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U.S. Immigration
and Customs
Enforcement

March 14, 2019

MEMORANDUM FOR: Tae D. Johnson
Assistant Director
Custody Management Division

FROM: Jay M. Brooks
Deputy Assistant Director
Detention Management Division

SUBJECT: Recommended Final Rating: 180-Day Reinspection of Tulsa
County Jail (2019)

The Nakamoto Group, Inc., performed an annual/180-day reinspection of Tulsa County Jail (David L. Moss Criminal Justice Center) in Tulsa, OK, during the period of January 23-25, 2019 for compliance with the 2011 Performance Based National Detention Standards. The facility had received a previous rating of "Does Not Meet Standards" during its annual inspection of May 30-June 1, 2018.

During the January inspection, the auditors identified 32 deficient components in 14 standards. The Lead Compliance Inspector (LCI) recommended a rating of "Does Not Meet Standards" because they found that the jail failed seven (7) priority components. One standard [(4.1) *Food Service*] was found to not comply with ICE standards, two standards were deemed "Not Applicable", and the remaining 39 standards were found to be in compliance.

ERO's Priority Component Failure Process (attached) states that three priority component failures in any single standard or five priority component failures in total will result in a failed inspection. The policy also states that priority component failures corrected "on the spot" while the LCI is still on site will not count towards a failed inspection. The LCI will send or include notification of these corrections.

I have reviewed each of the failed priority components. Following is a summary of my findings:

(2.2) Custody Classification System, #7: Housing assignments are based on classification-level. Low custody detainees may not be commingled with high custody.

- **Auditor's Finding:** A housing roster for November 27, 2018 was reviewed and indicated two detainees classified as low custody were assigned to the same housing

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unit as high custody ICE detainees. Tulsa County Jail stated that the local ERO field office/SDDO had approved both detainee placements. Inspectors located documentation confirming that ERO was contacted and had approved one of the placements; but was not able to confirm whether ERO approved the other detainee's placement.

- **DAD Review: Concur.** This is correctly identified as a failed priority component unless the field office did approve the other detainee's placement. If we, ERO, approved the move, this deficiency should not be counted against the jail.

On March 12, 2019, I e-mailed the DFOD (out of office) and acting DFOD to see if DAL could confirm or document field office approval. On March 13, 2019, I spoke with the acting DFOD, who advised that DAL was not able to confirm that ERO approved the placement.

(2.12) Special Management Units, #11: There are implemented written procedures for the regular review of all detainees in Administrative Segregation. A supervisor conducts a review within 72 hours of the detainee's placement in Administrative Segregation to determine whether segregation is still warranted. The review includes an interview with the detainee, and a written record is made of the decision and the justification. If a detainee is segregated for the detainee's protection, but not at the detainee's request, continued detention requires the authorizing signature of the facility administrator or assistant facility administrator. When a detainee has spent seven days in Administrative Segregation, and every week thereafter for the first 30 days and at least every 10 days thereafter, a supervisor conducts a similar review, including an interview with the detainee, and documents the decision and justification.

- **Auditor's Finding:** The jail's practice has been to conduct a review every seven days for the first two months and at least every 30 days thereafter. Subsequent to the Technical Assistance Review (TAR) in September 2018, policy has been revised to meet all requirements of this component. However, the policy was not implemented until January 3, 2019 and did not cover the entire inspection period since the TAR on September 20, 2018.
- **DAD Review: Do Not Concur.** The policy was revised and implemented prior to the reinspection on January 23, 2019. The Priority Component Failure Process states that priority components corrected "on the spot" while the inspectors are still on site (or before) will not count towards a failed inspection. A common sense reading of the failure process means that any verifiable priority component corrected before the date of reinspection will also not count towards a failed inspection.

I have directed the DSCU to provide Nakamoto a copy of our Priority Component Failure Process and to remind them that "on the spot" (or before) corrections may be annotated to the G-324 (as Nakamoto inspectors did) but that these priority components are not designated as deficiencies and do not count towards a failed inspection.

(4.6) Significant Self-Harm and Suicide Prevention and Intervention, #2: *All facility staff who interact with and/or are responsible for detainees are trained, during orientation and at least annually on the facility's Suicide Prevention and Intervention Program, to include:*

- *Why the environments of detention facilities are conducive to suicidal behavior,*
 - *Standard first aid training, cardiopulmonary resuscitation (CPR) training and training in the use of emergency equipment,*
 - *Liability issues associated with detainee suicide,*
 - *Recognizing verbal and behavioral cues that indicate potential suicide,*
 - *Demographic, cultural, and precipitating factors of suicidal behavior,*
 - *Responding to suicidal and depressed detainees,*
 - *Communication between correctional and health care personnel,*
 - *Necessary referral procedures,*
 - *Housing observation and suicide-watch procedures,*
 - *Follow-up monitoring of detainees who have attempted suicide, and*
 - *Reporting and written documentation procedures."*
- **Auditor's Finding:** All correctional staff received training during orientation. However, not all medical staff completed the training.
 - **DAD Review:** Concur.

(5.4) Recreation, #3: *If outdoor recreation is available at the facility, each detainee shall have access for at least one hour daily, at a reasonable time of day, weather permitting. Detainees shall have access to clothing appropriate for weather conditions. If only indoor recreation is available, detainees shall have access for at least one hour each day to a large recreation room with exercise equipment and access to natural sunlight. All detainees participating in outdoor recreation shall have access to drinking water and toilet facilities.*

- **Finding:** Recreation and leisure programs for detainees include both indoor and outdoor activities. Detainees are permitted outdoor access to a recreation area attached to the housing units during dayroom hours, weather permitting. Detainees do not have access to clothing appropriate for weather conditions. The facility received an exception to this requirement in the IGSA facility contract between DHS and Tulsa County which was approved on May 8, 2017. However, the facility does not have a waiver from ICE regarding the exception to the standard.
- **DAD Review:** Do Not Concur. ERO recently contacted OAQ for a copy of the IGSA and confirmed that a waiver releasing Tulsa County Jail from being required to provide special weather clothing (i.e., clothing beyond what the jail provides to all detainees/inmates) was incorporated into the contractual agreement between ICE and the county. Inspectors did not have a copy of the IGSA to confirm the waiver and the facility did not provide inspectors a copy of the agreement, but a properly executed contract waiver was in effect.

(5.4) Recreation, #12: *Recreation for detainees housed in the SMU shall be separate from the general population. Detainees in the SMU for administrative reasons shall be offered at least one hour of exercise opportunities per day, seven days a week, outside their cells, and outdoors when practicable, and scheduled at a reasonable time. Detainees in the SMU for disciplinary reasons shall be offered at least one hour of recreation per day, five days per week, outside their cells, and outdoors when practicable, and scheduled at a reasonable time. Where cover is not provided to mitigate inclement weather, detainees shall be provided weather-appropriate equipment and attire.*

- **Auditor's Finding:** Subsequent to the TAR, Tulsa County Jail developed policy which meets the requirements of the standard as it pertains to the number of hours out of cell offered for exercise opportunities. However, when it was not practicable to offer outdoor recreation due to inclement weather, appropriate indoor exercise opportunities were not provided. Additionally, the facility has not been providing weather-appropriate equipment and attire. During the inspection, the OIC revised policy to provide for appropriate indoor exercise opportunities when outdoor recreation is not practicable. Additionally, weather appropriate clothing will be provided for ICE detainees housed in the SMU.
- **DAD Review: Concur.** I believe this deficiency should stand. While the jail did have a waiver that exempted the county from having to provide weather appropriate clothing, it did not have a waiver exempting the facility from providing weather-appropriate equipment.

(5.7) Visitation, #9: *The facility's written rules shall specify time limits for visits. Visits should be for the maximum period practicable but not less than one hour with special consideration given to family circumstances and individuals who have traveled long distances.*

- **Auditor's Finding:** The component was rated deficient during the TAR because all on-site visits were restricted to 30 minutes. During the inspection, the OIC revised the policy to permit on-site video visitation for a minimum of one hour three days a week and on holidays. The inspectors said that the policy revision should result in the facility meeting the requirements of the standard for future visits.
- **DAD Review: Do Not Concur.** The policy was revised on January 23, 2019 during the inspection. The Priority Component Failure Process states that priority components corrected "on the spot" while the inspectors are still on site (or before) will not count towards a failed inspection.

I have directed the DSCU to provide Nakamoto a copy of our Priority Component Failure Process and to remind them that "on the spot" (or before) corrections may be annotated to the G-324 (as Nakamoto inspectors did) but that these priority components are not designated as deficiencies and do not count towards a failed inspection.

(6.1) Detainee Handbook, #7: *The detainee handbook (local supplement) addresses the following issues:*

- *The rules, regulations, policies and procedures with which every detainee must comply*
 - *Detainee rights and responsibilities*
 - *Procedures for requesting interpretive services for essential communication*
 - *The facility's services and programs*
 - *The facility's classification system*
 - *Medical care*
 - *The facility's zero tolerance policy for all forms of sexual abuse and assault*
 - *The facility's rules of conduct and prohibited acts, the disciplinary scale, the sanctions imposed for violations of the rules, the disciplinary process, the procedure for appealing disciplinary findings, and detainees' rights in the disciplinary system (as required by Standard 3.1)*
 - *Information about the facility's grievance system, including medical grievances (as required by Standard 6.2)*
 - *The facility's policies on telephone access and on the monitoring of telephone calls, if telephone calls are monitored*
 - *The facility's visitation rules and hours*
 - *Rules and procedures governing access to the law library (as required by Standard 6.3) and to*
 - *legal counsel*
 - *Content and procedures of the facility's rules on legal rights group presentations, and the availability of legal orientation programs*
 - *The facility's rules on correspondence and other mail (including information on correspondence procedures as required by Standard 5.1)*
 - *The facility's policies and procedures related to personal property (as required by Standard 2.5)*
 - *The facility's marriage request procedures*
 - *Contact information for the ICE/ERO Field Office and the scheduled hours and days that ICE/ERO staff is available to be contacted by detainees at the facility*
 - *Procedures to submit written questions, requests, or concerns to ICE/ERO staff, as well as the availability of assistance to prepare such requests.*
- **Auditor's Finding:** All the items listed in this component are addressed in the new, recently developed site-specific local supplement handbook which will soon be provided to ICE detainees. Although the new supplemental handbook in English was completed and ready for distribution, it had not yet been provided to ICE detainees during the inspection period, from September 20, 2018 through the time the inspectors were on site. The Spanish version of the supplemental handbook was projected to be available in approximately 30 days.
- **DAD Review: Concur.** The inspectors rated this as a failed priority component because the supplemental handbook that was still being distributed at the time of inspection did not cover all components/topics required. The facility's revised/updated supplemental handbook, which will soon be ready for distribution to detainees in both

English and Spanish, will meet the requirements outlined in the standard. Nakamoto confirmed to me on March 12, 2019, that the newly revised supplemental handbook in English, though completed, was not distributed to detainees during the inspection. The Spanish version of the supplemental handbook was projected to be available within 30 days.

Recommendation for Facility Rating:

Based upon my review of the reinspection results for Tulsa County Jail, I recommend a final facility rating of **“Does Meeting Standards.”** For the reasons outlined above in this memorandum, I do not concur with the LCI’s finding regarding the following priority components:

- *(2.12) Special Management Units, #11*
- *(5.4) Recreation, #3*
- *(5.7) Visitation, #9*

My review documents a total of four failed priority components (not seven), with no single standard having three or more failures.

Approve/Concur (Date):  3/21/19

Do Not Approve/Concur (Date): _____

Needs More Discussion (Date): _____