



Homeland
Security

July 27, 2017

MEMORANDUM FOR: Matthew Albence
Executive Associate Director
U.S. Immigration and Customs Enforcement
(b) (6)

FROM: Dana Salvano-Dunn
Acting Deputy Officer for Programs and Compliance
Office for Civil Rights and Civil Liberties
(b) (6)

William McKenne
Acting Director, Compliance Branch
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SUBJECT: Johnson County Detention Center
Recommendations on Complaint Nos. (b) (6)

The U.S. Department of Homeland Security's (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 Johnson County Detention Center (JCDC), Cleburne, Texas.

Specifically, between May and December 2016, CRCL received a number of complaints and correspondence raising issues involving the facility's religious accommodations, access to medical care, access to legal material, access to adequate outdoor recreation, and adequacy and quality of food.

In response to these complaints, and consistent with CRCL's overall concern about the facility's operations in relation to civil rights and civil liberties issues, CRCL conducted an onsite investigation at JCDC between March 28-30, 2017. We greatly appreciate the cooperation and assistance provided by ICE and JCDC personnel before and during the review. As part of the review, CRCL engaged the assistance of three subject-matter experts: an environmental health and safety consultant, a corrections consultant, and a medical consultant. As a result of detainee and staff interviews, document and record reviews, and direct observation, the subject-matter experts identified concerns regarding environmental health and safety, detention conditions, and medical care at the facility.

On March 30, 2017, as part of the JCDC site review closing discussion, CRCL and the subject-matter experts discussed general concerns with ICE ERO Field Office Management, ICE ODCR and JCDC Senior Administration Officials. During the discussion, the subject-matter experts provided initial recommendations to address the concerns identified during the onsite investigation.

~~Protected by Deliberative Process Privilege~~

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. 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.²

With this memorandum, and consistent with our standard practice, we also request that you indicate to us whether ICE concurs with the recommendations made below, and ask you to provide an action plan within 60 days.

Priority Recommendations

Corrections

The 2011 Performance-Based National Detention Standards (PBNDS) state that detainees of different religious beliefs are provided reasonable and equitable opportunities to participate in the practices of their respective faiths, constrained only by concerns about safety, security and the orderly operation of the facility. They also protect detainees' rights by ensuring their access to courts, counsel, comprehensive legal materials, correspondence with their families and legal representatives. These standards, along with additional applicable guidelines, support the following recommendations made by CRCL's corrections expert:

1. (b) (5) [REDACTED]
2. (b) (5) [REDACTED]
3. (b) (5) [REDACTED]
4. (b) (5) [REDACTED]

¹ In general, CRCL's experts relied on the applicable 2011 Performance-Based National Detention Standards (PBNDS 2011) 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.

² CRCL's experts also provided best practice recommendations, which may be found in their respective reports.

5. At the time of our visit JCDC had a broken printer in its law library. The broken printer in the law library delays detainee's ability to obtain legal material copies. The broken law library computer printer should be repaired. (PBNDs 2011, Law Library and Legal Material)

6. (b) (5)

- JCDC 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 meet this obligation, and should document provision of this training. (DHS and ICE Language Access Plans) (PBNDs 2011, Multiple Standards)

- (b) (5)

7. (b) (5)

8. (b) (5)

9. (b) (5)

10. (b) (5)

11. (b) (5)

12. (b) (5) [REDACTED]
13. The facility does not maintain and post an accurate religious service schedule on housing units and detainee bulletin boards as mandated by the applicable standard. The facility should maintain and posted accurate religious service schedule on the housing unit and detainee bulletin boards. (PBNDs 2011, Religious Practice)
14. Detainees cannot hear when utilizing the pay telephones in the housing unit due to the direct overhead placement of the television above the telephones. JCDC must either relocate the telephones or the television to provide reasonable access to the telephones and comply with the applicable standard requirements and the IGSA contractual language. (PBNDs 2011, Telephone Access and EROIGSA-17-0001)
15. (b) (5) [REDACTED]
16. (b) (5) [REDACTED]
17. JCDC does not have appropriate controls on the dissemination of responses to risk assessment questions asked of detainees at intake to screen for risk of sexual abuse victimization or abusiveness. JCDC should modify its intake screening process to provide confidentiality when asking detainees screening questions about their prior sexual abuse and assault history. (PBNDs 2011, SA-API)
18. (b) (5) [REDACTED]
19. Detainees at JCDC are housed on mattresses in hallways due to a lack of space and interviewed side by side which jeopardizes the confidentiality of detainee information and can jeopardize the detainee's safety. ICE and JCDCF should adjust arrivals at the facility to reduce admission congestion, ensure detainees are not housed on the floor on mattresses while awaiting processing, and provide sufficient space to ensure confidential intake interviews can be conducted. (PBNDs 2011, Admission and Release)
20. (b) (5) [REDACTED]

Medical Care

The 2011 Performance-Based National Detention Standards (NDS) state that “Detainees have access to emergent, urgent, or non-emergent medical, dental, and mental health care that are within the scope of services provided by Division of Immigration Health Services, so that their health care needs are met in a timely and efficient manner.” These standards, along with additional applicable guidelines, support the following priority recommendations made by CRCL’s medical expert:

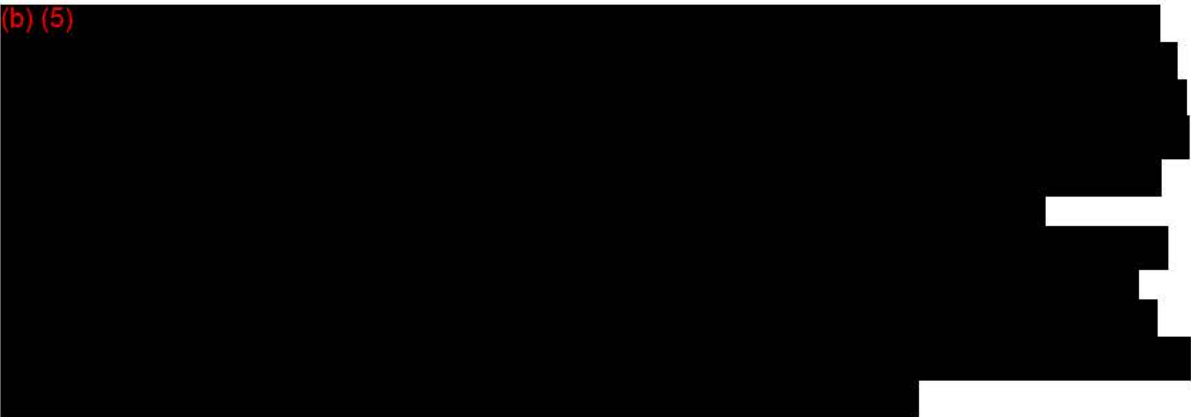
21. (b) (5)



Environmental Health and Safety

The 2011 Performance-Based National Detention Standards (NDS) require that detainees are provided a nutritionally balanced diet that is prepared and presented in a sanitary and hygienic food service operation. It ensures that each detainee is able to maintain acceptable personal hygiene practices through the provisions of adequate bathing facilities, the issuance and exchange of clean clothing, bedding, linens, towels and personal hygiene items. These standards, along with additional applicable guidelines, support the following priority recommendations made by CRCL’s environmental and safety expert:

22. A discrepancy with the PBNDS 2011 Food Service standard was found in the dietitian’s letter for the common fare menu as it referenced cooked meat, lean meat, and turkey meat. JCDC administration and Five Star Correctional Services should review the common fare menu and associated documents prepared by the dietitian, to ensure that they adhere to the PBNDS 2011 Food Service standard indicating that common fare refers to a no-flesh protein option provided whenever an entrée containing flesh is offered as part of a meal and that common fare meals offer vegetables, starches and other foods that are not seasoned with flesh. (PBNDS 2011, Food Service)
23. Inconsistent portion sizes of baked goods were observed on March 28, 2017 and kitchen staff acknowledged the problem. Failure to adhere to the dietitian-approved menu can result in nutritional shortfalls and variable serving sizes may lead to altercations among detainees. Therefore, the facility should immediately purchase a new template or cutting device for baked goods, implement its use, and thereafter monitor portion sizes for reasonable uniformity and take immediate corrective action when portions are not equitable, to ensure compliance with the PBNDS 2011 Food Service standard requiring, “food is appropriately presented” and “Detainees, staff and others shall be protected from harm, and facility order shall be maintained, by the application of sound security practices in all aspects of food service and dining room operations.” (PBNDS 2011, Food Service)

25. Numerous cracked and damaged plastic meal trays were being used to serve meals. Failure to maintain kitchen utensils and equipment, including the reusable plastic meal trays can lead to the growth of disease-causing bacteria. JCDC and Five Star Correctional Services should immediately inspect all plastic food trays and remove any that are cracked or damaged, as this allows water to enter the inside of the tray cavity during dishwashing. The damaged condition of the trays does not comply with the PBNDS 2011 Food Service standard stating that "Materials used in the construction or repair of multi-use equipment and utensils shall retain their original properties under repeated use, creating no risk of food-adulteration as they deteriorate" or facilitate compliance with the PBNDS 2011 Food Service standard stating, "Air-dry all equipment and utensils after sanitizing, by means of drain boards, mobile dish tables and/ or carts." (PBNDS 2011, Food Service)
26. The kitchen serves some meals in Styrofoam trays that do not have adequate compartments to keep the food from comingling, resulting in unappetizing meals. Therefore, the facility and Five Star Correctional Services should review the trays and implement corrective action to comply with the PBNDS 2011 Food Service standard states, "Food service personnel shall provide nutritious and appetizing meals." (PBNDS 2011, Food Service)
27. The igloo-style water containers observed in the detainee housing unit dayrooms were observed to be dirty, especially the lids and the threaded area under the lids. Dirty water containers in the housing units create a health hazard. JCDC should immediately implement policy and procedures requiring the water containers be regularly cleaned and sanitized in compliance with the PBNDS 2011 Environmental Health and Safety standard requiring, "Safe, potable water shall be available throughout the facility" and the Food Service standard stating, "Clean, potable drinking water must be available." (PBNDS 2011, Environmental Health and Safety and Food Service)
28. (b) (5) 
29. Drain flies were observed in the housing unit 3-C handicap accessible shower stall. Drain flies breed in dirty and clogged shower drains. Shower floor drains that were blocked with organic matter including hair and soap residues were observed. Dirty shower drains propagate the life cycle of drain flies, which are nuisance pests that can spread disease from sewage and contaminated bathroom drains and surfaces. Clogged shower drains are also a hazard because they can lead to the back up of potentially contaminated water from dirty drains while showering. Therefore, JCDC should ensure that preventive maintenance inspections and shower drain cleanings are completed on a regular basis to comply with the

PBND 2011 Environmental Health and Safety standard requiring, "Facility cleanliness and sanitation shall be maintained at the highest level." (PBND 2011, Environmental Health and Safety)

30. (b) (5) [REDACTED]
31. Detainees were observed wearing shoes with holes worn through the sole, pairs of shoes that were obviously two different sizes, and shoes that were at least one to two sizes too large. Holes in the bottom of shoes allow for the entry of dirt and water and torn or improperly sized footwear creates a trip hazard. All excessively worn, torn, or improperly sized shoes should be exchanged to comply with the PBND 2011 Personal Hygiene standard stating, "Footwear that is worn out or damaged shall be replaced at no cost to the detainee" and "Clothing or shoes that are lost, unserviceable, indelibly stained, or bear offensive or otherwise unauthorized markings shall be discarded and replaced as soon as practicable." Additionally, all shoes should be inspected to ensure compliance with the PBND 2011 Personal Hygiene standard requiring, "Each detainee shall have sufficient clean clothing that is properly fitted; climatically suitable, durable and presentable." (PBND 2011, Personal Hygiene)
32. (b) (5) [REDACTED]
33. (b) (5) [REDACTED]

The complete expert reports 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 concur or non-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 (b) (6) Policy Advisor, by telephone at (b) (6) or by email at (b) (6)

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Enclosures