



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

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Office of Detention Oversight  
Compliance Inspection

Enforcement and Removal Operations  
ERO Saint Paul Field Office

Sherburne County Jail  
Elk River, MN

July 6-9, 2020

**COMPLIANCE INSPECTION  
of the  
Sherburne County Jail  
Elk River, MN**

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## 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 compliance inspection of the Sherburne County Jail (SCJ) in Elk River, MN from July 6-9, 2020.<sup>1</sup> The facility opened in 1979 and is owned and operated by the County of Sherburne. The ICE Office of Enforcement and Removal Operations (ERO) began housing detainees at SCJ in February 1989 under the oversight of ERO's Field Office Director (FOD) in St. Paul, MN (ERO St. Paul). The facility operates under the National Detention Standards (NDS) 2019.

ERO has assigned Deportation Officers and a Detention Services Manager to the facility. A SCJ Commander handles daily facility operations and is supported by █████ 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 August 2017.

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity <sup>2</sup>	300
Average ICE Detainee Population <sup>3</sup>	274
Male Detainee Population (as of 7/1/2020)	119
Female Detainee Population (as of 7/1/2020)	8

During its last inspection, in Fiscal Year (FY) 2018, ODO found 20 deficiencies in the following areas: Admission and Release (1); Custody Classification System (6); Food Service (3); Environmental Health and Safety (3); Medical Care (1); Special Management Units (2); Use of Force (3); and Telephone Access (1).

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

<sup>2</sup> Data Source: ERO Pre-Inspection Questionnaire dated June 26, 2020.

<sup>3</sup> *Ibid.*

## COMPLIANCE INSPECTION PROCESS

ODO conducts oversight inspections of ICE detention facilities with an average daily population greater than ten, and where detainees are housed for longer than 72 hours, to assess compliance with ICE national detention standards. These inspections focus solely on facility compliance with detention standards that directly affect detainee life, health, safety, and/or well-being.<sup>4</sup>

ODO identifies violations of ICE detention standards, ICE policies, or operational procedures as “deficiencies.” ODO also highlights instances in which the facility resolves deficiencies prior to completion of the ODO inspection. Where applicable, these corrective actions are annotated with “C” under the *Compliance Inspection Findings* section of this report.

Upon completion of each inspection, ODO conducts a closeout briefing with facility and local ERO officials to discuss preliminary findings. A summary of these findings is shared with ERO management officials. Thereafter, ODO provides ICE leadership with a final compliance inspection report to: (i) assist ERO in developing and initiating corrective action plans; and (ii) provide senior executives with an independent assessment of facility operations. ODO’s findings inform ICE executive management in their decision-making to better allocate resources across the agency’s entire detention inventory.

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

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

## FINDINGS BY NATIONAL DETENTION STANDARDS 2019 MAJOR CATEGORIES

NDS 2019 Standards Inspected <sup>5</sup>	Deficiencies
<b>Part 1 – Safety</b>	
Environmental Health and Safety	0
<b>Sub-Total</b>	<b>0</b>
<b>Part 2 – Security</b>	
Admission and Release	0
Custody Classification System	6
Funds and Personal Property	0
Special Management Units	1
Use of Force and Restraints	2
Staff-Detainee Communication	0
Sexual Abuse and Assault Prevention and Intervention	1
<b>Sub-Total</b>	<b>10</b>
<b>Part 4 – Care</b>	
Food Service	0
Medical Care	1
Significant Self-harm and Suicide Prevention and Intervention	2
Disability Identification, Assessment, and Accommodation	2
<b>Sub-Total</b>	<b>5</b>
<b>Part 5 – Activities</b>	
Recreation	1
Religious Practices	0
Telephone Access	0
Visitation	1
<b>Sub-Total</b>	<b>2</b>
<b>Part 6 – Justice</b>	
Grievance Systems	0
Law Libraries and Legal Material	0
<b>Sub-Total</b>	<b>0</b>
<b>Total Deficiencies</b>	<b>17</b>

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

## DETAINEE RELATIONS

ODO interviewed six detainees, who each voluntarily agreed to participate. Most detainees reported satisfaction with facility services except for the concern listed below. ODO attempted to conduct detainee interviews via video teleconference; however, ODO was not able to accommodate this due to technology issues. As such, the detainee interviews were conducted via telephone.

The team lead attempted to interview the required 12 detainees during the Contingency Inspection; however, based on the amount of time spent interviewing each of the six detainees, the remainder of the detainees were not able to be interviewed in order to complete the inspection within the required time frame.

*Food Service:* Three detainees stated the food served was not very healthy and potatoes were served far too often with meals.

- Action Taken: ODO reviewed the facility's menu provided by the food service administrator. The facility's master cycle menu had been approved and certified by a registered dietician and met the recommended daily allowances and overall nutritional requirements. The menu had been developed considering ethnic diversity of the facility population.

# COMPLIANCE INSPECTION FINDINGS

## SECURITY

### CUSTODY CLASSIFICATION SYSTEM (CCS)

ODO reviewed twelve training records and interviewed the classification and training sergeants and found training was not documented for three out of the six classification officers, nor was training documented for 12 duty sergeants who review initial classifications. Additionally, ODO reviewed the facility's Inmate/Detainee Classification policy and confirmed the policy did not include the requirement for training staff who perform the classification function (**Deficiency CCS-1<sup>6</sup>**).

ODO reviewed 16 detainee files and interviewed the classification sergeant who confirmed not all reclassifications were reviewed by a supervisor (**Deficiency CCS-2<sup>7</sup>**). Only five out of 16 files reviewed contained reclassification documentation. Furthermore, ODO reviewed the facility's Inmate/Detainee Classification policy and verified the policy did not require supervisory review of all classifications.

ODO reviewed the facility's Inmate/Detainee Classification and Clothing, Bedding, and Laundry Services policies, and the facility detainee handbook. Additionally, the ICE National Detainee Handbook, Amendment on Classification from the jail commander dated July 25, 2018, and photos of detainee clothing, were examined. However, the facility did not have a system established to readily identify detainees' classification levels with clothing, wristbands, etc. (**Deficiency CCS-3<sup>8</sup>**).

ODO interviewed the assistant jail administrator and classification sergeant and reviewed detainee rosters of housing units noting classification levels of detainees. ODO confirmed detainees of all classification levels were co-mingling in two out of the five housing units (female and orientation units). Detainees with different classification levels should not be housed together per the standard (**Deficiency CCS-4<sup>9</sup>**).

ODO reviewed the facility's Inmate/Detainee Classification and Prison Rape Elimination Act (PREA) policies, and found neither contained language to: ensure detainees with disabilities were housed in the least restrictive and most integrated setting; provide detainees with disabilities the equal opportunity to participate in programs and activities; ensure transgender/intersex detainees' self-identification and detainees' own views on housing placement and safety was taken into consideration. Additionally, the policies did not require a review of transgender/intersex detainee classifications at least twice a year as required by the

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<sup>6</sup> "All officers assigned to classification duties shall be trained in the facility's classification process." See ICE NDS 2019, Standard, Custody Classification System, Section (II)(A)(2).

<sup>7</sup> "A supervisor will review each detainee's classification." See ICE NDS 2019, Standard, Custody Classification System, Section (II)(A)(4).

<sup>8</sup> "Each facility shall establish a system that readily identifies a detainee's classification level, for example, color-coded uniforms." See ICE NDS 2019, Standard, Custody Classification System, Section (II)(A)(6).

<sup>9</sup> "All facilities shall ensure detainees are housed according to their classification level." See ICE NDS 2019, Standard, Custody Classification System, Section (II)(D).



classification standard. While the facility was meeting the standard requirements, the Classification and PREA policies were the primary guides for staff to know these required practices and should include the requirements in their policies (CCS-5<sup>10</sup>).

ODO reviewed 18 classification forms in 16 detainee files, as well as inspected classification records entered into the Jail Management System. None of the 18 classification forms were in compliance, which was confirmed by documentation not being maintained to account for the time classification and housing assignments were completed. This resulted in ODO's inability to verify completion of detainee classification and housing assignments within 12-hours of admission to the facility (CCS-6<sup>11</sup>).

ODO reviewed the Inmate/Detainee Classification and Inmate Booking/Admissions policies, which further confirmed neither policy informed the staff of the requirement to complete the detainee classification and housing assignments within 12-hours of admission to the facility. ODO cites this as an **Area of Concern**.

ODO reviewed the facility's Transgender Detainee/Inmate Welfare Form. The form asks specific questions to gather transgender/intersex detainee opinions on being placed in male versus female housing units, the sex of staff conducting searches, and any special laundry needs. ODO cites this as a **Best Practice**.

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

ODO reviewed two calculated UOF videos and found in one incident, team members were introduced [REDACTED] during the incident (**Deficiency UOF&R-1**<sup>12</sup>).

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<sup>10</sup> "Consistent with Standard 4.7, "Disability Identification, Assessment, and Accommodation," the facility shall use any information about identified disabilities in making classification and housing decisions. Detainees with disabilities shall be housed in the least restrictive and most integrated setting possible consistent with facility safety and security and provided an equal opportunity to participate in or benefit from the facility's programs and activities.

When making classification and housing decisions for a transgender or intersex detainee, staff shall consider [REDACTED] detainee's gender self-identification and assess the effects of placement on the detainee's health and safety. A medical or mental health professional shall be consulted as soon as practicable on this assessment. Placement decisions of transgender or intersex detainees should not be based solely on the identity documents or physical anatomy of the detainee, and a detainee's self-identification of his or her gender and self-assessment of his or her safety needs shall always be taken into consideration as well. The placement shall be consistent with the safety and security considerations of the facility, and placement and programming assignments for each transgender or intersex detainee shall be reassessed at least twice each year to review any threats to safety experienced by the detainee." See ICE NDS 2019, Standard, Custody Classification System, Section (II)(E).

<sup>11</sup> "The initial classification process and initial housing assignment should be completed within 12 hours of admission to the facility." See ICE NDS 2019, Standard, Custody Classification System, Section (II)(A)(2).

<sup>12</sup> "When a detainee must be forcibly moved and/or restrained during a calculated use of force, the use-of-force team technique shall apply.

1. Calculated-use-of-force video recording will include the following:

- a) Introduction by Team Leader, stating facility name, location, time, date, etc.; describing the incident that led to the calculated use of force; naming each team member and showing his or her face briefly, as well as naming the video camera operator, and other staff present.
- b) Faces of all team members briefly appear [REDACTED]
- c) Team Leader offering detainee last chance to cooperate before team action in a language or manner the detainee understands, outlining use-of-force procedures, engaging in confrontation avoidance, and issuing use-of-force order.

ODO reviewed two calculated UOF packets and found an after-action review was not conducted after one of the UOF incidents (**Deficiency UOF&R-2**<sup>13</sup>).

## **SPECIAL MANAGEMENT UNITS (SMU)**

ODO reviewed the facility's Inmate Discipline policy, which allows for detainees to be placed in disciplinary segregation for up to 60 days for a single infraction instead of the required 30-day time frame (**Deficiency SMU-1**<sup>14</sup>).

## **SEXUAL ABUSE AND ASSAULT PREVENTION AND INTERVENTION (SAAPI)**

ODO reviewed the facility's PREA policy and interviewed the PREA coordinator and assistant jail administrator and confirmed ICE/ERO St. Paul had not approved the PREA/SAAPI policy and procedures (**Deficiency SAAPI-1**<sup>15</sup>).

## **CARE**

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

ODO reviewed the facility's policies and the Tuberculosis (TB) and Communicable Disease and Infection Control programs. ODO found the facility lacked policy and program guidance regarding the requirement for all detainees with suspected or confirmed TB disease be evaluated for human immunodeficiency virus (HIV) and all detainees with HIV be evaluated for TB disease, which included a chest x-ray (**Deficiency MC-1**<sup>16</sup>).

### **SIGNIFICANT SELF-HARM AND SUICIDE PREVENTION AND INTERVENTION (SSHSPI)**

ODO reviewed the facility's Suicidal Inmates/Detainees, Suicide Prevention and Evaluation, and Mental Health Care policies. The policies did not address the need for detainees placed on suicide precautions to be evaluated by a mental health provider (or health care provider) daily. The evaluation should include assessing any changes indicating a need for change in the level of

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d) Entire Use-of-Force Team operation, unedited, until detainee is in restraints.

e) Close-ups of detainee's body during medical exam, focusing on the presence/absence of injuries, if any, described but not shown." See ICE NDS 2019, Standard, Recreation, Section (II)(B)(2)(b)(1).

<sup>13</sup> "Written procedures shall govern the mandatory after-action review for use-of-force incidents (whether immediate or calculated) and for the application of restraints. The purpose of the review is, among other things, to assess the reasonableness of the actions taken (i.e., the proportionality of the force used to the detainee's actions)." See ICE NDS 2019, Standard, Use of Force and Restraints, Section (II)(K).

<sup>14</sup> "The maximum sanction is 30 days in disciplinary segregation per incident, except in extraordinary circumstances. After the first 30 days, and each 30 days thereafter, the facility administrator shall send a written justification for the continued segregation to ICE/ERO." See ICE NDS 2019, Standard, Special Management Units, Section (II)(B)(1).

<sup>15</sup> "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)(7).

<sup>16</sup> "All detainees with suspected or confirmed TB disease shall be evaluated for human immunodeficiency virus (HIV) and all detainees with HIV shall be evaluated for TB disease, which includes a chest x-ray." See ICE NDS 2019, Standard, Medical Care, Section (II)(D)(1).

supervision (i.e., constant watch, close observation, or removal from suicide precautions) and each re-evaluation must be documented in the detainees' medical records (**Deficiency SSH&SPI-1**<sup>17</sup>).

ODO reviewed the facility's Suicidal Inmates/Detainees, Suicide Prevention and Evaluation, and Mental Health Care policies, which did not address the requirement for a mental health provider to perform welfare checks every eight hours (**Deficiency SSH&SPI-2**<sup>18</sup>).

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

The facility had not appointed a Disability Compliance Coordinator (**Deficiency DIA&A-1**<sup>19</sup>).

*Corrective Action:* On July 7, 2020, the facility initiated corrective action by updating Inmate Discrimination Policy, 14.08, and designating the current jail program coordinator as the Disability Compliance Coordinator.

The facility's orientation program did not inform detainees about the facility's disability accommodations, including their right to request reasonable accommodations and how to make such a request for reasonable accommodations. Additionally, the facility did not post disability documents for detainee awareness in detainee living areas and in the medical unit (**Deficiency DIA&A-2**<sup>20</sup>).

## **ACTIVITIES**

### **RECREATION (R)**

ODO reviewed the facility's Recreation and Leisure Time policy and the indoor recreation schedule, which revealed the facility did not allow detainees one hour of recreation each day (**Deficiency R-1**<sup>21</sup>).

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<sup>17</sup> "Detainees placed on suicide precautions shall be re-evaluated by a mental health provider (or a health care practitioner) on a daily basis to assess any changes that indicate a need for change in the level of supervision (i.e., constant watch, close observation, or removal from suicide precautions). Each re-evaluation must be documented in the detainee's medical record." See ICE NDS 2019, Standard, Significant Self-Harm and Suicide Prevention and Intervention, Section (II)(D).

<sup>18</sup> "A mental health provider will perform welfare checks every 8 hours." See ICE NDS 2019, Standard, Significant Self-Harm and Suicide Prevention and Intervention, Section, (II)(F).

<sup>19</sup> "The facility or public entity shall designate a Disability Compliance Coordinator to assist facility personnel in ensuring compliance with this standard and all applicable federal, state, and local laws related to accommodation of detainees with disabilities. The Disability Compliance Coordinator may be a member of the medical staff, or anyone with relevant knowledge, education, and/or experience; this role may be filled by the county, locality, or agency's existing ADA coordinator." See ICE NDS 2019, Standard, Disability Identification, Assessment, and Accommodation, Section (II)(B)(2).

<sup>20</sup> "The facility orientation program shall notify and inform detainees about the facility's disability accommodations policy, including their right to request reasonable accommodations and how to make such a request, in a language and/or manner they can understand. The facility will post other documents for detainee awareness in detainee living areas and in the medical unit, as requested by ICE/ERO." See ICE NDS 2019, Standard, Disability Identification, Assessment, and Accommodation, Section (II)(I).

<sup>21</sup> "If only indoor recreation is available, detainees shall have access to at least one hour each day and shall have access to natural light." See ICE NDS 2019, Standard, Recreation, Section (II)(A)(2).

## VISITATION (V)

The facility only allowed detainees 20-minutes for each visit instead of the 30-minute minimum visit as required by the standard (**Deficiency V-1<sup>22</sup>**).

## CONCLUSION

During this inspection, ODO assessed the facility's compliance with 18 standards under NDS 2019 and found the facility in compliance with nine of those standards. ODO found 17 deficiencies in the remaining nine standards. ODO commends facility staff for their responsiveness during this inspection and notes there was one instance where staff initiated immediate corrective action during the inspection. In addition, one Area of Concern and one Best Practice were cited in the Custody Classification System standard.

ODO recommends ERO work with the facility to resolve any deficiencies that remain outstanding in accordance with contractual obligations.

<b>Compliance Inspection Results Compared</b>	<b>FY 2018 (NDS 2000)</b>	<b>FY 2020 (NDS 2019)</b>
Standards Reviewed	16	18
Deficient Standards	9	9
Overall Number of Deficiencies	20	17
Repeat Deficiencies	0	0
Corrective Actions	1	1

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<sup>22</sup> "The facility's written rules shall specify time limits for visits: 30 minutes minimum, under normal conditions."  
*See* ICE NDS 2019, Standard, Visitation, Section (II)(F)(1).