



U.S. Department of Energy
Office of Inspector General
Office of Inspections

Inspection Report

Lawrence Livermore National
Laboratory Protective Force Authority



Department of Energy

Washington, DC 20585

September 4, 2009

MEMORANDUM FOR THE SECRETARY

FROM:

A handwritten signature in cursive script, appearing to read "Greg Friedman".

Gregory H. Friedman
Inspector General

SUBJECT:

INFORMATION: Inspection Report on "Lawrence Livermore
National Laboratory Protective Force Authority"

BACKGROUND

The Department of Energy's (Department) Lawrence Livermore National Laboratory (Livermore) is a premier research and development institution supporting the Department's scientific, engineering, environmental, and national security activities. Livermore is managed and operated under contract by Lawrence Livermore National Security (LLNS) LLC, for the Department's National Nuclear Security Administration (NNSA). In accordance with the Department's safeguards and security policy, Livermore maintains a cadre of armed protective force officers to prevent and defend against malevolent acts. Federal regulations establish protective force arrest authority to enforce specific laws regarding property of the United States in the custody of the Department or its contractors. Federal regulations and Department policy limit protective force officials' arrest authority to the performance of official duties related to Department property.

In November 2008, the Office of Inspector General received an allegation that Livermore's protective force was acting outside its established authority. Specifically, it was alleged that the protective force violated the law and Livermore policy by responding to a local Livermore Police Department radio call for assistance, which they overheard on their police band radio. Protective force officers already away from the Livermore site responded to a private residence and interacted with the public. It was also alleged that while onsite at Livermore, the protective force violated employees' privacy rights by accessing the Department of Motor Vehicles database when conducting vehicle traffic stops for administrative traffic violations. We noted that the protective force was using the California Law Enforcement Telecommunication System (CLETS) to access the Department of Motor Vehicles database. Information available from CLETS can include vehicle registration information and criminal records, such as outstanding "wants and warrants." We initiated this inspection to review the facts and circumstances regarding the allegation.

RESULTS OF INSPECTION

We concluded that Livermore's protective force exceeded its authority when assisting a local law enforcement agency at an offsite location. We also concluded that the protective force may have exceeded its authority by accessing the CLETS database for administrative traffic violations where they may detain individuals. Specifically, we found that:

- The actions of Livermore's protective force in providing armed assistance to local law enforcement outside Livermore's perimeter was not consistent with Department policy. In general, Federal regulations and Department policy limit protective force officials' arrest authority to the performance of official duties related to Department property. In reviewing Livermore's policies and procedures regarding protective force officer duties, Livermore's protective force did not have clear guidance on providing assistance to local law enforcement outside of Livermore's perimeter.
- Livermore did not establish clear policies regarding protective force responsibilities and authority while conducting administrative vehicle stops for traffic violations as required by Department policy. While conducting administrative vehicle stops for traffic violations, the Livermore protective force queried CLETS records where there is the potential for detaining individuals for crimes outside of their arrest authority. Resultantly, this practice may present a liability to the Department.

We noted that by the end of our fieldwork, NNSA's Livermore Site Office issued a memorandum to LLNS stating that the protective force's actions offsite are restricted to the Department's mission, and that the use of CLETS is not authorized for traffic enforcement. We also noted that the Office of Health, Safety and Security issued a memorandum to Department and NNSA security officials that reiterated existing policy where offsite assistance to local law enforcement authorities by Department contractor personnel is not permitted and that accessing law enforcement databases during administrative traffic stops exceeds the scope of authorized duties.

We made two recommendations to the Manager, Livermore Site Office to address our findings.

MANAGEMENT REACTION

In responding to a draft of this report, NNSA agreed with the recommendations and provided information on corrective actions taken and planned.

We consider management's agreement with the report recommendations to be responsive to our report findings.

Attachment

cc: Deputy Secretary
Administrator, National Nuclear Security Administration
Chief of Staff
Manager, Livermore Site Office
Director, Office of Internal Review (CF-1.2)

LAWRENCE LIVERMORE NATIONAL LABORATORY PROTECTIVE FORCE AUTHORITY

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Overview

INTRODUCTION AND OBJECTIVE

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In November 2008, the Office of Inspector General received an allegation that Livermore's protective force was acting outside its established authority. Specifically, it was alleged that the protective force violated the law and Livermore policy by responding to a local Livermore Police Department radio call for assistance, which they overheard on their police band radio. Protective force officers already away from the Livermore site responded to a private residence and interacted with the public. It was also alleged that while onsite at Livermore, the protective force violated employees' privacy rights by accessing the Department of Motor Vehicles database when conducting vehicle traffic stops for administrative traffic violations. We noted that the protective force was using the California Law Enforcement Telecommunication System (CLETS) to access the Department of Motor Vehicles database. Information available from CLETS can include vehicle registration information and criminal records, such as outstanding "wants and warrants." We initiated this inspection to review the facts and circumstances regarding the allegation.

¹ In instances of fresh pursuit, protective force officials may be authorized for offsite pursuit and apprehension of someone suspected of having committed an onsite offense.

OBSERVATIONS AND CONCLUSIONS

We concluded that Livermore's protective force exceeded its authority when assisting a local law enforcement agency at an offsite location. We also concluded that the protective force may have exceeded its authority by accessing the CLETS database for administrative traffic violations where they may detain individuals. Specifically, we found that:

- The actions of Livermore's protective force in providing armed assistance to local law enforcement outside Livermore's perimeter was not consistent with Department policy. In general, Federal regulations and Department policy limit protective force officials' arrest authority to the performance of official duties related to Department property. In reviewing Livermore's policies and procedures regarding protective force officer duties, Livermore's protective force did not have clear guidance on providing assistance to local law enforcement outside of Livermore's perimeter.
- Livermore did not establish clear policies regarding protective force responsibilities and authority while conducting administrative vehicle stops for traffic violations as required by Department policy. While conducting administrative vehicle stops for traffic violations, the Livermore protective force queried CLETS records where there is the potential for detaining individuals for crimes outside of their arrest authority. Resultantly, this practice may present a liability to the Department.

We noted that by the end of our fieldwork, NNSA's Livermore Site Office issued a memorandum to LLNS stating that the protective force's actions offsite are restricted to the Department's mission, and that the use of CLETS is not authorized for traffic enforcement. We also noted that the Office of Health, Safety and Security issued a memorandum to Department and NNSA security officials that reiterated existing policy where offsite assistance to local law enforcement authorities by Department contractor personnel is not permitted and that accessing law enforcement databases during administrative traffic stops exceeds the scope of authorized duties.

Details of Findings

OFFSITE RESPONSES TO LOCAL LAW ENFORCEMENT

We concluded that Livermore's protective force exceeded its authority when assisting a local law enforcement agency at an offsite location. Title 10, Code of Federal Regulations, Part 1047 (10 CFR §1047), limits protective force arrest authority to the performance of official duties related to Department property.

In October 2008, two Livermore uniformed protective force officers driving in a marked patrol car were returning from an evening security check of a Livermore facility located in the city of Livermore when they overheard on their radio a Livermore Police Department officer's call for emergency assistance related to a domestic disturbance. Driving outside their normal patrol route to a private residence, the protective force officers, while armed and in uniform, assisted the local police officers. At the location, the protective force officers provided incident scene perimeter security and were in contact with the general public.

During the course of our review, we became aware of an additional incident in 2008 where a protective force officer, using a Livermore patrol car to take another officer to a medical appointment in the city of Livermore, responded to a request from a Livermore Police Department officer. The protective force officer assisted the police officer in investigating the source of a burglar alarm at a non-Department-related facility.

The Department's Contractor Protective Force Manual (DOE M 470.4-3A) requires the establishment of clear and concise post orders regarding officer responsibilities, assignments, and operational requirements at a designated duty post. Our review of post orders for Livermore's protective force revealed that officer offsite authority was unclear when collaborating with local law enforcement. For example, a post order for offsite activities states that if a protective force officer takes actions outside the scope of 10 CFR §1047, such actions shall be taken in a personal capacity as a private citizen without the assurance of Livermore's or LLNS' defense and indemnifications. However, this same post order states that in the event of an emergency request for assistance from a peace officer to the protective force, a protective force officer may respond. Livermore protective force officials told us that they are authorized to assist local law enforcement offsite for non-Department-related matters as private citizens under common law. They indicated the principle of "posse comitatus" allows local law enforcement to request private citizens for assistance.

We interviewed an official with the Department's Office of Security Policy, who said that assisting local law enforcement as previously mentioned would be outside the protective force scope of employment. A Livermore Site Office official also opined that protective force officers cannot act offsite as private citizens under "posse comitatus" while on duty and in uniform, and that these actions with local law enforcement were outside the protective force responsibilities and authority. After we concluded our fieldwork in February 2009, the Livermore Site Office issued a letter to LLNS stating that, due to concerns with legal liability and officer safety, protective force activities offsite were restricted to Department interests.

TRAFFIC VIOLATIONS

We found that the protective force may have exceeded its authority by accessing the CLETS database for administrative traffic violations. Specifically, conducting criminal inquiries utilizing CLETS during administrative traffic stops may result in the detention of individuals for crimes outside of the protective force's arrest authority. We determined that the protective force has the authority to conduct traffic stops on the Livermore premises. We further determined that the protective force also has the authority to query CLETS records, but the authority is silent on accessing CLETS during administrative vehicle stops.

Protective force officers informed us that the protective force had established a practice of obtaining law enforcement information through the CLETS database during administrative vehicle stops. Further, a protective force official said that the protective force may detain an individual stopped for an administrative violation if, as a result of a CLETS inquiry, a "want or warrant" criminal response is received, regardless of whether the crime is within the scope of their protective force authority per the CFR.

Protective force officers we interviewed further opined that in some instances Livermore's protective force may detain someone for any want or warrant for the purpose of officer safety. Protective force officials said there is a "gray" area on what they should do if during an administrative traffic stop a CLETS report is received indicating that a want or warrant is outstanding. Senior Livermore Site Office officials also said this is a "gray" area, and that it may be problematic to detain someone for a want or warrant outside the authority provided by the CFR. Both Livermore and Livermore Site Office officials agreed that clarification on handling these types of situations is required.

We concluded that the above conditions were caused because Livermore had not implemented clear policies regarding protective force officers' responsibilities and authority while conducting administrative vehicle stops for traffic violations. Our review of Livermore's post orders revealed that they did not clearly detail the duties and authority for officers to access CLETS when conducting vehicle stops for traffic violations. Of particular concern is that there was no guidance stating when officers were allowed to obtain a CLETS report for an administrative traffic violation, or what officers were authorized to do should the CLETS report state that a person has a want or warrant for criminal behavior.

We noted that after we concluded our fieldwork, the Livermore Site Office issued a letter to LLNS, which stated, in part, that the protective force is not authorized to utilize CLETS for administrative traffic stops. Additionally, the Office of Health, Safety and Security issued similar guidance to the Department in response to a pre-decisional version of this report.

RECOMMENDATIONS

We recommend that the Manager, Livermore Site Office:

1. Ensure Livermore develops policies and procedures on protective force authority offsite that corresponds to Federal and Department regulations.
2. Ensure Livermore develops policies and procedures for conducting traffic enforcement that addresses accessing the CLETS telecommunication system.

MANAGEMENT COMMENTS

In comments on a draft of this report, management concurred with the report and its recommendations. We have included management's comments in Appendix B.

INSPECTOR COMMENTS

We consider management's comments to be responsive to our report.

Appendix A

SCOPE AND METHODOLOGY

The fieldwork for this inspection was conducted between January 2009 and February 2009. As part of this inspection we conducted interviews, document reviews and analysis that included:

- 10 Code of Federal Regulations, Part 1047 “Limited Arrest Authority and Use of Force by Protective Force Officers”;
- DOE Manual 470.4-3, “Protective Force”;
- DOE Manual 470.4-3A, “Contractor Protective Force”;
- California penal and government codes;
- Livermore protective force site policy orders; and,
- Memorandums of Understanding with local law enforcement agencies.

This inspection was conducted in accordance with the “Quality Standards for Inspections” issued by the President’s Council on Integrity and Efficiency.



Department of Energy
National Nuclear Security Administration
Washington, DC 20585

AUG 20 2008



MEMORANDUM FOR Herbert Richardson
Principal Deputy Inspector General

FROM: Michael C. Kane 
Associate Administrator
for Management and Administration

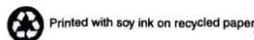
SUBJECT: Comments to the IG Draft Report, LLNL Protective Force
Authority, Proj. No. S09IS004; IDRMS No. 2009-02046

The National Nuclear Security Administration (NNSA) appreciates the opportunity to review the Inspector General's (IG) report, *Lawrence Livermore National Laboratory Protective Force Authority*. I understand that the IG received an allegation that the Lawrence Livermore National Laboratory's (LLNL) protective force was violating the law and the Livermore Site Office's (LSO) policy by responding to a local Livermore Police Department radio call for assistance.

NNSA understands that the allegation was substantiated, and appreciates giving the Site Office credit for taking corrective action before the IG's review was finished. Subsequently, we agree with the report and the recommendation.

Although the report focused exclusively on the situation at LLNL, because of this investigation, NNSA ensured that the other NNSA sites that employ armed protective force personnel were also in compliance with laws/policies. Specifically, all NNSA sites were tasked to:

- Review their sites' protective force law enforcement authorities for compliance within the parameters of 10 CFR 1047.
- Ensure contractor organizations are reminded that off-site assistance to local law enforcement authorities by on-duty protective force personnel is not permitted by existing laws and regulations, even when they are acting as private citizens.
- Remind protective force personnel they are not permitted to access law enforcement databases for the purpose of obtaining personal or criminal background information during the execution of their post/patrol responsibilities.
- Review general and post orders, site procedures, and applicable training materials to ensure they are current and conform to DOE policy.



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3. What format, stylistic, or organizational changes might have made this report's overall message more clear to the reader?
4. What additional actions could the Office of Inspector General have taken on the issues discussed in this report which would have been helpful?
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