



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

Immigration and Customs Enforcement

Office of Professional Responsibility

Inspections and Detention Oversight

Washington, DC 20536-5501

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**Office of Detention Oversight  
Compliance Inspection**

**Enforcement and Removal Operations  
Los Angeles Field Office  
Theo Lacy Facility  
Orange, California**

**March 12 – 14, 2013**

**COMPLIANCE INSPECTION  
THEO LACY FACILITY  
LOS ANGELES FIELD OFFICE**

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## EXECUTIVE SUMMARY

The Office of Professional Responsibility (OPR), Office of Detention Oversight (ODO) conducted a Compliance Inspection (CI) of the Theo Lacy Facility (TLF) in Orange, California, from March 12 to 14, 2013. In August 2010, U.S. Immigration and Customs Enforcement (ICE) began housing detainees at TLF under an Intergovernmental Service Agreement with Orange County, California. TLF is operated by the Orange County Sheriff's Department (OCSA). The facility is approximately 749,995 square feet, and has a capacity of 3,111 beds. TLF has 838 beds allocated for male ICE detainees of all security classification levels (Level I – lowest threat; Level II – medium threat; Level III – highest threat) for periods in excess of 72 hours. The average daily detainee population at TLF is 467. The average length of stay for an ICE detainee is 111 days. At the time of this CI, TLF housed 385 male detainees. TLF does not house female detainees.

Deputy Sheriffs employed by OCSA provide security at the facility. Orange County Facility Operations performs maintenance. The OCSA Food Services Corps provides food service. The Orange County Health Care Agency administers medical care at TLF. TLF holds no accreditations.

The ICE, Office of Enforcement and Removal Operations (ERO), Field Office Director (FOD), Los Angeles, California (ERO Los Angeles) is responsible for ensuring facility compliance with ICE policies and the ICE Performance Based National Detention Standards (PBNDS). Full-time ERO staff at TLF is comprised of (b)(7)e Supervisory Detention and Deportation Officer (b)(7)e Deportation Officers (b)(7)e Immigration Enforcement Agent, and (b)(7)e Enforcement and Removal Assistant. An ERO Detention Service Manager monitors facility compliance with the PBNDS

An OCSA Captain is the highest ranking official at TLF and serves as the Facility Administrator. The Captain is responsible for oversight of detention services, medical care, security operations, and food service. In addition to the Captain, TLF supervisory staff consists of (b)(7)e Lieutenants and (b)(7)e Sergeants. Remaining non-supervisory staff is comprised of (b)(7)e sworn officers and professional county employees.

In September 2011, ODO conducted a Quality Assurance Review at TLF. Of the 23 PBNDS reviewed, 15 were in full compliance. The remaining eight standards accounted for 15 deficiencies.

During this CI, ODO reviewed 18 PBNDS. ODO determined seven standards were fully compliant, and identified 20 deficiencies in the following 11 standards: Classification System (2 deficiencies), Correspondence and Other Mail (2), Disciplinary System (1), Emergency Plans (1), Environmental Health and Safety (1), Grievance System (5), Law Libraries and Legal Material (2), Special Management Units (1), Staff-Detainee Communication (1), Telephone Access (3), and Use of Force and Restraints (1). Deficiencies impacting detainee safety include commingling of detainees with incompatible security classifications due to variances in detainee classification between TLF and ERO; disciplinary action taken against detainees without engagement in a formal disciplinary process; copies of detainee medical grievances placed in individual detention files, but not in individual medical files; failure to conduct a seven-day review of detainees in disciplinary segregation; suspension

of detainee telephone privileges for minor violations; and use of a carotid control hold on a detainee during a use of force incident.

ODO confirmed four repeat deficiencies from the previous ODO inspection under Grievance System (1), Law Libraries and Legal Material (1), and Telephone Access (2).

This report details all deficiencies identified by ODO and refers to the specific, relevant sections of the PBNDS. ERO will be provided a copy of this report to assist in developing corrective actions to resolve all identified deficiencies. These deficiencies were discussed with TLF and ERO personnel on-site during the inspection, as well as during the closeout briefing conducted on March 14, 2013.

ERO classifies all detainees prior to arrival at TLF and provides required classification documents to TLF management. TLF uses the documents provided by ERO to conduct a separate classification of detainees. At the time of the CI, the TLF classification system listed 385 male detainees (376 Level I; eight Level II; one Level III); however, the ERO Enforce Alien Removal Module reflected a total population of 374 male detainees (39 Level I; 275 Level II; 60 Level III). The difference in total population is not a concern, because live databases are updated at different times throughout the day; however, the large discrepancy in classification levels poses a significant life-safety issue due to the potential for improper commingling of detainees with incompatible security classifications. ODO confirmed the TLF classification process does not comply with the PBNDS.

TLF has a disciplinary policy that defines major and minor rules violations; however, ODO verified instances of detainees being relocated to more restrictive modular housing from less restrictive barracks housing after committing major violations. ODO verified these changes in detainee housing occurred without engaging in an established disciplinary process as required by TLF policy and the PBNDS.

TLF maintains a grievance log to document and track all formal grievances submitted by detainees. All grievances, including medical grievances, are collected by general OCSO correctional staff. The grievances are then logged and forwarded to the appropriate departments by a Facility Administrative Sergeant. ODO confirmed medical grievances are not collected by medical personnel or delivered directly to medical staff. TLF management places medical grievances in individual detention files, but not in individual medical files as required by the PBNDS. ODO verified grievance dispositions are placed in the individual detention file of each detainee lodging a grievance, but not in the medical file. The electronic grievance log reflects TLF management received and processed a total of 20 formal grievances from detainees during the 2012 calendar year. Of the 20 formal grievances, ten related to medical issues, four alleged staff misconduct, and three involved funds and personal property. The remaining grievances pertained to mail, recreation, and voluntary work. Three of the four grievances alleging officer misconduct were internally investigated by TLF and were unsubstantiated based on staff interviews and a review of available evidence. The fourth grievance alleging officer misconduct remains under investigation by TLF management. Notifications concerning grievances which allege officer misconduct are immediately forwarded to ERO via electronic mail. ERO supervisory staff provided ODO with copies of email notifications received from TLF staff. ODO reviewed randomly-selected formal grievances submitted by detainees during this time

period and verified all requests were documented and recorded in the grievance log, and detainees were provided with a timely response. ODO did not observe any patterns or trends regarding grievances.

All menus are certified as nutritionally adequate by a registered dietitian, and portion sizes are adequate. ODO found no deficiencies with regard to food service at TLF.

A team of full-time healthcare professionals provides medical services at TLF, the James A. Musick Facility, and the OCS D Intake and Release Center (IRC). The team consists of the Chief of Operations, the Medical Director, who is the designated Clinical Medical Authority, the Mental Health Director, who is a psychiatrist, the Mental Health Services Chief, the Mental Health Administrator, the Administrative Manager, the Director of Nursing, the Dental Director, and the Pharmacy Director. (b)(7)e physicians and (b)(7)e nurse practitioners are on-site five days each week from 7:30 a.m. to 5:00 p.m. After-hours telephone consultation is provided by the on-site physician or the nurse practitioner at the IRC. After-hours coverage consists of a pool of physicians and nurse practitioners. Transfer to the IRC for evaluation is available if a telephone consultation is not sufficient. Weekend coverage is provided by the IRC triage provider via telephone from 8:00 a.m. to 4:00 p.m. After hours on weekends, physicians provide coverage on a rotational basis. (b)(7)e dentists, a dental hygienist, and (b)(7)e dental assistants are on-site five days each week to provide dental care. Mental health services are provided by a psychiatrist, a psychologist, (b)(7)e mental health nurse practitioners, and (b)(7)e licensed social workers. Pharmacy technicians, medical assistants, medical records clerks, and an x-ray technician are augmented by (b)(7)e registered nurses (RN) and (b)(7)e licensed vocational nurses working 12-hour shifts. ODO confirmed all professional licenses are available on-site and are primary source verified.

Detainees are processed through the IRC where medical, mental health, and suicide risk screening is performed by a registered nurse. A chest x-ray to screen for tuberculosis is also performed at the IRC. Detainees are then transferred to TLF, where intake screening results are reviewed by a registered nurse to identify chronic care, medication, and other medical management needs. ODO reviewed 35 medical records and confirmed a physical examination was completed within two days of admission in all reviewed cases, which is well within the 14 days required by the PBNDS. Detainees are not charged co-pays or other fees for medical services.

The TLF clinic is open 24 hours a day, seven days a week. The clinic consists of six examination rooms, a treatment room, a digital x-ray suite, a laboratory, administrative offices, a three-chair dental suite with an office, a mental health wing with offices, a medication room, and a detainee waiting room that is supervised by a correctional officer and TLF control room personnel. TLF also has a special care unit (Modular O) for detainees requiring more frequent medical observation than general population, but not requiring hospitalization. Modular O has two examination rooms, office space, and a nurse station where continual monitoring of detainees is performed. Detainees requiring hospitalization or a higher level of care are transferred to a local hospital or another ICE facility. OCS D has contracts with six local hospitals for emergency and specialty care.

Detainees access care by completing a medical request form available in English and Spanish, and depositing it in a secure "Medical Requests" lockbox. There are lockboxes located outside

the dining hall, the detainee housing units, and the Special Management Unit (SMU). Sick call slips are collected four times each day, seven days a week. ODO reviewed 25 sick call requests and verified all detainees were seen within 24 hours. ODO notes dental triage is performed by a dentist who visits the detainee housing units. TLF management stated this practice has significantly reduced dental complaints and the associated workload. ODO confirmed detainees have the opportunity to file medical grievances, but medical grievances are collected and screened by non-medical TLF correctional staff and then forwarded to the medical department, which ODO cites as a deficiency in the Grievance System section of this report. By policy and practice, TLF does not place medical grievances in individual medical files as required by the PBNDS. TLF management referred to the California Board of State and Community Corrections statement that “having a grievance system that provides for a third party to confidentially answer issues that are ultimately the responsibility of the Sheriff is non-compliant with Title 15, Section 1073 of the California Code of Regulations.” TLF management stated they are pursuing a waiver for this issue due to the perceived conflict between the PBNDS and California State Law.<sup>1</sup>

TLF reported there have been no suicides or suicide watches since the facility began housing detainees in 2010. There was an incident that occurred on January 31, 2013, during which a detainee placed a noose around his neck, but denied suicidal ideation. The detainee was seen by TLF medical staff and immediately transferred to the IRC for continued monitoring. TLF management notified ERO of the incident. Detainees requiring suicide watch or close supervision for suicidal behavior are transferred to the IRC for suicide watch management, and further mental health evaluation. ODO verified documentation of suicide prevention training for all correctional and medical staff is current.

TLF has a designated Sexual Abuse and Assault Prevention and Intervention (SAAPI) Coordinator and a Sexual Abuse Response Team (SART). The members of the SART include the SAAPI Coordinator, the Special Victims Unit Victims’ Advocate, and representatives from the security, medical, and mental health departments. Having a SART assures a multi-disciplinary approach to preventing and responding to sexual abuse and assaults. ODO confirmed there were no incidents of reported sexual abuse or assault during the 12 months preceding this CI. Detainees are provided SAAPI program information via the detainee handbook, during orientation, and by postings in the housing units. The information is provided in English and Spanish, and includes toll-free telephone numbers for reporting incidents. The facility handbook, which is detailed and comprehensive, addresses various types of sexual abuse, including nonconsensual sexual acts, abusive sexual contact, non-contact sexual abuse, staff sexual misconduct, and staff sexual harassment.

ODO reviewed (b)(7) staff training records and confirmed comprehensive SAAPI training that addresses all required elements was provided during initial orientation and annual training in all cases. ODO interviewed TLF staff and verified their knowledge with respect to the SAAPI program and how to handle information received concerning possible sexual abuse or assault.

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<sup>1</sup> This deficiency will only be cited in this report under the Grievance System PBNDS. Citing a deficiency under both the Medical Care and Grievance System standards would be unnecessarily redundant, because the citation under the Medical Care PBNDS directs the reader to “see Grievance System Detention Standard.”

Posters regarding the Prison Rape Elimination Act and sexual harassment are conspicuously displayed throughout the facility.

TLF has written procedures in place to temporarily segregate detainees for disciplinary and administrative reasons. ODO toured the SMU and observed the units to be well ventilated, adequately lit, temperature appropriate, and maintained in a sanitary condition. Detainees in the SMU are afforded living conditions that approximate those provided to detainees in general population. At the time of the CI, there was one detainee who had been housed in disciplinary segregation for a period of three days. There were no detainees in administrative segregation. ODO reviewed the SMU housing record of the detainee in disciplinary segregation and verified a disciplinary hearing was conducted within 72 hours, and the detainee was provided a copy of the decision with an opportunity to appeal the decision to the Facility Administrator. ODO verified medical, custody, and administrative staff visited the SMU as required by the PBNDS. ODO reviewed three detention files for detainees housed in disciplinary segregation for more than seven days during the 12 months preceding this CI and confirmed seven-day disciplinary segregation status reviews were not performed as required by the PBNDS.

The TLF staff-detainee communication policy provides detainees the opportunity to submit written questions, requests, or concerns to TLF and ERO staff via request forms available in English and Spanish. The facility handbook contains the procedures for contacting ERO directly. Detainees deposit completed request forms in readily-accessible lockboxes located outside each detainee housing unit, the dining hall, and the SMU for collection by an ERO officer; however, the ERO detainee request log does not include the name or nationality of the detainee, the date the request was forwarded to ERO, or the date the request was returned to the detainee, as required by the PBNDS. ERO officer visitation schedules and Department of Homeland Security, Office of Inspector General Hotline posters are conspicuously displayed throughout the facility. ODO verified scheduled and unannounced supervisory and non-supervisory staff visits are conducted and documented by ERO staff.

TLF has a comprehensive use of force policy addressing all requirements of the PBNDS, including confrontation avoidance and using force only as a last resort. ODO verified there have been no calculated use of force incidents and eight immediate use of force incidents involving detainees during the 12 months preceding this CI. ODO reviewed all written documentation and video recordings of the eight immediate use of force incidents and verified compliance with the PBNDS and facility policy in seven of the eight incidents. In the eighth incident, which occurred on June 26, 2012, a detainee was placed in a carotid control when the detainee refused to obey a lawful order and engaged in a physical confrontation with a staff member. The incident was reported on June 27, 2012, by ERO Los Angeles to ERO Headquarters via the Significant Event Notification Network (SEN Incident Number: (b)(7)e). The incident was also reported to the Joint Intake Center for investigative referral. ODO verified OCSD provides training in carotid control holds and authorizes the technique for use on detainees and inmates at the facility. Carotid control holds are in violation of the PBNDS and have the potential to cut off or crush the airway, which can lead to serious medical issues or death. ODO reviewed the documentation and confirmed, in all eight use of force incidents, medical response was immediate and detainees received appropriate follow-up care. After-action reviews were conducted in accordance with the PBNDS, and ERO was notified.

# INSPECTION PROCESS

ODO inspections evaluate the welfare, safety, and living conditions of detainees. ODO primarily focuses on areas of noncompliance with the ICE National Detention Standards or the ICE PBNDS, as applicable. The PBNDS apply to TLF. In addition, ODO may focus its inspection based on detention management information provided by ERO Headquarters and ERO field offices, and on issues of high priority or interest to ICE executive management.

ODO reviewed the processes employed at TLF to determine compliance with current policies and detention standards. Prior to the inspection, ODO collected and analyzed relevant allegations and detainee information from multiple ICE databases, including the Joint Integrity Case Management System, the ENFORCE Alien Booking Module, and the ENFORCE Alien Removal Module. ODO also gathered facility facts and inspection-related information from ERO Headquarters staff to prepare for the site visit at TLF.

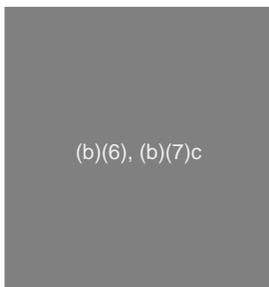
## REPORT ORGANIZATION

This report documents inspection results, serves as an official record, and is intended to provide ICE and detention facility management with a comprehensive evaluation of compliance with policies and detention standards. It summarizes those PBNDS that ODO found deficient in at least one aspect of the standard. ODO reports convey information to best enable prompt corrective actions and to assist in the on-going process of incorporating best practices in nationwide detention facility operations.

OPR defines a deficiency as a violation of written policy that can be specifically linked to the PBNDS, ICE policy, or operational procedure. When possible, the report includes contextual and quantitative information relevant to the cited standard. Deficiencies are highlighted in bold throughout the report and are encoded sequentially according to a detention standard designator.

Comments and questions regarding the report findings should be forwarded to the Deputy Division Director, OPR ODO.

## INSPECTION TEAM MEMBERS



Special Agent (Team Leader)	ODO, Phoenix
Supervisory Special Agent	ODO, Phoenix
Special Agent	ODO, Phoenix
Special Agent	ODO, San Diego
Contract Inspector	Creative Corrections
Contract Inspector	Creative Corrections
Contract Inspector	Creative Corrections

# OPERATIONAL ENVIRONMENT

## INTERNAL RELATIONS

ODO interviewed an ERO Assistant Field Office Director, a Supervisory Detention and Deportation Officer, the OCSD ICE Detention Program Jail Compliance and Training Team Lieutenant, and the OCSD Captain. During interviews, ERO and TLF leadership stated the working relationship between ICE and OCSD is excellent, and morale is high.

The OCSD Captain and the OCSD Lieutenant stated they have observed ERO staff visiting the housing units multiple times each week to communicate with detainees and address issues or concerns. TLF senior management praised the professionalism of ERO management and staff.

## DETAINEE RELATIONS

ODO interviewed 19 Level I detainees and one Level III detainee to assess the overall living and detention conditions at TLF. ODO interviewed detainees in “barracks style” housing and in the more restrictive “modular housing.” ODO received more complaints from detainees located in the modular housing. The length of stay for the detainees interviewed ranged from one week to 14 months. ODO confirmed all detainees were provided the ICE National Detainee Handbook and a facility handbook in English and Spanish. All detainees interviewed could identify and contact a Deportation Officer. All detainees stated ERO officials visit the housing areas regularly. ODO confirmed through a review of facility visitation logs that visits by ERO personnel to the housing units comply with the PBNDS.

One detainee stated he had not received treatment for a reported knee problem. ODO verified with medical staff that the detainee is scheduled for a right knee x-ray on March 14, 2013. Three detainees stated TLF staff does not allow telephone calls to legal representatives outside of a 2-hour window when the dayroom is accessible. ODO verified from detainee call records that detainees are permitted legal telephone calls upon request outside of dayroom hours.

Nine detainees stated detainees in barracks housing, which is less restrictive, are afforded between eight and ten hours of dayroom and outdoor recreation access, and detainees cited for rule violations in the barracks are reassigned to more restrictive modular housing without the benefit of a disciplinary process. ODO verified housing reassignment of detainees for rule infractions constitutes a disciplinary sanction. These types of sanctions are prohibited by the Disciplinary System PBNDS and TLF disciplinary policy.

There were no detainee complaints concerning food service, sending and receiving mail, religious services, visitation, or access to the law library. All detainees interviewed stated they have not been strip searched, or experienced verbal, physical, or sexual abuse by staff or detainees at TLF.

## ICE PERFORMANCE-BASED NATIONAL DETENTION STANDARDS

ODO reviewed a total of 18 PBNDS and found TLF fully compliant with the following seven standards:

- Detainee Handbook<sup>2</sup>
- Food Service
- Hunger Strikes
- Medical Care
- Sexual Abuse and Assault Prevention and Intervention
- Suicide Prevention and Intervention
- Terminal Illness, Advance Directives, and Death

As these standards were compliant at the time of the review, a synopsis for these standards was not prepared for this report.

ODO found deficiencies in the following 11 standards:

- Classification System
- Correspondence and Other Mail
- Disciplinary System
- Emergency Plans
- Environmental Health and Safety
- Grievance System
- Law Libraries and Legal Material
- Special Management Units
- Staff-Detainee Communication
- Telephone Access
- Use of Force and Restraints

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

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<sup>2</sup> Deficiencies relating to omissions from the detainee handbook are noted under the relevant PBNDS that requires the information. See Correspondence and Other Mail (**Deficiency C&OM-1**), Grievance System (**Deficiency GS-2**), Law Libraries and Legal Material (**Deficiency LL&LM-2**), and Telephone Access (**Deficiency TA-2**).

## **CLASSIFICATION SYSTEM (CS)**

ODO reviewed the Classification System standard at TLF to determine if there is a formal classification process for managing and separating detainees based on verifiable and documented data, in accordance with the ICE PBNDS. ODO interviewed staff and reviewed policy, the detainee handbook, and 12 individual detention files.

ERO classifies all detainees prior to arrival at TLF, and provides required classification documents to TLF management. TLF uses the documents provided by ERO to conduct a separate classification of detainees at the facility. Based on a review of 12 randomly-selected detention files, ODO confirmed the TLF classification process does not comply with the PBNDS. Prior to arrival at TLF, ERO classified ten of 12 detainees as Level III and two detainees as Level II. During the admission process, TLF management applied the OCSD internal classification system and reclassified all 12 detainees to Level I. ODO reviewed the criminal history information documented on Form I-213, Record of Deportable Alien, and verified three of the detainees had aggravated felony convictions. The initial Level III classification assigned by ERO was correct in accordance with the PBNDS. The reclassification to Level I by TLF management does not conform to the standard. The Assistant Field Office Director, the Supervisory Detention and Deportation Officer, and the Detention Service Manager stated the OCSD classification system used by TLF management has not been evaluated by ERO (**Deficiency CS-1**). Subsequent placement of improperly reclassified detainees in Level I housing commingles Level I and Level III detainees, and creates a potentially significant life-safety issue (**Deficiency CS-2**). At the time of the CI, TLF records reflected a total detainee population of 385 (376 Level I; eight Level II; one Level III); however, the ERO Enforce Alien Removal Module reflected a total detainee population of 374 (39 Level I; 275 Level II; 60 Level III). The difference in total population is not a concern, because live databases are updated at different times throughout the day. In accordance with TLF policy and the PBNDS, detainees may appeal a classification determination at any time.

ODO verified with the Assistant Field Office Director, ERO would initiate review of the classification process used by TLF management.

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

### **DEFICIENCY CS-1**

In accordance with the ICE PBNDS, Classification System, section (V)(A), the FOD must ensure each facility shall develop and implement a system for classifying detainees in accordance with this Detention Standard. CDFs and IGSA facilities may use similar locally established systems, subject to DRO evaluation, as long as the classification criteria are objective and uniformly applied, and all procedures meet ICE/DRO requirements.

### **DEFICIENCY CS-2**

In accordance with the ICE PBNDS, Classification System, section (V)(F)(1), the FOD must ensure all facilities shall ensure that detainees are housed according to their classification level.

#### **1. Level 1 Classification**

- May not be co-mingled with Level 3 Detainees.

- May not include any detainee with a felony conviction that included an act of physical violence.
- May not include any detainee with an aggravated felony conviction.
- May include detainees with minor criminal records and nonviolent felonies.

## **CORRESPONDENCE AND OTHER MAIL (C&OM)**

ODO reviewed the Correspondence and Other Mail standard at TLF to determine if the facility provides detainees the opportunity to send and receive correspondence, in a timely manner, subject to limitations required for the safe and orderly operation of the facility, in accordance with the ICE PBNDS. ODO interviewed staff and detainees, and reviewed the facility handbook and TLF policies.

The facility has written policy and procedures concerning detainee correspondence and other mail, including packages. TLF does not limit the amount of correspondence detainees may send or receive at their own expense. Incoming mail received by the facility is distributed to detainees within one day, excluding Sundays and holidays. TLF management provides paper, writing implements, and envelopes at no cost to detainees. Detainees housed in the SMU for administrative and disciplinary reasons have the same correspondence privileges as detainees in the general population.

The facility handbook states all incoming mail other than legal material will be opened and inspected for contraband and currency prior to delivery to the intended detainee. The PBNDS requires general correspondence and other mail addressed to a detainee will be opened and inspected in the presence of the detainee unless the Facility Administrator authorizes inspection outside the presence of the detainee for security reasons. The facility handbook states detainees cannot send or receive packages without advance arrangements and approval by the Housing Sergeant. The PBNDS states detainees cannot send or receive packages without advance arrangements and approval by the Facility Administrator. The facility handbook does not notify detainees that identity documents, such as passports and birth certificates in the possession of a detainee are classified as contraband and may be used by ERO as evidence against the detainee or for other purposes authorized by law, or that, upon request, the detainee will be provided a copy of each document, certified by an ICE ERO officer to be a true and correct copy **(Deficiency C&OM-1)**.

When facility management finds an item that must be removed from detainee mail, TLF staff documents and records the removal of the item using an Inmate Mail Disposition Form, Form J-159; however, ODO verified copies of the completed form are missing the alien number, the disposition date of the item, and the signature of the officer completing the form **(Deficiency C&OM-2)**.

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

### **DEFICIENCY C&OM-1**

In accordance with the ICE PBNDS, Correspondence and Other Mail, section (V)(C)(3)(6)(8), the FOD must ensure the facility shall notify detainees of its rules on correspondence and other mail through the Detainee Handbook, or supplement, provided to each detainee upon admittance.

At a minimum, the notification shall specify:

1. That general correspondence and other mail addressed to detainees will be opened and inspected in the detainee's presence, unless the facility administrator authorizes inspection without the detainee's presence for security reasons.

6. That packages may neither be sent nor received without advance arrangements approved by the facility administrator, as well as how to obtain such approval;
8. That identity documents, such as passports, birth certificates, etc., in a detainee's possession are contraband and may be used by ICE/DRO as evidence against the detainee or for other purposes authorized by law; however, upon request, the detainee will be provided a copy of each document, certified by an ICE/DRO officer to be a true and correct copy; (The facility should consult ICE/DRO with any and all requests for identity documents.)

**DEFICIENCY C&OM-2**

In accordance with the ICE PBNDS, Correspondence and Other Mail, section (V)(I), the FOD must ensure, when an officer finds an item that must be removed from a detainee's mail, he or she shall make a written record that includes:

- The detainee's name and A-number,
- The name of the sender and recipient,
- A description of the mail in question,
- A description of the action taken and the reason for it,
- The disposition of the item and the date of disposition, and
- The officer's signature.

## **DISCIPLINARY SYSTEM (DS)**

ODO reviewed the Disciplinary System standard at TLF 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 PBNDS. ODO interviewed detainees and staff, and reviewed disciplinary policy, the facility handbook, and disciplinary files.

The disciplinary system at TLF includes progressive levels of review and appeals procedures. Prohibited acts are classified as major and minor. ODO interviewed 20 randomly-selected detainees, nine of whom stated detainees are being transferred from less restrictive housing to more restrictive housing after the commission of prohibited acts. The more restrictive housing option provides two hours of dayroom access and 22 hours of lockdown in individual cells. The less restrictive housing option affords eight to ten hours of dayroom access without lockdown.

TLF Policy 8019.5.9a, Disciplinary System, states major violations of jail rules will result in a disciplinary hearing. ODO reviewed the files of eight randomly selected detainees housed in modular housing and noted four of the eight detainees committed major violations prior to being transferred to modular housing without a disciplinary hearing. ODO confirmed one of the four incidents recorded in the OCSD Automated Jail System occurred on January 12, 2013, when a detainee “caused a disturbance in Alpha Barracks by making threats to other detainees and attempting to take control of the barracks.” The PBNDS and OCSD policy classify this as a major violation that warrants a disciplinary hearing; however, ODO verified no disciplinary hearing was held (**Deficiency DS-1**).

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

### **DEFICIENCY DS-1**

In accordance with the ICE PBNDS, Disciplinary System, section (V)(F), the FOD must ensure the UDC shall conduct hearings and, to the best extent possible, informally resolve cases involving High Moderate or Low Moderate charges in accordance with the list of charges and related sanctions noted as Attachment A of this Standard. Unresolved cases and cases involving serious charges are forwarded to the Institution Disciplinary Panel.

#### **The UDC shall:**

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).

## **EMERGENCY PLANS (EP)**

ODO reviewed the Emergency Plans standard at TLF to determine if a contingency plan has been developed to quickly and effectively respond to any emergency situations and minimize their severity, in accordance with the ICE PBNDS. ODO interviewed staff, reviewed emergency plans, and inspected command post equipment.

The facility has designated the OCSD ICE Compliance Deputy as the staff member responsible for developing and implementing emergency plans. ODO verified all TLF staff receives training in emergency preparedness during initial and annual in-service training. Facility personnel also receive training in detainee communication and cultural and ethnic sensitivity, which enhances the ability to monitor for signs of tension within the detainee population.

Emergency plans are secured in the administration area, the control center watch commander's office, guard stations, and the command center. Plans are reviewed and approved by the Facility Administrator as changes are needed and during the annual review process. TLF emergency plans include all individual contingency plans required by the PBNDS; however, the plans are not in the order outlined in the PBNDS (**Deficiency EP-1**). Consistent organization of contingency plans facilitates ready access and a unified response in the event of a large scale emergency requiring assistance from ICE or other agencies.

ODO confirmed a Memorandum of Understanding is in place with the City of Orange Fire Department. In the event of an emergency, OCSD will deploy additional deputies to TLF, as necessary.

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

### **DEFICIENCY EP-1**

In accordance with the ICE PBNDS, Emergency Plans, section (V)(E), the FOD must ensure the facility shall compile individual contingency-specific plans, as needed, in the following order:

1. Fire
2. Work/Food Strike
3. Disturbance
4. Escape
5. Hostages (Internal)
6. Search (Internal)
7. Bomb Threat
8. Adverse Weather
9. Civil Disturbance
10. Environmental Hazard
11. Detainee Transportation System Emergency
12. Evacuation
13. ICE-wide Lockdown
14. Staff Work Stoppage
15. If needed, other site-specific plans

## ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

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

Responsibility for managing the environmental health and safety issues at TLF is shared by the Administrative Manager for the ICE Contract, (b)(7)e Deputy Sheriffs, the Correctional Services Technician, the Craft Supervisor, and the Fire/Life/Safety Team. A master index of all hazardous substances is maintained in the office of the Fire/Life/Safety Team and includes locations where substances are stored and used. A master file of Material Safety Data Sheets was included in the index, and copies of Material Safety Data Sheets were found in locations where hazardous substances are used and stored. ODO verified accurate running inventories are maintained. A review of (b)(7) staff training records confirmed training in the use of hazardous chemicals, safety procedures, self-contained breathing apparatus, and fire plans. Protective gloves, aprons, and goggles are used when hazardous materials are handled. Procedures are in place requiring immediate oral reporting and subsequent written documentation through the chain of command when spills or other incidents involving hazardous materials occur.

TLF was inspected in September 2012, by the Orange City Fire Department, and ODO confirmed all identified violations were corrected. The Fire Suppression System passed inspection in March 2013. Staff conducts daily fire safety, sanitation, security, and emergency equipment inspections throughout the facility. ODO reviewed the TLF Fire Prevention and Response Plan, and verified it was thorough and in compliance with the PBNDS. Documentation confirms fire drills are conducted as required, and emergency keys are drawn and tested during each fire drill. Exit diagrams in both English and Spanish are conspicuously posted and contain all required information.

The City of Orange provides certification for the drinking and waste water at TLF. The most recent testing occurred on March 6, 2013. Weekly preventative pest inspections are conducted by TLF staff to monitor pest control. Contract extermination services are provided monthly and are also available on an as-needed basis. ODO did not observe any signs of infestation within the facility.

Maintenance personnel test the emergency electrical power generator each month for 60 minutes, and conduct power generator load tests on an annual basis (**Deficiency EH&S-1**). Bi-weekly testing for one hour ensures there is sufficient time for the generators to reach operating temperature, verify the ability of the engine to provide the required power over the full 60-minute testing period, and identify any fuel or oil leaks. Weekly inspections and quarterly load testing of generators confirm mechanical readiness. All prescribed testing and preventive maintenance of emergency generators is essential for continuity of vital functions that safeguard the health and welfare of staff and detainees in the event of a power outage.

TLF management stated they are bound by the South Coast Air Quality Management District Rule 1470, which limits testing of generators to 20 hours each year for maintenance and testing purposes.

ODO confirmed the Health Services Administrator and the Nurse Manager ensure procedures for the safe handling and disposal of used hypodermic needles and other sharp objects are followed, and inventories are accurate.

TLF has designated spaces for barbering, and sanitation guidelines are conspicuously posted in those areas. ODO confirmed TLF provides required hair cutting and disinfectant equipment and supplies in accordance with the standard.

ODO confirmed sanitation throughout the facility is maintained at an acceptable level.

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

### **DEFICIENCY EH&S-1**

In accordance with the ICE PBNDS, Environmental Health and Safety, section (V)(F), the FOD must ensure at least every two weeks, emergency power generators shall be tested for one hour, and the oil, water, hoses and belts of these generators shall be inspected for mechanical readiness to perform in an emergency situation .

Power generators are inspected weekly and load tested quarterly at a minimum, or in accordance with manufacturer's recommendations and instruction manual. Among other things, the technicians shall check starting battery voltage, generator voltage and amperage output.

Other emergency equipment and systems shall be tested quarterly, and needed follow-up repairs or replacement shall be accomplished as soon as feasible.

## **GRIEVANCE SYSTEM (GS)**

ODO reviewed the Grievance System standard at TLF 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 PBNDS. ODO interviewed staff and detainees, and reviewed TLF policies and grievance logs.

TLF maintains an electronic grievance log to document and track formal grievances submitted by detainees. The electronic grievance log reflects TLF management received and processed a total of 20 formal grievances from detainees during the 2012 calendar year. Of the 20 formal grievances, ten pertained to medical issues, four alleged staff misconduct, and three were related to funds and personal property. The remaining grievances pertained to mail, recreation, and voluntary work. Three of the four grievances alleging officer misconduct were internally investigated by TLF, and were unsubstantiated based on staff interviews and review of available evidence. The fourth grievance alleging officer misconduct remains under investigation by TLF management. Notifications concerning grievances which allege officer misconduct are immediately forwarded to ERO via electronic mail. ERO supervisory staff provided ODO with copies of email notifications received from TLF staff.

The facility has written policies and procedures governing the detainee grievance system. However, the policies and procedures do not address or require that all medical grievances be received by the administrative health authority within 24 hours or the next business day (**Deficiency GS-1**). The grievance section of the facility handbook does not contain procedures for contacting ERO to appeal a grievance decision (**Deficiency GS-2**). Although the facility attempts to resolve every grievance at the lowest level possible, there is no written policy or procedure to allow a detainee to orally present an informal grievance (**Deficiency GS-3**).

Grievances concerning medical issues are initially received by correctional staff before they are processed by medical staff for response (**Deficiency GS-4**). Specifically, medical grievances are initially logged and entered into a database by a Facility Administrative Sergeant and then forwarded to the Correctional Health Services Administrative Manager for resolution. Facility management maintains copies of all medical grievances in individual detention files, and not in individual medical files (**Deficiency GS-5**). TLF management referred to the California Board of State and Community Corrections ruling that “having a grievance system that provides for a third party to confidentially answer issues that are ultimately the responsibility of the Sheriff is non-compliant with Title 15, Section 1073 of the California Code of Regulations.” TLF management stated they are pursuing a waiver for this issue due to the perceived conflict between the PBNDS and California State Law.

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

### **DEFICIENCY GS-1**

In accordance with the ICE PBNDS, Grievance System, section (V)(A), the FOD must ensure each facility shall have written policy and procedures for a detainee grievance system that: Ensures a procedure in which all medical grievances are received by the administrative health authority within 24 hours or the next business day.

**DEFICIENCY GS-2**

In accordance with the ICE PBNDS, Grievance System, section (V)(B), the FOD must ensure the facility shall provide each detainee, upon admittance, a copy of the Detainee Handbook / local supplement, in which the grievance section provides notice of: The procedures for contacting ICE/DRO to appeal a decision in a CDF or IGSA facility.

**DEFICIENCY GS-3**

In accordance with the ICE PBNDS, Grievance System, section (V)(C)(1), the FOD must ensure the facility administrator, or designee, shall establish written procedures for detainees to orally present the issue of concern informally (as addressed in the Staff-Detainee Communication Detention Standard). Illiterate, disabled, or non-English speaking detainees shall be provided additional assistance, upon request.

**DEFICIENCY GS-4**

In accordance with the ICE PBNDS, Grievance System, section (V)(C)(3)(2)(c), the FOD must ensure grievance forms concerning medical care shall be delivered directly to medical staff designated to receive and respond to medical grievances at the facility. Designated medical staff shall act on the grievance within five working days of receipt and provide the detainee a written response of the decision and the rationale. This record should be maintained per Section E “Record-Keeping and File Maintenance.”

**DEFICIENCY GS-5**

In accordance with the ICE PBNDS, Grievance System, section (V)(E), the FOD must ensure medical grievances are maintained in the detainee’s medical file.

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

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

TLF has a dedicated law library for detainee use, which provides all required legal material in electronic format. The law library is well-lit, isolated from noisy areas, and contains multiple desktop computers installed with LexisNexis software to support legal research. There are ample tables and chairs in the law library to accommodate the detainee population at TLF, and detainees are allowed to print and photocopy legal materials and documents upon request. Detainees can access and use the law library, except during meal service and population counts. Mobile desktop computers installed with LexisNexis are transported on rolling carts to detainees in the SMU.

ODO confirmed with ERO staff and the Detention Service Manager, 22 of 30 required legal reference materials are not available on the computers in the law library or the mobile desktop computers. No hard copies of the missing legal reference materials are available in the law library. Specifically, the following legal reference materials are absent: Code of Federal Regulations, Title 8, Aliens and Nationality; Administrative Decisions Under Immigration and Nationality Laws; Immigration Law and Defense; Immigration Law and Crimes; Guide for Immigration Advocates; Human Rights Watch – World Report; UNHCR Handbook on Procedures and Criteria for Determining Refugee Status; Affirmative Asylum Procedures Manual; AILA’s Asylum Primer, 4th edition; Rights of Prisoners; Federal Civil Judicial Procedure and Rules; United States Code, Title 28, Rules, Appellate Procedure; Federal Criminal Code and Rules; Criminal Procedure; Legal Research in a Nutshell; Legal Research, Writing, and Analysis; Black’s Law Dictionary; Mexican Legal Dictionary and Desk Reference; translation dictionaries; the detainee handbook; detainee orientation materials; self-help materials; and telephone directories for local areas and nearby metropolitan areas where counsel may be located (**Deficiency LL&LM-1**).

The facility handbook does not contain the procedure for requesting additional time in the law library beyond the five hour per week minimum; the procedure for notifying a designated employee that library material is missing or damaged; or the requirement for detainees to have access to computers, printers, and other supplies. A list of the law library’s holdings is not posted in the law library (**Deficiency LL&LM-2**).

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

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

In accordance with the ICE PBNDS, Law Library and Legal Material, section (V)(E)(2)(b)(2), the FOD must ensure, as an alternative to obtaining and maintaining the paper-based publications in *Attachment A*, a facility may substitute the Lexis/Nexis publications on CD ROM. Any materials listed in Attachment A which are not loaded onto the Lexis/Nexis CDROM must be maintained in paper form.

**DEFICIENCY LL&LM-2**

In accordance with the ICE PBNDS, Law Library and Legal Material, sections (V)(O)(4)(6)(7), the FOD must ensure the Detainee Handbook or supplement shall provide detainees with the rules and procedures governing access to legal materials, including the following information:

4. The procedure for requesting additional time in the law library (beyond the 5- hours-per-week minimum);
6. The procedure for notifying a designated employee that library material is missing or damaged.
7. Required access to computers, printers, and other supplies.

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

## **SPECIAL MANAGEMENT UNITS (SMU)**

ODO reviewed the Special Management Units standard at TLF to determine if the facility has procedures in place to temporarily segregate detainees for disciplinary and administrative reasons, in accordance with the ICE PBNDS. ODO toured the SMU, reviewed policies and documentation, and interviewed staff and detainees.

TLF has written procedures in place to temporarily segregate detainees for disciplinary and administrative reasons. ODO toured the SMU and observed the units to be well ventilated, adequately lit, temperature appropriate, and maintained in a sanitary condition. Detainees in the SMU are afforded living conditions that approximate those provided to detainees in the general population. At the time of this CI, there was one detainee housed in disciplinary segregation, and there were no detainees in administrative segregation. ODO reviewed the SMU housing record of the detainee in disciplinary segregation and confirmed a disciplinary hearing was conducted within 72 hours. The detainee was provided a copy of the decision, with the opportunity to appeal the decision to the Facility Administrator.

ODO reviewed the detention files of three detainees previously held in disciplinary segregation for more than seven days, and confirmed a seven-day disciplinary segregation status review was missing in all three cases (**Deficiency SMU-1**). TLF Policy 8015, Special Management Unit, requires a seven-day and a 30-day status review of detainees in administrative segregations, but it does not require a seven-day review for detainees in disciplinary segregation, as required by the PBNDS.

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

### **DEFICIENCY SMU-1**

In accordance with the ICE PBNDS, Special Management Unit, section (V)(D)(3)(a)(b), the FOD must ensure all facilities shall implement written procedures for the regular review of all Disciplinary Segregation cases, consistent with the following procedures:

- a. A security supervisor, or the equivalent, shall interview the detainee and review his or her status in Disciplinary Segregation every seven days to determine whether the detainee:
  - Abides by all rules and regulations; and,
  - Is provided showers, meals, recreation, and other basic living standards, as required by this Detention Standard.
- b. The security supervisor shall document his or her findings after every review, by completing a **Disciplinary Segregation Review** (Form I-887).

## **STAFF-DETAINEE COMMUNICATION (SDC)**

ODO reviewed the Staff-Detainee Communication standard at TLF to determine if procedures are in place to allow formal and informal contact between detainees and key ICE and facility staff, and if ICE detainees are able to submit written requests to ICE staff and receive responses in a timely manner, in accordance with the ICE PBNDS. ODO interviewed staff and detainees, and reviewed policies, request logs, and detention files.

Detainees are able to submit written questions, requests, and concerns to ERO staff and receive timely responses; however, the detainee log obtained from ERO did not include the name or nationality of the detainee, the date the request was forwarded to ERO, or the date it was returned to the detainee (**Deficiency SDC-1**). These items are necessary to properly and efficiently document requests.

The facility handbook contains the procedures to submit written requests, questions, or concerns to ERO via an ICE message slip deposited by detainees in readily-accessible lockboxes for collection by an ERO officer. While preparing a written request, a detainee may obtain assistance from another detainee, a housing officer, or available facility personnel, and the detainee may place the request in a sealed, addressed envelope prior to depositing it in a lockbox.

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

### **DEFICIENCY SDC-1**

In accordance with the ICE PBNDS, Staff-Detainee Communication, section (V)(B)(2), the FOD must ensure all requests shall be recorded in a logbook (or electronic logbook) specifically designed for that purpose. At a minimum, the log shall record:

- Date of receipt;
- Detainee's name;
- Detainee's A-number;
- Detainee's nationality;
- Name of the staff member who logged the request;
- Date the request, with staff response and action, was returned to the detainee; and
- Any other pertinent site-specific information.

In IGSAs, the date the request was forwarded to ICE/DRO and the date it was returned shall also be recorded.

Copies of confidential requests shall be maintained in the A-file.

## TELEPHONE ACCESS (TA)

ODO reviewed the Telephone Access standard at TLF to determine if the facility provides detainees with reasonable and equitable access to telephones to maintain ties with family and others in the community, in accordance with the ICE PBNDS. ODO toured the facility, verified the functionality of telephones in the housing units, reviewed logbooks, and interviewed staff and detainees.

TLF provides detainees with reasonable and equitable access to telephones. Detainees in the SMU are allowed the same telephone privileges as detainees in the general population. Detainees are permitted to make inter-facility telephone calls, and are allowed to contact family members in case of an emergency.

There is a minimum of one telephone for every 25 detainees, which complies with the standard. ERO staff conducts and documents weekly telephone serviceability checks to verify telephone operability. TLF personnel perform daily inspections of the telephones in each housing unit to ensure functionality. Non-functional telephones are promptly reported to the service provider; however, TLF staff does not maintain a log of telephone repairs, and does not report telephone maintenance issues to ERO (**Deficiency TA-1**). Properly recording telephone repairs ensures personnel are aware of outages, so telephones that are frequently out of order can be identified and flagged.

TLF provided ODO with copies of the current pro bono legal assistance and consular lists, which are conspicuously posted in all housing units. The orientation video, the detainee handbook, a recorded message on each telephone, and a posting at each handset alert detainees that all calls are monitored; however, the procedure for placing an unmonitored call to a legal representative is not posted at each telephone (**Deficiency TA-2**). Posting the procedures to obtain unmonitored calls to legal counsel at each telephone ensures detainees are aware of the procedures, and ensures privacy regarding legal matters.

The TLF detainee handbook states deputies may suspend certain privileges, to include access to the telephone (**Deficiency TA-3**). The PBNDS only allows telephone access to be restricted due to availability, orderly facility operations, or emergencies.

## STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

### DEFICIENCY TA-1

In accordance with the ICE PBNDS, Telephone Access, section (V)(A)(3)(4)(a), the FOD must ensure:

#### 3. Maintenance

Each facility shall maintain detainee telephones in proper working order. Designated facility staff shall inspect the telephones daily, promptly report out-of-order telephones to the repair service and ensure that required repairs are completed quickly. This information will be logged.

## 2. Monitoring Detainee Telephone Services

### a) Facility Staff Requirements

Facility staff is responsible for ensuring on a daily basis that telephone systems are operational. Ensuring there is a dial tone is only part of what is required: when testing equipment, the officers must be able to demonstrate that an individual has the ability to make calls using the free call platform. Any problems identified must immediately be logged and reported to the appropriate facility and ICE staff personnel.

### DEFICIENCY TA-2

In accordance with the ICE PBNDS, Telephone Access, section (V)(B), the FOD must ensure each facility shall have a written policy on the monitoring of detainee telephone calls. If telephone calls are monitored, the facility shall:

- Include a recorded message on its phone system stating that all telephone calls are subject to monitoring;
- Notify detainees in the Detainee Handbook or equivalent provided upon admission;
- At each monitored telephone, place a notice that states:
  - That detainee calls are subject to monitoring; and
  - The procedure for obtaining an unmonitored call to a court, a legal representative, or for the purposes of obtaining legal representation;
  - The notice will be in English, Spanish, and next most prevalent language at the facility.

A detainee's call to a court, a legal representative, OIG, or CRCL, or for the purposes of obtaining legal representation, may not be electronically monitored without a court order.

### DEFICIENCY TA-3

In accordance with the ICE PBNDS, Telephone Access, section (V)(D), the FOD must ensure each facility administrator shall establish and oversee rules and procedures that provide detainees reasonable and equitable access to telephones during established facility "waking hours" (excluding the hours between lights-out and the morning resumption of scheduled activities). Telephones shall be located in parts of the facility that are accessible by detainees.

Ordinarily, a facility may restrict the number and duration of general telephone calls only for the following reasons:

1. **Availability.** When required by the volume of detainee telephone demand, rules and procedures may include, but are not limited to, reasonable limitations on the duration and the number of calls per detainee, the use of predetermined time-blocks and advance sign-up.
2. **Orderly Facility Operations.** Counts, meals, scheduled detainee movements, court schedules, etc.
3. **Emergencies.** Escapes, escape attempts, disturbances, fires, power outages, etc. Telephone privileges may be suspended entirely during an emergency, but only with the authorization of the facility administrator or designee and only for the briefest period necessary under the circumstances.

## USE OF FORCE AND RESTRAINTS (UOF&R)

ODO reviewed the Use of Force and Restraints standard at TLF to determine if necessary use of force and the use of restraints is used only after all reasonable efforts have been exhausted to gain control of a subject, while protecting and ensuring the safety of detainees, staff and others, preventing serious property damage, and ensuring the security and orderly operation of the facility, in accordance with the ICE PBNDS. ODO toured the facility, viewed use of force video recordings, inspected equipment, and reviewed local policy, training records, and other pertinent documentation.

TLF has a comprehensive use of force policy addressing all requirements of the PBNDS, including confrontation avoidance and using force only as a last resort. ODO reviewed b(7) staff training records and verified completion of training in the use of force and application of restraints. Trained staff is available on all shifts in the event the need arises to assemble a calculated use of force team. Video-recording of calculated force incidents is required. TLF staff is trained to retrieve equipment and make a recording of any immediate use of force. Recording immediate use of force incidents supplements written documentation, provides visual evidence of the application of force, and can identify injuries to staff or detainees. Video-recordings contain a debriefing of the detainee, including a statement from the detainee. Protective equipment is readily accessible to team members and is stored in a secure room accessible only to staff.

ODO verified all TLF officers carry Tasers, an electro-muscular disruption device. ODO reviewed the training records of TLF officers and confirmed current training in the proper use of Tasers. There have been no incidents of Taser use on ICE detainees.

ODO confirmed there were no calculated use of force incidents and eight immediate use of force incidents involving detainees during the 12 months preceding the CI. ODO reviewed all written documentation and video recordings of the eight immediate use of force incidents, and verified compliance with the PBNDS and facility policy for seven of the eight incidents. In the eighth incident, which occurred on June 26, 2012, a detainee was placed in a carotid control hold when the detainee refused to obey a lawful order and engaged in a physical confrontation with a staff member. ODO verified OCSO provides training in carotid control holds, and authorizes the technique for use on detainees and inmates at the facility (**Deficiency UOF&R-1**). Carotid control holds have the potential to cut off or crush the airway, which can lead to serious medical issues or death. ODO reviewed documentation and confirmed, in all eight use of force incidents, medical response was immediate, and detainees received appropriate follow-up care. After-action reviews were conducted in accordance with the PBNDS, and ERO was notified.

## STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

### DEFICIENCY UOF&R-1

In accordance with the ICE PBNDS, Use of Force and Restraints, section (V)(E)(1), the FOD must ensure the following acts and techniques are specifically prohibited:

1. Choke holds, carotid control holds, and other neck restraints.