



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
Chicago Field Office
Boone County Jail
Burlington, Kentucky**

June 17–19, 2014

**COMPLIANCE INSPECTION
BOONE COUNTY JAIL
CHICAGO FIELD OFFICE**

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INSPECTION PROCESS

The U.S. Immigration and Customs Enforcement (ICE), Office of Professional Responsibility (OPR), Office of Detention Oversight (ODO) conducts broad-based compliance inspections to determine a detention facility's overall compliance with the applicable ICE National Detention Standards (NDS) or Performance-Based National Detention Standards (PBNDS), and ICE policies. ODO bases its compliance inspections around specific detention standards, also referred to as core standards, which directly affect detainee health, safety, and well-being. Inspections may also be based on allegations or issues of high priority or interest to ICE executive management.

Prior to an inspection, ODO reviews information from various sources, including the Joint Intake Center (JIC), Enforcement and Removal Operations (ERO), detention facility management, and other program offices within the U.S. Department of Homeland Security (DHS). Immediately following an inspection, ODO hosts a closeout briefing at which all identified deficiencies are discussed in person with both facility and ERO field office management. Within days, ODO provides ERO a preliminary findings report, and later, a final report, to assist in developing corrective actions to resolve identified deficiencies.

REPORT ORGANIZATION

ODO's compliance inspection reports provide executive ICE and ERO leadership with an independent assessment of the overall state of ICE detention facilities. They assist leadership in ensuring and enhancing the safety, health, and well-being of detainees and allow ICE to make decisions on the most appropriate actions for individual detention facilities nationwide.

ODO defines a deficiency as a violation of written policy that can be specifically linked to ICE detention standards, ICE policies, or operational procedures. Deficiencies in this report are highlighted in bold and coded using unique identifiers. Recommendations for corrective actions are made where appropriate. The report also highlights ICE's priority components, when applicable. Priority components have been identified for the 2008 and 2011 PBNDS; priority components have not yet been identified for the NDS. Priority components, which replaced the system of mandatory components, are designed to better reflect detention standards that ICE considers of critical importance. These components have been selected from across a range of detention standards based on their importance to factors such as health and safety, facility security, detainee rights, and quality of life in detention. Deficient priority components will be footnoted, when applicable. Comments and questions regarding this report should be forwarded to the Deputy Division Director, OPR ODO.

INSPECTION TEAM MEMBERS

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

EXECUTIVE SUMMARY

ODO conducted a compliance inspection of the Boone County Jail (BCJ) in Burlington, Kentucky, from June 17 to 19, 2014. BCJ, which opened in 2005, is owned and operated by Boone County Fiscal Court. ERO began housing detainees at BCJ in 2005 under an intergovernmental service agreement (IGSA) between the County of Boone and the U.S. Marshals Service. Male and female detainees of all security classification levels (Levels I through III) are detained at the facility for periods in excess of 72 hours. The inspection evaluated BCJ's compliance with the 2000 NDS.

The ERO Field Office Director (FOD), in Chicago, Illinois, is responsible for ensuring facility compliance with the 2000 NDS and ICE policies. No ICE employees are located at BCJ. An ERO Detention Service Manager (DSM) assigned to BCJ.

Capacity and Population Statistics	Quantity
Total Bed Capacity	424
ICE Detainee Bed Capacity	150
Average Daily Population	415
Average ICE Detainee Population	145
Average ICE Length of Stay (Days)	30
Male Detainee Population (as of 06/17/14)	152
Female Detainee Population (as of 06/17/14)	5

A Jailer at BCJ is responsible for oversight of daily facility operations and is supported by (b)(7)e personnel. The County of Boone provides food services and Southern Health Partners provides medical services. BCJ holds no accreditations.

In August 2011, ODO conducted a quality assurance review of BCJ under the 2000 NDS. ODO reviewed 25 standards and found BCJ compliant with 12 standards. ODO found a total of 28 deficiencies in the remaining 13 standards.

During this inspection, ODO inspected 16 standards and found BCJ compliant with six standards. ODO found a total of 20 deficiencies in the remaining ten standards: Access to Legal Material (2 deficiencies), Detainee Classification System (1), Detainee Grievance Procedures (2), Environmental Health and Safety (2), Funds and Personal Property (3), Medical Care (4), Recreation (1), Suicide Prevention and Intervention (3), Staff-Detainee Communication (1), and Telephone Access (1). ODO cited one best practice in this report.¹

This report details all deficiencies and refers to the specific, relevant sections of the 2000 NDS. ERO will be provided a copy of this report to assist in developing corrective actions to resolve all identified deficiencies. ODO discussed preliminary findings with BCJ and ERO staff during the inspection and at a closeout briefing conducted on June 19, 2014.

ERO staff at the Louisville, Kentucky sub-office conducts initial processing of detainees prior to arrival at BCJ. All incoming detainees are searched, screened, fingerprinted, and photographed upon arrival at BCJ. Strip searches are not performed unless reasonable suspicion is established in accordance with facility and ICE policy.

¹ Best practices are annotated in this report as "BP."

Classification and reclassification of detainees is conducted by BCJ classification staff. BCJ uses a classification system that takes into account both the criminal and mental health history of detainees. BCJ also uses information received from ERO; however ERO does not always provide the information necessary to complete the classification.

All detainees are issued an ICE National Detainee Handbook and facility handbook in either English or Spanish during intake. Thirty active and 15 inactive detention files confirmed detainees routinely receive both. A BCJ committee reviews the facility handbook annually to ensure it is current and makes revisions when necessary; the handbook was last reviewed in March 2014.

Detainee funds and personal property are tracked and stored at BCJ. Valuables are placed in a property bags; however, those bags cannot be locked. They are kept within the property room, accessible by all officers. BCJ does not use a safe or locker. Further, BCJ does not have policy or procedures to address detainee property reported missing or damaged. Also, BCJ's handbook does not include notice procedures for claiming property upon release, transfer, or removal or for filing a claim for lost or damaged property.

Detainees are afforded a minimum of five hours of library access, seven days per week. BCJ's handbook does not inform detainees of the procedure for requesting additional time beyond the five hours per week minimum. BCJ does not post policies and procedure governing access to legal materials in the law library.

Six formal grievances were filed by detainees in the 12 months preceding the inspection and all were addressed within a reasonable time. The facility does not have procedures for identifying and handling emergency grievances. BCJ's handbook does not provide notice of the right to have the grievance referred to higher levels, the procedure for contacting ICE to appeal a decision, or the information about the opportunity to file a complaint about officer misconduct.

Sanitation levels during the inspection were very good. Monthly fire drills are conducted on each shift; however a review of documentation found emergency keys were not drawn and tested during fire drills. Only one exit diagram was posted in the lobby area and none were found in the secure portion of the facility, including detainee housing units.²

Food preparation and storage areas, the cooler, freezer, and restrooms were clean and well organized during the inspection. All food service staff and inmate workers received pre-employment health screenings and documentation reflects workers are visually checked by staff members as they arrive for their shifts. The main menu is on a 28-day cycle and certified annually by a registered dietician. BCJ has a satellite system of meal service and food temperatures tested during the inspection were in compliance with the NDS. Procedures are in place for approving and issuing medical and religious diets.

Medical services are provided by Southern Health Partners (SHP), a private contractor. The clinic is open seven days a week, 24 hours a day, with administrative oversight provided by the

² This is a repeat deficiency from ODO's August 2011 inspection.

Medical Team Administrator (MTA).³ The MTA is an LPN under the supervision of the Kentucky Region Administrator (KRA). The medical director, a physician, is the designated clinical medical authority. Medical and mental intake screenings are completed by trained security staff. Detainees receive hands-on physical examinations and dental screenings by Registered Nurses (RN). All health appraisals reviewed by ODO were signed by a physician.

The examination/treatment room at BCJ does not afford medical providers and detainees privacy; it is located in an open area frequently accessed by medical staff. Further, an officer is present during patient encounters, as required by both facility and SHP policy.

Detainees access healthcare services by completing written medical requests available in English and Spanish. The forms are turned into the housing unit officer, who then enters the request verbatim into the facility's Jail Management System for retrieval electronically by medical staff. The involvement of the officers in the process violates patient confidentiality.⁴

ODO verified detainees are screened for suicide risk during the intake process. A review of incident reports found two detainees were placed on suicide watch in the 12 months preceding the inspection. Although the reports indicate detainees were referred to the mental health counselor for follow up, there was no documentation of suicide risk assessment to validate or discontinue the suicide watch. In one case, suicide watch was discontinued by the physician, and in the second case, the detainee was transferred from BCJ prior to removal from suicide watch by the physician.

ODO evaluated BCJ's sexual abuse and assault prevention and intervention program. Although BCJ was not required to comply with the 2011 Sexual Abuse and Assault Prevention and Intervention (SAAPI) standard at the time of the inspection, ODO noted any efforts by the facility to comply with the standard's requirements. Detainees are informed of the Prison Rape Elimination Act (PREA) and SAAPI standard by way of the facility handbook. There is a program coordinator in place. According to BCJ staff and query results from the JIC, no allegations of sexual abuse and sexual assault involving detainees were reported during the 12 months preceding this inspection.

BCJ's Special Management Unit (SMU) has 16 single-occupancy capacity cells for male detainees and four for females. The SMU is used for both administrative and disciplinary segregation. Two detainees were assigned to administrative segregation and two to disciplinary segregation during the 12 months preceding the inspection. ODO confirmed segregation orders were issued, and the detainees received the services, privileges and access to activities required by the standard.

Indoor and outdoor recreation is available to detainees at BCJ. Although detainees have access to outdoor recreation it is not always provided at a reasonable time. BCJ's recreation schedule is organized by housing unit and shift schedule, which causes detainees on the schedule for third shift to receive recreation between the hours of 11 p.m. and 7 a.m.

³ The Medical Team Administrator functions as the medical health authority, commonly referred to as a Health Services Administrator.

⁴ This is a repeat deficiency from ODO's August 2011 inspection.

Detainees have opportunities to interact informally with both ERO and BCJ staff. ERO staff visits the housing units every Wednesday to address detainee questions and concerns. Detainee requests are generally responded to within 72 hours; however copies are not placed in detention files.

Detainees have access to telephones daily from 7 a.m. to 12 a.m. The telephone availability ratio is roughly ten detainees per phone. Call rates range from \$0.20 per minute for local, toll, and long distance calls, and \$1 per minute for international calls. Notification that calls are subject to monitoring are posted near each telephone and in the facility handbook; however, the procedures for obtaining an unmonitored call are not posted or included in the handbook.

BCJ has written policy governing the use of force. Four immediate use-of-force incidents involving detainees occurred during the 12 months preceding the inspection. ODO's review of written documentation and video taken by way of cameras worn by the shift supervisor confirmed compliance with the standard. Training records for (b)(7) randomly-selected officers confirmed current training in use of force and oleo capsicum (OC) spray deployment.

OPERATIONAL ENVIRONMENT

DETAINEE RELATIONS

ODO interviewed 20 randomly-selected detainees (15 males and five females) to assess the conditions of detention at BCJ. All detainees interviewed had been housed at the facility from one day to six and one-half months. Interview participation was voluntary and none of the detainees made allegations of abuse, discrimination or mistreatment.

Facility Handbook: Eight detainees stated they did not receive the facility handbook at admission. ODO reviewed a total of 30 active detention files, including those who reported not receiving the handbook, and verified all files contained signed handbook receipt acknowledgements. ODO further reviewed 15 inactive detention files and found all contained signed handbook receipts.

Recreation: Ten detainees stated recreation was inconsistent and reported often only having outdoor recreation between 1 a.m. and 3 a.m. ODO reviewed the recreation standard and found BCJ staff does not always offer outdoor recreation at a reasonable time. ODO found recreation for some detainees is offered at unusual hours.

Medical Care: One male detainee alleged he did not receive adequate care for a toothache, and ultimately removed his own molar on an unknown date. ODO and BCJ medical staff interviewed the detainee and reviewed his medical file. The detainee later recanted his statement about removing his own molar. BCJ medical staff concluded the detainee's allegations were unfounded. However, as a precaution, the detainee was scheduled for a dental appointment by medical staff.

Other services: None of the detainees interviewed by ODO expressed concerns regarding access to mail, telephones, the grievance system, religious services, or visitation. Food service and medical care were generally described as satisfactory.

ICE 2000 NATIONAL DETENTION STANDARDS

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

1. Admission and Release
2. Detainee Handbook⁵
3. Food Service
4. Special Management Unit-Administrative Segregation
5. Special Management Unit-Disciplinary Segregation
6. Use of Force

As the standards above were compliant at the time of the inspection, a synopsis for these standards is not included in this report.

ODO found 20 deficiencies in the following ten standards.

1. Access to Legal Material
2. Detainee Classification System
3. Detainee Grievance Procedures
4. Environmental Health and Safety
5. Funds and Personal Property
6. Medical Care
7. Suicide Prevention and Intervention
8. Staff-Detainee Communication
9. Telephone Access
10. Recreation

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

⁵ The Detainee Handbook standard was found compliant during the inspection; however, deficiencies related to the Detainee Handbook are located under Deficiencies ALM-1, DGP-2, F&PP-3 and TA-1.

ACCESS TO LEGAL MATERIAL (ALM)

ODO reviewed the Access to Legal Material standard at BCJ to determine if detainees have access to a law library, legal materials, and supplies and equipment to facilitate the preparation of legal documents, in accordance with the ICE NDS. ODO inspected the areas designated for law library use, reviewed policies, procedures, and the facility handbook, and interviewed staff and detainees.

The law library is located in a designated room near the housing units. The designated room is well-lit, contains sufficient furnishings, and is equipped to support legal research and case preparation. The law library includes a desktop computer, a printer and supplies to support legal research and case preparation by detainees. ODO verified the computer contained a current version of LexisNexis and word processing software. Detainees have access to paper, writing utensils, and envelopes. Legal documents can be printed and copies are made with the assistance of a staff member.

Detainees request use of the law library by submitting a request form. Detainees are afforded a minimum of five hours seven days a week, with exception of meal and visitation periods. Additional time is available upon request. BCJ policy affords the same law library privileges to detainees in special management units.

BCJ staff informed ODO that illiterate and limited English proficient detainees are provided assistance with their legal paperwork, as needed. Detainees with appropriate language, reading, and writing abilities are allowed to provide assistance. The law library custodian provides indigent detainees with free envelopes, stamps, notary services, and certified mail for legal matters.

BCJ's handbook does not inform detainees of the procedure for requesting additional time in the law library beyond the five hours per week minimum (**Deficiency ALM-1**). Also, BCJ does not post library policies and procedures in the designated room (**Deficiency ALM-2**).

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY ALM-1

In accordance with the ICE NDS, Access to Legal Material, section (III)(Q)(4), the FOD must ensure "the detainee handbook or equivalent, shall provide detainees with the rules and procedures governing access to legal materials, including the following information:

4. the procedure for requesting additional time in the law library (beyond the 5 hours per week minimum)."

DEFICIENCY ALM-2

In accordance with the ICE NDS, Access to Legal Material, section (III)(Q), the FOD must ensure the policies and procedures governing access to legal materials "shall also be posted in the law library."

DETAINEE CLASSIFICATION SYSTEM (DCS)

ODO reviewed the Detainee Classification System standard at BCJ to determine if there is a formal classification process for managing and separating detainees based on verifiable and documented data, in accordance with the ICE NDS. ODO toured the booking area and classification department, interviewed staff, and reviewed classification documentation and local policy.

BCJ's classification system takes into account both the criminal and mental health history of detainees. BCJ classification staff classifies new detainees using information provided by ERO. Classification staff stated ERO staff does not routinely provide the information and forms necessary to complete the classification process on detainees at the time of admittance **(Deficiency DCS-1)**. On June 16, 2014, ODO observed six detainees arrive at the facility without any classification paperwork from ERO. Whenever this situation arises, BCJ staff usually notifies ERO staff and ERO staff usually provides the necessary documentation within one to three days. Availability of information supporting the assigned classification level is important for validation and reclassification.

ODO reviewed 15 detention files and all contained an I-203 form, Order to Detain or Release, and the Risk Classification Assessment form. Detention files also showed supervisors are reviewing and approving the classification level assigned to detainees.

BCJ's classification system allows new arrivals to appeal their classification levels. Detainees may appeal by filing a grievance. Once submitted, the grievance will initiate a reclassification assessment by one of the classification officers. A review of a detainee's classification may occur every 90 days, or if there is an institutional incident. For detainees in segregation, a review occurs no less than once monthly and whenever there is a change in the detainee's status.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY DCS-1

In accordance with the ICE NDS, Detainee Classification System section (III)(A)(1), the FOD must ensure, "All detainees are classified upon arrival, before being admitted into the general population. ICE will provide CDF's and IGSA facilities with the data they need from each detainee's file to complete the classification process."

DETAINEE GRIEVANCE PROCEDURES (DGP)

ODO reviewed the Detainee Grievance Procedure standard at BCJ 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.

The grievance system at BCJ allows detainees to file informal and formal grievances; however, the facility does not have procedures for identifying and handling an emergency grievance (**Deficiency DGP-1**).⁶ Grievance forms are available in the housing units and detainees may obtain assistance from another detainee or facility staff in preparing a grievance. BCJ staff forward to ERO any grievances alleging staff misconduct and has established a grievance committee to address detainee appeals.

BCJ maintains a grievance log to document and track detainee grievances. Six formal grievances were filed by detainees in the 12 months preceding the inspection and all were addressed within a reasonable time. Responses are provided to detainees in writing and a copy is placed in the detention file. The six grievances involved the following issues/topics:

- Lights being left on in the housing unit (2)
- Incorrect request forms (2)
- Problems making a telephone call (1)
- Request for a court date (1)

No patterns or trends were observed.

The facility's handbook provides notice to detainees of the opportunity to file a formal and informal grievance, the procedure for filing a grievance and appeal, and the policy prohibiting staff from retaliating against any detainee for filing a grievance. BCJ's handbook does not provide notice of the right to have the grievance referred to higher levels, the procedure for contacting ICE to appeal a decision of the Officer In Charge (OIC), and the information about the opportunity to file a complaint about officer misconduct (**Deficiency DGP-2**).⁷

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY DGP-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."

⁶ The facility initiated corrective action during the inspection.

⁷ The facility initiated corrective action during the inspection.

DEFICIENCY DGP-2

In accordance with the ICE NDS, Detainee Grievance Procedures, section (III)(G), the FOD must ensure, “The grievance section of the detainee handbook will provide notice of the following:

3. The procedures for resolving a grievance or appeal, including the right to have the grievance referred to higher levels if the detainee is not satisfied that the grievance has been adequately resolved. The level above the CDF-OIC is the ICE-OIC.
4. The procedures for contacting ICE to appeal the decision of the OIC of a CDF or an IGSA facility.
6. The opportunity to file a complaint about officer misconduct directly with the Justice Department by calling 1-800-869-4499 or by writing to:”

In accordance with the Change Notice National Detentions Standards Staff-Detainee Communication Standard, dated June 15, 2007, the FOD must ensure, until the detainee handbooks can be revised during the annual update, ICE staff shall ensure that each detainee in ICE custody is informed in writing the OIG contact information: DHS OIG Hotline

Write to:
245 Murray Drive, S.E., Building 410
Washington, D.C. 20538

Email to:
DHSOIGHOTLINE@DHS.GOV

OR Telephone
1-800-323-8603

ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

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

Sanitation throughout the facility was very good. Hazardous substances are listed in a master index which includes Material Safety Data Sheets (MSDS), emergency contact information, and documentation of periodic review for accuracy. MSDS binders are also present in areas where substances are stored and used. Running inventories of chemicals were accurate. During interviews, BCJ staff verbalized good understanding of proper storage and handling of all chemicals.

ODO reviewed documentation of weekly and monthly fire and safety inspections conducted by a BCJ officer trained to perform this function. Monthly inspections by BCJ's designated safety officer affirm the weekly inspection findings, allowing identification and correction of potential problems before they become life-safety issues. ODO observed only one exit diagram was posted (**Deficiency EH&S-1**).⁸ The diagram was in the lobby area, and no diagrams were found in the secure portion of the facility, including detainee housing units. Both the NDS and facility policy require posting of exit diagrams in all areas.

Fire drills are conducted monthly in all areas on all shifts. Documentation shows emergency keys were not drawn and tested during the fire drills (**Deficiency EH&S-2**). The safety officer informed ODO he tests the emergency keys weekly as part of his safety inspections. Use of emergency keys during fire drills supports staff familiarity with their use.

Reports maintained by the safety officer reflect the emergency electrical generator is tested weekly for a 30-minute period. According to the safety officer, manufacturer guidelines call for testing for 30 minutes, only. The generator is tested and serviced annually by an external company.

Inspection of the medical department found documentation of sharps inventories are conducted at the beginning and end of each shift. ODO inventoried the sharps with the Medical Team Administrator (MTA) and confirmed the equipment was accurately counted and documented.

The facility is inspected twice a year by the Kentucky Department of Corrections, Division of Local Facilities. ODO was informed the local health department and fire marshal do not inspect BCJ. Compliance with health and fire regulations is audited by state inspectors during the Kentucky Department of Corrections semi-annual inspections.

⁸ This is a repeat deficiency from ODO's August 2011 inspection.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY EH&S-1

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(L)(3)(h), the FOD must ensure, “Every institution will develop a fire prevention, control, and evacuation plan to include, among other things, the following: conspicuously posted exit diagrams conspicuously posted for and in each area.”

DEFICIENCY EH&S-2

In accordance with the ICE NDS, Environmental Health and Safety, section (III)(L)(4)(c), the FOD must ensure, “Monthly fire drills will be conducted and documented separately in each department. Emergency key drills will be included in each fire drill, and timed. Emergency keys will be drawn and used by the appropriate staff to unlock one set of emergency exit doors not in daily use. NFPA recommends a limit of four and one-half minutes for drawing keys and unlocking emergency doors.”

FUNDS AND PERSONAL PROPERTY (F&PP)

ODO reviewed the Funds and Personal Property standard at BCJ to determine if controls are in place to inventory, document, store, and safeguard detainees' personal property, in accordance with the ICE 2000 NDS. ODO toured the facility, reviewed local policies, the facility handbook, and detention files, interviewed staff, and inspected areas where detainee property and valuables are stored.

All detainee personal property is tracked and stored. U.S. currency is deposited into a kiosk, which provides the detainee commissary funds. Four kiosks are located in the booking area and one in the lobby area. If currency cannot be read by the kiosk, the funds are dropped into a locked cash safe in the booking area. The cash safe is only accessible by the Jailer, (b)(7)e lieutenants, and the executive assistant. Foreign currency is treated as a valuable. All valuables are placed in a smaller bag within the larger property bag. Both the small and large bags do not have zipper locks and the facility does not have a safe or locker for valuables (**Deficiency F&PP-1**). The property room is accessible by all officers, and is monitored by two cameras.

Any excess baggage, or forgotten or abandoned property, is forwarded to ERO. Based on a review of 30 active and 15 inactive detention files, detainee property is properly documented. The facility does not have a written policy and procedure for detainee property reported missing or damaged (**Deficiency F&PP-2**).⁹

The BCJ handbook did not include notice of the procedure for claiming property upon release, transfer, or removal nor did it provide the procedures for filing a claim for lost or damaged property (**Deficiency F&PP-3**).

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY F&PP-1

In accordance with the ICE NDS, Funds and Personal Property, section (III)(A), the FOD must ensure, "Both the safe and the large-valuables locker should be kept in the shift supervisor's office."

DEFICIENCY F&PP-2

In accordance with the ICE NDS, Funds and Personal Property, section (III)(H), the FOD must ensure, "Each facility shall have a written policy and procedures for detainee property reported missing or damaged."

DEFICIENCY F&PP-3

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

4. The procedure for claiming property upon release, transfer, or removal;
5. The procedures for filing a claim for lost or damaged property."

⁹ The facility initiated corrective action during the inspection.

MEDICAL CARE (MC)

ODO reviewed the Medical Care standard at BCJ to determine if detainees have access to healthcare and emergency services to meet health needs in a timely manner, in accordance with the ICE NDS. ODO toured the clinic, observed a health appraisal, reviewed policies, procedures and staff training records, verified medical staff credentials, and interviewed staff. In addition, ODO examined 20 medical records of detainees in the following categories: chronic care, females, detainee complaints (addressed in another section of this report), five emergency room visits, and suicide watch.

BCJ holds no accreditations. Medical services are provided by SHP, a private contractor. The clinic is open seven days a week, 24 hours a day, with administrative oversight provided by the MTA. The MTA is an LPN under the supervision of the Kentucky Region Administrator (KRA). The medical director, a physician, is the designated clinical medical authority. He is on site, one day a week for as long as necessary, and is on call 24 hours a day, seven days a week. Additional staff includes a full-time registered nurse, (b)(7)e part-time licensed practical nurses, and a medical clerk. A contract dentist visits BCJ every six months to provide routine treatment. Detainees in need of urgent dental care are referred to community providers.

ODO reviewed documentation reflecting there were 27 off-site dental appointments for detainees in the past four months. Mental health services are provided by a mental health clinician who works three days a week. According to the MTA and KRA, there were no vacancies at the time of the review. All professional licenses were present and primary source verified with the issuing state boards for authentication purposes. ODO verified all medical and (b)(7)e randomly-selected correctional staff had current certification in cardiopulmonary resuscitation and first aid.

The clinic is small with a waiting area, one examination/treatment room containing emergency response equipment, a medication room, and an administrative office for four persons. BCJ staff installed a telephone line in the examination/treatment room for the express purpose of accessing a language translation service. The examination/treatment room is located in an open area accessible by nursing and medical administrative staff. Further, ODO observed an officer present during patient encounters which compromises patient privacy (**Deficiency MC-1**). Officer presence is required by facility and SHP policy. For medical and mental health services beyond the scope of care provided by BCJ, detainees are transferred to St. Elizabeth Medical Center in Cincinnati, Ohio. The Urgent Care Facility in Florence, Kentucky, just six minutes away, is used for emergency care. BCJ has no cells with negative air flow for tuberculosis (TB) isolation. In the event a detainee requires respiratory isolation, he or she would be taken to the hospital until transfer is arranged.

Specially trained security staff conducts the intake screening. Any positive response to significant medical, mental health or medication issues triggers an immediate referral to medical staff for follow-up screening. ODO confirmed comprehensive intake screening was completed, and all 20 detainees whose records were reviewed were screened for symptoms of TB and received a chest X-ray on admission. Officer training in conducting intake screening was confirmed by review of (b)(7)e randomly-selected training records. A review of the training curriculum for intake screening found it complete.

Signed, general consent for treatment statements were present in all 20 records reviewed. However, ODO identified two detainees who were receiving psychotropic medications did not sign specific consent (**Deficiency MC-2**).

The medical record review confirmed all 20 detainees received health appraisals which included a hands-on physical examination and dental screening within no more than five days of arrival, exceeding the standard. The health appraisals are conducted by the RN, whose training in the function was confirmed by ODO. The medical director co-signed all health appraisals.

ODO found detainees with chronic conditions were seen by the medical director, and essential medications were ordered and administered as required.

Detainees in general population and the special management units access health care services by completing written medical requests available in English and Spanish. Request forms were present in all housing units during the inspection. The forms are turned into the housing unit officer, who then enters the request verbatim into the facility's Jail Management System for retrieval electronically by medical staff up to four times daily. This allows nursing staff to expeditiously triage and address health care requests; however, the involvement of the officers in the process violates patient confidentiality of health care information (**Deficiency MC-3**).¹⁰ Sick call is conducted in the clinic four times daily using SHP nursing protocols. ODO verified the protocols were reviewed and signed by the BCJ medical director. Because of the short length of stay at the facility, the medical record review identified only six sick call requests. In all six cases, the requests were promptly triaged and addressed in accordance with the applicable protocol.

During a review of suicide prevention protocols, ODO found one detainee transferred from BCJ on August 26, 2013, while on active suicide watch. Though the detainee was determined at risk, a written medical/psychiatric alert notifying the OIC was not generated (**Deficiency MC-4**). The Medical Record of Federal Prisoner in Transit Form documented the MTA cleared the detainee for transfer, but made no reference to the fact the detainee was on suicide watch. While this is not a deficiency under the Medical Care standard, the Detainee Transfers standard, section (III)(D)(6)(3)(b), requires transfer summaries to document "Current mental and physical health status, including all significant health issues." Absent this information on the transfer form, there is no assurance that the transporting officers were aware the detainee was at risk for suicide, or the institution assuming custody was aware of the active suicide watch.

ODO cites the bar code feature of BCJ's electronic Jail Management System as a best practice (**BP-1**). The system uses bar codes to document tasks completed by correctional and medical staff. This provides an easy system for documenting and auditing certain critical activities such as medication administration and meals eaten or refused.

¹⁰ This is a repeat deficiency from ODO's August 2011 inspection.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY MC-1

In accordance with ICE NDS, Medical Care, section (III)(B), the FOD must ensure, “Adequate space and equipment will be furnished in all facilities so that all detainees may be provided basic health examinations and treatment in private.”

DEFICIENCY MC-2

In accordance with ICE NDS, Medical Care, section (III)(L), the FOD must ensure, “The facility health care provider will obtain signed and dated consent forms from all detainees before any medical examination or treatment, except in emergency circumstances.”

DEFICIENCY MC-3

In accordance with ICE NDS, Medical Care, section (III)(M), the FOD must ensure, “All medical providers shall protect the privacy of detainee’s medical information to the extent possible while permitting the exchange of health information required to fulfill program responsibilities and to provide for the well-being of detainees.”

DEFICIENCY MC-4

In accordance with the ICE NDS, Medical Care, section (III)(N), Medical/Psychiatric Alert, the FOD must ensure, “When the medical staff determines that a detainee’s medical or psychiatric condition requires either clearance by the medical staff prior to release or transfer or requires medical escort during deportation or transfer, the OIC will be so notified in writing.”

RECREATION (R)

ODO reviewed the Recreation standard at BCJ to determine if detainees are provided access to recreational programs and activities within the constraints of a safe and secure environment, in accordance with the ICE NDS.

Indoor and outdoor recreation is available for detainees at BCJ. Although detainees have access to outdoor recreation for at least one hour daily, five days a week, it is not always provided at a reasonable time (**Deficiency R-1**). BCJ's recreation schedule is organized by housing unit and shift schedule. Detainees scheduled for recreation on first shift will be allowed out during the hours of 7a.m. to 3p.m.; those scheduled for second shift are allowed recreation between 3p.m. and 11p.m.; and those scheduled for third shift are allowed recreation between 11p.m. and 7a.m. BCJ tries to alternate the schedule so that detainees are not always scheduled for recreation during the third shift; however, detainees are scheduled for outdoor recreation during the third shift anywhere from one to three days weekly.

The facility does not require detainees to forgo law library privileges for recreation privileges. BCJ has assigned an individual with the responsibility for the oversight of the recreation program. Dayrooms in the general-population housing units offer board games, televisions and other sedentary activities. Recreation areas are under continuous supervision by staff.

All detainees participating in outdoor recreation have access to drinking water and toilet facilities. Detainees housed in SMU are offered recreation apart from the general population. The facility notifies ERO if a detainee is denied recreation privileges in excess of 15 days.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY R-1

In accordance with the ICE NDS, Recreation, section (III)(B)(1), the FOD must ensure "If outdoor recreation is available at the facility, each detainee shall have access for at least one hour daily, at a reasonable time of the day, five days a week, weather permitting."

STAFF-DETAINEE COMMUNICATION (SDC)

ODO reviewed the Staff-Detainee Communication standard at BCJ 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 reviewed policies, documentation, and interviewed detainees and staff.

An Assistant Field Office Director is assigned to the facility and is responsible for oversight of ICE-related activities. BCJ staff revealed supervisory ERO staff performs frequent unannounced and scheduled visits to the facility's living, activity areas, and housing units. These visits are logged in at the front entrance in the facility visitor's log book, and in the ERO Liaison Daily Logbook.

ERO has no permanent presence at the facility. Deportation Officers (DO) and Immigration Enforcement Agents (IEA) from the Louisville, Kentucky sub-office are assigned to manage the detainee caseload at the facility. DOs make scheduled visits on Wednesdays to address ICE detainee requests and concerns. Visitation schedules were posted in each housing unit and reflected availability consistent with ERO's practice during the inspection. Visits by ERO non-supervisory staff are documented by Facility Liaison Checklists and in BCJ housing unit logs.

All detainees at the BCJ have the opportunity to submit written requests to both ICE staff and BCJ staff members. Although the facility employs an indirect supervision model, detainees are able to submit their requests to the BCJ housing unit officer. If the detainees wish to direct their requests to ICE, BCJ staff sends the requests electronically, to ERO and without delay. The facility handbook states detainees have the opportunity to submit written questions, requests, or concerns to ICE and facility staff, and the procedures for doing so.

Both BCJ and ERO staff respond to requests within 72 hours of receipt. BCJ staff sends ERO copies of any requests they address separately. ODO reviewed 933 detainee requests, from June 2013 through June 2014. The majority of requests reviewed by ODO related to removal or immigration status, telephone calls, commissary funds, visitation, and other facility-related matters. All requests are logged with the following information: the date the detainee request was received; detainee's name; Alien number, nationality; officer's name; the date the request; and staff's response and action.

Detainee requests are not placed in detention files, as the facility maintains all requests electronically. ODO reviewed 15 detention files and verified completed requests are not included (**Deficiency SDC-1**).

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

SUICIDE PREVENTION AND INTERVENTION (SP&I)

ODO reviewed the Suicide Prevention and Intervention standard at BCJ to determine if the health and well-being of detainees are protected by training staff in effective methods of suicide prevention, in accordance with the ICE NDS. ODO inspected the suicide watch cells, interviewed medical, administrative, and training staff, and reviewed suicide prevention policies, the training curriculum, staff training records and medical records.

Incoming detainees are screened for suicide risk during the intake process. Detainees on suicide watch are housed in a designated cell in the medical observation area. BCJ has eight available suicide watch cells. ODO found them free from protrusions and objects that could assist in a suicide attempt. The cells are monitored by correctional staff via closed-circuit surveillance cameras in booking and central control. Fifteen-minute checks are electronically documented using the facility's Jail Management System. Detainees on suicide watch may also be assigned to constant one-to-one direct observation status, in which an officer is physically present to observe the detainee at all times. All detainees wear a quilted suicide smock, and are given a quilted blanket, if needed.

Incident reports show two detainees were placed on suicide watch in the 12 months preceding the inspection. The documentation reflects in both cases, the captain directed placement on suicide watch status until "cleared by the jail mental health counselor." Although the incident reports reflect the detainees were referred to the mental health counselor for follow up, the medical records document only that the counselor monitored the detainees while on suicide watch. There was no documentation of suicide risk assessment to validate or discontinue the suicide watch status (**Deficiency SP&I-1**). In one case, suicide watch was discontinued by the physician; in the second, the detainee was transferred from BCJ prior to removal from suicide watch by the physician (**Deficiency SP&I-2**). The Medical Record of Federal Prisoner in Transit Form documented transfer clearance by the Medical Team Administrator, which in effect, discontinued the suicide watch. The transfer form made no reference to the suicide watch in place at the time of transfer. The Detainee Transfers standard, section (III)(D)(6)(3)(b), requires transfer summaries to document "Current mental and physical health status, including all significant health issues." Absent this information on the transfer form, it cannot be assured the transporting officers were aware the detainee was at risk for suicide, or the institution assuming custody was aware of the active suicide watch (**Deficiency SP&I-3**).

Training records for all medical and (b)(7)e randomly-selected correctional staff confirmed completion of initial and annual suicide prevention and intervention training. A curriculum developed by the Boone County Sheriff's Department is presented by the mental health counselor and covers the elements required by the NDS.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY SP&I-1

In accordance with ICE NDS, Suicide Prevention and Intervention, section (III)(B), the FOD must ensure, "Detainees identified as 'at risk' for suicide will be promptly referred to medical staff for evaluation."

DEFICIENCY SP&I-2

In accordance with ICE NDS, Suicide Prevention and Intervention, section (III)(C), the FOD must ensure, “A detainee formerly under a suicide watch may be returned to general population, upon written authorization from the CD.”

DEFICIENCY SP&I-3

In accordance with the ICE NDS, Suicide Prevention and Intervention, section (III)(B), the FOD must ensure, “Upon change of custody, the staff with custody will inform the staff assuming custody about indications of suicide risk.”

TELEPHONE ACCESS (TA)

ODO reviewed the Telephone Access standard at BCJ 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 interviewed facility staff and detainees; reviewed policy, procedures, and the facility handbook; and conducted functionality tests on the telephones located in detainee housing units.

Detainees have reasonable and equitable access to telephones at BCJ. The telephone availability ratio for each housing unit is approximately ten detainees per telephone. Telephones are on every day from 7 a.m. to 12 a.m. The facility provides a TTY when needed. All calls are restricted to 20 minutes in duration.

Combined Public Communications is the telephone service provider. If paying with direct pay, PIN debit, or calling card, the charge is \$0.20 per minute for local, toll, and long distance calls, and \$1 per minute for international calls, varying by country. For traditional collect calls to local, toll, and long distance numbers, the charge is \$2.50 per minute for the first ten minutes, followed by \$0.25 per minute for minutes 11 through 20.

BCJ and ERO staff inspect phones regularly and report out-of-order telephones for repair. ODO verified serviceability checks by reviewing weekly serviceability worksheets. ODO conducted operation checks of telephones in detainee housing units and found them to be in good working order. Pro bono numbers were updated and working.

The listings for pro bono services, DHS Office of Inspector General, consulates, and embassies, as well as telephone operating instructions, are cycled through televisions in each housing unit.

Notifications that calls are subject to monitoring are posted near each telephone, and included in the facility handbook. An attorney room is available for detainees to make private and unmonitored legal calls. However, the procedures for obtaining an unmonitored call to a court, a legal representative, or for the purposes of obtaining legal representation were not included in the facility handbook or posted by the telephones in each housing unit at the time of the inspection (**Deficiency TA-1**).¹¹ The facility initiated corrective action during the inspection.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY TA-1

In accordance with the ICE NDS, Telephone Access, section (III)(K)(2), the FOD must ensure, “The facility shall have a written policy on the monitoring of detainee telephone calls. If telephone calls are monitored, the facility shall notify detainees in the detainee handbook or equivalent provided upon admission. It shall also place a notice at each monitored telephone stating:

2. the procedure for obtaining an unmonitored call to a court, legal representative, or for the purposes of obtaining legal representation.”

¹¹ The facility initiated corrective action during the inspection.