



Homeland
Security

September 28, 2018

MEMORANDUM FOR: Nathalie R. Asher
Acting Executive Associate Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

FROM: Veronica Venture (b) (6)
Deputy Officer
Office for Civil Rights and Civil Liberties

Dana Salvano-Dunn (b) (6)
Director, Compliance Branch
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SUBJECT: Contra Costa County Jail
West County Detention Facility
Complaint No. (b) (6)

The U.S. Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL) is conducting an investigation into conditions of detention for U.S. Immigration and Customs Enforcement (ICE) detainees at the Contra Costa County Jail's West County Detention Facility (WCDF) in Richmond, California. CRCL's onsite investigation occurred June 12-14, 2018, and was in response to allegations received alleging civil rights and civil liberties violations of general conditions of detention and inadequate medical care of detainees at WCDF.

We greatly appreciate the cooperation and assistance provided by ICE and WCDF personnel before and during the review. As part of the review, CRCL engaged the assistance of two subject-matter experts: a medical expert and a conditions of detention expert. As a result of staff interviews, document review, and direct observation, the subject-matter experts identified concerns in each of their areas.

On June 14, 2018, as part of the WCDF onsite closing discussions, CRCL and the subject matter experts discussed the general concerns with ICE ERO field office management personnel, personnel from ICE ERO headquarters, and WCDF management. During the discussions, the subject-matter experts also provided recommendations to address some of the major concerns identified. Additionally, shortly following the onsite, CRCL sent an email to ICE on June 29, 2018, summarizing these initial recommendations, to ensure ICE had sufficient information to initiate the proposed changes.

~~Protected by Deliberative Process Privilege~~

Enclosed with this memorandum are the full reports prepared by our subject-matter experts.¹ They are divided into priority and non-priority recommendations. Priority recommendations are listed in the body of this memorandum, and CRCL requests that ICE formally concur or non-concur with these recommendations and provide an implementation plan for all accepted recommendations within 60 days of issuance. Non-priority recommendations are contained in a separate attachment to this memorandum. Although CRCL is not requesting formal responses to the nonpriority recommendations, we encourage ICE to consider and implement these recommendations to the fullest extent possible.

Medical

CRCL's medical expert made the following priority recommendations regarding medical care at WCDF:

1. (b) (5) delays in access to care and (b) (5) in poor and incomplete documentation in some cases. (b) (5)
(b) (5)
(b) (5)
(b) (5)
(b) (5)
(b) (5)
(b) (5) (NDS, Medical Care, §III(A); NCCHC 2014 J-C-07)
2. (b) (5) the facility's sick call and triage system. The current phone-based system is not consistent with language in the NDS calling for a written request process for sick call, (b) (5)
(b) (5)
(b) (5)
(b) (5)
(b) (5) (NDS, Medical Care, §III(F); NCCHC 2014 J-E-07)
3. While the medical unit was able to demonstrate regular use of interpreter services both by language line logs and notations in the individual medical records, there were gaps in provision of language access in some cases where the language spoken was not identified or use of language assistance was not noted. Most language access issues were found in the areas of the phone triage system (cited above), and when staff are in the housing units (where language access lines currently cannot be accessed wirelessly at the point of care). (b) (5)
(b) (5)
(b) (5)
(b) (5) (NDS, Medical Care, § III(D))

¹ In general, CRCL's experts relied on the applicable National Detention Standards and related professional standards in conducting their work and preparing their reports and recommendations. Some of their analysis or recommendations, however, may be based on constitutional or statutory requirements that exceed the detention or professional standards.

4. The facility previously was accredited by the National Commission on Correctional Health Care (NCCHC), but has since allowed the accreditation to expire. While accreditation itself is not specifically required by the NDS for this type of facility (IGSA), there is a reasonable expectation that policies and procedures must meet or exceed NCCHC standards in order to be consistent with standards for all other ICE detention facilities. (b) (5)
(b) (5) (NDS, Medical Care, § I)

Conditions of Detention

CRCL's conditions of detention expert made the following priority recommendations related to general conditions at WCDF:

Retaliation/Grievances

5. The WCDF Grievance Log does not contain a consecutive log number and the disposition of each detainee grievance. (b) (5)
(b) (5)
(b) (5)
(b) (5) (NDS, Detainee Grievance Procedures, § III(E))
6. In light of evidence found while onsite supporting detainee claims that they suffer retaliation, verbal harassment, and disrespectful treatment by some WCDF staff, (b) (5)
(b) (5)
(b) (5) (NDS, Detainee Grievance Procedures, § III(D))
7. WCDF does not keep a log of detainee complaints about staff or records indicating that these complaints have been transmitted to ICE. (b) (5)
(b) (5)
(b) (5) (NDS, Detainee Grievance Procedures, § III(D))
8. Based on the number of detainee complaints of retaliation and staff verbal abuse, (b) (5)
(b) (5)
(b) (5) (NDS, Detainee Grievance Procedures, § III(D))

Limited English Proficiency

9. WCDF records indicate that language access resources are not consistently used to assist LEP detainees. (b) (5)
(b) (5)
(b) (5)
(DHS and ICE Language Access Plans)
10. WCDF records indicate that language access resources are not consistently used to assist LEP detainees. (b) (5)
(b) (5)
(b) (5)
(DHS and ICE Language Access Plans)

11. WCDF records indicate that forms and other materials contained in detainee files are written only in English without any indication of translation or interpretation assistance. (b) (5)
- (DHS and ICE Language Access Plans)
12. WCDF's orientation video is currently available only in English. (b) (5)
- (DHS and ICE Language Access Plans)
13. WCDF maintained very few records indicating when it provided language assistance to LEP detainees. (b) (5)
- (DHS and ICE Language Access Plans)
14. Detainees reported having grievances and other requests returned by staff when they were not written in English. (b) (5)
- (DHS and ICE Language Access Plans)

General Conditions

15. WCDF does not post a schedule for all activities including count times in each housing unit. (b) (5)
- (NDS, Population Counts, § III, Visitation, § III(B), Religious Practices, § III(F))
16. WCDF had disability accommodations that were not in working order or were not available. (b) (5)
- (NDS, Medical Care § I, Section 504 of the Rehabilitation Act of 1973)
17. WCDF detention files contain confidential medical information, which is a violation of NDS and HIPPA. (b) (5)
- (NDS, Medical Care, § III(M))
18. WCDF and ICE are not providing staff assistance or a law librarian to support LEP detainee's use of the Lexis-Nexis software, which impairs legal access. (b) (5)
- (NDS, Access to Legal Material, §III(L))
19. (b) (5)

(b) (5)

The complete expert findings and recommendations are contained in the enclosed expert reports.

It is CRCL's statutory role to advise department leadership and personnel about civil rights and civil liberties issues, ensuring respect for civil rights and civil liberties in policy decisions and implementation of those decisions. We look forward to working with ICE to determine the best way to resolve these complaints. We request that ICE provide a response to CRCL 60 days whether it concurs or does not concur with these recommendations. If you concur, please include an action plan. You can send your response by email. If you have any questions, please contact Senior Policy Advisor Thomas Sharp telephone at (b) (6) or by email at (b) (6)

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Enclosures