



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
Compliance Inspection**

**Enforcement and Removal Operations
ERO New York Field Office**

**Bergen County Jail
Hackensack, New Jersey**

March 29-April 1, 2021

**COMPLIANCE INSPECTION
of the
BERGEN COUNTY JAIL
Hackensack, New Jersey**

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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 Bergen County Jail (BCJ) in Hackensack, New Jersey, from March 29 to April 1, 2021.¹ The facility opened in 1996 and is owned and operated by Bergen County. The ICE Office of Enforcement and Removal Operations (ERO) began housing detainees at BCJ in 1989 under the oversight of ERO’s Field Office Director (FOD) in New York (ERO New York). The facility operates under the National Detention Standards (NDS) 2019.

ERO has assigned deportation officers and a part-time detention service manager to the facility. A warden handles daily facility operations and is supported by ██████ personnel. Aramark Corporation provides food services, Bergen County provides medical care, and Keefe Group provides commissary services at the facility. The facility was accredited by the American Correctional Association in February 2018 and the National Commission on Correctional Health Care in May 2018. In November 2017, BCJ was audited by the Department of Justice (DOJ) Prison Rape Elimination Act (PREA) and was DOJ PREA certified.

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity ²	128
Average ICE Detainee Population ³	████
Male Detainee Population (as of March 29, 2021)	████
Female Detainee Population (as of March 29, 2021)	████

During its last inspection, in Fiscal Year (FY) 2020, ODO found two deficiencies in the following areas: Custody Classification System (1) and Telephone Access (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 March 8, 2021.

³ *Ibid.*

COMPLIANCE INSPECTION PROCESS

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

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

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

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

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

FINDINGS BY NATIONAL DETENTION STANDARDS 2019 MAJOR CATEGORIES

NDS 2019 Standards Inspected ^{5&6}	Deficiencies
Part 1 – Safety	
Environmental Health and Safety	0
Sub-Total	0
Part 2 – Security	
Admission and Release	1
Custody Classification System	0
Facility Security and Control	0
Funds and Personal Property	1
Use of Force and Restraints	0
Special Management Units	2
Staff-Detainee Communication	0
Sexual Abuse and Assault Prevention and Intervention	0
Sub-Total	4
Part 4 – Care	
Food Service	1
Hunger Strikes	0
Medical Care	1
Significant Self-Harm and Suicide Prevention and Intervention	0
Disability Identification, Assessment, and Accommodation	0
Sub-Total	2
Part 5 – Activities	
Religious Practices	0
Telephone Access	0
Sub-Total	0
Part 6 – Justice	
Grievance Systems	0
Law Libraries and Legal Material	0
Sub-Total	0
Total Deficiencies	6

⁵ For greater detail on ODO’s findings, see the *Compliance Inspection Findings* section of this report.

⁶ 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. None of the detainees made allegations of discrimination or mistreatment; however, one detainee made a sexual abuse allegation. Most detainees reported satisfaction with facility services except for the concerns listed below. ODO conducted the detainee interviews via video teleconference.

Medical Care: A detainee complained of having chest pains and stated medical staff only provided him over-the-counter pain medication.

- Action Taken: ODO interviewed the health services administrator (HSA), who stated the medical director (MD) evaluated the detainee on October 27, 2020 and March 23, 2021, for chest pains. The MD conducted an electrocardiogram (EKG) and checked the detainee's vital signs, which were all within normal limits. According to the MD, the chest pain was a result of musculoskeletal pain, pain in the muscles, bones, ligaments, tendons, and nerves. On March 30, 2021, the MD evaluated the detainee and his EKG and vital signs were within normal limits. The MD ordered a chest x-ray, urinalysis, and laboratory tests to ensure the chest pains are not abnormal. The facility did not receive the results for these tests prior to the conclusion of ODO's inspection.

Medical Care: A detainee stated he needed his wisdom tooth extracted and is in constant pain despite receiving medication.

- Action Taken: ODO interviewed the HSA, who stated the dentist evaluated the detainee on March 22, 2021, for wisdom tooth pain. The dentist prescribed the detainee Tylenol and submitted an ICE request for an oral surgeon consultation. On March 30, 2021, a contracted oral surgeon evaluated the detainee, prescribed Augmentin and Naprosyn, and referred the detainee to an off-site medical clinic for a tooth extraction.

Medical Care: A detainee complained of chronic chest pain and stated medical staff is not treating his condition appropriately.

- Action Taken: ODO interviewed the HSA, who stated the MD evaluated the detainee on October 23, 2020 and November 23, 2020, for complaints of chronic chest pain. The MD conducted an EKG and checked the detainee's vital signs, which were within normal limits. The MD diagnosed the detainee with chest pains due to anxiety. Medical staff previously diagnosed the detainee with depression, and he was receiving medication and follow-up care. The MD informed the detainee to continue taking his medication and follow-up with medical staff as needed. On March 30, 2021, at ODO's request, the MD conducted an EKG and checked the detainee's vital signs, which were within normal limits. The MD diagnosed the detainee with muscular pain related to anxiety. The MD explained the symptoms for cardiac related chest pains and informed the detainee to follow-up with medical staff as needed.

Medical Care: A detainee complained of tooth pain and stated the facility would not address the issue.

- Action Taken: ODO interviewed the HSA, who stated a dentist evaluated the detainee on October 21, 2020. The dentist noted the detainee had a root canal prior to entering BCJ and determined the detainee needed a crown. From October 2020 to March 2021, the dentist did not provide the detainee any follow-up care. On March 30, 2021, following ODO's interview with the detainee, the dentist evaluated the detainee and offered the detainee medication, but the detainee declined the medication. The dentist referred the detainee to a contracted oral surgeon to discuss his options for a tooth extraction. ODO notes the facility delayed care and cites this as an **Area of Concern** in the *Medical Care* section of this report.

Sexual Abuse and Assault Prevention and Intervention: A detainee alleged he was a victim of sexual abuse in 2019 at another ICE facility.

- Action Taken: ODO immediately notified ERO New York about the allegation and the facility initiated medical and investigation protocols on March 29, 2021. Since the allegation took place at Essex County Correctional Facility, ERO New York notified ERO Newark, which initiated Sexual Abuse and Assault Prevention and Intervention (SAAPI) protocols and interviewed the detainee. ERO Newark reported the incident to an ICE SAAPI coordinator for investigation and monitoring. The investigation was ongoing during ODO's inspection.

Special Management Units: A detainee stated the facility wrongfully accused him of disciplinary charges in November 2020, and he was unable to appeal the hearing officer's decision.

- Action Taken: ODO reviewed the detainee's disciplinary file and found on November 26, 2020, the detainee was charged with threatening another individual with bodily harm (code .005) and disrupting or interfering with the orderly operation of a correctional facility (code .306). An officer reported the detainee threatened him and attempted to get other detainees to cause a commotion in the housing unit. Facility staff removed the detainee from the housing unit without further incident. When the officer was packing the detainee's property, the officer found a broken broomstick and charged the detainee with possession of a weapon (code .202). The Disciplinary Hearing Officer (DHO) found the detainee guilty of codes .005 and .306 and ordered him to 10 days in disciplinary segregation with 5 days suspended. The DHO did not find the detainee guilty of code .202, because he believed the broken broomstick was homemade exercise equipment. The DHO stated the facility provides all detainees who receive a disciplinary hearing with a "Notice to Inmate of Rights" form, which includes the right to appeal a decision and a blank "Appeal of Disciplinary Decision" form. ODO found no documentation of the detainee appealing the decision after the DHO adjudicated the charges.

COMPLIANCE INSPECTION FINDINGS

SECURITY

ADMISSION AND RELEASE (AR)

ODO reviewed 12 detainee detention files and found 2 files did not contain a signed Order to Detain or Order to Release (Form I-203) (**Deficiency AR-18⁷**).

FUNDS AND PERSONAL PROPERTY (FPP)

ODO reviewed the facility's detainee handbook and found it does not notify detainees of procedures for claiming property upon release, transfer, or removal; nor the procedures for filing a claim for lost or damaged property (**Deficiency FPP-34⁸**).

SPECIAL MANAGEMENT UNITS (SMU)

ODO reviewed 12 SMU administrative segregation (AS) files and found 9 files, in which the releasing officer did not document the date and time he released the detainee from SMU on the AS Order (**Deficiency SMU-19⁹**).

ODO reviewed 12 SMU disciplinary segregation (DS) files and found 8 files, in which the releasing officer did not document the date and time he released the detainee from SMU on the DS Order (**Deficiency SMU-42¹⁰**).

CARE

FOOD SERVICE (FS)

ODO reviewed the facility's 35-day menu and found the common-fare menu did not have special menus for the 10 federal holidays (**Deficiency FS-60¹¹**).

Corrective Action: The food service manager revised the common-fare menu to include special meals for the 10 federal holidays and a dietician approved the menu on March 31, 2021. The facility provided ODO a copy of the revised menu, and the menu will be

⁷ "Official documentation from ICE/ERO (e.g. Form I-203, I-203a, or I-216) shall accompany each newly arriving detainee." See ICE NDS 2019, Standard, Admission and Release, Section (II)(F).

⁸ "The facility handbook shall notify detainees of facility policies and procedures concerning personal property, including: ...

4. The procedures for claiming property upon release, transfer, or removal; and

5. The procedures for filing a claim for lost or damaged property." See ICE NDS 2019, Standard, Funds and Personal Property, Section (II)(H)(4-5).

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

¹¹ "...The common-fare menu is based on a 14-day cycle, with special menus for the 10 Federal holidays." See ICE NDS 2019, Standard, Food Service, Section (II)(F)(2).

effective on Memorial Day (C-1).

MEDICAL CARE (MC)

ODO reviewed 12 detainee medical records and found 4 detainees did not receive physical examinations within 14 days of their arrival to the facility (**Deficiency MC-27¹²**).

During interviews, a detainee stated he was frustrated because he had tooth pain and the dentist had not provided follow-up care since October 21, 2020. On March 30, 2021, ODO notified the HSA of the detainee's tooth pain and his concern about his dental care. Following ODO's notification, the dentist evaluated the detainee and offered medication, but the detainee declined. The dentist referred the detainee to a contracted oral surgeon to discuss his options for a tooth extraction. ODO notes the delay in dental care as an **Area of Concern**.

CONCLUSION

During this inspection, ODO assessed the facility's compliance with 18 standards under NDS 2019 and found the facility in compliance with 13 of those standards. ODO found six deficiencies in the remaining five standards. ODO commends the facility's staff for their responsiveness during this inspection. ODO recommends ERO New York work with the facility to resolve any deficiencies that remain outstanding in accordance with contractual obligations.

Compliance Inspection Results Compared	FY 2020 (NDS 2019)	FY 2021 (NDS 2019)
Standards Reviewed	18	18
Deficient Standards	2	5
Overall Number of Deficiencies	2	6
Repeat Deficiencies	0	0
Areas of Concern	0	1
Corrective Actions	0	1

¹² "The facility will conduct and document a comprehensive health assessment, including a physical examination and mental health screening, on each detainee within 14 days of the detainee's arrival at the facility." *See* ICE NDS 2019, Standard, Medical Care, Section (II)(E).