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Immigration and Customs Enforcement  
Office of Professional Responsibility  
Inspections and Detention Oversight  
Washington, DC 20536-5501

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## Office of Detention Oversight Compliance Inspection

Enforcement and Removal Operations  
Baltimore Field Office  
Howard County Detention Center  
Jessup, Maryland

May 15 – 17, 2012

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**COMPLIANCE INSPECTION  
HOWARD COUNTY DETENTION CENTER  
BALTIMORE FIELD OFFICE**

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## EXECUTIVE SUMMARY

The Office of Professional Responsibility (OPR), Office of Detention Oversight (ODO) conducted a Compliance Inspection (CI) of the Howard County Detention Center (HCDC) in Jessup, Maryland, from May 15 - 17, 2012. The 109,338 square foot facility is owned and operated by Howard County, Maryland. HCDC opened in 1983 with a maximum capacity of 108 beds to accommodate Howard County inmates. The facility expanded its capacity twice, in 1994 and in 2005, culminating in its present capacity of 463 beds. Currently, HCDC houses county inmates, U.S. Marshals Service prisoners, and ICE detainees. The facility houses male ICE detainees of all security classification levels (Level I – lowest threat; Level II – medium threat; Level III – highest threat) for over 72 hours under an Intergovernmental Service Agreement (IGSA) between Howard County and the U.S. Immigration and Customs Enforcement (ICE), Office of Enforcement and Removal Operations (ERO). The current IGSA has been active since October 2, 1995. At the time of the inspection, HCDC housed a total of 96 male ICE detainees (26 Level I; 24 Level II; 46 Level III). The facility is accredited by the Maryland Commission on Correctional Standards.

The ERO, Field Office Director, Baltimore, Maryland (FOD Baltimore), is responsible for ensuring HCDC compliance with ICE policies and the ICE National Detention Standards (NDS). ERO staff with responsibility for oversight at HCDC is comprised of an Assistant Field Office Director (AFOD), (b)(7)e Supervisory Detention and Deportation Officer (SDDO), (b)(7)e Deportation Officer (DO), and (b)(7)e Immigration Enforcement Agent (IEA). There are (b)(7)e ERO officers assigned to HCDC on a full-time basis.

The Director is the highest ranking employee at HCDC and is responsible for oversight of daily operations. The Director is assisted by a Deputy Director, a Security Chief, an Audit Compliance Officer, an Administrative Project Manager, and an Administrative Records and Budget section. The remaining staff of first- and second-level supervisory personnel and associated subordinates is comprised of (b)(7)e Captains, (b)(7)e Lieutenants, (b)(7)e Sergeants, (b)(7)e Corporals, and (b)(7)e Detention Officers. HCDC provides an inmate commissary service that allows detainees to electronically communicate with staff regarding any questions or concerns. HCDC employs a total of (b)(7)e personnel, and all positions are currently filled.

Overall, ODO observed healthcare services to be adequate. Medical care is provided under contract by Conmed Health Care Management. HCDC staff stated that staffing for the Health Unit is sufficient to meet the health care needs of detainees. Full-time clinic staff consists of (b)(7)e registered nurses (RN), (b)(7)e licensed practical nurses (LPN), a health services administrator (HSA), and an administrative support position. The full-time staff is supported by a part-time staff of (b)(7)e RNs, (b)(7)e LPNs, a physician, a physician assistant (PA), a dentist, a dental assistant, a psychologist, a psychiatrist, and a licensed mental health social worker. An RN is on-duty 24 hours a day, seven days a week.

In April 2011, ERO Detention Standards Compliance Unit contractor, MGT of America, Inc., conducted an annual review of the ICE NDS at HCDC. The facility received an overall rating of "Acceptable" and was found compliant with 35 of the 38 detention standards reviewed. The

Non-Medical Emergency Escorted Trips, Voluntary Work Program, and Transportation (Land Transportation) standards were listed as “Not Applicable” and were not reviewed.

This is the first ODO inspection of HCDC. During this CI, ODO reviewed 21 NDS. Nine standards were determined to be fully compliant. Thirty-eight deficiencies were identified in the following 12 standards: Access to Legal Material (3 deficiencies); Admission and Release (6); Detainee Grievance Procedures (6); Detainee Handbook (1); Disciplinary Policy (1); Environmental Health and Safety (5); Food Service (6); Funds and Personal Property (1); Staff-Detainee Communication (2); Telephone Access (1); Terminal Illness, Advanced Directives, and Death (3); and Visitation (3).

Overall, ODO found HCDC well-managed and in compliance with the standards inspected. Many of the deficiencies identified were minor, with minimal impact on life-safety issues and the overall operational readiness of the facility. This report details all deficiencies and refers to the specific, relevant sections of the NDS. ERO will be provided a copy of this report to assist in developing corrective actions to resolve the 38 identified deficiencies. Deficiencies requiring immediate attention were discussed with HCDC personnel onsite during the inspection, as well as during the closeout briefing conducted on May 17, 2012.

ODO verified HCDC has an effective suicide prevention program in place. HCDC has not had any suicides, suicide attempts, or detainees placed on suicide watch since ICE began housing detainees at HCDC. ODO reviewed the suicide prevention lesson plan at HCDC and confirmed the training curriculum contains all elements required by the NDS.

HCDC policy does not address notification to the ICE Chief Counsel when a Do Not Resuscitate Order (DNR) has been filed in a medical record, and there are no procedures addressing organ donations by detainees. HCDC policy states the Facility Administrator will report all detainee deaths to the medical examiner, and a postmortem examination will be requested. The policy does not reference the authority of the FBI, local coroner, or ICE personnel to order an autopsy and related scientific or medical tests to be performed in cases involving homicide, suicide, fatal illness, accident, or unexplained death. The policy also does not address the authority of those same officials to order an autopsy in other cases, with the written consent of a person authorized under State law.

ODO noted that during the admission and release process detainees are not allowed to shower in the intake processing area prior to joining the general population. ODO verified this via detainee and staff interviews. ODO discussed this issue with ERO and HCDC management and advised that providing showers prior to placing incoming detainees in general population reduces the risk to the general population of unnecessary exposure to potentially harmful bacteria.

Detainees stated that initial issuance of basic hygiene items is free of charge, but detainees are required to purchase toothpaste, shampoo, and deodorant using personal funds to replenish these items. ODO verified that detainees determined by HCDC management to be indigent continue to receive these basic hygiene items free of charge. HCDC management defines indigence as having a commissary account balance of less than \$2.00. A memorandum written by Kevin Rooney, Acting Commissioner, Immigration and Naturalization Service (INS), to all INS

Regional Directors and Administrative Center Directors, dated May 18, 2001, states that detainees may not be charged for basic hygiene items, such as soap, shampoo, toothpaste, and shaving cream. This precludes a fee charged to detainees for replenishment of basic hygiene products.

All detainees stated they are strip searched during intake processing, after returning from contact visits with attorneys and family, after court visits, and during random facility shake-downs. ODO discussed requirements of the Change Notice: Admission and Release - National Detention Standard Strip Search Policy, dated October 15, 2007, with HCDC staff during the CI and at the closeout briefing. The Change Notice prohibits routine strip searches of detainees without reasonable suspicion that the individual possesses contraband. ODO confirmed the required Form G-1025, Record of Search, or an alternative form, is not completed to document the strip searches.

The grievance system at HCDC allows for both formal and informal grievances. Facility officials encourage detainees to resolve their grievances at the lowest level possible. ODO reviewed the grievance procedures at HCDC, and interviews of staff and detainees confirmed there are no procedures for identifying and handling time-sensitive, emergency grievances. During the CI, ODO identified two detainees who filed formal grievances alleging officer misconduct. ODO verified the FOD/Baltimore office was not notified of the grievances. ODO discussed the facility's non-compliance with notification requirements during the review and at the close-out briefing, and reiterated all allegations of officer misconduct must be reported to ICE. Subsequent to the CI, ODO reported the two allegations of officer misconduct to the Joint Intake Center.

HCDC disciplinary policy authorizes supervisory staff to informally impose sanctions without a hearing, including 48-hour restriction to assigned housing and five days without recreation. Detainees may refuse informal sanctions and opt to have their infractions referred for a formal disciplinary hearing. The NDS prohibits deprivation of physical exercise as a sanction; therefore, this policy conflicts with the NDS. This is cited as an area of concern, because ODO found no cases where recreation privileges were restricted. ODO recommends that the policy be modified to ensure staff does not impose sanctions which deprive ICE detainees of physical exercise unless such activity creates an unsafe condition.

The master file of Material Safety Data Sheets is reviewed annually rather than semi-annually, as required by the NDS. Fire and safety inspections are conducted on a monthly basis; however, the Audit Coordinator stated that weekly inspections are not conducted as required by the NDS. The facility could not produce documentation that the HCDC water supply was tested and certified as required by the NDS.

Food Service is provided by HCDC staff. ODO noted certification of the master-cycle menu expired in June 2011. Though there have been no changes, the current menu has not been certified by a registered dietician as nutritionally adequate as required by the NDS. The facility does not use mace, yeast, or yeast products; however, HCDC personnel stated that cloves and nutmeg are used in the preparation of food items. Purchase orders for these potentially dangerous spices were not marked "hot" to provide an alert for special handling. During

inspection of the rear dock storage area and the dry storage room, ODO noted the facility did not have an established written stock-rotation schedule as required by the NDS.

Despite other deficiencies, ODO noted a best practice in food service. County inmates working in food service participated in a "Serv-Safe" training course offered at the facility through the Howard County Community College. This course certifies participants in food service operations and provides information and skills which support and enhance the quality of the food service program. HCDC food service personnel are also "Serv-Safe" certified. Though no ICE detainees work in the HCDC Food Service Department, detainees benefit from meals prepared by workers who have successfully completed the "Serv-Safe" course.

ODO reviewed Staff-Detainee Communications at HCDC to determine if required visits are completed as required by the NDS. The logbook at the front entrance and the logbook in the ERO office at HCDC confirm ERO staff visit the facility routinely. ODO also reviewed the Weekly Facility Liaison Visit Checklist and confirmed ERO was in compliance with the Staff Detainee Communication Model Protocol Change Notice, dated June 15, 2007. ODO observed ERO visitation schedules conspicuously posted throughout the detainee housing units.

ODO verified written procedures are in place to temporarily segregate detainees for administrative and disciplinary reasons. HCDC operates two Special Management Units (SMU). Each SMU is well ventilated, adequately lit, temperature appropriate, and maintained in a sanitary condition. At the time of the review, one detainee was assigned to administrative segregation. A review of records regarding the detainee's assignment to SMU confirmed compliance with the requirements of the NDS.

HCDC does not have a written procedure to allow legal service providers and their assistants to telephone the facility in advance of a visit to determine if a detainee is detained at the facility. HCDC staff stated visitation is not allowed at the facility on Sundays, or on Thanksgiving, Christmas, or New Year's Eve. According to the NDS, visitation must be permitted on Saturdays and Sundays, as well as during all holidays to accommodate family members who must travel or work on weekends. Inspection of the facility logbook for legal visitors confirmed pre-representation meetings are not documented in the logbook as required by the NDS, and Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative was not available in the visitor's reception area. ODO provided Form G-28 to facility staff during the review.

ODO confirmed there were no use of force incidents involving detainees in the year preceding the ODO inspection. HCDC has a comprehensive policy governing use of force. ODO verified the policy addresses all elements required by the NDS. HCDC does not use four-point restraints, but does use a restraint chair to control and move combative detainees safely. There were no cases of ICE detainees being placed in the restraint chair during the 12 months preceding the CI. Review of training records confirmed officers authorized to carry and use Oleoresin Capsicum (OC) spray received proper training and certification.

## INSPECTION PROCESS

ODO inspections evaluate the welfare, safety, and living conditions of detainees. ODO primarily focuses on areas of noncompliance with the ICE NDS or the ICE Performance Based National Detention Standards (PBNDS), as applicable. The NDS apply to HCDC. In addition, ODO may specifically target detention management issues based on information provided by ERO Headquarters (HQ) and ERO Field Offices, and on issues of high priority or interest to ICE executive management.

ODO reviewed the processes employed at HCDC to determine compliance with current policies and detention standards. Prior to the inspection, ODO collected and analyzed relevant allegations and detainee information from multiple ICE databases, including the Joint Integrity Case Management System (JICMS), the ENFORCE Alien Booking Module (EABM), and the ENFORCE Alien Removal Module (EARM). ODO also gathered facility facts and inspection-related information from ERO HQ staff to prepare for the site visit at HCDC.

## REPORT ORGANIZATION

This report documents inspection results, serves as an official record, and is intended to provide ICE and detention facility management with a comprehensive evaluation of compliance with policies and detention standards. It summarizes the NDS that ODO found deficient in at least one aspect of the standard. ODO reports convey information to best enable prompt corrective actions and to assist in the on-going process of incorporating best practices in nationwide detention facility operations.

OPR classifies program issues into one of two categories: deficiencies and areas of concern. OPR defines a deficiency as a violation of written policy that can be specifically linked to the NDS, ICE policy, or established operational procedure. OPR defines an area of concern as something that may lead to or risk a violation of the NDS, ICE policy, or established operational procedure. When possible, the report includes contextual and quantitative information relevant to the cited standard. Deficiencies are highlighted in bold throughout the report and are encoded sequentially according to a detention standard designator.

Comments and questions regarding the report findings should be forwarded to the Deputy Division Director, OPR, ODO.

## INSPECTION TEAM MEMBERS

(b)(6), (b)(7)c	Management & Program Analyst (Team Leader)	ODO, Headquarters
	Detention & Deportation Officer	ODO, Headquarters
	Management & Program Analyst	ODO, Headquarters
	Contract Inspector	Creative Corrections
	Contract Inspector	Creative Corrections

## OPERATIONAL ENVIRONMENT

### INTERNAL RELATIONS

ODO interviewed ERO and supervisory staff at HCDC, including the FOD, the AFOD and the HCDC Director. During the interviews, ERO and HCDC employees stated the working relationship between the two agencies is good and morale is improving among ERO and HCDC personnel.

The Director stated HCDC has sufficient personnel to administer services to the current ICE detainee population. Both the Director and the FOD stated they want additional ERO staff assigned to HCDC, including a Detention Service Manager, because these additions would assist with the resolution of issues pertaining to the ICE NDS and facilitate HCDC transition to the ICE PBNDS. Currently, ERO staff is assigned to HCDC on an annual rotational cycle.

The AFOD stated there have been no staffing issues, or complaints from detainees regarding the responsiveness of ERO employees. During the CI, there was (b)(7)E DO assigned to handle detained cases within HCDC. An additional DO has been hired, but has not yet reported for duty. The DO that covers the Frederick County Adult Detention Center and the Carroll County Detention Center will provide support for HCDC detainees until the new DO enters on duty.

### DETAINEE RELATIONS

ODO interviewed 22 randomly-selected ICE detainees from all three security classification levels to assess the overall living and detention conditions at HCDC. The 22 detainees interviewed represent 23 percent of the total detainee population at HCDC. None of the detainees stated they were sexually assaulted, physically abused, mistreated or witnessed the mistreatment of other detainees. All detainees stated ICE staff is always professional, approachable, and responsive.

Six detainees interviewed complained about not receiving recreation daily. ODO verified that recreation is afforded to all detainees in accordance with the NDS requirements. However, HCDC disciplinary policy authorizes supervisory staff to informally impose sanctions without a hearing that include five days without recreation. The NDS prohibits deprivation of physical exercise as a sanction; therefore, this policy conflicts with the NDS. Twelve detainees stated they did not have access to the law library on Wednesdays, Thursdays, and Fridays. ODO confirmed the law librarian works part-time and is not available for those three days each week.

Three detainees interviewed stated they had not received a facility handbook or an ICE National Detainee Handbook. ODO verified signed receipts for the facility handbook were contained in the detention files of all three detainees. The ICE National Detainee Handbook is issued at the FOD Baltimore office and accompanies the detainees to HCDC. A review of 15 randomly selected detention files confirmed all 15 detainees signed for an ICE National Detainee Handbook during their initial in-processing. Detainee handbooks are available in English and Spanish.

Sixteen detainees stated they were unaware of the grievance process. ODO confirmed the grievance process is covered in the facility handbook. Four detainees stated they were not provided responses to grievances. ODO review of detention files and the HCDC grievance log produced no evidence of unanswered grievances. ODO could not substantiate this claim.

## **ICE NATIONAL DETENTION STANDARDS**

ODO reviewed a total of 21 NDS and found HCDC fully compliant with the following nine standards:

- Detainee Classification System
- Detainee Transfer
- Hold Rooms in Detention Facilities
- Hunger Strikes
- Medical Care
- Special Management Unit (Administrative Segregation)
- Special Management Unit (Disciplinary Segregation)
- Suicide Prevention and Intervention
- Use of Force

As these standards were compliant at the time of the review, a synopsis for these areas was not prepared for this report.

ODO found deficiencies in the following 12 areas:

- Access to Legal Material
- Admission and Release
- Detainee Grievance Procedures
- Detainee Handbook
- Disciplinary Policy
- Environmental Health and Safety
- Food Service
- Funds and Personal Property
- Staff-Detainee Communication
- Telephone Access
- Terminal Illness, Advanced Directives and Death
- Visitation

Findings for each these standards are presented in the remainder of this report.

## ACCESS TO LEGAL MATERIAL (ALM)

ODO reviewed the Access to Legal Material standard at HCDC to determine if detainees have access to a law library, legal materials, courts, counsel, and document copying equipment to facilitate the preparation of legal documents, in accordance with the ICE NDS. ODO interviewed detainees and staff, toured the law library, and reviewed policies, procedures, and the detainee handbook.

HCDC has a dedicated law library available for detainee use. The library is equipped with a computer and a printer. Detainees stated they are aware that a copy machine is located in the staff office and is accessible. ODO verified the computer contains the most recent version of Lexis-Nexis software. The FOD/Baltimore provided the computer in the law library.

The NDS requires the law library to have adequate numbers of typewriters or computers to enable detainees to prepare documents for their cases. ODO observed the law library was equipped with one computer terminal, which is used by ICE detainees and county inmates. Depending upon the number of detainees requesting access to the computer, some requests are not accommodated (**Deficiency ALM-1**). The library is managed by (b)(7)e part-time HCDC staff members. Detainees cannot access the library when HCDC staff is unavailable. ERO and HCDC management stated a request for additional computer terminals was referred to the FOD/Baltimore, and approval for an additional computer is pending.

Detainees and staff stated the library is only open on Mondays and Tuesdays. ODO verified detainees do not have access to the law library for a minimum of 5 hours per week, because the part-time librarian is unavailable on Wednesdays, Thursdays, and Fridays (**Deficiency ALM-2**). The rules and procedures governing access to legal materials are not comprehensively covered in the local detainee handbook; specifically, it did not list the hours of operation for the law library. Additionally, the rules were not posted in the law library in accordance with the standard (**Deficiency ALM-3**). HCDC management posted a copy of the rules on the bulletin board in the law library prior to conclusion of the inspection.

## STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

### DEFICIENCY ALM-1

In accordance with the ICE NDS, Access to Legal Material, section (III)(B), the FOD must ensure the law library shall provide an adequate number of typewriters and/or computers, writing implements, paper, and office supplies to enable detainees to prepare documents for legal proceedings.

### DEFICIENCY ALM-2

In accordance with the ICE NDS, Access to Legal Material, section (III)(G), the FOD must ensure the facility shall devise a flexible schedule to permit all detainees, regardless of housing or classification, to use the law library on a regular basis. Each detainee shall be permitted to use the law library for a minimum of five (5) hours per week. Detainees may not be forced to forgo [sic] their minimal recreation time, as provided in "Detainee Recreation," standard to use the law library. Detainee requests for additional time in the law library shall be accommodated to the

extent possible, consistent with the orderly and secure operation of the facility. Special priority should be given to requests for additional library time when a detainee is facing a court deadline.

The OIC will determine the number of detainees permitted to use the law library at any given time. The schedule shall enable the maximum use possible, without interfering with the orderly operation of the facility. When devising the schedule, the OIC will take into consideration any rules and regulations that prohibit or regulate the intermingling of differently classified detainees. Law library hours of operation will be scheduled between official counts, meals, and other official detention functions.

### **DEFICIENCY ALM-3**

In accordance with the ICE NDS, Access to Legal Material, section (III)(Q)(1-6), the FOD must ensure the detainee handbook or equivalent, shall provide detainees with the rules and procedures governing access to legal materials, including the following information:

1. that a law library is available for detainee use;
2. the scheduled hours of access to the law library;
3. the procedure for requesting access to the law library;
4. the procedure for requesting additional time in the law library (beyond the 5 hours per week minimum);
5. the procedure for requesting legal reference materials not maintained in the law library;  
and
6. the procedure for notifying a designated employee that library material is missing or damaged.

These policies and procedures shall also be posted in the law library along with a list of the law library's holdings.

## ADMISSION AND RELEASE (AR)

ODO reviewed the Admission and Release standard at HCDC to determine if procedures are in place to protect the health, safety, security, and welfare of each person during the admission and release process, in accordance with the ICE NDS. ODO interviewed officers and detainees concerning the intake and release procedures at the facility and reviewed detention files.

HCDC intake and release processing officers complete questionnaires and screening interviews for each detainee upon arrival. Medical staff conducts detailed medical screenings of detainees during this process. ODO verified both the national and facility detainee handbooks are provided in English and Spanish, and interpreter services are available for translation. Receipts for the facility handbooks and detainees' personal property are maintained in the detainees' individual detention files. At HCDC, the detention file is referred to as the "base-file." The NDS requires all paperwork generated during custody to be retained in the detention file. During a review of detention files, ODO confirmed that documentation for the orientation briefing is maintained in a folder separate from the detention file (**Deficiency AR-1**).

During interviews with detainees and staff, ODO confirmed detainees are not able to shower in the intake processing area prior to admittance into the general population (**Deficiency AR-2**). ODO discussed this deficiency with both ERO and HCDC staff. Showers taken by detainees before intermingling with the general population could prevent the introduction of potentially harmful bacteria into the general facility's population. HCDC management stated they will implement procedures to provide showers for detainees during the intake process.

HCDC uses a computer program, the Jail Management System, to create and activate a detention file when a detainee is admitted to HCDC that tracks the activity of individual detainees while in custody. Initial detainee classification is performed by ERO, and classification paperwork accompanies each detainee transferred to HCDC by ERO.

HCDC management stated that visual and pat-down searches are conducted by officers of the same gender for Level I detainees, and strip searches are not conducted on Level I detainees. HCDC management stated that strip searches are conducted routinely on Level II and Level III detainees due to prior criminal histories. ODO confirmed the required Form G-1025, Record of Search, or an equivalent, is not completed to document these strip searches (**Deficiency AR-3**). ODO discussed requirements of the Change Notice: Admission and Release - National Detention Standard Strip Search Policy, dated October 15, 2007, with HCDC management during the CI and at the closeout briefing. The Change Notice prohibits routine strip searches of detainees without reasonable suspicion that the individual possesses contraband. HCDC management stated a waiver has been requested from ERO to be exempt from the ICE strip search policy as a result of the recent U.S. Supreme Court ruling allowing less stringent requirements for strip searches. HCDC management stated the waiver will allow HCDC to continue the current facility policy regarding routine strip searches of detainees. At the time of the CI, the facility had not received a response from ERO concerning the waiver.

According to the NDS, identity documents found during an inventory of detainee property are required to be inventoried and provided to ERO. ODO confirmed that HCDC personnel

inventory identity documents, but the inventoried documents are retained in a safe at the facility (**Deficiency AR-4**).

ODO confirmed during interviews with detainees and HCDC staff that personal hygiene supplies are issued to detainees during initial intake processing. However, when the initial hygiene supplies have been depleted, detainees are required to purchase these items from the commissary. The free personal hygiene items supplied at intake are not replenished unless the detainees can establish indigence based on personal funds of less than \$2.00 in an individual commissary account (**Deficiency AR-5**).

The NDS requires Form I-387, Report of Detainee Missing Property, to be completed during intake processing or at release to document detainee claims of missing property. IGSA facilities are required to forward the completed I-387 to ICE. HCDC has no written policy or procedure regarding how to address claims of missing detainee property (**Deficiency AR-6**). ODO recommended to ERO and HCDC management that Form I-387 be placed in the intake processing area.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY AR-1**

In accordance with the ICE NDS, Admission and Release, section (III)(A)(1-3), the FOD must ensure every new arrival shall undergo screening interviews, complete questionnaires and other forms, attend the facility's site-specific orientation program, and comply with other admission procedures (issuance of clothing, towels, bedclothes, etc.).

1. The orientation process supported by a video (INS) and handbook shall inform new arrivals about facility operations, programs, and services. Subjects covered will include prohibited activities and unacceptable and the associated sanctions (see the "Disciplinary Policy" Standard).
2. Staff will issue every arriving detainee personal-hygiene items, clothing, sheets and blankets appropriate for local weather conditions (see the "Issuance of Clothing, Bedding, and Towels" Standard).
3. Medical screening protects the health of the detainee and others in the facility (see the "Detainee Access to Medical Care" Standard).

Staff will open a detainee detention file as part of the admissions process. This file will contain all paperwork generated by the detainee's stay at the facility.

### **DEFICIENCY AR-2**

In accordance with the Change Notice Admission and Release – National Detention Standard Strip Search Policy, dated October 15, 2007, the FOD must ensure, effective immediately, facilities housing U.S. Immigration and Customs Enforcement detainees shall permit detainees to change clothing and shower in a private room without being visually observed by a staff member, unless there is reasonable suspicion that the individual possesses contraband. A staff member of the same gender shall be present immediately outside the room when the detainee

changes and showers, with the door opened to hear what transpires inside. This includes Service Processing Centers (SPCs), Contract Detention Facilities (CDFs) and those locations having Intergovernmental Service Agreements (IGSAs) with ICE.

**DEFICIENCY AR-3**

In accordance with the Change Notice Admission and Release – National Detention Standard Strip Search Policy, dated October 15, 2007, the FOD must ensure facilities are reminded that strip searches, cavity searches, monitored changes of clothing, monitored showering, and other required exposure of the private parts of a detainee’s body for the purpose of searching for contraband are prohibited, absent reasonable suspicion of contraband possession.

If information developed during admissions processing supports reasonable suspicion for a full search, the information supporting that suspicion should be documented in detail on Form G-1025, Record of Search).

**DEFICIENCY AR-4**

In accordance with the ICE NDS, Admission and Release, section (III)(E), the FOD must ensure identity documents, such as passports, birth certificates, etc., will be inventoried, then given to a deportation officer/INS for placement in the detainee's A-file.

**DEFICIENCY AR-5**

In accordance with the ICE NDS, Admission and Release, section (III)(G), the FOD must ensure Staff shall provide male and female detainees with the items of personal hygiene appropriate for, respectively, men and women. They will replenish supplies as needed.

**NOTE:** A memorandum signed by Kevin Rooney, Acting Commissioner, Immigration and Naturalization Service (INS), to all INS Regional Directors and Administrative Center Directors, dated May 18, 2001, states that detainees may not be charged for basic hygiene items, such as soap, shampoo, toothpaste, and shaving cream. This precludes charging detainees for replenishment of basic hygiene products.

**DEFICIENCY AR-6**

In accordance with the ICE NDS, Admission and Release, section (III)(I), the FOD must ensure the officer shall complete a Form I-387, “Report of Detainee’s Missing Property” when any newly arrived detainee claims his/her property has been lost or left behind. IGSA facilities shall forward the completed I-387s to INS.

## DETAINEE GRIEVANCE PROCEDURES (DGP)

ODO reviewed the Detainee Grievance Procedures standard at HCDC to determine if a process to submit formal or emergency grievances exists, and responses are provided in a timely manner, without fear of reprisal. In addition, the review was conducted to determine if detainees have an opportunity to appeal responses, and if accurate records are maintained, in accordance with the ICE NDS. ODO interviewed staff and reviewed grievance policies, procedures, records, and the detainee handbook.

ODO confirmed HCDC does not have a grievance officer, and a grievance committee has not been convened to review formal complaints as required by the NDS (**Deficiency-1**). An Audit Coordinator is responsible for coordinating all grievances filed at HCDC. The purpose of a grievance committee is to review the initial findings of the grievance officer within five working days after an appeal is filed, provide written responses, and explain the decision and the reasons for the decision to the detainee.

HCDC has an informal grievance system in place that allows detainees to have grievances addressed at the lowest level possible in an efficient and timely manner. ODO reviewed HCDC policies and procedures and confirmed the informal grievance process at HCDC does not address the ability of a detainee to bypass or terminate an informal grievance in order to proceed directly to a formal grievance, or provide for maintenance for the record of all informally resolved grievances (**Deficiency DGP-2**).

HCDC grievance procedures lacked a method for identifying and handling time-sensitive emergency grievances (**Deficiency DGP-3**). ODO noted a case where a detainee filed four grievances marked "Emergency." Although the detainee indicated there was an emergency on all four grievance forms, facility staff did not implement emergency grievance resolution procedures to respond. However, ODO verified the grievance was resolved.

The formal grievance process at HCDC begins with the detainee submitting a written complaint to the housing correctional officer, who reviews the grievance to determine if it can be resolved. The housing correctional officer then submits the grievance to a shift leader or supervisor for review. If the shift leader cannot resolve the written grievance, it is marked "unresolved" and forwarded to the appropriate department head. The facility supervisor or department head ultimately determines whether a formal grievance has been resolved or remains unresolved. The detainee handbook states a grievance filed under the formal grievance process can remain in an "unresolved" status for 30 days until a final decision is made. ODO found no unresolved grievances. The local handbook and HCDC policy state the Director's decision is final without providing an option to appeal that decision to ERO (**Deficiency DGP-4**).

ODO reviewed the grievance log for the period between January 2012 and May 2012. The log is maintained by the Audit Coordinator and contains all pertinent information, such as the nature of the grievance, and the date of resolution. Log numbers are assigned in chronological order as grievances are received. All formal grievances are logged together whether the grievances are filed by county inmates or ICE detainees. The facility has not devised a system to identify and separate inmate grievances from detainee grievances for accounting purposes. The NDS and

local policy require that unresolved cases be sent to the Director for resolution and resolved grievances be filed in individual detention files. ODO confirmed that grievances, resolved or unresolved, are not maintained in detainee detention files (**Deficiency DGP-5**).

ODO noted during staff and detainee interviews that two detainees filed formal grievances alleging officer misconduct. ODO verified the FOD/Baltimore was never notified of the grievances (**Deficiency DGP-6**). Subsequent to this CI, ODO reported the allegations of officer misconduct to the Joint Intake Center.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY DGP-1**

In accordance with the ICE NDS, Detainee Grievance Procedures, section (I), the FOD must ensure every facility will develop and implement standard operating procedures (SOP) that address detainee grievances. Among other things, each SOP must establish a reasonable time limit for: (i) processing, investigating, and responding to grievances; (ii) convening a grievance committee to review formal complaints; and (iii) providing written responses to detainees who filed formal grievances, including the basis for the decision. The SOP must also prescribe procedures applicable to emergency grievances. All grievances will receive supervisory review, and include guarantees against reprisal.

### **DEFICIENCY DGP-2**

In accordance with the ICE NDS, Detainee Grievance Procedures, section (III)(A), the FOD must ensure the detainee is free to bypass or terminate the informal grievance process, and proceed directly to the formal grievance stage. If an oral grievance is resolved to the detainee's satisfaction at any level of review, the staff member need not provide the detainee written confirmation of the outcome, however the staff member will document the results for the record and place his/her report in the detainee's detention file.

### **DEFICIENCY DGP-3**

In accordance with the ICE NDS, Detainee Grievance Procedures, section (III)(B), the FOD must ensure each facility shall implement procedures for identifying and handling an emergency grievance. An emergency grievance involves an immediate threat to a detainee's safety or welfare. Once the receiving staff member approached by a detainee determines that he/she is in fact raising an issue requiring urgent attention, emergency grievance procedures will apply.

### **DEFICIENCY DGP-4**

In accordance with the ICE NDS, Detainee Grievance Procedures, section (III)(C), the FOD must ensure if the detainee does not accept the grievance committee's decision, he/she may appeal it to the OIC. All facilities shall implement procedures for addressing detainee appeals.

CDFs and IGSA facilities must allow any INS detainee dissatisfied with the facility's response to his/her grievance to communicate directly with INS.

**DEFICIENCY DGP-5**

In accordance with the ICE NDS, Detainee Grievance Procedures, section (III)(E), the FOD must ensure Each facility will devise a method for documenting detainee grievances. At a minimum, the facility will maintain a Detainee Grievance Log. A copy of the grievance will remain in the detainee' s detention file for at least three years. The facility will maintain that record for a minimum of three years and subsequently, until the detainee leaves INS custody.

**DEFICIENCY DGP-6**

In accordance with the ICE NDS, Detainee Grievance Procedures, section (III)(F), the FOD must ensure staff must forward all detainee grievances containing allegations of officer misconduct to a supervisor or higher-level official in the chain of command. CDFs and IGSA facilities must forward detainee grievances alleging officer misconduct to INS. INS will investigate every allegation of officer misconduct.

## **DETAINEE HANDBOOK (DH)**

ODO reviewed the Detainee Handbook standard at HCDC to determine if the facility provides each detainee with a handbook, written in English and any other languages spoken by a significant number of detainees housed at the facility, describing the facility's rules and sanctions, disciplinary system, mail and visiting procedures, grievance system, services, programs, and medical care, in accordance with the ICE NDS. ODO reviewed facility policy, the English and Spanish versions of the detainee handbook, and interviewed staff and detainees.

The HCDC detainee handbook and the ICE National Detainee Handbook are available in English and Spanish. A majority of the detainee population at HCDC comes from Spanish-speaking countries. The HCDC handbook was last updated on March 12, 2012. Detainees are required to sign a receipt for the handbook, which is placed in detainee detention files. Detainee interviews and a review of 15 randomly-selected detention files verified all detainees receive a handbook upon admission.

The HCDC handbook contains no reference to clothing or bedding issued to detainees **(Deficiency DH-1)**.

Other omissions from the handbook are reported as **Deficiencies ALM-2, DP-1, and F&PP-1**.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY DH-1**

In accordance with the ICE NDS, Detainee Handbook, section (III)(B), the FOD must ensure The overview will briefly describe individual programs and services and associated rules. Among others, these include recreation, visitation, education, voluntary work, telephone use, correspondence, library use, and the canteen/commissary. The overview will also cover medical policy (sick-cell); facility-issued items, e.g., clothing, bedding, etc.; access to personal property; and meal service.

## **DISCIPLINARY POLICY (DP)**

ODO reviewed the Disciplinary Policy standard at HCDC to determine if sanctions imposed on detainees who violate facility rules are appropriate, and if the discipline process includes due process requirements, in accordance with the ICE NDS. ODO interviewed staff and reviewed policies, disciplinary records, and the detainee handbook.

HCDC's disciplinary system has graduated severity scales of prohibited acts and disciplinary consequences. ODO reviewed 16 infractions issued to ICE detainees and documentation confirmed the infractions were objectively and impartially investigated. The facility uses a Unit Disciplinary Committee to investigate incidents and an Institutional Disciplinary Panel to conduct formal hearings. ODO verified detainees are advised of their rights during hearings; this includes the right to appeal.

The detainee handbook does not advise detainees of the right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage and harassment, the right to correspond with persons or organizations, consistent with safety, security, and the orderly operation of the facility, or the right to due process, including the prompt resolution of a disciplinary matter (**Deficiency DP-1**). ODO recommends modification of the detainee handbook to include these rights.

The HCDC disciplinary policy authorizes supervisory staff to informally impose sanctions without a hearing, including 48-hour restriction to assigned housing and five days without recreation. Detainees may refuse informal sanctions and opt to have their infractions referred for a formal disciplinary hearing. The NDS prohibits deprivation of physical exercise as a sanction; therefore, this policy conflicts with the NDS. This is cited as an area of concern, because ODO found no cases where recreation privileges were restricted. ODO recommends that the policy be modified to ensure staff does not impose sanctions which deprive ICE detainees of physical exercise unless such activity creates an unsafe condition.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY DP-1**

In accordance with ICE NDS, Disciplinary Policy section (III)(A)(5)(a)(d)(e), the FOD must ensure the detainee handbook or equivalent, issued to each detainee upon admittance, shall provide notice of the facility's rules of conduct, and of the sanctions imposed for violations of the rules. Among other things, the handbook shall advise detainees of the following: a. The right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment; d. The right to correspond with persons or organizations, consistent with safety, security, and the orderly operation of the facility; and e. The right to due process, including the prompt resolution of a disciplinary matter (in accordance with the rules, procedures, and sanctions provided. [sic] in the handbook).

## ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

ODO reviewed the Environmental Health and Safety standard at HCDC to determine if the facility maintains high standards of cleanliness and sanitation, safe work practices, and control of hazardous materials and substances, in accordance with the ICE NDS. ODO toured the facility, interviewed staff, and reviewed procedures and documentation of inspections, hazardous chemical management, and fire drills.

HCDC does not maintain inventories of hazardous substances as required by the NDS (**Deficiency EH&S-1**). Hazardous materials maintained in the facility's warehouse are inventoried on a monthly basis. There is no running inventory which is updated when substances are issued or removed from the warehouse. In addition, ODO found staff does not inventory hazardous substances in the food service area or the armory. In food service, ODO observed bleach, metal cleaners, floor wax, and disinfectant. ODO found a cleaning solvent in the armory. Staff documents receipt of these substances in logs maintained in these areas, but usage is not recorded. In a sanitation closet in the medical department, ODO found bleach, floor wax, and disinfectant. During staff interviews, HCDC staff stated storage of these materials in the medical department is not authorized. Strict accountability of all hazardous substances prevents injury resulting from misuse or abuse.

ODO verified HCDC maintains a master index of hazardous substances, including a master file of Material Safety Data Sheets (MSDS). Based on documentation and an interview with the Audit Coordinator, ODO determined the master file is reviewed annually rather than semi-annually as required by the standard (**Deficiency EH&S-2**).

ODO verified simulated fire drills are conducted monthly with all staff members involved. Review of documentation and interviews with staff confirmed compelling security concerns prevent evacuation of detainees during the drills. ODO verified emergency keys are drawn during the drills. Fire and safety inspections are conducted on a monthly basis; however, the Audit Coordinator informed ODO that weekly inspections are not conducted as required by the NDS (**Deficiency EH&S-3**). Weekly inspections promptly identify conditions which may pose a fire or safety hazard.

During a tour of the facility, ODO observed exit diagrams in English; however, instructions were not provided in Spanish (**Deficiency EH&S-4**). HCDC stated the diagrams would be revised.

The facility could not produce documentation confirming water testing and certification (**Deficiency EH&S-5**). The Chief of Security stated that Howard County personnel tested the water; however, the Chief of Security was unable to locate a record of any testing.

## STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

### DEFICIENCY EH&S-1

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(A), the FOD must ensure Every area will maintain a running inventory of the hazardous (flammable, toxic, or caustic) substances used and stored in that area. Inventory records will be maintained separately

for each substance, with entries for each logged on a separate card (or equivalent). That is, the account keeping will not be chronological, but filed alphabetically, by substance (dates, quantities, etc.).

**DEFICIENCY EH&S-2**

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(C), the FOD must ensure the Maintenance Supervisor or designate will compile a master index of all hazardous substances in the facility, including locations, along with a master file of MSDSs. He/she will maintain this information in the safety office (or equivalent), with a copy to the local fire department. Documentation of the semi-annual reviews will be maintained in the MSDS master file.

The master index will also include a comprehensive, up-to-date list of emergency phone numbers (fire department, poison control center, etc.).

**DEFICIENCY EH&S-3**

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(L)(2), the FOD must ensure a qualified departmental staff member will conduct weekly fire and safety inspections; the maintenance (safety) staff will conduct monthly inspections. Written reports of the inspections will be forwarded to the OIC for review and, if necessary, corrective action determinations. The Maintenance Supervisor or designate will maintain inspection reports and records of corrective action in the safety office.

**DEFICIENCY EH&S-4**

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(L)(5)(a)(b)(c), the FOD must ensure in addition to a general area diagram, the following information must be provided on existing signs:

- a. English and Spanish instructions;
- b. "You Are Here" markers;
- c. Emergency equipment locations.

New signs and sign replacements will also identify and explain "Areas of Safe Refuge."

**DEFICIENCY EH&S-5**

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(N), the FOD must ensure a state laboratory will test samples of drinking and wastewater to ensure compliance with applicable standards.

## FOOD SERVICE (FS)

ODO reviewed the Food Service standard at HCDC to determine if detainees are provided with a nutritious and balanced diet, in a sanitary manner, in accordance with the ICE NDS. ODO reviewed documentation, interviewed staff, inspected food storage and preparation areas, and observed meal preparation and service.

All work associated with food preparation, as well as kitchen and dining room sanitation, is performed by HCDC correctional staff and county inmate workers. ICE detainees do not work in the food service department. ODO verified staff and inmate workers were medically cleared. The facility has a satellite system of meal service involving preparation of meals in the central kitchen and delivery to housing units on thermal trays. ODO confirmed food temperature requirements were met.

ODO determined certification of the master-cycle menu expired in June 2011. Though there have been no changes, the menu in place since that time has not been certified by a registered dietician as nutritionally adequate (**Deficiency FS-1**). The Food Service Administrator (FSA) and HCDC Deputy Director confirmed the certification had lapsed and stated that certification of the menu would be obtained.

Procedures are in place at HCDC to provide medical and common fare diets; however, interviews with the FSA and the Deputy Director confirmed HCDC does not have a ceremonial meal schedule (**Deficiency FS-2**). ODO also notes the chaplains who serve the facility stated they are not consulted on matters related to religious dietary requirements. Though ODO confirmed no detainees have requested religious meals, it is recommended the facility use the chaplains as a resource to ensure compliance with the NDS requirement that the religious dietary needs of all detainees are met.

During inspection of the meal preparation area, ODO noted sack meals prepared for bus service included two individually wrapped, non-pork meat sandwiches and one piece of fruit. No dessert or any other extra item was provided (**Deficiency FS-3**). ODO observed the meats used in the sandwiches were freshly sliced the day of preparation, and food service personnel actively supervised the operation.

The facility does not use mace, yeast, or yeast products; however, ODO confirmed cloves and nutmeg are used in food preparation. Review of purchase orders for these potentially dangerous spices were not marked "hot" to signify the need for special handling (**Deficiency FS-4**). During the review, a purchase order for nutmeg and cloves was produced bearing the required marking. The referenced spices have hallucinogenic properties and may be abused, posing a health risk.

During inspection of the rear dock storage area and the dry storage room, ODO noted the facility does not have an established, written stock-rotation schedule (**Deficiency FS-5**). ODO verified the FSA rotates food stock chronologically; however, the FSA stated there is no written stock rotation schedule.

Review of the facility's perpetual food inventory found the quantity on hand, quantity received, and quantity issued was recorded as required. The unit cost for each item was not documented on the inventory. HCDC food service staff stated an annual inventory is not conducted (**Deficiency FS-6**). An annual inventory was initiated during the review.

County inmates working in food service participated in a "Serv-Safe" training course offered at the facility through the Howard County Community College. This course certifies successful participants in food service operations, providing information and skills which support and enhance the quality of the food service program. HCDC food service personnel are also "Serv-Safe" certified. Though no ICE detainees work in the HCDC food service department, their meals are prepared by workers who have completed the "Serv-Safe" course. ODO cites this as a best practice.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY FS-1**

In accordance with the ICE NDS, Food Service, section (III)(D)(2), the FOD must ensure A registered dietitian shall conduct a complete nutritional analysis of every master-cycle menu planned by the FSA. Menus must be certified by the dietitian before implementation.

### **DEFICIENCY FS-2**

In accordance with the ICE NDS, Food Service, section (III)(E)(10), the FOD must ensure the chaplain, in consultation with the local religious leaders, if necessary, shall develop the ceremonial-meal schedule for the next calendar year, providing it to the OIC. This schedule shall include the date, religious group, estimated number of participants, and special foods required.

### **DEFICIENCY FS-3**

In accordance with the ICE NDS, Food Service, section (III)(G)(6)(c)(2)(3), the FOD must ensure each sack shall contain at least two sandwiches per meal, of which at least one will be meat (non-pork). Commercial bread or rolls may be preferable because they include preservatives. To ensure freshness, fresh, facility-made bread may be used only if made on the day of lunch preparation. Sandwiches should be individually wrapped or bagged in a secure fashion, to prevent the food from deteriorating. Meats, cheeses, etc., should be freshly sliced the day of sandwich preparation. Leftover cooked meats shall not be used after 24 hours.

In addition, each sack shall include:

2. One ration of a dessert item, e.g., cookies, doughnuts, fruit bars. Extremely perishable items, e.g., fruit pie, cream pie, other items made with milk, cream, or other dairy ingredients shall be excluded; and
3. Such extras as properly packaged fresh vegetables, e.g., celery sticks, carrot sticks, and commercially packaged "snack foods," e.g., peanut butter crackers, cheese crackers, individual bags of potato chips. These items enhance the overall acceptance of the lunches.

**DEFICIENCY FS-4**

In accordance with the ICE NDS, Food Service, section (III)(J)(1), the FOD must ensure on the purchase request for potentially dangerous items (knives, mace, yeast, nutmeg, cloves and other items considered contraband if found in a detainee's possession), the FSA shall mark them "hot," signaling the need for special handling.

**DEFICIENCY FS-5**

In accordance with the ICE NDS, Food Service, section (III)(J)(5), the FOD must ensure each facility shall establish a written stock-rotation schedule.

**DEFICIENCY FS-6**

In accordance with the ICE NDS, Food Service, section (III)(J)(6), the FOD must ensure the process of recording all purchases and food issues is called keeping a perpetual inventory. Although details may vary, the information recorded always includes the quantity on hand, quantity received, quantity issued, and unit cost for each food and supply item.

Perpetual inventory records are important because they provide the FSA with up to-date information on product usage and give direction for further purchases.

For accurate accounting of all food and supplies, a perpetual inventory record is insufficient. An official inventory of stores on hand must be taken annually with a food service staff member and a member of the financial management staff.

All food service departments shall complete a physical inventory of the warehouse quarterly.

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

ODO reviewed the Funds and Personal Property standard at HCDC to determine if controls are in place to inventory, receipt, store, and safeguard detainees' personal property, in accordance with the ICE NDS. ODO reviewed local policies and procedures, logbooks, and the detainee handbook, and interviewed facility staff.

The HCDC funds and personal property policy and procedures provide for the accounting and safeguarding of detainee property from the time of admission until the time of release. Funds and valuables are properly inventoried and logged by the facility's supervisory staff. The facility has a commissary, and detainees or family members can deposit money into accounts to pay for commissary items. HCDC procedures provide for the inventory and audit of detainee funds, valuables, and personal property. Detainees are not permitted to carry cash while detained at the facility.

Detainee funds and small property items (e.g., wallet, watch, finger ring, and religious jewelry) are stored in a secure area at HCDC; however, due to lack of storage space at HCDC, large property items (e.g., luggage, cameras, cellular telephones, etc.) are stored in a safe in the shift supervisor's office at the FOD/Baltimore.

The HCDC local detainee handbook does not notify detainees of facility policies and procedures concerning personal property items they may retain in their possession, the rules for storing or mailing property not allowed in their possession, the procedure for claiming property upon release, transfer, or removal, the procedure for filing a claim for lost or damaged property, or that upon request, detainees will be provided with an ICE-certified copy of any identity document located in their Alien Registration File (**Deficiency F&PP-1**).

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY F&PP-1**

In accordance with the ICE NDS, Funds and Personal Property, section (III)(J), the FOD must ensure the detainee handbook or equivalent shall notify the detainees of facility policies and procedures concerning personal property, including:

1. Which items they may retain in their possession;
2. That, upon request, they will be provided an INS-certified copy of any identity document (passport, birth certificate, etc.) placed in their A-files;
3. The rules for storing or mailing property not allowed in their possession;
4. The procedure for claiming property upon release, transfer, or removal;
5. The procedures for filing a claim for lost or damaged property.

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

ODO reviewed the Staff-Detainee Communication standard at HCDC to determine if procedures are in place to allow formal and informal contact between detainees and key ICE and facility staff, and if ICE detainees are able to submit written requests to ICE staff and receive responses in a timely manner, in accordance with the ICE NDS. ODO interviewed staff and detainees and reviewed policies and procedures, the detainee handbook, and detention files.

ODO reviewed the sign-in logbook at the front entrance and the logbook in the ERO office at HCDC to confirm that facility visits are conducted by ERO staff on a routine basis. ODO also reviewed the Weekly Facility Liaison Visit Checklist and concluded ERO was in compliance with the Staff-Detainee Communication Model Protocol change notice, dated June 15, 2007, that requires the conspicuous posting of DHS OIG Hotline contact information and the inclusion of that information in the Detainee Handbook, and mandates that ICE staff verify the serviceability of all telephones in detainee housing units by conducting random calls to pre-programmed numbers posted on the pro bono/consulate list. ICE staff must also interview a sampling of detainees and review written detainee complaints regarding detainee telephone access. The FOD shall ensure that all phones in all applicable facilities are tested on a weekly basis. Each test shall be documented using the Telephone Serviceability Worksheet.

ODO confirmed Department of Homeland Security, Office of the Inspector General, Hotline Information Posters and ERO visitation schedules are conspicuously posted throughout the facility.

HCDC allows detainees to have formal and informal access and interaction with HCDC and ERO staff. Detainees can submit written questions, requests, or concerns to HCDC and ERO staff by completing a request form. ODO noted there was a shortage of request forms in the housing units, but paper was available for detainees upon request. While the standard permits the use of paper vs. an actual request form, ODO recommends the actual form be made available to detainees. Use of a request form ensures the detainee is prompted to provide all necessary information, so a proper response can be provided. Secure drop boxes for submitting request forms are located throughout the facility.

ODO reviewed the logbook of detainee requests to confirm response times were within 72 hours as required by the NDS. The logbook failed to document a timeline from receipt of the request to response and resolution (**Deficiency SDC-1**). ODO was not able to verify if responses were in compliance with the NDS.

The NDS requires a completed request to be filed in the detainee's detention file where it is to remain for a minimum of three years. ODO reviewed 15 randomly-selected detention files and verified those files contained no completed detainee requests (**Deficiency SDC-2**).

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY SDC- 1**

In accordance with the ICE NDS, Staff-Detainee Communication, section (III)(B)(1)(b) the

FOD must ensure in IGSA facilities without ICE on-site presence the detainee requests shall be forwarded to the ICE office of jurisdiction within 72 hours and answered as soon as possible and practicable, but not later than within 72 hours from receiving the request. If it is apparent that the request is serious in nature, procedures shall be in place for an expedited review and response to the detainee's request.

#### **DEFICIENCY SDC-2**

In accordance with the ICE NDS, Staff-Detainee Communication, section (III)(B)(2), the FOD must ensure staff adhere to proper record keeping and file maintenance of detainees' detention file: All requests shall be recorded in a logbook specifically designed for that purpose. The log, at a minimum, shall contain:

- a. The date the detainee request was received;
- b. Detainee's name;
- c. A-number;
- d. Nationality;
- e. Officer logging the request;
- f. The date that the request, with staff response and action, is returned to the detainee; and
- g. Any other site-specific pertinent information.

In IGSA's, the date the request was forwarded to ICE and the date it was returned shall also be recorded.

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.

## **TELEPHONE ACCESS (TA)**

ODO reviewed the Telephone Access standard at HCDC to determine if the facility provides detainees with reasonable and equitable access to telephones to maintain ties with family and others in the community, in accordance with the ICE NDS. ODO toured the facility and interviewed ERO and facility staff, as well as ICE detainees. ODO also reviewed telephone serviceability records maintained by ERO.

ODO observed there are two telephones in each of the three housing units designated for housing detainees. All detainees interviewed stated they were provided ample access to telephones. Detainees confined to the SMU also have access to telephones. The ratio of telephones to detainees is one to 15, based on an average detainee population of 91. This exceeds the NDS requirement of one telephone for every 25 detainees. At no time during the inspection were detainees observed waiting in line to use a telephone.

ODO reviewed the telephone serviceability record maintained by ERO and interviewed HCDC staff to determine whether telephone equipment is maintained in proper working order. HCDC staff stated necessary repairs were promptly completed; however, ODO observed the "4" button on a telephone in housing unit W4 was malfunctioning (**Deficiency TA-1**). Detainees in the housing unit stated that the malfunction was reported to HCDC staff two weeks prior to the ODO inspection. ODO confirmed that a work order was placed to have the phone repaired when the malfunction was reported.

ODO reviewed direct and free call accesses to ensure the level of services provided to ICE detainees was not diminished. HCDC management stated emergency personal calls are allowed for detainees, and incoming messages are taken and provided to the detainee. ERO staff assigned to the facility provides access to the telephone in the ICE office for detainees to contact family and for calls related to legal matters.

ODO observed the telephones in each housing unit are located side by side on a panel; however, telephone rules and notices of monitoring are not posted near the telephones. Although this is not a deficiency, ODO recommends HCDC post information regarding monitoring of telephone calls near the telephones to ensure there is no confusion regarding which calls are subject to monitoring.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY TA-1**

In accordance with the ICE NDS, Telephone Access, section (III)(D), the FOD must ensure the facility shall maintain detainee telephones in proper working order. Appropriate facility staff shall inspect the telephones regularly, promptly report out-of-order telephones to the repair service, and ensure that required repairs are completed quickly.

## **TERMINAL ILLNESS, ADVANCED DIRECTIVES, AND DEATH (TIADD)**

ODO reviewed the Terminal Illness, Advance Directives, and Death standard, to include Do Not Resuscitate orders, and organ donations, at HCDC to determine if the facility's policies and practices are in accordance with the ICE NDS. ODO interviewed medical staff, and reviewed policies and procedures.

There has never been a detainee death at HCDC. Policies are in place at HCDC to address terminal illness, advance directives, and death. However, HCDC policy does not address notification of the ICE Chief Counsel when a Do Not Resuscitate (DNR) order has been filed in a medical record (**Deficiency TIADD-1**). In addition, HCDC does not have procedures addressing organ donations by detainees (**Deficiency TIADD-2**).

HCDC policy states the Facility Administrator will report all detainee deaths to the medical examiner, and a post-mortem examination will be requested, but the policy does not reference the authority of the FBI, local coroner, or ICE personnel to order an autopsy and related scientific or medical tests to be performed in cases involving homicide, suicide, fatal illness, accident, or unexplained death. In addition, the policy does not address the authority of the same officials to order an autopsy in other cases, with the written consent of a person authorized under State law (**Deficiency TIADD-3**).

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY TIADD-1**

In accordance with the ICE NDS, Terminal Illness, Advanced Directives, and Death, section (III)(C)(8), the FOD must ensure Each facility holding INS detainees shall establish and implement through written procedure policy governing DNR orders. The director and other members of the DIHS governing body shall review and approve all policies before implementation. The medical facility shall notify the DIHS medical director and governing body, and the INS General Counsel, of the name and basic circumstances of any detainee for whom a "Do Not Resuscitate" order has been filed in the medical record.

### **DEFICIENCY TIADD-2**

In accordance with the ICE NDS, Terminal Illness, Advanced Directives, and Death, section (III)(D), the FOD must ensure the following procedures govern organ donations by detainees:

1. The organ recipient must be a member of the donor's immediate family.
2. All costs associated with the organ donation (hospitalization, fees, etc.) shall be at the expense of the detainee, involving no Government funds.
3. The detainee shall sign a statement documenting his/her decision to donate the organ to the specified family member. The detainee must confirm that he/she understands and accepts the risks associated with the operation of his/her own free will; and that the Government will not be held responsible for any medical complications or financial responsibilities.

4. Resources permitting, INS shall assist in the preliminary medical evaluation.
5. The facility housing the detainee shall coordinate arrangements for transportation, custody, classification, etc.
6. The detainee is not authorized to donate blood or blood products.

**DEFICIENCY TIADD-3**

In accordance with the ICE NDS, Terminal Illness, Advanced Directives, and Death, section (III)(J), the FOD must ensure The FBI, local coroner, or the USPHS may order an autopsy and related scientific or medical tests to be performed in cases involving homicide, suicide, fatal illness or accident, or unexplained death.

DIHS may order an autopsy or post-mortem operation for other cases, with the written consent of a person authorized under State law to give such consent (e.g., the coroner, next-of-kin, or, to authorize a tissue transfer, the deceased him/herself.

## VISITATION (V)

ODO reviewed the Visitation standard at HCDC to determine if authorized persons, including legal and media representatives, are able to visit detainees within security and operational constraints, in accordance with the ICE NDS. ODO reviewed visitation logbooks, policies, and procedures, and observed visitation areas.

The facility provides detainees with contact and non-contact visitation periods. Visitation rules and hours, provided in English and Spanish, are posted in each detainee housing area, SMU, and visitation areas. Four visitation sessions per day are available from Tuesday through Saturday. Dependent upon space and time, each detainee is permitted to have two 30-minute visits per week. Each visit may include up to two adults and two children up to 18 years of age. Persons under 18 years of age may only visit if accompanied by an adult. HCDC staff stated visitation is not allowed at the facility on Sundays, or on Thanksgiving, Christmas, or New Year's Eve (**Deficiency V-1**). Visitation must be permitted on Saturdays and Sundays, as well as holidays to accommodate family members who must travel or must work on weekends.

Separate logbooks are maintained for general and legal visitors. A review of the facility logbook for legal visitors reflected that pre-representation meetings are not documented in the logbook as required by the NDS (**Deficiency V-2**).

Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, was not available in the visitor's reception area (**Deficiency V-3**). ODO provided HCDC staff with a copy of this form, which authorizes attorneys to legally represent detainees during immigration proceedings. This deficiency was corrected on-site during the inspection.

## STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

### DEFICIENCY V-1

In accordance with the ICE NDS, Visitation, section (III)(H)(1), the FOD must ensure visits shall be permitted during set hours on Saturdays, Sundays, and holidays.

### DEFICIENCY V-2

In accordance with the ICE NDS, Visitation, section (III)(I)(7), the FOD must ensure the facility shall document such "pre-representation meetings" in the logbook for legal visitation.

### DEFICIENCY V-3

In accordance with the ICE NDS, Visitation, section (III)(I)(8), the FOD must ensure once an attorney-client relationship has been established, the legal representative shall complete and submit a Form G-28, available in the legal visitors' reception area. Staff shall collect completed forms and forward them to INS.