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While the 2011 PBNDS provide for important improvements to current conditions, they are not enough. They continue to rely heavily on penal standards that were designed for a criminal population and do not take into account that detainees in ICE custody are there on the basis of civil violations only and are not serving criminal sentences or awaiting criminal proceedings. The improvements merely bring ICE detention standards closer to a minimum level of compliance with legal obligations of a civil detention system.

It is critical to note that any actual improvement in conditions will depend on the implementation of these announced reforms and the enforcement of adequate standards. These standards must be mandatory at all facilities with sufficient oversight to produce consistent and humane treatment of detainees. Violations must trigger appropriate and enforceable sanctions.

Within this context, NGOs have welcomed the administration's announcements of reform. It is ICE's responsibility to ensure the adequacy of medical care, protections from assault and rape, access to attorneys, and other basic care are provided to its detainees, regardless of where they are housed, because it is ICE that holds them prisoner. ICE has in the past abdicated this responsibility by failing to oversee the provision of such care.

The 2011 PBNDS are a bare minimum for the operation and oversight of ICE's vast network of confinement and custody. Though a start, they will only become meaningful if the agency continues to implement and institutionalize the reforms recommended by Dr. Schiro's report and commits to creating a civil system of detention that is used as a last resort and not modeled on the criminal incarceration system. This includes implementing effective tools for detaining only where appropriate and necessary; ending the use of all jail and jail-like facilities for immigration detention; screening apprehended immigrants to inform care, needs and custody restrictions; ensuring functional and meaningful oversight and monitoring of detention operations, performance and outcomes; and imposing sanctions on facilities that violate ICE's standards.