



Homeland
Security

March 5, 2020

MEMORANDUM TO: Enrique M. Lucero
Executive Associate Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

FROM: Peter E. Mina (b)(5)
Deputy Officer for Programs and Compliance
Office for Civil Rights and Civil Liberties

Dana Salvano-Dunn (b)(6)
Director, Compliance Branch
Office for Civil Rights and Civil Liberties

SUBJECT: Cibola County Correctional Center
Complaint Nos. 18-08-DHS-0342, 18-08-ICE-0745,
18-11-ICE-0668, 18-11-ICE-0742, 19-02-ICE-0072,
19-03-ICE-0071, 19-03-ICE-0110, and 19-06-ICE-0211

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 Cibola County Correctional Center (CCCC) in Milan, New Mexico. CRCL's onsite investigation occurred on August 13-15, 2019 in response to allegations received alleging civil rights and civil liberties violations of medical and mental health care, conditions of detention, and environmental health and safety at CCCC. Additionally, CRCL reviewed violations that impacted detainees housed in CCCC's dedicated transgender housing unit.

We greatly appreciated the cooperation and assistance provided by ICE and CCCC personnel before and during the onsite investigation. As part of the onsite, CRCL engaged the assistance of four subject-matter experts: a medical consultant, a mental health consultant, a corrections consultant and an environmental health and safety consultant. As a result of detainee and staff interviews, document and record reviews, and direct observation, the subject-matter experts identified concerns regarding medical and mental health care, conditions of detention, and environmental health and safety at the facility.

On August 15, 2019, as part of the out-briefing for CCCC and ICE, CRCL and the subject-matter experts discussed the most serious findings with ICE ERO field office management personnel, personnel from ICE ERO headquarters, and CCCC senior management. During the discussions, the subject-matter experts also provided recommendations to address the identified concerns. An

email summary of those, which CRCL sent to ICE ERO leadership immediately following the onsite is attached here. Also enclosed with this memorandum are the reports prepared by our subject-matter experts. The experts' recommendations have been designated as priority and best practice recommendations. Priority recommendations are listed in the body of this memorandum, and CRCL requests that ICE formally concur or non-concur with these and provide an action plan for all accepted recommendations within 60 days. Best practice recommendations are contained in a separate attachment to this memorandum. Although CRCL is not requesting formal responses to these best practice recommendations, we encourage ICE to also consider and implement these recommendations to the fullest extent possible.

Medical Care

1. An effective quality assurance program is needed at CCCC. It must be comprehensive and monitor all aspects of the medical program for risk, frequency, and trends to identify major problems/issues, and develop action plans to address them in the order of priority. Although a nurse is assigned to conduct quality assurance studies at CCCC, and a good system was developed to audit *some* programs on a rotating schedule, the audits were not comprehensive and did not monitor *all* aspects of the medical care program for risk, frequency and trends, in order to identify major issues and develop action plans. When serious issues of concern were identified, the current quality assurance program did *not* develop appropriate action plans to address the findings. (2011 PBNDS 4.3, Medical Care V.BB.2) Related to these concerns, CRCL's medical expert has the following three recommendations:
 - a. CCCC's medical leadership team (Health Services Administrator (HSA), Medical Director and Director of Nursing) should become more involved in the quality assurance program, as well as support and take advantage of it, allowing improved monitoring of all healthcare services at the facility, rather than only the few being audited at the time of the onsite.
 - b. CCCC's medical leadership team (Health Services Administrator (HSA), Medical Director and Director of Nursing) should collaboratively develop and implement corrective action plans to address and resolve problems that are identified in the quality assurance audits.
 - c. CCCC's medical leadership team should reevaluate the most recent quality assurance audit and determine whether the problems have been addressed effectively with proper corrective actions.
2. CCCC had a continual mumps outbreak from April 2019 through CRCL's August onsite, and continued to be under quarantine after the onsite. While onsite, our medical expert observed a nurse dispensing medications between the quarantined and non-quarantined housing units without changing gloves, even though there was a sign outside the housing units with orders to follow contact isolation protocols. Significantly, an additional pod was placed on quarantine during the CRCL investigation, which may have been related. (2011 PBNDS 4.3, Medical Care V.C.1) Related to these concerns, CRCL's medical expert has the following two recommendations:
 - a. The correctional and medical staff should be trained on contact isolation practices.

- b. The improved quality assurance program (see Medical Care recommendation #1) should monitor these practices to ensure compliance. (2011 PBNDS 4.3, Medical Care V.C.1)¹
3. Although the medical staff are using the language line and translators for intake screening and health assessments, the nurses are not consistently providing language assistance during sick-call visits. For example, correctional staff are sometimes used by the medical staff to address language needs in violation of the standards and violating medical privacy. (2011 PBNDS 4.3, Medical Care V.E.) Related to these concerns, CRCL's medical expert has the following two recommendations:
 - a. The medical staff should consistently use the language line or professional translators when interacting with detainees and, in particular, when providing medical and mental health services.
 - b. The medical staff's use of correctional staff for translation/interpretation needs should cease immediately, except in emergency situations.
4. The medical files at CCCC were found to be incomplete, with misfiled and missing documentation. The medical unit is not filing or maintaining medical information appropriately, and there is no quality assurance process (see Medical Care recommendation #1) to ensure medical files are accurate and kept up to date. The medical unit also has thousands of loose medical documents that are waiting to be filed into patient charts. This failure to maintain patient records means that clinical staff do not have the complete medical information needed to appropriately treat detainees. Providing medical care with incomplete information can lead to serious medical care and medication errors. (2011 PBNDS 4.3, Medical Care V.Y) Related to these concerns, CRCL's medical expert has the following four recommendations:
 - a. CCCC should immediately assign resources to file the loose documents into the patients' charts.
 - b. Medical records should be part of a quality assurance process to ensure that all medical charts are filed correctly and in a timely manner.
 - c. The paper chart system currently used by CCCC is outdated. CCCC should consider transitioning to an electronic medical record, which is the current medical practice norm, to improve safety and efficiency.
 - d. (b)(5)
5. CCCC's medication procurement and management processes and procedures are problematic and can lead to detainee health risks. The current practice results in detainees missing critical medications, medication delays, or receiving the wrong medications. While onsite, expired

¹ Given the current COVID-19 outbreak, this recommendation, as well as recommendation #6 below, becomes even more important to implement in a timely manner.

medications were found in the medication carts because the medical unit does not have a standardized process to check for expired medications nor standard guidelines for when to discard opened multi-use medications. Also, CCCC does not have a reliable medication refill process or medication renewal process, which disrupted chronic disease patients' medication continuity. Finally, the pharmacy tech and the nursing staff did not have adequate training related to medication management. (2011 PBNDS 4.3, Medical Care V.S and multiple other 2011 PBNDS). Related to these concerns, CRCL's medical expert has the following six recommendations:

- a. CCCC should establish a standard process requiring that medication orders are faxed to the off-site pharmacy. In turn, CCCC pharmacy staff should ensure that all medications are received from the offsite pharmacy and should verify they match the providers' orders.
 - b. Nursing staff should administer the patient-detainee's prescribed medications when received from the offsite pharmacy, thus reducing the use of common stock medications, and preventing medication errors.
 - c. The HSA, Pharmacist, and Director of Nursing should establish a standard process and a schedule to check for expired medications, then ensure the medical staff are conducting the check as required. The pharmacy staff should consistently perform random checks to ensure there are no expired medications in the medication cart or storage area.
 - d. The HSA should establish timelines for the disposal of open multi-use medications and ensure medical staff's adherence.
 - e. Nursing and pharmacy staff should receive training on medication management.
 - f. The quality assurance program should conduct random audits to identify opportunities for improvements in medication administration and develop action plans to address them. (See Medical Care recommendation #1.)
6. Pill distribution ("pill pass") at CCCC is unsafe and places detainees at risk to receive incorrect medications. The observed pill pass process demonstrated numerous areas of concern: The nurse did not perform the standard five "rights" of medication administration.² The nurse did not check the medications against the medical administration record to ensure the correct medication was being administered. The nurse did not perform hand hygiene between detainees, even when medications were being administered between quarantined housing units and housing units not under quarantine. Neither the nurse nor the housing unit officer called out for the detainees who were scheduled to receive medications during pill pass, and the nurse did not check to ensure that all detainees who were scheduled for medication received them before leaving each housing unit. (2011 PBNDS 4.3, Medical Care V.G). Related to these concerns, CRCL's medical expert has the following three recommendations:
- a. The Director of Nursing should establish a standard process for medication administration, and the nursing staff should be trained on the process and the

² The five "rights" are: check to ensure the right patient, the right time and frequency of administration, the right dose, the right route of administration, and the right drug, before administering medication to the CCCC detainees.

- responsibility to adhere to it. When implemented, nursing leadership and the quality assurance staff should monitor the process to ensure compliance. (See Medical Care recommendation #1.)
- b. During pill pass, nurses should call out the names of detainees who are scheduled to receive medications, so the detainees are aware that they have medications to take. Moreover, the nurses should make an effort to ensure that detainees with medications receive them; especially when the medication is of a critical nature.
 - c. The HSA, Medical Director, and Director of Nursing should immediately identify lapses in medication administration and immediately address them, to ensure the CCCC detainees' health and safety.
7. The clinic staff schedule appointments for detainees who need to be seen by a medical provider (physicians and nurse practitioners). The appointments are scheduled based on the medical providers planned shift schedule. However, the providers often do not show up for their scheduled shift, causing the need for detainee-patient rescheduling. Review of the providers' schedules showed that providers cancelled five out of 15 scheduled shifts. (2011 PBNDS 4.3, Medical Care V.A, V.B, V.DD) Related to these concerns, CRCL's medical expert has the following three recommendations:
- a. The HSA and Medical Director should develop a staffing plan which identifies positions needed to perform the required services, as well as identify the training needs of the medical staff and offer them resources.
 - b. The HSA and Medical Director should develop a reliable provider schedule to ensure that the detainees are seen by the provider without delay.
 - c. The HSA and Medical Director should consider telemedicine options to increase provider availability.
8. The facility has a large transgender housing unit (Unit 900) where the detainees are primarily managed by one physician. This specific physician is going on an extended leave of absence. However, there are no other medical providers (physicians or nurse practitioners) trained or qualified to provide care specific to transgender individuals. (2011 PBNDS 4.3, Medical Care II.21, V.A.5, V.B, V.C.4.b, V.U). Related to these concerns, CRCL's medical expert has the following two recommendations:
- a. The HSA and Medical Director should provide educational opportunities to other physicians and nurse practitioners, so they are comfortable and capable of providing care for the transgender detainee population.
 - b. The medical unit should ensure adequate medical staff are available onsite to provide appropriate care for the transgender detainee population.
9. The medical staff were performing physical exams on detainees in the medical clinic without sufficient privacy. The doors to the hallway were open and there were no privacy screens being used. (2011 PBNDS 4.3, Medical Care V.F, V.L) Related to these concerns, CRCL's medical expert recommends:
- a. Medical staff must ensure adequate privacy for the detainees during all medical and mental health encounters. The HSA should discuss with the medical staff, their

- reasons for not closing the exam room door and then identify ways to address the related concerns.
10. The current sick-call program underwent several recent changes, resulting in confusion among the staff. (2011 PBNDS 4.3, Medical Care V.B, V.Q, V.BB) Related to this concern, CRCL's medical expert recommends:
 - a. The HSA, Medical Director, and the Director of Nursing should establish a standard sick-call process and educate the medical and corrections staff and the detainees on the new process.
 11. There is no reliable way to ensure sick-call requests are collected daily at CCCC. Additionally, there is a long delay and inconsistent triaging of sick-call requests at CCCC. The current policy states that a sick-call request should be addressed with a face-to-face visit with a medical staff member within 24-hours of the request's receipt. However, chart reviews demonstrated that most of the responses to sick-call requests did not meet this requirement.³ Chart reviews also demonstrated that several sick-call requests were marked as "completed" without any documentation of nursing assessments or without a nurse having performed an assessment. (2011 PBNDS 4.3, Medical Care V.A.6, V.Q, V.S) Related to these concerns, CRCL's medical expert has the following three recommendations:
 - a. The nurse managers should ensure that sick-call requests are collected every day and triaged by a Registered Nurse (RN), so they can immediately address those requests with emergent and urgent needs.
 - b. The nurses should be trained on the nursing guidelines and required to follow them. Training should include when to consult with the provider or refer detainees to the provider for further evaluation based on the detainees' condition.
 - c. The nurses should be expected to conduct face-to-face assessments with the detainee whenever a symptom is mentioned in the detainee's sick-call request or complaint including, fever, headache, pain, etc. The nurses should also be required to document their complete assessment in the medical record.
 12. CCCC's sick-call program appears to be largely nurse-run and there is minimal escalation for a higher level of care. Nearly all sick-call requests reviewed while onsite were handled by the nurses and, of those, *no* detainees were referred by the nurses to medical providers for a higher level of evaluation. Instead, the nurses discussed the cases with the medical providers, and received orders from the provider without a provider evaluation. The CCCC higher level medical providers do not conduct a regular sick-call clinic and, as nurses rarely refer detainees to them for evaluation, they are not being fully utilized. This practice impacts detainee medical care at CCCC, leading to delays and inadequate levels of care. (2011 PBNDS 4.3, Medical Care V.A.6, V.Q, V.S) Related to these concerns, CRCL's medical expert has the following two recommendations:

³ For example, a detainee submitted several sick-call requests stating that he was not receiving his seizure medications, but the request was not addressed timely and the patient subsequently had two emergency room visits for seizures.

- a. The Director of Nursing should discuss with the nursing staff the reasons for not referring detainees to additional medical providers when the illness or condition indicates need for a referral, and then address any indicated barriers.
 - b. The quality assurance program should monitor and evaluate compliance with and effectiveness of the sick-call program on a monthly basis, and subsequently make necessary improvements. (See Medical Care recommendation #1.)
13. CCCC's dental clinic has difficulty meeting the 14-day dental screening requirement, and detainees due for the 14-day screen are asked if they would like to refuse the dental screen. The dentist and dental assistant are on site four days a week. Detainees are seen by the dentist on Monday and Tuesday, with priority given to new detainees for an initial dental assessment. This causes delays for non-newcomer detainees who have dental needs like pain and follow-up visits with the dentist. Additionally, the medical clinic serves the facility's county and immigration custody populations, which cannot be mixed, and therefore causes further delays in care. Lastly, the dental clinic shares space in the medical unit. Because the facility doesn't allow intermingling of inmates and detainees, this shared clinic space configuration limits clinic availability for the transgender detainees and causes many delays and cancellations within the medical, nursing, and dental clinics. (2011 PBNDS 4.3, Medical Care V.P) Related to these concerns, CRCL's medical expert has the following four recommendations:
 - a. The HSA should identify issues related to medical space availability in order to ensure the transgender detainees are brought to the dental clinic.
 - b. The HSA should adjust the dental clinic schedule to ensure that all detainees with dental needs receive timely assessment and care.
 - c. The prioritized initial dental screening for new detainees should not delay dental care for the established detainees who have dental needs. All detainees who report dental pain should be evaluated and appropriately treated without delay.
 - d. The HSA should investigate the 14-day dental screen refusal process that is occurring at CCCC, to ensure that detainees are not being influenced to refuse care.
14. CCCC medical staff are not responding to urgent medical requests in a timely manner as required by the PBNDS. Onsite, it was found that several urgent medical needs were not responded to for approximately 13-17 days. Reportedly, this was because the housing unit officer was determining whether the detainees' medical need warranted an immediate medical response. If the officer determined the detainee's need was not urgent, the matter was not immediately brought to the medical unit's attention. For example, a transgender detainee reported an urgent medical need to the housing unit officer due to rectal bleeding, but her request went unaddressed for approximately 13 days. When the detainee was finally seen and tested, she was determined to be HIV positive. (2011 PBNDS 4.3, Medical Care II.4, II.10, II.11, V.A, V.T) Related to these concerns, CRCL's medical expert has the following five recommendations:
 - a. (b)(5)
 - b. Corrections officers should immediately be informed that they cannot determine whether or not a medical issue is urgent or can wait. Corrections officers should be

- required to immediately notify the medical staff of all medical emergencies, medical issues, and medical requests that are reported or observed.
- c. Medical staff should immediately assess detainees whom corrections officers report have requested medical care or whom corrections officers observe to need medical care. The assessment and care should occur in a private setting.
 - d. When urgency is indicated by either corrections or medical staff, the detainee should be immediately referred to a higher level of care.
 - e. Detention staff and clinical staff should be educated on medical emergencies and appropriate responses.
15. The facility does not have a standardized process to track detainees with chronic medical conditions like diabetes, hypertension, HIV, asthma, seizures, etc., which places CCCC's chronically ill detainees at risk. (2011 PBNDS 4.3, Medical Care V.X.1) Related to these concerns, CRCL's medical expert recommends:
- a. The medical unit should maintain a chronic disease registry to consistently track detainees with chronic medical conditions and ensure the provided care complies with the disease-specific clinical practice guidelines that are established by the Medical Director. Quality assurance audits should be used to ensure this is occurring. (See Medical Care recommendation #1.)

Mental Health Care

16. Review of healthcare records provided examples of inadequate access to emergency mental health care at CCCC. In two different instances, detainees disclosed concerning information to medical staff during the intake screening process that warranted an urgent mental health evaluation or emergent referral, but care was delayed. Serious mental health care referrals were found not to be timely and care was further delayed because the telecommunication system was not working properly at the time of the onsite. (2011 PBNDS 4.3, Medical Care II.1, II.2, II.4, II.6, II.9, II.16, II.27, V.J, V.L, V.M, V.N.1; 4.6, Significant Self-harm and Suicide Prevention and Intervention V.B, V.C, V.D; 2.12 Special Management Units II.6, II.12, V.C, V.N; NCCCH Standards for Health Services in Jails, Access to Care J-A-01, essential; NCCCH Standards for Health Services in Jails, Segregated Inmates J-G-02, essential, Compliance Indicator 2) Related to these concerns, CRCL's mental health expert recommends:
- a. CoreCivic healthcare and custodial leadership should ensure all custodial and medical staff are aware of when and how detainees can access emergent mental health care during business and non-business hours.
17. Review of mental health sick-call requests demonstrated delays in access to care resulting from the nursing triage process. Nursing staff failed to triage mental health care requests in a timely manner, causing delays. In some cases, poor triage documentation (illegible or missing dates and times) impacted the ability to provide timely assessment and response.

There were also delays in routing sick-call requests to mental health staff.^{4,5} Wellpath Mental Health Services policy required that transgender detainees on psychiatric medications be seen by a mental health clinician every 30 days, and psychiatric appointments every 30 days for detainees on psychiatric medications. However, review of medical records demonstrated that mental health staff were not compliant with these requirements. (This may be due to inadequate staffing and supervision, which is discussed below in recommendation #37.) (2011 PBNDS 4.3, Medical Care II.1, II.2, II.4, II.6, II.9, II.16, II.27, V.J, V.L, V.M, V.N.1; 4.6, Significant Self-harm and Suicide Prevention and Intervention V.B, V.C, V.D; 2.12 Special Management Units II. 6, II.12, V.C, V.N; NCCCH Standards for Health Services in Jails, Access to Care J-A-01, essential; NCCCH Standards for Health Services in Jails, Segregated Inmates J-G-02, essential, Compliance Indicator 2.a) Related to these concerns, CRCL's mental health expert has the following three recommendations:

- a. The sick-call triaging process by nursing staff should also apply to the mental health program. (See Medical Care recommendation #10.)
- b. Leadership should ensure that mental health staff conduct and record weekly rounds with all detainees in CCCC's Special Management Unit (SMU).
- c. Regarding compliance with timely contact requirements, implementation of the recommended electronic record can resolve delays, if utilized because the detainee's medical care history and needs, including dates seen and required follow-up appointments, will be easily accessible electronically as opposed to paper medical files. Moreover, an electronic medical record system will provide alerts to providers.

18. Inadequate staffing at CCCC has impacted the facility's ability to comply with the 2011 PBNDS. In particular, the mental health program is inadequately staffed to meet detainees' mental health needs. Insufficient mental health staffing has contributed to delays found in access to mental health care and problematic mental health documentation. At the time of the onsite, there was no designated staff position responsible for the clinical and administrative supervision of the mental health staff. During the onsite, the mental health program included one full-time tele-psychiatrist and three master's level clinicians. The tele-psychiatrist provided on-call services after business hours. Additionally, when tele-psychiatry was utilized for psychiatric care, the tele-psychiatrist had the medical records clerk in the room during the detainee's appointment, which is a confidentiality violation of the Health Insurance Portability and Accountability Act (HIPAA).⁶ (2011 PBNDS 4.3, Medical Care II.21, II.23, II.25, V.B, V.I, V.Y, V.BB.2; NCCCH Standards for Health Services in Jails,

(b)(5)



Mental Health Services J-5-03, essential) Related to these concerns, CRCL's mental health expert recommends:

- a. CoreCivic healthcare leadership should conduct a staffing assessment to determine appropriate staffing levels. This assessment will need to consider:
 - The number of facility admissions;
 - Establishment of a caseload that includes all detainees that are regularly followed by mental health;
 - The number of sick-call contacts;
 - The number of referrals (urgent, emergent, routine);
 - Suicide watches; and
 - Segregation contacts

Conditions of Detention

19. CCCC's current grievance process is ineffective and does not comply with the 2011 PBNDS. The grievance system is designed to act as an early warning system to the facility administration, so detainee issues can be resolved timely and at the lowest possible level. Transgender detainees reported the grievance system is neither effective nor responsive, and their grievances were routinely not responded to timely, or not responded to at all. As well, through record reviews, it was substantiated that the transgender detainees' verbal complaints of abusive staff treatment were not adequately investigated by the Chief of Security.⁷⁸ Also, (b)(5) the Grievance Coordinator's investigations were determined to be superficial, and grievance investigations were being inappropriately assigned to housing unit staff within the same housing unit where the grieved event occurred, creating a conflict of interest. (ICE National Detainee Handbook, April 2016; 2011 PBNDS 6.2, Grievance System II.3, II.7, V.A.1, V.A.2, V.A.6, V.C, V.D, V.H) Related to these concerns, CRCL's conditions of detention expert has the following five recommendations:

- a. The transgender detainees' verbal reports and grievances about disrespectful staff treatment and verbal abuse should be fully investigated by ICE and CCCC to ensure they are treated with dignity and respect, as required by the PBNDS.⁹
- b. CCCC and ICE should identify those corrections officers identified in multiple detainee mistreatment complaints and address, through training or otherwise, their skills and abilities to work with the transgender detainee population.
- c. CCCC and ICE should jointly review all FY2018 and 2019 detainee grievances previously investigated by the Chief of Security to identify complaints that merit further investigation.

⁷ 2011 PBNDS, 6.2 Grievance System, Section A. 6. Written Procedures Required, mandates the facility to "ensure each grievance receives appropriate review;"

⁸ Over 15 CoreCivic staff had multiple staff abuse complaints filed against them by the transgender detainee population.

⁹ ICE ERO's "Further Guidance Regarding the Care of Transgender Detainees" (June 19, 2015) requires, "ICE ERO will provide a respectful, safe and secure environment for all detainees, including those individuals who identify as transgender. Discrimination or harassment of any kind based on a detainee's actual or perceived sexual orientation or gender identify is strictly prohibited."

d. The Chief of Security's current practices, which include inadequate grievance investigations, poor documentation of grievance investigations, and inappropriate verbal instruction to the Grievance Coordinator regarding grievance outcomes, should immediately cease.

e. (b)(5)

20.

(b)(5)

a. (b)(5)

21. While onsite CRCL found that CCCC and ICE staff fail to consistently address transgender detainees by their preferred pronoun, as required by the Transgender Care Guidance. (ICE 2015 Transgender Care Guidance) Related to this concern, CRCL's conditions of detention expert recommends:

a. ICE and CCCC leadership should ensure this is immediately corrected to comply with the Guidance. Both facility and ICE staff should be respectful of transgender detainees' preferred pronoun.

22. Transgender detainees do not have regular access to the ICE Detention Officer (DO) assigned to their case. The DO schedule that is posted in Unit 900 is not followed. Some Unit 900 transgender detainees reported that they had not seen their DO in weeks, while others stated they had never spoken with their DO. In discussion with the Assistant Field Office Director (AFOD), he stated that he was aware of the problem and reported that new ERO staff was recently placed in the Supervisory Detention and Deportation Officer (SDDO) position. The AFOD assured CRCL that they will be monitoring the issue to ensure DOs conduct their detainee visits as required and scheduled. (2011 PBNDS 2.13, Staff-Detainee Communication II.1, II.3, V.A) Related to this concern, CRCL's conditions of detention expert recommends:

a. ICE should monitor ERO's Deportation Officer (DO) visits to the detainee housing units to ensure the DO's are adhering to the schedule.

23. Transgender detainees' emergency medical needs are not sufficiently or timely addressed when reported to the housing unit corrections staff. Detainees stated that when they have made efforts to obtain medical assistance for other transgender detainees in Unit 900 who are too ill to seek it on their own, they are commonly ignored by housing unit staff. The transgender detainees also reported that the housing unit staff will often decide if a detainee's medical need is valid and will only call the medical unit if they deem the need is critical. In accordance with the above medical findings, transgender detainees reported that medical staff are not consistently responsive when a medical emergency occurs. (2011 PBNDS 4.3,

Medical Care II. 9) Related to these concerns, CRCL's conditions of detention expert recommends:

- a. CCCC should ensure that Unit 900 staff immediately notify the medical unit when any detainee requests emergency medical care, to ensure that medical emergencies are responded to timely. Corrections staff should not be allowed to determine a detainee's medical need.

24. Review of SMU operations exposed numerous violations of the PBNDS. One finding is that detainees were not being provided with immediate notice of the reason for their SMU placement, which is mandated by the PBNDS SMU standard requiring that "ICE and the detainee shall be immediately provided a copy of the administrative segregation order describing the reasons for the detainee's placement in the SMU." (2011 PBNDS 2.12, Special Management Units V.A.2.e, V.E) Related to these concerns, CRCL's conditions of detention expert recommends:

- a. CCCC should ensure that ICE detainees conform to the PBNDS SMU standard requiring that detainees placed in segregation immediately receive a copy of the administrative segregation order describing the reason(s) for their placement in the SMU.

25. Review of SMU records exposed operational inconsistencies between watch assignments. Staff turnover and inadequate management oversight has contributed to the problems found during the onsite, such as SMU records that are incomplete and not compliant with the PBNDS. Daily activity logs are also not accurately maintained. (2011 PBNDS 2.12, Special Management Units V.C.3) Related to these concerns, CRCL's conditions of detention expert recommends:

- a. CCCC must maintain detailed SMU records of the detainees' daily activities, including but not limited to meals, showering, recreation, medical and mental health staff rounds, access to law library, and telephones. All disciplinary orders and other records created while the detainee is in the SMU must be appropriately detailed, complete, and maintained. Upon a detainee's release from the SMU, all records must be placed in the detainee's detention file.

26. Review of CCCC records and two group interviews with Limited English Proficient (LEP) detainees demonstrated that the language access resources available at CCCC are not consistently or effectively being used to assist LEP detainees. There were few records demonstrating that either translation or interpretation services were being utilized. Further, official forms and other documents found in detention files were in English and lacked evidence that they were translated for the detainees. (2011 PBNDS 2.13, Staff-Detainee Communication II.6, B.B and various other 2011 PBNDS; DHS Language Access Plan, February 28, 2012; ICE Language Access Plan, January 17, 2017¹⁰) Related to these concerns, CRCL's conditions of detention expert has the following four recommendations:

¹⁰ Consistent with [Executive Order \(EO\) 13166](#), *Improving Access to Services for Persons with Limited English Proficiency* (August 11, 2000), ERO's Language Access Plan (LAP or Plan) builds upon the [ICE LAP](#) released in August 2015, by describing the various means ERO uses to provide LEP persons with meaningful access to its programs and activities. The LAP covers current language access activities and language access procedures. The Plan also identifies future priorities for ERO to improve the efficiency and effectiveness of its LAP and to develop

a. CCCC should provide training to staff on their obligations to provide meaningful language access to LEP detainees, and on the various language access resources that are available to assist staff in meeting this obligation. This training should be documented.

b. (b)(5)

c. To ensure compliance with the screening and processing requirements for new arrivals, CCCC should ensure that detainees understand necessary information by using qualified interpreters and/or professionally translated informational postings and forms that are commonly used (intake, the medical unit, commissary, facility programs, disciplinary proceedings, and segregation). These should be translated into Spanish, at a minimum, to ensure meaningful detainee access.

d. (b)(5)

27. The CCCC Grievance Coordinator was not providing detainees with grievance forms in Spanish and was using “google translate” to understand the detainees’ grievances and to provide grievance responses because she could not read or speak Spanish. However, the Grievance Coordinator’s Google translated responses reviewed during the onsite did not make sense. (2011 PBNDS 6.2, Grievance System II.1, II.3, II.9, V.A.9, V.C.1, V.C.3; 2.13 Staff-Detainee Communication V.B; DHS Language Access Plan, February 28, 2012; ICE Language Access Plan, January 17, 2017) Related to these concerns, CRCL’s conditions of detention expert recommends:

a. A qualified Spanish-speaker should be assigned to the position of Grievance Coordinator or the language line must be used in reading and responding to grievances written in Spanish by ICE’s LEP detainees.

28. Detainees’ access to recreation at CCCC demonstrated that transgender detainees are routinely denied equal access to the large outside exercise yard, even though detainees in the male housing units have regular access. In addition, the CCCC Detainee Handbook section on outside recreation requires only two-hours of daily recreation, which does not comport with the PBNDS. (2011 PBNDS 5.4, Recreation V.B) Related to these concerns, CRCL’s conditions of detention expert has the following three recommendations:

a. (b)(5)

new methods of providing language assistance services to LEP persons. The DHS and ICE Language Access Plans may be found at <https://www.dhs.gov/publication/dhs-language-access-plan>.

b. (b)(5)

c. CCCC should update their Detainee Handbook on “Access to Outside Recreation,” by changing the required hours from 2-hours to 4-hours, in compliance with the PBNDS.

29. Based on review of a CRCL complaint alleging that a paroled detainee’s property was not returned upon his departure from CCCC, it was found that there were incomplete detainee property records, property receipts that were not consistently or accurately issued or maintained, understaffed and inadequately supervised property operations, and property that was not identified or stored appropriately.¹¹ (2011 PBNDS 2.5, Funds and Personal Property II.2, V.A.2, V.A.5, V.C.4, V.C.5, V.G, V.L, V.L.3; 7.3 Staff Training II.1, V.C) Related to these concerns, CRCL’s conditions of detention expert has the following three recommendations:

a. (b)(5)

b. CCCC should conduct a comprehensive audit of all detainee property that is currently retained in the property room and ensure that it is properly identified and stored, and accurately recorded in the detainee detention files.

c. CCCC should hire an adequate number of staff for property needs, provide property staff with appropriate training to prevent mistakes and losses, and ensure detainee property is returned to the detainee upon their release or removal, as required by the PBNDS.

30. Review of CCCC’s Sexual Assault and Abuse Prevention and Intervention policies and procedures demonstrated that CCCC’s Detainee Handbook PREA/SAAPI section is difficult to follow, lacks clarity, and lacks CCCC’s zero-tolerance policy statement. It also lacks clear definitions of prohibited acts of assault and abuse pertaining to both staff and detainees. (2011 PBNDS 2.11, Sexual Abuse and Assault Prevention and Intervention II.1, II.2, V.A, V.F; 6.1 Detainee Handbook V.A, V.E) Related to these concerns, CRCL’s conditions of detention expert has the following two recommendations:

a. (b)(5)

b.

31. Based on a 2018 ICE Office of Detention Oversight (ODO) audit finding that detainees remained in hold rooms for excessive periods of time beyond the PBNDS-mandated 12-hour limit, we reviewed hold room records for the month of July 2019 and found that 24 out of 314 hold room placements exceeded the 12-hour parameter. (2011 PBNDS 2.6, Hold Rooms

¹¹ The paroled detainee’s detention file contained a note that he arrived with luggage, clothing, jewelry, and other personal belongings, but the file did not contain his property inventory records.

in Detention Facilities II.2, V.B) Related to this concern, CRCL's conditions of detention expert recommends:

- a. CCCC must ensure that ICE detainees are processed out of hold rooms within the PBNDS mandated 12-hours.

Environmental Health and Safety

32. Floors in the food service area were found to be excessively worn and damaged. The epoxy was eroded, which exposed the older tile floor in numerous areas rendering it no longer "easily cleanable," as required by the New Mexico Food Code. To maintain required levels of floor-cleanliness, floors must be in good repair and be routinely cleaned. The PBNDS Food Service standard mandates that floors are routinely cleaned. (2011 PBNDS 4.1, Food Service II.3, II.7, V.J.5.c) Related to this concern, CRCL's environmental health and safety expert recommends:

- a. In compliance with the 2011 PBNDS, CCCC should immediately renovate the kitchen's excessively worn and damaged floors.

33. The low levels of cleanliness and sanitation found on the floors in Unit 900 and the SMU do not comply with the PBNDS, Environmental Health and Safety standard stating, "Facility cleanliness shall be maintained at the highest level." The floors should be maintained in a clean manner with thorough sweeping and mopping, including along the floor and wall junctures, and particularly under the beds and lockers, to further ensure standards compliance requiring that, "Floors shall be mopped daily and when soiled." (2011 PBNDS 1.2, Environmental Health and Safety II.1, V.A.3.d) Related to this concern, CRCL's environmental health and safety expert recommends:

- a. (b)(5)

34. Unit 900's walls were found to be extremely soiled and unsanitary. Of particular concern, as discussed in the above Medical Care section, the medical expert found a detainee who had HIV and rectal bleeding in Unit 900 and noted that the soiled walls could contain hazardous body fluids. This must be immediately addressed. (2011 PBNDS 1.2, Environmental Health and Safety II.1, II. 2, II.11, V.A, V.D.4.b; 4.3, Medical Care V.C.4) Related to this concern, CRCL's environmental health and safety expert has the following three recommendations:

- a. CCCC administrators should ensure that blood and bodily fluid spills are handled in accordance with the 2011 PBNDS, Environmental Health and Safety standard stating, "Spills of blood and body fluids shall be cleaned up and the surface decontaminated in an appropriate manner to minimize the possibility of workers becoming exposed to infectious organisms, including HIV and HBV."

- b. (b)(5)

- c. As highlighted by the above examples, CCCC must ensure the facility is able to provide appropriate and timely clean-up by obtaining a suitable "cleanup kit," as

- required by the 2011 PBNDS, Environmental Health and Safety standard, stating, “A suitable cleanup kit shall be maintained for use in cases of spills of blood and body fluids. Cleanup kits may be obtained from commercial sources or may be compiled by Health Services Department (HSD) staff or the designated health care provider.”
35. Inspection of housing units and other facility areas, commonly revealed buildup of dust and dirty grime in corners, along floors and wall junctures, and under beds and lockers. The observed accumulations suggest a lack of appropriate cleaning at CCCC for several weeks, if not considerably longer. (2011 PBNDS 1.2, Environmental Health and Safety II.1, II.2, V.A.3, V.D.2, V.D.6.4.b) Related to this concern, CRCL’s environmental health and safety expert has the following two recommendations:
- a. CCCC should ensure cleanliness and sanitation compliance throughout the facility where ICE detainees are housed, work, and participate in facility programs, by adhering to Environmental Health and Safety standards that mandate thorough cleaning and sanitation, minimizing the potential harm to detainees’ health.
 - b. When the facility’s soiled areas, including walls and floors, are appropriately cleaned and brought into compliance with the PBNDS, the facility administrator should then ensure they are maintained in sanitary condition, as required by the PBNDS stating, “The facility administrator shall ensure that staff and detainees maintain a high standard of facility sanitation and general cleanliness.” (2011 PBNDS 1.2, Environmental Health and Safety V.A.3)
36. Potentially hazardous foods that were not consumed during meal periods were observed in Unit 900, creating serious health and safety hazards for ICE detainees. The 2011 PBNDS define potentially hazardous foods as “those foods that provide a good medium for bacteria growth. They include any perishable food that consists in whole or part of milk, milk products, eggs, meat, poultry, fish or shellfish or other high-protein foods.” Also, per the standard: hot foods, such as scrambled eggs, should be maintained at a temperature of at least 140 F degrees (120 F degrees in food trays) and foods that require refrigeration, including milk should be maintained at 41 F degrees or lower. (2011 PBNDS 4.1, Food Service V.A.1.d, V.F.2.a, V.F.7, V.D.2.a.3) Related to this concern, CRCL’s environmental health and safety expert recommends:
- a. To ensure food safety, detainees should not be allowed to store potentially hazardous foods at room temperature inside the housing units.
37. The food tray pass slots in the SMU’s cell doors were found to be extremely dirty. The buildup of dirt and grime suggests they have not been cleaned, or have not been cleaned effectively or consistently, as required by the 2011 PBNDS Food Service standard stating, “Equipment surfaces not intended for contact with food, but located in places exposed to splatters, spills, etc., require frequent cleaning.” (2011 PBNDS 4.1, Food Service II.1, V.J.7.c.2) Related to this concern, CRCL’s environmental health and safety expert recommends:
- a. The SMU food tray pass slots should be thoroughly cleaned and maintained in a sanitary manner, in compliance with the PBNDS.
38. ICE detainees are using damaged pillows and mattresses at CCCC. Because damaged bedding items do not allow for appropriate cleaning and sanitation, all cracked or torn

coverings should be replaced to prevent the transfer of disease-causing pathogens between detainees. The 2011 PBNDS, Personal Hygiene standard requires that, “Each detainee shall have suitable, clean bedding.” (2011 PBNDS 1.2, Environmental Health and Safety II.1; 4.5, Personal Hygiene II.2, V.A) Related to this concern, CRCL’s environmental health and safety expert recommends:

- a. All mattresses and pillows should be immediately inspected and replaced when damage is observed, in compliance with the 2011 PBNDS.

39. The CCCC barber area was unsanitary and not appropriately cleaned and the barber chair was damaged, rendering it unable to be appropriately sanitized. (2011 PBNDS 1.2, Environmental Health and Safety 1.2, V.E.2, V.E.3, V.E.4; 4.5, Personal Hygiene V.F) Related to this concern, CRCL’s environmental health and safety expert has the following two recommendations:

- a. CCCC should ensure that all barber tools and supplies are properly cleaned and disinfected after each use as mandated by the 2011 PBNDS, Environmental Health and Safety standard, which states, “After each detainee visit, all hair care tools that came in contact with the detainee shall be cleaned and effectively disinfected.”

- b. (b)(5)

40. Due to the importance of disinfection in barber operations, it is imperative that postings regarding barber procedures correspond with the actual procedures employed at CCCC. Related to this concern, CRCL’s environmental health and safety expert recommends:

- a. Barber postings should comply with the 2011 PBNDS, Environmental Health and Safety standard stating, “Detailed hair care sanitation regulations shall be conspicuously posted in each barbershop for the use of all hair care personnel and detainees” and “are actually followed at the facility.” (2011 PBNDS 1.2, Environmental Health and Safety V.E.4)

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. You may send your response and action plan by email. If you have any questions, please contact Senior Policy Advisor (b)(6) by telephone at (b)(6) or by email at (b)(6)

Copies to:

Tae Johnson
Deputy Executive Associate Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b)(6), (b) (7)(C)

Russell Hott
Assistant Director, Custody Management
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b)(6), (b) (7)(C)

Alison Walder
Chief of Staff, Custody Management
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b)(6), (b) (7)(C)

Dr. Stewart D. Smith
Assistant Director, ICE Health Service Corps
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b)(6), (b) (7)(C)

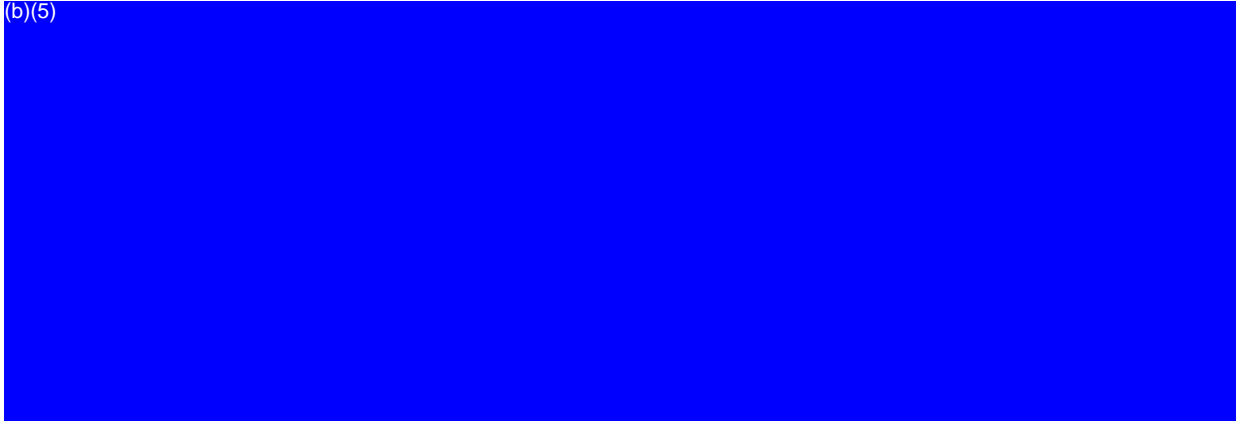
Dr. Ada Rivera
Medical Director, ICE Health Service Corps
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b)(6), (b) (7)(C)

Enclosures

APPENDIX A

BEST PRACTICE RECOMMENDATIONS

Mental Health Care

1. (b)(5) 
- 2.
- 3.