



**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 Newark Field Office

Essex County Correctional Facility  
Newark, NJ

June 22-25, 2020

**COMPLIANCE INSPECTION**  
**of the**  
**ESSEX COUNTY CORRECTIONAL FACILITY**  
Newark, NJ

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## COMPLIANCE INSPECTION TEAM MEMBERS



Team Lead	ODO
Inspections and Compliance Specialist	ODO
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Contractor	Creative Corrections
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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 Essex County Correctional Facility (ECCF) in Newark, New Jersey, from June 22 to 25, 2020.<sup>1</sup> The facility opened in 2004 and is owned and operated by the County of Essex. The ICE Office of Enforcement and Removal Operations (ERO) began housing detainees at ECCF in 2008 under the oversight of ERO's Field Office Director (FOD) in Newark (ERO Newark). The facility operates under the Performance-Based National Detention Standards (PBNDS) 2011 (Revised 2016).

ERO has assigned Deportation Officers and a Detention Services Manager to the facility. An ECCF warden handles daily facility operations and is supported by ██████ personnel. GD Correctional Services LLC provides food services, CFG Health Systems provides medical care, and Keefe Commissary provides commissary services at the facility. The facility is accredited by the American Correctional Association as of June 2019, the Prison Rape Elimination Act as of July 2019, and the National Commission on Correctional Health Care as of June 2017.

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity <sup>2</sup>	800
Average ICE Detainee Population <sup>3</sup>	678
Male Detainee Population (as of June 22, 2020)	362
Female Detainee Population (as of June 22, 2020)	N/A

During its last inspection, in FY 2019, ODO found 41 deficiencies in the following areas: Environmental Health and Safety (4), Admissions and Release (3), Custody Classification System (2), Staff-Detainee Communication (4), Special Management Units (2), Use of Force and Restraints (4), Food Service (9), Personal Hygiene (2), Medical Care (3), Grievance System (7), and Law Libraries and Legal Materials (1).

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<sup>1</sup> This facility holds male detainees with medium-high and high security classification levels for periods longer than 72 hours.

<sup>2</sup> Data Source: ERO Facility List Report as of June 8, 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.” 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 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 PERFORMANCE-BASED NATIONAL DETENTION STANDARDS 2011 MAJOR CATEGORIES

PBNDS 2011 Standards Inspected <sup>5</sup>	Deficiencies
<b>Part 1 – Safety</b>	
Environmental Health and Safety	0
<b>Sub-Total</b>	<b>0</b>
<b>Part 2 – Security</b>	
Admission and Release	0
Custody Classification System	4
Funds and Personal Property	0
Sexual Abuse and Assault Prevention and Intervention	0
Special Management Units	0
Staff-Detainee Communication	1
Use of Force and Restraints	3
<b>Sub-Total</b>	<b>8</b>
<b>Part 4 – Care</b>	
Food Service	0
Medical Care	0
Significant Self-harm and Suicide Prevention and Intervention	1
Disability Identification, Assessment, and Accommodation	0
<b>Sub-Total</b>	<b>1</b>
<b>Part 5 – Activities</b>	
Recreation	0
Religious Practices	1
Telephone Access	1
Visitation	1
<b>Sub-Total</b>	<b>3</b>
<b>Part 6 – Justice</b>	
Grievance Systems	5
Law Libraries and Legal Material	0
<b>Sub-Total</b>	<b>5</b>
<b>Total Deficiencies</b>	<b>17</b>

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

## DETAINEE RELATIONS

ODO interviewed 13 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.

*Custody Classification System:* One detainee stated he has no criminal history in the United States or his home country but received the highest classification at the facility. The detainee requested to have his classification level changed.

- Action Taken: ODO reviewed the detainee's file and interviewed the classification officer. ODO found the detainee was properly classified with a medium-high classification [REDACTED]

*Food Service:* One detainee complained the food served is old, expired, and just repackaged with a different date.

- Action Taken: ODO interviewed the food service director and reviewed all grievances filed relating to food service. ODO found three grievances involving food service addressing the expired dates on food. Grievance responses showed the detainee was looking at the date the food was packaged and not the expiration date. The facility staff explained this to the detainee when the grievance was filed, and the issue was resolved.

*Food Service:* Two detainees stated they were not satisfied with food service and they found bugs in their food.

- Action Taken: ODO interviewed the food service director who stated there were no complaints received about bugs in the food. ODO did not find any grievances filed relating to the complaints so could not verify the occurrence of the issue.

*Medical Care:* One detainee complained the processed food in the facility has caused him to experience diabetes and high-blood pressure. The detainee stated he is receiving medication for the conditions, but he is not satisfied with the medicine. The detainee requested a natural food diet without any processed food to include fresh fruit and vegetables; however, he did not want to be placed on a vegetarian diet.

- Action Taken: ODO reviewed the detainee's medical record and found the detainee arrived at ECCF on May 13, 2019. The detainee has a history of depression, hyperlipidemia, and diabetes. On May 13, 2019, the detainee had a medical, dental, and mental health assessment completed by a licensed nurse practitioner. During the assessment a referral for a mental health evaluation was recommended. On May 16, 2019, a full physical evaluation was completed by a Nurse Practitioner and on May 18, 2019, a mental health evaluation was completed by a mental health practitioner. The detainee was placed in the chronic care program and received medications for depression, hyperlipidemia, and diabetes. The detainee submitted numerous sick call

requests since his arrival at ECCF. The last requests were related to an isolation phase all the detainees went through due to COVID-19. He was isolated, quarantined, and medically observed for 15 days. During the isolation he stated he was stressed, needed a bottom bunk, and a special diet. All his requests were seen within 24 hours by a registered nurse and referred to the different clinicians such as medical and mental health providers and full evaluations were completed. As per the medical director, a diabetic diet was approved, and the detainee later refused the diet.

*Medical Care:* Three detainees complained the medical staff takes too long to respond to sick call requests.

- Action Taken: ODO reviewed the detainees' medical records and found one detainee had not submitted any sick call requests or medical grievances. Two detainees, who submitted sick call requests, were seen by medical staff on the same day or the following day. The medical records showed all sick call requests were addressed timely and care was provided without any subsequent complaints from the detainees.

*Medical Care:* One detainee complained about being dissatisfied with medical care after requesting to be treated for a fever. He stated he was placed in isolation for more than 23 days with no explanation.

- Action Taken: ODO reviewed the detainee's medical record and found on April 2, 2020, the detainee requested to be seen through sick call, twice on the same day, for a headache, body ache, and general weakness. On the same day, he was evaluated by a registered nurse and had a high temperature. On April 3, 2020, the detainee was evaluated by the physician's assistant and was diagnosed with a viral infection. The medical staff administered proper medication and the detainee was quarantined in another area of the facility for medical safety measures. On April 17, 2020, a COVID-19 test was completed with negative results. The detainee was removed from the isolation area on April 20, 2020, with all his vital signs within normal limits. Throughout the process, the medical records stated the detainee was provided with a facial mask and was educated on the importance of social distancing. Additionally, in his medical record, the practitioners wrote instructions and educated the detainee. The notes also mentioned the detainee was quarantined without specifying for how long.



# COMPLIANCE INSPECTION FINDINGS

## SECURITY

### CUSTODY CLASSIFICATION SYSTEM (CCS)

ODO reviewed 12 detainee files and found one out of 12 files did not contain a Risk Classification Assessment (RCA) or classification documentation from the local ICE/ERO Newark (**Deficiency CCS-1<sup>6</sup>**).

ODO reviewed 12 detainee files and found seven out of 12 files did not exhibit any evidence of a timely 60 to 90-day reclassification by the local ICE/ERO Newark after the date of the initial classification (**Deficiency CCS-2<sup>7</sup>**).

ODO reviewed 12 detainee files and found two out of 12 files did not exhibit any evidence a timely subsequent 90 to 120-day reclassification was conducted by the local ICE/ERO Newark (**Deficiency CCS-3<sup>8</sup>**).

ODO reviewed 12 detainee files and found nine out of 12 files did not have the required classification forms or any supporting documentation in the detention files (**Deficiency CCS-4<sup>9</sup>**).

ODO found there was a lack of shared communication between ECCF classification staff and the local ICE/ERO Newark. There was no evidence updated RCAs were always provided to ECCF and ERO field staff. ODO notes this as an **Area of Concern**.

### STAFF-DETAINEE COMMUNICATION (SDC)

The written logbook did not have a column to record specific reasons why the detainees' request were not marked urgent and required a faster response, the date the request was forwarded to the local ICE/ERO Newark was not logged, nor the date the request was returned to the detainees documented. The electronic logbook for electronically submitted requests included the date of receipt, detainee's name, detainee's A-number, and the name of the staff member who logged the request; however, excluded all other pertinent information. (**Deficiency SDC-1<sup>10</sup>**).

<sup>6</sup>

As appropriate, ICE/ERO offices shall provide non-ICE/ERO facilities with the relevant information for the facility to classify ICE/ERO detainees." See ICE PBNDS 2011, Standard, Custody Classification System, Section (V)(C).

<sup>7</sup> "The first reclassification assessment shall be completed 60- to 90-day after the date of the initial classification." See ICE PBNDS 2011, Standard, Custody Classification System, Section (V)(H)(1).

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

<sup>9</sup> "Classification forms and supporting documentation shall be placed in the detention file." See ICE PBNDS 2011, Standard, Custody Classification System, Section (V)(J).

<sup>10</sup> "At a minimum, the log shall record: a. date of receipt; b. detainee's name; c. detainee's A-number; d. detainee's nationality; e. name of the staff member who logged the request; f. date that the request, with staff response and action, was returned to the detainee; g. any other pertinent site-specific information, including detention condition complaints;

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

ODO reviewed six videos of immediate UOF incidents and found one incident involved excessive UOF by responding staff. ODO found the staff member used more than the necessary amount of force to gain control of the detainee (**Deficiency UOF&R-1<sup>11</sup>**).

ODO reviewed the documentation for one calculated UOF incident and found there was no corresponding audiovisual recording of the calculated UOF incident (**Deficiency UOF&R-2<sup>12</sup>**).

ODO reviewed the documentation for six immediate UOF incidents and found two out of six after-action reviews were not completed within two workdays of the detainees' release from restraints (**Deficiency UOF&R-3<sup>13</sup>**).

## **CARE**

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

ODO reviewed the SSH&SPI policy and found the policy did not cover the key component pertaining to Communication (**Deficiency SSH&SPI-1<sup>14</sup>**).

## **ACTIVITIES**

### **RELIGIOUS PRACTICES (RP)**

ODO interviewed the facility religious coordinator and found volunteers who were part of the program for more than six months did not require a facility staff escort in the Special Management Unit (**Deficiency RP-1<sup>15</sup>**).

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h. specific reasons why the detainee's request is urgent and requires a faster response; and i. the date the request was forwarded to ICE/ERO and the date it was returned shall also be recorded." See ICE PBNDS 2011, Standard, Staff-Detainee Communication, Section (V)(B)(2)(a-i). **This is a Repeat Deficiency.**

<sup>11</sup> "Staff shall use only that amount of force necessary and reasonable to gain control of a detainee." See ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(B)(4). **This is a Priority Component.**

<sup>12</sup> "While ICE/ERO requires that all use-of-force incidents be documented and forwarded to ICE/ERO for review, for calculated use of force, it is required that the entire incident be audio visually recorded." See ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(I)(2). **This is a Priority Component and Repeat Deficiency.**

<sup>13</sup> "The facility administrator, the assistant facility administrator, the Field Office Director's designee and the health services administrator (HSA) shall conduct the after-action review. This [REDACTED] member after-action review team shall convene on the workday after the incident. The after-action review team shall gather relevant information, determine whether policy and procedures were followed, make recommendations for improvement, if any, and complete an after-action report to record the nature of its review and findings. The after-action report is due within two workdays of the detainee's release from restraints." See ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(P)(3). **This is a Repeat Deficiency.**

<sup>14</sup> "At a minimum, the suicide prevention and intervention program shall include procedures to address suicidal detainees. Key components of this program must include the following: 8. communication;..." See ICE PBNDS 2011, Standard, Significant Self-Harm and Suicide Prevention and Intervention, Section (V)(8). **This is a Priority Component.**

<sup>15</sup> "If the representative of the faith group is a volunteer, he/she shall at all times be escorted in an SMU." See ICE

## TELEPHONE ACCESS (TA)

ODO interviewed facility staff and found housing unit officers did not demonstrate how to make a call using the free calling platform after ensuring each phone had a dial tone (**Deficiency TA-1<sup>16</sup>**).

## VISITATION (V)

ODO reviewed the facility visitation log and found the facility did not maintain a separate log for legal visits (**Deficiency V-1<sup>17</sup>**).

## JUSTICE

### GRIEVANCE SYSTEM (GS)

ODO interviewed the grievance coordinator and found the results of grievances resolved informally were not documented in the detainee file or facility grievance log (**Deficiency GS-1<sup>18</sup>**).

The grievance policy did not provide a procedure for urgent access to legal counsel and the law library (**Deficiency GS-2<sup>19</sup>**).

ODO interviewed the facility staff and found the facility had not established a grievance appeal board (**Deficiency GS-3<sup>20</sup>**).

ODO reviewed the facility's grievance log and found the facility did not consistently respond to grievances within five days (**Deficiency GS-4<sup>21</sup>**).

ODO reviewed medical grievances and found staff responded to the grievance within five days; however, the written response did not provide detainees with the rationale for the decision (**Deficiency GS-5<sup>22</sup>**).

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PBNDS 2011, Standard, Religious Practices, Section (V)(G).

<sup>16</sup> "After ensuring that each phone has a dial tone, when testing equipment, the officers must be able to demonstrate that an individual has the ability to make calls using the free call platform." *See* ICE PBNDS 2011, Standard, Telephone Access, Section (V)(A)(4)(a).

<sup>17</sup> "Each facility shall maintain a log of all general visitors, and a separate log of legal visitors." *See* ICE PBNDS 2011, Standard, Visitation, Section (V)(D).

<sup>18</sup> "If an informal grievance is resolved, the employee need not provide the detainee written confirmation of the outcome, but shall document the result for the record in the detainee's detention file and in any logs or data systems the facility has established to track such actions." *See* ICE PBNDS 2011, Standard, Grievance System, Section (V)(C)(1).

<sup>19</sup> "Written procedures shall also cover urgent access to legal counsel and the law library." *See* ICE PBNDS 2011, Standard, Standard, Grievance System, Section (V)(C)(2). **This is a Repeat Deficiency.**

<sup>20</sup> "These reviews shall consist of: 1) GO review; 2) grievance appeals board (GAB) review; and 3) appellate review." *See* ICE PBNDS 2011, Standard, Grievance System, Section (V)(C)(3).

<sup>21</sup> "Detainee shall be provided with a written or oral response within five days of receipt of the grievance." *See* ICE PBNDS 2011, Standard, Grievance System, Section (V)(C)(3)(b)(1)(b). **This is a Repeat Deficiency.**

<sup>22</sup> "Designated medical staff shall act on the grievance within five working days of receipt and provide the detainee a written response of the decision and the rationale." *See* ICE PBNDS 2011, Standard, Grievance System, Section (V)(C)(3)(b)(4).

## CONCLUSION

During this inspection, ODO assessed the facility's compliance with 18 standards under PBNDS 2011 and found the facility in compliance with 10 of those standards. ODO found 17 deficiencies in the remaining eight 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.

<b>Compliance Inspection Results Compared</b>	<b>FY 2019 PBNDS 2011</b>	<b>FY 2020 PBNDS 2011</b>
Standards Reviewed	19	18
Deficient Standards	11	8
Overall Number of Deficiencies	41	17
Deficient Priority Components	7	3
Repeat Deficiencies	3	5
Corrective Actions	4	0