

November 21, 2023

Patrick Lechleitner  
Acting Director  
Immigration and Customs Enforcement  
500 12<sup>th</sup> St. SW  
Washington, DC 20536

**Re: Continued Barriers to Attorney Access in Immigration Detention Facilities**

Dear Acting Director Lechleitner:

Immigrants detained by Immigration and Customs Enforcement (“ICE”) have a constitutional right to due process and the right to counsel in immigration court.<sup>1</sup> ICE, however, continues to maintain a system of immigration detention facilities that routinely denies detained immigrants basic protections necessary for access to counsel, including the ability to privately confer with counsel and confidentially exchange legal documents. Although the agency has made some efforts to improve attorney access in detention during the past year, these efforts have reached only a fraction of detention facilities nationwide (24.5 percent, at 35 of 143 facilities),<sup>2</sup> and clear, systematic, and consistent mechanisms to ensure accountability and effective oversight of attorney access in detention facilities remain absent. The undersigned 86 legal service organizations write again<sup>3</sup> to highlight the continuing obstacles to attorney access in ICE detention facilities, and the need for strong, consistent oversight and action on this issue.

The importance of attorney access in detention is well-established: detained immigrants who are represented by counsel are over 10 times more likely to win their immigration cases and almost 7 times as likely to be released from custody than those without an attorney.<sup>4</sup> Yet ICE still does not ensure that detained people have the ability to find and communicate with

---

<sup>1</sup> *Reno v. Flores*, 507 U.S. 292, 306 (1993); 8 U.S.C. § 1362.

<sup>2</sup> Compare ICE, *Authorized Dedicated Facility List, Authorized Non-Dedicated Facility List*, Nov. 6, 2023 2023, <https://www.ice.gov/doclib/facilityInspections/dedicatedNonDedicatedFacilityList.xlsx> (identifying 143 ICE detention facilities) with ICE, *Virtual Attorney Visitation Program Overview*, October 2023, <https://www.ice.gov/doclib/detention/VAV-FactSheet-2023.pdf> (noting 35 detention facilities have installed Virtual Attorney Visitation, and incorporated contract language at 34 ICE detention facilities).

<sup>3</sup> See Letter from 88 Legal Service Providers to Alejandro Mayorkas, DHS Secretary (Oct. 29, 2021), <https://www.aclu.org/documents/coalition-letter-dhs-and-ice-access-counsel-immigration-detention>.

<sup>4</sup> Ingrid V. Eagly and Steven Shafer, *A National Study of Access to Counsel in Immigration Court*, 164 U. Penn. L. Rev. 50, 70 (2015).

legal counsel. In the past year, federal courts, members of Congress, researchers, and legal service providers alike have raised concerns with ICE's systemic failure to ensure attorney access in immigration detention. For example, a federal district court concluded earlier this year that ICE has "functionally stripped detainee-clients of access to their attorneys without due justification,"<sup>5</sup> and that ICE has detained immigrants in "unconstitutional conditions of confinement" due to attorney access barriers at an ICE detention center in Florence, Arizona.<sup>6</sup> Twenty-eight members of Congress wrote to your predecessor last year, expressing their "deep concern over ICE's failure to ensure that immigrants can access their legal representation in detention."<sup>7</sup>

Last year, a nationwide ACLU study of all ICE detention facilities nationwide found a failure to ensure attorney access to detained immigrants. As the ACLU study found, 20 percent of detention facilities never answered the phone or refused to answer basic questions about attorney access, even after multiple calls to the number made publicly available by ICE. At least 58 ICE detention facilities did not allow attorneys to schedule phone calls with detained clients in advance.<sup>8</sup>

The impact on immigrants in detention continues to be severe. For example:

- Both the Capital Area Immigrants' Rights (CAIR) Coalition and the Immigrant Rights Clinic at Rutgers Law School report that **Immigration Centers of America – Farmville (Farmville ICA)** in Farmville, Virginia provides no mechanism for confidential calls nor any way to preschedule calls. A CAIR client was forced to make legal calls from the dorm without any barriers between the phones or privacy from the rest of the dorm. As a result, the client, who has been diagnosed with Post Traumatic Stress Disorder and Major Depressive Disorder, could not discuss sensitive information essential to his case, especially related to childhood sexual trauma and threats he has received from gangs.
- An immigration attorney reports that the **Bluebonnet Detention Facility (Bluebonnet)**, in Anson, Texas, recorded every single telephone call he had with his client, as there are no private or confidential phone or video legal calls available at the facility. The attorney, who is based out of state, was not able to obtain a signed asylum application before the client's Master Calendar hearing, due to lack of legal document exchange options, and had to submit an unsigned copy. Bluebonnet is located 195 miles (3 hours) away from the nearest airport and immigration court in Dallas, Texas.

---

<sup>5</sup> Mem. Op. at 43, *Florence Immigrant and Refugee Rights Project v. DHS* [hereinafter *FIRRP v. DHS*], No. 1:22-cv-3118 (D.D.C. Feb. 1, 2023), ECF No. 79.

<sup>6</sup> Order at 3, *FIRRP v. DHS* (D.D.C. Apr. 11, 2023), ECF No. 97.

<sup>7</sup> Letter from Twenty-Eight Members of Congress to Alejandro Mayorkas, DHS Secretary (Nov. 3, 2022), <https://grijalva.house.gov/wp-content/uploads/2022/11/Access-to-Counsel-for-ICE-detainees-FINAL.pdf>.

<sup>8</sup> ACLU, *No Fighting Chance: ICE's Denial of Access to Counsel in U.S. Immigration Detention Centers* (2022), [https://www.aclu.org/wp-content/uploads/legal-documents/no\\_fighting\\_chance\\_aclu\\_research\\_report.pdf](https://www.aclu.org/wp-content/uploads/legal-documents/no_fighting_chance_aclu_research_report.pdf).

This letter describes examples of barriers that detained immigrants currently face in accessing legal representation and provides recommendations to ensure access to legal representation. We believe that immigration detention is unjust, unnecessary, and harmful, and that the clearest way to eliminate these barriers to access to justice is to release detained people from custody. However, ICE must ensure that it provides attorney access for the people it detains, and should do so without expanding ICE's detention capacity. We thus provide the following recommendations to ensure access to legal representation in detention.

## **I. Continuing Obstacles to Remote Legal Representation Access**

Remote representation is frequently the only option for legal representation for noncitizens in detention. In recent years ICE has expanded detention in geographically isolated locations far from any immigration attorneys, making it more difficult for detained immigrants to retain and to work with counsel.<sup>9</sup> For example, ICE recently opened the Moshannon Valley Processing Center (Moshannon) in rural Philipsburg, Pennsylvania, which is over 200 miles from Philadelphia and over 100 miles from Pittsburgh.

ICE detention facilities continue to lack means for reliable, confidential, and free attorney-client communication, particularly for those in geographically isolated locations. Particularly where in-person visitation is impossible or entirely impracticable, it is essential that people in detention have access to timely, confidential, and free means of communicating remotely with counsel for adequate periods of time. While video calls are frequently the best substitute for in-person visits, attorneys report that even at facilities that purportedly offer the Virtual Attorney Visitation (VAV) program, video calls are not actually available or are offered with unreasonable time limits or lengthy delays in scheduling due to limited availability, suffer from technical problems rendering video calls unusable, or do not provide privacy. Moreover, although the VAV Program has expanded, it is only available in 25 percent of facilities in ICE's detention system, and excludes many county-based facilities where ICE detains people.<sup>10</sup> At those facilities, attorneys report that telephone access is deficient because of the inability to schedule legal calls, the lack of privacy, calls that are cut short, poor sound quality, and cost. Problems with VAV and telephone access likewise limit access to necessary interpretation. Finally, ICE fails to provide adequate means for attorneys and detained clients to timely and confidentially exchange and obtain signatures on necessary documents.

### **A. ICE's Virtual Attorney Visitation Program Faces Critical Technical Hurdles and Permits Local Practices That Limit Effective Implementation**

---

<sup>9</sup> ACLU, NIJC, and Human Rights Watch, *Justice-Free Zones: U.S. Immigration Detention Under the Trump Administration*, 20-21 (2020), <https://bit.ly/3mHMWzG> [hereinafter "*Justice Free Zones*"].

<sup>10</sup> See *supra* n.2.

Immigration attorneys and legal services providers reported a host of issues with the implementation of the VAV Program:

- A private immigration attorney based in Washington, D.C. reports that they have been unable to hold successful virtual visits with their client at **South Louisiana ICE Processing Center** in Basile, Louisiana. The facility repeatedly failed to send meeting links to the attorney and their Spanish language interpreter, despite repeated requests. On the day of the scheduled call, the facility called the attorney from an unregistered number on Microsoft Teams. Because the attorney was not the meeting host, the attorney was not able to add any participants, requiring the interpreter (who was attending from a different location), to try to interpret the conversation via a separate phone call through the attorney's computer's speakers. This was altogether ineffective and made communication with the client very difficult. Since then, the attorney has been forced to conduct telephone calls so they can have adequate interpretation.
- An attorney from Robert F. Kennedy Human Rights Center urgently needed to arrange a client visit with her client, a minor who ICE alleged was an adult and had transferred from Office of Refugee Resettlement custody to the **Port Isabel Service Processing Center** in Texas without any advance notice. When the attorney attempted to schedule a VAV call following the process described on the ICE facility website, all her emails to the posted email address bounced back. Even after escalating the issue, it took two days and multiple emails to the Field Office Director to schedule the necessary call.
- Another private attorney reports that they requested a one-hour virtual visit to complete documents for a client detained at **Central Louisiana ICE Processing Center (Jena)** in Jena, Louisiana. When the visit began, the camera did not function, and the visit was cut off 17 minutes later.
- An attorney with the California Collaborative for Immigrant Justice (CCIJ) reports that the **Golden State Annex** in California frequently limits VAV visits to just 30 minutes. In several instances the times requested are not available and attorneys must wait a week or longer to have a VAV appointment. An attorney at Pangea Legal Services similarly reports that they have been only offered 30-minute VAV appointments at Golden State Annex, which is not sufficient time for a legal visit. The Pangea attorney also explains that they have often received a response from facility staff that the next available VAV appointment is eight days away. This wait is too lengthy for detained representation and counsel are frequently forced to rely on phone calls from housing units, which are not confidential.
- CCIJ also reports that **Mesa Verde ICE Processing Center** generally limits pre-representational VAVs to 30 minutes. The facility only allows one or two 30-minute pre-representational VAVs before they require a G-28, which is problematic because CCIJ runs a clinic for unrepresented individuals and may need numerous consultations with

the same person over the course of their detention. The time limit is particularly problematic when an interpreter is required, necessarily slowing the interview.

- A CARECEN-LA attorney describes multiple incidents where a scheduled VAV call failed due to connectivity issues and instead the call had to go forward over the telephone at **Desert View Annex** in California.
- A private attorney representing a client at **Moshannon Valley Processing Center** in Pennsylvania reports that on multiple occasions, video calls with their client were dropped and the attorney was unable to reconnect for over thirty minutes, by which time the visit was imposing on another time slot. Once reconnected, the video quality was still poor. Two times, the video call dropped again and when the client was able to reconnect with the attorney, they had to do so via a VAV audio call. The facility told the client on two separate occasions that the internet at the facility had gone down and they either had to reschedule for another day or proceed with an audio call.
- The Immigration Clinic at the University of Texas School of Law reports that the **T. Don Hutto Residential Center** (Hutto) in Texas has a three-step process to set up a video call with a client, including a background check. This means there is no way to meet with a new client in an urgent situation, since the background checks can take two to three days. A pro bono attorney explained that she struggled to set up a time-sensitive VAV visit, in part because the staff person who arranges visits at Hutto only works until 2 pm.
- The Esperanza Immigrant Rights Project reports that individuals detained at **Henderson Detention Center** in Nevada must pay \$8 for a 20-minute video call with counsel, as there is no VAV program in place.

#### **B. Limits on Telephone Access Hinder Attorney-Client Communication**

Legal service providers have also encountered ongoing obstacles to arranging confidential attorney-client phone calls of sufficient duration in ICE detention facilities:

- As already documented in a complaint submitted by the Transnational Legal Clinic of the University of Pennsylvania Law School, the CAIR Coalition, the Pennsylvania Immigration Resource Center, HIAS Pennsylvania, and Nationalities Service Center, telephone access at **Pike County Correctional Facility** in Pennsylvania is entirely inadequate, which is particularly important, given that there is no VAV access at the facility.<sup>11</sup> There is no way for a person detained at Pike to have a confidential phone call with an attorney. The only

---

<sup>11</sup> Complaint Regarding Telephone Access and Access to Counsel, Pike County Correctional Facility, to DHS CRCL, et al., by CAIR Coalition, et al., Jun. 20, 2023, <https://www.caircoalition.org/sites/default/files/documents/2023.06.20%20-%20Pike%20CRCL%20OIG%20IDO%20Complaint%20Telephone%20Access%20-%20Cair%20Co%20et%20al.pdf>.

method for a detained person to speak to their attorney is to call from a telephone in the housing unit within earshot of other people. Calls to CAIR cut off automatically after 15 minutes. The facility has even refused to schedule legal calls for a CAIR client who is mentally incompetent and cannot use the telephones or remember to call his court-appointed Qualified Representative. Staff have told CAIR that the only option to communicate with this client is in-person visitation. Pike is located 265 miles, or a 4.5 to 5 hour drive, from CAIR's offices.

- At the **Aurora Detention Center** in Colorado, attorneys at the Rocky Mountain Immigrant Advocacy Network report that detained people are unable to make outgoing calls from the facility on Tuesdays. ICE has justified this restriction on the basis that it conducts deportations on Tuesdays. Prohibiting detained people from telephone on this basis is unjustified, and raises significant safety and mental health concerns, and interferes with access to counsel.
- At multiple facilities, it is impossible to schedule an attorney-client call in advance. Without the ability to pre-arrange a call, detained individuals are often prevented from timely communicating with their attorneys. Calls that are not scheduled are often not confidential either, because detained individuals are only able to make outgoing calls from phones in housing units that lack privacy.
  - The Florence Immigrant and Refugee Rights Project (FIRRP) reports that **Eloy Detention Center** in Arizona does not permit scheduled telephone calls. The only way an attorney can attempt to initiate a telephone call with their client is to call the facility and ask that a message be delivered to the client. This process is ineffective because the facility does not reliably deliver messages and clients are unable to call at specific requested times.
  - An attorney with American Gateways in Texas explains: "It's completely useless to try to schedule an attorney client phone call in **Bluebonnet**. When you call to schedule one they can only give you an appointment a week or two after your request and then you only get the phone call for 20 minutes."
  - A private immigration attorney in Chicago reports: "There seems to be no way to schedule an attorney client call at [**Clay County Jail** in Indiana]. They say you can fax or email them, but also to wait for confirmation of your request, which did not come in any of the 10 times I have tried to schedule client calls there recently." This is problematic because "it makes it really difficult to plan and to know for sure that you will have time to adequately prepare your case." It also makes it difficult to arrange for an interpreter to be on the call. When the attorney cannot arrange a call, her clients become anxious, but their only option for outgoing calls is to use their own money and call from a recorded line. There is no VAV available.

- An attorney with Esperanza Immigrant Rights Project reports that **Henderson Detention Center** in Nevada does not permit scheduling of legal calls. In addition, either the client or the attorney must pay for calls, the calls are not confidential, the sound quality is poor, and each phone call automatically cuts off after 15 minutes.
- The **Kandiyohi County Jail** in Willmar, Minnesota fails to provide adequate attorney access by telephone. The Immigrant Law Center of Minnesota explains: “We are not permitted to schedule calls. We must send clients a message by emailing the program staff to call us. This presents a challenge when clients have low literacy, do not speak English, or have mental competency concerns. When we do have calls, there is often no confidentiality. Some must use phone in a public space that is very loud. I have had one client had the phone taken from him by a pro se individual. That pro se individual who was seeking representation, and due to the public nature of the phone call, knew my client was talking to attorney.”
- Where there is scheduling available, limits on the availability of legal calls can interfere with attorney access at **Desert View Annex** in California. An attorney from CARECEN-LA reports that calls can only be scheduled up to 3 days in advance and slots fill up quickly. Because attorneys cannot schedule a call within 24 hours of the desired appointment, there is a relatively brief window to schedule appointments. Scheduled legal calls are often delayed and cut short because the facility begins the call much later than the appointment time, but ends the call as scheduled. (For example, the attorney has had situations where a call is scheduled to begin at 2 pm for one hour, but the facility does not begin the call until close to 2:30, and still cuts the call off at 3 p.m.).
- **Golden State Annex** does not publicize scheduled legal calls on their website or via email, a CCIJ attorney explains. Because both legal VAV and telephone calls take place in the same rooms and are available only between 8 a.m. and 2 p.m., legal phone calls suffer from the same problems with time limits (30 minutes) and insufficient appointment slots. Moreover, ICE issued PIN numbers to legal service providers to allow for free legal calls under a settlement in *Lyon v. ICE*.<sup>12</sup> The PINs cannot be transferred to new numbers and ICE has stopped issuing new PINs, so fewer legal service providers have them over time. A Pangea Legal Services attorney adds that the booths used for legal calls do not provide adequate privacy due to lack of soundproofing, and when those booths are in use, clients must make calls from the open dorm.

---

<sup>12</sup> Notice of Final Settlement, *Lyon, et al. v. ICE, et al.*, No. 3:13-cv-05878-EMC (N.D. Cal., June 13, 2016), <https://www.ice.gov/doclib/legalNotice/lyonNoticeFinalSettlementEnglish.pdf>.

- The inability to schedule legal calls presents such a strain on attorney resources that it prevents some from representing any detained clients. A private practitioner in Washington explains: “I don't do detained cases because of the issues with client access . . . However, recently my non-detained client was picked up by Border Patrol and detained in January 2023. We've called and left messages for him to call us as directed on the [**Northwest ICE Processing Center** in Tacoma, Washington] website but none of the messages ever got to him. Since January, we have left a multitude of messages. The only way we have been able to communicate with him is when he calls his family; we tell his family to tell him to call us. He calls us when he can, but many times we are not available, but we still try to answer them. I have to say this has solidified my policy of not taking detained cases.”
- Legal calls are often prohibitively expensive, especially for noncitizens who retain private immigration counsel unable to utilize free attorney call lines provided for some non-profit legal service providers by the government. A private attorney who represents clients at **Calhoun County Correction Center** in Michigan reports that he is forced to provide a credit card to the private telephone company that serves the facility and is charged significant fees for preparing his clients for their merits hearings. Another private attorney serving **Eloy Detention Center** explains that because the facility will only deliver attorney messages to people in custody, rather than facilitate legal calls, if the client does not have funds, they cannot make the outgoing call to counsel. The attorney has been unable to counsel clients prior to their credible fear interviews because they could not afford to make a legal call – and in this attorney's experience, even clients with strong asylum claims may fail their credible fear interview if they do not receive advice on how to present their claim.

### C. Inability To Timely and Confidentially Exchange Legal Documents

At many facilities, the only options for exchanging legal documents is the mail, which can sometimes take a week or more for exchanging paperwork, or to deliver documents in person—which is often not possible or practicable. For example, private attorneys and legal service providers report that they are unable to timely exchange documents with clients detained at **Mesa Verde, Winn Correctional Center** in Louisiana, **Calhoun County, Port Isabel Detention Center, Jena Detention Center, Jackson Parish Correctional Center, Desert View Annex, Golden State Annex, Otero County Processing Center** in New Mexico, **South Louisiana ICE Processing Center, and Kandiyohi County Jail**, because there is no way to fax or email documents or the only access to fax and email is entirely at the discretion of facility staff. These facilities represent only a limited sample.

For example, an attorney who represents clients at **Winn Correctional Center** reports: “I could not get a G-28 signed by my detained client. I was offering to email it, fax it, etc. The response I got from the officers there was ‘It is not the officer's responsibility to get G-28's signed for you. The attorney is suppose[d] to come to the facility to get necessary documents

signed.' I am located in North Carolina, so flying to Louisiana just for a signature presents an unreasonable burden."

We support the agency's implementation of new programs to expand fax and email capacities for legal document exchange. However, such legal document exchange programs must ensure confidentiality of communication between clients and their legal counsel, and should be available at each detention facility. We encourage ICE to work in close consultation with advocates to ensure the confidential exchange of documents in compliance with constitutional requirements.

## II. Barriers to In-Person Attorney Visits

In-person visitation is a critical method of communication for attorneys and clients in ICE detention. In-person visits allow attorneys to establish trust with clients, obtain and share necessary legal documents, and conduct sensitive conversations in a confidential setting. ICE, however, continues to undermine these legal visits. Attorneys and legal service providers report ICE's failure to provide private and confidential meeting spaces, insufficient attorney visitation space and lengthy delays for legal visits, prohibition on use of essential tools, such as laptops and cellular phones during legal visits, and unreasonable restrictions on access by paralegals, interpreters, and medical and mental health evaluators.

Some examples:

- A BIA-accredited representative with the Kitsap Immigrant Assistance Center in Washington state reports that the **Northwest ICE Processing Center** in Tacoma, Washington, repeatedly denied him in-person visitation with clients because facility staff did not understand that BIA-accredited representatives are permitted legal visitation with their clients. *See* PBNDS 2011, Rev. 2016 § 5.7(V)(J)(3)(a) (specifying that accredited representatives, like attorneys, are permitted legal visits); 8 C.F.R. §§ 292.1, 292.2 (providing for accreditation of legal representatives by BIA).
- Attorneys at detention facilities nationwide report lengthy waits to meet with clients in detention because of the lack of sufficient space allowed for legal visits in detention.
  - Attorneys at the CAIR coalition report that the **Farmville ICA** detention center in Farmville, Virginia, has only two attorney-client booths in a facility that holds over 850 people. This space is so insufficient that "attorneys frequently have to wait an entire day to see clients."
  - Similarly, the **Desert View Annex** in Adelanto, California has only one attorney-client visitation room in a facility that holds 750 people. Attorneys at CARECEN-LA report that attorneys must schedule in-person visits at least 1 to 3 days in advance, and even then, appointments are often unavailable. Due to the lack of in-person visitation rooms, facility staff have harassed attorneys to "hurry it up," have forced attorneys to move out of the private attorney-client meeting room to

a less confidential space, and have threatened attorneys that they would not be able to continue meeting with a client when the attorney-client meeting has gone longer than the designated appointment time.

- Attorneys at the California Collaborative for Immigrant Justice report that the **Mesa Verde ICE Processing Center** in Bakersfield, California frequently changes requirements for in-person attorney visitation, and have delayed approval for attorneys to visit their clients on the basis that “GEO corporate” needed to approve the visit. In addition, the attorney-client visitation rooms are not soundproof, and anyone outside the room, including facility staff, can clearly hear conversations.
- At the **Eloy Detention Center** in Eloy, Arizona, the Florence Immigrant and Refugee Rights Project reports that space and staffing for in-person legal visitation is so limited that attorneys have had to wait for up to 2 hours or more to see a client, and in some instances, have even been turned away from the facility without an opportunity to see their client, even though all scheduling is completed by email. ICE has apparently taken over private legal visitation areas in the North Visitation area for purposes of credible and reasonable fear interviews, pushing all legal visits for the 1,600 person facility to take place in the South Visitation area. The South Visitation area has only three private rooms, including one that lacks a telephone necessary for interpretation, and detention staff often use this room to hold detained people of different security levels/genders while awaiting visits. Because of the lack of private rooms available for legal visits, lawyers are overwhelmingly forced to meet with clients in a crowded, open room with little to no privacy or confidentiality. Only two telephones are available in the visitation area for interpretation, which is insufficient, causing lengthy wait times for attorneys to conduct legal visits with a growing number of clients who do not speak either English or Spanish.
- Attorneys frequently need to prepare documents, review electronic files, and use telephonic interpretation when meeting in person with clients. However, many ICE facilities bar the use of laptops, cell phones, and printers by attorneys, presenting further barriers to effective and efficient attorney-client communication. And even at facilities that purportedly allow some of this technology, such as at **Mesa Verde**, attorneys who have received advanced approval to use laptops are told by facility staff that they are not permitted to use their laptops.
- Despite raising this issue with ICE over two years ago,<sup>13</sup> and on repeated occasions in meetings with the local Field Office, field office, and OIDO, the University of Texas School of Law Immigration Clinic reports that in-person visitation space at the **T. Don Hutto Residential Center** (Hutto) in Texas, continues to lack privacy and confidentiality. The

---

<sup>13</sup> *Supra* note 3, Letter from 88 Legal Service Providers, at 10-11.

attorney-client meeting rooms consist of plastic cubicles that are not confidential, where attorney-client communication can be overheard between and outside cubicles, where outside noise can interfere with attorney-client communications, and where clients can be viewed while crying. In addition, Hutto has restricted visiting hours to a four-hour window for each security classification level, making it extremely difficult for attorneys to schedule visits.

### III. Lack of Accountability and Oversight

ICE has continually failed to provide effective oversight and accountability of detention facilities with respect to access to counsel. Until recently, ICE “d[id] not track . . . the number of facilities that do not meet ICE standards for attorney/client communication.”<sup>14</sup> For the first time in recent history, ICE reported in 2023 that its Office of Detention Oversight (“ODO”) had identified 7 detention facilities that had failed to meet detention standards with respect to legal access.<sup>15</sup> This is a step in the right direction in that it may help ICE self-identify some attorney access issues at detention facilities. Yet it remains clear that current accountability and oversight mechanisms fail to ensure attorney access in practice. ICE ODO inspections happen only sporadically. Despite being informed in 2018 that ICE-ODO inspections are “too infrequent to ensure compliance” with Detention Standards,<sup>16</sup> and despite ICE’s confirmation in 2018 that it would improve its inspection procedures by July 2019, ICE-ODO has since decreased the scope of its inspections. Beginning in Fiscal Year 2022, ICE-ODO instituted a process “of rotating all standards on a 3-year basis,”<sup>17</sup> meaning that at a minimum, certain standards will be assessed only every six years. Moreover, as part of this process, “some standard components may not be present in all standards.”<sup>18</sup>

---

<sup>14</sup> ICE, Access to Due Process: Fiscal Year 2021 Report to Congress, at 2 (Feb. 14, 2022), <https://immigrantjustice.org/sites/default/files/content-type/commentary-item/documents/2022-03/ICE-Access-to-Due-Process.pdf>.

<sup>15</sup> Compare ICE, Access to Due Process, Fiscal Year 2022 Report to Congress 3 (2023), [https://www.dhs.gov/sites/default/files/2023-03/U.S.%20Immigration%20and%20Customs%20Enforcement%20%28ICE%29%20%2E2%80%93%20Access%20to%20Due%20Process\\_0.pdf](https://www.dhs.gov/sites/default/files/2023-03/U.S.%20Immigration%20and%20Customs%20Enforcement%20%28ICE%29%20%2E2%80%93%20Access%20to%20Due%20Process_0.pdf), with Memorandum from National Immigrant Justice Center, American Immigration Council, ACLU of Southern California, and SPLC, to House and Senate Appropriations Subcommittees, Concerns Re: Veracity of ICE’s February “Access to Due Process” Report (Mar. 22, 2022), <https://immigrantjustice.org/sites/default/files/content-type/commentary-item/documents/2022-03/NGO-Rebuttal-to-ICE-Legal-Access-Report-March-22-2022.pdf>; Coalition Letter to Hon. Alejandro Mayorkas, Oct. 29, 2021, <https://www.aclu.org/letter/coalition-letter-dhs-and-ice-access-counsel-immigration-detention>.

<sup>16</sup> DHS Off. Inspector Gen., ICE’s Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance of Systemic Improvements, at 5, 16 (June 2018), <https://bit.ly/2Mwp2Ug>.

<sup>17</sup> See Unannounced Compliance Inspection of CCA Florence Correctional Center at 67 (Nov.–Dec. 2022) at 6, n.6.

<sup>18</sup> *Id.*

ICE ODO inspections also fail to inspect for any contractual requirements beyond the detention standards, including a facility's failure to implement and keep operational its VAV system. In the absence of effective oversight and enforcement mechanisms for such contractual requirements, ICE may claim that such systems exist on paper, but they do not operate in practice. For example, as discussed above, an advocate recently attempted to schedule a VAV call with a detained client at Port Isabel Detention Center in Texas by using the email address listed on ICE's website, but the email address was not functional, and bounced back on every attempt. While upon escalation to the ICE Legal Access Office the issue was addressed, this is not an efficient or sustainable manner to track a facility's failure to comply with contractual requirements, nor should the burden lie on legal service providers to ensure compliance.

ICE has also failed to respond to local efforts to address attorney access barriers via recommended channels. Understandably, ICE instructs legal service providers that "[p]rior to contacting ICE headquarters, you must first try to resolve your request or concern at the field office level."<sup>19</sup> However, attorneys report that their complaints regarding attorney access barriers to the facility, Field Office, and even headquarters staff, often pass unaddressed. Others fear that raising complaints will lead to retribution or retaliation by facility staff. For example:

- The CAIR Coalition, which has raised numerous concerns regarding attorney access at the Farmville-ICA facility in Virginia, notes that they "have met with facility, Field Office, OIDO staff," that represented attorneys have filed CRCL complaints, and that DOJ/OLAP has also been on call to reinforce the private phone call access concerns. However, these concerns remain at the facility.
- Attorneys at the New Mexico Immigrant Law Center reported that they reached out to facility staff and the local ICE field office about attorney access issues at the Otero County Detention Center in New Mexico the facility. However, "the problems have gotten worse since then."
- A private immigration attorney with a client detained at the Clay County Detention Center in Indiana who tried to schedule a call has "repeatedly asked both ICE and the sheriff at Clay County if there is a better way to schedule, and they keep telling me to fax or email the request with no results."
- A private attorney who raised concerns with respect to attorney access conditions at the Winn Correctional Center in Louisiana reported that "I called every number and emailed everyone I could find. I even emailed New Orleans HQ and the ERO HQ. Still no

---

<sup>19</sup> ICE, Attorney Information and Resources, <https://www.ice.gov/detain/attorney-information-resources> (last visited Oct. 25, 2023).

response. The Deportation Officer doesn't answer the phone and his mailbox is full. It's been 8 days and I can't get any answers from anyone.”

- A private immigration attorney with a client detained at Moshannon Valley in Pennsylvania has raised issues regarding issues with exchange of legal documents at the facility to ERO Philadelphia about the document request, submitted a FOIA to ICE, repeatedly communicated with ICE's FOIA office, and, most recently, filed a complaint with the Office of the Immigration Detention Ombudsman. The issue remains unresolved.

#### IV. Recommendations

We reiterate the recommendations to ICE and DHS that we raised in our October 29, 2021 letter to you regarding improvements to attorney access in ICE detention, as well as legal access for *pro se* individuals, and attach the recommendations in **Appendix A** for your reference.<sup>20</sup> However, we also emphasize the following additional points:

- ICE’s focused expansion of the Virtual Attorney Visitation (VAV) program in facilities with ADP over 200 has led to clear inequities within the detention system. ICE should continue to expand VAV to all detention facilities; in the interim, ensure consistent access policies across facilities, and require that all facilities, regardless of size or ADP, establish and maintain a process for attorneys to schedule legal calls with detained clients, and that such legal calls are free, private, and confidential; and that all facilities implement a system to ensure efficient and confidential legal document exchange via email or fax;
- ICE should implement rigorous oversight of all access to counsel requirements, whether enumerated in detention standards or in contract. ICE should ensure that complaints made regarding attorney access are promptly addressed, and that facilities that fail to meet requirements face consequences under contract. Recognizing that this may require additional staffing needs, ICE should prioritize hiring for these positions with Congressionally appropriated funds for custody operations.

We look forward to your careful review of this letter and your consideration of its recommendations. We hope to have the opportunity to discuss this matter further with you, and also request that ICE schedule a stakeholder call on the issue of attorney-client access in detention. Please contact Emma Winger, [ewinger@immcouncil.org](mailto:ewinger@immcouncil.org), Eunice Cho, [echo@aclu.org](mailto:echo@aclu.org), and Jennifer Ibanez-Whitlock, [jwhitlock@aila.org](mailto:jwhitlock@aila.org).

---

<sup>20</sup> Letter from 88 Legal Service Providers to Alejandro Mayorkas, DHS Secretary (Oct. 29, 2021) at 11-17, <https://www.aclu.org/documents/coalition-letter-dhs-and-ice-access-counsel-immigration-detention>.

Sincerely,

Alianza Americas  
American Civil Liberties Union  
American Friends Service Committee New  
Jersey Immigrant Rights Program  
American Gateways  
American Immigration Council  
American Immigration Lawyers Association  
Americans for Immigrant Justice  
Amnesty International USA  
APALA - San Diego Chapter  
California Collaborative for Immigrant  
Justice (CCIJ)  
CAPDS  
Capital Area Immigrants' Rights Coalition  
Carolina Migrant Network  
Casa San Jose  
Center for Constitutional Rights  
Center for Gender & Refugee Studies  
Central American Resource Center  
(CARECEN) of California  
Chula Vista Partners in Courage  
Communities United for Restorative Youth  
Justice  
Elissa Steglich, Clinical Professor and Co-  
Director, University of Texas School of Law  
Immigration Clinic (organization listed for  
identification purposes only)  
Empowering Pacific Islander Communities  
Envision Freedom Fund  
Esperanza Immigrant Rights Project  
Families for Freedom  
First Friends of New Jersey & New York  
Florence Immigrant & Refugee Rights  
Project  
Freedom for Immigrants  
Grassroots Leadership  
Grupo REU Law Firm LLC  
Haitian Bridge Alliance  
Harbor Institute for Immigrant & Economic  
Justice  
HIAS Pennsylvania

Human Rights First  
Immigrant ARC  
Immigrant Defenders Law Center  
Immigrant Justice Legal Clinic, The  
Resurrection Project  
Immigration Equality  
Immigration Justice Clinic, Cardozo School  
of Law  
Immigration Law and Justice Network  
Indivisible San Diego Persist  
Innovation Law Lab  
International Refugee Assistance Project  
(IRAP)  
ISLA  
Jewish Activists for Immigration Justice  
Las Americas Immigrant Advocacy Center  
LatinoJustice PRLDEF  
Law Office of Sara B. Kohgadi  
Law Offices of Jane Oak & Associates, P.C.  
Lawyers' Committee for Civil Rights of the  
San Francisco Bay Area  
Louisiana Advocates for Immigrants in  
Detention  
Mariposa Legal, program of COMMON  
Foundation  
Midwest Immigration Bond Fund  
Minnesota Freedom Fund  
Movimiento Estudiantil Chicax de  
Activismo de MiraCosta College  
National Immigrant Justice Center  
National Immigration Law Center  
National Immigration Litigation Alliance  
National Immigration Project  
Nationalities Service Center  
New Jersey Consortium for Immigrant  
Children  
New Mexico Immigrant Law Center  
New York Immigration Coalition  
Northwest Immigrant Rights Project  
Oasis Legal Services  
Pangea Legal Services

Public Counsel  
RAICES  
Robert F. Kennedy Human Rights  
Rocky Mountain Immigrant Advocacy  
Network  
RocUbuntu  
Root & Rebound  
San Diego Immigrant Rights Consortium  
(SDIRC)  
Santa Fe Dreamers Project  
SB County Immigrant Legal Defense Center  
Sonoma Immigrant Services  
South Bay People Power  
Southern California Immigration Project

Southern Poverty Law Center Action Fund  
Tahirih Justice Center  
Texas A&M Immigrant Rights Clinic  
Thai Community Development Center (Thai  
CDC)  
The Advocates for Human Rights  
The Legal Aid Society (NYC)  
The Mami Chelo Foundation, Inc  
UndocuBlack Network  
University of Texas School of Law  
Immigration Clinic (affiliation provided for  
identifying purposes only)  
Vera Institute of Justice

CC: Christopher Cady, ICE ERO, Senior Policy Advisor and ERO Legal Access Coordinator  
Deborah Fleischaker, ICE, Acting Chief of Staff to the Director  
David Gersten, DHS, Acting Ombudsman for Office of the Immigration Detention Ombudsman  
Nathalie Lummert, ICE ERO, Unit Chief Custody Programs Division  
Royce B. Murray, DHS, Counselor to the Secretary  
Corey Price, Acting Executive Associate Director, ICE Enforcement and Removal Operations  
(ERO)  
Scott Schuchart, ICE, Counselor to the Director  
Shoba Sivaprasad Wadhia, DHS, Civil Rights and Civil Liberties Officer for DHS  
Claire Trickler-McNulty, ICE, Assistant Director of Immigration Program Evaluation,

## APPENDIX A

### Recommendations

The following are recommendations for ensuring adequate access to counsel and a meaningful opportunity for people to represent themselves. These recommendations are drawn from practices currently in place, piecemeal, in some detention facilities. We maintain that all these accommodations are necessary and should be standardized across all detention facilities. The undersigned reiterate that we oppose any accommodations that would expand ICE detention capacity, such as the addition of additional beds. If a detention facility is unable to implement these recommendations, DHS and ICE must stop using the facility. If DHS and ICE cannot provide a detained person access to counsel and the ability to represent themselves, DHS and ICE must release that person.

- **Provide private, confidential, free video conferencing for legal visits to all people in immigration detention.**
  - ICE's focused expansion of the Virtual Attorney Visitation (VAV) program in facilities with ADP over 200 has led to clear inequities within the detention system. ICE should continue to expand VAV to all detention facilities; in the interim, ensure consistent access policies across facilities, and require that all facilities, regardless of size or ADP, establish and maintain a process for attorneys to schedule legal calls with detained clients, and that such legal calls are free, private, and confidential; and that all facilities implement a system to ensure efficient and confidential legal document exchange via email or fax.
  - Provide confidential, private space for all legal video calls. Private means an enclosed space where nobody else can hear the conversation. Video calls made from open housing units are not private.
  - Provide confidential video teleconference (VTC) hardware and software with the capability to include an interpreter in a multi-party legal call.
  - Ensure that there are sufficient VTC consoles available to guarantee availability for confidential calls such that legal representatives can schedule video conferencing calls within 24 hours of request, and that such calls are not capped at less than 2 hours.
  - Ensure that confidential VTC legal calls are available 24 hours a day/7 days a week.
  - Ensure that detained immigrants in segregation (medical, disciplinary, or administrative) have equal access to VTC legal calls. Attorney access may not be limited in retaliation or as punishment to detained people.
  - Ensure that all legal VTC calls are free, regardless of whether the call is initiated by the legal representative or the detained person and not limited to calls with a subset of legal service providers.
  - Ensure that no Form G-28, Notice of Entry of Appearance as Attorney, is required to arrange a VTC legal visit.<sup>1</sup>
  - In addition, ensure that there are sufficient tablets with multi-party video call and email capabilities such that legal representatives can schedule confidential legal video calls

within 24 hours of request, and that such calls are not capped at less than 2 hours. Ensure that those tablets function properly and have adequate connectivity. Ensure that all legal calls made on a tablet can occur in a confidential, private space.

- **Ensure timely access to private, confidential, free legal phone calls of unlimited duration and adequate quality.**
  - ICE must ensure the facilitation of legal calls, to ensure that detained individuals are able to speak to their attorneys at prearranged times, in private locations, on free and unmonitored telephone lines. Calls should be scheduled and facilitated in a manner similar to in-person visitations. A request to schedule a call shall be honored if made 24 hours in advance (and sooner if urgent).
  - Ensure that all legal calls are free – regardless of indigency metrics and not limited to calls to a subset of legal service providers.
  - Ensure that all calls with legal representatives are private, unmonitored, and confidential regardless of who initiates the call. Private means an enclosed space where nobody else can hear the conversation. Privacy panels (side partitions) do not provide privacy. Telephone calls from open housing units are not private.
    - If the facility requires lines be designated “legal” to be unrecorded and/or unmonitored, ensure that the process to designate a legal line allows for quick approval (within 24 hours), and is easy, publicly distributed, and applicable for all individuals providing legal representation, including non-attorneys.
    - OR ensure that the detention facility has sufficient designated legal phone lines.
  - Ensure sufficient telephone lines and space for confidential legal calls for all detained people such that legal representatives can schedule legal calls within 24 hours of request, and that such calls are not capped at less than 2 hours.
  - Ensure that detained people can make telephone calls within 24 hours of admission to a facility.
  - Provide telephone access for legal calls 24 hours a day/7 days a week.
  - Ensure that attorney messages are promptly (within 2 hours) delivered to detained individuals.
  - Ensure that detained immigrants in segregation or isolation units (medical, administrative, or disciplinary) have equal access to legal calls. Attorney access may not be limited in retaliation or as punishment to detained people.
  - Remove the positive-acceptance requirement so detained immigrants can leave a voicemail message. A positive-acceptance requirement means a person must answer the phone in order for the caller to complete a call. When a person does not answer the phone but is instead directed to a phone tree or voicemail, the call automatically disconnects.
  - Ensure that all legal calls allow the inclusion of a third-party line to allow for interpretation.
  - Allow for international legal calls upon request.
  - Maintain phones in working order, including reasonable sound quality. ICE must fix broken phones within 48 hours.

- Ensure that no Form G-28, Notice of Entry of Appearance as Attorney is required to schedule or conduct a legal telephone call.
- **Ensure that people who require accommodations under the Americans with Disabilities Act (ADA) and the Rehabilitation Act have equal access to legal representatives and to the outside world.**
  - Ensure that each facility implements a system for affirmatively identifying detained people who require accommodations within 24 hours of their admission to the facility and for ongoing monitoring to identify accommodation needs. The system must track all requests for accommodations, whether or not an accommodation is provided in response to each accommodation request, and accommodations made for each person detained at the facility.
  - Ensure that Deaf people have equal access to video calls as hearing people have access to telephones and other means of remote communication, consistent with the other recommendations in this letter.
  - Ensure that a video relay service is available to connect Deaf people with interpreters 24 hours a day/7 days a week. Text Telephones (TTY) do not provide adequate access to counsel.
  - Ensure that video calls are of sufficient quality so that a Deaf person is able to communicate through an interpreter.
  - Provide a captioner service for detained people who are hard of hearing. A captioner simultaneously transcribes the words of the speaker.
- **Ensure timely, confidential access to legal paperwork.**
  - Ensure that people in detention retain all legal paperwork in their housing unit. Legal paperwork includes any paperwork related to immigration matters, criminal matters, civil matters, and any other paperwork relating to a legal or court process.
  - Ensure that mail for detained people is timely processed and distributed. Mail marked as legal should be provided to the detained person within 24 hours of receipt by the facility.
  - Ensure that mail from detained people is mailed the same day so long as the person provides it to facility staff before a clearly posted mail time, Monday through Saturday.
  - Ensure that ICE/guards open legal mail only in the detained individual's presence.
  - Ensure that detained people do not need to pay to send out legal mail, regardless of indigency metrics.
  - Allow detained individuals access to email and fax for legal communication. Provide the necessary technology to review, sign, and return legal documents by email and fax. Ensure that such programs allow the confidential exchange of documents.
  - Ensure that detained people in segregation or isolation (medical, administrative, or disciplinary) have equal access to legal paperwork. Attorney access may not be limited in retaliation or as punishment to detained people.
  - Post on the ICE webpage for each facility clear, up-to-date instructions for obtaining a copy of a detained person's medical records and disciplinary file. Standardize this process to the extent possible across all facilities.

- **Ensure meaningful access to private, confidential in-person visitation with legal representatives.**
  - Ensure that all legal visits occur in visitation rooms that are enclosed and sound-proof.
  - Ensure that legal visitation rooms are of sufficient size to hold multiple people and wheelchairs. Ensure that there is no limit on the number of people who may attend a legal visit so long as those people can fit in a legal visitation room.
  - Ensure that there are sufficient enclosed and sound-proof legal visitation rooms to guarantee that legal representatives can schedule in-person visits within 24 hours of request, and that such visits are not capped at less than 2 hours.
  - Ensure that legal visitation is allowed at any time during weekdays and on weekends at least between 7 am and 8 pm.
  - Ensure that attorneys with appointments do not wait more than 20 minutes between arrival at the facility and meeting their clients in a private legal visitation room, inclusive of check-in time, time spent waiting to go to the attorney room, and time waiting for the client to be brought to the visit.
    - Make count and shift-change schedules available upon request.
  - Ensure that all legal visits are “contact visits” unless either the detained person or the legal representative requests a no-contact visit.
  - Ensure that any visual monitoring of in-person legal visits does not interfere with the privacy and confidentiality of the visit.
  - Permit access and adequate space for “know your rights” presentations in addition to individual visits.
  - Ensure that non-attorney legal representatives, including paralegals and BIA-accredited representatives, are allowed in-person access equal to attorney legal representatives.
  - Ensure that interpreters accompanying attorneys and legal representatives have in-person access equal to attorneys for the purpose of legal consultations.
  - Ensure that the process for approval to allow a medical or mental health expert evaluator and interpreter to enter the facility is simple and publicly posted and results in an approval (or denial) within 24 hours. An interpreter will not be required to submit interpreter credentials to obtain approval to enter the facility.
  - After an initial approval to enter a facility, ensure that an interpreter may enter the facility along with a legal representative without needing to seek advance permission.
  - Provide free, confidential telephonic interpreter services for all in-person legal visits in addition to in-person interpreter access. Equip all legal visitation rooms with a phone and an outside line and a speaker phone.
  - Allow any legal representative, interpreter, or evaluator to bring a laptop and telephone into and to use them in visitation rooms.
  - Ensure that detained people in segregation or isolation (including medical, administrative, or disciplinary) have equal access to in-person legal visitation.
  - Ensure that no Form G-28, Notice of Entry of Appearance as Attorney is required for an in-person legal visit.

- **Coordinate with the Executive Office for Immigration Review and ensure that detained people can privately communicate with their representatives immediately before, during, and after all VTC immigration court hearings. Ensure that people proceeding pro se may confidentially submit documentation to immigration court on the day of a VTC hearing.**
- **Ensure that the processes for attorney access are clear, accurate, available to all detained people in a language they understand, and publicly posted, including near the telephones and VTC consoles.**
  - Ensure that ICE provides people they detain a copy of the ICE National Detainee Handbook and the handbook of the facility where the person will be held at the moment Form I-286, Notice of Custody Determination is completed.
  - Publicly post in all dorm rooms and include in every detainee handbook instructions for (a) arranging a legal visit by videoconference and (b) arranging a free, private, confidential legal call.
    - These instructions should be simple, easily understood, accurate and up-to-date, and at a minimum, translated into the following 10 languages: (1) English, (2) Spanish, (3) Mandarin, (4) Portuguese, (5) Haitian Creole, (6) Hindi, (7) Urdu, (8) Arabic, (9) French, (10) Swahili, and (11) Tagalog.
    - ICE shall provide interpretation services for detained people who do not speak any of the 10 languages listed above.
    - ICE shall insure that these instructions are orally communicated in a language the detained person can understand where the person cannot see or read.
    - Include the name and contact information for a staff member or ICE officer responsible for assisting detained people with attorney access.
  - Post on the ICE website for each facility accurate and up-to-date instructions for arranging (a) a legal visit by video conference consistent with the demands listed above, (b) a legal call consistent with the demands listed above, (c) an in-person legal visit consistent with the demands listed above, (d) instructions for sending legal mail; and (e) instructions for sending and receiving secure legal messages by email or fax. Standardize these processes across all facilities.
  - Create and publicly post on the ICE facility webpage a process for timely updating the local list of free legal service providers available to people detained in each facility.
- **Prohibit the transfer of already-represented individuals and individuals eligible for free local representation to facilities more than 100 miles from local counsel except in extraordinary circumstances.** If a transfer does occur, ICE must notify the attorney or legal representative at least 72 hours in advance of the transfer, provide the attorney or representative with the address and contact information of the new facility, and ensure that the detained person is able to contact his or her representative within 24 hours of transfer.
- **Ensure that legal representatives can timely communicate with ICE Deportation Officers (DOs) assigned to their clients' cases,** including by providing a way for attorneys to identify

and contact the relevant DO and mandating that DOs respond to communications within 24 hours (unless there is an emergency that requires immediate response).

- **Ensure that staff at each detention facility are adequately trained to render all attorney access recommendations operational.** Staff must be trained on these standards within 7 days of starting a position at the facility, and must receive refresher trainings at least once a year. DHS/ICE must preserve records for 10 years from when these trainings were offered, which must indicate who provided the training, the content of the training, and who attended the training.
- **Ensure adequate internal monitoring and technical support as well as external oversight of attorney access by third-party monitors to assess and track the implementation of these suggested reforms.**
  - Implement rigorous oversight of all access to counsel requirements, whether enumerated in detention standards or in contract. ICE should ensure that complaints made regarding attorney access are promptly addressed, and that facilities that fail to meet requirements face consequences under contract. Recognizing that this may require additional staffing needs, ICE should prioritize hiring for these positions with Congressionally appropriated funds for custody operations.
  - Require that each facility have available at all times a staff member responsible for timely resolving any technical issues that arise with video conferencing, telephone access, internet access, tablets, email, and any other means of ensuring adequate attorney access. The name and contact information should be listed on the ICE website for the facility.
  - Designate ICE officers responsible for facilitating attorney access at each facility. ICE must designate sufficient officers so that there is always an officer available to address attorney access issues as they arise and receive complaints. The names and contact information for those ICE officers should be listed on the ICE website for the facility.
  - Ensure rigorous review of each facility by a subject-matter qualified and experienced third-party monitor every 3 months. A facility that fails to comply with these requirements upon review by the subject-matter expert shall be given a rating of “deficient” for purposes of the facility’s annual inspection.