



Homeland
Security

April 2, 2020

MEMORANDUM FOR: Enrique M. Lucero
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U.S. Immigration and Customs Enforcement
(b)(6)

FROM: Peter E. Mina
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Dana Salvano-Dunn
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SUBJECT: Worcester County Jail
Complaint Nos. 18-07-ICE-0769, 19-02-ICE-0615, 18-09-ICE-0397,
18-09-ICE-0387, and 19-03-ICE-0616

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 Worcester County Jail (WCJ) in Snow Hill, Maryland. CRCL's onsite investigation occurred November 13-15, 2019, and was in response to complaints alleging civil rights and civil liberties violations related to general conditions of detention, medical care, and environmental health and safety at WCJ.

We greatly appreciate the cooperation and assistance provided by ICE and WCJ personnel before and during the review. As part of the review, CRCL engaged the assistance of three subject-matter experts: a conditions of detention expert, an environmental health and safety expert, and a medical expert. As a result of detainee and staff interviews, document and record reviews, and direct observation, the subject-matter experts identified concerns in each of their areas.

On November 15, 2019, as part of the WCJ onsite closing discussion, CRCL and the subject-matter experts discussed general concerns with ICE Enforcement and Removal Operations (ERO) field office management, personnel from ICE ERO headquarters, and WCJ management. During the discussion, the subject-matter experts provided initial recommendations to address the concerns identified. Additionally, shortly following the onsite, CRCL sent an email to ICE on December 20, 2019 summarizing these initial recommendations to ensure ICE had sufficient information to initiate corrective action.

Enclosed with this memorandum are the reports prepared by our subject-matter experts.¹ They have been 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 these, we encourage ICE to consider and implement these recommendations to the fullest extent possible.

Medical Care

CRCL's medical expert evaluated the general operation of the facility in relation to the 2000 National Detention Standards (NDS 2000), which requires detainee access to appropriate and necessary medical, dental, and mental health care, including emergency services. The medical expert made the following priority recommendations regarding medical care at WCJ:

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4. Several outdated medication vials were found in the medication refrigerator. WCJ should routinely monitor and remove outdated, expired medications from all medication storage areas. *(2018 NCCHC Standards for Health Services in Jails J-D-01)*
5. An expired bottle of eyewash was found in the crash bag. WCJ should routinely monitor and remove outdated, expired medications from all medication storage areas. *(2018 NCCHC Standards for Health Services in Jails J-D-01)*
6. Detainees with high blood pressure are not placed on a low salt diet. WCJ should place all detainees with hypertension on a low salt diet, which the facility refers to as a cardiovascular diet. *(NDS 2000, Section III.M)*

¹ In general, CRCL's experts relied on the applicable National Detention Standards (2000 NDS) and related professional standards in conducting their work and preparing their reports and recommendations. Some of their analyses or recommendations, however, may be based on constitutional or statutory requirements that exceed the detention or professional standards.

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9. Access to dental services is limited, with exorbitant wait times that in some cases exceeded seven weeks. The WCJ medical team stated that there is a lack of access to local dentists who are willing to care for the detainee population, stemming from the difficulty in getting paid. ICE and WCJ staff should collaborate to ensure that proper dental services are available to WCJ detainees in a timely manner, including ensuring that providers are paid promptly. WCJ should also provide timely access to emergent dental services. During the waiting period, WCJ should provide detainees with ample provider follow up and access to pain medications. *(NDS 2000, Section III.E)*

Conditions of Detention

CRCL's conditions of detention expert evaluated the facility in relation to the NDS 2000 and the 2011 PBNDS SA-API and Significant Self-Harm and Suicide Prevention Standards. The conditions of detention expert made the following priority recommendations related to the general conditions of detention at WCJ:

10. An ICE Detention Officer was identified using a detainee to translate statements from an alleged sexual abuse victim when he made his sexual assault allegation. ICE should provide relevant ICE and WCJ staff additional training on the DHS PREA Standards and SA-API Directive and Standard as soon as possible to ensure they are aware of all requirements, including the prohibitions related to using detainees as interpreters. *(ICE Sexual Abuse and Assault Prevention and Intervention, Part 2.11, ICE SA-API Policy 5.6 (2)(3), and WCJ Policy and Procedure Number .05 Inmate Rights, a.1, p.1, and q.1).*
11. Following the completion of a sexual abuse investigation, WCJ Management failed to conduct and complete the required sexual abuse incident review. ICE and WCJ should ensure that the incident review at issue is completed, and that WCJ is completing all required sexual abuse incident reviews. *(ICE Sexual Abuse and Assault Prevention and Intervention, Part 2.11, ICE SA-API Policy 5.10, a.2 and p.2).*
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13. WCJ staff advised that Segregation Left and Right Cells were used for combative and very disruptive detainees/inmates. However, WCF does not have any written policies and procedures to identify a specific criterion for placement of a detainee in the Segregation Left and Segregation Right Cells. To ensure that usage of the Segregation Left and Rights Cells is consistent, WCJ should develop and implement policies and procedures establishing specific criteria for a detainee's placement in these cells. (*NDS 2000 Special Management Unit [Administrative Segregation] and Special Management Unit [Disciplinary Segregation], c.2*).
14. The WCJ Internal Complaint System provides that a detainee will receive a grievance response within 15 days of receipt while the Detainee Handbook indicates the detainee is to receive a written response to their grievance within 10 working days of receipt. Either way, WCJ is not providing a written response to grievances within five (5) working days after receipt, as required by the NDS 2000 Detainee Grievance Standard. WCJ should revise the WCJ Detainee Handbook and WCJ Policies and Procedures I. Internal Complaint System to ensure that grievances are responded to within five (5) working days and that the information provided to staff and detainees about the detainee grievance procedures is consistent. (*[NDS 2000 Detainee Grievance Procedures III.A.2], d.1*).
15. A detainee grievance that raised sexual abuse issues was not documented as a PREA incident and investigated as such. WCJ should provide its staff with additional training on identifying potential PREA issues when reviewing any detainee/inmate complaint. (*[NDS 2000 Detainee Grievance Procedures III.A.2], d.2*).
16. Detainees are not reviewed by medical/mental health prior to a disciplinary hearing to determine if the detainee's mental health was a factor in the reported rule violation. Given the requirement in the NDS 2000 Disciplinary Policy Standard to assess a detainee's behavior in a disciplinary proceeding, WCJ should revise its disciplinary policy and procedures to require that medical/mental health staff evaluate detainees receiving a disciplinary report prior to a hearing to determine if their mental health issue was a factor in the reported rule violation. (*NDS 2000 Detainee Discipline, Detainee Disciplinary-ACA 4-ALDF-4C-40 Special Needs Inmates, f.1*).
17. The required ICE posted information is in English and Spanish and in all units except for the female Special Management Unit (SMU). WCJ should ensure female detainees have unimpeded access to required ICE posted information. (*Admission and Release g.3, Special Management Units [Administrative Segregation and Disciplinary Segregation] k.1, and Limited English Proficiency [LEP], q.3*).
18. The WCJ Detainee Handbook has information that conflicts with or is inconsistent with WCJ policies, procedures and practices, including detainee grievance and hygiene item issue procedures. For example, the WCJ Detainee Handbook identifies that ICE detainees are not charged for hygiene items. However, WCJ Policies and Procedure Part E. *Personal Hygiene*, states that all detainees/inmates receive hygiene items upon entry, but only

indigent detainees/inmates would continue to receive hygiene items at no charge. WCJ should review and revise the WCJ Policies and Procedures and its Detainee Handbook to ensure correct and consistent information is provided to staff and detainees. Following this, WCJ should provide Detainee Handbook supplements to ensure revisions reach detainees and replace older versions of the Handbook when they are no longer relevant. *(NDS 2000 Detainee Handbook III. Standards and Procedures, h.1).*

19. The WCJ Policies and Procedures do not address the procedures for LEP detainees to obtain legal access. WCJ should revise Policies and Procedures and the WCJ Detainee Handbook to include procedures for LEP detainees to obtain legal access. *(NDS 2000 Access to Legal Material III.L; the DHS Language Access Plan, February 28, 2012; and the ICE Language Access Plan, June 14, 2015, m.1).*

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21. During interviews with the WCJ Warden and PREA Coordinator, they indicated that the number of unfounded allegations identified in the PREA Log and PREA investigations were not consistent with the WCJ 2018 SA-API/PREA data that was submitted by the PREA Coordinator to the Warden on January 2, 2019. WCJ should review the WCJ 2018 PREA data and make the necessary revisions regarding unfounded investigations. *(ICE Sexual Abuse and Assault Prevention and Intervention, Part 2.11; ICE SA-API Policy 5.6 (2)(3), and WCJ Policy and Procedure Number .05 Inmate Rights/PREA, p.4).*

Environmental Health and Safety

CRCL's environmental health and safety expert made the following priority recommendations:

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23. WCJ should continue with its plans to install air conditioning at the jail and air conditioning should be installed in housing areas as soon as possible. Hot and humid conditions outside with no air conditioning to stabilize the air inside can lead to a hot and humid environment, which can become uncomfortable and leave the ambient air stagnant. Once air conditioning is available, the condition of the inside air for heat and humidity can be easily controlled, leading to a much more comfortable environment. *(Applicable Standard: ACA Standard 4-ALDF-1A-20).*

24. WCJ kitchen staff and supervisors should check all kitchen areas, including the food and supply storage areas for evidence of pest and rodents every day. Rodent droppings appeared to have been observed in one area of the kitchen (although the presence of rodents could not be confirmed at that time). The floor, along walls, in corners, behind and

underneath equipment, on shelving and behind boxes should be part of each check. A flashlight should be used during this inspection. Any evidence of pest or rodents should be immediately reported to the contracted pest control company. In addition, WCJ should have glue boards and pest monitors in place in the storage areas as part of the regular pest control servicing. (*Applicable standard: NDS 2000, Food Service*).

25. WCJ kitchen staff must ensure that all areas of the kitchen, including but not limited to behind, between, underneath and above kitchen equipment is kept clean and free of dust buildup. Dust buildup was observed on pipes, on equipment and over the air fan vents on the back of equipment during CRCL's inspection of the kitchen. In accordance with NDS 2000 Standard for Food Service, food must be protected from dust. A schedule for regular cleaning of equipment should be in place that also instructs the process and checking for proper cleaning should be part of regular kitchen inspections. (*Applicable standard: NDS 2000, Food Service*).
26. WCJ must ensure that all Food Employees (food service employees and kitchen inmate workers) follow hand washing procedures in accordance with the FDA Food Code 2017. It is suggested that all staff receive regular in-service training on hand washing procedures. The kitchen supervisors may find it helpful if a poster diagraming the proper hand washing process is posted in the kitchen for staff and kitchen inmate workers to refer to. The hand washing process should also be included in the list of training completed for all staff and kitchen inmate workers as part of the training documentation in the FSA's Food Service notebook. (*Applicable standard: NDS 2000, Food Service*).
27. WCJ should ensure that cleaning and sanitizing of barber tools is completed immediately after each use on each detainee and before being used for the service of any other detainee. In addition, barber tools should never be stored without proper cleaning and sanitizing first. Hair was found in the combs and in the bottom of the container used to store the haircutting supplies. Hair should never be visible on stored clippers, clipper attachments, combs, or in barber tool boxes. Training should be provided to anyone providing or supervising barber services and checking by staff for adherence to barber procedures is essential in order to comply with the 2000 NDS Environmental Health and Safety standard for Barber Services. A log for documenting cleaning/sanitizing processes between each detainee visit is also recommended. (*Applicable standard: NDS 2000; Environmental Health and Safety*).
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30. WCJ should obtain ice scoop storage caddies or containers for storing the ice scoop outside of where ice is stored. The storage caddy or container can be attached to the wall and the ice scoop can be properly stored inside when not in use. Storing an ice scoop in the same place the ice is stored creates the potential for contamination should the scoop handle come into contact with the ice. (*Applicable standard: NDS 2000, Food Service, and FDA Food Code 2017*).
31. WCJ should ensure that standards and policies are followed concerning the storage of chemicals once they have been taken from the original container(s). It should be an everyday practice to ensure that any container and/or bottle used for storing and/or dispensing chemicals should be closed and a label of what the chemical is should be affixed to or screen printed on the container. Chemicals in open containers is a practice that does not meet the labeling requirements in the NDS 2000 Standard for Environmental Health and Safety and can be a liability concern should someone be exposed to a chemical and the wrong SDS is used for first aid because a mistake was made about what chemical was in the container. (*Applicable standard: NDS 2000; Environmental Health and Safety*).

The complete expert 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. CRCL looks forward to working with ICE to resolve these complaints. CRCL requests that ICE provide a response to CRCL within 60 days, indicating whether ICE concurs or non-concurs with these recommendations. For concurrences, please include an action plan. Responses may be sent by email. If you have any questions, please contact CRCL Policy Advisor, (b)(6) by telephone at (b)(6) or by email at (b)(6)

Enclosures

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