



**U.S. Department of Homeland Security**

Immigration and Customs Enforcement

Office of Professional Responsibility

Inspections and Detention Oversight

Washington, DC 20536-5501

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# Office of Detention Oversight

## Compliance Inspection

Enforcement and Removal Operations

Saint Paul Field Office

Cass County Jail

Plattsmouth, Nebraska

February 25 – 27, 2014

**COMPLIANCE INSPECTION  
CASS COUNTY JAIL  
SAINT PAUL FIELD OFFICE**

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# INSPECTION PROCESS

The U.S. Immigration and Customs Enforcement (ICE), Office of Professional Responsibility (OPR), Office of Detention Oversight (ODO) conducts broad-based compliance inspections to determine a detention facility's overall compliance with the applicable ICE National Detention Standards (NDS) or Performance-Based National Detention Standards (PBNDS), and ICE policies. ODO bases its compliance inspections around specific detention standards, also referred to as core standards, which directly affect detainee health, safety, and well-being. Inspections may also be based on allegations or issues of high priority or interest to ICE executive management.

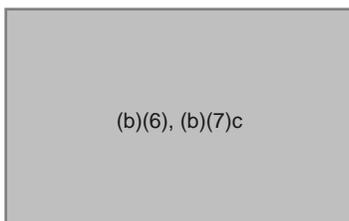
Prior to an inspection, ODO reviews information from various sources, including the Joint Intake Center (JIC), Enforcement and Removal Operations (ERO), detention facility management, and other program offices within the U.S. Department of Homeland Security (DHS). Immediately following an inspection, ODO hosts a closeout briefing at which all identified deficiencies are discussed in person with both facility and ERO field office management. Within days, ODO provides ERO a preliminary findings report, and later, a final report, to assist in developing corrective actions to resolve identified deficiencies.

## REPORT ORGANIZATION

ODO's compliance inspection reports provide executive ICE and ERO leadership with an independent assessment of the overall state of ICE detention facilities. They assist leadership in ensuring and enhancing the safety, health, and well-being of detainees and allow ICE to make decisions on the most appropriate actions for individual detention facilities nationwide.

ODO defines a deficiency as a violation of written policy that can be specifically linked to ICE detention standards, ICE policies, or operational procedures. Deficiencies in this report are highlighted in bold and coded using unique identifiers. Recommendations for corrective actions are made where appropriate. The report also highlights ICE's priority components, when applicable. Priority components have been identified for the 2008 and 2011 PBNDS; priority components have not yet been identified for the NDS. Priority components, which replaced the system of mandatory components, are designed to better reflect detention standards that ICE considers of critical importance. These components have been selected from across a range of detention standards based on their importance to factors such as health and safety, facility security, detainee rights, and quality of life in detention. Deficient priority components will be footnoted, when applicable. Comments and questions regarding this report should be forwarded to the Deputy Division Director, OPR ODO.

## INSPECTION TEAM MEMBERS



Special Agent (Team Lead)	ODO, Phoenix
Special Agent	ODO, Phoenix
Management & Program Analyst	ODO, Headquarters
Inspections & Compliance Specialist	ODO, Headquarters
Contract Inspector	Creative Corrections

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

Contract Inspector  
Contract Inspector

Creative Corrections  
Creative Corrections

## EXECUTIVE SUMMARY

ODO conducted a compliance inspection of the Cass County Jail (CCJ) in Plattsmouth, Nebraska, from February 25 to 27, 2014. CCJ, which opened in 1994, is owned by Cass County and operated by the Cass County Sheriff's Department. ERO began housing detainees at CCJ in 2003 under an Intergovernmental Service Agreement (IGSA) with the U.S. Marshals Service. Male and female detainees of all security classification levels (Level I - lowest threat, Level II - medium threat, Level III - highest threat) are detained at the facility for periods in excess of 72 hours. This inspection evaluated CCJ's compliance with the 2000 NDS.

Capacity and Population Statistics	Quantity
Total Bed Capacity	115
ICE Detainee Bed Capacity	36
Average Daily Population	79
Average ICE Detainee Population	22
Average Length of Stay (Days)	30
Male Detainee Population Count (02/25/14)	13
Female Detainee Population Count (as of 02/25/14)	1

ERO staff at the sub-office in Omaha, Nebraska, which is supervised by the ERO Field Office Director (FOD) in Saint Paul, Minnesota, ensures facility compliance with the NDS and ICE policies. No ICE employees are

located at CCJ. There is no ERO Detention Service Manager (DSM) assigned to CCJ. An Assistant Field Office Director (AFOD), a Supervisory Detention and Deportation Officer (SDDO), a Supervisory Immigration Enforcement Agent, (b)(7)e Deportation Officers (DO), and (b)(7)e Immigration Enforcement Agents oversee ICE operations at CCJ.

A Cass County Jail Administrator is responsible for oversight of daily facility operations and is supported by (b)(7)e personnel. Catering By Mario provides food services, and (b)(7)e Cass County nurses and (b)(7)e contract physician provide medical services. CCJ holds no accreditations.

This inspection represented ODO's first visit to CCJ. During this inspection, ODO reviewed 18 standards and found CCJ compliant with 10. ODO found 20 deficiencies in the following eight standards: Access to Legal Material (3 deficiencies), Admission and Release (2), Environmental Health and Safety (7), Food Service (3), Medical Care (1), Special Management Unit – Disciplinary Segregation (1), Staff-Detainee Communication (1), and Telephone Access (2). ODO made one recommendation regarding facility policy and procedures and cited no best practices.

This report details all deficiencies and refers to the specific, relevant sections of the NDS. ERO will be provided a copy of this report to assist in developing corrective actions to resolve all identified deficiencies. ODO discussed these deficiencies with CCJ and ICE personnel during the inspection and at a closeout briefing conducted on February 27, 2014.

CCJ has procedures in place to protect the health, safety, security and welfare of detainees during the admission and release processes. The admissions process at CCJ involves multiple steps, including general and medical screenings, classification, property inventory, clothing exchange, and orientation to the facility. Detailed medical, dental, X-ray, mental health, and sexual abuse history screenings are also performed. Newly-admitted detainees receive the ICE National Detainee Handbook and a facility-specific handbook upon admission. Both handbooks are

available in English and Spanish. A video orientation is not provided to detainees as required by the NDS. ODO confirmed detainees are routinely strip searched without reasonable suspicion after returning to the facility from outside activities, such as court. No detainees were processed in or out of the facility during the inspection.

ERO performs initial classification screenings on newly-admitted detainees prior to arrival at CCJ. ERO staff provides Form I-213 and supporting information to CCJ staff for detainee identification and classification purposes. CCJ staff conducts a second classification screening. CCJ staff issues detainees identification tags, color-coded uniforms and houses them according to assigned classification levels. A review of the facility grievance log and interviews with classification staff confirmed no grievances or appeals have been filed regarding detainee classification levels.

Facility sanitation was very good, and the building was well maintained at the time of the inspection. The maintenance manager at CCJ is the designated fire and safety officer. A master index lists hazardous substances and includes locations, Material Safety Data Sheets, emergency contact information, and documentation of periodic review for accuracy. The most recent inspection of CCJ by the State of Nebraska Fire Marshal occurred in August 2013. The maintenance manager conducts inspections on a bi-weekly basis, but weekly and monthly fire drills and safety inspections are not conducted by the maintenance manager or CCJ staff. Exit diagrams are not posted anywhere in the facility. CCJ policy requires completion and documentation of fire drills in each department as required by the NDS; however, no fire drills were conducted anywhere in the facility during the 12 months preceding this inspection. The same deficiency was cited during the August 13, 2013, inspection of CCJ by ERO. Fire drills and exit diagrams serve a critical life-safety purpose by assuring personnel are familiar with evacuation routes and procedures.

A registered nurse (RN), who serves as the Health Services Administrator (HSA), inventories medical sharps. However, the inventories are conducted on a monthly basis instead of weekly as required by the NDS. This deficiency was also cited during the August 13, 2013, ERO inspection. A review by ODO of the sharps inventory found no discrepancies. Containers for proper disposal of sharps and other infectious or bio-hazardous items are present in the medical area.

Catering By Mario manages food service operations and performs all work associated with preparing meals. A full-time food service director (b)(7)e part-time cooks, and a crew of (b)(7)e county inmates support operations. No ICE detainees work in food service. However, ODO reviewed documentation and confirmed the staff and inmate workers did not have pre-employment medical clearances as required by the NDS. ODO recommends that all food service workers undergo a pre-employment medical examination to eliminate the possibility of communicable diseases.

The food service storage area consists of one spacious, dry storage room, one walk-in freezer, and one walk-in cooler. ODO confirmed temperatures in the walk-in freezer and cooler were maintained at required levels during this inspection; however, ODO reviewed temperature logs and confirmed that on nine of the 26 days preceding the inspection, the temperature in the cooler exceeded 40 degrees Fahrenheit, which is not in compliance with the NDS requirement of below

40 degrees Fahrenheit. ODO found knives are properly stored in a locked cabinet when not in use by inmates in the kitchen. However, when knives are used in the kitchen area, they are not secured with a metal cable through a steel shank as required by the NDS.

CCJ has written policies and procedures for funds and personal property, which account for and safeguard detainee property from the time of admission until the time of release. Detainee property is inventoried during the intake process. A review of detention files for five current and four former detainees confirmed inventory forms were signed by the intake officers and the detainees. These inventory forms were included in the detention files as required. Personal property is placed in plastic bins and stored in a secure property room. ODO reviewed five files and confirmed receipts were present and signed. ODO verified detainee funds are reconciled by the account supervisor on a weekly basis. ODO confirmed the facility's policy includes provisions for turning over abandoned property and funds to ERO.

Detainees are provided information on the informal and formal grievance procedures by way of the local detainee handbook, which is issued during intake. The local handbook addresses emergency and non-emergency grievances, and the appeal process, including the procedures for direct appeals to ICE staff. The grievance policy at CCJ provides for informal resolution, formal written grievances, and emergency grievances. The grievance coordinator at CCJ maintains a log to document and track both informal and formal grievances.

A review of the grievance log and related records reflected eight formal grievances and no informal grievances filed during the 12 months preceding this inspection. All grievances were processed as required by the NDS. All eight grievances were for the same incident involving remarks by a correctional officer. As a result of the grievances, the officer was verbally counseled. The detainees involved stated they were satisfied with the outcome. ERO was notified per the NDS requirement.

The law library at CCJ is located in a designated room near the housing units. The law library is well-lit, contains sufficient furnishings, and is equipped with adequate supplies to support legal research and case preparation. The law library includes one desktop computer, two desks, and four chairs. Detainees have access to paper, writing utensils, and envelopes. Facility staff stated illiterate and limited English proficient detainees are provided assistance with legal paperwork. Detainees with appropriate language, reading, and writing abilities are allowed to provide assistance.

The law library custodian provides indigent detainees with free envelopes, stamps, notary services, and certified mail for legal matters. Although paper is available, legal documents can be printed with the assistance of a staff member at a cost of 20 cents a page. The contracting officer assigned to CCJ stated the contract does not address whether to charge detainees for reproduction of legal documents.

ODO confirmed the computer in the law library was not operational and did not contain a current version of LexisNexis. ODO also confirmed the materials listed in Attachment A of the standard were unavailable in the law library as required by NDS.

Health care is provided by a contract physician, an RN, and a licensed practical nurse (LPN). The RN and LPN are Cass County employees who are on-site four and a half hours a day, Monday through Friday, to provide nursing coverage at the clinic from 8 a.m. to 5 p.m. The RN serves as the HSA. A contract physician, who serves as the clinical medical authority, is on-site Thursdays for as long as necessary to perform health appraisals and see chronic care patients. The physician and nurses are on-call after hours, and the physician is available as needed. ODO verified credentials and licensure for the medical staff are current and primary source verified.

Mental health services are provided on-site by a psychologist employed by Heartland Family Mental Health Services. Creighton Dental Services, which is approximately 15 minutes from the facility, provides routine and emergency dental care. Midlands Hospital and Bellevue Medical Center, both approximately seven to ten miles away, are used for emergencies and medical care beyond the scope of services available at CCJ. ODO reviewed training records for the entire medical staff and records for (b)(7) randomly-selected detention staff, and confirmed all had current certification in cardio-pulmonary resuscitation, automated external defibrillator use, and first aid.

ODO's review of all 14 medical records documented completion of intake screening and tuberculosis testing in accordance with the NDS. The 14 medical records reviewed also have documented health appraisals signed by the physician within 14 days as required by the NDS. Detainees access healthcare by completing Nursing Request Forms available in English and Spanish, and turning them in to housing unit officers. The officers sign the Nursing Request Forms and place them in a mailbox located in the booking area for pick-up by the nurses. This process violates the privacy of detainees, because the nature of the medical problem is recorded on the form and can be read by CCJ non-medical personnel. ODO reviewed 20 detainee sick call requests and found each detainee was seen on the day of the request, or no later than the next business day.

CCJ had not implemented a SA-API program at the time of the inspection, and is not contractually obligated to do so. A sheriff's deputy is responsible for implementing a program in order to comply with the Prison Rape Elimination Act (PREA). ODO reviewed current CCJ policy and found it addresses some of the requirements of the 2011 PBNDS SA-API standard, such as zero tolerance toward sexual misconduct, the requirement for staff to report incidents and allegations, investigation procedures, and prosecution of offenders. ODO confirmed facility staff completed training in PREA conducted by a certified PREA auditor from the Nebraska Department of Corrections in July 2013. Information on sexual assault and abuse is provided in a book available to detainees for review. The sergeant and the deputy responsible for implementing a PREA program stated there were no reported incidents or allegations of sexual abuse during the 12 months preceding this inspection.

CCJ has one special management unit (SMU) used for both administrative and disciplinary segregation. The unit has six single-occupancy cells, a shower area, and a small dayroom with a telephone. Each cell is equipped with a single bunk, a small table and a seat attached to the wall, an outside window, and a stainless steel toilet/sink unit with running hot and cold water. ODO inspected the unit and found it well-lit, adequately ventilated, and maintained in a sanitary condition.

There were no detainees in administrative segregation status at the time of the inspection, and no records of prior administrative segregation assignments were available for review by ODO.

There were no detainees in disciplinary segregation at the time of the inspection. ODO reviewed the files of two detainees placed in disciplinary segregation status during the 12 months preceding this inspection, and found neither had received a hearing prior to placement in disciplinary segregation. CCJ policy allows officers to unilaterally address minor rule violations by placing detainees in disciplinary segregation for up to 96 hours without a disciplinary hearing. The action is documented on a Notification of Status Change Form, which is signed by the officer taking the action, a supervisor, and the detainee, who receives a copy of the form. During an interview, the disciplinary hearing officer stated most detainee discipline is handled in this manner rather than through the formal disciplinary process. In the two cases reviewed by ODO, one detainee was placed in disciplinary segregation for 24 hours, and the other for 72 hours before being returned to general population. A review of logs confirmed the detainees received privileges and services required by the NDS while in disciplinary segregation.

Staff-detainee communication policies at CCJ allow detainees to have informal and formal access to and interaction with facility and ERO staff. Detainees are allowed to submit written questions, requests, or concerns to facility and ERO staff using a request form. Request forms are readily available in each housing unit. The CCJ booking officer faxes all detainee requests directly to ERO. ODO verified the request logbook contains all required information from detainee requests. While touring CCJ, ODO observed posters for the DHS Office of the Inspector General Hotline conspicuously displayed throughout the facility. ODO verified ERO staff performs weekly announced visits to assess basic living conditions of the facility. However, ODO confirmed ERO management has not conducted regular unannounced visits to the facility and does not have procedures in place to document the unscheduled visits as required by the NDS. ODO reviewed a random sample of Facility Liaison Visit Checklists from January 2013 to present, and noted all forms were properly completed.

ODO reviewed the facility's policy on suicide prevention and intervention. ODO confirmed facility policy addresses the requirements of the NDS. CCJ confirmed there have been no suicide attempts or suicide watches during the 12 months preceding this inspection. Detainees are screened for suicide risk during intake screening, and procedures are in place for referral to medical staff for evaluation. Detainees placed on suicide watch are placed in a designated cell in the booking area and are issued a suicide-resistant garment and blanket. Inspection of the cell used for suicide watch found it is free of any elements which could aid a suicide attempt. The booking officer is stationed directly across from the cell for constant monitoring. Fifteen-minute observation checks are recorded via a system that electronically records rounds. A review of the suicide prevention and intervention training curriculum confirmed it covers general suicide facts, high-risk groups, recognizing signs of suicidal thinking, facility referral procedures, suicide-prevention techniques, responding to an in-progress suicide attempt, identification of suicide risk factors, and the psychological profile of a suicidal detainee. A review of (b)(7) detention staff and all medical staff training records verified all had received initial and annual suicide prevention and intervention training.

CCJ provides detainees with reasonable and equitable access to telephones. The telephone availability ratio is approximately 15 detainees per telephone. Detainees in the SMU are allowed

the same telephone privileges as detainees in the general population. Detainees are permitted to make inter-facility telephone calls, and are allowed to contact family members in case of an emergency. Detainees are allowed to use the telephones in the housing unit between 7 a.m. and 11 p.m. daily. ODO review of the detainee handbook states telephone calls are limited to a strict 15 minute time limit, which is fewer than the 20 minutes required by the NDS.

CCJ has a written policy on monitored telephone calls. All telephone calls made from the housing units are automatically recorded. CCJ staff stated detainees can obtain an unmonitored telephone call to an attorney or legal representative by submitting a request form or by notifying a housing unit officer. After the request form has been submitted or notification has been made to a housing unit officer, the detainee is provided access to an unmonitored telephone outside of the housing unit. However, the procedure for obtaining an unmonitored call to a court, legal representative, or for the purpose of obtaining legal representation is not posted on or near any of the telephones in the housing units, or in either SMU as required by the NDS.

Although CCJ is not required to have an infirmary, ODO confirmed facility policy addresses the requirements of the Terminal Illness, Advance Directives and Death standard. CCJ does not accept seriously or terminally ill detainees for admission, and a transfer would be arranged if a detainee became injured or seriously ill while housed at the facility.

CCJ has a comprehensive written policy governing the use of force. Confrontation avoidance is emphasized in policy as well as in the training curriculum. The facility does not use electro-muscular disruption devices and prohibits the use of chemical agents on detainees. A restraint chair is available, but there were no incidents involving use of the restraint chair for a detainee.

ODO confirmed there were no incidents involving use of force on detainees during the 12 months preceding this inspection. A review of facility policy confirmed all requirements of the NDS are addressed, including post-incident medical examination, immediate notification of ICE, and after action review. ODO reviewed (b)(7) randomly-selected training files and confirmed in each case facility officers were provided instruction in the use-of-force team technique during initial and annual refresher training.

# **OPERATIONAL ENVIRONMENT**

## **INTERNAL RELATIONS**

ODO interviewed the Jail Administrator, a sergeant, a corporal, an AFOD, a SDDO, and a DO regarding the working relationship between ERO and CCJ. All CCJ and ERO personnel stated personnel are amicable with one another and conditions are conducive to meeting the mission. Both ERO and facility staff described the work relationship as close, with open lines of communication. The Jail Administrator stated staffing at CCJ is sufficient to handle the current ICE detainee population. CCJ supervisory staff stated they regularly observe ERO staff visiting the housing units weekly to communicate with detainees and address concerns.

## **DETAINEE RELATIONS**

There were 14 Level I detainees at CCJ during the inspection. ODO interviewed 10 males and one female to assess the overall living and detention conditions at CCJ. None of the detainees expressed concerns regarding access to the law library and legal materials, issuance and replenishment of basic hygiene items, recreation, religious services, visitation, issuance of the detainee handbook, or the grievance system. In addition to a large indoor recreation yard, detainees have access to board games.

All detainees interviewed stated they are routinely strip searched. ODO confirmed detainees are routinely strip searched without reasonable suspicion after returning to the facility from outside activities, such as court. No detainees were processed in or out of the facility during the inspection.

There were no complaints regarding the quality and quantity of the food provided at CCJ. All of the detainees interviewed were satisfied with the medical care provided at CCJ. A male detainee complained of a toothache. ODO examined his medical file and confirmed the detainee had never filed a medical request for dental treatment either prior to or after the detainee interviews.

## ICE 2000 NATIONAL DETENTION STANDARDS

ODO reviewed a total of 18 NDS and found CCJ fully compliant with the following 10 standards:

1. Correspondence and Other Mail
2. Detainee Classification System
3. Detainee Grievance Procedures
4. Detainee Handbook<sup>1</sup>
5. Funds and Personal Property
6. Issuance and Exchange of Clothing
7. Special Management Unit – Administrative Segregation
8. Suicide Prevention and Intervention
9. Terminal Illness, Advanced Directives, and Death
10. Use of Force

As the standards above were compliant at the time of the inspection, a synopsis for these standards is not included in this report.

ODO found 20 deficiencies in the following eight standards.

1. Access to Legal Material
2. Admission and Release
3. Environmental Health and Safety
4. Food Service
5. Medical Care
6. Special Management Unit – Disciplinary Segregation
7. Staff-Detainee Communication
8. Telephone Access

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

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<sup>1</sup> The Detainee Handbook standard was found compliant during the inspection; however, deficiencies related to the Detainee Handbook are located under Deficiencies ALM-3 and TA-2.

## **ACCESS TO LEGAL MATERIAL (ALM)**

ODO reviewed the Access to Legal Material standard at CCJ to determine if detainees have access to a law library, legal materials, supplies, and equipment to facilitate the preparation of legal documents, in accordance with the ICE NDS. ODO toured the law library, and reviewed policies and the detainee handbook, and interviewed staff.

Detainees submit request forms to CCJ officers in order to access the law library. ODO found the computer in the law library was not operational and did not contain a current version of LexisNexis. ODO also confirmed the materials listed in Attachment A of this standard are not available in the law library as required (**Deficiency ALM-1**). Therefore, the required reference materials are unavailable in either electronic or hard copy form.

The law library at CCJ is located in a designated room near the housing units. The law library is well-lit, contains sufficient furnishings, and is equipped with supplies to support legal research and case preparation. The law library includes one desktop computer, two desks, and four chairs. Detainees have access to paper, writing utensils, and envelopes. Facility staff stated illiterate and limited English proficient detainees are provided assistance with legal paperwork. Detainees with appropriate language, reading, and writing abilities are allowed to provide assistance. The law library custodian provides indigent detainees with free envelopes, stamps, notary services, and certified mail for legal matters. Although paper is available, legal documents can be printed with the assistance of a staff member at a cost of 20 cents a page (**Deficiency ALM-2**).

Detainees are afforded a minimum of five hours per week during designated library hours, and can request additional time if needed. CCJ policy affords the same law library privileges to detainees in segregation. The facility handbook did not include scheduled hours of access to the law library; the procedure for requesting access, additional time, and legal reference material not maintained in the law library; or the procedure for notifying a designated employee that library material is missing or damaged. These policies and procedures are not posted in the law library, along with a list of the library's holdings (**Deficiency ALM-3**).

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY ALM-1**

In accordance with the ICE NDS, Access to Legal Material, section (III)(C), the FOD must ensure "The law library shall contain the materials listed in Attachment A. INS shall provide an initial set of these materials. The facility shall post a list of its holdings in the law library."

### **DEFICIENCY ALM-2**

In accordance with the ICE NDS, Access to Legal Material, section (III)(J), the FOD must ensure "The facility shall ensure that detainees can obtain photocopies of legal material, when such copies are reasonable and necessary for a legal proceeding involving the detainee. This may be accomplished by providing detainees with access to a copier or by making copies upon request."

### **DEFICIENCY ALM-3**

In accordance with the ICE NDS, Access to Legal Material, section (III)(Q), the FOD must ensure “The detainee handbook or equivalent, shall provide detainees with the rules and procedures governing access to legal materials, including the following information:

1. that a law library is available for detainee use;
2. the scheduled hours of access to the law library;
3. the procedure for requesting access to the law library;
4. the procedure for requesting additional time in the law library (beyond the 5 hours per week minimum);
5. the procedure for requesting legal reference materials not maintained in the law library; and
6. the procedure for notifying a designated employee that library material is missing or damaged.

These policies and procedures shall also be posted in the law library along with a list of the law library's holdings.”

## **ADMISSION AND RELEASE (AR)**

ODO reviewed the Admission and Release standard at CCJ to determine if procedures are in place to protect the health, safety, security, and welfare of each person during the admission and release process, in accordance with the ICE NDS. ODO reviewed policies, procedures, and detention files; observed the admission process; and interviewed staff and detainees.

Upon arrival at CCJ, detainees undergo medical and mental health screenings conducted by booking officers and receive and sign a property receipt for facility-issued personal hygiene items, clothing, towels, and bedding upon arrival. All officers are trained in the screening function by the RN upon hire and annually, as verified by inspection of (b)(7) training records. ODO's review of the training curriculum found it addresses proper completion of the screening form, and provides guidance for identifying signs of trauma, illness, or infection; indicators the detainee may be under the influence or in withdrawal from alcohol or drugs; and mental health issues and suicide risk factors.

Detainees are issued a facility handbook containing information about facility operations, programs, and services. ERO issues the ICE National Detainee Handbook to each detainee prior to arriving at the facility. ODO found the facility lacks a site-specific orientation program for the facility (**Deficiency AR-1**).

ODO also verified that during the intake process all detainees are routinely strip searched without reasonable suspicion upon admission to the facility, as well as when returning from outside activities, such as court appearances, transports, medical/dental appointments, work release, and special work assignments (**Deficiency AR-2**). The staff stated they were not aware of the ICE memorandum, dated October 15, 2007, stating "detainees shall not be strip searched upon admission to a facility unless there is reasonable suspicion that an individual may be concealing a weapon or other contraband."

ODO reviewed ten active and ten inactive randomly-selected detention files to determine if they included required documents. All reviewed files contained required documents, including an Order to Detain or Release (Form I-203 or I-203a) authorizing detention and release of detainees. No detainees were processed in or out of the facility during the inspection.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY AR-1**

In accordance with the ICE NDS, Admission and Release, section (III)(A)(1), the FOD must ensure "The orientation process supported by a video (INS) and handbook shall inform new arrivals about facility operations, programs, and services. Subjects covered will include prohibited activities and unacceptable and the associated sanctions."

### **DEFICIENCY AR-2**

In accordance with the ICE NDS, Change Notice, Admission and Release, NDS Strip Search Policy Memorandum from John P. Torres, ICE ERO Director, dated October 15, 2007, the FOD must ensure "Facilities are reminded that strip searches, cavity searches, monitored changes of clothing, monitored showering, and other required exposure of the private parts of a detainee's

body for the purpose of searching for contraband are prohibited, absent reasonable suspicion of contraband possession. Facilities may use less intrusive means to detect contraband, such as clothed pat searches, intake questioning, x-rays, and metal detectors.”

## ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

ODO reviewed the Environmental Health and Safety standard at CCJ to determine if the facility maintains high standards of cleanliness and sanitation, safe work practices, and control of hazardous materials and substances, in accordance with the ICE NDS. ODO toured the facility, interviewed staff, and reviewed policies and documentation of inspections, hazardous chemical management, and fire prevention.

Facility sanitation was very good, and the building was well maintained. The maintenance manager at CCJ is the designated fire and safety officer. A master index lists hazardous substances and includes locations, Material Safety Data Sheets, emergency contact information, and documentation of periodic review for accuracy. Material Safety Data Sheets were also present in areas where substances are stored and used. ODO verified running inventories of chemicals were current. Documentation was present confirming the maintenance manager provided a copy of the master index to the local fire department.

The most-recent inspection certification of CCJ by the State of Nebraska Fire Marshal occurred in August 2013, and CCJ passed the inspection. The maintenance manager at CCJ conducts fire and safety inspections on a bi-weekly basis, but the NDS requires these inspections on a weekly basis (**Deficiency EH&S-1**). Weekly fire and safety inspections support proactive identification and resolution of fire safety issues. Exit diagrams are not posted anywhere in the facility (**Deficiency EH&S-2**). CCJ policy requires completion and documentation of fire drills in each department; however, no fire drills were conducted anywhere in the facility during the 12 months preceding this inspection (**Deficiency EH&S-3**). The same deficiency was cited during the most-recent inspection of CCJ by ERO. Fire drills and exit diagrams serve a critical life-safety purpose by assuring personnel are familiar with evacuation routes and procedures in case of an emergency.

ODO confirmed reports for water quality, generator testing and maintenance, and pest control are current. A review of generator testing logs and discussion with the maintenance manager at CCJ confirmed the generator is tested for 30 minutes every other week, and not for one hour as required by the NDS (**Deficiency EH&S-4**).

Barbering services are provided once a month by a local barber under contract. Due to space constraints, barbering is conducted in a classroom (**Deficiency EH&S-5**). This deficiency was cited during the August 13, 2013, ERO inspection. The licensed barber uses his own barbering tools and is responsible for sanitation of the items. Sanitation regulations are not posted in the classroom (**Deficiency EH&S-6**).

The RN who serves as the HSA inventories medical sharps. However, the inventories are conducted on a monthly basis instead of weekly as required by the NDS (**Deficiency EH&S-7**). This deficiency was also cited during the August 13, 2013, ERO inspection. A review by ODO of the sharps inventory found no discrepancies. Containers for proper disposal of sharps and other infectious or bio-hazardous items are present in the medical area. ODO reviewed the Admission and Release standard at CBDC to determine if procedures are in place to protect the health, safety, security and welfare of each person during the admission and release process, in accordance with the ICE PBNDS.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY EH&S-1**

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(L)(2), the FOD must ensure “A qualified departmental staff member will conduct weekly fire and safety inspections; the maintenance (safety) staff will conduct monthly inspections. Written reports of the inspections will be forwarded to the OIC for review and, if necessary, corrective action determinations. The Maintenance Supervisor or designate will maintain inspection reports and records of corrective action in the safety office.”

### **DEFICIENCY EH&S-2**

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(L)(3)(h), the FOD must ensure “Every institution will develop a fire prevention, control, and evacuation plan to include, among other thing, the following:

- h. Conspicuously posted exit diagram conspicuously posted for and in each area.”

### **DEFICIENCY EH&S-3**

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(L)(4), the FOD must ensure “Monthly fire drills will be conducted and documented separately in each department.

- a. Fire drills in housing units, medical clinics, and other areas occupied or staffed during non-working hours will be timed so that employees on each shift participate in an annual drill.
- b. Detainees will be evacuated during fire drills, except in areas where security would be jeopardized or in medical areas where patient health could be jeopardized or, in individual cases when evacuation of patients is logistically not feasible. Staff- simulated drills will take place instead in the areas where detainees are not evacuated.
- c. Emergency-key drills will be included in each fire drill, and timed. Emergency keys will be drawn and used by the appropriate staff to unlock one set of emergency exit doors not in daily use. NFPA recommends a limit of four and one-half minutes for drawing keys and unlocking emergency doors.”

### **DEFICIENCY EH&S-4**

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(O), the FOD must ensure “The biweekly test of the emergency electrical generator will last one hour. During that time, the oil, water, hoses and belts will be inspected for mechanical readiness to perform in an emergency situation.”

### **DEFICIENCY EH&S-5**

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(P)(1), the FOD must ensure “Sanitation of barber operations is of the utmost concern because of the possible transfer of diseases through direct contact or by towels, combs and clippers. Towels must not be reused after use on one person. Instruments such as combs and clippers will not be used

successively on detainees without proper cleaning and disinfecting. The following standards will be adhered to:

1. The operation will be located in a separate room not used for any other purpose. The floor will be smooth, nonabsorbent and easily cleaned. Walls and ceiling will be in good repair and painted a light color. Artificial lighting of at least 50-foot candles will be provided. Mechanical ventilation of 5 air changes per hour will be provided if there are no operable windows to provide fresh air. At least one lavatory will be provided. Both hot and cold water will be available, and the hot water will be capable of maintaining a constant flow of water between 105 degrees and 120 degrees.”

**DEFICIENCY EH&S-6**

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(P)(4), the FOD must ensure “Sanitation of barber operations is of the utmost concern because of the possible transfer of diseases through direct contact or by towels, combs and clippers. Towels must not be reused after use on one person. Instruments such as combs and clippers will not be used successively on detainees without proper cleaning and disinfecting. The following standards will be adhered to:

4. Each barbershop will have detailed hair care sanitation regulations posted in a conspicuous location for the use of all hair care personnel and detainees.”

**DEFICIENCY EH&S-7**

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(Q)(1), the FOD must ensure “An inventory will be kept of those items that pose a security risk, such as sharp instruments, syringes, needles, and scissors. This inventory will be checked weekly by an individual designated by the medical facility Health Service Administrator (HSA) or equivalent.”

## FOOD SERVICE (FS)

ODO reviewed the Food Service standard at CCJ to determine if detainees are provided with a nutritious and balanced diet, in a sanitary manner, in accordance with the ICE NDS. ODO reviewed policy and documentation, interviewed staff, observed meal service and tray delivery, and inspected food preparation and storage areas.

All work associated with preparing meals is performed under contract by Catering by Mario. There is a full-time food service director and (b)(7)e part-time cooks, who are supported by a crew of three county inmates. No ICE detainees work in food service. A review of documentation confirmed the staff and inmate workers did not have pre-employment medical clearances **(Deficiency FS-1)**. ODO recommends food service workers undergo pre-employment medical examinations to assure they do not have a communicable disease.

Throughout the course of the inspection, ODO observed a high level of sanitation in the food service area. ODO reviewed documentation and confirmed the food service director conducts daily and weekly inspections of the food service area. The food service operation is inspected annually by the Nebraska Department of Agriculture, Bureau of Dairies and Foods. The most-recent inspection was conducted on May 17, 2013, with four minor violations cited. The violations did not constitute deficiencies under the NDS, and all were corrected prior to this inspection.

The master cycle menu is reviewed annually by the Catering by Mario regional food service administrator and certified by a registered dietician based on a complete nutritional analysis. ODO confirmed the master menu is a 28-day cycle, and provides a variety of food items. The menu includes a minimum of two hot meals per day. Medical diets are approved by medical staff, and religious diets are approved by the Jail Administrator in consultation with contracted religious leaders. During this inspection, there was one detainee receiving a medical diet and two detainees receiving religious diets. A review of religious and medical diet menus confirmed approval by the registered dietician.

The facility has a satellite system of meal service involving preparation of meals in the kitchen and delivery to housing units on insulated trays. ODO observed the food service staff preparing meals, and staff and inmates preparing trays and loading carts for delivery to the units. ODO taste-tested the Wednesday noon meal and found it was of good quality and taste. All items served were on the approved menu and in the prescribed portion size, and appropriate condiments were provided. ODO used a food thermometer to confirm temperatures of food items met the requirements of the NDS. ODO observed the food service director checking temperatures as the trays were being loaded at the serving line. Hot items were observed at 180 degrees as trays were prepared and 140 degrees as the trays were served in the housing units. ODO registered no complaints from detainees regarding food service during the inspection. ODO confirmed the contents of sack meals provided to detainees prior to transport met NDS requirements.

The food service storage area consists of one spacious dry storage room, one walk-in freezer, and one walk-in cooler. ODO confirmed temperatures in the walk-in freezer and cooler were maintained at required levels during this inspection; however, ODO reviewed temperature logs

and confirmed that on nine of the 26 days preceding the inspection, the temperature in the cooler exceeded 40 degrees, which is not in compliance with the NDS requirement of below 40 degrees Fahrenheit (**Deficiency FS-2**). Ensuring perishable foods are stored between 35 and 40 degrees Fahrenheit reduces the risk of bacterial growth and spoilage.

The facility stocks a 15-day minimum supply of food and uses the first-in/first-out stock rotation system. The facility does not use yeast or other “hot” food items, which present possible security risks. Good tool accountability was observed throughout the inspection. ODO observed knives are not present when inmates work in the kitchen, and are properly stored in a locked cabinet when not in use. However, when knives are used in the kitchen area, they are not secured with a metal cable through a steel shank as required by the NDS (**Deficiency FS-3**).

## **STANDARD/POLICY REQUIREMENT FOR DEFICIENT FINDINGS**

### **DEFICIENCY FS-1**

In accordance with the ICE NDS, Food Service, section (III)(H)(3), the FOD must ensure, “All food service personnel (both staff and detainee) shall receive a pre-employment medical examination. The purpose of this examination is to exclude those who have a communicable disease in any transmissible stage or condition.”

### **DEFICIENCY FS-2**

In accordance with the ICE NDS, Food Service, section (III)(J)(3)(f), the FOD must ensure, “Storage of perishables at 35-40 degrees F to prevent spoilage and other bacterial action; maintain frozen foods at or below zero degrees F.”

### **DEFICIENCY FS-3**

In accordance with the ICE NDS, Food Service, section (III)(B)(2), the FOD must ensure, “Knives must be physically secured to workstations for use outside a secure cutting room. Any detainee using a knife outside a secure area must receive direct staff supervision. To be authorized for use in the food service department, a knife must have a steel shank through which a metal cable can be mounted. The facility's tool control officer is responsible for mounting the cable to the knife through the steel shank.”

## MEDICAL CARE (MC)

ODO reviewed the Medical Care standard at CCJ to determine if detainees have access to healthcare and emergency services to meet their health needs in a timely manner, in accordance with the ICE NDS. ODO toured the facility and medical clinic, observed intake screening and medication distribution, interviewed staff, verified all healthcare staff credentials, inspected detainee medical records, and reviewed the medical policies, and training records and curricula.

CCJ holds no accreditations, though policies reference adherence to National Commission on Correctional Health Care and State of Nebraska detention standards. Healthcare is provided by (b)(7)e contract physician, (b)(7)e RN, and (b)(7)e LPN. The RN and LPN are Cass County employees, who each are on site four and a half hours a day Monday through Friday, providing nursing coverage in the clinic from 8 a.m. to 5 p.m. The RN serves as the HSA. A contract physician, who serves as the clinical medical authority, is on-site Thursdays for as long as necessary to perform health appraisals and see chronic care patients. The physician and nurses are on-call after hours, and the physician is available as needed. ODO verified credentials and licensure for the medical staff are current and primary source verified.

Mental health services are provided on-site by a psychologist employed by Heartland Family Mental Health Services. Creighton Dental Services, which is approximately 15 minutes from the facility, provides routine and emergency dental care. Midlands Hospital and Bellevue Medical Center, both approximately seven to 10 miles away, are used for emergencies and medical care beyond the scope of services available at CCJ. ODO reviewed training records for the entire medical staff and records for (b)(7)e randomly-selected detention staff, and confirmed all had current certification in cardio-pulmonary resuscitation, automated external defibrillator use, and first aid.

The clinic consists of a private examination room with an examination table and medical equipment, and an office where medical records are stored in locked cabinets. Medications, needles, syringes, and other medical supplies are stored in two secure supply rooms. There is waiting area; therefore, detainees are escorted to the clinic one at a time for patient encounters. ODO found the clinic was maintained in a sanitary condition during the inspection, and was adequately sized and equipped to provide healthcare services for the detainee population.

Detainees undergo medical and mental health screenings conducted by booking officers upon arrival. A review of (b)(7)e training records confirmed officers are trained in the screening function by the RN upon hire and annually. ODO reviewed the training curriculum and verified it addresses proper completion of the screening form, and provides guidance for identifying signs of trauma, illness, or infection, indicators the detainee may be under the influence or in withdrawal from alcohol or drugs, and mental health issues and suicide risk factors. Officers are also trained to screen for signs and symptoms of tuberculosis. The RN stated a detainee with respiratory symptoms would be isolated pending tuberculosis screening by way of a purified protein derivative skin test and clearance. Nursing staff plant purified protein derivative skin tests for all detainees on the date of or the day after arrival at CCJ, including weekends. The RN stated weekend intakes are few, and when they occur, a nurse is contacted and reports to the facility to plant a purified protein derivative skin test. A positive result requires isolation pending a chest X-ray by Allegiant Health Care. A detainee with a positive chest X-ray would

be transferred to the hospital pending tuberculosis clearance, because CCJ has no cells with negative airflow for respiratory isolation.

Each of the 14 medical records reviewed by ODO documented completion of intake screening and tuberculosis testing in accordance with the NDS.

Detainees receive health appraisals, which include a hands-on physical examination and a dental screening performed by the RN. ODO reviewed documentation confirming the RN was trained by the physician as required by the NDS. The 14 medical records reviewed documented health appraisals were conducted and signed by the physician within 14 days as required by the NDS. The review of medical records also confirmed the detainees signed informed consent for general medical treatment during intake, and one detainee signed specific consent for treatment of a skin infection. Specific consent was not required in any other case. The record of a detainee with a chronic medical condition confirmed the detainee received appropriate follow-up. The Language Link interpretation service is used for language translation, as needed.

Detainees access healthcare by completing Nursing Request Forms and turning them in to housing unit officers. The forms are available in English and Spanish. The officers sign and receive the forms, and place them in the nurse's mailbox located in the booking area **(Deficiency MC-1)**. This process violates the privacy of detainees, because the nature of the medical problem is recorded on the form and can be read by non-medical personnel. ODO reviewed 20 detainee sick call requests and found each detainee was seen on the day of the request, or no later than the next business day.

Pharmaceuticals are purchased locally through Diamond Pharmacy or Hy-Vee Pharmacy. Both pharmacies provide patient-specific blister-pack prescription medication. Medication administration is conducted by nursing staff during regular duty hours, and by housing unit officers after hours and on weekends. A review of (b)(7) training records and the training curriculum verified officers complete a Nebraska Department of Corrections training program taught by the nursing staff upon hire and on an annual basis.

Medications are distributed four times daily: 9 a.m., 1 p.m., 4:30 p.m., and 9 p.m. ODO observed medication distribution by nursing staff at 9 a.m. and 1 p.m. on one day during the inspection. Detainees were identified by wristbands and given prescribed medications, then were required to present to the security staff an open mouth to verify the medication had been consumed. Distribution medications were documented on medication administration records. The RN reviews entries by officers on each medication administration record to ensure completeness, and to ensure medications are properly stocked and inventoried. ODO inspected the secure medication cart, sharps, needles, and syringes. All were found to be stocked appropriately, accurately counted, and securely stored. There were no detainees in segregation during the inspection; however, a review of policy and interviews with staff confirmed medication distribution is completed four times a day in the SMU, and nurses conduct rounds in the SMU twice daily.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY MC-1**

In accordance with the ICE NDS, Medical Care, section (III)(M), the FOD must ensure “All medical providers shall protect the privacy of detainees' medical information to the extent possible while permitting the exchange of health information required to fulfill program responsibilities and to provide for the wellbeing of detainees.”

## **SPECIAL MANAGEMENT UNIT (SMU) – DISCIPLINARY SEGREGATION (DS)**

ODO inspected the Special Management Unit – Disciplinary Segregation standard at CCJ to determine if the facility has procedures in place to temporarily segregate detainees for disciplinary reasons. ODO toured the SMU, interviewed staff, and reviewed policies and documentation.

CCJ has one SMU used for both administrative and disciplinary segregation. The unit has six single-occupancy cells, a shower area, and a small dayroom with a telephone. Each cell is equipped with a single bunk, a small table and seat attached to the wall, an outside window, and a stainless steel toilet/sink unit with running hot and cold water. ODO inspected the unit and found it well-lit, adequately ventilated, and maintained in a sanitary condition.

There were no detainees in disciplinary segregation at the time of the inspection. ODO reviewed the files of two detainees placed in disciplinary segregation status during the 12 months preceding this inspection, and found neither had received a hearing prior to placement in disciplinary segregation (**Deficiency SMU DS-1**). CCJ policy allows officers to unilaterally address minor rule violations by placing detainees in disciplinary segregation for up to 96 hours without a disciplinary hearing. The action is documented on a Notification of Status Change Form, which is signed by the officer taking the action, a supervisor, and the detainee, who receives a copy of the form. During interview, the disciplinary hearing officer stated most detainee discipline is handled in this manner rather than through the formal disciplinary process. In the two cases reviewed by ODO, one detainee was placed in disciplinary segregation for 24 hours, and the other for 72 hours before being returned to general population. A review of logs confirmed the detainees received privileges and services required by the NDS while in disciplinary segregation.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY SMU DS-1**

In accordance with the ICE NDS, Special Management Unit - Disciplinary Segregation, section (III)(A), the FOD must ensure “A detainee may be placed in disciplinary segregation only by the order of the Institutional Disciplinary Committee, after a hearing in which the detainee has been found to have committed a prohibited act. The disciplinary committee may order placement in disciplinary segregation only when alternative dispositions would inadequately regulate the detainee behavior.”

## **STAFF-DETAINEE COMMUNICATION (SDC)**

ODO reviewed the Staff-Detainee Communication standard at CCJ to determine if procedures are in place to allow formal and informal contact between detainees and key ICE and facility staff, and if ICE detainees are able to submit written requests to ICE staff and receive responses in a timely manner, in accordance with the ICE NDS. ODO interviewed staff and detainees, toured and observed housing units, and reviewed ERO visitation records, Facility Liaison Visit Checklists, and Telephone Serviceability Worksheets.

CCJ allows detainees to have informal and formal access and interaction with facility and ERO staff. Detainees can submit written questions, requests, or concerns to facility and ERO staff using a request form. Request forms are available upon request at each housing unit. The CCJ booking officer faxes all detainee requests directly to ERO. ODO verified the request logbook contains all required information from detainee requests.

Posters for the DHS Office of the Inspector General Hotline are conspicuously displayed throughout the facility.

ODO verified ERO staff performs weekly announced visits to assess basic living conditions of the facility. However, ODO confirmed ERO management has not conducted regular unannounced visits to the facility and does not have procedures in place to document the unscheduled visits as required by the NDS (**Deficiency SDC-1**). ODO reviewed a random sample of Facility Liaison Visit Checklists from January 2013 to present, and noted all forms were properly completed. ERO staff performs and documents weekly serviceability of telephones accessible to detainees. ODO tested all telephones available for use by detainees and confirmed each was functional.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY SDC-1**

In accordance with the ICE NDS, Staff-Detainee Communication, section (III)(A)(1), the FOD must ensure “Policy and procedures shall be in place to ensure and document that the ICE Officer in Charge (OIC), the Assistant Officer in Charge (AOIC) and designated department heads conduct regular unannounced (not scheduled) visits to the facility’s living and activity areas to encourage informal communication between staff and detainees and informally observing living and working conditions. These unannounced visits shall include but not be limited to:

- a. Housing Units;
- b. Food Service preferably during the lunch meal;
- c. Recreation Area;
- d. Special Management Units (Administrative and Disciplinary Segregation); and Infirmary rooms

While visiting the Special Management Unit, the detainees shall be interviewed, living conditions will be observed and detainee-housing records will be observed.”

## TELEPHONE ACCESS (TA)

ODO reviewed the Telephone Access standard at CCJ to determine if the facility provides detainees with reasonable and equitable access to telephones to maintain ties with family and others in the community, in accordance with the ICE NDS. ODO interviewed facility staff and detainees, conducted functionality tests of telephones in housing units, and reviewed policy, procedures, and the detainee handbook.

CCJ provides detainees with reasonable and equitable access to telephones from 7 a.m. to 11 p.m. There is a minimum of one telephone for every 15 detainees, which complies with the standard. Detainees are given emergency messages and allowed to return emergency telephone calls without delay. The detainee handbook contains telephone rules, and detainees are required to sign for receipt of the handbook upon admission to the facility. Observation of the facility revealed the telephone rules are posted where detainees can easily see them in the housing units.

A review of the CCJ Detainee Telephone Log confirmed facility personnel conduct daily telephone inspections. ODO reviewed ERO Telephone Serviceability Worksheets from June 2013 through January 2014, and confirmed weekly telephone inspections by ERO staff. ODO reviewed five maintenance requests for telephone repairs and five work orders for those repairs. All five work orders were promptly reported to the service provider. ODO checked the operability of telephones in detainee housing areas and found them in good working order. Pre-programmed numbers for DHS Office of Inspector General, foreign consulates, and pro bono legal services are fully functional.

Statements made by CCJ staff and a review of the detainee handbook indicate detainees are allowed to make free telephone calls to the Board of Immigration Appeals, Federal and State courts where the detainee is or may become involved in a legal proceeding, consular officials, and government offices. Detainees may also make personal calls in the event of a family emergency, or when the detainee can otherwise demonstrate a compelling need. The CCJ detainee handbook states attorney calls carry a strict 15-minute time limit, which is fewer than the 20 minutes required by the NDS (**Deficiency TA-1**).

All telephone calls made from the housing units are automatically recorded. The Jail Administrator stated detainees can obtain an unmonitored telephone call to an attorney or legal representative by submitting a request form or by notifying a housing unit officer. After the request form has been submitted or notification has been made to a housing unit officer, the detainee is provided access to an unmonitored telephone outside of the housing unit. However, the procedure for obtaining an unmonitored call to a court, legal representative, or for the purpose of obtaining legal representation is not posted on or near any of the telephones in the housing units, or in the SMU (**Deficiency TA-2**).

## STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

### DEFICIENCY TA-1

In accordance with the ICE NDS, Telephone Access, section (III)(F), the FOD must ensure “The facility shall not restrict the number of calls a detainee places to his/her legal representatives, nor limit the duration of such calls by rule or automatic cut-off, unless necessary for security

purposes or to maintain orderly and fair access to telephones. If time limits are necessary for such calls, they shall be no shorter than 20 minutes, and the detainee shall be allowed to continue the call if desired, at the first available opportunity.”

**DEFICIENCY TA-2**

In accordance with the ICE NDS, Telephone Access, section (III)(K)(2), the FOD must ensure “The facility shall have a written policy on the monitoring of detainee telephone calls. If telephone calls are monitored, the facility shall notify detainees in the detainee handbook or the equivalent provided upon admission. It shall also place a notice at each monitored telephone stating:

1. that detainee calls are subject to monitoring; and
2. the procedure for obtaining an unmonitored call to a court, legal representative, or for the purposes of obtaining legal representation.”