

APPENDIX A

Non-Priority/Best Practices Recommendations

Stewart Detention Center

Complaint Nos. 15-05-ICE-0731, 15-11-ICE-0732, 16-03-ICE-0560, 16-06-ICE-0252, 16-10-ICE-0562 and 16-11-ICE-0519

Mental Health

1. SDC should develop a process of identifying the full range of mental health need. (NCCHC, Standards for Mental Health Services in Correctional Facilities, MH-E-04, Mental Health Assessment and Evaluation; MH-G-01 Basic Mental Health Services).
2. SDC should conduct a CQI study relevant to mental health diagnoses of all detainees to clearly identify those with serious mental illnesses and those with mental health diagnoses that are less severe but may still warrant monitoring. (NCCHC, Standards for Mental Health Services in Correctional Facilities, MH-E-05 Nonemergency Mental Health Care Requests and Services; MH-E-06 Emergency Services; MH-F-01 Mental Health Education and Self-Care; MH-G-01 Basic Mental Health Services).
3. SDC should increase mental health and custody staff allocations in order to provide psychoeducational and psychotherapeutic treatment activities for detainees receiving psychiatric intervention. (NCCHC, Standards for Mental Health Services in Correctional Facilities, MH-E-05 Nonemergency Mental Health Care Requests and Services; MH-E-06 Emergency Services; MH-F-01 Mental Health Education and Self-Care; MH-G-01 Basic Mental Health Services).

Environmental Health and Safety

4. SDC should review the menu offerings with a dietitian and make nutritionally sound modifications where possible to better accommodate the menu preferences of the various nationalities housed at the facility to ensure compliance with the PBNDS Food Service standard stating, "The FSA shall accommodate the ethnic and religious diversity of the facility's detainee population when developing menu cycles. While each facility must meet all ICE/ERO standards and follow required procedures, individuality in menu planning is encouraged." (PBNDS 2011; Food Service)
5. SDC should review the menu offerings with a dietitian and make nutritionally sound modifications to balance macronutrients (protein, fat, and carbohydrates) on menus where the calorie content of the meal is obtained from a high percentage of carbohydrates (high carbohydrate load). This will assist Stewart Detention Center in ensuring compliance with PBNDS 2011 Standard, stating, "All detainees shall be provided nutritionally balanced diets that are reviewed at least quarterly by food service personnel and at least annually by a qualified nutritionist or dietitian." (PBNDS 2011; Food Service)

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6. The SDC Food Service Manager should ensure that equipment is operating in a safe and effective manner, and should take equipment offline when it is not operating in a safe manner. In addition, the Food Service Manager should continue to monitor equipment temperatures and ensure that temperatures are within food safety guidelines. (PBNDS 2011; Food Service)
7. SDC should contact their water provider and discuss the issue concerning green staining on the shower wall with them, and seek their assistance in rectifying this issue. The water from the shower in Unit 6-C may need to be tested by the water company to determine the pH level and exactly what is in the water, such as metal ions. The water provider will be familiar with pH balance of water and how to address water that is too acidic. (PBNDS 2011; Environmental Health and Safety)
8. SDC should continue with the clean and sanitary operations of the barbershop and continue to ensure that detainees follow the proper procedures while providing services in the barbershop area. (PBNDS 2011; Environmental Health and Safety)

Corrections

9. SDC should require that all custody personnel, including the managers, supervisors and line personnel, receive industry standard training in report writing for use of force incidents.
10. SDC should ensure that After-Action Reports include comments to demonstrate the date the committee review was held and any follow-up actions that may be necessary in terms of training, etc.
11. SDC should revise the current Confinement Record form to include a place to provide more details that support the reason or justification for administrative segregation placement.
12. SDC should consider designating a specific bank of cells within the segregated housing unit as “medical beds,” separate and apart from the other administrative segregation and disciplinary segregation beds in that housing unit. Because there are so few detainees housed in the segregation unit (only eleven on the day of our inspection), it would not be difficult to designate one of the two pods as a medical housing unit to better accommodate the population of detainees who require medical services. This would alleviate the perception of being “punished” based on housing assignment.
13. SDC should consider revising the grievance process to allow for a clearer description of what is being granted, granted-in-part or denied in a grievance request.
14. SDC should consider designating space that could provide for contact visitation for detainees and their families. Visitation at SDC is limited to non-contact only because of the limitations in the physical plant. Designating some additional space for visitation may also alleviate the complaints regarding legal visitation.

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15. SDC should ensure all regular mail be opened and searched for contraband in the mailroom before delivery to the housing units.

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On-site Investigation Report

Stewart Detention Center, February 2017

(b)(6)

MD, FACP

(b)(6)

February 8, 2017

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Introduction

This report responds to a request by the Office for Civil Rights and Civil Liberties (CRCL) to review and comment on the medical care provided to detainees at the Stewart Detention Center (henceforth, Stewart) by the Immigration and Customs Enforcement (ICE) Health Service Corps (IHSC). My opinions are based on the materials provided and reviewed in advance and an on-site investigation of the facility on February 1-3, 2017. My opinions are expressed to a reasonable degree of medical certainty. Stewart Detention Center and IHSC personnel were most pleasant and cooperative during my investigation.

Expert Qualifications

(b)(6)

(b)(6)

Methods of Review

In advance of the on-site investigation, I reviewed documents provided by the Office for Civil Rights and Civil Liberties (CRCL) of the Department of Homeland Security. During the on-site investigation, I toured the facility including dormitories, pill lines and the medical clinic, reviewed documents and medical records, and interviewed staff and detainees. I did focused reviews of medical records for those detainees who had chronic medical conditions such as asthma or high blood pressure. Clinical performance was measured by a focused review of medical records using a standardized methodology. (The full methodology for the review is described in the document entitled Assessment of Quality of Medical Care in Detention Facilities, and its accompanying Reviewer Pocket Guide.) The measures are based on nationally published accepted clinical guidelines, or consensus guidelines where there are no published clinical guidelines. I reviewed roughly 60 individual detainee medical records in total. I conducted individual interviews with 13 detainees selected at random from chronic care rosters or selected because of complaints received. Where relevant to findings, reference is made to the 2011 Performance Based National Detention Standards (PBNDS).

Overview

This report represents the result of an off-site review of documents (including medical records) and my focused three-day on-site medical review at the facility in response to a request by CRCL to investigate specific complaints at the Stewart Detention Center. I reviewed over 80 medical records, interviewed key medical and correctional staff, and conducted individual interviews with nine detainees who had chronic medical conditions.

Stewart Detention Center is located in a remote rural area in Georgia. It houses over 1800 adult detainees. Medical care is provided by contract providers under the supervision of the IHSC.

Overall, I found the medical care at Stewart to be good, but there were five areas where the current program did not meet the 2011 Performance Based National Detention Standards (2011 PBNDS) as required by contract. This report will focus on deficiencies and areas requiring further attention in order to meet those standards.

Findings

- 1. Insufficient Medical Professional Staffing:** The facility staff has insufficient licensed staff to service the population of over 1800 detainees. This is not just my opinion as a detention medical expert, but it is documented by vacancies in multiple areas per the facility's own staffing plan. For example, there are currently 40 hours of physician time

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being provided weekly while the staffing plan calls for 80 hours. Nursing and dental staffing levels are also below the staffing plan. Insufficient staffing impacts access to care by delays in follow-up for non-urgent care (such as chronic disease clinics) and reviews of the medical records documented delays in such follow-up.

PERFORMANCE does NOT meet the 2011 PBNDS (II.21).

- 2. Insufficient and Inappropriate Space for Medical Care:** Even without a full staffing complement, there are an inadequate number of exam rooms and provider offices. This results in additional inefficiencies that impact timeliness of care. In addition, the medical housing units is too small for the large detainee population. This insufficiency results in routine use of remote segregation space for overflow of individuals requiring medical observation. It is inappropriate to use segregation space as medical treatment space as it confuses therapeutic space with punitive space and corrodes trust between detainees and clinicians. In addition the segregation space does not meet 2011 PBNDS standards for Medical Housing Units in that it is not staffed by nursing and it is not designed to allow continuous monitoring of patients within line of sight of medical staff.

PERFORMANCE does NOT meet the 2011 PBNDS (V.F.1,3.a.2,3).

- 3. Cleanliness of Medical Space.** The medical clinic at Stewart among was the dirtiest medical spaces I have ever seen in a U.S. detention facility. A detainee housed in a Medical Housing Unit (MHU) cell volunteered (without being asked) that no one had entered his MHU room to clean it in two weeks, and even a cursory visual inspection of the room suggested that it may have been even longer than two weeks since the room was last cleaned. There were paint chips on the floor that appear to have collected over time; a crumbling shower had debris on the shower floor. Corners were dusty. In the rest of the medical unit, trash cans were full and multiple staff members reported that trash was not emptied on a daily basis. A mattress in the treatment room was so old and cracked that it would have been impossible to sanitize it in between uses. We found pills on the floor in the hallways. Counter surfaces were old and deteriorating making them impossible to clean properly. When asked about the apparent neglect of hygiene, the Health Services Administrator (HSA) verified this was an ongoing problem and provided his own documentation of chronic insufficiencies in janitorial service to the unit.

PERFORMANCE does NOT meet 2011 PBNDS (II.11)

- 4. Custody Support for Medical Care Program:** With over 1800 detainees, Stewart only assigns one custodial post (the clinic lobby post) to support the medical program. This is entirely insufficient. The corrections expert, who accompanied CRCL on this onsite, will comment on the security issues with this inadequate staffing in his report, but from a medical perspective, this inadequate support of staffing adversely impacts timely access to care. Clinicians regularly wait long periods for custodial staff to transport patients to the clinic. Even medication pill passes on the units are delayed while nursing waits for custodial staff to accompany them on pill call.

PERFORMANCE does NOT meet the 2011 PBNDS (V.B)

- 5. Disability Accommodation:** During our on-site investigation, we interviewed an individual with medically justified dependence on a wheelchair, crutches and prosthetic leg braces as an accommodation for lower extremity weakness resulting from prior trauma (Case 2 in Appendix II). He reported that he had been deprived of his crutches and leg braces for most of his five months of detention and he alleged that as a result, his pressure ulcers (present on arrival) had gotten worse rather than better. A review of the medical record confirmed both the denial of crutches and braces and the deterioration of the pressure ulcer.

PERFORMANCE does NOT meet the 2011 PBNDS (V.4).

Complaints

- 1. One case (Case #3)¹ mentioned in the retention memo alleged inadequate medical care or accommodation.** My investigation of the medical record *did not substantiate* this complaint.
- 2. One case (Case #1) complained that there is not enough medical staff to handle the detainee population.** My investigation did *substantiate* this complaint.
- 3. Other substantiated complaints:** CRCL received several complaints about medical care that were not referenced in the retention memo. These include complaints received in writing prior to the on-site investigations and complaints raised verbally by detainees during the on-site investigation. *Substantiated* complaints included the failure to accommodate crutches and braces as described above in this report, and complaints about the failure to clean medical housing space.

Overall Medical Care

While this report focuses on deficiencies in the medical care at SDC, it is important to comment briefly on the medical program as a whole. Performance of the medical program met the 2011 PBNDS in all other areas, including medical leadership, medical record keeping and acute care and off-site sub-specialty care. Strengths include the quality of the medical leadership in the facility and the electronic health record. Overall I found the medical care to be good.

Discussion

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

While I cite five specific areas requiring attention, it should be appreciated that deficiencies in

¹ Case # in Appendix I

those cited areas create other problems. For example, inefficiencies created by the combination of inadequate staff, inadequate space and poor security support of the clinical operation all have impact on the timeliness of medical care. My review of 36 medical records of patients requiring ongoing care for chronic medical problems such as diabetes, hypertension, HIV and asthma revealed that frequency of evaluation does not meet published disease specific standards guidelines (including NIH and NCCHC guidelines).

I also identified problems in the documentation of special needs for detainees with disabilities or other chronic medical problems. Often the requests for accommodations were conveyed verbally to the appropriate security staff rather than through the formal communications tool required by the facility. This resulted in confusion about some of the accommodation requests. The facility was working to correct this problem while we were on site.

There were some problems in the past with the timeliness of providing medications for HIV patients on arrival, but the root cause of these delays had already been identified and addressed by the new pharmacist in coordination with the HSA. Review of more recent records did not demonstrate significant problems with continuity of medication on arrival.

Summary of Recommendations

Overall medical care of ICE detainees at the Stewart Detention Center meets 2011 PBNDS with the exception of the following areas where care **does not** currently meet those standards:

1. Insufficient Medical Professional Staffing:

PERFORMANCE does NOT meet the 2011 PBNDS (II.21).

Recommendation: Staff recruitment efforts must be increased, including higher compensation.

SDC must ensure medical staffing is increased to meet the staffing plan and to ensure appropriate and timely medical care is provided to detainees. The facility medical program is overseen by IHSC but depends on contractors to deploy adequate staff. The facility is located in a remote rural location. This makes it more difficult to recruit qualified professionals to work in the facility. The only practical way to address the challenge of the remote location is to increase compensation to provide incentive to attract qualified professionals.

2. Insufficient and Inappropriate Space for Clinic and Medical Housing Unit:

PERFORMANCE does NOT meet the 2011 PBNDS (V.F.1, 3.a.2,3).

Recommendation: SDC must significantly expand clinic space. A plan for remodeling presented to CRCL during our visit will not adequately expand the clinic space to provide sufficient exam rooms and offices for a facility that houses 1800 adult detainees.

Recommendation: SDC must discontinue using segregation space as medical housing space. A new medical housing unit must be created within the facility. The four unit medical housing unit within the current clinic does not accommodate the needs of an adult population of 1800 detainees.

3. Cleanliness of Medical Unit.

PERFORMANCE does NOT meet 2011 PBNDS (II.11)

Recommendation: SDC must ensure that the clinic space is cleaned on a regular basis by cleaners who have been trained in the proper cleaning of medical space. Surfaces that are degrading or breaking down must be repaired or replaced in order to maintain proper sanitation. This may require substantial renovation of the medical unit.

4. Custody Support for Medical Care Program:

PERFORMANCE does NOT meet the 2011 PBNDS (V.B)

Recommendation: SDC should increase custody support for the medical unit. The facility should create posts for security personnel to support both transport of staff and patients as required for health care operations and to maintain security of the clinic and medical housing unit. Currently there are no such posts. A recommended minimum would be two officers assigned to in-facility transport and two officers assigned to clinic and medical housing unit.

5. Disability Accommodation:

PERFORMANCE does NOT meet the 2011 PBNDS (V.4).

Recommendation: The HSA should work together with custody staff to find reasonable ways to accommodate legitimate medical special needs such as crutches and braces in a way that addresses legitimate security concerns while at the same time protecting the legitimate access to medically indicated accommodations. Special accommodations must be communicated to security staff in writing.

These corrective measures will require monitoring to ensure they adequately address the substantiated deficiencies.

Appendix I

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

Identity of Cases Cited in this Report

<u>My Case No.</u>	<u>A #</u>	<u>Name</u>	<u>CRCL Complaint #</u>
(b)(6)			16-11-ICE-0519
			16-10-ICE-0562

REPORT FOR THE
U.S. DEPARTMENT OF HOMELAND SECURITY
OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES
Onsite February 1 – February 3, 2017

Investigation regarding Stewart Detention Center, Lumpkin, Georgia

Complaints reviewed in this report included the following:

Complaint No. 15-05-ICE-0731
Complaint No. 15-11-ICE-0732
Complaint No. 16-03-ICE-0560
Complaint No. 16-06-ICE-0252
Complaint No. 16-10-ICE-0562
Complaint No. 16-11-ICE-0519

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

(b)(6)

Report date February 10, 2017

Introduction and Referral Issues

The U.S. Department of Homeland Security's (DHS) Office for Civil Rights and Civil Liberties (CRCL) enlisted me to participate in an onsite investigation regarding complaints it received alleging civil rights and civil liberties abuses of individuals in U.S. Immigration and Customs Enforcement (ICE) custody at the Stewart Detention Center (SDC) in Lumpkin, Georgia. The complaints raised allegations regarding the conditions of detention, including medical care at SDC. While none of the six primary complaints details concerns related to any specific element of the mental health care program, they do suggest that a general review of specific areas of the mental health program is warranted.

Specifically, three complaints detailed in the retention memo identify concerns about food quality, access to appropriate diet for religious reasons, and access to ICE representatives (15-11-ICE-0732, 16-03-ICE-0560, 15-05-ICE-0731); one detailed concerns with access to legal services (16-06-ICE-0252); one identified complaints in several areas ranging from conditions of confinement to insufficient number of medical staff (16-11-ICE-0519); and one reported concern over access to appropriate medical care in response to a specific condition (16-10-ICE-0562). The range of complaints prompts the need to evaluate SDC's compliance with the PBNDS 2011 on mental health care activities as well.

Method of Review

I conducted a site visit of SDC over the course of three days, February 1 through February 3, 2017 totaling approximately 25 hours on site. While there, I toured the facility including detainee housing units, the intake unit, gymnasium, and health care units.

Prior to the onsite visit, I reviewed the applicable ICE Performance Based Detention Standards (2011 PBNDS), mental health forms and policies provided by the facility, material on quality improvement activities, staffing patterns, and suicide prevention activities.

During the site visit, I reviewed the following documents:

1. Policy and procedures
2. QA/QI reports and minutes pertinent to the mental health system
3. The ICE detainee handbook
4. A list of SDC grievances related to mental and medical health care
5. Various written complaints submitted by ICE detainees
6. Minutes from the SDC multidisciplinary meeting
7. The SDC chronic care roster for detainees receiving mental health services
8. A roster of suicide and self-harm attempts in the previous 12 months
9. Twenty-one healthcare records (see Appendix I) of detainees, two chosen from the roster of detainees housed in restrictive housing who were identified as Medical Housing Unit patients, eighteen chosen at random from the list of patients receiving psychiatric medications on the chronic care list, and one reviewed at the request of another consultant.

Additionally, I conducted individual interviews with nine detainees, who were chosen from a list of patients on the chronic care list for medical or mental health treatment. These interviews were in collaboration with (b)(6) medical expert, assigned to this review team, along with the aid of a certified interpreter. Four of the nine interviewees were also part of the group for whom I completed a file review. A list of the interviewees is provided in Appendix 2.

I also had the opportunity to interview the following staff:

1. Capt. (b)(7)(C) (NP; Health Service Administrator)
2. Lt. Commander (b)(7)(C) (LCSW; Director of Mental Health)
3. (b)(6) (LCSW; Mental Health Provider)

Analysis, Conclusions, and Recommendations

Review of overall mental health care activities

The following section provides an assessment of compliance with PBNDS 2011 relevant to mental health care activities at SDC.

Mental Health Program

(Standards: PBNDS 2011, 4.3 Medical Care, § V.A., V.B., V.E., V.F.1., V.I., V.O.1 & V.O.2.)

Administration

(Standard: PBNDS 2011; 4.3 Medical Care, § V.B.)

The medical department, including mental health care, is administered by ICE Health Service Corp (IHSC). Medical staffing consists of a health service administrator (HSA) and a clinical medical authority, who is a doctor of osteopathy. The department holds monthly interdisciplinary meetings, and maintains minutes from all meetings. There is an active Continuous Quality Improvement (CQI) program that includes a CQI committee and calendar, and minutes that reflect outcome of studies and remedies for failure. Recent studies include a review section that details plans for improvement and a schedule for follow-up. The CQI program is managed by the Mental Health Director under the monitoring of the HSA.

Staffing, Space, and Access to Care

The mental health program staffing pattern includes: 1.0 License Clinical Social Worker (Mental Health Director), 1.0 FTE Psychiatrist (vacant), and 2.0 Licensed Mental Health Counselors (one vacant). The psychiatrist provides 4 to 5 hours of service per week via video. The mental health counselor and director provide services during normal business hours. SDC mental health providers are IHSC officers and employees.

The psychiatrist position and one mental health provider position are currently vacant. The psychiatrist position has been vacant for longer than a year; the other mental health provider vacant slightly less than a year. Recruitment has reportedly been difficult for various reasons, including the rural location of the facility. In the absence of an on-site psychiatrist, SDC uses telepsychiatry to offer 4-5 hours a week of psychiatric services spread across Monday and Tuesday. Consultation is available emergently. When the psychiatrist cancels an appointment it is often several weeks before the appointment can be rescheduled. Additionally, when a detainee/patient is in medical housing status for medication stabilization or initiation and the psychiatrist cancels, the detainee/patient may remain in that more isolated status until the next available appointment.

The two current mental health providers provide on-site services from approximately 7:30 am to 5:00 pm. One provider will be going on leave in May for several months leaving a single mental health practitioner to cover the nearly 1800 detainees. Both indicated that the ability to consult in person with psychiatry would be beneficial.

The facility's two current on-site mental health providers are co-located with other health providers in space which includes several small offices, medical treatment rooms, a records office, four negative pressure rooms which double as the medical housing unit along with a fifth housing space which can also be utilized for that purpose. Offices are shared, serve multiple purposes, are cramped, poorly organized, and offer little space for confidential documentation or other work. For telepsychiatry appointments, the patient is brought to the office of one of the mental health providers who helps facilitate the appointments, further limiting availability of space.

Medical and mental health care providers utilize the language line for interpretation needs if the provider is not fluent in the detainee's language. Security staff and other detainees are not used to interpret health care concerns. All forms are translated into Spanish. Intake evaluations are conducted using translation either in person or via the language line. Orientation activities and the ICE Detainee Handbook are also available in Spanish.

Staff generally report that the space is inadequate to meet the needs of the detainees and the medical and mental health staff are scheduled in shifts to maximize utilization of space. Additionally, it was clearly evident by this reviewer that the unit is inadequately cleaned. There were medications on the floor, trash left overnight, insufficient mopping, and unsanitary conditions throughout the unit in both office and treatment spaces.

The Mental Health Director reports that the staffing pattern is sufficient to provide crisis care, triage for psychiatry, required rounds in the special management unit, and minimal evaluations of detainees entering the center who are identified by nursing staff as having mental health history, having experienced traumatic events, or reporting current prescriptions for psychiatric medications. Psychotherapeutic interventions are minimally available to detainees housed in an isolated setting for mental health reasons. However, the staffing allocation is insufficient to provide ongoing treatment once the need is identified beyond crisis management and acute

symptom control. The staff does not regularly identify or maintain caseloads of detainees with less severe mental health concerns that could still benefit from short term treatment services.

Health Care Record

(Standard: PBNDS 2011; 4.3 Medical Care, § V.F.2., & V.BB.)

SDC utilizes a comprehensive electronic health care record called E-Clinical Works. A health care summary report accompanies the detainee to hospital visits and is provide to the detainee at release to another facility. The electronic record is relatively easy to use and documentation completed by both mental health providers and psychiatry was thorough and timely.

Suicide Prevention Program

(Standard: PBNDS 2011; 4.6 Significant Self-harm and Suicide Prevention and Intervention)

There have been no suicide attempts or successes at SDC in the last year.

SDC has a comprehensive suicide prevention program which includes all components required by PBNDS. The initial intake screening uses a mental health questionnaire that asks questions specific to self-harm risk and provides a numerical score. Every medical and mental health note includes a statement on risk to self or others. Policy requires that detainees who express self-harm ideation or engage in self harm behavior be placed into an observation/isolation status. When placed into an observation status, detainees are seen every 8 hours by health care staff, and reviewed by mental health staff daily. There is no additional plan-driven mental health treatment provided to detainees while in suicide watch.

Staffs participate in suicide prevention training. Medical personnel are trained by mental health providers; Officers receive training at initial hire by the training department and follow-up training throughout the year.

The suicide prevention plan relies upon the mental health provider developing a treatment plan to address the factors that contribute to the detainee's suicidal ideation. The treatment plans provided in the notes do not generally detail goals or treatment options for addressing the concerns that resulted in the isolated stay. PBNDS 2011 Standard 4.6 § V.E. requires that the treatment plan is to include strategies and interventions to be followed by staff if suicidal ideation reoccurs, strategies for improved functioning, and regular follow-up appointments based on level of acuity. However, there is a paucity of ongoing treatment at the facility. The primary mode of mental health treatment is psychotropic medication and there are few options for ongoing non-medical mental health therapies.

Screening, Assessment and Referral

(Standards: PBNDS 2011; 4.3 Medical Care, § V.J., V.O.1., V.O.3., V.O.4., V.P., & V.BB.4)

The screening, assessment, and referral processes generally meet 2011 PBNDS standards, and policies clearly delineate the process of detainee referral to mental health services. Mental health screening is conducted by LPN's or RN's during the intake process on the day of arrival. The screening tool adequately addresses the required points including suicide risk evaluation, evaluation of factors associated with PREA, and asks questions related to current and historical psychiatric symptoms or treatment, experience of crime, recent loss, traumatic experiences, and other information. It develops an acuity score that is used to determine if mental health referral is needed. Detainee records indicate completion of consent forms.

Detainees who enter the facility on current psychiatric medications receive a continuing prescription by a physician or nurse practitioner pending review by the psychiatrist at the next available opportunity. Detainees who enter the center experiencing psychiatric symptoms but without medications are placed into the medical housing unit (MHU) until the mental health provider or psychiatric care is available. At times this has resulted in detainees being placed into MHU in a special management unit as a result of being psychiatrically symptomatic.

Detainees reported during interviews that mental health treatments are adequately explained to them. Priority ratings -- urgent, emergent, and routine -- guide timeliness of appointments with mental health counselors and psychiatry.

The treatment plan developed during the intake process and practitioner visit is typically present but focuses primarily on medication management. The mental health program does not offer psychotherapeutic treatment, and monitoring of mental illness is limited to those prescribed medication. There is no formal psychological evaluation, no tracking of diagnoses, and no psychoeducational activity or therapeutic treatment. Mental health counselors triage detainees before psychiatric visits but provide little other treatment. There is no record of detainees with mental health diagnoses or identified treatment needs other than those that require medication.

Detainees receiving medication are regularly seen on a monthly basis by mental health providers as required by PBNDS (2011) standards. Psychiatric consultation often occurs at the required interval, but visits are regularly rescheduled due to greater acuity needs or absence of the psychiatrist. Attempts are made to gather mental health records from previous placements and transfer summaries include mental health information when appropriate.

Sick Call

(Standard: PBNDS 2011, 4.3 Medical Care, § V.D. & V.S.)

Sick call occurs in person on every unit and includes requests for mental health care. Detainees housed in a segregated unit may request medical visits during one of the several cell-side visits by medical staff throughout the day. The ICE Detainee Handbook details the process for making sick call requests for health care or to report suicidal ideation. Every detainee interviewed clearly described how they would access mental health services if needed.

Medical Isolation, Involuntary Medication, and Use of Restraints

(Standard: PBNDS 2011; 4.3 Medical Care, § V.O.5., V.O.6., V.W., & V.Y.)

Isolation for medical, mental health, and suicide precaution purposes occurs generally in one of the 5 rooms available in the medical unit but the special management unit is regularly used for overflow and there are often several detainees housed in the special management unit setting who are there for mental health or medical reasons. Detainees placed in the medical housing unit space within the medical unit are not required to be seen daily by mental health staff unless they are there for purposes of suicide risk management. Detainees with identified mental health conditions located in the special management unit setting for medical housing purposes are seen daily by mental health staff, monitored at least once every 8 hours by mental health or medical staff. Review of mental health records finds that this policy is routinely followed.

Detainees are regularly moved between the medical unit and the special management unit and review of files and detainee interviews suggests that they are not regularly made aware that the move to the special management unit is for treatment/observation purposes and not disciplinary. Additionally, detainees arriving at the facility exhibiting symptoms of serious mental illness during times when mental health staff are not on grounds (e.g., weekends and holidays) may be placed in isolation in the medical housing unit and may be moved as needed to and from that status in the Special Management Unit.

Based on review of mental health and medical documentation, interviews with staff during the institution tour and consultation with medical and mental health staff, patients with mental health concerns – including self-harm risk and including new intakes awaiting psychiatric consult – are often housed in the Special Management Unit, in general cell space not allowing for constant and unobstructed observation, and without staff within constant sight and sound of the patient in violation of these standards. Meaningful mental health treatment is not provided while in the special management unit and rounds regularly occur cell front compromising privacy.

Detainees in need of treatment intervention beyond the scope of SDC are routinely transferred to a regional hospital for acute care. The facility does not initiate involuntary psychiatric medication. If needed, the patient goes off site to the inpatient facility. SDC does not restrain detainees for mental health purposes.

Medication refusals are noted in the EMR and followed up in contact with mental health counselor or medical professional visits.

Continuity of Care

(Standard: PBNDS 2011; 4.3 Medical Care, § V.J., V.Z., & V.BB.4)

Detainees arriving at the facility with prescribed medications are regularly evaluated within required timeframes. Detainees indicated that there were not typically gaps between arrival and the facility and provision of medications when the detainee brings an active prescription. When there is no prescription and the detainee indicates they have been taking specific medications, there are occasional delays pending evaluation by mental health staff or receipt of outside

records, made longer depending on availability of the psychiatrist via telepsychiatry. Detainees releasing from the facility are provided with at least 30 day's supply of medication and a detailed medical care summary to aid in transition to the next living situation.

Review of Health Care Records

Twenty-one healthcare records of ICE detainees were reviewed. As noted above, there were no complaints directly relevant to mental health care. Thus general findings are offered below. Where significant concerns are identified, I have listed more details of the case to reflect areas that prompt recommendations later in this report. A list of files reviewed is provided in the appendix.

1. General mental health program requirements identified in PBNDS 4.3 V.O were regularly provided in a timely manner. Intake interviews were generally conducted within required timeframes. Five detainees (#3, 5, 6, 16, and 18) were screened out of mental health care appropriately after endorsing no mental health history, traumatic background, or current symptomology. Interview documentation reflects history of previous diagnoses and psychotropic interventions, suicidal ideation, and traumatic history for all files reviewed. Referrals were made to mental health providers and psychiatric staff as appropriate. Prescribed medications were typically received without unusual delay. With exceptions noted below, mental health follow-up appointments including psychiatric consult occurred within required time limits.
2. Six detainees (#1, 2, 8, 9, 11, and 14) arrived with identified serious mental illness and/or suicidal ideation and were placed in special management unit sporadically as an overflow to housing on the medical unit. This violates PBNDS 2011 standards of care as well as NCCHC Standards of Mental Health Care and Standards of Care for Jails. It also points to a greater concern detailed in the recommendations about utilizing special management unit housing for detainees with significant mental illness or suicide ideation.
 - a. Detainee #9 arrived endorsing symptoms of significant mental illness and was placed into medical housing on the special management unit for 11 days for purposes of adjusting to medications given at intake. He was released to general housing, exhibited signs of decompensation, and was placed back into medical housing in the special management unit until his next psychiatric consult which was 14 days later. The detainee exhibited psychotic symptoms for an inappropriate length of time before intervention and while housed in an isolated setting. This violates PBNDS 2011 standards of care as well as NCCHC Standards of Mental Health Care and Standards of Care for Jails. It also reflects an inadequate staffing pattern for psychiatric care.
 - b. Detainee #14 arrived with endorsed history of serious mental illness. He was immediately placed into the special management unit for mental health monitoring until psychiatric consult could be sought 4 days later. However the psychiatric appointment was cancelled until 11/7 and he remained housed in isolated status pending that consultation. As noted in item 2 above, this detainee moved between special management unit and medical housing for the entire

length of his 3 month stay at SDC. This violates PBNDS 2011 standards of care as well as NCCHC Standards of Mental Health Care and Standards of Care for Jails. It also reflects an inadequate staffing pattern for psychiatric care.

- c. The remaining detainees who were placed into special management as overflow received psychiatric consult, follow up appointments, and other mental health program services as required.
3. Detainee #10 was seen appropriately at intake and received psychiatric medications as needed to manage symptoms for the first two months of his five month stay. While he appears to have continued receiving his prescribed medications and re-fills were ordered timely, scheduled follow-up appointments with psychiatric services were cancelled for the last three months of his stay. This is reflective of an inadequate staffing pattern for psychiatric care.

Summary of Recommendations

PBNDS 2011, 4.3 Medical Care states “This detention standard ensures that detainees have access to appropriate and necessary medical, dental and mental health care.” The following recommendations result from deficiencies in meeting this overarching standard. When relevant, I also include relevant portions of the Standards for Health Services in Jails, National Commission on Correctional Health Care (NCCHC).

Each recommendation below is designated either as Level 1 (highest priority and essential), Level 2 (important), or a best practice recommendation.

Priority Recommendations and Rationale

1. **SDC should develop additional space in the medical unit to house medical and mental health patients who need closer supervision. If SDC continues to use that special management unit space for medical and mental health monitoring, 24 hours nursing coverage which allows for constant sight and sound observation is required, and additional treatment opportunities must be offered. (Level 1)**

Rationale: PBNDS 2011 4.6 Suicide Prevention and Intervention states in section V.F. that “if the qualified mental health professional determines that the detainee requires a special isolation room but there is either no space in the medical housing unit or a medical housing unit does not exist, the detainee may, as a last resort, be temporarily placed in an administrative segregation cell in a Special Management Unit, provided space has been approved for this purpose by the medical staff and such space allows for constant and unobstructed observation.”

PBNDS 2011 4.3 Medical Care notes in section V.F.3 and V.O.5 relative to medical isolation that “the CMA may authorize medical isolation for a detainee who is at high risk for violent behavior because of a mental health condition” (p. 311). Further, it notes “if there is a specific area, separate from other housing areas, where detainees are admitted for health observation and care under the supervision and direction of health care personnel... the following minimum

standards shall be met... ‘staff members within sight and sound of all patients.’” (p. 305). NCCHC standard MH-G-02 supports that requirement indicating that acute mental health residential units shall have “continuous coverage by mental health staff assigned to the unit...”

PBNDS 2011 standards regarding Special Management Units (2.12: II.8.) indicates that “Detainees with serious mental illness may not be automatically placed in an SMU on the basis of such mental illness. Every effort shall be made to place detainees with serious mental illness in a setting in or outside of the facility in which appropriate treatment can be provided rather than an SMI, if separation from the general population is necessary.” Further, the standard states in section V.A.1.C.9 that “Use of administrative segregation to protect detainees with special vulnerabilities... shall be restricted to those instances where reasonable efforts have been made to provide appropriate housing and shall be made for the least amount of time practicable, and when no other viable housing options exist, and as a last resort. Detainees who have been placed in administrative segregation for protective custody shall have access to programs, services, visitation, counsel and other services available to the general population to the maximum extent possible.”

Finally, NCCHC Standards for Mental Health Services (MH-G-02, an essential standard) requires that “mental health programs or residential units meet the serious mental health needs of patients.” It further requires that acute mental health residential units have, at a minimum... programming or appropriate therapies, if indicated; individualized treatment plans, and housing in a safe and therapeutic environment conducive to symptom stabilization...” Best practice dictates that every detainee with a serious mental illness housed in a segregated setting should receive 10 hours of documented out of cell, treatment plan driven therapeutic activity and 10 hours of out of cell recreation each week. (NCCHC, Standards for Mental Health Services in Correctional Facilities, MH-E-07 Segregated Inmates).

SDC uses the special management unit as overflow housing for detainees with medical or mental health needs, including suicide watches. While in special management unit, staff report that efforts are made to ensure that residents receive the same property and privileges as those who are housed there for administrative segregation and are treated differently than those housed there for disciplinary segregation. However, the practice of housing detainees with mental health and medical needs, including suicidal ideation, in an environment geared toward discipline compromises care, causes psychological distress, and does not comply with standards.

While PBNDS allow for utilization of the special management unit as a last resort, it does require the ability to directly observe and requires staff within constant sight and sound. This does not occur at SDC and is a violation of the standards. The Special Management Unit should also not be used to house incoming detainees who need an isolated status pending psychiatric consult for their mental health condition. SDC should develop therapeutic treatment activities monitored through a formal treatment plan for detainees who are identified as at risk for suicide. A CQI study should be conducted relevant to identification of psychotropic medications at intake for detainees entering without accompanying medications and timeliness of consultation with psychiatry to ensure that detainees are not housed in an isolated setting any longer than necessary in order to receive appropriate mental health care.

- 2. SDC should re-evaluate the staffing pattern for mental health providers to ensure that those detainees with significant mental illness have access to a range of ongoing care. The vacant mental health provider positions should be filled expeditiously. Pending the hiring of a full-time psychiatrist, the allocated telepsychiatry time should be split (e.g., Monday-Thursday, Tuesday-Friday etc.) to ensure that detainee/patients do not remain in an isolated status any longer than absolutely necessary. Additionally, the schedule change would allow greater opportunity for necessary consultation by the mental health providers. (Level 1)**

Rationale: NCCHC Standards for Mental Health Services (MH-C-07, an important standard) requires “a sufficient number of mental health staff of varying types (e.g., psychiatrists, psychologists, social workers, nurses) is available to provide adequate and timely evaluation, treatment, and follow-up consistent with contemporary standards of care.” They note “while it is not possible to specify exact prescribing provider-to-patient ratios, the amount of prescriber time must be sufficient to ensure that there are no unreasonable delay in patients receiving necessary care...” PBNDS 4.3 Medical care describes the required mental health program in V.O. which includes timely intake screening, referral for evaluation, diagnosis, treatment, and monitoring by a competent mental health professional, crisis intervention and management of acute mental health episodes, transfer to licensed mental health facilities... and a suicide prevention program.” PBNDS 2011 4.3 Medical Care also notes in item 29 that “all detainees shall receive medical and mental health screenings, interventions, and treatments for gender-based abuse and/or violence, including sexual assault and domestic violence.” With only three mental health provider positions allocated and only two filled, and one vacant psychiatric position being covered by only four to five hours of telepsychiatry time per week, all components of the necessary mental health program can’t be adequately met.

Best Practice

Recommendation: SDC should develop a process of identifying the full range of mental health need. (NCCHC, Standards for Mental Health Services in Correctional Facilities, MH-E-04, Mental Health Assessment and Evaluation; MH-G-01 Basic Mental Health Services).

Recommendation: SDC should conduct a CQI study relevant to mental health diagnoses of all detainees to clearly identify those with serious mental illnesses and those with mental health diagnoses that are less severe but may still warrant monitoring. (NCCHC, Standards for Mental Health Services in Correctional Facilities, MH-E-05 Nonemergency Mental Health Care Requests and Services; MH-E-06 Emergency Services; MH-F-01 Mental Health Education and Self-Care; MH-G-01 Basic Mental Health Services).

Recommendation: SDC should increase mental health and custody staff allocations in order to provide psychoeducational and psychotherapeutic treatment activities for detainees receiving psychiatric intervention. (NCCHC, Standards for Mental Health Services in Correctional Facilities, MH-E-05 Nonemergency Mental Health Care Requests and Services; MH-E-06

Emergency Services; MH-F-01 Mental Health Education and Self-Care; MH-G-01 Basic Mental Health Services).

APPENDIX A

BEST PRACTICE RECOMMENDATIONS

Mental Health Care

1. WTDF needs a robust mental health quality improvement program to ensure that detainees receive appropriate and timely care, including care programs, to address the current insufficiencies in both medical and mental health care. NCCHC Standards for Mental Health Services (MH-A-06, an essential standard) requires that “A continuous quality improvement (CQI) program monitors and improves mental health care delivered in the facility.” They continue that in order to be compliant with the standard “the mental health care delivery system is systematically analyzed for needed improvement and, when found, that staff develop, implement, and monitor strategies for improvement.”
2. Some WTDF detainees who were appropriately placed on suicide watch or medical isolation remained in isolation for days beyond resolution of the relevant reason(s) that were the basis for the watch or isolation event. Extended isolation with little human contact may act as a deterrent to detainees’ honestly reporting problems or requesting needed mental health care. In turn, this may cause the detainee’s problem to worsen and they may incur unnecessary harm. In fact, detainees reported concern that asking for assistance would result in their placement in isolation. It is vital that detainees report self-harm ideation or mental health symptoms as soon as possible. Medical isolation and suicide watch should be used for the shortest duration necessary to ensure detainee safety. WTDF should ensure that detainees requiring isolation are returned to general population housing as soon as the clinical and medical staff determine the suicide risk or active mental illness has abated. (NCCHC Standards for Mental Health Services (MH-A-01, MH-G-01 and 03))
3. WTDF offers no treatment plans or services to detainees in segregation or suicide watch, or for group or individual services. Current group mental health *activities* at WTDF are generally leisure-focused including coloring, origami, discussing movies, and discussing Christian spiritual stories or bible characters. There are no commensurate activities for detainees of other faiths, further limiting detainees’ mental health programming opportunities. Short-term individual treatment is offered to general population detainees and is conducted with the aid of a security officer interpreter, which compromises detainee privacy. Services for segregated detainees are limited to word search, coloring, and other busywork inside their cells. Individual services are reportedly offered but there is no evidence it is utilized at WTDF and the HSA reported that detainees are not taken out of their cells for mental health treatment. Recommendations to address this are (NCCHC Standards for Mental Health Services (MH-A-01, MH-G-01 and 03)):
 - a. WTDF should develop therapeutic treatment activities, monitored through a formal treatment plan, for detainees who are identified as at risk for suicide.
 - b. WTDF should develop an adequate array of mental health services including individual, group, and psychoeducational opportunities for detainees who need them.
 - c. WTDF should develop an adequate array of mental health treatment to address the serious mental health needs of detainees housed in the special management unit.

Conditions of Detention

1. Due to the unsanitary and dirty conditions in the housing units, and to protect detainees from those detainees who may wish to exert power over others, WTDF should discontinue the practice of requiring the detainees to determine who will clean the housing units and, instead, follow the written Voluntary Work Program Procedure, which requires that detainees are assigned to work assignments on a volunteer basis. The housing unit officers should be supervising the cleaning of the housing areas.
2. To address the complaints from detainees indicating that they do not know their DOs, and to encourage improved staff-detainee communication, the ICE AFOD should ensure that ICE DO assignments to the WTDF are a *permanent assignment* rather than rotational, and assign officers who wish to work in the El Paso AOR and within a reasonable distance to the WTDF.
3. To improve the current Use of Force after-action review process, which is lacking necessary details that would allow the facility to make improvements, WTDF should expand the 'check-the-box,' After-Action Review Form to include the reviewers' discussions of the force incident and tactics, and any follow-up considerations for each incident reviewed. A description of the issues discussed and evaluated should be included in "comments" on the After-Action Review Form to memorialize the review and actions to be taken.
4. To improve the segregated housing process, WTDF should consider revising the segregation forms to require a brief narrative regarding the reason(s) or reasoning for release from segregated housing.
5. Detainees at WTDF are unclear about how to make requests and how to file grievances. To address this, detainees should be regularly instructed on the differences between grievances and requests, the grievance and request process, and how to file the corresponding forms for each.

Environmental Health and Safety

1. The NDS Detainee Classification System standard requires that detainees be physically separated from detainees in other categories. Although WTDF achieves sight separation by placing black plastic over the windows, the black plastic is tattered and looks unprofessional. Therefore as a best practices recommendation WTDF should install permanent window coverings such as tint or glazing that obscures the view while allowing natural light to filter in, rather than covering them with sheets of black plastic.
2. WTDF should consider issuing athletic shorts to detainees for outdoor recreation. The facility is located in the desert and the outdoor recreation yards are primarily in the sun. Detainees report that the current uniform exchange system requires them to send one of their two issued uniforms to the laundry, leaving them with only one uniform, and therefore they do not have clean clothing to wear after showering. Issuing athletic shorts also facilitates compliance with the NDS Issuance and Exchange of Clothing, Bedding, and Towels standard stating, "More frequent exchanges of outer garments may be appropriate, especially in hot and humid climates" and "Additional clothing will be issued as necessary for changing weather conditions or as seasonally appropriate."

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

Stewart Detention Center, Lumpkin, Georgia

Complaint Numbers

15-11-ICE-0732

16-03-ICE-0560

16-11-ICE-0519

Prepared By: (b)(6) MS, RD, LD/N, REHS/RS, CPFM, CJM
2/6/2017

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Introduction

On February 1 – 3, 2017, I assessed the environmental health and safety conditions at the *Stewart Detention Center* in Lumpkin, Georgia. This onsite investigation was provided under contract with the United States Department of Homeland Security, Office for Civil Rights and Civil Liberties (CRCL). Accompanying me on this investigation were (b)(6) Policy Advisor, CRCL; (b)(6) Policy Advisor, CRCL; as well as three other subject matter experts who examined Stewart Detention Center's medical and mental health care, and correctional operations.

The purpose of this onsite was to investigate complaints made by U.S. Immigration and Customs Enforcement (ICE) detainees of various alleged violations of civil rights and civil liberties at Stewart Detention Center. In particular, the environmental health and safety allegations contained in Complaint Numbers 15-11-ICE-0732, 16-03-ICE-0560, and 16-11-ICE-0519 were examined. This investigation was conducted to obtain an impression of the validity of the allegations by assessing the facility's adherence to applicable standards and best practices related to environmental conditions. The areas reviewed included food service, laundry, fire and life safety, chemical control, housekeeping and sanitation, pest control, maintenance, and potable water. This review also included visiting the housing units, kitchen, laundry, barbershop, medical clinic and housing, and the intake area.

Qualifications

My education includes a Bachelor of Science in Professional Studies - Business and a Master's Degree in Dietetics. I am a Registered Dietitian, Licensed Dietitian, Registered Environmental Health Specialist/Registered Sanitarian, Certified Jail Manager, and a Certified Professional Food Manager. I have managed food service operations at Miami-Dade Corrections & Rehabilitation Department since January 1991. I am also a Certified Food Safety (ServSafe) instructor and a Registered ServSafe Examination Proctor.

Methodology

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

I would like to extend my sincere appreciation to Warden (b)(7)(C) and his staff. The facility employees were helpful, respectful, accommodating, and placed no limitations on my requests. Their cooperation and assistance is greatly appreciated.

Facility Overview

The Stewart Detention Center opened in 2006 and has a total of 1,752 beds. The total population was 1,806 on February 1, 2017. The dedicated ICE facility is operated by CoreCivic, formerly known as Corrections Corporation of America. The Stewart Detention Center houses only male detainees, and has a diverse detainee population from multiple nationalities. Spanish is the most common language spoken amongst detainees. The 2011 Performance Based National Detention Standards (PBNDS 2011) are applicable to this facility.

Findings

Complaint Numbers 15-11-ICE-0732, 16-03-ICE-0560, and 16-11-ICE-0519 - Food

Complaint number 15-11-ICE-0732 alleges that the food served on August 13, 2015 contained worms. Complaint number 16-03-ICE-0560 alleges that due to high blood pressure, the facility moved a detainee from a Kosher diet to a low sodium diet. Complaint number 16-11-ICE-0519 alleges that the facility serves food that contains dead flies, rotten feces in the cereal, no fruit or milk, and the food is not cooked properly.

Findings: The allegation (Complaint Number 15-11-ICE-0732) that the food served on August 13, 2015 contained worms is unsubstantiated. The allegation (Complaint Number 16-03-ICE-0560) that due to high blood pressure, the facility moved a detainee from a Kosher diet to a low sodium diet is substantiated. The allegation (Complaint 16-11-ICE-0519) that the facility serves food that contains dead flies, rotten feces in the cereal, no fruit or milk, and the food is not cooked properly is unsubstantiated concerning the dead flies, rotten feces in the cereal, no milk, and not cooked properly. However, the part of the allegation concerning no fruit is substantiated for the Regular Menu cycle.

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

Analysis:

The Regular and Diet menus being used by Stewart Detention Center have a dietitian certification dated September 30, 2016, and the Kosher menu was certified on April 13, 2016. All menu certifications comply with the PBNDS 2011 Food Service standard

stating, "A registered dietitian shall conduct a complete nutritional analysis that meets U.S. Recommended Daily Allowances (RDA), at least yearly, of every master-cycle menu planned by the FSA." The master-cycle menu averages 3,100 calories per day, which is adequate to meet the caloric needs of most healthy male detainees.

The food service at Stewart Detention Center is a cook serve operation, and detainees are fed on multi-compartment plastic, reusable trays in a dining room connected to the kitchen. Detainees come from housing units on a rotation basis to receive breakfast, lunch, and dinner meals. They pass through a serving line and receive their meal tray served from steam tables on the kitchen side. Detainees that are on special (medical or religious) diets pass through the line with their medical or religious diet documentation and their medical or religious tray is made and passed to them. The dining room atmosphere for detainees complies with the PBDNS 2011 Food Service standard that specifies that "The dining room shall have the capacity to allow each detainee a minimum of 20 minutes dining time for each meal." The detainee dining area is a bright and open area with plenty of room for detainees to sit comfortably while eating their meals. The kitchen reports that it takes 2 ½ hours to complete each meal. Detainees in segregation receive their meal tray in their housing area.

The Regular and Diet menus for Stewart Detention Center are a 5-week menu cycle, Milk (1%) is served at breakfast on Saturday and Sunday only, and there is no fruit, fresh or canned, contained on these menus. The Kosher menu is a two week menu cycle, and it does contain milk served at breakfast seven days per week. Additionally, the Kosher menu shows "Fruit Serving (1/2 c. can, 1 piece fresh, or 100% juice) every day at breakfast. Fresh or canned fruit is listed nine times at lunch and seven times at dinner on the two week Kosher menu cycle.

The Kosher menu is not a low sodium menu. The policy at Stewart Detention Center is for medical needs and medical diet orders to supersede all other diet requests. Inmates that require a low sodium diet will not be able to adhere to their dietary requirements while on the Kosher menu.

Detainees were observed eating the food in the dining room setting, and several detainees stated that they like the food served at Stewart Detention Center, however, others report that the food is not what they are accustomed to eating and wish that there was more food that Latins are accustomed to, such as rice and beans and corn tortillas, and reduce the amount of potatoes served. A review of the menus shows a variety of foods incorporating some ethnic variety; however, the food items such as white rice and black beans or white rice and red beans, or Congri (rice and beans cooked together) are not included on the menus. In addition, a specific complaint from several

detainees about not having corn tortillas is accurate; the only tortillas listed on the menus are flour tortillas. Breakfast meals include hot cereal, scrambled eggs with cheese, Spanish egg, boiled eggs, pancakes, dry cereal, flour tortillas, sausage, fried or grilled potatoes, biscuits and creamed gravy, and coffee. The master-cycle menu lists a variety of lunch entrees including hamburger, chicken quarter, turkey hotdogs, Chili Con Carne, turkey bologna, Taco mix, Burrito filling, turkey salami, and sloppy joe. Side items at lunch include Cole slaw, green salad, Spanish rice, oven brown potatoes, green beans, macaroni & cheese, potato chips, cottage fried potatoes, rice pilaf, broccoli, and pinto beans. Dinner meals include chili mac, meatloaf, lasagna, tacos, breaded fish patty, hamburger, sloppy joe, breaded chicken patty, spaghetti casserole, Salisbury steak, tamale pie, turkey hotdogs, and Enchilada casserole. Side dishes at dinner include salad, broccoli, mashed potatoes, carrots, mixed vegetables, pinto beans, Au Gratin potatoes, peas & carrots, oven brown potatoes, fried potatoes, coleslaw, steamed cabbage, green beans, and Spanish rice. Therefore, although the facility complies with the PBNDS 2011 Food Service standard that specifies, "The FSA shall base menu selections on the best nutritional program the facility can afford meeting U.S. minimum daily allowances" and "The overall goal of a quality food service program is to provide nutritious and appetizing meals efficiently and within constraints of the existing budget, personnel resources, equipment and physical layout of the facility," greater emphasis on typical foods of detainee's ethnic backgrounds and a menu review and modification will facilitate compliance with the PBNDS 2011 Food Service standard specifying, "The FSA shall accommodate the ethnic and religious diversity of the facility's detainee population when developing menu cycles." It is also understood that each facility must meet all ICE/ERO standards and follow required procedures, however, menu planning that takes into consideration foods that nationalities are accustomed to is encouraged.

A Regular Menu tray for dinner service on February 2, 2017 was requested and delivered to our work area. The meal consisted of breaded fish patty, Spanish rice, Au Gratin potatoes, pasta salad, 2 slices of whole wheat bread, and tartar sauce. Although there was ample amount of food for each of the items listed, this meal contains a heavy carbohydrate load from which the calories are obtained. Another example from the Regular Menu is the lunch meal on Week 2, Sunday where there are flour tortillas, rice, oven brown potatoes, and cookies. A menu review and modifications with emphasis on food variety and balancing of macronutrients and in accordance with the U.S. Recommended Daily Allowances (RDA) will facilitate greater nutritionally balanced menus in accordance with the PBNDS 2011 Food Service Expected Outcomes specifying, "All detainees shall be provided nutritionally balanced diets that are reviewed at least quarterly by food service personnel and at least annually by a qualified nutritionist or dietitian."

The Stewart Detention Center kitchen is routinely inspected by the Georgia Department of Public Health. The most recent inspection was conducted on October 5, 2016. This was a routine inspection and the facility scored a 96, out of a possible score of 100, equating to an "A" rating. Routine inspections are unannounced inspections for the purpose of ensuring adherence to food safety standards and are not related to any complaint(s) received by the Health Department. A score of 96 indicates that the facility had a minor noted violation or violations during the routine inspection. Violations noted on the October 5, 2016 inspection report included that the inspector "Observed empty milk cartons mixed with milk in the walk-in storage cooler." Corrective Action was noted as "Do not allow drinking milk in walk-in cooler." The cooler containing milk was observed during my inspection of the kitchen on February 1, 2017, with no empty cartons observed. The kitchen also received a routine inspection on April 13, 2016, and the inspection score was 100. The kitchen also received a routine inspection on October 7, 2015, and received a score of 96, out of a possible score of 100, equating to an "A" rating. The violation noted was, "Observed wiping cloth in hand wash sink", with Corrective Action: "Keep hand wash sinks clear of any obstructions." A routine kitchen inspection was also conducted on April 8, 2015, resulting in a score of 100.

During my inspection of the kitchen and dining room area on February 1, 2017, the kitchen and dining areas were found to be in compliance with the PBNDS 2011 Food Service standard. The kitchen was clean, orderly, and there was no evidence of pests or vermin, nor was there evidence of expired, spoiled, or unwholesome food in any parts of the kitchen, including storage areas. The facility has a pest control contract with a reputable pest control provider and the kitchen receives monthly service and a quarterly intense fumigation, along with call back service whenever needed. I reviewed multiple weekly inspection documents for the kitchen. All non-compliant issues identified during these inspections are documented and corrective actions were taken and documented. The Food Service Director and Assistant Food Service Director both have food safety manager certification through the National Restaurant Association's Educational Foundation ServSafe program.

I asked the Food Service Director if they ever receive complaints of foreign items being found in the food. She stated that has rarely occurred, but once there was the top stalk of a carrot found in the carrots, and on another occasion, the sprouts of beans were found that appeared as if they were worms. However, upon investigation they found that what appeared as worms was actually the bean sprout. The Stewart Detention Center receives food items and ingredients for food preparation from reputable vendors. I reviewed multiple invoices randomly selected for food items, ingredients,

and supplies received by the Stewart Detention Center. During my inspection of the kitchen and storage areas, all food items observed were dated and stock rotation utilizing the first in, first out (FIFO) method was evidenced by checking dates on multiple items and comparing dates in the front and back of the storage shelves.

Also, during my inspection, on February 1, 2017, I noticed that one of the three cooker kettles being used at the time had an open flame that was visible underneath. I explained to the Food Service Manager that she should contact their maintenance department right away, as the open flame is a fire hazard and if someone put their foot too far under the kettle they could get burned. I asked the Food Service Manager to discontinue use of that kettle until the maintenance department had repaired it. In addition, the kitchen utilizes a flight type tray washer and chemical sanitation in the final rinse. The temperature gauge was reading slightly less than 120° F, the minimum temperature allowable in the final rinse for chemical sanitization in a dishwashing machine. The temperature was also verified via a thermometer and read 117° F. The Food Service Manager was asked to have the maintenance department check the tray washer final rinse temperature also. On February 3, 2017, I returned to the kitchen and checked the kettle, which had been repaired, and the dishwasher and found the final rinse temperature above the 120° F requirement. I also reviewed multiple temperature logs for kitchen equipment, including cooler, freezer, and dishwasher temperature logs. All were found to be in compliance with food safety standards.

Conclusion:

The food service program at Stewart Detention Center provides detainees with safe meals. The food service staff were observed to be considerate of detainees in the kitchen area and dining area, and they recognize that meal periods are highly anticipated events in a correctional environment. Therefore, the appearance and presentation, taste, and overall satisfaction/dissatisfaction with the meals and meal service can impact the health and general demeanor of detainees and staff in the facility, as specified by the PBNDS 2011 Food Service standard, "The food service program significantly influences morale and attitudes of detainees and staff, and creates a climate for good public relations between the facility and the community." Although the menus utilized by Stewart Detention Center have a variety of food items, consideration of detainee's desired food items, such as Latin fare would go a long way in influencing morale and attitudes toward the food service program.

Recommendations:

1. The Stewart Detention Center should review the menu offerings with a dietitian and make nutritionally sound modifications where possible to better accommodate the menu preferences of the various nationalities housed at the facility to ensure compliance with the PBNDS Food Service standard stating, “The FSA shall accommodate the ethnic and religious diversity of the facility’s detainee population when developing menu cycles. While each facility must meet all ICE/ERO standards and follow required procedures, individuality in menu planning is encouraged.” (Applicable standard: PBNDS 2011; Food Service, Level 2)
2. The Stewart Detention Center should review the menu offerings with a dietitian and make nutritionally sound modifications to balance macronutrients (protein, fat, and carbohydrates) on menus where the calorie content of the meal is obtained from a high percentage of carbohydrates (high carbohydrate load). This will assist Stewart Detention Center in ensuring compliance with PBNDS 2011 Standard, stating, “All detainees shall be provided nutritionally balanced diets that are reviewed at least quarterly by food service personnel and at least annually by a qualified nutritionist or dietitian.” (Applicable standard: PBNDS 2011; Food Service, Level 2)
3. The Stewart Detention Center Food Service Manager should ensure that equipment is operating in a safe and effective manner, and should take equipment offline when it is not operating in a safe manner. In addition, the Food Service Manager should continue to monitor equipment temperatures and ensure that temperatures are within food safety guidelines. (Applicable standard: PBNDS 2011; Food Service, Level 2)

Complaint Number 16-11-ICE-0519 – Water Quality

It is alleged in complaint number 16-11-ICE-0519 that the water has black residue and the shower water is green.

Findings: The allegation (Complaint Number 16-11-ICE-0519 that the water has black residue and the shower water is green is unsubstantiated. Water from the tap was not observed in any housing area to be “green” nor have “black residue” in the water. However, in Unit 6-C, the first shower was found with a continuous slow leak that allowed water to continuously trickle down the shower wall. The wall where the water trickled was stained green. At the base of the wall was black residue that appeared to be mold. There was also soap scum in the shower and mildew on the shower curtain. In the upstairs showers in Unit 6-C, rust appeared to be penetrating from under the floor material along the side at the base of the shower. Overall, the detainee housing unit showers were found to be reasonably clean with the exception of some mold

sparsely found and evidence of rust penetrating through the shower floor material on the sides of multiple shower stalls.

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

Analysis:

Multiple detainee living areas were inspected and found to be generally clean, with the exception of minimal amounts of soap scum in some shower stalls, mildew on some shower curtains, the appearance of rust along the base of multiple shower stalls, and the green staining on the shower wall in Unit 6-C. The ambient air temperatures and illumination levels were within acceptable ranges, except for Unit 1-A, which was warm and humid. Additionally, all housing pods within Unit 1 did not meet standards for shower temperatures. On February 2, 2017, in Unit 1 (multiple pods) the shower water temperature measured 65° F and on February 3, 2017, the shower water temperature measured 73° F. Therefore, the PBNDS 2011 standard covering “Personal Hygiene, Bathing and Toilet Facilities”, which states that “Operable showers that are thermostatically controlled to temperature between 100 and 120 F degrees, to ensure safety and promote hygienic practices” was not met during my inspections of Unit 1 at Stewart Detention Center. Detainees in Unit 1, multiple pods, reported that the shower water temperature is an ongoing issue, it is acceptable temperature on some days and on other days it is cold. It is important to point out that showering is part of promoting good personal hygiene, and good personal hygiene is an important requirement, especially where human beings live in close proximity, such as dormitories/housing units at Stewart Detention Center. Shower water temperature at 65° F and 73° F is uncomfortable, and discourages the regular use of showers. Regular showering reduces the spread of germs, the potential for infections, and can even help provide a sense of self-confidence to those that place a high importance on their personal hygiene. Shower water temperatures were also checked in various pods within Unit 6 and were found within the PBNDS 2011 standard.

The green staining on the wall in Unit 6-C should be investigated. This staining is not mold, algae, and does not appear to be fungus growth, but rather appears to be a possible issue with the pH balance of the water. pH is a measure of the acidity or basicity of water, based on a scale from 0 - 14. Pure water is neutral at a pH of 7, while a pH less than 7 is acidic and above 7 is basic. Water with a pH that is less than 6.5 is considered acidic, which makes the water soft and corrosive. In addition, it may contain metal ions, such as iron, zinc, copper, etc. These metal ions can stain and damage fixtures, damage metal pipes, and create a metallic taste in the water. Stewart

Detention Center receives their water from the Stewart County (Georgia) Water Department. The Stewart Detention Center received an annual water quality report dated January 12, 2017 in accordance with PBND 2011 Standard, Environmental Health, which states, "At least annually, a state laboratory shall test samples of drinking and wastewater to ensure compliance with applicable standards. A copy of the testing and safety certification shall be maintained on site". The certification document dated January 12, 2017 shows the results of the water test was reviewed and the facility was found in compliance. However, Stewart Detention Center should contact their water provider, discuss this green staining issue in the shower with them, and seek assistance from them in getting this issue rectified.

The dormitory showers throughout Stewart Detention Center are heavily used and therefore require frequent cleaning, disinfection and the regular cleaning and/or replacement of shower curtains. Appropriate chemicals for cleaning and disinfection purposes along with cleaning supplies such as rags, mops, and brooms were observed. Staff at Stewart Detention Center should continue to encourage regular cleaning and disinfection of shower stalls and shower curtains. When shower curtains are no longer able to be cleaned properly, they should be replaced.

Conclusion:

The overall shower conditions meet the requirements stipulated by the PBND 2011 standards, except for Unit 1, where shower water temperature was found below the minimum requirement of 100° F. In other units the showers do provide suitable accommodations for showering. Although this allegation (Complaint #16-11-ICE-0519) was not substantiated, water temperature in showers must be between 100° F and 120° F in accordance with PBND 2011 standards. In addition, frequent cleaning and disinfecting of shower walls, floors, drains and shower curtains is vital to ensure good detainee health.

Recommendation:

4. Stewart Detention Center should contact their water provider and discuss the issue concerning green staining on the shower wall with them, and seek their assistance in rectifying this issue. The water from the shower in Unit 6-C may need to be tested by the water company to determine the pH level and exactly what is in the water, such as metal ions. The water provider will be familiar with pH balance of water and how to address water that is too acidic. (Applicable standard: PBND 2011; Environmental Health and Safety, Level 3)

5. The Stewart Detention Center must correct the shower water temperature in Unit 1. Detainees reported that this is an ongoing problem with intermittent correction and then back to the problem again. It is recommended that the issues of this water temperature problem be investigated until the root cause/problem is found and then ensure that it is corrected in order to ensure compliance with the PBNDS 2011 Personal Hygiene Standard requiring that “operable showers that are thermostatically controlled to temperatures between 100 and 120 F degrees, to ensure safety and promote hygienic practices.” (Applicable standard: PBNDS 2011, Personal Hygiene, Level 1)
6. Stewart Detention Center should ensure that shower and shower cleanings are completed on a regular basis to comply with the PBNDS 2011 Environmental Health and Safety Standard requiring that “conditions shall be maintained at a level that meets recognized standards of hygiene, including those from the American Correctional Association” specifically ACA Housekeeping standard 4-ALDF-1A-04 indicating, “The facility is clean.” (Applicable standard: PBNDS 2011; Environmental Health and Safety, Level 1)

Other Observations

Barber Operation

The Stewart Detention Center barbershop was inspected on February 2, 2017. The barbershop complies with the PBNDS 2011 standard indicating, “For sanitation reasons, it is preferable that barbering operations be located in a room that is not used for any other purpose. The room must have sufficient light, and be supplied with hot and cold running water. The floors, walls, and ceilings shall be smooth, nonabsorbent, and easily cleaned.” The barbershop was not in use at the time of the inspection, however, the area was found to be very clean and tidy. The barbershop regulations and use restrictions were clearly posted on the wall. The clippers were checked out by the maintenance department for preventative maintenance, oiling, etc., at the time of inspection. The procedure for cleaning and sanitizing barbershop equipment, such as clippers, clipper attachments, etc., as well as chemicals used for the same was reviewed and are in compliance.

Applicable Standard: The PBNDS 2011 Environmental Health and Safety standard stating, “Sanitation in barber operations is imperative because of the possible transfer of diseases through direct contact or by towels, combs, and clippers” is applicable. Furthermore, the PBNDS 2011 Environmental Health and Safety standard requiring, “Instruments such as combs and clippers shall not be used successively on detainees without proper cleaning and disinfecting” is also applicable.

Conclusion: The Stewart Detention Center hair clippers are cleaned and disinfected properly and are in compliance with the PBNDS 2011 Environmental Health and Safety standard. Furthermore, the barbershop area was found very clean and tidy, logs of equipment use and cleaning were up to date, and required posting of rules and regulations of use were observed.

Recommendations:

7. Stewart Detention Center should continue with the clean and sanitary operations of the barbershop and continue to ensure that detainees follow the proper procedures while providing services in the barbershop area. (Applicable standard: PBNDS 2011; Environmental Health and Safety, Level 3)

Medical Care

The Stewart Detention Center medical clinic and medical housing environmental conditions were inspected on February 1, 2017. The overall environmental conditions of the medical clinic and medical housing do not meet the requirements stipulated PBNDS 2011, which states, "Environmental cleanliness shall reduce, control, and prevent nosocomial infections due to contaminated environmental surfaces. The HSA or designee is responsible for ensuring the cleanliness of the medical facility". The medical clinic and housing was found with multiple areas that need greater emphasis on cleaning procedures and processes. Consistently throughout the clinic area, the floors along the walls, at the base of door jams, and in corners were dirty. Ceiling tiles were stained outside of Room A165 indicating a leaking from above, and the mattress in Room A166 was torn in multiple places precluding the mattress from being properly cleaned and sanitized. Pills were found on the floor, as well as a pill cup under a chair in the hallway. In medical isolation, the walls had peeling paint, the shower was dirty, and one detainee commented during the inspection that no one had been in there to clean in the past two weeks.

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

Conclusion: The Stewart Detention Center medical clinic is not properly cleaned and disinfected in compliance with the PBNDS 2011 Environmental Health and Safety standard thereby creating opportunities for the spread of germs, viruses, and infections, and risking the health and safety of both staff and detainees.

Recommendations:

8. The Stewart Detention Center should review their housekeeping plan and provide more detailed information on proper cleaning, sanitizing, and disinfecting in the facility. This plan should outline equipment and supplies to be used and exact steps to be taken to properly clean and mop floors, when and how to clean and sanitize equipment, mattresses, contact surfaces, bathrooms, exam rooms, etc. In addition, staff should be trained on when to dispose of and/or replace a mattress. The medical clinic and medical housing are prime areas for the spread of germs, viruses, infections, and disease. There should be a detailed housekeeping plan and schedule in place for staff to follow. (Applicable standard: PBNDS 2011; Environmental Health and Safety, Level 1)

9. The Stewart Detention Center should put a check and balance system in place to ensure that cleaning and disinfecting procedures and schedules are followed. Regular inspections of the areas should document clearly lack of cleanliness, violation of standards, etc. The inspections should have documented corrective actions taken and when, followed by a follow-up inspection. Facility administration and medical clinic administration should work together to ensure that standards are met on a consistent basis, and if and when standards are not met a plan of action for corrective measures is completed and adhered to. (Applicable standard: PBNDS 2011; Environmental Health and Safety, Level 1).

10. The PBNDS 2011 standard requiring, "The Chief Nurse (or equivalent) is responsible for training all staff and detainees in using proper housekeeping procedures and proper handling of hazardous materials and chemicals" should be implemented and followed. (Applicable standard: PBNDS 2011; Environmental Health and Safety, Level 1)

Summary of PBNDS 2011 Recommendations

1. The Stewart Detention Center should review the menu offerings with a dietitian and make nutritionally sound modifications where possible to better accommodate the menu preferences of the various nationalities housed at the facility to ensure compliance with the PBNDS Food Service standard stating, "The FSA shall accommodate the ethnic and religious diversity of the facility's detainee population when developing menu cycles. While each facility must meet all ICE/ERO standards and follow required procedures, individuality in menu planning is encouraged." (Applicable standard: PBNDS 2011; Food Service, Level 2)

2. The Stewart Detention Center should review the menu offerings with a dietitian and make nutritionally sound modifications to balance macronutrients (protein, fat, and carbohydrates)

on menus where the calorie content of the meal is obtained from a high percentage of carbohydrates (high carbohydrate load). This will assist Stewart Detention Center in ensuring compliance with PBNDS 2011 Standard, stating, "All detainees shall be provided nutritionally balanced diets that are reviewed at least quarterly by food service personnel and at least annually by a qualified nutritionist or dietitian." (Applicable standard: PBNDS 2011; Food Service, Level 2)

3. The Stewart Detention Center Food Service Manager should ensure that equipment is operating in a safe and effective manner, and should take equipment offline when it is not operating in a safe manner. In addition, the Food Service Manager should continue to monitor equipment temperatures and ensure that temperatures are within food safety guidelines. (Applicable standard: PBNDS 2011; Food Service, Level 2)

4. Stewart Detention Center should contact their water provider and discuss the issue concerning green staining on the shower wall with them, and seek their assistance in rectifying this issue. The water from the shower in Unit 6-C may need to be tested by the water company to determine the pH level and exactly what is in the water, such as metal ions. The water provider will be familiar with pH balance of water and how to address water that is too acidic. (Applicable standard: PBNDS 2011; Environmental Health and Safety, Level 3)

5. The Stewart Detention Center must correct the shower water temperature in Unit 1. Detainees reported that this is an ongoing problem with intermittent correction and then back to the problem again. It is recommended that the issues of this water temperature problem be investigated until the root cause/problem is found and then ensure that it is corrected in order to ensure compliance with the PBNDS 2011 Personal Hygiene Standard requiring that "operable showers that are thermostatically controlled to temperatures between 100 and 120 F degrees, to ensure safety and promote hygienic practices." (Applicable standard: PBNDS 2011, Personal Hygiene, Level 1)

6. Stewart Detention Center should ensure that shower and shower cleanings are completed on a regular basis to comply with the PBNDS 2011 Environmental Health and Safety Standard requiring that "conditions shall be maintained at a level that meets recognized standards of hygiene, including those from the American Correctional Association" specifically ACA Housekeeping standard 4-ALDF-1A-04 indicating, "The facility is clean." (Applicable standard: PBNDS 2011; Environmental Health and Safety, Level 1)

7. Stewart Detention Center should continue with the clean and sanitary operations of the barbershop and continue to ensure that detainees follow the proper procedures while providing services in the barbershop area. (Applicable standard: PBNDS 2011; Environmental Health and Safety, Level 3)

8. The Stewart Detention Center should review their housekeeping plan and provide more detailed information on proper cleaning, sanitizing, and disinfecting in the facility. This plan should outline equipment and supplies to be used and exact steps to be taken to properly clean and mop floors, when and how to clean and sanitize equipment, mattresses, contact surfaces, bathrooms, exam rooms, etc. In addition, staff should be trained on when to dispose of and/or replace a mattress. The medical clinic and medical housing are prime areas for the spread of germs, viruses, infections, and disease. There should be a detailed housekeeping plan and schedule in place for staff to follow. (Applicable standard: PBNDS 2011; Environmental Health and Safety, Level 1)

9. The Stewart Detention Center should put a check and balance system in place to ensure that cleaning and disinfecting procedures and schedules are followed. Regular inspections of the areas should document clearly lack of cleanliness, violation of standards, etc. The inspections should have documented corrective actions taken and when, followed by a follow-up inspection. Facility administration and medical clinic administration should work together to ensure that standards are met on a consistent basis, and if and when standards are not met a plan of action for corrective measures is completed and adhered to. (Applicable standard: PBNDS 2011; Environmental Health and Safety, Level 1)

10. The PBNDS 2011 standard requiring, "The Chief Nurse (or equivalent) is responsible for training all staff and detainees in using proper housekeeping procedures and proper handling of hazardous materials and chemicals" should be implemented and followed. (Applicable standard: PBNDS 2011; Environmental Health and Safety, Level 1)

Penology Expert's Report

On

Stewart Detention Center

This report is a general examination of conditions at the Stewart Detention Center with a specific examination of the issues identified in the following complaints:

- **15-05-ICE-0731**
- **16-06-ICE-0252**
- **16-11-ICE-0519**
- **16-08-ICE-0344**
- **17-03-ICE-0075**

Prepared by:

(b)(6)

Lodi, CA

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I. Summary of Review

The Department of Homeland Security, Office for Civil Rights and Civil Liberties (CRCL) received complaints from detainees in the custody of Immigration and Customs Enforcement (ICE) at the Stewart Detention Center (SDC), located in Lumpkin, Georgia, alleging the following:

- Deportation Officers were not accessible on-site to assist detainees;
- Lawyers and law students from the Southern Poverty Law Center were being delayed or denied access to detainees at SDC;
- Detainee access to legal library services are inadequate, grievances are not answered timely, recreation services are inadequate and mail is withheld; and,
- Detainees are inappropriately placed and retained in segregation for hunger striking

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

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

II. Facility Background and Population Demographics

On the first day of our site visit¹ the ICE detainee population at SDC was 1,806.² The SDC is operated by Core Civic Corporation³ and is operated under an Intergovernmental Service Agreement with ICE. SDC is an American Correctional Association (ACA) accredited facility.

The detainees at SDC 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 as one or two-person cells. All meals are served in a common dining room that operates on a schedule by housing unit.⁴ All other services such as visiting, library, barbershop, religious services and recreation are provided in common areas, used by all the detainees, and are also scheduled to accommodate the keeping of detainees with common classification designations together.

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

Overall, we found the staff to be professional and courteous and the general living areas of the facility to be clean and orderly.⁵ The SDC was not in full compliance with one PBNDS 2008 standard⁶, but overall deficiencies were minimal and recommendations will be offered in this report to improve certain aspects of the operation. All opinions and recommendations contained herein are based on my background and experience in the correctional environment,

¹ CRCL was on-site at SDC February 1-3, 2017.

² The SDC population consists solely of ICE male detainees.

³ Core Civic was formerly known as Corrections Corporation of America.

⁴ This schedule enables the different classification level detainees to remain with those of a common designation and housing assignment.

⁵ Deficiencies were found in the cleanliness of the medical clinic areas which are discussed in the report by the CRCL environmental health and safety expert.

⁶ See discussion below in this report regarding use of force report writing.

ICE detention standards and generally recognized correctional standards including those of the American Correctional Association and the American Jail Association.

III. Expert Professional Information

I have worked as a corrections/law enforcement expert/consultant for the past 11 years. I have been qualified as an expert in Federal Court in the areas of use of force and prison operations. Over the past 11 years I have consulted with Sheriff's Departments in Los Angeles, San Diego and Denver and have worked as an expert witness in the defense and prosecution of both criminal and civil cases.

I currently serve on a monitoring team for the implementation of a settlement agreement between the Los Angeles Sheriff's Department, Antelope Valley Patrol Division, and the USDOJ, involving issues of use of force and management accountability. I am also a member of the California DOJ investigative team assigned to investigate allegations of pattern and practice violations within the operations of the Bakersfield Police Department and the Kern County Sheriff's Office.

I hold a Bachelor of Arts degree in Corrections from California State University, Sacramento; I am a graduate of the Leadership Institute at California State University, Chico; and, I am a graduate of the California Department of Corrections Academy (Penal Code 832). I have authored a chapter in a published graduate level text book entitled, "Managing the Security Housing Unit: Lessons from the California Experience," in Managing Special Populations in Jails and Prisons. New York: Civic Research Institute.

I served in the California Department of Corrections & Rehabilitation (CDCR) during four decades, working in four different prisons and the CDCR Headquarters. Promoting through the ranks, I held many positions including Warden at Pelican Bay State Prison and ending my career with the CDCR holding the position of Chief Deputy Secretary, Adult Operations, where I was responsible for the operation of all 33 California State prisons and parole

supervision state-wide.⁷ During these years I experienced all aspects of correctional operations and I co-authored several CDCR policies including Use of Force and Employee Investigations and Discipline.

IV. Relevant Standards

- **ICE Detention Standards**

The 2011 Performance-Based National Detention Standards (PBNDS) apply to SDC. These are the standards that were relied upon in looking at the specific allegations regarding this facility, as well as, the general review of operations.

- **Professional Best Practices**

In addition to the PBNDS 2011 this review is being conducted based on my correctional experience and nationally recognized best practices.

V. 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 SDC as it relates to the care and treatment of the ICE detainees. For this review, I examined detainee records; SDC policies and procedures; documentation and logs kept on-site depicting such things as detainee grievances and legal library usage; interviewed ICE detainees, ICE employees, SDC employees; and, conducted an on-site tour of the SDC facility with the managers and supervisors. All the SDC personnel were professional, cordial and cooperative in facilitating our review.

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

- Intergovernmental Services Agreement
- Detainee housing records

⁷ At that time the inmate population in the CDCR was over 160,000 with approximately 120,000 parolees and 57,000 employees.

- Grievance logs (2016)
- Detainee grievances (January 2016 – January 2017, random selection)
- Incidents involving use of force (2016, random selection including the three incidents from December 2016⁸)
- Force After-Action Review reports
- SDC and ICE National Detainee handbooks in English and Spanish
- SAAPI logs and electronic tracking system, compliance checklists and investigations (2016)
- Assigned personnel rosters
- SDC Post Orders
- SDC Policies on the following:
 1. Use of Force
 2. Segregated Housing
 3. Detainee Grievance Procedures
 4. Detention Files (random selection and those with associated complaints))
 5. Recreation Programs/Schedule
 6. Investigations
 7. Language Line
 8. Religious Programming
 9. Sexual Abuse and Assault Prevention and Intervention
 10. Detainee Legal Activity
 11. Library Services
 12. Mail Procedures

2011 PBNDS Standards relevant to this review:

1. Sexual Abuse and Assault Prevention and Intervention
2. Admission and Release
3. Use of Force and Restraints
4. Special Management Units (Segregation)
5. Telephone Access

⁸ The 12/2016 incidents are as follows: SEN Numbers 2017SIR0003797, 2017SIR0003664 and 2017SIR0004577.

6. Law Libraries and Legal Material
7. Disciplinary System
8. Grievance System
9. Detainee Handbook
10. Correspondence and Other Mail
11. Recreation
12. Classification System
13. Religious Practices

The on-site inspection on February 1-3, 2017 included the following:

- Toured the Receiving and Release areas
- Toured the housing units
- Toured the gymnasium and recreation yard
- Toured the legal libraries
- Toured the Segregation Housing Unit (administrative and disciplinary segregation) and reviewed segregation records
- Toured the Medical Clinic
- Toured the visiting area and reviewed the rules and hours
- Toured the Mail Room
- Reviewed the SAAPF files and investigations (2016)
- Inspected all areas of detainee access for information postings
- Reviewed detainee files (specifically, those housed in segregation or containing a complaint material to this on-site inspection)
- Reviewed detainee grievance logs and a random sampling of completed grievances
- Reviewed the law library logs showing the complete volume of law library usage including detainees by name
- Reviewed incident reports involving staff use of force and the associated Force After-Action reports

- Interviewed various personnel including command staff, supervisors and line staff⁹
- Interviewed various ICE detainees randomly selected and one complainant from the list of complaints included in this report¹⁰

VI. Findings, Analysis and Recommendations

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

- “Substantiated” describes an allegation that was investigated and determined to have occurred substantially as alleged;
- “Not Substantiated” describes an allegation that was investigated and there was insufficient evidence to determine whether or not the allegation occurred¹¹; and
- “Unfounded” describes an allegation that was investigated and determined not to have occurred.

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

Of the five complaints listed on the cover page of this report, only two will be addressed specifically with a finding in this report. Because three of the complainant detainees were not available to interview, it is not appropriate to make findings that may not be based on a complete review of the facts involved in the complaint. However, I will thoroughly review and report on the

⁹ These interviews included, but were not limited to, the SAAPI coordinator, the Grievance Coordinator, the Classification/Intake Coordinator, the Religious Services Coordinator, the Visiting Officer, the Mail Officer, the ICE AFOD and the Legal Library Officer.

¹⁰ There was only one complainant from the above list of complaints who was still present at SDC at the time of our site inspection, February 1-3, 2017.

¹¹ While “Not Substantiated” 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.

issues raised by the complainants based on the operations at SDC at the time of our site inspection.¹²

Complaint No. 16-11-ICE-0519

This complaint was received by the CRCL in 2016 from Detainee #1¹³, alleging that he did not have adequate library access, that library resources were inadequate, recreation was inadequate and grievances were not answered timely. Detainee #1 was interviewed by the CRCL team on February 17, 2017, regarding his complaint.

Analysis:

During the interview, Detainee #1 explained that his complaint was related to the legal library, but also related to the general library contained in the gymnasium and available for use by the general detainee population during the daily recreation periods. He complained that each detainee housing unit only had access to the general library in the gymnasium every third day, not every day, and that the books in the library were outdated and not of a variety he would consider adequate. He also alleged that the legal material in the legal library was not up to date.

While PBNDS 2011, 6.3, Law Libraries and Legal Material, contains standards for legal libraries, there is no corresponding standard for leisure or recreational libraries. Apparently, maintaining a leisure-time reading library for the detainees at SDC is something the Core Civic administration provides as an additional service for the detainee population.

Our review determined that the legal libraries at SDC are operated in compliance with the PBNDS 2011 standards. Access, assistance and materials provided in several languages are available to the detainee population. Sign-in logs were examined to determine the magnitude of the legal library usage and determined that access is adequate and detainees are not being turned away when access is requested. Materials are provided in Lexus Nexus, updated quarterly by ICE and copy services are provided as well.

¹² Complaints 15-05-ICE-0731, 17-03-ICE-0075 and 16-08-ICE-0344 contain issues related to detainee lack of accessibility to Deportation Officers, segregation housing, the high price of phone calls and mail.

¹³ Detainee names and alien numbers are omitted from this report, and instead listed in a separate appendix.

During the interview, Detainee #1 also indicated that his complaint regarding the recreation being inadequate was based on his notion that there needed to be more organized, competitive sports teams provided with special equipment such as soccer cleats and uniforms. When asked whether he was allowed access to the recreation areas on a daily basis and allowed to participate in soccer, basketball and other activities, he responded that he was, but that he feels this is inadequate.

All the requirements contained in the PBNDS 2011, 5.4 Recreation section, are being met or surpassed at the SDC. All detainees are afforded more than the minimum of one hour of outside recreation daily and there are a variety of activities detainees may choose from. The Review Team's observation was that the recreation activities at SDC were well attended and utilized by the population.

Lastly, Detainee #1 complained that his grievances were not answered timely and stated in our interview that, in fact, one of his grievances had been pending for two months. Following our interview with Detainee #1, the grievance coordinator at SDC was consulted. It was determined that Detainee #1 had filed a total of four (4) grievances during his stay at SDC of just more than a year. All four of the grievances he had filed were processed and answered within the time constraints established in the PBNDS 2011, 6.2, which requires that reasonable time constraints be established to respond to detainee grievances. This is reflected in the SDC policy 14, Resident Grievance Procedures, which establishes timelines for the grievance process. Time constraints were met for all four of Detainee #1's grievances.

Findings:

- The allegation that the library is inadequate and outdated is unfounded. This finding is based on the fact that there is no standard in PBNDS 2011 that requires recreational reading libraries be provided and maintained for detainees. It is commendable that SDC has chosen to do so. Additionally, the legal library is meeting all the PBNDS 2011 standards in providing access, updating materials and providing copying services for the detainees.

- The allegation that recreation at SDC is inadequate is unfounded. This finding is based in our determination that all requirements of the PBNDS 2011 standards related to recreation are being met or exceeded at SDC. Detainee #1 admitted that he is offered outdoor exercise daily and that recreational activities are available.
- The allegation that grievances are not answered timely is unfounded. It was determined that each grievance filed by Detainee #1 was processed and answered in a timely manner and within the time constraints established in policy.

Recommendations:

- None related to this complaint

Complaint No. 16-06-ICE-0252

This complaint was received by CRCL in 2016 from the Southern Poverty Law Center and contains several concerns regarding legal access and accommodations for attorneys and legal interns with detainees at SDC. The following is a listing of the complaints:

- Attorneys are not permitted to schedule calls or appointments with their clients in advance and the SDC lacks any VTC (video Teleconferencing) capacity for detainees to consult with their attorneys;
- SDC has refused to allow indigent detainees to call their attorneys for free, as required by ICE Detention Standards;
- Attorney requests to meet in person with clients in the facility to prepare for hearings are routinely denied;
- In-person attorney visits are significantly delayed by the SDC policy of limiting all other visits when detainees from segregation housing units are present, or during count;
- SDC lacks clear, posted rules and protocols for attorney visitation, allowing officers and staff to arbitrarily delay and deny access to attorneys who wish to visit clients;

- Attorneys and clients are unable to communicate with each other in the attorney visitation rooms because of faulty telephone equipment.

Analysis:

Our review determined that SDC does not allow for attorneys to schedule visits by telephone prior to visiting their clients. PBNDS 2011 requires the facilities to establish procedures for attorneys to telephone the facility in advance of a proposed visit to determine whether the particular detainee they wish to visit is present at the facility. The PBNDS 2011 does not require the facilities to set scheduled visits for attorneys. Rather, the purpose of the standard is to allow the attorney to ascertain that his/her client is in fact detained at that facility before a trip is made by the attorney. SDC is in compliance with this PBNDS 2011 requirement.

At the time of our site inspection SDC had installed and begun utilization of a VTC program that allows attorneys to meet in private with their client-detainees by video. This technology has allowed for attorneys to schedule meetings with their clients without having to travel to the facility and, as reported by the facility management, seems to be working quite well at this time.

PBNDS 2011 requires facilities to allow indigent detainees to make phone calls and be afforded the same telephone access as other detainees for calls to the ICE/ERO list of free legal service providers and consulates. Further, PBNDS 2011 defines a detainee to be indigent if he/she has less than \$15.00 in his/her account for a 10-day period. Our review indicated that indigent detainees are being given access to free legal phone calls. Some detainees, however, spend down their trust accounts below the \$15.00 minimum at commissary and then must wait the 10 days necessary to qualify as indigent as defined in the PBNDS 2011.

The PBNDS 2011 requires that facilities permit attorney visitation seven days a week including holidays. The requirement is to provide attorney visiting eight hours per day on regular business days and four hours per day on weekends and holidays. It was determined that SDC follows these requirements for attorney visiting hours.

During our on-site inspection, there was no indication that attorneys are routinely prohibited from speaking with their clients prior to hearings at the facility. However, it is entirely probable that this may have occurred on a particular day, with a particular attorney as alleged in the complaint. There is a high volume of detainees to be escorted to destinations throughout the facility each morning. Depending on the number of detainees being escorted throughout the facility and the number of scheduled hearings each morning, it can be difficult getting attorneys together with their clients prior to early morning hearings. While efforts are made to allow consultation for attorneys and clients between 6:00 am and 8:00 am, there is not always sufficient time to provide attorney meetings and also get all detainees to their scheduled hearings on time. However, it seems that this issue may be mitigated using the new VTC process where attorneys can consult with their clients by video days in advance of a scheduled hearing. However, there are always going to be times when attorneys need to have clients sign forms or conduct business that cannot be done over VTC and will require prehearing access for attorneys and clients.

Our on-site inspection determined that SDC is severely restricted and hampered in the detainee visiting program due to the limited space available in the facility to conduct visiting services. This is true for both general family visiting as well as, the legal visiting programs because the same space is utilized for both functions. The visitation space is limited to a few banks of non-contact visitation booths where general visitors or attorneys communicate with detainees through glass by use of telephones.

PBNDS 2011 requires that detainees in segregated housing be allowed the use of the visiting room during normal visiting hours. There is limited available visiting space to safely accommodate both general population detainees and segregated detainees in the same visiting areas at the same time. Accordingly, there are times when visits are delayed to provide visitation to individuals who cannot safely share the same visiting space at the same time. This could be significantly improved if the facility administration were able to designate additional space within the facility for general contact visiting, leaving the current non-contact visitation space primarily for the detainees from segregation.

It is also true that at times visits are delayed during facility count periods because detainee movement is curtailed to ensure all detainees are accounted for and safe. Curtailing all movement during facility count periods is an industry standard process and is critical to facility safety. Visitation is one of many functions that may be delayed during facility count times each day.

PBNDS 2011 requires that the written visitation policy that specifies visitation hours, procedures, standards and other requirements related to legal visitation be available upon request. During the on-site inspection, it was determined that SDC has posted visiting rules and protocols for attorney visitation in the visitor waiting area and visitation areas. However, during our visit, there are no posted protocols prohibiting the use of electronic devices such as lap top computers or cell phones in the visitation area.

The PBNDS 2011 requires that facilities maintain telephones in proper working order and to inspect the telephones daily and promptly report out-of-order phones to the repair service. It was reported to the team that inspections do happen daily. However, we were unable to obtain documentation to show that phones are inspected daily.

During our inspection of the visitation area, the telephones in the visitation booths were tested by the CRCL team. It was determined that one of the phones used to communicate through the glass visitation booths was inoperable. This was brought to the attention of the SDC management and within hours the phone was repaired and working.

As stated above, the visitation program at SDC is hampered by the physical plant limitations of the facility. Both Family visiting and legal visiting are restricted to the non-contact setting because that is all that is available by plant design. The facility was obviously not designed as a detention facility and any modifications that could be undertaken to increase the visiting space and allow for contact visits, would greatly enhance the accessibility and opportunity for meaningful visitation.

Findings:

- The allegation that attorneys are not permitted to schedule calls or appointments with their clients in advance, is substantiated. SDC, in fact, does not allow attorneys to call ahead to schedule a specific time to meet with a detainee. However, PBNDS 2011 does not require facilities to schedule attorney visits, rather it allows for attorneys to call ahead of a visit to ensure the detainee is present at the facility before a trip is made to that facility (PBNDS 2011, 5.7, V., J., 2. and 6.) SDC is in compliance with the PBNDS 2011 as it relates to visiting hours for attorneys and allowing attorneys to call ahead of a visit to ensure the detainees presence at the facility.
- The allegation that SDC lacks any VTC (video transmitted communications) capacity for detainees to consult with their attorneys is not substantiated. While the CRCL team believes that there was no VTC equipment at the time the allegation was made, at the time of our on-site inspection the VTC system was installed and operational.
- The allegation that SDC has refused to allow indigent detainees to call their attorneys for free, as required by ICE Detention Standards is not substantiated. While we were unable to determine that no indigent detainee has ever been denied phone access, it was determined that the SDC policy is to allow indigent detainees to make free phone calls to their attorneys. We also determined that the definition of indigence, as defined in the PBNDS 2011, may have contributed to some confusion about when a detainee is determined to be indigent.
- The allegation that attorney requests to meet in person with clients in the facility to prepare for hearings are routinely denied is not substantiated. Our review determined that while there may have been times, particularly in the early mornings before hearings, that attorneys were denied pre-hearing consultation with detainees, there was no evidence that such consultations were routinely denied. Rather, such a denial would be more the exception than the rule. It appears there have been times when the volume of scheduled hearings and detainee escort movement has precluded the ability to hold the early morning pre-hearing consultations. However, the VTC system now in place may reduce such difficulties in the future. If prehearing

attorney/client access continues to present a problem in the future, SDC will need to schedule staffing sufficient to accommodate the demand.

- The allegation that in-person attorney visits are significantly delayed by the SDC policy of limiting all other visits when detainees from segregation housing units are present, or during count is substantiated. Detainees may be placed on segregation status for protection of others or protection from others. The segregation-status of a detainee precludes contact or mixing with general population-status detainees (PBNDS 2011, 2.12, II., 1.). Therefore, because of the limited visitation space at SDC that must be shared by all detainees, periodic delays due to segregation-status detainees being in the visitation areas may be expected.

The SDC practice of stopping all detainee movement during count periods is in compliance with PBNDS 2011 standards. PBNDS 2011, 2.8, V., A., 4., requires that, “There shall be no movement of detainees during formal counts. All detainee movements into, out of and within the facility must cease before the count begins. Detainee movement shall not resume anywhere in the facility until the complete facility count has been cleared.” Unfortunately, the count process will delay activities and programs within the facility.

- The allegation that SDC lacks clear, posted rules and hours for attorney visitation, allowing officers and staff to arbitrarily delay and deny access to attorneys who wish to visit clients, is not substantiated. Facilities are required to post rules and hours for legal visitation (PBNDS 2011, 5.7, J., 2.). Our on-site inspection determined that these items were posted in the visitation waiting room and visiting areas.
- The allegation that attorneys and clients are unable to communicate with each other in the attorney visitation rooms because of faulty telephone equipment is not substantiated. The PBNDS requires telephones to be inspected daily and to promptly report and repair out-of-order telephones (PBNDS 2011, 5.6, V., A., 3.). While this PBNDS 2011 section is clearly written to apply to the telephones detainees use to make phone calls outside the facility, it can also be applied to the phones in the non-contact visiting booths. Upon inspection, the CRCL team did

find one of the several phones in the non-contact visiting booths to be inoperable. It was immediately repaired once identified. However, to conclude that attorneys are generally unable to communicate with detainee clients in the visiting rooms because we identified a single phone inoperable would be unfair. At the same time, we were not able to find written documentation that phone inspections are taking place daily. My inclination, based on all the information available, is that occasionally a phone will become inoperable and may or may not be repaired in an immediate manner. However, it is not evident that attorneys are being prevented from communicating with their clients because of faulty phone equipment in the visiting rooms.

Recommendations:

- The visitation program at SDC is limited and hampered by the lack of visitation space provided in the design of the facility physical plant. While PBNDS 2011 does not mandate contact visiting for detainees, if a contact visiting room were provided at SDC, it would reduce the congestion in the existing non-contact visiting area and alleviate some of the problems with access for legal visitation. As a **best practice**, establishing an area conducive to providing contact visiting, at least for the lower classification detainees, would enhance the visitation program and alleviate some of the current problems related to capacity.
- CRCL recommends SDC monitor the requests for prehearing attorney/client consultation and ensure adequate staffing is dedicated to facilitating the access as needed. (**Best Practice**)

VII. Additional review and Findings:

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

- Use of Force
- Segregated Housing
- Sexual Abuse and Assault Prevention and Intervention
- Detainee Grievance System

- Visiting Services
- Recreation Program
- Mail Services
- Religious Services
- Telephones Access
- Legal Library Services

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

1. Use of Force

The PBNDS 2011 requires that, “an employee submit a written report no later than the end of his or her shift when force was used on any detainee for any reason¹⁴; all facilities shall have ICE/ERO-approved written procedures for After-Action Review of use-of-force incidents¹⁵; and, the primary purposed 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.”¹⁶

Analysis:

During this site inspection, I reviewed incident reports that involved use of force by facility personnel.¹⁷ My observation is that force is used sparingly and it is apparent that personnel view use of force as a last resort after other attempts have failed to gain compliance. This is reflected in the relatively few incidents involving force over the past year. Reports are written timely and Force After-Action Reviews are completed on all force incidents per the PBNDS 2011 standards.¹⁸ The composition of the Force After-Action Review Team as outlined in the PBNDS 2011 is followed and reviews are conducted in a timely manner.

¹⁴ PBNDS 2011, 2.15 (Use of Force and Restraints), II. (Expected Outcomes), 11.

¹⁵ PBNDS 2011, 2.15 (Use of Force and Restraints), V. (Expected Practices), P. (After-Action Review...), 1.

¹⁶ PBNDS 2011, 2.15 (Use of Force and Restraints), V. (Expected Practices), P. (After-Action Review...), 1.

¹⁷ I reviewed a random sampling of incidents involving use of force over the past 12 months, including the three force incidents occurring in December 2016.

¹⁸ Additional comments below address the reporting and After-Action Reviews.

With regard to the incident reports involving use of force, my observation is that the reports reviewed were generally inadequate. Many of the reports did not adequately describe the specific actions taken by personnel in overcoming resistance during a force incident. For example, many reports contained what I refer to as catch-phrases such as, “I restrained the detainee and removed him from the cell,” or, “I entered the cell and secured the detainee,” without any description of what actions were specifically taken to “restrain” or “secure” the detainee. This is not consistent with the industry best practice of specifically describing the actions taken in a force incident.¹⁹

In the example given, it is necessary to describe specific actions taken by the official to “restrain or secure” the detainee. Obviously, a detainee could be “restrained or secured” in many different ways, including pushing, pulling, punching, or tackling. It is necessary to specifically report what actions were taken to affect the desired outcome and overcome resistance.

Even when force tactics are appropriately applied, if specific actions by the officer(s) are not documented in detail in written reports it leaves room for questions and allegations to be made after the fact. When officers’ actions are specifically documented, the report stands as evidence to exactly what happened and leaves little room for subsequent interpretations or allegations.

Consideration must also be given to the impact that poorly written reports have on the Force After-Action Committee conducted by the management. It is not possible to accurately evaluate the appropriateness of a use of force if the specific actions of involved staff are not descriptive. The threat perceived, efforts made to reduce the force response, the need to use force, the amount of force necessary to overcome resistance, and the extent of any injury are impossible to determine and judge without reports that accurately depict the detailed actions of each participant.²⁰

¹⁹ As indicated PBNDS 2011 requires a report be written in a timely manner, but does not speak to the content or quality of the reports. However, it is implicit in the standard that reports contain enough information as to allow management staff, the After-Action Review Committee, to determine the appropriateness of the use of force actions.

²⁰ These standards are outlined in the US Supreme Court Case, Hudson v. McMillan (503 U. S. 1, 112 S. Ct. 995).

An observation to strengthen the After-Action Review process is for the committee to utilize the comments section on their After-Action Review Form to document and memorialize the date the committee met and reviewed an incident, the strengths and weaknesses found in the review, any training needs or follow-up actions that may be necessary, etc. Using a check-the-box form only with signatures at the bottom doesn't even confirm that the participating signatories met as a committee to review the incident and collectively determined the necessity and the appropriateness of the force. The process will be greatly strengthened by better documentation of the After-Action Review Committee findings.

Before completing the site inspection, I met jointly with the Warden, the Assistant Warden, the Chief of Unit Management and the Chief of Security to discuss my concerns about the lack of specific detail in some of the written reports, as well as the lack of documented detail in the After-Action Review process. All four gentlemen were receptive to my comments and expressed appreciation for the observations and recommendations.

Recommendations:

- CRCL recommends that SDC require language in use of force incident reports to describe specific actions taken by each staff member involved in a use of force incident. In incident reports the use of catch-all language, as given in the above examples, should be avoided. While the PBNDS 2011 requires only that a written report be completed by the end of shift when force is used on a detainee, it is implicit and imperative that the detail describing each officer's actions be sufficient to determine the appropriateness of the actions taken. **(PBNDS 2011, 2.15, II., 11. (Expected Outcomes) and V., B., 4. (Expected Practices), Priority 1)**
- CRCL recommends that all custody personnel at SDC, the managers, supervisors and line personnel, receive industry standard training in report writing for use of force incidents. **(Best Practices)**

- CRCL also recommends that After-Action Reports include comments to demonstrate the date the committee review was held and any follow-up actions that may be necessary in terms of training, etc. (**Best Practices**)

2. Segregated Housing

The PBNDS 2011 states that, “Any detainee who represents an immediate, significant threat to safety, security or good order shall be immediately controlled by staff and, if cause exists and supervisory approval granted, placed in administrative segregation. ICE and the detainee shall be immediately provided a copy of the administrative segregation order describing the reasons for the detainee’s placement in the SMU.”²¹ It also requires that, “Prior to a detainee’s actual placement in administrative segregation, the facility administrator or designee shall complete the administrative segregation order (Form I-885 or equivalent), detailing the reasons for placing a detainee in administrative segregation.”²²

One of the complaints cited above included the allegation that detainees are inappropriately placed and retained in segregation for hunger striking.²³ We reviewed this allegation and address it in our analysis below.

Analysis:

Segregated housing at SDC is utilized very sparingly and as a last resort for the safety of detainees and the facility staff. At the time of our visit there were only eleven detainees in administrative segregation housing.²⁴ Segregation Orders are completed when a decision is made to place a detainee in administrative segregation. Reviews of administrative segregation placements are being conducted within appropriate timeframes and logs are kept depicting access to recreation, showers, phones, etc., per the PBNDS 2011. Documentation for

²¹ PBNDS 2011, 2.12 (Special Management Units), II. (Expected Outcomes), 3.

²² PBNDS 2011, 2.12 (Special Management Units), V. (Expected Practices), A. (Placement in Administrative Segregation), 2. (Administrative Segregation Order), a.

²³ This allegation was included in Complaint No. 17-03-ICE-0075.

²⁴ This is eleven detainees in segregated housing out of a population of over 1800 detainees at the facility.

security checks, retention hearings and disciplinary hearings is completed and thorough.

However, in reviewing the files of detainees held in administrative segregation it was noted that, while segregation order forms had been initiated on each and depicted a general reason for the placement (i.e. Disciplinary Infraction, Personal Safety, etc.), there was no documentation describing the specific need or the circumstances that made the segregation placement necessary.²⁵ While the reason for placement as documented on the Confinement Record forms identify the general reason for the placement, it would be difficult to review it a year from now and understand the specific circumstances that led to the segregation placement.

While I believe that SDC is meeting the PBNDS 2011 standard for documenting the reason for administrative segregation placement using the Confinement Record form, the process could be significantly strengthened by revising the form to allow for more complete and detailed information. These details that support the decision for administrative segregation placement could be easily documented in a few sentences on the Confinement Record form if the form were revised to accommodate it.

When a detainee declares a hunger strike, he is placed in medical housing and the hunger strike protocol is initiated. This protocol calls for medical and mental health observation and intervention with the detainee. Whenever a detainee is ordered for placement in medical housing for any medical or mental health reason, he is moved to one of the available beds in the clinical area of the facility.²⁶ However, if all the medical beds are filled, overflow housing for medical observation and treatment is designated in the segregated housing unit. When this happens, the detainees are provided the same level of care or

²⁵ For example, if the placement was for personal safety, was the issue personal between two detainees, or did the issue involve group dynamics? Was there violence or threats of violence involved? Is the placement voluntary and requested or is the decision that the detainee needs protection being made against his will?

²⁶ There are four beds available for medical housing in the clinic area of the facility.

medical/mental health intervention that would otherwise be afforded in the medical housing area of the facility.

We found no evidence in our review to substantiate that detainees are inappropriately placed in segregated housing for hunger striking. On the contrary, it is appropriate to house hunger striking detainees in a manner that facilitates clinical observation and intervention. However, because the segregated housing unit is also used as disciplinary housing for some detainees, there may be a perception that anyone placed in that housing area is being punished. This, of course is not the case.

Recommendations:

- CRCL recommends that SDC revise the current Confinement Record form to include a place to provide more details that support the reason or justification for administrative segregation placement. **(Best Practices)**
- CRCL recommends that SDC consider designating a specific bank of cells within the segregated housing unit as “medical beds,” separate and apart from the other administrative segregation and disciplinary segregation beds in that housing unit.²⁷ Because there are so few detainees housed in the segregation unit (only eleven on the day of our inspection), it would not be difficult to designate one of the two pods as a medical housing unit to better accommodate the population of detainees who require medical services. This would alleviate the perception of being “punished” based on housing assignment. **(Best Practices)**

Sexual Abuse and Assault Prevention and Intervention (SAAPI)

The PBNDS 2011, “...requires that facilities that house ICE/ERO detainees act affirmatively to prevent sexual abuse and assaults on detainees; provide prompt and effective intervention and treatment for victims of sexual abuse and assault; and control, discipline and prosecute the perpetrators of sexual abuse and

²⁷ The segregated housing unit at SDC includes two pods (7A and 7B) with a total of 40 cells each and total of 120 beds.

assault.²⁸ The PBNDS 2011 SAAPI standards contain a multitude of specific requirements that must be implemented to ensure compliance. The SAAPI program and process were thoroughly evaluated by the CRCL team while on-site at SDC.

Analysis:

The SAAPI Coordinator was interviewed regarding the Sexual Abuse and Assault Prevention and Intervention process.²⁹ From all the documents reviewed and the on-site inspection, it is apparent that the SDC 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.

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

When allegations of sexual abuse or assault are made, the involved detainees are separated, medically examined, interviewed by a mental health clinician, moved to appropriate and safe housing, all required notifications are made, the County Sheriff's Office is contacted to acquire a case number and an investigator is assigned to conduct the investigation. Each allegation is taken seriously and investigated. The quality of the investigations, primarily conducted by the Investigative Lieutenant, meet industry standards.

In reviewing the tracking system utilized to track and coordinate all the activities related to the SAAPI, it was evident that the system currently in place for tracking and ensuring compliance with all requirements and timelines is very well

²⁸ PBNDS 2011, 2.11, I.

²⁹ At SDC the Chief of Unit Management is assigned as the SAAPI Coordinator.

established. The SAAPI Coordinator had an effective tracking mechanism for ensuring compliance with all notifications and timelines and for evaluating and assessing the effectiveness of the SAAPI program with data collection and reporting as required by the PBNDS 2011. The SDC SAAPI process is the best we have seen and should be considered a “**best practice**” that other ICE detention facilities could emulate

Recommendations:

None related to this process.

3. Detainee Grievance System

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

Analysis:

Grievance forms are available upon request in each housing unit and in the Legal Library. During our on-site inspection, officers in the housing units provided grievance forms upon request. Lock boxes are assembled in the main corridor outside the facility dining room and in the segregated housing unit for detainees to place initiated grievance forms. The Grievance Coordinator picks up requests and grievances from the lock boxes and processes them.³⁰

The Grievance Coordinator personally reviews and assigns each grievance to the appropriate personnel for investigation and response. Grievances written in languages other than English are emailed to Language-line Solutions for translation and are received back in one to two days. If a grievance is a personnel complaint, the grievance is assigned to the supervisor of the subject of the

³⁰ At SDC the Grievance Coordinator is a specifically assigned sergeant who possesses the only issued key for the lock boxes.

complaint. These assignments are made electronically, have assigned timeframes for completion and are tracked to ensure timely response. The Assistant Warden sees all transmissions regarding grievance timelines.

Our review determined that the grievance process at SDC is functioning well, timeframes for processing the grievances are being met and issues are being resolved appropriately. Grievance findings are determined and expressed in terms of, “found in the detainee’s favor” or, “not found in the detainee’s favor.” While this is not inadequate, the process may be better served by developing a finding process that includes more specific language such as, “grievance granted,” “grievance granted in part,” or, “grievance denied.”

Recommendations:

- CRCL recommends that SDC consider revising the grievance process to allow for a clearer description of what is being granted, granted-in-part or denied in a grievance request. (**Best Practices**)

4. Visiting Services

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

Analysis:

SDC has visiting for family and friends scheduled and in operation seven (7) days a week. Visitation is operated Monday through Thursday from 8:00 am - 4:00 pm and on Friday through Sunday from 8:00 am – 8:00 pm. Legal visitation also operates seven (7) days per week, Monday – Thursday from 8:00 am – 5:00 pm and Friday – Sunday 3:30 pm – 7:30 pm. All visits are conducted in a non-contact visitation area requiring the use of phones to communicate.³¹

³¹ Visitation is conducted “behind glass” with the use of phones to allow participants to communicate.

There are not many complaints about the general visitation program. However, the complaint most prevalent is regarding the requirement that all visits must be conducted as non-contact.³²

Recommendations:

- CRCL recommends that SDC consider determining and designating space that could provide for contact visitation for detainees and their families. As indicated above, the reason visitation at SDC is limited to non-contact only is because of the limitations in the physical plant. Designating some additional space for visitation may also alleviate the complaints regarding legal visitation. **(Best Practices)**

5. Recreation

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

Analysis:

The recreation program at SDC is operated 7 days a week utilizing three large outdoor yards and a large gymnasium. The weekly schedule is rotated so that detainees from common housing units recreate together on a different outdoor yard each day. One of the three yards includes the gymnasium which includes exercise equipment and a recreational reading library. The outdoor yards have fields for soccer games, basketball courts and exercise equipment.

The only complaint we saw regarding recreation at SDC is discussed above.³³ Our observation is that the recreation program at SDC is fully compliant with all PBNDS 2011 standards and is a “**best practice**” program.

³² Refer to the discussion above regarding the complaint from the Southern Poverty Law Center.

³³ Complaint No. 16-11-ICE-0519

Recommendation:

- None related to this process

6. Mail Services

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

Analysis:

We inspected the mail room and interviewed the mailroom supervisor assigned to coordinate the delivery of mail. She had a good system for processing and delivering mail to detainees. All mail is opened in the housing units in the presence of the detainees. When money orders are received in mail, the housing unit officers return the checks or money orders back to the mailroom supervisor who makes copies to verify what was received and forwards to the detainee’s trust account.

The legal mail is processed in a manner that requires detainees to sign for receipt of legal mail. The Mailroom Officer personally logs legal mail in a log book designated for each housing unit. The legal mail is then picked up by the housing unit officers, delivered to the housing unit and opened in front of the detainees and signed for by the detainees. The mailroom supervisor keeps good records that verify that legal mail has been received. The mail delivery at SDC is organized and efficient.

After reviewing the process for mail and legal mail, in my judgement the process could be improved by requiring that all regular mail be opened and searched for contraband in the mailroom before sending it to the housing units for delivery to the detainees.

My reasoning is twofold. First, opening the mail in the mailroom to search for contraband prevents any possible contraband from being introduced into the

areas of the facility where detainees live. Secondly, if a letter contains a check or money order, it can be removed from the letter in the mailroom, copied and forwarded to the detainee's trust account. This process reduces the likelihood that an officer may misplace a check or money order between the time the letter is opened in the housing unit and when he/she returns it to the mailroom supervisor.

Recommendations:

- CRCL recommends that all regular mail be opened and searched for contraband in the mailroom before delivery to the housing units. (**Best Practices**)

7. Religious Services

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

Analysis:

We interviewed the SDC Religious Services Coordinator. Services are offered on a regular schedule for all religious affiliations. Detainees are approved to participate in the religion of their choice. All accepted religious activities and observances, services, special diets and headwear are accommodated. Religious services are provided by volunteers who come to the facility on a regularly scheduled basis or by fellow detainees who lead services as lay clergymen. In our interviews with detainees no complaints were expressed when queried about religious services and accommodations.

Recommendations:

- None related to this process

8. Telephone Access

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

Analysis:

Telephones are located in the housing units at SDC. Detainees have unfettered access to make phone calls. The detainees have a PIN card 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. Some detainees have complained that the telephone calls are too expensive.

Recommendations:

None related to this process

9. Legal Library Services

PBNDS 2011, 6.3, Law Libraries and Legal Material, I., Purpose and Scope, “protects detainees’ rights by ensuring their access to courts, counsel and comprehensive legal materials.”

Analysis:

We visited the legal library and reviewed the logs kept to document legal library usage. The logs confirmed that detainees who wish to use the legal library have adequate opportunity and access to do so. There is a main legal library and a satellite legal library available to the detainees in the segregated housing unit.

Detainees are allowed to sign up in the housing units to use the legal library. Appointment lists are established to accommodate three hour blocks of time in the legal library. The legal library operates from 6:00 am – 10:00 pm daily.

The library materials are kept current by ICE officials and detainees are available to assist other detainees if they need assistance with using the legal library.³⁴ Copies are provided to detainees upon request. All detainees interviewed indicated that legal library access, availability and legal materials are fully adequate.³⁵

Recommendations:

- None related to this process

Detainee Access to Deportation Officers

While we did not specifically address the issue of detainee access to Deportation Officers (DO) which was raised as a complaint listed in this report, we have the following observations:

Several of the detainees interviewed raised the concern that they were unable to access their DO. Some said they were at the facility for months and had been unable to contact their DO. Others indicated that they had spoken with their DO on one occasion, however he/she failed to return and follow-up with the detainee. Many of the detainees are anxious to begin deportation hearings, but feel they are spending prolonged periods of time in the detention facility unnecessarily because they cannot get in contact their DO.

While on site, we were informed that SDC has implemented a new process for how DOs are assigned. Rather than having many DOs assigned that conduct business and duties both inside and outside the detention facility at SDC, he has assigned three DOs who work exclusively at SDC. They are located in the facility and will be consistently meeting with detainees in the housing units. We were assured that the new process, assignments and schedule will mitigate complaints the staff/detainee communication complaints.

General Observations:

³⁴ Law library material on Nexus Lexus is available in several languages including Spanish and English.

³⁵ The only exception was discussed above in Complaint No. 16-11-ICE-0519.

The personnel at SDC are knowledgeable and professional. The facility appeared generally 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 did not appear to be strained. Supplies, such as, hygiene items, board games and grievance/request forms were in abundance in the housing units. To their credit, the Language Line service is utilized a great deal throughout the facility.

Summary of Recommendations:

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

- The visitation program at SDC is limited and hampered by the lack of visitation space provided in the design of the facility physical plant. While PBNDS 2011 does not mandate contact visiting for detainees, if a contact visiting room were provided at SDC, it would reduce the congestion in the existing non-contact visiting area and alleviate some of the problems with access for legal visitation. As a **best practice**, establishing an area conducive to providing contact visiting, at least for the lower classification detainees, would enhance the visitation program and alleviate some of the current problems related to capacity.

CRCL recommends SDC monitor the requests for prehearing attorney/client consultation and ensure adequate staffing is dedicated to facilitating the access as needed. (**Best Practice**)

- The PBNDS 2011 requires that, “an employee submit a written report no later than the end of his or her shift when force was used on any detainee for any reason³⁶; all facilities shall have ICE/ERO-approved written procedures for After-Action Review of use-of-force incidents³⁷; and, the primary purposed of the After-Action Review is to assess the reasonableness of the actions taken

³⁶ PBNDS 2011, 2.15 (Use of Force and Restraints), II. (Expected Outcomes), 11.

³⁷ PBNDS 2011, 2.15 (Use of Force and Restraints), V. (Expected Practices), P. (After-Action Review), 1.

and determine whether the force used was proportional to the detainee's actions."

CRCL recommends that SDC require language in force incident reports to describe specific actions taken by each staff member involved in a use of force incident. In incident reports the use of catch-all language, as given in the above examples, should be avoided. While the PBNDS 2011 requires only that a written report be completed by the end of shift when force is used on a detainee, it is implicit and imperative that the detail describing each officer's actions be sufficient to determine the appropriateness of the actions taken. **(PBNDS 2.15, II., 11. (Expected Outcomes) and V., B., 4. (Expected Practices), Priority 1)**

CRCL recommends that all custody personnel at SDC, the managers, supervisors and line personnel, receive industry standard training in report writing for use of force incidents. **(Best Practices)**

CRCL also recommends that After-Action Reports include comments to demonstrate the date the committee review was held and any follow-up actions that may be necessary in terms of training, etc. **(Best Practices)**

- PBNDS, 2.12 (Special Management Units), V. (Expected Practices), A. (Placement in Administrative Segregation), 2. (Administrative Segregation Order), a., requires that, "Prior to a detainee's actual placement in administrative segregation, the facility administrator or designee shall complete the administrative segregation order (Form I-885 or equivalent), detailing the reasons for placing a detainee in administrative segregation."

CRCL recommends that SDC revise the current Confinement Record form to include a place to provide more details that support the reason or justification for administrative segregation placement. **(Best Practices)**

CRCL recommends that SDC consider designating a specific bank of cells within the segregated housing unit as "medical beds," separate and apart from the

other administrative segregation and disciplinary segregation beds in that housing unit.³⁸ Because there are so few detainees housed in the segregation unit (only eleven on the day of our inspection), it would be easy to designate one of the two pods as a medical housing unit to better accommodate the population of detainees who require medical services. This would alleviate the perception of being “punished” based on housing assignment. **(Best Practices)**

- The PBNDS 2011 standard, Grievance System, 6.2, I, “protects a detainee’s rights and ensures that all detainees are treated fairly by providing a procedure for them to file both informal and formal grievances, which shall receive timely responses relating to any aspect of their detention, including medical care.”

Our review determined that the grievance process at SDC is functioning well, timeframes for processing the grievances are being met and issues are being resolved appropriately. Grievance findings are determined and expressed in terms of, “found in the detainee’s favor” or, “not found in the detainee’s favor.” While this is not inadequate, the process may be better served by developing a finding process that includes more specific language such as, “grievance granted,” “grievance granted in part,” or, “grievance denied.” **(Best Practices)**

- PBNDS 2011, Correspondence and Other Mail, V., Expected Practices, F., Inspection of Incoming Correspondence and Other Mail, requires that, “Staff shall open and inspect incoming general correspondence and other mail (including packages and publications) in the presence of the detainee unless otherwise authorized by the facility administrator...Inspection is generally for the purpose of detecting contraband.”

The standard gives the facility administrator the discretion to authorize the searching of mail for contraband outside the presence of the detainee. For the reasons stated above in the body of this report, the CRCL recommends that all

³⁸ The segregated housing unit at SDC includes two pods (7A and 7B) with a total of 40 cells each and a total of 120 beds.

regular mail be opened and searched for contraband in the mailroom before delivery to the housing units. **(Best Practices)**

Attachment A

(b)(6)