



**U.S. Department of Homeland Security**

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**

**August 12–14, 2014**

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

**TABLE OF CONTENTS**

**INSPECTION PROCESS**

Report Organization.....	1
Inspection Team Members.....	2

<b>EXECUTIVE SUMMARY .....</b>	<b>3</b>
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**OPERATIONAL ENVIRONMENT**

Detainee Relations .....	8
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**ICE 2008 PERFORMANCE-BASED NATIONAL DETENTION STANDARDS**

Detention Standards Reviewed.....	9
Disciplinary System .....	10
Funds and Personal Property .....	12
Grievance System .....	14
Law Libraries and Legal Materials.....	16
Sexual Abuse and Assault Prevention and Intervention.....	18
Staff Detainee Communication.....	21

# 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

Management Program Analyst (Team Lead)	ODO
Inspections & Compliance Specialist	ODO
Inspections & Compliance Specialist	ODO
Contractor	Creative Corrections
Contractor	Creative Corrections
Contractor	Creative Corrections
Contractor	Creative Corrections

## EXECUTIVE SUMMARY

ODO conducted a compliance inspection of the Monroe County Detention Center (MCDC) in Key West, Florida, from August 12 to 14, 2014. MCDC, which opened in 1994, is owned by Monroe County and operated by the Monroe County Sheriff's Office. ERO began housing detainees at MCDC in February 1994 under an Intergovernmental Service Agreement contract. Male detainees of security classification level III are detained at the facility for periods in excess of 72 hours. The inspection evaluated MCDC's compliance with the 2008 PBNDS and the 2011 PBNDS Sexual Abuse and Assault Prevention and Intervention (SAAPI) standard.<sup>1</sup>

The ERO Field Office Director (FOD), in Plantation, Florida, is responsible for ensuring facility compliance with the 2008 PBNDS and ICE policies. An Assistant Field Office Director (AFOD), a Supervisory Immigration Enforcement Agent (SIEA), and an Immigration Enforcement Agent (IEA) oversee daily ICE operations at MCDC. There is no ERO Detention Service Manager assigned to the MCDC.

Capacity and Population Statistics	Quantity
Total Bed Capacity	601
ICE Detainee Bed Capacity	95
Average Daily Population	438
Average ICE Detainee Population	55
Average Length of Stay (Days)	33.8
Male Detainee Population Count (August 12, 2014)	47
Female Detainee Population Count	N/A

A Captain is responsible for oversight of daily facility operations and is supported by (b)(7)e deputies and (b)(7)s support personnel. Aramark provides food services and Armor Correctional Health Services provides medical services. The facility is accredited by the American Correctional Association, the National Commission on Correctional Health Care, and the Florida Corrections Accreditation Commission.

In June 2012, ODO conducted an inspection of MCDC under the 2000 NDS. ODO reviewed 16 standards and found MCDC compliant with eight standards. ODO found a total of 13 deficiencies in the remaining eight standards.

During this inspection ODO reviewed 16 PBNDS and found MCDC compliant with ten standards. ODO found a total of 14 deficiencies, six of which relate to priority components,<sup>2</sup> in the remaining six standards: Disciplinary System (1 deficiency), Funds and Personal Property (2), Grievance System (3), Law Libraries and Legal Material (2), Sexual Abuse and Assault Prevention and Intervention (4), and Staff-Detainee Communication (2). ODO made one recommendation<sup>3</sup> regarding facility policy and procedures and cited no best practices.

This report details all deficiencies and refers to the specific, relevant sections of the 2008 PBNDS. 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 MCDC and ERO management during the inspection and at a closeout briefing conducted on August 14, 2014.

<sup>1</sup> The facility signed a contract modification to incorporate the 2011 SAAPI standard on July 3, 2013.

<sup>2</sup> Deficient priority components were found in the following four standards: Disciplinary System (1), Grievance System (1), Sexual Abuse and Assault Prevention and Intervention (3), and Staff Detainee Communication (1).

<sup>3</sup> Recommendations will be annotated in the report as "R."

Intake deputies coordinate the admission and release of detainees in and out of the facility. ODO observed the deputies identify each newly arriving detainee and remove restraints. Property and funds are inventoried, detainees are screened by medical staff, and a Prison Rape Elimination Act (PREA) questionnaire is completed. Detainees are given the opportunity to shower and are provided with clothing and hygiene items. MCDC's orientation video is available in English and Spanish. Detainees are advised the facility handbook is accessed by way of the unit kiosk. ODO reviewed 20 files of detainees and verified all required intake documentation was present. A review of 20 files of detainees released from the facility confirmed compliance.

Detainees admitted to MCDC are processed and classified by ERO at the Krome Service Processing Center using ICE custody classification worksheets. According to ERO staff, only detainees classified as medium-high and high are transferred to MCDC. Procedures are in place for reclassifying detainees housed at MCDC for more than 60 days, following disciplinary action, or upon receipt of new information affecting the detainee's classification level. According to policy and staff, ERO is notified of detainee disciplinary actions for ICE reclassification purposes. Staff is trained in the classification system by MCDC's lead classification manager.

Sanitation levels during the inspection were very good. MCDC has a contract with Terminix International for pest control services. The facility has a system for storing, issuing, and maintaining inventories for hazardous materials. MCDC's fire and evacuation plan was approved by the City of Key West fire marshal on July 31, 2014. The fire marshal completed an annual inspection on February 18, 2014, and found compliance with all life safety codes. Documentation reflects environmental health and safety inspections are conducted weekly, and the safety officer conducts a monthly inspection. MCDC contracts with Med Waste Removal Services, Inc., for the collection and removal of biomedical waste.

ODO reviewed the facility handbook and found it does not include law library hours of operation, the procedure for requesting reference materials not located in the library, the procedure for notifying an employee of missing or damaged materials, or the instructions for Lexis/Nexis. The facility initiated corrective action during the course of the inspection. There is no notice in the law library that provides the required policies and procedures. The facility initiated corrective action during the course of the inspection.

ODO observed detainee property was inventoried during intake and the detainees signed the inventory form. Detainees are not issued receipts for funds placed in envelopes upon arrival, or thereafter, as a result they are not able to support a claim of discrepancy. Foreign currency is inventoried and placed in the detainee's property bag. ODO's review of the facility handbook found it does not provide detainees with required notice concerning identity documents placed in the their A-files, the rules for storing or mailing property not allowed in their possession, the procedure for claiming property upon release, transfer, or removal, or the procedures for filing a claim for lost or damaged property.

MCDC allows detainees to file both informal and formal grievances, as well as emergency and medical grievances. However, when oral grievances are resolved, facility staff does not document the result in the detainee's detention file. MCDC's handbook does not contain the required information about the opportunity to file a direct complaint about officer misconduct.

The facility initiated corrective action during the course of this inspection. There were 16 grievances filed in the 12 months preceding the inspection, none of which involved staff misconduct. ODO found five were medical grievances, five were deportation requests, three involved food service, and there was one each for property, the law library, and mail. All were resolved in a timely manner. All detainee grievances with dispositions are returned to the detainee and a copy is electronically sent to ERO. However, a copy of the grievance disposition is not placed in the facility's detainee detention file. This represents a deficient priority component.

Detainees at MCDC are not issued a hardcopy handbook; instead, they access the facility handbook by use of an electronic kiosk located in the detainee housing unit. This handbook is available in English, Spanish, and Creole. Upon initial use of the kiosk, each new detainee must acknowledge they have read the handbook. Additionally, during intake and orientation, detainees are notified the handbook is available in the dorm and on the kiosk. ODO reviewed 15 randomly selected files and found all contained a signed notification acknowledgement. The handbook is reviewed and revised when necessary each year by a committee consisting of (b)(7)e lieutenants and a program director, and approved by the captain. The MCDC facility handbook was last revised in February 2014.

MCDC has a disciplinary system and policy that provide guidelines for sanctions imposed on detainees who violate facility rules. The disciplinary policy encourages informal resolution of minor infractions. All incidents that are not informally resolved are sent to a shift sergeant for resolution. MCDC does not have a unit disciplinary committee or other intermediate level of adjudication for infractions of low and moderate severity. This represents a deficient priority component. The IDP adjudicated 34 incident reports in the 12 months preceding the inspection. ODO reviewed 15 randomly selected disciplinary reports and confirmed each was investigated within 24 hours, and the IDP hearing was conducted within 24 hours after the completion of the investigation.

All staff members and inmate workers were medically cleared to work in the food service operation. The main menu is a 28-day cycle and certified by a registered dietitian. MCDC has a satellite system of meal service. The trays were delivered to the housing units on carts under constant staff supervision. Food preparation and storage areas, the cooler, freezer and restrooms were clean and well organized during the inspection.

The Health Services Administrator (HSA), who is a registered nurse, manages MCDC health care operations on a full-time basis, and a contract physician is the designated clinical medical authority. The clinic is open seven days a week, 24 hours a day. Mental health services are provided by a contract psychiatrist on site once a week for four hours and a contract psychologist on site three times a week for two hours. Upon arrival at MCDC, detainees receive their initial medical, dental and mental health screening by nursing staff. All health appraisals reviewed by ODO were signed by a physician. In addition, general consent for treatment statements signed during intake was present in the records.

Detainees access health care services by completing written sick call requests printed in triplicate. The detainee keeps one copy and deposits the request in a locked box on the housing

unit. It is noted the health department provides sexually transmitted disease and HIV testing, to include pre- and post-test counseling.

MCDC's Special Management Unit (SMU) has two tiers with 32 double-occupancy cells and six single-occupancy cells. ODO observed padlocks are used to secure the showers and the telephone enclosure while in use. There was one detainee housed in the SMU during the inspection. The detainee was sanctioned with 30 days disciplinary segregation on July 19, 2014, for disrespecting staff, then received a subsequent incident report while confined. ODO determined 41 detainees were placed in the SMU during the 12 months preceding the inspection. Of the 41 detainees, eight were assigned to administrative segregation and 33 to disciplinary segregation. ODO reviewed documentation for the detainee housed in SMU at the time of the inspection, and documentation for 20 randomly selected prior SMU assignments. Segregation orders were completed and provided to the detainees in all cases, and required status reviews were conducted as required by the PBNDS.

Detainees have opportunities to interact informally with both ERO and MCDC staff. ERO staff visits the housing units every Thursday to address detainee questions and concerns. Detainee requests are generally responded to within 72 hours; however, ODO's review of 530 requests found 30 were not responded to within the required time and copies are not placed in detention files. ODO observed a secure dropbox for detainees is not available in the housing unit or in the SMU. This represents a deficient priority component.

ODO's review of the suicide prevention training plan confirmed all elements required by the standard are addressed. Inspection of all medical and (b)(7)(c) correctional staff confirmed documentation of current training in suicide prevention and intervention. There were no detainees on suicide watch at the time of the inspection. According to staff and based on review of documentation, ODO determined one detainee was placed on suicide watch in the 12 months preceding the inspection. A review of the detainee's medical record confirmed 15-minute monitoring checks and daily evaluations by medical or mental health staff were conducted. Per MCDC policy, only the psychiatrist and physician are authorized to discharge a detainee from suicide watch.

The facility signed a contract modification to incorporate the 2011 SA-API standard on July 3, 2013. ODO reviewed the facility's written policies and procedures and found it does not include the requirement that any allegation of sexual assault be reported immediately to ERO, or the requirement for coordination with OPR. This represents a deficient priority component. The facility initiated corrective action during the course of the inspection. There have been no cases of sexual assault involving detainees in the 12 months preceding the inspection according to the Joint Intake Center, ERO staff and facility staff. Procedures are in place in the event that a sexual assault does occur. MCDC screens detainees during intake for a history of sexual abuse victimization and for predatory history to identify potential sexual aggressors. ODO reviewed the staff training lesson plan and found it does not include several of the required components such as behavioral and emotional signs of sexual abuse and/or assault and ways to prevent such occurrences or the requirement to limit reporting of sexual abuse and assault to personnel with a need-to-know. This represents a deficient priority component. The facility initiated corrective action during the course of the inspection and added these requirements to the lesson plan. ODO reviewed the facility handbook and orientation materials and found they do not include several of



the required components such as prevention and intervention strategies and definitions and examples of sexual abuse. This represents a deficient priority component. The facility initiated corrective action during the course of the inspection and added this information to the handbook and placed the updated handbook on the kiosk. ODO also observed that the Sexual Assault Awareness Information pamphlets are also not posted anywhere or provided to detainees.

Detainees have access to telephones daily from 7:00 a.m. to 10:00 p.m. The telephone availability ratio is nine detainees per phone. Debit call rates range from \$0.30 per minute with a minimum \$2.25 surcharge for local calls; \$0.30 per minute with a minimum \$3.15 surcharge for interstate calls; and call rates for international calls are \$0.89 per minute with a minimum \$3.95 surcharge. Detainees are informed that telephone calls are subject to monitoring by the facility handbook and a recording played at the beginning of each call. ODO confirmed the listings for pro bono services, DHS OIG, consulates, and embassies were located in the detainee housing units and SMU.

MCDC's written use of force policy distinguishes between immediate and calculated use of force incidents and addresses all requirements of the standard. The facility does not have four or five point restraints but does have a restraint chair. MCDC uses (b)(7)e (b)(7)e The facility does not use tasers on ICE detainees. ODO's review of (b)(7)e randomly selected officers' training records confirmed completion of training in (b)(7)e as well as training in confrontation avoidance, blood borne pathogens, the use of force team technique, and cell extraction. There was one calculated and two immediate use of force incidents involving detainees in the 12 months preceding the inspection.

# OPERATIONAL ENVIRONMENT

## DETAINEE RELATIONS

ODO interviewed 20 randomly-selected male detainees to assess the conditions of confinement at MCDC. Interview participation was voluntary and none of the detainees expressed allegations of abuse, discrimination or mistreatment. The majority of detainees reported being satisfied with facility services; however, there were complaints about medical care, communication with ERO staff, and food service.

**Staff-Detainee Communication:** All of the detainees stated they know how to communicate or submit request forms to ICE officials. Some of the detainees stated that ERO staff is not seen every week in the housing unit and often comes every other week. Facility staff and a review of sign-in logs at the front entrance verified that ERO visits the facility weekly. There was also a general consensus among the detainees that if they file a request it will not be read or acknowledged by ERO. ODO noted that secure drop boxes intended for communication between detainees and ERO personnel are not located in the detainee housing units or the SMU. ODO cited this as a deficiency under the Staff-Detainee Communication standard.

**Food Service:** The majority of the detainees complained that the food quality at MCDC is poor, has small portions, and arrives at the housing unit cold. ODO looked into the issue and found that none of these complaints are justified by what was observed.

**Medical Care:** Twelve detainees raised concern with ODO about health care at the MCDC. ODO looked into each issue and found that none of these complaints was supported by documentation and in all cases detainees were receiving adequate medical treatment.

## **ICE 2008 PERFORMANCE-BASED NATIONAL DETENTION STANDARDS**

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

1. Admission and Release
2. Classification System
3. Environmental Health and Safety
4. Detainee Handbook<sup>4</sup>
5. Food Service
6. Medical Care
7. Special Management Units
8. Suicide Prevention and Intervention
9. Telephone Access
10. 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 14 deficiencies in the following six standards.

1. Disciplinary System
2. Funds and Personal Property
3. Grievance System
4. Law Libraries and Legal Material
5. Sexual Abuse and Assault Prevention and Intervention (2011 PBNDS)
6. Staff-Detainee Communication

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

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<sup>4</sup> The Detainee Handbook standard was found compliant; however, deficiencies related to the detainee handbook are provided under Deficiencies GS-1, F&PP-1, and LL&LM-2.

## **DISCIPLINARY SYSTEM (DS)**

ODO reviewed the Disciplinary System standard at MCDC 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 2008 PBNDS. ODO interviewed staff and reviewed policy, disciplinary records, and the MCDC facility handbook.

ODO confirmed MCDC's disciplinary system is described in facility policy. Prohibited acts are classified as levels one through ten with level one being the most serious. The facility handbook describes the disciplinary process and lists the sanctions for each level of infraction. The handbook also addresses detainee rights, including the right to appeal disciplinary sanctions.

The MCDC policy encourages informal resolution of minor infractions. The discipline process starts with preparation of a report by the staff member observing the incident. The incident report is forwarded to the shift sergeant for review, investigation and determination of whether informal resolution is appropriate. ODO's interviews with staff and review of documentation found if the sergeant does not informally resolve the incident, the detainee is scheduled for a hearing before the institution disciplinary panel (IDP). MCDC does not have a unit disciplinary committee or other intermediate level of adjudication for infractions of low and moderate severity (**Deficiency DS-1**).<sup>5</sup>

According to the disciplinary hearing log provided to ODO, 34 incident reports were adjudicated by the IDP in the 12 months preceding the inspection. ODO reviewed 15 randomly selected disciplinary reports and confirmed each was investigated within 24 hours, and the IDP hearing was conducted within 24 hours after the completion of the investigation. The sanctions ranged from two to 30 days per infraction, with credit given for time spent in disciplinary segregation prior to adjudication. No logs documenting infractions informally resolved were available for review.

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

### **DEFICIENCY DS-1**

In accordance with the ICE 2008 PBNDS, Disciplinary System, section (V)(F), the FOD must ensure, "All facilities shall establish an intermediate level of investigation/adjudication process to adjudicate low or moderate infractions.

The UDC administering unit discipline shall be comprised of one to three members, at least one of whom is a supervisor.

The UDC shall not include the reporting officer, the investigating officer, or an officer who witnessed or was directly involved in the incident. Only in the unlikely event that practically every available officer witnessed or was directly involved in the incident may an exception occur.

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<sup>5</sup> Priority Component.

The UDC shall conduct hearings and, to the best extent possible, informally resolve cases involving High Moderate or Low Moderate charges in accordance with the list of charges and related sanctions noted as Attachment A of this Standard. Unresolved cases and cases involving serious charges are forwarded to the Institution Disciplinary Panel.”

## FUNDS AND PERSONAL PROPERTY (F&PP)

ODO reviewed the Funds and Personal Property standard at MCDC to determine if controls are in place to inventory, receipt, store and safeguard detainees' personal property, in accordance with the ICE 2008 PBNDS. ODO interviewed staff, reviewed policies and procedures, and observed the processing of detainees.

ODO observed detainee property was inventoried during intake and the detainees signed the inventory form. Copies of the inventory forms were placed in the property bags, issued to the detainees, and included in the detention files. Property was placed in property bags clearly marked with each detainee's name and A-number, and stored in the secure property room in numerical order. ODO's inspection found the property room was well-organized and clean.

Detainees are not authorized to keep money in their possession. During review of the intake process, ODO observed cash was counted by (b)(7) staff members in each detainee's presence. The cash was sealed in an envelope labeled with the detainee's name and A-number, and the total was recorded on an envelope. The officers and the detainee signed the envelope acknowledging the recorded amount was correct, and then the envelope was placed in a secure cash drawer. At the end of the shift, an officer retrieved all envelopes from the cash drawer and established detainee accounts using the kiosk system, entering the amount recorded on the envelopes. The envelopes were then placed in a secure drop safe in the property room for retrieval by accounting staff at the end of each week. It is noted detainees are not issued receipts for funds placed in envelopes upon arrival, or thereafter (**Deficiency F&PP-1**). Detainees may access the amount initially deposited in the account by way of the kiosk, but because a receipt was not issued at the time funds are counted, they are not able to support a claim of discrepancy. Foreign currency is not deposited in detainee accounts; rather, it is inventoried and placed in the detainee's property bag.

ODO confirmed MCDC has policies addressing inventories of detainees' personal property. Inspection of documentation confirmed quarterly audits are conducted.

ODO's review of the facility handbook found it does not provide detainees with required notice concerning identity documents placed in their A-files, the rules for storing or mailing property not allowed in their possession, the procedure for claiming property upon release, transfer, or removal, and the procedures for filing a claim for lost or damaged property (**Deficiency F&PP-2**).

## STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

### DEFICIENCY F&PP-1

In accordance with the ICE 2008 PBNDS, Funds and Personal Property, section (V)(A), the FOD shall ensure, "All detention facilities are required to have written policies and procedures to:

- Account for and safeguard detainee property from time of admission until date of release;
- Inventory and receipt detainee funds and valuables."

**DEFICIENCY F&PP-2**

In accordance with the ICE 2008 PBNDS, Funds and Personal Property, section (V)(C) the FOD shall ensure, “The detainee handbook or equivalent shall notify the detainees of facility policies and procedures concerning personal property, including:

- That upon request, they shall be provided an ICE/[ERO]-certified copy of any identity document (passport, birth certificate, etc.) placed in their A-files;
- The rules for storing or mailing property not allowed in their possession;
- The procedure for claiming property upon release, transfer, or removal;
- The procedures for filing a claim for lost or damaged property.”

## GRIEVANCE SYSTEM (GS)

ODO reviewed the Grievance System 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 2008 PBNDS. ODO reviewed detention files, logbooks, policies, and the facility handbook, and interviewed staff.

The facility's handbook provides notice to detainees of the opportunity to file a formal and informal grievance, the procedures for filing a grievance and appeal, and the policy prohibiting staff from retaliating against any detainee for filing a grievance. MCDC's handbook does not contain the required information about the opportunity to file a direct complaint about officer misconduct to the Department of Homeland Security Inspector General (**Deficiency GS-1**). The facility initiated corrective action during the course of this inspection.

MCDC allows detainees to file both informal and formal grievances, as well as emergency and medical grievances. Facility personnel stated that when oral grievances are resolved, the employee does not document the result for the record in the detainee's detention file (**Deficiency GS-2**).

Grievance forms are available in each dorm, and may be requested by contacting the unit/dorm deputy. Detainees may obtain assistance in completing a grievance from facility staff or another detainee. The facility will forward all grievances, including those alleging staff misconduct, to ERO. MCDC has established an appeals process for formal grievances.

MCDC maintains a detainee grievance log which includes the date of the grievance, nature of the grievance, and the date the grievance was resolved. All detainee grievances with dispositions are returned to the detainee and a copy is electronically sent to ERO. However, a copy of the grievance disposition is not placed in the facility's detainee detention file (**Deficiency GS-3**).<sup>6</sup>

ODO's review of MCDC's detainee grievance log confirmed it was current and included the grievance number, nature of the grievance, and the date it was received and responded to. There were 16 grievances filed in the 12 months preceding the inspection, none of which involved staff misconduct. ODO found five were medical grievances, five were deportation requests, three involved food service, and there was one each for property, the law library, and mail. All were resolved in a timely manner. ODO found the grievances involved miscellaneous issues and no pattern or trend was otherwise observed.

## STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

### DEFICIENCY GS-1

In accordance with ICE 2008 PBNDS, Grievance System, section (V)(B), the FOD must ensure, "The facility shall provide each detainee, upon admittance, a copy of the Detainee Handbook / local supplement, in which the grievance section provides notice of:

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<sup>6</sup> Priority Component



- The opportunity to file a complaint about staff misconduct, physical or sexual abuse, or civil rights violations at any point directly to the Department of Homeland Security Inspector General by calling (800) 323-8603 or by writing to:

Department of Homeland Security  
Washington, DC 20528  
Attn: Office of the Inspector General”

**DEFICIENCY GS-2**

In accordance with ICE 2008 PBNDS, Grievance System, section (V)(C)(1), the FOD must ensure, “If an oral grievance is resolved, the employee need not provide the detainee written confirmation of the outcome but shall document the result for the record in the detainee’s Detention File and in any logs or data systems the facility has established to track such actions.”

**DEFICIENCY GS-3**

In accordance with ICE 2008 PBNDS, Grievance System, section (V)(E), the FOD must ensure, “A copy of the grievance disposition shall be placed in the detainee’s detention file and provided to the detainee.”

## **LAW LIBRARIES AND LEGAL MATERIAL (LL&LM)**

ODO reviewed the Law Libraries and Legal Material standard at MCDC to determine if detainees have access to a law library, legal materials, courts, counsel and document copying equipment to facilitate the preparation of legal documents, in accordance with the ICE 2008 PBNDS. ODO observed the law library, interviewed staff and detainees and reviewed policies as well as the facility handbook.

MCDC has a designated law library in a separate room inside of the detainee housing unit. The room is equipped with two computers, one printer, and one copy machine. At the time of the inspection one of the computers and the copy machine were broken. ERO submitted a work order during the inspection to have the computer fixed and the facility contacted the contractor to fix the copy machine. ODO noted that the one computer that worked did not have a functioning Lexis/Nexis program. ODO informed ERO of this issue and ERO downloaded the program again and corrected the issue.

The administrative lieutenant is responsible for conducting weekly checks of the law library and will inform ERO of any issue or shortage in supplies. ERO is responsible for the maintenance and replenishment of equipment and supplies. MCDC does not allow stamps in the facility and ERO is responsible for providing stamps, envelopes and access to a notary. After interviewing detainees, reviewing requests and grievances and reviewing the facility handbook, ODO noted that this information is not clearly presented to detainees. Several of the detainees did not know who to request stamps from or how to access a notary for legal mail. ODO recommends that this information be put in the facility handbook to inform all detainees of the specific facility procedures regarding legal mail and access to supplies (**R-1**). The facility initiated corrective action during the course of the inspection and added this information to the facility handbook.

Detainees in the general population housing unit have access to the law library when they are not on lockdown. Detainees in SMU have access to the law library by submitting a request and can use the room from 12:00 p.m.-1:00 p.m., 4:00 p.m.-5:30 p.m. and 11:00 pm-1:00 a.m., when the general population detainees are on lockdown.

ODO reviewed the facility handbook and found it does not include law library hours of operation, the procedure for requesting reference materials not located in the library, the procedure for notifying an employee of missing or damaged materials, or the instructions for Lexis/Nexis (**Deficiency LL&LM-1**). The facility initiated corrective action during the course of the inspection. There is no notice in the law library that provides the required policies and procedures (**Deficiency LL&LM-2**). The facility initiated corrective action during the course of the inspection.

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

### **DEFICIENCY LL&LM-1**

In accordance with the ICE 2008 PBNDS, Law Libraries and Legal Material, section (V)(O)(2)(5)(6)(8), the FOD must ensure, "The Detainee Handbook or supplement shall provide detainees with the rules and procedures governing access to legal materials, including the following information:

2. The scheduled hours of access to the law library;
5. The procedure for requesting legal reference materials not maintained in the law library; and
6. The procedure for notifying a designated employee that library material is missing or damaged.
8. If applicable, that Lexis/Nexis is being used at the facility and that instructions for its use are available.”

**DEFICIENCY LL&LM-2**

In accordance with the ICE 2008 PBNDS, Law Libraries and Legal Material, section (V)(O), the FOD must ensure, “The Detainee Handbook or supplement shall provide detainees with the rules and procedures governing access to legal materials, including the following information:

1. That a law library is available for detainee use;
2. The scheduled hours of access to the law library;
3. The procedure for requesting access to the law library;
4. The procedure for requesting additional time in the law library (beyond the 5- hours-per-week minimum);
5. The procedure for requesting legal reference materials not maintained in the law library; and
6. The procedure for notifying a designated employee that library material is missing or damaged.
7. Required access to computers, printers, and other supplies.
8. If applicable, that Lexis/Nexis is being used at the facility and that instructions for its use are available.

These policies and procedures shall also be posted in the law library along with a list of the law library’s holdings.”

## **SEXUAL ABUSE AND ASSAULT PREVENTION AND INTERVENTION (SAAPI)**

ODO reviewed the Sexual Abuse and Assault Prevention and Intervention (SAAPI) standard at MCDC to determine if the facility acts to prevent sexual abuse and assaults on detainees, provides prompt and effective intervention and treatment for victims of sexual abuse and assault, and controls, disciplines, and prosecutes the perpetrators, in accordance with the ICE 2011 PBNDS. ODO reviewed policies and procedures, the facility handbook, the SAAPI training curriculum and staff training records, and interviewed staff and detainees.

The facility signed a contract modification to incorporate the 2011 SAAPI standard on July 3, 2013. The administrative lieutenant is the designated PREA Coordinator for the facility. ODO reviewed the facility's written policy and found it does not include the requirement that any allegation of sexual assault be reported immediately to ERO, and the requirement for coordination with the ICE Office of Professional Responsibility for investigation or referral of incidents of sexual assault to another investigative agency (**Deficiency SAAPI-1**).<sup>7</sup> The facility initiated corrective action during the course of the inspection and added these requirements to its written policies and procedures.

ODO reviewed the staff training lesson plan and found it does not include agency prohibitions on retaliation against detainees and staff who report sexual abuse; instruction that sexual abuse and/or assault is never an acceptable consequence of detention; recognition of situations where sexual abuse or assault may occur; recognition of the physical, behavioral and emotional signs of sexual abuse or assault and ways to prevent such occurrences; the requirement to limit reporting of sexual abuse and assault to personnel with a need-to-know in order to make decisions concerning the detainee-victim's welfare, and for law enforcement or investigative purposes; prevention, recognition and appropriate response to allegations or suspicions of sexual assault involving detainees with mental or physical disabilities; instruction on reporting knowledge or suspicion of sexual abuse or assault and making intervention referrals to the facility's program; and instruction on documentation and referral procedures of all allegations or suspicion of sexual abuse or assault (**Deficiency SAAPI-2**).<sup>8</sup> The facility initiated corrective action during the course of the inspection and added these requirements to the lesson plan.

ODO reviewed the facility handbook and orientation and found it does not include prevention and intervention strategies; definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse, or coercive sexual activity; explanation of methods for reporting sexual abuse or assault, including the OIG and ICE investigation processes; information about self-protection and indicators of sexual abuse; prohibition against retaliation, including an explanation that reporting an assault shall not negatively impact the detainee's immigration proceedings; and the right of a detainee who has been subjected to sexual abuse or assault to receive treatment and counseling (**Deficiency SAAPI-3**).<sup>9</sup> The facility initiated corrective action during the course of the inspection and added this information to the handbook and placed the updated handbook on the kiosk.

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<sup>7</sup> Priority Component.

<sup>8</sup> Priority Component.

<sup>9</sup> Priority Component.

There have been no reported detainee allegations of sexual assault or abuse within the past year according to the Joint Intake Center, ERO staff and facility staff. MCDC screens detainees during intake for a history of victimization and to identify potential sexual aggressors. ODO observed the ICE sexual assault poster hung in the detainee housing unit but noted there is an older version of the poster located in the SMU. The Sexual Assault Awareness Information pamphlets are also not posted anywhere or provided to detainees (**Deficiency SA-API-4**). The facility initiated corrective action during the course of the inspection. MCDC has a contract with the Lower Keys Center and the Rape Crisis Center to provide medical and counseling support to any victims of sexual assault. The centers can also provide forensic exams.

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

### **DEFICIENCY SA-API-1**

In accordance with the ICE 2011 PBNDS, Sexual Abuse and Assault Prevention and Intervention, section (V)(A), the FOD must ensure, “Each facility administrator shall have written policy and procedures for a Sexual Abuse or Assault Prevention and Intervention Program that includes, at a minimum:

3. the requirement that any allegation to staff of sexual assault or attempted sexual assault be reported immediately to a supervisor and to ERO;
6. the requirements for coordination with the ICE Office of Professional Responsibility (OPR) for investigation or referral of incidents of sexual assault to another investigative agency, and discipline and prosecution of assailants (see “Appendix 2.11.C: Sexual Assault Awareness” in this standard).”

### **DEFICIENCY SA-API-2**

In accordance with the ICE 2011 PBNDS, Sexual Abuse and Assault Prevention and Intervention, section (V)(E), the FOD must ensure, “Training shall include:

2. agency prohibitions on retaliation against detainees and staff who report sexual abuse;
3. instruction that sexual abuse and/or assault is never an acceptable consequence of detention;
4. recognition of situations where sexual abuse and/or assault may occur;
5. recognition of the physical, behavioral and emotional signs of sexual abuse and/or assault and ways to prevent such occurrences;
6. the requirement to limit reporting of sexual abuse and assault to personnel with a need-to-know in order to make decisions concerning the detainee-victim’s welfare, and for law enforcement/investigative purposes;
8. prevention, recognition and appropriate response to allegations or suspicions of sexual assault involving detainees with mental or physical disabilities;
9. instruction on reporting knowledge or suspicion of sexual abuse and/or assault and making intervention referrals to the facility’s program; and
10. instruction on documentation and referral procedures of all allegations or suspicion of sexual abuse and/or assault.”

### **DEFICIENCY SAAPI-3**

In accordance with the ICE 2011 PBNDS, Sexual Abuse and Assault Prevention and Intervention, section (V)(F), the FOD must ensure, “Following the intake process, the facility shall provide instruction to detainees on the facility’s Sexual Abuse and Assault Prevention and Intervention Program and ensure that such instruction includes (at a minimum):

2. prevention and intervention strategies;
3. definitions and examples of detainee-on detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity;
4. explanation of methods for reporting sexual abuse or assault, including the DHS/OIG and the ICE/OPR investigation processes;
5. information about self-protection and indicators of sexual abuse;
6. prohibition against retaliation, including an explanation that reporting an assault shall not negatively impact the detainees immigration proceedings; and
7. right of a detainee who has been subjected to sexual abuse or assault to receive treatment and counseling.”

### **DEFICIENCY SAAPI-4**

In accordance with the ICE 2011 PBNDS, Sexual Abuse and Assault Prevention and Intervention, section (V)(F), the FOD must ensure, “ICE/ERO has provided a sexual assault awareness notice to be posted on all housing-unit bulletin boards, as well as a “Sexual Assault Awareness Information” pamphlet to be distributed.”

## 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 2008 PBNDS. ODO interviewed staff and detainees, toured and observed housing units, and reviewed ERO visitation records and Facility Liaison Visit Checklists.

The Miami Field Office and the MCDC have policies and procedures on staff detainee communication and adhere to the 2008 PBNDS. An SIEA and (b)(7)e IEAs have frequent, formal and informal access to and interaction with detainees. ERO staff stated although DOs are assigned the case management duties at MCDC, they do not physically visit the facility to interact with detainees.

An SIEA conducts weekly unannounced, unscheduled visits to the MCDC. These visits are documented in the facility's front entrance log books. Through interviews, detainees confirmed interacting with the SIEA during those visits. IEAs from the Krome SPC visit the facility on a weekly basis, usually on Thursdays. Visitation schedules are posted in the kiosk located in the detainee housing unit. A majority of detainees interviewed stated the IEA visits are consistent with the posted schedule in the kiosk. Visits by ERO non-supervisory staff are documented by facility liaison checklists, MCDC front entrance log books and in the detainee housing unit log.

Detainees may submit written requests or concerns to ICE ERO staff using an ICE-specific form available from the housing unit officer's desk. All completed requests are returned to the housing unit officer, who then forwards all ICE related requests to Krome SPC for processing. Upon completion, the requests are emailed back to the facility and given to the detainee by MCDC staff. A copy of the request is placed in the detainee's A-File, which is kept at Krome SPC.

Facility staff stated if a detainee's request pertains to the MCDC it may be resolved by the housing unit officer or passed on to a shift supervisor for resolution. A copy of the facility related requests are faxed or emailed to ERO staff at Krome SPC. ODO observed a secure dropbox for detainees was not available in the housing unit or in the SMU (**Deficiency SDC-1**).<sup>10</sup> Per the PBNDS, a dropbox shall be provided for detainees to correspond directly with ICE management, and only ICE personnel shall have access.

ERO maintains an electronic log containing the minimum information required by the standard. ODO reviewed 530 requests submitted in December 2013 through August 2014 and found 30 were responded to in excess of the 72-hour time frame as required by the standard (**Deficiency SDC-2**). The requests related to an array of topics such as: detainee's immigration case status, expedited removal, bond, citizenship information, return to Krome, and need for legal help.

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<sup>10</sup> Priority Component.

OIG informational posters were located on a bulletin board in the detainee housing units and the SMU. ERO tests telephones weekly and documents the results on a telephone serviceability worksheet.

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

### **DEFICIENCY SDC-1**

In accordance with ICE 2008 PBNDS, Staff-Detainee Communication, section (V)(B), the FOD must ensure, “ the facility shall provide a secure dropbox for ICE detainees to correspond directly with ICE management. Only ICE personnel shall have access to the dropbox.”

### **DEFICIENCY SDC-2**

In accordance with ICE 2008 PBNDS, Staff-Detainee Communication, section (V)(B)(1)(b), the FOD must ensure, “ Each detainee request shall be forwarded to the ICE/ERO office of jurisdiction within two business days and answered as soon as possible and practicable, in person or in writing, but no longer than within three business days of receipt.”