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Immigration and Customs Enforcement  
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  
Miami Field Office  
Monroe County Detention Center  
Key West, Florida

June 26 – 28, 2012

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**COMPLIANCE INSPECTION  
MONROE COUNTY DETENTION CENTER  
MIAMI FIELD OFFICE**

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## EXECUTIVE SUMMARY

The Office of Professional Responsibility, Office of Detention Oversight (ODO) conducted a Compliance Inspection (CI) of the Monroe County Detention Center (MCDC) in Key West, Florida, from June 26 - 28, 2012. The facility opened in 1994. In May 1997, the former U.S. Immigration and Naturalization Service (INS) began housing detainees at MCDC under an Intergovernmental Service Agreement (IGSA) with Monroe County. The 597 bed, 184,000 square foot facility is owned by Monroe County and is operated by the Monroe County Sheriff's Office. The facility serves as a regional jail for males and females arrested by local law enforcement agencies and the U.S. Marshals Service. U.S. Immigration and Customs Enforcement (ICE) currently houses male ICE detainees with security classifications of Level II (medium threat) and Level III (highest threat) at MCDC for periods over 72 hours. The bed allotment for ICE detainees is 95. The average daily detainee population is 86. The average length of stay for detainees is 16 days. At the time of the inspection, there were 86 male ICE detainees (31 Level II and 55 Level III) located in the same housing unit. All detainees at MCDC are initially processed at the Krome Service Processing Center (Krome SPC) in Miami, Florida, prior to being admitted to MCDC. Armor Correctional Health Services is under contract with Monroe County to provide medical care. Aramark Food Services is the contract food services provider. MCDC holds accreditation from the National Commission on Correctional Health Care (NCCHC).

The ICE Office of Enforcement and Removal Operations (ERO), Field Office Director, Miami, Florida (FOD Miami) is responsible for ensuring MCDC compliance with ICE policies and the National Detention Standards (NDS). There are no ERO personnel stationed at the facility. A FOD Miami Assistant Field Office Director (AFOD) at Krome SPC oversees a Supervisory Detention and Deportation Officer (SDDO) and (b)(7)e Immigration Enforcement Agents (IEA), all stationed at the Krome SPC, who travel to MCDC to ensure compliance with ICE policy and the ICE detention standards. There is no ERO Detention Service Manager assigned to monitor facility compliance with the NDS.

The Commander is the highest ranking official at MCDC and is responsible for oversight of daily operations. In addition to the Commander, MCDC supervisory staff consists of a Captain, an Administrative Lieutenant, (b)(7)e Shift Lieutenants, (b)(7)e Sergeants, and the Director of Programs. Detention staff is comprised of (b)(7)e Detention Deputies and (b)(7)e support staff.

Medical care is provided by Armor Correctional Health Services, and is available to detainees 24 hours a day, seven days a week. Medical staff consists of the Health Services Administrator, the Director of Nursing, a nurse practitioner, (b)(7)e registered nurses (RN), (b)(7)e licensed practical nurses, a medical records clerk, and an administrative assistant. (b)(7)e of the RNs is a psychiatric nurse. Additionally, (b)(7)e nurses are available on an "as-needed" basis through a local contract agency. Staff under contract to provide on-site care include a physician, who is available twice a week for a total of six hours; a dentist, who is available once a week for eight hours; a psychiatrist, who is available once a week for four hours; and a psychologist, who is available for a total of six hours three times a week. The medical clinic has three examination rooms, a one-chair dental clinic, an x-ray room, a pharmacy, a laboratory, and a medical records room. There are two waiting rooms for detainee use, both with access to restroom facilities and drinking

water. MCDC also has an infirmary with two multiple-occupancy rooms with four beds in each room, and four separate single-bed rooms. Two of the single rooms are equipped with negative air flow pressure for isolation of detainees with airborne illnesses such as tuberculosis (TB). The remaining two single rooms are used for suicide watch. There is one additional suicide watch cell in the Special Housing Unit. A detention deputy is assigned to the clinic, and another detention deputy is assigned to the infirmary to provide security for nursing and other medical staff. The Monroe County Health Department has office space in the medical unit, and provides HIV and sexually-transmitted disease (STD) tests as well as counseling.

There have been no detainee deaths at MCDC since inception of the IGSA contract in May 1997. Records documenting suicide watches and suicide attempts are available starting in October 2010 when Armor Correctional Health Services became the health services contractor for MCDC. Since that time, three detainees have been placed on suicide watch at MCDC. The first detainee was placed on suicide watch after attempting suicide on June 1, 2012, when he tried to cut his wrists using his fingernails. This detainee was housed in the Special Housing Unit at the time of his suicide attempt. Medical records reflect the detainee sustained surface abrasions to the skin without significant blood loss. The detainee was placed on suicide watch for a period of seven days and was returned to the general population. Two other detainees who were placed on suicide watch were returned to the general population within three days. In all three cases, ODO confirmed suicide watch management was consistent with facility policies and the NDS, including 15-minute checks and follow-ups by medical and mental health staff.

In August 2011, ERO Detention Standards Compliance Unit contractor MGT of America, Inc. conducted an annual review of the NDS at MCDC. The facility received an overall rating of "Acceptable," and was found compliant with 35 of 38 standards reviewed. Three standards were not applicable.

This is the first ODO inspection of MCDC. During this CI, ODO reviewed 16 NDS. Eight standards were found fully compliant, and 13 deficiencies were identified in the remaining eight standards: Correspondence and Other Mail (1 deficiency), Detainee Grievance Procedures (1), Detainee Handbook (1), Environmental Health and Safety (2), Special Management Unit (Administrative Segregation) (1), Special Management Unit - Disciplinary Segregation (1), Staff-Detainee Communication (3), and Use of Force (3).

This report details all deficiencies and refers to the specific, relevant sections of the ICE NDS. OPR will provide ERO a copy of the report to assist in developing corrective actions to resolve the 13 identified deficiencies. These deficiencies were discussed with MCDC personnel on-site during the inspection, as well as during the closeout briefing conducted on June 28, 2012.

Overall, ODO found MCDC well-managed and in compliance with the standards inspected. ODO observed sanitation to be at a high level. Many of the deficiencies identified were minor, with minimal impact to life-safety issues and the overall operational readiness of the facility. Deficiencies requiring immediate attention were identified in the areas of Detainee Grievance Procedures, Special Management Unit - Administrative Segregation, Special Management Unit - Disciplinary Segregation, and Staff-Detainee Communication. Specifically, MCDC does not have procedures for identifying and handling emergency grievances, the facility does not have

procedures for the regular review of all cases involving the placement of detainees in administrative segregation and disciplinary segregation, status reviews concerning placement of detainees in administrative segregation or disciplinary segregation are not conducted by a supervisory officer, ERO officers do not consistently complete the Facility Liaison Visit Checklist to document weekly staff-detainee communication visits, and weekly telephone serviceability tests are not documented on Telephone Serviceability Worksheets. Details of these deficiencies are described in the corresponding standards contained in this report.

From January 2012 to June 2012, there were no formal grievances filed by ICE detainees. During this time period, the facility received seven informal grievances from ICE detainees, and all seven informal grievances were forwarded to ERO for response. The seven informal grievances were resolved by ERO to the satisfaction of the detainees. Three of the seven informal grievances pertained to medical care; the remaining four were related to access to legal material, food service, housing assignment, and personal property. ODO reviewed the ERO grievance log and noted most of the seven informal grievances would be more accurately described as detainee requests instead of grievances.

At the time of inspection, there were no ICE detainees placed in administrative segregation or disciplinary segregation at MCDC.

## INSPECTION PROCESS

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

ODO reviewed the processes employed at MCDC to determine compliance with current policies and detention standards. Prior to the inspection, ODO collected and analyzed relevant allegations and detainee information from multiple ICE databases, including the Joint Integrity Case Management System (JICMS), 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 MCDC.

## REPORT ORGANIZATION

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

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

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

## INSPECTION TEAM MEMBERS

(b)(6), (b)(7)c	Special Agent (Team Leader)	ODO, San Diego
	Special Agent	ODO, Phoenix
	Special Agent	ODO, Phoenix
	Contract Inspector	Creative Corrections
	Contract Inspector	Creative Corrections

## **OPERATIONAL ENVIRONMENT**

### **INTERNAL RELATIONS**

ODO interviewed the MCDC Commander, the MCDC Captain, the MCDC Administrative Lieutenant, the ERO AFOD, and two ERO IEAs. During the interviews, all personnel stated the working relationship between MCDC and ERO officers is excellent, and morale among MCDC and ERO staff is high. The Captain and the Administrative Lieutenant both stated they have consistently observed ERO officers visiting the housing units at least once a week to communicate with ICE detainees and address their issues or concerns. The Captain and the Administrative Lieutenant stated they have observed ERO officers visiting the housing units and communicating with ICE detainees multiple times each week on numerous occasions.

The Captain, the Administrative Lieutenant, and the AFOD all stated MCDC and ERO are adequately staffed to manage and handle the current detainee population at MCDC. The Captain and the Administrative Lieutenant stated there are currently no vacant positions at MCDC specifically designated for managing and handling ICE detainees. The AFOD stated there are currently no vacant positions at ERO designated for managing and handling detainees at MCDC. However, the AFOD expressed concern that the 290 mile roundtrip between MCDC and Krome SPC is taxing on ERO officers.

### **DETAINEE RELATIONS**

ODO interviewed 15 randomly-selected male detainees (10 Level II; 5 Level III). The periods of detention for these 15 detainees ranged from one month to 16 months. All detainees confirmed ERO and MCDC officers have provided them with the ICE National Detainee Handbook and the MCDC handbook. All detainees interviewed stated they were able to send and receive mail, and use the telephones in the housing unit.

None of the detainees knew the identity of their Deportation Officer (DO). ODO reviewed facility visitation logs and confirmed that ERO personnel visit the housing units on a weekly basis. ERO officers from Krome SPC stated that ERO officers assigned to detained case management are scheduled to visit MCDC every Wednesday and other ERO officers also conduct weekly unannounced visits with detainees as well. Schedules for ERO case management visits are conspicuously posted in the housing units.

Two detainees complained, when they submitted a request to speak to a DO, they received a reply from ERO instructing them to call the DO by telephone. The detainees stated the calls cost \$7 dollars for a 15-minute telephone call. ODO alerted MCDC staff and ERO personnel to this complaint. ERO personnel stated they would work with MCDC to ensure the detainees are not charged for calls to a DO stationed at Krome SPC.

All detainees complained they frequently run out of personal hygiene items and sometimes go for one or two weeks without soap and toothpaste. ODO observed there are ample supplies of hygiene items available upon request in the housing unit. As a result, the complaints regarding insufficient supplies of personal hygiene items could not be corroborated by ODO.

Some detainees complained that staff members at MCDC routinely use racial slurs, such as “spic,” “beaner,” “wetback,” and “border hoppers.” ODO was unable to find evidence to corroborate these claims. ODO verified none of the detainees had ever filed a grievance regarding this matter, and there were no incident reports documenting such occurrences.

All of the detainees interviewed complained about portion sizes and food quality; however, detainees did not provide any specific examples. ODO confirmed menus are planned and certified as nutritionally adequate by a registered dietician before implementation.

A detainee stated he suffered from foot fungus, skin rashes, and migraine headaches. ODO verified this detainee was scheduled for a sick call appointment on April 30, 2012, but declined to keep his scheduled sick call appointment. Medical records confirmed that on May 9, 2012, the detainee notified medical staff that he had a history of migraine headaches, but there is no history of symptoms associated with migraine headaches. Additionally, there is nothing in the medical records to demonstrate a history of skin rashes or foot fungus.

A detainee stated that MCDC medical staff took him off of his medication; however, the detainee could not specify what type of medication was discontinued. Medical records verified this detainee had been prescribed an anti-depressant. However, on March 6, 2012, medical staff discontinued his medication when they caught him removing the pill from his mouth and attempting to give it to another detainee. Since that time, the detainee has been under regular care from a psychologist and a psychiatrist.

A detainee stated he was transferred to ICE custody from state prison where he had been prescribed medicine for his stomach. The detainee stated that he had been without medication for more than one month, but medical records verified the detainee regularly received Prilosec for gastro-intestinal reflux disease since June 2, 2012.

A detainee stated he has bleeding gums, and despite numerous requests, has not received medical treatment while in MCDC. ODO verified through medical records that this detainee has never requested dental care for bleeding gums.

A detainee stated he was involved in a motor vehicle accident that caused numerous injuries to the right side of his body. The detainee stated that while detained at Krome SPC, medical staff provided him with pain medication, and the detainee requested similar pain management at MCDC, but medical staff refused to comply without his medical record from Krome SPC. ODO confirmed that MCDC staff possessed the medical record from Krome SPC, which indicated the detainee had received Motrin for pain associated with a motor vehicle accident. Medical staff at Krome SPC provided the detainee with Motrin based on the complaint of pain. Medical staff at MCDC treated this detainee on June 26, 2012, and changed the medication provided from Motrin to Extra Strength Tylenol.

All detainees interviewed stated they are provided opportunities for recreation daily. MCDC offers both indoor and outdoor recreation. Recreation areas allow access to natural sunlight and fresh air. The detainees stated they have access to religious services, can file grievances, and are allowed regular visitation by family members. Although the detainees had access to grievance



forms, they stated they do not file grievances because they are afraid of retaliation by MCDC officers. The detainees complained MCDC officials will place them in segregation if they file grievances. ODO found no evidence to corroborate this claim. ODO confirmed that all detainees placed in segregation are provided due process in accordance with the ICE NDS.

Detainees stated they have never been physically or sexually abused by anyone at the facility. However, they alleged that they observed MCDC officers point a Taser at an ICE detainee for failure to comply with instructions. The detainee immediately complied and the incident ended with no further action. The detainees could not provide ODO with any further information to corroborate this claim. They did not know the name of the detainee involved and were not able to provide an approximate date of the alleged incident. ODO reviewed MCDC use of force documents and detainee grievances and found no records relating to such an incident.

## ICE NATIONAL DETENTION STANDARDS

ODO reviewed a total of 16 NDS and found MCDC fully compliant with the following eight standards:

- Admission and Release
- Hold Rooms in Detention Facilities
- Hunger Strikes
- Key and Lock Control
- Medical Care
- Suicide Prevention and Intervention
- Telephone Access
- Tool Control

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 eight areas:

- Correspondence and Other Mail
- Detainee Grievance Procedures
- Detainee Handbook
- Environmental Health and Safety
- Special Management Unit (Administrative Segregation)
- Special Management Unit (Disciplinary Segregation)
- Staff-Detainee Communication
- Use of Force

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

## **CORRESPONDENCE AND OTHER MAIL (C&OM)**

ODO reviewed the Correspondence and Other Mail standard at MCDC to determine if the facility provides detainees the opportunity to send and receive correspondence, in a timely manner, subject to limitations required for the safe and orderly operation of the facility, in accordance with the ICE NDS. ODO toured the mail room, reviewed policies and procedures, and interviewed staff and detainees.

MCDC has policies and procedures in place which allow ICE detainees to send and receive correspondence in a timely manner. The facility has restrictions in place concerning packages and publications to ensure the safety of staff and detainees, and the security of the facility. MCDC and ERO officers provide ICE detainees with the ICE National Detainee Handbook and the facility handbook, which provide comprehensive instructions and guidelines pertaining to correspondence and other mail.

The facility provides ICE detainees with writing implements, paper, and envelopes to facilitate correspondence. The facility also provides indigent detainees the supplies needed to send correspondence and other mail, free of charge. Mailroom personnel only inspect mail in the presence of ICE detainees. Facility policy and procedures prohibit staff members from reading special correspondence.

In the event incoming mail is rejected or contraband is discovered, mailroom personnel complete a Mail Rejection Notice explaining the reason the mail was rejected or describing the contraband found and subsequent disposition; however, the Mail Rejection Notice does not contain the name of the sender (**Deficiency C&OM-1**). MCDC staff corrected this deficiency on-site by revising the Mail Rejection Notice to include the name of the sender.

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

In accordance with the ICE NDS, Correspondence and Other Mail, section (III)(H)(2), the FOD must ensure, when an officer finds an item that must be removed from a detainee's mail, he/she shall make a written record. This shall included [sic] [among others]:

2. The name of the sender and recipient.

## **DETAINEE GRIEVANCE PROCEDURES (DGP)**

ODO reviewed the Detainee Grievance Procedures standard at MCDC 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 NDS. ODO interviewed staff and reviewed policies, grievance logs, and the facility handbook.

Detainees at MCDC are encouraged to resolve grievances informally. However, detainees may file formal written grievances regarding any issue by submitting an ICE Detainee Grievance Form. ICE Detainee Grievance Forms are available in each housing unit and are controlled by the Housing Unit Officer. Detainees are given the opportunity to obtain assistance from another detainee or facility staff in preparing a grievance, if needed. Grievances are collected by MCDC staff every day and forwarded to the Grievance Coordinator, who assigns a grievance number and records them in a logbook. The Grievance Coordinator forwards every grievance to ERO at Krome SPC via electronic mail; however, when grievances are directly received by ERO personnel, MCDC is not always aware of the grievance, or the grievance response by ERO, for tracking purposes. Copies of detainee grievances are maintained in individual detention files located at Krome SPC.

ODO reviewed the grievance log from January 2012 to June 2012 and confirmed there were no grievances alleging staff misconduct during this time period. If a grievance concerning staff misconduct is filed by an ICE detainee, MCDC will investigate the grievance and immediately forward the allegation to ERO. There were no emergency grievances filed by detainees during the time period reviewed. However, ODO confirmed through the facility handbook that a review of MCDC policies and procedures, and an interview with MCDC staff, the facility does not have procedures for identifying and handling emergency grievances (**Deficiency DGS-1**). Emergency grievance procedures provide staff with clear instructions on how to handle issues requiring urgent attention.

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

### **DEFICIENCY DGS-1**

In accordance with the ICE NDS, Detainee Grievance Procedures, section (III)(B), the FOD must ensure each facility shall implement procedures for identifying and handling an emergency grievance. An emergency grievance involves an immediate threat to a detainee's safety or welfare. Once the receiving staff member approached by a detainee determines that he/she is in fact raising an issue requiring urgent attention, emergency grievance procedures will apply.

## **DETAINEE HANDBOOK (DH)**

ODO reviewed the Detainee Handbook standard at MCDC 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 NDS. ODO reviewed the facility handbook, and interviewed staff and detainees.

All detainees at MCDC are initially processed at Krome SPC prior to being admitted to MCDC and are issued the ICE National Detainee Handbook at Krome SPC. Detainees receive the facility handbook during intake at MCDC. Detainees acknowledge receipt of the facility handbook by signing and dating an acknowledgement form titled "JAIL PROPERTY ISSUED UPON INTAKE." The facility handbook is printed in English and Spanish.

A committee, consisting of the Commander, the Captain, all Lieutenants, a Sergeant, and the Accreditation Specialist, reviews and updates the MCDC facility handbook annually. The facility handbook was last revised in February 2012.

The facility handbook does not mention or contain a section pertaining to disciplinary sanctions (**Deficiency DH-1**). During the inspection, the Accreditation Specialist stated she and the Captain will modify the facility handbook to include a section on disciplinary sanctions.

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

### **DEFICIENCY DH-1**

In accordance with the ICE NDS, Detainee Handbook, section (III)(D), the FOD must ensure the handbook will list detainee rights and responsibilities. It will also list and classify prohibited actions/behavior, along with disciplinary procedures and sanctions. This section will include grievance and appeals procedures.

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

ODO reviewed the Environmental Health and Safety standard at MCDC 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 ICE NDS. ODO toured the facility, interviewed staff, and reviewed policies and documentation of inspections, hazardous chemical management, and drills.

Sanitation of the facility was observed to be at a high level. As evidence of the facility's commitment to sanitation, ODO notes that brass door handles, hand plates, and lock covers are polished daily. Monthly fire drills are conducted and documented. A barbershop is located in a separate room in the detainee housing unit. All male ICE detainees at MCDC are housed in the same housing unit. The room has a lavatory with hot and cold running water, and required sanitation regulations are posted. ODO inspected the barber tools, and found all items were clean and sanitary.

The facility has a system for storing, issuing, and maintaining inventories of hazardous materials. Material Safety Data Sheets (MSDS) and a master index of chemicals are available and complete; however, the index is not reviewed semi-annually or on any routine basis. In addition, a copy of the master index was not provided to the local fire department (**Deficiency EH&S-1**). During the inspection, a review of the master index was completed and a copy was forwarded to the local fire department.

Reports for pest control, water quality testing, and generator testing and maintenance are available and current. Exit diagrams are posted throughout the facility; however, the diagrams are printed in English and omit the locations of emergency equipment (**Deficiency EH&S-2**). ODO noted new diagrams meeting all requirements of the NDS were being prepared by MCDC staff during the inspection.

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

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

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(C), the FOD must ensure the Maintenance Supervisor or designate will compile a master index of all hazardous substances 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 semi-annual reviews will be maintained in the MSDS master file.

The master index will also include a comprehensive, up-to-date list of emergency phone numbers (fire department, poison control center, etc.).

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

In accordance with the ICE NDS, Environment Health and Safety, section (III)(L)(5), the FOD must ensure, 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."

## **SPECIAL MANAGEMENT UNIT (SMU)**

### **Administrative Segregation (AS)**

ODO reviewed the Special Management Unit (Administrative Segregation) standard at MCDC to determine if the facility has procedures in place to temporarily segregate detainees for administrative reasons, in accordance with the ICE NDS. ODO toured the segregation unit, interviewed staff, and reviewed policies and segregation documents.

MCDC has written procedures in place to temporarily segregate detainees for administrative reasons. The segregation units are well ventilated, adequately lit, temperature appropriate, and maintained in a sanitary condition. ODO reviewed segregation logs documenting detainees previously placed in administrative segregation and noted activities, privileges, and observations by staff were properly recorded. The segregation logs confirmed detainees placed in administrative segregation are afforded basic living conditions that approximate those provided to detainees in the general population.

At the time of inspection, there were no detainees in administrative segregation at MCDC.

The facility does not have written procedures for the regular review of cases involving detainees who are placed in administrative segregation. MCDC holds a weekly evaluation meeting to discuss all detainees in "Special Confinement." However, MCDC supervisory personnel do not conduct a review within 72 hours of a detainee's placement in administrative segregation to determine whether segregation is still warranted, to include an interview of the detainee, and documenting in writing the decision and justification to continue or terminate the detainee's placement in administrative segregation (**Deficiency SMU AS-1**). Regular reviews of administrative segregation cases by supervisory staff are important to avoid overcrowding of segregation units and to prevent unwarranted segregation of detainees.

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

### **DEFICIENCY SMU AS-1**

In accordance with the ICE NDS, Special Management Unit (Administrative Segregation), section (III)(C), the FOD must ensure all facilities shall implement written procedures for the regular review of all administrative-detention cases, consistent with the procedures specified below.

In SPCs/CDFs, a supervisory officer 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) will be used for the review. If the detainee has been segregated for the detainee's protection, but not at the detainee's request, the signature of the OIC or Assistant OIC is required on the I-885 to authorize continued detention.



## **SPECIAL MANAGEMENT UNIT (SMU) Disciplinary Segregation (DS)**

ODO reviewed the Special Management Unit (Disciplinary Segregation) standard at MCDC to determine if the facility has procedures in place to temporarily segregate detainees for disciplinary reasons, in accordance with the ICE NDS. ODO toured the segregation unit, interviewed staff, and reviewed policies and segregation documents.

MCDC has written procedures in place to temporarily segregate detainees for disciplinary reasons. ODO reviewed segregation logs of detainees who were previously placed in disciplinary segregation and noted activities, privileges, and observations by staff were properly documented and recorded. At the time of inspection, there were no detainees placed in disciplinary segregation at MCDC.

The facility does not have written procedures for the regular review of cases involving detainees who are placed in disciplinary segregation. Furthermore, supervisory personnel at MCDC do not consistently conduct status reviews every seven days, to include an interview with the detainee, to determine if the detainee has been abiding by all rules and regulations and has been provided showers, meals, recreation, and other basic living standards (**Deficiency SMU DS-1**).

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

#### **DEFICIENCY SMU DS-1**

In accordance with the ICE NDS, Special Management Unit (Disciplinary Segregation), section (III)(C), the FOD must ensure 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 Enforcement Officer (SDEO) 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.

The weekly review(s) will include an interview with the detainee. The SDEO shall document his/her findings after every review, by completing a Disciplinary Segregation Review Form (I-887).

2. The SDEO may recommend the detainee's early release from the SMU upon finding that time in disciplinary segregation is no longer necessary to regulate the detainee's behavior.
3. An early-release recommendation must have OIC approval before the detainee can be returned to the general population.
4. The SDEO may shorten, but not extend, the original sanction.
5. All review documents shall be placed in the detainee's detention file.
6. Provided institutional security is not compromised, the detainee shall receive at each formal review, a written copy of the reviewing officer's decision and the basis for this finding.

## **STAFF-DETAINEE COMMUNICATION (SDC)**

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

The facility allows detainees to have informal and formal access and interaction with MCDC and ERO staff. Detainees have the opportunity to submit written questions, requests, or concerns to MCDC and ERO staff via a request form. Detainee request forms are available upon request in each housing unit.

ODO reviewed the MCDC logbook for documenting detainee requests, and noted the logbook does not contain columns or blocks for recording the detainee's A-number, the detainee's nationality, or the officer logging the request (**Deficiency SDC-1**).

ERO personnel conduct weekly announced and unannounced visits to the facility's living areas; however, they do not consistently or fully complete the model protocol form (Facility Liaison Visit Checklist) on a weekly basis to document visits (**Deficiency SDC-2**). This model protocol is intended to provide clear and concise guidance to FODs and their staff regarding expectations for detention facility liaison visits and ICE NDS compliance. Additionally, the established protocol provides regimented procedures by which ERO officers should abide while conducting facility visits, observing living and working conditions, and engaging in staff-detainee communication.

ERO officers conduct weekly telephone serviceability tests at MCDC to determine the operability of telephones in the housing units; however, the results of the telephone serviceability tests are not documented on a Telephone Serviceability Worksheet (**Deficiency SDC-3**).

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

### **DEFICIENCY SDC-1**

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

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

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

**DEFICIENCY SDC-2**

In accordance with the Change Notice National Detention Standards Staff/Detainee Communication Model Protocol, dated June 15, 2007, the FOD must ensure and shall verify that all Deportation Officers and Immigration Enforcement Agents have been informed of the model protocol for Staff/Detainee Communication. Model protocol forms should be completed weekly for all Service Processing Centers (SPCs), and Contract Detention Facilities (CDFs). For Inter-Governmental Service Agreements (IGSAs) facilities housing ICE detainees, the model protocol should be completed weekly for regularly used facilities and each visit for facilities, which are used intermittently. In addition all model protocol forms shall be submitted annually with the Annual Detention Reviews.

**DEFICIENCY SDC-3**

In accordance with the Memorandum for Detainee Telephone Services, dated April 4, 2007, the FOD must ensure, effective immediately, concurrent with staff/detainee communications visits, ICE staff will verify serviceability of all telephones in detainee housing units by conducting random calls to pre-programmed numbers posted on the pro bono/consulate list. ICE staff will also interview a sampling of detainees and review written detainee complaints regarding detainee telephone access. The Field Office Director (FOD) shall ensure that all phones in all applicable facilities are tested on a weekly basis.

Each serviceability test shall be documented using the attached [Telephone Serviceability Worksheet] form. The field office shall maintain forms in a retrievable format, organized by month, for a three-year period.

## USE OF FORCE (UOF)

ODO reviewed the Use of Force standard at MCDC to determine if necessary use of force is 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 NDS. ODO interviewed staff, and reviewed policies and procedures, training records, and use of force incident documentation.

The MCDC use of force policy addresses confrontation avoidance, and differentiates between immediate and calculated force. An immediate use of force situation is created when detainee behavior constitutes a serious and immediate threat to the detainee, staff, other detainees, property, or the security and orderly operation of the facility. It may be necessary for staff to respond to such a situation without a supervisor's direction or presence. A calculated use of force is warranted when no immediate threat is posed, and there is sufficient time to potentially diffuse the situation without resorting to force. ODO reviewed (b)(7) randomly-selected staff training records and confirmed that staff receives instruction on the use of force policy during initial training and annually.

During the past year, there was one immediate use of force incident and four calculated use of force incidents involving ICE detainees. Review of documentation for the immediate use of force incident verified compliance with the NDS. Officials ensured medical evaluations were completed for all detainees involved in each incident, and ERO staff was notified in accordance with the timeframes specified in the NDS.

The four calculated use of force incidents involved placing detainees into restraint chairs. Placement of an uncooperative detainee in a restraint chair constitutes a calculated use of force, as there is no immediate threat to the detainee or others, allowing sufficient time for the assembly of a use of force team and proper positioning of the chair. One of the four incidents was partially video-recorded by a stationary security camera; officials did not record the other three incidents (**Deficiency UOF-1**).

ODO confirmed protective gear is available at MCDC. Written documentation in three of the four calculated use of force incidents did not reflect whether team members wore protective gear, though the Captain stated that MCDC officials wear stab-resistant vests. The video-recording of the incident captured on the stationary camera confirmed that team members did not wear protective gear (**Deficiency UOF-2**). Written documentation reflected that one of the team members sustained a small laceration to his hand and another small laceration above his right eye. Gloves and a face shield may have mitigated these injuries.

The stationary security camera that recorded one of the four calculated use of force incidents was not positioned to capture the complete event. The view of the initial contact with the detainee was obstructed. The video-recording did not include an introduction by the team leader, identification of the faces of team members, the detainee being offered a last chance to cooperate, close-ups of the detainee during medical examination, or a debriefing following the incident (**Deficiency UOF-3**). Staff stated the facility does not have hand-held video cameras.

The facility relies on the fixed cameras to capture use of force incidents. Since stationary security cameras have a limited range and do not record audio, they cannot assure calculated use of force incidents are properly recorded. ODO recommends the facility use portable or handheld video cameras, train staff in the use of the cameras for recording use of force incidents, and establish procedures to assure the operability of cameras.

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

### **DEFICIENCY UOF-1**

In accordance with the ICE NDS, Use of Force, section (III)(A)(2)(b), the FOD must ensure INS requires that all incidents of use of force be documented and forwarded to INS for review. The videotaping of all calculated used of force is required.

### **DEFICIENCY UOF-2**

In accordance with the ICE NDS, Use of Force, section (III)(A)(4)(a), the FOD must ensure, when a detainee must be forcibly moved and/or restrained during a calculated use of force, the use-of-force team technique shall apply.

- a. The team technique usually involves five or more trained staff members clothed in protective gear, including helmet with face shield, jumpsuit, flack-vest or knife-resistant vest, gloves, and forearm protectors. Team members enter the detainee's area together, with coordinated responsibility for achieving immediate control of the detainee.

### **DEFICIENCY UOF-3**

In accordance with the ICE NDS, Use of Force, section (III)(A)(4)(g), the FOD must ensure calculated-use-of-force videotape will be edited as follows:

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 video-camera operator and other staff present.
2. Faces of all team members briefly appear (helmets removed; heads uncovered), one at a time, identified by name and title.
3. Team Leader offering detainee last chance to cooperate before team action, outlining use-of-force procedures, engaging in confrontation-avoidance, and issuing use-of-force order.
4. Entire tape of Use-of-Force Team operation, unedited, until detainee [sic] in restraints.
5. Close-ups of detainee's body during medical exam, focusing on the presence/absence of injuries; staff injuries, if any, described but not shown.
6. Debriefing, including full discussion/analysis/assessment of incident.