



**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 Newark Field Office  
Elizabeth Contract Detention Facility  
Elizabeth, NJ

March 1–3, 2016

**COMPLIANCE INSPECTION  
for the  
ELIZABETH CONTRACT DETENTION FACILITY  
Elizabeth, New Jersey**

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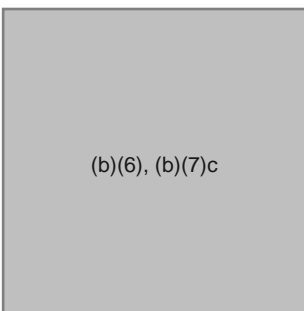
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**INSPECTION TEAM MEMBERS**



Inspections and Compliance Specialist (Team Lead)	ODO
Inspections and Compliance Specialist	ODO
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Contractor	Creative Corrections
Contractor	Creative Corrections
Contractor	Creative Corrections
Contractor	Creative Corrections

## EXECUTIVE SUMMARY

The Office of Detention Oversight (ODO) conducted a compliance inspection of the Elizabeth Contract Detention Facility (ECDF) in Elizabeth, New Jersey, from March 1 to 3, 2016.<sup>1</sup> ECDF opened in March 1996 and is owned and operated by the Corrections Corporation of America (CCA). The Office of Enforcement and Removal Operations (ERO) began housing detainees at ECDF in October 1996 pursuant to a contract, under the oversight of ERO’s Field Office Director (FOD) in Newark.

ERO staff members are assigned to the facility. A Detention Services Manager is assigned to the facility. A CCA Warden is responsible for oversight of daily facility operations and is supported by (b)(7)e personnel. ICE Health Service Corps (IHSC) provides medical service, and CCA provides food services. The facility holds an American Correctional Association accreditation.

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity <sup>2</sup>	304
Average ICE Detainee Population <sup>3</sup>	295
Male Detainee Population (as of 03/01/2016)	284
Female Detainee Population	N/A

### OVERALL FINDINGS

In January 2012, ODO conducted an inspection of the ECDF under the Performance-Based National Detention Standards (PBNDS) 2008. ODO reviewed the facility’s compliance with 21 standards and found the facility compliant with 11 standards. ODO found 21 deficiencies in the remaining ten standards.

Inspection Results Compared	FY 2012 (PBNDS 2008)	FY2016 (PBNDS 2011)
Standards Reviewed	21	16
Deficient Standards	10	9
Overall Number of Deficiencies	21	20
Deficient Priority Components	0	5
Corrective Actions Initiated	0	6

In FY2016, ODO conducted an inspection of the ECDF under the Performance- Based National Detention Standards (PBNDS) 2011. ODO reviewed the facility’s compliance with 16 standards and found the facility compliant with seven standards. ODO found 20 deficiencies in the remaining nine standards, five of which were priority components. Finally, ODO identified six opportunities where the facility initiated corrective action during the course of the inspection.<sup>4</sup>

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

<sup>2</sup> Data Source: ERO Facility List Report as of February 22, 2016.

<sup>3</sup> *Ibid.*

<sup>4</sup> Corrective actions, where immediately implemented, best practices and ODO recommendations, as applicable, have been identified in the Inspection Findings section and annotated with a “C”, “BP” or “R”, respectively.

## FINDINGS BY PBNDS 2011 MAJOR CATEGORIES

PBNDS 2011 STANDARDS INSPECTED <sup>5</sup>	DEFICIENCIES
<b>Part 1 – Safety</b>	
1.2 - Environmental Health and Safety	2
<b>Sub-Total</b>	<b>2</b>
<b>Part 2 – Security</b>	
2.1 - Admission and Release	0
2.2 - Custody Classification System	0
2.5 - Funds and Personal Property	2
2.11 - Sexual Abuse and Assault Prevention and Intervention	3
2.12 - Special Management Units	2
2.13 - Staff-Detainee Communication	6
2.15 - Use of Force and Restraints	0
<b>Sub-Total</b>	<b>13</b>
<b>Part 4 – Care</b>	
4.1 - Food Service	1
4.3 - Medical Care	0
4.4 - Medical Care (Women)	0
4.6 - Suicide Prevention and Intervention	0
<b>Sub-Total</b>	<b>1</b>
<b>Part 5 – Activities</b>	
5.6 - Telephone Access	2
<b>Sub-Total</b>	<b>2</b>
<b>Part 6 – Justice</b>	
6.1 - Detainee Handbook	1
6.2 - Grievance System	1
6.3 - Law Libraries and Legal Material	0
<b>Sub-Total</b>	<b>2</b>
<b>Total Deficiencies</b>	<b>20</b>

<sup>5</sup> For greater detail on ODO's findings, see the *Inspection Findings* section of this report.

## INSPECTION PROCESS

Every fiscal year, the Office of Detention Oversight (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>6</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>7</sup> Priority components have been selected from across a range of detention standards based on critical importance, given their impact on 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>6</sup> ODO reviews the facility's compliance with selected standards in their entirety.

<sup>7</sup> Priority components have not been identified for the NDS.

## DETAINEE RELATIONS

ODO interviewed 22 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:

- *Detainee Handbook:* One detainee alleged they have not received the ICE National Detainee Handbook, and another detainee alleged they have not received the facility handbook.
  - Action Taken: Facility staff notified ODO the detainees received the ICE National Detainee Handbook and facility handbook during admission. ODO reviewed the detainees' files, which revealed they signed for the ICE National Detainee Handbook and facility handbook during the admission process.
  
- *Food Service:* Three detainees alleged the food does not taste very good, with one detainee alleging rice and fish are served all the time.
  - Action Taken: ODO reviewed the menu and spoke with food service staff and was informed the facility uses a five week cycle menu, which depicts a diverse menu. However, essential foods such as rice, beans, and potatoes do appear on the menu regularly.
  
- *Staff-Detainee Communication:* Six detainees alleged when officers of the opposite sex enter the housing units they are not announced.
  - Action Taken: ODO toured the housing units and interviewed facility staff who advised that upon entering all units they announce their presence. All units are labeled with "Opposite Gender Must Announce upon Entry." During the tour of the facility and observation of daily activities, ODO observed staff announce when individuals of the opposite gender entered onto the housing units.

# INSPECTION FINDINGS

## SAFETY

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

A review of fire drill reports confirmed all areas and shifts participate in multiple fire drills annually. An interview with facility staff revealed, emergency keys are drawn from central control during fire drills; however, the times the keys are drawn and the times they arrive at the emergency exit doors were not documented (**Deficiency EH&S-1<sup>8</sup>**).

*Corrective Action:* Prior to the completion of the inspection, the facility updated the policy on fire drills to include documenting the times keys are drawn and the times they arrive at the emergency exit doors (**C-1**).

The facility has prominently posted evacuation diagrams in English and Spanish, which include locations of emergency equipment and directional arrows for traffic flow. ODO observed areas of safe refuge are not identified on the diagrams (**Deficiency EH&S-2<sup>9</sup>**).

*Corrective Action:* Prior to the completion of the inspection, the areas of safe refuge were identified on the diagrams, and the updated diagrams were posted throughout the facility (**C-2**).

## SECURITY

### FUNDS AND PERSONAL PROPERTY (F&PP)

Large valuables such as laptop computers and tablets are recorded on the Disposition of the Non-Allowable Property form, tagged with an I-77 Baggage Check card, and secured in the property storage room valuables vault. However, ODO observed that DHS-589 Property Receipt forms describing the large valuables are not attached to large valuables (**Deficiency F&PP-1<sup>10</sup>**).

Facility staff prints the detainees' names on the top and bottom portion of I-77 forms, but reviews of the present forms revealed detainees have not signed either section (**Deficiency F&PP-2<sup>11</sup>**).

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<sup>8</sup> "Emergency-key drills shall be included in each fire drill, and timed. Emergency keys shall 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." See ICE PBNDS 2011, Standard, Environmental Health and Safety, Section (V)(C)(4)(c).

<sup>9</sup> "Areas of Safe Refuge" shall be identified and explained on diagrams." See ICE PBNDS 2011, Standard, Environmental Health and Safety, Section (V)(C)(5).

<sup>10</sup> "The officers should then record the issuance of this Form G-589 in the facility's Property Receipt Logbook or equivalent, tag the large valuable with a copy of the Form G-589 and a Baggage Check (Form I-77)...." See ICE PBNDS 2011, Standard, Funds and Personal Property, Section (V)(G)(3).

<sup>11</sup> "The detainee's signature must appear on both the top (Part I) and bottom (Part III) of the Form I-77 or its equivalent." See ICE PBNDS 2011, Standard, Funds and Personal Property, Section (V)(I)(2).

## SEXUAL ABUSE AND ASSAULT PREVENTION AND INTERVENTION (SAAPI)

During a tour of the facility, ODO observed both ICE SAAPI and DHS Office of Inspector General (OIG) hotline postings in the detainee housing areas and the intake area, but there was no SAAPI posting in the Special Management Unit (SMU) (**Deficiency SAAPI-1**<sup>12</sup>).

*Corrective Action:* Prior to the completion of the inspection the facility placed SAAPI postings in the SMU (**C-3**).

ODO's review of the detainee handbook found it provides the required information on reporting allegations of sexual abuse or sexual assault. The facility uses a log to record the times the orientation video is presented, but does not maintain documentation of detainee participation in the instruction session (**Deficiency SAAPI-2**<sup>13</sup>).

An interview with facility staff and review of documentation, in reference to a previous allegation of an incident of sexual abuse revealed the facility separated the detainees involved and moved both to medical services for an evaluation. Facility staff notified ODO, the detainee alleged as the perpetrator was later moved to another dorm, and the alleged victim was moved back to general population without being re-classified (**Deficiency SAAPI-3**<sup>14</sup>).

## SPECIAL MANAGEMENT UNITS (SMU)

ODO's review of facility policy confirmed detainees in segregation are to have access to all required services and privileges. Consistent with the standard, the policy also requires medical staff to make daily rounds in the SMU. However, ODO's review of the SMU Confinement Sign-In Log and Confinement Activity Records found daily visits by medical personnel are not consistently documented, which prevented ODO from determining if health care personnel are conducting daily assessments (**Deficiency SMU-1**<sup>15</sup>).

The facility is required to comply with optimum levels of the PBNDS 2011 in regards to recreation privileges for detainees on segregation. Detainees on administrative segregation must be offered at least two hours of recreation, seven days a week; and detainees on disciplinary segregation must be offered at least one hour of recreation, seven days a week. ODO's review of the Confinement Activity Records and the unit log found entries do not support that these requirements are met (**Deficiency SMU-2**<sup>16</sup>). The duration of recreation periods were not

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<sup>12</sup> "ICE/ERO has provided a sexual assault awareness notice to be posted on all housing-unit bulletin boards...." See ICE PBNDS 2011, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(F).

<sup>13</sup> "The facility shall maintain documentation of detainee participation in the instruction session." See ICE PBNDS 2011, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(F). **This is a priority component.**

<sup>14</sup> "A detainee who is subjected to sexual abuse or assault shall not be returned to general population until proper reclassification, taking into consideration any increased vulnerability of the detainee as a result of the sexual abuse or assault, is completed." See ICE PBNDS 2011, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(G).

<sup>15</sup> "Health care personnel shall conduct face-to-face medical assessments at least once daily for detainees in an SMU." See ICE PBNDS 2011, Standard, Special Management Units Section (V)(N). **This is a priority component.**

<sup>16</sup> "Detainees in the SMU for administrative reasons shall be offered at least two hours of exercise per day, seven days a week, unless documented security, safety or medical considerations dictate otherwise. Detainees in the SMU



recorded; and officers did not consistently make entries reflecting when recreation was offered and refused.

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

A review of the policy revealed the facility does not have written procedures to promptly route and deliver detainee requests to the appropriate ICE/ERO officials by authorized personnel without reading, altering, or delaying such requests (**Deficiency SDC-1<sup>17</sup>**).

In addition, the facility does not have a standard operating procedure that addresses detainees with special requirements who may need assistance from another detainee, housing unit officers, or other facility staff members in preparing a request form (**Deficiency SDC-2<sup>18</sup>**).

During a tour of the facility, ODO observed the days and times for scheduled visits by ICE/ERO staff posted in all housing units, except the Special Management Units (**Deficiency SDC-3<sup>19</sup>**).

*Corrective Action:* Prior to the completion of the inspection, the days and times for scheduled visits by ICE/ERO staff was posted in all housing units to include the Special Management Units (**C-4**).

Notices highlighting the Department of Homeland Security, Office of Inspector General hotline were present in all living areas. The facility handbook provides notification on procedures for submitting request but does not include the availability of assistance to prepare such requests (**Deficiency SDC-4<sup>20</sup>**).

During visits, ICE/ERO staff checks on the overall condition of the facility and responds to detainee requests, but an interview with ICE/ERO staff and observation of activities revealed they do not always announce their presence when entering housing units (**Deficiency SDC-5<sup>21</sup>**).

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for disciplinary reasons shall be offered at least one hour of exercise per day, seven days a week, unless documented security, safety or medical considerations dictate otherwise.” See ICE PBNDS 2011, Standard, Special Management Units Section (V)(X)(1).

<sup>17</sup> “Each facility administrator shall: Have written procedures to promptly route and deliver detainee requests to the appropriate ICE/ERO officials by authorized personnel (not detainees) without reading, altering, or delaying such requests.” See ICE PBNDS 2011, Standard, Staff-Detainee Communication, Section (V)(B). **This is a priority component.**

<sup>18</sup> “Each facility administrator shall: Ensure that the standard operating procedures accommodate detainees with special assistance needs based on, for example, disability, illiteracy, or limited use of English.” See ICE PBNDS 2011, Standard, Staff-Detainee Communication, Section (V)(B). **This is a priority component.**

<sup>19</sup> The local supplement to the detainee handbook shall include contact information for the ICE/ERO Field Office and the scheduled hours and days that ICE/ERO staff is available to be contacted by detainees at the facility. The same information shall be posted in the living areas (or “pods”) of the facilities. See ICE PBNDS 2011, Standard, Staff-Detainee Communication, Section (V)(A).

<sup>20</sup> “As required by standard “6.1 Detainee Handbook,” each facility’s handbook (or supplement) shall advise detainees in a language or manner that they understand of the procedures to submit written questions, requests, or concerns to ICE/ERO staff, as well as the availability of assistance to prepare such requests.” See ICE PBNDS 2011, Standard, Staff-Detainee Communication, Section (V)(B)(3).

<sup>21</sup> “ICE/ERO staff members shall announce their presence when entering a housing unit.” See ICE PBNDS 2011, Standard, Staff-Detainee Communication, Section (V)(A).

Request forms are located within housing units or can be requested from facility staff at any time. ICE officials retain copies of request, and record request in a logbook specifically designed for that purpose. The requests reviewed by ODO revealed requests are not always responded to within 72 hours or no later than three business days of receipt (**Deficiency SDC-6<sup>22</sup>**). In June of 2015, three requests were responded to in four business days and three additional requests were responded to in seven business days. In August 2015, two requests were responded to in six business days.

## **CARE**

### **FOOD SERVICE (FS)**

The therapeutic menu and alternate entree menu align with the general cycle menu and provide detainees with approximately 2,500 calories. A certified common fare menu is also available; however, a review of the monthly food cost statements revealed the Food Service Manager does not calculate cost for the common fare program (**Deficiency FS-1<sup>23</sup>**).

## **ACTIVITIES**

### **TELEPHONE ACCESS (TA)**

An observation of the telephones revealed the facility does not post, at each monitored telephone, procedures on how to obtain an unmonitored call to court, legal representative or for the purposes of obtaining legal representation (**Deficiency TA-1<sup>24</sup>**). ODO and facility staff toured the units and observed notices are only posted on some of the phones.

*Corrective Action:* Prior to the completion of the inspection, procedures on how to obtain an unmonitored call to court, legal representative or for the purposes of obtaining legal representation were posted at each telephone (**C-5**).

An interview with facility staff and observation of the housing unit bulletin boards and other posting areas revealed telephone access hours are not posted in the detainee housing units (**Deficiency TA-2<sup>25</sup>**).

*Corrective Action:* Prior to the completion of the inspection, telephone access hours were posted in each housing unit (**C-6**).

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<sup>22</sup> “The ICE/ERO staff member receiving the request shall normally respond in person or in writing as soon as possible and practicable, but no later than within three (3) business days of receipt.” See ICE PBNDS 2011, Standard, Staff-Detainee Communication, Section (V)(B)(1)(a).

<sup>23</sup> “The FSA shall estimate quarterly costs for the common fare program and include this figure in the quarterly budget.” See ICE PBNDS 2011, Standard, Food Service, Section (V)(G)(14).

<sup>24</sup> “If telephone calls are monitored, the facility shall: at each monitored telephone, place a notice that states the following: the procedure for obtaining an unmonitored call to a court, a legal representative or for the purposes of obtaining legal representation.” See ICE PBNDS 2011, Standard, Telephone Access, Section (V)(B)(3)(b).

<sup>25</sup> “Telephone access hours shall also be posted.” See ICE PBNDS 2011, Standard, Telephone Access, Section (V)(C).

# **JUSTICE**

## **DETAINEE HANDBOOK (DH)**

A review of the facility handbook revealed it contains the majority of information required by the standard, but does not notify detainees of facility policies and procedures related to personal property (**Deficiency DH-1<sup>26</sup>**).

## **GRIEVANCE SYSTEM (GS)**

ODO interviewed the Grievance Officer (GO) to obtain clarification of how the facility proceeds with the elevation of the formal grievance review process, when a detainee is dissatisfied with the decision from the GO (level I). The GO was unable to explain how the grievance appeals board (GAB) (level II) and appellate (level III) reviews functioned since no grievance has ever attained those levels. ODO interviewed ICE/ERO staff and ascertained they did not issue guidance to the GO on how to proceed with formal grievances on levels II and III (**Deficiency GS-1<sup>27</sup>**).

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<sup>26</sup> “While all applicable topics from the handbook must be addressed, it is especially important that each local supplement notify each detainee of: the facility’s policies and procedures related to personal property, as required by standard “2.5 Funds and Personal Property,” at Section C of Expected Practices....” *See* ICE PBNDS 2011, Standard, Detainee Handbook, Section (V)(B)(12). **This is a priority component.**

<sup>27</sup> “Each facility shall establish three levels of formal grievance review. These reviews shall consist of: 1) GO review; 2) grievance appeals board (GAB) review; and 3) appellate review. ICE will issue guidance on the designation of representatives and additional guidelines for conducting hearings.” *See* ICE PBNDS 2011, Standard, Grievance System, Section (V)(C)(3).