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

Office of Detention Oversight Compliance Inspection

Enforcement and Removal Operations
ERO Los Angeles Field Office
Theo Lacy Facility
Orange, CA

February 7-9, 2017

**COMPLIANCE INSPECTION
for the
THEO LACY FACILITY
Orange, California**

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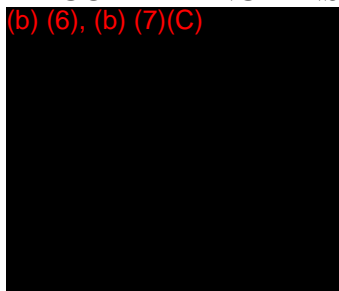
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COMPLIANCE INSPECTION TEAM MEMBERS



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FACILITY OVERVIEW

The Office of Detention Oversight (ODO) conducted a compliance inspection of the Theo Lacy Facility (TLF), in Orange, California, from February 7 to 9, 2017¹. TLF opened in 1960 and is owned by Orange County and operated by the Orange County Sheriff's Office. The Office of Enforcement and Removal Operations (ERO) began housing detainees at TLF in 2010 pursuant to an Inter-Governmental Service Agreement under the oversight of ERO's Field Office Director (FOD) in Los Angeles.

ERO has assigned ERO Deportation Officers (DO) and a Detention Services Manager (DSM) to the facility. A TLF Captain is responsible for oversight of daily facility operations and is supported by (b) (7) personnel. The Orange County Sheriff's Department provides food services, and medical care is provided by the Orange County Health Care Services. The facility held no accreditations at the time of the inspection. TLF is not contractually obligated to comply with the ICE Performance-Based National Detention Standards (PBNDS) 2011, Sexual Abuse and Assault Prevention and Intervention (SAAPI) standard, though it has made efforts to comply.²

Capacity and Population Statistics	Quantity
ICE Detainee Bed Capacity ³	472
Average ICE Detainee Population ⁴	466
Male Detainee Population (as of 2/7/2017)	474
Female Detainee Population	N/A

¹ Male detainees with low, medium, and high security classification levels are detained at the facility for longer than 72 hours.

² TLF has a "zero-tolerance" policy. Detainees are made aware of the zero tolerance policy during admissions.

³ Data Source: ERO Facility List Report as of February 6, 2017.

⁴ *Ibid.*

FY 2017 FINDINGS BY PBNDS 2008 MAJOR CATEGORIES

PBNDS 2008 STANDARDS INSPECTED ⁵	DEFICIENCIES
Part 1 - Safety	
Environmental Health and Safety	1
Sub-Total	1
Part 2 - Security	
Admission and Release	0
Classification System	1
Funds and Personal Property	0
Sexual Abuse and Assault Prevention and Intervention	0
Special Management Units	4
Staff-Detainee Communication	0
Use of Force and Restraints	4
Sub-Total	9
Part 4 - Care	
Food Service	0
Medical Care	0
Suicide Prevention and Intervention	0
Sub-Total	0
Part 5 - Activities	
Telephone Access	1
Visitation	1
Sub-Total	2
Part 6 - Justice	
Detainee Handbook	0
Grievance System	0
Law Libraries and Legal Materials	0
Sub-Total	0
Total Deficiencies	12

⁵ For greater detail on ODO's findings, see the *Inspection Findings* section of this report.

COMPLIANCE INSPECTION PROCESS

The ODO, a unit within U.S. Immigration and Customs Enforcement's (ICE) Office of Professional Responsibility (OPR), conducts compliance inspections at detention facilities in which detainees are accommodated for periods in excess of 72 hours and with an average daily population greater than ten to determine compliance with the ICE National Detention Standards (NDS) 2000, or the PBNDS 2008 or 2011, as applicable.

During the compliance inspection, ODO reviews each facility's compliance with those detention standards that directly affect detainee health, safety, and/or well-being.⁶ Any violation of written policy specifically linked to ICE detention standards, ICE policies, or operational procedures that ODO identifies is noted as a deficiency. ODO also highlights any deficiencies found involving those standards that ICE has designated under either the PBNDS 2008 or 2011, to be "priority components."⁷ Priority components have been selected from across a range of detention standards based on their critical importance to facility security and/or the health and safety, legal rights, and quality of life of detainees in ICE custody. Corrective actions, immediately implemented by the facility during an inspection, are noted under Compliance Inspection Findings and annotated with a "C."

Immediately following an inspection, ODO hosts a closeout briefing in person with both facility and ERO field office management to discuss their preliminary findings, which are summarized and provided to ERO in a preliminary findings report. Thereafter, ODO provides ERO with a final compliance inspection report to: (i) assist ERO in working with the facility to develop a corrective action plan to resolve identified deficiencies; and (ii) provide senior ICE and ERO leadership with an independent assessment of the overall state of ICE detention facilities. The reports enable senior agency leadership to make decisions on the most appropriate actions for individual detention facilities nationwide.

⁶ ODO reviews the facility's compliance with selected standards in their entirety.

⁷ Priority components have not been identified for the NDS.

DETAINEE RELATIONS

ODO interviewed 37 detainees, each of whom volunteered to participate. Detainees did not make allegations of mistreatment, abuse, or discrimination with the exception of two detainees claiming to be verbally abused (see below). The majority of detainees reported being satisfied with facility services, with the exception of the complaints below:

Detainee Handbook: One detainee claimed (via an interpreter) he did not understand the language in the handbooks because they were written in English, and he only speaks Spanish.

- Action Taken: ODO reviewed the detainee's file and determined the detainee was issued and signed for both English versions of the National Detainee Handbook and facility handbook. ODO brought the issue to the attention of the supervisory detention and deportation officer (SDDO). Prior to completion of the inspection, the facility compliance manager provided the detainee a Spanish version of both handbooks.

Food Services: Twelve (12) detainees claimed the food is bland, tastes bad, and portions are too small.

- Action Taken: ODO found the food is prepared with seasonings in accordance with the nutritional guidelines dictated by Title 15 of the California Code requirements, which exceed the Recommended Daily Allowance (RDA). ODO observed facility staff seasoning the food during preparation and taste-tested several items. ODO also spoke with numerous detainees during food service (in addition to the 37 detainees referenced above) and most claimed to be satisfied with the quality of the food. Although some detainees stated that food portions are too small, the dietician-approved menus call for approximately 2,600 calories per day, meeting the RDA requirements. ODO observed several meal services and confirmed that portions are controlled using the correct serving size ladles and scales. ODO also confirmed seasonings are available for purchase through the commissary.

Medical Care: One detainee claimed he was physically assaulted by seven detainees during recreation time on September 1, 2016.

- Action Taken: Based on a review of the medical record, ODO validated the detainee's allegations. On September 1, 2016 at 1732 hours, correctional staff transported the detainee to medical services after being physically assaulted. A medical evaluation was performed and the detainee was stabilized and transported via ambulance to a local emergency room where he underwent X-rays and a CT-scan. The detainee was returned to TLF with a diagnosis of right orbital and nasal fractures. The detainee was moved to the "O" Medical Unit for close observation and treatment. The detainee was referred to and evaluated by several specialists. ODO confirmed the facility notified the local ERO field office of the assault on September 2, 2016. The detainee was again seen on December 5, 2016, following submission of a sick call request. Medical records indicate the detainee refused further evaluation by a medical doctor and a specialist at this time.

Sexual Assault Awareness and Prevention Intervention: Fourteen (14) detainees claimed when officers of the opposite sex enter the housing units they do not announce their presence.

- Action Taken: ODO toured the housing units and interviewed facility staff members regarding announcements of the presence of opposite sex staff entering housing units. ODO observed that staff members of the opposite gender did not consistently announce themselves when entering housing units. ODO raised this issue with the SDDO.

Staff Detainee Communications: Two detainees alleged facility staff were verbally abusive, though both detainees indicated they did not report the incident(s).

- Action Taken: ODO reviewed each detainee's detention file, as well as the facility grievance and detainee request logs and confirmed there was no record of allegations of verbal abuse or other reported misconduct. ODO also reviewed facility staff personnel files and found no reports of alleged verbal abuse. ODO informed the SDDO and facility leadership of the allegations.

Staff-Detainee Communication: Three detainees claimed they have not seen or rarely see their ICE deportation officers and would like to speak with them.

- Action Taken: ODO reviewed the housing unit logbooks and observed the posted schedule of ICE/ERO visits to each housing unit. ODO also observed ERO staff meeting with detainees in their housing units throughout the inspection. ODO informed the SDDO of the detainees' claims. Prior to completion of ODO's inspection each of the three detainees was seen by an ERO deportation officer.

Staff-Detainee Communication: One detainee requested to retrieve a phone number from his personal property.

- Action Taken: ODO advised the detainee to submit a detainee request to retrieve the phone number. ODO also informed the SDDO of the forthcoming request.

Staff-Detainee Communication: One detainee claimed outside recreation call is purposely offered at six a.m. when most detainees will decline the opportunity to attend.

- Action Taken: ODO reviewed the recreation standard and found it states that; "If outdoor recreation is available at the facility, each detainee shall have access for at least one hour daily, *at a reasonable time of day*, weather permitting." ODO confirmed outdoor recreation is conducted on a rotating basis by housing unit and begins at 6:00 am and ends at midnight. Each housing unit is allotted a different recreation time each day. ODO reviewed the facility log to determine the recreation times provided over the previous ten days. ODO found no set of detainees were offered the 6:00 a.m. recreation slot on a consistent basis. ODO informed the SDDO of the detainee's claim.

Visitation: Two detainees who were assigned to the special management unit (SMU) claimed they are not provided visitation privileges, and three other detainees claimed visitation is conducted only Friday through Monday at varying times.

- Action Taken: ODO determined the facility's visitation policy does not afford detainees housed in the SMU with visitation. However, ODO also found that the facility does not offer visitation on holidays that do not fall on a normal visitation day. ODO informed the SDDO of the detainees' claims and the requirements of the Visitation standard. *See* the Compliance Inspection Findings: Visitation section of this report.

COMPLIANCE INSPECTION FINDINGS

SAFETY

ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

ODO found the overall sanitation of the facility to be acceptable. However, ODO observed rust and mold on mounted desktops (which were used by detainees to eat their meals); mold and significant soap build up and grime in detainee showers; clotheslines fabricated from dental floss; and other materials hanging from walls and beds in detainee housing units 0-39 and Module I (**Deficiency EH&S-1⁸**). In most cells, paper was stuck to the ceiling light fixtures and styrofoam food trays were covering air vents. In addition, brown paper bags containing personal and legal items cluttered the cell floors and graffiti was carved into the paint on the walls and beds.

SECURITY

CLASSIFICATION

ODO was informed the general practice is to assign two detainees of the same classification level to a cell within all modules. However a review of the Module “I” roster found a detainee classified as low level was assigned to the same cell as a high level classification detainee. In addition, detainees are released from their cells to the day rooms and outdoor recreation with detainees from other cells. Staff acknowledged this allows co-mingling without regard to classification level. ODO observed a medium-low level detainee co-mingled with high level detainees in outdoor recreation (**Deficiency CS-1⁹**)(R-1).

Corrective Action: Prior to the completion of the inspection, the facility initiated corrective action by reassigning each detainee improperly housed to cells with other detainees of like classification levels (**C-1**). Note: facility policies and procedures will need to be updated accordingly to fully resolve this deficiency.

SPECIAL MANAGEMENT UNITS (SMU)

At the time of the inspection, three ICE detainees were housed in the SMU for disciplinary segregation. ODO confirmed they were provided with a disciplinary segregation order imposing sanctions. A review of documentation and interviews with staff verified seven day disciplinary segregation reviews were conducted; however, the reviews did not include interviews with the detainees, and the detainees were not given a copy of the decisions (**Deficiency SMU-1¹⁰**).

⁸“The facility administrator shall ensure that staff and detainees maintain a high standard of facility sanitation and general cleanliness.” See ICE PBNDS 2008, Standard, Environmental Health and Safety, Section (V)(C).

⁹“All facilities shall ensure that detainees are housed according to their classification level. Level 1 Classification may not be co-mingled with Level 3 Detainees.” See ICE PBNDS 2008, Standard, Classification System, Section (V)(F)(1). **This is a priority component. This is a repeat deficiency.**

¹⁰“All facilities shall implement written procedures for the regular review of all disciplinary segregation cases, consistent with the following procedures: At each formal review, the detainee shall be given a written copy of the reviewing officer’s decision and the basis for his or her finding, unless it would result in a compromise of institutional security. If for some reason it cannot be delivered, then the detainee should be advised of the decision orally and the detention file should be so noted and the reasons identified in writing as to why the notice could not be provided in writing.” See ICE PBNDS 2008, Standard, Special Management Units, Section (V)(D)(3)(b).

ODO's review of TLF policy number 8015 "Special Management Units" and a subsequent interview with a facility detention sergeant found that detainees on disciplinary segregation are not permitted outdoor recreation or allowed social visits (**Deficiency SMU-2¹¹**).

Although no detainees were housed in the SMU for administrative segregation, ODO's review of policy number 8015 "Special Management Units" and a subsequent interview with the facility detention sergeant found that administrative segregation orders are prepared and placed in detainee files; however, a copy of the segregation order is not provided to the detainee (**Deficiency SMU-3¹²**).

ODO's review of administrative segregation documentation found that neither 72-hour status reviews nor seven-day status reviews are consistently conducted on detainees housed to administrative segregation (**Deficiency SMU-4¹³**).

USE OF FORCE AND RESTRAINTS

ODO reviewed ten (10) randomly selected staff training records and verified completion of training in use of force and application of restraints. However, the Orange County Sheriff's Department trains staff and authorizes carotid control holds on detainees even though ICE has specifically listed it as a prohibited technique (**Deficiency UOF&R-1¹⁴**)(R-2).

¹¹"The facility administrator shall develop and implement procedures to ensure that detainees who must be kept apart never participate in activities in the same location at the same time as detainees housed in the general population. For example, recreation for detainees in protective custody shall be separate from other detainees. Nevertheless, detainees in the SMU shall be offered at least one hour of recreation per day, scheduled at a reasonable time, at least five days per week. Where cover is not provided to mitigate inclement weather, detainees shall be provided weather appropriate equipment and attire." See ICE PBNDS 2008, Standard, Special Management Units, Section (V)(B) (13) (19)(a). **This is a priority component.**

¹²"A written order shall be completed and approved by a security supervisor before a detainee is placed in Administrative Segregation, except when exigent circumstances make this impracticable. In such cases, an order shall be prepared as soon as possible. A copy of the order shall be given to the detainee within 24 hours, unless delivery would jeopardize the safety, security, or orderly operation of the facility." See ICE PBNDS 2008, Standard, Special Management Units, Section (V)(C)(2).

¹³"All facilities shall implement written procedures for the regular review of all detainees held in Administrative Segregation, consistent with the procedures specified below. A security supervisor shall conduct a review within 72 hours of the detainee's placement in Administrative Segregation to determine whether segregation is still warranted. The review shall include an interview with the detainee. A written record shall be made of the decision and the justification. The Administrative Segregation Review (Form I-885) shall be used for the review. If the detainee has been segregated for his or her own protection, but not at the detainee's request, the signature of the facility administrator or assistant facility administrator is required on the Form I-885 to authorize the alien's continued detention. A security supervisor shall conduct the same type of review after the detainee has spent seven days in Administrative Segregation, and every week thereafter, for the first 60 days and (at least) every 30 days thereafter. The review shall include an interview with the detainee, and a written record shall be made of the decision and its justification. A copy of the decision and justification for each review shall be given to the detainee, unless, in exceptional circumstances, this provision would jeopardize the facility's security. The detainee shall also be given an opportunity to appeal a review decision to a higher authority within the facility." See ICE 2008 PBNDS, Standard, Special Management Units, Section (V)(C)(3)(a)(b)(c)(e). **This is a priority component.**

¹⁴"The following acts and techniques are specifically prohibited: Choke holds, carotid control holds, and other neck restraints." See ICE 2008 PBNDS, Standard, Use of Force and Restraints, Section (V)(E)(1). **This is a repeat deficiency.**

TLF has a variety of less than lethal munitions at its disposal. However, one of the munitions options is (b) (7)(E) which is an unauthorized force device under PBNDS 2008 (Deficiency UOF&R-2). Although staff report (b) (7) would not normally be used on a detainee, the policy does not prohibit its use.

ODO's interview with the AFOD and a facility lieutenant found the TLF after action review procedures were not approved by ICE; specifically, the after action review is conducted unilaterally by a sergeant rather than a team and is not completed within two working days. (Deficiency UOF&R-3¹⁶).

ODO's review of documentation for one incident involving attempted deployment of (b) (7) found that although immediate force was used, the situation allowed enough time for a calculated amount of force to be utilized. Although ERO was notified by e-mail that the incident occurred, they did not have the benefit of the full analysis depicting that a calculated rather than immediate force could have been used (Deficiency UOF&R-4¹⁷).

TELEPHONE ACCESS

ODO reviewed TLF's telephone contract and found Global Tel*Link Corporation (GTL) is the telephone service provider. The telephone rate for making an interstate telephone call at the time of the inspection was \$0.89 per minute. The federal rate cap established by the Federal Communications Commission (FCC) is \$0.25 per minute (TA-Deficiency 1¹⁸).

VISITATION

General visitation hours are available Friday through Monday from 8 a.m. through 5:30 p.m. However, based on an interview with facility staff, ODO found TLF does not conduct visitation

¹⁵“The following devices are not authorized Mace, CN, tear gas, or other chemical agents, except OC spray”. See ICE PBNDS 2008, Standard, Use of Force and Restraints, Section (V)(G)(5).

¹⁶“All facilities shall have ICE/DRO approved written procedures for After-Action Review of use-of-force incidents (immediate or calculated) and applications of restraints. The primary purpose of an After-Action Review is to assess the reasonableness of the actions taken and determine whether the force used was proportional to the detainee's actions. IGSA's shall model their incident review process after ICE/DRO's process and submit it to ICE/DRO for DRO review and approval. The process must meet or exceed the requirements of ICE/DRO's process. Within two working days of the After-Action Review Team's submission of its determination, the facility administrator shall report with the details and findings of appropriate or inappropriate use of force, by memorandum, to the Field Office Director and whether he or she concurs with the finding. Included in the report will be consideration of the following: Whether proper reporting procedures were followed; in the event of five point restraints, whether checks were made and logged at the appropriate times; whether appropriate medical care was provided once the situation was under control.” See ICE PBNDS 2008, Standard, Use of Force and Restraints, Section (V)(P)(1)(4).

¹⁷“Calculated use of force is feasible and preferred in most cases and is appropriate when the detainee is in a location where the detainee poses no immediate threat of harm, even if the detainee is verbalizing threats or brandishing a weapon, provided staff sees no immediate danger of the detainee's causing harm to himself or others. Calculated use of force affords staff time to strategize and resolve situations in the least confrontational manner and assist to de-escalate the situation.” See ICE PBNDS 2008, Standard, Use of Force and Restraints, Section (V)(I).

¹⁸“Since Feb. 11, 2014, FCC rate caps for interstate calls are: \$0.25 per minute for collect calls and \$0.21 per minute for debit or pre-paid calls. Charges on inmate calls that exceed these interim rate caps are in violation of federal rules.” See Change Notice: FCC Telephone Rate Cap- October 22, 2015.

on holidays that do not fall on a regularly scheduled visitation day (**Deficiency 1**¹⁹). Staff informed ODO that the TLF visitation team is a separate entity of the Orange County Sheriff's Department, and its employees only work Friday through Monday, in spite of the standards' requirements.

CONCLUSION

In FY 2017, ODO conducted an inspection of the TLF under the PBNDS 2008. ODO reviewed the facility's compliance with 16 standards and found the facility compliant with 10 standards. ODO found 12 deficiencies in the remaining six standards, three of which were priority components and two of which were repeat deficiencies. Finally, ODO identified one instance where the facility initiated corrective action prior to the completion of the inspection.²⁰

Compliance Inspection Results Compared	FY 2013 (PND 2008)	FY 2017 (PND 2008)
Standards Reviewed	18	16
Deficient Standards	11	6
Overall Number of Deficiencies	20	12
Deficient Priority Components	1	3
Corrective Action		1

¹⁹ "Visits shall be permitted during set hours on Saturdays, Sundays, and holidays, and, to the extent practicable, the facility shall accommodate the scheduling needs of visitors for whom weekends and holidays pose a hardship." See ICE PBNDS 2008, Standard, Visitation, Section (V)(I)(1).