



U.S. Department of Homeland Security

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

April 18–21, 2016

**COMPLIANCE INSPECTION
for the
BERGEN COUNTY JAIL
HACKENSACK, NEW JERSEY**

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EXECUTIVE SUMMARY

The Office of Detention Oversight (ODO) conducted a compliance inspection of the Bergen County Jail (BCJ) in Hackensack, New Jersey, from April 18 to 22, 2016.¹ BCJ opened in 1965 and is owned by the County of Bergen and operated by the Office of the Bergen County Sheriff. The Office of Enforcement and Removal Operations (ERO) began housing detainees at BCJ in September 2001, pursuant to a United States Marshals Service (USMS) Intergovernmental Agreement (IGA), under the oversight of ERO’s Field Office Director (FOD) in New York.

ERO staff members are not assigned to the facility. A Detention Services Manager is assigned to the facility on alternate weeks. A BCJ Warden is responsible for oversight of daily facility operations and is supported by (b) (7) personnel. Corizon Health provides detainee medical services, and Aramark provides food services. The facility is accredited by both the American Correctional Association and the National Commission on Correctional Health Care. The BCJ is not contractually obligated to comply with the ICE Performance-Based National Detention Standards (PBNDS) 2011, Sexual Abuse and Assault Prevention and Intervention (SAAPI) standard; however, it has made efforts to comply.⁴

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity ²	192
Average ICE Detainee Population ³	130
Male Detainee Population (as of 4/19/2016)	133
Female Detainee Population	N/A

OVERALL FINDINGS

In June 2012, ODO conducted an inspection of the facility under the National Detention Standards (NDS) 2000, reviewing the facility’s compliance with 20 standards and finding the facility compliant with 12 standards. There were a total of 22 deficiencies in the remaining eight standards.

Inspection Results Compared	FY 2012 (NDS 2000)	FY 2016 (NDS 2000)
Standards Reviewed	20	15
Deficient Standards	8	5
Overall Number of Deficiencies	22	8
Corrective Action	0	1

In FY2016, ODO conducted an inspection of BCJ under the NDS 2000. ODO reviewed the facility’s compliance with 15 standards and found the facility compliant with ten standards. ODO found eight deficiencies, in the remaining five standards, one of which was a repeat deficiency.⁵ Finally, ODO identified one opportunity where the facility initiated corrective action during the course of the inspection.⁶

¹ Male detainees of security classification levels low, medium low, medium high, and high security classification levels are detained at the facility for longer than 72 hours.

² Data Source: ERO Facility List Report as of April 18, 2016.

³ *Ibid.*

⁴ The facility has a zero tolerance policy articulated in BCJ Policy CD-SOP-14-3.19, *Lesbian, Gay Bisexual, Transgender, and Intersex Inmates/Detainees-Corrections Specific*. Facility staff, including volunteers and contractors, receives training in sexual assault and abuse prevention and intervention. The training curriculum specifically addresses the Prison Rape Elimination Act (PREA).

⁵ ODO identified a repeat deficiency from the June 2012 ODO inspection in the Admission and Release standard.

⁶ Corrective actions, where immediately implemented, best practices, and recommendations, as applicable, have been identified in the *Inspection Findings* section and annotated with a “C,” “BP,” or “R,” respectively.

FINDINGS BY NDS 2000 MAJOR CATEGORIES

NDS 2000 STANDARDS INSPECTED ⁷	DEFICIENCIES
Part 1 – Detainee Services	
Access to Legal Material	0
Admission and Release	1
Detainee Classification System	0
Detainee Grievance Procedures	3
Detainee Handbook	0
Food Service	0
Funds and Personal Property	0
Staff-Detainee Communication	2
Telephone Access	1
Sub-Total	7
Part 2 – Security and Control	
Environmental Health and Safety	0
Special Management Unit (Administrative Segregation)	0
Special Management Unit (Disciplinary Segregation)	0
Use of Force	1
Sub-Total	1
Part 3 – Health Services	
Medical Care	0
Suicide Prevention and Intervention	0
Sub-Total	0
Total Deficiencies	8

⁷ For greater detail on ODO's findings, see the *Inspection Findings* section of this report.

INSPECTION PROCESS

Every fiscal year, the Office of Detention Oversight (ODO), a unit within U.S. Immigration and Customs Enforcement's (ICE) Office of Professional Responsibility (OPR), conducts compliance inspections at detention facilities in which detainees are accommodated for periods in excess of 72 hours and with an average daily population greater than ten to determine compliance with the ICE National Detention Standards (NDS) 2000, or the Performance-Based National Detention Standards (PBNDS) 2008 or 2011, as applicable.

During the compliance inspection, ODO reviews each facility's compliance with those detention standards that directly affect detainee health, safety, and/or well-being.⁸ Any violation of written policy specifically linked to ICE detention standards, ICE policies, or operational procedures that ODO identifies is noted as a deficiency. ODO also highlights any deficiencies found involving those standards that ICE has designated under either the PBNDS 2008 or 2011, to be "priority components."⁹ Priority components have been selected from across a range of detention standards based on their critical importance to facility security and/or the health and safety, legal rights, and quality of life of detainees in ICE custody.

Immediately following an inspection, ODO hosts a closeout briefing in person with both facility and ERO field office management to discuss their preliminary findings, which are summarized and provided to ERO in a preliminary findings report. Thereafter, ODO provides ERO with a final compliance inspection report to: (i) assist ERO in working with the facility to develop a corrective action plan to resolve identified deficiencies; and (ii) provide senior ICE and ERO leadership with an independent assessment of the overall state of ICE detention facilities. The reports enable senior agency leadership to make decisions on the most appropriate actions for individual detention facilities nationwide.

⁸ ODO reviews the facility's compliance with selected standards in their entirety.

⁹ Priority components have not been identified for the NDS.

DETAINEE RELATIONS

ODO interviewed 25 detainees, each of whom volunteered to participate. None of the detainees made allegations of mistreatment, abuse, or discrimination. The majority of detainees reported being satisfied with facility services, with the exception of the complaints below:

Admission and Release: Fifteen detainees complained they were strip searched at BCJ after returning from court.

- Action Taken: ODO reviewed the detention files of all 15 detainees, and all 15 detention files contained completed BCJ Changeout/Strip Search Authorization Forms. Senior BCJ staff informed ODO that whenever a detainee leaves the facility with access or exposure to public areas (e.g. court appearances), or whenever a reasonable suspicion exists, a strip search is conducted. Detainees are notified they will be strip searched upon returning from court, and the search is documented on BCJ's Changeout/Strip Search Authorization Form.

Funds and Personal Property: One detainee complained that his personal funds were not transferred from his previous facility.

- Action Taken: ODO spoke with the ERO about the issue and confirmed the detainee's personal funds were transferred during the inspection. The detainee was made aware of the transfer of funds by ERO staff during the inspection.

INSPECTION FINDINGS

DETAINEE SERVICES

ADMISSION AND RELEASE (AR)

Facility staff notified ODO that detainees returning to BCJ following a court appearance are always strip searched as standard practice (**Deficiency AR-1¹⁰**). The Warden informed ODO that per New Jersey state law, a detainee's departure from, and return, to the facility is default justification for conducting strip searches without specific reasonable suspicion.

DETAINEE GRIEVANCE PROCEDURES (DGP)

ODO reviewed BCJ standard operating procedure (SOP), CD-SOP-08-16.05, Grievance Procedures for Detainees, dated August 22, 2008 and interviewed the BCJ grievance coordinator. ODO learned the facility makes every effort to resolve informal complaints before resorting to the formal complaint process. However, during the interview with the grievance coordinator, ODO also learned that informal grievances resolved to the detainee's satisfaction are not documented and placed in the detainee's detention file (**Deficiency DGP-1¹¹**).

The facility allows detainees to submit formal grievances at any time; however, according to the grievance coordinator, all formal grievances submitted by detainees are reviewed by the facility's grievance coordinator and not by a grievance committee (**Deficiency DGP-2¹²**). ODO reviewed 14 detainee detention files of detainees who filed grievances and found none were reviewed by a grievance committee.

ODO reviewed the grievance log, grievance files, and detainee detention files, and determined 14 formal grievances were filed by detainees in the year preceding the inspection; copies of the grievances were not kept in the detainee detention files (**Deficiency DGP 3¹³**).

¹⁰ "This memorandum states that immigration detainees shall *"not"* be strip searched upon admission to a facility unless there is *"reasonable suspicion"* that an individual may be concealing a weapon or other contraband." See ICE Change Notice Admission and Release – National Detention Strip Search Policy, dated October 15, 2007. .

¹¹ "If an oral grievance is resolved to the detainee's satisfaction at any level of review, the staff member need not provide the detainee written confirmation of the outcome, however the staff member will document the results for the record and place his/her report in the detainee's detention file." See ICE NDS 2000, Standard, Detainee Grievance Procedures, Section (III)(A)(1). **This is a repeat deficiency.**

¹² "The OIC must allow the detainee to submit a formal, written grievance to the facility's grievance committee." See ICE NDS 2000, Standard, Detainee Grievance Procedures, Section (III)(A)(2).

¹³ "A copy of the grievance will remain in the detainee's detention file for at least three years." See ICE NDS 2000, Standard, Detainee Grievance Procedures, Section (III)(E).

STAFF DETAINEE COMMUNICATION (SDC)

ODO reviewed the facility's detainee request log. The log contained the date the detainee request was received and detainee's name. The log did not contain the other elements required by the standard to include the detainee's A-number; detainee's nationality; the officer logging the detainee request; the date of the request; the staff response; and the date the request was returned to the detainee (**Deficiency SDC-1¹⁴**).

ODO reviewed BCJ SOP, CD-SOP-11-16.12, *Written Detainee Requests to Staff*, dated March 1, 2011, and the detainee request log. Of the 25 detainees identified as having submitted detainee requests in the 30 days before the ODO inspection, none of the completed detainee requests were filed in the associated detention files (**Deficiency SDC-2¹⁵**). ODO interviewed senior facility staff who confirmed completed detainee requests are not filed in the associated detention files, nor is there a requirement to do so, in the SOP.

TELEPHONE ACCESS (TA)

The phone system is setup to electronically monitor all detainee telephone calls. Detainees can request to make legal calls by submitting a detainee request and will have the opportunity to have these calls unmonitored. Information regarding how to make an unmonitored call was not posted at each monitored telephone (**Deficiency TA-1¹⁶**).

Corrective Action: The facility initiated corrective action during the inspection by posting the procedures for requesting an unmonitored call at each monitored telephone (**C-1**).

SECURITY AND CONTROL

USE OF FORCE (UOF)

In the twelve months preceding the inspection, the facility had five immediate, but not calculated, use of force incidents. ODO reviewed the five immediate use of force incident reports and their associated videos and found that the facility does not conduct required after action reviews (**Deficiency UOF-1¹⁷**). Although addressed in BCJ SOP, CD-SOP-11-4.33, *Use of Force – Corrections Specific*, dated February 1, 2011, the facility captain confirmed that BCJ does not conduct after action reviews of use of force incidents.

¹⁴ "The log, at a minimum, shall contain: A-number; Nationality; Officer logging the request; The date that the request, with staff response and action, is returned to the detainee...." See ICE NDS 2000, Standard, Staff Detainee Communication, Section (III)(B)(2)(c)(d)(e)(f).

¹⁵ "All completed Detainee Requests will be filed in the detainee's detention file and will remain in the detainee's detention file for at least three years." See ICE NDS 2000, Standard, Staff Detainee Communication, Section (III)(B)(2).

¹⁶ "It shall also place a notice at each monitored telephone stating: the procedure for obtaining an unmonitored call to a court, legal representative, or for the purposes of obtaining legal representation." See ICE NDS 2000, Standard, Telephone Access, Section (III)(K)(2).

¹⁷ "IGSA will pattern their incident review process after INS. *The OIC, the Assistant OIC, the CDEO, and the Health Services Administrator shall conduct the after-action review. This four-member After-Action Review Team shall convene on the workday after the incident.*" See ICE NDS 2000, Standard, Use of Force, Section (III)(K).