cases reveal they represent either a flight risk or a danger to the community. ICE custody determinations respecting pregnant women take into account factors such as ties to the community; prior convictions for violent crimes or driving under the influence; whether the alien was able to satisfactorily provide identity documents; and whether the alien has a final order(s) of removal and has not historically abided by the terms of their order(s) of supervision. ICE only detains pregnant women at facilities where they can receive the appropriate accommodations and

prenatal care. Additionally, ICE generally does not detain pregnant women in their third trimester, unless detention is legally required or is necessary for removal, and such removal has been cleared by medical professionals.

ICE prioritizes the health of pregnant women by aligning their care with general medical standards. ICE detention facilities provide on-site prenatal care and education, as well as remote access to specialists for pregnant women who remain in custody. ICE ensures pregnancy services are provided, to include pregnancy testing, routine or specialized prenatal care, comprehensive counseling and assistance, postpartum follow up, lactation services, and pregnancy termination. The medical provider identifies any special needs (e.g., diet, housing, or other accommodations, such as the provision of additional pillows) and informs all necessary custody staff and facility authorities. If a pregnant detainee has been identified as high-risk, that detainee is referred to a physician specializing in high-risk pregnancies, as appropriate.

DHS remains committed to providing appropriate care for all detainees in its custody to promote a safe and secure environment for detainees. As GAO mentioned in its draft report, ICE has numerous ongoing actions to enhance its policies and procedures respecting pregnant women, some of which have recently been implemented. For example, ICE Enforcement and Removal Operations (ERO) completed updates to the National Detention Standards (NDS) in December 2019. ICE's Family Residential Standards have been updated and are undergoing clearance. Additionally, ICE Office of Acquisition Management is processing contract modifications for NDS facilities. Moreover, ICE inspects detention facilities to ensure compliance with applicable detention standards and policies, and ERO will begin inspecting facilities against the updated standards starting in March 2020. Further, ICE Health Service Corps made some additional updates to the Women's Health Directive and Chronic Care Policy that will undergo legal review.

Again, thank you for the opportunity to review and comment on this draft report. DHS previously submitted technical comments under a separate cover for GAO's consideration. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

JIM H. CRUMPACKER, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

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Text of Appendix IX: Comments from the Department of Homeland Security

Page 1

March 3, 2020

Gretta Goodwin

Director, Homeland Security and Justice Issues

U.S. Government Accountability Office 441 G Street, NW

Washington, DC 20548

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Page 2

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Sincerely,

JIM H. CRUMPACKER, CIA, CFE

Director

Departmental GAO-OIG Liaison Office

Appendix X: GAO Contact and Staff Acknowledgments

GAO Contact

Gretta L. Goodwin at (202) 512-8777 or goodwing@gao.gov

Staff Acknowledgments

In addition to the contact named above, Dawn Locke (Assistant Director), Tracey Cross (Analyst-in-Charge), Hiwotte Amare, David Bieler, Christine Davis, Elizabeth Dretsch, Kelsey Griffiths, Eric Hauswirth, Sasan J. “Jon” Najmi, Sean Sannwaldt, and Adam Vogt made key contributions to this report.

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