

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

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**Bristol County House of Correction and Jail, North Dartmouth, MA**

Complaint Numbers

18-10-ICE-0720, 18-11-ICE-0719, 18-11-ICE-0721, 18-11-ICE-0722,  
18-11-ICE-0723, 18-11-ICE-0724, 18-11-ICE-0725, 18-11-ICE-0726,  
18-11-ICE-0727, 18-11-ICE-0728, 18-11-ICE-0729, 18-11-ICE-0730,  
18-11-ICE-0547, and 18-11-ICE-0674

(b) (6)

Prepared By:  
MCJ, R.D.N., L.D., R.S., CCHP, CLLM  
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**Table of Contents**

**Introduction ..... 2**

**Qualifications ..... 2**

**Methodology ..... 2**

**Facility Overview ..... 3**

**Findings ..... 3**

**Complaint Numbers: 18-11-ICE-0719, 18-10-ICE-0720, 18-11-ICE-0721, 18-11-ICE-0722, 18-11-ICE-0723, 18-11-ICE-0724, 18-11-ICE-0725, 18-11-ICE-0726, 18-11-ICE-0727, 18-11-ICE-0729, 18-11-ICE-0730, 18-11-ICE-0547, and 18-11-ICE-0674 – Food Service ..... 3**

    Nutritional Adequacy ..... 3

    Food Quality and Expiration Dates ..... 4

    Menu Variety and Food Flavor ..... 4

    Drinking Water Quality and Taste ..... 5

    Food Service Sanitation ..... 6

**Water and Ambient Air Temperatures - Complaint Numbers 18-10-ICE-0720 and 18-11-ICE-0728 ..... 9**

    Water Temperatures ..... 10

    Ambient Air Temperatures ..... 10

**Other Findings ..... 11**

    Overcrowding ..... 11

    Bunk Beds in Women’s Housing Unit - EB ..... 12

**Summary of Recommendations ..... 13**

    PBNDS 2008 Recommendations ..... 13

## Introduction

On December 10-12, 2018, I assessed the environmental health and safety conditions at the Bristol County House of Correction (BCHC) in North Dartmouth, Massachusetts. 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 BCHC's medical 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 BCHC. In particular, the allegations contained in Complaint Numbers 18-10-ICE-0720, 18-11-ICE-0719, 18-11-ICE-0721, 18-11-ICE-0722, 18-11-ICE-0723, 18-11-ICE-0724, 18-11-ICE-0725, 18-11-ICE-0726, 18-11-ICE-0727, 18-11-ICE-0728, 18-11-ICE-0729, 18-11-ICE-0730, 18-11-ICE-0547, and 18-11-ICE-0674 were examined. 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.

## 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 2008 Performance Based National Detention Standards (PBNDS 2008) and Performance-Based Standards for Adult Local Detention Facilities, Fourth Edition, published by the American Correctional Association (ACA).

## Facility Overview

The Bristol County Sheriff's Office operates BCHC and houses U.S. Immigration and Customs Enforcement (ICE) detainees through an Intergovernmental Service Agreement (IGSA). The detainee population was 175 on December 10, 2018, and the average detainee population was 189 in FY 2018 with an average length of stay of 79 days. The 2008 Performance Based National Detention Standards (PBNDS 2008) are applicable to this facility.

## Findings

**Complaint Numbers: 18-11-ICE-0719, 18-10-ICE-0720, 18-11-ICE-0721, 18-11-ICE-0722, 18-11-ICE-0723, 18-11-ICE-0724, 18-11-ICE-0725, 18-11-ICE-0726, 18-11-ICE-0727, 18-11-ICE-0729, 18-11-ICE-0730, 18-11-ICE-0547, and 18-11-ICE-0674 – Food Service**

The complaints allege that the food served at the facility is poor quality, comparable to dog food, and nutritionally inadequate. It is also alleged that the food and water make the detainees sick.

Findings: The allegations that the food is poor quality, comparable to dog food, and nutritionally inadequate were unsubstantiated. No evidence was found to substantiate the allegations that the food or water at BCHC is making detainees sick. However, violations of the PBNDS 2008 Food Service standard were found, including an improperly functioning walk-in cooler that posed a significant health hazard.

Applicable Standard: The PBNDS 2008 Food Service and Environmental Health and Safety standards are applicable.

Analysis:

### **Nutritional Adequacy**

Complaint numbers 18-11-ICE-0724 and 18-11-ICE-0719 allege that the food does not meet nutritional requirements. The 2018/2019 BCHC dietitian-certified menu was reviewed. The menu provides 2,713 calories per day, which is adequate to meet the caloric needs of most healthy detainees. Additionally, medically therapeutic and religious diets are offered. The facility complies with the PBNDS 2008 Food Service standard stating, "A registered dietitian shall conduct a complete nutritional analysis that meets U.S. Recommended Daily Allowances (RDA), at least annually, of every master-cycle menu planned by the FSA." Therefore, the allegation that the meals do not meet nutritional requirements is unsubstantiated.

### **Food Quality and Expiration Dates**

Complaint number 18-11-ICE-0719 alleges poor quality food, complaint number 18-10-ICE-0720 alleges that the food is sometimes black because it is expired, and complaint numbers 18-11-ICE-0726, 18-11 ICE-0721, 18-11-ICE-ICE-0729, and 18-11-ICE-0723 allege that the food is comparable to dog food. The kitchen records were reviewed and the food inventory was inspected. The food at BCHC was found to be consistent with the same types and quality of foods served at other county detention facilities across the country. Food preferences are subjective and it is highly unlikely that an institutional menu will satisfy the personal dietary preferences of a large group of people. Therefore, the allegation that the facility serves poor quality food is unsubstantiated. Food packaging dating was inspected and no expired foods were found. However, detainees reported that they had been served expired jelly and pudding cups. Although no detainees reported being served expired foods that were black, they described being served items past the freshness or use-by dating printed on the packaging. The kitchen staff denied knowledge of any such incidents. At this point, it cannot be determined if foods were served past their freshness or use-by dating. However, the specific allegation that BCHC served food that was black because it was expired is unsubstantiated because of a lack of evidence. The complaints do not elaborate as to what was specifically meant by the comparison of the food to dog food. Therefore, due to the lack of information, it is assumed that the comparison to dog food relates to food quality, which is addressed above.

### **Menu Variety and Food Flavor**

Complaint numbers 18-11-ICE-0674, 18-11-ICE-0722, 18-11-ICE-0725, 18-11-ICE-0730 and 18-11-ICE-0574 allege that the same foods are served daily, complaint number 18-10-ICE-0720 specifically alleges that BCHC only serves beans, bread, and potatoes, complaint number 18-11-ICE-0727 alleges that the food is bland, and 18-11-ICE-0725 alleges that the food does not taste good. The topic of food was also a chief complaint during detainee interviews, and the concerns echoed those in the numbered complaints, including “potatoes for all meals”, “too many servings of potatoes and rice”, “the food is the worst part”, and “not a lot of flavor/bland”. Although, one detainee stated that she had been at the facility for three months and had seen a change for the better, and another detainee stated that BCHC had made changes to the menu as a result of the food related grievances, specifically the addition of a fresh apple every Wednesday. A review of the first 30 days of the cycle menu indicates that potatoes (mashed, whipped, sliced, herb, au gratin, or home fries) are listed 30 times and rice (rice, brown rice, or rice and beans) is listed 22 times, supporting the detainee allegations that potatoes and rice are served repeatedly. Although the PBNDS 2008 Food Service standard does not limit the number of times foods can be served, BCHC

should reevaluate the menu to comply with the PBNDS 2008 Food Service standard stating that the food service program shall be under the direct supervision of an experienced food service administrator who is responsible for evaluating the detainee acceptance of menus. BCHC administration reports that menu changes were recently made and that the requests and grievances related to the food were taken into consideration.

In regards to the flavor of the food, CRCL's Environmental Health and Safety Subject Matter Expert (SME) tasted the December 11, 2018 evening meal. Although the flavor and palatability of food is subjective, the meat patty entrée, applesauce, and bread were found to be flavorful whereas the rice and green beans lacked seasoning. Complying with the PBNDS Food Service standard stating, "The Cook Supervisor or equivalent is responsible for ensuring that all items on the master-cycle menu are prepared and presented according to approved recipes" to ensure that foods are seasoned in accordance with the approved recipes. Furthermore, adhering to the PBNDS Food Service standard preparation guideline stating, "A worker shall test-taste" foods will ensure that foods are taste-tested for quality and flavor before they are served to detainees.

#### **Drinking Water Quality and Taste**

Complaint number 18-10-ICE 0720 alleges that the water is too dirty to use for brushing teeth and is making detainees sick, complaint number 18-11-ICE-0726 alleges that the water from the drinking fountains does not taste good, and complaint number 18-11-ICE-0674 alleges that the drinking water is dirty. The PBNDS 2008 Environmental Health and Safety standard requires that a copy of the certification of the facility water be maintained on-site. The BCHC facility water supply is provided by the Town of Dartmouth, Department of Public Works, Water and Sewer Division. BCHC provided a copy of a letter signed by the Water System Inspector, dated January 4, 2018, stating "the facility is required to meet all EPA (Environmental Protection Agency), DEP (Department of Environmental Protection), M.C.L.'s (Maximum Contaminant Levels) and time tables as required of all municipal agencies. If a community were to violate an MCL or time frame for monitoring, they would be required to do a public notification. The majority of iron and manganese levels are below the 0.3 and .05 MG/l limits respectively. These levels are secondary contaminants and are recommended only. They are aesthetic in nature and not a health hazard. We currently are monitoring for lead and copper levels as required by the state. Our source supplies have been tested and are lead free." BCHC also provided a Town of Dartmouth Public Notice (PWS ID# 4072000), dated September 6, 2017, reporting that the drinking water system was in violation of Environmental Protection Agency (EPA) drinking water standard, stating it

was not an emergency, there was not an imminent risk, and there was not a need to use an alternate water supply such as bottled water. No evidence was found to substantiate the allegation that the water at BCHC is making detainees sick. In regards to the taste of the drinking fountain water, the taste of water is subjective and no evidence was found to substantiate this allegation.

### **Food Service Sanitation**

The BCHC kitchen was inspected on December 11, 2018. A thermometer in walk-in cooler #1 displayed a temperature of 38°F; however, the ambient air temperature in the cooler felt warmer than 38°F to CRCL's SME and upon taking additional temperature measurements it was found to be 10 degrees warmer, at a temperature of 48°F and thus did not comply with the PBNDS 2008 Food Service standard stating, "All food storage units must be equipped with accurate easy-to-read thermometers." However, when the situation was brought to the attention of the BCHC escort, he stated that the refrigerator thermometer reading 38°F was accurate and questioned the accuracy of the CRCL SME's thermometer. Upon taking the temperature of pasta salad stored in the cooler, labeled with a preparation date of December 10, 2018, it was found to be at a temperature of 50°F, violating the PBNDS 2008 Food Service standard stating, "Store perishables at 35-40 F degrees to prevent spoilage and other bacterial action." The CRCL SME suggested that the food service supervisor get a thermometer and also take the temperature of the pasta salad to check and verify her finding. Upon doing so, the food service supervisor's temperature reading was inaccurate, which turned out to be the result of an uncalibrated thermometer. The CRCL SME then asked the food service supervisor to gather the items necessary to calibrate his thermometer and after doing so and retaking the temperature, all stated that they agreed that the cooler temperature was 48°F, not 38°F and that the pasta salad was at a temperature of 50°F, 10 degrees warmer than the maximum temperature specified by the PBNDS 2008 Food Service standard. The food service supervisor should ensure that his thermometer is regularly calibrated to comply with the PBNDS 2008 Food Service standard stating, "The Cook Foreman shall use thermometers to ensure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods." Corrective actions were taken, the cooler was emptied of its perishable contents including crates of milk, the pasta salad was discarded, and the maintenance department was notified. The following day, BCHC reported that the problem with cooler #1 was ongoing. Refrigeration systems experience breakdowns; however, BCHC should ensure continuous compliance with the PBNDS 2008 Food Service standard stating, "Refrigeration equipment shall be designed and operated to maintain temperature of 41 F degrees or below." The other coolers and freezers were found to be in compliance with the temperature requirements. Although the

allegations of foodborne illness (18-10-ICE-0720 and 18-11-ICE-0719) were not confirmed, detainees reported symptoms of foodborne illness including diarrhea and stomachaches. **Foods held at temperatures that promote the growth of disease causing microorganisms, such as the pasta salad found at 50°F, can cause foodborne illness, and therefore pose a significant health hazard.**

Additional observations include what appeared to be *Serratia marcescens*, often called “pink slime” growing on the curtains of the dishwashing machine. Although not associated with foodborne illness, the bacteria has been implicated in wound and urinary tract infections. The sanitary condition of the dishwasher curtains did not comply with the PBNDS 2008 Food Service standard stating, “All of the food service department equipment [including dishwashers] require frequent inspection to ensure their sanitary and operable condition.” Additionally, the floor in the cooking kettle area was observed to be excessively worn and pitted. The condition of the floor was also cited in a November 5, 2018, Department of Public Health inspection stating, “Floor not easily cleanable, concrete surface damaged where concrete meets floor tiles and drains.” The condition of the kitchen floor did not comply with the PBNDS 2008 Food Service standard stating, “Food service facilities and equipment will meet established governmental health and safety codes, as documented by an independent, outside source.” Additionally, the heated food carts staged for the lunch meal were found to be dirty on the inside with food debris from a previous meal and liquid food residue running down the front of several of the carts. The condition of the carts did not comply with the PBNDS 2008 Food Service standard stating, “Equipment surfaces not intended for contact with food, but located in places exposed to splatters, spills, etc., require frequent cleaning.”

Conclusion: Meal periods are highly anticipated events in a detention facility . Therefore, the taste, appearance, and presentation of meals can impact the health and general mood of the facility, as specified by the PBNDS 2008 Food Service standard: “The food service program significantly influences morale and attitudes of detainees and staff, and creates a climate for good public relations between the facility and the community.” Based on detainee comments and their reiteration of the initial complaints it is apparent that the food service operation at BCHC is negatively impacting the morale of detainees.

Recommendations:

1. The importance of food and meals is articulated in the PBNDS 2008 Food Service standard stating, “The food service program significantly influences morale and attitudes of detainees and staff.” Therefore, the BCHC food service administrator (FSA)



should regularly reevaluate and modify the menu to comply with the PBNDS 2008 Food Service standard stating that the food service program shall be under the direct supervision of an experienced FSA who is responsible for evaluating the detainee acceptance of menus, also taking into consideration “the ethnic diversity of the facility’s detainee population when developing menu cycles.” (Applicable standard: PBNDS 2008, Food Service, Level 1)

2. The PBNDS 2008 Food Service standard states that one of the goals of a quality food service program is to provide appetizing meals. BCHC should ensure compliance with the PBNDS 2008 Food Service standard stating, “The CS or equivalent is responsible for ensuring that all items on the master-cycle menu are prepared and presented according to approved recipes.” Furthermore, adhering to the PBNDS Food Service standard preparation guideline stating, “A worker shall test-taste” foods will ensure that foods are taste tested for flavor and quality before they are served to detainees. (Applicable standard: PBNDS 2008, Food Service, Level 1)

3. Specific cooking, hot holding, cold holding, and refrigeration temperatures are critically important to ensure safe foods as recognized by the PBNDS 2008 Food Service standard stating, “The Cook Foreman shall use thermometers to ensure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods.” Therefore, BCHC should ensure that properly calibrated thermometers are always used to measure food temperatures. (Applicable standard: PBNDS 2008, Food Service, Level 1)

4. The PBNDS 2008 Food Service standard states that detainees, staff, and others will be protected from injury and illness by the application of sound safety and sanitation practices in all aspects of food service. Therefore, BCHC should ensure continuous compliance with the PBNDS 2008 Food Service standard stating, “Refrigeration equipment shall be designed and operated to maintain temperature of 41 F degrees or below” and take malfunctioning refrigeration equipment out of service until it is repaired and verified that it is maintaining the required temperature. (Applicable standard: PBNDS 2008, Food Service, Level 1)

5. Reliance on a single refrigerator thermometer, especially one that was found to be erroneous by 10 degrees, is not a sound food safety practice and poses a health hazard. BCHC should ensure that all refrigerator/cooler thermometers are accurate to ensure compliance with the PBNDS 2008 Food Service standard stating, “All food storage units must be equipped with accurate easy-to-read thermometers.” Doing so will also facilitate compliance with the PBNDS 2008 Food Service standard stating, “Store

perishables at 35-40 F degrees to prevent spoilage and other bacterial action.”  
(Applicable standard: PBNDS 2008, Food Service, Level 1)

6. The purpose and scope of the PBNDS 2008 Food Service standard is to ensure “that detainees are provided a nutritionally balanced diet that is prepared and presented in a sanitary and hygienic food service operation.” The dishwasher curtains should be cleaned and maintained in a sanitary manner, including the removal of *Serratia marcescens*, often called “pink slime” to ensure compliance with the PBNDS 2008 Food Service standard stating, “All of the food service department equipment [including dishwashers] require frequent inspection to ensure their sanitary and operable condition.” (Applicable standard: PBNDS 2008, Food Service, Level 1)

7. Clean kitchens are necessary to produce safe food and the PBNDS 2008 Food Service standard specifically states that floors must be routinely cleaned. In order to comply with the standard, BCHC should repair the kitchen’s worn and pitted floor in the cooking kettle area which was also cited in a November 5, 2018, Department of Public Health inspection stating, “Floor not easily cleanable, concrete surface damaged where concrete meets floor tiles and drains.” (Applicable standard: PBNDS 2008, Food Service, Level 1)

8. Sanitary equipment is essential for serving safe food and the PBNDS 2008 Food Service standard states, “An effective food sanitation program prevents health problems.” Therefore, BCHC should ensure that the food carts are maintained in a clean and sanitary manner to ensure compliance with the PBNDS 2008 Food Service standard stating, “Equipment surfaces not intended for contact with food, but located in places exposed to splatters, spills, etc., require frequent cleaning.” (Applicable standard: PBNDS 2008, Food Service, Level 1)

### **Water and Ambient Air Temperatures - Complaint Numbers 18-10-ICE-0720 and 18-11-ICE-0728**

Complaint number 18-10-ICE-0720 alleges that the shower water is too hot and 18-11-ICE-0728 alleges that the air temperature is too cold to sleep comfortably.

Finding: The allegation that the water temperature exceeded the maximum standard temperature is unsubstantiated. Although personal thermal comfort varies greatly from person to person, the ambient air temperatures in the detainee housing units were found to comply with generally accepted industry standards.

Applicable Standards: The PBNDS 2008 Environmental Health and Safety standard is applicable.

Analysis:

### **Water Temperatures**

The PBNDS 2008 Environmental Health and Safety standard stating, “Environmental health conditions will be maintained at a level that meets recognized standards of hygiene” and specifies, “The standards include those from the American Correctional Association” applies and therefore, ACA Plumbing Fixtures standard 4-ALDF-4B-09, stating “Inmates have access to operable showers with temperature controlled hot and cold running water...Water for showers is thermostatically controlled to temperatures ranging from 100 degrees to 120 degrees Fahrenheit to ensure the safety of inmates and to promote hygienic practices” is applicable. Water temperatures were randomly measured in the housing units and ranged from 103 to 120 degrees Fahrenheit. During one of the group detainee interviews, it was also reported that the shower water temperature was too hot; however, none of the measured temperatures exceeded the upper limit of the ACA standard.

### **Ambient Air Temperatures**

The PBNDS 2008 Environmental Health and Safety standard stating, “Environmental health conditions will be maintained at a level that meets recognized standards of hygiene” and specifying, “The standards include those from the American Correctional Association” applies. Therefore, ACA Standard 4-ALDF-1A-20 stating, “Temperature and humidity are mechanically raised or lowered to acceptable comfort levels” is applicable. Ambient air temperatures were randomly measured in the housing units and ranged from 70 to 74 degrees Fahrenheit. Although neither the PBNDS 2008 nor the ACA recommend specific indoor air temperatures, the measured range falls within generally accepted industry standards. When asked about indoor air temperature comfort, most detainees indicated that it was satisfactory and one detainee stated that sometimes the air conditioning felt cold but also stated that the officer would turn on the heat if asked.

Conclusion: The factors that constitute comfortable and preferable living conditions are subjective. Some individuals, especially those in a sedentary environment may feel cold at the common set point temperatures utilized in institutional environments. However, the water and ambient air temperatures complied with the environmental health standards and generally accepted practices applicable to detention facilities.

## **Other Findings**

### **Overcrowding**

Applicable Standard: The PBNDS 2008 Environmental Health and Safety standard is applicable.

#### Analysis:

During inspections of the BCHC ICE building dormitories, the facility appeared overcrowded. The November 5, 2018, Department of Public Health (DPH) inspection report for the Dartmouth ICE facility cites the following health and safety violation, "Sleeping Area, Cell Size: Inadequate floor space in dorm room" for housing units A and B. The report also indicates that the finding was documented on previous inspection reports. BCHC advised that they had submitted a waiver for DPH approval and that it was granted. However, the December 4, 2018 letter from the Department of Public Health, Environmental Health Inspector states, "The Massachusetts Department of Public Health (Department) has received your Plan of Correction in response to my inspection on October 24, 2018. After review, the Department finds the plan appropriately addresses all of the violations noted in the report with the following exception: In regards to the issue of overcrowding, the Department appreciates the limitations of correctional facilities and the need to accommodate the ever-increasing population; however we remain concerned with the overcrowded conditions."

There were enough dining tables and chairs to accommodate all detainees; however, not all of the tables were set up. While some detainees sat at the dining tables to consume their meal, the majority sat on the beds, even though there were empty seats at some of the dining tables. It is unsanitary to eat on a bed, and consuming meals in the sleeping area of a housing unit versus the dayroom is unhygienic because dropped food crumbs and spills create dirty conditions that attract pests, and sleeping areas are not cleaned on the same schedule as the dayroom.

Respiratory disease is a problem in crowded living conditions, and the overcrowded conditions at BCHC place detainees at increased risk of illness and disease.

#### Recommendation:

9. The number of detainees housed in BCHC ICE Building housing units should be immediately assessed and evaluated based on accepted industry standards for square feet per occupant. (Applicable standard: PBNDS 2008, Environmental Health and Safety, Level 1)

## **Bunk Beds in Women's Housing Unit - EB**

Applicable Standard: The PBNDS 2008 Environmental Health and Safety standard is applicable.

### Analysis:

The PBNDS 2008 Environmental Health and Safety standard states, "In locations where ladders are not available, accommodations for detainees, such as the use of bottom bunks or the addition of a ladder or step, will be made on a case by case basis."

Women's housing unit EB consists of double occupancy cells with double bunkbeds. The bunkbeds do not have ladders and only several of the bunkbeds had a support bar between the top and bottom bunk that could act as a step and assist in climbing to the top bunk. Several detainees reported that the only way that they could access the top bunk was to step up on the stationary stool in the cell and then step the 24" across to the bunk bed, and then climb up to the top bunk which is 38" from the bottom bunk. The detainees also stated that stepping on the lower bunk can lead to conflict between individuals especially if they wake someone or damage their property. The lack of ladders for detainees to access the top bunks makes it difficult to access their bed without scraping and bruising injuries to their knees and stomachs. Moreover, the lack of ladders to the top bunks increases the risk of falling, especially since the distance from the floor to the upper bunk is 58".

### Recommendation:

10. Bunkbed units should either be retrofitted with ladders or replaced with bunkbed units that have ladders, or other accommodations such as lower bunk assignments should be granted to comply with the PBNDS 2008 Environmental Health and Safety standard stating, "In locations where ladders are not available, accommodations for detainees, such as the use of bottom bunks or the addition of a ladder or step, will be made on a case by case basis." (Applicable standard: PBNDS 2008 Environmental Health and Safety, Level 1)

## Summary of Recommendations

### PBND 2008 Recommendations

1. The importance of food and meals is articulated in the PBND 2008 Food Service standard stating, "The food service program significantly influences morale and attitudes of detainees and staff." Therefore, the BCHC food service administrator (FSA) should regularly reevaluate and modify the menu to comply with the PBND 2008 Food Service standard stating that the food service program shall be under the direct supervision of an experienced FSA who is responsible for evaluating the detainee acceptance of menus, also taking into consideration "the ethnic diversity of the facility's detainee population when developing menu cycles." (Applicable standard: PBND 2008, Food Service, Level 1)
2. The PBND 2008 Food Service standard states that one of the goals of a quality food service program is to provide appetizing meals. BCHC should ensure compliance with the PBND 2008 Food Service standard stating, "The CS or equivalent is responsible for ensuring that all items on the master-cycle menu are prepared and presented according to approved recipes." Furthermore, adhering to the PBND Food Service standard preparation guideline stating, "A worker shall test-taste" foods will ensure that foods are taste tested for flavor and quality before they are served to detainees. (Applicable standard: PBND 2008, Food Service, Level 1)
3. Specific cooking, hot holding, cold holding, and refrigeration temperatures are critically important to ensure safe foods as recognized by the PBND 2008 Food Service standard stating, "The Cook Foreman shall use thermometers to ensure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods." Therefore, BCHC should ensure that properly calibrated thermometers are always used to measure food temperatures. (Applicable standard: PBND 2008, Food Service, Level 1)
4. The PBND 2008 Food Service standard states that detainees, staff, and others will be protected from injury and illness by the application of sound safety and sanitation practices in all aspects of food service. Therefore, BCHC should ensure continuous compliance with the PBND 2008 Food Service standard stating, "Refrigeration equipment shall be designed and operated to maintain temperature of 41 F degrees or below" and take malfunctioning refrigeration equipment out of service until it is repaired and verified that it is maintaining the required temperature. (Applicable standard: PBND 2008, Food Service, Level 1)

5. Reliance on a single refrigerator thermometer, especially one that was found to be erroneous by 10 degrees, is not a sound food safety practice and poses a health hazard. BCHC should ensure that all refrigerator/cooler thermometers are accurate to ensure compliance with the PBNDS 2008 Food Service standard stating, "All food storage units must be equipped with accurate easy-to-read thermometers." Doing so will also facilitate compliance with the PBNDS 2008 Food Service standard stating, "Store perishables at 35-40 F degrees to prevent spoilage and other bacterial action." (Applicable standard: PBNDS 2008, Food Service, Level 1)

6. The purpose and scope of the PBNDS 2008 Food Service standard is to ensure "that detainees are provided a nutritionally balanced diet that is prepared and presented in a sanitary and hygienic food service operation." The dishwasher curtains should be cleaned and maintained in a sanitary manner, including the removal of *Serratia marcescens*, often called "pink slime," to ensure compliance with the PBNDS 2008 Food Service standard stating, "All of the food service department equipment [including dishwashers] require frequent inspection to ensure their sanitary and operable condition." (Applicable standard: PBNDS 2008, Food Service, Level 1)

7. Clean kitchens are required to produce safe food and the PBNDS 2008 Food Service standard specifically states that floors must be routinely cleaned. In order to comply with the standard, BCHC should repair the kitchen's worn and pitted floor in the cooking kettle area, which was also cited in a November 5, 2018, Department of Public Health inspection stating, "Floor not easily cleanable, concrete surface damaged where concrete meets floor tiles and drains." (Applicable standard: PBNDS 2008, Food Service, Level 1)

8. Sanitary equipment is essential for serving safe food and the PBNDS 2008 Food Service standard states, "An effective food sanitation program prevents health problems." Therefore, BCHC should ensure that the food carts are maintained in a clean and sanitary manner to ensure compliance with the PBNDS 2008 Food Service standard stating, "Equipment surfaces not intended for contact with food, but located in places exposed to splatters, spills, etc., require frequent cleaning." (Applicable standard: PBNDS 2008, Food Service, Level 1)

9. The number of detainees housed in BCHC ICE Building housing units should be immediately assessed and evaluated based on accepted industry standards for square feet per occupant. (Applicable standard: PBNDS 2008, Environmental Health and Safety, Level 1)

10. Bunkbed units should either be retrofitted with ladders or replaced with bunkbed units that have ladders, or other accommodations such as lower bunk assignments should be granted to comply with the PBNDS 2008 Environmental Health and Safety standard stating, "In locations where ladders are not available, accommodations for detainees, such as the use of bottom bunks or the addition of a ladder or step, will be made on a case by case basis." (Applicable standard: PBNDS 2008 Environmental Health and Safety, Level 1)



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

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## **Investigation regarding Bristol County House of Correction**

**North Dartmouth, Massachusetts**

**Onsite December 10-12, 2018**

Prepared By:

(b) (6)

MD, MBA, CHCQM

Dallas, Texas

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**Table of Contents:**

1. Executive Summary
2. Methods of review
3. My Credentials
4. CRCL Allegations
5. Findings of Deficiencies
6. Summary of Recommendations
7. Appendix 1
8. Appendix 2

## **1. Executive Summary:**

During the three day period of December 10-12, 2018, I visited the Bristol County House of Corrections (BCHC) as a member of a U.S. Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties (CRCL) team to assess the degree of compliance of the medical unit with the standards of care for detainees in U.S. Immigration and Customs Enforcement (ICE) custody housed in that facility. Additionally, I was asked to investigate several specific allegations regarding the medical care at BCHC.

I extend my thanks to all BCHC health care, custody leadership, and the front line staff for their hospitality and generosity with their time and resources. I appreciate their openness to my suggestions and critical appraisal of this facility's processes and activities. BCHC personnel were cooperative and helpful in this visit. I was allowed full and unhindered access to all areas and staff. This report represents the results of a review of documents and my focused three-day investigation onsite. Consideration was given to community standards, including the 2008 Performance Based National Detention Standards (PBNDS). This 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. There are some areas of medical care provided at BCHC that meet standards but there are some parts of the program that did not meet PBNDS 2008, and need to be addressed.

BCHC is operated by the Bristol County Sheriff's Office. There were approximately 175 detainees on December 10, 2018. The Medical and Mental Health Programs are delivered by Correctional Psychiatric Services (CPS), which is a private company.

The facility has one full-time Health Services Administrator and one full-time Medical Director onsite who is also the full-time medical physician. The current health care personnel appeared to be highly engaged and committed to the care of the detainees. The facility also has one full-time and one part-time advanced practice provider, as well as support staff to provide adequate care for the detainees. I reviewed the credentialing process for the providers, and found that the facility has a robust program to keep track of their staff.

There is a low turnover of medical staff at BCHC. Based on my interview of the physician and the advanced practice provider, both seem to be adequately supported. Their main concern was the delay in detainees being brought to the clinic by custody staff. There was also a dentist vacancy that resulted in dental care being delayed for several months; however, the recent hiring of a dentist is expected to alleviate the issue. The newly hired dentist was onsite for his orientation during our visit.

All detainees undergo a medical and mental health screening by a health personnel within few hours of arrival to the facility. The screening questions are extensive in order to identify any acute or chronic medical condition. The interviews are conducted in a private area. The detainees are referred to the medical and/or the mental health program for continuity of care.

The intake process takes approximately two hours. Detainees who have severe medical conditions are housed on the medical housing unit (MHU) or Health Service Unit for close observation. The MHU has A and B wards with 11 beds in each. They also have four cells with two negative pressure rooms. The unit is staffed by nurses with adequate coverage. The negative pressure rooms were monitored by correctional officers who maintain a log of routine checks. Medical staff utilize the telephonic language line for interpretation if the staff is not fluent in the detainee's language or if the detainee requested language assistance. The use of the language line was documented in the medical records.

The facility referred detainees to the nearby St. Luke's Hospital in Bedford, Massachusetts for emergency room and inpatient service. The BCHC medical team has a positive working relationship with the hospital and did not identify any challenges with the coordination of care. During our visit, we noticed that one detainee was quickly assessed by the onsite physician, identified as a high risk based during their evaluation, and was sent to the emergency room for further evaluation.

The detainees with chronic medical conditions were identified in a timely manner upon arrival to the facility and sent to the medical provider for evaluation and plan of care. The facility does not have its own clinical practice guidelines and stated that they follow community standards. The facility medical staff were not able to clearly define the frequency of follow-up visits for each of the disease conditions; however, my review of the charts indicated that the detainees were being seen routinely and receiving adequate care for their chronic condition(s) including complete examination, medications, labs, and follow-up plans. The providers do not use a standard chronic care visit template. Using a standard template would make it easier for the provider to document a complete care plan and ensure that nothing gets missed by error. It is not required, but it is a best practice.

The medical and mental health teams meet every other Thursday to discuss patients and coordinate care for patients who have dual diagnoses. This ensures that the team stays in alignment and allows them time to conduct focused discussions on detainees with challenging conditions.

The exam rooms were standard size and well-equipped. The biomedical equipment was working and had maintenance stickers that were current. The AED equipment and the emergency bags were inspected. They were functioning and had an acceptable compliance log. The EKG machine was checked routinely. The logs for the sharps count appeared appropriate, and the numbers matched the sharps in the storage bins.

The medications were supplied by an outside pharmacy. Medication orders are sent to the pharmacy via facsimile. If the order was faxed before 2 PM, medications were delivered to the facility the next day; if it was faxed after 2 PM, they were delivered the following day. Medications are delivered in 30 day packs. The medical unit has a satisfactory refill request process. The medications were matched by the pharmacy technician before being sent to the

nurses for administration. This additional check has prevented several medication errors from occurring. The pharmacy technician completes a medication error reporting form and sends it to the offsite pharmacy as a feedback loop.

## **2. Method of Review**

My report is based on a review of the materials provided in advance and the onsite investigation at the facility. Prior to the onsite visit, I reviewed the applicable standards and documents sent to CRCL by ICE, which included BCHC policies and procedures, staffing plan, detainee handbook, and quality and performance improvement documents.

The onsite portion of my review included the following:

- A. Tour of the facility including intake screening area, medical and mental Health housing areas, negative pressure rooms, and housing areas;
- B. Inspection of the exam rooms, medications rooms, dental office, medical supplies, sharps storage, phlebotomy, pill lines, and health information management (HIM);
- C. Review of the log books for hand-off, sharps count log, medication administration records, and airborne infection isolation room certification;
- D. Medical records review of detainees with chronic medical conditions such as diabetes, hypertension, asthma, and seizures;
- E. Interviews with the clinical staff including physician, dentist, nurses, dental assistant, nurse practitioner, and administrator; and
- F. Interviews with detainees randomly selected from various locations within the facility, including those with medical complaints or chronic health conditions.

In addition to my review of the specific medical allegations and complaints, I will provide an overall assessment of the performance of healthcare services at the BCHC based on Part 4 – Care, 22 Medical Care, Section II (Expected Outcomes) and Section V (Expected Practices) of the 2008 PBNDS, in addition to the 2018 National Commission on Correctional Health Care (NCCHC) Standards for Health Services in Jails. I will support my overall assessment of the performance of health care services at BCHC by providing a summary of several chart reviews that stemmed from my personal interviews, interviews performed by other members of the CRCL team with detainees at BCHC, as well as a random chart audits based on various criteria including chronic disease, non-emergent health care requests (sick call), ER referrals, specialty care services, etc.

## **3. My Credentials:**

**4. CRCL Allegations:**

Below is my review and assessment of the medical program based on several complaints that CRCL received regarding poor access to medical care (18-10-ICE-0720; 18-11-ICE-0719; 18-11-ICE-0727; 18-11-ICE-0547). The below cases were identified during detainee interviews and chart audits.

**Detainee #1 alleged during interview that he was not provided with his blood pressure medications.** Detainee #1 was seen in a timely manner by medical staff upon arrival at BCHC. His blood pressure was very high. BCHC medical staff called the local pharmacy to get the detainee's medication names and the medication was ordered for him to continue. The medication order was documented as a verbal order. The medical records program does not allow the provider to acknowledge or deny the order.

Conclusion: This complaint is unsubstantiated. However, the ordering provider did not review their verbal order and sign off on it in a timely manner. Not following this standard practice presents a huge patient safety issue since medication errors are common with verbal orders. Someone may mishear or forget the order. Providers reviewing and signing the order within a reasonable timeframe, as identified by the facility, acts as a safety net.

**Detainee #2 alleged during the interview that he had not been evaluated by an eye doctor in four months for eyeglasses.**

Detainee #2 made a request for eyeglasses on July 18, 2018. The detainee was placed on the eye doctor appointment queue. The detainee was seen by the eye doctor on November 7, 2018 and received a prescription for eyeglasses. The detainee received the eyeglasses on November 27, 2018.

Conclusion: This complaint is substantiated. There was a delay in the detainee being evaluated by the eye doctor and receiving corrective glasses.

**Detainee #3 alleged during the interview that there was a delay in getting his medications for seizures and a toothache.**

Detainee #3 reported a history of seizures upon intake. The detainee had brought their seizure medications to BCHC. The medications were continued upon arrival. The detainee requested refill once he ran out of his medications. There was a delay in getting the medications refilled.

Detainee #3 also complained of a toothache on October 4, 2018. He was seen by a nurse, given pain medications, and was placed on the dentist appointment waitlist. The detainee continued to complain of pain and his medication was refilled on October 12, 2018. The detainee was seen by the dentist on October 16, 2018, was started on antibiotics, and was recommended a root canal treatment.

Conclusion: This complaint is substantiated. There was a delay in both refilling the seizure medication and getting evaluated by a dentist for possible tooth infection.

**Detainee #4 alleged during the interview that he had submitted a sick call request asking for mental health help.**

Detainee #4 was still not seen by the clinical team until two weeks after he made his request.

Conclusion: This complaint is substantiated. There was a delay in addressing the sick call request.

**Detainee #5 alleged during the interview that there was a delay in dental care.**

Detainee #5 requested to see the dentist on August 30, 2018. The detainee was seen on September 1, 2018 and was placed on the dentist waitlist. The dentist saw the detainee on November 2, 2018.

Conclusion: This complaint is substantiated. There was a delay in being evaluated by the dentist.

**Various detainees' alleged delays in access to care during detainee interviews**

The below findings are based on a BCHC report reviewed on pending sick call requests.

Sick Call – One detainee placed a sick call request on October 16, 2018 and was placed on the MH waitlist. The detainee was seen by the mental health team on November 26, 2018.

Eye Clinic Waitlist - As of December 12, 2018, there were two detainees still waiting since August 2018, two detainees waiting since October 2018, and one detainee waiting since November 2018.

Dental Waitlist – As of December 12, 2018, there was one detainee waiting since August 2018, two detainees waiting since September 2018, eight detainees waiting since October 2018, and 20 detainees waiting since November 2018.

Medical Clinic – As of December 12, 2018, there was one detainee waiting since October 2018, four detainees waiting since November 2018 and two detainees waiting since December 2<sup>nd</sup> who were marked as urgent and still waiting to be seen.

Impression: The complaints regarding access to care are substantiated. The nurses doing sick call do not have clear guidance on level of priority for sick call requests that are non-life threatening. The non-life threatening sick call requests still need to have levels of prioritization based on level of patient discomfort and risk of worsening condition or complications.

## **5. Findings of Deficiencies**

### **A. Sick Call**

(Standard: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.N.)

#### **Findings:**

The sick call requests are collected and triaged in a timely manner. The nurses conduct a face to face assessment of the detainees in a private setting usually the same day or the next day. However, the documentation of the nursing assessments do not demonstrate adequate history, examination, and assessment. The best practice is to assess and document pertinent positive and negative findings which were not present in the nursing assessments I reviewed. Further, the detainees were not referred to the providers in a timely manner. Detainees were encouraged to report back if their symptoms worsened, but when they did have repeated complaints, they were encouraged to buy medications from the commissary rather than their complaints being escalated to the providers for evaluation of their unresolved conditions. Even in cases where they were referred to the providers, there was a delay to be seen by the provider since higher priority is given to initial health appraisals and annual health exams. Similar to the dental program, the



facility is focusing on meeting the time requirements for the initial provider visit at the expense of delaying care for other detainees requesting care. Some correctional health programs have found success in using dedicated nurses or advanced practice providers to complete the initial screening and physical exam because it doesn't affect timeliness of care with regard to sick call and chronic care of detainees.

Performance does not meet the 2008 PBNDS.

## **B. Dental Care**

(Standards: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.M)

### **Findings:**

Detainees with dental issues were assessed by the nurses in a timely manner following a sick call request; however, nurses were not referring detainees to the dentist when clinically indicated, which led to repeat sick call requests from the detainees and delays in care.

When detainees did get referred to the dentist, there was a delay to see the dentist for up to two months. Detainees needing initial dental screening exam are given higher priority than the detainees referred by the nurses from sick call. This is pushing the symptomatic detainees to the back of the line. The facility is focusing on meeting the timeline requirements for their initial screening at the expense of delay in care for the detainees requesting care. The interview with the staff revealed that there are challenges with bringing detainees to the clinic for various reasons, including availability of escorts. Also, referrals may not be occurring as the nurses know that there is a long waitlist for the dental team. The nurses are also not receiving adequate training to triage and address sick call requests related to dental complaints. They also do not have clear guidance on what issues need to be referred to the dentist.

Performance does not meet the 2008 PBNDS.

## **C. Communicable Disease and Infection Control:**

(Standards: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.C4)

### **Findings**

HIV testing was done by a contacted service provider. There was a long delay in getting the results of the HIV tests. The facility tracks the results of HIV tests done in the last

year. According to the log, the number of tests that were not received yet as of the day of our visit in Dec 2018 were as follows: February 2018 (test date) – 1 (results pending); June 2018 - 4; July 2018 - 6; August 2018 - 4; September 2018 - 5; October 2018 - 5; November 2018 - 10. This report did not have a list of patient identifiers, so it was not possible to check the patients' charts. The community standard is that test results arrive within a few days of the blood draw.

Performance does not meet the 2008 PBDNS.

#### **D. Pharmaceutical Management**

(Standards: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.F)

##### **Findings:**

The medication dispensation process is satisfactory. The nurses are using two patient identifiers to reduce medication errors and ensure patient safety. Opened medication bottles and vials were not labeled with the date it was opened, which is necessary so that it can be disposed within the required time frame. I also observed expired medications in the medical and dental clinics.

Performance does not meet the 2008 PBDNS.

#### **E. Quality Assurance**

(Standards: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ X1, 2)

##### **Findings:**

The quality meetings were being conducted on a regular basis. The appropriate members were participating in these meetings. The agenda for the quality meetings appeared comprehensive, but there was no documentation indicating that participants prepare action plans for identified concerns. For example, I discovered meeting minutes that captured an issue that was be unresolved for several quarters, yet there was no action plan to indicate how it was going to be addressed. In order to maintain an effective quality improvement program, BCHC should have a process to identify issues in real-time, prioritize them by risk and volume, and develop action plans to address them in a timely manner.

Performance does not meet the 2008 PBNDS.

## 6. Summary of Recommendations:

1. BCHC sick call assessments do not demonstrate adequate history and physical examination documentation in the medical records. Pertinent positive and negative findings are necessary to make a clear assessment and provide timely care. The nurses should perform a complete assessment that includes a full history and physical exam pertinent to the detainee's complaint, then document this information in the medical records to demonstrate the plan of care. *(Standard: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.N.)*
2. BCHC's sick call process is not consistent in triage, assessment, management, and referral processes. There is variability in how the sick call is processed and addressed by the nurses. This creates a risk to the patients receiving care through this process. The sick call nurses should be provided additional training related to triage, assessment, and management of common medical complaints. *(Standard: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.N.)*
3. BCHC's sick call process does not refer patients to the medical providers by the nurses for further assessment and management when it is indicated. The nurses should be trained to refer detainees to the medical provider when the patient needs care that is beyond their scope, if the symptom is not resolving, or if the condition is worsening. This will avoid delay in care for the detainee. *(Standard: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.N.)*
4. BCHC's medical clinic prioritizes initial intake screenings over detainees who have been referred to the provider for a higher level of care by a nurse. This causes a delay in care for the referred detainees who are usually symptomatic and need a higher level of care in a timely manner. The medical clinic should triage the patient list and get them evaluated in order of priority and clinical condition. *(Standard: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.N.)*
5. BCHC does not currently monitor the sick call process for timeliness and quality of care. The quality assurance program should consider monitoring the timeliness of service, appropriateness of the nursing assessment, and the management and timely referral to the provider when clinically indicated. *(Standard: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.N. X1, 2)*
6. BCHC nursing staff documentation does not show that they are performing adequate oral exams for dental complaints. There is no detailed documentation of the pertinent positive and negative history and physician examination. This causes delay in dental

- care for the detainees. The nurses should receive additional training regarding triaging, assessment, and management of common dental complaints. *(Standards: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.M)*
7. BCHC nursing staff are not referring detainees to the dentist when it is clinically appropriate, which results in delayed care for the detainee. The nurses should be educated on when a referral to the dentist is necessary and initiate the referral accordingly. *(Standards: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.M)*
  8. BCHC's dental clinic does not give priority to the detainees referred by the nurses through the sick call process. These detainees are usually symptomatic (experiencing pain) and need to be seen before other detainees are seen for routine dental care. The dental clinic should reevaluate their scheduling process so that the appointments for the symptomatic patients are not delayed. *(Standards: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.M)*
  9. There was a delay in HIV test results being communicated to detainees who had been tested. BCHC's tracking log indicates a long delay in receiving the results back from the lab. BCHC should research this issue by reviewing each of the pending results in the log and ensure that the test results are received timely from the lab and communicated to the detainees within a reasonable time frame. BCHC should consider a quality assurance process to ensure that they receive the results for all labs sent out and the results are communicated to the detainees without any delay. This will help ensure that any problems are identified and addressed quickly without impacting patient care. *(Standards: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.C4, XI, 2)*
  10. BCHC had expired and unlabeled medications in the medical and dental clinics. This practice increases the risk of the detainees receiving expired or incorrect medications. BCHC should establish an internal audit process to check for unlabeled medications and expired medications. Further, BCHC staff should be educated on the importance of labeling medications and disposing of expired medications. *(Standards: Part 4, Care; Section 22, Medical Care, §§ V.F and V.F. XI, 2)*
  11. BCHC's medical quality assurance meeting minutes did not include action plans for issues that had been repeatedly identified without a clear resolution item (i.e. detainee transport to the clinic). Interview with the staff suggest that it is affecting their delivery of care for the detainees. Such high impact issues should be given priority and addressed in a reasonable timeframe or escalated as needed. BCHC should utilize

action plans to ensure that the action taken is clear and agreed upon by the improvement work group. This allows the work group to see what actions have helped remedy the issue, so that the corrective action could be incorporated into standard procedure. (*Standards: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ XI, 2*)

## APPENDIX 1

Detainee #1: (b) (6)

Detainee #2:

Detainee #3:

Detainee #4:

Detainee #5:

### **List of BCBH Files Reviewed:**

(b) (6)

**REPORT FOR THE  
U.S. DEPARTMENT OF HOMELAND SECURITY  
OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES  
Onsite December 10-12, 2018**

**Investigation regarding Bristol County House of Correction  
North Dartmouth, Massachusetts**

Complaints reviewed in this report included the following:

Complaint No. 18-05-ICE-0150  
Complaint No. 18-10-ICE-0720  
Complaint No. 18-11-ICE-0719  
Complaint No. 18-11-ICE-0726  
Complaint No. 18-11-ICE-0674  
Complaint No. 18-11-ICE-0721  
Complaint No. 18-11-ICE-0722  
Complaint No. 18-11-ICE-0724  
Complaint No. 18-06-ICE-0725  
Complaint No. 18-11-ICE-0727  
Complaint No. 18-11-ICE-0728  
Complaint No. 18-11-ICE-0729  
Complaint No. 18-11-ICE-0730  
Complaint No. 18-11-ICE-0547  
Complaint No. 18-11-ICE-0723

Prepared by (b) (6)  
(b) (6)

PhD, MPA, CCHP

## **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 Bristol County House of Correction (BCHC) in North Dartmouth, Massachusetts. Each complaint comprises allegations regarding conditions of confinement at BCHC. While there were no complaints directly related to mental health care, several complaints alleged poor access to medical care (18-10-ICE-0720, 18-11-ICE-0674, 18-11-ICE-0722, 18-11-ICE-0724, 18-11-ICE-0727, and 18-11-ICE-0547). Additionally, complaint 18-11-ICE-0719 involves a *Boston Globe* article.<sup>1</sup>

The multiple allegations regarding access to medical services prompted the need to evaluate the facility's compliance with the ICE Performance Based Detention Standards (PBNDS 2008) related to mental health care as well during this onsite investigation of conditions of confinement and general medical care.

## **Method of Review**

I was onsite at BCHC over the course of three days, December 10 through December 12, 2018, totaling approximately 24 hours. While there, I toured the facility including general housing units for both male and female detainees, the intake unit, indoor and outside recreation space, special management units, and the health care unit. I also had the opportunity to interview the mental health and medical staff and leadership.

Prior to the onsite, I reviewed the applicable standards (PBNDS 2008), mental health forms and policies provided by the facility, material on quality improvement activities, staffing patterns, detainee handbook, and suicide prevention activities.

During the onsite, I reviewed the following documents:

1. Policy and procedures
2. Program descriptions of all mental health services
3. Grievances related to medical and mental health care over the past year
4. Various written complaints submitted by ICE detainees
5. Roster of detainees receiving mental health services
6. Roster of detainees receiving psychiatric medications
7. Roster of detainees transferred to outside mental health facility
8. Roster of detainees placed on suicide precautions
9. Roster of detainees housed in segregation
10. Sick call requests and responses
11. Thirty-three healthcare records (see Appendix 1) of detainees chosen from the above-

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<sup>1</sup> <https://www.bostonglobe.com/metro/2018/07/27/hunger-strikes-bristol-county-detainees-spark-friday-night-rally/47AKakGvyOOQNi1SBUEbGP/story.html>



mentioned sources or referred by other CRCL experts who participated in the onsite.

Additionally, I conducted individual interviews with twelve (including two female) detainees who were chosen from a list of patients on the chronic care list for medical or mental health treatment. These interviews were in collaboration with (b)(6) the medical expert assigned to this investigation team, along with the aid of a qualified Portuguese-language interpreter who is also proficient in Spanish. I also participated in a group interview of seven female detainees along with the medical and conditions of confinement experts. A list of the interviewees is provided in Appendix 2.

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

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

The following sections describe the structure and function of the facility related to mental health care, and provide an assessment of compliance with PBNDS 2008 relevant to mental health care activities at BCHC.

#### Mental Health Program

(Standards: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.A, V.B, and V.K.)

#### *Administration*

(Standard: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.X.1. – V.X.3)

BCHC medical and mental health care services are accredited by the National Commission on Correctional Health Care (NCCHC) and the American Correctional Association (ACA). The facility serves jail inmates, county detainees, and ICE detainees. All medical and mental health staff works with all classes of clients. There is no distinct set of staff that provides services only to ICE detainees. On the initial day of the onsite, there were 168 ICE detainees residing at the facility, including 15 females.

The medical department, including mental health care, is administered by Correctional Psychiatric Services (CPS). The company has been the contracted vendor since 2008. The company is owned and managed by Dr. (b)(6) who is a provider at BCHC. He also created the electronic health record that is used at the facility.

The facility houses a variety of clients including jail inmates and ICE detainees. Male and female residents remain separate. However, ICE detainees may be housed in the same unit as county inmates who are in custody for other reasons. During the group interview, the detainees indicated that they feel unsafe being housed in the same unit with county detainees or inmates, who they view as criminals.

Orientation into the facility is accomplished primarily by providing a detainee handbook that is distributed in Spanish and English. Intake procedures are accomplished using staff with appropriate language capability or the language line. Detainees reported that there was a minimal facility orientation process and little information verbally shared with them by staff. Detainees indicated they learned from each other. Many indicated they did not know how to access certain functions such as library and legal services, grievance forms etc. However, every resident interviewed knew how to access medical and mental health services through the sick call process.

The department holds monthly interdisciplinary meetings, discusses issues specific to health care and custody needs, and maintains meaningful minutes from all meetings. The facility engages in meaningful quality improvement activities that meet NCCHC standards. Outcome studies and process studies are both conducted and well-documented. Medical and mental health staffs at all levels engage in regular documented peer record review.

Medical and mental health care providers utilize the telephonic language line for interpretation needs if the provider is not fluent in the detainee's language. Use of the language line is documented in the electronic health record. In addition, the facility has a large number of multilingual Spanish and Portuguese-speaking healthcare providers.

Detainees are housed in cells and barracks depending on security level of the detainee. Female detainees are housed in cells in the main building and occupy the main floor of the unit with non-ICE detainees located in the cells on the upper tier. Male detainees are housed in the main building in cells or in barracks in units outside of the main compound, within their own fenced area. Each unit has a central day space and attached outdoor space. Detainees housed in the unattached building must be transported by van to the main building in shackles, creating extra work for security staff. Thus, services that can be provided in that separate building are offered there, including sick call medical services. Detainees housed in the main building can be brought to the medical unit for their care. Mental health services are provided in the housing units.

Detainees generally reported that they feel that they are treated differently than non-ICE detainees and jail inmates and with less respect. Some indicated that they do not feel safe being housed in the same units with jail inmates whom they consider criminals. Detainees indicated they had no complaints or grievances with timeliness of mental health services because those services are timely provided onsite in the housing unit. They did report that they would like to participate in group activities, counseling, or education that are not provided at the facility. Mental health providers acknowledged that there is insufficient space to provide group services.

There were multiple complaints about timeliness of medical care that necessarily required transport to the main building. Medical staff acknowledged that the need to transport detainees to the main building and the number of security staff available to do so created delays in access to care. Medications are provided at the housing unit.

*Staffing, Space, and Access to Care*

(Standard: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.B.)

Medical leadership consists of a Medical Director (b)(6) who acts as the Clinical Medical Authority (CMA), and a health service administrator (HSA), RN (b)(6). Mental health staffs include a Mental Health Director, (b)(6) Assistant Mental Health Director (b)(6) five full-time mental health clinicians, and several 20-hour per diem staff who are available as needed. (b)(6) provides psychiatric oversight at the facility in addition to being the owner/administrator of the contract agency CPS for which they all work. He is on-site weekly. There is also a PhD-level psychiatric nurse prescriber who is available 36 hours per week. The facility also serves as a site for medical residents for local colleges. Dr. (b)(6) and the nurse prescriber also provide emergency psychiatric on-call care. Mental health staffs handle mixed caseload that includes detainees and non-detainee patients. In the electronic health record detainees are not distinguished by alien number and services appear to be identical except for the additional paperwork and oversight required for the detainee population.

The facility utilizes the State Office of Pharmacy Services state formulary. The nurse prescriber indicated that he has not been limited in the medications he prescribes. If the facility does not stock a needed medication the pharmacy has access to local pharmacies.

Mental health services are provided in the units. There is a paucity of accessible mental health services for detainees who are not in crisis. There is clear documentation of required intake evaluations, segregation rounds, evaluations for detainees needing observation due to suicide risk along with evaluations at intervals after release from that status. The mental health providers indicated that they are fully staffed and have adequate staff to provide needed services. They acknowledged that lack of adequate space limits the service that can be offered. There are inadequate rooms in housing units or in the medical unit to provide group activities. And there are inadequate private spaces to provide meaningful psychotherapy beyond that necessitated to ameliorate crisis situations. Some detainees did recognize that the services they are provided by mental health practitioners are helpful to them and are timely. Some of the detainee interviews clearly evidence a need for activities focused on coping with grief and stress. This is addressed more fully in the recommendations section.

The facility's mental health providers are co-located with other health providers in space that includes small medical treatment rooms, pharmacy, a medical housing unit, observation cells and negative pressure rooms. The health services unit has two housing wards of 11 beds and four single cells. Female detainees go into the single cells up front when placement is needed. One detainee in the wards for medical reasons was transported to the hospital on the day of CRCL's site visit.

Medical records staff are located in a larger room with desks and computers that are shared with the practitioners and others who need access to the health records. The room also houses several tables that appear to serve as the lunch and break area for the staff. The mental health director

and assistant share a small office. Space in the medical unit is cramped and often shared. For that reason, sick call necessarily occurs in the units.

#### *Health Care Record*

(Standard: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.U.1 and V.U.4.)

BCHC utilizes a comprehensive electronic health care record that was developed by (b)(6) and CPS. It is an Microsoft Access-based health record that is functional and well-liked by the providers. (b)(6) has indicated that the facility is upgrading to a web-based version of the database. A health care summary report accompanies the detainee from BCHC 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. Those are maintained in paper form and were provided by medical records staff upon request.

#### *Suicide Prevention Program*

(Standard: PBNDS 2008, Part 4, Care; Section 24, Suicide Prevention and Intervention, §§ V.A. – V.G.)

There have been no successful suicides at BCHC in the last year.

BCHC has a comprehensive suicide prevention program. Staff participates in required suicide prevention training that is provided by the mental health leadership. The initial intake screening process uses a mental health questionnaire that asks questions specific to self-harm risk. That intake review is conducted in a private setting. Every medical and mental health note includes a statement depicting risk to self or others.

Observation placement may include 1:1 dedicated staff observation or random 15-minute checks. Mental health observation occurs in a dedicated space in the medical unit or a designated room on the segregation behavioral health unit under constant 1:1 watch. Clinical staffs determine the type of check needed and the property and activities allowed for the detainee. When on 1:1 watch, mental health clinicians see the detainee seven days per week. If on 15-minute checks, a clinician sees the detainee Monday through Saturday, not Sunday or holidays. Medical staff also conducts routine checks. Mental health staff can remove the detainee from watch without consult. Decisions about placement and removal from observation are clearly documented by the mental health provider, and detainees appear to be released in a timely fashion when the mental health assessor determines risk has been reduced. I did not find any examples of mental health watches occurring for longer than needed. Documentation is thorough, and reasons for placement and maintenance, or removal from placement, are well-detailed. Consultation is noted when it occurs. Detainees who require care beyond the capability of BCHC are referred to a local hospital, and the nurse prescriber reported that he has had no difficulty in getting approval for outside care. The mental health director or assistant mental health director provide on-call

services with occasional assistance from other mental health leaders or experienced mental health staff.

*Screening, Assessment and Referral*

(Standards: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.I.1, V.K.3, and V.K.4.) The screening, assessment, and referral processes related to mental health care generally meet PBNDS 2008 standards, and policies clearly delineate the process of detainee referral to mental health services. Screening intake interviews are done by officer staff privately in the side room with the door open. Detainees are seen by health service staff where further questions are asked. Detainees are referred to mental health if screened for the need.

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 the Prison Rape Elimination Act (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 psychiatric medications receive a continuing prescription by a physician or nurse practitioner pending review by the psychiatrist at the next available opportunity. Those with uncertain medical or mental health status are placed into an observation cell until a psychiatrist or prescriber can be reached. Transfer summaries usually accompany the detainee to the facility, when the detainee has transferred from other facilities from which a transfer summary should be accessible.

Detainees receiving medication are regularly seen on a monthly basis by mental health providers as required by PBNDS standards. Psychiatric consultation occurs consistently at the required 90-day intervals. Notes are meaningful and reflect clinical thinking and treatment plans. Use of that language line is documented, and notes regularly reflect that patient education about the treatment they are receiving is occurring.

*Sick Call*

(Standard: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.N.)

The facility uses one slip as the form by which detainees request mental health and medical care. Slips are placed in a locked box and collected by nursing staff. Sick call triage is provided in housing units. Detainees reported knowing how to access mental health and health care services.

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

(Standard: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.K.5, V.K.6, and V.K.7.)

Isolation for medical, mental health, or suicide watch purposes generally occurs in the medical housing unit using 1:1 watch or 15-minute checks. Anytime a detainee is placed into observation outside of the medical housing unit, 1:1 watch by security staff is required by policy. 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 in need of treatment intervention beyond the scope of BCHC are routinely transferred to a regional hospital for acute care. In general, this has been successfully accomplished and the staff report very good relationships with the local hospital. Use of restraints for medical or mental health purposes is rare and short in duration combined with constant 1:1 observation. Use of involuntary medication is also rare and initiated by court order or at the hospital. Medication refusals are noted in the health record. Mental health or medical staffs follow up promptly.

The facility has a segregation unit comprised of three distinct units. Two of them are disciplinary segregation units based on the severity of the alleged disciplinary issue resulting in the need for separation. The least restrictive unit is used for administrative segregation. Prior to entering these units, medical and mental health providers are consulted. However, there is no assessment of the behavior prompting the placement in segregation to identify whether mental health concerns mitigate the placement.

Across the three units, there are 64 beds in total. One unit with 16 beds is considered a mental health or behavioral health performance-based unit and has a programmatic title of "Dartmouth Behavioral Unit." On the days of the site visit, there were no detainees in the unit, although the unit does house detainees as the facility deems appropriate. The unit has a program description and is a behavioral management unit that is based on rewards that include extra food, extra phone calls, and extra privileges. A tour of this unit revealed that several lower level cells with large windows are used as overflow mental health watch cells. Staff described some of the cells as more suicide-resistant, including some on the upper floor. However these upper floor cells had horizontal crossbars, protruding bolts, and other features that pose a safety risk. Additional training of staff should be conducted to ensure that only the main floor cells with large windows and suicide resistant features are used for crisis management. When detainees are located in the unit for overflow purposes, the facility utilizes constant 1:1 watch with dedicated officers.

#### *Continuity of Care*

(Standard: PBNDS 2008, Part 4, Care; Section 22, Medical Care, §§ V.S.)

Transfer summaries for detainees leaving BCHC 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 usually accompany the detainees at intake to BCHC when arriving from other facilities that should be providing them. At discharge, detainees receive 30 days of medications to carry with them.

### Review of Health Care Records

Thirty-three healthcare records were reviewed. As noted above, there were no complaints directly relevant to mental health care. Thus, general findings are offered below. A list of files reviewed is provided in Appendix 1.

1. General mental health program requirements identified in PBNDS 2008, Part 4, Care; Section 22, Medical Care, § V.K were regularly provided in a timely manner. Intake interviews were typically conducted within required timeframes in private setting. 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.
2. Detainees who arrive via transfer from other ICE facilities were accompanied by a transfer summary. When discharging they were accompanied by 30 days of medications and a summary of treatment provided while at BCHC.
3. Detainees who were prescribed psychiatric medications saw prescriber staffs at appropriate intervals and medications changes were appropriate and accomplished in a timely fashion. The formulary was broad and acceptable to the provider.
4. Providers had access to outside services in a timely fashion when they identified that services outside their capability were warranted. There were no undue delays.
5. Detainees housed in segregated status had timely rounds by mental health and medical providers.
6. Detainees housed in observation status had regular meetings with mental health staff during the crisis placement and follow up reviews by mental health providers once released. Detainees were released from the more restrictive status as soon as risk was allayed. Reason for placement, services while placed, and plan for release were well documented.

### **Summary of Recommendations**

The complaints resulting in this on-site evaluation related primarily to conditions of confinement and access to health care. There were no complaints directly related to mental health services. The facilities mental health care is accredited by NCCHC and was audited for compliance in 2017.

PBNDS 2008, Part 4, Care; Section 22, Medical Care, states “This detention standard ensures that detainees have access to emergent, urgent, or non-emergent medical, dental, and mental health care that are within the scope of services provided by the DIHS, so that their health care needs are met in a timely and efficient manner.” The mental health care provided at the facility largely meets PBNDS 2008 standards. There were two areas to address that are detailed in the following section. When relevant, I also include other relevant portions of the PBNDS 2008, 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).

#### Priority Recommendations and Rationale

1. **Detainees placed into a segregated status are reviewed for medical clearance by medical staff. However, medical or mental health staffs do not consider the impact of the detainee’s mental health on the behavior resulting in the suggested placement in that segregated environment. BCHC 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 recommended for placement in segregation before the placement occurs.**

PBNDS 2008, Part 3, Order; Section 19, Disciplinary System, § V.A.5. states: “The facility shall not hold a detainee accountable for his or her conduct if a medical authority finds him or her mentally incompetent. For purposes of these standards, a mentally incompetent individual is defined as an individual who is unable to appreciate the difference between appropriate and inappropriate behavior, or between ‘right’ and ‘wrong.’ Such an individual is not capable of acting in accordance with those norms and therefore, cannot be held responsible for his or her “wrongful” actions.”

PBNDS 2008, Part 3, Order; Section 19, Disciplinary System, V.K.4. notes: “a detainee may be removed from segregation if a health care professional concludes that continued segregation is detrimental to the detainee’s medical or mental health.”

PBNDS 2008 does not address the need to evaluate detainees to ensure that they are not being placed into segregated status on the basis of a mental illness. However, BCHC is accredited by NCCHC, which indicates that: “any practice of segregation should not adversely affect an inmate’s health.” (NCCHC 2018 Standards for Health Services in Jails (J-G-02, an essential standard). Further, it notes that “upon notification that an inmate has been placed in segregation a qualified health care professional reviews the inmate’s health record. If existing medical, dental, or mental health needs require accommodation, custody staff is notified.”

NCCHC 2015 Standards for Mental Health Services in Correctional Facilities (MH-E-07, an essential standard) requires that “on notification that an inmate is placed in segregation, mental health staff reviews the inmate’s mental health record to determine whether existing mental health needs contraindicate the placement or require accommodations.”



Updated PBNDS 2011 (4.2 Medical Care) standards reflect the best practice requirement, noting, “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 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 proposed for placement in a segregated setting for clearance of the segregation placement, mental health providers are not involved in the process of determining appropriateness of placement into the segregated environment based on the potential that symptoms of mental illness may have resulted in the untoward behavior. This leaves detainees with serious mental illness vulnerable to placement into an environment that punishes mental illness or potentially exacerbates symptoms requiring treatment rather than correction, and violates PBNDS standards.

- 2. There are no structured group counseling or educational opportunities for detainees who have mental health needs, reportedly due to lack of available space to conduct such programming. BCHC should work to increase opportunities for group therapeutic, psychoeducational, or educational programs by developing new or creatively allocating new space.**

BCHC Correctional Psychiatric Services’ policy on Basic Mental Health Services dated 10/12/2010 and reviewed 9/2/2016 indicates: “Mental health services provided by CPS qualified health care professionals at the BCSO include: Mental health group counseling which includes psychosocial and psychoeducational elements as clinically indicated.”

NCCHC 2015 Standards for Mental Health Services in Correctional Facilities (MH-G-01, an essential standard) states “A range of mental health services are available for all inmates who require them.” A compliance indicator for the standard notes: “Regardless of the facility’s type or size, basic onsite inpatient services include, at a minimum: Individual and group counseling as clinically indicated,” and “psychosocial/psychoeducational programs.”

The goal of providing a range of mental health services including group therapies is described by

the NCCHC, which notes: “the intent of this standard is that a range of mental health services are available to inmates with mental health problems so that they are able to maintain their best level of functioning.”

Offering a range of psychoeducational activities targeting sleep, grief and loss, conflict resolution, stress reduction, anxiety and depression and other routine concerns can both enhance the day-to-day living of the detainees and can also reduce utilization of higher-level services such as sick call, crisis intervention, and psychiatric medication management.

**APPENDIX 1**

**List of Files Reviewed**

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**APPENDIX 2**

**List of Detainees Interviewed**

(b) (6)

**CONDITIONS OF DETENTION EXPERT'S REPORT**

**ON**

**BRISTOL COUNTY HOUSE OF CORRECTIONS (BCHC)  
North Dartmouth, Massachusetts**

**Prepared by:**

(b) (6)

**Olive Branch, Mississippi**

**June 7, 2019**

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## BRISTOL COUNTY HOUSE OF CORRECTIONS (BCHC)

### I. SUMMARY OF REVIEW

The U.S. Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties (CRCL) received complaints alleging that U.S. Immigration and Customs Enforcement (ICE) violated the civil rights and liberties of detainees at the Bristol County House of Correction (BCHC) in North Dartmouth, Massachusetts. The complaints the following:

CRCL received an email referral on February 20, 2018, from the DHS Office of Inspector General (OIG) regarding Detainee #1, an ICE detainee at BCHC. Detainee #1 alleged that he was made to sign documents at the facility that he did not fully understand. In an email referral from DHS OIG that CRCL received on July 31, 2018, Detainee #2 alleged that ICE detainees are being treated “subhuman” at BCHC. On July 28, 2018, the *Boston Globe* published an article entitled, “Hunger strikes by Bristol Count detainees spark Friday night rally” concerning conditions at BCHC. The article reported that the advocacy organization, Bristol County for Correctional Justice, held a rally on the night of July 27, 2018, in support of more than 250 Bristol County Jail inmates who launched a hunger strike that week to support 60 ICE detainees at the facility who had been protesting conditions there, including limited access to health care and poor food quality.<sup>1</sup>

In August 2018, CRCL received 14 email referrals from DHS OIG regarding ICE detainees at BCHC alleging inadequate medical care and conditions of detention.<sup>2</sup>

To examine the allegations in the complaints and review BCHC operations for the areas of segregation, grievances, sexual assault and abuse prevention and intervention, the disciplinary system, law libraries and legal materials, telephone access and language access, CRCL conducted an onsite investigation on December 10-12, 2018. The investigation reviewed BCHC’s adherence to the 2008 ICE Performance-Based National Detention Standards.

This report contains recommendations to address any deficiencies identified that are based on ICE’s detention standards, correctional experience, and recognized correctional standards, including those published by the American Correctional Association (ACA).

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<sup>1</sup> Complaint Nos. 18-05-ICE-150, 18-11-ICE-0719 and 18-11-ICE-0719

<sup>2</sup> Complaint Nos. 18-11-ICE-0726, 18-11-ICE-0674, 18-11-ICE-0721, 18-11-ICE-0722, 18-11-ICE-0724, 18-11-ICE-0727, 18-11-ICE-0725, 18-11-ICE-0728, 18-11-ICE-0729, 18-11-ICE-0730, 18-11-ICE-0547, 18-11-ICE-723

## **II. EXPERT PROFESSIONAL INFORMATION**

(b) (6)

### **III. RELEVANT STANDARDS**

#### **a. ICE Performance-Based Detention Standards (PBNDS)**

The ICE PBNDS 2008 currently apply to BCHC. The facility was covered by these standards during the relevant period to this investigation. I relied on PBNDS 2008 and BCHC policies and procedures when investigating the specific allegations and the conditions of confinement areas that potentially raise important civil rights and civil liberties issues.

#### **b. Additional Relevant Standards/Professional Best Practices**

For issues not specifically addressed by PBNDS, recommendations were made based on my correctional experience, best correctional practices, and recognized correctional standards including those published by the ACA.

### **IV. FACILITY BACKGROUND AND POPULATION DEMOGRAPHICS**

The BCHC consists of a main facility and two satellite facilities in North Dartmouth, Massachusetts. The main facility was opened in August 1990 and was designed to house 365 male and female detainees. A modular facility was built in 1998 and was transitioned to house female detainees in 2002 with 122 female beds. The facility housing low to medium classification male ICE detainees has a design capacity for 132 detainees and began accepting ICE detainees in 2007. Female ICE detainees are housed in the Main Facility Housing Unit EB with other county detainees. High classification ICE

detainees are housed in the Main Facility 2E Unit with other county pre-trial detainees. There are designated Special Management Units (SMU) for male and female ICE detainees. The BCHC classification custodies for detainees are: low, medium-low, medium, medium-high and high. On December 10, 2018, the total ICE population at BCHC was 175 detainees, including 16 female detainees.

BCHC is accredited by the National Commission of Correctional Health Care (NCCHC) and the American Correctional Association. A Department of Justice (DOJ) Prison Rape Elimination Act (PREA) Audit was conducted for the BCHC on June 4-8, 2018. Compliance with PREA Standards was certified on July 19, 2018.

General Facility Information:

- Intergovernmental Service Agreement (IGSA)
- Male/Female ICE Population
- Operated by: Bristol County Sheriff
- Onsite Medical Provider Type: County
- FY18 Average Detainee Population (ADP): 189
- FY18 Average Length of Stay (ALS): 79 days
- Best Known Contract Initiation Date: 9/27/2007

My review focused solely on the conditions of detention of ICE detainees.

**V. REVIEW PURPOSE AND METHODOLOGY**

The purpose of this review was to examine the specific allegations made in the complaints, and to identify other areas of concern regarding the operation of the facility. Medical, Mental Health, and Environmental Health and Safety subject matter experts examined the complaints related to medical, mental health care, and Environmental Health and Safety. My responsibility was to examine areas of staff/detainee communication, staff training, use of force, classification, segregation, visitation, grievances, sexual assault and abuse prevention and intervention, the disciplinary system, law libraries and legal materials, telephone access, language access, and religious access. The review was conducted by examining documents prior to and during the BCHC December 10 through 12, 2018 site visit. BCHC was toured and interviews were conducted with ICE and BCHC staff and detainees during the site visit. Detainees' names and alien numbers are omitted from this report and are listed in Appendix A.

BCHC staff were cooperative and provided requested assistance during the site visit. We appreciate the assistance and cooperation of ICE staff with the investigation.

The following were first reviewed to prepare for the BCHC December 10 through 12, 2018 site visit and in compiling this report:



- The complaints received by CRCL;
- ICE National Detainee Handbook (April 2016);
- PBNDS 2008 Standards;
- Relevant ACA Detention Standards;
- The Bristol CRCL Document and Information Request;
- 1<sup>st</sup> Inspection (3/26/18) of 2018 Dartmouth Women's Center (DWC) by Massachusetts Department of Public Health (DPH);
- 1<sup>st</sup> Inspection (3/26/18) of Dartmouth ICE Facility by Massachusetts Department of Public Health (DPH);
- 1<sup>st</sup> Inspection (3/27/18) of Bristol County Modular Building, North Dartmouth by Massachusetts Department of Public Health (DPH);
- Nine Sets of Superintendent Meeting Notes January 1, 2018 to July 17, 2018.
- 2016 ICE Audit Report April 26-28, 2016;
- 2017 DPH DHOC (Fall) October 19, and 20, 2017 Bristol County Jail and House of Correction, North Dartmouth by Commonwealth of Massachusetts Department of Public Health (DPH);
- 2017 DPH ICE (Fall) Acknowledgement of Bristol County Sheriff's Inspection Response;
- 2017 DPH MODS (Spring) Acknowledgement of Bristol County Sheriff's Inspection Response;
- 2017 ICE Audit Report May 2-4, 2017;
- 2018 BCSO Inmate Handbooks (English, Spanish, and Portuguese Versions);
- 2018 BCSO DHOC Commonwealth of Massachusetts Department of Public (DPH) Health Initial Report (10/24/18);
- 2018 BCSO DWC Commonwealth of Massachusetts Department of Public (DPH) Health Initial Report (10/24/18);
- 2018 ICE Audit Report May 8-10, 2018;
- 2018 ICE Commonwealth of Massachusetts Department of Public (DPH) Health Initial Report November 5, 2018 Facility Inspection-Dartmouth ICE Facility, North Dartmouth;
- 2018 ICE Commonwealth of Massachusetts Department of Public Health (DPH) Initial Report November 5, 2018 Facility Inspection-Dartmouth ICE Facility, North Dartmouth RESPONSE;
- 2018 ICE Sign Off-October 2018 DPH Inspection of the Dartmouth ICE Facility;
- 2018 Mods Commonwealth of Massachusetts Department of Public (DPH) Health Initial Report (10/24/18);
- 2018 MODS Sign Off- October 2018 DPH Inspection of the MODS;
- Amendment of Solicitation Modification of Contract 080514;
- BCSO Inmate Phone Issues 12-01-17;
- BCSO Request for Response-Inmate Phone 2011;
- CAMIS Work Task Tickets 12.12.17 to 12.30.17;
- Copy of Detainee Grievance Log from December 1, 2017 to November 2018;

- Copy of Disciplinary ICE Log Report from December 2017 to November 2018;
- Bristol County Sheriff's Office Count Sheet-Master Card Count 11/15/18;
- Daily Cleaning Product Envir Ox Green MSDS Sheet;
- Daily Cleaning Product Envir OX Orange MSDS Sheet;
- Bristol County Sheriff's Office Grievance Forms April 2018 through;
- ICE Grievances November 2017 to October 2018 (medical issues);
- ICE PREA Investigations 2017-2018;
- Bristol County Sheriff's Officer Inmate Grievance Logs 12.1.17 through 11.28.18;
- Bristol County Jail & House of Corrections Pro-Bono Consulate Speed Dial List;
- Bristol County Sheriff's Office Coinless Inmate Telephone System Contracts with Securus;
- BCDC Seg Review Meetings January 2018 to November 2018;
- Standard Contract Waltham Services (Integrated Pest Management);
- BCDC Unit Occupancy (11/15/2018);
- BCDC Water Quality Report 1.4.17;
- December 10, through 12, 2018 Expert Activities
  - Toured BCHC
  - Reviewed applicable Bristol County Sheriff's Department Policies and Procedures
  - Reviewed the Facility Detainee Activity Schedule
  - Conducted Detainee Group Interviews in ICE Male Housing Units A and B on 12/10/18 and 2E on 12/11/18
  - Conducted Detainee Group Interview in ICD Female Housing Unit EB on 12/10/18
  - Interviewed ICE male detainees in SMU on 12/12/18
  - Interviewed Housing Detention Officers
  - Reviewed detainee housing rosters
  - Reviewed detainee files
  - Reviewed the BCHC Detainee Handbook
  - Inspected the Electronic Law Library Stations in ICE Housing Units
  - Interviewed the ICE Grievance Lieutenant
  - Interviewed the Law Librarian/Religious Coordinator
  - Interviewed detainees regarding Legal Access
  - Interviewed the BCHC PREA Coordinator
  - Interviewed BCHC Special Investigation Unit (SIU) Chief
  - Interviewed the BCHC Superintendent
  - Interviewed the BCHC Majors for ICE
  - Interviewed the BCHC Colonel responsible for UOF, Mail, Visitation
  - Interviewed the BCHC Disciplinary Captain
  - Interviewed the BCHC ICE Caseworker
  - Interviewed BCHC Inmate Supervisor and Sergeant
  - Inspected the Special Management Unit

- Interviewed the BCHC 12/10/18 Day Shift Special Management Unit Officer
- Interviewed detainees in the Special Management Unit
- Reviewed Special Management Unit Detainee Activity Records
- Interviewed the BCHC ICE AFOD and ICE DO ICE during the review
- Reviewed Access to the Telephone Language Line
- Reviewed the June 2018 BCHC PREA Audit
- Reviewed BCHC Detainee UOF Packet and Videos
- Reviewed BCHC UOF statistics
- Reviewed BCHC PREA statistics
- Reviewed BCHC PREA Coordinator Training Certificate
- Reviewed the Bristol County Sheriff's Officer MOU with the Women's Center Inc., New Bedford, Massachusetts, MOU
- Reviewed BCHC Detainee Housing Rosters for 12/10/18
- Reviewed the Bristol County Sheriff's Office Master Card Count for 12/5/18 and 12/10/18
- Reviewed a BCHC ICE Detainee Booking/Intake Documents

#### **VI. CONDITIONS OF DETENTION FINDINGS AND RECOMMENDATIONS**

A finding of "substantiated" refers to a conditions of detention allegation that was investigated and determined to have occurred or is present. A finding of "not substantiated" refers to a conditions of detention allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred or is present. A finding of "unfounded" means an allegation that was investigated and determined not to have occurred or was not present.

**Sexual Abuse and Assault Prevention and Intervention – The Detention Standard requires that facilities that house ICE detainees affirmatively act to prevent sexual abuse and assaults on detainees, provide prompt and effective intervention and treatment of victims of sexual abuse and assault and control, discipline and prosecute the perpetrators of sexual abuse and assault.**

**Analysis and Findings:** The onsite investigation revealed serious concerns with the BCHC management of their Sexual Abuse and Assault Prevention and Intervention Program. The facility PREA Program Coordinator was interviewed and demonstrated minimal knowledge regarding the Sexual Abuse and Assault Prevention and Intervention Program. He was unfamiliar with anonymous reporting of sexual abuse and sexual harassment to a neutral entity and BCHC duties and responsibilities when made aware of an anonymous sexual assault and/or sexual harassment complaints. He had received PREA/Sexual Assault Investigator Training; however, training had not been received regarding management of all aspects of a Sexual Abuse and Assault Prevention and Intervention. Program. His lack of training and knowledge of PREA was clearly demonstrated during his interview.

Female detainees in Housing Unit EB complained that late at night, other female detainees were able to have visual contact and communicate with male detainees/inmates in an adjacent housing unit and loudly carried on sex conversations yelling through the windows disturbing other detainees in the housing unit throughout the night. Concerning was that some management was aware of the complaints and others were not aware of the detainee concerns. The management aware of the serious issue and acknowledged it was an ongoing problem that was being addressed with monitoring and disciplinary action when discovered. Based on the female detainee complaints, the BCHC efforts to address the issue are lacking. An inspection of an EB Housing Unit cell verified female detainees have the means to view and communicate with male detainees in an adjacent housing unit. During the BCHC tour, the male SMU EE strip search area was found to allow cross-gender viewing. BCHC officials addressed the issue by installing privacy curtains prior to the conclusion of the on-site investigation.

Detainees are informed about BCHC's sexual abuse or assault prevention and intervention program upon entry during Intake and thereafter by the Caseworker. The information program has deficiencies. The Intake Staff and Caseworker mistakenly believe the other is providing detailed information. In reality, neither is providing detailed information to detainees about the Sexual Abuse and Assault Prevention and Intervention Program. An observed caseworker interview with a newly arrived detainee revealed the information provided consisted of three questions regarding knowledge of the PREA Act. The Intake Sergeant mistakenly believed the caseworker was providing detailed information. In her interview, the caseworker believed intake staff was providing detailed information. The caseworker acknowledged Detainees that communicate in languages other than English, Spanish and Portuguese do not receive Sexual Abuse and Assault Prevention and Intervention Program information. She further advised detainees are not required to view the PREA Educational Video. On admission, Intake Staff complete a PREA Screening Instrument identifying potential vulnerable detainees and predators. Unfortunately, it does not appear management or the caseworker utilize the screening information to supervise and manage detainees.

BCHC has the framework for a successful Sexual Abuse and Assault Prevention and Intervention Program. In his interview, the BCHC Special Investigation Unit (SIU) Chief demonstrated a thorough understanding of his duties and responsibilities. The SIU has eight (8) investigators that have successfully completed PREA/Sexual Assault Investigator Training. Management holds a monthly meeting to discuss and address BCHC PREA issues. There were six PREA complaints from December 2017 through November 2018 involving ICE Detainees: five detainee on detainee and one staff on detainee. All six were sexual harassment investigations. A summary of the six (6) investigations findings and conclusions was provided and reviewed. I disagreed with an unfounded conclusion for one of the investigations. Based on the evidence, it appeared the conclusion should have been unsubstantiated as the threshold for an unfounded

conclusion was not met. BCHC went through a Department of Justice PREA Audit June 4-8, 2018 and was certified in compliance with national PREA Standards on July 19, 2018.

Although BCHC has the framework for a successful Sexual Abuse and Assault Prevention, and Intervention Program, the critical and serious identified issues and deficiencies must be immediately addressed by management.

**BCHC does not conform to PBNDS 2008 Standard Sexual Abuse and Assault Prevention and Intervention, the applicable content and procedures in the Standard are not communicated to the detainee in a manner which the detainee can understand. The content and procedures of the Standard are only communicated to detainees in English, Spanish, and Portuguese. BCHC does not assist detainees that communicate in other languages. Thorough and comprehensive information is not provided to ICE detainees.**

**Recommendations:**

1. BCHC revise their Sexual Abuse and Assault Prevention and Intervention Program to ensure all detainees receive thorough and comprehensive information including in languages other than English, Spanish and Portuguese. *(PBNDS 2008 Standard Sexual Abuse and Assault Prevention and Intervention)*
2. BCHC develop a formal mechanism to monitor and supervise detainees identified as potentially vulnerable or a predator. *(PBNDS 2008 Standard Sexual Abuse and Assault Prevention and Intervention)*
3. BCHC Management implement sound correctional practice to prevent female detainees in Housing Unit EB from communicating through their window with male detainees in the adjacent housing unit. *(PBNDS 2008 Standard Sexual Abuse and Assault Prevention and Intervention)*

**Staff-Detainee Communication – The Standard enhances security, safety, and orderly facility operations by encouraging and requiring informal direct and written contact among staff and detainees, as well as informal supervisory observation of living and working conditions.**

**Analysis and Findings:** Interviews with BCHC and ICE detainees revealed a significant breakdown in Staff and Detainee communication. Group and individual Detainee interviews revealed detainees were not familiar with BCHC services and programs. Detainees mistakenly believed that issues and concerns would only be addressed through formal grievances. The Intake Staff and Caseworker each believed the other was providing a thorough and comprehensive orientation to BCHC when neither was providing an acceptable and necessary orientation. Detainees acknowledged the ICE Deportation Officer (DO) was available on a weekly basis in the housing units. The communication breakdowns result in detainees being confused regarding how to

resolve informal complaints, law library access, grievances, disciplinary, visitation, receipt of hygiene items, mail procedures etc. BCHC does not have an informal communication system that is uniform and understood by staff and detainees, i.e. informal written request. Female detainees complained about their treatment by one of the female corrections officers in Housing Unit EB. The BCHC Superintendent was notified of the female detainee complaints and gave assurances he would conduct a follow up. The Detention Handbook only addresses informal verbal complaints. The lack of a thorough and comprehensive orientation program, an informal staff written request system, and a program to communicate to detainees in all languages is adversely affecting BCHC operations and negatively impacting detainees' morale and their perception of staff.

Limited English Proficiency (LEP)-language access for LEP detainees at BCHC was reviewed as part of the investigation. The investigation revealed BCHC has a telephone language line to assist LEP detainees; however, group interviews with detainees revealed they were not familiar with the language line and translation services provided by BCHC. The caseworker acknowledged detainees that communicate in languages other than English, Spanish, and Portuguese are not offered orientation in their preferred language. A number of staff advised detainees that spoke other languages would be assisted by other detainees. Required postings were observed in the housing units; however, interviewed LEP detainees were unfamiliar with language access procedures.<sup>3</sup> BCHC does not have language line policies and procedures to ensure staff provide LEP detainees language access. Use of the Language Line is only documented in individual detainee files. A review of the BCHC Intake Packet revealed the detainee's preferred language is not documented in writing on any of the BCHC Intake Packet Forms.

The DHS Language Access Plan, February 28, 2012 and the ICE Language Access Plan, June 14, 2015, requires BCHC to provide LEP detainees meaningful access to information, programs, and services. Although BCHC has a means to provide LEP detainees meaningful language access, the investigation determined LEP detainees are unfamiliar with language access services, and staff do not generally utilize language access services to assist LEP detainees except for Spanish and Portuguese languages. BCHC does not ensure LEP detainees receive competent oral interpretation and written translation for a programs and services to include: Admission and Release, Sexual Abuse and Assault Prevention and Intervention, Special Management Units, Staff-Detainee Communication, Disciplinary System, Medical and Mental Health Care, Suicide Prevention, Detention Handbook, Grievance System, and Legal Access.

**BCHC does not conform to PBNDS 2008 Standard Staff-Detainee Communication. Detainees have a perception an informal system to communicate with staff in writing**

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<sup>3</sup> CRCL staff and I conducted LEP interviews with the assistance of a qualified language Spanish and Portuguese interpreter.

**is not available. BCHC does not provide detainees a thorough and comprehensive orientation program that addresses Staff-Detainee communication. The BCHC Orientation Program is not provided in all languages detainees use to communicate.**

**BCHC does not provide meaningful language access to LEP detainees as required by the DHS Language Access Plan, February 28, 2012 and the ICE Language Access Plan, June 14, 2015.**

**Recommendations:**

1. Develop and implement language access policies and procedures to ensure LEP detainees are provided meaningful language access. Document the language(s) each detainee uses to communicate to facilitate the process of providing language access. *(PBND 2008 Standard Staff-Detainee Communication and DHS and ICE Language Access Plans)*
2. Provide training to staff on their obligations to provide meaningful access to LEP detainees and the resources that available to assist LEP detainees to meet the obligation. *(PBND 2008 Standard Staff-Detainee Communication and DHS and ICE Language Access Plans)*
3. Revise the BCHC Detainee Orientation Program to ensure detainees receive thorough and comprehensive information and provide the program in all languages used by detainees. *(PBND 2008 Standard Staff-Detainee Communication and DHS and ICE Language Access Plans)*
4. Develop an informal written request system that addresses detainees' request for assistance, services, and programs etc. The system should have time frames for staff responses and criteria for responsiveness to a request. *(PBND 2008 Standard Staff-Detainee Communication)*

**Grievance System – The Standard protects detainees' rights and ensures they are treated fairly by providing a procedure by which they may file formal grievances and receive timely responses relating to any aspect of his/her detention, including medical care.**

**Analysis and Findings:** The BCHC's grievance system was evaluated by reviewing the BCHC grievance logs and interviewing the BCHC Grievance Lieutenant (responsible for managing the BCHC Grievance System) and detainees. The BCHC maintains and processes detainee grievances and logs the grievances. My review found a high number of detainee grievances were related to food complaints. A number of detainees complained that their formal grievances were not adequately responded to by BCHC. There appears to be a delay in the BCHC Medical Department receiving grievances impacting timely responses. The ICE Lieutenant reported the Medical Department picked up their grievances. Medical Staff reported to the Medical Experts they were not

responsible for picking up medical grievances. Based on interviews with staff and detainees, the BCHC Orientation Program, including grievance information, is not thorough and comprehensive, failing to meet the needs of detainees. Grievance information is not provided in all languages used by detainees.

**BCHC does not conform to PBNDS 2008 Standard, Grievance System. The Orientation Program does not provide necessary information on the grievance system to detainees. The information provided is not in all languages used by detainees.**

**Recommendations:**

1. BCHC should revise their Detainee Orientation Program to ensure detainees receive thorough and comprehensive grievance information. The information should be provided in all languages detainees use to communicate (*ICE PBNDS 2008, Grievance System*).
2. The BCHC Staff responsible for removing grievances from the Housing Unit boxes should ensure medical grievances are received by Medical Department the same day they are removed from the Housing Unit Grievance Boxes (*ICE PBNDS 2008, Grievance System*).

**Detention Handbook – The Standard requires that, upon admission, every detainee be provided comprehensive written orientation materials that describe such matters as the facility’s rules and sanctions, disciplinary system, mail and visiting procedures, grievance system, services, programs and medical care, in English, Spanish and other languages and that detainees acknowledge receipt of those materials.**

**Analysis and Findings:** Interviews with staff and detainees identified the BCHC Handbook and ICE National Detainee Handbook (April 2016) are issued to detainees during admission at the facility. The BCHC and ICE National Detainee Handbooks are also available in English, Spanish, and Portuguese. The BCHC Handbook did not have clear information for the Female Visitation Section; specifically, the Thursday, 12:00 p.m. to 1:00 p.m. visitation session is designated for SMU female detainees. The caseworker acknowledged that the Detention Handbook information is not provided in all languages used by detainees.

**BCHC does not conform to PBNDS 2008 Standard, Detention Handbook as the information in the Detention Handbook is not provided in all languages used by detainees.**

**Recommendations:**

1. BCHC should provide the Detention Handbook information in all languages used by detainees (*ICE PBNDS 2008, Detention Handbook*).

**Law Libraries and Legal Material – The Standard protects detainees’ rights by ensuring their access to courts, counsel, and comprehensive legal materials.**



**Analysis and Findings:** Law Library access is provided via electronic work stations in the male and female general population and SMU housing units. The location of the work stations provides frequent access that exceeds the standard. BCHC staff do not schedule use of the work station that provides an opportunity for a detainee or detainees to monopolize work station time preventing other detainee access. The Law Library and Religious Services are supervised by the same staff person. The caseworker is designated to provide legal supplies and copying. The Law Librarian designee was interviewed and acknowledged he does not provide detainee training on operating the electronic workstation. Also, he does not provide assistance to detainees that communicate in non-English languages. He advised other detainees would assist detainees that communicate in other languages. The law librarian should be more accessible to assist detainees with law library services. He updates the BCHC Law Library Work Stations with legal updates on a quarterly basis.

**BCHC does not conform to PBNDS 2008 Standard, Law Libraries and Legal Materials. The designated Law Librarian does not provide orientation to detainees regarding operation of the electronic law library and does not assist detainees with limited English proficiency and low level intellectual function.**

**Recommendations:**

1. The BCHC designated Law Librarian should provide detainees orientation on how to operate the legal library workstation, including detainees with limited English proficiency and low intellectual functioning. The law librarian should be more accessible to detainees to assist with their law library needs. (*ICE PBNDS 2008, Law Libraries and Legal Materials*).

**Telephone Access – The Standard 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.** The expected outcomes of the Standard are:

**Analysis and Findings:** Detainees have access to telephones in their housing units. Observations revealed a sufficient number of telephones to provide detainee necessary access. BCHC provided documentation verifying telephones are maintained and kept in working order.

Signage was observed in the housing unit providing detainees information how to contact legal service providers, consular officials and the DHS Office of Inspector General.

**BCHC conforms to PBNDS 2008 Standard, Telephone Access. Detainees are provided necessary telephone access.**

**Recommendation:**

1. None.

**Admission and Release – The Standard protects the community, detainees, staff, volunteers, and contractors by ensuring secure and orderly operations when detainees are admitted to or released from facility.**

**Analysis and Findings:** The BCHC Intake Admission and Release area was inspected. The Intake Sergeant and Civilian Intake Supervisor were interviewed. The area has holding cells for detainees. Intake Staff complete an orientation for admitted detainees. The orientation is not thorough or comprehensive. A PREA Instrument is completed to identify potentially predatory or vulnerable detainees. Intake Staff believed a thorough and comprehensive orientation was conducted by the caseworker after the intake process was completed. This was not an accurate assumption. The telephone language line is available in Intake for limited English proficient detainees. Intake Staff do not maintain a Language Line Log. Detainees are allowed to make a telephone call during the intake process.

**BCHC does not conform to PBNDS 2008 Standard, Admission and Release. During Intake, detainees do not receive a thorough and comprehensive orientation in all languages detainee use to communicate.**

**Recommendations:**

1. Newly admitted detainees must receive a thorough and comprehensive orientation in the language they use. (*PBNDS 2008 Standard, Admission and Release*)

**Special Management Unit – The Standard protects detainees, staff, contractors, volunteers, and the community from harm by segregating certain detainees from the general population in Special Management Units (SMUs) with an Administrative Segregation section for detainees segregated for administrative reasons and a Disciplinary Segregation section for detainees segregated for disciplinary reasons.**

**Analysis and Findings:** BCHC Segregation records were reviewed prior to and during the onsite investigation. Male Special Management Unit (SMU) detainees and the assigned Special Management Unit Officer were interviewed while on site. There are three (3) male SMU Units: a low level SMU, a high level SMU, and a behavior modification SMU. Detainees interviewed reported receiving required services. There were no female detainees in SMU during the on-site investigation. Management visiting the SMU are entered in the SMU Log Book. An electronic law library work station is provided for male and female detainee legal access. SMU male and female detainees receive required telephone access while confined in SMU. BCHC Management took corrective action and installed curtains on the strip search area when it was identified cross gender viewing was not prevented for strip searches.

**BCHC does not conform to the ICE PBNDS 2008 Special Management Unit. The applicable contents and procedures of the Standard are not communicated to all detainees in the language they use to communicate.**

**Recommendations:**

1. BCHC should ensure applicable contents and procedures of the Special Management Unit Standard are communicated to all detainees in the language they use to communicate (*ICE PBNDS 2008, Special Management Units*).

**Disciplinary System – The Standard promotes a safe and orderly living environment for detainees by establishing a fair and equitable disciplinary system, requiring detainees to comply with facility rules and regulations, and imposing disciplinary sanctions to those who do not comply.**

**Analysis and Findings:** The BCHC Detainee Disciplinary Captain was interviewed and detainee disciplinary forms reviewed. BCHC has a Detainee Disciplinary Supervisor and two (2) Detention Officers that perform disciplinary hearing duties. Detainees complained that if they appealed disciplinary sanctions and the appeal was denied they did not receive credit for the time in SMU while their appeal was being heard. A mental health professional, preferably the treating clinician, is not consulted for detainees diagnosed with a mental illness or mental disability, or demonstrates symptoms of mental illness or mental disability to provide input as to the detainee’s competence to participate in a 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 for detainees.

BCHC meets the Standard elements except detainees are not informed in all languages they primarily communicate of facility rules and regulations, prohibited acts, disciplinary sanctions that may be imposed, their rights in the disciplinary system and the procedure for appealing disciplinary findings.

**BCHC does not conform to PBNDS 2008 Standard, Disciplinary System. Detainees are not informed in all languages they primarily communicate of facility rules and regulations, prohibited acts, disciplinary sanctions that may be imposed, their rights in the disciplinary system and the procedure for appealing disciplinary findings.**

**Recommendations:**

1. BCHC should ensure facility rules and regulations, prohibited acts, disciplinary sanctions that may be imposed, their rights in the disciplinary system and the procedure for appealing disciplinary findings are communicated to detainees in the language they primarily communicate (*ICE PBNDS 2008, Disciplinary System*).

**Use of Force and Restraints – The Standard authorizes staff to use necessary force after all reasonable efforts to otherwise resolve a situation have failed, for protection of all persons; to minimize injury to self, detainees, staff, and others; to prevent escape or serious property damage; or to maintain the security and orderly operation of the facility.**

**Analysis and Findings:**

The BCHC Colonel responsible for monitoring use of force was interviewed. Use of Force Reports and Reviews were analyzed during the onsite investigation. BCHC had eleven (11) use of force incidents from December 2017 through November 2018. A review of the use of force incidents packets did not reveal any incidents with unnecessary or excessive use of force.

**BCHC conforms to the ICE PBNDS 2008 Use of Force and Restraints.**

**Positive aspects of BCHC Operations include the following:**

- Low UOF numbers (seven incidents in 2017 and eight incidents thus far in 2018);
- Low number of detainees in the Special Management Units; and
- Experienced management team.

**A summary of my fourteen (14) recommendations are as follows:**

1. BCHC should revise their Sexual Abuse and Assault Prevention and Intervention Program to ensure all detainees receive thorough and comprehensive information including in languages other than English, Spanish and Portuguese (*ICE PBNDS 2008, Sexual Abuse and Assault Prevention and Intervention*).
2. BCHC should develop a formal mechanism to monitor and supervise detainees identified as potentially vulnerable or a predator (*ICE PBNDS 2008, Sexual Abuse and Assault Prevention and Intervention*).
3. BCHC Management should implement sound correctional practice to prevent female detainee in Housing Unit EB from communicating through their window with male detainees in the adjacent housing unit (*ICE PBNDS 2008, Sexual Abuse and Assault Prevention and Intervention*).
4. BCHC should revise the BCHC Detainee Orientation Program to ensure detainees receive thorough and comprehensive information and provide the program in all languages used by detainees (*ICE PBNDS 2008, Staff-Detainee Communication and DHS and ICE Language Access Plans*).
5. Develop and implement language access policies and procedures to ensure LEP detainees are provided meaningful language access. Document the language(s) each detainee uses to communicate to facilitate the process of providing language access. (*PBNDS 2008 Standard Staff-Detainee Communication and DHS and ICE Language Access Plans*)

6. Provide training to staff on their obligations to provide meaningful access to LEP detainees and the resources that available to assist LEP detainees to meet the obligation. *(PBNDS 2008 Standard Staff-Detainee Communication and DHS and ICE Language Access Plans)*
7. Develop an Informal Written Request System that addresses detainees' request for assistance, services, and programs etc. The system should have time frames for staff responses and criteria for responsiveness to a request. *(PBNDS 2008 Standard Staff-Detainee Communication)*
8. BCHC should revise their Detainee Orientation Program to ensure detainees receive thorough and comprehensive grievance information. The information should be provided in all languages detainees use to communicate *(ICE PBNDS 2008, Grievance System)*.
9. The BCHC Staff responsible for removing grievances from the Housing Unit boxes should ensure medical grievances are received by Medical Department the same day they are removed from the Housing Unit Grievance Boxes *(ICE PBNDS 2008, Grievance System)*.
10. BCHC should provide the Detention Handbook information in all languages used by detainees *(ICE PBNDS 2008, Detention Handbook)*.
11. The BCHC designated Law Librarian should provide detainees orientation on how to operate the legal library workstation, including detainees with limited English proficiency and low intellectual functioning. The law librarian should be more accessible to detainees to assist with their law library needs *(ICE PBNDS 2008, Law Libraries and Legal Materials)*.
12. BCHC should provide newly admitted detainees a thorough and comprehensive orientation in the language they use *(ICE PBNDS 2008, Admission and Release)*.
13. BCHC should ensure applicable contents and procedures of the Special Management Unit Standard are communicated to all detainees in the language they use to communicate *(ICE PBNDS 2008, Special Management Units)*.
14. BCHC should ensure facility rules and regulations, prohibited acts, disciplinary sanctions that may be imposed, their rights in the disciplinary system and the procedure for appealing disciplinary findings are communicated to detainees in the language they primarily communicate *(ICE PBNDS 2008, Disciplinary System)*.

**BCHC – APPENDIX A**

**Detainee Names and Alien Numbers**

1. (b) (6)
- 2.

## BCHC – APPENDIX B

### Best Practice Recommendations (Ten)

1. BCHC should require new ICE admissions to view the PREA informational video and discontinue optional viewing.
2. BCHC should require that the facility PREA Coordinator attend training on the management of a Sexual Abuse and Assault Prevention and Intervention Program.
3. BCHC Investigators should receive additional training regarding the threshold for substantiated, unsubstantiated and unfounded investigations.
4. BCHC should revise their intake packet to include documenting the detainee's preferred language in writing.
5. BCHC should maintain a Language Line Usage Log in addition to documenting language line use in the individual detainee file. The log should document the date of use, alien number, and language of interpretation.
6. The BCHC Detention Handbook should be revised to clarify the visitation schedule for female detainees.
7. BCHC should schedule detainee electronic legal work station times to ensure all detainees have equal access.
8. BCHC should develop a Visitor Log for staff visiting the Special Management Units as an additional measure to document that required staff are making SMU rounds.
9. BCHC should develop a policy, procedure, and practice for mental health professionals (preferably the treating clinician), to be consulted for detainees diagnosed with a known mental illness or mental disability, or those who demonstrate symptoms of mental illness or mental disability, in order to provide input as to the detainee's competence to participate in a 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 detainee's behavior.
10. The BCHC Use of Force Packet should be revised to include a physical diagram marking the location of any physical injuries sustained by a detainee and staff involved in a use of force.