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Office of Professional Responsibility
Inspections and Detention Oversight Division
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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

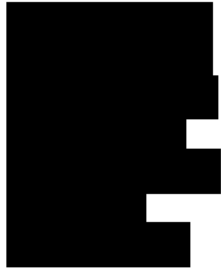
September 10-12, 2019

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

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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 Otero County Processing Center (OCPC) in Chaparral, New Mexico, from September 10 to 12, 2019.¹ The facility opened in 2008 and is owned by Otero County and operated by Management and Training Corporation. The ICE Office of Enforcement and Removal Operations (ERO) began housing detainees at OCPC in 2008 under the oversight of ERO's Field Office Director (FOD) in El Paso (ERO El Paso). The facility operates under the Performance-Based National Detention Standards (PBNDS) 2011 (Revised 2016).²

ERO Deportation Officers and a Detention Services Manager are not assigned to the facility. A Warden handles daily facility operations and is supported by [REDACTED] personnel. Management and Training Corporation provides food and medical 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 ³	1000
Average ICE Detainee Population ⁴	958
Male Detainee Population (as of 9/10/2019)	960
Female Detainee Population (as of 9/10/2019)	N/A

During the 2016 inspection, ODO found 12 deficiencies in the following areas: Admission and Release (1); Custody Classification System (1); Funds and Personal Property (2); Grievance System (1); Special Management Units (2); Sexual Abuse and Assault Prevention and Intervention (2); and Use of Force and Restraints (3).

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

² The facility was contractually obligated to comply with all optimal provisions. For all types of facilities, procedures that appear in italics with a marked (**) on the page indicate optimum levels of compliance for the standard.

³ Data Source: ERO Facility List Report as of September 9, 2019.

⁴ *Ibid.*

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 over 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 also 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 in their decision-making to better allocate resources across the agency’s entire detention inventory.

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

FINDINGS BY PERFORMANCE-BASED NATIONAL DETENTION STANDARDS 2011 MAJOR CATEGORIES

PBND Standards Inspected ⁶	Deficiencies
Part 1 – Safety	
Environmental Health and Safety	0
Sub-Total	0
Part 2 – Security	
Admission and Release	5
Custody Classification System	2
Funds and Personal Property	1
Sexual Abuse and Assault Prevention and Intervention	0
Special Management Units	0
Staff-Detainee Communication	1
Use of Force and Restraints	4
Sub-Total	13
Part 4 – Care	
Food Service	4
Medical Care	0
Significant Self-harm and Suicide Prevention and Intervention	0
Disability Identification, Assessment, and Accommodation	1
Sub-Total	5
Part 5 – Activities	
Recreation	2
Religious Practices	0
Telephone Access	2
Visitation	0
Sub-Total	4
Part 6 – Justice	
Grievance System	2
Law Libraries and Legal Materials	0
Sub-Total	2
Total Deficiencies	24

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

DETAINEE RELATIONS

ODO interviewed 35 detainees, who each 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.

Food Service: Detainees in all the housing units stated they do not have microwave ovens to heat commissary purchased soups and the water from the housing unit sinks was not hot enough to heat the soups. The detainees also stated microwave ovens were placed in one housing unit but were removed after a month.

- Action Taken: ODO discussed the detainee complaints with OCPC management and was informed they were aware that detainees have requested microwave ovens for their housing units. Facility leadership stated they placed a microwave oven in one detainee housing unit for about a month as a trial. On June 18, 2019, the facility submitted a proposal in the amount of [REDACTED] for the purchase of microwave ovens to be installed in every dorm for detainee use. The funds were to be derived from the Inmate Welfare Fund, which is a fund from the accumulation of commission the facility receives from Keefe from detainee purchases. The facility used the fund to benefit detainees in programs for recreation, arts and crafts, and other commodities. On July 18, 2019, the facility received a response from the contracting officer's representative (COR) stating the contract officer could not approve the purchase because the associated cost was not in accordance with the inter-governmental service agreement contract, schedule D: other direct jail operating cost. On July 18, 2019, the ERO El Paso Deputy FOD informed the facility that microwave ovens were not in line with any other facilities within their area of responsibility and he did not support the request. On July 19, 2019, the facility received a final notice from the COR stating that field office management did not support the purchase of microwave ovens. ODO tested the water temperatures in the detainee housing units and found the water temperatures met the standard requirements.

Medical Care: One detainee stated the diabetic diet he is on is inadequate to control his diabetes. He also stated the facility told him he would get a tooth extraction but has not heard back from the facility.

- Action Taken: ODO reviewed the detainee's medical record with facility medical staff and determined the detainee arrived at OCPC on January 18, 2019, and was seen by the facility physician in the diabetic chronic care clinic on three occasions. The detainee had been on a diabetic diet since February 11, 2019, and according to the detainee's medical record, the detainee had never complained of an inadequate diet. The detainee's medical record noted his diabetes has been managed and was under control. On September 11, 2019, facility medical staff spoke to the detainee and informed him his diabetes is under control, his diet does not need to be modified, and the tooth extraction has been scheduled. On August 23, 2019, the detainee submitted a sick call request complaining about his wisdom tooth and the facility referred the detainee to the dentist. On August 27, 2019, the dentist evaluated the detainee and prescribed antibiotics and Motrin for pain for seven days. The detainee refused to take the medication stating he does not need them. On September 27, 2019, the facility scheduled the detainee for a tooth extraction; however, the facility did not inform the detainee of the date due to security considerations.

Medical Care: One detainee stated he wanted to see the physician because he is epileptic and believes the headaches he was having were an indication he was going to have a seizure.

- Action Taken: ODO reviewed the detainee's medical record and determined the detainee was seen by facility medical staff on September 9, 2019, one day prior to the interview. On September 10, 2019, the facility's physician evaluated the detainee and prescribed an injection of Toradol. The physician also prescribed cyclobenzaprine and prednisone for pain and inflammation. Facility medical staff informed ODO they will follow up with the physician regarding the above prescriptions on September 14, 2019, the physician's next scheduled day to be on-site, and then follow-up with the detainee regarding his treatment plan.

Recreation: All detainees interviewed stated there was no shade in the outside recreation area, and they would like to have shade available to them, so they may participate in outdoor recreation during the very hot summer months.

- Action Taken: ODO discussed this issue with OCPC management. The facility was informed by ERO El Paso that the purchase and installation of canopies fell within the facility project category and to submit a request for funding to Otero County for review and consideration of the request.

COMPLIANCE INSPECTION FINDINGS

SECURITY

ADMISSION AND RELEASE (A&R)

ODO reviewed 25 detainee files found none of the files contained an Order to Detain or Release (Form I-203) (**Deficiency A&R-1**⁷).

OCPC provided detainees an orientation during their intake, but the orientation the facility provided was specific to the El Paso Processing center and did not provide an orientation for programs and services available at OCPC (**Deficiency A&R-2**⁸).

ODO reviewed the facility's orientation and release procedures and found nothing to indicate ERO El Paso reviewed and approved OCPC's orientation procedures (**Deficiency A&R-3**⁹) or release procedures (**Deficiency A&R-4**¹⁰).

Corrective Action: Prior to the completion of the inspection, the facility initiated corrective action. Specifically, the Assistant FOD (AFOD) reviewed the facility's orientation and release procedures, and issued a memorandum dated September 11, 2019, which approved

⁷ "An Order to Detain or an Order to Release the detainee (Form I-203 or I-203a), bearing the appropriate ICE/ERO Authorizing Official signature, must accompany each newly arriving detainee." See ICE PBNDS 2011, Standard, Admission & Release, Section (V)(E). **This is a Priority Component.**

⁸ "At SPCs, CDFs, and dedicated IGSAs, the facility administrator shall produce an orientation video that covers the required topics listed below and shall screen it for every detainee..."

The orientation shall include the following information:

1. an overview of the facility operations that most affect the detainees;
2. typical detention-case chronology (what most detainees can expect);
3. authority, responsibilities and duties of security officers;
4. procedures for the detainee to contact the deportation officer handling his/ her docket;
5. availability of pro bono legal services, and how to pursue such services in the facility, including accessing "Know Your Rights" presentations (e.g., location of current listing);
6. standards of conduct, including acceptable and unacceptable detainee behavior, with an overview of other rules and requirements;
7. disciplinary procedures, including criminal prosecution, grievance procedures, appeals process;
8. the facility's Sexual Abuse and Assault Prevention and Intervention Program, including (at a minimum): a. self-protection; b. prevention and intervention; c. reporting sexual abuse or assault; and d. treatment and counseling.
9. introduction to the individual departments (e.g., recreation, medical); the various housing units; and food services, including availability of diets which satisfy religious requirements;
10. schedule of programs, services and daily activities, including visitation, telephone usage, mail service, religious programs, count procedures, access to and use of the law library and the general library, and sick-call procedures;
11. voluntary work program, with specific details including how to volunteer; and
12. how the detainee can file formal complaints with the DHS Office of the Inspector General (OIG)."

See ICE PBNDS 2011, Standard, Admission and Release, Section (V)(F)(1) through (12).

⁹ "Orientation procedures in CDFs and IGSAs must be approved in advance by the local ICE/ERO Field Office." See ICE PBNDS 2011, Standard, Admission and Release, Section (V)(F).

¹⁰ "ICE/ERO shall approve all facility release procedures." See ICE PBNDS 2011, Standard, Admission and Release, Section (V)(H).

the orientation and release procedures (C-1).

ODO reviewed 10 detainee files for detainees the facility released during the year preceding the inspection and found none of the detainee files contained the Form I-203 (Deficiency A&R-5¹¹).

CUSTODY CLASSIFICATION SYSTEM (CCS)

ODO reviewed the facility's classification policy and procedures and found nothing to indicate ERO El Paso reviewed and approved OCPC's classification procedures (Deficiency CCS-1¹²).

Corrective Action: Prior to the completion of the inspection, the facility initiated corrective action. Specifically, the AFOD reviewed the facility's classification procedures, and issued a memorandum dated September 11, 2019, which approved the classification procedures (C-2).

For each intake, ERO El Paso provided the facility a Record of Persons Transferred (Form I-216) and a copy of the detainee's Enforce Alien Removal Module information. However, the documentation ERO El Paso provided did not meet the standard requirement for acceptable forms and information the facility may use to classify detainees (Deficiency CCS-2¹³).

FUNDS AND PERSONAL PROPERTY (F&PP)

ODO inspected the detainee housing units and observed the detainees did not have lockers or other

¹¹ "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).

¹² "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.**

¹³ "During the classification process, staff shall reference facts and other objective, credible evidence documented in the detainee's [REDACTED] or other objective sources of information. ...

As appropriate, ICE/ERO offices shall provide non-ICE/ERO facilities with the relevant information for the facility to classify ICE/ ERO [sic] detainees. ...

securable space for storing authorized personal property (**Deficiency F&PP-1¹⁴**).

STAFF-DETAINEE COMMUNICATION (SDC)

The detainee handbook did not include procedures for detainees to submit written questions, requests, or concerns to ERO El Paso, as well as the availability of assistance to prepare requests (**Deficiency SDC-1¹⁵**).

Corrective Action: Prior to the completion of the inspection, the facility initiated corrective action by updating the detainee handbook to include procedures, which informed detainees how to submit written questions, requests or concerns to ERO El Paso, and informed the detainees assistance is available to prepare requests (**C-3**).

USE OF FORCE AND RESTRAINTS (UOF&R)

ODO reviewed the facility's UOF&R policy and procedures and found nothing to indicate ERO El Paso approved OCPC's UOF form (**Deficiency UOF&R-1¹⁶**).

Corrective Action: Prior to the completion of the inspection, the facility initiated corrective action. Specifically, the AFOD reviewed the facility's UOF form, and issued a memorandum dated September 11, 2019, which approved the facility's UOF form (**C-4**).

ODO found nothing to indicate ERO El Paso approved OCPC's UOF after-action procedures. (**Deficiency UOF&R-2¹⁷**).

Corrective Action: Prior to the completion of the inspection, the facility initiated corrective action. Specifically, the AFOD reviewed the facility's UOF after-action procedures, and issued a memorandum dated September 11, 2019, which approved the facility's UOF after-action procedures (**C-5**).

ODO reviewed six UOF files and found one out of six UOF files did not contain documentation of an after-action review following a UOF incident (**Deficiency UOF&R-3¹⁸**).

¹⁴ "Every housing area shall have lockers or other securable space for storing detainees' authorized personal property." See ICE PBNDS 2011, Standard, Funds and Personal Property, Section (V)(E).

¹⁵ "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).

¹⁶ "All facilities shall have an ICE/ERO-approved form to document all uses of force." See ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(O)(2).

¹⁷ "All facilities shall have ICE/ERO-approved written procedures for after-action review of use of force (immediate or calculated) and application of restraints." See ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(P)(1). **This is a repeat deficiency.**

¹⁸ "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

ODO reviewed the audio-video recordings of two calculated UOF incidents and found one audio-video recording did not include an introduction by the team leader and a debrief of the incident (**Deficiency UOF&R-4¹⁹**).

CARE

FOOD SERVICE (FS)

ODO inspected the dry storage room and found the [REDACTED] and [REDACTED], which contained [REDACTED] ingredient, were not stored in a secure area of the food service department (**Deficiency FS-1²⁰**).

ODO reviewed [REDACTED] food service staff files and determined [REDACTED] out of [REDACTED] staff files did not contain a pre-employment medical clearance (**Deficiency FS-2²¹**).

ODO inspected the dinnerware of the main serving line during the afternoon meal and found food trays, cups, bowls, and tumblers were wet and were not stored in perforated storage racks in an inverted position as required by the standard (**Deficiency FS-3²²**).

ODO inspected the dish washing machine equipment and found the hot water boosters for both dish washing machines were inoperable (**Deficiency FS-4²³**).

DISABILITY IDENTIFICATION, ASSESSMENT AND ACCOMMODATION (DIA&A)

The facility orientation program and the detainee handbook did not notify nor inform detainees

the detainee's release from restraints." See ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(P)(3).

¹⁹ "Calculated use-of-force incidents shall be audio visually-recorded in the following order:

a. Introduction by Team Leader stating facility name, location, time, date, etc., describing the incident that led to the calculated use of force, and naming the audiovisual camera operator and other staff present. ...

f. Debrief the incident with full discussion/analysis/assessment of the incident." See ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(I)(2)(a) and (f).

²⁰ "Other Food Items

[REDACTED] also require special handling and storage...

2) Staff shall store and inventory these items in a secure area in the food service department. See ICE PBNDS 2011, Standard, Food Service, Section (V)(B)(4)(b)(2).

²¹ "The facility administrator shall document that food service personnel have received a pre-employment medical examination to identify communicable diseases that may contraindicate food service work." See ICE PBNDS 2011, Standard, Food Service, Section (V)(J)(3).

²² "... 4) Except for fixed equipment and utensils too large to be cleaned in sink compartments, the following procedures apply to cleaning equipment and utensils: ...

c) Sanitize in the third compartment using one of the following methods: ...

vi. Air dry utensils and equipment after sanitizing. ...

h. Equipment and Utensil Storage. Eating utensils shall be picked up by their bases or handles only. Utensils shall be stored in perforated pans only. Glasses, tumblers and cups shall be inverted before storing. Other tableware and utensils may be either covered or inverted." See ICE PBNDS 2011, Standard, Food Service, Sections (V)(J)(7)(f)(4)(c)(vi) and (V)(J)(7)(h).

²³ "Mechanical Cleaning and Sanitizing Spray or immersion dishwashers or devices, including automatic dispensers for detergents, wetting agents and liquid sanitizer, shall be maintained in good repair." See ICE PBNDS 2011, Standard, Food Service, Section (V)(J)(7)(g).

about the facility's disability accommodations policy, including their right to request reasonable accommodations and how to make such a request (**Deficiency DIA&A-1**²⁴).

ACTIVITIES

RECREATION (R)

ODO reviewed the facility's recreation policy and schedule, and found the facility offered detainees in general population two hours of outside recreation per day, seven days a week, and not four hours per day as required under the standard (**Deficiency R-1**²⁵).

ODO inspected the detainee housing units and found the facility provided two televisions in each housing unit; however, the facility did not provide frequency modulation wireless headsets for television viewing as required under the standard (**Deficiency R-2**²⁶).

TELEPHONE ACCESS (TA)

ODO observed up-to-date telephone and consulate lists in all detainee general population housing units; however, the restricted housing unit had outdated telephone and consulate lists from 2012 and 2016 respectively (**Deficiency TA-1**²⁷).

[REDACTED]
(**Deficiency TA-2**²⁸).

JUSTICE

GRIEVANCE SYSTEM (GS)

ODO reviewed the facility's grievance policy and procedures and found the facility did not have a written policy and/or procedure, which included the requirement for the administrative health authority to receive medical grievances within 24 hours or the next business day (**Deficiency GS-**

²⁴ "The facility orientation program required by standard 2.1, "Admission and Release," and the detainee handbook required by standard 6.1, "Detainee Handbook," shall notify and inform detainees about the facility's disability accommodations policy, including their right to request reasonable accommodations and how to make such a request. The facility will post other documents for detainee awareness in detainee living areas and in the medical unit, as requested by the local ICE/ERO Field Office." See ICE PBNDS 2011, Standard, Disability Identification, Assessment, and Accommodation, Section (V)(J).

²⁵ "***Detainees in the general population shall have access at least four hours a day, seven days a week to outdoor recreation, weather and scheduling permitted." See ICE PBNDS 2011, Standard, Recreation, Section (V)(B). **This is an optimal provision.**

²⁶ "***Detainees shall be provided FM wireless headsets for television viewing, with access to appropriate language stations or choices." See ICE PBNDS 2011, Standard, Recreation, Section (V)(D)(11). **This is an optimal provision.**

²⁷ "Updated telephone and consulate lists shall be posted in detainee housing units." See ICE PBNDS 2011, Standard, Telephone Access, Section (V)(C).

²⁸ [REDACTED]

1²⁹).

The facility's established grievance policy and procedures included three levels of review, but the facility had not established a grievance appeal board or equivalent (**Deficiency GS-2³⁰**).

CONCLUSION

During this inspection, ODO assessed the facility's compliance with 18 standards under PBNDS 2011 and found the facility in compliance with eight of those standards. ODO found 24 deficiencies in the remaining 10 standards, which included a repeat deficiency in UOF&R. ODO commends facility staff for their responsiveness during this inspection and noted there were five instances where staff initiated immediate corrective action during the inspection. ODO recommends ERO work with the facility to resolve any deficiencies that remain outstanding in accordance with contractual obligations.

Compliance Inspection Results Compared	FY 2016 (PBNDS 2011)	FY 2019 (PBNDS 2011)
Standards Reviewed	16	18
Deficient Standards	7	10
Overall Number of Deficiencies	12	24
Deficient Priority Components	6	3
Repeat Deficiencies	1	1
Corrective Actions	1	5

²⁹ "Each facility shall have written policy and procedures for a detainee grievance system that:

4. ensure a procedure in which all medical grievances are received by the administrative health authority within 24 hours or the next business day, with a response from medical staff within five working days, where practicable." See ICE 2011 PBNDS, Standard, Grievance System, Section (V)(A)(4). **This is a priority component.**

³⁰ "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." See ICE 2011 PBNDS, Standard, Grievance System, Section (V)(C)(3).