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Office of Professional Responsibility  
Inspections and Detention Oversight  
Washington, DC 20536-5501

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## Office of Detention Oversight Compliance Inspection

Enforcement and Removal Operations  
Newark Field Office  
Essex County Correctional Facility  
Newark, New Jersey

April 17 – 19, 2012

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**COMPLIANCE INSPECTION  
ESSEX COUNTY CORRECTIONAL 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 Essex County Correctional Facility (ECCF) in Newark, New Jersey from April 17–19, 2012. ECCF is owned and operated by the Essex County Department of Corrections. The facility opened in April 2004. ECCF houses U.S. Immigration and Customs Enforcement (ICE) detainees under an Intergovernmental Service Agreement (IGSA). ECCF houses adult male detainees with Level II (medium threat) and Level III (highest threat) security classifications for periods in excess of 72 hours. ECCF has a total bed capacity of 2,434; 800 of those beds are reserved for ICE detainees. The remaining bed space is reserved for inmates who have committed criminal offenses in Essex County, New Jersey, and United States Marshals Service prisoners. At the time of the inspection, ECCF housed a total of 546 ICE detainees (297 Level II; 249 Level III). The average daily detainee population at ECCF is 496. The average length of stay for a detainee is 19 days. Gourmet Dining, LLC is a privately owned food service company based in New Jersey under contract with Essex County to manage the food service operation at ECCF. The Center for Family Guidance Health Systems, LLC (CFG) provides medical care at ECCF. The clinic is open 24 hours a day, seven days a week. ECCF holds accreditation from the National Commission on Correctional Health Care (NCCHC).

The ICE, ERO, Field Office Director in Newark, New Jersey (FOD/Newark), is responsible for compliance of ECCF with ICE policies and the ICE Performance Based National Detention Standards (PBNDS). An Assistant Field Office Director (AFOD), Supervisory Detention and Deportation Officer (SDDO), and a Contracting Officer's Technical Representative (COTR) are not permanently assigned to ECCF, but visit the facility approximately three times each week. A Detention Service Manager (DSM) and Immigration Enforcement Agent (IEA) are physically located at the facility. The DSM provides full-time oversight of PBNDS implementation at ECCF. The IEA provides detainee case management services to ECCF and other ICE detention facilities. The FOD/Newark has designated additional SDDOs, Deportation Officers (DO), and Detention and Removal Assistants (DRA) to assist with detainee case management issues at ECCF; however, these personnel are not assigned exclusively to ECCF.

The Director is the highest ranking employee at ECCF. Additional management staff is comprised of a Warden, a Deputy Director for Administration, an Associate Warden for Custody, Captains, Lieutenants, and Sergeants. There are non-ICE employees at ECCF.

Medical staff consists of the Medical Director, the Health Services Administrator (HSA), the Director of Nursing, Physicians, Dentists, Nurse Practitioners, Physician Assistants, Registered Nurses, Licensed Practical Nurses, and a complement of support staff. ODO determined clinical staffing is sufficient to meet detainee health needs.

In October 2009, ODO conducted a Focus Review at ECCF. At that time, ECCF was adhering to the 2000 ICE National Detention Standards (NDS). ODO cited 40 deficiencies in 17 of the 24 standards inspected.

In September 2011, ERO Detention Standards Compliance Unit contractor MGT of America, Inc., conducted an annual review of the ICE NDS at ECCF. The facility received an overall rating of "Acceptable" and was found to be in compliance with all 36 detention standards reviewed.

In October 2011, ECCF began adhering to the 2008 ICE PBNDS.

During this CI, ODO reviewed a total of 26 PBNDS. Fourteen standards were found to be compliant, while 20 deficiencies were found in the following 12 standards: Classification System (1 deficiency), Detainee Handbook (2), Disciplinary System (1), Environmental Health and Safety (2), Food Service (2), Funds and Personal Property (2), Grievance System (2), Hunger Strikes (1), Medical Care (2), Personal Hygiene (1), Special Management Units (1), and Use of Force and Restraints (3).

This report includes descriptions of all identified deficiencies and refers to the specific, relevant sections of the ICE PBNDS. The report will be provided to ERO to assist in the development of corrective actions to resolve the 20 identified deficiencies.

Overall, ODO found ECCF in compliance with the areas and standards inspected. Sixteen of the 20 deficiencies identified were administrative in nature (paperwork, logs, and posters) rather than shortcomings with respect to practices and procedures. However, there were deficiencies with a potentially significant impact on the health and well being of ICE detainees identified under the Environmental Health and Safety PBNDS, and the Medical Care PBNDS.

Drinking water at ECCF is not tested annually or on a scheduled basis. Annual or scheduled testing of drinking water ensures the safety of potable water and compliance with applicable standards. Prior to the inspection, "Areas of Safe Refuge" were not identified on emergency exit diagrams. This was corrected during the review. Failure to designate "Areas of Safe Refuge" on emergency exit diagrams is a potential life-safety issue.

Initial intake screening is performed by medical staff. ODO verified intake screening, medications, treatment for special and chronic needs, and follow-up care were provided in accordance with the standard in all 27 records reviewed. Tuberculosis (TB) screening using the tuberculin skin method is performed on detainees during the intake process within the required 12 hours from arrival. However, ODO confirmed this timeframe was exceeded in five cases where screening via a chest X-ray was required due to a history of positive skin tests. Chest X-rays for the five detainees were completed between two days and two weeks after arrival at ECCF. ODO confirmed an X-ray Technician is on-site Monday through Friday, but delays may result when detainees are admitted on weekends. Incidents occurred where psychotropic medications were administered to two detainees involuntarily without documentation that the FOD/Newark had been contacted or ICE Chief Counsel had been notified as required by the standard. ODO notified ERO and ECCF management about these incidents during the close out briefing on April 19, 2012. ODO reported the incidents to the Joint Intake Center on May 1, 2012. Both cases are currently under investigation by ICE OPR. In response, ECCF and ERO

management reviewed policies and collaborated to achieve compliance with the PBNDS to prevent repetition of these deficiencies.

ODO verified medical screenings are conducted during the intake process and detainees are segregated from the general population until medical clearance is granted. During this period, detainees are afforded the opportunity to shower prior to assignment to a housing unit. Personal property and valuables are checked for contraband, inventoried, receipted, and stored in accordance with the PBNDS. Identity documents are turned over to ICE and are placed in the detainee's alien registration file. ODO confirmed ICE officers at the ERO FOD office in New York, New York (FOD/New York), take detainees into custody from New York jails without ensuring that detainee property is returned prior to the detainee's transfer to ECCF. This concern was mentioned during the close-out briefing to FOD/Newark management staff. FOD/Newark management stated they have addressed this with the FOD/New York, but the issue has not been resolved.

Detainees receive a physical examination (PE) within two days of arrival at ECCF. This practice allows for early identification of chronic care issues and prompts initiation of medication and laboratory testing. A PE was completed within the two-day timeframe in all 27 cases reviewed by ODO, and all ICE Health Service Corps (IHSC) Performance Improvement criteria were met. ODO cites the ECCF PE system as a best practice.

ODO reviewed grievance logs and documentation of informal, formal, and medical grievances, and confirmed that from January 1, 2012, to March 31, 2012, ECCF officials adjudicated 67 grievances. ODO verified ECCF officials processed all of the grievances in compliance with the PBNDS. ODO examined ten randomly-selected detention files and confirmed they contained copies of grievances and corresponding responses. The Grievance Officer maintains copies of informal and formal grievances and associated responses. Medical grievances are maintained by the medical unit, addressed by the medical staff, but are compiled in an electronic database rather than placed in detainee medical files as required by the PBNDS. Grievance logs were confirmed to be current and complete. A facility Grievance Committee adjudicates appeals. Detainees can appeal Grievance Committee decisions to either the Warden or directly to ICE.

ECCF provides four law libraries. Each library is available for detainee use 12 hours per day. The libraries have sufficient lighting, tables, chairs, and computers for the detainee population. Legal materials such as pens and paper were well stocked, and access to copying equipment is available to detainees upon request. The Lexis-Nexis program loaded on each computer was confirmed to be current, with updates performed on a regular basis.

The medical clinic has two nursing stations, seven examination rooms, one urgent care room, and a dialysis unit. There are 42 infirmary care beds, four of which are single-occupancy negative-pressure rooms for TB isolation. Detainees requiring higher levels of medical care or emergency services are sent to East Orange General Hospital, or University Medicine and Dentistry of New Jersey Hospital. Translation services are used as necessary to facilitate communication between medical staff and detainees.

ECCF does not have an outdoor recreation area. According to the Recreation PBNDS, if an IGSA does not have an outdoor recreation area, an indoor recreation area must be available with exercise equipment and access to natural light. ODO verified that the facility provides detainees with large indoor recreation areas with natural light and access to exercise equipment. Detainees are authorized to engage in recreation for a minimum of one hour per day, five days a week. The PBNDS prescribes that detainees held longer than six months at an IGSA with only an indoor recreation area have the option to request a transfer to another ICE facility that offers outdoor recreation. ODO verified that the average length of stay (ALOS) for detainees at ECCF is 19 days; therefore, no detainee has been held at ECCF long enough to request a transfer per the standard. ECCF management stated an outdoor recreation area is in the planning stage. An estimated date for completion was not provided, because funding for the project is uncertain. No detainees have complained or requested transfers due to the lack of an outdoor recreation area.

The facility has a designated Sexual Abuse and Assault Prevention and Intervention (SAAPI) Coordinator. SAAPI training is provided during orientation, and refresher training is provided annually. Interviews with the SAAPI Coordinator and staff confirmed they were knowledgeable regarding protocols in the event of a reported incident. Detainees are screened during the intake process for victimization risk and to identify potential sexual aggressors. Detainees are informed of the SAAPI program via the detainee handbook and during orientation. There are also SAAPI postings in each housing unit. ODO confirmed there were no instances of sexual abuse or assault on detainees in the 12 months preceding the CI.

ODO verified written procedures are in place to temporarily segregate detainees for administrative and disciplinary reasons. ICE detainees are housed in a designated area within the Special Management Unit (SMU), consisting of 16 two-person cells. Inspection of the SMU verified the unit is well ventilated, adequately lit, appropriately heated, and maintained in a sanitary condition. All cells are equipped with beds that are securely fastened to the floor and have intercoms for direct communication to the officer in the SMU control station. A second officer directly supervises the area of the SMU where ICE detainees are housed. Detainees are placed in administrative segregation pending a disciplinary hearing for serious rules violations. Other reasons for administrative segregation include protective custody and mental health issues where placement in general population would put the detainee or others at risk.

At the time of the review, there were four detainees in disciplinary segregation and ten detainees in administrative segregation. Four of the detainees in administrative segregation were awaiting disciplinary hearings, and six were there for mental health reasons. All 14 detainees in the SMU were interviewed and stated they were receiving regular recreation, showers, meals, and telephone access; they also stated staff was responsive to their needs. At the time of this review, one of the six detainees in the SMU for mental health reasons had been in administrative segregation for four months. The longest placement in the SMU of the remaining five detainees with mental health issues was one month.

ODO observed Department of Homeland Security, Office of Inspector General, Hotline posters and weekly DO visitation schedules conspicuously posted in the housing areas. The IEA assigned to the facility visits detainee housing areas on a daily basis. ICE officers, both DO and

IEA, interview approximately 100 detainees each week. Unscheduled visits are conducted by ERO management on a weekly basis. ECCF staff is present during these unscheduled visits. ODO reviewed 15 randomly-selected ICE detainee request forms completed within the last month; all were answered within the required 72 hours, and all were case management related. ODO reviewed ICE detainee request logbook entries for the three months prior to the CI, and all 67 requests were addressed within the required 72-hour timeframe. ODO reviewed each Facility Liaison Visit Checklist completed during the three months prior to the CI and confirmed all 12 forms were accurate and complete.

ODO reviewed the records of (b)(7)e members of the training staff. Each file contained verification that the minimum 40-hour training-for-trainers course was completed by ECCF training personnel. The curriculum for Initial Orientation Training includes all materials required by the Staff Training standard, to include: PBNDS, cultural diversity, sexual harassment, use of force, health-related emergencies, hunger strikes, required special needs for detainees, and signs of suicide risk, precaution, prevention, and intervention. ODO interviewed the Training Officer and reviewed (b)(7)e randomly-selected staff training records. Each training record reviewed contained verification that initial orientation and all required training were completed. The Essex County Department of Corrections, Internal Affairs Bureau, completes criminal background checks on each staff member prior to hiring. The facility has a continuing education and professional development program offered to all ECCF employees.

There have been no suicide attempts or suicides since the October 2009 ODO inspection. Screening for detainees at risk for suicide occurs as part of intake screening, and detainees identified as "at risk" are referred to the medical unit where they are housed and monitored. ODO reviewed the ECCF Suicide Prevention Awareness training curriculum and confirmed it covers required elements, 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. Inspection of training records for (b)(7)e custody and (b)(7)e medical staff revealed all received training annually.

No deaths have occurred at ECCF since the October 2009 ODO inspection. ECCF policies address terminal illness, fatal injury, and advance directives, and provide guidance in the event of the death of a detainee. The Medical Director and the Acting HSA stated all seriously or terminally ill detainees are transferred to an appropriate alternative facility.

ERO and facility staff stated ECCF does not transfer detainees to other facilities. The goal of the FOD/Newark is to use ECCF as the final staging area for all detainees held at the facility, with the final outcome being removal to their home countries, release on bond, or release under the Alternative to Detention program (ATD). The most recent detainee transfer from ECCF occurred in March 2011. ECCF was in full compliance with the Transfer of Detainees PBNDS.

There were seven use of force incidents involving detainees during the past year. Three were immediate uses of force, and four were calculated uses of force. An immediate use of force situation is created when a detainee's behavior constitutes a serious and immediate threat to self,

staff, another detainee, property, or the security and orderly operation of the facility. In that situation, staff may respond without a supervisor's direction or presence. A calculated use of force occurs when a detainee is in a location where there is no immediate threat to the detainee or others. Prior to a calculated use of force, staff shall take the time to assess the possibility of resolving the situation without resorting to force. A calculated use of force needs to be authorized in advance by the Facility Administrator. Review of written documentation and video recordings by ODO confirmed use of force team members wore helmets during videotaped introductions, an individual team member entered a detainee cell alone without protective gear as five members of the use-of-force team waited outside, and ECCF does not have written procedures for after-action reviews of use of force incidents and the application of restraints.



## INSPECTION PROCESS

ODO primarily focuses on areas of noncompliance with the ICE NDS or the ICE PBNDS, as applicable. The PBNDS apply to ECCF. In addition, ODO may focus its inspection based on detention management information provided by ERO Headquarters (HQ) and 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 ECCF to determine compliance with current policies and detention standards. Prior to and during the inspection, ODO collected and analyzed relevant allegations and detainee information from multiple ICE databases, including the Joint Integrity Case Management System (JICMS), the ENFORCE Alien Booking Module (EABM), and the ENFORCE Alien Removal Module (EARM). ODO also gathered facility facts and inspection-related information from ERO HQ staff to prepare for the site visit at ECCF.

## 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, ICE policy, or operational procedure. OPR defines an area of concern as something that may lead to or risk a violation of the PBNDS, ICE policy, or operational procedure. When possible, the report includes contextual and quantitative information relevant to the cited standard. Deficiencies are highlighted in bold throughout the report and are encoded sequentially according to a detention standard designator.

Comments and questions regarding the report findings should be forwarded to the Deputy Division Director, OPR, ODO.

## INSPECTION TEAM MEMBERS

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

Detention & Deportation Officer (TL)	ODO, HQ
Senior Special Agent	ODO, HQ
Senior Special Agent	ODO, Houston
Contract Inspector	Creative Corrections
Contract Inspector	Creative Corrections
Contract Inspector	Creative Corrections
Contract Inspector	Creative Corrections

## OPERATIONAL ENVIRONMENT

### INTERNAL RELATIONS

ODO interviewed supervisory ICE and ECCF staff, to include the Warden, the Assistant Warden, the Captain, the Training Officer, (b)(7)e randomly selected Corrections Officers, the AFOD, (b)(7)e assigned to ECCF. ICE and ECCF personnel were cooperative and provided assistance throughout the inspection process.

ECCF and ERO management stated they have sufficient personnel to administer services to the current detainee population. ECCF and ERO management stated the DSM has been instrumental in identifying detention-related issues. The DSM works closely with the COTR, as well as the SDDO and IEA assigned to the facility to improve conditions and ensure adherence to the PBNDS. ICE and ECCF employees stated the working relationship between the two entities is excellent, and morale is high.

ODO confirmed the Director of the facility visits the housing areas once a week to listen to detainee concerns. ERO officers conduct regular scheduled and unscheduled visits to the facility, in accordance with the PBNDS.

### DETAINEE RELATIONS

ODO interviewed 15 randomly-selected ICE detainees to assess the overall living and detention conditions at ECCF. All detainees had received the detainee handbook. DO visitation schedules are conspicuously posted in each housing unit, and all detainees stated they were aware of the regular Tuesday visits from ERO to address detainee concerns and discuss individual immigration cases. All detainees stated they have access to recreation, telephone services, and free personal hygiene supplies. The detainees also stated they can send and receive mail, have access to the law libraries, are permitted family visitation, and can file grievances. The detainees stated they are afforded voluntary work opportunities at a pay rate of \$10.50 per week. None of the detainees stated they had experienced any discriminatory or racial remarks from ICE or facility staff, or had been subjected to any physical or sexual abuse. None of the detainees stated they had witnessed staff using force on an ICE detainee.

Detainees complained about the variety and quality of food. Spanish-speaking detainees stated they want more food of Spanish origin. ODO verified all menus, including special diet menus, are certified by a registered dietitian for nutritional content.

Two detainees complained they were not seen by medical staff, but did not provide the specific circumstances. There are LPNs assigned to each housing unit who collect sick call slips twice a day. Medical records confirmed both detainees were provided over-the-counter medications after being seen by an LPN. This occurred within two days of submitting a sick call request, which is in compliance with the PBNDS.

## **ICE PERFORMANCE BASED NATIONAL DETENTION STANDARDS**

ODO reviewed a total of 26 PBNDS and found ECCF fully compliant with the following 14 standards:

- Admission and Release
- Correspondence and Other Mail
- Hold Rooms in Detention Facilities
- Law Libraries and Legal Material
- Legal Rights Group Presentations
- Recreation
- Sexual Abuse and Assault Prevention and Intervention
- Staff-Detainee Communication
- Staff Training
- Suicide Prevention and Intervention
- Telephone Access
- Terminal Illness, Advance Directives, and Death
- Transfer of Detainees
- Visitation

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 12 areas:

- Classification System
- Detainee Handbook
- Disciplinary System
- Environmental Health and Safety
- Food Service
- Funds and Personal Property
- Grievance System
- Hunger Strikes
- Medical Care
- Personal Hygiene
- Special Management Units
- Use of Force and Restraints

ODO findings for these standards are presented in the remainder of this report.

## **CLASSIFICATION SYSTEM (CS)**

ODO reviewed the Classification System standard at ECCF to determine if there is a formal classification process for managing and separating detainees based on verifiable and documented data, in accordance with the ICE PBNDS. ODO interviewed ECCF staff assigned to the admission and release area of the facility.

ODO observed each detainee is classified upon admission to ECCF based on required documentation from ERO before being sent to the general population housing areas. ECCF exclusively houses adult male detainees with Level II and Level III security classifications. Detainees are housed separately from inmates at ECCF. Detainee classification is reviewed at regular intervals, and changes in classification status are determined by behavior. The classification system is explained in the detainee handbook, which is available in both English and Spanish.

ECCF is often provided with incomplete or inaccurate classification forms from ERO for incoming detainees (**Deficiency CS-1**). Proper detainee classifications ensure detainees are housed according to their criminal histories and their behavior while in a detention facility.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY CS-1**

In accordance with the ICE PBNDS, Classification System, section (V)(E), the FOD must ensure that, as appropriate, ICE/DRO offices shall provide non-ICE/DRO facilities with the relevant information for the facility to classify ICE/DRO detainees. Staff is not to use personal opinion, including assumptions based on familiarity, personal experience, or stereotypes, when classifying detainees.

## **DETAINEE HANDBOOK (DH)**

ODO reviewed the Detainee Handbook standard at ECCF 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, in accordance with the ICE PBNDS. ODO interviewed staff and detainees, and reviewed the facility handbook and facility policies.

ECCF provides ICE detainees with the ICE National Detainee Handbook and a facility supplement. Both are available in English and Spanish. Spanish is the most prevalent language spoken by detainees other than English. The local supplement, in both languages, is contained in a plastic binder secured to the bulletin board in each housing unit. ODO confirmed medical grievances are not covered in the local supplement (**Deficiency DH-1**). Inclusion of this information in the local supplement ensures detainees are aware of procedures for filing grievances relating to medical care.

A review of 15 randomly-selected detention files found only two files contained acknowledgment receipts of both the ICE National Detainee Handbook and the facility supplement (**Deficiency DH-2**). Specifically, 11 detainees received only the facility supplement, one detainee received only the ICE National Detainee Handbook, and one detainee did not receive either handbook. During the inspection, the detainees were provided handbooks and signed for them.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY DH-1**

In accordance with the ICE PBNDS, Detainee Handbook, section (V)(2), the FOD must ensure while all applicable topics from the ICE National Detainee Handbook must be addressed, it is particularly important that each local supplement notify each detainee of:

- The detainee Grievance System, including medical grievances.

### **DEFICIENCY DH-2**

In accordance with the ICE PBNDS, Detainee Handbook, section (V)(4), the FOD must ensure that upon admission to a facility, as part of the orientation program, each detainee shall be provided a copy of the ICE National Detainee Handbook and that facility's local supplement to the handbook.

## **DISCIPLINARY SYSTEM (DS)**

ODO reviewed the Disciplinary System standard at ECCF to determine if sanctions imposed on detainees who violate facility rules are appropriate, and if the discipline process includes due process requirements, in accordance with the ICE PBNDS. ODO interviewed detainees and staff, reviewed the disciplinary policy and detainee handbook, examined disciplinary files, and observed a disciplinary hearing.

The detainee handbook provides notice of a detainee's right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, harassment, and the right to freedom from discrimination based on race, national origin, sex, handicap, or political beliefs. The disciplinary system at ECCF includes progressive levels of review and appeal procedures. Prohibited acts are divided into two categories of offenses: minor and major. While observing a disciplinary hearing before the Institutional Disciplinary Panel (IDP), ODO noted the detainee was advised of all rights required by the standard, including the right to appeal the outcome.

ODO reviewed files of 18 detainees who received disciplinary actions, including four detainees on disciplinary segregation at the time of the CI. All files included documentation of investigations and disciplinary reports. The Chairman of the IDP stated the disciplinary record is not forwarded to the Facility Administrator for a review of the proceedings (**Deficiency DS-1**). The Chairman further stated the panel's decision is final unless reversed or modified upon appeal. Review of all disciplinary hearing outcomes supports due process and consistency in the disciplinary decisions.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY DS-1**

In accordance with the ICE PBNDS, Disciplinary System, section (V)(H)(6), the FOD must ensure all facilities that house ICE/DRO detainees shall have a disciplinary panel to adjudicate detainee Incident Reports. Only the disciplinary panel may place a detainee in disciplinary segregation.

The term "Institution Disciplinary Panel" or "IDP" refers either to a three-person panel appointed by the facility administrator, or a one-person disciplinary hearing officer, depending on the practice at the facility.

The panel may not include the reporting officer, the investigating officer, any member of the referring UDC, or anyone who witnessed or was directly involved in the incident. Exceptions may occur only if the number of officers required for the panel cannot be filled due their direct involvement in the incident. The IDP shall have authority to:

Forward the entire record to the facility administrator, who may (a) concur; (b) terminate the proceedings; or (c) impose more severe or more lenient sanctions.

## **ENVIRONMENTAL HEALTH AND SAFETY (EH&S)**

ODO reviewed the Environmental Health and Safety standard at ECCF to determine if the facility maintains high standards of cleanliness and sanitation, safe work practices and control of hazardous materials and substances, in accordance with the ICE PBNDS. ODO toured the facility, interviewed staff, and reviewed policies and documentation of inspections, hazardous chemical management, generator testing, and fire drills.

ODO confirmed all chemicals, flammables, and combustible materials are stored and issued as required. Hazardous substances are strictly controlled, and material safety data sheets, a master index of chemicals, and documentation of review were available and complete. Monthly fire drills were conducted on each shift and documentation was available. Pest control invoices and reports for generator testing and maintenance were on file. Barbering services were conducted in a designated area and hair care sanitation regulations were posted. Sanitation is maintained at an acceptable level throughout the facility. ODO verified ECCF was in compliance with the three mandatory components of this standard.

Documentation of wastewater testing confirmed compliance with the standard; however, the drinking water at ECCF is not tested annually or on a scheduled basis (**Deficiency EH&S-1**). Annual or scheduled testing of drinking water ensures the safety of potable water and compliance with applicable standards. "Areas of Safe Refuge" are not identified on emergency exit diagrams (**Deficiency EH&S-2**). Failure to designate "Areas of Safe Refuge" on emergency exit diagrams is a potential life-safety issue. This deficiency was corrected during the review.

### **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

#### **DEFICIENCY EH&S-1**

In accordance with the ICE PBNDS, Environmental Health and Safety, section (V)(E), the FOD must ensure that at least annually, a state laboratory shall test samples of drinking and wastewater to ensure compliance with applicable standards. A copy of the testing and safety certification shall be maintained on-site.

#### **DEFICIENCY EH&S-2**

In accordance with the ICE PBNDS, Environmental Health and Safety, section (VII)(E), the FOD must ensure that in addition to a general area diagram, the following information must be provided on signs:

"Areas of Safe Refuge" shall be identified and explained on diagrams. Diagram posting will be in accordance with applicable fire safety regulations of the jurisdiction.

## **FOOD SERVICE (FS)**

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

ECCF contracts with Gourmet Dining, LLC to manage its food service operation. Staff of Gourmet Dining, supported by a crew of inmate workers, performs all functions related to food preparation and storage within the ECCF kitchen. Prepared food is placed in containers and delivered to housing units in locked food carts. Following inspection by custody staff, ICE detainee workers place the containers in food warmers located in the pantry area of the housing unit, then serve the meals to detainees assigned to the unit. Detainees working in the pantry areas are under the direct supervision of correctional officers. Detainee workers are provided with appropriate safety equipment and working attire.

ODO verified all food service workers are medically cleared. A registered dietician certifies the menus are nutritionally adequate; religious, medical, and common fare diets are provided. Knives are properly secured and inventoried; food and chemicals are properly stored. Required checks of kitchen equipment and water temperatures are performed. The Food Service Administrator performs weekly inspections.

ECCF is a no-pork facility; however, this information is not provided to detainees in the detainee handbook or during facility orientation (**Deficiency FS-1**). Providing this information to detainees who do not eat pork alleviates confusion for those who observe no-pork diets for religious reasons.

During inspection, ODO observed unsanitary conditions in the pantry areas of pods 2E and 2C, which could promote the feeding or nesting of insects and rodents (**Deficiency FS-2**). Specifically, ODO observed floors under the counters and food warmers were dirty, with particles of food present. In addition, six small milk containers and two small juice containers were found hidden in a stainless steel container under a counter.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY FS-1**

In accordance with the ICE PBNDS, Food Service, section (V)(G)(5), the FOD must ensure that if a facility has a no-pork menu, in order to alleviate any confusion for those who observe no-pork diets for religious reasons, this information should be included in the facility's handbook and the facility orientation. If the facility has a chaplain, he or she should also be made aware of the policy.



**DEFICIENCY FS-2**

In accordance with the ICE PBNDS, Food Service, section (V)(J)(5)(k), the FOD must ensure all facilities shall meet the following environmental standards:

The premises shall be maintained in a condition that prevents the feeding or nesting of insects and rodents. Outside openings shall be protected by tight-fitting screens, windows, controlled air curtains, and self-closing doors.

## **FUNDS AND PERSONAL PROPERTY (F&PP)**

ODO reviewed the Funds and Personal Property standard at ECCF to determine if controls are in place to inventory, receipt, store, and safeguard detainees' personal property, in accordance with ICE PBNDS. ODO interviewed staff, reviewed policies and procedures, and observed the processing of detainees.

ECCF has written policies and procedures which provide for the control and safeguarding of detainees' funds and personal property. Property is properly inventoried and logged, and stored in a secured property room. ODO confirmed the property rooms were neat and well organized. Detainees are not authorized to carry money. Funds are retained in detainee commissary accounts.

ODO found two property storage areas, for large and small valuables, were not restricted to supervisory personnel only (**Deficiency F&PP-1**). Restricting access for detainee valuables to facility supervisors decreases the likelihood of items going missing or becoming damaged.

ODO found the detainee handbook does not provide notice to detainees regarding the rules for storing or mailing property not allowed in their possession, the procedures for filing a claim for lost or damaged property, or the procedures for access to detainee personal funds to pay for legal services (**Deficiency F&PP-2**). Providing detainees with a handbook detailing all services offered at the facility, and the related procedures for accessing those services, allows detainees to be aware of all opportunities available to them at the facility.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY F&PP-1**

In accordance with the ICE PBNDS, Funds and Personal Property, section (V)(A), the FOD must ensure both the safe and the large-valuables locker should be kept in either the shift supervisor's office or otherwise secured in an area accessible only by the shift supervisor.

### **DEFICIENCY F&PP-2**

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

- Which items (and cash) they may retain in their possession;
- That, upon request, they shall be provided a ICE/DRO-certified copy of any identity document (passport, birth certificate, etc.) placed in their A-files;
- The rules for storing or mailing property not allowed in their possession;
- The procedure for claiming property upon release, transfer, or removal;
- The procedures for filing a claim for lost or damaged property;
- Access to detainee personal funds to pay for legal services.

## **GRIEVANCE SYSTEM (GS)**

ODO reviewed the Grievance System standard at ECCF to determine if a process to submit formal or emergency grievances exists, and responses are provided in a timely manner, without fear of reprisal. In addition, the review was conducted to determine if detainees have an opportunity to appeal responses, and if accurate records are maintained, in accordance with the ICE PBNDS. ODO reviewed the grievance system policy, the grievance logbook, and detention files, and interviewed staff and detainees.

ODO obtained the ECCF grievance system policy and found it was in compliance with the PBNDS. ECCF officials adjudicated 67 grievances during the three months preceding this CI, and all were appropriately adjudicated. ODO examined ten randomly-selected detention files and confirmed they contained copies of grievances and corresponding responses. Detainees can access grievance forms from their dorm facility corrections officer. Informal grievances are encouraged, and the Grievance Officer maintains copies of formal grievances and associated responses. Medical grievances are maintained by the medical unit. Medical grievances are addressed by the medical staff, and compiled in an electronic database. The facility implements a Grievance Committee to adjudicate appeals. Detainees can appeal committee decisions to either the Warden or directly to ICE.

The 67 grievances reviewed were adjudicated appropriately, but one grievance was not responded to within a 5-day timeframe (**Deficiency GS-1**). Providing detainees with a response within the prescribed timeframe ensures detainee complaints and concerns are addressed and resolved quickly. A short response time also provides assurance to detainees that their concerns are considered a priority by facility staff.

ODO determined the ECCF medical unit does not file detainee medical grievances in detainee medical files. Medical staff receives medical grievances on paper forms. Medical grievances are electronically logged, and a response is provided to the detainee. The response is also scanned and electronically logged; however, a copy of the grievance is not placed in the detainee's medical file (**Deficiency GS-2**). Storing all documents related to medical issues in the detainee's medical file ensures medical staff is aware of all available information when assessing the medical condition of a detainee.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY GS-1**

In accordance with the ICE PBNDS, Grievance System, section (V)(C)(3)(2)(f), the FOD must ensure the facility administrator, or designee, shall allow a detainee to submit a formal, written grievance to a single designated grievance officer or the facility's grievance committee and shall be given the opportunity to obtain preparation assistance from another detainee or facility staff. Illiterate, disabled, or non-English speaking detainees shall be provided additional assistance, upon request. Formal written grievances regarding medical care shall be submitted directly to medical personnel designated to receive and respond to medical grievances at the facility. That person shall act on the grievance within five working days of receipt. The responsible

department head shall provide the detainee a written response of the decision and the rationale. When the detainee is illiterate, disabled or non-English speaking, the decision shall be read to him or her in a language that he or she understands, or translation/interpretation shall be provided as needed.

**DEFICIENCY GS-2**

In accordance with the ICE PBNDS, Grievance System, section (V)(E), the FOD must ensure medical grievances are maintained in the detainee's medical file.

## **HUNGER STRIKES (HS)**

ODO reviewed the Hunger Strikes standard at ECCF to determine if the facility protects detainees' health and well-being by monitoring, counseling, and treating detainees on hunger strikes, in accordance with the ICE PBNDS. Nothing in this standard is intended to limit or override the exercise of sound medical judgment by the clinical medical authority responsible for a detainee's medical care. Each case must be evaluated on its own merits and specific circumstances, and treatment shall be given in accordance with accepted medical practice. ODO reviewed the ECCF policy on hunger strikes, and interviewed the Medical Director, the Acting HSA, the Director of Nursing, and other staff.

ODO confirmed there have been no hunger strikes in the year preceding the CI. Medical personnel were knowledgeable regarding hunger strike protocol and the PBNDS.

ODO performed a random review of training records for (b)(7)e correctional officers and (b)(7)e medical staff. All correctional officers had completed hunger strike training, but there was no documentation confirming medical staff's completion of hunger strike training (**Deficiency HS-1**). ODO could not determine whether documentation was missing or training was not completed, because the HSA was not present during the review. ODO recommends implementation of a tracking system to ensure all medical staff completes required training.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY HS-1**

In accordance with the ICE PBNDS, Hunger Strikes, section (V)(A), the FOD must ensure all staff shall be initially and annually trained to recognize the signs of a hunger strike and on the procedures for referral for medical assessment, and on the correct procedures for managing a detainee on a hunger strike.

## MEDICAL CARE (MC)

ODO reviewed the Medical Care standard at ECCF to determine if detainees have access to healthcare and emergency services to meet health needs in a timely manner, in accordance with the ICE PBNDS. ODO toured the medical clinic, reviewed policies and procedures, examined 27 medical records, verified medical staff credentials, and interviewed the Medical Director, the Acting HSA, the Director of Nursing, and other staff.

Medical services at ECCF are provided by CFG Health Systems, LLC. The facility holds current accreditation from NCCHC. The clinic is open 24 hours a day, seven days a week. Clinic staffing consists of the Medical Director, the HSA, the Director of Nursing, (b)(7)e Physicians, (b)(7)e Dentists, (b)(7)e Nurse Practitioners, (b)(7)e Physician Assistants, (b)(7)e Registered Nurses, (b)(7)e Licensed Practical Nurses, and a complement of support staff. ODO determined staffing is sufficient to meet detainee health needs.

The initial intake screening is performed by medical staff. ODO verified intake screening, medications, treatment for special and chronic needs, and follow-up care were provided in accordance with the standard in all 27 records reviewed. TB screening using the tuberculin skin method is performed on detainees during the intake process within the required 12 hours from arrival. However, ODO confirmed this timeframe was exceeded in five cases where screening via a chest X-ray was required due to a history of positive skin tests (**Deficiency MC-1**). Chest X-rays for the five detainees were completed between two days and two weeks after arrival at ECCF. ODO confirmed the X-ray Technician is on-site Monday through Friday, but delays may result when detainees are admitted on weekends.

Detainees receive their PE within two days of arrival. This practice allows for early identification of chronic care issues and prompts initiation of medication and laboratory testing. A PE was completed within the two-day timeframe in all 27 cases reviewed, and IHSC Performance Improvement criteria were met. Detainees are referred to community providers for services beyond the scope of care provided by the facility. Detainees may submit written sick call requests, available in English and Spanish, in secure "Medical Requests" boxes in the housing units. ODO verified written requests are triaged and detainees are seen in a timely manner. ODO cites the PE system at ECCF as a best practice.

The medical clinic has two nursing stations, seven examination/treatment rooms, one urgent care room, and a dialysis unit. There are 42 infirmary care beds, four of which are single occupancy negative pressure rooms for TB isolation. Detainees who require a higher level of medical care or emergency services are sent to East Orange General Hospital, or University Medicine and Dentistry of New Jersey Hospital. If a language barrier exists, a telephone translation service is used.

Contract Pharmacy Services (CPS) provides pharmacy services. Medications are provided in blister pack delivery systems. Secure medication carts are used to pass medications to the detainee units. Access to the medication room and carts is limited to medical personnel.

A random review of training files for (b)(7)custody and (b)(7)e medical staff documented current first aid and cardiopulmonary resuscitation (CPR) training.

ODO reviewed two incidents where psychotropic medications were administered to detainees involuntarily. In the first incident, a member of the nursing staff notified security personnel that a detainee had become aggressive and medication was required that had been ordered “as needed.” In the second incident, the facility Psychiatrist directed administration of medication so the detainee could be taken to the hospital. In both cases, the detainees refused medication and were restrained by a use of force team while the injections were administered. There is no documentation that FOD/Newark was contacted prior to either incident, or that ICE Chief Counsel was notified as required by the standard (**Deficiency MC-2**). ODO notified ERO and ECCF management about these incidents during the close-out briefing on April 19, 2012. ODO reported the incidents to the Joint Intake Center on May 1, 2012. Both cases are currently under investigation by ICE OPR. In response, ECCF and ERO management reviewed policies and collaborated to achieve compliance with the PBNDS and prevent repetition of these deficiencies.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY MC-1**

In accordance with the ICE PBNDS, Medical Care, section (V)(C)(2), the FOD must ensure all new arrivals shall receive TB screening within 12 hours of intake and using methods in accordance with CDC guidelines for non-minimal risk detention facilities.

### **DEFICIENCY MC-2**

In accordance with the ICE PBNDS, Medical Care, section (V)(K)(7), the FOD must ensure that when psychotropic medication is involuntarily administered, it is required that the administrative health authority contact DRO Management, who shall contact respective DHS/ICE Chief Counsel.

## **PERSONAL HYGIENE (PH)**

ODO reviewed the Personal Hygiene standard at ECCF to determine if the facility provides clean clothing, bedding, linens and towels to every detainee upon arrival; and to ascertain if the facility provides ICE detainees with regular exchanges of items for as long as they remain in detention, in accordance with the ICE PBNDS. ODO toured the facility, interviewed detainees and staff, reviewed the personal hygiene policy and detainee handbook, and observed postings in the housing units informing detainees of the clothing exchange dates and procedures.

Inspection of the warehouse and review of inventories supported the facility stores ample supplies of bedding and linens. ODO found 1,200 blankets, 7,000 sheets, 22,000 towels, and a sufficient quantity of clothing in all sizes stored and in reserve. Hygiene supplies including toothpaste, soap, toothbrushes, and combs are issued to detainees during the intake process, and a variety of additional hygiene items are available for purchase through the commissary. Arriving detainees are also issued a bedroll with two sheets, one blanket, two towels, two washcloths, and two full sets of clothes consisting of shirts, pants, underwear, undershirts, and socks. Detainees may launder their personal clothes in the housing unit washer and dryer with laundry soap provided by the facility. Blankets are washed in the facility laundry and can be exchanged once every two weeks.

During a tour of the facility, ODO found six dormitories did not have the required number of showers for the 60-person capacity. Each dormitory has four showers. The ratio of detainees to showers is 15 to one, not 12 to one as required by the standard (**Deficiency PH-1**). Four of the six dormitories were at full capacity during the review. Adequate shower facilities allow maintenance of personal hygiene, which is critical in a group living environment.

During the review, two detainees expressed concern that the shower water was too hot. ODO tested the water temperature in all 20 functioning showers and found it to be between 103 and 105 degrees Fahrenheit, which is within the range required by the standard.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY PH-1**

In accordance with the ICE PBNDS, Personal Hygiene, section (V)(E), the FOD must ensure detainees shall be provided: Operable showers that are thermostatically controlled to temperatures between 100 and 120 degrees Fahrenheit, to ensure safety and promote hygienic practices.

ACA Expected Practice 4-ALDF-4B-09 requires a minimum ratio of one shower for every 12 detainees.



## SPECIAL MANAGEMENT UNITS (SMU)

ODO reviewed the Special Management Unit (SMU) standard at ECCF to determine if the facility has procedures in place to temporarily segregate detainees for disciplinary and administrative reasons, in accordance with the ICE PBNDS. ODO toured the SMU, reviewed policies and documentation, and interviewed staff and detainees.

ICE detainees are housed in their own designated area within the SMU, consisting of 16 two-person cells. Inspection of the SMU verified the unit is well ventilated, adequately lit, appropriately heated, and maintained in a sanitary condition. All cells are equipped with beds which are securely fastened to the floor, and have intercoms for direct communication to the officer in the SMU control station. A (b)(7)e officer is responsible for directly supervising the SMU area.

It is most common for detainees to be placed in administrative segregation pending a disciplinary hearing for serious rules violations. Protective custody and mental health issues, where assignment to the general population would put the detainee or others at risk, also necessitate administrative segregation. Nursing staff may make the determination during intake that segregation is necessary for mental health reasons, or mental health staff may make the determination upon referral from security or other staff. If it becomes necessary to remove a detainee from the general population when mental health staff is not present, a follow-up occurs by mental health staff to validate the need for segregation. ODO was informed detainees on administrative segregation for mental health reasons are assigned a mental health worker, who is responsible for monitoring their status and seeing them at least twice weekly. In addition, the Psychiatrist sees this population once per week and has overall responsibility for their treatment plans. Formal mental health reviews are conducted every 30 days.

At the time of the review, there were four detainees in disciplinary segregation and ten in administrative segregation. ODO confirmed the four detainees in disciplinary segregation all had completed orders and the sanctions imposed were consistent with ECCF policy. The longest term imposed was 10 days (five days consecutive for two charges). Four of the detainees in administrative segregation were awaiting disciplinary hearings, and six were there for mental health reasons. ODO reviewed the written orders placing detainees in administrative segregation and verified the placements were justified and well documented, including references to mental health staff involvement where applicable. A copy of the written order was given to the detainee in each case. Current and prior SMU logs document detainees are visited by a nurse twice a day, and receive all privileges required by the standard. All 14 detainees in the SMU were interviewed and stated they were receiving regular recreation, showers, meals, and telephone access, and staff was responsive to their needs. One of the six detainees in the SMU for mental health reasons had been in administrative segregation for four months at the time of the review. ODO verified he was seen twice weekly by the assigned mental health worker and formal mental health reviews were conducted every 30 days. The longest placement in administrative segregation of the remaining five detainees with mental health issues was one month.

Assignment of a detainee to administrative segregation is reviewed by a security supervisor within 24 hours of placement. The review includes interviewing the detainee and producing a written record. No further reviews are conducted by a security supervisor for the duration of the detainee's assignment to segregation (**Deficiency SMU-1**). Regular reviews by security personnel assure continuation in segregation is given formal consideration, and the justification is documented. In addition, reviews provide detainees with the opportunity to present issues and concerns related to the SMU and discuss continued assignment.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY SMU-1**

In accordance with the ICE PBNDS, Special Management Units, section (V)(C)(3)(a)(b), the FOD must ensure all facilities shall implement written procedures for the regular review of all detainees held in Administrative Segregation, consistent with the procedures specified below.

- a. A security supervisor shall conduct a review within 72 hours of the detainee's placement in Administrative Segregation to determine whether segregation is still warranted. The review shall include an interview with the detainee. A written record shall be made of the decision and the justification. The **Administrative Segregation Review** (Form I-885) shall be used for the review. If the detainee has been segregated for his or her own protection, but **not** at the detainee's request, the signature of the facility administrator or assistant facility administrator is required on the Form I-885 to authorize the alien's continued detention.
  
- b. A security supervisor shall conduct the same type of review after the detainee has spent seven days in Administrative Segregation, and every week thereafter, for the first 60 days and (at least) every 30 days thereafter.

## USE OF FORCE AND RESTRAINTS (UOF&R)

ODO reviewed the Use of Force and Restraints standard at ECCF to determine if necessary use of force and the use of restraints are utilized only after all reasonable efforts have been exhausted to gain control of a subject, while protecting and ensuring the safety of detainees, staff and others, preventing serious property damage, and ensuring the security and orderly operation of the facility, in accordance with the ICE PBNDS. ODO toured the facility, viewed use of force videos, inspected equipment, and reviewed the local policy, training records, and other pertinent documentation.

ECCF policy addresses required principles of use of force and the application of restraints. ODO verified staff received training in the use of force and application of restraints. Trained staff is available on all shifts in the event the need arises to assemble a use of force team. Protective equipment is readily accessible to team members.

There were seven use of force incidents involving detainees during the 12 months preceding the CI. Three were immediate uses of force, and four were calculated uses of force. An immediate use of force situation is created when a detainee's behavior constitutes a serious and immediate threat to self, staff, another detainee, property, or the security and orderly operation of the facility. In that situation, staff may respond without a supervisor's direction or presence. A calculated use of force occurs when a detainee is in a location where there is no immediate threat to the detainee or others. Prior to a calculated use of force, staff shall take the time to assess the possibility of resolving the situation without resorting to force. A calculated use of force needs to be authorized in advance by the Facility Administrator.

One incident was not audio-visually recorded. Although initially reported as a calculated use of force, the Security Lieutenant was unable to locate the video and later reported to ODO it was an immediate use of force. However, written documentation stated, "suited team of officers had had to restrain and escort him to a new cell," indicating officers had time to don protective gear for calculated force. A review of video-recordings for the three remaining calculated use of force incidents confirmed required elements were missing. Though written documentation verified medical examinations were completed, none of those examinations were video recorded. Debriefing of team members was not recorded in any of the three incidents. In two of the video recordings, the introduction by the team leader did not include a description of events leading to the calculated use of force, and named only the team leader and the (b)(7)e team members. Additional staff members present were not named, including the camera operator. In two of the three video recordings, all (b)(7)e team members were wearing helmets during the introduction (**Deficiency UOF&R-1**). Review of the video recordings also confirmed that during two calculated use of force incidents, a staff member entered the detainee's cell alone, without protective gear, as the (b)(7)e member use-of-force team waited outside the cell prior to entering (**Deficiency UOF&R-2**). ODO recommends staff receive additional training in use of force procedures, including video-recording incidents.

ECCF does not have written procedures for after-action reviews of use of force incidents and the application of restraints (**Deficiency UOF&R-3**). ODO confirmed there are no set procedures

for conducting after-action reviews. After-action reviews provide critical analysis to determine if the force used was necessary, appropriate, and in compliance with policy. Written procedures support completion of reviews consistent with established guidelines.

## **STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS**

### **DEFICIENCY UOF&R-1**

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

Calculated use-of-force incidents shall be audiovisually-recorded in the following order:

1. Introduction by Team Leader stating facility name, location, time, date, etc., describing the incident that led to the calculated use of force, and naming the audiovisual camera operator and other staff present.
2. Faces of all team members should briefly appear (with helmets removed and heads uncovered), one at a time, identified by name and title.
3. Team Leader offers the detainee a last chance to cooperate before team action, outlines the use-of-force procedures, engages in confrontation avoidance, and issues use-of-force order.
4. Record entire use-of-force team operation, unedited, until the detainee is in restraints.
5. Take close-ups of the detainee's body during a medical exam, focusing on the presence/absence of injuries. Staff injuries, if any, are to be described but not shown.
6. Debrief the incident with a full discussion/analysis/assessment of the incident.

### **DEFICIENCY UOF&R-2**

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

Training shall also address the use of protective clothing and handling of spilled blood and body fluids.

- Use-of-force team members and others participating in a calculated use of force shall wear protective gear, with particular precautions when entering a cell or area where blood or other body fluids could be present.

**DEFICIENCY UOF&R-3**

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

IGSAs shall model their incident review process after ICE/DRO's process and submit it to ICE/DRO for DRO review and approval. The process must meet or exceed the requirements of ICE/DRO's process.