



July 2024

IMMIGRATION ENFORCEMENT

Arrests, Removals, and Detentions Varied Over Time and ICE Should Strengthen Data Reporting

GAO Highlights

Highlights of [GAO-24-106233](#), a report to the Chair of the Committee on the Judiciary, U.S. Senate

Why GAO Did This Study

ICE, within the Department of Homeland Security (DHS), is responsible for enforcing the nation's immigration laws. Citing limited resources, ICE states that it cannot respond to all immigration violations or act on all persons determined to be removable from the U.S. It therefore prioritizes its enforcement actions.

GAO was asked to review ICE immigration enforcement priorities. This report examines, among other things, (1) ICE data on immigration enforcement actions from 2019 through 2022, and the extent to which ICE is reporting data on all immigration detentions; (2) ICE's implementation of immigration enforcement policies; and (3) ICE data on detentions of select vulnerable populations.

GAO analyzed ICE enforcement action data for calendar years 2019 through 2022 (2022 being the most recent year that data were available). GAO also reviewed ICE policies and procedures, and interviewed agency officials.

What GAO Recommends

GAO is recommending that ICE publicly report (1) data on all detentions of individuals in ICE detention facilities, and (2) its explanation of the methodology used to report detention statistics. DHS did not concur with the recommendations, stating ICE already reports sufficient information. GAO continues to believe ICE should report complete and transparent information on its annual detentions.

View [GAO-24-106233](#). For more information, contact Rebecca Gambler, (202) 512-8777, gablerr@gao.gov

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What GAO Found

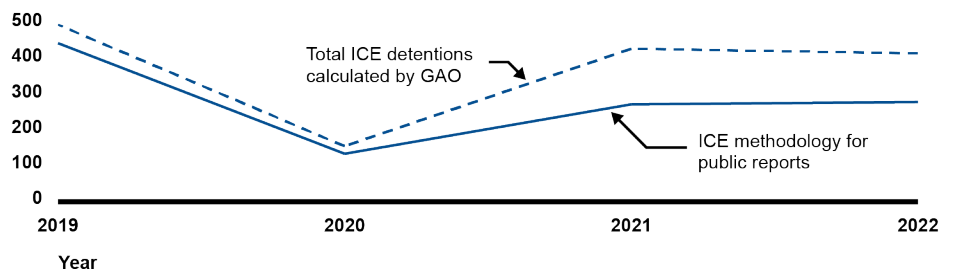
The number of U.S. Immigration and Customs Enforcement (ICE) arrests and removals declined from 2019 through 2021, and then increased in 2022, according to GAO's analysis of ICE data:

- The number of arrests varied from calendar years 2019 through 2022 but increased overall, from 133,541 arrests for 2019 to 154,204 arrests for 2022.
- While increasing slightly in 2022, since 2019 removals have declined significantly from 276,122 for 2019 to 81,547 for 2022.

Regarding detentions, ICE's public reporting understates the total number of individuals detained, according to GAO's analysis. In its calculations, ICE excludes individuals who were first booked into certain temporary facilities but were subsequently detained in an ICE immigration detention facility. GAO's analysis shows that this exclusion amounts to tens of thousands of individuals (see fig.). In its annual reporting of detentions, ICE does not fully explain the rationale and basis for its methodology.

Total Number of ICE Detentions Compared to ICE's Methodology for Public Reporting of Initial Book-ins, 2019-2022

Number of detentions (in thousands)



Source: GAO analysis of Immigration and Customs Enforcement data. | GAO-24-106233

Note: ICE uses a subset of detention data when reporting annual initial book-ins. GAO calculated the total number of initial detentions by identifying all initial "book-ins" for each year where an individual was recorded in ICE data as having been detained in an ICE detention facility for one day or more.

From 2019 through 2022, ICE updated its policies for making enforcement decisions to reflect changing priorities. From 2019 to January 2021, DHS policy directed ICE to take enforcement action against all removable noncitizens. In September 2021, DHS updated its policy to prioritize action against noncitizens who are deemed a threat to national security, public safety, or border security. ICE's policy also establishes how its officers are to identify individuals within selected vulnerable populations such as those with a mental health condition.

ICE collects detention data related to select vulnerable populations in accordance with agency guidance. GAO's analysis of ICE's data showed that generally detentions of select vulnerable populations varied across the years but were lower in 2020 through 2022 compared to 2019. The average length of stay decreased from 2019 to 2022 for these populations.

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Abbreviations

CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security
EARM	ENFORCE Alien Removal Module
ENFORCE	Enforcement Case Tracking System
ERO	Enforcement and Removal Operations
ICE	U.S. Immigration and Customs Enforcement
IHSC	ICE Health Service Corps
IIDS	ICE Integrated Decision Support
LGBTQI+	Lesbian, Gay, Bisexual, Transgender, Queer and Intersex
OPLA	Office of the Principal Legal Advisor

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July 23, 2024

The Honorable Richard J. Durbin
Chair
Committee on the Judiciary
United States Senate

Dear Mr. Chair:

Within the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) is responsible for enforcing the nation's immigration laws by, among other things, arresting and litigating charges of removability from the U.S. against selected noncitizens. Except for certain individuals who are required to be detained, ICE has wide discretion to detain or release those awaiting resolution of their removal proceedings in immigration court.¹ ICE is also responsible for removing from the U.S. those individuals who are ordered to be removed. In 2021, DHS estimated that about 11.4 million noncitizens were in the U.S. without lawful status or presence as of January 1, 2018.² Citing limited resources, ICE states that it cannot respond to all immigration violations or act on all persons who are determined to be removable from the U.S. It therefore prioritizes its enforcement actions.

In December 2019, we reported on ICE's immigration enforcement priorities and policies for identifying, detaining, caring for, and removing individuals from selected vulnerable populations.³ In that report, we found that ICE collected information on detained parents or legal guardians,

¹Certain noncitizens may be subject to mandatory detention, including those arriving in the U.S. without valid travel documentation or who have engaged in fraud or willful misrepresentation to obtain an immigration benefit, those who are inadmissible or removable on criminal or national security grounds, those certified as terrorist suspects, and those who have final orders of removal during the 90-day removal period. See 8 U.S.C. §§ 1225(b)(1), 1226(c), 1226a, 1231(a)(2). Within the Department of Justice, the Executive Office for Immigration Review is responsible for conducting immigration proceedings to fairly, expeditiously, and uniformly administer and interpret U.S. immigration laws and regulations. Immigration judges preside over hearings to decide whether noncitizens charged as removable for violating immigration law are removable as charged, and if so, granted any requested relief or protection to lawfully remain in the U.S.

²DHS, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2015 – January 2018*.

³GAO, *Immigration Enforcement: Arrests, Detentions, and Removals, and Issues Related to Selected Populations*, [GAO-20-36](#) (Washington, D.C.: Dec. 5, 2019).

including those of U.S. citizen and legal permanent resident minors. However, ICE did not maintain the information in a readily available format that would allow the agency to systematically identify such detained parents and ensure compliance with policy. We recommended ICE do so. In July 2022, ICE issued a directive requiring the collection and maintenance of data on noncitizen parents and legal guardians of minor children.⁴ However, as of March 2024, ICE had not implemented a process to collect and maintain such data.

You asked us to examine ICE's immigration enforcement priorities, policies, and practices, including those that relate to select vulnerable populations, since 2019. This report addresses (1) ICE data on immigration enforcement actions (arrests, removals, and detentions) from 2019 through 2022 and the extent to which ICE is reporting data on all detentions; (2) ICE's implementation of immigration enforcement policies and procedures from 2019 through 2022, including those for select vulnerable populations; (3) the extent to which ICE oversees implementation of immigration enforcement priorities and policies, including those for select vulnerable populations; and (4) ICE data on the numbers of detentions of select vulnerable populations from 2019 through 2022.

For the purposes of this report, we define select vulnerable populations to include individuals who identify as lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI+); individuals with communication and mobility impairments; individuals with mental health conditions; older individuals (those age 65 and older); individuals who are pregnant or nursing; crime victims; and noncitizen parents and legal guardians of minor children or incapacitated adults.⁵ We selected these populations based on our review of ICE's policies related to noncitizens with special vulnerabilities.

To address our first question, we analyzed individual-level data from ICE's Integrated Decision Support (IIDS) database to determine the total number of ICE Enforcement and Removal Operations (ERO) administrative arrests (arrests), removals, and detentions from January 1,

⁴See ICE Directive 11064.3, *Interests of Noncitizen Parents and Legal Guardians of Minor Children or Incapacitated Adults* (July 14, 2022).

⁵Other terms also are used to describe LGBTQI+ and related identities. For purposes of this report, we use the umbrella term "LGBTQI+", which is how ICE commonly refers to these populations.

2019, through December 31, 2022.⁶ We selected this time period in order to begin reporting data from the period covered in our December 2019 report through December 2022, the most recent complete calendar year for which data were available at the time of our review.⁷ Because noncitizens may have multiple arrests, removals, or detentions within the same calendar year, we used the enforcement action as our unit of analysis rather than unique individuals. We analyzed individual-level IIDS data to determine the number of arrests, removals, and detentions by factors such as gender, criminality, geographic area, and country of citizenship.

To conduct our analysis of criminality, we used ICE's determination of criminality, which ICE determines by conducting electronic criminal history checks. We assessed the reliability of these data by interviewing ERO officials responsible for collecting and reporting the data; conducting electronic tests to identify missing data, anomalies, or erroneous values; and following up with officials as appropriate. We determined that the data were sufficiently reliable for reporting general trends in the numbers of ICE arrests, removals, and detentions over the time period of our review.

Further, we reviewed DHS and ICE documents and information, such as annual reports on enforcement actions and documentation of ICE's methodology for calculating detention statistics. We also analyzed ICE data on detentions, as described above, to assess how ICE calculates and reports certain detention statistics it reports publicly. We compared

⁶According to ICE, IIDS is a data warehouse populated by Enforcement Case Tracking System (ENFORCE) 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 U.S. Customs and Border Protection. DHS personnel utilize the ENFORCE applications to enter information into the system. Specifically, ICE officers use the Enforcement Integrated Database Arrest Guide for Law Enforcement to process arrest information, the ENFORCE Alien Removal Module (EARM) to track and support processing and removal of individuals, and the ENFORCE Alien Detention Module, a subsystem within EARM, to track individuals in ICE custody. Within ICE, ERO is responsible for arresting noncitizens who are in violation of U.S. immigration laws (referring to as administrative arrests), detaining certain noncitizens who are in removal proceedings or have been ordered removed, and removing noncitizens who have been so ordered.

⁷[GAO-20-36](#).

ICE's efforts to the DHS instruction accompanying its Information Quality Directive⁸ and the Office of Management and Budget Circular A-11.⁹

To address our second question, we reviewed DHS and ICE directives, memoranda, standard operating procedures, and training materials to identify the specific policies ICE has for enforcement actions overall and for actions related to select vulnerable populations. We selected eight vulnerable populations including individuals who identify as LGBTQI+; individuals with communication and mobility impairments; individuals with mental health conditions; individuals diagnosed with a serious mental health condition; older individuals (those age 65 and older); individuals who are pregnant or nursing; crime victims; and noncitizen parents and legal guardians of minor children or incapacitated adults.¹⁰ We selected these populations based on our review of ICE's policies related to noncitizens with special vulnerabilities.¹¹ We conducted interviews with officials from ICE headquarters offices, including the Office of the Principal Legal Advisor (OPLA), Office of Regulatory Affairs and Policy, and ERO to obtain their perspectives on how ICE prioritizes its use of resources for immigration enforcement activities.

We also interviewed officials in six selected ICE ERO areas of responsibility (Denver, Detroit, Miami, New York, Phoenix, San Diego) to obtain their perspectives on the implementation of enforcement activities from 2019 through 2022. This included policy and procedural changes in enforcement and any impacts on vulnerable populations. We selected these locations to represent a range of low, medium, and high volume of enforcement activities over the time period, and to represent different

⁸Department of Homeland Security. *DHS Directive: Information Quality Implementation*. Instruction number 139-02-001 (Washington, D.C.: 2019).

⁹Office of Management and Budget. Circular No. A-11: Preparation, Submission, and Execution of the Budget (Washington, D.C.: 2021).

¹⁰ICE policy defines a serious mental health condition as (1) a mental health condition that is causing serious limitations in communication, memory, or impaired intellectual functions; (2) one or more active psychiatric symptoms, such as active hallucinations, severe depressive symptoms, or suicidal ideation, among others; or (3) a diagnosis of one of six specific disorders, including a psychotic disorder, bipolar disorder, or dementia. See ICE Directive 11063.2: *Identification, Communication, Recordkeeping, and Safe Release Planning for Detained Individuals with Serious Mental Disorders or Conditions and/or Who Are Determined to Be Incompetent By An Immigration Judge* (Apr. 5, 2022)

¹¹ICE does not have separate policies for noncitizens who are lesbian, gay, bisexual, or intersex. In June 2015, ICE issued a memo titled *Further Guidance Regarding the Care of Transgender Detainees*, which provides guidance regarding the placement and care of transgender adults in ICE custody.

geographic locations, such as regions along the U.S. border and those in the interior of the U.S. In each location, we interviewed ERO field office management as well as detention and deportation officers and supervisors. We also interviewed officials from the Office of the Principal Legal Advisor at three locations and collected written responses to our questions from the remaining three locations. The information obtained from these interviews is not generalizable across all ERO areas of responsibility but provided insights into how selected areas of responsibility conduct enforcement activities and implement immigration enforcement policies.

To address our third question, we analyzed documentary evidence, such as operational reports, statistics, and data dashboards, to determine how ICE headquarters monitors and oversees ICE enforcement operations in the field to ensure enforcement actions reflect DHS enforcement priorities and policies, including those for select vulnerable populations. We conducted interviews with ICE headquarters officials to obtain information on how they oversee implementation of DHS and ICE guidance on the prioritization of immigration enforcement actions. We also spoke with field office management, detention and deportation officers, and supervisory officers in the six selected locations to obtain information on how they understand and apply guidance from ICE headquarters, and how ICE headquarters officials monitor and oversee their work.

To address our fourth question, we reviewed multiple data sources that ICE uses to track information on individuals with special vulnerabilities in immigration detention. We matched these data with IIDS individual-level detention data to determine what ICE data show about detentions of selected populations between January 2019 and December 2022. We analyzed this information to determine the total number of detentions for each selected vulnerable population, as well as detentions by criminality and the length of detention for each population. These populations included transgender individuals; individuals with communication and mobility impairments; individuals with mental health conditions; individuals

diagnosed with a serious mental health condition; older individuals (those age 65 and older); and individuals who are pregnant or nursing.¹²

We determined that the data used in each of our analyses were sufficiently reliable to depict general trends in detentions of selected populations by analyzing available documentation, such as related data dictionaries; interviewing ERO officials knowledgeable about the data; conducting electronic tests to identify missing data, anomalies, or erroneous values; and following up with officials, as appropriate. Appendix I describes our objectives, scope, and methodology in greater detail.

We conducted this performance audit from September 2022 to July 2024 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

ICE Enforcement Actions

ICE ERO conducts civil immigration enforcement actions including administrative arrests, removals, and detentions across 25 areas of geographic responsibility nationwide.¹³ Each area of responsibility is led by a field office director.

Arrests. ERO arrests noncitizens for civil violations of U.S. immigration laws. ICE officers identify and arrest potentially removable individuals who are at-large or who are incarcerated within federal, state, and local prisons and jails. ICE does not detain all individuals it arrests. ICE

¹²ICE policies for noncitizens who were victims of a crime and incapacitated adults were issued in 2021 and 2022 respectively and were not inclusive of our reporting timeframe. As a result, we do not present data on these populations. In addition, although identified by ICE policy as a vulnerable population, we did not include data on postpartum individuals due to the small numbers of this population detained by ICE during our reporting time frame. We also did not include data on minors in this report. Except in the case of exceptional circumstances, unaccompanied children in the custody of any federal department or agency, including DHS, must be transferred to the Department of Health and Human Services' Office of Refugee Resettlement within 72 hours after determining that they are unaccompanied children.

¹³For the purposes of this report and our presentation of ICE data, we refer to administrative arrests as "arrests."

determines whether to detain individuals in its custody, on a discretionary or mandatory basis, or release them to the community while their removal proceedings are ongoing, subject to specific criteria.¹⁴ When determining whether to detain an individual, ICE officers are required to consider the facts and circumstances of each case, such as an individual's flight risk, threat to public safety, and special vulnerabilities. For example, individuals with communication or mobility impairments or a mental health condition may be considered for release based on these special vulnerabilities. ERO is responsible for supervising and ensuring released individuals comply with the terms of their release, including requirements to appear for proceedings in immigration court.

ICE uses one or more release options when it determines that an individual is not to be detained—including bond, order of recognizance, order of supervision, or on parole for urgent humanitarian reasons or significant public benefit—as shown in table 1. In addition, the Alternatives to Detention program serves as a supplemental requirement that may be added to one of these release options. Alternatives to Detention is to promote compliance with release conditions and provides important case management services for non-detained noncitizens. Officers assigned to Alternatives to Detention are responsible for ensuring that noncitizens who are not held in detention facilities comply with requirements to appear in immigration court for their administrative removal proceedings.

Table 1: Release Options for Noncitizens

Release option	Description
Bond	If individuals are not a threat to public safety, present a low risk of flight, and are not required to be detained, U.S. Immigration and Customs Enforcement (ICE) may release them on a bond of at least \$1,500. ^a
Order of recognizance	If individuals are not a threat to public safety, present a low risk of flight, and are not required to be detained, an order of recognizance requires they abide by specified release conditions but does not require them to post a bond.
Order of supervision	ICE may release individuals on orders of supervision, despite them being subject to a final order of removal, where there is no significant likelihood of removal in the reasonably foreseeable future, because, for example, they are unable to obtain passports or other travel documents to return to their country of origin. ^b

¹⁴DHS has broad statutory discretion (subject to certain legal standards) to detain, or to release noncitizens on bond, their own recognizance, parole, and order of supervision, including any conditions such as enrollment in an Alternatives to Detention program. However, the law requires DHS to detain certain noncitizens. See 8 U.S.C. §§ 1225(b)(1), 1226(c), 1226a, 1231(a)(2).

Release option	Description
Parole	ICE may release certain individuals on parole for urgent humanitarian reasons or significant public benefit on a case-by-case basis. Parole constitutes temporary permission to enter the U.S. without admission. ^c

Source: GAO analysis of statute and ICE information. | GAO-24-106233

^aSee 8 U.S.C. § 1226; 8 C.F.R. § 236.1. The Department of Homeland Security (DHS) may set a bond, which may also be used in conjunction with other release conditions, such as placement in the Alternatives to Detention program. Upon the noncitizen's request, an immigration judge may redetermine the amount of bond set by DHS. 8 C.F.R. § 1236.1(d)(1).

^bSee 8 U.S.C. § 1231; 8 C.F.R. §§ 241.1, 241.4, 241.5, 241.13, 241.14. ICE officers determine the frequency with which noncitizens released on an order of supervision must report to ICE.

^cSee 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. §§ 212.5, 235.3(b)(2)(iii).

Removals. ICE removes noncitizens who have been ordered removed and not eligible for any requested relief or protection pursuant to an administrative final order of removal. A removal is defined as the compulsory and confirmed movement of an inadmissible or deportable individual out of the U.S. ICE removals include individuals arrested by ICE and individuals who were apprehended by U.S. Customs and Border Protection (CBP) and transferred to ICE.

ICE's Office of the Principal Legal Advisor (OPLA) is responsible for providing legal advice, training, and services to support the ICE mission. Attorneys in this office represent the U.S. government by providing civil litigation services to ICE in removal proceedings.¹⁵

Detentions. ICE ERO is responsible for providing safe, secure, and humane confinement for detained noncitizens in the U.S. who may be subject to removal while they await the resolution of their immigration cases or who have been ordered removed from the U.S. This includes individuals transferred into ICE custody from CBP who were apprehended at or between ports of entry.¹⁶ In fiscal year 2023, ERO oversaw the detention of individuals in 150 immigration detention facilities

¹⁵OPLA serves as the exclusive representative of DHS in immigration removal proceedings before the Executive Office for Immigration Review, litigating all removal cases including those against criminal noncitizens, terrorists, and human rights abusers. OPLA also provides a full range of legal services to ICE programs and offices.

¹⁶CBP is the lead federal agency charged with keeping terrorists and their weapons, criminals and their contraband, and inadmissible noncitizens out of the country. Within CBP, the Office of Field Operations inspects individuals at designated U.S. ports of entry to determine their admissibility to the country and U.S. Border Patrol interdicts and apprehends individuals between ports of entry. Ports of entry are facilities that provide for the controlled entry into or departure from the U.S.

nationwide.¹⁷ ICE owns and operates some of the detention facilities it uses. Others are owned and are operated by private companies through contracts with ICE, or owned by state or local governments or private entities and operated under intergovernmental agreements with ICE.

Within ERO, ICE Health Service Corps (IHSC) is responsible for providing and overseeing medical care and services to detained individuals.¹⁸ ICE is responsible for providing accommodations and medical care to individuals in detention with special vulnerabilities, such as those who have certain medical conditions, and it has developed policies specific to the care of such individuals.

Immigration Enforcement Priorities

In response to a February 2017 Executive Order on Enhancing Public Safety in the Interior of the U.S., the Secretary of Homeland Security directed DHS personnel to prioritize taking enforcement action against all removable individuals encountered in the course of their duties.¹⁹ The Secretary's guidance directed personnel to not exempt classes or categories of removable noncitizens from potential enforcement actions. In January 2021, the subsequent administration rescinded the 2017 executive order, and the Acting Secretary of Homeland Security issued interim guidance that directed DHS to conduct a review of policies and practices concerning immigration enforcement and to implement a 100-day pause on removing noncitizens from the U.S., among other guidance.²⁰

In September 2021, the Secretary of Homeland Security directed DHS personnel to consider the totality of the facts and circumstances of each case and to prioritize for enforcement action noncitizens who:

¹⁷Throughout this report, we refer to these facilities as ICE or immigration detention facilities.

¹⁸IHSC provides direct medical, dental, mental health care, and public health services to detained noncitizens in certain facilities and oversees the care of detained noncitizens at other detention facilities where health care services are provided by local government staff or private contractors.

¹⁹Department of Homeland Security, *Enforcement of the Immigration Laws to Serve the National Interest* (Feb. 2017). This order was in place in 2019 at the start of the timeframe for our review.

²⁰Department of Homeland Security, *Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities* (Jan. 20, 2021).

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- were deemed to be threats to national security, such as individuals engaged in or suspected of terrorism or espionage;
 - were deemed to be a threat to public safety, such as individuals engaged in serious criminal conduct; and
 - were deemed to be a threat to border security, such as individuals apprehended at the border or a port of entry while attempting to unlawfully enter the U.S.²¹

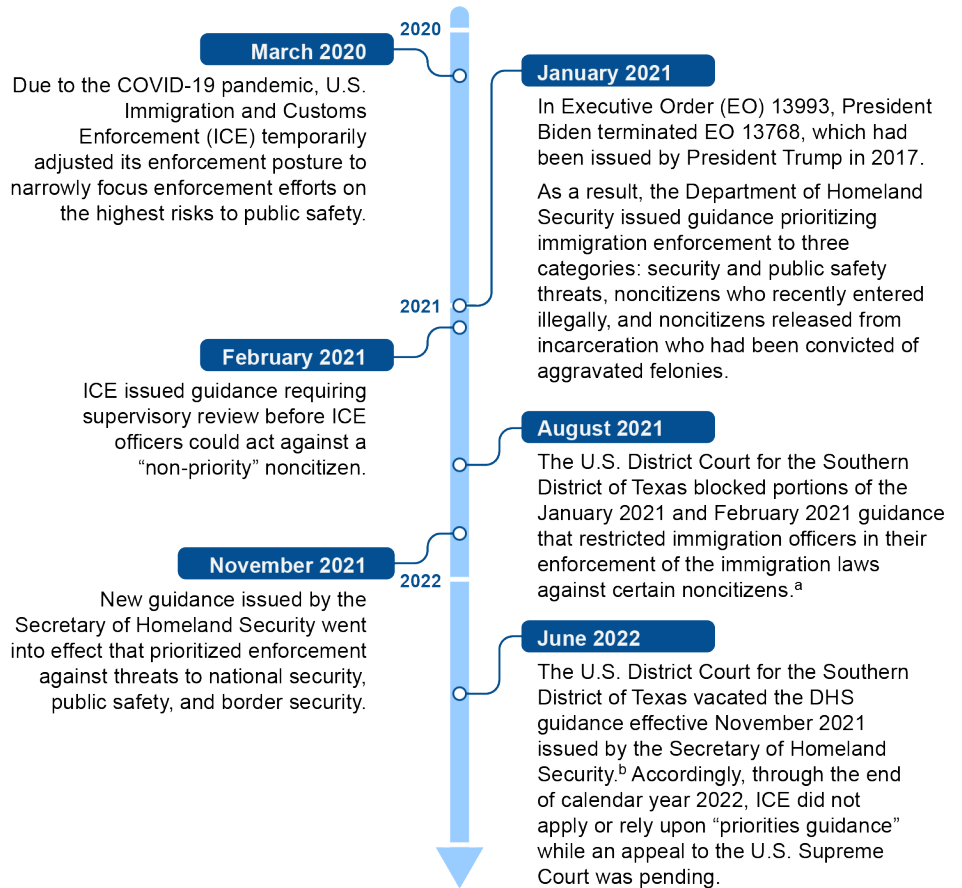
These enforcement priorities went into effect on November 29, 2021. However, the priorities were subsequently vacated by the U.S. District Court for the Southern District of Texas in June 2022.²² In June 2023, the U.S. Supreme Court issued an opinion that overturned the district court judgment that had vacated the guidance, thereby allowing DHS to begin implementing guidance prioritizing immigration enforcement.²³ See figure 1 for a timeline of key agency guidance and related court actions from 2019 through 2022.

²¹Department of Homeland Security, *Guidelines for the Enforcement of Civil Immigration Law* (Sept. 30, 2021).

²²*Texas v. United States*, 555 F. Supp 3d 351 (S.D. Tex. 2021) (memorandum opinion and order); see also *Texas v. United States*, 14 F.4th 332 (5th Cir. 2021) (granting in part and denying in part a motion to stay the preliminary injunction); *Texas v. United States*, 606 F. Supp. 3d 437 (S.D. Tex. 2022) (vacating the DHS guidance effective November 2021 and denying all other requested relief); *Texas v. United States*, 40 F. 4th 205 (5th Cir. 2022) (declining to stay the district court’s judgment).

²³See *United States v. Texas*, 143 S. Ct. 1964 (2023).

Figure 1: Timeline of Key Events Related to Immigration Enforcement Policies and Priorities from 2019 through 2022



Source: GAO analysis of relevant case law, Executive Orders, and Department of Homeland Security policy memoranda. | GAO-24-106233

Note: In June 2023, the U.S. Supreme Court issued an opinion that overturned the district court judgment that had vacated the guidance, thereby allowing DHS to begin implementing guidance prioritizing immigration enforcement. See *United States v. Texas*, 143 S. Ct. 1964 (2023). On July 28, 2023, ICE reinstated the application of the September 2021 guidance.

^a*Texas v. United States*, 555 F. Supp. 3d 351 (S.D. Tex. 2021) (memorandum opinion and order); see also *Texas v. United States*, 14 F.4th 332 (5th Cir. 2021) (granting in part and denying in part a motion to stay the preliminary injunction).

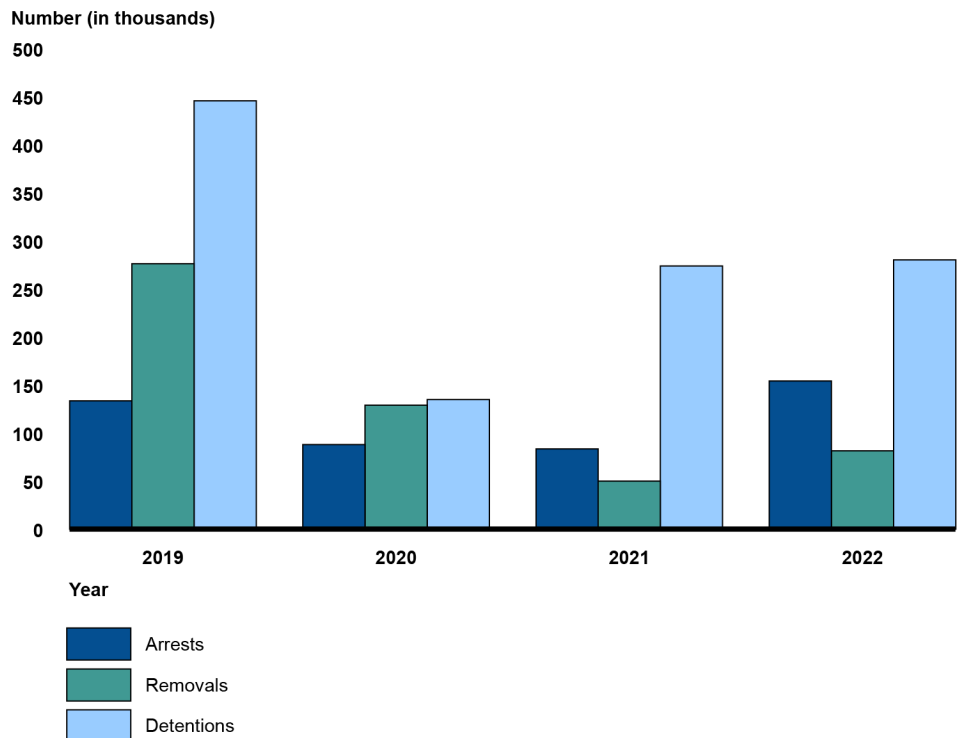
^bSee *Texas v. United States*, 606 F. Supp. 3d 437 (S.D. Tex. 2022) (vacating the DHS memorandum and denying all other requested relief); *Texas v. United States*, 40 F. 4th 205 (5th Cir. 2022) (declining to stay the district court’s judgment).

ICE Immigration Enforcement Actions Varied by Year; ICE Does Not Include All Individuals Detained in its Facilities in Public Reporting

The Number of ICE Arrests and Removals Declined from 2019 through 2021 and Detentions Varied

Our analysis of ICE data found that from 2019 through 2021, the number of ICE arrests and removals declined while the number of detentions varied. As shown in figure 2, arrests and removals declined each year from 2019 through 2021 before increasing in 2022. ICE detentions declined from 2019 to 2020 before increasing in 2021 and 2022.

Figure 2: U.S. Immigration and Customs Enforcement (ICE) Administrative Arrests, Removals and Detentions, Calendar Years 2019—2022



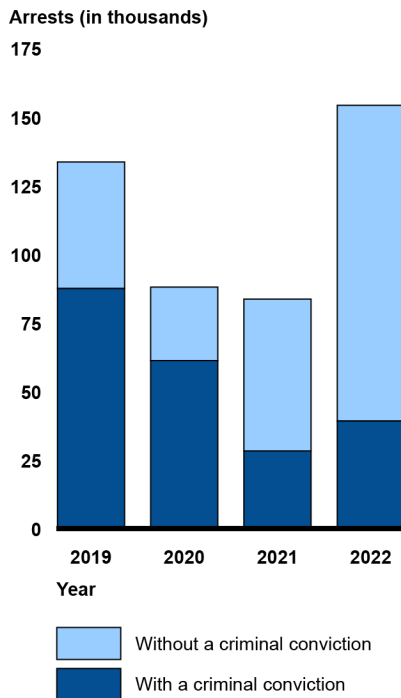
Source: GAO analysis of ICE data. | GAO-24-106233

Note: ICE's enforcement action data represent the number of administrative arrests, removals, and detentions rather than the number of individuals since an individual could have multiple arrests, removals, and detentions in the same calendar year.

ICE Arrests. Our analysis of ICE data showed that the number of ICE arrests varied from calendar years 2019 through 2022 but increased overall, from 133,541 arrests in 2019 to 154,204 arrests in 2022. Arrests varied by factors such as gender, criminal record, country of citizenship, and geographic area.

For example, male individuals and individuals without criminal convictions accounted for the majority of arrests. Specifically, male noncitizens accounted for at least 66 percent of arrests each year from 2019 through 2022, and noncitizens without criminal convictions accounted for 53 percent of arrests over the time period. Figure 3 shows the number of ICE arrests each year based on ICE's record of individuals' criminal history at the time of arrest. Citizens from four countries—Mexico, Honduras, Guatemala, and Venezuela—collectively accounted for 66 percent of all arrests over the time period. See appendix II for more information about ICE arrests by country of citizenship.

Figure 3: U.S. Immigration and Customs Enforcement (ICE) Administrative Arrests by Criminality, Calendar Years 2019—2022



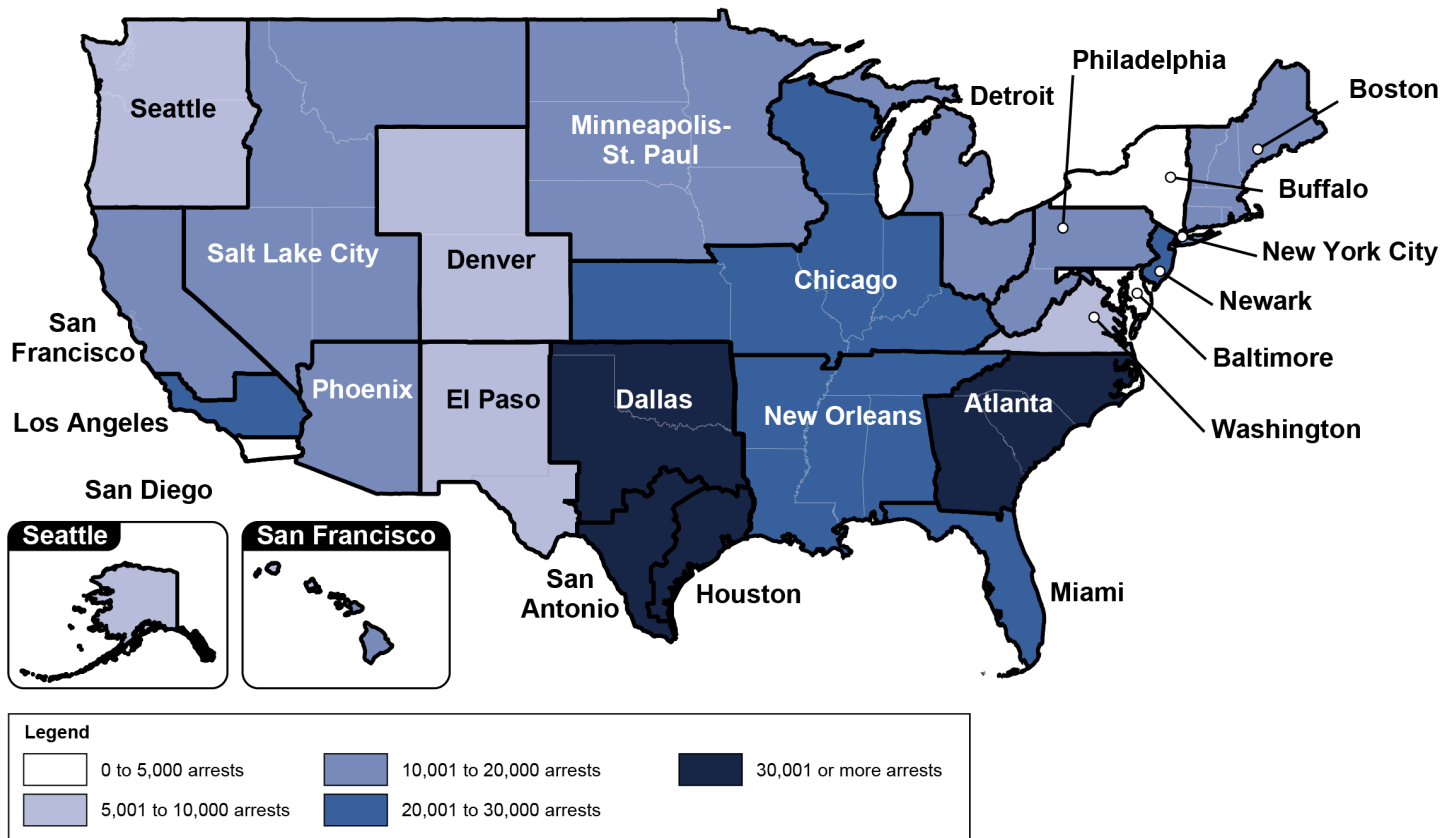
Source: GAO analysis of Immigration and Customs Enforcement data. | GAO-24-106233

Note: Arrest data represent the number of arrests, rather than the number of individuals arrested since an individual could have multiple arrests in the same calendar year. According to ICE, ICE officers electronically request and retrieve criminal history information about an individual from the Federal Bureau of Investigation'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 of whether an individual had a criminal conviction at the time of their arrest for our analysis.

The number of arrests over the time period varied geographically, ranging from under 5,000 arrests to over 30,000 arrests per area of responsibility, as shown below in Figure 4. Arrests of individuals with and without criminal convictions made by the Dallas area of responsibility accounted for the most arrests from 2019 through 2022 with 53,166, which is about 12 percent of total arrests from 2019 through 2022. The Buffalo area of responsibility accounted for the fewest arrests over the time period with a total of 4,147 arrests.

Figure 4: U.S. Immigration and Customs Enforcement (ICE) Administrative Arrests by Area of Responsibility, Calendar Years 2019—2022

2019-2022



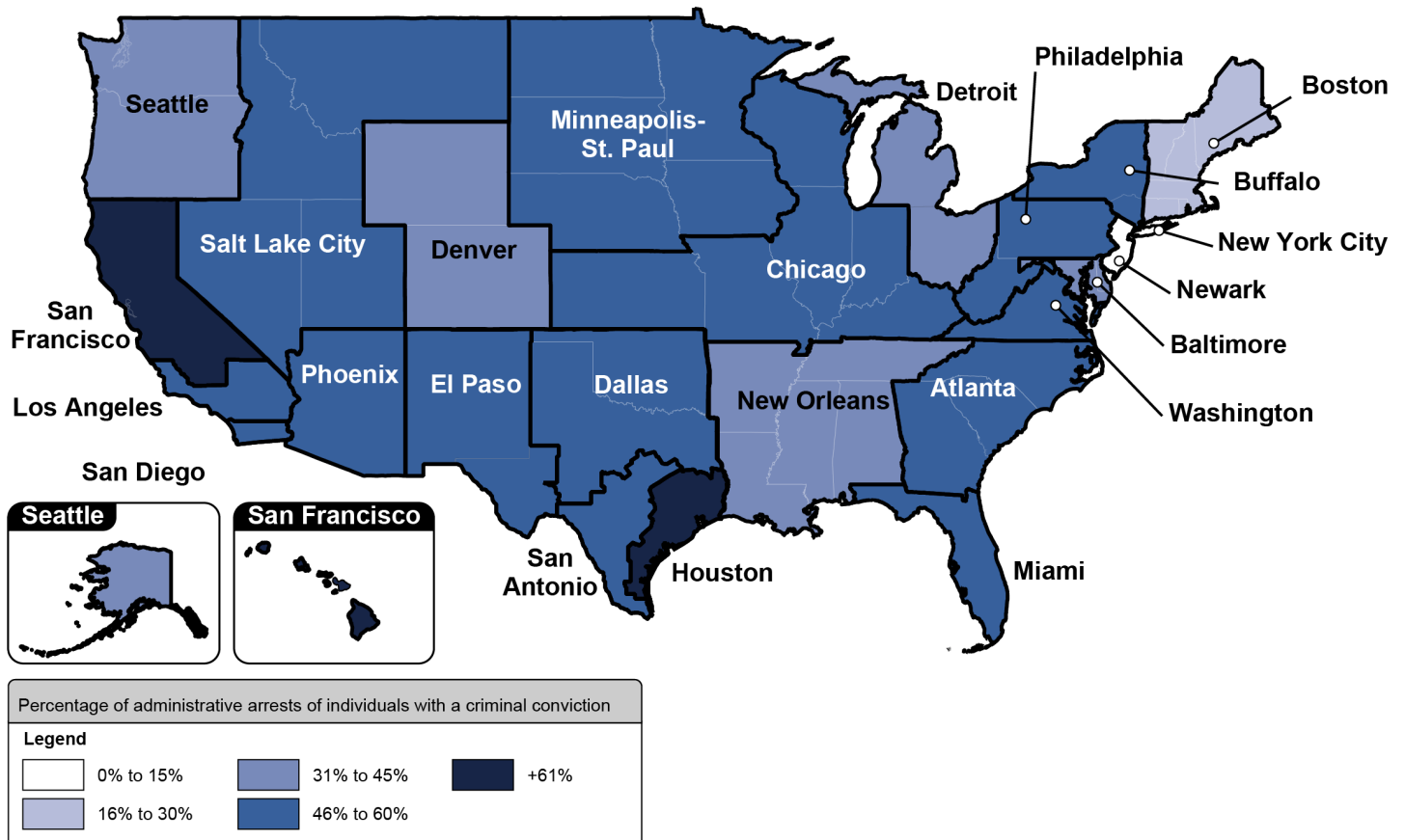
Source: GAO analysis of U.S. Immigration and Customs Enforcement data; MapInfo (map). | GAO-24-106233

Notes: Arrest data represent the number of administrative arrests of individuals with and without a criminal conviction, rather than the number of individuals since an individual could have multiple arrests in the same calendar year. ICE operates across 25 areas of responsibility nationwide. ICE added the Harlingen (Texas) area of responsibility in 2021, which is not represented in the figure.

In addition, the percentage of arrests of individuals with criminal convictions known to ICE varied geographically, ranging from 14 percent to over 70 percent per area of responsibility, as shown below in Figure 5. For example, in the San Francisco area of responsibility, about 73 percent of arrests from 2019 to 2022 involved individuals with a criminal conviction. Alternatively, about 14 percent of ICE arrests in the New York City area of responsibility involved individuals with a criminal conviction—the smallest percentage of total arrests over the time period.

Figure 5: Percentage of U.S. Immigration and Customs Enforcement (ICE) Administrative Arrests of Individuals with a Criminal Conviction for each Area of Responsibility, Calendar Years 2019–2022

2019-2022



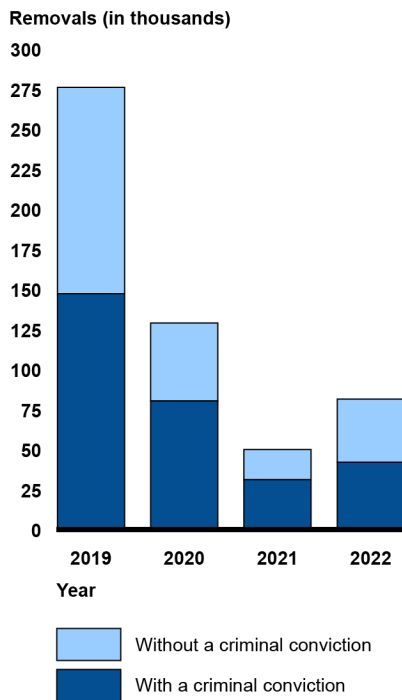
Source: GAO analysis of U.S. Immigration and Customs Enforcement data; MapInfo (map). | GAO-24-106233

Notes: Arrest data represent the number of administrative arrests, rather than the number of individuals since an individual could have multiple arrests in the same calendar year. ICE operates across 25 areas of responsibility nationwide. ICE added the Harlingen (Texas) area of responsibility in 2021, which is not represented in the figure. According to ICE, ICE officers electronically request and retrieve criminal history information about an individual from the Federal Bureau of Investigation'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 of whether an individual had a criminal conviction at the time of their arrest for our analysis.

ICE Removals. Our analysis of ICE data showed the number of ICE removals varied from calendar years 2019 through 2022 but decreased overall from 276,122 removals in 2019 to 81,547 removals in 2022.

Removals varied by factors such as gender, criminal record, and country of citizenship. Male individuals accounted for more than 88 percent of removals each year from 2019 through 2022, while female individuals accounted for less than 12 percent each year. In addition, the removal of individuals who, according to ICE data, had a criminal conviction accounted for 56 percent of all removals during the time period. Figure 6 shows the number of removals of individuals with and without criminal convictions from 2019 through 2022.

Figure 6: U.S. Immigration and Customs Enforcement (ICE) Removals by Criminality, Calendar Years 2019—2022



Source: GAO analysis of Immigration and Customs Enforcement data. | GAO-24-106233

Note: Removal data represent the number of removals, rather than the number of individuals removed since an individual could have multiple removals in the same calendar year. According to ICE, ICE officers electronically request and retrieve criminal history information about an individual from the Federal Bureau of Investigation'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 of whether an individual had a criminal conviction at the time of their arrest for our analysis.

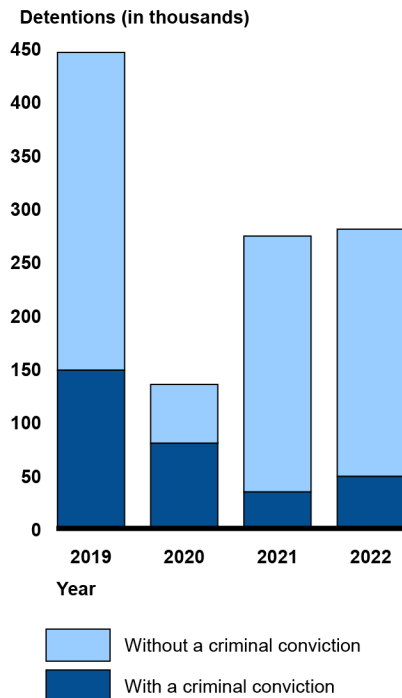
Citizens of four countries—Mexico, Guatemala, El Salvador, and Honduras—collectively accounted for approximately 86 percent of all ICE

removals from 2019 through 2022. See appendix II for more information on ICE removals by country of citizenship.

ICE Detentions. Our analysis of ICE data showed the number of detentions varied from calendar years 2019 through 2022 but decreased overall from 445,631 in 2019 to 280,155 in 2022. Detentions varied by factors such as gender, criminal record, and country of citizenship. Male individuals accounted more than 75 percent of total detentions from 2019 through 2022. Individuals without a criminal conviction known to ICE when initially booked into an ICE facility accounted for about 72 percent of all detentions over the 4-year period.²⁴ Figure 7 shows the number of detentions for each calendar year based on ICE’s record of an individual’s criminal conviction at the time of book-in.

²⁴ICE defines an initial book-in as an individual’s first detention stay that originates in an ICE detention facility. ICE uses initial book-ins to report the number of annual detentions in ICE detention facilities, as discussed in the next section. For our analysis, we excluded certain records of detentions where we could not match a detention stay with an initial book-in. See appendix I for more information.

Figure 7: U.S. Immigration and Customs Enforcement Detentions by Criminality, Calendar Years 2019—2022



Source: GAO analysis of Immigration and Customs Enforcement data. | GAO-24-106233

Note: Detention data represent the number of detentions, rather than the number of individuals detained since an individual could have multiple detentions in the same calendar year. We used ICE’s determination of whether an individual had a criminal conviction at the time of their arrest for our analysis. In addition, for our analysis, we excluded certain records—ones that we could not match and ones ICE excluded based on its methodology. See appendix I for more details.

Citizens from four countries—Mexico, Guatemala, Honduras, and Nicaragua—collectively accounted for about 55 percent of all detentions from 2019 through 2022. See appendix II for more information on ICE detentions by country of citizenship.

ICE Does Not Publicly Report Annual Data on All Detentions of Individuals in Immigration Detention Facilities

ICE reports on various annual detention statistics, such as the average daily population in detention and the average length of stay of individuals in detention. However, we identified two problems with ICE’s reporting of detention statistics. First, ICE underrepresents the total number of detentions of noncitizens in immigration detention facilities in its public reporting because ICE uses a subset of all detention records when reporting annual detention statistics. Second, ICE does not fully explain the methodology it uses to calculate and publicly report these statistics.

Congress has directed ICE to publicly report various types of statistics about its immigration enforcement actions, including detention statistics. For example, ICE has been directed to make detention statistics publicly available pursuant to the explanatory statement accompanying DHS's fiscal year 2022 appropriations act.²⁵ ICE reports these statistics on its website and in its annual reports.²⁶ In addition to ICE's reporting, the DHS Office of Homeland Security Statistics also publicly reports detention statistics using data ICE provides.²⁷

Among other detention-related statistics, ICE reports annual data on "initial book-ins." Agency officials told us that initial book-ins are intended to represent the total number of unique annual detentions. ICE defines an initial book-in as an individual's first detention stay that originates in an ICE detention facility. Officials calculate initial book-ins based on the type of facility an individual is first booked into and determine which facilities to include in its public reporting each year.

More specifically, in calculating initial book-ins, ICE officials told us they use a subset of all detention records. According to the officials, ICE first runs a query of its ICE Integrated Decision Support (IIDS) database to pull detention records for all detained individuals within a specified time period, such as for fiscal years. ICE officials stated that they then filter the data based on the type of facility at which an individual's first detention stay was recorded in ICE's database. If, for example, a noncitizen's first detention stay was at a temporary facility, such as an ICE facility used for staging or transporting individuals along the border, or a U.S. Customs and Border Protection (CBP) facility, ICE excludes those detention records from their calculation of initial book-ins. Using this methodology, ICE excludes such detention records even if those individuals were subsequently booked into and detained at an immigration detention

²⁵See 168 Cong. Rec. H1709, H2401 (Mar. 9, 2022) explanatory statement accompanying Pub. L. No. 117-103, 136 Stat. 49 (2022). In the explanatory statement, ICE is directed to continue issuing the annual ICE Fiscal Year ERO and Homeland Security Investigations reports, by no later than the December following the end of the fiscal year.

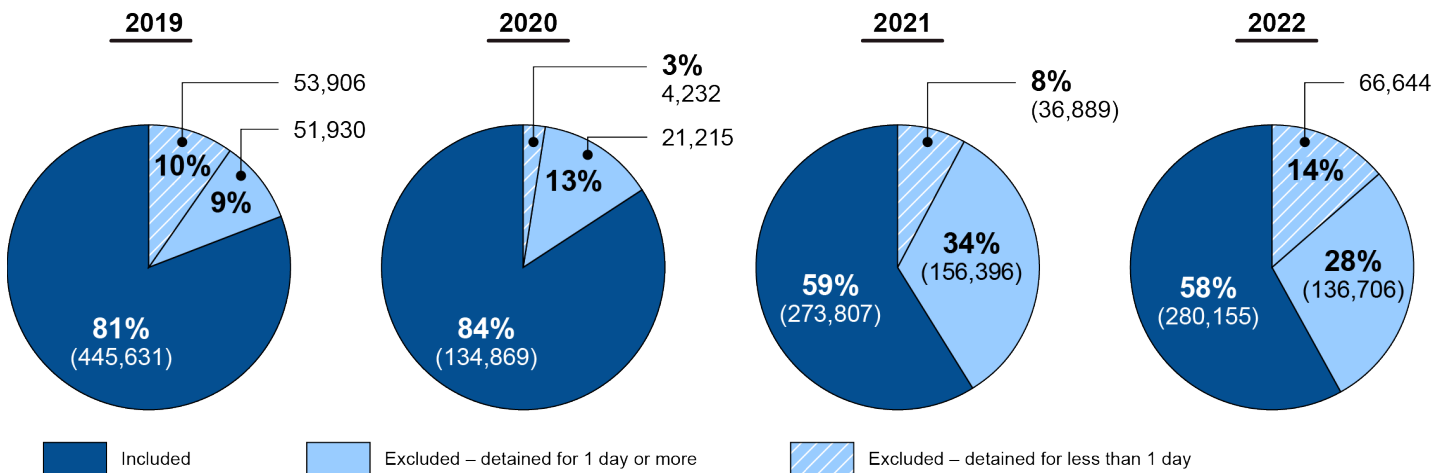
²⁶*U.S. Immigration and Customs Enforcement Fiscal Year 2022 Annual Report* (Washington, D.C.: Dec. 30, 2022). ICE's fiscal year 2023 annual report was the most current version of the annual report issued during our review. See *Immigration and Customs Enforcement Fiscal Year 2023 Annual Report* (Washington, D.C.: Dec. 29, 2023).

²⁷The Office of Homeland Security Statistics' mission is to foster transparency and data-driven homeland security decision-making by analyzing and disseminating timely DHS data and statistics.

facility. Officials also told us that they remove any records of transfers of individuals between facilities—including transfers into and between ICE detention facilities—to avoid counting individuals relocating to another ICE facility within their detention stay as unique detentions.

Our analysis of agency data shows thousands of detentions of individuals who were detained in immigration detention facilities during our time period of review (2019—2022), but their detentions were not captured in ICE’s reporting of initial book-ins. Using ICE data, we calculated that for each year in our time period, ICE did not capture in its public reporting of initial book-ins between 16 and 42 percent of the total detentions of individuals in immigration detention facilities.²⁸ Figure 8 shows the proportion of detentions of individuals detained by ICE who were included and excluded from ICE’s public reporting of initial book-ins from 2019 through 2022.

Figure 8: Proportion of Detentions of Individuals Detained by U.S. Immigration and Customs Enforcement (ICE) Included and Excluded using ICE’s Methodology for Public Reporting of Initial Book-Ins, Calendar Years 2019—2022



Source: GAO analysis of ICE’s ERO IIDS/EID data. | GAO-24-106233

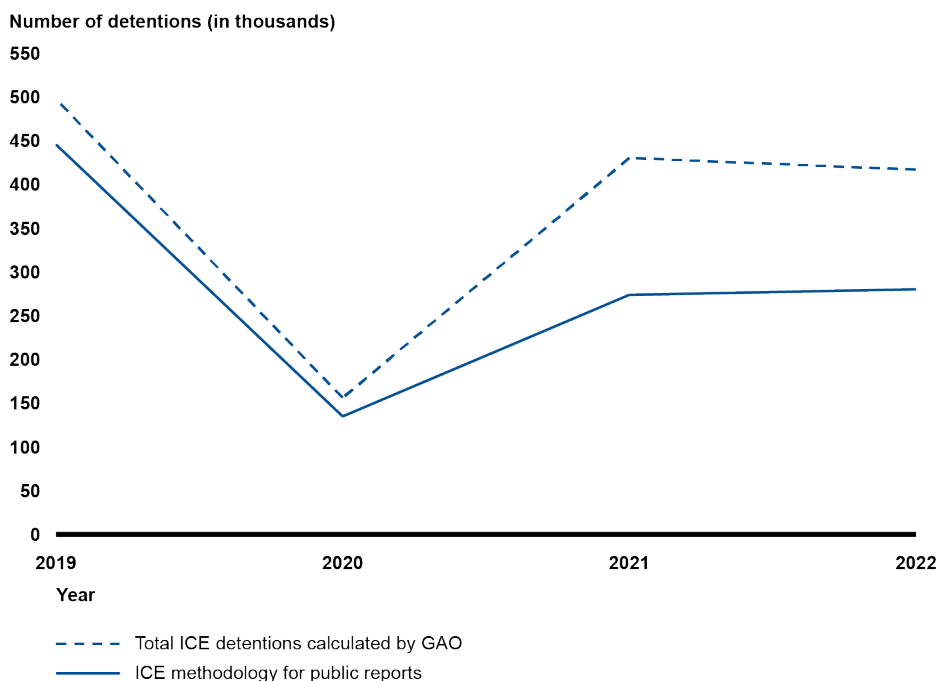
Note: We identified all initial book-ins into ICE detention facilities for each year in our time period. We then identified the subset of initial book-ins that ICE excludes from its reporting—i.e., any initial book-ins that occurred at certain temporary facilities used for staging noncitizens encountered along the southwest border, temporary transportation facilities, ICE short-term holding facilities, or U.S. Customs and Border Protection facilities. Of the number of initial book-ins excluded from ICE’s reporting, we determined the proportion of those book-ins where an individual’s detention stay was 1 day or more or less than 1 day. The number of detentions represented in this figure do not include

²⁸We conducted our analysis by identifying the total number of initial book-ins (i.e., unique detentions) for our time period. We then filtered the initial book-ins by facility, and calculated the number of initial book-ins occurring at facilities ICE told us they exclude in their reporting methodology.

records we were unable to match with records of initial book-ins. Percentages do not add to 100 percent due to rounding. See appendix I for more information.

As a result, ICE’s public reporting of initial book-ins understates the total number of detentions of individuals in immigration detention facilities each year because the data do not include individuals who were booked into certain temporary facilities before beginning their detention stay in an ICE detention facility. Figure 9 shows our calculation of the number of ICE detentions using ICE’s methodology—excluding detentions of individuals whose first detention stay was in certain temporary facilities—as compared with the number of total detentions of individuals in immigration detention facilities for at least one day from calendar years 2019 through 2022.²⁹

Figure 9: Total Number of ICE Detentions Compared to ICE’s Methodology for Public Reporting of Initial Book-ins, Calendar Years 2019—2022



Source: GAO analysis of Immigration and Customs Enforcement data. | GAO-24-106233

²⁹To calculate total ICE detentions, we identified all initial book-ins into ICE detention facilities for each year in our time period and removed any book-ins from facilities ICE excludes in its reporting where an individual was detained for less than 1 day.

Note: ICE uses a subset of all detention records to report initial book-ins. According to ICE officials, they filter initial book-ins based on the type of facility at which an individual first entered ICE custody. ICE does not include in its reporting of annual detentions records book-ins for individuals whose first detention stay was recorded in ICE’s database as an ICE facility used for staging along the border or for transportation, ICE short-term holding facilities used for holding individuals less than 72 hours, and U.S. Customs and Border Protection facilities. Using detention data provided by ICE on April 27, 2023, we calculated the total number of initial book-ins by identifying all book-ins for each year of our time period where an individual was recorded in ICE data as having been detained in an ICE detention facility for at least one day. For our analysis, we excluded certain detention records that we could not match to an initial book-in. See appendix I for more details.

According to ICE officials, many of the individuals booked into certain temporary facilities excluded from ICE’s methodology were never actually booked-in or did not spend a great deal of time in an ICE detention facility before being released from custody, removed from the country, or transferred to the custody of another agency. We recognize that some individuals ICE detains are not held at an ICE detention facility for long periods of time. However, our analysis of ICE data determined that nearly 70 percent of detentions of individuals excluded from ICE’s reporting of initial book-ins involved subsequent bookings into ICE detention facilities for days, weeks, months, and sometimes years. Table 2 shows the median length of stay for all detentions of individuals excluded from ICE’s reporting of initial book-ins who were detained in an ICE immigration detention facility for at least 1 day from 2019 through 2022.

Table 2: Median Length and Range of Stay of Detentions of Individuals in U.S. Immigration and Customs Enforcement (ICE) Facilities Excluded from ICE’s Reporting of Initial Book-Ins who were Detained in an ICE Facility, Calendar Years 2019—2022

Calendar Year	Number of Detentions of Individuals in an ICE Facility who are Excluded from ICE’s Initial Book-in Reporting	Median and (Range) of Length of Stay in Detention (Days)
2019	51,930	30 (1 to 1,486)
2020	21,215	23 (1 to 1,188)
2021	156,396	21 (1 to 810)
2022	136,706	17 (1 to 472)
Total	366,247	21 (1 to 1,486)

Source: GAO analysis of ICE data. | GAO-24-106233

Note: The number of detentions of individuals in an ICE detention facility that ICE excludes from its public reporting includes individuals who were detained in an ICE detention facility for at least 1 day.

ICE's methodology and reporting of initial book-ins provides one picture of its immigration detention population on an annual basis—the number of detentions of individuals whose first detention stay as recorded in ICE's database was in an immigration detention facility. And, along with reporting on other detention statistics, it provides useful information to Congress and the public on ICE's immigration detention population. However, ICE is not reporting information on the tens of thousands of individuals who were in immigration detention facilities, in some cases for weeks, months, and years, but whose first detention stay was not in such facilities.

Moreover, in its public reporting, ICE does not define what it means by initial book-ins or explain its methodology for determining initial book-ins. In particular, ICE does not explain that its methodology excludes detentions of individuals booked into certain temporary facilities before beginning their detention stay in an ICE detention facility. In data published on its website, ICE includes a footnote explaining that ICE initial book-ins exclude detentions of individuals in Office of Refugee Resettlement facilities or detentions of individuals detained by the U.S. Marshals Service.³⁰ However, the note does not fully explain ICE's methodology for determining which detentions of individuals are included or excluded in its reporting of initial book-ins based on the facility recorded as individuals' first detention stay.

In addition, in its public reporting, ICE does not note that determinations about whether to include or exclude certain facilities has changed over time. More specifically, in calculating initial book-ins, ICE included detentions of individuals where the first detention stay was in certain facilities that ICE identified as being temporary or CBP facilities in some fiscal years but not others. For example, officials told us that ICE included tens of thousands of detentions of individuals where the first detention stay was at a specific CBP holding facility for fiscal years 2019 through 2021 but decided not to include detentions of individuals held in that

³⁰Unaccompanied children in the custody of any federal department or agency, including ICE and CBP, must be transferred to the Office of Refugee Resettlement within 72 hours after determining that they are unaccompanied children, except in exceptional circumstances. 8 U.S.C. § 1232(b)(3). The U.S. Marshals Service houses and transports individuals arrested by federal agencies, relying on federal, state, and local and private jails throughout the U.S. for detention space. Unaccompanied children from contiguous countries who can make an independent decision, are not trafficking victims, and do not have credible fear of persecution, may be permitted to withdraw their application for admission and voluntarily return to the contiguous country pursuant to a repatriation agreement. 8 U.S.C. § 1232(a)(2). Such unaccompanied children are not transferred to the Office of Refugee Resettlement.

same holding facility in ICE's calculation of initial book-ins for fiscal year 2022.

ICE officials told us temporary facilities, as well as immigration detention facilities, can change over time. They also told us that if the agency decides to change how facilities are used or counted from one year to the next, ICE does not update or revise its reporting on initial book-ins for prior years. Further, ICE officials stated they have used the same methodology to calculate initial book-ins for at least the past 10 years but did not know why ICE decided to use this methodology.

DHS's instruction accompanying its Information Quality Directive states that objectivity is part of the standard for information quality and defines objectivity as including whether reported information is being reported in an "accurate, clear, complete, and unbiased manner."³¹ This also includes whether the information is presented with proper context. In addition, Office of Management and Budget Circular No. A-11 states that the credible use of evidence in decision-making requires an understanding of what conclusions can and cannot be drawn from the information presented.³²

ICE officials told us that they believe that their methodology for calculating and reporting detention statistics based on initial book-ins is valid. However, ICE's current methodology does not take into account thousands of detentions of individuals in immigration detention facilities where the initial detention originated in temporary facilities, as recorded in ICE's database. As a result, ICE is reporting an undercount of annual detentions. Moreover, by explaining how initial book-ins are defined or calculated, and any factors that could affect the data ICE publicly reports, such as changes in facilities over time, Congress and the public would have a clearer understanding of what ICE's data represent and how to use or interpret the data.

³¹Department of Homeland Security. *DHS Directive: Information Quality Implementation*. Instruction number 139-02-001 (Washington D.C.: 2019).

³²Office of Management and Budget. *Circular No. A-11: Preparation, Submission, and Execution of the Budget*. (Washington D.C.: 2016).

ICE Updated Its Immigration Enforcement Policies and Procedures to Reflect Changing Priorities and Applied Discretion

ICE Updated Policies and Procedures Regarding Immigration Enforcement, Including Those for Certain Vulnerable Populations

From calendar years 2019 through 2022, ICE updated its policies and procedures for making enforcement decisions and exercising prosecutorial discretion to reflect changing priorities.³³ As previously noted, from 2019 through January 2021, DHS policy directed officials to take enforcement action against all removable noncitizens without exempting categories of removable noncitizens. In response to Executive Order 13993 issued in January 2021, DHS updated its policy to direct ICE officers to prioritize enforcement actions for noncitizens who were a threat to national security, public safety, and border security.³⁴ DHS's policy was subsequently vacated in U.S. District Court in June 2022.³⁵ According to ICE officials, in the absence of documented enforcement priorities as the policy was being considered in court in 2022, ICE officers were directed to make enforcement decisions on a case-by-case basis, focusing on the greatest threats to homeland security.

In addition to updating its policies to reflect changing priorities, the Office of the Principal Legal Advisor (OPLA) updated its guidance in 2021 to expand attorneys' ability to exercise prosecutorial discretion, eliminating the requirement for attorneys to seek approval from the arresting agency

³³Prosecutorial discretion is the longstanding authority of an agency charged with enforcing a law to decide where to focus its resources and whether or how to enforce, or not to enforce, the law against an individual.

³⁴Department of Homeland Security, *Guidelines for the Enforcement of Civil Immigration Law* (Sept. 30, 2021).

³⁵See *Texas v. United States*, 555 F. Supp. 3d 351 (S.D. Tex. 2021) (memorandum opinion and order); see also *Texas v. United States*, 14 F.4th 332 (5th Cir. 2021) (granting in part and denying in part a motion to stay the preliminary injunction); *Texas v. United States*, 606 F. Supp. 3d 437 (S.D. Tex. 2022) (vacating the DHS guidance effective November 2021 and denying all other requested relief); *Texas v. United States*, 40 F. 4th 205 (5th Cir. 2022) (declining to stay the district court's judgment).

to exercise prosecutorial discretion when a noncitizen fell within an enforcement priority.³⁶ Prior to 2021, OPLA attorneys needed approval from the arresting agency to exercise prosecutorial discretion in a case and, therefore, had limited ability to exercise such discretion once removal proceedings were initiated, according to OPLA officials.

Since 2019, ICE has updated its policies regarding select vulnerable populations—individuals with serious mental health conditions; individuals who are pregnant, postpartum, or nursing; crime victims; and primary caregivers. ICE also has policies in place for individuals with disabilities and individuals identifying as transgender that have not changed since 2019.³⁷ Within ICE, ICE Health Service Corps (IHSC) medical staff are to monitor and implement policy provisions related to detained individuals with mental health conditions and those who are pregnant, postpartum, or nursing.³⁸ See table 3 for a list of ICE policies related to the detention of select vulnerable populations.

Table 3: U.S. Immigration and Customs Enforcement (ICE) Policies on Immigration Enforcement for Members of Select Vulnerable Populations as of July 2022

ICE Policy Directive and Issuing Year	Description
<i>Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals (July 2021)</i>	<ul style="list-style-type: none"> Establishes policy and procedures to ensure pregnant, postpartum, or nursing individuals in ICE custody are effectively identified, monitored, tracked, and housed in an appropriate facility to manage their care. Extends the policies and procedures for pregnant women to additionally include postpartum and nursing individuals.
<i>Identification, Communication, Recordkeeping, and Safe Release Planning for Detained Individuals with Serious Mental Disorders or Conditions and/or Who Are Determined To Be Incompetent By An Immigration Judge (April 2022)</i>	<ul style="list-style-type: none"> Establishes policies concerning the identification, monitoring, and tracking of individuals with serious mental health conditions and the exchange of relevant information between ICE and appropriate parties. Establishes additional safeguards prior to an individual’s transfer, release, or removal and directs headquarters to develop a tracking system for more frequent reporting on detained individuals with serious mental health conditions.

³⁶Department of Homeland Security, *Guidance to OPLA Attorneys Regarding the Enforcement of Civil Immigration Laws and the Exercise of Prosecutorial Discretion* (Apr. 3, 2022).

³⁷ICE has a separate policy for transgender individuals but not for individuals who identify as lesbian, gay, bisexual, and intersex. ICE does not have a separate policy for older individuals.

³⁸IHSC provides direct medical, dental, mental health, and public health services to detainees in 20 facilities authorized to house detainees for over 72 hours. Facilities serviced by IHSC include service processing centers, contract detention facilities, dedicated intergovernmental service agreement facilities, and family residential centers.

ICE Policy Directive and Issuing Year	Description
<i>Assessment and Accommodations for Detainees with Disabilities (December 2016)</i>	<ul style="list-style-type: none"> Establishes policy and procedures for ICE to oversee and communicate with detention facilities on the identification, assessment, and accommodation of detained individuals with disabilities.
<i>Further Guidance Regarding the Care of Transgender Detainees (June 2015)</i>	<ul style="list-style-type: none"> Provides guidance regarding the placement and care of detained individuals who identify as transgender in ICE custody.
<i>Using a Victim-Centered Approach with Noncitizen Crime Victims (August 2021)</i>	<ul style="list-style-type: none"> Establishes policies concerning civil immigration enforcement actions involving noncitizen crime victims, including applicants for and beneficiaries of victim-based immigration benefits. Extends the ability of officers to use discretion in cases involving noncitizen crime victims who do not have pending applications for victim-based immigration benefits.
<i>Interests of Noncitizen Parents and Legal Guardians of Minor Children or Incapacitated Adults (July 2022)</i>	<ul style="list-style-type: none"> Establishes policies concerning the preservation of parental and/or guardianship rights of noncitizen parents and legal guardians without regard to the dependent's citizenship or immigration status.

Source: GAO analysis of ICE documentation. | GAO-24-106233

ICE's policies establish how ERO is to identify, assess, and accommodate individuals within vulnerable populations. For example, to identify individuals with mental health conditions, ICE's national detention standards require facilities to conduct an initial medical screening for all detainees, including a documented mental health screening; a 14-day full medical assessment with mental health components; and timely referral for follow-up mental evaluations, diagnosis, and treatment.³⁹ ICE field office officials stated they may also rely on individuals to self-identify as belonging to a vulnerable population. Officers in field locations told us that if they become aware that an individual is part of a vulnerable population once the individual is already in detention, officers will reevaluate if the individual should remain in detention.

ICE Officers Consider Multiple Factors and Apply Professional Judgment when Taking Enforcement Actions

According to ICE policy, ICE officers are to consider various factors when making enforcement decisions. Specifically, officers are to evaluate the totality of the facts and circumstances of each case—for example immigration and medical history—and prioritize taking enforcement action against those who pose the greatest threats to public safety and those with serious criminal convictions. In addition, ICE headquarters officials stated limited bed space is a factor field officials must consider when making enforcement decisions across all field offices, and officials at all six field offices we met with stated that their area of responsibility has

³⁹U.S. Immigration and Customs Enforcement, *Performance-Based National Detention Standards 2011* (Revised Dec.2016); U.S. Immigration and Customs Enforcement, *Serious Mental Disorders or Conditions* (Revised July 2019).

limited bedspace. As such, officers stated they prioritize bed space for those individuals that pose the greatest threats to public safety.

In addition, officers told us they consider factors including an individual's criminal history; immigration history; medical history; age; sole caregiver status; if the individual is a victim of a crime; if the individual identifies as lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI+); and available detention space, among other factors. For example, officers consider whether individuals have any known medical or mental health conditions and will work in coordination with the IHSC officials to determine if ICE can appropriately care for the individual in detention. Officials at all six field offices we met with stated that ICE is less likely to detain individuals with severe medical conditions, such as cancer, and officials at three of the six field offices stated that absent extraordinary circumstances, officers do not detain pregnant individuals. Officers told us they also consider an individual's family connections, including whether someone is the sole caretaker of a child.

ICE officers use their professional judgment when making enforcement decisions in line with ICE policy. Officials at three of the six field offices we spoke with stated that officers' ability to exercise professional judgment has remained the same from 2019 through 2022 despite updates to ICE policies and priorities. Officials at two of the six field offices stated the updated DHS guidance, issued in September 2021, limited officers' ability to exercise professional judgment because officers were required to get approval from their supervisors in order to target or take action against an individual that did not fall into one of the three priority categories—threats to national security, public safety, or border security.⁴⁰ For example, in implementing the DHS guidance, officers were required to use the Arrest Analysis Reporting Tool to record aggravating and mitigating factors applicable to the case and were required to submit the tool to their supervisors for approval. Officials at one of the six field offices we spoke with provided mixed responses, and did not agree with each other, about the extent to which officers were able to exercise professional judgment from 2019 through 2022.

⁴⁰Department of Homeland Security, *Guidelines for the Enforcement of Civil Immigration Law* (Sept. 30, 2021).

ERO Headquarters Officials Meet Regularly with Field Offices and Review Data to Oversee Policy Implementation

ERO headquarters officials are responsible for overseeing implementation of immigration enforcement in the field, including policies related to prioritizing immigration enforcement actions and the detention and treatment of vulnerable populations. According to ERO headquarters officials, they primarily oversee implementation of ICE policies by holding regular meetings with field officials and through monitoring enforcement data.

ERO meetings with field offices. ERO headquarters officials told us they meet regularly with field office leadership on how to prioritize enforcement actions and to review specific enforcement cases to ensure the decisions made in the field are in accordance with policy. For example, headquarters officials stated they hold weekly meetings with field office management to share information about how officers should prioritize resources. In these meetings, ERO headquarters officials discuss specific enforcement actions and decisions made in field offices, as well as how those actions align with ICE policy. In another example, an ERO headquarters official stated they hold weekly calls with ICE officers in the field who serve as headquarters liaisons, and they track compliance with policy through weekly emails with field points of contact.

In addition, ICE encourages field office directors to meet with their officers to discuss the agency's priorities for immigration enforcement and how ICE officers should implement guidance at the local level. For example, after DHS issued new guidance on priorities for enforcement actions in September 2021, ERO headquarters developed a set of talking points for field office directors to use when briefing their staff. The talking points we reviewed included a deadline for when field office directors should meet with their staff to discuss the new enforcement priorities, and to begin a series of scenario-based sessions where officers could practice applying the new guidance.

ERO headquarters officials stated they also hold a weekly call with field officials to discuss the implementation of policies regarding vulnerable populations. For example, as of 2021, ERO officials stated that, per ICE policy, headquarters approval is required to take enforcement action against noncitizens identified as being a victim of a crime and such cases would be discussed during the weekly calls.

In addition, in March 2021, ICE began to utilize a process where individuals in ICE detention or a representative for those noncitizens can appeal to a Senior Reviewing Official to review and consider the detained individual's request for release or use prosecutorial discretion. Officials

stated that if a detained individual reaches out to officials from an ERO field office to request that their case be reviewed, the field office can make an initial determination. After field office officials make a determination, the noncitizen or representative may reach out to the Senior Reviewing Official via an email link on ICE's website. The Senior Reviewing Official and their management team coordinate all requests received with the local ICE field office to determine what, if any, discretion will be exercised.

ERO monitors enforcement data. ERO headquarters officials stated they use data on immigration enforcement actions to monitor how field officials prioritize targets for enforcement action and to oversee general trends in enforcement activities. ERO headquarters officials can access several different reports, including weekly removal and detention reports from each area of responsibility. For example, a weekly removals and detentions report from October 2022 included information on the average daily detained population each month since fiscal year 2021, information on how long individuals had been detained in ICE facilities, and the number of enforcement actions taken within each area of responsibility.

ERO headquarters officials stated they also monitor a daily list of arrests to assess cases where an officer targeted an individual for enforcement who did not have a criminal history or pose a safety threat. Further, ERO headquarters officials stated they review enforcement data to monitor the average length of detention stays. In cases where average detention stays increase, ERO conducts inquiries with individual field offices to address specific cases.

ERO headquarters officials stated they also review data from the Unified Immigration Portal—a CBP application that provides access to information on immigration enforcement actions across DHS, the Department of Justice, and the Department of Health and Human Services. This portal allows ERO officials to look at how field resources are being used for arrests, removals, and detentions. Officials stated they analyze reports from the portal to ensure the data on enforcement actions align with the administration's enforcement priorities. For example, ICE officials stated if a field office has a high number of arrests relative to the number of individuals officers encounter, headquarters would inquire with the field office to see why that was occurring. Alternatively, if ERO headquarters officials determine the number of individuals in detention is increasing in a particular area of responsibility, they will reach out to the field office to see if any individuals are eligible for release to provide more bedspace for high priority individuals.

ERO officials stated they use specific data trackers to monitor enforcement actions against detained vulnerable populations. For example, the data trackers we reviewed included information on how many individuals within vulnerable populations have been detained, for how long, and how far along they were in immigration proceedings. Officials stated they also use the vulnerable population data trackers to identify where individuals with mental health conditions are being detained, and whether the individual could benefit from being transferred to one of ICE's facilities with additional mental health services.

ICE Data Indicate Detentions of Select Vulnerable Populations Varied from 2019 through 2022

ICE collects detention data related to select vulnerable populations in accordance with agency guidance. Our analysis of ICE's data showed that, generally, detentions of select vulnerable populations varied across the years but were lower in 2020 through 2022 compared to 2019.⁴¹ Overall, the average length of stay decreased from 2019 through 2022 for select vulnerable populations while the range of detention stays varied. Detentions based on criminality varied for each select population.

Transgender individuals. In November 2015, ICE began collecting data on detained transgender individuals who voluntarily disclosed their gender identity to ICE officers. According to our analysis of ICE data, the number of detentions of transgender individuals decreased each year from 2019 to 2021 but then increased slightly in 2022. See table 4 below.

Table 4: Detentions of Transgender Individuals in U.S. Immigration and Customs Enforcement (ICE) Custody, Calendar Years 2019–2022

Year	Detentions of Transgender Individuals	Percent with Criminal Records	Average Length of Stay (Days)	Range of Length of Stay (Days)
2019	475	34%	118	1-993
2020	145	55%	58	1-453
2021	103	42%	49	1-638
2022	121	46%	35	1-395

Source: GAO analysis of ICE data. | GAO-24-106233

Note: Data on transgender individuals only include individuals who voluntarily disclosed their gender identity to ICE. The number of detained individuals may not equal the number of detentions because an individual may have been detained multiple times during a calendar year.

⁴¹In reporting the numbers of detained individuals within select vulnerable populations, we used the same methodology as ICE uses in its public reporting to identify the number of individuals initially booked-in to ICE detention facilities.

From 2019 through 2022, ICE made 844 detentions of individuals who identified as transgender. Of the 844 transgender individuals detained during the time period, 337 had criminal convictions known to ICE at the time of detention.⁴² The average length of stay generally decreased from 2019 through 2022, the highest average being approximately 118 days in 2019.

Individuals with communication and mobility impairments. In January 2017, ICE began collecting and maintaining data on detained noncitizens with certain communication and mobility impairments who disclosed their impairment or who were identified by facility staff as having an impairment.⁴³ The number of detentions of individuals with communication and mobility impairments decreased from 2019 to 2020. However, detentions increased both in 2021 and 2022, where 2022 had the highest number of detentions of any year in the time period of our analysis. See table 5 below.

Table 5: Detentions of Individuals with Communication and Mobility Impairments in U.S. Immigration and Customs Enforcement (ICE) Custody, Calendar Years 2019—2022

Year	Detentions of Individuals with Communication and Mobility Impairments	Percent with Criminal Records	Average Length of Stay (Days)	Range of Length of Stay (Days)
2019	502	56%	169	2-1,250
2020	322	72%	148	4-1,017
2021	352	42%	81	2-708
2022	567	28%	59	2-375

Source: GAO analysis of ICE data. | GAO-24-106233

Note: These data only include individuals who disclosed their communication and mobility impairment or who were identified by facility staff as having an impairment. The number of detained individuals may not equal the number of detentions because an individual may have been detained multiple times during a calendar year.

⁴²Detentions of individuals without a criminal record include both detentions of individuals with pending criminal charges and individuals with no recorded criminal history.

⁴³According to the directive, detained noncitizens with communication impairments include individuals with physical, hearing, visual, and speech impairments (e.g., individuals who are deaf or hard of hearing, blind, or nonverbal). Detainee noncitizens with mobility impairments include individuals with physical impairments who require a wheelchair, crutches, prostheses, cane, other mobility device, or other assistance. See ICE Directive 11071.1, *Assessment and Accommodations for Detainees with Disabilities* (Dec. 15, 2016).

From 2019 through 2022, ICE detained 1,743 individuals with communication and mobility impairments. Of the 1,743 detentions, 821 had criminal convictions. The average length of detention for individuals with communication and mobility impairments generally decreased from 2019 through 2022, the highest average being approximately 169 days in 2019.

Pregnant and nursing individuals. IHSC medical staff are directed to monitor and implement policy provisions related to detained individuals. ICE policy states that IHSC, or appropriate medical staff in non-IHSC staffed facilities, should notify the Field Office Director within 24 hours after identifying individuals known to be pregnant, postpartum, or nursing.⁴⁴ According to ICE policy, pregnant or nursing individuals should not be detained unless release is prohibited by law or exceptional circumstances exist.

The number of detentions of pregnant individuals decreased from 2019 to 2020, increased in 2021, then decreased again in 2022. See table 6 below.

Table 6: Detentions of Pregnant Individuals in U.S. Immigration and Customs Enforcement (ICE) Custody, Calendar Years 2019—2022

Year	Detentions of Pregnant Individuals	Percent with Criminal Records	Average Length of Stay (Days)	Range of Length of Stay (Days)
2019	1,278	7%	17	1-529
2020	195	9%	22	1-302
2021	549	0.4%	7	1-99
2022	378	1%	9	1-56

Source: GAO analysis of ICE data. | GAO-24-106233

Note: The number of individuals may not equal the number of detentions because an individual may have been detained multiple times during a calendar year.

From 2019 through 2022, ICE detained 2,400 pregnant individuals. Of the 2,400 detentions, 111 had a criminal conviction. The average length of detention for pregnant individuals generally decreased from 2019 through 2022, the highest average being approximately 22 days in 2021.

⁴⁴See ICE Directive 11032.4: *Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals* (July 1, 2021).

In addition, from 2019 through 2022, ICE detained 106 nursing individuals. Of those 106 detentions, two had criminal convictions. The average length of detention for nursing individuals generally decreased from 2019 through 2022, the highest average being approximately 23 days in 2019.

Older Individuals. ICE does not have a separate policy on providing care for older detained individuals—age 65 and older—and does not collect specific data. However, ICE can identify older individuals by calculating the individual’s age at the time of initial book-in. The number of detentions of older individuals decreased from 2019 to 2020, increased in 2021, and decreased in 2022. See table 7 below.

Table 7: Detentions of Older Individuals in U.S. Immigration and Customs Enforcement (ICE) Custody, Calendar Years 2019—2022

Year	Detentions of Elderly Individuals	Percent with Criminal Records	Average Length of Stay (Days)	Range of Length of Stay (Days)
2019	1,374	61%	65	1-1,023
2020	737	81%	49	1-1,004
2021	821	45%	22	1-555
2022	737	63%	29	1-381

Source: GAO analysis of ICE data. | GAO-24-106233

Note: Data on detained older individuals includes individuals 65 years or older at the time of initial book-in. The number of individuals may not equal the number of detentions because an individual may have been detained multiple times during a calendar year.

From 2019 through 2022, ICE detained 3,669 older individuals. Of those 3,669 detentions, 2,263 had a criminal conviction. The average length of detention for older individuals generally decreased from 2019 through 2022, the highest average being approximately 65 days in 2019.

Individuals with mental health conditions. ICE collects detention data to identify individuals with mental health conditions at IHSC-staffed facilities. ICE identifies individuals with mental health conditions through conducting an initial mental health screening, a 14-day full medical assessment that includes mental health components, and timely referrals for follow-up mental evaluations, diagnosis, and treatment. The number of detentions of individuals with mental health conditions decreased from 2019 to 2020 before increasing each year in 2021 and 2022, where 2022

had the highest number of detentions during the time period of analysis. See table 8 below.

Table 8: Detentions of Individuals with Mental Health Conditions in U.S. Immigration and Customs Enforcement) Health Service Corps (IHSC)-staffed Facilities, Calendar Years 2019—2022

Year	Detentions of Individuals with Mental Health Conditions	Percent with Criminal Records	Average Length of Stay (Days)	Range of Length of Stay (Days)
2019	10,619	38%	136	1-1,464
2020	5,370	52%	111	1-1,145
2021	7,606	29%	69	1-751
2022	11,140	26%	56	1-432

Source: GAO analysis of ICE data. | GAO-24-106233

Note: Detention data represent the number of detentions of individuals with mental health conditions, rather than the number of individuals since these individuals could have multiple detentions in the same calendar year. These data only include individuals with mental health conditions detained at IHSC-staffed facilities.

From 2019 through 2022, ICE detained 34,735 individuals with mental health conditions. Of those 34,735 detentions, 11,834 individuals had a criminal conviction. The average length of detention for individuals with a mental health condition generally decreased from 2019 through 2022, the highest average being approximately 136 days in 2019.

Individuals with serious mental health conditions. In 2014, ICE established policies to monitor detention data for individuals with serious mental health conditions. According to the most recent directive issued in 2022, ICE defines serious mental health conditions as mental disorders that cause serious limitations to communication, memory, or general intellectual functioning or significant symptoms of psychosis, bipolar disorder, schizophrenia, major depressive disorder, dementia, or an intellectual development disorder.⁴⁵ The number of detentions of individuals with serious mental health conditions decreased every year from 2019 through 2022. See table 9 below.

⁴⁵See ICE Directive 11063.2: *Identification, Communication, Recordkeeping, and Safe Release Planning for Detained Individuals with Serious Mental Disorders or Conditions and/or Who Are Determined to Be Incompetent By An Immigration Judge* (Apr. 5, 2022)

Table 9: Detentions of Individuals with Serious Mental Health Conditions in U.S. Immigration and Customs Enforcement (ICE) Custody, Calendar Years 2019—2022

Year	Detentions of Individuals with Serious Mental Health Conditions	Percent with Criminal Records	Average Length of Stay (Days)	Range of Length of Stay (Days)
2019	145	62%	256	2-1,256
2020	89	45%	190	9-858
2021	72	57%	125	5-751
2022	47	68%	77	6-252

Source: GAO analysis of ICE data. | GAO-24-106233

Note: According to ICE officials, the data contain information on individuals with serious mental health conditions as identified by the ICE Health Service Corps at ICE Health Service Corps-staffed facilities, as well as data on individuals with a serious mental health condition submitted to ICE Health Service Corps by coordinators at non-ICE Health Service Corps facilities. Since ICE relies on non-ICE Health Service Corps facilities to self-report serious mental health conditions, the data may not include all detained noncitizens with these conditions.

From 2019 through 2022, there were 353 detentions of individuals with serious mental health conditions.⁴⁶ Of those 353 detentions, 203 had a criminal conviction. The average length of detention for individuals with serious mental health conditions decreased from 2019 through 2022, the highest average being approximately 256 days in 2019.

Conclusions

ICE states it prioritizes taking immigration enforcement actions to maximize its limited resources in enforcing the nation’s immigration laws. While ICE’s reporting of its initial book-ins provides useful information on ICE’s detained population, it does not reflect the total number of detentions of individuals detained in immigration detention facilities. As a result, ICE is understating the number of detentions of individuals in immigration detention facilities. Moreover, by not fully explaining its methodology for calculating initial book-ins in its public reporting, Congress and the public may not have a complete understanding about how to use or interpret the data. Taking action to report on all detentions of individuals in immigration detention facilities and fully explaining its methodology for calculating initial book-ins would help ensure the public

⁴⁶ICE Health Service Corps (IHSC) provides direct medical, dental, mental health care, and public health services to detainees in 20 facilities authorized to house detainees for over 72 hours. Facilities serviced by IHSC include service processing centers, contract detention facilities, dedicated intergovernmental service agreement facilities, and family residential centers.

and decisionmakers have a more complete understanding and proper context of ICE annual detentions of individuals in immigration detention facilities.

Recommendations for Executive Action

We are making the following two recommendations to ICE:

The Director of ICE should report data on the total number of detentions of individuals in ICE immigration detention facilities as part of its public reporting on annual detention statistics. (Recommendation 1)

The Director of ICE should fully explain the methodology used to calculate and report annual detention statistics included in its public reporting. (Recommendation 2)

Agency Comments and Our Evaluation

We provided a draft of this report to DHS for review and comment. DHS provided written comments, which are reproduced in appendix III. DHS also provided technical comments, which we incorporated as appropriate. DHS did not concur with our two recommendations.

Regarding our first recommendation that ICE report data on the total number of detentions in its immigration detention facilities when publicly reporting annual detention statistics, DHS stated that ICE reports a variety of detention-related statistics on its website. However, as we noted in our report, ICE's public reporting includes a subset of all annual detentions in ICE long-term detention facilities—excluding between 16 and 42 percent of total detentions for each year in our time period.

Further, in its response, DHS has misstated our first recommendation as suggesting ICE report the total number of noncitizens who were initially booked into temporary ICE facilities. Instead, as we explain in our report, we are recommending that ICE include in the agency's reporting those detentions originating at temporary sites that involve individuals who are subsequently detained in ICE long-term detention facilities.

Specifically, DHS's response stated that other agencies may hold noncitizens in temporary or staging facilities, but these are not considered ICE detentions. For example, DHS noted that CBP can use an ICE facility for transportation purposes or for temporary holding until individuals are transferred or removed from the U.S. DHS stated that noncitizens detained in ICE facilities for these purposes are not considered to be in ICE custody; instead, they are considered to be in CBP custody. DHS also stated that reporting these noncitizens as being in ICE custody would lead to double counting of these noncitizens across ICE and CBP.

However, in our report we do not state that ICE should count individuals held in temporary facilities as part of the total number of its detentions. Rather, we note that some individuals who were first booked into temporary facilities were then transferred to ICE detention facilities and spent, in some cases, weeks, months, and years in those facilities. ICE is not reporting information on those detentions, which we believe it should because such individuals spent time in long-term ICE detention facilities. In the report, we also recognized that some individuals are not held at an ICE detention facility for long periods of time. We accounted for this by presenting our analysis based on the number of ICE-excluded detentions for individuals detained for at least 1 day. In addition, as discussed in our report, our analysis of ICE data determined that nearly 70 percent of ICE-excluded detentions involved subsequent bookings into ICE detention facilities for days, weeks, months, and sometimes years. We continue to believe that ICE is understating the total number of annual detentions in its long-term detention facilities and should report all detentions of individuals in ICE long-term detention facilities.

Regarding our second recommendation that ICE fully explain the methodology used to calculate and report annual detention statics in its public reporting, DHS responded that ICE already includes definitions, data exemptions, and field criteria when reporting statistics. However, as we stated in the report, ICE does not define what it means by initial book-ins or explain its methodology for determining initial book-ins in its public reporting. In particular, ICE does not explain that its methodology excludes detentions of individuals booked into certain temporary facilities before beginning their detention stay in an ICE detention facility. In data published on its website, ICE includes a footnote explaining that ICE initial book-ins exclude detentions of individuals in Office of Refugee Resettlement facilities or detentions of individuals detained by the U.S. Marshals Service. However, the note does not fully explain ICE's methodology for determining which detentions of individuals are included or excluded in its reporting of initial book-ins based on the facility recorded as individuals' first detention stay. We continue to believe that ICE should fully explain its methodology for calculating and reporting its annual immigration detentions to ensure the public and decision makers have the proper context for ICE's detention statistics.

If you or your staff have any questions about this report, please contact me at (202) 512-8777 or gablerr@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

Sincerely,

A handwritten signature in black ink that reads "Rebecca Gambler". The signature is written in a cursive, flowing style.

Rebecca Gambler
Director, Homeland Security and Justice

Appendix I: Objectives, Scope, and Methodology

This appendix provides additional information on our objectives, scope, and methodology. Specifically, our objectives were to examine the following questions:

1. What do analyses of U.S. Immigration and Customs Enforcement (ICE) data show about immigration enforcement actions (arrests, removals, and detentions) from 2019 through 2022 and the extent to which ICE is reporting data on all detentions?
2. How has ICE implemented immigration enforcement policies and procedures from 2019 through 2022, including those for select vulnerable populations?
3. To what extent does ICE oversee implementation of immigration enforcement priorities and policies, including those for select vulnerable populations?
4. What do analyses of ICE data show about the numbers of detentions of select vulnerable populations since 2019?

To address our first question, we analyzed individual-level data from the ICE Integrated Decision Support (IIDS) database to determine the total number of ICE Enforcement and Removal Operations (ERO) administrative arrests (arrests), removals, and detentions from January 1, 2019, through December 31, 2022.¹ We selected this time period in order to begin reporting data from the period covered in our December 2019 report through December 2022, the most recent complete calendar year for which data were available at the time of our review.² ERO conducts civil immigration enforcement actions, which includes administrative arrests (arrests) for civil violations of U.S. immigration laws, removals, and detentions.

Arrests. We analyzed individual-level arrest data from IIDS to determine the total number of ERO arrests for each calendar year from 2019

¹According to ICE, the ICE Integrated Decision Support (IIDS) is a data warehouse populated by Enforcement Case Tracking System (ENFORCE) 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 U.S. Customs and Border Protection. DHS personnel utilize the ENFORCE applications to enter information into the system. Specifically, officers use the Enforcement Integrated Database Arrest Guide for Law Enforcement to process arrest information, the ENFORCE Alien Removal Module (EARM) to track and support processing and removal of individuals, and the ENFORCE Alien Detention Module, a subsystem within EARM, to track individuals in ICE custody.

²[GAO-20-36](#).

through 2022. We examined multiple data fields from the individual-level arrest data, including alien file number, last name, first name, subject ID, date of birth, person ID, gender, country of citizenship,³ apprehension date, area of responsibility, and apprehension criminality,⁴ among other variables.⁵ Because noncitizens may have multiple arrests within the same calendar year, we used person ID and apprehension date to identify the unique number of arrests rather than the number of unique individuals who were arrested. We excluded from our analysis arrest records that indicated “test” in the name fields. We analyzed these data to determine total numbers of arrests by gender, country of citizenship, criminality, and area of responsibility. We also used these data to calculate the proportion of arrests of individuals with criminal convictions known to ICE by ERO area of responsibility.⁶

Removals. We analyzed individual-level removal data from IIDS to determine the total number of ICE removals during calendar years 2019 through 2022. We examined multiple data fields from the individual-level removal data, including alien file number, first name, last name, subject ID, date of birth, person ID, gender, country of citizenship, criminality, arresting agency, and removal date. Because noncitizens may have multiple removals, we used person ID and departure date to identify the unique number of removals rather than the number of unique individuals. We analyzed these data to determine total numbers of removals by gender, country of citizenship, and criminality.

³ICE obtains country of citizenship data from arrest reports, which may be based on documentation or self-reported.

⁴For the purposes of this report and our presentation of ICE data, we refer to potentially removable noncitizens “with” or “without” a criminal conviction known to ICE. According to ICE, ICE officers electronically request and retrieve criminal history information about an individual from the Federal Bureau of Investigation’s National Crime Information Center database, which maintains a repository of federal and state criminal history information. ICE officers are also able to manually enter criminal history information in ICE’s data system if they discover additional criminal history information that was not available in the National Crime Information Center database. ICE officers may also check for criminal convictions committed outside the U.S., on a case-by-case basis. Most of the ICE data we reviewed indicated criminal or non-criminal history. Criminal history included convictions, and non-criminal history included both pending criminal charges and other immigration violations. Therefore, wherever we referred to criminality, we used ICE’s determination of criminality for our analysis.

⁵An alien file number is a unique number assigned to a noncitizen’s administrative file for tracking purposes.

⁶ICE operates across 25 areas of responsibility nationwide.

Detentions. We analyzed individual-level detention data from IIDS to determine the total number of ICE initial book-ins (i.e., detentions) during calendar years 2019 through 2022. We examined multiple data fields from the individual-level detention data, including alien file number, subject ID, date of birth, person ID, first name, last name, gender, country of citizenship, arresting agency, criminality, detention facility, book-in date, book-out date, release reason, and length of stay. Because noncitizens may have multiple detentions, we used person ID and initial book-in date fields—i.e., the first date the individual is taken into ICE custody—to identify the unique number of detentions rather than the number of unique individuals who were detained. We analyzed these data to determine total numbers of detentions by gender, country of citizenship, and criminality.

ICE’s methodology for reporting the number of initial book-ins for each year involves excluding all records of detentions for individuals initially booked-in at certain specific facilities, such as certain temporary holding facilities or certain staging sites where contractors transport individuals from the border to ICE detention facilities. ICE provided us a list of the facilities it excluded from its public reporting of initial book-ins each year from 2019 through 2022. Using this list, we conducted our own analysis of detention data, first excluding the specific records that ICE told us it excluded in its public reporting, and second, conducting the same analysis using all the detention records provided to us by ICE for the time period.⁷

We determined that the data used in each of our analyses were sufficiently reliable for reporting general trends in the numbers of ICE arrests, detentions, and removals over the time period of our review 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 erroneous values; and following up with officials, as appropriate.

Further, we reviewed Department of Homeland Security (DHS) and ICE documents and information, such as annual reports on enforcement actions and documentation of ICE’s methodology for calculating detention statistics. We also analyzed ICE data on detentions, as described above, to assess how ICE calculates and reports certain detention statistics it

⁷For fiscal years 2019 through 2022 we excluded 16,865 detention records for which we could not match a detention stay with an initial book-in.

reports. We compared ICE's efforts to the DHS instruction accompanying its Information Quality Directive⁸ and the Office of Management and Budget Circular A-11.⁹

To address our second question, we reviewed DHS and ICE directives, memoranda, standard operating procedures, and training materials, to identify the specific policies ICE has for enforcement actions overall and for actions related to select vulnerable populations. We selected eight vulnerable populations including individuals who identify as lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI+); individuals with communication or mobility impairments or mental health conditions; older individuals (those 65 and older); Victims of Crimes; individuals who are pregnant or nursing; and noncitizen parents and legal guardians of minor children or incapacitated adults. We selected these populations based on our review of ICE's policies related to noncitizens with special vulnerabilities.¹⁰ We conducted interviews with officials from ICE headquarters offices, including the Office of the Principal Legal Advisor, Office of Regulatory Affairs and Policy, and ERO to obtain their perspectives on how ICE prioritizes its immigration enforcement resources.

We also interviewed officials in six selected ICE ERO areas of responsibility (Denver, Detroit, Miami, New York, Phoenix, San Diego) to obtain their perspectives on the implementation of enforcement activities from 2019 through 2022, to include policy and procedural changes in enforcement and any impacts on vulnerable populations. We selected these locations to represent a range of low, medium, and high volume of enforcement activities over the time period, and to represent different geographic locations, such as regions along the U.S. border and those in the interior U.S. In each location we met with field office management as well as detention and deportation officers and supervisors. We met with representatives from the Office of the Principal Legal Advisor at three locations and collected written responses to our questions from the remaining three locations. The information obtained from these virtual site

⁸Department of Homeland Security. *DHS Directive: Information Quality Implementation*. Instruction number 139-02-001. (Washington D.C.; 2019).

⁹Office of Management and Budget. Circular No. A-11: Preparation, Submission, and Execution of the Budget. (Washington D.C.; 2021).

¹⁰ICE does not have separate policies for individuals who are lesbian, gay, bisexual, or intersex. In June 2015, ICE issued a memo titled *Further Guidance Regarding the Care of Transgender Detainees*, which provides guidance regarding the placement and care of transgender adult detainees in ERO custody.

visits is not generalizable but provided insights into how selected ICE areas of responsibility conduct enforcement activities and implement immigration enforcement policies.

To address our third question, we analyzed documentary evidence, such as operational reports, statistics, and data dashboards to determine how ICE headquarters monitors and oversees ICE enforcement operations in the field to ensure enforcement actions reflect DHS enforcement priorities and policies, including those for selected vulnerable populations.

We conducted interviews with ICE headquarters officials to obtain information on how they oversee implementation of DHS and ICE guidance on the prioritization of immigration enforcement actions. We also conducted interviews with representatives from selected non-governmental organizations to obtain their perspectives, and those for whom the organizations represent, on how ICE headquarters and field office leadership conducted oversight of immigration enforcement actions over the time period of our review.¹¹ We selected these organizations on the basis of their engagement on immigration policy and noncitizen representation at a national level, including their engagement with selected vulnerable populations arrested, detained, or removed by ICE. While the information we obtained from these interviews is not generalizable, they provided important perspectives on oversight and implementation of immigration enforcement efforts.

We also interviewed officials at six ERO field locations, as described above. In our field interviews we spoke with field office management, detention and deportation officers, and supervisory officers to obtain information on how they understand and apply guidance from ICE headquarters, and how ICE headquarters officials monitor and oversee their work.

To address our fourth question, we reviewed multiple data sources that ICE uses to track noncitizens in select vulnerable populations in detention. We used these data and IIDS individual-level detention data to determine what ICE data show about detentions of selected populations from January 2019 through December 2022. To conduct our analysis, we first excluded records that contained missing alien numbers or alien

¹¹We met with representatives from the National Immigrant Justice Center, the American Immigration Lawyers Association, and the American Immigration Council.

numbers that were all zeroes.¹² Then, we matched each data source, as applicable, to the IIDS detention data using combinations of person ID and initial book-in date, or alien number and admission date, as well as name, date of birth, and country of citizenship. We excluded 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 beyond 30 days apart. We analyzed this information to determine the total number of detentions for each selected vulnerable population, as well as detentions by criminality and the length of detention for each of these six populations.

To conduct our analysis of criminality for each population, we used ICE's determination of criminality—those with and without criminal convictions—which ICE determines by conducting electronic criminal history checks, as previously discussed. 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 the following select populations.¹³

- **Transgender individuals.** We analyzed data records in IIDS for transgender individuals in ICE custody during calendar years 2019 through 2022 to determine the total number of detentions of transgender individuals, as well as the number of detentions by criminality, and length of detention. For the LGBTQI+ population, ICE only collects and maintains data on transgender individuals in detention. Therefore, we were only able to analyze data for this subset of the LGBTQI+ population.
- **Individuals with communication and mobility impairments.** We matched ICE records for individuals with communication and mobility impairments in ICE custody during calendar years 2019 through 2022

¹²Because we excluded these records and analyzed these data at the detention level, the number of detentions may not equal the number of detainees.

¹³ICE policies for noncitizens who were victims of a crime and incapacitated adults were issued in 2021 and 2022 respectively and were not inclusive of our reporting timeframe. As a result, we do not present data on these populations. In addition, although identified by ICE policy as a vulnerable population, we did not include data on postpartum individuals due to the small numbers of this population detained by ICE during our reporting timeframe. We also did not include data on minors in this report. Except in the case of exceptional circumstances, unaccompanied children in the custody of any federal department or agency, including DHS, must be transferred to the Department of Health and Human Services' Office of Refugee Resettlement within 72 hours after determining that they are unaccompanied children.

with IIDS individual-level detention data to determine the total number of detentions of these individuals, as well as the number of detentions by criminality, and length of detention. We excluded 95 records because we were unable to match these records to the IIDS individual level-detention data. Our analysis is based on those records we were able to match.

- **Pregnant and nursing individuals.** We matched ICE Health Service Corps (IHSC) records for pregnant and nursing individuals in ICE custody during calendar years 2019 through 2022 with IIDS individual-level detention data to determine the total number of detentions of pregnant and nursing individuals, as well as the number of detentions by criminality, and length of detention. We excluded 52 records of pregnant individuals because we were unable to match these records to the IIDS individual-level detention data. Our analysis is based on those records we were able to match.
- **Older individuals.** We analyzed data records in IIDS for older noncitizens (those 65 years or older at the time of initial book-in) in ICE custody during calendar years 2019 through 2022 to determine the total number of detentions of older noncitizens, as well as the number of detentions by criminality and length of detention. According to ICE, the agency does not maintain separate data records for older noncitizens in ICE custody; however, ICE officials are able to identify these individuals by calculating their age at the time they were detained.
- **Individuals with mental health conditions.** We matched IHSC records for noncitizens with mental health conditions, including those with serious mental health conditions, detained at IHSC-staffed facilities during calendar years 2019 through 2022 with IIDS individual-level detention data to determine the total number of detentions, as well as the number of detentions by criminality, and length of detention.¹⁴ Because ICE did not maintain data on noncitizens with mental health conditions detained at the over 120 non-IHSC staffed facilities, our findings for this population is not generalizable, but provided valuable insights into these detentions. When comparing the IHSC records for these detentions to the IIDS individual-level detention data, we were unable to match 21 records

¹⁴ICE policy defines a serious mental health condition as: (1) a mental health condition that is causing serious limitations in communication, memory, or impaired intellectual functions; (2) one or more active psychiatric symptoms, such as active hallucinations, severe depressive symptoms, or suicidal ideation, among others; or (3) a diagnosis of one of six specific disorders, including a psychotic disorder, bipolar disorder, or dementia.

over the time period. Our analysis is based on those records we were able to match.

We determined that the data used in each of our analyses were sufficiently reliable to depict general trends in arrests, removals, and detentions 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 erroneous values; and following up with officials, as appropriate.

We conducted this performance audit from September 2022 to July 2024 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: U.S. Immigration and Customs Enforcement (ICE) Administrative Arrests, Removals, and Detentions by Country of Citizenship

This appendix presents the number of ICE administrative arrests (arrests), removals, and detentions by country of citizenship for calendar years 2019 through 2022.¹ The tables below present information on ICE enforcement actions related to individuals from the top ten most frequent countries of citizenship over the time period.²

Table 10: U.S. Immigration and Customs Enforcement Administrative Arrests for Top 10 Countries of Citizenship, Calendar Years 2019 through 2022

Country of Citizenship	Total Administrative Arrests, Calendar Years 2019 - 2022	Percent of Arrests by Country of Citizenship, Calendar Years 2019 - 2022
Mexico	179,903	39%
Honduras	49,049	11%
Guatemala	46,521	10%
Venezuela	27,446	6%
El Salvador	25,304	6%
Nicaragua	20,152	4%
Cuba	18,222	4%
Colombia	17,074	4%
Ecuador	15,724	3%
Brazil	7,914	2%
Other Countries	52,014	11%
Total	459,323	100%

Source: GAO analysis of U.S. Immigration and Customs Enforcement data. | GAO-24-106233

Table 11: U.S. Immigration and Customs Enforcement Removals for Top 10 Countries of Citizenship, Calendar Years 2019 through 2022

Country of Citizenship	Total Removals, Calendar Years 2019 - 2022	Percent of Removals by Country of Citizenship, Calendar Years 2019 - 2022
Mexico	267,892	50%
Guatemala	86,965	16%
Honduras	66,319	12%
El Salvador	38,702	7%

¹ICE arrests of individuals for a civil violation of U.S. immigration laws are referred to as administrative arrests.

²Country of origin information is based on an individual's self-reported citizenship to ICE.

Appendix II: U.S. Immigration and Customs Enforcement (ICE) Administrative Arrests, Removals, and Detentions by Country of Citizenship

Country of Citizenship	Total Removals, Calendar Years 2019 - 2022	Percent of Removals by Country of Citizenship, Calendar Years 2019 - 2022
Ecuador	8,639	2%
Colombia	7,782	2%
Nicaragua	7,550	1%
Brazil	7,301	1%
Dominican Republic	6,760	1%
India	4,184	1%
Other Countries	34,559	6%
Total	536,653	

Source: GAO analysis of U.S. Immigration and Customs Enforcement data. | GAO-24-106233

Note: Percentages do not add to 100 percent due to rounding.

Table 12: U.S. Immigration and Customs Enforcement Detentions for Top 10 Countries of Citizenship, Calendar Years 2019 through 2022

Country of Citizenship	Total Detentions, Calendar Years 2019 - 2022	Percent of Detentions by Country of Citizenship, Calendar Years 2019 - 2022
Mexico	251,667	22%
Guatemala	162,021	14%
Honduras	120,515	11%
Nicaragua	83,699	7%
Cuba	75,637	7%
Venezuela	65,504	6%
El Salvador	55,254	5%
Colombia	51,928	5%
Brazil	46,590	4%
Ecuador	42,039	4%
Other Countries	179,608	16%
Total	1,134,462	

Source: GAO analysis of U.S. Immigration and Customs Enforcement data. | GAO-24-106233

Note: Percentages do not add to 100 percent due to rounding.

Appendix III: Comments from the Department of Homeland Security

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



**Homeland
Security**

June 26, 2024

Rebecca Gambler
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548-0001

Re: Management Response to Draft Report GAO-24-106233, "IMMIGRATION ENFORCEMENT: Arrests, Removals, and Detention Varied Over Time and ICE Should Strengthen Data Reporting"

Dear Ms. Gambler:

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 leadership is pleased to note GAO's positive recognition that—from 2019 through 2022—U.S. Immigration and Customs Enforcement (ICE) updated its policies for making enforcement decisions to reflect changing priorities and prioritize action against noncitizens who are deemed a threat to national security, public safety, or border security. ICE's policy also establishes how its officers are to identify and process individuals within selected vulnerable populations, such as those with a mental health condition.

The draft report contained two recommendations for ICE, with which the Department non-concurs. Enclosed find our detailed response to each recommendation. DHS previously submitted technical comments addressing several accuracy, contextual, and other issues under a separate cover for GAO's consideration, as appropriate.

Again, thank you for the opportunity to review and comment on this draft report. 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
CRUMPACKER
Digitally signed by JIM H
Date: 2024.06.26 10:22:14 -0400'

JIM H. CRUMPACKER
Director
Departmental GAO-OIG Liaison Office

Enclosure

**Enclosure: Management Response to Recommendations
Contained in GAO-24-106233**

GAO recommended that the Director of ICE:

Recommendation 1: Report data on the total number of detentions of individuals in ICE immigration detention facilities as part of its public reporting on annual detention statistics.

Response: Non-Concur. ICE shares data about the total number of noncitizens detained in its custody on its public-facing website titled “Detention Management,”¹ which provides information on detention facility oversight, policies, other topics, and related custody data, as well as ICE Enforcement and Removal Operations (ERO) statistics,² which are updated quarterly. Further, as of February 2024, the DHS Office of Homeland Security Statistics now publishes a monthly “Immigration Enforcement and Legal Processes” report,³ which includes data on encounters, CBP One⁴ appointments, administrative arrests, book-out outcomes, book-ins, detention, removals, returns, repatriations, credible fear, and parole processes.

GAO’s suggestion that ICE should report on the total number of noncitizens who were initially booked into a temporary ICE facility as opposed to those who are detained by ICE is incorrect, as this would provide an inaccurate picture of the total number of noncitizens in ICE custody. Other agencies may hold noncitizens in temporary or staging facilities, but these are not considered ICE detentions. For example, CBP can use an ICE facility for transportation purposes only, or for temporary holding until the subject is transferred or removed from the United States. Noncitizens detained in ICE facilities for these purposes are not considered to be in ICE custody; instead, they are considered to be in CBP custody. To report these noncitizens as being in ICE custody would lead to double counting of these noncitizens across ICE and CBP. If by contrast, CBP were to formally request that ICE detain the individual, and ICE confirmed that there is available long-term bed space for the individual to be detained in ICE custody, ICE would then detain the individual and would count that detention as an ICE detention.

We request that GAO consider this recommendation resolved and closed.

Recommendation 2: Fully explain the methodology used to calculate and report annual detention statistics included in its public reporting.

Response: Non-Concur. From November 14, 2022, to March 6, 2024, the ICE Office of the

¹ <https://www.ice.gov/detain/detention-management>

² <https://www.ice.gov/spotlight/statistics>

³ <https://www.dhs.gov/ohss/topics/immigration>; and <https://www.dhs.gov/ohss/topics/immigration/enforcement-and-legal-processes-monthly-tables>

⁴ CBP One™ is a mobile application that serves as a single portal to a variety of CBP services. Through a series of guided questions, the app directs each type of user to the appropriate services based on their needs.

**Appendix III: Comments from the Department
of Homeland Security**

Principal Legal Advisor, Office of the Chief Financial Officer, and ERO met repeatedly with GAO to discuss ICE processes, procedures, and data collected on arrests, detentions, and removals, including vulnerable populations. Specifically, eight meetings were held to discuss detention statistics and how the data were calculated for public reporting. Subject matter experts from ICE's Law Enforcement Systems and Analysis (LESA) Statistical Tracking Unit explained the methodology of calculation and provided a virtual demonstration of the database and how data items are calculated and extracted.

Further, LESA shared the written methodology of the calculation of detention statistics with GAO on July 13, 2023, as well as the script used for statistical purposes. On August 17, 2023, a meeting was held in which LESA conducted a side-by-side comparison of GAO's analysis of the data versus ICE's methodology and analysis. As part of this, LESA reconstructed the calculation of the detention statistics reported to the public. It is also important to note that the various public-facing websites and detention statistics reports previously noted in this letter include definitions, data exemptions/exclusions, and field criteria, which demonstrate ICE's commitment to openness and transparency. ICE also shared its methodology with GAO during the course of this audit; however, it is unable to publicly release this information since that could lead to privacy and law enforcement sensitive data being compromised given current artificial intelligence technology and on-going litigation related to the topic.

We request that GAO consider this recommendation resolved and closed.

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Rebecca Gambler at (202) 512-8777 or gablerr@gao.gov

Staff Acknowledgments

In addition to the contact named above, Meg Ullengren (Assistant Director), Brendan Kretschmar (Analyst-in-Charge), Hiwotte Amare, Nasreen Badat, Lyndsay Baker, Mikaela Chandler, Ben Crossley, Michele Fejfar, Heidi Nielson, and Adam Vogt made key contributions to this report.

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