



**Department of Homeland Security**  
Immigration and Customs Enforcement  
Office of Professional Responsibility  
Inspections and Detention Oversight Division  
Washington, DC 20536-5501

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## Office of Detention Oversight Follow-up Inspection

Enforcement and Removal Operations  
ERO San Francisco Field Office  
Contra Costa West Detention Facility  
Richmond, CA

May 30–31, 2018

**FOLLOW-UP INSPECTION  
for the  
CONTRA COSTA WEST DETENTION FACILITY  
RICHMOND CALIFORNIA**

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	Contractor	Creative Corrections

## OVERVIEW

The Office of Detention Oversight (ODO) conducted a follow-up inspection of the Contra Costa West Detention Facility (CCWDF) in Richmond, California, from May 30-31, 2018. During this inspection, ODO focused its review on the 27 deficiencies ODO found during its last compliance review conducted on July 14-16, 2016, and the Uniform Corrective Action Plan (UCAP) CCWDF submitted to the Office of Enforcement and Removal Operations (ERO) in response to those findings.

In April 2010, U.S. Immigration and Customs Enforcement (ICE) began housing detainees at CCWDF under an Intergovernmental Service Agreement with Contra Costa County. CCWDF is owned and operated by the Contra Costa County Sheriff's Office. The facility has a capacity of 1,096 beds, 300 of which are dedicated to adult male and female detainees of all classification levels (Level I – lowest threat, Level II – medium threat, Level III – highest threat) for periods of more than 72 hours. Remaining bed space at CCWDF is reserved for prisoners of the U.S. Marshals Service and inmates from state and local law enforcement agencies in the surrounding area.

The ICE ERO, Field Office Director (FOD), San Francisco, California maintains operational oversight of this facility. There are no ERO staff members assigned on-site at the facility. Contra Costa County Health Services provides medical care and facility employees provide food services. This is ODO's first follow-up inspection of the facility.

## **FOLLOW-UP INSPECTION PROCESS**

All facilities inspected by ODO are required to prepare a UCAP addressing all deficient findings<sup>1</sup>. Facilities submit the UCAP to ICE ERO staff who reviews and approves each UCAP. Upon resolution, ERO's Detention Standards and Compliance Unit provides a copy of the UCAP to ODO. In FY 2018, ODO began conducting follow up inspections of ICE ERO detention facilities to assess whether a facility's proposed corrective actions developed in response to ODO-identified deficiencies achieve compliance with the ICE detention standards.

ODO targets facilities for follow-up inspections based on a variety of factors including the number of deficiencies identified during previous ODO inspections; the frequency and severity of repeat deficiencies; information identified by agency stakeholders and/or from detainee complaints; and at the request of ICE leadership. ODO coordinates its inspections with other oversight entities such as the ICE's Office of Diversity and Civil Rights, the U.S. Department of Homeland Security (DHS) Office of Civil Rights and Civil Liberties, and the DHS Office of Inspector General.

While follow-up inspections are mainly focused on previously-identified deficiencies, ODO may find it necessary to expand the scope of individual follow-ups based on additional information obtained prior to ODO's arrival on-site. Conditions found during the inspection may also lead ODO to assess new areas and identify new deficiencies or areas of concern should facility practices run contrary to ICE standards. As with its regular compliance inspections, ODO holds a closeout briefing with facility and local ERO officials at the end of its follow-ups to discuss its findings. A final follow-up report is then provided to ICE leadership.

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<sup>1</sup> Deficiencies from ODO's last Compliance Inspection of facility.

## FOLLOW-UP COMPLAINT FINDINGS

NDS 2000 Follow-Up Standards Reviewed	Deficiencies Found by ODO June 2016	Follow-Up Findings (Results) May 2018		
		Compliant	Partially Compliant	Not- Compliant
Access to Legal Materials	2		1	-
Admission and Release	1	1	-	-
Detainee Classification System	5	5	-	-
Food Service	2	2	-	-
Funds and Personal Property	1	-	-	1
Environmental Health and Safety	3	2	-	1
Special Management Unit -AS	6	2	-	4
Special Management Unit - DS	4	-	-	4
Use of Force	4	1	-	3

This final report is being provided to Senior Management and identifies those standards that ODO found the facility to be in either partial or non-compliance.

# INSPECTION FINDINGS

Note: All deficiency references below include the reference number from the FY 2016 ODO Compliance Inspection Report.

## ACCESS TO LEGAL MATERIALS (ALM)

- **Deficiency (ALM-2):** The detainee handbook does not include information pertaining to the procedures for notifying a designated employee that law library material is missing or damaged<sup>2</sup>.
- **UCAP Response:** “Handbook updated to include the procedure of contacting the ICE ERO to notify them of missing or damaged material.”

While ODO notes the facility, handbook was revised in December 2017, the revision continues to exclude instruction for detainees to notify a designated employee when library materials are missing or damaged. However, inspectors did observe a notice posted in the law libraries that conveys this information. ODO recommends the facility update its handbook to include this missing information.

## FUNDS AND PERSONAL PROPERTY (F&PP)

- **Deficiency (F&PP-1):** The detainee handbook does not address the storing or mailing of property which is not allowed in detainee possession or the procedures for filing a claim for lost or damaged property<sup>3</sup>.
- **UCAP Response:** “As per the handbook, Valuables and property will be held by ICE at 630 Sansome St., San Francisco, CA. The facility does not receive/store/mail any personal property other than clothing for any detainee. Handbook updated to reflect policy and procedure for lost clothing.”

Both ERO and facility staff informed ODO that all detainees are initially booked into the Martinez Detention Facility (MDF) where all property is confiscated from the detainees and retained by ERO. After being processed at MDF, detainees are sent to CCWDF without their property except for funds/money/cash. ODO’s review of the facility’s revised handbook (December 2017) found no information regarding storage of property.

## ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

- **New Deficiency:** Fire drills in housing units, medical clinics and areas occupied or staffed during non-working hours are not timed so that employees on each shift participate in an annual drill<sup>4</sup>.

In assessing the facility’s corrective actions related to ODO’s previous findings in Environmental Health and Safety (EH&S), ODO found the facility protocol for conducting fire drills in detainee

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<sup>2</sup> See ICE NDS 2000, Standard, Access to Legal Material, Section (III)(Q)(6).

<sup>3</sup> See ICE NDS 2000, Standard, Funds and Personal Property, Section (III)(J)(3)(5).

<sup>4</sup> See ICE NDS 2000, Standard, Environmental Health and Safety, Section (III)(L)(4)(a).

housing units on each shift annually is not being met. A review of drill forms found 51 of the 69 drills for 2017 and 2018, were conducted in areas other than the housing units. There were 18 drills/actual incidents documented in the housing units; however, only four of the 18 were conducted in the units where ICE detainees are housed, and all occurred during a day shift. The remaining 14 drills for the housing units were conducted in the inmate housing units. Therefore, ODO is citing this as a new deficiency.

### **SPECIAL MANAGEMENT UNIT--ADMINISTRATIVE SEGREGATION (AS)**

- **Deficiency (AS-2):** An order directing placement of a detainee in a cell for administrative reasons, including a pending disciplinary hearing, is not completed and issued<sup>5</sup>.
- **UCAP Response:** “A report is written and submitted to the supervising Sergeant who then investigates and administers a hearing. The results of the hearing then dictate the required discipline, with copies of the hearing results given to the detainee and placed in the detention file.”

ODO’s review of files found five detainees were placed in Administrative Segregation (AS), in five separate incidents, pending transfer from the facility. Each of the five detainees were placed in a secure holding cell separate from the general population after being involved in a fight with another detainee. None of these detainees received a written order, approved by a supervisory staff member, in accordance with the standard. The CCWDF Sergeant and Jail Administrator stated they do not agree that separating a detainee from the general population and placing them in a secure cell pending their transfer constitutes AS. However, ODO confirmed this separation often exceeds a few hours and, in some instances, exceeded two days. Therefore, the facility has not instituted policies and practices consistent with the AS standard such as issuing segregation orders prior to separating detainees from the general population. ODO finds the facility has not resolved the deficiency.

- **Deficiency (AS-3):** The facility has not developed administrative segregation procedures consistent with the standard<sup>6</sup>.
- **UCAP Response:** “WCDF does not place detainees in administrative segregation. If Classification determines an event/incident arises to this level, then the ERO San Francisco AFOD is contacted and the involved detainee is removed from our custody by ICE.”

ODO’s review of CCWDF’s policies and procedures for Special Management Unit–AS finds no information has been developed that is consistent with the NDS. The CCWDF has its own set of rules for managing detainees who may pose a threat to themselves, staff, other detainees, property, or the security or orderly operation of the facility, by placing them in a holding cell. ODO determined the practice of placing detainees in a secure holding cell pending transport to another facility constitutes AS. ODO finds the facility has not resolved the deficiency.

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<sup>5</sup> See ICE NDS 2000, Standard, Special Management Unit (Administrative), Section (III)(B).

<sup>6</sup> See ICE NDS 2000, Standard, Special Management Unit (Administrative), Section (III)(C).

- **Deficiency AS-4:** Detainees placed in cells to await a disciplinary hearing do not receive the same general privileges as detainees in general population. Specifically, they are only allowed out-of-their cell every other day for 70 minutes during which the detainee has access to the dayroom, telephones, recreation yard, and showers<sup>7</sup>.
- **UCAP Response:** “Detainees are only placed in cells awaiting disciplinary hearings for a limited time, and only with prior approval from a supervisor. Deputies must submit the incident report within 24 hours and then sergeants will begin their investigation within 24 hours. No changes will be made to this policy and procedure at this time.”

Per CCWDF staff, detainees can be placed in a holding cell within the Disciplinary Segregation Unit, only after a hearing. ODO notes detainees are secured in their cells, separated from the general population prior to and up to 24 hours before a disciplinary hearing. Facility staff draft an incident report, and a sergeant then investigates within 24 hours to determine next steps. ODO considers the time a detainee is placed in their cell pending a hearing, as placement on AS. Facility staff do not consider this action to be placement in AS, only placement in a holding cell. ODO notes the CCWDF Sergeant and Jail Administrator stated establishing AS procedures would be burdensome based on existing staffing levels. ODO finds the facility has not resolved the deficiency.

- **Deficiency (AS-5):** ODO interviewed facility staff and learned that when a detainee is segregated, medical and supervisory personnel do not make rounds to cells; instead, facility staff only visit detainees in cells upon detainee request<sup>8</sup>.
- **UCAP Response:** “Detainees on lockdown are housed on the same housing unit they were originally housed on. Detainees in lockdown rooms have an emergency call button to request assistance. Room checks are conducted [REDACTED] the housing unit custody staff. It is not in our policy and procedures to have medical staff make routine calls for non-medical reasons.”

The CCWDF Sergeant and Jail Administrator stated the facility does not have the manpower to meet the requirement for a medical professional to visit every detainee in AS status, as required by the standard, which requires three visits per week, or for a sergeant to see each segregated detainee daily (including weekends and holidays). ODO’s review of facility policy and interviews of CCWDF staff finds the facility has not developed procedures consistent with the standard and has not resolved the deficiency.

### **SPECIAL MANAGEMENT UNIT--DISCIPLINARY SEGREGATION (DS)**

- **Deficiency (DS-1):** ODO interviewed the facility commander who indicated the facility does not consider its lockdown practices disciplinary segregation; therefore, there are no written procedures directly applicable for the regular review of all Disciplinary Segregation (DS) cases<sup>9</sup>.

<sup>7</sup> See ICE NDS 2000, Standard, Special Management Unit (Administrative), Section (III)(D)(1).

<sup>8</sup> See ICE NDS 2000, Standard, Special Management Unit (Administrative), Section (III)(D)(12).

<sup>9</sup> See ICE NDS 2000, Standard, Special Management Unit (Disciplinary), Section (III)(C).



- **UCAP Response:** “Per Custody Service Bureau (CSB) Policy 2.16.03 Inmate Incident and Discipline, the Facility Commander or Designee will review all disciplinary hearing reports and may overturn imposed disciplinary actions if they determine due process was not afforded. Per CSB Policy 2.9.01, Classification will maintain records regarding an inmate's disciplinary history. Disciplinary Isolation records will be reviewed:
  - a. Any time an inmate receives disciplinary action against them.
  - b. When reviewing an inmate's record for transfer to another facility.”

ODO found CCWDF has a DS Unit and written procedures govern its operation<sup>10</sup>. However, the Operations Sergeant and facility administrator indicated only county inmates are assigned to DS and that incorporating the requirements of ICE’s DS standard would require an extensive increase in manpower. As described above, the facility places ICE detainees requiring separation in a secured in a cell in the general population unit which the facility refers to as lockdown. ODO considers the facility’s use of “lockdown” as segregation (for both AS and DS purposes) and must be managed in accordance with the standard. As the facility has not established procedures for the regular review of ICE detainees housed in this manner, ODO finds the facility has not resolved the deficiency.

- **Deficiency (DS-2):** ODO interviewed the Housing Unit Deputy who stated the privileges lost by the detainee on lockdown included visits<sup>11</sup>.
- **UCAP Response:** “Per CSB Policy 2.16.03 Inmate Incident and Discipline, discipline sanctions may include 7 days' loss of visiting privileges for minor incidents and up to 21 days loss of visiting for major or repetitive minor violations. There are no plans to change our policy or procedures at this time as it relates to this matter.”

ODO’s review of the UCAP response, facility policies, and interviews of the Operations Sergeant and facility administrator found the facility has not developed procedures consistent with the standard regarding the retention of visitation privileges for detainees on lockdown (aka on DS). ODO finds the facility has not resolved the deficiency.

- **Deficiency (DS-3):** ODO interviewed the Housing Unit Deputy who stated the privileges lost by the detainee on lockdown included visitation and Access to Legal Material (ALM)<sup>12</sup>.
- **UCAP Response:** “Detainees on lockdown do not lose access to legal materials. Custody staff have been given a brief training of inmate incidents and discipline per CSB Policy 2.16.03.”

Per facility staff, detainees are provided access to the legal library as well as legal material upon request. However, ODO’s review of CSB Policy and Procedure Number 2.16.03, Inmate Incidents and Discipline, found no reference that detainees on lockdown status will have access to both personal and legal materials and available legal reference materials. ODO finds the facility has not resolved the deficiency.

<sup>10</sup> See CSB Policy and Procedure, Number 2.09.01, Disciplinary Isolation.

<sup>11</sup> See ICE NDS 2000, Standard, Special Management Unit (Disciplinary), (III)(D)(17).

<sup>12</sup> See ICE NDS 2000, Standard, Special Management Unit (Disciplinary), (III)(D)(15)(c)(e).

- **Deficiency (DS-4):** ODO interviewed facility staff and learned that when a detainee is placed on lockdown; medical and supervisory personnel do not make rounds to the lockdown area, instead staff only visit detainees in the cells upon request by the detainee<sup>13</sup>.
- **UCAP Response:** “When a detainee is placed on lockdown, the lockdown cell is located on the same general housing unit. Detainees are not moved from their original housing unit. Cell checks are conducted [REDACTED] by housing unit custody staff. Detainees in lockdown can request medical and supervisory personnel at any time while in lockdown. It is not in our policy and procedures to have medical staff make routine calls for non-medical reasons.”

The CCWDF Operations Sergeant and jail administrator stated they believe they do not have sufficient manpower for a medical professional to visit every detainee in DS status at least three times a week or for a sergeant to see each segregated detainee daily, including weekends and holidays as required by the standard. ODO reviewed facility policies and practices and confirmed these checks are not occurring. Therefore, ODO determined the facility has not developed procedures consistent with the DS standard including visits from medical professionals and supervisors as required and has not resolved the deficiency.

#### USE OF FORCE (UOF)

- **Deficiency (UOF-1):** ODO’s review of facility Use of Force (UOF) policy found the policy addresses confrontation avoidance, the continuum of UOF measures, and UOF in special circumstances; however, the policy does not describe the responsibilities for maintaining and regular testing of video cameras<sup>14</sup>.
- **UCAP Response:** “A facility remodel and update has occurred to include the addition of video monitoring on housing and other areas where inmate (including detainees) are permitted to be. Due to the recent addition of video systems, policy is currently being developed to include regular testing and maintenance of the video monitoring system. Currently custody supervisors monitor the video system.”

The Special Emergency Response Team (SERT) Sergeant is assigned to conduct maintenance checks on the facility’s one hand-held video camera. The Sergeant stated checks are made immediately prior to and after the video camera’s use. The SERT Sergeant ensures the camera is returned to storage in an at-ready-state. In addition, due to the limited use of the hand-held video camera at CCWDF, the SERT Sergeant explained an additional monthly check is conducted of the camera and accessories. However, the facility could not provide documentation showing any of the checks were made. ODO also reviewed the CSB Policy and Procedure Number 2.08.34, Video Taping Equipment which indicated in Section 3.a., “The supervisor shall ensure the video set is made ready for the next use, including any arrangements for equipment maintenance and/or replacement of expended tapes.” While the CSB policy 2.08.34 is clear in its direction on post checks of the video camera, the lack of documentation related to the pre- and monthly checks does not meet the intent of the standard for maintaining the video camera(s) and other equipment.

<sup>13</sup> See ICE NDS 2000, Standard, Special Management Unit (Disciplinary), (III)(D)(16).

<sup>14</sup> See ICE NDS 2000, Standard, Use of Force, Section (III)(A)(4)(I).

- **Deficiency (UOF-2):** During the review of one UOF incident, ODO found no documentation showing medical staff examined the detainee after the UOF ended. Specifically, there was no documentation showing treatment of injuries or that decontamination procedures were followed<sup>15</sup>.
- **UCAP Response:** “Regarding all use of force incidents involving inmates, to include detainees, custody staff have been instructed to ensure those who have been subjected to force are no longer able to refuse medical examination to custody staff and must be examined by medical staff. Detainees must make their refusal for medical care directly to medical personnel and not to custody staff. Procedures have been reviewed with staff.”

Facility staff indicated there were five UOF incidents in the year preceding ODO’s follow-up inspection, none of which were calculated. ODO reviewed the five UOF incidents and observed none of the files contained documentation showing a medical assessment was completed to check for and treat any injuries to any of the involved detainees. The CCWDF Operations Sergeant and the CCWDF Hospital Administrator (HA) were interviewed regarding the missing documentation. The HA retrieved four of the five medical exam reports affiliated with the UOF incidents; however, documentation for one medical assessment was not found, and none of the UOF files contained medical assessments. Documentation of medical assessments when force is used on a detainee is critical and can protect the agency in the event of an allegation of excessive force causing injury. ODO finds the facility has not resolved the deficiency.

- **Deficiency (UOF-4):** Following UOF incidents, reports are reviewed by facility staff; however, there is no after-action review of the incident by a team, adherence to time-frames for completion, and signature of the Officer in Charge affirming review and the appropriateness of the UOF. In addition, there is no evidence or documentation that ERO approved the facility’s protocols for review of UOF incidents<sup>16</sup>.
- **UCAP Response:** “Custody staff supervisors have been instructed by the Facility Commander to submit all UOF reports to him for review. If the review results in the need to change policy or procedure, the Facility Commander will direct custody staff on implementing the changes.”

In interviewing staff and reviewing documentation, ODO found no written procedures have been developed governing UOF incident reviews. The CCWDF Operations Sergeant stated as in the past, shift sergeants continue reviewing UOF Incident Reports. ODO’s review of these completed incident reports found none included commentary regarding the reasonableness of the UOF (as being appropriate to the detainee’s actions), and no documentation showing review by staff beyond the shift sergeants. ODO finds the UCAP response has not been implemented as there is no evidence after-action reviews are being conducted in accordance with the standard. ODO finds the facility has not resolved the deficiency.

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<sup>15</sup> See ICE NDS 2000, Standard, Use of Force, Section (III)(G)(2).

<sup>16</sup> See ICE NDS 2000, Standard, Use of Force, Section (III)(K).

## CONCLUSION

During this follow-up inspection, ODO verified the facility achieved compliance with 14 of the original 27 deficiencies found in April 2016. For the remaining deficiencies, ODO determined the facility made some inroads to resolve one of ODO's findings and achieved partial compliance. However, the facility has not adequately addressed the remaining 13 deficiencies. While facility leadership stated staffing levels are the main reason they cannot achieve compliance, they have not offered any evidence, such as a staffing analysis, that would indicate how these proposed changes would negatively impact operations. Additionally, the facility has not proposed alternative solutions such as changes to other policies or practices that would allow the facility to align with the requirements of the standard. In ODO's opinion, given the very limited number of detainees housed in segregation at any one time, the actual burden on staffing is likely de minimus and should be achievable with little impact on existing operations.

Since completion of ODO's follow-up inspection, ERO announced it would no longer use this facility. ODO recommends if ERO wishes to use this facility again in the future, ERO should require the facility to adequately address these findings before any detainees are placed at this location.