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Immigration and Customs Enforcement

Office of Professional Responsibility

Inspections and Detention Oversight

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**Office of Detention Oversight
Compliance Inspection**

Enforcement and Removal Operations

San Francisco

Yuba County Jail

Marysville, California

August 5–7, 2014

**COMPLIANCE INSPECTION
YUBA COUNTY JAIL
SAN FRANCISCO FIELD OFFICE**

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INSPECTION PROCESS

The U.S. Immigration and Customs Enforcement (ICE), Office of Professional Responsibility (OPR), Office of Detention Oversight (ODO) conducts broad-based compliance inspections to determine a detention facility's overall compliance with the applicable ICE National Detention Standards (NDS) or Performance-Based National Detention Standards (PBNDS), and ICE policies. ODO bases its compliance inspections around specific detention standards, also referred to as core standards, which directly affect detainee health, safety, and well-being. Inspections may also be based on allegations or issues of high priority or interest to ICE executive management.

Prior to an inspection, ODO reviews information from various sources, including the Joint Intake Center (JIC), Enforcement and Removal Operations (ERO), detention facility management, and other program offices within the U.S. Department of Homeland Security (DHS). Immediately following an inspection, ODO hosts a closeout briefing at which all identified deficiencies are discussed in person with both facility and ERO field office management. Within days, ODO provides ERO a preliminary findings report, and later, a final report, to assist in developing corrective actions to resolve identified deficiencies.

REPORT ORGANIZATION

ODO's compliance inspection reports provide executive ICE and ERO leadership with an independent assessment of the overall state of ICE detention facilities. They assist leadership in ensuring and enhancing the safety, health, and well-being of detainees and allow ICE to make decisions on the most appropriate actions for individual detention facilities nationwide.

ODO defines a deficiency as a violation of written policy that can be specifically linked to ICE detention standards, ICE policies, or operational procedures. Deficiencies in this report are highlighted in bold and coded using unique identifiers. Recommendations for corrective actions are made where appropriate. The report also highlights ICE's priority components, when applicable. Priority components have been identified for the 2008 and 2011 PBNDS; priority components have not yet been identified for the NDS. Priority components, which replaced the system of mandatory components, are designed to better reflect detention standards that ICE considers of critical importance. These components have been selected from across a range of detention standards based on their importance to factors such as health and safety, facility security, detainee rights, and quality of life in detention. Deficient priority components will be footnoted, when applicable. Comments and questions regarding this report should be forwarded to the Deputy Division Director, OPR ODO.

INSPECTION TEAM MEMBERS

(b)(6), (b)(7)c	Inspections & Compliance Specialist (Team Lead)	ODO
	Inspections & Compliance Specialist	ODO
	Management & Program Analyst	ODO
	Contractor	Creative Corrections
	Contractor	Creative Corrections
	Contractor	Creative Corrections

EXECUTIVE SUMMARY

ODO conducted a compliance inspection of the Yuba County Jail (YCJ) in Marysville, California, from August 5 to 7, 2014. YCJ, which opened in 1962, is owned by Yuba County and operated by the Yuba County Sheriff’s Department. ERO began housing detainees at YCJ in 2008 under an intergovernmental service agreement. Male and female detainees of all security classification levels (Levels I through III) are detained at the facility for periods in excess of 72 hours. The inspection evaluated YCJ’s compliance with the 2000 NDS and the 2011 PBNDS Sexual Abuse and Assault Prevention and Intervention (SAAPI) standard.¹

The ERO Field Office Director (FOD), in San Francisco, California, is responsible for ensuring facility compliance with the 2000 NDS and ICE policies. There are no ICE detention officers stationed onsite at YCJ, but there is an ERO Detention Service Manager (DSM) located at the facility.

Capacity and Population Statistics	Quantity
Total Bed Capacity	433
ICE Detainee Bed Capacity	220
Average Daily Population	414
Average ICE Detainee Population	197
Average Length of Stay (Days)	105
Male Detainee Population (as of 08/5/14)	179
Female Detainee Population (as of 08/5/14)	18

A Jail Administrator is responsible for oversight of daily facility operations and is supported by (b)(7)(e) personnel. Yuba County provides food and medical services at YCJ. The facility is accredited by the California Board of Corrections.

In April 2012, ODO conducted an inspection of YCJ under the 2000 NDS. ODO reviewed 18 standards and found YCJ compliant with 12 standards. ODO found a total of ten deficiencies in the remaining six standards.

During this inspection ODO reviewed 15 NDS and one PBNDS and found YCJ compliant with nine standards. ODO found a total of 14 deficiencies, three of which relate to priority components,² in the remaining seven standards: Access to Legal Materials (1 deficiency), Admission and Release (1), Detainee Handbook (1), Sexual Abuse and Assault Prevention and Intervention (5), Special Management Unit-Administrative Segregation (2), Staff-Detainee Communication (3) and Use of Force (1). ODO made one recommendation³ regarding facility policy and procedures (deficiencies) and cited one best practice.⁴

This report details all deficiencies and refers to the specific, relevant sections of the 2000 NDS. ERO will be provided a copy of this report to assist in developing corrective actions to resolve all identified deficiencies. ODO discussed preliminary findings with YCJ and ICE personnel during the inspection and at a closeout briefing conducted on August 7, 2014.

¹ The facility signed a contract modification to incorporate the 2011 SAAPI standard on December 31, 2012.

² Deficient priority components were found in the following standard: Sexual Abuse and Assault Prevention and Intervention.

³ Recommendations will be annotated in the report as “R.”

⁴ Best practices are annotated in this report as “BP.”

Upon admission into YCJ, detainees undergo a security and medical screening, and are issued personal hygiene items, clothing and bedding. Strip searches are only conducted when facility staff establishes reasonable suspicion to do so. YCJ classifies detainees as minimum, medium or maximum before assigning them to a housing unit. Classification levels are determined by the facility using criminal history information provided by ICE. Although detainees receive a facility handbook informing them about facility operations, programs and services, they do not receive a video orientation reiterating the same topics.

YCJ has a dedicated library for both inmates and detainees to use. The room is well-lit, has sufficient furnishings, and is equipped with adequate equipment and supplies to support legal research and case preparation. The facility has two laptop computers for detainee use, one for male detainees and the other for female detainees. The facility handbook informs detainees the law library is available for use, and describes the procedure for requesting access to the law library, but does not include the following: scheduled hours of access, the procedure for requesting additional library time, and the procedure for notifying a designated employee that library material is missing or damaged.

The facility handbook is offered in both English and Spanish and provides a thorough overview of the programs and services provided by YCJ. However, in the event that revisions or updates are made to the handbook, the facility does not have established procedures to communicate those changes to security staff or detainees.

Upon coming into ICE custody, detainee personal property is inventoried, receipted and stored by ICE at an offsite ICE location. Any U.S. currency that accompanies a detainee is directly deposited into an electronic kiosk system, which creates a commissary account for the detainee.

Detailed information on the grievance process and appeal procedures is included in the facility handbook. Procedures are in place for handling emergency grievances by bringing them to the immediate attention of the Jail Administrator, who then initiates review and appropriate action. Medical grievances are directed to the Health Services Administrator (HSA) for review and response. ODO's reviewed of the grievance log found 170 formal grievances were processed during the 12 months preceding the inspection. There were 53 grievances concerning medical issues; 21 concerning classification, 15 related to telephones, and 63 regarding a variety of issues including mail, recreation, law library, and visitation. The remaining 18 grievances were complaints about staff; however, a review of these grievances and the resulting investigations found none constituted staff misconduct. The Supervisory Detention and Deportation Officer (SDDO) confirmed any staff misconduct grievance would be directed to him for follow up. In addition to reviewing the 18 complaints about staff, ODO sampled 32 additional grievances and confirmed all were responded to within required timeframes.

The food service operation is staffed by Yuba County employees, including a food service manager and (b)(7)e cook foremen. There are no detainees and (b)(7)e county inmate workers assigned to the food service department. ODO verified all food service staff and inmate workers received pre-employment medical clearance. ODO observed all staff and inmate workers wore clean uniforms, hair nets, beard guards for facial hair, and gloves while handling food. A review of the menu confirmed it is based on a 35-day cycle and certified annually by a registered dietician.

ODO verified medical and religious diets are provided as approved. During the inspection, there were 30 detainees receiving medical diets and 11 receiving religious diets.

Throughout the course of the inspection, ODO observed the sanitation of the facility was very good, including in the housing units and shower areas. ODO confirmed a master index of hazardous substances is maintained and includes material safety data sheets and documentation of semi-annual review for accuracy. Documentation reflects fire drills are conducted monthly in each area of the facility. The fire drill reports documented emergency keys are checked out and tested during each drill. ODO's inspection found required weekly and monthly fire and safety inspections were conducted throughout the facility and were well documented. Exit diagrams are posted throughout the facility. The facility was last inspected by the state fire marshal on July 13, 2012.

Independent contractors and medical professionals employed by the Yuba County Sheriff's Department provide healthcare. The clinical medical authority is the clinical director, a contract physician who is present at the facility Monday through Friday from 6:00 a.m. to at least 8:30 a.m. The clinical director also provides on call services 24 hours a day, seven days a week. The HSA is not a medical professional, but served as an administrator with the local health department prior to being hired by the sheriff to serve as the HSA for YCJ. Nursing staff consists of (b)(7)e full-time registered nurse (RN) and (b)(7)e full-time licensed practical nurses (LPN). In addition, there are (b)(7)e full-time certified medical assistants. Mental health services are provided by licensed mental health counselors who share responsibility for onsite coverage eight hours daily, seven days a week. A contract psychiatrist is at the facility twice weekly for a total of ten hours, and is on call 24 hours a day, seven days a week. Dental services are provided by a contract dentist onsite two days a week. All professional licenses were present and primary source verified with the issuing agency for authentication purposes.

The clinic is compact with an administrative section, one examination/treatment room, a pharmacy work room, and one-chair dental suite. A telephonic language translation service is available in the clinic, and access numbers and codes are posted. YCJ has two negative air flow cells for tuberculosis (TB) isolation. Detainees who require a higher level of medical care are sent to the Rideout Hospital located in Marysville, approximately four miles away. Detainees are screened by medical assistants upon arrival. All 29 records reviewed documented full compliance with intake and TB screening requirements, and all included general consent for treatment. Initial health appraisals are performed by the clinical director. Detainees access health care services by completing sick call request forms printed in English and Spanish. Per the HSA and local policy, sick call requests are obtained from nursing staff during medication distribution. ODO verified the requests are dated and triaged for clinical priority within 24 hours. Nursing staff conduct sick call on a daily basis using physician-approved clinical protocols. The HSA informed ODO there have been no detainee suicides attempts or suicide watch placements during the 12 months preceding the inspection. Facility policy requires notification of ERO for all detainee suicide watches, suicide attempts, and suicides, and states only a mental health professional is authorized to discontinue a suicide watch with clinical director approval. There are two rooms in the intake area designated for suicide watch. ODO's inspection confirmed these rooms are suicide-resistant and free of objects which could facilitate a suicide attempt. A review of training files for all medical and (b)(7)e randomly selected

correctional staff confirmed completion of initial and annual training. ODO confirmed the lesson plan covers all elements required by the NDS.

ODO reviewed the facility's written policies and procedures on sexual abuse and assault prevention and intervention and found it does not contain the following: a procedure for required reporting to the highest facility official or the Field Office Director; specific language regarding how a confirmed or alleged victim's future safety shall be addressed; language designating specific staff to be responsible for detainee education regarding issues pertaining to sexual assault; and, instructions on how to contact DHS/OIG or ICE/OPR to confidentially report sexual abuse or assault. ODO's review of the facility handbook found that while it provides general information on filing sexual misconduct complaints, the handbook does not contain the following required orientation information: prevention and intervention strategies; definitions of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity; information about self-protection and indicators of sexual abuse; and, prohibition against retaliation, including an explanation that reporting an assault shall not negatively impact the detainee's immigration proceedings. Further, the facility does not maintain documentation that detainees receive notification, orientation and instruction on the facility's SAAPI program. This represents a deficient priority component. There were two allegations filed in the 12 months preceding the inspection. ODO reviewed the files and found that for one of the cases, other detainees reported that two detainees were engaging in a consensual sexual act. The facility did not coordinate for an investigation of the incident. This represents a deficient priority component. One of the detainees that was a participant in the incident was held in segregation for longer than five days. In the second incident, a medical exam was not given to one of the detainees in the alleged assault. This represents a deficient priority component.

YCJ operates a 40 bed Special Management Unit (SMU) for male detainees. Female detainees are segregated in a housing unit supporting six cells. The units have a separate shower and dayroom area. ODO's inspection found the units well ventilated, adequately lit, and maintained in a sanitary condition. There were six detainees in administrative segregation during the inspection. ODO's review of logs confirmed all services and privileges were provided as required by the standard. ODO verified administrative segregation orders were completed and approved by a supervisor prior to placement of five of the six detainees in administrative segregation. However, there was no order for the sixth detainee, who was returned to administrative segregation after nine days in general population.

A review of documentation of segregation status reviews found YCJ does not follow its own policy or the standard. The standard requires that all facilities have written procedures for the regular review of administrative segregation cases. The YCJ policy requires a status review by classification staff every ten days. It does not require a status review within 72 hours of a detainee's placement on administrative segregation and weekly review for the first month as specified in the standard. Status reviews of five of the six detainees in segregation at the time of the review were not conducted within 72 hours of placement, and were not conducted every seven days for the first month. Furthermore, although the facility policy requires review of administrative segregation status every ten days, ODO found as many as 19 days elapsed between assignment and first review, and as many as 12 days elapsed after the initial review during the first 30 days on administrative segregation.

Written procedures are in place to temporarily segregate detainees for disciplinary reasons. Segregation orders, status reviews, basic living conditions, and privileges and services required by the standard are addressed in the facility's disciplinary segregation policy. Per the YCJ disciplinary policy, the maximum disciplinary segregation term is 30 days. There were no detainees on disciplinary segregation status during the inspection. Information on prior disciplinary segregation assignments was not available, and ODO's review of ten randomly selected disciplinary actions on detainees for the year preceding the inspection found none resulted in disciplinary segregation sanctions.

ERO staff conducts weekly scheduled and unscheduled visits at YCJ. A written schedule posted in housing units informs detainees when deportation officers will be onsite. ODO reviewed detention files and found that copies of completed ICE request forms were not present in any of the files. Facility policy lists written procedures specifying how detainees can route requests to ERO officials. However, the facility does not have specific procedures covering detainees with special requirements that may need assistance preparing a request form. Likewise, the facility handbook does not include instruction for detainees that need assistance in preparing an ICE request form.

Detainees receive a facility handbook upon admittance to YCJ which contains telephone access rules. Receipt of the handbook is documented in each detainee's booking record. Additionally, each housing unit contains a booklet describing in English, Spanish, and Chinese how detainees may access and use the telephones. Facility staff regularly inspects telephones and repairs out-of-order telephones in a timely manner. ERO staff checks all telephones weekly. Detainees may purchase a calling card through the facility's commissary or make collect calls for personal calls. All telephone calls made from housing units are automatically recorded. Detainees may obtain an unmonitored call to an attorney or legal representative by submitting a request. Unmonitored legal calls are made in a private office within the facility.

ODO was informed there were no calculated and four immediate use of force incidents involving detainees in the 12 months preceding the inspection. The use of force documentation reflected post-incident medical examinations were conducted on all four detainees; however, in one case, the examination was completed three hours after the incident and in another case, the examination was completed five hours after the incident. Notification of the SDDO was documented in all four cases and after-action reviews were completed by a team comprised of a lieutenant, sergeant and deputy. ODO was informed after-action reviews are conducted on a scheduled basis once a month. It is noted this system allows a significant period of time to elapse between use of force incidents and the after-action review thereof.

OPERATIONAL ENVIRONMENT

DETAINEE RELATIONS

ODO interviewed 25 randomly-selected detainees (15 males and ten females) to assess conditions of confinement at YCJ. Interview participation was voluntary and none of the detainees alleged any abuse, discrimination or mistreatment. The majority of detainees reported being satisfied with facility services, including the issuance and replenishment of the hygiene items, quality of food service, telephone access, and communication with ERO.

Detainee Handbook: Three detainees stated that they did not receive the facility handbook upon admission into YCJ; however, ODO reviewed detention files and confirmed that detainees sign for the books as part of the intake process. Copies of the facility handbook are located in the law library and within housing units.

Medical Care: Five detainees stated that medical service was inadequate. One complained that medical requests were not responded to in a timely manner and four complained that the quality of medical care was inadequate. ODO's medical expert examined the five cases and determined that the facility provided timely treatment to the medical conditions and that the level of care met or exceeded the standard in each of the five cases.

ICE 2000 NATIONAL DETENTION STANDARDS

ODO reviewed a total of 15NDS and one PBNDS and found YCJ fully compliant with the following nine standards:

1. Detainee Classification System
2. Detainee Grievance Procedures
3. Environmental Health and Safety
4. Food Service
5. Funds and Personal Property
6. Medical Care
7. Special Management Unit-Disciplinary Segregation
8. Suicide Prevention and Intervention
9. Telephone Access

As the standards above were compliant at the time of the inspection, a synopsis for these standards is not included in this report.

ODO found 14 deficiencies in the following seven standards.

1. Access to Legal Materials
2. Admission and Release
3. Detainee Handbook
4. Sexual Abuse and Assault Prevention and Intervention (2011 PBNDS)
5. Special Management Unit-Administrative Segregation
6. Staff-Detainee Communication
7. Use of Force

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

ACCESS TO LEGAL MATERIAL (ALM)

ODO reviewed the Access to Legal Material standard at YCJ to determine if detainees have access to a law library, legal materials, and supplies and equipment to facilitate the preparation of legal documents, in accordance with the ICE 2000 NDS.

YCJ has a dedicated library for both inmates and detainees to use. The room is well-lit, has sufficient furnishings, and has adequate equipment and supplies to support legal research and case preparation. The facility has two laptop computers for detainee use, one for male detainees and the other for female detainees. The laptops are available to detainees when they are in the library. During the inspection, both laptops contained a current version of LexisNexis and word-processing software. Detainees have access to paper, writing utensils, and envelopes. Legal documents may be printed and copies are made with the assistance of a staff member.

Detainees may request use of the library by submitting a completed detainee request form. Detainees are permitted to use the library a minimum of five hours per week, and are regularly afforded significantly more time when needed. The library is open 24 hours/day, seven days/week.

Illiterate and limited English proficient detainees may receive assistance with their legal paperwork from other detainees with appropriate language, reading and writing abilities, as needed. Indigent detainees are provided with free envelopes, stamps, notary services and certified mail services for legal matters.

The facility handbook informs detainees the law library is available for use, and describes the procedure for requesting access to the law library, but does not include the following: scheduled hours of access, the procedure for requesting additional library time, and the procedure for notifying a designated employee that library material is missing or damaged **(Deficiency ALM-1)**.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY ALM-1

In accordance with the ICE 2000 NDS, Access to Legal Material, section (III)(Q)(2)(4)(6), the FOD must ensure, “the detainee handbook or equivalent, shall provide detainees with the rules and procedures governing access to legal materials, including the following information:

2. the scheduled hours of access to the law library;
4. the procedure for requesting additional time in the law library (beyond the 5 hours per week minimum);
6. the procedure for notifying a designated employee that library material is missing or damaged.”

ADMISSION AND RELEASE (AR)

ODO reviewed the Admission and Release standard at YCJ to determine if procedures are in place to protect the health, safety, security and welfare of each person during the admission and release process, in accordance with the ICE NDS. ODO reviewed policies, procedures and detention files, observed the admission process, and interviewed staff and detainees.

Upon arrival at YCJ, detainees undergo screening interviews, complete questionnaires, receive and sign a property receipt for facility-issued personal hygiene items, clothing, towels, and bedding. Pat down searches are conducted on all detainees; strip searches are not performed unless reasonable suspicion is established in accordance with facility policy and ICE's strip search policy.

Detainees are issued a handbook informing them about facility operations, programs, and services. ICE handbooks and facility handbooks are issued to all detainees. While observing the admission process, ODO found the facility continuously runs the orientation video to detainees awaiting completion of being processed. However, the video did not inform the detainees about the facility operations, programs and services (**Deficiency AR-1**).

ODO randomly selected and reviewed 15 active detention files and found all contained paperwork generated during the admission process. Some of the forms include: an Order to Detain or Release, Form I-203a, Classification Assessment Form, Address Property Authorization sheet, Handbook Signature sheet, Property Control form, Booking Form, ICE EARM, and Request forms. ODO randomly selected and reviewed 15 inactive detention files and found all contained the necessary paperwork required for releasing a detainee from the facility.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY AR-1

In accordance with the ICE NDS, Admission and Release, section (III) (A) (1), The FOD must ensure "The orientation process supported by a video (INS) and handbook shall inform new arrivals about facility operations, programs, and services. Subjects covered will include prohibited activities and unacceptable and the associated sanctions."

DETAINEE HANDBOOK (DH)

ODO reviewed the Detainee Handbook standard at YCJ to determine if the facility provides each detainee with a handbook, written in English and any other languages spoken by a significant number of detainees housed at the facility, describing the facility's rules and sanctions, disciplinary system, mail and visiting procedures, grievance system, services, programs, and medical care, in accordance with the ICE 2000 NDS. ODO reviewed the facility handbook, detention files, and interviewed staff and detainees.

Detainees are issued the facility handbook at the time of admission into YCJ. The handbook is available in both English and Spanish. Detainees sign an acknowledgement form stating that they received the facility's handbook. ODO reviewed 15 randomly-selected detention files to ensure that detainees receive the handbook. Acknowledgment forms were also present in detention files indicating that detainees received the ICE National Detainee Handbook as well.

ODO reviewed the facility handbook and found that the handbook covers the following areas as required by the standard: 1) overview of programs and services, 2) detainee rights and responsibilities, 3) disciplinary procedures and sanctions, 4) contraband, 5) grievance and appeals procedures, and 5) prohibited acts and behaviors. Aside from the above noted inclusions, the handbook also includes sections that inform detainees about facility's zero tolerance sexual assault policy, library privileges, commissary and religious services, mail and telephone usage, and recreation and visitation rules.

The facility makes revisions and updates to the detainee handbook as the need arises. However, TCJ does not have established procedures for immediately communicating revisions to staff and detainees (**Deficiency DH-1**). Corrective action was initiated by the facility during the inspection. YCJ's policy for "Maintenance of Policy Manual", "Order #A-200" was revised to establish procedures for communicating revisions of the facility handbook to staff and detainees.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY DH-1

In accordance with the ICE 2000 NDS, Detainee Handbook section (III)(H), the FOD must ensure that, "The handbook will not be immediately reprinted to incorporate every revision. The OIC will instead establish procedures for immediately communicating such revisions to staff and detainees: posting copies of the changes on bulletin boards in housing units and other prominent areas; informing new arrivals during orientation process; distributing a memorandum to staff, and so forth."

SEXUAL ABUSE AND ASSAULT PREVENTION AND INTERVENTION (SAAPI)

ODO reviewed the Sexual Abuse and Assault Prevention and Intervention standard at YCJ to determine if facilities act to prevent sexual abuse and assaults on detainees, provide prompt and effective intervention and treatment for victims of sexual abuse and assault, and control, discipline, and prosecute the perpetrators, in accordance with the ICE 2011 PBNDS. ODO reviewed policies, the facility handbook, and staff training records, and interviewed staff and detainees.

The facility signed a contract modification to incorporate the 2011 PBNDS Sexual Abuse and Assault Prevention and Intervention on December 31, 2012. YCJ has a policy addressing inmate sexual abuse prevention and intervention which includes the facility's zero tolerance policy toward the sexual abuse and sexual harassment of detainees. While the policy addresses many areas required under the SAAPI standard, it does not contain the following: a procedure for required reporting to the highest facility official or the Field Office Director; specific language regarding how a confirmed or alleged victim's future safety shall be addressed; language designating specific staff to be responsible for detainee education regarding issues pertaining to sexual assault; and, instructions on how to contact DHS/OIG or ICE/OPR to confidentially report sexual abuse or assault (**Deficiency SAAPI-1**). During the onsite inspection, facility staff readily agreed to incorporate all missing sections into future iterations of the policy.

All facility staff, including volunteers and contractors, receive training in sexual assault and abuse prevention and intervention, including procedures for reporting incidents and allegations. Review of staff training records demonstrates all staff are current on the training, and the most recently received Prison Rape Elimination Act (PREA) training was in October 2013.

During a tour of the facility, ODO observed both ICE SAAPI and DHS Office of Inspector General (OIG) hotline postings in all detainee housing areas and the intake area. ODO reviewed the facility's orientation video, and observed that the video does not contain any information concerning sexual assault and abuse prevention and intervention. The only orientation information detainees receive regarding sexual assault and abuse prevention and intervention is contained in the facility handbook. ODO's review of the facility handbook found that while it provides general information on filing sexual misconduct complaints, the handbook does not contain the following required orientation information: prevention and intervention strategies; definitions of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity; information about self-protection and indicators of sexual abuse; and, prohibition against retaliation, including an explanation that reporting and assault shall not negatively impact the detainee's immigration proceedings. Further, the facility does not maintain documentation that detainees receive notification, orientation and instruction on the facility's SAAPI program (**Deficiency SAAPI-2**).⁵ During the onsite inspection, facility management readily agreed to enhance YCJ's orientation program to incorporate instruction on sexual assault and abuse prevention and intervention.

⁵ Priority Component

While onsite, ODO reviewed both of the ICE detainee sexual assault allegations filed during the 12 months preceding the inspection. The first, from December 11, 2013, concerned two female detainees in P tank who were alleged by other detainees to be engaging in consensual sexual contact. The allegation was made to a deputy on December 11, 2013, at 7:15 p.m. The deputy created an “information only” incident report at 10:23 p.m. that same night. The deputy recommended the incident report be forwarded to the day shift classification supervisor, and that the detainees be monitored until they could be moved. There is no documentation that the allegations were reported to ICE/ERO and this is noted as a concern. The YCJ policy on sexual abuse prevention and intervention also requires that any allegation to staff of sexual assault or attempted sexual assault be reported immediately to a supervisor and ERO. As noted, this did not occur.

According to housing records, on December 12, 2013, one of the detainees was placed in administrative segregation on S-Unit and the other was moved to Q unit. Neither was interviewed or informed of the reason for their moves and neither was allowed the opportunity to refute the allegations. In fact, at the time of the allegation, no investigation of the reported incidents was conducted (**Deficiency SA-API-3**).⁶ Without an investigation, YCJ would have no information to determine if these acts actually happened or, if they did take place, whether they were consensual. It was possible that one of the detainees was being coerced to participate in sexual activity. As noted in section H of the SA-API standard, “Care must be taken not to punish a confirmed or alleged sexual assault victim. Victimized detainees should not be subject to disciplinary action either for reporting sexual abuse or for participating in sexual activity as a result of force, coercion, threats, or fear of force.” Absent an investigation, there was no information to confirm that these incidents were indeed consensual.

A follow-up report was added on December 13, 2013, at 10:36 p.m. noting that the detainee who was moved to Q unit was allowed to return to P-tank, again on the word of the other inmates/detainees housed in P-tank but without any formal investigation. On December 20, 2013, a second “supplement” was added to the incident report by an unnamed officer. The officer stated that, upon review of the grievances filed, the detainees were moved into administrative segregation without being interviewed about the December 11, 2013 allegations. On December 20, 2013, eight days after being placed on S Unit in administrative segregation status, the detainee was released from administrative segregation and moved to R Unit (**Deficiency SA-API-4**).

According to the Joint Intake Case Management System (JICMS), this incident was reported to the Joint Intake Center (JIC) on December 31, 2013, but the facility did not keep a record of when a facility supervisor or ERO was notified. ODO notes that consensual sexual contact between detainees does not require reporting to the JIC. On January 9, 2013, the detainee housed on R Unit was returned to P-tank where the other detainee remained housed.

On January 19, 2014 both detainees were again removed from P-tank based on, “multiple reports of sexual activity, bullying and attempting to control the tank.” This time, the detainee who had previously been placed in administrative segregation was moved to Q unit and the detainee who had previously been placed on Q unit was moved to administrative confinement status in S Unit.

⁶ Priority Component

These movements were documented in an incident report and approved by a supervisor on the same date.

The second allegation of sexual assault reviewed by ODO concerned a detainee who reported on May 14, 2014, via an inmate request form, that another detainee in his housing unit sexually harassed him for more than one month, and on May 14, 2014, the aggressor slapped his bottom and fondled his genitals. The victim reported this incident to an officer who immediately notified his supervisor and the supervisor directed the aggressor be moved to a different housing unit. An investigation was conducted on May 16, 2014 including an interview with the victim. Other detainees in the housing unit were interviewed and five of them provided statements which corroborated the victim's complaints. On May 19, 2014 at 4:42 p.m. records show the victim was referred to mental health, "to evaluate as victim of sexual harassment"

According to JICMS, this incident was reported to the JIC on May 20, 2014, but the facility did not keep a record of when ERO was notified and this is noted as a concern. This incident is still an open case in JICMS. The incident statement concerning this incident does not reflect that local law enforcement was notified or conducted an investigation, and documents the victim stated he was not sure whether he wanted to press charges because an immigration judge had recently ordered his deportation.

On May 21, 2014, the alleged perpetrator was released from YCJ and relocated to Rio Cosumnes Correctional Center in Elk Grove, California. On the same date, seven days after reporting the sexual assault to staff, the victim was seen by a mental health worker who noted he reported he was, "OK" and did not want to talk to a counselor. A review of the victim's medical record does not reflect any medical exam relating to the May 14, 2014 incident (**Deficiency SA-API – 5**).⁷

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY SA-API-1

In accordance with the ICE 2011 PBNDS, Sexual Abuse and Assault Prevention and Intervention, section (V)(A), the FOD must ensure that each facility administrator shall have written policy and procedures for a Sexual Abuse and Assault Prevention and Intervention Program that includes, at a minimum: a procedure for required reporting to the highest facility official or the Field Office Director; specific language regarding how a confirmed or alleged victim's future safety shall be addressed; language designating specific staff to be responsible for detainee education regarding issues pertaining to sexual assault; and, instructions on how to contact DHS/OIG or ICE/OPR to confidentially report sexual abuse or assault.

DEFICIENCY SA-API-2

In accordance with the ICE 2011 PBNDS, Sexual Abuse and Assault Prevention and Intervention, section (V)(F), the FOD must ensure the orientation program contains the following information: prevention and intervention strategies, definitions of detainee-on-detainee sexual abuse; staff-on-detainee sexual abuse and coercive sexual activity; information about self-protection and indicators of sexual abuse; and, prohibition against retaliation, including an explanation that reporting and assault shall not negatively impact the detainee's immigration

⁷ Priority Component

proceedings. Further, the facility does not maintain documentation of detainee participation in the instruction session.

DEFICIENCY SA-API-3

In accordance with the ICE 2011 PBNDS, Sexual Abuse and Assault Prevention and Intervention, section (V)(A)(6), the FOD must ensure that facility staff coordinates with OPR for investigation or referral of incidents of sexual assault to another investigative agency.

DEFICIENCY SA-API-4

In accordance with the ICE 2011 PBNDS, Sexual Abuse and Assault Prevention and Intervention, section (V)(H) , the FOD must ensure that victims shall not be held for longer than five days in any type of administrative segregation, except in highly unusual circumstances or at the request of the detainee.

DEFICIENCY SA-API-5

In accordance with the ICE 2011 PBNDS, Sexual Abuse and Assault Prevention and Intervention, section (V)(H), the FOD must ensure if sexual abuse or assault of any detainee occurs, the medical and psychological needs of the detainee shall be promptly and effectively addressed.

SPECIAL MANAGEMENT UNIT-ADMINISTRATIVE SEGREGATION (SMU-AS)

ODO reviewed the Special Management Unit-Administrative Segregation standard at YCJ to determine if the facility has procedures in place to temporarily segregate detainees for administrative reasons, in accordance with the ICE 2000 NDS. ODO toured the SMU, reviewed policies, interviewed staff and detainees, and inspected detainee files for required documentation.

YCJ operates a 40 bed SMU for male detainees. Female detainees are segregated in the S housing unit in a six cell area. All cells are double occupancy, but ODO was informed detainees assigned to segregation are typically housed alone. The units have a separate shower and dayroom area. Officers electronically record rounds made at random intervals over the course of every 60 minute period. YCJ's system for documenting rounds requires officers to use an electronic "pipe" device to push sensors located at various locations near the cells. In addition, officers are required to enter cells at least once a day and document they have done so by pushing sensors located on the back wall of the cells. This requirement ensures that officers actually see detainees and conditions within the cells. ODO's inspection found the units well ventilated, adequately lit, and maintained in a sanitary condition.

There were six detainees in administrative segregation during the inspection. ODO interviewed five of the six detainees, the sixth being unavailable. The detainees expressed understanding of why they were in administrative segregation and each requested to remain segregated. None voiced any complaints about living conditions, access to recreation, medical care, law library, showers, or other services and privileges. ODO's review of logs confirmed all services and privileges were provided as required by the standard.

ODO verified administrative segregation orders were completed and approved by a supervisor prior to placement of five of the six detainees in administrative segregation. There was no order for the sixth detainee, who was returned to administrative segregation after nine days in general population. Upon her return, a new segregation order was not issued (**Deficiency SMU-AS-1**). This detainee was returned to administrative segregation because she repeatedly disrobed in front of other detainees. The remaining five detainees were segregated for protective custody reasons. Two of the five were victims in altercations; one dropped out of a gang; one was the subject of numerous complaints from other detainees concerning her behavior, including staying up all night; and one stated he requested protective custody so he could be housed alone and more effectively work on his legal case. ODO verified referrals for mental health evaluations were completed as appropriate.

A review of documentation of status reviews found YCJ does not follow its own policy or the standard. The standard requires that all facilities have written procedures for the regular review of administrative segregation cases, and that the procedures be consistent with those specified for Service Processing Centers and Contract Detention Facilities. The YCJ policy requires status reviews by classification staff every ten days. It does not require status review within 72 hours of a detainee's placement on administrative segregation and weekly review for the first month as specified in the standard. Status reviews of five of the six detainees in segregation at the time of the review were not conducted within 72 hours of placement, and were not conducted every seven days for the first month. Furthermore, although the facility policy requires review of

administrative segregation status every ten days, ODO found as many as 19 days elapsed between assignment and first review, and as many as 12 days elapsed after the initial review during the first 30 days on administrative segregation (**Deficiency SMU AS-2**).

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY SMU-AS-1

In accordance with the ICE 2000 NDS, Special Management Unit (Administrative Segregation), section (III)(B), the FOD must ensure, “A written order shall be completed and approved by a supervisory officer 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.”

DEFICIENCY SMU-AS-2

In accordance with the ICE 2000 NDS, Special Management Unit (Administrative Segregation), section (III)(C), the FOD must ensure, “All facilities shall implement written procedures for the regular review of all administrative- detention cases, consistent with the procedures specified below.

In SPCs/CDFs, a supervisory officer 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) will be used for the review. If the detainee has been segregated for the detainee’s protection, but not at the detainee’s request, the signature of the OIC or Assistant OIC is required on the I-885 to authorize continued detention.

A supervisory officer shall conduct the same type of review after the detainee has spent seven days in administrative segregation, and every week thereafter for the first month and at least every 30 days thereafter. The review shall include an interview with the detainee. A written record shall be made of the decision and the justification.”

STAFF-DETAINEE COMMUNICATION (SDC)

ODO reviewed the Staff-Detainee Communication standard at YCJ to determine if procedures are in place to allow formal and informal contact between detainees and key ICE and facility staff, and if ICE detainees are able to submit written requests to ICE staff and receive responses in a timely manner, in accordance with the ICE 2000 NDS. ODO interviewed staff and detainees, visually inspected housing units, and reviewed records.

ICE staff conducts weekly scheduled and unscheduled visits at YCJ. The days and times for scheduled visits are posted in housing units, along with notices highlighting the Department of Homeland Security, Office of Inspector General hotline. During visits ICE officials check on the overall condition of the facility and respond to detainee requests. Visits are documented in the facility's electronic logbook. ODO reviewed Facility Liaison Checklists and telephone serviceability worksheets to verify weekly checks are completed and that records are maintained.

Detainees can submit written ICE request forms to facility staff if they would like to speak with ICE officials. Request forms are located within housing units, or can be requested from corrections officers at any time. ICE officials maintain an electronic log to document detainee requests. The electronic log captures the date of receipt; the detainee's name and nationality; A-number; name of the staff member who logged the request; the date the request was returned to the detainee; other pertinent information; and the date the request was forwarded to ICE. ODO reviewed the logs and found that while detainee requests are properly addressed and responded to in a timely manner (within 72 hours) by ERO, copies of completed request forms are not filed and maintained in the detainee's detention file (**Deficiency SDC-1**).

Facility policy lists written procedures specifying how detainees can route requests to ICE officials. However, the facility does not have established standard operating procedures covering detainees with special requirements that may need assistance from another detainee, housing unit officer, or other facility staff member in preparing a request form (**Deficiency SDC-2**). Furthermore, the facility handbook does not include instruction for detainees that need assistance in preparing an ICE request (**Deficiency SDC-3**).

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY SDC-1

In accordance with the ICE NDS, Staff-Detainee Communication, section (III)(B)(2), the FOD must ensure that, "All completed Detainee Requests will be filed in the detainee's detention file and will remain in the detainee's detention file for at least three years."

DEFICIENCY SDC-2

In accordance with the ICE NDS, Staff-Detainee Communication, section (III)(B), the FOD must ensure that, "The OIC shall ensure that the standard operating procedures cover detainees with special requirements, including those who are disabled, illiterate, or know little or no English. Each facility will accommodate the special assistance needs of such detainees in making a request."

DEFICIENCY SDC-3

In accordance with the ICE NDS, Staff-Detainee Communication, section (III)(B)(3), the FOD must ensure the handbook states that, “the detainee has the opportunity to submit written questions, requests, or concerns to ICE staff and the procedures for doing so, including the availability of assistance in preparing the request.”

USE OF FORCE (UOF)

ODO reviewed the Use of Force standard at YCJ to determine if necessary use of force is used only after all reasonable efforts have been exhausted to gain control of a subject, while protecting and ensuring the safety of detainees, staff and others, preventing serious property damage, and ensuring the security and orderly operation of the facility, in accordance with the ICE 2000 NDS. ODO toured the facility, inspected use of force equipment, interviewed staff, and reviewed policies and procedures, and staff training records. ODO also reviewed documentation of use of force incidents involving detainees during the 12 months preceding the inspection.

YCJ has a comprehensive use of force policy addressing all requirements of the NDS, including confrontation avoidance, using force only as a last resort, and reporting requirements when force is used. Per the policy, all calculated use of force incidents must be video recorded and the control officer is responsible for ensuring the operability of the video recording equipment.

YCJ detention officers are trained in the use of force during initial and annual training. A review of (b)(7) randomly selected staff training records, including a supervisor, confirmed completion of the training. The training director stated cell extraction training includes role play scenarios involving use of verbal de-escalation techniques. The role plays are video recorded and critiqued with the students. ODO cites this as a best practice **(BP-1)**.

YCJ's less than lethal force devices and protective gear are secured in the central control room. Inspection found access to the room is controlled, and all staff who enter must sign into a log book. The facility has oleoresin capsicum (OC) spray and tasers, though per policy, use of tasers on detainees is prohibited. ODO notes detainees wear red uniforms to distinguish them from inmates, allowing easy identification and compliance with this policy. Inventories of use of force devices were present and current.

ODO was informed there were no calculated and four immediate use of force incidents involving detainees in the 12 months preceding the inspection. The use of force documentation reflected post-incident medical examinations were conducted on all four detainees; however, in one case, the examination was completed three hours after the incident and in another case, the examination was completed five hours after the incident **(Deficiency UOF-1)**. Prompt evaluation by medical staff ensures that any injuries are identified, documented, and treated. Notification of the SDDO was documented in all four cases and after action reviews were completed by a team comprised of a lieutenant, sergeant and deputy. ODO was informed after action reviews are conducted on a scheduled basis once a month. It is noted this system allows a significant period of time to elapse between use of force incidents and the after action review thereof. For example, one of the immediate use of force incidents occurred on December 4, 2013, but was not reviewed until January 15, 2014. Completion of after action reviews as soon as possible following incidents ensures prompt identification of any issues or concerns related to the use of force, and initiation of any necessary follow up or investigation. ODO recommends that the facility consider changing its process to expedite completion of after action reviews **(R-1)**.

STANDARD/POLICY REQUIREMENTS FOR DEFICIENT FINDINGS

DEFICIENCY UOF-1

In accordance with the ICE 2000 NDS, Use of Force, section (III)(G), the FOD must ensure, “In immediate use of force situations, staff shall seek the assistance of mental health or other medical personnel upon gaining physical control of the detainee.”