

**Violations of Detention  
Standards amid COVID-19  
Outbreak at La Palma  
Correctional Center in  
Eloy, AZ**





## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / [www.oig.dhs.gov](http://www.oig.dhs.gov)

March 30, 2021

MEMORANDUM FOR: Tae D. Johnson  
Acting Director  
U.S. Immigration and Customs Enforcement

FROM:   
Joseph N. Cuffari, Ph.D.  
Inspector General

SUBJECT: *Violations of Detention Standards amid COVID-19  
Outbreak at La Palma Correctional Center in Eloy, AZ*

Attached for your information is our final report, *Violations of Detention Standards amid COVID-19 Outbreak at La Palma Correctional Center in Eloy, AZ*. We incorporated the formal comments from U.S. Immigration and Customs Enforcement in the final report.

The report contains eight recommendations aimed at improving care of detainees at La Palma Correctional Center. Your office concurred with three of the eight recommendations. Based on information provided in your response to the draft report, we consider recommendations 1, 2, 3, 6, and 8 open and unresolved. As prescribed by the Department of Homeland Security Directive 077-01, *Follow-Up and Resolutions for the Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until your response is received and evaluated, the recommendations will be considered open and unresolved.

Based on information provided in your response to the draft report, we consider recommendations 4 and 5, resolved and closed. We consider recommendation 7 resolved and open. Once your office has fully implemented recommendation 7, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and of the disposition of any monetary amounts. Please send your response or closure request to [OIGSREFollowup@oig.dhs.gov](mailto:OIGSREFollowup@oig.dhs.gov).



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Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Tom Kait, Assistant Inspector General for Special Reviews and Evaluations, at (202) 981-6000.



# DHS OIG HIGHLIGHTS

## *Violations of Detention Standards amid COVID-19 Outbreak at La Palma Correctional Center in Eloy, AZ*

**March 30, 2021**

### **Why We Did This Inspection**

Treatment and care of detainees at facilities can be challenging and vary greatly. In accordance with the *Consolidated Appropriations Act of 2019*, we conduct annual unannounced inspections of U.S. Immigration and Customs Enforcement (ICE) detention facilities to ensure compliance with detention standards. Between August and November 2020, we conducted a remote inspection of the La Palma Correctional Center (LPCC) to evaluate compliance with ICE detention standards and COVID-19 requirements.

### **What We Recommend**

We made eight recommendations to improve ICE's oversight of detention facility management and operations at LPCC.

**For Further Information:**

Contact our Office of Public Affairs at (202) 981-6000, or email us at [DHS-OIG.OfficePublicAffairs@oig.dhs.gov](mailto:DHS-OIG.OfficePublicAffairs@oig.dhs.gov)

### **What We Found**

During our unannounced inspection of LPCC, we identified violations of ICE detention standards that threatened the health, safety, and rights of detainees. LPCC complied with the ICE detention standard regarding classification. However, detainee reports and grievances allege an environment of mistreatment and verbal abuse, including in response to detainee peaceful protests of the facility's handling of the pandemic. In addressing the coronavirus disease 2019 (COVID-19), LPCC did not enforce ICE's precautions including facial coverings and social distancing, which may have contributed to the widespread COVID-19 outbreak at the facility. In addition, LPCC did not meet standards for medical care, segregation, grievances, or detainee communication. We found that the medical unit was critically understaffed, took an average of 3.35 days to respond to detainee sick call requests, and neglected to refill some prescription medications. We also found the facility was not consistently providing required care for detainees in segregation and did not consistently record medication administration and daily medical visits for segregated detainees. Our grievance review revealed that LPCC did not give timely responses to most detainee grievances and, in some cases, did not respond at all. Finally, we found deficiencies in staff-detainee communication practices. Specifically, LPCC did not keep records of detainee requests and ICE did not provide a Deportation Officer visit or call schedule for detainees.

### **ICE Response**

ICE concurred with three of the eight recommendations. We included a copy of ICE's response in Appendix B.



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**Abbreviations**

COVID-19	Coronavirus Disease 2019
DO	Deportation Officer
ERO	Enforcement Removal Operations
ICE	U.S. Immigration and Customs Enforcement
LPCC	La Palma Correctional Center
PBND	Performance-Based National Detention Standards



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## **Introduction**

U.S. Immigration and Customs Enforcement (ICE) houses detainees at roughly 200 facilities nationwide, but the conditions and practices at those facilities can vary greatly. Complying with detention standards and establishing an environment that protects the health, safety, and rights of detainees are vital to effective detention. In recent years, such care and treatment have been the subject of increased congressional and public attention, and our program of unannounced inspections of ICE detention facilities has identified and helped correct *2011 Performance-Based National Detention Standards* (2011 PBNDS) violations at facilities across the country. Since the onset of the pandemic, we have also received congressional inquiries about how ICE has handled the response to the coronavirus disease 2019 (COVID-19).<sup>1</sup> From August to November of 2020, we conducted an unannounced remote inspection of the La Palma Correctional Center (LPCC) in Eloy, Arizona, and identified serious concerns regarding detainee care and treatment.

## **Background**

ICE apprehends, detains, and removes aliens who are in the United States unlawfully. ICE Enforcement and Removal Operations (ERO) oversees the detention facilities that it manages in conjunction with private contractors or state or local governments. Owned and operated by CoreCivic, LPCC began housing detainees in 2018 and had an average daily population of 978 detainees (all male) in fiscal year 2020 and a maximum capacity of 3,240.

ICE's intergovernmental service agreement with LPCC requires the facility to comply with the 2011 PBNDS, as revised in December 2016. According to ICE, the 2011 PBNDS establish consistent conditions of confinement, program operations, and management expectations within ICE's detention system. These standards set requirements for areas such as:

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<sup>1</sup> November 3, 2020 letter from Congresswoman Ann Kirkpatrick (D-AZ) regarding allegations made by detainees at LPCC. August 19, 2020 letter from Senator Kyrsten Sinema (D-AZ) and Congressman Thomas C. O'Halleran (D-AZ) regarding COVID-19 outbreaks and concerns about conditions of confinement at Eloy and La Palma facilities in Arizona.



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- environmental health and safety, including cleanliness, sanitation, security, detainee searches, segregation,<sup>2</sup> and disciplinary systems;
- detainee care, such as food service, medical care, and personal hygiene;
- activities, including visitation and recreation; and
- grievance systems.

As mandated by Congress,<sup>3</sup> we conduct unannounced inspections of ICE detention facilities to ensure compliance with detention standards. From August to November 2020, we made an unannounced, remote inspection of LPCC to determine whether personnel complied with ICE's 2011 PBNDS. We also conducted a limited review of the facility's COVID-19 pandemic preparedness measures and its response to a large outbreak of COVID-19 across the detainee population.<sup>4</sup> At the start of the inspection, LPCC housed 1,156 ICE detainees in different housing units within the facility. During our virtual inspection, we directed a livestream video walk-through of the facility where we inspected LPCC facilities including detainee housing units, the kitchen, medical units, and indoor and outdoor recreation areas. We viewed surveillance video from areas within the facility including housing units and of specific use of force incidents involving detainees. We also interviewed ICE personnel, LPCC officials, and detainees by telephone.

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<sup>2</sup> ICE, *Performance-Based National Detention Standards, 2011*, Section 2.12, *Special Management Units* (Revised Dec. 2016). Segregation is the process of separating certain detainees from the general population for administrative or disciplinary reasons. Detainees in segregation at La Palma are placed in individual cells. Detainees in disciplinary segregation can be held for no more than 30 days per incident, except in extraordinary circumstances. Detainees in disciplinary segregation are allowed out of their cells for 1 hour of recreation time at least 5 days a week. Detainees in administrative segregation are separated from the general population to ensure the safety of all detainees and can be held in segregation until their safety, and the safety of others, is no longer a concern. Detainees in administrative segregation are allowed out of their cells for up to 2 hours of recreation time at least 7 days a week. Detainees in both disciplinary and administrative segregation are also allowed time out of their cells for showers, phone calls, law library, visitation, and religious services.

<sup>3</sup> *Consolidated Appropriations Act, 2019*, Pub. L. No. 116-6, Division A, *Department of Homeland Security Appropriations Act, 2019*; Joint Explanatory Statement, 164 CONG. REC. H2045, H2547 (daily ed. Mar. 22, 2018); H.R. Rep. No. 115-948, at 15 (2018); S. Rep. No. 115-283, at 23 (2018).

<sup>4</sup> The Office of Inspector General (OIG) is also conducting a separate, in-depth evaluation of ICE's handling of COVID-19 in its detention facilities.



## **Results of Inspection**

During our August to November 2020 unannounced inspection of LPCC, we identified violations of ICE detention standards that threatened the health, safety, and rights of detainees. LPCC complied with the ICE detention standard regarding classification. However, detainee reports and grievances allege an environment of mistreatment and verbal abuse, including in response to peaceful detainee protests of the facility's handling of the pandemic. In addressing COVID-19, LPCC did not enforce ICE's precautions including use of facial coverings and social distancing, which may have contributed to the widespread COVID-19 outbreak at the facility. In addition, LPCC did not meet standards for medical care, segregation, grievances, or detainee communication. We found that the medical unit was critically understaffed, took an average of 3.35 days to respond to detainee sick call requests, and neglected to refill some prescription medications. We also found the facility was not consistently providing required care for detainees in segregation and did not consistently record medication administration and daily medical visits for segregated detainees. Our grievance review revealed that LPCC did not give timely responses to most detainee grievances and, in some cases, did not respond at all. Finally, we found deficiencies in staff-detainee communication practices. Specifically, LPCC did not keep records of detainee requests and ICE did not provide a Deportation Officer visit or call schedule for detainees.

### **LPCC Complied with Standards for Detainee Classification**

According to the 2011 PBNDS,<sup>5</sup> facilities must classify detainees according to risk level in order to assign housing with others of similar background and criminal or civil history, and ensure separation of high custody and low custody detainees. Our review of LPCC policies, guidance, and classification records showed LPCC complied with the detainee classification standard. Analysis of 30 detainee housing and classification records showed that LPCC properly classified detainees according to the standard. Further, our review of housing records did not reveal comingling of low or medium-low custody detainees with medium-high or high custody detainees.

### **Detainees at LPCC Alleged Excessive Use of Force and LPCC Substantiated Incidents of Verbal Abuse against Detainees**

Detainees complained about excessive use of force and other mistreatment by staff in letters and grievances filed with the facility. On April 11 and April 13, 2020, detainees held peaceful protests at the facility as shown in Figure 1. According to detainees, the protests were a result of LPCC not providing

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<sup>5</sup> 2011 PBNDS, Section 2.2, *Custody Classification System* (Revised Dec. 2016).



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appropriate protective equipment to prevent the spread of COVID-19. A letter signed by 182 LPCC detainees indicates the facility used pepper spray, pepper balls, and chemical agents, and punished protesting detainees with lengthy stays in segregation.<sup>6</sup> We confirmed LPCC used chemical agents to end the protests. During the incident on April 13, 2020, LPCC staff deployed chemical agents from the ceiling and, as shown in Figure 2, fired pepper spray from handheld devices. A detainee told us he suffered injuries from pepper balls fired by facility staff, but felt too intimidated to file a report about the incident through proper channels. Nonetheless, detainees filed six grievances with the facility about these incidents. The facility denied or rejected all six grievances. In response to two of the grievances, LPCC cited its policy allowing the use of non-lethal force to end such incidents. Facility staff explained the use as following policy to quell civil disobedience with non-lethal force. The 2011 PBNDS do not specify which methods are permitted to end protests.<sup>7</sup> We reviewed the 27 reported use-of-force incidents at the facility that occurred between February 1, 2020 and August 24, 2020, finding that in 11 of these incidents, facility staff used chemical agents to gain detainee compliance.



**Figure 1. LPCC detainees protesting in an LPCC housing area on April 13, 2020.**

*Source:* Video surveillance footage provided by LPCC

<sup>6</sup> The letter also described disparaging statements made by officers to detainees including discouraging detainees from retaining legal counsel for their asylum cases and denying the seriousness of the COVID-19 pandemic.

<sup>7</sup> 2011 PBNDS, Section 2.15, *Use of Force and Restraints* (Revised Dec. 2016) includes the use of chemical agents as a “soft technique” from which there is minimal chance of injury.



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**Figure 2. LPCC staff firing pepper spray and chemical agents at detainees in an LPCC housing area on April 13, 2020.**

*Source:* Video surveillance footage provided by LPCC staff

During this same period, detainees filed 1,283 grievances, with 487 grievances (38 percent) complaining about mistreatment by LPCC staff. The LPCC Grievance Officer substantiated some of these grievances. For example, in response to one grievance, facility officials found that an officer used profane and abusive language to ridicule a detainee. In response to another grievance, facility officials found a different officer cursed at a detainee, called him a racial slur, threatened him with pepper spray, and hung up his telephone call with family. Another substantiated grievance found a housing unit manager cursed and yelled at detainees assigned to clean the unit and turned off all of the TVs in the unit as punishment. In August 2020, three separate substantiated grievances found officers not wearing proper gloves in the housing units. LPCC took action requiring the staff responsible for detainee mistreatment to complete training on professionalism, while the staff who did not wear proper gloves received counseling. All staff returned to their prior assignments.

### **COVID-19 Response Provided Limited Protective Equipment and Did Not Enforce Facial Coverings or Social Distance among Detainees**

We conducted a limited review of LPCC's response to COVID-19 and identified areas for improvement. In August 2020, LPCC had a COVID-19 outbreak. Although LPCC officials took some measures to prevent the spread, such as serving meals in detainee housing areas and restricting visitation and services, they did not ensure detainees wore masks and practiced social distancing. Also, not all detainees received masks.



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**LPCC Restricted Services and Social Activities in Response to COVID-19**

In March 2020, ICE directed LPCC to restrict several activities in response to the COVID-19 pandemic,<sup>8</sup> which exempted the facility from complying with several provisions of the 2011 PBNDS. This included halting in-person social visitation, although still allowing visits from legal representatives. In response, the facility provided each detainee with 500 free telephone minutes per month to compensate for lost visitation. The facility suspended dining hall and library services and, instead, delivered meals and reading materials to detainees in the housing units. The facility also stopped barber services, requiring detainees to use razor blades for haircuts. In September 2020 and October, ICE released additional pandemic response requirements<sup>9</sup> for detention facilities and, as of November 2020, the restrictions on detainee activities due to the pandemic remained in place.

**LPCC Did Not Ensure Detainees Wore Facial Coverings or Practiced Social Distancing**

The ICE guidance from March 2020 also required LPCC to assess inventories of personal protective equipment, including masks. We examined facility purchase orders and other records, and spoke to LPCC and ICE staff who told us the facility currently issues each detainee two reusable, washable face masks and encourages social distancing among all detainees through signage and oral reminders. Some detainees reported they did not receive any masks. Others said they received only one mask, and were, therefore, unable to clean it. Facility staff reported they issued one mask to detainees on April 9, 2020, and by May 13, 2020, two masks were provided to detainees. However, we found detainees in segregation had not received the two masks the facility reported it had provided.

ICE guidance from September 2020 specifies “cloth face coverings should be worn by detainees and staff to help slow the spread of COVID-19.”<sup>10</sup> In addition, town halls held by the facility stated detainees were directed to wear masks anytime they left their cells. We reviewed surveillance video footage taken in the facility during April and August 2020 and repeatedly observed detainees gathered in groups of three to five, not wearing masks or practicing social distancing. Also, during our October 2020 livestream walkthrough

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<sup>8</sup> U.S. ICE Memorandum on Coronavirus Disease 2019 (COVID-19) Action Plan, Revision 1, March 27, 2020.

<sup>9</sup> U.S. ICE ERO COVID-19 Pandemic Response Requirements (Version 4.0), September 4, 2020. During the latter part of our inspection, this guidance was superseded by U.S. ICE ERO COVID-19 Pandemic Response Requirements (Version 5.0), October 27, 2020.

<sup>10</sup> U.S. Immigration and Customs Enforcement, *Enforcement and Removal Operations COVID-19 Pandemic Response Requirements*.



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across multiple housing units, we observed numerous detainees in close proximity throughout the facility not wearing masks (Figure 3). Staff told us detainees are required to wear masks outside housing areas, and although they encourage detainees to wear their masks and practice social distancing within housing areas, there are often times when detainees choose not to wear their masks or practice social distancing. The September 2020 ICE guidance makes no distinction between the need for mask-wearing inside or outside housing areas.



**Figure 3. Detainees not wearing masks gathering in groups of two or three and not practicing social distancing in their housing unit on July 1, 2020.**

*Source:* Video surveillance footage provided by LPCC staff

After the pandemic began, LPCC tested detainees showing COVID-19 symptoms, but did not test the entire detainee population. On August 19, 2020, ICE required LPCC to test all detainees for COVID-19, revealing 211 positive COVID-19 cases among the population of 1,223 detainees (17 percent). The COVID-19 positive detainees were placed in quarantine in separate housing units, with the last of those detainees recovering from the illness and rejoining the general population on September 10, 2020. LPCC continues to receive new detainees into the facility, some of whom are positive for COVID-19. Each new arrival, regardless of COVID-19 status, undergoes a quarantine period of 14 days before being released into the general population. Although this practice has reduced detainee-to-detainee exposure among the general population, the facility is at risk of another outbreak if LPCC does not ensure detainees wear facial coverings and practice social distancing.



## **Critically Understaffed LPCC Medical Unit Did Not Always Provide Prompt Treatment or Refill Detainee Prescriptions**

2011 PBNDS specify that detainees have access to appropriate and necessary medical, dental, and mental health care, including emergency services.<sup>11</sup> Detainees rely on health care professionals at ICE facilities to provide medical services, whether for a routine illness or an urgent medical need, and to manage refills of vital medications. We found the LPCC medical unit was critically understaffed, with vacancies that lingered for several months.<sup>12</sup> This may have contributed to deficiencies in responsiveness to detainee sick call requests and providing refills for essential medications. Without a fully staffed, responsive medical team, LPCC risks endangering the health and well-being of detainees entrusted to their care.

### **LPCC's Medical Unit Was Understaffed, Operating below Requirements**

LPCC's staffing report listed 72 positions for its medical staff at the time of our inspection. LPCC policy requires the LPCC Medical Unit have sufficient staffing levels to meet the needs of the detained population based on the size of the facility. At the time of inspection, we identified 21 vacancies, with 51 of 72 (71 percent) of positions filled. In particular, four of five Mental Health Coordinator positions were vacant, three of which remained vacant for 459 days and one for 254 days. Also, both psychologist positions were vacant, one for 176 days and the other for 13 days. Moreover, the pharmacy nurse position was vacant for 181 days, and the general nursing department had 11 vacancies. Although LPCC has advertised and attempted to fill the positions, the vacancies hinder the medical department's ability to provide care to the detained population. Most of the detainees we spoke to complained about medical care at the facility, including several complaints about LPCC's responsiveness to medical requests. The broad understaffing may have contributed to LPCC's deficiencies in sick call response and prescription medication refills.

### **LPCC Did Not Provide Timely Care to Detainees Making Sick Call Requests**

The 2011 PBNDS<sup>13</sup> require sick call requests submitted by detainees to be received and triaged by medical staff within 24 hours and receive timely follow-up for treatment. When detainees at LPCC require medical services, they fill out sick call requests and place them in drop boxes located immediately outside the housing unit, which the medical staff report they empty once a day.

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<sup>11</sup> 2011 PBNDS, Section 4.3, *Medical Care* (Revised Dec. 2016).

<sup>12</sup> OIG is also conducting a separate, in-depth review of medical staff vacancies at ICE detention facilities.

<sup>13</sup> 2011 PBNDS, Section 4.3, *Medical Care* (Revised Dec. 2016).



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Detainees at LPCC made 4,570 sick call requests from February 1 to August 24, 2020. Of those, we randomly selected 100 requests to assess timeliness of responses. From this sample, we determined detainees waited an average of 3.35 days to receive care, with 26 requests taking longer than 3 days for a response or treatment. For 18 requests, the facility took 10 or more days to respond, with 2 requests reaching 22 days before detainees received a response. For example, two detainees filed sick call requests claiming they were experiencing a fever. One did not receive treatment until 12 days had passed and the other waited 14 days.<sup>14</sup> Another detainee who complained of body aches waited 22 days for treatment. Further, 68 detainees filed medical grievances instead of sick call requests, and in 34 of 68 responses, the medical unit instructed detainees to file a sick call request in order to receive treatment. Staffing shortages may have contributed to this issue, including numerous vacancies on the nursing staff. Nonetheless, waiting days or weeks to provide medical care to detainees for acute sick call issues violates the standard for timely follow-up to detainee health needs. Delayed responses to complaints of symptoms of COVID-19 also risk the spread of the virus at the facility.

**LPCC Neglected to Appropriately Handle Chronic Care Medication Refills**

The 2011 PBNDS require medications to be timely ordered, dispensed, and administered by medical staff at facilities.<sup>15</sup> Our review of detainee medical records and the sick call log found that detainees were requesting refills for chronic care medications through sick call refill requests, although the 2011 PBNDS require the facility's pharmacy to monitor and distribute these medications without the need for a sick call request. LPCC's policy correctly prohibits detainees from keeping certain medications on their person for self-administration due to the seriousness of side effects, potential for abuse, and overdose risk.<sup>16</sup> These restricted medications are held and dispensed by the medical unit. One detainee, who is a cancer patient, ran out of leukemia medication after the medical staff did not order a refill on time. Since the detainee did not hold the medication, he was not aware of when the medication was running out or how long it would take medical staff to obtain a refill. However, the detainee's medical file (see Figure 4) shows that a health care provider incorrectly told the detainee it was the detainee's failure to fill out a refill request that resulted in the interruption of his medication.

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<sup>14</sup> These detainee requests occurred in late March and early April 2020, respectively. Neither detainee medical file included any record of testing for COVID-19 or isolation.

<sup>15</sup> 2011 PBNDS, Section 4.3, *Medical Care* (Revised Dec. 2016).

<sup>16</sup> CoreCivic – La Palma Correctional Center, 13-70: *Pharmaceuticals*.



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**Figure 4. An entry from the medical file of a detainee recorded by a medical staff member where the detainee and medical staff member discuss a refill of leukemia medication.**

Seeing pt re CML (leukemia) medication interruption. The reason for the interruption is unclear but the pt did not fill out a refill request  
[REDACTED]

Hx polysubstance abuse.  
[REDACTED]

I informed the pt that the medication would be here Monday 4/20/20. I told him 4 times that the primary way to request a refill is to fill out a sick call request form stating that it is for a medicine refill. For KOP meds there is a KOP form but this is not a KOP med and there were no KOP forms available that he or I could see.

He repeatedly asked me how to request the refill and that he had spoken to several people about needing the medication. I told him again that he needs to fill out the form 1 week before he is going to run out of meds to make sure it gets here in time. And that we had worked today to get him this refill as quickly as possible.

[REDACTED]

Source: LPCC Medical files

Further, the sick call log revealed five entries where detainees sought refills on chronic care medication that the facility should have refilled automatically. For example, one detainee requested a refill for a muscle relaxant and four detainees requested refills on prescription medications to treat high blood pressure. When LPCC Medical yields its responsibility for refilling vital prescriptions such as leukemia medication and heart attack prevention treatment, it violates the 2011 PBNDS and increases the risk to the health and well-being of detainees.

### **Segregation Records Raise Concerns about Detainee Care**

During our inspection, we reviewed LPCC's documentation related to detainee care, including records and logs for detainees held in segregation. We reviewed housing records for all 12 detainees placed in segregation as of September 11, 2020. We found the facility was not consistently providing required care,<sup>17</sup> including no exchange of laundry and soiled bedding and clothing, no legal materials, no haircuts, limited recreation, no access to the commissary for detainees who are in administrative segregation, and no masks in response to COVID-19. In addition, we found LPCC did not consistently record medication administration and daily medical visits for detainees in segregation. Consequently, we could not verify whether those detainees received their prescribed medications and the necessary review by medical staff to ensure no deterioration in their condition due to placement in segregation.

<sup>17</sup> 2011 PBNDS, Section 4.5, *Personal Hygiene* (Revised Dec. 2016).



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**LPCC Did Not Provide Required Services and Privileges to Detainees in Segregation**

ICE's 2011 PBNDS require all detainees in segregation receive laundry services for soiled bedding and clothing, and have access to legal materials, haircuts, and recreation.<sup>18</sup> Administratively segregated detainees should receive access to the same privileges as those in the general population, including access to the commissary.<sup>19</sup> In response to COVID-19, facility staff were also required to provide facial coverings.<sup>20</sup> We found segregated detainees were not consistently being provided these required services and privileges. For example:

- Records for all 12 detainees (100 percent) in segregation showed they were not provided with required access to laundry for soiled bedding and clothing, access to legal materials, and access to haircuts.
- Records for the 2 detainees (100 percent) in administrative segregation showed they did not have required access to the commissary.
- Records for all 12 detainees (100 percent) in segregation showed they were not always provided with required recreation time outside their cell.
- Records for 8 of 12 detainees (67 percent) in segregation showed they were not provided with any required facial coverings/masks to protect them from COVID-19 exposure.
- Records for 2 of 12 detainees (17 percent) in segregation showed they were only provided one facial covering/mask.

**Records for Medication Administration and Medical Visits for Detainees in Segregation Were Incomplete**

ICE's 2011 PBNDS require detainees in segregation be provided medically prescribed medications<sup>21</sup> and health care personnel conduct face-to-face medical assessments at least once a day.<sup>22</sup> The standard also requires facilities to log in the segregation housing record whether detainees received their prescribed medications and medical assessments.<sup>23</sup> We identified incomplete segregation documentation and logs. For instance, some logged activities indicated segregated detainees were not receiving prescribed medications or a daily medical visit.

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<sup>18</sup> 2011 PBNDS, Section 2.12.II, *Expected Outcomes, Special Management Units* (Revised Dec. 2016).

<sup>19</sup> 2011 PBNDS, Section 2.12. II.19, *Expected Outcomes, Special Management Units* (Revised Dec. 2016).

<sup>20</sup> U.S. ICE ERO COVID-19 Pandemic Response Requirements (Version 4.0), September 3, 2020.

<sup>21</sup> 2011 PBNDS, Section 4.3, *Medical Care* (Revised Dec. 2016).

<sup>22</sup> 2011 PBNDS, Section 2.12.V.P, *Special Management Units* (Revised Dec. 2016).

<sup>23</sup> 2011 PBNDS, Section 2.12.V.P, *Special Management Units* (Revised Dec. 2016).



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We found all six (100 percent) of detainees prescribed daily medications were missing information to show they had received their medication every day in segregation. We found 5 of 12 (42 percent) of files reviewed were missing information to show detainees in segregation received daily visits by medical staff for their entire stay in segregation.

Because the records were incomplete, we could not verify detainees in segregation received their prescribed medications or that medical personnel properly monitored these detainees. Facilities must demonstrate they are following standards, and providing medications and proper care to detainees in segregation by recording all required activity in segregation logs. Without proper medical monitoring and dispensing of prescribed medication, detainees are at risk of medical emergencies or exacerbating existing medical problems.

### **LPCC Did Not Respond Timely or Did Not Respond at All to Some Detainee Grievances**

The 2011 PBNDS establish procedures for detainees to file grievances regarding any aspect of their detention.<sup>24</sup> The standard requires the facility to respond to detainee grievances and grievance appeals within 5 days. If detainees do not agree with the initial decision, they can file an appeal through multiple levels of facility and ICE staff. The appeal process aims to protect detainee rights and ensure all detainees are treated fairly. We identified responsiveness and timeliness issues in the grievance system at LPCC. Specifically, LPCC policy improperly excludes and disallows grievances related to property. We found some valid grievances were rejected without addressing associated issues. The LPCC facility administrator did not respond timely to grievance appeals in more than 50 percent of the cases we reviewed. We also determined that LPCC improperly issued extensions for providing grievance responses. Without an effective and timely grievance process, LPCC risks ignoring or worsening serious deficiencies.

### **LPCC Improperly Rejected Grievances**

Though 2011 PBNDS<sup>25</sup> state detainees may file grievances “relating to any aspect of their detention,” LPCC policy<sup>26</sup> forbids detainees from filing grievances related to property. Instead, detainees must file a property claim with the facility’s property department, which strips detainees of the protection afforded by the grievance reviews and appeals. Between February 1, 2020 and August 24, 2020, LPCC denied or rejected 34 of 36 detainee grievances related

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<sup>24</sup> 2011 PBNDS, Section 6.2, *Grievance System* (Revised Dec. 2016).

<sup>25</sup> 2011 PBNDS, Section 6.2, *Grievance System* (Revised Dec. 2016).

<sup>26</sup> CoreCivic – La Palma Correctional Center, 14-5: *Inmate/Resident Grievance Procedures*.



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to property. For example, the facility rejected a grievance in which a detainee recently released from suicide watch complained of missing personal property. In this case, the facility responded and instructed the detainee to file a claim with the property department. Another detainee attempted to grieve a property claim decision made by the property department, but his grievance was rejected. LPCC's policy excluding property issues from the grievance system is a violation of the 2011 PBNDS standard.

In addition to property grievances, the LPCC Grievance Officer improperly rejected other detainee grievances, neglecting to address valid detainee concerns. From February 1, 2020 to August 24, 2020, the Grievance Officer responded to 1,276 detainee grievances, categorizing 672 grievances (roughly 53 percent) with the disposition code "rejected." The Grievance Officer noted in the grievance responses that many grievances were rejected for, among other reasons, absence of specificity, filling out the grievance form incorrectly, or delegating responsibility to someone else in the facility. However, analysis of these 672 rejected grievances showed 59 grievances were improperly rejected. For example, one detainee complained an officer used profanity and made inappropriate remarks on the evening of January 30 and listed seven other detainees present at the time. The Grievance Officer rejected the grievance for filing on behalf of others and for not listing a specific time. In another example, a detainee complained about an officer slamming a cell door in his face and nearly injuring his fingers in the door frame, but the Grievance Officer rejected the grievance because the detainee did not fill out the grievance form correctly. When detainee grievances are subject to seemingly frivolous rejections by the Grievance Officer, potentially valid grievances may go unaddressed.

### **LPCC Did Not Always Provide Timely Responses to Grievances and Appeals**

Though the 2011 PBNDS mandate grievances and appeals receive a response within 5 days,<sup>27</sup> LPCC policy improperly allows extensions on grievance responses, and the facility administrator has frequently been late responding to appeals. LPCC policy impermissibly allows for the Grievance Officer to unilaterally issue an extension of up to 15 days past the facility's required 5-day response time to a detainee's grievance.<sup>28</sup> The LPCC Grievance Officer explained she issued extensions when she was out of the office for extended periods and unable to provide a timely response. LPCC was late responding to 236 grievances from February 1, 2020 to August 24, 2020 (18 percent of the time). In addition, during that period the facility administrator received 75 appeals, but exceeded the 5-day time limit on 39 appeals (52 percent of the

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<sup>27</sup> 2011 PBNDS, Section 6.2, *Grievance System* (Revised Dec. 2016).

<sup>28</sup> CoreCivic – La Palma Correctional Center, 14-5: *Inmate/Resident Grievance Procedures*.



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time). The longest time elapsed for the facility administrator to respond was 14 days, which happened twice. Detainees depend on timely responses to grievances as affirmation the facility is taking their complaints seriously.

### **Detainee Communication Practices Were Deficient**

The 2011 PBNDS also establish procedures for contact among staff and detainees including written communication and observation of living conditions.<sup>29</sup> ICE or facility staff must respond to detainee written requests<sup>30</sup> within 3 days. At LPCC, detainees can send requests to facility staff using an email system or via paper forms, but can only send requests to ICE using paper forms. The standards detail record-keeping practices for tracking detainee requests with facility staff and ICE, requiring them to keep a log tracking detainee requests and to retain copies of the requests as well. LPCC only addresses facility related issues and ICE addresses all other issues. While ICE maintains tracking of requests it receives, we found the facility was not keeping a log of detainee requests related to facility issues and was not tracking them to ensure timely responses.

ICE staff must visit detainees at the facility, posting a schedule specifying the current days and hours of their visits in the housing units and including it in the detainee handbook.<sup>31</sup> However, ICE did not provide sufficient communication to detainees on days and times deportation officers would be available to address their concerns. Providing visitation schedules with specific days and times helps ensure detainees have an open line of communication to facility staff and ICE, and accountability for meeting detainee needs.

### **LPCC Did Not Maintain Required Detainee Request Records**

The facility does not keep a log tracking detainee requests to the facility, as required by the 2011 PBNDS.<sup>32</sup> Most detainees at LPCC use an email system where they email requests to certain members of facility staff using kiosks located in their housing units, but detainees also have the option to write paper requests to facility staff. The facility retains the email traffic between detainees and staff members in its electronic systems, but does not maintain a separate log of detainee electronic or written paper requests to facility staff. Thus, the facility is unable to track whether staff are adequately and timely responding to detainee requests.

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<sup>29</sup> 2011 PBNDS, Section 2.13, *Staff-Detainee Communication* (Revised Dec. 2016).

<sup>30</sup> Common requests concerned visitation, case status, and requests for religious items.

<sup>31</sup> 2011 PBNDS, Section 2.13, *Staff-Detainee Communication* (Revised Dec. 2016).

<sup>32</sup> 2011 PBNDS, Section 2.13, *Staff-Detainee Communication* (Revised Dec. 2016).



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The standard also requires a copy of each completed detainee request to be filed in the detainee's detention file and kept for 3 years. Though detainees can submit electronic requests to facility staff, detainees can also communicate with either ICE or facility staff by placing paper requests in designated drop boxes immediately outside their housing units. ICE and facility staff separately collect the paper requests and distribute them to the appropriate staff, then return the form to the detainee once the request is answered. However, neither ICE nor LPCC staff placed a copy of the request and its disposition in the detainee's detention file as required by the 2011 PBNDS. Although ICE provided a copy of its completed detainee requests to the LPCC records office, the facility did not place a copy of the completed requests in the respective detainee files. ICE made a correction once we identified this deficiency and now ensures the facility files a copy of completed ICE requests in each detainee's detention file. Without the required log or correct filing of detainee requests, we were unable to validate LPCC's and ICE's responsiveness to them.

### ICE Did Not Provide Detainees Sufficient Contact with Deportation Officers

Though ICE Deportation Officers (DO) must visit detainees in housing, ICE did not provide sufficient detail to detainees about when DOs would be visiting the housing units. The 2011 PBNDS mandates ICE post scheduled days and hours when DOs will be visiting housing units, and also include this information in the facility detainee handbook.<sup>33</sup> DOs visited the housing units in person until May 4, 2020, when ICE stopped scheduled in-person DO visits due to the COVID-19 pandemic. After May 4, 2020, ICE required DOs to be available to detainees via telephone following a schedule. Though ICE posts its schedule of DO telephone consultations in the detainee housing units, it did not list the specific hours of the day when ICE DOs would be available. This was also true of ICE's schedule prior to the pandemic, where days, but not specific hours were listed on the postings. Further, the facility handbook does not include the DO schedule at all. Detainees need to know what specific times they can contact their DOs so they can plan their days accordingly and not risk missing their DO because they attended activities such as recreation or religious services. Neglecting to properly inform detainees of DO visits violates 2011 PBNDS for staff-detainee communication.

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<sup>33</sup> 2011 PBNDS, Section 2.13, *Staff-Detainee Communication* (Revised Dec. 2016).



## **Recommendations**

We recommend the Executive Associate Director of Enforcement and Removal Operations direct the Phoenix Enforcement and Removal Field Office responsible for LPCC to:

**Recommendation 1:** Ensure compliance and remedial action is taken to address LPCC's use of force incidents and allegations of detainee mistreatment by staff when warranted.

**Recommendation 2:** Ensure LPCC provides detainees appropriate face coverings and ensures proper social distancing among detainees.

**Recommendation 3:** Ensure that, for detainees in segregation, LPCC provides access to laundry, legal materials, haircuts, required recreation time outside their cells, and (for those in administrative segregation) the commissary.

**Recommendation 4:** Require LPCC staff to complete and document medication administration and daily face-to-face medical visits with detainees in segregation to ensure detainee health and welfare.

**Recommendation 5:** Ensure LPCC's Medical Unit is appropriately refilling and administering detainees' medication.

**Recommendation 6:** Review LPCC's grievance policy, processes, and procedures to ensure adherence with requirements.

**Recommendation 7:** Ensure LPCC records and maintains a detainee request log and properly files detainee requests.

**Recommendation 8:** Ensure detainees consistent and appropriate access to ICE ERO deportation officers by identifying time, duration, and location of ICE facility visits.

## **Management Comments and OIG Analysis**

ICE concurred with three recommendations and did not concur with five recommendations. ICE described corrective actions to address the issues identified in this report. Appendix B contains ICE management comments in their entirety. We also received technical comments to the draft report and revised the report as appropriate. We consider two recommendations resolved and closed, one recommendation resolved and open, and five recommendations unresolved and open. A summary of ICE's response and our analysis follows.



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**ICE Comments to Recommendation 1:** Non-concur. The OIG’s draft report does not identify where LPCC’s actions in use-of-force incidents were inconsistent with the 2011 PBNDS. ICE ERO reviewed documentation, interviews, and evidence of the incidents referenced in the report, coupled with 2011 PBNDS use-of-force policies. These reviews indicate an appropriate use-of-force and do not support the OIG’s conclusion. Furthermore, the OIG’s report acknowledges that staff responsible for alleged detainee mistreatment have already received remedial training, when warranted, thus OIG’s recommendation for remedial action is unwarranted. ICE ERO continues to work with LPCC to ensure that necessary and appropriate remedial action is taken in all instances of employee misconduct. Ultimately, the use-of-force incidents did not violate 2011 PBNDS, and staff responsible for mistreatment already received remedial action.

**OIG Analysis:** We do not consider these actions responsive to the recommendation, which is unresolved and open. We will close this recommendation when we receive documentation outlining how ICE will ensure proper detainee treatment at LPCC. Overuse of chemical agents may be unnecessary when other methods could be used to gain detainee compliance. ICE must include documentation that allegations of detainee mistreatment are addressed at LPCC.

**ICE Comments to Recommendation 2:** Non-concur. LPCC is in compliance with current CDC guidelines on personal protective equipment (PPE) and hygiene in response to the pandemic, which are covered in the section titled “Operations, Supplies, and PPE Preparations,” as well as the requirements within ICE ERO PRR (Version 5, October 27, 2020). Specifically, on April 9, 2020, LPCC facility staff began issuing appropriate face coverings to detainees and providing access to hand sanitizer where permissible based on security restrictions. LPCC will continue to provide detainees with unlimited access to hand soap and hygiene materials as recommended by the CDC and ensure that soap and paper towels are present in bathrooms and detainee common and work areas. Additionally, in April 2020, LPCC increased its on-hand inventory of PPE for both detainees and staff and began providing additional training to staff on the necessity of maintaining social distancing within the facility. ICE will continue to encourage social distancing to detainees through education, communication, and encouragement rather than through a punitive, disciplinary process.

**OIG Analysis:** We do not consider these actions responsive to the recommendation, which is unresolved and open. While ICE did provide documentation that it provided non-alcohol based sanitizer, it did not provide documentation to address detainees wearing masks and socially distancing to reduce COVID-19 transmission. We will close this recommendation when we



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receive documentation outlining how ICE will ensure improved implementation of COVID-19 preventative measures to reduce COVID-19 transmission. ICE must include documentation showing implementation of ICE's COVID-19 requirements at LPCC.

**ICE Comments to Recommendation 3:** Non-concur. ICE is already providing detainees in segregation with access to activities and services outlined in 2011 PBNDS and the ICE ERO PRR (Version 5.0) and is committed to ensuring this access. Specifically, ICE ERO's review of the records for the 12 detainees in segregation identified in the OIG's draft report revealed that LPCC was in compliance with this standard. Since November 2020, an ERO Detention Services Manager (DSM) has been assigned to LPCC. The DSM verified that LPCC policy includes provisions for laundry, legal materials, haircuts, required recreation time for detainees outside their cells, and commissary for those in administrative segregation. The DSM continues to conduct daily audits to ensure that LPCC continues to follow policy, and LPCC already provides appropriate access to services and recreation time for detainees in segregation.

**OIG Analysis:** We do not consider these actions responsive to the recommendation, which is unresolved and open. We will close this recommendation when we receive documentation showing that LPCC is providing required access for segregated detainees to laundry, legal materials, haircuts, required recreation time outside their cells, and (for those in administrative segregation) the commissary.

**ICE Comments to Recommendation 4:** Concur. In December 2020, LPCC provided ICE with a corrective action plan addressing challenges with updating the medical records of those detainees in segregation. Subsequent reviews, including a contract inspection in November 2020 and an Office of Professional Responsibility, Office of Detention Oversight (ODO) inspection in January 2021, reflect LPCC compliance with the standard. ICE continues to monitor LPCC's compliance with this standard through regular audits via ICE ODO, contracted compliance auditors, and the onsite DSM. Further, the DSM collaborates with the Health Services Administrator to ensure that documentation complies with the ICE detention standards. ICE provided the OIG copies of the Uniform Corrective Action Plans for the latest ODO and contract inspections, which do not cite any deficiencies related to medication administration under a separate cover.

**OIG Analysis:** We consider these actions responsive to the recommendation, which is resolved and closed. ICE provided facility corrective action plans and a follow-up inspection conducted in January of 2021, which showed compliance with the medical oversight of segregation.



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**ICE Comments to Recommendation 5:** Concur. LPCC has improved the effectiveness and timeliness of refilling and administering detainee medication. Moreover, since November 2020, a DSM has been assigned to LPCC. The roles and responsibilities of a DSM include providing “daily review” and “on the spot” resolution to facility issues and concerns. Having a DSM on site is a complement to the annual inspection program. They increase facility transparency and reduce the length of time required to resolve issues. Based on the combination of detention monitoring and IHSC presence, the facility complies with the standards as it relates to appropriately refilling and administering detainee’s medication.

**OIG Analysis:** We consider these actions responsive to the recommendation, which is resolved and closed. LPCC provided supporting documentation that the medical unit issued a new policy related to refilling medication. The new medication policy will require medical staff to monitor and automatically refill detainee prescriptions for chronic care without the need for detainees to fill out a sick call request. This new policy and process change will help ensure detainees receive their medication timely and without interruption.

**ICE Comments to Recommendation 6:** Non-concur. ICE views the grievance system as an important avenue for detainees to pursue issues when they believe the facility is not adhering to the standards and/or procedures. Hence, ICE ERO has previously and will continue to periodically review and ensure LPCC’s compliance with the standards related to grievances and property. ICE believes that the LPCC has followed the 2011 PBNDS, Section 6.2, Grievance System, Expected Practices, which allows for reasonable timeframes for investigations, responses, and appeals and does not support OIG’s finding in this area. In addition, LPCC appropriately classifies and routes issues related to property consistent with 2011 PBNDS, Section 2.5. Consequently, detainees are already afforded appropriate due process protection through the property system.

**OIG Analysis:** We do not consider these actions responsive to the recommendation, which is unresolved and open. We will close this recommendation when we receive documentation showing that LPCC is providing timely and complete responses for grievances filed by detainees including grievances related to property.

**ICE Comments to Recommendation 7:** Concur. ICE does not agree with the findings in the OIG draft report regarding a detainee communication log nor this recommendation. The 2011 PBNDS, Section 2.13, Staff-Detainee Communication, makes a distinction between facilities that have an ICE presence on site and those that have no ICE presence on site. As LPCC has an onsite ICE presence, the responsibility to maintain the detainee communication



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log lies with ICE ERO staff, who have exclusive access to written detainee requests. LPCC, on the other hand, has no physical access to the written communications. In alignment with 2011 PBNDS, the facility provides a secure drop box for written communication with ICE that only ICE ERO staff can access. Furthermore, ICE detainee communications records logs were previously provided to the OIG audit team, but for an unknown reason these logs are not discussed in the OIG draft report, which incorrectly identifies ICE and LPCC staff as having joint responsibility.

However, it is important to note that ICE agrees with the intent of this recommendation, as ICE determined that the LPCC incorrectly maintained written detainee requests in one detainee's detention file. ICE ERO retrieved a copy of the answered communication, which was then returned to LPCC for inclusion in the file. LPCC immediately corrected this deficiency, and LPCC is now in compliance with 2011 PBNDS.

**OIG Analysis:** We consider these actions responsive to the recommendation, which is resolved and open. LPCC receives detainee requests related to facility concerns and must track and respond to these requests. Additionally, OIG has found that other facilities it has visited track and respond to facility requests from detainees. We will close this recommendation when we receive documentation showing that LPCC has implemented a process to ensure it maintains a detainee request log and places detainee requests in the detainee's detention file.

**ICE Comments to Recommendation 8:** Non-concur. ICE believes it is essential for detainees to be able to communicate with ICE staff which in turn enhances safety, security and in maintaining the orderly operations of a facility. During the OIG audit process when this issue was raised, ICE ERO sent the OIG audit team multiple emails, in October 2020, which documented ICE's modified telephonic visitation schedule due to the COVID 19 pandemic. In addition, ICE posts the telephonic schedule in the housing units and provides the date and time of when an ICE Deportation Officer will be available for visitation.

**OIG Analysis:** We do not consider these actions responsive to the recommendation, which is unresolved and open. Although ICE provided a list of its current facility visitation practices, ICE has not communicated and posted this information for ICE detainees. We will close this recommendation when we receive documentation showing that ICE has implemented a communication plan that is posted and communicated to detainees for ICE visits (telephonic or in person) to the housing units, indicating dates and times for detainees to visit with ICE deportation officers.



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## **Appendix A**

### **Objective, Scope, and Methodology**

The Department of Homeland Security Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

DHS OIG initiated this inspection at Congress' direction. Prior to conducting an unannounced inspection, we also reviewed and analyzed concerns raised by immigrant rights groups and complaints to the DHS OIG Hotline about conditions for aliens in ICE custody. We generally limited our scope to the 2011 PBNDS for health, safety, medical care, mental health care, grievances, classification and searches, use of segregation, use of force, language access, and staff training. We also conducted a limited review of facility compliance with COVID-19 requirements.

We conducted the inspection remotely, given the inherent risks associated with on-site inspections during the COVID-19 pandemic. We focused on elements of these standards that could be observed and evaluated remotely.

Prior to our inspection, we reviewed relevant background information, including:

- OIG Hotline complaints
- ICE 2011 PBNDS
- DHS Office for Civil Rights and Civil Liberties reports
- ICE Office of Detention Oversight reports
- Information from nongovernmental organizations
- Information provided in congressional requests

We conducted our unannounced remote inspection of LPCC from August 25 to November 11, 2020. During the visit we:

- Directed the locations within the facility we would observe during a live video walkthrough. We viewed areas used by detainees, including intake processing areas; medical facilities; kitchens and dining facilities; residential areas, including sleeping, showering, and toilet facilities; legal services areas, including law libraries, immigration proceedings, and rights presentations; recreational facilities; and barber shops.
- Reviewed select video surveillance footage of detainee housing areas from July to September 2020. We also viewed video surveillance footage



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related to incidents for which detainees were placed in segregation including the two protests in April 2020.

- Reviewed the facility's compliance with key health, safety, and welfare requirements of the 2011 PBNDS for classification and searches, segregation, access to medical care and mental health care, medical and nonmedical grievances, and access to translation and interpretation.
- Reviewed the facility's pandemic response to COVID-19, including modified standards and whether ICE was notified of and approved any changes that affected facility compliance with applicable standards.
- Interviewed ICE and detention facility staff members, including key ICE operational and detention facility oversight staff, detention facility medical, segregation, classification, grievance, and compliance officers.
- Interviewed detainees held at the detention facility to evaluate compliance with 2011 PBNDS grievance procedures and grievance resolution.
- Reviewed documentary evidence, including medical files, and grievance and communication logs and files.

We conducted this review under the authority of the *Inspector General Act of 1978, as amended*, and according to the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.



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**Appendix B**  
**ICE Comments to the Draft Report**

*Office of the Chief Financial Officer*

U.S. Department of Homeland Security  
500 12th Street, SW  
Washington, D.C. 20536



**U.S. Immigration  
and Customs  
Enforcement**

March 19, 2021

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.  
Inspector General

FROM: Stephen A. Roncone  
Chief Financial Officer and  
Senior Component Accountable Official

STEPHEN A  
RCNCONE

Digitally signed by STEPHEN A  
RCNCONE  
Date: 2021.03.19 11:23:40 -0400

SUBJECT: Management Response to Draft Report: “Violations of  
Detention Standards Amidst COVID-19 Outbreak at La  
Palma Correctional Center in Eloy, AZ”  
(Project No. 20-003-SRE-ICE (b))

Thank you for the opportunity to comment on this draft report. U.S. Immigration and Customs Enforcement (ICE) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

ICE is pleased to note OIG’s recognition of ICE’s compliance with standards for detainee classification at the La Palma Correctional Center (LPCC) in Eloy, Arizona, including that many COVID-19 practices implemented at the facility, such as the 14-day quarantine period, resulted in reduced detainee-to-detainee exposure among the general population. ICE remains committed to full compliance with the 2011 Performance-Based National Detention Standards, December 2016 revision (2011 PBNDS), at all detention facilities operating under that standard. ICE also remains committed to maintaining and fostering open and transparent relationships with independent auditing processes.

However, ICE has significant concerns about the accuracy of the findings in the OIG’s draft report. For example, ICE leadership is concerned that several findings in the report rely on uncorroborated allegations by detainees, such as when it appears that the audit team did not interview ICE or the contracting facility representatives regarding two use of force incidents at LPCC. As discussed with the auditors during several meetings, reports documenting these incidents contradict detainee allegations noted in OIG’s report. It is also important to note that the OIG did not substantiate any violations of 2011 PBNDS having occurred during these incidents. To the contrary, OIG acknowledged that the 2011 PBNDS do not specify which methods are permitted to quell civil disobedience.

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(Project No. 20-003-SRE-ICE (b))

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ICE is also concerned that the OIG’s draft report omits necessary context in several instances, without which a reader may assume that violations of the standards had occurred, when in fact, none occurred. For example, the report alleges that the medical unit at LPCC was understaffed, with 51 of 72 positions occupied (71 percent). However, the report does not acknowledge the fact that the staffing level of 72 positions was designed for a detainee population of 2,340, while the average daily population of LPCC during the audit was 1,542. Consequently, the average daily population during the audit was only approximately 65 percent of the population called for in the staffing plan. Further, the report does not recognize any actions that LPCC took to manage staffing vacancies, such as the use of nurses and overtime to staff the medical department. Without this context, readers cannot fully appreciate LPCC’s performance.

In addition, several findings in the draft report do not reflect current Centers for Disease Control and Prevention (CDC) recommendations and guidelines for persons in detention centers, nor current ICE Enforcement and Removal Operations (ERO) Pandemic Response Requirements (PRR) (Version 5.0, October 27, 2020) requirements, which were issued during OIG’s unannounced remote inspection. Consequently, the report does not accurately state the requirements for when and where detainees wear masks as outlined in the CDC’s recommendations, the ICE ERO PRR, and 2011 PBNDS.

The draft report contained eight recommendations, including three with which ICE concurs (Recommendations 4, 5, and 7) and five with which ICE non-concurs (Recommendations 1, 2, 3, 6, and 8). Attached find our detailed response to each recommendation. ICE previously submitted technical comments addressing several accuracy, contextual, sensitivity, and other issues under a separate cover for OIG’s consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions.

Attachment



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**Attachment: Management Response for Recommendations  
Contained in OIG-20-003-SRE-ICE (b)**

OIG recommended that the ICE ERO Executive Associate Director direct the Phoenix Enforcement and Removal Field Office responsible for LPCC to:

**Recommendation 1:** Ensure compliance and remedial action is taken to address LPCC’s use of force incidents and allegations of detainee mistreatment by staff when warranted.

**Response:** Non-concur. The OIG’s draft report does not identify where LPCC’s actions regarding use-of-force incidents were inconsistent with the 2011 PBNDS. ICE ERO reviewed documentation, interviews, and evidence of the incidents referenced in the report, coupled with 2011 PBNDS use-of-force policies. These reviews indicate an appropriate use-of-force and do not support the OIG’s conclusion. Furthermore, the OIG’s report acknowledges that staff responsible for alleged detainee mistreatment have already received remedial training, when warranted, thus OIG’s recommendation for remedial action is unwarranted. ICE ERO continues to work with LPCC to ensure that necessary and appropriate remedial action is taken in all instances of employee misconduct. Ultimately, the use-of-force incidents did not violate 2011 PBNDS, and staff responsible for mistreatment already received remedial action.

ICE requests that the OIG consider this recommendation resolved and closed.

**Recommendation 2:** Ensure LPCC provides detainees appropriate face coverings, and ensures proper social distancing among detainees.

**Response:** Non-concur. ICE takes the safety and welfare of detainees to be of utmost importance, therefore began issuing COVID-19 related medical communication in January 2020, targeted guidance in March 2020, and the first iteration of its Pandemic Response Requirements (PRR) in April 2020. ICE believes that LPCC is in compliance with current CDC guidelines on personal protective equipment (PPE) and hygiene in response to the pandemic, which are covered in the section titled “Operations, Supplies, and PPE Preparations,” as well as the requirements within ICE ERO PRR (Version 5, October 27, 2020). Specifically, on April 9, 2020, LPCC facility staff began issuing appropriate face coverings to detainees and providing access to hand sanitizer where permissible based on security restrictions. LPCC will continue to provide detainees with unlimited access to hand soap and hygiene materials as recommended by the CDC and ensure that soap and paper towels are present in bathrooms and detainee common and work areas. Additionally, in April 2020, LPCC increased its on-hand inventory of PPE



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(Project No. 20-003-SRE-ICE (b))

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for both detainees and staff and began providing additional training to staff on the necessity of maintaining social distancing within the facility. ICE will continue to encourage social distancing to detainees through education, communication, and encouragement rather than through a punitive, disciplinary process. For example, in March 2020, LPCC increased ongoing detainee town hall meetings from once per month to three times per week in an effort to increase detainee communication and education.

ICE requests that the OIG consider this recommendation resolved and closed, as implemented.

**Recommendation 3:** Ensure that, for detainees in segregation, LPCC provides access to laundry, legal materials, haircuts, required recreation time outside their cells, and (for those in administrative segregation) the commissary.

**Response:** Non-concur. ICE is committed to ensuring that individuals in segregation are provided access to activities and services as outlined in 2011 PBNDS and the ICE ERO PRR (Version 5.0). ICE believes that LPCC is providing these services and the facts do not support OIG’s findings. More specifically, ICE ERO’s review of the records for the 12 detainees in segregation identified in the OIG’s draft report revealed that LPCC was in compliance with this standard. Since November 2020, an ERO Detention Services Manager (DSM) has been assigned to LPCC. The DSM verified that LPCC policy includes provisions for laundry, legal materials, haircuts, required recreation time for detainees outside their cells, and commissary for those in administrative segregation. The DSM continues to conduct daily audits to ensure that LPCC continues to follow policy, and LPCC already provides appropriate access to services and recreation time for detainees in segregation.

ICE requests that the OIG consider this recommendation resolved and closed, as implemented.

**Recommendation 4:** Require LPCC staff to complete and document medication administration and daily face-to-face medical visits with detainees in segregation to ensure detainee health and welfare.

**Response:** Concur. In December 2020, LPCC provided ICE with a corrective action plan addressing challenges with updating the medical records of those detainees in segregation. Subsequent reviews, including a contract inspection in November 2020 and an Office of Professional Responsibility, Office of Detention Oversight (ODO) inspection in January 2021, reflect LPCC compliance with the standard. ICE continues to monitor LPCC’s compliance with this standard through regular audits via ICE ODO,



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contracted compliance auditors, and the onsite DSM. Further, the DSM collaborates with the Health Services Administrator to ensure that documentation complies with the ICE detention standards. ICE will provide the OIG copies of the Uniform Corrective Action Plans for the latest ODO and contract inspections, which do not cite any deficiencies related to medication administration under a separate cover.

ICE requests that the OIG consider this recommendation resolved and closed, as implemented.

**Recommendation 5:** Ensure LPCC’s Medical Unit is appropriately refilling and administering detainees’ medication.

**Response:** Concur. LPCC has improved the effectiveness and timeliness of refilling and administering detainee medication. Moreover, since November 2020, a DSM has been assigned to LPCC. The roles and responsibilities of a DSM including providing “daily review” and “on the spot” resolution to facility issues and concerns. Having a DSM on site is a complement to the annual inspection program. They increase facility transparency and reduce the length of time required to resolve issues. Based on the combination of detention monitoring and IHSC presence, the facility complies with the standards as it relates to appropriately refilling and administering detainee’s medication.

ICE requests that the OIG consider this recommendation resolved and closed, as implemented.

**Recommendation 6:** Review LPCC’s grievance policy, processes, and procedures to ensure adherence with requirements.

**Response:** Non-concur. ICE views the grievance system as an important avenue for detainees to pursue issues when they believe the facility is not adhering to the standards and/or procedures. Hence, ICE ERO has previously and will continue to periodically review and ensure LPCC’s compliance with the standards related to grievances and property. ICE believes that the LPCC has followed the 2011 PBNDS, Section 6.2, Grievance System, Expected Practices which allows for reasonable timeframes for investigations, responses, and appeals and does not support OIG’s finding in this area. In addition, LPCC appropriately classifies and routes issues related to property consistent with 2011 PBNDS, Section 2.5. Consequently, detainees are already afforded appropriate due process protection through the property system.

ICE requests that the OIG consider this recommendation resolved and closed, as implemented.



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Management Response to Draft Report: “Violations of Detention Standards Amidst COVID-19 Outbreak at La Palma Correctional Center in Eloy, AZ”

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**Recommendation 7:** Ensure LPCC records and maintains a detainee request log and properly files detainee requests.

**Response:** Concur. ICE does not agree with the findings in the OIG draft report regarding a detainee communication log nor this recommendation. The 2011 PBNDS, Section 2.13, Staff-Detainee Communication, makes a distinction between facilities that have an ICE presence on site and those that have no ICE presence on site. As LPCC has an onsite ICE presence, the responsibility to maintain the detainee communication log lies with ICE ERO staff, who have exclusive access to written detainee requests. LPCC, on the other hand, has no physical access to the written communications.

In alignment with 2011 PBNDS, the facility provides a secure drop box for written communication with ICE, that only ICE ERO staff can access. Furthermore, ICE detainee communications records logs were previously provided to the OIG audit team, but, for an unknown reason these logs are not discussed in the OIG draft report, which incorrectly identifies ICE and LPCC staff as having joint responsibility.

However, it is important to note that ICE agrees with the intent of this recommendation, as ICE determined that the LPCC incorrectly maintained written detainee requests in one detainee’s detention file. ICE ERO retrieved a copy of the answered communication which was then returned to LPCC for inclusion in the file. LPCC immediately corrected this deficiency, and LPCC is now in compliance with 2011 PBNDS.

ICE requests that the OIG consider this recommendation resolved and closed, as implemented.

**Recommendation 8:** Ensure detainees’ consistent and appropriate access to ICE ERO deportation officers by identifying time, duration and location of ICE facility visits.

**Response:** Non-concur. ICE believes it is essential for detainees to be able to communicate with ICE staff which in turn enhances safety, security and in maintaining the orderly operations of a facility. During the OIG audit process when this issue was raised, ICE ERO sent the OIG audit team multiple emails, in October 2020, which documented ICE’s modified telephonic visitation schedule due to the COVID 19 pandemic. In addition, ICE posts the telephonic schedule in the housing units and provides the date and time of when an ICE Deportation Officer will be available for visitation.

ICE requests that the OIG consider this recommendation resolved and closed, as implemented.



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**Appendix C**  
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