



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

**Office of Detention Oversight
Compliance Inspection**

**Enforcement and Removal Operations
Houston Field Office
Polk County Adult Detention Facility
Livingston, Texas**

November 13 – 15, 2012

**COMPLIANCE INSPECTION
POLK COUNTY ADULT DETENTION FACILITY
HOUSTON 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 Polk County Adult Detention Facility (PCADF) in Livingston, Texas, from November 13 to 15, 2012. PCADF, which opened in 2006, is owned by Polk County and is operated under contract by Community Education Centers, Inc. (CEC). The U.S. Immigration and Customs Enforcement (ICE), Office of Enforcement and Removal Operations (ERO) began housing detainees at PCADF in 2007 under an intergovernmental service agreement. Male detainees of all security classification levels (Level I – lowest threat, Level II – medium threat, Level III – highest threat) are detained at the facility for periods in excess of 72 hours. Female detainees are not housed at PCADF. PCADF has a total capacity of 1,054 beds, with 950 allocated to ICE detainees. The remaining bed space is reserved for prisoners held by the U.S. Marshals Service, and state and local jurisdictions. At the time of the CI, PCADF housed 464 ICE detainees. The average daily detainee population at PCADF is 500. The average length of stay for a detainee is 34 days. CEC provides medical care and food service. PCADF is accredited by the American Correctional Association.

The ICE ERO Field Office Director in Houston, Texas (ERO Houston) is responsible for ensuring compliance with ICE policies and the ICE National Detention Standards (NDS). An Assistant Field Office Director (AFOD) stationed at the facility has oversight responsibility for PCADF. In addition to the AFOD, ICE staff on-site consists of (b)(7)e Supervisory Detention and Deportation Officers, (b)(7)e Deportation Officers (DO), (b)(7)e Immigration Enforcement Agents (IEA), (b)(7)e Mission Support Specialist, (b)(7)e Detention and Removal Assistants, and a Contracting Officer's Technical Representative (COTR). A Detention Service Manager (DSM) is permanently assigned to monitor compliance with the NDS.

The Warden is the highest-ranking official at PCADF and is responsible for oversight of daily operations. In addition to the Warden, supervisory staff at PCADF includes the Assistant Warden, the Chief of Security, a business office manager, a human resources manager, the Health Services Administrator, a food service director, an assistant food services director, (b)(7)e captains, (b)(7)e lieutenants, (b)(7)e sergeants, a warehouse supervisor, a mailroom supervisor, a maintenance supervisor, and a chaplain. PCADF non-supervisory staff is composed of (b)(7)e employees. Since September 2012, the facility (b)(7)e

(b)(7)e

In August 2011, ODO conducted a Quality Assurance Review at PCADF. Of the 28 NDS reviewed, 24 were in full compliance. ODO cited seven deficiencies in the remaining four standards.

In January 2012, ERO Detention Standards Compliance Unit contractor, The Nakamoto Group, Inc. conducted an annual review of the NDS at PCADF. The facility received an overall rating of "Good," and was found to be in compliance with all 37 standards reviewed.

During this CI, ODO reviewed 17 NDS at PCADF, finding the facility fully compliant with 15 standards. ODO found 3 deficiencies in two standards: Disciplinary Policy (1 deficiency) and Telephone Access (2). There were no repeated deficiencies from the August 2011 Quality Assurance Review. As to Disciplinary Policy, the facility handbook does not inform detainees of

the right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage and harassment. As to telephones, the facility did not document required telephone testing, and limited calls to legal representatives to 15 rather than 20 minutes. After discussion with ODO, the Warden amended facility policy to allow a 20-minute minimum for calls to legal representatives. These deficiencies do not affect detainee health and safety. Other than these three deficiencies, the facility complied with the NDS reviewed.

This report details the three deficiencies and refers to the specific relevant sections of the NDS. ERO will be provided a copy of this report to assist in developing corrective actions to resolve the three identified deficiencies. These deficiencies were discussed with PCADF personnel on-site during the inspection and during the closeout briefing on November 15, 2012.

Overall, ODO found PCADF to be orderly and well managed. Facility sanitation is excellent. ODO attributes the low number of deficiencies encountered during this inspection to the consistent monitoring of detention conditions at PCADF by ICE personnel and facility staff. PCADF has designated a Captain to oversee NDS compliance. ERO assigned an on-site COTR and provided a DSM to conduct regular reviews of the facility. The PCADF Compliance Captain and ICE staff meet daily to address detainee needs and NDS compliance issues.

Detainees are classified and medically screened upon admission to the facility with classifications reassessed at appropriate intervals. During the admission process, facility staff advise detainees on rules and responsibilities and explain procedures for submitting requests and filing grievances. Detainees are provided with appropriate clothing, hygiene supplies, and copies of the ICE National Detainee Handbook and the facility handbook in English or Spanish, as appropriate. Funds and valuables are properly inventoried and securely stored. Although not required by the NDS, PCADF launders and sanitizes the personal clothing of detainees prior to storage. This practice ensures detainees have clean clothing to wear when transferring from the facility and eliminates mold or other contamination. ODO cites this procedure as a best practice.

The law library is located in a quiet room, with sufficient furnishings, equipment, and office supplies to support legal research and case preparation. There are six computers equipped with the most recent version of LexisNexis, three printers, and two typewriters. A schedule is conspicuously posted in the law library along with a list of the law library's holdings. Interviews of detainees confirmed they are aware of the law library location and access procedures. A full-time PCADF officer is assigned to oversee the law library and assist detainees with its use.

PCADF has a detainee grievance system that allows detainees to file informal, formal, and emergency grievances, and to appeal grievance decisions. ODO verified grievance forms are available in all housing units. All detainees interviewed stated they are aware of the grievance process and the opportunity to file grievances. The grievance log reflects ten grievances filed between May 2012 and November 2012. All ten grievances received timely responses and were properly adjudicated.

ODO found the transfer of detainees at PCADF well managed. PCADF has a comprehensive policy addressing all requirements of the standard relating to transfer of detainees. Observation

of the process and inspection of alien files for 13 detainees being transferred from PCADF to other facilities confirmed compliance with the standard.

PCADF disciplinary policy classifies prohibited acts as minor and major grade, and prohibited acts can be referred for criminal prosecution if warranted. The policy directs that minor violations be informally settled whenever possible. The three-person Institution Hearing Panel at PCADF held a total of 34 hearings involving detainees during the two-month period preceding the CI, and imposed sanctions resulting in disciplinary segregation for ten cases. The incident reports in all 34 cases are appropriately documented and investigated, and all detainees are properly served with all required written notices. Hearings are conducted timely and properly and sanctions are within guidelines.

The CEC fire and safety officer is responsible for compliance with PCADF policy and the NDS. ODO confirmed all flammable, caustic, and toxic substances are accurately inventoried and stored. PCADF has an approved fire prevention plan and the facility is inspected annually by the Polk County Fire Marshal. PCADF staff conducts monthly fire inspections. Exit signs and floor plans are posted throughout the facility and identify the location of fire protection equipment.

PCADF employs a satellite feeding operation involving preparation of meals in the kitchen and delivery to housing units on heat-retaining covered trays. The trays are under constant and direct staff supervision. ODO observed the facility's trays showing considerable wear, and are difficult to adequately clean due to scrapes and scratches. PCADF management stated new trays will be ordered to replace the older trays.

All menus are certified by a registered dietitian based on a complete nutritional analysis. PCADF provides religious and medical diets in accordance with the standard. Detainees receive three hot meals per day at 3:30 a.m., 10:30 a.m., and 3:30 p.m. Though elapsed time between meals complies with the standard, serving breakfast at such an early hour may be problematic for detainees with medical issues, including those who must take medications with food. ODO recommends that service times for the breakfast and dinner meals be changed to a later hour to better support consumption and ensure detainees' medical needs are met. PCADF management stated they will consider this recommendation. As part of the food service program, detainees are surveyed to determine their level of satisfaction with meal service. These surveys seek feedback and provide opportunities to suggest improvement. Two surveys were conducted in 2012. ODO cites this as a best practice; however, ODO recommends increasing the frequency of surveys to involve more detainees in the process.

Healthcare is provided by CEC, with oversight by the regional healthcare services administrator. The PCADF clinic is open 24 hours a day, seven days a week. ODO found staffing levels at the clinic are adequate to provide basic medical services for detainees at PCADF. Nurses conduct routine intake screening to identify chronic care, mental health, and medication needs. A physical exam is completed by a registered nurse between three and 14 days after arrival. Detainees access health care services by completing a sick call request form. Forms are available in English and Spanish, and are deposited by detainees directly into a locked box located in each housing unit. Nurses collect sick call requests once a day and triage the requests for clinical priority. Detainees housed in segregation are seen face-to-face for healthcare

requests by medical staff once a day. Nurses conduct sick call Monday through Friday using physician-approved protocols to provide treatment.

Although not required by the NDS, the facility handbook includes medical education information to assist detainees in identifying and self-treating common ailments. ODO cites this as a best practice. In addition, ODO commends PCADF for using an iridescent yellow form to document findings from chronic care appointments. The easily-identifiable form includes sections for recording vital signs and medications, as well as other important appointment elements in the commonly-used Subjective Objective Assessment Plan format. A Pre-Segregation Health Evaluation is performed on each detainee prior to placement in segregation to document any physical or mental health issues, and to determine if there are any contra-indications for segregation, or to make any necessary referrals. This exceeds the NDS requirement.

PCADF has policies and procedures in place to address prevention, intervention, and handling of alleged sexual abuse and sexual assault incidents. All staff is trained to properly address sexual abuse and sexual assault at the entrance academy for correction officers, and each staff member completes annual refresher training thereafter. The policy includes written procedures for reporting incidents through the chain-of-command and referral to local law enforcement. There have been no incidents of alleged sexual abuse or sexual assault at PCADF since the most recent ODO inspection in August 2011.

PCADF has written procedures in place to temporarily segregate detainees for administrative and disciplinary reasons. Both the administrative and disciplinary SMUs are maintained in sanitary conditions and are appropriately ventilated, lit, and climate-controlled. Detainees housed in the Special Management Unit (SMU) have regular access to recreation, legal materials, telephones, visitation, recreation, commissary, mail, religious services, clothing and bedding exchange, and hygiene items. Detainees with identified mental health issues are transferred from the facility in coordination with ICE to a more suitable detention facility or mental health center. There were no detainees in administrative or disciplinary segregation during the ODO review. Review of disciplinary records found that in September 2012, five detainees were placed in disciplinary segregation for terms averaging 23 days, and in October 2012, five detainees were placed in disciplinary segregation for terms averaging 20 days. These terms were within established guidelines for the acts committed.

The AFOD formally visits PCADF every two weeks to meet with facility management and observe conditions of confinement. A DO and an IEA conduct one scheduled and multiple unscheduled visits each week to meet with detainees to address concerns and requests. ODO reviewed the ICE Facility Liaison Visit Checklists, which are used to document the visits. ODO verified that ICE visitation schedules are posted in each housing unit. PCADF has written procedures for detainees to submit written questions, requests, or concerns to ICE. Detainee request forms are available in all housing units. ODO reviewed the electronic detainee request log from May 2012 through November 2012, and confirmed all requests were logged and responded to within 72 hours of receipt.

PCADF has policies and procedures in place that address suicide prevention and intervention. ODO confirmed with the regional healthcare services administrator that there have been no detainee deaths or suicides at PCADF. ODO confirmed there were no suicide attempts and eight

documented suicide watches since the most previous ODO inspection in August 2011. Medical records for three detainees placed on suicide watch confirmed compliance with the NDS. ODO's review of (b)(7) training files confirmed staff completed initial and ongoing suicide prevention training covering all required topics. ODO verified detainees are screened for suicide potential during the intake process.

PCADF's Chief of Security serves as the recreation program coordinator. There are three large indoor recreation rooms and a large outdoor recreation area available for use by the detainee population seven days a week. Housing units are equipped with wall-mounted televisions for general viewing and tables with benches are provided to support a variety of leisure activities. Games such as checkers, dominos, and cards are provided. Paperback books are available from the library. The indoor recreation areas have space for basketball and walking, tables with seating, and available games such as foosball, ping pong, and board games. The dedicated outdoor recreation area has basketball and volleyball courts, handball courts, walking areas, and a soccer field. Restroom facilities with running water are available in the outdoor recreation area. During the CI, ODO observed 20 detainees in the outdoor recreation area playing basketball, sitting at the tables, walking, and enjoying the outdoors. Detainees have access to religious services five days per week. Volunteer substance abuse education programs such as Alcoholics Anonymous and Narcotics Anonymous are also available to detainees housed at PCADF.

Detainees have visitation privileges six days per week from 6:00 a.m. to 9:00 p.m., for up to one hour per visit, excluding Tuesdays. There are approximately 18 booths for detainee visits and two small private rooms with doors for legal visits.

Detainees have reasonable and equitable access to telephones at PCADF. The number of telephones in general housing areas meets the requirements of the standard. ICE staff conducts weekly telephone serviceability tests at PCADF 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. During the CI, ODO tested the telephones and found them generally operable.

A comprehensive use of force policy addresses all requirements of the standard. A lieutenant is responsible for maintaining all documentation on use of force incidents. Since November 2011, there have been four incidents involving immediate use of force on detainees, and no calculated use of force incidents. Review of written and video documentation of the four immediate use of force incidents confirmed full compliance with the standard, including after-action reviews, medical examinations of the detainees involved, and notifications to ICE.

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, as applicable. The NDS apply to PCADF. In addition, ODO may focus its inspection based on detention management information provided by ERO Headquarters and ERO field offices, and on issues of high priority or interest to ICE executive management.

ODO reviewed the processes employed at PCADF 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, the ENFORCE Alien Booking Module, and the ENFORCE Alien Removal Module. ODO also gathered facility facts and inspection-related information from ERO Headquarters staff to prepare for the site visit at PCADF.

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 defines a deficiency as a violation of written policy that can be specifically linked to 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



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

ODO, Houston
ODO, Houston
ODO, Houston
Creative Corrections
Creative Corrections
Creative Corrections

OPERATIONAL ENVIRONMENT

INTERNAL RELATIONS

ODO interviewed the PCADF Warden, Assistant Warden, and Chief of Security, and the ERO AFOD, COTR, and DSM. All personnel stated the working relationship between PCADF and ICE personnel is good. ODO observed positive interactions between PCADF personnel and ICE staff. ICE personnel regularly visit the detainee housing units and participate in PCADF weekly meetings. The Warden and the AFOD stated morale among PCADF staff decreased due to recent layoffs, but morale among ICE personnel is high. ICE staff stated they have the resources necessary to carry out their duties and responsibilities.

PCADF implemented weekly walk-through inspections by all PCADF department heads with ICE participation. These walk-through inspections provide an opportunity to listen to concerns and complaints from detainees and staff, while allowing management to provide direct feedback.

DETAINEE RELATIONS

ODO interviewed 28 randomly-selected detainees (10 Level I, 8 Level II, and 10 Level III detainees) to assess detention conditions at PCADF. Twenty-four of 28 detainees stated they did not know the identity of their assigned DO. A DO and an IEA visit the facility four days a week to meet with detainees. ODO observed a posting in each housing unit regarding ICE visits, and reviewed logs confirming the visits. In addition to the scheduled visits, a COTR and a DSM permanently stationed at the facility visit the housing units two or three times each day.

All detainees interviewed stated they had regular access to recreation and activity areas, the law library, religious services, medical care, telephones, and visitation. Twenty detainees complained food portions were too small. ODO verified all menus are certified by a registered dietitian. ODO also confirmed that medically-prescribed and religious meals are provided and properly documented. During the course of the inspection, ODO confirmed meals are served at 3:30 a.m., 10:30 a.m., and 3:30 p.m. Detainees stated they sometimes miss breakfast because they are too tired, which has caused detainees to purchase food from the PCADF commissary. As stated earlier, ODO recommends the facility change the mealtimes.

ICE NATIONAL DETENTION STANDARDS

ODO reviewed a total of 17 NDS and found PCADF fully compliant with the following 15 standards:

- Access to Legal Material
- Admission and Release
- Detainee Grievance Procedures
- Detainee Transfers
- Environmental Health and Safety
- Food Service
- Funds and Personal Property
- Medical Care
- Recreation
- Special Management Unit – Administrative Segregation
- Special Management Unit – Disciplinary Segregation
- Staff-Detainee Communication
- Suicide Prevention and Intervention
- Use of Force
- Visitation

As these 15 standards were compliant at the time of the review, a synopsis for these standards is not prepared for this report.

ODO found deficiencies in the following two standards:

- Disciplinary Policy
- Telephone Access

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

DISCIPLINARY POLICY (DP)

ODO reviewed the Disciplinary Policy standard at PCADF 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 NDS. ODO interviewed staff and reviewed facility policy, detainee disciplinary records, and the facility handbook.

Review of policy confirmed prohibited acts are classified as minor and major grade and can be referred for criminal prosecution if warranted. Graduated severity scales for prohibited acts and disciplinary consequences are in place and policy requires that minor violations be informally settled whenever possible. ODO verified incidents are investigated within 24 hours by a supervisor. Detainee rights under the disciplinary system, to include appeal rights, are addressed in the facility handbook, with one exception: the handbook does not provide detainees the required notice of the right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment **(Deficiency DP-1)**.

Review by ODO of disciplinary actions taken in September 2012 and October 2012 confirmed full compliance with facility policy and the NDS. A three-person Institution Hearing Panel (IHP) held a total of 34 hearings involving detainees over the two-month period, and imposed sanctions that included disciplinary segregation in ten cases. ODO verified the incident reports in all 34 cases clearly documented rule violations and were properly investigated. Detainees were served with notice and all hearings were timely and properly conducted. In accordance with facility policy, hearing outcomes were approved by the Chief of Security and the Assistant Warden. Sanctions were appropriate and within guidelines.

ODO notes that PCADF policy and the facility handbook state that a supervisor, serving as the hearing officer, may impose a sanction of up to 15 days in disciplinary segregation for a minor grade infraction. Based on interviews of supervisory staff and a review of documentation, ODO determined no detainees have been placed in disciplinary segregation by a hearing officer; therefore, a deficiency is not cited. However, to support compliance with the standard, ODO recommends the policy and the facility handbook be modified to state that only the IHP may impose disciplinary segregation.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY DP-1

In accordance with the ICE NDS, Disciplinary Policy, section (III)(A)(5)(a), the FOD must ensure the detainee handbook or equivalent, issued to each detainee upon admittance, shall provide notice of the facility's rules of conduct, and of the sanctions imposed for violations of the rules. Among other things, the handbook shall advise detainees of the following:

- a. The right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment.

TELEPHONE ACCESS (TA)

ODO reviewed the Telephone Access standard at PCADF to determine if the facility provides detainees with reasonable and equitable access to telephones to maintain ties with family and others in the community, in accordance with the ICE NDS. ODO toured the facility; interviewed staff; tested the operability of telephones; and reviewed policy, postings, and the detainee handbook.

PCADF provides an adequate number of telephones for detainee use. The number of telephones in detainee housing units meets the requirements of the NDS, and two mobile telephones are available for use by detainees in the SMU. All detainees are provided messages from staff in cases of family or other emergencies, and are allowed to return emergency telephone calls. Facility policy and the facility handbook address access to telephones and the monitoring of calls. In addition, rules for telephone access, notifications that telephone calls are subject to monitoring, and information for the OIG Hotline and consulates are posted in all areas where telephones are located.

ICE staff conducts weekly telephone serviceability tests at PCADF 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 TA-1**).

According to facility policy, telephone calls to legal representatives are limited in duration to 15 minutes, five minutes shorter than the 20-minute minimum set by the NDS (**Deficiency TA-2**). After discussion with ODO, the Warden amended facility policy to allow a 20-minute minimum for calls to legal representatives.

Phone numbers to legal service providers and consulates were tested and confirmed operable. During testing of detainee telephones in housing units A-7, B-11, B-12, and the Intake Screening holding cell, ODO's calls to the OIG Hotline resulted in either a busy signal or a disconnection. The ICE COTR subsequently attempted to call the OIG Hotline from an office telephone with the same result, which raised the possibility that the OIG Hotline was experiencing technical difficulties unrelated to the PCADF telephone system. During the review, ODO notified the AFOD of the problem with the OIG Hotline, and the COTR reported the problem to the ERO Detention and Compliance Office via e-mail.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY TA-1

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.

DEFICIENCY TA-2

In accordance with the ICE NDS, Telephone Access, section (III)(F), the FOD must ensure the facility shall not restrict the number of calls a detainee places to his/her legal representatives, nor limit the duration of such calls by rule or automatic cut-off, unless necessary for security purposes or to maintain orderly and fair access to telephones. If time limits are necessary for such calls, they shall be no shorter than 20 minutes, and the detainee shall be allowed to continue the call if desired, at the first available opportunity.