



Homeland
Security

January 8, 2020

MEMORANDUM FOR: Timothy S. Robbins
Acting Executive Associate Director
Enforcement and Removal Operation
U.S. Immigration and Customs Enforcement
(b)(6)

FROM: Peter E. Mina
Deputy Officer for Programs and Compliance
Office for Civil Rights and Civil Liberties
(b)(6)
Dana Salvano-Dunn
Director, Compliance Branch
Office for Civil Rights and Civil Liberties

SUBJECT: York County Prison
Complaint Nos. 18-01-ICE-0744, 18-03-ICE-0743,
18-11-ICE-0608, 19-05-ICE-0298, 19-06-ICE-0296,
19-07-ICE-0295, and 19-07-ICE-0297

The U.S. Department of Homeland Security's (DHS) Office for Civil Rights and Civil Liberties (CRCL) conducted an onsite investigation into conditions of detention for U.S. Immigration and Customs Enforcement (ICE) detainees at the York County Prison (YCP) in York, Pennsylvania on July 29-31, 2019. This onsite was in response to civil rights allegations received by CRCL regarding the medical and mental health care at YCP, as well as, the general conditions of detention at this facility.

We greatly appreciate the cooperation and assistance provided by ICE and YCP personnel before and during the review. As part of the review, CRCL engaged the assistance of two subject-matter experts in medical and mental health care and corrections. As a result of detainee interviews; staff interviews; document reviews; and direct observation, the subject-matter experts identified multiple concerns regarding the medical and mental health care, and the overall conditions at the facility.

On July 31, 2019, as part of the out-briefing for YCP, CRCL and the subject-matter experts discussed the most serious findings with ICE ERO field office management personnel, personnel from ICE ERO headquarters, and YCP management. During the discussions, the subject-matter experts also provided preliminary recommendations to address the major concerns observed during this onsite. Additionally, shortly following the out-briefing, on August 23, 2019, CRCL issued to ICE an email summarizing the preliminary recommendations, to ensure ICE had sufficient information begin to initiate the proposed changes.

CRCL has now received the experts' full reports which are included with this memorandum and 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 consider and implement these recommendations to the fullest extent possible¹.

Medical

CRCL's medical expert evaluated the general operation of the facility in relation to the Performance-Based National Detention Standards 2008 (2008 PBNDS), 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 YCP:

1. YCP detainees were often called upon by medical staff to interpret for non-English speaking detainees in need of medical care. CRCL recommends that YCP discontinue the practice of having detainees serve as interpreters and provide interpretation/translation services to non-English speaking detainees and detainees who are deaf and/or hard at hearing. Instead, ICE should use the language line to provide interpretive assistance to the Limited English Proficient (LEP) detainees.
2. There were instances where sick calls requests were not logged into the Electronic Medical Record (EMR). CRCL recommends that YCP ensure that every written request for care is documented in the EMR to ensure that each detainee's health record files are well organized, and properly maintained and safeguarded. Medical Care standard, Expected Outcome #31.
3. Per 2008 PBNDS, "medical treatment shall not be administered against a detainee's will." However, the expert noted that there were instances where a detainee refused HIV testing, but HIV testing was conducted after the refusal was documented. CRCL recommends that YCP review current practices and identify reasons HIV testing is completed when a detainee has refused. Additionally, YCP should develop and implement corrective action to ensure practices meet 2008 PBNDS for Informed Consent and Involuntary Treatment.

Corrections

CRCL's corrections expert evaluated the facility in relation to the 2008 PBNDS and the 2011 PBNDS SA-API and Significant Self-Harm and Suicide Prevention Standards. The corrections expert made the following priority recommendations related to the general conditions of detention at YCP:

4. There were many instances where CRCL noted serious SA-API/PREA concerns at YCP. For example, the openness and lack of privacy in the female shower in Unit H, as well as the lack of privacy in the showers and toilets throughout the facility is of great concern. CRCL

¹ CRCL's experts also provided best practice recommendations, which may be found in their respective reports.

recommends that YCP take immediate corrective action to remediate the numerous serious SA-API PREA violations at this facility. These violations put detainees at risk of sexual harassment and abuse. (PBNDS, 2.11 SA-API)

5. During a search of one of the housing units, it was observed that the detainees' personal items and bedding were searched and tossed on the floor without consideration for the destruction or damage to the detainees' personal belongings. Additionally, the housing unit was left in disarray for the detainees to clean up. This search was not done in conformance to professional search standards. CRCL recommends that YCP train staff on 2008 PBNDS Searches of Detainees and provide adequate supervisory oversight to ensure "Searches of detainees, housing and work areas will be conducted without unnecessary force and in ways that preserve the dignity of detainees." (PBNDS Searches of Detainees)
6. After reviewing video of a male detainee, who was compliant as he was placed in an ERC, it was observed that a female Correctional Emergency Response Team (CERT) officer was assigned to cut the clothing of the detainee, including his pants and undergarments. The YCP practice of allowing female custody staff to cut the clothes off male detainees held in a restraint chair should cease immediately. Female staff should never conduct an unclothed search of a male detainee unless exigent circumstances exist, and no other male officers are present or available. CRCL recommends that YCP provide training to officers and ensure compliance so that female officers do not perform strip searches or cut male detainee's clothes off and comply with the strip search gender requirements. (PBNDS Searches of Detainees, Section V. D. 2. B)
7. (b)(5)
- 8.
- 9.

(b)(5)

10. YCP's current grievance process is for the detainee to request a grievance form from an officer; for the detainee to then return the completed form to an officer; and for the officer to then give the form to a counselor. This is a cumbersome, time consuming process and the requirement that grievances be submitted to staff has a chilling effect on grievance submittals. To ensure that grievances are not destroyed, and that confidentiality can be maintained, CRCL recommends that YCP provide a secure lockbox for detainees to file grievance forms. Alternatively, the facility administrator or designee can create a process that allows a detainee to submit a formal, written grievance to a single designated grievance officer or the facility's grievance committee. (PBNDS Grievance System, Section V.C.)
11. (b)(5)
- 12.
- 13.
14. YCP's orientation video contains outdated information and the presentation skips which results in detainees receiving an incomplete orientation. Additionally, the orientation video is only available in English. CRCL recommends YCP update the content in the orientation video and ensure that the video plays properly. Additionally, YCP should have a method to provide the orientation video in a language that detainees can understand. At a minimum, the orientation video should also be translated into Spanish, and/or the most common language(s) spoken by the detainees at YCP. (PBNDS Admission and Release, ICE Language Access Plan, IV. A. Activities)

15. (b)(5)

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² 2008 PBNDS, Mail and Other Correspondence, V. D. Processing “Detainee correspondence and other mail shall be delivered to the detainee and to the postal service on regular schedules. Incoming correspondence shall be distributed to detainees within 24 hours (one business day) of receipt by the facility.”

20. (b)(5)
21. YCP's kitchen currently has blind spots that puts detainees' safety at risk. CRCL recommends that YCP install Convex mirrors in the kitchen to eliminate the blind spots and ensure custody staff can adequately observe detainees for safety purposes and to eliminate the risk of sexual assault. (PBNDS, 2.11 SAAPI)
22. After interviewing various staff, it was apparent that YCP staff were not consistently aware of the zero-tolerance policy. CRCL recommends YCP revise its SAAPI policy and provide staff training to be compliant with the 2.11 SAAPI Standard and to ensure that staff understand and comply with the SAAPI zero tolerance policy. (PBNDS, 2.11 SAAPI)
23. (b)(5)
- 24.
- 25.
- 26.

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

Copies to:

Enrique M. Lucero
Acting Deputy Executive Associate Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b)(6), (b) (7)(C)

Tae Johnson
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)