



**U.S. Department of Homeland Security**  
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

April 18–21, 2016

**COMPLIANCE INSPECTION  
for the  
ESSEX COUNTY CORRECTIONAL FACILITY  
Newark, New Jersey**

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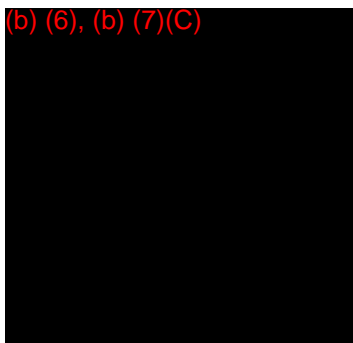
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**INSPECTION TEAM MEMBERS**

(b) (6), (b) (7)(C)



Lead Inspections and Compliance Specialist	ODO
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## EXECUTIVE SUMMARY

The Office of Detention Oversight (ODO) conducted a compliance inspection of the Essex County Correctional Facility (ECCF) in Newark, New Jersey, from April 18 to 21, 2016.<sup>1</sup> ECCF opened in 2004, and is owned by the County of Essex and is operated by the Essex County Department of Corrections (ECDC). The Office of Enforcement and Removal Operations (ERO) began housing detainees at ECCF in 2008 pursuant to an Intergovernmental Service Agreement (IGSA), under the oversight of ERO’s Field Office Director (FOD) in Newark.

ERO staff members are not assigned to the facility. A Detention Services Manager is assigned to the facility. A Warden is responsible for oversight of daily facility operations and is supported by (b) (7) personnel. CFG Health Systems LLC provides medical service and GD Correctional Service LLC provides food service. The facility is accredited by the American Correctional Association and the National Commission on Correctional Health Care.

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity <sup>2</sup>	700
Average ICE Detainee Population <sup>3</sup>	494
Male Detainee Population (as of 04/19/2016)	563
Female Detainee Population (as of 04/19/2016)	0

### OVERALL FINDINGS

In March 2012, ODO conducted an inspection of the ECCF under the Performance-Based National Detention Standards (PBNDS) 2008. ODO reviewed the facility’s compliance with 26 standards and found the facility compliant with 14 standards. ODO found 20 deficiencies in the remaining 12 standards.

Inspection Results Compared	FY 2012 (PBNDS 2008)	FY2016 (PBNDS 2011)
Standards Reviewed	26	16
Deficient Standards	12	7
Overall Number of Deficiencies	20	12
Deficient Priority Components	0	6
Corrective Actions Initiated	0	4

In FY2016, ODO conducted an inspection of the ECCF under the Performance-Based National Detention Standards (PBNDS) 2011. ODO reviewed the facility’s compliance with 16 standards and found the facility compliant with nine standards. ODO found 12 deficiencies in the remaining seven standards, six of which were priority components. Finally, ODO identified four instances in which the facility initiated corrective action during the course of the inspection.<sup>4</sup>

<sup>1</sup> Male detainees with low, medium, and high security classification levels are detained at the facility for longer than 72 hours.

<sup>2</sup> Data Source: ERO Facility List Report as of April 11, 2016.

<sup>3</sup> *Ibid.*

<sup>4</sup> Corrective actions, where immediately implemented, best practices and ODO recommendations, as applicable, have been identified in the Inspection Findings section and annotated with a “C,” “BP,” or “R,” respectively.

## FINDINGS BY PBND 2011 MAJOR CATEGORIES

PBND 2011 STANDARDS INSPECTED <sup>5</sup>	DEFICIENCIES
<b>Part 1 – Safety</b>	
1.2 - Environmental Health and Safety	0
<b>Sub-Total</b>	<b>0</b>
<b>Part 2 – Security</b>	
2.1 - Admission and Release	0
2.2 - Custody Classification System	1
2.5 - Funds and Personal Property	0
2.11 - Sexual Abuse and Assault Prevention and Intervention	2
2.12 - Special Management Units	0
2.13 - Staff-Detainee Communication	2
2.15 - Use of Force and Restraints	4
<b>Sub-Total</b>	<b>9</b>
<b>Part 4 – Care</b>	
4.1 - Food Service	0
4.3 - Medical Care	0
4.4 - Medical Care (Women)	0
4.6 - Suicide Prevention and Intervention	0
<b>Sub-Total</b>	<b>0</b>
<b>Part 5 – Activities</b>	
5.6 - Telephone Access	1
<b>Sub-Total</b>	<b>1</b>
<b>Part 6 – Justice</b>	
6.1 - Detainee Handbook	1
6.2 - Grievance System	1
6.3 - Law Libraries and Legal Material	0
<b>Sub-Total</b>	<b>2</b>
<b>Total Deficiencies</b>	<b>12</b>

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

## INSPECTION PROCESS

Every fiscal year, the Office of Detention Oversight (ODO), a unit within U.S. Immigration and Customs Enforcement's (ICE) Office of Professional Responsibility (OPR), conducts compliance inspections at detention facilities in which detainees are accommodated for periods in excess of 72 hours and with an average daily population greater than ten to determine compliance with the ICE National Detention Standards (NDS) 2000, or the Performance-Based National Detention Standards (PBNDS) 2008 or 2011, as applicable.

During the compliance inspection, ODO reviews each facility's compliance with those detention standards that directly affect detainee health, safety, and/or well-being.<sup>6</sup> Any violation of written policy specifically linked to ICE detention standards, ICE policies, or operational procedures that ODO identifies is noted as a deficiency. ODO also highlights any deficiencies found involving those standards that ICE has designated under either the PBNDS 2008 or 2011, to be "priority components."<sup>7</sup> Priority components have been selected from across a range of detention standards based on their critical importance to facility security and/or the health and safety, legal rights, and quality of life of detainees in ICE custody.

Immediately following an inspection, ODO hosts a closeout briefing in person with both facility and ERO field office management to discuss their preliminary findings, which are summarized and provided to ERO in a preliminary findings report. Thereafter, ODO provides ERO with a final compliance inspection report to: (i) assist ERO in working with the facility to develop a corrective action plan to resolve identified deficiencies; and (ii) provide senior ICE and ERO leadership with an independent assessment of the overall state of ICE detention facilities. The reports enable senior agency leadership to make decisions on the most appropriate actions for individual detention facilities nationwide.

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<sup>6</sup> ODO reviews the facility's compliance with selected standards in their entirety.

<sup>7</sup> Priority components have not been identified for the NDS.

## DETAINEE RELATIONS

ODO interviewed 26 detainees, each of whom volunteered to participate. One detainee alleged an instance of mistreatment, abuse, or discrimination, described below. The majority of detainees reported being satisfied with facility services, with the exception of the complaints below:

*Staff Mistreatment:* One detainee alleged he received a verbal threat from a correctional officer on April 18, 2016.

- Action Taken: ODO notified ERO of the allegation on April 19, 2016. On April 19, 2016, ERO forwarded the allegation to the facility's primary ICE liaison who in turn forwarded the allegation to facility's internal affairs department for investigation. The results of the investigation will be forwarded to ERO Newark when the investigation is complete. The correctional officer was removed from all contact with detainees pending the outcome of the investigation. The Joint Intake Center was notified telephonically of the allegation on April 19, 2016.

*Detainee Handbook:* Six detainees stated they never received the ICE National Detainee Handbook or the facility handbook.

- Action Taken: ODO reviewed each of the detainees' detention files and found all signed for both the ICE National Detainee Handbook and the facility handbook upon admission to the facility. Additionally, ODO interviewed intake staff who stated detainees are notified upon admission that copies of the ICE National Detainee Handbook and facility handbook are located in each dorm for detainees to access as needed. ODO visited each housing unit and observed that both handbooks were present and accessible to detainees.

*Sexual Abuse and Assault Prevention and Intervention:* Eight detainees stated that officers do not announce their presence when entering a housing unit of the opposite gender.

- Action Taken: During an ERO scheduled visit, which occurred during the inspection, ODO observed a female ERO Deportation Officer (DO) enter two male housing units without announcing that a female was entering the housing unit. Further, she conducted staff-detainee communication with male detainees in an area of the housing unit where there is a direct line of sight into the detainees' bathroom. ODO discussed this issue with ERO field office staff who articulated their understanding that ICE officers are exempt from announcing their presence when entering an opposite-gender housing unit, and who indicated their practices will not change. ODO reviewed facility policy which, in accordance with the ICE PBNDS 2011, Sexual Abuse and Assault Prevention and Intervention, Expected Outcomes, states, "Staff members of the opposite gender must also announce their presence upon entering inmate/ICE Detainee living areas." Neither the ICE PBNDS 2011 nor the facility policy makes a distinction between facility or ICE staff. ODO observed that facility staff consistently announced their presence when entering a housing of the opposite gender. Facility leadership indicated to ODO they would not only continue to enforce the policy for their own staff, but also require facility staff to make an announcement when an ICE officer enters an opposite gender housing unit.

# INSPECTION FINDINGS

## SECURITY

### CUSTODY CLASSIFICATION SYSTEM (CCS)

ODO reviewed the detainee housing roster and confirmed with facility staff that low security classification level detainees and high security classification level detainees were comingled in three housing units (**Deficiency CCS-1<sup>8</sup>**).

*Corrective Action:* The facility initiated corrective action during the inspection by ensuring low security classification level detainees were re-housed to eliminate comingling with high security classification level detainees (**C-1**).

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

During a tour of the facility, ODO observed the ICE SAAPI and the DHS Office of Inspector General (OIG) hotline postings were posted in both the detainee housing units and the intake area; however, in two housing units, only the English version of the SAAPI poster was posted (**Deficiency SAAPI-1<sup>9</sup>**).

*Corrective Action:* The facility initiated corrective action during the inspection by posting the Spanish version of the SAAPI poster in the two housing units where they were missing (**C-2**).

ODO reviewed the facility's policy on preventing sexual abuse and assault and found the policy did not address procedures for coordination of internal administrative investigations with the assigned criminal investigative entity to ensure non-interference with criminal investigations. ODO interviewed the facility's Prison Rape Elimination Act (PREA) Coordinator who explained that as a matter of practice, the facility's internal administrative investigative process for allegations of sexual abuse and assault includes coordination with the assigned criminal investigative entity. (**Deficiency SAAPI-2<sup>10</sup>**).

*Corrective Action:* The facility initiated corrective action during the inspection by adding language to the facility's standard operating procedures for internal affairs which identifies procedures for coordination of internal administrative investigations with the assigned criminal investigative entity to ensure non-interference with criminal investigations. The policy was signed April 21, 2016 (**C-3**).

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<sup>8</sup> "Low custody detainees may not be comingled with high custody detainees." See ICE PBNDS 2011, Standard, Custody Classification System, Section (V)(F)(1). **This is a priority component.**

<sup>9</sup> "This information will be provided in English and Spanish and to other segments of the detainee population with limited English proficiency, through translations or oral interpretation." See ICE PBNDS 2011, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(F).

<sup>10</sup> "The facility administrator shall review and approve the local policy and procedures and shall ensure that the facility: specifies procedures for coordination of internal administrative investigations with the assigned criminal investigative entity to ensure non-interference with criminal investigations...." See ICE PBNDS 2011, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(A)(7).

## STAFF-DETAINEE COMMUNICATION (SDC)

ODO reviewed the facility policy on staff-detainee communication and found the facility does not have written procedures to promptly route and deliver detainee requests to the appropriate ERO officials by authorized personnel without reading, altering, or delaying such requests (**Deficiency SDC-1<sup>11</sup>**).

Through interviews with ERO staff, and observation of their staff-detainee communication visits, ODO found that while ERO staff consistently check on the overall condition of the facility and respond to detainee requests during visits, they do not consistently announce their presence when entering housing units (**Deficiency SDC-2<sup>12</sup>**).

## USE OF FORCE AND RESTRAINTS (UOF)

ODO reviewed the facility's use of force policy as well as the lesson plan used to train officers in use of force, and found neither the policy nor the lesson plan differentiate between inmates and detainees with respect to the use of deadly force. Specifically, both the policy and lesson plan permit the use of deadly force against "an inmate/ICE detainee" to prevent an escape, in contravention of the standard (**Deficiency UOF-1<sup>13</sup>**).

ODO reviewed a video recording of a calculated use of force incident and found that although there was audio coverage for the full recording, there was no video coverage until after the force was used and the detainee was removed from the scene (**Deficiency UOF-2<sup>14</sup>**).

ODO reviewed the facility's after-action review for the above referenced calculated use of force incident, and interviewed ERO staff regarding the after-action review, and learned the review was not forwarded to the FOD (**Deficiency UOF-3<sup>15</sup>**).

ODO interviewed the facility's ICE liaison, and learned that although an after-action review was conducted by the facility on the only immediate use of force incident to occur in the past year, the facility could not produce the report for ODO to review during the inspection (**Deficiency**

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<sup>11</sup> "Each facility administrator shall: have written procedures to promptly route and deliver detainee requests to the appropriate ICE/ERO officials by authorized personnel (not detainees) without reading, altering, or delaying such requests." See ICE PBNDS 2011, Standard, Staff-Detainee Communication, Section (V)(B). **This is a priority component.**

<sup>12</sup> "ICE/ERO staff members shall announce their presence when entering a housing unit." See ICE PBNDS 2011, Standard, Staff-Detainee Communication, Section (V)(A).

<sup>13</sup> "Deadly force may be used only when an officer has probable cause that the detainee poses an imminent danger of death or serious physical injury to the officer or to another person. Deadly force may not be used solely to prevent the escape of a fleeing suspect." See ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(B)(15).

<sup>14</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.**

<sup>15</sup> "Within two workdays of the after-action review team's submission of its determination, the facility administrator shall report with the details and findings of appropriate or inappropriate use of force, by memorandum, to the Field Office Director and whether he/she concurs with the finding." See ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(P)(5).



UOF-4<sup>16</sup>). The ICE liaison informed ODO the original report was given to a DHS Headquarters Office during a prior inspection and the facility did not retain a copy.

## **ACTIVITIES**

### **TELEPHONE ACCESS (TA)**

ODO observed that telephone usage and access instructions were appropriately posted in each detainee housing unit and included telephone rules, a list of free legal services, pro bono lists, consulates lists, and the OIG hotline; however, telephone access hours were not posted near telephones (**Deficiency TA-1<sup>17</sup>**).

*Corrective Action:* Prior to the completion of the inspection, telephone access hours were posted near the telephones in each housing unit (**C-4**).

## **JUSTICE**

### **DETAINEE HANDBOOK (DH)**

ODO reviewed 15 randomly selected detainee files and found staff does not require each detainee to verify, by signature, receipt of the handbook, and maintain that signed acknowledgement in the detainee's detention file (**Deficiency DH-1<sup>18</sup>**).

### **GRIEVANCE SYSTEMS (GS)**

ODO randomly selected 13 detainees from the facility's detainee grievance log, and reviewed their detention files to assess compliance with the standard. Of the 13 detention files reviewed, 11 were missing a copy of the grievance filed by the detainee and logged by the facility (**Deficiency GS-1<sup>19</sup>**).

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<sup>16</sup> "Follow-up (e.g., medical attention), documentation (e.g., audiovisual recording for calculated use of force), reporting and an after action review are required for each incident involving use of force." See ICE PBNDS 2011, Standard, Use of Force and Restraints, Section (V)(A)(5). **This is a priority component.**

<sup>17</sup> "Telephone access hours shall also be posted." See ICE PBNDS 2011, Standard, Telephone Access, Section (V)(C).

<sup>18</sup> "Staff shall require each detainee to verify, by signature, receipt of the handbook, and shall maintain that signed acknowledgement in the detainee's detention file." See ICE PBNDS 2011, Standard, Detainee Handbook, Section (V)(B). **This is a priority component.**

<sup>19</sup> "A copy of the grievance disposition shall be placed in the detainee's detention file...." See ICE PBNDS 2011, Standard, Grievance System, Section (V)(D). **This is a priority component.**