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

**Sherburne County Jail, Elk River, Minnesota**

(b) (6) Prepared By:
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6/23/2019

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## *Introduction*

I assessed the environmental health and safety conditions at the Sherburne County Jail (Sherburne), Elk River, Minnesota through reviews of documents and photographs. This investigation was provided under contract with the United States Department of Homeland Security, Office for Civil Rights and Civil Liberties (CRCL).

## *Qualifications*

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## *Methodology*

This report is based solely on reviews of documents provided by the Sherburne County Jail, photographs taken during the CRCL onsite investigation and consultation with the Conditions of Detention Subject Matter Expert (SME) that inspected the facility on April 3-5, 2019. This report cites examples of conditions that were documented and reported during the CRCL onsite investigation; however, they should not be considered as all inclusive of the conditions found during the CRCL onsite inspection.

## *Findings:*

## *Kitchen*

### *Improper Thawing of Food*

Multiple master cases containing individual serving size cartons of fruit juice were observed by the Conditions of Detention SME, sitting out at room temperature in a supply storage room which is a violation of the NDS Food Service standard related to the thawing of food. The boxes were clearly labeled by the manufacturer, "Keep Frozen. Thaw Overnight in 38°F Cooler. After Thawing, Keep Refrigerated." Taped to the wall, above the boxes, were two handwritten signs stating, "Make sure juice tops are cut so juice can thaw overnight and "Mark on juice boxes the letter "p" for pull, + (ex p 1/24) date the day when taking juice out of cooler". The NDS Food Code specifies procedures for thawing potentially hazardous foods, and the first listed method is under refrigeration that maintains the food at a temperature of 41°F or below. Moreover, the manufacturer clearly indicates on the outside of the box that the fruit juice is to be



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thawed under refrigeration. Therefore, thawing the juice in the supply room is a potentially dangerous practice.

***Food Stock Rotation***

The NDS Food Service standard addresses food stock rotation and requires that each facility has a written stock-rotation schedule. The following food items were observed by the Conditions of Detention SME on April 8, 2019: a case of Keebler brand saltine crackers hand dated "11/15/16" and a 25 pound box of oats hand dated with the year 2015 were observed in the pantry and a package of meatloaf hand dated "1-4" and a package of "dogs" or hotdogs hand dated "6/27" were observed in the freezer. In regards to the saltine crackers, the Keebler website states that the product has a shelf life of eight months[1] and therefore the product would no longer be fresh and would not be compliant with conventional food industry standards for freshness and quality. Although the NDS Food Service standard does not limit the amount of time that foods can be held in the freezer, date marking is required by the FDA Food Code and the system should be clear and understandable to employees and clear to inspectors.

***Personal Belongings (Clothing) Stored with Food***

Articles of clothing were found by the Conditions of Detention SME in the pantry, including several pieces of clothing stored inside of a box of packets of drink mix. Storing clothing in the pantry is a violation of the NDS Food Service standard stating, "Clothes and other personal belongings, e.g., jackets, shoes, etc. shall be stored in designated areas apart from food-preparation, storage, -serving areas and utensil washing and -storage areas."

***Inadequate Cleanliness - Dirty Kitchen Floors***

Violations of the Environmental Sanitation and Safety section of the NDS Food Service standard stating, "Routinely cleaned walls, floors, and ceilings in all areas" were found. Dirty floors were observed by the Conditions of Detention SME throughout the kitchen including in the pantry, under sinks, around and between the dishwashers, and outside the refrigerator and freezer. Although food should not come in contact with the kitchen floor, dirty floors are a hazard because the soils provide a potential medium for the growth of disease causing bacteria as well as a possible food source for disease carrying pests and ants were found in the kitchen.

[1] https://www.kelloggsspecialtychannels.com/Home/ProductDetails/7559/keebler-zesta-original-saltines-product?segid=0



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***Presence of Pests - Ants, Spiders and Small Flies***

Flies and insects are a hazard in the kitchen because they can cross contaminate bacteria from garbage and sewage to food and food contact surfaces. Violations of the NDS food standard stating, "The premises shall be maintained in a condition that precludes the harboring or feeding of insects" were found, as ants were observed by the Conditions of Detention SME in the cleaning supply area, small flies were observed in the dishwashing area and spiders were observed in the kitchen bathroom. Ecolab Pest Elimination Division Customer Service Report dated November 27, 2018 states, "complaints of ants in storage closets" and that multiple areas were treated for ant activity. The pest control service report dated April 19, 2019 indicates that a few small flies were noted in the kitchen area, floor tiles or baseboards were loose or missing, one tile piece is missing on the wall under the sink, and this area is wet and could lead to small fly issues. Additionally, the pest control service report dated April 29, 2019 indicates that small flies were noted in the kitchen and specifically that they were noted at the drain under the dish sink. Drain flies resemble gnats or fruit flies and breed in the slimy organic film that coats the inside of floor drains. Drain flies cannot bite humans. However, they are a nuisance and can carry potentially harmful microorganisms from drains and sewage on their bodies and contaminate clean surfaces. Therefore, frequent drain cleanings are necessary to prevent blockage by accumulations of organic matter and to prevent drain fly infestations. Pouring hot water, bleach or cleaning chemicals down the drain is not sufficient to remove or dissolve the accumulated organic matter. The drains should be manually cleaned with a stiff bristle brush that has a slightly larger diameter than the drainpipe or the drains should be power washed if the plumbing system and location is suitable for pressure washing. Enzymatic chemicals designed specifically for use in floor drains can also be used as part of an effective maintenance program and the April 29, 2019 pest control service report states that information was left regarding a product for the drains that had been requested by the contract food service operator. Thereafter, the drains should be routinely inspected and cleaned as needed. If the facility does not implement a program to diligently monitor and thoroughly clean the drains on a regular basis, drain flies will continue to be a problem.

***Applicable Standards***

The NDS Food Service and Environmental Health and Safety standards are applicable.

***Recommendations***

1. Although fruit juice is generally slightly acidic and therefore not necessarily considered a "potentially hazardous food", the fact that the manufacturer clearly indicates in bold print on the boxes, "Keep Frozen. Thaw Overnight in 38°F Cooler. After Thawing, Keep Refrigerated" necessitates that the product should not be



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thawed or stored at room temperature. Therefore, to ensure food safety, Sherburne should immediately discontinue the practice of thawing the fruit juice at room temperature and ensure that the manufacturer's instructions for handling, storing, and thawing the fruit juice is followed at all times. (Applicable standard: NDS; Food Service, Level 1)

2. Sherburne officials should ensure that the kitchen adheres to a written food stock rotation schedule as required by the NDS Food Service standard that includes labeling of foods in a manner that complies with all applicable food codes and given the fact that food was found in the freezer in April that was dated "6/27", the facility should include the month, date and year on labels to avoid confusion in regards to the when the item was placed in the freezer. (Applicable standard: NDS; Food Service, Level 1)
3. Personal belongings such as clothing can cross contaminate bacteria to food. Therefore, Sherburne should ensure that clothing items are not stored in the pantry and that the Food Service Administrator identifies a space for storing detainees belongings as required by the NDS Food Service standard to facilitate compliance with the NDS Food Service standard stating, "Clothes and other personal belongings, e.g., jackets, shoes, etc. shall be stored in designated areas apart from food-preparation, storage, -serving areas and utensil washing and -storage areas."
4. Kitchen floors must be kept clean and dirty kitchen floors are a hazard because the soils provide a medium for the growth of disease causing bacteria as well as a potential food source for disease carrying pests. Therefore, the facility should ensure that the kitchen floors are maintained in a clean and sanitary manner as required by the NDS Food Service standard stating, "Routinely cleaned walls, floors, and ceilings in all areas". (Applicable standard: NDS; Food Service, Level 1)
5. Ants are destructive pests that contaminate food and spiders present a potential danger to humans. Therefore, the facility should ensure ongoing compliance with the NDS Environmental Health and Safety standard stating, "The OIC will contract with licensed pest-control professionals to perform monthly inspections. During these routine inspections, they will identify and eradicate rodents, insects, and vermin." (Applicable standard: NDS; Environmental Health and Safety, Level 1)
6. Spider webbing traps dead insects and abandoned cobwebs become covered with dirt and dust. Spider webs containing dead insects were found on the wall in the corner of the kitchen bathroom. The facility should ensure that all spiders and webs are safely removed and that the facility is maintained in a clean and sanitary manner in compliance with the NDS Food Service standard stating, "Routinely cleaned walls, floors, and ceilings in all areas". (Applicable standard: NDS; Food Service, Level 1)



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7. Small flies were observed in the dishwashing area and the presence of drain flies was confirmed by the April 19, 2019 and April 29, 2019 pest control service reports. Drain flies breed in dirty and clogged floor drains and dirty drains propagate the life cycle of drain flies, which are nuisance pests that can spread bacteria from contaminated drains and surfaces. Therefore, Sherburne should ensure that preventive maintenance inspections and drain cleanings are completed on a regular basis to comply with the NDS Food Service standard stating, "The premises shall be maintained in a condition that precludes the harboring or feeding of insects." (Applicable standard: NDS; Food Service, Level 1)

***Mattresses and Pillows – Poor Condition***

Mattresses in poor condition and pillows with severely cracked covers were observed by the Conditions of Detention SME. Once the integrity of the cover is compromised, exposing the inner filling, it can no longer be properly cleaned and disinfected. Mattresses and pillows in this condition can transfer disease-causing pathogens from person to person.

***Applicable Standard***

The NDS Issuance and Exchange of Clothing, Bedding, and Towels standard is applicable.

***Recommendation***

Applicable Standards: The NDS Food Service and Environmental Health and Safety standards are applicable.

8. Damaged mattresses and pillows place detainees at risk of infection, as they can no longer be properly cleaned and disinfected. Sherburne should inspect all mattresses and pillows and replace those that have cracked or damaged covers to facilitate compliance with the NDS Issuance and Exchange of Clothing, Bedding, and Towels standard stating, "Basic hygiene is essential to the well-being of detainees" and "All new detainees shall be issued clean bedding." (Applicable standard: NDS; Issuance and Exchange of Clothing, Bedding, and Towels, Level 1)



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## ***Summary of NDS Recommendations***

1. Although fruit juice is generally slightly acidic and therefore not necessarily considered a "potentially hazardous food", the fact that the manufacturer clearly indicates in bold print on the boxes, "Keep Frozen. Thaw Overnight in 38°F Cooler. After Thawing, Keep Refrigerated" necessitates that the product should not be thawed or stored at room temperature. Therefore, to ensure food safety, Sherburne should immediately discontinue the practice of thawing the fruit juice at room temperature and ensure that the manufacturer's instructions for handling, storing, and thawing the fruit juice is followed at all times. (Applicable standard: NDS; Food Service, Level 1)

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8. Damaged mattresses and pillows place detainees at risk of infection, as they can no longer be properly cleaned and disinfected. Sherburne should inspect all mattresses and pillows and replace those that have cracked or damaged covers to facilitate compliance with the NDS Issuance and Exchange of Clothing, Bedding, and Towels standard stating, "Basic hygiene is essential to the well-being of detainees" and "All new detainees shall be issued clean bedding." (Applicable standard: NDS; Issuance and Exchange of Clothing, Bedding, and Towels, Level 1)



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***Documents Reviewed:***

1. Photographs taken on April 8, 2019 during the CRCL onsite investigation
2. Documents related to the November 14-16, 2018 Inspection by The Nakamoto Group, Inc.
    a. Cover Letter dated November 16, 2018
    b. 2018 Significant Incident Summary Worksheet
    c. 2018 Inspection Worksheet
3. Office of Detention Oversight, August 28-30, 2018, Compliance Inspection for the Sherburne County Jail
4. Minnesota Department of Health, Food and Beverage Establishment Inspection Report, 12/08/16
5. Minnesota Department of Health, Food and Beverage Establishment Inspection Report, 11/28/17
6. Minnesota Department of Health, Food and Beverage Establishment Inspection Report, 10/29/18
7. Ecolab Pest Elimination Services Agreement, Sherburne County Jail, dated 3/4/10
8. Ecolab Pest Elimination Division, Customer Service Report, Sherburne County Jail, Service Date: 4/19/18, 5/25/18, 6/22/18, 7/20/18, 8/23/18, 9/18/18, 10/12/18, 11/27/18, 12/13/18, 1/29/19, 2/21/19, 3/29/19, 4/19/19, and 4/29/19
9. MEnD Correctional Care, Inspection Letter
    a. November 30, 2016
    b. November 20, 2017
    c. November 8, 2018
10. Freezer/Refrigerator Temperatures and Dry Storage Temps Logs for April 2018 through April 2019
11. Inmate/Detainee Grievance Form and Facility Response: 100327, 101836, 99919, 99849, 99873, 99870, 99847, 99848, 99868, 98247, 99927, 99919, 98284, 99360, 100070, 100185, 99300, 100476, 101881, 100475, 102607,102605, 99221, 102780, 99171, 102608, 98298, 102715, 102047, 99270, 99904, and 100128
12. SHERBURNE COUNTY JAIL POLICY AND PROCEDURE MANUAL, TITLE: Clothing, Bedding, and Laundry Service, NUMBER 14.02 111318
13. SHERBURNE COUNTY JAIL POLICY AND PROCEDURE MANUAL, TITLE: Food Service Management, NUMBER 17.02 070418
14. SHERBURNE COUNTY JAIL POLICY AND PROCEDURE MANUAL, TITLE: Meal Service/Delivery, NUMBER 17.04 103018
15. SHERBURNE COUNTY JAIL POLICY AND PROCEDURE MANUAL, TITLE: Meals and Menus, NUMBER 17.03, 081718



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16. Nursing Policy/Procedure, Title: Communicable Disease Treatment for Detainees, Last Reviewed/Revised: December 2018
17. Sherburne County Jail, ICE Detainee Handbook, English version



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

**Investigation regarding Sherburne County Jail**

**Elk River, Minnesota**

**Onsite April 3 – 5, 2019**

Prepared By:

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## 1. Executive Summary:

The U.S. Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL), enlisted me to participate in an onsite investigation regarding complaints it received alleging violation of the National Detention Standards (NDS) in the following areas: medical care, mental health care, sexual harassment, and conditions of confinement at the Sherburne County Jail in Elk River, Minnesota. During the three day period of April 3 – 5, 2019, I visited the Sherburne County Jail as a member of the CRCL team to assess the degree of compliance of the medical program with the standards of care for the Detainees housed in that facility. I was asked to investigate several specific allegations regarding the medical care at the Sherburne County Jail.

I extend my thanks to the Sherburne County Jail health care leadership, custody leadership, and the frontline staff for being cooperative and helpful during the visit. I was allowed full and unhindered access to all the areas and to the staff.

The Sherburne County Jail housed about 283 Detainees as of April 4, 2019, including 15 female Detainees. They have an average daily population of about 300 Detainees. The facility houses a variety of clients. The male and female Detainees remain separate. The medical and mental health services were provided by a contracted vendor, MEnD Correctional Care, who also serves around 40 other jails in the state.

The facility has full-time Nurse, (b)(6) RN, who serves as the health service administrator and as the nursing director. (b)(6) MD serves as the medical director of the facility and is the President of the contracted vendor. They provide an average of 550 medical provider visits and 1275 nursing visits per month for the Detainees.

The overall healthcare services provided at the Sherburne County Jail for the Detainees is satisfactory, but there are several areas that add risk and affect the care for the Detainees which need immediate correction.

The facility is using both paper and electronic medical records to document their care. This causes confusion for the staff who are trying to provide care. They do not always review both sets of records to get a complete picture. The orders and appointments are not tracked using a reliable system; therefore, there is a risk of them falling through the cracks. The facility should consider switching to a better documentation system that reduces the risks for the patients and the staff.

The patients who need medical care during the hours when there is no medical staff onsite are not currently tracked. The on call staff are not coming in assess the Detainees

or sending them to the emergency department when there is a need. The calls received should be tracked and the quality of the overnight phone management should be studied for opportunities to reduce risk for the Detainees.

The sick call requests are being completed without face to face visits with the Detainee. The facility is aware of this issue and is trying to address it. Management of the patients and ordering medications without adequate assessment may cause risk to the Detainee.

The program is functional more due to the quality of the staff rather than the standard and reliable processes. There is a low turnover of Providers and Nurses. The staff seems to enjoy their work. The facility should also consider updating their policies and procedures to have adequate details to help guide their staff.

There are several other additional findings and recommendations listed in the report. A good electronic medical record system, a streamlined process with safety checks, detailed policy and procedures, and an adequate training on them will help the health care team excel in their work.

## 2. Method of Review:

My report is based on the review of the materials provided in advance and an on-site investigation of the facility. Prior to the onsite visit, I reviewed the applicable standards and the documents sent to CRCL by the Sherburne Jail staff.

The onsite portion of my review included the following:

- Tour of the facility including the Intake, Medical and Mental Health housing areas, negative pressure rooms, and housing areas.
- Inspection of the exam rooms, medications rooms, medical supplies, sharps storage, and the medication cart
- Review of the log books of sharps count and medication administration records.
- Medical Records review of Detainees with chronic medical conditions, such as diabetes, hypertension, asthma, seizures.
- Interviews of clinical staff including the Physician, Nurses, Nurse Practitioner, Health Technicians, and Administrator.
- Interviews with Detainees selected randomly from various locations of the facility, including Detainees with medical complaints or chronic health conditions.

In addition to my review of the specific medical allegations and complaints, I will provide an overall assessment of the performance of healthcare services at the Sherburne

County Jail based on the Performance-Based National Detention Standards and NCCHC Standards for Health Services in Jails. I will support my overall assessment of the health care services at Sherburne County Jail by providing a summary of several chart review investigations that stemmed from my personal interviews, interviews performed by other members of the CRCL team with Detainees at Sherburne County Jail, as well as a random chart audits based on various criteria including chronic disease, non-emergent health care request (sick call), ER referrals, specialty care services, etc.

### 3. My Credentials:

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### 4. Review of the Medical Program:

The facility has a full-time Family Nurse Practitioner, one Nurse Supervisor, one Lead Health Technician, eight Registered Nurses, four full-time and six part-time Health Technicians, and two full-time Admin assistants who function as the clinic support staff. A full-time and two part-time medical advanced practice providers provide a total of 56 hours of medical clinic coverage per week. The health care staff appear to be highly engaged and committed to the care of the Detainees. The medical team is onsite from 6 AM to 11 PM. There is no onsite medical staff from 11 PM to 6 AM. A Nurse is on call during these hours. The officer in the hosing areas have a roster of the on call Nurse and call them as needed for any medical needs. A provider is also on call to provide support for the Nurse. The on call Nurse calls the provider if they have any questions or concerns.

Detainees get an initial medical and mental health screening by a custody staff upon arrival to the facility. The screening questions are given to the Detainee to complete and are reviewed at the booking desk where other individuals may be present. The completed screening document is reviewed by a Registered Nurse (RN) to triage the patients. All positive answers regarding the medical, mental health, and infectious disease status are reviewed. The chart review shows that the triage is conducted by the RN within a few

hours of arrival to the facility. The Detainees are referred to medical and mental health services based on their needs.

The TB questions are completed and a TB skin test is performed. The chart review shows that the TB screening, TB skin test placement, and reading were done in a timely manner. Chest X-rays were ordered for patients where there was a clinical indication. The facility has not had an active TB Detainee in a long time.

Medications and health related paperwork brought by the Detainee are sent to the medical clinic for the RN to review. The medications are verified with the pharmacy or the healthcare facility by the medical staff. The RN enters the medication orders as a verbal order and faxes it to an outside pharmacy. The medications are started within a day of arrival to the facility.

A health assessment is performed by a RN using a standard health assessment form. It is a list of questions related to medical health, mental health, dental health, infectious disease history, and medication history. The health assessment included a physical examination of the Detainee, including a dental check. The health assessment was performed in about two days from the day of arrival to the facility. The RN documented notes both on paper and in the electronic medical record. We will have to review both documentations to get a full details of the assessment.

All Detainees have a face to face visit with the medical provider in about 2 days from the day of arrival. The visit, called the Physical Examination, includes a full history and physical evaluation of the Detainee. The provider uses a Physical Examination printed form to document his/her evaluation. The provider addresses any acute or chronic conditions during the visit. The Provider documents notes both on paper form and in the electronic medical record. We will have to review both the paper chart and the electronic medical records to get the full details of the visit. The chart review shows that the provider may not always be reviewing the paper documents and screening forms in the paper chart during the Detainee's physical exam visit. A patient with history of HIV had mentioned his chronic condition in the initial screening documents, but it was not addressed during the Provider visit. The Provider was alerted the same day through other sources and the patient was started on treatment without delay.

Detainees with chronic diseases were identified and started on treatment soon after arrival to the facility. These Detainees were seen by the RN and then by the Nurse Practitioner within a few days of intake. The documentation of the chronic care assessment does not follow a standard format or template. It is common practice to note pertinent positive and negative history and examination findings, as well as detailed assessment and plan for

each of the disease conditions. The follow-up documentation should also ideally document the level of disease control and progression to compare and modify the plan of care. The facility does not have their own clinical practice guidelines and mentioned that they follow the community standard of practice. It will be hard for the quality assurance program to monitor performance of their chronic disease program if there are no clearly identified measures.

The facility does not have a chronic care registry to track their Detainees with chronic disease. There are various ways for the staff to track the chronic disease patients, including writing on a white board. There are some surrogate markers that the staff use to keep track of the patients. The documentation of plan of care states that the patient will be followed up as needed. There is no clear follow-up plan for the Detainees with chronic disease based on the clinical condition, including educating them to seek care as needed between the scheduled visits. The chart review shows that the Detainees are being seen by the provider regularly and are receiving satisfactory care.

During the intake screening, Detainees are screened for drug and/or alcohol use and for symptoms and risk of withdrawal. The clinical team performs a urine drug test onsite, as needed. Detainees who are at risk for withdrawal symptoms are started on a withdrawal protocol. The Nurse performs a daily assessment based on the protocol and refers to the Provider as needed. The detox Detainees are usually housed in individual cells and are not under constant observation. The detox protocol may include housing them in a single cell with 30 minute watches for higher risk Detainees. The checks are documented in an electronic system called the Guardian. The cell check log shows the documentation of the Detainee's activities at the time of each check. There are several entries that state "lying down appears sleeping" in the activity column. It does not state how they came to the conclusion that the person appears sleeping and is not unconscious. The staff stated that sometimes they document sleeping when the person is lying down with the blanket covering their whole body. This assumption is risky especially when the Detainee is being monitored for withdrawals.

The facility is contracted with an outside pharmacy for medications. The medication orders are faxed by the Nurse to the pharmacy. The medications are sent to the facility twice a day. The turnaround time for the medications is usually the next day. The facility stated that they mirror the Minnesota Department of Corrections formulary. The facility has a preferred medication list that they commonly use. Other medications go through the review process for approval. The Providers stated that they are able to get their medications approved without difficulty.

The medications are administered by the Health Technicians twice a day. A paper medication administration record (MAR) is used for tracking the administration. The review of the MARs show that the medication administration is done timely. The Health Technicians receive adequate training for medication administration. The facility does not use a refusal form to document medication refusal. The Nurse is alerted by the Health Technician for missed high alert medications, so that the Nurse can meet with the Detainee. There is no documentation to show that there was effort to educate the patient of the risk of not taking their medication.

The medication cart was organized, locked, and there were no expired medications on the cart. The exam rooms were clean and stocked. The biomedical equipment did not have maintenance stickers to alert the staff on when the next maintenance is due. This causes the risk of using the equipment on a Detainee that is past due for its maintenance leading to incorrect reading or treatment based on the type of equipment. The medical leadership was aware of the situation and were in the process of identifying a company to perform the maintenance checks for their biomedical equipment.

The medications and supplies were stored in a safe environment. The storage room was clean and organized. There were some expired supplies found in the supplies area of a cabinet that was not frequently used. There is a risk of using expired supplies on Detainees, thus causing harm. The audit performed through the quality program has missed this during their audit check.

The sick call forms are readily available in the housing areas. The Detainee has to request the form from the custody staff. The Detainee has the option to hand the sick call request form to the health care staff during the pill pass or give it to the custody staff. The sick call requests are picked up twice a day by the Health Technicians. The forms are dated, timed, and signed upon pick up. The sick call forms are triaged by the nursing staff once they are taken back to the medical clinic. The triage step is not documented on the sick call form or in the health record. There is no documentation to show that the triage is being done in an appropriate time to reduce the risk of missing any acutely ill patients.

The Detainee is assessed for their sick call request by a Nurse in a private area. The documentation is done in the electronic medical record. A copy of the original sick call form is kept in the paper medical record. There is no standard format for documentation of the assessments. Some assessments are documented in detail and some are minimal. Chart review showed that there are several sick call requests that were marked as completed without a face to face visit with the Nurse. There are letters sent to the Detainee in some cases and the copy of the letter is kept in the paper chart. There is no documentation to show that the Detainee received the letters sent to them by the medical

team. The healthcare team has identified it as an opportunity to improve face to face visits with the Detainees for sick call requests and have been working on this effort.

Nurses ask the Detainees to get their pain medications during pill pass rather than giving them their first dose to cover them until the next pill pass. The over the counter medications are free of charge for Detainees except for acne medication and dandruff shampoo. During the interview, the Detainees' complained that the Nurses ask them to buy these medications when they enter a sick call request for these conditions. The medical team should be able to provide the medications for these conditions just like any other medical condition.

Dental screening is performed by a Nurse as part of their health assessment. This is completed in about 2 days from the day of arrival to the facility. They use an outside dental practice to provide dental care for the Detainees. The Detainees are receiving satisfactory dental care. During the interview, the Detainees complained about the wait to receive non-urgent dental procedures. The facility should consider addressing this as part of their orientation, so the Detainees understand what to expect.

Detainees needing specialty care are referred to offsite clinics. The Detainees are transported for their offsite visits. The medical staff sends the required medical record copies with the transporting officer in a confidential envelope. The plan of care is brought back from the visit and given to the facility medical team for continuity of care. The documents are reviewed by the Nurse upon return and the facility Provider is consulted for any orders.

The facility uses a nearby hospital for emergency department (ED) and inpatient services. The Detainees needing emergency care are transported to the ED in a timely manner. The Nurse follows up with the hospital regarding the status of the Detainee and documents in the electronic medical record. Detainees returning from the hospital are not routinely checked in at the medical clinic before taking them back to their housing location. Detainees returning from the hospital may have orders for tests, follow-up plans, medications, etc. that need to be addressed upon arrival to the facility by the medical team. The record review did not always show that the Detainees returning from the hospital and the ED are seen by the Nurse upon return to the facility. The staff state that they review the documents and only write notes if there is a follow-up item. The medical team currently relies on the paperwork that is brought back by the transporting officer, from the hospital or from the off-site specialist visit, to know that the Detainee has returned to the facility. This process increases the risk of delaying the continuity of care for patients returning from the hospital if the Detainee is taken to the housing location

and the paperwork does not get to the medical team or if there is no paperwork sent back with them.

During the night, between 11 PM and 6 AM there is no medical staff onsite. There is an on call Nurse available for the officers to contact, if needed. There is also a Provider on call serving as a resource for the on call Nurse. There is no log to show the list of calls received by the on call Nurse or Provider. It is always better to err on the side of caution when the clinical team receives information through a non-clinical person and if they are not onsite to evaluate the Detainee. The chart review shows that the Detainees are managed without having the Detainee assessed by the on call Nurse or sending them to the emergency department. The Detainees managed overnight through phone call are also not being assessed by the medical team in the morning. They are asked to place a sick call request, if needed. This practice creates a risk for the Detainees.

The facility uses a paper chart and an electronic medical record system (EMR) for documentation. There is no one source of truth for health related information. This makes it very difficult for the staff. They will have to review both the paper chart and the EMR when managing any Detainee. The chart review shows that the information in the paper chart is not always being reviewed by the staff, thereby impacting patient care. The staff is not happy with the EMR system and understands the challenges with the current system. There is discussion about getting a new EMR system. Until then, the leadership should develop an easier and reliable way to review records for patient care by combining the data sources into one place.

There is no one place for the tracking of all the orders and appointments. The staff is using various methods of tracking including writing the orders on a white board and including information about vital sign checks, blood draws, and insulin. The team heavily relies on this board and it seems to work well for them since they do not have a good electronic medical record module for this purpose. The risk is that if it gets erased by accident, there is no alternate source of information readily available and can impact patient care.

The EMR does not display the designation of the staff as RN, Med Tech, etc. The notes in the EMR just shows the name of the staff member who wrote the note. There is also limited licensure for the EMR. Due to shortage of license to the medical records, the staff have to share their access with other staff. If a patient is evaluated by one provider, the person with access has to enter it for them in the electronic medical record.

The staff initially documents to acknowledge that it has been reviewed. The expected practice per the leadership is that the staff sign, date, time, and write their full name, so

that it is clear who signed the document and the date and time it was signed. The lab results and offsite notes were initialed by the Provider, but it was not possible to know if it was reviewed in a timely manner.

When Detainees refuse intake, a sick call visit, medications, or tests, the facility does not use a refusal form. If the patient did not show up to the med line, they were marked as a refusal instead of a no show. The community practice is to get a signature from the patient for each refusal with documentation of the explanation of the risk of refusing care. If the patient refuses to sign, it is usually signed by two staff members.

The health care policy and procedures were available in the facility. The documents were not detailed enough to guide the staff on how to execute each of their processes. The document just has the high level overview of each of the topics.

The facility has competent and collaborative staff. They have limited work space that is shared by several of the medical staff. Being in a tight space allows them to constantly communicate with each other. The program is very much dependent upon people doing the right thing rather than having strong reliable processes and safety nets in place. Staff turnover can make a major negative impact to the program.

During the visit, we noticed that the Provider was constantly interrupted by the other staff. Even though it is good practice to have a clear and open communication, frequent interruptions affect patient flow and also introduce chance of error when working on a patient care plan. The Provider used to be a Nurse in a critical care setting and seems to be ok with the practice. A new provider will not able to function effectively in this model. An organized and planned clinic work flow would be ideal and reduce risk for the Detainee.

The Nurse Practitioner is signing off on almost all the documents generated by other staff. The volume of information that the provider is expected to review is high. This amount of work load takes time from other patient care activities. Expecting a provider to review such volume of documents may take the attention from the ones that need a higher level of review and can impact the quality and safety of the program.

The program has an external Provider conducting chart audits periodically for the Medical and Mental Health Providers. The facility was able to show the signed document showing that a review was conducted. There was no set of metrics or requirements that they were measured on. The Provider was not able to verbalize the expectations. The feedback from the audit was discussed with the Provider by the Nursing Director. There

were also periodic meetings with the Medical Director. The Provider contacted the Medical Director on an as needed basis.

The facility has a satisfactory quality program. They have a quarterly Continuous Quality Committee (CQI) meeting to review their reports. The CQI meeting is attended by the Commander, Asst. Jail Administrator, Medical Director, Director of Nursing, and the Accreditation Manager. The local medical staff were not always part of the CQI meetings. The staff involvement in such quality improvement meetings are valuable to the program.

The current quality improvement program does not conduct audits for med pass, blood draws, TB test reading, etc. A periodic observation of the process will help ensure compliance with the expected procedures and use the results to educate staff and avoid error.

## 5. CRCL Allegations

**Detainee #1: Detainee complains of delay in access to care.**

Detainee #1 had placed several sick call requests requesting care for mental problems and wanting to see the provider. A review of six sick call requests showed four of them were marked as completed with documentation stating that there was no face to face visit. One request was completed without stating if a face to face visit was completed or not. There was documentation on one sick call form that the Detainee was seen. The medical records show that two notes were sent to the Detainee as a response to the sick call request. There is no documentation to show that the Detainee received them. The health care leadership acknowledged that they have identified this area as an opportunity for improvement and are working on improve the face to face visits by the Nursing staff.

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

Recommendations: The Quality Assurance program should study the timeliness of the sick call request and the quality of assessment and management. *(Best Practice – Patient safety issue)*

**Detainee #2: Detainee has an altercation with an inmate.**

The Nurse was called to the housing unit to evaluate Detainee #2 who was in an altercation. The vital signs were normal. The Detainee had a swelling and laceration on the right eyebrow. The Detainee was sent to the emergency department by EMS

ambulance. The Detainee was seen upon return from the hospital and follow-up plan was executed as recommended by the hospital. The Nursing staff conducted several well checks following the return from the hospital and there were no concerns.

Impression: The medical team's response to the emergency was satisfactory.

**6. Findings from Detainee Interviews/Chart Reviews:**

**Detainee # 3**- Detainee complains that he did not receive treatment for detox.

The Detainee was screened on arrival to the facility. The Detainee reported use of drugs. The urine drug test was performed and it was negative. The Detainee was asymptomatic at the time of arrival. He was continued to be monitored for detox symptoms.

Impression: The complaint is unsubstantiated. The Detainee was assessed for withdrawal.

**Detainee# 4** – The chart review shows that the TB test was performed on 2/27/2019 but the chart did not have the test reading documented.

**Recommendation**: The Quality assurance program should consider ensuring that all the TB test are read and addressed in an appropriate time frame. *(NDS, Health Services, Medical Care, III - D)*

**Detainee # 5** – The on call provider was called on 1/19/2019 since the Detainee complained of severe vomiting for two hours. The Provider gave a verbal order for two medications to help with the symptoms. The Detainee was not evaluated by the Provider. The Detainee continued to have symptoms, was seen by the provider on 1/23/2019, and was sent to the emergency department. The Detainee had surgery of the gall bladder. The Detainee was seen upon return from the hospital. The pulse was noted as 110/min with a blood pressure of 153/113. The abnormal vital signs were not acknowledged by the medical staff.

**Recommendation**: The Detainee should be evaluated by a provider in a timely manner for serious medical conditions before initiating care or as soon as possible. The patient should be sent to the ED if a provider is not available onsite to evaluate the Detainee. *(NDS, Health Services, Medical Care, III - G)*

**Detainee # 6** – Detainee had orders for wound care. The documentation of wound care was missing for a few days. The staff stated that it may not have been performed for various reasons.

**Recommendation**: The Quality assurance program should ensure that all the ordered wound care is completed on time. If there is any delay or if a wound care is missed there

should be adequate documentation in the chart explain the reason. The leadership team should intervene to alleviate any issues. *(NDS, Health Services, Medical Care, III - A)*

**Detainee # 7** – Detainee placed a sick call request for skin issues. The sick call form states that the patient refused the Nurse visit. There is no signed refusal form in the chart.

**Recommendation**: Patients should be educated about the risk of refusing care and also informed of the ways they care request care if they change their mind. Other jails use refusal forms that documents the type of care that was refused, education of the patient regarding the risk of refusal and ask the patient signs the refusal. If the patient refuses to sign, two of the staff members sign the form. *(NDS, Health Services, Medical Care, III - L)*

**Detainee # 8** – The facility requests a standard consent for treatment as part of the intake process. Detainee's medical chart has a blank consent for treatment. It was not acknowledged by the medical team in their notes.

**Recommendation:** The Quality Assurance Program should ensure that there is a signed consent form in all the charts. If the patient refuses to sigh the consent, there should be documentation to show that the patient was educated on the risk of refusing screening, health care and ways to access care if they change their mind. *(NDS, Health Services, Medical Care, III - L)*

**Detainee # 9** – The chart review shows that the Detainee was seen by the provider for diabetes. The follow-up plan was as needed. There was no clear scheduled follow-up scheduled based on the condition of the Detainee's medical problem.

**Recommendation**: Detainees with chronic disease should have scheduled follow-up planned based on their medical condition and level of disease control. This should be documented in the medical chart as part of the care plan. There should be a scheduling system that allows the providers to schedule the follow-up visit. This ensures that the rest of the clinical care team is ware of the plan and ensure that the Detainee is compliant with the follow-up visit. *(NDS, Health Services, Medical Care, III - A)*

## 7. Summary of Recommendations:

*(National Detention Standards (NDS): Health Services/Medical Care and NCCHC)*

a) Patients returning from ED or offsite visits are not routinely checked in at the medical clinic. They are taken directly to their housing and followed by the Nurse once they receive the paperwork. This increases the risk of patients getting back to the facility without the medical team knowing that the Detainee is back from their visit, thereby delaying the continuity of care. The process seems to be in place, but there is no

documentation in the medical records to show that they were seen upon return. Recommendation: The Detainees should be checked in by the medical team immediately upon return, so that their care plan can be followed up. *(NDS, Health Services, Medical Care, III H)*

b) Sick call process/form does not document the time of triage. It has the time of pick up and time it was addressed. It is important that the sick call requests are triaged in a timely fashion to avoid any delay in care for acute needs. Recommendation: Medical Staff should triage sick call requests as soon as possible but no later than two hours to avoid missing any acute issues like chest pain. *(NDS, Health Services, Medical Care, III H)*

c) On several sick call forms, the Nurses have noted that the requests have been completed and have also noted that there was no face to face visits with the patients as part of addressing the requests. The leadership is aware and stated that they have been addressing it. Recommendation: Medical staff should meet with patients face-to-face when responding to sick call requests. *(NDS, Health Services, Medical Care, III F)*

d) When receiving calls from non-clinical staff and there is no clinical staff on-site (during the few hours of the night), are not always evaluated by a clinical staff or sent to the ED. Recommendation: It is good practice to have patients with medical complaints during off-hours get evaluated by clinical staff first thing the following morning. It is best to err on the side of caution. Detainees with symptoms that need further assessment should be sent to the emergency room without delay. Also, it is a safe practice to evaluate the patient first thing in the morning by the clinical team. *(NDS, Health Services, Medical Care, III G, H)*

e) The biomedical equipment needs regular maintenance. The common practice is to place a sticker on the equipment to alert the team to not use equipment that is past due. The biomedical equipment did not have these stickers. There was no other way to know when the equipment was due for their next maintenance check. Using non-maintained equipment can give false readings causing medical errors. The leadership is aware and are addressing it. Recommendation: Check all biomedical equipment regularly and document maintenance. *(NDS, Health Services, Medical Care, III A, B)*

f) Due to shortage of license to the medical records, the staff have to share their access with other staff. If a patient is evaluated by one Provider, the person with access has to enter it for them in the electronic medical record. This is not a good practice and increases the risk of documentation and treatment errors. Recommendation: Expand medical records

license to ensure that all medical staff have access to patient medical charts. *(NDS, Health Services, Medical Care, III A,B,M)*

g) Details of the Orders and Appointments are not tracked in the medical records. They are tracked using other methods (boards, spreadsheets, logs, etc.). A whiteboard has the schedule for patients who need vital signs, blood draws, insulin, etc. The team heavily relies on this board and it seems to work well for them since they do not have a good electronic medical records module for this purpose. The risk is that if the whiteboard gets erased by accident, there is no alternate source of information readily available, and this can impact patient care. Recommendation: Medical staff should immediately develop and implement a system for tracking patient orders and appointments in the patient medical records. *(Best Practice – Patient safety issue)*

h) The program uses both paper chart and electronic medical record for each patient. Some documentation is done in either one of the systems, and in some cases, there is duplication of documentation. The staff are not always looking at both records during each encounter even though it may be available to them. This poses a risk to the staff and the patients. Recommendations: Medical staff should integrate their medical records system and fully commit to a single system for medical records –electronic medical record or a paper system. *(NDS, Health Services, Medical Care, III A,B,M)* Complete transition to a reliable EHR system. *(Best Practice – Patient safety issue)*

i) There are no refusals forms being used for any of the refusals (i.e. medication refusal, sick call refusal, Provider visit refusal, intake refusal, etc.). It is not clear if the refusal is a no show or an actual refusal. The community practice is to get a signature from the patient for each of refusal with documentation of the explanation of the risk of refusal. If the patient refuses to sign, it is usually signed by two staff members. Sherburne should develop and implement a process to document the refusal of medical care and treatment. *(NDS, Health Services, Medical Care, III - I)*

j) The Medical Policies are very minimal and vague. It seems that the team is using a common policy and applying it to all the different facilities that they serve at. Such an approach may not provide a clear direction for the staff to follow for their facility. Recommendation: Revise medical policies to provide clear guidance in the following areas: Sick Call, Emergency response to Detainee. *(Best Practice)*

k) Some OTC medications are free but acne ointment and dandruff shampoo are not. When patients are seen for these sick calls, the staff is recommending patients purchase these OTC medications rather than providing them for free like other medications.

Recommendation: Any medication prescribed to a patient in response to a medical consultation or illness should be provided for free. *(Best Practice)*

l) Detainees in detox who have orders for 30 minute checks have documentation showing that they "appear to be sleeping." The staff mentioned that the Detainees may sometimes have the blanket over their face and they document that they appear to be sleeping. Recommendation: Medical staff should provide a detailed explanation as to why they think the patient is well at the time of check. *(NDS, Health Services, Medical Care,* §I *)*

# Appendix 1

(b) (6)

Detainee # 1 –

Detainee # 2 –

Detainee # 3 –

Detainee # 4 –

Detainee # 5 –

Detainee # 6 –

Detainee # 7 –

Detainee # 8 –

Detainee # 9 –

Charts Reviewed:

(b) (6)

(b) (6)

List of Detainees listed by the Jail ID Number:

(b) (6)

**REPORT FOR THE**
**U.S. DEPARTMENT OF HOMELAND SECURITY**
**OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES**
**Onsite April 3-5, 2019**

**Investigation regarding Sherburne County Jail, Elk River, Minnesota**

Complaints reviewed in this report included the following:

Complaint No. 19-05-ICE-0163
Complaint No. 19-02-ICE-0165
Complaint No. 19-02-ICE-0144
Complaint No. 18-09-ICE-0355
Complaint No. 18-04-ICE-0740
Complaint No. 18-07-ICE-0180
Complaint No. 18-06-ICE-0304
Complaint No. 18-05-ICE-0208
Complaint No. 18-04-ICE-0256

Prepared by (b) (6) (b) (6) PhD, MPA, CCHP

Report date May 10, 2019

## Introduction and Referral Issues

The U.S. Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL), enlisted me to participate in an onsite investigation regarding complaints it received alleging civil rights and civil liberties abuses of individuals in U.S. Immigration and Customs Enforcement (ICE) custody at Sherburne County Jail (Sherburne) in Elk River, Minnesota. Each complaint comprises allegations raised by detainees regarding conditions of confinement including adequacy of medical or mental health care at Sherburne.

Complaint 19-02-ICE-0165 and 19-02-ICE-0144 similarly describe sexual harassment concerns followed by refusal of mental health services. Both complainants have reported history of mental illness, thus both are assessed in this onsite to identify any concern with mental health care offered.

Additionally, in 2018, CRCL received a number of medical and mental health care complaints from detainees at the facility that were ultimately reviewed by ICE's Immigration Health Services Corps (IHSC) resulting in development of a corrective action plan by IHSC. Other complaints investigated resulted in CRCL informal resolution. The primary concerns addressed in that resolution include: a) having only 1 full time clinical staff, b) detainees not being seen regularly by nurse or in response to sick calls, c) detainees not being seen timely upon return from offsite visits; and d) appropriately credentialed mental health professionals not evaluating or treating detainees who have a significant mental health history. Complaints addressed in these actions include medication administration concerns (18-07-ICE-0180, 18-06-ICE-0304, 18-05-ICE-0208), concerns regarding follow-up care and medical treatment following specific events (18-06-ICE-0304, 18-05-ICE-0208, 18-04-ICE-0256), and concerns specific to mental health care due to alleged ineffectiveness of prescribed medications (18-07-ICE-0180). Those concerns were reviewed during this onsite as well. Finally, complaint 18-09-ICE-0355 was referred by CRCL to ICE as part of this informal process. The complaint alleged that the detainee was not provided with needed medication upon transfer to the facility. It was reviewed by ICE and substantiated and an improvement plan initiated to support better documentation and reporting of missed medication. While this individual case is resolved, presence of a proactive plan to ensure continuity of medications was assessed during this onsite.

There were additional complaints prompting this assessment unrelated to mental health care. Specifically, complaint18-04-ICE-0740 details lack of adequate responsiveness to grievances by Sherburne staff. Complaint 19-05-ICE-0163 details a physical altercation between an inmate and a detainee resulting in emergency room consultation followed by placement in SHU by both participants. Neither of these complaints shows a nexus to mental health care and were not evaluated as part of this assessment of mental health services at Sherburne.

The allegations detailed in these complaints prompted the need to evaluate Sherburne's compliance with the ICE 2000 National Detention Standards (NDS) related to mental health care during this onsite investigation of conditions of confinement and general medical care.

## Method of Review

I was onsite at Sherburne over the course of three days, April 3 through April 5, 2019, totaling approximately 25 hours. On 4/3/2019 the total detainee population was 290 with 13 of those female. While at Sherburne, I toured the facility including general housing units for both male and female detainees, the intake unit, food service, recreation space, special management units, and the health care unit.

Prior to the onsite, I reviewed the applicable 2000 NDS, mental health forms and policies provided by the facility, material on quality improvement activities, staffing patterns, detainee handbook, and suicide prevention activities.

During the onsite, I reviewed the following documents:

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

Additionally, I conducted interviews with a group of 10 women in the female unit, and groups of men in one housing unit totaling approximately 20 detainees. These interviews were conducted in collaboration with the medical and conditions of confinement experts assigned to the team and the two CRCL policy advisors leading the onsite.

I also had the opportunity to interview the mental health and medical staff including the director of nursing, the mental health director, the primary nurse practitioner, and the primary onsite mental health clinician.

## Analysis, Conclusions, and Recommendations

### Review of overall mental health care activities

Sherburne is accredited by the American Correctional Association and has begun the process of attaining accreditation by the National Commission on Correctional Health Care (NCCHC). They have not yet participated in their initial NCCHC assessment but reported that they have paid their initial NCCHC fees to begin the accreditation process.

The following section provides an assessment of compliance with the 2000 NDS relevant to the mental health care program at Sherburne. Recommendations are offered later in the report.

*Staffing, Space, and Access to Care*

Mental health and medical services are conducted as part of the overall administration of the facility by MEnD Correctional Care, a company developed and managed by a physician who was employed by the facility but which has grown to include care at several regional correctional sites. The company owner, Dr. (b) (6) , continues to provide oversight at the facility monthly. Sherburne houses both male and female detainees who remain separated at all times. There are Marshall's service detainees located at the facility who are housed separately from ICE detainees except in the female housing unit.

Sherburne has a dedicated Health Services Administrator (HSA), (b) (6) who provides 40 hours of onsite care. There is a supervisory RN who is also dedicated to the facility along with 7 other RNs for a total of 9 RNs to serve the entire facility of approximately 700 residents. Sherburne uses 3 health techs per shift, two shifts per day. Health techs are nurse assistant level staff who distribute medication, fill medical orders and accept sick call slips. A lead tech has additional responsibility and works directly for the HSA. The HSA reported that Sherburne is intending to hire an LPN on each shift but at the time of this onsite it had not yet been accomplished.

There is a mental health director, (b)(6) a license marriage and family therapist, who provides oversight 2 days per month and occasionally provides direct patient care. There is also a 40-hour per week master's prepared counselor, and a 16-hour per week professional counselor dedicated to the facility.

Sherburne utilizes 1.0 FTE nurse practitioner as their primary prescriber augmented by two other nurse practitioners, one who provides care at the facility 8 hours per week and another who is at the facility 8 hours every other week. The nurse practitioners are licensed to practice independently in Minnesota and no psychiatric consultation is provided. The primary nurse practitioner received some training in psychiatric practice during her typical educational coursework and augments that knowledge with continuing education. There is no psychiatrist at the facility. The lack of an onsite provider with psychiatric training and expertise, and no psychiatric consultation was a significant concern expressed in the CRCL-ICE agency review of complaint number 18-07-ICE-0180. It remains a concern and is described more fully later in the report. During the onsite, the medical expert and I conducted file reviews in a large space in which the nurse practitioner was doing documentation and other clinical administrative duties. She was interrupted many times each day to consult on cases with nurses and consulted with the Dr. Leonard who was at the facility for this onsite multiple times as well, in addition to seeing clients.

The medical unit itself has exam rooms and office space that is shared among multiple staff. There is no medical housing on the unit. Negative pressure and observation rooms for detainees expressing self-harm ideation are located in the booking unit. Patients placed into observation for

suicide watch all receive the same property – a suicide resistant smock, Kevlar blanket, finger food served in Styrofoam and no other items. This can be changed at the request of clinical staff. Officers may place detainees on suicide watch; mental health staff must remove them.

Sherburne contracts with a private practice dentist who provides services at the facility approximately every 3rd week. Detainees go offsite for appointments related to vision. The nurse practitioner, mental health director, and nursing director all reported that the formulary is adequate. Sherburne uses an offsite pharmacy and medications are delivered twice daily. They are passed within the facility three times per day. Detainees reported understanding how to access care using the sick call system.

Medical and mental health care providers utilize the language line for translation needs if the provider is not fluent in the detainee's language. Use of the line is documented in the clinical notes. Intake screenings are conducted by Spanish speaking staff or by using translation either in person or via the language line. The ICE Detainee Handbook is available in Spanish.

Detainees receiving mental health medication are seen at regular intervals by the nurse practitioner. The notes that I reviewed were short but meaningful. Mental health services at the facility are quite limited. Nurses conduct cell front segregation rounds. Mental health providers do not participate in rounds and do not see detainees in the special housing unit unless the detainee requests it. The mental health counselor conducts evaluations at intake when concerns are identified during the booking process. There are limited single session or short-term therapeutic opportunities. Detainees requesting care must complete a two-week journaling series before an appointment is arranged. The mental health provider determines the adequacy of effort in completing the journaling exercise and does not schedule an appointment if it is determined that inadequate effort has been expended. While the information requested in the journaling process may be valuable to the mental health provider in determining clinical need and potential treatment goals, use of that process may also keep detainees who need services from getting them if they are not able to complete the packet, or not willing as a result of some mental health condition. There are packets of psychoeducational material that is provided when appropriate however the majority of the material is provided in English and not accessible to non-english speaking detainees.

Individual counseling, group counseling, and psychosocial/psychoeducation programs are considered basic mental health care, which is essential for meeting the NCCHC (2018) standards. It is not provided in sufficient quantity to meet the broad needs of the population. There are also an inadequate number of prescriber hours to allow for documentation, consultation, ongoing supervision, direct patient care, and all of the administrative functions that are part of day-to-day medical management. The staffing level is inadequate to fulfill the mental health needs of the facility.

*Health Care Record*

Sherburne utilizes both a paper and an electronic medical record. Neither is complete and both must be reviewed to gain a full clinical picture of any patient. The electronic record holds

clinical notes. It does not have medication administration capability nor accept uploaded documents. Many documents are completed on paper, then typed into the electronic record and then filed in paper form. This is an inefficient use of time and increases the risk of mistakes. The HSA indicated that paper filing is not always timely making the paper file even more unreliable. Some clinical notes placed into the electronic record simply state "see paper file." The system of documentation requires that anyone wishing to gain a full picture of the clinical needs of a patient must review both records. This is time consuming, inefficient and unreliable.

The electronic record system requires that a single provider be identified as responsible for the services provided to the client. In most cases this is the primary nurse practitioner. All documents created in the electronic record are then automatically identified as signed off on by the assigned provider, making their care his or her responsibility. When notes are written by others, the writer identifies it in the body of the clinical note. While the nurse practitioner indicated she reviews all documents created under her credential, the quantity of work managed by the limited nurse practitioner time and the requirements of the electronic medical record put the credential of the assigned provider at risk.

The physician CEO of the agency contracted to provide health care at the facility, the HSA, and the mental health director all identify that the health record system is inadequate and report that they are working to purchase a different record system, however there is no timeline.

The current process of documenting medical and mental health care poses significant risks to detainees and providers. These problems are a primary finding in the recommendations section of this review.

*Communication and Quality Improvement*

There are quarterly meetings of medical staff during which both ICE detainees and other inmates are discussed. There are also monthly meetings that include the HSA and other facility leaders, led by facility administrators. Meetings include a report-out of major departments. There are weekly meetings of the medical and mental health program staff. These include discussion of staff placed into special housing. There are chart audits of medical and mental health providers on a monthly basis using standardized forms that include key topics such as chemical withdrawal, medical clinic administration, diabetes and other chronic care assessment practices, medication administration, mental health referrals and appraisals, and ongoing mental health contacts and monitoring

*Suicide Prevention Program and Management of Mental Illness in Segregation*

(Standard: 2000 NDS, Suicide Prevention and Intervention, §§ III.A-C.)

Sherburne's suicide prevention program meets NDS standards, and there were no detainee suicides at the facility in the last year.

Staff participates in required suicide prevention training. Health services staffs receive ongoing training by the HSA. The initial intake screening process uses a mental health questionnaire that asks questions specific to self-harm risk and a well-known self-report depression assessment tool is included in the referral packet when medication consultation is requested.

The initial booking intake screen is conducted without privacy by a security staff person, which may compromise the veracity of the mental health and medical information. Facility policy requires that detainees who express self-harm ideation or engage in self-harm behavior be placed into an observation/isolation cell. This occurs in the booking area. Property in the observation status is limited to Kevlar gown and blanket with finger food provided in a Styrofoam container. When placed into suicide watch status, detainees are seen every eight hours by health care staff, and reviewed by mental health staff daily. There is no plan-driven mental health treatment provided to detainees while in suicide watch.

The special housing unit (SHU) is comprised of multiple wings with a small number of cells in each. Detainees in SHU get out of cell 1 hour per day and must accomplish activities such as showers during that time. Detainees in disciplinary segregation do not get access to books, television, radio, or material such as word searches that are often used to keep detainees busy in their cells. As mentioned earlier, nurses conduct daily rounds and mental health practitioners do not conduct rounding in the segregated units. Detainees can request mental health services while in SHU and mental health staff indicated that if requested the detainee can be brought to the health services unit to be seen. Detainees in administrative segregation reportedly receive similar privileges as general population detainees receive, however detainees in general population housing have access to television, radio, and other privileges that are not accessible in the segregated setting. Detainees who are classified at booking as maximum security are placed into administrative segregation until security staffs are confident that the detainee can be housed in a less restrictive environment without risk of harm to others.

When detainees are placed into the SHU, the medical staffs are notified and sign off on the placement indicating that there are no contraindications to placement. They are not made aware of the reason for placement and do not conduct any kind of meaningful evaluation or record review to either mitigate placement should mental health concerns play a role in the behavior leading to placement, or to evaluate if placement will negatively influence a detainee's mental health condition. Health care staff reported that if someone with an active mental health concern was placed into the SHU they are "certain security would call." A more thorough standardized approach is needed to ensure people with significant mental health concerns are not harmed by placement into the segregated setting.

*Screening, Assessment and Referral*

(Standards: 2000 NDS, Admission and Release, §§ A.3 & H; Medical Care, §§ III.A & D)

Facility policies clearly delineate the process for detainee referrals to mental health services. The intake screening is conducted by an officer at a desk in full view and hearing of other detainees and staff, which provides little privacy. The screening tool and interview conducted by security

staff adequately provides the required information including suicide risk factors associated with PREA, and asks questions related to current and historical psychiatric symptoms or treatment, criminal victimization, recent loss, traumatic experiences, and other information. Staff conducting the screening makes referrals to mental health providers based on the answers to questions asked during the intake process.

Medical staffs regularly confirm medications reported during the booking process with the outside prescribing entity. Detainees who enter the facility on psychiatric medications usually receive a continuing prescription and there was no evidence of delay. Lack of continuity of medications was one concern assessed as part of this onsite. The chart audit process includes monitoring of medication continuity and there is no evidence visible through chart review that suggests this remains a concern. Prior mental health and medical records were requested and tracked when detainees reported a significant history or requested follow up on a previously managed condition. Medical transfer summaries typically accompanied detainees when arriving from other facilities. Detoxification from substance abuse occurred with adequate medical supervision.

*Sick Call*

Detainees provide sick call slips to the health techs when they are on the unit offering medications, or may hand them to officers. Sherburne does not use lock boxes. Slips are triaged by the health techs for emergent need then provided to the RN for review. There is no date or time stamp on the sick call slip and no formal system of triage that help prioritize visits. The nurse practitioner often writes back to the detainee using a word document she types rather than a standardized form. Notes in the electronic health record often detail responses to multiple sick call requests in a single note suggesting that not every request results in a response. Detainees in SHU request services during the routine medical sounds by RNs. Detainees in the SHU can be brought down to the medical unit for mental health counseling.

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

Isolation for medical or mental health purposes occurs in the booking area. Detainees in need of treatment intervention beyond the scope of Sherburne can be transferred to a local hospital. The HSA indicated access to inpatient psychiatric care is challenging but has been accomplished when necessary. Sherburne does not provide court ordered medications. They do utilize restraint chairs when necessary to control behavioral acting out. They do not restrain for mental health purposes.

*Continuity of Care*

(Standard: 2000 NDS, Medical Care, §§ III.F.)

Detainees arriving at the facility with prescribed medications are typically evaluated within required timeframes. Medical records from outside providers are routinely sought, and those facilities are contacted to verify medications when detainees arrive reporting currently receiving

treatment. Detainees being released from the facility are reportedly provided with the pills remaining in their prescription. A transfer summary is provided but no additional prescription is offered.

**Complaint allegations:**

Complaint 19-02-ICE-0165 and 19-02-ICE-0144 similarly describe complaints of sexual harassment by staff. Each complainant refused medical care and mental health services following their separate allegations. Both complainants have reported history of mental illness, thus both are assessed in this onsite to identify any concern with mental health care offered.

- Detainee 1 (Complaint 19-02-ICE-0165) arrived at Sherburne on 10/31/2018. He arrived with medications that were verified immediately by a nurse and started without delay. One medication, Quetiapine, could not be verified and was not reinitiated. Past records were requested. This detainee was placed into the SHU soon after arrival as dictated by his classification as maximum security. He fought staff during his placement resulting in longer term placement in the SHU for disciplinary purposes. There was no notation in the mental health file indicating the reason for placement or any significant review of the appropriateness of that placement. On 11/2/2018 the detainee began expressing concern that he was not receiving Quetiapine and could not sleep. He was seen daily by nursing staff through his release on 1/14/2019 and had encounters with the nurse practitioner and the psychologist working at the time on multiple occasions. There is no record that additional prior medical records were ever received. However, the detainee was offered counseling and assessed by the psychologist on three occasions. He was seen by the nurse practitioner at appropriate intervals. While there should have been additional documentation regarding the outcome of the medical history record request, there appears to have been access to adequate mental health care throughout this complainant's detention at Sherburne.

- Detainee 2 (Complaint 19-02-ICE-0144) arrived at Sherburne on 11/12/2018 with a medical summary and medication list. All medications were continued as prescribed upon arrival. This detainee was placed into SHU upon arrival after being classified as maximum security with a history of assaultive behavior. The reason for placement was not noted in the mental health record and there was no noted assessment of mental health concerns prior to placement. He was seen again on 11/14 for sick call and made a complaint of sexual harassment against Sherburne staff. He was seen on 11/15/2019 by the psychologist who diagnosed psychotic illness. The psychologist made a referral to the nurse practitioner who saw the detainee on 11/16/2018. He received daily nursing rounds throughout his placement. He was seen approximately every two weeks by mental health staff and the nurse practitioner, culminating on 2/5/2019. He was removed from the facility on 2/6/2019.

Findings: Both detainees resided in the SHU throughout their stays, placed there immediately upon arrival when they were classified at a maximum-security level. There is evidence that both received daily nursing rounds and adequate follow-up by both mental health staff and the nurse

practitioner. However, the reason for placement into the SHU was not detailed in the mental health records and there was no evidence of any review of the appropriateness of placement for either detainee. The lack of meaningful review of the SHU placement for both detainees with a background of mental health concerns, one with a diagnosed significant mental illness, is a notable finding from this onsite and is discussed more thoroughly in the recommendation section.

**Mental Health complaints addressed in the corrective action plan and informal resolution**:

As noted earlier in this report, CRCL had received complaints regarding Sherburne that were addressed through the development of a corrective action plan by IHSC. Other complaints had been addressed through informal resolution. The primary concerns noted in that resolution and corrective plan include: a) having only 1 full time clinical staff, b) detainees not being seen regularly by nurse or in response to sick calls, c) detainees not being seen timely upon return from offsite; and d) detainees who have a significant mental health history not being evaluated or treated by appropriately credentialed mental health staff. Specific complaints addressed in these actions include medication administration concerns (18-07-ICE-0180, 18-06-ICE-0304, 18-05-ICE-0208), follow-up care, medical treatment following specific events (18-06-ICE-0304, 18-05-ICE-0208, 18-04-ICE-0256), and mental health care due to alleged ineffectiveness of prescribed medications (18-07-ICE-0180). As the assigned mental health expert, I am detailing my assessment of the resolution of those concerns noted above that are relevant to mental health services. I have also reviewed Complaint 18-07-ICE-0180 directly as a concern specific to the adequacy of access to mental health services at Sherburne. Finally, Complaint No. 18-09-ICE-0355 involved a detainee not receiving medications upon transfer to Sherburne. The issue was evaluated and substantiated by ICE with the recommendation that a system be developed to ensure adequate documentation and continuity of care. I reviewed the correction plan put in place to address that recommendation as part of this onsite and addressed two concerns specific to mental health services

Concern A: Having only 1 full time clinical staff person.

- Sherburne has partially addressed this concern, adding additional mental health hours and nurse practitioner hours. As noted above, the number of mental health counselors remains inadequate to provide the breadth of mental health care necessary to be considered an adequate basic level of care based on NCCHC standards. The nurse practitioner hours remain inadequate to accomplish all the consultation, administrative, and client care responsibilities along with reviewing all care documented in the electronic clinical note. There is no psychiatrically trained practitioner onsite.

Concern D: Detainees who have a significant mental health history not being evaluated or treated by appropriately credentialed mental health staff.

- Sherburne employs masters-degreed licensed counselors to provide assessment and treatment of detainees. They are adequately trained and credentialed to provide the required direct care services. There is an inadequate array of treatment provided to meet NCCHC (2018) standards of care, unrelated to the credentialing

concerns. There are no specially trained psychiatric prescribers or consultants assigned to Sherburne. File reviews for this onsite did not evidence any care deficits specific to lack of direct psychiatric involvement and the nurse practitioner reported being able to practice independently in the state of Minnesota. However, lack of a psychiatrically trained nurse practitioner or psychiatrist onsite was a concern expressed in the original CRCL-ICE correction plan and remains a concern at this onsite.

Complaint 18-07-ICE-0180: Inadequate mental health care due to alleged ineffectiveness of prescribed medications.

- This complaint was reviewed by IHSC in April 2018 and the file review provided by IHSC notes that medication times were changed at intake into Sherburne, ultimately returned to the times originally set before entrance into Sherburne and there was substantial mental health provider contact and discussions with the complainant regarding medication refusals and efforts to engage the complainant in treatment. IHSC concluded that this part of the complaint was unfounded. My own file review supports that finding.

Complaint 18-09-ICE-0355 and concerns specific to continuity of medication

- Following IHSC review of complaint 18-09-ICE-0355, Sherburne was expected to put systems in place to ensure medications were documented at intake and there was continuity of care when detainees arrived with a prescription. While the individual case was assessed and concluded, I reviewed the process improvement required by IHSC at this onsite. Sherburne audits verification of medications and continuity of prescriptions as part of its regular health assessment chart audit. File reviews noted verification of medications when detainees reported them and prior records were requested when there was any indication that they were needed. Documentation was present.

**Summary of Recommendations**

The 2000 NDS on Medical Care states, "All detainees shall have access to medical services that promote detainee health and general well-being." The following recommendations result from deficiencies in meeting the overarching standard. When relevant, I also include other portions of the NDS, as well as references to the 2018 Standards for Health Services in Jails and 2015 Standards of Mental Health Care in Correctional Facilities, National Commission on Correctional Health Care (NCCHC).

1. **Sherburne should engage in comprehensive programmatic evaluation and improvements necessary to meet or exceed the 2000 NDS and the accreditation standards of the National Commission on Correctional Health Care.**

*Rationale:* 2000 NDS, Medical Care, §§ I. Policy states " Medical facilities in service processing centers and contract detention facilities will maintain current accreditation by the National Commission on Correctional Health Care."

Sherburne is accredited by the American Correctional Association but its medical services are not NCCHC accredited and do not approach the standards of accreditation for the majority of its mental health care service. Medical leadership reports that they are beginning the process of accreditation but have not yet participated in their initial assessment. Engaging in needed programmatic improvements and successfully attaining accreditation by NCCHC would satisfactorily address the majority of concerns related to mental health care noted in this report.

2. **Sherburne should cease use of their current bifurcated record keeping system and either a) immediately purchase and implement a functional electronic health records system that incorporates all key components of health care in a single location, or b) use a complete paper file and abandon the inadequate ancillary electronic program currently in use.**

*Rationale:* 2000 NDS, Medical Care, §§ I. Policy states: "All detainees shall have access to medical services that promote detainee health and general well-being."

2015 NCCHC Standards for Mental Health Services in Correctional Facilities (MH-H-03, an important standard) requires that "a clinical record is maintained to facilitate continuity of care." Further, "The intent of this standard is that the facility has a system to facilitate mental health record use. Having the record available to clinicians for each patient encounter enhances continuity of care, facilitates early and correct diagnosis based on review of prior symptoms and findings, and permits coordination of treatment by multiple clinicians."

2015 NCCHC Standards for Mental Health Services in Correctional Facilities (MH-H-01, an essential standard) states: "The intent of this standard is that clinical records are standardized and complete to facilitate clinical care." It notes that "a unified clinical record composed of all medical, dental, and mental health care information is preferable."

2018 NCCHC Standards for Health Services in Jails (J-A-08, an essential standard) notes that in order to be compliant with the expectations of the Health Records section, "if electronic health records are used, procedures address integration of health information in electronic and paper forms."

Sherburne utilizes a system of record keeping that comprises both electronic and paper formats. Neither is a complete record, and efforts are made to ensure that the most crucial information is maintained in both systems. In some cases, notes from clinical contacts are written, then typed into the electronic system, before being filed in the paper record. Retrieving and reviewing a full medical/clinical file is unwieldy, inefficient, and time consuming. During file reviews for this onsite, clinical notes sporadically stated simply "see paper file," to create a placeholder so that the clinician would know a service was complete but only a paper note was kept. The electronic record does not have a medication administration record function and does not accept uploaded documents. Paper filing is routinely not completed in a timely fashion. There are two office support employees who complete all of the file maintenance as part of larger tasks. The inability to conduct a timely file review or to be confident that the medical and mental health information

one has available is accurate and complete puts patient care at risk, and compromises the credentials of practitioners who rely on available information to make clinical decisions.

3. **Mental health evaluation and treatment should be conducted in private without risk of being overheard by other detainees.**
4. **Sherburne should modify the intake space or process to allow for privacy during the initial officer screening of the detainee.**

*Rationale:* 2000 NDS, Medical Care, §§ I. Policy states: "All detainees shall have access to medical services that promote detainee health and general well-being."

2015 NCCHC Standards for Mental Health Services in Correctional Settings (MH-A-09, an important standard) requires that "mental health services are conducted in private and carried out in a manner designed to encourage the patient's subsequent use of services."

2015 NCCHC Standards for Mental Health Services in Correctional Settings (MH-H-02, an essential standard) requires that "the confidentiality of a patent's written or electronic clinical record, as well as orally conveyed mental health information, is maintained."

The space used by security staff to conduct initial booking interviews of arriving detainees allows for little privacy. One purpose of the booking interview is to recognize critical mental health, safety, and vulnerability risks that may be present at intake, and provide appropriate assistance to mitigate those concerns. Detainees are asked personal details about mental health needs, traumatic experiences, and sexual orientation, among others, while standing or sitting at a desk surrounded by other detainees or facility staff. The effectiveness of the intake process in gathering vital information for others to use in housing and treatment decisions is negatively impacted by the lack of privacy and may result in serious mental health needs of incoming detainees being missed at intake. It is vital that every effort be made to encourage honest reporting during the intake process to ensure that the detainee receives the appropriate level of care. Privacy is key in accomplishing that effort.

5. **Sherburne should develop a process for acquiring informed input from mental health staff when detainees with known history of self-harm or mental illness are placed into segregated status.**

***Rationale:*** 2000 NDS, Disciplinary Policy, §§ III.A.4 states "The facility shall not hold a detainee accountable for his/her conduct if a medical authority finds him/her mentally incompetent." The standard continues: "A mentally incompetent individual unable to appreciate the difference between appropriate and inappropriate behavior… is not capable of acting in accordance with those norms. Therefore, he/she is not responsible for his/her 'wrongful' actions."

2018 NCCHC Standards for Health Services in Jails (J-E-09, an important standard) notes: "Upon notification that an inmate is placed in segregation, a qualified health care professional reviews the inmate's health record to determine whether existing medical, dental, or mental health needs contraindicate the placement or require accommodation." 2015 NCCHC Standards

for Mental Health Services in Correctional Facilities (MH-E-07, an essential standard) concludes, "On notification that an inmate is placed in segregation, mental health staff reviews the inmates' mental health record to determine whether existing mental health needs contraindicate the placement or require accommodation."

2015 NCCHC Standards for Mental Health Services in Correctional Facilities (MH-G-06, an important standard) further states, "mental health staff provide behavioral consultation when such services are needed." It continues, "Mental health staff should offer consultation to disciplinary hearing officers that helps them recognize when mental illness may be a contributor to inmate misconduct. Mental health professionals should be consulted by disciplinary hearing officers when mental illness is suspected prior to a due process hearing."

2018 NCCHC Standards for Health Care in Jail Settings (J-A-08, an essential standard) expects that "criminal justice information that is pertinent to clinical decisions is available to qualified health care professionals."

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

While medical personnel review detainees placed into SHU for clearance, mental health practitioners are not involved in the process of determining appropriateness of placement into the segregated environment and medical staff don't engage in a file review to gain an understanding of the mental health concerns of a detainee who is being considered for placement in the SHU. This leaves detainees with serious mental illness vulnerable to placement into an environment that punishes mental illness, or potentially exacerbates symptoms requiring treatment rather than correction. Additionally, the bifurcated record system makes thorough review of mental health concerns difficult prior to or early on n the process of placement into the segregated setting.

Sherburne should develop a formalized process by which custody staffs provide a synopsis of the placement reason, mental health staff review pertinent mental health records and recent information, and recommendations for mitigation, if necessary, are offered.

6. **Sherburne should create a staffing plan to increase mental health staffing to ensure that adequate mental health services are available to detainees who need it.**
7. **Sherburne should develop an adequate array of mental health services including individual, group, and psychoeducational opportunities for detainees who need them.**
8. **Sherburne should develop an adequate array of mental health treatment to address the serious mental health needs of detainees housed in the special management unit.**
9. **Sherburne should develop therapeutic treatment activities monitored through a formal treatment plan for detainees who are identified as at risk for suicide.**
10. **Sherburne should employ prescribers who are psychiatrically trained to assess and medically treat detainees with significant mental illness.**

## 11. Sherburne should make any worksheets and/or psychoeducational materials used for treatment available in the language that the detainee can understand.

*Rationale:* 2018 NCCHC Standards for Health Services in Jails (J-C-07, an important standard) notes: "A sufficient number of health staff of varying types provides inmates with adequate and timely evaluation and treatment consistent with contemporary standards of care." 2015 NCCHC Standards for Mental Health Services in Correctional Settings (MH-C-07, an important standard) adds that there must be a "sufficient number of mental health staff" to provide appropriate levels of mental health care.

2015 NCCHC Standards for Mental Health Services in Correctional Settings (MH-A-01, an essential standard) continues: "Inmates have access to care to meet their serious mental health needs." They continue: "The intent of this standard is to ensure that inmates can request and have access to care that meets their serious mental health needs and that a range of mental health services is available, adequate, accessible, and provided. It is the foundation on which all National Commission on Correctional Health Care standards are based."

2015 NCCHC Standards for Mental Health Services in Correctional Settings (MH-G-01, an essential standard) requires that "a range of mental health services are available for all inmates who require them." "Outpatients receiving basic mental health services are seen as clinically indicated, but not less than every 90 days. Those with a chronic mental illness are seen as prescribed in their individual treatment plans." The intent of the standard is to ensure that a "range of mental health services are available to inmates with mental health problems so that they are able to maintain their best level of functioning. The immediate objective of mental health treatment is to alleviate symptoms of serious mental disorders and prevent relapses to sustain patient's ability to function safely in their environment."

2015 NCCHC Standards for Mental Health Services in Correctional Settings (MH-G-03, an essential standard) expects that "mental health services are provided according to individual treatment plans" that "direct(s) the mental health services needed for every patient on the mental health caseload and includes the treatment goals and objectives."

Sherburne provides short-term individual therapeutic intervention. In order to get on the mental health caseload detainees must first complete a two-week journaling activity, which is evaluated by the mental health counselor for adequacy of effort. If the detainee is not identified as having completed the material adequately, he or she is not put on the caseload. Outside of medication management, there is a paucity of treatment plan driven activity. Sherburne uses worksheets and psychoeducational material as a primary treatment. However, there are few if any materials available to non-English speakers. Detainees in SHU are able to request mental health consult and reportedly can be brought to the health unit to be seen, but mental health providers do not participate in rounding activity.

Sherburne routinely places detainees identified as having self-harm or suicidal ideation in suicide watch, which occurs in the booking area rather than a health care unit. Detainees isolated due to risk of self-harm or symptoms of serious mental illness do not participate in out of cell activities and receive daily rounds by mental health staff while standing at the cell door, which affords

little privacy. There are no treatment plan driven mental health activities for detainees in observation status.

The primary medication prescribers at Sherburne are family nurse practitioners. While they may have participated in continuing education activities specific to psychiatric care, they are not trained as psychiatric nurse prescribers and there is no consulting psychiatrist available to the practitioners

The medical record keeping system is unwieldy and requires adequate support staff time to ensure that all needed information is kept in both the electronic and paper files. Medical staff noted that filing of materials is not always timely. This negatively impacts required continuity of care.

Sherburne's current staffing levels allow for the most basic of mental health care but not an adequate amount of treatment plan driven care provided by appropriately trained and credentialed practitioners to ensure that the mental health needs of detainees are accommodated.

## APPENDIX 1

### List of Files Reviewed

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## APPENDIX 2

### List of Detainees Interviewed

1. Conducted interviews with a group of 10 women in the female unit, and groups of men in one housing unit totaling approximately 20 detainees.

**Appendix A**
**Non-Priority Recommendations**
Sherburne County Jail[1]

**Medical Care:**

1. Medical staff should immediately develop and implement a system for tracking patient orders and appointments in the patient medical records.

2. Complete transition to a reliable EHR system.

3. Revise medical policies to provide clear guidance in the following areas: Sick Call, Emergency response to Detainee.

4. Any medication prescribed to a patient in response to a medical consultation or illness should be provided for free.

**Conditions of Detention:**

5. Revise Inmate/Detainee Grievance Policies and Procedures and the ICE Detainee Handbook and address non-grievable issues.

6. Ensure detainees receive adequate responses to their formal grievances including a full explanation for all decisions.

7. Revise the applicable grievance policies and procedures specifying formal grievances are responded to by the Department Head/Supervisor that has responsibility for the area/department related to the complaint.

8. Revise Disciplinary policy and procedures to require medical/mental health staff review detainees receiving a disciplinary report prior to a hearing to determine if their mental health issue was a factor in the reported rule violation.

9. The English and Spanish Orientation Videos should be updated to provide detainees real time information.

10. Revise the Sherburne Special Management Unit procedures to ensure detainees have unimpeded access to required ICE posted information.

11. Revise the Sherburne Detainee Handbook to contain updated information and provide Detainee Handbook supplements when there are revisions.

12. There should be a gender specific Detainee Handbook for male and female detainees.

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[1] 19-05-ICE-0163; 19-02-ICE-0165; 19-02-ICE-0144; 18-09-ICE-0355; 18-04-ICE-0740.

13. Revise Admission procedures and issue the Detainee Handbook during the booking process on the day of arrival.

14. Revise Sherburne procedures requiring a "Kite"/Informal Grievance Log and staff respond to detainee "Kite"/Informal and Oral Grievances within a required time frame.

15. ICE officials respond to a detainee written request within 72 hours unless there are exigent circumstances and those circumstances are documented.

16. Require ICE written responses be in the language the detainee made the written request and include a full explanation for all decisions.

17. Revise Special Management Unit policy and procedures to require healthcare staff perform a detainee assessment to determine if the detainee is appropriate for the Special Management Unit prior to placement.

18. Perform a cell lighting assessment and verify detainees are receiving necessary lighting levels.

19. Special Management Unit Staff log all staff and non-staff visiting the area in the Jail Management System Phoenix Electronic Log.

20. Develop and implement a log to document use of the telephone language line to assist LEP detainees. The log should document the date of use, alien number, and language of interpretation.

21. Develop a housekeeping and maintenance plan that addresses all facility areas and provides for daily housekeeping and regular maintenance by assigning specific duties and responsibilities to staff and detainees.

22. Require the inventory of Food Service sharps at the beginning and ending of each shift. Supervisory staff conduct random audits to ensure sharps are controlled and staff are documenting inventories when they occur.

23. Mattresses and Pillows in poor condition are replaced or repaired.

24. Flammables, toxic, and caustic materials must be controlled in all areas of the jail including the food service department and housing units.

25. The Jail Laundry should have direct staff supervision. Staff and inmates/detainees assigned the laundry should receive training. Written policies, procedures, post orders, and inmate/job descriptions should be developed and implemented for safe operation of the laundry.

# CONDITIONS OF DETENTION EXPERT'S REPORT

**ON**

**Sherburne County Jail**

**Prepared by:**

(b) (6)

**Olive Branch, Mississippi**

**April 6, 2019**

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## Sherburne County Jail

## I. SUMMARY OF REVIEW

The Office for Civil Rights and Civil Liberties (CRCL) received complaints alleging abuses of the civil rights and civil liberties of individuals in the custody of U.S. Immigration and Customs Enforcement (ICE) at the Sherburne County Jail (Sherburne) in Elk River, Minnesota.

In FY 2018, CRCL received a number of medical and mental health care complaints from detainees at Sherburne that were sent to ICE as medical referrals, were received by ICE's Immigration Health Service Corps (IHSC) and resulted in the issuance of a corrective action plan by IHSC. Additionally, some complaint investigations also resulted in a CRCL informal resolution, notifying ICE of medical concerns. Complaints opened involve concerns related to:

- medication administration,[1]
- follow-up care,[2]
- medical treatment following a fall from the top bunk,[3]
- medical treatment following an altercation with U.S. Marshall inmates[4] and
- mental health care due to the alleged ineffectiveness of the medication prescribed.[5]

In addition to the complaints noted above, CRCL continued to receive complaints regarding medical and mental health care at Sherburne County Jail.

On November 27, 2018, ERO St. Paul reported that Detainee #1, a Ghanaian national, was allegedly the victim of sexual harassment by Sherburne staff while at the facility. ERO St. Paul reported on November 17, 2018 Detainee #2, a Liberian national detainee, was allegedly the victim of sexual harassment by Sherburne staff while at the facility. The fiancée of Detainee #3, contacted CRCL on June 11, 2018, alleging that Detainee #3 was not provided with his blood pressure medication upon transfer to the facility.[6]

CRCL also opened complaints related to Sherburne, alleging violations involving general correctional care. ERO St. Paul reported on February 8, 2019, in the Daily Detainee Assault Report (DDAR) a physical altercation between a Somali national detainee and an inmate at Sherburne. According to the (DDAR), an inmate struck Detainee #4 in the head causing him to lose consciousness. Detainee #4 was transported to Mercy Hospital where he was diagnosed with a concussion and

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[1] 18-07-ICE-0180; 18-06-ICE-304; 18-05-ICE-0208.
[2] Id.
[3] 18-06-ICE-304 and 18-05-ICE-0208.
[4] 18-04-ICE-0256.
[5] 18-07-ICE-0180.
[6] 19-02-ICE—0165, 19-02-ICE-0114, 18-09-ICE-0355

musculoskeletal pain. Detainee #5 contacted CRCL on January 24, 2018, to report that Sherburne staff have failed to respond to grievances filed regarding problems with his cellmate.[7]

To examine the allegations in the complaints and review Sherburne operations, CRCL conducted an onsite investigation on April 3 through 5, 2019. The investigation reviewed Sherburne's adherence to the 2000 ICE National Detention Standards (NDS), the DHS Language Access Plan, February 28, 2012 and the ICE Language Access Plan, June 14, 2015 and the ICE Sexual Abuse and Assault Prevention and Intervention Policy (SAAPI) issued and effective May 22, 2014.

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

## II. EXPERT PROFESSIONAL INFORMATION

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## III. Relevant Standards

### a. ICE Detention Standards

[7] 19-05-ICE-0163 and 18-04-ICE-0740

The ICE NDS 2000 currently apply to Sherburne. The facility was covered by these standards during the relevant period to this investigation. I relied on NDS 2000, the Ice Sexual Abuse and Assault Prevention and Intervention Policy (SAAPI) issued
and effective May 22, 2014, the DHS Language Access Plan, February 28, 2012 and the ICE Language Access Plan, June 14, 2015 and Sherburne policies and procedures when investigating the specific allegations and the conditions of confinement areas that potentially raise important civil rights and civil liberties issues.

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

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

## IV. Facility Background and Population Demographics

The Sherburne County Jail is located in rural Elk River, Minnesota, approximately 35 miles north of Minneapolis, Minnesota. Sherburne is a major regional facility operated by the Sherburne County Sheriff's Office. The county has an Intergovernmental Service Agreement (IGSA) with ICE to house male and female detainees. The facility was constructed in 1979 and has undergone a series of remodeling and construction projects since the initial construction. The current facility capacity is 732 beds. The facility ICE population on April 3, 2019 was 290: males-277, females-13. Bed space is also provided Sherburne County, the U.S. Marshal Service, Bureau of Indian Affairs, Minnesota Department of Corrections, Anoka Jail and Mahnomen County. The average length of stay for ICE detainees is 51 days. Sherburne operates with a combination of direct and indirect supervision.

Sherburne was accredited by the American Correctional Association in August 2017. A Department of Justice (DOJ) Prison Rape Elimination Act (PREA) Audit was conducted on January 26-28, 2016 and Sherburne was certified compliant with PREA Standards on February 21, 2016. A re-certification PREA Audit was conducted in February 2019 and the final report to certify compliance with PREA Standards is pending.

General Facility Information:

- Intergovernmental Service Agreement (IGSA)
- Male and Female ICE Population
- Operated by: Sherburne County Sheriff's Department
- Average Length of Stay (ALS): 51 days
- Best Known Contract Initiation Date: May 2, 2018

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

## V. Review Purpose and Methodology

The purpose of this review was to examine the specific allegations made in the complaints, and to identify other areas of concern regarding the operation of the facility.

Medical and Mental Health Experts examined the complaints related to medical and mental health care. My responsibility was to examine Sherburne complaints and overall operations' related to conditions of confinement. The review was conducted by examining documents prior to and during the Sherburne April 3 through 5, 2019 Site Visit. Sherburne was toured and interviews were conducted with ICE and Sherburne staff and detainees during the site visit. Detainees' names and alien numbers are omitted from this report and are listed in Appendix A.

Sherburne staff provided requested assistance during the April 3, through 5, 2019 Site Visit. The assistance and cooperation of ICE staff was beneficial to conduct the investigation.

The following was reviewed to prepare for the Sherburne April 3 through 5, 2019 Site Visit and compile my expert report:

- The complaints received by CRCL;
- The April 2016 ICE National Detainee Handbook
- NDS 2000 Standards
- The DHS Language Access Plan, February 28, 2012 and the ICE Language Access Plan, June 14, 2015
- Ice Sexual Abuse and Assault Prevention and Intervention Policy (SAAPI) issued and effective May 22, 2014
- Reviewed relevant ACA Detention Standards
- The Sherburne Document and Information Request
- The Retention Memo – Sherburne Final 3.22.19
- CRCL Sherburne Onsite Agenda;
- Sherburne ICE Contract
- ICE Staff Assigned Sherburne
- Sherburne Organizational Chart
- Sherburne Jail Administration Names and Titles
- Sherburne Policies and Procedures
- Intake File Checklist
- Intake Packet
- PREA Training and Checklist
- Detainee Handbook
- Detainee Classification Review Documents
- Detainee Disciplinary Reports
- Detainee Grievances
- Detainee Grievance Log
- Detainee Oral Grievance Log
- Detainee Segregation Notices
- Detainee Pre-Hearing Seg Logs
- Detainee PREA Log

- Detainee Use of Force Log
- Detainee Correspondence to ICE Staff Logs
- Detainee Religious Diets
- I Speak .....Language Identification Guide
- Nakamoto 2018 Inspection Documents
- Office of Detention Oversight 2018 Sherburne County Jail Inspection Report
- April 3, through 5, 2019 Expert Activities
  - Toured Sherburne
  - Reviewed applicable Sherburne Policies and Procedures
  - Reviewed the Sherburne Detainee Recreation Schedule
  - Reviewed detainee April 3, 4, and 5, 2019 housing rosters
  - Interviewed the Jail Commander
  - Interviewed the Jail Administrator
  - Interviewed the Assistant Jail Administrator
  - Interviewed the Program Coordinator Responsible for:
    - Leisure and Legal Libraries
    - Education and Treatment
    - Recreation
    - Religious Practices
    - Work Programs
  - Interviewed the PREA Sergeant/Coordinator
  - Interviewed the Training Sergeant/Coordinator
  - Interviewed a Booking Officer
  - Interviewed a Classification Officer
  - Interviewed detainees in the Special Management Unit
  - Interviewed Sherburne ICE Staff during the review
  - Conducted Group Interviews with Detainees: 4/3/19 Omega Unit approximately 20 male detainees, 4/3/19 North Housing approximately 10 female detainees and 4/4/19 Gamma Housing Unit (Orientation) approximately 6 male detainees
  - Interviewed Detainee #7 identified as transgender
  - Reviewed Access to the Telephone Language Line
  - Reviewed Access to the Law Library
  - Reviewed the Detainee PREA Risk Assessment
  - Reviewed the Sherburne Staff Training Documents

## VI. CONDITIONS OF DETENTION FINDINGS AND RECOMMENDATIONS

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

**a. On February 8, 2019, ERO St. Paul reported in the Daily Detainee Assault Report (DDAR) a physical altercation between a Somali national detainee and an inmate at Sherburne. According to the (DDAR), an inmate struck Detainee #4 in the head causing him to lose consciousness. Detainee #4 was transported to Mercy Hospital where he was diagnosed with a concussion and musculoskeletal pain. Upon his return to Sherburne he was placed into segregation. A no-contact order was given to both the detainee and the inmate.**

**Analysis and Findings:**
Detainee #4 is no longer at Sherburne; therefore, he was not interviewed.

An altercation occurred between Detainee #4 and another inmate on February 8, 2019 in the Gamma Housing Unit of the Sherburne County Jail. The Gamma Housing Unit is a co-mingling unit where individuals from multiple jurisdictions are housed. The detainee and other inmate were under direct supervision of jail staff. An officer immediately responded to the altercation and stopped the inmate from continuing to assault Detainee #4. The other inmate was physically separated from Detainee #4 and placed in restraints. Medical Staff responded and Detainee #4 was transported to the hospital for treatment. The inmate was placed in the Special Management Unit. Both were placed in the Special Management Unit and issued disciplinary reports for the altercation on February 8, 2019. A disciplinary hearing was held for Detainee #4 on February 11, 2019 for a Sherburne A-20 Detainee Violation specifically: Fighting. Detainee #4 plead not guilty to the rule violation at his February 11, 2019 disciplinary hearing. The Sherburne Disciplinary Hearing Officer found Detainee #4 guilty of fighting based on the evidence and 7 days lock down was imposed as a sanction. Detainee #4 appealed the Disciplinary Hearing Officer findings. The Sherburne Official reviewing the Detainee #4 Disciplinary Hearing Appeal granted the appeal on February 13, 2019 and documented Classification would be notified to release the detainee from disciplinary segregation. A review of Sherburne records revealed a sound and acceptable classification system. There was no evidence Detainee #4 and the other detainee had known conflicts prior to the altercation on February 8, 2019.

**The complaint is not substantiated.** Sherburne Jail Staff appropriately responded to an altercation between Detainee #4 and an inmate in the Gamma Housing Unit on February 8, 2019. Detainee #4 received prompt medical care including outside medical care. He was issued a disciplinary report and placed in administrative segregation pending a disciplinary hearing. Detainee #4 received due process regarding his placement in administrative segregation and his disciplinary hearing. Sherburne granted disciplinary hearing appeal and directed his removal from Disciplinary Segregation. There was no evidence found that

Sherburne had any prior knowledge of conflicts between Detainee #4 and the inmate prior to their February 8, 2019 altercation.

**Recommendations:**

1. None.

**b. On January 24, 2018, Detainee #5, contacted CRCL to report that Sherburne staff have failed to respond to grievances filed regarding problems with his cellmate.**

**Analysis and Findings:**

Detainee #5 is no longer at Sherburne; therefore, he was not interviewed.

Detainee #5 submitted formal grievances on December 26, 2017 (Grievance #17-001171), December 28, 2017 (Grievance #17-001177) and January 4, 2018 (Grievance #18-000018) complaining about his cell mate. Sherburne responded to Grievances #17-001171, #17-001177, and #18-000018 on January 10, 2018, that the complaints were non-grievable. The Sherburne County Jail Policy and Procedure Manual Number 13.03 Inmate/Detainee Grievances establishes the procedures for detainees to submit oral, informal and formal grievance. Detainees are provided grievance procedure information in the *Sherburne County Jail ICE Detainee Handbook*. Neither the Inmate/Detainee Grievance Policy and Procedures nor the ICE Detainee Handbook identify issues that are non-grievable. The Sherburne County Jail Officials responses to Detainee #5 Grievances #17-001171, #17-001177, and #18-000018 provided no explanation why the complaints were non-grievable and were non-responsive to his complaints regarding his cellmate. Interviews with Sherburne officials revealed no explanation why the complaints regarding the cellmate was non-grievable.

**The Complaint is substantiated.** Sherburne has oral, informal, and formal grievance procedures. The ICE Detainee Handbook addresses detainee grievances. Neither the Grievance Policies and Procedures nor the ICE Detainee Handbook addresses non-grievable issues. Sherburne responded to Detainee #5 within ten days (excluding weekends and holidays; however, the response was inadequate, only informing the detainee the complaint was non-grievable. The response failed to address why the complaint was non-grievable or inform the detainee how to request alternative relief regarding his cellmate complaint. Also, Sherburne officials failed to officially meet with the detainee regarding his complaint. NDS 2000 Detainee Grievance Procedures requires that once a formal grievance is received a first line supervisor meets with the detainee in an attempt to resolve a grievance.

**Recommendations:**

1. Revise Inmate/Detainee Grievance Policies and Procedures to require a first line supervisor to meet with detainee(s) in an attempt to resolve grievances. *(NDS 2000 Detainee Grievances Standard III.A.2.6)*
2. Revise Inmate/Detainee Grievance Policies and Procedures and the ICE Detainee Handbook and address non-grievable issues. *(best practice)*
3. Ensure detainees receive adequate responses to their formal grievances including a full explanation for all decisions. *(best practice)*

**c. Detainee Grievance Procedures.**

**Analysis and Findings:** Sherburne has developed and implemented a standard operating procedure (SOP) to address grievance procedures. Grievance procedures are included in the Detainee Handbook. There are grievance procedures for oral, informal and formal grievances. Sherburne has a Grievance Log for tracking Oral and Formal Grievances. The Formal Grievance Log includes identification of the complaint and if it was decided in the favor of the detainee or facility. The Jail Administrator performs overall Grievance Coordinator responsibilities. The Detainee Formal Grievance is submitted on a numbered, multi-part, and carbonless form. The completed form is given to jail staff by the detainee. Jail staff sign and date the formal grievance form and provide the detainee a duplicate copy. The receiving jail staff member reviews the grievance contents and determines if it is an emergency. If determined an emergency, the jail staff member will notify the on-duty jail sergeant immediately. Original grievances are forwarded to office assistants except medical grievances. Office Assistants scan general grievances in the Jail Management System (JMS) by grievance type. All medical grievances are forwarded to the clinical personnel that respond to the grievance. Jail Captains are responsible for reviewing unanswered formal grievances in the JMS during the shift. Formal grievances are responded to within 10 days excluding weekends and holidays. Each week a multi-disciplinary committee reviews all grievances filed the prior week. If the grievance has been responded to, the committee reviews the response to determine if the appropriate response was given and a thorough investigation, if necessary was conducted. The Grievance Committee includes the Jail Administrator, Assistant Jail Administrator, PREA Sergeant/Coordinator, a Captain, and other departments as needed. Detainees dissatisfied with grievance responses can appeal to the Jail Commander who will respond within ten days excluding weekends and holidays. A copy of detainee grievances that allege staff misconduct are forwarded to the ICE Field Office.

An interview with female Detainee #6 in North Housing on April 3, 2019, revealed she submitted a formal grievance on March 20, 2019 regarding an officer referring to her as a "druggie" *(Grievance 100372).* Sherburne officials processed the formal grievance and resolved the complaint in the favor of Detainee #6. As required, a copy of the grievance was forwarded to the ICE Field Office. A matter

of concern regarding the grievance was that it contained a potential PREA issue. Detainee #6 alleged the officer she submitted the complaint against was not assigned to North Housing and "had just been there entertaining female inmates for a long period of time". Neither Sherburne nor ICE Officials receiving the grievance identified the potential PREA issue where Detainee #6 was alleging a male officer not assigned to North Housing Unit was at the location entertaining female inmates for a long period of time. Additionally, Detainee #6 revealed to CRCL Staff and this expert, a Sherburne officer allegedly openly discussed her criminal history including drug and prostitution arrests within hearing distance of other staff and detainees/inmates. Detainee #6 reported she did not submit a formal complaint regarding this issue because the officer apologized. Potentially, had a first-line supervisor interviewed Detainee #6 regarding her formal grievance as required by the NDS 2000 Detainee Grievances Standard, the additional information would have been disclosed and investigated by responsible Sherburne and ICE officials.

**Sherburne does not conform to NDS 2000 Detainee Grievances.** A review of Sherburne detainee grievance records and staff interviews identified a first line supervisor does not officially meet with detainees to attempt to resolve the issue. *(NDS 2000 Detainee Grievances Standard III.A.2.6 Standard Operating Procedures: When the first-line supervisor receives a formal grievance, he/she will officially meet with the detainee to attempt to resolve the issue.)*

**Recommendations:**

1. Revise Inmate/Detainee Grievance Policies and Procedures to require a first line supervisor to meet with detainee(s) in an attempt to resolve grievances. *(NDS 2000 Detainee Grievances Standard III.A.2.6)*
2. Provide Sherburne and ICE staff additional training on identifying potential PREA issues when reviewing any detainee/inmate complaint. *((DHS Performance Base National Detention Standards 2011, Sexual Abuse and Assault Prevention and Intervention, 2.11 and Sherburne Policy and Procedure Number 14.21 PREA )*
3. Revise the applicable grievance policies and procedures specifying formal grievances are responded to by the Department Head/Supervisor that has responsibility for the area/department related to the complaint. *(best practice)*

**d. Use of Force.**

**Analysis and Findings:** Sherburne Use of Force Logs revealed six incidents involving ICE detainees in 2018. Sherburne has Use of Force policies providing guidance and accountability for the use of force by all jail staff members. Use of Force documents and a random sample of Use of Force videos for the six incidents were reviewed. Sherburne has been granted a waiver by ICE to utilize OC/CN

chemical agents. Use of Force documents and videos are forwarded to the designated ICE Field Office with a use of force after action review conducted by the Sherburne Jail Commander or designee. Calculated use of force videos are maintained for no less than 30 months after the last documented use. In the event of litigation, Sherburne retains calculated use of force videos a minimum of six months after its conclusion/resolution. For immediate use of force, Sherburne does not identify in policy and procedure a retention schedule that requires maintaining use of force video for 30 months.

**Sherburne does not conform to NDS 2000 Use of Force Standard.** The Sherburne Jail Commander does not maintain immediate use of force videos for a minimum of 30 months. The Jail Commander, Jail Administrator, Assistant Jail Administrator, and Health Services Administrator do not conduct a use of force after action review on the workday after the incident. NDS 2000 Use of Force Standard III.J.4 Recordkeeping requires the Chief Detention Enforcement Officer to maintain all use of force documentation, including videotape and the after action review for a period of 30 months. NDS 2000 Use of Force Standard III.J.4 After Action Review of Use of Force and Application of Restraints Incidents requires the Officer in Charge, the Assistant Officer in Charge, Chief Detention Enforcement Officer and Health Services Officer shall conduct an after action review the next working day after the incident.

**Recommendations:**

1. Revise the applicable Use of Force policy and procedures requiring the Jail Commander to maintain immediate use of force videotapes for 30 months. *(NDS 2000 Use of Force Standard III.I.4)*
2. Revise the applicable Use of Force policy and procedure requiring the Jail Commander, Jail Administrator, Assistant Jail Administrator, and Health Services Administrator conduct an after action review the next working day after the incident. *(NDS 2000 Use of Force Standard III.I.4)*

**e. Detainee Disciplinary.**

**Analysis and Findings:** Sherburne has informal and formal detainee disciplinary policies and procedures. Staff responsible for the detainee disciplinary process, including the Jail Administrator, were interviewed. The Informal Disciplinary procedures allow a staff person to place a detainee on 23 hour lockdown in the housing unit without a due process hearing. Sherburne Management has recently recognized this practice does not conform with the NDS 2000 Disciplinary Standard and is revising the policies and procedures to discontinue the 23 hour lockdown as an informal disciplinary sanction and require due process when the 23 hour lockdown is utilized as a disciplinary sanction. Detainees with a mental health designation are not reviewed by medical/mental health prior to a disciplinary hearing to determine if the detainee's mental health was a factor in

the reported rule violation. The Jail Commander is responsible for considering detainee disciplinary appeals. Detainees submit their disciplinary appeals within five days of a hearing finding. The Jail Commander affirms or reverses the decision of the disciplinary hearing officer within 5 days after receiving the appeal providing a written explanation for the decision.

**Sherburne does not conform to the NDS 2000 Disciplinary Policy Standard.** Jail Staff place detainees on a 23 hour lockdown in housing units without a due process hearing. The NDS 2000 Disciplinary Policy III.A.5.e establishes a detainee's right to due process, including the prompt resolution of a disciplinary matter.

**Recommendations:**

1. Revise Disciplinary policy and procedures prohibiting placing a detainee in 23 hour lockdown without due process. *(NDS Disciplinary Policy Standard III.A.5.e)*
2. Revise Disciplinary policy and procedures to require medical/mental health staff review detainees receiving a disciplinary report prior to a hearing to determine if their mental health issue was a factor in the reported rule violation. *(e.2 best practice-ACA 4-ALDF-4C-40 Special Needs Inmates)*

**f. Admission and Release.**

**Analysis and Findings:** Sherburne Detention Officers conduct booking of detainees arriving at the jail. During normal business hours, Classification and Medical staff are involved in the booking process. Detainees receive a PREA and medical screening and clothing, hygiene and bedding items are issued to detainees during the booking process. Trained Booking Officers perform the initial medical and PREA screening when Medical or Classification staff are unavailable. Orientation is conducted in designated Intake Housing Units (Males-Gamma Unit and Females-North Unit). All arrivals, male and females, are placed in the Intake Units. The detainees remain in the Intake Units for seven to ten days until the orientation process is completed. For non-English speaking detainees, Sherburne utilizes translation services (Language Line, ELSA, Guardian and Inmate/Detainee Translators). A video relay interpreter (VRI) is available for hearing impaired detainees. There are Orientation Videos in English and Spanish to provide required information to detainees. The National Detention Handbook is provided each detainee in the ICE Field Office. The Sherburne Detainee Handbook is provided detainees after assignment to the Intake Housing Units. Sherburne utilizes an In-House Classification System approved by ICE to assign detainees a custody level.

CRCL staff and this Expert reviewed the English Orientation Video with the Jail Administrator. The Spanish Orientation Video was reviewed during an orientation

session for six non-English speaking male detainees in the Gamma Unit on April 4, 2019. A Sherburne Inmate (non-ICE Detainee Inmate) was used to translate orientation information not provided in the Spanish Orientation Video. The review of the Spanish and English Orientation Videos revealed the videos had outdated information. The Detention Officer, using the Inmate Translator, did address the outdated information during the orientation session.

A review of Sherburne Detainee Bulletins Boards and Kiosk verified required information is posted in English and Spanish except in the Special Management Unit (SMU). In the SMU, Sherburne utilizes kiosks and a binder maintained by jail staff to provide required posted information to detainees. Detainee Kiosks have sign language functionality. A review of the SMU Detainee Kiosk revealed all required ICE information is not provided to detainees. Staff maintaining a binder containing required posted detainee information does not ensure detainees have unimpeded access to the information.

Sherburne performs the required release procedures.

**Sherburne conforms to NDS 2000 Admission and Release Standard.**

**Sherburne does not conform to the DHS Language Access Plan, February 28, 2012 and the ICE Language Access Plan, June 14, 2015. The DHS LEP identifies that unless countervailing considerations are explained in detail, protocols should include limits on the use of family members, friends, other persons associated with LEP persons to rare situations and non-essential information. The ICE LEP identifies that absent exigent circumstances, the use of family members (including children), friends, acquaintances, or bystanders to provide interpretation services should be avoided.**

**Recommendations:**

1. Prohibit the use of Detainees/Inmates to translate for other detainees. *(DHS LEP.5 and ICE LEP.IV.B)*
2. The English and Spanish Orientation Videos should be updated to provide detainees real time information. *(best practice)*
3. Revise the Sherburne Special Management Unit procedures to ensure detainees have unimpeded access to required ICE posted information. *(best practice)*

**g. Detention Handbook.**

**Analysis and Findings:** Sherburne provides a site specific detainee handbook providing information regarding policies, procedures and rules at the jail. The Detainee Handbook describes services, programs and opportunities at the jail. A review determined the Sherburne Detainee Handbook has outdated information.

The Detainee Handbook is not issued to detainees during booking/admission. Detainees receive a Detainee Handbook when their orientation session is held. Orientation sessions are not conducted on the detainee day of arrival. Sherburne has an English and Spanish Detainee Handbook and translation services if a detainee does not communicate in English or Spanish. A gender specific handbook is not available for male and female detainees.

**Sherburne conforms to the NDS 2000 Detention Handbook Standard.**

**Recommendations:**

1. Revise the Sherburne Detainee Handbook to contain updated information and provide Detainee Handbook supplements when there are revisions. *(best practice)*
2. There should be a gender specific Detainee Handbook for male and female detainees. *(best practice)*
3. Revise Admission procedures and issue the Detainee Handbook during the booking process on the day of arrival. *(best practice)*

**h. Staff-Detainee Communication.**

**Analysis and Findings:** There are procedures in place for formal and informal contact between jail and ICE staff. There are unannounced visits by jail staff to different areas of the facility. Sherburne has Oral Grievance Procedures for detainees to make oral requests and an Oral Grievance Log is maintained. Detainees can communicate in writing with jail staff using a designated "Kite"/Informal Grievance Form. Sherburne does not maintain a log for Detainee "Kite"/Informal Grievances and a required time frame for jail staff to respond to an oral or "Kite"/informal grievance is not included in the procedures. A copy of the "Kite"/Informal Grievance is maintained in the detainee file.

ICE Staff make weekly visits to the jail and a schedule is posted in the housing units. Detainees can correspond with ICE officials by placing a written request in a sealed envelope. The sealed envelope is delivered daily by Sherburne staff to ICE officials on scheduled transportation runs. Interviewed ICE officials acknowledged prior issues with responding in writing to detainees within the required 72 hours. A revision in procedures has improved response times; however, there continues to be times when detainees do not receive a written response within 72 hours. A review of ICE detainee written requests logs revealed the majority are responded to within the required 72 hours; however, not always. Detainees submitting written requests in a language different from English do not always receive an ICE written response in the language the detainee request was written. Written responses did not always have a full explanation for the decision.

**Sherburne conforms to the NDS 2000 Staff-Detainee Communication Standard.**

**Recommendations:**

1. Revise Sherburne procedures requiring a "Kite"/Informal Grievance Log and staff respond to detainee "Kite"/Informal and Oral Grievances within a required time frame. *(best practice)*
2. ICE officials respond to a detainee written request within 72 hours unless there are exigent circumstances and those circumstances are documented. *(best practice)*
3. Require ICE written responses be in the language the detainee made the written request and provide a full explanation for all decisions. *(best practice)*

**i. Classification.**

**Analysis and Findings:** Sherburne utilizes an in-house Classification System. A review of the classification system noted that it utilizes objective criteria and procedures meet ICE requirements. Detainees are classified during the intake process prior to permanent assignment.

**Sherburne conforms to NDS 2000 Classification Standard.**

**Recommendations:**

1. None.

**j. Special Management Unit (Administrative and Disciplinary Segregation)**

**Analysis and Findings:** Sherburne's male Special Management Unit consists of 25 single bed cells designated for administrative and disciplinary segregation. Only three of the twenty-five cells have emergency call buttons. The intake area of the female North Housing Unit has cells that can be designated for administrative or disciplinary segregation if a female requires placement on either of these statuses. Detention Officers are required to make thirty-minute rounds to perform welfare checks on each detainee. Healthcare staff visit special management housing daily. Detainees in segregation receive one hour per day, seven days a week out of cell. Detainees in administrative and disciplinary segregation do not receive outside recreation. Sherburne has a waiver from ICE regarding the requirement for detainees to receive outside recreation. A detainee can request transfer from Sherburne after six months because of the unavailability of outside recreation. The NDS 2000 Standards regarding outside recreation do not apply due to the ICE waiver. Special Management Unit staff does not log all staff and non-staff visitors in the Sherburne electronic Special Management Unit Log (Jail Management System-Phoenix).

An inspection of the male special management unit areas revealed maintenance issues: shower curtains were torn and in poor condition and shower metal ceilings

were rusted and needed refinished and painting. Cells did not appear to provide sufficient lighting. Interviewed detainees complained about the cell lighting.

Random interviews were conducted with two detainees in the special management unit. The detainees complained about: unavailability of a bulletin board with ICE and Jail information, shower conditions, their cells not having an emergency call button and poor lighting. The August 28-30, 2018, Office of Detention Oversight National Detention Standards Inspection Report cited special management unit dim cell lighting as a deficiency.[8]

All the required ICE Postings, as identified in *VI.f Admission and Release,* are not maintained on the Special Management Unit Detainee Kiosk and the Segregation Binder with the required information is not readily available to detainees in Administrative and Disciplinary Segregation. Detainees have telephone and kiosk access during out of cell time. Computers with LexisNexis software program provide Special Management Unit detainees law library access. Also detainees can make a written request to Program staff for paper law library materials.

(Administrative Segregation)
Detainees receive a written order for placement within 24 hours of confinement in administrative segregation. Medical/Mental Health staff do not conduct an assessment to determine if a detainee is appropriate for administrative segregation prior to their confinement. Classification Sergeants complete a review within 72 hours of the detainee confinement in administrative segregation. Weekly, a committee consisting of jail staff conducts a review of detainees held in administrative segregation.

(Disciplinary Segregation)
Sherburne has written procedures for placement of detainees in disciplinary segregation for rule violations. A review of records and detainee interviews did not identify any disciplinary segregation placement concerns or issues.

**Sherburne conforms to NDS 2000 Administrative Segregation and Detention Segregation Standards.**

**Recommendations:**

*1.* Revise Special Management Unit policy and procedures to require healthcare staff perform a detainee assessment to determine if the detainee is appropriate for the Special Management Unit prior to placement. *(best practice-ACA 4-ALDF-4C-40 Special Needs Inmates)*

[8] Office of Detention Oversight National Detention Standards. Enforcement and Removal Operations, ERO Saint Paul Field Office, Sherburne County Jail, Elk River, Minnesota. August 28-30, 2018 Inspection, page 10.

2. As identified in *f.3 Admission and Release,* revise the Sherburne Special Management Unit procedures to ensure detainees have unimpeded access to required ICE posted information. *(best practice)*
3. Perform a cell lighting assessment and verify detainees are receiving necessary lighting levels.[9] *(best practice)*
4. Special Management Unit Staff log all staff and non-staff visiting the area in the Jail Management System Phoenix Electronic Log. *(best practice-ACA 4-ALDF-2A-55 Special Management Inmates)*

**k. Telephone Access.**

**Analysis and Findings:** The detainee telephone access was reviewed as part of this investigation. There were no open telephone access complaints at the time of the investigation. Female and Male detainees in the intake, general population and special management housing units have telephone access.

**Sherburne conforms to NDS 2000 Telephone Access Standard.**

**Recommendations:**

1. None.

**l. Legal Access.**

**Analysis and Findings:** There were no open legal access complaints at the time of the investigation. Sherburne utilizes computers with LexisNexis software to provide detainees legal access. Also, detainees can make written requests for paper legal materials and supplies from the Programs Department. Eye Pal Readers (a digital scanner that translates legal documents) is available to assist non-English speaking detainees with their legal documents. The computers with the LexisNexis Program are available for detainees in all housing units including the Special Management Unit. Non-English speaking detainees also have access to the telephone language line for legal matters. Detainees are provided "thumb drives" for storing their personal legal work. The "thumb drives" are maintained by Housing Unit officers. The computer work stations have been modified to ensure detainees can utilize their "thumb drives" without accessing the internal computer components and compromising security.

**Sherburne conforms to the NDS 2000 Legal Access Standard.**

**Recommendations:**

1. None.

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[9] American Correctional Association. Performance Based Standards for Adult Local Detention Facilities. 4th Edition. 4-ALDF-1A-14 Light levels in inmate cells/rooms are at least 20 foot candles in personal grooming areas and at the writing surface. Lighting throughout the facility is sufficient for task performed.

**m. Religious Practices.**

**Analysis and Findings:** I reviewed detainees' opportunities to participate in the practices of their respective faiths as a part of this investigation. There were no open religious complaints at the time of the investigation. The Program Coordinator is responsible for managing religious programs. A part-time volunteer chaplain and six program assistants assist the Program Coordinator with religious programs. Detainees can request religious diets through the Program Coordinator through a written request. The Program Coordinator forwards approved Religious Diet forms to Food Service Department. A review of records found the jail has approved religious diets including Halal and Kosher diets. Detainee interviews revealed no complaints related to religious diets.

**Sherburne conforms to the NDS 2000 Religious Practices Standard.**

**Recommendations:**

1. None.

**n. Recreation.**

**Analysis and Findings:** Detainee access to recreation programs was reviewed as a part of this investigation. There were no open detainee recreation complaints at the time of the investigation. The jail does not have outdoor recreation for detainees in intake, general population or the Special Management Unit housing. ICE has granted the jail a waiver regarding providing detainees outdoor recreation.[10] Detainees are provided recreation activities in dayrooms and four gymnasiums. The gymnasiums have access to sunlight and contain exercise equipment. The Program Coordinator and six assistants are responsible for managing the detainee recreation program. A recreation schedule is posted in the living areas and detainees are provided gym access a minimum of 1 hour per day Monday through Friday.

**Sherburne conforms to the NDS 2000 Recreation Standard.**

**Recommendations:**

1. None.

**o. ICE Sexual Abuse and Assault Prevention and Intervention Policy (SAAPI) issued and effective May 22, 2014.**

**Analysis and Findings:** Sherburne was certified compliant with DOJ PREA Standards in 2016. A recertification PREA Audit was conducted in February 2019

[10] 2018 Sherburne ICE Contract Article 5.A.

and the audit findings are pending. The Sherburne 2016 PREA Audit and the Sexual Abuse/Sexual Assault Prevention and Intervention (SAAPI) Program was reviewed as part of the investigation. There is a SAAPI policy and staff is provided SAAPI training in Pre-Service and Annual In-Service. Staff receive 3 hours PREA training during Pre-Service and an additional 3 hours is included annually in In-Service Training. The SAAPI information is included in the Detainee Handbook and is part of the Detainee Admission process. The required SAAPI and PREA information was observed on Detainee Bulletin Boards and in the Detainee Kiosk.

A Sergeant is the Sherburne PREA Coordinator and is a DOJ Certified PREA Auditor. Detainees are provided a confidential PREA screening during admission by Classification Staff or a Booking Officer to identify detainees vulnerable to sexual abuse/assault and detainees that are a possible sexual predator. The PREA Coordinator monitors the detainees identified as vulnerable or that are potentially sexual predators. The PREA Log and PREA Investigations were reviewed during the investigation. For 2018-2019, there have been eleven PREA complaints:

- 4 for staff/inmate sexual harassment-(4) unfounded investigations;
- 1 for staff/inmate sexual misconduct-(1) unfounded investigations;
- 4 for inmate/inmate sexual harassment-1 unsubstantiated investigation, 2 substantiated investigations, and 1 investigation pending (received 4/1/19);
- 1 for inmate/inmate sexual abuse-unsubstantiated;
- 1 inmate complaint to the ICE Tip Line that did not qualify as a PREA incident. 2 for sexual misconduct- 2 for unfounded.

The Sherburne PREA Coordinator was interviewed during the course of the investigation and reported one identified transgender detainee housed at the jail (Detainee #7). It was reported Detainee #7 preferred single housing in the male Alpha Housing Unit. The PREA Coordinator reported Detainee #7 was provided female undergarments and her female undergarments could not be laundered in the jail laundry because female undergarments could not be turned with male housing unit undergarments. Detainee #7 is provided two sets of female undergarments and has to launder the clothing in her cell sink.

Detainee #7 was interviewed in the Alpha Housing Unit on April 5, 2019 as part of the investigation. She reported the PREA Sergeant/Coordinator meets with her occasionally to address issues and concerns. She denied preferring an assignment in a male housing unit and denied being given the option for assignment to a female housing unit. On occasion, she has been harassed and tormented by male detainees/inmates in the Alpha Housing Unit. Staff has assisted her when she makes complaints about detainees/inmates harassing and/or tormenting her. She alleged ICE and Sherburne staff, including the PREA Coordinator, do not honor her request to be called by her female name or last name. Sherburne has not accommodated her request to be only pat frisk searched by female staff.

**Sherburne does not conform to** *(DHS Performance Base National Detention Standards 2011, Sexual Abuse and Assault Prevention and Intervention, 2.11* **and Sherburne Policy and Procedure Number 14.21 PREA. ICE and Sherburne have failed to provide sufficient training to all staff regarding the zero tolerance for sexual abuse and sexual harassment, how to respond to allegations, inmate rights, dynamics of sexual abuse in jail, common reactions of sexual abuse, how to avoid inappropriate relationships, how to communicate effectively with Lesbian, Gay, Bi-Sexual, Transgender and Intersex inmates.**

**Recommendations:**

1. Provide Sherburne and ICE staff additional training on identifying potential PREA issues when reviewing any detainee/inmate complaint. *((DHS Performance Base National Detention Standards 2011, Sexual Abuse and Assault Prevention and Intervention, 2.11 and Sherburne Policy and Procedure Number 14.21 PREA)*
2. Provide transgender detainees supervision, programs and services that are respective of their identified gender including: name recognition, housing, searches, and laundry. *(DHS Performance Base National Detention Standards 2011, Sexual Abuse and Assault Prevention and Intervention, 2.11 and Sherburne Policy and Procedure Number 14.21.02.E PREA)*
3. ICE should ensure that Sherburne is covered under the DHS SAAPI Directive as soon as possible so that the facility complies with the DHS sexual abuse prevention standards.

**p. Limited English Proficiency (LEP)-Language Access.**

**Analysis and Findings:** The DHS Language Access Plan, February 28, 2012 and the ICE Language Access Plan, June 14, 2015 requires Sherburne to provide LEP detainees meaningful access to information, programs, and services. Sherburne detainee language access was a part of the investigation. There were no open language access complaints at the time of the investigation. Individual and group detainee interviews revealed no language access complaints. Sherburne has an ATT telephone language line to assist detainees that are LEP. Sherburne telephone records revealed the language line is utilized for detainees. A log is not maintained to document use of the Language Line to assist LEP with translation. ELSA, a mobile language translation system, is also available to assist LEP detainees. For hearing impaired detainees, the Sherburne Detainee Kiosks have a sign language component. 'I Speak" Posters were observed on bulletin boards and found in the Detainee Kiosk Information Section. A digital scanner (Eye Pal Reader) is utilized to translate English documents to the language used by LEP detainees. Staff interviews verified familiarity with language translation services to assist LEP detainees.

It was identified in *VI.f Admission and Release,* that Sherburne was using an inmate to translate for Spanish speaking detainees in the April 4, 2019, detainee orientation when there are formal translation services available: i.e. ATT Language Line and ELSA.

**Sherburne does not conform to The DHS Language Access Plan, February 28, 2012 and the ICE Language Access Plan, June 14, 2015. The DHS LEP identifies that unless countervailing considerations are explained in detail, protocols should include limits on the use of family members, friends, other persons associated with LEP persons to rare situations and non-essential information. The ICE LEP identifies that absent exigent circumstances, the use of family members (including children), friends, acquaintances, or bystanders to provide interpretation services should be avoided.**

**Recommendations:**

1. Prohibit the use of Detainees/Inmates to translate for other detainees. *(f.1 and p.1 DHS LEP.5 and ICE LEP.IV.B)*
2. Develop and implement a log to document use of the telephone language line to assist LEP detainees. The log should document the date of use, alien number, and language of interpretation. *(best practice)*

**q. General Observations.**

**Analysis and Findings:** In the course of the Sherburne investigation, environmental concerns were identified during inspections of different areas of the jail and through group and individual interviews with male and female detainees. The problematic areas were:

- Food Service
- Laundry
- General Cleaning
- General Maintenance

(Food Service)
There were two visits made to the Food Service during the April 2-5, 2019 site review. In both visits problems were identified. There is a lack of general cleaning with dirty floors and drain covers. Flies and ants were observed in the common food service areas providing evidence of deficient pest control. Efforts to control flies and ants was not observed. Food was found in the cold and freezer storage areas that was uncovered and/or undated. The freezer had condensation on the ceiling. There was very old food items in the freezer (as old as 2017). Storage shelving and containers was pushed against the wall that prevents proper cleaning. Food is not being stored and thawed properly. In the freezer areas, a significant amount of food was found with freezer burns. There were detainee trays in poor condition. A paper sign designated one group of trays in poor

condition as do not use unless "necessary". Cleaning supplies were observed in close proximity to food items creating a contamination risk. The storage area for chemicals and cleaning equipment was not secured. There were chemical inventories; however, the inventory documents were not organized and no information was found where material safety data sheets (MSDS) were maintained. Later, a Jail Administrator advised the MSDS information is maintained on a computer. Information on how all staff utilizing chemicals would access this critical staff and detainee safety information was not posted. Cleaning rags in poor condition were observed hanging in the storage areas. Sherburne staff advised laundry services were no longer available for the Food Services department. The storage areas were cluttered and cleaning equipment did not appear controlled (no inventory or issue/return log was observed). Questionable sharp control, as the accountability log for April 5, 2019, was already dated prior to the end of the day. Food Service staff were wearing hair nets; however, they were not worn properly with all head hair inside the nets.

(Laundry)
Sherburne has a laundry area to launder all male and female inmate/detainee clothing. The laundry was visited during the site visit. Procedures require all items issued to detainees that require laundering be sent to the Sherburne Laundry. To launder detainee items, Sherburne utilizes the one for one system (turn in an item and receive an item). Personal clothing is not separated individually and returned to the detainee. A communal laundry system is utilized where the detainee receives clean personal items based on clothing size. Clothing, sheets, pillows, towels and wash cloths are not individually assigned.

Detainees do not work in the laundry. Sherburne utilizes inmates to perform laundry services and the laundry area is not directly supervised by staff. The laundry area was unorganized, cluttered, and needed a general cleaning. Interviews with inmates assigned the laundry to work revealed minimal staff supervision is provided the inmates. The inmates reported no official training is received on providing laundry services: i.e. washing and drying procedures, area sanitation, chemical use and storage, or housekeeping procedures. Inmates were not familiar with proper handling of bio-hazard materials. Written operation policies and procedures, staff post orders and inmate job descriptions and training documents for laundry services were not identified during the inspection. As discussed earlier in the report, the interviewed transgender detainee that identifies female is housed in a male housing unit. Both the Sherburne PREA Coordinator and the detainee reported she had to launder personal clothing in the cell sink. This was because the detainee was issued female undergarments and Sherburne would not allow mixing of male and female clothing for laundering. This is contrary to the Sherburne laundry procedures that detainee laundry items are laundered in the central laundry.

(General Cleaning and Maintenance)
The investigation revealed general cleaning is needed throughout the facility. Sherburne staff reported carpeted floors in the housing units were vacuumed three times a day for upkeep and periodic professional cleaning is conducted. There were several jail areas where carpeted floors had litter and debris especially against the walls and in corners and carpet had stains. Cells were observed with cleaning chemicals that were not in use providing evidence required staff control is not maintained. Shower curtains in the intake, general population and male Special Management Unit were in poor condition: torn, mildewed and discolored. There were a number of male Special Management Unit shower ceilings with significant rust corrosion. These shower ceilings need the rust removed and the ceilings repainted. As documented in the Special Management Unit Section cell lighting is very dim.

(Detainee General Complaints)
Group detainee interviews revealed general complaints regarding quality of the food and lack of variety and it was not served at the proper temperature. Detainees complained that their personal undergarments were not individually separated to ensure the same undergarments turned in would be returned. As identified in the laundry section, Sherburne utilizes the "communal laundry system" where the same undergarments turned in are not the same returned to the detainee. One group of male detainees during their interviews produced a mattress, pillow, and shower curtain complaining about the condition of the mattress, pillow, and shower curtain. Observations were the pillow and shower curtain were in poor condition: the pillow was worn and cracked and the shower curtain was torn, discolored and needed cleaning. Detainees complained mattresses' inner filling was "broken down" and did not provide necessary body support causing pain and disrupted sleep. The Sherburne detainee televisions in the common dayrooms require radios with batteries to listen to the sound. The televisions have closed caption; however, detainees complained radio batteries are expensive and have to be quickly replaced. Also, indigent detainees are not issued a radio for television listening.

**Recommendations:**

1. Develop a housekeeping and maintenance plan that addresses all facility areas and provides for daily housekeeping and regular maintenance by assigning specific duties and responsibilities to staff and detainees. *(best practice-ACA 4-ALDF-1A-04 Housekeeping).*
2. Require the inventory of Food Service sharps at the beginning and ending of each shift. Supervisory staff conduct random audits to ensure sharps are controlled and staff are documenting inventories when they occur. *(best practice-ACA 4-ALDF-2D-02 Key, Tool, and Utensil Control)*
3. Mattresses and Pillows in poor condition are replaced or repaired. *(best practice-ACA 4-ALDF-4B-04 Clothing)*

4. Flammables, toxic, and caustic materials must be controlled in all areas of the jail including the food service department and housing units. *(best practice-ACA 4-ALDF-1C-11 Fire Safety)*
5. The Jail Laundry should have direct staff supervision. Staff and inmates/detainees assigned the laundry should receive training. Written policies, procedures, post orders, and inmate/job descriptions should be developed and implemented for safe operation of the laundry. *(best practice-ACA Performance-Based Standards for Adult Local Detention Facilities. 4th Edition. I. Safety.)*
6. *Defer to the EHS Expert for other recommendations.*

**A summary of my recommendations are as follows:**

1. Revise Inmate/Detainee Grievance Policies and Procedures to require a first line supervisor to meet with detainee(s) in an attempt to resolve grievances. *(b.1 and c.1, NDS 2000 Detainee Grievances Standard III.A.2.6)*
2. Provide Sherburne and ICE staff additional training on identifying potential PREA issues when reviewing any detainee/inmate complaint. *(DHS ICE Policy No. 11062.2: Sexual Assault and Abuse Prevention and Intervention (SAAPI Directive)and Sherburne Policy and Procedure Number 14.21 PREA )*
3. Revise the applicable Use of Force policy and procedures requiring the Jail Commander to maintain immediate use of force videotapes for 30 months. *(d.1 NDS 2000 Use of Force Standard III.I.4)*
4. Revise the applicable Use of Force policy and procedure requiring the Jail Commander, Jail Administrator, Assistant Jail Administrator, and Health Services Administrator conduct an after action review the next working day after the incident. *(d.2 NDS 2000 Use of Force Standard III.I.4)*
5. Revise Disciplinary policy and procedures prohibiting placing a detainee in 23 hour lockdown without due process. *(e.1 NDS Disciplinary Policy Standard III.A.5.e)*
6. Prohibit the use of Detainees/Inmates to translate during booking/orientation. *(f.1 and p.1 DHS LEP.5 and ICE LEP.IV.B)*
7. Provide transgender detainees supervision, programs and services that are respective of their identified gender including: name recognition, housing, searches, and laundry. *(DHS Performance Base National Detention Standards 2011, Sexual Abuse and Assault Prevention and Intervention, 2.11 and Sherburne Policy and Procedure Number 14.21.02.E PREA) )*
8. ICE should ensure that Sherburne is covered under the DHS SAAPI Directive as soon as possible so that the facility complies with the DHS sexual abuse prevention standards.

**Sherburne County Jail**
**APPENDIX A**

**Detainee Names and Alien Numbers**

Detainee #1 (b) (6)
Detainee #2
Detainee #3
Detainee #4
Detainee #5
Detainee #6
Detainee #7

**Sherburne County Jail**

**APPENDIX B**

**Best Practice Recommendations**

1. Revise Inmate/Detainee Grievance Policies and Procedures and the ICE Detainee Handbook and address non-grievable issues. *(b.2 best practice)*
2. Ensure detainees receive adequate responses to their formal grievances including a full explanation for all decisions. *(b.3 best practice)*
3. Revise the applicable grievance policies and procedures specifying formal grievances are responded to by the Department Head/Supervisor that has responsibility for the area/department related to the complaint. *(c.3 best practice)*
4. Revise Disciplinary policy and procedures to require medical/mental health staff review detainees receiving a disciplinary report prior to a hearing to determine if their mental health issue was a factor in the reported rule violation. *(e.2 best practice-ACA 4-ALDF-4C-40 Special Needs Inmates)*
5. The English and Spanish Orientation Videos should be updated to provide detainees real time information. *(f.2 best practice)*
6. Revise the Sherburne Special Management Unit procedures to ensure detainees have unimpeded access to required ICE posted information. *(f.3, j.2, best practice)*
7. Revise the Sherburne Detainee Handbook to contain updated information and provide Detainee Handbook supplements when there are revisions. *(g.1 best practice)*
8. There should be a gender specific Detainee Handbook for male and female detainees. *(g.2 best practice)*
9. Revise Admission procedures and issue the Detainee Handbook during the booking process on the day of arrival. *(g.3 best practice)*
10. Revise Sherburne procedures requiring a "Kite"/Informal Grievance Log and staff respond to detainee "Kite"/Informal and Oral Grievances within a required time frame. *(h.1 best practice)*
11. ICE officials respond to a detainee written request within 72 hours unless there are exigent circumstances and those circumstances are documented. *(h.2 best practice)*
12. Require ICE written responses be in the language the detainee made the written request and include a full explanation for all decisions. *(h.3 best practice)*
13. Revise Special Management Unit policy and procedures to require healthcare staff perform a detainee assessment to determine if the detainee is appropriate for the Special Management Unit prior to placement. *(j.1 best practice-ACA 4-ALDF-4C-40 Special Needs Inmates)*

14. Perform a cell lighting assessment and verify detainees are receiving necessary lighting levels. *(j.3 best practice-ACA 4-ALDF-1A-14 Environmental Conditions)*
15. Special Management Unit Staff log all staff and non-staff visiting the area in the Jail Management System Phoenix Electronic Log. *(j.4 best practice-ACA 4-ALDF-2A-55 Special Management Inmates)*
16. Develop and implement a log to document use of the telephone language line to assist LEP detainees. The log should document the date of use, alien number, and language of interpretation. *(p.2 best practice)*
17. Develop a housekeeping and maintenance plan that addresses all facility areas and provides for daily housekeeping and regular maintenance by assigning specific duties and responsibilities to staff and detainees. *(best practice-ACA 4-ALDF-1A-04 Housekeeping)*
18. Require the inventory of Food Service sharps at the beginning and ending of each shift. Supervisory staff conduct random audits to ensure sharps are controlled and staff are documenting inventories when they occur. *(best practice-ACA 4-ALDF-2D-02 Key, Tool, and Utensil Control)*
19. Mattresses and Pillows in poor condition are replaced or repaired. *(best practice-ACA 4-ALDF-4B-04 Clothing)*
20. Flammables, toxic, and caustic materials must be controlled in all areas of the jail including the food service department and housing units. *(best practice-ACA 4-ALDF-1C-11 Fire Safety)*
21. The Jail Laundry should have direct staff supervision. Staff and inmates/detainees assigned the laundry should receive training. Written policies, procedures, post orders, and inmate/job descriptions should be developed and implemented for safe operation of the laundry. *(best practice-ACA Performance-Based Standards for Adult Local Detention Facilities. 4th Edition. I. Safety)*