



OIDO INSPECTION

Imperial Regional Detention Facility

OIDO-22-002
August 18, 2022



OIDO is an independent
office within the Department
of Homeland Security.



August 18, 2022

MEMORANDUM FOR: Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement

FROM: David D. Gersten DAVID D
Acting Ombudsman GERSTEN Digitally signed by DAVID D
Office of the Immigration Detention Ombudsman GERSTEN Date: 2022.08.18 14:00:11 -0400

SUBJECT: OIDO-22-002
Imperial Regional Detention Facility
November 30 – December 1, 2021

Attached is OIDO's final report based on its inspection of the Imperial Regional Detention Facility (IRDF) in Calexico, California on November 30 – December 1, 2021. We reviewed the facility's compliance with the U.S. Immigration and Customs Enforcement's (ICE) 2011 Performance-Based National Detention Standards, as revised in 2016 (2011 PBNDS) and applicable contract terms.

The report contains six recommendations aimed at improving ICE and IRDF's performance and compliance with the 2011 PBNDS and the Dedicated Intergovernmental Service Agreement. Your office concurred with all six of the recommendations provided herein. Based on information provided in your response to the draft report, we consider all six recommendations resolved and closed.

Consistent with our responsibility under the Homeland Security Act of 2002, Pub. L. 107-29, as amended, including section 405 (6 U.S.C. § 205), we will post the report on our website for public dissemination.

Attachment



**OIDO INSPECTION
OF
IMPERIAL REGIONAL DETENTION FACILITY**
Calexico, California

OIDO conducted an unannounced inspection of the Imperial Regional Detention Facility (IRDF) to assess the facility's compliance with the U.S. Immigration and Customs Enforcement (ICE) detention standards and contract terms. OIDO both performed a focused inspection and reviewed areas where the Office of Inspector General (OIG) had previously found violations of the detention standards to evaluate whether ICE had taken corrective action to fix prior violations. Specifically, OIDO reviewed whether the facility had corrected issues related to violations of segregation, facility conditions, medical grievances, and detainee communication.

OIDO's inspection resulted in several factual findings. Related to the OIG report, OIDO found that four previously noted violations were corrected, but two deficiencies remained in the areas of detainee communication and food service. Further, while the facility's responsiveness to medical grievances had improved, its process raised new concerns about its effectiveness in communicating responses to detainees with limited English proficiency. Related to additional topics evaluated, OIDO determined that IRDF followed the detention standards and contract terms except in the areas of monthly audits, training, medical staffing, and segregation determinations.

OIDO made six recommendations designed to improve operations at the facility and meet ICE detention standards and service contract terms. ICE concurred with all six recommendations.

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Introduction

Pursuant to its statutory responsibilities, the Department of Homeland Security (DHS) Office of the Immigration Detention Ombudsman (OIDO) Detention Oversight (DO) Division conducts independent, objective, and credible inspections of immigration detention facilities throughout the United States. During its inspections, OIDO often completes follow-up assessments to determine whether a facility has taken corrective action to resolve violations or concerns identified during a prior inspection. OIDO also reviews, examines, and makes recommendations to address concerns with or violations of contract terms regarding immigration detention facilities and services.

In November 2021, OIDO conducted an unannounced inspection of the Imperial Regional Detention Facility (IRDF) to review areas where the Office of Inspector General (OIG) had found several violations of the U.S. Immigration and Customs Enforcement (ICE) detention standards in 2020.¹ OIDO evaluated whether ICE had taken corrective actions to fix prior violations and performed a general inspection to determine whether the facility was compliant with ICE standards and contract terms. While OIDO found that IRDF was generally compliant and had improved several prior issues, it did identify violations, including some repeat deficiencies.

Background

ICE Enforcement and Removal Operations (ERO) oversees the detention of noncitizens at facilities throughout the United States, which it manages directly or via contract with private companies or federal, state, or local governments. ICE contracts with detention facilities in various ways. Each contract requires that a facility adhere to one of the ICE detention standards, which regulate conditions of confinement, program operations, and management expectations within the agency's detention system.² In addition, ICE uses the COVID-19 Pandemic Response Requirements (PRR) to assist detention facility operators in sustaining operations while mitigating risk to the safety and wellbeing of detainees due to COVID-19.³

IRDF is a contract detention facility located in Calexico, California. ICE has used the facility since 2014 to hold adult detainees. IRDF is owned and operated by Management Training Corporation (MTC). MTC's contract to house ICE detainees at IRDF requires adherence to the 2011 Performance-Based National Detention Standards, as revised in 2016 (hereinafter referred to as the 2011 PBNDS). At the time of OIDO's inspection, the facility held 516 immigration detainees and could hold a maximum of 704 detainees.

Objective, Scope, and Methodology

OIDO reviews, examines, and makes recommendations to address concerns with or violations of contract terms and detention standards in immigration detention facilities and services. In

¹ For OIG's full report, see <https://www.oig.dhs.gov/sites/default/files/assets/2020-12/OIG-21-12-Dec20.pdf>.

² ICE currently has three detention standards in use at adult detention facilities throughout the United States. These include: 2000 National Detention Standards, 2011 Performance-Based National Detention Standards, and 2019 National Detention Standards.

³ <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>.

November 2021, OIDO performed an unannounced, in-person inspection of IRDF with the objective to assess the facility's compliance with ICE's 2011 PBNDS, ICE ERO's PRR,⁴ and its service contract terms. OIDO's follow-up inspection focused on reviewing whether ICE had taken corrective action to fix items of non-compliance identified during OIG's 2020 inspection.

Specifically, OIDO assessed whether IRDF had corrected issues related to violations of segregation, facility conditions, medical grievances, and detainee communication. Following its inspection, OIG made the following six recommendations to improve ICE's oversight of the facility:

Recommendation 1: Review IRDF's use of prolonged administrative segregation and seek alternative housing when appropriate.

Recommendation 2: Ensure that, for detainees in administrative segregation, IRDF provides outdoor recreation and access to privileges similar to those offered to detainees in the general population, in compliance with 2011 PBNDS requirements.

Recommendation 3: Require IRDF staff to complete daily face-to-face medical visits with detainees in administrative segregation to ensure detainee welfare.

Recommendation 4: Review the IRDF facility conditions [OIG] identified as deficient to ensure corrective action in compliance with 2011 PBNDS requirements.

Recommendation 5: Require IRDF staff to provide written responses to medical grievances and provide copies to the detainees who filed the grievances.

Recommendation 6: More clearly identify time, duration, and location for facility visits to ensure detainees' regular access to assigned ICE ERO deportation officers.

ICE concurred with all six recommendations and indicated that its corrective actions would be completed by March 31, 2021.

OIDO's visit to IRDF was unannounced to observe normal conditions and operations. The inspection was executed by six personnel, including four investigators, one Director, and one medical specialist. During the inspection, OIDO reviewed detention files and medical records of both current and previous detainees, logbooks, video surveillance, standard operating procedures (SOPs) and contracts. In addition, OIDO conducted interviews with detainees, facility staff, and ICE and facility management.

Results of Inspection

OIDO's review and inspection resulted in several factual findings. Related to the OIG report, four previously noted violations were corrected, but two deficiencies remained. The areas with

⁴ OIDO used PRR v. 7.0, effective October 19, 2021, for its inspection.

continued deficiencies included: ICE ERO detainee communications and food service. First, OIDO found that detainees were not afforded required weekly ICE ERO contact. Second, OIDO observed food service standard violations related to expired food items and possible food spoilage or contamination. Finally, while OIDO found that the facility had improved its responsiveness to medical grievances, its process raised new concerns about its effectiveness in communicating responses to detainees with limited English proficiency.

As related to additional topics evaluated, OIDO determined that IRDF followed the detention standards and contract terms except in the following four areas: monthly audit completion, Talton tablet training, medical health assessments, and segregation review. First, OIDO found that IRDF was not conducting monthly audits of their operations as required by the contract. Second, OIDO noted that detainees were not receiving adequate training on the Talton tablets. Third, OIDO observed that IRDF's medical personnel were not completing visual acuity tests during detainees' scheduled health assessments. Fourth, OIDO found that ICE ERO was not adequately documenting individual factors to justify longer term segregation placement.

Inspection results are divided into the two sections: Follow-up Results and Additional Results.

A. Follow-up Results: Review of Corrective Actions Taken to Address Prior Violations

i. Effective Corrective Actions

OIDO found that IRDF took effective corrective action to improve the facility's use of administrative segregation and the facility conditions following the OIG inspection.

Improved Conditions in Special Management Units

During OIG's 2020 inspection of IRDF, it was determined that the facility was holding detainees in administrative segregation for prolonged periods, under excessively restricted conditions, and without adequate medical checks. Accordingly, OIG made the following three recommendations for ICE to improve oversight of IRDF's use of administrative segregation to ensure compliance with the 2011 PBNDS: (1) review ICE ERO's use of prolonged administrative segregation and seek alternative housing when appropriate; (2) ensure that for detainees in administrative segregation, IRDF provides outdoor recreation and access to privileges similar to those offered to detainees in the general population, in compliance with 2011 PBNDS requirements; and (3) require IRDF staff to complete daily face-to-face medical visits with detainees in administrative segregation to ensure detainee welfare.

At the time of OIDO's inspection and as directly related to the prior findings, OIDO found that IRDF had made improvements in each of these three issues and that its operations pertaining to administrative segregation followed the 2011 PBNDS. Specifically, OIDO's review of records revealed that IRDF had properly documented all required information for the individuals held in Special Management Units (SMUs) at the time of inspection. In addition, OIDO found that IRDF had a large outdoor recreation yard for various sporting activities as well as indoor recreation activities. Finally, OIDO found that medical staff had taken effective corrective action, documenting all their face-to-face encounters in the SMU detainee file as well as the corresponding electronic health record (EHR) for each detainee. Further, staff appeared to be making the required

daily rounds in the SMU and documenting them appropriately. OIDO found no discrepancies in its review of medical segregation checks. Accordingly, OIDO determined that IRDF had taken appropriate corrective action related to its procedures and operations of the SMUs to comply with the 2011 PBNDS.

Separately noted below in section B(i), OIDO makes independent findings related to the documentation of SMU determinations.

Improved Facility Conditions at IRDF

During OIG's 2020 inspection of IRDF, it was determined that poor conditions at the facility endangered the health and safety of detainees. Specifically, OIG found that the facility had dilapidated showers in the housing areas, that bedding and clothing were in disrepair, and that the facility did not issue or replenish all toiletries. OIG recommended that ICE review each of these deficiencies and make corrective action to bring the facility into compliance with the 2011 PBNDS.

OIDO evaluated each of these areas during its inspection and found that the facility had corrected deficiencies noted during the OIG inspection as they relate to the cleanliness, sanitation, and general maintenance of shower areas and bathroom stalls. Shower areas and bathroom stalls appeared operable, clean, and freshly painted. In addition, OIDO found that IRDF had corrected deficiencies noted during the OIG inspection related to the condition and supply of mattresses, blankets, clothing, and toiletries distributed to detainees at the facility. In fact, the facility provided detainees with more clothing than is required under the 2011 PBNDS.

Detainee interview responses corroborated OIDO's observations of conditions, suggesting that the population was satisfied with the condition and amount of clothing and toiletries distributed at the facility. In short, IRDF appeared to have taken appropriate corrective actions in response to OIG's findings and recommendations in its services and processes related to the above-noted facility conditions.

ii. Repeat Deficiencies

While IRDF made improvements in the areas of segregation and facility conditions following the OIG inspection, OIDO found that the facility continued to have violations in the areas of food service and detainee communications.

Continued Concerns in the Food Service Operation at IRDF

The 2011 PBNDS section 4.1 on Food Service ensures that detainees are protected from injury and illness by the application of sound safety and sanitation practices in all aspects of food service, including adherence to established governmental health and safety codes. Stored food items shall be maintained in accordance with required conditions and temperatures and protected from sources of contamination. Moreover, protection shall be continuous, whether the food is in storage, in preparation, on display, or in transit.

During its inspection, OIDO observed that IRDF failed to comply with the 2011 PBNDS as it related to food service, specifically in the storage and preparation of food. OIDO observed that dry goods and raw meat were stored uncovered, dead bugs and roaches were present under shelves,

and some equipment was found uncleaned. Further, OIDO noted several food items had been retained beyond the “best if used by” dates. Some food items were not marked by expiration or retention dates at all, including frozen meats and dry goods. As it relates to the latter, facility staff corrected the deficiency during OIDO’s inspection, noting that the expiration markings had been removed temporarily for cleaning. In addition, OIDO noted that the facility had received eggs from the food vendor within five days of expiration, a period insufficient to allow for their use prior to expiration. An interview with the Food Service Assistant (FSA) indicated that shipments occasionally arrived at the facility without sufficient time to safely serve the food prior to the expiration date.

OIDO notes that the compliance issues related to food service were repeat deficiencies, as OIG’s 2020 report recommended that IRDF employ a first-in, first-out system for stock rotation and appropriately date stamp all food items upon receipt. OIDO found at the time of its inspection that IRDF had not sufficiently adopted this corrective action. By not securely covering food items for storage or properly cleaning kitchen preparation areas and equipment, the facility risks serving contaminated food. Moreover, by failing to properly mark expiration dates on food items at time of receipt, the staff cannot know when the food is unsafe to serve. IRDF’s failure to correct issues related to the preparation, handling, and storage of food items could lead to detainee illness.

Detainees Not Afforded Regular Contact with ICE ERO Field Office Staff

The 2011 PBNDS section 2.13 on Staff-Detainee Communication states that detainees should have frequent opportunities for informal contact with ICE ERO Field Office Staff.⁵ The Detainee Handbook at a facility should include contact information for the ICE ERO Field Office and provide scheduled hours and days that ICE ERO staff are available. This information should be further available through postings in the living areas and updated at least quarterly to reflect changes.

At the time of the inspection, OIDO observed that ICE ERO was not performing the required weekly visits to the housing units. OIDO observed an ICE ERO visitation schedule posted within each living area, which was dated less than one month prior. It specified weekly visitation dates and times (*See Exhibit A*). Despite this schedule, OIDO interviews with ICE ERO staff and detainees as well as a review of detainee grievance logs confirmed that ICE ERO was not conducting the weekly visits. ICE ERO staff reported that the visits were not being conducted because of COVID-19 guidelines, referencing a memo from ICE ERO headquarters dated March 20, 2020.⁶ However, OIDO reviewed the referenced memo and found that it did not authorize a reduction in visitation requirements but provided alternative means to perform functions related to staff-detainee communication.

⁵ See 2011 PBNDS, Section 2.13, Staff-Detainee Communication (Revised Dec. 2016).

⁶ Memorandum from Enrique M. Lucero, March 20, 2020. “Memorandum on Novel Coronavirus (COVID-19) Action Plan.

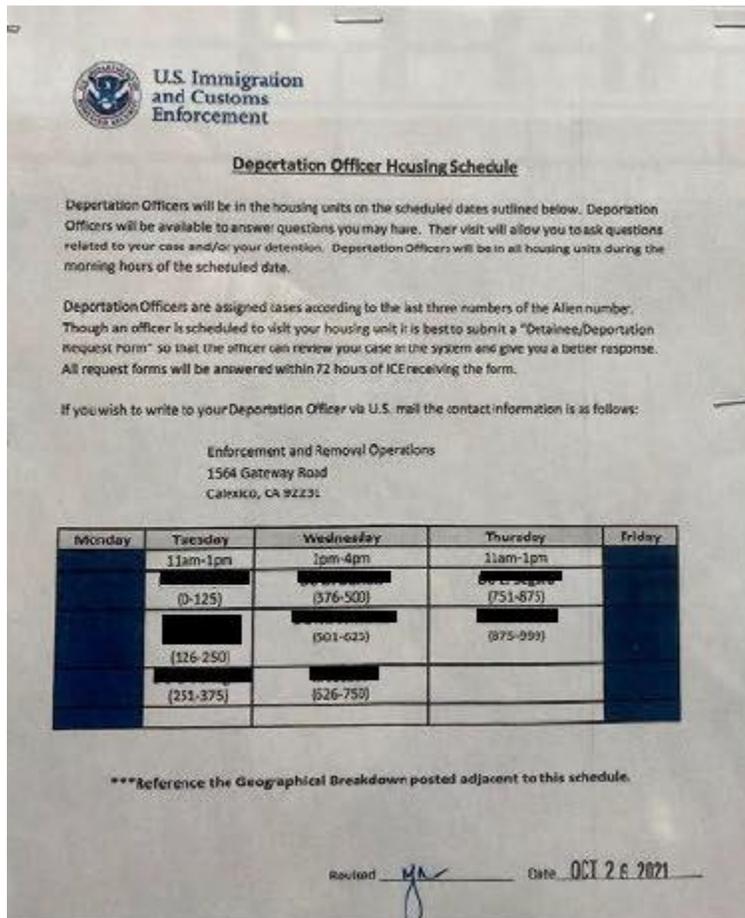


Exhibit A. ICE ERO Deportation Officer Housing Schedule dated October 26, 2021.

Source: OIDO

OIG noted a similar finding in its 2020 inspection of IRDF. ICE responded to the finding by indicating that it had incorporated a new schedule for Deportation Officers to visit the dormitories more regularly. However, OIDO found that while ICE ERO created visitation schedules, it did not adhere to them or provide detainees with an alternate form of regular, informal access to ICE ERO. As such, ICE ERO’s failure to provide regular, informal contact to detainees is a violation of the standard and a repeat deficiency.

iii. Additional Concerns

OIDO found that IRDF took corrective action to improve the timeliness of its responses to detainees’ grievances following OIG’s 2020 inspection. However, during OIDO’s review of this issue, it found that the facility’s process for providing grievance responses raised some concerns about its effectiveness in communicating with detainees with limited English proficiency. OIDO’s review of the Detainee Handbook suggested some similar challenges associated with giving communication assistance to individuals with limited English proficiency.

Concerns about Communication with Detainees with Limited English Proficiency in Medical Care

OIG's 2020 inspection examined the issue of medical grievances and found that IRDF staff did not always properly document medical grievances and their responses to them. OIG recommended that ICE require IRDF staff to provide written responses to medical grievances and give copies to the detainees who filed them. During OIDO's inspection, investigators found that while IRDF staff largely did respond to medical grievances in a timely manner, they did not always provide responses in a language the detainee could understand.

OIDO reviewed 11 medical grievances and found that there were three instances where the facility provided automated English responses to grievances that had been submitted in Spanish. Further, OIDO reviewed 54 electronically submitted sick calls. Of the total, 85 percent were submitted in Spanish or Portuguese; however, each received an automated message response in English. Finally, OIDO reviewed IRDF's Laboratory Counseling Form, a paper form used to share COVID-19 test results with detainees. OIDO found that all forms were pre-typed in English. The facility records contained no evidence that results had been translated or provided via oral interpretation.

IRDF health care personnel's English responses to non-English electronic sick calls and medical grievances appears to be the result of insufficient staff training on the Talton tablet system. Although the tablets appear to have translation capabilities, all detainees received automated English responses, suggesting a failure to capitalize on existing communication technologies. Increased staff awareness and instruction on using the tablets' built-in translation capabilities could alleviate this communication issue.

Effective communication assistance is essential for detainees of limited English proficiency to ensure they have access to appropriate, timely, and necessary care and related services. IRDF's use of English automated messages, forms, and responses must be paired with a review of the individual detainee's unique communication needs – be they translation, oral interpretation, or some other accommodation.

Concerns about Communication with Detainees with Limited English Proficiency in the Detainee Handbook

The 2011 PBNDS section 6.1 on the Detainee Handbook states that detainees shall be provided with comprehensive written orientation material that informs the detainee about rules, sanctions, and procedures at the facility upon admission. The Handbooks are to be provided in English, Spanish, and other predominant languages as determined necessary by the Field Office Director. The facility shall provide translation services or other assistance to detainees who are limited in their English proficiency.

During OIDO's inspection, facility staff indicated that it would be helpful to have the Detainee Handbook made available in additional languages, such as Armenian, Nepalese, Tamil, Pashtu, and Urdu, to better communicate its contents to detainees who speak these languages. OIDO followed up with ICE directly about this suggestion and determined that detainee demographics drive decisions regarding investment in additional translations of the Handbook. Because few detainees speak Armenian, Nepalese, Tamil, Pashtu, and Urdu, the Field Office Director has not deemed them predominant languages at this time.

Further, during OIDO's inspection, IRDF staff reported that they were unable to access interpretation services for Tigrinya, Gujarati, and Urdu. The facility staff appeared to have access to the contracted Language Line Solutions service but not the ICE language line. This could potentially limit the number of language interpretation services staff could access for less common language needs. IRDF's lack of written material and interpretation services for several less predominant languages could prevent some detainees from obtaining information about rules, sanctions, and procedures at the facility.

B. Additional Findings: OIDO's Review of Contract Terms and Performance Standards

i. Contracts, Training, Medical Staffing and Health Assessments, Segregation, and Legal Access

In addition to review of violations found during the 2020 OIG inspection, OIDO evaluated additional topics related to contract terms and performance standards at IRDF. OIDO determined that ICE ERO and IRDF followed the detention standards and contract terms except in the areas of monthly audits, training, medical staffing and health assessment, and segregation determinations.

IRDF Not Completing Monthly Audits of Their Operations

At the time of OIDO's inspection, IRDF was contracted to hold ICE detainees pursuant to a Dedicated Intergovernmental Service Agreement (DIGSA). Section II of the agreement states that the Contractor shall provide a Quality Control Plan (QCP) to ICE's Contracting Officer (CO) for concurrence no later than the post-award conference (or as directed by the CO). Further, the contract specifies that the Contractor shall audit facility operations monthly for compliance with the QCP.

OIDO found that MTC could not provide any records of the required monthly audits of their operations at the time of its onsite inspection. The MTC compliance manager confirmed that monthly audits were not being conducted at that time and stated that this was a result of staffing shortages and impediments related to COVID-19. However, OIDO notes that internal audits are critical to ensuring that contract obligations, standards, policies, and procedures are followed.

Lack of Training Limits Potential Benefits of Communications Technology at IRDF

The 2011 PBNDS section 2.13 on Staff-Detainee Communication states that detainees should have informal direct and written contact with facility managerial and supervisory staff and ICE ERO personnel. Specifically, detainees should be able to submit written questions, requests, grievances, and concerns to staff and receive a timely response. OIDO found that detainees held at IRDF had access to Talton tablets, a widely used technology in the detention environment intended to serve as a single source for detainee communication needs, including access to grievance forms, reading materials, messaging, video, and law libraries. However, some tablets were inoperable due to an outstanding software update. Moreover, OIDO found that detainees were not using the functions of the tablets correctly to communicate with facility staff. For example, in more than three-fourths of the records reviewed, OIDO found that detainees incorrectly input sick call requests as medical grievances.

Interviews with ICE ERO and facility staff suggested that detainees did not receive sufficient training or instruction to effectively use the technology. ICE ERO did not provide an initial training during the admission and orientation process nor did the facility staff provide instruction to detainees when they received their access information. Facility staff indicated that the only information they gave to detainees about the tablets was on a poster hung on a bulletin board. In short, the facility did not appear to offer any formalized training to detainees on tablet use.

Tablets serve as a promising technology to enhance staff-detainee communication in immigration detention settings. Particularly in the environment of the COVID-19 pandemic where traditional forms of communication have been curtailed due to possible health risks, tablets represent an opportunity to provide detainees with alternate means to stay in touch with ICE ERO officers and facility staff. Inadequate training and maintenance on these technologies, however, prevent their benefits from being realized and reduce detainees' ability to access and interact with key staff.

IRDF's Health Assessment Processes Lack Visual Acuity Tests

Comprehensive health assessments are a requirement of the 2011 PBNDS and must be administered within 14 days of a detainee's arrival unless more immediate health concerns require an earlier evaluation. OIDO reviewed a sample of six medical records and found that facility medical personnel were not conducting visual acuity tests (Snellen) during detainees' scheduled physical examinations/ health appraisals. In one case, this resulted in a delay in care for a female detainee who did not receive a timely optometry referral.

The 2011 PBNDS encourages facility medical personnel to reference Appendix 4.3.B when conducting a comprehensive health assessment. This form refers to the visual acuity test as part of the objective portion of the health assessment. IRDF's electronic equivalent, history and physical assessment form, had a section for the visual acuity tests, but medical staff were not completing it.

Concern with Medical Department's Vacancy Rate at IRDF

The 2011 PBNDS section 4.3(B) on Medical Staffing states that facilities must have sufficient medical staff and support personnel to meet the requirements of the standards for medical care. A review of IRDF's MTC staffing plan revealed that IRDF had a medical staffing rate of 88 percent, or a vacancy rate of 12 percent. IRDF's Warden indicated that the medical staffing shortage was likely a result of high competition in the area from outside entities, such as hospitals, clinics, and state and federal correctional centers. These entities were often able to offer higher wages and sign-on bonuses. Calexico, California in Imperial County, where IRDF is located, is surrounded by a few larger population towns as well as several larger cities, which may increase competition and pull scarce resources away from IRDF. In addition, there is only one nursing program in the county, possibly contributing to a shortage of nurses in the area. Nonetheless, staffing shortfalls in medical departments may result in interruptions to or inadequacies of medical care provision at IRDF.

Use of Special Management Units Needs Continual Review of Detainee Circumstances

SMUs provide for the use of administrative or disciplinary segregation of individuals as appropriate to ensure the safety, security, or good order of an immigration detention facility. Detainee records must document the reasons and circumstances related to continued confinement after initial determination. As noted above, OIDO's review of documentation revealed that ICE

ERO had timely documented required information for the individuals held in SMUs at the time of inspection. However, individual case review suggested that at least one detainee may have been improperly held in disciplinary segregation for too long without a documented case-by-case justification for continued confinement. While the detainee had refused to leave the SMU area, written documentation failed to fully support a continued justification for disciplinary placement long term. Justification for continued detention did not specify a clearly articulated case-by-case determination, and the same or similar language was used to justify continued detention month after month. OIDO observed that both the officer and supervisor had used repetitious language to document the continued use of segregation. A review prompted by OIDO's inspection ultimately resulted in the individual's reclassification. A more regular review by ICE ERO management of the justification for longer term SMU placement may have prompted this move sooner.

Detainees Have Access to Legal Resources Despite COVID-19 Pandemic Restrictions

The 2011 PBNDS sections 6.3 and 6.4 state that detainees shall have access to courts and counsel. OIDO observed a large room at IRDF dedicated to conducting interviews with family and attorneys as well as credible fear processing. The facility had two rooms available that could accommodate court hearings via Video Teleconferencing. OIDO found that credible fear interviews were taking place within a timely manner even with adherence to ICE's ERO PRR. The physical layout of IRDF was structured in such a way that it allowed for the movement and separation of detainees while still meeting the requirements of the PRR. Rooms and areas provided sufficient privacy necessary to conduct hearings. Having the necessary rooms, equipment, and operational ability to conduct removal proceedings and asylum hearings without delays under COVID-19 restrictions ensures that detainees continue to receive due process.

ii. Commendable Practices

While OIDO found several violations at the facility, it notes that IRDF's performance was commendable in a few areas, including providing detainees with educational opportunities and informing them about its sexual abuse and assault prevention and intervention program.

IRDF Detainees Given Access to Additional Educational Opportunities

The 2011 PBNDS section 5.4 states that facilities shall offer programmatic activities such as educational classes or speakers. IRDF had a full-time instructor and offered courses in a classroom context. Classes were held on computers with the instructor, and books were available in the classroom. Classes accommodated up to 10 individuals per session. IRDF offered English as a Second Language (ESL) video classes in the dorms daily. Religious services were also available by video in the dorms daily.

IRDF Provided Detainees with Sexual Abuse and Assault Prevention Information in Multiple Languages

The 2011 PBNDS section 2.11 states that facilities should act affirmatively to prevent sexual abuse and assaults on detainees. IRDF provided detainees with written screening materials during intake. These materials were available in 20 languages. These language translations help to educate detainees about the program and affirmatively prevent sexual abuse and assaults.

Conclusions

OIDO's inspection resulted in several factual findings. While IRDF corrected four violations noted during OIG's 2020 inspection, two deficiencies related to ICE ERO detainee communication and food service remained. Moreover, while OIDO found that IRDF had improved its responsiveness to medical grievances, its process raised new concerns about its effectiveness in communicating responses to detainees with limited English proficiency. Further, OIDO's review of additional areas such as contract terms, training, medical staffing, and segregation determinations suggested some areas of concern. Finally, OIDO notes that IRDF's performance regarding educational opportunities and sexual abuse and assault prevention and intervention program was noteworthy.

Complying with ICE's 2011 PBNDS and service contract terms is essential to ensuring the health, safety, and rights of detainees. ICE must ensure that IRDF complies with the detention standards and contract terms and takes meaningful corrective action to address deficiencies and review areas of concern.

Recommendations

Recommendation 1: Require IRDF to implement and adhere to a food safety plan that includes:

- a) Coordinating with the food service vendor to ensure that all products are marked with use by/best by dates to decrease the possibility of serving spoiled or rotten food to detainees;
- b) Ensuring that use by/best by dates are routinely checked when accepting deliveries and preparing and serving food;
- c) Ensuring that all food is properly covered and stored; and
- d) Routinely inspecting kitchen and food preparation areas to ensure that they are clean and free from spilled food and debris.

Recommendation 2: ICE ERO management should ensure officers complete regular, scheduled visits to IRDF so that detainees have required, frequent opportunities for contact.

Recommendation 3: Require IRDF staff health services to:

- a) Conduct a comprehensive review of the physical examination/health appraisal program to determine why medical staff are not conducting visual acuity exams during these encounters;
- b) Ensure medical staff are trained to provide responses to medical grievances either through electronic or paper mechanisms in a language or manner the detainee understands, particularly when responses are made through the Talton tablet system; and
- c) Ensure that all written materials given to detainees are translated into Spanish and/or document that the information was communicated to the detainee in a language or manner they could understand.

Recommendation 4: IRDF should ensure staff has access to interpretation services for the following languages: Tigrinya, Gujarati, and Urdu.

Recommendation 5: IRDF, with ICE ERO support, should design an effective, formal Talton tablet training program to educate detainees on appropriate usage.

- a) Initial training should be provided during the receiving and discharge detainee orientation process;
- b) Additional training should be offered to expand into further instruction within the facility;
- c) The IRDF Detainee Handbook should incorporate training material and be updated with information regarding Talton tablet capabilities, to include inputting sick call requests versus medical grievances, submitting complaints, communicating with attorneys, and contacting OIG to report abuse; and
- d) IRDF staff and ICE ERO should work with Talton Communications to modify the scheduling of software updates to occur between the hours of 10 p.m. and 6 a.m. when detainees are not routinely using the tablets.

Recommendation 6: ICE ERO management should ensure that segregation reviews document case-by-case and current circumstances to justify continued placement in SMUs. Office and supervisor reviews should ensure sufficient justification exists to warrant continued placement of the detainee in segregation long term.

Response from Inspected Component and OIDO Analysis

ICE officials concurred with all six recommendations and identified corrective actions to address the issues raised from OIDO's inspection. Appendix A contains ICE management's comments in their entirety. OIDO considers all six recommendations resolved and closed. Below is a summary of ICE's response and OIDO's analysis thereof.

Component Response to Recommendation 1: Regarding issues of food safety, ICE concurred with OIDO's recommendations. ICE noted that the facility has not changed its practice of rotating food on a "first in, first out" basis and labeling food with the dates of arrival. ICE further stated that the kitchen staff have been assigned areas of responsibility to check for sanitation and food spoilage. ICE submitted Official Inspection Reports of the Division of Environmental Health of the Imperial County Public Health Department dated after OIDO's inspection that found no violations.

OIDO Analysis: OIDO finds these actions to be responsive to the recommendation and considers the matter resolved and closed.

Component Response to Recommendation 2: Regarding staff-detainee relations, ICE concurred with OIDO's recommendation and stated that the facility maintains a Deportation Officer Housing Schedule. ICE ERO also submitted evidence showing that they were also resuming in person visits at the facility after OIDO's inspection.

OIDO Analysis: OIDO finds these actions to be responsive to the recommendation and considers the matter resolved and closed. ICE was not performing in-person visits to address the deficiency previously noted by OIG. However, OIDO acknowledges that ICE ERO posted a schedule for Deportation Officers to visit the dormitories that provided an alternate method of contact if needed

and began resuming in person visits after OIDO's inspection.

Component Response to Recommendation 3: Regarding medical care, ICE indicated that the facility medical providers conduct health assessments in line with the recommendations of the 2011 PBNDS. ICE stated that a visual acuity examination, using a Snellen chart or similarly approved visual diagnostic tool, will be conducted should it be identified as a necessity for the patient. This decision is at the provider's discretion, based on the professional autonomy of the physician. If it is deemed necessary, then a visual acuity test will be performed and noted within IRDF's electronic medical record utilizing the History of Physical Assessment form. ICE further stated that medical staff at the facility received training in February 2022 on communicating with detainees in a language or manner they can understand. ICE provided a copy of the monthly meeting notes.

OIDO Analysis: OIDO finds these actions to be responsive to the recommendation and considers the matter resolved and closed. OIDO encourages the facility to continue performing visual acuity exams when identified as a necessity for the patient. IRDF should also incorporate its training of medical staff on communicating with detainees into the facility's initial orientation training and recurring annual training.

Component Response to Recommendation 4: Regarding interpretation services, ICE indicated that the facility has services for Tigrinya, Gujarati, and Urdu and provided documentation from November 2021 - March 2022. ICE indicated, however, that there are sometimes difficulties with accessing these services depending on interpreter availability.

OIDO Analysis: OIDO considers the matter resolved and closed. However, OIDO recommends that ICE coordinate with the facility to ensure that it has access to the ICE language line when necessary. IRDF should make sure their staff are aware of the language resources available to them.

Component Response to Recommendation 5: Regarding training on the Talton tablets, ICE indicated that the facility is taking corrective action to address the current training gap. The facility is providing instruction via a PowerPoint presentation and exploring the possibility of creating a tablet training video. Staff will document the training on an In-Processing Form. The Talton tablet instructions are distributed to all new arrivals and posted in all housing units. The facility has now posted a copy of the instructions in all Receiving and Discharge Hold Rooms as well. Further, using the IRDF Local Detainee Handbook, the staff will ensure that detainee noncitizens are instructed on which grievance form is to be used for a complaint or grievance, which form is used for a request, concern, or question, and how to complete each form. Staff will ensure that each detained noncitizen is instructed that he/she can ask the housing officers or other staff members for help if needed. Finally, the facility will remind housing unit officers that they must assist and educate detained noncitizens in the use of tablets and the submission of requests and grievances.

OIDO Analysis: OIDO finds these actions to be responsive to the recommendations and considers the matter resolved and closed. OIDO will continue to monitor ICE's training development in this area.

Component Response to Recommendation 6: Regarding segregation reviews, ICE concurred



that reviews should evaluate whether placement is justified and sufficiently documented when making determinations. ICE further indicated that the agency would ensure that the segregation record is appropriately updated to reflect a current placement reason.

OIDO Analysis: OIDO finds the proposed actions responsive to the recommendation and considers the matter resolved and closed. ICE ERO should continue to review cases for proper classification and justification of continued segregation. Additionally, the Detention Services Manager, Detention Standards Compliance Officer, or Field Office Compliance should continue monitoring the special housing unit and reviewing detainee segregation files for compliance with the 2011 PBNDS.

Appendix A: Component Response

Office of the Director

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



**U.S. Immigration
and Customs
Enforcement**

July 28, 2022

MEMORANDUM FOR: David D. Gersten
Acting Immigration Detention Ombudsman
DHS Office of the Immigration Detention Ombudsman

FROM: Tae D. Johnson 
Acting Director
U.S. Immigration and Customs Enforcement

SUBJECT: Request for Comment on OIDO-22-002, Inspection of the
Imperial Regional Detention Facility

Purpose

This memorandum is in response to the Office of the Immigration Detention Ombudsman (OIDO) inspection report of the Imperial Regional Detention Facility (IRDF) in Calexico, California, from November 30, 2021 to December 1, 2021. The inspection reviewed areas where the Office of Inspector General (OIG) had previously found detention standard violations and evaluated whether corrective actions were taken to fix prior violations.

Background

U.S. Immigration and Customs Enforcement (ICE) is a federal agency charged with enforcing the nation's immigration laws in a fair and effective manner. ICE identifies, apprehends, detains, and removes noncitizens who are amenable to removal from the United States. ICE uses its immigration detention authority¹ to effectuate this mission by securing noncitizens in custody while they await the outcome of their immigration proceedings and/or removal from the United States. ICE has important obligations under the U.S. Constitution and other federal and state laws when it decides to keep a noncitizen in custody. ICE national detention standards ensure that detained noncitizens are treated humanely, protected from harm, provided appropriate medical and mental health care, and receive the rights and protections to which they are entitled.²

ICE ensures detention facilities used to house ICE detained noncitizens do so in accordance with ICE national detention standards. These standards were developed in cooperation with ICE stakeholders, the American Correctional Association, and non-governmental organizations representatives, and were created to ensure that all noncitizens in ICE custody are treated with

¹ <https://www.ice.gov/identify-and-arrest/287g>

² <https://www.ice.gov/detain/detention-management/2019>

www.ice.gov

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dignity and respect and provided appropriate care.³ Each detention center must meet specified standards. IRDF is a contracted facility operated by the Management and Training Corporation (MTC).

ICE's Response to OIDO's Recommendations

Recommendation 1: Require IRDF to implement and adhere to a food safety plan that includes:

- a) Coordinating with the food service vendor to ensure that all products are marked with use by/best by dates to decrease the possibility of serving spoiled or rotten food to detained noncitizens;
- b) Ensuring that use by/best by dates are routinely checked when accepting deliveries and preparing and serving food;
- c) Ensuring that all food is properly covered and stored; and
- d) Routinely inspecting kitchen and food preparation areas to ensure they are clean and free from spilled food and debris.

Response 1

With regard to implementing a food safety plan, ICE concurs with OIDO's recommendations and responds that it will apply sound food safety and sanitation practices to protect detained noncitizens from illness and injury as required by PBNDS 2011 (*revised 2016*), 4.1 Food Service. The facility's practice of "first in, first out" when rotating food has not changed. This includes labeling food items with the dates of arrival. Kitchen staff has been assigned areas of responsibility to check for food spoilage and sanitation.

Recommendation 2: ICE Enforcement and Removal Operations (ERO) management should ensure officers complete regular, scheduled visits to IRDF so that detainees have required, frequent opportunities for contact.

Response 2

ICE concurs. In compliance with PBNDS 2011 (*revised 2016*), 2.13 Staff-Detainee Communication, IRDF maintains a Deportation Officer Housing Schedule (see attached) to ensure detained noncitizens have frequent opportunities for informal contact with ERO personnel.

Recommendation 3: Require IRDF staff health services to:

- a) Conduct a comprehensive review of the physical examination/health appraisal program to determine why medical staff are not conducting visual acuity exams during these encounters.
- b) Ensure medical staff are trained to provide responses to medical grievances either through electronic or paper mechanisms in a language or manner the detained noncitizen understands, particularly when responses are made through the Talton tablet system; and
- c) Ensure that all written materials given to detained noncitizens are translated into Spanish and/or document that the information was communicated to the detained noncitizen in a language or manner they could understand.

³ <https://www.ice.gov/detain/facility-inspections>

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Response 3

ICE concurs. IRDF medical providers conduct comprehensive health assessments in line with the recommendations of PBNDS 2011 (*revised 2016*), 4.3 Medical Care. As noted in the report, visual acuity tests are included in the recommended health assessment form but are not required by the standards. A visual acuity examination, using a Snellen chart or similarly approved visual diagnostic tool, will be conducted should it be identified as a necessity for the patient. This decision is at the provider's discretion, based on the professional autonomy of the physician. If it is deemed necessary, then a visual acuity test will be performed and noted within IRDF's electronic medical record (Sapphire) utilizing the History and Physical Assessment form.

Regarding grievances and written materials being provided to detained noncitizens in a language or manner they can understand, medical staff received training on this during their monthly meeting on February 16, 2022. Please refer to the attached file, *MTC Medical Monthly Meeting - Feb. 2022*.

Recommendation 4: IRDF should ensure staff has access to interpretation services for the following languages: Tigrinya, Gujarati, and Urdu.

Response 4

ICE concurs and supports interpretation services needed to protect the rights and wellbeing of those in detention. ICE is committed to providing interpretation services for the languages cited above. IRDF has interpretation services for Tigrinya, Gujarati, and Urdu; however, there are sometimes difficulties with accessing services depending on interpreter availability. Please refer to the attached language reports, *Language Report Nov. 2021 - Feb. 2022* and *Language Report March 2022*.

Recommendation 5: IRDF, with ICE ERO support, should design an effective, formal Talton tablet training program to educate detainees on appropriate usage.

- a) Initial training should be provided during the receiving and discharge of detained noncitizens orientation process;
- b) Additional training should be offered to expand into further instruction within the facility;
- c) The IRDF Detainee Handbook should incorporate training material and be updated with information regarding Talton tablet capabilities, to include inputting sick call requests versus medical grievances, submitting complaints, communicating with attorneys, and contacting OIG to report abuse; and

IRDF staff and ICE ERO should work with Talton Communications to modify the scheduling of software updates to occur between the hours of 10 p.m. and 6 a.m. when detained noncitizens are not routinely using the tablets.

Response 5:

ICE concurs. Regarding the recommendations above, the facility has taken the following actions:

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1. The attached PowerPoint presentation, *Talton Detainee Tablets Training*, was printed out and provided to Receiving and Discharge (R&D) staff to demonstrate and provide each detained noncitizen with instructions/training in the use of Talton tablets. While the facility explores the possibility of creating a tablet training video that can be added to the facility's orientation video, staff will utilize the PowerPoint presentation.
2. Utilizing the attached handbook, *IRDF Local Detainee Handbook* (last revised October 1, 2020, yellow highlighted sections), staff will identify the pages/sections that provide detained noncitizens with information regarding the tablets and various grievance/request forms. Staff will ensure that each detained noncitizen is instructed on which grievance form is to be used if they have a complaint or grievance and how to complete the form. Staff will also ensure that each detained noncitizen is instructed on which request form to use if they have a request, concern, or question, and how to complete the form.
3. As identified in the attached *IRDF Local Detainee Handbook* (yellow highlighted sections), staff will ensure that each detained noncitizen is instructed that he/she can ask the housing unit officers or other staff members for help if needed.
4. Housing unit officers will be reminded that they must assist and educate detained noncitizens in the use of the tablets and submission of request and grievance forms when requested.
5. Unfortunately, the facility has no control over when tablet updates are sent out. Housing unit officers were advised to ensure that all tablets always remain on, as this will ensure the tablets are properly updated when Talton sends out an update. Also, as indicated in facility post orders, staff will continue to inspect all tablets for serviceability during each shift. If a tablet is discovered to be inoperable, staff shall immediately submit a service request to Talton.
6. Attached is a copy of the Talton tablet instructions, which have been posted in all housing units and distributed to all new arrivals for several years. The reason the instructions were not posted in R&D is because each detained noncitizen receives a copy of the instructions, and the tablets are inoperable within R&D. A copy of the instructions has since been posted in all R&D Hold Rooms.
7. R&D staff will document the training (demonstration/instructions) on the attached updated In-Processing Form.

In addition, please refer to the attached emails, *Email - OIDO Finding - Talton Tablet Training* and *Email - RE_ How to Use Tablet Video* related to this recommendation.

Recommendation 6: ICE ERO management should ensure that segregation reviews document case-by-case and current circumstances to justify continued placement in SMUs. Office and supervisor reviews should ensure sufficient justification exists to warrant continued placement of the detainee in segregation long term.

Response 6:

ICE concurs that segregation reviews should evaluate whether continued placement is justified,

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and that sufficient detail be documented/included to justify a decision to continue segregation placement. Draft Report OIDO-22-002 cites a single case where “one detainee may have been improperly held in disciplinary segregation for too long without a documented case-by-case justification for continued confinement.” ERO believes the referenced scenario is an outlier and not indicative of a systemic issue. ERO encounters situations where a detained noncitizens will be offered release from the segregation unit but refuses to depart; ICE will ensure, going forward, that the segregation record is appropriately updated to reflect a current placement reason.

Attachments:

Deportation Officer Housing Schedule
MTC Medical Monthly Meeting - Feb. 2022
Language Report Nov. 2021 - Feb. 2022
Language Report March 2022
Talton Detainee Tablets Training
IRDF Local Detainee Handbook
Tablet Instructions
In-Processing Form - OIDO Finding - Talton Tablet Training
Email - RE_How to Use Tablet Video

Additional Information and Copies

To view any of our other reports,
please visit:
www.dhs.gov/OIDO.

For further information or questions, please contact the Office
of the Immigration Detention Ombudsman at:
detentionombudsman@hq.dhs.gov.

