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 Etowah County Jail (ECJ) in Gadsden, Alabama. CRCL’s onsite investigation occurred April 9-11, 2018, and was in response to allegations received alleging civil rights and civil liberties violations of detainees at ECJ in the following areas: general conditions of detention, environmental health and safety, and inadequate medical and mental health care.

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

On April 11, 2018, as part of the ECJ 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 ECJ management. During the discussions, the subject-matter experts also provided immediate recommendations to address some of the major concerns identified.

Enclosed with this memorandum are the reports prepared by our subject-matter experts. 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. In this instance, all of the recommendations were priority recommendations.

Medical

CRCL’s medical expert made the following priority recommendations regarding medical care at ECJ:

1. Medical records reviewed for chronic medical conditions were missing standard orders for basic diagnostic labs, including basic measurements for diabetes control and metabolic profiles for patients with diabetes, hypertension, and heart disease among others. As part of a chronic disease program, diagnostic labs should be ordered in accordance with accepted standards of practice. For example, all diabetics should have a hemoglobin A1C ordered on initial assessment or at least within 30 days of intake, and then every 90 days for those not at goal. Patients with heart disease, high blood pressure, or high cholesterol should have their metabolic and lipid profiles drawn within 30 days of intake and thereafter as clinically indicated. (NDS, Medical Care, §§ I, III (A); NCCHC 2014 J-D-04) (Level 1)

2. [Additional recommendation text]

3. [Additional recommendation text]

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.
Mental Health

CRCL’s mental health expert made the following priority recommendations related to mental health care at ECJ:

6. The number of qualified non-psychiatric mental healthcare providers should be increased: a) to improve the quality of the mental health evaluations by making the psycho-social history section and the mental status examination comprehensive instead of cursory; b) to improve the accuracy of the psychiatric diagnosis by thoughtfully justifying rule-in and rule-out diagnoses; c) to improve the utility of the mental health treatment plan by individualizing treatment; and d) to improve non-pharmacological interventions by increasing treatment modalities and treatment approaches. Three non-psychiatric mental health staff are recommended. At least two of the three non-psychiatric staff should be counselors and at least one of those counselors should be licensed. The third staff member can be an unlicensed Master’s Degree counselor or an individual with a Bachelor’s Degree in a mental health related field (licensed counselor and/or social worker, and one mental health care manager). (NDS, Medical Care, § III(A) and (C) (Level 1)

7. The hours of an onsite Board-Certified Psychiatrist, a Physician who is Board Eligible in Psychiatry, and/or a psychiatric midlevel provider (i.e., a psychiatric nurse practitioner) should be increased from 4 to 5 hours onsite every other week to at least 20 hours onsite every week. These onsite hours can be a combination of being physically present onsite and being electronically present through telepsychiatry. These hours should be spent: performing initial psychiatric evaluations on all detainees entering ECDC with psychotropic medication, rather than giving a telephonic order to continue their current medication for 180 days; explaining the risks, benefits, and potential side effects as part of the informed consent process; monitoring patients’ responses to medication, usually every 30 days, never to exceed every 90 days; and consulting with the treatment team on rendering diagnoses and performing suicide risk assessments. (NDS, § Medical Care, III(A) and (C) (Level 1)

8. To improve access to mental health services and to enhance detainee safety in the segregation unit: the call buttons / intercoms need to be replaced; cell maintenance needs to be enhanced;
and continuous monitoring needs to be performed by adding more officers and/or upgrading the camera system. Until such time as these changes are made, detainees should not be housed in Unit 3. (NDS, Special Management Unit (Disciplinary Segregation), § III (D)(16), Special Management Unit (Administrative Segregation), § III(D)(12) (Level 1)

**Conditions of Detention**

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

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2 CRCL Complaint No. 17.09.ICE0358.
18. ECJ’s SMU, Unit 3, cannot safely be used to house detainees serving disciplinary detention sentences. ECJ should continue to not utilize Unit 3 for Disciplinary Segregation until physical plant modifications to address safety, security and environmental deficiencies are corrected. (NDS, SMU, Disciplinary Segregation, § III(D)(6)) (Level 1)

19. ECJ is not maintaining the mandated segregation records and SMU file for detainees housed in the SMU. ECJ should maintain the mandated activity records and the SMU file for each detainee held in segregation for the duration the detainee is housed in the SMUs. (NDS, SMU, Disciplinary Segregation, § III(E)) (Level 1)

20. ECJ records indicate that language access resources are not frequently used to assist LEP detainees. ECJ should provide training to its staff on their obligations to provide meaningful access to LEP detainees and the resources that are available to assist them in meeting this obligation and should document provision of this training. (DHS and ICE Language Access Plans) (Level 1)

21. Mandated telephone number postings were not located in proximity to the detainee telephones. ECJ should place the free telephone number postings near the detainee telephones for access to required information. (NDS, Telephone Access, § III(B)) (Level 2)

22. ECJ’s PREA/SAAPI Coordinator is not adequately trained in his duties related to PREA. ECJ’s PREA/SAAPI Coordinator should attend PREA/SAAPI Coordinator training. (PBNDS 2011, SAAPI) (Level 1)

23. ECJ does not have a sexual abuse prevention program in place that complies with the requirements of either the DOJ or DHS PREA standards, which poses significant risks for
detainees and the facilities, and must be clarified and corrected. ICE and ECJ should enter into a contract modification that clearly identifies which SAAPI/PREA standards ECJ is to meet and mandate ECJ comply with all elements of the identified standards. ICE and the facility should agree to bring the facility under Standard 2.11 and have the facility participate in ICE's SAAPI and PREA program, including regular PREA audits. (PBNDS 2011, SAAPI or DOJ PREA Standards) (Level 1)

Environmental Health and Safety

CRCL's environmental health and safety expert made the following priority recommendations related to environmental health and safety issues at ECJ:

28. (b)(5)

29. Nail clipping tools can be a source of disease transmission, especially when used by numerous individuals. ECDC administration should immediately create and implement a policy and detailed procedures for the storage, issuance, cleaning, and disinfection of nail clipping tools that complies with the NDS Environmental Health and Safety standard requiring, “Instruments such as combs and clippers will not be used successively on detainees without proper cleaning and disinfecting. … After cleaning, the clipper blades will be immersed in the disinfectant solution and agitated for a period of not less than 15 seconds before use on any other detainee. The solution will be replaced as often as necessary.”

(NDS, Environmental Health and Safety, § III(P)) (Level 1)

30. Food containers, including Styrofoam beverage cups should not be used to store, transport, or dispense chemicals due to the risk of accidental ingestion and poisoning. Therefore, the use of beverage cups to store nail clippers in chemical solutions must be prohibited, as required by the NDS Environmental Health and Safety standard “Requiring use of properly labeled containers for hazardous materials, including any and all miscellaneous containers into which employees might transfer the material” and “Placing correct labels on all smaller containers when only the larger shipping container bears the manufacturer-affixed label.”

(NDS, Environmental Health and Safety, § III (J)) (Level 1)

31. (b)(5)

32. The shower water temperatures were found to hover just below the minimum temperature for hot water as specified in ACA Plumbing Fixtures standard 4 ALDF 4B-09, which may lead to uncomfortably cold showers for some detainees. Cold shower water is a deterrent to good personal hygiene. The NDS Environmental Health and Safety standard states,
"Environmental health conditions will be maintained at a level that meets recognized standards of hygiene" and further specifies, "The standards include those from the American Correctional Association." Therefore, the facility should ensure that shower water temperatures are maintained within the range specified by ACA Plumbing Fixtures standard 4 ALDF 4B 09 stating, "Water for showers is thermostatically controlled to temperatures ranging from 100 degrees to 120 degrees Fahrenheit to ensure the safety of inmates and to promote hygienic practices." (NDS, Environmental Health and Safety, § III (R)) (Level 1)

33. Although the showers were found to be generally cleaner than they were in 2012, the unit 3 shower was dirty and significant problems persist including mildew, excessive condensation, and rust. A variety of illness causing organisms including MRSA, Tinea pedis or athlete’s foot, and nail fungus thrive in warm, moist environments and are commonly spread in communal showers. Therefore, ongoing diligence when cleaning and disinfecting the shower walls, floors, and drains is vital to ensure good detainee health. ECDC should ensure that all shower room surfaces including the floors, walls, ceilings, and drains are routinely inspected, cleaned, and maintained in a sanitary manner in compliance with ACA Housekeeping standard 4-ALDF-1A-04, requiring "the facility is clean and in good repair." (NDS, Environmental Health and Safety, § III(R)) (Level 1)

34. ECDC should ensure that the planned renovations to the shower rooms address the rusty surfaces and inadequate ventilation that leads to excess condensation to ensure compliance with ACA Housekeeping standard 4-ALDF-1A-04, requiring "the facility is clean and in good repair." Although rust itself does not cause illness, it provides an environment in which harmful organisms, such as the bacteria that causes tetanus can hide. (NDS, Environmental Health and Safety, § III(R)) (Level 1)

35. ECDC should discontinue the unsanitary practice of allowing detainees to wash clothing in the lavatories and showers as evidenced by numerous clotheslines in the housing units. Ending this practice will comply with the NDS Issuance and Exchange of Clothing, Bedding, and Towels standard indicating, "Detainees are not permitted to wash clothing, bedding, linens, tennis shoes or other items in the living unit, unless proper washing and drying equipment are available and the policy and procedures for their use are in place." (NDS, Issuance and Exchange of Clothing, Bedding, and Towels, § III(E)) (Level 1)

36. Although there are problems with the mesh laundry bag system including inadequately cleaned laundry, stained or dingy laundry, and lost items, these problems are common throughout jail laundries and the system is still preferable to most detainees rather than a one-for-one exchange system. ECDC should continue to inform and educate detainees on proper the proper use of mesh laundry bags, including instructions regarding not overfilling them and not stuffing the wool blankets in the bags to ensure the laundry process results in clean sanitary items that comply with the NDS Issuance and Exchange of Clothing, Bedding, and Towels standard requiring “clean clothing, bedding, linens and towels.” (NDS, Issuance and Exchange of Clothing, Bedding, and Towels, § III(E)) (Level 1)

37. (b)(5)
ECDC expanded the medical unit and added much needed exam rooms. However, the area was not designed as medical space and therefore there are no handwashing sinks in or near the exam rooms. Due to the importance of hand hygiene during medical procedures to prevent the spread of illness causing microorganisms, including bacteria and viruses, ECDC administration should ensure that handwashing stations are installed during the planned facility renovations and that hand sanitizer stations are immediately installed as an interim
The installation of hand hygiene stations facilitates compliance with the NDS Environmental Health and Safety standard which requires hand washing after using a clean-up kit as well as complying with the Universal Precautions section which states, “Hands and other skin surfaces will be washed immediately and thoroughly if contaminated with blood or other body fluids. Hands will be washed immediately after gloves are removed.” (NDS, Environmental Health and Safety, § III (S)) (Level 1)

44. The kitchen is scheduled for remodel and reportedly, the storeroom is being modified into freezer space. However, in the interim, remediation of the peeling paint is needed to prevent contamination by the loose paint chips and ensure safe food as required by the NDS Food Service standard stating, “Food and ice will be protected from dust, insects and rodents, unclean utensils and work surfaces, unnecessary handling, coughs and sneezes, flooding, drainage, overhead leakage, and other sources of contamination. Protection will be continuous, whether the food is in storage, in preparation/on display, or in transit.” (NDS, Food Service, § III (D)(5)) (Level 1)

45. ECDC administration should continue to take all possible measures to limit the hazards posed by the constantly dripping water in the unit 4 day room. Wet floors pose slip and fall hazards and the wet ceiling and constantly dripping water facilitate growths of mold and mildew, which can exacerbate asthma and allergies. Furthermore, ECDC should work with the renovation project contractor to ensure the area is properly repaired in compliance with the NDS Environmental Health and Safety standard stating, “Environmental health conditions will be maintained at a level that meets recognized standards of hygiene” and specifies, “The standards include those from the American Correctional Association” and therefore ECDC must comply with ACA Standard 4-ALDF-IA-04 stating “The facility is clean and in good repair.” (NDS, Environmental Health and Safety, § III(R)) (Level 1)

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)

Copy to:

Corey A. Price
Acting Deputy Executive Associate Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

Tae Johnson
Assistant Director, Custody Management
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
Claire Trickler-McNulty  
Deputy Assistant Director, Custody Management  
Enforcement and Removal Operations  
U.S. Immigration and Customs Enforcement

Dr. Stewart D. Smith  
Assistant Director, ICE Health Service Corps  
Enforcement and Removal Operations  
U.S. Immigration and Customs Enforcement

Dr. Ada Rivera  
Medical Director, ICE Health Service Corps  
Enforcement and Removal Operations  
U.S. Immigration and Customs Enforcement

Enclosures