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Office of Detention Oversight Compliance Inspection

Enforcement and Removal Operations
Newark Field Office
Elizabeth Contract Detention Facility
Newark, New Jersey

January 31 – February 2, 2012

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**COMPLIANCE INSPECTION
ELIZABETH CONTRACT DETENTION FACILITY
NEWARK FIELD OFFICE**

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EXECUTIVE SUMMARY

The Office of Professional Responsibility (OPR), Office of Detention Oversight (ODO) conducted a Compliance Inspection (CI) of the Elizabeth Contract Detention Facility (ECDF) in Newark, New Jersey, from January 31 to February 2, 2012. The facility is owned by Portview Properties and was opened in 1974; Corrections Corporation of America (CCA) has been operating the facility since 1976.

The facility is currently under contract with U.S. Immigration and Customs Enforcement (ICE), Office of Enforcement and Removal Operations (ERO) to house security classification levels of 1 and 2 adult male detainees for periods in excess of 72 hours awaiting removal proceedings. There is a formal classification system for managing and separating detainees based upon verifiable and documented data. At the time of the CI, ECDF housed 256 male ICE detainees.

The facility maintains current accreditations with the American Correctional Association (ACA), the National Commission on Correctional Health Care (NCCHC), and the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). During the CI, ODO examined processes employed at ECDF to determine compliance with the 2008 ICE Performance Based National Detention Standards (PBNS).

The CCA employs a total of (b)(7)e personnel and all positions are currently filled. The Warden is the highest ranking CCA employee at the ECDF and is responsible for the oversight of daily operations. The Warden is assisted by a Secretary, Business Manager, Assistant Warden, Quality Assurance Manager, Human Resources Manager, Records Clerk, Training Manager, Maintenance Manager, Food Service Manager, Warehouse Supervisor, and Mail Clerk. The remaining staff of first and second level supervisory and associated correctional staff is comprised of (b)(7)e Lieutenants, (b)(7)e Captains, (b)(7)e Senior Detention Officer, and (b)(7)e Detention Officers.

The ERO Field Office Director in Newark, New Jersey (FOD/Newark) is responsible for ECDF compliance with ICE policies and the ICE PBNS. ERO has a staff of (b)(7)e full-time employees physically located on-site at the facility. Staff is comprised of an Assistant Field Office Director (AFOD), (b)(7)e Supervisory Detention and Deportation Officers (SDDO), (b)(7)e Supervisory Immigration Enforcement Agents (SIEA), (b)(7)e Enforcement Removal Assistants (ERA), (b)(7)e Immigration Enforcement Agents (IEA), (b)(7)e Deportation Officers (DO), (b)(7)e Contract Officer Technical Representative (COTR), (b)(7)e Detention Service Manager (DSM), and (b)(7)e cooperative student.

The DSM is assigned to ECDF to monitor oversight and compliance with the ICE PBNS. Daily tasks for the DSM include monitoring contractor activities; meeting with CCA unit managers, the Assistant Warden and the Quality Assurance Manager on a daily basis to assess the status of the facility; and meeting with medical staff, the Food Service Manager and the classification unit staff weekly. The COTR visits the facility weekly to ensure services are provided to the government based on the contractual deliverables to provide adult detention, transportation, guard services and detainee wages. The COTR reviews Forms I-203 (Orders to

Detain or Release) for all detainees admitted or released from ECDF and compares the information with the ICE Enforce database to ensure accuracy with respect to the number of detainees versus billable numbers.

ODO conducted a Quality Assurance Review (QAR) of ECDF in August 2008 and a Follow-up Inspection in September 2009, using the National Detention Standards (NDS). During the 2008 QAR, ODO found 49 deficiencies in the following standards: Access to Legal Material (2), Admission and Release (1), Contraband (1), Correspondence and Other Mail (1), Detainee Classification System (2), Detainee Grievance Procedures (4), Emergency Plans (3), Environmental Health and Safety (2), Funds and Personal Property (2), Hold Rooms in Detention Facilities (1), Key and Lock Control (5), Medical Care (5), Population Counts (3), Security Inspections (2), Special Management Unit (2), Staff-Detainee Communication (5), Suicide Prevention and Intervention (2), Use of Force (5), and Visitation (1).

During the September 2009 Follow-up Inspection, ODO found some improvement in the majority of areas; however, ODO staff discovered 20 (41%) repeat deficiencies in the following standards: Access to Legal Material (1), Detainee Classification System (1), Detainee Grievance Procedures (3), Emergency Plans (1), Environmental Health and Safety (1), Funds and Personal Property (1), Hold Rooms in Detention Facilities (1), Key and Lock Control (2), Medical Care (2), Staff-Detainee Communication (3), Suicide Prevention and Intervention (1), and Use of Force (3).

In October 2011, the ERO Detention Standards Compliance Unit contractor, MGT of America, Inc., conducted an annual review of the ICE PBNDS at ECDF. The facility was determined to be in compliance with all of the 40 standards reviewed and received an overall rating of "Meets Standards." One standard, Escorted Trips for Non-Medical Emergencies, was not reviewed because it was determined to not be applicable.

During this CI, ODO reviewed a total of 21 PBNDS; 11 areas were found to be fully compliant, while 22 deficiencies were found in the following 10 areas: Admission and Release (4), Grievance System (4), Law Libraries and Legal Material (1), Medical Care (4), Suicide Prevention and Intervention (2), Telephone Access (1), Transfer of Detainees (2), Transportation (By Land) (2), Use of Force and Restraints (1), and Visitation (1). Deficiencies similar to those found in the 2009 Follow-up Inspection were found in the following standards: Grievance System, and Law Libraries and Legal Material.

Overall, ECDF is well managed. The facility provides a commissary to permit eligible detainees the opportunity to purchase approved items on a regular basis. Detainees are allowed access to indoor recreation for two hours per day, seven days a week, and outdoor recreation for one hour per day, seven days a week, in one hour increments.

As a best practice, the Food Service Manager conducts surveys and meets with detainees in the various housing units on a quarterly basis to elicit feedback regarding the food service operation.

As a best practice, the facility has a Sexual Abuse and Assault Prevention and Intervention (SAAPI) PBNDS Coordinator, a Sexual Abuse Response Team (SART), Victim Services Coordinator, and representatives from the security, medical, and mental health departments. Having a SART assures a multi-disciplinary approach to preventing and responding to sexual abuse and assaults.

Also as a best practice, the officers on duty all had their SAAPI information card readily available. This assures officers have immediate access to information critical to proper handling of possible sexual assault incidents. As a matter of record, it is noted the facility's current detainee handbook does not include information concerning the SAAPI program. However, brochures printed in both English and Spanish cover all required information and are inserted in handbooks given to all detainees upon admission.

As a best practice, the DSM and the Jail Liaison (an IEA) visit the housing unit each day to address detainee concerns. ODO interviews with ECDF staff revealed supervisory ERO staff makes frequent unannounced and unscheduled visits to the activity areas and housing units. These visits are documented in the housing unit logbooks and in the ERO Daily Logbook. Overall, ODO observed detainee requests and concerns are addressed in a timely manner in the facility.

At the time of the inspection there were no detainees housed in the Special Management Unit (SMU). According to staff, the SMU is seldom used and no more than two detainees have been housed there on any given day over the past two years.

ECDF staff did not use metal detectors when screening detainees. ODO brought this discrepancy to the attention of staff, and a metal detector was deployed, which corrected the deficiency.

ECDF policy and procedures require detainees to submit an Oral Grievance Resolution, Form 14-5A, within seven calendar days of an alleged incident. Detainees are allowed to file a formal grievance only after receiving a response from facility staff if they are unsatisfied with the informal resolution. ECDF policy is not in compliance with the PBNDS as it requires detainees to file an inmate/resident grievance (Form 14-5B), and to place the sealed envelope marked "Emergency Grievance" in the grievance mail box.

ODO finds current staffing inadequate to address the health care needs of the detainee population. According to the staffing plan reviewed January 23, 2012, there are (b)(7) vacancies: the Clinical Director, (b)(7) social worker, (b)(7) nurse manager, and (b)(7)e RNs. ODO notes the current vacancy rate is (b)(7) percent, of particular concern given the lack of an on-site physician and weekend provider coverage. In a review of 18 detainees' medical records, ODO found one detainee's blood pressure was not monitored regularly during the period of detention, and the care provided to this detainee did not meet the PBNDS requirement to address detainees' health care needs in a timely and efficient manner. In another case, ODO found a detainee who was diagnosed with "uncontrolled hypertension" who was not administered appropriate care and treatment. Further, of the 18 chronic care medical records reviewed, eight pertained to detainees

who had been released from ECDF. ODO found none of the released detainees' files contained a medical/psychiatric alert.

When reviewing the suicide watch records for two detainees, timeframes for mental health referrals, nursing rounds, and re-evaluations of suicide watch status were met in one case; in the other case, there was no documentation for one day of the suicide watch showing the suicide watch status was re-evaluated. ODO observed the SMU cells have limited visibility, with blind spots interfering with direct, constant observation. In addition, these cells have two desk-type platforms protruding from the wall which could facilitate a suicide attempt.

The DHS Office of Inspector General (OIG) contact information was displayed in seven out of eight housing units; it was not displayed in housing unit F.

ERO staff is responsible for completing the Detainee Transfer Checklist, and also ensuring the requisite processing is completed prior to removing detainees from the sending facility. ODO found ERO and facility staff did not complete the Detainee Transfer Checklist or place a copy of it in the detainee's A-File.

ECDF has a comprehensive written policy governing the use of force, and addressing all requirements of the PBNDS. The facility has Oleoresin Capsicum (OC) spray, and properly trains officers in its use. ECDF does not use four-point restraints, a restraint chair, or any electro-muscular disruption devices. The Special Operations Response Team is adequately sized, and members receive training in accordance with the standard. Training on force procedures occurs at the local academy and annually during refresher training. The use of force lesson plan was reviewed and determined to meet PBNDS requirements. The Assistant Warden in charge of security informed ODO there were three immediate use-of-force incidents involving a total of three ICE detainees since September 2011; there were no calculated use-of-force incidents during this timeframe.

ECDF does not consider using soft restraints prior to using hard restraints on detainees. Two of the three immediate use-of-force incidents involved stopping a fight between two detainees, and the other incident involved restraining a detainee who attempted to go through a secured door to talk to a staff member. All three of the detainees were secured with hard restraints. According to staff, soft restraints are not used by the facility.

One detainee had visiting privileges suspended since January 2012. According to an email detailing the suspension, the detainee had an incident at another facility prior to transferring to ECDF involving inappropriate contact with a visitor. A review of the detainee's detention file confirmed the loss of visiting privileges was not based on formal disciplinary actions at ECDF, and was not under review or investigation to determine whether continued suspension of visiting privileges was necessary.

INSPECTION PROCESS

ODO primarily focuses on areas of noncompliance with the ICE National Detention Standards or the ICE PBNDS, as applicable. The PBNDS apply at ECDF. In addition, focus may be applied to the inspection with information provided on detention management by ERO Headquarters (HQ) and the ERO field offices, and to issues of high priority or interest to ICE executive management. Inspection objectives are to evaluate the welfare, safety, and living conditions of detainees.

ODO reviewed the processes employed at ECDF to determine compliance with current policies and detention standards. Prior to the inspection, ODO collected and analyzed relevant allegations and detainee information from multiple ICE databases, including the Joint Integrity Case Management System (JICMS), and the ENFORCE Alien Booking Module (EABM) and Alien Removal Module (EARM). ODO also gathered facility facts and inspection-related information from ERO HQ staff to prepare for the site visit at ECDF.

REPORT ORGANIZATION

This report documents inspection results, serves as an official record, and is intended to provide ICE and detention facility management with a comprehensive evaluation of compliance with policies and detention standards. It summarizes those PBNDS that ODO found deficient in at least one aspect of the standard. ODO reports convey information to best enable prompt corrective actions and to assist in the on-going process of incorporating best practices in nationwide detention facility operations.

OPR classifies program issues into one of two categories: deficiencies and areas of concern. OPR defines a deficiency as a violation of written policy that can be specifically linked to the PBNDS, or to ICE policy or operational procedure. OPR defines an area of concern as something that may lead to or risk a violation of the PBNDS, ICE policy, or operational procedure. When possible, the report includes contextual and quantitative information relevant to the cited standard. Deficiencies are highlighted in bold throughout the report and are encoded sequentially according to a detention standard designator.

Comments and questions regarding the report findings should be forwarded to the Deputy Division Director, OPR Office of Detention Oversight.

INSPECTION TEAM MEMBERS

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

Management and Program Analyst (Team Lead)	ODO, HQ
Detention and Deportation Officer	ODO, HQ
Management and Program Analyst	ODO, HQ
Contract Inspector	Creative Corrections
Contract Inspector	Creative Corrections
Contract Inspector	Creative Corrections

OPERATIONAL ENVIRONMENT

INTERNAL RELATIONS

ODO interviewed ICE and contract supervisory staff at ECDF, including the AFOD, the SDDO, the DSM, the COTR, the SIEA, and the CCA Warden. ODO also interviewed non-supervisory staff, including IEAs, DOs, and Contract Detention Officers (CDO).

During the interviews, all ICE and contract employees stated the working relationship between ICE and contract staff is excellent. The Warden attributes the relatively low number of deficiencies found during the Compliance Inspection to the excellent working relationship between ICE and CCA contract employees. All the housing unit correctional officers stated ICE supervisors and officers visit detainees in the housing units on a daily basis. Both ICE and ECDF staff indicated they have adequate resources and equipment to carry out their duties and responsibilities.

Generally, the morale among ICE staff is low; this is attributed to a heavy workload. ICE staff processes detainees from Delaney Hall facility, in addition to their regular workload at ECDF. Due to limited space at ECDF, case managers serving Delaney Hall detainees process cases from the conference room at ECDF. These case managers were temporarily relocated to operate from the ERO Newark Field Office. Construction to add additional space at ECDF is scheduled to begin in March 2012 and, upon completion, the case managers will all be housed at ECDF. Morale among the CCA staff is also low and is attributed to all staff having to accept a cut in their salaries due to the recent negotiated contract with ERO.

The AFOD stated there is a need for additional ICE staff, citing the currently large workload of having to service detainees at Delaney Hall and the ECDF. The existing caseload and requirements of the new contract necessitate an additional DO, SIEA and ERAs.

The AFOD is in contact with the Warden several times per week. Additionally, a stakeholders meeting is conducted every two weeks. The meeting includes ICE management, CCA management, Immigration Health Service Corps (IHSC), Office of the Chief Counsel, and the DSM, and discussions include facility issues, the status of tasks, community activities, and the impact of these activities.

DETAINEE RELATIONS

ODO interviewed 18 randomly-selected ICE detainees to assess the overall living and detention conditions at ECDF. Four detainees (22 percent) stated the medical care was good. One detainee complained it took too long to be seen by a doctor, and another stated he was never seen by medical staff. ODO conducted a review of the detainees' medical records and found they were provided treatment as required.

All detainees claimed they were issued hygiene supplies during intake processing. After the initial issuance, they have continued to receive hygiene supplies and are able to purchase additional supplies from the commissary.

Six detainees (33 percent) claimed they were not issued a copy of the facility detainee handbook. ODO reviewed the detention files of the six detainees and found the detainees signed the intake sheet acknowledging receipt of a handbook. Two detainees stated they received copies of the national handbook prior to their arrival at ECDF. All 18 stated they have not been strip-searched at ECDF. Five detainees stated they did not know the name of their DO or ICE representative.

All detainees stated they are offered outside recreation at least five hours per week, are permitted visitation with their families, and have access to grievance forms and daily contact with ICE staff. When questioned about telephones and other correspondence requirements, all stated they knew how to use the telephones. ODO noted telephone instructions and listings of free services are posted in each housing unit, in a prominent place. All stated the food is good; however, six detainees (33 percent) said portions are too small.

ICE PERFORMANCE BASED NATIONAL DETENTION STANDARDS

ODO reviewed a total of 21 PBNDS and found ECDF fully compliant with the following 11 standards:

- Classification System
- Detainee Handbook
- Disciplinary System
- Food Service
- Funds and Personal Property
- Hunger Strikes
- Recreation
- Sexual Abuse and Assault Prevention and Intervention
- Special Management Units
- Staff-Detainee Communication
- Terminal Illness, Advanced Directives, and Death

As these standards were compliant at the time of the review, synopses for these areas were not prepared for this report.

ODO found deficiencies in the following ten standards:

- Admission and Release
- Grievance System
- Law Libraries and Legal Material
- Medical Care
- Suicide Prevention and Intervention
- Telephone Access
- Transfer of Detainees
- Transportation (By Land)
- Use of Force and Restraints
- Visitation

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

ADMISSION AND RELEASE (AR)

ODO reviewed the Admission and Release PBNDS at ECDF to determine if procedures are in place to protect the health, safety, security, and welfare of each person during the admission and release process. ODO reviewed detention files, forms, policies, and procedures; and interviewed detainees and staff assigned admission and release processing duties.

According to ECDF staff, the admissions process includes recording personal information, criminal history checks, photographs and fingerprints, medical and mental health screenings, and inventories of personal property. Medical staff performs detailed medical screenings of newly-arrived detainees. Thorough pat searches are conducted on all detainees entering the intake processing area in order to prevent any contraband from getting introduced into the facility. However, at the time of the review, the facility did not use metal detectors when screening detainees (**Deficiency AR-1**). Facility staff corrected this deficiency during the review by deploying a metal detector to screen newly-arrived detainees.

ODO interviewed 18 detainees and reviewed 30 randomly-selected detention files. All of the detainees stated they are allowed to shower in the intake processing area before entering their assigned housing units. ODO noted from the interviews and files reviewed, detainees are not routinely strip-searched. ECDF policy allows strip searches if there is reasonable suspicion that a strip search is warranted, requires documentation of the reasons for the strip search, and requires supervisory approval before a search is conducted. A copy of Form G-1025, Record of Search, was provided to ODO during the review and is available in the intake processing area.

A copy of Form I-387, Report of Detainee's Missing Property, is required to be completed during intake processing and upon a detainee's release if a detainee claims his or her property is missing. A properly executed Form I-387 alerts facility staff that a detainee is missing personal property; staff can then start an investigation to find the missing property. ODO noted copies of Form I-387 were unavailable in the intake processing area. Also, ECDF does not adhere to the guidelines requiring Form I-387 to be completed for detainees reporting their personal property missing during intake processing (**Deficiency AR-2**). Additionally, Form I-387 is not provided to detainees who claim their property is missing when they are being released (**Deficiency AR-3**). During the CI, ODO observed copies of Form I-387 were placed in the intake processing area, and both deficiencies were corrected on-site. ODO recommends ECDF ensure the changes are included in facility policy.

Detainees complained about a "Know Your Rights" video and an orientation video presentation shown daily in the housing units, stating it was a nuisance. The standard requires the "Know Your Rights" video be shown to newly-arrived detainees as part of the orientation. The "Know Your Rights" video addresses the availability of pro bono legal services, but contains outdated information from the legacy Immigration and Naturalization Service. At the end of the video presentations, facility staff does not conduct a question-and-answer session (**Deficiency AR-4**). ODO reiterated the need for facility staff to conduct a question and answer session with detainees after showing the orientation video to allow detainees to voice any questions or concerns.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY AR-1

In accordance with the ICE PBNDS, Admission and Release, section (V)(B)(2), the FOD must ensure all detainees shall be screened upon admission, ordinarily including screening with a metal detector.

DEFICIENCY AR-2

In accordance with the ICE PBNDS, Admission and Release, section (V)(B)(6), the FOD must ensure, when a newly arrived detainee claims his or her property has been lost or left behind, staff shall complete a Form I-387, "Report of Detainee's Missing Property." IGSA facilities shall forward completed I-387s to ICE/[ERO].

DEFICIENCY AR-3

In accordance with the ICE PBNDS, Admission and Release, section (V)(H)(9), the FOD must ensure staff must complete certain procedures before any detainee's release, removal, or transfer from the facility. If property is missing, a Form I-387 will be provided to the detainee.

DEFICIENCY AR-4

In accordance with the ICE PBNDS, Admission and Release, section (V)(F), the FOD must ensure, as part of the admissions process in SPCs and CDFs, the facility administrator shall screen the facility's orientation video for every detainee. Following the video, staff shall conduct a question-and-answer session. Staff shall respond to the best of their ability. Under no circumstances may staff give advice about a legal matter or recommend a professional service.

GRIEVANCE SYSTEM (GS)

ODO reviewed the Grievance System PBNDS at ECDF to determine if a process to submit formal or emergency grievances exists, and responses are provided in a timely manner, without fear of reprisal. In addition, the review was conducted to determine if detainees have an opportunity to appeal responses, and if accurate records are maintained. ODO interviewed staff, and reviewed the logbook, forms, detainee grievance policy and procedures, and detainee handbook.

ECDF has a process for detainees to file both informal and formal grievances. There is also an emergency grievance procedure allowing officers to identify detainees in potential emergent conditions. The grievance process begins when detainees attempt to address complaints with the facility staff. At the initial stage, ECDF staff is encouraged to address and resolve grievances informally, at the lowest level possible. A formal grievance process is available for detainees to pursue their complaint to a final resolution. An appeal process is available at ECDF for detainees to appeal to higher level personnel. Appeals are forwarded to the Warden for final review and response. According to ECDF staff, no appeals were filed in 2011.

ODO conducted interviews with staff and detainees in order to determine whether detainees were well-informed of the grievance process and whether grievance forms were available. ODO noted detainees can access forms from a shelf located in each housing unit or by requesting them from ECDF staff. Once completed, the forms are placed in a locked box, where designated facility staff checks and collects them at 10:00 am each day. It was determined some detainees did not understand which form to use when filing a request, a routine complaint, or a grievance.

The information addressing detainee grievances in the detainee handbook is essential to ensure detainees are aware of the grievance process and know grievances are resolved in an orderly and timely manner. A review of both the facility and the ICE national detainee handbook revealed not all required information was covered, including: the expectation that complaints and grievances should be handled orally and informally by staff in their daily interactions with detainees, while ensuring detainees always have the right to file a formal grievance and pursue the formal grievance process; the right to file a grievance, including medical grievances, both informally and formally; the procedures for filing and resolving a grievance, including the availability of assistance in preparing a grievance; and the procedures for contacting ICE/ERO to appeal a decision (**Deficiency GS-1**). Detainees who are provided full disclosure of the grievance system are typically able to pursue any grievance relating to any aspect of their detention at any time, and without fear or retaliation.

The PBNDS requires a concerted effort to be made to resolve informal oral grievances at the lowest level possible, and in an orderly and timely manner. However, ODO noted conflicting information pertaining to the time guidelines for filing and resolving informal grievances. ECDF has two similar forms: the oral grievance resolution, Form 14-5G, and the informal resolution, Form 14-5A, which are used during the informal grievance process. Additionally, the facility has a time guideline of 15 calendar days from the date the Form 14-5A is submitted until the response is required to be provided to the detainee. ECDF policy requires detainees to submit a

Form 14-5A within seven calendar days of the alleged incident, and they are only allowed to file a formal grievance if they are unsatisfied with the informal resolution (**Deficiency GS-2**). ODO noted the ECDF time guidelines, of up to 15 calendar days for the informal grievances process, prohibits detainees from filing a formal grievance while the informal complaint is pending. In view of confusing forms and time guidelines for resolving informal oral grievances, ODO recommends ECDF streamline the informal oral grievance process, and allow detainees to file a formal grievance at any time.

ECDF informed ODO the facility staff is trained to handle emergency grievances expeditiously, ensuring the safety and welfare of detainees. The PBNDS provide if any staff is approached by a detainee with an emergency grievance, it must be reported to supervisory personnel to commence immediate action. However, ECDF policy is not in compliance with the PBNDS because it requires detainees to file an inmate/resident grievance, Form 14-5B, and to place the sealed envelope marked "Emergency Grievance" in the grievance mailbox (**Deficiency GS-3**). ODO noted a detainee in an actual emergency may be unable to complete or submit a form.

Medical grievances are submitted directly to the medical staff, and the completed forms are kept within the detainees' medical records. ICE is notified of any medical grievance that cannot be immediately addressed by the facility medical staff.

ODO conducted a review of the grievance log subsequent to detainees' claims that some officers have discouraged them from filing formal grievances. For the preceding year, 2011, a total of 28 documented grievances were filed and, at the time of the review, one grievance was filed in January 2012. Of the 28 detainees who had filed a grievance in the past year, two detainees were present at the facility during the review. ODO interviewed the two detainees, who stated they have filed several grievances, which were resolved. However, ODO did not find accurate documentation of all grievances which the two detainees claimed they had filed (**Deficiency GS-4**). ODO ascribed the significantly low number of documented grievances at the facility as an indication that all grievances, including informal oral grievances, have not been documented in the grievance log, and the copies have not been filed in the detention files. A similar deficiency was found during the 2009 Follow-up Inspection; copies of grievances were not placed in detainees' detention files. ODO recommends ECDF staff design a system to track and document all detainees' complaints in order to enhance compliance with the Grievance System PBNDS.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY GS-1

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

- The expectation that, to the greatest extent possible, complaints and grievances should be handled orally and informally by staff in their daily interaction with detainees. Nevertheless, the detainee always has the right to file a formal grievance and pursue the formal grievance process.
- The right to file a grievance, including medical grievances, both informal and formal.
- The process for filing emergency grievances.

The procedures for filing and resolving a grievance, including the availability of assistance in preparing a grievance.

- The procedures for filing and resolving an appeal, including the right to appeal to specified higher levels if the detainee disagrees with the lower decisions.
- The procedures for contacting ICE/[ERO] to appeal a decision in a CDF or IGSA facility.

DEFICIENCY GS-2

In accordance with the ICE PBNDS, Grievance System, section (V)(C)(1), the FOD must ensure informal grievance resolution offers a detainee the opportunity to expediently resolve his or her cause for complaint before resorting to the more time-consuming written formal procedure. Staff at every facility shall make every effort to resolve a detainee's complaint or grievance at the lowest level possible, in an orderly and timely manner. The facility administrator, or designee, shall establish written procedures for detainees to orally present the issue of concern informally (as addressed in the Staff-Detainee Communication Detention Standard). Illiterate, disabled, or non-English speaking detainees shall be provided additional assistance, upon request. A detainee is free to bypass or terminate the informal grievance process at any point and proceed directly to the formal grievance stage.

DEFICIENCY GS-3

In accordance with the ICE PBNDS, Grievance System, section (V)(C)(2), the FOD must ensure, once the receiving employee approached by a detainee determines that he or she is in fact raising an issue requiring urgent attention, emergency grievance procedures shall apply. Translation services will be available upon request. In SPCs and CDFs, the detainee may elect to present his or her emergency grievance directly to the shift supervisor or contract equivalent. If the shift supervisor or contract equivalent determines the matter is not an emergency, standard procedures shall apply.

DEFICIENCY GS-4

In accordance with the ICE PBNDS, Grievance System, section (V)(E), the FOD must ensure each facility shall devise a method for documenting detainee grievances, at a minimum, a Detainee Grievance Log. The documentation shall include the date of the grievance, nature of the grievance in detail, and the date the grievance was resolved. Medical grievances are maintained in the detainee's medical file. In SPCs and CDFs, staff shall assign each grievance a log number, enter it in the space provided on the Detainee Grievance Form, and record it in the Detainee Grievance Log in chronological order: The log entry number and the detainee grievance number must match; The log shall include the receipt date and the date and disposition; Nuisance or petty grievances and grievances rejected or denied must also be logged with the appropriate notation and justification (for example, "Petty"). A copy of the grievance disposition shall be placed in the detainee's detention file and provided to the detainee.

LAW LIBRARIES AND LEGAL MATERIAL (LL&LM)

ODO reviewed the Law Libraries and Legal Material PBNDS at ECDF to determine if detainees have access to a law library, legal materials, courts, counsel, and document copying equipment to facilitate the preparation of legal documents. ODO observed ICE detainees using the law library, interviewed staff, and reviewed law library policies and rules in the detainee handbook governing detainee use of the law library.

ECDF has one dedicated law library, which is supervised by ECDF correctional officers. The library is large enough to accommodate access for all detainees, and is equipped with adequate seating and workspace. All areas are well lit and reasonably isolated from noisy areas. The library is open Monday through Friday from 8:30 am to 3:30 pm, and detainees can request access at any time during these hours. A schedule is posted in each housing unit indicating designated times for each housing unit, and includes the SMU.

ODO examined the computers in the law library and determined the Lexis-Nexis legal resource software was last updated in October 2011. In addition, the law library is equipped with a typewriter. A notary public, certified mail, and other such services to pursue legal matters are available to detainees. A listing is posted in the law library indicating all law books available via Lexis-Nexis. When equipment is damaged, work orders are prepared by the library staff to have the equipment repaired.

The detainee handbook does not provide detainees with the rules and procedures governing access to legal materials, including the following information: the procedure for requesting reference materials not maintained in the law library; procedures for notifying a designated employee that library material is missing or damaged; the required access to computers, printers and supplies; or instructions on how to use Lexis-Nexis (**Deficiency LL&LM-1**). This is a repeat deficiency from the 2009 ODO Follow-up Inspection. Detainees who are provided clear and comprehensive guidelines for library access are best able to use the law library to effectively pursue their respective immigration cases.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY LL&LM-1

In accordance with the PBNDS, Law Libraries and Legal Material, section (V)(O), the FOD must ensure the Detainee Handbook or supplement shall provide detainees with the rules and procedures governing access to legal materials, including the following information: the procedure for requesting legal reference materials not maintained in the law library; the procedure for notifying a designated employee that library material is missing or damaged; required access to computers, printers, and other supplies; if applicable, that Lexis/Nexis is being used at the facility and that instructions for its use are available. These policies and procedures shall also be posted in the law library along with a list of the law library's holdings.

MEDICAL CARE (MC)

ODO reviewed the Medical Care PBNDS at ECDF to determine if detainees have access to healthcare and emergency services to meet health needs in a timely manner. ODO toured the clinic, reviewed policies and procedures, verified all medical staff credentials, and interviewed health care and administrative staff. Medical records of 25 detainees falling in the following categories were examined: 18 chronic, 4 healthy, 2 on suicide watch, and 1 hunger strike. All records were spot-checked for sick call timeliness and reviewed for transfer documentation.

ECDF holds accreditations from the ACA, NCCHC, and the Joint Commission. Healthcare is provided by the IHSC. The clinic is open 24 hours a day, seven days a week, and is administered by the HSA. Medical oversight is provided by a physician located at the Berks County Family Residential Center in Leesport, Pennsylvania, who is on call 24 hours a day. (b)(7)e full-time PAs share on-call coverage locally. Additional staff includes (b)(7) Assistant HSA, (b)(7) pharmacist, and (b)(7) medical records technician. Detainees are referred to a local dentist for dental care. Mental health services are provided by a contract psychiatrist who is on-site one day a week. These positions are augmented by a complement of full-time and on-call registered nurses (RN) and LPNs. ODO verified all professional licenses have been primary-source verified. According to the staffing plan, reviewed January 23, 2012, there are (b)(7) vacancies: the Clinical Director, a social worker, a nurse manager, and (b)(7)e RNs. ODO notes the current vacancy rate is (b)(7) percent; of particular concern given the lack of an on-site physician and weekend provider coverage. ODO finds current staffing inadequate to address the health care needs of the detainee population as evidenced by deficiencies cited herein (**Deficiency MC-1**). ODO notes, however, the HSA stated the physician selected for the Clinical Director position has been called to active duty in the U.S. Public Health Service (USPHS) and will be on station on April 30, 2012. The HSA further indicated (b)(7)e RNs have been internally cleared and are awaiting U.S. Senate confirmation, anticipated imminently. New employees to the USPHS must be confirmed, as they are considered part of the uniformed service. A nurse manager is also being recruited.

The clinic is spacious, with a nursing station, three examination/treatment rooms, and one urgent care room. There is one medical observation room with negative flow for tuberculosis (TB) isolation. If a language barrier exists, Interpretalk or Certified Language International translation services are used. Detainees who require inpatient mental health treatment are sent to Trinitas Hospital, or the University Medicine and Dentistry of New Jersey Hospital. These two hospitals are also used for a higher level of medical care and emergencies. Detainees presenting with symptoms of infectious disease are sent to St. Michaels Hospital.

Intake screenings are performed by nursing staff using the IHSC I-795A form to identify chronic care issues and medication needs. A chest X-ray (CXR) is performed on arrival to rule out TB, and detainees are housed in an admission dormitory pending clearance for TB. ODO's medical record review confirmed all 25 detainees underwent intake screenings upon admission, were given a CXR, and received necessary medications.

Physical examinations (PE) on detainees with chronic conditions identified at intake are performed by PAs. PEs on detainees with no known chronic issues may be performed by RNs

trained to perform this function, though the PEs of both healthy and chronic detainees were conducted by PAs in all 25 medical records reviewed. ODO verified healthy detainees received PEs within the required 14-day timeframe, and detainees with identified chronic conditions were examined on an expedited basis as required by the PBNDS. ODO notes, however, IHSC policy, "Care of Chronic Conditions," and ERO Directive 11737, dated July 12, 2011, require, "A physical examination will be conducted on-site within 24 hours, or the detainee will be referred to an off-site provider for an assessment if an unstable chronic condition is identified at intake. Detainees identified as having a stable chronic condition at intake will receive a physical examination within 72 hours of arrival." According to the HSA, in practice, PEs for chronic care detainees are performed the next business day. During the medical record review, ODO found one unstable detainee who did not receive a PE for eight days following intake, and a second unstable detainee whose PE was conducted more than 48 hours after intake. In addition, ODO found the PE on one detainee with a stable chronic condition was conducted outside the 72 hours required by the IHSC/ERO policy. ODO determined these shortcomings to be areas of concern and recommends the facility follow the applicable policies.

Detainees access health care services by completing a sick call request slip, printed in English and six other languages. ODO verified requests are triaged daily to determine priority for care, and detainees are seen for sick call in a timely manner. An RN conducts sick call on a daily basis using NCCHC medical protocols. Follow-up appointments and referrals were completed as required.

During review of the medical records of 18 detainees with chronic conditions, ODO identified one whose care raised particular concern. The detainee reported a history of hypertension and presented with a headache and blood pressure of 119/114 during intake screening at 1:25 am on Saturday, October 22, 2011. Normal blood pressure is considered 120/80. The detainee stated he had not taken any of his blood pressure medications the day before. The provider on-call was notified and gave a verbal order for the three routine blood pressure medications the detainee reported he had been taking. The detainee was placed in the urgent care room for observation. After one hour (2:25 am) his blood pressure was 181/113 (right arm) and 179/116 (left arm). One half hour later (approximately 3:00 am), his blood pressure was retaken and found to be 197/115 (right arm) and 195/114 (left arm). The on-call provider was again notified and ordered the blood pressure be re-checked in the morning. Because the detainee had been complaining of cold symptoms, the antihistamine Benadryl was given and the detainee was sent back to his dormitory to sleep. The detainee's blood pressure was not checked again until 9:05 am, at which time it was found to be 188/106 (right arm) and 184/109 lying down. The LPN discussed this with the provider, who ordered the detainee be given Clonidine and Amlodipine immediately to quickly lower his blood pressure. A subsequent blood pressure check at 9:30 am indicated a 168/100 reading. The provider was again notified and adjusted the medication regimen, ordering the blood pressure to be rechecked at 5:00 pm that day, and again on Sunday morning. There is no evidence in the medical record documenting the blood pressure was re-checked at 5:00 pm Saturday, though on Sunday morning it was found to be 160/95. His blood pressure was next checked during a PE on Monday, October 24, 2011, and found to be 138/87. Thereafter, blood pressure checks were conducted only sporadically, the last occurring three weeks prior to his release on bond in December. At that time, his blood pressure remained elevated at 150/94.

ODO notes, though the detainee's blood pressure remained dangerously elevated for more than 24 hours after his admission, the provider did not report to the facility to evaluate him or direct transport for evaluation by an external provider. Therefore, and in light of the fact his blood pressure was not monitored regularly during the period of detention, ODO finds the care provided to this detainee did not meet the PBNDS requirement to address detainees' health care needs in a timely and efficient manner (**Deficiency MC-2**). This matter was addressed with IHSC, ERO, and the facility staff at the time of the close-out briefing.

According to local policy 8.15, "Chronic Care Patients," a Chronic Disease Flow Sheet is to be initiated at the initial intake screening or at any time a chronic condition is discovered. Of the 18 chronic care medical records reviewed, none contained the flow sheet. In addition, ODO observed no specific chronic care guidelines exist; rather, it is left to the provider to determine appropriate follow-up. In the case of the detainee referenced above, the PA who performed the PE on October 24, 2012, did not recommend the detainee be followed as a chronic care patient; rather, the detainee was to return to the clinic as needed. A subsequent patient encounter for a lab review noted the detainee had "uncontrolled hypertension." His blood pressure that day was 154/65, and blood pressure checks were ordered for the following two days. The detainee's blood pressure was not checked the next day as ordered, and the following day it was 143/93. Again, the detainee was to return to the clinic as needed. ODO finds this does not constitute appropriate care and treatment for a detainee who has chronic, uncontrolled hypertension documented (**Deficiency MC-3**). In addition, ODO notes the aforementioned IHSC/ERO Directive, "Care of Chronic Conditions," requires referral to "an appropriate chronic care program" to treat detainees with an unstable chronic condition. The policy further states, "All detainees initially referred to a medical chronic care program will be scheduled for a chronic care appointment. These appointments will be scheduled in a timely manner to assure stability based on chronic care category. Detainees will be seen as often as necessary based on their condition. The maximum length of time between visits and refills of medications may not exceed 90 days." ODO finds the facility's chronic care program lacks structure and does not meet the requirements of IHSC and ERO policy. This matter was addressed with IHSC, ERO, and the facility staff at the time of the close-out briefing.

Of the 18 chronic care medical records reviewed, eight were detainees who had been released from ECDF. ODO found none contained a medical/psychiatric alert (**Deficiency MC-4**). The PBNDS requires a medical/psychiatric alert for any detainee whose condition requires clearance by medical staff prior to release or transfer. In addition, to "mitigate the premature release of detainees with chronic conditions before medical clearance and input are provided to ICE officials," the aforementioned IHSC/ERO directive requires the initiation of a "Medical Psychiatric Alert Form (IHSC-834) on all detainees who are identified as having a chronic care condition." ODO recommends the facility comply with the policy as well as the standard.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY MC-1

In accordance with the ICE PBNDS, Medical Care, section (V)(B), the FOD must ensure all facilities provide a medical staff sufficient to meet standards. A staffing plan, which is reviewed

at least annually by the administrative health authority, identifies the positions needed to perform the required services.

DEFICIENCY MC-2

In accordance with the ICE PBNDS, Medical Care, section (II)(2), the FOD must ensure all detainee healthcare needs are met in a timely and efficient manner.

DEFICIENCY MC-3

In accordance with the ICE PBNDS, Medical Care, section (II)(15), the FOD must ensure all detainees with chronic conditions receive care and treatment for conditions where non-treatment would result in a negative outcome or permanent disability as determined by the clinical medical authority.

DEFICIENCY MC-4

In accordance with the ICE PBNDS, Medical Care, section (V)(U)(4)(a), the FOD must ensure medical staff notify the facility administrator in writing when they determine that a detainee's medical or psychiatric condition requires clearance by the medical staff prior to release or transfer, or medical escort during removal, deportation, or transfer.

SUICIDE PREVENTION AND INTERVENTION (SP&I)

ODO reviewed the Suicide Prevention and Intervention PBNDS at ECDF to determine if the health and well-being of detainees are protected by training staff in effective methods of suicide prevention. ODO reviewed local suicide prevention policies, the suicide prevention training curriculum, and ten staff training records; inspected the three suicide watch cells; reviewed the medical records of two detainees on suicide watch; and interviewed medical staff and the training manager.

ODO verified detainees are screened for suicide potential during the intake process. All staff receive initial and ongoing suicide prevention training, which includes the identification of suicide risk factors, recognizing the signs of suicidal thinking and behavior, referral procedures, suicide prevention techniques, and responding to an in-progress suicide attempt. The training CCA staff receive on an annual basis is web-based. Although inclusive of critical components, ODO recommends this curriculum be presented in a classroom setting allowing for student interaction and questions.

The Suicide Prevention Program is governed by national IHSC policy, "Suicide Prevention Program," Attachment C. This policy, while comprehensive and thorough, does not specify which ECDF cells are used to house detainees on suicide watch. ODO recommends ECDF create a local supplement to identify local protocols. There were four documented suicide watches in 2011. Review of the medical records of two of the four detainees verified practice was consistent with policy. Timeframes for mental health referrals, nursing rounds, and re-evaluation of suicide watch status were met in one case; however, in the other case, there was no documentation showing the suicide watch status was re-evaluated on one day during the suicide watch (**Deficiency SP&I-1**).

Detainees on suicide watch are housed in either the observation room located in the clinic, or in cells S8 or S9 within the SMU. ODO observed the SMU cells have limited visibility, with blind spots interfering with direct, constant observation. In addition, these cells have two desk-type platforms protruding from the wall which could facilitate a suicide attempt (**Deficiency SP&I-2**). Cells used for suicide watch should be made as suicide resistant as possible.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY SP&I-1

In accordance with the ICE PBNDS, Suicide Prevention and Intervention, section (V)(D), the FOD must ensure all detainees on suicide watch are re-evaluated by appropriately trained and qualified staff on a daily basis and this re-evaluation is documented in the detainee's medical record.

DEFICIENCY SP&I-2

In accordance with the ICE PBNDS, Suicide Prevention and Intervention, section (V)(F), the FOD must ensure suicidal detainees are housed in a room that has been made as suicide resistant as possible.

TELEPHONE ACCESS (TA)

ODO reviewed the Telephone Access PBNDS at ECDF to determine if the facility provides detainees with reasonable and equitable access to telephones to maintain ties with family and others in the community. ODO toured the facility, verified the functionality of telephones in the housing units, reviewed logbooks, and interviewed staff and detainees.

ECDF provides ICE detainees with reasonable and equitable access to telephones. Detainees in the SMU are allowed the same telephone privileges as detainees in the general population. Detainees are also permitted to make inter-facility telephone calls and may contact family members in case of an emergency.

There are a sufficient number of telephones available to accommodate the number of detainees in each housing unit; a minimum of one telephone for every 25 detainees. ERO personnel conduct and document weekly telephone serviceability checks to verify detainee telephone operability. Additionally, ECDF staff members perform daily inspections of the telephones in each housing unit to ensure all telephones are functional; these inspections are documented in an inspection log. Telephones that are out-of-order are promptly reported to ERO personnel and the telephone service provider. All repair orders are documented in a telephone repair logbook maintain by ERO staff.

The orientation video, the detainee handbook, a recorded message on each telephone, and a posting at each handset advise detainees that all calls are subject to monitoring, along with a notice advising detainees of the procedures to obtain unmonitored telephone calls. ODO observed the current pro bono legal assistance information and the consular information, listed on a poster, was displayed in all eight housing units (A-H); however, the DHS OIG contact information poster was displayed in seven out of eight housing units, and was not displayed in housing unit F (**Deficiency TA-1**). DHS OIG contact information is necessary to ensure ICE detainees are able to directly and conveniently convey complaints.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY TA-1

In accordance with the ICE PBNDS, Telephone Access, section (V)(E), the FOD must ensure all information is kept current and provided to each facility. Updated lists need to be posted in the detainee housing units, including among others, Office of Inspector General of the U.S. Department of Homeland Security at (800) 323-8603.

TRANSFER OF DETAINEES (TD)

ODO reviewed the Transfer of Detainees PBNDS at ECDF to determine if transfers of detainees from one facility to another are responsibly managed in regard to notification, detention records, safety and security, and protection of detainee funds and property. ODO reviewed A-Files and corresponding detention files, and interviewed detainees and ERO and facility staff. ODO also reviewed ICE Policy 11022.1, Detainee Transfers, dated January 4, 2012. ECDF does not routinely transfer detainees outside of the FOD's area of responsibility, and therefore did not have any transfers applicable to the policy for review.

According to ERO staff, detainees are transferred for operational purposes, including eliminating overcrowding in some facilities, as well as for change of court venue, and legal representation. Staff interviews and review of detention files confirmed, before a detainee is transferred, the sending facility returns all funds and small valuables to each detainee.

ODO reviewed 15 A-Files and 15 corresponding detention files for detainees transferred to ECDF from other ICE facilities within the Field Office Director's area of responsibility. None of the 30 files contained copies of the detainee transfer notification (**Deficiency TD-1**). Both ICE and ECDF staff stated information about transfers is not disclosed to detainees until immediately prior to the detainee leaving the sending facility.

The standard requires the transferring facility to complete a Detainee Transfer Checklist, and have it accompany the detainee upon transfer. The checklist is the form for tracking completed actions at the sending facility. None of the 30 files had copies of the completed Detainee Transfer Checklist (**Deficiency TD-2**). Additionally, a sending facility must prepare a transfer summary (USM 553) or equivalent form used for recording a detainee's health information and ensure that the form accompanies the detainee upon transfer to a new facility. ODO reviewed eight corresponding ECDF medical record files, and all files reviewed contained transfer summary forms and medication documentation for each detainee. ECDF prepared these transfer summaries for detainees transferring out of ECDF to another ICE facility.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY TD-1

In accordance with the ICE PBNDS, Transfer of Detainees, section (V)(B), the FOD must ensure ICE/[ERO] shall make all necessary notifications when a detainee is transferred. At the time of the transfer, ICE/[ERO] shall provide the detainee, in writing, the name, address and telephone number of the facility to which he or she is being transferred, using the attached [sic] Detainee Transfer Notification form. Staff shall place a copy of the form in the detainee's Detention File.

DEFICIENCY TD-2

In accordance with the ICE PBNDS, Transfer of Detainees, section (V)(D), the FOD must ensure sending facility staff shall complete the attached Detainee Transfer Checklist to ensure all procedures are completed. The sending facility staff shall place a copy of the checklist in the detainee's A-File or work folder. The records must accompany the detainee to the receiving

facility. If any procedure cannot be completed prior to transfer, the detainee may be transferred only if the authorized receiving Field Office official has expressly waived that procedure and sending facility staff shall note any such waivers on the Checklist.

TRANSPORTATION (By Land) (T)

ODO reviewed the Transportation PBNDS at ECDF to determine if vehicles are properly equipped, maintained, and operated, and if detainees are transported in a safe, secure, and humane manner under the supervision of trained and experienced staff. ODO reviewed policies, procedures, and guidelines regarding the transportation of detainees.

The facility operates six transport vans for movements of detainees to neighboring facilities and to airports located within the metropolitan area. ECDF staff stated the transporting officers conduct vehicle inspections. According to facility staff, any of the officers could be assigned detainee transport details. A review of the ECDF training records revealed security officers received and completed the yearly drivers' training. Since the facility does not operate buses, the transporting officers are not required to obtain commercial drivers' licenses.

According to the PBNDS, ERO staff is responsible for completing the Detainee Transfer Checklist, and also ensuring requisite processing is completed prior to removing detainees from ECDF. A well-prepared checklist ensures all procedures have been completed; a copy of the checklist is required to be placed in each transferred detainee's A-File. ODO found the Detainee Transfer Checklist was not completed by ERO staff, and copies of the checklist had not been placed in each detainee's A-File (**Deficiency T-1**). The checklist is the form for tracking completed actions at the sending facility.

ODO noted Form G-391, Official Detail, is used to authorize the removal of detainees from the facility through transport; however, the ERO filing system appeared to be unorganized, and the forms were not filed on a monthly basis (**Deficiency T-2**). ODO recommends ERO establish a well-organized filing system for all Form G-391's, file the forms in order by month, and have previous month's forms readily available.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY T-1

In accordance with the ICE PBNDS, Transportation, section (V)(G)(2), the FOD must ensure ERO staff of the sending facility is required to complete a Detainee Transfer Checklist to insure all procedures are completed and place a copy in the detainee's A-File or work folder.

DEFICIENCY T-2

In accordance with the ICE PBNDS, Transportation, section (V)(F)(1), the FOD must ensure all completed G-391's shall be filed in order by month, with the previous month's forms readily available for review, and shall be retained for a minimum of three years.

USE OF FORCE AND RESTRAINTS (UOF&R)

ODO reviewed the Use of Force and Restraints PBNDS at ECDF to determine if necessary use of force and the use of restraints is used only after all reasonable efforts have been exhausted to gain control of a subject, while protecting and ensuring the safety of detainees, staff and others, preventing serious property damage, and ensuring the security and orderly operation of the facility. ODO toured the facility, inspected equipment, and reviewed the local policies, training records, and other pertinent documentation.

ECDF has a comprehensive written policy governing the use of force, and addressing all requirements of the PBNDS. The facility has Oleoresin Capsicum (OC) spray, and properly trains officers in its use. ECDF does not use four-point restraints, a restraint chair, or any electro-muscular disruption devices. The Special Operations Response Team is adequately sized, and members receive training in accordance with the standard. Training on force procedures occurs at the local academy and annually during refresher training. The use of force lesson plan was reviewed and determined to meet PBNDS requirements.

The Assistant Warden in charge of security informed ODO there were three immediate use-of-force incidents involving a total of three ICE detainees since September 2011; there were no calculated use-of-force incidents during this timeframe. Two of the three immediate force incidents involved stopping a fight between two detainees, and one involved restraining a detainee who attempted to go through a secured door to talk to a staff member. All three of the detainees were secured with hard restraints. No consideration was given to applying soft restraints because, according to staff, soft restraints are not used (**Deficiency UOF&R-1**). Soft restraints should be used unless proven ineffective on the detainee being restrained.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY UOF&R-1

In accordance with the ICE PBNDS, Use of Force and Restraints, section (V)(B)(12), the FOD must ensure, during a use of force, hard restraints (for example, steel handcuffs and leg irons) are used only after soft restraints prove (or have previously proven) ineffective with a particular detainee. Attempts to use soft restraints prior to hard restraints shall be documented in the use-of-force reports.

VISITATION (V)

ODO reviewed the Visitation PBNDS at ECDF to determine if authorized persons, including legal representatives, are able to visit detainees within security and operational constraints. ODO reviewed the local policy and detainee handbook, inspected the visiting area, and interviewed staff.

The facility has written visiting procedures and a visitation schedule. Detainees are notified of visitation rules and hours by way of the detainee handbook, and visiting hours are posted in each housing unit. Visiting information is available to the public by way of telephone recordings, postings, and the facility's website. Separate logs for general visitors and legal representatives are maintained by the lobby officer.

There are three attorney visiting rooms and two rooms designated for asylum officer interviews. Detainees have contact visitation privileges on weekday evenings, and on Saturdays, Sundays and holidays. The total capacity for general visiting is 52.

ODO learned a detainee's visiting privileges with a family member have been suspended since his arrival at ECDF on January 9, 2012. The suspension was imposed by way of an e-mail sighting an incident involving inappropriate contact with a visitor while held at another facility, prior to his admission at ECDF. Review of the detainee's detention file confirmed loss of visiting privileges was not based on formal disciplinary actions at ECDF, and is not under review or investigation to determine whether continued suspension of visiting privileges is necessary (**Deficiency V-1**). Visiting privileges can only be revoked through the formal detainee disciplinary process. The restriction or suspension must be limited to the time required to investigate and complete the disciplinary process, or until a combative and or assaultive detainee has become compliant and non-combative. This deficiency was discussed with ICE and facility staff at the time of the close-out briefing.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY V-1

In accordance with the ICE PBNDS, Visitation, section (V)(F), the FOD must ensure any violation of the visitation rules may result in disciplinary action against the detainee, including loss of visitation privileges. Visiting privileges can be revoked only through the formal detainee disciplinary process. However, the facility administrator has the authority to restrict or suspend a detainee's ordinary visiting privileges temporarily when there is reasonable suspicion that the detainee has acted in a way that constitutes a threat to safety, security or good order of the facility. The restriction or suspension must be limited to the time required to investigate and complete the disciplinary process and such time that it takes for a combative and or assaultive detainee to become compliant and non-combative. Each incident will be documented.