



**U.S. Department of Homeland Security**  
Immigration and Customs Enforcement  
Office of Professional Responsibility  
Inspections and Detention Oversight Division  
Washington, DC 20536-5501

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## Office of Detention Oversight Compliance Inspection

Enforcement and Removal Operations  
ERO Buffalo Field Office  
Allegany County Jail  
Belmont, New York

November 29 - December 1, 2016

**COMPLIANCE INSPECTION  
for the  
ALLEGANY COUNTY JAIL  
BELMONT, NEW YORK**

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**COMPLIANCE INSPECTION TEAM MEMBERS**

(b) (6), (b) (7)(C)

Lead Management and Program Analyst	ODO
Inspections and Compliance Specialist	ODO
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## EXECUTIVE SUMMARY

The Office of Detention Oversight (ODO) conducted a compliance inspection of the Allegany County Jail (ACJ) in Belmont, New York, from November 29 to December 1, 2016.<sup>1</sup> ACJ opened in August 2006 and is owned by Allegany County and operated by the Allegany County Sheriff's Department. The Office of Enforcement and Removal Operations (ERO) began housing detainees at ACJ in August 2007 pursuant to an inter-governmental service agreement, under the oversight of ERO's Field Office Director (FOD) in Buffalo.

ERO staff members are not assigned to the facility nor is an ERO Detention Services Manager. The ACJ Jail Administrator is responsible for oversight of daily facility operations and is supported by (b) personnel. Allegany County provides medical and food services. The facility holds an accreditation with the New York Sheriff's Association. The ACJ is not contractually obligated to comply with the ICE Performance-Based National Detention Standards (PBNDS) 2011, Sexual Abuse and Assault Prevention and Intervention (SAAPI) standard; however, it has made efforts to comply.<sup>2</sup>

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity <sup>3</sup>	164
Average ICE Detainee Population <sup>4</sup>	12
Male Detainee Population ( as of 11/29/2016)	0
Female Detainee Population (as of 11/29/2016)	8

## OVERALL FINDINGS

This is ODO's first Compliance Inspection of the ACJ under the National Detention Standards (NDS) 2000. ODO reviewed the facility's compliance with 15 standards and found the facility compliant with nine standards. ODO found seven deficiencies in the remaining six standards. Finally, ODO identified six opportunities where the facility initiated corrective action during the course of the inspection.<sup>5</sup>

Compliance Inspection Results	FY 2016 (NDS 2000)
Standards Reviewed	15
Deficient Standards	6
Overall Number of Deficiencies	7
Corrective Action	6

<sup>1</sup> Male and female detainees with low, medium low, medium high, and high security classifications levels are detained at the facility for longer than 72 hours.

<sup>2</sup> The ACJ has a stated "zero-tolerance" policy and detainees are made aware of the zero tolerance policy during the admissions process.

<sup>3</sup> Data Source: ERO Facility List Report as of October 31, 2016.

<sup>4</sup> *Ibid.*

<sup>5</sup> Corrective actions where immediately implemented, have been identified in the Compliance Inspection Findings section and annotated with a "C."

## FINDINGS BY NDS 2000 MAJOR CATEGORIES

NDS 2000 STANDARDS INSPECTED <sup>6</sup>	DEFICIENCIES
<b>Part 1 – Detainee Services</b>	
Access to Legal Material	1
Admission and Release	2
Detainee Classification System	1
Detainee Grievance Procedures	1
Detainee Handbook	0
Food Service	0
Funds and Personal Property	0
Staff-Detainee Communication	0
Telephone Access	1
<b>Sub-Total</b>	<b>6</b>
<b>Part 2 – Security and Control</b>	
Environmental Health and Safety	1
Special Management Unit (Administrative Segregation)	0
Special Management Unit (Disciplinary Segregation)	0
Use of Force	0
<b>Sub-Total</b>	<b>1</b>
<b>Part 3 – Health Services</b>	
Medical Care	0
Suicide Prevention and Intervention	0
<b>Sub-Total</b>	<b>0</b>
<b>Total Deficiencies</b>	<b>7</b>

<sup>6</sup> For greater detail on ODO's findings, see the *Compliance Inspection Findings* section of this report.

## COMPLIANCE INSPECTION PROCESS

Every fiscal year ODO, a unit within U.S. Immigration and Customs Enforcement's (ICE) Office of Professional Responsibility (OPR), conducts compliance inspections at detention facilities in which detainees are accommodated for periods in excess of 72 hours and with an average daily population greater than ten to determine compliance with the ICE National Detention Standards (NDS) 2000, or the Performance-Based National Detention Standards (PBNDS) 2008 or 2011, as applicable.

During the compliance inspection, ODO reviews each facility's compliance with those detention standards that directly affect detainee health, safety, and/or well-being.<sup>7</sup> Any violation of written policy specifically linked to ICE detention standards, ICE policies, or operational procedures that ODO identifies is noted as a deficiency. ODO also highlights any deficiencies found involving those standards that ICE has designated under either the PBNDS 2008 or 2011, to be "priority components."<sup>8</sup> Priority components have been selected from across a range of detention standards based on their critical importance to facility security and/or the health and safety, legal rights, and quality of life of detainees in ICE custody.

Immediately following an inspection, ODO hosts a closeout briefing in person with both facility and ERO field office management to discuss their preliminary findings, which are summarized and provided to ERO in a preliminary findings report. Thereafter, ODO provides ERO with a final compliance inspection report to: (i) assist ERO in working with the facility to develop a corrective action plan to resolve identified deficiencies; and (ii) provide senior ICE and ERO leadership with an independent assessment of the overall state of ICE detention facilities. The reports enable senior agency leadership to make decisions on the most appropriate actions for individual detention facilities nationwide.

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<sup>7</sup> ODO reviews the facility's compliance with selected standards in their entirety.

<sup>8</sup> Priority components have not been identified for the NDS.

## DETAINEE RELATIONS

ODO interviewed six female detainees each of whom volunteered to participate. None of the detainees made allegations of mistreatment or discrimination. The majority of detainees reported being satisfied with facility services, with the exception of the complaints below:

**Medical Care:** Three detainees expressed concerns related to medical needs. The first detainee stated she requested medical services to have her blood tested for several issues of concern. The detainee also claimed she was not initially allowed to sit in the day room with the other female detainees.

- **Action Taken:** ODO reviewed the detainee's medical record and interviewed medical and ERO staff about the detainee's concerns. Medical staff informed ODO the detainee submitted a medical request two days after admission seeking various tests. Blood specimens were collected on November 29, 2016 and additional specimens will be collected during a to-be-scheduled physical exam upon ERO approval. Following ODO's inquiry, an ERO deportation officer informed the detainee that co-mingling with others was allowed only after the classification process was complete.

The second detainee complained about a broken molar and claimed to submit a request to be seen by a dentist over three weeks ago.

- **Action Taken:** ODO reviewed the detainee's medical record and interviewed medical and ERO staff about the detainee's concern. Medical staff informed ODO the detainee arrived at the facility on October 14, 2016 and did not indicate a medical concern. On November 11, 2016, the detainee submitted a request for medical services stating she had a broken molar, and it was causing pain. The detainee was seen on November 17, 2016 by medical services who then initiated a request for routine, non-emergent dental care through ICE. ODO confirmed the detainee was scheduled to undergo a dental procedure for her tooth on December 9, 2016.

The third detainee stated she requested medical services two weeks prior to ODO's inspection because her prescribed eye glasses were broken.

- **Action Taken:** ODO reviewed the detainee's medical record and interviewed medical and ERO staff about the detainee's concern. Medical staff informed ODO the detainee submitted a request on November 24, 2016. On the following day, the detainee was seen by a nurse practitioner who informed the detainee that her family was sending her a new pair of eye glasses.

# COMPLIANCE INSPECTION FINDINGS

## DETAINEE SERVICES

### ACCESS TO LEGAL MATERIAL (ALM)

ODO reviewed the ACJ detainee handbook and found it informs detainees that a law library is available, there are procedures for requesting access to the law library, the procedures for requesting legal reference materials not maintained in the law library, and the procedure for notifying a designated employee that library material is missing or damaged. However, it does not inform detainees the procedures for requesting additional time in the law library (beyond the 5 hours per week minimum), nor does it include the scheduled hours of access (**Deficiency ALM-1<sup>9</sup>**).

*Corrective Action: Prior to completion of the inspection, the facility initiated corrective action by posting the procedures for obtaining additional time beyond the 5 hours as well as the hours of access outside the law library. Per the ACJ Warden, the information will be added to the handbook in January 2017 during an already scheduled review of the facility handbook (C-1).*

### ADMISSION AND RELEASE (AR)

Facility staff provides detainees with a facility handbook and ICE provides detainees with the ICE National Detainee Handbook. The facility has an orientation video; however, it is not currently being shown to detainees (**Deficiency AR-2<sup>10</sup>**).

*Corrective Action: Prior to completion of the inspection, the facility started showing the orientation video to detainees upon admission as required (C-2).*

The facility and ERO could not provide documentation that ERO approved the facility's orientation procedures (**Deficiency AR-3<sup>11</sup>**).

*Corrective Action: Prior to completion of the inspection, ERO field office leadership signed a memorandum approving the orientation procedures for the facility (C-3).*

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<sup>9</sup> “The detainee handbook or equivalent shall provide detainees with the rules and procedures governing access to legal materials, including the following information: the scheduled hours of access to the law library, and the procedure for requesting additional time in the law library (beyond the 5 hours per week minimum).” See ICE NDS 2000, Standard, Access to Legal Material, Section (III)(Q)(2 and 4).

<sup>10</sup> “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 (see the "Disciplinary Policy" Standard).” See ICE NDS 2000, Standard, Admission and Release, Section (III)(A)(1).

<sup>11</sup> “All facilities shall have a medium to provide INS detainees an orientation to the facility. In IGSA's the INS office of jurisdiction shall approve all orientation procedures.” See ICE NDS 2000, Standard, Admission and Release, Section (III)(J).

## **DETAINEE CLASSIFICATION SYSTEM (DCS)**

ODO reviewed facility policy, J-3.02, *Classification*, dated January 1, 2016 and found the facility policy allows a detainee to appeal his or her classification. However, while the detainee handbook includes an explanation of the classification levels, including the conditions and restrictions applicable to each, the detainee handbook does not include the procedures by which a detainee may appeal his/her classification level (**Deficiency DCS-5<sup>12</sup>**).

- *Corrective Action: The facility initiated corrective action during the inspection by including a section outlining classification appeal procedures to be included in the January 2017 revised handbook (C-4).*

## **DETAINEE GRIEVANCE PROCEDURES (DGP)**

ODO reviewed the facility's detainee grievance policy and procedures, J-5.09 *Inmate Grievance*, dated January 1, 2016, the facility detainee handbook, and interviewed the facility grievance officer and other senior facility staff. By policy and procedure, detainees are able to file informal and formal grievances. Detainees can submit any medical grievances into a collection box in each housing unit. The facility does not have formal procedures for identifying and handling emergency grievances (**Deficiency DGP-4<sup>13</sup>**).

## **TELEPHONE ACCESS (TA)**

The facility phone system is setup to electronically monitor all detainee telephone calls. Detainees can request to make legal calls by submitting a detainee request. When the request is approved, the detainee will have the opportunity to have a call that is not monitored. However, notification to the detainee of how to request an unmonitored telephone call and other telephone rules are not posted near the telephones (**Deficiency TA-6<sup>14</sup>**).

*Corrective Action: The facility initiated corrective action during the inspection by posting the telephone rules by the telephones (C-5).*

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<sup>12</sup> “The detainee handbook's section on classification will include the following: 1. an explanation of the classification levels, with the conditions and restrictions applicable to each. 2. The procedures by which a detainee may appeal his/her classification. See ICE NDS 2000, Standard, Detainee Classification System, Section (III)(I)(1 and 2).

<sup>13</sup> “Each facility shall implement procedures for identifying and handling an emergency grievance. An emergency grievance involves an immediate threat to a detainee's safety or welfare. Once the receiving staff member approached by a detainee determines that he/she is in fact raising an issue requiring urgent attention, emergency grievance procedures will apply.” See ICE NDS 2000, Standard, Detainee Grievance Procedures, Section (III)(B).

<sup>14</sup> “As described in the “General Provisions” standard, the facility shall provide telephone access rules in writing to each detainee upon admittance, and also shall post these rules where detainees may easily see them.” See ICE NDS 2000, Standard, Telephone Access, Section (III)(B).



## **SECURITY AND CONTROL**

### **ENVIRONMENTAL HEALTH AND SAFETY (EH&S)**

While evaluating accountability and security of needles and syringes within the medical department, ODO found 13 long intravenous starting needles, nine (9) winged needles, and five syringes that were not secured or inventoried (**Deficiency EH&S-8<sup>15</sup>**).

*Corrective Action: The facility initiated corrective action during the inspection by removal of the inventoried items to a secured area (C-6).*

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<sup>15</sup> “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.” See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(Q)(1).