



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
Seattle Field Office
Northwest Detention Center
Tacoma, Washington**

June 24–26, 2014

**Amended report as of September 8,
2014**

This report has been amended due to inaccurate information that appeared on pages 20 and 23 of this report. The detention status of pregnant female detainees provided medical care was clarified in the Medical Care standard under footnote three. More information was added under the Medical Care-Women standard to address the detention status for a pregnant detainee being held in ICE custody under footnote seven. No other changes were made to this report.

**COMPLIANCE INSPECTION
NORTHWEST DETENTION CENTER
SEATTLE 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.

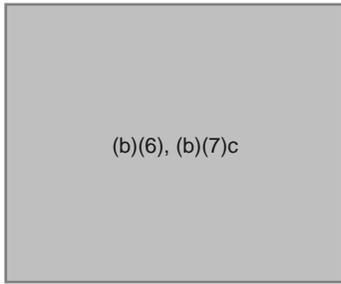
Prior to an inspection, ODO reviews information from various sources, including the Joint Intake Center (JIC), Enforcement and Removal Operations (ERO), detention facility management, and other program offices within the U.S. Department of Homeland Security (DHS). Immediately following an inspection, 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



Detention Deportation Officer (Team Lead)	ODO
Special Agent	ODO
Management and Program Analyst	ODO
Contractor	Creative Corrections

EXECUTIVE SUMMARY

ODO conducted a compliance inspection of the Northwest Detention Center (NWDC) in Tacoma, Washington, from June 24 to 26, 2014. NWDC, which opened in 2004, is owned and operated by GEO Group, Inc. ERO began housing detainees at NWDC in April 2004 under an intergovernmental service agreement (IGSA) between ICE and GEO. 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 NWDC’s compliance with the 2011 PBNDS.

The ERO Field Office Director (FOD), in Seattle, Washington, is responsible for ensuring facility compliance with the 2011 PBNDS and ICE policies. (b)(7)e Assistant Field Office Director (AFOD) (b)(7)e Supervisory Detention and Deportation Officers, (b)(7)e Deportation Officers, (b)(7)e Immigration Enforcement Agents, and (b)(7)e Detention Service Manager support ERO operations.

Capacity and Population Statistics	Quantity
Total Bed Capacity	1575
ICE Detainee Bed Capacity	1575
Average Daily Population	1362
Average ICE Detainee Population	1362
Average Length of Stay (Days)	71
Male Detainee Population (as of 06/23/2014)	1276
Female Detainee Population (as of 06/23/2014)	168

The Warden is the highest-ranking official at NWDC and is responsible for oversight of daily operations. (b)(7)e contract staff members supported NWDC management at the time of inspection. GEO Group Inc. provides food services, and ICE Health Service Corps (IHSC) provides medical services. NWDC holds accreditation from the National Commission on Correctional Healthcare (NCCHC).

In January 2012, ODO conducted an inspection of NWDC under the 2008 PBNDS. Of the 15 standards reviewed by ODO, 13 were in full compliance. ODO cited three deficiencies in the remaining two standards.

During this inspection, ODO reviewed 20 standards and found NWDC compliant with 11 standards. ODO found a total of 20 deficiencies, seven of which relate to priority components,¹ in the remaining nine standards: Admission and Release (3 deficiencies), Disciplinary System (1) Food Service (3), Grievance System (2), Medical Care (5), Medical Care Women (1), Sexual Abuse and Assault Prevention and Intervention (1), Special Management Units (3), and Telephone Access (1). ODO made one recommendation in this report.

This report details all deficiencies and refers to specific, relevant sections of the 2011 PBNDS. ERO will be provided a copy of this report to assist in developing corrective actions to resolve all identified deficiencies. ODO discussed preliminary deficiencies with ERO and NWDC staff during the on-site inspection and at a subsequent closeout briefing conducted on June 26, 2014.

¹ Deficient priority components were found in the following five standards: Food Service, Grievance System, Medical Care, Medical Care (Women), and Special Management Units.

Upon admission at NWDC, detainees are searched, fingerprinted, photographed, screened and issued bedding, clothing and hygiene items. Strip searches are only conducted when there is reasonable suspicion. ODO identified a transgender detainee who was strip searched on April 9, 2014, without the presence of medical staff. Detainees receive medical, mental health and sexual abuse and assault screenings and are issued the appropriate clothing, linens, hygiene items and handbooks. Women receive four bras and feminine hygiene items. Four showers are available in the intake area; however, detainees are not offered showers prior to being transferred to their assigned housing unit. Upon admission, all detainees receive a detainee and facility handbook and an orientation that covers facility rules, visitation procedures, telephone access and the Prison Rape Elimination Act (PREA).

According to ERO staff, detainees are transferred for operational purposes, such as addressing overcrowding, change of court venue, and legal representation. ODO reviewed 15 A-files and corresponding detention files for detainees processed out of the facility during the inspection. All files contained transfer notification, checklist, transfer medical summary (USM 553), and signed forms acknowledging receipt of personal property and funds. Medical files and medication were transferred with the detainees. Both ERO and NWDC staff stated information about transfers is not disclosed to detainees until immediately prior to leaving the sending facility for security reasons.

NWDC has a satellite meal service system. GEO food service staff is supported by (b)(7) detainees, who are paid \$1 daily. Menus are certified by a registered dietician and average 3,000 calories per day. Medical and religious diets are available and approved by the dietician. NWDC uses a 42-day menu cycle to provide a variety of food items, exceeding the 2011 PBNDS requirement for a 37-day menu cycle. During the inspection, preparations were being made for Ramadan. ODO found boxes in the dry storage area were stacked beyond the 18-inch clearance beneath the sprinkler deflectors and the three-compartment sink used for washing, rinsing, and sanitizing was unlabeled.

During inspection of the detainee restrooms, ODO observed trash on the floor, and there was no trash receptacle, no hand soap in the dispenser, and no paper towels available. In addition, the paper towel holder was missing the cover and there were no signs reminding detainees to wash their hands prior to returning to work in the kitchen.

NWDC's grievance policy addresses all requirements of the 2011 PBNDS, with the exception of two items: 1) a written policy to ensure all medical grievances are received by the administrative health authority within 24 hours or the next business day, with a response from medical staff within five working days; and 2) a special procedure for time sensitive, emergency grievances, including having a mechanism by which emergency medical grievances are screened as soon as practicable by appropriate staff.

NWDC has a policy and procedure in place allowing detainees access to courts, counsel, and comprehensive legal materials. The law library is located in a designated room near the housing units and provides sufficient space to facilitate legal research and writing. Detainees, including those in Special Management Units (SMU), are afforded a minimum of five hours per week during designated library hours, and can request additional time if needed. The library contains a sufficient number of tables and chairs in a well-lit room, reasonably isolated from noisy areas.

Ten desktop computers equipped with LexisNexis, a typewriter, and supplies are available to support legal research and case preparation. Three additional computers are located in a separate room near the housing units. All computers contained a current version of LexisNexis and word-processing software. Detainees have access to paper, writing utensils, and envelopes. Legal documents are printed through request and the assistance of a staff member.

The medical clinic is staffed 24-hours a day, seven days a week by IHSC. Sanitation of the NWDC medical clinic was at a high level at the time of the inspection. Detainees in general population have access to health care via the sick call process. Nurses conduct face-to-face triage, entering their notes directly in the electronic medical record. Referrals are forwarded to providers electronically based on urgency of need, and IHSC physician-approved nursing protocols are followed for non-urgent healthcare needs. Detainees in the Special Management Units access health care by completing hand-written sick call request forms, available in English and Spanish, and turning them in to an officer. Sick call requests are collected from the officer by nurses during daily rounds. Officer involvement in this process violates patient confidentiality, because medical information is recorded on the forms. Some health appraisals were not cosigned by the clinical medical authority. One detainee's mental health referral was not evaluated within 72 hours; rather, the evaluation was completed in seven days. Further, review of medical records for female detainees showed none was offered an evaluation and assessment of the reproductive system at any point during their detention at NWDC, to include a pelvic and/or breast examination, pap test, baseline mammography or screening for sexually transmitted diseases.

NWDC has a comprehensive written policy addressing the prevention, reporting, and investigation of sexual assaults. The policy includes a zero-tolerance statement that any sexual conduct between detainees, and detainees and staff, volunteers and contract staff, regardless of consent, is strictly prohibited. Detainees are notified of the SAAPI program via the facility handbook, a brochure, and an orientation video. Facility staff, volunteers, and contractors receive training in sexual assault and abuse prevention and intervention, including procedures for reporting incidents and allegations. NWDC does not have a designated multi-disciplinary team to respond to sexual assault and abuse incidents. PREA and Department of Homeland Security Office of Inspector General Hotline posters were not posted in all areas accessible to detainees.

According to NWDC's SAAPI coordinator, 26 incidents of reported sexual abuse/assault were reported since June 2013. None involved staff-on-detainee assault. ERO staff produced Significant Incident Reports (SIR) for all 26 incidents; however, only six cases appeared in the OPR Joint Integrity Case Management System (JICMS). ERO staff was of the understanding that submission of a SIR automatically creates an entry of reportable SAAPI allegations into the JIC.

According to IHSC staff at NWDC, 15 detainees were on suicide watch in the 12 months preceding the inspection. A detainee attempted to hang himself on March 24, 2014, and was hospitalized as a result. Review of suicide watch documentation for five randomly-selected detainees confirmed 15-minute checks were documented by officers, clinical staff recorded monitoring checks at least every eight hours, and mental health professionals conducted daily evaluations. Change of status from constant to 15-minute monitoring, and authorization of discontinuation of suicide watch status was made by mental health professionals only, following

suicide risk assessment. Review of the training records of all medical staff and (b)(7) randomly-selected correctional staff confirmed training in suicide prevention and intervention is completed upon hire and annually thereafter. The training curriculum covers all topics required by the 2011 PBNDs.

ERO has permanently-assigned ERO staff on site at NWDC; and detainees have frequent informal contact with ERO staff. ERO staff conducts regularly scheduled and unannounced visits to the housing units weekly. Written schedules are posted within detainee living areas and in other areas accessible to detainees. Detainees may submit ICE-related written questions, requests, and concerns to ERO staff, and there is written procedure regarding the routing of detainee requests to appropriate ICE officials.

NWDC maintains a tracking log for documenting disciplinary incidents and outcomes. Review of the log found 202 disciplinary actions since January 1, 2014. ODO's review of documentation in 25 randomly-selected disciplinary cases confirmed investigations were completed within the required 24 hours. In 25 of the total 202 disciplinary cases, detainees were released from the facility prior to hearings. Of the remaining cases, the Unit Disciplinary Committee (UDC) adjudicated 51, and 126 cases were adjudicated by the Institution Disciplinary Panel (IDP). One hundred and eleven of the 126 cases adjudicated by the IDP were not processed through the UDC.

NWDC's H-2 unit is the designated SMU for male detainees assigned to administrative and disciplinary segregation, with separation afforded by cell assignment. Documentation reflects there were 776 assignments to segregation in the past year: 515 to administrative segregation and 261 to disciplinary segregation.

Eleven male detainees were on administrative segregation during the inspection: three for protective custody, six for security reasons, and two pending disciplinary hearings. One of the detainees on protective custody was assigned to this status upon request on June 27, 2013; the other two were placed on protective custody within the 30 days preceding the inspection. Of the six detainees assigned to administrative segregation for security reasons, five were placed on this status within the 30 days preceding the inspection, and the sixth on June 19, 2013.

Five detainees were serving disciplinary segregation sanctions during the inspection: three were sanctioned with 30 days for fighting, one was serving 30 days for threatening staff, and one was serving 20 days, also for threatening staff. One of the two detainees segregated pending a disciplinary hearing was found not guilty of assault and was returned to general population during the inspection. The second detainee pending a disciplinary hearing was charged with damaging his walker. No documentation existed to support that the alleged action posed a threat to the safety of staff, detainees, or other property, or to support that segregation of the detainee was necessary to prevent further violation of rules or to protect the security and orderly operation of the facility. Documentation showed all 11 detainees in segregation received required status reviews and services mandated by the standard and facility policy.

ODO reviewed documentation for 50 randomly-selected detainees assigned to administrative segregation in the 12 preceding months. All documentation confirmed segregation orders were completed and provided to the detainees; however, review of the orders found 12 did not detail

the justification for segregation. Further, NWDC's policy mandates placement of transgender detainees in segregation, with no requirement for exploration of other housing options.

ODO verified detainees have reasonable and equitable access to telephones at NWDC. ODO confirmed the listings for pro bono services, DHS Office of Inspector General, consulates, and embassies were located in each housing unit. The facility also provides a TTY if needed.

NWDC staff conducts daily telephone inspections, and ERO staff inspects telephones weekly. ODO verified serviceability checks by reviewing facility and ERO logbooks, and serviceability worksheets.

Notifications that calls are subject to monitoring were posted near the telephones, and a recorded message on each telephone indicates the same. The detainee handbook informs how to request an unmonitored call to legal services, however, there is no notice placed at each monitored telephone noting the procedure for obtaining an unmonitored call to a court, a legal representative or for purposes of obtaining legal representation.

NWDC has a comprehensive written policy governing the use of force. Twenty-six use-of-force incidents occurred at NWDC in the 12 months preceding the inspection, including 11 calculated and 15 immediate. Confrontation avoidance is emphasized in policy and in the training curriculum. Any calculated use of force or restraints or use of chemical agents requires advance approval by NWDC administration, medical staff, and ERO staff assigned to the facility. Officers are trained in the use-of-force team technique during pre-service and annual training, as verified by a review of (b)(7) randomly-selected training files. The facility's Correctional Emergency Response Team is comprised of (b)(7) specially trained officers. Two hand-held video cameras are available for recording calculated use-of-force incidents. Any video recorded by stationary security cameras positioned throughout the facility is secured and reviewed following a use-of-force incident. Written and video documentation confirmed detainees were medically examined after the incidents, ERO was notified, and NWDC's After-Action Review Board conducted analyses of the incidents.

OPERATIONAL ENVIRONMENT

DETAINEE RELATIONS

ODO interviewed 40 randomly-selected ICE detainees (eight Level I males; six Level II males; 16 Level III males; and five Level I and five Level II females) to assess the conditions of confinement at NWDC. All detainees stated they never received any verbal, physical, or sexual abuse at the facility.

Admission: Detainees stated they received the ICE National Detainee Handbook and a facility-specific handbook in either English or Spanish upon arrival. They confirmed the initial provision and replenishment of personal hygiene items at no cost. Thirteen detainees stated they were strip searched during intake. ODO reviewed their detention files and found forms validating the need for strip searches.

Facility services: All detainees confirmed unimpeded access to the law library, the grievance system, mail services, recreation, telephones, and visitation. Three detainees expressed dissatisfaction with the quality of food service.

Staff-Detainee Communication: Most detainees knew how to communicate with ICE and were aware ICE visits the housing units weekly. However, three detainees stated ICE officials do not announce their presence upon entering the housing units.

ICE 2011 PERFORMANCE-BASED NATIONAL DETENTION STANDARDS

ODO reviewed a total of 20 PBNDS and found NWDC fully compliant with the following 11 standards:

1. Custody Classification System
2. Detainee Handbook
3. Detainee Transfer
4. Emergency Plans
5. Funds and Personal Property
6. Law Library and Legal Materials
7. Significant Self Harm and Suicide Prevention and Intervention
8. Staff-Detainee Communication
9. Staff Training
10. Use of Force and Restraints
11. Voluntary Work Program

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

ODO found deficiencies in the following nine standards.

1. Admission and Release
2. Disciplinary System
3. Food Service
4. Grievance System
5. Medical Care
6. Medical Care (Women)
7. Sexual Abuse and Assault Prevention and Intervention (SAAPI)
8. Special Management Units-Administrative Segregation/Disciplinary Segregation
9. Telephone Access

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

ADMISSION AND RELEASE (AR)

ODO reviewed the Admission and Release standard at NWDC to determine if procedures are in place to protect the health, safety, security, and welfare of each person during the admission and release process, in accordance with the ICE 2011 PBNDS. ODO reviewed policies, procedures, and detention files, observed the admission process, and interviewed staff and detainees.

Upon admission at NWDC, detainees are searched, fingerprinted, photographed, screened and issued bedding, clothing and hygiene items. Detainees are pat-searched upon entry; strip searches are only conducted when there is a reasonable suspicion. They receive medical, mental health and sexual abuse and assault screenings and are issued the appropriate clothing, linens, hygiene items and handbooks.

ODO observed the processing of 16 incoming detainees during the inspection. The detainees were pat-searched only; none were searched with a metal detector (**Deficiency AR-1**). According to booking staff, a metal detector is available in the control center and may be checked out for use during booking, when necessary.

Per facility policy, strip searches are conducted only when there is a reasonable suspicion and only with the approval of the supervising lieutenant. Strip searches are documented on the Hold Room/Book-In Log and Record of Strip Search form. ODO identified a transgender detainee who was strip searched on April 9, 2014, without the presence of medical staff (**Deficiency AR-2**). The documented reason for the strip search was a history of violence and weapons.

Detainees are issued two pairs of pants, two shirts, four pairs of underwear, four pairs of socks, four t-shirts, one pair of shower sandals, a sweat shirt and sweat pants; a mesh laundry bag; one towel, two sheets, one pillowcase, and two blankets; a toothbrush, toothpaste, and deodorant; a drinking cup; and a box with a combination lock for personal property. Women receive four bras and feminine hygiene items. Four showers are available in the intake area; however, detainees were not offered showers prior to being transferred to their assigned housing unit (**Deficiency AR-3**).

Property accompanying detainees is searched and inventoried. Unauthorized property is stored in a secure property storage room in the booking area. Cash and personal funds are counted by two staff members and documented on the GEOtrack Property Receipt form in the detainee's presence. After all required information is entered in the GEOtrack system, (b)(7)e officers and the detainee sign the form, and the date and time is reflected on the printed document. The officer deposits envelopes containing the funds and receipt in a secure drop vault.

NWDC's orientation video is shown continuously in the holding area. The video is also shown daily in each housing unit during breakfast, as verified by review of documentation in the lieutenant's log. NWDC staff conducts a question-and-answer session after the video is played. The video is available in English and Spanish. ODO found the video and audio were not in sync, interfering with effective communication of the information being conveyed. Additionally, there were points where images were distorted, and where the video prematurely advanced to the next subject. ODO recommends that steps be taken to improve the quality of the video (**R-1**).

ODO reviewed 40 randomly-selected detention files over the past six months preceding the inspection. Required intake documentation was present in all files, including Form I-203A. All contained signed receipts for funds and property, and Form I-203B. NWDC is within walking distance of a bus station located less than a mile away. ODO was informed that during inclement weather, or if there is a public safety concern, ERO staff transport detainees to the bus station. ERO staff also provides detainees with a listing of local cab companies, if they choose to call a cab.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY AR-1

In accordance with the ICE 2011 PBNDS, Admission and Release, section (V)(B)(2)(a)(b)&(c), the FOD must ensure, “All detainees shall be screened upon admission; screening shall ordinarily include:

- a. screening with a metal detector;
- b. a thorough pat search; and
- c. a search of each detainee’s clothing (and issuance of institutional clothing).”

DEFICIENCY AR-2

In accordance with the ICE 2011 PBNDS, Admission and Release, section (V)(B)(4)(c), the FOD must ensure, “Staff of the same gender as the detainee shall perform the search, except when circumstances are such that a delay would mean the likely loss of contraband. Except in the case of an emergency or exigent circumstance, a staff member may not perform strip searches of detainees of the opposite gender. When a member of the opposite gender from the detainee must perform a strip search, a staff member of the same sex as the detainee must be present. When staff members of the opposite gender conduct a strip search, staff shall document the reason for the opposite- gender search in any logs used to record searches and in the detainee’s detention file. Special care should be taken to ensure that transgender detainees are searched in private. ***Whenever possible, medical personnel shall be present to observe the strip search of a transgender detainee.***”

DEFICIENCY AR-3

In accordance with the ICE 2011 PBNDS, Admission and Release, section (V)(B)(2)(d), the FOD must ensure, “To maintain standards of personal hygiene and to prevent the spread of communicable diseases and other unhealthy conditions within the housing units, where possible, the FOD must ensure every detainee shall shower before entering his/her assigned unit. During the detainee’s shower, an officer of the same gender shall remain in the immediate area as described above.”

DISCIPLINARY SYSTEM (DS)

ODO reviewed the Disciplinary System standard at NWDC 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 2011 PBNDS. ODO toured the facility, conducted interviews, and reviewed policy, disciplinary records, and the detainee handbook.

NWDC maintains a tracking log for disciplinary incidents and outcomes. According to the log, 202 disciplinary actions occurred since January 1, 2014. Review of documentation in 25 randomly-selected disciplinary cases confirmed investigations were completed within the required 24 hours. In 25 of the 202 disciplinary cases, the detainees were released from the facility prior to hearings. Among the remaining cases, 51 were adjudicated by the UDC and 126 cases were adjudicated by the IDP. One hundred and eleven of the 126 cases adjudicated by the IDP were not processed through the UDC (**Deficiency DS-1**). According to staff, detainees charged with offenses classified as “greatest” and “high” bypass the UDC, because the policy and the standard mandate a hearing by the IDP. NWDC staff informed ODO the detainee is notified of rights related to the IDP hearing by an officer assigned to the SMU, or by the SMU lieutenant, who serves as chairperson of the IDP. Though the standard authorizes the UDC to adjudicate low- and moderate-level infractions only, it also mandates that it perform specified functions in referring greatest and high level infractions to the IDP. SMU officers are not designated members of the UDC, who are authorized to perform these functions; furthermore, performance of the functions by the SMU lieutenant, who will adjudicate the charges as IDP chair, does not support the distinction between the respective roles of the UDC and IDP.

ODO’s review found disciplinary segregation sanctions were imposed by the IDP in 59 of 126 cases. In 23 of the 59 cases, the detainees were given credit for time served and released to the general population. None of the disciplinary segregation sanctions were for periods greater than 30 days.

The detainee handbook notifies detainees of the rules of conduct, prohibited acts and sanctions, disciplinary and appeal procedures, and detainee rights. In addition, ODO observed the rules and prohibited acts were posted in each housing unit. ODO’s review of the facility’s disciplinary policy confirmed it covers all elements required by the standard.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY DS-1

In accordance with the ICE 2011 PBNDS, Disciplinary System, section (V)(F), the FOD must ensure, “The UDC shall:

1. advise the detainee of his/her rights at the hearing;
2. refer to the IDP any incident involving a serious violation associated with an A through-D-range sanction. This includes code violations in the “greatest” and “high” categories (100s and 200s);
3. serve the detainee with:
 - a. a copy of the UDC decision which must contain the reason for the disposition and sanctions imposed; or

- b. written notification of charges and hearing before the IDP; and
- 4. if the detainee's case is being referred to the IDP, advise the detainee, in writing, of:
 - a. The right to call witnesses and present evidence before the IDP, and
 - b. The right to a staff representative before the IDP.”

FOOD SERVICE (FS)

ODO reviewed the Food Service standard at NWDC to determine if detainees are provided with a nutritious and balanced diet, in a sanitary manner, in accordance with the ICE 2011 PBNDS. ODO reviewed policy and procedures, inspected all areas of the food service operation, observed meals being prepared and served, and interviewed staff and detainees.

NWDC's food service operation is operated by GEO staff, including a food service administrator, a production supervisor, and (b)(7)e cook supervisors. A correctional officer is assigned to the food service department on each shift to monitor security in the area. (b)(7)e (b)(7)e detainees support kitchen staff. Detainee workers are paid \$1 daily. Documentation shows all employees and (b)(7)e randomly-selected detainee workers were medically cleared to work in food service. The detainees' files also contained documentation of job orientation and training. Detainee workers are visually inspected prior to the beginning of the shift for hygiene concerns and signs of health issues. Following inspection, detainee workers change into white kitchen uniforms. Detainee workers, staff, and visitors wear hairnets and beard guards for facial hair, and all persons involved in food preparation wear gloves.

NWDC has a satellite system of meal service. Menus are certified by a registered dietician and average 3,000 calories daily. The facility utilizes a 42-day menu cycle to provide a variety of food items, exceeding the 2011 PBNDS requirement for a 37-day menu cycle. The dietician also approves medical and religious diet menus. During the inspection, 168 detainees were receiving medical diets, and 23 detainees were receiving religious diets. During the inspection, preparations were being made for the upcoming observance of Ramadan. Detainees receiving medical and religious diets are issued an identification card indicating the period for which the special diet is approved. Diet trays are labeled with the detainee's name and housing unit. The housing officer checks the identification card and documents issuance of the special diet tray. Also, facility staff document issuance of regular meal trays, and meal refusal is reported to the medical unit for tracking and follow up.

ODO observed preparation and service of the noon meal on June 25, 2014. Food service staff took food temperatures on the serving line in the kitchen and as the meal was served in the housing units. The temperatures of hot items (burritos, beans, and rice) were 161 to 178 degrees Fahrenheit on the serving line and the temperature of the coleslaw was 39 degrees Fahrenheit. ODO confirmed the items served were in the portions listed on the menu.

The overall sanitation of the kitchen and storage areas during the inspection was good. ODO observed "clean as you go" procedures were being followed, with detainees wiping down surface areas and tables with a sanitizing solution. Documentation reflects the food service administrator conducts weekly inspections of the food service area. A team of staff members, headed by the Health Services Administrator, conducts monthly inspections. The Tacoma-Pierce County Health Department Food and Community Safety Program inspect the NWDC food service operation annually. The most-recent inspection was on March 28, 2014, with no violations of health code or other deficiencies cited. Pest control services are provided by a local contractor on a monthly basis and as needed. The most recent pest control service was on June 9, 2014. ODO observed no signs of insect or rodent infestation in the food service area.

Inspection of the dry storage area found boxes were stacked nearly to the ceiling, not allowing an 18-inch clearance beneath the sprinkler deflectors (**Deficiency FS-1**). Documentation reflects temperatures for the freezer, cooler, and dishwasher are taken and recorded on each shift. The three-compartment sink used for manually washing, rinsing, and sanitizing utensils and equipment was not labeled (**Deficiency FS-2**).

During inspection of the detainee restrooms, ODO observed trash on the floor, and there was no trash receptacle, no hand soap in the dispenser, and no paper towels. In addition, the paper towel holder was missing the cover, and there were no signs reminding detainees to wash their hands prior to returning to work in the kitchen (**Deficiency FS-3**). Inspection of the staff restroom found it clean and properly equipped. Hand-washing reminder signs were posted in the staff restroom and at hand-washing stations throughout the kitchen. Both the detainee and staff restrooms had a ready supply of hot and cold water.

During a final tour of the food service area and prior to completion of the inspection, all identified deficiencies were corrected.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY FS-1

In accordance with ICE 2011 PBNDS, Food Service, section (V)(J)(5)(e), the FOD must ensure, “The area underneath sprinkler deflectors must have at least an 18 inch clearance.”

DEFICIENCY FS-2

In accordance with ICE 2011 PBNDS, Food Service, section (V)(J)(7)(f)(1), the FOD must ensure, “A sink with at least three labeled compartments is required for manually washing, rinsing, and sanitizing utilities and equipment. Each compartment shall have the capacity to accommodate the items to be cleaned. Each shall be supplied with hot and cold water.”

DEFICIENCY FS-3

In accordance with ICE 2011 PBNDS, Food Service, section (V)(J)(9)(b, c, e, f), the FOD must ensure, “Adequate and conveniently located toilet facilities shall be provided for all food service staff and detainee workers.

- b. Toilet rooms shall be kept clean and in good repair.
- c. Signs shall be prominently displayed.
- e. Soap or detergent and paper towels or a hand-drying device providing heated air, shall be available at all times in each lavatory.
- f. Waste receptacles shall be conveniently placed near hand-washing facilities.

GRIEVANCE SYSTEM (GS)

ODO reviewed the Grievance System standard at NWDC 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 2011 PBNDS. ODO interviewed staff and detainees, and reviewed NWDC policies, the grievance log and detainee files.

NWDC permits detainees to file informal, formal, and emergency grievances, and appeal grievance decisions. Grievance forms are available by request from a staff member, and are printed in both English and Spanish. NWDC provides detainees with an opportunity to obtain assistance from another detainee or facility staff in preparing a grievance.

The NWDC grievance system policy is comprehensive and addresses all requirements of the 2011 PBNDS, with the exception of having a written policy in place to ensure a procedure in which all medical grievances are received by the administrative health authority within 24 hours or the next business day, with a response from medical staff within five working days (**Deficiency GS-1**). Further, written policy lacks a special procedure for time sensitive, emergency grievances, including having a mechanism by which emergency medical grievances are screened as soon as practicable by appropriate staff (**Deficiency GS-2**).²

During admission, NWDC management provides each detainee a handbook. The detainee handbook notes the opportunity to file formal and informal grievances, the procedures for filing grievances and appeals, and the procedures for resolving grievances and appeals, including the right to appeal to a higher level if unsatisfied with the resolution of the grievance. The detainee handbook also provides instructions for filing complaints regarding officer misconduct.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY GS-1

In accordance with the ICE 2011 PBNDS, Grievance System, section (V)(A)(4)&(5), the FOD must ensure, each facility shall have written policy and procedures for a detainee grievance system that:

4. “ensure a procedure in which all medical grievances are received by the administrative health authority within 24 hours or the next business day, with a response from medical staff within five working days, where practicable;
5. establish a special procedure for time- sensitive, emergency grievances, including having a mechanism by which emergency medical grievances are screened as soon as practicable by appropriate personnel.”

² Priority Component

DEFICIENCY GS-2

In accordance with the ICE 2011 PBNDS, Grievance System, section (V)(C)(2), the FOD must ensure, “Each facility shall implement written procedures for identifying and handling a time-sensitive emergency grievance that involves an immediate threat to health, safety or welfare.”

MEDICAL CARE (MC)

ODO reviewed the Medical Care standard at NWDC to determine if detainees have access to healthcare and emergency services to meet health needs in a timely manner, in accordance with the ICE 2011 PBNDS.

ODO toured all areas where medical services are provided, reviewed the department's policies and procedures, and examined 30 medical records of male and female detainees, including 17 from the mental health, hypertensive, asthma, diabetic, obstetrics, and infectious disease clinics. Interviews were conducted with the acting health services administrator (HSA), nurse manager, psychologist, and pharmacist.

NWDC earned accreditation by the NCCHC in November 2011 and The Joint Commission in April 2012. IHSC staffs the medical department for 24-hours a day, seven days a week. The approved staffing plan authorizes (b)(7) positions, including a Health Services Administrator (HSA), assistant HSA, clinical director, staff physician, (b)(7) midlevel providers, (b)(7) registered nurses (RN), and (b)(7) licensed practical nurses (LPN). Mental health staff consists of a psychiatrist, a psychologist, and (b)(7) licensed social workers. Dental services are provided by a dentist, dental assistant, and dental hygienist. A pharmacist, (b)(7) pharmacy technicians, (b)(7) medical record technicians, and an administrative assistant are also on staff.

NWDC's medical department was undergoing leadership changes during ODO's inspection. Due to a clinical director vacancy since June 2, 2012, the IHSC Western Regional Clinical Director, stationed in San Diego, California, serves as NWDC's designated clinical medical authority. The addition of a physician was pending at the time of the inspection. The HSA retired recently; therefore, the assistant HSA assumed the acting role pending arrival of the new HSA in August 2014. Also vacant at the time of the inspection were (b)(7) RN, (b)(7) LPN, and (b)(7) dental hygienist position. ODO's review of credential and competency files of all licensed medical staff found them well organized and current, and credentials were primary source verified.

Inspection of the NWDC clinic found sanitation was maintained at a high level. The clinic has six examination rooms, an urgent care room, a two-chair dental operatory, nurses' station, medical records office, pharmacy, laboratory, digital X-ray room, large conference room, and adequate office space for administrative staff. Mental health professionals use three well-equipped interview rooms in the intake area. A short stay unit within the clinic has one double-occupancy and seven single-occupancy cells. Four of these cells are equipped with negative pressure for respiratory isolation. According to the assistant HSA, (b)(7) nurse is assigned to the short stay unit, and an officer is present at all times when one or more cells are occupied. All areas of the clinic where medical, dental, and mental health interviews are conducted were found to provide adequate privacy for patient encounters. Two holding areas, located side by side at the clinic's entrance, each accommodating eight detainees, are used for patient waiting. Each has a toilet and accessible drinking water.

For clinical care beyond NWDC's scope of services, detainees are transported to either Tacoma General Hospital or St. Joseph's Hospital. Specialty care for pregnant women³, as well as for significant gynecological cases, is provided by Babycatchers and Beyond in Tacoma. The Tacoma fire department provides emergency transport, with an approximate response time of ten minutes. ODO determined the written medical emergency plan was complete, calling for the provision of 24-hour nursing coverage, 24-hour physician and mental health on-call services, automated external defibrillator (AED) availability, and posting of emergency contacts. First aid kits were present in each of the housing units, master control, and in the urgent care room of the clinic, and documentation of monthly inventories by pharmacy technicians was present. AEDs are located in master control and health services. An RN who serves in the role of health and safety officer is responsible for monthly AED monitoring, and Northwest Biomedical Services provides preventive maintenance on an annual basis. An emergency go-bag with a breakaway lock and inventory is located in the urgent care room. A review of all medical staff and (b)(7)e custody staff training records confirmed all were current in cardiopulmonary resuscitation/AED, first aid, and four-minute response training.

ODO reviewed a sampling of 30 detainee medical files and confirmed intake screening is completed within 12 hours of arrival, with general consent for treatment statements signed and dated at that time. Specific consent for treatment statements were located in the medical records of six detainees receiving psychotropic medications. Nurses conduct intake screening in the clinic, adjacent to the receiving area. Digital radiology is used for tuberculosis screening, with reports provided by the University of Maryland within four hours. The chest X-rays are conducted by nurses, all of whom completed an on-site training program in direct digital radiology by Swissray International, Inc. ODO's review of the electronic intake screening form found it inclusive of all components required by the 2011 PBNDS, including a symptom check for infectious disease, mental health and suicide risk assessment, determination of transgender status, and medications. Significant medical and mental health concerns were forwarded electronically to a provider, and according to the acting HSA, she is immediately informed by email when there is an indication of need or request for mental health services during intake.

Detainees in general population access the health care system by signing up for sick call, which is held daily in the clinic. Nurses conduct face-to-face triage, entering notes directly in the electronic medical record. Referrals are forwarded to providers electronically based on urgency of need, and IHSC physician-approved nursing protocols are followed for non-urgent healthcare needs. Detainees in the Special Management Units access health care by completing handwritten sick call request forms available in English and Spanish, and turning them in to the officer. Nurses collect the sick call requests from the officer during daily rounds. Officer involvement in this process violates patient confidentiality because medical information is recorded on the forms (**Deficiency MC-1**). In addition, because the potential exists for officers to lose or destroy sick call requests, detainees' access to health care may be impeded. The acting HSA initiated corrective action during the inspection by agreeing to modify the process by having nurses retrieve sick call requests directly from detainees during rounds.

ODO reviewed a sampling of 30 medical files to confirm the completion of comprehensive health appraisals. All 30 medical files confirmed completion of health appraisals, including

³ Corrected from original published report. Detained pregnant female detainees are mandatory detention only.

hands-on physical examination and dental screenings, within 14 days of arrival. Midlevel providers conduct health appraisals for detainees with chronic medical conditions and RNs conduct all others. Review of training and competency records confirmed all RNs received physical examination training by the physician, and annual refresher training and competency determination by a midlevel provider. Thirteen of the 30 assessments reviewed by ODO were conducted by an RN, all of which documented review by the clinical medical authority. Nurse practitioners and physician assistants performed the remaining 17 health appraisals, five of which were not cosigned by the clinical medical authority (**Deficiency MC-2**). Over 90 percent of the records documented the health appraisals were conducted within four days.

Mental health referrals resulting from intake screening, health appraisals, or subsequent observations by staff are electronically or telephonically forwarded to the psychologist and mental health social workers. ODO's review of five mental health referrals found one detainee was not evaluated within 72 hours; rather, the evaluation was completed in seven days (**Deficiency MC-3**).⁴ According to the psychologist, the large number of referrals necessitates that they be prioritized by risk level, resulting in delays in completion of evaluations.

Review of 17 medical files of detainees with chronic medical and mental health conditions showed all contained treatment plans. Diagnostic testing and monitoring were documented, with follow-up appointments electronically scheduled as ordered by the provider. ODO's review found nine of the 17 records did not include medical/psychiatric alerts, including the records of detainees who were immune-compromised (**Deficiency MC-4**).⁵

The pharmacy was found well organized and securely controlled, with access limited to pharmacy staff. The pharmacist participates in quarterly medical department meetings and conducts annual pharmacy and therapeutics meetings. Only nursing staff administer medications. ODO's review of ten medication administration records confirmed all contained complete entries.

Medical staff uses Interpretalk, a telephone language service, for detainees with limited English proficiency. The electronic medical record documents the detainee's language, and documentation of encounters includes the method of interpretation used. Posters were observed in the intake areas informing detainees of available interpretation services, and phone lines were observed in all areas where interviews and assessments are conducted.

The infectious disease management and the quality improvement programs are collateral duties of the RNs, with three or more nurses assigned to each area. The IHSC infection control plan addresses all PBNDS-mandated components. An interview with the infection control nurse, along with a review of electronic logs and reports, confirmed routine reporting of communicable disease cases to the county health department and IHSC's Epidemiology Unit. Review of two varicella (chicken pox) exposures over the past year confirmed evaluation, isolation, and reporting. Extensive patient information regarding infection prevention and control is included the detainee handbook.

The electronic medical record implemented by IHSC has been in operation at NWDC since

⁴ Priority Component

⁵ Priority Component

August 2013. Hard copy medical files are securely maintained in the medical records office. The procedure medical staff follows in providing detainees copies of medical records meets the requirements of the standard. On transfer of detainees to another detention facility, an electronic medical transfer summary is completed and sealed in an envelope stamped “Medical Confidential” and labeled with the detainee’s name and A-number. According to the assistant HSA, unless a written request is received from the detainee, the entire medical record does not accompany a detainee transferring to a non-IHSC facility (**Deficiency MC-5**).

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY MC-1

In accordance with ICE 2011 PBNDS, Medical Care, section (V)(Y)(2), the FOD must ensure, “All medical providers, as well as detention officers and staff shall protect the privacy of detainees’ medical information in accordance with established guidelines and applicable laws.”

DEFICIENCY MC-2

In accordance with ICE 2011 PBNDS, Medical Care, section (V)(L), the FOD must ensure, “The [clinical medical authority] shall be responsible for review of all health appraisals to assess the priority for treatment.”

DEFICIENCY MC-3

In accordance with ICE 2011 PBNDS, Medical Care, section (V)(N)(4), the FOD must ensure, “Any detainee referred for mental health treatment shall receive an evaluation by a qualified licensed mental health professional as medically indicated no later than 72 hours after the referral, or sooner if necessary.”

DEFICIENCY MC-4

In accordance with ICE 2011 PBNDS, Medical Care, section (V)(M), the FOD must ensure, “Where a detainee has a serious medical or mental health condition or otherwise requires special or close medical care, medical staff complete a Medical/Psychiatric Alert form (IHSC-834) or equivalent, and file the form in the detainee’s medical record.”

DEFICIENCY MC-5

In accordance with ICE 2011 PBNDS, Medical Care, section (V)(Y)(4)(c)(2), the FOD must ensure, “When a detainee is transferred to an IGSA detention facility, the sending facility shall ensure that the Transfer Summary will accompany the detainee. A copy of the full medical record must accompany each detainee during transfer unless extenuating circumstances make this impossible, in which case the full medical record will follow as soon as practicable.”

MEDICAL CARE –WOMEN (MC-W)

ODO reviewed the Medical Care (Women) standard at NWDC to determine if female detainees have access to appropriate and necessary medical and mental health care, in accordance with the ICE 2011 PBNDS. ODO reviewed policies and procedures, interviewed staff, and examined the medical records of ten female detainees, one of whom was in the first trimester of pregnancy.

The IHSC electronic intake screening form includes questions regarding female detainees' history of mental illness, sexual assault, or violence, and possibility of pregnancy. ODO verified positive responses result in completion of comprehensive physical assessments within 24 hours. ODO's review of medical records for ten female detainees confirmed urinalysis for pregnancy testing was performed, regardless of age.

The medical records of all ten women documented a physical examination was conducted by a qualified health care provider within 14 days of arrival. However, there was no documentation any of the women was offered an evaluation and assessment of the reproductive system at any point during their detention at NWDC, to include a pelvic and/or breast examination, pap test, baseline mammography or screening for sexually transmitted diseases (**Deficiency MC-W-1**).⁶ According to the RN responsible for quality improvement and audit preparation, pelvic examinations and pap smears were conducted by midlevel providers in the past, but they were discontinued, because there is no IHSC policy addressing their completion. Both the RN and assistant HSA contacted IHSC Headquarters during the inspection and learned the governing policy was unavailable due to revision.

During the inspection, ODO encountered a female detainee in the first trimester of pregnancy.⁷ ODO's review of the medical record confirmed prenatal monitoring was being provided on a monthly basis. According to the acting HSA, obstetrical services and counseling are provided by Baby Catchers and Beyond in Tacoma.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY MC-W-1

In accordance with ICE 2011 PBNDS, Women's Medical Care, section (V)(A), the FOD must ensure, "In addition to the medical, mental health, and dental services provided to every detainee as required by standard '4.3 Medical Care,' the facility directly or contractually will provide its female detainees with access to: routine, age-appropriate, gynecological health care services, including women's specific preventive care."

⁶ Priority Component

⁷ Corrected from original published report. The pregnant detainee was apprehended at the San Diego border and processed for Expedited Removal. The detainee claimed (b)(6), (b)(7)c if she were to be returned to her home country. The detainee was considered mandatory detention due to the fact she was a final order of removal when processed as an Expedited Removal. The detainee arrived at NWDC on May 4, 2014 where IHSC notified ERO of the pregnancy on May 7, 2014. On May 9, 2014, the detainee's case was referred to the San Francisco (b)(6), (b)(7)c Office and referred to an Immigration Judge on May 22, 2014. On May 23, 2014, the detainee was advised of parole and the documents required in order to be considered for release on parole. The detainee submitted the required documents on June 26, 2014, parole was granted and the detainee was released the following day.

SEXUAL ABUSE AND ASSAULT PREVENTION AND INTERVENTION (SAAPI)

ODO reviewed the Sexual Abuse and Assault Prevention and Intervention standard at NWDC to determine if facilities act to prevent sexual abuse and assaults on detainees, provide prompt and effective intervention and treatment for victims of sexual abuse and assault, and control, discipline, and prosecute the perpetrators, in accordance with ICE 2011 PBNDS. ODO interviewed staff and detainees, inspected informational postings throughout the facility, and reviewed policy and procedures, the detainee handbook, documentation of reported sexual abuse incidents, and the SAAPI training curriculum and staff training records.

NWDC has a comprehensive written policy addressing the prevention, reporting, and investigation of sexual assaults. The policy includes a zero tolerance statement that any sexual conduct between detainees, and detainees and staff, volunteers and contract staff, regardless of consent, is strictly prohibited. The facility's training lieutenant is the SAAPI Coordinator. NWDC does not have a designated multi-disciplinary team to respond to sexual assault and abuse incidents (**Deficiency SAAPI-1**).

Facility staff fulfills SAAPI training requirements during pre-service and annual training, as verified by review of (b)(7) randomly-selected training records. ODO reviewed the training curriculum and confirmed it is comprehensive and inclusive of all required elements. ODO observed a SAAPI class in process during the inspection. Staff interviews supported they are knowledgeable with respect to the SAAPI program and how to handle incidents involving sexual abuse or assault.

The intake process includes screening by booking officers and by medical staff for sexual abuse victimization history and risk, and predatory history to identify potential sexual aggressors. Detainees are referred to mental health staff for follow up when information is obtained reflecting victimization or predatory risk. A copy of the referral is forwarded to the SAAPI Coordinator.

Detainees are notified of the SAAPI program by way of the detainee handbook and a separate brochure available in English and Spanish. The facility orientation video, also available in both English and Spanish, includes information regarding the SAAPI program. ODO observed SAAPI posters in the booking area, medical department, and housing units. The postings include toll-free telephone numbers for reporting incidents, including the Department of Homeland Security, Office of Inspector General hotline.

The SAAPI coordinator informed ODO there were 26 incidents of reported sexual abuse/assault since June 2013. None involved staff-on-detainee assault. ODO's review of documentation confirmed the incidents were handled in accordance with the facility policy and the standard, including reporting the incidents to ERO. ERO staff produced documentation confirming Significant Incident Reports (SIR) were filed for all 26 incidents; however, only six cases were entered in the OPR Joint Integrity Case Management System (JICMS) as of the inspection. ERO staff was of the understanding that submission of a SIR automatically creates an entry of reportable SAAPI allegations into the JICMS and allegations of incidents that occurred in the past do not require a SIR.

STANDARD/POLICY REQUIREMENT FOR DEFICIENT FINDINGS

DEFICIENCY SA-API-1

In accordance with ICE 2011 PBNDS Sexual Abuse Assault Prevention and Intervention, section (V)(H), the FOD must ensure, “Facilities should use a coordinated, multidisciplinary team approach to responding to sexual abuse, such as a sexual assault response team (SART), which in accordance with community practices, includes a medical practitioner, a mental health practitioner, a security staff member and an investigator from the assigned investigative entity, as well as representatives from outside entities that provide relevant services and expertise.”

SPECIAL MANAGEMENT UNIT (SMU)

ODO reviewed the Special Management Unit (SMU) standard at NWDC to determine if the facility has procedures in place to temporarily segregate detainees for disciplinary and administrative reasons, in accordance with the ICE 2011 PBNDS. ODO toured the SMU, interviewed staff, and reviewed policies, log books and available SMU documentation.

NWDC's H-2 unit is the designated SMU for male detainees assigned to administrative and disciplinary segregation, with separation afforded by cell assignment. The unit has two levels with ten double-occupancy cells on each level. The beds are affixed to the floor, and the toilet, sink, desk, and stool are affixed to the cell walls. There are two showers on each level and an outdoor recreation area with two enclosures on the first level. The SMU for females consists of four designated cells on the lower level of housing unit D-1, which is the female general population unit. Each cell has a bunk, toilet, sink, desk and stool secured to the walls. There is a secure shower and an outdoor recreation enclosure. There are also four single cells in the medical unit designated as special housing for detainees requiring medical monitoring. ODO's inspection verified the segregation areas were well lit, maintained in good sanitary condition and properly ventilated.

Per the policy and in accordance with the 2011 PBNDS, disciplinary segregation is a sanction imposed through the disciplinary process, and administrative segregation is a non-punitive form of separation from the general population when the presence of the detainee poses a serious threat to self, other detainees, staff, property, or the security and orderly operation of the facility.

While in SMU, detainees have access to the same privileges as those in the general population. Two portable telephones are available for use. There is a separate law library with three computer stations equipped with LexisNexis, provided upon request. NWDC's policy allows visiting privileges consistent with the general population. Detainees are offered recreation daily and showers three times weekly. As confirmed by the AFOD, ERO receives a copy of segregation orders and participates in seven day status reviews.

Five detainees were serving disciplinary segregation sanctions during the inspection. Three were sanctioned with 30 days for fighting, one was serving 30 days for threatening staff, and one was serving 20 days for threatening staff. There were 11 male detainees on administrative segregation: three for protective custody, six for security reasons, and two pending disciplinary hearings. One of the detainees on protective custody was assigned to this status on June 27, 2013, upon his request; the other two were placed on protective custody within the past 30 days. Of the six detainees assigned to administrative segregation for security reasons, five were placed on this status within the past 30 days, and the sixth on June 19, 2013, having been determined a security risk due to gang affiliation and inability to cohabitate with other detainees. One of the two detainees segregated pending a disciplinary hearing was found not guilty of assault and was returned to general population during the inspection. The second detainee pending a disciplinary hearing was charged with damaging his walker. No documentation existed to support the allegation that damaging his walker posed a threat to the safety of staff, detainees, or other property, or to support that segregation of the detainee was necessary to prevent further violation

of rules or to protect the security and orderly operation of the facility (**Deficiency SMU-1**).⁸ ODO's review of documentation confirmed all 11 detainees currently in segregation received required status reviews and services mandated by the standard and facility policy.

Documentation reflects there were 776 assignments to segregation in the past year: 515 to administrative segregation and 261 to disciplinary segregation. ODO's review of 15 randomly selected disciplinary segregation cases confirmed the sanctions were imposed by the Institution Disciplinary Panel and the terms did not exceed 30 days per infraction. ODO's review of documentation for 50 randomly-selected detainees assigned to administrative segregation in the past year confirmed segregation orders were completed and provided to the detainees; however, review of the orders found 12 of them did not detail the justification for segregation (**Deficiency SMU-2**).⁹ In seven of the 12 cases, the orders documented the detainees were assigned to administrative segregation for security reasons, with no explanation of what the reasons were or the specific threat the detainees' continued presence in general population posed. The remaining five orders documented the detainees were assigned for protective custody, but did not specify why segregation was necessary to assure the detainees' safety. ODO confirmed 72-hour, seven day, and 30-day status reviews were conducted in accordance with the standard in all cases reviewed.

NWDC's policy mandates placement of transgender detainees in segregation, with no requirement for exploration of other housing options. ODO identified a transgender detainee who, pursuant to the policy, was placed in administrative segregation upon admission in April 2014. The segregation order documents the detainee, "Is a security risk to him/herself or the security of the facility," and, "The detainee claims to be transgender" (**Deficiency SMU-3**).¹⁰ The detainee was transferred from NWDC within five days.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY SMU-1

In accordance with the ICE 2011 PBNDS, Special Management Units, section (V)(A)(1)(a), the FOD must ensure, "A detainee may be placed in administrative segregation when the detainee's continued presence in the general population poses a threat to life, property, self, staff, or other detainees; for the secure and orderly operation of the facility; for medical reasons; or under other circumstances as set forth below. Some examples of incidents warranting a detainee's assignment to administrative segregation include, but are not limited to, the following.

- a. A detainee is awaiting an investigation or a hearing for a violation of facility rules. Pre-disciplinary hearing detention shall be ordered only as necessary to prevent further violation of those rules or to protect the security and orderly operation of the facility."

DEFICIENCY SMU-2

In accordance with the ICE 2011 PBNDS, Special Management Units, section (V)(A)(2)(b), the FOD must ensure, "Prior to a detainee's actual placement in administrative segregation, the

⁸ Priority Component

⁹ Priority Component

¹⁰ Priority Component

facility administrator or designee shall complete the administrative segregation order (Form I-885 or equivalent), detailing the reasons for placing a detainee in administrative segregation.”

DEFICIENCY SMU-3

In accordance with the ICE 2011 PBNDS, Special Management Units, section (V)(A)(1)(c)(9), the FOD must ensure, “Use of administrative segregation to protect vulnerable populations shall be restricted to those instances where reasonable efforts have been made to provide appropriate housing and shall be made for the least amount of time practicable, and when no other viable housing options exist, and as a last resort. Detainees who have been placed in administrative segregation for protective custody shall have access to programs, services, visitation, counsel and other services available to the general population to the maximum extent possible.”

TELEPHONE ACCESS (TA)

ODO reviewed the Telephone Access standard at NWDC 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 2011 PBNDS. ODO interviewed facility staff and detainees; reviewed policy, procedures, and the detainee handbook; and conducted functionality tests on the telephones located in detainee housing units.

Detainees have reasonable and equitable access to telephones at NWDC. The telephone availability ratio for each housing unit is approximately ten detainees per telephone. The listings for pro bono services, DHS Office of Inspector General, consulates, and embassies are located in each housing unit. All calls are limited to 20 minutes. NWDC provides a TTY if needed.

NWDC staff inspects telephones daily and ERO staff inspects telephones weekly. ERO performs serviceability checks and documents the results on worksheets. ODO conducted operation checks of telephones in detainee housing units and found them to be in good working order.

Notifications of monitored calls are posted near the telephones, and a recorded message on each telephone indicates the same. The facility handbook informs detainees of the availability of unmonitored calls to legal service providers; however, there are no notices posted next to the telephones in each housing unit informing detainees of the procedure for obtaining unmonitored calls (**Deficiency TA-1**). Detainees may request to make legal calls in an area that provides privacy by submitting a request form.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY TA-1

In accordance with the ICE 2011 PBNDS, Telephone Access, section (V)(B)(3)(b), the FOD must ensure, “at each monitored telephone, place a notice that states the following:

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