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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**

May 7-9, 2019

**COMPLIANCE INSPECTION
of the
Elizabeth Contract Detention Facility
Elizabeth, New Jersey**

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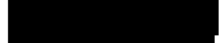
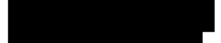
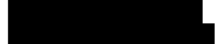
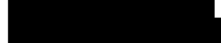
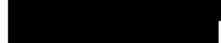

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COMPLIANCE INSPECTION TEAM MEMBERS

	Lead Inspections and Compliance Specialist	ODO
	Inspections and Compliance Specialist	ODO
	Inspections and Compliance Specialist	ODO
	Contractor	Creative Corrections
	Contractor	Creative Corrections
	Contractor	Creative Corrections
	Contractor	Creative Corrections

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 May 7 to 9, 2019.¹ ECDF opened in March 1996 and is owned and operated by the Corrections Corporation of America (CCA). The ICE Office of Enforcement and Removal Operations (ERO) began housing detainees at ECDF in October 1996 pursuant to a contract under the oversight of ERO's Field Office Director (FOD) in Newark, New Jersey. The facility operates under the ICE Performance-Based National Detention Standards (PBNDS) 2011.

An ERO Detention Services Manager is assigned to the facility on a full-time basis. A CCA warden is responsible for oversight of daily facility operations and is supported by [REDACTED] personnel. ICE Health Service Corps (IHSC) provides medical service and CCA provides food services. The facility holds an American Correctional Association accreditation.

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity ²	304
Average ICE Detainee Population ³	289
Male Detainee Population (as of 5/13/2019)	260
Female Detainee Population (as of 5/13/2019)	28

In Fiscal Year (FY) 2016, ODO conducted an inspection of ECDF and found 20 deficiencies in the following areas: Environmental Health and Safety (2); Funds and Personal Property (2); Sexual Abuse and Assault Prevention and Intervention (3); Special Management Units (2); Staff-Detainee Communication (6); Food Service (1); Telephone Access (2); Detainee Handbook (1); and Grievance System (1).

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

² Data Source: ERO Facility List Report as of May 13, 2019.

³ *Ibid.*

FY 2019 FINDINGS BY PBNDS 2011 MAJOR CATEGORIES

PBNDS 2011 STANDARDS INSPECTED ⁴	DEFICIENCIES
Part 1 – Safety	
Environmental Health and Safety	0
Sub-Total	
Part 2 – Security	
Admission and Release	2
Custody Classification System	1
Funds and Personal Property	1
Sexual Abuse and Assault Prevention and Intervention	0
Special Management Units	0
Staff-Detainee Communication	0
Use of Force and Restraints	2
Sub-Total	6
Part 4 – Care	
Food Service	2
Medical Care	0
Significant Self-harm and Suicide Prevention and Intervention	0
Disability Identification, Assessment, and Accommodation	0
Sub-Total	2
Part 5 – Activities	
Recreation	0
Religious Practices	0
Telephone Access	1
Visitation	0
Sub-Total	1
Part 6 – Justice	
Detainee Handbook	0
Grievance System	0
Law Libraries and Legal Materials	0
Sub-Total	0
Total Deficiencies	9

⁴ For greater detail on ODO’s findings, see the *Compliance 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. These inspections focus solely on facility compliance with detention standards that directly affect detainee life, health, safety, and/or well-being.⁵ ODO identifies violations of ICE detention standards, ICE policies, or operational procedures as “deficiencies.”

For facilities governed by either the PBNDS 2008 or 2011, ODO specifically notes deficiencies related to ICE-designated “priority components,” which are considered critical to facility security and the legal and civil rights of detainees. ODO also acknowledges instances where the facility resolves deficiencies prior to completion of ODO’s inspection—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. Additionally, ODO’s findings inform ICE executive management to aid in the decision-making processes to better allocate resources across the agency’s entire detention inventory.

⁵ ODO reviews the facility’s compliance with selected standards in their entirety.

DETAINEE RELATIONS

ODO interviewed 16 detainees, each of whom 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.

Food Service: Two detainees complained about lack of variety in the meals provided by the facility.

- Action Taken: ODO reviewed the cyclic menus provided by the facility food services administrator (FSA) and found they were approved by a dietician and that meals were appropriately varied.

Medical Care: One detainee complained that he felt “water in his lung” and had minor trouble breathing.

- Action Taken: ODO reviewed the detainee’s medical record with the health services administrator (HSA) and found the detainee was diagnosed approximately five months earlier with tuberculosis pleurisy (inflammation of the membrane that covers the lungs due to exposure to tuberculosis bacteria) and was undergoing prophylactic treatment. ODO confirmed the facility was monitoring the detainee and the detainee was compliant with his medication regimen.

COMPLIANCE INSPECTION FINDINGS

SECURITY

ADMISSION AND RELEASE (A&R)

ODO reviewed 20 detainee files and found four did not contain an Order to Detain or Release (Form I-203) signed by an ERO official (**Deficiency AR-1⁶**).

ECDF requires detainees to shower in the processing area during the clothing exchange. ODO observed, and facility staff confirmed, that although the shower is adequately equipped with a privacy curtain, the facility's standard practice is to have a same-gender officer observe each detainee disrobe before showering (**Deficiency-AR-2⁷**).

CUSTODY CLASSIFICATION SYSTEM (CCS)

ODO reviewed 20 detainee files and confirmed each had an initial Risk Classification Assessment completed by ERO upon or before the detainee's arrival; however, of the 20 files reviewed, ODO found three detainees did not undergo reclassification assessments at 90- to 120-day intervals (**Deficiency CCS-1⁸**). Onsite ERO staff are responsible for completing reclassification assessments at ECDF. The facility has an approved waiver, dated May 21, 2009, which states that classification at ECDF is conducted by ERO, in accordance with the PBNDS 2011 CCS standard.

FUNDS AND PERSONAL PROPERTY (F&PP)

ODO reviewed both the funds and personal property audit logs and the quarterly audit forms used at ECDF and found that although audits are conducted and documented, the facility uses a locally prepared form for the audits instead of an Alien Funds Audit Sheet (G-786). ODO reviewed the ECDF form and determined the form did not contain the date and time of the audits being conducted, as required by the standard (**Deficiency F&PP-1⁹**).

USE OF FORCE AND RESTRAINTS (UOF&R)

ODO reviewed use of force documentation and found ECDF had one calculated and two immediate use of force incidents during the year preceding the inspection. All three use of force files appropriately contained reports from all staff involved, medical clearances, post-incident

⁶ "An Order to Detain or an Order to Release the detainee (Form I-203 or I-203a), bearing the appropriate ICE/ERO Authorizing Official signature, must accompany each newly arriving detainee." *See* ICE PBNDS 2011, Standard, Admission and Release, Section (V)(E).

⁷ "Staff shall permit the detainee to change clothing and shower in a private room without being visually observed by staff, unless the staff member has reasonable suspicion to search the detainee in accordance with the following section on 'Strip Searches' and standard '2.10 Searches of Detainees.'" *See* ICE PBNDS 2011, Standard, Admission and Release, Section (V)(B)(2).

⁸ "Subsequent reclassification assessments shall be completed at 90-to 120-day intervals." *See* ICE PBNDS 2011, Standard, Custody Classification System, Section (V)(H)(2).

⁹ "The facility's inventory audit shall include the inventory's date and time, and the name of the officer(s) conducting the inventory." *See* ICE PBNDS 2011, Standard, Funds and Personal Property, Section (V)(J).

medical evaluations, and after-action reviews. ODO found two deficiencies concerning the calculated use of force incident:

- As seen in video footage, the [REDACTED] did not appear on video with their helmets removed and heads uncovered (**Deficiency UOF&R-1¹⁰**).
- The team members did not enter the detainee's area at the same time (**Deficiency UOF&R-2¹¹**).

CARE

FOOD SERVICE (FS)

ODO toured the facility food service areas, including the outside dumpster where all garbage and debris from food service are taken, and found the dumpster location to be in unacceptable condition. Specifically, ODO found spilled food items in and around the door leading to the dumpster, as well as spilled food items around the dumpster itself. ODO also found a large gap under the door leading out to the dumpster, potentially allowing rodents and insects entry into the facility (**Deficiency FS-1¹²**).

ODO found the safety locks in both the walk-in coolers and the freezer located inside the main kitchen had been replaced with [REDACTED], which permit the door to be secured from the inside, and do not meet the standard (**Deficiency FS-2¹³**).

MEDICAL CARE (WOMEN) (MCW)

ODO learned that because ECDF does not house pregnant detainees; when a pregnant detainee is identified, medical staff complete a Special Needs Form requesting that the ERO Assistant Field Office Director (AFOD) find appropriate accommodation and housing for the detainee. ODO notes as an **Area of Concern** that one detainee who had a positive pregnancy test during the inspection was not immediately transferred. Facility staff indicated the AFOD was notified and the detainee would be transferred later that same week. ERO records indicate the detainee was transferred on May 10, 2019.

ODO notes as an **Area of Concern** that ECDF has conflicting facility policy language regarding the restraint of pregnant detainees. Specifically, Use of Force (9-1), Section L.4.b states, "Prior to

¹⁰ "Faces of all team members shall briefly appear (with [REDACTED]), one at a time, identified by name and title." See ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(I)(2)(b).

¹¹ "Team members enter the detainee's area together and have coordinated responsibility for achieving immediate control of the detainee." See ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(I)(3).

¹² "The premises shall be maintained in a condition that prevents the feeding or nesting of insects and rodents. Outside openings shall be protected by tight-fitting screens, windows, controlled air curtains and self-closing doors." See ICE PBNDS 2011, Standard, Food Service, Section (V)(J)(5)(k).

¹³ "Refrigeration units shall be kept under lock and key when not in use. Walk-in boxes shall be equipped with safety locks that require no more than 15 pounds of pressure to open easily from the inside. If latches and locks are incorporated in the door's design and operation, the interior release mechanism must open the door with the same amount of pressure even when locks or bars are in place." See ICE PBNDS 2011, Standard, Food Service, Section (V)(K)(8).

reaching the third trimester, pregnant inmates/detainees will be handcuffed in front of the body.” This language contravenes both the ICE PBNDS 2011 and Section L.4.e. of the same policy, which states, “In accordance with ICE PBNDS 4.4 Medical Care (Women) and 4.3 Medical Care, pregnant ICE detainees or those ICE detainees in post-delivery will not be restrained absent truly extraordinary circumstances that render restraints absolutely necessary as documented by a supervisor or by the onsite medical authority.”

ACTIVITIES

TELEPHONE ACCESS (TA)

ODO found that while telephones in the housing units are in good working order, facility staff do not consistently test the telephones daily (**Deficiency TA-1¹⁴**).

¹⁴ “Facility staff members are responsible for ensuring on a daily basis that telephone systems are operational and that the free telephone number list is posted.” See ICE PBNDS 2011, Standard, Telephone Access, Section (V)(A)(4)(a).

CONCLUSION

During this inspection, ODO reviewed the facility's compliance with 19 standards under the ICE PBNDS 2011 and found the facility compliant with 12 standards. ODO found nine deficiencies in the remaining six standards, a significant decrease in the number of deficiencies found during ODO's last inspection in 2016, which indicates ECDF has significantly improved its compliance with the PBNDS 2011. ODO found facility staff were knowledgeable and professional in their interactions with both detainees and the ODO team.

ODO noted two areas of concern in the Medical Care (Women) standard. First, a detainee who was found to be pregnant while ODO was onsite was not immediately transferred to a facility equipped to provide specialized care; second, ECDF's internal policy concerning the restraint of pregnant detainees contains contradictory language that could potentially lead to pregnant detainees being improperly restrained.

ODO recommends ERO work closely with the facility to complete the facility's transition to PBNDS 2011 and remedy any deficiencies that remain outstanding in accordance with contractual obligations.

Compliance Inspection Results Compared	FY 2016 (PBNDS 2011)	FY 2019 (PBNDS 2011)
Standards Reviewed	16	19
Deficient Standards	9	6
Overall Number of Deficiencies	20	9
Deficient Priority Components	5	0
Corrective Actions	6	0