



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 Newark Field Office**

**Elizabeth Contract Detention Facility
Elizabeth, New Jersey**

November 30 – December 4, 2020

COMPLIANCE INSPECTION
of the
ELIZABETH CONTRACT DETENTION FACILITY
Elizabeth, 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 Elizabeth Contract Detention Facility (ECDF) in Elizabeth, New Jersey from November 30 to December 3, 2020.¹ ECDF opened in January 1996 and is owned and operated by CoreCivic. The ICE Office of Enforcement and Removal Operations (ERO) began housing detainees at ECDF in 1996 under the oversight of ERO’s Field Office Director in Newark (ERO Newark). ECDF operates under the Performance-Based National Detention Standards (PBNDS) 2011 (Revised 2016).

ERO has assigned deportation officers (DOs) and a detention services manager to ECDF. An ECDF warden handles daily facility operations and is supported by ██████ personnel. CoreCivic provides food services, ICE Health Service Corps (IHSC) provides medical care, and Keefe Commissary Network provides commissary services at ECDF. ECDF was accredited by the American Correctional Association in June 2019 and the National Commission on Correctional Health Care in February 2020. In May 2018, ECDF was certified by the Department of Homeland Security Prison Rape Elimination Act.

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity ²	304
Average ICE Detainee Population ³	████
Male Detainee Population (as of November 25, 2020)	████
Female Detainee Population (as of November 25, 2020)	█

During its last inspection, in Fiscal Year (FY) 2020, ODO found three deficiencies in the following areas: Funds and Personal Property (1); Search of Detainees (1); and Food Service (1).

¹ This facility holds male and female detainees with low and medium-low security classification levels for periods greater than 72 hours.

² Data Source: ERO Facility List Report as of November 30, 2020.

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 PERFORMANCE-BASED NATIONAL DETENTION STANDARDS 2011 (REVISED 2016) MAJOR CATEGORIES

PBNS 2011 Standards Inspected ⁵	Deficiencies
Part 1 – Safety	
Emergency Plans	0
Environmental Health and Safety	0
Sub-Total	0
Part 2 – Security	
Admission and Release	0
Custody Classification System	1
Facility Security and Control	0
Funds and Personal Property	0
Population Counts	0
Sexual Abuse and Assault Prevention and Intervention	0
Special Management Units	0
Staff-Detainee Communication	0
Use of Force and Restraints	0
Sub-Total	1
Part 4 – Care	
Food Service	0
Hunger Strikes	0
Medical Care	0
Medical Care (Women)	0
Significant Self-harm and Suicide Prevention and Intervention	0
Disability Identification, Assessment, and Accommodation	1
Sub-Total	1
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	2

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

DETAINEE RELATIONS

ODO interviewed five detainees, who each voluntarily agreed to participate. ODO attempted to interview twelve detainees; however, all male detainee housing units were under COVID-19 quarantine restrictions. Most detainees reported satisfaction with facility services except for the concerns listed below. ODO attempted to conduct detainee interviews via video teleconference; however, ERO Newark and ECDF were not able to accommodate this request due to technology limitations in areas accessible to detainees and staff while under quarantine restrictions. As such, the detainee interviews were conducted via teleconference.

Admission and Release: Three detainees stated they did not receive an ICE detainee handbook upon admission to the facility.

Action Taken: ODO reviewed their detention files and contacted the administrative supervisor, who provided copies of their ECDF Receiving & Discharge Checklist. All three detainees received and signed a Detainee Handbook Issuance Receipt Form upon their admission to ECDF on August 2, 2020, August 27, 2020, and November 8, 2020.

Staff-Detainee Communication: One detainee stated she had not received an update on her case status from ERO Newark after submitting a request and placing it in the ICE drop box in the housing unit.

Action Taken: ODO reviewed the ECDF detainee request log and found no record the detainee submitted a written request. ERO Newark supervisory detention deportation officer (SDDO) stated the DO for the detainee docket updated the detainee on her case in writing on September 24, 2020, October 6, 2020 and October 9, 2020. Additionally, the SDDO stated the detainee had a court appearance on November 3, 2020, and received additional case status updates from the DO on November 5, 2020 and November 19, 2020. ODO obtained a copy of the most recent letter of the detainee's case status dated November 19, 2020, and provided the detainee with the update.

Environmental Health and Safety: One detainee alleged the water from the sinks in the housing units contained an abundance of chemicals and was not safe for washing.

Action Taken: On December 1, 2020, ODO interviewed the ECDF safety manager and reviewed ECDF's annual water certification. On January 8, 2020, Golden State Laboratories, Inc. records revealed testing was performed, and ensured the ECDF water supply was potable and compliant with applicable regulations. ODO attempted to follow-up with the detainee, but the detainee was released from custody on December 1, 2020.

Food Service: One detainee complained ECDF stopped providing large bottled water with the morning meal and she is not receiving enough water.

Action Taken: On December 2, 2020, ODO interviewed the food service administrator (FSA) and reviewed ECDF menu listings. ODO determined ECDF served unbottled ice water or bottled water with all meals depending on availability

of bottled water, and unlimited potable water was available in all housing units through sinks and drinking fountains. ODO attempted to follow-up with the detainee, but the detainee was released from custody on December 1, 2020.

Food Service: One detainee stated she was not satisfied with the food at ECDF because she could not consume certain items in accordance with her Muslim religious beliefs.

Action Taken: ODO informed the FSA who followed-up with the detainee and educated her on ECDF request procedures. On December 2, 2020, ODO verified the detainee submitted an Authorization for Common Fare Participation and Detainee Informal Request to Staff Member forms to receive a religious diet. The requests were approved the same day by the ECDF warden. On December 3, 2020, the FSA informed the detainee of the approval and explained the contents of the religious common fare diet.

Food Service: One detainee stated she submitted verbal and written requests for a religious diet in accordance with her Muslim religious beliefs but did not receive the religious diet. The detainee added she had not received any poultry products with her meals but is permitted to consume halal chicken in accordance with her religious beliefs.

Action Taken: ODO interviewed the FSA, warden, and reviewed food service documentation and found on November 12, 2020, the detainee submitted an Authorization for Common Fare Participation form due to her Muslim beliefs and the form was approved the same day by the ECDF warden. Additionally, on November 12, 2020, the detainee submitted a Detainee Informal Request to Staff Member form stating her religious beliefs required a vegetarian diet, which specifically excluded beef and chicken. ODO confirmed ECDF's religious common fare menu is a no-flesh protein menu compliant with PBNDS 2011 (Revised 2016) requirements, and ECDF did not serve halal meat or poultry products. On December 3, 2020, the FSA explained the approved common fare menu to the detainee.

COMPLIANCE INSPECTION FINDINGS

SECURITY

CUSTODY CLASSIFICATION SYSTEM (CCS)

ODO reviewed 12 detainee files and interviewed the SDDO and found one out of 12 detainees was not initially classified and given an initial housing assignment within 12 hours of admission to ECDF. Instead, another facility initially classified the detainee several months prior to arrival at ECDF, and ECDF subsequently admitted and placed the detainee into general population without conducting a reclassification within the required timeframe (**Deficiency CCS-27⁶**).

ODO reviewed ECDF Classification Plan Guidelines policy 18-100AA, interviewed the SDDO, reviewed 12 detainee files, and found three out of 12 detainees were classified as medium-low with a history of domestic violence charges. ICE PBNDS 2011 (Revised 2016), 2.2 Custody Classification System, (V)(G)(3), states “Medium-low custody detainees are those with no history of violent or assaultive charges or convictions, no institutional misconduct, and no gang affiliation.” The SDDO explained that all detainees housed at ECDF are classified by ERO Newark before assignment to ECDF, and ERO Newark utilized professional experience and individual analysis to determine if the three detainee charges were “violent” as stated in the standard. He stated ERO Newark’s custody classification process involved a detailed examination of the detainee arrest records to determine if the domestic violence charge included physical violence or verbal altercation, the severity of the charge, officer accounts, gang affiliation, and a history or pattern of violence. Subsequently, ERO Newark determined the three detainees did not have a violent charge because they had no history of violence and were not gang affiliated, had only one charge of domestic violence that did not include a conviction, physical violence, or violent pattern, and therefore issued a medium-low classification. ODO identified ERO Newark’s custody classification process based on interpretation of the term “violent” as an **Area of Concern**.

CARE

MEDICAL CARE (WOMEN)

ODO interviewed ECDF and IHSC personnel, reviewed ECDF Use of Force policy 09-01, and reviewed IHSC Directive 04-02 ERO, Directive Number 11772.2. According to ICE PBNDS 2011, 4.4 Medical Care (Women), (V)(E)(1), “...A pregnant woman or women in post-delivery recuperation shall not be restrained absent truly extraordinary circumstances that render restraints absolutely necessary as documented by a supervisor or directed by the on-site medical authority.” ECDF policy 09-01 Use of Force, page 16, section 9-1.4 Procedures, sub-section (L)(4)(a) states, “The use of restraints on pregnant inmates/detainees who have entered the third trimester of pregnancy is prohibited. When a pregnant inmate/detainee reaches the third trimester of

⁶ “The facility shall segregate the detainee from the general population pending receipt and processing of information needed for classification, as specified above. The initial classification process and initial housing assignment shall be completed within 12 hours of admission to the facility. If the process takes longer, documentation shall be maintained to explain the cause of the delay and to indicate that the detainee shall be housed appropriately...” See ICE PBNDS 2011, Standard, Custody Classification System, Section (V)(D).

pregnancy, health services staff will provide written notification to the shift supervisor that restraints are prohibited for the remainder of the pregnancy." Additionally, the same ECDF policy 09-01, sub-section (L)(4)(b) states "Prior to reaching the third trimester, pregnant inmates/detainees will be handcuffed in front of the body." In contrast, ODO found ECDF's medical policy contained in IHSC Directive 04-02 ERO, subsection 4-5.3.f, Use of Restraints, provided procedures consistent with the requirements of the standard. ECDF did not house pregnant detainees during the inspection period, nor had there been a record of a pregnant detainee placed in restraints; however, ODO identified the inconsistency between both ECDF policies and the IHSC directive as an **Area of Concern**.

DISABILITY, IDENTIFICATION, ASSESSMENT, and ACCOMMODATION (DIAA)

ODO reviewed ECDF DIAA policy 14-101, ECDF training courses and content, and interviewed ECDF personnel. ODO found ECDF's initial orientation training and annual refresher training to employees, volunteers, and contract personnel did not include ECDF's Disability and Reasonable Accommodations procedures as required by the standard (**Deficiency DIAA-68**⁷).

CONCLUSION

During this inspection, ODO assessed ECDF's compliance with 21 standards under PBNDS 2011 (Revised 2016) and found ECDF in compliance with 19 of those standards. ODO found two deficiencies in the remaining two standards. Furthermore, ODO cited two Areas of Concern, one in the Custody Classification System section and the other in the Medical Care (Women) section. ODO recommends ERO Newark work with ECDF to resolve any deficiencies that remain outstanding in accordance with contractual obligations.

Compliance Inspection Results Compared	FY 2020 PBNDS 2011 (Revised 2016)	FY 2021 PBNDS 2011 (Revised 2016)
Standards Reviewed	19	21
Deficient Standards	3	2
Overall Number of Deficiencies	3	2
Repeat Deficiencies	1	0
Areas of Concern	0	2
Corrective Actions	0	0

⁷ "Training on the facility's Disability and Reasonable Accommodations procedures shall be provided to employees, volunteers, and contract personnel, and shall also be included in annual refresher training thereafter. New facility staff, including contractors and volunteers, shall receive this training as part of the Initial Orientation training required by Standard 7.3. 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 disability accommodations policy." See ICE PBNDS 2011, Standard, Disability, Identification, Assessment, and Accommodation, Section (V)(I).