



U.S. DEPARTMENT OF HOMELAND SECURITY **OFFICE OF INSPECTOR GENERAL**

OIG-24-03

November 2, 2023

FINAL REPORT

Limited-Scope Unannounced Inspection of Mesa Verde ICE Processing Center in Bakersfield, California





OFFICE OF INSPECTOR GENERAL

U.S. Department of Homeland Security

Washington, DC 20528 | www.oig.dhs.gov

November 2, 2023

MEMORANDUM FOR: Patrick J. Lechleitner
Senior Official Performing the Duties of the Director
U.S. Immigration and Customs Enforcement

FROM: Joseph V. Cuffari, Ph.D.
Inspector General

SUBJECT: *Limited-Scope Unannounced Inspection of Mesa Verde ICE Processing Center in Bakersfield, California*

JOSEPH V CUFFARI
Digitally signed by
JOSEPH V CUFFARI
Date: 2023.11.02
08:10:38 -07'00'

Attached for your action is our final report, *Limited-Scope Unannounced Inspection of Mesa Verde ICE Processing Center in Bakersfield, California*. We incorporated the formal comments provided by your office.

The report contains three recommendations aimed at improving care of detainees at Mesa Verde ICE Processing Center. Your office concurred with all three recommendations. Based on information provided in your response to the draft report, we consider all three recommendations open and resolved. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions. Please send your response or closure request to OIGISPFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please contact me with any questions, or your staff may contact Thomas Kait, Deputy Inspector General at (202) 981-6000.

Attachment



DHS OIG HIGHLIGHTS

Limited-Scope Unannounced Inspection of Mesa Verde ICE Processing Center in Bakersfield, California

November 2, 2023

Why We Did This Inspection

In accordance with the *Department of Homeland Security Appropriations Act, 2023*, H.R. Rep. No. 117-396 (2022), we conduct unannounced inspections of ICE detention facilities to ensure compliance with detention standards. In April 2023, we conducted an in-person, limited-scope inspection of the Mesa Verde in Bakersfield, California, to evaluate compliance with select ICE detention standards.

What We Recommend

We made three recommendations to improve ICE's oversight of detention facility management and operations at Mesa Verde.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at:

DHS-OIG.OfficePublicAffairs@oig.dhs.gov.

What We Found

During our limited-scope, unannounced inspection of Mesa Verde ICE Processing Center (Mesa Verde) in Bakersfield, California, we found that the facility complied with standards for the voluntary work program, facility conditions, and grievances. However, the facility did not accurately report or fully record an event that met the requirements of a use of force incident. Mesa Verde complied with most standards for medical care, including providing care to detainees on hunger strike, but experienced challenges finding available community optometrists, which caused delays in advanced optometry care.

ICE Response

ICE concurred with all three recommendations, and we consider them resolved and open.



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Abbreviations

AFOD	Assistant Field Office Director
CCTV	closed-circuit television system
CERT	correctional emergency response team
ERO	Enforcement and Removal Operations
FOD	Field Office Director
ICE	U.S. Immigration and Customs Enforcement
Mesa Verde	Mesa Verde ICE Processing Center
PBNDS 2011	<i>Performance-Based National Detention Standards 2011</i>
SRT	Special Response Team
TC	Tactical Commander



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Background

U.S. Immigration and Customs Enforcement (ICE) houses detainees at roughly 120 facilities nationwide, and the conditions and practices at those facilities can vary greatly. Facilities are required to comply with ICE's detention standards to provide a clean and safe environment and protect the health, safety, and rights of detainees.

As mandated by Congress,¹ we conduct unannounced inspections of ICE detention facilities to ensure compliance with the *Performance-Based National Detention Standards 2011* (PBNDS 2011). Our program of unannounced inspections has identified and helped correct violations of detention standards at facilities across the country. From April 18 through April 19, 2023, we conducted a limited-scope, in-person, unannounced, inspection of Mesa Verde ICE Processing Center (Mesa Verde) in Bakersfield, California. This limited-scope inspection focused on the facility's compliance with standards for the voluntary work program, facility conditions, grievances, use of force, and medical care, including care for detainees on hunger strike.² We identified concerns regarding detainee specialty medical care and use of force reporting.

Operated by the GEO Group Inc., Mesa Verde began housing detainees in 2015. The facility can house 400 detainees in 4 dorms, each housing 100 detainees. However, because of court-ordered COVID-19 restrictions,³ the facility set the maximum number of detainees per dorm at 26. At the time of our visit, the facility was only using 2 of its dorms to house 33 adult male detainees (13 in Dorm A, 19 in Dorm C, and 1 in Medical). Under the facility's contract, GEO Group Inc. receives approximately \$1.7 million a month to house ICE detainees.

The contract requires GEO Group Inc. to comply with PBNDS 2011, as revised in December 2016. According to ICE, PBNDS 2011 establishes consistent conditions of detention, program operations, and management expectations within ICE's detention system. These standards set requirements in areas such as:

- environmental health and safety, including cleanliness, sanitation, security, detainee searches, segregation, and disciplinary systems;
- detainee care, e.g., food service, medical care, and personal hygiene;
- activities, including the voluntary work program; and
- grievance systems.

¹ *Department of Homeland Security Appropriations Act, 2023*, H.R. Rep. No. 117-396 (2022).

² For our unannounced inspections of ICE detention facilities, we typically review compliance with the PBNDS 2011 for health, safety, medical care, the voluntary work program, grievances, staff-detainee communications, intake and classification, use of segregation, and use of force.

³ *Zepeda Rivas v. Jennings*, 504 F.Supp.3d 1060 (N.D. Cal. 2020).



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Our onsite inspection team included contracted medical experts who reviewed Mesa Verde's compliance with applicable medical standards of care;⁴ we incorporated their assessments in our findings. During our inspection, we conducted a walk-through of Mesa Verde facilities, including detainee housing units, indoor and outdoor recreation areas, and the medical unit. We also requested and reviewed documents and files, and interviewed ICE personnel, Mesa Verde GEO staff, and detainees.

In February 2023, approximately 2 months before our inspection, detainees at Mesa Verde began participating in a hunger strike to bring attention to low wages for the voluntary work program and what they perceived as unsanitary facility conditions. Our medical contractor reviewed the records of five detainees who had been on hunger strikes to assess Mesa Verde's compliance with the PBNDS 2011 standards.

Results of Inspection

We found that Mesa Verde complied with standards for the voluntary work program, facility conditions, and grievances. However, it did not accurately report or fully record a use of force incident. We also found that Mesa Verde complied with most standards for medical care, but the absence of community optometry providers delayed detainees' receipt of specialty care.

Mesa Verde Complied with Standards for the Voluntary Work Program, Facility Conditions, and Grievances

PBNDS 2011 requires facilities to provide detainees with the opportunity to participate in voluntary work assignments.⁵ Based on our review of policies, procedures, and payment records, we found that Mesa Verde complied with this standard. Detainees in dorm A participated in the voluntary work program by cleaning their dorms, common area, showers, and toilets. Participating detainees received payment after completing their work shifts. Detainees in dorm C did not participate in the voluntary work program so facility staff were responsible for cleaning. Detainees in dorm C said they chose not to participate in the program due to low wages.

PBNDS 2011 requires facilities to maintain high standards of cleanliness and sanitation, including having an adequate number of toilets, washbasins, and showers.⁶ We found during our facility tour that Mesa Verde adhered to cleanliness and sanitation standards, with an appropriate number of toilets, washbasins, and showers based on the detainee population at the time of our site visit. Occupied dorms were generally clean in appearance. A detainee in dorm A explained that detainees participating in the voluntary work program were responsible for keeping it clean.

⁴ In addition to the PBNDS 2011, our medical contractors used the National Commission on Correctional Health Care's 2018 *Standards for Health Services in Jails*.

⁵ PBNDS 2011, Section 5.8, *Voluntary Work Program* (revised Dec. 2016).

⁶ PBNDS 2011, Section 1.2, *Environmental Health and Safety* and Section 4.5 *Personal Hygiene* (revised Dec. 2016).



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In dorm C, where detainees did not participate in the voluntary work program and facility staff were responsible for cleaning, detainees shared concerns about cleanliness. One detainee pointed out what he perceived to be dusty vents and surfaces, and mold in the showers. We examined the areas of concern, but despite the detainee's claims, we observed clean conditions. Through general observation, we concluded that the housing units had adequate lighting and were well-ventilated, and there were no lingering odors or moisture buildup on any surfaces.

PBND 2011 also requires facilities to have a procedure for detainees to file grievances and receive a timely response in a language they can understand.⁷ We reviewed a random sample of 30 grievances out of 454 submitted by detainees between January 1, 2023, and March 31, 2023, and found all 30 received an appropriate response, and 29 out of 30 received a timely response from facility staff. Of the grievances we reviewed, only three were submitted in a language other than English. The facility did not respond to those three grievances in the language used by the submitting detainee; due to the size of our sample, we could not determine whether this is a systemic issue.

Mesa Verde Did Not Comply with Standards for Use of Force

PBND 2011 requires facility staff to use physical force only when necessary and reasonable and requires appropriate documentation of any use of force incidents, including use of audio-visual recordings. The facility staff must also notify the ICE Field Office Director (FOD) of any use of force incidents both via telephone as soon as practical and in writing by submitting an after-action report within 2 business days.⁸ Mesa Verde did not report any use of force incidents in the 6 months prior to our inspection (between October 18, 2022, and April 18, 2023). Mesa Verde security staff also told us that the facility had not had any use of force incidents in the past 2 years. However, detainee interviews revealed that as recently as March 2023, the facility staff removed four detainees from their dorm using tactics classified in PBND 2011 as a use of force.

The incident took place on March 7, 2023, after ICE, in consultation with facility medical staff, decided to transfer four detainees participating in a hunger strike to El Paso, Texas, for enhanced medical care. Facility staff approached each detainee and asked them to prepare for a medical transfer, but all refused. The facility chaplain spoke to the four detainees about the importance of receiving medical care, but they continued to refuse to exit the dorm. The facility's correctional emergency response team (CERT) entered the dorm, with handheld cameras recording, and removed one of four detainees. According to the facility's after-action report, at that point, several other detainees started acting aggressively. Mesa Verde leadership, in consultation with ICE Enforcement and Removal Operations (ERO) leadership, activated the ICE Special Response Team (SRT) to assist the facility's CERT in removing the three remaining

⁷ PBND 2011, Section 6.2, *Grievance System* (revised Dec. 2016).

⁸ PBND 2011, Section 2.15, *Use of Force and Restraints* (revised Dec. 2016).



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detainees. CERT and SRT, led by the respective team leaders, entered the dorm. The SRT Tactical Commander (TC) told the facility CERT to stop recording with their handheld cameras. ICE SRT and the facility CERT worked together to restrain and remove the remaining three detainees. Following the incident's conclusion, facility staff, in concurrence with the acting Assistant Field Office Director (AFOD), decided that the use of force reporting requirement was not necessary for the incident.

We reviewed video of the incident from the facility's closed-circuit television system (CCTV). The video showed that during the removal, CERT used takedowns, restraints (in the form of disposable handcuffs), and hold techniques classified in PBNDS 2011 as a use of force.⁹

Mesa Verde Did Not Report the Use of Force Incident

PBNDS 2011 requires facilities to report use of force incidents to the FOD.¹⁰ Our review of video footage and written accounts of the incident showed the facility and ICE staff used an appropriate amount of force to remove the detainees, but the facility did not appropriately report the incident. The facility completed its own after-action reports, but it did not share those reports with the FOD, as required by the standard. Mesa Verde's security staff said they did not report the incident to the FOD because the AFOD said it was not necessary. The AFOD maintained that because the incident did not involve the use of an intermediate force device, such as a chemical agent, it did not rise to the level of a use of force incident. Use of force incidents do not require the use of an intermediate force device, and the facility should have followed the standard and reported it to the FOD.

Mesa Verde Did Not Fully Record the Use of Force Incident

PBNDS 2011 requires the facility to audio-visually record use of force incidents in their entirety, and to preserve that video as part of the after-action report for the incident.¹¹ At the beginning of the March 7, 2023, incident, facility staff used handheld cameras capable of recording video and audio; yet the recording was terminated under the direction of the SRT TC after taking operational command of the event. The SRT TC believed ICE Directive 1061.2, *Recordings by ICE Personnel*, prohibited any recording of ICE personnel in any situation. According to the acting Assistant Director for Custody Management for ICE ERO, the policy is meant to prohibit ICE personnel from recording each other surreptitiously. The acting Assistant Director acknowledged that the policy was confusing but believes that recording in a situation like the one on March 7, 2023, is appropriate.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*



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During the incident, the facility's CCTV system continued recording, but it did not provide an audio record. The only reason the facility still had CCTV footage of the incident is because footage remains preserved for 90 days. Had this incident occurred more than 90 days before our visit, we would have had to rely solely on written documentation drafted by GEO and ICE staff and interviews of detainees involved in the incident.

In this case, the SRT TC's misinterpretation of ICE Directive 1061.2 caused confusion, which resulted in the facility staff turning off its handheld cameras and not fully recording the incident as required by PBNDS 2011.

Mesa Verde's Medical Department Complied with Most, but Not All Requirements

In general, Mesa Verde provided medical care in a timely and appropriate manner, as required by PBNDS 2011.¹² Our contracted medical professionals found Mesa Verde complied with medical standards for program administration, emergency care, health care records and screening, sick calls, special needs, pharmacy management, hunger strikes, and medical grievances. At the same time, it appears a shortage of optometry providers in the community has caused delayed care for detainees.

Mesa Verde was successful in scheduling specialty medical appointments¹³ except for optometry. The wait time for optometry appointments averaged 73 days for detainees. The medical contractor concluded there are not enough providers in the community to accommodate the general public and detainees. In addition, community optometry providers are required to pass an ICE registration system before giving care to detainees. There were between 10 and 20 detainees at Mesa Verde and a neighboring detention facility awaiting optometry appointments. Mesa Verde medical staff sets priorities to ensure those with urgent needs are seen first, but without available optometry specialists, detainees endure extended delays between diagnosis and appropriate care and treatment.

Recommendations

Recommendation 1: We recommend the Executive Associate Director of Enforcement and Removal Operations provide clarification in writing to ICE personnel on Directive 1061.2, as it relates to recording use of force incidents in detention facilities.

Recommendation 2: We recommend the Executive Associate Director of Enforcement and Removal Operations require the San Francisco Field Office to ensure appropriate training and

¹² PBNDS 2011, Section 4.3, *Medical Care* (revised Dec. 2016).

¹³ Specialty medical appointments are typically with providers other than the primary care provider.



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implementation by Mesa Verde staff to accurately identify, record, and report use of force incidents.

Recommendation 3: We recommend the Executive Associate Director of Enforcement and Removal Operations require the San Francisco Field Office to establish and implement a plan to reduce wait times for optometry appointments at Mesa Verde.

Management Comments and Office of Inspector General Analysis

ICE provided written comments in response to the draft report and concurred with all three recommendations. Appendix B contains ICE's management comments in their entirety. We also received technical comments on the draft report and took them into consideration when finalizing this report. We consider all three recommendations resolved and open. A summary of ICE's response to each recommendation and our analysis follows.

ICE Response to Recommendation 1: Concur. ERO will clarify in writing to ICE personnel on Directive 1061.2 as it relates to recording use of force incidents in detention facilities. The messaging will cite PBNDS 2011 (revision 2016), Section 2.15, *Use of Force and Restraints*, to all ICE personnel, specifically referencing Calculated Use of Force and/or Application of Restraints standards. The estimated completion date is November 30, 2023.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when ICE provides documentation that it has provided clarification in writing to ICE personnel on Directive 1061.2 as it relates to recording use of force incidents in detention facilities.

ICE Response to Recommendation 2: Concur. ERO's San Francisco Field Office has scheduled training for all Mesa Verde staff to ensure staff accurately identify, record, and report use of force incidents in compliance with PBNDS 2011. The facility administrator for Mesa Verde will maintain a training roster indicating the training has been conducted and completed. The estimated completion date is November 30, 2023.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when ICE provides documentation that all Mesa Verde staff received training on how to accurately identify, record, and report use of force incidents in compliance with PBNDS 2011.

ICE Response to Recommendation 3: Concur. Since the inspection, Mesa Verde officials located a community provider who signed a Letter of Understanding, dated December 2018, to treat detainees. Mesa Verde will continue to monitor and document care delivery. Should the



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facility experience renewed delays, facility staff will work with the field medical coordinator to resolve any delivery issues.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. In October 2023, we requested additional information for the review and found the average length of time between the appointment approval date and the appointment date had increased from 73 to 136 days. We will close this recommendation when ICE provides documentation that Mesa Verde has implemented a plan and reduced optometry care wait times successfully.



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Appendix A: Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Pub. L. No. 107–296) by amendment to the *Inspector General Act of 1978*.

DHS OIG analyzes various factors to determine which facilities to inspect. We review OIG Hotline complaints and prior inspection reports, and past and future inspection schedules of other ICE and DHS inspection organizations. We also consider requests, input, and information from Congress, the DHS Office of Civil Rights and Civil Liberties, nongovernmental organizations, and media outlets to determine which facilities may pose the greatest risks to the health and safety of detainees. Finally, to ensure we review facilities with both large and small detainee populations in geographically diverse locations, we consider facility type (e.g., service processing centers, contract detention facilities, and intergovernmental service agreement facilities) and applicable PBNDS.

We limited our scope to PBNDS 2011 for health, safety, medical care, grievances, use of force, and the voluntary work program. Given the exigent circumstances of a hunger strike at the facility, we conducted this limited scope inspection. Accordingly, we did not review standards related to staff-detainee communications, intake and classification, or use of segregation. Our medical contractors also used the National Commission on Correctional Health Care's 2018 *Standards for Health Services in Jails* when reviewing medical-related policies and procedures at the facility.

We conducted our limited scope, unannounced, in-person inspection of Mesa Verde from April 18 through April 19, 2023. During the inspection, we:

- Conducted an in-person walk-through of the facility. We viewed areas used by detainees, including intake processing areas; medical facilities; residential areas, including sleeping, showering, and toilet facilities; and recreational facilities.
- Reviewed the facility's compliance with key health, safety, and welfare requirements of the PBNDS 2011, including access to medical care.
- Interviewed ICE and GEO detention facility staff members, including key ICE operational and detention facility oversight staff and detention facility medical, grievance, and request officials.
- Interviewed detainees held at the detention facility to evaluate compliance with PBNDS 2011 grievance procedures and grievance resolution.
- Reviewed documentary evidence, including medical files, grievance logs, and video evidence.



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We contracted with a team of qualified medical professionals to conduct a limited evaluation of detainee medical care at the Mesa Verde facility, including compliance with hunger strike protocols and specialty care. We incorporated information provided by the medical contractors in our findings.

We conducted this review under the authority of the *Inspector General Act of 1978*, 5 U.S.C §§ 401-424, and according to the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

DHS OIG's Access to DHS Information

During this inspection, DHS provided timely responses to our requests for information and did not deny or delay access to the information we requested.



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Appendix B: ICE Comments on the Draft Report

U.S. Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20536



U.S. Immigration
and Customs
Enforcement

October 12, 2023

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Jennifer S. Cleary
Acting Chief Financial Officer
U.S. Immigration and Customs Enforcement

JENNIFER S. Cleary
STANNARD
Date: 2023.10.12
11:13:02 -0400

SUBJECT: Management Response to Draft Report: "Limited-Scope
Unannounced Inspection of Mesa Verde ICE Processing Center
in Bakersfield, California" (Project No. 23-001-ISP-ICE(d))

Thank you for the opportunity to comment on this draft report. The U.S. Immigration and Customs Enforcement (ICE) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

ICE leadership is pleased to note OIG's positive recognition of the Mesa Verde ICE Processing Center compliance with ICE's "Performance-Based National Detention Standards 2011" (PBNDS, revised December 2016)¹, specifically those standards pertaining to the voluntary work program, facility conditions, and grievances. ICE remains committed to providing industry-leading standards and superior levels of safety, security, and humane environments for noncitizens entrusted to its care at ICE.

The draft report contained three recommendations with which ICE concurs. Enclosed please find our detailed response to each recommendation. ICE previously submitted technical comments addressing several accuracy, contextual and other issues under a separate cover for OIG's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Enclosure

¹ <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf>

www.ice.gov



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Management Response to Draft Report: "Limited-Scope Unannounced Inspection of Mesa Verde ICE Processing Center in Bakersfield, California" (Project No. 23-001-ISP-ICE(d))
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Enclosure: Management Response to Recommendations Contained in 23-001-ISP-ICE(d)

OIG recommended that the ICE Executive Associate Director of Enforcement and Removal Operations (ERO):

Recommendation 1: Provide clarification in writing to ICE personnel on Directive 1061.2, as it relates to recording use of force incidents in detention facilities.

Response: Concur. ERO will clarify in writing to ICE personnel on Directive 1061.2 as it relates to recording use of force incidents in detention facilities. The messaging will cite PBNDS 2011 (revision 2016) Section 2.15 Use of Force and Restraints to all ICE personnel specifically referencing the Calculated Use of Force and/or Application of Restraints standard.

Estimated Completion Date (ECD): November 30, 2023.

OIG recommended that the ICE Executive Associate Director of ERO require the San Francisco Field Office to:

Recommendation 2: Ensure appropriate training and implementation by Mesa Verde staff to accurately identify, record, and report use of force incidents.

Response: Concur. The ERO San Francisco office has scheduled training for all Mesa Verde Staff to ensure staff accurately identify, record, and report use of force incidents in compliance with the Performance-Based National Detention Standards 2011 (revised 2016). The facility administrator for Mesa Verde will maintain a training roster indicating the training has been conducted and completed.

ECD: November 30, 2023.

Recommendation 3: Establish and implement a plan to reduce wait times for optometry appointments.

Response: Concur. Since the audit, Mesa Verde located a community provider who signed a Letter of Understanding (LOU) dated December 20, 2018 to treat ICE detainees. Mesa Verde will continue to monitor this situation, and document care delivery. Should the facility experience renewed delays in the delivery of care, facility staff will work with the Field Medical Coordinator to resolve any delivery issues. If care is elective, services



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Management Response to Draft Report: "Limited-Scope Unannounced Inspection of Mesa Verde ICE Processing Center in Bakersfield, California" (Project No. 23-001-ISP-ICE(d))

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will be appropriately scheduled with follow up appointments every 45 days. If care is not elective, noncitizens will be transferred to another area of responsibility to address the medical need.

ICE requests that the OIG consider this recommendation resolved and closed, as implemented.



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Appendix C:

Office of Inspections and Evaluations Major Contributors to This Report

John Shiffer, Chief Inspector

Adam Brown, Lead Inspector

Gwen Schrade, Lead Inspector

Joshua Bradley, Inspector

Melanie Lake, Independent Referencer



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Appendix D: Report Distribution

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