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Immigration and Customs Enforcement

Office of Professional Responsibility

Inspections and Detention Oversight

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**Office of Detention Oversight
Compliance Inspection**

Enforcement and Removal Operations

ERO St. Paul

Sherburne County Jail

Elk River, Minnesota

July 22–24, 2014

**COMPLIANCE INSPECTION
SHERBURNE COUNTY JAIL
ST. PAUL FIELD OFFICE**

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INSPECTION PROCESS

The U.S. Immigration and Customs Enforcement (ICE), Office of Professional Responsibility (OPR), Office of Detention Oversight (ODO) conducts broad-based compliance inspections to determine a detention facility's overall compliance with the applicable ICE National Detention Standards (NDS) or Performance-Based National Detention Standards (PBNDS), and ICE policies. ODO bases its compliance inspections around specific detention standards, also referred to as core standards, which directly affect detainee health, safety, and well-being. Inspections may also be based on allegations or issues of high priority or interest to ICE executive management.

Prior to an inspection, ODO reviews information from various sources, including the Joint Intake Center (JIC), Enforcement and Removal Operations (ERO), detention facility management, and other program offices within the U.S. Department of Homeland Security (DHS). Immediately following an inspection, ODO hosts a closeout briefing at which all identified deficiencies are discussed in person with both facility and ERO field office management. Within days, ODO provides ERO a preliminary findings report, and later, a final report, to assist in developing corrective actions to resolve identified deficiencies.

REPORT ORGANIZATION

ODO's compliance inspection reports provide executive ICE and ERO leadership with an independent assessment of the overall state of ICE detention facilities. They assist leadership in ensuring and enhancing the safety, health, and well-being of detainees and allow ICE to make decisions on the most appropriate actions for individual detention facilities nationwide.

ODO defines a deficiency as a violation of written policy that can be specifically linked to ICE detention standards, ICE policies, or operational procedures. Deficiencies in this report are highlighted in bold and coded using unique identifiers. Recommendations for corrective actions are made where appropriate. The report also highlights ICE's priority components, when applicable. Priority components have been identified for the 2008 and 2011 PBNDS; priority components have not yet been identified for the NDS. Priority components, which replaced the system of mandatory components, are designed to better reflect detention standards that ICE considers of critical importance. These components have been selected from across a range of detention standards based on their importance to factors such as health and safety, facility security, detainee rights, and quality of life in detention. Deficient priority components will be footnoted, when applicable. Comments and questions regarding this report should be forwarded to the Deputy Division Director, OPR ODO.

INSPECTION TEAM MEMBERS

(b)(6), (b)(7)c	Inspections & Compliance Specialist (Team Lead)	ODO
	Management & Program Analyst	ODO
	Management & Program Analyst	ODO
	Contractor	Creative Corrections
	Contractor	Creative Corrections
	Contractor	Creative Corrections

EXECUTIVE SUMMARY

ODO conducted a compliance inspection of the Sherburne County Jail (SCJ) in Elk River, Minnesota, from July 22 to 24, 2014. SCJ, which opened in 1979, is owned by Sherburne County and operated by the Sherburne County Sheriff's Office. ERO began housing detainees at SCJ in 1989 under an Intergovernmental Service Agreement. Male and female detainees of security classification levels I and II are detained at the facility for periods in excess of 72 hours. The inspection evaluated SCJ's compliance with the 2000 NDS.

The ERO Field Office Director (FOD), in St. Paul, Minnesota, is responsible for ensuring facility compliance with the 2000 NDS and ICE policies. No ICE employees are physically located at SCJ. There is no ERO Detention Service Manager (DSM) assigned to SCJ.

Capacity and Population Statistics	Quantity
Total Bed Capacity	662
ICE Detainee Bed Capacity	120
Average Daily Population	550
Average ICE Detainee Population	110
Average Length of Stay (Days)	37
Male Detainee Population (as of 07/23/14)	99
Female Detainee Population (as of 07/23/14)	12

A Sheriff is responsible for oversight of daily facility operations and is supported by (b)(7)e personnel. A'viands Food and Services Management provide food services and Sherburne County employees supplemented by MEN D Correctional Care provide medical services. The facility holds no accreditations.

In July 2010, ODO conducted an inspection of SCJ under the 2000 NDS. ODO reviewed 22 standards and found SCJ compliant with three. ODO found a total of 62 deficiencies in the remaining 19 standards.

During this inspection ODO reviewed 15 NDS and found SCJ compliant with eight standards. ODO found a total of 16 deficiencies in the remaining seven standards: Access to Legal Materials (2 deficiencies), Detainee Grievance Procedures (3), Food Service (2), Funds and Personal Property (3), Suicide Prevention and Intervention (1), Telephone Access (3), and Use of Force (2). ODO made one recommendation¹ regarding facility policy and procedures and cited one best practice.²

This report details all deficiencies and refers to the specific, relevant sections of the 2000 NDS. ERO will be provided a copy of this report to assist in developing corrective actions to resolve all identified deficiencies. ODO discussed preliminary findings with SCJ and ERO management during the inspection and at a closeout briefing conducted on July 24, 2014.

The admission process includes recording personal information, conducting basic criminal history checks, taking photographs and fingerprints, inventorying property, funds and valuables, and issuing clothing, bedding, towels, and hygiene supplies. Classification officers conduct an

¹ Recommendations are annotated in this report as "R."

² Best practices are annotated in this report as "BP."

intake interview and determine the classification level. ODO observed the orientation process during the inspection. Detainees were shown a video providing information on facility operations, programs and services, including access to medical care, visitation, commissary, sexual assault and abuse prevention and reporting, and other important topics. Following the video, ODO observed unit staff meeting with the group to address questions. A checklist of issues covered was completed and signed by each detainee and the officer. For female detainees, the orientation process is completed in their housing unit. ODO's review of detention files for ten randomly selected detainees confirmed required documentation was present.

Upon arrival at SCJ, and during the intake process, detainees are issued a copy of the facility handbook. All detainees sign an orientation form acknowledging having received the handbook. ODO reviewed the folders in three different housing units (G, N and D-North) and verified all male and female detainees (45) signed the form. Detainees are also provided verbal and video orientation referencing the handbooks. All staff members who have contact with detainees are provided copies of the handbooks. Interviews with SCJ staff revealed their familiarization with the contents. Translation assistance to detainees exhibiting literacy or language problems is available.

SCJ does not use ERO classification, but instead, classifies all detainees upon their arrival. Classification is based upon information provided by ERO and additional state and national background and criminal history information. An initial 40 hour and annual classification training is conducted by a supervisor for all classification staff. The facility houses Level I and II detainees. Level III detainees are not housed at the SCJ. A review of 20 detainee records found all classification levels are reviewed by a supervisor prior to the detainee's assignment to a housing unit. Procedures are in place for reclassifying detainees housed at SCJ for more than 60 days, following disciplinary action, or upon receipt of new information affecting the classification level. ODO confirmed the facility handbook addresses the classification process and appeal procedures. Inspection of housing rosters confirmed detainees were housed according to their classification.

The facility has two designated rooms used as law libraries. The computers are equipped with the latest version of the Lexis/Nexis software. Detainees are afforded library access a minimum of five hours per week and request use of the law library by placing their name on a sign-up sheet posted in each housing unit. Additional time is available upon request. The facility does not have written procedures for assisting unrepresented illiterate or non-English speaking detainees who wish to pursue a legal claim related to his/her immigration proceedings or detention and indicate difficulty with using the law library and drafting legal documents. A review of the facility's handbook revealed it does not provide detainees with the rules and procedures governing access to legal materials, nor does the facility post these policies and procedures in designated library areas. This is a repeat deficiency from ODO's July 2010 inspection.

Detainees have the opportunity to file a grievance by submitting a grievance form to the housing unit officer or by placing the grievance form in a sealed envelope. A designated grievance officer maintains an electronic database that tracks all grievances and respective outcomes. ODO reviewed the grievance log for the past four months and found a total of 115 grievances filed. ODO reviewed the 115 grievances and found they involved a variety of issues and were all

addressed by the facility staff. A review of SCJ documentation revealed the facility does not document or record the results of oral/informal grievances or maintain the report in detention files. Furthermore, SCJ does not have a grievance committee and copies of detainee grievances are not maintained in detention files.

Detainee property is inventoried and documented on a personal property form before being placed in hanging bags which are hung on a conveyor system in the property room. SCJ has a kiosk system into which U.S. currency is deposited. Detainees do not receive a receipt for monies counted and placed in envelopes. The facility also does not have written procedures governing the inventory and audit of detainee funds, valuables and personal property, including frequency. Review of the detainee handbook found it does not provide notice of the following information: upon request, detainees will be provided an ICE-certified copy of any identity document, passport, birth certificate, etc. present in their A-files; the rules for storing or mailing property not allowed in their possession; the procedure for claiming property upon release, transfer, or removal; or the procedures for filing a claim for lost or damaged property.

SCJ has a satellite system of meal service involving preparation of meals in the kitchen and delivery to housing units in reusable thermal stacking food containers. ODO observed the preparation of meals for one evening and one noon meal during the inspection. The food carts used by SCJ do not have locking devices. ODO noticed that food carts with trays for the special management unit are transported by officers; however, carts with trays for the general population housing units are transported by unescorted detainees, creating the potential for food tampering. ODO reviewed training records and found food service staff does not attend any custody or security training.

During a tour of the facility, ODO observed sanitation was maintained at a high level in all areas. SCJ does not have a designated safety officer. The facility has an established system for storing, issuing and maintaining inventories and for accountability of hazardous materials. SCJ has a master index of hazardous substances which includes Material Safety Data Sheets (MSDS), documentation of review, and emergency phone numbers. MSDS folders were present where chemicals are used. Documentation reflects fire drills are conducted monthly in all areas of the facility, and fire and safety inspections are conducted weekly.

At the time of the inspection, the majority of the health care staff was employees of Sherburne County, supplemented by staff under contract with MENd Correctional Care. County staff includes (b)(7)e full-time registered nurses (RN), (b)(7)e full-time licensed practical nurses (LPN), and (b)(7)e full-time and (b)(7)e part-time certified health technicians. MENd contract staff included a part-time physician who is the designated clinical director, an RN who serves as director of nurses and administrative health authority, a family nurse practitioner, a licensed mental health therapist, and an additional RN. According to the director of nurses, all county positions will convert to contractor positions under phase two of the MENd Correctional Care contract, targeted for implementation September 1, 2014. During the contract transition period, the clinical director visits the facility four days per week on average, though the contract only requires the clinical director to be on-site one day per month. The clinical director is on call 24 hours a day, seven days a week. The director of nurses currently works five days a week, eight hours a day, but will work 32 hours a week after the contract transition. Nursing coverage is from 7:00 a.m. to 10:45 p.m. seven days a week. The licensed mental health therapist works two

eight-hour days per week. Dental services are provided under contract with a local dentist who is on site every third Saturday. ODO verified all professional licenses and certifications were present and primary source verified. No restrictions were documented on the licenses.

The SCJ clinic consists of two examination rooms, a treatment room, a provider office, two separate single-chair dental offices, a small laboratory, and secure medication storage room. For medical care beyond SCJ's scope of services, detainees are transported to either Fairview Northland Medical Center or Mercy Hospital. Medical and mental health screening is conducted by trained booking officers within 12 hours of detainee arrival. Documentation entered on the screening forms was complete in all 30 medical records reviewed, and officer training was confirmed by review of (b)(7) randomly selected training records. A review of 30 medical files confirmed consistent tuberculosis screening by purified protein derivative skin test, and by chest X-ray for current or past positive tests. Either the physician or nurse practitioner conducted health appraisals within 14 days of detainee arrival in all 30 cases reviewed. The health appraisals included hands on physical examinations and dental screenings. The use of the Language Line telephone interpretation service was documented for detainees with limited English proficiency.

ODO verified English and Spanish-version sick call request forms are available in the general housing and Special Management Units (SMU). Detainees submit requests directly to nurses during medication distribution. The nurse records the date and forwards requests to the RN responsible for triage. A review of 21 sick call requests confirmed the detainees were seen in a timely manner. For nurses' sick call, the contractor's physician-approved protocols are followed. These protocols, dated April 22, 2014, were found to provide specific guidance and accompanying flow sheets. The chemical withdrawal protocol, which included an English and Spanish-version detainee questionnaire, a scoring sheet for signs and symptoms, a flow sheet, and procedure, is cited as a best practice **(BP-1)**.

According to the clinical director and director of nursing, SCJ has had no detainee suicide attempts since the last ODO inspection. Medical and jail administrative staff were unable to determine the number of detainee suicide watches over the past year, as their electronic record keeping system does not provide a means to distinguish detainees from inmates. However, one nurse was able to recall the name of a detainee on suicide watch in February 2014. ODO's review of suicide watch documentation found the detainee was monitored as required by the standard, though a registered nurse discontinued the suicide watch without authorization by the clinical director. This is a repeat deficiency from ODO's July 2010 inspection.

Although the facility was not required to comply with the SAAPI standard at the time of the inspection, ODO noted the efforts made by the facility to comply with the standard's requirements. SCJ staff receives annual SAAPI training that covers all of the required components of the 2011 PBNDS. Detainees are notified of the facility's zero-tolerance policy for all forms of sexual abuse and other key requirements including definitions of sexual abuse and assault, reporting procedures, and the right of a detainee to receive treatment and counseling. SCJ screens detainees during intake for a history of sexual abuse victimization and for predatory history to identify potential sexual aggressors.

SCJ operates a 34 bed SMU for male detainees. Female detainees requiring segregation are housed in a separate section of the female housing unit. ODO's inspection confirmed the units are well ventilated, adequately lit, appropriately heated and maintained in a sanitary condition. All detainees placed in administrative segregation are reviewed by the segregation review committee comprised of the jail administrator or his designee, the Prison Rape Elimination Act coordinator and representatives from the health services and classification departments. Reviews are conducted within 72 hours of placement and then again every seven days.

There were no detainees housed in administrative segregation during the inspection. As SCJ is transitioning from hard-copy records to an electronic record-keeping system, it was not possible to determine the total number of detainees assigned to administrative segregation in the 12 months preceding the inspection. However, ODO identified four detainees previously placed on administrative segregation and reviewed their records. Segregation orders were completed and approved by a supervisor, and ERO was notified of the placements. Required status reviews were conducted. One of the four detainees reported he was a gang member and stated he would engage in assaultive behavior if placed in general population. He was released from SCJ after ten days. The remaining three detainees were segregated due to medical or mental health reasons, per direction of health services staff. One of the three detainees remained on administrative segregation for 56 days, until released from the facility. Documentation received upon his admission indicated he had serious medical and mental health issues when incarcerated at another facility five months prior to his placement at SCJ. At that facility, he had been catatonic, mute, and uncooperative. ODO verified the three detainees segregated for medical and mental health reasons were regularly evaluated and monitored by health services staff.

There were no female detainees placed in disciplinary segregation during the inspection. Two male detainees were serving disciplinary segregation sanctions of three days each for refusing to return to their cells, one detainee was serving 20 days for fighting, and one was serving 30 days, also for fighting. ERO was notified of disciplinary segregation placements. All four detainees were interviewed and stated they were guilty of the charged offenses. They confirmed showers and recreation are offered daily and that they were receiving all privileges and services required by facility policy and the NDS. The detainees also confirmed nursing staff visits them daily. A review of their files confirmed segregation orders were issued by the institution disciplinary panel and required reviews were conducted by the segregation committee.

Detainees can submit written questions, requests, or concerns to facility and ERO staff using a request form. Request forms are available upon request at each housing unit. The SCJ booking officers fax all detainee requests directly to ERO. ODO verified ERO staff performs weekly announced visits to assess basic living conditions of the facility. ODO also confirmed ERO management has conducted regular unannounced visits to the facility and has procedures in place to document the unscheduled visits as required by the NDS. ODO reviewed a random sample of Facility Liaison Visit Checklists from the 12 months preceding the inspection, and noted that all forms were properly completed. ERO staff performs and documents weekly serviceability of telephones accessible to detainees.

A review of the SCJ detainee telephone log confirmed the facility staff does not inspect the detainee telephones regularly. ODO checked the operability of 18 telephones in detainee housing areas by speed dialing programmed numbers for Office of Inspector General (OIG),

foreign consulates, and pro bono legal services and found them to be in good working order. The SCJ detainee handbook states, to afford all inmates equal opportunities for phone usage, calls are limited to 15 minutes, which is fewer than the 20 minutes required by NDS. All telephone calls made from the housing units are automatically recorded. However, the procedure for requesting an unmonitored phone call for the purpose of obtaining legal representation is not posted on or near any of the telephones in the housing units, or in the SMU.

SCJ has a comprehensive use of force policy addressing all procedural requirements of the NDS, including confrontation avoidance, using force only as a last resort, and reporting requirements when force is used. SCJ's non-deadly force devices include tasers, an electro muscular disruption device, and Freeze Plus-P. Freeze Plus-P combines oleoresin capsicum with a chemical compound commonly known as tear gas (CS), and is not prohibited for use on detainees. This is a repeat deficiency from ODO's July 2010 inspection. In one incident involving use of a (b)(7)e reports were filed and ERO was notified; however, the detainee was not seen by a member of the medical staff.

OPERATIONAL ENVIRONMENT

DETAINEE RELATIONS

ODO interviewed 26 randomly-selected detainees (16 males and ten females) to assess the conditions of confinement at SCJ. ODO attempted to interview all 12 female detainees; however, two of them declined to be interviewed. Interview participation was voluntary and none of the detainees expressed allegations of abuse, discrimination or mistreatment. The majority of detainees reported being satisfied with medical care and access to telephones, recreation, visitation, the law library and religious services.

Staff-Detainee Communication: The majority of the detainees interviewed did not know the identity of his/her Deportation Officer (DO). ODO reviewed facility visitation logs and confirmed that ERO personnel visit the housing units on a weekly basis.

Medical Care: A few of the detainees had specific complaints regarding medical care and the quality of services provided. ODO looked into each issue and found that all complaints were unfounded.

Food Service: All of the detainees interviewed complained about portion sizes and food quality; however, detainees did not provide any specific examples. ODO confirmed menus are planned and certified as nutritionally adequate by a registered dietician before implementation.

Religious Services: A few of the detainees complained about the availability of Muslim religious services. ODO looked into the issue and found that the facility will not allow detainees to hold prayer services without an outside imam. The facility is currently trying to find a prayer leader (imam) to hold services for Muslim detainees.

Other services: None of the detainees interviewed by ODO expressed concerns regarding access to hygiene supplies, grievance forms or the issuance of the facility handbook.

ICE 2000 NATIONAL DETENTION STANDARDS

ODO reviewed a total of 15 NDS and found SCJ fully compliant with the following eight standards:

1. Admission and Release
2. Detainee Classification System
3. Detainee Handbook³
4. Environmental Health and Safety
5. Medical Care
6. Special Management Unit – Administrative Segregation
7. Special Management Unit – Disciplinary Segregation
8. Staff-Detainee Communication

As the standards above were compliant at the time of the inspection, a synopsis for these standards is not included in this report.

ODO found 16 deficiencies in the following seven standards.

1. Access to Legal Materials
2. Detainee Grievance Procedures
3. Food Service
4. Funds and Personal Property
5. Suicide Prevention and Intervention
6. Telephone Access
7. Use of Force

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

³ The Detainee Handbook standard was found compliant during the inspection; however, deficiencies related to the Detainee Handbook are located under Deficiencies ALM-3 and F&PP-3.

ACCESS TO LEGAL MATERIALS (ALM)

ODO reviewed the Access to Legal Material standard at SCJ 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 2000 NDS. ODO interviewed detainees and staff, reviewed policies and the facility's handbook, and toured and observed the facility's law library.

The facility has two designated rooms used as the law libraries. The first is located in the N housing unit. That unit is monitored by a housing unit correctional officer to ensure detainees do not damage legal materials or equipment. This law library can accommodate four detainees per session and contains two computers, two printers, two desks and chairs. The second designated room is located in the booking area, and contains one computer, one printer, two desks and chairs. Both areas are adequately lit and isolated from noisy areas. Female detainees, detainees housed in SMUs, and male detainees housed in the G unit use this area for their legal research. This area can accommodate two detainees per session. Detainees are afforded library access a minimum of five hours per week, Monday through Friday, between 8:30 a.m. and 9:00 p.m. Detainees request use of the law library by placing their name on a sign-up sheet posted in each housing unit. Additional time is available upon request.

The computers are equipped with the latest version of the Lexis/Nexis software.

The facility does not have written procedures for assisting unrepresented illiterate or non-English speaking detainees who wish to pursue a legal claim related to their immigration proceedings or detention and indicate difficulty with using the law library and drafting legal documents (**Deficiency ALM-1**). Facility staff informed ODO that illiterate and limited English proficient detainees are provided assistance with their legal paperwork, as needed. Detainees with appropriate language, reading, and writing abilities are allowed to provide assistance. The facility provides indigent detainees with free envelopes, stamps, notary services, and certified mail for legal matters.

A review of the facility's handbook revealed it does not provide detainees with the rules and procedures governing access to legal materials and neither are the policies and procedures posted in designated library areas (**Deficiency ALM-2**).⁴

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY ALM-1

In accordance with the ICE 2000 NDS, Access to Legal Material, section (III)(L), the FOD must ensure, "Unrepresented illiterate or non-English speaking detainees who wish to pursue a legal claim related to their immigration proceedings or detention and indicate difficulty with the legal materials must be provided with more than access to a set of English-language law books."

DEFICIENCY ALM-2

⁴ This is a repeat deficiency from ODO's July 2010 inspection.

In accordance with the ICE 2000 NDS, Access to Legal Material, section (III)(Q), 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.”

DETAINEE GRIEVANCE PROCEDURES (DGP)

ODO reviewed the Detainee Grievance Procedures standard at SCJ 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 2000 NDS.

SCJ's policies and facility handbook both address informal and formal grievance processes, emergency grievances, the availability of assistance in filing a grievance, procedures for appeal, policies on retaliation, and the opportunity to file a complaint about officer misconduct. Detainees have the opportunity to file a grievance by submitting a grievance form to the housing unit officer or by placing the grievance form in a sealed envelope.

A designated grievance officer maintains an electronic database that tracks all grievances and respective outcomes. The log includes the following information: incident number, secure prison number, grievance type, who it was reported by and initiated by, detainee location, received date, status of grievance, name of respondent, response date, comments and the inmate grievance form. ODO reviewed the grievance log for the four months preceding the inspection and found a total of 115 grievances filed. ODO reviewed the 115 grievances and found they involved a variety of issues and were all addressed by the facility staff. The grievance topics included: food service (62), medical (2), complaints about more space for worship services (3), and complaints about having more Spanish television channels (48). All of the medical grievances were referred to and resolved by the facility medical unit prior to ODO's arrival.

A review of SCJ documentation revealed the facility does not document or record the results of oral/informal grievances and maintain a report in detention files (**Deficiency DGP-1**). Furthermore, SCJ does not have a grievance committee (**Deficiency DGP-2**) or place copies of detainee grievances in the detention files (**Deficiency DGP-3**).

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY DGP-1

In accordance with the ICE 2000 NDS, Detainee Grievance Procedures, section (III)(A)(1), 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-2

In accordance with the ICE 2000 NDS, Detainee Grievance Procedures, section (III)(A)(2), the FOD must ensure, "The OIC must allow the detainee to submit a formal, written grievance to the facility's grievance committee. The detainee may take this step because he/she is not satisfied with the outcome of the informal process, or because he/she decides to forgo the informal procedures."

DEFICIENCY DGP-3

In accordance with the ICE 2000 NDS, Detainee Grievance Procedures, section (III)(E), the FOD must ensure, “A copy of the grievance will remain 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 ICE custody.”

FOOD SERVICE (FS)

ODO reviewed the Food Service standard at SCJ to determine if detainees are provided with a nutritious and balanced diet, in a sanitary manner, in accordance with the ICE 2000 NDS. ODO reviewed policy, procedures, and relevant documentation, interviewed staff, inspected the food service area, and observed meal preparation and service.

The food service operation is managed by A'viands Food and Services Management, a private contractor. Staffing consists of the food service director, (b)(7)e head cooks, (b)(7)e bakers and (b)(7)e cook assistants. No detainee or inmate workers participate in food preparation. ODO reviewed documentation confirming all A'viands employees received pre-employment medical examinations clearing them to work in food service. ODO interviewed the training manager and the food service director concerning training provided to A'viands personnel. Food service staff does not attend custody or security training, including training in the ICE detention standards **(Deficiency FS-1)**.

Cooks wear gloves, hairnets, aprons and beard guards for facial hair. All areas of the food service department were clean and organized. Cleaning schedules were posted throughout the food service area and cooks were observed following "clean-as-you-go" procedures. Review of documentation confirmed comprehensive daily inspections are conducted by the cooks and food service director, and the director also conducts a weekly inspection. ODO reviewed invoices reflecting pest control inspections and treatments are conducted monthly by ECOLAB Pest Control through a commercial services agreement.

ODO's review of documentation confirmed the master cycle menu is reviewed annually by the food service director and certified by a registered dietician based on a complete nutritional analysis. The master menu is a five week cycle, and includes one cold meal and two hot meals per day. SCJ does not serve pork. ODO sampled food items and confirmed they were consistent with the menu. The items were properly seasoned, of satisfactory taste, and portions were adequate. There were 75 detainees receiving medical diets and 16 receiving religious diets at the time of the inspection.

SCJ has a satellite system of meal service involving preparation of meals in the kitchen and delivery to housing units in reusable thermal stacking food containers. ODO observed the preparation of meals for one evening and one noon meal during the inspection. Food service staff was seen randomly testing the temperature of food items with digital food thermometers throughout the preparation process, and as the items were placed on trays. ODO noted trays are prepared for half of the facility at a time and the time it takes to prepare trays before they are delivered to the housing units is a lengthy process. It is recommended trays be delivered more quickly after they are prepared to ensure food safety and palatability **(R-1)**. The food carts used by SCJ do not have locking devices **(Deficiency FS-2)**. Transporting food carts that are secured prevents food tampering.

Inspection of the dry storage area found it organized and clean and required clearances from the floors, walls and ceiling were met. The coolers and freezers were also organized and clean, and temperatures were compliant with the NDS and logged every shift.

STANDARD/POLICY REQUIREMENT FOR DEFICIENT FINDINGS

DEFICIENCY FS-1

In accordance with ICE 2000 NDS, Food Service, section (III)(B)(1), the FOD must ensure, “The facility’s custody and security policy and procedures shall address the buildings or portions of buildings housing the food service department; all types of detainee traffic in and out of the department; detainee behavior; control of repairs or utensils with a custodial hazard potential (knives, cleavers, saws, tableware, etc.); official counts and/or census; shakedowns; and any other matters having a direct or indirect bearing on custody and security.

The facility training officer will devise and provide appropriate training to all food service personnel in detainee custodial issues. Among other things, this training will cover ICE’s detention standards.”

DEFICIENCY FS-2

In accordance with ICE 2000 NDS, Food Service, section (III)(C)(2)(g), the FOD must ensure, “Food will be delivered from one place to another in covered containers. These may be individual containers, such as pots with lids, or larger conveyances that can move objects in bulk, such as enclosed, satellite-feeding carts. Food carts must have locking devices.”

FUNDS AND PERSONAL PROPERTY (F&PP)

ODO reviewed the Funds and Personal Property standard at SCJ to determine if controls are in place to inventory, document, store, and safeguard detainees' personal property, in accordance with the ICE 2000 NDS. ODO toured the facility; reviewed local policies, the detainee handbook, and detention files; interviewed staff; and inspected areas where detainee property and valuables are stored.

ODO observed the processing of detainees into and out of the facility. Property was inventoried and documented on a personal property form before being placed in hanging bags which were then hung on a conveyor system in the property room. ODO's inspection found the property room was secure, well-organized and clean. Detainees signed and received a copy of the property inventory and a copy was placed in the detention file.

SCJ has a kiosk system into which U.S. currency is deposited. Any foreign currency and money orders are inventoried and included in the detainee's property. Because kiosk systems electronically count currency and generate receipts, they provide an accurate and secure method for handling of detainee monies. However, before a detainee's monies are deposited in SCJ's kiosk system, they are counted by an officer and placed in an envelope labeled with the detainee's name and facility identification number, the officer's badge number, and the amount of money. The envelopes are maintained in an unsecured drawer in the booking area until staff has time to deposit the monies in the kiosk system. ODO finds this practice does not adequately safeguard detainee funds against theft (**Deficiency F&PP-1**). Furthermore, detainees do not receive a receipt for monies counted and placed in envelopes. A receipt is provided only once monies are deposited in the kiosk, and detainees are not present to witness this process. ODO found no detainee grievances were filed alleging missing funds.

ODO was informed property and funds are audited quarterly. Documentation of recent audits confirmed the last was completed on June 29, 2014, and prior to that, on December 1, 2013. There was no documentation of an audit in March 2014. ODO found the facility does not have written procedures governing the inventory and audit of detainee funds, valuables and personal property, including frequency (**Deficiency F&PP-2**).

Review of the facility handbook found it does not provide notice to detainees of the following information: upon request, detainees will be provided an ICE-certified copy of any identity document, passport, birth certificate, etc. present in their A-files; the rules for storing or mailing property not allowed in their possession; the procedure for claiming property upon release, transfer, or removal; or the procedures for filing a claim for lost or damaged property (**Deficiency F&PP-3**).

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY F&PP-1

In accordance with the ICE 2000 NDS, Funds and Personal Property, section (I), the FOD must ensure, "All facilities will provide for the control and safeguarding of detainees' personal property. This will include the secure storage of funds, valuables, baggage and other personnel

property; a procedure for documentation and receipting of surrendered property; and the initial and regularly scheduled inventories of all funds, valuables and other property.”

DEFICIENCY F&PP-2

In accordance with the ICE 2000 NDS, Funds and Personal Property, section (III)(F), the FOD must ensure, “Each facility shall have a written procedure for inventory and audit of detainee funds, valuables, and personal property.”

DEFICIENCY F&PP-3

In accordance with the ICE 2000 NDS, Funds and Personal Property, section (III)(J)(2)(3)(4)(5), the FOD must ensure, “The detainee handbook or equivalent shall notify the detainees of facility policies and procedures concerning personal property, including:

2. That, upon request, they will be provided an [ICE]-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.”

SUICIDE PREVENTION AND INTERVENTION (SP&I)

ODO reviewed the Suicide Prevention and Intervention standard at SCJ to determine if the health and well-being of detainees are protected by training staff in effective methods of suicide prevention, in accordance with the ICE 2000 NDS. ODO inspected the suicide watch cells, interviewed medical and mental health staff, and reviewed suicide prevention policies, the training curriculum, and participant training records.

ODO was informed two cells within the booking area are designated for suicide watch. The cells were clean and free of objects or structural elements which could facilitate a suicide attempt. ODO observed the cells have video camera surveillance.

SCJ's suicide prevention and intervention policy addresses identification, referral, and monitoring of detainees believed to be at risk of self-harm. A review of training records of all medical and (b)(7) randomly selected correctional staff confirmed all were trained in suicide prevention and intervention, both at the time of orientation and annually. ODO verified the training curriculum covers all topics required by the NDS, including signs of suicidal thinking, suspect behavior, facility referral procedures, suicide prevention techniques, and responding to an in-progress suicide attempt.

Detainees are screened for suicide risk at the time of intake, and procedures are in place for referral of detainees for suicide risk assessment at intake or any time thereafter. A Special Precautions Management form is used to document when a suicide watch is initiated and discontinued, and includes a section for documenting items detainees are allowed to retain, and the frequency of checks and follow-up visits by clinical and mental health staff.

According to the clinical director and director of nursing, SCJ has had no detainee suicide attempts since the last ODO inspection. Medical and jail administrative staff were unable to determine the number of detainee suicide watches during the 12 months preceding the inspection, as their electronic record keeping system does not provide a means to distinguish between detainees and inmates. However, one nurse was able to recall the name of one detainee on suicide watch in February 2014. ODO's review of suicide watch documentation found the detainee was monitored as required by the standard, though a registered nurse discontinued the suicide watch without authorization by the clinical director (**Deficiency SP&I-1**).⁵ ODO notes the policy in place at the time stated nurses, mid-level providers, and designated jail staff members were permitted to discontinue suicide watch status. The new contractor's policy implemented April 22, 2014 specifically states suicide watches must be authorized by the clinical director and the jail's policy were revised to reflect the same.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY SP&I-1

In accordance with ICE 2000 NDS, Suicide Prevention and Intervention, section (III)(C), the FOD must ensure, "A detainee formerly under a suicide watch may be returned to general population, upon written authorization of the [clinical director]."

⁵ This is a repeat deficiency from ODO's July 2010 inspection.

TELEPHONE ACCESS (TA)

ODO reviewed the Telephone Access standard at SCJ 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 2000 NDS. ODO interviewed facility staff and detainees, conducted functionality tests of telephones in housing units, and reviewed policy, procedures, and the facility handbook.

SCJ provides detainees with reasonable and equitable access to telephones from 7:00 a.m. to 11:00 p.m. There is a minimum of two telephones for every 13 detainees, which complies with the standard. Detainees are given emergency messages and allowed to return emergency telephone calls without delay. SCJ provides telephone access rules in writing to each detainee upon admittance, and detainees are required to sign for receipt of these rules upon admission to the facility. Observation of the facility revealed the telephone rules are posted where detainees can easily see them in the housing units.

Upon admission to SCJ, detainees are allowed to set up a personal identification number to make collect calls for domestic locations, but must purchase a calling card for international calls. The facility has three TTY devices on hand, if needed.

A review of the SCJ detainee telephone log confirmed the facility staff does not inspect the detainee telephones regularly (**Deficiency TA-1**). ODO reviewed ERO telephone serviceability worksheets from January 2014 through June 2014 and confirmed weekly telephone inspections are conducted by ERO staff. ODO reviewed five maintenance requests for telephone repairs and five work orders for those repairs. All five work orders were reported to the service provider. Telephone service, maintenance and rates are managed by the vendor Securus Technology, Inc. The system allows for collect or debit calls only. Call rates range from \$0.25 to \$0.35 per minute, not including a minimum \$1.85 surcharge. Detainees have opportunities to make free calls upon request.

ODO checked the operability of 18 telephones in detainee housing areas by speed dialing programmed numbers for the OIG, foreign consulates, and pro bono legal services and found them to be in good working order. The SCJ facility handbook states phone calls are limited to 15 minutes, to afford all inmates equal opportunities for phone usage, which is fewer than the 20 minutes required by the NDS (**Deficiency TA-2**).

All telephone calls made from the housing units are automatically recorded. The jail administrator stated detainees can obtain an unmonitored telephone call to an attorney or legal representative by submitting a request form or by notifying a housing unit officer. After the request form has been submitted or notification has been made to a housing unit officer, the detainee is provided access to an unmonitored telephone call outside of the housing unit. However, this procedure is not posted on or near any of the telephones in the housing units, or in the SMU (**Deficiency TA-3**).

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY TA-1

In accordance with the ICE 2000 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.”

DEFICIENCY TA-2

In accordance with the ICE 2000 NDS, Telephone Access, section (III)(F), the FOD must ensure, “The facility shall not restrict the number of calls a detainee places to his/her legal representatives, nor limit the duration of such calls by rule or automatic cut-off, unless necessary for security purposes or to maintain orderly and fair access to telephones. If time limits are necessary for such calls, they shall be no shorter than 20 minutes, and the detainee shall be allowed to continue the call if desired, at the first available opportunity.”

DEFICIENCY TA-3

In accordance with the ICE 2000 NDS, Telephone Access, section (III)(K), the FOD must ensure, “The facility shall have a written policy on the monitoring of detainee telephone calls. If telephone calls are monitored, the facility shall notify detainees in the detainee handbook or the equivalent provided upon admission. It shall also place a notice at each monitored telephone stating:

1. that detainee calls are subject to monitoring; and
2. the procedure for obtaining an unmonitored call to a court, legal representative, or for the purposes of obtaining legal representation.”

USE OF FORCE (UOF)

ODO reviewed the Use of Force standard at SCJ to determine if necessary use of force is used only after all reasonable efforts have been exhausted to gain control of a subject, while protecting and ensuring the safety of detainees, staff and others, preventing serious property damage, and ensuring the security and orderly operation of the facility, in accordance with the ICE 2000 NDS. ODO toured the facility, inspected the armory, interviewed the training director and security staff, and reviewed policies, procedures, staff training records, and detainee grievance activity. ODO also reviewed written documentation and video recordings of use of force incidents involving ICE detainees.

SCJ has a comprehensive use of force policy addressing all procedural requirements of the NDS, including confrontation avoidance, using force only as a last resort, and reporting requirements when force is used. All calculated use of force incidents must be video recorded, and supervisory staff are responsible for ensuring video recording equipment is operable at all times.

Detention officers are trained in the use of force during pre-service training and annually. ODO's review of the training records of (b)(7)e randomly selected staff, including a supervisor and Corrections Emergency Response Team (CERT) member, confirmed all completed training in the 12 months preceding the inspection.

Less than lethal and lethal weapons and munitions are stored in the armory which is adjacent to the training center. The armory was inspected and was found secured and accessible by a pass card issued only to supervisory staff. Inventories of weapons and ammunition are conducted monthly by the training supervisor, and review found them current and accurate. Additional, less-than-lethal use of force devices are stored in a separate locked room which also holds CERT equipment. ODO was informed SCJ is in the process of consolidating all less-than-lethal munitions in the armory to streamline the inventory process.

SCJ's non-deadly force devices include tasers, an electro muscular disruption device, and Freeze Plus-P. Freeze Plus-P combines oleoresin capsicum with a chemical compound commonly known as tear gas, and is not prohibited for use on detainees (**Deficiency UOF-1**).⁶ ODO confirmed facility policy addresses use of these devices and chemical agents, and staff authorized to carry and use them receive training, (b)(7)e

(b)(7)e

There were two calculated use of force incidents involving detainees in the past year. ODO reviewed the written documentation and video recordings of both incidents. In each case, the detainee involved refused numerous directives to comply with staff orders and force was used after reasonable efforts to gain compliance were made. A medical staff member was present during the incidents. ODO's review of the video recordings of both incidents confirmed compliance with the standard, including introductions by the CERT leader and the faces of all team members and their assignments. Freeze Plus-P aerosol was used in both cases (**See Deficiency UOF-1**) and the detainees were restrained without further incident. The detainees were decontaminated and examined by medical staff, and debriefings of the incidents

⁶ This is a repeat deficiency from ODO's July 2010 inspection.

were conducted. ODO's review of the training records of the staff involved confirmed current training, including training in the use of Freeze Plus-P. Documentation reflects after action reviews were completed and the Supervisory Detention and Deportation Officer (SDDO) was notified.

In addition to the two calculated use of force incidents, there were six incidents involving immediate use of force incidents on detainees during the 12 months preceding the inspection. The incidents are summarized as follows, based on ODO's review of written documentation:

- 1) A detainee refused to lock down while a fight was taking place in the area. He was taken to the ground and restrained.
- 2) Two detainees were involved in a fight and refused orders to stop. Staff deployed Freeze-Plus P (See Deficiency UOF-1) and restrained them.
- 3) Two detainees were involved in a fight and refused orders to stop. Staff deployed Freeze-Plus P (See Deficiency UOF-1) and restrained them.
- 4) While under escort, a detainee resisted staff and became combative. Pressure point control tactics were applied to gain compliance.
- 5) A detainee was fighting with another detainee and refused orders to stop. He was taken to the ground and restrained.
- 6) A detainee in booking was engaged in self harm by striking his head against the cell door and wall. He ignored staff orders to stop and to put his hands out to be restrained. Documentation reflects staff made the decision to enter the cell because the detainee was bleeding from his head and he was at imminent risk for further self-harm. When he resisted, a supervisor used a taser for two seconds to gain control of him.

Following each of the first five incidents, the detainees were evaluated by medical staff, written reports were filed and action reviews were conducted. Documentation reflects the SDDO was notified in all five cases. In the incident involving use of a (b)(7)e reports were filed and the SDDO was notified; however, the detainee was not seen by a member of the medical staff (Deficiency UOF-2). Because (b)(7)e of the security staff members involved was an emergency medical technician and first responder instructor, he conducted a medical assessment of the detainee and determined he had no injuries requiring further medical attention. The assistance of medical or mental health staff was not sought once the detainee was under control, and the detainee was not examined by medical personnel. The SDDO was notified, and documentation reflects the assistant jail administrator reviewed the incident within 72 hours and determined the force used was necessary and appropriate. ODO defers assessment based on limited documentation and information.

No grievances were filed by detainees in the past year regarding the use of force.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY UOF-1

In accordance with the ICE 2000 NDS, Use of Force, section (III)(M), the FOD must ensure, “The following non-deadly force devices are not authorized for use:

1. Saps, blackjacks, and sap gloves;
2. Mace, tear gas, or other chemical agents, except OC spray;
3. Homemade devices or tools; and
4. Any other device or tool not issued or approved by ICE.”

DEFICIENCY UOF-2

In accordance with the ICE 2000 NDS, Use of Force, section (III)(G)(2), the FOD must ensure, “In immediate use-of-force situations, staff shall seek the assistance of mental health or other medical personnel upon gaining physical control of the detainee.

2. After any use of force or forcible application of restraints, medical personnel shall examine the detainee, immediately treating any injuries. The medical services provided shall be documented.”