

U.S. Department of Homeland Security
500 12th St., SW
Washington, D.C. 20536



U.S. Immigration
and Customs
Enforcement

September 19, 2023

Ms. Jacqueline Stevens
601 University Place, 2d floor
Political Science Department
Evanston, IL 60208

**RE: Stevens v. ICE 20-cv-2725
ICE FOIA Case Number 2020-ICLI-00042
Supplemental Release**

Dear Ms. Stevens:

This letter is a supplemental response to your client's Freedom of Information Act (FOIA) requests to U.S. Immigration and Customs Enforcement (ICE). Your client seeks records relating to the following Freedom of Information Act requests: 2018-ICFO-56530, 2020-ICFO-18634, 2019-ICFO-33429, 2019-ICFO-29171, 2018-ICFO-59138, and 2019-ICFO-24680. ICE has considered your request under the FOIA, 5 U.S.C. § 552.

FOIA Request 2019-ICFO-33429 seeks for the timeframe April 11, 2014 to present:

1) all documents ICE has referencing the Butler County Jail work program for detainees, including but not limited to documents with the language about porters Chief Dwyer stated he had personally read in an IGSA, as well as all other correspondence about the Butler County's use of people held under immigration law to perform work in and around the facility.

People likely to have or have access to responsive documents include but are not limited to Tae Johnson and Kevin Landy.

2) In addition, please send me all formal and informal compliance reports and follow-up correspondence, including but not limited to email, attachments, grievances or complaints, and contract addenda for Butler County, in particular associated with the deficiencies noted in the reports.

3) Please also send me all data tracking the length of time people are held in the Butler County facility; if there is a db with the number of days/alien please send me an output from that db with the individually identifying information redacted but including the date of arrival and transfer from the facility, as well as the status of the case at the time of transfer, i.e., VD, removal, termination, transfer to another ICE facility.

ICE has considered your requests under the FOIA, 5 U.S.C. § 552.

A search of the Office of Professional Responsibility (OPR) located records that were potentially responsive to your request. For this production ICE reviewed 70 pages of potentially responsive documents. ICE has determined that 46 pages will be released in full and portions of the remaining 24 pages will be withheld in part pursuant to FOIA Exemptions 6, 7(C) and 7(E) as described below. A total of 70 pages have been Bates numbered 2020-ICLI-00042 11894 through 2020-ICLI-00042 11963.

Please note: The Office of Detention Oversight did not inspect the Butler County jail in FY14, FY16 or FY17.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the personally identifiable information of DHS employees and third parties contained within the records.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the non-public-facing individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes note of the strong interests of individuals, whether they are suspects, witnesses, investigators, or individuals performing their official duties in connection with a law enforcement agency, in not being unwarrantably associated with alleged criminal activity or becoming targets for revenge by begrudged individuals. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of the non-public-facing individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

FOIA Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I have determined that disclosure of certain law enforcement sensitive information contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

If you have any questions about this letter, please contact Assistant United States Attorney Alex Hartzler at Alex.Hartzler@usdoj.gov.

Sincerely,

Marcus K. Francis Sr.
Supervisory Paralegal Specialist

Enclosure: 70 pages



U.S. Immigration
and Customs
Enforcement

MEMORANDUM FOR: Nathalie R. Asher
Acting Executive Associate Director
Enforcement and Removal Operations

FROM: Waldemar Rodriguez *Waldemar Rodriguez*
Associate Director
Office of Professional Responsibility

SUBJECT: Compliance Inspection
Butler County Jail

The ICE Office of Professional Responsibility (OPR), Office of Detention Oversight (ODO) conducted a compliance inspection of the Butler County Jail (BCJ) in Hamilton, Ohio, from June 19-21, 2018. The attached report contains ODO's findings.

This report documents inspection results and serves as an official record. It is intended to provide senior management with an evaluation of the facility's compliance with the ICE National Detention Standards.

Attached is a PDF file of the facility report for dissemination to your designated field managers. If you wish to discuss the report findings, please have a member of your staff contact Unit Chief **(b) (6), (b) (7)(C)**, OPR ODO, at **(b) (6), (b) (7)(C)**

Attachment



U.S. Department of Homeland Security
Immigration and Customs Enforcement
Office of Professional Responsibility
Inspections and Detention Oversight Division
Washington, DC 20536-5501

Office of Detention Oversight National Detention Standards

Enforcement and Removal Operations
ERO Detroit Field Office
Butler County Jail
Hamilton, Ohio

June 19 –21, 2018

**COMPLIANCE INSPECTION
for the
Butler County Jail
Hamilton, Ohio**

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COMPLIANCE INSPECTION TEAM MEMBERS

(b) (6), (b) (7)(C)	Team Lead	ODO
(b) (6), (b) (7)(C)	Inspections and Compliance Specialist	ODO
(b) (6), (b) (7)(C)	Inspections and Compliance Specialist	ODO
(b) (6), (b) (7)(C)	Section Chief	ODO
(b) (6), (b) (7)(C)	Contractor	Creative Corrections
(b) (6), (b) (7)(C)	Contractor	Creative Corrections
(b) (6), (b) (7)(C)	Contractor	Creative Corrections
(b) (6), (b) (7)(C)	Contractor	Creative Corrections

FACILITY OVERVIEW

The Office of Detention Oversight (ODO) conducted a compliance and oversight inspection of the Butler County Jail (BCJ) in Hamilton, Ohio, from June 19-21, 2018.¹ BCJ opened in 2002 and is owned by Butler County and operated by the Butler County Sheriff's Office. Enforcement and Removal Operations (ERO) began housing detainees at BCJ in 2003, pursuant to an Intergovernmental Services Agreement (IGSA), under the oversight of ERO's Field Office Director (FOD) in Detroit, Michigan.

Neither ERO staff nor a detention services manager are assigned to the facility on a full-time basis. A Corrections Captain is responsible for oversight of daily facility operations and is supported by [REDACTED] personnel. Aramark Corporation provides food services and a combination of Butler County government employees and county contract health care professionals provide medical services. The facility holds no accreditations. The facility operates under the NDS 2000 and is contractually obligated to follow the Performance-Based National Detention Standards 2011, Sexual Abuse and Assault Prevention and Intervention (SAAPI) standard.²

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity ³	181
Average Daily ICE Detainee Population ⁴	134
Male Detainee Population (as of 6/19/2018)	110
Female Detainee Population (as of 6/19/2018)	5

In April 2015, ODO conducted an inspection of the BCJ reviewing a total of 17 standards and found the facility compliant with five of those standards. ODO found 38 deficiencies in the remaining twelve standards as follows: Access to Legal Material (2 deficiencies), Detainee Classification System (1), Detainee Grievance Procedures (3), Detainee Handbook (1), Food Service (2), Staff-Detainee Communication (3), Telephone Access (6), Disciplinary Policy (4), Environmental Health and Safety (6), Special Management Unit-Disciplinary Segregation (5), Use of Force (4), Medical Care (1).

¹ This facility holds male detainees for periods greater than 72 hours.

² See the Compliance Inspection Findings: PBNDS 2011 Sexual Abuse and Assault Prevention and Intervention section of this report for further information.

³ Data Source: ERO Facility Questionnaire as of June 18, 2018.

⁴ *Ibid.*

FY 2018 FINDINGS BY NDS 2000 MAJOR CATEGORIES

NDS 2000 STANDARDS INSPECTED ⁵	DEFICIENCIES
Part 1 – Detainee Services	
Access to Legal Material	0
Admission and Release	0
Detainee Classification System	4
Detainee Grievance Procedures	2
Detainee Handbook	0
Food Service	2
Funds and Personal Property	0
Staff-Detainee Communication	3
Telephone Access	2
Sub-Total	13
Part 2 – Security and Control	
Environmental Health and Safety	8
Special Management Unit (Administrative Segregation)	0
Special Management Unit (Disciplinary Segregation)	3
Use of Force	4
Sub-Total	15
Part 3 – Health Services	
Medical Care	2
Suicide Prevention and Intervention	0
Sub-Total	2
PBNDS 2011 Standard Inspected	
Sexual Abuse and Assault Prevention and Intervention (SAAPI)	1
Sub-Total	1
Total Deficiencies	31

⁵ For greater detail on ODO's findings, See the Compliance Inspection Findings section of this report.

COMPLIANCE INSPECTION PROCESS

ODO conducts oversight inspections of ICE detention facilities with an average daily population greater than ten and where detainees are housed for over 72-hours to assess compliance with ICE national detention standards. These inspections focus solely on facility compliance with detention standards that directly affect detainee life, health, safety, and/or well-being.⁶ ODO identifies violations linked to ICE detention standards, ICE policies, or operational procedures as *deficiencies*. ODO highlights instances when the facility resolves deficiencies prior to completion of the ODO inspection; these corrective actions are annotated with “C” under the Inspection Findings section of this report.

At the conclusion of each inspection, ODO holds a closeout briefing with the facility and local ERO officials to discuss preliminary findings. A summary of these findings is also shared with ERO management officials. Thereafter, ODO provides ICE leadership with a final compliance inspection report to (i) assist ERO in developing and initiating corrective action plans and (ii) provide senior executives with an independent assessment of facility operations. Additionally, ODO findings inform ICE executive management decision making in better allocating resources across the agency’s entire detention inventory.

⁶ ODO reviews the facility’s compliance with selected standards in their entirety.

DETAINEE RELATIONS

ODO interviewed fifteen (15) detainees including ten males, and five females, each of whom volunteered to participate. None of the detainees made allegations of discrimination, mistreatment, or abuse. All detainees reported satisfaction with facility services, except for the concerns listed below.

Admission and Release: One detainee stated that during the intake process, her hijab was temporarily taken, and she was photographed without it.

- Action Taken: ODO's review of the detainee's detention file corroborated that her picture was taken without her hijab. ODO notified ERO staff and provided them with Department of Homeland Security guidance on religious head wear.⁷ ODO reminded ERO staff, detainees are to be allowed to wear religious head wear and can be photographed wearing it if their face is not obscured. Before leaving the facility ODO confirmed that an updated picture was taken of the detainee in question while wearing her hijab.

⁷ "Guidance for Accommodating Religious Beliefs in DHS Policies Requiring Fingerprinting or Photographic Identification," December 30, 2011.

COMPLIANCE INSPECTION FINDINGS

DETAINEE SERVICES

DETAINEE CLASSIFICATION SYSTEM (DCS)

ODO's review of housing unit rosters and classification documentation found detainees who were inappropriately classified based solely on the issuance of an ICE detainer. Specifically, ODO found two (b) (7)(E) detainees with a documented history of violence housed in (b) (7)(E) co-mingled with three detainees with only minor charges (Theft, Driving Under the Influence, and Entry Without Inspection) (**Deficiency DCS-1**⁸). Additionally, ODO's file review found there were two detainees with no documentation of their classification found in their detention files. (**Deficiency DCS-2**⁹).

ODO found another detainee with a violent history and charges of Gross Sexual Imposition that was classified as (b) (7)(E) instead of being classified as (b) (7)(E) (**Deficiency DCS-3**¹⁰). Also, during ODO's review of staff training files, inspectors noted no documentation was maintained showing staff received training in the classification process (**Deficiency DCS-4**¹¹).

DETAINEE GRIEVANCE PROCEDURES (DGP)

ODO was unable to review detention files of detainees who were no longer at the facility as staff explained these files are sent to a county records storage facility several months after the detainee's departure. Therefore, ODO was unable to confirm the detention files (and grievances) were maintained for a minimum of three years as required by the standard (**Deficiency DGP-1**¹²). However, ODO was able to review detention files for detainees still housed at the facility and found they contained copies of grievances as required by the standard. The facility has no policy

⁸ "The classification system shall assign detainees to the least restrictive housing unit consistent with facility safety and security. By grouping detainees with comparable records together and isolating those at one classification level from all others, the system reduces noncriminal and nonviolent detainees' exposure to physical and psychological danger.

This system identifies and isolates the detainees whose histories indicate the characteristics of the hardened criminal, the category most likely to intimidate, threaten, or prey on the vulnerable.

When it becomes necessary to house detainees of different classification levels the following guidelines shall be followed.

- 1 (b) (7)(E) detainees will not be housed with (b) (7)(E) detainees.
2. (b) (7)(E) and (b) (7)(E) may be mixed, and high-level (b) (7)(E) and level (b) (7)(E) may be mixed, when a facility is at or above full capacity.
3. Under no circumstance will a level two detainee with a history of assaultive or combative behavior be placed in a (b) (7)(E) housing unit.
4. In facilities that have single cell living arrangements, detainees that pose an immediate and serious threat of violence to staff or other detainees shall be housed there."

See ICE NDS 2000, Standard, Detainee Classification System, Section (III)(F).

⁹ "All detainees are classified upon arrival, before being admitted into the general population. ICE will provide CDFs and IGSA facilities with the data they need from each detainee's file to complete the classification process." See ICE NDS 2000, Standard, Detainee Classification System, Section (III)(A)(1).

¹⁰ (b) (7)(E) Classification: May not include any detainee whose most recent conviction was for any offense listed under the 'HIGHEST' section of the severity of offense guideline (APPENDIX 1)." See ICE NDS 2000, Standard, Detainee Classification System, Section (III)(E)(2)(a).

¹¹ "All officers assigned to classification duties shall be trained in the facility's classification process." See ICE NDS 2000, Standard, Detainee Classification System, Section (III)(A)(1).

¹² "A copy of the grievance will remain in the detainee's detention file for at least three years. The facility will maintain that record for a minimum of three years and subsequently, until the detainee leaves INS custody." See ICE NDS 2000, Standard, Detainee Grievance Procedures, Section (III)(E).

in place for identifying and handling emergency grievances nor does it mention emergency grievances in the facility handbook (**Deficiency DGP-2¹³**).

FOOD SERVICE (FS)

ODO observed staff supervising the preparation of trays and loading of transport carts, which were secured with zip ties, locks, and transported to the housing units by inmate workers. However, there were trays placed on top of the transport cart that were not secured (**Deficiency FS-1¹⁴**). Additionally, ODO interviewed staff and determined bag meals were prepared by inmate workers rather than by staff as required by the standard (**Deficiency FS-2¹⁵**).

STAFF-DETAINEE COMMUNICATION (SDC)

ODO observed ICE officers are retrieving detainee requests from the facility once a week during their scheduled visit. Therefore, requests are not being received by ICE within 72 hours and there is no procedure in place for expedited review and response for requests of a serious nature (**Deficiency SDC-1¹⁶**).

An electronic log of ICE requests is maintained by ERO. However, the request log did not contain the officer logging the request (**Deficiency SDC-2¹⁷**).

Corrective Action: ERO initiated corrective action by amending the log sheet to include the officer logging the request (**C-1**).

ODO reviewed the request log and the corresponding detention files for the requesting detainees and was unable to locate the completed requests (**Deficiency SDC-3¹⁸**).

TELEPHONE ACCESS (TA)

ODO observed telephones in housing units lacked privacy partitions. Additionally, staff indicated detainees are also not provided with any accommodation or private area to conduct legal calls (**Deficiency TA-1¹⁹**). ODO also determined detainees are not permitted to receive calls (the

¹³ “Each facility shall implement procedures for identifying and handling an emergency grievance.” See ICE NDS 2000, Standard, Detainee Grievance Procedures, Section (III)(B).

¹⁴ “Food will be delivered from one place to another in covered containers. These may be individual containers, such as pots with lids, or larger conveyances that can move objects in bulk, such as enclosed, satellite-feeding carts. Food carts must have locking devices.” See ICE NDS 2000, Standard, Food Service, Section (III)(C)(2)(g).

¹⁵ “Members of the food service staff shall prepare sack meals for bus or air service. While detainee volunteers assigned to the food service shall not be involved in preparing meals for transportation, they may prepare sack meals for on-site consumption.” See ICE NDS 2000, Standard, Food Service, Section (III)(G)(6)(b).

¹⁶ “If it is apparent that the request is serious in nature, procedures shall be in place for an expedited review and response to the detainee’s request.” See ICE NDS 2000, Standard, Staff-Detainee Communication, Section (III)(B)(1)(b).

¹⁷ “The log at minimum shall contain: Officer logging the request.” See ICE NDS 2000, Standard, Staff-Detainee Communication, Section (III)(B)(2)(e).

¹⁸ “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.” See ICE, NDS 2000, Standard, Staff-Detainee Communication, Section (III)(B)(2).

¹⁹ “The facility shall ensure privacy for detainees’ telephone calls regarding legal matters. For this purpose, the facility shall provide a reasonable number of telephones on which detainees can make such calls without being overheard by officers, staff or detainees. Privacy may be provided in many ways, including:

1. Telephones with privacy panels (side partitions) that extend at least 18 inches to prevent conversations from being overheard;
2. Placing telephones where conversations may not be readily overheard by detainees or facility staff; or

facility does not take and deliver telephone messages to detainees) as required by the standard (**Deficiency TA-2²⁰**).

SECURITY AND CONTROL

ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

ODO found the inventory of hazardous chemicals in the dental area was not accurate (**Deficiency EH&S-1²¹**). ODO observed Material Safety Data Sheets (MSDS) that were available and current in the kitchen, laundry, and maintenance areas; however, the MSDS binders were not complete for all chemicals stored in the housing units and the dental area (**Deficiency EH&S-2²²**). Documentation of staff conducting semi-annual reviews of the (b) (7)(E) was not available (**Deficiency EH&S-3²³**). ODO observed substances in bottles in the laundry area in (b) (7)(E) that were not properly labeled (**Deficiency EH&S-4²⁴**).

ODO's review of documentation found (b) (7)(E) are not always drawn during the fire drills, and when they are drawn and used to test for operability, they are (b) (7)(E) (**Deficiency EH&S-5²⁵**). Exit diagrams are posted throughout the facility; however, they are missing markers and are not provided in English and Spanish (**Deficiency EH&S-6²⁶**). Additionally, hair care sanitation

3. allowing detainees to use an office telephone to make confidential calls regarding their legal proceedings." See ICE NDS 2000, Standard, Telephone Access, Section (III)(J)(1-3).

²⁰ "The facility shall take and deliver telephone messages to detainees as promptly as possible. When facility staff receives an emergency telephone call for a detainee, the caller's name and telephone number will be obtained and given to the detainee as soon as possible. The detainee shall be permitted to return the emergency call as soon as reasonably possible within the constraints of security and safety. The facility shall enable indigent detainees to make a free return emergency call." See ICE NDS 2000, Standard, Telephone Access, Section (III)(I).

²¹ "Every area will maintain a running inventory of the hazardous (flammable, toxic, or caustic) substances used and stored in that area. Inventory records will be maintained separately for each substance, with entries for each logged on (b) (7)(E). That is, the account keeping will not be (b) (7)(E), by substance (dates, quantities, etc.)." See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(A).

This is a repeat deficiency.

²² "Every area using hazardous substances will maintain a self-contained file of the corresponding Material Safety Data Sheets (MSDSs)." See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(B). **This is a repeat deficiency.**

²³ "The Maintenance Supervisor or designate will compile (b) (7)(E) in the facility, including locations, along with a master file of MSDSs. He/she will maintain this information in the safety office (or equivalent), with a copy to the local fire department. Documentation of the (b) (7)(E) reviews will be maintained in the MSDS master file." See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(C). **This is a repeat deficiency.**

²⁴ "The OIC will individually assign the following responsibilities associated with the labeling procedure: ...

2. Requiring use of properly labeled containers for hazardous materials, including any and all miscellaneous containers into which employees might transfer the material."

See ICE NDS 2000, Standard Environmental Health and Safety, Section (III)(J)(2). **This is a repeat deficiency.**

²⁵ (b) (7)(E) will be included in each fire drill. (b) (7)(E)

(b) (7)(E) See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(L)(4)(c). **This is a repeat deficiency.**

²⁶ "In addition to a general area diagram, the following information must be provided on existing signs:

- a. English and Spanish instructions;
- b. "You Are Here" markers;
- c. Emergency equipment locations.

New signs and sign replacements will also identify and explain 'Areas of Safe Refuge.'

See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(L)(5).

regulations were not posted or available in the housing units (**Deficiency EH&S-7²⁷**). Review of procedures confirmed medical sharps are inventoried each shift; however, the inventory is not verified weekly (**Deficiency EH&S-8²⁸**).

SPECIAL MANAGEMENT UNITS-DISCIPLINARY SEGREGATION (SMU-DS)

Although BCJ policy requires reviews of detainees housed on Disciplinary Segregation (DS), records show reviews were not completed for two detainees housed in DS at the time of inspection (**Deficiency SMU DS-1²⁹**). BCJ uses a form entitled, “Detainee Disciplinary Segregation Weekly Checklist” as its permanent log for documenting services, privileges, and activities for segregated detainees. ODO’s review found these checklists were not available for three weeks for one detainee previously in DS (**Deficiency SMU DS-2³⁰**). For the checklists that were available, required visits by a medical professional and shift supervisor were not consistently documented as required by the standard (**Deficiency SMU DS-3³¹**).

USE OF FORCE (UOF)

ODO’s review of use of force policies confirmed they address the requirements of the standard; however, there are no written procedures for after-action reviews (**Deficiency UOF-1³²**). ODO’s review of use of force documentation found that while an evaluation of the appropriateness of use of force is documented on the facility’s Subject Management Report, the report does not include the review and signature of the Health Services Administrator (**Deficiency UOF-2³³**). ODO’s

²⁷ “Each barbershop will have detailed hair care sanitation regulations posted in a conspicuous location for the use of all hair care personnel and detainees.” See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(P)(4).

²⁸ “An inventory will be kept of those items that pose a security risk, such as (b) (7)(E). The inventory will be checked (b) (7)(E) by an individual designated by the medical facility Health Service Administrator (HSA) or equivalent.” See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(Q)(1). **This is a repeat deficiency.**

²⁹ “All facilities shall implement written procedures for the regular review of all disciplinary segregation cases, consistent with the procedures specified below:

In SPCs/CDFs:

1. *The Supervisory Detention and Deportation Officer (SDDO) shall review the status of a detainee in disciplinary segregation every seven days to determine whether the detainee:*

a. abides by all rules and regulations, and,

*b. is provided showers, meals, recreation, and other basic living standards, in accordance with section III.D below.” See ICE NDS 2000, Standard, Special Management Unit (DS), Section (III)(C)(1). **This is a repeat deficiency.***

³⁰ “A permanent log will be maintained in the SMU. The log will note all activities concerning the SMU detainees, e.g., meals served, recreation, visitors, etc.” See ICE NDS 2000, Standard, Special Management Unit (DS), Section (III)(E)(1). **This is a repeat deficiency.**

³¹ “A medical professional shall visit every detainee in administrative segregation at least three times a week. In addition to the direct supervision afforded by the unit officer, the shift supervisor shall see each segregated detainee daily, including weekends and holidays.” See ICE NDS 2000, Standard, Special Management Unit (DS), Section, (III)(D)(16). **This is a repeat deficiency.**

³² “Written procedures govern the use-of-force incident review, whether calculated or immediate, and the application of restraints. The review is to assess the reasonableness of the actions taken (force proportional to the detainee’s actions), etc. IGSA will pattern their incident review process after INS. INS shall review and approve all After Action Review procedures.” See ICE NDS 2000, Standard Use of Force, Section (III)(K). **This is a repeat deficiency.**

³³ “The OIC, Assistant OIC, Chief Detention Enforcement Officer (CDEO), and the Health Services Administrator shall conduct the after-action-review. This four-member After-Action-Review Team shall convene on the workday after the incident. The After-Action Review Team shall gather relevant information, determine whether policy was followed, and complete an after-action report, recording the nature of their review and findings. The after-action report is due within two working days of the detainee’s removal from restraints.” See ICE NDS 2000, Standard, Use of Force, Section (III)(K).

review of training records confirmed all staff received instruction in the use of force as part of initial law enforcement academy training and during annual in-service training. In addition, the records document current training in report writing, response to resistance, defensive tactics, and interpersonal communication and suicide prevention; however, training in cultural diversity and dealing with the mentally ill was not documented (**Deficiency UOF-3³⁴**). ODO's review of the use of force files found medical evaluations of the detainees were not included in the after-action reviews and files did not contain a medical assessment of detainees after force was used (**Deficiency UOF-4³⁵**).

HEALTH SERVICES

MEDICAL CARE (MC)

ODO reviewed documentation of 25 physical examinations and found the physician did not review and sign 5 examinations (**Deficiency MC-1³⁶**). Also, ODO noted the Registered Nurse completed the initial dental screening which, per the standard, is only to be completed by a dentist, physician, physician assistant or nurse practitioner (**Deficiency MC-2³⁷**).

PBNDS 2011 Sexual Abuse and Assault Prevention and Intervention

SEXUAL ABUSE AND ASSAULT PREVENTION AND INTERVENTION (SAAPI)

ODO reviewed a contract modification dated December 2012 incorporating the ICE PBNDS 2011 Standard 2.11, (SAAPI) at the facility. However, ODO determined the facility has not developed/implemented a SAAPI policy (**Deficiency SAAPI-1³⁸**). ODO notes BCJ is a DOJ PREA facility and most recently passed a Department of Justice (DOJ) PREA inspection in February 2018.

ODO toured the facility and entered the detainee housing units on multiple occasions during the inspection with team members of the opposite gender of the detainees. ODO notes an **Area of Concern**, escorting facility staff did not announce the presence of opposite gender personnel prior

³⁴ "To control a situation involving an aggressive detainee, all staff must be made aware of their responsibilities through ongoing training. All detention personnel shall also be trained in approved methods of self-defense, confrontation avoidance techniques, and the use of force to control detainees. Staff will be made aware of prohibited use-of-force acts and techniques. . .

Among other things, training shall include: ...

2. Cultural diversity;
3. Dealing with the mentally ill;"

See ICE NDS 2000, Standard, Use of Force, Section (III)(O) (2-3). **This is a repeat deficiency.**

³⁵ "All facilities shall have a designated individual to maintain all uses of force documentation. *The Chief Detention Enforcement Officer shall maintain all use-of-force documentation, including the videotape and the original after-action review form for a minimum of 30 months. A separate file shall be established on each use-of-force incident.*" See ICE NDS 2000, Standard, Use of Force, Section (III)(J)(4).

³⁶ "The health care provider of each facility will conduct a health appraisal and physical examination on each detainee within 14 days of arrival at the facility. If there is documented evidence of a health appraisal within the previous 90 days, the facility health care provider may determine that a new appraisal is not required." See ICE NDS 2000, Standard Medical Care, Section, (III)(D). **This is a repeat deficiency.**

³⁷ "An initial dental screening exam should be performed within 14 days of the detainee's arrival. If no on-site dentist is available, the initial dental screening may be performed by a physician, physician's assistant or nurse practitioner." See ICE NDS 2000, Standard Medical Care, Section (III)(E). **This is a repeat deficiency.**

³⁸ "Each facility shall have written policy and procedures for a Sexual Abuse or Assault Prevention and Intervention Program." See ICE PBNDS 2011, Standard, Sexual Abuse and Assault Prevention and Intervention, Section (V)(A).

to entering the housing units which is required by 6 CFR Part 115, Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities (Final Rule dated March 7, 2014), and DOJ PREA Standard 115.15d.

CONCLUSION

During this inspection, ODO reviewed the facility’s compliance with 16 standards under the NDS 2000 and found the facility compliant with five (5) standards. ODO found 34 deficiencies in the remaining 11 standards. This is a small decrease over the significant number of deficiencies ODO found in FY 2015. Unfortunately, ODO found many repeat deficiencies in Environmental Health and Safety, Special Management Units, and Use of Force. These deficiencies generally involved inadequate documentation and management controls in areas related to facility security and control. Additionally, ODO notes with concern challenges related to detainee classification and housing. ODO found several instances where detainees were inappropriately housed based on both over-classification and under-classification. Too, the facility was unable to provide documentation showing staff received training in the classification process. ODO recommends the facility assess its classification practices to ensure housing assignments are based objectively on all available information. Further, ODO recommends ERO work with facility personnel to remedy all outstanding deficiencies, as applicable and in accordance with contractual obligations.

Compliance Inspection Results	FY 2015 (NDS 2000)	FY 2018 (NDS 2000)
Standards Reviewed	17	16
Deficient Standards	12	10
Overall Number of Deficiencies	38	31
Corrective Action	4	1