

REPORT FOR THE  
U.S. DEPARTMENT OF HOMELAND SECURITY  
OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES  
Onsite November 6 – November 8, 2017

Investigation regarding El Paso Service Processing Center, El Paso, Texas

Complaints reviewed in this report included the following:

Complaint No. 16-12-ICE-0672  
Complaint No. 17-03-ICE-0337  
Complaint No. 17-06-ICE-0213  
Complaint No. 17-06-ICE-0262  
Complaint No. 17-07-ICE-0275

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## **Introduction and Referral Issues**

The U.S. Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL), enlisted me to participate in an onsite investigation regarding complaints it received alleging civil rights and civil liberties abuses of individuals in U.S. Immigration and Customs Enforcement (ICE) custody at the El Paso Service Processing Center (EPC) in El Paso, TX. The complaints raised allegations regarding the conditions of detention, including medical and mental health care at EPC. Specifically, two complaints detailed in the retention memo identify concerns about timely access to quality health care (16-12-ICE-0672, and 17-07-ICE-0275). A third complaint (17-03-ICE-0337) documented a report from the Detained Migrant Solidarity Committee (DMSC) which detailed alleged abuses from August through November 2016 including reported punitive and inhumane use of isolation, denial of adequate medical and mental health care, and prolonged detention and family separation among others. One complaint received after the issuance of the retention memo (17-10-ICE-0373) related to use of global positioning system bracelets. Two other complaints (17-06-ICE-0213 and 17-06-ICE-0262) relayed issues specific to access to legal services.

While five of the six complaints prompting the current investigation are not directly related to mental health services, the DMSC report detailing general concerns about mental health and medical care, and two individual complaints about access and quality of medical care prompt the need to evaluate EPC's compliance with PBNDS 2011 (2016 revision) related to mental health care during this onsite investigation.

## **Method of Review**

I was onsite at EPC over the course of three days, November 6 through November 8, 2017, totaling approximately 24 hours. While there, I toured the facility including detainee general housing units for both male and female detainees, the intake unit, special housing units for both administrative and disciplinary segregation, indoor and outside recreation space, cafeteria, medical housing unit, laundry, library, and health care unit.

Prior to the onsite, I reviewed the applicable ICE Performance Based National Detention Standards (PBNDS 2011, 2016 revision), mental health forms and policies provided by the facility, material on quality improvement activities, staffing patterns, detainee handbook, and suicide prevention activities.

During the site visit, I reviewed the following documents:

1. Policy and procedures
2. Quality Assurance (QA)/Quality Improvement (QI) reports and minutes pertinent to the mental health system
3. A list of EPC grievances related to medical and mental health care
4. Various written complaints submitted by ICE detainees and their responses
5. Minutes from the EPC multidisciplinary meetings
6. The EPC chronic care roster for detainees receiving mental health services

7. A roster of suicide and self-harm attempts in the previous six months
8. Twenty-seven detainee healthcare records (see Appendix 1) chosen from the following sources:
  - a. roster of detainees housed in restricted housing,
  - b. list of detainees identified with mental health concerns on the chronic care list,
  - c. list of detainees placed into suicide watch or the mental health unit in the previous 12 months,
  - d. list of detainees whose complaints prompted the current review,
  - e. names of detainees provided by other experts present on the current site visit arising from their individual reviews.

Additionally, I conducted individual interviews with three detainees and interviewed nine detainees while doing housing unit rounds. These interviews were conducted with the aid of a qualified Spanish-language interpreter when needed. Ten of the 11 interviewees were part of the group for whom I completed a file review. A list of the interviewees is provided in Appendix 2.

I also had the opportunity to interview medical and mental health staff at the facility including Dr. (b) (6) (physician), health service administrator (HSA) (b) (6), and licensed clinical social worker (LCSW) (b) (6). Other details of the mental health and medical program were gleaned during group discussion with medical and custody staff in collaboration with the CRCL medical expert for this onsite.

### **Analysis, Conclusions, and Recommendations**

#### **Review of overall mental health care activities**

The following section provides an assessment of compliance with PBNDS 2011 (2016 revision) relevant to mental health care activities at EPC.

#### Mental Health Program

(Standards: PBNDS 2011, Std. 4.3, Medical Care, §§ V.A, V.B, V.E, V.F.1, V.I, V.O.1, and V.O.2.)

#### *Administration*

(Standard: PBNDS 2011, Std. 4.3, Medical Care, §§ V.B. and V.DD.2.)

EPC medical care is accredited by the National Commission on Correctional Health Care and the American Correctional Association. The medical department, including mental health care, is administered by ICE Health Service Corps (IHSC). Medical staffing consists of a HSA, a deputy HSA, and a Clinical Medical Authority (CMA) who is currently out on extended medical leave. Staff was uncertain when the CMA was expected to return. There is a physician present in a part time capacity who acts as the medical authority. There are three full-time Advanced Practice Nurse Practitioners (APNPs) who provide the majority of the health care. Physicians, mid-level



practitioners, and mental health providers are employees of Ingensis, the contracted provider of higher level medical and mental health practitioners. Nursing staff and others are a combination of public health service and contract staff. There is a regional medical professional who oversees the quality of physician care.

The facility houses both male and female detainees who remain separated at most times. Intake orientation may include detainees of both genders, and the special housing units are mixed gender. Orientation includes discussion of mental health and medical offerings and details how to access medical and mental health care through the sick call process. The medical department holds monthly interdisciplinary meetings, discussing issues specific to health care and custody needs, and maintains meaningful minutes from all meetings. The facility engages in quarterly quality improvement meetings. Outcome studies and process studies are both conducted and well documented. Medical grievances are documented and typically resolved informally with a one-on-one conversation with the detainee. I reviewed all recent medical grievances and they typically entailed requests for bunk restrictions, access to sleep medications etc. that were able to be answered by the registered nurse (RN) on duty, LCSW or other medical staff member.

Medical and mental health care providers utilize the language line for interpretation needs if the provider is not fluent in the detainee's language. The social worker provides treatment services in Spanish to the Spanish-speaking detainees. There are a large number of Spanish speaking security and health care staff. Intake evaluations are conducted using interpretation either in person or via the language line. Orientation activities and the ICE Detainee Handbook are available in both English and Spanish.

Detainees are housed in barrack style units. Each barrack/building has outdoor space and detainees get outdoor recreation seven days per week for more than the required hour per day. There is equipment for use on the units. Medical services occur in the medical unit, even for those detainees housed in the special housing units (SHU). The facility uses a central pill-line for providing medications that are not able to be carried on person. Medical providers review detainees for medical clearance before they are placed into the SHU for either disciplinary or administrative. If detainees are determined to be serious mentally ill for SHU they are moved to the medical housing unit (MHU). Although medical personnel clears a detainee prior to segregation placement, the medical personnel do not always know the reason for placement into the SHU, which compromises their ability to determine if a behavior resulting in the need for separation is related to a mental health concern. Medical notes simply indicate that a detainee is cleared for the SHU but don't identify if they are cleared for disciplinary housing with restricted privileges or housing for protective custody or administrative reasons which should result in privileges similar to those in general housing. This concern is raised in the DMSC report and is discussed further in the recommendations section.

#### *Staffing, Space, and Access to Care*

The mental health program staffing pattern includes: the HSA, Lt. Commander (b) (6), (b) (7)(C) , is an LCSW who has worked at the facility for approximately nine years. There are 2 social work positions, one of which is recently vacant. The other is filled by (b)(6) LCSW, who



has provided services at the facility for less than 1 year. EPC has approximately 8 hours of psychiatry time per week, provided on Wednesday and Thursday afternoons, offered via telepsychiatry. There is a vacant psychiatry position. Psychiatry visits are triaged by the LCSW. The social worker is on-site from 7 am to 3:30 pm Monday through Friday. When she is not there, there is a mid-level medical staff person on call 24-7, the physician is on call 24-7, the psychiatrist is on call, and the HSA, who is also a SW .provides coverage when needed. When the psychiatrist is not available, the physician, who works 15-hour per week .covers psychiatric needs. She reports that approximately half of her time is utilized for psychiatry and she covers other key needs such as dental and vision when those professionals are not available. The physician also has to sign off on mid-level provider orders for off-site visits that are not emergent, which may lead to concerns regarding timeliness of off-site visits. Those issues are covered by the medical expert for this onsite visit. A part time psychiatrist was interviewing for a position on the last day of the onsite and was reportedly hired.

The physician reported that she has access to an adequate formulary of medications. The pharmacist indicated that she has a well-stocked night cart of medication for use if needed. When a detainee runs out of medication in her absence, the facility is able to order medication for overnight shipping from a central pharmacy if the physician identifies that the medication can wait until morning. If the medication must be started or refilled immediately, the health services staff are able to purchase medication through a local pharmacy.

There is little ongoing mental health care offered other than intake assessments, wellness rounds for detainees in SHU, and triage prior to psychiatric visits. Detainees presenting at sick call with mental health needs are offered single session supportive therapy and self-help strategies. Detainee interviews clearly evidence a need for activities focused on grief, stress, and coping. The social worker indicated that there is a single session group offered every three to six months that focuses on issues such as power and control. There is no treatment offered to address ongoing psychological needs, and no coping, adjustment, grief management or other group opportunities offered. This is addressed more fully in the recommendation section.

The facility's mental health providers are co-located with other health providers in space that includes several small offices, medical treatment rooms, administrative space, a pharmacy, six-bed medical housing unit that also houses three negative pressure rooms. Medical treatment space, pharmacy, social worker office and pill line rooms are located directly off the open waiting area. Space in the medical unit is cramped and often shared by multiple staff. The social workers share a single office and rotate its use. The physician has her own office. Sick call occurs exclusively in the medical unit in the medical treatment rooms.

The medical housing unit has six beds in a large room, and three single observation cells, one of which is used for suicide watch, hunger strikes etc. The observation cells are used as negative pressure rooms when necessary. When females are in the infirmary, they are also separated from males and put in one of the observation rooms. If all MHU rooms are full, or a detainee is engaging in self-harm behavior, such as head-banging, a mental health placement could be made in SHU after being medically cleared. Within the SHU, there is a room with a rubber floor and drywall that are softer than the other cells with concrete block. The cell is considered suicide

resistant dry cell with floor drain and no other fixtures. Use of is “rubber” room for mental health observation entails 1:1 constant observation at cell front. However, the entire room is not visible from the door, even with the food trap open, which poses a risk to safety. This is described more fully in the recommendations section.

#### *Health Care Record*

(Standard: PBNDS 2011, Std. 4.3, Medical Care, §§ V.F.2 and V.BB.)

EPC utilizes a comprehensive electronic health care record called E-Clinical Works. A health care summary report accompanies the detainee from EPC to hospital visits and a transfer summary is typically completed before detainees are transferred to another facility. The electronic record is relatively easy to use and documentation completed by both mental health providers and psychiatry was thorough and timely. The electronic health care record does not have a fully functional medication administration record.

#### *Suicide Prevention Program*

(Standard: PBNDS 2011, Std. 4.6, Significant Self-harm and Suicide Prevention and Intervention, §§ V.A. – V.F.)

There have been no successful suicides at EPC in the last year. HSA <sup>(b) (6), (b) (7)(C)</sup> reports there have been no completed suicides in the duration of her tenure, more than nine years. There was a reported suicide attempt in September 2017. That case is documented in the file reviews.

EPC has a comprehensive suicide prevention program. Staff participates in mandatory annual suicide prevention training that is approved by the HSA. The initial intake screening process uses a mental health questionnaire that asks questions specific to self-harm risk. Every medical and mental health note includes a statement on risk to self or others.

People are put in suicide watch whenever there is a “suicide attempt” which is identified as such if there is any active self-harm, regardless of lethality. Mental health observation is used without suicidality when there is active psychosis or depression or other mental health need. When in observation status for suicidal reasons, detainees are in a suicide smock and don’t go out for activities. In suicide watch detainees receive daily contact by social workers/mental health staff and multiple rounds by nursing staff. There is no additional mental health treatment provided to detainees while in this observation status.

Medical and custody staffs conduct weekly multidisciplinary meetings regarding all detainees housed in administrative or disciplinary special housing units as required by the PBNDS 2011, Std. 2.12. Special Management Units, § V.B.3.c.

#### *Screening, Assessment and Referral*



(Standards: PBNDS 2011, Std. 4.3, Medical Care, §§ V.J, V.O.1, V.O.3, V.O.4, V.P, and V.BB.4.)

The screening, assessment, and referral processes related to mental health care generally meet PBNDS 2011 standards, and policies clearly delineate the process of detainee referral to mental health services. Mental health screening is conducted by nurses or mental health providers within the required timeframes after the intake screening is conducted by security staff upon arrival. Sensitive questions regarding health, mental health, and trauma history among others are conducted by medical and mental health staff privately in a room located on the intake unit.

The screening tool and interview conducted by health care staff adequately addresses the required points including suicide risk evaluation and evaluation of factors associated with PREA, and asks questions related to current and historical psychiatric symptoms or treatment, experience of criminal victimization, recent loss, traumatic experiences, and other information. Detainee records indicate regular completion of consent forms.

Detainees who enter the facility on current psychiatric medications receive a continuing prescription by a physician or nurse practitioner pending review by the psychiatrist at the next available opportunity. The review typically occurs in a timely fashion and there appeared to be adequate continuity of psychiatric care for detainees with mental illness. Transfer summaries do not always accompany the detainee to the facility, even when the detainee has transferred from other facilities from which a transfer summary should be accessible. EPC does often get phone calls before a transfer arrives. This issue was noted in several multi-disciplinary meeting notes. File reviews reflected an effort by medical staff to get transfer summaries on specific detainees with special needs if they do not arrive with the patient.

Detainees receiving medication are regularly seen on a monthly basis by mental health providers as required by PBNDS standards. Psychiatric consultation regularly occurs at the required intervals. Notes are meaningful and reflect clinical thinking and treatment plan. Use of language line is noted and notes regularly reflect that patient education is occurring.

### *Sick Call*

(Standard: PBNDS 2011, Std. 4.3, Medical Care, §§ V.D and V.S.)

Several multi-disciplinary meetings document concerns about detainees not being told how to access sick call upon intake (3/2017 and 6/2017). There were many documented grievances specific to the sick call process. HSA Barrigan reported that medical personnel discuss the grievance with the detainee to come to an acceptable conclusion. During rounds several detainees reported not knowing how to request mental health care.

Sick call occurs centrally. A list of all detainees residing on a housing unit is created and the detainees sign their name on that roster if they want to be seen in sick call that day. Those rosters are picked up by medical staff. There is no triage on the housing units and the roster does not provide the opportunity for the detainee to detail the reason for the requested contacts. Medical

personnel see an average of 50 detainees in person every day for sick call. There is no space for provision of health care in any housing units. The sick-call system does not provide a means of assigning cases to appropriate levels of provider, or of determining severity of need. The system makes inefficient use of medical staff time. EPC should undertake a (Continuous Quality Improvement (CQI) process study relevant to the sick call process to identify areas of inefficiency and means of improvement.

*Medical Isolation, Involuntary Medication, and Use of Restraints*

(Standard: PBNDS 2011, Std. 4.3 Medical Care, §§ V.O.5, V.O.6, V.W and V.Y.)

Isolation for medical, mental health, or suicide watch purposes generally occurs in the medical housing unit. Detainees placed in suicide watch typically are released back to their housing unit directly from that status. Detainees on suicide watch are seen daily by mental health providers and at least every eight hours by medical staff.

Rounds for detainees in the medical housing unit's isolation cells occur cell-side. Out of cell contact is available at the request of the mental health provider. Detainees housed in the SHU for protective placement receive similar privileges as general population detainees. Out of cell mental health treatment is available for detainees housed in the SHU at the request of the provider. Those contacts require transport of the detainee to the medical unit.

Detainees in need of treatment intervention beyond the scope of EPC are routinely transferred to a regional hospital for acute care. This has been generally successfully accomplished and the staff report very good relationships with the local hospital, Universal Behavioral Health Systems. However there is one case detailed in the file review section in a detainee on a hunger strike was sent to that hospital during the time of this onsite and was returned with no treatment because the medical provider and the detainee reportedly had a "personality conflict." The medical professionals at EPC were making efforts to move this detainee to another hospital as this on-site was completing. EPC does not restrain detainees for mental health purposes.

Medication refusals are noted in the EHR and followed up in contact with mental health counselor or medical professional visits promptly. There is a general policy which requires that multiple medication refusals will result in discontinuation of medication. There is one case detailed in the file review in which a detainee with a serious mental illness sporadically refused medications and the medications were subsequently discontinued for one week until they were restarted. Concerns with this practice are included in the recommendations section.

*Continuity of Care*

(Standard: PBNDS 2011, Std. 4.3, Medical Care, §§ V.J, V.Z, and V.BB.4.)

Minutes from multi-disciplinary meetings reflect concern that transfer summaries are not done or not completed in a timely fashion. The most recent NCCHC Accreditation review was quoted in the March 2017 multidisciplinary meeting as noting concern over coordination of care. Transfer



summaries for detainees leaving EPC are present in the electronic health record. Detainees arriving at the facility with prescribed medications are regularly evaluated within required timeframes. Detainees indicated that there were not typically gaps between arrival at the facility and provision of medications when the detainee brings an active prescription. When there is no prescription and the detainee indicates they have been taking specific medications, there are occasional delays pending evaluation by mental health staff or receipt of outside records. Transfer summaries do not always accompany the detainees at intake to EPC even when arriving from other facilities who should be providing them. EPC should do a process CQI study to evaluate concerns expressed related to continuity of care, and identify new practices to address those concerns.

### Review of Health Care Records

Twenty-seven healthcare records were reviewed. As noted above, there were no complaints directly relevant to mental health care. Thus general findings are offered below. Where significant concerns are identified, I have listed more details of the case to reflect areas that prompt recommendations later in this report. A list of files reviewed is provided in Appendix 1.

1. General mental health program requirements identified in PBNDS 2011, Medical Care, § V.O were regularly provided in a timely manner. Intake interviews were typically conducted within required timeframes. Interview documentation reflects history of previous diagnoses and psychotropic interventions, suicidal ideation, and traumatic history for all files reviewed. Referrals were made to mental health providers and psychiatric staff as appropriate. Prescribed medications were typically received without unusual delay. One detainee file detailed a 2-day medication lapse which was subsequently addressed in a multi-disciplinary meeting discussion.
2. Six of the detainees were transferred to the facility and arrived with no transfer summary. Three of those detainees (9, 11, and 20) endorsed being diagnosed with a serious mental illness during the initial screen with the intake officer or acknowledged suicidal ideation to the medical professional who completed the initial medical review. The lack of a transfer summary or contact between the medical staff at the sending and receiving facilities compromises the safety of the detainees and poses a risk of adverse outcome to the facility. These concerns and associated PBNDS 2011 standards are detailed further in the recommendation section of this report.
3. Ten of the 27 detainees were placed in SHU for administrative or disciplinary purpose while residing at EPC. Five of those ten (4, 8, 9, 21 and 25) were diagnosed with a serious mental illness. All were cleared by medical staff for placement but there is no documentation that mental illness was considered when making the placement. It is not clear in medical documentation why the detainee is being placed into segregated housing in the first place, and it is unclear in many cases if the placement is administrative or disciplinary. Placement of detainees in a segregated setting based on their mental illness is a violation of PBNDS 2011, Std. 2.12, Special Management Units, and professional standards. The facility does not adequately evaluate – or does not adequately document

that they have evaluated – the potential impact of serious mental health of detainees being placed into a segregated status. This is discussed more fully in the recommendations section. Detainees housed in segregated status with a known mental health concern participated in wellness rounds on a routine basis with the social worker. Most occurred cell-side but out of cell visits were available at the request of the mental health or medical practitioner.

### **Summary of Recommendations**

PBNDS 2011, Std. 4.3, Medical Care, states “This detention standard ensures that detainees have access to appropriate and necessary medical, dental and mental health care.” The following recommendations result from deficiencies in meeting this overarching standard. When relevant, I also include other relevant portions of the PBNDS 2011, as well as references to the Standards for Health Services in Jails and Standards of Mental Health Care, National Commission on Correctional Health Care (NCCHC).

Each recommendation below is designated either as Level 1 (highest priority and essential), Level 2 (important), or a best practice recommendation.

#### Priority Recommendations and Rationale

- 1. EPC uses the special housing unit “observation” room for monitoring of detainee’s engaging in some self-harm behaviors (e.g., head-banging) and as overflow in rare cases where MHU beds are all full. While the facility utilizes 1:1 monitoring when a detainee is placed in that room, and use of that room is short-term the entirety of the room is not fully visible to the staff monitoring the detainee, which poses a risk to detainee safety. EPC should not utilize the SHU “observation” room as currently configured to hold detainees threatening or engaging in suicidal or self-harm behavior. (Level 1)**

Rationale: PBNDS 2011, Std. 4.6, Suicide Prevention and Intervention § V.F. states that “if the qualified mental health professional determines that the detainee requires a special isolation room but there is either no space in the medical housing unit or a medical housing unit does not exist, the detainee may, *as a last resort*, be temporarily placed in an administrative segregation cell in a Special Management Unit, provided space has been approved for this purpose by the medical staff and such space allows for constant and unobstructed observation.”

While PBNDS 2011 does allow for utilization of the special housing unit as a last resort, it does require the ability to directly observe and requires staff within constant sight and sound. This does not occur at EPC due to the configuration of the room and is a violation of the standards.

- 2. Detainees placed into a segregated status are reviewed for medical clearance by medical staff. However, medical or mental health staffs are not always aware of the reason for placement into a segregated setting and do not consider the impact of the detainee’s mental health on placement in that environment. EPC should develop a**



**process for acquiring input from mental health staff when detainees with known or suspected history of self-harm or mental illness are placed into segregated status. (Level 1)**

PBNDS 2011, Std. 2.12, Special Management Units indicates in section II.8 that “Detainees with serious mental illness may not be automatically placed in an SMU on the basis of such mental illness. Every effort shall be made to place detainees with serious mental illness in a setting in or outside of the facility in which appropriate treatment can be provided rather than an SMU, if separation from the general population is necessary.”

PBNDS 2011, Std. 3.1, Disciplinary System, § V.A.6 states: “When a detainee has a diagnosed mental illness or mental disability, or demonstrates symptoms of mental illness or mental disability, a mental health professional, preferably the treating clinician, shall be consulted to provide input as to the detainee’s competence to participate in the disciplinary hearing, any impact the detainee’s mental illness may have had on his or her responsibility for the charged behavior, and information about any known mitigating factors in regard to the behavior. “ Section V.A.8 continues: If a detainee has a mental disability or mental illness but is competent, the disciplinary process shall consider whether the detainee’s mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. A mental health professional should also be consulted as to whether certain types of sanctions, (e.g., placement in disciplinary segregation, loss of visits, or loss of phone calls) may be inappropriate because they would interfere with supports that are a part of the detainee’s treatment or recovery plan.

The American Psychiatric Association (APA) noted that “inmates who are in severe psychiatric crisis, including but not limited to acute psychosis and suicidal depression, should be removed from segregation until such time as they are psychologically able to tolerate that setting (APA, Psychiatric Services in Jails and Prisons. Washington, DC (2000)).

While medical personnel review detainees placed into SHU for clearance, mental health providers are not involved in the process of determining appropriateness of placement into the segregated environment. This leaves detainees with serious mental illness vulnerable to placement into an environment punishes mental illness, or potentially exacerbates symptoms requiring treatment rather than correction, violates PBNDS standards.

- 3. Recommendation: EPC should re-evaluate the staffing pattern for mental health providers to ensure that those detainees with significant mental illness have access to ongoing care. (Level 1, PBNDS 2011; 4.3 Medical Care, § V.N.1).**
- 4. Recommendation: EPC should increase mental health and custody staff allocations in order to provide psychoeducational and psychotherapeutic treatment activities for detainees receiving psychiatric intervention. (NCCHC, Standards for Mental Health Services in Correctional Facilities, MH-E-05 Nonemergency Mental Health Care Requests and Services; MH-E-06 Emergency Services; MH-F-01 Mental Health Education and Self-Care; MH-G-01 Basic Mental Health Services).**

Rationale:

PBNDS 2011, Std. 2.12, Special Management Units indicates in section V.P.3 “The facility shall seek to develop enhanced opportunities for in-cell and out-of-cell therapeutic activities and additional unstructured out-of-cell time for detainees with an SMI, to the extent such activities can be conducted while ensuring the safety of the detainee, staff, and other detainees.”

PBNDS 2011, Std. 2.12, Special Management Units, § V.AA states, “The facility should seek ways to increase the minimum amount of time that detainees in the SMU spend outside their cells, and to offer enhanced in-cell opportunities. In addition to recreation, out-of-cell time might include opportunities for education, clinically appropriate treatment therapies, skill-building, and social interaction with staff and other detainees.

NCCHC Standards for Mental Health Services (MH-G-02, an essential standard) requires that “mental health programs or residential units meet the serious mental health needs of patients.” It further requires that acute mental health residential units have, “at a minimum... programming or appropriate therapies, if indicated; individualized treatment plans, and housing in a safe and therapeutic environment conducive to symptom stabilization...” Best practice dictates that every detainee with a serious mental illness housed in a segregated setting should receive ten hours of documented out-of-cell, treatment plan driven therapeutic activity and ten hours of out-of-cell recreation each week (NCCHC, Standards for Mental Health Services in Correctional Facilities, MH-E-07, Segregated Inmates).

There is a paucity of mental health treatment to address the ongoing mental health needs of the detainee population. Detainees received adequate and timeline medication and follow-up, wellness rounds and single session supportive therapy if requested in the sick call process. There is no treatment plan driven mental health care offered in general population, segregation, or isolated settings for detainees with significant mental health concerns. Lack of an adequate array of mental health services for detainees presenting with serious mental illness violates PBNDS standards.

Best Practice

- 5. Recommendation: A significant proportion of detainees arrive at EPC without a medical transfer summary. EPC should actively seek transfer summaries for detainees arriving from another facility.**

Rationale: A transfer summary is a continuity of care document aimed at identifying mental and physical health needs as soon as possible at arrival. The intent of privacy during intake interviews related to mental health and medical concerns is to attempt to gather sufficient information with which to make determinations about treatment needs which, in turn, mitigates the risk of a negative client outcome. NCCHC Standards for Mental Health Services (MH-E-03, an essential standards) states “A transfer screening is performed on all intrasystem transfers.” Intrasystem transfer is defined by NCCHC as inmates being transferred from one facility to

another, individual returning from furlough, and other individual brought to the facility an already established health/mental health record for their current incarceration.

- 6. Recommendation: A number of detainees interviewed during this investigation were not familiar with the mental health services at EPC or how to access them. EPC should develop a process for ongoing notification of detainees regarding how to access mental health care services.**

Rationale: The process for requesting sick call, including requesting mental health care, is detailed in the detainee handbook. There is not a written sick call process and no signage in detainee areas providing ongoing reminders about available mental health opportunities. Several detainees interviewed while onsite who did not express mental health needs at intake or access mental health services soon after reading the detainee handbook reported they did not know how to request mental health services and were not familiar with what services were available.

- 7. Recommendation: Medications refused for 2 days are regularly discontinued. While medical staff notate refusals and document prescription discontinuations, EPC should make addition effort to recognize, document, and share in a timely way refusals of psychiatric medications with the mental health practitioners, and documented efforts should be made to encourage continuation of medications before they are discontinue.**

Rationale: It is common for people suffering from serious mental illness to skip medications, and important to their ongoing care that every effort be made to support consistent use of that medication. EPC should increase efforts to encourage consistent use of medications, by changing medication times or other means, prior to discontinuing psychotropic medications.

- 8. Recommendation: There were a significant number of complaints related to sick call. The NCCHC evaluation earlier in 2017 noted continuity of care concerns that were not readily identified in this onsite. EPC should undertake a CQI process study relevant to the sick call process to identify areas of inefficiency and means of improvement. EPC should do a process CQI study to evaluate concerns related to continuity of care, and identify new practices to address those concerns.**



# Report for the U.S. Department of Homeland Security Office for Civil Rights and Civil Liberties

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## **El Paso Service Processing Center, El Paso, Texas**

### Complaint Numbers

16-12-ICE-0672

17-03-ICE-0337

17-07-ICE-0275

17-10-ICE-0373

(b) (6)

Prepared By:

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11/15/2017

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## **Introduction**

On November 6-8, 2017, I assessed the environmental health and safety conditions at the El Paso Service Processing Center (EPC), El Paso, Texas. This onsite investigation was provided under contract with the United States Department of Homeland Security, Office for Civil Rights and Civil Liberties (CRCL). Accompanying me on this investigation were (b)(6) Policy Advisor, CRCL; (b)(6) Policy Advisor, CRCL; as well as three other subject matter experts who examined EPC's medical care, mental health care, and correctional operations.

The purpose of this onsite was to investigate complaints made by U.S. Immigration and Customs Enforcement (ICE) detainees of various alleged violations of civil rights and civil liberties at EPC. This investigation was conducted to obtain an impression of the validity of the allegations by assessing the facility's adherence to applicable standards and best practices related to environmental conditions. The areas of review included the housing units, kitchen, dining room, laundry, barbershop, and intake area.

## **Qualifications**

(b) (6)

## **Methodology**

The basis of this report includes document reviews, tour of the facility, detainee interviews, facility staff interviews, visual observations, and environmental measurements. The findings and recommendations contained in this report are solely those of the author. The report cites specific examples of conditions found during this review; however, they should not be considered as all-inclusive of the conditions found during the inspection. Consideration was given to national and state standards including the Performance Based National Detention Standards 2011 (PBNDS 2011) and Performance Based Standards for Adult Local Detention Facilities, Fourth Edition, published by the American Correctional Association (ACA).

## **Facility Overview**

EPC is operated by Global Precision Systems, LLC (GPS). The dedicated ICE facility has a total capacity of 1,003 and 773 beds were occupied on November 8, 2017. The PBNDS 2011 are applicable to this facility.



## Findings

### Meals and Food Service

#### **Complaint Numbers: 16-12-ICE-0672, 17-03-ICE-0337, and 17-10-ICE-0373**

It is alleged that diet requests for special meals are not being met or are being ignored (16-12-ICE-0672), food preparation is unsanitary (17-03-ICE-0337), and the food is inedible (17-10-ICE-0373).

Findings: The allegation that requests for religious or medical meals are being ignored is unfounded. The allegation that the kitchen is unsanitary is unsubstantiated. The allegation that the food is inedible is unsubstantiated.

Applicable Standard: The PBNDS 2011 Food Service standard is applicable.

#### Analysis:

During my inspection on November 7, 2017, the kitchen was found to be in compliance with the PBNDS 2011 Food Service standard. The kitchen was clean, orderly, and no evidence of expired or spoiled food was found. The EPC kitchen is inspected weekly by GPS staff and ICE. The kitchen is also inspected by officials from the William Beaumont Army Medical Center. The inspections are thorough and documentation of corrective actions is noted. Therefore, the allegation that the food preparation is unsanitary is not substantiated.

The current cycle menus are approved by a Registered Dietitian. The facility employs regular, common fare, kosher, halal, and medical diet menus. On November 8, 2017, 57 detainees were receiving a halal diet, 37 detainees were receiving a common fare diet, and 162 detainees were receiving a medically prescribed diet. Therefore, 256 of the 773 detainees housed at the facility were receiving either a religious or a medical diet. Thus, 33% of the population was receiving a special diet, which indicates that the facility is addressing the special dietary needs of detainees. Furthermore, detainees were receiving specialized medical diets including one detainee on a diabetic; cholesterol controlled; low salt; no bread, rice, or pasta diet and a detainee prescribed a mechanical soft; no tomatoes, onion, peppers, spices; soy allergy; no bologna diet.

The EPC chaplain provided a summary report of religious diet requests for the period of November 2016 through October 2017. During this period, the chaplain's office approved 221 and denied 49 requests for religious diets. I interviewed the facility chaplain and find that the vetting and approval process complies with the PBNDS 2011 Food Service standard stating, "All facilities shall provide detainees requesting a

religious diet a reasonable and equitable opportunity to observe their religious dietary practice, within the constraints of budget limitations and the security and orderly running of the facility, by offering a common fare menu. While each request for religious diet accommodation is to be determined on a case-by-case basis, ICE anticipates that facilities will grant these requests unless an articulable reason exists to disqualify someone for religious accommodation or the detainee's practice poses a significant threat to the secure and orderly operation of the facility."

During detainee interviews, I asked about the food served at the facility. Although several male detainees stated they did not find the quantity to be sufficient and a few detainees stated that either they did not like the food or were unfamiliar with the types of food served at EPC, the majority of detainees stated that it was satisfactory or that they liked the food. Additionally, several detainees reported that the food served at EPC is better than the food served at other detention facilities. EPC staff members can purchase meal tickets to obtain meals from the detainee serving line and employees were observed purchasing meals for personal consumption. Furthermore, several staff members stated that they like the food and regularly eat at the facility. The food service program at EPC recognizes that meal periods are highly anticipated events in a correctional environment and therefore, the taste, appearance, and presentation of meals can impact the health and general mood of the facility, as specified by the PBNDS 2011 Food Service standard stating that "The food service program significantly influences morale and attitudes of detainees and staff" and adherence of this concept is reflected by the generally positive response to meals. Food preferences are highly subjective and while there may be detainees that find the food unappetizing or unfamiliar; overall EPC complies with the PBNDS 2011 Food Service standard stating, "Food service personnel shall provide nutritious and appetizing meals. Nutritional needs are diverse because of differences in age, activity, physical condition, gender, religious preference and medical considerations. Food service personnel shall accommodate the ethnic and religious diversity of the facility's detainee population when developing menu cycles."

## **Laundry**

### **Complaint Number: 17-07-ICE-0275**

A detainee alleges in complaint number 17-07-ICE-0275 that she has a skin condition and has to wear her sweatshirt to keep her skin from getting irritated and that she was not allowed to wash her sweatshirt for three weeks despite the fact that her sweatshirt became soiled from skin ointments and creams.

Findings: The allegation that a detainee was not allowed to wash her sweatshirt for three weeks cannot be substantiated at this time due to a lack of evidence.

Applicable Standard: The PBNDS 2011 Personal Hygiene standard is applicable.

Analysis:

A detainee called the OIG hotline on April 12, 2017, and reported that she “does not have the privilege to wash her sweatshirt” and that she had not been allowed by a particular officer to wash her sweatshirt for three weeks, despite the fact that she needs to wear it to keep her skin from getting irritated and it becomes soiled from the use of skin ointments and creams. However, the OIG report summary also states that the detainee did not explain what is meant by “privilege”. The detainee was not present at EPC during the CRCL onsite investigation and therefore could not be interviewed.

I inspected the EPC laundry operations and found them to meet the PBNDS 2011 Personal Hygiene standard requiring, “Each detainee shall have suitable, clean bedding, linens, blankets and towels.” Furthermore, detainees are issued clothing, sweatshirts, and denim jackets in compliance with the PBNDS 2011 Personal Hygiene standard stating, “Each detainee shall have sufficient clean clothing that is properly fitted; climatically suitable, durable and presentable.” The EPC laundry schedule indicates that uniforms are exchanged on Mondays, Wednesdays, and Saturdays and that sweat tops are exchanged on Tuesdays. One for one exchanges of detainee uniforms was observed in the housing units on Wednesday, November 8, 2017, in compliance with the PBNDS 2011 Personal Hygiene standard stating, “Clothing exchanges shall generally be on a one-for-one basis to prevent hoarding and to ensure an adequate supply.” The EPC laundry officer also reports that laundry will be exchanged at other times upon the request of the housing officer in the event that a detainee soils their clothing, etc. Evidence of laundry exchanges outside of the regular schedule was observed.

Furthermore, during interviews I asked numerous detainees about the laundry process and operations at EPC. Every detainee questioned, including several that have been at the facility for over a year, stated that the facility adheres to the posted laundry schedule and none reported laundry related problems.

Although I did not find evidence that the EPC laundry operation is failing to comply with the PBNDS 2011 Personal Hygiene standard, as the allegation names a specific officer, the problem may be one of staff-detainee communication rather than laundry operations. The CRCL corrections expert (b)(6) found problems related to staff-detainee communication; therefore, please see his expert report.



## **Other Observations**

### **Mattresses**

Numerous mattresses with ripped seams that exposed the inner lining and filling were observed. Once the integrity of the mattress cover is compromised, exposing the inner filling, it can no longer be properly cleaned and disinfected, and mattresses in this condition can transfer disease-causing pathogens from person to person. Mattresses must comply with the PBNDS 2011 Personal Hygiene standard stating, "Each detainee shall have suitable, clean bedding."

Applicable Standard: The PBNDS 2011 Personal Hygiene standard is applicable.

Recommendation:

1. Damaged mattresses are placing detainees at risk of infection, as they can no longer be properly cleaned and disinfected. EPC should inspect all mattresses and replace those that have cracked or torn covers to facilitate compliance with the PBNDS 2011 Personal Hygiene standard stating, "Each detainee shall have suitable, clean bedding." (Applicable standard: PBNDS 2011; Personal Hygiene, Level 1)

### **Barber Chairs**

The vinyl covers on the two chairs in the EPC barbershop were cracked and ripped, exposing the inner foam cushions. The condition of the chair covers prevents the proper cleaning and disinfection necessary to inhibit the transfer communicable diseases between detainees. The condition of the barber chairs must comply with the PBNDS 2011 Environmental Health and Safety standard stating, "Each barbershop shall have all equipment and facilities necessary for maintaining sanitary procedures for hair care."

Applicable Standard: The PBNDS 2011 Environmental Health and Safety standard is applicable.

Recommendation:

2. The condition of the covers on the barber chairs is placing detainees at risk of infection, as they cannot be adequately cleaned and disinfected. EPC should either recover the chairs or replace the chairs to facilitate compliance with the PBNDS 2011 Environmental Health and Safety standard stating, "Each barbershop shall have all equipment and facilities necessary for maintaining sanitary procedures for hair care." (Applicable standard: PBNDS 2011; Environmental Health and Safety, Level 1)

### **Detainee Sleeping Arrangement**

Head to head sleeping patterns were observed in the detainee barracks. The bunk beds in Barracks 1 were separated by a chain link fence and detainees were observed to be sleeping in

patterns with their head to head, instead of the recommended best practice of sleeping head to toe. A head-to-head sleeping arrangement is not recommended because close contact with others, especially in crowded areas such as barracks increases the likelihood of the transmission of respiratory disease. This risk is amplified in the detention environment in which detainees may carry bacteria and viruses from all over the world. Therefore, to help reduce the spread of disease, the facility should consider implementing the best practice of a head-to-toe sleeping arrangement in the detainee barracks.

Applicable Standard: Best Practice

Reference:

<https://phc.amedd.army.mil/PHC%20Resource%20Library/Barracks%20Layout%20Jan%202010.pdf>

Recommendation:

3. EPC should evaluate the detainee sleeping arrangements and consider implementing a head-to-toe sleeping pattern in the detainee barracks to minimize the transmission of respiratory disease. (Applicable standard: Best Practice)

### **Summary of PBNDS 2011 Recommendations**

1. Damaged mattresses are placing detainees at risk of infection, as they can no longer be properly cleaned and disinfected. EPC should inspect all mattresses and replace those that have cracked or torn covers to facilitate compliance with the PBNDS 2011 Personal Hygiene standard stating, "Each detainee shall have suitable, clean bedding." (Applicable standard: PBNDS 2011; Personal Hygiene, Level 1)
2. The condition of the covers on the barber chairs is placing detainees at risk of infection, as they cannot be adequately cleaned and disinfected. EPC should either recover the chairs or replace the chairs to facilitate compliance with the PBNDS 2011 Environmental Health and Safety standard stating, "Each barbershop shall have all equipment and facilities necessary for maintaining sanitary procedures for hair care." (Applicable standard: PBNDS 2011; Environmental Health and Safety, Level 1)

### **Best Practice Recommendation**

3. EPC should evaluate the detainee sleeping arrangements and consider implementing a head-to-toe sleeping pattern in the detainee barracks to minimize the transmission of respiratory disease. (Applicable standard: Best Practice)

# Conditions of Detention Expert Report

On

## El Paso Service Processing Center

This report is a general examination of conditions at the El Paso Service Processing Center with a specific examination of the issues identified in the following complaints:

- 16-12-ICE-0672
- 17-03-ICE-0337
- 17-06-ICE-0213
- 17-06-ICE-0262
- 17-10-ICE-0275

November 6-8, 2017

Prepared by:

(b) (6)

Lodi, CA

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## I. Summary of Review

The Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL) received several complaints alleging that the U. S. Immigration and Customs Enforcement (ICE) has violated the civil rights and civil liberties of detainees at the El Paso Processing Center (EPSPC), located in El Paso, Texas. The complaints contained the following allegations which will be examined in this report:

- Officers at the EPSPC do not follow the rules and threaten detainees with solitary confinement or transfer;
- Religious and medical diet requests are not being met<sup>1</sup>;
- Physical and verbal abuse and punitive, inhumane use of solitary confinement;
- Legal representative access inadequacies including; burdensome wait times for attorney-client meetings; unreasonable restrictions on attorney visits; restrictions on access to technology; requiring attorneys to park hundreds of meters away from the facility; and, sexual harassment of female attorneys;
- Restricting legal calls and inadequate privacy for legal calls; and
- An ankle bracelet was placed on a detainee too tightly, which shocks him while in the shower and cannot be removed without the punishment of placement in the Special Housing Unit<sup>2</sup>.

In addition to the specific complaints identified, the following aspects of the EPSPC facility operations were reviewed during this on-site inspection:

- Use of Force Reporting and Accountability;
- Special Housing Unit (Administrative/Disciplinary Segregation);

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<sup>1</sup> The issue of special diets will be addressed by the Environmental Health and Safety expert on the CRCL inspection team.

<sup>2</sup> Complaint Number 17-10-ICE-0373. This complaint was not in the original retention memorandum sent to ICE. CRCL received this complaint subsequent to the issuance of the retention memo.

- Custody classification;
- Sexual Abuse and Assault Prevention and Intervention (SAAPI);
- Detainee Grievances;
- Visiting Program;
- Recreation Programs;
- Mail Services;
- Religious Services;
- Telephone Access;
- Law Library Services; and
- Limited English Proficiency (LEP) communication

## II. Facility Background and Population Demographics

On November 6, 2017, the first day of our site visit, the ICE detainee population at EPSPC was 757.<sup>3</sup> The EPSPC is owned and operated by ICE and is contracted with Global Processing Services (GPS) to provide the security services for the facility. EPSPC is the intake processing center for the region and is an American Correctional Association (ACA) accredited facility.<sup>4</sup>

The detainees at EPSPC include classification levels from low to high and are housed together in common housing units designated by classification level. All the housing units are open-bay dormitory style housing, with the exception of the Special Housing Unit (SHU).<sup>5</sup> The low and low-medium classification level detainees are housed together, and the medium-high and high classification level detainees are housed together.<sup>6</sup> The largest housing units have 56 detainees with two officers assigned.

Three hot meals are provided in a common dining room. The detainees access the dining room by housing unit on a rotating schedule. Other services, such as visitation, barber shop, religious services and law library, are also provided

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<sup>3</sup> .The EPSPC population consisted of 479 male and 278 female detainees.

<sup>4</sup> ACA accreditation was last received on January 25, 2016.

<sup>5</sup> There are two buildings that house SHU detainees, the primary SHU building has seven cells. The secondary, or overflow SHU building has six cells.

<sup>6</sup> Housing by custody classification will be discussed later in this report.



in common areas with access facilitated by scheduling that is designed to keep detainees in common classifications together. Outdoor recreation is provided in areas attached to each housing unit, which again, keeps detainees in common classifications together.

Throughout the site inspection process, we toured the EPSPC, reviewed records, interviewed GPS security personnel and ICE officials, as well as, several ICE detainees. All general conditions of confinement were reviewed and considered while on-site at EPSPC.

Overall, we found the personnel to be professional, courteous and helpful and the general living areas of the facility to be clean, orderly and, although old, in good repair. There were minimal deficiencies identified related specifically to the Performance Based National Detention Standards (PBNDS) 2011<sup>7</sup> and recommendations in the form of “best practices” will be offered in this report to improve certain aspects of the operation. All opinions and recommendations contained herein are based on my background and experience in the correctional environment, ICE detention standards and generally recognized correctional standards, including those of the American Correctional Association (ACA) and the American Jail Association (AJA).

## **II. Expert Professional Information**

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<sup>7</sup> In general, I relied on the applicable 2011 Performance Based National Detention Standards (PBNDS 2011) 2016 revisions for the EPSPC onsite as they were the standards the facility is contractually obligated to implement.



(b) (6)

### **III. Relevant Standards**

- **ICE Detention Standards**

The PBNDS 2011 apply to EPSPC.<sup>9</sup> These are the standards that were relied upon in looking at the specific allegations regarding this facility, as well as, the general review of operations.

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<sup>8</sup> At that time, the inmate population in the CDCR was over 160,000 with approximately 120,000 parolees and 57,000 employees.

<sup>9</sup> The PBNDS 2011 were revised in 2016.

- **Professional Best Practices**

In addition to the PBNDS 2011, this review is being conducted based on my correctional experience, as well as, nationally recognized best practices. Best practice recommendations are based on operational procedures and practices that exist in detention facilities across the spectrum of jurisdictions throughout the nation, many of which are documented and recognized by the ACA.

#### **IV. Review Purpose and Methodology**

The purpose of this review is to examine the specific allegations in the complaints cited above and to observe the overall operations of the EPSPC as it relates to the care and treatment of the ICE detainees. For this review, I examined detainee records; EPSPC policies and procedures;<sup>10</sup> documentation kept on-site depicting such things as detainee grievances and law library usage; interviewed ICE detainees, ICE personnel, GPS personnel; and, conducted an on-site tour of the EPSPC facility with supervisors. All the GPS and ICE personnel were professional, cordial and cooperative in facilitating our review. Anything we asked to review was promptly provided.

Prior to the preparation of this report I specifically reviewed the following EPSPC documents:

- GPS Contract Agreement;
- Detainee grievances;
- Library Services ;
- Detention Files (random selection and those with complaints being investigated);
- Segregation forms;
- Incidents involving use of force and Force After-Action Reports<sup>11</sup>;
- ICE National Detainee handbooks in English and Spanish;

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<sup>10</sup> EPSPC has adopted the ICE PBNDS 2011 standards as the facility policies and procedures.

<sup>11</sup> There were 8 use of force incidents at EPSPC between January and November 2017. All were emergency uses of force involving efforts to restrain resistive detainees. There were no calculated uses of force this year.

- Sexual Abuse and Assault Prevention and Intervention (SAAPI) investigations<sup>12</sup>; and
- EPSPC policies on the following:
  1. Admission and Release
  2. Living Conditions from Detainee Handbook
  3. Staff Detainee Communication
  4. Classification System
  5. Use of Force and Restraints
  6. Special Management Units (Segregation)
  7. Grievance System
  8. Detainee Orientation

PBNDS 2011 standards reviewed:

1. Admission and Release
2. Custody Classification System
3. Special Management Units (Segregation)
4. SAAPI
5. Use of Force and Restraints
6. Telephone Access
7. Law Libraries and Legal Material
8. Detainee Grievance Procedures
9. Visitation
10. Correspondence and Other Mail
11. Recreation
12. Religious Practices

In addition to the above listed activities, the on-site inspection on November 6-8, 2017, included the following:

- Toured the Intake and Release Processing Center
- Toured the housing units<sup>13</sup>

<sup>12</sup> There were 18 SAAPI allegations and investigations during 2017. Of those investigations, 5 were substantiated, 11 were not substantiated and 2 were unfounded.

<sup>13</sup> Housing units included the adjacent/attached outdoor recreation areas.



- Toured the visitation and visitation reception area (where visitors check in to be processed to the visiting areas connected to the housing units)
- Toured the Special Housing Unit (administrative/disciplinary segregation)
- Toured the Medical Clinic
- Toured the Food Services areas and dining room
- Inspected all areas of detainee access for information postings<sup>14</sup>
- Interviewed various personnel including command staff, supervisors and line staff<sup>15</sup>
- Interviewed various ICE detainees, those who have filed complaints and others randomly selected

## V. Findings, Analysis and Recommendations

For this report the following definitions are being observed as it relates to the “findings” for the allegations being considered:

- “Substantiated” describes an allegation that was investigated and determined to have occurred substantially as alleged;
- “Unsubstantiated” describes an allegation that was investigated and there was insufficient evidence to determine whether or not the allegation occurred<sup>16</sup>; and
- “Unfounded” describes an allegation that was investigated and determined not to have occurred.

Prior to making “findings” analysis will be offered to establish the evidence relied upon to make a finding. Any recommendations will be assigned a “priority” that is tied to the PBNDS 2011 or to industry “best practices.”

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<sup>14</sup> All general services and housing units had the appropriate detainee information postings for SA-API, LEP, numbers to contact the OIG, etc.

<sup>15</sup> These interviews included, but were not limited to, the supervisors responsible for SA-API, detainee grievances, detainee classification/intake, detainee religious services, detainee visitation, detainee mail, detainee recreation and detainee law library.

<sup>16</sup> While “Unsubstantiated” can often be the finding because there simply is not enough tangible evidence to “Substantiate” an allegation, I may sometimes offer my expert opinion as to whether, based on other considerations and observations, it is more likely than not that the allegation either happened or did not happen.

The complaints listed above in this report will be specifically reviewed, analyzed and a finding will be opined.

### **Complaint No. 16-12-ICE-0672**

Complaint 16-12-ICE-0672 was received by the CRCL on October 17, 2016 from the DHS Office of Inspector General (OIG). The complaint had been filed by a law office and contained a group complaint from detainees housed in a specific housing unit at EPSPC, alleging that special diet requests for religious diets are not being accommodated<sup>17</sup> and that officers at EPSPC “go by their own rules” and threaten detainees with solitary confinement or transfer to another facility.

### **Analysis:**

In our attempt to investigate the allegations regarding the officers’ inappropriate interactions with detainees at EPSPC,<sup>18</sup> several officers and detainees were interviewed, and housing operations were observed. We determined that most of the officers and security personnel at EPSPC conduct themselves in a professional manner, interacting with detainees in a cordial, caring and completely appropriate fashion. This was verified by detainees who were randomly interviewed. However, some of these same detainees also indicated that there are “a few” officers who are not helpful or interact in an unprofessional manner.

Because the allegations were made over a year ago and are of a general nature regarding officers’ conduct, it is not possible to determine if the allegations were valid at that time. However, based on what we are told by both detainees and security personnel, it is certainly possible that at least some of the alleged complaint is valid and involved a specific officer(s) rather than the personnel of EPSPC as a whole. This issue was discussed with the GPS and ICE leadership with recommendations for identifying personnel who need to be mentored in staff-detainee communications and interactions.

### **Findings:**

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<sup>17</sup> The allegation concerning the religious diets will be addressed by the Environmental Health Specialist on the CRCL inspection team, (b)(6) in a separate report.

<sup>18</sup> This complaint was filed over a year ago.



- The allegation that officers at EPSPC “go by their own rules” and threaten detainees with solitary confinement is “**not substantiated.**” However, we cannot rule out the possibility that some elements of this allegation may be, or may have been, valid.

### **Recommendations:**

- ICE management should revise the staff-detainee communication policy/procedure to include the positive manner in which staff are expected to interact with detainees. Professional communication is assumed, but should also be delineated in the standard and monitored closely by management personnel to ensure expectations are being met. Staff who are identified as engaging in inappropriate/unprofessional interactions should be mentored to meet the expected standard. (**Best Practices**)

### **Complaint No. 17-03-ICE-0337**

This complaint was received by CRCL on December 12, 2016, on behalf of the Detained Migrant Solidarity Committee (DMSC),<sup>19</sup> alleging physical and verbal abuse by ICE officers and security staff, punitive and inhumane use of solitary confinement, denial of adequate medical and mental health care, unsanitary food preparation, and prolonged detention and family separation.<sup>20</sup>

### **Analysis:**

This complaint originated approximately one year ago from the immigration advocacy group, DMSC. The letter from the DMSC states, “While the DMSC hopes to see immigration detention abolished entirely, we have included a list of demands...which we believe are necessary to ensure that ICE in El Paso treats all

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<sup>19</sup> The complaint was essentially a request for CRCL to review a report prepared by the DMSC regarding conditions at EPSPC, entitled, “I was treated like a dog instead of a human being.”

<sup>20</sup> The issues of inadequate medical and mental health care will be addressed in separate reports by (b)(6) and (b)(6) the medical and mental health experts on the CRCL inspection team.. The issues of unsanitary food preparation will be addressed by (b)(6) the Environmental Health and Safety expert. The final issue of prolonged detention is a matter of ICE processing that is beyond the conditions of detention focus of this inspection.



people with dignity within the parameters of the current immigration enforcement apparatus.” Each of the allegations will be addressed separately below:

### **Physical and Verbal Abuse by ICE Officers and Security Staff**

As indicated by the review of complaint no. 16-12-ICE-0672 above in this report, while it could not be substantiated, it is possible that certain officers may have interacted with detainees in an unprofessional or even a verbally abusive manner. We cannot rule out that possibility or prove it one way or the other based on the general information provided. It is difficult to prove or deny the allegations as presented in this complaint as well, because the allegations are hearsay, presented by a third party not present or privy to the actual events being reported. The names or identities of the individuals allegedly making the complaints have not been included in the report by DMSC. Accordingly, we can only look at the environment as it is today at EPSPC and make judgements about the health of the culture in staff-detainee interactions and the likelihood that the current environment would support the conduct described in the DMSC report.

As indicated above, there were more positive comments received from randomly selected detainees about the security personnel at EPSPC than negative comments. Clearly, in an organization of this size, there are personnel who interact better and are liked better than others by the population being served. However, we saw no evidence of abusive behavior by the security personnel. In fact, the culture and general environment at EPSPC appears to be positive and healthy, with staff-detainee relations being generally conducted in a positive manner.

As far as physical abuse, we noted that there were only eight incidents over the past eleven months in which security personnel used force against a detainee. In a population of approximately 800 detainees, that equates to just over one use of force incident every two months.<sup>21</sup> This ratio of use of force incidents is among the lowest we have seen at any detention facility inspected over the past two

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<sup>21</sup> EPSPC houses approximately 800 detainees, however, with the continual incoming and outgoing turnover of the population, EPSPC houses thousands, maybe tens of thousands of detainees over the period of a year.

years. We found no evidence to support the allegation of physical abuse by security staff at EPSPC.

### **Punitive and Inhumane Use of Solitary Confinement**

We inspected the Special Housing Unit (SHU) where detainees are housed for administrative or disciplinary segregation. There are 13 cells in the SHU where detainees can be temporarily housed for administrative or disciplinary segregation.<sup>22</sup> On the day of our inspection, there were eight detainees in the SHU on administrative segregation status, seven male detainees and one female detainee. There were no detainees in the SHU for disciplinary segregation.<sup>23</sup>

For context, it is common for 2% to 4% of the population to be housed in segregated housing at any given time in a detention facility. The segregation population at EPSPC is less than 1% of the population. This clearly indicates that EPSPC uses administrative and disciplinary segregation as a last resort and is not for punitive purposes with regard to the population remanded to the special housing unit.

We observed the operations in the SHU as well and found that the detainees in the SHU were afforded the same services as those in the general population. Phones, law library, outdoor exercise and all the other services available in the general population are provided to the detainees in the SHU.

#### **Findings:**

- The allegation that ICE officers and security staff are verbally and physically abusive to detainees at EPSPC is “**not substantiated.**” Current conditions at EPSPC suggest that staff are not verbally and physically abusive to the detainees. Whether or not there have been incidents of inappropriate or unprofessional behavior on the part of some personnel cannot be proven or disproven, however, the general tenor and demeanor of the staff-detainee relations appear to be healthy at this time.

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<sup>22</sup> There are two SHU buildings; one building has 7 cells and the other has 6 cells, for a total of 13 cells.

<sup>23</sup> Administrative segregation is for the protection of self or the protection of others. Disciplinary segregation is placement for a determined period of time as a result of a disciplinary infraction or rules violation.



- The allegation that there is punitive and inhumane use of solitary confinement at EPSPC is “**not substantiated.**” At the present time, the SHU is used sparingly and as a last resort to protect the detainee population.<sup>24</sup> The conditions in the SHU are clean, orderly and appropriate services are provided to detainees housed there.

### **Recommendations:**

None related to this complaint.

### **Complaint No. 17-06-ICE-0213**

On March 1, 2017, CRCL received a direct letter jointly signed by a group of non-governmental organizations with allegations regarding various policies and practices at EPSPC that hinder detainee’s access to legal counsel and due process at court hearings. The complaint specifically included; burdensome wait times to meet with detainee clients; unreasonable restrictions for confidential attorney-client meetings; restrictions and lack of policy guidelines for allowing technology in detention centers; requiring attorneys to park hundreds of meters away from the facility when there are parking spaces in front of the building where hearings are held; the sexual harassment of female attorneys by detention staff and the refusal of detention staff to honor agreements between counsel and ICE.

Additional allegations included; barriers to accessing experts and interpreters for case preparation; lack of access to client legal documentation prior to hearings; restrictions on counsel’s access to courtrooms; and, execution of deportation orders without attorney notification.<sup>25</sup> A thorough review of the attorney visitation area and processes was conducted on-site.

### **Analysis:**

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<sup>24</sup> The SHU (13 cells) is the only place in the EPSPC that a detainee could possibly be confined alone. There are no other single cells in the entire facility.

<sup>25</sup> The immigration hearings, while held at the EPSPC, are conducted by the Executive Office for Immigration Review (EOIR). The operation of the court hearings is beyond the scope of the review conducted by CRCL regarding the operations controlled by the EPSPC and conducted under the PBNDS 2011. Accordingly, the allegations regarding attorney-client access and meetings and the operation of the visitation area will be addressed in this report, while the allegations specific to the areas and operations overseen by the EOIR will not.



Because the allegations in this complaint were proffered generally and without specific time and date examples, it is difficult to directly address each allegation and make a determination based on the available evidence. So, rather than attempting to investigate each allegation, a close examination of the attorney visitation areas and processes was conducted to determine if the operation at EPSPC meets the PBNDS 2011 for legal access.

Attorney visitation is conducted from 8:00 am – 9:30 pm, seven days a week. Visits for paralegals is conducted from 8:00 am – 5:00 pm, Monday – Friday, and 8:00 am – 11:00 am on weekends. It is not necessary for attorneys to schedule a meeting time prior to arrival at the facility. Attorneys and paralegals may call ahead to verify that a detainee client is present at the facility before driving to the facility. All visits are logged with the name of the attorney and the time-in and the time-out of the visitation area. Laptops and cell phones are allowed if preapproved by ICE personnel.

Legal visitation is conducted in five contact visitation rooms that have large glass windows which allow the assigned detention personnel to see into the rooms.<sup>26</sup> We observed that a few of these contact visitation rooms had a proper table and chairs for conducting attorney-client meetings. However, some of the rooms were not properly equipped to appropriately and comfortably conduct a meeting.

There are also five non-contact visitation booths that can be utilized if the contact rooms are all occupied, or if the attorney prefers a non-contact visit. These visitation booths have glass between the attorney and the detainee and the conversation is via a telephone line connected to each side of the glass.<sup>27</sup> In observing the legal visitation, we were able to verify that the visits are conducted in a confidential manner, with detention personnel being able to observe, but not hear the consultations.

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<sup>26</sup> While the detainees and attorneys are visible to the officers, it is not possible to hear conversations because of the construction of the rooms.

<sup>27</sup> During our visit all the phone lines were operative. When asked, the staff did confirm that the phone lines do sometimes become inoperative and repair orders are submitted promptly and repaired.

In reviewing the legal visitation logs we noted that most attorney visits were of a short duration, usually less than 30 minutes. When reviewing the time-in and time-out, we noted that most visits provide prompt access. There were exceptions, primarily around count or meal times when it takes longer to locate a detainee or movement is restricted pending clearing count.<sup>28</sup> Wait times did not appear to be excessive.

Attorneys are allowed to possess cell phones and laptop computers both in the courtrooms and in the visitation areas. Approvals are requested and allowed on a case-by-case basis. The policy we reviewed was last updated in 2017.

Attorneys are allowed to park in the visitor parking spaces right in front to the visitation building. There are approximately ten spaces designated for visitors. During our three days on-site, these spaces were never all occupied. However, ICE management indicated that there are times when there is heavy visitation and all the spaces are filled. When this occurs, attorneys, as well as, all other visitors will have to park elsewhere in the large parking areas around the facility. This could entail walking some distance to the visitation building, however, certainly not, “hundreds of meters.”

We queried the ICE management at EPSPC regarding the allegation of female attorneys being sexually harassed. The EPSPC management has no record of attorneys making sexual harassment allegations. In the absence of specific allegations, it is not possible to effectively evaluate this aspect of the complaint.

### **Findings:**

To summarize, we found that currently wait times are not excessive; we observed no unreasonable restrictions to visitation; laptops and cell phones are routinely approved by ICE management;<sup>29</sup> attorneys are reasonably accommodated for parking; and, not all contact visitation rooms are properly equipped with a table and chairs for conducting attorney-client meetings. There was inadequate

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<sup>28</sup> Such delays are not uncommon in detention operations.

<sup>29</sup> This was represented to us by ICE management, however, we have no way of knowing if attorneys have experienced problems with this in the past.



information related to the allegation of female attorneys being sexually harassed to effectively evaluate the allegation.

**Findings:**

- Based on what we observed at EPSPC during the on-site inspection, the general allegations outlined above are “**not substantiated.**”
- The specific allegation that the contact visitation rooms were not all appropriately furnished for conducting legal consultation is “**substantiated.**”

**Recommendations:**

- Private attorney visitation rooms should all be properly furnished with a table and chairs for conducting consultation. (**Priority 1, PBNDS 2011. 5.7 Visitation, V. H., Visiting Room Conditions**)

**Complaint No. 17-06-ICE-0262**

CRCL received this complaint from the DHS OIG on March 24, 2017, regarding Detainee # 1.<sup>30</sup> The OIG had received a phone call from Detainee # 1 alleging that the facility only allows detainees to make one 10-minute legal phone call per week and officers are required to stand next to detainees and listen to the conversations when they make the legal phone calls. Detainee # 1 was at EPSPC during our on-site inspection and was interviewed regarding his allegation. During the interview he made an additional allegation that he is not allowed adequate access to the law library and he is allowed insufficient time to conduct his legal work.

**Analysis:**

In addition to interviewing Detainee # 1, the telephone logs were examined to determine exactly how many free telephone calls he had received during the preceding three months from August 3, 2017 to November 6, 2017.<sup>31</sup> Records

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<sup>30</sup> See Appendix A for the identity of Detainee #1.

<sup>31</sup> Legal telephone calls are provided free of charge to indigent detainees using telephones in the Processing Center. These telephone lines are not monitored.



reflect that during this three-month period, Detainee # 1 received nine free phone calls. He also made many phone calls that were charged to his trust account from the phones that all detainees use in the housing units.<sup>32</sup> On at least one occasion Detainee # 1 had requested and was denied the blocking of specific telephone numbers from monitoring because they were not telephone numbers to attorneys or anyone with whom he had a legal attorney-client relationship.

It is the policy at EPSPC to grant at least one free call per week to indigent detainees. This is primarily to ensure everyone gets access to calls. However, in emergent circumstances, detainees can be granted additional calls on a case-by-case basis. We did not see evidence that Detainee # 1 was inappropriately denied access to free legal telephone calls. On the contrary, it appears that he was granted free calls when he was not on indigent status and should have been required to make the calls from the housing unit as toll calls.

When detainees are taken to the Processing Center to make free phone calls they stand at the counter and use a telephone that is placed upon the counter top.<sup>33</sup> There are staff on the opposite side of the counter moving about and tending to other business while the detainees use the telephone. At a minimum they are separated by several feet, and there are times when the staff are not even in the vicinity of the detainee on the telephone. It is possible that if a staff person wished, he/she could stand right across the counter from the detainee on the telephone and listen to the detainee's side of the conversation, however, this was not observed during our inspection.

During our interview with Detainee # 1, he also alleged that he is denied access to the law library. He claims that he is not provided sufficient time to complete his legal work. Although this allegation was not included in the complaint received

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<sup>32</sup> The phones in the housing units are monitored remotely by staff unless a request to block a specific telephone number from monitoring is approved. Blocking is routinely done for the telephone numbers of detainees' legal representatives.

<sup>33</sup> The countertop spans the length of the building and separates the outer area (detainee processing holding rooms) of the Processing Center from an area behind the counter that is occupied exclusively by staff working the classification, intake and release processing.

by CRCL from the DHS OIG, it was investigated to determine the veracity of the complaint.

Records were requested and reviewed to determine the access provided for Detainee # 1 to the law library. Over a 3-month period, between August and September 2017, Detainee # 1 was in the law library 64 times, for a total of 76.2 hours. Eighteen of the 64 visits to the law library were for a one-hour duration; forty of his visits to the law library were for more than an hour, with 21 of the visits lasting two hours or more.<sup>34</sup> In reviewing the law library logs, it appears that Detainee # 1 is certainly one of the most prolific users of the law library at EPSPC.

### **Findings:**

- The allegation that EPSPC only allows detainees to make one 10-minute legal call per week and that officers are required to stand next to them and listen to the calls is “**not substantiated.**” Our investigation determined that detainees may make as many legal calls as they desire using the detainee phones in the housing units. These calls can be blocked from monitoring by request when appropriate. Indigent detainees may make one free telephone call per week in the processing center, and additional calls may be made in emergent circumstances. Staff do not monitor or record telephone calls made in the Processing Center, nor do they stand next to detainees to listen to the detainee side of the conversations.
- The allegation that Detainee # 1 is not allowed adequate access to the law library is “**unfounded.**” Records reflect that Detainee # 1 has utilized the law library for 76.2 hours over the past three months; and, that his allotted time in the law library is for adequate duration.

### **Recommendations:**

- None related to this complaint

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<sup>34</sup> On several occasions, Detainee # 1 was in the law library for more than a five hour duration.



**Complaint 17-07-ICE-0275**This complaint was received by CRCL on April 20, 2017 by a detainee who alleged a medical condition due to the laundry schedule. This complaint did not involve my expertise; therefore, this complaint was investigated by the medical expert and the environmental health and safety expert.

**Complaint No. 17-10-ICE-0373**

This complaint was received by CRCL after the retention memorandum had been sent to ICE on August 2, 2017, and was, therefore, not included in the retention memorandum as a complaint to be investigated during this site visit. In the complaint Detainee # 2 stated that upon his arrival at EPSPC, in addition to an identification card and wrist identification bracelet, he was given an ankle bracelet to wear.<sup>35</sup> He alleges that the ankle bracelet was put on too tight and shocks him when he showers. He alleges that if he takes the bracelet off, he will be sent to solitary confinement in the SHU. Detainee # 2 was present at EPSPC during our site inspection and was interviewed regarding his allegations.

**Analysis:**

During the interview, Detainee # 2 was asked to display the ankle bracelet that he was complaining about. He stated that he was not wearing the ankle bracelet anymore. He indicated that he had been given permission to carry the bracelet device in his shirt pocket rather than wear it around his ankle. When asked why he alleged that if he removed the bracelet from his ankle, he would be placed in solitary confinement, he indicated that the Assistant Officer in Charge (AOIC) had changed his mind and decided to allow him to just carry the device without repercussion. When questioned about the device “shocking” him when he went in the shower, he indicated it was more like a “tingling sensation,” than a shock.

Detainee # 2 indicated that he has served time in several federal prisons and he has never been made to wear an electronic bracelet. He admitted that the

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<sup>35</sup> See Appendix A for the identity of Detainee # 2.



bracelet is uncomfortable, and he decided that if he didn't need it in federal prison, he didn't need to wear it at EPSPC.

The AOIC was interviewed regarding this allegation. He indicated that the bracelet device is part of a system that tracks and records the location of detainees inside the facility. It is a computerized system that can verify the location of every detainee 24 hours a day, and can be queried to verify a detainee's location within the facility not only in the present, but historically. This system is not used to prevent escape, but it is used to verify detainees were/are in a location at a given time. For example, if a detainee complained he/she was not getting to the medical clinic, the system could be queried to determine how many times the detainee in question was actually in the medical clinic over a specific period of time.

We visited the Processing Center and observed the operation of the computerized system that operates with the electronic bracelets. The officers on site demonstrated how the system works and how detainee locations can be verified in real-time and historically.

The AOIC contacted the manufacturer of the bracelet device to see if it is even possible for the device to "shock" the person wearing it when placed in water. Apparently, the battery in the device is smaller than a watch battery and is not capable of electric shock. The AOIC indicated that Detainee # 2 simply felt the device was uncomfortable, had broken the plastic strap and removed the device and was refusing to wear it. Rather than deal with the constant complaints and struggle over the device with Detainee # 2, it was decided to simply allow him to carry it in his pocket.

#### **Findings:**

- The allegation that Detainee # 2 was shocked when wearing the electronic ankle bracelet in the shower is "**unfounded.**" According to the manufacturer, even if it were possible to permeate the hard-plastic coating on the bracelet, the battery in the device is too small to issue a shock.

- The allegation that Detainee # 2 was threatened with placement in the Special Housing Unit is “**not substantiated.**” Detainee # 2 did not specify who was threatening his placement in the Special Housing Unit, and it was clear that a decision had been made to allow him to not wear the bracelet without repercussion.

### **Recommendations:**

- EPSPC should either modify or follow the policy regarding the wearing of electronic bracelets. We see no problem with the use of the electronic bracelets. The policy currently is that unless an individual detainee has a medical reason the bracelet cannot be worn, he/she will be required to wear the bracelet. Yet in this instance, an exception has been made for Detainee # 2, simply because he does not want to wear the bracelet. The wearing of the bracelets should either be mandatory or voluntary. The inconsistency of allowing a detainee not to wear it outside of policy will only foster feelings of resentment or discrimination. (**Best Practices**)

### **VII. Additional review and Findings:**

In addition to the specific issues we reviewed related to the above complaints, the following general issues and operational areas of the facility were reviewed:

- Use of Force
- Custody Classification
- Special Housing Unit (Segregated Housing)
- Sexual Abuse and Assault Prevention and Intervention
- Detainee Grievance System
- Visitation
- Recreation Program
- Mail Services
- Religious Accommodations
- Telephones Access
- Limited English Proficiency Communication



These areas of EPSPC operations and my observations of each will be discussed below:

### **Use of Force**

There are eight documented incidents involving use of force so far during 2017 at EPSPC involving ICE detainees. The EPSPC Use of Force policy and procedure was reviewed and evaluated to determine if the required elements of the PBNDS 2011 Use of Force and Restraints have been appropriately incorporated.<sup>36</sup>

It is important to note that with the thousands of detainees who reside at EPSPC over a years' period, it is remarkable that staff have only used force eight times.<sup>37</sup> The low number of force incidents and the absence of the use of serious force where injuries occur, is an indicator that staff at EPSPC use intervention and force avoidance techniques to mitigate the need to use force.

### **Analysis:**

During this site visit I thoroughly reviewed five incidents that involved use of force by facility personnel in the past year. My observation is that the facility procedure and training on use of force is completely consistent with the PBNDS 2011 standards. It is apparent that personnel view use of force as a last resort after other attempts have failed to gain compliance. Reports are written timely and after-action reviews are completed on all force incidents per the PBNDS 2011 standards.

The composition and function of the After-Action Review Team as outlined in the PBNDS 2011 is as follows: "The Facility Administrator; the Assistant Facility Administrator; the Field Office Director's designee and the Health Services Administrator (HSA) shall conduct the after-action review...The After-Action Review Team shall gather relevant information, determine whether policy and procedures were followed, make recommendations for improvement, if any, and complete an after action report to record the nature of its review and findings..."

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<sup>36</sup> EPSPC has essentially adopted the PBNDS 2011 Use of Force and Restraints standard as the policy.

<sup>37</sup> Of the eight incidents involving uses of force, none involved calculated force.



As indicated above, at EPSPC after-action reviews are conducted and reports are completed. In reviewing the after-action reports, it appears that at EPSPC the After-Action Committee is comprised of the proper personnel in compliance with the PBNDS 2011. The after-action reviews are thorough and in compliance with policy.

In reviewing force incident reports, it is apparent that each officer observing or using force documents his/her actions and observations in a written report and submits that report to the assigned Captain before leaving shift. However, in reviewing individual officer force reports, it was determined that some training is needed to ensure that catch-phrases like, "using the minimum force necessary," or, "I guided the detainee to the floor," are not included in the reports. The, "minimum force necessary," does not describe the actual force applied and there are many ways that one can be "guided" to the floor. It is more important to describe the actual actions taken and the level of force exerted to overcome resistance, rather than to leave it to the reader to imagine how much force was the "minimum" amount.<sup>38</sup> This was discussed with the AOIC who indicated that he intends to follow-up with training on this issue.

### **Recommendations:**

- EPSPC should conduct training on use of force report writing to eliminate the use of catch-phrases such as, "using the minimum force necessary," from the force reports. It is preferable to thoroughly describe the actions taken to overcome resistance in a manner that leaves no question as to the level and amount of force used. **(Best Practices)**

### **Custody Classification**

PBNDS 2011, V. Expected Practices, G. Housing Detainees with Different Classification Levels, 1 and 2, state, "High custody detainees may not be housed with low custody detainees. Low custody detainees and medium-low custody

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<sup>38</sup> While the reports have enough detail to determine the officers' actions, the use of the catch-phrases detracts from the specificity and professionalism of the reports and opens the door for allegations, criticism and debate over exactly how much force was used.

detainees may be housed together, and medium-high custody detainees and high custody detainees may be housed together.”

### **Analysis:**

During our inspection at EPSPC we observed one female housing unit, Barracks # 6, where low-medium, medium-high and high custody detainees were housed together.<sup>39</sup> We reviewed this with the detainee Classification Lieutenant to determine if this was done intentionally or in error.

What was explained is that during the intake and classification process the day before, there were more high custody classification level female detainees received than there were available beds in the high custody classification level dormitories for female detainees. Before making the housing assignments, the Classification Lieutenant evaluated the high custody classification detainees to choose which ones would be temporarily placed in Barracks #6 with the low-medium detainees. She indicated that the four high custody classification detainees that were chosen presented the least risk to that population.

While the commingling of the low and high custody classification level detainees was done deliberately and with regard for detainee safety in this instance, it is outside of policy per the PBNDS 2011. We recognize that EPSPC is a processing center and has a very high volume of in-coming and out-going traffic which makes managing the custody classification levels challenging. However, every effort should be made, and every measure taken, to avoid housing low and high custody classification level detainees together.

### **Recommendations:**

- EPSPC should ensure that low and high custody classification level detainees are not housed together. (**Priority 1, PBNDS 2011, V. Expected Practices, G. Housing Detainees with Different Classification Levels, 1. and 2.**)

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<sup>39</sup> Barracks #6 was comprised of the following custody classification level detainees: 33 low-medium, 7 medium-high and 4 high.



## Special Housing Unit (SHU)

The PBNDS 2011 states that, “Any detainee who represents an immediate, significant threat to safety, security or good order shall be immediately controlled by staff and, if cause exists and supervisory approval granted, placed in administrative segregation. ICE and the detainee shall be immediately provided a copy of the administrative segregation order describing the reasons for the detainee’s placement in the SMU.”<sup>40</sup> It also requires that, “Prior to a detainee’s actual placement in administrative segregation, the facility administrator or designee shall complete the administrative segregation order (Form I-885 or equivalent), detailing the reasons for placing a detainee in administrative segregation.”<sup>41</sup>

### Analysis:

EPSPC has two housing units that can be utilized for SHU housing. The primary unit has seven cells and the secondary unit has six cells.<sup>42</sup> The secondary or overflow unit is used primarily for medical/mental health isolation when the medical beds in the clinic area are full.

At the time of our inspection, there were eight detainees housed in the SHU.<sup>43</sup> It is commendable that EPSPC clearly utilizes the SHU very sparingly and as a last resort for the safety of detainees and the facility staff. In reviewing the Special Housing policy and procedure, it is noted that EPSPC is in compliance with PBNDS 2011. During our inspection, we were able to tour the SHU and found the unit to be clean and orderly, providing access to recreation, showers, phones and law library for the detainees housed there. In fact, the records show that the detainees housed in the SHU receive the same privileges and services as the detainees housed in the general population. All services and activities are logged.

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<sup>40</sup> PBNDS 2011, 2.12 (Special Management Units), II. (Expected Outcomes), 3.

<sup>41</sup> PBNDS 2011, 2.12 (Special Management Units), V. (Expected Practices), A. (Placement in Administrative Segregation), 2. (Administrative Segregation Order), a.

<sup>42</sup> This is a surprisingly low number of segregation cells for a facility with a population of approximately 800 detainees.

<sup>43</sup> There were 5 males and 1 female detainee housed in the primary SHU housing area and there were two male detainees housed in the secondary SHU housing area. None were there for disciplinary detention.



We reviewed the Segregation Order Forms utilized by supervisors to document the placement of detainees in SHU. The form is the standard form utilized in facilities operated by ICE, is user friendly and has adequate space for documenting the reason for the placement and retention with signature blocks for the supervisors making the decisions. We observed that there is a place on the form for documenting the release of a detainee from the SHU including a date and the signature of the supervisor responsible for the decision with comments.

**Recommendations:**

- None related to this process.

**Sexual Abuse and Assault Prevention and Intervention (SAAPI)**

The PBNDS 2011, "...requires that facilities that house ICE/ERO detainees act affirmatively 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 of sexual abuse and assault."<sup>44</sup> The PBNDS 2011 SAAPI standards contain a multitude of specific requirements that must be implemented to ensure compliance. The SAAPI program and process were thoroughly evaluated while on-site at EPSPC.

**Analysis:**

The SAAPI Coordinator was interviewed regarding the Sexual Abuse and Assault Prevention and Intervention process. From all the documents reviewed and the on-site inspection, it is apparent that the ICE management at EPSPC has posted appropriate notifications throughout the facility and appropriately trained the personnel. The zero tolerance for sexual abuse and assault is clearly communicated and allegations of sexual abuse or assault are appropriately documented, reported, and investigated.<sup>45</sup>

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<sup>44</sup> PBNDS 2011, 2.11, I.

<sup>45</sup> There have been eighteen SAAPI complaints made and investigated at EPSPC in 2017; five were substantiated, eleven were not substantiated and two were unfounded.

The SAAPI pre-screening requirement of the PBNDS 2011 for all detainees during the intake and classification process is functioning well. The standard intake process includes the risk assessment tool necessary to determine vulnerability and is included in every detainee intake file. It appears that the officers managing the intake process are knowledgeable and skilled in administering the prescreening assessment.

When allegations of sexual abuse or assault are made, the involved detainees are separated and medically examined; the crime scene, if identified, is secured and processed; the detainees are interviewed by a mental health clinician and moved to appropriate and safe housing; and, all required notifications are made. All allegations are taken seriously and investigated by the Office of Professional Responsibility (OPR).<sup>46</sup>

In reviewing the tracking system utilized to track and coordinate all the activities related to the SAAPI, it was evident that the system currently in place for tracking and ensuring compliance with all requirements and timelines is very well established. The SAAPI Coordinator had a tracking mechanism for ensuring compliance with all notifications and timelines and for evaluating and assessing the effectiveness of the SAAPI program with data collection and reporting as required by the PBNDS 2011.

While the process used at EPSPC meets the PBNDS 2011 standard, the management team would benefit from revising the tracking process to reflect more information on the master tracking sheet. This will enable the SAAPI Coordinator to determine the status of a case, including all notification dates and times, at a glance, without having to go to the individual case files to determine the status. This was discussed in detail with the SAAPI Coordinator at EPSPC and she has several ideas for improving the SAAPI tracking documentation to make it more user friendly and a better management tool.

### **Recommendations:**

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<sup>46</sup> OPR provided a completed investigation for my review. The investigation reviewed meets the industry standard for SAAPI investigations, was well documented and handled appropriately.



- EPSPC should revise the SAAPI tracking system to reflect more information on the master tracking sheet. This will enable the SAAPI Coordinator to determine the status of a case, including all notification dates and times, at a glance, without having to go to the individual case files to determine the status. Specifics were discussed with the SAAPI Coordinator at EPSPC. **(Best Practices)**

## **Detainee Grievance System**

The PBNDS 2011 standard, Grievance System, 6.2, I, “protects a detainee’s rights and ensures that all detainees are treated fairly by providing a procedure for them to file both informal and formal grievances, which shall receive timely responses relating to any aspect of their detention, including medical care.” The standard includes specific requirements that must be met for compliance, including the requirement that, “all written materials provided to detainees shall generally be translated into Spanish.”

### **Analysis:**

Grievance forms are available to detainees in each housing unit in the English and Spanish languages.<sup>47</sup> There were forty-two grievances filed at EPSPC in the first eight months this year, January through August. In reviewing grievances, it was observed that when grievances are written in a language other than English, responses are written in English. When queried, the Grievance Coordinators<sup>48</sup> indicated that when grievances are written in a language other than English or Spanish, they prepare the response, written in English, then call the detainee into the office and use the language line to have the response translated into the detainees’ native language to ensure understanding. Grievances written in Spanish are also answered in writing in English, the detainee is called into the Grievance Coordinator’s Office, and staff fluent in Spanish translate the response to the detainee to ensure understanding.

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<sup>47</sup> The grievance form is a single form that is written in both Spanish and English.

<sup>48</sup> The Function of Grievance Coordinator is assigned to the Detention Facility Operations Specialists (DFOS), two Lieutenants, at EPSPC.



Grievance/mail receptacle boxes are in the dining room, the medical unit and the SHU for detainees to place their initiated grievance forms. The mailroom staff pick up the grievances from the receptacles and delivers them to the Grievance Coordinators.<sup>49</sup>

The Grievance Coordinator assigns a log number, makes copies, interviews the detainee and the appropriate staff member(s), writes the response and calls the detainee to the Grievance Office to receive the written response, using telephone language-line translation if necessary.<sup>50</sup> The completed grievances are signed as accepted or rejected by the detainee and he/she is given a copy. If the detainee rejects the response, the grievance is referred to the Grievance Appeals Board (GAB) for review. The GAB then interviews the detainee and makes a decision. Following the same process, detainees may reject to GAB grievance decision and appeal to the AOIC. The AOIC grievance decision is final.

In reviewing the tracking system used by the Grievance Coordinators, it is apparent, that while it is proficient for tracking grievances, adding information to the tracking sheet, such as, the general category of the grievance, would be helpful and advantageous for providing the management team more thorough and complete information.<sup>51</sup> This was discussed with the Grievance Coordinators who indicated that they are planning to revise the tracking system to include additional information and data points to provide more complete information for management accountability and oversight.

Our review determined that the grievance process at EPSPC is functioning well, timeframes for processing the grievances are being met and issues are being resolved appropriately. It appears that LEP detainees are being appropriately accommodated in the grievance process.

### **Recommendations:**

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<sup>49</sup> At EPSPC the Recreation Specialists are also responsible to operate the mailroom and pick up and distribute facility mail.

<sup>50</sup> Medical grievances are forwarded to medical management and religious services grievances are assigned to the Chaplin for processing. These two areas follow the same process as described above.

<sup>51</sup> For example, identifying the general category of grievances, i.e., mail, property, food, medical, law library, etc., provides a quick overview of operational areas that may require additional focus from management.

- EPSPC should revise the grievance tracking process to include additional information and data points, such as, grievance general category, to provide more complete information for management accountability and oversight. Recommendations for revisions were discussed with the Grievance Coordinators while on-site at EPSPC. **(Best Practices)**

## Visiting Services

PBND 2011, Visitation, 5.7, I, “ensures that detainees shall be able to maintain morale and ties through visitation with their families, the community, legal representatives and consular officials, within the constraints of the safety, security and good order of the facility.”

### Analysis:

EPSPC has visitation for family and friends scheduled and in operation seven (7) days a week. Each detainee is designated one day a week that he/she can receive regular visits. This schedule is determined by the first letter in the last name.<sup>52</sup> In addition to the one day per week regular visits, detainees may request and receive two “Special Visits” per month. Visits are for a one-hour duration and detainees may have one visit per day with up to four visitors per visit.<sup>53</sup> Legal visitation also operates seven (7) days per week from 8:00 am – 9:30 pm. Legal visits are allowed without time limitations.

Attorneys may call ahead to verify that their client is present at the facility, but no appointment is necessary. Attorneys must have a valid bar card number and picture identification to visit. Attorney visitation is conducted primarily in private contact visiting rooms. Non-contact, behind glass visitation booths are used for

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<sup>52</sup> For example, detainees with names starting with A, B, C, D visit on Mondays; detainees with names starting with E, F, G, H visit on Tuesdays, etc.

<sup>53</sup> Detainees may request and have visits extended beyond the one-hour limit when visitors have traveled for long distances beyond the local area. This is considered on a case-by-case basis.



legal visits only when there are more attorneys visiting at a particular time than there are private rooms, or if requested by an attorney.

We did not hear complaints about the general visitation program from detainees interviewed on-site. However, we did note the lack of appropriate furniture in some of the private visitation rooms used by attorneys.

### **Recommendations:**

- Please refer to the recommendation on page 16, under Complaint No. 17-06-ICE-0213. (**Priority 1, PBNDS 2011. 5.7 Visitation, V. H., Visiting Room Conditions**)

### **Recreation**

PBNDS 2011, Recreation, 5.4, I, “ensures that each detainee has access to recreational and exercise programs and activities, within the constraints of safety, security and good order.”

### **Analysis:**

The leisure-time activities at EPSPC are operated 7 days a week. Detainees in common housing units recreate together according to the unit schedule. The outdoor recreation areas are adjoined to each housing unit.<sup>54</sup> According to the daily schedule, each detainee gets a minimum of two hours of outdoor leisure time activity each day, seven days a week and detainees confirmed this during interviews.

Indoor recreation is available in the housing unit dayroom areas in the form of cards, board games, table tennis and foosball. These activities take place inside the housing units throughout the day and evening.

In addition to the daily recreation time, both inside and outside the housing units, special activities are periodically scheduled for tournaments in basketball and

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<sup>54</sup> Each recreation area is equipped with a seven-station exercise unit and a basketball hoop.



soccer. There are also activities scheduled for special events, such as, popcorn and a movie, which is held in the main recreation office area.

Our observation is that the recreation program at EPSPC is fully compliant with all PBNDS 2011 standards related to recreation.

**Recommendation:**

- None related to this process.

**Mail Services**

PBNDS 2011, Correspondence and Other Mail, 5.1, I, “ensures that detainees shall be able to correspond with their families, the community, legal representatives, government offices and consular officials consistent with the safe and orderly operation of the facility.”

**Analysis:**

At EPSCP all mail is handled and processed by the Recreational Specialists.<sup>55</sup> The incoming mail is sorted to identify the detainee name and housing and is logged. The log includes comments to identify whether mail is “legal mail.” A list is generated with the names of each detainee receiving mail and distributed to the housing units. The listed detainees are sent to the mailroom to receive their mail. All mail is opened in the presence of the detainee and if money is received in the mail, it is noted in the mail log. The detainees then sign for receipt of the mail and, if money was received, it is given to the detainee.<sup>56</sup> Legal mail is handled the same way as general correspondence, logging and opening the legal mail in front of the detainee.

Detainees may send mail by dropping the letters in one of eight mailboxes throughout the facility. The mail is picked up from the mailboxes by the Recreation Specialists and delivered to the administration area where postage is

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<sup>55</sup> This includes, regular U. S. mail, legal correspondence and pre-approved packages.

<sup>56</sup> Detainees at EPSPC are allowed to retain up to \$100 in cash on their person or in their property. Funds in excess of \$100 are sent to the Trust office and retained for the detainee. If a money order is received, the detainee may retain it and can cash it on Tuesdays or Thursdays each week.

placed on the mail and then sent to the U.S. Post Office.<sup>57</sup> All mail is processed into and out of the facility the same day it is received. The mail service provide at EPSPC meets or exceeds the requirements of the PBNDS 2011.

### **Recommendations:**

- None related to this process.

### **Religious Accommodations**

PBNDS 2011, 5.5 Religious Practices I, Purpose and Scope, provides that, “detainees of different religious beliefs are provided reasonable and equitable opportunities to participate in the practices of their respective faiths, constrained only by concerns about safety, security and the orderly operation of the facility.”

### **Analysis:**

We interviewed the EPSPC Chaplin. Protestant and Catholic Christian services are offered on a regular schedule each week. These services are provided in both Spanish and English by volunteers from the local churches who come to the facility on a regular schedule. Additionally, Islamic, Jewish, Sikh, Rastafarian and Buddhist services are scheduled and led by detainees.<sup>58</sup> All detainees are approved and welcome to participate in the weekly services. Additionally, Bible study groups are offered in every housing unit on a weekly basis with the 30 volunteers who come in on a rotational schedule. Detainees also lead regular prayer and worship groups in the housing units.

The Islamic Center in El Paso provides Korans in Arabic, Spanish and English. The Gideons provide Bibles in several languages as well.

All accepted religious activities and observances, services, special diets and headwear are accommodated. The Chaplin receives and approves requests for

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<sup>57</sup> The only postage the detainees are required to pay for themselves is for special service, such as, priority mail or express mail, etc.

<sup>58</sup> The Chaplin has not been successful in finding clergy from these groups in the community who are willing to volunteer ant the facility.



special diets based on religious practices. Kosher diets are provided using prepackaged kosher meals. Ramadan is coordinated with the Food Services Manager and Muslim detainees are escorted to eat meals before sunrise and after sunset. Kufi and Hijab headwear and prayer rugs are provided for Muslim detainees upon request. In our interviews with detainees, we did not hear any complaints related to the religious services and accommodations offered.

**Recommendations:**

- None related to this process.

**Telephone Access**

PBND 2011, 5.6, Telephone Access, I, Purpose and Scope, “ensures that detainees may maintain ties with their families and others in the community, legal representatives, consulates, courts and government agencies by providing them reasonable and equitable access to telephone services.”

**Analysis:**

Telephones are located in the housing units at EPSPC. Detainees have unfettered access to make phone calls between 7:00 am and 10:00 pm. The detainees have a PIN number to use when making calls. The phones are available all day up until bedtime each evening. We observed detainees using the telephones in the housing units throughout our inspection. Indigent Detainees are taken to the Processing Center and provided one ten-minute phone call per week, free of charge. EPSPC telephone services is in compliance with PBND 2011.

**Recommendations:**

- None related to this process.

**Limited Language Proficiency Communications (LEP)**

Almost every PBND standard includes a requirement for effective communication with LEP detainees.

**Analysis:**



While we observed that measures are routinely taken to facilitate effective communication using the language line in the Medical Clinic and the Grievance Coordinators office, we observed instances in the housing units in which effective communication was not facilitated.

There is a need for EPSC to better facilitate communications where language barriers exist among the detainee population. As indicated, we observed instances in the housing units in which the language barrier was an impediment to proper care and treatment. Because so many of the EPSC employees speak Spanish proficiently, there is not a problem with communications with Spanish speaking detainees. However, there are sizeable French, Russian, Chinese and Arabic speaking detainee populations at EPSC. These groups are effectively communicated with while in the medical clinic and when responding to grievances, but not always in the day-to-day living activities in the housing areas. The language line should be employed as often as necessary to ensure communication and understanding with these detainees.<sup>59</sup>

### **Recommendations:**

- ICE and EPSC staff should provide more comprehensive written and verbal access to LEP detainees by:
  1. Expanding the use of the language line throughout the facility, and
  2. Ensuring forms are translated into languages for detainees who do not speak or read Spanish or English. **(Priority 1, ICE Language Access Plan dated June 14, 2015, IV. ICE's Current Language Access Activities, Policies/Procedures, Tracking and Training)**

### **Summary of Recommendations:**

The following is a summary of the recommendations made throughout the body of this report:

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<sup>59</sup> We reviewed the data for use of the language line (Language Link) between March and October 2017. Not including the data for the Medical Clinic or the Religious Services areas, the language line was used on average eight times per month during this seven-month period.

- EPSPC should ensure that low and high custody classification level detainees are not housed together. (**Priority 1, PBNDS 2011, V. Expected Practices, G. Housing Detainees with Different Classification Levels, 1. and 2.**)
- EPSPC should provide appropriate furniture in all the private visitation rooms used by attorneys. These rooms should all be furnished with a table and chairs for conducting consultation. (**Priority 1, PBNDS 2011. 5.7 Visitation, V. H., Visiting Room Conditions**)
- ICE and EPSPC staff should provide more comprehensive written and verbal access to LEP detainees by:
  1. Expanding the use of the language line throughout the facility, and
  2. Ensuring forms are translated into languages for detainees who do not speak or read Spanish or English. (**Priority 1, ICE Language Access Plan dated June 14, 2015, IV. ICE's Current Language Access Activities, Policies/Procedures, Tracking and Training**)
- ICE management should revise the staff-detainee communication policy/procedure to include the positive manner in which staff are expected to interact with detainees. Professional communication is assumed, but should also be delineated in the standard and monitored closely by management personnel to ensure expectations are being met. Staff who are identified as engaging in inappropriate/unprofessional interactions should be mentored to meet the expected standard. (**Best Practices**)
- EPSPC should either modify or follow the policy on the wearing of the electronic bracelets. We see no problem with the use of the electronic bracelets. The policy currently is that unless an individual detainee has a medical reason the bracelet cannot be worn, he/she will be required to wear the bracelet. Yet in this instance, an exception has been made for Detainee # 2, simply because he does not want to wear the bracelet. The wearing of the bracelets should either be mandatory or voluntary. The inconsistency of allowing some not to wear it outside of policy will foster feelings of resentment or discrimination. (**Best Practices**)



- EPSPC should conduct training on use of force report writing to eliminate the use of catch-phrases such as, “using the minimum force necessary,” from the force reports. It is preferable to thoroughly describe the actions taken to overcome resistance in a manner that leaves no question as to the level and amount of force used. **(Best Practices)**
- EPSPC should revise the SAAPI tracking system to reflect more information on the master tracking sheet. This will enable the SAAPI Coordinator to determine the status of a case, including all notification dates and times, at a glance, without having to go to the individual case files to determine the status. Specifics were discussed with the SAAPI Coordinator at EPSPC. **(Best Practices)**
- EPSPC should revise the grievance tracking process to include additional information and data points, such as, grievance general category, to provide more complete information for management accountability and oversight. Recommendations for revisions were discussed with the Grievance Coordinators while on-site at EPSPC. **(Best Practices)**



# Appendix A

**Detainee #1:** (b)(6)

**Detainee #2:**

**REPORT FOR THE  
U.S. DEPARTMENT OF HOMELAND SECURITY  
OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES**

**November 6 – November 8, 2017**

**Investigation regarding El Paso Service Processing Center, El Paso, Texas**

Complaints reviewed in this report included the following:

Complaint No. 16-12-ICE-0672

Complaint No. 17-03-ICE-0337

Complaint No. 17-06-ICE-0213

Complaint No. 17-06-ICE-0262

Complaint No. 17-07-ICE-0275

Complaint No. 17-10-ICE-0373

(b) (6)

M.D

November 19, 2017

## **Introduction**

The U.S. Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL), CRCL requested that I participate in an onsite investigation regarding complaints it received alleging civil rights and civil liberties abuses of individuals in U.S. Immigration and Customs Enforcement (ICE) custody at the El Paso Service Processing Center (EPC) in El Paso, TX. The complaints raised allegations regarding the conditions of detention, including medical and mental health care at EPC. Specifically, two complaints detailed in the retention memo identify concerns about timely access to quality health care (16-12-ICE-0672 and 17-07-ICE-0275). A third complaint (17-03-ICE-0337) documented a report from the Detained Migrant Solidarity Committee (DMSC) which detailed alleged abuses from August through November 2016 including reported punitive and inhumane use of isolation, denial of adequate medical and mental health care, and prolonged detention and family separation among others. One complaint (17-10-ICE-373) related to use of global positioning system bracelets. Two other complaints (17-06-ICE-213 and 17-06-ICE-0262) relayed issues specific to access to legal services.

The DMSC report detailing general concerns about medical care and two individual complaints about access and quality of medical care prompt the need to evaluate EPC's compliance with 2011 Performance Based National Detention Standards (PBNDS 2011) (2016 revision) related to medical care during this onsite investigation. My opinions are based on the review of materials provided and a site visit on November 6-8, 2017. My opinions are expressed to a reasonable degree of medical certainty.

## **Qualifications**

(b) (6)

## **Methods of Review**

In advance of my site visit to the El Paso Processing Center, I reviewed documents provided by CRCL, including medical records, allegations, and complainant grievances regarding medical care; as well as policies and procedures provided by ICE Health Service Corps (IHSC). The medical care at the EPC is provided by IHSC and contractors hired by Ingenesis Company and the correction staff is Global Precision Systems. During my site visit, I toured the facility, reviewed documents and medical records, and interviewed staff and detainees. I did focused reviews of medical records, medication practices, acute care, chronic care and emergency care, with focused random reviews based on facility logs and records. I thank Lieutenant Commander (b) (6), (b) (7) (C) for her assistance during the site visit.

*Protected by the Deliberative Process Privilege*



## Overview

This report represents the result of an off-site review of documents (including medical records) and my focused three-day onsite medical review at the facility in response to a request by CRCL to investigate specific complaints at EPC. I reviewed over 30 medical records, interviewed key medical and correctional staff, and conducted individual interviews with 12 detainees, who had chronic medical conditions.

Overall, I found that there are areas where EPC's medical care did not meet the PBNDS 2011 (2016 revision), as required by contract. The PBNDS 4.3 I. specifically states the NCCHC standards must be met and I have included the NCCHC standard where it is relevant.

This report will focus on deficiencies and areas requiring further attention in order to meet those standards.

## Findings

- **Insufficient and Inappropriate Space for Medical Care:** Even without a full staffing complement, there are an inadequate number of exam rooms and provider offices. This results in additional inefficiencies that impact timeliness of care, specifically delays in the operation of the sick call and chronic care clinics. In addition, the medical housing unit is too small for the large detainee population. **PERFORMANCE does NOT meet the 2011 PBNDS (Revised December 2016)** (4.3, V. F. 1). The National Commission on Correctional Health Care (NCCHC) Standards for Health Services in Prisons 2014 P-A-09 Privacy of Care Standard is not met.
- **Insufficient Medical Professional Staffing:** The facility staff has insufficient licensed staff to service the population of over 700 detainees. This is not just my opinion as a detention medical expert, but it is documented by vacancies in multiple areas per the facility's own staffing plan. For example, while the staffing plan calls for 40 hours per week, the physician's onsite hours vary week to week but they continue to be less than 40 hours per week. Nursing and dental staffing levels are also below the staffing plan numbers. Insufficient staffing impacts access to care by delays in follow-up for non-urgent care (such as chronic disease clinics) and reviews of the medical records documented delays in such follow-up. **PERFORMANCE does NOT meet the 2011 PBNDS (Revised December 2016)** (4.3, V. A. 6). NCCHC Staffing standard P-C-07 is unmet with particularly with respect to the duties of the physician.
- **Incomplete medical records:** EPC's medical records are disorganized and do not conform to the standards on medical records. **PERFORMANCE does NOT meet the 2011 PBNDS (Revised December 2016)** (4.3, BB. 1). NCCHC essential standard P-H-01 is unmet.
- **Untimely follow-up care after abnormal lab results:** The follow up for abnormal labs resulted from sick call visits was not conducted in a timely manner. Abnormal lab results should be noted in the medical record within one to two days of becoming available and a

clinic appointment should be scheduled to inform the patient of the results, as well as a plan of care for these abnormalities. Additionally, during sick call, there was insufficient review of recent medical care and missed opportunities for care. **PERFORMANCE does NOT meet the 2011 PBNDS (Revised December 2016) (4.3, II. 4).**

### *Medical-related Complaints<sup>1</sup>*

**16-12-ICE-0672 and 17-03-ICE-0337** – These two complaints in the retention memo alleged denial or inadequate medical care. After reviewing complaints and the medical record, I could not substantiate these complaints.

**17-07-ICE-0275** - One case (Case #2) mentioned in the retention memo alleged a skin condition due to concerns with the laundry schedule. This complaint also was unsubstantiated.

**Other medical-related complaints** - CRCL received several complaints about medical care that were not referenced in the retention memo. These include complaints received in writing prior to the onsite investigations and complaints raised verbally by detainees during the on-site investigation. For example:

Case #3 alleged that a pregnant detainee did not receive adequate medical attention after she slipped and fell in the shower, causing vaginal bleeding. After a thorough review of the medical record, I do not see the complaint of vaginal bleeding in the medical record. In fact, the patient denied vaginal bleeding on July 22, July 24, and July 25, 2017. In summary the medical record does not reflect the complaint of bleeding or the finding of bleeding on examination. The complaint is unsubstantiated.

However, as a best practice, a pregnant female with abdominal pain must have an ultrasound to rule out an ectopic pregnancy (pregnancy outside of the uterus) as this is a life threatening condition. In this case, this pregnant female with abdominal pain was administered Tylenol without a determination of the location of the pregnancy. It is reasonable to obtain a urinalysis, as was performed in this case, however, it remains the standard of care to confirm the location of the pregnancy with ultrasound. I cannot emphasize enough that although this patient's complaint of vaginal bleeding was not supported by the documentation, the medical care did not meet the standard of care of a pain in pregnancy.

Case #4 alleged inadequate medical care for severe glaucoma. I interviewed the patient and reviewed the medical record. During my interview, the patient told me about his gallbladder disease, in addition to his glaucoma. According to the medical record, he has gallbladder surgery planned on December 1, 2017. Additionally, he was seen by the ophthalmologist on September 26, 2017 for evaluation and treatment of glaucoma. The patient's care is good. In my professional opinion, his care meets the standard of care. The complaint is unsubstantiated.

### **Summary of Recommendations**

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<sup>1</sup>List of complaints with names and A numbers are in Appendix I

**1. There is insufficient space for medical care:** The insufficient space for medical care delays care and hampers the smooth operation of the sick call and chronic care clinics. (4.3, V. F. 1). . Additionally, there is insufficient space for patient privacy in sick call. (4.3, V. F. 1).

*Recommendation:* Remove the condemned trailer adjacent to the medical clinic that was previously space for medical care, and replace it with a trailer that can be used for medical care.

**2. Insufficient medical staffing:** Currently the staffing plan calls for two more mid-level providers (MLP), six more registered nurses, a dental assistant and a dentist. There is a need for a fulltime physician whereas now physician provides less than full time coverage. (4.3, V. A. 6). Additionally, there is no onsite dentist and there is one vacancy for a dental technician. The dental complaints and referrals for dental care are numerous, resulting in many off-site transfers for dental care and dissatisfaction from patients. (Patient 6). NCCHC Staffing standard P-C-07 is unmet with particularly with respect to the duties of the physician.

*Recommendation:* Staffing should be increased according to the staffing plan, including the addition of an onsite dentist.

**3. Medical records are incomplete.** There were examples of patients needing a physician review who had no notes in the medical record by a physician. (Patient 1, Patient 7) I am especially concerned that the physician is denying requests for specialty exams or referrals without charting in the medical record the reasons for doing so. NCCHC standards for Health Services 2014, standard P-H-01, specifically states that any health intervention requires the initiation of a record. The denial of specialty consultation requires an explanatory note in the medical record. PBNDS requires that NCCHC standards be met and any denial needs a note in the medical record.

*Recommendation:* The physician documentation in the medical record should be thorough and complete, particularly in instances where there is a denial of mid-level requests for specialty consultation.

**4. Insufficient review of recent medical care and missed opportunities for care during sick call evaluations (Patient 7, 8, 9).** Delays in informing patients about lab results or other test results were pervasive. It was a common complaint from detainees that they had not heard the results of tests. The follow up for abnormal labs was not timely (Patient 7, 8, 9) Abnormal lab results should be noted within 1-2 days and a clinic appointment automatically made to inform the patient of the results and the care plan for these abnormalities. Additionally, procedures for sick call should be instituted such that the electronic medical record problem list and labs should be reviewed. All abnormal labs should be noted. Patients with abnormal labs should be scheduled with the provider. Patient 7 had abnormal labs needing attention on March 17, 2017, June 22, 2107 and September 22, 2017. However, this was insufficiently addressed and there were no doctor notes by the time of our site visit on November 7, 2017 to indicate the outcome of the lab work. Patient 8 had abnormal labs that were missed, even after four sick call visits (September 1, 25, 2017, October 13 and 18, 2017), due to EPC's practice of not reviewing the labs or problem list of patients in sick call. As a result, the abnormalities were still not addressed



at the time of our site visit. Patient 9 has a cataract and needs surgery. On November 23, 2015, he was told to have his family send him his glasses. The visual acuity was not obtained. On October 12, 2017, he was seen in sick call for the complaint of dry eyes. Although he is a diabetic on metformin, he was given ophthalmic drops twice a day without performing a visual acuity or reviewing the chart to evaluate if the diabetic patient eye care plan was properly followed.

*Recommendation:* Nurses performing sick call duties must address the patient's complaint as well as, the patients' underlying conditions. Additionally, detainees may be educated to use sick call to obtain lab results and to understand care plans. This invites the patient to be proactive, but may not be practical. (PBNDS II.4) NCCHC P-E-12 essential standard is unmet.

Delays in informing patients about lab results or other test results were pervasive in the charts I reviewed. It was a common complaint from detainees that they had not heard the results of tests, and the follow up for abnormal labs was not timely (Patient 7, 8, 9) Abnormal lab results should be noted within 1-2 days and a clinic appointment automatically made to inform the patient of the results and the care plan for these abnormalities. Procedures for sick call should be instituted such that the electronic medical record problem list and labs should be reviewed. All abnormal labs should be noted. Patients with abnormal labs should be scheduled with the provider.

Best Practices:

1. **Complaints of abdominal pain for pregnant detainees:** Every pregnant detainee in their first trimester, who are complaining of abdominal pain should have an ultrasound of the pelvis to assure the patient's pregnancy is in the uterus and not ectopic. Pregnancy is a high-risk condition and each patient presenting should be referred to a midlevel.

Other patient reviews and interviews:

Interview with patient 5: Complained he was supposed to have a MRI of the knee. Has had good care with radiographs and follow up with orthopedics requested on October 17, 2017. No need for orthopedics and no indication for MRI.

Patient 6 interview and chart review: Complained about dental care: There is no dentist so the dental care is limited; therefore his complaint was substantiated.

Patient 10 interview and chart review: Discussed his anemia. Anemia profile and GI consult and work up proceeding, as they should.

Patient 11 interview and chart review: Talked to me about her gall bladder pain and gastritis. Ultrasound on October 10, 2017 showed cholelithiasis, CBD 6.5 mm. The ultrasound was signed off on October 12, 2017 by the nurse practitioner FNP. Was seen by RN in sick call for sore throat on October 17<sup>th</sup>. Has gastritis but prescribed ibuprofen, already on omeprazole. The next scheduled appointments labs on December 12, 2017

## **Appendix 1**

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