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Office of Detention Oversight Compliance Inspection

Enforcement and Removal Operations
New Orleans Field Office
Orleans Parish Prison
New Orleans, Louisiana

February 13 - 15, 2012

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**COMPLIANCE INSPECTION
ORLEANS PARISH PRISON
NEW ORLEANS 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 Orleans Parish Prison (OPP) facility in New Orleans, Louisiana, from February 13 – 15, 2012. OPP is a parish jail facility and is operated by the Orleans Parish Sheriff's Office (OPSO). U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), Field Office Director, New Orleans, Louisiana (FOD/New Orleans) detains aliens pending immigration proceedings in the OPP Templeman Phase Five (OPP/TP5) complex pursuant to an intergovernmental service agreement (IGSA). ICE, formerly the U.S. Immigration & Naturalization Service, has housed detainees at OPP since October 1, 1996. Orleans Parish provides medical and food services. The OPSO contracts with Tiger Correctional Services for detainee commissary amenities. OPP is currently accredited through the National Commission on Correctional Health Care (NCCHC).

OPP is comprised of multiple buildings situated within a 24-block area of mixed residential and commercial properties in the Mid-City section of New Orleans. The Sheriff's Office uses five of those buildings for detention purposes. During the CI, ODO verified that OPP houses ICE detainees exclusively at OPP/TP5, a 123,000 square foot facility that opened in 1994 to house city inmates. The remaining four buildings at OPP are scattered throughout the 24-block area and are not authorized by FOD/New Orleans to house ICE detainees.

On August 29, 2005, prior to Hurricane Katrina, OPP had a capacity of 6,500 inmates and detainees. The hurricane irreparably damaged some buildings within the complex and reduced maximum capacity to 3,276. OPP/TP5 has the capacity to hold 316 inmates and detainees, and is currently approved by ICE for use as an over 72-hour facility to house ICE detainees. OPSO reserves 30 beds for ICE detainees at OPP/TP5. The FOD/New Orleans is funded for a maximum of 50 beds at OPP/TP5, should the need arise. The Assistant Field Office Director (AFOD) stated that the average length of stay (ALOS) for ICE detainees at OPP/TP5 is 2.7 days, and the average daily population (ADP) is 12 detainees. At the time of the ODO inspection, 13 male detainees were housed at OPP/TP5.

Male detainees of classification levels one (lowest threat) and two (medium threat) are housed in unit A-1 at OPP/TP5. Level III (highest threat) male ICE detainees are housed in unit A-2 with other maximum security federal inmates. Although OPP/TP5 is authorized to detain female ICE detainees, FOD/New Orleans does not house females at OPP as a matter of local policy. FOD/New Orleans personnel coordinate with ERO officials in Oakdale, Louisiana to arrange alternate housing for female ICE detainees.

Recently, officials representing the Department of Homeland Security, Office of Civil Rights and Civil Liberties (CRCL) visited OPP and the FOD/New Orleans to review the circumstances surrounding the July 2010 suicide of an ICE detainee at OPP. During the CRCL site visit at OPP, CRCL visited the House of Detention (HOD) building to observe the Special Management Unit (SMU). CRCL cited numerous standards violations to ICE HQ and raised several areas of concern regarding the conditions in the HOD SMU. The FOD stated local ERO officials were not provided the opportunity to explain to CRCL that ICE detainees are not held in segregation or under any other circumstances within OPP/HOD.

During this CI, ODO confirmed that OPP/HOD is used exclusively to segregate OPP inmates requiring isolation for suicide watches, disciplinary actions, or administrative reasons. There is no SMU or segregation area in the OPP/TP5 complex for ICE detainees. FOD/New Orleans does not authorize placement of ICE detainees in the OPP/HOD. In the event an ICE detainee requires segregation, OPP management immediately contacts the FOD/New Orleans and the detainee is immediately transferred to another facility within the State of Louisiana; the average response time is estimated at between five and seven minutes.

The FOD/New Orleans is staffed to current funded levels and has no vacancies. The FOD/New Orleans area of responsibility (AOR) is comprised of five states: Louisiana, Arkansas, Mississippi, Alabama, and Tennessee. There are 21 offices staffed with personnel responsible for carrying out the ERO mission throughout the AOR. The Deputy Field Office Director (DFOD) is physically located approximately 200 miles west of New Orleans in the ERO office at the Oakdale Federal Detention Center in Oakdale, Louisiana. Oversight of ICE detainees at OPP/TP5 is the responsibility of an AFOD physically located in New Orleans, Louisiana. The AFOD is augmented by (b)(7)e Supervisory Detention and Deportation Officers (SDDO), (b)(7)e Supervisory Immigration Enforcement Agent (SIEA), (b)(7)e Deportation Officers (DO), and (b)(7)e Immigration Enforcement Agents (IEA). Of this staff, (b)(7)e IEAs and (b)(7)e DO address issues regarding detainees and detention standards at OPP/TP5.

As with the other four buildings used for detention purposes at OPP, a Warden oversees detention operations at OPP/TP5. The Warden reports to the Chief of Security. The highest ranking official is the Sheriff, assisted by a Chief Deputy who oversees the Chief of Security. In addition to the Warden, staffing at OPP/TP5 consists of an Assistant Warden, (b)(7)e Captain, (b)(7)e Lieutenants, (b)(7)e Sergeants, (b)(7)e Corporal, and (b)(7)e Correctional Officers. The Warden stated that OPP/TP5 has (b)(7)e vacancies, but all critical positions are filled.

In October 2011, the ERO Detention Standards Compliance Unit (DSCU) contractors, MGT of America, Inc., conducted an Annual Review of the ICE National Detention Standards (NDS) at OPP/TP5. The facility received an overall rating of "Acceptable," and was found to be in compliance with 34 of the 35 applicable standards reviewed. Three standards were not applicable to the facility. Inspectors found one repeat deficiency under the Environmental Health and Safety standard.

During this CI, ODO reviewed a total of 21 NDS. ODO reviewed previous inspection reports, detainee complaint referrals, and information from DHS CRCL based on their recent site visit related to the ICE detainee suicide that occurred in July 2010. ODO verified OPP/TP5 is fully compliant in ten of the 21 NDS reviewed. ODO noted 19 deficiencies in the remaining 11 NDS: Access to Legal Material (3 deficiencies); Admission and Release (2); Detainee Grievance Procedures (1); Detainee Handbook (2); Environmental Health and Safety (2); Issuance and Exchange of Clothing, Bedding, and Towels (2); Post Orders (1); Staff-Detainee Communication (3); Suicide Prevention and Intervention (1); Telephone Access (1); and Use of Force (1).

This report details all deficiencies and refers to specific, relevant sections of the ICE NDS. OPR will provide ERO a copy of the report to assist in developing corrective actions to resolve the 19 identified deficiencies.

Overall, ODO found there is very good communication between OPP/TP5 personnel and the FOD/New Orleans staff. The short length of stay and low average daily population prevented ODO auditors from practical verification of some components of the NDS. When that occurred, ODO compared facility policy and procedure with the NDS to determine consistency and compliance. OPP/TP5 policies and procedures do not compare well with archetypes referenced in the NDS, and the OPP/TP5 organizational structure departs from traditional models as well. As an example, each facility within the OPP complex has its own Warden. In most facilities encountered by ODO, there is (b)(7)(e) Warden in charge of the entire facility.

ODO observed sanitation conditions within the facility to be lacking and finds this to be an area of concern. ICE detainees stated during interviews that OPP/TP5 personnel instructed them to clean their living areas the day before ODO commenced the CI. ODO observed cobwebs on the ceilings and dust collected in the corners of the floors and walls in living areas. Living areas were also littered with trash, and the walls were in need of a thorough cleaning and a fresh coat of paint. Some bathroom hardware had rust; however, all plumbing was in proper working order. Air circulation vents were clean and free of obstruction throughout the complex. ODO did not observe any sanitation issues in the food service area or the medical unit. Both areas were clean and free of vermin. An exterminator was on-site at the time of the inspection providing routine, scheduled pest control treatments. Though the state of cleanliness was observed to be lacking, ODO did not find it posed a risk to the health and safety of detainees. ODO recommends implementation of a comprehensive, on-going sanitation program.

OPP has an effective grievance system that allows for informal and formal grievances; however, the detainee handbook lacks instructions for detainees on how to contact ERO in the event they want to discuss a grievance with an ICE official. ODO verified there have been no formal grievances filed by ICE detainees housed at OPP/TP5. OPP/TP5 and ERO staff stated this is due to the short length of stay at the facility, which ranges from two to four days.

ODO observed a five gallon container of tile adhesive (a caustic substance) that had not been secured properly, creating a potential safety risk. Once made aware of the issue, OPP/TP5 personnel took immediate corrective action and properly stored the dangerous substance. ODO also reviewed the OPP/TP5 fire evacuation plan and confirmed it had not been filed with the local fire department. OPP officials pledged to remedy this issue.

ERO officers conduct regular scheduled and unannounced visits to the housing units weekly. ODO confirmed this via a review of Staff-Detainee Communication records and the computerized liaison visit database used by the facility to document visits by Deportation Officers assigned to the FOD/New Orleans. Detainees stated they were familiar with the ICE officers who visited them daily, and were satisfied with the level of attention received from ICE staff. ODO noted ERO officers are completing routine ICE paperwork thoroughly and correctly relative to staff-detainee communication; however, there were no written procedures to route

detainee requests to the appropriate ICE official, nor was there a log to document and record detainee requests to ICE.

ODO reviewed (b)(7) personnel training records and verified (b)(7)e staff members did not receive periodic training in: recognizing signs of suicidal thinking, including suspect behavior; facility referral procedures; suicide prevention techniques; or responding to an in-progress suicide attempt. With regard to suicide prevention and intervention, ODO inspectors observed the cell where an ICE detainee committed suicide in July 2010. The cell is a typical residence room within the housing area where Level I and Level II detainees are assigned. ODO inspectors noted nothing remarkable about the cell, and it was currently in use by ICE detainees at the time of the CI.

ODO reviewed facility policy and training files, and interviewed staff regarding uses of force against ICE detainees at OPP/TP5. There has never been a use-of-force incident at OPP/TP5 involving ICE detainees. Electro-muscular disruption devices are not used in the facility. All staff members receive use of force training; this training includes confrontation avoidance. Review of the OPP Use of Force policy confirmed the use of tear gas, mace, and irritant dust is permitted by local policy. According to the NDS, these are unauthorized, non-lethal force devices. Prior to completion of the CI, OPP management added an addendum to the local Use of Force policy prohibiting use of these devices on ICE detainees. Subsequent to the change, only oleoresin capsicum (OC) spray/foam is authorized for use on ICE detainees.



(b)(7)e

ODO noted the following area of concern. OPP policies, standard operating procedures, and position descriptions were disorganized and some documents were dated as far back as 2005, or were undated entirely. Command staff provided ODO with policies and procedures later determined to be outdated, and staff had difficulty identifying the most current versions. OPP management stated an OPSO committee has submitted revisions to the OPP legal department for review. To support compliance with the NDS, ODO recommends all policies applicable to ICE detainees be reviewed by ICE.

ODO noted no deficiencies with regard to the Medical Care standard. The medical unit at OPP/TP5 is accredited through NCCHC, and received an award from the accrediting body for its outstanding Disaster Planning Program.

Regarding medical procedures, current policy allows Keep-on-Person (KOP) distribution of psychiatric medications to stable OPP prisoners in seven-day blister packs. As this population is at significant risk for medication non-compliance and potential overdose, single-unit dose administration is advisable. ODO recommends OPP revise its policies to prohibit KOP distribution of psychiatric medications to ICE detainees.

INSPECTION PROCESS

ODO inspections evaluate the welfare, safety, and living conditions of detainees. ODO primarily focuses on areas of noncompliance with the ICE NDS or the ICE Performance Based National Detention Standards (PBNDS), as applicable. The NDS apply to OPP. In addition, ODO may focus its inspection based on detention management information provided by the ERO HQ and ERO field offices, and on issues of high priority or interest to ICE executive management.

ODO reviewed the processes employed at OPP 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 OPP.

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

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

ODO, Phoenix
ODO, San Diego
ODO, Houston
Creative Corrections
Creative Corrections
Creative Corrections

OPERATIONAL ENVIRONMENT

INTERNAL RELATIONS

ODO interviewed the OPP/TP5 Warden, the Chief of Security and the ERO AFOD. During the interviews, all personnel stated the working relationship between OPP and ERO is excellent, and morale is high among OPP and ERO officers.

The Warden stated that sufficient personnel are assigned to handle the current ICE detainee population at OPP, and ERO officers consistently visit the housing units and communicate with ICE detainees to address their issues or concerns.

The AFOD stated the length of stay for ICE detainees at OPP could not be further reduced, because the facility already maintains a short ALOS. The AFOD has instructed his staff to conduct facility liaison visits every Friday to assess all mandated postings within the housing units. ERO officers verify the operability of the detainee telephones, and assess and address any specific detainee concerns. The AFOD has initiated a weekly IEA inspection to assess the level of sanitation in the housing units, the food service area, all common areas, and the showers. The IEA documents findings and any corrective actions taken. The AFOD has instructed the SDDO to conduct follow-ups within 24 hours on any issues reported during these inspections.

DETAINEE RELATIONS

ODO interviewed 13 male detainees at OPP/TP5 to assess the overall living and detention conditions at the facility. All had been housed at OPP/TP5 for less than a week at the time they were interviewed. None of the detainees complained about staff-detainee communication, issuance of personal hygiene items, telephone access, sending or receiving mail, food service, medical care, religious services, recreation, visitation, or treatment by OPP/TP5 staff. Detainees stated OPP/TP5 officers are courteous and respectful. Detainees stated ERO officers regularly visit the housing units to communicate and interact with them.

Two detainees stated they had not been provided with outdoor recreation since being admitted to OPP/TP5, but that was due to rain and cold weather. Two detainees stated the facility was dirty when they arrived, and OPP/TP5 staff had instructed them to clean the living areas prior to the ODO inspection.

ICE NATIONAL DETENTION STANDARDS

ODO reviewed a total of 21 NDS and found OPP fully compliant with the following 10 standards:

- Detainee Classification System
- Detainee Transfers
- Detention Files
- Food Service
- Hold Rooms in Detention Facilities
- Hunger Strikes
- Medical Care
- Special Management Unit – Administrative Segregation
- Special Management Unit – Disciplinary Segregation
- Terminal Illness, Advance Directives, and Death

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

ODO found deficiencies in the following 11 standards:

- Access to Legal Material
- Admission and Release
- Detainee Grievance Procedures
- Detainee Handbook
- Environmental Health & Safety
- Issuance and Exchange of Clothing, Bedding, and Towels
- Post Orders
- Staff-Detainee Communication
- Suicide Prevention and Intervention
- Telephone Access
- Use of Force

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

ACCESS TO LEGAL MATERIAL (ALM)

ODO reviewed the Access to Legal Material NDS at OPP to determine if detainees have access to a law library, legal materials, courts, counsel, and equipment to facilitate the preparation of legal documents. ODO reviewed policies, interviewed facility staff, and assessed equipment used by detainees to access legal materials.

ICE detainees have access to an area designated as a law library. The size of the law library is sufficient to accommodate the population of ICE detainees. The facility had not posted a list of the library holdings in the law library (**Deficiency ALM-1**), and the latest version of Lexis-Nexis had not been installed on the library's computers (**Deficiency ALM-2**). ERO and OPP personnel performed a Lexis-Nexis update prior to the completion of the inspection, which corrected the deficiency. Rules and procedures governing access to legal materials had not been posted in the library as required by the standard (**Deficiency ALM-3**). Providing the library rules and procedures to detainees ensure they are aware of the procedures for using the library, as well as the legal materials available in the library.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY ALM-1

In accordance with the ICE NDS, Access to Legal Material, section (III)(C), the FOD must ensure the law library shall contain the materials listed in Attachment A. [ICE] shall provide an initial set of these materials. The facility shall post a list of its holdings in the law library.

DEFICIENCY ALM-2

In accordance with the ICE NDS, Access to Legal Material, section (III)(E), the FOD must ensure the facility shall designate an employee with responsibility for updating legal materials, inspecting them weekly, maintaining them in good condition, and replacing them promptly as needed. The facility shall notify the designated contact person at [ICE] Headquarters if anticipated updates are not received or if subscriptions lapse. The facility shall dispose of outdated supplements and other materials when it receives new materials.

DEFICIENCY ALM-3

In accordance with the ICE NDS, Access to Legal Material, section (III)(Q), the FOD must ensure the detainee handbook or equivalent shall provide detainees with the rules and procedures governing access to legal materials, including the following information:

1. that a law library is available for detainee use;
2. the scheduled hours of access to the law library;
3. the procedure for requesting access to the law library;
4. the procedure for requesting additional time in the library (beyond the 5 hours per week minimum);
5. the procedure for requesting legal reference materials not maintained in the law library; and
6. the procedure for notifying a designated employee that library material is missing or damaged.

These policies and procedures shall also be posted in the law library along with a list of the law library's holdings.

ADMISSION AND RELEASE (AR)

ODO reviewed the Admission and Release NDS at OPP 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 interviewed staff and detainees, observed the admission and release of detainees, and reviewed active and inactive detention files.

The facility creates a detention file for every detainee admitted into OPP/TP5 during intake regardless of the length of stay at the facility. During the admissions process, detainees are classified by OPP/TP5 staff, and funds and personal property are inventoried in their presence. Detainees are also issued personal-hygiene items, clothing, and blankets during intake; however, they are not provided with sheets on which to sleep (**Deficiency AR-1**). Sheets protect the mattresses from stains, dirt, and debris, and are able to be washed when dirty or when the mattress is reassigned.

OPP/TP5 staff closes and deactivates the detention file for archiving when a detainee is released or transferred from the facility; however, detainees are not fingerprinted by OPP/TP5 staff when they are released or transferred from the facility (**Deficiency AR-2**). Fingerprinting detainees prior to release or transfer provides proof that the correct detainee has been released or transferred to another facility.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY AR-1

In accordance with the ICE NDS, Admission and Release, section (III)(A)(2), the FOD must ensure staff will issue every arriving detainee personal-hygiene items, clothing, sheets and blankets appropriate for local weather conditions (see the "Issuance of Clothing, Bedding, and Towels" Standard).

DEFICIENCY AR-2

In accordance with the ICE NDS, Admission and Release, section (III)(J), the FOD must ensure staff must complete certain procedures before any detainee's release, removal, or transfer from the facility. Necessary steps include completing and processing forms, closing files, fingerprinting; returning personal property; and reclaiming facility-issued clothing, bedding, etc. [ICE] will approved [sic] the IGSA release procedures.

NOTE: There are two "J" sections within part III of the Admission and Release NDS. Deficiency AR-2 relates to the second "J" section.

DETAINEE GRIEVANCE PROCEDURES (DGP)

ODO reviewed the Detainee Grievance Procedures NDS at OPP 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 detainees, and reviewed policies and the OPP/TP5 local detainee handbook.

The facility encourages detainees to use the informal grievance procedures before submitting a formal grievance. If a detainee chooses to file a formal grievance, the process begins when an "Inmates Grievance Form" (Form ARP-1) is completed, or when the grievance is written on a plain sheet of paper and submitted. The written grievance must contain the sentence, "[t]his is a grievance under the Administration Remedy Procedure." Detainees requiring assistance to prepare a formal grievance can obtain help from facility staff.

Detainees who are not satisfied with a facility grievance decision can appeal it to the Warden. According to an OPSO Major, detainees who are dissatisfied with a facility response to a grievance can communicate directly with ERO. The OPP local detainee handbook does not provide procedures for contacting ERO to appeal a facility decision (**Deficiency DGP-1**). Providing all grievance procedures to detainees ensures they are aware of their rights when filing and appealing grievances.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY DGP-1

In accordance with the ICE NDS, Detainee Grievance Procedures, section (III)(G)(4), the FOD must ensure the facility shall provide each detainee, upon admittance, a copy of the detainee handbook or equivalent. The grievance section of the detainee handbook will provide notice of the following [among others]: The procedures for contacting [ICE] to appeal the decision of the OIC of a CDF or an IGSA facility.

DETAINEE HANDBOOK (DH)

ODO reviewed the Detainee Handbook NDS at OPP to determine if the facility provides each detainee with a handbook, written in English and any other languages spoken by a significant number of detainees housed at the facility, describing the facility's rules and sanctions, disciplinary system, mail and visiting procedures, grievance system, services, programs, and medical care. ODO interviewed staff and reviewed the facility's local detainee handbook.

The facility did not have copies of the ICE National Detainee Handbook in Spanish; the site-specific detainee handbook distributed by the facility had not been revised since 2009. Since the 2009 revision of the handbook, various changes and updates to policies have been released, but have not been included in the site-specific handbook. ODO verified there were no records establishing procedures for communicating these changes to staff and detainees (**Deficiency DH-1**). The facility has not conducted annual reviews of the handbook following reviews and revisions by facility department heads or the Warden for OPP/TP5 (**Deficiency DH-2**). Providing staff and detainees with current facility policies and procedures ensures they are aware of facility rules, and are able to access the services offered at the facility.

Guidance for detainees requesting protective custody is addressed in a section of the detainee handbook describing emergency grievances. The detainee who committed suicide was moved three times due to a claim that his gang affiliation was creating conflict with other detainees. ODO recommends procedures for requesting protective custody be more clearly addressed in the handbook, and that staff receive training in identifying when transfers from OPP/TP5 for protective custody are advisable.

The index of the facility handbook did not coincide with the contents of the book. Further, the medical section in the handbook titled "Medical Services" is preceded by the sub-section "Initial Assessment," which should follow the "Medical Services" title. ODO observed facility staff members distributing the English version of the ICE National Detainee Handbook to Spanish-speaking detainees. This area needs improvement.

STANDARD/POLICY REQUIREMENT FOR DEFICIENT FINDINGS

DEFICIENCY DH-1

In accordance with the ICE NDS, Detainee Handbook, section (III)(H), the FOD must ensure the handbook will not be immediately reprinted to incorporate every revision. The OIC will instead establish procedures for immediately communicating such revisions to staff and detainees: posting copies of the changes on bulletin boards in housing units and other prominent areas; informing new arrivals during orientation process; distributing a memorandum to staff, and so forth.

DEFICIENCY DH-2

In accordance with the ICE NDS, Detainee Handbook, section (III)(I), the FOD must ensure an appointed committee will conduct annual reviews of the handbook, after the annual reviews and revisions by facility department heads and the OIC.

ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

ODO reviewed the Environmental Health and Safety NDS at OPP to determine if the facility maintains high standards of cleanliness and sanitation, safe work practices, and control of hazardous materials and substances. ODO toured the facility, interviewed staff, and reviewed policies and documentation of inspections, hazardous chemical management, and fire drills.

The facility has a system for storing, issuing, and maintaining inventories of hazardous materials. OPP/TP5 personnel provided Material Safety Data Sheets and a complete master index of chemicals, as well as documentation of review in accordance with the standard. Staff conducts monthly fire drills on each shift, and the Safety Officer maintains appropriate documentation. Reports for water testing and pest control are current. The facility produced documentation confirming the air handling system had been repaired since ERO's last annual inspection. Upon inspection, ODO found the system in good working order; ventilation grates and screens in the housing units were clean.

ODO observed an unattended five gallon can of tile adhesive (a caustic substance) in a hallway (**Deficiency EH&S-1**). Maintaining strict control of all chemicals protects the detainees, staff and visitors. ODO notified a supervisor, and the deficiency was corrected during the review.

The facility's fire protection, control, and evacuation plans had not been filed with the local fire department (**Deficiency EH&S-2**). This deficiency is explained by the long-term absence of the OPP Safety Officer, who has now returned to duty and will take corrective action.

ODO observed sanitation conditions within the facility to be lacking and finds this to be an area of concern. ODO recommends that floors be stripped to remove dirt, grime, and wax build-up along baseboards and in corners, walls be washed from floor to ceiling, and windows, sills, gates, and grills be thoroughly cleaned. ODO further recommends implementation of a comprehensive, on-going sanitation program.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY EH&S-1

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(G)(1), the FOD must ensure all toxic and caustic materials must be stored in secure areas, in their original containers, with the manufacturer's label intact on each container.

DEFICIENCY EH&S-2

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(L)(3)(g), the FOD must ensure every institution will develop a fire prevention, control, and evacuation plan to include, among other thing [sic], the following: Accessible, current floor plans (buildings and rooms); prominently posted evacuation maps/plans; exit signs and directional arrows for traffic flow; with a copy of each revision filed with the local fire department.

ISSUANCE AND EXCHANGE OF CLOTHING, BEDDING, AND TOWELS (I&ECBT)

ODO reviewed the Issuance and Exchange of Clothing, Bedding, and Towels NDS at OPP to verify that detainees are afforded clean clothing, bedding, linens, and towels upon arrival, and detainees receive regular exchanges of clothing, linens, and towels for as long as they remain in detention. ODO interviewed staff and detainees, and reviewed policies and the OPP/TP5 local detainee handbook.

ODO confirmed OPP/TP5 personnel provide ICE detainees with clean jumpsuits appropriate for the temperature and environment in the facility. During colder months, staff provides laundry exchange three times each week for clothing. As a matter of policy, OPP does not issue socks or underwear (**Deficiency I&ECBT-1**). The facility also does not issue sheets or pillowcases (**Deficiency I&ECBT-2**). Providing undergarments and sheets to detainees provides for comfort and sanitary conditions.

MGT inspectors cited these issues in the 2011 Annual Review report to ERO. The Uniform Corrective Action Plan (UCAP) filed subsequent to the 2011 annual review demonstrated that OPP management did not intend to change these policies. To date, facility officials contend that ICE detainees may purchase socks and underwear through the commissary, unless they are indigent. OPP issues these items to indigent detainees upon request.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY I&ECBT-1

In accordance with the ICE NDS, Issuance and Exchange of Clothing, Bedding, and Towels, section (III)(B), the FOD must ensure all new detainees shall be issued clean, temperature-appropriate, presentable clothing during in-processing.

DEFICIENCY I&ECBT-2

In accordance with the ICE NDS, Issuance and Exchange of Clothing, Bedding, and Towels, section (III)(C), the FOD must ensure all new detainees shall be issued clean bedding, linens and towel [sic]. Detainees shall be held accountable for these items.

POST ORDERS (PO)

ODO reviewed the Post Orders NDS at OPP to determine if the facility has established post orders for each post that are available to all officers and specify the duties, procedures, and responsibilities of each post. ODO reviewed policy and procedures, and interviewed facility officials.

OPP/TP5 does not use the term "post orders" to describe assigned duties. OPP/TP5 has written position descriptions that specifically apply to the duties of personnel assigned to the facility. The position descriptions detail the duties and responsibilities expected of each deputy at each post within the facility.

Position Descriptions (Post Orders) for armed posts, and for posts that control access to the institution perimeter, do not clearly state that (b)(7)e

(b)(7)e (Deficiency PO-1). OPP officials corrected this deficiency on-site.

ODO noted the following area of concern. OPP policies, standard operating procedures, and position descriptions were disorganized and inconsistently formatted. Some documents were dated as far back as 2005, or were undated entirely. Numerous memoranda modifying policy content have been issued, but not incorporated into the policies themselves. This makes changes difficult to track. Command staff provided ODO with policies and procedures later determined to be outdated, and staff had difficulty identifying the most current versions. OPP management stated an OPSO committee has submitted revisions to the OPP legal department for review. To support compliance with the NDS, ODO recommends all policies applicable to ICE detainees be reviewed by ICE. Approval and promulgation should be expedited.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY PO-1

In accordance with the ICE NDS, Post Orders, section (III)(F), the FOD must ensure post orders for armed posts, and for posts that control access to the institution perimeter, shall clearly state

(b)(7)e

STAFF-DETAINEE COMMUNICATION (SDC)

ODO reviewed the Staff-Detainee Communication NDS at OPP to determine if procedures are in place to allow formal and informal contact between detainees and key ICE and facility staff; and if ICE detainees are able to submit written requests to ICE staff and receive responses in a timely manner. ODO interviewed staff and detainees, toured and observed housing units, and reviewed ERO visitation records.

The facility allows detainees to have informal and formal access and interaction with OPP/TP5 and ERO staff. Detainees have the opportunity to submit written questions, requests, or concerns to OPP/TP5 and ERO staff by asking for a request form. Both OPP/TP5 and ERO staff advised that ICE detainees housed at OPP/TP5 have never filed or submitted formal requests to staff due to the short length of their stay at the facility. According to OPP/TP5 and ERO staff, the average number of days an ICE detainee is housed at OPP/TP5 ranges from two to four days.

ERO supervisory staff periodically conducts unannounced visits throughout the facility to observe detainee living conditions at OPP/TP5 and to communicate with detainees. However, ERO does not have a policy or procedures in place to ensure unannounced visits conducted by ERO supervisory staff are documented (**Deficiency SDC-1**). The FOD and the AFOD both advised ODO they will create a written policy instructing and requiring all ERO supervisory staff to document unannounced visits conducted at OPP/TP5.

ERO officers conduct scheduled visitations on a weekly basis to communicate and interact with detainees. ERO officers document their scheduled visits by completing the Facility Liaison Visit Checklist. ODO verified and confirmed scheduled visitations are conducted by ERO officers by interviewing OPP/TP5 staff and by reviewing visitation records maintained by OPP/TP5.

According to the OPSO Lieutenant, OPP/TP5 does not have written procedures to route detainee requests to ERO (**Deficiency SDC-2**). This deficiency was corrected on-site during the inspection. The Lieutenant provided ODO with a copy of the written procedures for routing detainee requests to ERO, which had been approved and signed by the Warden.

The Warden stated the facility maintains a single electronic log to document and record detainee requests and grievances. All detainee requests are documented and recorded in the grievance log. OPP/TP5 does not maintain a log specifically for detainee requests (**Deficiency SDC-3**).

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY SDC-1

In accordance with the ICE NDS, Staff-Detainee Communication, section (III)(A)(1), the FOD must ensure policy and procedures shall be in place to ensure and document that the ICE Officer in Charge (OIC), the Assistant Officer in Charge (AOIC) and designated department heads conduct regular unannounced (not scheduled) visits to the facility's living and activity areas to encourage informal communication between staff and detainees and informally observing [sic] living and working conditions.

DEFICIENCY SDC-2

In accordance with the ICE NDS, Staff-Detainee Communication, section (III)(B), the FOD must ensure all facilities that house ICE detainees must have written procedures to route detainee requests to the appropriate ICE official.

DEFICIENCY SDC-3

In accordance with the ICE NDS, Staff-Detainee Communication, section (III)(B)(2), the FOD must ensure all requests shall be recorded in a logbook specifically designed for that purpose.

The log, at a minimum, shall contain:

- a. The date the detainee request was received;
- b. Detainee's name;
- c. A-number;
- d. Nationality;
- e. Officer logging the request;
- f. The date that the request, with staff response and action, is returned to the detainee; and
- g. Any other site-specific pertinent information.

In IGSA's, the date the request was forwarded to ICE and the date it was returned shall also be recorded.

All completed Detainee Requests will be filed in the detainee's detention file and will remain in the detainee's detention file for at least three years.

SUICIDE PREVENTION AND INTERVENTION (SP&I)

ODO reviewed the Suicide Prevention and Intervention NDS at OPP to determine if the health and well-being of detainees are protected by training staff in effective methods of suicide prevention. ODO reviewed the suicide prevention and intervention policy, medical and facility staff training records, and interviewed the Clinical Director (CD), Health Services Administrator (HSA), and medical staff.

The training officer stated the facility uses the Lockup USA video and training guide, "Principles of Suicide Prevention," to train staff. ODO verified the curriculum covers all elements required by the standard, including recognizing signs of suicidal thinking, facility referral procedures, suicide-prevention techniques, responding to an in-progress suicide attempt, identification of suicide risk factors, and the psychological profile of a suicidal detainee.

A random review of (b)(7)(e) deputy staff and all medical staff training records confirmed (b)(7)(e) of (b)(7)(e) non-medical staff had not received training in suicide prevention and intervention after the initial orientation (**Deficiency SP&I-1**). ODO recommends the HSA and CD become more involved in training to ensure all staff members are trained in, and aware of, suicide prevention and intervention policy and procedures.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY SP&I-1

In accordance with the ICE NDS, Suicide Prevention and Intervention, section (III)(A), the FOD must ensure all staff will receive training, during orientation and periodically, in the following: recognizing signs of suicidal thinking, including suspect behavior; facility referral procedures; suicide-prevention techniques; and responding to an in-progress suicide attempt. All training will include the identification of suicide risk factors and psychological profile of a suicidal detainee.

TELEPHONE ACCESS (TA)

ODO reviewed the Telephone Access NDS at OPP 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, reviewed policies and procedures, and interviewed detainees and OPP/TP5 and ICE/ERO staff.

ODO verified telephones are available to detainees, and the number of telephones is adequate with respect to the detainee population. The telephones are in good working order. The rules and procedures for using the telephones are posted in the housing units and are also included in the detainee handbook. OPP/TP5 personnel monitor telephone calls at the facility, and a notice stating that telephone calls are subject to monitoring is posted near the telephone banks. ICE employees assist detainees with legal calls and communications with consular officials. OPP/TP5 does not have a policy or procedure for detainees to make an unmonitored call to a court, legal representative, or for the purpose of obtaining legal representation (**Deficiency TA-1**). Establishing the procedures for an unmonitored call to legal representatives ensures detainees' privacy rights are protected while discussing legal matters.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY TA-1

In accordance with the ICE NDS, Telephone Access, section (III)(K), the FOD must ensure the facility shall have a written policy on the monitoring of detainee telephone calls. If telephone calls are monitored, the facility shall notify detainees in the detainee handbook or equivalent provided upon admission. It shall also place a notice at each monitored telephone stating:

1. that detainee calls are subject to monitoring; and
2. the procedure for obtaining an unmonitored call to a court, legal representative, or for the purposes of obtaining legal representation.

A detainee's call to a court, a legal representative, or for the purposes of obtaining legal representation will not be aurally monitored absent a court order. The OIC retains the discretion to have other calls monitored for security purposes.

USE OF FORCE (UOF)

ODO reviewed the Use of Force NDS at OPP to determine if necessary use of force is used only after all reasonable efforts have been exhausted to gain control of a subject, while protecting and ensuring the safety of detainees, staff and others, preventing serious property damage, and ensuring the security and orderly operation of the facility. ODO toured the facility, reviewed the local policy and training records, and interviewed OPP personnel.

OPP management stated there have been no use-of-force incidents involving ICE detainees at OPP/TP5. If a calculated use of force against a detainee became necessary, the OPSO Special Operations Division would be contacted. Review of training files verified that staff members receive initial and annual training on uses of force.

The OPP Use-of-Force policy permits the use of gas, mace, and irritant dust, which are non-lethal options not authorized by ICE (**Deficiency UOF-1**). Prior to completion of the review, ODO was provided an addendum to the policy prohibiting use of these items on ICE detainees. ODO recommends formal implementation of the policy addendum, and training of staff to ensure compliance.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY UOF-1

In accordance with the ICE NDS, Use of Force, section (III)(M)(1-4), the FOD must ensure that the following non-deadly force devices are not authorized for use:

1. Saps, blackjacks, and sap gloves;
2. Mace, tear gas, or other chemical agents, except OC spray;
3. Homemade devices or tools; and
4. Any other device or tool not issued or approved by [ICE].