

GAO Highlights

Highlights of [GAO-23-105196](#), a report to congressional requesters

Why GAO Did This Study

Within the Department of Homeland Security, ICE is responsible for providing safe, secure, and humane confinement for detained noncitizens in the United States. In that capacity, ICE oversees and at some detention facilities provides on-site medical care services. ICE also oversees referrals and pays for off-site medical care when services are not available at detention facilities.

GAO was asked to review issues related to informed consent for medical care for noncitizens in immigration detention facilities. Among other things, GAO examined the extent to which ICE has policies for obtaining informed consent for medical care, and how selected facilities implemented the policies; and oversees implementation of policies related to informed consent to help ensure compliance.

GAO interviewed ICE officials and medical staff from six facilities selected, in part, based on whether ICE staff provided on-site medical care. GAO also reviewed 48 medical files from these facilities. Further, GAO analyzed oversight results for fiscal years 2019 through 2021, and reviewed ICE documentation in light of federal internal control standards.

What GAO Recommends

GAO is making three recommendations, including that ICE require detention facilities to collect informed consent documentation from off-site providers, and then require a review of this documentation as part of its oversight mechanisms for detention facilities. The Department of Homeland Security concurred with each of the recommendations.

View [GAO-23-105196](#). For more information, contact Carolyn L. Yocom at (202) 512-7114 or yocomc@gao.gov, or Rebecca Gambler at (202) 512-8777 or gablerr@gao.gov.

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IMMIGRATION DETENTION

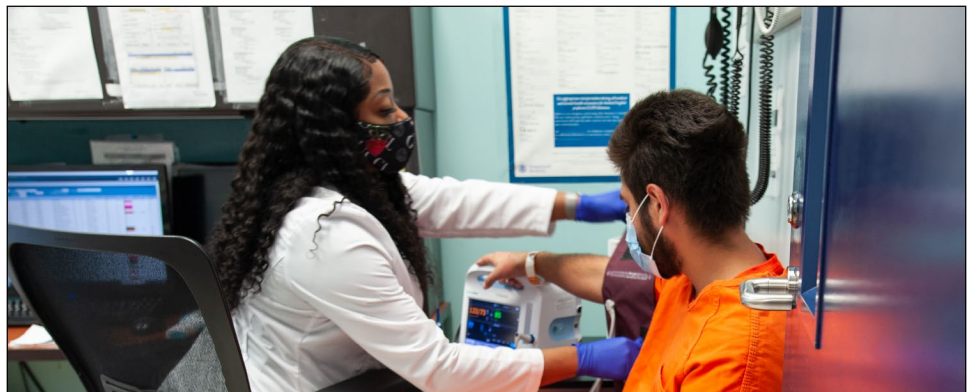
ICE Needs to Strengthen Oversight of Informed Consent for Medical Care

What GAO Found

U.S. Immigration and Customs Enforcement (ICE) has established policies for obtaining and documenting informed consent for medical care provided on-site at detention facilities. Informed consent involves the provider speaking to the patient in detail about the risks, benefits, and alternatives of individual procedures. Medical care not available at detention facilities is provided off-site at clinics, hospitals, or other facilities. ICE relies on these community providers to obtain and document informed consent for care they provide off-site. However, ICE policies do not require facilities to collect documentation of informed consent for detained noncitizens' off-site medical care from community providers.

The 48 medical files GAO reviewed from selected facilities generally contained documentation of informed consent for care provided on-site at the facilities. However, less than half of the medical files included off-site consent documentation. Establishing and communicating a requirement for detention facility staff to collect informed consent documentation for off-site medical care would help provide assurance that community providers obtain informed consent from noncitizens they treat. Informed consent helps ensure noncitizens have the information needed to make informed choices about their medical care.

Medical Staff and U.S. Immigration and Customs Enforcement (ICE) Detained Noncitizen



Source: ICE Health Service Corps. | GAO-23-105196

ICE uses various oversight mechanisms—such as annual inspections and daily compliance reviews—to help ensure detention facilities are complying with informed consent requirements. GAO identified seven such mechanisms that included reviews for on-site informed consent documentation. However, only one type of oversight, a biannual inspection, includes a review for off-site informed consent documentation. This oversight mechanism identified informed consent deficiencies at 25 facilities in fiscal year 2021. However, it was unclear from the documentation how many of the informed consent deficiencies were related to on-site or to off-site medical care. As discussed above, requiring detention facilities to collect informed consent documentation for off-site care would help provide greater assurance that community providers obtain consent. By requiring its oversight mechanisms to check for this information, ICE could better ensure that community providers are consistently obtaining informed consent from noncitizens in detention.