



Office of the Chief
Records Officer for the
U.S. Government

Sent Via Email. No Hard Copy to Follow.

November 18, 2021

Daniel Tucker
Department of Homeland Security
U.S. Immigration and Customs Enforcement
Office of Asset Management
500 12th St SW
Washington, DC 20536

Dear Mr. Tucker,

The National Archives and Records Administration has become aware of the Office of Inspector General (OIG) report OIG-22-01, "ICE Needs to Improve Its Oversight of Segregation Use in Detention Facilities," Oct. 13, 2021. The report noted a number of concerns with Immigration and Customs Enforcement's recordkeeping practices. In particular, we are concerned with the findings on pages 7-9 that "ICE did not ensure detention facilities always complied with federal records retention requirements." The OIG report found that ICE was unable to provide 32 of 265 requested detention files and that 24 of those records were destroyed before the retention period was met. The remaining eight files were unable to be located.

It was also brought to our attention on page 7 of the OIG report that ICE does not have records retention instructions in their policies and procedures for their field offices. The Performance-Based National Detention Standards (PBNDS) states that field offices shall "maintain detention files for a minimum of 18 months after the release of the detainee....once detention files are closed, the facility shall properly archive and dispose of files in accordance with agency policies and regulations." However, the PBNDS does not reference the six-year record retention requirement in the relevant schedule. The OIG report also stated that 5 of the facilities sampled in the OIG report only retained records for 3 years.

In accordance with 36 C.F. R. 1230.16(b), NARA requests that ICE respond within 30 calendar days to these allegations. If it is determined that an unauthorized disposition of records has occurred, the response should detail specific actions ICE will take to address any failure to capture and preserve federal records, and the steps that ICE will take to mitigate future risk. Please indicate in your response if any records lost can be re-created or duplicated from other sources.

We request that, in addition to the 30 day report requested above, you provide NARA with quarterly updates that document the progress ICE is making to close Recommendation 3. Additionally, when this recommendation is closed you should notify NARA and provide us with any relevant documentation to show that ICE has addressed the issues raised in this report.

I appreciate your attention to this important matter. If you have any questions or wish to discuss further, please contact me at laurence.brewer@nara.gov.

Sincerely,

A handwritten signature in blue ink that reads "Laurence V. Brewer". The signature is written in a cursive style with a large initial 'L'.

LAURENCE BREWER
Chief Records Officer
for the U.S. Government

cc. Michelle Thomas, Department Records Officer, Department of Homeland Security