



**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 Chicago Field Office

Chase County Detention Facility  
Cottonwood Falls, Kansas

August 31 - September 3, 2020

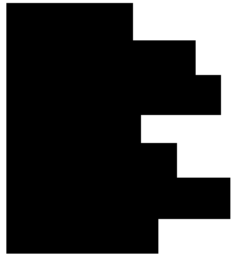
**COMPLIANCE INSPECTION**  
**of the**  
**CHASE COUNT DETENTION FACILITY**  
Cottonwood Falls, Kansas

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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 Chase County Detention Facility (CCDF) in Cottonwood Falls, Kansas, from August 31 – September 3, 2020.<sup>1</sup> The facility opened in 1992 and is owned and operated by Chase County. The ICE Office of Enforcement and Removal Operations (ERO) began housing detainees at CCDF in 2008 under the oversight of ERO’s Field Office Director (FOD) in Chicago (ERO Chicago). The facility operates under the National Detention Standards (NDS) 2019.

ERO has not assigned deportation officers nor a detention services manager to the facility. A CCDF facility administrator handles daily facility operations and is supported by █ personnel. EVCO Wholesale Food Corporation and US Food provides food services, and Chase County provides medical care and commissary services at the facility. The facility does not hold any accreditations from any outside entities.

| Capacity and Population Statistics           | Quantity |
|--|----------|
| ICE Detainee Bed Capacity <sup>2</sup>       | 103      |
| Average ICE Detainee Population <sup>3</sup> | 70       |
| Male Detainee Population (as of 8/31/2020)   | 67       |
| Female Detainee Population (as of 8/31/2020) | 3        |

During its last inspection, in Fiscal Year (FY) 2017, ODO found 22 deficiencies in the following areas: Admission and Release (5); Detainee Grievance System (2); Funds and Personal Property (1); Special Management Unit (Administrative Segregation) (2); Special Management Unit (Disciplinary Segregation) (2); Use of Force (2); Medical Care (1); and Performance-Based National Detention Standards (PBNDS) 2011 Sexual Abuse and Assault Prevention and Intervention (7).

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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 Facility List Report as of August 31, 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                               | 4            |
| <b>Sub-Total</b>  | <b>4</b>     |
| <b>Part 2 – Security</b>                                      |              |
| Admission and Release   | 1            |
| Custody Classification System                                 | 0            |
| Funds and Personal Property                                   | 0            |
| Use of Force and Restraints                                   | 1            |
| Special Management Units                                      | 0            |
| Staff-Detainee Communication                                  | 0            |
| Sexual Abuse and Assault Prevention and Intervention          | 5            |
| <b>Sub-Total</b>  | <b>7</b>     |
| <b>Part 4 – Care</b>  |              |
| Food Service  | 0            |
| Medical Care  | 6            |
| Significant Self-harm and Suicide Prevention and Intervention | 1            |
| Disability Identification, Assessment, and Accommodation      | 0            |
| <b>Sub-Total</b>  | <b>7</b>     |
| <b>Part 5 – Activities</b>                                    |              |
| Recreation  | 1            |
| Religious Practices   | 1            |
| Telephone Access  | 0            |
| Visitation  | 2            |
| <b>Sub-Total</b>  | <b>4</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>22</b>    |

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

## DETAINEE RELATIONS

ODO interviewed 12 detainees, who each voluntarily agreed to participate. None of the detainees made allegations of discrimination, mistreatment, or abuse. Most detainees reported satisfaction with facility services except for the concerns listed below. ODO conducted detainee interviews via video teleconference.

*Medical Care:* One detainee stated he had high blood pressure, diabetes, and was told by a medical doctor he could lose his eyesight without proper medical treatment.

- Action Taken: ODO reviewed the detainee's medical records and spoke with the facility's medical staff. Beginning on August 3, 2020, the facility's medical staff documented the detainee's refusal to take his medications for high-blood pressure, depression, and a prostate issue. Additionally, the detainee has refused regular blood pressure checks. A counselor saw the detainee on August 21, 2020, September 1, 2020, and the detainee has another appointment scheduled for the week of September 7, 2020.

*Medical Care:* One detainee stated he broke a bone in his hand while fighting another detainee, the hospital gave him a removable cast, and despite being in pain, facility medical staff have provided no additional treatment.

- Action Taken: ODO reviewed the detainee's medical records and spoke with the facility's medical staff. The facility took the detainee to the emergency room (ER) on August 13, 2020, for a hand injury related to a fight. The ER took an x-ray of the detainee's hand and the x-ray results indicated he had a "boxer's fracture" in his hand. The ER placed a splint on his hand and instructed to have another x-ray taken in two weeks. The facility's medical staff stated the detainee removed the splint after five days and refused to continue to wear it. The facility's medical staff will be scheduling the detainee's next x-ray once the results of his most recent COVID-19 test confirm he is negative for COVID-19.

*Medical Care:* One detainee stated he had back pain and headaches from COVID-19 and he feared his kidneys could be damaged due to the Tylenol the facility's medical staff gave him each time he needed pain relief.

- Action Taken: ODO reviewed the detainee's medical records and spoke with the facility's medical staff. The detainee was not on a scheduled medication regiment for Tylenol or other medications. The facility's medical staff provided him with a total of 16, over-the-counter doses of Tylenol, during their medication rounds. The facility's medical staff documented the Tylenol doses in his medical record. Additionally, the doses were issued and taken within the manufacturer's recommended dosage requirements.

# COMPLIANCE INSPECTION FINDINGS

## SAFETY

### ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

ODO interviewed the jail administrator and found four life safety deficiencies the State Fire Marshal's Office cited in their July 14, 2020, inspection report had not been corrected. Specifically, smoke detectors were installed near vents, a sprinkler was obstructed by a fan, the [REDACTED] inspection of the fire alarm system had not been performed, and several sprinkler heads were covered by paint (**Deficiency EH&S-1<sup>6</sup>**).

ODO found personal property within the detainee living space was not stored in approved fire-resistant containers (**Deficiency EH&S-2<sup>7</sup>**).

ODO found the facility did not conduct barber operations in a location with sufficient lighting, at least one lavatory/sink with hot and cold running water, nor waterless hand sanitizer (**Deficiency EH&S-3<sup>8</sup>**).

ODO found the facility had not conducted a noise level, lighting, nor air quality surveys in the detainee living space (**Deficiency EH&S-4<sup>9</sup>**).

## SECURITY

### ADMISSION AND RELEASE (A&R)

ODO reviewed the facility's A&R procedures, interviewed facility staff members, and found the facility did not have a process nor procedure to inventory detainee's identity documents, make a copy for the detainee's detention files, provided the detainees with a receipt, and forward the

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<sup>6</sup> "The facility will comply with standards and regulations issued by the National Fire Protection Association (NFPA), Environmental Protection Agency (EPA) and OSHA, national, state, and local fire safety codes, and the applicable standards of the American Society for Testing and Materials, American National Standards Institute, and Underwriters' Laboratories or Factory Mutual Engineering Corporation. Such topics will include, but are not limited to, fire safety codes; regular fire and safety inspections; a fire prevention, control and evacuation plan and fire drills." See ICE NDS 2019, Standard, Environmental Health and Safety, Section (II)(D).

<sup>7</sup> "The facility will comply with standards and regulations issued by the National Fire Protection Association (NFPA)." See ICE NDS 2019, Standard, Environmental Health and Safety, Section (II)(D). "Books, clothing, and other combustible personal property allowed in sleeping rooms shall be stored in closable metal lockers or an approved fire-resistant container." See NFPA 101 Life Safety Code, Section 22.7.2.

<sup>8</sup> "Sanitation of barber operations is of the utmost concern due to the possible transfer of diseases through direct contact or by the tools, implements, and supplies including the towels, combs, and clippers. Towels must not be reused after use on one person.

a. The operation will be located in an easily cleanable area with sufficient lighting of at least 50-foot candles.

b. At least one lavatory/sink with hot and cold running water, or waterless hand sanitizer, will be available.

See ICE NDS 2019, Standard, Environmental Health and Safety, Section (II)(H)(1)(a) and (b).

<sup>9</sup> "The facility shall ensure appropriate temperatures, air and water quality, ventilation, lighting, noise levels, and detainee living space, in accordance with any applicable state and local jail/prison standards." See ICE NDS 2019, Standard, Environmental Health and Safety, Section (II)(I)(1).



original identity documents to ERO Chicago (**Deficiency A&R-1<sup>10</sup>**).

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

ODO reviewed the facility's UOF&R policy and found no procedures governing the mandatory after-action review for UOF incidents and application of restraints (**Deficiency UOF&R-1<sup>11</sup>**).

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

ODO reviewed the facility's SAAPI policy and found their procedures did not include written documentation requirements to ensure each allegation or suspicion of sexual abuse was properly reported and addressed (**Deficiency SAAPI-1<sup>12</sup>**).

ODO found the facility's SAAPI policy did not include the requirement to cooperate with all ICE/ERO audits and monitoring of facility compliance with SAAPI policies and standards (**Deficiency SAAPI-2<sup>13</sup>**).

ODO interviewed the facility's SAAPI coordinator and found the ERO Chicago FOD had not reviewed nor approved the facility's written SAAPI policies and procedures (**Deficiency SAAPI-3<sup>14</sup>**).

ODO found the facility had not ensured the facility's SAAPI policies and procedures were in full compliance with the SAAPI standard, within 90 days of the adoption of the NDS 2019 SAAPI

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<sup>10</sup> "Each facility shall institute procedures for inventory and receipt of detainee funds, valuables, and personal property." See ICE NDS 2019, Standard, Environmental Health and Safety, Section (II)(C).

<sup>11</sup> "Written procedures shall govern the mandatory after-action review for use-of-force incidents (whether calculated or immediate), 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).

No officer involved in the use of force shall be part of the review team.

1. The After-Action Review shall examine all relevant materials for facility staff's compliance with facility policy and these standards. For calculated use of force incidents, and incidents where video is available, recordings will be reviewed to examine, among other things:
  - a. Application of only as much force as necessary to subdue the detainee. This includes responding appropriately to a subdued or cooperative detainee, i.e., one who discontinues his or her violent behavior;
  - b. Protective gear worn inside cell/area until end of operation;
  - c. Appropriate use of chemical agents, Oleoresin Capsicum (OC) spray, mace, etc., in accordance with written procedures;
  - d. A medical professional promptly examines the detainee, with the findings reported on the recording;
  - e. Continuous coverage from the time the camera starts recording until the incident is over. The review will investigate any breaks or sequences apparently missing from the recording."

See ICE NDS 2019, Standard, Use of Force and Restraints, Section (II)(K).

<sup>12</sup> "Written documentation requirements to ensure that each allegation or suspicion is properly reported and addressed; and" See ICE NDS 2019, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (II)(A)(2)(d).

<sup>13</sup> "the facility's requirement to cooperate with all ICE/ERO audits and monitoring of facility compliance with sexual abuse and assault policies and standards." See ICE NDS 2019, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (II)(A)(7).

<sup>14</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).

standard (**Deficiency SA-API-4<sup>15</sup>**).

ODO found the facility's SA-API policy did not have written procedures for administrative investigations (**Deficiency SA-API-5<sup>16</sup>**).

## **CARE**

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

ODO reviewed the credentialing documents for [REDACTED] health staff members and found discrepancies with [REDACTED] files. Specifically, the licenses for the physician and the physician's assistant were expired for more than six months, the license of the staff physician was not primary source verified, and the licenses for the psychiatrist, social worker and medication aide were missing (**Deficiency MC-1<sup>17</sup>**). Prior to the conclusion of the inspection, the facility's medical manager provided copies of updated licenses for each of the [REDACTED] health staff members to ODO, which showed all of their licenses were current and primary source verified.

ODO reviewed medical staff training records and found the registered nurse (RN) who conducted initial detainee dental examinations did not have documented annual training by a dentist, which indicated the RN was trained to complete initial detainee dental examinations (**Deficiency MC-2<sup>18</sup>**).

ODO reviewed the facility's MC policy and found the policy did not address post exposure interventions as recommended by the Occupational Safety and Health Administration and Center for Disease Control guidance (**Deficiency MC-3<sup>19</sup>**).

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<sup>15</sup> "The facility administrator shall ensure that, within 90 days of the adoption of this detention standard, written policy and procedures are in place and that the facility is in full compliance with its requirements and guidelines." See ICE NDS 2019, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (II)(A).

<sup>16</sup> "... The facility shall develop written procedures for administrative investigations, including provisions...

- a. Preservation of direct and circumstantial evidence...
- b. Interviewing alleged victims, suspected perpetrators, and witnesses;
- c. Reviewing prior complaints and reports of sexual abuse and assault involving the suspected perpetrator;
- d. Assessment of the credibility of an alleged victim, suspect, or witness...
- e. An effort to determine whether actions or failures to act at the facility contributed to the abuse;
- f. Documentation of each investigation by written report, which shall include a description of the physical And testimonial evidence...
- g. Retention of such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five years." See ICE NDS 2019, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (II)(M)(3).

<sup>17</sup> "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).

<sup>18</sup> "An initial dental screening exam shall be performed within 14 days of the detainee's arrival. If no on-site dentist is available, the initial dental screening may be performed by a ... registered nurse. Such non-dental clinicians shall be trained annually on how to conduct the exam by a dentist." See ICE NDS 2019, Standard, Medical Care, Section (II)(H).

<sup>19</sup> "...The facility shall establish a written plan to address exposure to bloodborne pathogens and post-exposure intervention, including prophylactic administration of medication, as appropriate...." See ICE NDS 2019, Standard, Medical Care, Section (II)(N).

ODO reviewed 12 detainee medical files and found three files did not contain a signed general consent for treatment form (**Deficiency MC-4<sup>20</sup>**).

ODO found the facility prescribed psychotropic medication to two detainees, and the facility did not obtain a signed consent form for the administration of psychotropic medications prior to the administration of the psychotropic medication (**Deficiency MC-5<sup>21</sup>**).

ODO reviewed the detainee medical records for two detainees enrolled in the facility's mental health chronic care clinic and found for both detainees, no documentation of the evaluations, nor treatment plans as a result of the social worker's evaluations (**Deficiency MC-6<sup>22</sup>**).

ODO reviewed 12 detainee medical files and found the RN completed the initial physical examination within 14-days of the detainee's arrival; however, the provider did not sign off on three of the physical examinations in a timely manner. Specifically, the provider reviewed two physicals 56-days after completion and one physical 40-days after completion. ODO cited this as an **Area of Concern**.

## **SIGNIFICANT SELF-HARM AND SUICIDE PREVENTION AND INTERVENTION (SSH&SP&I)**

ODO reviewed the facility's suicide prevention policy and found it directed staff to immediately place detainees identified as being suicidal in the suicide watch room and to monitor the detainee every 15 minutes, rather than constant (one-to-one) visual observation as required by the standard (**Deficiency SSH&SP&I-1<sup>23</sup>**).

## **ACIVITIES**

### **RECREATION (R)**

ODO interviewed facility staff, reviewed photos of the facility's exercise area, and found the exercise area did not offer a variety of fixed equipment (**Deficiency R-1<sup>24</sup>**).

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<sup>20</sup> "The facility health care practitioner will obtain specific signed and dated consent forms from all detainees before any medical examination or treatment, except in emergency circumstances." See ICE NDS 2019, Standard, Medical Care, Section (II)(O).

<sup>21</sup> "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).

<sup>22</sup> "Any detainee referred for mental health treatments shall be triaged for any emergency needs and receive an evaluation by a qualified mental health provider no later than seven days after the referral. The provider shall develop an overall treatment/management plan." See ICE NDS 2019, Standard, Medical Care, Section (II)(S)(2).

<sup>23</sup> "Until this evaluation takes place, security staff shall place the detainee in a secure environment on constant (one-to-one) visual observation." See ICE NDS 2019, Standard, Significant Self-Harm and Suicide Prevention and Intervention, Section (II)(D).

<sup>24</sup> "Exercise areas shall offer a variety of fixed and movable equipment." See ICE NDS 2019, Standard, Recreation, Section (II)(C)(1).

## RELIGIOUS PRACTICES (RP)

ODO reviewed the facility's postings and found the postings did not include schedules for services, nor notification to detainees informing them all religious services had been cancelled until further notice because of the COVID-19 pandemic (**Deficiency RP-1**<sup>25</sup>).

## VISITATION (V)

ODO interviewed facility staff, reviewed the facility's visitor logs, and found the facility did not maintain a separate log for legal visitors (**Deficiency V-1**<sup>26</sup>).

ODO reviewed photos of visiting room postings and found the facility did not post the rules nor hours for legal visitation (**Deficiency V-2**<sup>27</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 22 deficiencies in the remaining nine standards. ODO commends facility staff for their responsiveness during this inspection. ODO recommends ERO work with the facility to resolve any deficiencies that remain outstanding in accordance with contractual obligations.

| Compliance Inspection Results Compared | FY 2017<br>(NDS 2000) / (PBNDS<br>2011) | FY 2020<br>(NDS 2019) |
|--|---|-----------------------|
| Standards Reviewed                     | 15 / 1                                  | 18                    |
| Deficient Standards                    | 7                                       | 9                     |
| Overall Number of Deficiencies         | 22                                      | 22                    |
| Repeat Deficiencies                    | 3                                       | N/A                   |
| Corrective Actions                     | 3                                       | 0                     |

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<sup>25</sup> "...Current program schedules shall be posted in living units, or otherwise made available to detainees. See ICE NDS 2019, Standard, Visitation, Section (III)(E).

<sup>26</sup> "The facility shall maintain a log of all general visitors, and a separate log of legal visitors as described below." See ICE NDS 2019, Standard, Visitation, Section (II)(C).

<sup>27</sup> "The facility shall provide notification of the rules and hours for legal visitation and post the rules prominently in the visiting room." See ICE NDS 2019, Standard, Visitation, Section (II)(G)(2).