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Immigration and Customs Enforcement

Office of Professional Responsibility

Inspections and Detention Oversight

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**Office of Detention Oversight
Compliance Inspection**

**Enforcement and Removal Operations
Boston Field Office
Bristol County Jail and House of Correction
North Dartmouth, Massachusetts**

January 15-17, 2013

**COMPLIANCE INSPECTION
BRISTOL COUNTY JAIL AND HOUSE OF CORRECTION
BOSTON FIELD OFFICE**

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EXECUTIVE SUMMARY

The Office of Professional Responsibility (OPR), Office of Detention Oversight (ODO) conducted a Compliance Inspection (CI) of the Bristol County Jail and House of Correction (BCJ) in Dartmouth, Massachusetts, from January 15 to 17, 2013. The Bristol County Sheriff's Office owns and operates BCJ. BCJ opened in 1990, and underwent remodeling in 2004 and 2006, at which time 128 additional beds were added. Since April 2000, ICE has housed male and female detainees of all classification levels (Level I- lowest threat, Level II- medium threat, Level III- highest threat) in excess of 72 hours through an intergovernmental service agreement. BCJ has a capacity of 1,365 total beds, 240 of which are reserved for ICE detainees. At the time of the CI, BCJ housed 148 ICE detainees: 131 males and 17 females. The Bristol County Sheriff's Office provides the food services and the Correctional Psychiatric Service provides medical care.

The Office of Enforcement and Removal Operations (ERO) Field Office Director (FOD) in Boston, Massachusetts (FOD Boston) is responsible for ensuring the facility's compliance with ICE policies and the ICE Performance-Based National Detention Standards (PBNDS). No ICE staff is permanently located at BCJ; however, an Immigration Enforcement Agent (IEA) visits BCJ at least three days per week to address detainee concerns regarding detention conditions. A second IEA is available to assist in monitoring detention conditions when the primary IEA is unavailable. A Detention Service Manager is assigned to BCJ to monitor oversight and compliance with the ICE PBNDS. The Detention Service Manager liaisons with both ICE and BCJ staff to ensure detainee health, safety, and welfare. ODO found the IEAs are on-site frequently to interact with detainees, address immigration matters, and coordinate activities between FOD Boston and BCJ.

BCJ operates under a county Sheriff and a Superintendent, who are in charge of corrections and detention programs. BCJ employs a total of (b)(7) security and (b)(7) support staff. Additionally, BCJ has designated an Assistant Superintendent for immigration services, who is directly responsible for detainee custody and welfare.

In June 2011, ODO conducted a Quality Assurance Review at BCJ. Of the 25 National Detention Standards reviewed, 12 were in full compliance. ODO cited 35 deficiencies in the remaining 13 standards.

In April 2012, ERO Detention Standards Compliance Unit contractor, The Nakamoto Group, Inc., conducted an annual review of the PBNDS at BCJ. The facility received an overall rating of "Meets Standards," and was found to be in compliance with 40 of 41 standards reviewed. The Voluntary Work Program standard was assigned a rating of "Not Applicable."

During this CI, ODO reviewed 22 PBNDS, and found BCJ compliant with 15 standards. ODO found ten deficiencies within the following seven standards: Detainee Handbook (2 deficiencies), Detention Files (2), Disciplinary System (2), Environmental Health and Safety (1), Funds and Personal Property (1), Law Libraries and Legal Material (1), and Visitation (1). Four similar deficiencies to those noted during the 2011 Quality Assurance Review were found in the following three standards: Detention Files (2), Funds and Personal Property (1), and Visitation (1).

This report details all deficiencies and refers to the specific relevant sections of the PBNDS. ERO will be provided a copy of this report to assist in developing corrective actions to resolve the ten identified deficiencies. These deficiencies were discussed with BCJ personnel on-site during the inspection and with BCJ management during the closeout briefing on January 17, 2013.

According to BCJ staff, the CDM affords detainees more movement compared to a typical jail setting. Detainees at BCJ are housed separately from inmates in an open dormitory-style dwelling. BCJ has designated a Chief of Immigration Services and (b)(7)e caseworkers to address the needs of detainees. BCJ immigration services staff and caseworkers provide direct supervision and are able to communicate with detainees in the English, Spanish, and Portuguese languages.

ODO found housing identification cards were not being consistently maintained for each detainee's file. Not all detainee files contained property receipts (Form G-589). The file removal/return tracking log did not contain the required information. ODO noted these are repeat deficiencies from the 2011 Quality Assurance Review. BCJ staff was apprised of the deficiencies during the CI in order to implement corrective actions.

BCJ's detainee handbook fails to reference detainee rights, including freedom from discrimination based upon on race, religion, national origin, sex, sexual orientation, disability, or political beliefs. The handbook also fails to describe the procedures for claiming property upon a detainee's release or removal. These deficiencies were brought to the attention of BCJ management during the inspection to in order to implement corrective actions.

From January 20, 2012, through January 7, 2013, detainees filed a total of 44 grievances: 20 related to disciplinary actions involving lock-downs during emergency fire drills; 15 related to food service portions; three related to delayed mail and correspondence; and three related to commissary snack variety. Grievances regarding medical care are delivered directly to a medical staff within 24 hours or the next business day by the Grievance Officer. Informal grievances were usually resolved promptly, and the resolutions were recorded both in electronic and manual logs, and copies were maintained in each individual detainee's file. ODO noticed BCJ caseworkers provide detainees individualized orientation briefings during intake, and detainees have ample access to BCJ and ICE staff throughout their custody. Through the collaborative efforts of BCJ and ICE staff, detainee immigration, personal, and confinement issues are able to be addressed without resorting to expansive complaints.

During the past calendar year, BCJ held 190 disciplinary hearings. ODO verified disciplinary episode reports were investigated by a shift supervisor, and all evidence and documentation is reviewed by the Unit Disciplinary Committee or Institutional Disciplinary Panel. However, in two of the four disciplinary actions taken against detainees in the past six months, hearings were not conducted within 24 hours. Translation and interpretation services are available to detainees involved in the disciplinary process, if required. ODO noted the BCJ handbook does not contain an anti-discrimination policy.

At the time of the inspection, there were no detainees in segregation. ODO found written orders are issued by a supervisor prior to a detainee's placement in the SMU, and the detainee receives

a copy within 24 hours. Detainees were screened by medical staff upon admission to the SMU, and a Lieutenant conducts in-person reviews with detainees within 72 hours. (b)(7)e Correctional Officers provide direct supervision of detainees by performing checks every 30 minutes, and document those checks in the cell logbook.

According to staff and based on review of documentation, there was one immediate use of force incident, and no calculated use of force incidents involving ICE detainees in the past 12 months. The immediate use of force incident involved deployment of Oleoresin Capsicum (OC) spray. Review of documentation and video footage supported full compliance with facility policy and the PBNDS. ODO reviewed the training record of the Lieutenant who deployed the OC spray, and confirmed current training and certification status was up-to-date. BCJ's use of force policy has provisions for the use of four/five point restraints when ambulatory restraints are insufficient to protect and control a detainee. Facility and ICE staff informed ODO there were no instances of use of four/five point restraints on detainees in the last 12 months. Electro-muscular disruption devices are not used at BCJ.

During the time of the CI, BCJ was storing hazardous materials in a stand-alone trailer located outside the secure perimeter of the facility. There were no current inventories for any of the substances stored in the trailer, and the substances were not stored in secure cabinets.

ODO observed general sanitation had improved throughout the facility, especially in the kitchen and satellite feeding areas. All areas of the food service operation were found to be clean and well organized. Cleaning schedules were posted throughout the food service areas, and food service workers were observed following "clean-as-you-go" procedures. Review of documentation confirmed comprehensive daily inspections are conducted by the Food Service Supervisor, and weekly inspections are conducted by the Risk Management Supervisor.

Health care is provided on a 24-hour basis by contractor Correctional Psychiatric Services (CPS). The Clinical Medical Authority, licensed as a physician in Massachusetts and board-certified in Internal Medicine, is on-site on a full-time basis. Administrative oversight of health services is provided by the Health Services Administrator (HSA), who is a Licensed Clinical Social Worker. CPS staffing for the BCJ complex consists of (b)(7)e full-time positions. In addition to the Clinical Medical Authority and HSA, full-time staff includes (b)(7)e Nurse Practitioners, (b)(7)e Registered Nurses, (b)(7)e Licensed Practical Nurses, (b)(7)e social workers, and administrative support personnel. In addition to full-time staff, CPS provides as-needed nursing staff, a psychiatrist (b)(7)e dentists and an optometrist. ODO determined staffing is adequate to provide health services to the detainee population. ODO verified professional credentials including licensure, insurance, DEA registration, and other applicable certifications for all (b)(7)e medical staff members were current and primary-source verified.

The medical department is not accredited by the National Commission on Correctional Health Care (NCCHC) or The Joint Commission (TJC). ODO was informed both NCCHC and TJC accreditation was previously held; however, the facility and CPS decided not to pursue renewal. ODO was further informed BCJ is inspected on an annual basis by the Massachusetts Department of Corrections. The last inspection report, dated September 27, 2012, documents no deficiencies were found.

The medical clinic consists of three examination rooms, an urgent care room, a one-chair dental clinic, a medication storage room, an eye clinic, a specimen collection room, and two waiting rooms: one for males and one for females. The clinic also has a medical observation area that includes two eight-bed wards, and four private rooms. One of the private rooms has negative airflow for tuberculosis isolation, most recently certified for negative air pressure by an accredited environmental health engineer on November 5, 2012. Infectious waste is stored in a locked steel container on the shipping dock, and is picked up on a monthly basis by Stericycle. In the annex building, medical space consists of two private rooms for sick call and general office space.

ODO reviewed 30 medical files: two of which were mental health and four were medical chronic care cases. All case files contained documented treatment plans for medication, education, follow-up visits, and diagnostic testing/monitoring. Consent forms for treatment of specific psychotropic medications were included in files of the two detainees receiving mental health care. Physical examinations were conducted within 14 days by a Nurse Practitioner.

During the course of the inspection there was a national influenza outbreak. ODO observed flu prevention posters in all detainee housing areas in six languages: English, Spanish, Chinese, Portuguese, Russian, and Cajun-Creole. These posters contained advice on the flu vaccination, hand washing, and other measures for prevention of disease outbreaks. ODO reviewed documentation indicating all ICE detainees were offered the influenza vaccination, and 32 detainees (approximately 25 percent of the ICE population) were vaccinated. During the course of the inspection, ODO inspectors checked the wall-mounted hand sanitizers and soap dispensers, and found they were all full. ODO noticed sanitary practices and prevention measures were being practiced throughout the facility.

Overall, ODO found BCJ's application of the Hunger Strikes, Suicide Prevention and Intervention, and Terminal Illness, Advanced Directives and Death standards to be at an acceptable level of compliance. No detainee deaths were reported the last suicide attempt of a detainee occurred in January 2012. During this CI, there were no detainees on suicide watch.

ODO found BCJ has a Sexual Abuse and Assault Prevention and Intervention (SAAPI) Coordinator and a Sexual Abuse Response Team. The SAAPI Coordinator informed ODO there were three incidents of reported sexual abuse in the last 12 months. Review of the case files found one incident was determined unfounded, one was unsubstantiated, and one was substantiated. The substantiated incident involved the touching of one detainee by another. Medical examinations by facility health care personnel were completed. The SAAPI Coordinator oversaw the investigations and notified the ICE field office. A Supervisory and Detention and Deportation Officer with FOD Boston informed ODO notification was made to the ICE Joint Intake Center telephonically within two hours of all three incidents occurring, and in writing within 24 hours via the ICE Significant Event Notification Database. Local law enforcement and the District Attorney were also notified.

BCJ provides law library access to ICE detainees via computer workstations in each housing unit. The computers are located in multipurpose rooms attached to each housing unit, which remain unlocked and accessible to detainees at all times. ODO found detainees housed in Special Management Unit (SMU)-EC were unable to see the computer screen due to a damaged

Plexiglas-like panel over the monitor. During the CI, ODO advised BCJ staff of the issue, and a maintenance request was submitted while ODO was on-site.

ODO found detainees have reasonable and equitable access to telephones at BCJ. Detainees are given emergency messages and are allowed to return emergency telephone calls without delay. Detainees have access to both indoor and outdoor recreational opportunities, and are provided the required amount of recreation time. ODO's review of records and interviews of detainees confirmed ample recreation opportunities were provided to detainees.

ERO staff visiting hours are posted in in each housing unit and in segregation units in both the English and Spanish languages. The FOD, the Deputy Field Office Director, and a Supervisory and Detention and Deportation Officer visit the facility on a weekly and monthly basis.

The Notice of Appearance or Accredited as Attorney or Representative (Form G-28) was absent in the legal visitor reception areas for both the male and female detainees. This is a repeat deficiency from the 2011 Quality Assurance Review, but was corrected on-site.

INSPECTION PROCESS

ODO inspections evaluate the welfare, safety, and living conditions of detainees. ODO primarily focuses on areas of noncompliance with the ICE National Detention Standards or the ICE PBNDS, as applicable. The PBNDS apply to BCJ. In addition, ODO may focus its inspection based on detention management information provided by ERO Headquarters and ERO field offices, and on issues of high priority or interest to ICE executive management.

ODO reviewed the processes employed at BCJ to determine compliance with current policies and detention standards. Prior to the inspection, ODO collected and analyzed relevant allegations and detainee information from multiple ICE databases, including the Joint Integrity Case Management System, the ENFORCE Alien Booking Module, and ENFORCE Alien Removal Module. ODO also gathered facility facts and inspection-related information from ERO Headquarters staff to fully prepare for the site visit at BCJ.

REPORT ORGANIZATION

This report documents inspection results, serves as an official record, and is intended to provide ICE and detention facility management with a comprehensive evaluation of compliance with policies and detention standards. It summarizes those PBNDS that ODO found deficient in at least one aspect of the standard. ODO reports convey information to best enable prompt corrective actions and to assist in the on-going process of incorporating best practices in nationwide detention facility operations.

OPR defines a deficiency as a violation of written policy that can be specifically linked to the PBNDS, ICE policy, or operational procedure. When possible, the report includes contextual and quantitative information relevant to the cited standard. Deficiencies are highlighted in bold throughout the report and are encoded sequentially according to a detention standard designator.

Comments and questions regarding the report findings should be forwarded to the Deputy Division Director, OPR ODO.

INSPECTION TEAM MEMBERS

(b)(6), (b)(7)c

Detention and Deportation Officer (Team Lead)	ODO, HQ
Management Program Analyst	ODO, HQ
Management Program Analyst	ODO, HQ
Acting Section Chief	ODO, HQ
Contract Inspector	Creative Corrections
Contract Inspector	Creative Corrections
Contract Inspector	Creative Corrections

OPERATIONAL ENVIRONMENT

INTERNAL RELATIONS

ODO interviewed the following ERO and BCJ staff: the Deputy Field Office Director, Assistant Field Office Director in charge of detention, the BCJ Assistant Superintendent - Chief of Immigration Services, and a Detention Service Manager.

Overall, ODO found ERO and BCJ staff have a good working relationship. BCJ staff described their working relationship with ERO as excellent. BCJ staff confirmed ERO staff makes regularly scheduled visits to interact with detainees. Since the 2011 Quality Assurance Review, BCJ management appears to have refocused resources on its detention program. BCJ hired additional personnel who are solely dedicated to managing detention issues. ERO management appears to have resolved equipment deficiency issues that impacted the ability of the IEAs to address oversight functions.

DETAINEE RELATIONS

ODO randomly selected and individually interviewed 18 detainees (12 males and six females) regarding conditions at BCJ. All detainees reported ERO staff visits the facility frequently to address their concerns. The majority of detainees interviewed knew the name of their Deportation Officer. All detainees interviewed stated they were issued an ICE National Detainee Handbook and a facility handbook. Both handbooks are available in the English and Spanish languages.

None of the detainees interviewed said they had filed any grievances or complaints while at BCJ. All stated they were made aware of the grievance system through the detainee handbook and the orientation briefing.

When asked about treatment by staff, all of the detainees interviewed stated they had never witnessed any abuse while at BCJ. Two detainees alleged they were strip searched: one during intake processing and the other following a contact visit with an attorney. ODO reviewed the two detainees' detention files, and interviewed both ERO and BCJ staff. ODO found no evidence indicating these detainees were strip searched. ODO found BCJ's strip search policy to be compliant with the PBNDS. ICE and BCJ staff stated strip searches of detainees occur only when there is an articulable reasonable suspicion, and that ERO management is contacted for concurrence before any strip search is conducted.

All detainees stated they know how to use the telephone, and have access to the law library. They receive recreation daily, and are allowed visitation.

All detainees stated they were issued an initial supply of hygiene products upon intake processing and continue to receive replacements. Many hygiene items are also available for purchase through the commissary.

Eleven of the 18 detainees interviewed stated they were unhappy with the food provided, because meals lacked variety. Detainees complained BCJ served too much pasta and mashed

potatoes. Review of documentation confirmed the master cycle menu is reviewed annually by the Food Service Supervisor, and is certified by a registered dietician based on a complete nutritional analysis. The Food Service Manager stated he was aware of all complaints and would work within his limited resources to provide more varieties.

The majority of detainees interviewed stated they were satisfied with the level of medical and dental care at BCJ. One detainee informed ODO that BCJ staff denied his request for a second mattress, which would alleviate his pain from severe scoliosis. Although ODO found no evidence in the medical file that the detainee requested a second mattress, the detainee's request was communicated to ERO. ERO ensured the request would be reviewed by medical staff. Further, a detainee alleged he was assaulted by another detainee, and his nose has bled daily since that time. ODO reviewed the detainee's medical records, and found he is receiving treatment for his injured nose. This allegation was reported to ICE ERO management, and significant incident reports were generated.

ICE PERFORMANCE-BASED NATIONAL DETENTION STANDARDS

ODO reviewed a total of 22 PBNDS and found BCJ fully compliant with the following 15 standards:

- Admission and Release
- Emergency Plans
- Food Service
- Grievance System
- Hunger Strikes
- Key and Lock Control
- Medical Care
- Recreation
- Sexual Abuse and Assault Prevention and Intervention
- Special Management Units
- Staff-Detainee Communication
- Suicide Prevention and Intervention
- Telephone Access
- Terminal Illness, Advance Directives, and Death
- Use of Force and Restraints

As these standards were compliant at the time of the review, a synopsis for these areas was not prepared for this report.

ODO found deficiencies in the following seven standards

- Detainee Handbook
- Detention Files
- Disciplinary System
- Environmental Health and Safety
- Funds and Personal Property
- Law Libraries and Legal Material
- Visitation

Findings for each of these standards are presented in the remainder of this report.

DETAINEE HANDBOOK (DH)

ODO reviewed the Detainee Handbook standard at BCJ to determine if the facility provides each detainee with a handbook, written in English and any other languages spoken by a significant number of detainees housed at the facility, describing the facility's rules and sanctions, disciplinary system, mail and visiting procedures, grievance system, services, programs, and medical care, in accordance with the ICE PBNDS. ODO interviewed staff and detainees, and reviewed the detainee handbook.

ODO confirmed BCJ provides incoming ICE detainees with a facility handbook, which is available in the English, Spanish, and Portuguese languages. A review of 15 randomly-selected detention files found detainees receive and are required to sign for the facility handbook upon admission.

BCJ staff receives training in the contents of the ICE detainee handbook and the facility handbook. BCJ accommodates detainees who cannot read or who do not understand the language of the handbook by reading the contents of the handbook to those detainees, and using a telephonic interpretation service when necessary.

ODO determined, while the ICE National Detainee Handbook and BCJ local supplement cover the majority of required content outlined in the PBNDS, the handbooks do not reference the facility's anti-discrimination policies (**Deficiency DH-1**). The facility handbook also does not describe the procedures for claiming property upon a detainee's release or removal (**Deficiency DH-2**). Similar deficiencies are also referenced in the Disciplinary System and Funds and Personal Property standards as **Deficiencies DS-1 and F&PP-1**.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY DH-1

In accordance with the ICE PBNDS, Detainee Handbook, section (V)(2), the FOD must ensure, while all applicable topics from the ICE National Detainee Handbook must be addressed, it is particularly important that each local supplement notify each detainee of: detainee rights and responsibilities.

In accordance with the ICE PBNDS, Disciplinary System, section(V)(B), the FOD must ensure the Detainee Handbook, or supplement, issued to each detainee upon admittance, shall provide notice of the facility's rules of conduct and prohibited acts, the sanctions imposed for violations of the rules, the disciplinary severity scale, the disciplinary process and the procedure for appealing disciplinary findings. Detainees shall have the following rights and shall receive notice of them in the Handbook:

- The right of freedom from discrimination based on race, religion, national origin, sex, sexual orientation, handicap, or political beliefs.

DEFICIENCY DH-2

In accordance with the ICE PBNDS, Detainee Handbook, section (V)(2), the FOD must ensure, while all applicable topics from the ICE National Detainee Handbook must be addressed, it is

particularly important that each local supplement notify each detainee of: detainee rights and responsibilities.

In accordance with the ICE PBNDS, Funds and Personal Property, section (V)(C), the FOD must ensure the detainee handbook or equivalent shall notify the detainees of facility policies and procedures concerning personal property, including: the procedure for claiming property upon release, transfer, or removal.

DETENTION FILES (DF)

ODO reviewed the Detention Files standard at BCJ to determine if files are created containing all significant information pertaining to detainees housed at the facility for over 24 hours, in accordance with the ICE PBNDS. ODO reviewed detention files to ascertain whether all required documentation was included.

As part of the intake process, BCJ staff creates a detention file when a detainee is admitted to the facility. ODO randomly selected a total of 30 detention files (15 active and 15 inactive) for review to determine if they contained required documentation. All 15 active detention files reviewed contained original photographs, classification worksheets, personal property inventory sheets, and the required Alien Booking Record (Form I-385). However, none of the 15 active detention files contained housing identification cards, and three of the 15 files did not contain Form G-589, Property Receipt (**Deficiency DF-1**). This is a repeat deficiency from the 2011 Quality Assurance Review.

In addition to storing and maintaining the detention files, BCJ keeps a check-in and check-out log for detention files. However, the log does not include: the date and time removed; reason for removal; the signature, title and department of the person removing the file; date and time returned; or the signature of the person returning the file (**Deficiency DF-2**). This is a repeat deficiency from the 2011 Quality Assurance Review.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY DF-1

In accordance with the ICE PBNDS, Detention Files, section (V)(B)(1), the FOD must ensure the detainee Detention File shall contain either originals or copies of forms and other documents generated during the admission process. If necessary, the Detention File may include copies of material contained in the detainee's A-File. The file shall, at a minimum, contain: Housing Identification Card, and G-589, Property Receipt or facility equivalent.

DEFICIENCY DF-2

In accordance with the ICE PBNDS, Detention Files, section (V)(F)(3), the FOD must ensure a representative of the department requesting the file is responsible for obtaining the file, logging it out, and ensuring its return.

At a minimum, a logbook entry recording the file's removal from the cabinet shall include:

- Date and time removed;
- Reason for removal
- Signature of person removing the file, including title and department;
- Date and time returned; and
- Signature of person returning the file.

DISCIPLINARY SYSTEM (DS)

ODO reviewed the Disciplinary System standard at BCJ to determine if sanctions imposed on detainees who violate facility rules are appropriate, and if the discipline process includes due process requirements, in accordance with the ICE PBNDS. ODO interviewed staff, and reviewed facility policy, the detainee handbook, and all four disciplinary actions taken against detainees in the past six months.

BCJ's disciplinary policy states staff are encouraged to informally settle minor transgressions by mutual consent, whenever possible. The facility has progressive levels of review and graduated scales of offenses, which are classified as either minor or major. Rules, sanctions, disciplinary procedures, and the appeal process are addressed in the detainee handbook. Offenses are listed in the handbook; however, ODO notes there is no distinction between minor and major infractions. ODO recommends the handbook be revised to ensure detainees are aware of the relative gravity of offenses, and the level at which they will be adjudicated. Further, the detainee handbook fails to reference the facility's anti-discrimination policies (**Deficiency DS-1**).

The Watch Commander reviews all disciplinary reports and classifies them as minor or major infractions. A designated Hearing Officer serves as the Unit Disciplinary Committee, performing intermediate level reviews and adjudicating minor infractions. Review of disciplinary files for four detainees found two cases in which hearings were not conducted within 24 hours after conclusion of the investigation (**Deficiency DS-2**). ODO notes the facility's policy does not address the 24-hour timeframe required by the standard. ODO recommends the policy be revised to support compliance with the standard in the future.

BCJ's Disciplinary Board serves as the Institutional Disciplinary Panel, and adjudicates major infractions. ODO notes the facility's policy states Disciplinary Board hearings must be scheduled no less than seven days after the disciplinary report was filed, which is in conflict with the PBNDS requirement for hearings within 24 hours. No hearings were held in violation of the PBNDS requirement; therefore, a deficiency is not being cited. However, to support future compliance with the PBNDS, ODO recommends revision of the policy.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY DS-1

In accordance with the ICE PBNDS, Disciplinary System, section (V)(B), the FOD must ensure the Detainee Handbook, or supplement, issued to each detainee upon admittance, shall provide notice of the facility's rules of conduct and prohibited acts, the sanctions imposed for violations of the rules, the disciplinary severity scale, the disciplinary process and the procedure for appealing disciplinary findings. Detainees shall have the following rights and shall receive notice of them in the Handbook:

- The right of freedom from discrimination based on race, religion, national origin, sex, sexual orientation, handicap, or political beliefs.

DEFICIENCY DS-2

In accordance with the ICE PBNDS, Disciplinary System, section (V)(F)(2), the FOD must ensure the detainee in UDC proceedings shall have the right to: due process, which includes: having a UDC hearing within 24 hours after the conclusion of the investigation.

ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

ODO reviewed the Environmental Health and Safety standard at BCJ to determine if the facility maintains a high level of cleanliness and sanitation, safe work practices and control of hazardous materials and substances, in accordance with the ICE PBNDS. ODO toured the facility, interviewed staff, and reviewed policies, procedures and documentation related to inspections and inventories, hazardous chemical management, and fire drills.

Overall, sanitation throughout BCJ was found to be at an acceptable level. BCJ's Environmental Safety Officer and his assistant have successfully completed the Massachusetts Department of Corrections fire safety officer training, and the environmental health and safety officer training. BCJ implemented a housekeeping plan that includes all areas of the facility, as well as safety instruction training for detainees. Documentation supports the Assistant Environmental Safety Officer conducts weekly fire and safety inspections throughout the facility, and completes monthly inspections. The Commonwealth of Massachusetts Department of Public Health, Community Sanitation Program found compliance with state standards in its last inspection on August 27, 2012.

BCJ contracts with Waltham Services Integrated Pest Management for inspection and treatment services every two weeks. The local Department of Public Works, Water and Sewer Division monitors the water at BCJ, and noted no adverse findings in its most recent report dated January 2, 2013. Emergency power generators are tested weekly and are load tested monthly, exceeding the requirements of the PBNDS. BCJ contracts with RALCO Electric, Inc. to perform preventive maintenance and repairs on the generators, as needed. Garbage and refuse are removed twice a week under contract with Frades Disposal, Inc.

ODO verified BCJ maintains copies of the master hazardous materials index and all Material Safety Data Sheets in the Environmental Safety Officer's office, the medical department, the Watch Commander's office, and the Dartmouth Fire Department. In addition, each department maintains a Material Safety Data Sheets binder with site-specific materials. Hazardous materials are stored in a stand-alone trailer located outside the secure perimeter of the facility, and a supply of daily-use cleaning products is stored and issued from a secure area in the laundry area. ODO's review of documentation confirmed accurate inventories are maintained by the Laundry Officer. However, there were no current inventories for any of the substances stored in the trailer, and substances were not stored in required cabinets (**Deficiency EH&S-1**). ODO found the last entry for one substance was dated April 2012, and documented 17 containers were available. None were found at the time of the review. Materials stored in the trailer were not inventoried, and adequate safeguards were not in place to ensure control and accountability for all hazardous substances which enter BCJ. The supervisor in charge acknowledged the inventories were not current, and stated he was in the process of updating all inventories. Maintaining inventories and properly storing hazardous materials serves an important life-safety function, protecting detainees, staff, and property from harm.

The Dartmouth Fire Department has reviewed and approved the BCJ Fire Safety and Evacuation Plan, and maintains a copy for ready access. In addition, the Dartmouth Fire Inspector completed his annual fire inspection in January 2012, and found all buildings located within the BCJ complex in compliance with the fire code. This year's inspection is scheduled for

January 24, 2013. The facility is equipped with smoke detectors, sprinklers, and fire extinguishers. ODO verified these systems are inspected and tested by a local contractor on an annual basis. Fire drills are conducted on a quarterly basis, and include all facility locations. Fire drill checklists were reviewed, and ODO verified each shift participates in an annual drill. All furnishings used in BCJ are composed of fire-retardant materials. Exit diagrams in English and Spanish identify primary and alternate escape routes, and are posted throughout the facility.

All sharp objects and syringes are inventoried on each shift, and documented by the on-coming and off-going Nurse. ODO confirmed the accuracy of the inventories. Bio-hazardous medical waste is removed by Stericycle, Inc., a licensed transporter. Bloodborne pathogens protection and clean-up kits consisting of a spill clean-up pack and bloodborne pathogens protective apparel are located throughout the facility, and all staff and detainee workers receive training on using this equipment.

There is a centralized barbershop in the main facility and a barber station in the common area restroom in the ICE building. The barbershops are equipped with sinks, with hot and cold running water and appropriate barber equipment as required by the standard. Barbershop sanitation guidelines are posted, and ODO observed detainee barbers following appropriate sanitation protocols.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY EH&S-1

In accordance with the ICE PBNDS, Environmental Health and Safety, section (VI)(C), the FOD must ensure every area shall maintain a current inventory of the hazardous substances (flammable, toxic, or caustic) used and stored there. Inventory records shall be maintained separately for each substance. Entries for each shall be logged on a separate card (or equivalent) filed alphabetically by substance. The entries shall contain relevant data, including purchase dates and quantities, use dates and quantities, and quantities on hand.

FUNDS AND PERSONAL PROPERTY (F&PP)

ODO reviewed the Funds and Personal Property standard at BCJ to determine if controls are in place to inventory, receipt, store, and safeguard detainee personal property, in accordance with the ICE PBNDS. ODO reviewed policies and procedures, and detention files; and interviewed ICE and facility staff.

All detainees admitted to BCJ are processed at the ERO office in Burlington, Massachusetts, prior to being transported to the facility. During processing at the field office, ERO staff takes possession of all detainee personal property, excluding clothing. ERO staff inventory and store all property at the ERO office. As a result, detainees do not bring any valuables with them to BCJ.

BCJ has written policies and procedures for funds and personal property, which covers accounting for and safeguarding any detainee property from time of admission until time of release. The BCJ handbook describes the majority of funds and personal property policies and procedures, but fails to describe the procedures for claiming property upon release or removal (**Deficiency F&PP-1**). This is a repeat deficiency from the 2011 Quality Assurance Review.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY F&PP-1

In accordance with the ICE PBNDS, Funds and Personal Property, section (V)(C), the FOD must ensure the detainee handbook or equivalent shall notify the detainees of facility policies and procedures concerning personal property, including: the procedure for claiming property upon release, transfer, or removal.

LAW LIBRARIES AND LEGAL MATERIAL (LL&LM)

ODO reviewed the Law Libraries and Legal Material standard at BCJ to determine if detainees have access to a law library, legal materials, courts, counsel and document copying equipment to facilitate the preparation of legal documents, in accordance with the ICE PBNDS. ODO reviewed policies and procedures, inspected the areas designated for law library use, and interviewed ICE and facility staff.

BCJ provides law library access to detainees via a computer workstation in each housing unit. The computer is located in a multipurpose room attached to each housing unit, which remains unlocked and accessible to detainees at all times. All computers are contained within a protective case, and the screens are viewed through a Plexiglas-like cover. All computers contained a recent version of the Lexis-Nexis CDROM, which is updated quarterly by the facility Librarian.

Law library supplies, including paper and writing utensils, are available from the Housing Unit Officer upon request. Additionally, tables and chairs are moved from the housing unit into the multi-purpose room as needed. Detainees are provided small numbers of photocopies by the Housing Unit Officer upon verbal request. Requests for a large volume of photocopies must be submitted in writing to the ICE case worker.

Detainees who are illiterate or who do not speak English are assisted by the ICE caseworker, who is fluent in the English, Spanish, and Portuguese languages. Detainees needing additional assistance are accommodated through a telephonic translation service.

Detainees housed in the SMU-EC are provided access to a computer containing Lexis-Nexis upon request and without restriction, unless there is a security concern in the unit. When ODO checked the computer in the SMU-EC, the Plexiglas-like covering on the computer screen was badly scratched and nothing on the monitor was visible. Additionally, the computer is situated in a location that receives a lot of sunlight, making it more difficult to view the computer screen. As a result, detainees housed in the SMU-EC do not have reasonable access to Lexis-Nexis on the computer (**Deficiency LL&LM-1**). ODO brought the state of the Plexiglas-like cover and resulting inability to use the computer to the attention of BCJ staff, and a maintenance request to replace the cover was submitted while ODO was on-site.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY LL&LM-1

In accordance with the ICE PBNDS, Law Libraries and Legal Material, section (V)(L), the FOD must ensure detainees housed in Administrative Segregation or Disciplinary Segregation units shall have the same law library access as the general population, unless compelling security concerns require limitations.

VISITATION (V)

ODO reviewed the Visitation standard at BCJ to determine if authorized persons, including legal representatives, are able to visit detainees within security and operational constraints, in accordance with the ICE PBNDS. ODO reviewed the local policy and detainee handbook, inspected the visiting areas, and interviewed staff and detainees.

Detainees are housed in two buildings at BCJ: females are housed in the main building, and males are housed in the immigration building. Both housing areas have designated visitor areas. The facility has written visiting procedures, including a schedule and hours of visitation. Detainees are notified of visitation rules and hours by way of the detainee handbook, and visiting information is available to the public by way of a telephone recording and postings. Separate logs are maintained in both buildings for general visitors and legal representatives, supplemented by an automated system offering efficient recording and retrieval of visitor information. Visitation is non-contact, with the exception of ICE detainees who are within seven days of their removal date.

ODO found the Notice of Appearance as Attorney or Accredited Representative (Form G-28) was unavailable in the legal reception areas of both buildings (**Deficiency V-1**). This is a repeat deficiency from the 2011 Quality Assurance Review. ODO provided copies of Form G-28 to facility staff. This deficiency was corrected on-site during the inspection.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY V-1

In accordance with the ICE PBNDS, Visitation, section (V)(J)(8), the FOD must ensure, once an attorney-client relationship has been established, the legal representative shall complete and submit a Form G-28, available in the legal visitation reception area. Staff shall collect completed forms and forward them to ICE/DRO.