

DEPARTMENT OF HOMELAND SECURITY

Office of Inspector General

Treatment of Immigration Detainees Housed at Immigration and Customs Enforcement Facilities



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Preface

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the Homeland Security Act of 2002 (*Public Law 107-296*) by amendment to the Inspector General Act of 1978. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the department.

This report addresses compliance with U.S. Immigration and Customs Enforcement's Detention Standards at five detention facilities. It is based on interviews with employees, detainees, and officials of relevant agencies and institutions; direct observations; information received from non-governmental organizations; and a review of applicable documents.

The recommendations herein have been developed to the best knowledge available to our office, and have been discussed in draft with those responsible for implementation. It is our hope that this report will result in more effective, efficient, and economical operations. We express our appreciation to all of those who contributed to the preparation of this report.

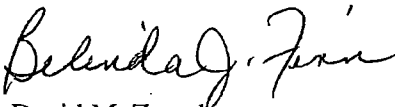

for David M. Zavada
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Abbreviations

ACA	American Correctional Association
BCP	Berks County Prison
CCA	Corrections Corporation of America
CDF	Contract Detention Facility
CO	Correctional Officer
CY	Calendar Year

Table of Contents/Abbreviations

DHS	U.S. Department of Homeland Security
DIHS	Division of Immigration Health Services
DMCP	Detention Management Control Program
DOJ	Department of Justice
DRO	Office of Detention and Removal Operations
FODs	Field Office Directors
HCCC	Hudson County Correctional Center
ICE	U.S. Immigration and Customs Enforcement
IGSA	Intergovernmental Service Agreement
INS	Immigration and Naturalization Service
NDS	National Detention Standards
NGO	Non-Governmental Organization
OIC	Officer-in-Charge
OIG	Office of Inspector General
OPR	Office of Professional Responsibility
PCJ	Passaic County Jail
SCO	Senior Correctional Officer
SIEA	Supervisory Immigration Enforcement Agent
SPC	Service Processing Center
U.S.	United States

*Department of Homeland Security
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Executive Summary

This report presents the results of our audit of compliance with selected detention standards at five facilities used by U.S. Immigration and Customs Enforcement (ICE) to house immigration detainees:

1. Berks County Prison (BCP), Leesport, Pennsylvania
2. Corrections Corporation of America (CCA) Facility, San Diego, California
3. Hudson County Correction Center (HCCC), Kearny, New Jersey
4. Krome Service Processing Center (SPC), Miami, Florida
5. Passaic County Jail (PCJ), Paterson, New Jersey

We focused on detention standards regarding: (1) Health Care, (2) Environmental Health and Safety, (3) General Conditions of Confinement, and (4) Reporting of Abuse. We did not use statistical sampling for our sample selections, and the results of our testing should not be projected to the detainee population or other facilities. Our report focuses on highlighting the specific areas of non-compliance identified during the course of our audit. (See Appendix A.)

Our audit identified instances of non-compliance with ICE Detention Standards at the five facilities. Regarding health care standards, we identified instances of non-compliance at four of the five detention facilities, including timely initial and responsive medical care. Also, we identified environmental health and safety concerns at three of five detention facilities reviewed. We identified instances of non-compliance with ICE Detention Standards regarding general conditions of confinement at the five facilities, including disciplinary policy, classifying detainees, and housing together detainees classified at different security levels. Two facilities also had inadequate inventory controls over detainee funds and personal property.

We further noted that the ICE Detention Standard on Detainee Grievance Procedures does not provide a process for detainees to report abuse or civil rights violations. In addition, two detention facilities did not issue handbooks specifically addressing detainee's rights, responsibilities, and rules; and three facilities did not translate handbooks and orientation material into Spanish and other prevalent languages.

During our audit, we brought these concerns to the attention of the Office of Detention and Removal Operations (DRO) management and responsible facility officials. ICE took immediate action to address many of our concerns. We made 13 recommendations addressing the areas of non-compliance identified. ICE partially or fully concurred with 9 of the 13 recommendations and the proposed actions to implement the 9 recommendations are adequate. Based on ICE's actions and comments, we have deleted recommendation 12 as presented in the draft report.

Background

The primary responsibilities of ICE's DRO are to provide adequate and appropriate custody management of immigration detainees until a decision is rendered regarding their removal. In this regard, ICE operates eight detention facilities called Service Processing Centers (SPCs). ICE augments its SPCs with seven Contract Detention Facilities (CDFs). Contractors operate CDFs, which house only detained immigrants. In addition, ICE uses state and local jails on a reimbursable basis through Intergovernmental Service Agreements (IGSAs) and uses, at times, joint Federal facilities with the Bureau of Prisons. Our audit included detention facilities in each of the three categories: SPC (Krome), CDF (CCA San Diego), and IGSA (Berks County Prison, Hudson County Correction Center, and Passaic County Jail).

Under the Detention Management Control Program (DMCP), ICE personnel prescribe policies, standards, and procedures for ICE detention operations and review detainee facilities to ensure they are operated in a safe, secure, and humane condition for both detainees and staff. According to the DMCP, each SPC was to be reviewed beginning in Calendar Year (CY) 2002. In April 2002, all CDFs were required to fall under the provisions of the DMCP, and IGSA facilities were fully included beginning in fiscal year 2003. Due to the need to modify contractual agreements with CDFs and IGSA facilities, these types of facilities were not required at that time to meet all procedures and guidance outlined in the DMCP. However, they are required to meet the intent of the published detention standards. Also, IGSA facilities may adopt, adapt, or establish alternatives to the procedures specified for SPCs and CDFs, provided they meet the objective represented by each standard. ICE DRO conducts annual inspections for each detention facility used.

In November 2000, the former Immigration and Naturalization Service (INS) established detention standards to ensure the "safe, secure, and humane treatment of individuals detained by INS." The 36 detention standards contained in the Detention Operations Manual covered a broad spectrum of issues ranging from visitation policies to grievance procedures and food service. These detention standards applied to SPCs then operated by INS and CDFs. The majority of these detention standards were implemented on September 20, 2000. They established the minimal requirements that must be adhered to at all facilities, affording immigration detainees rights and protections specified. Two additional standards were issued subsequent to September 2000: (1) the detention standard regarding staff-detainee communication was issued in July 2003, and (2) the detention standard regarding detainee transfer was approved in September 2004. The National Detention Standards are the result of negotiations between the American Bar Association, the Department of Justice (DOJ), the (legacy) INS and other organizations involved in pro bono representation and advocacy for immigration detainees.

Results of Audit

Health Care

The health care programs and medical facilities at SPCs (Krome) and CDFs (Corrections Corporation of America, San Diego) are managed and administered under the direction of the Division of Immigration Health Services (DIHS). The DIHS is located within the Bureau of Primary Health Care of the Public Health Service, under the Department of Health and Human Services. Health care contractors administer medical services at IGSA facilities (Berks County Prison, Hudson County Correctional Center, and Passaic County Jail).

ICE established Detention Standards for Medical Care, Hunger Strikes, and Suicide Prevention and Intervention. We assessed the detention facilities for adherence to health care standards in the following four areas:

- Initial medical screening and physical examination.
- Sick call requests and medical treatment.
- Hunger strike initial evaluation and monitoring.
- Suicide watch monitoring.

Initial Medical Screenings and Physical Examinations

The ICE Detention Standard for Medical Care requires all new arrivals to receive initial medical and mental health screening, including tuberculosis screening, immediately upon arrival by a health care provider or an officer trained to perform this function. The health care provider must also conduct a health appraisal and physical examination on each detainee within 14 days of arrival.

We reviewed 101 of 115 requested medical files for compliance with initial medical screening at 4 of the facilities. Eight detainees did not receive the required initial medical screening, and 14 files did not contain sufficient documentation to make a determination. Also, we reviewed 111 of 122 requested medical files for compliance with the physical examination requirement, 15 detainees did not receive the required examination, and 11 files contained insufficient documentation to make a determination. Krome complied with the standard for initial medical screening and physical examination. The results are summarized in Table 1.

Table 1 Non-compliance With Initial Medical Screening and Physical Examination Standards				
Health Care Standard	Berks County Prison	CCA San Diego Facility	HCCC	Passaic County Jail
Initial Medical Screening Upon Arrival	4 of 42 detainees non-compliant.	0 of 10 detainees non-compliant, documentation missing for 2 additional detainees.	4 of 20 detainees non-compliant. Files for 11 additional detainees missing documentation.	0 of 29 detainees non-compliant, 1 additional detainee's file lacked documentation.
Physical Exam Within 14 Days	4 of 42 detainees non-compliant.	11 of 19 detainees non-compliant.	0 of 20 detainees non-compliant. Files for 11 additional detainees missing documentation.	0 of 30 detainees non-compliant.

Response to Sick Call Requests

The ICE Detention Standard for Medical Care requires each facility to have a mechanism that allows detainees the opportunity to request health care services provided by a physician or other qualified medical officer in a clinical setting. Each facility will have regular scheduled times, known as sick call, when medical personnel will be available to see detainees who have requested medical services. Sick call will be regularly scheduled according to the following minimum standards:

- Facilities with fewer than 50 detainees - minimum of 1 day per week
- Facilities with 50 to 200 detainees - minimum of 3 days per week
- Facilities with over 200 detainees - minimum of 5 days per week

The ICE standards regarding medical response to sick calls do not clearly define what should be considered a timely response to non-emergency sick call requests. In the absence of such standards, local detention facility health services have established differing policies regarding response to non-emergency health care treatment, listed in Table 2.

At three of five detention facilities we visited, 196 of 481 immigration detainee non-emergency medical requests were not responded to in the timeframe allowed by the facility. Table 2 summarizes our findings at BCP, CCA, and PCJ.

Table 2 Non-compliance With Non –Emergency Sick Call Policy			
Facility Health Care Policy	Berks County Prison	CCA San Diego Facility	Passaic County Jail
Hours allowed to respond to sick call requests	48 Hours (72 Hours on the Weekend)	72 Hours	24 Hours (Monday through Friday)
Non -Compliance	179 of 447 requests non-compliant.	10 of 19 requests non-compliant.	7 of 15 requests non-compliant.

Hunger Strikes

The ICE Detention Standard on Hunger Strikes requires all facilities to follow accepted standards of care in the medical and administrative management of hunger-striking detainees. Among the standards are two key provisions:

- Staff will consider any detainee refusing food for 72 hours to be on a hunger strike, and will refer him/her to the medical department for evaluation and possible treatment.
- Medical staff will take and record weight and vital signs at least once every 24 hours during the hunger strike. Other procedures will be repeated as medically indicated.

We identified and assessed the treatment of eight detainees on hunger strikes at the five facilities. Krome complied with the standard for the one detainee on hunger strike included in our review. At the four other facilities, the medical staff did not record weight for three detainees on hunger strike. In addition, the four facilities did not monitor vital signs for five of these detainees at least once every 24 hours, as required. Table 3 summarizes the instances of non-compliance with the hunger strike standard.

Health Care Standard	Berks County Prison	CCA San Diego Facility	HCCC	Passaic County Jail
Hunger Striker Weight Taken During Initial Evaluation	1 of 1 detainee non-compliant.	0 of 3 detainees non-compliant.	Medical staff noted that detainee was uncooperative. Hence, did not record weight.	2 of 2 detainees non-compliant.
Hunger Striker Weight and Vital Signs Monitored Every 24 Hours	1 of 1 detainee non-compliant.	1 of 3 detainees non-compliant.	1 of 1 detainee non-compliant.	2 of 2 detainees non-compliant.

Detainees on Suicide Watch

The ICE Detention Standard on Suicide Prevention and Intervention requires observation of imminently suicidal detainees by medical or detention staff to occur no less than every 15 minutes. We reviewed the medical records for 36 detainees on suicide watch: BCP-7, HCCC-7, CCA-5, PCJ-3, and Krome-14. At BCP, CCA San Diego, and HCCC, facility personnel did not record the required 15-minute security checks for five detainees, as shown in Table 4.

Table 4 Suicide Prevention and Intervention Missing Documentation			
Health Care Standard	Berks County Prison	CCA San Diego Facility	HCCC
Suicide Watches / Precautions – Monitored Every 15 Minutes	2 of 7 detainees	1 of 5 detainees	2 of 7 detainees

Recommendations

We recommend that the Assistant Secretary for ICE, in consultation with the Division of Immigration Health Services:

1. Establish quality assurance measures to ensure the medical staff at detention facilities consistently follow all detention standards regarding
 - initial medical screening and subsequent physical examinations for new arrivals,
 - timeliness of responding to non-emergency sick call requests,
 - monitor detainees on hunger strikes, and
 - monitor detainees identified as a suicide risk.

Management Comments: ICE concurs in part. ICE will convene a working group comprised of licensed medical practitioners from the U.S. Public Health Service DIHS. This working group will review current inspection worksheets for the purpose of determining whether any specific changes to the worksheets are required to guarantee an appropriate level of quality assurance in compliance with the National Detention Standards (NDS) requirements concerning medical screening, hunger strikes, and suicide prevention. This working group will complete its assessment within 90 days and any recommendations will be incorporated into the annual ICE detention review program, including the issuance of any appropriate policy changes. ICE did not agree with our findings since they were based on a small sample size and an “exception report” methodology, and did not reflect a systemic shortcoming in ICE’s detention practices. ICE also noted that it is critical that medical providers maintain the ability to prioritize care and treatment in order to ensure those requiring immediate medical treatment are seen first. ICE noted that the OIG did not report that any of the responses were medically inappropriate.

OIG Analysis: Initial medical screening is important to identify immediate medical, emotional, and dental needs of the detainees. These concerns could include but are not limited to communicable or infectious diseases, nutritional status, indications of previous injuries or scars, physical handicap conditions, or special needs. ICE’s comments recognize our general conclusion that the current inspection worksheets should guarantee an appropriate level of quality assurance in compliance with the NDS to achieving the requirements, and ICE will form a

working group to determine whether any changes are required. ICE's proposed actions address the intent of the recommendation. This recommendation is resolved but will remain open until the assessment performed by the working group and appropriate measures have been completed.

2. Develop specific criteria to define reasonable time for medical treatment.

Management Comments: ICE concurs in part. ICE contends that its medical program provides adequate detainee care and is consistent with industry standards but will nonetheless examine the merits of the issue raised in this report. As noted above, a working group of licensed medical experts will review the medical standards to determine if changes need to be made.

OIG Analysis: ICE will form a working group to determine if changes need to be made. ICE's proposed actions address the intent of the recommendation. This recommendation is resolved but will remain open until the assessment performed by the working group and appropriate measures have been completed.

3. Establish measures to ensure medical records are clearly documented and the documentation is readily available for examination.

Management Comments: ICE concurs in part. As noted in response to the prior two recommendations, ICE will examine the merits of the issue. The working group will conduct an assessment to determine if changes are needed.

OIG Analysis: ICE will form a working group to determine if changes need to be made. ICE's proposed actions address the intent of the recommendation. This recommendation is resolved but will remain open until the assessment performed by the working group and appropriate measures have been completed.

Environmental Health and Safety

ICE Detention Standard on Environmental Health and Safety requires environmental health conditions to be maintained at a level that meets recognized standards of hygiene.¹ It requires the ICE Health Service Administrator or IGSA equivalent to conduct activities that are designed to assist in the identification and correction of conditions that could adversely impact the health of detainees, employees, and visitors. The ICE sanitarian consultant is responsible for developing and implementing policies, procedures, and guidelines pertaining to activities of the environmental health program.

During our audit, we received complaints from detainees regarding environmental health and safety issues. Detainees interviewed made 11 safety and 127 health complaints. Safety-related complaints involved excessively hot water and unsafe bunk beds; health-related complaints included pests and vermin, poor ventilation, and improperly prepared or served food.

Safety Complaints

Two safety complaints were brought to our attention during interviews with detainees. We were able to validate these safety concerns involving excessively hot water, which was immediately remedied, and unsafe bunk beds, which remain unresolved.

Excessively Hot Water. At PCJ, 2 of 6 female detainees interviewed complained that when toilets, showers, and sinks were in use at the same time, water temperature in the shower became excessively hot. We confirmed this unsafe condition in the female housing units during our review. On October 28, 2005, we told PCJ officials of the problem. PCJ officials took immediate actions to identify the cause of the problem, and on November 4, 2005, a mixing valve was replaced which corrected the problem.

Unsafe Bunk Beds. At BCP and PCJ, 5 of 25 and 4 of 32 detainees interviewed reported being injured from falling out of top bunks and while trying to get onto and off the top bunk, respectively. Our review of medical documentation at BCP and PCJ confirmed that detainees had fallen out of the top bunk and received medical treatment. BCP and PCJ did not have safety ladders to access the top bunk and a top bunk safety rail to prevent detainees from falling out of bed. We did observe, however, that ladder access and a

¹ Recognized standards of hygiene include requirements accepted by the American Correctional Association, the Occupational Safety and Health Administration, the Environmental Protection Agency, the Food and Drug Administration, the National Fire Protection Association's Life Safety Code, and the National Center for Disease Control and Prevention.

safety rail on the top bunk were in place on bunk beds in PCJ's medical unit, as well as on triple-deck bunk beds in PCJ's men's housing units. During our exit meeting, BCP officials told us that they would look into getting ladders for top bunk beds.

We confirmed two complaints regarding bottom bunk bed assignment. At BCP, a detainee with a back problem that required medical treatment stated that he was denied a request for a lower bed bunk for over four weeks. According to medical records, he was denied a lower bunk because he had not mentioned his back pain during his initial physical when he first arrived at the facility. In another case at PCJ, a delay of one week occurred in assigning a bottom bunk to a detainee who was prescribed medication that caused vertigo, a form of dizziness often associated with a balance disorder. The detainee requested a bottom bunk due to concerns of falling.

Health Related Complaints

Three types of health complaints were received during our site visits, including complaints regarding pests and vermin, poor ventilation, and improperly prepared or served food.

Pests and Vermin. Detainees at both BCP and PCJ complained of pest control problems. The ICE Environmental Health and Safety Detention Standard require the Officer-in-Charge to contract with licensed pest-control professionals to perform monthly inspections. During these routine inspections, they will identify and eradicate rodents, insects, and vermin. The contract will include a preventative spraying program for indigenous insects. IGSA's are required to meet the intent of this standard.

BCP contracted with a professional commercial pest maintenance service to provide on-going pest inspections and treatments. Our review of BCP documentation suggested that BCP was aware of, and took action to address pest control issues. However, we could not determine whether treatment occurred in the areas housing detainees.

According to PCJ's extermination schedule, the facility should be inspected or treated 12 times per month. For September and October 2005, 9 of 24 scheduled pest control service reports were available for our review; eight of the nine reports indicated evidence of rats/mice and cockroaches at PCJ. Also, because of incomplete documentation, we were unable to determine whether treatment by a pest control technician was made at PCJ between January 2004 through October 2005 for 17 special service requests for additional pest control treatments.

Ventilation. We received complaints at BCP, CCA, HCCC, and PCJ regarding poor ventilation problems. We observed obstructed air vents in the male units at PCJ, and several large industrial fans in front of male detainee units that were unplugged and had a substantial amount of dust build-up. Although these conditions indicated ventilation problems could exist, we could not confirm the complaints.

Food Service. Detainees at HCCC and PCJ surfaced complaints regarding food service. Detainees complained about dirty food trays, which we did confirm by observation at both locations. However, we could not determine whether this was widespread or the frequency of occurrence. Also, at PCJ, complaints were lodged regarding “hot” food that was served cold. We observed detainees being served “hot” food that was cold, but we could not determine whether the problem was widespread or the frequency of occurrence.

At PCJ, complaints were made regarding undercooked poultry. We identified two instances where undercooked poultry was served to PCJ detainees. In the first instance, on October 14, 2005, a detainee gave us a piece of undercooked poultry served on the previous day. When presented with the undercooked piece of poultry, both PCJ officials and PCJ food service contractor agreed it was undercooked. PCJ officials took corrective measures within three days, which included a new checklist with supplemental procedures to ensure food was properly cooked and an incident report and memorandum to all parties involved was issued.

In the second instance, on October 28, 2005, a PCJ detainee gave us a grievance form, signed by 57 male detainees, stating that 10 people got sick from eating chicken. We reviewed the completed checklist for that day, which indicated that the oven temperature used to cook the poultry was not according to the new checklist procedures.

Recommendations

We recommend that the Assistant Secretary for ICE:

4. Require detention facilities using double or triple bunk beds to include ladder access and a top bunk safety rail to ensure the safety of the detainees.

Management Comments: ICE does not concur. The NDS and American Correctional Association (ACA) standards do not require ladders and safety rails for bunk beds. ICE believes that this requirement would be extremely expensive and will significantly reduce the amount of available bedspace

(particularly in areas of the country where IGSA bedspace is heavily relied upon), and could conceivably make it more difficult for detention officers to remove uncooperative detainees. ICE recommended that this recommendation be closed.

OIG Analysis: We acknowledge that the ACA does not require the use of access ladders and safety rails for bunk beds. However, because we identified several instances where detainees were injured either accessing or falling off the top bunk, ICE should thoroughly evaluate the costs and benefits of implementing this recommendation and provide the analysis for our review. This recommendation is considered unresolved until ICE conducts this evaluation.

5. Ensure that periodic oversight and inspection procedures are in place to determine that regular pest treatments are performed, ventilation is adequate, and food preparation and serving procedures are followed during their annual inspections.

Management Comments: ICE concurs in part. ICE's current inspection program already requires annual checks to ensure pest control services and appropriate food preparation at each facility. However, ICE will modify its Health and Safety inspections worksheet utilized during its annual inspections by adding a specific line item requiring detention reviewers to check each facility for adequate ventilation and will make improvements to its current inspectional tools and methodology to monitor adherence to health related requirements. Once completed and approved, these changes will be incorporated into the annual detention review program and appropriate policy will be issued. ICE estimates that these changes will take 90 days to implement.

OIG Analysis: ICE's proposed actions address the intent of the recommendation. This recommendation is resolved but will remain open until the appropriate measures have been implemented.

General Conditions of Confinement

Staff-Detainee Communication

The ICE Detention Standard on Staff-Detainee Communication requires procedures to be in place to allow for formal and informal contact between key facility staff and ICE staff and ICE detainees and to permit detainees to make written requests to ICE staff and receive an answer in an acceptable time frame. Table 5 summarizes the areas of non-compliance at four facilities.

Table 5 Non-compliance With Staff-Detainee Communication Standard				
Staff-Detainee Communication Standard	Berks County Prison	CCA San Diego Facility	HCCC	Passaic County Jail
Logbooks not kept by ICE DRO Field Office	X			X
Logbooks Incomplete		X	X	
ICE visits not posted in housing units	X			X
No Documentation for visits	X			X

Documentation of ICE Visits to Facilities. The ICE standard requires a schedule of announced visits by ICE personnel to be posted in detainee living quarters, and to document these visits. ICE officials must also conduct and document weekly unannounced visits.

Beginning in May 2005, logbooks were being kept by ICE Detention officers to record their visits to PCJ. In addition, ICE Deportation and Detention officers were instructed by the Field Office Director to perform only unannounced visits at PCJ. However, beginning in July 2005, both announced and unannounced visits were being conducted and schedules for announced visits were posted in housing units. Also, ICE DRO Newark Field Office detention officer logbook entries for HCCC made before September 2005 did not indicate whether the detention officer resolved detainee concerns or whether actions were taken in a timely manner.

Documentation of Detainees' Written Requests. We sampled 39 detainee request forms between January 1, 2005, and December 31, 2005, from files in PCJ's Ombudsman's office. ICE deportation officials could not substantiate that they responded to and answered 38 of 39 detainee request forms within 72 hours as required by the ICE Standard.

Detention Files

The ICE Detention Standard on Detention Files states that the creation of a detainee file is essential to maintaining a complete record of a detainee's time in facility custody. The file will contain the classification level and any copies of receipts for items issued to/surrendered by the detainee. It will also document adverse behavior, special requests, complaints, and other information considered appropriate for the facility officials.

Detention files were missing and documentation in some of the files were incomplete at four facilities, as summarized in Table 6.

Table 6				
Missing Files and Documentation				
Category	Krome SPC	BCP	HCCC	PCJ
Files Requested	15	28	9	20
Missing Files	4	2	1	3
Files Missing Documentation	7 ²	5	8	17

Missing and incomplete information included:

- Property receipts for clothes and valuables (HCCC);
- Classification sheets (HCCC, PCJ);
- Inmate processing forms (HCCC);
- Transfer in or out forms (HCCC);
- I-203 forms (form documents decision to detain or release an alien) (HCCC);
- Charges and/or violations (HCCC);
- Grievances (BCP, Krome);
- Incident reports (Krome);
- Handbook receipts (PCJ); and
- Identifying marks forms (PCJ)

Reasons for missing files included:

- Poor recordkeeping (HCCC);
- Archived files not dated and organized as required by ICE Standards (Krome, PCJ); and
- Decentralized filing system (BCP, HCCC, PCJ).

² Krome's OIC agreed that detention files should contain grievances and incident reports. The OIC said the office would review the processes now in place and make changes where necessary to ensure that these reports are filed in detention files.

Disciplinary Policy

Our interviews surfaced complaints regarding the lockdown policy at BCP and reporting of incidents at HCCC and PCJ.

Lockdown Procedures. The ICE Detention Standard on Disciplinary Policy requires each facility holding ICE detainees in custody to have a detainee disciplinary system. The disciplinary system must include progressive levels of reviews such as a disciplinary committee, appeal, and documentation procedures.

According to the BCP detainee handbook, effective May 2002, non-severe actions could include counseling, a written warning or reprimand, loss of privileges up to four days, or confinement to cell up to 24 hours for violation of a rule. Of the 146 unit actions we reviewed, 120 imposed 24-hour lock downs. The violations associated with these lock downs included actions such as wearing a religious head garment.

According to the HCCC detainee handbook, issued June 2005, under Detainee Discipline, the time the detainee is to remain in pre-hearing segregation will be no longer than is necessary to verify the detainee's safety or the security of the facility. The detainee's pre-hearing detention status will be reviewed by the warden/Facility Administrator or designee within 72 hours of placement including weekends and holidays. We reviewed the files for two HCCC detainees that had been placed in disciplinary segregation for allegedly fighting, and not given their disciplinary hearing until 48 hours past their 72-hour requirement. HCCC officials said the hearing was delayed because HCCC could not form a committee to conduct the hearings. Both detainees were found not guilty, after serving five days in disciplinary segregation.

Incident Reporting. The ICE Detention Standard on Disciplinary Policy requires officers who witness a prohibited act or have reason to suspect one has been committed to prepare and submit an incident report. All incident reports must state the facts clearly, precisely, and concisely, omitting no details that could prove significant. Reports also will identify the officer(s), the detainee(s), and all witnesses to the incident. Additionally, IGSA's must have procedures in place to ensure that all incident reports are investigated within 24 hours of the incident.

In the case of the two HCCC detainees previously mentioned that were placed in disciplinary segregation allegedly for fighting, the incident report did not identify the witness, did not state that the officer observed the fight, and the dates were omitted. A HCCC official agreed that this report did not follow ICE Detention Standards on Disciplinary Policy.

At PCJ, between January 2005 and July 2005, three disciplinary actions were taken and no incident report was prepared. When we brought this matter to the attention of PCJ officials, they provided us with one of the incident reports three months after it occurred.

Hold Rooms

The ICE Detention Standard on Hold Rooms for unprocessed detainees states that the maximum aggregate time an individual may be held in a hold room is 12 hours. According to the Krome Hold Room logbooks for the period November 2, 2003, through April 10, 2004, 40 detainees were held from 13 to 20 hours.

We brought this issue to the attention of the Supervisory Immigration Enforcement Agent (SIEA), who acknowledged that sometimes detainees were held longer than the 12-hour policy. The SIEA explained that a detainee may be held longer than 12 hours because: (1) there might not be enough processing officers stationed at the in-processing duty station to handle a large group of newly admitted detainees; (2) when a woman is admitted into Krome, all other duties stop to admit the woman; and (3) the Officer in Charge (OIC) might order a priority task to be completed and all other duties are postponed. The SIEA advised that the new processing center would allow for the cross training of personnel so that when there is an overload of detainees to be processed, it can be done more timely.

Also, hold rooms at Krome were not compliant with the Detention Standard criteria. Specifically, the benches inside the hold rooms do not provide adequate seating to accommodate the number of detainees being held; the light switches are located within the hold rooms; and there are no floor drains. ICE staff told us that they were aware of these non-compliance items and that they had been noted on a prior review, conducted by ICE in February 2004 and documented in ICE's Detention Management Control Programs annual report. These items were considered structural deficiencies, which will be corrected when Krome's new processing center is operational.

Special Management Units (Disciplinary and Administrative)

Establishment of Special Management Unit. The ICE Detention Standards for Special Management Unit (Disciplinary and Administrative Segregation) requires each facility to establish a Special Management Unit that will isolate certain detainees from the general population. The Special Management Unit will have two sections, one for detainees in segregation for administrative reasons and the other for disciplinary reasons. A detainee may be placed in

disciplinary segregation only by order of the Institutional Disciplinary Committee, after a hearing in which the detainee has been found to have committed a prohibited act. Administrative segregation is a non-punitive form of segregation used to remove detainees from the general population when separation is necessary.

On July 14, 2005, two detainees at HCCC were allegedly fighting. Both detainees were placed in disciplinary segregation before the hearing was held and a ruling by the Institutional Disciplinary Committee. These detainees were subsequently found not guilty.

Similarly, during our review at PCJ, we determined that, in six instances, detainees were placed in disciplinary segregation before the hearing was held and a ruling rendered by the Institutional Disciplinary Committee. These detainees' charges ranged from verbal altercations with correctional officers to physical altercations with other detainees. The detainees were subsequently found not guilty.

Detainee's Access to Legal Materials

Availability of Materials. The ICE Detention Standard for Access to Legal Material requires facilities holding ICE detainees to permit detainees access to a law library, and provide legal materials, facilities, equipment and document copying privileges, and the opportunity to prepare legal documents. Further, the standard requires the facility to designate an employee with the responsibility for updating legal materials, inspecting them weekly, maintaining them in good condition, and replacing them promptly, as needed.

Detainees housed at HCCC did not have access to Lexis Nexis legal information software, until ICE installed two computers with the Lexis Nexis legal software in January 2005. According to HCCC officials, they posted an announcement in the detainee units in July 2005 notifying them of the availability of the Lexis Nexis computer software.

At BCP, Lexis Nexis legal information software was not available to detainees for the entire month of March 2005. BCP officials said they were not aware that the software license had expired. Once notified, ICE renewed the software license in April 2005.

At PCJ, detainees did not have access to legal materials for the month of November 2005 because the license for the material had expired. PCJ officials notified ICE of the expired license and ICE provided them with an updated version of *Immigration Case Law* library on disks. However, PCJ

officials could not locate the disks. ICE provided them with another copy on November 30, 2005, and the legal material was restored on December 1, 2005.

Time Allotted In Library. The ICE Detention Standard for Access to Legal Material requires each detainee to be permitted to use the law library for a minimum of five (5) hours per week. The HCCC law library schedule indicated that detainees are allowed only one and half hours on Tuesday or Wednesday. PCJ did not have enough space to accommodate the detainee population requesting library use, so officials allowed four hours per week per detainee. However, detainees were allowed to submit a special request to increase their access to the library for more than four hours.

Detainee Classification

The ICE Detention Standard on Detainee Classification System requires that all detainees be classified upon arrival in the facility, before they are admitted into the general population. All facilities are required to ensure that detainees are housed separately according to three classification levels. Level three detainees, for example, are considered a high-risk and require medium to maximum security housing. The standard also requires the facilities to establish procedures by which new arrivals can appeal their classification levels and the detainee handbook's section on classification should include (1) an explanation of the classification levels, with the conditions and restrictions applicable to each; and (2) the procedures by which a detainee may appeal his/her classification. The standard does not include procedures to inform the detainee of his/her classification.

During our interviews of 51 detainees at the CCA San Diego, 24 detainees did not know their classification level. Similarly, at BCP none of the 25 detainees, at HCCC, 39 of 40 detainees, and at PCJ, 25 of 32 detainees knew their classification.

Classification of Detainees. At PCJ, male detainees were not classified according to ICE Standards prior to June 2005 and females were not classified because PCJ did not have enough room to segregate them. Of the 159 records of male detainees that we reviewed as of October 20, 2005, 22 were not classified and 23 were not properly segregated.

According to PCJ management, the facility was not informed that they had to classify male detainees until June 2005. In addition, the facility did not classify detainees because they believed it would alleviate the facility from potential lawsuits by detainees and advocacy groups.

Housing Detainees of Different Classifications

ICE Detention Standards for classification prohibits level one detainees from being housed with level three detainees. The ICE Detention Standard allows high-level two detainees to be housed with level three detainees when a facility is at or above full capacity. However, the standard prohibits low-level two detainees from being housed with level three detainees.

Our review of 159 detainee records at PCJ showed that on October 20, 2005, 13 detainees classified as a level one detainee were housed with level three detainees. Similarly, one detainee classified as a level two detainee was also housed with level three detainees. Further, three detainees classified as level three detainees were housed with level one detainees, and six were housed with level two detainees.

We reviewed the classification levels for ICE detainees at BCP as of January 20, 2005, and determined that 8 of 59 detainees were classified as level three, with the remaining detainees classified as level two. BCP housed 7 of the 8 level three detainees with level two detainees. Similarly, on March 21, 2005, 7 of 41 detainees were classified as level three; 4 of the 7 detainees were housed with level two detainees. In each instance, BCP officials housed the level three and level two detainees together without determining whether the level two detainees were classified as high or low-level two.

Correspondence and Other Mail

Handling of Special Mail. The ICE Detention Standard for Correspondence and Other Mail requires all facilities to implement procedures for inspecting special correspondence for contraband. The inspections are to be conducted in the presence of the detainee. At BCP, 9 of 25 detainees interviewed complained that their “special mails,” such as correspondence with counsel, were not opened in their presence. According to the BCP mailroom clerk, some special mails might have been opened because they were not clearly marked as containing legal materials.

Writing Implements, Paper, and Envelopes. The ICE Detention Standard for Correspondence and other Mail requires the facility to provide writing paper, writing implements, and envelopes at no cost to detainees. Detainees at CCA were not provided free writing materials; these items were sold in the commissary. CCA officials stated that only indigent detainees were provided these items at no cost and CCA’s handbook indicated the same.

Unclaimed Mail. Krome established a practice to return mail if the detainee had not claimed it within two days. This practice was not documented in Krome's policy manual or the detainee handbook. The OIC told us that this 2-day time limit was not in their policy manual but was a practice carried forward from training that ICE personnel gave Krome's mail contractor. The OIC assured us that this would either be written into policy and the detainees would be informed of this time limit, or it would be rescinded. After completion of our review, ICE officials provided documentation stating that mail will be "returned to sender" after five (5) business days when all reasonable efforts have been made to notify the detainee of mail received.

Funds And Personal Property

Separation Of Duties. The ICE Detention Standard for Funds And Personal Property requires two officers to be present both to remove funds from a detainee's possession and to inventory the property on the property-receipt form, G-589. The ICE standard also requires the property and valuables logbook to contain identification of the property removed from the detainee. BCP did not have adequate controls over the intake of detainees' personal property. One individual controlled both the key to the safe box and the placement/removal of the detainees' personal property. Also, no logbook was maintained to record property receipt numbers issued for the personal funds removed from detainees. A BCP official stated two officers would be used during admission when necessary. When only one detainee was being processed through admission, BCP did not see the need for two officers.

Stolen Funds and Personal Property. Independent of our work at the five detention facilities, our Office of Investigations recently completed an investigation at the Monroe County Jail detention facility where they determined that detainees' funds and personal property had been stolen. Specifically, the property control officer was convicted of theft of over \$308,736 in U.S. currency, as well as numerous personal property items such as jewelry, watches, and credit cards.

Quarterly Inventories. The ICE Detention Standard, Funds and Personal Property, requires each facility to have a written procedure for inventory and audit of detainee funds, valuables, and personal property. In addition, it stipulates that an inventory of detainee baggage and other non-valuables will be conducted by the OIC's designee at least once each quarter; and the facility's daily log will indicate the date, time, and name of the officer(s) conducting the inventory. Discrepancies are to be reported immediately to the OIC.

HCCC officials did not perform inventories of detainee's personal baggage and did not maintain a quarterly inventory log as required by the ICE standard. In addition, HCCC officials told us the quarterly inventory audits were being conducted "whenever time" allowed them. HCCC officials agreed that the inventory process needed to be addressed immediately. HCCC officials later told us the last personal property inventory audit was completed in May 2005; however, HCCC did not maintain an audit log or check-off list, and could not provide documentation showing that the inventory audit had actually been performed.

Detainee Grievance Procedures

The ICE Detention Standards for Detainee Grievance Procedures requires each facility to devise a method for documenting detainee grievances. At a minimum, the facility must maintain a Detainee Grievance Log containing a copy of grievances, an assigned log number for each grievance, a receipt date, and the date of the disposition. Also, it requires that a copy of the formal grievance remain in the detainee's detention file for at least three years. The standard also requires grievances to be acted on within five working days through informal or formal resolution. Further, the standards require that the facility will convene a grievance committee to study the grievance in the event the detainee does not accept the department head's decision.

Grievance Documentation and Filing. PCJ staff did not maintain a detainee grievance log. In addition, ICE detention staff at the DRO Field Office did not maintain a logbook of formal grievances prior to June 2005. We determined that formal detainee grievances at PCJ from June 2005 to January 2006 were not filed in detainee detention files. Instead, they were filed with formal grievances against PCJ officials and ICE officials, along with detainee request forms and detainee personal property forms, located in the Ombudsman's office.

Timeliness of Grievance Actions. At BCP, we reviewed nine grievances filed from January 1, 2004, to December 31, 2004; none of the nine were acted on within 5 days. The response time ranged from 7 to 22 days with an average response time of 9 days. Similarly, we reviewed 17 grievance files at HCCC from January 2004 through July 2005; 13 of the 17 did not receive responses within the 5-day timeframe. An HCCC official stated they were not aware of the 5-day requirement to respond to grievances. However, according to the HCCC detainee handbook, "the facility Grievance Officer shall, within five (5) days of receipt of the grievance, conduct an investigation of the grievance and render a written response to the detainee." At PCJ, we reviewed eight ICE grievances filed between January 1, 2005, and December 31, 2005; none of the eight were acted on within 5 days. In one instance, the grievance was faxed to

ICE on July 1, 2005, and ICE responded on July 25, 2005, 20 days beyond the prescribed time.

Krome Grievance Process. According to Krome’s Standard Operating Procedures KRO/ /02-07 titled Detainee Grievance Procedures, “The Section Chief (SC)-Camp Operations will assign a Second-line Supervisory Immigration Enforcement Agent (SIEA) to the duties of Grievance Officer. The Grievance Officer will collect the grievances from the secured and marked grievance boxes in the facility and ensure that the complaint is directed to the proper department for resolution.” Contrary to this policy, the actual process used at Krome was for grievances to be collected by a first-line supervisor and reviewed to determine their nature. The first-line supervisor then tries to resolve the grievance informally. If the grievances cannot be resolved informally, they become formal, and the second-line supervisor handles them. We reviewed 146 grievances filed at Krome for CY 2004, 141 were handled informally, and 5 were forwarded to the second line supervisor for formal review. Only five were actually resolved by the grievance officer as required by Krome’s grievance policy.

Grievance Committee. PCJ does not have a detainee grievance committee. PCJ has one official responsible for answering and resolving all formal PCJ grievances.

Access to Drop Boxes. PCJ had two padlocked drop boxes controlled by PCJ staff for all detainee correspondence, such as Ombudsman request slips, detainee grievances, detainee request forms, etc. One box was located in the cage room and the other was located in front of the Ombudsman’s office. Both were accessible only to PCJ staff. A detainee would have to request a PCJ staff member to place formal correspondence in one of the boxes. Without “drop boxes” accessible to ICE detainees, detainees can’t file anonymously and retaliation could occur.

Issuance and Exchange of Clothing

The ICE Detention Standard on Issuance and Exchange of Clothing, Bedding, and Towels requires each facility to have a policy and procedure for the issuance and regular exchange of clothing, bedding, linens, and towels. The standard requires all new detainees to be issued one uniform shirt and one pair of uniform pants or one jumpsuit; one pair of socks; one pair of underwear; and one pair of facility issued footwear. The standard also requires facilities to provide detainees with clean socks and undergarments daily and with clean outer garments at least twice weekly. IGSAAs are required to meet the intent of this standard.

Issuing Required Clothing. PCJ officials stated that detainees are usually provided two uniforms except during shortages, when they are provided with only one uniform. PCJ officials stated that no socks or undergarments are issued and detainees are allowed to keep their socks and undergarments during intake or can purchase socks and undergarments from the PCJ Commissary.

At HCCC, 23 of 40 detainees interviewed stated they had not received all clothing required to be issued. We reviewed a sample of HCCC property records for 13 detainees; 7 did not receive all required items of clothing. HCCC officials indicated that because of HCCC's low inventory of shoes, detainees were being allowed to keep and wear their own sneakers, but not dress shoes or boots.

Dirty Clothing Exchange. HCCC officials informed us that clothes are only taken in for washing once or twice per week. They added that they could not recall the last time dirty clothes were exchanged for clean clothes, nor did they know whether HCCC has a policy that meets ICE Detention Standards for the exchange of clothes. Also, officials stated that socks and undergarments are not exchanged on a daily basis.

At PCJ, we observed that when it is time for laundry to be done, detainees are not given clean clothes in exchange for dirty clothes. Instead, the detainees remain in their undergarments, or shorts, until their clean laundry is returned, which can take from 2 to 6 hours. Interviews with detainees confirmed that this was standard practice.

Outdoor Recreation

The ICE Detention Standard for Recreation requires all facilities to provide ICE detainees with access to recreational programs and activities, under conditions of security and supervision that protect their safety and welfare. Furthermore, every effort shall be made to place a detainee in a facility that provides outdoor recreation. If outdoor recreation is available at the facility, each detainee shall have access for at least one hour daily, at a reasonable time of day, five days a week, weather permitting.

At PCJ, 19 of 32 detainees interviewed complained they were not provided with the required outdoor recreation time. We sampled 24 weeks of recreation and movement logbooks at PCJ for CY 2005 for male detainees housed in low, medium and high risk units. During this timeframe the detainees should have received 120 days of outdoor recreation, 1 hour a day, 5 days per week. Detainees housed in all three risk units did not receive the required outdoor recreation time. For example, male detainees housed in the

low risk unit received outdoor recreation 66 of 120 days, averaging only about 3 days per week. Similarly, for female detainees housed in general population, we sampled 12 weeks in CY 2005. The data showed that female detainees received outdoor recreation 38 of 60 required days, averaging about 3 days per week.

At BCP, 14 of 25 of detainees interviewed stated they were denied recreation or did not receive outdoor recreation, as required by the ICE standard. We could not confirm the complaints since BCP does not maintain recreation logs.

At CCA, 8 of 51 detainees complained that they did not receive the daily one hour recreation. According to CCA's procedures, if one or more detainees violated a requirement, they would not be allowed the one-hour recreation as a disciplinary measure. The ICE standard specifically prohibits detainees from not being allowed to participate in recreation unless it impacts facility security.

At HCCC, 27 of 40 detainees interviewed stated that they did not receive the daily one-hour recreation. According to HCCC's Central Control logbook for periods December 12, 2004, through February 11, 2005, and April 8, 2005, through June 2, 2005, on ten occasions the logbooks lacked documentation showing that the one-hour minimum daily recreation requirement had been met.

Telephone Access

The ICE Detention Standard for Telephone Access requires the facility to provide detainees with reasonable and equitable access to telephones during established facility waking hours. Key elements of the standards include:

- The facility shall maintain detainee telephones in proper working order. Appropriate facility staff shall inspect the telephones regularly (daily in SPCs/CDFs), promptly report out-of-order telephones to the repair service, and ensure that required repairs are completed quickly.
- Generally, telephone access will be granted within 8 waking hours of the detainee's request, but will always be granted access within 24 hours of the request. Incidents of delays extending beyond 8 waking hours must be documented and reported to ICE.
- The facility shall provide a reasonable number of telephones on which detainees can make calls regarding legal matters without being overheard by officers, other staff or other detainees. Privacy may be provided in a number of ways, including:

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1. Privacy panels (side partitions) that extend at least 18 inches to prevent conversations from being overheard;
 2. Placement of telephones where conversations may not be readily overheard by other detainees or facility staff; or
 3. The use an office telephone to make confidential calls regarding their legal proceedings.

ICE's contract with the telephone service provider allows facilities to make available calling cards, collect calls, and free pre-programmed calls for detainee use. ICE will supply the telephone numbers that the contractor shall pre-program. ICE currently allows numbers related to detainee free legal services, phone calls to consular offices, and access to courts at no cost to the detainee.

Telephones In Visitation Rooms. On October 21, 2005, 4 of 11 telephones located in the male visitation room at PCJ were not operational. On November 18, 2005, 1 of 11 telephones did not work. Similarly, on April 19, 2005, 13 of 60 telephones located in the detainee visitor areas at CCA San Diego were not in working order.

Privacy For Legal Matter Telephone Calls. At BCP, detainees used telephones located in a day room, where other detainees or staff can overhear conversations involving legal matters. At HCCC, the telephones used by detainees did not have privacy panels. At CCA, the telephones in the housing units were located under the wall-mounted television sets and did not include privacy panels. Also, CCA officials made available the telephone in the unit manager's office for making calls regarding legal matters. However, CCA officials stated that the detainee is never left alone in the room, as a CCA official is always present.

At PCJ, the Ombudsman's office was designated for calls relating to legal matters. We observed that the calls were not private because a PCJ official is always in the office during the calls.

Compliance with Requests for Telephone Access. We sampled request slips at PCJ for July, August, and September 2005. In six instances, detainees had to file a formal grievance to request an emergency telephone call to notify family of their detained status at PCJ. In one instance, the Ombudsman's office took at least 16 business days to grant a detainee's request to call an attorney as opposed to the 24 hour time frame required by the standard.

Consulate and Legal Telephone Numbers. The telephone service contract between ICE and the service provider for the detainee phone system requires ICE to supply the telephone numbers that the contractor shall pre-program.

According to the standards, the facility shall permit the detainee to make direct calls to legal service providers, in pursuit of legal representation or to engage in consultation concerning his/her expedited removal case. In November 2005, we tested 63 of 188 consulate numbers at PCJ, and were unable to reach a representative on 50 of the 63 numbers. For 10 of the tests, we were connected to an answering machine. It is necessary for the detainee to talk to a representative because it is not possible for the detainee to receive a return call. The phone system in the housing unit is not designed to receive incoming calls. In addition, we tested 12 pro bono legal representation telephone numbers, and were unable to make a connection for any of the 12 numbers. The posted number either required a detainee to pay a fee (use a calling card), the number did not accept the call, or the call would not go through. ICE DRO was not aware of the problems the detainees had in contacting consulate or legal representatives.

Telephone Maintenance Documentation. HCCC did not keep telephone maintenance records. PCJ staff responsible for telephone maintenance and repairs told us that they did not record telephone maintenance and repairs prior to June 2005. Consequently, were unable to determine whether the facilities monitored and repaired telephones as required by the ICE standard.

Visitation

Length of Visits. The ICE Detention Standard for Visitation requires facilities to allow detainees a minimum of 30 minutes visitation time under normal conditions. Detainees at PCJ were not allowed a minimum of 30 minutes during family visitations. The PCJ Inmate Handbook allowed for at least two non-contact visits³ for a minimum of 15 minutes each per week depending on time and space availability. At PCJ 25 of 32 detainees interviewed said they did not have enough time to visit with family and friends. Also, we received complaints regarding the length of visiting time at BCP (7 of 25 detainees) and HCCC 23 of 40 detainees); however, we could not substantiate these complaints.

Recommendations

We recommend that the Assistant Secretary for ICE:

6. Ensure detention facilities properly segregate high-risk, category three detainees from low-risk category one and two detainees.

³ A non-contact visit occurs when a detainee and visitor are allowed to speak to each other on the facility's visitation phones, while separated by a glass partition, but are not permitted to touch one another.

Management Comments: ICE concurs. ICE will reissue its existing NDS on Classification to all Field Office Directors (FODs) and authorized detention compliance reviewers. ICE will reiterate the importance of compliance with the standard and require that all FODs review the current classification and housing assignment practices at detention facilities within their respective Field Offices. FODs will be required to take appropriate corrective action as necessary to ensure compliance, including certification that all responsible for classification have received the policy. These measures will take 180 days to complete.

OIG Analysis: This recommendation is resolved but will remain open until implementation is completed.

7. Ensure adequate separation of duties and other internal control procedures are implemented at detention facilities for detainee funds and personal property to reduce the risk of property being inadequately accounted for and to safeguard against theft.

Management Comments: ICE concurs. ICE will modify the current review worksheet for Funds and Personal Property utilized in its annual review process to include a specific line item for IGSA facilities that do not have automated detainee funds systems addressing the requirement that two officers must be present during the processing of a detainee's funds and valuables. Once completed and approved, any changes will be incorporated into our annual detention review program and appropriate policy issued. These measures will take 90 days for ICE to implement.

OIG Analysis: This recommendation is resolved but will remain open until implementation is completed.

8. Ensure that periodic oversight and inspection procedures are in place to address compliance with the Detention Standards in the following areas during its annual inspection process.

- Staff-detainee communication
- Documentation of detention files
- Disciplinary policy
- Special Management Units (Disciplinary and Administrative)
- Access to legal materials
- Correspondence and other mail
- Detainee grievance procedures
- Issuance and exchange of clothing
- Outdoor recreation
- Telephone access and privacy
- Visitation

Management Comments: ICE concurs in part. ICE concurs with the need for inspection in the areas listed but does not concur with this recommendation since the NDS and ICE annual review process already addresses each of the items in the recommendation. ICE is confident that, through its annual inspections program, the appropriate level of oversight regarding compliance with the NDS exists. In addition, ICE's practice of conducting annual reviews and weekly site visits to its detention facilities exceeds the industry standards set by the ACA, National Commission for Correctional Health Care, and Joint Commission on Accreditation of Healthcare Organizations. These organizations, nationally recognized as leaders in the detention industry, conduct inspections at three-year intervals. ICE requests that this recommendation be considered resolved and closed.

OIG Analysis: Given the issues noted during our review as discussed in this report for each area, ICE should assess whether the methods used in their annual inspection process are adequate to surface these types of issues and ensure that corrections are implemented. Therefore, we consider this recommendation unresolved until such measures are taken.

ICE Procedures For Reporting Detainee Abuse

We reviewed complaints from detainees received by our Office of Investigations alleging that correctional staff physically, sexually, or verbally abused them while in custody at all five detention facilities. The ICE Detention Standards do not address detainee reporting of abuse or civil rights violations. However, ICE posts posters in the facilities informing detainees to report instances of abuse to the OIG Hotline. Also, detention facilities used handbooks developed for inmates instead of handbooks explicitly developed for detainees, as required. In some instances, facilities did not provide detainee handbooks, or they did not provide the handbooks and orientation materials in Spanish or other languages.

Detainees Alleged Physical, Sexual, and Verbal Abuse by Corrections Officers

Immigration detainees have alleged that correctional staff physically, sexually, and verbally abused them while in custody at all five detention facilities. Although we were made aware of numerous instances where alleged physical abuse occurred, the following four represent some of the most egregious allegations received.

- **Rape allegation at CCA San Diego**

A female detainee at CCA San Diego alleged that during a work detail, a contract guard sexually assaulted her. Office of Investigations issued a final report of investigation regarding this case. As a result, the subject contract guard was fired, thus requiring no response from ICE. Both the local U.S. Attorney's Office and the Civil Rights Division declined to prosecute.

- **Accusation of Abusive Search at CCA San Diego**

On December 27, 2004, an ICE Detention Officer filed a complaint on behalf of a detainee, alleging a female CCA Senior Correctional Officer (SCO) conducted a physically abusive "pat down" search that was followed up by a strip search conducted within view of other detainees. Both the SCO in question and another Correctional Officer (CO) provided written statements denying this allegation. Our Office of Investigations referred this case to ICE Office of Professional Responsibility (OPR) for their action.

- **Complaint from Wheelchair-Bound detainee at CCA San Diego**

On May 5, 2005, our Office of Investigations investigated a complaint from a handicapped detainee at the San Diego CCA, who alleged that a CO dislodged him from his wheelchair when he tried to enter another area. The detainee was examined by medical staff and did not sustain any injuries. The CO was put on administrative leave at that time. Our Office of Investigations referred this case to ICE OPR for their action.

- **Suicide Death at PCJ**

On February 16, 2005, a PCJ officer found a detainee, who had been in ICE custody at PCJ for approximately 1 month, hanging in his cell from a noose made from a bed sheet. Our Office of Investigations is reviewing the case to determine whether there was any impropriety by PCJ officials. The case remains open.

In addition to these cases, we identified the following two instances that indicate improper behavior by correctional officials.

- **Use of camera phone at HCCC**

During interviews with HCCC detainees in July 2005, two detainees alleged that a correctional officer used a cell phone to take pictures of the detainees as they came out of the bathroom and shower, and as they slept in their cells. One detainee believed the correctional officer was taking pictures, because the correctional officer would hold his cell phone up, point it at them, and start laughing.

We interviewed selected correctional officers including the one alleged to have taken the pictures. The correctional officer stated that he has never used a cell phone in the tier and that cell phones are not allowed in the building. Another correctional officer stated that while he personally has never used a cell phone in the tier, he has seen other correctional officers use personal cell phones while on the tiers, although it is against policy.

HCCC staff members may wear or carry phones and beepers while on duty only if they are issued by the department, or authorized by the Director or his/her designee. Our Office of Investigations referred this allegation to ICE OPR for appropriate action.

- **Appearance of Retaliation at Hudson County Correctional Center**

On July 14, 2005, HCCC staff transported a selected detainee to the ICE field office building for an interview with our audit team. At that time, the detainee refused to be interviewed for fear of retaliation from the HCCC staff, and was transported back to HCCC. Although confidential, the meeting with OIG staff was known to HCCC officials. Soon after, the detainee and another detainee were found allegedly fighting with each other. Both detainees were immediately placed in disciplinary segregation; however, the detainees were not given their disciplinary hearing for 5 days, which exceeded the standard of holding hearings within 72 hours.

We observed the detainees in disciplinary segregation during this period; the detainees were in separate cells, housed with a non-ICE detainee. We inquired about this housing situation, and the correctional officer on duty told us that the detainees were housed with non-ICE detainees because there was not enough space to house the two detainees in separate cells. However, there were at least two empty cells that could have housed the two ICE detainees separately. An HCCC official indicated that the ICE detainees had similar classification levels as the non-ICE detainees and therefore the two (one ICE detainee and one non-ICE detainee) could be housed in the same cell.

We attended the disciplinary hearings for both ICE detainees, 5 days after serving time in disciplinary segregation. During the hearings both detainees were found not guilty.

ICE Detention Standard Does Not Address Detainee Reporting of Abuse or Civil Rights Violations

The ICE Detention Standard on Detainee Grievance Procedures does not explicitly address detainee rights for the reporting of abuse and civil rights violations. All five detention facilities reviewed distributed handbooks that did not properly explain the process for reporting allegations of abuse and civil rights violations.

The Standard requires ICE staff to comply with the requirement to report allegations of officer misconduct to a supervisor or higher-level official in his/her chain of command, *and/or to INS Office of Internal Audit and/or the DOJ Office of Inspector General*. CDFs and IGSA facilities must forward detainee grievances alleging officer misconduct to ICE. ICE will investigate every allegation of officer misconduct. This reporting requirement applies without exception to all detainee allegations of officer misconduct, whether

formally or informally submitted. The ICE Standard has not been updated to reflect the creation of the Department of Homeland Security and the DHS Office of Inspector General.

ICE detainees are in administrative custody versus punitive correctional custody and are afforded rights and privileges specifically germane to their custody status. For example, detainees are allowed a hearing before an immigration judge and can request voluntary departure. Also, pro bono legal services are made available to them.

Five BCP officials informed us that they were not aware that there are specific ICE standards for detainees; therefore, correctional officers were trained to treat inmates and detainees the same. Also, four senior San Diego CCA Facility correctional officers informed us that officers had no knowledge of ICE's policies and procedures pertaining to ICE detainees.

Detainee Handbooks

ICE Detention Standard for the Detainee Handbook requires each facility to develop a detainee handbook that will specify the rules, regulations, policies, and procedures with which every detainee must comply. In addition, the handbook will list detainee rights and responsibilities. The handbook will list and classify prohibited actions and behaviors, along with disciplinary procedures and sanctions. Grievance and appeals procedures must also be included in the handbook. The ICE Detention Standard on Admission and Release requires every detainee to receive a copy of the handbook upon admission.

Issuing Detainee Handbooks. Two facilities, HCCC and PCJ, did not issue handbooks specifically addressing detainee' rights, responsibilities, and rules. We were unable to confirm if BCP or CCA San Diego issued handbooks to all detainees.

The HCCC handbook was not issued until June 2005. Consequently, based on their admission dates into HCCC, 37 of 40 detainees interviewed did not receive the HCCC handbook. After HCCC published its handbook, 15 of 40 detainees interviewed from June 2005 through October 2005 stated that they were not provided the handbook at admission.

At PCJ, 16 of 32 detainees interviewed said they had not received a detainee handbook in compliance with ICE required standards. We observed that during the PCJ admissions process, detainees were issued a Passaic County Jail: Inmate Handbook, effective January 2005, which outlines the rules and

regulations that each inmate (not detainee) should follow while remaining in the facility.

Handbooks Should Include Detainee Reporting Process. All five detention facilities distributed handbooks to detainees that did not explain the process for reporting allegations related to abuse or civil rights violations to the DHS OIG. Even with the hotline posters that we use to inform detainees to report instances of abuse to us, some detainees were not aware that they could report allegations related to abuse or civil rights violations to our office. Three facilities (BCP, CCA San Diego, and PCJ) did not address how to report officer misconduct to the OIG. HCCC and Krome briefly addressed how to report officer misconduct.

Translating Handbooks and Orientation Materials Into Spanish and Other Languages

ICE Detention Standard on Admission and Release requires each facility to have a medium, such as a video, to provide detainees an orientation to the facility. The Standard requires the orientation video to be in English and Spanish, or the most prevalent language(s) spoken by detainees at the facility. In addition, the ICE Detention Standard for the Detainee Handbook requires the facility to have English and Spanish versions of the handbook available for issuance to the detainees at admission.

At BCP, during admission and release procedures, an orientation package was provided in English to English-speaking detainees in order to supplement the oral presentation. However, no orientation package was available in Spanish for the Spanish-speaking detainees. Instead, one of the bilingual officers on duty would verbally translate the oral presentation for the Spanish speakers in the back of the room.

No Spanish version of a detainee handbook had been published at HCCC since April 3, 2003, although HCCC officials stated they planned to publish a Spanish version.

Recommendations

We recommend that the Assistant Secretary for ICE:

9. Revise the ICE Detention Standard to:
 - explicitly address how detainees should report allegations of abuse and civil rights violations, along with violations of officer misconduct,

directly to ICE management or the DHS Office of Inspector General, and

- require detention facilities to provide appropriate written guidance to correctional officers to ensure that treatment of immigration detainees is specifically germane to their custody status.

Management Comments: ICE concurs in part. As noted in the report, ICE fully complies with the requirement to post the OIG notification in each housing unit. ICE will ensure that the OIG phone number is programmed into the ICE detainee phone system. In addition, ICE will revise its current worksheet regarding “Access to Telephones” to include a line item ensuring the OIG Hotline phone number is working. ICE will modify the NDS for Detainee Grievances and the Detainee Handbook to include specific instructions regarding how to report allegations of staff misconduct, abuse, and civil rights violations. The ICE Detainee Handbook standard will be modified to require that each handbook provide instructions to detainees on how to report allegations of officer misconduct, abuse, or civil rights violations. The telephone system programming will be completed within 30 days. The other measures discussed will take 180 days to complete.

OIG Analysis: This recommendation is unresolved until implementation is completed and ICE addresses the second part of the recommendation to require detention facilities to provide appropriate written guidance to correctional officers to ensure that treatment of immigration detainees is specifically germane to their custody status.

10. Validate that each detention facility issues a handbook for immigration detainees that:

- specifically identifies detainees’ rights, responsibilities, and rules,
- includes a section on detainee’s rights regarding the reporting of allegations of abuse and civil rights violations, and
- includes a provision that detainees may report allegations of abuse and civil rights violations directly to the DHS Office of Inspector General.

Management Comments: ICE concurs in part. The ICE Detainee Handbook and Admissions and Release standards already require that:

- detainees receive a comprehensive orientation to each facility;
- each detainee receives a copy of the detainee handbook upon admission;
- detainee handbooks are translated into Spanish or the most prevalent language spoken by detainees at their facility; and,
- the detainee handbook identifies detainees’ rights, responsibilities, and rules.

Within the next 90 days, ICE will reemphasize to all NDS compliance reviewers that they must verify these requirements are being met during annual reviews.

OIG Analysis: ICE's proposed actions address the intent of the recommendation. This recommendation is resolved but will remain open until the appropriate measures have been implemented.

11. Verify that all corrections facilities:

- have procedures in place to verify that each detainee receives a copy of the detainee handbook upon admission,
- translate detainee handbooks into Spanish or the most prevalent languages spoken by detainees at their facility, and
- have an orientation video in English and Spanish, or the most prevalent language(s) spoken by detainees at the facility.

Management Comments: ICE concurs in part. ICE currently requires all SPCs and CDFs to provide an orientation video in English and Spanish. The NDS also specifically requires that:

- detainees receive a comprehensive orientation to each facility;
- each detainee receives a copy of the detainee handbook upon admission;
- detainee handbooks are translated into Spanish or the most prevalent language spoken by detainees at their facility; and,
- the detainee handbook identifies detainees' rights, responsibilities, and rules.

However, the OIG recommendation to require every facility to provide a video orientation is not consistent with the NDS or other industry standards. Accordingly, for IGSA facilities, ICE will provide written orientation materials. To that end, ICE intends to develop an ICE detainee handbook that will provide access to information that is oriented towards ICE detainees regardless of their custodial location. At a minimum, it will contain the information recommended by OIG. ICE staff conducting site visits under the Staff Detainee Communication standard will be required to ensure these handbooks are being provided to each detainee. Within the next 90 days, ICE will reemphasize to all detention standards compliance reviewers that they must verify these requirements are being met during annual reviews. The handbook will be completed within the next 180 days.

OIG Analysis: ICE's proposed actions address the intent of the recommendation. This recommendation is resolved but will remain open until the appropriate measures have been implemented.

Thoroughness of ICE Detention Facility Inspections

Each SPC, CDF, and IGSA facility is reviewed annually for compliance with the ICE Detention Standards using procedures and guidance as outlined in the DMCP. At SPCs and CDFs, the ICE DRO headquarters staff conducts the review; at IGSA facilities, DRO field office staff conducts the review.

We reviewed the latest available Annual Detention Review reports prepared by ICE DRO for the five detention facilities included in our audit sample: (1) BCP 2004 Annual Detention Review, (2) CCA Facility in San Diego 2004 Annual Detention Review, (3) HCCC 2005 Annual Detention Review, (4) Krome SPC 2005 Annual Detention Review, and (5) PCJ 2005 Annual Detention Review.

A final rating of *Acceptable* was given to all five detention facilities, meaning the detention facilities were determined to be adequate and operating within standards, with some deficiencies. However, our review of the five facilities identified instances of non-compliance regarding health care and general conditions of confinement that were not identified during the ICE annual inspection of the detention facilities. Other areas identified, although not specifically addressed by the standard, included environmental health and safety and reporting of abuse by detainees.

This observation was beyond the planned scope of our work. However, we believe it needed to be brought to the attention of ICE management. ICE management believes the differences result from the in-depth nature of our review in contrast to the three to four day inspection process used by ICE.

Recommendations

We recommend that the Assistant Secretary for ICE:

12. Take appropriate actions to improve the inspections process and ensure that all non-compliance deficiencies are identified and corrected.

Management Comments: ICE concurs. ICE recognizes the need for independent review of its detention inspection process and is constantly looking at ways to improve its processes. The following steps have been authorized and are in progress:

- DRO has provided three full-time, funded positions to the ICE Office of Professional Responsibility (OPR);

-
- OPR will provide oversight, management, and an independent review of all detention compliance reviews conducted by DRO; and
 - OPR will alert DRO to any deficient or at risk facilities as they relate to NDS compliance.

ICE will report as to the status of these actions to the OIG as they are implemented.

OIG Analysis: This recommendation is resolved but will remain open until implementation is completed.

Appendix A

Purpose, Scope, and Methodology

The purpose of our audit was to identify and investigate deficiencies from ICE detention standards related to facilities used by ICE to house immigration detainees. We evaluated Immigration and Customs Enforcement's (ICE's) implementation of its detention standards and detention facilities' compliance with the standards; and examined reports and allegations related to detainees' abuse. Our audit focused on ICE's implementation and oversight of 22 of 38 detention standards.

We met with ICE and DRO officials responsible for establishing the detention standards, monitoring compliance with detention standards, reviewing and resolving allegations and complaints reported by detainees, and maintaining program information and statistics. We also met with U.S. Customs and Border Protection officials responsible for establishing policies and procedures, monitoring compliance with established policies and procedures, reviewing and resolving allegations and complaints reported by detainees, and maintaining program information and statistics. Our review coverage included program information and statistics from January 2004 through January 2006. Other periods were included as deemed necessary to address the audit objectives.

We also met with Non-Governmental Organization (NGO) officials and representatives from advocacy groups to obtain their concerns and views regarding the treatment of detainees held on immigration charges at the facilities selected for review.

We conducted fieldwork at the following five detention facilities, which consist of one SPC, one CDF, and three IGSA facilities.

Detention Facilities

1. Berks County Prison, Leesport, Pennsylvania – an IGSA facility
2. CCA Facility, San Diego, California – a CDF
3. Hudson County Correction Center, Kearny, New Jersey – an IGSA facility
4. Krome SPC, Miami, Florida
5. Passaic County Jail, Paterson, New Jersey – an IGSA facility

After the completion of our review, ICE removed all immigration detainees that had been housed at PCJ and transferred them to other facilities.

We did not use statistical sampling methodologies based on random selection for the facility or sample selections. Accordingly, the results of our testing represent the characteristics of our judgmental sample and were not projected

Appendix A Purpose, Scope, and Methodology

to the population from which it was selected to determine an overall compliance rate.

We distributed flyers in English and Spanish to ICE, NGO, and civil rights groups to indicate the sites that we would visit. We provided the same information to ICE detainees at each facility that we visited. This afforded detainees the opportunity to contact us regarding allegations of mistreatment (see *Appendix B*).

During our audit, we received responses to the flyer and we interviewed a sample of detainees at each facility. The detainees were selected based on the issues and concerns that they included in their response, length of time at the facility, and other variables. The other variables included our review of grievances, incident reports, post logbooks, after action reports, and other documents obtained directly from the detention facility, as well as some detainees identified by representatives from various civil rights groups. We made an attempt to select those detainees who included allegations related to abuse, unique medical concerns, special needs, and extraordinary issues regarding conditions of confinement. The table below shows the number of detainee responses that we received and the number of detainees interviewed at each location.

Detention Facility	Number of Detainee Responses	Number of Detainees Interviewed
Berks County Prison	22 ^a	25
CCA Facility in San Diego	210 ^b	51
Hudson County Correctional Center	47 ^c	40
Krome SPC	99 ^d	20
Passaic County Jail	94 ^e	32

We also interviewed some detainees released from Passaic County Jail to obtain indications regarding whether detainees previously held were mistreated, i.e., physical, sexual, or verbal abuse, and to identify any additional concerns regarding their condition of confinement. We reviewed available documentation including videotapes, incident reports, medical reports, property logbooks, laundry logbooks, and other records in an attempt to corroborate allegations made by detainees.

^a 20 in English and 2 in Spanish.

^b 136 in English, 69 in Spanish, 4 in Chinese, and 1 in Korean.

^c 40 in English, 6 in Spanish, and 1 in Portuguese.

^d 68 in English and 31 in Spanish.

^e 62 in English, 31 in Spanish, and 1 in Chinese.

Appendix A

Purpose, Scope, and Methodology

Using the structured questionnaire prepared by ICE DRO for its DMCP, we interviewed pertinent facility staff to gain an understanding of the facility operations, policies and procedures, practices, and to assess compliance with the following ICE Detention Standards as they pertain to the treatment of detainees being held on immigration charges:

- Staff-Detainee Communication;
- Detention Files;
- Disciplinary Policy;
- Hold Rooms In Detention Facilities (if any);
- Special Management Units (Disciplinary and Administrative);
- Use Of Force;
- Access To Legal Materials;
- Admission And Release;
- Classification System;
- Correspondence And Other Mail;
- Food Service;
- Funds And Personal Property;
- Detainee Grievance Procedures;
- Group Presentation on Legal Rights;
- Issuance And Exchange of Clothing, Bedding, And Towels;
- Recreation;
- Religious Practices;
- Detainee Access To Telephone;
- Visitation;
- Hunger Strike;
- Medical Care; and
- Suicide Prevention And Intervention.

We toured each facility in an attempt to observe:

- Announced and unannounced visits made by officers from the appropriate ICE Field Office;
- In-processing and out-processing of detainees;
- Staff handling and documenting receipt of detainees' funds and property (for both in-processing and out-processing) and the property room;
- Use of force;
- Mail processing;
- Law Library;
- Housing units for male and female detainees to include: (1) general housing units/pods, (2) temporary housing unit/pods, (3) safety cells,

Appendix A

Purpose, Scope, and Methodology

- (4) medical area, (5) segregation units, (6) telephone areas, and (7) hold rooms (if any);
- Visitation rooms and waiting areas (for social and attorney visits);
- Dining room activities (including storage and refrigeration areas);
- Laundry distribution (including washer areas);
- Detainee population at recreation time (both outdoor and indoor facilities);
- Detainees in segregation at recreation time (both outdoor and indoor facilities); and
- Religious services.

To conduct the review of health care, we selected case files based on the following methodologies:

- At BCP, we judgmentally selected 42 ICE detainees to review the initial medical screening for new arrivals and physical examination from various sources, including billing listings, detainees housed in disciplinary or mental health units, and housing logs. We reviewed 447 sick call requests submitted by 30 detainees. We interviewed 25 of the 30 detainees and the remaining five detainees were selected based on the variables, as explained on page 38. These sick call requests cover a period of July 2003 to May 2005. In addition, we reviewed the medical file of one detainee on hunger strike, and seven detainees who had been placed under observation for suicidal precautions.
- At the CCA San Diego Facility, we judgmentally selected 12 ICE detainees to review the initial medical screening for new arrivals from the hunger strikers list, suicide list, and randomly from current detainees. We subsequently reviewed an additional 19 detainees' medical files for physical examinations based on detainee interviews. We reviewed 19 sick call requests submitted by 11 detainees. In addition, we reviewed the medical file of three detainees on hunger strike, and five detainees who had been placed under observation for suicide watch.
- At HCCC, we judgmentally selected 32 ICE detainees to review the initial medical screening for new arrivals and physical examination from various sources including the billing listings, detainees housed in either disciplinary or mental health units, and housing logs. However, the medical care provider at HCCC was unable to provide us with one of the requested medical files. In addition, we could not determine whether 11 of 31 detainees at HCCC received the initial medical screening immediately upon arrival or a physical examination within 14 days of arrival due to missing documents and incomplete forms. Therefore, we were only able to review 20 detainees. We reviewed a limited number of sick call requests submitted by 12 detainees. In addition, we reviewed the

Appendix A

Purpose, Scope, and Methodology

medical file of one detainee on hunger strike, and seven detainees who had been placed under observation for suicide watch.

- At PCJ, we initially selected a total of 32 ICE detainees to review the initial medical screening for new arrivals and physical examination from the list of detainees we interviewed. However, PCJ was not able to locate the medical files for two detainees. Therefore, we were only able to review 30 detainees. We also reviewed 15 sick call requests submitted by six detainees. In addition, we reviewed the medical file of two detainees on hunger strike, and three detainees who had been placed under observation for suicide watch.
- At Krome, we selected 39 ICE detainees to review the initial medical screening for new arrivals and physical examination from medical files maintained. We subsequently reviewed an additional 12 detainees' medical files. We reviewed the medical file of one detainee on hunger strike, and 14 detainees who had been placed under observation for suicide watch. In addition, we received 27 medical concerns expressed by detainees.

We conducted our audit from June 2004 through January 2006 under the authority of the Inspector General Act of 1978, as amended, and in accordance with generally accepted government auditing standards.

DEPARTMENT OF HOMELAND SECURITY OFFICE OF INSPECTOR GENERAL



The DHS OIG is conducting a review of the treatment of aliens held on immigration charges at U.S. Immigration and Customs Enforcement (ICE) detention facilities.

We are assessing the treatment of detainees and conditions of confinement at the following facilities:

- (1) Berks County Prison, Leesport, Pennsylvania
- (2) Corrections Corporation of America Facility, San Diego, California
- (3) Hudson County Correction Center, Kearny, New Jersey
- (4) Krome Service Processing Center (SPC), Miami, Florida
- (5) Passaic County Jail, Paterson, New Jersey

If you feel that you have been physically or sexually abused or your conditions of confinement have been abusive, you or your representative can:

- Fax DHS OIG Hotline at: (202) 254-4295
- E-mail us at DHSOIGHOTLINE@dhs.gov
- Or write:
U.S. Department of Homeland Security/Stop 2600
Attn: Office of Inspector General Hotline
245 Murray Drive, S.W., Building 410
Washington, D.C. 20528

Your participation may contribute to improved living conditions at the detention facility. All contacts will be kept confidential. Your identity will not be made public without your consent, unless ordered by a court. Your participation will not have a negative effect on your immigration case.

Appendix C Management Response to Draft

Office of the Assistant Secretary


U.S. Department of Homeland Security
425 I St. NW
Washington, DC 20531

2006 SEP 11 P



U.S. Immigration
and Customs
Enforcement

MEMORANDUM FOR: David M. Zavada
Assistant Inspector General for Audits
Department of Homeland Security

FROM: Julie L. Myers 
Assistant Secretary

SUBJECT: ICE Comments on OIG Draft Report, "Treatment of Immigration
Detainees Housed at Immigration and Customs Enforcement
Facilities"

In response to the recommendations made in the subject Office of the Inspector General (OIG) Draft Report, ICE submits the following:

Management Comments

ICE constantly strives to provide care for its detainee population that meets or exceeds detention industry standards. To that end, ICE conducts comprehensive annual audits of facilities used to detain persons in its custody and care. In an effort to improve our audit capability, ICE's Office of Detention and Removal Operations (DRO) has funded three full-time positions in the ICE Office of Professional Responsibility. ICE's National Detention Standards (NDS) are consistent with industry standards such as those established and promoted by the American Correctional Association (ACA) and other groups specializing in detainee care and treatment, including the National Commission for Correctional Health Care (NCCHC) and the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). ICE has further historically demonstrated that, when a facility fails to meet the intent of the NDS, the relationship with the deficient facility is terminated.

In reviewing OIG's report, ICE notes that OIG employed "exception reporting" methodology when conducting its review. This methodology concentrates on individual alleged failures or exceptions to the norm, focusing on a small number of individual cases rather than a statistically significant, random sample of ICE's large detainee population. ICE further recognizes that the findings in the report are reflective of the methodology employed and do not indicate any systemic failure, but instead identify exceptions that occurred within each of the five facilities selected for review. As such, ICE concurs that the OIG has found its treatment of immigration detainees to be generally in compliance with its National Detention Standards (NDS). The OIG's findings will be shared with OPR and the ICE Field Office Directors.

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Subject: ICE Comments on OIG Draft Report, *Treatment of Immigration Detainees Housed at Immigration and Customs Enforcement Facilities*

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ICE remains committed to the goal of ensuring that all Service Processing Centers (SPCs) and Contract Detention Facilities (CDFs) used to house ICE detainees achieve full compliance with the NDS, and that Intergovernmental Service Agreement (IGSA) facilities managed by other law enforcement agencies meet the intent of those standards.

ICE points out that seven of its eight SPCs are accredited by the ACA, NCCHC, and JCAHO, as are five of the six ICE CDFs. The table below describes the certification status of the five facilities audited by OIG during its review:

Facility	ACA	NCCHC	JACHO	State
Krome SPC	January 2005 100% Mandatory 99.4% Non-Mandatory	January 2005 Full Accreditation	December 2005 Full Accreditation	NA
CCA San Diego	January 2005 100% Mandatory 97.8% Non-Mandatory	March 2005 Full Accreditation	August 2004 Full Accreditation	NA
Berks County	Not Required	2004 Full Accreditation	Not Required	Yes / Annually
Hudson County	Not Required	Not Required	Not Required	Yes / Annually
Passaic County	This facility is no longer used by ICE			Yes / Annually

Response to Recommendations

The OIG report has made 13 recommendations to the Assistant Secretary. ICE responds to each of those recommendations as follows:

OIG Recommendations Regarding Health Care

OIG Recommendation 1: Establish quality assurance measures to ensure the medical staff at detention facilities consistently follow all detention standards regarding:

- initial medical screening and subsequent physical examinations for new arrivals;
- timeliness of responding to non-emergency sick call requests;
- monitor detainees on hunger strikes; and
- monitor detainees identified as a suicide risk.

ICE Response:

ICE concurs in part. In determining the appropriate level of action and response to any reported deficiencies in the medical field, ICE must rely on its medical experts to provide sound medical decisions and direction within its medical program. To that end, ICE will

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convene a working group comprised of licensed medical practitioners from the U.S. Public Health Service Department of Immigration Health Services (DIHS). This working group will review current inspection worksheets for the purpose of determining whether any specific changes to the worksheets are required to guarantee an appropriate level of quality assurance in compliance with the NDS requirements concerning medical screening, hunger strikes, and suicide prevention. This working group will complete its assessment within 90 days and any recommendations will be incorporated into the annual ICE detention review program, including the issuance of any appropriate policy changes. ICE, however, does not agree that OIG's findings on this issue, which are based on a small sample size and an "exception reporting" methodology, reflect a systemic shortcoming in ICE's detention practices. It is critical that medical providers maintain the ability to prioritize care and treatment in order to ensure those requiring immediate medical treatment are seen first. ICE notes that OIG did not report that any of the responses were medically inappropriate.

OIG Recommendation 2: Develop specific criteria to define reasonable time for medical treatment.

ICE Response:

ICE concurs in part. ICE contends that its medical program provides adequate detainee care and is consistent with industry standards but will nonetheless examine the merits of the issue raised in this Report. As noted above, ICE must rely on its service providers to make medical decisions regarding the provision of medical care and any criteria to be established that would determine timeliness. . The working group of licensed medical experts referenced in ICE's response to Recommendation 1 will review the medical standards to determine if changes need to be made. The group's recommendations will be prepared within 90 days.

OIG Recommendation 3: Establish measures to ensure medical records are clearly documented and the documentation is readily available for examination.

ICE Response:

ICE concurs in part. As noted in the responses to the prior two OIG recommendations, ICE will examine the merits of the issue. The working group will also assess the ICE Access to Medical standard and worksheets utilized by field reviewers to ensure that appropriate oversight measures are in place relating to medical records documentation. The group's recommendations will be completed within 90 days.

OIG Recommendations Regarding Environmental Health and Safety

OIG Recommendation 4: Require detention facilities using double or triple bunk beds to include ladder access and a top bunk safety rail to ensure the safety of the detainees.

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ICE Response:

ICE does not concur. The NDS and ACA standards do not require ladders or safety rails for bunk beds. Bunk beds with ladders and safety rails are not the accepted industry standard. Any requirement by ICE to house detainees only on lower bunks or to retrofit all facilities with this style of bed will be extremely expensive, will significantly reduce the amount of available bedspace (particularly in areas of the country where IGSA bedspace is heavily relied upon), and could conceivably make it more difficult for detention officers to remove uncooperative detainees. This latter point might present a significant officer and detainee safety issue. ICE recommends that this recommendation be closed.

OIG Recommendation 5: Ensure that periodic oversight and inspection procedures are in place to determine that regular pest treatments are performed, ventilation is adequate, and food preparation and serving procedures are followed during their annual inspections.

ICE Response:

ICE concurs in part. , ICE's current inspection program already requires annual checks to ensure pest control services and appropriate food preparation at each facility but will modify its Health and Safety inspections worksheet utilized during its annual inspections by adding a specific line item requiring detention reviewers to check each facility for adequate ventilation and will make improvements to its current inspectional tools and methodology. . ICE. Reviewers will be required to ensure vents and air conditioning ducts are not blocked and living units are maintained at appropriate temperatures in accordance with industry standards.

Currently, the compliance review worksheet used to measure compliance with the Environmental Health and Safety standard states:

- A licensed/Certified/Trained pest-control professional inspects for rodents, insects, and vermin.
 - At least monthly.
 - The pest-control program includes preventive spraying for indigenous insects.

In its report, the OIG noted complaints of excessive water temperature. ICE immediately took corrective action to identify the source of the problem and replaced a water-mixing valve. This corrected the problem.

ICE notes that OIG did not cite any instances of detainees being injured due to water temperature or of any detainees seeking medical treatment for such an injury. However, in the interest of additional detainee safety, ICE will modify the existing Health and Safety worksheet to include a specific line item requiring detention reviewers to ensure shower water temperatures do not exceed the industry standard of 120 degrees.

The compliance review worksheet used to measure compliance with the Food Service standard states:

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- Hot and cold foods are maintained at the prescribed, "safe" temperature(s) after two hours.
- All staff and volunteers know and adhere to written "food preparation" procedures.

Once completed and approved, these changes will be incorporated into our annual detention review program and appropriate policy will be issued. ICE estimates that these changes will take 90 days to implement.

OIG Recommendations Regarding General Conditions of Confinement

OIG Recommendation 6: Ensure detention facilities properly segregate high-risk, category three detainees from low-risk category one and two detainees.

ICE Response:

ICE concurs. The OIG findings relating to classification are limited to two of the five facilities audited, one of which was Passaic County Jail (PCJ). While ICE's relationship with Passaic County Jail has been terminated and the facility is no longer utilized to house ICE detainees, ICE recognizes the importance of properly classifying detainees and making appropriate housing assignments based on classification level. ICE's Classification Standard ensures that each detained alien is placed in the appropriate category and physically separated from detainees in other categories. ICE uses the most reliable, objective information during the classification process.

ICE will reissue its existing NDS on Classification to all Field Office Directors (FODs) and authorized detention compliance reviewers. ICE will reiterate the importance of compliance with the standard and require that all FODs review the current classification and housing assignment practices at detention facilities within their respective Field Offices. FODs will be required to take appropriate corrective action as necessary to ensure compliance, including certification that all responsible for classification have received the policy. These measures will take 180 days to complete.

OIG Recommendation 7: Ensure adequate separation of duties and other internal control procedures are implemented at detention facilities for detainee funds and personal property to reduce the risk of property being inadequately accounted for and to safeguard against theft.

ICE Response:

ICE concurs. The ICE Funds and Personal Property detention standard requires procedures to be in place at detention facilities to control and safeguard detainee property. The standard requires that two officers be present both to remove funds from a detainee's possession and to inventory the property on property receipt forms at SPCs and CDFs.

ICE will modify the current review worksheet for Funds and Personal Property utilized in its annual review process to include a specific line item for IGSA facilities that do not have

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automated detainee funds systems addressing the requirement that two officers must be present during the processing of a detainee's funds and valuables. Once completed and approved, any changes will be incorporated into our annual detention review program and appropriate policy issued. These measures will take 90 days for ICE to implement.

OIG Recommendation 8: Ensure that periodic oversight and inspection procedures are in place to address compliance with the Detention Standards in the following areas during its annual inspection process.

- Staff-detainee communication
- Documentation of detention files
- Disciplinary policy
- Special Management Units (Disciplinary and Administrative)
- Access to legal materials
- Correspondence and other mail
- Detainee grievance procedures
- Issuance and exchange of clothing
- Outdoor recreation
- Telephone access and privacy
- Visitation

ICE Response:

ICE concurs with the need for inspection in the areas listed but does not concur with this recommendation since the NDS and ICE annual review process already addresses each of the items in the recommendation. ICE is confident that, through its annual inspections program, the appropriate level of oversight regarding compliance with the NDS exists. In addition, ICE's practice of conducting annual reviews and weekly site visits to its detention facilities exceeds the industry standards set by ACA, NCCHC, and JCAHO. These organizations, nationally recognized as leaders in the detention industry, conduct inspections at three-year intervals. ICE requests that this recommendation be considered resolved and closed.

OIG Recommendations for Reporting Detainee Abuse

OIG Recommendation 9: Revise the ICE National Detention Standard to:

- explicitly address how detainees should report allegations of abuse and civil rights violations, along with violations of officer misconduct, directly to ICE management or the DHS Office of Inspector General; and,
- require detention facilities to provide appropriate written guidance to correctional officers to ensure that treatment of immigration detainees is specifically germane to their custody status.

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ICE Response:

ICE concurs in part. As noted in the OIG report, ICE fully complies with the requirement to post the required OIG notification information in each housing unit. In addition, ICE will ensure that the OIG phone number is programmed into the ICE detainee phone system. This system provides free access calls by detainees to critical phone numbers such as consulates, the United Nations, courts, and other legal resources. ICE will revise its current worksheet regarding "Access to Telephones" to include a line item ensuring the OIG Hotline phone number is working. ICE will modify the NDS for Detainee Grievances and the Detainee Handbook to include specific instructions regarding how to report allegations of staff misconduct, abuse, and civil rights violations. The ICE Detainee Handbook standard will be modified to require that each handbook provide instructions to detainees on how to report allegations of officer misconduct, abuse, or civil rights violations. The telephone system programming will be completed within 30 days. The other measures discussed in this response will take 180 days to complete.

OIG Recommendation 10: Validate that each detention facility issues a handbook for immigration detainees that:

- specifically identifies detainees' rights, responsibilities, and rules;
- includes a section on detainee's rights regarding the reporting of allegations of abuse and civil rights violations; and,
- includes a provision that detainees may report allegations of abuse and civil rights violations directly to the DHS Office of Inspector General.

ICE Response:

ICE concurs in part. The ICE Detainee Handbook and Admissions and Release standards already require that:

- detainees receive a comprehensive orientation to each facility;
- each detainee receives a copy of the detainee handbook upon admission;
- detainee handbooks are translated into Spanish or the most prevalent language spoken by detainees at their facility; and,
- the detainee handbook identifies detainees' rights, responsibilities, and rules.

Within the next 90 days, ICE will reemphasize to all NDS compliance reviewers that they must verify these requirements are being met during annual reviews.

OIG Recommendation 11: Verify that all corrections facilities:

- have procedures in place to verify that each detainee receives a copy of the detainee handbook upon admission;
- translate detainee handbooks into Spanish or the most prevalent languages spoken by detainees at their facility; and,
- have an orientation video in English and Spanish, or the most prevalent language(s) spoken by detainees at the facility.

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ICE Response:

ICE concurs in part. ICE currently requires all SPCs and CDFs to provide an orientation video in English and Spanish. The NDS also specifically requires that:

- detainees receive a comprehensive orientation to each facility;
- each detainee receives a copy of the detainee handbook upon admission;
- detainee handbooks are translated into Spanish or the most prevalent language spoken by detainees at their facility; and,
- the detainee handbook identifies detainees' rights, responsibilities, and rules.

However, the OIG recommendation to require every facility to provide a video orientation is not consistent with the NDS or other industry standards. Accordingly, for IGSA facilities, ICE will provide written orientation materials. To that end, ICE intends to develop an ICE detainee handbook that will provide access to information that is oriented towards ICE detainees regardless of their custodial location. At a minimum, it will contain the information recommended by OIG. ICE staff conducting site visits under the Staff Detainee Communication standard will be required to ensure these handbooks are being provided to each detainee. Within the next 90 days, ICE will reemphasize to all detention standards compliance reviewers that they must verify these requirements are being met during annual reviews. The handbook will be completed within the next 180 days.

OIG Recommendations Regarding Thoroughness of Detention Facility Inspections

OIG Recommendation 12: Ascertain the reasons that the areas of non-compliance identified by ICE inspections of detention facilities were significantly less than the non-compliance deficiencies identified by our office.

ICE Response:

ICE does not concur. ICE's current practice of random sampling versus the OIG use of "exception reporting" inherently leads to different outcomes. Additionally, OIG spent many weeks (e.g., 10 weeks on site work plus 7 weeks of document review for the San Diego audit) conducting its audit. This approach differs significantly from the review process currently utilized by the Department of Justice and that established under ACA, which ICE also utilizes. Through the industry standard approach utilized by ICE, reviewers are able to conduct a reasonable assessment within a reasonable period of time. It is minimally invasive to day-to-day operations of a facility and, at the same time, produces results indicative of overall conditions at the facility. As noted, the OIG utilized a substantially longer time period to conduct an in-depth audit. When contrasted with the industry standard practices employed by ICE, the OIG's methodology, resources expended, and time period utilized, inevitably resulted in dissimilar results.

Finally, ICE uses a random sampling of detainees based on placement in the facility and the use of a variety of nationalities to achieve a larger cross section of the population. We believe that our assessment approach is consistent with industry standards such as those

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used by ACA, NCCHC, and JACHO. ICE requests that this recommendation be considered resolved and closed.

OIG Recommendation 13: Take appropriate actions to improve the inspections process and ensure that all non-compliance deficiencies are identified and corrected.

ICE Response:

ICE concurs. ICE recognizes the need for independent review of its detention inspection processes and is constantly looking at ways to improve its processes. The following steps have been authorized and are in progress:

- DRO has provided three full-time, funded positions to the ICE Office of Professional Responsibility (OPR);
- OPR will provide oversight, management, and an independent review of all detention compliance reviews conducted by DRO; and
- OPR will alert DRO to any deficient or at risk facilities as they relate to NDS compliance.

ICE will report as to the status of these actions to the OIG as they are implemented.

Summary Statement

ICE commends OIG for its efforts in reviewing our detention practices and appreciates the acknowledgement that we are generally in compliance with the National Detention Standards. As explained in our responses above, ICE will work to make reasonable improvements to those practices in a manner that ensures the safety, security, and welfare of our staff, the public, and detainees in our custody.

If you have further questions regarding ICE's response, please contact the ICE OPR audit liaison staff at (202) 353-7209 or Mr. Walter P. LeRoy, Chief, Detention Standards Compliance Unit at (202) 732-2885.

Appendix D
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Appendix E

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