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Office of Professional Responsibility

Inspections and Detention Oversight

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**Office of Detention Oversight
Compliance Inspection**

**Enforcement and Removal Operations
Baltimore Field Office
Frederick County Detention Center
Frederick, Maryland**

February 20 – 22, 2013

**COMPLIANCE INSPECTION
FREDERICK COUNTY DETENTION CENTER
BALTIMORE FIELD OFFICE**

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EXECUTIVE SUMMARY

The Office of Professional Responsibility (OPR), Office of Detention Oversight (ODO) conducted a Compliance Inspection (CI) of the Frederick County Detention Center (FCDC) in Frederick, Maryland, from February 20 to 22, 2013. Opened in October 1984, the 107,636 square-foot facility is owned by the County of Frederick and operated by the Frederick County Sheriff's Department. In July 2007, U.S. Immigration and Customs Enforcement (ICE) began housing ICE detainees at FCDC. ICE contracts with FCDC through an intergovernmental service agreement to house male and female detainees for over 72 hours. Among the facility's 405 beds, 56 are currently designated for male ICE detainees and six for female ICE detainees.

During the CI, FCDC housed 40 male ICE detainees, 26 Level I (lowest threat) and 12 Level II (medium threat). There were no female ICE detainees held at FCDC at the time of the CI. The average daily detainee population in fiscal year 2012 was 48 males and three females, with an average length of stay of 94 days. The Office of Enforcement and Removal Operations (ERO) in Baltimore, Maryland, is currently preparing to house detainees of higher classification levels at FCDC as part of compliance with ICE's prosecutorial discretion memorandum. FCDC is accredited by the Maryland Commission on Correctional Standards through 2015, and the National Commission on Correctional Health Care (NCCHC) through 2013.

(b)(7)e ERO personnel in the Baltimore field office are responsible for overseeing FCDC's compliance with the ICE National Detention Standards (NDS) and ICE policies. ERO personnel include: an Assistant Field Office Director, (b)(7)e Supervisory Detention and Deportation Officers, a Supervisory Immigration Enforcement Agent, a Deportation Officer, and an Immigration Enforcement Agent. No Detention Services Managers are assigned to FCDC, but there is an Immigration Health Service Corps representative assigned the Baltimore field office.

FCDC's Warden is responsible for oversight of daily operations, and is supported by (b)(7)e security and support personnel.

In July 2012, the ERO Detention Standards Compliance Unit contractor, the Nakamoto Group, Inc., conducted an annual review of the ICE NDS at FCDC. FCDC received an overall recommended rating of "Acceptable," and was found compliant with all 38 standards reviewed.

During this CI, ODO reviewed 21 ICE NDS. Thirteen standards were fully compliant. ODO identified 20 deficiencies in the following eight standards: Access to Legal Material (3 deficiencies), Admission and Release (1), Detainee Grievance Procedures (2), Environmental Health and Safety (4), Food Service (3), Hold Rooms in Detention Facilities (2), Medical Care (2), and Telephone Access (3).

This report details all deficiencies identified by ODO and refers to the specific, relevant sections of the ICE NDS. ERO will be provided a copy of this report to assist in developing corrective actions to resolve all identified deficiencies. These deficiencies were discussed with ERO management and FCDC personnel on-site during the inspection, as well as during the closeout briefing conducted on February 22, 2013.

The grievance system at FCDC provides for both formal and informal grievances. FCDC personnel encourage detainees to resolve their grievances at the lowest level possible. Detainees are provided with information on informal and formal grievance procedures by way of FCDC's detainee handbook and orientation video. The information is provided in both the Spanish and English languages. According to FCDC's Grievance Coordinator, three formal grievances were filed in 2012. ODO found FCDC is not maintaining a grievance log and is not maintaining detainee files with the required grievance information. FCDC's Grievance Coordinator implemented a log of ICE grievances during the CI.

Detainees are notified of the disciplinary process during orientation and by way of the detainee handbook. FCDC's detainee handbook addresses prohibited acts and sanctions, disciplinary and appeal procedures, and detainee rights. Graduated severity scales for prohibited acts and disciplinary consequences are in place, and minor violations are informally settled whenever possible. Reports are prepared by the staff member observing the incident, and investigated by a supervisor within 24 hours. Hearings are conducted in a timely manner, and appeal rights and procedures are explained to detainees.

ODO was informed there have been no detainee hunger strikes or detainee suicides at FCDC. Review of FCDC policy confirmed procedures are in place to identify and address the health care needs of a detainee on a hunger strike, including referral to the medical department and housing in the observation area of the medical unit. Daily monitoring by nursing staff and evaluation by both the physician and psychiatrist are required, as is notification of ICE. A review of training files for all (b)(7)(d) medical staff and ten randomly selected correctional officers confirmed completion of training in hunger strike protocols at the time of employment and on an annual basis.

ODO toured the medical clinic and medical observation housing, reviewed policies and procedures, examined 20 active medical records of ICE detainees, verified medical personnel credentials, inspected personnel training files, and observed operations including sick call and medication administration rounds. In addition, ODO interviewed personnel, including the Health Services Administrator, the FCDC Commander of Special Operations, and several nurses. ODO found medical personnel are not effectively communicating with detainees of limited English proficiency during medical interactions.

FCDC management stated there have been no reported incidents of sexual misconduct in the last 36 months. Sexual conduct between personnel and detainees, volunteers or contract personnel and detainees, regardless of consensual status, is strictly prohibited. Substantiated allegations of sexual assault involving personnel result in administrative and possible criminal disciplinary sanctions. FCDC personnel are trained in the facility's sexual assault procedures during orientation, and receive annual refresher training. Detainees confirmed during group interviews they received sexual assault literature upon admission into FCDC. According to FCDC personnel, the sexual assault literature is available in seven languages, including English, Spanish, French, German, Russian, Italian and Yoruba. This information is also included in the ICE National Detainee Handbook and the local FCDC detainee handbook. Detainees are required to sign an acknowledgement form indicating they are aware of and received the information concerning sexual misconduct with inmates. The signed acknowledgement forms are kept in each detainee's detention file.

ODO determined FCDC's special management unit policies address all procedural requirements of the ICE NDS, including completion of a written order by a supervisor and issuance of a copy of the order to the detainee, and reviews within timeframes required by the ICE NDS. Review of FCDC policy regarding disciplinary segregation confirmed all requirements of the ICE NDS are addressed, including the requirement that detainees be issued a copy of the hearing officer's decision imposing a disciplinary segregation term.

There were no detainees on administrative or disciplinary segregation status at the time of the CI. Based on review of available documentation, no detainees had been assigned to administrative or disciplinary segregation in the past three months. FCDC personnel could not recall any instances when detainees were placed in administrative or disciplinary segregation; therefore, ODO was unable to review case-specific records.

Both the administrative and disciplinary units consisted of five double-occupancy cells. ODO found the cells were well ventilated, adequately lit, appropriately heated, and appeared in good sanitary condition. Detainees in disciplinary segregation are afforded the same general privileges as those in administrative segregation, with regard to exchange of clothing and linens, meals, hygiene, and legal materials.

ODO found detainees are afforded opportunities to communicate with FCDC and ICE personnel on a daily and weekly basis. Detainees have opportunities to engage with FCDC personnel from inside the housing blocks between the hours of 6:00 am and 11:00 pm daily. Detainees also have opportunities to engage with ICE personnel from inside the housing block. Logbooks verify ICE personnel visit once weekly, on average. Both FCDC and ICE personnel offer detainees two separate and distinct processes for filing requests and informal grievances. FCDC handles all facility-specific requests in-house, and carbon copies of request forms are maintained in unofficial detainee files; logbooks are not maintained. ICE-specific requests are resolved either on-site during weekly visits or during future visits. Original forms are maintained at the field office and logged into an electronic file. Carbon copies are not provided to detainees by ICE.

ODO was informed there have been no detainee deaths at FCDC. FCDC policy addresses procedures for detainees to establish a health care proxy/advance directive for their health care in accordance with Maryland law, and requires notification of ICE if a detainee signs a Living Will, an Advance Directive or a Do Not Resuscitate Order. The policy addresses terminal illness, Do Not Resuscitate, and death notification procedures, and the release of remains. FCDC policy also requires the medical provider to conduct a mortality review within 30 days of a detainee death. FCDC does not have an infirmary; therefore, seriously and terminally ill or injured detainees are transferred to an appropriate facility arranged through ICE.

ODO was informed there have been no use-of-force incidents involving ICE detainees in the past year. FCDC's use of force policy is comprehensive and addresses all requirements of the ICE NDS, including the use of force team technique, video-recording of calculated force incidents, post-incident medical examination of detainees, after-action reviews, and notification of ICE. Confrontation avoidance is emphasized in policy and in the facility's use of force training curriculum. FCDC's less-than-lethal munitions consist of Oleo Capsicum (OC) spray, X26 tasers, and the Less Lethal projectile and beanbag launcher systems. Facility policy prohibits use of tasers on detainees. Review of 15 randomly selected staff training files confirmed completion

of initial and annual use of force training, and current certification in OC spray. ODO confirmed protective gear and video cameras are available in the event calculated force is used.

INSPECTION PROCESS

ODO inspections evaluate the welfare, safety, and living conditions of detainees. ODO primarily focuses on areas of noncompliance with the ICE NDS or the ICE Performance-Based National Detention Standards, as applicable. The ICE NDS apply to FCDC. In addition, ODO may focus its inspection based on detention management information provided by ERO Headquarters and ERO field offices, and on issues of high priority or interest to ICE executive management.

ODO reviewed the processes employed at FCDC to determine compliance with current policies and detention standards. Prior to the inspection, ODO collected and analyzed relevant allegations and detainee information from multiple ICE databases, including the Joint Integrity Case Management System, the ENFORCE Alien Booking Module, and the ENFORCE Alien Removal Module. ODO also gathered facility facts and inspection-related information from ERO Headquarters staff to prepare for the site visit at FCDC.

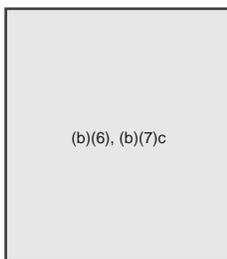
REPORT ORGANIZATION

This report documents inspection results, serves as an official record, and is intended to provide ICE and detention facility management with a comprehensive evaluation of compliance with policies and detention standards. It summarizes those ICE NDS that ODO found deficient in at least one aspect of the standard. ODO reports convey information to best enable prompt corrective actions and to assist in the on-going process of incorporating best practices in nationwide detention facility operations.

OPR defines a deficiency as a violation of written policy that can be specifically linked to the ICE NDS, ICE policy, or operational procedure. When possible, the report includes contextual and quantitative information relevant to the cited standard. Deficiencies are highlighted in bold throughout the report and are encoded sequentially according to a detention standard designator.

Comments and questions regarding the report findings should be forwarded to the Deputy Division Director, OPR ODO.

INSPECTION TEAM MEMBERS



| | |
|--|----------------------|
| Management & Program Analyst (Team Leader) | ODO, Headquarters |
| Section Chief | ODO, Headquarters |
| Contract Inspector | Creative Corrections |

OPERATIONAL ENVIRONMENT

INTERNAL RELATIONS

ODO interviewed both FCDC and ERO management and line personnel regarding their working relationship. ODO found both FCDC and ERO have a positive and productive relationship, and work together to ensure consistent compliance with the standards. FCDC personnel stated they see ERO personnel visiting with the detainee population twice weekly.

ERO personnel expressed no concerns about staffing levels, despite (b)(7)e upcoming Supervisory Immigration Enforcement Agent vacancy in the field office. During the CI, FCDC had (b)(7)e vacancies, including (b)(7)e Correctional Officers, (b)(7)e Captain, and (b)(7)e Civilian. According to FCDC management, (b)(7)e correctional officer candidates are scheduled for training at the Frederick County Public Safety Training Academy starting in March 2013.

DETAINEE RELATIONS

ODO interviewed two random groups of male detainees during the CI. The periods of detention for these detainees ranged from one month to eight months.

The first group, consisting of six detainees, raised no complaints about medical care, recreation, access to telephones, religious services, grievances, or visitation. All detainees confirmed they were provided a full supply of personal hygiene items upon admission to the facility, and they have all maintained a full supply of these items for the duration of their stay. All detainees stated they received an ICE National Detainee Handbook and a local handbook. All detainees stated they were satisfied with the quality of the food and the food service.

All detainees stated they did not know the name of their Deportation Officers, and had never met them. The detainees had contact numbers, but stated whenever the detainees would call, no one answered the telephone. All detainees stated an Immigration Enforcement Agent and Deportation Officer visit the unit at least twice weekly to discuss issues and concerns.

All detainees stated they were routinely strip searched by facility personnel each time they returned from contact visits. ODO confirmed FCDC officials were conducting documented strip searches of detainees in accordance with facility policy by reviewing the record of search documentation maintained in the detention file. FCDC management stated they are aware of the requirements under the Change Notice, which requires each strip search, and the reasonable suspicion justifying each strip search, be documented.

The second group, consisting of ten male detainees, was interviewed about their access to services and treatment by FCDC and ICE personnel. Many detainees had limited English proficiency, and participated in the interview via three voluntary detainee interpreters. Detainees in this group confirmed receiving medical examinations, hygiene items, detainee handbooks, and property list receipts during admission. Detainees in this group expressed satisfaction with out-of-cell time, the recreation area, law library access, ability to practice their religions, and access to showers.

As a group, these detainees complained about the lack of variety in meals, shower water temperatures, low sink water pressures, and poor sink drainage. ODO verified a registered dietician certifies the caloric and nutritional content of all meals. Food portions met all dietary and nutritional requirements.

Individual detainees in the group had additional concerns including: lack of variety in recreation equipment, strip searches during admission, difficulty in distinguishing between FCDC and ICE officials, and confiscation of new commissary products during cell shakedowns. One detainee alleged a “Chinese” officer used inappropriate and derogatory language with detainees.

ICE NATIONAL DETENTION STANDARDS

ODO reviewed a total of 21 ICE NDS and found FCDC fully compliant with the following 13 standards:

- Detainee Classification System
- Detainee Handbook
- Disciplinary Policy
- Funds and Personal Property
- Hunger Strikes
- Recreation
- Religious Practices
- Special Management Unit – Administrative Segregation
- Special Management Unit – Disciplinary Segregation
- Staff-Detainee Communication
- Suicide Prevention and Intervention
- Terminal Illness, Advanced Directives, and Death
- Use of Force

As these standards were compliant at the time of the review, a synopsis for these areas was not prepared for this report.

ODO found deficiencies in the following eight standards:

- Access to Legal Material
- Admission and Release
- Environmental Health and Safety
- Food Service
- Detainee Grievance Procedures
- Hold Rooms in Detention Facilities
- Medical Care
- Telephone Access

Findings for each of these standards are presented in the remainder of this report.

ACCESS TO LEGAL MATERIAL (ALM)

ODO reviewed the Access to Legal Material standard at FCDC to determine if detainees have access to a law library, legal materials, courts, counsel, and document copying equipment to facilitate the preparation of legal documents, in accordance with the ICE NDS.

FCDC's detainee handbook states all detainees are afforded a minimum of five hours of legal library time weekly and one hour of general library time weekly. ODO found documentary evidence supporting this practice for male detainees, but for female detainees, the practice described did not match FCDC's written policy.

Male ICE detainees, who are all housed in K Block, have access to two computers equipped with Lexis-Nexis software between the hours of 6:00 am and 11:00 pm daily. The computers are located in a separate, well-lit room, reasonably isolated from noise. Male detainees can print documents from inside the housing block. Male detainees also have access to a large library within the facility. The library, an extension of the Frederick County Public Library system, is equipped with paper, writing implements, printing and photocopying equipment, written legal materials, and a third computer with Lexis-Nexis software. Male detainees are automatically scheduled time at the library, and can receive additional time by request and appointment. Based on a July 2012 schedule provided to ODO by the librarian, male detainees receive between five and seven hours in the large library weekly.

Compared to male detainees, females are not afforded the same amount of library access in practice. Female detainees, who are commingled with female inmates in the Y2 Block at FCDC, do not have access to document processing equipment from inside their housing block. Therefore, they are dependent upon access to the large library. According to the same July 2012 schedule provided to ODO by the librarian, females in the Y2 Block receive only one hour of library access once biweekly (**Deficiency ALM-1**). The librarian confirmed this practice, stating that due to the large size of the male population overall, it is difficult to schedule library time for the smaller female population.

ODO tested all three ICE computers and two printers throughout the facility to ensure proper operation, and to verify the existence of the latest version of Lexis-Nexis. ODO found all three computers did not contain the latest version of Lexis-Nexis, which was brought to the attention of ERO and FCDC personnel. ERO produced new Lexis-Nexis CDs during the CI, but none of the computers were updated by the conclusion of ODO's review (**Deficiency ALM-2**). According to ERO Headquarters, the Baltimore field office verified receipt of the CDs on February 11, 2013. The printer in K Block was found to be missing an ink cartridge (**Deficiency ALM-3**). This issue was raised with FCDC personnel during the closeout briefing.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY ALM-1

In accordance with the ICE NDS, Access to Legal Material, section (III)(G), the FOD must ensure the facility shall devise a flexible schedule to permit all detainees, regardless of housing or classification, to use the law library on a regular basis. Each detainee shall be permitted to use the law library for a minimum of five (5) hours per week.

DEFICIENCY ALM- 2

In accordance with the ICE NDS, Access to Legal Material, section (III)(E), the FOD must ensure the facility shall designate an employee with responsibility for updating legal materials, inspecting them weekly, maintaining them in good condition, and replacing them promptly as needed. The facility shall notify the designated contact person at INS Headquarters if anticipated updates are not received or if subscriptions lapse.

DEFICIENCY ALM- 3

In accordance with the ICE NDS, Access to Legal Material, section (III)(B), the FOD must ensure the facility shall designate an employee with responsibility to inspect the equipment at least weekly and ensure that it is in good working order, and to stock sufficient supplies.

ADMISSION AND RELEASE (AR)

ODO reviewed the Admission and Release standard at FCDC to determine if procedures are in place to protect the health, safety, security, and welfare of each person during the admission and release process, in accordance with the ICE NDS. ODO reviewed policies, procedures, and detention files, observed the admission process, and interviewed personnel and detainees.

New arrivals are screened and interviewed by intake officers. Detainees are pat-down searched upon admission, though policy states a strip search may be conducted if there is a reasonable suspicion the detainee is in possession of contraband that would present a threat to the safety and security of the facility. The intake process includes completion of medical questionnaires to identify any health issues requiring immediate attention and emergency contact information forms. Subsequent medical and mental health screening is conducted by nursing personnel. The classification process is completed, funds and property are inventoried, jail clothing and basic hygiene items are issued, and detainee handbooks with detailed information regarding facility operations are provided to detainees. The intake process also includes an orientation conducted by FCDC personnel.

Following completion of intake processing, detainees are housed in cells within the Holding Unit pending completion of tuberculosis screening by way of chest x-ray. Review of documentation confirmed this is generally completed within one day of arrival. Upon medical clearance, detainees are transferred to the general population housing unit designated for ICE detainees. ODO was advised by facility personnel that detainees are strip searched prior to transfer to the general population housing unit; further, detainees are routinely strip searched when returning from court (**Deficiency AR-1**). ODO was advised by facility personnel that safety and security of the facility is the justification for conducting strip searches without specific reasonable suspicion.

Upon transfer to general population housing, detainees are provided with two additional sets of clothing, including undergarments and socks. They are also provided with additional personal hygiene items. An orientation video-recording is played in the housing unit, and classification personnel meet with detainees one-on-one to discuss classification and address questions or concerns.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY AR-1

In accordance with Change Notice Admission and Release – National Detention Standard Strip Search Policy, dated October 15, 2007, the FOD must ensure facilities are reminded that strip searches, cavity searches, monitored changes of clothing, monitored showering, and other required exposure of the private parts of a detainee's body for the purpose of searching for contraband are prohibited, absent reasonable suspicion of contraband possession. Facilities may use less intrusive means to detect contraband, such as clothed pat searches, intake questioning, x-rays, and metal detectors.

If information developed during admission processing supports reasonable suspicion for a full search, the information supporting that suspicion should be documented in detail on Form G-1025, Record of Search.

DETAINEE GRIEVANCE PROCEDURES (DGP)

ODO reviewed the Detainee Grievance Procedures standard at FCDC to determine if a process to submit formal or emergency grievances exists, and responses are provided in a timely manner, without fear of reprisal. In addition, the review was conducted to determine if detainees have an opportunity to appeal responses, and if accurate records are maintained, in accordance with the ICE NDS. ODO interviewed personnel, and reviewed policy, the detainee handbook, and grievance documentation.

Detainees are provided with information on informal and formal grievance procedures by way of the detainee handbook and the facility's orientation video. The information is provided in both Spanish and English. FCDC has a designated Grievance Coordinator. The Grievance Coordinator pro-actively and personally interacts with detainees in order to informally resolve issues where possible. The Grievance Coordinator maintains grievance statistics; however, the facility does not maintain a grievance log (**Deficiency DGP-1**). A log supports tracking of grievances and outcomes, and analysis of grievance activity. An ICE detainee grievance log was implemented by the Grievance Coordinator during the review to correct the deficiency.

According to the Grievance Coordinator, there were three formal grievances filed in 2012. When ODO asked to review the three grievances, FCDC personnel only found two. ODO was advised the third grievance was likely a record-keeping error and did not exist. The two identified grievances were filed by the same detainee. In the first grievance, the detainee complained that an officer did not provide him with a clean uniform. The second grievance was a request to see the doctor. The detainee was released to ICE prior to disposition of both grievances. It is noted that documentation reflects the detainee was seen by the physician the day after his grievance was submitted. ODO reviewed the detainee's electronic and hard-copy files, and found the grievances were not included (**Deficiency DGP-2**). Copies of the grievances were printed from the computer system and placed in the detainee's file prior to completion of ODO's review.

According to both ERO and FCDC management and personnel, there have been no allegations of personnel misconduct filed regarding a supervisor or higher-level official.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY DGP-1

In accordance with the ICE NDS, Detainee Grievance Procedures, section (III)(E), the FOD must ensure each facility will devise a method for documenting detainee grievances. At a minimum, the facility will maintain a Detainee Grievance Log.

DEFICIENCY DGP-2

In accordance with the ICE NDS, Detainee Grievance Procedures, section (III)(E), the FOD must ensure a copy of the grievance will remain in the detainee's detention file for at least three years. The facility will maintain that record for a minimum of three years and subsequently, until the detainee leaves ICE custody.

ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

ODO reviewed the Environmental Health and Safety standard at FCDC to determine if the facility maintains high standards of cleanliness and sanitation, safe work practices, and control of hazardous materials and substances, in accordance with ICE NDS. ODO toured the facility, interviewed personnel, and reviewed procedures and documentation of inspections, hazardous chemical management, and fire prevention measures.

Male ICE detainees are housed in K Block, a two-tiered housing unit containing 23 two-bed cells. Each cell is equipped with a commode/sink combination unit, and writing desk and stool attached to the floor. The two bunks are attached to the wall, one above the other. There is a large open dayroom and six individual shower stalls on the first floor of K Block. An outdoor recreation area is located adjacent to the housing unit and is used only by ICE detainees.

ODO observed cells not in use were open, and had trash on the floor and bunks. ODO recommended to FCDC management that cells be cleaned immediately when they become vacant. ODO also observed two leaking shower heads and soap scum on the walls of all showers in K Block. One shower had leaked to the point the metal walls had rusted in the lower corner, and a towel was present to keep the water from flowing onto the floor outside the shower. Rust causes metal to break down, allowing moisture to seep into the area between the shower and wall. The presence of moisture promotes growth of mold and mildew, creating a health hazard. Further, the presence of water on the floor creates a safety concern because it may cause slips and falls.

FCDC has a designated Safety Officer. Documentation supports required weekly and monthly inspections are conducted throughout the facility. Hazardous substances are listed in a master index, which includes Material Safety Data Sheets and documentation of periodic review for accuracy. Material Safety Data Sheets are also present in areas where substances are stored and used. ODO's inspection found chemicals, flammables, and combustible materials are stored and issued as required by the NDS, with one exception. A gallon container of bleach was discovered on the floor next to a washing machine in an inmate housing unit. Later, when inspecting the inventory in the laundry storage area, ODO found the bleach had been returned and there was no documentation it had ever been removed (**Deficiency EH&S-1**). The Safety Officer speculated an officer on the night shift had taken the bleach from the storage area without signing it out, and it was not signed back in when returned. Though not in the detainee housing area, the discovery of the bleach points to inadequate control of hazardous substances by facility personnel. Proper storage and control of hazardous substances is critical to preventing injury to detainees and personnel. ODO recommends re-training of personnel having access to the chemical storage area in proper control and accountability of chemicals.

The Safety Officer provided documentation of extensive weekly fire and safety inspections, as well as required monthly inspections. The facility has prominently posted evacuation plans in English and Spanish, with locations of emergency equipment and directional arrows for traffic flow. Fire drills are conducted on a monthly basis; however, documentation reflects emergency keys were checked out during only two of the last six month's drills (**Deficiency EH&S-2**). Testing of emergency keys and exit doors ensures operability and expeditious egress in the event of an emergency.

The emergency power generator is checked weekly; however, testing is completed only once a month for 30 minutes, rather than bi-weekly for an hour as required by the NDS. In addition, the generator is serviced by an external company twice a year rather than quarterly (**Deficiency EH&S-3**). Emergency generators serve a vital life-safety function in the event of a power outage; therefore, prescribed preventive maintenance and testing are essential.

FCDC has a contract with a local barber to provide barbering services twice a month. The room used for barbering is equipped with a sink with hot and cold running water, and sanitation regulations for barber operations are posted on the wall. ODO was informed the same room is used twice a month for dental care (**Deficiency EH&S-4**). According to personnel, the contract barber does not maintain any equipment at the facility, the barber chair is removed from the room following barbering, and a dental chair and equipment is moved into the room for scheduled dental services. ODO was informed the room is completely sanitized following each use by the dentist and barber.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY EH&S-1

In accordance with the ICE NDS, Environmental Health and Safety, section, (III)(E)(4), the FOD must ensure accountability. Inventory records for a hazardous substance must be kept current before, during, and after each use.

DEFICIENCY EH&S-2

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(L)(4)(c), the FOD must ensure emergency-key drills will be included in each fire drill, and timed. Emergency keys will be drawn and used by the appropriate staff to unlock one set of emergency exit doors not in daily use. NFPA recommends a limit of four and one-half minutes for drawing keys and unlocking emergency doors.

DEFICIENCY EH&S-3

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(O), the FOD must ensure the biweekly test of the emergency electrical generator will last one hour. During that time, the oil, water, hoses and belts will be inspected for mechanical readiness to perform in an emergency situation. The emergency generator will also receive quarterly testing and servicing from an external generator-service company. Among other things, the technicians will check starting battery voltage, generator voltage and amperage output.

DEFICIENCY EH&S-4

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(P)(1), the FOD must ensure the [barber] operation will be located in a separate room not used for any other purpose.

FOOD SERVICE (FS)

ODO reviewed the Food Service standard at FCDC to determine if detainees are provided with a nutritious and balanced diet, in a sanitary manner, in accordance with ICE NDS. ODO interviewed personnel, inspected storage areas, observed meal preparation and service, and reviewed policy and relevant documentation.

FCDC employees manage the facility's food service operation. Food service personnel consist of (b)(7)(e) Food Service Manager and (b)(7)(e) cook supervisors, supported by a crew of (b)(7)(e) county inmate workers. No ICE detainees are assigned to work in food service. ODO verified all personnel and inmate workers received medical clearances. All food service workers were observed wearing clean uniforms, hairnets, gloves, and beard nets for facial hair. All visitors to the kitchen were required to wear hair/beard nets. The food service operation was last inspected by the Maryland Department of Health and Mental Hygiene in October 2012. One minor compliance issue was noted and corrected during that inspection, and no follow-up was required.

Inspection of the kitchen confirmed knives and utensils were properly controlled. ODO verified the menu was certified by a registered dietitian based on a complete nutritional analysis, and religious and medical diets were provided in accordance with standard. At the time of the inspection, one detainee was receiving a medical diet and one detainee was on an approved religious diet.

FCDC has a satellite meal service operation involving preparation of meals in the kitchen and delivery to the housing units on carts. ODO observed preparation of the noon meal trays on Thursday, and accompanied the carts to the housing units. FCDC uses enclosed, heated carts to transport trays from the kitchen to the housing units, cited by ODO as a best practice because they ensure hot food items are maintained at appropriate temperatures. Food is placed on the trays, then immediately loaded onto the pre-warmed carts. The carts are then transported to the housing units under the direct supervision of an officer and plugged into an outlet upon arrival. ODO sampled the noon meal on Wednesday during the inspection, and found the food items were at appropriate temperatures, properly seasoned, and portions were as listed on the menu.

ODO observed sanitation of food surface and preparation areas was good, and workers were observed following "clean as you go" procedures. However, ODO identified sanitation and safety concerns in the walk-in freezer and dry storage area. Trash was observed on the floors of both the freezer unit and dry storage area (**Deficiency FS-1**). In the dry storage area, boxes and packaged food items were stored against the walls (**Deficiency FS-2**). Storage against walls promotes insect and rodent infestation, and does not allow adequate pest control measures. Prior to completion of the review, the food items were moved away from the walls, and trash had been removed from the dry storage area. In the freezer, ODO observed a significant accumulation of frozen condensation and ice on the blower unit, and on the floor beneath. Some condensation had dripped and frozen on boxes of food items (**Deficiency FS-3**). Though ODO verified the condensation did not come into contact with electrical parts, and the food items inside the boxes were in sealed plastic bags, the presence of condensation signifies the freezer is not functioning properly and needs repair. The Food Service Manager was present when this was discovered and informed ODO that maintenance personnel had checked the freezer unit several times but had not been able to resolve the problem. The Food Service Manager instructed personnel to make

certain no boxes were stored near the leaking unit to prevent any potential contamination. During a follow up inspection the next day, ODO found the boxes had been moved to prevent condensation from dripping on them; however, trash remained on the floor, and the condensation problem continued. ODO recommends all necessary steps be taken to ensure the matter is addressed.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY FS-1

In accordance with the ICE NDS, Food Service, section (III)(H)(5)(c), the FOD must ensure all facilities shall meet the following environmental standards [among others]: routinely cleaned walls, floors, and ceilings in all areas.

DEFICIENCY FS-2

In accordance with the ICE NDS, Food Service, section (III)(J)(3)(e), the FOD must ensure the following procedures apply when receiving or storing food [among others]: store food items at least two inches from the walls and at least six inches above the floor. Wooden pallets may be used to store canned goods and other non-absorbent containers, but not to store dairy products or fresh produce.

DEFICIENCY FS-3

In accordance with the ICE NDS, Food Service, section (III)(D)(5), the FOD must ensure food and ice will be protected from dust, insects and rodents, unclean utensils and work surfaces, unnecessary handling, coughs and sneezes, flooding, drainage, overhead leakage, and other sources of contamination. Protection will be continuous, whether the food is in storage, in preparation/on display, or in transit.

HOLD ROOMS IN DETENTION FACILITIES (HR)

ODO reviewed the Hold Rooms in Detention Facilities standard at FCDC to determine if detainees placed temporarily in hold rooms, awaiting further processing, are in a safe, secure, and comfortable environment, and not held confined in hold rooms for over 12 hours, in accordance with the ICE NDS. ODO inspected the hold rooms, interviewed personnel, and reviewed policy and documentation.

FCDC has one hold room used for detainees waiting processing. There were no detainees in the hold room during the review. The room is in direct line of sight of the officer assigned to the intake area, and meets the physical requirements of the NDS. The room does not have a lavatory/toilet fixture; however, ODO was informed detainees are removed from the hold room to use toilet facilities when necessary. A log is not maintained to record required custody information, including 15-minute monitoring checks (**Deficiency HR-1**). FCDC does not require officers to perform 15-minute checks (**Deficiency HR-2**). ODO was informed detainees are removed from hold rooms within an hour; however, this could not be verified in the absence of a log.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY HR-1

In accordance with the ICE NDS, Hold Rooms in Detention Facilities, section (III)(C)(2), the FOD must ensure each facility shall maintain a detention log (manually or electronically) for every detainee placed in a hold cell. The log records custodial information about new arrivals (e.g., a "voluntary return" waiting for a scheduled transportation run); detainees awaiting legal visitation; and detainees awaiting interviews with supervisory personnel or other officials.

The designated hold-room officer will enter specified information into the log immediately upon the detainees' placement in a hold room. However, the log will not record information about detainees in the hold room pending release, in-house medical services, or awaiting court.

DEFICIENCY HR-2

In accordance with the ICE NDS, Hold Rooms in Detention Facilities, section (III)(C)(4), the FOD must ensure officers shall closely supervise the detention hold rooms through direct supervision, which involves "irregular" visual monitoring every 15 minutes (each time recording the time and officer's star number in the detention log). When the hold room is not in the officer's direct line of sight, he/she shall maintain continuous auditory monitoring.

Any unusual behavior or complaints shall be noted under "comments." Officers shall keep under constant surveillance any detainee exhibiting signs of hostility, depression, or other symptomatic behavior. In such cases, they shall notify the shift supervisor

MEDICAL CARE (MC)

ODO reviewed the Medical Care standard at FCDC to determine if detainees have access to healthcare and emergency services to meet health needs in a timely manner, in accordance with the ICE NDS. ODO toured the medical clinic and medical observation housing, reviewed policies and procedures, examined 20 active medical records of ICE detainees, verified medical personnel credentials, inspected personnel training files, and observed operations including sick call and medication administration rounds. In addition, ODO interviewed personnel, including the Health Services Administrator, the FCDC Commander of Special Operations, and several nurses.

The Health Services Department maintains compliance with State of Maryland correctional standards, and is currently accredited by the National Commission on Correctional Health Care (NCCHC). The Health Services Unit also maintains current Drug Enforcement Administration (DEA) registration, radiation device certification, and Maryland licenses for pharmacy operation. The medical laboratory is certified as a Clinical Laboratory Improvement Amendments-waived category service. There have been no natural cause deaths or completed suicides of a detainee since the ICE contract origin in 2007.

Healthcare at FCDC is provided under contract by Conmed Healthcare Management, Inc. By Conmed policy, the Health Services Administrator has responsibility for administrative coordination of healthcare services. The Medical Director, who is a physician licensed by the state of Maryland, has final responsibility for making and approving all medical decisions regarding detainee care. The Medical Director is on-site two half-days each week, and a Physician Assistant is on-site three half-days each week. Coverage is provided 24 hours a day, seven days a week, by a team of: (b)(7)e registered nurse (b)(7)e licensed practical nurses (b)(7)e certified medication aides; and (b)(7)e certified medication technician. Additional coverage is provided by (b)(7)e registered nurses, (b)(7)e licensed practical nurses, (b)(7)e certified medication technician, and an x-ray technician who works on an as-needed basis. At least (b)(7)e registered nurse or licensed practical nurse is on duty at all times. A dentist and dental assistant provide services at the facility twice a month. Mental health personnel include a Licensed Clinical Social Worker-Certified and a psychiatrist on-site twice a week. There are negotiated arrangements with nearby medical facilities and healthcare providers to provide required services not available within the facility. Based on the size of the facility and low acuity level of detainees at FCDC, ODO found staffing levels adequate.

ODO reviewed copies of professional credentials including the professional license, insurance, DEA registration, and other certifications for all (b)(7)e full- and part-time medical personnel. All were found to be current and verified at the primary source. The same (b)(7)e medical personnel files document that all medical personnel is currently certified in cardio-pulmonary resuscitation (CPR), automated external defibrillator (AED) use, and first aid. Training records for (b)(7)e correctional personnel were reviewed and all had documentation of current CPR, first aid, AED, suicide prevention, blood borne pathogens, and medical intake screening training.

The Health Services Department at FCDC consists of one multi-purpose examination room, eight observation rooms, and an office. Two of the observation rooms have negative pressure air flow for tuberculosis isolation. A multi-purpose room outside of the Health Services Department

is used for both dental services and barbering at separate times. A mobile dental chair and dental operatory are moved into this room when the dentist is on-site twice a month. Dental equipment and supplies are not in the room when used for barbering. ODO inspected the room the day after barbering and while in use by the dentist. The room was clean and sanitary, and the dentist had no concerns with sanitation measures.

Detainees receive medical intake screening on arrival at FCDC by correctional officers trained by medical personnel. Medical personnel are notified immediately if the screening officer has any concerns about the detainees' medical or mental health status. Medical personnel then complete a follow-up medical, mental health, and dental intake screening within four hours of detainee arrival. Review of the forms used by officers and medical personnel confirmed they are comprehensive, and address all necessary and appropriate health matters. Detainees sign a statement on the medical intake screening form consenting to general medical treatment, and specific consent forms are signed prior to invasive treatment, dental or surgical procedures, and for psychotropic medications. Detainees are screened for tuberculosis by way of chest x-ray, and are held in cells in the booking area until the chest x-ray result is obtained. After tuberculosis clearance is obtained, the detainees are moved to a general population unit. ODO verified intake screening procedures meet NDS requirements by review of 20 ICE detainee active medical files.

ODO verified the initial health appraisal involves a hands-on physical examination as described in the applicable NCCHC standards. A review of 20 medical records confirmed physical examinations are performed by either a physician or physician assistant within 14 days of arrival. The health appraisal includes an examination of the oral cavity for dental caries or other abnormalities. ODO verified completion of health appraisals by review of 20 ICE detainee active medical files.

Detainees have daily access to medical services by way of a sick call sign-up sheet available in each housing unit during the breakfast meal. Information entered on the sign-up sheet is limited to the detainee's name, number, and signature, and does not include the nature of the request or other medical information. The sign-up sheets are collected by nursing personnel after the breakfast meal, and each detainee requesting medical services is seen for sick call the same day. Upon arrival in the Health Services Department, the detainee completes the top half of a sick call request form recording the medical concern, and is then seen by nursing personnel. ODO notes the sick call slips are only printed in English and recommends that a Spanish-language version be made available. Documentation in the medical record supported that 20 detainees requesting healthcare services by way of the sick call sign-up system were evaluated by medical personnel the same day. Treatment provided by nursing personnel is based on physician-approved nursing protocols. Medications allowed by the protocols are over-the-counter medications, only. If clinically indicated, detainees are referred to a provider and are seen on the next scheduled clinic day.

Though there were no detainees on administrative or disciplinary segregation status at the time of the review, ODO verified detainees in segregation have the same opportunity for daily sick call as detainees in general population, and medical personnel are required to make daily rounds. A Segregation Assessment Record form is maintained in the detainee's medical record for each detainee housed in either type of segregation.

In four of 20 medical records reviewed, ODO found documentation by both medical and correctional personnel indicating a language barrier between detainee and staff. The records reviewed suggested the four detainees did not speak English or had difficulty understanding English, and therefore were unable to communicate effectively with FCDC personnel. In one case, a correctional officer who performed an intake health screening on a detainee noted in writing that the detainee “doesn’t speak English;” yet, the correctional officer recorded “no” as the answer for all 53 questions on the form. ODO found no documentation demonstrating an attempt to provide language interpretation or translation assistance through other FCDC personnel or a telephone interpretation service (**Deficiency MC-1**).

In the other three cases, detainee sick call forms were written in Spanish, and nursing personnel documented a language barrier, but made no attempt to access language interpretation or translation assistance (**Deficiency MC-2**). During an interview with two nurses, ODO found there was confusion about whether a telephone interpretation or translation service was even available.

FCDC’s Special Operations Commander informed ODO there are several certified interpreters available on an as-needed basis, but it is unclear how frequently these personnel are used and what languages they speak fluently. Further, ERO personnel reported FCDC has permission to use the ICE national language line. Part of a Department of Homeland Security memorandum addressing the ICE-contracted language line was posted in the Health Services Department; however, the part of the memorandum providing instructions for use was unavailable. ODO recommends educating and training all medical and correctional personnel in use of any language interpretation and translation services.

Of the 20 medical records reviewed, only one documented a chronic medical condition. The detainee’s history of Diabetes Mellitus Type 2 was identified at intake. He was immediately referred to a provider, enrolled as a chronic care patient, and received appropriate care.

Medications at FCDC are stored in locked carts in the medical department. The certified medication technician and nursing personnel make medication rounds to the housing units three times a day. Correctional personnel stand with medical personnel during medication rounds, and each detainee’s mouth is checked to ensure medication is swallowed. Medical personnel make entries on the detainee’s Medical Administration Record when the medication is administered. At the time of the ODO inspection there were no detainees receiving psychotropic medication, and FCDC policy does not allow the use of forced psychotropic medication without valid court order. Sharps, medical instruments, and bulk medications are inventoried by medical personnel at every shift change.

Local policy requires the FCDC Commander of Operations to notify ICE officials in cases of emergency hospitalization, serious illness or other significant medical issues while housed at FCDC.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY MC-1

In accordance with the ICE NDS, Medical Care, section (III)(D), the FOD must ensure, if language difficulties prevent the health care provider/officer from sufficiently communicating with the detainee for purposes of completing the medical screening, the officer shall obtain translation assistance. Such assistance may be provided by another officer or by a professional service, such as a telephone translation service. In some cases, other detainees may be used for translation assistance if they are proficient and reliable and the detainee being medically screened consents. If needed translation assistance cannot be obtained, medical personnel will be notified or the screening form will be filled out to refer the detainee to medical personnel for immediate attention.

DEFICIENCY MC-2

In accordance with the ICE NDS, Medical Care, section (III)(F), the FOD must ensure all facilities must have a procedure in place to ensure that all request slips are received by the medical facility in a timely manner. If necessary detainees will be provided with assistance in filling out the request slip, especially detainees who are illiterate or non-English speaking.

TELEPHONE ACCESS (TA)

ODO reviewed the Telephone Access standard at FCDC to determine if the facility provides detainees with reasonable and equitable access to telephones to maintain ties with family and others in the community, in accordance with the ICE NDS.

FCDC provides detainees general guidelines for use of its telephones. Detainees in the general population are permitted 17 uninterrupted hours of telephone access between 6:00 am and 11:00 pm daily. During that time, detainees have the opportunity to make outgoing collect calls to both domestic and international numbers. Pro-bono calls to ICE-approved entities are permitted between the hours of 9:00 am and 6:00 pm daily. Detainees housed in special management units are afforded telephone access for a minimum of one hour daily during recreation, and based on their disciplinary charges. FCDC's telephone access policies and procedures are outlined in the detainee handbook.

ODO found the telephone ratio in each housing block was compliant with the standard. ODO observed three telephones in the K Block, which houses up to 60 male detainees; one telephone in Y2 Block, which houses up to ten female detainees; and one telephone in each special management unit, which houses up to five detainees. The K Block telephones are located at the back of the housing unit and offer a reasonable amount of privacy for legal calls; however, the telephones in the Y2 Block and segregation offer little to no privacy.

ODO checked all telephones in the detainee housing blocks and found them to be in good working order, with the exception of one telephone in the K Block that had a missing switch hook. The missing piece did not affect one's ability to make a call, but did affect one's ability to end a call. The NDS states the facility shall inspect the telephones regularly and maintain them in working order. ERO personnel check the telephones during their weekly visits, while FCDC management relies on detainees and inmates to notify the facility of service issues.

ODO was unable to verify the direct dial numbers, as FCDC's telephone system operates on voice recognition biometrics. In order to make a call, detainees are required to enter an "AR number" and provide a voice sample, which is verified against the AR number and the individual's voice biometrics. ERO personnel indicated they are unable to ensure proper operation of the telephones due to this technology.

ODO confirmed FCDC permits detainees to make free direct calls upon request. A logbook confirmed detainees are provided free calls of up to ten minutes in length, not 20 minutes as required by the ICE NDS (**Deficiency TA-1**). FCDC's detainee handbook states free "professional calls" are available via the facility's informal grievance process. According to FCDC management, free calls are primarily made from the ICE 287(g) office or a post telephone located outside each housing unit.

During a review of 15 randomly-selected detention files, ODO found a number of requests from detainees for free telephone calls. A closer look revealed these requests were being fulfilled between four to 14 days after the initial request (**Deficiency TA-2**), not within 24 hours as required by the ICE NDS. The sample reviewed by ODO reflected delays between handling by the referring officer and the responding officer. When brought to the attention of FCDC

management, management stated requests for free calls are fulfilled within five days in accordance with the Detainee Grievance standard. FCDC management claimed The Nakamoto Group, Inc. found no issues with their response times during the July 2012 inspection. When ODO asked FCDC management how they decipher the purpose and urgency of call requests, FCDC management implied detainees who repeatedly request free calls are abusing the system, since all detainees have access to telephones in their housing blocks.

IC Solutions of San Antonio, Texas, is the current telephone carrier for FCDC. According to FCDC management and the detainee handbook, IC Solutions records and monitors all calls made from the housing blocks, regardless of nature. All calls made from the 287(g) office are also recorded and monitored, with the exception of verified legal calls. FCDC's local detainee handbook states "all detainee housing unit telephone calls are recorded and archived" (**Deficiency TA-3**). FCDC management stated the only exception to this practice in the housing blocks is calls made to the ICE pro bono list and members of the Frederick Bar Association.

STANDARDS/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY TA-1

In accordance with the ICE NDS, Telephone Access, section (III)(F), the FOD must ensure the facility shall not restrict the number of calls a detainee places to his/her legal representatives, nor limit the duration of such calls by rule or automatic cut-off, unless necessary for security purposes or to maintain orderly and fair access to telephones. If time limits are necessary for such calls, they shall be no shorter than 20 minutes, and the detainee shall be allowed to continue the call if desired, at the first available opportunity.

DEFICIENCY TA-2

In accordance with the ICE NDS, Telephone Access, section (III)(E), the FOD must ensure staff will allow detainees to make such [direct and free] calls as soon as possible after the request, factoring in the urgency expressed by the detainee. Generally, access will be granted within eight (facility-established) waking hours of the detainee's request, excluding the hours between lights-out and morning resumption of scheduled activities. The detainee will always be granted access within 24 hours of his/her request.

DEFICIENCY TA-3

In accordance with the ICE NDS, Telephone Access, section (III)(K), the FOD must ensure a detainee's call to a court, a legal representative, or for the purposes of obtaining legal representation will not be aurally monitored absent a court order. The OIC retains the discretion to have other calls monitored for security purposes.