



U.S. Department of Homeland Security
Immigration and Customs Enforcement
Office of Professional Responsibility
Washington, DC 20024

Office of Detention Oversight Follow-up Inspection

Detention and Removal Operations
El Paso Field Office

Otero County Processing Center
Chaparral, New Mexico

April 13-15, 2010

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OFFICE OF PROFESSIONAL RESPONSIBILITY

MISSION STATEMENT

The Office of Professional Responsibility (OPR) is responsible for investigating allegations of employee misconduct impartially, independently, and thoroughly.

OPR prepares timely and comprehensive reports of investigations for judicial or management action.

OPR inspects and reviews Immigration and Customs Enforcement (ICE) field offices, operations and processes in order to provide executive management with an independent review of the agency's organizational health; and assesses the effectiveness and efficiency of the overall ICE mission.

TABLE OF CONTENTS

INSPECTION PROCESS

Report Organization.....	1
Inspection Team Members.....	1

OVERVIEW.....	2
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ICE NATIONAL DETENTION STANDARDS

Access to Legal Materials.....	3
Detainee Handbook.....	3
Detention Files.....	4
Funds and Personal Property	4
Key and Lock Control.....	5
Staff Detainee Communications.....	5
Use of Force.....	6

INSPECTION PROCESS

The Office of Detention Oversight (ODO) inspection primarily focuses on areas of noncompliance with the ICE National Detention Standards (NDS). In addition, focus may be applied to the level of management provided by the Office of Detention and Removal Operations (DRO) Headquarters and DRO field offices on detention management, and to issues of high priority or interest to ICE executive management. Inspection objectives are to evaluate the welfare, safety and living conditions of detainees, and to determine compliance with applicable laws, policies, regulations and procedures.

In June 2009, ODO, formerly the Detention Facilities Inspection Group, conducted a Quality Assurance Review of the Otero County Processing Center (OCPC) Chaparral, New Mexico. This Follow-up Inspection was conducted to determine the corrective actions taken on the deficiencies identified in the Quality Assurance Review report.

REPORT ORGANIZATION

This report documents corrective actions taken on deficiencies identified in the Quality Assurance Review report submitted to DRO. A summary of findings is provided in the Overview, and uncorrected deficiencies are detailed in the ICE National Detention Standards section.

This report documents the Follow-up Inspection results, serves as an official record, and is intended to provide senior management with a concise evaluation of compliance with policy and detention standards. It also provides useful feedback on the effectiveness and efficiency of the areas inspected. Comments and questions regarding the report findings should be forwarded to the Director, Office of Professional Responsibility.

INSPECTION TEAM MEMBERS



DDO / Team Leader
Special Agent

ODO, OPR San Diego
ODO, OPR San Diego

OVERVIEW

Deficiencies identified in the following standards during the initial inspection were reviewed: Access to Legal Material, Admission and Release, Detainee Classification System, Detainee Handbook, Detention Files, Food Service, Funds and Personal Property, Key and Lock Control, Religious Practices, Security Inspections, Staff-Detainee Communication, Use of Force and Visitation.

ODO staff identified 29 deficiencies during the Quality Assurance Review conducted in June 2009. During this Follow-up Inspection, ODO staff found 10 (34%) repeated deficiencies.

ODO and DRO staff found corrective actions were taken on all deficiencies revisited in the following standards: Admission and Release, Detainee Classification System, Food Service, Religious Practices, Security Inspections, and Visitation.

Deficiencies revisited in the following standards were not corrected and were found by ODO, along with DRO management at the OCPC, to be noncompliant with the ICE NDS: Access to Legal Material, Detainee Handbook, Detention Files, Funds and Personal Property, Key and Lock Control, Staff Detainee Communication, and Use of Force.

ICE NATIONAL DETENTION STANDARDS

ACCESS TO LEGAL MATERIALS

During the initial ODO inspection, four deficiencies were identified in this area. During this Follow-up Inspection, the following deficiencies were found not corrected.

ODO Initial Finding: In accordance with the ICE National Detention Standard, Access to Legal Material, section (III)(F), the FOD must ensure damaged or stolen law library materials are promptly replaced. In addition to its own inspections, the facility must encourage detainees to report missing or damaged materials. If materials submitted by outside organizations need to be replaced, the facility will contact ICE, which will obtain replacements from the submitting organization.

ODO Follow-up Finding: ODO reviewed the OCPC detainee handbook, post orders, and the law library policy and procedure. OCPC lacks written instructions encouraging detainees to report missing or damaged materials.

ODO Initial Finding: In accordance with the ICE National Detention Standard, Access to Legal Material, section (III)(Q), the FOD must ensure the following policies and procedures are posted in the law library, along with a list of the law library's holdings: 1) a law library is available for detainee use; 2) scheduled hours of access to the law library; 3) procedure for requesting access to the law library; 4) procedure for requesting additional time in the law library (beyond the five hours per week minimum); 5) procedure for requesting legal reference materials not maintained in the law library; and 6) procedure for notifying a designated employee that library material is missing or damaged. These policies and procedures must also be in the detainee handbook or equivalent.

ODO Follow-up Finding: OCPC's detainee handbook does not note 1) scheduled hours of access to the law library; 2) procedure for requesting access to the law library; 3) procedure for requesting legal reference materials not maintained in the law library; and 4) procedure for notifying a designated employee that library material is missing or damaged.

DETAINEE HANDBOOK

During the initial ODO inspection, two deficiencies were identified in this area. During this Follow-up Inspection, the following deficiency was found not corrected.

ODO Initial Finding: In accordance with the ICE National Detention Standard, Correspondence and Other Mail, section (III)(B)(3-7), the FOD must ensure the handbook notification specifies: 3) That general correspondence and other mail addressed to detainees must be opened and inspected in the detainee's presence, unless the Officer in

Charge (OIC) authorizes inspection without the detainee's presence for security reasons; 4) That special correspondence may only be opened in the detainee's presence, and may be inspected for contraband, but not read; 5) The definition of special correspondence, including instructions on the proper labeling for special correspondence, without which it will not be treated as special mail. The notification must clearly state that it is the detainee's responsibility to inform senders of special mail of the labeling requirements; 6) That packages may not be sent or received without advance arrangements approved by the OIC, and provide the procedure for obtaining such approval; 7) A description of mail which may be rejected by the facility and which the detainee will not be permitted to keep in his or her possession. The notification must state that identity documents, such as passports and birth certificates, are contraband and may be used by ICE as evidence or as otherwise appropriate. The notification must state that if detainees are not allowed to keep an identity document in their possession, they will be provided with a copy of the document, certified by an ICE officer to be a true and correct copy.

ODO Follow-up Finding: ODO reviewed the OCPC detainee handbook. The handbook does not note all general correspondence and other mail addressed to detainees will be opened and inspected in the detainee's presence.

DETENTION FILES

During the initial ODO inspection, three deficiencies were identified in this area. During this Follow-up Inspection, the following deficiencies were found not corrected.

ODO Initial Finding: In accordance with the ICE National Detention Standard, Detention Files, section (III)(A)(2), the FOD must ensure the officer completing the admissions portion of the detention file notes that the file has been activated.

ODO Follow-up Finding: ODO reviewed 20 detention files. The admissions portion of those detention files does not annotate file activation.

ODO Initial Finding: In accordance with the ICE National Detention Standard, Detention Files, section (III)(F)(1), the FOD must ensure all staff members have access to detention files.

ODO Follow-up Finding: ODO reviewed OCPC's Detention File policy and procedure. Written policy limits access to the Warden, Associate Warden, Captain, Classification Manager, Detainee Records and Count Room Clerks, Shift Supervisors (during after-hours incidents), Grievance Lieutenant, Administrative Lieutenant, and Gang Intelligence Officer.

FUNDS AND PERSONAL PROPERTY

During the initial ODO inspection, two deficiencies were identified in this area. During this Follow-up Inspection, the following deficiencies were found not corrected.

ODO Initial Finding: In accordance with ICE National Detention Standard, Funds and Personal Property, section (III)(A)(4), the FOD must ensure a secured locker for holding large valuables is accessible to designated supervisors only.

ODO Follow-up Finding: ODO observed the property room and found unsecured filing cabinets designed to hold large valuables. Two Officers were found within the property room, each having access to the cabinets. The cabinets are not restricted to designated supervisory staff.

ODO Initial Finding: In accordance with ICE National Detention Standard, Funds and Personal Property, sections (III)(J)(2)(3)(4) and (5), the FOD must ensure the detainee handbook or equivalent notifies the detainees of facility policies and procedures concerning personal property specifically; that upon request they will be provided an INS certified copy of any identity document (passport, birth certificate, etc.); the rules for storing or mailing property not allowed in their possession; the procedure for claiming property upon release, transfer, or removal, and the procedure for filing a claim for lost or damaged property.

ODO Follow-up Finding: ODO reviewed OCPC's detainee handbook. The detainee handbook does not specify: the rules for storing or mailing property not allowed in their possession; the procedure for claiming property upon release, transfer, or removal; or how to file a claim for lost or damaged property.

KEY AND LOCK CONTROL

During the initial ODO inspection, two deficiencies were identified in this area. During this Follow-up Inspection, the following deficiency was found not corrected.

ODO Initial Finding: In accordance with ICE National Detention Standard, Key and Lock Control, section (III)(D)(5)(e), the FOD must ensure [REDACTED] b2High

ODO Follow-up Finding: ODO visited the sally port entrance and observed [REDACTED] b2High

STAFF-DETAINEE COMMUNICATION

During the initial ODO inspection, one deficiency was identified in this area. During this Follow-up Inspection, the deficiency was found not corrected.

ODO Initial Finding: In accordance with ICE National Detention Standard, Staff-Detainee Communication, section (III)(B)(2), the FOD must ensure all detainee requests are recorded in a logbook specifically designed for that purpose.

ODO Follow-up Finding: According to the Warden, each department at the facility handles its own detainee requests and maintains its own request logs. The facility staff did not maintain request logs from November 1, 2009, through March 31, 2010. Request logs for detainee requests submitted directly to ICE were not maintained by ICE/DRO.

USE OF FORCE

During the initial ODO inspection, three deficiencies were identified in this area. During this Follow-up Inspection, the following deficiency was found not corrected.

ODO Initial Finding: In accordance with ICE National Detention Standard, Use of Force, section (III)(L), the FOD must ensure only authorized non-deadly devices are used in the detention facility.

ODO Follow-up Finding: ODO observed a [REDACTED] b2High
[REDACTED] b2High



**U.S. Immigration
and Customs
Enforcement**

MEMORANDUM FOR: Director
Detention and Removal Operations

FROM: Director
Office of Professional Responsibility

SUBJECT: Follow-Up Review
Otero County Processing Center

The Office of Professional Responsibility, Office of Detention Oversight (ODO), conducted a Follow-Up Review of the Otero County Processing Center, Chaparral, NM, April 13-15, 2010. The attached report contains ODO's findings.

This report documents inspection results and serves as an official record. It is intended to provide senior management with an evaluation of the center's compliance with National Detention Standards, the field office's compliance with detention review procedures and the effectiveness and efficiency of the Detention Standards Compliance Program.

ODO will forward a PDF file to your office for dissemination to your designated field managers. If you wish to discuss the report findings, please contact me or your staff may contact Acting Deputy Assistant Director, [REDACTED] at 202-732-[REDACTED]

Attachment

The OPR, Detention Facilities Inspection Group, has scheduled an inspection into the death of a detainee who was housed at the Otero County Detention Center. The inspection would commence on December 4th at 1300 hours, and will end 1700 on December 5th.

Prior to the inspection, the team would like to have a briefing with a DRO representative(s) (SDDO, SIEA, COTR etc.), the Warden, Assistant Warden and the Health Administrator. The briefing will cover the purpose for the visit, the inspection process, and the needs of the team. In addition, the team would address any questions relating to the inspection from the attendees.

The team would need a room large enough to accommodate 1-2 inspectors and their laptops and will do their best to avoid disruption to the facility and its daily operations.

Please designate a DRO Point of Contact for each inspection and have those individuals contact me at 202-732-b6,b7c

Thank you for your assistance.

b6,b7c

**Section Chief
ICE/OPR/MIU
202-732-b6,b7c**