

On-site Investigation Report
Youngstown Detention Facility
October 23-24, 2018

(b)(6) MD MPH FACP

with Addendum by (b)(6) MD

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Introduction

This report responds to a request by the Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL) to review and comment on the medical care provided to detainees at the Northeast Ohio Correctional Center (NOCC) in Youngstown, Ohio. My opinions are based on the materials provided and reviewed and during and after an on-site investigation of the facility on October 23-24, 2018. My opinions are expressed to a reasonable degree of medical certainty. NOCC personnel were most pleasant and cooperative during my investigation.

Expert Qualifications

(b) (6)

Methods of Review

In advance of the on-site investigation, I reviewed documents provided by CRCL. During the on-site investigation, I toured the facility including housing units, medication room, and the medical clinic, reviewed documents and medical records, and interviewed staff and detainees. I

did focused reviews of medical records for those detainees who had chronic medical conditions such as asthma or high blood pressure. Clinical performance was measured by a focused review of medical records using a standardized methodology. (The full methodology for the review is described in the document entitled Assessment of Quality of Medical Care in Detention Facilities, and it's accompanying Reviewer Pocket Guide.) The measures are based on nationally accepted clinical guidelines, or consensus guidelines where there are no published clinical guidelines. I reviewed roughly 30 individual detainee medical records in total. I conducted individual interviews with four detainees selected at random from chronic care rosters or selected because of complaints received. Where relevant to findings, reference is made to the Performance Based National Detention Standards (PBPBNS 2011) 2011.

Overview

This report represents the result of an off-site review of documents (including medical records) and my focused two-day on-site medical review at the facility in response to a request by CRCL to investigate specific complaints at Northeast Ohio Correctional Center (NOCC).

NOCC is located in Youngstown, Ohio. It has the capacity to house roughly 1000 inmates and detainees. The reported capacity to house detainees for ICE is roughly 266. Medical care is provided by Core Civic. The medical program is not accredited by the National Commission on Correctional Health Care (NCCHC).

Overall, I found the medical care at NOCC to be very good, but there were three areas where the current program did not meet the PBPBNS 2011. This report will focus on deficiencies and areas requiring further attention in order to meet those standards. Strengths include the current Health Services Administrator, timely intake evaluations by nurses and physician or nurse practitioner and timely ordering of medications.

Findings

Overall medical care of ICE detainees at NOCC meets PBPBNS 2011 with the exception of the following areas where care **does not** currently meet those standards:

1. Timely responses to medical complaints: There were three areas where there were delays in care.
 - a. Delays from medical sick call slip to being seen by a provider. In some cases, there was up to a two-week delay between a patient putting in a sick call request and being seen by a nurse. Staff at the facility were aware of this issue and shared some of their plans to address it. I would recommend keeping a log of all sick call requests and time to evaluation. It was cumbersome to use the electronic medical record (EMR) to determine the date of request and time of evaluation. A method tracking is needed in order to determine if/when a delay occurs.
 - b. Medical diets are only given to the kitchen once a week. According to Core Civic policies they should be started within 24 hours.
 - c. There is a 4-6 month wait for dental to do permanent fillings (restoration of a tooth with a cavity). Oral exams are done in a timely manner however, the wait

times for fillings is too long.

PERFORMANCE does NOT meet the PBNDS 2011 (V(A.6)).

Complaints and Issues Reviewed¹

Complaint No. 18-03-ICE-0049

Complaint alleges that detainees do not receive timely and adequate mental health care.

Complaint No. 18-03-ICE-0492

Complaint alleges that detainee was diagnosed with “tumors” in his neck.

Complaint No. 18-03-ICE-0411

Complaint alleges that detainee received inadequate medical care for a stomach condition. Claims multiple requests to speak to a doctor but his condition was never diagnosed.

Complaint No. 18-04-ICE-0574

Complaint alleges that detainee received inadequate medical care for possible cancer of the lymph nodes and that the facility refused to schedule a biopsy.

Discussion

While this report focuses on deficiencies in the medical care at NOCC, it is important to comment briefly on the medical program as a whole. Performance of the medical program met the PBNDS 2011 in all other areas not cited. Strengths include the quality of the personnel that make up the medical leadership team in the facility, specifically the Clinical Supervisor and the Clinical Medical Director. The medical team is clearly dedicated to providing timely medical services as is evident by the Clinical Medical Director starting his day at 3 AM to ensure that all medications are ordered in a timely manner and to ensure patients are seen without interruption.

The focus of this report is on deficiencies. The deficiencies cited in this report are all correctable, and recommendations for correction are provided below.

Summary of Medical Recommendations for NOCC, October 2018

Overall medical care of ICE detainees at the NOCC meets PBNDS 2011 with the exception of delays in medical care:

- 1. Delay from medical sick slip being submitted to being seen by a provider:** Sick patients are not being seen within a timely manner. Core Civic policies state that

¹ Findings regarding complaints are in *Addendum* on page 6.

patients are to be seen within 48 hours of the request being received.

PERFORMANCE does NOT meet the PBNDS 2011 4.3, S.,4.

Recommendation: Develop a tracking system for date and receipt of all medical request slips received through sick call. Track when the sick call request is received and when the medical evaluation occurred. This should be done on a weekly basis as a means of quality assurance. If there are delays greater than 48 hours, evaluate the cause and consider increasing nurse staffing.

- 2. Delays in medical diets:** Medical diets are only given to the kitchen once a week.

PERFORMANCE does NOT meet the PBNDS 2011 4.3, H., 1.

Recommendation: Per PBNDS 2011 standard, send all medical diet orders to the kitchen the day the order is approved.

- 3. Delays in fillings by dental:** There is a 4-6 month wait for dental to do permanent fillings (restoration of a tooth with a cavity).

PERFORMANCE does NOT meet the PBNDS 2011 4.3

Recommendation: Due to the delay in dental fillings, the facility should restructure initial oral exams to be completed by dental hygienist. This would allow the dentist to prioritize efforts to treat acute dental needs, provide fillings timely, and fulfill other tooth restoration needs.

- 4. Delay in access to care for subspecialty care and diagnostic work-up for an urgent medical condition:** The case of the delay and functional denial in access to urgent lymph node biopsy (Case # 3) demonstrates a process that does not adequately handle urgent access to sub-specialty care.

PERFORMANCE does NOT meet the PBNDS 2011

Recommendation: Urgent referrals should not be delayed for prior authorization by ICE. ICE should work with the contractor to streamline the scheduling of urgent diagnostic procedures.

Addendum by (b) (6) ; MD

Complaints

I have reviewed medical records regarding three complaints received by CRCL and cited in the retention memo.

Complaint No. 18-03-ICE-0492 (Case 1)

Complaint alleges that detainee was diagnosed with “tumors” in his neck.

This complaint is *partially substantiated* in that there were delays in surgical excision of neck masses and no record of final pathology noted on the chart - although the detainee appears to have been released shortly after the biopsy. Still, the final pathology should have been noted, and if other than benign, an effort made to communicate the results to the released detainee.

Complaint No. 18-03-ICE-0411 (Case 2)

Complaint alleges that detainee received inadequate medical care for a stomach condition. Claims multiple requests to speak to a doctor but his condition was never diagnosed.

This complaint is *not substantiated*.

Complaint No. 18-04-ICE-0574 (Case 3)

Complaint alleges that detainee received inadequate medical care for possible cancer of the lymph nodes and that the facility refused to schedule a biopsy.

This complaint is *substantiated*. The patient was identified by serial CT scans in August as having a rapidly growing mass in his chest in August of 2017. Biopsy was recommended. An outside consultant took the additional step of writing a letter to the facility that same month stressing the need for urgent biopsy of the growing lesion. Although the facility did make efforts to schedule a biopsy, the process was slow (due to multiple points requiring ICE approval) and as of mid to late November, the biopsy had still not occurred. While there were legitimate clinical discussion of most appropriate approach (CT guided biopsy versus open biopsy by thoracic surgery) the delay was unacceptably long. This delay and resulted in an effective denial in access to care for a serious medical condition.

Complaint No. 18-03-ICE-0049

This complaint was very general in nature, and alleged that detainees do not receive timely and adequate mental healthcare. The on-site reviewer (Dr. (b) (6)) did *not substantiate* this complaint.

Appendix I

This section includes identifiers to protected health information. Disclosure/distribution of this appendix should be limited accordingly.

Identity of Cases Cited in this Report

<u>My Case No.</u>	<u>A #</u>	<u>Name</u>	<u>CRCL Complaint #</u>
1.	A XXX XXX XXX	XXXXXXXXXXXXXXXX	18-03-ICE-0492
2.	A XXX XXX XXX	XXXXXXXXXXXXXXXX	18-03-ICE-0411
3.	A XXX XXX XXX	XXXXXXXXXXXXXXXX	18-04-ICE-0574

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

Northeast Ohio Correctional Center
Complaint Numbers
18-03-ICE-0049
18-07-ICE-0236

(b) (6)

Prepared By:
MCJ, R.D.N., L.D., R.S., CCHP, CLLM
11/12/2018

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Introduction

On October 23-24, 2018, I assessed the environmental health and safety conditions at the Northeast Ohio Correctional Center (NOCC). This onsite investigation was provided under contract with the United States Department of Homeland Security, Office for Civil Rights and Civil Liberties (CRCL). Accompanying me on this investigation were (b)(6) Senior Policy Advisor, CRCL; (b)(6) Policy Advisor, CRCL; as well as two other subject matter experts who examined NOCC's medical care and correctional operations.

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

Qualifications

(b) (6)

Methodology

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

Facility Overview

NOCC is operated by CoreCivic. Food services are operated by Trinity Services Group. The detainee population was 266 on October 24, 2018 and 284 on October 24, 2018. The PBNDS 2011 are applicable to this facility.

Findings

Meals and Food Service

Complaint Numbers: 18-03-ICE-0049 and 18-07-ICE-0236

It is alleged that detainees are deprived of their meals and only have five to ten minutes to consume meals (18-03-ICE-0049) and that the facility serves poor quality food, including rotten, expired milk that was served on April 13, 2018 (18-07-ICE-0236).

Findings: The allegation that detainees are deprived of their meals is unsubstantiated. The allegation that detainees are allowed a brief period of time to consume their lunch meals in the dayroom is substantiated; however, detainees are allowed to take their meal trays into their individual cells/rooms and therefore, the allegation that detainees are allowed less than ten minutes to eat their meals is **unsubstantiated**. The allegation that the facility serves poor quality food is also **unsubstantiated**.

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

Analysis:

During my inspections on October 23-24, 2018, the NOCC kitchen was found it to be in compliance with the PBNDS 2011 Food Service standard. The kitchen was clean, orderly, and no evidence of unwholesome or spoiled food was found. The kitchen was also inspected by the Youngstown City Health Department on October 31, 2017, in response to a complaint. The Registered Sanitarian stated in the inspection report, "Inspection in regards to complaint received from ODH, 10/30/17. The kitchen facility was clean, sanitary, and well maintained. There was no old or rotten food in kosher food section. No violations noted during inspection."

During group detainee interviews, a detainee stated that expired, rotten milk was served on one occasion and that he was one of the individuals that formally reported it. However, the detainee also stated that he had been at NOCC for almost two years and that the alleged incident on April 13, 2018, was the only time that spoiled food was served, the facility corrected the problem after the incident, and that it has not happened since. Milk is perishable and it is conceivable that out of the thousands of cartons of milk that are served annually at NOCC, detainees may have received milk that was spoiled or past its sell-by date. However, this one incident does not constitute a pattern and practice of serving unwholesome, rotten food. Therefore, the allegation that facility serves poor quality, rotten food is not substantiated.

In regards to the allegation that detainees are only afforded five to ten minutes to consume their meals, the meal service process was observed and a pod control logbook was reviewed. Logbook entries reveal that lunch meals are frequently served to detainee housing units, within fifteen minutes or less of the mandatory 11:00 a.m. face-to-photo facility count, in which detainees are required to report to their individual cells/rooms. Therefore, it appeared that detainees are not afforded a minimum of 20 minutes to dine as required by the PBNDS 2011 Food Service standard. However, NOCC facility administration stated that detainees are not restricted to only consuming meals in the dayrooms and are allowed to take their meal trays into their individual rooms to eat or finish eating while the count is conducted and cleared. A review of video recordings of activity in detainee housing unit B-8 confirmed that some detainees take their meal trays or food into their cells before the 11:00 a.m. count. However, several detainees eating lunch in the housing unit B-8 dayroom on October 24, 2018, also stated that they do not have adequate time to eat their lunch meals. No evidence was found to substantiate the allegation that detainees are denied or deprived of meals.

Recommendation:

Based on the allegation in Complaint No. 18-03-ICE-0049 and the statement by detainees during the CRCL onsite that they do not have adequate time to consume their meals, NOCC should ensure that all detainees are informed that they are allowed to consume meals in their individual cells/rooms, when they are not afforded a minimum of 20 minutes to dine in the dayroom, to ensure compliance with the PBNDS 2011 Food Service standard. Additionally, NOCC should review the count times and scheduled meal times and make adjustments unless a compelling reason prohibits it, to ensure that meals comply with the PBNDS 2011 Food Service standard stating, "Dining room facilities and operating procedures shall provide sufficient space and time for detainees to eat meals in a relatively relaxed, unregimented atmosphere" and "Meals shall be served in as unregimented a manner as possible. The Food Service Administrator's table arrangement should facilitate ease of movement and ready supervision. The dining room shall have the capacity to allow each detainee a minimum of 20 minutes dining time for each meal." (Applicable standard: PBNDS 2011; Food Service)

Laundry

Complaint Number: 18-03-ICE-0049

It is alleged in Complaint No. 18-03-ICE-0049 that detainees' laundry is stolen by inmates at the facility, and some sheets and blankets are unwashed for months.

Findings: The allegation that stolen laundry is causing harm to detainees is **unsubstantiated**. The allegation that sheets and blankets are not washed for months is also **unsubstantiated**.

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

Analysis:

I inspected the NOCC laundry operations and found them to comply with the PBNDS 2011 Personal Hygiene standard. Detainees are issued laundry items in compliance with the PBNDS 2011 Personal Hygiene standard. Additionally, I observed laundry and bedding throughout the detainee housing units and did not find any evidence to support the allegation that sheets and blankets are not routinely laundered. The NOCC laundry schedule indicates that white blankets are laundered on the first Tuesday of each month and gray blankets are laundered on the first Thursday of each month. During interviews, I asked numerous detainees about the laundry process and operations at NOCC. Every detainee questioned, including several that had been at the facility for six months or longer, stated that the facility adheres to the posted laundry schedule and none reported laundry related problems, including missing or stolen laundry. I also interviewed the laundry supervisor, who admitted that there had been a problem with non-detainee inmates stealing laundry; however, she took steps to curtail it, resulting in significantly fewer complaints from detainees. Theft of laundry items is not an uncommon problem in detention facilities, and while it may be frustrating to detainees, as long as detainees' laundry items are replaced by the facility in a timely manner to ensure ongoing compliance with the PBNDS 2011 Personal Hygiene standard, the issue does not rise to the level of violating the PBNDS 2011 Personal Hygiene standard.

Conditions of Detention, Including Ambient Air Temperatures

Complaint Number: 18-03-ICE-0049

Complaint No. 18-03-ICE-0049 alleges deficient conditions of detention and that the housing units and dining areas are too cold.

Findings: The allegation that the general environmental health conditions at NOCC are deficient and the specific allegation that ambient air temperatures are too cold are **unsubstantiated**.

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

Analysis:

I inspected the kitchen, laundry, and detainee housing units at NOCC and found the conditions complied with the PBNDS 2011 Environmental Health and Safety standard including the requirement that “conditions shall be maintained at a level that meets recognized standards of hygiene, including those from the American Correctional Association” specifically ACA Housekeeping standard 4-ALDF-1A-04 stating, “The facility is clean and in good repair.” Therefore, the allegation that environmental conditions are deficient is unsubstantiated.

The PBNDS 2011 standards do not specify ambient air temperature requirements. Various air temperature measurements were taken during my inspections and were found to comply with the best practice of ambient air temperatures between 65 and 85°F. Furthermore, numerous detainees were asked about the ambient air temperatures and all stated that they were either comfortable or comfortable when wearing their facility issued jacket. Although the factors that constitute comfortable and preferable living conditions, including personal thermal comfort are subjective and some individuals, especially those in a sedentary environment may feel cold at the common set point temperatures utilized in institutional environments, the ambient air temperatures at NOCC were found to meet the environmental health standards and generally accepted practices applicable to detention facilities.

Summary of PBNDS 2011 Recommendations

Based on the allegation in Complaint No. 18-03-ICE-0049 and the statement by detainees during the CRCL onsite that they do not have adequate time to consume their meals, NOCC should ensure that all detainees are informed that they are allowed to consume meals in their individual cells/rooms, when they are not afforded a minimum of 20 minutes to dine in the dayroom, to ensure compliance with the PBNDS 2011 Food Service standard. Additionally, NOCC should review the count times and meal times and make adjustments unless a compelling reason prohibits it, to ensure that meals comply with the PBNDS 2011 Food Service standard stating, “Dining room facilities and operating procedures shall provide sufficient space and time for detainees to eat meals in a relatively relaxed, unregimented atmosphere” and “Meals shall be served in as unregimented a manner as possible. The FSA’s table arrangement should facilitate ease of movement and ready supervision. The dining room shall have the capacity to allow each detainee a minimum of 20 minutes dining time for each meal.”

(Applicable standard: PBNDS 2011; Food Service)

APPENDIX A

Non-Priority/Best Practices Recommendations

Northeast Ohio Correctional Center (NOCC)

Complaint Nos. 18-03-ICE-0049, 18-03-ICE-0492, 18-03-ICE-0411,
18-07-ICE-0236, 18-04-ICE-0574

Corrections

1. NOCC should conduct training on use of force report writing to eliminate the use of phrases such as, “the least amount of force necessary,” and, “I assisted the detainee to the ground,” 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.
2. NOCC should either modify the segregation order form to include a space to briefly describe the specific reason or reasoning for a detainees’ release from segregation, or in the alternative, add an attachment to the segregation form that describes the reasoning and circumstances of the release.
3. NOCC should develop a process to document the use of the legal materials by detainees. Even though the PBNDS 2011 does not require it, it would be easier to address any future allegations or challenges to legal access if records were kept to demonstrate exactly how much time specific detainees are using the legal services materials.
4. The Unit Manager at NOCC should hold team-building meetings including the uniformed officers and provide training to establish expectations for officers as an important part of the team in providing program and services for the detainee population. The Unit Team will be stronger and more effective if the officers are incorporated into the operations in this fashion.

Conditions of Detention Expert Report

On

Northeast Ohio Correctional Center

This report is a general examination of conditions at the Northeast Ohio Correctional Center (NOCC) in Youngstown Ohio with a specific examination of the issues identified in the following complaint:

- 18-03-ICE-0049

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 NOCC, located in Youngstown, Ohio.¹ The complaint being investigated by this writer contained the following allegations which are examined in this report:

- ICE personnel do not sufficiently communicate with detainees;
- Staff abuse their authority and engage in unprofessional, racist and discriminatory conduct;
- Detainee religious rights and practices are being denied and violated;
- Detainees lack access to a grievance system;
- Detainees do not have access to an actual walk-in law library and,
- Detainees are physically abused and assaulted by staff;

In addition to the specific allegations identified in this complaint, the following aspects of the NOCC operations are generally reviewed during the on-site inspection/investigation:

- Use of Force Reporting and Accountability
- Special Management Unit (SMU) (Administrative/Disciplinary Segregation)
- Custody classification
- Sexual Abuse and Assault Prevention and Intervention (SAAPI)
- Grievances
- Visiting
- Recreation
- Mail
- Religious Services
- Telephones
- Law Library
- Limited English Proficiency (LEP) communication

¹ There were a total of five complaints received by CRCL which are examined during this on-site investigation. Three of the complaints contain allegations regarding inadequate medical care; one complaint contains allegations regarding the food quality; and, the complaint being addressed here contains primarily allegations regarding assaults by staff on detainees, discrimination, denial of mandated services and unprofessional conduct by facility staff. The elements in this complaint and in the four (4) other complaints not listed here regarding medical care and food quality will be examined in separate reports by CRCL experts, (b)(6) Environmental Health and Safety.

II. Relevant Standards

- **ICE Detention Standards**

The Performance Based National Detention Standards (PBNDS) 2011 apply to NOCC.² These are the standards that are being 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 American Correctional Association (ACA).

III. Facility Background and Population Demographics

On the first day of our site visit the ICE detainee population at NOCC was 266.³ The ICE detainee population is all male. In addition to the ICE detainee population, NOCC also houses inmates for the U. S. Marshall's Service and the State of Ohio.⁴ The NOCC is operated by Core Civic Corporation under separate contracts with ICE, the State of Ohio and the U. S. Marshall's Service. NOCC has been awarded accreditation by the ACA.⁵

Detainees at NOCC are classified in classification levels of low, low/medium, medium/high and high. The low and low/medium classified detainees are housed in common housing units and the medium/high and high classified detainees are housed in common housing units.⁶ There are three housing units that house the ICE detainee population. Each unit has (b) (7)(E) .⁷ (b) (7)(E)

The total bed capacity for ICE detainees at NOCC is 352.

Three hot meals are provided daily and served in the housing units. Food is prepared in the main kitchen and delivered via food-carts to the housing units where it is served. Detainees

² The PBNDS 2011 were revised in 2016.

³ CRCL was on-site at NOCC October 23-24, 2018.

⁴ There were also (b) U. S. Marshall's inmates and (b) State of Ohio inmates housed at NOCC on the first day of our inspection/investigation. Including the ICE detainee population, the total facility population was 1822.

⁵ Initial ACA accreditation was awarded in 2016.

⁶ Low and low/medium classified detainees may be housed together and medium/high and high classified detainees may be housed together in accordance with PBNDS 2011 standards.

⁷ (b) (7)(E)

may eat at dayroom tables or take the food tray to their cells/bed areas to eat.⁸ Other services, such as visitation, barber shop and religious services are 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 large athletic field comprised of a large covered basketball court with six baskets (three full basketball courts) and a grass area where the detainees play soccer. There is a paved walking path around the athletic field. Detainees from the housing units use the outdoor recreation area on a rotating schedule.

Throughout the site inspection/investigation process, we toured the NOCC, reviewed records, interviewed Core Civic personnel and ICE officials, as well as, several ICE detainees. All general conditions of confinement were reviewed and considered while on-site at NOCC.

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 are no deficiencies identified related specifically to the 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).

IV. Expert Professional Information

(b) (6)

⁸ Because the midday meal is served at approximately the same time as the 11:00 am facility count, detainees often do not have time to finish eating their meals in the dayroom before having to return to their cells/bed areas for count. Because of this, many detainees simply retrieve their food trays and return to their cells/bed areas to eat. The scheduling issues related to the meal service will be addressed in a separate report by (b) (6), the CRCL Environmental Health and Safety expert.

V. Review Purpose and Methodology

The purpose of this review is to examine the specific allegations in the complaint cited above and to observe the overall operations of the NOCC as it relates to the care and treatment of the ICE detainees. For this review, I examined detainee records; NOCC policies and procedures; documentation kept on-site depicting such things as detainee grievances and incident reports involving the use of force; interviewed ICE detainees, ICE personnel and Core Civic personnel; and, conducted an on-site tour of the NOCC facility. All the Core Civic 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 NOCC documents:

- Core Civic/ICE Contract Agreement
- Detainee grievances
- Detention Files (random selection and those with complaints or grievance issues being investigated)
- Segregation orders and forms

⁹ At that time, the inmate population in the CDCR was over 160,000 with approximately 120,000 parolees and 57,000 employees.

- Incidents involving use of force and Force After-Action Reports¹⁰
- ICE National Detainee handbooks and NOCC handbooks in English and Spanish
- Sexual Abuse and Assault Prevention and Intervention (SAAPI) investigations¹¹
- NOCC Policies on the following:
 1. Reception and Orientation
 2. Visitation
 3. Classification
 4. Resident Services and Programs (Recreation)
 5. Chaplaincy and Religious Services
 6. Communication, Mail and Visiting
 7. Access to Courts
 8. Use of Force & Restraints
 9. Segregation/Restrictive Housing Unit Management
 10. Inmate/Resident Grievance Procedure
 11. Sexual Abuse Prevention and Response

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 October 23-24, 2018, included the following:

- Toured the intake and release areas
- Toured the housing units

¹⁰ There were 11 use of force incidents at NOCC over the past year. All 11 force incidents, including video recordings, were thoroughly reviewed during this on-site inspection.

¹¹ There was only one (1) SAAPI allegation and investigation in the past 18 months. The investigation was reviewed and the Core Civic SAAPI tracking system was reviewed and evaluated.

- Toured the visitation and visitation reception area
- Toured the cells used for segregation (administrative/disciplinary segregation)¹²
- Toured the medical clinic areas
- Toured the food services areas
- Inspected all areas of detainee access for information postings¹³
- Interviewed various personnel including command staff, supervisors and line staff¹⁴
- Interviewed various ICE detainees, randomly selected

VI. 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 occurred¹⁵; and
- “Unfounded” describes an allegation that was investigated and determined not to have occurred as alleged.

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 complaint, and its component parts, listed above in this report will be specifically reviewed, analyzed and a finding will be opined.

¹² There are four (4) cells designated for detainee segregated housing at NOCC. At the time of our on-site inspection/investigation there were three (3) detainees housed on segregation status; two (2) were placed on segregated status 2 days earlier for fighting and were pending disciplinary hearings and the other detainee was segregated at his own request.

¹³ All general services areas and housing units had the appropriate detainee information postings for SAAPI, LEP, numbers to contact the OIG, ICE, Consulates and etc.

¹⁴ 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.

¹⁵ 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.

Complaint No. 18-03-ICE-0049

Complaint 18-03-ICE-0049 was received by the CRCL on December 5 and 6, 2017, from Detainee # 1 and Detainee # 2.¹⁶ The detainees alleged that ICE personnel at NOCC do not sufficiently communicate with detainees; facility staff abuse their authority and engage in unprofessional, racist and discriminatory conduct; detainee religious rights and practices are being denied and violated; detainees lack access to a grievance system; detainees are physically abused and assaulted by staff; detainees do not have access to an actual walk-in law library; detainees do not receive timely and adequate mental health care; and, environmental health and safety is compromised.¹⁷

Analysis:

Neither Detainee # 1 nor # 2 were present at NOCC at the time of this investigation. The facility records for each detainee were reviewed in their entirety. A review of the detainee records indicates that the identical complaint that was received by CRCL separately from both detainees, was most likely written by Detainee # 1. His record indicates that he filed several grievances related to general allegations of "racism" and "discrimination," a "religious crown" (hat) and a religious diet. On the other hand, the record of Detainee # 2 contained no grievances or any indication that he had any issues related to the allegations in the complaint.

It is noteworthy the allegations in this complaint were investigated by independent investigators not employed at the facility and none of the allegations were substantiated. We conducted our own investigation while on-site as well.

The allegations in the complaint will be addressed individually below:

ICE personnel at NOCC do not sufficiently communicate with detainees

While on-site, we observed that unit counselors and unit case managers meet with detainees in the housing unit areas daily. When interviewed, the counselors and case managers indicated that if a detainee does not know who their assigned ICE deportation officer is, or how to contact him, they assist the detainee with information and direction. ICE deportation officers are present in the facility daily and respond to requests from detainees on a regular basis. During interviews with randomly selected detainees throughout the facility, there are some general complaints regarding communication with ICE deportation officers, however, the complaints are more that detainees do not like the answers they are given rather than lack of accessibility.¹⁸

¹⁶ The correspondence received from Detainee # 1 and Detainee # 2 was received a day apart, but was an identical document, obviously prepared by one individual or jointly by the two individuals. The identities of Detainee #1 and # 2 are contained in Appendix A.

¹⁷ As indicated above, the issues related to health care and environmental health and safety will be addressed in separate reports.

¹⁸ There have been only four (4) grievances filed with ICE by NOCC detainees so far in 2018.

It is worth mentioning that in our inspections and investigations at other facilities holding ICE detainees, we have encountered problems with detainee access to and communication with ICE deportation officers. This does not appear to be the case at NOCC.

Facility staff abuse their authority and engage in unprofessional, racist and discriminatory conduct

The unit manager was interviewed regarding the allegations that staff engages in unprofessional, racist and discriminatory conduct.¹⁹ The unit manager remembered Detainee # 1 and shared his knowledge of the detainee. He indicated that Detainee # 1 was not a disciplinary problem during his stay at NOCC. However, Detainee # 1 often complained and had three primary issues that he constantly pursued. First, he did not want to be referred to as a detainee. He felt that this was akin to calling him an inmate. Secondly, he had a Rastafarian hat stored in his property that he wanted in his possession to wear daily. And thirdly, that he wanted a diet that was primarily vegetarian, but contained additional items like eggs, cheese and some animal products.

The unit manager indicated that while verbal interaction between Detainee # 1 and facility staff was at times frustrating for staff, it was not unprofessional. Although Detainee # 1 did complain a lot, interactions with him were professional and reasonable. I also note that the detainee record, while containing several grievances as indicated above, did not contain grievances about staff misconduct or unprofessionalism. It seems that his only complaint about unprofessional and discriminatory conduct is documented in general terms in this complaint.

In this complaint, Detainee # 1 specifically identifies at least nine (9) officers and team members that he alleges are unethical, vindictive, manipulative, malicious, selling false hopes, disrespectful, miserable, not fit to be working with immigrants and snakes in the grass. Having inspected dozens of facilities nation-wide, I find it unusual that virtually every member of a team is identified and described in these terms. While it is common for some staff to have better rapport and a better "bedside manner," so to speak, with detainees than others, it is unusual for all the staff to be engaged in behavior as described in this complaint, and certainly not consistent with what we observed.²⁰

¹⁹ The allegations of racism and discrimination made in the complaint and in the grievances in the detainee's record are, for the most part, general in nature and do not give specifics that would demonstrate or support the allegation. Where he does allege specific unprofessional language attributed to an identified officer, we are unable to find corroboration to support the allegation. The detainee's record indicates and the unit manager confirms that Detainee # 1 also felt that staff, by simply referring to him as a "detainee," were using discriminatory language.

²⁰ If several detainees corroborated these depictions of staff and staff conduct, it would be likely that there is a serious problem with staff/detainee relations. However, no corroboration or evidence of these behaviors was found at NOCC.

We observed the interactions between the Unit Team staff²¹ and the detainees. The relationship between staff and detainees at NOCC appears to be not only professional, but helpful and positive. If a facility has a culture of unprofessionalism, racism, discrimination or retaliation, it is not so easily covered up, especially from the trained observer. There was no evidence to indicate that staff were unprofessional, racist, discriminatory or retaliatory with Detainee # 1.

Detainee religious rights and practices are being denied and violated

Based on the grievances contained in the detainee's record, it appears that the allegation regarding the denial of religious rights and practices relates primarily to the detainee's complaint about his Rastafarian Crown (hat) he wanted to retrieve from his stored personal property. The unit manager indicated that after initial intake processing, Detainee # 1 was offered to select and retain allowable items from his personal property before the remainder of his property was stored in the facility property room, pending transfer, release or removal. However, Detainee # 1 decided not to include his Rastafarian hat in the items he wished to keep in his possession. Detainee # 1 subsequently requested to retrieve his hat. This request was denied by facility staff because a process exists for detainees to request from ICE any property from storage following initial intake screening. When detainee # 1 started filing grievances with facility staff about the hat, the Warden ordered that staff go get the hat and bring it to the detainee and have him sign for the item, rather than requiring him to make the request of ICE, which he for some unknown reason was unwilling to do. This apparently ended the issue. The wearing of religious headwear is not restricted at NOCC.

Our review also indicated that Detainee # 1 was granted a vegetarian diet in accordance with his religious beliefs. However, Detainee # 1 wanted to add food items of his choosing to the vegetarian diet. This was the focus of several of his grievances and complaints. It appears that Detainee # 1 was granted the vegetarian diet as a religious accommodation per the procedure, he was simply not satisfied with the vegetarian diet he received.

The prior investigation of this complaint determined that there were some religious services that were cancelled due to there being insufficient detainee participants. As an example, one service required seven (7) worshipers and when fewer detainees wished to attend the service was cancelled.²² In interviewing the Chaplain, it is clear the NOCC currently provides one of the most robust religious services programs we have observed in detention facilities nationally. There is a full-time chaplain and two part-time chaplains, including a Muslim Imam on staff at

²¹ The unit team is comprised of the unit manager, the case managers and the counselors who are responsible for the detainee program and services.

²² The Chaplain indicated that this issue occurred most often with the Muslim worshipers. All detainee group meetings outside the housing units require a staff presence. Because there was no Muslim Imam to oversee Muslim worship services, additional staff had to be assigned for these services. Thus, minimum attendance standards were imposed. This problem has been resolved since the hiring of a part-time Muslim Imam who now conducts the Muslim services.

NOCC. Services are scheduled weekly and well attended.²³ We discovered nothing that would support the allegation that religious practices are denied or violated.

Detainees lack access to a grievance system

There were approximately fifty (50) grievances filed at NOCC so far in 2018. We verified that grievance forms are available to detainees in the housing unit office and collection boxes are posted in the housing units as well. While an average of five (5) grievances filed per month is not excessive, it is evidence that there is a grievance system and detainees are aware of how to use it.²⁴

Detainee # 1 filed several grievance and request forms during his stay at NOCC. His facility record is replete with grievance and request forms that had been filed, processed and answered. There is evidence that a functioning grievance process is in place at NOCC and that detainees have adequate access to it.

Detainees are physically abused and assaulted by staff

In reviewing the facility record for Detainee # 1, it is verified that he was not involved in any incidents involving the use of force while housed at NOCC. In the past year there have been eleven (11) incidents involving the use of force by staff at NOCC.²⁵ Force was used most often to break up fights between detainees and to overcome resistance during controlled escorts. This does not depict a facility where force is excessively used to manage and control the detainee population.

The only specifics Detainee # 1 gives to demonstrate the veracity of his allegation is that on 11/18/2017, in two separate incidents, an officer squeezed a detainee's arm and a sergeant slammed a cell door on a detainee's foot. In an effort to determine if there is a record of these events, the facility chief of security and the unit manager were interviewed.

There are no facility records of force incidents of this nature occurring on 11/18/2017. However, as indicated above these allegations were investigated by Core Civic and found to be unsubstantiated. Dozens of detainees were interviewed and closed circuit TV video was reviewed in an attempt to verify if these events took place.

It was verified that there was an event in which a detainee attempted to take a bagged meal without following the proper procedure. An officer attempted to retrieve the bag lunch from the detainee, but did not use force or assault the detainee. There was no record or evidence of a detainee having a door slammed on his foot.

²³ Religious services will be addressed in more detail in this report below.

²⁴ The detainee grievance process will be addressed in more detail in this report below.

²⁵ This is an average of less than one force incident per month.

Detainees do not have access to an actual walk-in law library

NOCC does not operate a “law library” for detainees. Legal access is provided at NOCC with a computer located in each housing unit pod. The computers have Lexus Nexus legal research programs installed and maintained by the IT support analyst at NOCC. ICE provides updates for the Lexus Nexus program quarterly.²⁶ Detainees have access to use the legal services program throughout each day from 7:00 am until 10:00 pm, during the out of cell program hours in the housing unit pods.

The allegation that detainees do not have access to an “actual walk-in law library” is confirmed. The question is whether having the legal services computers in the housing units meets the PBNDS 2011, 6.3, II, 1-2, which 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.” It has been determined that the Lexus Nexus legal research program materials suffice for legal research and do not also require a legal library of hardcopy law books.²⁷

In order to determine if it is adequate to provide access to the legal materials in the housing unit pod dayrooms rather than a separate stand-alone law library, we evaluated the process for detainees to receive any additional assistance that one would expect in a detention facility legal library program. Essentially, the only other service required in addition to the legal research materials provided in the Lexus Nexus programs is to provide printing, photo copy and mail services for sending legal documents.

Detainees at NOCC are allowed a personal thumb-drive to save documents prepared on the computers in the pod dayrooms. The thumb-drive containing legal documents are taken to the program office where documents are printed, copied and mailed for the detainees.²⁸ This complaint received by CRCL from Detainee # 1, was prepared, copied and mailed using this process. Detainees essentially have unfettered access to use the legal services computer, seven (7) days a week, and to print, copy and mail documents five (5) days a week.

Findings:

- The allegation that ICE personnel at NOCC do not sufficiently communicate with detainees is “**unfounded.**” There was no evidence to support the allegation that ICE

²⁶ These are the same legal research computer programs provided in law libraries in facilities housing ICE detainees throughout the US.

²⁷ Almost all facilities nationally no longer provide a legal library of law books and have replaced them with the Lexus Nexus computer legal research programs.

²⁸ Postage is provide free of charge for all detainee legal mail.

personnel do not sufficiently communicate with detainees at NOCC. ICE personnel are at the facility daily, observe detainee living conditions and are accessible to detainees.

- The allegation that facility staff abuse their authority and engage in unprofessional, racist and discriminatory conduct is “**unsubstantiated.**” While it is not possible to determine that no staff member has ever abused his/her authority at NOCC, we were unable to find evidence to support the allegation. While it is not possible to prove or disprove whether Detainee # 1 had some strained or unprofessional interactions with staff, we were unable to find evidence of unprofessional and discriminatory conduct as described in this complaint.
- The allegation that detainee religious rights and practices are being denied and violated is “**unfounded.**” Detainee # 1 received his religious headwear and his religious diet. Services are provided on a weekly basis and detainees have unfettered access to services at NOCC.
- The allegation that detainees lack access to a grievance system is “**unfounded.**” There is a viable grievance process in place at NOCC. Detainee # 1 filed several grievances that were processed and answered in a timely and appropriate manner. There is no evidence to support the allegation that detainees lack access to a grievance system.
- The allegation that detainees are physically abused and assaulted by staff is “**unfounded.**” Neither this investigation nor the previous independent investigation into this allegation was able to find evidence that staff at NOCC assault and abuse detainees.
- The allegation that detainees do not have access to an actual walk-in law library is “**substantiated.**” However, the access to legal materials and services provided, while not provided in a traditional “walk-in” law library, meets the standard of access required in the PBNDS 2011.

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 NOCC operations and my observations of each will be discussed below:

Use of Force

PBND 2011, Use of Force and Restraints, governs the use of force in detention facilities and requires reporting of force incidents, including after-action reviews and oversight by management. There are eleven (11) documented incidents involving use of force over the past year at NOCC involving ICE detainees. The NOCC Use of Force policy and procedure was reviewed and evaluated to determine if the required elements of the PBND 2011 Use of Force and Restraints have been appropriately incorporated.

It is important to note that even though NOCC only houses about 300 detainees at any given time, thousands of detainees reside at NOCC over a years' period of time.²⁹ The low number of force incidents and the absence of the use of serious force where injuries occur, is an indicator that staff at NOCC use intervention and force avoidance techniques to mitigate the need to use force.

Analysis:

During this site visit I thoroughly reviewed all eleven (11) 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 PBND 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 PBND 2011 standards.

The composition and function of the After-Action Review Team as outlined in the PBND 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..."

²⁹ Eleven (11) uses of force over a year is not more than would be expected for this population. It is also noted that most of the force incidents involved the high classification detainees at NOCC. The high classification detainees are more criminally sophisticated and prone to disruptive and violent behavior.

As indicated above, at NOCC after-action reviews are conducted and reports are completed. In reviewing the after-action reports, it appears that the After-Action Review 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 that do not specifically describe actions taken, not be used in the reports. For example, phrases like, "I assisted in restraining the detainee," or, "I assisted the detainee to the ground," or, "I escorted the detainee to the floor," or, "once I gained control of the detainee, or, "using the least amount of force necessary..." do not specifically describe the forceful actions taken to restrain, control or effect a takedown. 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 "least amount of force necessary," does not describe the actual force applied and there are many ways that one can be "restrained" or "assisted to the ground." 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.³⁰ This was discussed with the Warden (and his managers) who indicated that he intends to follow-up with training on this issue.

Recommendations:

- NOCC should conduct training on use of force report writing to eliminate the use of phrases such as, "the least amount of force necessary," and, "I assisted the detainee to the ground," 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**)

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

³⁰ 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.

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 NOCC, there were all classification level detainees at the facility. Most of the detainees at NOCC arrive from other ICE facilities with classification designations determined by ICE before arrival. Low and low/medium classification detainees are housed together and medium/high and high classification detainees are housed together at NOCC, in accordance with the PBNDS 2011 standard.

Intake processing includes showing the “know Your Rights” video and appropriate questioning regarding issues that may impact on detainee safety or housing assignments.³¹ 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

Special Management Unit (SMU)

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.”³² It also requires that, “Prior to a detainee’s actual placement in administrative segregation, the facility administrator or designee shall complete the administrative segregation order (Form I-885 or equivalent), detailing the reasons for placing a detainee in administrative segregation.”³³

Analysis:

NOCC has designated four cells in a general population housing unit that can be utilized for segregated housing. During our on-site inspection there were three (3) detainees housed in the SMU cells. Clearly, the NOCC management does not rely heavily on segregation to manage the

³¹ This includes the use of a PREA questionnaire that is designed to identify vulnerabilities based on prior history of sexual abuse or assault.

³² PBNDS 2011, 2.12 (Special Management Units), II. (Expected Outcomes), 3.

³³ PBNDS 2011, 2.12 (Special Management Units), V. (Expected Practices), A. (Placement in Administrative Segregation), 2. (Administrative Segregation Order), a.

detainee population.³⁴ We reviewed the segregation order form used at NOCC to document placement in the SMU and we reviewed segregation orders found in the facility records of former NOCC detainees.

It was noted that the segregation order form used by NOCC 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 specifically provide a space to document the reason or reasoning used for releasing a detainee from segregated housing.³⁵

Even though the PBNDS does not require that a specific 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.

Recommendations:

- NOCC should either modify the segregation order form to include a space to briefly describe the specific reason or reasoning for a detainees' release from segregation, or in the alternative, add an attachment to the segregation form that describes the reasoning and circumstances of the release. **(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."³⁶ 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 NOCC.

³⁴ With a population of approximately 300 detainees, having only three (3) housed in segregation is about 1% of the population.

³⁵ The segregation form used at NOCC does provide a few check-the-box options such as, "conclusion of disciplinary time," for releasing a detainee from segregation. However, in protective custody placements or self-imposed placements, it is important to specifically document the reasons or reasoning used to determine that release to general population is appropriate and safe at the time of the decision to release.

³⁶ PBNDS 2011, 2.11, I.

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 NOCC 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.³⁷

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

When allegations of sexual abuse or assault are made, the involved detainees are separated and medically examined; the crime scene, if identified, is secured and processed by NOCC officers; the detainee(s) are interviewed by a mental health clinician; appropriate and safe housing is determined; and, all required notifications are made. The Youngstown Police Department (YPD) is notified and they determine whether a criminal investigation will be conducted. If rejected by the YPD for investigation, a SAAPI trained investigator at NOCC conducts the investigation. All allegations appear to be taken seriously and properly investigated.

In reviewing the tracking system utilized to track and coordinate all the activities related to the SAAPI, the SAAPI coordinator provided an automated system that provided a complete tracking of information on all allegations. The system used is the Core Civic 5-1, Incident Reporting System. This system is an excellent tool for documenting and tracking incidents involving SAAPI allegations and assists the manager in ensuring that all requirements of reporting and investigating SAAPI allegations are met.

Recommendations:

- None related to this process

³⁷ There has been only one (1) SAAPI allegation made and investigated at NOCC in the past 18 months. The investigation of this allegation was reviewed and evaluated and found to be of good quality.

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 upon request in each housing unit in the English and Spanish languages. Detainees request the forms from the unit counselors and case managers who are in the housing units daily.³⁸ Grievance receptacle boxes are in the housing units for detainees to place their initiated grievance forms. The counselors and/or case managers pick up the grievances from the receptacle boxes and deliver them to the unit office where grievances are picked up by the Grievance Coordinator.

The Grievance Coordinator assigns a log number, scans the grievance and forwards to the appropriate staff member(s) via email, who interviews the detainee and prepares a written response.³⁹ The completed grievances are presented to the detainee, signed as accepted or rejected by the detainee and he is given a copy. The completed grievance is returned to the Grievance Coordinator for logging and tracking accountability. If the detainee rejects the response, the grievance is referred to the Grievance Appeals Board (GAB) for review and decision.⁴⁰ The decision is documented by the Grievance Coordinator and returned to the detainee. The GAB decision may be appealed to the Warden. The warden then renders a decision which is final and ends the grievance process.

Our review determined that the grievance process at NOCC is functioning well, timeframes for processing the grievances are being met and issues are being resolved appropriately.⁴¹ It appears that LEP detainees are being appropriately accommodated in the grievance process.

³⁸ The reason detainees are required to request the forms from the counselors and case managers is so those responsible for the detainee programs and services are aware of detainee concerns and have the opportunity to provide the requested action without the need for a formal grievance. This may also be why NOCC only had about fifty (50) grievances so far in 2018.

³⁹ The Grievance Coordinator closely tracks due dates and sends a list of pending grievances to managers daily.

⁴⁰ The Grievance Appeals Board is made up of three (3) managers who are appropriately familiar with the processes or issues being grieved.

⁴¹ Grievances are required to be completed in 5 days.

Recommendations:

- None related to this process

Visiting Services

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

Analysis:

NOCC has visitation for family and friends scheduled on Thursday, Friday, Saturday, from 3:30 – 5:30 pm and on Sunday 12:00 – 5:00 pm. Visits are for a one-hour duration and detainees may have one visit per day.⁴² All visits must be pre-scheduled, either by email or by calling the facility. No “walk-in” visits are allowed. There are ten (10) non-contact visiting booths where visits are conducted. There were 29 visits in the 30 days preceding this on-site inspection.

Legal visitation operates Monday - Friday 9:00 am – 5:00 pm and Saturday, Sunday and Holidays 8:00 am – 12:00 pm. Attorneys may schedule a visit by email or by telephoning the facility. Legal visits are allowed without time limitations. Attorneys must have a valid bar card and picture identification to visit. Attorney visitation is conducted in private visiting rooms for confidentiality. The Unit Team secretary schedules all attorney visits and maintains logs for attorney visits and telephone calls.

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

Recommendations:

- None related to this process

Recreation

PBND 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.” “Detainees shall have at least four hours a day access, seven days a week, to outdoor recreation, weather and scheduling permitted.”⁴³

⁴² 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.

⁴³ PBND 2011, Recreation, 5.4, II,2

Analysis:

The leisure-time activities at NOCC are operated 7 days a week. Detainees in common housing unit pods recreate together in the dayrooms where they play board games, watch television or ride the stationary bicycle exercise machines. The recreation supervisor has over 1200 movies on DVD. A movie is shown each day. These activities take place inside the housing units throughout the day and evening.

Outdoor recreation is provided in a large outdoor recreation area that is operated through a monthly schedule, rotating the different housing units at different times each day. Each housing unit pod is scheduled for 90 minutes of outdoor recreation, three (3) times a day in the summer months. In the winter, because of shorter days and inclement weather, each unit is scheduled for 90 minutes, twice a day. Well attended athletic tournaments are held in the spring and fall where teams compete for prizes from the detainee commissary.

The outdoor recreation area is comprised of a large, paved area which is covered and has three full size basketball courts, and a grass area where the detainees play soccer.⁴⁴ There is a paved walking path that surrounds the entire outdoor recreation area.

We received no complaints from detainees regarding the recreation program. Our observation is that the recreation program at NOCC is robust and fully compliant with all PBNDS 2011 standards.

Recommendation:

- None related to this process.

Mail Services

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

Analysis:

At NOCC all mail is handled and processed by the Unit Team office. Mail is picked up daily at the local U. S. Post Office, sorted and provided to the counselors, who deliver the mail to their assigned detainees. All mail is opened in the presence of the detainee recipient and searched for contraband. If money is received in mail, the counselor provides the detainee with a receipt

⁴⁴ The large covering over the basketball courts is open-air on the sides, but provides protection from the rain and snow in the winter and the hot sun in the summer.

and takes the money to accounting where it is placed on the detainees account. Copies of receipts for money are kept in the Unit Team office.

Detainees place outgoing mail in the locked mail receptacle boxes in each housing unit. Unit Team staff picks up the mail daily from the receptacle boxes, place postage as necessary and deliver to the U. S. Post Office.⁴⁵

Detainees may place outgoing legal mail in the receptacle boxes or simply hand it to their counselor. The mail is logged by Unit Team staff and delivered to the U. S. Post Office. Logs for legal mail are kept in the Unit Team office.

All incoming legal mail is logged by the Unit Team office staff and provided to the counselors, who deliver the legal mail to the detainees. The detainees sign for receiving all legal mail. Signatures verifying receipt of legal mail are kept with the legal mail log.

All mail is processed into and out of the facility the same day it is received and is handled exclusively by Unit Team staff. We heard no complaints about the mail processes at NOCC. The mail service provided at NOCC 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 NOCC Chaplin/Religious Services Coordinator. NOCC has one full-time chaplain and two part-time chaplains.⁴⁶ Services are offered on a regular schedule each week. These services are provided in both Spanish and English by the Chaplains or by religious volunteers. Catholic mass services are sometimes provided on DVD in Spanish. The Chaplain himself conducts the Christian/Protestant services weekly.

⁴⁵ All postage for legal mail is provide at no charge and postage for regular mail is provided for detainees who are indigent. Detainees with funds may purchase postage in the detainee commissary.

⁴⁶ The Chaplain/Religious Services Coordinator is full-time; there is also one part-time chaplain, a catholic priest (30 hours a week) and an additional part-time chaplain, a Muslim Imam (15 hours a week).

Services are held both in the housing units and in the Chapel. Muslim detainees often lead their own prayer services. All detainees are approved and welcome to participate in the weekly services.

All accepted religious activities and observances, services, special diets and headwear are accommodated. The Chaplain/Religious Services Coordinator receives and approves requests for special diets based on religious practices. Kosher diets are provided using prepackaged kosher meals.⁴⁷ Ramadan is observed by Muslim detainees.

Bibles and Qurans are provided upon request and religious publications are available in the Chapel library collection. Bibles are provided in English and Spanish and Qurans are provided in English and Arabic.

Recommendations:

- None related to this process

Telephone Access

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

Analysis:

Telephones are located in the housing units at NOCC. Detainees have unfettered access to make phone calls between 7:00 am and 10:00 pm.⁴⁸ Each pod has four (4) telephones in the dayroom for detainee use. The detainees each have a PIN number to use when making calls. The telephones are available all day up until bedtime each evening. We observed detainees using the telephones in the housing units throughout our inspection. The only complaint we heard is that telephones are too expensive, a complaint we commonly hear nationally. NOCC telephone service is in compliance with PBND 2011.

Recommendations:

- None related to this process

⁴⁷ The issue of special/religious diets will be addressed in separate report by the CRCL, Environmental Health and Safety expert.

⁴⁸ Detainees have free access to dayrooms where phones are located except during facility counts when they are temporarily returned to their cells/bed areas.

Legal Library Access

PBND 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:

NOCC has a legal research computer equipped with the Lexus Nexus legal research program in each housing unit pod. Each pod has the computer located in a common area on the side of the pod dayroom to be utilized by the detainee population living in that pod. The Lexus Nexus programs are updated by the NOCC information technology (IT) analyst with updates provided by ICE quarterly. She has also placed an "Open Office" program, a "Self Help Legal Materials" program, as well as a "Know Your Rights" video on each computer for detainee use. The program is available in multiple languages.

While the standards in the PBND 2011 clearly contemplate the "law library" being a separate and stand-alone area, NOCC has provided access and met the requirements of the standard by placing the legal research computers in the dayroom area of each housing unit pod. The detainees may request and receive permission to use the legal research computer any time between the hours of 7:00 am and 10:00 pm, seven days a week. The use of the legal research computers is on a first-come-first-served basis, but the unit staff ensures that anyone who needs to use the computer, has ample opportunity to do so.

Detainees using the legal research computers are given a personal thumb-drive to save their legal work. They are allowed access to the Unit Team office where material on the thumb-drive may be printed, copied and mailed. These services are provided at no charge.

There was only one complaint regarding the law library at NOCC and that complaint, as discussed above in this report, was essentially that detainees did not have access to "an actual walk-in legal library," not that detainees were not given access to legal materials or services.

NOCC is in full compliance with the PBND standards for legal access. However, because there is open access to the legal research computers, NOCC does not keep a log or some way of identifying how much the programs are being used and by whom. Even though the PBND 2011 does not require it, it would be easier to address any future allegations or challenges to legal access if records were kept to demonstrate exactly how much time specific detainees are using the legal services materials.

Recommendations:

- NOCC should develop a process to document the use of the legal materials by detainees. Even though the PBNDS 2011 does not require it, it would be easier to address any future allegations or challenges to legal access if records were kept to demonstrate exactly how much time specific detainees are using the legal services materials. **(Best Practices)**

Limited Language Proficiency Communications (LEP)

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

Analysis:

Effective communication is a challenge at NOCC. Very few of the employees at NOCC are bilingual. We observed that measures are routinely taken to facilitate effective communication using the language line in the Medical Clinic and intake processing areas of NOCC. In the housing units the Unit Team members also utilize the language line when communication challenges present. There were no specific complaints related to LEP.

We reviewed the invoices for the contracted language line at NOCC. Between July and October there were approximately 1900 minutes per month of language line usage.⁴⁹ NOCC is utilizing the language line to facilitate effective communication with LEP detainees.

Recommendations:

- None related to this process

General observations and Impressions

The employees at NOCC appear to be energetic and enthusiastic about their jobs and clearly take pride and ownership for their individual areas of responsibility. The facility is clean and orderly and reflects good leadership. The employees seem to be eager to please the leadership.

The Unit Team, comprised of the unit manager, the case managers and the counselors functions well and provides program and services to the detainee population. However, many of the correctional officers in the unit are inexperienced and do not function as though they are

⁴⁹ This is an average of over an hour each day.

a part of the Unit Team. Rather, they tend of function as if they are simply there to provide security for the program, instead of being a part of the program team.

Detainees conveyed to us that communication between the detainee population and the correctional officers is limited. When a detainee asks an officer for something, he is often told to ask the counselor or case manager, as if providing services is not part of the security job. It seems as though the uniformed officers have not been sufficiently included in the Unit Team.

Unit operations and staff/detainee relations would be greatly improved if the correctional officers were brought on board with the Unit Team and provided training and an expectation that they are an integral part of the team; not just in providing security, but in the unit program and services. There should be an expectation that officers communicate with detainees, interacting with and providing for the program services. Detainees should not be told to “put in a request” or “ask your counselor” for services that an officer clearly could provide.

I recommend that the Unit Manager hold team-building meetings including the uniformed officers and provide training to establish expectations for officers as an important part of the team in providing program and services for the detainee population. The Unit Team will be stronger and more effective if the officers are incorporated into the operations in this fashion.

Summary of Recommendations:

- NOCC should conduct training on use of force report writing to eliminate the use of phrases such as, “the least amount of force necessary,” and, “I assisted the detainee to the ground,” 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**)
- NOCC should either modify the segregation order form to include a space to briefly describe the specific reason or reasoning for a detainees’ release from segregation, or in the alternative, add an attachment to the segregation form that describes the reasoning and circumstances of the release. (**Best Practices**)
- NOCC should develop a process to document the use of the legal materials by detainees. Even though the PBNDS 2011 does not require it, it would be easier to address any future allegations or challenges to legal access if records were kept to demonstrate exactly how much time specific detainees are using the legal services materials. (**Best Practices**)
- The Unit Manager at NOCC should hold team-building meetings including the uniformed officers and provide training to establish expectations for officers as an important part of the team in providing program and services for the

detainee population. The Unit Team will be stronger and more effective if the officers are incorporated into the operations in this fashion. **(Best Practices)**

Appendix A

Detainee #1: (b) (6)

Detainee #2: