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U.S. 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
ERO Chicago Field Office

Kay County Justice Facility
Newkirk, Oklahoma

March 8-12, 2021

COMPLIANCE INSPECTION
of the
KAY COUNTY JUSTICE FACILITY
Newkirk, Oklahoma

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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 Kay County Justice Facility (KCJF) in Newkirk, Oklahoma, from March 8-12, 2021.¹ The facility opened in 2010 and is owned and operated by the Kay County Justice Authority. The ICE Office of Enforcement and Removal Operations (ERO) began housing detainees at KCJF in 2019 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) 2011 (Revised 2016).

ERO has not assigned deportation officers nor a detention services manager to the facility. A KCJF director handles daily facility operation and is supported by █ personnel. KCJF provides food services, Turn-Key Health provides medical care, and Tiger Commissary provides commissary services at the facility. The facility holds no accreditations from any outside entities.

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity ²	120
Average ICE Detainee Population ³	█
Male Detainee Population (as of 3/8/2021)	█
Female Detainee Population (as of 3/8/2021)	█

During its last inspection in Fiscal Year 2020, ODO found 43 deficiencies in the following areas: Environmental Health and Safety (1); Admission and Release (6); Funds and Personal Property (3); Special Management Units (6); Staff-Detainee Communication (1); Use of Force and Restraints (1); Food Services (1); Medical Care (3); Significant Self-harm and Suicide Prevention and Intervention (2); Disability Identification, Assessment, and Accommodation (4); Recreation (1); Telephone Access (1); Visitation (4); Grievance System (6); and Law Libraries and Legal Material (3).

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

² Data Source: ERO Facility List Report as of March 8, 2021.

³ *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.⁴

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.

⁴ ODO reviews the facility’s compliance with selected standards in their entirety.

FINDINGS BY PERFORMANCE-BASED NATIONAL DETENTION STANDARDS 2011 (REVISED 2016) MAJOR CATEGORIES

PBNDs 2011 (Revised 2016) Standards Inspected ⁵	Deficiencies
Part 1 – Safety	
Emergency Plans	0
Environmental Health and Safety	4
Sub-Total	4
Part 2 – Security	
Admission and Release	1
Custody Classification System	1
Facility Security and Control	0
Funds and Personal Property	0
Population Counts	0
Sexual Abuse and Assault Prevention and Intervention	8
Special Management Units	0
Staff-Detainee Communication	1
Use of Force and Restraints	0
Sub-Total	11
Part 4 – Care	
Food Service	0
Hunger Strikes	1
Medical Care	4
Medical Care (Women)	0
Significant Self-harm and Suicide Prevention and Intervention	0
Disability Identification, Assessment, and Accommodation	6
Sub-Total	11
Part 5 – Activities	
Religious Practices	0
Telephone Access	2
Sub-Total	2
Part 6 – Justice	
Grievance System	3
Law Libraries and Legal Material	4
Sub-Total	7
Total Deficiencies	35

⁵ 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. All detainees reported satisfaction with facility services. ODO also 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, ODO conducted the detainee interviews via telephone.

COMPLIANCE INSPECTION FINDINGS

SAFETY

ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

ODO interviewed the facility's fire safety manager (FSM), reviewed training documentation, and found the FSM supervised the hazard materials program without receiving training per the Occupational Safety and Health Administration standards (**Deficiency EH&S-33⁶**) nor did the FMS document qualified staff conducted inspections weekly (**Deficiency EH&S-101⁷**).

ODO interviewed the maintenance supervisor, reviewed inspection documentation, and found the facility did not [REDACTED] inspect the fire alarm and suppression system in compliance with the following standards and regulations: local and national fire safety codes, applicable standards of the American Society for Testing and Materials, American National Standards Institute, and Underwriters' Laboratories, nor the Factory Mutual Engineering Corporation (**Deficiency EH&S-96⁸**).

ODO reviewed the facility's fire drill documentation and found a repeat deficiency. Specifically, the facility did not conduct nor document fire drills, at least quarterly in all facility locations, including administrative areas, which was a repeat deficiency (**Deficiency EH&S-107⁹**).

SECURITY

ADMISSION AND RELEASE (A&R)

ODO reviewed 12 detainee files and found 5 out of 12 files did not have an Order to Detain Form (Form I-203) bearing the signature of the authorizing official, which was a repeat deficiency (**Deficiency A&R-54¹⁰**).

⁶ "The facility program shall be supervised by an individual trained in accordance with OSHA standards." See ICE PBNDS 2011 (Revised 2016), Standard, Environmental Health and Safety, Section (V)(B).

⁷ "A qualified departmental staff member shall conduct weekly fire and safety inspections." See ICE PBNDS 2011 (Revised 2016), Standard, Environmental Health and Safety, Section (V)(C)(2)(a).

⁸ "Every facility shall comply with standards and regulations issued by:

c. local and national fire safety codes; and

d. applicable standards of the American Society for Testing and Materials, American National Standards Institute and Underwriters' Laboratories or Factory Mutual Engineering Corporation."

See ICE PBNDS 2011 (Revised 2016), Standard, Environmental Health and Safety, Section (V)(C)(1)(c-d).

⁹ "Fire drills shall be conducted and documented at least quarterly in all facility locations including administrative areas." See ICE PBNDS 2011 (Revised 2016), Standard, Environmental Health and Safety, Section (V)(C)(4). **This is a Repeat Deficiency.**

¹⁰ "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 (Revised 2016), Standard, Admission and Release, Section (V)(E). **This is a Repeat Deficiency.**

CUSTODY CLASSIFICATION SYSTEM (CCS)

ODO interviewed the facility's intake staff, reviewed the classification policy, reviewed training records, and found [REDACTED] facility staff assigned to classification duties were not trained in the facility's classification process (**Deficiency CCS-5**¹¹).

SEXUAL ASSAULT AND ABUSE INTERVENTION AND PREVENTION (SAAPI)

ODO interviewed facility staff, reviewed policy, and determined ERO's FOD did not approve the facility's written policies and procedures (**Deficiency SAAPI-14**¹²).

ODO also determined the facility did not make its SAAPI protocols available to the public (**Deficiency SAAPI-16**¹³).

ODO reviewed the facility's staff training records and found the facility staff did not receive an annual refresher training on the facility's SAAPI program (**Deficiency SAAPI-26**¹⁴).

ODO reviewed photographs of the facility's postings and found the facility did not post in Spanish the name and contact information of its local organization that aided victims of sexual abuse (**Deficiency SAAPI-70**¹⁵).

ODO reviewed the facility's established method of receiving third-party reports of sexual abuse in its facility and found the method did not include making available to the public, information on how to report sexual abuse on behalf of a detainee (**Deficiency SAAPI-133**¹⁶).

ODO reviewed two SAAPI incident case files and found the following: (1) the facility staff did not conduct a sexual abuse incident review at the conclusion of an investigation of sexual abuse allegation, and (2) the facility staff did not prepare a written report within 30 days of the conclusion of the investigation (**Deficiency SAAPI-179**¹⁷).

¹¹ "Each facility administrator shall require that the facility's classification system ensures the following: 2. All facility staff assigned to classification duties shall be adequately trained in the facility's classification process." See ICE PBNDS 2011 (Revised 2016), Standard, Admission and Release, Section (V)(A)(2).

¹² "The facility's written policy and procedures require the review and approval of the Field Office Director." See ICE PBNDS 2011 (Revised 2016), Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(A).

¹³ "Each facility shall also post its protocols on its website, if it has one, or otherwise make the protocol available to the public (V)(A)." See ICE PBNDS 2011 (Revised 2016), Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(A).

¹⁴ "Training on the facility's Sexual Abuse or Assault Prevention and Intervention Program shall be included in training for all employees and shall also be included in annual refresher training thereafter." See ICE PBNDS 2011 (Revised 2016), Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(E).

¹⁵ "This information will be provided in English and Spanish, and to other segments of the detainee population with limited English proficiency, through translations or oral interpretation." See ICE PBNDS 2011 (Revised 2016), Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(F)(3).

¹⁶ "Each facility shall establish a method to receive third-party reports of sexual abuse in its facility and shall make available to the public information on how to report sexual abuse on behalf of a detainee." See ICE PBNDS 2011 (Revised 2016), Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(L).

¹⁷ "Each facility shall conduct a sexual abuse incident review at the conclusion of every investigation of sexual abuse and, where the allegation was not determined to be unfounded, prepare a written report within 30 days of the conclusion of the investigation recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse." See ICE PBNDS 2011 (Revised 2016), Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(M)(5).

The files did not include the demographic background of the victims or perpetrators (**Deficiency SA-API-204**¹⁸).

The files did not record the location of the incidents (**Deficiency SA-API-214**¹⁹).

STAFF-DETAINEE COMMUNICATION (SDC)

ODO reviewed the facility's detainee request logbook and found the logbook did not record the staff response and action of detainee requests, which was a repeat deficiency (**Deficiency SDC-1**²⁰).

CARE

HUNGER STRIKES (HS)

ODO interviewed the facility's medical staff, reviewed [REDACTED] training records and found [REDACTED] medical staff records did not document whether facility staff were initially and annually trained to recognize the signs of a hunger strike, to implement the referral procedures for a medical assessment, nor to manage a detainee on a hunger strike (**Deficiency HS-1**²¹).

MEDICAL CARE (MC)

ODO reviewed 15 detainee medical records and found 3 out of 15 medical records did not have an informed consent prior to the medical staff administering to the detainees, the psychotropic medications fluoxetine, mirtazapine, and escitalopram (**Deficiency MC-67**²²).

ODO reviewed 15 detainee medical records and found 7 out of 15 medical records showed the registered nurse (RN) performed history and physical examinations without documented training from a physician or other health care practitioner, which was a repeat deficiency (**Deficiency MC-138**²³).

¹⁸ "The facility administrator must maintain two types of files of sexual abuse and assault incidents which include the following minimum information: 1. General files include: c. the demographic background of the victim and perpetrator (including citizenship, age, gender, and whether either has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming)." See ICE PBNDS 2011 (Revised 2016), Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(O)(1)(c).

¹⁹ "In addition, the facility administrator shall maintain a listing of the names of sexual assault victims and assailants, along with the dates and locations of all sexual assault incidents occurring within the facility, on his/her computerized incident reporting system." See ICE PBNDS 2011 (Revised 2016), Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(O).

²⁰ "All requests shall be recorded in a logbook (or electronic logbook) specifically designed for that purpose. At a minimum, the log shall record: f. date that the request, with staff response and action, was returned to the detainee." See ICE PBNDS 2011 (Revised 2016), Standard, Staff-Detainee Communication, Section (V)(B)(2)(f). **This is a Repeat Deficiency.**

²¹ "All staff shall be trained initially and annually thereafter to recognize the signs of a hunger strike, and to implement the procedures for referral for medical assessment and for management of a detainee on a hunger strike." See ICE PBNDS 2011 (Revised 2016), Standard, Hunger Strikes, Section (V)(A).

²² "Informed consent shall be obtained prior to providing treatment (absent medical emergencies)." See ICE PBNDS 2011 (Revised 2016), Standard, Medical Care, Section (V)(D).

²³ "Physical examinations shall be performed by a physician, physician assistant, nurse practitioner, RN (with

ODO reviewed 15 detainee medical records and found 15 out of 15 medical records did not contain documentation the physician reviewed or approved the 14-day physical examinations the RN conducted, which was a repeat deficiency (**Deficiency MC-140**²⁴).

ODO reviewed [REDACTED] medical credential files and found [REDACTED] of the facility's medical staff did not have clinical privileges and practice agreements (**Deficiency MC-101**²⁵).

DISABILITY IDENTIFICATION, ASSESSMENT, AND ACCOMMODATION (DIA&A)

ODO interviewed the facility's staff, reviewed disability-related documents, and determined the facility did not develop disability accommodation written policy and procedures. Specifically, the facility had not developed a written policy, which included: reasonable timelines for providing interim accommodations related to disability; reasonable timelines for providing interim accommodations; nor reassessments, which was a repeat deficiency (**Deficiency DIA&A-1**²⁶).

ODO found no outlined processes consistent with the DIA&A standard (**Deficiency DIA&A-2**²⁷).

ODO reviewed [REDACTED] facility staff training records and found the following deficiencies.

The facility did not supply any training on the facility's disability and reasonable accommodation procedures to employees, volunteers, nor contract personnel, which was a repeat deficiency (**Deficiency DIA&A-68**²⁸).

The new facility staff, including contractors and volunteers, did not receive the required disability accommodation training as part of the initial orientation training (**Deficiency DIA&A-69**²⁹).

documented training provided by a physician) or other health care practitioner as permitted by law." *See* ICE PBNDS 2011 (Revised 2016), Standard, Medical Care, Section (V)(M). **This is a Repeat Deficiency.**

²⁴ "The CMA shall be responsible for review of all comprehensive health assessments to assess the priority for treatment." *See* ICE PBNDS 2011 (Revised 2016), Standard, Medical Care, Section (V)(M). **This is a Repeat Deficiency.**

²⁵ "All health care staff must be verifiably licensed, certified, credentialed, and/or registered in compliance with applicable state and federal requirements." *See* ICE PBNDS 2011 (Revised 2016), Standard, Medical Care, Section (V)(I).

²⁶ "The facility shall develop written policy and procedures, including reasonable timelines, for reviewing detainees' requests for accommodations related to a disability and for providing accommodations (including interim accommodations), modifications, and reassessments. These policies and procedures shall be consistent with the processes outlined in this standard." *See* ICE PBNDS 2011 (Revised 2016), Standard, Disability Identification, Assessment and Accommodation, Section (V)(B)(1). **This is a Repeat Deficiency.**

²⁷ "The facility shall develop written policy and procedures, including reasonable timelines, for reviewing detainees' requests for accommodations related to a disability and for providing accommodations (including interim accommodations), modifications, and reassessments. These policies and procedures shall be consistent with the processes outlined in this standard." *See* ICE PBNDS 2011 (Revised 2016), Standard, Disability Identification, Assessment and Accommodation, Section (V)(B)(1).

²⁸ "Training on the facility's Disability and Reasonable Accommodations procedures shall be provided to employees, volunteers, and contract personnel, and shall also be included in annual refresher training thereafter." *See* ICE PBNDS 2011 (Revised 2016), Standard, Disability Identification, Assessment, and Accommodation, Section (V)(I). **This is a Repeat Deficiency.**

²⁹ "New facility staff, including contractors and volunteers, shall receive this training as part of the Initial Orientation training required by Standard." *See* ICE PBNDS 2011 (Revised 2016), Standard, Disability Identification, Assessment, and Accommodation, Section (V)(I).

The facility did not notify volunteers and contractors, who had any contact with detainees, of the facility's disability accommodations policy (**Deficiency DIA&A-70**³⁰).

ODO reviewed the facility's orientation program and found it did not 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 (**Deficiency DIAA-71**³¹).

ACTIVITIES

TELEPHONE ACCESS (TA)

ODO reviewed the facility's telephone inspection logs and found the facility staff did not inspect all detainee telephones daily, which was a repeat deficiency (**Deficiency TA-8**³²).

The facility staff did not consistently ensure telephone systems were operational daily (**Deficiency TA-13**³³).

JUSTICE

GRIEVANCE SYSTEM (GS)

ODO reviewed the facility's detainee handbook and found it did not provide detainees notice of the opportunity to file a complaint directly to the Department of Homeland Security Office of Inspector General (DHS OIG) by calling the DHS OIG Hotline or providing the DHS OIG contact information (**Deficiency GS-18**³⁴).

ODO reviewed the facility's grievance log and determined the log did not include the adjudication

³⁰ "The level and type of training for volunteers and contractors will be based on the services they provide and their level of contact with detainees; however, all volunteers and contractors who have any contact with detainees must be notified of the facility's disability accommodations policy." *See* ICE PBNDS 2011 (Revised 2016), Standard, Disability Identification, Assessment, and Accommodation, Section (V)(I).

³¹ "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." *See* ICE PBNDS 2011 (Revised 2016), Standard, Disability Identification, Assessment, and Accommodation, Section (V)(J).

³² "Designated facility staff shall inspect the telephones daily, promptly report out-of-order telephones to the repair service so that required repairs are completed quickly." *See* ICE PBNDS 2011 (Revised 2016), Standard, Telephone Access, Section (V)(A)(3). **This is a Repeat Deficiency.**

³³ "Facility staff members are responsible for ensuring on a daily basis that telephone systems are operational and that the free telephone number list is posted." *See* ICE PBNDS 2011 (Revised 2016), Standard, Telephone Access, Section (V)(A)(4)(a).

³⁴ "The facility shall provide each detainee, upon admittance, a copy of the detainee handbook and local supplement... in which the grievance section provides notice of the following: 8. The opportunity at any point to file a complaint directly to the Department of Homeland Security (DHS) OIG about staff misconduct, physical or sexual abuse or civil rights violations; complaints may be filed by calling the DHS OIG Hotline at 800-323-8603 or by writing to: Department of Homeland Security Attn: Office of the Inspector General, Washington, DC 20528." *See* ICE PBNDS 2011 (Revised 2016), Standard, Grievance System, Section (V)(B)(8).

outcome (**Deficiency GS-58**³⁵).

The facility's grievance log also did not include receipt date for all the grievances (**Deficiency GS-81**³⁶).

LAW LIBRARIES AND LEGAL MATERIAL (LL&LM)

ODO reviewed the facility's photographs of their law library and found a repeat deficiency. Specifically, the facility had not properly equipped the law library, located the law library in a well-lit room, which was reasonably isolated from noisy areas, nor was the room large enough to provide reasonable access to all detainees who requested its use (**Deficiency LL&LM-2**³⁷).

The facility law library also did not include a designated space furnished with tables and chairs to accommodate legal research and writing needs, which was a repeat deficiency (**Deficiency LL&LM-3**³⁸).

Additionally, the facility did not post policies, procedures, nor a list of the law library's holdings where detainees could easily see them (**Deficiency LL&LM-72**³⁹).

ODO reviewed the facility's detainee handbook and found it did not provide detainees with the procedure for requesting legal reference materials not kept in the law library, which was a repeat deficiency (**Deficiency LL&LM-71**⁴⁰).

³⁵ "GO or designee shall note the grievance log with the following information: outcome of the adjudication." *See* ICE PBNDS 2011 (Revised 2016), Standard, Grievance System, Section (V)(C)(3)(b)(1)(c).

³⁶ "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, according to the following stipulations: 2. the log shall include the receipt date and the disposition date." *See* ICE PBNDS 2011 (Revised 2016), Standard, Grievance System, Section (V)(D)(2).

³⁷ "Each facility shall provide a properly equipped law library in a designated, well-lit room that is reasonably isolated from noisy areas and large enough to provide reasonable access to all detainees who request its use. It shall be furnished with a sufficient number of tables and chairs to accommodate detainees' legal research and writing needs." *See* ICE PBNDS 2011 (Revised 2016), Standard, Law Libraries and Legal Material, Section, (V)(A). **This is a Repeat Deficiency.**

³⁸ "Each facility shall provide a properly equipped law library in a designated, well-lit room that is reasonably isolated from noisy areas and large enough to provide reasonable access to all detainees who request its use. It shall be furnished with a sufficient number of tables and chairs to accommodate detainees' legal research and writing needs." *See* ICE PBNDS 2011 (Revised 2016), Standard, Law Libraries and Legal Material, Section, (V)(A). **This is a Repeat Deficiency.**

³⁹ "These policies and procedures shall also be posted in the law library, along with a list of the law library's holdings. The list of the law library's holdings shall be kept up to date and shall include the date and content of the most recent updates of all legal materials available to detainees in print and electronic media." *See* ICE PBNDS 2011 (Revised 2016), Standard, Law Libraries and Legal Material, Section, (V)(N).

⁴⁰ "The detainee handbook or supplement shall provide detainees the rules and procedures governing access to legal materials, including the following information: 5. the procedure for requesting legal reference materials not maintained in the law library." *See* ICE PBNDS 2011 (Revised 2016), Standard, Law Libraries and Legal Material, Section (V)(N)(5). **This is a Repeat Deficiency.**

CONCLUSION

ODO reviewed the facility's compliance with 21 standards under PBNDS 2011 (Revised 2016). ODO found the facility compliant with 10 standards and identified 35 deficiencies in the remaining 11 standards. ODO commends facility staff for their responsiveness during this 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 2020 (PBNDS 2011) (Revised 2016)	FY 2021 (PBNDS 2011) (Revised 2016)
Standards Reviewed	18	21
Deficient Standards	15	11
Overall Number of Deficiencies	43	35
Repeat Deficiencies	N/A	11
Areas of Concern	4	0
Corrective Actions	1	0