

April 25, 2017

**To:** Office for Civil Rights and Civil Liberties  
U.S. Department of Homeland Security

**From:** (b) (6) RN, MN, CCHP-RN  
Medical Expert

**Subject:** Report on Onsite Investigation of the Henderson Detention Center, March 22-24, 2017

### Introduction

The purpose of the onsite investigation was to investigate alleged violations of the 2000 National Detention Standards (NDS) raised by U.S. Immigration and Customs Enforcement (ICE) detainees housed at the Henderson Detention Center (HDC) concerning inadequate medical and mental health care, general conditions of detention problems, and general environmental health and safety issues; and to determine if these concerns are indicative of systemic civil rights and civil liberties deficiencies. We also evaluated the general operation of the facility in relation to the NDS. The onsite took place March 22-24, 2017, and was conducted by (b) (6) Policy Advisor, and (b) (6) Senior Policy Advisor, Office for Civil Rights and Civil Liberties, U.S. Department of Homeland Security. Subject matter experts were (b) (6) (conditions of detention), (b) (6) (environmental health and safety), (b) (6) (mental health services), and (b) (6) (medical care).

### List of Materials Reviewed

- Corizon medical policies and procedures.
- Medical records, including sick call requests and responses from HDC for Detainee #1, Detainee #2, and Detainee #3.<sup>1</sup>
- Medication formulary and list of stock medications.
- Medical staffing, which included the staffing matrix, a list of vacancies, the current schedule by provider name, and hours available for detainee medical care.
- Lesson plan or guidelines for officers on the recognition of urgent medical conditions and list of officers trained.
- Clinical guidelines for chronic disease.
- Nursing encounter tools (NETS).
- Qualifications/credentials for all current medical staff.
- Standing orders signed by the facility physician in 2013.

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<sup>1</sup> Detainee names and alien numbers are not included in this report so that it can be shared without their personally identifiable information. The names and alien numbers are listed in Attachment 1.

- Appointment lists for chronic care clinics the last three months.
- Lists of detainees receiving off-site specialty care the last three months.
- Minutes of meetings with health care staff the last 12 months to include staff, audit committee, continuous quality improvement, infection control, medical staff and medical administrative meetings.
- Blood borne pathogen exposure control plan.
- The list of items available for purchase in the HDC commissary.
- The HDC detainee handbook.
- Medical records of an additional 28 detainees. These records were selected for review from the chronic care appointment list, review of grievances, the list of detainees receiving off site specialty services and from interviews with groups of inmates in the housing units. The records that were reviewed are listed in Attachment 1.

## **Onsite Investigation**

### **Description of the Facility**

HDC is in the City of Henderson, Nevada, located approximately 15 miles south east of Las Vegas. The Corrections Division operates the facility, which provides detention services for Henderson and Boulder cities, Clark County, The U.S. Marshals Service, ICE, and the U.S. Park Service. The facility was constructed in 1994 and expanded in 2011. It has 540 beds, half of which are occupied by ICE detainees.

Approximately half the living units are direct supervision units with the officer stationed inside the pod and half use indirect supervision units. ICE detainees and other inmates are mixed in the housing units and are separated only by classification. In addition to the housing units, there is a large intake area with holding rooms as well as individual observation cells. Several of these are padded suicide resistant cells.

There also is a medical clinic with several offices, an exam room, a medication storage room, and a nurse's station that looks through a window into the medical housing unit (MHU). The MHU has a total of 10 cells, each with negative pressure airflow. Each cell has audio contact with central control, which also controls movement into and out of the MHU. An officer is not regularly stationed in the MHU. To get into the MHU, health care staff notify central control, and an officer is dispatched to the area to assist. Health care is provided by a contractor, Corizon Health.

HDC is not accredited by the American Corrections Association (ACA) or the National Commission on Correctional Health Care (NCCHC). The facility intends to apply for accreditation by the American Corrections Association at some future time. Policies are tailored to the NDS.

### **Specific Allegations Investigated**

*Protected by the Deliberative Process Privilege*



The allegations involving detainee medical care were first addressed in a meeting with Corizon's Regional Medical Director (b) (6) and the facility Director of Nursing, (b) (6)

(b) (6) The allegations were raised in complaints from Detainee #1 about the failure to remove plastic from his body, Detainee #2 about delayed care after a fall, and Detainee #3 about surgery needed to repair a fracture.

1. Detainee #1 complained that a piece of plastic had been left in his body and was causing him discomfort. The facility physician completely worked up his complaint (including CT scans) but was unable to locate the source of Detainee #1's discomfort. He was referred to the psychiatrist, diagnosed with a mental disorder, and offered medication to assist with the delusion but refused treatment. Medical care provided Detainee #1 was timely and clinically appropriate. More intensive psychiatric treatment should have been sought, and this is addressed in (b) (6)'s report.
2. Detainee #2 was seen by the facility physician on 1/28/16 for lower back pain that was caused by a recent fall from the upper bunk. Naproxen and range of motion exercises were ordered. He was referred again for continued back pain two weeks later. The physician explained the expected course of symptom progression and recommended use of alternating NSAIDS, which Detainee #2 agreed to try. Medical care provided was timely and clinically appropriate.
3. Detainee #3 sustained a blowout fracture of the left orbit while at another facility just prior to arrival at the HDC. The physician at HDC collected records from the physician who treated Detainee #3 and referred him for an ENT evaluation on 6/3/16. He was seen on 7/23/16 and an MRI was recommended. The MRI was done 8/19/16 and he was seen again by ENT on 8/31/16. Surgery was recommended on 9/8/16. It was not until 9/25/16 that the MedPAR authorization for treatment was submitted, which was an unnecessary delay. On 10/14/16, ICE requested additional information be obtained from the ENT office. The facility sent this request to the ENT office to complete, and the additional information was provided on 10/26/16. Approval for the surgery was received on 11/27/16, and the surgery was scheduled to take place on 12/29/16. When Detainee #3 was approached to sign the consent for surgery, he refused. Shortly thereafter he was removed from the facility.

ICE's field medical coordinator, LCDR (b) (6) was interviewed about the delay in MedPAR approvals. He said that at that time the operators of the MedPAR system were changing the way services were approved and providers reimbursed for services from a retrospective to prospective process. The request for Detainee #3's surgery came in while this change was taking place and it did take longer to process because they had to wait for guidance. He remarked that the process now is easier and faster. He estimated that it takes 48 hours to obtain the Regional Medical Director's review and then another three weeks to collect the reimbursement information and obtain final approval for scheduling. He also said that there are no pending MedPARs in the Western Region now.

Detainee #3 did experience delay in surgery to fix the fracture of his eye socket. The two-week delay at HDC in submitting the MedPAR was avoidable and corrective action should be taken to improve timeliness. Delays in submitting MedPARs were found in



other charts reviewed during the onsite. MedPARs should be submitted no later than the next working day. The delay caused by the change in the approval and reimbursement process appears to be corrected.

A recommendation discussed during the site visit with the Regional Medical Director and Regional Operations Director is that the referring provider should see the patient at intervals whenever there are periods longer than 30 days before specialty care is obtained. The purpose of this contact is to evaluate the patient's condition, alter treatment as necessary, and explain to the patient the reason for wait and interim plan of care.

### **Evaluation of the Henderson Detention Center, Health Services Program in relation to the 2000 National Detention Standards, Medical Care, Section III, Standards and Procedures**

The sections below correspond to the subparts of Section III of the NDS Medical Care Standard.

- A. General:** HDC provides the services as described in this section. Access to primary care is limited because there is no nursing sick call. This means that detainees must wait to see the physician or nurse practitioner for minor conditions such as a headache, cold, constipation, or injury. According to the health services administrator (hsa) and the schedule provided for review, the physician and nurse practitioner are only onsite four days a week. The staffing matrix in the Corizon contract shows providers onsite six days per week. Primary care services should be provided at HDC six days a week as stipulated in the contract. Nursing sick call should also be established at HDC.

Finally, timeliness in obtaining specialty services is an area that should also be improved. Delays in scheduling specialty services was a problem in five of 31 medical charts reviewed to evaluate medical care provided.<sup>2</sup> Sometimes this was a failure or delay on the part of medical assistants to collect information needed to make the specialty referral (checking visual acuity) and in other instances the MedPAR was not entered timely.

- B. Facilities:** Facility practices at HDC prevent detainees from being examined or treated in private. We were told by Lt. (b) (6) and other members of the jail command staff that detainees are never alone with medical personnel. We were told that all providers see detainees in the housing unit unless an unclothed exam is needed. These encounters may take place cell-side, in the dayroom area of the detainee's housing pod, or in the day room of the segregation unit that is adjacent to the housing pod.

I observed a nurse conduct the intake health screening interview with a female detainee in the medical office in the booking area. While the interview took place, a male officer sat in a chair directly opposite the woman. There was approximately 2 ½ feet distance between them. I also observed nurses discussing detainees' medical concerns in the presence of correctional officers as medication was administered in the housing units. While touring medical housing, I was told that no one can be in the area without a correctional officer present.

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<sup>2</sup> Detainees #3, #11, #14, #19, and #24.

The NDS require adequate space and equipment be furnished so that detainees are provided basic health examinations and treatment in private; this is not the case at the HDC. The common standard for privacy is that unless there is clear evidence of danger, health care encounters assure either the auditory or visual privacy of the detainee. This means that encounters can take place within the officers' hearing but not sight such as in an exam room with the door ajar, or in a closed room with a window so the officer can see in or that the officer is distant enough that they can see the detainee but not hear what is being said during the encounter. Detainees do not disclose information that can be critical to their health and wellbeing when privacy is not provided. This issue was cited as a problem in CRCL's mental health expert evaluation of mental health services at the HDC in 2013 and has not been corrected. Auditory and/or visual privacy of health care encounters must be provided at the HDC.

Medical records are kept separate from detainee records and are stored in the nursing station in the medical clinic in accordance with this standard.

- C. Medical personnel:** All health care personnel at the HDC had current licenses appropriate to their position. Health care employees, except for providers, received Prison Rape Elimination Act (PREA) training on January 11, 2015.

In reviewing one case of an alleged sexual assault, a trained Corizon employee did not follow policy and send the detainee to the hospital for an evaluation of injury<sup>3</sup>. Arrangements should be made to repeat this training periodically and to document training of new employees during initial orientation. Competency in the policy and procedure should also be evaluated annually.

- D. Medical screening:** Intake health screening practices at the HDC are generally consistent with the standard. These include initial health screening, the health assessment, screening for tuberculosis with PPD testing or chest x-ray, evaluation of risk for withdrawal and treatment as needed, and interpretation assistance when needed.

Nurses at HDC also complete initial workups when detainees report a chronic disease such as a seizure disorder, hypertension, diabetes, asthma, etc. They also initiate treatment orders using a set of standing orders put in place by the facility physician (dated 2013). Because of this initial work up by nursing staff, the primary care providers do not see detainees who have chronic diseases until several weeks later, sometimes a month or two later. This practice is not consistent with NCCHC standards for initial health screening, which are required in the NDS. The primary care provider should be contacted for treatment orders upon intake and the detainee scheduled to see the provider for the initial work up no later than 14 days after admission.

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<sup>3</sup> Detainee #17.



The NDS also require that detainees with symptoms suggestive of tuberculosis are placed in an isolation room and evaluated promptly. We were told that all 10 cells in the MHU were built to provide negative pressure isolation and could house detainees with these symptoms as necessary. This is a valuable resource, but during the onsite, I evaluated the negative pressure of these cells using the tissue test and they were not working. The Lieutenant I was with contacted facility maintenance immediately and repairs were made to the system to improve air flow. However, Corizon's policy and procedure requires that health care staff check negative pressure rooms periodically by either the smoke or tissue test. The policy requires facilities to choose which method and to specify how it is to be done in site-specific procedures. But site-specific procedures have not been developed at HDC.

The Regional Operations Director had already identified this as a problem and initiated corrective action. There were no detainees with symptoms of tuberculosis at the time of onsite. Site specific procedures must be completed for all aspects of health care delivery at HDC. Health care staff must monitor all aspects of the work environment and equipment regularly, including negative air flow in the isolation cells in medical housing, to ensure that it is functioning properly. A record or log should be kept of these checks and the log should be monitored by the HSA.

The language line is available at the desk in the medical section of the booking area. The intake nurse did report using it for assistance with languages not commonly encountered. There was some evidence in the charts I reviewed that interpretation was provided, however, this is not a consistent practice.<sup>4</sup> The nurse also reported using a white board with English and the corresponding Spanish words and relying on the officer to interpret if they were proficient in Spanish. The standard of care is to document that interpretation assistance was used and the source of assistance (name of interpreter, service used, etc.). All scheduled health care encounters should evidence use of interpretation or translation assistance. The availability of language assistance for all health care encounters at HDC, particularly those that are scheduled, should be evaluated to identify gaps in availability, efficiency and effectiveness.

- E. Dental treatment:** The facility has a waiver from the standard that the initial dental screening exam is performed by a physician, physician's assistant, or nurse practitioner. The waiver allows nurses to perform this screening during the intake health assessment. I reviewed two medical records of detainees requesting attention for dental pain.

In one of the medical files reviewed,<sup>5</sup> a detainee reported dental pain on admission but was not referred for further evaluation and should have been. The detainee requested dental attention two weeks later. The nurse wrote back that he had not been at the facility long enough to see the dentist but did not evaluate the detainee and should have. Two days later, the detainee had visible swelling of the face and jaw, which is a dental emergency. The nurse prescribed pain medication and antibiotics per the dental standing order. The detainee had yet to see the dentist 10 days later when our onsite took place.

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<sup>4</sup> Detainees #6 and #29.

<sup>5</sup> Detainee #22.

Nurses should conduct sick call and evaluate detainees who are requesting health care attention promptly. Use of the dental standing order should be discontinued, and instead, a provider contacted after the nursing assessment to obtain treatment orders for antibiotics or other prescription medication when necessary. The use of nursing protocols or the Nursing Encounter Tools (NETs), which may include provision of over-the-counter medication, is acceptable as long as nurses are trained in assessment, the protocol, and have seen the patient to complete the assessment.

In the other medical file,<sup>6</sup> a detainee was seen within 30 days of reporting dental pain and two teeth were excised. The dentist documented use of Google interpreter to translate during the exam, consent, and treatment of the detainee. Dental care provided in this case was timely and consistent with the NDS for emergent dental treatment.

- F. Sick call:** The facility handbook for detainees states that non-urgent medical care may be obtained by requesting a medical request form from the nurse during pill call, completing it, and giving the completed form to the nurse at pill call. However medical request forms are often not used when detainees request health care attention.

I accompanied a nurse administering medication on Pods 4A and 4B during the onsite and observed her tell the one detainee who asked for a medical request form that she did not have any to give him, and instead, asked him to tell her what was wrong. In all of the other five instances observed, when detainees asked the nurse to see the doctor, dentist, or psychiatrist, the nurse asked a few questions, took vital signs or visualized the symptom (i.e. used a pen light to look in the mouth of a detainee complaining of a toothache) and made a note of the request next to the name of the detainee. These interactions took place in the presence of the correctional officer assisting with medication administration. These evaluations take place without the benefit of reviewing the medical file and are also not documented at the time they occur.

Of 31 medical files reviewed, there was evidence in eight that a nursing assessment would have been appropriate in responding to a detainee's request for medical attention. In some of these cases, treatment was initiated via a standing order protocol, and in others, treatment was delayed until the detainee was next seen. In four of these, the delay in assessment was clinically significant and could have affected the detainee adversely.<sup>7</sup>

The NDS also require that sick call is regularly scheduled a minimum of five days each week. There is no regularly scheduled nursing sick call conducted at HDC. The physician and nurse practitioner do have regularly scheduled sick call but it takes place only a maximum of four days a week, not five. The physician and nurse practitioner schedules also do not comply with the staffing matrix in the Corizon contract, which has provider coverage six days a week. The current provider schedule contributes to the delay in seeing detainees with chronic conditions

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<sup>6</sup> Detainee # 24.

<sup>7</sup> Detainees # 17, #19, #22, and #25.



and those returning from the emergency room or from hospitalization.<sup>8</sup> It also contributes to the pervasive poor practice of writing treatment orders without seeing the patient.<sup>9</sup>

Current practices at HDC do not comply with the NDS requirements for sick call and do not meet the standard of care for correctional facilities. HDC and its contractor, Corizon, should implement use of the medical request system described in the facility handbook, establish a regular schedule to conduct nursing sick call using the Nurse Encounter Tools (NETs), establish provider schedules consistent with the staffing matrix provided, and eliminate the practice of ordering treatment without seeing the patient. In addition, detainees returning from the emergency room or hospitalization should be seen by a provider the next business day to ensure the detainee's care is continuous and treatment recommendations are appropriate. All sick call encounters (nursing and provider) should take place in a location and with the equipment to perform examinations, they should provide patient privacy as already discussed, language assistance, and the encounter should be documented in the progress notes or on the NET.

- G. 24-Hour emergency medical treatment:** Medical personnel are on-duty at HDC 24-hours a day. Emergency medical equipment is located in the medical clinic. The equipment itself was not evaluated during this onsite. I reviewed three medical files of detainees who required emergent evaluation, and found that there were no delays in the transport or access to outside medical attention.<sup>10</sup>

There was one sexual assault allegation reviewed during the site visit, which should have been treated as an emergency and was not.<sup>11</sup> In this case, the LPN who saw the detainee after he reported the assault did not send him to the emergency room, as outlined in Corizon's policy. Instead, the nurse referred the detainee to the physician for evaluation and he was not seen until three days later. Furthermore, the nurse evaluated the detainee's emotional status and determined that he was not suicidal, a decision she is not qualified to make and is outside her scope of practice. The detainee did not see the psychiatrist for six days after the alleged assault. There is no indication that the nurse's failure to act according to policy or the delay in receiving services was ever identified as a problem, nor was corrective action initiated.

Corizon's policy and procedure should be reviewed and its validity confirmed by HDC. All health care personnel should be retrained on the policy and procedures for responding to allegations of sexual abuse and assault, including the providers. Annual review of these personnel should include verification of competency in the policy and procedure. Any allegation of sexual assault should be reviewed to verify that procedures were followed. This review should be accomplished as a multidisciplinary process that involves all responsible parts of the organization, including health care personnel.

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<sup>8</sup> Detainees # 6, #7, #8, #9, #10, #11, #12, #13, #15, #16, #21 and #23.

<sup>9</sup> Treatment orders were written without seeing the patient in 12 of 31 medical records reviewed.

<sup>10</sup> Detainees # 6, #24 and #25.

<sup>11</sup> Detainee #17.



**H. First aid and medical emergencies:** I interviewed Lt. (b) (6), (b) (7)(C) who is the training liaison officer for HDC. Corrections officers receive the same training as patrol staff. Training includes four hours of in-classroom instruction and return demonstration in CPR, first aid, use of the AED, and cut down tool every two years. An online program is used to deliver additional health related training annually, which includes heat related illnesses, safety in the workplace, recognition of the signs and symptoms of mental illness, blood borne pathogen protection, and first aid. A record is kept and employees are notified when annual training is due and supervisors receive notice if a training is not completed on time. I reviewed the on-line training module and found the content acceptable. A random sampling of officers interviewed also reported that they received training on meeting a 4-minute response time to medical emergencies. They did not experience any difficulty in meeting that standard.

**I. Delivery of medication:** The standard requires that medication is distributed according to specific instructions and procedures. The HSA was unable to provide specific instructions and procedures for medication distribution at HDC.

Nurses put medication from stock blister cards into small envelopes with the detainee's name and then take them to the housing units in the pill cart. An officer assists with pill call by identifying the detainee using the photo and identification card issued at booking. The nurse gives the medication to the detainee, both the nurse and officer observe the detainee swallow the medication, and both check the mouth afterwards to make sure it is ingested. The nurse and officer reconcile any detainee who did not come to pill call and obtain a refusal if the detainee is present, or the nurse notes where the detainee is and when he or she is likely to return. The nurse will return to administer medication to detainees after they have returned. The nurse documents medication administration in the record after completing pill call.

I observed one nurse who administered medication which had already been pre-poured by another nurse. When the detainee asked what the tablet was that was being administered, the nurse could not tell him. In looking at recent staff meeting minutes, the previous HSA instructed the night shift nurses to pour medication so that the next shift could administer it.

Medication administration as practiced at HDC is not consistent with the standard of care and probably illegal in the state of Nevada. When I brought these practices to the attention of the Regional Operations Vice-President on March 24, 2017, she reported that these problems had already been identified. She explained a site-specific procedure would be completed by the end of April, that the practice of pre-pouring medication for another nurse to administer had been stopped, and that pre-pouring in general would be phased out. Finally, although we did not discuss this explicitly, it is the standard of care, to document medication at the time it is given and if not administered, the reason should be documented contemporaneously and not afterwards.

**J. Special needs:** this standard is met at HDC.

**K. HIV/AIDS:** I reviewed one medical file of a detainee with HIV.<sup>12</sup> This detainee arrived with a detailed transfer summary that included a list of current medications. The physician ordered continuation of all medications the next day and the detainee received the first dose at HDC that same day. There was no discontinuity in care. The physician however, ordered treatment without seeing the detainee and did not see the detainee for his first chronic care clinic visit for six weeks. Detainees with chronic conditions should be seen more promptly, and no longer than 14 days later.

This detainee was housed in general population while detained at HDC. Correctional staff receive training in blood borne pathogen protection annually and were observed during the onsite to make use of protective equipment (gloves, hand washing, etc.) appropriately.

**L. Informed consent:** Signed and dated consent forms were in place and specific consent obtained for invasive procedures (dental extraction, etc.). Inmates also are requested to complete a refusal form when they elect not to take medication.

**M. Confidentiality and release of medical records:** The health care program at HDC maintains the confidentiality of health information consistent with this standard. I did not review detainee requests for copies of records.

**N. Transfer and release of detainees:** HDC is in compliance with the requirements of this standard.

**O. Medical experimentation:** HDC was in compliance with the requirements of this standard.

**P. Quarterly administrative meetings:** Medical administrative meetings do not take place quarterly as recommended in the NDS. In the last year, these meetings took place in April, September, and February. The meeting minutes also did not routinely list the names and titles of those in attendance. Staff meetings appear to take place monthly with the last meeting taking place in January 2017. Staff meetings regularly include continuing education for nursing staff, which is an excellent practice. There is no discernable CQI program although Corizon has provided the structure and materials to conduct meaningful studies at the HDC.

The standard recommends holding medical administrative meetings four times a year at a minimum, with an agenda that includes the items listed in the standard, listing the names and titles of those in attendance, conducting continuous quality improvement to identify gaps in services, and improve delivery of health care at the facility.

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<sup>12</sup> Detainee #16.



### List of Specific Recommendations

1. There were delays in obtaining specialty services, in part related to delays in submitting the MedPAR request. HDC should ensure that MedPARS are submitted within one business day of ordering the referral. (NDS, Medical Care, § III.A) (Level 1)
2. There were delays in obtaining specialty services, in part related to delays in collecting relevant information. HDC should ensure that information necessary for submitting a MedPAR (lab work, visual acuity exams, etc.) is collected in a timelier manner. (NDS, Medical Care, § III.A) (Level 1)
3. A detainee refused surgery after avoidable delays in scheduling the surgery. HDC's referring primary care provider should see the detainee whenever the waiting period for a referral is longer than 30 days to evaluate the patient's condition, alter treatment as necessary, and explain to the patient the reason for wait and interim plan of care. (NDS, Medical Care, § III.A) (Level 2)
4. Detainee medical care is regularly provided in settings that do not have the appropriate auditory or visual privacy required by the detention standards. HDC should ensure that detainees have appropriate auditory and/or visual privacy for health care encounters. (NDS, Medical Care, § III.B) (Level 1)
5. Nurses are regularly initiating treatment of detainees following intake using a set of standing orders put in place by the physician and without contacting a primary care provider for treatment orders. HDC should ensure that the primary care provider is contacted for treatment orders upon intake. (NDS, Medical Care, § III.D) (Level 1)
6. Detainees with chronic disease are often not seen by a primary care provider for several weeks after intake, HDC should ensure that detainees with chronic diseases see a provider for an initial work up no later than 14 days after admission. (NDS, Medical Care, § III.D) (Level 1)
7. Deficiencies were noted in several areas that are covered by Corizon's general policies, but HDC has no site specific policy to instruct staff how to carry out these duties at HDC, such as nurse administered medication. HDC should ensure that site specific procedures are completed for all aspects of health care delivery at the HDC. (NDS, Medical Care, § III.D) (Level 1)
8. Health care staff do not check the negative pressure of the respiratory isolation rooms at HDC. This subject is covered in Corizon's corporate policies, but there was no site specific policy to instruct staff on how this duty was to be completed at HDC. At the time of the onsite investigation the rooms were not functioning properly, staff were not knowledgeable of this safety risk and therefore had not requested physical plant correct the problem. HDC should ensure that health care staff monitor the work environment and equipment regularly, including negative air flow in the isolation cells in medical housing, to ensure that it is functioning properly. A record or log should be kept of these checks and the log should be monitored by the HSA. (NDS, Medical Care, § III.D) (Level 1)
9. Use of appropriate language assistance for detainees who do not speak English was not consistently documented, and may not always have been used. HDC should ensure that all scheduled health care encounters document use of interpretation or translation assistance. HDC should evaluate the availability of language assistance for all health care encounters, particularly those that are scheduled, to identify gaps in availability, efficiency, and effectiveness of language assistance that need to be addressed. (NDS, Medical Care, § III.D) (Level 1)



10. HDC is not using the medical request system described in the facility detainee handbook. HDC should implement use of the medical request system as described in the facility handbook. (NDS, Medical Care, § III.F) (Level 1)
11. Detainees are experiencing delays in receiving medical care because HDC does not use nursing sick call. HDC should establish a regular schedule to conduct nursing sick call using the Nurse Encounter Tools (NETs) and discontinue use of the 2013 standing order protocols. (NDS, Medical Care, § III.F) (Level 1)
12. Sick call encounters are being conducted ad hoc during pill call, without access to detainee medical records, appropriate equipment, or a setting that provides appropriate patient privacy. HDC should ensure that all sick call encounters (nursing and provider) take place in a location and with the equipment to perform examinations, with patient privacy and language assistance as necessary. In addition, each of these encounters should be documented in the progress notes or on the NET. (NDS, Medical Care, § III.F) (Level 1)
13. Nurses are initiating treatment based on standing orders when the primary care provider should have determined treatment based upon a clinical evaluation and diagnosis. HDC should establish provider schedules consistent with the Corizon staffing matrix of six days a week on site and eliminate the use of standing orders to initiate treatment without seeing the patient. (NDS, Medical Care, § III.F) (Level 1)
14. Detainees returning from the emergency room or hospitalization are not being seen promptly by a provider. HDC should ensure that primary care providers see detainees returning from the emergency room or hospitalization the next business day to ensure the detainee's care is continuous and treatment recommendations are appropriate. (NDS, Medical Care, § III.F) (Level 1)
15. Review of one sexual assault case showed delays in referral for trauma care, possible evidence collection, and support services. HDC should ensure that Corizon's policy and procedure on sexual assault is reviewed and is consistent and coordinated with HDC's overall sexual abuse and assault prevention and intervention policies and procedures. (NDS, Medical Care, § III.G) (Level 1)
16. Review of one sexual assault case showed delays in referral for trauma care, possible evidence collection, and support services, and training records indicated that providers have not received sexual abuse and assault prevention and intervention training. HDC should ensure that all health care personnel are trained or retrained on the policy and procedures for responding to sexual abuse, including the providers. Annual review of these personnel should include verification of competency in the policy and procedure. (NDS, Medical Care, § III.C, G) (Level 1)
17. Review of one sexual assault case showed delays in referral for trauma care, possible evidence collection, and support services. HDC should review all allegation of sexual abuse to verify that procedures were followed. This review should be accomplished as a multidisciplinary process that involves all responsible parts of the organization, including health care personnel. (NDS, Medical Care, § III.G) (Level 2)
18. Medication administration practices at HDC are not consistent with the standard of care. HDC should establish site-specific medication administration procedures that comply with Corizon's corporate policies. At a minimum pre-pouring of medication should be eliminated and contemporaneous documentation of medication administered required. (NDS, Medical Care, § III.I) (Level 1)

19. Medical administrative meetings do not take place quarterly as recommended in the detention standards. HDC should hold medical administrative meetings four times a year at a minimum with an agenda that includes the items listed in the standard and listing the names and titles of those in attendance. (NDS, Medical Care, § III.P) (Level 1)
20. There is no discernable CQI program at HDC, although Corizon has provided the structure and materials to conduct meaningful studies at the facility. HDC should conduct continuous quality improvement to identify gaps in services and improve delivery of health care at the facility. (NDS, Medical Care, § III.P) (Level 1)

### Conclusions

The command staff at HDC provided extraordinary access to the facility, detainees, and the personnel necessary to complete the site visit. Medical staff were also available as needed, and were prompt and responsive to requests for medical records and other information. Nursing staff interviewed and observed in their work were conscientious in patient care and courteous with detainees. When concerns about instances in the delivery of health care were discussed, all Corizon and HDC personnel were candid and responsive to the issues raised. Corizon provides the structure and tools to provide health care consistent with the NDS as soon as the site specific operational detail is established. There appears to be an intent to accomplish the needed corrections.

Respectfully submitted,

(b) (6)



(b) (6)

RN, MN, CCHP-RN

April 25, 2017



## Attachment 1

Medical Records Reviewed by (b) (6) Medical Expert  
Henderson Detention Center Site Visit March 22-24, 2017

*Note: red font is considered an aspect of care that is problematic*

1.	(b) (6)	Complaint of plastic in body. Care was timely, responsive and appropriate. MH condition.
2.	(b) (6)	Complaint of delay in care after fall from upper bunk. Care was timely, responsive and appropriate.
3.	(b) (6)	Complaint about needed surgery. Care was timely, responsive and appropriate until surgery to repair fractured left orbit was recommended. <b>MedPAR process caused lengthy delay</b> in surgery (8/31-12/29). When approval received on 11/27 the inmate refused and was angry about rights not being honored. Spoke with FMC Lt. Cmdr. Gunter on 3/23 who explained that the <b>reimbursement process was changed and the approval process was taking longer than normal. Things have now sped up (about 4 weeks) and there are no pending MedPARS in the region now.</b> Recommended to Corizon that patients be seen at 30 day intervals if there is more than a 30 day wait in seeing an off-site specialist. The purpose of this contact is to evaluate the patient's condition, alter treatment as necessary and explain to the patient the reason for wait and interim plan of care.
4.	(b) (6)	HTN: <b>Nurse rx Lisinopril, HCTZ, ASA on intake per standing order. Not seen by provider for 6 weeks.</b>
5.	(b) (6)	HTN: Good case finding, work up and CCC follow up documented. <b>3/1/17 CCC note not dated.</b> History of sexual abuse. Checked intake health screening-no mention of abuse in answer to question about victimization.
6.	(b) (6)	HTN: <b>Nurse rx Lisinopril, HCTZ, ASA on intake per standing order.</b> Documentation that Mandarin translator used. MD rx labs <b>w/o seeing pt. Seen w/o translator at CCC on 2/12.</b> 2/16 experiences angina, EKG abnormal, O2 sat ↓, BP ↑. Transported to ER, returned same day. <b>No hospital records except pt. summary. Did not see MD immediately following ER visit. MD Rx meds as recommended by ER but doesn't see pt.</b> Detainee also has anxiety/depression.
7.	(b) (6)	HTN & DM: <b>Nurse rx meds for both condition per standing order on intake 3/13/17.</b> 2 days later NP rx labs and CCC in 30 days <b>w/o seeing patient.</b>
8.	(b) (6)	HTN: <b>↑BP on intake 11/19/16</b> , no hx of HTN. BP $\checkmark$ x 5 days then MD review. 1/24 MD reviews BP $\checkmark$ , rx meds and CCC in 30 days <b>w/o seeing patient. HTN is not on the problem list.</b>
9.	(b) (6)	HTN: on 11/18/16 <b>nurse rx Lisinopril, HCTZ, ASA on intake per standing order.</b> 4 days later MD orders labs and CCC in 30 days <b>w/o seeing patient.</b> NP sees pt. in CCC on 12/28 added Simvastin because lipids ↑.
10.	(b) (6)	DM: Reports hx of DM on intake-BG BID x 3 days. MD orders insulin sliding scale, ADA diet and HS snack <b>w/o seeing pt. A month later</b> checks BG readings, reduces fx of BG $\checkmark$ . Continues sliding scale, orders HbA1c <b>w/o seeing pt. Sees the pt. for the 1<sup>st</sup> time 2 months after intake,</b> starts Metformin, orders labs & visual exam, CCC in 90 days. HbA1c is 7.3



## Attachment 1

	(b) (6)	
11.		HTN & IDDM: Nurse rx meds, diet and glucose monitoring on intake. MD changes orders the next day w/o seeing the pt. 4 days later MD rx CCC in 1 month, labs, review of BG in 1 week and changes Lisinopril 12.dose w/o seeing pt. First contact w provider is 5 weeks after intake. MD rx referral for fundoscopic exam on 11/29 but was released 12/23- no effort made to get MedPAR or schedule exam before release.
12.		DM: on intake did not give hx of DM. A week later at pill call stated that she was a diabetic. BG was 170. Nurse rxd DM protocol. 3 weeks later NP √ Bg & rx metformin & labs w/o seeing pt. Pt. refuses metformin & is referred to see the MD a week later.
13.		Grievance chart review: R arm amputee w phantom pain. Sick call 9/21 saw MD 9/26 rx gabapentin. 11/5 SC gabapentin not working. Sees MD 10 days later, rx nortriptyline, ↑gabapentin, and a stocking. 1/13 sc w unresolved pain. 1/15 MD rx ↑ dose of meds w/o seeing pt. Writes note on SC slip to pt. On 3/10 detainee is re-booked. Nurse rx a restart of all meds w/o contacting MD.
14.		Grievance chart review: 9/13 c/o HA placed on 1 <sup>st</sup> available sick call. 9/18 SC co sore throat, temp ↑. Nurse gives Motrin based upon previous orders. Sees NP 9/18 rx antibiotics w FU in 2 weeks. Visual acuity on 9/23 20/200 OD & OS-referred to optometry on 9/26 – MedPAR not sent until 10/31. AA was out at the time so MedPAR not sent timely.
15.		<p>Grievance interview: co multiple requests to be seen which were ignored-these include ingrown toenail, genital herpes and chest pain. Has to be seen by the nurses multiple times (5) before he sees the MD. Had chest pain-put in request about 4 months ago, no one responded. Has herpes-MD would not treat it.</p> <p>Chart review: Chest pain complaint on 1/4 of pain on inspiration-reports extensive workouts. Recommend no pushups, take NSAIDS. 1/8 complains of heartburn asked to see MD. 1/8 NP rx ranitidine for heartburn wo seeing pt. Ingrown toenail: requests to see NP on 1/17; seen 1/25 &amp; has toenail removed; rx bacitracin, IBU &amp; dressing changes. Genital herpes: requested attention on 2/18, saw MD 2/19 rx acyclovir.</p> <p>No evidence of multiple requests in order to see MD. Nurse's assessment &amp; response to initial co chest pain was appropriate. NP should have seen pt. w co heartburn/chest pain on 1/18 when meds rxd. Treatment of ingrown nail timely and appropriate-same for co genital herpes.</p>
16.		HIV: Arrived 12/17/16 w good transfer summary of current tx regime. MD ordered med continuation the next day and pt. received 1st dose that day. MD rx meds w/o seeing pt., rx CCC in 6 weeks. Not seen in CCC until 1/30.
17.		PREA compliant: 3/18/2016 officer brought inmate to LPN after he made report of sexual assault. Notes that the pt. appeared frantic but denied suicidal ideation. Referred to MD and psych for evaluation. Saw MD 3/21/2016 who takes a history of the assault and concludes there is no physical evidence of assault and refers to psych for anxiety. Sees psych for evaluation on 3/24/2016. There is documentation that the LPN received PREA training on 1/11/2015. Was provided a copy of Corizon's policy on sexual assault and PREA complaints but it has not been made specific to HDC. Policy is that detainees making an allegation of sexual assault are referred

## Attachment 1

	(b) (6)	to the local ER for examination by a SANE or other qualified individual. Corizon staff at HDC did not comply w/Corizon policy. Evaluation of the victim delayed-P & P not specific to HDC & not followed.
18.		Asthma: At intake reports dx of asthma 3 weeks earlier. Nurse rx albuterol inhaler as needed for 2 weeks per standing order. Also, complains of burning on urination. 4 days later sees NP who dx UTI and rx Bactrim. Encouraged to ↑ fluids. As of 3/23 not seen in CCC yet.
19.		HTN, DM, GERD, anxiety: 6/11/16 intake hx of DM & HTN. Nurse rx meds and BG √ per standing order. Notes pt. takes ranitidine for GERD but no meds for HTN (BP 110/78). 7/25 co chest pain-states took muscle relaxant-placed on sc list. Sees MD next day re chest pain- rx naproxen, labs, EKG and 1 mo fu. 1 month later in pill call co chest pain -sees MD next day rx HTN meds, refer to optometry and CCC. Next CCC in a month, referred again to optometry, meds changed, CCC in 4 mos. The eye exam was never scheduled-these take place on site and are done by the medical assistants.
20.		Asthma: on intake 2/23/17 nurse rx albuterol inhaler QID x 14 days PRN per standing order, to be seen in CCC on 2/1/17. Not seen as of 3/23/207.
21.		Seizures: Not on problem list. Reported taking Dilantin, rx meds and so forth via standing order for seizures, placed on sick call list and CCC list. Two days later MD rx CCC in 1 month-doesn't see pt. A month later CCC form is completed – no new orders-don't know if the pt was seen.
22.		Dental: Reported dental pain on intake-not referred. Requested dental attention but nurse wrote back that when he had been at the facility long enough he could see the dentist – no evaluation. 2 days later dental complaint w visible swelling to left lower face & jaw. Nurse rx motrin & Pen VK per dental protocol. As of 3/24 had not seen the dentist.
23.		GERD & Dental: Tooth decay noted on health assessment. Requests meds for GERD- 4 days later NP rx ranitidine wo seeing patient. Nurses rxd annusol and motrin via standing order. Placed on dental list 1/9/17 and 2 teeth excised on 2/3/2017.
24.		Dental: Reported hypercholesteremia via translator (Senegal)-referred to MD. Through translator reports dental pain-nurse rx pain meds per dental protocol. WI 30 days sees dentist who documents using google translator-to examine pt. recommends excision of 2 teeth. 9/13/16 Sent to ER after altercation with another inmate. Sees MD the next day-referred to ophthalmology. 17 days later is released. Hasn't had visual acuity done yet & so MedPAR not submitted.
25.		Hospitalization: 10/8/16 Nurse rx Bactrim per protocol for a complaint of pain & swelling associated w/insertion of a fb in the penis. Sees MD two days later and is sent to hospital-dx cellulitis. Returned to facility 9 days later following extensive surgery to remove multiple fb. Nurse rx medications and treatments he was on at the time of discharge w/o contacting MD- and places the pt on the MD list. MD sees pt for 1 <sup>st</sup> time upon return from hospital 5 days later.



## Attachment 1

26.	(b) (6)	Kidney transplant 2004: intake on 9/9/16. FU w/nephrology ordered 10/10/16, saw nephrologist 2 days later w/fu in 2 mos. MD reviewed nephrologist report 4 days later. Detainee left the facility 10/28.
27.		GERD: saw MD three days after request to be seen for acid reflux.
28.		Hunger strike: Good documentation, saw MD w/I 1 day of notification.
29.		Language: Four encounters reviewed-use of interpreter only documented once. Treated for injury to right wrist and chest.
30.		History of sexual abuse. Checked intake health screening-no mention of abuse in answer to question about victimization.
31.		History of sexual abuse. Checked intake health screening-no mention of abuse in answer to question about victimization.
32.		History of sexual abuse. Checked intake health screening-no mention of abuse in answer to question about victimization.

# Penology Expert's Report

On

## Henderson Detention Center

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

- **16-05-ICE-0222**
- **16-07-ICE-0354**
- **16-10-ICE-0458**

Prepared by:

(b) (6)

Lodi, CA

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## I. Summary of Review

The Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL) received complaints alleging that the U. S. Immigration and Customs Enforcement (ICE) has violated the civil rights and civil liberties of detainees at the Henderson Detention Center (HDC), located in Henderson Nevada. The complaints contained the following allegations which will be examined in this report:<sup>1</sup>

- Detainee did not receive legal documents for which he claims to have receipts indicating the documents were mailed
- Delayed and inadequate medical care<sup>2</sup>
- Inadequate conditions of detention, e.g. detainees are on lockdown 21-23 hours a day, detainees do not receive recreation time and the law library is not up to date
- The food portions are small, the showers overflow, the drinking fountain has mold on it and the drinking water is poor quality<sup>3</sup>
- General mistreatment including, a hostile living environment, and interference with legal access and contact with attorney

In addition to the specific complaints identified, the following aspects of the HDC facility operations were reviewed during this onsite investigation:

- Use of Force Reporting and Accountability
- Special Management Unit (Segregated Housing)
- Sexual Abuse and Assault Prevention and Intervention (SAAPI)
- Detainee Grievances
- Visiting Program
- Recreation Programs

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<sup>1</sup> Complaint Numbers: 16-05-ICE-0222; 16-07-ICE-0354; and, 16-10-ICE-0458

<sup>2</sup> The allegations related to medical care will be addressed in a separate report by CRCL team member (b) (6) RN, MN, CCHP-RN.

<sup>3</sup> The food services and sanitary conditions will be addressed in a separate report by the CRCL team member and Environmental Specialist (b) (6)

- Mail Services
- Religious Services
- Telephone Access
- Law Library Services

## II. Facility Background and Population Demographics

On the first day of our onsite<sup>4</sup> the ICE detainee population at HDC was 270.<sup>5</sup> HDC is operated under an Intergovernmental Service Agreement between ICE and the U. S. Marshall's Service which holds a contract with the City of Henderson. HDC is not an American Correctional Association (ACA) accredited facility and follows the 2000 National Detention Standards (NDS 2000).

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

All meals are delivered in carts from the main kitchen and served in the dayroom areas of the housing units. Other services, such as visitation and law library, are also provided in the housing units using video screens and computer terminals. Religious services and outdoor recreation are provided in common areas, used by all the detainees, and are scheduled to accommodate keeping detainees with common classification designations together.

Throughout the onsite process, we toured HDC, reviewed records, interviewed HDC personnel and interviewed ICE officials as well as several ICE detainees.

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<sup>4</sup> CRCL was on-site at HDC March 22-25, 2017.

<sup>5</sup> The HDC population consists of 270 ICE detainees (260 male, 10 female) and 230 County inmates.

<sup>6</sup> This staffing pattern allows one officer to be in the officers' station and one available to conduct security checks and interact with detainees on the floor of the unit.



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

Overall, we found the personnel to be professional, courteous and helpful and the general living areas of the facility to be clean and orderly. HDC was not in full compliance with one NDS 2000 standard, but overall deficiencies related to specific NDS 2000 standards 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, ICE detention standards and generally recognized correctional standards, including those of the ACA and the AJA (American Jail Association).

## **II. Expert Professional Information**

(b) (6)



### **III. Relevant Standards**

- **ICE Detention Standards**

The NDS 2000 apply to HDC. 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 NDS 2000, this review is being conducted based on my correctional experience and nationally recognized best practices.

### **IV. Review Purpose and Methodology**

The purpose of this review is to examine the specific allegations in the complaints cited above and to observe the overall operations of HDC as it relates to the care and treatment of the ICE detainees. For this review, I examined detainee records; HDC policies and procedures; documentation kept on-site depicting such things as detainee grievances and law library usage<sup>8</sup>;

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

<sup>8</sup> Although HDC does not keep logs that track law library usage and detainee grievances, they do utilize a system identified as the Offender Track Jail Management System to document activities and services for detainees.



interviewed ICE detainees, ICE personnel, HDC personnel; and, conducted an on-site tour of the HDC facility with the managers and supervisors. All the HDC and ICE personnel were professional, cordial and cooperative in facilitating our review.

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

- Contract/Intergovernmental Services Agreement
- Detainee grievances (random selection from detainee files<sup>9</sup>)
- Law library requests (random selection from detainee files<sup>10</sup>)
- Detention Files (random selection and those associated with the complaints)
- Segregation records
- Incident involving use of force and Force After-Action Report<sup>11</sup>
- HDC and ICE National Detainee handbooks in English and Spanish
- SAAPI investigations<sup>12</sup>
- Assigned personnel roster
- HDC Policies on the following<sup>13</sup>:
  1. Use of Force
  2. Special Management Inmates
  3. Inmate Requests and Grievances
  4. Inmate Orientation
  5. Inmate Recreation Time
  6. Inmate Telephone Calls
  7. Religious Services
  8. Preventing, Detecting and Responding to Sexual Misconduct
  9. Inmate Legal Rights
  10. Law Library Carts

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<sup>9</sup> HDC does not record and maintain a log of facility grievances.

<sup>10</sup> HDC does not record and maintain a log of law library requests and usage.

<sup>11</sup> There was only one use of force incident involving a detainee in the past year.

<sup>12</sup> There were two SAAPI allegations and investigations during 2016 to present.

<sup>13</sup> Because HDC houses both ICE detainees and city/county inmates, all policy/procedure documents refer to “inmate” and apply to both inmates and detainees.

## 11. Inmate Mail

NDS 2000 Standards relevant to this review:

1. Admission and Release
2. Use of Force
3. Special Management Unit (Segregation)
4. Telephone Access
5. Access to Legal Material
6. Detainee Grievance Procedures
7. Visitation
8. Correspondence and Other Mail
9. Recreation
10. Religious Practices

In addition to the above listed activities the onsite on March 22-24, 2017 included the following:

- Toured the Intake and Release
- Toured the housing units
- Toured the recreation yards
- Toured the law libraries
- Toured the Special Management Units (administrative segregation)
- Toured the Medical Clinic
- Toured the visitation area (the main visitation area and the video monitors in the housing units)
- Observed the mail process
- Inspected all areas of detainee access for information postings
- Interviewed various personnel including command staff, supervisors and line staff<sup>14</sup>
- Interviewed various ICE detainees randomly selected

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<sup>14</sup> These interviews included, but were not limited to, the supervisors responsible for SA-API, detainee grievances, detainee classification/intake, detainee religious services, detainee visitation, detainee mail and detainee law library.



## V. Findings, Analysis and Recommendations

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

- “Substantiated” describes an allegation that was investigated and determined to have occurred substantially as alleged;
- “Unsubstantiated” describes an allegation that was investigated and there was insufficient evidence to determine whether or not the allegation occurred<sup>15</sup>; 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 NDS 2000 or to industry “best practices.”

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

### Complaint No. 16-05-ICE-0222

This complaint was received by the CRCL from the DHS Office of the Inspector General on March 2, 2016 alleging that Detainee #1<sup>16</sup> did not receive legal documents that were mailed to him by his fiancée. Detainee #1 was not present at HDC at the time of our inspection. However, an investigation into the allegations contained in the complaint was conducted.

#### Analysis:

Mail records from the City of Henderson Police Department were requested and reviewed.<sup>17</sup> Detainee #1 was received at HDC on December 15, 2015 and released on March 18, 2016. During his approximately three months stay at HDC,

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<sup>15</sup> While “Unsubstantiated” can often be the finding because there simply is not enough tangible evidence to “Substantiate” an allegation, I may sometimes offer my expert opinion as to whether, based on other considerations and observations, it is more likely than not that the allegation either happened or did not happen.

<sup>16</sup> See Attached PII document for the identification of Detainee # 1.

<sup>17</sup> The complete Mail Transaction History for Detainee #1 was reviewed.

detainee #1 mailed out 35 pieces of correspondence from the facility and received 16 pieces of correspondence. His correspondence included sending and receiving mail from the Courts, ICE, DHS, USDOJ, Board of Immigration Appeals and the U. S. Attorney General, just to name some of his correspondents. So, it is clear that Detainee #1 sent and received mail, including legal mail, without restriction during his three month stay in detention at HDC.

Unfortunately, the allegation regarding a piece of correspondence from his fiancée is not specific enough to track. Without the receipts referred to in the allegation, it is not possible to identify the specific document(s) in question. However, the mail transaction history shows that Detainee # 1 received twelve pieces of correspondence from a private individual, presumably the individual he identified as his fiancée. With the extensive documentation of his mail history, it seems unlikely that correspondence was received at HDC that was not delivered to the detainee as alleged.

#### **Findings:**

- The allegation that Detainee #1 did not receive legal documents mailed to the facility by his fiancée is “**Unsubstantiated.**” While it is possible that a specific piece of mail was lost or misplaced in the delivery process, it is unlikely, based on the record of mail transactions both sent and received, that mail was lost or withheld from this detainee.

#### **Recommendations:**

- None related to this complaint

#### **Complaint No. 16-07-ICE-0354**

This complaint was received by CRCL dated April 4, 2016 from Detainee #2<sup>18</sup> alleging that detainees are on “lockdown” for 21-23 hours a day, detainees do not receive recreation time and the law library is not up to date. Detainee #2 is no

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<sup>18</sup> See Attached PII for identification of Detainee #2.



longer in detention at HDC and unavailable for interview, however, the allegations are being investigated based on available documentation, interviews with HDC custody supervisors and current living conditions and services.

### **Analysis:**

The different elements of this complaint will be addressed individually below:

#### **Detainees are on “lockdown” 21-23 hours a day and detainees do not receive recreation time:**

Schedules are posted for the officers to follow in determining when detainees are to be released for out-of-cell activities such as, dayroom program time and outdoor recreation.<sup>19</sup> Review of the Offender Track Jail Management System revealed that detainees are released from their cells throughout the day for activities such as dayroom program and outdoor exercise. However, it also revealed that the amount of out-of-cell time for activities was actually less than what was posted on the daily schedule.

The reason that the schedule is often not followed for the out-of-cell program time appears to be twofold. First, other routine activities in the housing units such as, cleaning, routine maintenance, and medicine distribution, require by practice to discontinue detainee movement and out-of-cell activities until the functions are completed. As a result, daily out-of-cell time is reduced commensurately. In reviewing a sampling of different time periods in 2016, there were days that detainees were only allowed a total of 3-4 hours of out-of-cell time for activities when the schedule indicated 6-8 hours for these activities.

According to custody supervisors, the other factor that impacted out-of-cell time during 2016 was periods of conflict and tension between detainees that resulted in detainees having to be separated in the higher classification level housing units. When this occurred, movement was restricted for a few days until the issues could be sorted out and detainee housing assignments adjusted. This was

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<sup>19</sup> Schedules indicate approximately six hours a day for dayroom activity (morning, afternoon and evening) and one to three hours a day for outdoor recreation.

presented as a temporary disruption of out-of-cell programming that was returned to normal program in a matter of “a day or two.” This is not an unusual circumstance with the higher classification level detainees.

The NDS requires that outdoor recreation be allowed for a minimum of one hour a day, five days a week. There is not a standard that speaks more generally to required out-of-cell activity time. HDC is meeting, and in most cases greatly exceeding, the minimum requirements for outdoor recreation. It is also clear in the Offender Track Jail Management System that detainees are routinely out-of-cell much more than alleged in this complaint. Still, it would be better for the detainees if the HDC managers would review the daily schedule and see if housing unit operations could be adjusted to reduce the need for the disruption or reduction of out-of-cell time in the daily schedule.<sup>20</sup> This is important because telephone usage and showers are conducted during general program dayroom periods and decreasing the time for these activities can cause problems with every detainee in a housing unit getting access to these services.

#### **Law library is not up to date:**

There are two computer terminals in each housing unit that operate the Lexus Nexus program for legal research. The computer terminals are updated quarterly by information technology staff at HDC using updated hard drives provided by ICE. The schedule verified that updates were current and have been so over the past year.

#### **Findings:**

- The allegation that detainees are on lockdown 21-23 hours a day and do not receive recreation time is “**Unsubstantiated.**” Review of the Offender Track Jail Management System refutes the allegation that detainees are locked down 21-23 hours a day and do not receive

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<sup>20</sup> For example, not shutting down detainee out-of-cell activities when routine maintenance or cleaning is being conducted in a housing unit would greatly increase the dayroom program time for detainees.



outdoor recreation. While there may have been a day here and there where detainees were kept in their cells for 21 hours or more, the records show that the minimum recreation standard of one hour a day, five days a week is consistently being met or exceeded and detainees are most often out of cell for approximately 6 or more hours per day.

- The allegation that the law library is not up to date is “**Unsubstantiated.**” Records indicate that ICE has consistently provided and the HDC personnel have installed the Lexus Nexus updates on a quarterly basis. Although it is possible that a particular law library computer was out of date in early 2016, based on our review, that appears highly unlikely.

### **Recommendations:**

- While the NDS requires that outdoor recreation be allowed for a minimum of one hour a day, five days a week, there is not a standard that speaks more generally to required out-of-cell activity time. Daily out-of-cell time is sometimes reduced to accommodate routine functions such as cleaning and maintenance. As such, HDC managers should consider reviewing the daily schedule and see if housing unit operations could be adjusted to reduce the need for the disruption or reduction of out-of-cell time in the daily schedule. (**Best Practices**)

### **Complaint No. 16-10-ICE-0458**

This complaint was received by CRCL from Detainee #3<sup>21</sup> on July 12, 2017, alleging general mistreatment, a hostile living environment, excessive lockdown, small food portions<sup>22</sup> and interference with legal access, e.g. he has been unable to contact his attorney.

### **Analysis:**

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<sup>21</sup> See the attached PII document for identification of Detainee #3.

<sup>22</sup> This allegation will be addressed by the CRCL team environmental specialist, (b) (6) Skipworth, by separate report.

While it is difficult to assess generalities like “mistreatment” or “hostile living environment,” the general tenor of this complaint is related to being on “lockdown” status that has allegedly interfered with legal work and contact with legal counsel.

We are unable to gage exactly what the living environment was like in July 2016, but we can evaluate and assess the culture and environment experienced at the facility at present. We interviewed approximately 20 detainees from different housing units to get a sense of the culture and relationship between staff and detainees. Generally, the comments were positive. However, a few detainees indicated that specific officers were unhelpful and did not always provide the services and resources the detainees needed.<sup>23</sup>

In walking around the housing units and assessing the general environment and interaction between staff and detainees, the culture seemed to be reasonably healthy. There are many very dedicated staff who are well invested in providing good service to the detainees. Still it is possible that Detainee #3 legitimately felt “mistreated” based on what we heard from a few of the detainees we randomly interviewed.

Regarding the allegation that Detainee #3 was unable to contact his attorney, we were unable to find the telephone records to verify if he made calls to his attorney. However, we were able to obtain records from the Offender Track Jail Management System that verified that Detainee #3 either used or was offered access to the law library several times between March and August 2016. And, because we know from these same records that the housing units were only restricted in their out-of-cell activities for a few days during 2016, telephone access would have been available.<sup>24</sup>

## **Findings:**

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<sup>23</sup> The names of two officers were provided to the HDC management team to follow up and evaluate the conduct of these officers.

<sup>24</sup> There are 5 -7 telephones in each housing unit dayroom that detainees have free access to use anytime during the out-of-cell dayroom program periods.



- The allegation of general mistreatment, hostile living environment and excessive lockdown that denied access to legal counsel is **“Unsubstantiated.”** While Detainee #3 was clearly unhappy with the conditions at HDC, there is evidence that he was provided and received services including law library and access to telephones between March and August 2016. It is impossible to determine the tone and tenor of interactions between this detainee and the staff at this juncture, but we were unable to find evidence that he was mistreated as alleged.

### **Recommendations:**

None related to this complaint.

### **VII. Additional review and Findings:**

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

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

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

#### **1. Use of Force**

The NDS 2000, Use of Force standard requires that, “Staff shall prepare detailed documentation of all incidents involving the use of force...Written procedures shall govern the use of force incident review...The review is to assess the reasonableness of the actions taken.”<sup>25</sup>

### **Analysis:**

There was only one use of force in the past year at HDC. The one force incident occurred on July 23, 2016 and involved a fight between two detainees. The detainees complied with officer commands to stop fighting and separate. The detainees were restrained in handcuffs and escorted from the area. During the escort one detainee pulled away from the escorting officer and spit towards the other detainee, barely missing the officer. Force was used to take down and control the resistive and assaultive detainee. A spit-hood was applied to the detainee, the escort continued and a medical evaluation was completed.

With only one force incident over the past year, it is obvious 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. The incident in question was reviewed and evaluated and found to be well handled, well documented and thoroughly evaluated by the Use of Force Training and Analysis Unit of the Henderson Police Department.

With regard to the incident reports involving this use of force, my observation is that the officers’ reports were well written and adequately describe the specific actions taken by personnel in overcoming resistance.

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 temper 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.<sup>26</sup> The incident reviewed clearly meets these standards and

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<sup>25</sup> INS Detention Standard III. J. and K.

<sup>26</sup> These standards are outlined in the US Supreme Court Case, Hudson V. McMillan (503 U. S. 1, 112 S. Ct. 995).



the specific reports are as good as I have seen in any jurisdiction while conducting these reviews.

Before completing the onsite, I met with the Lieutenant, Sergeant and Officer from the Use of Force Training and Analysis Unit whose job it is to conduct the review and analysis of each use of force by the Henderson Police Department, whether in the detention facility or in the community. This unit has a good understanding of the standards necessary in the lawful use of force and have done a very good job of training the officers at the HDC.

If HDC is interested in pursuing future compliance with the 2011 Performance Based National Detention Standards (PBNDS 2011),<sup>27</sup> the Captain in charge of the detention facility will need to conduct an After-Action Review Committee, including the Health Care Administrator and the ICE Assistant Field Operations Director, to review and evaluate each incident of force, documenting their findings and recommendations. I would recommend that if this is pursued, the analysis currently conducted by the Use of Force Training and Analysis Unit continue to be conducted before conducting the After-Action Review Committee.

### **Recommendations:**

- If HDC is interested in pursuing further compliance with the PBNDS 2011 standard on Use of Force, HDC should consider adopting the After-Action Review Committee process in compliance with PBNDS 2011. **(Best Practices)**

## **2. Special Management Unit (SMU)**

The NDS 2000, Special Housing Unit, requires that, "Each facility will establish a Special Management Unit that will isolate certain detainees from the general population...separation from the general population (is) used when the continued presence of the detainee in the general population would pose a danger to self, staff, other detainees, property or the security and orderly operation of the facility." It also requires that, "A written order shall be completed and approved

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<sup>27</sup> PBNDS 2011 was last revised in 2016.

by a supervisory officer before a detainee is placed in administrative segregation...”<sup>28</sup>

### **Analysis:**

The SMU at HDC 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 seven detainees in the SMU.<sup>29</sup> 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 access to recreation, showers, phones, law library, etc., are provided per the NDS 2000. All services and activities are logged into the Offender Track Jail Management System.

Documentation for retention hearings and disciplinary hearings is completed and placed in the detainee files. Security checks are conducted every 30 minutes in SMU, unless determined more frequently by medical or mental health clinicians. The operation of the SMU at HDC is in compliance with the NDS 2000.

The required documentation for placement into the SMU is completed using the Incident and Discipline Report, form HPD 4002. The detainee’s name, identification number and reason for placement are documented on this form. However, the form is specifically established to document disciplinary reports and actions rather than administrative segregation placement. The process would be better served by creating a new Segregation Order form, specifically designed and provided to document segregation placements, reasons for placement and follow-up hearings, and decisions to retain or release from segregation.

### **Recommendations:**

- Currently, HDC uses form HPD 4002, the Incident and Discipline Report, for placing a detainee into the SMU. This form is used specifically to document disciplinary reports, rather than

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<sup>28</sup> INS Detention Standard I., and III., B.

<sup>29</sup> There are seven detainees in segregated housing in a population of 270 detainees at the facility (approximately 2.5% of the population).



administrative segregation placement. HDC should consider establishing a Segregation Order form to be utilized specifically for segregation placement and decisions regarding retention or release. **(Best Practices)**

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

The NDS 2000 is silent on SAAPI and does not establish standards that must be followed. The PBNDS 2011 SAAPI standards contain a multitude of specific requirements that must be implemented to ensure compliance. Understanding that while HDC is not being held to the letter of the PBNDS 2011, there are certainly requirements and obligations under the National Standards to Prevent, Detect and Respond to Prison Rape as published by the USDOJ. The CRCL team reviewed and evaluated the process used by HDC to respond to allegations of sexual abuse or assault in light of these standards.

#### **Analysis:**

The SAAPI Coordinator was interviewed regarding the Sexual Abuse and Assault Prevention and Intervention process. From all the documents reviewed and the onsite, it is apparent that the HDC 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.<sup>30</sup>

A SAAPI pre-screening process for all detainees utilized during the intake and classification process is in place. The standard intake process includes the risk assessment tool necessary to determine vulnerability and is included in every detainee intake file.

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<sup>30</sup> There were two SAAPI complaints at HDC in the past year.

The officers managing the intake process are knowledgeable and skilled in administering the prescreening assessment. However, we noted that there were a few intake screening questionnaires that indicated a “yes” answer to the question asking if the detainee had ever been the victim of sexual abuse. In these cases, there was no documentation regarding any follow-up questions or corresponding referral to a mental health clinician for evaluation of that history.

We were assured that intake screening officers do further pursue the history of those responding “yes” to this question to determine if their history impacts on their vulnerability in the facility. Any follow-up to positive responses to SAAPI screening assessments should be documented to establish that all factors are appropriately considered in the process.

When allegations of sexual abuse or assault are made, the involved detainees are separated and medically examined, moved to appropriate and safe housing, the crime scene is secured and processed, the detainees are interviewed by a mental health clinician, all required notifications are made, the Henderson Police crime investigator(s) is contacted and responds to assist with any crime scene evidence and investigate any criminal allegations. Allegations that, if true would not constitute a crime, are also taken seriously and investigated administratively. The quality of the two investigations is generally good; the proper witnesses are interviewed and the reports are well written.

However, there were two deficiencies noted in the investigative process for the cases reviewed. First, an allegation was made on the 18<sup>th</sup> of a month and the SAAPI investigation was promptly completed two days later on the 20<sup>th</sup>. But, the detainee was not evaluated by medical staff until the 21<sup>st</sup>, or by a mental health clinician until the 24<sup>th</sup>. After completely reviewing this investigation, it does not appear that the delay in completing the investigation, before the medical and mental health evaluations were complete, adversely impacted on the outcome of the investigation. However, it is important that an investigation into allegations of sexual assault consider all relevant information and certainly, the medical and mental health evaluations of one making the allegation should be considered before concluding an investigation.



The second issue we discovered is that in one investigation the only evidence was the victim's allegation that an assault happened and the alleged assailant's statement that the assault did not happen. In this instance, there was no video recording, no physical evidence and no witnesses to corroborate or refute the allegation. The finding of the investigation was "unfounded," which by definition means, after collecting and considering the evidence it was determined that the allegation did not happen.

In this instance, there was a statement that the allegation did happen and a statement made that it did not happen. It was the victim's allegation versus the denial of the accused, with no other evidence to consider. Based on the evidence, a finding of "unsubstantiated" would have been more appropriate.<sup>31</sup> The decision that there was insufficient evidence to charge the accused was clearly appropriate, however, a finding that the alleged incident did not happen is not supported by evidence in the investigation.

HDC's SA-API Coordinator does not maintain a logging or tracking system to account for the SA-API process. Again, there were only two allegations over the past year and both were responded to and investigated in a timely and appropriate manner. However, if HDC intends to meet the PBNDS 2011 standards in the future, it will be necessary to establish a tracking system to document the notifications and timelines as required by the standard. In fact, in the above example, tracking the timelines of processing an allegation would have identified the problem with completing an investigation before a medical or mental health evaluation was completed.

### **Recommendations:**

- There were a few intake screening questionnaires that indicated a "yes" answer to the question asking if the detainee had ever been the victim of sexual abuse. In these cases, there was no documentation regarding any follow-up questions or corresponding

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<sup>31</sup> "Unsubstantiated," of course, describes an allegation that was investigated and there was insufficient evidence to determine whether or not the allegation occurred.

referral to a mental health clinician for evaluation of that history. Follow-up to positive responses to SAAPI intake screening assessments should be documented to establish that all factors are appropriately considered in the process. **(Best Practices)**

- In one instance, a SAAPI facility investigation was completed prior to the completion of the medical and mental health evaluations of the detainee who made the allegations. Investigations into allegations of sexual assault should consider all relevant information including the medical and mental health evaluations of the detainee making the allegation. **(Best Practices)**
- If HDC intends to meet the PBNDS 2011 standards in the future, it will be necessary to establish a tracking system to document the notifications and timelines as required by the standard. **(Best Practices)**

#### **4. Detainee Grievance System**

NDS 2000, Detainee Grievance Procedures, requires that, “Every facility will develop and implement standard operating procedures that address detainee grievances...providing written responses to detainees who file formal grievances, including the basis for the decision.” The standard includes additional specific requirements that must be met for compliance, including that, “Each facility will devise a method for documenting detainee grievances. At a minimum, the facility will maintain a Detainee Grievance Log.”<sup>32</sup>

##### **Analysis:**

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

Grievances are initiated by detainees and provided to their respective unit officers who attempt to provide the requested action and resolve the grievance informally

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<sup>32</sup> Ins Detention Standard, Detainee Grievance Procedures, III., E.



if possible.<sup>33</sup> The officer receiving the grievance form, if able to resolve the issue, provides for the requested action or item(s), signs off on the form indicating the action(s) taken to resolve the issue and gives the detainee a carbon copy of his/her grievance. If unable to resolve the matter on the spot, the officer signs the grievance form, acknowledging receipt and gives the detainee a copy for his/her record.<sup>34</sup> The grievance is then delivered to the responsible supervisor who confers with the appropriate personnel and prepares a response, interviews the detainee and provides them with a completed and signed copy of the grievance form.<sup>35</sup> A copy of the completed grievance is then forwarded to the Lieutenant for review and placed in the detainee's file.

If a detainee is not satisfied with a grievance response, he/she may request another grievance form that can be completed to appeal the decision that was rendered on the grievance. Appeals go to the Lieutenant in charge of the area, who considers the appeal and renders a final decision on the grievance.

The NDS 2000 requires that, "Each facility will devise a method for documenting detainee grievances. At a minimum, the facility will maintain a Detainee Grievance Log."<sup>36</sup> HDC does not maintain a central grievance logging system to track all grievances. It is not possible to determine the total number of grievances, the categories of grievances or the decisions on grievances without searching every individual detainee file to gather copies of completed grievances. To their credit, after reviewing many detainee files, it was apparent that grievances are being processed with copies forwarded to the files. However, there is no system to track grievances without pulling detainee files and looking for completed copies.

The process may also be better served by developing a "findings" process that includes more specific language such as, "grievance granted," "grievance granted

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<sup>33</sup> Detainee grievances and detainee requests are handled on the same form, the Detainee Request/Grievance Form.

<sup>34</sup> This gives the detainee proof that the grievance was submitted, the date it was submitted and the official who accepted the grievance for processing.

<sup>35</sup> Personnel complaints against officers are handled by the officer's immediate supervisor.

<sup>36</sup> INS Detention Standards, Detainee Grievance Procedures, III., E.

in part,” or, “grievance denied.” This type of documentation would provide information to the management team regarding grievance outcomes that could serve to influence operational and program practices.

### **Recommendations:**

- The NDS 2000 requires that, “Each facility will devise a method for documenting detainee grievances. At a minimum, the facility will maintain a Detainee Grievance Log.”<sup>37</sup> HDC does not maintain a central grievance logging system to track all grievances. HDC should develop and maintain a Detainee Grievance Log. (**INS Detention Standards, Detainee Grievance Procedures, III, E, Priority 1**)
- HDC 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. (**Best Practices**)

## **5. Visiting Services**

NDS 2000, Visitation, requires that, “Facilities holding INS detainees shall permit authorized persons to visit detainees, within security and operational constraints.”<sup>38</sup>

### **Analysis:**

HDC allows visitation for family and friends in operation five (5) days a week, Wednesday through Sunday, 8:00 am - 12:00 pm; and, 1:00 pm – 4:00 pm. All visits are non-contact and are conducted using video monitors located in the main visitation area which are connected to video monitors located in the detainee housing units. There are 15 visitation monitors in the main visitation area and there are one to four monitors in each detainee housing unit, depending on the size of the unit. Visits with family and friends are limited to 25 minutes per visit.<sup>39</sup>

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<sup>37</sup> INS Detention Standards, Detainee Grievance Procedures, III., E.

<sup>38</sup> INS Detention Standard, Visitation, I.

<sup>39</sup> This was the only complaint we heard from detainees about visitation. Some families are not local and have to travel great distances to visit. 25-minute visits are short under those circumstances,



There are very few complaints about the general visitation program and detainees who receive visits seem to be satisfied. Some expressed the preference for contact visits rather than non-contact. However, contact visitation is not a NDS requirement and HDC is in compliance with the NDS requirements.

Legal visitation for attorneys operates seven (7) days per week, 24 hours a day. Attorneys may visit face to face through glass in the main visitation area or via the video monitors.<sup>40</sup> Attorneys may drop in without appointment 24 hours a day, seven days a week. There has not been a problem with attorneys having to wait to see their clients.

### **Recommendations:**

- HDC should consider allowing detainee family visitors to have visits that extend beyond the 25-minute limit, especially if family members have to travel long distances to visit. **(Best Practices)**

## **6. Recreation**

NDS 2000, Recreation, requires that, “All facilities shall provide INS detainees with access to recreational programs and activities, under conditions of security and supervision that protect their safety and welfare.”<sup>41</sup>

### **Analysis:**

The recreation program at HDC is operated seven days a week. Housing Units I and II share a large outside recreation area that is divided into four sections.<sup>42</sup> Housing Units III and IV each have outdoor recreation yards. The outdoor recreation schedule is posted weekly and rotates the designated housing units by day and time in the recreation areas. Detainees in common housing units recreate

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<sup>40</sup> There are two face-to-face non-contact booths designated for legal visitation. All 15 of the video monitor stations used for regular visitation are also available to attorneys.

<sup>41</sup> INS Detention Standard, Recreation, I.

<sup>42</sup> Units I and II house the higher classification level detainees. The four separated sections of the recreation area allow detainees who are on segregation status to have outdoor recreation simultaneously with general population detainees. It also allows unit I and Unit II to simultaneously have outdoor recreation without mixing the two units together.

together according to the schedule. The outdoor recreation areas have basketball courts, a handball court and exercise equipment.

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

The NDS 2000 requires that outdoor recreation be available a minimum of one hour a day, five days a week, weather permitting. Our observation is that the recreation program at HDC is fully compliant with all NDS 2000 standards related to recreation.

**Recommendation:**

- None related to this process

**7. Mail Services**

NDS 2000, Correspondence and Other Mail, requires that, “All facilities will ensure that detainees send and receive correspondence in a timely manner, subject to limitations required for safety, security and orderly operation of the facility.”<sup>43</sup>

**Analysis:**

All mail sent or received at HDC is processed through the City of Henderson Mailroom. Any mail addressed for detainees at HDC is logged in the City Mailroom and delivered to HDC for delivery to the detainees. At HDC, the mail is opened by staff and checked for contraband, then delivered to the housing units and given to the detainees.<sup>44</sup> Legal mail is handled the same way except it is not opened and checked for contraband until it is delivered to the detainee. All legal mail is opened in the presence of the detainee to whom it is addressed.

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<sup>43</sup> INS Detention Standard, Correspondence and other Mail, I.

<sup>44</sup> If checks or money orders are found in the mail, it is removed and sent to the trust office for the detainee. The detainee is notified when funds are received.



Any outgoing mail is collected in the housing units and delivered to the City Mailroom for processing. The City pays the postage for the detainees to mail correspondence.

Many of the facilities we have inspected require detainees to sign for legal mail so there is a record that legal mail was received by the detainee.<sup>45</sup> This is not required by the NDS; however, we recommend that HDC consider instituting such a process to provide better accountability for legal mail.

### **Recommendations:**

- Other facilities require detainees to sign for legal mail establishing a record that legal mail was received. HDC should consider instituting a legal mail log and require detainees to sign for legal mail so there is a record of all legal mail sent and received by detainees. **(Best Practices)**

## **8. Religious Services**

NDS 2000, Religious Practices, requires that, “detainees of different religious beliefs will be provided reasonable and equitable opportunities to participate in the practices of their respective faiths. Opportunities will only be constrained by concerns about safety, security, the orderly operation of the facility, or extraordinary costs associated with a specific practice.”<sup>46</sup>

### **Analysis:**

We interviewed the HDC Chaplain. Non-denominational services are offered on a regular schedule each week.<sup>47</sup> The Chaplain has two male and one female

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<sup>45</sup> These facilities keep a legal mail log to account for all legal mail sent and received.

<sup>46</sup> INS Detention Standard, Religious Practices, I.

<sup>47</sup> There are five official services held each week. These services are Christian, Non-denominational services.

volunteer clergy that come to the facility weekly to conduct services. All detainees are approved and welcome to participate in the weekly services.

Detainees who wish to practice a religion other than Christianity, are allowed to meet and have services led by detainees. The Chaplain does not have volunteer clergy for Islamic services or any of the other religions, but he does facilitate such services by providing Korans or other religious materials upon request.

All accepted religious activities and observances, services, special diets and headwear are accommodated. The Chaplain receives and approves requests for special diets based on religious practices.<sup>48</sup> In our interviews with detainees, most expressed satisfaction with the religious services and accommodations offered. A few detainees expressed a desire to have more services provided in Spanish.<sup>49</sup>

### **Recommendations:**

- We learned that a limited English proficient (LEP) detainee who was a vegetarian based on his religion was unaware that he could request a special diet on account of his religious observance. HDC should provide more language interpretation services to detainees for religious services and accommodations. (Best Practices)

## **9. Telephone Access**

NDS 2000, Telephone Access, requires that, “Facilities holding INS detainees shall permit them to have reasonable and equitable access to telephones.”

### **Analysis:**

Telephones are located in the housing units at HDC. Detainees have unfettered access to make phone calls while out of their cells during dayroom program. The detainees have a PIN number to use when making calls. The phones are available all day up until bedtime each evening. We observed detainees using the

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<sup>48</sup> However, there was the Nepali detainee who was a vegetarian based on his religion, but because of a language barrier, he was not aware he could request a special diet.

<sup>49</sup> The Chaplain has a Spanish speaking volunteer who conducts services, but he is not available every week. The female clergy person who conducts services for the female detainees does not speak Spanish.



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

**10. Law Library Services**

NDS 2000, Access to Legal Material, requires that, “Facilities holding INS detainees shall permit detainees access to a law library and provide legal materials, facilities, equipment and document copying privileges and the opportunity to prepare legal documents.”<sup>50</sup>

**Analysis:**

There are two law library computers located within each housing unit and available to detainees.<sup>51</sup> Detainees are scheduled by request to use law library resources which are available 24 hours a day, seven days a week. The legal resource materials are available on Lexus Nexus and are provided in Spanish and English formats. The materials are updated quarterly. Copies of legal materials are made for detainees upon request.

In reviewing detainee files, we observed many detainees using Detainee Request Forms to request access to the law library. These requests were responded to, in most cases the same day, granting access and documenting the time the detainee spent in the law library. We also reviewed Offender Track Jail Management System records for 2016 and observed a multitude of entries documenting law library usage by detainees.

While it is clear that detainees have access to use the law library, HDC does not keep a register or log that specifically tracks the law library usage. As indicated earlier, there is evidence of usage, but the data is not easily retrievable without

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<sup>50</sup> INS Detention Standard, Access to Legal Material, I.

<sup>51</sup> Each housing unit houses approximately 60 detainees.

researching individual detainee files and/or reviewing the Offender Track Jail Management System to gather information on law library usage by detainees. A register or log would be helpful for management to determine the effectiveness of the law library program and usage and to address any allegations that may be made about the lack of access.

All detainees interviewed indicated that law library access, availability and legal materials are fully adequate.

### **Recommendations:**

- HDC does not keep a register or log that specifically tracks the law library usage. HDC should consider developing a register or log to track law library scheduling and usage by detainees. This would be helpful for management to determine the effectiveness of the law library program, scheduling and usage and to address any allegations that may be made about the lack of access. **(Best Practices)**

### **General Observations:**

HDC operates under a contract with the U. S. Marshall's Service and as such operates under the National Detention Standards established in September 2000. These standards have been revised several times over the past decade, with the newer versions including many specific requirements that HDC has not adopted.<sup>52</sup> During our investigation, the leadership at HDC expressed their interest in adopting some of the newer standards and to pursue ACA accreditation. Toward this end, HDC has established a Compliance Coordinator position that reviews standards and best practices that impacts on the operations of the facility. Many of our "Best Practice" recommendations in this report point the facility towards adoption of the newer standards.

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<sup>52</sup> By contract, HDC is not required to comply with the standards revised and adopted since the NDS 2000 was established.



The personnel in leadership at HDC are knowledgeable and professional. The facility appeared to be in good repair, painted and clean. The tenor and tone of the facility was generally good and the interaction between detainees and officers appeared to be reasonably healthy. However, as pointed out to the HDC leadership on site, it appears that the facility has at least a few personnel who do not properly attend to providing services, such as, hygiene products to the detainees. We have recommended that supervisors spend more time in the housing units and ensure that the officer conduct is in all instances what the leadership expects it to be.

There is also a need for HDC to address the language barriers that exist among the detainee population. We observed a few instances in which the language barrier was so great that there was no way to ensure the proper care and treatment of the detainee.<sup>53</sup> The language line should be employed more often to ensure communication and understanding with detainees, particularly those who do not speak any English or Spanish.<sup>54</sup>

Finally, we observed several instances throughout the facility operations in which HDC does not have a process for logging or tracking to provide accountability for systems management. As examples, this is true in detainee grievances, detainee law library usage, detainee legal mail and the SA-API process. While the Offender Track Jail Management system is a good tool, it does not replace the need to log and track the different systems in real time. Management would benefit greatly by having processes in place that can provide aggregate information and data as indicators of how well systems are working in the different program operations.

### **Summary of Recommendations:**

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

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<sup>53</sup> We interviewed a detainee with the use of the language line who spoke a Nepali dialect so rare that finding an interpreter through language line was not without some difficulty. This individual was processed through intake without the assistance of an interpreter.

<sup>54</sup> Several of the HDC personnel speak both English and Spanish.

- The NDS 2000 requires that, “Each facility will devise a method for documenting detainee grievances. At a minimum, the facility will maintain a Detainee Grievance Log.”<sup>55</sup> HDC does not maintain a central grievance logging system to track all grievances. HDC should develop and maintain a Detainee Grievance Log. (**INS Detention Standards, Detainee Grievance Procedures, III, E, Priority 1**)
- While the NDS requires that outdoor recreation be allowed for a minimum of one hour a day, five days a week, there is not a standard that speaks more generally to required out-of-cell activity time. Daily out-of-cell time is sometimes reduced to accommodate routine functions such as cleaning and maintenance. As such, HDC managers should consider reviewing the daily schedule and see if housing unit operations could be adjusted to reduce the need for the disruption or reduction of out-of-cell time in the daily schedule. (**Best Practices**)
- If HDC is interested in pursuing further compliance with the PBNDS 2011 standard on Use of Force, HDC should consider adopting the After-Action Review Committee process in compliance with PBNDS 2011. (**Best Practices**)
- Currently, HDC uses form HPD 4002, the Incident and Discipline Report, for placing a detainee into the SMU. This form is used specifically to document disciplinary reports rather than administrative segregation placement. HDC should consider establishing a Segregation Order form to be utilized specifically for segregation placement and decisions regarding retention or release. (**Best Practices**)
- There were a few intake screening questionnaires that indicated a “yes” answer to the question asking if the detainee had ever been the victim of sexual abuse. In these cases, there was no documentation regarding any follow-up questions or corresponding referral to a mental health clinician for evaluation of that history. Follow-up to positive responses to SAAP I intake screening assessments should be documented to establish that all factors are appropriately considered in the process. (**Best Practices**)

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<sup>55</sup> INS Detention Standards, Detainee Grievance Procedures, III., E.



- In one instance, a SAAPI facility investigation was completed prior to the completion of the medical and mental health evaluations of the detainee who made the allegations. Investigations into allegations of sexual assault should consider all relevant information including the medical and mental health evaluations of the detainee making the allegation. **(Best Practices)**
- If HDC intends to meet the PBNDS 2011 standards in the future, it will be necessary to establish a tracking system to document the notifications and timelines as required by the standard. **(Best Practices)**
- HDC 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. **(Best Practices)**
- HDC should consider allowing detainee family visitors to have visits that extend beyond the 25-minute limit, especially if family members have to travel long distances to visit. **(Best Practices)**
- Other facilities require detainees to sign for legal mail establishing a record that legal mail was received. HDC should consider instituting a legal mail log and require detainees to sign for legal mail so there is a record of all legal mail sent and received by detainees. **(Best Practices)**
- HDC does not keep a register or log that specifically tracks the law library usage. HDC should consider developing a register or log to track law library scheduling and usage by detainees. This would be helpful for management to determine the effectiveness of the law library program, scheduling and usage and to address any allegations that may be made about the lack of access. **(Best Practices)**
- We learned that a limited English proficient (LEP) detainee who was a vegetarian based on his religion was unaware that he could request a special diet on account of his religious observance. HDC should provide more language interpretation services to detainees for religious services and accommodations. **(Best Practices)**
- HDC should consider using the language line more often to ensure communication and understanding with LEP detainees. **(Best Practices)**

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

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## **Henderson Detention Center, Henderson, Nevada**

### Complaint Numbers

16-05-ICE-0222

16-07-ICE-0354

16-10-ICE-0458

### Prepared By:

(b) (6)

MCJ, R.D.N., L.D., R.S., CCHP, CLLM

4/4/2017

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## Introduction

On March 22-24, 2017, I assessed the environmental health and safety conditions at the Henderson Detention Center (HDC), Henderson, Nevada. 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) (b) (6) Policy Advisor, CRCL; (b) (6) Senior Policy Advisor, CRCL; as well as three other subject matter experts who examined HDC's medical care, 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 HDC. In particular, the allegations contained in Complaint Numbers 16-05-ICE-0222, 16-07-ICE-0354, and 16-10-ICE-0458 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 of review included the housing units, kitchen, laundry, and intake area.

## Qualifications

(b) (6)

## Methodology

The basis of this report includes document reviews, tour of the facility, detainee interviews, facility staff interviews, visual observations, and environmental measurements. The findings and recommendations contained in this report are solely those of the author. The report cites specific examples of conditions found during this review; however, they should not be considered as all inclusive of the conditions found during the inspection. Consideration was given to national and state standards including the National Detention Standards (NDS) 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 Captain (b) (6), (b) (7)(C) and his staff. The facility employees were accommodating, helpful, and placed no limitations on my requests. Their cooperation and assistance is greatly appreciated.



## Facility Overview

HDC is owned by the City of Henderson, Nevada and is operated by the Henderson Police Department. The facility opened in 1994 with 292 beds and a 2011 expansion added another 250 beds for a total capacity of 540. The facility houses male and female detainees through an Intragovernmental Service Agreement (IGSA) with the United States Marshals Service. On March 22, 2017, the total facility census was 500 of which 270 were ICE detainees. The National Detention Standards (NDS) are applicable to this facility.

## Findings

### Complaint Number 16-05-ICE-0222 – Access to Supplies

It is alleged in complaint number 16-05-ICE-0222 that the facility does not permit adequate access to supplies and only allows detainees two minutes to obtain supplies and denies them when detainees take too long to get them.

Findings: Although there are times that personal hygiene supplies are not immediately provided to detainees upon demand, I did not find evidence to support the allegation that the facility only allows two minutes to obtain supplies or outright denies personal hygiene products. Therefore, this allegation is unsubstantiated.

Applicable Standards: The NDS Issuance and Exchange of Clothing, Bedding, and Towels and Admission and Release standards are applicable.

#### Analysis:

The importance of hygiene is acknowledged in the NDS Issuance and Exchange of Clothing, Bedding, and Towels standard stating, “Basic hygiene is essential to the well-being of detainees.” The Henderson Police Department, Inmate Procedure, Personal Hygiene, CPM 4525.3, Issuing Hygiene Products states, “Inmates will be provided the standard issued hygiene products along with a clean uniform and linens after showering and prior to being escorted to the housing unit. Inmates can request a new comb, toothbrush every 30 days, and toothpaste during shower time in the evenings. The inmate will provide the old item for inspection prior to receiving the new one. Inmates may be provided a new roll of toilet paper by presenting the empty roll prior to disposal. Inmates will be provided nail clippers upon request. The nail clippers are to be used at the front table in view of the officer’s station and returned as soon as the inmates if finished with them. Female inmates may be provided sanitary napkins and tampons upon request. Body and hair shampoo will be placed in the shower area.”

Plastic storage bins containing personal hygiene supplies including razors, small bars of soap, toothbrushes, 0.25 oz. packets of Fluoride toothpaste, and hair combs, along with toilet paper were observed in the pod officers' stations and rooms between the pods throughout the facility. The facility maintains an ample inventory of supplies, including personal hygiene products in the onsite storage warehouse. Additionally, during my inspections of the cells, I checked for the presence of toilet paper and observed sufficient quantities throughout the housing units.

During interviews, detainees were asked if they are provided adequate quantities of toilet paper and personal hygiene supplies and many detainees replied affirmatively. One male detainee reported that the issuance of toilet paper is "strict" but upon follow up questioning did state that it is provided when needed. Another male detainee reported that it sometimes takes twenty minutes for the officer to come to the window when waiting to request additional toilet paper. However, when asked, the detainee stated that he had a sufficient supply of toilet paper at that time. Female detainees reported inconsistencies in the provision of supplies, stating that some officers provide feminine hygiene products as needed, whereas other officers will only give them two per day and some will only distribute feminine hygiene products at specific times of the day.

I observed detainees to appear reasonably well groomed. However, based on detainee and staff interviews, the distribution of personal hygiene supplies appears to vary from unit to unit and officer to officer. Furthermore, the HDC Inmate Rules and Regulations (Rev. 7-1-15) states that one toothbrush, toothpaste, comb, and roll of toilet paper are allowed and that a "reasonable amount" of bar soap and women's sanitary supplies are allowed, and that HDC staff determine what constitutes a reasonable supply. However, the Inmate Rules and Regulations do not address the procedures for the distribution of personal hygiene supplies, except for razors.

Conclusion:

Although it cannot be substantiated that a specific officer denied access to supplies in 2016, I did not find evidence that officers currently deny access to personal hygiene supplies. However, the lack of uniformity in the distribution of supplies creates an environment in which officers may not distribute them in accordance with the HDC policy and procedure or in which detainees believe that supplies are not distributed fairly.

Recommendation:



1. Access to basic hygiene supplies is fundamental to the health and well-being of detainees. HDC should evaluate the distribution of personal hygiene supplies throughout the detainee housing units; revise the procedures, if needed; ensure that all staff adhere to the established procedure; and update the Inmate Rules and Regulations to ensure full compliance with the NDS Admission and Release standard stating, "Staff shall provide male and female detainees with the items of personal hygiene appropriate for, respectively, men and women. They will replenish supplies as needed." (Applicable standard: NDS; Admission and Release, Level 1)

### **Complaint Number 16-07-ICE-0354 – Living Conditions**

Complaint number 16-07-ICE-0354 alleges the conditions are inadequate including showers that overflow because the drains are plugged, black mold on the drinking fountain, and detainees are provided only one clean sheet a week and thus have to keep a dirty one until the next week's exchange.

Findings: The allegation that the HDC shower drains are blocked, creating insanitary living conditions is unsubstantiated. However, a problem with adequate access to dayroom showers was found in the special management unit. The allegation that the drinking fountains are contaminated with black mold is unsubstantiated. The allegation that only one sheet is exchanged per week is substantiated.

Applicable Standards: The NDS Environmental Health and Safety and Issuance and Exchange of Clothing, Bedding, and Towels standards are applicable.

#### Analysis:

A sanitary living environment is necessary to protect detainee health and accordingly the NDS Environmental Health and Safety standard indicates "Environmental health conditions will be maintained at a level that meets recognized standards of hygiene" and further specifies, "The standards include those from the American Correctional Association." ACA Housekeeping standard 4-ALDF-1A-04 stipulates, "The facility is clean and in good repair." I conducted inspections of the HDC housing units during the onsite investigation. The cells, dayrooms, and showers were found to be reasonably clean and suitable cleaning chemicals and supplies were observed. I did not find any evidence of black mold in the water fountains or faucets. Shower drains can become clogged, especially with heavy use in a dormitory type setting. Therefore, I used a flashlight to check the HDC shower drains and found them to be reasonably clean. I also ran water in random shower stalls and found that the water drained without backing up.

However, the condition of the shower drains and plumbing fixtures at the time the complaint was filed in April 2016 cannot be ascertained.

Detainees housed in the Special Management Unit Pods 1A and 1B report that the limited number of hours that they are allowed in the dayrooms restricts their time to access the showers. Each cell in the facility has a toilet-sink combination unit and shared shower rooms with multiple shower stalls are located in the dayrooms. Therefore, detainees must be allowed out of their cells to shower. The special management unit has posted dayroom hours. However, numerous other facility activities affect dayroom access; for example, detainees are not allowed out of their cells during medication passes, routine housekeeping activities, and maintenance repairs. Therefore, the fact that out of cell time is restricted, limits access to showering. This problem is exacerbated by the number of occupants assigned to each unit. The maximum capacity of Pod 1A is 57 and Pod 1B is 47. Therefore, in Pod 1A there are up to 57 individuals competing to use the showers, which may lead to some not being able to take a shower during that time period or even altercations among individuals fighting to use the showers. Detainees must have shower access to comply with the NDS Environmental Health and Safety standard stating, "Environmental health conditions will be maintained at a level that meets recognized standards of hygiene" and further indicates "The standards include those from the American Correctional Association" is applicable. ACA Housekeeping standard 4-ALDF-4B-09 states, "Inmates have access to operable showers with temperature-controlled hot and cold running water."

Clean laundry is vital to ensure good detainee health. Per the NDS Exchange of Clothing, Bedding, and Towels standard regarding exchange requirements, "Detainees shall be provided with clean clothing, linen, and towels on a regular basis to ensure proper hygiene. Socks and undergarments will be exchanged daily, outer garments at least twice weekly and sheets, towels, and pillowcases at least weekly." The HDC Inmate Rules and Regulations (Rev. 7-1-15) indicates that detainees are issued two sheets, one blanket, two uniforms, two pairs of underwear, two pairs of socks, and women are also provided two sport bras. The HDC Inmate Rules and Regulations also states that clean uniforms, socks, and towels will be provided twice a week and in order to receive clean uniforms, socks, underwear, and towels they must be turned into the laundry, in a laundry bag, for washing. The HDC Inmate Rules and Regulations further state that linens and blankets are exchanged on an item for item basis, once per week, on Monday, Tuesday, or Wednesday. I was provided a laundry schedule onsite that indicates laundry is exchanged twice per week, sheets are exchanged once per week, and personal bags are washed once per week. However, I was verbally advised during my inspection of the laundry that the facility exchanges laundry thrice weekly, which



may be the case if the personal bags are included. I was also advised that although two sheets are issued to detainees, only one sheet is exchanged weekly. Therefore, the exchange of sheets does not comply with the NDS Exchange of Clothing, Bedding, and Towels standard requiring that sheets be exchanged at least weekly.

Conclusion:

The potential lack of shower access time in the HDC Special Management Unit hinders personal hygiene and places detainees at increased risk of health problems related to inadequate personal hygiene practices. Furthermore, the lack of adequate time for all detainees to comfortably shower may place some detainees at risk of manipulation by stronger or aggressive detainees or inmates and can potentially lead to physical altercations. Clean laundry is essential for good health and maintenance of a hygienic facility. However, the practice of exchanging only one sheet per week violates the NDS standard requiring sheets are exchanged at least weekly.

Recommendations:

2. Adequate access to showers is essential to maintain health and hygiene. However, detainees housed in the HDC Special Management Unit may experience limited shower access secondary to restrictions placed on the dayroom schedule as a result of routine facility activities, including medication pass and housekeeping activities. Therefore, HDC should review the schedules and ensure that each detainee has adequate time to shower in accordance with the NDS Environmental Health and Safety standard stating, "Environmental health conditions will be maintained at a level that meets recognized standards of hygiene" and further indicates "The standards include those from the American Correctional Association" is applicable. ACA Housekeeping standard 4-ALDF-4B-09 states, "Inmates have access to operable showers." (Applicable standard: NDS; Environmental Health and Safety, Level 1)
3. Clean laundry is important for the maintenance of personal hygiene and good health. HDC should assess the current laundry program to ensure that laundry is exchanged in accordance with the NDS Exchange of Clothing, Bedding, and Towels standard regarding exchange requirements, "Detainees shall be provided with clean clothing, linen, and towels on a regular basis to ensure proper hygiene. Socks and undergarments will be exchanged daily, outer garments at least twice weekly and sheets, towels, and pillowcases at least weekly." Furthermore, the HDC Inmate Rules and Regulations should be updated to reflect the actual schedule in effect at the facility. (Applicable standard: NDS; Environmental Health and Safety, Level 1)

### **Complaint Number 16-10-ICE-0458 – Food**

It is alleged in complaint number 16-10-ICE-0458 that the meal trays are inconsistent, food portions are small, and they are served less than 2,200 calories per day. The complaint also alleges that the facility serves higher quality food and larger portion sizes during inspections conducted by outside agencies.

Findings: The allegation that food portions are small or inconsistent in size is unsubstantiated. The allegation that the average number of calories served per day is less than 2,200 is unsubstantiated. The allegation that HDC serves larger portions of higher quality foods on days that the facility is inspected is also unsubstantiated.

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

#### Analysis:

HDC provided a copy of the general/regular five-week cycle menu during the onsite inspection. The facility also submitted a copy of a nutrient analysis summary completed by a Registered Dietitian on August 5, 2015, and reported that it was the latest dietitian's menu review. However, the menu lacked a dietitian's signature and the nutrient analysis was a summary rather than a detailed listing of foods. Therefore, based on the documents provided, I cannot verify that the nutrient analysis was conducted for this particular menu or for the foods currently purchased, prepared, and served. The nutrient content of packaged foods and convenience items, including the numerous purchased entrees such as meat patties, chicken patties, and chicken fried steak patties served at HDC, may change when the kitchen changes vendors or vendors change products or product formulations, resulting in variances from the original nutrient analysis. The 2015 analysis indicates the regular menu provides an average of 2,363 calories per day. Although I do not believe that HDC is intentionally trying to misrepresent the nutritional analysis of the menus, to ensure compliance with the NDS Food Service standard stating, "A registered dietitian shall conduct a complete nutritional analysis of every master cycle menu planned by the FSA. Menus must be certified by the dietitian before implementation. If necessary, the FSA shall modify the menu in light of the nutritional analysis, to ensure nutritional adequacy. If the master-cycle menus change significantly during the year, the cycle should be reevaluated, to maintain the integrity of nutritional analysis," HDC should have all menus immediately reevaluated by a Registered Dietitian and ensure that the Dietitian signs and dates each menu page and then have the menus reassessed when significant changes are made. Furthermore, as a best practice, it is strongly recommended that the menu be evaluated at least annually by a Registered Dietitian as recommended by the Performance Based



National Detention Standards (PBNDS) 2008 and 2011, as well as the ACA Dietary Allowance standard (4-ALDF-4A-07).

A review of the HDC general menu reveals that breakfast menu items include eggs, fruit, oatmeal, cereal, pancakes, waffles, syrup, bread, biscuits, gravy, butter, and milk. Lunch meals include burrito, chili mac, cheeseburger, chicken patty, cold cuts, hot dog, sloppy joe, tuna sandwich, chips, macaroni salad, fruit, pudding, cake, and tea or juice. Dinner meals include soft tacos, chicken adobe, turkey ala king, fish patty, Salisbury steak, meatloaf, tuna and noodles, goulash, potatoes, rice, beans, vegetables, fruit, cookies, pudding, gelatin, and juice. HDC also provides medical and religious diets. When asked about the meals at HDC, most detainees stated that it was average or satisfactory and several stated that it is better than the food served at other correctional facilities. I also observed several meals at the facility, the detainees were readily eating their food, and no meal related problems were found. I saw no evidence that the facility served different foods or portions of food during my inspection.

The HDC kitchen received an inspection grade of "A" with no demerits on their last food establishment inspection by the Southern Nevada Health District on August 1, 2016. I found food service sanitation violations during my inspection of the kitchen on March 22, 2017. However, the violations were not critical and did not constitute imminent health hazards. The paint or coating on the floor is excessively worn in numerous areas throughout the kitchen; the peeling paint was particularly bad under the ice machine. The peeling paint presents a potential contamination hazard. The NDS Food Service standard states, "All facilities shall meet the following environmental standards: Routinely cleaned walls, floors, and ceilings in all areas." Additionally, an inmate worker washing dishes in the three-compartment sink was observed using a layer of cotton towels on the drain board, under drying pots and pans. The NDS Food Service standard requires, "Air-dry utensils and equipment after sanitizing." Air-drying is important because it eliminates the moisture needed for the growth of disease causing microorganisms. Furthermore, the use of towels may contaminate clean dishware with microorganisms that cause illness. Additionally, the trashcans throughout the kitchen were not covered with lids. The NDS Food Service standard requires, "The garbage/refuse containers shall have sufficient capacity for the volume, and shall be kept covered, cleaned frequently, and insect- and rodent proof." Proper storage of garbage helps to minimize the development of objectionable odors, prevents it from attracting and harboring insects and rodents, and prevents the soiling of clean food preparation areas.

However, it should also be noted that the HDC kitchen supervisor and kitchen staff were eager for feedback and receptive to my findings, immediately implementing corrective actions and ordering new lids for the kitchen trashcans.

Conclusion:

The food service program at HDC recognizes that meal periods are highly anticipated events in a correctional environment and therefore, the taste, appearance, and presentation of meals can impact the health and general mood of the facility, as specified by the NDS 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." Adherence to this belief is reflected by the generally positive response to meals. The menu was last analyzed by a registered dietitian in 2015 and although annual certification is not mandated by the NDS Food Service standard, the individual menu pages were not signed and dated by the dietitian and therefore it cannot be verified that the menus are the ones cited in the certification letter. The kitchen scored an "A" rating during their last health department inspection. However, non-critical food code violations were observed during the onsite investigation.

Recommendations:

4. Properly planned menus are essential to meet the diverse nutritional needs of the detainee population. HDC should have all menus immediately reevaluated by a Registered Dietitian and ensure that the dietitian signs and dates each menu page to ensure compliance with the NDS Food Service standard stating, "A registered dietitian shall conduct a complete nutritional analysis of every master cycle menu planned by the FSA. Menus must be certified by the dietitian before implementation. If necessary, the FSA shall modify the menu in light of the nutritional analysis, to ensure nutritional adequacy. If the master-cycle menus change significantly during the year, the cycle should be reevaluated, to maintain the integrity of nutritional analysis." Furthermore, menus should be recertified when significant changes are made as mandated by the standard. (Applicable standard: NDS; Food Service, Level 1)
  
5. As a best practice, it is strongly recommended that the menu be evaluated at least annually by a Registered Dietitian as recommended by the Performance Based National Detention Standards (PBNDS) 2008 and 2011, as well as the ACA Dietary Allowance standard (4-ALDF-4A-07). (Applicable standard: Best Practice)



6. Kitchen floors must be kept clean and in good repair. HDC should ensure that the kitchen floor is resurfaced or renovated as soon as feasible to comply with the NDS Food Service standard requiring, "All facilities shall meet the following environmental standards: Routinely cleaned walls, floors, and ceilings in all areas." Furthermore, the floor must be maintained in good condition in compliance with the NDS Environmental Health and Safety standard indicates "Environmental health conditions will be maintained at a level that meets recognized standards of hygiene" and further specifies, "The standards include those from the American Correctional Association." ACA Housekeeping standard 4-ALDF-1A-04 stipulates, "The facility is clean and in good repair." (Applicable standards: NDS; Food Service and Environmental Health and Safety, Level 1)
7. Air-drying of food service equipment and utensils is important to safeguard against disease causing microorganisms. HDC should ensure that towels are not utilized after dishwashing as required by the NDS Food Service standard stating, "Air-dry utensils and equipment after sanitizing." (Applicable standard: NDS; Food Service, Level 1)
8. Proper handling of garbage, including covering trashcans minimizes odors, helps prevent the attraction of vermin, and helps prevent soiling of clean surfaces. HDC should ensure that trashcans in the kitchen remain covered when not in actual use as specified by the NDS Food Service standard requiring, "The garbage/refuse containers shall have sufficient capacity for the volume, and shall be kept covered, cleaned frequently, and insect- and rodent proof." (Applicable standard: NDS; Food Service, Level 1)

## **Other Observations**

### **Barber Operation**

The importance of barber operation sanitation is expressed by the NDS Environmental Health and Safety standard stating, "Sanitation of barber operations is of the utmost concern because of the possible transfer of diseases through direct contact or by towels, combs, and clippers." The HDC barbershop was inspected on March 24, 2016. The barbershop complies with the minimum NDS Environmental Health and Safety standard for the physical facility including conducting operations in a separate room, the floor finish will be smooth, nonabsorbent, and easily cleaned, walls and ceiling will be in good repair and painted a light color, and minimum artificial lighting levels. The barbershop was not in use at the time of the inspection. Numerous loose hair clippings were

observed on the outside of the clippers, on the clipper guards, and accumulated in the plastic storage box containing the clipper guards. Additionally, the floor was found to be dirty with an accumulation of grime around the edges and in the corners.

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

Conclusion: The hair clippers, clipper guides, and storage case are not properly cleaned and disinfected in compliance with the NDS Environmental Health and Safety standard stating "All scissors, combs or other tools (except clippers) will be thoroughly washed with soap and hot water to remove film and debris and effectively disinfected immediately after use on each detainee and before being used for the service of any other detainee" and "After cleaning, the clipper blades will be immersed in the disinfectant solution and agitated for a period of not less than 15 seconds before use on any other detainee" thereby creating an opportunity for the transmission of skin and scalp diseases including Hepatitis B and C, ringworm, head lice, and MRSA. Furthermore, the floor in the barbershop is also not maintained in a clean and sanitary manner as required by the NDS Environmental Health and Safety standard indicating, "Environmental health conditions will be maintained at a level that meets recognized standards of hygiene."

Recommendations:

9. Hair trimmings were found on hair clippers that should have been cleaned after use. Failure to properly clean and disinfect barber tools places detainees at risk of skin and scalp diseases. HDC should ensure that all barber tools and supplies are properly cleaned and disinfected after each use as mandated by the NDS Environmental Health and Safety standard requiring, "Instruments such as combs and clippers shall not be used successively on detainees without proper cleaning and disinfecting." (Applicable standard: NDS; Environmental Health and Safety, Level 1)
  
10. Good housekeeping practices in barbershops are imperative to minimize the risk of disease transmission. HDC should ensure that the floor in the barbershop is properly cleaned in compliance with The NDS Environmental Health and Safety standard stating, "Environmental health conditions will be maintained at a level that meets recognized standards of hygiene" and further specifies, "The standards include those from the American Correctional Association" is applicable. ACA Housekeeping standard 4-ALDF-1A-04 stipulates, "The facility is clean and in good repair." (Applicable standard: NDS; Environmental Health and Safety, Level 1)



### **Language Access**

On March 23, 2017, a detainee who spoke neither English nor Spanish was interviewed through the assistance of a telephonic language line. During the interview, it was discovered that the detainee was not aware that a diet could be requested to meet the requirements of his religion. Furthermore, the detainee stated that there was no one in the facility that he could talk to and did not know who to tell in regards to his personal needs.

Applicable Standard: The NDS Detainee Handbook standard is applicable.

Conclusion: Detainees that do not speak English or Spanish are isolated and in a perilous position, as they are unable to communicate important personal needs to facility staff. The NDS Detainee Handbook standard requires, "The OIC will provide translation assistance to detainees exhibiting literacy or language problems and those who request it. This may involve translators from the private sector or from the detainee population."

Recommendation:

11. HDC should ensure that all detainees receive a facility orientation in compliance with the NDS Detainee Handbook standard requiring, "The OIC will provide translation assistance to detainees exhibiting literacy or language problems and those who request it. This may involve translators from the private sector or from the detainee population."

## Summary of NDS Recommendations

1. Access to basic hygiene supplies is fundamental to the health and well-being of detainees. HDC should evaluate the distribution of personal hygiene supplies throughout the detainee housing units; revise the procedures, if needed; ensure that all staff adhere to the established procedure; and update the Inmate Rules and Regulations to ensure full compliance with the NDS Admission and Release standard stating, "Staff shall provide male and female detainees with the items of personal hygiene appropriate for, respectively, men and women. They will replenish supplies as needed." (Applicable standard: NDS; Admission and Release, Level 1)
2. Adequate access to showers is essential to maintain health and hygiene. However, detainees housed in the HDC Special Management Unit may experience limited shower access secondary to restrictions placed on the dayroom schedule as a result of routine facility activities, including medication pass and housekeeping activities. Therefore, HDC should review the schedules and ensure that each detainee has adequate time to shower in accordance with the NDS Environmental Health and Safety standard stating, "Environmental health conditions will be maintained at a level that meets recognized standards of hygiene" and further indicates "The standards include those from the American Correctional Association" is applicable. ACA Housekeeping standard 4-ALDF-4B-09 states, "Inmates have access to operable showers." (Applicable standard: NDS; Environmental Health and Safety, Level 1)
3. Clean laundry is important for the maintenance of personal hygiene and good health. HDC should assess the current laundry program to ensure that laundry is exchanged in accordance with the NDS Exchange of Clothing, Bedding, and Towels standard regarding exchange requirements, "Detainees shall be provided with clean clothing, linen, and towels on a regular basis to ensure proper hygiene. Socks and undergarments will be exchanged daily, outer garments at least twice weekly and sheets, towels, and pillowcases at least weekly." Furthermore, the HDC Inmate Rules and Regulations should be updated to reflect the actual schedule in effect at the facility. (Applicable standard: NDS; Environmental Health and Safety, Level 1)
4. Properly planned menus are essential to meet the diverse nutritional needs of the detainee population. HDC should have all menus immediately reevaluated by a Registered Dietitian and ensure that the dietitian signs and dates each menu page to ensure compliance with the NDS Food Service standard stating, "A registered dietitian shall conduct a complete nutritional analysis of every master cycle menu planned by the FSA. Menus must be certified by the dietitian before implementation. If necessary, the FSA shall modify the menu in light of the nutritional analysis, to ensure nutritional adequacy. If the master-cycle menus change



significantly during the year, the cycle should be reevaluated, to maintain the integrity of nutritional analysis.” Furthermore, menus should be recertified when significant changes are made as mandated by the standard. (Applicable standard: NDS; Food Service, Level 1)

6. Kitchen floors must be kept clean and in good repair. HDC should ensure that the kitchen floor is resurfaced or renovated as soon as feasible to comply with the NDS Food Service standard requiring, “All facilities shall meet the following environmental standards: Routinely cleaned walls, floors, and ceilings in all areas.” Furthermore, the floor must be maintained in good condition in compliance with the NDS Environmental Health and Safety standard indicates “Environmental health conditions will be maintained at a level that meets recognized standards of hygiene” and further specifies, “The standards include those from the American Correctional Association.” ACA Housekeeping standard 4-ALDF-1A-04 stipulates, “The facility is clean and in good repair.” (Applicable standards: NDS; Food Service and Environmental Health and Safety, Level 1)

7. Air-drying of food service equipment and utensils is important to safeguard against disease causing microorganisms. HDC should ensure that towels are not utilized after dishwashing as required by the NDS Food Service standard stating, “Air-dry utensils and equipment after sanitizing.” (Applicable standard: NDS; Food Service, Level 1)

8. Proper handling of garbage, including covering trashcans minimizes odors, helps prevent the attraction of vermin, and helps prevent soiling of clean surfaces. HDC should ensure that trashcans in the kitchen remain covered when not in actual use as specified by the NDS Food Service standard requiring, “The garbage/refuse containers shall have sufficient capacity for the volume, and shall be kept covered, cleaned frequently, and insect- and rodent proof.” (Applicable standard: NDS; Food Service, Level 1)

9. Hair trimmings were found on hair clippers that should have been cleaned after use. Failure to properly clean and disinfect barber tools places detainees at risk of skin and scalp diseases. HDC should ensure that all barber tools and supplies are properly cleaned and disinfected after each use as mandated by the NDS Environmental Health and Safety standard requiring, “Instruments such as combs and clippers shall not be used successively on detainees without proper cleaning and disinfecting.” (Applicable standard: NDS; Environmental Health and Safety, Level 1)

10. Good housekeeping practices in barbershops are imperative to minimize the risk of disease transmission. HDC should ensure that the floor in the barbershop is properly cleaned in compliance with The NDS Environmental Health and Safety standard stating, “Environmental health conditions will be maintained at a level that meets recognized standards of hygiene” and further specifies, “The standards include those from the American Correctional Association” is

applicable. ACA Housekeeping standard 4-ALDF-1A-04 stipulates, “The facility is clean and in good repair.” (Applicable standard: NDS; Environmental Health and Safety, Level 1)

11. HDC should ensure that all detainees receive a facility orientation in compliance with the NDS Detainee Handbook standard requiring, “The OIC will provide translation assistance to detainees exhibiting literacy or language problems and those who request it. This may involve translators from the private sector or from the detainee population.”

### **Best Practice Recommendation**

5. As a best practice, it is strongly recommended that the menu be evaluated at least annually by a Registered Dietitian as recommended by the Performance Based National Detention Standards (PBNDS) 2008 and 2011, as well as the ACA Dietary Allowance standard (4-ALDF-4A-07). (Applicable standard: Best Practice)



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**CONFIDENTIAL**

REPORT FOR THE  
U.S. DEPARTMENT OF HOMELAND SECURITY  
OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES  
MARCH 27, 2017

Investigation regarding Henderson Detention Center

Prepared by

(b) (6)

Ph.D.

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## EXECUTIVE SUMMARY

The assessment regarding the delivery of mental health services at the Henderson Detention Center (HDC) focused on services provided to ICE detainees, a subset of HDC's incarcerated population (ICE detainees and inmates from both local law enforcement and the United States Marshals Service) during the March 22 – 24, 2017 site visit.

### Positive Aspects of the Mental Health Delivery System

1. Staff who deliver mental health services, both support and are supported by medical and custody staff.
2. The rate of suicides and self-injurious behaviors are low.
3. Detainees who have been placed on suicide watch are observed during irregular 15 minute rounds.
4. All of the suicide watch camera-cells in the booking area are suicide resistant.
5. The Suicide Risk Assessment Form has been expanded and improved over the past four years.
6. Detainees being treated with psychotropic medication sign either an informed consent form or a refusal form which is filed in their medical records.
7. Detainees requiring a higher level of mental health care than what is available at HDC are transferred to an appropriate facility, often to another ICE facility in San Diego, California.

### Problematic Aspects of the Mental Health Delivery System **Standards/Policies & Procedures, Findings, and Recommendations**

#### ➤ **Problem #1.**

- **Standard(s):** NDS 2000, Medical Care, § III.A, General
- **Finding and Recommendation:** HDC does not have adequate mental health staffing, which leads to rushed appointments with detainees, delays in responding to staff phone calls and detainee sick call requests, limited counseling and monitoring of detainees on suicide watch, and inadequate documentation of care. HDC should increase mental health staffing after conducting a staffing analysis based on HDC's mental health administrative and clinical needs, (i.e., intake screens, psychiatric evaluations, referrals, stabilization services, camera-cell rounds, sexual abuse screenings and

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evaluations, treatment [pharmacological and nonpharmacological], treatment planning, and oversight procedures). (Level 1 recommendation)

- **Finding and Recommendation (2):** Everyone placed in a suicide watch camera-cell has all their property taken away on admission and returned on discharge. Placement in the suicide watch cell needs to be individualized to each person's clinical needs to ensure placement in the least restrictive environment. (Level 1 recommendation)

➤ **Problem #2.**

- **Standard(s):** NDS 2000, Medical Care, § III.B, Facilities and § III.M, Confidentiality and Release of Medical Records
- **Finding and Recommendation:** Security staff is always present, with no sight or sound privacy, during the delivery of mental health services (screens, assessment and treatment) at HDC. HDC should develop a policy to assess the need for an officer to be in the same room with the clinician and the detainee on a case-by-case basis. The default position should be to have the officer outside of the room, ensuring sound privacy unless there is an appropriate clinical or security reason not to do it. (Level I recommendation)

➤ **Problem #3.**

- **Standard(s):** NDS 20000, Medical Care, § III.F, Sick Call
- **Finding and Recommendation:** The timeliness of psychiatry's response to referrals is variable. It is recommended that the HSA develop referral logs, tracking the timeliness of psychiatry's response to both routine and high priority referrals. The data obtained from these logs will help the HSA correct the problem because there will be an understanding of both the magnitude and origins of these concerns (i.e., inadequate staffing and/or procedural issues obstructing a timely response). (Level 2 recommendation)

➤ **Problem #4.**

- **Standard(s):** NDS 2000, Suicide Prevention and Intervention, § III.A, Training
- **Finding and Recommendation:** The 2016 annual suicide prevention "training rosters" and "lesson plans" for officers were not available when they were requested. Keep track of the number of officers who completed their annual suicide prevention training and the number of officers who have yet to complete their annual training (Level 2 recommendation).

➤ **Problem #5**

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- **Standard(s):** NDS 2000, Suicide Prevention and Intervention, § III.B, Identification and Intervention
- **Finding and Recommendation:** Trends in the number of admissions to suicide watch cells were not available. To maintain accountability, it's recommended that Corizon develop tracking logs to capture critical data on high acuity mentally ill detainees and inmates. (Level 2 recommendation)

➤ **Problem #6.**

- **Standard(s):** NDS 2000, Suicide Prevention and Intervention, § III.C, Housing/Hospitalization
- **Finding and Recommendation:** The suicide watch camera-cells in units 1 and 2 are not suicide resistant. Either make the camera-cells in units 1 and 2 suicide resistant or only use the nine suicide resistant camera-cells in the Booking Area for suicide watches. (Level 1 recommendation)

➤ **Problem #7.**

- **Standard(s):** NDS 2000, Suicide Prevention and Intervention, § III.C, Housing/Hospitalization
- **Standard(s):** HDC Policies and Procedures CPM4461, Suicide Prevention and Intervention
- **Finding and Recommendation:** Detainees are reportedly released / discharged from suicide watch and placed in general population without written authorization from the psychiatrist. Increase the mental health staffing pattern and develop a suicide watch log that must be completed before anyone is released. Elements of the log include: the detainee's identifying information; the admitting information (i.e., date and time of the admission, person authorizing the admission, and reason for the admission); and the discharging information (date and time of the discharge; special discharge precautions such as "close observation", and the name of the person authorizing the release). (Level 1 recommendation)

➤ **Problem #8.**

- **Standard(s):** NDS 2000, Medical Care, § III.P, Quarterly Administrative Meetings
- **Standard(s):** Corizon's Corporate Policy and Procedure on "Administrative Meetings and Reports"
- **Finding and Recommendation (1):** During the quarterly Medical Administrative Meetings, mental health's accountability is being compromised by an inadequate

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mental health information management system which prevents it from, 1) accounting for the effectiveness of its mental health care delivery system and, 2) developing, implementing, and measuring the outcomes of its corrective action plans. Develop, implement and maintain tracking systems and logs for critical information and critical functions such as: 1) detainees who have a history of suicide attempts, psychiatric hospitalizations, and mental health outpatient treatment; 2) the number of admissions to the suicide watch cells by the day of admission; 3) the number of times the restraint chair is used for detainees; 4) the timeliness of mental health's response to routine and urgent referrals; 5) the names of detainees by diagnosis; and 6) the names of detainees by medication. (Level 2 recommendation)

- **Finding and Recommendation (2):** There are no site-specific medical/mental health policies and procedures; however, Corizon's corporate medical/mental health policies and procedures indicate that reports based on data should be presented at its quarterly administrative meetings. Develop site-specific medical/mental health policies and procedures related to quarterly Medical Administrative Meetings and the utilization of data in accountability reports. (Level 1 recommendation)

➤ **Problem #9.**

- **Standard(s):** NDS 2000, Medical Care, § III.D, Medical Screening (New Arrivals) and Suicide Prevention and Intervention, § III.B, Identification and Intervention
- **Standard(s):** Corizon's Corporate Policies and Procedures, Mental Health Screening and Evaluation
- **Finding and Recommendation (1):** The psychiatric evaluation form is inadequate. Update the psychiatric assessment form including elements identified in Corizon's Corporate Medical/Mental Health Policies and Procedures. (Level 1 recommendation)
- **Finding and Recommendation (2):** There are no site-specific medical/mental health policies and procedures; however, Corizon's corporate medical/mental health policies and procedures discuss the essential elements of a psychiatric evaluation. Develop site-specific medical/mental health policies and procedures related to quarterly Medical Administrative Meetings and the utilization of data in accountability reports. (Level 1 recommendation)

➤ **Problem #10.**

- **Standard(s):** NDS 2000, Medical Care, § III.P, Quarterly Administrative Meetings
- **Standard(s):** Corizon's Corporate Policies and Procedures, Continuous Quality Improvement

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- **Finding and Recommendation (1):** Medical/mental health staff were unable to produce monthly/quarterly 2016 CQI reports that: identified core and site-specific issues and challenges; set thresholds; assessed the identified items; developed and implemented strategies to improve performance; and re-assessed those items. Update the psychiatric assessment form including elements identified in Corizon's Corporate Medical/Mental Health Policies and Procedures. (Level 2 recommendation)
- **Finding and Recommendation (2):** There are no site-specific medical/mental health policies and procedures; however, Corizon's corporate medical/mental health policies and procedures discuss the essential elements of a continuous quality improvement program. Develop site-specific medical/mental health policies and procedures related to mental health's continuous quality improvement program. (Level 1 recommendation)

➤ **Problem #11.**

- **Standard(s):** NDS 2000, Use Of Force, § III.G, Medical Attention in Immediate Use-of-Force and Application-of-Restraints Incidents
- **Standard(s):** Corizon's Corporate Medical/Mental Health Policies and Procedures, Restraint and Seclusion
- **Finding and Recommendation (1):** Psychiatry is seldom involved when custody uses the restraint chair. The restraint chair is reportedly used on average between 15 to 20 times a month, primarily to help medical safely draw blood during intake. Secondly, the restraint chair is used by custody to transport behaviorally unstable detainees / inmates who are on the units. Conduct a CQI study to determine the role of mental health when the restraint chair is used. (Level 1 recommendation)
- **Finding and Recommendation (2):** There are no site-specific medical/mental health policies and procedures; however, Corizon's corporate medical/mental health policies and procedures discuss the use of physical restraints. Develop site-specific medical/mental health policies and procedures related to mental health's role when the restraint chair is used. (Level 1 recommendation)

➤ **Problem #12.**

- **Standard(s):** Prison Rape Elimination Act (PREA)
- **Finding and Recommendation:** Psychiatry stated that they are not involved with PREA allegations. They reportedly do not perform a psychiatric evaluation when there is a PREA allegation. An upper level mental healthcare provider or a registered nurse who has been trained in assessing alleged victims of sexual assault has a critical role in the PREA processes and must evaluate alleged victims of sexual abuse. (Level 1 recommendation)

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### Comparing the 2017 and 2013 Investigations

#### ➤ **Corrected Findings**

- An appropriate suicide risk assessment tool has been developed and implemented.
- Psychotropic medication informed consent forms are signed by detainees and placed in their medical records.
- The suicide watch camera-cells in the “Booking Area” have been made suicide resistant.

#### ➤ **Continued Findings**

- The mental health staffing pattern remains inadequate.
- There continues to be a lack of sound privacy.
- There continues to be no site specific mental health policies and procedures.
- The psychiatric evaluation form remains inadequate.
- The suicide watch camera-cells in units 1 & 2 continue not to be suicide resistant.
- The quarterly Medical Administrative Committee Minutes continue to be difficult to access.
- A QI study on timely responses to mental health sick call requests remains undone.
- Statistics continue not to be kept on critical information of newly booked detainees whose healthcare screen resulted in a MH referral.
- The officer training roster on initial and annual suicide prevention training continues to be difficult to access.
- There continues to be no credentialing process and no documented psychiatric supervision of nurses performing suicide risk assessments.
- Access to QI reports continues to be problematic.

#### ➤ **New Findings**

- Detainees are occasionally released from a suicide watch camera-cell without psychiatric authorization.
- Psychiatry is rarely involved when the restraint chair is used in the “Booking Area” or in a unit for a behaviorally unstable detainee.
- Psychiatry is not involved when PREA allegations are made.



## CRCL INVESTIGATIVE REPORT ON THE MENTAL HEALTH DELIVERY SYSTEM AT THE HENDERSON DETENTION CENTER

### Professional Qualifications

(b) (6)



### Referral Issue

The U.S. Department of Homeland Security's (DHS) Office for Civil Rights and Civil Liberties (CRCL) asked me to participate in an investigation of complaints it received that included issues regarding the adequacy of the Henderson Detention Center's (HDC) mental health delivery services for ICE detainees. I reviewed the mental health care provided to two complainants. I also reviewed the relevant aspects of HDC's mental health services in order to assess compliance with the ICE National Detention Standards (2000), policies and procedures that were in place, and professional standards.

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## Standards, Policies and Procedures, and Best Practices

ICE National Detention Standards 2000  
Henderson Police Department's Policies and Procedures  
Corizon's Healthcare Policies and Procedures  
Prison Rape Elimination Act

## Sources of Information

- Facility Tour
- Documents
  - IHSC Directive # 03-03 (Care of Chronic Conditions)
  - Office of Detention Oversight 2015 Compliance Inspection Report
  - Office of Detention Oversight 2013 Compliance Inspection Report
  - The Healthcare Records of the Complainants
  - The Healthcare Records of 10 ICE Detainees
  - (b) (6)'s HDC Report from September 27, 2013
- Interviews
  - Staff
    - 1) (b) (6)
    - 2)
    - 3)
    - 4)
    - 5)
    - 6)
    - 7)
    - 8)
  - Detainees (8 males and 7 females)

## HDC Contextual Information

The Office of Detention Oversight's reports on HDC included the following information:

HDC is owned by the City of Henderson and is operated by the Henderson Police Department. The 127,200 -square-foot facility, which opened in 1994, houses inmates from the City of Henderson, local law enforcement agencies, the United States Marshals Service, and other federal law enforcement agencies. U.S. Immigration and Customs

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Enforcement (ICE) began housing detainees at HDC in January 2011, under an intergovernmental service agreement with the United States Marshals Service. Male and female detainees of all security classification levels (Level I - lowest threat, Level II - medium threat, Level III - highest threat) are detained at the facility for periods in excess of 72 hours. HDC allocates a total of 300 beds for ICE detainees.

Corizon, a private medical contractor, provides healthcare for ICE detainees at HDC. The City of Henderson provides food service. The facility holds no accreditations.

The Superintendent is the highest ranking City of Henderson official at HDC, and is responsible for oversight of daily operations at the facility.

The 2013 ODO report confirmed staffing in the medical clinic is sufficient to meet detainee healthcare needs. Training files and credential files for all medical staff were complete, and professional licenses were primary source verified. ODO reviewed the training records of ten detention staff members and all health services personnel, and confirmed each file contained documentation of current certifications in cardiopulmonary resuscitation, automated external defibrillators, and first aid.

In 2013, ODO reviewed the medical records of six detainees who were placed on suicide watch during the 12 months preceding this CI and confirmed management of suicide watches is consistent with facility policy and the NDS. All suicide watch cells are under 24-hour audio-video surveillance. In each case reviewed by ODO, a wellness check was documented every 15 minutes. At HDC, authorization for release from suicide watch is provided by a psychiatrist. ODO confirmed training in suicide prevention and intervention covered all elements required by the NDS. Review of training records confirmed ten of ten custody staff and all healthcare personnel received initial and ongoing training in suicide prevention and intervention.

Individual detainee data and aggregate data were not easily accessed; consequently, when Corizon and HDC staff were asked for data, they generally put forth an extra effort, providing the following information. On March 23, 2017, the overall reported detainee and inmate population at HDC was 500 with 270 detainees and 230 inmates. The average length of stay for ICE detainees was 45.3 days. The total number of detainees and inmates being treated with psychotropic medication was 29 and 42 respectively, with 26 in Pod #1, 10 in Pod #2, 27 in Pod #3, and 8 in Pod #4. A break out of the percentage of detainees and inmates receiving mental health services revealed that 10.7% of the detainee population and 18.3% of the inmate population were receiving mental health treatment. These numbers are consistent with the intake nurse's comment that "many more inmates, in comparison to ICE detainees, come into HDC with a positive mental health history." The part-time psychiatrist reported that he provides "some nonpharmacological treatment", but he was unable to provide the number of detainees and inmates receiving nonpharmacological treatment because HDC does not maintain any consolidated information about its mental health caseload.

In comparison to the data from the September 2013 CRCL Investigation, a larger percentage of ICE detainees were receiving mental health services in 2017 (10.7%) than in 2013 (5.1%) and a smaller percentage of inmates were receiving services in 2017 (18.3%) than in 2013 (an

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estimated 21-32%). Despite these differences between 2013 and 2017, the data continues to indicate that many more inmates receive mental health services than ICE detainees.

This onsite investigation was performed on Wednesday, Thursday, and Friday (March 22, 23, and 24, 2017). The in-briefing and facility tour took place on Wednesday morning and the out-briefing took place on Friday afternoon. It is worth noting that on March 22<sup>nd</sup>, the Health Service Administrator (HSA) had only been in that position for less than two weeks. It is also worth noting that the HSA was not present on Wednesday or Thursday because she had been working “night shift”. Consequently, I depended heavily on HDC’s Director of Nursing (b) (6) (b) (6) their Medical Administrative Assistant (b) (6), and Corizon’s Behavioral Health Liaison (b) (6).

The reasons for the change in medical’s leadership were unclear; however, it was clear that despite medical/mental health’s best efforts, they had difficulty providing some of the requested documents and information. It was also clear from the new HSA on Friday and Corizon’s regional representatives that medical and mental health were a “work-in-progress”, which included such things as piloting an electronic health record, planning to have site-specific policies and procedures, implementing a QI program, and implementing new procedures for maintaining minutes from Medical’s Administrative Meetings).

## A REVIEW OF THE MENTAL HEALTH CARE PROVIDED TO THE COMPLAINANTS

### A. Complaint No. 15-12-ICE-0632

- 1) **Documents Reviewed:** The documents reviewed include: A Case Summary Report dated 09/10/15; a list of 18 names, signatures, and A#s of immigrants who allege civil rights violations dated 10/26/15; a letter sent to CRCL Compliance Branch dated 11/03/15; a letter sent to the “Honorable Jeffrey L. Roming” dated 12/23/15; a letter sent “To Whom It May Concern” dated 01/05/16; an email from a CRCL Policy Advisor to ERO Sexual Assault dated 03/16/16; and Detainee #1’s medical record.<sup>1</sup>
- 2) **Staff Interviewed:** The following staff were interviewed about various aspects of this detainee’s complaint: (b) (6) and LCDR (b) (6)
- 3) **Nature of the Complaint:** On September 10, 2015 Detainee #1 alleged that he was denied proper medical attention at HDC, claiming that a “couple years ago, after being drugged, someone inserted something plastic into his system which has been causing him problems.” Two and a half months later, in a letter to Judge Roming, he stated that he was sexually abused between 2011 and 2012. He alleged that he was drugged and thus did not recall the details of the event; however, he recalled seeking help on the day it occurred, saying that he went to the University Medical Center,

<sup>1</sup> Names and alien numbers for detainees are omitted from the body of this report and included in Appendix A so that the report may be shared without any personally identifiable information (PII).



where he reported that he was “sexually abused” and had “some kind of metal or plastic injected in my body”. The police interviewed him and he was released from the hospital without an x-ray. He reported going to another hospital on the same day and once again did not receive any treatment. Additionally, he talked about being the victim of an attempted murder in September 2012 resulting in a back injury. He stated that despite the back injury and the presence of something in his body being well documented on an x-ray, he has not received any help. Before going to prison he once again sought help, but to no avail. After being released from prison, he decided not to report the alleged incident “because I felt very ashamed.” One month after being detained in HDC, he said that he told medical about the incident, but they did not do anything. After receiving a deportation order on September 9, 2015 he said that he reported the incident to the OIG and then to an ICE officer, all to no avail. On March 1, 2016, CRCL received an email from the DHS OIG regarding Detainee #1. The email stated that Detainee #1 called the OIG on February 11, 2016 to report a sexual assault which occurred on December 18, 2015. There was documentation of the allegations He was reportedly evaluated by medical staff and moved out of the dorm and moved into segregation while an investigation was being conducted. On February 19, 2016 Detainee #1 was transferred to the Florence Staging Facility and placed in other facilities between the February 19 and March 16. On March 16, 2016 a CRCL Policy Advisor sent an email to Enforcement and Replacement Operations (FRO) in order to ensure that ERO was aware of the PREA allegation and that they could take any action they deemed appropriate.

- 4) **Medical and DON Review:** (b) (6) an internist and addictionologist, and (b) (6) (b) (6) a registered nurse, said that they remember Detainee #1 “complaining about having plastic material inserted in his body.” As (b) (6) reviewed Detainee #1’s medical record, he said that he was diagnosed with chronic rhinitis and had subsequent balance problems. He also had both chest pain and back pain secondary to being hit by a car in 2012. (b) (6) also said that Detainee #1 was convinced that the substance inserted in his body contributed to his chest and back pain. The DON described him as having “serious mental health problems”. For Detainee #1’s rhinitis, (b) (6) referred him to ENT and wrote an order for CT Scans. For his chest and back pain, he wrote an order for x-rays of his thoracic spine and chest. All test results were negative. For his reported mental health problems, he was evaluated and “followed” by the psychiatrist.
- 5) **Psychiatry Review:** (b) (6) a psychiatrist said that he remembers Detainee #1 “having a delusional somatoform disorder and he didn’t want to hear it. He was convinced that he had medical problems.” When asked about his “rule out diagnoses” to include a somatoform disorder, a delusional somatoform disorder, a delusional paranoid disorder, and a depressive disorder, (b) (6) said that he should have explained his thinking underlying his rule out diagnoses. When asked about whether Detainee #1 should have been referred to a facility with a higher level of mental health care, he said that he does refer detainees to the hospital; however, “ICE knows these detainees and approves or disapproves their referrals to the hospital.”

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- 6) LCDR (b) (6) When LCDR (b) (6) was asked to describe the process of hospitalizing detainees with serious mental illness, he said “ideally, there’d be a hospital in Las Vegas that could stabilize these detainees; however, there are no hospitals that accept federal detainees in the whole state of Nevada.” He talked about transferring them from HDC to the ICE facility in San Diego “if there is room.” If there is no room, he said that “we have to release them from custody in order to get them admitted to a hospital and then when they’re stable and ready to be discharged, they go back into custody.” He continued saying, “if they’re chronically unstable, their disposition is up to the judge.” He added, “this whole process starts with Dr. Sussman or the judge.”
- 7) **Medical Record:** A review of Detainee #1’s medical record revealed he was seen or refused to see (b) (6) 34 times during the 12 months he was at HDC. He was prescribed psychotropic medications; however, he refused to take the medication, saying he wanted individual counseling.
- 8) **Summary of Findings:** Detainee #1 appeared to be struggling with physical problems that exacerbated his mental health problems, which in turn exacerbated his physical problems, which in turn exacerbated his mental health problems, ad infinitum. A differential psychiatric diagnosis was complicated by symptoms that overlapped with multiple diagnoses. Diagnostic clarification was difficult but important because of the treatment implications. If Detainee #1 had an active delusional somatoform disorder, he would likely meet the criteria for a serious and persistent mental illness that usually requires residential placement for stabilization. Consequently, an explanation of how the psychiatric diagnosis could have been clarified would have been helpful in ensuring appropriate patient care.
- **Complaint No. 16-07-ICE-0354**
- 1) **Documents Reviewed:** The following documents were reviewed: a letter dated June 2, 2016; a letter written “To Whom It May Concern,” signed by 25 ICE detainees and dated June 13, 2016; a formal complaint dated April 4, 2016; a letter written to CRCL dated July 25, 2016, a case summary report dated August 11, 2016; and Detainee #2’s medical record.
- 2) **Summary of Findings:** Detainee #2 was briefly treated by (b) (6) for depression. The delivery of his mental health care was appropriate.
- **Complaint No. 16-05-ICE-0222**
- 1) **Documents Reviewed:** The following documents were reviewed: a case summary report dated February 4, 2016; a certificate of service with the request to be transferred dated March 10, 2016; a formal civil rights complaint filed May 23, 2016; and a notice of change of address dated June 21, 2016.
- 2) **Summary of Findings:** There was no evidence that Detainee #3 ever needed mental health services while at HDC or was ever treated for mental health problems.

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➤ **Complaint No. 16–10–ICE–0458**

- 1) **Documents Reviewed:** The following document was reviewed: a complaint letter sent to the office of civil rights and civil liberties dated July 11, 2016.
- 2) **Summary of Findings:** There was no evidence that Detainee #4 ever needed mental health services while at HDC or was ever treated for any mental health problems.

**A REVIEW OF THE MENTAL HEALTH SYSTEM’S COMPLIANCE WITH THE NATIONAL DETENTION STANDARDS 2000 AND BEST PRACTICES**

➤ **NDS: MEDICAL CARE**

**A. General**

Every facility will provide its detainee population with initial medical screening, cost-effective primary medical care, and emergency care. The Officer in Charge (OIC) will also arrange for specialized health care, mental health care, and hospitalization within the local community.

All facilities will employ, at a minimum, a medical staff large enough to perform basic exams and treatments for all detainees. The OIC, with the cooperation of the Clinical Director, will negotiate and keep current arrangements with nearby medical facilities or health care providers to provide required health care not available within the facility. These arrangements will include securing appropriate custodial officers to transport and remain with the detainee for the duration of any off-site treatment or hospital admission.

A health care specialist shall determine medical treatment, except when there is disagreement on the type or extent of treatment that is medically necessary. In such cases, INS will make the determination, in consultation with the Chief of Medical Staff and in accordance with the medical policies of the U.S. Public Health Service’s Division of Immigration Health Services.

• **Finding(s):**

The mental health delivery system’s staffing pattern is inadequate, compromising access to care, the quality of care, and the continuity of care. **Access to care** is compromised by inadequate staffing when detainees, who in general made positive comments about (b) (6) reported that their sessions were “too short to say what we needed to say because they’re only a few minutes long. It’s Bam Bam Bam and then it’s done.” Access to care is also compromised when the response to staff phone calls and detainee sick call requests are delayed or dropped because there is only one part-time mental health care provider who takes call 24/7. **Quality of care** is compromised when there is not enough staff to provide counseling to detainees on suicide watch or to progressively relax the restrictions placed on detainees in suicide watch camera-cells. Because of the

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current limited staffing pattern, the only treatment available for the most acutely impaired is to be isolated in a suicide watch cell, to be stripped of all property except for a suicide resistant gown, and to be given psychotropic medication. **Continuity of care** is compromised when the staffing shortages result in limited time for documentation; consequently, there is a paucity of information about the history and the dynamics underlying detainees' suicidality in the psychiatric evaluation, in subsequent progress notes, and in a discharge note.

The contracted medical/ mental health staffing pattern consists of the following:

- 1) a psychiatrist who provides on-call coverage 24/7 and whose maximum on-site work schedule totals 12 hours a week, divided into three 4-hour work days (Tuesday, Thursday, and Friday); however, (b) (6) said that he usually works approximately eight hours a week because he is "fast and efficient, able to complete the work in eight hours";
- 2) an RN on each shift seven days a week;
- 3) an LPN for 12 hours a day, seven days a week;
- 4) a medical assistant for 18 hours a day on Monday, Tuesday, Thursday and Friday; 24 hours a day on Wednesday; and 12 hours a day on Saturday and Sunday;
- 5) an internist for 14 hours a week on-site (Wednesday, Thursday and Friday) and a nurse practitioner for 14 hours a week on-site (Monday, Tuesday and Wednesday).

Since the only dedicated mental health staff is a part-time psychiatrist, a 0.2 to 0.3 FTE onsite psychiatrist allocation is inadequate because the clinical demands of the detainees and inmates exceed the staffing resources. This staffing allocation becomes even more troubling when one realizes that 24/7 on-call services are provided by this same psychiatrist with a backup psychiatrist who reportedly has not worked at HDC for the past one to two years. Consequently, when Dr. (b) (6) took a week vacation in Hawaii in 2016, he worked extra hours the week before and the week after his vacation to stay "caught up" on his work. Unfortunately, there was no psychiatric coverage during his vacation, despite continued intakes, referrals, and suicide watches.

As in 2013, all physical examinations are completed by an R.N upon admission, which is later reviewed and co-signed by the facility's part-time physician. Additionally, all specialty medical services are provided by the University Medical Center (UMC) with the exception of psychiatric stabilization which is provided by an ICE facility in San Diego, California or another appropriate facility determined by ICE.

- **Recommendation(s):**

- 1) Conduct a staffing analysis in light of: a) psychiatry's multiple functions (i.e., initial psychiatric evaluations, routine medication checks, urgent referrals,  
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admissions to suicide watch, rounds on suicide watch cells, discharging detainees from suicide watch, documentation to include treatment planning and discharge planning, assessment related to sexual abuse screening or sexual abuse allegations) and b) American Psychiatric Association's recommendation (one psychiatry FTE per every 200 mental health detainees being treated with medication).

- 2) Suicide watch is a legal-medical emergency procedure used to prevent self-destructive behavior and to stabilize individuals in crisis; consequently, one size does not fit all (i.e., it is not an all-or-none situation, in which all property has to be taken from everyone and then it is all returned when they're released). Placement in a suicide watch cell needs to be individualized to each person's clinical needs. Likewise, release from a suicide cell needs to be individualized by using progressive strategies. (level 1 recommendation)

## **B. Facilities**

Adequate space and equipment will be furnished in all facilities so that all detainees may be provided basic health examinations and treatment in private.

Medical records will be kept separate from detainee records and stored in a securely locked area within the medical unit.

- **Finding(s):**

There is a lack of sound privacy during medical/mental health intakes because an officer is always present with the intake nurse. There is also a lack of sound privacy during psychiatric evaluations, medication checks, nonpharmacological therapy, and suicide watch rounds because an officer and a medical assistant are always present. Along with violating NDS, it also "embarrasses" some detainees and "prevents" others from disclosing critical information needed to accurately diagnose and appropriately treat them.

- **Recommendation(s):**

The determination of whether an officer should be inside the room with the nurse / doctor vs. outside the room observing them through the window of a closed door should be based on the level of risk. The determination should be made on a case-by-case basis, with the officer staying inside the room only when it is indicated for safety reasons. The default position should be to have the officer outside of the room, ensuring sound privacy unless there is an appropriate clinical or security reason not to do it. (Level 1 recommendation)

## **C. Medical Personnel**

The health care staff will have a valid professional licensure and or certification. The USPHS, Division of Immigration Health Services, will be consulted to determine the appropriate credentials requirements for health care providers.

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- **Finding(s):**  
The psychiatrist was licensed and board certified in psychiatry.
- **Recommendation(s):**  
None

**D. Medical Screening (New Arrivals)**

All new arrivals shall receive initial medical and mental health screening immediately upon their arrival by a health care provider or an officer trained to perform this function. This screening shall include observation and interview items related to the detainee's potential suicide risk and possible mental disabilities, including mental illness and mental retardation. For further information concerning suicide intervention and prevention see the "Detainee Suicide Prevention and Intervention" Standard.

The health care provider of each facility will conduct a health appraisal and physical examination on each detainee within 14 days of arrival at the facility. If there is documented evidence of a health appraisal within the previous 90 days, the facility health care provider may determine that a new appraisal is not required.

All detainees shall be evaluated through the initial screening for their use of or dependence on mood and mind-altering substances - alcohol, opiates, hypnotics, sedatives, etc. Detainees reporting the use of such substances shall be evaluated for their degree of reliance on and potential for withdrawal. The Clinical Director (CD) or contract equivalent, shall establish guidelines for evaluation and treatment of new arrivals who require detoxification. Treatment and supportive measures shall permit withdrawal with minimal physiological and physical discomfort.

A detainee will be hospitalized only on the order of a physician and with administrative notification. Detainees experiencing severe, life-threatening alcohol or drug withdrawal will be immediately transferred to an acute care facility.

Detoxification will be carried out only at facilities qualified to do so in accordance with local, state, and federal laws.

All non-INS facilities shall have policy and procedure to ensure the initial health screening and assessment is documented.

Health appraisals will be performed according to NCCHC and JCAHO standards.

If language difficulties prevent the health care provider/officer from sufficiently communicating with the detainee for purposes of completing the medical screening, the officer shall obtain translation assistance. In some cases, other detainees may be used for translation assistance if they are proficient and reliable and the detainee

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being medically screened consents. If needed translation assistance cannot be obtained, medical staff will be notified or the screening form will be filled out to refer the detainee to medical personnel for immediate attention.

If a detainee requires emergency medical care, the officer will immediately take steps to contact a health care provider through established procedures. Where the officer is unsure whether emergency care is required, the officer should immediately notify the on-duty supervisor. If the on-duty supervisor has any doubt whether emergency care is required, the on-duty supervisor will immediately take steps to contact a health care provider, who will make the determination whether emergency care is required.

- **Finding(s):**

When detainees arrive, a nurse administers an intake screen. The psychiatric referral threshold and the suicide watch admission threshold are both low, resulting in more Type 1 Errors (referring and admitting detainees who do not need those types of services) than Type 2 Errors (not referring or admitting detainees who need mental health services). Statistics on mental health referrals and admissions to suicide watch camera-cells are not being kept, which is the loss of an opportunity to improve the administrative and clinical aspects of HDC's mental health delivery system.

(b) (6) collaboratively works with medical when detainees need detoxification. This collaboration is laudable given the high prevalence of co-occurring mental health and substance use disorders.

Interpretation services are available when needed by the medical/mental health staff. It is worth noting that Spanish speaking detainees were pleased that (b) (6) speaks Spanish.

- **Recommendation(s):**

Expand oversight procedures by collecting relevant data during critical psychiatric functions (i.e., intake and suicide watch). (Level 2 recommendation)

## **E. Dental Treatment**

An initial dental screening exam should be performed within 14 days of the detainees arrival. If no on-site dentist is available, the initial dental screening may be performed by a physician, physician's assistant or nurse practitioner.

- **Finding(s):**

Not applicable to my review of mental health services.

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- **Recommendation(s):**  
Not applicable to my review of mental health services.

#### **F. Sick Call**

Each facility will have a mechanism that allows detainees the opportunity to request health care services provided by a physician or other qualified medical officer in a clinical setting.

All facilities must have a procedure in place to ensure that all request slips are received by the medical facility in a timely manner. If necessary detainees will be provided with assistance in filling out the request slip, especially detainees who are illiterate or non-English speaking.

Each facility will have regularly scheduled times, known as sick call, when medical personnel will be available to see detainees who have requested medical services. Sick call will be regularly scheduled in accordance with the following minimum standards:

1. Facilities with fewer than 50 detainees - a minimum of 1 day per week;
2. Facilities with 50 to 200 detainees - a minimum of 3 days per week;
3. Facilities with over 200 detainees - a minimum of 5 days per week.

The health care provider will review the request slips and determine when the detainee will be seen.

All detainees, including those in Special Management Units, regardless of classification, will have access to sick call. In addition to sick call, all facilities will have emergency procedures for medical treatment as provided below.

- **Finding(s):**  
Detainees reported that they can submit sick call requests for mental health services seven days a week. Most detainees denied having any delays in being seen by a mental healthcare provider; however, a few reported having to wait a week to see the psychiatrist and to start their medication. Other delays in care reportedly occur periodically when a detainee is referred during the initial intake screen. Additionally there were reports of delays in psychiatry returning calls to staff.
- **Recommendation(s):**  
Both staff and detainees expressed concerns about the timeliness of psychiatry's response to referrals. Concerns were also generated by a review of detainees' medical records; however, both the extent and the causes of the timeliness problem were unknown. What was known was that follow-up to

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some psychiatric referrals generated at intake and at sick-call were variable, ranging from a couple days to a couple weeks. It was also known that psychiatry's workload (i.e., responding to sick call requests and intake referrals, performing rounds on those in suicide watch cells, and following up on those who were already receiving mental health services) exceeded psychiatry's resources. To better understand and adequately address the timeliness concerns, it is recommended that the Health Service Administrator develop referral logs to track the timeliness of psychiatry's response to both routine (i.e., sick-call requests) and high priority referrals (i.e., suicidality, victimization, dissociation, decompensation). (Level 1 recommendation)

#### **G. 24-Hour Emergency Medical Treatment**

Each facility will have a written plan for the delivery of 24-hour emergency health care when no medical personnel are on duty at the facility, or when immediate outside medical attention is required.

- **Finding(s):**

University Medical Center is used for off-site 24-hour emergency and specialty care and both medical and mental health clinicians are available on a 24/7 basis.

Records from UMC are reportedly received immediately after clinic visits. This finding was an improvement from the 2013 investigation.

- **Recommendation(s):**

None

#### **H. First Aid and Medical Emergencies**

In each detention facility, the designated health authority and the OIC will determine the availability and placement of first-aid kits consistent with the American correctional Association requirements.

- **Finding(s):**

Not applicable to my review of mental health services.

- **Recommendation(s):**

Not applicable to my review of mental health services.

#### **I. Delivery of Medication**

Distribution of medication will be according to the specific instructions and procedures established by the health care provider. Officers will keep written records of all medication given to detainees.

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- **Finding(s):**  
Medications continue to be administered by nursing staff. Most detainees denied having any difficulties obtaining medications that were prescribed by (b) (6) however, there were a few detainees who reported delays in receiving medication immediately following the session in which that medication was first prescribed.
- **Recommendation(s):**  
Conduct a site-specific CQI study to understand the extent of this problem and its underlying causes. (Level 2 recommendation)

#### J. Special Needs

The medical care provider for each facility will notify the OIC in writing when a detainee has been diagnosed as having a medical or psychiatric condition requiring special attention (e.g. pregnancy, special diet, medical isolation, AIDS, etc.).

- **Finding(s):**  
(b) (6) and the DON reported that the OIC is notified in writing when a detainee has been diagnosed as having a medical or psychiatric condition requiring special attention.
- **Recommendation(s):**  
None

#### K. HIV/AIDS

To the extent possible, the accurate diagnosis and medical management of HIV infection among detainees will be promoted. The diagnosis of AIDS is established only by a licensed physician based on a medical history, current clinical evaluation of signs and symptoms, and laboratory studies.

- **Finding(s):**  
Not applicable to my review of mental health services.
- **Recommendation(s):**  
Not applicable to my review of mental health services.

#### L. Informed Consent

As a rule, medical treatment will not be administered against the detainee's will. The facility health care provider will obtain signed and dated consent forms from all detainees before any medical examination or treatment, except in emergency circumstances. If a detainee refuses treatment, the INS will be consulted in

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determining whether forced treatment will be administered, unless the situation is an emergency. In emergency situations, the INS shall be notified as soon as possible.

- **Finding(s):**

Informed consent forms specific to psychotropic medications were reportedly used at HDC. Out of a medical record review of 16 detainees who were being treated with psychotropic medication, only one record lacked an informed consent. Overall, informed consent forms were used when medication was initiated and whenever there were changes in the dose or class of medication. Refusal forms were also signed and filed in the medical records.

- **Recommendation(s):**

Conduct routine CQI studies to ensure that informed consent and refusal forms continue to be signed and placed in the medical records. (Level 2 recommendation)

#### **M. Confidentiality and Release of Medical Records**

All medical providers shall protect the privacy of detainees' medical information to the extent possible while permitting the exchange of health information required to fulfill program responsibilities and to provide for the well-being of detainees.

Where a detainee is covered by the Privacy Act, specific legal restrictions govern the release of medical information or records.

Copies of health records may be released by the facility health care provider directly to a detainee, or any person designated by the detainee, upon receipt by the facility health care provider of a written authorization from the detainee. (Form I-813 may be used for this purpose).

In absence of the I-813, a written request may serve as authorization for the release of health information if it includes the following (and meets any other requirements of the facility health care provider):

1. Address of the facility to release the information;
2. Name of the individual or institution that is to receive the information;
3. Detainee's full name, alien number, date of birth and nationality;
4. Purpose or need for the information to be released;
5. Nature of the information to be released with inclusive dates of treatment; and
6. Detainee's signature and date.

Following the release of health information, the written authorization will be retained in the health record, and a copy placed in the detainee's A-file. IGSA facilities shall notify INS each time a detainee's medical records are released.

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Detainees who indicate that they wish to obtain copies of their medical records will be provided with the appropriate form. The INS will provide the detainee with basic assistance in making the written request (if needed) and will assist in transmitting the request to the facility health care provider.

If INS receives a request for a detainee's medical records, the request should be forwarded to the facility health care provider or the requester, (if other than a detainee) should be advised to redirect their request and provided with the appropriate name and address.

- **Finding(s):**

HDC continues to have a combined medical/mental health record; however, an electronic health record is reportedly being piloted.

Filing is done by nursing staff and medical assistance. The DON said, "we have five people filing documents in the medical records. They're almost always current, but sometimes we get a little behind."

Records are maintained in a manner that ensures confidentiality, behind double locks and with limited access.

A review of 16 medical records revealed that information is only released and obtained from other facilities/providers with a signed release of health care information form.

- **Recommendation(s):**

Conduct routine CQI studies to ensure that the release of information forms continue to be signed and placed in the medical records. (Level 2 recommendation)

## **N. Transfer and Release of Detainee**

INS shall be notified when detainees are to be transferred or released.

Medical/Psychiatric Alert. When the medical staff determines that a detainee's medical or psychiatric condition requires either clearance by the medical staff prior to release or transfer, or requires medical escort during deportation or transfer, the OIC will be so notified in writing.

Notification of Transfers, Releases, and Removals. The facility health care provider will be given advance notice prior to the release, transfer, or removal of a detainee, so that medical staff may determine and provide for any medical needs associated with the transfer or release.

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Transfer of Health Records. When a detainee is transferred to another detention facility, the detainee's medical records, or copies, will be transferred with the detainee. These records should be placed in a sealed envelope or other container labeled with the detainee's name and A-number and marked "MEDICAL CONFIDENTIAL."

- **Finding(s):**

The DON reported that an effective medical/psychiatric alert system was in place. She also reported detainees are given advanced notice prior to being released, transferred or removed. And finally, she described the procedure that ensures a detainee's medical records are transferred with the detainee.

- **Recommendation(s):**

The following recommendation was made during the 2013 CRCL investigation: "HDC needs to work more closely with ICE in developing policies and procedures relevant to discharging ICE detainees who are on a suicide watch and have not yet been evaluated by mental health clinician." At the time of the current investigation, there was no evidence in Corizon's Policies and Procedures that this coordination has occurred. It is imperative that this procedure be placed in site specific SOPs and be implemented to ensure continuity of care. (Level 1 recommendation)

Conduct routine CQI studies to ensure that the transfer and release procedures are being followed. (Level 2 recommendation)

#### **O. Medical Experimentation**

Detainees will not be used in medical, pharmaceutical or cosmetic experiments or research. This will not preclude an individual detainee from receiving a medical procedure not generally available, but determined medically necessary by the primary health care provider. In IGSA facilities, USPHS' Division of Immigration Health Services shall be notified.

- **Finding(s):**

No medical research is being performed at HDC.

- **Recommendation(s):**

None

#### **P. Quarterly Administrative Meetings**

Formal, documented meetings will be held at least quarterly between the OIC of each facility and the HSA of the medical facility. Other members of the facility staff and medical staff will be included as appropriate. Minutes of the meeting will be recorded and kept on file. The meeting agenda will include, but not be limited to, the following:

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1. An account of the effectiveness of the facility health care program;
2. Discussions of health environment factors that may need improvement;
3. Changes effected since the previous meetings; and
4. Recommended corrective actions, as necessary.

- **Finding(s):**

Quarterly Medical Administration Committee (MAC) meetings occur; however, HDC had difficulty producing minutes from the 2016 meetings. More specifically, they were unable to produce monthly/quarterly 2016 CQI reports that: identified core and site-specific issues and challenges; set thresholds; assessed the identified items; developed and implemented strategies to improve performance; and reassessed those items.

There are no site-specific medical/mental health policies and procedures; however, corporate has policies and procedures that discuss the essential elements of a continuous quality improvement program.

During the administrative meetings, mental health's accountability is being compromised by its inadequate mental health information management system which prevents it from: (1) accounting for the effectiveness of its mental health care delivery system and (2) developing, implementing, and measuring the outcomes of its corrective action plans.

Corizon Correctional Healthcare does not have site-specific medical/mental health policies and procedures; however, its corporate offices have policies and procedures which state that reports based on data should be presented at the administrative meetings.

- **Recommendation(s):**

The medical/mental health program has the foundation for an excellent CQI program with the CQI calendar and core item screens already in place. HDC medical/mental health staff should work with Corizon's regional and corporate offices to develop site-specific item screens, identifying relevant data sets, implementing strategies to collect and analyze data, develop monthly/quarterly reports, and make these reports easily accessible.

➤ **NDS: SUICIDE PREVENTION AND INTERVENTION**

**A. Training**

All staff will receive training, during orientation and periodically, in the following: recognizing signs of suicidal thinking, including suspect behavior; facility referral procedures; suicide prevention techniques; and responding to an in-progress suicide attempt. All training will include the identification of suicide risk factors and the psychological profile of a suicidal detainee.

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- **Finding(s):**  
According to HDC's policy, correctional officers are to receive suicide prevention and intervention training during their orientation and then annually. Suicide Prevention Training is done annually in-person, not online. The 2016 annual suicide prevention "training rosters" and "lesson plans" for officers were not available on the day they were requested because they were kept by the Henderson Police Department's Training Office which was closed on that particular day.
- **Recommendation(s):**  
Keep track of the number of officers who have completed their annual suicide prevention training and the number of officers who have yet to complete their annual training. (Level 2 recommendation)

#### **B. Identification and Intervention**

Suicide potential will be an element of the initial health screening of a new detainee, conducted by either the health care provider or a specially trained officer. Detainees identified, as "at risk" for suicide will be promptly referred to medical staff for evaluation.

Upon change of custody, the staff with custody will inform the staff assuming custody about indications of suicide risk.

All staff working with detainees will keep current on the proper course of intervention and referral for a detainee who shows signs of suicide risk.

- **Finding(s):**  
The DON stated that when a detainee is referred to medical for a suicide risk assessment, a registered nurse performs the risk assessment. She added that in the past, "a LPN has performed the risk assessments which were then reviewed and signed off by a RN."

If the registered nurse determines that the detainee is a high suicide risk, then the nurse places a detainee in a suicide watch cell that has a "working" camera. Property in this cell is limited by custody to a suicide resistant smock. The detainee is then observed by a correctional officer at least every 15 minutes and assessed by nursing at least once a shift. The psychiatrist also evaluates the detainee during his next day on-site, using the psychiatric evaluation form. Future psychiatric contacts are documented on a progress note form.

Trends in the number of admissions to a suicide watch cell were not available; however, the DON estimated that an average of 20 to 30 detainees / inmates are placed in a suicide watch cell every month. Trends in the number of

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detainee and inmate suicides, attempted suicides, and self-injuries were also not available. The DON denied any recent suicide attempts and was unable to recall when the last detainee attempted or committed suicide. During detainee interviews, a male detainee alleged that he was traumatized when he observed another detainee jump off “the second range”, seriously injuring himself.

The suicide risk assessment tool used by nursing has been revised by Corizon Correctional Healthcare since the 2013 investigation. The revised tool has been expanded and has space for narratives to include a history of the presenting problem and a plan for treatment.

When questioned about specialized training for nurses who perform suicide risk assessments, the DON produced lesson plans that she uses to train staff. She also reported that Corizon’s corporate office provides educational material and a mental health liaison (b) (6) who is available to provide training when needed. Additionally, (b) (6) HDC’s psychiatrist, “will educate and provide in-service training.” The suicide risk assessment training and in-service rosters were not available. There was no evidence of regular psychiatric supervision for nurses who perform the suicide risk assessment.

- **Recommendation(s):**

Develop tracking logs to capture critical data on high acuity mentally ill detainees and inmates (i.e., suicide, suicide attempts, and self-injuries) to maintain accountability and to identify trends, outliers, and outcomes. (Level 2 recommendation)

Develop credentialing processes, initial and annual training, and monthly psychiatric supervision, for nurses performing suicide risk assessments. (Level 1 recommendation)

### **C. Housing/Hospitalization**

The OIC may allow a potentially suicidal detainee who presents no imminent danger to life or property (as determined by medical staff), to remain in the general population, but only under close observation, and only upon the written recommendation of the Clinical Director (CD). Officers shall check on the safety of such detainees at intervals ordered by the CD. Precautions must be taken with any personal possessions that could aid in a suicide attempt. If danger to life or property appears imminent, the medical staff has the authority, with written documentation, to segregate the detainee from the general population. A detainee segregated for this reason requires close supervision in a setting that minimizes opportunities for self-harm. The detainee may be placed in a special isolation room designed for evaluation and treatment. The isolation room will be free of objects or structural elements that could facilitate a suicide attempt. If necessary, the detainee may be placed in the

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Special Management Unit, provided space has been approved for this purpose by the medical staff.

Observation of imminently suicidal detainees by medical or detention staff shall occur no less than every 15 minutes. The CD may recommend constant direct supervision.

In CDFs or IGSA facilities, the OIC shall report to INS any detainee clinically diagnosed as suicidal or requiring special housing for suicide risk. When imminent risk of bodily injury or death is determined, medical staff will make a recommendation for hospitalization for evaluation and treatment. If the detainee refuses, it may be necessary to petition the appropriate federal court to intervene against the detainee's will for hospitalization and treatment.

A detainee formerly under a suicide watch may be returned to general population, upon written authorization from the CD.

- **Finding(s):**  
There are three camera cells used for suicide watch in Unit 1 and three in Unit 2. These six cells are not suicide resistant.
- **Recommendation(s):**  
When you segregate someone to minimize the opportunities for self-harm, only use the three rubber-padded, suicide resistant camera cells in the "Booking Area" along with the remaining suicide resistant camera cells in "Booking." (Level 1 recommendation)

➤ **NDS: USE OF FORCE**

**A. Medical Attention in Immediate Use-of-Force and Application-of-Restraints**

In immediate use of force situations, staff shall seek the assistance of mental health or other medical personnel upon gaining physical control of the detainee.

When possible, staff shall seek such assistance at the onset of the violent behavior. In calculated use of force situations, the use of force team leader shall seek the guidance of qualified health professional (based on a review of the detainee's medical record) to identify physical or mental problems. If the mental – or physical – health professional determines that the detainee requires continuing care, e.g., a pregnant detainee, he/she shall make the necessary arrangements. Continuing care may involve such measures as admission to the facility hospital, restraining a pregnant detainee in a way that does not include face down, four-point restraints.

- **Finding(s):**

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Both medical and custody stated that the restraint chair is used to either “draw blood for medical or for transportation”. They stated that the restraint chair is never used to involuntarily medicate someone; however, custody reported that it is occasionally used to transport an agitated detainee/inmate from a unit to a suicide watch cell. Additionally, the DON reported that involuntary medication is never used at HDC; however, occasionally, (b) (6) will order a one-time injection of Ativan.

- **Recommendation(s):**  
Maintain an Application-of-Restraints Log for accountability, ensuring that mental health / medical are involved in these critical incidents and develop site specific medical/mental health policies and procedures related to mental health’s role when the restraint chair is used. (Level 1 recommendation)

➤ **PREA: Medical and Mental Health Care**

**A. 115.82 Access to emergency medical and mental health services**

Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.

- **Finding(s):**  
During detainee interviews, a female detainee discussed having made PREA allegations approximately five months ago and subsequently being segregated while an investigation took place. Her medical record was reviewed and there was no evidence of a mental health evaluation related to her PREA allegation. During an interview with (b) (6) he stated that he is not involved with PREA allegations and has not performed psychiatric evaluations related to PREA.
- **Recommendation(s):**  
Mental health is an active member of the Sexual Assault Response Team (SART) and performs mental health evaluations on alleged victims followed by appropriate treatment. (Level 1 recommendation)

### **Detainee Interviews**

Along with the CRCL investigative team, I interviewed a total of 15 detainees, eight males and seven females who were randomly selected by HDC staff. The male detainees were randomly selected and interviewed in two groups. The first group contained five males and the second group contained three males. The seven female detainees were interviewed together in one group, and included all but one of the women ICE detainees at the facility. Out of the eight males, three of them or 38% were receiving mental health services and out of the seven females,

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four of them or 57% were receiving mental health services. In total, out of the 15 detainees, seven (47%) were receiving mental health services.

All 15 detainees were asked if they had problems getting an appointment with the psychiatrist after submitting a mental health sick call request. Most of them denied having any problems seeing medical; however, two females reported delays in seeing the psychiatrist of up to a week after submitting a request and one of those females and one male reported delays in receiving their psychotropic medication.

The seven detainees receiving mental health services were also asked if they had problems communicating and / or establishing rapport with the psychiatrist. All of them denied having any problems communicating with (b) (6) saying that he is bilingual, speaking both English and Spanish. They also denied having any problems establishing rapport, describing the relationship with him as "good".

In order to obtain a measure of the quality of their sessions with (b) (6) they were asked if they had any problems with an officer being present during the session. They were also asked to estimate the length of each session and if they felt that enough time to discuss their mental health problems. Three of the four females talked about having problems with the lack of privacy and one of the males talked about feeling stigmatized and embarrassed with the officer being present. When asked about the length of each session, the male detainees said their sessions last between 5 to 15 minutes while the female detainees said their sessions last between 2 to 3 minutes. The males said they enough time to discuss their mental health issues while the females said they needed more time.

All of the detainees receiving mental health services knew their psychiatric diagnosis, the names of their psychotropic medications, and the reasons why they were being treated with psychotropic medication.

In summary, there were no problems with communication and rapport. There were also no problems with being uninformed. Everyone understood their mental health problems and they knew the names of their psychotropic medications. There appeared to be room for improvement in the timeliness of mental health services, to include the delivery of psychotropic medication. Finally, the length of time spent with the female detainees was too short and the lack of sound privacy/confidentiality was a significant problem for both females and males.

### **Medical Record Reviews**

The medical records from 16 detainees were reviewed. Out of the 16 detainees, seven were receiving mental health services at HDC during the time of the review while nine had previously received mental health services when they were detained at HDC. Out of these nine records, two were from the four complainants; namely Detainee #1 and Detainee #2. All of these nine detainees had been detained at HDC during 2015 and/or 2016.

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The mental health documents were integrated with the medical documents in the detainees' medical records. In other words, there was no separate mental health record, nor was there a separate section in the medical records for mental health documents.

All of the records contained an intake screen and a psychiatric evaluation. All but one of the records contained a signed informed consent and/or a signed refusal of treatment. Psychiatric progress notes and nursing documentation were usually present. The psychiatric evaluation and the psychiatric progress notes contained a brief mental status examination, a diagnosis, and psychopharmacological/nonpharmacological recommendations. The psychiatric documentation tended to be minimal and occasionally illegible. A historical context of the presenting problem was usually missing along with a treatment plan. There were often "rule out" diagnoses without an explanation of the reasons for considering each diagnosis. Additionally, when there were rule out diagnoses, diagnostic clarification was seldom achieved. In conclusion, the paucity of information in these documents compromises detainees' continuity of care, both while at HDC and after he/she is released, transferred, or removed.

## **REPORT SUMMARY**

### Positive Aspects of the Mental Health Delivery System

1. Staff who deliver mental health services, both support and are supported by medical and custody staff.
2. The rates of suicides and self-injurious behavior are low.
3. Detainees who have been placed on suicide watch are observed during irregular 15 minute rounds.
4. All suicide watch camera cells in the booking area are suicide resistant.
5. The Suicide Risk Assessment Form has been expanded and improved over the past four years.
6. Detainees being treated with psychotropic medication sign an informed consent or refusal form which is filed in their medical records.
7. Detainees requiring a higher level of mental health care than what is available at HDC are transferred to an appropriate facility, often to another ICE facility in San Diego, California.

### Problem Aspects of the Mental Health Delivery System

1. The mental health delivery system's staffing pattern is inadequate.

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2. The delivery of mental health services (assessment and treatment) lacks sound privacy.
3. The timeliness of mental health's response to referrals is variable.
4. Correctional officer training rosters and lesson plans for suicide prevention are not readily available.
5. The suicide watch cells in units one and two are not suicide resistant.
6. Detainees are occasionally released from suicide watch cells without proper authorization.
7. The quarterly Medical Administrative Meeting minutes are difficult to access and lack critical information.
8. There are no site-specific medical/mental health policies and procedures.
9. The psychiatric evaluation form is inadequate.
10. The quarterly quality improvement reports are difficult to access and lack critical information.
11. The mental health information management system does not capture critical data, compromising accountability and quality of care.
12. Psychiatry rarely, if ever, is involved when the restraint chair is used.
13. Psychiatry denies any involvement with PREA allegations/cases.

### An Overall Summary of HDC's MH Delivery System

The mental health delivery system for ICE detainees at Henderson Detention Center (HDC) is relatively small, providing mental health services to approximately 11% of the total detainee population. At the time of the current investigation, there were 270 detainees with 29 of them receiving psychiatric services. In contrast to the detainees, approximately 18% of the total inmate population was receiving mental health services (out of 230 inmates, 42 were receiving psychiatric services). HDC's total detainee and inmate population was 500, with 70 of them (14%) receiving psychiatric services.

Despite its relatively small size, HDC's mental health delivery system is quite complex with detainees' average length of stay being 45 days, with a range from less than one month to over one year. Additionally, the severity of mental illness ranges from mild to severe and the chronicity ranges from acute to chronic. Most detainees in need of mental health services are maintaining a relatively stable mental status, being treated with psychotropic medication; however, some detainees have an unstable mental status and require higher levels of care such as placement in a suicide watch camera cell or admission to a psychiatric unit in a hospital.

The breadth and depth of the mental health services required to treat HDC's heterogeneous population is significant. The required mental health services include: intake screens; initial psychiatric evaluations; suicide risk assessments; PREA evaluations; treatment sessions; documentation; responding to referrals in a timely manner; developing treatment plans; working with medical and custody in the suicide watch program; making psychiatric rounds; discharge planning; psychiatric on-call services 24 seven; and involuntarily hospitalizing those in need.

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The heterogeneity of HDC's mentally ill population includes inmates and detainees, short-term and long-term populations, mild and severely mentally ill populations, and chronic and acutely mentally ill populations. The delivery of these mental health services to such a diverse population is challenging for well-staffed programs with a solid infrastructure made up of: (a) policies and procedures that are tied to professional standards and best practices, and (b) a management information system that is tied to a quality improvement program, a utilization management program, and a utilization review program.

Without proper staffing and without a solid infrastructure, there will be deficiencies and gaps in service delivery. HDC's mental health staffing pattern (only one part-time upper-level provider dedicated to providing mental health services) is inadequate and their infrastructure is a "work in progress," reportedly being developed by Corizon Correctional Healthcare (i.e., site-specific policies and procedures, a management information system that tracks significant events/data, a quality improvement program, and a medical administrative meeting agenda with minutes). Because of these shortfalls, there are significant problems with: access to care (i.e., sick call requests and phone calls are not always responded to in a timely manner and female detainees complained about having "very short sessions"); quality of care (i.e., a lack of sound privacy, a one-size-fits-all approach to detainees in need of acute care, and unauthorized releases from suicide watch cells); and continuity of care (i.e., documentation is minimalistic and treatment plans are unclear).

Some of the mental health service delivery deficiencies identified in the 2013 investigation have been corrected; however, many have not been corrected. These deficiencies were identified and recommendations made during the 2017 investigation. I am hopeful that with the new medical/mental health leadership, these deficiencies will be corrected. Please feel free to contact me if you have any questions.

(b) (6)



(b) (6)



Ph.D.

Clinical Director, MHM  
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**Appendix A**

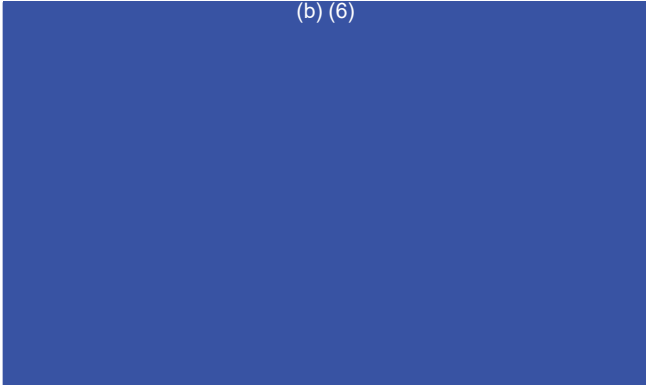
(b) (6)

Detainee #1:

Detainee #2:

Detainee #3

Detainee #4



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**Appendix A**  
**Non-Priority Recommendations**  
Henderson Detention Facility<sup>1</sup>

**Conditions of Detention:**

1. While the NDS requires that outdoor recreation be allowed for a minimum of one hour a day, five days a week, there is not a standard that speaks more generally to required out-of-cell activity time. Daily out-of-cell time is sometimes reduced to accommodate routine functions such as cleaning and maintenance. As such, HDC managers should consider reviewing the daily schedule and see if housing unit operations could be adjusted to reduce the need for the disruption or reduction of out-of-cell time in the daily schedule. (Best Practice)
2. If HDC is interested in pursuing further compliance with the PBNDS 2011 standard on Use of Force, HDC should consider adopting the After-Action Review Committee process in compliance with PBNDS 2011. (Best Practice)
3. Currently, HDC uses form HPD 4002, the Incident and Discipline Report, for placing a detainee into the SMU. This form is used specifically to document disciplinary reports rather than administrative segregation placement. HDC should consider establishing a Segregation Order form to be utilized specifically for segregation placement and decisions regarding retention or release. (Best Practice)
4. There were a few intake screening questionnaires that indicated a "yes" answer to the question asking if the detainee had ever been the victim of sexual abuse. In these cases, there was no documentation regarding any follow-up questions or corresponding referral to a mental health clinician for evaluation of that history. Follow-up to positive responses to SA-API intake screening assessments should be documented to establish that all factors are appropriately considered in the process. (Best Practice)
5. In one instance, a SA-API facility investigation was completed prior to the completion of the medical and mental health evaluations of the detainee who made the allegations. Investigations into allegations of sexual assault should consider all relevant information including the medical and mental health evaluations of the detainee making the allegation. (Best Practice)
6. If HDC intends to meet the PBNDS 2011 standards in the future, it will be necessary to establish a SA-API tracking system to document the notifications and timelines as required by the standard. (Best Practice)

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<sup>1</sup> Complaint Nos. 15-12-ICE-0632, 16-05-ICE-0222, 16-07-ICE-0354, and 16-10-ICE-0458.



7. HDC 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. (Best Practice)
8. HDC should consider allowing detainee family visitors to have visits that extend beyond the 25-minute limit, especially if family members have to travel long distances to visit. (Best Practice)
9. Other facilities require detainees to sign for legal mail establishing a record that legal mail was received. HDC should consider instituting a legal mail log and require detainees to sign for legal mail so there is a record of all legal mail sent and received by detainees. (Best Practice)
10. HDC does not keep a register or log that specifically tracks the law library usage. HDC should consider developing a register or log to track law library scheduling and usage by detainees. This would be helpful for management to determine the effectiveness of the law library program, its scheduling and usage, and to address any allegations that may be made about the lack of access. (Best Practice)
11. We learned that a limited English proficient (LEP) detainee, who was a vegetarian based on his religion, was unaware that he could request a special diet due to his religious practice. HDC should provide more language interpretation services to detainees for religious services and accommodations. (Best Practice)
12. HDC should consider using the language line more often to ensure more effective communication with LEP detainees. (Best Practice)

**Environmental Health and Safety:**

13. As a best practice, we strongly recommend that NDC have its menus evaluated at least annually by a Registered Dietitian, as recommended by the Performance Based National Detention Standards (PBNDS) 2008 and 2011, as well as the ACA Dietary Allowance standard (4-ALDF-4A-07). (Best Practice)