

Congress of the United States
Washington, DC 20515

August 10, 2005

05-1211

The Honorable David M. Walker
Comptroller General of the United States
Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Walker:

We write to respectfully request that the Government Accountability Office (GAO) expeditiously conduct an audit of the Department of Homeland Security's implementation of detention standards for aliens in its custody pending civil administrative immigration removal proceedings. Enacted in 2001 by the Immigration and Naturalization Service (INS), the detention standards apply to the more than 200,000 detainees held each year at approximately 300 facilities nationwide. The majority of the 300 facilities are state and county jails contracted by the Department. It is our understanding that the Department only owns and operates about nine civil Service Processing Centers for detainees.

The standards were designed to facilitate uniformity in detainees' access to counsel as well as safe and secure conditions of confinement. There are over 36 detention standards encompassing a full range of issues including access to counsel, religious services, medical care, and recreation.¹ These standards were promulgated as agency guidelines rather than binding regulations. As such, their implementation and enforceability has been limited. Additionally, the Department purportedly has insufficient full-time staffing to monitor the implementation of its standards on a system-wide basis. INS had requested resources for about 80 monitors but only received 10 additional resources. Finally, the Bureau of Prisons reportedly refuses to allow its facilities, even those holding immigration detainees, to be governed by these standards.

¹The Standards are available at <http://www.ice.gov/graphics/dro/opsmanual/index.htm>.

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*Gambor, Keppenger,
Gibson, Montgomery,
Down, Malenick*

for Larry Malenick

Ammerlin
Aug 23, 2005

In carrying out this review, we recommend that the GAO focus on the following areas:

- 1) Changes in the staffing levels the Department has devoted to implementation of the standards, including efforts to provide sufficient guidance and training to personnel on the standards;

- 2) Description of the Department efforts and methodologies used to evaluate and oversee the implementation of standards, including data-gathering, site inspection, interviews with facility staff and detainees and a comparison to best practices in monitoring undertaken American Correctional Association (ACA), Bureau of Prisons (BOP) and other correctional agencies;

- 3) Providing summary analyses or conclusory observations of compliance with the various standards based on written reports on the implementation of standards and complaints, if any, compiled by the Department and the Immigration and Customs Enforcement (ICE) and other entities such as the American Bar Association (ABA), the United Nations High Commissioner for Refugees (UNHCR), or other available sources;

- 4) A statistical analysis of complaints by detainees concerning or pertinent to the standards available at the Department and ICE headquarters, the ABA and UNHCR; and

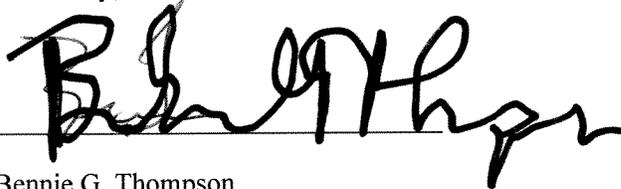
- 5) Details of efforts undertaken, if any, by the Department to terminate or modify contracts or provide waivers to state and local jails and private prisons holding immigration detainees in cases where the facilities fail to comply or are incapable of implementing the standards.

GAO's audit is both timely and sorely needed considering that members of Congress have received an increasing number of serious complaints pertaining to the treatment of immigration detainees. Additionally, we are not aware that the Department or ICE has ever been subject to an independent review of its policies and practices concerning implementation of detention standards.

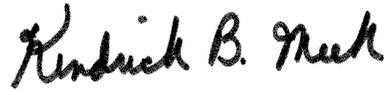
Through this audit, which could be more expeditiously conducted primarily in Washington, D.C. at The Department and ICE headquarters, GAO would be able to make a meaningful contribution to ensuring the safe and secure treatment of the burgeoning population of over 200,000 immigration detainees, the fastest growing segment of the incarcerated population. We would hope that this engagement effort could be completed as soon as practicable since it clearly could inform our legislative approach to these issues.

Thank you for your attention to this matter. If you have any questions regarding this request, please contact Charles Michael Johnson or Sue Ramanathan with the House Homeland Security Committee Democratic staff at (202) 226-2616.

Sincerely,



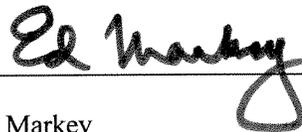
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Ranking Minority Member
Homeland Security Committee



Kendrick Meek
Ranking Minority Member
Subcommittee on Management,
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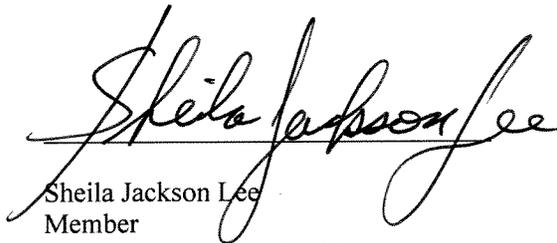
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Ranking Minority Member
Subcommittee on Intelligence, Information
Sharing, and Terrorism Risk Assessment



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Eleanor Holmes Norton
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Committee on Homeland Security



Sheila Jackson Lee
Member
Committee on Homeland Security