



**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 El Paso Field Office**

**Otero County Processing Center**

**Chaparral, NM**

**August 9-11, 2016**

**COMPLIANCE INSPECTION  
for the  
OTERO COUNTY PROCESSING CENTER  
Chaparral, New Mexico**

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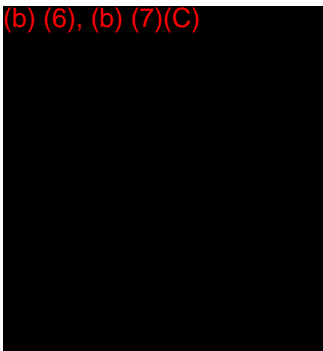
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**INSPECTION TEAM MEMBERS**



Lead Inspections and Compliance Specialist	ODO
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## EXECUTIVE SUMMARY

The Office of Detention Oversight (ODO) conducted a compliance inspection of the Otero County Processing Center (OCPC), in Chaparral, New Mexico, from August 9 to 11, 2016.<sup>1</sup> OCPC opened in 2008 and is owned by Otero County and operated by the Management & Training Corporation (MT&C). The Office of Enforcement and Removal Operations (ERO) began housing detainees at OCPC in 2008 pursuant to a dedicated Intergovernmental Service Agreement under the oversight of ERO’s Field Office Director (FOD) in El Paso, Texas.

ERO staff members are assigned to the facility. A Detention Services Manager provides full-time coverage at the facility. A MT&C Warden is responsible for oversight of daily facility operations and is supported by (b) (7) personnel. MT&C provides medical and food services. The facility is accredited by the American Correctional Association and the National Commission on Correctional Health Care.

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity <sup>2</sup>	1000
Average ICE Detainee Population <sup>3</sup>	846
Male Detainee Population (as of 8/9/2016)	651
Female Detainee Population (as of 8/9/2016)	0

### OVERALL FINDINGS

In March 2013, ODO conducted an inspection of the OCPC under the Performance-Based National Detention Standards (PBNDS) 2008. ODO reviewed the facility’s compliance with 16 standards and found the facility compliant with 11 standards. ODO found eight deficiencies in the remaining five standards, two of which were priority components.

Inspection Results Compared	FY 2013 (PBNDS 2008)	FY2016 (PBNDS 2011)
Standards Reviewed	16	16
Deficient Standards	5	7
Overall Number of Deficiencies	8	12
Deficient Priority Components	2	6
Corrective Actions Initiated	0	1

In FY2016, ODO conducted an inspection of the OCPC under the PBNDS 2011.<sup>4</sup> ODO reviewed the facility’s compliance with 16 standards and found the facility compliant with nine standards. ODO found 12 deficiencies in the remaining seven standards, one of which was a repeat deficiency, and six of which were priority components. Finally, ODO identified one instance where the facility initiated corrective action during the course of the inspection.<sup>5</sup>

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

<sup>2</sup> Data Source: ERO Facility List Report as of August 8, 2016.

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

<sup>4</sup> All optimal provisions are obligated under contract.

<sup>5</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>6</sup>	DEFICIENCIES
<b>Part 1 - Safety</b>	
1.2 - Environmental Health and Safety	0
<b>Sub-Total</b>	<b>0</b>
<b>Part 2 - Security</b>	
2.1 - Admission and Release	1
2.2 - Custody Classification System	1
2.5 - Funds and Personal Property	2
2.11 - Sexual Abuse and Assault Prevention and Intervention	2
2.12 - Special Management Units	2
2.13 - Staff-Detainee Communication	0
2.15 - Use of Force and Restraints	3
<b>Sub-Total</b>	<b>11</b>
<b>Part 4 - Care</b>	
4.1 - Food Service	0
4.3 - Medical Care	0
4.4 - Medical Care (Women)	0
4.6 - Significant Self-Harm and Suicide Prevention and Intervention	0
<b>Sub-Total</b>	<b>0</b>
<b>Part 5 - Activities</b>	
5.6 - Telephone Access	0
<b>Sub-Total</b>	<b>0</b>
<b>Part 6 - Justice</b>	
6.1 - Detainee Handbook	0
6.2 - Grievance System	1
6.3 - Law Libraries and Legal Materials	0
<b>Sub-Total</b>	<b>1</b>
<b>Total Deficiencies</b>	<b>12</b>

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

## COMPLIANCE INSPECTION PROCESS

Every fiscal year, the 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 23 detainees, each of whom volunteered to participate. None of the detainees made allegations of mistreatment, abuse, or discrimination. The majority of detainees reported being satisfied with facility services, with the exception of the complaints below:

*Medical Care:* One detainee complained of pain in his left arm, down to the wrist, and was requesting “Ben-Gay” for the pain.

- Action Taken: ODO reviewed the detainee’s medical file and found that at intake, he received an intake screening and physical exam and complained of no pain in his left arm. On August 6, 2016 he was triaged by a nurse for elbow pain and on August 8, 2016 during sick call, he mentioned to the Registered Nurse (RN) that he had hurt his left arm while exercising three days before. The RN’s joint pain examination found no deformity and noted full range of motion in the left arm. Motrin 400mg was prescribed to be taken twice a day for three days. The detainee did not request Ben-Gay and was advised to return to sick call should the condition worsen. ODO informed the detainee to submit a medical request form, should he require further treatment.

*Medical Care:* One detainee complained that he was seen about three weeks ago for right arm pain and wanted an x-ray of his right arm.

- Action Taken: ODO reviewed the detainee’s medical file and found that at intake, he received an intake screening and physical exam and had no medical complaints. Then, on July 14, 2016, he was triaged by a nurse for right arm pain; the nurse found an obvious deformity in the arm, resulting in a reduced range of motion. The detainee refused Motrin and requested an x-ray. During its inspection, ODO requested that the Health Service Administrator (HSA) review the medical file and consult with the Nurse Practitioner (NP) regarding this case. During the inspection, ODO was informed by the HSA that an x-ray had been ordered on August 11, 2016 and an appointment scheduled.

*Medical Care:* One detainee stated that he was seen by medical staff for shoulder and neck pain and was given Tylenol, which he claims is not working.

- Action Taken: ODO reviewed the detainee’s medical file and found the detainee was seen by medical staff the morning of ODO’s interview session. In addition, ODO found prior to its interview with the detainee, that he did not mention any pain during his medical screening at intake. On August 7, 2016 the detainee submitted a sick call request complaining of shoulder/neck pain and was triaged by a RN the following day. The detainee was prescribed Motrin on August 9, 2016. He was advised by medical staff to return to sick call should the condition worsen.

*Medical Care:* One detainee stated that he was taking Docusate (Colace) and fiber for constipation three months prior to arriving at OCPC and he asked for Colace and fiber during the intake screening, but only received fiber.

- Action Taken: ODO reviewed the detainee's medical file and found that the detainee raised no complaints about constipation during his intake screening when he arrived on August 5, 2016. On August 8, 2016, he was seen by an RN after submitting a sick call request; the RN referred the detainee to a NP for his concerns regarding constipation. On August 9, the NP prescribed Colace for the detainee and ODO confirmed with the HSA that the detainee began receiving the Colace and fiber on August 10, 2016.

Telephone Access: One detainee complained he requested a new telephone access Personal Identification Number (PIN) because his old PIN was compromised.

- Action Taken: ODO reviewed the detainee's detention file and found the request was submitted August 6, 2016, and a new PIN issued August 9, 2016. Telephone records, provided by ERO staff, show the detainee was able to make seven calls after his PIN was changed, specifically on August 9th and August 10th 2016.

Detainee Handbook: Two detainees complained they had not received the local facility handbook.

- Action Taken: ODO reviewed both detainee files and found that a handbook was acknowledged as being received by both detainees. Additionally, ODO observed the admission process of several detainees, and all detainees were issued the ICE National Detainee Handbook and the local facility handbook during admission. However, the facility only documents that detainees receive "a" handbook. Therefore, ODO could not verify which handbook the detainees acknowledged receiving. ODO requested, and ERO agreed, to provide the two detainees the local facility handbook. See the Inspection Findings, Security, section of this report.

# INSPECTION FINDINGS

## SECURITY

### ADMISSION AND RELEASE (AR)

ODO reviewed 20 active and ten released/transferred detainee files and found that the facility does not require detainees to sign acknowledgment of receipt for both ICE National Detainee Handbook and the local detainee handbook (**Deficiency AR-1**)<sup>9</sup>.

*Corrective Action:* The facility initiated corrective action during the inspection by making a change to the dormitory card. The dormitory card was changed to have a discrete place for detainees to sign for the National Detainee Handbook and a discrete place to sign for the local detainee handbook (**C-1**).

### CUSTODY CLASSIFICATION SYSTEM (CCS)

ODO observed high custody detainees being co-mingled with low custody detainees during ODO's detainee interview session, religious services, sick call hours, and while being escorted through the facility hallways (**Deficiency CCS-1**)<sup>10</sup>.

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

ODO inspected 30 detainee files and confirmed the presence of signed receipts for both funds and valuables. Property inventory forms were present in each file. A review of the grievance log from one year preceding the date of ODO's inspection found no grievances filed related to detainee property. However, during observation of the facility's intake process, ODO found facility staff did not consistently search all arriving detainees' personal property. ODO observed luggage and sealed bags grouped on the floor of the intake room which were not searched by intake staff (**Deficiency F&PP-1**)<sup>11</sup>.

Facility intake staff does not consistently inventory all detainees' personal property during admission, including property that was previously inventoried and sealed by another facility (**Deficiency F&PP-2**)<sup>12</sup>.

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<sup>9</sup> "All detainees as part of the admission process, the detainee shall acknowledge receipt of the handbook and supplement by signing where indicated on the back of the Form I-385 (or on a separate form)." See ICE PBNDS 2011, Standard, Admission and Release, Section (V)(G)(4). **This is a priority component.**

<sup>10</sup> "High custody detainees: are considered high-risk, require medium-to maximum-security housing, are always monitored and escorted, and may not be co-mingled with low custody detainees." See ICE PBNDS 2011, Standard, Custody Classification System, Section (V)(F)(3). **This is a priority component.**

<sup>11</sup> "Staff shall search all arriving detainees' personal property." See ICE PBNDS 2011, Standard, Funds and Personal Property, Section (V)(D).

<sup>12</sup> "An itemized inventory of all detainee baggage and personal property (separate from funds and valuables) shall be completed during admissions processing using the personal property inventory form. Each facility shall inventory all property, even in the event that the property was previously inventoried by another facility and is contained in a sealed bag." See ICE PBNDS 2011, Standard, Funds and Personal Property, Section (V)(I).



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

ODO reviewed 25 employee training files and found the facility documents all required employee training including SAAPI; however, the facility does not consistently document SAAPI training for three contract medical staff or any volunteer staff (**Deficiency SAAPI-1**).<sup>13</sup>

ODO reviewed the facility's SAAPI Policy, Number 2.1.18, dated December 7, 2015, and found the facility does not have written procedures for the transport of a detainee who may need closer observation for the detainee's own safety (**Deficiency SAAPI-2**).<sup>14</sup>

## **SPECIAL MANAGEMENT UNITS (SMU)**

ODO observed four detainees in administrative segregation during the inspection. Administrative orders were completed and issued to the detainees, and a supervisor documented review of the assignments to segregation, including interviews of the detainees. However, ODO interviewed the Chief of Security and found that copies of administrative segregation orders are not forwarded to the FOD or designee (**Deficiency SMU-1**).<sup>15</sup> The Chief of Security stated ERO staff is notified of administrative segregation placements by telephone and by e-mail.

The facility provides detainees one hour of recreation per day, seven days a week; however, under the PBNDS 2011 optimal level of compliance, which the facility is contractually obligated to provide, the facility is required to provide detainees two hours of recreation per day, seven days a week while housed in administrative segregation (**Deficiency SMU-2**).<sup>16</sup>

## **USE OF FORCE AND RESTRAINTS (UoF&R)**

OCPC has hand-held video cameras for use in recording calculated use of force incidents. Per post orders and policy, the video camera equipment is tested on each shift to verify operability. The OCPC log documented there was one use of force incident in the year preceding ODO's inspection. The incident involved immediate use of force on a detainee who struck another detainee during intake. ODO reviewed written documentation of the incident, as well as video taken on a stationary security camera in the area; however, the facility administrator failed to

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<sup>13</sup> "The facility must maintain written documentation verifying employee, volunteer and contractor training." See ICE PBNDS 2011, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(E). **This is a priority component.**

<sup>14</sup> "Detainees identified as being 'at risk' for sexual victimization shall be transported in accordance with that special safety concern. The section on 'Count, Identification and Seating,' found in standard '1.3 Transportation (by Land),' requires that transportation staff seat each detainee in accordance with written procedures from the facility administrator, with particular attention to detainees who may need to be afforded closer observation for their own safety." See ICE PBNDS 2011, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(G)(5).

<sup>15</sup> "A copy of the administrative segregation order shall also be immediately provided to the Field Office Director or his designee." See ICE PBNDS 2011, Standard, Special Management Units, Section (V)(A)(2)(g). **This is a repeat deficiency.**

<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." See ICE PBNDS 2011, Standard, Special Management Units, Section (Z)(2). **This is an optimal provision.**

send a copy of the audiovisual recording of this Use of Force incident to the FOD (**Deficiency UoF&R-1**)<sup>17</sup>.

ERO did not review or approve the after action review procedure in the facility's Use of Force and Restraints policy, and the procedure does not meet ERO's model described in the standard (**Deficiency UoF&R-2**)<sup>18</sup>.

The facility's Use of Force Committee did not review the one Use of Force incident in the past year on the workday following the incident (**Deficiency UoF&R-3**)<sup>19</sup>. Instead, ODO found the referral was not made until nearly one week after the incident occurred and the Warden's documented review and concurrence did not occur until over one year later.

## **JUSTICE**

### **GRIEVANCE SYSTEM (GS)**

ODO reviewed OCPC's grievance logs and found that 79 grievances were filed from September 2015 – August 2016. Of the 79 grievances detainees filed, there were 19 allegations of staff misconduct that were detailed in five specific incidents at the facility. All 79 grievances were internally investigated in a timely manner by the facility; however, copies of the five specific incidents alleging staff misconduct were not forwarded to ICE's OPR Joint Intake Center and/or local OPR office for appropriate action (**Deficiency GS-1**)<sup>20</sup>. Although the facility's Grievance Officer (GO) forwards all allegations of staff misconduct to ERO, a formal process for forwarding copies of these grievances to OPR was not in place at the time of the inspection. ODO informed the AFOD and Warden that IGSA facilities must also forward a copy of any grievances alleging staff misconduct to ERO in a timely manner with a copy going to OPR's Joint Intake Center and/or local OPR office for appropriate action.

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<sup>17</sup> "The facility administrator shall review the audiovisual recording within four working days of the incident and shall then send the Field Office Director a copy for review." See ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(O)(2). **This is a priority component.**

<sup>18</sup> "All facilities shall model their incident review process after ICE/ERO's process and submit it to ICE/ERO for ERO review and approval." See ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(P)(1). **This is a priority component.**

<sup>19</sup> "The facility administrator, the assistant facility administrator, the Field Office Director's designee and the health services administrator (HSA) shall conduct the after-action review. This four-member after-action review team shall convene on the workday after the incident.... The after-action report is due within two workdays of the detainee's release from restraints." See ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(P)(3).

<sup>20</sup> "While such grievances are to be processed through the facility's established grievance system, CDFs and IGSA facilities must also forward a copy of any grievances alleging staff misconduct to ICE/ERO in a timely manner with a copy going to ICE's Office of Professional Responsibility (OPR) Joint Intake Center and/or local OPR office for appropriate action." See ICE PBNDS 2011, Standard, Grievance System, Section (V)(F). **This is a priority component.**