

**Report for the
U.S. Department of Homeland Security
Office for Civil Rights and Civil Liberties
Onsite August 7 – August 8, 2018
Folkston Processing Center**

Complaints reviewed in this report included the following:

18-01-ICE-0044

18-01-ICE-0069

(b)(6)

Medical Expert

September 28, 2018

Introduction

Folkston ICE Processing Center began operations in January 2017. Since that time CRCL has received allegations of civil rights and civil liberties violations at the facility. The purpose of the onsite investigation was to determine if allegations in the complaints could be verified or disproven; whether the facts suggest that the Constitution, a federal statute, or a Departmental policy had been violated; and what steps if any, ICE should take to address the complaints, both individually (if the problem is ongoing) and as a matter of policy. We also evaluated the general operation of the facility in relation to the 2011 Performance-Based National Detention Standards. The onsite took place August 7-8, 2018, and was conducted by (b)(6) Senior Policy Advisor, and (b)(6) Policy Advisor, Office for Civil Rights and Civil Liberties, U.S. Department of Homeland Security. Subject matter experts were (b)(6) (conditions of detention) and (b)(6) (medical care).

List of Materials Reviewed

- The complete medical file for (b)(6)
- The complete medical file for (b)(6)
- Local operating procedures for medical care at the Folkston Ice Processing Center
- GEO Correctional Health Services Policies and Procedures for Mental health Services
- GEO Correctional Health Services Nursing Assessment Protocols
- Log of medical and mental health grievances, actual grievances and responses from 6/27/17 to 3/30/18.
- GEO Correctional Health Services Policy on Performance Improvement and Risk Management Program and minutes of the Performance Improvement and Risk Management Meetings at Folkston ICE Processing Center from 10/2017 through April 2018.

- Schedules for medical and mental health staff from May 2017 through May 2018.
- Medical and mental health provider appointment schedules from December 2017 through June 2018.
- List of all authorized medical and mental health positions and the fill status of each.
- Sick call logs from August 2017 through June 2018.
- Logs for use of force (April 2017 through June 2018), discipline (January through June 2018) and segregation (January through June 2018).
- Logs of offsite specialty services (August 2017 through May 2018) and emergency room visits or hospitalizations (July 2017 through March 2018).
- Lists of detainees who were receiving certain forms of treatment including care for chronic medical conditions, psychotropic medication, and medical observation, or were disabled.
- Log of detainees who were on hunger strike in June 2018 at Folkston Ice Processing Center.
- Medical records of an additional 25 detainees. These records were selected for review from the lists of detainees seen for chronic disease, detainees with disabilities, those who received emergency services, accessed sick call, were placed in medical observation and were on hunger strike in June 2018.

Onsite Investigation

Description of the Medical and Mental Health Program

The health care area is centrally located in the main administrative building with easy access to the housing units. Except for emergencies, detainees travel to the health unit for all appointments and treatment. There is a large waiting area with a television, access to water and a toilet. The waiting room is staffed with a correctional officer who manages movement to and from the clinic. The clinic is accessed through a door from the waiting room.

At the entrance to the clinic there is a large nursing station and adjacent work room. Several exam rooms, including a trauma room, are arranged across the hall from the nursing station. There also is a one chair dental operatory, office space for clinicians, a secure medication room and a secure pharmacy work area. There are six inpatient rooms, each with a call button on the wall. The call button rings in the nursing station and is answered by the nursing staff. One of these rooms is designated for mental health observation and appropriately equipped for constant observation. Another room is used for medical isolation, providing negative air pressure and space for isolation supplies and equipment. A correctional officer is posted in the clinic and monitors detainees housed in the inpatient area. Additional officers are added to conduct constant observation as needed. The offices of the Health Services Administrator and Director of Nursing share the corridor with inpatient housing. There is a pharmacy/medication room adjacent to the inpatient area and the exam rooms that is kept locked and access appropriately limited. Next to the medication room and adjacent to the corridor of inpatient rooms is the medical records area. Access to this area is also limited. Medical records must be signed out so that its location can be accounted for and records are not lost. The clinic was clean, well-organized and had the appropriate equipment and supplies.

There is also an annex located ¼ mile away from the main facility, which was being activated at the time of the site visit. Ninety-one detainees were being housed there with an eventual census of 340 detainees. There is a clinic in the annex which is essentially a duplicate of the main clinic without administrative offices.

Folkston ICE Processing Center completed its initial accreditation survey by the National Commission on Correctional Health Care (NCCCHC) just the week before our onsite investigation. The facility will know if they meet these accreditation standards sometime this fall.

Specific Allegations Investigated

The medical records of two detainees who had filed complaints about their medical care alleging violations of civil rights/civil liberties were reviewed with the Health Services Administrator, Director of Nursing and Regional Health Services Director on Wednesday August 8, 2018. The complaint and the results of record review follow in the paragraphs below.

Complaint No. 18-01-ICE-0069

On October 17, 2017, CRCL received mail correspondence postmarked October 9, 2017 from detainee (b)(6) alleged that on October 3, 2017, the designated Prison Rape Elimination Act (PREA) officer accused him of threatening another detainee. After he was allegedly wrongfully accused, (b)(6) claims correctional officers used excessive force against him resulting in an injury and sexual assault. CRCL sent these allegations to ICE as a medical referral on October 30, 2017. On November 30, 2017, ICE provided a preliminary response. CRCL also sent the PREA allegations to ICE, as a PREA inquiry, on October 25, 2017. On January 9, 2018, ICE informed CRCL the PREA allegation was closed/unsubstantiated. CRCL closed its complaint on February 23, 2018.

The medical file documents that (b)(6) was received at Folkston on September 17, 2017 as a result of an impending hurricane at the previous facility. He claimed that he had been tased and choked while restrained on August 24, 2018. He also complained of leg pain because of kicking his cell door. He was placed in segregation due to his behavior during and after transport. A preplacement medical evaluation was completed, and he received appropriate medical care at this time.

He filed three sick call requests the following day requesting photos and an MRI of his injuries while in restraint. He also complained that his chest still hurt from being tased. He was seen the next day (September 19, 2017) by the nurse practitioner who ordered lab work and an electrocardiogram. That same day he filed four sick call requests; requesting an MRI, attention to three cuts on his knee and shin resulting from the transfer on September 17, and that his heart was cramping. He was seen the next day, September 20, 2017 by the nurse practitioner. The examination findings were within normal limits. The EKG and lab results were normal. The nurse practitioner recommended treating him for anxiety and insomnia and referred him to see the psychiatrist.

There are no entries documented in October 2017 that (b)(6) sought or was referred for medical care in October, except a prescription written by (b)(6) on October 12, 2017 to treat insomnia and anxiety. (b)(6) saw a mental health provider on October 18, 2017 but did not express any concerns about being sexually assaulted. He refused to see the psychiatrist on October 24, 2017. (b)(6) was transferred to another facility on November 9, 2017.

(b)(6)'s medical care was responsive and clinically appropriate. He should have been seen by mental health staff and subsequently the psychiatrist, sooner. The PBNDS require referrals for evaluation and treatment to be seen within 72 hours of the referral¹.

Findings: The complaint was unsubstantiated.

Complaint No. 18-01-ICE-0044

On October 6, 2017, CRCL received an email from the DHS OIG regarding detainee (b)(6). In a call to the OIG hotline on October 2, 2017, (b)(6) alleged that he has received inadequate medical care for "various medical problems" he had been experiencing since September 25, 2017. On October 11, 2017, CRCL received an additional email from the DHS OIG indicating that (b)(6) had called the OIG hotline on October 3, 2017, to report that his wheelchair is broken, and he has been trying to get it fixed.

CRCL sent these allegations to ICE as a medical referral on October 11, 2017. On October 17, 2017, ICE provided a preliminary response. In addition, ADG reviewed this complaint and determined this was not a 504 matter. CRCL closed this complaint on January 4, 2018.

According to the medical file (b)(6) was received on transfer September 17, 2017 from a facility threatened by hurricane. The medical file documents that he received a wheelchair in June because he was unable to stand or walk long distances. He arrived at Folkston with a wheelchair. Throughout his period of detention at Folkston (b)(6) had use of the wheelchair which had been issued in June. (b)(6) was seen by the health care staff at Folkston for various health related complaints, however, there are no requests or other documented evidence that the wheelchair was broken and needed replacement or repair.

Findings: The detainee received adequate and timely health care. He also had use of a wheelchair, made no request to have it repaired. The complaint is unfounded.

Evaluation of the Folkston Ice Processing Center, Health Services Program in relation to the Performance-Based National Detention Standards 2011.

¹ PBNDS 2011, Section 4.3, O. 3-4.

Section 4.2 Hunger Strikes

The Folkston ICE Processing Center has a local operating procedure² that corresponds with the requirements set forth in the PBNDS standards for hunger strike. We reviewed the medical records of eight detainees³ who had been on hunger strike, five of whom were among the group striking in June 2018. The records documented compliance with the local operating procedure and the PBNDS standards, including the initial referral and medical evaluation, notification of the ICE/ERO Field Office, ongoing monitoring and supervision, appropriate use of medical housing, counseling on the risks of hunger strike and encouragement to end the strike and consideration of involuntary treatment. Documentation included use of excellent flowsheets to document intake and output and offering of nutrition and encouragement to end the strike. We also interviewed the mental health manager who described the efforts made to understand the cultural significance of the hunger strike on the part of more than 100 detainees who struck in June and to offer explanation and dialogue to assist in resolving their objection about the court's rejection of their requests to bond out. We have no recommendations or best practices to suggest concerning the policy or practices of the Folkston ICE Processing Center for detainees who go on hunger strike. The facility provides excellent oversight, care and documentation in this area. The Folkston ICE Processing Center complies with the requirements set forth in the PBNDS standards for hunger strike.

Section 4.3 Medical Care V. Expected Practices

- A. General: Folkston ICE Processing Center provides the services as described in this section. The guidance for provision of these services is contained in written policy, procedures, and nursing protocol.

Nursing care is available seven days a week, 24 hours each day. At least one registered nurse is always on duty. A primary care provider is on site Monday through Friday. The physician is on site three days each week and a nurse practitioner on site four days each week. These two clinicians rotate each week to provide on call services when a provider is not on site. A mental health professional is on site five days each week. This individual also is on call during hours when he is not on site. When the vacant psychologist position is filled, on call responsibility will be shared between these two mental health clinicians. Mental health services also include a half time (0.5 FTE) psychiatrist; these services are provided via a contract tele-psychiatrist. No dental care is provided on-site. There is a half time (0.5 FTE) dentist position that has never been filled because of recruitment difficulties. Currently detainees are sent to a local dentist for care as necessary. The facility also employs a clinical pharmacist, who consults with providers in the treatment of patients with complex clinical conditions.

² Folkston ICE Processing Center, Local Operating Procedure 614-B

³ (b)(6)

The facility recently had its first accreditation site visit by the National Commission on Correctional Health Care and will learn of its accreditation status after the Accreditation Committee meets this fall.

The availability and documentation of language services is exemplary. Providers consistently document the identification of interpreters used and the language spoken during clinical encounters. Staff demonstrated proficient and frequent use of translation services in the delivery of health and mental health care.

Recommendation: Improve access to dental care particularly the assessment and triage of dental complaints, and to improve the timeliness in responding to mental health referrals. Neither emergent dental care nor referrals for mental health evaluation meet the PBNDS. Both these problems would be resolved by filling vacant positions. A best practice is to conduct more timely nursing assessments of patient complaints. The current practice complies with the PBNDS but is not consistent with the NCHC standard for nonemergency health care requests and services.

- B. Designation of Authority: The current Health Services Administrator has been in place for more than a year and has prior correctional health care experience. The Medical Director is actively involved in clinical management of the health care program. The Director of Nursing and many of the nursing personnel have been with the program since it started in January 2017. The staffing of the program is sufficient however the vacant dentist and psychologist positions adversely impact timeliness in access to care. Adequate hospitalization and specialty care services are available in the community, including Jacksonville FL. There was no evidence of practices or incidents in the medical records reviewed of health care being impeded or delayed by facility policy or practices.
- C. Communicable Disease and Infection Control: GEO Corporation provides an Infection Control Plan, which is modified by addendum to the practices specific to the Folkston ICE Processing Center. The Infection Control Plan was reviewed and addresses all the necessary areas. Infection control statistics are kept and reported during quarterly Infection Control Meetings that are held in conjunction with the Performance Improvement and Risk Management Meetings. One of the staff nurses is designated as responsible for infection control.

Tuberculosis has been identified as an area of increased concern because the population served is at higher risk for disease. Symptom screening and testing for infection are completed timely and accurately. The health care area has one room equipped to maintain negative pressure isolation. At the time of the site visit the room was occupied by a detainee being treated for tuberculosis. Reporting, treatment and referral of tuberculosis cases takes place consistent with GEO policy and procedure and nursing protocol for management of

tuberculosis. Tuberculosis management at Folkston ICE Processing Center is consistent with PBNDS.

The minutes of infection control meetings show active engagement and management of other communicable diseases, including ectoparasites, varicella, influenza, MRSA, hepatitis and HIV etc. The facility has policy and procedure and nursing protocols to identify and treat these infections and to manage transmission that are consistent with the PBNDS.

- D. Notification about Health Care Services: The facility uses a videotaped recording to explain procedures to access health care which is played in the health care area while detainees await receiving health screening. In addition, each individual detainee receives a verbal explanation and written material from nursing staff at the time receiving screening is done. Material covered meets the requirements of the PBNDS.
- E. Translation and Language Assistance: These services are readily available and used in the delivery of health care at Folkston ICE Processing Center. The Medical Director speaks five languages with ease. Other assistance is provided through the Language Line and written correspondence is translated using Google Translate. Inmates who are deaf or hard of hearing are provided access to a teletypewriter during health care encounters. Inmates provide written consent for translation assistance and this is filed in the medical record. The language and identification of the translator is documented in the medical record at the beginning of each encounter. The PBNDS were met.
- F. Facilities: Examination and treatment areas were equipped appropriately and are adequate in size and number for the population of patients accessing services. The detainee waiting area is sufficient in size, under the direct supervision of custody staff and has access to drinking water and toilet facilities. Medical records are housed in a separate area and access to the record is limited to the health care staff. There are six rooms in the health care area that provide medical housing with sinks, toilets and showers. Each room also has a call button on the wall that rings in the nursing station which is located less than 15 yards distant. The clinic is staffed 24 hours a day and a physician or nurse practitioner is always available on site or on call. PBNDS were met.
- G. Pharmaceutical Management: A clinical pharmacist is on site Monday through Friday and assists providers managing patients with chronic and complex diseases. A formulary listing medication available for providers to prescribe was reviewed. A good range of drugs is available to clinicians and non-formulary restrictions minimal. For example, all antiretrovirals for treatment of HIV disease, second and third generation antipsychotics, and five SSRIs are on the formulary. Non-formulary requests are reviewed, and trends discussed at quarterly meetings of the Pharmacy and Therapeutics Committee.

Prescriptions are obtained from an offsite pharmacy dispensing company, Correct Rx. Medication that cannot be supplied within the ordered time frame is obtained from a backup pharmacy in Folkston, Rite Aid. In addition, a stock of common medications is maintained in the medication area at the Folkston facility. This stock is used to initiate treatment orders for detainees who arrive at the facility with medical conditions which require immediate treatment, such as diabetics.

No violations of PBNDS were found during the site visit or review of documentation.

- H. Non-prescription medications: Detainees may purchase nonprescription medicine from the commissary operated by the facility. We did not review the list and did not hear complaints from detainees interviewed about items on the commissary. Many commented in sick call requests that they did not have funds to purchase items from the commissary, particularly analgesics for relief of pain.
- I. Medical Personnel: The licensure of health care personnel was not verified during the site visit. Assignments are appropriate to each employees' credentials.
- J. Health Screening of New Arrivals: All newly arriving detainees receive initial health screening conducted by a nurse in less than 12 hours. Detainees transferred from other ICE facilities are also screened by nurses shortly after arrival at Folkston. Initial screening is documented on a form which complies with PBNDS and a progress note is entered as well. We toured the receiving area and observed rooms dedicated for health screening. The Health Services Administrator indicated that these were not used, and the detainee was seen in the health care area instead which is just across the hall.

In the review of health records, no problems were identified with the timeliness or practices involved in initial health screening at the Folkston ICE Processing Center including referrals and initiation of treatment by providers.

- K. Substance Dependence and Detoxification: Each detainee is evaluated for alcohol and drug dependence as well as potential for withdrawal at the time of the initial health screening. The facility health care program has procedures and monitoring forms to assess and manage alcohol or drug withdrawal with physician direction and oversight. If identified at a time other than initial screening nursing protocols provide guidance in addressing alcohol or drug withdrawal. The local hospital is used to care for detainees experiencing withdrawal symptoms. We did note two occasions detainees were sent to the hospital to assess and treat withdrawal out of a total of 40 detainees sent to the

hospital in the last year. There were no problems identified in their care or treatment.

- L. Privacy and Chaperones: Health care encounters were observed to take place in the privacy of an exam or interview room without the presence of custody staff in the immediate area. Visual and auditory privacy was provided during these encounters. Facility policy is to provide a chaperone the same sex as the patient⁴.
- M. Comprehensive Health Assessment: The physician or nurse practitioner completes the comprehensive health assessment on any detainee who has an acute or chronic condition. Registered nurses are trained to complete the comprehensive health assessment on all other inmates.

In the records reviewed the comprehensive health assessment was completed the next business day by a provider when the detainee had an acute or chronic medical condition. Other inmates were assessed within 14 days of arrival at the facility.

No violations of PBNDS were identified.

- N. Medical/Psychiatric Alerts and Holds: Folkston ICE Processing Center has policy and procedure for medical alerts and holds⁵ that are consistent with PBNDS. No issues with alerts or holds were identified during the record review or detainee interviews.
- O. Mental Health Program: The mental health program at Folkston ICE Processing Center has provisions to ensure detainees receive intake screening, referrals for evaluation, diagnosis and treatment as well as ongoing monitoring by a competent mental health professional, crisis intervention and management of acute mental health episodes, transfer to another facility as necessary to provide mental health treatment and a suicide prevention program. GEO Correctional Health Services Policy and Procedure 616 and 616-A comply with the PBNDS for Mental Health Services.

There are two and a half positions listed in the staffing plan provided by the facility in advance of the site visit. The program is staffed by a permanent, full time, licensed social worker who has recently completed his PhD in the field. Psychiatry services are provided via tele-video on Tuesday and as needed on Friday; the contract shows 20 hours a week of psychiatry services. A locum tenens psychologist also provides services at the facility. The licensed social worker is on call continuously, which is done without compensation.

The licensed social worker indicated that there have been 27 detainees on the mental health caseload the last 12 months for an average daily population of 795.

⁴ Local Operating Procedure 213-B

⁵ Local Operating Procedures 605-B, 605-C, 719-B, 906-C, 906-E

He estimated that 25% of the population are referred for mental health evaluation and 13 to 15 percent continue in some form of treatment. Most frequent diagnoses treated were adjustment disorder with anxiety and trauma. Less than one percent of the population at Folkston ICE Processing Center would be considered seriously mentally ill (thought or mood disordered). Treatment offered is primarily supportive interaction and medication management.

The record review revealed problems with the timeliness in seeing referrals for mental health evaluation and treatment. For example, detainee (b)(6) was referred May 9, 2018 and has not been seen. In another example, detainee (b)(6) was referred to mental health from sick call on July 15, 2018 but was not seen by mental health until July 24, 2018. Another detainee, (b)(6) whose initial mental health evaluation was on March 2, 2018 and was to be seen for follow-up in two weeks. This follow up appointment did not take place as planned. He also was referred by the mental health staff to the psychiatrist on March 2, 2018. On April 18, 2018 he was referred to mental health by a physician and was not seen until April 30, 2018. The appointment with the psychiatrist did not take place until May 1, 2018 or two months after referral. Another detainee, (b)(6) was referred by the mental health staff to the psychiatrist on February 12, 2018 but was not seen until March 20, 2018 or six weeks later. These examples, from a review of 25 medical records, reveal a pattern of delay in seeing detainees referred for mental health evaluation and treatment much longer than the timeframes specified in the PBNDS 4.3, O. 3-4.

We discussed these delays with the licensed social worker. On reflection he observed that these delays were a result of the turnover of the staff psychologist position and difficulty tracking timeliness of patient contacts which used to be done by a nurse dedicated to the mental health program. With the filling of nurse vacancies, he was hopeful that a nurse would again be assigned to mental health to assist with scheduling, tracking and monitoring patient adherence with treatment plans. He also expressed reluctance to schedule 13-14 patients per day to see the psychiatrists as an explanation for the long wait times to see referrals to the psychiatrist.

Primary care providers bear the burden for prescribing psychotropic medication. According to the procedure in place at Folkston, tele-psychiatrists are viewed as a consultant and make recommendations for medication which are written by the on-site physician⁶. There were several examples in the charts reviewed of primary care providers starting medications to treat mental health disorders, primarily anxiety⁷. Also noted were detainees whose medications were discontinued without being seen by the psychiatrist or primary care provider to receive an explanation or participate in a discussion about the treatment plan⁸. Supplementing tele-psychiatry, with on-site psychiatric coverage up to 20 hours

⁶ GEO Correctional Health Services Policy and Procedure 616-A

⁷ (b)(6)

⁸

each week as specified in the list of positions would ensure timelier, clinically appropriate treatment of detainees with mental health problems.

Folkston ICE Processing Center has policy and procedure in place for medical isolation of detainees whose mental health condition presents high risk for violent behavior and to involuntarily administer psychotropic medication that are consistent with the PBNDS. No records were reviewed, or observations made verifying practices consistent with established policy and procedure.

Recommendation: Mental health referrals for evaluation and treatment must be seen within 72 hours of the referral⁹. This is accomplished by filling the vacant psychologist position with a permanent employee. If recruitment of a psychologist is not likely to be successful soon, consideration should be given to changing the qualifications and recruiting a licensed mental health provider with a master's degree in either counseling or social work or a nurse practitioner to increase permanent full time, on site mental health staff to two.

Also, additional psychiatry hours should be provided to achieve 20 hours per week specified in the staffing plan. The additional hours should be provided by a psychiatrist or psychiatric nurse practitioner on site at least one day a week.

The facility may wish to consider assigning nursing or clerical personnel to track, monitor and schedule mental health referrals and detainees requiring follow up care to ensure that timeliness of mental health services.

ICE needs to ensure that detainees referred for mental health evaluation, treatment and follow up, receive timely care. Corrective action should include filling positions as outlined in the staffing plan and instituting procedures to track and monitor timeliness of mental health services on an ongoing basis.

- P. Referrals for Sexual Abuse Victims or Abusers: The intake health screening form contains questions to elicit identification of detainees who are sexual abuse victims as well as sexual abusers. Detainees who answer "yes" to any of these questions are referred to medical or mental health providers for further evaluation¹⁰. The medical file of one detainee who alleged sexual assault was reviewed¹¹. There were no requests for medical attention or a referral because of sexual assault documented in the record. ICE investigated and informed CRCL that this allegation was unsubstantiated in February 2018. In all of the records reviewed, the intake health screening had been completed and there was documentation each detainee was asked about sexual assault, sexual abuse and sexually predatory behavior. Inmates were referred appropriately for additional evaluation and seen in follow up timely.

⁹ PBNDS 2011, Section 4.3, O, 3-4.

¹⁰ GEO Correctional Health Services Procedure 616-A

¹¹ (b)(6)

- Q. Annual Health Examinations: Detainees at Folkston ICE Processing Center receive an annual health examination¹² per the PBNDS. Detainees with chronic medical problems are seen more often than annually based upon their condition. Most detainees are not at the facility a year or more to receive an annual examination if their condition does not warrant more frequent follow up. The primary care providers are diligent in offering preventive care consistent with national disease guidelines including vaccinations, diagnostic procedures, and risk evaluation.
- R. Dental Treatment: Initial dental screening is performed as part of intake health screening conducted by trained nursing staff. Folkston's local operating procedure 102-B was written to coincide with the PBNDS, however actual practices are not consistent with the facility procedure. The facility has no on-site dentist, as specified in the procedure and therefore has no one qualified to receive and evaluate detainee requests for dental care¹³. The GEO Regional Health Services Administrator reported extensive efforts to recruit and fill the half time dentist position but without success.

Arrangements have been made with a dentist in the community to see patients off site at his office. The review invoices for dental service provide evidence that routine care, as defined by the PBNDS¹⁴, is provided detainees held at the Folkston ICE Processing Center.

Emergency dental treatment, as defined by PBNDS¹⁵, is problematic under the interim arrangements at Folkston ICE Processing Center, particularly immediate relief of dental pain. The nursing protocol for toothache¹⁶ guides nurses assessing a detainee's toothache to offer the detainee, who does not have signs of infection, ibuprofen or acetaminophen to address the pain until seen by a dentist and to schedule the detainee for the next dental call. The nursing protocol is not followed by the nurses at Folkston because of the vacant dentist position. The following are two examples of the compromise to detainee dental care that result.

One of the detainees whose medical file was reviewed¹⁷ was referred from sick call for pain of a molar to the dental department and was seen by the dental assistant on January 3, 2018. The dental assistant told the detainee that only extractions were provided. This information was provided without an examination of the detainee's tooth (which the dental assistant is not qualified to do) and is contrary to facility policy, as stated by the Health Services Administrator. The detainee refused the offsite appointment with the dentist

¹² Local Operating Procedure 601-B

¹³ Only licensed dental personnel can perform dental exams and treatment. PBNDS 2011, Section 4.3, R., 2.

¹⁴ PBNDS 2011, Section 4.3, R., 2.

¹⁵ PBNDS 2011, Section 4.3, R., 1.

¹⁶ GEO Correctional Healthcare Services, Nursing Assessment Protocols, Dental-Toothache Protocol

¹⁷ (b)(6)

believing that the result would be an extraction. The detainee complained of tooth pain again on January 16 and 24, 2018. Both times his pain was treated with ibuprofen per the nursing protocol, but he was not scheduled to be seen by a dentist. On January 25, 2018 he was finally seen by a nurse practitioner who ordered an antibiotic and a stronger analgesic. The detainee was eventually seen and treated by the offsite dentist, according to billing records (there was no documentation in the medical record that he was seen and treated by the dentist). In this example the detainee was denied immediate relief of dental pain, was not scheduled to be examined by a dentist and was not treated timely for an emergent dental complaint.

Another detainee submitted three sick call requests for toothache in January/February 2018. The first request was not seen timely (three days after receipt); he was offered ibuprofen, but not scheduled to the dental clinic per the facility protocol. When the pain medication ran out he submitted another sick call request. The nurse triaging the request did not need see him since he was seen for the same complaint three days earlier. The nurse failed to note that the pain medication had run out or to consider whether the detainee's condition had worsened. This is a grave mistake in clinical judgement. The detainee did eventually see a nurse practitioner who ordered a stronger analgesic and a dentist provided treatment three months later. This detainee went for six days (January 29 until February 4) without any treatment for severe tooth pain. He was not examined by licensed dental personnel for three months after his initial complaint of dental pain. The care of this detainee was delayed, he was denied access to immediate relief of pain; he was not examined by a dentist and was not treated timely for an emergent dental complaint.

These case examples were discussed with the Regional Health Services Administrator and the Director of Nursing during the site visit.

Recommendation: Fill the vacant dental position as soon as possible. Explore immediate options to treat dental emergencies such as trauma and oral infections and provide immediate relief of dental pain and provide access to licensed dental personnel for examination and treatment¹⁸. One option is to revise the nursing protocol to schedule an appointment with a primary care provider to evaluate and treat any detainees with a complaint of tooth pain and provide analgesic medication until seen by the provider. Another is to revise the nursing protocol to instruct nurses to make a timely appointment with the off- site dentist and to provide analgesia until seen. ICE should ensure that the dental position is filled and corrective action results in improved access to care by licensed dental personnel for dental emergencies and that detainees receive immediate relief of dental pain, trauma and acute oral infection.

¹⁸ PBNDS 2011, Section 4.3. R

One additional recruitment option discussed was to jointly recruit, with a dentist in the community, interested in expanding their practice, for a graduate from dental school to work part time at the correctional facility and part time in the office. Another option is to jointly recruit with another correctional facility also looking for a part time dentist and reimburse expense to travel between the two facilities. Also, an increase in the salary and/or benefits should be considered given the location and other reasons for the difficulty filling the half time position at this facility.

- S. Sick Call: The facility provided the generic GEO procedure on access to care¹⁹ for review. No facility specific guidance was provided. All elements of the PBNDS are addressed in the GEO procedure. The facility uses a written request system. Sick call requests are in English and Spanish. Nursing staff pick up sick call requests daily and triage each request.

The record review revealed two practices that were of concern. First, nurses triage incorrectly. The most egregious example is a detainee²⁰ who requested urgently to see the doctor on July 27, 2018 about his inhaler, which was prescribed for asthma. Asthma related symptoms are potentially very serious and the time to intervene in a patient's worsening condition is very short. The expected standard of nursing practice would be to see the detainee the same day the request was received. The nurse triaging the request on July 28, 2018 documented that "he was seen in sick call". No sick call encounter corresponding to this statement could be found in the record. The Director of Nursing investigated further and reported back that the nurse meant that he had been seen already by (b)(6) Documentation by (b)(6) appears on July 11 and 25, 2018 but neither time did the patient encounter concern an inhaler. The detainee was never seen regarding his urgent request to see the doctor about his inhaler. The documentation by the nurse bordered on falsification and the failure to see a patient urgently requesting medical attention regarding treatment with an inhaler was negligent.

Another example of incorrect triage decision making was already discussed in the section on dental care. In this case²¹ the nurse triaging a request for healthcare attention because of tooth pain on January 29, 2018 decided that the detainee did not need to be seen because he had been seen previously for the same problem on January 26. The nursing triage decision did not consider that the treatment provided on the 26th was no longer effective nor did the nurse consider that the detainee's condition may have deteriorated. The detainee suffered with untreated

¹⁹ GEO Correctional Health Services Procedure 603-A Access to Care

²⁰ (b)(6)

²¹ (b)(6)

dental pain until February 4, 2018. The nurse was negligent in deciding that the patient did not need to be seen on January 29th.

Another detainee²² submitted a sick call request to see the doctor for pain and difficulty sleeping on March 28, 2018. The next day he requested sick call attention for a complaint of neck pain. The nurse triaging these requests wrote that the detainee was scheduled to see the MD (one documented the detainee would be seen on March 31 and the other documented the date as April 4, 2018). The nurse did not assess the physical symptoms that the detainee reported to determine the urgency of medical attention required. Neck pain can result for many possible reasons, some of which are serious and require urgent treatment (head injury for example). The standard of practice would be for the nurse to assess the patient to determine if emergent intervention is needed and if not, how soon the patient should be seen by a provider and what safety measures instituted until the patient is seen (lower bunk assignment for example). Also, the detainee's complaint of pain was never addressed by the nursing staff. At a minimum the detainee should have been offered an analgesic per nursing protocol or a provider contacted following the nursing assessment to obtain orders for an analgesic. The failure to assess the patient's complaint of neck pain and institute a plan of care is negligent on the part of the nursing staff.

The PBNDS do not include any specific requirement for the assessment of detainee complaints during triage. The NCCHC standards²³ are explicit and require a face-to face encounter when the request describes clinical symptoms (neck pain etc.). It is the standard of care for nurses in correctional settings to assess any patient who has a symptom related request for health care attention to determine the urgency of the problem, initiate a plan of care and schedule subsequent services based upon the findings of the nursing assessment. The three examples described in this report provide evidence that nursing assessment of sick call requests does not take place as it should at the Folkston ICE Processing Center.

The second problem encountered in the review of medical records was delay in seeing detainees requesting health care attention. For example, a detainee²⁴ who submitted a request on July 21, 2018 for a headache that had been ongoing for three days. The nurse documented on the sick call slip that the detainee was seen in sick call on July 29, 2018, or eight days after the request had been received. Not only is this a delay in being seen but the failure to triage within 24 hours of receiving the request as required by the PBNDS²⁵. Another detainee²⁶ submitted a sick call request on July 13, 2018 because his eyes burned and itched. He was

²² (b)(6)

²³ National Commission on Correctional Health Care, Standards for Health Services in Jails (2014) E-07 Nonemergency Health Care Requests and Services. Compliance Indicator 1.

²⁴ (b)(6)

²⁵ PBNDS 2011, Section 4.3, S. 4.

²⁶ (b)(6)

not seen by nursing staff until July 22, 2018 or nine days after the request had been received. A third detainee experienced a three-day delay in being seen and receiving treatment for a toothache²⁷. Again, the PBNDS do not specify when detainees are to be seen, only stating that the detainee should be seen based upon an assessment of the acuity of the problem. However, the NCCHC standards²⁸ are explicit stating that detainees are to be seen within 48 hours of receipt of the request (72 hours when the request is received on a Friday).

From a practical standpoint allowing nursing sick call to take place several days after receipt of requests is self-defeating and demoralizing for nursing staff. Health service requests come in every day and when they are not addressed the number of requests create a back log and each day the accumulation of requests yet to be dealt with increases. Detainees come to believe that the only way they will get seen is to submit multiple requests. This only adds to the number of requests that are received each day and ultimately to the back log. Sick call requests must be addressed timely to avoid a back log and multiple requests for the same complaint.

Best Practice: Folkston should consider development of a facility specific procedure to implement the GEO Access to Care Procedure 603-A and require that nurses assess any detainee making a request for health care attention for a symptom- based complaint and that the nursing assessment take place no more than 48 hours after receiving the request.

- T. Emergency Services and First Aid: Policies, procedures and practices for emergency services and first aid at Folkston ICE Processing Center were reviewed and found to be compliant with PBNDS.
- U. Delivery of Medication: Policies, procedures and practices for medication delivery at Folkston ICE Processing Center were reviewed and found compliant with PBNDS.
- V. Health Education and Wellness: Health education and wellness information was readily apparent at the Folkston ICE Processing Center. A variety of posters and pamphlets on relevant health subjects were available at several locations throughout the facility in addition to the clinic. A television in the clinic waiting room plays health related material.
- W. Special Needs and Close Medical Supervision: Policies, procedures²⁹ and practices with regard to detainees with special needs and those requiring close medical supervision were reviewed and found compliant with PBNDS. The chronic care program and corresponding documentation in the medical record

²⁷ (b)(6)

²⁸ National Commission on Correctional Health Care, Standards for Health Services in Jails (2014) E-07 Nonemergency Health Care Requests and Services. Compliance Indicator 1.

²⁹ Local Operating Procedure 906-C Special Needs Detainees and 906-D Special Needs Detainees-Transgender

was exemplary. Several of the chronic care patient records reviewed contain no sick call requests which indicates that all their health care needs were anticipated and addressed in the chronic care visits.

However, the problem list was often not up to date. For example, the problem list of one detainee³⁰ included diagnoses of hypertension, hyperlipidemia and type 2 diabetes but did not include a more recent diagnosis of bilateral retinopathy. Another detainee³¹ is seen regularly by mental health professionals and yet his diagnosis of adjustment disorder with anxiety is not on the problem list. The problem list of another detainee³² did not include that he was an amputee and wore a prosthesis.

Best Practice: The problem list should reflect all of a patient's permanent health conditions. The Regional Health Services Administrator and facility Health Services Administrator agreed that this was an area that had been identified by the program's internal monitoring processes for improvement.

- X. Notifications of Detainees with Serious Illnesses and Other Specified Conditions: The health care program has a Local Operating Procedure³³ for notification of detainees who are seriously ill that is consistent with the PBNDS. Actual practice was not reviewed.
- Y. Restraints: Policy and procedure for restraints³⁴ at Folkston ICE Processing Center were reviewed and found compliant with PBNDS. Actual practice was not reviewed.
- Z. Continuity of Care: Procedures to ensure continuity of care for detainees upon transfer, release or removal³⁵ at Folkston ICE Processing Center were reviewed and found compliant with PBNDS. The records reviewed documented that detainees were cleared for transfer, transfer summaries were prepared, and that medication was provided when detainees were transferred, removed or released from the facility.
- AA. Informed Consent and Involuntary Treatment: Policy and procedure for informed consent and involuntary treatment³⁶ at Folkston ICE Processing Center was reviewed and found consistent with PBNDS. The medical records reviewed included documentation of informed consent as specified in the PBNDS.

³⁰ (b)(6)

³¹

³²

³³ Local Operating Procedure 906-E

³⁴ GEO Correctional Health Services Policy 628 and Procedure 628-A: Therapeutic Seclusion and Restraints

³⁵ Local Operating Procedures 605-C and 719-B

³⁶ GEO Correctional Health Services Policy 610-A and Procedure 610-B: Forced Psychotropic Medication, Local Operating Procedure 213-B Privacy of Care

- BB. Medical Records: Individual medical records are maintained on each detainee at the Folkston ICE Processing Center by a staff of three medical records personnel. Individual medical records are signed out, so the record can be located at any time. Records of detainees no longer at the facility are archived nearby and is readily obtainable when needed. The contents of each medical record are filed by section; all mental health encounters are filed chronologically in one section³⁷ and there is no back log of paper to be filed in the record. Medical record information is appropriately protected. Policies and procedures regarding medical information and record keeping were not made available for review however actual practices were observed to be consistent with the standard of practice in health care settings.
- CC. Terminal Illness or Death of a Detainee: Policies and procedures concerning terminal illness and death of a detainee³⁸ were reviewed and found to address the requirements of the PBNDS as outlined in Section 4.7. There have been no deaths at the Folkston ICE Processing Center.
- DD. Medical Experimentation: Not reviewed.
- EE. Administration of the Medical Department: The facility follows guidance provided in GEO Procedure 803-A Performance Improvement and Risk Management Program to monitor and manage the health care program. The minutes of the Performance Improvement and Risk Management meetings were reviewed. These meetings take place at least quarterly and are attended by the Health Services Administrator, Infection Control Nurse, the Director of Nursing, Medical Director, Social Worker, Warden, Compliance Manager, Classification and Fire & Safety Manager. The minutes provide evidence of compliance with the GEO procedure, as well as the PBNDS, for internal review and quality assurance as well as discussion and review of the areas to be monitored to ensure timely, appropriate and safe delivery of health care services. The peer review program was not evaluated.
- FF. Examinations by Independent Medical Service Providers and Experts: Not reviewed.
- GG. Telehealth Systems: Not reviewed.

Conclusions

The facility did not meet the 2011 PBNDS standards for Mental Health Evaluation, Mental Health Referrals and Treatment, and Dental Treatment. The vacancies of the psychologist and dentist have

³⁷ All mental health encounters are in one section, all monthly medication records are in one section, all diagnostic results are in one section, etc.

³⁸ Local Operating Procedures 202B Death of a Detainee, 604B Terminal Illness and 604C Advanced Directives, Terminal Illness and End of Life Decision Making

impacted the timeliness of health care; even though interim measures have been put in place they are not sufficient based upon the results of record review. Recommendations are to fill these vacancies with permanent employees as soon as possible. Psychiatry services are not scheduled 20 hours per week presently. The recommendation is to provide the hours required in the staffing plan by a psychiatrist or psychiatric nurse practitioner. These additional hours should be provided on-site. The NCCHC standard for nonemergency health care requests and services is suggested as a best practice for revisions to sick call. The sick call process needs to be revamped to ensure that all requests received are evaluated each day and that detainees with symptom-based complaints are assessed by nurses and steps taken to initiate a plan of care consistent with the nursing assessment protocols promptly.

Other than the delays in access to care described above, detainees receive responsive and clinically appropriate health care. The care of detainees with chronic disease is exemplary and the availability of the clinical pharmacist has enhanced the quality and comprehensiveness of planned treatment. The health care program is well managed and the staffing plan adequate. The Health Services Administrator is very engaged in the daily operation of the program, ensuring that detainees receive good care and staff are supported to achieve their responsibilities. The Warden's support of the program to provide health care was evident not only in his comments but the actions of subordinate members of the custody team.

APPENDIX A

Non-Priority/Best Practices Recommendations

Folkston Processing Center (FPC)

Complaint Nos. 17-11-ICE-0567, 17-11-ICE-0568, 17-11-ICE-0569,
18-04-ICE-0101, 18-01-ICE-0069, 18-01-ICE-0044

Medical

1. When detainees submit a sick call request for symptom based medical issues, FPC should ensure nurses assess these request no more than 48 hours after they have been received.
2. FPC should update the problem list to reflect all of a patient's permanent health conditions.

Corrections

3. FPC should conduct training on use of force report writing to eliminate the use of phrases such as, "necessary force," from the force reports. It is preferable to thoroughly and specifically describe the actions taken to overcome resistance in a manner that leaves no question as to the level and amount of force used.
4. FPC should modify the segregation order form to include a space to briefly describe the reason or reasoning for a detainees' release from segregation.
5. FPC should revise the SA-API tracking system to reflect more information on the master tracking sheet. This will enable the SA-API Coordinator to determine the status of a case, including all notification dates and times, at a glance, without having to go to the individual case files to determine the status. Specifics were discussed with the SA-API Coordinator at FPC.
6. FPC should require housing officers to make unit log entries daily to document the opening and closing of the outdoor recreation areas adjacent to each living unit pod. This will provide documentation to verify the available outdoor recreation provided each day.

Conditions of Detention Expert Report

On

Folkston ICE Processing Center

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

- 17-11-ICE-0567
- 17-11-ICE-0568
- 17-11-ICE-0569
- 18-04-ICE-0101
- 18-01-ICE-0069

Prepared by:

(b) (6)

Lodi, CA

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I. Summary of Review

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

- Detainee was placed in “segregation” for no reason
- The law library has restricted and inadequate access to meet detainee needs and detainee was restricted to access once a week
- Detainee was physically assaulted and mistreated by correctional officers who used disparaging language based on race and ethnicity
- An officer “tried” to spray detainee with “mace” because he was praying
- Correctional Officers used excessive force against detainee resulting in injury and sexual assault.

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

- Use of Force Reporting and Accountability
- Restricted Housing Unit (RHU) (Administrative/Disciplinary Segregation)
- Custody classification
- Sexual Abuse and Assault Prevention and Intervention (SAAPI)
- Detainee Grievances
- Visiting Program
- Recreation Programs
- Mail Services
- Religious Services
- Telephone Access

- Law Library Services
- Limited English Proficiency (LEP) communication

II. Facility Background and Population Demographics

On the first day of our site visit the ICE detainee population at FPC was 795.¹ The FPC is contracted under an Inter- Governmental Service Agreement (IGSA) between ICE and Charlton County, Georgia and operated by the Geo Group Corporation on contract with Charlton County. FPC has been awarded accreditation by the American Correctional Association (ACA).

All detainees at FPC are in the classification levels of low and low/medium and are all housed together in common housing units.² There are two housing unit buildings, Housing Unit A, (b) (7)(E) and Housing Unit B (b) (7)(E)

Three hot meals are provided daily in a common dining room. The detainees access the dining room by housing unit and pod on a rotating schedule. Other services, such as visitation, barber shop, religious services and law library, are also provided in common areas with access facilitated by scheduling that is designed to keep detainees living in common housing together. Outdoor recreation is provided in the areas attached to each pod in both housing unit buildings. Additionally, there is a large athletic field comprised of an artificial turf soccer field and a beach (sand) volleyball court that detainees from both housing unit buildings use on a rotating schedule.

Throughout the site inspection process, we toured the FPC, reviewed records, interviewed GEO Group personnel and ICE officials, as well as, several ICE

¹ CRCL was on-site at FPC August 7-8, 2018. The FPC detainee population is all male.

² Low and low/medium classified detainees may be housed together according to PBNDS 2011 standards.
(b) (7)(E)

detainees. All general conditions of confinement were reviewed and considered while on-site at FPC.

Overall, we found the personnel to be professional, courteous and helpful and the general living areas of the facility to be clean, orderly and in good repair. There were no deficiencies identified related specifically to the Performance Based National Detention Standards (PBNDS) 2011 and recommendations in the form of “best practices” will be offered in this report to improve certain aspects of the operation. All opinions and recommendations contained herein are based on my background and experience in the correctional environment, ICE detention standards and generally recognized correctional standards, including those of the ACA and the AJA (American Jail Association).

II. Expert Professional Information

(b) (6)

III. Relevant Standards

- **ICE Detention Standards**

The PBNDS 2011 apply to FPC.⁶ These are the standards that were relied upon in looking at the specific allegations regarding this facility, as well as, the general review of operations.

- **Professional Best Practices**

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

IV. Review Purpose and Methodology

The purpose of this review is to examine the specific allegations in the complaints cited above and to observe the overall operations of the FPC as it

⁵ At that time, the inmate population in the CDCR was over 160,000 with approximately 120,000 parolees and 57,000 employees.

⁶ The PBNDS 2011 were revised in 2016.

relates to the care and treatment of the ICE detainees. For this review, I examined detainee records; FPC policies and procedures; documentation kept on-site depicting such things as detainee grievances and law library usage; interviewed ICE detainees, ICE personnel, Geo Group personnel; and, conducted an on-site tour of the FPC facility. All the Geo Group and ICE personnel were professional, cordial and cooperative in facilitating our review. Anything we asked to review was promptly provided.

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

- IGSA Contract Agreement
- Detainee grievances
- Library Services logs
- Detention Files (random selection and those with complaints or grievance issues being investigated)
- Segregation orders and forms
- Incidents involving use of force and Force After-Action Reports⁷
- ICE National Detainee handbooks and FPC handbooks in English and Spanish
- Sexual Abuse and Assault Prevention and Intervention (SAAPI) investigations⁸
- FPC Policies on the following:
 1. Detainee Admission and Release
 2. Detainee Movement (Intake procedures)
 3. Detainee Classification
 4. Recreation Programs
 5. Religious Programs
 6. Detainee Visitations
 7. Staff Detainee Communication
 8. Access to Legal Materials

⁷ There were 13 use of force incidents at FPC between over the past year. All 13 force incidents, including video recordings, were thoroughly reviewed during this on-site inspection.

⁸ There were nine SAAPI allegations and investigations during 2018.

9. Use of Force
10. Restricted Housing Unit (Segregation)
11. Grievance Procedure

PBNDS 2011 standards reviewed or referenced:

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

In addition to the above listed activities, the on-site inspection on August 7-8, 2018, included the following:

- Toured the Intake and Release area
- Toured the housing units
- Toured the visitation and visitation reception area
- Toured the Restricted Housing Unit (RHU) (administrative/disciplinary segregation)⁹
- Toured the Medical Clinic
- Toured the Food Services areas and dining room
- Inspected all areas of detainee access for information postings¹⁰

⁹ At the time of our on-site inspection there were no detainees housed in the RHU.

¹⁰ All general services areas and housing units had the appropriate detainee information postings for SAAPI, LEP, numbers to contact the OIG, and etc.

- Interviewed various personnel including command staff, supervisors and line staff¹¹
- Interviewed various ICE detainees, randomly selected

V. Findings, Analysis and Recommendations

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

- “Substantiated” describes an allegation that was investigated and determined to have occurred substantially as alleged;
- “Unsubstantiated” describes an allegation that was investigated and there was insufficient evidence to determine whether or not the allegation occurred¹²; and
- “Unfounded” describes an allegation that was investigated and determined not to have occurred.

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

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

Complaint No. 17-11-ICE-0567

Complaint 16-12-ICE-0672 was received by the CRCL on August 7, 2017 from the DHS OIG concerning Detainee #1.¹³ This detainee alleges that officers at FPC had placed him in segregation for no reason and that officers had also refused to accept grievances he provided to his attorney.

Analysis:

¹¹ These interviews included, but were not limited to, the supervisors responsible for SAAPI, detainee grievances, detainee classification/intake, detainee religious services, detainee visitation, detainee mail, detainee recreation and detainee law library.

¹² While “Unsubstantiated” can often be the finding because there simply is not enough tangible evidence to “Substantiate” an allegation, I may sometimes offer my expert opinion as to whether, based on other considerations and observations, it is more likely than not that the allegation either happened or did not happen.

¹³ The Identity of Detainee #1 is contained in Appendix A.

In our effort to investigate this allegation the complete FPC detention record of Detainee #1 was reviewed and the Captain familiar with the events related to this complaint was interviewed. It was determined that on June 2, 2017, a decision was made to close Housing Unit A and to relocate all the detainees that were housed in that building at the time to Housing Unit B. This relocation was a routine population management decision based on the number of detainees in the FPC at that time. Following the housing relocation to Housing Unit B, Detainee # 1 told the housing officers that he wished to return to Housing Unit A. After it was explained that Housing Unit A had been closed and deactivated, Detainee # 1 threatened to strike the officers who were present. He told the officers that if he was not moved back to Housing Unit A that he would "hit" them. Detainee #1 was rehoused in the RHU on administrative segregation status and issued a rules violation disciplinary report for threatening the officers. On June 5, 2017, three days later, the disciplinary hearing for this charge was adjudicated and Detainee # 1 was found guilty and assessed a disciplinary detention term of 60 days. He was given credit for the three days already served in segregation and the remaining 57 days of the disciplinary detention was suspended. He was returned to general population housing that day on June 5, 2017.

When I inquired of the Captain why the detainee was given a 60 day disciplinary detention term and then returned to the general population after only three days, I was told that the lengthy term had been assessed because of the seriousness of the offense for threatening the officers. However, after having the three days to think about it and cool down, Detainee # 1 appeared that he no longer presented a threat and the need to keep him in disciplinary detention did not seem necessary. This entire event was documented on the proper forms for detainee discipline and segregation. This was his only segregation placement.

Additionally, The FPC record for Detainee # 1 verified that he had filed no less than 28 request and/or grievance forms that were all appropriately answered in a timely manner. It was evident that he had not been impeded in any way from filing grievances. When I inquired as to whether the detainee's attorney had attempted to give anyone at the facility a grievance for his client, I was not able to confirm that this had in fact happened. However, because the detainee grievance process is intended to be an avenue for the detainees themselves to resolve

issues of concern with the facility, it would not be inappropriate to require that detainee grievances be prepared and presented by the detainees, rather than to funnel them through a third party.

Findings:

- The allegation that officers at FPC placed Detainee # 1 in segregation for no reason is “**Unfounded.**”
- The allegation that FPC officers had refused to accept grievances on his behalf from the attorney of Detainee # 1 is “**Unsubstantiated.**” While we were not able to either confirm or explicitly deny whether an attorney, acting on behalf of Detainee # 1, actually attempted to present grievances on behalf of his or her client, attorneys do not routinely present grievances on behalf of their detainee clients and it would not be appropriate for them to do so.

Recommendations:

- None related to this complaint

Complaint No. 17-11-ICE-0568

This complaint was received by CRCL on August 8, 2017, from the DHS OIG concerning Detainee # 2.¹⁴ Detainee # 2 alleged that FPC is not properly equipped to meet the detainee needs in the law library and restricts detainee usage and access to once per week. He also alleges that rather than keeping the posted operating hours, the law library closes early and the scheduling process is impaired by the limited hours.

Analysis:

In order to investigate this complaint we reviewed the posted hours of operation for the law library. The law library is scheduled to operate from 8:00 am until 4:00 pm, Monday through Friday. We also reviewed the law library logs which detainees sign indicating when they arrive at the law library and when they exit the law library. The logs were reviewed for the entire period Detainee # 2 was at

¹⁴ The identity of Detainee # 2 is contained in Appendix A

FPC, between August 1, 2017 and September 1, 2017. During this period the law library was open for the scheduled hours of operation.

It was also determined from the law library logs for that period of time that Detainee # 2 was in the law library almost every day, five days a week. During this 32 day period Detainee # 2 was in the law library anywhere from 2 hours to 4 hours on each occasion (A total of 19 visits to the law library) for a total of 55 hours. Detainee # 2 was clearly granted extraordinary access to the law library.

Findings:

- The allegation that FPC is not properly equipped to meet the detainee needs in the law library, restricts detainee usage and access to once per week and closes early impairing the scheduling process is “**Unfounded.**”

Recommendations:

- None related to this complaint

Complaint No. 17-11-ICE-0569

On August 23, 2017, CRCL received a referral from DHS OIG regarding Detainee # 3.¹⁵ The complaint alleges that on June 6, 2017, correctional officers mistreated and physically assaulted Detainee # 3 using disparaging language against him based on race and ethnicity. He specifically alleged that officers punched and kicked him, slamming his head on the floor.

Analysis:

In an effort to investigate this allegation the complete FPC detention record for Detainee # 3 was reviewed. There were no reports to indicate that Detainee # 3 was ever involved in an altercation or an incident involving force at FPC. His record indicated that he was a worker in his housing unit and he was disciplinary free during his stay at FPC.¹⁶

¹⁵ The identity of Detainee # 3 is contained in Appendix A.

¹⁶ Worker positions and the opportunity to earn money for work are generally assigned to detainees who are compliant with facility rules and maintain a disciplinary free record.

Further inquiry revealed that Detainee # 3 arrived at FPC on June 21, 2017. The allegation he made concerning his being mistreated and assaulted by officers was made on June 6, 2017, a full two weeks before he arrived at FPC. Accordingly, the complaint in question could not have happened at FPC. It was determined from the record that Detainee # 3 was detained at the Baker County Sheriff's jail facility on June 6, 2018. CRCL will follow up with that facility on the allegation.

Findings:

- No finding

Recommendations:

- CRCL will follow up with the Baker County Sheriff regarding this complaint.

Complaint No. 18-04-ICE-0101

CRCL received this complaint from the DHS OIG on January 19, regarding Detainee # 4, in which he alleges that on September 12, 2017 an officer "tried" to spray him with "mace" because he was praying.¹⁷ He stated he told the officer that he was Muslim and was subsequently placed in a holding cell for two hours.

Analysis:

The detention file for Detainee # 4 was reviewed and contained no information that would inform the alleged event. Further review determined that he arrived at FPC on September 29, 2017 and was removed from FPC on November 10, 2017. The event in question was alleged to have happened on September 12, 2017, two and a half weeks before he arrived at FPC. It was determined that Detainee # 4 was detained at the Baker County Sheriff's jail facility on September 12, 2017. CRCL will follow up with that facility on the allegation.

Findings:

- No finding

¹⁷ The identity of Detainee #4 is contained in Appendix A.

Recommendations:

- CRCL will follow up with the Baker County Sheriff regarding this complaint.

Complaint No. 18-01-ICE-0069

This complaint was received by CRCL on October 17, 2017, from Detainee # 5.¹⁸ In correspondence post marked October 9, 2017, Detainee # 5 alleged that on October 3, 2017 the FPC designated PREA Coordinator wrongfully accused him of threatening another detainee. Detainee # 5 alleged that correctional officers subsequently used excessive force against him, including sexual assault, which resulted in an injury.

Analysis:

A review of the FPC detention record for Detainee # 5 revealed that in fact a force incident involving Detainee # 5 and FPC officers did in fact occur on October 3, 2017. The incident reports and video footage of the incident were reviewed in detail and the prior PREA Coordinator named in the allegation was interviewed. Detainee # 5 was not interviewed as he is no longer at FPC and has been removed.

Following a complete review of the allegations, the incident reports, the videos of the incident and the information ascertained from the prior PREA Coordinator who was directly involved in the incident, the following is a description of the events involving Detainee # 5 on October 3, 2017:

Detainee # 5 was standing in line in the dining room waiting to get his food tray. The PREA Coordinator was also standing in the area observing the detainees who were waiting in the food line.¹⁹ The PREA Coordinator overheard Detainee #5 make threatening statements to another detainee standing close by. Wanting to interrupt a possible escalation between the two detainees and avoid further confrontation or an altercation, he asked Detainee # 5 to step out of line and come speak with him away from the other detainee. Detainee # 5 joined the

¹⁸ The identity of Detainee #5 is contained in Appendix A

¹⁹ This was confirmed both by statements from the employee and by the video footage reviewed.

PREA Coordinator several yards away, but still in the dining room, and he was questioned as to the issue between him and the other detainee. Detainee # 5 was told that he cannot be making threats against other detainees and that he must calm down or he would be placed in the RHU. Detainee # 5 refused to calm down and told the PREA Coordinator that he was going to “kick the other detainee’s ass.” At this point the PREA Coordinator asked two officers to escort Detainee # 5 to the RHU for housing.

Detainee # 5 immediately resisted the escort and refused to allow the officers to place him in handcuffs. The officers began struggling with the detainee in an effort to place handcuffs on him and ended up taking him down to the floor. Detainee # 5 was in the prone position on the floor with his hands under his body in his attempt to prevent the officers from placing him in handcuffs. The officers were on the detainee’s back struggling to pull his hands and arms from under his body and get him restrained in handcuffs. The struggle took more than a minute to get the detainee handcuffed; all the while the PREA Coordinator stood close by and, holding his phone, recorded a video of the incident. Once handcuffed, Detainee # 5 was lifted to his feet and escorted to the RHU without further incident. Medical staff subsequently evaluated the detainee for injuries. The detainee complained of pain in his wrist, but the medical evaluation, including pictures, showed no swelling or indication of injury.

Following the incident Detainee #5 alleged that during the incident and the struggle to get him handcuffed, the officer(s) had sexually assaulted him by groping his genital area. This allegation was investigated and found to be unsubstantiated. I saw nothing in evidence, including the video of the incident, that would substantiate the allegation of sexual assault. In my opinion, the allegation should have been unfounded, because even if the officers’ hands touched the detainee’s genital area as they were attempting to pull his hands from under his body to handcuff him, it was incidental to the attempt to restrain him and not a sexual assault.

Findings:

- The allegation that Detainee # 5 was wrongfully accused of threatening another detainee is “**Unfounded.**” The evidence was clear that he was angry with another detainee and had threatened him.
- The allegation that correctional officers subsequently used excessive force against him, including sexual assault, which resulted in an injury is “**Unfounded.**” There was sufficient evidence that the force used was not unnecessary or excessive, there was no sexual assault and there was no injury.

Recommendations:

- None related to this complaint.

VII. Additional review and Findings:

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

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

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

Use of Force

There are thirteen documented incidents involving use of force over the past year at FPC involving ICE detainees. The FPC Use of Force policy and procedure was reviewed and evaluated to determine if the required elements of the PBNDS 2011 Use of Force and Restraints have been appropriately incorporated.

It is important to note that even though FPC only houses about 500 detainees at any given time, thousands of detainees reside at FPC over a years' period of time.²⁰ The low number of force incidents and the absence of the use of serious force where injuries occur, is an indicator that staff at FPC use intervention and force avoidance techniques to mitigate the need to use force.

Analysis:

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

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

As indicated above, at FPC after-action reviews are conducted and reports are completed. In reviewing the after-action reports, it appears that at FPC the After-

²⁰ Thirteen uses of force over a year is not more than would be expected and several of the force incidents earlier this year and late last year were involving the high classification detainees that were at FPC at that time. The high classification detainees are more criminally sophisticated and prone to disruptive and violent behavior.

Action Committee is comprised of the proper personnel in compliance with the PBNDS. The after-action reviews are thorough and in compliance with policy. Where procedural and tactical issues are identified, the committee documents the errors and indicates follow-up action to remedy and improve future force actions.

In reviewing force incident reports, it is apparent that each officer observing or using force documents his/her actions and observations in a written report and submits that report to the assigned supervisor before leaving shift. However, in reviewing individual officer force reports, it was determined that some training is needed to ensure that force description-phrases like, “the detainee was placed on the floor and force was used to apply restraints,” or, “at this time we used necessary force to gain control of the non-compliant detainee,” are not included in the reports. These descriptions of force clearly identify that force was used, but they do not describe the specific actions taken by the officer in applying the force. The term “necessary force,” does not describe the actual force applied and there are many ways that one can be “placed” on the floor. It is more important to describe the actual actions taken and the level of force exerted to overcome resistance, rather than to leave it to the reader to imagine how much force was the “necessary” amount.²¹ This was discussed with the Warden (and his managers) who indicated that he intends to follow-up with training on this issue.

Recommendations:

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

²¹ While the reports, and in many cases the videos, have enough detail to determine the officers’ actions, the use of the catch-phrases detracts from the specificity and professionalism of the reports and opens the door for allegations, criticism and debate over exactly how much force was used.

Intake and Classification

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

Analysis:

During our on-site inspection of FPC, there were no high or medium-high detainees at the facility. All the detainees at FPC arrive from other ICE facilities and arrive with classification designations determined by ICE before arrival at FPC. Because only low and low-medium classification detainees are housed at FPC, there is no problem with housing these detainees together.

Intake processing includes showing the “know Your Rights” video and appropriate questioning regarding issues that may impact on detainee safety or housing assignments.²² Detainee Handbooks and orientation materials are provided in this process as well. LEP detainees are provided orientation using the language line when necessary to ensure effective communication.

Recommendations:

- None related to this process

Restricted Housing Unit (RHU)

The PBNDS 2011, 2.12, II, 3, states that, “Any detainee who represents an immediate, significant threat to safety, security or good order shall be immediately controlled by staff and, if cause exists and supervisory approval granted, placed in administrative segregation. ICE and the detainee shall be immediately provided a copy of the administrative segregation order describing the reasons for the detainee’s placement in the SMU.”²³ It also

²² This includes the use of a PREA questionnaire that is designed to identify vulnerabilities based on prior history of sexual abuse or assault.

²³ PBNDS 2011, 2.12 (Special Management Units), II. (Expected Outcomes), 3.

requires that, "Prior to a detainee's actual placement in administrative segregation, the facility administrator or designee shall complete the administrative segregation order (Form I-885 or equivalent), detailing the reasons for placing a detainee in administrative segregation."²⁴

Analysis:

FPC has one housing unit with 30 beds that can be utilized for segregated housing.²⁵ During our on-site inspection there were no detainees housed in the RHU. Clearly, the FPC management does not rely heavily on segregation to manage the detainee population.²⁶ We did however, review the segregation order form used at FPC to document placement in the RHU and we reviewed segregation orders found in detainee files of former FPC detainees.

It was noted that the segregation order form used by FPC has a section for managers to document the reason for placement in restricted housing. This form allows for documenting a brief description of the reason for placement as required by the PBNDS 2011. However, although not required by the PBNDS, the form does not provide a space to document the reason or reasoning used for releasing a detainee from segregated housing.

Even though the PBNDS does not require that a reason be documented for releasing a detainee in segregated housing, it is a national best practice to do so. It is important to have documentation that verifies how or why circumstances that made placement in segregated housing necessary have changed so that placement back into general population is now safe for the detainee being returned or for other detainees.

²⁴ PBNDS 2011, 2.12 (Special Management Units), V. (Expected Practices), A. (Placement in Administrative Segregation), 2. (Administrative Segregation Order), a.

²⁵ FPC refers to the segregated housing area as the Restricted Housing Unit (RHU).

²⁶ We would not expect a large number of detainees to be housed in segregated housing in a population of lower classification level detainees. However, with a population of over 500 detainees, having none housed in segregation is remarkable.

Recommendations:

- FPC should modify the segregation order form to include a space to briefly describe the reason or reasoning for a detainees' release from segregation. **(Best Practices)**

Sexual Abuse and Assault Prevention and Intervention (SAAPI)

The PBNDS 2011, "...requires that facilities that house ICE/ERO detainees act affirmatively to prevent sexual abuse and assaults on detainees; provide prompt and effective intervention and treatment for victims of sexual abuse and assault; and control, discipline and prosecute the perpetrators of sexual abuse and assault."²⁷ The PBNDS 2011 SAAPI standards contain a multitude of specific requirements that must be implemented to ensure compliance. The SAAPI program and process were thoroughly evaluated while on-site at FPC.

Analysis:

The SAAPI Coordinator was interviewed regarding the Sexual Abuse and Assault Prevention and Intervention process. From all the documents reviewed and the on-site inspection, it is apparent that the management at FPC has posted appropriate notifications throughout the facility and appropriately trained the personnel. The zero tolerance for sexual abuse and assault is clearly communicated and allegations of sexual abuse or assault are appropriately documented, reported, and investigated.²⁸

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

²⁷ PBNDS 2011, 2.11, I.

²⁸ There have been nine SAAPI complaints made and investigated at FPC so far in 2018; two (2) were unfounded, six (6) were unsubstantiated and one (1) was pending completion.

When allegations of sexual abuse or assault are made, the involved detainees are separated and medically examined; the crime scene, if identified, is secured and processed; the detainees are interviewed by a mental health clinician and moved to appropriate and safe housing; and, all required notifications are made. The local sheriff is notified and he determines whether a criminal investigation will be conducted. If rejected by the Sheriff for investigation, a SAAPI trained investigator at the FPC conducts the investigation. All allegations appear to be taken seriously and investigated.

In reviewing the tracking system utilized to track and coordinate all the activities related to the SAAPI, it was evident that each investigative file has a check sheet that verifies that all the required notifications and processing requirements of the SAAPI program have been complied with. However, the SAAPI Coordinator did not have a tracking system that listed all the current and past investigations on a single sheet that provided information on the status of each case. While all the timelines are being met and the complete information is available in each individual investigative file, developing a master tracking mechanism for ensuring compliance with all notifications and timelines on a single document would assist with evaluating and assessing the effectiveness of the SAAPI program.

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

Recommendations:

- FPC should revise the SAAPI tracking system to reflect more information on the master tracking sheet. This will enable the SAAPI Coordinator to determine the status of a case, including all notification dates and times, at a glance, without having to go to the

individual case files to determine the status. Specifics were discussed with the SA-API Coordinator at FPC. **(Best Practices)**

Detainee Grievance System

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

Analysis:

Grievance forms are available to detainees in each housing unit in the English and Spanish languages.²⁹ Grievance receptacle boxes are in the dining room for detainees to place their initiated grievance forms. Detainees may also hand their grievances to any staff member who will deliver it to the Grievance Coordinator. The case managers pick up the grievances from the receptacle boxes and deliver them to the Grievance Coordinator.

The Grievance Coordinator assigns a log number, makes copies and forwards to the appropriate staff member(s), who interviews the detainee and prepares a written response. The completed grievances are presented to the detainee, signed as accepted or rejected by the detainee and he/she is given a copy. If the detainee rejects the response, the grievance is referred to the Grievance Appeals Committee for review and decision. The decision is documented by the Grievance Coordinator and returned to the detainee. The Grievance Appeals Committee decision is final.

Our review determined that the grievance process at FPC is functioning well, timeframes for processing the grievances are being met and issues are being

²⁹ The grievance form is a single form that is written in both Spanish and English.

resolved appropriately.³⁰ It appears that LEP detainees are being appropriately accommodated in the grievance process.

Recommendations:

- None related to this process

Visiting Services

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

Analysis:

FPC has visitation for family and friends scheduled on Saturdays/Sundays and Holidays, from 8:00 am to 4:00 pm. Visits are for a one-hour duration and detainees may have one visit per day with up to four visitors per visit.³¹

Legal visitation operates seven (7) days per week and attorneys may call ahead and schedule a visit or simply show up at the facility and request the visit. Legal visits are allowed without time limitations. Attorneys must have a valid bar card number and picture identification to visit. Attorney visitation is conducted in private visiting rooms for confidentiality. Logs are kept for attorney visits and telephone calls.

There were no complaints about the general visitation program, attorney visitation or attorney phone calls from detainees interviewed on-site.

Recommendations:

- None related to this process

³⁰ Grievances are required to be completed in 5 days.

³¹ Detainees may request and have visits extended beyond the one-hour limit when visitors have traveled for long distances beyond the local area. This is considered on a case-by-case basis.

Recreation

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

Analysis:

The leisure-time activities at FPC are operated 7 days a week. Detainees in common pods recreate together in the outdoor recreation areas that are adjoined to each pod.³² The door from each pod to the adjacent outdoor recreation area is opened each morning after breakfast in the housing units and remains open until sundown each day.³³ Additional activities are available in the dayroom areas in the form of cards and board games. These activities take place inside the housing units throughout the day and evening.

During interviews some detainees indicated that the recreation area(s) adjacent to each pod was often closed and not available to the detainees for outside recreation. We visited several pods and interviewed officers to determine whether these outdoor recreation areas were in fact being operated per the procedure as indicated above. We were told, and it did appear, that the outdoor recreation areas adjacent to each pod were in fact being operated as indicated at the times we visited the living areas. However, officers did not consistently make notations in the living unit daily logs as to the opening and closing of the outdoor recreation areas.³⁴

In addition to the daily recreation time, both inside and outside the housing units, special activities are periodically scheduled for tournaments in basketball and soccer. There is also a large outdoor recreation area that is scheduled by housing

³² Each recreation area is equipped with exercise equipment and a basketball hoop and are referred to as “the small yards.”

³³ The outside recreation areas are closed each day during meals and counts.

³⁴ In the absence of unit log notations it was not possible to verify the daily schedule of when the outdoor recreation areas were open each day.

unit that includes an artificial turf soccer field and a beach (sand) volleyball court.³⁵ Soccer and volleyball tournaments are scheduled in this area monthly.

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

Recommendation:

- FPC should require housing officers to make unit log entries daily to document the opening and closing of the outdoor recreation areas adjacent to each living unit pod. This will provide documentation to verify the available outdoor recreation provided each day. **(Best Practices)**

Mail Services

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

Analysis:

At FPC all mail is handled and processed by the assigned mailroom staff. Detainees may send mail by dropping the letters in one of two mailboxes outside of the facility dining room. Each day the mail is picked up from the mailboxes by the mailroom staff, postage is placed on the mail and delivered to the U.S. Post Office.

Incoming mail is picked up by mailroom staff at the U. S. Post Office each day and delivered to the detainees in the housing units. All legal mail incoming and outgoing is logged and signed for by the detainee.

All mail is processed into and out of the facility the same day it is received and is handled exclusively by mailroom staff. We heard no complaints about the mail

³⁵ This area is referred to as “the large yard” and is utilized by all the housing units on a weekly schedule.

processes at FPC. The mail service provide at FPC meets or exceeds the requirements of the PBNDS 2011.

Recommendations:

- None related to this process.

Religious Accommodations

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

Analysis:

We interviewed the FPC Religious Services Coordinator. Services are offered on a regular schedule each week. These services are provided in both Spanish and English by detainee volunteers. Christian, Islamic and Jewish services are scheduled and led by detainees. All detainees are approved and welcome to participate in the weekly services. Weekly services have an average of 75 to 100 detainees in attendance.

The FPC Religious Services Coordinator has not been successful in recruiting volunteer clergy from the surrounding local community.³⁶ However, she has been able to recruit volunteers from among the detainee population who prepare written sermons and publish them weekly.

All accepted religious activities and observances, services, special diets and headwear are accommodated. The Religious Services Coordinator receives and approves requests for special diets based on religious practices. Kosher diets are provided using prepackaged kosher meals. Ramadan is observed by Muslim detainees.

³⁶ FPC currently has only one religious program volunteer from the local community. This person comes in weekly. During our on-site inspection a Jewish Rabbi was in the volunteer orientation process for approval to provide services and should be providing services in the near future.

Bibles and Qurans are provided upon request and religious publications are available in the leisure library collections. In our interviews with detainees, we did not hear any complaints related to the religious services and accommodations offered.

Recommendations:

- None related to this process

Telephone Access

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

Analysis:

Telephones are located in the housing units at FPC. Detainees have unfettered access to make phone calls between 7:00 am and 10:00 pm. Every pod has seven telephones in the dayroom for detainee use. The detainees have a PIN number to use when making calls and the phone system also has voice recognition to prevent fraudulent use of the PIN belonging to another detainee. The phones are available all day up until bedtime each evening. We observed detainees using the telephones in the housing units throughout our inspection. FPC telephone services is in compliance with PBNDS 2011.

Recommendations:

- None related to this process

Legal Library Access

PBNDS 2011, 6.3, II, 1-2, requires that, “Detainees shall have access to a properly equipped law library, legal materials and equipment to facilitate preparation of documents...Detainees shall have meaningful access (no less than 5 hours per week) to law libraries, legal materials and equipment.”

Analysis:

FPC has a law library located in a common area to be utilized by the detainee population from both Housing Buildings A and B. The law library is equipped with seven Lexus Nexus terminals that are updated by ICE quarterly. Detainees may request to be scheduled to use the law library by submitting a standard detainee request form. Detainees are scheduled within a day of each request. Library visits are generally 2 hours each and logs are kept to verify who is using the law library and the length of each visit. Law library visits may be extended up to 4 hours upon request and many detainees actually attend the law library almost daily. The librarian makes copies of documents for detainees upon request.

There was only one complaint regarding the law library at FPC and that complaint was determined to be unfounded. FPC is in full compliance with the PBNDS standards for law library access and operation and in many respects exceeds the standards.

Recommendations:

- None related to this process

Limited Language Proficiency Communications (LEP)

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

Analysis:

We observed that measures are routinely taken to facilitate effective communication using the language line in the Medical Clinic and intake processing areas of FPC. There were no complaints related to LEP.

We reviewed the invoices for the contracted language line at FPC. For example, a one month invoice was for \$33,000, indicating that FPC is definitely utilizing the language line to facilitate effective communication with LEP detainees.

Recommendations:

- None related to this process

Summary of Recommendations:

- FPC should conduct training on use of force report writing to eliminate the use of phrases such as, “necessary force,” from the force reports. It is preferable to thoroughly and specifically describe the actions taken to overcome resistance in a manner that leaves no question as to the level and amount of force used. **(Best Practices)**
- FPC should modify the segregation order form to include a space to briefly describe the reason or reasoning for a detainees’ release from segregation. **(Best Practices)**
- FPC should revise the SAAPI tracking system to reflect more information on the master tracking sheet. This will enable the SAAPI Coordinator to determine the status of a case, including all notification dates and times, at a glance, without having to go to the individual case files to determine the status. Specifics were discussed with the SAAPI Coordinator at FPC. **(Best Practices)**
- FPC should require housing officers to make unit log entries daily to document the opening and closing of the outdoor recreation areas adjacent to each living unit pod. This will provide documentation to verify the available outdoor recreation provided each day. **(Best Practices)**

Appendix A

Detainee #1: (b)(6)

Detainee #2: