



Immigration Detention in the United States by Agency

Noncitizens apprehended at the border or in the interior of the United States can be detained by one or more government agencies before or during their immigration proceedings. Certain aspects of detention can vary greatly depending on the agency with custody of the noncitizen.

This fact sheet describes the populations, duration, and conditions for noncitizens detained in the United States by the following departments: Department of Homeland Security (DHS), Department of Health and Human Services (HHS), and Department of Justice (DOJ). Each of these departments govern agencies that detain noncitizens. U.S. Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) are within DHS, Office of Refugee Resettlement (ORR) is within HHS, and U.S. Marshals Service (USMS) is within DOJ.

Detention by U.S. Customs and Border Protection

Who Runs CBP Facilities?

Within CBP, the Border Patrol detains noncitizens who entered without inspection by an immigration officer and transfers them to stations and processing centers. The Office of Field Operations (OFO) determines whether noncitizens encountered at ports of entry have proper immigration status to enter the United States. If not, officers can deem such noncitizens inadmissible.¹ Those deemed inadmissible are either detained or permitted to withdraw their application for admission and leave the country. CBP runs all the facilities, although contractors may provide food or other services.

Who Does CBP Detain?

CBP detains all individuals (adults and children) apprehended between ports of entry or deemed inadmissible at a port of entry. Most of the people detained by Border Patrol or OFO are at or near the border, but a smaller number of people who enter the United States through an airport may be detained there as well.²

In the first 11 months of fiscal year (FY) 2019, Border Patrol apprehended 859,501 people after entering between ports of entry, of which 851,508 entered at the U.S.-Mexico border. During the same period, OFO deemed inadmissible an additional 288,523 people who presented at official entry points.³ Of these, 126,001 had presented on the U.S.-Mexico border while the remainder presented at the U.S.-Canada border, airports, or seaport.⁴

How Long Are People Held by CBP?

By law, CBP must transfer unaccompanied children to the custody of the ORR within 72 hours “except in the case of exceptional circumstances.”⁵ Additionally, the National Standards on Transport, Escort, Detention, and Search (TEDS)⁶, which govern CBP detention, require that “[e]very effort must be made to hold detainees for the least amount of time required for their processing, transfer, release, or repatriation as appropriate and as operationally feasible,” and that people “should generally not be held for longer than 72 hours.”⁷

However, a survey of 200 families held in CBP detention between May and July 2019 found that 48 percent were detained for greater periods of time.⁸ Similarly, the Department of Homeland Security Office of Inspector General (OIG) reported that during a June 2019 inspection of five CBP facilities in the Rio Grande Valley, 31 percent of minors had been held longer than 72 hours.⁹ The OIG also reported that single adults encountered during the same inspection had been held for over a month in overcrowded cells.¹⁰

What Are the Conditions Inside CBP Facilities?

CBP detains adults and children in two types of holding areas. The first type are cement cells commonly described as “iceboxes” by those detained there because of their frigid temperatures. The second type are commonly called the “dog pound” because of their chain-link fencing. Over the course of 2019, reports emerged of CBP detaining some families and children outside for weeks at a time, including under bridges and in makeshift open-air tents.¹¹

Noncitizens held in CBP facilities often report experiencing frigid temperatures; unsanitary conditions; a lack of bedding; and inadequate food, water, medical care, and hygiene items.¹² The OIG reported multiple violations of the TEDS requirements for showers, religious dietary accommodations, and hot meals for children.¹³ Noncitizens reported quarantines, denial of treatment for serious medical conditions, and inadequate access to doctors and medication.¹⁴ A number of children and adults died in CBP custody in FY 2019.¹⁵

The Flores Settlement Agreement of 1997 aims to address these conditions. The agreement is the result of *Flores v. Reno*, a class action lawsuit challenging the government’s treatment of children in federal immigration custody. The settlement requires that facilities detaining children must be “safe and sanitary.”¹⁶ Flores also details minimum standards for food, water, bedding, temperature, and hygiene.¹⁷ However, a federal district court overseeing the implementation of the agreement has repeatedly determined that CBP does not meet these standards.¹⁸

What Access to Legal Services Is Available Inside CBP Facilities?

Individuals held in CBP custody have limited access to legal counsel. The TEDS standards leave the right to a phone call to the discretion of local CBP offices.¹⁹ As a result, many noncitizens in custody have no way to contact family or lawyers. The government does not provide a way for people to find out where a loved one is being held. This leads some individuals to effectively disappear inside CBP custody for days or weeks.

Attorneys are not allowed access to CBP facilities even though proceedings in CBP custody can have a profound impact on a person's immigration case. While in CBP custody, noncitizens must make statements with legal implications and many noncitizens report feeling pressured to sign legal documents in English that they do not understand. In 2018, some parents who were separated from their children reported that CBP agents told them they would never see their children again if they did not sign papers. The papers turned out to be documents renouncing the parents' right to reunify with their child prior to deportation.²⁰

Detention by Immigration and Customs Enforcement: Adults and Families

Who Runs ICE Facilities?

ICE uses a variety of facilities to detain noncitizens. These include state and federal prisons, private detention centers, hotels, and even hospitals.²¹ ICE can sometimes avoid federal procurement rules by contracting with state or local governments who then contract with private companies to operate their facilities.²² The majority of noncitizens in ICE custody are held in the following facilities:²³

- **Service Processing Centers (SPCs):** ICE owns these facilities but generally contract staff operate them. SPCs held 9 percent of the ICE population at the end of 2017.²⁴
- **Contract Detention Facilities (CDFs):** Private prison companies own and operate these facilities. CDFs held 19 percent of the ICE population at the end of 2017.²⁵
- **Non-Dedicated Intergovernmental Service Agreements (IGSAs):** City or county jails with some bed space reserved for individuals in ICE custody. IGSAs held 25 percent of the ICE population at the end of 2017.²⁶
- **Dedicated IGSAs (DIGSAs):** Local governments own these facilities which only house individuals in ICE custody. DIGSAs held 28 percent of the ICE population at the end of 2017.²⁷
- **U.S. Marshals Service Intergovernmental Agreement (IGAs):** Local governments own these facilities which house some individuals who are in ICE and other who are in USMS custody. IGAs held 19 percent of the ICE population at the end of 2017.²⁸

Who Does ICE Detain?

After a noncitizen is processed by CBP at or near the border, the government can transfer the individual to ICE custody. Other noncitizens are detained in the interior by ICE directly.

Unlike the other agencies, ICE maintains an online detainee locator system that family, friends, and attorneys can use to find someone in its custody.²⁹ As of December 9, 2019, 43,826 noncitizens were detained in over 100 facilities.³⁰ ICE detains adults and families.³¹

Detention by Immigration and Customs Enforcement: Adults

How Long Are Adults Held by ICE?

As of December 9, 2019, individuals were held in ICE custody for an average of 55 days.³² Time spent in detention is longer for those held for the duration of their immigration court proceedings. In FY 2019, the average detained immigration case took 46 days.³³ This does not count the period that a person was in ICE detention prior to the start of the case.³⁴ However, noncitizens who are deported within a short time frame skew this data.

Across the country, noncitizens who are detained while defending themselves against deportation in immigration court are routinely held for longer than six months.³⁵ For example, data produced as a result of a 2013 class action lawsuit on behalf of noncitizens detained in California found that noncitizens who applied for relief from removal were held in California ICE detention centers for an average of 421 days.

What Are the Conditions Inside ICE Facilities for Adults?

The National Detention Standards (NDS) or the 2008 or 2011 version of the Performance-Based National Detention Standards (PBNDS) govern the standards for ICE detention, depending on the facility.³⁶ These standards are non-binding as they are not law. Advocates frequently report egregious violations of these standards, and DHS frequently cites cost as their reason for non-compliance.

There are numerous examples of poor conditions in ICE detention. An administrative complaint filed by the American Immigration Council in 2018 regarding conditions within ICE's Denver Contract Detention Facility details delays in calling 911, denial of treatment for serious medical conditions, and inadequate mental health care.³⁷ The OIG has released multiple reports confirming deficient conditions in ICE detention centers.³⁸ A nationwide class action lawsuit challenged DHS' use of segregation as punishment and its failure to ensure noncitizens in ICE custody receive disability accommodations, medical care, and mental health care.³⁹ Congress has debated various bills intended to address conditions for noncitizens held in immigration detention.⁴⁰

What Access to Legal Counsel Is Available Inside ICE Facilities?

Facilities are often located in very remote locations throughout the U.S. where access to an attorney is near impossible. Of noncitizens held in ICE custody in FY 2015, 48 percent were detained in at least one facility that was at least 60 miles from the nearest nonprofit immigration attorney who practiced removal defense.⁴¹ Noncitizens in detention also struggle to access documents and witnesses and are less likely to win their case than those who are not detained.⁴²

Detention by Immigration and Customs Enforcement: Families

Who Runs Family Detention Facilities?

The Artesia Family Residential Center opened in June 2014 in Artesia, New Mexico and closed in December of the same year.⁴³ The government transferred many of the detained families to two detention centers it opened

in Texas: the South Texas Family Residential Center in Dilley Texas (“STFRC,” capacity 2400) and the Karnes County Residential Center in Karnes City, Texas (“Karnes,” capacity 830). As of December 2019, both are still in operation, along with Berks County Residential Facility (“Berks,” capacity 96), in Berks County, Pennsylvania. The STFRC and Karnes are run by the private prison corporations CoreCivic (CCA) and the GEO Group respectively. Berks is run by the local county government.

Who Is Detained?

The STFRC accepts only mothers with children. At different times, Karnes held mothers with children and fathers with sons. At any given time, Berks may hold male-headed families, female-headed families, or both.⁴⁴ Families arriving to the United States together are often separated—fathers and children over 18 are sent to adult detention and mothers and minor children are sent to the STFRC.

How Long Are Families Detained?

The Flores Settlement Agreement prevents the government from detaining children in unlicensed facilities for more than 20 days. Nevertheless, none of the three detention facilities that are currently used to detain families are licensed. Most families are sent to these family detention centers to undergo credible or reasonable fear interviews, the screening interviews that asylum seekers are often required to pass in order to proceed with their case in immigration court.⁴⁵ In recent years and due to Flores, families that received positive results from their interviews were released after two or three weeks to wait for their court hearing. However, detention lasted months for certain families, including at least 37 families detained in 2018 after being separated and then reunified.⁴⁶ The Trump administration has repeatedly attempted to eliminate the Flores Settlement’s limitations on detaining children.⁴⁷

What Are the Conditions Inside Family Detention Facilities?

Family detention centers are required to follow the Family Residential Standards (FRS) published by ICE. These standards provide guidance for safety, security, order, care, activities, justice, administration, and management.⁴⁸ Advocates regularly report violations of the FRS. Medical care wait times are often prohibitive, and families seeking appointments are turned away.⁴⁹ No medical specialists are available on-site, and children and mothers—including pregnant women—have been denied access to necessary cardiologist, oncological, and gynecological appointments.⁵⁰ Many children show signs of depression, including despondency and refusal to eat.⁵¹ Children also display behavioral regression, or returning to behaviors they had previously outgrown such as biting, separation anxiety, wetting the bed, and a need to be carried.⁵²

What Access to Legal Counsel Is Available Inside Family Detention Facilities?

There is a separate pro bono legal project in each of the three facilities used to detain families that attempt to provide free representation to people that need it. However, all three projects report barriers to their clients accessing their legal rights while in detention. Families with strong claims to asylum can fail interviews due to PTSD, illness, distraction while caring for a child, inability to contact family members for evidence, or fear of disclosing details.⁵³ These families then face deportation without a full court hearing.

There is an option for a limited review of the negative decision, but they may be conducted by video teleconference and immigration judges often deny attorneys and noncitizens the opportunity to speak.⁵⁴ Technical problems with video and sound create due process concerns for detained families who cannot always hear the judges, cannot communicate in private with their attorneys during hearings, and at times must wait for hearings to be rescheduled due to technical difficulties.⁵⁵

Advocates repeatedly call for the release of families to ensure their fair day in court outside detention.⁵⁶ Government data indicates that noncitizens and families generally appear in court for their scheduled hearings after release.⁵⁷

Alternatives to ICE Detention

ICE has the discretion to release noncitizens on bond, parole, or their own recognizance at no cost to the government. Many noncitizens who are released are subject to the conditions of an alternative to detention (“ATD”) program. These programs have a low average cost of \$4.33 per day compared to \$139.07 for adult detention and \$319.37 for family detention.⁵⁸ As of December 9, 2019, ICE reported a total of 93,094 people enrolled in some alternative to detention program.⁵⁹

Who Runs These Programs?

A variety of options are available for ICE to release someone instead of detaining them. These options include parole, bond, release on recognizance, and order of supervision.⁶⁰ Sometimes, release comes under certain monitoring requirements.

ICE contracts with Behavioral Interventions Incorporated (BI)—a subsidiary of the GEO Care division of the GEO Group prison corporation—to run its Intensive Supervision Appearance Program (ISAP III). BI uses electronic ankle monitors, voice recognition software, unannounced home visits, employer verification, and in-person reporting to monitor participants.⁶¹ Advocates argue that the government should contract with nonprofit organizations instead of private corporations to run alternatives to detention programs.⁶²

How Long Do People Have to Fulfill Program Requirements?

Noncitizens are subject to conditions of release until their immigration court proceedings are over or ICE chooses to release them from the ATD program. As of November 2, 2019, the average time that an individual had been successfully enrolled in an ATD program was 582.3 days.⁶³ Requirements may be loosened according to ICE discretion as noncitizens demonstrate they are compliant and not a flight risk.⁶⁴

What Is it Like to Live with These Requirements?

While these alternative programs may seem better than detention, there are many concerns with how ATD programs function. Participants can live with family members, be active in their community, and work if they have the legal authorization to do so. However, travel to the nearest ICE field office can be challenging and

expensive. Frequent appointments combined with the stigma of ankle monitors can make day-to-day tasks more difficult. Furthermore, current programs prioritize enforcement instead of educating noncitizens on community resources and their legal responsibilities.⁶⁵

What Access to Legal Counsel Is Available Through These Programs?

Noncitizens are likely to have better access to attorneys, documents, and witnesses to work on their legal cases outside detention. However, advocates argue that current alternatives to detention focus too much on surveillance and not on providing individualized services to help noncitizens understand their legal process. Attorney referrals and legal orientation are not provided by the programs.⁶⁶

Many propose a return to the Family Case Management Program, which ran from January 2017 to June 2018. The program achieved a 99 percent attendance rate at court hearings and ICE check-ins at a cost of \$38 per family per day. The program did not require ankle monitors and provided connections to low-cost attorneys and community resources.⁶⁷

Detention by Office of Refugee Resettlement: Permanent Shelters

Who Runs ORR Permanent Shelters?

ORR contracts with non-profit organizations and for-profit companies to provide care for noncitizen children. There are approximately 170 such programs around the country.⁶⁸ These organizations place children in shelters, group homes, foster care, or other secure or therapeutic facilities.⁶⁹

Who Does ORR Detain in Permanent Shelters?

Children under 18 years old who arrive alone or are separated by CBP from the adult with whom they were traveling are referred to by the government as “unaccompanied alien children” or “UACs” and are held in ORR custody. Separations can occur if the child is traveling with a non-parent family member or family friend, or if the government suspects that the parent has any criminal history—even a history of minor, non-violent offenses.⁷⁰

Minors who turn 18 while in ORR custody are transferred to DHS, which is required by law to “consider placement in the least restrictive setting available.”⁷¹ However, DHS transferred to ICE custody two-thirds of the 1,531 children who aged out of ORR custody between April 2016 and February 2018.⁷²

In FY 2019, the number of children in ORR custody rose above 14,000 for the first time in the agency’s history.⁷³ As of September 2019, approximately 5,000 unaccompanied minors were in ORR custody.⁷⁴

How Long Are Minors Held in ORR Permanent Shelters?

The Flores Settlement requires ORR to release unaccompanied minors to a sponsor without unnecessary delay. Detention is only required when needed to ensure appearance in court or to protect the minor or others’ safety.⁷⁵

ORR policy is to release minors in a “safe, efficient, and timely manner.” While the minor is in custody, the government completes a list of steps that include sponsor interviews, verification of identity, background checks, and—in some cases—home studies.⁷⁶

In May 2018, CBP, ICE, and ORR entered into an agreement mandating continuous information sharing on unaccompanied minors.⁷⁷ The memorandum also added a requirement that all adult members of a sponsor’s household be fingerprinted.⁷⁸ ICE later admitted that at least 330 sponsors, potential sponsors, or members of their household had been detained based on the information sharing.⁷⁹ These changes created a chilling effect for potential sponsors. This led to an increase in time unaccompanied minors spent in custody.⁸⁰

In November 2018, the average length of stay reached a high of 93 days.⁸¹ In December 2018, ORR announced limitations on the information-sharing policy.⁸² By August 2019, the average length of stay had decreased to 50 days.⁸³

What Are the Conditions Inside ORR Permanent Shelters?

The Trafficking Victims Protection Reauthorization Act (TVPRA) requires that ORR place minors in “the least restrictive setting” possible.⁸⁴ Additionally, the Flores Settlement requires that permanent facilities meet strict licensing requirements.⁸⁵

Standards set by the Flores Settlement require licensed facilities to provide medical and dental care, food, clothing, and personal grooming items. Facilities must also provide educational services, recreation and leisure time, counseling, acculturation and adaptation services, religious services, family visitation, privacy, and legal services to unaccompanied minors.⁸⁶ Many ORR shelters follow these standards and provide a high level of care to the children under their custody. Despite these standards, HHS indicated in May 2019 its intent to limit services “that are not directly necessary for the protection of life and safety” by cutting educational services, legal services, and recreational equipment.⁸⁷

Some facilities also reportedly fail to provide adequate medical services.⁸⁸ A September 2019 OIG report found significant challenges to providing mental health services in ORR facilities.⁸⁹ Facilities had difficulty hiring and retaining qualified mental health clinicians. This resulted in high caseloads, difficulty accessing external specialists, and difficulty transferring children who needed higher levels of care to residential treatment facilities.⁹⁰ The OIG also reported the administration of prescription psychotropic drugs without parental permission.⁹¹ Additionally, children and staff reported at least 1,000 incidents of sexual abuse per year in ORR facilities during FYs 2015-2018.⁹²

What Access to Legal Counsel Is Available Inside ORR Permanent Shelters?

Most unaccompanied minors receive Know Your Rights presentations while in custody. Many sponsors receive a similar presentation upon reunification with the child. While these presentations include information on securing legal services, limited funding means they do not guarantee representation.

Congress has directed HHS to ensure access to legal services “to the greatest extent practicable.”⁹³ Many unaccompanied minors still go through part or the entirety of their immigration proceedings without an attorney.⁹⁴ ORR provides grants through the Unaccompanied Children Program to a network of legal service providers.

Detention by Office of Refugee Resettlement: Temporary Influx Shelters

Who Runs ORR Temporary Influx Shelters?

In 2014, the United States started receiving unprecedented numbers of unaccompanied minors at the southern border. ORR responded by opening temporary influx shelters. ORR policy states that it may “open an influx care facility when ORR’s operational capacity is at or exceeds 85 percent for a period of three days.”⁹⁵ These shelters are not licensed, and are intended to hold large numbers of unaccompanied minors for short periods of time during an influx of arrivals. As of November 2019, there were no children detained in influx shelters. Yet the option remains available to the government.

The first ORR temporary influx shelter opened in April 2016. The Homestead Temporary Shelter for Unaccompanied Children in Florida held 3,200 minors at its peak.⁹⁶ Comprehensive Health Services Inc., a private subsidiary of Caliburn International,⁹⁷ operated the Homestead shelter. Homestead was vacated in August 2019 and closed in November 2019.⁹⁸

In June 2018, ORR opened the Tornillo Influx Facility in Texas. The facility held 2,800 unaccompanied minors by December. The non-profit BCFS Health and Human Services operated Tornillo until the facility closed in January 2019.⁹⁹

In the summer of 2019, another influx shelter operated briefly in Carrizo Springs, Texas.¹⁰⁰ BCFS Health and Human Services also operates Carrizo Springs.¹⁰¹ The facility remains ready to receive minors if the government chooses to use it again.

Who Does ORR Detain in Temporary Influx Shelters?

ORR placement criteria require children held in influx shelters to be 13 or older, speak English or Spanish, not have special needs, and not be pregnant or parenting.¹⁰² However, children with a different first language who speak Spanish as a second language—including those with very limited Spanish—were held in these facilities.¹⁰³

How Long Are Minors Held in ORR Temporary Influx Shelters?

The Flores Settlement requires children to be placed in a state-licensed facility within 5 days, except “in the event of an emergency or influx of minors into the United States,” in which case they must be placed “as expeditiously as possible”.¹⁰⁴ ORR has stated that only minors who are expected to be released to a sponsor within 30 days will be placed in an influx shelter.¹⁰⁵

In March 2019, the average length of stay at Homestead for minors who had already been released was 52 days, with some children detained for as long as 200 days.¹⁰⁶

What Are the Conditions Inside ORR Temporary Influx Shelters?

ORR policy states that temporary influx shelters “may not be licensed or may be exempted from licensing requirements.”¹⁰⁷ Advocates and child welfare experts have denounced these facilities’ large, institutional environment. The shelters have strict rules and schedules, limited personal relationships between children and staff, and suffer from overcrowding. As many as 144 children stay in one dorm room.¹⁰⁸ Influx shelters do not have the same educational requirements as permanent facilities. Reports detail large class sizes, uncertified teachers and curriculum, and noisy open-air classrooms.¹⁰⁹

What Access to Legal Counsel Is Available Inside ORR Temporary Influx Shelters?

ORR’s published policies state that unaccompanied minors in temporary influx shelters will be provided with “legal services information, including the availability of free legal assistance, [and] the right to be represented by counsel at no expense to the government.”¹¹⁰ However, attorneys report that requests for access to the Carrizo Springs facility were significantly delayed.¹¹¹ Although the Flores Settlement requires facilities to provide access to private phone calls, phones are often located in public areas within these facilities.¹¹²

ORR handled case management for some children remotely instead of in-person at Homestead and Carrizo Springs.¹¹³ Some children reported that their case managers rarely meet with them and delay the reunification process with their sponsor.¹¹⁴

Detention by U.S. Marshals Service

USMS maintains custody of individuals charged with federal crimes. While most immigration law violations are civil in nature, a small number can result in criminal charges. The most common immigration-related prosecutions are for illegal entry or illegal reentry under 8 U.S.C. § 1325 and 1326, respectively.¹¹⁵ Immigration enforcement accounted for nearly 77 percent of USMS’s requested budget increase for program changes in FY 2018.¹¹⁶

Who Runs USMS Facilities?

Instead of having its own detention facilities, USMS contracts with third parties to house people in its custody. Of those in USMS custody in FY 2018, 65 percent were detained in state or local facilities, 18 percent were in private facilities, and 17 percent were in the Bureau of Prisons (BOP) system.¹¹⁷ The Obama administration directed the Bureau of Prisons to decline to renew or decrease the scope of contracts with private prisons, but the Trump administration rescinded this order in 2017.¹¹⁸ In FY 2018, it cost an average of \$90 per day to hold each individual in USMS custody.¹¹⁹

Who Does USMS Detain?

If a noncitizen enters the United States without inspection or is deemed to have engaged in any other violation of U.S. federal law, CBP or ICE can choose to refer the individual to a U.S. attorney's office for prosecution for the federal offense. If noncitizens are referred for federal prosecution in this manner, they are separated from any children they were traveling with and transferred from CBP custody to USMS custody pending trial.¹²⁰

The United States' obligations as a party to the 1967 Protocol Relating to the Status of Refugees prohibit it from imposing penalties on refugees for having entered the country illegally.¹²¹ However, in 2015, the OIG found that the Border Patrol did not have guidance on whether to refer for prosecution noncitizens who had expressed fear.¹²²

How Long Are People Held by USMS?

Most noncitizens prosecuted after being apprehended at the border are convicted of minor offenses and are given short sentences, often the time they had already spent in USMS custody.¹²³ The government should directly transfer those with short sentences to ICE custody as soon as their sentences are complete. However, noncitizens have been held in USMS custody up to six weeks past their release dates.¹²⁴

What Are the Conditions Inside USMS Facilities?

The USMS has specific detention standards governing the administration, health care, security, food, safety, sanitation, services, and programs within detention facilities holding people in its custody.¹²⁵ However, conditions and standards vary widely depending on the type of facility USMS has contracted.

BOP facilities must adhere to additional federal policies.¹²⁶ In contrast, USMS has often exercised minimal oversight for contracts with private facilities, some of which have long records of egregious conditions. For example, a government audit concluded that the USMS official responsible for monitoring the Leavenworth Detention Center was spending very little time at the detention center.¹²⁷ The official was also unaware that the facility was adding a third bed in cells meant for two people.¹²⁸ Other reports indicate that women in USMS custody were shackled to the bed during or immediately after childbirth.¹²⁹ This practice increases the risk of blood clotting, falls, and delays in transfer to the emergency room.¹³⁰

What Access to Legal Counsel Is Available Inside USMS Facilities?

Unlike in civil proceedings, all citizens and noncitizens in criminal proceedings have a right to a court-appointed attorney. This representation is limited to the criminal aspects of a case, however, and does not extend to immigration defense. Additionally, in many locations along the border, noncitizens meet only briefly with a court-appointed attorney before being sentenced for immigration-related crimes in mass hearings. Nearly 90 percent of people pled guilty in these mass proceedings.¹³¹ This can result in the loss of a fair opportunity to present a defense.¹³²

Endnotes

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