

IHSC Investigations Unit Guide

November 2019



ICE

ICE Health Service Corps

Foreword

The IHSC Investigations Unit Guide supplements the following IHSC Directives:

- IHSC Directive: 11-08, *IHSC Investigations Unit*.
- IHSC Directive: 11-03, *Mortality Review and Reporting*.

This guide explains concepts, assigns responsibilities, and details types of investigations and reviews.

The intended audience is all IHSC personnel, including but not limited to, U.S. Public Health Service (PHS) officers, federal civil servants, and contract personnel supporting health care operations in ICE-owned facilities, contracted detention facilities (CDF), and inter-governmental service agreement (IGSA) facilities.

STEWART D SMITH

Digitally signed by STEWART D
SMITH
Date: 2019.11.12 12:53:29 -05'00'

Stewart D. Smith, DHSc, FACHE
ERO Assistant Director
ICE Health Service Corps

November 12, 2019

Date

Table of Contents

I.	Overview.....	4
A.	Purpose	4
B.	Authority	4
II.	Responsibilities.....	4
A.	IHSC Assistant Director	5
B.	IHSC Chief of Staff.....	6
C.	IHSC Deputy Assistant Director of Clinical Services/Medical Director	6
D.	IHSC Deputy Assistant Director of Health Care Compliance	6
E.	ERO Administrative Inquiry Unit (AIU)	7
F.	ICE ERO	7
III.	IIU Case Types	7
A.	OPR Class IV and Non-JIC	7
B.	Mortality Reviews	7
C.	Morbidity Reviews	8
D.	Management Inquiries (MI)	8
E.	Fact-Finder Management Inquiries (FF-MI).....	9
F.	Ad Hoc Investigations	9
IV.	Orientation and Training	9
A.	Orientation.....	9
B.	Training	9
V.	Medical Complaint Data Aggregation and Analysis	10
A.	IHSC Investigations Case Management System (ICMS)	10

I. Overview

A. Purpose

The purpose of this guide is to provide IHSC personnel with the details and resources to implement IHSC Directives: 11-08, *IHSC Investigations Unit* and 11-03, *Mortality Review and Reporting*.

Under the direct supervision of the Offices of the Assistant Director (AD) and Chief of Staff (CoS), the IIU conducts independent, impartial, and thorough investigations or reviews of the ICE integrated health care delivery system, to include investigating allegations of non-criminal employee misconduct. IIU investigators base findings on evidence obtained through fact-finding and research in accordance with the Department of Health and Human Services (DHHS), Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), ICE Health Service Corps (IHSC) requirements and applicable accreditation standards.

B. Authority

The authority for all IIU investigators to conduct investigations or reviews of health care provided to detainees, or federal prisoners receiving health care from IHSC, derives from DHS Delegation Number: 5001, *Delegation to the Assistant Secretary for Health Affairs and Chief Medical Officer*, which delegates from the Secretary of DHS to the DHS Assistant Secretary for Health Affairs and Chief Medical Officer (CMO):

“The authority to exercise oversight over all medical and public health activities of the DHS. This authority shall include, but not be limited to...determinations regarding whether the standard of care has been met when there are claims or allegations of improper or substandard health care against the Department or any of its Components, employees, detailees, or contractors.”

1. DHS Directive: 248-01, *Medical Quality Management*, establishes the policy on Medical Quality Management (MQM) for DHS and requires all Components providing health services to maintain an active and effective MQM program. Component MQM programs include a quality assurance and improvement program that includes oversight, peer review, risk management, patient safety, and training.
2. DHS Instruction: 248-01-001, *Medical Quality Management*, establishes the content and procedures for an MQM program, which includes at the very least risk management and assessment of near-miss occurrences, adverse events, and sentinel events.
3. The authority for trained IIU investigators to investigate non-criminal misconduct is based upon ICE Policy: 17011.1, *Administrative Inquiries Involving Employee Misconduct*.

II. Responsibilities

IIU is responsible for conducting and monitoring the following types of investigations and functions: 1) allegations of inappropriate health care provided to individuals in ICE custody; 2) incidents of mortality and significant morbidity involving individuals in ICE custody; 3) allegations of employee misconduct; 4) high profile/risk incidents; and IHSC grievance processes.

In addition, IIU: 1) aggregates and analyzes detention health care medical complaint data; 2) serves as the IHSC investigative authority and conduit between IHSC, ICE, and other DHS offices and programs; and 3) collaborates with other ICE and IHSC programs to develop policies, procedures, and educational programs designed to mitigate risks identified during investigations and reviews.

IIU also investigates and reviews allegations of inappropriate health care, and incidents of mortality and significant morbidity, among federal prisoners when IHSC personnel provided care.

A. IHSC Assistant Director

1. Assigns a trained IHSC manager to conduct management inquiries (MIs) referred to IHSC by ERO Administrative Inquiry Unit (AIU). The IHSC AD delegates this responsibility to the IIU Chief. See ICE Policy: 17011.1, *Administrative Inquiries Involving Employee Misconduct*, Section 8.4.2., and *OPR Management Inquiry Program Memo*, dated September 2, 2014.
2. Routes MI reports of findings to the AIU Chief. *Note*: ICE Office of Professional Responsibility (OPR) Fact-Finder (FF) MIs (formerly classified as “administrative inquiries”) are routed directly to AIU in accordance with their instructions.
3. Addresses allegations of less serious misconduct that are properly reported to local management. The AD may refer such allegations to IIU for investigation or the appropriate manager for action. See ICE Policy: 17011.1, *Administrative Inquiries Involving Employee Misconduct*, Section 8.4.2., and *Employee Obligation to Report Corruption and Misconduct Memo*, dated May 7, 2018.
4. Designates a deciding official who determines whether disciplinary action is required based on the findings of an MI. Upon final disposition by the deciding official, the IHSC AD, or designee, notifies AIU of the final actions taken to address the allegation(s) and any disciplinary action taken. See ICE Policy: 17011.1, *Administrative Inquiries Involving Employee Misconduct*, section 8.13.
5. Delegates responsibility for addressing OPR Class IV and Non-JIC referrals to the IIU Chief.

6. Requests and authorizes IIU to conduct ad hoc investigations, not otherwise routinely delegated to IIU.
7. Acts as the final approving authority for reports of findings from mortality and morbidity reviews, employee misconduct, and ad hoc related investigations.
8. Reviews investigative reports submitted by IIU, except for OPR FF MIs. *Note:* AIU refers OPR FF MIs findings to the IHSC AD for management action, when indicated.
9. Reviews IIU's data and analyses to guide executive management decisions.

B. IHSC Chief of Staff

1. Provides direct supervision and oversight of IIU.
2. Serves as the principal advisor to the IIU Chief.
3. May request and authorize IIU to conduct ad hoc investigations, not otherwise routinely delegated to IIU.
4. Authorizes IIU-related travel and training.
5. Reviews all comprehensive investigative reports requiring the AD's approval.
6. Refers positive MI findings to the Disciplinary Action Panel (DAP) for any action deemed appropriate.
7. Reviews IIU's data and analyses prior to AD's review and approval.

C. IHSC Deputy Assistant Director of Clinical Services/Medical Director

1. Authorizes IIU to conduct mortality/morbidity reviews. See ICE Policy: 11003.3, *Notification and Reporting of Detainee Deaths*, Section 4.5.
2. Authorizes psychological autopsies/reconstructions, when indicated.
3. Approves and/or designates mortality/morbidity review committee members.
4. Serves as consulting physician for IIU medical complaint reviews.
5. Opines on issues regarding medical standard(s) of care.

D. IHSC Deputy Assistant Director of Health Care Compliance

1. Designates a Medical Quality Management Unit (MQMU) risk manager to collaborate with lead investigator on mortality/morbidity reviews.

2. Acts on all referred IIU-related investigation review findings for appropriate follow up action, as requested by the AD and/or Deputy Assistant Director of Clinical Services/Medical Director (DAD-CS/MD).
3. Reviews IIU's data and analyses to guide management decisions regarding the ICE health care delivery system.
4. Collaborates with IIU to develop policies, procedures, and educational programs designed to mitigate risks identified during investigations and reviews.

E. ERO Administrative Inquiry Unit (AIU)

1. Refers OPR-Class IV and Non-JIC intel/information inquiries for IHSC to address. IHSC delegates these referrals to IIU for assignment and investigation.
2. Refers OPR MIs to IIU to investigate.
3. Directly assigns OPR Fact-Finder MIs to trained IIU OPR Fact-Finders. IIU OPR FFs communicate and report directly to the designated AIU point of contact.
4. Authorizes travel for IHSC-related OPR Fact-Finder MIs.
5. Serves as the subject matter expert for all inquiries related to reporting allegations of employee misconduct and conducting misconduct investigations.

F. ICE ERO

ICE ERO refers medical related complaints received from the JIC, Detention Reporting and Information Line (DRIL), White House/Congress, or non-governmental organizations (NGO) to IHSC.

III. IIU Case Types

A. OPR Class IV and Non-JIC

OPR refers intel/information only medical complaints and non-reportable employee misconduct to the responsible department head (IHSC AD) for any action(s) deemed appropriate. IHSC AD delegates this responsibility to IIU.

B. Mortality Reviews

1. IHSC reviews all detainees deaths while in ICE custody, or for individuals in federal custody receiving medical care from IHSC personnel. This includes, but not limited to, detainees who died while assigned to detention in ICE-owned facilities, CDFs, Federal Bureau of Prisons (BOP) facilities, IGSAs, and while in transit.

2. The purpose of a mortality review is to determine the appropriateness of the clinical care provided; to ascertain whether changes to policies, procedures, or practices are warranted; and to identify issues that require further study.
3. A mortality review consists of an administrative review, a clinical mortality review, and, if indicated, a psychological autopsy.

Exception: IHSC may not conduct a mortality review if the suspected manner of death is a homicide. In this instance, the subsequent criminal investigation impedes IHSC's access to relevant records and information.

4. IHSC conducts mortality reviews within 30 days of a detainee death, in accordance with IHSC Directive 11-03: *Mortality Review and Reporting* and this Guide. IIU completes the final mortality review report within 45 days after the notification of the death. The following outlines the review process:
 - a. The AD and/or the DAD-CS/MD authorizes a mortality review.
 - b. The DAD-CS/MD determines whether the mortality review requires an on-site investigation.
 - c. The IIU Chief assigns an IIU investigator as the lead investigator for the mortality review.

C. Morbidity Reviews

1. IHSC reviews significant clinical incidents (SCI) involving detainees who are in ICE custody, or for individuals in federal custody receiving medical care from IHSC personnel. This includes, but not limited to, detainees who died while assigned to detention in ICE-owned facilities, CDFs, BOP facilities, IGSA, and while in transit.
2. An SCI is an incident that had, or potentially had, a significant or catastrophic impact on a detainee (morbidity), adversely affected the safe delivery of medical care, and/or posed a risk to ICE in terms of liability.
3. Like a mortality review, the purpose of a morbidity review is to determine the appropriateness of the clinical care provided; to ascertain whether changes to policies, procedures, or practices are warranted; and to identify issues that require further study.
4. IHSC conducts morbidity reviews in the same manner as a mortality review. However, the DAD-CS/MD determines the need for a peer review. In situations in which the DAD-CS/MD does not request a peer review, the investigator presents findings directly to the DAD-CS/MD.

D. Management Inquiries (MI)

1. An MI is an inquiry conducted by an authorized management official (i.e., IIU investigator) to identify the facts, which tend to prove or disprove that employee misconduct has taken place; whether an existing policy, procedure, or regulation has been violated; and whether the subject employee(s) committed the alleged violation.
2. The fundamental goal of an MI is to identify the facts surrounding the matter at issue. There is no desired or preferred outcome other than that. An inquiry that establishes the innocence of an employee is equally as important as an inquiry that sustains misconduct.
3. All information received during an MI is considered "For Official Use Only" (FOUO). Discussion and/or disclosure of such information is limited to official purposes.
4. Upon receipt of an allegation of misconduct, the IHSC AD forwards the allegation of misconduct to the IIU Chief for assignment and authorizes an on-site investigation, if warranted. The IIU Chief reviews the allegation and assigns the MI to an investigator.

E. Fact-Finder Management Inquiries (FF-MI)

An FF-MI is assigned directly to an IIU investigator from AIU. Only IIU investigators who successfully completed OPR FF training conduct these comprehensive investigations.

F. Ad Hoc Investigations

An Ad Hoc investigation is assigned by the AD, CoS, or designee for any incident or allegation they determine warrants an investigation.

IV. Orientation and Training

A. Orientation

IHSC provides new IIU staff with a comprehensive initial orientation, in accordance with IHSC Directive: 01-04, *Medical Education and Development*, and the *IIU Investigator Handbook*.

B. Training

1. IHSC provides mandatory and continuing education and training for IIU staff in accordance with IHSC Directive: 01-04, *Medical Education and Development*, and the *IIU Investigator Handbook*.

2. The IIU chief may periodically direct investigators to attend training to improve or maintain their investigation knowledge and skills.
3. Only investigators who successfully complete OPR FF training conduct OPR FF (FF-MI) investigations.
4. Each IIU investigator conducts at least one presentation per fiscal year to educate employees about how to mitigate risk(s) identified during reviews and investigations. The IIU Chief must approve the curriculum before presentation.

V. Medical Complaint Data Aggregation and Analysis

A. IHSC Investigations Case Management System (ICMS)

ICMS is a limited-access SharePoint database. IIU staff utilize ICMS to assign, track, and maintain information pertaining to IIU investigations. IHSC staff complete the following tasks in ICMS, in accordance with the *IIU Investigator Handbook*:

1. IHSC staff enter all investigation or review requests into ICMS. The IIU chief assigns the request to an IIU investigator.
2. The assigned IIU investigator updates the progress of their investigations (e.g., investigation in progress, document review/approval status, case closure) in ICMS.
3. The assigned IIU investigator uploads required case file documents into ICMS. The IIU investigator manages, files, and retains all documents in accordance with DHS, ICE, OPR, AIU, IHSC and IIU directives, policies, and guidance.
4. IIU personnel use ICMS reports to track trends and provide workload statistics to AD, CoS, DAD-CS/MD, and DAD-HCC, when applicable.