



**U.S. Department of Homeland Security**  
U.S. 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 Chicago Field Office

Clay County Jail  
Brazil, Indiana

November 16-20, 2020

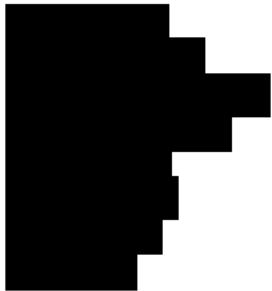
**COMPLIANCE INSPECTION  
of the  
CLAY COUNTY JAIL  
Brazil, Indiana**

**TABLE OF CONTENTS**

<b>FACILITY OVERVIEW .....</b>	4
<b>COMPLIANCE INSPECTION PROCESS .....</b>	5
<b>FINDINGS BY PERFORMANCE-BASED NATIONAL DETENTION STANDARDS</b>	
<b>2008 MAJOR CATEGORIES .....</b>	6
<b>DETAINEE RELATIONS .....</b>	7
<b>COMPLIANCE INSPECTION FINDINGS .....</b>	8
<b>SECURITY .....</b>	8
Facility Security and Control.....	8
Funds and Personal Property .....	8
Special Management Units .....	9
Use of Force and Restraints .....	9
<b>CARE .....</b>	10
Medical Care.....	10
Suicide Prevention and Intervention.....	10
<b>ACTIVITIES .....</b>	10
Telephone Access .....	10
<b>CONCLUSION .....</b>	11

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## COMPLIANCE INSPECTION TEAM MEMBERS



Acting Team Lead	ODO
Inspections and Compliance Specialist	ODO
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Contractor	Creative Corrections

## 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 Clay County Jail (CCJ) in Brazil, Indiana from November 16 to 20, 2020.<sup>1</sup> The facility opened in 2005, is owned by County of Clay Commissioners, and operated by the Clay County Sheriff's Department. The ICE Office of Enforcement and Removal Operations (ERO) began housing detainees at CCJ in 2005 under the oversight of ERO's Field Office Director (FOD) in Chicago (ERO Chicago). The facility operates under the Performance-Based National Detention Standards (PBNDS) 2008.

ERO has assigned a detention services manager to the facility. A jail commander handles daily facility operations and is supported by [REDACTED] personnel. Performance Food Service provides food and commissary services, and Quality Correctional Care provides medical care at the facility. The facility does not hold any accreditations from any outside entities.

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity <sup>2</sup>	92
Average ICE Detainee Population <sup>3</sup>	[REDACTED]
Male Detainee Population (as of 11/16/2020)	[REDACTED]
Female Detainee Population (as of 11/16/2019)	[REDACTED]

During its last inspection, in Fiscal Year (FY) 2020, ODO found 58 deficiencies in the following areas: Admission and Release (6); Classification System (2); Funds and Personal Property (5); Environmental Health and Safety (3); Use of Force and Restraints (10); Food Service (2); Medical Care (1); Personal Hygiene (1); Recreation (2); Religious Practices (3); Law Libraries and Legal Materials (1); Visitation (8); Special Management Units (8); Staff-Detainee Communication (1); and Telephone Access (5).

<sup>1</sup> This facility holds male and female detainees with low, medium-low, medium-high, and high security classification levels for periods longer than 72 hours.

<sup>2</sup> Data Source: ERO Facility List Report as of November 16, 2020.

<sup>3</sup> *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 longer 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.<sup>4</sup>

ODO identifies violations of ICE detention standards, ICE policies, or operational procedures as “deficiencies.” ODO also highlights instances in which 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 in their decision-making to better allocate resources across the agency’s entire detention inventory.

ODO was unable to conduct an on-site inspection of this facility, as a result of the COVID-19 pandemic and instead, conducted a remote inspection of the facility. During this remote inspection, ODO interviewed facility staff, ERO field office staff, and detainees, reviewed files and detention records, and was able to assess compliance for at least 90 percent or more of the ICE national detention standards reviewed during the inspection.

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<sup>4</sup> ODO reviews the facility’s compliance with selected standards in their entirety.

## FINDINGS BY PERFORMANCE-BASED NATIONAL DETENTION STANDARDS 2008 MAJOR CATEGORIES

PBNDS 2008 Standards Inspected <sup>5</sup>	Deficiencies
<b>Part 1 – Safety</b>	
Emergency Plans	0
Environmental Health and Safety	0
<b>Sub-Total</b>	<b>0</b>
<b>Part 2 – Security</b>	
Admission and Release	0
Classification System	0
Facility Security and Control	4
Funds and Personal Property	1
Population Counts	0
Sexual Abuse and Assault Prevention and Intervention	0
Special Management Units	2
Staff-Detainee Communication	0
Use of Force and Restraints	3
<b>Sub-Total</b>	<b>10</b>
<b>Part 4 – Care</b>	
Food Service	0
Hunger Strikes	0
Medical Care	1
Suicide Prevention and Intervention	1
<b>Sub-Total</b>	<b>2</b>
<b>Part 5 – Activities</b>	
Religious Practices	0
Telephone Access	2
<b>Sub-Total</b>	<b>2</b>
<b>Part 6 – Justice</b>	
Grievance System	0
Law Libraries and Legal Material	0
<b>Other Standards Reviewed</b>	
Federal Performance-Based Detention Standards (FPBDS), Section A.7	0
<b>Sub-Total</b>	<b>0</b>
<b>Total Deficiencies</b>	<b>14</b>

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

## DETAINEE RELATIONS

ODO interviewed 12 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. ODO attempted to conduct detainee interviews via video teleconference; however, the ERO field office and facility were not able to accommodate this request due to technology issues. As such, the detainee interviews were conducted via telephone.

*Admission and Release:* Multiple detainees stated the facility did not issue them a facility detainee handbook when they arrived at the facility.

- Action Taken: ODO reviewed the detainees' detention files and found each detainee signed for receipt of the facility's detainee handbook. Additionally, ODO reviewed another 16 detention files and found the detainees had signed for receipt of the facility's detainee handbook in all 16 detention files.

*Medical Care:* One detainee stated the facility's medical staff drew blood from him for blood tests; however, the facility had not provided him with the results of his blood tests.

- Action Taken: ODO reviewed the detainee's medical record, spoke with the facility's medical staff, and found the facility's medical staff drew his blood and submitted the sample for blood testing on October 23, 2020. On November 17, 2020, a facility nurse discussed the results of the detainee's blood tests with him and assisted him with completing a release of medical information request. The detainee signed for receipt of his requested medical information on November 18, 2020.

# COMPLIANCE INSPECTION FINDINGS

## **SECURITY**

### **FACILITY SECURITY AND CONTROL (FS&C)**

ODO reviewed the facility's visitation logbook and found it did not consistently record the purpose of the visit, nor the time the visitor departed the facility (**Deficiency FS&C-1<sup>6</sup>**).

The facility's visitation logbook did not record the name of the detainee visited, the visited detainee's A-number, the visitor's address, nor their immigration status (**Deficiency FS&C-2<sup>7</sup>**).

ODO reviewed the facility's vehicle log and found the facility did not document vehicle tag numbers when the vehicles passed through the facility's vehicle entrance (**Deficiency FS&C-3<sup>8</sup>**).

ODO reviewed the facility's FS&C policy and procedures and found the facility did not have written policy, nor procedures, to keep the facility's special management unit secure from contraband (**Deficiency FS&C-4<sup>9</sup>**).

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

ODO reviewed the facility's detainee handbook and found a repeat deficiency. Specifically, the facility's detainee handbook did not inform detainees how to obtain copies of identity documents, the rules for storing or mailing property not allowed in their possession, the procedures for filing a claim for lost or damaged property, nor how to access their detainee personal funds to pay for legal services (**Deficiency F&PP-1<sup>10</sup>**).

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<sup>6</sup> "Every entry in the logbook shall identify the person or department visited; date and time of visitor's arrival; purpose of visit; unusual requests; and time of departure." See ICE PBNDS 2008, Standard, Facility Security and Control Standard, Section (V)(C)(1)(b)(2).

<sup>7</sup> "The entry for a person visiting a detainee shall also include the name and A-number of the detainee being visited, along with the visitor's relationship to the detainee, immigration status, and address." See ICE PBNDS 2008, Standard, Facility Security and Control Standard, Section (V)(C)(1)(b)(3).

<sup>8</sup> "The post officer shall log the following information on every vehicle: tag number, driver's name, firm represented, vehicle contents, date, time in, time out, and facility employee responsible for the vehicle on-site." See ICE PBNDS 2008, Standard, Facility Security and Control Standard, Section (V)(C)(2)(b).

<sup>9</sup> "Every facility administrator shall establish written policy and procedures to secure the SMU from contraband. Items allowed to enter these SMUs shall be kept to an absolute minimum. Any item is allowed into the unit shall be thoroughly inspected and searched to prevent the introduction of contraband, including laundry, commissary, food carts, and personal property. When it becomes necessary to introduce tools into the unit, special care shall be taken. All tools shall be inventoried by the special housing officer prior to entering. Tools shall be identified and checked against the inventory upon departing to ensure no tools, hazardous objects, or materials are left in the unit." See ICE PBNDS 2008, Standard, Facility Security and Control Standard, Section (V)(E)(1).

<sup>10</sup> "The detainee handbook or equivalent shall notify the detainees of facility policies and procedures concerning personal property, including: ...

- That, upon request, they shall be provided a ICE/DRO-certified copy of any identity document (passport, birth certificate, etc.) placed in their A-files;
- The rules for storing or mailing property not allowed in their possession; ...
- The procedure for claiming property upon release, transfer, or removal;
- Access to detainee personal funds to pay for legal services."

See ICE PBNDS 2008, Standard, Funds and Personal Property, Section (V)(C). **This is a Repeat Deficiency.**

## SPECIAL MANAGEMENT UNITS (SMU)

ODO reviewed the facility's disciplinary detention policy and found the facility's policy allowed the facility to place a detainee in disciplinary segregation prior to the completion of a formal disciplinary process (**Deficiency SMU-1**<sup>11</sup>).

ODO reviewed three detainee segregation files and found the facility's documentation indicated the facility's security staff observed all three detainees on a set schedule instead of every 30-minutes on an irregular schedule (**Deficiency SMU-2**<sup>12</sup>).

## USE OF FORCE AND RESTRAINTS (UOF&R)

ODO reviewed two immediate UOF files and found there was no documentation to indicate the facility's medical staff examined the detainees after facility security staff gained control of the detainees (**Deficiency UOF&R-1**<sup>13</sup>).

ODO reviewed the facility's UOF&R policy, procedures, and equipment, and found nothing to indicate ERO Chicago approved the facility to use their restraint chair on detainees (**Deficiency UOF&R-2**<sup>14</sup>).

ODO reviewed the facility's after-action review (AAR) procedures and found nothing to indicate ERO Chicago approved the facility's written AAR procedures (**Deficiency UOF&R-3**<sup>15</sup>).

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<sup>11</sup> "... A detainee may be placed in **Disciplinary Segregation** only after being found guilty, through a formal disciplinary process, of a facility rule violation." See ICE PBNDS 2008, Standard, Special Management Units, Section (V)(A).

<sup>12</sup> "**Close Supervision.** Detainees in SMUs shall be personally observed at least every 30 minutes on an irregular schedule. For cases that warrant increased observation, the SMU personnel will personally observe them accordingly." See ICE PBNDS 2008, Standard, Special Management Units, Section (V)(B)(7).

<sup>13</sup> "An "immediate-use-of-force" situation is created when a detainee's behavior constitutes a serious and immediate threat to self, staff, another detainee, property, or the security and orderly operation of the facility. In that situation, staff may respond without a supervisor's direction or presence. ..."

Upon gaining control of the detainee, staff shall seek the assistance of qualified health personnel to immediately:

2. Examine the detainee and immediately treat any injuries. The medical services provided shall be documented." See ICE PBNDS 2008, Standard, Use of Force and Restraints, Section (V)(H)(2).

<sup>14</sup> "The following restraint equipment is authorized:

- [REDACTED]
- [REDACTED] must meet National Institute of Justice standard;
- [REDACTED]
- [REDACTED];
- [REDACTED]
- [REDACTED] able; and
- Any other ICE/DRO-approved restraint device.

Deviations from this list of restraint equipment are strictly prohibited." See ICE PBNDS 2008, Standard, Use of Force and Restraints, Section (V)(L).

<sup>15</sup> "... **All** facilities shall have ICE/DRO-approved written procedures for After-Action Review of use-of-force incidents (immediate or calculated) and applications of restraints. The primary purpose of an After-Action Review is to assess the reasonableness of the actions taken and determine whether the force used was proportional to the detainee's actions. IGSAAs shall model their incident review process after ICE/DRO's process and submit it to

## **CARE**

### **MEDICAL CARE (MC)**

ODO reviewed the facility's chronic care records and found the facility did not obtain a signed consent form prior to administering psychotropic medications to one detainee (**Deficiency MC-1<sup>16</sup>**).

### **SUICIDE PREVENTION AND INTERVENTION (SP&I)**

ODO reviewed the medical record for one detainee the facility placed on suicide watch for five-days and found the facility did not document completion of a re-evaluation of the detainee in the detainee's medical record, following the detainee's first day on suicide watch (**Deficiency SP&I-1<sup>17</sup>**).

## **ACTIVITIES**

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

ODO reviewed the facility's TA policy and found it did not allow detainees to make international calls (**Deficiency TA-1<sup>18</sup>**).

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ICE/DRO for DRO review and approval. The process must meet or exceed the requirements of ICE/DRO's process." See ICE PBNDS 2008, Standard, Use of Force and Restraints, Section (V)(P)(1).

<sup>16</sup> "Informed Consent and Involuntary Treatment

As a rule, medical treatment shall not be administered against a detainee's will.

- Upon admission at the facility, documented informed consent will be obtained for the provision of health care services.
- For any additional procedure, a separate documented informed consent will be obtained.
- Informed consent standards of the jurisdiction shall be observed, and consent forms shall either be in a language understood by the detainee or translation assistance shall be provided and documented on the form."

See ICE PBNDS 2008, Standard, Medical Care, Section (V)(T).

<sup>17</sup> "Appropriately trained and qualified medical staff shall evaluate the detainee within 24 hours of the referral.

This evaluation will be documented in the medical record and include:

- relevant history,
- environmental factors,
- lethality of suicide plan,
- psychological factors,
- a determination of level of suicide risk,
- level of supervision needed,
- referral/transfer for inpatient care (if needed),
- instructions to medical staff for care, and
- reassessment time frames.

Detainees who are placed on suicide watch are to be re-evaluated by appropriately trained and qualified medical staff on a daily basis and this re-evaluation is documented in the detainee's medical record." See ICE PBNDS 2008, Standard, Suicide Prevention and Intervention, Section (V)(D).

<sup>18</sup> "Each facility shall ensure that detainees have access to reasonably priced telephone services. Contracts for such services shall comply with all applicable state and federal regulations and be based on rates and surcharges commensurate with those charged to the general public. Any variations shall reflect actual costs associated with the provision of services in a detention setting. Contracts shall also provide the broadest range of calling options

The facility's TA policy did not allow detainees to speak by telephone with an immediate family member detained in another facility (**Deficiency TA-2**<sup>19</sup>).

## CONCLUSION

During this inspection, ODO assessed CCJ's compliance with 19 standards under PBNDS 2008, one standard under FPBDS, and found the facility in compliance with 13 of those standards. ODO found 14 deficiencies in the remaining seven standards, which included one repeat deficiency. ODO recommends ERO work with the facility to resolve any deficiencies that remain outstanding, in accordance with contractual obligations.

Compliance Inspection Results Compared	FY 2020 (PBNDS 2008)	FY 2021 (PBNDS 2008 / (FPBDS)
Standards Reviewed	18	19 / 1
Deficient Standards	15	7
Overall Number of Deficiencies	58	14
Repeat Deficiencies	8	1
Areas of Concern	0	0
Corrective Actions	1	0

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including, but not limited to, international calling, calling cards, and collect telephone calls, determined by the facility administrator to be consistent with the requirements of sound detention facility management.” *See ICE PBNDS 2008, Standard, Telephone Access, Section (V)(A)(2).*

<sup>19</sup> “Upon a detainee’s request, facility staff shall make special arrangements to permit the detainee to speak by telephone with an immediate family member detained in another facility. Immediate family members include spouses, common-law spouses, parents, stepparents, foster parents, brothers, sisters, and natural or adopted children, or stepchildren.” *See ICE PBNDS 2008, Standard, Telephone Access, Section (V)(I).*