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Immigration and Customs Enforcement

Office of Professional Responsibility

Inspections and Detention Oversight Division

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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

May 16-18, 2017

**COMPLIANCE INSPECTION
for the
CHASE COUNTY DETENTION FACILITY
COTTONWOOD FALLS, KANSAS**

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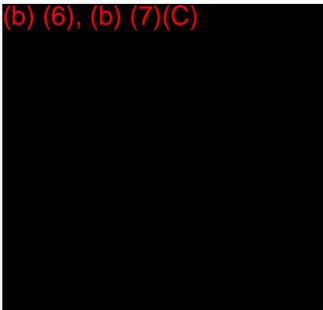
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INSPECTION TEAM MEMBERS



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FACILITY OVERVIEW

The Office of Detention Oversight (ODO), a unit within U.S. Immigration and Customs Enforcement (ICE) Office of Professional Responsibility (OPR), conducted a compliance inspection of the Chase County Detention Facility (CCDF) in Cottonwood Falls, Kansas, from May 16-18, 2017.¹ The CCDF opened in May 1992 and has been owned and operated by Chase County since 2002. The Office of Enforcement and Removal Operations (ERO) started housing ICE detainees in 2008, pursuant to an Intergovernmental Service Agreement (IGSA) (non-dedicated), under the oversight of ERO's Field Office Director (FOD) in Chicago.

No ERO staff members, including a Detention Services Manager, are assigned to the facility. A jail administrator oversees daily facility operations and is supported by (b) personnel. Chase County employees provide detainee medical care and food service. The CCDF holds no accreditations but is contractually obligated to comply with the ICE Performance-Based National Detention Standards (PBNDS) 2011, Sexual Abuse and Assault Prevention and Intervention (SAAPI) standard.

Capacity and Population Statistics	Quantity
Average ICE Detainee Population ²	53
Male Detainee Population (as of 5/15/2017)	52
Female Detainee Population (as of 5/15/2017)	1

In FY 2013, ODO conducted a compliance inspection of the CCDF under the National Detention Standards (NDS) 2000. ODO reviewed the facilities compliance with 16 standards and found the facility compliant with five standards. ODO found 19 deficiencies in the remaining 12 standards.

¹ Male and female detainees with medium low and medium high security classification levels are detained at this facility for longer than 72 hours.

² Data Source: ERO Facility List Report as of May 15, 2017.

FINDINGS BY NDS 2000 MAJOR CATEGORIES

NDS 2000 STANDARDS INSPECTED³	DEFICIENCIES
Part 1 – Detainee Services	
Access to Legal Material	0
Admission and Release	5
Detainee Classification System	0
Detainee Grievance Procedures	2
Detainee Handbook	0
Food Service	0
Funds and Personal Property	1
Staff-Detainee Communication	0
Telephone Access	0
Sub-Total	8
Part 2 – Security and Control	
Environmental Health and Safety	0
Special Management Unit (Administrative Segregation)	2
Special Management Unit (Disciplinary Segregation)	2
Use of Force	2
Sub-Total	6
Part 3 – Health Services	
Medical Care	1
Suicide Prevention and Intervention	0
Sub-Total	1
PBNDS 2011 STANDARD INSPECTED	
Sexual Abuse and Assault Prevention and Intervention	7
Sub-Total	7
Total Deficiencies	22

³ For greater detail on ODO's findings, see the *Inspection Findings* section of this report.

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 over 72-hours to assess compliance with ICE National Detention Standards (NDS) 2000, or the Performance-Based National Detention Standards (PBNDS) 2008 or 2011, as applicable. 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 linked to ICE detention standards, ICE policies, or operational procedures as *deficiencies*. ODO also highlights instances when the facility resolves deficiencies prior to completion of the ODO inspection. These corrective actions are annotated with “C” under the Inspection Findings section of this report.

At the conclusion of each inspection, ODO hosts a closeout briefing with facility and local ERO officials to discuss preliminary findings. A summary of these findings is also shared with ERO management officials. Thereafter, ODO provides ICE leadership with a final compliance inspection report to: (i) assist ERO develop and initiate corrective action plans and (ii) provide senior executives with an independent assessment of facility operations. Additionally, ODO findings inform ICE executive management decision making in better allocating resources across the agency’s entire detention inventory.

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

DETAINEE RELATIONS

ODO interviewed 25 randomly-selected detainees to assess the conditions of confinement at CCDF. Interview participation was voluntary, and none of the detainees made allegations of abuse, discrimination or mistreatment. The detainees reported being satisfied with facility services, with the exception of the one complaint below:

Food Service: Nineteen (19) detainees assigned to Housing Unit L complained the food portions are too small.

Action Taken: ODO reviewed the master-cycle menu and nutritional analysis conducted by a registered dietitian and determined it provides a weekly average of 2,600 calories per day. This is in line with the requirements of the American Correctional Association. ODO also observed several meal services and found the overall quality and quantity of the food provided to detainees followed the master-cycle menu. ODO also toured the other housing units and asked various detainees about the quality and quantity of their meals. None of these detainees expressed any complaints and indicated their overall approval of facility food.

INSPECTION FINDINGS

DETAINEE SERVICES

ADMISSION AND RELEASE (AR)

Detainees are oriented to CCDF by way of the handbook and viewing the *Know Your Rights* video. The facility maintains no orientation video to inform new arrivals about facility operations, programs, or services (**Deficiency AR-1**⁵). Additionally, the facility's orientation process was not approved by the ERO field office (**Deficiency AR-2**⁶).

The facility's release process was not approved by ERO (**Deficiency AR-3**⁷).

Corrective Action: Prior to completion of the inspection, the acting SDDO issued a memorandum approving the facility release process (**C-1**).

Inspection of detainee property bags found they contained identity documents, including social security cards, passports, and driver's licenses (**Deficiency AR-4**⁸). According to facility leadership, attempts were made to provide identity documents to ERO previously; however, ERO staff directed these items be inventoried and maintained with detainee property. ODO brought this matter to the attention of the SDDO who indicated he would resolve the matter with his staff.

Although the jail supervisor stated there have been no reports or claims of missing detainee property, review of facility policy found there is no procedure addressing use of Form I-387, Report of Detainee's Missing Property (**Deficiency AR-5**⁹), nor was the form available at the facility.

⁵ "The orientation process supported by a video (INS) and handbook shall inform new arrivals about facility operations, programs, and services. Subjects covered will include prohibited activities and unacceptable and the associated sanctions (see the "Disciplinary Policy" Standard)..." See ICE NDS 2000, Standard, Admission and Release, Section (III)(A)(1).

⁶ "All facilities shall have a medium to provide INS detainees an orientation to the facility. In IGSA's the INS office of jurisdiction shall approve all orientation procedures." See ICE NDS 2000, Standard, Admission and Release, Section (III)(J).

⁷ "Staff must complete certain procedures before any detainee's release, removal, or transfer from the facility. Necessary steps include completing and processing forms, closing files, fingerprinting; returning personal property; and reclaiming facility-issued clothing, bedding, etc. INS will approve the IGSA release procedures." See ICE NDS 2000, Standard, Admission and Release, Section (III)(J). *Note:* There is a typographical error in the NDS 2000— See Releases, Section beginning on pg. 9 [currently mislabeled as (III)(J)].

⁸ "Identity documents, such as passports, birth certificates, etc., will be inventoried then given to a deportation officer/INS for placement in the detainee's A-file." See ICE NDS 2000, Standard, Admission and Release, Section (III)(E).

⁹ "The officer shall complete a Form I-387, "Report of Detainee's Missing Property" when any newly arrived detainee claims his/her property has been lost or left behind. IGSA facilities shall forward the completed I-387s to INS." See ICE NDS 2000, Standard, Admission and Release, Section (III)(I). **This is a repeat deficiency.**

DETAINEE GRIEVANCE PROCEDURES (DGP)

The facility administrator approved the latest revision to the detainee grievance procedure policy, *Policy #35 Grievance System*, on April 12, 2017. CCDF resolves grievances at the lowest level possible; however, the facility does not maintain a grievance log (**Deficiency DGP-1¹⁰**). ODO was unable to determine the number of formal grievances submitted over the past 12 months or if any informal grievances were resolved.

Corrective Action: The facility initiated corrective action during the inspection by establishing a grievance log (**C-2**).

The grievance section of the detainee handbook does not provide notice of the procedures for contacting ERO to appeal the decision of the officer in charge (OIC) (**Deficiency DGP-2¹¹**).

FUNDS AND PERSONAL PROPERTY (F&PP)

Review of the F&PP policy verified it addresses lost, damaged and abandoned property; however, the CCDF handbook does not notify detainees that upon request, they will be provided a copy of identification documents from their A-file, the rules for storing or mailing non-allowable property, and the procedures for filing a claim for lost or damaged property (**Deficiency F&PP-1¹²**).

SECURITY AND CONTROL

SPECIAL MANAGEMENT UNIT (ADMINISTRATIVE SEGREGATION) (SMU AS)

ODO found one detainee assigned to administrative segregation during the inspection. He was assigned this status for medical reasons and was transferred to general population upon medical clearance (prior to ODO's departure). ODO's review of facility documentation found the detainee was in SMU for a total of four (4) days. ODO found a segregation order was issued; however, the required 72-hour status review was not conducted (**Deficiency SMU AS-1¹³**).

¹⁰ "Each facility will devise a method for documenting detainee grievances. At a minimum, the facility will maintain a Detainee Grievance Log." See ICE NDS 2000, Standard, Detainee Grievance Procedures, Section (III)(E).

¹¹ "The facility shall provide each detainee, upon admittance, a copy of the detainee handbook or equivalent. The grievance section of the detainee handbook will provide notice of the following: ...the procedures for contacting the INS to appeal the decision of the OIC of a CDF or an IGSA facility." See ICE NDS 2000, Standard, Detainee Grievance Procedures, Section (III)(G)(4). **This is a repeat deficiency.**

¹² "The detainee handbook or equivalent shall notify the detainees of facility policies and procedures concerning personal property, including: ... (2). That, upon request, they will be provided an INS-certified copy of any identity document (passport, birth certificate, etc.) placed in their A-files. (3). The rules for storing or mailing property not allowed in their possession;... (5). The procedures for filing a claim for lost or damaged property." See ICE NDS 2000, Standard, Funds and Personal Property, Section (III)(J)(2)(3)(5). **This is a repeat deficiency.**

¹³ "All facilities shall implement written procedures for the regular review of all administrative detention cases, consistent with the procedures specified below.

In SPCs/CDFs, a supervisory officer shall conduct a review within 72 hours of the detainee's placement in administrative segregation to determine whether segregation is still warranted. The review shall include an interview with the detainee. A written record shall be made of the decision and the justification. The Administrative Segregation Review Form (I-885) will be used for the review. If the detainee has been segregated for the detainee's protection, but not at the detainee's request, the signature of the OIC or Assistant OIC is required on the I-885

The facility does not maintain a permanent log to record daily activities of detainees assigned to the SMU (**Deficiency SMU AS-2¹⁴**).

SPECIAL MANAGEMENT UNIT (DISCIPLINARY SEGREGATION) (SMU DS)

There were no detainees assigned to disciplinary segregation during the inspection. CCDF staff reported 15 detainees were sanctioned with disciplinary segregation during the year preceding the inspection. Sanctions ranged from three to 48 days. ODO verified segregation orders were issued; however, no status reviews were conducted (**Deficiency SMU DS-1¹⁵**). The Jail Administrator and Jail Supervisor stated they were not aware of the requirement to conduct status reviews.

The facility does not maintain a permanent log to record daily activities of detainees assigned to the SMU (**Deficiency SMU DS-2¹⁶**).

USE OF FORCE (UOF)

Based on staff interviews and review of documentation, ODO determined there were one immediate and no calculated use of force incident(s) involving detainees in the year preceding the inspection. The one detainee was medically examined after the immediate use of force incident; however, an after-action review was not conducted. In fact, CCDF has no after-action review procedures in place (**Deficiency UOF-1¹⁷**).

The facility does not provide initial or annual training in the use of force, including approved methods of self-defense, use of force to control detainees, communication techniques, cultural diversity, dealing with mentally ill individuals, confrontation-avoidance procedures, and

to authorize continued detention.” See ICE NDS 2000, Standard, Special Management Unit-Administrative Segregation, Section (III)(C).

¹⁴“A permanent log will be maintained in the SMU. The log will record all activities concerning the SMU detainees, e.g., meals served, recreation, visitors, etc.” *See ICE NDS 2000, Standard, Special Management Unit-Administrative Segregation, Section (III)(E)(1).*

¹⁵ “All facilities shall implement written procedures for the regular review of all disciplinary segregation cases, consistent with the procedures specified below.

In SPCs/CDFs: (1). The Supervisory Detention Enforcement Officer (SDEO) shall review the status of a detainee in disciplinary segregation every seven days to determine whether the detainee: (a) abides by all rules and regulations; and, (b) is provided showers, meals, recreation, and other basic living standards, in accordance with section III.D., below. The weekly review(s) will include an interview with the detainee. The SDEO shall document his/her findings after every review, by completing a Disciplinary Segregation Review Form (I-887). (2). The SDEO may recommend the detainee’s early release from the SMU upon finding that time in disciplinary segregation is no longer necessary to regulate the detainee’s behavior. (3). An early-release recommendation must have OIC approval before the detainee can be returned to the general population. (4). The SDEO may shorten, but not extend, the original sanction. (5). All review documents shall be placed in the detainee’s detention file. (6). Provided institutional security is not compromised, the detainee shall receive at each formal review, a written copy of the reviewing officer’s decision and the basis for this finding.” See ICE NDS 2000, Standard, Special Management Unit-Disciplinary Segregation, Section (III)(C)(1).

¹⁶ “A permanent log will be maintained in the SMU. The log will note all activities concerning the SMU detainees, e.g., meals served, recreation, visitors, etc.” *See ICE NDS 2000, Standard, Special Management Unit-Disciplinary Segregation, Section (III)(E)(1).*

¹⁷ “Written procedures shall govern the use-of-force incident review, whether calculated or immediate, and the application of restraints. The review is to assess the reasonableness of the actions taken (force proportional to the detainee’s actions), etc. IGSAs will pattern their incident review process after INS. INS shall review and approve all After Action Review procedures.” *See ICE NDS 2000, Standard, Use of Force, Section (III)(K).*

reporting procedures (**Deficiency UOF-2¹⁸**). Facility leadership indicated they are in the process of developing a formalized training program to address these requirements.

HEALTH SERVICES

MEDICAL CARE (MC)

An initial dental screening is performed by a registered nurse (RN); however, according to the standard, dental screening examinations must be performed by a physician, physician's assistant, or nurse practitioner (**Deficiency MC-1¹⁹**).

PBNDS 2011 FINDINGS

SEXUAL ABUSE AND ASSAULT PREVENTION AND INTERVENTION (SAAPI)

The SAAPI policy does not include a zero tolerance for all forms of sexual abuse or assault, data collection and reporting, and it does not include the requirements for coordination with ICE OPR for investigation or referral of incidents of sexual assault to another investigative agency, discipline, and prosecution of assailants (**Deficiency SAAPI-1²⁰**).

Required reporting through the facility's chain-of-command procedure, from the reporting official to the highest facility official, as well as the FOD, is not included in CCDF Policy #14, Sexual Abuse and Assault Prevention; the Policy also does not reflect the unique characteristics of the facility, based on specialized community-based services, rape crisis/trauma units in local medical centers, clinics, and hospitals (**Deficiency SAAPI-2²¹**).

The facility administrator reviewed and approved the local policy and procedures; however, several required elements were missing. More specifically, the facility does not: (i) specify procedures for the coordination of internal administrative investigations with the assigned criminal investigative entity to ensure non-interference with criminal investigations; (ii) have

¹⁸ "...all staff must be made aware of their responsibilities through ongoing training. All detention personnel shall also be trained in approved methods of self-defense, confrontation avoidance techniques, and the use of force to control detainees...training shall include: 1. Communication techniques; 2. Cultural diversity; 3. Dealing with the mentally ill; 4. Confrontation-avoidance procedures; 5. Application of restraints (progressive and hard); and 6. Reporting procedures." See ICE NDS 2000, Standard, Use of Force, Section (III)(O).

¹⁹ "An initial dental screening exam should 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 physician, physician's assistant or nurse practitioner." See ICE NDS 2000, Standard, Medical Care, Section (III)(E).

²⁰ "Each facility administrator shall have written policy and procedures for a Sexual Abuse or Assault Prevention and Intervention Program that includes, at a minimum: 1. A zero-tolerance policy for all forms of sexual abuse or assault; 5. Data collection and reporting; and 6. The requirements for coordination with the ICE Office of Professional Responsibility (OPR) for investigation or referral of incidents of sexual assault to another investigative agency, and discipline and prosecution of assailants (See "Appendix 2.11.C: Sexual Assault Awareness" in the standard)." See ICE PBNDS 2011, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(A)(1), (5) & (6) **This is a Priority Component.**

²¹ "Each facility must have a policy and procedure for required reporting through the facility's chain-of-command procedure, from the reporting official to the highest facility official as well as the Field Office Director. Each facility's policy and procedures shall reflect the unique characteristics of each facility, based on factors such as the availability of specialized community-based services, including rape crisis/trauma units in local medical centers, clinics, and hospitals." See ICE PBNDS 2011, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(A). **This is a Priority Component.**

established procedures, to include coordination with outside agencies in SAAPI programs; (iii) specify how a confirmed or alleged victim's future safety, medical, mental health, and legal needs shall be addressed; (iv) specify disciplinary sanctions for staff, up to and including termination, when staff has violated agency sexual abuse policies; and (v) designate a specific staff member to be responsible for detainee education regarding issues pertaining to sexual assault (**Deficiency SAAPI-3**²²).

The Chase County Sheriff was listed on the PREA posters in the facility as the PREA Coordinator. He was also the facility administrator until January 2017 when he resigned from that position. At the time of the inspection, the facility administrator had not designated a SAAPI Program Coordinator (**Deficiency SAAPI-4**²³).

Corrective Action: The facility administrator initiated corrective action by designating the jail supervisor as the SAAPI Program Coordinator (**C-3**).

The facility did not have training for staff on the facility's SAAPI program (**Deficiency SAAPI-5**²⁴).

Corrective Action: The facility initiated corrective action by coordinating with ERO to identify and print out multiple PREA training resources and providing the material to facility staff as a training introduction (**C-4**).

An interview with facility staff confirmed the *Know your Rights* video (English and Spanish only) is shown to detainees on the van ride from Wichita, Kansas to the facility. An orientation on the facility's SAAPI program is not provided to the detainees following the intake process (**Deficiency SAAPI-6**²⁵).

The facility does not have written procedures to establish the process for an internal administrative investigation that shall be conducted in all cases only after consultation with the

²² "The facility administrator shall designate a Sexual Abuse and Assault Prevention and Intervention Program coordinator to...." See ICE PBNDS 2011, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(B).

²³ "Training on the facility's Sexual Abuse or Assault Prevention and Intervention Program shall be included in training for employees, volunteers and contract personnel and shall also be included in annual refresher training thereafter. The level and type of training for volunteers and contractors will be based on the services they provide and their level of contact with detainees; however, all volunteers and contractors who have any contact with detainees must be notified of the facility's zero-tolerance policy. The facility must maintain written documentation verifying employee, volunteer and contractor training." See ICE PBNDS 2011, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(E). **This is a Priority Component.**

²⁴ "Following the intake process, the facility shall provide instruction to detainees on the facility's Sexual Abuse and Assault Prevention and Intervention Program and ensure that such instruction includes (at a minimum): 1. the facility's zero-tolerance policy for all forms of sexual abuse or assault; 2. prevention and intervention strategies; 3. definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity...." See ICE PBNDS 2011, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(F). **This is a Priority Component.**

²⁵ "Following the intake process, the facility shall provide instruction to detainees on the facility's Sexual Abuse and Assault Prevention and Intervention Program...." See ICE PBNDS 2011, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(F). **This is a Priority Component.**

assigned criminal investigative entity or after a criminal investigation has concluded (**Deficiency SA-API-7²⁶**).

CONCLUSION

ODO reviewed the facility’s compliance with sixteen (16) standards and found the facility compliant with eight (8) standards. ODO found twenty-two (22) deficiencies in the remaining eight (8) standards—three (3) were repeat deficiencies. ODO found an increase in the total number of deficiencies identified since its last inspection in FY 2013. However, facility staff proved responsive to ODO’s concerns during the inspection and initiated corrective action immediately resolving several deficiencies. Should the facility remain consistent in providing appropriate staff training, particularly with regard to SA-API, ODO would expect many of these issues to be resolved going forward. ODO recommends ERO work with the facility to remedy any outstanding deficiencies that remain, as applicable and in accordance with contractual obligations.

Inspection Results Compared	FY 2013 (NDS 2000)	FY 2017 (NDS 2000)
NDS Standards Reviewed ²⁷	14	16
Deficient Standards	8	7
Overall Number of Deficiencies	17	15
Deficient Priority Components	N/A ²⁸	N/A
Corrective Actions	0	2
Repeat Deficiencies	0	3
Review of SA-API	FY 2013 (PBNDS 2011)	FY 2017 (PBNDS 2011)
Deficiency(s)	1	7
Deficient Priority Component	0	5
Corrective Actions	0	2
Repeat Deficiency(s)	0	0

²⁶ “Each facility shall develop written procedures to establish a process for an internal administrative investigation that shall be conducted in all cases only after consultation with the assigned criminal investigative entity or after a criminal investigation has concluded.” See ICE PBNDS 2011, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(I).

²⁷ The Standards reviewed in FY2013 and FY2017 were the same, except ODO did not review Funds and Personal Property in FY2013.

²⁸ ODO began inspecting priority components in June 2013, although they are only applicable to the requirements of either the 2008 or 2011 PBNDS.