



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

**Office of Detention Oversight
Compliance Inspection**

**Enforcement and Removal Operations
ERO Buffalo Field Office**

**Buffalo Federal Detention Facility
Batavia, New York**

December 3-5, 2019

COMPLIANCE INSPECTION
of the
BUFFALO FEDERAL DETENTION FACILITY
Batavia, New York

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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 Buffalo Federal Detention Facility (BFDF) in Batavia, New York, from December 3 to 5, 2019.¹ BFDF opened in March 1998 and is owned by ICE and operated by Akima Global Services (AGS) and ICE. The ICE Office of Enforcement and Removal Operations (ERO) began housing detainees at BFDF in March 1998 under the oversight of ERO’s Field Office Director (FOD) in Buffalo (ERO Buffalo). The facility operates under the Performance-Based National Detention Standards (PBNDS) 2011 (Revised 2016).

ERO has assigned ERO Deportation Officers (DO) and a Detention Services Manager (DSM) to the facility. An ICE officer in charge (OIC) is responsible for oversight of daily facility operations and is supported by [REDACTED] personnel. AGS provides food service and ICE Health Service Corps (IHSC) provides detainee medical care. The facility is accredited by the American Correctional Association and National Commission on Correctional Health Care.

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity ²	[REDACTED]
Average ICE Detainee Population ³	[REDACTED]
Male Detainee Population (as of 12/2/2019)	[REDACTED]
Female Detainee Population (as of 12/2/2019)	[REDACTED]

During its last inspection, in FY 2017, ODO found 4 deficiencies in the following areas: Environmental Health and Safety (1); Grievance System (2); and Telephone Access (1).

¹ This facility holds male 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 December 2, 2019.

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

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

FINDINGS BY PERFORMANCE-BASED NATIONAL DETENTION STANDARDS 2011 MAJOR CATEGORIES

PBNDS 2011 Standards Inspected ⁵	Deficiencies
Part 1 – Safety	
Environmental Health and Safety	0
Sub-Total	
Part 2 – Security	
Admission and Release	3
Custody Classification System	1
Funds and Personal Property	4
Sexual Abuse and Assault Prevention and Intervention	0
Special Management Units	0
Staff-Detainee Communication	0
Use of Force and Restraints	1
Sub-Total	9
Part 4 – Care	
Food Service	2
Medical Care	1
Significant Self-harm and Suicide Prevention and Intervention	0
Disability Identification, Assessment, and Accommodation	0
Sub-Total	3
Part 5 – Activities	
Recreation	0
Religious Practices	0
Telephone Access	1
Visitation	0
Sub-Total	1
Part 6 – Justice	
Grievance Systems	0
Law Libraries and Legal Materials	0
Sub-Total	0
Total Deficiencies	13

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 at the BFDF. Most detainees reported satisfaction with facility services except for the concerns listed below.

Telephone Access: One detainee stated telephone access is blocked temporarily if no detainee volunteered to clean the housing unit.

- Action Taken: ODO interviewed the facility captain and the Supervisory Detention and Deportation Officer (SDDO) and determined telephone access cannot be blocked by any housing unit officer at any point without the approval of the captain and record of it. The facility stated it has not had to restrict telephone access at any point due to lack of detainee volunteers nor was it a policy to do so. ODO reviewed facility policy and determined the facility had no policy that will restrict detainee telephone access in a way that conflicts with the standard.

Medical Care: One detainee stated he was waiting to be fitted for a prosthetic leg from a previous car accident prior to being detained at BFDF. The detainee stated while detained at BFDF he was told he would have to use a wheelchair that was provided instead of being issued a prosthetic leg.

- Action Taken: ODO reviewed the detainee's medical record with senior facility medical staff and determined the detainee came into the facility on September 11, 2019, with his own prosthetic device. The detainee had a physical on September 11, 2019 and was provided pain medication for hip pain. The detainee was seen on November 12, 2019, by the medical specialist for initial request regarding the prosthetic leg. The medical specialist determined the detainee was losing weight rapidly from working out, which caused issues with fitting the prosthetic leg. Facility medical staff scheduled a follow-up appointment with a specialist for fit/modification of an existing prosthetic device to occur on December 23, 2019. Medical staff informed the detainee of the appointment; however, did not provide the date for security reasons.

COMPLIANCE INSPECTION FINDINGS

SAFETY

ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

During ODO's inspection of the housing units, ODO found several detainees were in possession of potentially hazardous food products (milk), which were not stored in a refrigerator. Additionally, ODO observed fixed weight training equipment, located inside the housing units, were not always bolted to the floor, which created a potential for injury. ODO noted both issues as **Areas of Concern**.

SECURITY

ADMISSION AND RELEASE (A&R)

ODO observed the processing of three detainee admissions. ODO interviewed the lieutenants for processing and transportation and several processing officers. ODO found BFDF conducted routine strip-searches during admission of all detainees, the strip-searches did not require supervisor approval, and protocols for reasonable suspicion and less intrusive means were not followed (**Deficiency A&R-1⁶**).

Corrective Action: Prior to completion of the inspection, the facility initiated corrective action. BFDF revised their intake policies and procedures, removed the routine strip-search requirement, which brought the policy and procedure in compliance with the standard, and provided the policy and procedure change to staff (**C-1**).

The ICE National Detainee Handbook and local supplement handbook were issued at the time of admission, and were available in English, Spanish, French, and Chinese. ODO's review of 30 detainee files confirmed BFDF did not document the issuing staff member's initials or identification numbers, and the form did not adequately reflect detainee acknowledgement of

⁶ "a. Staff shall not routinely require a detainee to remove clothing or require a detainee to expose private parts of his/her body to search for contraband...
b. Officers must obtain supervisory approval before conducting strip searches during admission or release. Staff may conduct a strip search during admission and release, only when there is reasonable suspicion that contraband may be concealed on the person. "Reasonable suspicion" means suspicion based on the specific and articulable facts that would lead a reasonable detention officer to believe that a specific detainee is in possession of contraband. This "reasonable suspicion" standard is a more permissive (lower) standard than the "probable cause" standard, but it nevertheless requires more than a mere hunch. It must be based on specific and articulable facts-along with reasonable inferences that may be drawn from those facts-that the officer shall document in Form-1025 (or contractor equivalent)...
Before strip searching a detainee to search for contraband, an officer shall first attempt to resolve his/her suspicions through less intrusive means, such as a thorough examination of reasonable available ICE, CBP and other law enforcement records; a pat-down search; a detainee interview; or (where available) the use of a magnetometer or Boss chair. The officer shall document the results of those other, less intrusive, search methods on Form G-1025 (or contractor equivalent)." See ICE 2011 PBNDS, Standard, Admission and Release, Section (V)(B)(4)(a) and (b).

receipt of the handbook (**Deficiency A&R-2⁷**).

Corrective Action: Prior to completion of the inspection, the facility modified the intake form, adding signature blocks, which allow the detainee to acknowledge receipt of both handbooks and to verify they viewed the orientation video (**C-2**).

The facility provided an orientation to detainees admitted to the facility; however, ODO interviewed the processing and detention captain, processing and transportation lieutenants, and learned the facility did not offer a question-and-answer period following the orientation (**Deficiency AR-3⁸**).

CUSTODY CLASSIFICATION SYSTEM (CCS)

ODO's review of housing unit rosters and classification documents did not find any low custody detainees with convictions for violent/assaultive behavior. However, ODO's roster and documentation reviews confirmed one medium-low custody detainee was housed in a housing unit with high and medium-high detainees, and two high custody detainees with histories of violence were housed in a housing unit with medium low-detainees (**Deficiency CCS-1⁹**).

Corrective Action: Prior to completion of the inspection, the facility determined the one medium-low detainee housed with high and medium-high detainees was a classification error and changed the roster to correctly reflect his level as medium-high. The two high custody detainees were rescored to medium-high (**C-3**).

⁷ "4. As part of the admissions process, the detainee shall acknowledge receipt of the handbook and supplement by signing where indicated on the back of the Form I-385 (or on a separate form).

- a. The designated spot on the back of the Form I-385 may be stamped entry containing the date of issue; handbook number, if applicable, initials and ID number of the issuing officer; detainee-signature line; and a space for the date of return and the receiving officer's initials and ID number. . .
- c. If a form is used instead of a stamp or comparable notation on the back of the Form I-385, the officer must record the detainee's name and A-number in addition to the above-required information. The form is maintained in the detainee's detention file."

See ICE 2011 PBNDS, Standard, Admission and Release, Section (V)(G)(4)(a) and (c).

⁸ "Following the orientation, staff shall conduct a question-and-answer session. Staff shall respond to the best of their ability." See ICE 2011 PBNDS, Standard, Admission and Release, Section (V)(F).

⁹ "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. High custody detainees may not be housed with low custody detainees.
2. Low custody detainees and medium-low custody detainees may be housed together, and medium-high custody detainees and high custody detainees may be housed together.
3. Medium-low custody detainees are those with no history of violent or assaultive charges or convictions, no institutional misconduct, and no gang affiliation.
4. Medium-high and high custody detainees are those with a history of violent or assaultive charges, convictions, institutional misconduct, or those with a gang affiliation.
5. Under no circumstance may a medium custody detainee with a history of assaultive or combative behavior be placed in a low custody housing unit."

See ICE 2011 PBNDS, Standard, Custody Classification System, Section (V)(G)(1-5). **This is a priority component.**

FUNDS AND PERSONAL PROPERTY (F&PP)

ODO observed on several occasions during the inspection, facility staff left the property room open and unsecured, without authorized staff in the property room (**Deficiency F&PP-1¹⁰**).

ODO observed facility staff inventory detainee property and inspected the property room. Facility staff placed detainee clothing in a large property bin, sealed the bin with secure zip-ties, and placed the bin on shelves in the property room. ODO found excess property and luggage were tagged with a Baggage Check (Form I-77) and stored on shelves in the property room but were not stored in a tamper-resistant manner (**Deficiency F&PP-2¹¹**).

Corrective Action: Prior to completion of the inspection, the facility initiated corrective action by ordering large sacks that can be sealed in a tamper-resistant manner, which will be used for storage of excess property and baggage (**C-4**).

ODO reviewed detainee funds and personal property documentation and found BDFD did not document the date, time, and name of the officer conducting the daily inventory of funds in the drop safe. Additionally, facility staff did not conduct daily audits of small and large valuables, nor did they conduct quarterly audits of storage bins and excess property (i.e. suitcases, etc.) (**Deficiency F&PP-3¹²**).

Corrective Action: Prior to completion of the inspection, the facility revised their funds and personal property policies and procedures, which now require a supervisor to electronically log audits daily and include auditing officer name, date, and time (**C-5**).

ODO reviewed the facility's funds and personal property policy and local supplement handbook, which confirmed both provided information for detainees to file a claim for lost or damaged property; however, the policy did not indicate the requirements for investigating lost/damaged property (**Deficiency F&PP-4¹³**).

¹⁰ "All facilities, at a minimum, shall provide:

1. a secured locker for holding large valuables which can be accessed only by designated supervisor(s) and/or property officer(s) and
2. a baggage and property storage area that is secured when not attended by assigned admissions processing staff."

See ICE 2011 PBNDS, Standard, Funds and Personal Property, Section (V)(A)(1) and (2). **This is a priority component.**

¹¹ "All detainee luggage and facility containers used for storing detainee personal property shall be secured in a tamper-resistant manner and shall only be opened in the presence of the detainee." See ICE 2011 PBNDS, Standard, Funds and Personal Property, Section (V)(I).

¹² "Both the on-coming and off-going supervisors shall simultaneously conduct an audit of detainee funds, property envelopes and large valuables where physical custody of, or access to such items changes with the facility shift changes. The property and valuables logbook shall record the date, time and the name of the officer(s) conducting the inventory. Any discrepancies shall be immediately reported to the Chief of Security, who shall follow facility procedure to ensure that all detainee funds and valuables are accounted for.

An inventory of detainee baggage and other non-valuable property shall be conducted by the facility administrator's designee at least once each quarter." See ICE 2011 PBNDS, Standard, Funds and Personal Property, Section (V)(J).

¹³ "All facilities shall have and follow a policy for the loss of or damage to properly receipted detainee property, as follows:

- a. all procedures for investigating and reporting property loss or damage shall be implemented as specified

USE OF FORCE AND RESTRAINTS (UOF&R)

ODO reviewed documentation and videos for each of the four calculated UOF incidents and noted, while medical staff were present during each UOF incident, there were no video recordings of close-ups of the detainee's body during the medical exam, focusing on the presence/absence of injuries (**Deficiency UOF&R-1**¹⁴).

CARE

FOOD SERVICE (FS)

ODO observed workers wearing white uniforms and confirmed detainee workers are visually inspected by staff for any signs of illness or personal hygiene concerns prior to the start of their shift. However, detainees were not wearing rubber soled safety shoes (**Deficiency FS-1**¹⁵).

Corrective Action: Prior to the completion of the inspection, the facility initiated corrective action when they ordered rubber safety shoes for the food service workers to wear (**C-6**).

ODO inspection the food service coolers and freezer. ODO found in one cooler and two freezers, food was stored under the condensing units, which created a source for contamination (**Deficiency FS-2**¹⁶).

Corrective Action: Prior to completion of the inspection, the facility initiated corrective action by immediately removing stored food items from underneath the condensing units and placing a sign at each location, which read "Do Not Store Food Here." (**C-7**).

MEDICAL CARE (MC)

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- in this standard;
 - b. supervisory staff shall conduct the investigation;
 - c. the senior facility contract officer shall promptly process all detainee claims for lost or damaged property;
 - d. the official deciding the claim shall be at least one level higher in the chain of command than the official investigating the claim;
 - e. the facility shall promptly reimburse detainees for all validated property losses caused by facility negligence;
 - f. the facility may not arbitrarily impose a ceiling on the amount to be reimbursed for a validated claim; and
 - g. the senior contract officer shall immediately notify the designated ICE/ERO officer of all claims and outcomes."

See ICE 2011 PBNDS, Standard, Funds and Personal Property, Section (V)(L)(3)(a-g). **This is a priority component.**

¹⁴ "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..."

- e. Take close-ups of the detainee's body during a medical exam, focusing on the presence/absence of injuries. Staff injuries, if any, are to be described but not shown." *See* ICE 2011 PBNDS, Standard, Use of Force and Restraints, Section (V)(I)(2)(e).

¹⁵ "All food service personnel working in the food service department shall be provided with and required to use approved rubber-soled safety shoes." *See* ICE 2011 PBNDS, Standard, Food Service, Section (V)(J)(2)(f).

¹⁶ "Do not store food in locker rooms, toilet rooms, dressing rooms, garbage rooms or mechanical rooms, or under sewer lines, potentially leaking water lines, open stairwells or other sources of contamination." *See* ICE 2011 PBNDS, Standard, Food Service, Section (V)(K)(3)(h).

ODO reviewed four sick call signup sheets submitted in the two weeks preceding the inspection and found signup sheets were not time stamped within 24 hours of receipt and were not filed in the detainees' medical records (**Deficiency MC-1¹⁷**).

ACTIVITIES

TELEPHONE ACCESS (TA)

ODO inspected the housing units and found the facility did no post telephone access hours in each housing unit (**Deficiency TA-1¹⁸**).

CONCLUSION

During this inspection, ODO assessed the facility's compliance with 18 standards under PBNDS 2011 and found the facility in compliance with 11 of those standards. ODO found 13 deficiencies in the remaining 7 standards. ODO commends facility staff for their responsiveness during this inspection and noted there were seven instances where staff initiated immediate corrective action. Staff were knowledgeable regarding the ICE PBNDS 2011 and ODO noted the facility was clean in all areas inspected. ODO recommends ERO work with the facility to resolve any deficiencies that remain outstanding in accordance with contractual obligations.

Compliance Inspection Results Compared	FY 2017 (PBNDS 2011)	FY 2020 (PBNDS 2011)
Standards Reviewed	15	18
Deficient Standards	3	7
Overall Number of Deficiencies	4	13
Deficient Priority Components	1	3
Repeat Deficiencies	0	0
Corrective Actions	1	7

¹⁷ "4. 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. All written sick call requests shall be date and time stamped and filed in the detainee's medical record. Medical personnel shall review the request slips and determine when the detainee shall be seen based on acuity of the problem. In an urgent situation, the housing unit officer shall notify medical personnel immediately." See ICE 2011 PBNDS, Standard, Medical Care, Section (V)(S)(4).

¹⁸ "Each facility shall provide telephone access rules in writing to each detainee upon admission, and also shall post these rules where detainees may easily see them... Telephone access hours shall also be posted." See ICE PBNDS 2011, Standard, Telephone Access, Section (V)(C).