

Penology Expert's Report

On

St. Clair County Jail

This report is a general examination of conditions at the St. Clair County Jail with a specific examination of the issues identified in the following complaints:

- **16-06-ICE-0669**
- **16-01-ICE-0671**
- **16-01-ICE-0670**

Prepared by:

(b)(6)

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I. Summary of Review

The Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL) received several complaints alleging that the U. S. Immigration and Customs Enforcement (ICE) has violated the civil rights and civil liberties of detainees at the St. Clair County Jail (SCCJ), located in Port Huron Michigan. The complaints contained the following allegations which will be examined in this report:¹

Deficiencies in:

- language access²
- Religious accommodations³
- Legal access⁴

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

- Use of Force Reporting and Accountability
- Special Housing (Segregated Housing)
- Sexual Abuse and Assault Prevention and Intervention (SAAPI)
- Detainee Grievances
- Visiting Program
- Recreation Programs
- Mail Services
- Religious Services
- Telephone Access
- Law Library Services

¹ Complaint Numbers: 16-06-ICE-0669; 16-01-ICE-0671; and, 16-01-ICE-0670

² The complaints regarding language access primarily allege that SCCJ failed to provide language services for detainees with limited English proficiency. The specific elements of this allegation will be discussed in the body of this report.

³ This element of the complaint simply alleges that SCCJ denied a Christian Bible study group access to a vacant study room, despite allowing access in the past.

⁴ This complaint element alleges there are limitations on legal access with regard to contacting pro-bono attorneys and access to the law library.

II. Facility Background and Population Demographics

On the first day of our site visit the ICE detainee population at SCCJ was 48.⁵ The SCCJ is operated under an Intergovernmental Service Agreement between ICE and the St. Clair County Sheriff's Office. SCCJ is an American Correctional Association (ACA) accredited facility.

The detainees at SCCJ include classification levels from low to high and are housed together in common housing units designated by classification level. The low and low-medium classification level detainees are housed in dormitory style housing units. The medium-high and high classification level detainees are housed in units that are configured with one or two-person cells. All housing Units have approximately 45-60 detainees/inmates with two officers assigned.⁶

All meals are delivered in carts from the main kitchen and served in the dayroom areas of the housing units. Other services, such as visitation, barber shop, outdoor recreation, religious services and law library, are also provided in the housing units.⁷

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

Overall, we found the personnel to be professional, courteous and helpful and the general living areas of the facility to be clean and orderly. There were minimal deficiencies identified related specifically to the PBNDS 2008 standards and recommendations will be offered in this report to improve

⁵ CRCL was on-site at SCCJ June 22-23, 2017. The SCCJ population consists of 48 ICE detainees (47 male, 1 female) and approximately 500 County inmates.

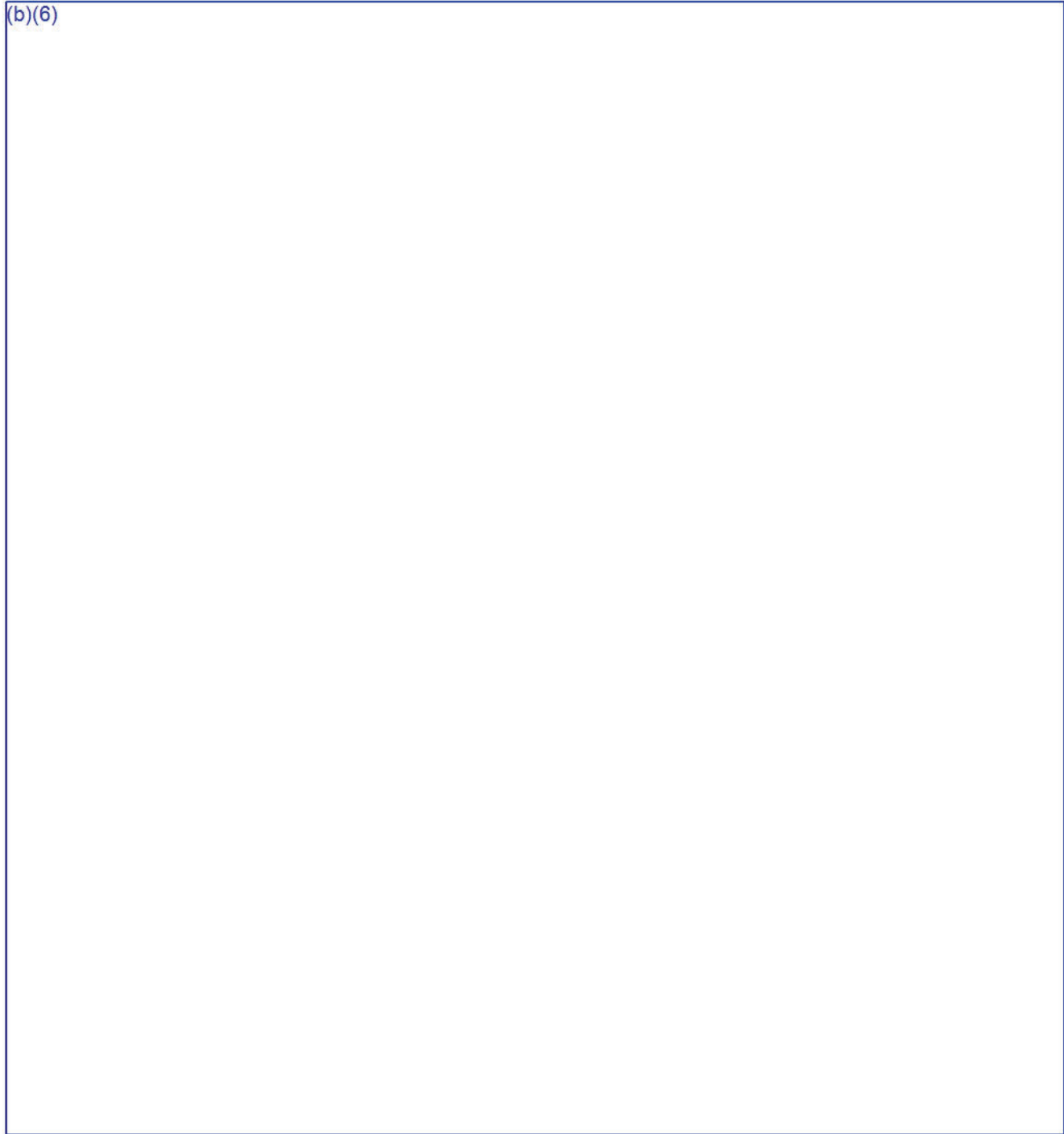
⁶ At SCCJ county inmates and ICE detainees are interspersed and housed together in the general population housing units.

⁷ The law library is on a computerized system (Lexus Nexus) and upon request is brought to the housing units on mobile carts and placed in multipurpose rooms for the private use of the requesting detainees. Visitation rooms and multipurpose rooms adjoining the housing units are used to accommodate visitation, barber services and religious services. Outdoor recreation areas are adjoining each housing unit.

certain aspects of the operation. All opinions and recommendations contained herein are based on my background and experience in the correctional environment, ICE detention standards and generally recognized correctional standards, including those of the ACA and the AJA (American Jail Association).

II. Expert Professional Information

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III. Relevant Standards

- **ICE Detention Standards**

The PBNDS 2008 apply to SCCJ. These are the standards that were relied upon in looking at the specific allegations regarding this facility, as well as, the general review of operations.

- **Professional Best Practices**

In addition to the PBNDS 2008 this review is being conducted based on my correctional experience and nationally recognized best practices.

IV. Review Purpose and Methodology

The purpose of this review is to examine the specific allegations in the complaints cited above and to observe the overall operations of the SCCJ as it relates to the care and treatment of the ICE detainees. For this review, I examined detainee records; SCCJ policies and procedures; documentation kept on-site depicting such things as detainee grievances and law library usage⁹; interviewed ICE detainees, ICE personnel, SCCJ personnel; and, conducted an on-site tour of the SCCJ facility with supervisors. All the SCCJ and ICE personnel were professional, cordial and cooperative in facilitating our review.

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

- **Contract/Intergovernmental Services Agreement**

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

⁹ SCCJ keeps logs of law library usage and detainee grievances electronically in the Jail Management System (JMS) where activities and services for detainees are documented.

- Inmate Detainee grievances¹⁰
- Library Services¹¹
- Detention Files (random selection)
- Segregation forms
- Incident involving use of force and Force After-Action Report¹²
- ICE National Detainee handbooks in English and Spanish
- SCCJ Rulebook in Spanish and English
- Sexual Abuse and Assault Prevention and Intervention (SAAPI) investigations¹³
- SCCJ Policies on the following:¹⁴
 1. Use of Force
 2. Special Housing (Segregation)
 3. Implementation of the Prison Rape Elimination Act (PREA)
 4. Inmate Detainee Grievances
 5. Intake and Classification
 6. Recreation
 7. Religious Accommodations
 8. Library Services
 9. Inmate Mail

PBNDS 2008 Standards relevant to this review:

1. Admission and Release
2. Use of Force
3. Special Management Unit (Segregation)
4. SAAPI¹⁵

¹⁰ There has been a total of 5 grievances filed so far in 2017. Only one was filed by a detainee. The issue grieved was regarding medical treatment.

¹¹ Requests for and the documentation of law library usage is logged into the JMS. I was able to review the JMS to evaluate law library access.

¹² There were no use of force incidents involving a detainee during 2016-2017. I was able to review one incident involving use of force with a jail inmate to evaluate the documentation process which is the same for inmates and detainees.

¹³ There was only one detainee SAAPI allegation and investigation during 2016-2017.

¹⁴ Because SCCJ houses both ICE detainees and county inmates, all policy/procedure documents refer to "inmate" and apply to both inmates and detainees.

¹⁵ SAAPI falls under the PBNDS 2011

5. Telephone Access
6. Access to Legal Material
7. Detainee Grievance Procedures
8. Visitation
9. Correspondence and Other Mail
10. Recreation
11. Religious Practices

In addition to the above listed activities, the on-site inspection on June 21-22, 2017 included the following:

- Toured the Intake and Release
- Toured the housing units¹⁶
- Toured the visitation reception area (where visitors check in to be processed to the visiting areas connected to the housing units)
- Toured the Special Housing Unit (administrative segregation)
- Toured the Medical Clinic
- Toured the Food Services Area
- Inspected all areas of detainee access for information postings
- Interviewed various personnel including command staff, supervisors and line staff¹⁷
- Interviewed various ICE detainees randomly selected

V. Findings, Analysis and Recommendations

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

- “Substantiated” describes an allegation that was investigated and determined to have occurred substantially as alleged;

¹⁶ Housing units included the adjacent/attached outdoor recreation areas, visiting rooms and multipurpose rooms used for religious services and law library access.

¹⁷ These interviews included, but were not limited to, the supervisors responsible for SAAPI, detainee grievances, detainee classification/intake, detainee religious services, detainee visitation, detainee mail and detainee law library.

- “Unsubstantiated” describes an allegation that was investigated and there was insufficient evidence to determine whether or not the allegation occurred¹⁸; and
- “Unfounded” describes an allegation that was investigated and determined not to have occurred.

Prior to making “findings” analysis will be offered to establish the evidence relied upon to make a finding. Any recommendations will be assigned a “priority” that is tied to the PBNDS 2008 or to industry “best practices.”

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

Complaint No. 16-06-ICE-0669, 16-01-ICE-0671 and 16-01-ICE-0670

Complaint 16-06-ICE-0669 was received by the CRCL from eleven detainees at SCCJ on March 9, 2016 alleging deficiencies in language access,¹⁹ religious accommodation, environmental health and safety²⁰ and legal access. Additionally, Complaint Nos. 16-01-ICE-0671 and 16-01-ICE-0670 were received from individual detainees in October 2015, alleging the SCCJ does not provide appropriate language services and requires the complainant to translate “inappropriate statements” that were made in English to Spanish. None of the complainant detainees were present at SCCJ at the time of our inspection. However, an investigation into the allegations contained in the complaints was conducted.

Analysis:

Each element of this complaint will be addressed individually below:

¹⁸ While “Unsubstantiated” can often be the finding because there simply is not enough tangible evidence to “Substantiate” an allegation, I may sometimes offer my expert opinion as to whether, based on other considerations and observations, it is more likely than not that the allegation either happened or did not happen.

¹⁹ Specific concerns included the allegation that officers rely on other detainees as translators, that some detainees have been “coerced” or “taken advantage of” due to their inability to speak English, and that some detainees were compelled to review and sign documents that they could not understand or read.

²⁰ An Environmental Health and Safety expert was not present for this inspection. A general tour of the facility, the kitchen, laundry and living areas, was conducted.

Deficiencies in language access:

During our inspection, we encountered several detainees who did not speak English. Several detainees spoke neither English nor Spanish, speaking only Arabic, Chaldean or other dialects not common in the United States. It is common practice at SCCJ to use bilingual or multilingual inmates/detainees to translate communications and conversations between personnel and detainees throughout the facility. We were advised that on any given shift very few, if any, personnel are bilingual, making communications a challenge for personnel with detainees who do not speak English.

In many instances detainees will request to use another detainee who they know and trust to translate communications with personnel. This is commonly done unless the communication is of a confidential nature. We were advised that in instances where the communications are of a sensitive or confidential nature personnel commonly use the language line to facilitate communications. We were also advised that some personnel utilize "Google Translate," a program that communications are typed in English and are translated audibly in the designated language(s). However, the supervisory staff we interviewed categorically denied that detainees are coerced, under any circumstances, into translating for other detainees.

We were advised that essentially, any time personnel believe that effective communication is impaired, steps are taken to ensure communications are understood by both personnel and detainees. However, SCCJ does not keep a language line log to document instances of using the language line, nor is there any documentation of translation being done by other detainees upon request and consent. Therefore, it is entirely possible that there are times when communications are not effectively carried out and there very well could be instances where detainees have felt uncomfortable with translating for other detainees.

We reviewed intake forms, written in English and signed by detainees who spoke no English. It is entirely possible that these forms were read to the detainee via the language line to ensure understanding of what was being signed for. On the other hand, there is no documentation to verify that communications were translated and understood by the detainee.

Clearly, effective communications for personnel/detainees and language translation is a challenge for the SCCJ. The tools necessary to ensure effective communication are in place, but it can be burdensome to utilize language line for each and every communication. It is understood and expected that detainees with common languages will assist each other with day-to-day -living communications in housing units, etc. However, it is incumbent upon the SCCJ personnel to ensure that effective communications and translations are taking place when detainees are given direction, asked to sign forms or in other critical communications.²¹

Findings:

- The allegation that officers rely on other detainees as translators is **“Substantiated.”** While it is likely that most detainee translations are requested and approved by the detainee, clearly this is a common practice at SCCJ, at least in the day-to-day-living activities of the housing units. Whether or not this practice is being used for critical communications, such as the required signatures upon intake, is unclear.
- The allegations that some detainees have been “coerced” or “taken advantage of” due to their inability to speak English is **“Unsubstantiated.”** While we have pointed out the challenges in effective communications at SCCJ, we saw no evidence that suggests coercion or any other ill intent on the part of SCCJ personnel as it pertains to detainee rights and services.
- The allegation that some detainees were compelled to review and sign documents that they could not understand or read is **“Unsubstantiated.”** While I found no evidence that detainees were “compelled” to review and sign documents they could not read, we did find evidence that suggests that there are times when detainees are brought in that speak neither English or Spanish who are signing documents written in English or Spanish. The question is whether in each such instance, the detainee is provided a translation via language line, so as to ensure understanding of the documents. Because SCCJ does not document the use of language line for

²¹ The ICE Language Access Plan dated June 14, 2015 states, “It is ICE policy to ensure that external LEP stakeholders have meaningful access to its programs, services, and activities by providing quality language assistance services in a timely manner...”

such communications, it is not possible to prove that detainees are not signing documents they cannot understand. Neither did we see evidence of personnel compelling detainees to sign documents they have no means of understanding.

- The allegation that officers required the complainant²² to “translate inappropriate statements from English to Spanish” is “**Unsubstantiated.**” We saw no evidence to suggest the detainees are required to translate for other detainees or that anyone has been required to translate inappropriate statements.
- The allegation that SCCJ does not provide appropriate language services to detainees with limited English proficiency is “**Substantiated.**” Many languages are spoken by detainees at SCCJ and written materials and directives are not provided in many of those languages. SCCJ relies heavily on the electronic Telemate tablet system for inmates and detainees to request services. Inmates and detainees help each other in using the system to make requests for services. However, the Telemate system does not provide access in the multitude of languages used by the detainee population. While on site, we observed Somali detainees who were unable to access the Telemate system to request Ramadan observance. In my professional opinion, it is more likely than not that there are times when less than adequate services are provided to non-English speaking detainees. The evidence suggests there is a need to improve upon the language services, ensuring effective communication in all instances and, specifically, the documentation for the provision of language services for non-English speaking detainees when being asked to sign forms written in English.

²² Complaint No 16-01-ICE-0671

Recommendations:

- SCCJ should familiarize itself with ICE's Language Access Plan to ensure that processes are in place to assist detainees who are limited English proficient and, where practices are deficient, develop policies and procedures that will place those practices into compliance; conduct training on how to ensure effective communications throughout its facility operations; review the use interpretation services, including developing and maintaining a language line log; and develop forms that are translated into the most common languages spoken by the detainee population at the facility.²³
(Priority 1, ICE Language Access Plan dated June 14, 2015, IV. ICE's Current Language Access Activities, Policies/Procedures, Tracking and Training)

Deficiencies in Religious Accommodation:

Another allegation in Complaint 16-06-ICE-0669 filed by the group of eleven detainees was that an officer denied a Christian Bible study group access to a vacant room for Bible study, despite access to this room in the past. The Chaplin was interviewed regarding this allegation. He was aware of the specific allegation and the occasion of the incident. He indicated he remembered it because he so seldom gets any complaints related to religious accommodations.

Essentially, all religious services are coordinated by the Chaplin and directly provided by religious volunteers who come to the facility on an established schedule to lead Bible studies and worship services, etc.²⁴ When a volunteer religious leader cancels and is unable to attend a scheduled event, the event (Bible study or worship service) is cancelled for that day. This is, in fact, what happened on the day of the allegation.

The Chaplin indicated that there was not an issue of access to the room, rather, the meeting had been cancelled due to the religious volunteer being unable to

²³ Developing a process for documenting the use of the language line or other translation services and materials is recommended.

²⁴ Qurans are provided to Muslim detainees upon request. Muslim detainees are also allowed to schedule rooms for prayer services, led by detainees who act as lay clergy because the Chaplin has been unable to obtain Muslim volunteers to come to the facility to hold services.

attend. He indicated that this rarely happens and religious meeting schedules are closely kept as a matter of routine practice.

Findings:

- The allegation that an officer denied a Christian Bible study group access to a vacant study room on a single occasion is substantiated. However, the finding that religious accommodation is in any way deficient based on this particular event, is “**Unfounded.**” The study in question was cancelled on the occasion prompting this complaint. However, the evidence suggests and it is also our finding that the cancellation of a single meeting due to the absence of the group leader is understandable and an accepted practice. Religious accommodations at SCCJ serve the population well.

Health and Safety inadequacies:

Complaint No. 16-06-ICE- 0669 specifically alleges that the clothing provided at SCCJ is not appropriate for the weather conditions and that “beddings” issued are torn, dirty and not regularly exchanged. While we did not complete a health and safety evaluation of the facility, we did observe the laundry operation and review the schedules for issuing and exchanging laundry.

The detainees’ laundry, including the bedding, is exchanged on a weekly schedule. From our observations, we did not see evidence that linens were torn or dirty. All laundry including bedding and clothing is exchanged weekly and clean clothing is even available in between regular exchanges if it is necessary based on a detainee’s need. Blankets are exchanged monthly. This is standard practice for prisons and jails.

The SCCJ facility is essentially “all under one roof” as all areas of the facility can be accessed without going outside. The facility is climate controlled, being heated in

the winter and cooled in the summer. We did not see evidence that the clothing is inappropriate for the climate conditions.²⁵

Findings:

- The allegation that clothing is not appropriate for the weather conditions and that beddings are dirty, torn and not properly exchanged, is “**Unsubstantiated.**” While it is possible that bedding was torn or dirty and clothing issued for the Winter climate was inadequate at some point in time, there is no evidence that SCCJ has a systemic problem with laundry services or climate control. It is also noted that none of the detainees we interviewed expressed any similar problems.

Limitations on Legal Access, Contact with Pro-Bono Attorneys and Law Library:

The last allegation in Complaint 16-06-ICE-0669 filed by the group of eleven detainees is that there are limitations on legal access at SCCJ, specifically, that free access to pro-bono attorneys is denied and access to the law library is refused. We were able to review the process for using the law library and contacting attorneys.

The process for using the law library is initiated by the detainee by filing out a Request for Law Library Form. This can be done either by requesting the form from the housing unit officers, or electronically, by filling out the request on the Telemate Tablet System accessible in each housing unit. We observed both means of initiating the process while on-site.

Once the request is received by the sergeant in charge of scheduling the law library appointments, the unit officer is contacted and a time is scheduled for the law library computer to be delivered to the unit, where it is placed in the multipurpose room.²⁶ The detainee is allowed to use the law library materials for

²⁵ However, our visit was in early Summer and we are not able to determine the temperatures inside the facility in the Winter months.

²⁶ The automated mobile law library system used is the Lexus Nexus program and is updated quarterly by ICE. The program is provided in a variety of languages.

a period of two hours and if he/she requires additional time, it is scheduled upon request.

A log is kept that indicates “time in” and “time out” for all law library appointments and is kept in the JMS. In reviewing the law library usage logs, it appears that detainees who request appointments are reasonably accommodated. When a request to use the law library is initially made, it takes anywhere from one hour up to two days to provide the access to the mobile unit. Our review indicated that upon making a request for law library access, it is most common to be provided access the next day.

Detainees are also allowed to have other detainees assist them with the use of the law library. When this occurs, it is the common practice to allow both detainees private access to the electronic law library material.

Telephone numbers are provided for detainees who wish to solicit legal help from pro-bono attorneys. When we interviewed the ICE representative on-site about pro-bono representation, he indicated the problem is that very few attorneys will take the pro-bono cases at the SCCJ facility. The organizations and firms that have historically provided the pro-bono services have been less likely to provide the services more recently. Because there is no requirement that legal representation be provided by the Court, many detainees who cannot afford an attorney are left to represent themselves or to have assistance from non-attorney friends or family. Thus, the access to the law library becomes even more important.

Findings:

- The allegation that there are limitations on legal access is **“Unfounded.”** Specifically, access to the law library is well organized, timely and fully adequate. Any detainee desiring to utilize the law library is able to do so without any significant delay. The materials are up to date, accessible in several languages and detainees may be assisted by other detainees. Contact with pro-bono attorneys is not restricted by the facility. Rather, there is simply a shortage of attorney firms and organizations providing

pro-bono services for this population. We found no limitations on legal access in our investigation.

VII. Additional review and Findings:

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

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

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

1. Use of Force

There are no documented incidents involving use of force during 2016-2017 at SCCJ involving ICE detainees. Therefore, we were unable to fully evaluate the application, documentation and accountability process for force incidents at SCCJ. The SCCJ Use of Force policy and procedure was reviewed and evaluated to determine if the required elements of the PBNDS 2008 Use of Force and Restraints have been appropriately incorporated. We also reviewed one incident report involving use of force with a St. Clair County inmate at SCCJ as an example of the reporting and review process that would take place if it were necessary to use force on an ICE detainee.

Analysis:

Overall, the SCCJ Use of Force policy and procedure is well written and includes the necessary elements of the PBNDS 2008, as well as, accepted industry standards. I was particularly pleased to see the Hudson v McMillan standards incorporated as required elements of the officers' force reports.²⁷

The PBNDS 2008 requires that, "An employee will submit a written report no later than the end of his or her shift when force is used on any detainee for any reason;"²⁸ and, "A written report shall be provided to the shift supervisor by each officer involved in the use of force by the end of the officer's shift."²⁹ The SCCJ Use of Force policy and procedure requires that, "When physical force is used by a deputy a "Use of Force" report will be completed by the deputy(s) involved and forwarded to the jail Lieutenants for review..." This section goes on to describe the specific elements required in the report which is well conceived and appropriate. However, the SCCJ policy and procedure does not specifically require the use of force report to be completed no later than the end of an officers' shift. This requirement should be added to the SCCJ Use of Force policy and procedure to ensure the clarity of time requirements in reporting force.

The PBNDS 2008 also requires that, "All facilities shall have ICE/DRO-approved written procedures for After-Action Review of use of force incidents..." The purpose of the After-Action Review is, "to assess the reasonableness of the actions taken and determine whether the force used was proportional to the detainee's actions." This ICE standard also requires that After-Action Review Teams be comprised of the Facility Administrator, the Assistant Facility Administrator, the ICE Field Office Director's designee and the Health Services Administrator.³⁰ Because SCCJ operates under an Intergovernmental Service Agreement, while not necessarily held to the letter of this standard, they are required to either, "conform to these procedures or adopt, adapt or establish

²⁷ These standards are outlined in the US Supreme Court Case, Hudson V. McMillan (503 U. S. 1, 112 S. Ct. 995).

²⁸ PBNDS 2008, Use of Force and Restraints, II. Expected Outcomes, 10.

²⁹ PBNDS 2008, V. Expected Practices, H. Immediate Use of Force, 4.

³⁰ PBNDS 2008, Use of Force and Restraints, V. Expected Practices, P.1 and 2.

alternatives, provided they meet or exceed the intent represented by these procedures.”³¹

The SCCJ Use of Force policy and procedure does not address the After-Action Review process. Neither did SCCJ or ICE present any written material that mandates and governs the use of an After-Action review process. In reviewing the one force incident involving the SCCJ inmate, it was determined that the After-Action Review process at SCCJ involves the incident supervisor compiling reports from involved officer(s) and providing those reports to the Lieutenant. The Lieutenant then reviews the reports and determines whether any further action is warranted or to close out the incident. There is no committee or “Team” involved in the After-Action Review process.

Recommendations:

- SCCJ should amend its Use of Force policy and procedure to include the requirement that use of force reports must be completed by the involved officers no later than the end of his or her work shift. (**Priority 1, PBNDS 2008, Use of Force and Restraints, II. Expected Outcomes, 10; and, PBNDS 2008, V. Expected Practices, H. Immediate Use of Force, 4.**)
- SCCJ should establish an After-Action Review Committee process as required by the 2008 PBNDS and submit it for review and approval by ICE. When approved, St. Clair should incorporate the After Action Review Committee Process into its existing Use of Force Policy. (**Priority 1, PBNDS 2008, Use of Force and Restraints, V. Expected Practices, P.1 and 2; and, PBNDS 2008, Use of Force and Restraints, I. Purpose and Scope.**)

2. Special Housing Unit (SHU)

PBNDS 2008, Special Management Units, states that, “Each facility will have Special Management Units with an Administrative Segregation Section for

³¹ PBNDS 2008, Use of Force and Restraints, I. Purpose and Scope.

detainees segregated from the general population for administrative reasons and a Disciplinary Segregation section for detainees segregated from the general population for disciplinary reasons.” The standard continues with specific requirements for the placement of detainees in segregation.

Analysis:

At the time of our inspection, there were no ICE detainees in either Administrative or Disciplinary Segregation. It is commendable that SCCJ clearly utilizes the SHU very sparingly and as a last resort for the safety of detainees and the facility staff. In reviewing the Special Housing policy and procedure, it is noted that SCCJ has incorporated the required elements of the PBNDS 2008 as it relates to administrative detention and disciplinary detention. During our inspection, we were able to tour the SHU and found the unit to be clean and orderly, providing access to recreation, showers, phones, law library, and etc., for the SCCJ inmates housed there. All services and activities are logged into the JMS by the officers.

Because there were no ICE detainees in SHU at the time of our inspection, we reviewed several of the Segregation Order Forms utilized by supervisors to document the placement of SCCJ inmates.³² The form is user friendly and has adequate space for documenting the reason for the placement and retention with signature blocks for the supervisors making the decisions. We observed that there is a place on the form for documenting the release of a detainee or inmate from the SHU including a date and the signature of the supervisor responsible for the decision. However, there is no place on the form to document the “reason” for the decision to release. Adding a space to document the reasoning for the

³² There is no distinction between detainees and inmates in the program activities or the policies and procedures that govern the operation of the facility.

decision to release may prevent or solve issues after-the-fact as to why the detainee/inmate was placed back in general population.

Recommendations:

- SCCJ should amend the current Segregation Order form to require documenting the reasoning for the decision to place, retain or release a detainee or inmate from segregation. **(Best Practice)**

3. Sexual Abuse and Assault Prevention and Intervention (SAAPI)

The PBNDS 2011 SAAPI standards contain a multitude of specific requirements that must be implemented to ensure compliance. Understanding that while SCCJ is contracted to comply with the PBNDS 2008, there are requirements and obligations under the National Standards to Prevent, Detect and Respond to Prison Rape as published by the USDOJ and in the PBNDS 2011. The CRCL team reviewed and evaluated the process used by SCCJ to respond to allegations of sexual abuse or assault in light of these standards.

Analysis:

A SAAPI trained Sergeant was interviewed regarding the Sexual Abuse and Assault Prevention and Intervention process at SCCJ. From all the documents reviewed and the on-site inspection, it is apparent that the SCCJ management has posted appropriate notifications throughout the facility and appropriately trained the personnel. The zero tolerance for sexual abuse and assault is clearly communicated and allegations of sexual abuse or assault are appropriately documented, reported, and investigated.³³

A SAAPI pre-screening process for all detainees utilized during the intake and classification process is in place. The standard intake process includes the risk

³³ There was one SAAPI complaint at SCCJ in the past year occurring in July 2016.

assessment tool necessary to determine vulnerability and is included in every detainee intake file.

The officers managing the intake process are knowledgeable and skilled in administering the prescreening assessment. We observed screening forms in both Spanish and English.³⁴ We were assured that the intake screening officers pursue further the history of those responding “yes” to any question to determine if the history impacts on the detainee’s vulnerability in the facility. Any follow-up to positive responses to SAAPI screening assessments should be documented to establish that all factors are appropriately considered in the process.

The Sergeant interviewed explained that when allegations of sexual abuse or assault are made, the involved detainees are separated and medically examined; moved to appropriate and safe housing; the crime scene is secured and processed; the detainees are interviewed by a mental health clinician; all required notifications are made; any crime scene evidence is collected and preserved; and, all the information is delivered to a SAAPI trained Sergeant by the incident-handling Sergeant. Allegations that, if true would not constitute a crime, are taken seriously and investigated administratively. Allegations that, if true, would constitute a crime are investigated by a trained criminal investigator from the Road Division. The quality of the one investigation is generally good; the proper witnesses are interviewed and the reports are well written.

Recommendations:

- None related to this process.

4. Detainee Grievance System

PBNDS 2008, Grievance System, “protects detainees’ rights and ensures they are treated fairly by providing a procedure by which they may file formal grievances and receive timely responses relating to any aspect of his/her detention...” The standard includes additional specific requirements that must be met for

³⁴ This again, may be an area where the need to provide the forms in a wider variety of language translations is necessary.

compliance, including that, “Each facility shall have written policy and procedures for a detainee grievance system that: establishes a procedure for any detainee to file a formal grievance; and, establishes a procedure to track or log all formal grievances.”³⁵

Analysis:

The SCCJ grievance policy and procedure conforms to all the requirements of the PBNDS 2008 standard including tracking, logging, time frames and appeal processes. It is a well-conceived inmate/detainee grievance policy and procedure that emphasizes the effort to resolve grievance issues at the informal level. The supervisors (Sergeants and Lieutenants) personally respond to every grievance issue by meeting with the inmate or detainee and attempting to resolve the issue quickly and informally. As a result, formal grievances that proceed through the process are rare. In the first 6 months of calendar year 2017, there has been only one formal grievance filed by a detainee. This grievance was responded to and resolved within two days of filing.³⁶

Grievance forms are available upon request in each housing unit in both the Spanish and English language. During our on-site inspection, officers in the housing units provided grievance forms upon request.

Grievances are initiated by detainees and provided to their respective unit officers who attempt to provide the requested action and resolve the grievance informally if possible. The officer receiving the grievance form, if able to resolve the issue, provides for the requested action or item(s), signs off on the form indicating the action(s) taken to resolve the issue and gives the detainee a carbon copy of his/her grievance. If unable to resolve the matter informally, the officer calls the Sergeant who responds to the unit and addresses the issue with the detainee. If the Sergeant cannot resolve the issue at that time, he/she completes a response on the grievance form, signs the form, returns a copy of the signed grievance form to the detainee and logs the grievance in the tracking log. If the detainee

³⁵ PBNDS 2008, Grievance System, V. Expected Practices, A.

³⁶ This grievance was an alleged officer misconduct that was withdrawn by the detainee after he viewed the CCTV video of the escort in question with the Captain.

wishes to appeal the Sergeant's decision, he/she may forward the grievance to the Lieutenant for response. The final appeal of grievances is with the Captain.³⁷ A final copy of completed grievances is filed in the detainee's facility record.

The supervisor's attention to the grievance process and the efforts made to resolve grievances informally or at the lowest level possible is commendable and averts small issues from becoming big issues. This is a best practice.

Recommendations:

- None related to this process.

5. Visiting Services

PBNDS 2008, Visitation, "ensures that detainees will be able to maintain morale and ties through visitation with their families, the community, legal representatives and consular officials, within the constraints of safety, security and good order." This standard provides specific requirements that facilitate the visitation process.

Analysis:

SCCJ allows visitation for family and friends five (5) days a week, Sunday through Thursday, 1:00 pm - 7:00 pm. All visits are non-contact and are conducted in visiting booths adjoining each housing unit. Visits with family and friends are limited to 30 minutes per visit. A visitor may visit once each week.

Friends and family are scheduled to visit by the detainee. The detainee signs up each visitor by using the Telemate Tablet system in his/her housing unit. The Visitation Officer then posts the scheduled visit on the SCCJ website so the visitor can go on-line and verify the scheduled visit time prior to coming to the facility.

Attorney visitation is provided seven days a week, 9:00 am – 9:00 pm. No appointment or preapproval is necessary for attorneys to visit. They must simply show up between 9:00 am and 9:00 pm with a valid BAR card and a picture ID.

³⁷ The Captain at SCCJ is the Facility Administrator.

Attorneys may call ahead of a planned visit to confirm that the detainee is present at the facility. Each housing unit has adjoining “professional visit rooms” that allow for contact visits with legal representatives.³⁸

We observed the Visitation Officer interacting with the public as they arrived for visitation. She was cordial, professional and interacted with visitors in a helpful and positive manner. We neither heard or observed any complaints or problems with the visitation process at SCCJ. The visitation Program at SCCJ is a best practice.

Recommendations:

- None related to this process.

6. Recreation

PBNDS 2008, Recreation, “ensures that each detainee has access to recreational and exercise programs and activities, within the constraints of safety, security and good order.” Specific requirements include detainees having daily opportunities to participate in leisure-time activities outside their respective cells or rooms, outdoors when practicable, at least one hour per day, five days per week.

Analysis:

The out-of-cell and leisure-time activities at SCCJ are operated 7 days a week. Detainees in common housing units recreate together according to the unit schedule. The outdoor recreation areas are adjoined to each housing unit. According to the daily schedule, each detainee gets a minimum of two hours of leisure time activity each day, seven days a week.

During leisure time hours, indoor recreation is available in the housing unit dayroom areas in the form of cards and board games. These activities take place during any out-of-cell program time throughout the day and evening.

³⁸ Each professional visit room is furnished with chairs and a table.

Our observation is that the recreation program at SCCJ is fully compliant with all PBNDS 2008 standards related to recreation. However, we did observe that recreation equipment is sparse.

Recommendation:

- SCCJ should consider installing additional recreation equipment. Equipping the outdoor recreational areas with a basketball hoop and/or some affixed exercise equipment such as dip bars would increase the participation and positive interaction within the housing units. **(Best Practices)**

7. Mail Services

PBNDS 2008, Correspondence and Other Mail, ensures that, “detainees will be able to correspond with their families, the community, legal representatives, government offices and consular offices consistent with the safe and orderly operation of the facility.”

Analysis:

At SCCJ the front desk receives all the incoming mail during the day and labels it by detainee name and housing location. The night shift officers pick up the mail and take it to the housing units for distribution. The mail is searched for contraband and delivered to the detainees in their rooms. If the detainee is asleep, the officer holds the mail until the next morning and passes it to the detainee at that time.³⁹ Any outgoing mail is collected in the housing units and delivered to the Postal Service. Postage is provided for indigent detainees.

Legal mail is handled the same way as general correspondence, except it is not opened and checked for contraband until it is delivered to the detainee. All legal mail is opened in the presence of the detainee to whom it is addressed.

³⁹ If checks or money orders are found in the mail, it is removed and sent to the trust office for the detainee. The detainee is notified when funds are received.

PBNDS 2008 requires that, “all facilities shall implement procedures for inspecting special correspondence and legal mail for contraband in the presence of the detainee. Detainees shall sign a logbook upon receipt of special correspondence and/or legal mail to verify that the special correspondence or legal mail was opened in their presence.” While it is the practice to open legal mail in the presence of the detainee, SCCJ does not employ a legal mail log or require the detainees to sign for receipt of legal correspondence.

Recommendations:

- SCCJ should maintain a legal mail log and require detainees to sign for legal mail so there is a record of all legal mail sent and received by detainees and proof of receipt. (**Priority 1, PBNDS, Correspondence and Other Mail, V. Expected Practices, F. Inspection of Incoming Correspondence, 2. Special Correspondence and Legal Mail**)

8. Religious Accommodations

PBNDS 2008, Religious Practices, ensures that, “detainees of different religious beliefs will be provided reasonable and equitable opportunities to participate in the practices of their respective faiths, constrained only by concerns about safety, security, the orderly operation of the facility.”

Analysis:

We interviewed the SCCJ Chaplin. Non-denominational Christian and Catholic services are offered on a regular schedule each week.⁴⁰ All detainees are approved and welcome to participate in the weekly services. Services can be presented in Spanish upon request.⁴¹ Additionally, Bible study groups are offered in every housing unit on a weekly basis with 25 volunteers who come in on a rotational schedule.

⁴⁰ There are 10 local churches who voluntarily provide services each week on a rotational basis.

⁴¹ The Catholic services are often provided in Spanish upon request.

The Chaplin has attempted and been unsuccessful in identifying a Muslim Imam to volunteer his services at the facility. However, he has been successful in obtaining copies of the Quran both in English and Arabic which are given to Muslim detainees upon request.

Detainees who wish to practice a religion other than Christian/Catholic, are allowed to meet and have services led by detainees. Even though the Chaplin does not have volunteer clergy for Islamic services or any of the other religions, he does facilitate such services by providing Qurans or other religious materials upon request.

All accepted religious activities and observances, services, special diets and headwear are accommodated. The Chaplin receives and approves requests for special diets based on religious practices. He utilizes a standard questionnaire approved by the Federal Court to determine eligibility for participation in special diets based on religious beliefs. In our interviews with detainees, most expressed satisfaction with the religious services and accommodations offered.

Recommendations:

- None related to this process.

9. Telephone Access

PBNDS 2008, Telephone Access, ensures that, “detainees may maintain ties with their families and others in the community, legal representatives, consulates, courts and government agencies by providing them reasonable and equitable access to telephone services.”

Analysis:

Telephones are located in the housing units at SCCJ on a ratio of one phone per every ten detainees. Detainees have unfettered access to make phone calls between 7:00 am and 11:00 pm. The detainees have a PIN number to use when making calls. The phones are available all day up until bedtime each evening. We observed detainees using the telephones in the housing units throughout our

inspection. All detainees interviewed indicated that access to phones was fully adequate, however, some detainees complained that the telephone calls are too expensive.

Recommendations:

None related to this process

General Observations:

The personnel in leadership at SCCJ are knowledgeable and professional. The facility appeared to be in good repair, painted and clean. The tenor and tone of the facility was generally good and the interaction between detainees and officers appeared to be reasonably healthy. Supervisors are in the housing units on a daily basis and work at resolving issues as they arise.

There is a need for SCCJ, working in conjunction with ICE, to address the language barriers that exist among the detainee population. We observed a few instances in which the language barrier was an impediment to proper care and treatment. The language line should be employed more often to ensure communication and understanding with detainees, particularly those who do not speak any English and forms and other written materials need to be translated into languages other than English and Spanish.

Summary of Recommendations:

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

- SCCJ should familiarize itself with ICE’s Language Access Plan to ensure that processes are in place to assist detainees who are limited English proficient and, where practices are deficient, develop policies and procedures that will place those practices into compliance; conduct training on how to ensure effective communications throughout its facility operations; review the use interpretation services, including developing and maintaining a

language line log; and develop forms that are translated into languages that are spoken by detainees entering the facility.⁴² (**Priority 1, ICE Language Access Plan dated June 14, 2015, IV. ICE's Current Language Access Activities, Policies/Procedures, Tracking and Training**)

- SCCJ should amend its Use of Force policy and procedure to include the requirement that use of force reports must be completed by the involved officers no later than the end of his or her work shift. (**Priority 1, PBNDS 2008, Use of Force and Restraints, II. Expected Outcomes, 10; and, PBNDS 2008, V. Expected Practices, H. Immediate Use of Force, 4.**)
- SCCJ should establish an After-Action Review Committee process as required by the 2008 PBNDS and submit it for review and approval by ICE. When approved, St. Clair should incorporate the After Action Review Committee Process into its existing Use of Force Policy. (**Priority 1, PBNDS 2008, Use of Force and Restraints, V. Expected Practices, P.1 and 2; and, PBNDS 2008, Use of Force and Restraints, I. Purpose and Scope.**)
- SCCJ should amend the current Segregation Order form to require documenting the reasoning for the decision to place, retain or release a detainee or inmate from segregation. (**Best Practice**)
- SCCJ should considered installing additional recreation equipment. Equipping the outdoor recreational areas with a basketball hoop and/or some affixed exercise equipment such as dip bars would increase the participation and positive interaction within the housing units. (**Best Practice**)
-

⁴² Developing a process for documenting the use of the language line or other translation services and materials is recommended.

- SCCJ should maintain a legal mail log and require detainees to sign for legal mail so there is a record of all legal mail sent and received by detainees and proof of receipt. (**Priority 1, PBNDS, Correspondence and Other Mail, V. Expected Practices, F. Inspection of Incoming Correspondence, 2. Special Correspondence and Legal Mail**)

Appendix A
Non-Priority Recommendations
St. Clair County Jail¹

Medical Care and Treatment:

1. Signatures in the medical records should be stamped because they are currently illegible.
2. A physician's signature is required for medication orders. The notes indicate that the medication orders were "verified with (b)(6)" but his signature is not included in any of the charts.
3. Medical staff should discuss test results with patients, in a language the patient is comfortable speaking in, and note the discussion in the patient's chart.

Detention

1. St. Clair should amend the current Segregation Order form to require documenting the reasoning for the decision to place, retain or release a detainee or inmate from segregation.
2. St. Clair should consider installing additional recreation equipment. Equipping the outdoor recreational areas with a basketball hoop and/or some affixed exercise equipment such as dip bars would increase the participation and positive interaction within the housing units.

¹ Complaint Nos. 17-01-ICE-0088; 16-06-ICE-0669; 16-01-ICE-0671; 16-01-ICE-0670.

October 22, 2017

(b)(6) Esq.

Department of Homeland Security
Office of Civil Rights and Civil Liberties
245 Murray Lange, SW Building 410
Washington, D.C. 20528

Dear (b)(6)

This report responds to a request by the Office of Civil Rights and Civil Liberties (CRCL) to review and comment on the medical care provided to Immigration and Customs Enforcement (ICE) detainees at the St. Clair County Jail (St. Clair) in Port Huron, Michigan. My opinions are based on the review of materials provided by ICE and the facility and on a site visit conducted on June 20 and 21, 2017. My opinions are expressed to a reasonable degree of medical certainty.

Qualifications:

(b)(6)

Overview of Medical Care:

At the time of my site visit, St. Clair held approximately 47 ICE detainees and a total of 500 inmates at the jail. Facility staff told us that there may be as many as 100 ICE detainees in the jail. The ICE detainees are comingled with inmates and compete with inmates for medical and mental health care.

St. Clair contracts with Lake Huron Medical Center Emergency Physicians group at Lake Huron Hospital to provide medical care and treatment at the facility. There is 24 hour medical

coverage in the jail; but no infirmary. Lake Huron Hospital health care staff provide health care services at St. Clair and are considered employees of the hospital and not St. Clair.

In addition to the services provided by Lake Huron Hospital, St. Clair also offers limited tele health on Thursdays provided by St. Joe's Hospital in Ann Arbor. Patients requiring hospitalization for obstetrics, psychiatric reasons or open heart surgery go to McClaren Hospital. Pharmacy services are provided by Genoa Company from Monday to Friday. There are stock medications available at the jail, for example insulin. Dental services are provided by Huron Dental Allied Company. Ultrasound and radiology services are provided by an outside company. Infectious disease consultation is provided by an infectious disease specialist who will see both detainees and jail inmates after normal office hours. Despite the various services offered, there is no neurosurgical consultation available for non-emergency conditions and endocrinology consultation is limited. There should be a process for neurosurgical consultation such that patients with subacute complaints are examined and treated. St. Clair could do this by engaging a local neurosurgeon to consult on patients in his or her office or at the jail.

Administrative Health Authority:

St. Clair does not have a designated administrative health authority. The 2008 PBNDS requires a designation of an "administrative health authority" who "shall have overall responsibility for health care services pursuant to a written agreement, contract, or job description. [And] shall be authorized and responsible for making decisions about the deployment of health resources and the day-to-day operations of the health services program." See 2008 PBNDS Part 4, Section 22.V.B; see also 2008 PBNDS Part 4, Section 22.V.X (detailing the administration of the medical department). Many of the medical care concerns I discuss in this report stems, in large part, from St. Clair's failure to clearly identify health care leadership committed to adequately staffing and providing medical care and treatment to ICE detainees.

Clinical Medical Authority:

The 2008 PBNDS requires a designation of “clinical medical authority” who “shall have overall responsibility for medical clinical care pursuant to a written agreement, contract, or job description.” (2008 PBNDS Part 4, Section 22.V.B) It is unclear, based on the information received during the site visit who is the “clinical medical authority” at St. Clair. St. Clair does not have a full-time, on-site physician. (b)(6), the medical director of the Lake Huron Medical Center Emergency Physicians group, is also the medical director of the facility’s medical services and is presumably the facility’s “Clinical Medical Authority” under the PBNDS.

(b)(6) was not present during our site-visit, however I was able to interview (b)(6) by telephone. During our conversation I learned that this position is new for him and he is not yet well integrated into the medical care at the jail. When asked if he was “in charge of the medical care at the jail,” (b)(6) responded “I guess so”. Based on our conversation, it is unclear how much time (b)(6) spends at the jail seeing patients or overseeing the medical services that are being provided including intake health screenings, referrals, quality and completeness of medical records and performance reviews of health care staff. (b)(6) reported attending a two-hour in-person weekly meeting at the facility with the other health care practitioners, but no further information was provided about his schedule at the facility or whether he sees patients. Prior to St. Clair’s contract with Lake Huron, the physician medical director was Dr. (b)(6) s medical reports were complete with proper notations and with physician signatures. Conversely, (b)(6) s medical charts lacked notations and required physician signatures. For example, the medical record of Patient 4 had no signatures or co-signatures of orders by a physician and the medical record of Patient 6 had no medical notations in the chart.

Presumably, (b)(6) is the Clinical Medical Authority for purposes of St. Clair’s contractual obligations with ICE under the PBNDS, however it was clear from our conversation that Dr. (b)(6) was unfamiliar with his role at the Jail and it is unclear whether he is providing the

oversight needed to ensure adequate medical care and treatment of ICE detainees at the facility. For example, under the 2008 PBNDS, the clinical medical authority is required to “review all health screening forms within 24 hours or next business day to assess the priority for treatment.” (2008 PBNDS Part 4, Section 22.V.I.1). It is unclear if (b)(6) is completing this review because he is unaware of his role vis-à-vis St. Clair’s contractual relationship with ICE and its obligations under the PBNDS. For example, a detainee I interviewed (Interview 1) reported needing insulin at night. He said he had finger stick glucose measurements three times per day as his glucose was dipping low at night. This diabetic patient had been in detention for 10 days but I did not find documentation by a health care provider of an evaluation. It is unclear, based on the medical record, whether (b)(6) reviewed the health screening forms, as required under the PBNDS to determine priority of treatment or if health care staff, upon learning of this detainee’s condition, notified (b)(6). See 2008 PBNDS Part 4, Section 22.V.I.1 (“during the screening process there is an indication of need, or request for, mental health services, the health authority must be notified within 24 hours.”) The clinical medical authority should be made aware of his or her duties and responsibilities under the PBNDS. Moreover, those duties and responsibilities should be clearly referenced and detailed in any contracts the facility enters into for health care services.

Currently, when the medical staff has a need to consult a physician or practitioner, a telephone call is made to the Lake Huron Hospital Emergency Department and the case is discussed with the physician on duty in the emergency department. Lab results on jail patients are faxed from the laboratory to the Emergency Department staff at Lake Huron Hospital. Some of the medical staff work shifts both at the jail and at the hospital emergency department. While some of the medical staff liked this arrangement because there is a physician on duty at all times in the Emergency Department to ask questions of by telephone, this arrangement with Lake Huron to provide medical care to ICE detainees (and inmates) at St. Clair is inadequate. As an emergency medicine physician, I wonder who at Lake Huron receives the laboratory results and/or responds to urgent or abnormal results. Getting clinical questions from the jail on unfamiliar patients subjects the emergency physician to medicolegal liability. Given the pressure of the

physicians' responsibilities in the emergency department treating emergency department patients, I don't think this system best serves ICE detainees. It seems like an inexpensive way to provide back up to the jail, by putting the responsibility on the emergency physicians on duty providing care to the patients in the Emergency Department. It does not provide for continuity of care of ICE detainees, especially without the guidance and oversight of a clinical medical authority. This is particularly problematic for detainees with chronic care concerns, contagious diseases, or a substance dependency. During my review of the medical records I did not see a medical record with the name of the emergency physician providing back up by telephone recorded in the medical record. The process should be formalized, the consulting emergency physicians name must be recorded in the medical record with the content of the conversation and recommendations of the physician recorded in the medical record. The plan for continuity of care should be part of the medical record.

Medical Staffing:

At the time of our visit there was a registered nurse, (b)(6) and a physician assistant, (b)(6) (b)(6) seeing patients in the clinic. Other medical staff included another physician assistant named (b)(6) (whom I did not meet); two licensed vocational nurses, (b)(6) and (b)(6) and two technicians who do medication administration, (b)(6) doing pill call. I was graciously assisted in my site visit by the highly competent registered nurse (b)(6) There is a new Chief Nursing Officer at Lake Huron Hospital who is working to increase the support of (b)(6) by adding another registered nurse. (b)(6) nurse practitioner spends between 5 to 8 hours at the jail seeing patients each week. In general his schedule is 4 hours on Tuesdays and 4 hours on Thursdays. The week we were on site this was slightly different in that it was 5 hours on Tuesday and 5 hours on Wednesday. Health screening is performed by a Customs and Border Patrol (CBP) officer. Under the 2008 PBNDS, if a non-medical personnel is performing the health screening he or she must be "specially trained to perform this function." See 2008 PBNDS Part 4, Section 22.V.I.1. (b)(6) confirmed that she trains the CBP officer(s) who conducts health screenings at intake.

Medical staffing at St. Clair is inadequate to care for ICE detainees and jail inmates. 2008 PBNDS Part 4, Section 22.V.B states that “[a]ll facilities shall provide medical staff and sufficient support personnel to meet these [the 2008 PBNDS] standards” –this is not the case at St. Clair. Although I did not see a staffing chart, I observed that the health care workers I met at St. Clair, while dedicated, were overly extended resulting in lapses in medical care and treatment. For example, in the review of Patient 1 (see index) a note by (b)(6) the registered nurse, indicates that the patient was seen by a provider but there was no note by the provider. There was no history and physical recorded for the visits with the provider. Charting was cursory and there was almost no medical decision making explanatory charting. This is a symptom of inadequate staffing and limited time dedicated to patient care (that of course includes medical recording completeness for plans and continuity of care). This is also indicative of a lack an onsite clinical medical authority who, as previously discussed, is required under the 2008 PBNDS to provide oversight of medical care and treatment of ICE detainees, including chart review.

Low staffing levels has also resulted in reduced clinic hours at St. Clair. At the time of my site visit, St. Clair medical staff offered only eight to ten hours per week of clinic time. The number of clinic hours are too few for the inmate and detainee population at St. Clair. ICE detainees are not receiving the time and attention they need and that is required by the PBNDS where they must effectively compete for some of the eight-10 hours per week of clinic time. And, while the provider is capable, he has to cut time from each patient interaction due to the few clinic hours there are per week. This is particularly problematic for ICE detainees because ICE patients are complicated and each such patient interaction is time consuming. The patients may have low health care literacy, little prior experience with health care, and/or limited English proficiency requiring the use of a language translation service. Accordingly, jail leadership needs to provide more time and resources for the medical health care of ICE detainees; this includes more health care staff, more health care providers (physician assistant, nurse practitioner), and the designation of a clinical medical authority to provide direct oversight and management of health care services at St. Clair. There needs to be another registered nurse to relieve the administrative and clinical demands falling on (b)(6) RN.

Sick Call:

Sick call requests (kites) are electronically submitted by the Med Par electronic software. The device is similar to an iPad. It requires proficiency in the use of electronics and some English language skill. Security staff members were not proficient in the use of MedPar hardware and software. Detainees described relying on the help of other detainees or inmates to use the MedPar electronic system to submit sick call requests. Theoretically an electronic medical request form and response seems like a good idea. However, any system that relies on other detainees to communicate what may be sensitive requests for mental health care or medical care, is a faulty system. Literacy and English language skills need an electronic fix if the sick call system is going to rely on the patient's ability to write and read (responses) English. This poses significant challenges in adhering to the 2008 PBNDS. Under the 2008 PBNDS Section 22.V.N., "[e]ach facility shall have a sick call procedure that allows detainees unrestricted opportunity to freely request health care services ..." and while inmates have unrestricted opportunity to request health care services through the tablet, ICE detainees do not because the instructions to use the tablet are not in their native tongue and so the ICE detainees have to request assistance just to use the tablet. Further, the 2008 PBNDS requires that the request slip "be provided in English and the most common languages spoken by the detainee population of that facility. Non-English speaking detainees and detainees who are deaf or hard of hearing will be provided interpretation/translation services as needed or other assistance as needed to complete the request." It is our understanding the request slip was only in English on the tablet. We could not, however, verify because neither ICE nor custodial staff could explain how to use the tablet. This is a problem especial when custody staff are required to assist detainees with filling out the form if they are unable to do so.

Sick call requests are evaluated by a registered nurse. The detainee must access the system again to see the response of the nurse to the electronic kite. There is no limit to the number of kites a detainee can submit electronically. The electronic kite system is "shut off" and not available between 11pm and 5am. The kites are not printed and do not become part of the detainees physical medical record. This is extremely problematic because the medical chart is

incomplete –an attending physician or health care provider would not be fully aware of a patient’s medical history. For example, I interviewed a detainee (interview patient 3) who had been detained at St. Clair since January 18, 2017. He had a broken arm in Africa and told me that when he requested pain medication the “sheriff said no pain medicine.” Patient 3 went on to say that he had no answer to his kite; because the kite and answer are not a part of the medical chart, I do not know if his kite was answered. Because the request for medical or psychiatric care and the response is crucial to reconstructing the patients’ medical care for review. Requests for medical or psychiatric care (kites) and responses must be made part of the medical record. Failure to do so makes it difficult for the clinical medical authority to ensure that sick call slips are being received and responded to, in accordance with the national standards.

TB Screening:

The 2008 PBNDS requires that all new arrivals be “screen[ed] for tuberculosis” “within 12 hours of intake and using methods in accordance with CDC guidelines ...” See 2008 PBNDS Section 22.V.C.2 . While onsite I was unable to assess the screening for TB. I was told that chest x-rays are obtained on arrival. Chest x-ray and TB skin testing within the first 12 hours is the standard. I was told that the coordination of TB skin testing with ICE in Detroit is poor and requiring frequent transfers between Port Huron and Detroit. “Rideouts are submitted every time” for TB skin testing is what I was told. I did not see the results of TB skin tests in medical charts. Having made the drive from Port Huron to Detroit, and having trained in Emergency Medicine at Detroit Receiving Hospital, it is unimaginable that this drive is necessary for a TB skin test or interpretation.

Language Access:

DHS Language Access Policy requires that facilities use interpretation services with patients who speak a language other than English. Patients in the clinics do not always receive interpretive services when needed. The results of tests and treatment plans are not understood by the patient with limited English language proficiency. As I have written above, interpretation

services are time consuming and the hours for the sick call clinic are only approximately 8 hours per week, primarily staffed by (b)(6) NP and the Head Nurse (b)(6). The numbers of patients in the jail to be seen in the span of these 8 hours means that going to the interpreter phone with patients in need of translation services will result in the sick call unable to be completed in the allotted time. It is my experience for 30 years in an urban hospital in New York City where patients speak 64 languages and dialects routinely in our emergency department, reflecting the diversity of the city that use of interpreter services doubles or triples the amount of time for a patient encounter. Staff is disinclined to use interpretive services if to do so means to not complete sick call. This reflects on the short number of hours of the medical evaluation clinic (sick call) and inadequate staffing. Accordingly, I recommend an increase in staff availability and an increase in clinic hours to allow for dedicated time for ICE detainees who are in need of language and cognitive services. I also recommend that the use of an interpretation service be documented and maintained for review and oversight by the clinical medical authority.

Psychiatric Services:

Mental health services for ICE detainees at St. Clair is woefully inadequate and virtually non-existent. While detainees who arrive at St. Clair with a history of receiving psychotropic medication are kept on this regimen and referred for mental health services, they are not being treated by mental health staff unless their condition is "homicidal or suicidal." Accordingly, medical staff continue to refill psychotropic medication without the detainee receiving mental health counseling to determine appropriateness and/or effectiveness of dosage. This is extremely problematic and dangerous for ICE detainees who may be detained at St. Clair for an extended period of time than typically seen with the inmate population at a local county jail.

St. Clair contracts with Community Mental Health (CMH) to provide mental health care for its inmates. (b)(6) is the psychiatrist and I did not speak with him and he was not at the jail during our visit. Patients requiring hospitalization for psychiatric reasons go to McClaren Hospital nearby in Port Huron. I spoke to two individuals who provide the majority or all of the

psychiatric care at the jail; the mental health social worker (b)(6) and her supervisor (b)(6) also a mental health social worker. (b)(6) spends one day per week at the jail. The demands on (b)(6) are excessive such that the ICE detainees mental health needs are not met. The clinical director is (b)(6). Although I spoke with her briefly, and she attended the exit conference, it remains unclear what her role is exactly in the provision of mental health care to ICE detainees versus other jail inmates. At the time of our site visit, the mental health workers we met with were not familiar with the existence of the 2008 PBNDS standards or their duties and responsibilities under the standard. This reflects poorly on the leadership of ICE, the facility, the clinical medical authority and psychiatric services.

Psychiatric services at St. Clair does not meet the standard for ICE detainees. 2008 PBNDS Part 4, Section 22.V.K.1 states that

“[e]ach facility shall have an in-house or contractual mental health program, approved by the appropriate medical authority, that provides:

- Intake screening ... for mental health problems ...
- Referral as needed for evaluation, diagnosis, treatment, and monitoring of mental illness;
- Crisis intervention and management of acute mental health episodes;
- Transfer to licensed mental health facilities of detainees whose mental health needs exceed the capabilities of the facility; and
- Suicide prevention program.”

None of this was present at St. Clair. While a mental health screening was performed, referrals were rarely accepted. Medical staff informed CRCL that they would often make mental health referrals but they would not be placed on the mental health docket. When we asked the social worker assigned to St. Clair (b)(6) informed us that while she referred matters they often failed to meet the threshold for mental health intervention. When we asked what that threshold was we were told the criteria for an inmate to be placed on the mental health docket

is if the individual is Suicidal or Homicidal -an extremely high bar to meet. This same criteria is extended to ICE detainees, several of whom arrived at St. Clair with prescriptions for psychotropic medications that medical continued to fill without guidance from mental health. Moreover, on at least one occasion, the CBP officer conducting the health intake screening failed to refer a detainee for a mental health evaluation, per the 2008 PBNDS. In this case, the affirmative answers to mental health condition and medical complaints resulted in the patient being told to submit a sick call request. This is counter to the standard. The intake screener should affirmatively refer the patient for mental health evaluation by a qualified mental health care provider, not require the patient to request such an evaluation through the MedPar electronic sick call system. A patient with a mental health history should be seen by a mental health provider.

Under the 2008 PBNDS, “[a]ny detainee referred for mental health treatment shall receive a comprehensive evaluation by a licensed mental health provider as clinically necessary, but no later than 14 days of the referral. The provider shall develop an overall treatment/management plan that may include transfer to a mental health facility if the detainee’s mental illness or developmental disability needs exceed the treatment capability of the facility.” See 2008 PBNDS Part 4, Section 22.V.K.4. As we learned during our site visit, this is not the case. For example:

- Patient 9 answered yes to “do you have a history of mental health problems?” –he answered “depression”. He was not referred to mental health for evaluation, despite being prescribed Prozac from an outside provider.
- Corrections staff noted that Patient 13 was saying unusual things and acting abnormally. This patient was referred to mental health workers. He was psychotic and was transferred to Columbia South Carolina where there is an ICE inpatient mental health unit.
- Patient 10 had major depression and schizophrenia and a suicide attempt seven years prior when he cut his wrists. His medications included fluoxetine, buspirone and olanzapine. I could not read the names of the providers in the chart. He was not listed

on the Mental Health docket and was not being regularly seen by mental health care staff.

On the other hand, Patient 11 had an exemplary evaluation documented in an extensive and complete note by (b)(6) M.D. of the Arab American Chaldean Council on August 31, 2016. The diagnosis on that date was “stable psychosis”, type 2 diabetes and depression. The completeness of this evaluation should set the standard for care of ICE detainees. However, this note was not generated by the current mental health practitioners at the jail.

CMH’s threshold for treating ICE detainees is inappropriate because it is a much higher bar to meet and results in less mental health treatment –a direct violation of the 2008 PBNDS. It was clear from our meeting with CHM, that they were not aware of the requirements under the PBNDS 2008. Indeed, when we discussed the 2008 PBNDS, CMH informed us that they were not aware of the standards and that these standards must be met for the mental health care of ICE detainees. This represented a surprising and significant lapse of leadership to not have informed and trained the mental health practitioners “on the ground” of the standards of care expected for ICE detainees. Further illustrative of the lack of a designated clinical medical authority or the presence of one. (b)(6) who is presumably the individual identified as the clinical medical authority for St. Clair was not aware of his responsibilities as it pertained to the medical care of ICE detainees and it would appear that he was not aware of his responsibilities as it pertained to ensuring the receipt of mental health care and services by ICE detainees.

Recommendations:

1. Administrative Health Authority: St. Clair should clearly identify who the facility has designated as its administrative health authority and ensure that he or she is familiar with his or her duties and responsibilities under the 2008 PBNDS. (2008 PBNDS Part 4, Section 22.V.B and X).
2. Clinical Medical Authority: St. Clair should clearly identify who the facility has designated as its clinical medical authority and ensure that he or she is familiar with his or her duties and responsibilities under the 2008 PBNDS and the provision of health care required therein. (2008 PBNDS Part 4, Section 22.V.B).

3. Contracts for Health Care Services:
 - a. ICE should ensure that all new contracts for health services between a facility and a third party health care service provider specifically reference the respective PBNDS applicable to that facility and require all health care service providers assigned to the facility be trained on the applicable standards.
 - b. St. Clair should ensure that all new contracts for medical and mental health services between itself and a third party service provider specifically reference the 2008 PBNDS (or the applicable performance standard at the time of contracting) and require training of all employees assigned to service the contract at St. Clair specific to those standards.
 - c. St Clair should immediately require all employees from Lake Huron Medical Center Emergency Physicians Group and CMH assigned to work at St. Clair be trained on the 2008 PBNDS.
4. Insufficient Medical Professional Staffing: St. Clair should ensure medical that the professional staffing, is appropriate to provide adequate medical health care and treatment to the detention population at St. Clair, and ensure that appropriate and timely medical care and treatment is provided to ICE detainees as required by the 2008 PBNDS. (2008 PBNDS Part 4, Section 22.V.B). Specifically, St. Clair should:
 - a. conduct a staffing plan that identifies the positions needed to meet adequate medical care and treatment, in line with the requirements of the 2008 PBNDS;
 - b. require the assignment of a full-time, onsite physician who meets with and treats patients; and
 - c. require the assignment of a second registered nurse and one more midlevel physician assistant or nurse practitioner.
5. Increase Clinic Time: St. Clair should immediately increase its clinic time and require the assignment of a full-time physician and an additional midlevel physician to see and evaluate patients and respond to sick call requests daily.
6. Tuberculosis Screening: St. Clair should perform and interpret all TB skin testing at the jail and adequately document the results in the detainee's medical records. (2008 PBNDS Section 22.V.C.2)
7. Electronic Sick Call Request System: St. Clair should ensure that all ICE detainees are familiar with use of the tablets and understand how to access and submit an

electronic sick call slip in a language that they understand. (2008 PBNDS Section 22.V.N.)

8. Language Access: St. Clair should:

- a. increase clinic hours to allow for dedicated time for ICE detainees who are in need of language and cognitive services;
- b. provide detainees with sick call forms in their native language and ensure that health care staff respond to sick call requests in the patient's native language; and
- c. document and maintain for review and oversight by the clinical medical authority its use of interpretation services. (2008 PBNDS Section 22.V.N.)

9. Law Enforcement Health Screeners: St. Clair should ensure that law enforcement officers conducting health care screenings are properly trained on the 2008 PBNDS and that they refer detainees for medical or mental health evaluation where appropriate. (2008 PBNDS Section 22.V.I.1.)

10. Medical Records: St. Clair should:

- a. immediately combine the medical and mental health records of the detainees into one file per detainee;
- b. ensure each detainee's medical files are complete and up to date; and
- c. health care staff should print out the sick call request and responses and place them in the ICE detainee's medical record, time and date stamped.

11. Mental Health Contract: St. Clair should amend its contract with CMH to specifically reference the 2008 PBNDS and its related requirements and CMH should train its staff assigned to St. Clair on the mental health provisions of the 2008 PBNDS.

12. Threshold for the receipt of mental health services: CMH should:

- a. develop specific standard operation procedures that are in line with the 2008 PBNDS regarding the mental health treatment of ICE detainees at St. Clair;
- b. immediately modify its assessment of mental health referrals as it pertains to ICE detainees so that it is in line with the 2008 PBNDS requirements; and

- c. ensure that systems are in place to absorb an increase in the demands for mental health services at St. Clair as a result of this modification.
13. All ICE detainees currently detained at St. Clair with a history of mental illness and who are currently receiving or have received psychotropic medication, should be seen by a mental health provider immediately to assess their level of acuity and mental health needs.
14. St. Clair should ensure mental health professional staffing is appropriate to provide adequate mental health care and treatment to the detention population and to ensure that appropriate and timely mental health care and treatment is provided to ICE detainees as required by the 2008 PBNDS. (2008 PBNDS Part 4, Section 22.V.K). Specifically, St. Clair should:
 - a. conduct a staffing plan that identifies the positions needed to meet adequate mental health care and treatment and the requirements of the 2008 PBNDS and
 - b. require the assignment of a full-time, mental health trained social worker.

Best Practices:

1. Signatures in the medical records should be stamped as they are currently illegible.
2. A physician's signature is required for medication orders. The notes indicate that the medication orders were "verified with (b)(6)" but his signature is not included in any of the charts.
3. Laboratory results are not discussed with patients if they are normal. Patients reported not knowing test results. Medical staff should discuss test results with patients and note the discussion in the chart. This discussion should be done in the language the patient is comfortable with using interpretive services, if needed.