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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 New Orleans Field Office  
Etowah County Detention Center  
Gadsden, Alabama

April 30-May 2, 2019


**COMPLIANCE INSPECTION  
of the  
Etowah County Detention Center  
Gadsden, AL**

**TABLE OF CONTENTS**

<b>FACILITY OVERVIEW .....</b>	<b>2</b>
<b>FINDINGS BY NATIONAL DETENTION STANDARDS (NDS) 2000 MAJOR CATEGORIES.....</b>	<b>2</b>
<b>COMPLIANCE INSPECTION PROCESS .....</b>	<b>4</b>
<b>DETAINEE RELATIONS.....</b>	<b>5</b>
<b>COMPLIANCE INSPECTION FINDINGS</b>	
<b>DETAINEE SERVICES</b>	
Admission and Release .....	6
Detainee Classification System.....	6
Detainee Grievance Procedures .....	6
Food Service .....	6
Funds and Personal Property .....	7
Staff-Detainee Communication .....	7
Telephone Access .....	7
<b>SECURITY AND CONTROL</b>	
Contraband.....	8
Environmental Health and Safety .....	8
Special Management Unit (Administrative Segregation).....	9
<b>HEALTH SERVICES</b>	
Medical Care.....	10
<b>CONCLUSION .....</b>	<b>11</b>

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**COMPLIANCE INSPECTION TEAM MEMBERS**

	Lead Inspections and Compliance Specialist	ODO
	Section Chief	ODO
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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 Etowah County Detention Center (ECDC) in Gadsden, Alabama (AL), from April 30 to May 2, 2019.<sup>1</sup> ECDC opened in March 1994 and is owned and operated by the Etowah County Sheriff's Office. The ICE Office of Enforcement and Removal Operations (ERO) began housing detainees at ECDC in October 1998 pursuant to a United States Marshals Service (USMS) Intergovernmental Agreement (IGA), under the oversight of ERO's Field Office Director (FOD) in New Orleans. The facility operates under the ICE National Detention Standards (NDS) 2000.

ERO has assigned both Deportation Officers (DOs) and a Detention Services Manager (DSM) to the facility. An ECDC Chief is responsible for oversight of daily facility operations and is supported by █ personnel. Food services are provided by Alabama Institutional Services. Medical services are provided by Doctors' Care Physicians of Gadsden, AL. The facility holds both American Correctional Association (ACA) and National Commission on Correctional Health Care (NCCHC) accreditations. The ECDC is not contractually obligated to comply with the ICE Performance-Based National Detention Standards (PBNDS) 2011, Sexual Abuse and Assault Prevention and Intervention (SAAPI) standard; however, it has made efforts to comply.<sup>2</sup>

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity <sup>3</sup>	322
Average Daily ICE Detainee Population <sup>4</sup>	293
Male Detainee Population (as of 04/29/2019)	289
Female Detainee Population (as of 04/29/2019)	0

In fiscal year (FY) 2017, ODO conducted an inspection of ECDC under the NDS 2000, reviewed the facility's compliance with 15 standards and found the facility compliant with six standards. ODO found 18 deficiencies in the remaining nine standards: Access to Legal Material (2); Admission and Release (3); Food Service (5); Staff-Detainee Communication (1); Telephone Access (2); Environmental Health and Safety (1); Special Management Unit (Administrative Segregation) (2); Special Management Unit (Disciplinary Segregation) (1); and Medical Care (1).

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

<sup>2</sup> ECDC has a designated Prison Rape Elimination Act (PREA) coordinator and has a "zero tolerance" policy stated in ECDC Policy and Procedure, *Sexual Abuse and Assault Prevention and Intervention*, dated December 2, 2008, and reviewed April 2019.

<sup>3</sup> Data Source: ERO Facility Questionnaire as of April 10, 2019.

<sup>4</sup> *Ibid.*

## FY 2019 FINDINGS BY NDS 2000 MAJOR CATEGORIES

NDS 2000 STANDARDS INSPECTED <sup>5</sup>	DEFICIENCIES
<b>Part 1 – Detainee Services</b>	
Access to Legal Material	0
Admission and Release	2
Detainee Classification System	1
Detainee Grievance Procedures	1
Food Service	2
Funds and Personal Property	2
Recreation	0
Religious Practices	0
Staff-Detainee Communication	2
Telephone Access	3
Visitation	0
<b>Sub-Total</b>	<b>13</b>
<b>Part 2 – Security and Control</b>	
Environmental Health and Safety	7
Special Management Unit (Administrative Segregation)	1
Special Management Unit (Disciplinary Segregation)	0
Use of Force	0
<b>Sub-Total</b>	<b>8</b>
<b>Part 3 – Health Services</b>	
Medical Care	2
Suicide Prevention and Intervention	0
<b>Sub-Total</b>	<b>2</b>
<b>Total Deficiencies</b>	<b>23</b>

<sup>5</sup> 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.<sup>6</sup> ODO identifies violations linked to ICE detention standards, ICE policies, or operational procedures as *deficiencies*. ODO highlights instances when the facility resolves deficiencies prior to completion of the ODO inspection; these corrective actions are annotated with “C” under the *Compliance 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 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 findings inform ICE executive management decision making to better allocate resources across the agency’s entire detention inventory.

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

## DETAINEE RELATIONS

ODO interviewed 19 detainees to assess the conditions of confinement at ECDC. Interview participation was voluntary and none of the detainees made any allegations of abuse, discrimination, or mistreatment. The detainees reported being satisfied with facility services, apart from the complaints listed below:

*Medical Care:* One detainee alleged ECDC refused to fix a tooth that he broke after a fall.

- Action Taken: ODO reviewed the detainee's medical record with the ECDC Health Services Administrator (HSA) and found that on January 8, 2019, the detainee reported he was accidentally hit in the mouth while playing basketball and a gold cap came off his right upper incisor. On March 22, 2019, the detainee underwent a dental evaluation during which he told the dentist he had a loose tooth due to the accident two months prior. On that date, the dentist made a temporary composite filling, advised the detainee that the tooth was restorable, and submitted a request to the ICE Health Service Corps (IHSC) for a partial dental remake. The request was pending at the time of ODO's inspection and the HSA advised ODO that IHSC's response time for non-urgent care is typically between two and three months.

*Security:* Two detainees claimed that they suffered harassment from other detainees due to their sexual identity.

- Action Taken: ODO reviewed the detainees' medical records and detention files, and interviewed senior facility and ERO staff, and learned the detainees were evaluated by mental health staff the week prior to the inspection. Both were also interviewed by facility leadership and ERO staff and stated they had not actually suffered any harassment but instead overheard other detainees talking about them and felt the other detainees were unaccepting of their orientation. Both detainees were offered protective custody or relocation within their housing units and both agreed to relocation within their housing units. Facility staff stated both detainees are being closely monitored by their housing unit officers.

# COMPLIANCE INSPECTION FINDINGS

## DETAINEE SERVICES

### ADMISSION AND RELEASE (A&R)

ODO reviewed ECDC's admissions and release procedures and found no documentation that the orientation procedures were reviewed and approved by the ERO Field Office (**Deficiency-A&R-1<sup>7</sup>**).

ODO also found no documentation that ECDC's release procedures were reviewed and approved by the ERO Field Office (**Deficiency-A&R-2<sup>8</sup>**).

### DETAINEE CLASSIFICATION SYSTEM (DCS)

ODO reviewed ECDC's detainee classification policy and procedures, interviewed senior facility staff, and reviewed 16 detention files for detainees who were in disciplinary segregation during the year proceeding the inspection. ODO found ECDC does not re-evaluate the classification levels of detainees who incur violations of institutional misconduct, including instances of possession of contraband and fighting (**Deficiency DCS-1<sup>9</sup>**).

### DETAINEE GRIEVANCE PROCEDURES (DGP)

ODO reviewed ECDC's detainee grievance procedures and interviewed senior facility staff and found ECDC has not established a grievance committee (**Deficiency-DGP-1<sup>10</sup>**).

### FOOD SERVICE (FS)

ODO observed food service operations and found that while inmate workers wore gloves, hairnets, and clean uniforms, staff members working in food service and preparation did not wear hairnets (**Deficiency-FS-1<sup>11</sup>**).

ODO also observed that ECDC does not have lids on the garbage containers in the food service area (**Deficiency-FS-2<sup>12</sup>**).

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<sup>7</sup> "In IGSA's the INS office of jurisdiction shall approve all orientation procedures." See ICE NDS 2000, Standard, Admission and Release, Section (III)(J).

<sup>8</sup> "INS will approve the IGSA release procedures." See ICE NDS 2000, Standard, Admission and Release, Section (III)(J). *N.B.: This is an error in the NDS outline; the section should be labeled (III)(L).*

<sup>9</sup> "In addition, the reviewing officer will recommend changes in classification due to: 1. Incidents while in custody...." See ICE NDS 2000, Standard, Detainee Classification System, Section (III)(C)(1).

<sup>10</sup> "The OIC must allow the detainee to submit a formal, written grievance to the facility's grievance committee." See ICE NDS 2000, Standard, Detainee Grievance Procedures, Section (III)(A)(2). **This is a repeat deficiency.**

<sup>11</sup> "All staff and detainees working in the food preparation and service area(s) shall use effective hair restraints." See ICE NDS 2000, Standard, Food Service, Section (III)(H)(2)(c).

<sup>12</sup> "Garbage and other trash shall be collected and removed as often as possible. The garbage/refuse containers shall have sufficient capacity for the volume, and shall be kept covered, cleaned frequently, and insect-and rodentproof."



## **FUNDS AND PERSONAL PROPERTY (F&PP)**

ODO reviewed ECDC's local policies and standard operating procedures and interviewed senior facility staff and determined the facility does not obtain a forwarding address from every detainee who has personal property (**Deficiency F&PP-1**<sup>13</sup>).

ODO also found the ECDC detainee handbook does not inform detainees of local policy or procedures for claiming property upon release, transfer or removal (**Deficiency F&PP-2**<sup>14</sup>).

## **STAFF-DETAINEE COMMUNICATION (SDC)**

ODO reviewed detainee detention files, ICE request forms submitted by detainees, and the electronic log of detainee requests provided by ERO and found that ERO keeps completed detainee request forms in the ERO office across the street from the facility instead of in the facility's detainee detention files (**Deficiency SDC-1**<sup>15</sup>).

ODO reviewed facility liaison visit checklists for the three months preceding the inspection and found several weeks during which facility liaison visit checklists were not completed or were missing altogether (**Deficiency SDC-2**<sup>16</sup>).

## **TELEPHONE ACCESS (TA)**

ODO toured the detainee housing units and observed that ECDC does not post the telephone access rules in the housing units where detainees can easily see them (**Deficiency-TA-1**<sup>17</sup>).

ODO tested the telephones in the detainee housing units and identified multiple phones that were not working properly (**Deficiency-TA-2**<sup>18</sup>).

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The facility shall comply with all applicable regulations (local, state, and federal) on refuse-handling and disposal." See ICE NDS 2000, Standard, Food Service, Section (III)(H)(5)(j).

<sup>13</sup> "Standard operating procedure will include obtaining a forwarding address from every detainee who has personal property that could be lost or forgotten in the facility after the detainee's release, transfer, or removal." See ICE NDS 2000, Standard, Funds and Personal Property, Section (III)(C).

<sup>14</sup> "The detainee handbook or equivalent shall notify the detainees of facility policies and procedures concerning personal property, including:...4. The procedure for claiming property upon release, transfer or removal." See ICE NDS 2000, Standard, Funds and Personal Property, Section (III)(J)(4).

<sup>15</sup> "All completed Detainee Requests will be filed in the detainee's detention file and will remain in the detainee's detention file for at least three years." See ICE NDS 2000, Standard, Staff-Detainee Communication, Section (III)(B)(2).

<sup>16</sup> "For Inter-Governmental Service Agreements (IGSAs) facilities housing ICE detainees, the model protocol should be completed weekly for regularly used facilities and each visit for facilities which are used intermittently." See Change Notice, National Detention Standards, Staff-Detainee Communication, Model Protocol, dated June 15, 2007. **This is a repeat deficiency.**

<sup>17</sup> "As described in the 'General Provisions' standard, the facility shall provide telephone access rules in writing to each detainee upon admittance, and also shall post these rules where detainees may easily see them." See ICE NDS 2000, Standard, Telephone Access, Section (III)(B).

<sup>18</sup> "The facility shall maintain detainee telephones in proper working order. Appropriate facility staff shall inspect the telephones regularly (daily in SPCs/CDFs), promptly report out-of-order telephones to the repair service, and

ODO requested to review the ICE telephone serviceability worksheets but ERO was unable to provide enough of these forms for ODO to verify that the telephones were being checked weekly (**Deficiency-TA-3<sup>19</sup>**).

## **SECURITY AND CONTROL**

### **CONTRABAND**

While touring the housing units, ODO observed multiple instances of makeshift clotheslines and water bottle holders, constructed by detainees using plastic bags, which present both potential security and suicide risks. ODO also found one detainee cell door locking mechanism was blocked from normal operation throughout the entire inspection with a shower shoe. ODO notes these observations as an **Area of Concern**.

### **ENVIRONMENTAL HEALTH AND SAFETY (EH&S)**

ODO inspected the housing units and found two detainee housing units did not have adequate cleaning supplies available to clean the tables after the noon meal (**Deficiency EH&S-1<sup>20</sup>**).

ODO observed facility staff do not closely monitor detainees working with hazardous substances (**Deficiency EH&S-2<sup>21</sup>**). Specifically, ODO observed detainees in food service and laundry using [REDACTED] without supervision from staff.

ODO observed ECDC had no running inventory for the either the [REDACTED] and stored in the laundry area or the [REDACTED] stored in housing [REDACTED] storage area (**Deficiency EH&S-3<sup>22</sup>**).

ODO observed several bottles of chemicals in detainee housing [REDACTED] that were not labeled (**Deficiency EH&S-4<sup>23</sup>**).

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ensure that required repairs are completed quickly.” See ICE NDS 2000, Standard, Telephone Access, Section (III)(D).

<sup>19</sup> “Each serviceability test shall be documented using the attached form. The field office shall maintain forms in a retrievable format, [REDACTED] The Detention Standards Compliance Unit will conduct random audits of field office compliance with this directive and will report audit findings to the Director.” See Change Notice, National Detention Standard, Telephone Access, Detainee Telephone Services dated April 4, 2007.

<sup>20</sup> “1. Environmental health conditions will be maintained at a level that meets recognized standards of hygiene. The standards include those from the American Correctional Association, the Occupational Safety and Health Administration, the Environmental Protection Agency, the Food and Drug Administration, the National Fire Protection Association’s Life Safety Code, and the National Center for Disease Control and Prevention. . . .

2. Methods of cleaning; cleaning equipment; cleansers; disinfectants and detergents to be used; plus, the frequency of cleaning and inspections will be established using an acceptable health agency standard as the model.” See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(R)(1&2).

<sup>21</sup> “Supervision: Qualified staff will closely monitor detainees working with hazardous substances.” See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(E)(3).

<sup>22</sup> “Every area will maintain a running [REDACTED] substances used and [REDACTED] See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(A).

<sup>23</sup> “The OIC will individually assign the following responsibilities associated with the labeling procedure:

ODO reviewed documentation for facility fire drills and determined that fire drills are conducted [REDACTED] rather than [REDACTED] (Deficiency EH&S-5<sup>24</sup>).

ODO toured the area of ECDC dedicated for barbering operations and found hair trimmings in the cases that held the barbering equipment (Deficiency EH&S-6<sup>25</sup>).

ODO reviewed the sharps inventory with senior medical staff and determined that sharps are not properly inventoried and accounted for. ODO also determined that although facility nurses inventory sharps during each shift, the HSA or designee does not check the inventories on a [REDACTED] basis (Deficiency EH&S-7<sup>26</sup>).

### SPECIAL MANAGEMENT UNIT (ADMINISTRATIVE SEGREGATION) (SMU-AS)

ODO reviewed the [REDACTED], a management software used by the facility to maintain electronic detention records, interviewed senior facility staff, and learned that although ECDC did not have any detainees in SMU-AS during the inspection, seven detainees were placed in SMU-AS in the year preceding the inspection. Placements ranged between seven and 30 days. ODO reviewed the electronic detention files of the seven detainees and found AS orders were not completed for any of them (Deficiency SMU-AS-1<sup>27</sup>).

ODO also notes as an **Area of Concern** that ECDC does not have segregation orders available in Spanish, so Spanish-speaking detainees sign the English version of segregation orders. As a result,

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1. Identifying the hazardous nature of materials adopted for use;
  2. Requiring use of properly labeled containers for hazardous materials, including any and all miscellaneous containers into which employees might transfer the material;
  3. Teaching staff the meaning of the classification code and the MSDS, including the safe handling procedures for each material; and impressing on staff the need to ensure containers are properly labeled; and
  4. Placing correct labels on all small containers when only the larger shipping container bears the manufacturer-affixed label.”

See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(J).

<sup>24</sup> “[REDACTED] fire drills will be conducted and documented separately in each department.” See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(L)(4).

<sup>25</sup> “Between detainees, all hair care tools coming in contact with the detainees will be cleaned and effectively disinfected. Hair care tools come into intimate contact with the detainees’ scalp and skin, and when reused without disinfection, provide excellent means for transfer of ringworm or other skin and scalp diseases. Clippers may be treated for pathogenic organisms and fungi by an approved bactericidal and fungicidal process. Ultraviolet lights may only be used for maintaining tools after sterilization.” See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(P)(3).

<sup>26</sup> “An inventory will be kept of those items that pose a security risk, [REDACTED]. This inventory will be checked [REDACTED] by an individual designated by the medical facility Health Service Administrator (HSA) or equivalent.” See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(Q)(1).

<sup>27</sup> “A written order shall be completed and approved by a supervisory officer before a detainee is placed in administrative segregation, except when exigent circumstances make this impracticable. In such cases, an order shall be prepared as soon as possible. A copy of the order shall be given to the detainee within 24 hours, unless delivery would jeopardize the safety, security, or orderly operation of the facility.” See ICE NDS 2000, Standard, Special Management Unit (Administrative Segregation), Section (III)(B).

Spanish-speaking detainees may not be receiving adequate notice and justification for their placement in segregation.

## **HEALTH SERVICES**

### **MEDICAL CARE (MC)**

ODO reviewed medical records of 13 detainees who were prescribed psychotropic medication by ECDC. ODO found in five of the 13 cases that the facility's health care provider did not obtain a signed informed consent form from the detainee before prescribing psychotropic medications (**Deficiency MC-1<sup>28</sup>**).

During review of the electronic Medical Administration Requests (eMARs) for the 13 detainees prescribed psychotropic medication, ODO found one detainee who refused to take his prescribed medication for 28 of 30 days. ODO notes as an **Area of Concern** that in this instance, medical staff did not obtain any refusal forms, conduct intervention, or refer the detainee to a provider or mental health staff for follow-up.

ODO reviewed detainee health assessments and determined dental screenings are conducted by registered nurses (RNs) instead of a dentist, physician, or nurse practitioner (**Deficiency MC-2<sup>29</sup>**).

ODO notes as an **Area of Concern** that when administering medications in the housing units, medical staff use other detainees to interpret for non-English-speaking detainees instead of using telephonic interpretation.

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<sup>28</sup> "As a rule, medical treatment will not be administered against the detainee's will. The facility health care provider will obtain signed and dated consent forms from all detainees before any medical examination or treatment, except in emergency circumstances." *See* ICE NDS 2000, Standard, Medical Care, Section (III)(L).

<sup>29</sup> "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).

## CONCLUSION

During this inspection, ODO reviewed the facility's compliance with 17 standards under the NDS 2000 and found the facility compliant with seven standards. ODO found 23 deficiencies in the remaining 10 standards, two of which were repeat deficiencies—one in the Detainee Grievance Procedures standard and one in the Staff-Detainee Communication standard.

ODO noted several Areas of Concern during this inspection, to include the presence of soft contraband (plastic bags) that detainees openly used to construct make-shift clotheslines and bottle holders. Although ODO notified both ERO and facility staff of the potential hazards posed by permitting detainees to construct these rope-like items, the items were not removed from the housing units at any time during ODO's inspection.

Areas of concern noted in the Medical Care standard included: (1) medical staff failing to obtain refusal forms and refer to a provider a detainee who refused 28 out of 30 doses of a psychotropic medication used to treat depression; and (2) medical staff using other detainees as interpreters versus telephonic interpretation. Language access was also noted as an area of concern in the Special Management Unit standard; specifically, that Spanish-speaking detainees are provided and required to sign an English version of the segregation order.

ODO recommends ERO work closely with the facility to remedy any deficiencies that remain outstanding in accordance with contractual obligations.

<b>Compliance Inspection Results</b>	<b>FY 2017 (NDS 2000)</b>	<b>FY 2019 (NDS 2000)</b>
Standards Reviewed	15	17
Deficient Standards	9	10
Overall Number of Deficiencies	18	23
Repeat Deficiencies	N/A	2
Corrective Action	11	0
Best Practices	0	0