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Office of Detention Oversight Compliance Inspection

Enforcement and Removal Operations
Chicago Field Office
Tri-County Justice and Detention Center
Ullin, Illinois

June 26 – 28, 2012

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**COMPLIANCE INSPECTION
TRI-COUNTY JUSTICE AND DETENTION CENTER
CHICAGO 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 Tri-County Justice and Detention Center (TCJDC) in Ullin, Illinois, from June 26-28, 2012. TCJDC, which opened in 1998, is owned by Pulaski County and operated by Paladin Eastside Psychological Services, Inc. (Paladin). U.S. Immigration and Customs Enforcement (ICE), Office of Enforcement and Removal Operations (ERO) began housing detainees at TCJDC in 2004 under an Intergovernmental Service Agreement (IGSA) between the U.S. Marshals Service (USMS) and TCJDC. In December 2010, Pulaski County entered into a new IGSA with ICE to house male and female ICE detainees of all security classification levels (Level I – lowest threat; Level II – medium threat; Level III – highest threat) for periods in excess of 72 hours. TCJDC has a total capacity of 275, with a maximum accommodation for ICE detainees of 234. At the time of the CI, the facility housed 210 male ICE detainees. The average daily detainee population is 202. The average length of stay is 20 days. Additional bed space at TCJDC is reserved for prisoners received from area law enforcement jurisdictions. Paladin provides both medical care and food services. The facility holds no accreditations.

The ICE ERO Field Office Director, Chicago, Illinois (FOD Chicago), is responsible for ensuring facility compliance with ICE policies and the ICE Performance Based National Detention Standards (PBNDS). ICE has no personnel stationed at the facility. An Assistant Field Office Director (AFOD) located at the FOD Chicago office has responsibility over all detention facilities in the FOD Chicago area of responsibility, which includes TCJDC. Weekly scheduled and unscheduled visits are conducted by an ICE Immigration Enforcement Agent (IEA) stationed at the ERO office in St. Louis, Missouri. An ERO Detention Service Manager (DSM) assigned to TCJDC visits the facility two to three times each month to monitor facility compliance with the PBNDS.

The Warden is the highest ranking official at TCJDC and is responsible for oversight of daily operations. In addition to the Warden, supervisory staff at TCJDC includes (b)(7)e Captain, (b)(7)e Lieutenants, (b)(7)e Sergeants, and (b)(7)e Transportation Supervisor. TCJDC non-supervisory staff is composed of (b)(7)e Corrections Officers. Paladin medical staff consists of a Health Services Administrator (HSA) (b)(7)e registered nurse (RN), (b)(7)e licensed practical nurses (LPN), and a certified medical technician (CMT). Contracted personnel include a physician, a psychiatrist, a dentist, and an advanced nurse practitioner (ANP). Paladin food service staff consists of (b)(7)e full-time personnel: (b)(7)e Food Service Manager and (b)(7)e cook supervisors.

In June 2010, ODO conducted a Quality Assurance Review (QAR) at TCJDC pursuant to the ICE National Detention Standards (NDS). ODO determined TCJDC to be in full compliance with eight of the 29 standards reviewed. The remaining 21 standards accounted for 39 deficiencies.

In December 2010, TCJDC transitioned from the NDS to the PBNDS.

In April 2011, ODO conducted a Follow-up Inspection of the 39 deficiencies identified during the June 2010 QAR. ODO identified 13 repeat deficiencies.

In February 2012, ERO Detention Standards Compliance Unit (DSCU) contractor, Nakamoto Group, Inc., conducted an Annual Review of the PBNDS at TCJDC. The facility was found to be in compliance with 39 of the 40 standards reviewed. The Annual Review team determined TCJDC did not meet the Medical Care standard due to non-compliance with one mandatory component of this standard. Observation of actual practice by medical staff revealed no daily inventory of needles and syringes was being conducted, no perpetual inventory of needles and syringes was being maintained, and no inventory of needles and syringes placed and kept in the medication cart was being kept. These deficiencies were corrected prior to completion of the February 2012 ERO Annual Review.

During this CI, ODO reviewed 17 PBNDS. Seven standards were fully compliant, while 20 deficiencies were found in the following ten standards: Disciplinary System (1 deficiency), Environmental Health and Safety (1), Food Service (2), Funds and Personal Property (2), Grievance System (3) Medical Care (2), Recreation (1), Special Management Units (2), Telephone Access (1), and Use of Force and Restraints (5).

This report details all deficiencies and refers to specific, relevant sections of the PBNDS. ERO will be provided a copy of the report to assist in developing corrective actions to resolve the 20 identified deficiencies. These deficiencies were discussed with TCJDC personnel on-site during the inspection, as well as during the closeout briefing conducted on June 28, 2012.

Overall, ODO found TCJDC orderly, well-managed, and in compliance with the standards reviewed. Many of the deficiencies identified were administrative in nature, with minimal impact to life-safety issues, as well as the overall operational readiness and security of the facility. Deficiencies requiring immediate attention were identified in the areas of Recreation and Use of Force and Restraints. Specifically, the facility's exercise areas do not have a variety of equipment as specified by the PBNDS. Interviews with TCJDC management staff confirmed after-action reviews are not conducted following use of force incidents. Details of these deficiencies are described in the corresponding standards contained in this report.

ICE detainees are classified by ICE prior to arrival at TCJDC. During the admission process, all detainees receive and sign for an ICE National Detainee Handbook and a facility-specific handbook, which are available in both English and Spanish. Excess and prohibited property is properly inventoried and stored. Detainees are allowed a minimal amount of personal items to keep in their possession and are given bins for storage of these items in the housing unit; however, in two housing units, ODO observed detainees did not have a designated storage area for their personal property. After being alerted to this issue, TCJDC management, issued storage bins to the affected detainees.

Medical services are provided under contract by Paladin. Medical care is well-managed, and the clinic is adequately staffed. The HSA is an RN, and is designated as the clinical medical authority. The HSA is on-site 40 hours per week and is on-call during non-business hours. The ANP is the clinical provider responsible for making clinical decisions, developing treatment plans, and managing the health care needs of detainees. The contract physician, who is available for consultation purposes and reviews orders from the ANP, is on-site six to eight hours per month to see detainees referred by the ANP and to review chronic care management. Nursing

coverage is provided 24 hours a day, seven days a week. ODO confirmed a language service is used for non-English speaking detainees.

TCJDC has a memorandum of understanding (MOU) with Union County Hospital (UCH) for inpatient services beyond the scope of the services offered by TCJDC. The MOU also covers out-patient services such as laboratory tests and radiology. Pharmacy services are provided by a contract pharmacy whose pharmacist provides quarterly monitoring of pharmacy services and the pharmaceutical practices of providers.

The ODO inspection confirmed all chemicals, flammables, and combustible materials are stored and issued as required. Material Safety Data Sheets are maintained in the safety office and are reviewed semi-annually. Throughout the facility, sanitation is maintained at an acceptable level; however, inspection of the detainee housing units revealed no trash receptacles were available for discarding trash. Instead, plastic garbage bags are provided. ODO observed these plastic bags under detainee bunks and hanging from stair rails.

The food service area is well-managed and was observed to be clean and orderly. Detainees are fed via a satellite system involving preparation of meals in the food service area and delivery to housing units on thermal trays. All menus are certified by a registered dietitian. Religious and medically-prescribed meals are provided and properly documented; however, the facility did not have a special menu for the ten federal holidays.

Detainees have the opportunity to file informal and formal grievances, and to appeal grievance decisions. Grievance forms are available within the housing units. TCJDC staff attempts to resolve all grievances at the lowest level possible. Detainees are free to bypass the informal grievance process and proceed directly to the formal grievance process.

ICE staff conducts regular scheduled, unscheduled, and unannounced visits on a weekly basis at TCJDC to monitor facility and detainee living conditions, address detainee concerns, and allow for informal interaction with detainees. ERO supervisory visits occur on a weekly basis, and ODO confirmed through staff interviews and facility visitation logbooks that the FOD and AFOD visit the facility at least once per year. The most recent visit occurred in January 2012. All ICE visits are documented in the facility's visitor logbook and separately by ERO. ICE visitation schedules are posted in the housing units. ODO verified detainees are able to submit written requests and questions to ICE using request forms available within the housing units; responses to written requests were timely.

ODO observed the Special Management Unit to be sanitary, well-lit, and well-ventilated. At the time of the CI, there were no detainees in administrative or disciplinary segregation.

ODO confirmed there were four use-of-force incidents involving ICE detainees during the twelve months preceding the ODO inspection. Because documentation does not categorize force incidents as immediate or calculated, ODO reviewed reports and identified one immediate use of force incident and three calculated use of force cell extractions. Medical personnel were not contacted in advance of any of the three calculated force incidents, as required by the PBNDS. An immediate use of force situation is created when a detainee's behavior constitutes a serious

and immediate threat to self, staff, another detainee, property, or the security and orderly operation of the facility. In that situation, staff may respond without a supervisor's direction or presence. A calculated use of force occurs when a detainee is in a location where there is no immediate threat to the detainee or others. Based on interviews and inspection, ODO determined procedures are not in place to assure audiovisual recording equipment is routinely inspected and tested to assure operability. No use-of-force packets contained documentation of after-action reviews to assess the reasonableness of force and its application, to include viewings of audiovisual recordings. Interviews with the Captain and Warden confirmed after-action reviews are not conducted

Although detainees receive adequate daily outdoor recreation, exercise and recreational equipment is limited. Exercise equipment in the indoor recreation area consisted of a basketball goal and a basketball. Prior to completion of the CI, two soccer balls and two basketballs were purchased. Detainees have access to religious programs, telephones, a law library, and are provided adequate visitation opportunities.

INSPECTION PROCESS

ODO inspections evaluate the welfare, safety, and living conditions of detainees. ODO primarily focuses on areas of noncompliance with the NDS or the PBNDS, as applicable. The PBNDS apply to TCJDC. In addition, ODO may focus its inspection based on detention management 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 TCJDC 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 TCJDC.

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 ongoing 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 PBNDS, ICE policy, or operational procedure. OPR defines an area of concern as something that may lead to or risk a violation of 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

(b)(6), (b)(7)c

Special Agent (Team Leader)
Special Agent
Special Agent
Contract Inspector
Contract Inspector
Contract Inspector

ODO, Chicago
ODO, Houston
ODO, Houston
Creative Corrections
Creative Corrections
Creative Corrections

OPERATIONAL ENVIRONMENT

INTERNAL RELATIONS

ODO interviewed the Warden, the Captain, a Lieutenant, and (b)(7)c Supervisory Detention and Deportation Officers (SDDO). During the interviews, all personnel stated the working relationship between TCJDC and ICE is excellent, and morale is high.

The Warden and the Captain stated the staffing level at TCJDC is sufficient to handle the current ICE detainee population. The Warden and the Captain stated they observe ICE staff visiting the housing units and communicating with detainees to address their questions and concerns at least once a week.

Each SDDO stated TCJDC staff accommodates ICE. ICE staff stated the FOD Chicago has implemented a process, including a schedule, to ensure regular weekly visits by ICE officers and weekly supervisory-level visits to TCJDC.

DETAINEE RELATIONS

ODO interviewed 18 randomly selected detainees to assess the overall living and detention conditions at TCJDC. All detainees stated they were treated with dignity and respect by TCJDC staff. ODO received no complaints concerning access to the law library, issuance and replenishment of clothing and hygiene supplies, sending and receiving mail, visitation privileges, access to religious services, food service, or the grievance process. There were no complaints regarding the quality of medical services or facility sanitation.

Each detainee stated outdoor recreation is offered seven days a week, weather permitting. Six detainees noted a lack of equipment and recreational choices. All detainees stated they received a facility-specific detainee handbook, as well as the ICE National Detainee Handbook.

Five detainees did not know the identity of their assigned Deportation Officer (DO); however, four of the five stated they knew how to contact their DO. ODO verified that DO names and telephone numbers, as well as an ICE visitation schedule, are posted in the housing units. All detainees stated ICE staff visit their respective housing units a minimum of one time each week. Each detainee stated requests to ICE are responded to in a timely manner and requests made to facility staff are handled immediately.

ICE PERFORMANCE BASED NATIONAL DETENTION STANDARDS

ODO reviewed a total of 17 PBNDS and found TCJDC fully compliant with the following seven standards:

- Admission and Release
- Classification System
- Detainee Handbook
- Law Libraries and Legal Materials
- Personal Hygiene
- Staff-Detainee Communication
- Suicide Prevention and Intervention

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

ODO found deficiencies in the following ten standards:

- Disciplinary System
- Environmental Health and Safety
- Food Service
- Funds and Personal Property
- Grievance System
- Medical Care
- Recreation
- Special Management Units
- Telephone Access
- Use of Force and Restraints

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

DISCIPLINARY SYSTEM (DS)

ODO reviewed the Disciplinary System standard at TCJDC 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 PBNDS. ODO interviewed staff, reviewed policies and the detainee handbook, and examined disciplinary files.

The disciplinary system at TCJDC includes progressive levels of review and appeal procedures. Prohibited acts are divided into four severity categories: greatest, high, moderate, and low. ODO verified the detainee handbook describes rules of conduct, the disciplinary system, and detainee rights and responsibilities. An interview with the Discipline Hearing Officer confirmed the facility's disciplinary policy reflects current practices and compliance with procedural requirements of the PBNDS; however, the disciplinary policy was last reviewed on December 18, 2010 (**Deficiency DS-1**). Annual review of policy, procedures and rules ensures procedures are accurately codified in policy, and this analysis can determine whether changes are necessary.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY DS-1

In accordance with the ICE PBNDS, Disciplinary System, section (V)(A)(2), the FOD must ensure each facility holding ICE/DRO detainees in custody shall have a detainee disciplinary system with progressive levels of reviews, appeals, procedures, and documentation procedures. Written disciplinary policy and procedures shall clearly define detainee rights and responsibilities. The policy, procedures and rules shall be reviewed at least annually.

ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

ODO reviewed the Environmental Health and Safety standard at TCJDC 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 PBNDS. ODO toured the facility, interviewed staff, and reviewed policies and documentation of inspections, hazardous chemical management, pest control, generator testing, and fire prevention and control procedures.

The ODO inspection confirmed all chemical, flammable, and combustible materials are stored and issued as required. Hazardous substances are strictly controlled, and a master index of chemicals and Material Safety Data Sheets are maintained in the safety office and reviewed semi-annually. Documentation confirms monthly fire drills are conducted on each shift, and include drawing and testing emergency keys for operability. Weekly and monthly safety inspections are conducted for all areas of the facility. Pest control invoices and reports for water testing are current. Barbering services are conducted in a designated area, and hair care sanitation regulations are posted. The facility's emergency generators are tested on a quarterly basis by an external service company. Internal testing of the facility's emergency generators is conducted every week for 60 minutes, which exceeds the PBNDS requirement for bi-weekly testing.

Sanitation is at an acceptable level throughout the facility; however, inspection of detainee housing units found no waste containers available for discarded trash (**Deficiency EH&S-1**). ODO observed plastic garbage bags underneath detainee bunks and hanging from stair rails. Non-combustible, non-porous waste containers help prevent pest infestation, contain fires, and support overall sanitation in the units. ODO notes this deficiency was also identified during the annual Fire Marshal inspection conducted on December 21, 2011, by the Office of the Illinois State Fire Marshal, Fire Prevention Division. The Safety Manager stated the Warden is aware of the issue, but has not announced how it will be addressed.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY EH&S-1

In accordance with the ICE PBNDS, Environmental Health and Safety, section (V)(C)(6), the FOD must ensure waste containers shall be non-porous and lined with plastic bags and the liner shall be changed daily.

FOOD SERVICE (FS)

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

The food service department is staffed by (b)(7)e CJDC employees: (b)(7)e Food Service Manager and (b)(7)e Cook Supervisors. (b)(7)e CE detainee volunteer workers are assigned to food service. ODO verified food service staff and detainee workers receive medical clearances and are properly trained in food service operations. TCJDC has a satellite system of meal service involving food preparation in the kitchen and delivery to housing units on trays via carts. Staff members conduct food temperature checks on the serving line and during tray make-up. ODO confirmed food temperatures met the requirements of the standard. Food service staff and detainee workers wear hair restraints and beard guards. ODO found the food served was acceptable and portions were adequate.

Southern Seven Health Department found TCJDC fully compliant with Illinois food service regulations during its annual inspection. The Southern Seven Health Department is the Public Health Authority for seven Illinois counties, including Pulaski (where TCJDC is located). ODO confirmed all areas of the food service department were clean and well organized. Pest control inspections and treatments are conducted on a monthly basis by an outside contractor. Cleaning schedules are posted in all areas of the food service department. ODO verified the food service area is inspected on a weekly basis by food service staff and on a monthly basis by the Safety Manager. However, the food service policy does not address inspections of the food service area (**Deficiency FS-1**). During the inspection, ODO recommended revision of the policy to address inspections of the food service area. TCJDC management stated the food service policy would be amended to include food service area inspections.

TCJDC uses the first-in-first-out stock rotation method to assure freshness of food items. A five-week menu cycle is in place for rotation of meals. ODO verified that a registered dietician completes a nutritional analysis and a statement of nutritional adequacy for all menus. Records of substitutions are recorded on a Menu Substitution Log Sheet, which is reviewed by the Food Service Manager. Procedures are in place to ensure special diets are provided to detainees, and documentation of approval and removal from special diets is maintained. ODO confirmed the facility does not have a special menu for any of the ten federal holidays (**Deficiency FS-2**).

STANDARD/ POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY FS-1

In accordance with the ICE PBNDS, Food Service, section (V)(J)(13), the FOD must ensure the facility shall implement written procedures requiring administrative, medical, and/or dietary personnel to conduct the weekly inspections of all food service areas, including dining, storage, equipment, and food-preparation areas.

DEFICIENCY FS-2

In accordance with the ICE PBNDS, Food Service, section (V)(G)(2), the FOD must ensure Common Fare is intended to accommodate detainees whose religious dietary needs cannot be met on the mainline. The Common Fare menu is based on a 14-day cycle, with special menus for the 10 Federal holidays. The menus must be certified as exceeding minimum daily nutritional requirements and meeting daily allowances (RDAs). Beverages shall be selected from the regular menu.

FUNDS AND PERSONAL PROPERTY (F&PP)

ODO reviewed the Funds and Personal Property standard at TCJDC to determine if controls are in place to inventory, receipt, store, and safeguard detainees' personal property, in accordance with the ICE PBNDS. ODO reviewed policies, procedures, and the facility detainee handbook; interviewed staff; and inspected areas where property is secured.

The property storage area at TCJDC is clean and organized. It is located in the admission and release area behind a locked door, and is only accessible to supervisory staff and the Warden. The area is staffed 24 hours a day. All detainee property bags are clearly marked documenting the name and Alien Number of each detainee. Any abandoned property is turned over to ICE. TCJDC conducts quarterly audits of the personal property and documents the audits on a local established property form.

The TCJDC detainee handbook does not provide notice to detainees of facility policies and procedures for requesting an ICE-certified copy of identity documents placed in their Alien Files, the rules for mailing property not allowed in their possession, or the procedure for claiming property upon release (**Deficiency F&PP-1**). Although storage bins are provided to detainees for storage of personal property, ODO observed TCJDC did not provide storage bins or a designated storage area for the personal property of detainees held in housing units D and E (**Deficiency F&PP-2**). After being informed of this issue, TCJDC management stated this was an oversight on their part and immediately instructed facility staff to issue storage bins to the affected detainees.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY F&PP-1

In accordance with the ICE PBNDS, Funds and Personal Property, section (V)(C), the FOD must ensure the detainee handbook or equivalent shall notify the detainees of facility policies and procedures concerning personal property, including [among others]:

- That, upon request, they shall be provided a ICE/DRO-certified copy of any identity document (passport, birth certificate, etc.) placed 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.

DEFICIENCY F&PP-2

In accordance with the ICE PBNDS, Funds and Personal Property, section (V)(E)(4), the FOD must ensure, for each housing area, the facility administrator shall designate a storage area for storing detainee personal property.

GRIEVANCE SYSTEM (GS)

ODO reviewed the Grievance System standard at TCJDC 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 policies, grievance logs, detention files, and the facility's local handbook.

Review of the grievance process at TCJDC showed there were no systemic problems with regard to the facility responding to and processing grievances. Grievances are appropriately logged, to include the date the grievance was received, the nature of the grievance, and the date a response was provided. A total of 35 grievances were filed from January through June 2012. All grievances were acted upon in a timely manner. ODO reviewed 20 randomly-selected detainee detention files and confirmed copies of these grievances were placed in detainee detention files. All grievances are maintained by the designated Grievance Officer and documented in a logbook. Grievances regarding food service and medical care are forwarded to those respective departments.

Upon admission to TCJDC, detainees are provided a facility handbook, as well as the National Detainee Handbook. Review of the facility detainee handbook determined the handbook does not contain instructions for filing emergency grievances, does not provide procedures for contacting ICE to appeal facility decisions, and does not state that detainees will not be subjected to retaliation for filing a grievance or contacting the Office of Inspector General (OIG) **(Deficiency GS-1)**. ODO noted that the facility policy manual contains these requirements and is provided to staff for reference and review.

ODO reviewed TCJDC policy regarding documentation of informal oral grievances. At the time of review, facility personnel stated there is no system available for documenting such grievances. ODO advised staff that informal oral grievances must be logged, and documentation referencing the grievances must be placed in the detainees' detention files **(Deficiency GS-2)**.

The facility policy manual states, if a grievance is not resolved to the satisfaction of the detainee, staff shall note in detail the reasons on the grievance form and shall refer the written grievance to the next level within 15 working days of receipt. ODO advised facility staff, grievances that are not resolved should be referred to the next level of supervision within 5 working days of receipt **(Deficiency GS-3)**.

Nineteen of the total of 35 grievances filed from January 2012 through June 2012 were general in nature and included a variety of issues, such as complaints regarding phone cards, receipt of mail, and problems with the television remote. Eleven grievances were related to food service, and five were minor complaints against staff not involving alleged misconduct. No grievances were appealed during this period. ODO confirmed there were no medical grievances filed by ICE detainees within the specified time period.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY GS-1

In accordance with the ICE PBNDS, Grievance System, section (V)(B), the FOD must ensure the facility shall provide each detainee, upon admittance, a copy of the Detainee Handbook / local supplement, in which the grievance section provides notice of [among others]:

- The process for filing emergency grievances.
- The procedures for contacting ICE/DRO to appeal a decision in a CDF or IGSA facility.
- The policy prohibiting staff from harassing, disciplining, punishing, or otherwise retaliating against any detainee for filing a grievance or contacting the Inspector General.

DEFICIENCY GS-2

In accordance with the ICE PBNDS, Grievance System, section (V)(C)(1), the FOD must ensure, if an oral grievance is resolved, the employee need not provide the detainee written confirmation of the outcome but shall document the result for the record in the detainee's Detention File and in any logs or data systems the facility has established to track such actions.

DEFICIENCY GS-3

In accordance with the ICE PBNDS, Grievance System, section (V)(C)(3)(2)(e), the FOD must ensure, if the grievance cannot be resolved to the satisfaction of the detainee, the supervisor shall so annotate in detail the reasons on the grievance form and refer the written grievance to the next level of supervision in his or her chain of command or to the appropriate department head within five working days of receipt.

MEDICAL CARE (MC)

ODO reviewed the Medical Care standard at TCJDC to determine if detainees have access to healthcare and emergency services to meet health needs in a timely manner, in accordance with the ICE PBNDS. ODO toured the clinic, observed sick call, reviewed policies and procedures, examined 36 medical records, verified medical staff credentials, and interviewed medical clinic, facility, and training staff.

Medical services are provided under contract with Paladin. The HSA is an RN whose position description designates her as the clinical medical authority. The HSA is on-site 40 hours per week, and is on-call during non-business hours. A part-time ANP is the clinical provider responsible for making clinical decisions, developing treatment plans, and managing detainees' health care needs. A physician is available for consultation purposes and reviews orders from the ANP, which are brought to him in his community office. In addition, the physician is on-site six to eight hours per month to see detainees referred to him by the ANP and review chronic care management. Nursing coverage is provided 24 hours a day by an additional RN and (b)(7)e LPNs. A CMA is responsible for medication administration. Review of the CMA's personnel file confirmed certification in medication administration and routine evaluation of her performance by the HSA. Dental care is provided by a contract dentist who also trains nursing staff in dental assessment. All medical staff credentials, professional and prescriptive licenses, and cardiopulmonary resuscitation (CPR) certifications are current and verified. Review of (b)(7)e custody staff training records confirmed current certification in CPR, first aid, and use of the Automated External Defibrillator (AED). ODO confirmed a language service is used for non-English speaking detainees.

TCJDC has an MOU with UCH for inpatient services beyond the scope of the services available at TCJDC. In addition, the MOU covers out-patient services, such as laboratory tests and radiology. Pharmacy services are provided by a contract pharmacy whose pharmacist provides quarterly monitoring of pharmacy services and the pharmaceutical practices of providers. Pharmaceuticals are stored in a double-locked room with solid walls extending from floor to ceiling. Current Drug Enforcement Administration (DEA) licenses are noted for all providers. ODO verified the stock and working inventories of needles and syringes are current.

ICE Health Service Corps (IHSC) forms are used to document medical and mental health intake screenings and physical examinations (PE). ODO verified that in all 36 medical records reviewed, medical and mental health intake screenings were conducted by nursing staff when detainees arrive at TCJDC. Testing for tuberculosis (TB) was completed by way of a Purified Protein Derivative (PPD) skin test. Detainees with a history of positive PPD tests are isolated pending completion of a chest X-ray to rule out the presence of active TB. Detainees with active TB are transferred to UCH for housing and treatment, because TCJDC does not have a negative pressure room for isolation.

An RN performs each PE. ODO verified every RN has documented training in conducting a PE, and every PE is hands-on, in conformance with the PBNDS and IHSC performance improvement criteria. The record review found one PE conducted 18 days after a detainee's arrival at the facility, which is outside the 14 day PBNDS requirement (**Deficiency MC-1**).

Access to medical services is explained to detainees during the intake screening process and is also described in the detainee handbook. Detainees access medical services by completing sick call request forms printed in English and Spanish, and placing them in locked boxes in the housing units. Nurses retrieve and triage the requests, and hold sick call within 24 to 48 hours. Contact is made with the ANP for consultation purposes, if necessary. TCJDC management stated the ANP and HSA are currently formulating a set of nursing protocols to support the efficiency of the sick call process.

TCJDC management holds quarterly administrative meetings with facility department heads and medical staff; however, review of meeting agendas found three of the five minimum topics required by the PBNDS were not included. Discussions of health environment factors that may need improvement, review and discussion of communicable disease and infectious control activities, and changes affected since the previous meeting are not among the topics of discussion (**Deficiency MC-2**). Inter-disciplinary discussion of the issues identified in the standard supports effective delivery of health care services.

ODO notes the facility's policy on management of communicable and infectious diseases does not address notification of Varicella diagnoses to the ICE Headquarters Epidemiology Unit. Though there have been no Varicella cases at TCJDC, ODO recommends modification of the policy to support compliance with the standard in the event of any future diagnosis of Varicella. ODO further notes that at the time of the review, TCJDC did not have a Clinical Laboratory Improvement Amendments (CLIA) waiver for laboratory tests performed at the facility. The CLIA are established federal regulatory standards governing clinical laboratory testing, defined as any test on specimens derived from humans for the purpose of providing information for the diagnosis, prevention, or treatment of disease, and assessment of health. A CLIA waiver is required for any test performed in a correctional facility, including urine test by dipstick, and glucose monitoring using a glucometer. During the review, TCJDC management submitted an electronic request for a CLIA waiver.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY MC-1

In accordance with the ICE PBNDS, Medical Care, section (V)(J), the FOD must ensure each facility's health care provider shall conduct a health appraisal including a physical examination on each detainee within 14 days of the detainee's arrival unless more immediate attention is required due to an acute or identifiable chronic condition, in accordance with the most recent ACA Adult Local Detention Facility standards for Health Appraisals. If there is documentation of one within the previous 90 days, the facility health care provider upon review may determine that a new appraisal is not required.

DEFICIENCY MC-2

In accordance with the ICE PBNDS, Medical Care, section (V)(X)(1), the FOD must ensure the administrative health authority shall convene a meeting at least quarterly and include other facility and medical staff as appropriate. The meeting agenda shall include, at a minimum:

- An account of the effectiveness of the facility health care program;

- Discussions of health environment factors that may need improvement;
- Review and discussion of communicable disease and infectious control activities;
- Changes effected since the previous meetings; and,
- Recommended corrective actions, as necessary.

RECREATION (R)

ODO reviewed the Recreation standard at TCJDC to determine if detainees are provided access to recreational programs and activities within the constraints of a safe and secure environment, in accordance with the ICE PBNDS. ODO interviewed detainees and staff, toured the indoor and outdoor recreation areas, and examined recreation logs and files.

Detainees have daily opportunities to participate in leisure-time activities, such as reading, watching television, and playing board games in housing unit dayrooms. Weather-permitting, detainees may participate in outdoor recreation for one hour each day. The outdoor recreation area consists of a fenced in area with unencumbered space, to include an open recreation area and a wide L-shaped walkway.

ODO observed the outdoor recreation area while in use by one housing unit holding 54 detainees. The only outdoor recreation equipment provided to detainees was a soccer ball. Inspection of the indoor recreation area found natural light and fresh air is available through a large, fenced opening in the upper portion of the outside wall. This opening is controlled by a large garage-type door, which is opened when the area is in use. A basketball goal and a basketball were the only exercise equipment provided to detainees in the indoor recreation area (**Deficiency R-1**). Prior to completion of the review, TCJDC management purchased two soccer balls and two basketballs for use by detainees.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY R-1

In accordance with the ICE PBNDS, Recreation, section (V)(D)(2), the FOD must ensure exercise areas shall offer a variety of equipment. Weight training, if offered, must be limited to fixed equipment. Free weights are prohibited.

SPECIAL MANAGEMENT UNITS (SMU)

ODO reviewed the Special Management Units standard at TCJDC 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 toured the SMU, interviewed staff, and reviewed policies, logs and other pertinent documentation.

The SMU is located within the main housing unit and is monitored through a window from the unit's control center. Inspection of the SMU confirmed it is well-lit, adequately ventilated, and maintained in a sanitary condition. The SMU at TCJDC consists of eight double cells, with one secure shower for the entire unit. During the ODO review there were no ICE detainees in SMU. TCJDC management stated that detainees are rarely placed in segregation, and no detainees had been placed in either administrative or disciplinary segregation within recent memory; therefore, no records were available to review.

Review of facility policy found it does not address guidelines concerning the property detainees may retain while in the SMU (**Deficiency SMU-1**). In addition, TCJDC does not have a policy addressing retention of religious items while in the SMU (**Deficiency SMU-2**). Addressing these matters in policy will assure clarity and help to avoid confusion on the part of detainees and staff. ODO verified facility policy addresses all other requirements of the standard. To support full compliance, ODO recommends revision of facility policy to include guidelines for personal property and religious items. Additionally, though not required by the PBNDS to be in writing, ODO recommends that daily visits to the SMU by the Facility Administrator, which are required, be written into the suggested policy revision.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY SMU-1

In accordance with the ICE PBNDS, Special Management Units, section (V)(B)(5), the FOD must ensure each facility shall issue guidelines in accordance with this Standard concerning the property detainees may retain in each type of segregation. Generally, detainees in Disciplinary Segregation shall be subject to more stringent personal property restrictions and control than those in Administrative Segregation, given the non-punitive nature of Administrative Segregation.

DEFICIENCY SMU-2

In accordance with the ICE PBNDS, Special Management Units, section (V)(B)(15) the FOD must ensure detainees in SMUs shall be allowed visits by members of the clergy, upon request, unless the supervisor determines such a visit presents a safety or security risk, or would interfere with the orderly operation of the facility. Violent and uncooperative detainees may be temporarily denied access to religious guidance. Staff shall advise the clergy member of the detainee's present state of behavior before he or she agrees to visit the detainee. Each facility will develop procedures to allow detainees to retain religious items within their possession consistent with good security practices (e.g., religious wearing apparel, religious headwear, prayer rugs, beads, prayer rocks, medallions).

TELEPHONE ACCESS (TA)

ODO reviewed the Telephone Access standard at TCJDC 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 PBNDS. ODO toured TCJDC, interviewed detainees, and reviewed work requests for telephone maintenance.

ODO found detainees have reasonable and equitable access to telephones at TCJDC. The telephone availability ratio is approximately 15 detainees per telephone. Detainees are given emergency messages and allowed to return emergency telephone calls without delay.

Review of the TCJDC Detainee Telephone Log confirmed facility personnel conduct daily inspections of telephones. Additionally, ODO reviewed ICE Telephone Serviceability Worksheets from January 2012 through June 2012 and confirmed weekly telephone inspections by ICE staff. ODO reviewed maintenance requests for telephone repairs and the work orders for those repairs. ODO checked the operability of telephones in detainee housing areas, and found them to be in good working order. Pre-programmed numbers for OIG, foreign consulates, and pro bono legal services are fully functional.

Procedures for telephone use and obtaining an unmonitored call are addressed in the facility handbook and posted in each housing unit. Additionally, detainees are notified calls are subject to monitoring by way of a pre-recorded message provided in English and Spanish before calls are connected. Facility policy addresses detainee telephone locations, hours of use, emergency use of telephones, pro bono listings, and procedures for indigent detainees; however, local policy does not address the monitoring of detainee telephone calls or procedures for obtaining an unmonitored call (**Deficiency TA-1**). If detainees wish to make a telephone call to a legal representative, detainees are escorted either to the Officer's Station or visitation conference rooms where the telephones are not monitored. Detainees are supervised through a glass window when making unmonitored calls, which allows for privacy.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY TA-1

In accordance with the ICE PBNDS, Telephone Access, section (V)(B), the FOD must ensure each facility shall have a written policy on the monitoring of detainee telephone calls.

USE OF FORCE AND RESTRAINTS (UOF)

ODO reviewed the Use of Force and Restraints standard at TCJDC 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 PBNDS. ODO interviewed staff and reviewed local policy, training records, use of force documentation, and the use of force log.

TCJDC management stated there were four use-of-force incidents involving ICE detainees during the 12 months preceding the ODO inspection. Because documentation does not categorize force incidents as immediate or calculated, ODO reviewed reports and identified one immediate use of force incident and three calculated use of force cell extractions. An immediate use of force situation is created when a detainee's behavior constitutes a serious and immediate threat to self, staff, another detainee, property, or the security and orderly operation of the facility. In that situation, staff may respond without a supervisor's direction or presence. A calculated use of force occurs when a detainee is in a location where there is no immediate threat to the detainee or others. Medical personnel were not contacted in advance of any of the three calculated force incidents (**Deficiency UOF&R-1**). Video diskettes were taped or binder-clipped to documentation for two of three calculated force incidents; however, both diskettes were corrupt and could not be viewed to assess the appropriateness of force used, or compliance with video recording procedures. No diskette or other audiovisual recording was available for the third calculated force incident (**Deficiency UOF&R-2**). Based on interviews and inspection, ODO determined procedures are not in place to assure audiovisual recording equipment is routinely inspected and tested to assure operability. In addition, procedures are not in place to catalog recordings or to assure the availability of audiovisual recordings for supervisory or ICE review, if necessary (**Deficiency UOF-3**).

Overall, ODO found the use of force packets disorganized and without a consistent format. Documentation of all four incidents reflected that detainees were medically examined following the use of force encounters; however, forms were not consistently completed. In all four cases, the Medical Evaluation Anatomical Body Forms were blank, including two where minor injuries to the detainees and staff were noted in other documentation.

No use of force packets contained documentation of an after-action review to assess the reasonableness of force and its application, to include viewing of audiovisual recordings. Interviews of the Warden and Captain confirmed after-action reviews are not conducted (**Deficiency UOF&R-4**). TCJDC management stated ICE was notified of the incidents by way of incident reports only.

TCJDC designates the supervisory staff authorized to carry and use oleoresin capsicum (OC) spray. Review of training files confirmed current certification. TCJDC management stated that all TCJDC officers are trained in use of force. The facility produced a video recording of a training session conducted in February 2012; however, no attendance roster was available, and review of training records for (b)(7)e officers confirmed none included documentation of completion of the training. ODO viewed the training session video recording and found it covered cell

extraction procedures only. It did not cover all elements of the use of force team technique required by the standard, including confrontation avoidance, professionalism, and debriefing (**Deficiency UOF&R-5**). No lesson plan was available for ODO review. This deficiency was also identified during the June 2010 ODO inspection.

The PBNDS stresses confrontation avoidance prior to use of force. In addition, it distinguishes between immediate and calculated force situations, the former requiring spontaneous force to prevent a detainee from harming self or others; the latter allowing assessment and possible resolution without resorting to force because no immediate threat is posed. Review of the TCJDC use of force policy confirmed it does not address confrontation avoidance. In addition, ODO found it distinguishes between immediate and calculated force, but does not address the PBNDS requirements relating thereto. The policy outlines procedures for calculated use of force in the form of a cell extraction, which is the planned and coordinated removal of a non-compliant detainee from a cell or other isolated area by a trained team following the use of force team technique. The policy does not address health services staff involvement prior to and following use of force incidents, audiovisual recordings, or after-action reviews. The policy also does not address documentary requirements for immediate use of force incidents.

Comprehensive use of force policies and training programs are critical to the safety of detainees and staff. Thorough documentation and review of uses of force support accountability. ODO recommends TCJDC take immediate steps to correct the deficiencies cited under the Use of Force PBNDS, revise its use of force policy, and improve staff documentation of use of force incidents.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY UOF&R-1

In accordance with the ICE PBNDS, Use of Force and Restraints, section (V)(I)(1), the FOD must ensure, before authorizing the calculated use of force, the ranking detention official, a designated health professional, and others as appropriate shall assess the situation. Taking into account the detainee's history and the circumstances of the immediate situation, they shall determine the appropriateness of using force.

DEFICIENCY UOF&R-2

In accordance with the ICE PBNDS, Use of Force and Restraints, section (V)(I)(2), the FOD must ensure, while ICE/DRO requires that all use-of-force incidents be documented and forwarded to ICE/DRO for review, for calculated use of force, it is required that the entire incident be audio visually recorded. The facility administrator or designee is responsible to insure that use of force incidents are audio visually recorded. Staff will be trained in the operation of audiovisual recording equipment. There will be a sufficient number of cameras appropriately located and maintained in the facility. The audiovisual record and accompanying documentation shall be included in the investigation package for the After-Action Review.

DEFICIENCY UOF&R-3

In accordance with the ICE PBNDS, Use of Force and Restraints, section (V)(K), the FOD must ensure staff shall store and maintain audiovisual recording equipment under the same conditions

as “restricted” tools. The equipment must be kept in a secure location elsewhere in the facility. Since audiovisual recording equipment must often be readily available, each facility administrator shall designate and incorporate in one or more post orders responsibility for:

- Maintaining cameras and other audiovisual equipment;
- regularly scheduled and documented testing to ensure all parts, including batteries, are in working order; and
- keeping back-up supplies on hand (batteries, tapes or other recording media, lens cleaners, etc.).

Each audiovisual record shall be catalogued and preserved until no longer needed, but shall be kept no less than 30 months after its last documented use. In the event of litigation, the facility shall retain the relevant audiovisual record a minimum of six months after the litigation has concluded or been resolved. The audiovisual records may be catalogued electronically or on 3" x 5" index cards, provided that the data can be searched by date and detainee name. A log shall document audiovisual record usage. Use-of-force audiovisual records shall be available for supervisory, Field Office and Headquarters incident reviews and may also be used for training. Release of use-of-force audiovisual recordings to the news media may occur only if authorized by the Director of Detention and Removal Operations, in accordance with ICE/DRO procedures and rules of accountability.

DEFICIENCY UOF&R-4

In accordance with the ICE PBNDS, Use of Force and Restraints, section (V)(P)(1), the FOD must ensure all facilities shall have ICE/DRO-approved written procedures for After-Action Review of use-of-force incidents (immediate or calculated) and applications of restraints. The primary purpose of an After-Action Review is to assess the reasonableness of the actions taken and determine whether the force used was proportional to the detainee's actions. IGSA's shall model their incident review process after ICE/DRO's process and submit it to ICE/DRO for DRO review and approval. The process must meet or exceed the requirements of ICE/DRO's process.

DEFICIENCY UOF&R-5

In accordance with the ICE PBNDS, Use of Force and Restraints, section (V)(I)(3)(b), the FOD must ensure, when a detainee must be forcibly moved and/or restrained during a calculated use of force, staff shall use the use-of-force team technique to prevent or diminish injury to staff and detainees and exposure to communicable disease. The technique usually involves (b)(7)e trained staff members clothed in protective gear, including helmet with face shield, jumpsuit, stab-resistant vest, gloves, and forearm protectors. Team members enter the detainee's area together and have coordinated responsibility for achieving immediate control of the detainee. The use-of-force team technique training shall include the technique, its application, confrontation-avoidance, professionalism, and debriefing.