



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

**Office of Detention Oversight
Compliance Inspection**

**Enforcement and Removal Operations
New Jersey Field Office**

**Essex County Correctional Facility
Newark, New Jersey**


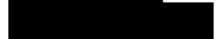
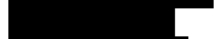
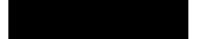
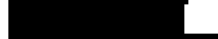
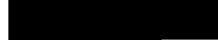
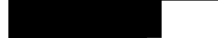

May 7-9, 2019

**COMPLIANCE INSPECTION
of the
Essex County Correctional Facility
Newark, New Jersey**

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FACILITY OVERVIEW

The U.S. Immigration and Customs Enforcement (ICE) Office of Professional Responsibility (OPR) Office of Detention Oversight (ODO) conducted a compliance inspection of the Essex County Correctional Facility (ECCF) in Newark, New Jersey (NJ), from May 7 to 9, 2019.¹ ECCF opened in 2007 and is owned by the County of Essex and operated by Essex County Correctional Department. The ICE Office of Enforcement and Removal Operations (ERO) began housing detainees at ECCF in July 2008, with oversight provided by the ERO Field Office Director (FOD) in Newark, NJ. The facility operates under the ICE Performance-Based National Detention Standards (PBNDS) 2011.

ERO has assigned Deportation Officers (DOs) and a Detention Services Manager (DSM) to the facility. The ECCF Director handles daily facility operations and is supported by two wardens and [REDACTED] personnel. In addition to ICE detainees, ECCF houses county inmates and United States Marshals Service (USMS) prisoners. GD Correctional Services, LLC provides food services and CFG Health Systems provides health services. The facility is accredited by the American Correctional Association (ACA) and the National Commission on Correctional Health Care (NCCHC). ECCF is also certified by the Commission on the Accreditation of Rehabilitation Facilities.

| Capacity and Population Statistics | Quantity |
|--|------------|
| ICE Detainee Bed Capacity ² | 920 |
| Average ICE Detainee Population ³ | [REDACTED] |
| Male Detainee Population (as of 5/7/2019) | [REDACTED] |
| Female Detainee Population (N/A) | N/A |

ODO conducted its last inspection of ECCF in Fiscal Year (FY) 2016. During that inspection, ODO reviewed the facility for compliance with 16 PBNDS 2011 standards and found the facility compliant with nine standards. ODO found 12 deficiencies in the remaining seven standards: Custody Classification Systems (1); Sexual Abuse and Assault Prevention and Intervention (2); Staff-Detainee Communication (2); Use of Force and Restraints (4); Telephone Access (1); Detainee Handbook (1); and Grievance System (1).

¹ This facility holds male detainees with low, medium-low, medium-high and high security classification levels for periods greater than 72 hours.

² Data Source: ERO Facility List Report as of April 1, 2019.

³ *Ibid*

FY 2019 FINDINGS BY PBNDS 2011 MAJOR CATEGORIES

| PBNDS 2011 STANDARDS INSPECTED ⁴ | DEFICIENCIES |
|---|--------------|
| Part 1 – Safety | |
| Environmental Health and Safety | 4 |
| Sub-Total | 4 |
| Part 2 – Security | |
| Admission and Release | 3 |
| Custody Classification System | 2 |
| Funds and Personal Property | 0 |
| Searches of Detainees | 0 |
| Sexual Abuse and Assault Prevention and Intervention | 0 |
| Staff-Detainee Communication | 4 |
| Special Management Units | 2 |
| Use of Force and Restraints | 4 |
| Sub-Total | 15 |
| Part 4 – Care | |
| Food Service | 9 |
| Disability Identification, Assessment, and Accommodation | 0 |
| Medical Care | 3 |
| Medical Care (Women) | N/A |
| Significant Self-harm and Suicide Prevention and Intervention | 0 |
| Personal Hygiene | 2 |
| Sub-Total | 14 |
| Part 5 – Activities | |
| Telephone Access | 0 |
| Sub-Total | 0 |
| Part 6 – Justice | |
| Detainee Handbook | 0 |
| Grievance System | 7 |
| Law Libraries and Legal Material | 1 |
| Sub-Total | 8 |
| Total Deficiencies | 41 |

⁴ For greater detail on ODO's findings, see the *Compliance Inspection Findings* section of this report.

COMPLIANCE INSPECTION PROCESS

ODO conducts oversight inspections of ICE detention facilities with an average daily population greater than ten, and where detainees are housed for more than 72 hours, to assess compliance with ICE national detention standards. These inspections focus solely on facility compliance with detention standards that directly affect detainee life, health, safety, and/or well-being.⁵ ODO identifies violations of ICE detention standards, ICE policies, or operational procedures as “deficiencies”.

For facilities governed by either the PBNDS 2008 or 2011, ODO specifically notes deficiencies related to ICE-designated “priority components,” which are considered critical to facility security and the legal and civil rights of detainees. ODO also highlights instances when the facility resolves deficiencies prior to completion of the ODO inspection. Where applicable, these corrective actions are annotated with “C” under the Compliance Inspection Findings section of this report.

Upon completion of each inspection, ODO conducts a closeout briefing with facility and local ERO officials to discuss preliminary findings. A summary of these findings is shared with ERO management officials. Thereafter, ODO provides ICE leadership with a final compliance inspection report to: (i) assist ERO in developing and initiating corrective action plans; and (ii) provide senior executives with an independent assessment of facility operations. ODO’s findings inform ICE executive management’s decision-making processes to better allocate resources across the agency’s entire detention inventory.

⁵ ODO reviews the facility’s compliance with selected standards in their entirety.

DETAINEE RELATIONS

ODO interviewed 28 detainees, each of whom voluntarily agreed to participate. None of the detainees made allegations of discrimination, mistreatment, or abuse. Most detainees reported satisfaction with facility services except for the concerns listed below.

Medical Care: One detainee stated that he underwent surgery on his left ankle in January 2019, which required rehabilitation and follow-up care, but medical staff did not provide the care he needed.

- Action Taken: ODO reviewed the detainee's medical record, which showed he was transferred to ECCF from the Bergen County Jail (BCJ) in Hackensack, NJ, in March of 2019. During his intake screening, the detainee stated he fractured his ankle, required crutches, and was on pain medication. Medical staff informed ODO the detainee was initially housed in the infirmary pending confirmation of his injury and treatment by BCJ. Upon confirmation, medical staff determined the detainee did not need crutches and cleared him for housing in general population. The detainee's medical record shows he was evaluated by an orthopedic doctor twice in March and May of 2019 and the doctor did not order rehabilitation during either evaluation. An x-ray of the detainee's ankle confirmed his surgery and showed no complications from it. At the time of ODO's inspection, the detainee was currently prescribed pain medication twice a day, which he took as prescribed.

Medical Care: One detainee complained he had ankle pain and needed pain medication, and that he was not receiving his diabetic meal.

- Action Taken: ODO spoke with the Health Services Administrator (HSA), who provided documentation that the detainee was seen by an orthopedic specialist who prescribed the detainee pain medication, that the order for the medication was still active, and that the detainee was taking the medication as prescribed.
- Action Taken: ODO spoke with the HSA, who reviewed the detainee's record and found that medical staff failed to renew his diabetic meal upon its expiration. While on onsite, ODO confirmed that the detainee received the diabetic diet. ODO found the facility deficient in the Medical Care standard due to the detainee not receiving a proper medically-prescribed diet (see the *Compliance Inspection Findings* section of this report).

Medical Care: One detainee complained that he was not receiving proper medical care for his back and ankle pain because medical staff refused to let him use his own ankle braces, which were stored with his property.

- Action Taken: ODO reviewed the detainee's medical record, spoke with the HSA, and learned the detainee was seen by an orthopedic specialist, who provided him exercises to help with back pain, counseled him about back care, and prescribed pain medication twice a day. The HSA stated the detainee was not permitted to use the ankle brace in his property because it contained metal rods which present a security concern. Medical staff did not interact further with the detainee during ODO's inspection.

COMPLIANCE INSPECTION FINDINGS

SAFETY

ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

ODO toured the chemical storage areas in the facility and reviewed documentation provided by senior facility staff and found that although ECCF maintained accurate inventories of chemical storage areas and properly labeled secondary containers, flammable chemicals in the food service chemical room were not stored as directed by their labels (**Deficiency EH&S-1⁶**).

ODO observed that although emergency exit diagrams are strategically placed throughout the facility, instructions on the diagrams are not provided in Spanish, and the diagrams located in the housing units and the facility warehouse do not include “you are here” and “safe refuge” markers. Additionally, fire safety equipment is not included in the legend of the diagrams (**Deficiency EH&S-2⁷**).

ODO reviewed the monthly fire drill reports provided by senior facility staff and confirmed ECCF conducts fire drills each shift and maintains associated documentation in [REDACTED] however, ODO found emergency keys are not drawn, tested, and timed during fire drills (**Deficiency EH&S-3⁸**).

ODO found that although the facility has a dedicated barber shop equipped with a sink, hot and cold running water, and sanitation regulations that are posted in English and Spanish, the barber shop also has neck dusters, which are prohibited under the standard (**Deficiency EH&S-4⁹**).

ODO cites as an **Area of Concern** that although common areas, restrooms, and detainee housing units were generally clean, they were cluttered with personal property stored in a variety of places, including underneath bunks, in corners of cells, and on tabletops. ODO notes proper storage of personal property helps to prevent fire hazards and pest infestations.

⁶ “As required by the Federal Hazardous Substances Labeling Act, any liquid or aerosol labeled “flammable” or “combustible” must be stored and used as prescribed on the label.” See ICE PBND 2011, Standard, Environmental Health and Safety, Section (V)(B)(7)(a).

⁷ “In addition to a general area diagram, the following information must be provided on signs:

- instructions in English, Spanish and the next most prevalent language at the facility;
- ‘You are here’ markers on exit maps; and
- emergency equipment locations.

‘Areas of Safe Refuge’ shall be identified and explained on diagrams. Diagram posting shall be in accordance with applicable fire safety regulations of the jurisdiction.” See ICE PBND 2011, Standard, Environmental Health and Safety, Section (V)(C)(5).

⁸ [REDACTED] shall be included in each fire drill, and [REDACTED]

However, when conducting fire drills, emphasis shall be placed on safe and orderly evacuation rather than speed.” See ICE PBND 2011, Standard, Environmental Health and Safety, Section (V)(C)(4)(c).

⁹ “The common use of brushes, neck dusters, shaving mugs and shaving brushes is prohibited.” See ICE PBND 2011, Standard, Environmental Health and Safety, Section (V)(E)(4).

SECURITY

ADMISSION AND RELEASE (A&R)

ODO found the local ERO field office did not approve ECCF's orientation procedures (**Deficiency AR-1¹⁰**) or release procedures (**Deficiency AR-2¹¹**).

- *Corrective Action:* Prior to completion of the inspection, ERO New Jersey issued a memorandum approving both ECCF's orientation and release procedures (**C-1**).

ODO reviewed the files of 10 detainees who had been released, transferred, or deported and found one was missing an Order to Detain or Release (Form I-203), signed by an authorizing official (**Deficiency AR-3¹²**).

CUSTODY CLASSIFICATION SYSTEM (CCS)

ODO determined that although ECCF's classification policy meets the requirements of the standard, the facility's custody classification instrument was not approved by the local ERO field office (**Deficiency CCS-1¹³**).

- *Corrective Action:* Prior to completion of the inspection, ERO New Jersey issued a memorandum approving ECCF's custody classification instrument (**C-2**).

ODO reviewed 30 detainee classification files and found each file had a Risk Classification Assessment (RCA) with classification levels approved by an ERO supervisor. However, ODO found two detainees who were classified as [REDACTED] housed in [REDACTED] units (**Deficiency CCS-2¹⁴**).

¹⁰ "Orientation procedures in CDFs and IGSA's must be approved in advance by the local ICE/ERO Field Office." See ICE PBNDs 2011, Standard, Admission and Release, Section (V)(F).

¹¹ "ICE/ERO shall approve all facility release procedures." See ICE PBNDs 2011, Standard, Admission and Release, Section (V)(H).

¹² "A detainee's out-processing begins when release processing staff receive the Form I-203, 'Order to Detain or Release,' signed by an authorizing official." See ICE PBNDs 2011, Standard, Admission and Release, Section (V)(H)(1).

¹³ "Each facility shall develop and implement a system for classifying detainees in accordance with this Detention Standard. Facilities may rely on the ICE Custody Classification Worksheet, or a similar locally established system, subject to ICE/ERO evaluation and approval, as long as the classification criteria are objective and uniformly applied, and all procedures meet ICE/ERO requirements." See ICE PBNDs 2011, Standard, Custody Classification System, Section (V)(A). **This is a Priority Component.**

¹⁴ "Ordinarily, detainees in different custody classification levels are housed separately. When it becomes necessary to house detainees of different classification levels in the same housing unit, the following guidelines shall apply:

1. [REDACTED] custody detainees may not be housed with [REDACTED] custody detainees.
2. [REDACTED] custody detainees and [REDACTED] custody detainees may be housed together, and [REDACTED] custody detainees and high custody detainees may be housed together.
3. [REDACTED] custody detainees are those with no history of violent or assaultive charges or convictions, no institutional misconduct, and no gang affiliation.
4. [REDACTED] and [REDACTED] custody detainees are those with a history of violent or assaultive charges, convictions, institutional misconduct, or those with a gang affiliation.

- *Corrective Action:* Prior to completion of the inspection, ECCF moved the detainees to housing units commensurate with their assigned classification levels (C-3).

STAFF-DETAINEE COMMUNICATION (SDC)

ECCF provides detainees with tablets to file SDC requests, grievances, and sick call requests electronically. ODO determined that although the majority of detainee SDC requests regarding facility-related issues are submitted via ECCF's tablet system, which creates an electronic log, the facility does not maintain a comprehensive log of both electronic and handwritten requests (**Deficiency SDC-1¹⁵**).

ECCF allows detainees to submit hand-written SDC requests to ERO, which are retrieved daily; however, ODO found that neither ERO nor the facility staff consistently place completed detainee requests in the detainee's detention file (**Deficiency SDC-2¹⁶**).

ODO found that although ERO's visitation schedule, which informs detainees of their assigned officer and his or her contact information, is posted in all housing units, contact information for ERO officers is not included in the facility handbook (**Deficiency SDC-3¹⁷**).

ODO observed ERO officers do not announce themselves when entering the housing units (**Deficiency SDC-4¹⁸**).

SPECIAL MANAGEMENT UNITS (SMU)

ODO examined the files of 16 detainees housed in the SMU during the 12 months preceding the

5. Under no circumstance may a [REDACTED] custody detainee with a history of assaultive or combative behavior be placed in [REDACTED] custody housing unit."

See ICE PBNDS 2011, Standard, Custody Classification System, Section (V)(G)(1-5). **This is a Priority Component and a repeat deficiency.** Although this concern was cited under Section (V)(F)(1) of the Custody Classification System Standard in ODO's 2016 inspection, the issue of detainees being inappropriately commingled was consistent in both inspections.

¹⁵ "All requests shall be recorded in a logbook (or electronic logbook) specifically designed for that purpose. At a minimum, the log shall record:

- a. date of receipt;
- b. detainee's name;
- c. detainee's A-number;
- d. detainee's nationality;
- e. name of the staff member who logged the request;
- f. date that the request, with staff response and action, was returned to the detainee;
- g. any other pertinent site-specific information, including detention condition complaints;
- h. specific reasons why the detainee's request is urgent and requires a faster response; and
- i. the date the request was forwarded to ICE/ERO and the date it was returned shall also be recorded."

See ICE PBNDS 2011, Standard, Staff-Detainee Communication, Section (V)(B)(2)(a-i).

¹⁶ "A copy of each completed detainee request shall be filed in the detainee's detention file and be retained there for three years at minimum." See ICE PBNDS 2011, Standard, Staff-Detainee Communication, Section (V)(B)(2).

¹⁷ "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." See ICE PBNDS 2011, Standard, Staff-Detainee Communication, Section (V)(A).

¹⁸ "ICE/ERO staff members shall announce their presence when entering a housing unit." See ICE 2011 PBNDS, Standard, Staff-Detainee Communication, Section (V)(A). **This is a repeat deficiency.**

inspection and found three administrative segregation orders that did not indicate the date and time the detainee was released from SMU (**Deficiency SMU-1¹⁹**). ODO also found four disciplinary segregation orders that did not indicate the date and time the detainee was released from the SMU (**Deficiency SMU-2²⁰**).

USE OF FORCE AND RESTRAINTS (UOF&R)

ODO reviewed ECCF's use of force policy, which states the facility will have an after-action review team for use of force incidents comprising the ECCF Director, ECCF Assistant Director, ECCF HSA, and the ICE FOD's designee. ODO reviewed the after-action review reports for 13 use of force incidents that occurred during the year prior to the inspection and found neither the HSA nor the FOD's designee participated in any of the after-action reviews (**Deficiency UOF&R-1²¹**).

ODO found none of the incident files for the 13 use of force incidents contained the corresponding medical reports (**Deficiency UOF&R-2²²**). ODO also found that one of the 13 detainees was not examined by medical staff following the use of force incident (**Deficiency UOF&R-3²³**).

ODO reviewed documentation for a calculated use of force incident conducted on September 11, 2018, and found ECCF did not audio-visually record the incident (**Deficiency UOF&R-4²⁴**).

ODO reviewed documentation for a calculated use of force conducted on February 23, 2019, and determined ECCF did not complete an after-action review within two working days of the detainee's release from restraints (**see Deficiency UOF&R-1**). ODO notes that although the detainee was released from restraints the same day as the incident, the after-action review was not conducted until several weeks later.

¹⁹ "When the detainee is released from the SMU, the releasing officer shall indicate the date and time of release on the administrative segregation order. The completed order shall then be forwarded to the Chief of Security for inclusion in the detainee's detention file." *See* ICE PBNDS 2011, Standard, Special Management Units, Section (V)(A)(2)(h).

²⁰ "When the detainee is released from the SMU, the releasing officer shall indicate the date and time of release on the disciplinary segregation order. The completed order shall then be forwarded to the Chief of Security for inclusion in the detainee's detention file." *See* ICE PBNDS 2011, Standard, Special Management Units, Section (V)(B)(2)(c).

²¹ "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 review team shall gather relevant information, determine whether policy and procedures were followed, make recommendations for improvement, if any, and complete an after-action report to record the nature of its review and findings. 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).

²² "Staff shall prepare a use of force form for each incident involving use of force. The report shall identify the detainee(s), staff and others involved and describe the incident...The report, accompanied by the corresponding medical report(s), must be submitted to the facility administrator by the end of the shift during which the incident occurred." *See* ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(O)(2).

²³ "A health professional shall test the detainee's breathing, other vital signs and physical and verbal responses." *See* ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(N)(2).

²⁴ "While ICE/ERO requires that all use-of-force incidents be documented and forwarded to ICE/ERO for review, for calculated use of force, it is required that the entire incident be audio visually recorded. The facility administrator or designee is responsible for ensuring that use of force incidents are audio visually recorded." *See* ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(I)(2). **This is a Priority Component.**

CARE

FOOD SERVICE (FS)

ODO observed a housing unit officer checking the food in the satellite food cart without wearing gloves, a hair restraint, or a beard guard (**Deficiency FS-1**²⁵).

ODO accompanied a food cart to a detainee housing unit during the noon meal and observed a flat pan of cornbread was served from atop a trash receptacle in the housing unit (**Deficiency FS-2**²⁶). ODO also observed detainee food service workers serving the cornbread without the use of a utensil (**Deficiency FS-3**²⁷). Although staff took immediate action to move the cornbread to a proper serving area and to use utensils to serve the cornbread when ODO pointed out the concern, ODO suggests proper serving methods may be a longer-term training issue that should be reviewed with food service and housing unit staff and monitored on a regular basis.

ODO toured the food service area multiple times during the inspection and noted several sanitation concerns in the main kitchen and in the serving lines in detainee housing [REDACTED] including the following (**Deficiency FS-4**²⁸):

- The floors in the food service warehouse freezer (walk-in cooler #7) and behind the double ovens need to be cleaned to remove trash, food debris, and food stains;
- The pots and pans stored on the clean pot and pan rack were soiled with food debris;
- The food strainer motors, located above the tall steam kettles, need to be cleaned to remove dirt; and,
- The cooler well for the serving line, located in detainee housing [REDACTED] needs to be cleaned to remove food debris and defrosted to remove a ring of ice around the well.

ODO observed the trash receptacles located throughout food service were not covered with lids (**Deficiency FS-5**²⁹).

²⁵ “All staff and detainees working in the food preparation and service area(s) shall use effective hair restraints. Personnel with hair that cannot be adequately restrained shall be prohibited from food service operations. Head coverings, gloves and beard guards are encouraged, but not required, when staff members are distributing covered serving trays.” See ICE PBNDS 2011, Standard, Food Service, Section (V)(J)(2)(d).

²⁶ “Every open food item and beverage shall be protected from contaminants by easily cleaned sneeze-guards, cabinets, display cases or other such equipment.” See ICE PBNDS 2011, Standard, Food Service, Section (V)(D)(2)(b).

²⁷ “Servers must wear food-grade plastic gloves and hair nets whenever there is direct contact with a food or beverage. Servers must use tongs, forks, spoons, ladles or other such utensils to serve any food or beverage. Serving food without use of utensils is strictly prohibited.” See ICE PBNDS 2011, Standard, Food Service, Section (V)(D)(2)(c).

²⁸ “All food service employees are responsible for maintaining a high level of sanitation in the food service department. An effective food sanitation program prevents health problems, creates a positive environment and encourages a feeling of pride and cooperation among detainees.” See ICE PBNDS 2011, Standard, Food Service, Section (V)(J)(1).

²⁹ “Garbage and other trash shall be collected and removed as often as possible. Garbage/refuse containers shall have sufficient capacity for the volume and shall be kept covered, insect- and rodent-proof and frequently cleaned. The facility shall comply with all applicable regulations (local, state and federal) on refuse handling and disposal and

- *Corrective Action:* Prior to the completion of the inspection, ECCF placed covers on the trash receptacles (C-4).

ODO reviewed daily inspection reports provided by the facility’s Food Service Director (FSD) and found that while the inspection reports were comprehensive, well-written, and reviewed for corrective action by the FSD, copies of the reports were not forwarded to the facility administrator for review and corrective action verification (**Deficiency FS-6³⁰**).

ODO observed a flammable spray cleaner (brand name “Steel”) stored in the kitchen chemical storage room with other chemicals instead of in a flammables cabinet (**Deficiency FS-7³¹**).

ODO inspected the transport sack meals prepared for detainees and found the meals do not include vegetables or commercially packaged snack foods as an extra item (**Deficiency FS-8³²**).

ODO inspected the warehouse walk-in freezer and determined the freezer is not equipped with a safety release lock (**Deficiency FS-9³³**).

MEDICAL CARE (MC)

ODO identified one instance in which a detainee requested a complete copy of his medical record and the request was denied (**Deficiency MC-1³⁴**).

Detainees at ECCF may access routine sick call by submitting a sick call request electronically using a tablet or with a paper request form. ODO found six sick call requests submitted via the

standard ‘1.2 Environmental Health and Safety.’” See ICE PBNDS 2011, Standard, Food Service, Section (V)(J)(5)(j).

³⁰ “Personnel inspecting the food service department shall note any recommended corrective actions in a written report to the facility administrator. The facility administrator shall establish the date by which identified problems shall be corrected.” See ICE PBNDS 2011, Standard, Food Service, Section (V)(J)(13).

³¹ “Facilities must possess hazard-free storage areas:...

- 2) No flammable material, loose cords, debris or other obvious hazards may be present.”

See ICE PBNDS 2011, Standard, Food Service, Section (V)(J)(5)(f)(2).

³² “In addition, each sack shall include:...

- 3) such extras as:
 - a) properly packaged fresh vegetables, like celery sticks and carrot sticks; or
 - b) commercially packaged “snack foods,” such as peanut butter crackers, cheese crackers and individual bags of potato chips.”

See ICE PBNDS 2011, Standard, Food Service, Section (V)(I)(6)(c)(3) (a and b).

³³ “Refrigeration units shall be kept under lock and key when not in use. Walk-in boxes shall be equipped with safety locks that require no more than 15 pounds of pressure to open easily from the inside. If latches and locks are incorporated in the door’s design and operation, the interior release mechanism must open the door with the same amount of pressure even when locks or bars are in place. Whether new or used, the inside lever of a hasp-type lock must be able to disengage locking devices and provide egress. The FSA, along with the Safety Manager, shall review the walk-in freezer(s) and refrigerator(s) to ensure that they operate properly.” See ICE PBNDS 2011, Standard, Food Service, Section (V)(K)(8).

³⁴ “Upon his/her request, while in detention, a detainee or his/her designated representative shall receive information from their medical records. Copies of health records shall be released by the HSA directly to a detainee or their representative....” See ICE PBNDS 2011, Standard, Medical Care, Section (V)(BB)(2).

tablets were not triaged by medical staff within 24 hours (**Deficiency MC-2³⁵**). ODO found that once a sick call request is time stamped as received, the electronic program creates a task completion date for 11:59 p.m. the following calendar day. For example, if a detainee submits a sick call request on a Monday morning at 8:00 a.m., the program will indicate the sick call triage is not due until Tuesday at 11:59 p.m.

ODO reviewed the medical record of a detainee with Type II Diabetes whose treatment plan included oral medication, insulin when needed, and a diabetic diet. ODO found that although the medical provider who conducted the detainee's annual physical examination did not change his treatment plan, the provider failed to renew his diabetic diet and, as a result, the detainee did not receive diabetic meals for ten days until the error was identified and corrected by facility medical staff (**Deficiency MC-3³⁶**).

ODO noted as a **Best Practice** that ECCF utilizes an electronic medical record (EMR) for detainee medical, dental, and mental health records, and that nurses utilize laptop computers in the housing units to document medication rounds in detainee medication administration records. Additionally, ODO noted as a **Best Practice** that ECCF employs medical record clerks to scan any hard copy medical documentation into detainee EMRs. These practices promote thorough and consistent medical documentation and consistency in medical care.

PERSONAL HYGIENE (PH)

ODO did not review the PH standard in its entirety; however, during the inspection, ODO observed several housing units did not meet the minimum required ratio of one shower to every 12 detainees. Five ICE housing units had a capacity of [REDACTED] detainees and only two showers. Five other ICE housing units had a capacity of [REDACTED] detainees with only four showers (**Deficiency PH-1³⁷**).

ODO observed ECCF's intake and release processing area contains three holding rooms, two with a capacity of fourteen and one with a capacity of ten. While the small holding room has a toilet with a modesty wall separating it from the rest of the room, the two larger holding rooms do not provide privacy for detainees to use the toilet (**Deficiency PH-2³⁸**). ODO observed detainees are

³⁵ "An established procedure shall be in place at all facilities to ensure that all sick call requests are received and triaged by appropriate medical personnel within 24 hours after a detainee submits the request." *See* ICE 2011 PBNDS, Standard, Medical Care, Section (V)(S)(4).

³⁶ "All prescribed medications and medically necessary treatments shall be provided to detainees on schedule and without interruption, absent exigent circumstances." *See* ICE 2011 PBNDS, Standard, Medical Care, Section (V)(U)(4), and NCCHC J-E-04 (Essential).

³⁷ "Detainees shall be provided: ...

3. operable showers that are thermostatically controlled to temperatures between 100 and 120 F degrees, to ensure safety and promote hygienic practices. ACA Expected Practice 4-ALDF-4B-09 requires a minimum ratio of one shower for every 12 detainees."

See ICE PBNDS 2011, Standard, Personal Hygiene, Section (V)(E)(3).

³⁸ "Detainees shall be provided with a reasonably private environment in accordance with safety and security needs. Detainees shall be able to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement. Staff of the opposite gender shall announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing." *See* ICE PBNDS 2011, Standard, Personal Hygiene, Section (V)(E)(3).

in plain view of other detainees in the holding cell as well as opposite-gender staff in the area.

JUSTICE

GRIEVANCE SYSTEM (GS)

ODO found that while ECCF's detainee handbook provides written procedures for detainees to file a grievance, it does not provide a written policy on urgent access to legal counsel or the law library (**Deficiency GS-1**³⁹).

While detainees can submit grievances using the facility-provided tablet system, the tablet system is routinely disabled from 1:00 p.m. to 3:00 p.m. Because detainee forms are not readily available upon request, detainees must wait until the tablet system is enabled to submit a grievance (**Deficiency GS-2**⁴⁰).

ODO found the tablet system creates an electronic log by automatically time stamping all grievances upon submission; however, when a detainee submits a handwritten grievance, the facility does not include the grievances in the electronic log and the grievance officer has not created a separate log to document written grievances. As a result, ODO determined that not all detainee grievances are consistently recorded in a grievance log (**Deficiency GS-3**⁴¹).

Although the tablet system is also used to respond to detainees, it does not consistently show that grievances have been resolved in the automated system (**Deficiency GS-4**⁴²). Specifically, the tablet system does not log the response times or resolution dates for grievances with an appeal or additional correspondence.

ODO determined detainees are not provided a written grievance response within the allotted five business days (**Deficiency GS-5**⁴³).

ODO determined copies of detainee grievances are not consistently placed in the detainee's

³⁹ "Each facility shall implement written procedures for identifying and handling a time-sensitive emergency grievance that involves an immediate threat to health, safety or welfare. Written procedures shall also cover urgent access to legal counsel and the law library." See ICE PBNDS 2011, Standard, Grievance System, Section (V)(C)(2).

⁴⁰ "Staff shall provide the number of forms and envelopes requested by the detainee. Within reason, detainees are not limited in the number of forms and envelopes they may request." See ICE PBNDS 2011, Standard, Grievance System, Section (V)(C)(3).

⁴¹ "Each facility shall maintain a detainee grievance log that shall be subject to regular inspection by the Field Office Director and ICE headquarters staff...Facility staff shall assign each grievance a log number, enter it in the space provided on the detainee grievance form, and record it in the detainee grievance log in chronological order..." See ICE PBNDS 2011, Standard, Grievance System, Section (V)(D).

⁴² "GO [grievance officer] or designee shall note the grievance log with the following information: date grievance filed; name of detainee that filed grievance; nature of the grievance; date decision provided to detainee; and outcome of the adjudication." See ICE PBNDS 2011, Standard, Grievance System, Section (V)(C)(3)(b)(1)(c). **This is a Priority Component.**

⁴³ "Detainee shall be provided with a written or oral response within five days of receipt of the grievance." See ICE PBNDS 2011, Grievance System, Section (V)(C)(3)(b)(1)(b).

detention file (**Deficiency GS-6**⁴⁴).

ODO reviewed both routine and emergency detainee medical grievances and determined that although grievances are received and processed by medical staff in a timely manner, medical staff do not consistently provide a written response within five days of receipt (**Deficiency GS-7**⁴⁵).

LAW LIBRARIES AND LEGAL MATERIAL (LL&LM)

Although the facility implemented a rotational schedule to give detainees flexibility in when they may use the law library, and that law library hours are posted in each housing unit, the facility detainee handbook does not provide the scheduled hours of access (**Deficiency LL&LM-1**⁴⁶).

⁴⁴ “A copy of the grievance disposition shall be placed in the detainee’s detention file....” *See* ICE PBNDS 2011, Standard, Grievance System, Section (V)(D). **This is a Priority Component and a repeat deficiency.**

⁴⁵ “Designated medical staff shall act on the grievance within five working days of receipt and provide the detainee a written response of the decision and the rationale.” *See* ICE PBNDS 2011, Standard, Grievance System, Section (V)(C)(4).

⁴⁶ “The detainee handbook or supplement shall provide detainees the rules and procedures governing access to legal materials, including the following information:

2. the scheduled hours of access to the law library.”

See ICE PBNDS 2011, Standard, Law Libraries and Legal Material, Section (V)(N)(2).

CONCLUSION

ODO reviewed the facility's compliance with 19 standards under the PBNDS 2011. ODO found the facility compliant with seven standards and identified 41 deficiencies in the remaining 11 standards. Two of those deficiencies were the result of ERO New Jersey not having approved facility policies and procedures.

ODO noted ECCF's use of an EMR and nurses' use of laptop computers in the housing units to document medication rounds in detainee medication administration records, as a **Best Practice**. Additionally, ECCF employs medical record clerks to scan any hard copy medical documentation into detainee EMRs. These practices promote thorough and consistent medical documentation and consistency in medical care.

ECCF's tablet system, which allows detainees to submit SDC requests, grievances, and sick call requests electronically, facilitates more effective communication between facility staff and detainees. ODO recommends the facility develop a method for comprehensively logging both electronic and handwritten SDC requests, grievances, and sick call requests to ensure all are tracked and addressed appropriately.

ODO recommends ERO work with the facility to remedy any outstanding deficiencies, as applicable and in accordance with contractual obligations.

| Compliance Inspection Results Compared | FY 2016 (PBNDS 2011) | FY 2019 (PBNDS 2011) |
|---|---------------------------------|---------------------------------|
| Standards Reviewed | 16 | 19 |
| Deficient Standards | 7 | 11 |
| Overall Number of Deficiencies | 12 | 41 |
| Deficient Priority Components | 6 | 7 |
| Corrective Actions | 4 | 4 |
| Repeat Deficiencies | N/A | 3 |