



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

**Office of Detention Oversight
Follow-Up Compliance Inspection**

**Enforcement and Removal Operations
ERO Saint Paul Field Office**

**Sherburne County Jail
Elk River, Minnesota**

April 26-29, 2021

FOLLOW-UP COMPLIANCE INSPECTION
of the
SHERBURNE COUNTY JAIL
Elk River, Minnesota

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FOLLOW-UP COMPLIANCE INSPECTION TEAM MEMBERS



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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 follow-up compliance inspection of the Sherburne County Jail (SCJ) in Elk River, Minnesota, from April 26 to 29, 2021.¹ This inspection focused on the standards found deficient during ODO’s last inspection of SCJ from December 14 to 17, 2020. The facility opened in 1979 and is owned and operated by the Sherburne County Sheriff’s Office. The ICE Office of Enforcement and Removal Operations (ERO) began housing detainees at SCJ in 1991 under the oversight of ERO’s Field Office Director (FOD) in Saint Paul (ERO Saint Paul). The facility operates under the National Detention Standards (NDS) 2019.

ERO has assigned deportation officers (DOs) to the facility. A jail commander handles daily facility operations and manages █ personnel. Summit Food Service provides food services, MEnD Correctional Care provides medical care, and Sherburne County provides commissary services at the facility. The facility was accredited by the American Correctional Association in 2017.

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity ²	350
Average ICE Detainee Population ³	█
Male Detainee Population (as of April 26, 2021)	█
Female Detainee Population (as of April 26, 2021)	█

During its last inspection, in December 2020, ODO found 12 deficiencies in the following areas: Admission and Release (1); Custody Classification System (2); Use of Force and Restraints (1); Special Management Units (1); Sexual Abuse and Assault Prevention and Intervention (2); Hunger Strikes (1); Medical Care (3); and Disability Identification, Assessment, and Accommodation (1).

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 April 19, 2021.

³ *Ibid.*

FOLLOW-UP COMPLIANCE INSPECTION PROCESS

ODO conducts oversight inspections of ICE detention facilities with an average daily population of 10 or more detainees, 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. In FY 2021, to meet congressional requirements, ODO began conducting follow-up inspections at all ICE ERO detention facilities, which ODO inspected earlier in the FY.

While follow-up inspections are intended to focus on previously identified deficiencies, ODO will conduct a complete review of several core standards, which include but are not limited to Medical Care, Hunger Strikes, Suicide Prevention, Food Service, Environmental Health and Safety, Emergency Plans, Use of Force and Restraints/Use of Physical Control Measures and Restraints, Admission and Release, Classification, and Funds and Personal Property. ODO may decide to conduct a second full inspection of a facility in the same FY based on additional information obtained prior to ODO's arrival on-site. Factors ODO will consider when deciding to conduct a second full inspection will include the total number of deficiencies cited during the first inspection, the number of deficient standards found during the first inspection, the completion status of the first inspection's UCAP, and other information ODO obtains from internal and external sources ahead of the follow-up compliance inspection. Conditions found during the inspection may also lead ODO to assess new areas and identify new deficiencies or areas of concern should facility practices run contrary to ICE standards. Any areas found non-compliant during both inspections are annotated as "Repeat Deficiencies" in this report.

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.

FINDINGS BY NATIONAL DETENTION STANDARDS 2019 MAJOR CATEGORIES

NDS 2019 Standards Inspected ^{4,5}	Deficiencies
Part 1 – Safety	
Environmental Health and Safety	0
Sub-Total	0
Part 2 – Security	
Admission and Release	0
Custody Classification System	3
Funds and Personal Property	0
Use of Force and Restraints	0
Special Management Units	1
Sexual Abuse and Assault Prevention and Intervention	1
Sub-Total	5
Part 4 – Care	
Food Service	0
Hunger Strikes	2
Medical Care	5
Significant Self-Harm and Suicide Prevention and Intervention	0
Disability Identification, Assessment, and Accommodation	0
Sub-Total	7
Total Deficiencies	12

⁴ For greater detail on ODO’s findings, see the *Follow-Up Compliance Inspection Findings* section of this report.

⁵ Beginning in FY 2021, ODO added Emergency Plans, Facility Security and Control, Population Counts, Hunger Strikes, and Staff Training as core standards. NDS 2019 does not include Emergency Plans, Population Counts, nor Staff Training as individual standards; however, those specific requirements are resident in other core standards.

DETAINEE RELATIONS

ODO interviewed 12 detainees, who each voluntarily agreed to participate. One detainee made an allegation of false charges against him. Most detainees reported satisfaction with facility services except for the concerns listed below. ODO conducted the detainee interviews via video teleconference.

Funds and Personal Property: A detainee stated he could not use his commissary funds nor deposit additional funds due to a system error.

- Action Taken: ODO interviewed the facility captain who oversees the commissary accounts for detainees and found no record indicating the detainee's account was ever inactive. On April 27, 2021, the captain informed the detainee his account was still active, showed him how to add funds to his account, and instructed him to submit a request if he or his family had any issues using the account.

Grievance System: A detainee stated he submitted a medical grievance and has not received a response.

- Action Taken: ODO reviewed the medical grievance log, interviewed the health services administrator (HSA) and grievance coordinator, and found the detainee submitted a sick call request on January 24, 2021, and a medical grievance on January 25, 2021, regarding back pain. On January 25, 2021, medical staff evaluated the detainee as result of the sick call request and referred him to the medical doctor (MD), who evaluated the detainee on January 26, 2021. On January 27, 2021, medical staff received the medical grievance. On January 28, 2021, medical staff responded to the detainee's grievance and noted the MD evaluated and treated the detainee on January 26, 2021.

Law Library and Legal Materials: A detainee stated the facility charges for photocopies of legal paperwork.

- Action Taken: ODO interviewed the law librarian, reviewed the facility's policy, and found the facility does not charge for photocopies of legal material. On April 27, 2021, the law librarian spoke with the detainee and informed him legal photocopies are complimentary.

Medical Care: A detainee stated he was to receive follow-up care for an extracted tooth; however, medical staff have not evaluated him.

- Action Taken: ODO interviewed the HSA, reviewed the detainee's medical file, and found the dentist evaluated the detainee on January 28, 2021. The dentist noted one of the detainee's molars was loose and not restorable and recommended a tooth extraction. On February 6, 2021, the dentist extracted the tooth, recommended the detainee apply for a partial denture, and scheduled the detainee for a follow-up appointment. On March 9, 2021, the dentist completed a comprehensive oral exam on the detainee and obtained X-rays. Dental staff sent the X-rays to ICE Health Service Corp (IHSC) for a decision on a partial denture for the detainee's missing tooth. On March 25, 2021,

IHSC denied the request, but approved the detainee for another comprehensive exam and X-rays. Medical staff scheduled the detainee for a follow-up dental appointment, and as of ODO's inspection, the detainee's pending dental appointment faced a long wait list. The HSA stated the delay was due to the COVID-19 pandemic restricting dentist availability at the facility to once every 2 weeks. The dentist typically handles 10 detainees/inmates per day with some cases accepted as priority. On April 28, 2021, medical staff evaluated the detainee and informed him of his pending follow-up dental appointment and to submit a sick call request should he experience any further tooth pain.

Medical Care: A detainee stated he was near sighted, but the facility would not give him glasses.

- Action Taken: ODO interviewed the HSA and determined a registered nurse (RN) evaluated the detainee on February 21, 2021, for vision issues. During the appointment, the RN diagnosed the detainee with 20/40 vision in both eyes. The facility submitted a request for prescription glasses to IHSC; however, IHSC denied the request. ODO interviewed the field medical coordinator and found that IHSC requires detainees without other underlying health conditions to have an eyesight of 20/50 before approving a request for prescription glasses. On April 28, 2021, medical staff informed the detainee he did not meet IHSC's criteria for prescription glasses. Medical staff informed him to complete a sick call request for any changes in his vision.

Special Management Unit: A detainee stated the facility falsely charged him and placed him in the special management unit.

- Action Taken: ODO reviewed the detainee's segregation file and found the detainee was diabetic and had an elevated blood glucose level of 519 on January 29, 2021. The detainee received two doses of insulin and his blood glucose returned to a normal level. As a precaution, facility medical staff issued an administrative segregation order for continued medical observation. The facility placed the detainee in the special management unit, which is directly across the hallway from the medical clinic, so they could keep the medical observation cells open for emergency uses such as impaired drivers directly booked into the facility and suicidal inmates/detainees. The facility did not charge the detainee with any disciplinary infractions. On February 4, 2021, medical staff cleared the detainee for general population.

FOLLOW-UP COMPLIANCE INSPECTION FINDINGS

SECURITY

CUSTODY CLASSIFICATION SYSTEM (CCS)

ODO reviewed 12 detainee detention files and found 1 file, in which a supervisor did not review the detainee's classification (**Deficiency CCS-6⁶**).

⁶ "The classification system shall ensure: ...

ODO reviewed 12 detainee detention files and found 1 file, in which a supervisor did not verify the intake officer's classification file for accuracy and completeness (**Deficiency CCS-10**⁷).

ODO reviewed the facility's detainee roster, interviewed the classification supervisor, and found the facility did not house two detainees according to their classification level (**Deficiency CCS-14**⁸). **This is a repeat deficiency.**

SPECIAL MANAGEMENT UNITS (SMU)

ODO reviewed 12 administrative segregation (AS) orders and found the releasing officer did not indicate the date nor time of release on any of the AS orders reviewed (**Deficiency SMU-19**⁹).

SEXUAL ABUSE AND ASSAULT PREVENTION AND INTERVENTION (SAAPI)

ODO reviewed the facility's SAAPI policy and procedures and found ERO Saint Paul had not approved the facility's written SAAPI policy and procedures (**Deficiency SAAPI-14**¹⁰). **This is a repeat deficiency.**

Corrective Action: During the inspection, the FOD reviewed and approved the facility's SAAPI policy (**C-1**).

CARE

FOOD SERVICE (FS)

ODO interviewed the food service director (FSD), who stated the Department of Public Health (DPH) of Saint Paul did not conduct safety inspections in 2020 because of the COVID-19 pandemic. DPH conducted its last safety inspection on October 29, 2019. The FSD stated he spoke with a DPH inspector, who said inspections will resume once pandemic restrictions are lifted. ODO notes this as an **Area of Concern**.

HUNGER STRIKES (HS)

ODO reviewed one detainee hunger strike file and found medical staff did not perform a urinalysis during the initial hunger strike evaluation (**Deficiency HS-10**¹¹).

4. A supervisor will review each detainee's classification." See ICE NDS 2019, Standard, Custody Classification System, Section (II)(A)(4).

⁷ "A supervisor will review the intake/processing officer's classification file for each detainee for accuracy and completeness." See ICE NDS 2019, Standard, Custody Classification System, Section (II)(B).

⁸ "All facilities shall ensure detainees are housed according to their classification level." See ICE NDS 2019, Standard, Custody Classification System, Section (II)(D).

⁹ "When the detainee is released from administrative segregation, the releasing officer shall indicate the date and time of release on the administrative segregation order." See ICE NDS 2019, Standard, Special Management Units, Section (II)(A)(2)(c).

¹⁰ "The facility's written policy and procedures must be reviewed and approved by ICE/ERO." See ICE NDS 2019, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (II)(A).

¹¹ "During the initial evaluation of a detainee on a hunger strike, medical staff shall: ...

c. Perform urinalysis." See ICE NDS 2019, Standard, Hunger Strikes, Section, (II)(C)(1)(c).

ODO reviewed one detainee hunger strike file and found a nurse practitioner terminated the hunger strike treatment instead of a physician (**Deficiency HS-32**¹²).

MEDICAL CARE (MC)

ODO reviewed [REDACTED] staff credentials and found [REDACTED] credentials did not have a primary-source verification to confirm valid professional licensure (**Deficiency MC-11**¹³).

ODO reviewed the training records for [REDACTED], who conducted comprehensive health assessments of detainees, and found none of the RNs received annual training by a physician (**Deficiency MC-28**¹⁴).

ODO reviewed three medical records of detainees on psychotropic medications and found one file did not contain a signed informed-consent form from the detainee (**Deficiency MC-93**¹⁵). **This is a repeat deficiency.**

ODO reviewed the facility's detainee handbook and found no information for detainees and their representatives to request and receive medical records (**Deficiency MC-102**¹⁶).

Corrective Action: During the inspection, the facility amended the detainee handbook to include information on how detainees and their representatives can request medical records. Additionally, the facility posted a notification in every housing unit with the amended information for the detainee population (**C-2**).

ODO reviewed the initial health assessment of one female detainee and found medical staff did not inquire about the following:

- Nursing (breastfeeding) status;
- Use of contraception;
- Reproductive history (number of pregnancies, number of live births, number of spontaneous/elective abortions, pregnancy complications, etc.);
- History of breast and gynecological problems; nor
- Family history of breast and gynecological problems (**Deficiency MC-138**¹⁷). **This is**

¹² “Only a physician may order the termination of hunger strike treatment.” See ICE NDS 2019, Standard, Hunger Strikes, Section, (II)(F).

¹³ “Health care staff shall have a valid professional licensure and/or certification for the jurisdiction in which they practice and will perform duties within the scope of their clinical license.” See ICE NDS 2019, Standard, Medical Care, Section (II)(C).

¹⁴ “Health assessments shall be performed by a physician, physician assistant, nurse practitioner, registered nurse (RN) (with documented initial and annual training provided by a physician), or other health care practitioner, as permitted by law.” See ICE NDS 2019, Standard, Medical Care, Section (II)(E).

¹⁵ “Prior to the administration of psychotropic medications, a separate documented informed consent, that includes a description of the medications side effects, shall be obtained.” See ICE NDS 2019, Standard, Medical Care, Section (II)(O).

¹⁶ “Detainees and their representatives shall be allowed to request and receive medical records pursuant to facility policy, which shall be communicated to the detainee in the facility handbook.” See ICE NDS 2019, Standard, Medical Care, Section (II)(P).

¹⁷ “In addition to the criteria listed on the health assessment form, the evaluation shall inquire about and perform the following: ...

a repeat deficiency.

CONCLUSION

During this inspection, ODO assessed the facility's compliance with 12 standards under NDS 2019 and found the facility in compliance with 7 of those standards. ODO found 12 deficiencies in the remaining 5 standards. ODO commends facility staff for its responsiveness during this inspection. ODO recommends ERO Saint Paul work with the facility to resolve any deficiencies that remain outstanding in accordance with contractual obligations.

Compliance Inspection Results Compared	First FY 2021 (NDS 2019)	Second FY 2021 (NDS 2019)
Standards Reviewed	18	12
Deficient Standards	8	5
Overall Number of Deficiencies	12	12
Repeat Deficiencies	3	3
Areas of Concern	0	1
Corrective Actions	1	2

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- b. If the detainee is currently nursing (breastfeeding);
 - c. Use of contraception;
 - d. Reproductive history (number of pregnancies, number of live births, number of spontaneous/elective abortions, pregnancy complications, etc.); ...
 - f. History of breast and gynecological problems;
 - g. Family history of breast and gynecological problems." See ICE NDS 2019, Standard, Medical Care, Section (II)(U)(1)(b)(c)(d)(f) and (g).