

# Evaluating Transparency During ICE Detainee Record Disposition

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*In December 2019, the National Archives and Records Administration (NARA) approved an Immigration and Customs Enforcement (ICE) Schedule DAA-0567-2015-0013 request for disposition of detainee records that included sexual assault and abuse allegation information. Despite receiving a record number of objections, NARA did not change the temporary status of the documents in question. This essay examines ICE record creation and NARA record handling policies, as well the Freedom of Information Act's role in the transparency of both entities.*

In December 2019, the National Archives and Records Administration (NARA) approved an Immigration and Customs Enforcement (ICE) Schedule DAA-0567-2015-0013 request for disposition of detainee records that included sexual assault and abuse allegation information.<sup>1</sup> As part of NARA's attempt to achieve transparency, public review and comment on these schedules forms a critical part of the agency's consideration process, and DAA-0567-2015-0013 received an unprecedented amount of feedback. After weighing the practicality of long-term record preservation and other ways to access the material against potential litigative needs of individuals, NARA did not change the temporary status of the records in question. While the agency's decision seems logical, concerns about disposal of sensitive and difficult to access records speaks to the complexity of the problem. In addition to the controversiality of record disposal, record creation and access at immigration detention centers is potentially problematic.

Records Schedule DAA-0567-2015-0013 contains eleven sets of temporary records. Sequence 0001 is particularly controversial and is defined as follows:

Records relating to sexual abuse and assault between detainees as well as by employees, contractors, or volunteers against detainees. Records include, but are not limited to statistical data on sexual assaults,

information papers, case summaries, and extracts of pertinent information.

This record set was reported unavailable in any other electronic format.<sup>2</sup>

Schedule DAA-0567-2015-0013 was originally proposed to NARA in October 2015. After the Archives published notice of the pending schedule in the *Federal Register* in July 2017, the agency received a record number of public comments. In June 2019, NARA consolidated the comments and published them with a revised schedule and appraisal memorandum on regulations.gov, where the public was given forty-five days to comment specifically about items proposed for disposition.<sup>3</sup>

To summarize the interaction, NARA reported considering multiple congressional letters, UltraViolet and American Civil Liberties Union petitions, phone calls, and other written feedback. The response countered concerns that records were needed for ICE accountability, government transparency, research, and future litigation.<sup>4</sup> Though the agency adjusted the retention period from twenty to twenty-five years to ensure protection of legal rights and interests, NARA ultimately determined the temporary status of Sequence 0001 records was appropriate, largely because the extended retention period was in excess of the minimum time established by Federal regulation.<sup>5</sup> NARA also upheld the regulation that protected records required to fulfill Freedom of Information Act (FOIA).<sup>6</sup>

## Federal Records and NARA's Role in Record Management

In 2014, public law broadened the definition of federal record to include all recorded information received by a federal agency regardless of form.<sup>7</sup> The legislation clarified the requirement for federal agencies to establish economical record management programs under the Federal Records Act (FRA).<sup>8</sup> Programs are established in conjunction with NARA, which has authorization

to establish and operate record centers, develop facility standards, and manage disposition.<sup>9</sup> The Archive relies on eighteen Federal Record Centers (FRCs) that use a fee-for-service model to store and provide access to more than 29 million cubic feet of material.<sup>10</sup> Because disposition constitutes a key part of the record management process, federal agencies must develop a schedule for permanent record storage or disposition at an FRC.<sup>11</sup> Additionally, record content must be studied at agency level.<sup>12</sup>

## ICE Sexual Abuse and Assault Record Standards

Within the Department of Homeland Security (DHS), ICE is the only entity with detention facilities.<sup>13</sup> In the last two decades, the average daily population (ADP) among all facility types has grown from 7,500 to more than 38,000 detainees.<sup>14</sup> In detention centers, the records in question are created in accordance with a series of standards.

National Detention Standards (NDS) were established in 2000 to define confinement conditions in ICE centers.<sup>15</sup> NDS evolved to Performance-Based National Detention Standards (PBNDS) in 2011 when the DHS focused on detainee safety outcomes. The following year, a series of ICE and DHS-derived initiatives formed the basis for Agency Directive 11062.1; Sexual Abuse and Assault Prevention and Intervention (SAAPI).<sup>16</sup> This order established procedures to prevent, report, and track abuse and assault allegations and ensured there was a protocol for management of multiple report types.<sup>17</sup>

Abuse allegation management standards were revisited in 2014, when President Obama issued a Memorandum requiring federal agencies to apply Prison Rape Elimination Act (PREA) standards to immigration facilities.<sup>18</sup> In response, the DHS produced the regulation, “Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities,” which built upon existing assault and abuse policies, outlined reporting protocols, and required detention facilities to maintain abuse data for at least ten years.<sup>19</sup> These new standards were also implemented in SAAPI Policy No. 11062.2 via a requirement for thorough responses to allegations at detention facilities that have yet to upgrade to DHS PREA.<sup>20</sup>

According to the Fiscal Year 2017 progress report, ICE implemented PBNDS 2011 standards at thirty-one facilities, or nearly 60 percent of its ADP. At the same time, DHS PREA Standards were said to be binding at thirty-eight facilities that house 67 percent of FY 2017 ADP.<sup>21</sup>

## ICE Record Collection and Maintenance

Sexual Abuse and Assault Prevention and Intervention (SAAPI) requires full incident files to be maintained in a secure offsite

location. Second copies are to be expunged of law enforcement sensitive information and maintained in an on-site incident reporting system.<sup>22</sup> The records currently subject to disposal are maintained in the Sexual Abuse and Assault Prevention and Intervention Case Management (SAAPICM) system.<sup>23</sup>

To facilitate data collection for internal use, the DHS developed the Significant Event Notification system (SEN). This reporting and law enforcement intelligence transmission system allows field agents to produce Significant Incident Reports (SIRs) that contain brief narratives, as well as the suspect and victim’s biographical, citizenship, and residency information. As noted in the 2010 Department of Homeland Security privacy risk assessment, ICE supervisors may review SIRs before submission to ensure accuracy. However, these reports are not used for evidence or to make decisions that will affect individuals.<sup>24</sup> For these purposes, the agency often relies on Joint Integrity Case Management (JICMS) system records, which include information from resources and officials beyond ICE law enforcement.<sup>25</sup>

SIRs remain in the SEN system for twenty-five years and are transferred to an FRC for fifty years before they are destroyed. The DHS has assigned temporary status to this information because longer retention violates the Fair Information Principle of minimization.<sup>26</sup> By contrast, the JICMS privacy assessment indicates those records have no retention risk. JICMS records are destroyed according to NARA schedules.<sup>27</sup>

## Systemic Improvements to Data Collection

The FY 2017 DHS Appropriations Act and its accompanying Senate Report withheld \$25,000,000 from the agency budget to ensure ICE developed a plan for better data collection.<sup>28</sup> To comply, ICE published the “Comprehensive Plan for Immigration Data Improvement” in July 2018. In assessing current immigration recordkeeping practices, ICE attributed the following difficulties to compromised record quality:

- The creation of the DHS aligned immigration and customs enforcement services as a single agency (ICE), so adjusting to a single model of data and information technology processes resulted in data gaps.
- ICE has had to alter operations, data collection, and reporting practices in response to different policies and presidential administrations.
- The agency relies on multiple information systems, databases, spreadsheets, and paper-based solutions to exchange information. Redundant data results in process inefficiencies and data-quality degradation.
- Agency activities rely on several IT systems that have become challenging to maintain due to age.

To address these issues, the agency created a Data Governance Framework (DGF) that detailed elimination of data redundancy through database streamlining.<sup>29</sup> In reviewing this plan, the 2020 Senate Committee commended ICE for its efforts to continue to develop and execute an enterprise data management strategy and recommended allotment of \$6 million to continue improvement in this area.<sup>30</sup>

## Public Record Access

In accordance with Sexual Abuse and Assault Prevention and Intervention (SAAPI), ICE provides quarterly reports to the ICE Detention Monitoring Council (DMC) and monthly reports to a subcommittee.<sup>31</sup> According to the FY 2015 abuse and sexual assault allegations report, there were fifty-two allegations against CBP employees.<sup>32</sup> This is the only report currently published on the agency website.

Providing transparency, or access to government information and records, is a congressional requirement that has characterized the US Government throughout history. FOIA grants presumed public access to the executive branch records not protected by nine exemption categories.<sup>33</sup> As a federal agency, ICE must comply with these regulations, and the agency has a goal to process FOIA requests within twenty business days. Responses include full grants, full denials, or partial grant/partial access denials.<sup>34</sup>

FOIA and ICE govern rights to information held in the agency's legal custody and ICE tracks information requests and responses. According to the 2009 annual report, 388 of 6,736 ICE FOIA requests were granted in full (5.76 percent), and 3,559 were partially granted (52.8 percent), while 176 full denials were based on the nine exemptions. Of the 2,613 non-exemption-based rejections, 195 (7.46 percent) were denied due to the agency not having records.<sup>35</sup> A decade later, requests skyrocketed to 66,029. Of these, 2,648 were fulfilled in full (4.01 percent), 54,432 partially granted (82.44 percent), and 850 fully denied based on exemptions. Of the 8,099 non-exemption-based rejections, the majority (63.98 percent) were due to absence of records.<sup>36</sup>

## Detainee Record Disposal: Practical, Economic, and Social Considerations

As NARA's Consolidated Report noted, the twenty-five-year record-retention period exceeded the statute of limitations and ensures protection of detainee legal rights. Furthermore, all records stored in the FRC will be accessible by FOIA prior to disposal. The report reiterated the desired data is encapsulated in long-term temporary Significant Event Notification (SEN) system Significant Incident Report records, and the DHS Office of

Civil Rights and Civil Liberties (CRCL) generates annual reports that exist as permanent records.<sup>37</sup> While NARA justifies disposal of Sequence 0001 records based on the claim that much of the content exists elsewhere, this logic runs counter to the Archive's 2021 objective to "encourage customers to seek NARA as their preferred destination for authentic sources of information."<sup>38</sup>

However, financial costs must also be factored into the feasibility of long-term record keeping. Maintenance and disposition costs incurred by federal agencies and Federal Record Center shipping and retention vary based on material. The current disposal rate is \$5.50 per standard-size box of text-based material and \$35.00 for nontextual records.<sup>39</sup> These expenses must factor into the DHS budget request, and figure 1 shows the DHS budget breakdown.<sup>40</sup>

Though retention expenses are paid by ICE, the NARA Transition to Electronic Record Memorandum explains, "the Federal Government spends hundreds of millions of taxpayer dollars and thousands of hours annually to create, use, and store Federal records in analog (paper and other non-electronic) formats."<sup>41</sup> As a result, NARA's current budget request identifies the transition to electronic record keeping as an opportunity, and the June 2018 Administrative Reform Plan included a proposal to cease NARA acceptance of paper records by December 31, 2022.<sup>42</sup> Because maintaining records in any form is not without cost, the expense must be considered in the context of the NARA budget as well. Some of the Archive's \$11 million budget reduction between fiscal years 2020 and 2021 are attributable to the Agency and Related Services sector, which encompasses the federal agency records management and FOIA services. Construction and maintenance of storage locations and supporting faculty and technologies must also be factored into this budget sector.<sup>43</sup>

NARA's Consolidated Reply relied on litigative factors, other occurrences of records, and budgetary restrictions to justify temporary record status. However, multiple commenters voiced concern that the twenty-five-year retention period is too short when factors including inadequate investigation and poor access to legal counsel are considered. It is not uncommon to assign temporary status to sensitive subject matter. For example, Domestic Violence, Sexual Assault, and Stalking (DVSAS) Workplace Protection Program records are scheduled for disposal in as few as seven years in the current NARA Schedule.<sup>44</sup> Though the problems associated with record content fall outside of the Archive's scope, examination of the difficulties concerning record creation and access are better considered at agency level.

## Problems with ICE Recordkeeping

The Prison Rape Elimination Act (PREA) committee found the immigrant population is at higher risk for sexual abuse and

assault by staff because detainees are confined by an agency with the power to deport them.<sup>45</sup> In an exploration of perpetual abuse cycles on this population, Maunica Sthanki noted the Supreme Court decisions that absolved private prison corporations of liability made abuse allegations increasingly difficult to address.<sup>46</sup> The ramifications of low accountability in private facilities is important to consider. ICE routinely outsources immigration detention centers to corporations to accommodate fiscal and capacity needs, and three-fourths of detainees were held in private facilities by November 2016.<sup>47</sup> While ICE detainee conditions have been described “as bad or worse than those faced by imprisoned criminals,” private facilities can pose even more problems and “are even more secretive and publicly unaccountable than public departments of corrections.”<sup>48</sup> The 2016 Community Initiatives for Visiting Immigrants in Confinement (CIVIC) evaluation provides evidence that problems associated with privatization are not specific to abuse.

The decision to adhere to National Detention Standards (NDS), Performance-Based National Detention Standards (DPBNS), or DHS Prison Rape Elimination Act (PREA) standards also varies between detention centers. This inconsistency was a point of contention during the Government Accountability Office (GAO)’s investigation of the initial Sexual Abuse and Assault Prevention and Intervention (SAAPI) directive. The resulting GAO report noted inconsistencies in ICE’s application of standards for nearly half of the twenty facilities surveyed. Because inspector reports failed to assess all SAAPI provisions mandated by inspection protocols, the GAO felt it hindered ICE’s ability to accurately assess compliance in all facilities.<sup>49</sup>

Since the 2012 GAO inspection, numerous policies have been created to address its problematic findings. However, the ICE FY 2017 Report to Congress confirms inconsistencies still exist. In this report, facilities are categorized by adherence to various standards. Each standard approaches sexual abuse and assault allegations and record creation processes with differing levels of rigor. For those operating using standards predating PBNDS 2011, ICE provides the following explanation:

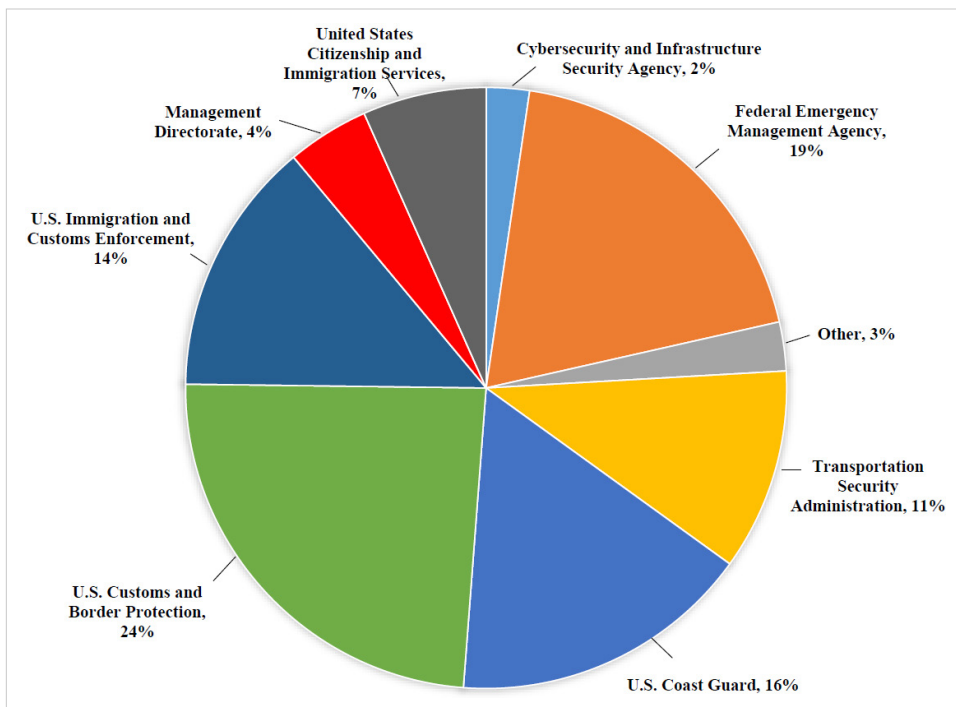


Figure 1. ICE receives a portion of the DHS budget, which has a FY 2021 request for \$49.7 billion. The agency lists staffing and ADP increases, facility repairs, migrant transportation, and recruitment and retention program development as budget highlights.

ICE believes that pursuing adoption of PBNDS 2011 at a majority of existing NDS facilities would be cost-prohibitive and have a negative impact on operations through the extensive negotiations required and the likelihood of losing facilities that would not comply with the standards or where an agreement on cost could not be reached.<sup>50</sup>

As the GAO report originally noted, failure to use a consistent control set hinders the agency’s ability to determine optimal performance levels. Further, because SAAPI policy regulations do not apply to facilities that fall outside ICE ownership, the mass privatization of Intergovernmental Service Agreement (IGSA) facilities becomes problematic.<sup>51</sup>

Though the Office of the Inspector General (OIG) took differences in standards into account when assessing ICE’s performance accountability measures in 2019, the report still found the agency neglected their responsibility to hold facility contractors accountable for failing to meet performance standards. The OIG review focused on the 106 private facilities whose contractors were the recipients of \$3 billion since FY 2016.<sup>52</sup> As illustrated in figure 2, ICE relies on a multi-layered system to oversee contract management and facility operations.

After completing an investigation, inspectors report deficiencies to ICE headquarters and issues should be addressed

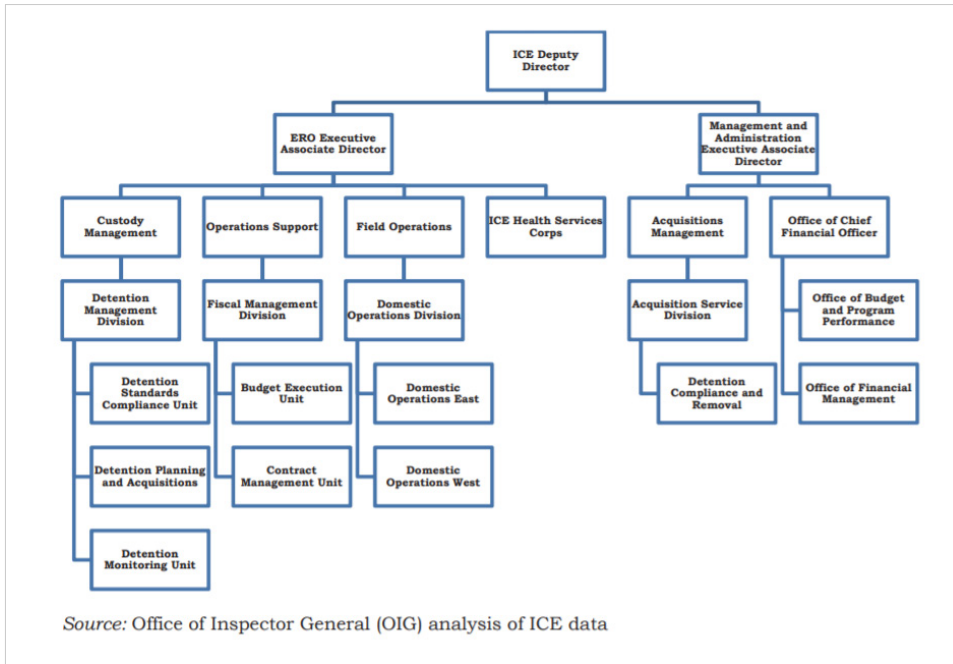


Figure 2. ICE organizational structure for contract management and oversight.

via contract or through uniform corrective plans issued by the Detention Standards Compliance Unit. The 2019 OIG investigation found this process largely ineffective. The report noted ICE failed to consistently use contract-based quality assurance tools. Furthermore, despite documentation of thousands of failures to comply with standards between October 2015 and June 2018, financial penalties for deficiencies were only imposed twice. In lieu of punishment, ICE issued waivers unguided by policy. The agency also allowed officials without clear authority to grant waivers and failed to ensure key stakeholders had access to them. To address these issues, the OIG recommended ICE begin imposing penalties for failure to adhere to standards and to develop waiver policies that ensure officials do not circumvent the terms of their contracts.<sup>53</sup>

Within ICE, there is also evidence of questionable record keeping. The Senate Committee on Homeland Security and Governmental Affairs requested information on assaults toward ICE law enforcement officers between fiscal years 2010 and 2017. While the response report involved assaults against law enforcement officers instead of detainees, it is suggestive of poor agency-level record keeping practices in general. For example, the report acknowledged unreliable data, inconsistent definitions of “assault,” informal methods of documentation, and failure to make required reports.<sup>54</sup>

When records are created, there is no guarantee the public will be able to access them easily. To adhere to the Presidential and Attorney General’s FOIA Memorandums of January and March 2009, as well as the DHS Chief FOIA Officer’s

Memorandum on Proactive Disclosure, ICE posts logs and FOIA records that have been or are likely to become the subject of at least three requests.<sup>55</sup> While the page was updated in 2020, the agency’s FOIA disclosures site contains dated information. For example, the list of facilities is from 2015.<sup>56</sup> As stated earlier, the agency website also only contains one Sexual Abuse and Assault Allegations report from FY 2015. However, the Humanitarian Standards for Individuals in Customs and Border Protection Custody Act mandates the DHS post quarterly aggregate data on its website.<sup>57</sup> This bill passed the House vote in July 2019. In the event of its ratification, the resulting data will provide an interesting point of comparison. The

data currently available varies considerably from annual studies of human rights groups and media sources.<sup>58</sup>

Inconsistencies in timely record accessibility and accuracy have also been reported. While the DHS website has a posted goal to respond to requests within twenty-five days, the *Intercept*’s FOIA request for detainee abuse records reportedly took two years. The *Intercept* noted only 43 of 1,224 complaints filed between January 2010 and September 2017 were investigated. Of these documents, analysts said officials applied single, unique classifications to reports with variances, that, among others, included “non-criminal misconduct,” “criminal misconduct,” “coerced sexual conduct,” or “detainee reported sexual abuse/sexual assault.” These accounts were also said to be inconsistent in detail, redactions, and often failed to mention if the alleged perpetrator was an enforcement officer.<sup>59</sup>

## Conclusion

Through a complex system of checks and balances, citizens of the United States are encouraged to provide feedback on the multiple scheduling drafts NARA constructs with federal agencies. In the end, a consolidated response addresses all changes, as well as any remaining concerns prior to record disposition. While records are stored in Federal Record Centers, they can be accessed with FOIA requests. This is how transparency is achieved. ICE, by contrast, has a history of complex standard and policy development, variances in detention center ownership and a multilayered self-checking organizational structure that make transparency more difficult to assess.

This is a complex topic that requires more information regarding record construction and maintenance under each standard and record keeping system. Using this information in conjunction with the budget feasibility of implementation of each standard could drive record management and investigative process improvement through determination of a single best practice.<sup>60</sup> Further research on ICE's FOIA request response procedure and the agency's method of determining permanent and temporary records is also required to evaluate previous claims of insufficiency.

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## References

1. "Immigration and Customs Enforcement Scheduled Approved," National Archives and Records Administration, <https://bit.ly/NARAapprovedschedule>.
2. "Request for Records Disposition Authority," National Archives and Records Administration, <https://bit.ly/NARAdispositionauthority>, p. 3.
3. "Request for Records Disposition Authority," National Archives and Records Administration.
4. "ICE Detainee Record Schedule Nears Completion," National Archives and Records Administration, <https://www.archives.gov/press/press-releases-2>.
5. "Consolidated reply DAA-0567-2015-0013," National Archives and Records Administration, <https://bit.ly7/consolidatedreply>.
6. *Data Storage, Publication, and Destruction*, 6 C.F.R. §115.89 (2020).
7. 36 C.F.R. §1230.3 (2018).
8. *Definition of Records*, 44 U.S.C. §3301 (2018); *Presidential and Federal Records Act Amendments of 2014*, P.L. No. 113-187 § 128 Stat 2010 (2014).
9. *Establishment of Program of Management*, 44 U.S.C. §3102 (2018).
10. *Administrative Provisions*, 44 U.S.C. §2104a, 2907, 2904, and 3102 (2018).
11. "Federal Records Centers," National Archives and Records Administration, <https://www.archives.gov/frc>.
12. 36 C.F.R. §1220.18 (2019).
13. "Celebrating the History of ICE," Department of Homeland Security, <https://www.ice.gov/features/history>.
14. US Immigration and Customs Enforcement, *Progress in Implementing PBNDS Standards and DHS PREA Requirements at Detention Facilities* (2018), <https://bit.ly/ICEprogress>.
15. US Immigration and Customs Enforcement, *2000 Detention Operations Manual* (2000), <https://www.ice.gov/detention-standards/2000>.
16. Dora Schriro, "Immigration Detention Overview and Recommendations," Department of Homeland Security, 2009, <https://bit.ly/2009overview>.
17. "Progress in Implementing PBNDS Standards and DHS PREA Requirements at Detention Facilities," Department of Homeland Security; "11062.1: Sexual Abuse and Assault Prevention Intervention," US Immigration and Customs Enforcement, <https://tinyurl.com/SAAPI-1>; "Immigration Enforcement PREA," US Immigration and Customs Enforcement, <https://www.ice.gov/prea>.
18. "Presidential Memorandum—Implementing the Prison Rape Elimination Act," The White House, <https://bit.ly/Obamamemorandum>; *Prison Rape Elimination Act of 2003*, P.L. 108-79 § 117 Stat. 980 (2003), <https://www.govinfo.gov/content/pkg/PLAW-108publ79/pdf/PLAW-108publ79.pdf>.
19. Proposed Rule, 77 *Federal Register* 75300 (2012); "Immigration Enforcement PREA," US Immigration and Customs Enforcement; *Standards for Immigration Detention Facilities*, 6 C.F.R. §115a (2019), <https://www.govinfo.gov/app/details/CFR-2016-title6-vol1/CFR-2016-title6-vol1-part115>.
20. "11062.2: Sexual Abuse and Assault Prevention and Intervention," US Immigration and Customs Enforcement, <https://www.ice.gov/doclib/detention-reform/pdf/saapi2.pdf>.
21. "Progress in Implementing PBNDS Standards and DHS PREA Requirements at Detention Facilities," Department of Homeland Security.
22. "Standard 2.11: Sexual Abuse and Assault Prevention and Intervention," US Immigration and Customs Enforcement, [https://www.ice.gov/doclib/detention-standards/2019/2\\_11.pdf](https://www.ice.gov/doclib/detention-standards/2019/2_11.pdf).
23. "Request for Records Disposition Authority," National Archives and Records Administration.
24. "Privacy Impact Assessment for the Significant Event Notification (SEN) System," Department of Homeland Security, <https://bit.ly/SENeval>.
25. "Privacy Impact Assessment for the Joint Integrity Case Management System (JICMS)," Department of Homeland Security, <https://bit.ly/JICMS>.

26. “The Fair Information Practice Principles (FIPPs) In the Information Sharing Environment (ISE),” National Public Safety Partnership, <https://bit.ly/FIPPDHS>.
27. “Privacy Impact Assessment for the Joint Integrity Case Management System (JICMS),” Department of Homeland Security, <https://bit.ly/JICMS>.
28. *Department of Homeland Security Appropriations Act of 2017*, P.L. No. 115–31§ 131 STAT. 404 (2017); Senate Committee on Appropriations, Department of Homeland Security Appropriations Bill, 2017, 114th Cong., 2d Sess., 2016, S. Rep. 264, <http://purl.fdlp.gov/GPO/gpo68540>.
29. “Comprehensive Plan for Immigration Data Improvement,” US Immigration and Customs Enforcement, <https://www.dhs.gov/sites/default/files/publications/ICE%20-%20Comprehensive%20Plan%20for%20Immigration%20Data%20Improvement.pdf>.
30. Senate Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2020*, 116th Cong., 1st Sess., 2019, S. Rep. 125, at 49, <https://purl.fdlp.gov/GPO/gpo126341>.
31. U.S. ICE, *Progress in Implementing PBNDS Standards and DHS PREA Requirements at Detention Facilities*.
32. U.S. Customs and Border Protection, *Annual Report on Sexual Abuse and Sexual Assault by CBP Employees* (2016) <https://www.dhs.gov/sites/default/files/publications/Customs%20and%20Border%20Protection%20-%20Sexual%20Abuse%20and%20Sexual%20Assault%20Annual%20Report%20-%20FY%202016.pdf>.
33. FOIA; 5 U.S.C. §552 (1966).
34. “Submitting a FOIA Request,” US Immigration and Customs Enforcement, <https://www.ice.gov/foia/request>.
35. Department of Homeland Security, *Annual Report: 2009 Freedom of Information Act Report to the Attorney General of the United States* (2009), <https://bit.ly/2009FOIA>.
36. “Department of Homeland Security 2019 Freedom of Information Act Report.”
37. “Consolidated reply DAA-0567-2015-0013,” National Archives and Records Administration.
38. “Mission, Vision, and Values,” National Archives and Records Administration, <https://www.archives.gov/about/info/mission>.
39. “The FRC Toolkit,” National Archives and Records Administration, <https://www.archives.gov/frc/toolkit>.
40. “FY 2021 Budget in Brief,” Department of Homeland Security, <https://bit.ly/DHSbudget>.
41. Russell T. Vought and David S. Ferrio, “Memorandum for Heads of Executive Departments and Agencies: Transition to Electronic Records,” National Archives and Records Administration, <https://tinyurl.com/recordmemo>.
42. Vought and Ferrio, “Memorandum for Heads of Executive Departments and Agencies.”
43. “National Archives FY 2021 Congressional Justification,” National Archives and Records Administration, <https://bit.ly/NARAbudget>.
44. “Request for Records Disposition Authority,” National Archives and Records Administration, <https://bit.ly/DVASsched>.
45. US Government Accountability Office, *Immigration Detention: Additional Actions Could Strengthen DHS Efforts to Address Sexual Abuse*, (2013) US Government Accountability Office, <https://www.gao.gov/assets/660/659145.pdf>.
46. Maunica Sthanki, “Deconstructing Detention: Structural Impunity and the Need for an Intervention,” *Rutgers Law Review* 65, no. 2 (Winter 2013): 44–504, <https://tinyurl.com/rutgerLR>; *Minneci v. Pollard*, 565 U. S. 118 (2012), 10–1104; *Corr. Servs. Corp. v. Malesko*, 534 U.S. 61, 66 (2001).
47. Lilly Chapa, “Detention Tension,” *Security Management* 61, no. 3 (2017): 22, <https://tinyurl.com/lillychapa>.
48. P. Enns and M. Ramirez, “Privatizing Punishment: Testing Theories of Public Support for Private Prison and Immigration Detention Facilities,” *Criminology* 56, no. 3 (2018): 546–73.
49. US GAO, *Immigration Detention*.
50. “Progress in Implementing PBNDS Standards and DHS PREA Requirements at Detention Facilities,” Department of Homeland Security, 12.
51. Sthanki, “Deconstructing Detention.”
52. Office of Inspector General, Department of Homeland Security, *ICE Does Not Fully Use Contracting Tools to Hold Detention Facility Contractors Accountable for Failing to Meet Performance Standards* (January 29, 2019), <https://permanent.fdlp.gov/gpo116773/OIG-19-18-Jan19.pdf>.
53. Office of Inspector General.
54. “Assaults on CBP and ICE Law Enforcement Officers.” Department of Homeland Security, <https://www.oig.dhs.gov/sites/default/files/assets/2018-09/OIG-18-76-Sep18.pdf>.
55. “Memorandum for Distribution,” Department of Homeland Security (June 13, 2007), [https://www.dhs.gov/xlibrary/assets/privacy/privacy\\_PIIPrimaryActionMemo\\_20070615.pdf](https://www.dhs.gov/xlibrary/assets/privacy/privacy_PIIPrimaryActionMemo_20070615.pdf).

56. "FOIA Proactive Disclosures," US Immigration and Customs Enforcement, <https://www.ice.gov/foia/proactive>.
57. Humanitarian Standards for Individuals in Customs and Border Protection Custody Act, 3239 at 4, 116th Cong. (as passed by House, 2019) <https://www.congress.gov/bill/116th-congress/house-bill/3239>.
58. Alice Speri, "1,224 Complaints Reveal a Staggering Pattern of Sexual Abuse in Immigration Detention, Half of Those Accused Worked for ICE," *Intercept* (2018), <https://tinyurl.com/ICEinter>; Hunton Andrews Kurth, "New York Times Features Suzan Kern in Coverage of Sexual Assault Inside ICE Detention," *Business Insights: Global* (2018): 4, <https://www.huntonimmigra>  
[tionlawblog.com/2018/08/articles/humanitarian-relief/new-york-times-features-suzan-kern-coverage-sexual-assault-inside-ice-detention/](https://www.huntonimmigrationlawblog.com/2018/08/articles/humanitarian-relief/new-york-times-features-suzan-kern-coverage-sexual-assault-inside-ice-detention/).
59. Alice Speri, "1,224 Complaints Reveal a Staggering Pattern of Sexual Abuse in Immigration Detention. Half of Those Accused Worked for ICE," *Intercept* (2018), <https://tinyurl.com/ICEinter>.
60. Office of Inspector General, Department of Homeland Security, *ICE Does Not Fully Use Contracting Tools to Hold Detention Facility Contractors Accountable for Failing to Meet Performance Standards*, OIG-19-18, 2019, <https://purl.fdlp.gov/GPO/gpo116773>.