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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
El Paso Field Office
Otero County Processing Center
Chaparral, New Mexico**

March 5 - 7, 2013

**COMPLIANCE INSPECTION
OTERO COUNTY PROCESSING CENTER
EL PASO 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 Otero County Processing Center (OCPC) in Chaparral, New Mexico, from March 5 to March 7, 2013. The facility is owned by Otero County and is operated by the Management & Training Corporation (MTC). OCPC opened on May 23, 2008. The Immigration and Customs Enforcement (ICE), Office of Enforcement and Removal Operations (ERO) began housing male ICE detainees of all classification levels (Level I – lowest threat; Level II – medium threat; Level III – highest threat) for periods in excess of 72 hours at OCPC in June 2008 under an Intergovernmental Service Agreement. OCPC does not house female detainees. The detainee housing areas at MTC are 132,958 square feet, with a total housing capacity of 1,000. The average daily detainee population is 802, and the average length of stay for a detainee is 40 days. At the time of the CI, OCPC housed 771 male ICE detainees (683 Level I; 65 Level II; 23 Level III). Additional detention space can be provided for ICE detainees if sufficient notice is provided by ICE to MTC.

OCPC holds accreditation from the American Correctional Association, the National Commission on Correctional Health Care, and the Joint Commission. MTC provides medical care and food service.

The ERO Field Office Director (FOD), El Paso, Texas (ERO El Paso), is responsible for ensuring facility compliance with ICE policies and the Performance-Based National Detention Standards (PBNDS). Full-time supervisory ERO El Paso staff stationed at OCPC consists of an Assistant Field Office Director, (b)(7)e Supervisory Detention and Deportation Officers, a Supervisory Immigration Enforcement Agent, and a Detention Operations Supervisor. Remaining ERO staff at OCPC is comprised of (b)(7) Immigration Enforcement Agents, (b)(7) Deportation Officers (b)(7)e Enforcement Removal Assistants, a Contracting Officer's Technical Representative, and a Detention Service Manager. The Detention Service Manager reports directly to ERO Headquarters (HQ).

The Warden and Deputy Warden are the highest ranking MTC officials at OCPC. MTC supervisory staff consists of (b)(7)e Captain, (b)(7)e Lieutenants, and (b)(7) Sergeants. The remaining MTC staff is comprised of (b)(7)e detention officers, (b)(7) support staff, (b)(7) transportation officers, and (b)(7) security officers.

In June 2011, ODO conducted a CI of the ICE National Detention Standards (NDS) at OCPC. Of the 23 NDS reviewed, 19 were in full compliance. A total of ten deficiencies were identified in the following four areas: Detainee Grievance Procedures (1 deficiency), Staff-Detainee Communication (2), Telephone Access (3), and Use of Force (4). On May 9, 2011, OCPC modified its contract with ICE to conform to the PBNDS. ODO inspected OCPC against the NDS in June 2011, because the facility had not fully transitioned to the PBNDS.

In February 2012, ERO Detention Standards Compliance Unit contractor, the Nakamoto Group, Incorporated, conducted an annual review of the PBNDS at OCPC. OCPC received an overall recommended rating of "Meets Standards" and was found compliant with all 41 standards reviewed.

During this CI, ODO reviewed 16 PBNDS. Eleven standards were confirmed to be fully compliant. Eight deficiencies were identified in the following five standards: Classification System (1 deficiency), Detention Files (2), Grievance System (3), Special Management Units (1), and Staff-Detainee Communication (1). The majority of the eight deficiencies identified were administrative in nature, such as paperwork, logs, and postings, rather than shortcomings with respect to practices and procedures. Specifically, ERO only provides the Form I-213 (Record of Deportable Alien) to MTC personnel for classification. The Form I-213 alone does not contain sufficient information for proper security classifications of detainees. This deficiency was corrected on-site. ERO now provides all required information necessary to complete proper classifications. MTC and ERO staff are re-evaluating the classification of detainees at OCPC to ensure accurate security classification levels have been assigned.

This report details all deficiencies identified by ODO and refers to the specific, relevant sections of the PBNDS. ERO will be provided a copy of this report to assist in developing corrective actions to resolve all identified deficiencies. These deficiencies were discussed with OCPC personnel on-site during the inspection, as well as during the closeout briefing conducted on March 7, 2013.

OCPC maintains an electronic grievance log to document and track all formal grievances submitted by detainees. ODO verified grievance forms are placed in the detention file of each detainee who submits a grievance. The grievance log reflects OCPC received and processed 43 formal grievances between September 2012 and March 2013. Seven grievances pertained to food service, seven pertained to medical, four pertained to facility programs, two pertained to recreation, one pertained to mail, and one pertained to religious services. There were 21 grievances categorized as miscellaneous. The OCPC Grievance Lieutenant maintains and tracks all grievance records, and identifies trends. ODO did not identify any trends or patterns related to grievances.

Medical services at OCPC are provided by MTC. Current medical staffing consists of (b)(7) positions, which include the Health Services Administrator, the Director of Nursing, (b)(7)e registered nurses, (b)(7)e physician assistant, (b)(7)e medical records clerks, (b)(7)e certified nurse assistants, (b)(7)e licensed vocational nurses, (b)(7)e pharmacy manager, (b)(7)e mental health counselors, (b)(7)e administrative clerk, and (b)(7)e dental assistant. MTC also provides a contract physician, a contract psychiatrist, and a contract dentist.

ODO reviewed 27 medical files and confirmed all detainees are medically evaluated and receive a physical examination in a timely manner in accordance with the PBNDS. The process includes a digital chest x-ray to screen for tuberculosis. Results of the chest x-ray are received by the facility within a four-hour timeframe before each detainee is assigned to a housing unit.

Detainees access routine medical care by submitting written medical requests on forms available in English and Spanish. A review of ten detainee medical requests confirmed detainees are evaluated within 24 hours after submitting a medical request.

ODO completed a detainee death review at OCPC in 2008. The cause of death was confirmed as cirrhosis of the liver. There have been no suicide attempts at the facility. Since March 2012, there have been seven suicide watches; each suicide watch resulted from a verbal ideation.

During this CI, there were no detainees on suicide watch. ODO reviewed the OCPC suicide prevention training plan and noted all elements required by the PBNDS are covered. ODO confirmed suicide prevention training for all correctional and medical staff is current. ODO verified OCPC policy requires officers to conduct and document 15-minute checks of detainees placed on suicide watch in accordance with the PBNDS.

OCPC has a designated Sexual Abuse and Assault Prevention and Intervention (SAAPI) Coordinator. Detainees are provided information regarding the SAAPI program during group orientation, in the facility orientation video, via postings in every housing unit, and in the detainee handbook.

Detainees are screened during the intake process for sexual abuse victimization history and predatory history. OCPC separates detainees with a history of predatory or abusive sexual behavior from detainees with a history of victimization. The SAAPI Coordinator stated there were no incidents of sexual abuse or assault in the 12 months preceding this CI

The Administrative Special Management Unit (SMU) and the Disciplinary SMU at OCPC are well lit, temperature-appropriate, and sanitary. ODO reviewed Facility Liaison Visit Checklists, and confirmed ERO officers regularly visit the SMU to interact with detainees and closely monitor the living conditions in the SMU.

Under the OCPC staff-detainee communication policy, detainees can submit written questions, requests, or concerns to OCPC and ERO staff via written request forms available from the on-duty housing officer in each housing area. Detainees are encouraged to request assistance from other detainees or OCPC staff members when completing the forms. The completed request forms, which are available in English and Spanish, are deposited by detainees in a readily accessible lockbox near the dining hall for daily collection by an ERO officer. Detainee requests are electronically logged and responded to within 72 hours of receipt. ERO officers conduct weekly scheduled visits with detainees to address their questions or concerns. Visitation schedules are conspicuously posted in each housing unit. Local policy and procedures also require ERO supervisory and non-supervisory staff to conduct and document unannounced visits with detainees. ODO verified scheduled and unannounced supervisory and non-supervisory staff visits are conducted and documented by ERO staff.

OCPC has a comprehensive written policy governing the use of force. Facility personnel do not use four-point restraints, restraint chairs, or electro-muscular disruption devices. Protective equipment and hand-held video cameras, for use in calculated use of force incidents, are available in three locations within the facility for quick access and accelerated response time. There were no uses of force at OCPC during the 12 months preceding this inspection.

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 PBNDS, as applicable. The PBNDS apply to OCPC. In addition, ODO may focus its inspection based on detention management information provided by ERO HQ and ERO field offices, and on issues of high priority or interest to ICE executive management.

ODO reviewed the processes employed at OCPC 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, the ENFORCE Alien Booking Module, and the ENFORCE Alien Removal Module. ODO also gathered facility facts and inspection-related information from ERO HQ staff to prepare for the site visit at OCPC.

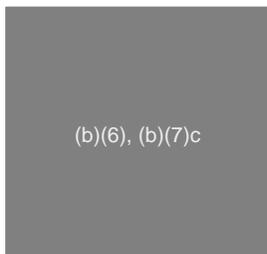
REPORT ORGANIZATION

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 those PBNDS 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 defines a deficiency as a violation of written policy that can be specifically linked to the PBNDS, ICE policy, or 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



Special Agent (Team Leader)	ODO, Phoenix
Detention and Deportation Officer	ODO, San Diego
Special Agent	ODO, Phoenix
Contract Inspector	Creative Corrections
Contract Inspector	Creative Corrections
Contract Inspector	Creative Corrections

OPERATIONAL ENVIRONMENT

INTERNAL RELATIONS

ODO interviewed the Assistant Field Office Director, the Supervisory Immigration Enforcement Agent, the Contracting Officer's Technical Representative, the Detention Service Manager, the MTC Warden, the Deputy Warden, and the MTC Captain. ERO and MTC management stated the working relationship between the two entities is excellent, and the morale of ERO and MTC staff is high.

DETAINEE RELATIONS

ODO interviewed 30 randomly-selected male detainees of all classification levels to assess the overall living and detention conditions at OCPC. ODO inspected the housing units of the detainees and observed them to be orderly and sanitary.

ODO received no complaints concerning access to the law library and legal materials, issuance and replenishment of basic hygiene items, food service, medical care, recreation, religious services, visitation, the grievance system, or access to ICE personnel. All detainees interviewed stated they have not been strip searched, or experienced verbal, physical, or sexual abuse by staff or detainees at OCPC.

ICE PERFORMANCE-BASED NATIONAL DETENTION STANDARDS

ODO reviewed a total of 16 PBNDS and found OCPC fully compliant with the following 11 standards:

- Detainee Handbook
- Disciplinary System
- Environmental Health and Safety
- Emergency Plans
- Food Service
- Hunger Strikes
- Medical Care
- Sexual Abuse and Assault Prevention and Intervention
- Suicide Prevention and Intervention
- Telephone Access
- Use of Force and Restraints

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 five areas:

- Classification System
- Detention Files
- Grievance System
- Special Management Units
- Staff-Detainee Communication

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

CLASSIFICATION SYSTEM (CS)

ODO reviewed the Classification System standard at OCPC to determine if there is a formal classification process for managing and separating detainees based on verifiable and documented data, in accordance with the ICE PBNDS. ODO interviewed staff, reviewed local policies and procedures, and examined detention files and the classification process.

OCPC staff responsible for classifying detainees stated ICE provides only a Form I-213 (Record of Deportable Alien) to aid in the detainee classification process. ODO reviewed 20 active detention files containing the Form I-213 used for classification. Seven of the 20 forms examined by ODO did not list information relevant to current offenses, past offenses, escapes, institutional disciplinary history, documented violent episodes and incidents, medical information, or a history of victimization while in detention (**Deficiency CS-1**). Using appropriate forms that note relevant information pertaining to the history of each detainee ensures a proper security classification and an appropriate housing assignment within the facility. This deficiency was corrected on-site. ERO now provides all required information necessary to complete proper classifications. MTC and ERO management are re-evaluating the classification of detainees at OCPC to ensure accurate security classification levels have been assigned.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY CS-1

In accordance with the ICE PBNDS, Classification System, section (V)(E), the FOD must ensure staff shall use facts and other objective, credible evidence documented in the detainee's A-file, criminal history checks, or work-folder during the classification process. Relevant considerations include current offense(s), past offense(s), escape(s), institutional disciplinary history, documented violent episodes and incidents, medical information, and a history of victimization while in detention. Personal opinion, including opinions based on profiling, familiarity, or personal experience, may not be considered in detainee classification.

As appropriate, ICE/DRO offices shall provide non-ICE/DRO facilities with the relevant information for the facility to classify ICE/DRO detainees. Staff is not to use personal opinion, including assumptions based on familiarity, personal experience, or stereotypes, when classifying detainees.

Classification staff shall utilize translation services when necessary.

Examples of Acceptable Forms and Information

- I-221 - Order to Show Cause (OSC/WA) and Notice of Hearing, with bond conditions (charging documents for aliens in deportation proceedings);
- I-862 - Notice to Appear (charging document for aliens in removal proceedings);
- I-110 and I-122 - Notice to Applicant for Admission, Detained for Hearing before Immigration Judge (charging documents for aliens in exclusion proceedings);
- Form I-203 – *Order to Detain or Release*;
- *Form I-213 - Record of Deportable Alien*;

- All conviction documents relating to charges on Form I-221, I-862, I-110/122, or *I-213* above;
- Criminal History (Rap Sheet) - NCIC/CII/TII, etc.; and
- Any other official record or observation that is verifiable and can be used to complete the classification process as defined in the Detainee Classification System User Manual.

Examples of Unacceptable Sources of Information

- A written or oral account from any interested party unless and until it has been officially confirmed;
- Unconfirmed and unverified information provided by the detainee; and
- The unverified, personal opinion of officers and other personnel.

DETENTION FILES (DF)

ODO reviewed the Detention Files standard at OCPC to determine if files are created containing all significant information on detainees housed at the facility for over 24 hours, in accordance with the PBNDS. ODO reviewed detention files, logbooks, policies, and procedures, and interviewed staff.

ODO reviewed ten active detention files to determine if required documentation was present. In all ten files reviewed, ODO noted staff members created a detention file as part of admissions processing at OCPC; however, officers completing the admissions portion of the detention file failed to note the file had been activated (**Deficiency DF-1**).

OCPC staff maintains a logbook in the processing area containing an Order to Detain or Release Alien (Form I-203) for each released detainee. ODO reviewed ten archived detention files and confirmed all ten files were missing the Form I-203. A notation verifying each file is complete and ready for archiving was also missing (**Deficiency DF-2**).

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY DF-1

In accordance with the ICE PBNDS, Detention Files, section (V)(A)(2), the FOD must ensure the officer completing the admissions portion of the Detention File shall note that the file has been activated. The note may take the form of a generic statement in the Acknowledgment form.

DEFICIENCY DF-2

In accordance with the ICE PBNDS, Detention Files, section (V)(E)(1-2), the FOD must ensure:

1. Upon the detainee's release from the facility, staff shall add final documents to the file before closing and archiving it after inserting:
 - Detention file copies of completed release documents,
 - The original closed-out receipts for property and valuables, and
 - The original I-385 and other documentation.
2. The officer closing the Detention File shall make a notation (on the Acknowledgement form, if applicable) that the file is complete at ready for archiving.

GRIEVANCE SYSTEM (GS)

ODO reviewed the Grievance System standard at OCPC 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 PBNDS. ODO interviewed staff and reviewed local policies and procedures, the detainee handbook, detention files, and grievance logs to ascertain the level of compliance with the standard.

Facility officials encourage ICE detainees to resolve grievances informally; however, detainees can pursue a formal grievance at any time. Detainees are able to appeal a grievance decision through a second step grievance, and policies exist to prevent retaliation. A Grievance Officer maintains a grievance log to track the grievance process, and policies exist to ensure allegations of staff misconduct are reported to ICE officials. ODO verified copies of detainee grievances and documentation of the resolutions for those grievances are maintained in individual detention files, and a copy is provided to the detainee.

OCPC staff receives pre-service training and in-service training in identifying and responding to emergency grievances. The facility handbook provides information to detainees regarding emergency grievances; however, OCPC has no protocol requiring elevation of emergency grievances to the immediate attention of the facility administrator (**Deficiency GS-1**).

ICE detainees may file grievances regarding any issue, including issues involving medical care. All grievances, including medical grievances, are collected by the OCPC Grievance Officer. Once the Officer determines the grievance to be of a medical concern, the Grievance Officer routes the grievance to medical personnel for further action. This process does not allow formal written grievances regarding medical care to be submitted directly to medical personnel (**Deficiency GS-2**).

According to OCPC policy and procedure, a detainee wishing to appeal a medical grievance decision must appeal it to the Warden within five days of receipt of the initial grievance decision. There is no provision for a detainee to appeal a medical grievance to a medical professional (**Deficiency GS-3**).

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY GS-1

In accordance with the ICE PBNDS, Grievance System, section (V)(C)(2), the FOD must ensure the protocol for emergency grievance procedures shall bring the matter to the immediate attention of the facility administrator, even if it is later determined that it is not a true emergency and the grievance is subsequently routed through normal, non-emergency channels.

DEFICIENCY GS-2

In accordance with the ICE PBNDS, Grievance System, section (V)(C)(3), the FOD must ensure formal written grievances regarding medical care shall be submitted directly to medical personnel designated to receive and respond to medical grievances at the facility.

DEFICIENCY GS-3

In accordance with the ICE PBNDS, Grievance system, section (V)(D), the FOD must ensure, in the case of medical grievances, each facility shall establish procedures for appeal of a denial by medical personnel. An additional level of appeal by medical personnel shall be available to the detainee. All appeals of formal medical grievances and responses shall be reported to ICE/DRO.

SPECIAL MANAGEMENT UNITS (SMU)

ODO reviewed the Special Management Units standard at OCPC to determine if the facility has procedures in place to temporarily segregate detainees for disciplinary and administrative reasons, in accordance with the ICE PBNDS. ODO reviewed SMU logs, facility policy, and procedures; interviewed OCPC and ICE personnel; and inspected the SMU housing units.

OCPC maintains an SMU to house detainees from the general population for medical quarantine, disciplinary infractions, gang affiliation, and other situations requiring segregation. OCPC does not place detainees in the SMU without a valid segregation order and supervisory approval. Prior to placement in the SMU, medical officials screen detainees to provide a medical assessment. Detainees in administrative segregation are housed separately from detainees in disciplinary segregation.

OCPC management maintains meticulous logs regarding all activity for each detainee housed in the SMU. The logs record served meals, recreation, law library use, telephone use, medical visits, and visitation by OCPC and ICE staff. Medical actions are recorded in a separate logbook in compliance with the standard.

SMU rooms are sanitary, well lit, adequately ventilated, and appropriately climate controlled. All beds are securely fastened to the floor and pose no threat to the safety of confined detainees. Cells are designed for double occupancy, and facility policy allows the facility administrator to place more than one occupant in a cell during exigent circumstances. OCPC policy and procedure does not require the facility administrator to consult with the ERO HQ Detention Management Division prior to approving additional cell occupants, which would provide ERO HQ an opportunity to consult with DHS or ICE legal counsel, as required by the standard (**Deficiency SMU-1**). Per the PBNDS, if a decision is made to approve additional cell occupancy, a report of the action is to be filed with the facility and with the ICE Field Office Director.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY SMU-1

In accordance with the ICE PBNDS, Special Management Units, section (V)(B)(3), the FOD must ensure, under exigent circumstances, before approving any additional cell occupancy on a temporary basis, the facility administrator shall consult with HQ DRO's Detention Management Division, who shall consult with DHS/ICE legal counsel. If a decision is made to approve such additional cell occupancy, a report of the action should be filed with the facility and with the ICE Field Office Director.

STAFF-DETAINEE COMMUNICATION (SDC)

ODO reviewed the Staff-Detainee Communication standard at OCPC to determine if procedures are in place to allow formal and informal contact between detainees and key ICE and OCPC 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 PBNDS. ODO reviewed facility liaison logs, telephone serviceability worksheets, and facility policy and procedures, and interviewed staff and detainees to determine the level of compliance with the standard.

Local policy and procedures require ERO supervisory and non-supervisory staff to conduct and document unannounced visits with detainees. ODO verified scheduled and unannounced supervisory and non-supervisory staff visits are conducted and documented by ERO staff to monitor and observe detainee living areas, the SMU, food service, recreation, and the medical unit. During these visits, ERO officers complete the Facility Liaison Visit Checklist and the Telephone Serviceability Worksheet in compliance with the Change Notice, National Detention Standards, Staff/Detainee Communication, Model Protocol, dated June 15, 2007. Officers note the names and alien numbers of interviewed detainees.

Detainees receive information regarding staff-detainee communication via the detainee handbook, an orientation video, and postings in each detainee housing area. Under the OCPC staff-detainee communication policy, detainees can submit written questions, requests, or concerns to OCPC and ERO staff via written request forms available from the on-duty housing officer in each housing area. Detainees are encouraged to request assistance from other detainees or OCPC staff members when completing the forms. The completed request forms, which are available in English and Spanish, are deposited by detainees in a readily accessible lockbox near the dining hall for daily collection by an ERO officer. Detainee requests are electronically logged and responded to within 72 hours of receipt. ERO officers conduct weekly scheduled visits with detainees to address their questions or concerns. OCPC personnel ensure visitation schedules and DHS Office of the Inspector General Hotline information are conspicuously posted in each housing unit.

ODO verified through inspection of a random sampling of 20 detention files that ICE officials responded timely to all detainee requests. ICE officials retain a copy of each detainee request and provide the detainee a copy of the response. OCPC management also places a copy in the individual detention file. ERO officials maintain all detainee requests in a comprehensive electronic database that complies with the standard.

ODO confirmed OCPC has procedures in place to encourage and facilitate staff-detainee communication between detainees and ICE staff; however, there is no written policy at OCPC directing that detainee requests be promptly routed and delivered to the appropriate ERO official by authorized personnel (not detainees) without reading, altering or delaying the individual requests (**Deficiency SDC-1**).

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY SDC-1

In accordance with the ICE PBNDS, Staff-Detainee Communication, section (V)(B), the FOD must ensure each facility administrator shall: Have written procedures to promptly route and deliver detainee requests to the appropriate ICE/DRO officials by authorized personnel (not detainees) without reading, altering, or delaying.